

CONTRACT

THIS AGREEMENT Made and entered into as of the ____ day of _____, 20____, by and between _____, hereinafter called the "Contractor" and the _____, hereinafter called the "Owner".

WITNESSETH, that the Contractor and the Owner for the consideration stated herein agree as follows:

ARTICLE 1 - SCOPE OF WORK

The Contractor shall furnish all of the materials and perform all of the work necessary as shown on the drawings and described in the specifications titled, _____, prepared by the _____, acting as, and in these Contract Documents titled the "Engineer", and the Contractor shall do everything required by this agreement and the Contract Documents.

ARTICLE 2 - COMMENCEMENT AND COMPLETION OF WORK

The Contractor shall commence work on this Contract on a date to be specified in a written order of the City of Mandan, North Dakota, and shall fully complete all work required no later than _____, 20____.

Extension of time may be granted if the Contractor be delayed at any time in the progress of the work by any act or neglect of the Owner or his employees, or by any other Contractor employed by the Owner, or by changes ordered in the work, or by strikes, lockouts, fires, unusual delay in transportation, unavoidable casualties or any causes beyond the control of the Contractor, or by delay authorized by the Engineer, or by cause which the Engineer shall determine to justify the delay. Any such extension of time shall be extended for such reasonable time as the Engineer may determine, or as agreed upon by the Owner.

ARTICLE 3 - THE CONTRACT SUM

The Owner shall pay to the Contractor for the performance of this Contract according to the schedule of approximate quantities and the unit prices therefore as indicated in the facsimile copies of the accepted proposal attached hereto, the aggregate of which is \$ _____.

ARTICLE 4 - PAYMENTS

On or about the tenth day of each month ninety percent of the value for labor and materials incorporated into the work based upon the unit prices therefore as indicated in the accepted proposal, together with the invoiced cost of the materials to be incorporated into the work and suitably stored at the site of the work or local storage areas therefore, shall be paid to the Contractor as a Progress Payment. The Engineer shall prepare and submit to the Owner the necessary documentation for such Progress Payment.

When the monetary value of the work satisfactorily completed and accepted equals or exceeds fifty percent of the costs indicated in Article 3 herein, further retainage of estimated amounts shall discontinue.

Further, when ninety-five percent of the work is completed under the terms of these Contract Documents as measured by the progress payments therefor, ninety five percent of the amounts retained shall be paid by the Owner in such equal payments that will permit complete and full payment upon approval and acceptance of the work and materials subject to the warranties and similar assurances outlined in the Contract Documents.

Upon receipt of proper directives issued by the governing body of the Owner, the Fiscal agent for the Owner shall issue the necessary warrant for payment drawn from _____.

In the event that the Owner or any of his agents fails or neglects to issue a warrant as provided herein for a period of more than thirty days from the date of such estimate or completion date, together with any retainage properly payable, such an estimate shall draw interest from the date of estimate at the rate of six percent (6%) per annum until the issuance of a proper warrant therefore, such interest shall be computed and added to the face of said estimate, final payment or retainage by the fiscal agent for the Owner and shall be included in the warrant when drawn.

Final payment shall be made to the Contractor in the office of the Owner within thirty days after the final certificate of acceptance has been presented to the Owner by the Engineer.

ARTICLE 5 - SUSPENSION OF WORK

The Owner shall have the right to suspend the work under this Contract at any time because of improper construction, and the Owner may relet the Contract therefor, or he may order reconstruction of any portions improperly constructed, all in accordance with the provisions of the Contract Documents and of the Statutes of the State of North Dakota.

ARTICLE 6 - ADDITIONAL WORK

The Owner may from time to time during the operation of this contract order additional work of the same character to be performed complying with the same terms and conditions contained in the Contract Documents so long as the same shall not exceed twenty percent of the amount payable as estimated for the contract work indicated in Article 3 preceding.

ARTICLE 7 - GUARANTEE

The Contractor shall guarantee his work against defective material and faulty workmanship for a period of at least one year after the date of final acceptance. Such warranty shall be explicitly set forth in the Performance Bond furnished by the Contractor.

ARTICLE 8 - GENERAL LIABILITY

The Owner and his representatives shall be saved harmless from any general liability under the terms of the Contract or any of the work performed under this Contract, and the provisions pertaining to such liability as contained in the Contract Documents and State Statutes shall prevail.

ARTICLE 9 - CONTRACT DOCUMENTS

The Contract Documents shall consist of the following component parts:

1. Advertisement for bids.
2. Information for bidders.
3. Facsimile copy of accepted proposal.
4. Guaranty and required insurance.
5. Contract.
6. Performance bond.
7. General conditions.
8. Special conditions and detailed specifications.

This instrument, together with the documents hereinabove mentioned, form the Contract and they are as fully a part of the Contract as if hereto attached or herein repeated. In the event that any provision in any of the component parts of the Contract conflicts with any provision of any other component part, the provision in the component part first enumerated herein shall govern, except as otherwise specifically stated.

ARTICLE 10 - EXTENDED CONSTRUCTION TIME

The Contractor shall pay to the Owner sums equal to the Administrative costs, Engineering Supervisory and inspection costs, fiscal costs and such other costs directly related to the project arising from the construction that extends beyond the time allocated for commencement and completion of the work as indicated in Article 2 hereinabove to include any waiver or extensions of time that may have been granted. A construction day shall be determined as having been spent when the crews of the Contractor have spent five hours, or more, in any one particular day in the prosecution and execution of this Contract exclusive of machinery repair and maintenance time. The payments hereinabove shall be paid by the Contractor for costs of the items indicated as accruing to the project for each day extending beyond the time stipulated, together with waivers or extensions, for accomplishing and completing the work. This sum shall not be less than \$50.00 per day.

ARTICLE 11 - DEFECTIVE WORK

Failure to reject defective materials and faulty workmanship by the Engineer shall not release the Contractor from liability for any failure on his part to perform the work or furnish the materials in accordance with the Contract Documents.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed in two original counterparts as of the day and month and year first above written.

Countersigned:

Attest:

CITY OF MANDAN

James Neubauer
City Administrator

BY

Ken LaMont
President
Board of City Commissioners

(SEAL)