

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION ACCEPTING THE LOW BID OF AND AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A CONTRACT WITH MID-AMERICA SPORTS CONSTRUCTION FOR THE REHABILITATION OF THE DICKEY STEPHENS BALLPARK; APPROPRIATING FUNDS; AMENDING THE 2020 BUDGET; AND FOR OTHER PURPOSES.**

WHEREAS, as a result of the flooding that occurred during the months of May and June 2019, the Dickey Stephens Ballpark (the “Ballpark”) was damaged and sinkholes were found at the Ballpark; and

WHEREAS, the City of North Little Rock (the “City”) has advertised for bids for the rehabilitation and repair of the Ballpark (see Traveler’s Field Rehabilitation plans attached hereto as Exhibit A); and

WHEREAS, the low bidder meeting bid requirements for the project was Mid-America Sports Construction with a bid for the project of \$375,709.00 (see bid summary attached hereto as Exhibit B); and

WHEREAS, funds for the project will be appropriated from the General Fund into the FEMA Flood Account by amending the Fiscal Year 2020 Budget (Resolution No. 9781); and

WHEREAS, it is in the City’s best interests to enter into a contract with the Mid-America Sports Construction for the rehabilitation and repair of the Ballpark (see Traveler’s Field Rehabilitation contract substantially similar to Exhibit C).

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTH LITTLE ROCK, ARKANSAS:

SECTION 1: That the low bid of Mid-America Sports Construction for the rehabilitation and repair of the Dickey Stephens Ballpark, in the amount of \$375,709.00, is hereby accepted.

SECTION 2: That Three Hundred Seventy-Five Thousand Seven Hundred Nine and 00/100 Dollars (\$375,709.00) shall be appropriated from the General Fund to the FEMA Flood Account.

SECTION 3: That the Fiscal Year 2020 Budget is hereby amended to add \$375,709.00 to the FEMA Flood Account from the General Fund.

SECTION 4: That the Mayor and City Clerk are hereby authorized to execute all documents necessary to effect the completion of the herein stated project, with all contracts/agreements to be reviewed and approved by the City Attorney prior to execution.

SECTION 5: That this Resolution shall be in full force and effect from and after its passage and approval.

PASSED:

APPROVED:

\_\_\_\_\_

\_\_\_\_\_  
Mayor Joe A. Smith

SPONSOR:

ATTEST:

*Joe A. Smith*  
\_\_\_\_\_  
Mayor Joe A. Smith

\_\_\_\_\_  
Diane Whitbey, City Clerk

APPROVED AS TO FORM:

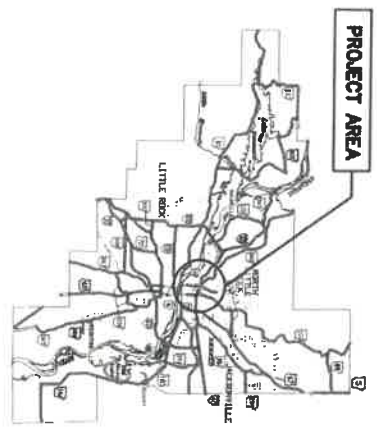
*Amy Beckman Fields*  
\_\_\_\_\_  
Amy Beckman Fields, City Attorney

PREPARED BY THE OFFICE OF THE CITY ATTORNEY/cf

FILED _____ A.M. _____ P.M.
By _____
DATE _____
<b>Diane Whitbey, City Clerk and Collector North Little Rock, Arkansas</b>
RECEIVED BY _____

# CITY OF NORTH LITTLE ROCK 2019 FLOOD - TRAVELER'S FIELD REHABILITATION

## NORTH LITTLE ROCK, ARKANSAS



**INDEX OF SHEETS**

SHEET	TITLE
1	COVER SHEET AND INDEX OF SHEETS
2	EXISTING AS-BUILT FIELD ELEVATIONS
3	PROPOSED AS-BUILT FIELD ELEVATIONS
4	DRAINAGE REHABILITATION PLAN
5	ANTICIPATED AFFECTED FIELD DRAINS
6	ANTICIPATED AFFECTED IRRIGATION LINES
7	BULL PEN FENCE REPLACEMENT
8	DRAINAGE SYSTEM REPAIR TYPE I
9	DRAINAGE SYSTEM REPAIR TYPE II





