

R-17-147

RESOLUTION NO. _____

A RESOLUTION ACCEPTING THE LOW BID OF, AND AUTHORIZING THE MAYOR AND CITY CLERK TO ENTER INTO A CONTRACT WITH, REDSTONE CONSTRUCTION GROUP, INC. FOR THE NEELY ROAD OVERLAY AND DRAINAGE IMPROVEMENTS PROJECT IN THE CITY OF NORTH LITTLE ROCK, ARKANSAS; APPROPRIATING FUNDS; AND FOR OTHER PURPOSES.

WHEREAS, the City of North Little Rock ("the City") has advertised for bids for the Neely Road Overlay and Drainage Improvements Project (Bid Summary No. 17-3478) attached hereto as Exhibit "A"); and

WHEREAS, the only bidder for the project was Redstone Construction Group, Inc. of Little Rock, AR with a bid of \$34,825.00.

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

SECTION 1: That the low bid of Redstone Construction Group for the Neely Road Overlay and Drainage Improvements Project in the amount of \$34,825.00 is hereby accepted, and the Mayor and City Clerk are authorized to execute the contract attached hereto as Exhibit "B".

SECTION 2: That the amount of \$34,825.00 is hereby appropriated from Ward 2 Drainage Funds.

SECTION 3: That this Resolution shall be in full force and effect from and after its passage and approval.

PASSED:

APPROVED:

Mayor Joe A. Smith

SPONSORS:

ATTEST:

Linda Robinson

Alderman Linda Robinson

by AF

Diane Whitbey, City Clerk

Maurice Taylor

Alderman Maurice Taylor

by AF

APPROVED AS TO FORM:

C. Jason Carter
C. Jason Carter, City Attorney *by AF*

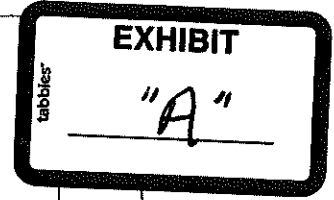
PREPARED BY THE OFFICE OF THE CITY ATTORNEY/b

FILED	<u>11:32</u>	<u>A.M.</u>	P.M.
BY	<u><i>Diane Whitbey, City Clerk</i></u>		
DATE	<u>8/22/17</u>		
Diane Whitbey, City Clerk and Collector North Little Rock, Arkansas			
RECEIVED BY	<u><i>[Signature]</i></u>		

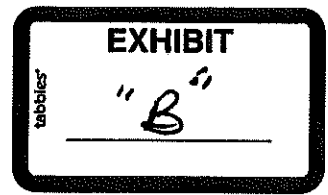


CITY OF NORTH LITTLE ROCK 17-3478 SUMMARY
Tuesday, July 18, 2017 @ 10:00a.m.

Neely Road Overlay and Drainage Improvements	Redstone Construction			
<i>Present at Bid Opening</i>	Yes			
<i>5% Bid Bond (If applicable)</i>	Yes			
<i>Total Project Base Bid \$</i>	34,825.00			
<i>Additional Information</i>				
<i>Additional Information</i>				



Opened by: Amy Smith
Summary by: Crystal Willis



CONTRACT FOR NEELY ROAD OVERLAY AND DRAINAGE IMPROVEMENTS

THIS AGREEMENT is made this ____ day of _____, 2017, by and between THE CITY OF NORTH LITTLE ROCK, herein called the "City," acting herein through its Mayor, Joe A. Smith, and Redstone Construction Group, Inc., herein called "Contractor."

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

Scope of Work

The work involves the placement of approximately 25 tons of 1.5 inch PG 64-22 ACHM on a portion of Neely Road, as well as ribbon curbing, ditch construction, and guardrail.

Compensation

Contractor hereby agrees with the City to commence and complete the Project for the sum of Thirty four thousand eight hundred twenty five Dollars and 00/100 (\$ 34,825.00) and all extra work in connection therewith, under the terms as stated in the Engineering General Conditions and Technical Specifications, as fully set forth in Exhibit A.

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 conditions and prices stated in these specifications, which include any maps, plats, blue prints, and other drawings and printed or written explanatory matter thereof as prepared by the City Engineering Department, herein entitled the "Engineer," 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 of the Contract.

Appropriation of Funds

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.

Commencement of Work

Contractor hereby agrees to commence the work on the Project on or before a date to be specified in a written Notice to Proceed of the City, incorporated by reference as set forth herein, and to fully complete the project within 30 calendar days thereafter. Contractor further agrees to pay, as liquidated damages, the sum of \$250.00 for each consecutive calendar day thereafter as hereinafter provided.

Warranties and Representations

The Contractor represents and warrants that Contractor has full power and authority to enter into this Contract and to carry out the Project contemplated by this Contract.

The Contractor represents and warrants that Contractor will comply with all laws applicable to the performance of the Project under this Contract.

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.

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, and 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.

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.

Termination

This Contract shall be terminated for cause if the contractor defaults in the performance of any of the terms hereof including, but not limited to, unsatisfactory job performance or progress, defective work, disputed work, failure to comply with material provisions of the contract, third-party claims filed or reasonable evidence that a claim will be filed, or other reasonable cause, or otherwise fails to cure any other deficiency identified by the City's authorized agent within 24 hours of delivery of notice of said deficiency. The City retains all

other legal or equitable rights or remedies existing as a result of said default, including, but not limited to, any legal process necessary to obtain any sureties securing this contract.

Insurance

Contractor shall, at Contractor's sole cost and expense, procure and maintain for the duration of this Contract proper and complete liability insurance in the amount of \$100,000.00, and Workers Compensation Insurance in accordance with the laws of the State of Arkansas. The City shall not be responsible in case of accident.

A Performance Bond equaling the total amount of any bid exceeding \$20,000.00 must be provided for any contract for the repair, alteration or erection of any public building, public structure, or public improvement (pursuant to Act 351 of 1953 as amended by Act 539 of 1979). Additionally, a Maintenance Bond shall be provided for a period of two (2) years.

Indemnification

A. The Contractor shall indemnify and hold the City its officers, employees, and agents harmless from any loss, lawsuit, liability, damage, cost and expense (including reasonable attorneys' fees) which may arise out of or result from (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. The Contractor's indemnification obligations hereunder shall not apply to the extent that any claim is caused by the gross negligence or misconduct of The City.

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

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

Choice of Law

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.

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 waiver of such

right on any other occasion. A waiver of a right on one occasion shall not be deemed to be a waiver of any other right on that occasion.

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.

Dispute Resolution; Legal Fees

In the event of any dispute, controversy, claim, or disagreement arising out of or related to this Contract or the acts or omissions of the parties with respect to this Contract (each, a "Dispute"), the parties shall, as soon as reasonably practicable after one party gives written notice of a Dispute to the other party (the "Dispute Notice"), meet and confer in good faith regarding such Dispute at such time and place as mutually agreed upon by the parties. If any Dispute is not resolved to the mutual satisfaction of the parties within ten (10) business days after delivery of the Dispute Notice (or such other period as may be mutually agreed upon by the parties in writing), any other available legal means to settle the Dispute may be chosen. Each party agrees that a violation or threatened violation of this Contract may cause irreparable injury to the other party, entitling the other party to seek injunctive relief in addition to all legal remedies.

Each party shall be entitled to recover the cost of enforcing the understanding and agreements as reflected herein, including, without limitation, any attorney's fees and costs incurred.

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.

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.

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.

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.

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

City of North Little Rock

Contractor

By: _____

Joe A. Smith, Mayor

By: CA Boyd

Charles A. Boyd, CFO
Name/Title

ATTEST:

Diane Whitbey, City Clerk

Contract reviewed and approved by:

C. Jason Carter
North Little Rock City Attorney

BY:

Maie-Bernard Miller
Deputy City Attorney