

STATE OF ARKANSAS
CONSTRUCTION AGREEMENT

City of Jonesboro

This AGREEMENT is made and entered into on this 21st day of July, 2017, by and between the City of Jonesboro, a political subdivision of the State of Arkansas, having its principal place of business at 300 S Church Street, Jonesboro, AR 72401 ("City"), and Delta Specialty Contractors, LLC located at P.O. Box 6010, Monroe, LA 71211 ("**Contractor**").

In consideration of the covenants hereinafter set forth, the parties mutually agree as follows:

1. **CONTRACT PERIOD** – This Agreement shall begin on the date the NOTICE TO PROCEED is received by **Contractor** and shall be completed in ninety (90) days.
2. **SCOPE OF SERVICES** – City of Jonesboro has employed **Contractor** to provide the installation of approximately 6,500 L.F. of 6' chainlink fence and five (5) 10' Double Gates and other related hardware at Craighead Forest Park, 4910 South Culberhouse. These services to be provided by **Contractor** are set forth more fully in City of Jonesboro Bid Number 2017:03.
3. **PRICE** – City of Jonesboro agrees to pay **Contractor** the total sum not to exceed ninety-two thousand dollars (\$92,000.00) dollars.
4. **STANDARD OF CARE** – Services performed by **Contractor** will be conducted in a manner consistent with that level of care and skill exercised by members of the profession with **Contractor's** experience and qualifications currently providing similar services.
5. **PAYMENT TERMS** – **Contractor** will submit monthly invoices in accordance with payment scheduled contained in Bid Number 2017:03

NO INTEREST OR OTHER LATE PENALTIES SHALL ACCRUE ON LATE PAYMENTS.

6. **INSURANCE AND BONDS** – **Contractor** agrees to provide to the City of Jonesboro a Performance Bond and Insurance as specified in Bid Number 2017:03. Upon completion of the project, the Contractor agrees to provide the City of Jonesboro a Maintenance Bond against faulty materials and/or prior workmanship for one year after completion of the Contract. The Maintenance Bond shall be for 100% of the final contract amount.
7. **INDEMNIFICATION** – The contractor agrees to indemnify and save harmless the City of Jonesboro and all City of Jonesboro officers, agents and employees from any and all claims, suites, actions, legal proceedings, damages, costs, expenses & attorney fees of every name and description, arising out of or resulting from the use of any materials furnished by the contractor, or any work done in the performance of the contract arising out of a willful or negligent act or omission of the

provider, its officers, agents and employees; provided that such liability is not attributable to a willful or negligent act or omission on the part of the City, its officers, agents and employees.

8. **CONTROL OF JOB SITE AND ACTIVITY** – **Contractor** shall be responsible for its activities, that of its employees on any site and the activities of any consultants, contractors and/or subcontractors for maintaining a safe job site.
9. **COMPLIANCE WITH CODES AND STANDARDS** – **Contractor's** professional services shall incorporate those federal, state and local laws, regulations, codes and standards that are applicable at the time **Contractor** rendered its services. **Contractor** shall not be responsible for any claim or liability for injury or loss allegedly arising from **Contractor's** failure to abide by federal, state or local laws, regulations, codes and standards that were not in effect or publicly announced at the time **Contractor** rendered its services.
10. **PUBLIC RESPONSIBILITY** – The City of Jonesboro has a duty to conform to applicable codes, standards, regulations and ordinances with regard to public health and safety. **Contractor** will at all times alert the City of Jonesboro to any matter of which **Contractor** becomes aware and believes requires the City of Jonesboro to issue a notice or report to certain public officials, or to otherwise conform with applicable codes, standards, regulations or ordinances. If the City of Jonesboro decides to disregard **Contractor's** recommendations in these respects, **Contractor** shall employ its best judgment in deciding whether or not it should notify public officials.
11. **CLIENT LITIGATION** – **Contractor** agrees to produce documents, witnesses and/or general assistance to any litigation, arbitration or mediation involving the **City**, if the City of Jonesboro requests such documents, witnesses and/or general assistance. The City of Jonesboro shall reimburse **Contractor** for all direct expenses incurred and time according to **Contractor's** rate schedule as of the date of the execution of this Agreement.
12. **CONFIDENTIALITY** – **Contractor** will maintain as confidential any documents or information provided by the City of Jonesboro and will not release, distribute or publish same to any third party without prior permission from the **City**, unless compelled by law or order of a court or regulatory body of competent jurisdiction. Such release will occur only after prior notice to the **City**.
13. **NOTICES** – All notices made pursuant to the Agreement shall be in writing and delivered personally or sent by registered or certified mail, return receipt requested, to the parties at their respective addresses set forth below:

Wixson Huffstetler, Parks Director
City of Jonesboro
3009 Dan Avenu
Jonesboro, AR 72401

Any party may change the person to whom notices are to be sent by giving ten (10) calendar days written notice of such change to the other party.

14. **TERMINATION** – Should **Contractor** perform services provided pursuant to this Agreement in an unacceptable manner the City of Jonesboro may, by a thirty (30) day written notice to **Contractor**, without prejudice to any other right or remedy available to the **City**, terminate this Agreement.

Should the City of Jonesboro fail to make payment on any undisputed invoice amount within sixty (60) business days upon receipt of such invoice, **Contractor** may elect to either suspend the services provided or terminate this Agreement; provided, however, prior to termination, the City of Jonesboro shall be given notice of the default and an opportunity to cure such default within seven (7) business days. Should this Agreement be terminated by **Contractor**, **Contractor** shall be entitled to be paid only for the services actually completed as of the date of termination.

This Agreement may also be terminated pursuant to the pertinent portions of Section 6 or Section 7 herein.

15. **CONTRACT DOCUMENTS**. This Agreement, along with the provisions contained in City of Jonesboro Bid Number 2017:03 represents the entire agreement between the parties and supersedes any and all prior agreements, whether written or oral, that may exist between the parties regarding same. If there is a conflict between any of the terms of these contract documents the order of precedence of these contract documents shall be;

- A. Any amendment signed after the execution date of this agreement;
- B. This Agreement, and;
- C. City of Jonesboro Bid Number 2017:03

16. **ASSIGNMENT** – This Agreement may not be assigned by either party without the prior written consent of the other party.

17. **SEVERABILITY** – Should any section, paragraph, clause, phrase, or provision of this Agreement be determined invalid or held unconstitutional by a court of competent jurisdiction, such declaration shall not affect the validity of this Agreement as a whole or any part or provision thereof, other than the part so decided to be invalid or unconstitutional.

18. **APPLICABLE LAW AND VENUE** – The construction, interpretation and performance of this Agreement shall be governed and construed in accordance with the laws of the State of Arkansas. The City of Jonesboro and **Contractor** further agree that this Agreement shall be deemed to be made and performed in City of Jonesboro, Arkansas. For the purposes of venue, all suits or causes of action arising out of this Agreement shall be brought in the courts of State of Arkansas, Craighead County.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

Delta Specialty Contractors, LLC

City of Jonesboro

By:

John Phillips
Signature

John Phillips
Printed Name

President
Title



City of Jonesboro