

MEMORANDUM

DATE: August 6, 2013
TO: City Council
THROUGH: City Manager Judie Zimomra
FROM: Public Works Director Keith Williams
RE: East Periwinkle Way Path and Roadway Improvement Project

RECOMMENDATION: Approve assignment/transfer of the project from C.W. Roberts to Ajax Paving Industries of Florida, LLC.

The East Periwinkle Way Path and Roadway Improvement Project was awarded to C.W. Roberts Contracting, Inc. by Council at the June 4, 2013 meeting in the amount of \$689,678.00.

Subsequently Ajax Paving Industries has purchased the assets of C.W. Roberts Contracting, Inc. Ft. Myers Paving Operations with the effective date of August 5, 2013. Attached for review is the letter to the City from Ajax dated July 29, 2013 and the Assignment and Assumptions document. Ajax will assume the contracts, agreements, pay items, plans, and specifications in their entirety including all bonding and insurance requirements per the original contact executed with C.W. Roberts Contracting, Inc.

Ajax Paving Industries of Florida, LLC did originally place a bid for the project and is a qualified contractor to perform this work. Staff recommends that Council authorize the assignment/transfer of the contract for East Periwinkle Way Path and Roadway Improvement project from C.W. Roberts Contracting, Inc. to Ajax Paving Industries of Florida LLC.

cc: City Attorney Ken Cuyler
Finance Director Sylvia Edwards



The Future is Riding on Ajax.™

July 29, 2013

Keith Williams
City of Sanibel
800 Dunlop Rd
Sanibel, FL 33957

RE: Contract Assignment and Transfer – Periwinkle Way improvements project (From Kings Crown Drive to Lighthouse Beach Parking)

To Whom It May Concern:

Please accept this letter as our request on behalf of C.W. Roberts Contracting, Inc. and Ajax Paving Industries of Florida, LLC (Ajax) for the assignment/transfer of the aforementioned project from C. W. Roberts to Ajax. Ajax has recently purchased the assets of C.W Roberts Contracting, Inc. Ft. Myers Paving Operations with the effective date of August 5, 2013.

Ajax will assume the contracts, agreements, pay items, plans, and specifications in their entirety including all the bonding and insurance requirements per the contract. Attached please find the Assignment and Assumption Agreement for your use.

Please initiate the proper paperwork so that this project can processed uninterrupted through the process of the company changes. Should you have any questions, please feel free to contact either Clay Cross at C.W. Roberts 239-895-1776 (Cell) / 239-225-0565 (Office), John Walker at C.W. Roberts 404-434-1156 (Cell) / 334-673-9763 (Office), or myself at 941-486-3600 so that we can answer any questions you may have regarding this transaction.

Sincerely,

AJAX PAVING INDUSTRIES OF FLORIDA, LLC

Michael A Horan, P.E.
President

Cc: Clay Cross

Attachment

Ajax Paving Industries of Florida, LLC
510 Gene Green Road, Nokomis, FL 34275

Main: 941-486-3600 Fax: 941-486-3500
www.ajaxpaving.com

ASSIGNMENT AND ASSUMPTION

Description of Job: PERIWINKLE Way Improvement
(From KINGS CROWN DRIVE TO Lighthouse Beach PARKING

Job Contract #: _____

FOR VALUE RECEIVED and pursuant to that certain Asset Purchase Agreement dated July 26, 2013 by and between the parties hereto (hereinafter called the "Purchase Agreement"; capitalized terms used herein and not defined herein shall have such meaning as set forth in the Purchase Agreement), **C. W. Roberts Contracting, Inc**, a Florida corporation (hereinafter called "Assignor"), does hereby sell, convey, transfer and assign to **Ajax Paving Industries of Florida, LLC**, a Florida limited liability company (hereinafter with legal representatives, successors and assigns being called "Assignee") (the words Assignor and Assignee to include the neuter, masculine and feminine genders, and the singular and the plural), all of the right, title and interest of Assignor in, to and under the Construction Contract attached hereto as Exhibit "A", and hereby incorporated by reference (hereinafter collectively referred to as the "Assigned Contract").

Assignee, by accepting delivery hereof, hereby assumes and agrees to perform any and all of the duties and obligations of Assignor under the Assigned Contract that remain to be performed as of the date hereof.

Assignee shall, and does hereby, indemnify, defend and forever hold Assignor harmless from, against and in respect of any and all liabilities, damages, losses, costs and expenses (including attorneys' fees and disbursements) suffered, incurred or sustained by Assignor as a result of or by reason of the failure of Assignee to perform its obligations hereunder.

Assignor shall provide Assignee such indemnification as set forth in the Purchase Agreement.

-INTENTIONALLY BLANK; SIGNATURE PAGE FOLLOWS-

IN WITNESS WHEREOF, Assignor has executed and sealed this assignment, and delivered this Assignment to Assignee, all this 29th day of July, 2013.

ASSIGNOR:

**C. W. Roberts Contracting, Inc.
A Florida Corporation**

By: *R. Alan Palmer*
Its: *Vice President*

ASSIGNEE:

**Ajax Paving Industries of Florida, LLC
A Florida Limited Liability Company**

By: *Michael J. Agran*
Its: *President*

Consent of Owner

The undersigned, being the Owner of the Assigned Contract referenced herein, does hereby expressly consent to the assignment of the Assigned Contract contemplated herein.

Name of Owner

Name and Title of Officer Signing for Company

Signature of Officer

STATE OF Alabama)
COUNTY OF Houston)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that **R. Alan Palmer**, whose name as Vice President of **C. W. Roberts Contracting, Inc.**, a Florida corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such Vice President and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this the 29th day of July, 2013.

Jammy L. Duway
NOTARY PUBLIC

[NOTARIAL SEAL]

My Commission Expires: Sept. 15, 2015
Notary Public, Alabama State At Large
My Commission Expires: Sept. 15, 2015

STATE OF Florida)
COUNTY OF Lee)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Michael Horan, whose name as President of Ajax Paving Industries of FL, LLC, an Florida Corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such President and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this the 29th day of July, 2013.

Crystal Garlick

[NOTARIAL SEAL]

NOTARY PUBLIC

My Commission Expires: 2-9-14





The Future is Riding on Ajax.™

July 29, 2013

Keith Williams
City of Sanibel
800 Dunlop Rd
Sanibel, FL 33957

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A Florida Corporation**

By: *R. Alan Palmer*
Its: *Vice President*

ASSIGNEE:

**Ajax Paving Industries of Florida, LLC
A Florida Limited Liability Company**

By: *Michael J. Agran*
Its: *President*

Consent of Owner

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Name of Owner

Name and Title of Officer Signing for Company

Signature of Officer

STATE OF Alabama)
COUNTY OF Houston)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that **R. Alan Palmer**, whose name as Vice President of **C. W. Roberts Contracting, Inc.**, a Florida corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such Vice President and with full authority, executed the same voluntarily for and as the act of said corporation.

Given under my hand and official seal this the 29th day of July, 2013.

Jammy L. Duway
NOTARY PUBLIC

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COUNTY OF Lee)

I, the undersigned, a Notary Public in and for said County in said State, hereby certify that Michael Horan, whose name as President of Ajax Paving Industries of FL, LLC, an Florida Corporation, is signed to the foregoing instrument and who is known to me, acknowledged before me on this day that, being informed of the contents of the instrument, he, as such President and with full authority, executed the same voluntarily for and as the act of said corporation.

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Crystal Garlick

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