

**CONTRACT TO PROVIDE STORMWATER IMPROVEMENTS AND ROAD
RESURFACING SERVICES ON SECOND STREET.**

THIS CONTRACT TO PROVIDE STORMWATER IMPROVEMENTS AND ROADWAY RESURFACING SERVICES ON SECOND STREET (Contract) is made between the Town of Lake Park, a municipal corporation of the State of Florida, having an address of 535 Park Avenue, Lake Park, Florida, 33403 ("Town") and Sunshine Land Design, Inc., with an address of 3291 SE Lionel Terrace, Stuart, Florida 34997 ("Contractor") (collectively "the Parties") is entered into this _____ day of _____, 2023.

WITNESSETH THAT:

WHEREAS, the Town is a municipality with such powers and authority as is enumerated by Chapter 166 Florida Statutes and the Florida Constitution; and

WHEREAS, the Town Manager previously determined a need for improving the stormwater drainage system along Second Street, between Foresteria Drive and Evergreen Drive (the "Project"); and

WHEREAS, the Town's Public Works Department staff prepared an Invitation to Bid No. 108-2023 (ITB) to solicit bids from qualified bidders for the Project; and

WHEREAS, on June 8, 2023, Town staff received three (3) bids and following their evaluation, it was determined that the bid provided by Sunshine Land Design, Inc., (the "Contractor"), in an amount of \$526,513.12, was the lowest responsive and responsible bid; and

WHEREAS, in its response to the ITB, the Contractor represented that it is qualified, able, and willing to satisfactorily provide the work and construction services associated with the Project; and

WHEREAS, the Town Manager has recommended to the Town Commission that the Town enter into a contract with Sunshine Land Design, Inc., for the provision of the Project's construction services.

NOW, THEREFORE, the Town and the Contractor in consideration of the benefits flowing from each to the other do hereby agree as follows:

1. The above stated recitals are true and correct and are incorporated herein.

2. COST OF SERVICES

This term of the Contract shall begin following the date of the parties execution of the Contract at the time of the issuance of a Notice to Proceed for the Project.

The cost for the Project shall be **\$526,513.12**.

3. LAWS AND REGULATIONS

The Contractor shall comply with all federal, state, local laws and regulations applicable to provide the work and services for the Project.

4. LICENSES, PERMITS AND FEES

The Contractor shall hold all licenses and/or certifications necessary to perform the construction work and services for the Project, and shall obtain and pay for all applicable permits and/or inspections, and comply with all laws, ordinances, regulations, and building code requirements. Damages, penalties, and/or fines incurred by or imposed on the Town or Contractor for the Contractor's failure to obtain and maintain any required licenses, certifications, permits, and/or inspections shall be the responsibility of the Contractor.

5. SUBCONTRACTING

The Contractor shall provide to the Town a list of subcontractors the Contractor proposes to use to complete the Project.

6. ASSIGNMENT

The Contractor shall not assign or transfer the Contract, including any rights, title, or interest therein, or its power to perform the services associated with the Contract to any person, company, or corporation without the prior written consent of the Town. The transfer or assignment of any rights, title, or interest in the Contract without the prior consent of the Town may result in the Town's termination of the Contract.

7. RESPONSIBILITIES AS EMPLOYER

The employees of the Contractor, or any authorized subcontractors shall be considered to be at all times to be the Contractor's employees, and not an employees or agents of the Town. The Contractor shall provide physically competent employees capable of performing the work and licensed or certified as may be necessary to perform the Services. The Town may require the Contractor to remove any employee the Town deems to be unacceptable. All employees of the Contractor shall wear proper identification at all times while on Town properties.

It is the Contractor's responsibility to ensure that all its employees and any approved subcontractors to comply with the employment regulations required by the United States Department of Homeland Security. The Town shall have no responsibility to check or verify the legal immigration status of any employee of the Contractor.

8. INDEMNIFICATION AND INSURANCE

The Contractor shall indemnify and hold harmless the Town, its elected and appointed officers, employees, and agents from any and all liability, losses, or damages, including attorney's fees and costs of defense, which the Town or its elected or appointed officers,

employees, or agents may incur as a result of any claims, fees, demands suits, causes of actions, or proceedings of any kind or nature arising out of, relating to, or resulting from the performance of the Contract by the Contractor or its employees, agents, servants, partners, principals, or subcontractors. The Contractor shall be responsible for paying all claims and losses, or fees in connection therewith, and shall investigate and defend all claims, suits, or actions of any kind or nature against the Town, for its negligence, act or omission, and shall pay all costs, judgments, and attorney's fees, including appellate proceedings, which may be incurred thereon. The Contractor expressly understands and agrees that any insurance protection required by this Contract or otherwise provided by the Contractor shall in no way limit its responsibility to indemnify, keep and save harmless, and defend the Town or its elected and appointed officers, employees, and agents.

