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THE CITY OF FAYETTEVILLE, ARKANSAS
DEPARTMENT CORRESPONDENCE

CITY COUNCIL AGENDA MEMO

To: Mayor Lioneld Jordan and City Council

Thru: Don Marr, Chief of Staff
Connie Edmonston, Parks and Recreation Director
Alison Jumper, Park Planning Superintendent *aj*

From: Carole Jones, Park Planner II *CJ*

Date: July 19, 2013

Subject: **Bid #13-37, Construction – Wilson Park Pool Buildings Renovation
Agenda Request for August 6, 2013 Meeting**

PROPOSAL:

The Wilson Park swimming pool is the only municipal pool within the City of Fayetteville and had over 20,000 visitors in 2012 during the eight week summer season. The original Wilson Park pool buildings were built between the 1930s and the 1960s. The last significant renovation of the buildings was in 1983.

In 2012, the pool and deck surfaces were repaired and resurfaced as the first phase of the Wilson Park Pool renovation. The renovation of the buildings was approved as part of the 2013 CIP as the next phase of the pool renovation project. Improvements to the pool house and concession building will increase efficiency in use of space, increase ventilation, provide better ADA access and update the restroom and shower facilities.

The project includes the renovation of the office / locker room building, pump house, and concession building. The construction includes structural additions, wall modifications, finishes, mechanical, plumbing, and electrical items.

The project was advertised on June 19 and 26, and bids were opened on July 17, 2013. Five vendors submitted bids as shown in the following table:

Bidder	Total Base Bid
Benchmark Construction of NWA	\$442,000
Cornerstone Construction of Russellville, Inc.	\$456,300
General Construction Solutions, Inc.	\$418,444
Heckathorn Construction Company, Inc.	\$438,800
Pick-It Construction, Inc.	\$403,987

Pick-It Construction, Inc. was the low bid in the amount of \$403,987. (See attached certified bid tabulation.) If approved, the construction of the project is anticipated to begin in early September after the pool closes for the season.

RECOMMENDATION:

Staff recommends a resolution approving Bid #13-37 between the City of Fayetteville and Pick-It Construction, Inc. in an amount of \$403,987 with a 15% project contingency of \$60,598 for a total project cost of \$464,585 for the Construction of Wilson Park Pool Buildings Renovation.

BUDGET IMPACT:

This project is funded with Park Land Dedication (SW Quadrant) funds. The cost of \$464,585 is accounted for in project number 13001.1101 - Wilson Park Improvements.

Attachments:

Staff Review Form
Bid Submittal – Pick-It Construction, Inc.
Certified Bid Tabulation
Agreement Signed by Contractor
Purchase Requisition

RESOLUTION NO. _____

A RESOLUTION AWARDDING BID #13-37 AND APPROVING A CONTRACT WITH PICK-IT CONSTRUCTION, INC. IN THE AMOUNT OF \$403,987.00 FOR CONSTRUCTION OF POOL BUILDING RENOVATIONS AT WILSON PARK, AND APPROVING A FIFTEEN PERCENT (15%) PROJECT CONTINGENCY

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 #13-37 and approves a contract with Pick-It Construction, Inc. in the amount of \$403,987.00 for construction of pool building renovations at Wilson Park, and further approves a fifteen percent (15%) project contingency.

PASSED and APPROVED this 6th day of August, 2013.

APPROVED:

ATTEST:

By: _____
LIONELD JORDAN, Mayor

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

Revised Section 00 41 13

BID FORM

To: City of Fayetteville
Fayetteville, Arkansas

Project: Wilson Park Pool Buildings Renovation
Fayetteville, Arkansas

Date: 07/10/2013

Submitted By: (full name) PICKIT CONSTRUCTION INC.

Full Business Address: 10024 N. CAMPBELL ROAD
FAYETTEVILLE, AR 72701.

Note:

A Contractor's License is required to bid this project.
This project requires a five (5) percent Bid Bond at time of bid opening.
After contract award, a one hundred (100) percent performance and payment bond is required
along with proof of insurance before construction begins.

License Number: 0140461213

- () A partnership consisting of _____
- () An individual trading as _____
- () A corporation organized under the laws of the State of ARKANSAS.

1. ADDENDA

The following Addenda have been received. The modifications to the Bid Documents noted below have been considered and all costs are included in the Bid Sum.

Addendum # 1 Dated 6/27/2013.

Addendum # 2 Dated 7/03/2013

Addendum # 3 Dated 7/10/2013

Addendum # 4 Dated 7/10/2013

2. APPENDICES

The following document(s) are attached to and made a condition of the Bid:

Bid security in form of BID BOND

3. OFFER

The undersigned, in compliance with your Notice For Bids for Construction of Wilson Park Pool Buildings Renovation Fayetteville, Arkansas, having examined plans and specifications with related documents and the site of the proposed work and being familiar with all conditions surrounding construction of the proposed building, including the availability of labor, hereby proposes to furnish all labor, materials and supplies and to construct the project in accordance with Contract Documents within the time set forth therein at prices stated below. These prices are to cover all expenses incurred in performing the work required under the Contract Documents of which this proposal is a part.

