

City Council Agenda Items
and
Contracts, Leases or Agreements

4/17/2012

City Council Meeting Date
Agenda Items Only

Matt Mihalevich Engineering Development Services
Submitted By **Division** **Department**

Action Required:

A resolution awarding Bid #12-23 and authorizing a contract with Prime Contracting, Inc. in the amount of \$168,772.75 for the repair of flood damage to a section of Frisco Trail, and approving a ten percent (10%) project contingency, and approving a budget adjustment.

\$ <u>185,650.00</u>	\$ <u>137,108.00</u>	<u>Frisco Trail Repair</u>
Cost of this request	Category / Project Budget	Program Category / Project Name
<u>4470.9470.5420.00</u>	\$ <u>3,450.00</u>	<u>Trail Development</u>
Account Number	Funds Used to Date	Program / Project Category Name
<u>02016.1103</u>	\$ <u>133,658.00</u>	<u>Sales Tax Cap Imp</u>
Project Number	Remaining Balance	Fund Name

Budgeted Item

Budget Adjustment Attached

Chris... 3/30/12 Previous Ordinance or Resolution # _____
Department Director Date

Original Contract Date: _____

[Signature] 3/30/12 Original Contract Number: _____
City Attorney Date

Paul a. Beck 4-2-2012 _____
Finance and Internal Services Director Date

Received in City Clerk's Office 3-30-12 A08:28 RCVD
[Signature]

[Signature] 4-2-12 _____
Chief of Staff Date

[Signature] 4/3/12 _____
Mayor Date

Received in Mayor's Office
ENTERED 3/30/12
[Signature]

Comments:

CITY COUNCIL AGENDA MEMO

To: Mayor and City Council

Thru: Don Marr, Chief of Staff
Jeremy Pate, Development Services Director
Chris Brown, City Engineer *CB*

From: Matt Mihalevich, Trails Coordinator *MM*

Date: March 30th, 2012

Subject: Frisco Trail Repair Award

RECOMMENDATION:

Staff recommends a resolution awarding Bid #12-23 and authorizing a contract with Prime Contracting, Inc. in the amount of **\$168,772.75** for the repair of flood damage to a section of Frisco Trail, and approving a ten percent (10%) project contingency, and approving a budget adjustment.

PROPOSAL:

In April of 2011, historic rains caused major flooding that resulted in the sliding of the hillside below a section of Frisco Trail just south of Center Street. The slope failure caused a large tree to fall along with a retaining wall and 6 feet of the 12 foot wide asphalt trail. Fortunately, half of the trail has remained opened to public during the time necessary for FEMA reimbursement, geotechnical engineering and design of a long lasting and cost effective solution.

The design solution includes removing the fallen vegetation and compromised soil from the trail down to Tanglewood Creek. The contractor will then construct gabion baskets with native brown sandstone along the east edge of the creek to establish a solid base to reconstruct the hillside above. A new retaining wall matching the existing wall will then be constructed above the new structural hillside and new asphalt trail will be placed above the wall. A new drainage swale and storm drainage inlet will also be installed on the east side of the trail to prevent the water from crossing the trail and wall.

The flooding that caused the slope failure was declared a natural disaster causing the failure, this project is eligible for reimbursement as a large project through the Federal Emergency Management Agency (FEMA). Upon completion of the project, FEMA will reimburse 75% of eligible expenses. The Arkansas Department of Energy Management will then reimburse 12.5%, leaving the City's portion at 12.5% of eligible expenses.

BUDGET IMPACT:

Funds for the Frisco Trail Repair have been budgeted as part of the transportation capital improvement project for trail development. As mentioned, State and Federal disaster funds are expected to reimburse 87.5% of the eligible project cost, therefore the cost to the trails development program will be reduced substantially.

Six bidders responded to the request for formal bids and Prime Construction, Inc. was the lowest responsive bidder - See attached bid tab. Second Nature Property Management, LLC had the lowest bid, however their bid was rejected due to submittal of incomplete bid documents.

RESOLUTION NO. _____

A RESOLUTION AWARDED BID #12-23 AND AUTHORIZING A CONTRACT WITH PRIME CONTRACTING, INC. IN A TOTAL AMOUNT OF \$168,772.75 FOR THE REPAIR OF FLOOD DAMAGE TO A SECTION OF FRISCO TRAIL, APPROVING A TEN PERCENT (10%) PROJECT CONTINGENCY, AND APPROVING A BUDGET ADJUSTMENT

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE, ARKANSAS:

Section 1. That the City Council of the City of Fayetteville, Arkansas hereby awards Bid #12-23 and authorizing a contract with Prime Contracting, Inc. in a total amount of \$168,772.75 for the repair of flood damage to a section of Frisco Trail.

Section 2. That the City Council of the City of Fayetteville, Arkansas hereby approves a ten percent (10%) project contingency.

Section 3. That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment, a copy of which is attached to this Resolution as Exhibit "A".

PASSED and **APPROVED** this 17th day of April, 2012.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

By: _____
SONDRA E. SMITH, City Clerk/Treasurer

**City of Fayetteville, Arkansas
Budget Adjustment Form**

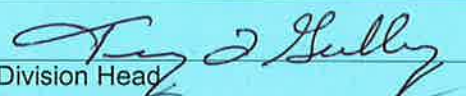




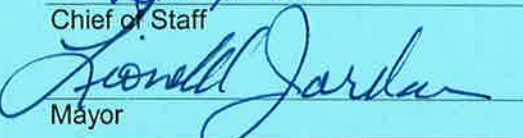
V11.0425

A. 4
Bid #12-23 Prime Contracting, Inc.

Budget Year 2012	Division: Transportation Services Department: Transportation Services	Request Date 4/17/2012	Adjustment Number 02016.1103
----------------------------	--	----------------------------------	--

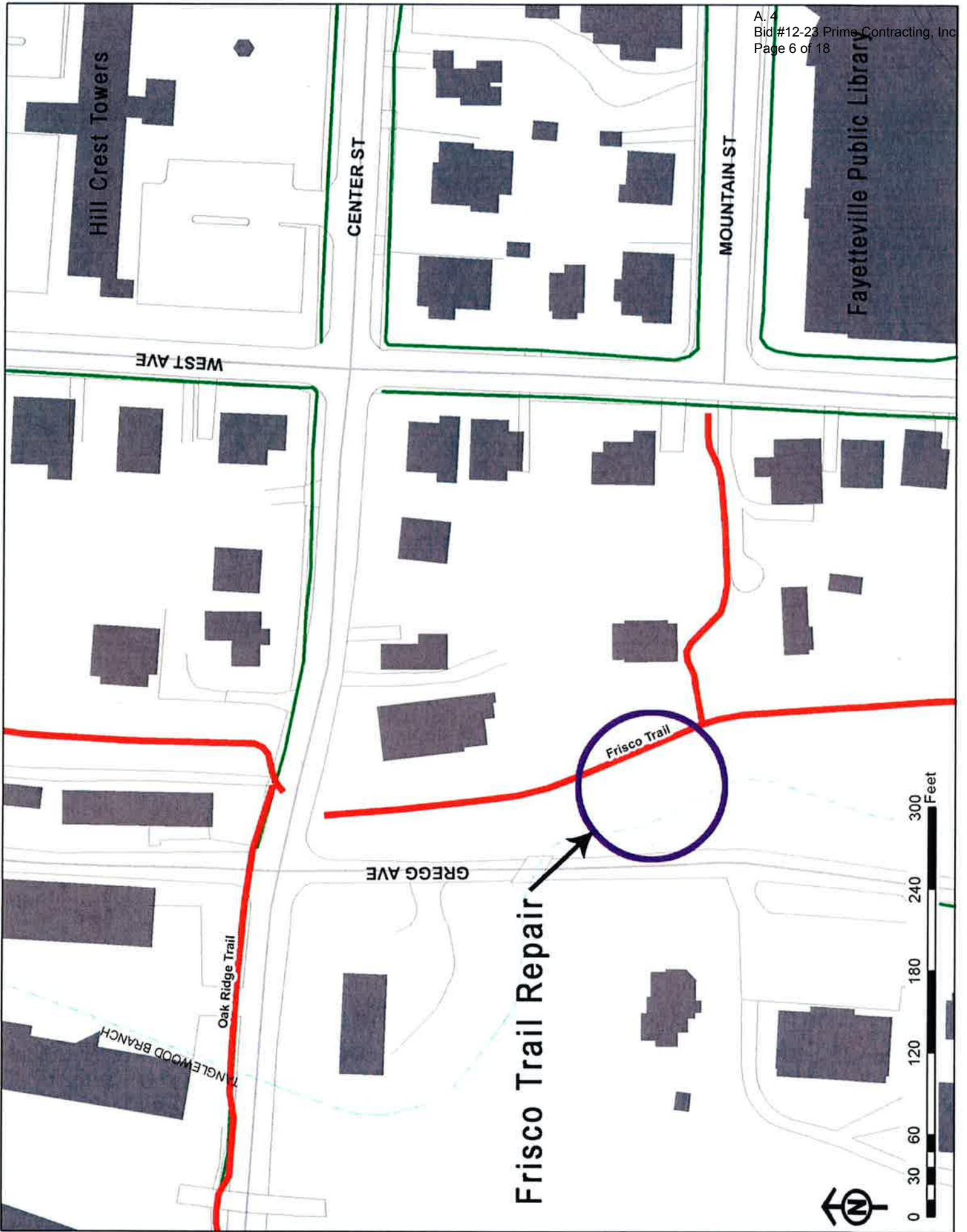
BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION

This budget adjustment recognizes FEMA reimbursement per Project Worksheet RFJ160G for flood-related repairs to Frisco Trail.

 Division Head	3-27-12 Date	Prepared By: John Nelson <i>jnelson</i>
 Budget Director	3-27-12 Date	Reference: _____
 Department Director	3-27-12 Date	Budget & Research Use Only
 Finance Director	4-2-2012 Date	Type: A B C D E P
 Chief of Staff	4-2-12 Date	General Ledger Date _____
 Mayor	4/3/12 Date	Posted to General Ledger Initial _____ Date _____
		Checked / Verified Initial _____ Date _____

TOTAL BUDGET ADJUSTMENT		72,920	72,920	
		Increase / (Decrease)		
Account Name	Account Number	Expense	Revenue	Project.Sub Number
Trail Maintenance	4470.9470.5420.00	72,920		02016 . 1103
Trans from Replacement	4470.0947.6602.27		72,920	02016 . 1103
				.
				.





Hill Crest Towers

CENTER ST

MOUNTAIN ST

Fayetteville Public Library

WEST AVE

GREGG AVE

Oak Ridge Trail

TANGLEWOOD BRANCH

Frisco Trail

Frisco Trail Repair





BID: 12-23
 DATE: 03/23/12
 TIME: 2:00 PM
 CITY OF FAYETTEVILLE

Bid 12-23, Construction - Frisco Trail Repair

BIDDER	TOTAL COST
1 Boulder Construction, Inc.	\$ 197,160.00
2 Fotchman Enterprises, Inc.	\$ 221,371.00
3 Prime Construction, Inc.	\$ 168,772.75
4 Second Nature Property Management, LLC	\$ 158,444.00
5 Sweetser Construction	\$ 249,795.50
6 Township Builders, Inc.	\$ 220,706.00

*NOTICE: Bid award is contingent upon vendor meeting minimum specifications and formal authorization by City officials.

CERTIFIED: 
 ANDREA FOREN RASCO, PURCH AGENT


 WITNESS

03/23/2012
 DATE

City Of Fayetteville

Vendor #: 22021 New Vendor		Vendor Name: Prime Contractors Inc		Requisition No.:		Date: 4/17/2012	
Address:		Fob Point:		P.O Number:		Expected Delivery Date:	
City:		State:		Mail Yes: <input checked="" type="checkbox"/> No: <input type="checkbox"/>		Quotes Attached Yes: <input type="checkbox"/> No: <input checked="" type="checkbox"/>	
Requester: John Nelson		Ship to code: 104		Division Head Approval: <i>[Signature]</i>		Extension: 492	
Requester's Employee #: 1003		Requester's Employee #: 1003		Project/Subproject #: 02016.1103		Inventory #	
Account Numbers		Account Numbers		Fixed Asset #			

Item	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost
1	Frisco Trail Repair	1	JOB	\$168,772.75	\$168,772.75
2	Contract # _____ Bid #12-23; Res. No. _____				
3					
4					
5					
6					
7					
8					
9					
10					

Special Instructions:

Subtotal: **\$168,772.75**

Tax: **\$0.00**

Total: **\$168,772.75**

Approvals:

Mayor: _____ Department Director: _____

Finance & Internal Services Director: _____ Budget Manager: _____

Dispatch Manager: _____ Utilities Manager: _____

Purchasing Manager: _____

IT Manager: _____

Other: _____



THE CITY OF FAYETTEVILLE, ARKANSAS

www.accessfayetteville.org

CONTRACT

Reference: Bid 12-23, Construction – Frisco Trail Repair
Owner: City of Fayetteville, Arkansas
Contractor: Prime Contracting, Inc.
Term: Single Project

Contract Name/Title: FRISCO TRAIL REPAIR

Contract No.: _____

THIS AGREEMENT is dated as of the 27 day of March in the year 2012 by and between The City of Fayetteville, Arkansas and **Prime Contracting, Inc.** (hereinafter called Contractor).

