



CITY OF FARMINGTON
110 West Columbia
Farmington, Missouri 63640
573.756.1701

AGREEMENT BETWEEN CITY OF FARMINGTON AND CONTRACTOR FOR PUBLIC WORKS PROJECT(S)

THIS AGREEMENT is made and entered into by and between the CITY OF FARMINGTON, MISSOURI, a Third Class CITY, of the County of St. Francois, State of Missouri, Mailing Address: 110 West Columbia, Farmington, Missouri 63640, hereinafter referred to as the CITY, and _____, Mailing Address: _____, hereinafter referred to as the CONTRACTOR, based upon the bid for **2023 Excavation and Hauling** submitted to the CITY on March 7, 2023 and incorporated herein by reference.

1.00 DEFINITIONS

1.01 *Project.* The project shall be defined as providing supplies, machinery, equipment, tools, superintendence, labor, insurance, and other accessories and services necessary to provide excavation and hauling work in accordance with the conditions and Specifications as set forth in the CITY'S request for bids for the Project, and according to the proposal submitted by CONTRACTOR, dated _____, and attached hereto. The contract amount is as follows:

BID FORM

2023	Regular Time	Overtime	Proposed Equipment
Large Excavator, Bucket (Optional):	\$ _____	\$ _____ (per hour)	_____
Excavator, Bucket:	\$ _____	\$ _____ (per hour)	_____
Track Hoe, Rock Breaker:	\$ _____	\$ _____ (per hour)	_____
Highlift Bull Dozer:	\$ _____	\$ _____ (per hour)	_____
Skidsteer:	\$ _____	\$ _____ (per hour)	_____
Excavation Haul-off:	\$ _____	\$ _____ (per hour)	_____
Fill Delivered:	\$ _____	\$ _____ (per Load)	_____
Top Soil Delivered:	\$ _____	\$ _____ (per Load)	_____

Rock Delivery: \$ _____ \$ _____ (per Ton) _____

1.02 *Specifications.* The Specifications followed in completion of the work related to this contract shall be consistent with the plans and Specifications included in the request for bids, and all issued interpretations and addenda, and attached hereto.

1.03 *Working Days.* Working days shall be defined as weekdays, which are not Federal Holidays.

2.00 **GENERAL CONDITIONS.** The CONTRACTOR agrees to provide all labor and/or materials as set forth in the Specifications and to complete the Project within the time specified in Section 4.00. That in consideration of the CONTRACTOR's providing said labor and materials the CITY shall pay the CONTRACTOR per unit, progress payments, or lump sum as defined in the attached bid submittal. In the event there is a discrepancy between this document and the bid submittal, this document shall govern. The CONTRACTOR shall provide and pay for all materials, labor, tools, equipment, water, light, power, transportation, management and supervision, temporary construction of any nature, and all other services and facilities necessary to execute and complete the Project. Materials and equipment shall be so stored as to insure the preservation of their quality and use. Stored materials and equipment shall be located so as to facilitate prompt inspection. All materials used in completion of the Project shall be installed pursuant to acceptable industry standards, manufacturer's recommendations, and quality workmanship. All materials and equipment used in the completion of the project shall be subject to adequate inspection and testing in accordance with generally accepted standards. The CITY shall be responsible for the cost of all material testing required pursuant to this contract.

3.00 **PROGRESS PAYMENTS.** Payments shall be made as follows:

3.01 The CITY shall make progress payments on the 1st and 15th of each month based on Applications for Payment made by the CONTRACTOR.

3.02 Each Application shall be based on a percentage of the work completed or if the contract is for a unit price the number of units completed on the date of the submittal.

3.03 The CITY shall pay the CONTRACTOR for the portion of the Project substantially completed in any given pay period less five percent (5%) retainage.

3.04 The portion of the Project substantially completed shall be determined in the sole discretion of the CITY.

3.05 In the event the CONTRACTOR elects to submit a single request for payment upon completion of the work, the CITY will pay the full contract amount in a single lump sum payment within 20 (20) days.

