

# AGREEMENT

This AGREEMENT made and entered into this 24th day of October, 2011

COMPANY: Phillip Mark

COMPANY: LSJ, LLC

ADDRESS: [REDACTED]

ADDRESS: 6100 Red Hook Qtrs B3

CITY: [REDACTED]

CITY: St. Thomas, USVI 00802

ATTN: Phillip Mark

ATTN: William Rowles

PHONE: [REDACTED]

PHONE: [REDACTED]

herein called "Contractor"

herein called "Owner"

PROJECT: Little St. James Island

#1015 Five Palms

CMU, Interior Plaster and Exterior Cement Plaster

AGREEMENT NO. 01

Cost Codes: 04-220, 04-260, 09-200

CONTRACTOR AND OWNER hereby agree as follows:

1. THE CONTRACT DOCUMENTS: The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplemental and other Conditions), attached hereto, if any, and the Schedules, Drawings, Specifications, and all Modifications issued subsequent thereto, if any.

SCHEDULE "A"

SCOPE OF WORK / DOCUMENTS

SCHEDULE "B"

PRICE AND PAYMENT SCHEDULE

SCHEDULE "C"

INVOICING INSTRUCTIONS AND LEGAL NOTICES

All of the foregoing form the Contract Documents and all are incorporated by reference herein, whether or not physically attached hereto.

2. INSURANCE REQUIREMENTS: The Contractor shall secure, prior to commencement of performance under this Agreement, and shall maintain at all times during the period or periods of its obligations under this Agreement, at its expense and in companies approved by Owner, the following insurance coverage, on an occurrence basis, all of which shall be non-cancelable and not subject to change in coverage except upon not less than thirty (30) days written notice to Owner at the address indicated above:
  - (a) Workers' Compensation with Statutory limits of liability;
  - (b) Comprehensive General Liability Insurance in an amount not less than \$1,000,000 Each Occurrence/ \$1,000,000 General Aggregate, with a sub-limit of \$5,000 Per Occurrence for Medical Payments. Coverage is to include Bodily Injury Liability, Property Damage Liability, Personal Injury Liability, Products and Completed Operations Liability, Premises Operations Liability, Contractual Liability (covering the "Hold Harmless" clause in Section 11), and Contractor's Protective Liability; or approved waiver.
  - (c) Standard USVI full coverage Comprehensive Automobile Liability, including Owned, Non-Owned, and Hired Automobiles;
  - (d) Other (Builder's Risk, Performance and Payment Bonds, Etc.). Specify here:

DATE:

10/24

INITIAL:

[Signature]

DATE:

10 25 11

INITIAL:

PM

Insurance certificates evidencing such insurance coverage shall be furnished to Owner prior to commencement of performance under this Agreement and shall name Owner as an additional insured thereunder.

- 3. **CHANGES AND CLARIFICATIONS:** Without invalidating this Agreement, Owner, or their respective duly authorized representatives, may at any time, by written order to Contractor, make changes in the Drawings and Specifications. Owner may, by reason of such changes, add to or reduce the Work without invalidating this Agreement. Contractor shall furnish Owner with an itemized estimate for any revision in the Work which may be requested and shall receive written authorization from Owner before proceeding with any changes in the Work. Contractor shall, during the course of the Work, notify Owner or Owner's representative, in writing, of any problem or clarification which he believes needs immediate review and resolution which is not adequately covered by the Contract documents.
- 4. **WARRANTIES:** The Contractor shall, at the request of and in a manner acceptable to Owner, correct any defects in workmanship or materials in the Work which appear within a period of one (1) year from the date of final acceptance by Owner.
- 5. **ASSIGNMENT OF CONTRACT:** Contractor shall not assign this Agreement nor any portion thereof without first obtaining the written consent of Owner, which shall be in Owner's sole discretion. Any assignment without Owner's written consent shall be void and of no force and effect.
- 6. **INDEMNIFICATION AND HOLD HARMLESS:** Contractor shall indemnify Owner, and the Architects and Engineers of Owner, and their agents and employees, and each of them, against and save and hold them harmless from all liability, claims, allegations, demands, damages, and costs of every kind and nature, including without limitation attorneys' fees and costs of suit, arising directly or indirectly from the Work, except to the extent that such liability, claims, allegations, demands, damages, and costs are a direct result of the negligence of, or a breach of this Agreement by, Owner or its architects, engineers, employees or authorized agents.
- 7. **BREACH OF AGREEMENT:** If, in the opinion of Owner, Contractor fails to perform the Work in accordance with this Agreement, or inadequately performs, all or any part of the Work, or otherwise fails to perform or comply with Contractor's duties and obligations hereunder, and such failure shall continue for twenty-four (24) consecutive hours after written notice to Contractor specifying the particulars of such failure, then such failure and continuance thereof shall, at Owner's option, constitute an irreparable breach of this Agreement by Contractor and shall entitle Owner to terminate this Agreement and complete the Work itself or cause the Work to be completed by others, and Contractor shall immediately on demand of Owner pay all costs and damages sustained by Owner on account of such failure, and any and all material and equipment of Contractor on the Project site or in Contractor's place of business may, at the sole option of Owner, be used or rejected, and if rejected, such rejection shall be without any liability to Owner, its agents or employees.
- 8. **CANCELLATION OF AGREEMENT:** Owner shall have the right to cancel this Agreement at any time prior to the completion of the Work upon giving three (3) days written notice to Contractor. Should Owner so elect to cancel, and Contractor is not in breach hereunder, Owner shall promptly pay Contractor a prorated portion of the Contract Price based on percentage completed, but in no case shall the total of all payments made to Contractor under this Agreement exceed the Contract Price set out in Schedule "B". Contractor agrees to refund to the Owner that portion of any deposits previously paid by the Owner to the Contractor, if such deposits exceed the percentage completed.
- 9. **DOCUMENTS REQUIRED FOR LIEN FREE PERFORMANCE OF WORK:** Payment for the work shall be made to Contractor in accordance with Schedule "B". When any monies are payable to Contractor hereunder, Contractor shall deliver to Owner a statement (sworn or attested to if required by Owner), showing, in detail and as complete as required by Owner, all work done by Contractor and averring that all claims, obligations and liabilities created or incurred in the performance of doing thereof, to the date hereof, have been paid. Owner may require Contractor to furnish in support of such application, (a) a

