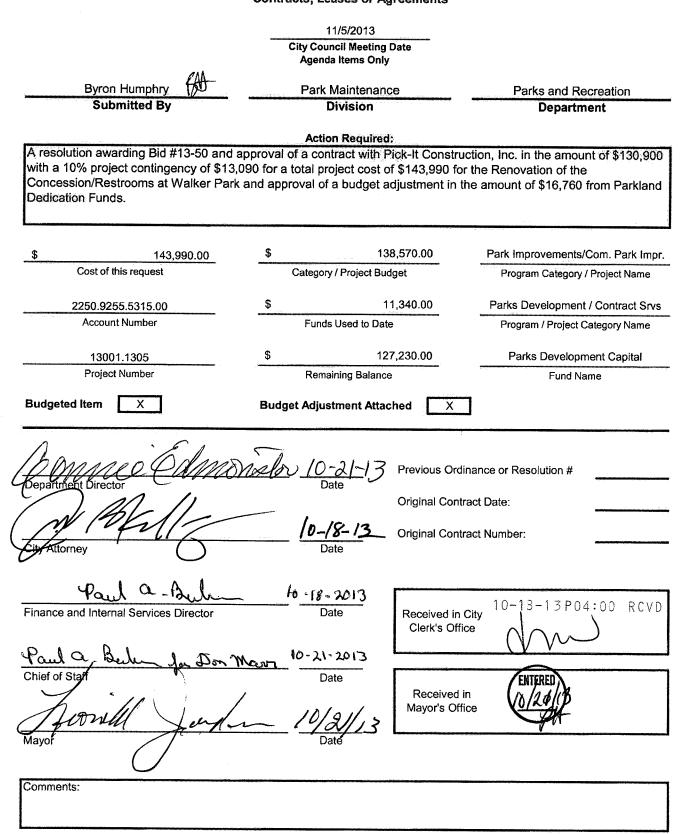
#### **City of Fayetteville Staff Review Form**

#### City Council Agenda Items and Contracts, Leases or Agreements





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
From:	Byron Humphry, Maintenance Superintendent
Date:	October 18, 2013
Subject:	Bid #13-50, Construction - Walker Park Concession/Restroom Building Renovation Agenda Request for November 5, 2013 Meeting

#### **PROPOSAL:**

The Baseball Complex at Walker Park hosts the youth baseball program which accommodated 925 participants in 2013. The original baseball fields and concession stand was built by volunteers starting in 1960. The concession/restroom building was last updated in 1988.

In 2011, the City made improvements to the dugouts and added bleacher covers. The renovation of the concession stand/restrooms was included in the 2013 CIP. Improvements to the concession stand/restrooms will make more efficient use of the concession stand space, update and add additional restrooms, increase storage space, and provide a covered concession window and dining area. Construction includes structural additions, wall modifications, finishes, mechanical, plumbing, and electrical items.

The project was advertised for bid on September 6 and 13, and bids were opened on September 20, 2013. Three vendors including Pick-It Construction, Inc., Center Point Contractors, Inc., and Goodwin and Goodwin, Inc. submitted bids. Pick-It Construction, Inc. was the low bid in the amount of \$130,900 after taking the first deductive alternative. (See attached bid tabulation sheet.)

If approved, the project is anticipated to begin in mid November 2013 and be completed by March 2014.

#### **RECOMMENDATION:**

A resolution awarding Bid #13-50 and approval of a contract with Pick-It Construction, Inc. in the amount of \$130,900 with a 10% project contingency of \$13,090 for a total project cost of \$143,990 for the Renovation of the Concession/Restroom Building at Walker Park and approval of a budget adjustment in the amount of \$16,760 from Parkland Dedication Funds.

#### **BUDGET IMPACT:**

THE CITY OF FAYETTEVILLE, ARKANSAS

This project is funded with Parks Development and Parkland Dedication Funds. Total project cost including a 10% project contingency is \$143,990.