Base Bid:

\$ Four hundred three thousand nine hundred eighty seven dollars.
amount written in words \$ 403,987.00
in figures

Deductive Alternates (The price of the Bid for each alternate will be the amount to be deducted from the price of the Total Base Bid if the City of Fayetteville selects any of the alternates):

Deductive Alternate No. 1 - for work associated with installing the native stone planter wall as identified in the Drawings.

\$ FIFTEEN THOUSAND THREE HUNDRED THIRTY FOUR DOLLARS
amount written in words \$ 15,334
in figures

Deductive Alternate No. 2 - for work associated with installing the Architectural entrance wall as identified in the Drawings.

\$ TWENTY FIVE THOUSAND SIX HUNDRED THIRTEEN ONLY DOLLARS
amount written in words \$ 25,613
in figures

Unit Prices:

For removing and replacing existing unsound plywood roof deck in preparation for new roof installation:

\$ ONE HUNDRED FIFTY per 4x8 sheet of plywood \$ 150 per 4x8 sheet of plywood
amount written in words in figures

We have included security as required by the Instruction to Bidders.

All applicable federal taxes are included and State and City taxes are included in the Bid Sum.

****NOTICE: BIDDERS ARE REQUIRED TO PROVIDE PRICING FOR ALL LINE ITEMS. FAILURE TO PROVIDE DEDUCTIVE ALTERNATE PRICING CAN RESULT IN BID BEING REJECTED.**

****THE CITY WILL AWARD THIS CONTRACT TO THE LOWEST QUALIFIED RESPONSIVE RESPONSIBLE BIDDER BASED ON THE LUMP SUM BID AS LONG AS SUCH BID FALLS WITHIN THE AMOUNT OF FUNDS CERTIFIED FOR THE PROJECT PLUS 25%.**

IN THE EVENT NO BID FALLS WITHIN THE AMOUNT OF FUNDS CERTIFIED FOR THE PROJCT, PLUS 25%, THE CITY WILL UTILIZE THE DEDUCTIVE ALTERNATES IN ORDER UNTIL BIDS CAN BE COMPARED WITHIN THE AMOUNT CERTIFIED, PLUS 25%.

IN THE EVENT ALL DEDUCTIVE ALTERNATES ARE SUBTRACTED AND NO BID FALLS WITHIN THE AMOUNT CERTIFIED, PLUS 25%, ALL BIDS SHALL BE REJECTED.

4. ACCEPTANCE

This offer shall be open to acceptance sixty (60) days from the bid closing date.

If this bid is accepted by the Owner within the time period stated above, we will:

- Execute the Agreement within five (5) business days of bid date or by a date established in order to meet the next submittal for inclusion on the City Council's meeting agenda.
- Furnish the required bonds no later than ten (10) business days following issuance of Notice of Award.
- Commence work as stated in the written Notice to Proceed.

If this bid is accepted within the time stated, and we fail to commence the Work or we fail to provide the required bonds, the security deposit shall be forfeited as damages to the Owner by reason of our failure, limited in amount to the lesser of the face value of the security deposit or the difference between this bid and the bid upon which a Contract is signed.

In the event our bid is not accepted within the time stated above, the required security deposit will be returned to the undersigned, in accordance with the provisions of the Instructions to Bidders; unless a mutually satisfactory arrangement is made for its retention and validity for an extended period of time.

5. CONTRACT TIME

If this Bid is accepted, we will: Complete the Work within 30 calendar days of Substantial Completion, the date of which shall be 150 days from issuance of Notice to Proceed.

6. BID FORM SIGNATURES

The bidder shall state the price bid in words and figures (written in ink or typed) for each pay item and the total bid. In case of conflict between words and figures, the words, unless obviously incorrect, shall govern.

Bidder understands that the Owner reserves the right to award the total project, or to reject any or all bids and to waive any informalities in the bidding.

Bidder agrees that this Bid shall be good and will not be withdrawn for a period of 60 calendar days after the scheduled closing time for receiving bids.

(If the Bid is a joint venture or partnership, add additional forms of execution for each member of the joint venture.)

The Corporate Seal of

PICKIT CONSTRUCTION INC.

(Bidder print full name of your firm)

was hereunto affixed in the presence of:

(Seal)

 PRESIDENT
(Authorized signing officer and title)

(Seal)

(Authorized signing officer and title)

10024 N. CAMPBELL ROAD, FAYETTEVILLE, AR 72701.
(Business Address)

479-973-5109.
(Business Telephone Number)

479-571-3672
(Business Fax Number)

End of Revised Section 00 41 13

Bid 13-37, Addendum 1



Date: Thursday, June 27, 2013

To: All Prospective Vendors

From: Andrea Foren, CPPO, CPPB – 479.575.8220 – aforen@ci.fayetteville.ar.us

RE: Bid 13-37, Construction – Wilson Park Pool Buildings Renovation

This addendum is hereby made a part of the contract documents to the same extent as though it were originally included therein. Bidders should indicate their receipt of same in the appropriate blank of the Form of Proposal. Failure to do so may subject bidder to disqualification. Addendum shall be attached to the inside cover of the bidding documents, signed, and dated.

• **Bid 13-37 has the following modifications and clarifications:**

- 1.) Attached are the minutes and sign-in sheet from the pre-bid meeting that was held on June 26, 2013.
- 2.) REFER TO SHEET AD-102 (FIRST FLOOR DEMO PLAN):
 - 2.1 The stairs exiting the building to the north parking lot shall remain in place. Demolish the handrails only.
 - 2.2 The steel fence/guardrail that runs along the outside edge of the sidewalk surrounding the building shall be removed from the point of the new west entrance sidewalk to the north. The fence/ guardrail south of the new west entrance shall remain in place. Cut fence at a vertical post and grind/repair/paint fence where cut.
- 3.) REFER TO SHEET A-104 (FIRST FLOOR PLAN):
 - 3.1 6'-0" gates should be powder coated aluminum INSTEAD of wrought iron.
- 4.) The following is approved as an acceptable equal for the fence / gates:
 - 4.1 Commercial grade aluminum fence/gate: EFF-20 style; 6'-0" height; color black; manufactured by Elite Fence Products, Inc., 50925 Richard W Blvd., Chesterfield Twp., MI 48051 T (800) 783-1331, P (586) 468-4448, F (586) 468-4884; www.elitefence.com
- 5.) REFER TO SPECIFICATION SECTION 004113 BID FORM:
 - 5.1 Replace Bid Form with the attached Revised Section 041113 which includes a Unit Price line item for repairing unsound existing plywood roof deck.
 - 5.2 **All bidders shall use the revised bid form. Failure to use the correct bid form shall result in bid rejection.**

Acknowledge Addendum #1:

Printed Name: NATHAN OGDEN

Signature:

Title: PRESIDENT Date: 07/10/2013

Company: PICKIT CONSTRUCTION INC.

Bid 13-37, Addendum 2



Date: Wednesday, July 3, 2013

To: All Prospective Vendors

From: Andrea Foren, CPPO, CPPB – 479.575.8220 – aforen@ci.fayetteville.ar.us

RE: Bid 13-37, Construction – Wilson Park Pool Buildings Renovation


This addendum is hereby made a part of the contract documents to the same extent as though it were originally included therein. Bidders should indicate their receipt of same in the appropriate blank of the Form of Proposal. Failure to do so may subject bidder to disqualification. Addendum shall be attached to the inside cover of the bidding documents, signed, and dated.

• **Bid 13-37 has the following modifications and clarifications:**

- 1.) The following is approved as an acceptable equal for Thinset Epoxy Flooring (Specification Section 096723):
 - 1.1 Ceramic Carpet™ #400 manufactured by The Sherwin-Williams Company;
<http://www.sherwin-williams.com/> (See attached).
- 2.) The following is approved as an acceptable equal for the coiling counter shutter at the concession stand (Specification Section 083323):
 - 2.1 650 Series Counter Doors manufactured by Overhead Door Corporation;
<http://www.OverheadDoor.com/> (See attached).
- 3.) Existing 220 V, 3-phase electric service is available at the pool house building.

Acknowledge Addendum #2:

Printed Name: NATHAN OGDEN.

Signature: 

Title: PRESIDENT Date: 07/10/2013

Company: PICKIT CONSTRUCTION INC.

Bid 13-37, Addendum 3



Date: Wednesday, July 10, 2013

To: All Prospective Vendors

From: Andrea Foren, CPPO, CPPB – 479.575.8220 – aforen@ci.fayetteville.ar.us

RE: Bid 13-37, Construction – Wilson Park Pool Buildings Renovation

This addendum is hereby made a part of the contract documents to the same extent as though it were originally included therein. Bidders should indicate their receipt of same in the appropriate blank of the Form of Proposal. Failure to do so may subject bidder to disqualification. Addendum shall be attached to the inside cover of the bidding documents, signed, and dated.

• **Bid 13-37 has the following modifications and clarifications:**

- 1.) The deadline for bids is hereby been extended. All bids are due **before Wednesday, July 17, 2013 before 2:00 PM**, local time.
- 2.) Make changes to Section 144223 – Inclined Wheelchair Lifts as follow:
 - a. Delete paragraph 1.9, B.
 - b. Change paragraph 1.10, A, 1 to read: Two years.
 - c. Change paragraph 2.2, A, 13, f, 1) to read: Keyed operation.
 - d. Delete paragraph 2.2, B, 5.
 - e. Delete paragraph 2.2, C.
 - f. Change paragraph 2.2, D, 4, a to read: Keyed operation.
 - g. Delete paragraph 2.2, E, 1, c.
 - h. Delete paragraph 2.2, E, 1, e.

Acknowledge Addendum #3:

Printed Name: NATHAN OGDEN

Signature: 

Title: PRESIDENT Date: 7/10/2013

Company: PICKIT CONSTRUCTION INC.

Bid 13-37, Addendum 4



Date: Tuesday, July 16, 2013

To: All Prospective Vendors

From: Andrea Foren, CPPO, CPPB – 479.575.8220 – aforen@ci.fayetteville.ar.us

RE: Bid 13-37, Construction – Wilson Park Pool Buildings Renovation

This addendum is hereby made a part of the contract documents to the same extent as though it were originally included therein. Bidders should indicate their receipt of same in the appropriate blank of the Form of Proposal. Failure to do so may subject bidder to disqualification. Addendum shall be attached to the inside cover of the bidding documents, signed, and dated.

- **Bid 13-37 has the following modifications and clarifications:**

1.) Clarification to Deductive Alternate Design Notes: Deductive Alternate No. 2 shall include all work outlined in the callout and painting the north wall of Corridor 102 in lieu of installing metal panel scale system on the wall.

Acknowledge Addendum #4:	
Printed Name:	<u>NATHAN OGDEN</u>
Signature:	<u>[Handwritten Signature]</u>
Title:	<u>PRESIDENT</u> Date: <u>7/17/2013</u>
Company:	<u>PICKIT CONSTRUCTION INC.</u>

PART TWENTY-EIGHT – PAST EXPERIENCE REQUIRED

28.1 All bidders shall have past experience in providing similar work as described for this project. The City of Fayetteville reserves the right to reject for inadequate experience. A minimum of four (4) references are required.

End of Section 00 21 13

- 1.) City of Fayetteville
113 W. Mountain
Fayetteville, AR 72701
- 2.) City of Monticello
203 W. Gaines Street
Monticello, AR 71655
- 3.) City of Rogers - Water Department
P.O. Box 338
Rogers, AR 72756
- 4.) City of Farmington
354 W. Main Street
Farmington, AR 72730

City of Fayetteville
Bid 13-37, Construction - Wilson Park Pool Buildings Renovation
Statement of Disclosure (please submit with Bid)

ATTENTION: Please submit this form with your bid.

DISCLOSURE STATEMENT:

Bidder must disclose any possible conflict of interest with the City of Fayetteville, including, but not limited to, any relationship with any City of Fayetteville employee. Your response must disclose if a known relationship exists between any principal or employee of your firm and any City of Fayetteville employee or elected City of Fayetteville official.

If, to your knowledge, no relationship exists, this should also be stated in your response. Failure to disclose such a relationship may result in cancellation of a purchase and/or contract as a result of your response.

This form must be completed and returned in order for your bid/proposal to be eligible for consideration.

PLEASE CHECK ONE OF THE FOLLOWING TWO OPTIONS, AS IT APPROPRIATELY APPLIES TO YOUR FIRM:

- 1.) NO KNOWN RELATIONSHIP EXISTS
 2.) RELATIONSHIP EXISTS (Please explain)

PLEASE FILL OUT THE SECTION BELOW AND SUBMIT THIS FORM WITH YOUR BID:

- 1.) I, as an officer of this organization, or per the attached letter of authorization, am duly authorized to certify the information provided herein are accurate and true; and
- 2.) My organization shall comply with all State and Federal Equal Opportunity and Non-Discrimination requirements and conditions of employment.

NATHAN OGDEN (PRESIDENT)
Printed Name

Signed

City of Fayetteville
Bid 13-37, Construction - Wilson Park Pool Buildings Renovation

Certification of Debarment – THIS FORM NEEDS TO BE SUBMITTED WITH EVERY BID

ATTENTION: Please submit this form with your bid.

As A BIDDER on this project, you are required to provide debarment/suspension certification indicating that you are in compliance with the below Federal Executive Order. Certification can be done by completing and signing this form.

Debarment:

Federal Executive Order (E.O.) 12549 "Debarment and Suspension" requires that all contractors receiving individual awards, using federal funds, and all sub-recipients certify that the organization and its principals are not debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded by any Federal department or agency from doing business with the Federal Government.

Your signature certifies that neither you nor your principal is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any federal department or agency.

Questions regarding this form should be directed to the City of Fayetteville Purchasing Division.

NAME: NATHAN OGDEN

COMPANY: PICKIT CONSTRUCTION INC.

PHYSICAL ADDRESS: 10024 N. CAMPBELL ROAD, FAYETTEVILLE, AR 72701.

MAILING ADDRESS: _____

PHONE: 479-973-5109 FAX: 479-571-3672

EMAIL: NATHAN@PICKITCONSTRUCTION.COM.

SIGNATURE: 

DATE: 07/10/2013

Bond Number : OKC624585

Section 00 41 16

BID BOND

STATE OF ARKANSAS

KNOW ALL MEN BY THESE PRESENTS, that we:

Pick-It Construction, Inc. 10024 N Campbell Road, Fayetteville, AR 72701

Principal and Contractor, and American Safety Casualty Insurance Company

909 S Meridian Ave, Ste 700, Oklahoma City, OK 73108

hereinafter called Surety, are held and firmly bound unto the City of Fayetteville, Arkansas and represented by its Mayor and City Council, hereinafter called Owner, in the sum of

Five Percent of Maximum Amount Bid DOLLARS (\$****5%MAB****)

lawful money of the United States of America, for the payment of which well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, by these presents.

WHEREAS, the Principal contemplates submitting or has submitted a bid to the Owner for the furnishing of all labor, materials (except those to be specifically furnished by the Owner), equipment, machinery, tools, apparatus, means of transportation for, and the performance of the work covered in the Bid and the detailed Drawings and Specifications, entitled:

*Construction - Wilson Park Pool Buildings Renovation
City of Fayetteville, Arkansas*

WHEREAS, it was a condition precedent to the submission of said bid that a cashier's check, certified check, or bid bond in the amount of 5 percent of the base bid be submitted with said bid as a guarantee that the Bidder would, if awarded the Contract, enter into a written Contract with the Owner for the performance of said Contract within twelve (12) consecutive calendar days after written notice having been given of the award of the Contract.

NOW, THEREFORE, the conditions of this obligation are such that if the Principal within ten (10) consecutive calendar days after written notice of such acceptance enters into a written Contract with the Owner and furnishes a Contract Surety Bond in an amount equal to 100 percent of the base bid, satisfactory to the Owner, then this obligation shall be void; otherwise the sum herein stated shall be due and payable to the Owner and the Surety herein agrees to pay said sum immediately upon demand of the Owner in good and lawful money of the United States of America, as liquidated damages for failure thereof of said Principal.

IN WITNESS WHEREOF, the said Pick It Construction, Inc., as Principal herein, has caused these presents to be signed in its name by its President and attested by its Secretary under its corporate seal, and the said American Safety Casualty Insurance Company as Surety herein, has caused these presents to be signed in its name by its Attorney-In-Fact

_____ under its corporate seal, this 28th day of June A.D., 2013.


Signed, sealed and delivered
in the presence of:

Pick-It Construction, Inc.
Principal Contractor

x 

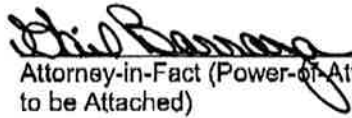
By Nathan Ogden

President
Title

x 
Witness (As to Principal)

Surety

American Safety Casualty Insurance Company


Attorney-in-Fact (Power of Attorney
to be Attached)

By Gail Barraza
Resident Agent


Witness (As to Surety)

Number _____



POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that American Safety Casualty Insurance Company has made, constituted and appointed, and by these presents does make, constitute and appoints

Mason Grashot, Ami Ashmore, Gail Barraza of Little Rock, AR

its true and lawful attorney-in-fact, for it and its name, place, and stead to execute on behalf of the said Company, as surety, bonds, undertaking and contracts of suretyship to be given to

ALL OBLIGEEES

provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed in amount the sum of

***** TWO MILLION*** (\$2,000,000.00) DOLLARS*****

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of the Company of the 25th day of April, 2012.

RESOLVED, that the President in conjunction with the Secretary or any Assistant Secretary may appoint attorneys-in-fact or agents with authority as defined or limited in the instrument evidencing the appointment in each case, for and on behalf of the Company, to execute and deliver and affix the seal of the Company to bands, undertakings, recognizances, and suretyship obligations of all kinds; and said officers may remove any such attorney-in-fact or agent and revoke any power of attorney previously granted to such persons.

RESOLVED FURTHER, that any bond, undertaking, recognizance, or suretyship obligation shall be valid and binding upon the Company: (i) when signed by the President or any Vice-President and attested and sealed (if a seal is required) by any Secretary or Assistant Secretary or (ii) when signed by the President or any Vice-President or Secretary or Assistant Secretary, and counter-signed and sealed (if a seal is required) by a duly authorized attorney-in-fact or agent; or (iii) when duly executed and sealed (if a seal is required) by one or more attorney-in-fact or agents pursuant to and within the limits of the authority evidenced by the power of attorney issued by the Company to such person or persons.

RESOLVED FURTHER, that the signature of any authorized officer and the seal of the Company may be affixed by facsimile to any power of attorney or certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company; and such signature and seal when so used shall have the same force and effects as though manually affixed.

IN WITNESS WHEREOF, American Safety Casualty Insurance Company has caused its official seal to be hereunto affixed, and these presents to be signed by its President and attested by its Secretary this 25th day of April, 2012.

Attest:

Ambuj Jain

STATE OF GEORGIA
COUNTY OF COBB



Joseph D. Scallo, Jr.

On this 25th day of April, 2012, before me personally came Joseph D. Scallo, Jr. to me known, who, being by me duly sworn, did depose and say that he is the President of American Safety Casualty Insurance Company, the corporation described in and which executed the above Instrument; that he knows the seal of the said corporation; that the seal affixed to the said Instrument is the corporate seal; that it was so affixed by order of the Board of Directors of said corporation and that he signed his name thereto.



Berison Lee Jeffress, Notary Public

I, the undersigned, Secretary of American Safety Casualty Insurance Company, an Oklahoma corporation, DO HEREBY CERTIFY, that the foregoing and attached Power of Attorney remains in full force and has not been revoked; and furthermore that the Resolution of the Board of Directors, set forth in the said Power of Attorney, is now in force.

Signed and sealed in the City of Atlanta, in the State of Georgia

Dated this 28 day of June, 2013



Ambuj Jain

ORIGINALS OF THIS POWER OF ATTORNEY ARE PRINTED WITH RED NUMERICAL NUMBERS
DUPLICATES SHALL HAVE THE SAME FORCE AND EFFECT AS AN ORIGINAL ONLY WHEN ISSUED IN CONJUNCTION WITH THE ORIGINAL



BID: 13-37
DATE: 07/17/13
TIME: 2:00 PM
CITY OF FAYETTEVILLE

Bid 13-37, Construction - Wilson Park Pool Buildings Renovations

BIDDER	TOTAL BASE BID
1 Benchmark Construction of NWA	\$ 442,000.00
2 Cornerstone Construction of Russellville, Inc.	\$ 456,300.00
3 General Construction Solutions, Inc.	\$ 418,444.00
4 Heckathorn Construction Co, Inc.	\$ 438,800.00
5 Pick-It Construction, Inc.	\$ 403,987.00

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

P. Vice

P. VICE, PURCH MGR

A. Doren

WITNESS

7/17/2013
DATE

CERTIFIED:

AGREEMENT

BETWEEN CITY OF FAYETTEVILLE AND CONTRACTOR

THIS AGREEMENT is dated as of the ____ day of _____ in the year 2013 by and between the City of Fayetteville, Arkansas (hereinafter called CITY OF FAYETTEVILLE) and Pick-It Construction, Inc. (herein after called CONTRACTOR).

CITY OF FAYETTEVILLE and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK.

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents.

The work generally consists of the renovation of the office / locker room building, pump house, and concession building at Wilson Park Pool. The construction includes structural additions, wall modifications, finishes, mechanical, plumbing, & electrical items at **Wilson Park Pool** and all items indicated in the Drawings and Specifications.

Article 2. PROJECT MANAGER.

The Project has been designed by Crafton Tull Associates, Inc. under the direct supervision of:

City of Fayetteville Parks and Recreation Department
1455 South Happy Hollow Road
Fayetteville, Arkansas 72701

and will be hereinafter called ARCHITECT and who is to act as CITY OF FAYETTEVILLE's representative, assume all duties and responsibilities, and have the rights and authority assigned to ARCHITECT in the Contract Documents in connection with completion of the Work in accordance with the Contract documents. A representative from the Parks and Recreation Department will be hereinafter called PARKS AND RECREATION DEPARTMENT PROJECT MANAGER and who is to act as CITY OF FAYETTEVILLE's representative, assume all duties and responsibilities, and have the rights and authority assigned to PROJECT MANAGER in the Contract Documents in connection with completion of the Work in accordance with the Contract documents.

Article 3. CONTRACT TIME.

3.1. The Work for Construction of Wilson Park Pool Buildings Renovation shall be substantially completed within 150 consecutive calendar days after the date when the Contract Time commences to run as provided in paragraph 2.03 of the General Conditions, and completed and ready for final payment in accordance with paragraphs 14.07.B & C of the General Conditions within 180 consecutive calendar days after the date when the Contract Time commences to run.

3.2. *Liquidated Damages.* CITY OF FAYETTEVILLE and CONTRACTOR recognize that time is of the essence of the Agreement and that CITY OF FAYETTEVILLE will suffer financial loss if the Work is not completed within the times specified in paragraph 3.1 above, plus and extensions thereof allowed in accordance with Article 12 of the General

Conditions. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by CITY OF FAYETTEVILLE if the Work is not completed on time. Accordingly, instead of requiring any such proof, City of Fayetteville and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay CITY OF FAYETTEVILLE Two hundred and fifty dollars (\$250.00) for each day that expires after the time specified in paragraph 3.1 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 3.1 for completion and readiness for final payment or any proper extension thereof granted by CITY OF FAYETTEVILLE, CONTRACTOR shall pay CITY OF FAYETTEVILLE Two hundred and fifty dollars (\$250.00) for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.

Article 4. CONTRACT PRICE.

CITY OF FAYETTEVILLE shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined from the following Schedule of Values pursuant to paragraphs 4.1 and 4.2 below:

4.1. For all Work other than Unit Price Work, an amount equal to the sum of the established lump sums for each separately identified item of Lump Sum Work; and

4.2. For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of that item.

\$Four Hundred Three Thousand Nine Hundred Eighty-Seven and 00/100 (\$403,987.00)

As provided in paragraph 11.03 of the General Conditions estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by PARKS AND RECREATION DEPARTMENT PROJECT MANAGER as provided in paragraph 9.08 of the General Conditions. Unit prices have been computed as provided in paragraph 11.03.B of the General Conditions.

Article 5. PAYMENT PROCEDURES

CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions or as modified in the Supplementary Conditions. Applications for Payment will be processed by PARKS AND RECREATION DEPARTMENT PROJECT MANAGER as provided in the General Conditions.

5.1. *Progress Payments.* 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 PARKS AND RECREATION DEPARTMENT PROJECT MANAGER, on or about the 1st day of each month during construction as provided in paragraphs 5.1.1 and 5.1.2 below and SC-14.02 . All such payments will be measured by the schedule of values established in paragraph 2.07 of the General Conditions and based on the number of units completed in the case of Unit Price Work or, in the event there is no schedule of values, as provided in the General Requirements.

5.1.1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below, but, in case, less the aggregate of payments previously made and less such amounts as PARKS AND RECREATION DEPARTMENT PROJECT MANAGER shall determine, or CITY OF FAYETTEVILLE may withhold, in accordance with paragraphs 14.02.B.5 & 14.02.D of the General Conditions.

95 percent of Work completed (with the balance of 5 percent being retainage), If Work has been 50 percent completed as determined by the PARKS AND RECREATION DEPARTMENT PROJECT MANAGER, and if the character and progress of the Work have been satisfactory to CITY OF FAYETTEVILLE and PARKS AND RECREATION DEPARTMENT PROJECT MANAGER, CITY OF FAYETTEVILLE, on recommendation of PARKS AND RECREATION DEPARTMENT PROJECT MANAGER, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no additional retainage on account of work completed, in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to 100 percent of the Work completed.

100 percent of materials and equipment not incorporated in the Work but delivered, suitably stored, and accompanied by documentation satisfactory to CITY OF FAYETTEVILLE as provided in paragraphs 14.02.B.5 & 14.02.D of the General Conditions. That is, if any such items are setup for that type payment in the Specifications.

5.1.2. Upon Substantial Completion, in an amount sufficient to increase total payments to CONTRACTOR to 98 percent of the Contract Price (with the balance of 2 percent being retainage), less such amounts as PARKS AND RECREATION DEPARTMENT PROJECT MANAGER shall determine, or CITY OF FAYETTEVILLE may withhold, in accordance with paragraphs 14.02.B.5 & 14.02.D of the General Conditions.

5.2 Final Payment. Upon final completion and acceptance of the Work in accordance with paragraphs 14.07.B & C of the General Conditions, CITY OF FAYETTEVILLE shall pay the remainder of the Contract Price as recommended by PARKS AND RECREATION DEPARTMENT PROJECT MANAGER as provided in said paragraphs 14.07.B & C.

Article 6. CONTRACTOR'S REPRESENTATIONS.

In order to induce CITY OF FAYETTEVILLE to enter into this Agreement CONTRACTOR makes the following representations:

6.1. CONTRACTOR has examined and carefully studied the Contract Documents (including the Addenda listed in Article 7) and the other related data identified in the Bidding Documents including "technical data."

6.2. 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, or furnishing of the Work.

6.3. 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.

6.4. CONTRACTOR has carefully studied all 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 which have been identified in the Supplementary Conditions as provided in paragraph 4.02.A of the General Conditions. CONTRACTOR accepts the determination set forth in paragraph SC-4.02 of the Supplementary Conditions of the extent of the "technical data" contained in such reports and drawings upon which CONTRACTOR is entitled to rely as provided in paragraph 4.02 of the General Conditions.

CONTRACTOR acknowledges that such reports and drawings are not Contract Documents and may not be complete for CONTRACTOR's purposes. CONTRACTOR acknowledges that CITY OF FAYETTEVILLE and PARKS AND RECREATION DEPARTMENT PROJECT MANAGER 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. CONTRACTOR has obtained and carefully studied (or assumes responsibility for 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, or furnishing of the Work or which 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. CONTRACTOR does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performance 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.

6.5. CONTRACTOR is aware of the general nature of work to be performed by CITY OF FAYETTEVILLE and others at the site that relates to the Work as indicated in the Contract Documents.

6.6. 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.

6.7. CONTRACTOR has given PARKS AND RECREATION DEPARTMENT PROJECT MANAGER written notice of all conflicts, errors, ambiguities, or discrepancies that CONTRACTOR has discovered in the Contract Documents and the written resolution thereof by PARKS AND RECREATION DEPARTMENT PROJECT MANAGER is acceptable to CONTRACTOR and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

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.

8.3. CITY OF FAYETTEVILLE and CONTRACTOR each binds itself, its 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.

8.4. 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 stricken provision or part thereof with a valid and enforceable provision that comes as close as possible expressing the intention of the stricken provision.

8.5. 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.

8.6. Freedom of Information Act. City contract 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, 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.

8.7. **No liens against this construction project are allowed.** Arkansas law (A.C.A. §§ 18-44-501 through 508) prohibits the filing of any mechanics' or materialmen's liens in relation to this public construction project. Arkansas law requires and the Contractor promises to provide and file with the Circuit Clerk of Washington County a bond in a sum equal to the amount of this contract. Any subcontractor or materials supplier may bring an action for non-payment of labor or materials on the bond. The Contractor promises to notify every subcontractor and materials supplier for this project of this paragraph and obtain their written acknowledgement of such notice prior to commencement of the work of the subcontractor or materials supplier.

IN WITNESS WHEREOF, CITY OF FAYETTEVILLE and CONTRACTOR have signed this Agreement in duplicate. One counterpart each has been delivered to CITY OF FAYETTEVILLE and PARKS AND RECREATION DEPARTMENT PROJECT MANAGER, and one counterpart has been delivered to CONTRACTOR. All portions of the Contract Documents have been signed, initialed, or identified by CITY OF FAYETTEVILLE and CONTRACTOR or identified by PARKS AND RECREATION DEPARTMENT PROJECT MANAGER on their behalf.

This Agreement will be effective on _____, 2013 (which is the Effective Date of The Agreement).

CITY OF FAYETTEVILLE:

CONTRACTOR

By: _____
Mayor

By:  _____

[CORPORATE SEAL]

[CORPORATE SEAL]

Attest _____

*Attest  _____

* If a Corporation, attest by the Secretary.

Address for giving notices

Address for giving notices

Pick-it Construction, Inc.
10024 N. Campbell Road
Fayetteville, AR 72701

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

ATTACHED

from any personal liability for acts performed on behalf of the corporation to date and approve these acts on behalf of the corporation.

6. **Authority to Execute Legal Documents for the Corporation.** Execution of legal documents for the corporation was discussed, after which, on motion duly made, seconded and unanimously carried, it was

RESOLVED: Any one of the following officers is/are hereby authorized to execute all legal documents for and on behalf of the corporation, including but not limited to leases, mortgages, agreements, contracts, promissory notes, bills of sale, chattel mortgages, satisfactions and assignments of mortgages, liens and encumbrances of all kinds, claims for liens, lien waivers, transfers and assignments of real, personal and mixed property, which may be necessary and proper in the conduct of the corporation:

Nathan Loren Ogden

Reference is made to the official corporate documents on file with the Arkansas Corporations Section of the Secretary of the State and the official corporate files at the main office of the corporation located at 2300 S. Razorback Road, Fayetteville, Arkansas.

7. **Section 1244 Plan.** The chairman then stated that he felt it would be advisable to approve and adopt a plan to offer shares of common stock for sale under §1244 of the Internal Revenue Code of 1954 as amended. The chairman presented to the meeting a form of plan to offer shares of common stock for sale, so that any loss sustained by a shareholder on the sale or exchange of stock in the corporation may qualify for ordinary loss deduction treatment on the shareholder's personal income tax return. On motion duly made, seconded and unanimously passed, the following preambles and resolutions were unanimously adopted:

WHEREAS, it is deemed advisable and in the best interests of the corporation and its shareholders that the Board of Directors of the corporation approve and adopt a plan to offer shares of common stock for sale so that, in the hands of qualified shareholders, such shares of stock will receive the benefits of §1244 of the Internal Revenue Code of 1954 as amended; and

WHEREAS, the corporation is a small business corporation as defined in §1244(c)3, and there is not now outstanding any prior offering of the corporation to sell and issue any of its stock;

NOW, THEREFORE, IT IS HEREBY RESOLVED that the Board of Directors hereby approve and adopt the plan to offer shares of common stock for sale in the form of plan presented to this meeting, and the Board of Directors instructs the secretary of this meeting to insert a copy of that plan in the minute book following the minutes of this meeting; and

IT IS FURTHER RESOLVED that the proper officers of the corporation are hereby authorized and directed to sell and issue shares of common stock in such manner that they qualify under the plan hereinabove adopted.

8. **Section 303 Stock Redemption.** The President advised those present that the death of one of the major shareholders of the corporation is a possibility that could occur, and that the Internal Revenue Code of 1954, as amended, §303, permits shares of stock in a corporation to be redeemed for payment of estate, inheritance, legacy, succession taxes, and funeral and administration expenses; after discussion, and upon motion made, seconded and unanimously passed, it was

RESOLVED: The corporation agrees that in the event of the death of any major shareholder

