

RESOLUTION NO. 2012 - 053

A RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AGREEMENT AND THE NOTICE TO PROCEED WITH GENEVA ROCK PRODUCTS INC., FOR THE 2012 STREET PRESERVATION MICRO-SURFACING PROJECT AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Pleasant Grove City is a municipality of the State of Utah; and

WHEREAS, the City owns and maintains streets in Pleasant Grove; and

WHEREAS, the City would like to preserve certain streets in the City by installing a micro-surfacing treatment to selected streets in Pleasant Grove; and

WHEREAS, by installing the micro-surfacing application it will seal the road and provide an additional wearing course to the existing surface; and

WHEREAS, the City Council of Pleasant Grove finds that the installation of the micro-surfacing treatment to certain streets in Pleasant Grove City is a prudent use of municipal funds and reasonably furthers the health, safety, and general welfare of the citizens.

NOW, THEREFORE, be it resolved by the Pleasant Grove City Council as follows:

SECTION 1.

1. The Mayor of Pleasant Grove City is hereby authorized to sign the Agreement and Notice to Proceed with Geneva Rock Products Inc., to install a micro-surfacing treatment to selected streets in the City as attached hereto as Exhibit "A"
2. This resolution is effective immediately.

SECTION 2.

THIS RESOLUTION APPROVED AND ADOPTED this 18th day of September, 2012 by the City Council of Pleasant Grove City, Utah.

ATTEST:

Bruce W. Call, Mayor

(SEAL)

Kathy T. Kresser, CMC
City Recorder

**AGREEMENT
BETWEEN OWNER AND CONTRACTOR FOR
CONSTRUCTION CONTRACT**

THIS AGREEMENT is by and between Pleasant Grove City

(Owner) and Geneva Rock Products, Inc. (Contractor).

Owner and Contractor, in consideration of the mutual covenants set forth herein, agree as follows:

ARTICLE 1 - WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

The Project includes: installation of micro-surface treatment to selected streets in Pleasant Grove City.

ARTICLE 2 - THE PROJECT

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

The Project includes: installation of micro-surface treatment to selected streets in Pleasant Grove City.

ARTICLE 3 - ENGINEER

3.01 The Project has been designed by J-U-B Engineers, Inc., 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 the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 - CONTRACT TIMES

4.01 Time of the Essence

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 Days to Achieve Substantial Completion and Final Payment

A. The Work will be substantially completed within 30 days of the Notice to Proceed in accordance with Paragraph 2.03 of the General Conditions, and completed and ready for final payment within 45 days of the Notice to Proceed in accordance with Paragraph 14.07 of the General Conditions.

4.03 Liquidated Damages

A. Contractor and Owner recognize that time is of the essence of this Agreement and that Owner will suffer financial loss if the Work is not completed within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The parties also recognize the delays, expense, and difficulties involved in 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 \$250.00 for each day that expires after the time specified in Paragraph 4.02 for Substantial Completion 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 Owner \$250.00 for each day that expires after the time specified in Paragraph 4.02 for completion and readiness for final payment until the Work is completed and ready for final payment.

ARTICLE 5 - CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Paragraphs 5.01.A below:

A. For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work (according to the Contractors Unit Price Schedule) times the estimated quantity of that item as indicated in this paragraph 5.01.A:

As provided in Paragraph 11.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer as provided in Paragraph 9.07 of the General Conditions. Unit prices have been computed as provided in Paragraph 11.03 of the General Conditions.

TOTAL OF ALL ESTIMATED PRICES \$166,851.48

ARTICLE 6 - PAYMENT PROCEDURES

6.01 Submittal and Processing of Payments

A. Contractor shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 Progress Payments; Retainage

A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 30th day of each month during performance of the Work as provided in Paragraphs 6.02.A.1 and 6.02.A.2 below. All such payments will be measured by the schedule of values established as provided in Paragraph 2.07.A of 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:

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 less such amounts as Engineer may determine or Owner may withhold, including but not limited to liquidated damages, in accordance with Paragraph 14.02 of the General Conditions:

a. 95 percent of Work completed (with the balance being retainage).

b. 100 percent of cost of materials and equipment not incorporated in the Work.

2. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 95 percent of the Work completed, less such amounts as Engineer shall determine in accordance with Paragraph 14.02.B.5 of the General Conditions and less 100 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

6.03 Final Payment

A. Upon final completion and acceptance of the Work in accordance with Paragraph 14.07 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 14.07.

