

THE MUNICIPAL BUILDING AUTHORITY OF JUAB COUNTY

160 North Main Street – Room 212
Nephi, UT 84648

Phone: (435) 623-3408

CONSTRUCTION CONTRACT

CONTRACTOR:

Name

Mailing Address

City, State, Zip Code

Telephone Number

Fax Number

E-mail address

BID ACCEPTANCE DATE: _____

COMPLETION DATE: _____

CONTRACT DATE: _____

TOTAL CONTRACT BID: _____

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EXHIBIT A Attachment

ARTICLE 1 PARTIES

This agreement is between:

The Municipal Building Authority of Juab County
(Municipal Building Authority)
160 North Main Street
Nephi, Utah 84648
Telephone (435) 623-3407

AND

Contractor

Address

City, State, Zip Code

1.1 SHORT NAMES

The Municipal Building Authority of Juab County shall be referred to in this agreement as "Municipal Building Authority" and (insert name of contractor): _____ shall be referred to in this agreement as "Contractor."

ARTICLE 2 CONTRACT PRICE

2.1 SOLICITATION OF BID

The Municipal Building Authority of Juab County has solicited bids for the construction of the project described in The Municipal Building Authority of Juab County Request for Proposals and Contractor's Sealed Bid documents attached to this contract as "Exhibit A" and incorporated into this agreement by this reference. The specifications for these projects are set forth in this Contract and in Exhibit A.

2.2 BID AMOUNT

In response to Municipal Building Authority's solicitation for bids, Contractor proposed bids in the following amounts for the projects described in The Municipal Building Authority of Juab County Request for Proposal attached to this contract as Exhibit A:

Bid: \$ _____

The project described in Exhibit A will be completed by the following date:

Completion Date: _____

2.3 ACCEPTANCE OF BID

Contractor's bid for the projects described in this Contract and Exhibit A were accepted by unanimous vote of The Municipal Building Authority of Juab County Board on _____ . Therefore, the Contractor's bid price and completion time set out in

Article 2.2 are accepted and adopted by this Contract as the contract price for the projects described herein.

ARTICLE 3 SCOPE OF WORK

3.1 INTENT OF CONTRACT

The intent of this contract is to provide for the construction and completion in every detail of the work described. The Contractor shall furnish all labor, materials, equipment, tools, transportation and supplies required to complete the work in accordance with the specifications, requirements, and terms of the contract.

3.2 ALTERATION OF PLANS OR CHARACTER OF WORK

The Municipal Building Authority Board, reserves the right to make at any time during the progress of the work, such increases or decreases in quantities and such alterations in the details of construction, and the elimination of one or more items as may be found necessary or desirable. Such alterations shall not be considered as a waiver of nor release of the surety. The Contractor agrees to accept the work as altered the same as if it had been a part of the original contract. The Contractor shall proceed with work alterations when ordered in writing. **Financial increases to this contract must be approved by The Municipal Building Authority of Juab County Board before additional work is authorized and constructed.**

3.3 AUTHORITY OF THE MUNICIPAL BUILDING AUTHORITY BOARD

3.3.1 QUALITY, ACCEPTABILITY AND FULFILLMENT OF THE CONTRACT

The Municipal Building Authority Board will decide all questions which may arise as to the quality, quantity and acceptability of materials furnished and work performed and as to the rate of progress of work. They will also decide all questions which may arise as to the acceptable fulfillment of the contract on the part of the Contractor.

3.3.2 SUSPENSION OF WORK

The Municipal Building Authority Board will have the authority by written order to suspend work wholly or in part due to the failure of the Contractor to correct conditions unsafe for the workmen or general public; for failure to carry out provisions of the contract; for failure to carry out orders; for such periods as he may deem necessary due to unsuitable weather; for conditions considered unsuitable for the progress of the work; or for any other condition or reason deemed to be in the public interest. Written orders shall state the reason for suspension.

3.4 COMPLETION

Completion of the projects shall be determined by the Municipal Building Authority Board. In determining project completion, the Municipal Building Authority Board shall consider if the work required by this Contract has been completed sufficiently so that Municipal Building Authority can reasonably occupy or utilize the buildings, whether all

of the requirements of this Contract have been satisfied and if a final building inspection has taken place and the Building Inspector has given final approval to the buildings constructed pursuant to this Contract. The Municipal Building Authority Board shall not unreasonably withhold a determination of completion.

3.5 SUPERVISION OF WORK

It is understood that the Municipal Building Authority Board shall have full supervisory powers in determining the extent of the construction on the project. Compensation shall be based upon log books maintained by the project inspector as a percentage of work completed and payment terms described under General Provisions. It is further understood by the parties that all decisions concerning the extent and acceptability of the work and the quality of all materials shall rest solely with the Municipal Building Authority Board.

ARTICLE 4 GENERAL REQUIREMENTS

4.1 AMENDMENTS

No oral modifications or amendments to this Contract shall be effective, but this Contract may be modified or amended by a written agreement signed by the parties.

4.2 ASSIGNMENT

The parties to this Contract shall not assign this Contract, or any part hereof, without the prior written consent of the other party to this Contract. No assignment shall relieve the original parties from any liability hereunder.

4.3 BINDING AGREEMENT

This Contract shall be binding upon the heirs, successors, administrators, and assigns of each of the parties hereto.

4.4 BONDS

4.4.1 LEGAL REQUIREMENT

Before this contract is awarded by Municipal Building Authority the Contractor shall furnish Municipal Building Authority the following bonds as required in 63G-6-505 Utah Code Annotated, 1953, as amended:

4.4.1.1 PERFORMANCE BOND

A **performance bond** satisfactory to the Municipal Building Authority in an amount equal to 100% of the price specified in the contract which is executed by a surety company authorized to do business in this state or any other form satisfactory to the Municipal Building Authority conditioned upon the faithful performance of the Contract, solely for the protection of Municipal Building Authority to be held for one year from final acceptance by Municipal Building Authority of all work completed pursuant to this contract.

4.4.1.2 PAYMENT BOND

A **payment bond** satisfactory to the Municipal Building Authority in an amount equal to 100% of the price specified in the contract which is executed by a surety company authorized to do business in this state or any other form satisfactory to the Municipal Building Authority for the protection of each person supplying labor, service, equipment, or material for the performance of the work provided for in the Contract.

4.4.2 BOND REQUIREMENTS

Each bond shall be:

1. Binding upon the award of the contract to the person;
2. Executed by a surety company or companies duly authorized to do business in the state;
3. Payable to The Municipal Building Authority of Juab County, A Body Corporate and Politic; and
4. Filed in the office of The Municipal Building Authority of Juab County Secretary.

4.4.3 MUNICIPAL BUILDING AUTHORITY TO HOLD BOND

Municipal Building Authority will hold the Payment Bond for 90 days subsequent to the completion of the project.

4.5 BRAND NAME

The use of brand names is for the purpose of designating the standard of quality, performance, and characteristics desired and is not intended to limit or restrict competition. Equivalent brand substitutions must be pre-approved in writing by the Municipal Building Authority Board, prior to construction of the project.

4.6 CHANGE ORDERS

The parties understand that no change orders are anticipated for the projects described in this contract. Any change order must be approved in writing by the Municipal Building Authority Board. **Any financial increases to this contract must be approved by the Municipal Building Authority Board in writing before additional work is authorized and constructed.**

4.7 CONTRACT TIME

4.7.1 COMPLETION

The contract time for the completion of the project is on or before _____ days from the date this contract is signed, regardless of weather conditions and other related problems. If the Contractor fails to complete the work within the contract time, or

extension of time granted by the Municipal Building Authority in writing, then the Contractor shall be liable for all additional costs and damages incurred by Municipal Building Authority as a result of this failure of completion.

4.7.2 EXTENSION

If abnormal weather conditions, or other natural events totally beyond the control of the contractor require in the judgement of Municipal Building Authority an extension of the completion date, written authorization must be given by Municipal Building Authority for such specific extension.

4.8 COOPERATION

4.8.1 EFFICIENT CONTRACT PERFORMANCE

Municipal Building Authority intends to encourage cooperation with the Owner, Engineers, Supplier, Contractor and its subcontractors. The objectives are effective and efficient contract performance, intended to achieve completion within budget, on schedule, and in accordance with plans and specifications.

4.8.2 ALTERNATIVE DISPUTE RESOLUTION

Alternative dispute resolution (ADR) methodologies will be encouraged in place of the more formal dispute resolution procedures. ADR in this context is intended to be a voluntary, non-binding procedure available for use by the parties to this contract to resolve any dispute that may arise during performance.

4.9 EXTRA WORK

4.9.1 WHEN AUTHORIZED

Extra work, when authorized in writing by the Municipal Building Authority, is defined as additional work which is neither shown nor defined on the plans or specifications, but determined by the Municipal Building Authority to be necessary to the project. It is also defined as that additional effort necessary by reason of changing conditions. But the changed condition must be radical, unforeseen, and totally beyond the control of the Contractor. Adverse weather variations do not constitute a changed condition.

4.9.2 PAYMENT

Miscellaneous items normally associated with the major work items shown, but which may not be specifically shown, shall be furnished and installed by the contractor as if they had been shown, without additional cost to the Municipal Building Authority. After authorization of the Municipal Building Authority Board in writing, payment for authorized extra work will be made in a lump sum, agreed to prior to beginning the extra work, to cover all of the items authorized in writing by the Municipal Building Authority.

4.10 INDEMNIFICATION

The Contractor shall defend, indemnify, save and hold harmless Municipal Building Authority, its officers, employees, and agents, from and against any and all claims,

demands, causes of action, orders, decrees, judgements, losses, damages, and liabilities (including all costs and attorney's fees incurred in defending any claim, demand, or cause of action) occasioned by, growing out of, or arising or resulting from:

(a) Contractor's, its subcontractors, agents or employees performance of this contract or their provision of any services required herein to be performed by the Contractor or its subcontractors, agents or employees; and,

(b) Any act or omission of Contractor, or its subcontractors, agents or employees. The Contractor shall assume sole liability for any injuries or damages caused to a third party as a result of fulfillment of this contract.

4.11 INDEPENDENT CONTRACTOR

4.11.1 AFFIRMATION OF INDEPENDENCE

Contractor states and affirms that he is acting as an independent contractor, holding himself out to the general public as an independent contractor for other work or contracts as he sees fit; that he advertises his services as he sees fit to the general public, maintains his office or place of employment separate from Municipal Building Authority, and that this Contract is not exclusive of other agreements, contracts or opportunities.

4.11.2 INDEPENDENT RELATIONSHIP

The parties intend that an independent contractor relationship will be created by this Contract. Municipal Building Authority is interested only in the results to be achieved, and the conduct and control of the work will lie solely with Contractor. Contractor is not to be considered an agent or employee of Municipal Building Authority for any purpose, and the employees of Contractor are not entitled to any of the benefits that Municipal Building Authority provides for Municipal Building Authority's employees. It is understood that Municipal Building Authority does not agree to use Contractor exclusively. It is further understood that Contractor is free to contract for similar services to be performed for others while working under the provisions of this Contract with Municipal Building Authority.

4.11.3 NO AUTHORITY TO BIND MUNICIPAL BUILDING AUTHORITY

Both parties agree that Contractor shall be deemed an independent contractor in the performance of this Contract, and shall comply with all laws regarding unemployment insurance, disability insurance, and workers' compensation. As such, Contractor shall have no authorization, express or implied, to bind Municipal Building Authority to any agreement, settlement, liability, or understanding whatsoever, and agrees not to perform any acts as agent for Municipal Building Authority. The compensation provided for herein shall be the total compensation payable hereunder by Municipal Building Authority.

4.12 INSPECTION

Municipal Building Authority maintains the right to inspect the projects described in this Contract at any reasonable time during regular business hours.

4.13 INSURANCE

4.13.1 COMMERCIAL GENERAL LIABILITY INSURANCE

The Contractor agrees to carry appropriate Commercial General Liability insurance coverage. This coverage shall provide liability insurance to cover the activities of Contractor including Contractor's agents, employees and subcontractors, and for all equipment and vehicles, public or private, used in the performance of this contract. **This insurance shall name 'The Municipal Building Authority of Juab County, 160 North Main Street, Nephi, Utah 84648' as an additional insured.** The Contractor shall furnish to Municipal Building Authority, a certificate of liability coverage evidencing that the Contractor has adequate insurance coverage and naming Municipal Building Authority as an additional insured before beginning work on this project.

4.13.2 WORKERS COMPENSATION INSURANCE

The Contractor shall furnish, a Certificate of Worker's Compensation coverage to Municipal Building Authority evidencing that the Contractor has Workers Compensation Insurance for the Contractor, all subcontractors, and all employees of the Contractor and/or subcontractors before beginning work on this project.

4.14 INTERPRETATION OF AGREEMENT

The invalidity of any portion of this Agreement shall not prevent the remainder from being carried into effect. Whenever the context of any provision shall require it, the singular number shall be held to include the plural number, and vice versa, and the use of any gender shall include any other and all genders. The paragraph and section headings in this Agreement are for convenience only and do not constitute a part of the provisions hereof.

4.15 JURISDICTION

The parties agree that the Fourth District Court located in Juab County has jurisdiction over any legal action that may arise out of the performance of this Contract.

4.16 KEYS

If it becomes necessary for the Municipal Building Authority to issue the Contractor a key to Municipal Building Authority locks, final payment to the Contractor will be held until the key has been returned and documented. It is illegal to duplicate Municipal Building Authority keys.

4.17 LEGAL

The Contractor shall be responsible to provide all legal support for the project including but not limited to the preparation of contracts with subcontractors.

4.18 LICENSE

4.18.1 BUSINESS LICENSE

The Contractor shall have a current "Business License," issued by Juab County or the city in which the Contractor's business is located, and shall provide proof of such license prior to the commencement of said work.

4.18.2 CONTRACTOR'S LICENSE

The Contractor shall be a licensed "Contractor" through the State of Utah, to perform construction work in this State. He shall provide proof of such license prior to the commencement of said work.

4.19 NO PRESUMPTION

Should any provision of this Contract require judicial interpretation, the Court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against the party, by reason of the rule of construction that a document is to be construed more strictly against the person who himself or through his agents prepared the same, it being acknowledged that all parties have participated in the preparation of this Contract.

4.20 NOTICES

All notices, demands and other communications required or permitted to be given hereunder shall be in writing and shall be deemed to have been properly given if delivered by hand or by certified mail, return receipt requested, postage paid, to the parties at their addresses listed in Article 1, or at such other addresses as may be designated by notice given hereunder.

4.21 PAYMENT

The Contractor shall be paid the agreed contract price designated in this Contract and Exhibit A.

The Contractor shall provide progress billing invoices at least 4 business days prior to the 1st or 3rd Monday's of each month in order to be paid pursuant to the following. Billing Invoices shall include the Original Contract Amount, the progress billing amount requested, any applicable supporting documentation, including invoices, etc., previous payments to Contractor, and the remaining outstanding Contract balance at time of each billing. Contractor shall be paid by County within fifteen (15) business days of the 1st or 3rd Mondays of each month upon receipt and approval by Municipal Building Authority of progress billing invoices as referred to above. The Contractor shall be paid proportionately for the work completed in comparison to the agreed contract price designated in this Contract and Exhibit A.

4.21.1 CONTRACT PRICE

The contract price agreed upon by the parties for the project described in Exhibit A is

\$ _____.

4.22 PERMITS AND FEES

Municipal Building Authority shall secure and pay for the building permit and any other permits and governmental fees, licenses and inspections necessary for proper completion of the work and projects described in this Contract.

4.23 SAFETY REQUIREMENTS

4.23.1 COMPLIANCE WITH LAW

In order to protect the life and health of employees and the general public in the performance of this contract, the Contractor shall comply with the general safety orders covering Utah industries, issued by the Industrial Board of Utah and Occupational Safety and Health Act of 1970. Nothing in the contract shall relieve the Contractor of responsibility assigned in the specifications, State Industrial Board's requirements, or state and local laws and ordinances.

4.23.2 LIABILITY

The Contractor agrees to hold Municipal Building Authority free and harmless from any and all damages/claims that may occur during the construction operations of this contract. The Contractor shall assume sole liability for any injuries or damages caused to a third party as a result of fulfillment of this contract and construction operations.

4.24 UTAH LAW

This Agreement shall be interpreted pursuant to the law of the State of Utah.

4.25 UTILITIES

Care shall be taken to preserve and protect existing pole lines, signs, pipelines and private improvements from injury or damage during construction operations. The Contractor shall assume full responsibility for reimbursing the owners and utilities for any damage to their properties, utilities, or improvements, or interference with their service caused through his operations. **The Contractor has the responsibility for contacting "Blue Stakes"**.

4.26 WARRANTY

4.26.1 MATERIALS AND WORKMANSHIP

The Contractor warrants to Municipal Building Authority that all materials furnished under this Contract will be new unless otherwise specified, and that all work will be of good quality, free from faults and defects and in conformance with this Contract. All work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by Municipal Building Authority, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

4.26.2 DEFECTIVENESS

If, within one year after the Date of Substantial Completion of the work, or designated portion thereof, or within one year after acceptance by Municipal Building Authority, or with such longer period of time as may be prescribed by law or by the terms of any applicable special warranty required by the Contract, any of the work or materials are found to be defective or does not conform with the Contract, the Contractor shall correct it promptly after receipt of a written notice from Municipal Building Authority to do so unless Municipal Building Authority has previously given the Contractor a written acceptance of such defective or non-conforming condition. This obligation shall survive termination of the Contract.

ARTICLE 5 SPECIFICATIONS

All work performed by the Contractor shall meet or exceed all applicable specifications listed in the publication American Public Works Association - Manual of Standard Specifications, 1997 Edition, published by the Utah Chapter of the American Public Works Association, herein after referred to as the "Manual of Standard Specifications."

Municipal Building Authority reserves the right to increase or decrease the quantity of the work described herein or to eliminate from this contract any or all of the sites as may be found necessary or desirable. Such alterations shall not be considered as a waiver of nor release of the surety. The Contractor agrees to accept the work as altered the same as if it had been a part of the original contract. The Contractor shall proceed with any work alterations when ordered in writing. **Financial increases to this contract must be approved by the Municipal Building Authority Board in writing before additional work is authorized and constructed.**

5.1 PROJECT SPECIFICATIONS

The project specifications are outlined in The Municipal Building Authority of Juab County Request for Proposals and Contractor's Sealed Bid documents attached to this contract as Exhibit A.

ARTICLE 6 FINAL AGREEMENT

6.1 DESCRIPTION OF THE WORK

In consideration of the compensation set forth herein, Contractor agrees to provide all necessary materials and labor for items specified and listed on the terms and conditions contained in this Contract and in Exhibit A.

- a. Contractor agrees to complete all specified construction work as specified in this Contract and Exhibit A.
- b. Municipal Building Authority hereby authorizes Contractor to proceed with the work as specified herein upon the receipt of required bonds and certificates of insurance.

6.2 COMPENSATION

In exchange for services referenced above, and on the terms and conditions stated herein and in Exhibit A, Municipal Building Authority will pay Contractor in accordance with Article 2 of this Contract and also consistent with Contractor's bid which is attached hereto as Exhibit A.

6.3 ENTIRE AGREEMENT

This Contract shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this Contract shall not be binding upon either party except to the extent incorporated in this Contract.

ARTICLE 7 SIGNATURES

IN WITNESS WHEREOF the parties have caused this Contract to be duly executed on this the _____ day of _____, 20_____.

ATTEST:

Rick L. Carlton,
President of The Municipal Building
Authority of Juab County Board

Alaina Lofgren,
The Municipal Building Authority of Juab
County Secretary

Contractor Signature

Printed Name of Contractor
Authorized Signer

EXHIBIT A

**THE MUNICIPAL BUILDING AUTHORITY OF JUAB COUNTY
REQUEST FOR PROPOSALS AND CONTRACTOR'S SEALED BID**