

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS APPROVING A CONSTRUCTION SERVICES AGREEMENT BETWEEN THE TOWN AND NORTH ROCK CONSTRUCTION GROUP, LLC FOR THE REDDING TRAIL DRAINAGE AND AMENITY IMPROVEMENT PROJECTS IN AN AMOUNT NOT TO EXCEED \$453,579.34; PROVIDING FOR A TOTAL PROJECT BUDGET IN AN AMOUNT NOT TO EXCEED \$585,129.34, AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT AND RELATED PROJECT DOCUMENTS, AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE TOWN OF ADDISON, TEXAS:

SECTION 1. The City Council for the Town of Addison hereby approves the agreement between the Town of Addison and North Rock Construction, LLC for the Redding Trail Drainage and Amenity Improvement Projects (“Project”) for a total not to exceed amount of \$453,579.34 (“Contract Amount”), a copy of which is attached to this Resolution as **Exhibit A**.

SECTION 2. The City Council further authorizes a Project set aside in an amount not to exceed \$70,000, which may be applied to the Project for contingency and other items as deemed necessary by the City Manager, or his designee.

SECTION 3. The total Project Budget is hereby established in the amount of \$585,129.34, which includes a total construction budget of \$523,579.34

SECTION 4. The City Manager is hereby authorized to execute the foregoing agreement and such other documents as deemed necessary to administer the Project.

SECTION 5. This Resolution shall take effect from and after its date of adoption.

DULY RESOLVED AND ADOPTED by the City Council of the Town of Addison, Texas, on this the **22nd** day of **MARCH 2022**.

TOWN OF ADDISON, TEXAS

Joe Chow, Mayor

ATTEST:

Irma Parker, City Secretary

Exhibit A

CONSTRUCTION SERVICES AGREEMENT
Redding Trail Drainage & Amenity Improvements Project
(Bid #22-56)

This CONSTRUCTION SERVICES AGREEMENT (“Agreement”) is made as of the Effective Date by and between North Rock Construction, LLC, a Texas Limited Liability Company, hereinafter called “CONTRACTOR”, and the Town of Addison, Texas, hereinafter called “CITY”.

RECITALS

WHEREAS, CITY desires CONTRACTOR to perform certain work and services set forth in Section 1 (the “Scope of Services”), and

WHEREAS, CONTRACTOR has expressed a willingness to perform said work and services, hereinafter referred to only as “services”, specified in the Contract Documents and Section 1 of this Agreement.

NOW, THEREFORE, for and in consideration of the covenants and promises made one to the other herein, CITY and CONTRACTOR agree as follows:

Section 1. Scope of Services

Upon issuance of a written notice to proceed by CITY, CONTRACTOR agrees to provide to CITY the necessary services, labor, materials, equipment and supplies related to the Redding Trail Drainage & Amenity Improvements Project (the “Project”), such services being more fully described herein and pursuant to the plans and specifications identified in the Contract Documents.

Section 2. Term of Agreement

The term of this Agreement shall begin on the last date of execution hereof (the “Effective Date”) and shall continue until CONTRACTOR completes the services required herein to the satisfaction of CITY and has been paid in full by City, unless sooner terminated as provided in Section 9, below.

Section 3. Contract Documents

A. This Agreement is a part of the “Contract Documents”, which include:

- (1) This Agreement, including all exhibits and addenda hereto;
- (2) CITY’S plans, specifications, and all other contract documents for the Project contained in the City’s Invitation for Bid #22-56 (“Bid Packet”);
- (3) CITY’S written notice(s) to proceed to the CONTRACTOR;
- (4) Properly authorized change orders;
- (5) CONTRACTOR’S Bid Proposal (“Proposal”) and/or “Response”; and
- (6) Any other materials distributed by the CITY that relate to the Project.

In the event there exists a conflict between any term, provision and/or interpretation of the Contract Documents, the documents shall take precedent and control in the order listed above in this section (which shall supersede any conflicting provision concerning priority of contract documents contained in the Bid Packet). If discrepancies are found that may impact construction of the Project, it shall be the Contractor’s obligation to seek clarification as to which requirements or provisions control before undertaking any work on that component of the Project. Should the Contractor fail or refuse to seek a clarification of such conflicting or inconsistent requirements or provisions prior to any work on that component of the Project, the Contractor

shall be solely responsible for the costs and expenses - including additional time - necessary to cure, repair and/or correct that component of the Project.

Section 4. Contractor Obligations

A. CONTRACTOR shall devote such time as reasonably necessary for the satisfactory performance of the work under this Agreement. Should CITY require additional services not included under this Agreement, CONTRACTOR shall make reasonable effort to provide such additional services at mutually agreed charges or rates, and within the time schedule prescribed by CITY; and without decreasing the effectiveness of the performance of services required under this Agreement.

B. To the extent reasonably necessary for CONTRACTOR to perform the services under this Agreement, CONTRACTOR shall be authorized to engage the services of any agents, assistants, persons, or corporations that CONTRACTOR may deem proper to aid or assist in the performance of the services under this Agreement with the prior written approval of CITY. The cost of such personnel and assistance shall be a reimbursable expense to CONTRACTOR only if authorized in writing in advance by CITY.

C. Unless otherwise agreed, CONTRACTOR shall provide and pay for all materials, supplies, machinery, equipment, tools, superintendence, labor, insurance, and all water, light, power, fuel, transportation and all other facilities necessary for the execution and completion of the work covered by the Scope of Services. Unless otherwise specified, all materials shall be new and both workmanship and materials shall be of a good quality. CONTRACTOR shall, if required, furnish satisfactory evidence as to the kind and quality of materials. Materials or work described in words that so applied have well known, technical or trade meaning shall be held to refer to such recognized standards.

D. CONTRACTOR shall comply with all laws, ordinances, rules and regulations governing CONTRACTOR's performance of this Agreement.

E. All minor details of the work not specifically mentioned in the Scope of Services or Contract Documents but obviously necessary for the proper completion of the work, such as the proper connection of new work to old, shall be considered as incidental to and a part of the work for which the prices are set forth in this Agreement. CONTRACTOR will not be entitled to any additional compensation therefor unless specifically stated otherwise. Otherwise the term "extra work" as used in this Agreement shall be understood to mean and include all work that may be required by CITY to be done by CONTRACTOR to accomplish any alteration or addition to the work as shown on the Project plans and drawings. It is agreed that CONTRACTOR shall perform all extra work under the direction of the City's representative when presented with a written work order signed by the City's representative, subject, however, to the right of CONTRACTOR to require written confirmation of such extra work order by CITY. Payment for extra work shall be as agreed in the work order.

F. No claims for extra services, additional services or changes in the services whatsoever, including any change in pricing or time for performance related to the services will be made by CONTRACTOR without first obtaining the CITY's written agreement and approval of a change order reflecting the same.

Section 5. Payment

A. CITY agrees to pay CONTRACTOR for all services authorized in writing and properly performed by CONTRACTOR in a total amount not to exceed FOUR HUNDRED AND FIFTY-THREE THOUSAND, FIVE HUNDRED AND SEVENTY-NINE DOLLARS AND THIRTY FOUR CENTS (\$453,579.34) ("Contract Price"), subject to additions or deletions for changes or extras agreed upon in writing. Unless otherwise provided herein, payment to CONTRACTOR shall be monthly based on the

CONTRACTOR'S monthly progress report and detailed monthly itemized statement for services that shows the names of the CONTRACTOR'S employees, agents, contractors performing the services, the time worked, the actual services performed, and the rates charged for such services, in a form reasonably acceptable to CITY. CITY shall pay such monthly statements within thirty (30) days after receipt and CITY verification of the services.

B. CITY may deduct from any amounts due or to become due to CONTRACTOR any sum or sums owing by CONTRACTOR to CITY. In the event of any breach by CONTRACTOR of any provision or obligation of this Agreement, or in the event of the assertion by other parties of any claim or lien against CITY, or the CITY'S premises, arising out of CONTRACTOR's performance of this Agreement, CITY shall have the right to retain out of any payments due or to become due to CONTRACTOR an amount sufficient to completely protect the CITY from any and all loss, damage or expense therefrom, until the breach, claim or lien has been satisfactorily remedied or adjusted by CONTRACTOR.