- 4.00 COMMENCEMENT AND COMPLETION OF WORK. The CONTRACTOR shall commence work within thirty (30) days after formal notice to proceed by the CITY. All work shall be completed within 365 calendar days, or as extended by the CITY and shall be included as an addendum to this agreement. If the CONTRACTOR is delayed at any time during the Project due to adverse weather conditions not reasonably anticipated, unanticipated utilities, hazardous materials, rock excavation, or other conditions, the contract term may be extended as mutually agreed.
- 5.00 LIQUIDATED DAMAGES. Omitted.
- 6.00 LIABILITY INSURANCE. The CONTRACTOR shall be required to furnish Public Liability and Property Damage Insurance with coverage to name and protect the CITY and the CONTRACTOR from all claims for damages for personal injury, including accidental death, as well as claims for property damages, which may arise from work performed under this agreement, whether such claim be a result of actions by the CONTRACTOR or any sub-contractor performing work under this agreement. The insurance policy shall be not less than \$1,000,000 personal injury per occurrence and not less than \$1,000,000 aggregate property damage. A certificate of insurance shall be submitted upon execution of this agreement in the form provided by the insurance provider. In the event the insurance coverage required under this section is cancelled by the CONTRACTOR during the performance of the work under this agreement, the CITY may at its option employ another CONTRACTOR to complete the Project, and the CONTRACTOR shall indemnify and hold the CITY harmless from any and all damages it sustains as a result of the CONTRACTOR's failure to maintain insurance coverage.
- 7.00 WORKER'S COMPENSATION INSURANCE. The CONTRACTOR shall be required to provide proof of Worker's Compensation Insurance and maintain said insurance during the performance of the work prescribed in this agreement. The CONTRACTOR shall be further required to provide proof of Worker's Compensation Insurance for all sub-contractors performing work under this agreement. In the event the insurance coverage required under this section is cancelled by the CONTRACTOR during the performance of the work under this agreement, the CITY may at its option employ another CONTRACTOR to complete the Project, and the CONTRACTOR shall indemnify and hold the CITY harmless from any and all damages it sustains as a result of the CONTRACTOR's failure to maintain Worker's Compensation Insurance coverage.
- 8.00 COMPLIANCE WITH PREVAILING WAGE. The CONTRACTOR shall pay wages not less than the prevailing wage for the type of work performed under this agreement as determined by the Missouri Department of Labor and Industrial Relations, Division of Labor Standards. The CONTRACTOR further agrees to comply with Prevailing Wage Laws as prescribed in Section 290.290

RSMo, and to ensure compliance with the aforementioned statutes by all sub-contractors performing work under this agreement. The CONTRACTOR will pay the CITY as and for liquidated damages, one-hundred dollars (\$100.00) per day, or portion of day, if a worker is paid less than the prevailing rate for any work done under the contract by the CONTRACTOR or by any subcontractor.

- 9.00 PAYMENT AND PERFORMANCE BOND. The CONTRACTOR shall submit, upon execution of this agreement, a surety bond, or bonds, as security for faithful performance of the contract and for the payment of all firms or persons performing labor or furnishing materials for the work performed under the contract. The surety on such bond, or bonds, shall be a surety company satisfactory to the CITY.
- 10.00 QUALITY OF WORK. In the event that the CITY determines that the CONTRACTOR's work is not to Specifications, or the work cannot be reasonably completed by the CONTRACTOR during the period specified, the CITY may at its option provide the CONTRACTOR ten (10) days written notice to remedy said default. In the event that the CONTRACTOR has not rectified said default within said ten (10) days, the CITY may at its option terminate this agreement. In the event of said termination, the CITY may at its option employ another contractor to complete the Project, and the CONTRACTOR shall indemnify and hold the CITY harmless from any and all damages it sustains as a result of the CONTRACTOR's failure to perform.
- 11.00 UNAUTHORIZED ALIEN AFFIDAVIT AND E-VERIFY. As a condition for the award of any contract or grant in excess of five thousand dollars (\$5,000.00) by the state or by any political subdivision of the state to a business entity (contractor), the business entity shall, by sworn affidavit and provision of documentation, affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the contracted services. Every such business entity shall sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized illegal alien in connection with the contracted services, per RSMO 285.530. Any entity contracting with the state or any political subdivision of the state shall only be required to provide the affidavits required to the state and any political subdivision of the state with which it contracts, on an annual basis. Prior to the award of the bid, the selected contractor must complete and have notarized the attached "Affidavit of Work Authorization" and return it to the CITY.
- 12.00 HEALTH AND SAFETY OF EMPLOYEES. In accordance with RSMO 292.675 any contractor for any public body for purposes of construction of public works and any subcontractor to such contractor shall provide a ten-hour Occupational Safety and Health Administration (OSHA) construction safety program for their on-site employees which includes a course in construction safety and health approved by OSHA of a similar program which is at least as stringent as an approved OSHA program, unless such employees have previously completed

