



Tom White Painting and Restoration  
3520 66th Ave North, Pinellas Park, FL 33781 727-578-5819  
TomWhitePainting.com info@tomwhitepainting.com



**Curlew Landings HOA**  
**2350 Bayshore Blvd**  
**Dunedin, FL 34698**

**Tom White Painting & Restoration Contract**  
**Curlew Landings Homeowners Association**

This Painting Contract is made as of January 9, 2017 by and between Curlew Landings HOA and Tom White Painting & Restoration of 3520 66<sup>th</sup> Avenue North Pinellas Park, FL 33781, License# C-9614, CGC1520903. Contractor desires to provide painting services to Curlew Landings HOA and Curlew Landings HOA, desires to obtain such services from the contractor.

THEREFORE, in consideration of the mutual promises set forth below, the parties agree as follows:


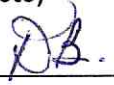
**DESCRIPTION OF SERVICES:** Beginning on TBD, Tom White Inc. DBA Tom White Painting & Restoration will provide to Curlew Landings HOA the services described in the Porter Paint specs.

**SCOPE OF WORK:** The Contractor will provide all services, materials and labor for the painting of the property located at: (2350 Bayshore Blvd, Dunedin, FL 34698) hereinafter referred to as ("Worksite"). We will be painting 16 Residential Buildings & Recreation Building, Phase I, Phase II. This includes painting materials, requisite labor and site security, and all necessary tools and machinery needed for completion of construction. Contractor is not responsible for furnishing any improvements other than painting, unless they are specifically authorized.

**WORK SITE:** Prior to start of construction, Curlew Landings HOA shall provide a clear; accessible building site.

**PAYMENT:** Payment shall be made to Tom White Inc. DBA Tom White Painting & Restoration, 3520 66<sup>th</sup> Avenue N., Pinellas Park, FL 33781. , Curlew Landings HOA agrees to pay the sum of 159,362.50 which is the painting base price of Phase I & II less 5% as we are doing the work together as follows: The first payment of \$15,936.25 shall be due at Commencement. Four (4) additional progress payments shall be due at the completion of 30%, 50%, 70% and 90% along with the cost of any options completed. The final payment of \$15,936.25 along with the cost of any options completed will be due at the completion and final approval of the association. Payment shall be due within 10 days of receipt of invoice. Tom White Painting & Restoration will require Curlew Landings HOA to sign a Certificate of Satisfaction for each progress payment prior to starting the next portion of the project.

<u>Event</u>	<u>Payment Amount</u>
1 <sup>st</sup> Progress Payment (Due at Commencement)	\$15,936.25
2 <sup>nd</sup> Progress Payment (30% complete)	\$31,872.50
3 <sup>rd</sup> Progress Payment (50% complete)	\$31,872.50

1  Tom White  Curlew Landings HOA

4 <sup>th</sup> Progress Payment (70% complete)	\$31,872.50
5 <sup>th</sup> Progress Payment (90% complete)	\$31,872.50
Final Payment (100% Completion of Project)	\$15,936.25
Base Bid Phase I (4 Bldgs, 24 Units) (\$42,975.00 less 5%) =	\$40,826.25
Base Bid Phase II (12 Bldgs, 70 Units) (\$124,775.00 less 5%) =	\$118,536.25
Option #3 – Exterior Chimney Caps per Specs	No Charge

45.00 Option #4 - T&M for Wood Supervisor and \$40.00 for helpers, per man hour, plus material + 15%

Option #4 - T&M for Wood \$45.00 for

Option #5 - Cubic foot concrete repair \$295.00 c/F (min?)

Option #6 – Stucco Repairs per square foot (5 foot min) \$13.75 s/F (5min)

If Phase I & II are done together, we will discount the total painting by 5%

In addition to any other right or remedy provided by law, if Curlew Landings HOA fails to pay for the Services when due, Contractor has the option to treat such failure to pay as a breach of this Contract, and may cancel this contract and/or seek legal remedies.

**TERM:** The Contractor shall commence the work to be performed within the agreed time, weather permitting. Working hours shall be Monday through Friday, 7:30 am to 5:30 pm., Saturdays, with Board approval.

**CHANGE ORDERS:** Curlew Landings HOA may make changes to the scope of the work from time to time during the term of this Contract. However, any such change or modification shall only be made by written "Change Order" signed by both parties. Such Change Orders shall become part of this Contract. Curlew Landings HOA agrees to pay any increase in the cost of the Painting work as a result of a Change Order. In the event the cost of a Change Order is not known at the time a Change Order is executed, the Contractor shall estimate the cost thereof and Curlew Landings HOA shall pay the actual cost whether or not it is in excess of the estimated cost.

**PERMITS:** If Permits are required, the HOA will be responsible for any fees.

**INSURANCE:** The Contractor shall maintain general liability insurance, and worker's compensation, insurance, and provide to Curlew Landings HOA prior to start of project.

**INDEMNIFICATION:** Tom White Inc. DBA Tom White Painting & Restoration agrees to indemnify and hold Curlew Landings HOA harmless for all claims, losses, expenses, fees including attorney fees, costs, and judgment that may be asserted against Curlew Landings HOA that result from the acts or omissions of Tom White Inc. DBA Tom White Painting & Restoration and/or Tom White Inc. DBA Tom White Painting & Restoration's employees, agents, or representatives.