C. CITY may, on account of subsequently discovered evidence, withhold the whole or part of any payment to such extent as may be necessary to protect itself from loss on account of:

- (1) defective work not remedied;
- (2) claims filed or reasonable evidence indicating possible filing of claims;
- (3) failure of CONTRACTOR to make payments promptly to subcontractors or for material or labor which CITY may pay as an agent for the CONTRACTOR; or
- (4) damages to another contractor or subcontractor.

When the above grounds are removed, or CONTRACTOR provides a surety bond satisfactory to CITY which will protect CITY in the amount withheld because of said grounds, CITY will release the amounts withheld.

Section 6. Responsibilities

A. CONTRACTOR shall be responsible for the professional quality, technical accuracy, and the coordination of all materials, construction, installation and other services furnished by CONTRACTOR under this Agreement. CONTRACTOR shall, without additional compensation, correct or revise any errors or deficiencies in the installation and construction of the Project components to conform as shown in the Project drawings and specifications.

B. Neither CITY's review, approval or acceptance of, nor payment for any of the services required under this Agreement, shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and CONTRACTOR shall be and remain liable to CITY in accordance with applicable law for all damages to CITY caused by CONTRACTOR's negligent performance of any of the services furnished under this Agreement.

Section 7. Time for Performance

A. CONTRACTOR shall perform all services as provided for under this Agreement in a proper, efficient, timely, and professional manner in accordance with CITY'S requirements. The time for performance under this Agreement is ninety (90) calendar days. Accordingly, CONTRACTOR shall complete all work related to the Project on or before ninety (90) calendar days following the date of CITY'S written notice to proceed to CONTRACTOR.

B. In the event CONTRACTOR's performance of this Agreement is delayed or interfered with by acts of the CITY or others, CONTRACTOR may request an extension of time for the performance of same as hereinafter provided, but shall not be entitled to any increase in fee or price, or to damages or additional compensation as a consequence of such delays.

C. No allowance of any extension of time, for any cause whatever (including an event of force majeure), shall be claimed by or granted to CONTRACTOR, unless (i) CONTRACTOR shall have made written request to CITY for such extension within forty-eight (48) hours after the cause for such extension occurred, and (ii) CITY and CONTRACTOR have agreed in writing that such additional time shall be granted. As used in this section, the term '*force majeure*' shall mean that CONTRACTOR's performance of the services under this Agreement is prevented or delayed, in whole or in part, to such an extent that CONTRACTOR would not be able to complete the services (or any partial component thereof) within the time for performance set forth herein by reason of or through work strikes, stoppage of labor, riot, fire, flood, acts of war, insurrection, court judgment, act of God, pandemic, or other specific cause reasonably beyond CONTRACTOR's control and not attributable to its malfeasance, neglect or nonfeasance. Should CONTRACTOR timely request an extension of time due to an event of force majeure under this section, CITY and CONTRACTOR may agree in writing to suspended CONTRACTOR's performance until such disability to perform (other than a payment obligation) is removed; provided, that CONTRACTOR shall use commercially reasonable efforts to remove any such causes and resume performance of the services under this Agreement as soon as reasonably practicable.

D. CONTRACTOR understands and agrees that time is of the essence of this contract, and that for each day of delay beyond the number of calendar days agreed upon for the completion of the work herein specified and contracted for (after due allowance for such extension of time as may otherwise be provided for extension of time herein), the Owner may withhold permanently from the Contract Price an amount equal to \$2,500.00 per day, which the parties agree represents a reasonable estimation of the actual costs that would be incurred by the CITY in the event of such delay.

Section 8. Ownership of Project; Bill of Sale; No Liens

A. CONTRACTOR warrants that title to all services, including all equipment and materials incorporated into the Project, will pass to CITY no later than the time of final payment. CONTRACTOR further warrants that upon payment by CITY, all services for which payments have been received from CITY shall be free and clear of liens, claims, security interests or other encumbrances in favor of CONTRACTOR or any other person or entity whatsoever.

B. CONTRACTOR agrees to assign to CITY at the time of completion of the Scope of Services all manufacturer's warranties relating to equipment, materials and labor used in the Project and further agrees to perform the Project in such manner to preserve all manufacturer's warranties. If necessary as a matter of law, CONTRACTOR may retain the right to enforce directly any such manufacturers' warranties during the one year period following the date of acceptance of the Project by City.

C. CONTRACTOR AGREES TO INDEMNIFY, DEFEND, AND SAVE CITY HARMLESS FROM ALL CLAIMS RELATED TO ANY DEMANDS OF SUBCONTRACTORS, LABORERS, WORKMEN, MECHANICS, MATERIALMEN, AND SUPPLIERS OF MACHINERY AND PARTS THEREOF, EQUIPMENT, POWER TOOLS, ALL SUPPLIES ARISING OUT OF THE PERFORMANCE OF THIS AGREEMENT. When CITY requests, CONTRACTOR shall furnish satisfactory evidence that all obligations described herein have been paid, discharged or waived.

Section 9. Default; Termination; Abandonment

A. Default by Contractor. Should CONTRACTOR fail to comply with any term or condition this Agreement applicable to CONTRACTOR, or become disabled and unable to comply with any provisions of this Agreement related to the quality or character of the services or time of performance, CONTRACTOR shall be deemed in default of this Agreement. If such default is not corrected within ten (10) days after written notice by CITY to CONTRACTOR, CITY may, at its sole discretion without prejudice to any other right or remedy:

- (1) Terminate this Agreement and be relieved of the payment of any further consideration to CONTRACTOR except for all services determined by CITY to be satisfactorily completed prior to termination. Payment for work satisfactorily completed shall be for actual costs, including reasonable salaries and travel expenses of CONTRACTOR to and from meetings called by CITY at which CONTRACTOR is required to attend, but shall not include any loss of profit of CONTRACTOR. CITY may further proceed to complete the services in any manner deemed proper by CITY, either by the use of its own forces or by resubletting to others; or
- (2) CITY may, without terminating this Agreement or taking over the services, furnish the necessary materials, equipment, supplies and/or help necessary to remedy the situation, at the expense of CONTRACTOR.

B. Suspension or Termination by City. CITY may suspend or terminate this Agreement for cause or without cause at any time by giving written notice to CONTRACTOR. In the event suspension or termination is without cause, payment to CONTRACTOR, in accordance with the terms of this Agreement, will be made based on services reasonably determined by CITY to be satisfactorily performed as of the date of suspension or termination. Such payment will become payable upon delivery of all instruments of service to CITY and CITY's acceptance of the same. If CITY requires a modification of this Agreement with CONTRACTOR, and in the event CITY and CONTRACTOR fail to agree upon a modification to this Agreement, CITY shall have the option of terminating this Agreement and CONTRACTOR's services hereunder at no additional cost other than the payment to CONTRACTOR, in accordance with the terms of this Agreement, for the services reasonably determined by CITY to be properly performed by CONTRACTOR prior to such termination date.

C. Abandonment. If CONTRACTOR should abandon and fail or refuse to resume work within ten (10) days after written notification from the City, or if CONTRACTOR fails to timely comply with the orders of the CITY, when such orders are consistent with the Contract Documents, then, and in that case, where a performance bond(s) exists, the surety on the bond(s) may be notified in writing by CITY and directed to complete the work (at CITY'S sole discretion), and a copy of said notice shall be delivered to CONTRACTOR. After receiving said notice of abandonment, CONTRACTOR shall not remove from the work any machinery, equipment, tools, materials or supplies then on the job, but the same, together with any materials and equipment under contract for the work, may be held for use on the work by the CITY or the surety on the performance bond, or another contractor in completion of the work; and CONTRACTOR shall not receive any rental or credit therefor, having hereby acknowledged that the use of such equipment and materials will ultimately reduce the cost to complete the work and be reflected in the final settlement. The remedies in this section are cumulative and nothing herein shall be deemed a waiver of any other remedy available to the CITY under this Agreement, including its remedies upon default provided herein above.

- (1) In the event a surety fails to comply with CITY's written notice for completion provided for herein, within ten (10) days after service such notice, then the CITY may provide for completion of the work in either of the following elective manners:
 - (a) The CITY may employ such labor and use such machinery, equipment, tools, materials and supplies as said CITY may deem necessary to complete the work and

charge the expense of such labor, machinery, equipment, tools, materials and supplies to said CONTRACTOR, and expense so charged shall be deducted and paid by the CITY out of such moneys as may be due, or that may thereafter at any time become due to the CONTRACTOR under and by virtue of this Agreement. In case such expense is less than the sum which would have been payable under this Agreement, if the same had been completed by the CONTRACTOR, then said CONTRACTOR shall receive the difference. In case such expense is greater than the sum which would have been payable under this Agreement, if the same had been completed by said CONTRACTOR, then the CONTRACTOR and/or its surety shall pay the amount of such excess to the CITY; or

- (b) The CITY may (under sealed bids when and in the manner required by law) let the contract to another contractor for the completion of the work under substantially the same terms and conditions which are provided in this Agreement. In the case of any increase in cost to the CITY under the new contract as compared to what would have been the cost under this Agreement, such increase shall be charged to the CONTRACTOR and its surety shall be and remain bound therefor. However, should the cost to complete any such new contract prove to be less than what would have been the cost to complete under this Agreement, the CONTRACTOR and/or its surety shall be credited therewith.

Section 10. Insurance

A. CONTRACTOR shall during the term hereof maintain in full force and effect such insurance policies as the CITY may reasonably require for the Project, including, at a minimum, the following insurance:

- (1) a comprehensive general liability policy of insurance for bodily injury, death and property damage insuring against all claims, demands or actions relating to the CONTRACTOR's performance of services pursuant to this Agreement with a minimum combined single limit of not less than \$2,000,000.00 per occurrence and \$4,000,000.00 aggregate for injury to persons (including death), and for property damage; and
- (2) a policy of automobile liability insurance covering any vehicles owned and/or operated by CONTRACTOR, its officers, agents, and employees, and used in the performance of this Agreement with policy limits of not less than \$1,000,000.00 combined single limit and aggregate for bodily injury and property damage; and
- (3) statutory Worker's Compensation Insurance at the statutory limits and Employers Liability covering all of CONTRACTOR's employees involved in the provision of services under this Agreement with policy limit of not less than \$500,000.00.

B. All insurance and certificate(s) of insurance shall:

- (1) provide for at least thirty (30) days prior written notice to CITY for cancellation or non-renewal of the insurance; and
- (2) name CITY, its officers, and employees as additional insureds as to all applicable coverage with the exception of Workers Compensation Insurance; and
- (3) provide for a waiver of subrogation against CITY for injuries, including death, property damage, or any other loss to the extent the same is covered by the proceeds of insurance.

C. All insurance companies providing the required insurance shall be authorized to transact business in Texas and rated at least "A" by AM Best or other equivalent rating service.

D. A certificate of insurance evidencing the required insurance and all endorsements shall be submitted prior to commencement of services. Contractor shall provide written notice to CITY of any material change of or to the insurance required herein.