ARTICLE 7 - INTEREST

7.01 All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the rate of 5 percent per annum.

ARTICLE 8 – CONTRACTOR’S REPRESENTATIONS

8.01 In order to induce Owner to enter into this Agreement Contractor makes the following representations:

A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.

B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.

D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in Paragraph 4.02 of the General Conditions and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site which has been identified in the Supplementary Conditions as provided in Paragraph 4.06 of the General Conditions.

E. Contractor has obtained and carefully studied (or assumes responsibility for doing so) all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Bidding Documents, and safety precautions and programs incident thereto.

F. Contractor does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.

H. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.

I. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.

J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 9 - CONTRACT DOCUMENTS

9.01 Contents

A. The Contract Documents consist of the following:

1. This Agreement (pages 1 to 5, inclusive).
2. Performance bond (pages 1 to 2, inclusive).
3. Payment bond (pages 1 to 2, inclusive).
4. General Conditions (pages 1 to 40, inclusive).
5. Supplementary Conditions (pages 1 to 2, inclusive).

6. Specifications as listed in the table of contents of the Project Manual.
 7. Drawings consisting of 1 sheet.
 8. Addenda (numbers 0 to 0, inclusive).
 9. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid (pages 1 to 2, inclusive).
 - b. Documentation submitted by Contractor prior to Notice of Award (page 1).
 10. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
 - a. Notice to Proceed (pages 1 to 1, inclusive).
 - b. Work Change Directives.
 - c. Change Order(s).
- B. The documents listed in Paragraph 9.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 9.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 3.04 of the General Conditions.

ARTICLE 10 - MISCELLANEOUS

10.01 Terms

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

10.02 Assignment of Contract

- A. No assignment by a party hereto of any rights under or interests in the Contract 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.

10.03 Successors and Assigns

- A. 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 to all covenants, agreements, and obligations contained in the Contract Documents.

10.04 Severability

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

10.05 Other Provisions

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement in triplicate. One counterpart each has been delivered to Owner, Contractor, and Engineer. All portions of the Contract Documents have been signed or identified by Owner and Contractor or on their behalf.

This Agreement will be effective on May 8, 2012 (which is the Effective Date of the Agreement).

OWNER:
Pleasant Grove City

By: _____
Bruce Call

Title: Mayor

[CORPORATE SEAL]

Attest: _____

Title: _____

Address for giving notices:

70 South 100 East
Pleasant Grove, UT 84062

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Owner-Contractor Agreement.)

CONTRACTOR:
Geneva Rock Products, Inc.

By: _____
[Signature]

Title: Project Engineer

[CORPORATE SEAL]

Attest: _____
[Signature]

Title: Project Administrator

Address for giving notices:

1565 West 400 North
Orem, UT 84057

License No.: 2396965501
(Where applicable)

Agent for service or process: _____

(If Contractor is a corporation or a partnership, attach evidence of authority to sign.)

Notice to Proceed

Date: September 18, 2012

Project: 2012 Street Preservation – Micro-Surface

Owner: Pleasant Grove City

Owner's Contract No.:

Contract: 2012 Street Preservation – Micro-Surface

Engineer's Project No.: 50-12-043

Contractor: Geneva Rock Products, Inc.

Contractor's Address: 1565 West 400 North, Orem, UT 84057

You are notified that the Contract Times under the above Contract will commence to run on September 24, 2012. On or before that date, you are to start performing your obligations under the Contract Documents. In accordance with Article 4 of the Agreement, the work shall be Substantially Completed by October 23, 2012, and completed and ready for Final Payment by November 07, 2012.

Before you may start any Work at the Site, Paragraph 2.01.B of the General Conditions provides that you and Owner must each deliver to the other (with copies to Engineer and other identified additional insureds and loss payees) certificates of insurance which each is required to purchase and maintain in accordance with the Contract Documents.

Also, before you may start any Work at the Site, you must:

N/A

Owner

Given by:

Authorized Signature

Mayor

Title

Date

Copy to Engineer

Notice to Proceed

Date: September 18, 2012

Project: 2012 Street Preservation – Micro-Surface

Owner: Pleasant Grove City

Owner's Contract No.:

Contract: 2012 Street Preservation – Micro-Surface

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Date

Copy to Engineer