

PORTER PARK SOFTBALL RENOVATION AGREEMENT

This Agreement for the Porter Park Softball Renovations (this "Agreement") is made and entered into by and between the City of Sanger Texas, a home-rule Texas Municipal Corporation ("the City") and North Rock Construction, a Texas Limited Liability Corporation ("Contractor"), a Texas Limited Liability Corporation located at 521 S. Loop 288, Suite 125 Denton, TX 76201 (collectively, "the Parties").

WITNESSETH:

WHEREAS, the City seeks to renovate the Porter Park Softball Field for the benefit of the citizens of the City of Sanger; and

WHEREAS, the City has received a proposal from North Rock Construction LLC to renovate the Porter Park Softball Fields; and

WHEREAS, the City has selected the bid from North Rock Construction LLC as the best proposal for the renovation of the Porter Park Softball Fields;

NOW, THEREFORE, in consideration of the promises and mutual covenants and agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Contractor and the City, agree as follows:

1. Scope of Services. Contractor shall be bound by the terms and conditions described in the Request for Proposal 2023-002 ("the RFP" i.e. the Porter Park Softball Renovations) issued by the City attached hereto and incorporated herein by reference as Exhibit A and Contractor's response ("the Proposal" i.e. the North Rock's Response to the Request for Proposal for the Porter Park Softball Renovations) attached hereto and incorporated herein by reference as Exhibit B. (Exhibit A & B collectively referred to as "the Renovations").

2. Commencement of the Renovations. Contractor shall begin immediately upon receipt of a fully executed copy of this Agreement and the receipt of a Notice to Proceed from the City of Sanger.

3. Compensation. In consideration for the Renovations performed by Contractor, the City agrees to pay Contractor in the amounts and manner indicated on the document attached hereto and incorporated herein as Exhibit "B", provided that the total amount for the renovations under this Agreement shall not exceed Three Hundred Forty Eight Thousand Five Hundred Seventy-Nine Dollars and Twenty-One Cents Dollars (\$ 348,579.21). The City shall pay properly invoiced amounts for the Renovations

performed, except where the City has raised an objection to the invoice.

4. **WARRANTY AND DEGREE OF CARE.** CONTRACTOR WARRANTS THE MATERIALS USED SHALL BE FREE OF DEFECT OR FAILURE FOR A PERIOD OF AT LEAST ONE YEAR FROM THE DATE OF COMPLETION OF THE SERVICES AND THAT ALL SERVICES PROVIDED BY CONTRACTOR SHALL BE PERFORMED IN A GOOD AND WORKMANLIKE MANNER IN ACCORDANCE WITH THE SPECIFICATIONS OF THIS AGREEMENT AND IN ACCORDANCE WITH THE DEGREE OF CARE AND SKILL ORDINARILY EXERCISED UNDER SIMILAR CIRCUMSTANCES BY COMPETENT CONTRACTORS IN TEXAS APPLICABLE TO THE TYPE OF SERVICES CONTEMPLATED HEREUNDER. IN THE EVENT ANY DEFECT IS DISCOVERED OR DEVELOPS IN MATERIALS PROVIDED BY CONTRACTOR OR WORK PERFORMED BY CONTRACTOR WITHIN ONE YEAR AFTER COMPLETION OF THE SERVICES, CONTRACTOR WILL REPAIR OR REPLACE ANY SUCH MATERIALS OR WORK SO THAT IT IS NOT DEFECTIVE AND MEETS THE REQUIREMENTS OF THIS AGREEMENT.

5. **Confidentiality and Ownership of Documents.** Contractor shall keep confidential information and documents provided by the City confidential and shall not release them without the consent of the City. Upon completion of the Renovations and payment of the Compensation owed, all documents created for the City pursuant to this Agreement shall be the property of the City and shall be provided to the City by Contractor.

6. **Insurance.** Contractor shall procure, at its own expense, general liability insurance with a minimum per occurrence limit of one million dollars (\$1,000,000.00) and additional coverage sufficient to cover the Renovations being provided under this Agreement as determined by the City. Contractor shall provide the City with written notice of any coverage limit change on the insurance. Contractor shall provide the City with proof of insurance required hereunder. The City shall be named as an additional insured on the policy.

INDEMNIFICATION. CONTRACTOR SHALL INDEMNIFY, DEFEND, SAVE AND HOLD HARMLESS THE CITY AND ITS OFFICERS, EMPLOYEES AND AGENTS FROM AND AGAINST ALL CAUSES OF ACTION, FINES, JUDGMENTS, LOSSES, CLAIMS, DAMAGES, LIABILITIES, COSTS AND EXPENSES, INCLUDING REASONABLE ATTORNEYS' FEES AND EXPENSES, JOINT OR SEVERAL, WHETHER THEY BE FOR PERSONAL INJURY OR PROPERTY DAMAGE OR ANY OTHER TYPE OF CLAIM, WHICH MAY BE ASSERTED AGAINST ANY OF THEM ARISING OUT OF OR RELATED TO (I) ANY ACTION BY CONTRACTOR OR ITS AGENTS IN THE CARRYING OUT OF THE SERVICES DURING THE TERM OF THIS AGREEMENT; (II) THE NEGLIGENCE OR WILLFUL OR

WANTON MISCONDUCT OF CONTRACTOR OR ITS AGENTS; (III) ANY VIOLATION OF ANY REQUIREMENT APPLICABLE TO CONTRACTOR OR ITS AGENTS UNDER ANY FEDERAL, STATE, OR LOCAL LAW OR REGULATION, (IV) THE FAILURE OF CONTRACTOR TO PERFORM SPECIFIED DUTIES UNDER THIS AGREEMENT, OR (V) THE BREACH OF THIS AGREEMENT BY CONTRACTOR, EXCEPT IN EACH CASE TO THE EXTENT CAUSED BY THE GROSS NEGLIGENCE OR WILLFUL OR WANTON MISCONDUCT OF THE CITY. OBLIGATIONS UNDER THIS SECTION SHALL NOT BE LIMITED TO THE LIMITS OF COVERAGE OF INSURANCE MAINTAINED OR REQUIRED TO BE MAINTAINED BY CONTRACTOR UNDER THIS AGREEMENT AND WILL NOT BE LIMITED BY COMPARATIVE NEGLIGENCE STATUTES. THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

7. Termination. Either Party may terminate this Agreement by providing sixty (60) days written notice to the other Party.

8. Non-Discrimination. Contractor hereby agrees to refrain from any activity in the performance of this Agreement that discriminates against any person or persons based upon race, color, creed, national origin, religion, sex, or communicable disease, in accordance with present federal and state laws.

9. Independent Contractor. Contractor shall be fully responsible for its employees, including meeting all state and federal requirements for minimum wage, income tax withholding, workers' compensation, insurance, and all city, state, and federal requirements governing employer/employee relations. Contractor hereby certifies that it shall be and is in compliance with all such regulations, laws and requirements. Contract shall also require its subcontractor to provide the same certification to the City.

10. No Third Party Benefit. Nothing herein expressed or implied is intended, or shall be construed, to confer upon or give to any person or entity, other than the parties, any right or remedy under or by reason of this Agreement.

11. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Texas as to all matters, including but not limited to matters of validity, construction, effect and performance, without regard to conflict of law principles. All actions regarding this Agreement shall be in a court of competent subject matter jurisdiction Denton County, Texas.

12. Severability. If any clause or provision of this Agreement is held invalid, illegal or unenforceable under present or future federal, state or local laws, including but not limited to the City Code of the City, then and in that event it is the intention of the parties hereto that such invalidity, illegality or unenforceability shall not affect any other clause or provision hereof and that the remainder of this Agreement shall be construed as if such invalid, illegal, or unenforceable

clause or provision was never contained herein.

13. Notices. All notices, consents, demands, requests and other communications which may or are required to be given hereunder shall be in writing and shall be deemed duly given if personally delivered or sent by United States mail, registered or certified, return receipt requested, postage prepaid, to the addresses set forth hereunder or to such other address as the other party hereto may designate in written notice transmitted in accordance with this provision.

In case of the City, to:

City of Sanger
Attention: City Manager
P.O. Box 1729
Sanger, TX 76266

With courtesy email copy to jnoblitt@sangertexas.org

In case of Contractor, to:

North Rock Construction LLC
521 S. Loop 288 - Suite 125
Denton, TX 76201

With courtesy copy email to: kwilliamson@nrockconstruction.com

Entire Agreement. This Agreement and its exhibits contain the entire agreement between the parties with respect to the subject matter hereof and supersede any and all other discussions, agreements and understandings, either oral or written, between the parties with respect to the subject matter hereof. In the event of a dispute under this agreement, the applicable documents will be referred to for the purpose of clarification or for additional detail in the following order of precedence: (1) this Agreement; (2) the Request for Proposal; (3) the Response to the Request for Proposal from the Contractor.

14. Amendment. No amendment to this Agreement shall be effective unless in writing signed by both parties.

15. Compliance with Laws. Contractor shall comply with all applicable federal, state, and local laws applicable to the renovations to be performed under this Agreement.

IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed in duplicate originals and effective as of the __day of _____, 202_ ("the Effective Date").

CONTRACTOR:

North Rock Construction LLC

By: JFH

Name: John F Gann II

Title: CEO

THE CITY OF SANGER

By: _____

Name: _____

Title: _____

Approved as to Form

Hugh Coleman
City Attorney
City of Sanger

Attest:

By: City Secretary

EXHIBIT LIST:

EXHIBIT “A” – City of Sanger Request for Proposal 2023- 002

EXHIBIT “B” – North Rock Construction LLC Response to Request for Proposal 2023- 002