DATE: 1/2016  
 DESIGNED BY: DCW  
 DRAWN BY: DCW  
 SCALE: 1" = 30'  
 SHEET NUMBER: 2

Traveler's Field Drainage Rehabilitation

CITY OF NORTH LITTLE ROCK  
 Engineering Department  
 500 WEST 13TH STREET  
 NORTH LITTLE ROCK, AR

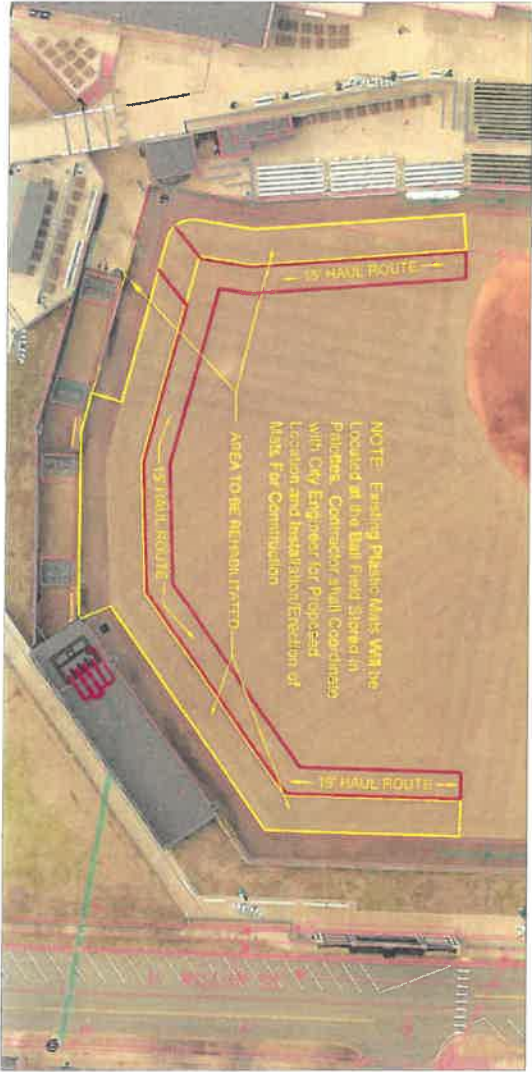






15' Haul Route Will Be Constructed Using Owner Furnished Plastic Mats for Protection of Ball field Surface.

**NOTE:** Existing Plastic Mats Will be Located at the Ball Field Stored in Pallets. Contractor shall Coordinate with City Engineer for Proposed Location Of The Haul Route and Installation/ Erection of Mats.



DATE: 10/20/20  
 DESIGNED BY: DCW  
 DRAWN BY: MCK  
 SCALE: 1" = 30'  
 SHEET NUMBER: 3

2019 Flood - Traveler's Field Rehabilitation

CITY OF NORTH LITTLE ROCK  
 Engineering Department  
 500 WEST 13TH STREET  
 NORTH LITTLE ROCK, AR





DATE: 10/20/16  
 DESIGNED BY: DOW  
 DRAWN BY: MK  
 SCALE: 1" = 30'  
 SHEET NUMBER: 4

**Traveler's Field Drainage Rehabilitation**  
 DRAINAGE REHABILITATION PLAN

CITY OF NORTH LITTLE ROCK  
 Engineering Department  
 500 WEST 13TH STREET  
 NORTH LITTLE ROCK, AR







DATE: 10/07/16  
 DESIGNED BY: DCW  
 DRAWN BY: MJK  
 SCALE: 1" = 30'

5

SHEET NUMBERS  
 ANTICIPATED  
 AFFECTED FIELD  
 DRAINS

2019 Flood – Traveler’s Field  
 Rehabilitation

CITY OF NORTH LITTLE ROCK  
 Engineering Department  
 500 WEST 13TH STREET  
 NORTH LITTLE ROCK, AR









**Contractor Shall Remove Existing Bull Pen Fencing, Re-Grade/level Bull Pen With Donna-Fill, New Sod/Chinon Stone and Install New Fencing provided by United Fence or Approved Equal as directed by City Engineer.**