ARTICLE 1 - WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The work under this Contract includes, but is not limited to:

Clearing & Grubbing of the damaged area, removal of unsuitable soil and rock to install rock gabion baskets and replace a section of the modular block retaining wall, replacement of the trail surface, and site restoration. More specifically, the project will require the following:

1. Mobilization/Demobilization
2. Clearing & Grubbing of vegetation in the damaged area.
3. Excavation of unsuitable soil down to rock or unyielding subgrade.
4. Rock excavation as necessary to install rock gabion baskets and fill with native sandstone.
5. Select Fill installation behind gabion walls and under the replacement section of modular block wall.
6. Installation of a storm drainage pipe and inlet.
7. Installation of a modular block wall including foundation rock, wall rock, drain pipes, geogrid, select backfill, fence foundation system, fence posts and wall cap.
8. Placement of the concrete strip between the back of the modular block wall and the trail.

DOCUMENT 00500 – AGREEMENT (continued)

9. Trail subgrade preparation and asphalt paving.
10. Site restoration including removal of temporary creek crossing, temporary trail detour, topsoil, select grading, sod and wildflower seed.
11. Fence reinstallation and repair.

ARTICLE 2 - ENGINEER

- 2.01 The Project has been designed by the City of Fayetteville, Engineering Division, who is hereinafter called Engineer. The Engineer assumes all duties and responsibilities, and has the rights and authority assigned to Engineer in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

ARTICLE 3 - CONTRACT TIME

3.01 TIME OF THE ESSENCE:

- A. All time limits for milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

3.02 DATES FOR SUBSTANTIAL COMPLETION AND FINAL PAYMENT:

- A. The Work will be Substantially Completed within **90** calendar days after the date when the Contract Times commence to run as provided in the GENERAL CONDITIONS, and completed and ready for final payment in accordance with the GENERAL CONDITIONS within **120** calendar days after the date when the Contract Times commence to run.

3.03 LIQUIDATED DAMAGES:

- A. Owner and Contractor recognize that time is of the essence of this Agreement and that The City of Fayetteville will suffer financial loss if the Work is not completed within the time specified above, plus any extensions thereof allowed in accordance with the GENERAL CONDITIONS. The parties also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by The City of Fayetteville if the Work is not Substantially Completed on time. Accordingly, instead of requiring any such proof, The City of Fayetteville and Contractor agree that as liquidated damages for

DOCUMENT 00500 – AGREEMENT (continued)

delay (but not as a penalty) Contractor shall pay The City of Fayetteville Two Hundred Dollars (\$200.00) for each calendar day that expires after the time specified above in Paragraph 3.02 for Substantial Completion until the Work is Substantially Complete. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the time specified in Paragraph 3.02 for completion and readiness for final payment or any proper extension thereof granted by The City of Fayetteville, Contractor shall pay The City of Fayetteville Two Hundred Dollars (\$200.00) for each calendar day that expires after the time specified for completion and readiness for final payment.

ARTICLE 4 - CONTRACT PRICE

- 4.01 The CITY OF FAYETTEVILLE agrees to pay, and the CONTRACTOR agrees to accept, as full and final compensation for all work done under this agreement, the amount based on the prices bid in the Proposal (BID FORM) which is hereto attached, for the actual amount accomplished under each pay item, said payments to be made in lawful money of the United States at the time and in the manner set forth in the Specifications.
- 4.02 As provided in the General Conditions estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by ENGINEER as provided in the General Conditions. Unit prices have been computed as provided in the General Conditions.
- 4.03 Changes, modifications, or amendments in scope, price or fees to this contract shall not be allowed without a prior formal contract amendment approved by the Mayor and the City Council in advance of the change in scope, cost or fees.

ARTICLE 5 - PAYMENT PROCEDURES

- 5.01 SUBMITTAL AND PROCESSING OF PAYMENTS:
- A. Contractor shall submit Applications for Payment in accordance with the GENERAL CONDITIONS. Applications for Payment will be processed by Engineer as provided in the GENERAL CONDITIONS.

DOCUMENT 00500 – AGREEMENT (continued)

5.02 PROGRESS PAYMENTS, RETAINAGE:

- A. The City of Fayetteville shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment as recommended by Engineer, on or about the 15th day of each month during construction. All such payments will be measured by the schedule of values established in the GENERAL CONDITIONS (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.
1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in each case, less the aggregate of payments previously made and less such amounts as Engineer shall determine, or The City of Fayetteville may withhold, in accordance with the GENERAL CONDITIONS.
- a. 90% of Work Completed (with the balance being retainage). If Work has been 50% completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to The City of Fayetteville and Engineer, The City of Fayetteville on recommendation of Engineer, may determine that as long as the character and progress of the Work subsequently remain satisfactory to them, there will be no additional retainage on account of Work subsequently completed, in which case the remaining progress payments prior to Substantial Completion will be an amount equal to 100% of the Work Completed less the aggregate of payments previously made; and
 - b. 100% of Equipment and Materials not incorporated in the Work but delivered, suitably stored, and accompanied by documentation satisfactory to The City of Fayetteville as provided in the GENERAL CONDITIONS.
2. Upon Substantial Completion, The City of Fayetteville shall pay an amount sufficient to increase total payments to Contractor to 95% of the Contract Price (with the balance being retainage), less such amounts as Engineer shall determine, or The City of Fayetteville may withhold, in accordance with the GENERAL CONDITIONS.

DOCUMENT 00500 – AGREEMENT (continued)

5.03 **FINAL PAYMENT:**

- A. Upon final completion and acceptance of the Work in accordance with the GENERAL CONDITIONS, The City of Fayetteville shall pay the remainder of the Contract Price as recommended by Engineer and as provided in the GENERAL CONDITIONS.

ARTICLE 6 - CONTRACTOR'S REPRESENTATIONS

6.01 In order to induce The City of Fayetteville to enter into this Agreement, Contractor makes the following representations:

- A. Contractor has examined and carefully studied the Contract Documents including the Addenda and other related data identified in the Bid Documents.
- B. 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, performance, and furnishing of the Work.
- C. Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance, and furnishing of the Work.
- D. Contractor has carefully studied all:
 - (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site; and
 - (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site. Contractor acknowledges that The City of Fayetteville and Engineer do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the Site.
- E. Contractor has obtained and carefully studied (or assumes responsibility of having done so) all such additional supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site or otherwise which may affect cost, progress, performance, and furnishing of the Work or which

DOCUMENT 00500 – AGREEMENT (continued)

relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto.

- F. Contractor does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performing and furnishing of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- G. Contractor is aware of the general nature of work to be performed by The City of Fayetteville and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. 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.
- I. Contractor has given Engineer 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.
- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

ARTICLE 7 - CONTRACT DOCUMENTS

7.01 CONTENTS:

- A. The Contract Documents which comprise the entire Agreement between The City of Fayetteville and Contractor concerning the Work consist of the following and may only be amended, modified, or supplemented as provided in the GENERAL CONDITIONS:
 - 1. This Agreement.
 - 2. Exhibits to this Agreement (enumerated as follows):
 - a. Notice to Proceed.

DOCUMENT 00500 – AGREEMENT (continued)

- b. Contractor's Bid.
- c. Documentation submitted by Contractor prior to Notice of Award.
- 3. Performance, Payment, and other Bonds.
- 4. General Conditions.
- 5. Supplementary Conditions.
- 6. Specifications consisting of divisions and sections as listed in table of contents of Project Manual.
- 7. Drawings consisting of a cover sheet and sheets as listed in the table of contents thereof, with each sheet bearing the following general title:

FRISCO TRAIL REPAIR

- 8. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto: All Written Amendments and other documents amending, modifying, or supplementing the Contract Documents pursuant to the GENERAL CONDITIONS.

ARTICLE 8 - MISCELLANEOUS

8.01 **TERMS:**

- A. Terms used in this Agreement which are defined in the GENERAL CONDITIONS shall have the meanings stated in the GENERAL CONDITIONS.