Section 11. Indemnification

CITY SHALL NOT BE LIABLE FOR ANY LOSS, DAMAGE, OR INJURY OF ANY KIND OR CHARACTER TO ANY PERSON OR PROPERTY ARISING FROM THE SERVICES OF CONTRACTOR PURSUANT TO THIS AGREEMENT. CONTRACTOR HEREBY WAIVES ALL CLAIMS AGAINST CITY, ITS OFFICERS, AGENTS AND EMPLOYEES (COLLECTIVELY REFERRED TO IN THIS SECTION AS "CITY") FOR DAMAGE TO ANY PROPERTY OR INJURY TO, OR DEATH OF, ANY PERSON ARISING AT ANY TIME AND FROM ANY CAUSE OTHER THAN THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF CITY OR BREACH OF CITY'S OBLIGATIONS HEREUNDER. CONTRACTOR AGREES TO INDEMNIFY AND SAVE HARMLESS CITY FROM AND AGAINST ANY AND ALL LIABILITIES, DAMAGES, CLAIMS, SUITS, COSTS (INCLUDING COURT COSTS, REASONABLE ATTORNEYS' FEES AND COSTS OF INVESTIGATION) AND ACTIONS OF ANY KIND BY REASON OF INJURY TO OR DEATH OF ANY PERSON OR DAMAGE TO OR LOSS OF PROPERTY TO THE EXTENT CAUSED BY CONTRACTOR'S PERFORMANCE OF SERVICES UNDER THIS AGREEMENT OR BY REASON OF ANY NEGLIGENT ACT OR OMISSION ON THE PART OF CONTRACTOR, ITS OFFICERS, DIRECTORS, SERVANTS, EMPLOYEES, REPRESENTATIVES, CONSULTANTS, LICENSEES, SUCCESSORS OR PERMITTED ASSIGNS (EXCEPT WHEN SUCH LIABILITY, CLAIMS, SUITS, COSTS, INJURIES, DEATHS OR DAMAGES ARISE, IN WHOLE OR IN PART, FROM OR ARE ATTRIBUTED TO THE GROSS NEGLIGENCE OF CITY, IN WHICH CASE CONTRACTOR SHALL INDEMNIFY CITY ONLY TO THE EXTENT OR PROPORTION OF NEGLIGENCE ATTRIBUTED TO CONTRACTOR AND/OR ITS OFFICERS, DIRECTORS, SERVANTS, EMPLOYEES, REPRESENTATIVES, CONSULTANTS, LICENSEES, SUCCESSORS OR PERMITTED ASSIGNS AS DETERMINED BY A COURT OR OTHER FORUM OF COMPETENT JURISDICTION). CONTRACTOR'S 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.

CONTRACTOR shall promptly advise CITY in writing of any claim or demand against the CITY, related to or arising o CONTRACTOR shall promptly advise CITY in writing of any claim or demand against the CITY, related to or arising out of CONTRACTOR's acts or omissions under this AGREEMENT and shall see to the investigation and defense of such claims or demand at CONTRACTOR's sole cost and expense; provided, that CITY, at its option and at its own expense, may participate in such defense without relieving CONTRACTOR of any of its obligations hereunder. THE PROVISIONS OF THIS SECTION 11 SHALL SURVIVE TERMINATION OF THIS AGREEMENT.

Section 12. Assignment

CONTRACTOR shall not assign or sublet this Agreement, or any part thereof, without the prior written consent of CITY.

Section 13. Applicable Laws; Venue

CONTRACTOR shall comply with all federal, state, county and municipal laws, ordinances, regulations, safety orders, resolutions and building codes relating or applicable to services to be performed

under this Agreement. The laws of the State of Texas shall govern this Agreement; and venue for any action concerning this Agreement shall be in the state district court of Dallas County, Texas. The parties agree to submit to the personal and subject matter jurisdiction of said court.

Section 14. Agreement Amendments

This Agreement contains the entire understanding of the parties with respect to the subject matter hereof and there are no oral understandings, statements or stipulations bearing upon the meaning or effect of this Agreement which have not been incorporated herein. This Agreement may only be modified, amended, supplemented or waived by a written instrument executed by the parties except as may be otherwise provided therein.

Section 15. Severability

In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions, and the Agreement shall be construed as if such invalid, illegal, or unenforceable provision had never been contained in it.

Section 16. Independent Contractor

In satisfying the conditions of and providing the services under this Agreement, CONTRACTOR is acting independently, and CITY assumes no responsibility or liabilities to any third party in connection with CONTRACTOR's actions. All services to be performed by CONTRACTOR pursuant to this Agreement shall be in the capacity of an independent contractor and not as an agent or employee of CITY. CONTRACTOR shall supervise the performance of its services and shall be entitled to control the manner and means by which its services are to be performed, subject to the terms of this Agreement. There is no intended third-party beneficiary to this Agreement.