DATE: 10/24

INITIAL: D

DATE: 10/25/11

INITIAL: PM

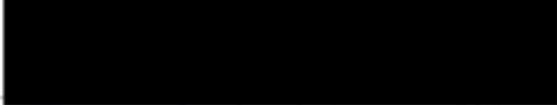
release or waiver of liens in a form specified by Owner, signed by each workman and materialman who have performed work upon or provided materials for the Work up to the billing closing date, and/or (b) an approval or acceptance of such work by any governmental and/or quasi-governmental entities or agencies having jurisdiction over such work.

IN WITNESS WHEREOF: The parties hereto have executed this Agreement, for themselves, their heirs, executors, administrators, successors, and permitted assigns, on the date set forth below.

CONTRACTOR: Phillip Mark

OWNER: LSJ

BY: 

BY: 

NAME: Phillip Mark

NAME: Gary Kerney

TITLE: \_\_\_\_\_

TITLE: \_\_\_\_\_

DATE: \_\_\_\_\_

DATE: 10/24/2011

DATE: 10/24

INITIAL: PM

DATE: 1025 11

INITIAL: PM

SCHEDULE A

SCOPE OF WORK

#1015 Five Palms

CMU, Interior Plaster and Exterior Cement Plaster

Supply all labor and equipment necessary to complete the CMU, Interior Plaster and Exterior Cement Plaster (herein defined as the "Work") on a unit cost basis as per your verbal quote dated 20 October 2011.

- All required Insurance certificates to be provided before starting work or receiving payment. LSJ, LLC to be named as additional insured where applicable
  - General Liability Waiver
  - Government Insurance
  - Automobile liability
- Acceptable documentation as to the legal work status of all workers to be provided prior to beginning work.
- General construction clean up of the work area is the responsibility of Phillip Mark. Phillip Mark shall keep the work premises and surrounding area free from accumulation of trash and debris related to the Work. Provide all clean up to Owner supplied dumpster
- Phillip Mark to mix the owner supplied materials for his use.
- Owner will provide the following:
  - Building permit
  - All materials
  - Power, lighting, toilet facilities, water and ice
  - Transportation of personnel to and from LSJ from AYH Dock
  - Transportation of tools and equipment to LSJ from Red Hook Dock

DATE:

10/20

INITIAL:

ly

DATE:

10/25/11

INITIAL:

Pm

SCHEDULE B

PRICE AND PAYMENT SCHEDULE

TOTAL PRICE OF THIS CONTRACT IS: Per Unit Cost

04-220	CMU	\$6.00 per block
04-260	Exterior Cement Plaster	\$4.60 per SFT
09-200	Interior Plaster	\$3.00 per SFT

*Bi-monthly requisitions to be paid on a percentage complete basis.*

*Applicable Gross Receipts Taxes to be paid by Phillip Mark*

**SCHEDULE**

*Time limits stated herein are of the essence of the contract.*

*Work to be substantially completed within Eight (8) weeks of the date of commencement*

*Date of Commencement is the date of this contract.*

*Work to be coordinated and scheduled with Tom Melnick, Site Superintendent (340-244-8564)*

DATE:

10/24

INITIAL:

g

DATE:

10/25/11

INITIAL:

PM

SCHEDULE C

INVOICING INSTRUCTIONS AND LEGAL NOTICES

**FILING AND INVOICING:** All invoices should be serially numbered. If your invoice form is not so numbered, type or print in an upper corner 'INVOICE NUMBER \_\_\_\_.' Assign a different number to each separate invoice. Assign separate invoices for separate phases of work, and separate invoices for options or extras. Prepare all invoices in duplicate. Send the original and one copy to Owner's construction office for approval. Contractor must attach properly executed lien releases to each invoice.

All invoices shall indicate the project name, unit description, total item price, amount and percentage of total item price you are invoicing on this invoice, and the address to which payment is to be sent.

Lien releases must be dated on the date of the invoice or later.

As a condition precedent to final payment or the payment of retention to be made to Contractor by Owner, Contractor must submit (a) two (2) copies of As-Built-Drawings and/or Instruction/Warranty Manuals to Owner, (b) written approvals or acceptances of such project by any governmental or quasi-governmental entities or agencies having jurisdiction over the project, and (c) properly executed lien release covering all subcontractors, suppliers, laborers, and other persons or entities who performed work or services on, or who furnished materials for, the project under your contract.

Mail or deliver invoices and releases to: LSJ, LLC  
6100 Red Hook Qtrs B3  
St. Thomas, USVI 00802

**LEGAL NOTICES:** For the purpose of protecting Preliminary Lien Rights, Preliminary Lien Notices should be mailed to all of the following:

**OWNER:** LSJ, LLC  
6100 Red Hook Qtrs B3  
St. Thomas, USVI 00802

DATE: 10/24

INITIAL: [Signature]

DATE:

INITIAL: