

“AGREEMENT AMENDMENT”

This Amendment is to the Agreement for the Provision of General Contracting Construction Services for the Bert Bostrom Green Infrastructure Improvements Project with DS Eakins Construction Corporation

Attachment #5:

Amendment to the Contract to include language from CFR / TITLE 2 / PART 200 / APPENDIX II to PART 200

Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II of the Code of Federal Regulations (CFR) Title 2, Subtitle A, Chapter II, Part 200.

The below listed provisions, A through L, are included as part of the agreement for services and the contractor must comply with the requirements of Appendix II to CFR Part 200.

The provisions below are included as part of this Construction Services agreement and are from CFR of Appendix II for review, reference and compliance.

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

- A) Contracts for more than the simplified acquisition threshold**, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- B) All contracts in excess of \$10,000.00** must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.
- C) Equal Employment Opportunity:** Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity”, and implementing regulations at 41 CFR Part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

D) **Davis-Bacon Act, as amended (40 U.S.C 3141-3148).** When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate no less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by the Department of Labor regulations (29 CFR Part 3), “contractor and subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provide that each contractor or sub-receiptient must be prohibited from inducing, by any means, any persons employed in the construction, completion or repair of public work, to give up any part to the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

E) **Contract Work Hours and Safety Standards Act (40 U.S.C 3702-3708).** Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers mush include a provision for compliance with 40 U.S.C 3702 and 3704, as supplemented by Department of Labor regulations (29 CR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that he worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available ton the open market, or contracts for transportation or transmission of intelligence.

F) **Rights to Inventions Made Under a Contract or Agreement.** If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or sub-recipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement”, the recipient or sub-recipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small

Business Firms Under Government Grants, Contracts and Cooperative Agreements, “ and any implementing regulations issued by the awarding agency.

- G) **Clean Air Act (42 U.S.C 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387)**, as amended – Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- H) **Debarment and Suspension (Executive Orders 12549 and 12689)** – A contract award (see 2 CFR 180.220) must not be made to parties listed on the government-side exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR park 1986 Comp., p. 189) and 12689 (3 CFR park 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory authority other than Executive Order 12589.
- I) **Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)** – Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the Federal award.
- J) See CFR § 200.323
- K) See CFR § 200.216
- L) See CFR § 200.322

IN WITNESS WHEREOF, the parties hereto have made and execute this AGREEMENT AMENDMENT as of the day and year last execute below.

ATTEST:

TOWN OF LAKE PARK

By: _____
Vivian Mendez, TOWN Clerk

By: _____
Roger D. Michaud, Mayor

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

By: _____
Thomas J. Baird, Town Attorney

STATE OF FLORIDA

COUNTY OF PALM BEACH

The foregoing instrument has been acknowledged before me this _____ day of _____ 2023 by Roger Michaud, Mayor of the Town of Lake Park TOWN, and who is personally known to me.

(NOTARY SEAL)

Notary Public, State of Florida

D.S. Eakins Construction Corporation
1481 Kinetic Road
Lake Park, Florida 33403

By: 
Signature

Its: Vice President
Title

D. Steven Eakins, Jr.
Written Name: