

SMALL CONSTRUCTION PROJECT CONTRACT

CONTRACT entered into the 2nd day of September, 2014 by and between the City of Shelby, hereinafter called the Owner and Martin and Sons Construction of Avoca, IA, hereinafter called the Contractor.

For the following Project: Broken Egg Building Rehabilitation Project for Shelby, Iowa.

Brief Scope of Work: Complete the rehabilitation of 417 East Street, the Broken Egg Building, in conformance with the requirements of the State of Iowa's Dangerous Building Program.

The Owner and Contractor agree as follows:

ARTICLE 1 PAYMENTS AND COMPENSATION TO THE CONTRACTOR

§ 1.1 Subject to additions and deductions provided by approved change orders, the Contract Sum to furnish all labor, equipment, materials and incidentals necessary for the construction of the work described in "Attachment A" shall be the net firm amount of \$107,750

§ 1.2 Contracts based on a not-to-exceed amount shall specify the hourly rates, unit prices or allowances in "Attachment B".

§ 1.3 Changes in the work to be performed must be approved in writing by Owner and Contractor prior to proceeding with the work.

§ 1.4 Payments are due and payable thirty (30) days from the date of receipt of the Contractor's invoice. Amounts due that are unpaid thirty (30) days after receipt of the invoice shall bear interest at the rate of seven percent (7%) per annum.

ARTICLE 2 TIME OF COMPLETION

§ 2.1 The work to be performed under this Contract shall be completed on or before the date noted here: December 1, 2014 or as otherwise agreed.

ARTICLE 3 CONTRACTOR'S RESPONSIBILITIES

§ 3.1 The Contractor shall acquire all permits applicable for the work not specifically identified as provided by the Owner. Costs for Contractor-provided permits shall be included in the Contract Sum identified in Section 1.1 above.

§ 3.2 The Contractor shall comply with all laws applicable to this work.

§ 3.3 The Contractor shall remain an independent agent during the duration of this Contract, shall not become an employee of the City, and assures that no City employee shall be compensated by or otherwise benefit from this Contract.

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 The Owner shall provide full information about the objectives, schedule, constraints and existing conditions of the project. The Owner has established a budget with reasonable contingencies that meets the project requirements.

ARTICLE 5 TERMINATION

§ 5.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 5.2 Upon receipt of written notice from the Owner of such termination for the Owner's convenience, the Contractor shall:

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

ARTICLE 6 MISCELLANEOUS PROVISIONS

§ 6.1 This Contract shall be governed by the laws of the State of Iowa.

§ 6.2 The Owner and Contractor, respectively, bind themselves, their partners, successors, assigns and legal representatives to this Contract. Neither party to this Contract shall assign the Contract as a whole without written consent of the other party, which consent the Owner may withhold without cause.

ARTICLE 7 INDEMNIFICATION

§ 7.1 The Contractor shall indemnify and hold harmless the Owner and its officers, agents and employees from and against any and all claims, liabilities and costs, including reasonable attorney's fees, for any or all injuries to persons or property, arising from the negligent acts or omissions of the Contractor, its employees, agents, officers or subcontractors in the performance of work under this Contract. The Contractor shall not be liable for claims arising out of the negligent acts or omissions of the Owner or for actions taken in reasonable reliance on written instructions of the Owner.

- .1 The Contractor shall notify the Owner promptly of all claims arising out of the performance of work under this Contract by the Contractor its employees or agents, officers or subcontractors.
- .2 This indemnity provision shall survive the termination of the Contract, completion of the project or the expiration of the term of the Contract.

ARTICLE 8 INSURANCE REQUIREMENTS

§ 8.1 Any insurance certificate shall name the Owner as certificate holder and as additional insured for general liability and automobile liability coverages. The submitted forms shall contain a provision that coverage afforded under the insurance policies will not be canceled or materially changed unless at least ten (10) days prior written notice by registered letter has been given to the Owner. The Owner does not warrant or represent that the insurance required herein constitutes an insurance portfolio which adequately addresses all risks faced by the Contractor. The Contractor is responsible for the existence, extent and adequacy of insurance prior to signing this Contract.

§ 8.2 The Contractor shall procure and maintain insurance for the duration of the Project and, if written on a claims made basis, shall maintain such insurance for the duration of time that the claims insured against may be brought within the applicable Iowa statute of repose. The Contractor shall ensure that all Subcontractors the Contractor engages or employs carry and maintain similar insurance in form and amount acceptable to the Owner. The insurance shall be of the types and limits set forth herein and such insurance as will protect the Contractor from claims which may result from the Contractor's execution of the Work, whether such execution be by the Contractor or by those employed by the Contractor or by those for whose acts they may be liable. The insurance coverage provided by the Contractor will be primary coverage. All required insurance coverages shall be placed with carriers authorized to conduct business in the State of Iowa.

