

DOCUMENT ROUTING FORM

(2) ✓ RUSH 4/4/13 (L)

NAME OF DOCUMENT: **First Amendment to Agreement with BAKER CONCRETE CONSTRUCTION, INC. for Bridge Replacement – Project 10737 SE 15th Avenue Bridges over Marchetta and Charlotte Rivers**

Approved Comm. Mtg. on **MARCH 19, 2013** CAM# **13-0319** ITEM: **M-9**

Routing Origin: CAO ENG. COMM. DEV. OTHER _____

Also attached: copy of CAR copy of document ACM Form 3 originals

On 3/28/13, LB forwarded to: **MARYANN JOHNSTON, PUBLIC WORKS ENGINEERING**

REC'D
FITZGERALD
CITY ATTORNEY'S OFFICE
APR -2 AM 8:45

1.) Approved as to Content: Harvey Howard
Department Director

Capital Improvements defined as having a useful life of at least 10 years and a cost of at least \$10,000 and shall mean improvements to real property (land, buildings, fixtures) that add value and/or extend useful life, inc. major repairs such as roof replacement, etc. Term "Real Property" include: land, real estate, realty, real.

RUSH

Please check the proper box: CIP FUNDED YES NO
Capital Improvement Projects

2.) Approved as to Funds Available: by Douglas Deal Date: 4.2.13
Finance Director

Amount Required by Contract/Agreement \$ -0- Funding Source: N/A

Dept./Div. PBS/ENG Index/Sub-object P10737.129 Project # P10737
P10737.129A
P10737.331
P10737.454

3.) City Attorney's Office: Approved as to Form:# 3 Originals to City Mgr. By: **CARRIE SARVER**

Carrie Sarver 

13 APR 2 AM 11:08

4.) Approved as to content: Assistant City Manager:

By: _____ By: _____
Stanley Hawthorne, Assistant City Manager Susanne Torriente, Assistant City Manager

5.) City Manager: Please sign as indicated and forward 3 originals to Mayor.

6.) Mayor: Please sign as indicated and forward 3 originals to Clerk.

7.) To City Clerk for attestation and City seal.

INSTRUCTIONS TO CLERK'S OFFICE

8.) City Clerk: retains one original document and forwards 2 original documents to:

MARYANN JOHNSTON, PUBLIC WORKS ENGINEERING

4/3

Copy of document to _____ Original Route form to Linda Blanco, CAO

Attach _____ certified copies of Reso. # _____ Fill-in date

FIRST AMENDMENT TO CONTRACT

14th THIS IS THE FIRST AMENDMENT TO CONTRACT made and entered into this day of March, 2013 by and between:

CITY OF FORT LAUDERDALE, a municipal corporation of the State of Florida, (hereinafter referred to as "City")

and

BAKER CONCRETE CONSTRUCTION, INC., a foreign profit corporation authorized to do business in the State of Florida (hereinafter referred to as "Contractor").

WHEREAS, the City Commission of the City of Fort Lauderdale, Florida at its meeting of April 3, 2012, authorized the proper city officials by motion to execute an Agreement between Contractor and City, to replace Bridges No. 865766 and 865767, S.E. 15th Avenue Bridges over Marchetta River and Carlotta River (hereinafter referred to as "Contract"); and

WHEREAS, this Contract was entered into pursuant to certain terms contained in a Local Agency Program (LAP) Agreement that the City has with the Florida Department of Transportation (FDOT); and

WHEREAS, FDOT has notified the City of several changes that must be made to standards contained in the Contract; and

WHEREAS, City and Contractor desire to amend the Contract to provide for such updates;

NOW, THEREFORE, the parties hereto, in consideration of the mutual covenants, agreements, terms, and conditions contained herein, do agree as to the following:

Section 1: The foregoing recitals are true and correct and are made a part of this First Amendment to Contract between the City and Contractor.

Section 2: That Addendum #6, Notice to Contractor, page NTC-3, #10 of the Contract is hereby deleted in its entirety.

Section 3: That Addendum #6, Notice to Contractor, page NTC-2 and NTC-3, #7 of the Contract is hereby replaced and amended to read as follows:

Bidders must comply with the goals for minority participation in the construction industry (41 CFR Part 60-4) which establishes goals for the use of minorities by Contractors on this and all other construction work in the Fort Lauderdale area (both Federal and non-Federal). The Contractor commits itself and all sub-contractors to these goals by submitting a properly signed bid and the appropriate information from Part III of Appendix One (Labor Provisions for Contracts).

It is the policy of the City of Fort Lauderdale that Disadvantaged Business Enterprises (DBEs) as defined in 49 CFR Part 26, shall have the maximum opportunity to participate in the performance of contracts and sub-contracts financed in whole or in part by deferral fund. In this regard, Contractor and sub-contracts financed in whole or in part by federal fund. In this regard, Contractor and consultants shall take all necessary and reasonable steps in accordance with 49 CFR Part 26 to ensure that Disadvantaged Business Enterprises have the maximum opportunity to compete for and perform contracts. Contractors/consultants and their subcontractors/subconsultants shall not discriminate on the basis of race, color, national, origin, or sex in the award and performance of City of Fort Lauderdale contracts.

The Disadvantaged Business Enterprise Program is required under the Department of Transportation (DOT) DBE Rule 49 CFR Part 26. The City of Fort Lauderdale's overall Disadvantaged Business Enterprise (DBE) Program Goal is eight point six percent (8.6%) for this project. The 8.6% overall goal is recommended through race neutral measures.

Section 4: That page DBE-1, Disadvantaged Business Enterprise, #7 of the Contract is hereby amended and replaced in its entirety to read as follows:

7. DBE Participation Goal. The City of Fort Lauderdale shall meet the maximum feasible portion of its overall goal of 8.6% through race-neutral measures.

Section 5: That page EEOR-9, #2 of the Contract is hereby deleted in its entirety.

Section 6: That page IB-4, Audit of Contractor's Records, of the Contract is hereby amended and replaced in its entirety to read as follows:

Upon execution of the Contract, the City reserves the right to conduct any necessary audit of the Contractor's records. Such an audit, or audits, may be conducted by the City or its representatives at any time prior to final payment, or thereafter, for a period up to five (5) years. The City may also require submittal of the records from the Contractor, the Subcontractor, or both. For the purpose of this Section, records shall include all books of account, supporting documents and papers deemed necessary by the City to assure compliance with the contract provisions.

Failure of the Contractor or Subcontractor to comply with these requirements may result in disqualification or suspension from bidding for future contracts or disapproval as a Subcontractor at the option of the City.

The Contractor shall assure that each of its Subcontractors shall provide access to its records pertaining to the project upon request of the City.

Section 7: That page BA-1, Notice to Bidders, Section VII, Buy American-Steel and Manufactured Products for Construction Contracts (January 1991), is hereby deleted in its entirety.

Section 8: That page BAC-1, Notice to Bidders, titled "Buy American Certificate" of the Contract is hereby amended to read as follows:

"BUY AMERICA CERTIFICATE"

...

Section 9: That pages GD-1 to GD-4 of the Contract are hereby amended and replaced in its entirety to read as follows:

General Decision Number: FL120208 01/06/2012

State: Florida

Construction Type: Highway

County: Broward County in Florida

HIGHWAY CONSTRUCTION PROJECTS

Modification Number: 0

Publication Date: 01/06/2012

	Rates	Fringes
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*ENGI0487-018 01/01/2010

OPERATOR: Crane

Group 1 - All Tower Cranes Mobile, Rail, Climbers, Static-Mount; All Cranes with Boom Length 150 Feet & Over (With or Without jib) Friction, Hydro, Electric or Otherwise; Cranes 150 Tons & Over Cranes with 3 Drums (When 3rd drum is rigged for work); Gantry & Overhead Cranes; Hydro Cranes Over 25 Tons but not more than 50 Tons; Hydro/Friction cranes; All Type of Flying Cranes; Finish Grader; Concrete Pumping Machine with Boom Attachments.....	\$28.30.....	\$8.78
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Group 2 - Cranes with Boom Length Less than 150 Feet (With or without jib); Hydro Cranes 25 Tons & Under, & Over 50 Tons.....	\$27.57.....	\$8.78
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OPERATOR: Oiler.....	\$22.24.....	\$8.78
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IRON0272-006 10/01/2006

IRONWORKER, STRUCTURAL.....	\$26.70.....	\$6.43
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SUFL2009-204 08/05/2009

CARPENTER, Includes Form Work.....	\$11.48.....	0.69
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CEMENT MASON/CONCRETE FINISHER.....	\$12.00.....	0.00
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ELECTRICIAN.....	\$19.84.....	0.00
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	Rates	Fringes
HIGHWAY/PARKING LOT STRIPING: Operator (Striping Machine).....	\$11.97	\$2.23
HIGHWAY/PARKING LOT STRIPING: Painter.....	\$14.38	\$1.73
IRONWORKER, REINFORCING.....	\$15.00	\$2.45
LABORER: Asphalt Raker.....	\$10.21	0.00
LABORER: Asphalt Shoveler.....	\$10.70	0.00
LABORER: Common or General	\$9.56	0.74
LABORER: Flagger.....	\$11.00	\$3.79
LABORER: Grade Checker.....	\$10.50	0.55
LABORER: Landscape and Irrigation	\$9.98	0.00
LABORER: Luteman.....	\$10.32	0.00
LABORER: Mason Tender - Cement/Concrete	\$12.00	\$1.80
LABORER: Pipelayer	\$13.76	\$1.97
LABORER: Power Tool Operator (Hand Held Drills/Saws, Jackhammer and Power Saws).....	\$11.27	\$2.33
OPERATOR: Asphalt Plant	\$12.20	0.00
OPERATOR: Asphalt Spreader	\$10.76	0.00
OPERATOR: Auger.....	\$19.40	0.44
OPERATOR: Backhoe Loader Combo.....	\$18.00	\$1.39
OPERATOR: Backhoe/Excavator.....	\$16.35	0.00
OPERATOR: Boom.....	\$16.61	0.00
OPERATOR: Bulldozer	\$18.47	0.00
OPERATOR: Distributor.....	\$12.33	0.00
OPERATOR: Drill	\$13.00.....	\$1.59
OPERATOR: Grader/Blade.....	\$16.11	\$1.65
OPERATOR: Loader.....	\$10.94	0.69

	Rates	Fringes
OPERATOR: Mechanic.....	\$16.20.....	\$3.25
OPERATOR: Milling Machine.....	\$11.50.....	\$1.68
OPERATOR: Oil Distributor.....	\$11.15.....	0.48
OPERATOR: Paver.....	\$11.89.....	\$2.28
OPERATOR: Piledriver.....	\$14.15.....	\$2.26
OPERATOR: Roller.....	\$9.50.....	0.00
OPERATOR: Scraper.....	\$12.31.....	\$1.83
OPERATOR: Screed.....	\$11.49.....	\$1.64
OPERATOR: Tractor.....	\$13.00.....	\$1.00
OPERATOR: Trencher.....	\$12.05.....	0.40
PAINTER: Spray and Steel.....	\$16.62.....	0.00
TRAFFIC SIGNALIZATION: Traffic Signal Installation.....	\$14.00.....	0.65
TRUCK DRIVER: 10 Yard Haul Away Truck.....	\$12.50.....	0.00
TRUCK DRIVER: 3 Axle Truck.....	\$9.81.....	0.00
TRUCK DRIVER: 4 Axle Truck.....	\$12.01.....	\$1.52
TRUCK DRIVER: Distributor.....	\$13.22.....	\$2.01
TRUCK DRIVER: Dump Truck.....	\$10.44.....	0.50
TRUCK DRIVER: Lowboy Truck.....	\$12.00.....	0.00
TRUCK DRIVER: Material Truck.....	\$13.15.....	9.80
TRUCK DRIVER: Tractor Haul Truck.....	\$10.64.....	0.00
TRUCK DRIVER: Water Truck.....	\$10.50.....	0.00
TRUCK DRIVER.....	\$9.76.....	0.34

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of "identifiers" that indicate whether the particular rate is union or non-union.

Union Identifiers

An identifier enclosed in dotted lines beginning with characters other than "SU" denotes that the union classification and rate have found to be prevailing for that classification. Example: PLUM0198-005 07/01/2011. The first four letters, PLUM, indicate the international union and the four-digit number, 0198, that follows indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. The date, 07/01/2011, following these characters is the effective date of the most current negotiated rate/collective bargaining agreement which would be July 1, 2011 in the above example.

Union prevailing wage rates will be updated to reflect any changes in the collective bargaining agreements governing the rate.

Non-Union Identifiers

Classifications listed under an "SU" identifier were derived from survey data by computing average rates and are not union rates; however, the data used in computing these rates may include both union and non-union data. Example: SULA2004-007 5/13/2010. SU indicates the rates are not union rates, LA indicates the State of Louisiana; 2004 is the year of the survey; and 007 is an internal number used in producing the wage determination. A 1993 or later date, 5/13/2010, indicates the classifications and rates under that identifier were issued as a General Wage Determination on that date.

Survey wage rates will remain in effect and will not change until a new survey is conducted.

WAGE DETERMINATION APPEALS PROCESS

- 1.) Has there been an initial decision in the matter? This can be:
 - an existing published wage determination
 - a survey underlying a wage determination
 - a Wage and Hour Division letter setting forth a position on a wage determination matter
 - a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here,

initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W. Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

Section 10: In all other respects, the original Contract between the parties approved by the City Commission on April 3, 2012, is hereby ratified, reaffirmed and shall remain in full force and effect.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]
[SIGNATURE PAGES FOLLOW]**

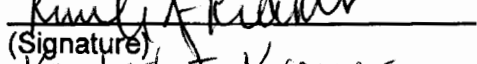
IN WITNESS OF THE FOREGOING, the parties have set their hands and seals the day and year first above written.

WITNESSES:



(Signature)
KRISTINA CENTERS

(Witness print/type name)



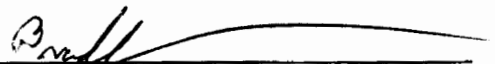
(Signature)
Kimberly F. Kramer

(Witness print/type name)

(Contractor's Corporate Seal)

CONTRACTOR:

Baker Concrete Construction, Inc.

By: 

(Signature)
Bradley E. Wucherpfennig, President
(Print Name and Title)

Attest: 

By: (Signature)

E. Todd Wilkowski, Corporate Secretary
(Print/type name)

CITY:

City of Fort Lauderdale, a municipal corporation of the State of Florida

By: 

LEE R. FELDMAN, CITY MANAGER

(City's Corporate Seal)

ATTEST:

By: 
JONDA K. JOSEPH, CITY CLERK

APPROVED AS TO FORM:

By: 

CARRIE L. SARVER
ASSISTANT CITY ATTORNEY

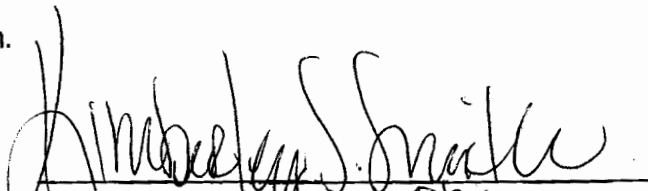
ACKNOWLEDGEMENT OF CONTRACTOR

STATE OF: OHIO


COUNTY OF: WARREN

The foregoing instrument was acknowledged before me this 19th day of March,
2013, by Bradley E. Wucherpfennig and E. Todd Wilkowski,
as President and Corporate Secretary, respectively,
of Baker Concrete Construction, Inc., an Ohio corporation
corporation, on behalf of the corporation, who is personally known to me or has produced
_____ as identification.

(SEAL)


Notary Public, State of Ohio
(Signature of Notary taking Acknowledgement)

Kimberley S. Smith
Name of Notary Typed, Printed or Stamped

My Commission Expires:

KIMBERLEY S. SMITH
Notary Public, State of Ohio
My Commission Expires
December 6, 2016

Commission Number