8.02 **ASSIGNMENT OF CONTRACT:**

- A. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by Law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

DOCUMENT 00500 – AGREEMENT (continued)

8.03 **SUCCESSORS AND ASSIGNS:**

- A. The City of Fayetteville and Contractor each binds himself, his partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

8.04 **SEVERABILITY:**

- A. 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 The City of Fayetteville 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.

8.05 **FREEDOM OF INFORMATION ACT:**

- A. City contracts and documents prepared while performing city contractual work are subject to the Arkansas Freedom of Information Act. If a Freedom of Information Act request is presented to the City of Fayetteville, the contractor will do everything possible to provide the documents in a prompt and timely manner as prescribed in the Arkansas Freedom of Information Act (A.C.A. §25-19-101 et. seq.). Only legally authorized photocopying costs pursuant to the FOIA may be assessed for this compliance.

OTHER PROVISIONS: Not Applicable.

IN WITNESS WHEREOF, The City of Fayetteville and Contractor have signed this Agreement in quadruplicate. One counterpart each has been delivered to Contractor and Engineer. Two counterparts each has been delivered to The City of Fayetteville. All portions of the Contract Documents have been signed, initialed, or identified by The City of Fayetteville and Contractor or identified by Engineer on their behalf.

DOCUMENT 00500 – AGREEMENT (continued)

This Agreement will be effective on _____, 20__, which is the Effective Date of the Agreement.

PRIME CONTRACTING, INC.

CITY OF FAYETTEVILLE, ARKANSAS

Name Written: Scott D Olson

Name Written: Lioneld Jordan

Signature: Scott D. Olson

Signature: _____

Title: President

Title: Mayor

(SEAL)

(SEAL)

Attest M. Powell

Attest _____

Address for giving notices

Address for giving notices

PO Box 744

113 W. Mountain Street

Republic, Mo. 65738

Fayetteville AR, 72701

License No. 0056120412

(attach evidence of authority to sign and resolution or other documents authorizing execution of Agreement)

Agent for Service of process

(If Contractor is a corporation, attach evidence of authority to sign.)

Approved As to Form:

By: _____

Attorney For: _____

END OF DOCUMENT 00500

CORPORATE AUTHORIZATION RESOLUTION

A. 4
Bid #12-23 Prime Contracting, Inc.
Page 18 of 18

Liberty Bank
National
4625 S. National
Springfield, MO 65804

By: PRIME CONTRACTORS INC
PO BOX 84
CLEVER, MO 65631

Referred to in this document as "Financial Institution"

Referred to in this document as "Corporation"

I, SCOTT OLSON, certify that I am Secretary (clerk) of the above named corporation organized under the laws of MISSOURI, Federal Employer I.D. Number 43-1733294, engaged in business under the trade name of PRIME CONTRACTORS INC, and that the resolutions on this document are a correct copy of the resolutions adopted at a meeting of the Board of Directors of the Corporation duly and properly called and held on 9/21/2007 (date). These resolutions appear in the minutes of this meeting and have not been rescinded or modified.

AGENTS Any Agent listed below, subject to any written limitations, is authorized to exercise the powers granted as indicated below:

Table with 4 columns: Name and Title or Position, Signature, Facsimile Signature (if used), and checkboxes for agents A-F.

POWERS GRANTED (Attach one or more Agents to each power by placing the letter corresponding to their name in the area before each power. Following each power indicate the number of Agent signatures required to exercise the power.)

Table with 3 columns: Indicate A, B, C, D, E, and/or F; Description of Power; Indicate number of signatures required.

LIMITATIONS ON POWERS The following are the Corporation's express limitations on the powers granted under this resolution.

EFFECT ON PREVIOUS RESOLUTIONS This resolution supersedes resolution dated . If not completed, all resolutions remain in effect.

CERTIFICATION OF AUTHORITY

I further certify that the Board of Directors of the Corporation has, and at the time of adoption of this resolution had, full power and lawful authority to adopt the resolutions on page 2 and to confer the powers granted above to the persons named who have full power and lawful authority to exercise the same. (Apply seal below where appropriate.)

If checked, the Corporation is a non-profit corporation.

In Witness Whereof, I have subscribed my name to this document and affixed the seal of the Corporation on 9/21/2007 (date).

Attest by One Other Officer

Handwritten signature of Tamar Olson, Secretary