



Notice to Bidders - Rebid

Request for Bids (RFB) For

Homestead Skatepark Renovation-Rebid

For

**Town of Chapel Hill
Chapel Hill, North Carolina**

BID:	P25-104
CATEGORY:	Construction
PROJECT:	Homestead Skatepark Renovation
FROM:	Zakia Alam, Purchasing & Contracts Manager
NOTICE DATE:	September 11, 2024
SUBMISSION DATE:	September 27, 2024

Pursuant to Section 143-129 of the General Statutes of North Carolina, sealed proposals for the Homestead Skatepark Renovation (the "Project") to be furnished to the Town of Chapel Hill, N.C. will be received by Zakia Alam, Purchasing and Contracts Manager, at the Town Hall in the First Floor Conference Room #102, 405 Martin Luther King Jr. Boulevard, Chapel Hill, N.C., until September 27, 2024 at 10:00 A.M., at which time they will be opened and publicly read. **Please allow extra time for parking, as it may be necessary to park at the Wallace Parking Deck located at 150 E. Rosemary Street approximately 4 blocks from the Town Hall or at alternative locations.**

Prospective bidders may view the plans and specifications for the proposed project on the Town of Chapel Hill website (www.townofchapelhill.org). Click on "Businesses" menu, then "Bid Notices" option, then the name of this project)

An optional pre-bid conference will be held at 11:30 A.M. on September 18, 2024, in Homestead Aquatic Center, 300 Aquatic Drive, Chapel Hill, NC 27516. All potential bidders are hereby notified that attendance at the optional pre-bid conference is not required for bid submittal.

The Project Manager for this project is Kevin Robinson, Senior Manager of Planning and Park Operations, Parks and Recreation, Town of Chapel Hill. All requests for interpretations related to this RFB must be submitted in writing to the Project Manager at krobinson@townofchapelhill.org by 12:00 P.M. on September 19, 2024. All responses to timely submitted requests for interpretations will be published as an addendum on the Town's website on September 20, 2024.

For questions on the bidding procedures, contact the Town's Purchasing Division at 919-969-5022.

The Town of Chapel Hill reserves the right to reject any and all bids for any reason or no reason and to accept the bid most favorable to the Town of Chapel Hill.

Instructions to Bidders-Rebid



For

Homestead Skatepark Renovation

For

Town of Chapel Hill
Chapel Hill, North Carolina

BID:	P25-104
CATEGORY:	Construction
PROJECT:	Homestead Skatepark Renovation
FROM:	Zakia Alam, Purchasing & Contracts Manager
NOTICE DATE:	September 11, 2024
SUBMISSION DATE:	September 27, 2024

This bid package includes the following documents:

Notice to Bidders
Instructions to Bidders
Bid Proposal Form
Addendum I dated September 4, 2024
Contract between Owner & Contractor with Performance and Payment Bonds (sample)
General Conditions of the Contract for Construction
Project Plans and Technical Specifications

Project Summary: The Skatepark renovation will include demolition of the current stick built skatepark and construction of the new concrete park per the included design documents.

Projected Project Schedule:

The Town's goal is to use the following schedule if possible:

Bid Request Issued:	September 11, 2024
Optional Pre-Bid Conference:	September 18, 2024 Homestead Aquatic Center, 300 Aquatic Drive, Chapel Hill, NC
Requests for Interpretation Due:	September 19, 2024
Addendum Published:	September 20, 2024
Bids Due:	September 27, 2024
Town Council Approval:	October 9, 2024
Contract Execution:	October 23, 2024
Project Completion Date:	365 Days after Notice to Proceed is issued

Contacts:

For Questions about the Proposed Project:
Kevin Robinson, Senior Manager of Planning & Park Operations, Project Manager

For Questions about Bidding Procedures:
Town of Chapel Hill
Purchasing Division

Parks and Recreation
Town of Chapel Hill
405 Martin Luther King, Jr. Blvd.
Chapel Hill, NC 27514
Email: krobins@townofchapelhill.org

919-969-5022

**PLEASE READ ALL INSTRUCTIONS CAREFULLY
BEFORE PREPARING AND SUBMITTING YOUR BID**

All bids shall be prepared and submitted in accordance with the following requirements. Failure to comply with any requirement shall cause the bid to be considered irregular and shall be grounds for rejection of the bid.

I. PRE-SUBMISSION PROCEDURES:

A. Requests For Interpretations. Bidders in doubt as to the meaning of any part of the instructions, specifications, or other documents furnished with or referenced by these Instructions, may submit questions in writing to Kevin Robinson at krobins@townofchapelhill.org by the "Requests for Interpretation Due" date and time specified above. No further requests for interpretation will be accepted after the deadline.

B. Addenda. All responses to timely submitted requests for interpretations will be published in the form of an addendum on the Town's website at www.townofchapelhill.org on September 20, 2024. Bidders shall ascertain that they have received all addenda issued and shall acknowledge their receipt on the Formal Bid Proposal Form, furnished with the specifications.

C. Pre-Bid Conference. An optional pre-bid conference will be held on Wednesday, September 18, at 11:30 am in Homestead Aquatic Center, 300 Aquatic Drive, Chapel Hill, NC 27516. All potential bidders are hereby notified that attendance at the optional pre-bid conference is not required for bid submittal. An optional visit to the site will be offered immediately following the pre-bid conference.

D. Expectations for Contract. It is intended that the successful bidder shall furnish all tools, equipment, machinery, apparatus, labor and materials necessary to complete all work required under the terms of such contract(s) as may be entered into.

II. SUBMISSION OF BIDS:

A. Receipt of Bids. Sealed proposals for the furnishing of labor, materials, equipment, and services for the construction of the Project will be received by the Purchasing & Contracts Manager at the Town of Chapel Hill Town Hall, in the first-floor conference room #102, 405 Martin Luther King Jr. Blvd., Chapel Hill, North Carolina, **until Friday, September 27, 2024, 10:00 A.M.** Bids shall be enclosed in a sealed envelope addressed to the Purchasing & Contracts Manager, Town of Chapel Hill, 405 Martin Luther King Jr. Blvd., Chapel Hill, North Carolina 27514, and clearly marked "**Bid Proposal – Homestead Skatepark Renovation.**" The bidder's state contractor license number shall be printed in the lower left-hand corner of the envelope containing the bid.

B. Bid Opening. All bids received will be opened promptly and read at the specified hour and date set forth in the Notice to Bidders.

C. Bid Bond/Deposit. No proposal shall be considered or accepted by the Town of Chapel Hill unless, at the time of its filing, the proposal shall be accompanied by a deposit with the Town of Chapel Hill of cash, a cashier's check, or a certified check on a bank or trust company insured by the Federal Deposit Insurance Corporation in an amount equal to but not less than five percent (5%) of the proposal. In lieu of making the cash deposit, as provided above, bidders may file a Bid Bond executed by a corporate surety licensed under the laws of North Carolina to execute the contract in accordance with the bid bond. This deposit shall be retained by the Town of Chapel Hill if the successful bidder fails to execute the contract within ten (10) days after the award or fails to give satisfactory surety as required. **Bid bond shall be enclosed in a separate sealed envelope with "Bid Bond" printed on the envelope.**

D. Licenses. Bidders are hereby notified that Chapter 87 of the North Carolina General Statutes will be observed in receiving and awarding the Contract(s). Accordingly, Bidders must have proper license(s) under the State laws governing their respective trade(s).

E. Bid Proposal Form. Bids shall be submitted on the Bid Proposal Form furnished here and must be completed in ink or typewritten without erasure, interlineations or changes. All prices shall be stated in numerals. In case of conflict, unit prices will take precedence over unit price extensions.

F. Execution of Bids.

1. **Corporations.** Bids by corporations shall be executed in the corporate name by the President or Vice-President (or other duly authorized corporate officer accompanied by evidence of authority to sign), and the corporate seal be affixed and attested by the Secretary or Assistant Secretary of the corporation. The officer's signature shall be notarized. The corporate address and state of incorporation shall be shown above the signature.
2. **Partnerships.** Bids by partnerships must be executed in the partnership name and signed by a partner, the partner's title must appear under the partner's notarized signature, and the official address of the partnership and the names of all partners must be typed or printed below the signature.
3. **Other Business Entities.** Bids other than by corporations or partnerships shall be executed by the owner of the firm submitting a bid, in the presence of a notary public whose signature and seal attest said signature.

G. Minority and Women Owned Enterprises. Bidder shall make a good faith effort to ensure that, whenever possible, subcontracts are awarded to minority and women's business enterprises in accordance with Town policy. See General Conditions for additional information. Documents must be included with bid at the time of submission.

H. Familiarity with Project Conditions. Bidders are required to and shall inform themselves fully of the conditions relating to the construction project and labor under which the work will be performed, and a contractor must employ, insofar as is possible, such methods and means in carrying out the work so as not to cause any interruption and/or interference with any other contractor(s).

I. Sales Tax. All bid prices shall include sales taxes.

III. MINIMUM REQUIREMENTS FOR CONTRACT EXECUTION AND PERFORMANCE:

A. Form of Contract. The contract to be awarded as a result of this RFB will be in substantially the same form and content as the sample "Contract between Owner and Contractor with Performance and Payment Bonds" included in this bid package. In the event that additional terms and conditions are proposed to be attached to said contract, there shall be none of the following unless Town's express prior written agreement is obtained: (i) any limitation on, or disclaimer of, implied or express warranties or the liability of Contractor; (ii) any limitation on damages, including a limitation on consequential damages; (iii) any requirement for arbitration or for mandatory mediation; (iv) any requirement that Town officials or employees keep information confidential or that records be kept confidential by the Town, unless the requirement for confidentiality meets the requirements of the North Carolina Public Records law.

B. Federal Assistance. This project is funded, in whole or in part, by federal assistance. Accordingly, the federal provisions contained in Exhibit B attached to the Town's standard contract document apply, as applicable.

C. Performance and Payment Bonds. Performance and Payment Bonds, issued in accordance with Article 3 of Chapter 44A of the General Statutes, each having a penal sum in the full amount of the contract sum, will be required on such contract(s) as may be awarded.

D. Insurance Provisions. The successful bidder shall procure and maintain during the life of the contract the Insurance Provisions as outlined in Article 33 of the General Conditions of the Contract for Construction. Required coverage limits will be 1) Commercial General Liability and Business Automobile - \$1,000,000 per occurrence and 2) Workers' Compensation - \$100,000 for both employer's liability and bodily injury by disease for each employee and \$500,000 for the disease policy limit. The Town shall be named as an additional insured for Commercial General Liability and Business Automobile policies. Based on the nature of services to be provided by the contractor and the assessment of the risk posed to the Town, the Town may require evidence of supplementary insurance coverages.

E. Commencement of Work. The successful bidder will be required to commence work immediately upon receipt of the Notice to Proceed issued by the owner.

F. Time to Complete Work. Bidder's attention is called to the contract time limit allowed to complete the work specified after the date of the Notice to Proceed.

G. Billing and Payment. The Contractor shall submit a bill to the Town for work performed under this contract. The Contractor shall bill and the Town shall pay the rates set forth Therein. Payment will be made by the Town within thirty (30) days of receipt of an accurate invoice approved by the Contract Coordinator.

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BID PROPOSAL FORM

BID: P25-104

Homestead Skatepark Renovation Project
Town of Chapel Hill
Parks and Recreation Department
Chapel Hill, NC

Bidder: _____

Bid Date: _____

To: Purchasing & Contracts Manager
Town of Chapel Hill
405 Martin Luther King Jr. Blvd.
Chapel Hill, NC 27514

The undersigned, as Bidder, proposes and agrees if this proposal is accepted to contract with the Town of Chapel Hill for the furnishing of all materials, equipment, and labor necessary to complete the construction of the work described in these documents in full and complete accordance with plans, specifications, and contract documents, and to the full and entire satisfaction of the Town of Chapel Hill and 5th Pocket Skateparks, for the sum of:

Total Base Bid:	_____	(\$_____)
	dollars	
Total Bid Alternate:	_____	(\$_____)
	dollars	
Grand Total Base Bid and All Alternatives:	_____	(\$_____)
	Dollars	

ALTERNATES

Provide add or deduct (as noted below) cost for the following items. Alternates quoted on Bid Form will be reviewed and accepted or rejected at Owner's option. Accepted Alternates will be identified in Owner-Contractor Agreement.

HOMESTEAD SKATEPARK RENOVATION PROJECT - ALTERNATES BID SHEET FORM				
Number	Item	Add/Deduct	Cost	Description
1	Crack Repair	Add		Any cracking in the current concrete pad that requires repair to ensure a premium surface for roller sports

Coordinate related Work and modify surrounding Work. Description for each Alternate is recognized to be abbreviated but requires that each change shall be complete for scope of Work affected.

The Town of Chapel Hill reserves the right to remove any work from the contract and its corresponding Base Bid.

The undersigned further agrees that this proposal shall be valid for a period of sixty (60) days from the date of receipt of the bids and that if this proposal is accepted by the Town of Chapel Hill within this period, the Bidder will execute the contract form and provide surety bonds as described in the Contract and required by North Carolina General Statutes.

The undersigned further agrees to begin the work promptly upon receipt of the Notice to Proceed and to pursue the work with an adequate work force to complete the work within 365 days from the Notice to Proceed to substantial completion.

The undersigned further acknowledges receipt of the following addenda, which will be considered as part of the Contract Documents:

Addendum No. _____ Dated _____

Addendum No. _____ Dated _____

Addendum No. _____ Dated _____

BID PROPOSAL FORM
Homestead Skatepark Renovation
Bid: P25-104

SUBMITTED BY THE FOLLOWING CORPORATION:

Name of Corporation: _____
Address: _____
State of Incorporation: _____
By: _____
Printed Name: _____
Title: _____

ATTEST:
By: _____
Printed Name: _____
Title: _____

CORPORATE SEAL

STATE OF _____
COUNTY OF _____

I, _____, a Notary Public of the State of _____,
_____ County, certify that _____, personally came before me this day and
acknowledged that he/she is the _____ of _____, a
_____ corporation, and that by authority duly given and as the act of the corporation, the foregoing
instrument was signed in its name by _____, its _____, sealed
with its corporate seal and attested by him/her as its _____.

Witness my hand and seal, this _____ day of _____, 20____.

Notary Public
My commission expires: _____

SEAL

BID PROPOSAL FORM
Homestead Skatepark Renovation
Bid: P25-104

SUBMITTED BY THE FOLLOWING PARTNERSHIP:

Name of Partnership: _____

By: _____

Printed Name: _____

Title: _____

Partnership Address: _____

List of all Partners:

STATE OF _____

COUNTY OF _____

I, _____, a Notary Public of the State of _____,
_____ County, certify that _____ personally appeared before
me this day and acknowledged the due execution of the foregoing instrument.

Witness my hand and seal, this _____ day of _____, 20____.

Notary Public

My commission expires: _____

SEAL

BID PROPOSAL FORM
Homestead Skatepark Renovation
Bid: P25-104

SUBMITTED BY THE FOLLOWING BUSINESS ENTITY OTHER THAN CORPORATION OR PARTNERSHIP:

Name of Business Entity: _____

By: _____

Printed Name: _____

Title: _____

Business Entity Address: _____

STATE OF _____

COUNTY OF _____

I, _____, a Notary Public of the State of _____,
_____ County, certify that _____ personally appeared before
me this day and acknowledged the due execution of the foregoing instrument.
Witness my hand and seal, this _____ day of _____, 20____.

Notary Public
My commission expires: _____

SEAL

TOWN OF CHAPEL HILL, NORTH CAROLINA
CONTRACT BETWEEN OWNER AND CONTRACTOR
WITH PERFORMANCE & PAYMENT BONDS
FOR {Homestead Skatepark Renovation}

THIS CONTRACT BETWEEN OWNER AND CONTRACTOR (the “Agreement”), is made and entered into as of the date set forth below, between the Town of Chapel Hill (the “Owner”), and **{Insert Contractor’s Full Legal Name}** (the “Contractor”), a duly licensed contractor authorized and qualified to do business in North Carolina.

Section 1. For and in consideration of the payments and mutual promises made by the Owner and Contractor, and under the penalty expressed in the bond bearing even date with these presents, and hereunto annexed, the Contractor agrees with the Owner, at the Contractor’s own proper cost and expense and with skill and diligence, to provide the labor and furnish all the materials for performance of the work (the “Work”) necessary to construct and complete ready for use, **{Insert Project Name}** (the “Project”) or such portion thereof as may be awarded to said Contractor, or to furnish such materials as may be awarded, as herein set forth, all in conformity with the Instructions to Bidders, Plans and Specifications, Detail of Bid Items, insurance requirements and the Contractor's proposal dated _____ attached hereto, and incorporated herein by reference, and such detailed directions, drawings, and similar information as may be given by the Owner from time to time during the construction, and in full compliance with this Agreement.

Section 2. The Contractor agrees to accept the sum of \$_____ (the “Contract Sum”) in full compensation for furnishing materials and for all labor in performing all the Work contemplated in this Agreement.

Section 3. For the purpose of this Agreement, all directions from the Owner to the Contractor shall be made by ___5th Pocket Skateparks___ (the “Designer”), whose address is_____. No change orders shall be valid unless signed by the Designer, Town Manager, Department Director, Town Attorney and the Town Finance Officer, and, if required by Town ordinance or resolution, approved and executed by the Town Council.

Section 4. The Work will be staked out by the Contractor, as necessary, and reviewed by the Designer at the appropriate stages and times prior to placement of materials. The Contractor will be required to carefully preserve all stakes and grades until authorized to remove them. Construction staking is not a pay item.

The Contractor shall also furnish all proper and necessary assistance and access for reviewing and inspecting the Work.

Section 5. The Contractor agrees to substantially complete the Work within _____ (_____) calendar days following receipt of a written Notice to Proceed and to fully and finally complete the Work, including all punch list items, within

_____ (_____) calendar days after Substantial Completion. Furthermore, the Owner and Contractor acknowledge that because the damages and losses to the Owner in the event of the Contractor's failure to perform the Work within the time set forth herein will be difficult to ascertain and quantify, that there will be \$_____ per calendar day assessed against the Contractor as liquidated damages for losses sustained by the Owner for the Contractor's failure to substantially complete the Work within the time established herein, and that the amount of the liquidated damages as provided herein is a reasonable estimate of the Owner's losses. The Owner will hold retainage, in accordance with the General Conditions.

Section 6. The Contractor agrees not to employ any incompetent or disorderly person on the Work, and will employ competent, experienced foremen to be in charge of their respective work.

Section 7. The Designer, shall in all cases determine the quality and quantity of the Work, including the materials, furnished by the Contractor under this Agreement, and also shall determine all questions in relation to lines, levels, and dimensions of the work, and as to the interpretation of the plans and specifications and as to all time extension requests.

Section 8. The grand total of unit price extensions for the Work is \$_____. The sum may be modified by valid change orders as provided in the Contract Documents.

Section 9. The Contractor agrees that the Contractor's Superintendent, Project Manager, or Foreman in charge of the Work or any part thereof, shall have authority to receive information or instructions regarding the Project and to act on behalf of the Contractor with respect to such information or instructions.

Section 10. The Owner may require the Contractor to furnish additional materials, and to do additional work not provided in this Agreement or in the specifications, but which may be found necessary to the proper prosecution and completion of the Work as set forth in Article 19 of the General Conditions of the Agreement (the "General Conditions"). Said General Conditions are attached hereto and incorporated by reference. **No work other than that included in this Agreement shall be done and no additional material shall be furnished by the Contractor without a written Change Order or Construction Change Directive signed by the Designer, Town Manager, Town Department Director, Town Attorney and the Town Finance Officer, and, if required by ordinance or resolution, approved and executed by the Town Council.** In the absence of such written Change Order or Construction Change Directive, the Contractor shall not be entitled to the payment for any additional work.

Section 11. The Owner reserves the right to place inspectors on the Work or at the place of shipment, or delivery of materials, or at factory or works of the Contractor, to observe the quality and character of the Work performed and materials used, and the Contractor agrees to afford such inspectors all proper access and facilities for carrying out their duties.

It is agreed and understood that the right of the Owner to review or inspect the Work or materials is retained in order to secure the completion of the Work in conformity with the plans, specifications, and the contract documents, and without unnecessary inconvenience to the public, but nothing contained in the plans, specifications, and the contract documents shall be taken or understood to authorize control by the Owner of any of the Contractor's obligations, or of the means or methods for performance of the Work, or as to make the Contractor an agent of the Owner.

Section 12. The Contractor acknowledges and agrees that **no employee of the Owner or the Designer HAS ANY POWER TO VARY THIS CONTRACT without a written Change Order or Construction Change Directive** as set forth in Article 19 of the General Conditions and that any variation from this Agreement shall be at the Contractor's own risk.

Section 13. The Contractor and Owner agree that this Agreement may not be assigned or transferred, including any assignment by operation of law, without the consent of the other. The assignment or transfer, including any assignment by operation of law, of any part of the Work by the Contractor shall not in any way relieve the Contractor of the Contractor's obligations, and the Owner will look to the Contractor, and not the subcontractor, for the faithful performance of the Work.

Section 14. The Contractor agrees to immediately remove and reconstruct at the Contractor's own expense all work or materials not in conformity with this Agreement, and any failure on the part of the Designer or Owner to reject nonconforming work or material before the final completion and acceptance of the entire Work or material, shall not be considered an acceptance of the Work or material, or any part of it, notwithstanding that such Work or material previously may have been paid for.

Section 15. On the final completion of the work, the Owner shall proceed with due diligence and in accordance with the General Conditions to pay or cause to be paid within thirty (30) days thereafter the Contract Sum as modified by valid change orders signed as provided herein, less progress payments previously made, in legal tender of the United States and the acceptance of payment of such final amount shall release the Owner from all claims by the Contractor for Work done, materials furnished, or any other claims under or relating to this Agreement.

Section 16. The Owner may at any time require full release of all claims for materials or labor furnished for the Work and may withhold payments of amounts reasonably adequate to pay such claims until the Contractor has produced evidence reasonably sufficient to establish that such claims have been resolved.

Section 17. The Contractor agrees to perform the Work in such a manner as to be of least inconvenience to the Owner and public. The Contractor agrees to comply with all ordinances and regulations affecting the Work in any manner, and with all sanitary rules and regulations, taking precaution to avoid creating unsanitary conditions.

Section 18. The Contractor further agrees that if there is a material breach of this Agreement by the Contractor as provided in Article 29 of the General Conditions, the Owner shall have the right to notify the Contractor of the Contractor's default. Upon notification of such a default, the Contractor shall discontinue said work or such part of parts thereof as the Owner may designate, and the Owner shall thereupon have the power and the right to proceed as provided in Article 27 or other applicable provision of the General Conditions.

Section 19. The Contractor shall maintain worker's compensation, general and automobile liability and property damage insurance as set forth in the General Conditions. The Contractor shall indemnify and save harmless the Owner from all costs, damages, expenses, suits, actions, proceedings of every name and description in law or equity, including reasonable attorneys' fees, brought against it or its officers, agents or employees; arising out of or related to the performance of the Work, arising out of or related to infringement of any patent, or due to or in consequence of

any negligence or any action, error or omission of the Contractor, where Contractor's actions are the proximate cause of the loss, damage or expense.

Section 20. The Contractor must be in full compliance with all applicable federal and state laws, including those on immigration.

Section 21. The Contractor contractually agrees to administer all functions pursuant to this Contract without discrimination because of race, creed, sex, national origin, age, economic status, sexual orientation, gender identity or gender expression.

Section 22. The Contractor shall furnish the Owner certified statements setting forth the cost of the materials purchased from each vendor and the amount of North Carolina sales and use taxes paid thereon. In the event the Contractor makes several purchases from the same vendor, the Contractor's certified statement shall indicate the invoice number, the inclusive dates of the invoices, the total amount of the invoices, and the North Carolina sales and use taxes paid thereon. The Contractor's certified statement shall also include the cost of any tangible personal property withdrawn from the Contractor's warehouse stock and the amount of North Carolina sales or use tax paid thereon by the Contractor. The Contractor shall furnish such additional information as the Commissioner of Revenue of the State of North Carolina may require to substantiate a refund claim by the Owner for sales or use taxes. The Contractor shall obtain and furnish to the Owner similar certified statements by the subcontractors. The certified statements to be furnished shall be in the form of the standard CONTRACTOR'S SALES TAX REPORT and shall be submitted with each request for payment. The Owner will not make payment to the Contractor until the CONTRACTOR'S SALES TAX REPORTS ARE SUBMITTED. Any and all refunds received by the Owner of said taxes shall remain with the Owner, and the Contractor shall not be entitled to such refund.

Section 23. The Contractor hereby agrees that the Contractor has read each and every clause of this Agreement and fully understands the meaning of the same, and that the Contractor will comply with all the terms herein. This Agreement is to be executed in two copies, one copy to be delivered to the Contractor and the other to be retained by the Owner.

Section 24. This Agreement is subject to the terms of all federal, state, and local requirements for the Work whether or not such requirements are set forth in the body of this contract.

Section 25. This Agreement shall be governed by and interpreted in accordance with the laws of the State of North Carolina.

Section 26. This agreement may be amended or modified only by a writing signed by the Owner and Contractor.

Section 27. This Contract is subject to the provisions of the North Carolina General Statutes regarding the dispute resolution process. Accordingly, the following procedure shall be used to resolve any disputed issues, where the amount in controversy exceeds \$10,000, arising out of this contract or the construction process thereunder. If a dispute occurs between the Owner and Contractor arising out of or relating to the Contract or an alleged breach thereof, the Owner and Contractor agree to attempt to resolve the dispute by engaging in good faith negotiations. If the dispute cannot be resolved by negotiation, the Owner and Contractor agree as a condition precedent to commencing a lawsuit to submit the dispute to non-binding mediation under the

construction mediation rules of the American Arbitration Association. The parties agree to exercise good faith efforts to complete any such mediation within ninety (90) days after the demand for resolution has been delivered. The work shall proceed as required by the contract documents during the pendency of any mediation or litigation. In the event a dispute cannot be resolved through non-binding mediation, the courts and the authorities of the State of North Carolina shall have exclusive jurisdiction over all controversies between the parties which may arise under or in relation to this Contract. Venue is properly laid in Orange County, North Carolina for any state court action and in the Middle District of North Carolina for any federal court action.

Section 28. E-Verify: Contractor shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Further, should Contractor utilize a subcontractor(s), Contractor shall require the subcontractor(s) to comply with the requirements of Article 2, Chapter 64 of the General Statutes.

Section 29. Contractor's Affidavit: The final payment of retained amount due the Contractor on account of the Contract shall not become due until the Contractor has furnished to the Owner directly or through the Designer an affidavit signed, sworn and notarized to the effect that all payments for materials, labor, services or subcontracted Work in connection with this Contract have been satisfied, and that no claims or liens exist against the Contractor in connection with this Contract.

Section 30. Federal Assistance. This Contract is funded, in whole or in part, by federal assistance. Accordingly, the federal provisions contained in Exhibit B apply, as applicable.

[SIGNATURES ON FOLLOWING PAGE]

This Contract is between the Town of Chapel Hill and **{Insert Contractor's Full Legal Name}** for **{Homestead Skatepark Renovation}**.

IN WITNESS WHEREOF, the parties hereto cause this agreement to be executed in their respective names.

{INSERT CONTRACTOR'S FULL LEGAL NAME}

SIGNATURE

PRINTED NAME & TITLE

TOWN OF CHAPEL HILL

DEPARTMENT HEAD/EXECUTIVE DIRECTOR OR DEPUTY/TOWN MANAGER

PRINTED NAME & DEPARTMENT

ATTEST BY TOWN CLERK:

TOWN CLERK/DEPUTY TOWN CLERK

TOWN SEAL

Town Clerk attests date this the _____ day of _____ 20 _____ .

Approved as to Form and Authorization

ATTORNEY FOR TOWN

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

FINANCE OFFICER

DATE

EXHIBIT B

Additional Provisions for Contracts Funded Through Federal Assistance

This Contract for purchases, services, construction or repairs to be provided by the Contractor hereto to the Town of Chapel Hill is funded, in whole or in part, by Federal assistance in the form of grant, sub-grant, loan or reimbursement either directly to the Town as a recipient or to the Town as a subrecipient of funding provided from the Federal government to an agency of the State of North Carolina or to another pass-through agency. Accordingly, the following Federal provisions apply to this Contract pursuant to 2 CFR § 200.327 and 2 CFR Part 200, Appendix II, as applicable.

A. All Contracts – Compliance with Debarment and Suspension (Executive Orders 12549 and 12689). [2 CFR Part 200, App. II (H)]

A contract award (see 2 CFR § 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the Office of Management and Budget guidelines at 2 CFR Part 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), *Debarment and Suspension*. SAM Exclusions contain the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

B. All contracts – Compliance with Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352). [2 CFR Part 200, App. II (I)]

Contractor 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 shall 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 recipient who in turn will forward the certification(s) to the awarding agency. Contractors that apply or bid for an award exceeding \$100,000 must file the Certification Regarding Lobbying required by the federal granting agency pursuant to 31 U.S.C. § 1352 (as amended).

C. Certain Contracts – Compliance with Rights to Inventions Made Under a Contract or Agreement. [2 CFR Part 200, App. II (F)]

If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient 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 subrecipient 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.

D. Prime Construction Contracts in excess of \$2,000 (when required by Federal program legislation) – Compliance with Davis-Bacon Act, as amended (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). [2 CFR Part 200, App. II (D)]

Contractor is required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, Contractor must pay wages not less than once a week. The Town of Chapel Hill must place a copy of the current prevailing wage determine 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 Federal Assistance Standard Provisions – Revised 9-2021

determination. The Town must report all suspected or reported violations to the Federal awarding agency.

E. Prime Construction Contracts in excess of \$2,000 (when required by Federal program legislation) – Compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States). [2 CFR Part 200, App. II (D)]

Contractor is prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The Town of Chapel Hill must report all suspected or reported violations to the Federal awarding agency.

