

**RESOLUTION NO. 24-160**

**A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING AN AGREEMENT WITH NEW LINE SKATEPARKS FL, INC. FOR THE DESIGN AND CONSTRUCTION OF THE FRANK BROWN PARK SKATEPARK PROJECT IN THE AMOUNT NOT TO EXCEED \$1,400,000.00, AND DESIGNATING THE USE OF ARPA FUNDS FOR THE PROJECT.**

**BE IT RESOLVED** by the City Council of the City of Panama City Beach, Florida, that:

1. The appropriate officers of the City are authorized to execute and deliver on behalf of the City that certain Agreement between the City and New Line Skateparks FL, Inc. for the design and construction of the Frank Brown Park Skatepark Project in the amount not to exceed One Million Four Hundred Thousand Dollars and No Cents (\$1,400,000.00), in substantially the form **attached as Exhibit A** and presented to the Council, with such changes, insertions, or omissions as may be approved by the City Manager and whose execution of such Agreement shall be conclusive evidence of such approval.
2. The Council has found and determined that the construction of the Skatepark Project at Frank Brown Park will enable the City to improve the community's quality of life by providing new outdoor amenities for residents and visitors to enjoy. The Council hereby directs that the funds received by the City from the American Rescue Plan Act be used for the design and construction of this Project.


**THIS RESOLUTION** shall be effective immediately upon passage.

**PASSED, APPROVED, AND ADOPTED** in regular session this 25<sup>th</sup> day of July 2024.

**CITY OF PANAMA CITY BEACH**

By:   
Stuart Tetterer, Mayor

**ATTEST:**

  
Lynne Fasone, City Clerk

## PCB24-25 RFQ SKATE PARK DESIGN BUILD SERVICES

### DESIGN BUILD AGREEMENT

THIS AGREEMENT is made this 25<sup>th</sup> day of July, 2024 by and between THE CITY OF PANAMA CITY BEACH, FLORIDA, (hereinafter called "OWNER") and NEW LINE SKATEPARKS FL, INC, a corporation, having a business address of #1, 137 West Marion Ave., Edgewater, FL 32132 (hereinafter called "CONTRACTOR"), for the conceptual design, final design, construction documents, site work and construction of a new reinforced concrete skate park to be located at Frank Brown Park, 16200 Panama City Beach Parkway, Panama City Beach, Florida, ("Project"), in accordance with PCB24-25 RFQ - Skate Park Design Build Services and all other Contract Documents hereafter specified.

OWNER and CONTRACTOR, for the consideration herein set forth, agree as follows:

1. The CONTRACTOR shall design, construct and deliver the completed Project in accordance with the Scope of Services and Deliverables described in PCB 24-25 - Skate Park Design Build Services and Contractor's response as described in its Methodology and Schedule ("the Work"). The skate park shall be approximately 22,250 square feet in size. Contractor shall be solely responsible for the payment of all taxes, labor fringe benefits, insurance and bond premiums, and all other expenses and costs required to complete the Project in accordance with this Agreement. OWNER agrees that the Project shall exclude: Extended site landscaping and support amenities (i.e. restroom buildings), Costs for any required County or City permitting, and Environmental Consulting. CONTRACTOR'S employees and personnel shall be qualified and experienced to perform the portions of the Work to which they have been assigned. In performing the Work hereunder, CONTRACTOR shall be an independent contractor, maintaining control over and having sole responsibility for CONTRACTOR'S employees and other personnel. Neither CONTRACTOR, nor any of CONTRACTOR's sub-contractors or sub-subcontractors, if any, nor any of their respective employees or personnel, shall be deemed servants, employees, or agents of the OWNER.
2. After the final design documents are approved by the OWNER, the CONTRACTOR will complete the project construction program within **24 weeks** after the date of the Notice to Proceed with the construction work to be issued by OWNER in writing.
3. The CONTRACTOR agrees to pay the OWNER, as liquidated damages, the sum of \$500 for each calendar day that expires after the date of Project Completion. Liquidated damages shall not be due for delays caused by weather, reasonably unforeseen conditions, or other factors outside CONTRACTOR'S control.
4. The CONTRACTOR agrees to perform all the Work described in the Contract Documents and comply with the terms therein for the not to exceed price of One Million, Four Hundred Thousand Dollars \$1,400,000.00, which is the project budget allotted in Addendum #1 to the RFQ. ("Contract Price"). If CONTRACTOR seeks an increased budget for the Project due to unforeseen circumstances, the request shall be presented to the City Council, who must approve any increase in budget.

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5. The term "Contract Documents" means and includes the following documents, all of which are incorporated into this Agreement by this reference:

REQUEST FOR QUALIFICATIONS PCB 24-25 RFQ SKATE PARK DESIGN-BUILD SERVICES which includes:

NOTICE TO PROPOSERS

SCOPE OF SERVICES

TERMS AND CONDITIONS

PROPOSER'S CERTIFICATION

CONFLICT OF INTEREST STATEMENT

DRUG-FREE WORKPLACE FORM

E-VERIFY AFFIDAVIT

NON-COLLUSION AFFIDAVIT

PUBLIC ENTITY CRIMES STATEMENT

W9

EXHIBIT A INSURANCE REQUIREMENTS

ADDENDA

No. 1, dated February 22, 2023

No. 2, dated March 1, 2023

No. 3, dated March 7, 2024

CONTRACTOR'S RESPONSE TO THE RFQ

The Contract Documents also includes any written amendments to any of the above signed by the party to be bound by such amendment. The Contract Documents are sometimes referred to herein as the "Agreement."

6. The OWNER will pay the Contract Price to the CONTRACTOR in the manner and at such times as set forth in Terms and Conditions. The CONTRACTOR shall be entitled to a deposit of 10% of the agreed upon construction value 12 weeks prior to crew arrival on site. All progress payments under the Agreement shall be approved by the City's Construction Manager.
7. CONTRACTOR shall be required to obtain performance and payment bonds in the amount of the agreed upon construction value from companies lawfully authorized to issue surety bonds and executed in the forms attached as Exhibit "A".
8. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

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9. This Agreement shall be governed by the laws of the State of Florida.
10. All notices required or made pursuant to this Agreement shall be in writing and, unless otherwise required by the express terms of this Agreement, may be given either (i) by mailing same by United States mail with proper postage affixed thereto, certified, return receipt requested, or (ii) by sending same by Federal Express, Express Mail, Airborne, Emery, Purolator or other expediated mail or package delivery, or (iii) by hand delivery to the appropriate address as herein provided. Notices to OWNER required hereunder shall be directed to the following address:

If to Owner:

City of Panama City Beach  
17007 Panama City Beach Parkway  
Panama City Beach, FL 32413

ATTENTION: Drew Whitman City Manager  
Fax No.: (850) 233-5108

If to Contractor:

CONTRACTOR: New Line Skateparks FL, Inc.

ADDRESS: Unit #1, 137 West Marion Avenue,  
Edgewater, FL 32132

ATTENTION: Trevor Morgan, Vice President

Fax No. (604)530-1119

Either party may change its above-mentioned address by giving written notice to the other party in accordance with the requirements of this Section.

11. CONTRACTOR recognizes that OWNER is exempt from sales tax and may wish to generate sales tax savings for the Project. Accordingly, to the extent directed by and without additional charge to OWNER, CONTRACTOR shall comply with and fully implement its sales tax savings program. If required by OWNER, a Sales Tax Exemption Addendum shall be made a part of the Contract Documents.
12. The failure of OWNER to enforce at any time or for any period any one or more of the provisions of the Agreement shall not be construed to be and shall not be a continuing waiver of any such provision or provisions or of its right thereafter to enforce each such provision.
13. Each of the parties hereto agrees and represents that the Agreement comprises the full and entire agreement between the parties affecting the Work contemplated, and no other agreement or understanding of any nature concerning the same has been entered into or will be recognized, and that all negotiations, acts, work performed, or

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payments made prior to the execution hereof shall be deemed merged in, integrated and superseded by this Agreement.

14. Should any provision of the Agreement be determined by a court with jurisdiction to be unenforceable, such a determination shall not affect the validity or enforceability of any other section or part thereof.
15. Unless the context of this Agreement otherwise clearly requires, references to the plural include the singular, references to the singular include the plural. The term "including" is not limiting, and the terms "hereof," "herein," "hereunder," and similar terms in this Agreement refer to this Agreement as a whole and not to any particular provision of this Agreement, unless stated otherwise. Additionally, the parties hereto acknowledge that they have carefully reviewed this Agreement and have been advised by counsel of their choosing with respect thereto, and that they understand its contents and agree that this Agreement shall not be construed more strongly against any party hereto, regardless of who is responsible for its preparation.
16. For this Project, OWNER has designated a Project Representative to assist OWNER with respect to the administration of this Agreement. The Project Representative to be utilized by OWNER for this Project, shall be Construction Manager, Chad Roeder.
17. The CONTRACTOR acknowledges and agrees that no interruption, interference, inefficiency, suspension or delay in the commencement or progress of the Project from any cause whatever, including those for which the OWNER, PROJECT REPRESENTATIVE, may be responsible, in whole or in part, shall relieve CONTRACTOR of its duty to perform or give rise to any right to damages or additional compensation from OWNER. CONTRACTOR expressly acknowledges and agrees that it shall receive no damages for delay. CONTRACTOR's sole remedy, if any, against OWNER will be the right to seek an extension to the Contract Time; provided, however, the granting of any such time extension shall not be a condition precedent to the aforementioned "No Damage For Delay" provision. This section shall expressly apply to claims for early completion, as well as to claims based on late completion. Notwithstanding the foregoing, if the Work is delayed due to the fault or neglect of OWNER or anyone for whom OWNER is liable, and such delays have a cumulative total of more than 90 calendar days, CONTRACTOR may submit a claim for its actual and direct delay damages accruing after said 90 calendar days. Except as expressly set forth in this section, in no event shall OWNER be liable to CONTRACTOR whether in contract, warranty, tort (including negligence or strict liability) or otherwise for any acceleration, soft costs, lost profits, special, indirect, incidental, or consequential damages of any kind or nature whatsoever.
18. **INSURANCE - BASIC COVERAGES REQUIRED**  
  
The CONTRACTOR shall at its expense procure and maintain in force during the Term the insurance on policies and with insurers acceptable to the City as required by the City's Insurance Requirements attached to the RFQ as Exhibit "A." These insurance requirements shall not limit the liability of the CONTRACTOR. The insurance

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coverages and limits required of CONTRACTOR under this Agreement are designed to meet the minimum requirements of OWNER and the OWNER does not represent these types or amounts of insurance to be sufficient or adequate to protect the CONTRACTOR'S interests or liabilities. CONTRACTOR alone shall be responsible to the sufficiency of its own insurance program.

Within thirty (30) days of the date of the Award, and thereafter upon the written request of the City, Bidder shall furnish to the City such certificates of coverage and certified copies of policies pursuant to the City's Insurance Requirements. In order to satisfy this provision, the documentation required by this part must be sent to the following address: Attn: Risk Manager, 17007 Panama City Beach Parkway, Panama City Beach, FL 32413. The CONTRACTOR and the CONTRACTOR'S subcontractors and sub-subcontractors shall be solely responsible for all of their property, including but not limited to any materials, temporary facilities, equipment, and vehicles, and for obtaining adequate and appropriate insurance covering any damage or loss to such property. The CONTRACTOR and the CONTRACTOR'S sub-contractors and sub-subcontractors expressly waive any claim against OWNER arising out of or relating to any damage or loss of such property, even if such damage or loss is due to the fault or neglect of the OWNER or anyone for whom the OWNER is responsible. The CONTRACTOR is obligated to include, or cause to be included, provisions similar to this paragraph in all of the CONTRACTOR'S subcontracts and its subcontractors' contracts with their sub-subcontractors.

The CONTRACTOR'S deductibles/self-insured retentions shall be disclosed to OWNER and are subject to OWNER'S approval. They may be reduced or eliminated at the option of OWNER. The CONTRACTOR is responsible for the amount of any deductible or self-insured retention. Any deductible or retention applicable to any claim or loss shall be the responsibility of CONTRACTOR and shall not be greater than \$25,000, unless otherwise agreed to, in writing, by OWNER.

### 19. PUBLIC RECORDS:

The City is a public agency subject to the Florida Public Records Law expressed in Chapter 119, Florida Statutes. Accordingly, to the extent that it is determined that Contractor is acting on behalf of City as provided under Section 119.011(2), Contractor agrees to also comply with that law, specifically including to:

- A. Keep and maintain public records that ordinarily and necessarily would be required by the City in order to perform the service.
- B. Upon request of the City, provide the public with access to public records on the same terms and conditions that the City would provide the records and at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law, or provide the City with a copy of the requested records.
- C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the Contractor does not transfer the records to the City.

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- D. Meet all requirements for retaining public records and transfer, at no cost, to the City all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City in a format that is compatible with the information technology systems of the City.
  
- E. IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, IT IS THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, AND TO CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 850-233-5100, LFASONE@PCBFL.GOV, 17007 PANAMA CITY BEACH PARKWAY, PANAMA CITY BEACH, FL 32413.**

IN WITNESS WHEREOF, the parties hereto have executed or caused to be executed by their duly authorized officials, this Agreement in two (2) copies each of which shall be deemed an original on the date first written above.

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(SEAL)

OWNER:

CITY OF PANAMA CITY BEACH, FLORIDA

ATTEST:

BY: 

  
City Clerk

NAME: Drew Whitman  
(Please type)

  
City Attorney (as to form only)

TITLE: City Manager

CONTRACTOR:

ATTEST:

BY: 



NAME: Kyle Dion  
(Please type)

ADDRESS: #1-137 W. Marion Avenue,  
Edgewater, FL 32132

NAME Shauna Calder  
(Please Type)

[END OF AGREEMENT]