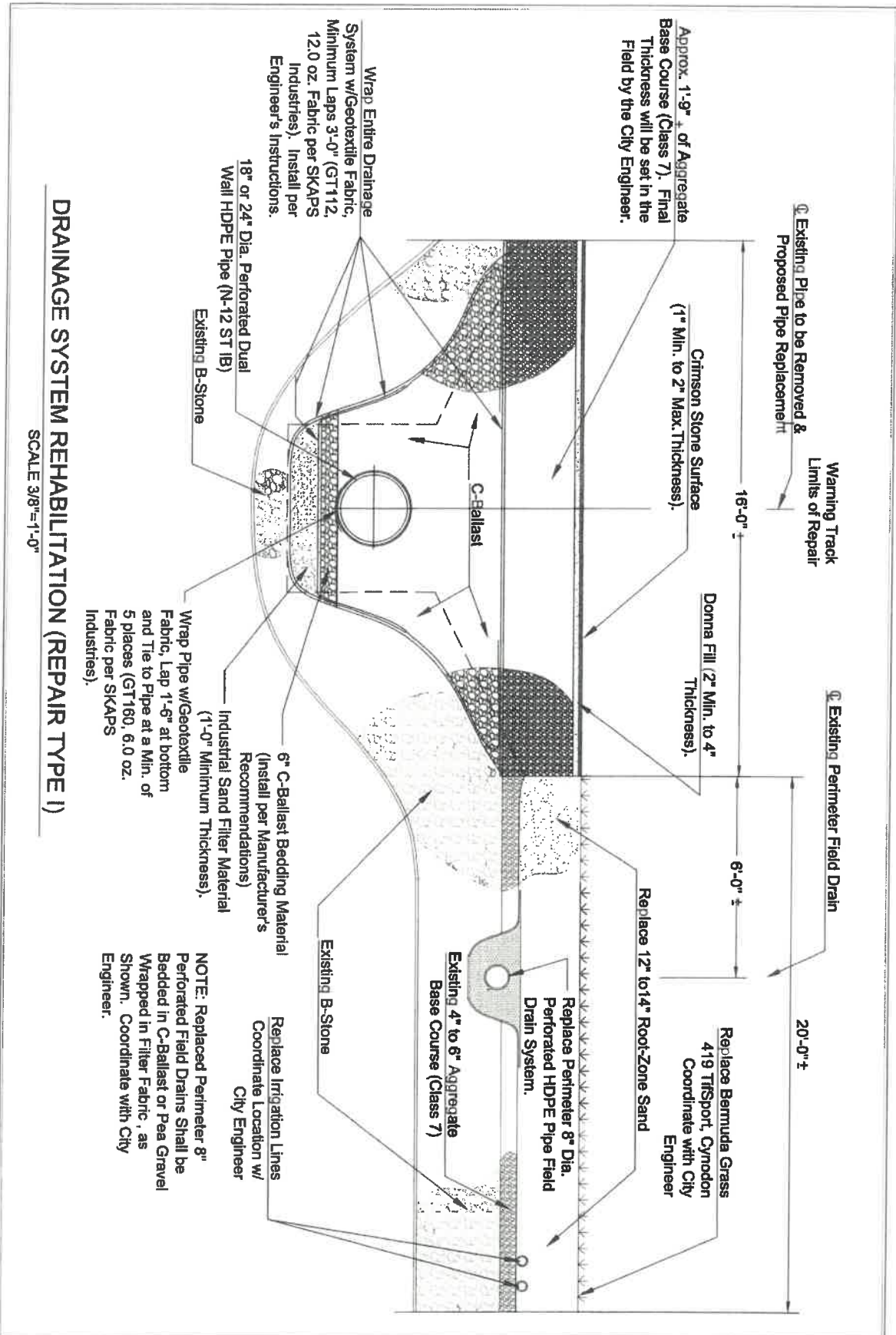


**CITY OF NORTH LITTLE ROCK**  
 Engineering Department  
 500 WEST 13TH STREET NORTH LITTLE ROCK, AR 72114

**2019 Flood – Traveler’s Field Rehabilitation**


**BULL PEN FENCE