§ 8.3 The Contractor shall have workers' compensation insurance for all employees on the Project site in accordance with the statutory workers' compensation law of the State of Iowa. Minimum acceptable limits for Employer's Liability are:

Bodily Injury by Accident.....\$100,000
Bodily Injury by Disease.....\$100,000 Each Employee
Bodily Injury by Disease.....\$500,000 Policy Limit

§ 8.4 The Contractor shall have general liability. This insurance shall cover bodily injury and property damage liability for all hazards of the Project including premise and operations, products and completed operations, contractual, and personal injury liabilities. Minimum acceptable limits are:

General aggregate limit\$1,000,000
Products and completed operations aggregate \$400,000
Each occurrence limit.....\$400,000
Personal injury aggregate\$400,000

§ 8.5 The Contractor shall have automobile liability insurance against claims for bodily injury, death or property damage resulting from the maintenance, ownership or use of all owned, non-owned and hired automobiles, trucks and trailers. Minimum acceptable limit is:

Any one accident or loss\$400,000

§ 8.6 The Owner shall procure and maintain Builder's Risk insurance naming the Owner, Contractor, and any Subcontractor as insureds as their interest may appear. Covered causes of loss form shall be all Risks of Direct Physical Loss, endorsed to include flood, earthquake, transit and sprinkler leakage where sprinkler coverage is applicable. Unless specifically authorized in writing by the Owner, the limit of insurance shall not be less than the initial contract amount and coverage shall apply during the entire contract period and until the work is accepted by the Owner.

ARTICLE 9 EQUAL EMPLOYMENT OPPORTUNITY

§ 9.1 The Contractor shall not discriminate against any employee or applicant for employment relating to this Contract because of race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation, unless related to a bona fide occupational qualification. The Contractor shall take affirmative action to ensure that applicants are employed and employees are treated during employment, without regard to their race, color, religion, sex, age, national origin, physical or mental disability, or sexual orientation. Such action shall include but not be limited to the following: employment, upgrading, demotions, or transfers; recruitment or recruitment advertising; layoffs or terminations; rates of pay or other forms of compensation; and selection for training including apprenticeship. The Contractor agrees to post in conspicuous places available to employees and applicants for employment notices setting forth the provisions of this nondiscrimination clause.

§ 9.2 The Contractor shall, in all solicitations or advertising for employees placed by or on behalf of the Contractor relating to this Contract, state that all qualified applicants shall receive consideration for employment without regard to race, color, religious creed, sex, national origin, ancestry, age, physical or mental disability, or sexual orientation.

§ 9.3 The Contractor shall send to each labor union or representative of the workers with which it has a collective bargaining agreement, or other agreement or understanding, whereby it is furnished with labor for the performance of this Contract a notice to be provided by the contracting agency, advising the said labor union or workers' representative of the Contractor's commitment under this section and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

§ 9.4 The Contractor shall comply with all aspects of the Americans with Disabilities Act (ADA) in employment and in the provision of service to include accessibility and reasonable accommodations for employees and clients.

§ 9.5 The Contractor shall cause the foregoing provisions to be inserted in any subcontract for any work covered by this Contract so that such provisions shall be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

ARTICLE 10 DISPUTE RESOLUTION

§ 10.1. In the event of a dispute between the parties which arises under this Contract and the dispute cannot be resolved through informal negotiation, the dispute shall be submitted to a neutral mediator jointly selected by the parties. Either party may file suit before or during mediation if the party in good faith deems it to be necessary to avoid losing the right to sue due to a statute of limitations. If suit is filed before good faith mediation efforts are completed, the party filing suit shall agree to stay all proceedings in the lawsuit pending completion of the mediation process, provided such stay is without prejudice.

§ 10.2. If the dispute is not resolved through mediation, the dispute shall be settled by arbitration. The arbitration shall be conducted before a panel of three (3) arbitrators. Each party shall select one arbitrator; the third arbitrator shall be appointed by the arbitrators selected by the parties. The decision of the arbitrators shall be final and binding upon all parties. The costs of the arbitration, including the arbitrators' fees shall be borne equally by the parties to the arbitration, unless the arbitrator orders otherwise. In any arbitration between the Owner and the Contractor, the Owner shall have the right to consolidate related claims between Owner and Architect.

ARTICLE 11 OTHER PROVISIONS Insert any additional provisions to this Contract below.

§11.1 *There are no other provisions.*