F. All Contracts of \$10,000 and above – Termination by Town. [2 CFR Part 200, App. II (B)]

The Town of Chapel Hill reserves the right to immediately terminate any agreement in excess of \$10,000 in the event the Contractor fails to: (1) meet schedules, deadlines, and/or delivery dates within the time specified in the procurement solicitation, contract, and/or a purchase order; (2) make any payments owed; or (3) otherwise perform in accordance with the contract and/or the procurement solicitation. The Town also reserves the right to terminate the Contract for convenience, with thirty (30) days written notice to the Contractor, if the Town believes, in its sole discretion, that it is in the Town’s best interest to do so. In the event the Town terminates this Contract for convenience, the Contractor will be compensated for work performed and accepted and goods accepted by the Town as of the termination date. Any award under this procurement process is not exclusive and the Town reserves the right to purchase goods and services from other vendors when it is in the best interest of the Town.

G. Contracts for purchases exceeding \$10,000 in value for a single item or through cumulative acquisition – Compliance with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act (2 CFR §200.322, Procurement of recovered material). [2 CFR Part 200, App. II (J)]

In performance of this contract, Contractor must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

H. Contracts in excess of \$100,000 involving employment of mechanics or laborers (where applicable) – Compliance with Contract

Work Hours and Safety Standards Act 40 U.S.C. §§ 3702 and 3704 (40 U.S.C. §§ 3701-3708, as supplemented by Department of Labor regulations [29 CFR Part 5]). [2 CFR Part 200, App. II (E)]

Per 40 U.S.C. § 3702, Contractor must 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 the 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. Per 40 U.S.C. § 3704, no laborer or mechanic involved in construction work can 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 on the open market, or contracts for transportation or transmission of intelligence.

I. All Contracts for the Simplified Acquisition Threshold* and above – Breach or Violation of Terms by Contractor. [2 CFR Part 200, App. II (A)]

The Town reserves all rights and privileges under the applicable laws and regulations with respect to this procurement in the event of breach or violation of terms of this Contract by the Contractor. (*The National Defense Authorization Act for Fiscal Year 2018 [Public Law 115-91] established \$250,000 as the Simplified Acquisition Threshold. See General Services Agency, Civilian Agency Acquisition Council, CAAC Letter 2018-02, February 16, 2018.)

J. Contracts in excess of \$150,000 – Compliance with Clean Air Act (42 U.S.C. §§ 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. §§ 1251-1387), as amended. [2 CFR Part 200, App. II (G)]
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 as amended (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.

K. Construction Contracts (except as provided under 41 CFR Part 60) – Equal Employment Opportunity Clause under 41 CFR § 60-1.4(b), in accordance with Executive Order 11246, Equal Employment Opportunity (30 Fed. Reg. 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. [2 CFR Part 200, App. II (C)]

During the performance of this Contract, the Contractor agrees as follows:

(1) The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. 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, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

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(2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(3) The Contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Contractor's legal duty to furnish information.

(4) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(5) The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(6) The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(7) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of the said rules, regulations, or orders, this Contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or Federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(8) The Contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.

Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

The Town of Chapel Hill further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: *Provided*, that if the Town of Chapel Hill so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the contract.

The Town of Chapel Hill agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of contractors and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The Town of Chapel Hill further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the Town of Chapel Hill agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: Cancel, terminate, or suspend in whole or in part this grant (contract, loan, insurance, guarantee); refrain from extending any further assistance to the Town of Chapel Hill under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from the Town of Chapel Hill; and refer the case to the Department of Justice for appropriate legal proceedings.

ADDITIONAL PROVISIONS

This Contract is subject to additional Federal regulations including, but not limited to, the following:

L. Non-Profit Organization Subrecipients – Records Retention Requirements. [2 CFR § 200.333]

Except for certain exceptions outlined in 2 CFR § 200.333, records pertinent to this Contract must be retained for a period of three years from the date of submission of the final expenditure report or, for Federal awards that are renewed quarterly or annually, from the date of the submission of the quarterly or annual financial report.

M. All contracts – Domestic Preferences for Procurements. [2 CFR § 200.322]

As appropriate and to the extent consistent with law, Contractor should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all contracts and purchase orders for work or products under this award. "Produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the

United States. "Manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

N. All Contracts – Additional Requirements by Federal Awarding Agency.

This Contract may be subject to additional requirements of the Federal awarding agency as may be specified in grant agreements, grant award documents and/or other documents or correspondence associated with the Town of Chapel Hill's acceptance of Federal funding.