REPLACEMENT**

DATE: 10/26/20  
 DESIGNED BY: DCM  
 DRAWN BY: DMC  
 SCALE: None  
 SHEET NUMBER: 7

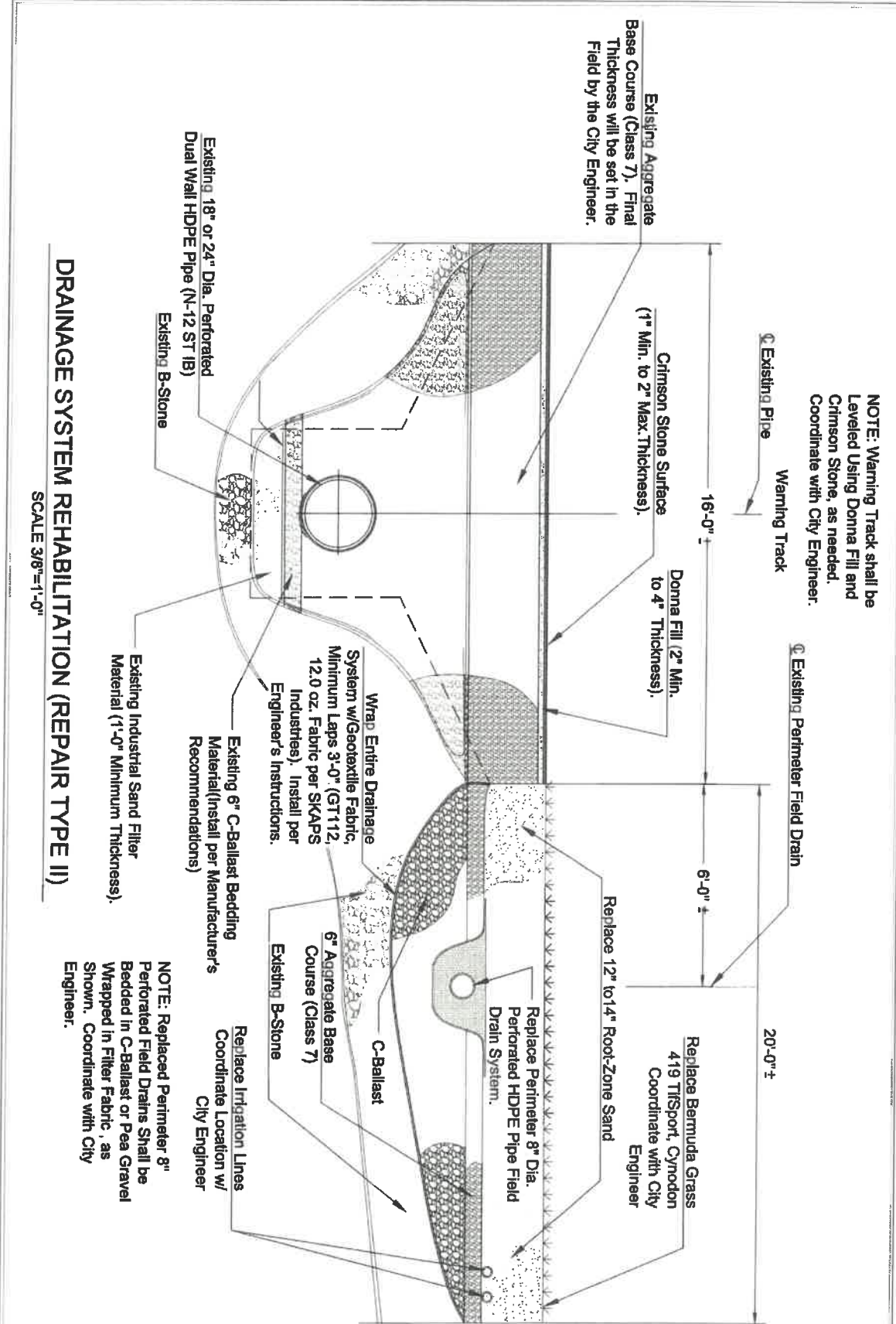


**DRAINAGE SYSTEM REHABILITATION (REPAIR TYPE I)**

SCALE 3/8"=1'-0"

	<p><b>CITY OF NORTH LITTLE ROCK</b> Engineering Department</p> <p>500 WEST 13TH STREET NORTH LITTLE ROCK, AR 72114</p>	<p>DATE: 1/2016 DESIGNED BY: DCCW DRAWN BY: DCCW SCALE: 3/8"=1'-0" SHEET NUMBER: 8</p>
<p>Traveler's Field Drainage Rehabilitation</p>		
<p>DRAINAGE SYSTEM REPAIR TYPE I</p>		

NOTE: Warning Track shall be leveled using Donna Fill and Crimson Stone, as needed. Coordinate with City Engineer.



**DRAINAGE SYSTEM REHABILITATION (REPAIR TYPE II)**

SCALE 3/8"=1'-0"

NOTE: Replaced Perimeter 8" Perforated Field Drains Shall be Bedded in C-Ballast or Pea Gravel Whapped in Filter Fabric, as Shown. Coordinate with City Engineer.

DATE:	1/2016
DESIGNED BY:	DCW
DRAWN BY:	DCW
SCALE:	3/8" = 1'-0"
SHEET NUMBER:	9

Traveler's Field Drainage Rehabilitation

CITY OF NORTH LITTLE ROCK  
Engineering Department



500 WEST 13TH STREET NORTH LITTLE ROCK, AR







## ***CONTRACT***

### ***FOR***

## ***2019 FLOOD – TRAVELER’S FIELD REHABILITATION***

THIS CONTRACT, by and between the CITY OF NORTH LITTLE ROCK (herein called the “City”), acting herein through its Mayor, Joe A. Smith, and Mid-America Golf & landscape, Inc., DBA Mid-America Sports Construction herein called “Contractor”), is effective on the dates signed by the City.

In consideration of the mutual covenants herein, the parties agree as follows:

### ***ARTICLE 1. SCOPE OF WORK***

The Contractor shall complete all Work as specified or indicated in the Contract Documents. A general description of the Work is as follows:

- (a) Removal and Replacement of approximately 250’ of 18”/24” Diameter Drainage Pipe.
- (b) Unclassified Excavation (Removal and Disposal).
- (c) Select Ball Field Materials (Furnishing, Placement and Compaction).
- (d) Removal and Replacement of Field Drains in approximately 15,000 Square Feet of the Ball Field.
- (e) Removal and Replacement of Irrigation System within approximately 15,000 Square Feet of the Ball Field.
- (f) Furnishing and Placement of Approximately 3000 Square Yards of Bermuda Sod (TIF 419).
- (g) Removal and Replacement of the Outfield Bull Pen Fencing.
- (h) Leveling of the Outfield Bull Pens.
- (i) Reworking/building of the Bull Pens Pitcher Mounds as directed by the Traveler’s Maintenance Director.

**EXHIBIT**

C.

The Work includes but is not limited to, all labor, material equipment, supplies, and incidental items necessary to complete the Project in conformance with the Plans and Specifications as more fully set forth in the Contract Documents attached hereto and incorporated herein as Exhibit A (The "Project Manual").

## ***ARTICLE 2. CONTRACT DOCUMENTS***

2.01 The Contract Documents shall consist of:

- (a) The fully executed Contract;
- (b) The Invitation to Bid, excluding the bidding requirements, but including Scope of Work, or any Specifications and Drawings, dated: **January 12, 2020**;
- (c) The Contractor's Bid dated; **January 22, 2020**;
- (d) EJCDC C-700, 2013, Standard General Conditions of the Construction Contract, as modified ("General Conditions");
- (e) Performance Bond;
- (f) Certificate of Liability Insurance coverage, including Workers' Compensation;
- (g) Any Addenda delivered or issued on or after the Effective Date of the Agreement, such as a Notice to Proceed, Written Amendments, Work Change Directives or Change Order(s).

2.02 The Contract Documents may only be amended, modified, or supplemented as provided in Article 11 of the General Conditions and identified in the Supplementary General Conditions, if applicable.

## ***ARTICLE 3. CONTRACT PRICE***

Contractor hereby agrees with the City to commence and complete the Work for the sum of **Three Hundred and Seventy Five Thousand, Seven Hundred and Nine Dollars, (\$375,709.00)** and any additional services in connection therewith, under the terms stated in the General Conditions.

Further, Contractor agrees, at its own proper cost and expense, to furnish all the materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to complete the Project in accordance with the Invitation to Bid and General Conditions, and prices stated in these specifications. This also includes any maps, plats, blue prints, and other drawings and printed or written explanatory matter thereof, all of which are made a part hereof and collectively constitute the Contract.

The City agrees to pay the Contractor in current funds for the Project performed under the Contract, subject to additions and deductions, as provided in the General Conditions and identified in the Supplementary General Conditions.



***ARTICLE 4 ENGINEER or ARCHITECT***

3.01 The Project will be coordinated by:

**City of North Little Rock Engineering Department**

**D. Chris Wilbourn**

The named ENGINEER shall act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

***ARTICLE 5 CONTRACT TIMES, DATES FOR SUBSTANTIAL COMPLETION, AND LIQUIDATED DAMAGES***

5.01 Contractor hereby agrees to commence the work on the Project on or before a date to be specified in a written Notice to Proceed (NTP) of the City, incorporated by reference as set forth herein, and to fully complete the Project within **50 CALENDAR days** or as determined by City Engineer. Contractor further agrees to pay, as liquidated damages, the sum of **\$1000.00** for each consecutive calendar day thereafter as hereinafter provided.

***ARTICLE 6 PAYMENT PROCEDURES***

6.01 Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. ENGINEER will process Applications for Payment as provided in the General Conditions.

***ARTICLE 7 CONTRACTOR'S REPRESENTATIONS AND WARRANTIES***

7.01 In order to induce Owner to enter into this Agreement CONTRACTOR makes the following representations:

7.02 Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Invitation to Bid.

7.03 Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.

7.04 Contractor does not consider any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.

7.05 Contractor agrees that the Contract Price as stated herein represents adequate and sufficient compensation for its timely completion of the Work, except for any authorized Change Orders.

7.06 Contractor is familiar with and is satisfied as to all federal, state and local laws, regulations, and ordinances that may affect cost, progress, and performance of the Work. The completion of

all Work shall be in accordance with all applicable federal, state, and local laws, regulations, and ordinances.

7.07 Contractor has carefully studied all: (1) drawings of physical conditions in, or relating to, existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities), if applicable, which were provided as described in paragraph 5.03 of the General Conditions, and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site which has been identified in the Supplementary Conditions, if applicable, as provided in paragraph 5.06 of the Standard General Conditions of the Construction Contract, as modified.

7.08. Contractor has obtained, and carefully studied, all additional or supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost, progress, or performance of the Work or, which relate to any aspect of the means methods, techniques, sequences, and procedures of construction, if any, expressly required by the Contract Documents to be employed by Contractor, and safety precautions and programs incident thereto.

7.09 Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.

7.10 Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.

7.11 Contractor has given Engineer or Architect written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.

7.12 The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

7.13 The Contractor further represents and warrants that:

- a. Contractor has full power and authority to enter into this Contract and to carry out the Project contemplated by this Contract.
- b. The Contractor represents and warrants that Contractor will comply with all laws applicable to the performance of the Project under this Contract.
- c. The Contractor represents and warrants that Contractor's execution, delivery, and performance of this Contract will not constitute: (i) a violation of any judgment, order, or decree binding on Contractor; (ii) a breach under any contract by which Contractor is bound; or (iii) an event that would, with notice or lapse of time, or both, constitute such a breach.
- d. The Contractor represents and warrants that the Project will be performed with the degree of skill and care that is required by current, good, and sound professional procedures and practices, and in conformance with generally accepted professional procedures and industry standards prevailing at the time the Project is performed. Contractor, further,

represents and warrants that all work on the Project meet the specifications set forth herein. Contractor, further, represents and warrants that Contractor and all personnel used to perform the Project, including permitted subcontractors, possess the knowledge, skill, and experience necessary to perform the Project.

- e. The Contractor represents and warrants that Contractor has, and shall maintain in effect for the duration of this Contract, all licenses, permits qualifications, and approvals of whatsoever nature which are legally required for Contractor to complete the Project. Contractor shall also ensure that all permitted subcontractors are similarly licensed and qualified.

### ***ARTICLE 8 CHANGE ORDERS***

8.01 The Contractor and the Owner agree and acknowledge as a part of this Contract that no change order, as defined in Section 1.01.A.8 of the General Conditions, or other form or order or directive is authorized without written assurance by the Owner that lawful appropriations to cover the costs of the additional work have been made. The Owner and the Contractor must sign all change orders. It is the Contractor's sole responsibility to know, determine, and ascertain the authority of the City representative signing any change order under this Contract.

### ***ARTICLE 9 SUSPENSION OF WORK AND TERMINATION***

9.01 Suspension of Work and Termination of this Contract will be in accordance with Article 16 of the General Conditions.

9.02 Notwithstanding any other provision of this Contract, with respect to any financial obligation of the City which may arise under this Agreement in any fiscal year after the year of execution, in the event the budget or other means of appropriation for any such year fails to provide funds in sufficient amounts to discharge such obligation, such failure (i) shall act to terminate this Contract at such time as the then-existing and available appropriations are depleted, and (ii) neither such failure nor termination shall constitute a default or breach of this Contract, including any sub-agreement, attachment, schedule, or exhibit thereto, by the City. As used herein, the term "appropriation" shall mean and include the due adoption of an appropriation ordinance and budget and the approval of availability of sufficient funds for the performance of fiscal obligations arising under this Contract.

### ***ARTICLE 10 INSURANCE AND BOND***

10.01 Contractor shall, at Contractor's sole cost and expense, procure and maintain for the duration of this Contract proper and complete liability insurance in an amount not less than \$1,000,000, and Workers Compensation Insurance in accordance with the laws of the State of Arkansas. Depending on the nature of the Project, the City may require an increase in liability insurance coverage. Prior to commencement of Work, Contractor shall provide a Certificate of Liability Insurance to be included in Exhibit A.



10.02 Contractor shall provide a Performance/Surety Bond equaling the total amount of the bid, (pursuant to Act 351 of 1953 as amended by Act 539 of 1979).

10.03 Additionally, Contractor shall furnish a 2-year maintenance bond to cover all construction and improvements in the public right of way. Contractor shall furnish a Maintenance Bond to the Department of Public Works covering any defects in materials and workmanship for the required improvements installed by that Contractor for 50 percent of the total cost of those improvements. The bond(s) shall be in full force and effect for not less than 2 year from the date of the letter from the Department of Public Works certifying that all improvements have been completed and approved. Further, the bond shall state that the Contractor shall correct all defects in materials and workmanship shall be corrected by the by the end of the bond period. The Department of Public Works shall approve Work performed under the terms of the Maintenance Bond..

#### ***ARTICLE 11 INDEMNIFICATION***

11.01 The Contractor agrees to indemnify and hold harmless the City, its officers, employees, and agents from any loss, lawsuit, liability, damage, cost and expense (including reasonable attorneys' fees) which may arise out of or result from the following: (i) claims by third persons against the City that the Project has caused damage to property or bodily injury (including death); or (ii) the acts or omissions of the Contractor, its agents or employees in connection with this Contract; or (iii) any defects in any equipment used by the Contractor; or (iv) any breach or default in the performance of the obligations of the Contractor hereunder including any breach of warranties.

11.02 The invalidity, in whole or in part, of any of the foregoing paragraph will not affect the remainder of such paragraph.

11.03 The foregoing indemnification by the Contractor is not a waiver of the City's tort of immunity.

#### ***ARTICLE 12 DISPUTE RESOLUTION***

12.01 Dispute resolution shall be in accordance with the process set forth in the General Conditions.

#### ***ARTICLE 13 MISCELLANEOUS***

13.01 *Terms.* Terms used in this Agreement will have the meanings indicated in the Standard General Conditions of the Construction Contract, as modified.

13.02 *Restrictions on Public Improvement Contracts.* In accordance with the Bid Documents, all bid documents related to public improvements exceeding \$75,000 in value must include a statement that encourages participation of small, minority, and women's business enterprises.

13.03 Contractor, in accordance with Ark. Code Ann. §§ 18-44-503 and 22-9-401, must

furnish a surety bond in an amount equal to the contract price.

13.04. In accordance with Ark. Code Ann. § 22-9-601, et seq., Contractor is subject to the retainage provisions of which allows the City to retain five percent (5%) of payments until final project completion. Ark. Code Ann. § 22-9-601, et seq., does not prohibit the City from withholding retainage throughout the project.

13.05 The City may forego withholding retainage of the progress payment if:

(a) The construction contract is fifty percent (50%) complete;

(b) The contractor has provided the work in a satisfactory manner; and

(c) The design professional and public agency agree with and approve of subdivisions (a)(1)(B)(i)(a) and (b).

13.06 Contractor acknowledges that a public right-of-way is an easement used for ingress and egress to property. The City holds these easements for the benefit of the public at large. As part of any public improvement contract performed in or about public rights-of-way, the City requires, and Contractor agrees, that such rights-of-way will be repaired, to the extent possible, to the condition prior to the performance of work.

13.07 *Choice of Law; Venue.* The parties hereto agree that this Contract shall be construed under Arkansas law, excluding its conflict of laws rules. The parties further agree that proper jurisdiction and venue for any cause of action arising from this Contract shall be vested in either the U.S. District Court for the Eastern District of Arkansas or the Circuit Court of Pulaski County, Arkansas.

13.08 *Non-Waiver.* No delay or failure to exercise any right under this Contract shall impair any such right or be construed to be a waiver thereof. No waiver shall be effective unless in writing signed by the party waiving. A waiver of a right on one occasion shall not be deemed to be a waiver of such right on any other occasion. Further, a waiver of a right on one occasion shall not be deemed to be a waiver of any other right on that occasion.

13.09 *No Assignment.* The Project to be performed pursuant to this Contract is personal in nature, and Contractor may not voluntarily, or by operation of law, assign or transfer any of its rights or obligations under this Contract without the prior written consent of the City.

13.10 *Merger.* This Contract constitutes the full understanding of the parties, a complete allocation of risks between them and a complete and exclusive statement of the terms and conditions of their agreement, related to the services provided hereunder. All prior agreements, negotiations, dealings and understandings, whether written or oral, regarding the subject matter hereof, are superseded by and merged into this Contract.

13.11 *Modification.* No conditions, usage of trade, course of dealing or performance, understanding or agreement purporting to modify, vary the terms or conditions of the Contract shall be binding unless hereafter made in writing and signed by the party to be bound, and no

modification shall be effected by the acknowledgment or acceptance of any forms containing terms or conditions or variance with or in addition to those set forth in this Contract.

13.12 *Severability.* Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

13.13 *No Presumption against Drafter.* Each of the parties hereto has jointly participated in the negotiation and drafting of this Agreement. In the event an ambiguity or a question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by each of the parties hereto and no presumptions or burdens of proof shall arise favoring any party by virtue of the authorship of any provisions of this Agreement.

13.14 *Counterpart Execution.* This Contract may be executed in two or more counterparts, each of which is deemed as original but all constitute one, and the same, instrument. An original signature transmitted by facsimile or other electronic means shall be deemed an original.

13.15 *Filing.* This document shall be filed in the official records of the City Clerk of the City of North Little Rock, Arkansas. Either party may additionally file this document in any other governmental office deemed appropriate; however, the parties waive all claims and defenses in law or equity based upon such additional filing.

**[Signatures on the Next Page]**



IN WITNESS WHEREOF, the parties have caused this Contract to be duly executed intending to be bound thereby.

**City of North Little Rock**

**Contractor**

**[NAME OF COMPANY]**

By: \_\_\_\_\_  
Joe A. Smith, Mayor

By: \_\_\_\_\_  
Name/Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

ATTEST:

\_\_\_\_\_  
Diane Whitbey, City Clerk

*Contract reviewed and approved by:*

Amy Beckman Fields  
North Little Rock City Attorney

BY: \_\_\_\_\_  
Deputy City Attorney

\_\_\_\_\_  
Date