The Contractor shall have and maintain during the term insurance coverage issued by an insurance company authorized, licensed, and registered to do business in the state of Florida, with a minimum rating of B+ or better, in accordance with the latest edition of A.M. Best's Insurance Guide. This insurance shall be documented in certificates of insurance which identify the Town as an additional insured and provide that the Town shall be notified at least 30 days in advance of cancellation, non-renewal, or adverse change to the insurance. The receipt of certificates of insurance, including if requested by the Town policies or copies of policies by the Town or by any of its representatives, which indicate less coverage than is required, does not constitute a waiver of the Contractor's obligation to fulfill the insurance requirements herein. Deductibles must be acceptable to the Town and agreed to prior to the execution of the Contract.

The selected Contractor shall submit a current Certificate of Insurance, naming the Town as an additional insured and listed as such on the insurance certificate. New certificates of insurance are to be provided to the Town upon the expiration of any Certificate of Insurance.

The selected Contractor shall provide insurance coverage as follows:

- a. WORKERS' COMPENSATION INSURANCE in accordance with statutory requirements and Employer's Liability Insurance with limits of not less than (\$100,000 for each accident, not less than \$100,000 for each disease, and not less than \$500,000 aggregate.
- b. GENERAL LIABILITY INSURANCE with each occurrence limits of not less than \$1,000,000.
- c. PROFESSIONAL LIABILITY INSURANCE with limits of not less than \$1,000,000 annual aggregate.
- d. HIRED AND NON-HIRED VEHICLES with limits of not less than \$500,000 per claim.

9. CONTRACT TIME

The number of days within which, or the date by which, the Project is to be completed (the Contract Time) shall be 150 calendar days from notice to proceed to substantial completion, plus 30 days from substantial completion to final completion, for a total Contract Time of 180 days.

10. LIQUIDATED DAMAGES

The provisions of the Contract as to liquidated damages in the event of failure to complete the Project with the Contract Time are as follows: Liquidated damages shall be \$100.00 for each calendar day beyond the completion time stipulated.

11. MODIFICATION OF CONTRACT

The Contract may only be modified by the mutual consent of the parties hereto, as evidenced by a written amendment to the Contract.

12. TERMINATION FOR CONVENIENCE

The Town, at its sole discretion, reserves the right to terminate this Contract for convenience and without cause upon providing 60 days' advance written notice to the Contractor. Upon receipt of such notice, the Contractor shall not continue to provide the work and services associated with the Project unless the Town shall have provided written authorization.

13. TERMINATION BY CONTRACTOR

The Contractor may terminate the Contract before the expiration of the Term provided it gives 90 days written notice of its intention to do so. In the event of termination by Contractor, the Town may procure the required work and/or services for the Project from any source and use any method deemed in its best interest to provide the work and services. All re-procurement costs shall be borne by the Contractor.

14. ACCESS AND AUDIT OF RECORDS

The Town reserves the right to require the Contractor to submit to an audit by an auditor of the Town's choosing at the Contractor's expense of its records, which relate directly or indirectly to this Contract, at its place of business during regular business hours, or at such other places as mutually agreed to by the Town and Contractor.

The Contractor shall retain all records pertaining to this Contract, and upon request, make them available to the Town for three (3) years following expiration of the Contract. The Contractor agrees to provide such assistance to the Town as the Town deems necessary to facilitate the review or audit to ensure the Town that Contractor is in compliance with all applicable accounting and financial standards.

15. OFFICE OF THE INSPECTOR GENERAL

Palm Beach County has established the Office of the Inspector General (OIG), which is authorized and empowered to review past, present, and proposed Town programs, contracts, transactions, accounts, and records. The OIG has the power to subpoena witnesses, administer oaths, require the production of records, and monitor existing projects and programs. The OIG may, on a random basis, perform audits on all Town contracts.

16. BINDING EFFECT

All of the terms and provisions of this Contract, whether so expressed or not, shall be binding upon, inure to the benefit of, and be enforceable by the parties and their respective legal representatives, successors, and authorized assigns.

17. SEVERABILITY

If any part of this Contract is contrary to, prohibited by, or deemed invalid under applicable law or regulation, such provision shall be inapplicable and deemed omitted to the extent so contrary, prohibited, or invalid, but the remainder hereof shall not be invalidated thereby and shall be given full force and effect so far as possible.