**WARRANTY:** Tom White Inc. DBA Tom White Painting & Restoration shall provide its services and meet its obligations under this Contract in a timely and workmanlike manner, using knowledge and recommendations for performing the services which meet generally acceptable standards in Tom White Painting & Restoration Inc.'s community and region, and will provide a standard of care equal to, or superior to, care used by service providers similar to Tom White Inc. DBA Tom White Painting & Restoration on similar projects. The (7) year "Material & Labor" Warranty will be issued upon completion and acceptance.

**FREE ACCESS TO WORKSITE:** Curlew Landings HOA will allow free access to work areas for workers and vehicle and will allow areas for the storage of materials and debris. Driveways will be kept clear for the movement of vehicles during



work hours. The Contractor will make reasonable efforts to protect driveways, lawns, shrubs, and other vegetation. The Contractor also agrees to keep the Worksite clean and orderly and to remove all debris as needed during the hours of work in order to maintain work conditions which do not cause health or safety hazards.

**UTILITIES:** The Curlew Landings HOA shall permit the Contractor to use, at no cost, power and water necessary to the carrying out and completion of work.

**INSPECTION:** The Curlew Landings HOA shall have the right to inspect all work performed under this Contract.

**DEFAULT:** The occurrence of any of the following shall constitute a material default under this Contract:

- a. The failure to make a required payment when due.
- b. The insolvency or bankruptcy of either party
- c. The subjection of any of either party's property to any levy, seizure, general assignment for the benefit of creditors, application or sale for or by any creditor or government agency.
- d. The failure to make available or deliver the Services in the time and manner provided for in this Contract.
- e. Failure by contractor to use specified products.

**REMEDIES:** In addition to any and all other rights a party may have available according to law, if a party defaults by failing to substantially perform and provision, term or condition of this Contract (including without limitation the failure to make a monetary payment when due), the other party may terminate the Contract by written notice to the defaulting party. This notice shall describe with sufficient detail the nature of the default. The party receiving such notice shall have 20 days from the effective date of such notice to cure the default(s). Unless waived by a party providing notice, the failure to cure the default(s) within such time period shall result in the automatic termination of this Contract.

**FORCE MAJEURE:** If performance of this Contract or any obligation under this Contract is prevented, restricted, or interfered with by causes beyond either party's reasonable control ("Force Majeure"), and if the party is unable to carry out its obligations gives the other party the prompt written notice of such event, then the obligations of the party invoking this provision shall be suspended to the extent necessary by such event. The term Force Majeure shall include, without limitation, acts of God, fire, explosion, vandalism, storm or other similar occurrence, orders or acts of military or civil authority, or by national emergencies, insurrections, riots, or war, or strikes, lock-outs, work stoppage, or other labor disputes, or supplier failures. The excused party shall use reasonable efforts under the circumstances to avoid or remove such causes of non-performance and shall proceed to perform with reasonable dispatch whenever such causes are removed or ceased. And act or omission shall be deemed within reasonable control of a party if committed, omitted, or caused by such party, or its employees, officers, agents, or affiliates.

**ARBITRATION:** Any controversies or dispute arising out of or relating to this Contract shall be resolved by binding arbitration in accordance with the then-current Commercial Arbitration Rules of the American Arbitration Association. The parties shall select a mutually acceptable arbitrator knowledgeable about the issues relating to the subject matter of this Contract. In the event the parties are unable to agree to such a selection, each party will select an arbitrator and the two arbitrators in turn shall select a third arbitrator, all three of whom shall preside jointly over the matter. The arbitration shall take place at a location in Pinellas County. All documents, materials, and information in the possession of each party that are in any way relevant to the dispute shall be made available to the other party for review and copying no later than 30 days after the notice of arbitration is served.

The arbitrator(s) shall not have authority to modify any provisions of this Contract or to award punitive damages. The arbitrator(s) shall have the power to issue mandatory orders and restraint orders in connection with the arbitration. The decision rendered by the arbitrator(s) shall be final and binding on the parties, and judgment may be entered in conformity with the decision in any court having jurisdiction. The contract to arbitration shall be specifically enforceable under the prevailing arbitration law. During the continuance of any arbitration proceeding, the parties shall continue to perform their respective obligation under this Contract. The cost of the arbitration shall be equally divided between the parties.

**ENTIRE CONTRACT:** This Contract contains the entire contract of the parties, and there are no other promises or conditions in any other contract whether oral or written concerning the subject matter of this Contract. This Contract supersedes any prior written or oral agreements between the parties.

**SEVERABILITY:** If any provision of this Contract will be held to be invalid or unenforceable for any reason, the remaining provisions will continue to be valid and enforceable. If a court finds that any provisions of this Contract is invalid or unenforceable, but that by limiting such provisions it would become valid and enforceable, then such provisions will be deemed written, construed, and enforced as so limited.

**AMENDMENT:** This Contract may be modified or amended in writing, if the writing is signed by the party obligated under the amendment.

**GOVERNING LAW:** This Contract shall be construed in accordance with the laws of the State of Florida.

**NOTICE:** Any notice or communication required or permitted under this Contract shall be sufficiently given if delivered in person or by certified mail, return receipt requested, to the address set forth in the opening paragraph or to such other address as one party may have furnished to the other in writing.

**WAIVER OF CONTRACTUAL RIGHT:** The failure of either party to enforce any provision of this Contract shall be constructed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Contract.

**HOA:**

Curlew Landings HOA

Date: 1-11-17

**X** *Deborah E. Best*  
Officer *President*

**CONTRACTOR:**

Tom White Inc. DBA Tom White Painting & Restoration

Date: 2/8/17

**X** *Thomas H. White Jr.*  
Thomas H. White Jr.  
President

*TW* Tom White *DB* Curlew Landings HOA