#### Attachments:

Staff Review Form Bid Tabulation Sheet Pick-It Construction, Inc. Bid Submittal Agreement Signed by Contractor Purchase Requisition Budget Adjustment

# **RESOLUTION NO.**

A RESOLUTION AWARDING BID #13-50 AND APPROVING A CONTRACT WITH PICK-IT CONSTRUCTION, INC. IN THE AMOUNT OF \$130,900.00 FOR THE RENOVATION OF CONCESSION AREAS AND RESTROOMS AT WALKER PARK, APPROVING A TEN PERCENT (10%) PROJECT CONTINGENCY AND APPROVING A BUDGET ADJUSTMENT IN THE AMOUNT OF \$16,760.00

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 #13-50 and approves a contract with Pick-It Construction, Inc. in the amount of \$130,900.00 for renovation of concession areas and restrooms at Walker Park, and further approves a ten percent (10%) project contingency.

<u>Section 2.</u> That the City Council of the City of Fayetteville, Arkansas hereby approves a budget adjustment in the amount of \$16,760.00, a copy of which is attached to this Resolution as Exhibit "A".

**PASSED** and **APPROVED** this 5<sup>th</sup> day of November, 2013.

APPROVED:

ATTEST:

By:

LIONELD JORDAN, Mayor

By:

SONDRA E. SMITH, City Clerk/Treasurer

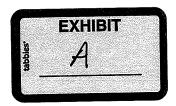
Budget Adjustment Form

Budget Year	Division:	Parks & Recreation	Request Date	Adjustment Number
2013	Department:	Parks & Recreation	11/5/2013	

### **BUDGET ADJUSTMENT DESCRIPTION / JUSTIFICATION**

Walker Park concession & restrooms renovation - Additional funds in the amount of \$16,760 are needed for Contract Services for improvements and updates of the concession stand, restrooms, increased storage space, and to provide a protected outdoor purchasing and dining area. This renovation was included in the 2013 CIP. The additional funds requested are to be sourced from Park Land Dedication funds received, but not yet approved/recognized for a CIP project.

Max Stad ff	Legistar	d By:	2013-011	2	Springer, Kevin 11/5/2013	
Requestor		Budget & Research Use Only				
Byra Humx	Type:	A	В	C D	E P	
Division Head Kevin Springer cn=Kevin Springer	General	Ledg	er Date			
Arkansas, ou=Budg email=kspringer@/ 2013.10.18 10:47:0 Budget Director	Posted to General Ledger				Date	
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				16,760	16 760	
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	OTAL BUDGET ADJ		- 			Project.Sub Number
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Account Name	Account Nu	mber 301.00		Increase / ( Expense	Decrease)	Number
Account Name Public notification	Account Nu 2250.9256.5	mber 301.00 314.00	е>	Increase / ( Expense (160)	Decrease)	Number 13001 . 1305 13001 . 1305 13001 . 1305
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	City Of Fayetteville - Purchase Order (PO) Request							Requisition No.:	Date:	A. 6
			(No	ot a Purchase Or	rder)			P.O Number:	10/18/2017 13-50 Pick Expected Delivery Date	e: Page 6 of 30
	All purchases under \$2500 sha				l or 1099 service re mail: Purchasing@					
Vend		Vendor Nar					<u>us</u>	Mail		
	16068			Pic	k-It Construction,			Yes: No:	- Oustas Attashad	
Addre						Fob Point:		Taxable Yasi	Quotes Attached	N
1002 City:	4 N. Campbell Rd.		State:			Zip Code:	Ship to code:	Yes:No: Divison Head Approval:	Yes:_Bid Tab	No:
	Fayetteville AR				72701	chip to bode.	DAMMINEN	monston		
	ester:		1				r's Employee #:	Extension:		
Byro	n Humphry, Maintenance Supe						2557	8368		
ltem	Description	Quantity	Unit of Issue	Unit Cost	Extended Cost	Accou	Int Numbers	Project/Subproject #	Inventory #	Fixed Asset #
1	Renovation of Walker Park Concession and Restroom - Bid 13-50	1	1	LS	\$81,480.00	2250.9	255.5315.00	13001.1305		
2	Renovation of Walker Park Concession and Restroom - Bid 13-50	1	1	LS	\$49,420.00	2250.9	256.5315.00	13001.1305		
3					\$0.00					
4					\$0.00					
5					\$0.00					
6					\$0.00					
7					\$0.00					
8					\$0.00					
9					\$0.00					
10					\$0.00					
*	Shipping/Handling		Lot		\$0.00					
Special Instructions: Tax is included in the bid price.							Subtotal: Tax: Total:	\$130,900.00 \$130,900.00	-	
Appro	ovals:						•			
Маус	r:			Department	Director:			Purchasing Manager:		
Finar	ace & Internal Services Director:			Budget Man	ager:			IT Manager:		
Dispa	ispatch Manager: Utilities Manager:							Other:		

-

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BID: 13-50 DATE: 09/24/13 **TIME: 2:00 PM CITY OF FAYETTEVILLE** 

# Bid 13-50, Construction - Walker Park Concession/Restroom Restoration

BIDDER	Deductive Altermate No. 1	Deductive Altermate No. 2	Deductive Altermate No. 3	TOTAL BASE BID
1 Center Point Contractors, Inc.	\$3,000.00	\$1,600.00	\$1,150.00	\$228,000.00
2 Goodwin & Goodwin, Inc.	\$5,773.00	\$1,308.00	\$3,729.00	\$207,486.00
3 Pick-It Construction, Inc.	\$3,000.00	\$1,300.00	1,800.00	\$133,900.00

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

**CERTIFIED:** 

P. VICE, PURCH MGR

<u> Alli Valadin</u> WITNESS

#### Section 00 41 13 BID FORM

Contract Name: Construction Walker Park Concession/Restroom Building Renovation Bid Number 13-50

BID TO:

Owner: The City of Fayetteville, Arkansas 113 West Mountain Street Fayettèville, Arkansas 72701

**BID FROM:** 

Bidder:

Pick- It Construction, INC 10024 N. LAMPEELI ROAD FAVEHEVILLE AR 12101

Section 1 – Intent:

The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an agreement with the City of Fayetteville in the form included in the Contract Documents to perform and furnish all Work as specified or indicated in the Contract Documents for the Bid price and within the Bid time indicated in this Bid and in accordance with the other terms and conditions of the Contract Documents.

Section 2 - Terms & Conditions:

Bidder accepts all of the terms and conditions of the Invitation to Bid and Instructions to Bidders, including without limitation those dealing with the disposition of Bid security. This Bid will remain subject to acceptance for 180 days after the day of Bid opening. Bidder will sign and deliver the required number of counterparts of the Agreement with the Bonds and other documents required by the Bidding Requirements within 15 days after the date of City's Notice of Award.

Section 3 – Bidder's Representations:

In submitting this Bid, Bidder represents, as more fully set forth in the Agreement, that:

A.) Bidder has examined and carefully studied the Bid Documents, and the following

Addenda, receipt of all

which is hereby acknowledged:

Bid 13-50, Construction – Walker Park Concession/Restroom Building Renovation City of Fayetteville

Number	Date
1	9/17/13

B.) Bidder 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.) Bidder 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.) Bidder 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. Bidder acknowledges that such reports and drawings are not Contract Documents and may not be complete for Bidder's purposes. Bidder acknowledges that City and Engineer do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Bid Documents with respect to Underground Facilities at or contiguous to the Site.

E.) Bidder has obtained and carefully studied (or assumes responsibility for having done so) all such additional or 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 Bidder and safety precautions and programs incident thereto.

F.) Bidder does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the determination of this Bid for

performing and furnishing of the Work in accordance with the times, price, and other terms and conditions of the Contract Documents.

G.) Bidder is aware of the general nature of work to be performed by City and others at the Site that relates to Work for which this Bid is submitted as indicated in the Contract Documents.

H.) Bidder has correlated the information known to Bidder, 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.) Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Bidder.

J.) The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performing and furnishing the Work for which this Bid is submitted.

K.) This Bid is genuine and not made in the interest of or on behalf of any undisclosed person, firm, or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization, or corporation; Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham bid; Bidder has not solicited or induced any person, firm, or a corporation to refrain from bidding; and Bidder has not sought by collusion to obtain for himself any advantage over any other Bidder or over City.

L.) Bidder will perform the Work in compliance with all applicable trench safety standards set forth in Occupational Safety and Health Administration (OSHA) Part 1926 – Subpart P – Excavations.

M.) No Bid shall be based upon aggregate of Subcontractors performing more than 60 percent of the total Work.

N.) The experience, past performance, and ability of each proposed Subcontractor will be considered in the evaluation of Bids. Any Subcontractor so requested shall be required to furnish experience statements prior to the Notice of Awards.

#### Section 4 – Base Bid Price:

The undersigned hereby proposes to furnish all labor, materials, equipment and services required to complete the Renovations & Additions to the Walker Park Concession Stand & Restrooms, all in accordance, therewith, for the sum of

# (written in words) One hundred thirty three thousand Dollars (\$ 133,900.00) nine hundred dollars

#### **DEDUCTIVE ALTERNATIVES**

**Deductive Alternate No. 1**: A) In lieu of clear finished t&g pine "v-groove" ceiling (2) 103 - Men & 104 - Women, deduct the cost of labor, materials & all associated fees. In its place install 1/2" plywood (epoxy painted). (b) Deduct clear finished t&g pine "v-groove" ceiling (2) all exterior areas, including the cost of labor, materials & all associated fees. (c) In lieu of concealed fastener standing seam roof & wall panels, deduct the cost of labor, materials & all associated fees, in its place install exposed fastener standing seam roof & wall panels. Fasteners to have neoprene washers. This item is to be included in the base bid and treated as a deductive alternate.

Deduct the sum of: "Three thousand dollars" \$ 3,000.00

**Deductive Alternate No. 2**: (a) Deduct window "W-1" - Andersen 100 Series Gliding Window (OX Configuration), Andersen 100 Series Picture Window, cedar barnslider door, track, hardware & typical window counter @ this location, including cost of labor materials & all associated fees. (b) In lieu of Emerson Loft 60" damp location ceiling fan, Model #CF675BQ00 (qty=2), deduct the cost of labor, materials & all associated fees, in its place install Cooper, Model #FSP226120ABP, surface mounted fluorescent. (c) Deduct 42" counter & cedar slat wall @ covered patio, including the cost of labor, materials & all associated fees. This item is to be included in the base bid and treated as a deductive alternate.

Deduct the sum of:

"One thousand three hundred" \$ 1,300.00 dollars

Bid 13-50, Construction – Walker Park Concession/Restroom Building Renovation City of Fayetteville

**Deductive Alternate No. 3**: a) In lieu of Hardieplank (or approved equal) lap siding w/ 6" exposure, 2x2 wood furring strips & 1-1/2" rigid insulation, deduct the cost of labor, materials & all associated fees, in its place install exterior 3/4" plywood from top of existing block wall to underside of roof deck with 3" wide x 3/4" thick batten trim @ all joints, caulk all seams, paint block & plywood. Architect to select paint color. This item is to be included in the base bid and treated as a deductive alternate.

Deduct the sum of:

"one thousand eight hundred" \$ 1,800.00

\*\* 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.

Costs include a complete turn-key price for work indicated on drawings and in specifications provided by the Project Manager plus any site restoration required to return the site to its original form. All improvements listed above shall include applicable shipping, sales tax, and any other costs incurred to the City of Fayetteville.

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 the City 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.

#### Section 5 – Listing of Subcontractors:

I, the signed General Contractor, certify that proposals from the following subcontractors were used in the preparation of my proposal. I agree that if I am the successful bidder, and if the following subcontractors are approved by the City, I will not enter into contracts with others for these divisions of the Work without written approval from the City.

<u>N/A</u>

#### Section 6 – Contract Times:

A.) Bidder agrees that the Work will be substantially completed and ready for final payment within the number of calendar days indicated in the Agreement.

B.) Bidder accepts the provisions of the Agreement referring to liquidated damages in the event of failure to complete the Work with the times specified in the Agreement.

#### Section 7 – Communications:

A.) Communications concerning this Bid shall be addressed to the Bidder as follows:

Contractor: <u>lick.11 Construction</u> INC.
Primary Contact: Nathan Orden
Address: 10024 N. Campbell Rd, Fayetteville, Ap 12701
Phone No.: _ 479- 973- 5109
FAX No.: _ 479-571-3672

#### Section 8 - Signature:

A.) This bid is being submitted in good faith, according to the entire bid package presented:

SUBMITTED on this	24 th	Date of	
SEPTEMBER			20 <u>/3</u> .

Arkansas State Contractor License No. 0/4046 1213

If Bidder is:

#### **OPTION 1: An Individual**

Name (type or printed):	
By:(SEAL	_)

(Individual's Signature)

Doing business as:

Business address:

Phone No.: \_\_\_\_\_\_FAX No.\_\_\_\_\_

Bid 13-50, Construction - Walker Park Concession/Restroom Building Renovation City of Fayetteville

September 2013

#### OPTION 2: <u>A Partnership</u>

Partnership Name: \_\_\_\_\_(SEAL)

By:

(Signature of general partner – attach evidence of authority to sign) Name (type or printed):

Business address:

Phone No.: \_\_\_\_\_\_FAX No. \_\_\_\_\_

\_\_\_\_\_

#### **OPTION 3: A Corporation**

Type (General Business, Professional, Service, Limited Liability):

GENERAL BUSINESS

Bid 13-50, Construction – Walker Park Concession/Restroom Building Renovation City of Fayetteville

By:	- MA	Å	V	1
Бу	(Signature – at	tạch ev	/idence	of authority to sign)

Title: President

(CORPORATE SEAL)

Business address: 10024 N. Campbell Rd. Fayetteville, AR 12701

Phone No.: 479-973-5109 FAX No.: 479-571-3672

\*\*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 INTENDS TO 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 PROJCET, PLUS 25%, THE CITY WILL UTILIZE DEDUCTIVE ALTERNATES, IF APPLICABLE, 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.

End of Section 00 41 13

#### Section 00 41 16

#### BID BOND

#### STATE OF ARKANSAS

#### KNOW ALL PERSONS BY THESE PRESENTS, that we:

Pick-It Construction, Inc.

Principal and Contractor, and U.S. Specialty Insurance Company

13403 Northwest Freeway, Houston, TX 77040

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 – Walker Park Restroom/Concession Building Renovation City of Fayetteville, Arkansas

WHEREAS, it was a condition precedent to the submission of said bid that a cashier's 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. Cashier's check if submitted shall be from a bank located in the State of Arkansas.

NOW, THEREFORE, the conditions of this obligation are such that if the Principal within Twelve (12) 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 <u>Pick-It Construction</u>, <u>Inc</u>, as Principal herein,

has caused these presents to be signed in its name by its <u>President</u>

and attested by its <u>Secretary</u> under its corporate seal, and the said

Bid 13-50, Construction – Walker Park Concession/Restroom Building Renovation City of Fayetteville

U.S. Specialty Insurance Company as Surety herein, has

caused these presents to be signed in its name by its <u>Attorney-In-Fact</u> 

\_\_\_\_\_ under its corporate seal, this <u>18th</u> day of <u>Sept</u>. A.D., 2013.

Signed, sealed and delivered in the presence of:

Pick-It Construction, Inc. Principal-Contractor

Title

to Principal

Surety

U.S. Specialty Insurance Company

MM

Attorney-in-Fact (Power-of-Attorney to be Attached) Gail A. Barray to be Attached)

**Resident Agent** 

Barraza Gai #240346

Bid 13-50, Construction - Walker Park Concession/Restroom Building Renovation City of Fayetteville







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#### POWER OF ATTORNEY

AMERICAN CONTRACTORS INDEMNITY COMPANY TEXAS BONDING COMPANY UNITED STATES SURETY COMPANY U.S. SPECIALTY INSURANCE COMPANY

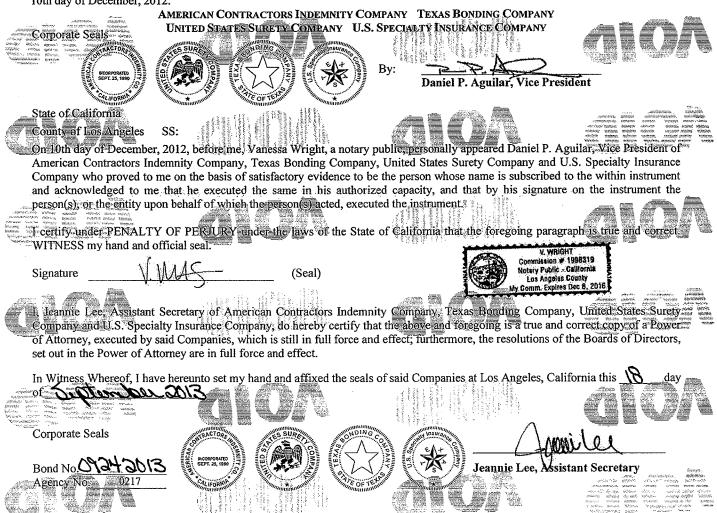
KNOW ALL MEN BY THESE PRESENTS. That American Contractors Indemnity Company, a California corporation, Texas Bonding Company, an assumed name of American Contractors Indemnity Company, United States Surety Company, a Maryland corporation and U.S. Specialty Insurance Company, a Texas corporation (collectively, the "Companies"), do by these presents make, constitute and appoint:

Mason T. Grashot, Gail A. Barraza, or Ami L. Ashmore of Little Rock, Arkansas

its true and lawful Attorney(s)-in-fact, each in their separate capacity if more than one is named above, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver any and all bonds, recognizances, undertakings or other instruments or contracts of suretyship to include riders, amendments, and consents of surety, providing the bond remaining the bond structure of Attorney is graned under and by the section of Attorney is graned under and

This Power of Attorney shall expire without further action on December 08, 2016. This Power of Attorney is graned under and by authority of the following resolutions adopted by the Boards of Directors of the Companies:

Be it Resolved that the President, any Vice-President, any Assistant Vice-President, any Secretary or any Assistant Secretary shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions. Attorney-in-Fact may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements or indemnity and other conditional or obligatory undertakings, including any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts, and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be binding upon the Company as if signed by the President and sealed and effected by the Comparte Secretary. Be it Resolved, that the signature of any authorized officer and seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating any bond or undertaking to which it is attached. IN WITNESS WHEREOF, The Companies have caused this instrument to be signed and their corporate seals to be hereto affixed, this 10th day of December, 2012.



Section 00 41 18

#### VENDOR REFERENCES

Bid #13-50, Construction Construction - Walker Park Restroom/Concession Building Renovation

The following information is required from all Bidders so all bids may be reviewed and properly evaluated.

COMPANY NAME: Pickit Construction, Inc.
BUSINESS ADDRESS: 10024 N. Campbell Rd, Fayetteville, AR 72701
NUMBER OF YEARS IN BUSINESS: HOW LONG IN PRESENT LOCATION:

TOTAL NUMBER OF CURRENT EMPLOYEES: \_\_\_\_\_\_ FULL TIME \_\_\_\_\_ PART TIME

NUMBER OF EMPLOYEES YOU PLAN TO USE TO SERVICE THIS CONTRACT: 5 FULL TIME \_\_\_\_ PART TIME

PLEASE LIST FOUR (4) LOCAL COMMERCIAL AND/OR GOVERNMENTAL REFERENCES THAT YOU HAVE PREVIOUSLY PERFORMED SIMILAR CONTRACT SERVICES FOR WITHIN THE PAST FIVE (5) YEARS (All fields must be completed). Contractors shall have valid experience.

1. <u>City of Farmington</u> COMPANY NAME

Farmington, A

Melissa Mc Carville CONTACT PERSON

479-267-3865 TELEPHONE

April 2012 DATE COMPLETED

Melissamearville@cityoffacongton-ar. Dwroberson@garverUSA.com E-MAIL ADDRESS gov E-MAIL ADDRESS

2. City of Monticello

Monticello, AR CITY, STATE, ZIP 71655

Blake Roberson Garver Emineers CONTACT PERSON

SD1-376-3633 TELEPHONE

February 2013 DATE COMPLETED

Bid 13-50, Construction - Walker Park Concession/Restroom Building Renovation City of Fayetteville

Bid # 13-50, Construction - Walker Park Restroom/Concession Building Renovation

3. Rogers Water Utilities

CITY, STATE, ZIP

Earl Rousch

479-621-1142

January 2013 DATE COMPLETED

.

E-MAIL ADDRESS

4. <u>City of Fayetteville</u> COMPANY NAME

Fayetteville, AR 72701 CITY, STATE, ZIP

<u>19 Area Foren</u> CONTACT PERSON

<u>479-575-8220</u> TELEPHONE

Various Projects

Aforenaci.fayetteville.ar.US E-MAIL ADDRESS

Bid 13-50, Construction – Walker Park Concession/Restroom Building Renovation City of Fayetteville

#### AGREEMENT

#### BETWEEN CITY OF FAYETTEVILLE AND PICKIT CONSTRUCTION, INC.

**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 <u>PICKIT CONSTRUCTION, INC.</u> (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 concession, restroom, office and storage spaces within the Walker Park Concession/Restroom. The construction includes structural additions, wall modifications, finishes, mechanical, plumbing and electrical items. These items and others are detailed specifically in the Drawings and Specifications for the Construction of Walker Park Concession/Restroom Building Renovation Project.

#### Article 2. PROJECT MANAGER.

This Project has been designed by deMx Architecture under the supervision of:

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

and will hereinafter be 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 Walker Park Concession/Restroom Building Renovation shall be substantially complete 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 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 of any proper extension thereof granted by CITY OF FAYETTEVILLE.

#### 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.

#### One Hundred Thirty Thousand Nine Hundred and 00/100 (\$130,900.00)

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.

5.3 *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 sites 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 the 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.

#### Article 7. CONTRACT DOCUMENTS

The Contract Documents which comprise the entire agreement between CITY OF FAYETTEVILLE and CONTRACTOR concerning the Work consist of the following:

- 7.1. This Agreement (pages 1 to 7, inclusive).
- 7.2. Performance and Payment Bonds, (Exhibits A and B respectively).
- 7.3. Certificates of Insurance, (Exhibit C).
- 7.4. Documentation submitted by CONTRACTOR prior to Notice of Selection (Exhibit D).
- 7.5. General Conditions (pages 1 to 42, inclusive).
- 7.6. Supplementary Conditions (pages 1 to 13 inclusive).
- 7.7. Specifications consisting of Divisions 1 through 32 as listed in table of contents thereof.
- 7.8. Addenda number 1, inclusive.
- 7.9. One set of drawings (not attached hereto) consisting of: a cover sheet and additional sheets as enumerated in the drawing index with each sheet bearing the following general title: Construction Documents- Walker Park Concession/Restroom Renovation.
- 7.10. The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto:
  - 7.10.1. Notice to Proceed
  - 7.10.2 All Written Amendments and other documents amending, modifying or supplementing the Contract Documents pursuant to paragraph 3.04 of the General Conditions.

The documents listed in paragraphs 7.2 et seq. above are attached to this Agreement (except as expressly noted otherwise above).

There are no Contract Documents other than those listed above in this Article 7. The Contract Documents may only be amended, modified or supplemented as provided in paragraph 3.04 of the General Conditions.

#### Article 8. MISCELLANEOUS.

8.1. Terms used in the Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.

8.2. 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.

8.3. CITY OF FAYETTEVILLE and CONTRACTOR each binds itself, it 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 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:

By:

CONTRACTOR Bv:

[CORPORATE SEAL]

Mayor

[CORPORATE SEAL]

Attest

Secretary.

Address for giving notices

\*Attest

\* If a Corporation, attest by the

Address for giving notices 16024 N. CAMPBEL KD. FAYETTEVILLE, AR 72701

(If CITY OF FAYETTEVILLE is a public body, attach License No. evidence of authority to sign and resolution or other documents Agent for service of process: authorizing execution of Agreement.)

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

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

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

**RESOLVED:** Any <u>one</u> 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. <u>Section 1244 Plan.</u> 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. <u>Section 303 Stock Redemption</u>. 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

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Revised 1/2/2008