18. GOVERNING LAW AND VENUE

The enforcement of this Contract shall be governed by and enforced in accordance with the laws of the state of Florida without regard to any contrary conflicts of law principle. Venue of all proceedings in connection herewith shall lie exclusively in Palm Beach County, Florida.

19. ATTORNEY'S FEES

If either party is required to initiate a legal action, including appeals, to enforce this Contract, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs.

20. EQUAL OPPORTUNITY AND ANTI-DISCRIMINATION

The Town complies with all laws of prohibiting discrimination on the basis of age, race, gender, religion, creed, political affiliation, sexual orientation, physical or mental disability, color or national origin, and therefore is committed to assuring equal opportunity in the award of contracts and encourages small, local, minority and female-owned businesses to participate.

During the performance of this Contract, Contractor shall not discriminate or permit discrimination in its hiring practices or in its performance of the Contract. The Contractor

shall strictly adhere to the equal employment opportunity requirements and any applicable requirements established by the state of Florida, Palm Beach County and the federal government.

The Contractor further acknowledges and agrees to provide the Town with all information and documentation that may be requested by the Town from time to time regarding the solicitation, selection, treatment, and payment of approved subcontractors, suppliers, and vendors in connection with this Contract.

21. NO DISCRIMINATION CLAUSE

The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin age pregnancy, handicap, or marital status. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: Employment, up-grading, demotion, or transfer, recruitment, or recruitment advertising; layout or termination; rates of pay or other forms of compensation, and selection of training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause."

22. MINIMUM WAGE REQUIREMENTS

The Contractor shall comply with all minimum wage requirements, such as Living Wage requirements, minimum wages based on Federal Law, minimum wages based on the Davis-Bacon Act, and the provisions of any other employment laws, as may be applicable to this Contract.

23. PUBLIC RECORDS

The Contractor shall comply with Florida's Public Records Law. Specifically, the Contractor shall:

- a. Keep and maintain public records required by the Town to perform the service.
- b. Upon the request of the Town's custodian of public records, provide the Town with such public records within a reasonable time at a cost that does not exceed the costs provided for in Chapter 119, Florida Statutes.
- c. Ensure that any public records that are exempt or confidential from public records disclosure are not disclosed except as authorized by law for the duration of the term of this Contract, and following completion of this Contract if the Contractor does not transfer the records which are part of this Contract to the Town.

- d. Upon the completion of the term of the Contract, transfer, at no cost, to the Town all public records in possession of the Contactor/Vendor; or keep and maintain the public records associated with the services provided for in the Contract. If the Contactor transfers all public records to the Town upon completion of the term of the Contract, the Consultant shall destroy any duplicate public records that are exempt of confidential from public records disclosure. If the Contractor keeps and maintains public records upon completion of the term of the Contract, the Contractor shall meet all applicable requirements pertaining to the retention of public records. All records stored electronically shall be provided to the Town, upon request from the Towns custodian of public records, in a format that is compatible with the information technology systems of the Town.
- e. IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, ITS DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, THE CONTACTOR SHOULD CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: TOWN CLERK, 535 Park Avenue, Lake Park, Florida 33403, 561-881-3311, Townclerk@lakeparkflorida.gov.

23. ATTACHMENTS TO CONTRACT

The below listed attachments are considered to be documents included as part of this Contract:

- Attachment 1: Invitation to Bid (ITB) No. 108-2023
2nd Street Resurfacing & Green Infrastructure Improvements
Including all addendum associated with this ITB.
- Attachment 2: Exhibit A – Project Plans, as prepared by Water Resources
Management Associates, Inc.
- Attachment 3: Exhibit B – Project Specifications
- Attachment 4: Exhibit C – Seacoast Utility Authority Specifications
- Attachment 5: Exhibit D – DEP Grant Contract Documentation
- Attachment 6: Exhibit E – Bid Form Documents
- Attachment 7: Bid Response Proposal to ITB No. 108-220 submitted
Sunshine Land Design, Inc. on Thursday, July 08, 2023, at
1:51 pm.

IN WITNESS WHEREOF, the parties hereto have made and execute this Contract 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 by means of ☐ physical presence or ☐ online notarization, this ____ day of _____ 2023 by Roger Michaud, Mayor of the Town of Lake Park, who is personally known to me.

(NOTARY SEAL)

Notary Public, State of Florida

Sunshine Land Design, Inc.
3291 SE Lionel Terrace
Stuart, Florida 34997

By: 
Signature

Its: Margaret Fenton
Title Vice President

Written Name:

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