Section 17. Right-Of-Access

CITY will obtain or furnish right-of-access to the Project site for CONTRACTOR to perform any required studies, surveys, tests or other necessary investigations in relation to the Scope of Services. CONTRACTOR will take all necessary and reasonable precautions to minimize damage to all personal and real property in the performance of such surveys, tests, studies and investigations.

Section 18. Counterparts

This Agreement may be executed by the parties hereto in separate counterparts, each of which when so executed and delivered shall be an original, but all such counterparts shall together constitute one and the same instrument. Each counterpart may consist of any number of copies hereof each signed by less than all, but together signed by all of the parties hereto.

Section 19. Recitals; Exhibits.

All recitals and exhibits attached hereto are incorporated and made a part hereof for all purposes.

Section 20. Survival of Obligations.

Any of the representations and obligations of the parties, as well as any rights and benefits of the parties pertaining to a period of time following the termination of this Agreement shall survive termination.

Section 21. Notice

All notices required by this Agreement shall be in writing and addressed to the following, or such other party or address as either party designates in writing, by: (i) courier with signed receipt of delivery; (ii) overnight mail by reputable overnight delivery service; (iii), certified mail, postage prepaid, return receipt requested; (iv) confirmed electronic mail; or (v) by hand delivery with signed receipt of delivery:

If to CITY:

Town of Addison, Texas
Attn: Wesley S. Pierson, City Manager
5300 Belt Line Road
Addison, Texas 75254
E: wperson@addisontx.gov

With copy to:

Whitt L. Wyatt, City Attorney
Wood Banowsky, PLLC
5810 Long Prairie Road, Suite 700-220
Flower Mound, Texas 75028
E: whitt@woodbanowsky.com

If to CONTRACTOR:

North Rock Construction, LLC
Attn: John F. Gann II, President
525 South Loop 288, Suite 105 Denton
Texas 76205
E: jgann@nrockconstruction.com

Section 22. Sales and Use Taxes

CONTRACTOR understands and acknowledges that CITY is a governmental entity and exempt from the payment of sales and use taxes for certain materials and equipment conveyed to City as part of this Project or otherwise incorporated into the Project. CITY agrees to provide CONTRACTOR such documentation as may otherwise be required by state law to allow CONTRACTOR to avoid payment of sales and uses taxes for materials and equipment with respect to the Project to the extent allowed by law.

Section 23. Texas Government Code Verifications

CONTRACTOR's execution of this Agreement shall serve as its acknowledgement and written verification that:

- (1) the requirements of Subchapter J, Chapter 552, Government Code, apply to this Agreement and CONTRACTOR agrees that the Agreement can be terminated if CONTRACTOR knowingly or intentionally fails to comply with a requirement of that subchapter;
- (2) pursuant to Texas Government Code Chapter 2270, that CONTRACTOR's organization does not presently boycott Israel and will not boycott Israel during the term of this Agreement; and
- (3) pursuant to Texas Government Code Chapter 2251, that CONTRACTOR's organization does not current discriminate against firearm and ammunition industries and will not for the term of the contract. Discriminating means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with the firearm or ammunition industry or with a person or entity doing business in the firearm or ammunition industry, but does not include an action made for ordinary business purposes.

[REMAINDER OF PAGE LEFT BLANK INTENTIONALLY –

SIGNATURES ON FOLLOWING PAGE(S)]

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement as of the date of last execution hereof (the "Effective Date").

For CITY:

TOWN OF ADDISON, TEXAS

By: _____
Wesley S. Pierson, City Manager

Date: _____

ATTEST:

By: _____
Christine Loven, City Secretary

APPROVED AS TO FORM:

By: _____
Whitt L. Wyatt, City Attorney

Contract ID:
JT.WW_ March 22, 2022

For CONTRACTOR:

NORTH ROCK CONSTRUCTION, LLC

By: _____
John F. Gann II, President

Date: 3/7/2022