the required program. All employees who have not previously completed the program are required to complete the program within sixty days of beginning work on such construction Project. Any employee found on a work site subject to this section without documentation of the successful completion of the course required shall be afforded twenty days to produce such documentation before being subject to removal from the Project. The CONTRACTOR will forfeit a penalty to the CITY of \$2,500 plus an additional \$100 for each employee employed by the contractor or subcontractor, or each calendar day, or portion thereof, such employee is employed without the required training.

13.00 GUARANTEE. The CONTRACTOR hereby expressly guarantees the work performed under this agreement as to workmanship and conformance to the Specifications provided. Upon notification by the Owner, the CONTRACTOR shall make any and all necessary replacements at his own expense to the satisfaction of the CITY within ten (10) days, or within a time acceptable to the CITY. If the CONTRACTOR fails to proceed with such corrective action as specified by the CITY, the CITY may at its option employ another contractor to take such corrective action, and to charge the cost thereof to the CONTRACTOR.

14.00 HAZARDOUS MATERIALS. The CONTRACTOR hereby expressly guarantees that no asbestos or lead paint containing materials will be used in completion of this Project. The CONTRACTOR hereby expressly guarantees that all demolition material and construction debris will be disposed of in accordance with all Federal, State, or Local regulations.

15.00 ACCEPTANCE AND FINAL PAYMENT. When the work performed under this agreement has been fully completed in accordance with the Specifications provided a final inspection shall be made by the CITY and any defects arising out of said inspections shall be remedied by the CONTRACTOR. Retainage shall be paid by the CITY upon submittal by the CONTRACTOR of lien waivers, certified payrolls, and affidavit of compliance with prevailing wage laws. Final payment and acceptance of such payment by the CONTRACTOR shall release the CITY from all claims of any liabilities of the CONTRACTOR under this agreement, except that the CONTRACTOR shall not be released from liability for defects resulting from unacceptable workmanship or failure to follow Specifications, where said defects are not readily ascertainable by the CITY upon final inspection. The CITY shall make final payment upon the CONTRACTOR's submittal of lien waivers, certified payrolls, and affidavit of compliance with prevailing wage laws.

16.00 RECOVERY OF DAMAGES. In the event the CITY is required to file suit for damages as a result of breach of contract by the CONTRACTOR, then the CITY shall be entitled to collect reasonable attorney fees, costs of litigation, and Court costs from CONTRACTOR.

IN WITNESS WHEREOF WE HAVE SET OUR HANDS ON THIS THE

_____ DAY OF _____, 20____.

CITY OF FARMINGTON:

CONTRACTOR:

(Name and Title)

(Name and Title)

Date

Date

ATTACHMENTS: 1. Specifications
 2. Bid Proposal
 3. Prevailing Wage Order
 4. Payment and Performance Bond
 5. Certificate of Worker's Compensation Insurance
 6. Certificate of Liability and Property Damage Insurance
 7. Affidavit of Compliance (RSMo Section 285.530.2)

(ACKNOWLEDGEMENT FOR INDIVIDUAL)

STATE OF MISSOURI)
) SS.
COUNTY OF ST. FRANCOIS)

On this _____ day of _____, _____, before me personally appeared , _____, to me known to be the person(s) described in and who executed the foregoing instrument, and acknowledged that they executed the same as their free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Notary Public

My Commission Expires:

(ACKNOWLEDGEMENT FOR CORPORATION)

STATE OF MISSOURI)
) ss.
COUNTY OF ST. FRANCOIS)

On this _____ day of _____, _____, before me appeared _____, to me personally known, who, being by me duly sworn did say that he/she is the _____ of _____, _____, a Corporation of the State of Missouri, and that said instrument was signed in behalf of said Corporation and acknowledged to me that he/she executed said instrument to be the free act and deed of said Corporation for the purposes therein stated.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the county and state aforesaid, the day and year first above written.

Notary Public

My Commission Expires: