

CONTRACT

THIS CONTRACT made and entered into this 23rd day of February, 2016, by and between Premier Fence & Gates, L.L.C., as Party of the First Part, hereinafter designated as the CONTRACTOR, and the City of Norman, a municipal corporation, hereinafter designated as the CITY, Party of the Second Part.

WITNESSETH

WHEREAS, the CITY has caused to be prepared in accordance with law, specifications, and other bidding documents for the work hereinafter described and has approved and adopted all of said bidding documents, and has caused Notice to Bidders to be given and advertised as required by law, and has received sealed proposals for the furnishing of all labor and materials for the following project:

GATE REPLACEMENT PROJECT FOR THE NORTH BASE FACILITIES

as outlined and set out in the bidding documents and in accordance with the terms and provisions of said CONTRACT; and,

WHEREAS, the CONTRACTOR in response to said Notice to Bidders, has submitted to the CITY on the manner and at the time specified, a sealed proposal in accordance with the terms of this Contract; and,

WHEREAS, the CITY, in the manner provided by law, has publicly opened, examined, and canvassed the proposals submitted and has determined and declared the above-named CONTRACTOR to be the lowest and best Bidder on the above-prepared project, and has duly awarded this CONTRACT to said CONTRACTOR, for the sum named in the proposal, to wit: Thirty-seven thousand nine hundred forty Dollars (\$37,940.00); The CONTRACTOR'S proposal is hereby made a part of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual agreements, and covenants herein contained, the parties to this CONTRACT have agreed, and hereby agree, as follows:

- 1) The CONTRACTOR shall, in a good and first-class, workman-like manner at his own cost and expense, furnish all labor, materials, tools, and equipment required to perform and complete said work in strict accordance with this CONTRACT and the following CONTRACT Documents: The Bid Notice published in the Norman Transcript, the Notice to Bidders, Instruction to Bidders, the Contractor's Bid or Proposal, the Construction Drawings, Specifications, Provisions, and Bonds thereto, all of which documents are on file in the Office of the Purchasing Agent of the City of Norman, and are made a part of this CONTRACT as fully as if the same were set out at length.

- 2) The CITY shall make payments minus a retainage of 20 percent as stipulated in the contract documents to the CONTRACTOR in the following manner: On or about the first day of each month, the City of Normans Project Manager and the Contractor will put together a "PENCIL COPY" of the progress on the project's, will make accurate estimates of the value, based on CONTRACT prices, or work done, and materials incorporated in the work and of materials suitably stored at the site during the preceding calendar month. The CONTRACTOR shall furnish to the project manager, or other appropriate person, such detailed information as he may request to aid him as a guide in the preparation of the monthly estimates. The pencil copy document shall represent the full and complete payment request by the contractor for the previous 30-day period. If both parties agree to the Dollar and percent complete shown in the pencil copy document an official invoice less retainage will be submitted to the City of Norman for payment to the Contractor. This invoice will be paid within 30 days less retainage. The last invoice from the Contractor will be for the release of Retainage for these two projects. Retainage will equal 20 percent of the total contract value including all change orders and Alternate bid dollar amounts.

Materials and/or services purchased by CONTRACTOR in connection with the City project shall be subject to the payment of City sales tax. The Contractor will be appointed to be an agent of the City by City Council resolution, thereby exempting material purchases for the project from the payment of City sales tax, CONTRACTOR shall certify, in writing, on the copy of the invoice or sales ticket to be retained by said CONTRACTOR that the purchases are made for and on behalf of the City in accordance with 68 O.S. 1356, paragraph 10.

Each monthly estimate for payment must contain or have attached an affidavit in accordance with the Constitution of the State of Oklahoma, Title 74, Section 3109-3110, and Title 62, Section 310.09. This document is included in this package for review.

On completion of the work, but prior to the acceptance thereof by the CITY, it shall be the duty of the project manager, or other appropriate person, to determine that said work has been completely and fully performed in accordance with said CONTRACT Documents; and upon making such determinations said official shall make his final certificate to the CITY.

The CONTRACTOR shall furnish proof that all claims and obligations incurred by him in connection with the performance of said work have been fully paid and settled; said information shall be in the form of an affidavit, which shall bear the approval of the surety on the CONTRACT Bonds for payment of the final estimate to the CONTRACTOR; thereupon, the final estimate (including retainage) will be approved and paid.

- 3) It is further agreed that the CONTRACTOR will commence said work within 10 days following receipt of a NOTICE-TO-PROCEED, and prosecute the same vigorously and continuously, and complete the same 10 calendar days following receipt of said NOTICE-TO-PROCEED.

- 4) That the CITY shall pay the CONTRACTOR for the work performed as follows:
- a. Payment application shall be submitted every thirty days. After approval of payment application, the invoice will be processed by the City for payment within thirty days less retainage.
 - b. Construction items specified in the Contractors submittals will be audited to make sure all quantities and part numbers match what was submitted and specified.

Should any defective work or materials be discovered or should a reasonable doubt arise as to the quality of any work completed, there will be deducted from the next estimate an amount equal to the value of the defective or questionable work and shall not be paid until the defects or differences are remedied.

- 5) That the CONTRACTOR will not undertake to furnish any materials or to perform any work not specifically authorized under the terms of this Agreement unless additional materials or work are authorized by written Change Order, executed by the CITY; and that in the event any additional work is provided by the CONTRACTOR without such authorization, the CONTRACTOR shall not be entitled to any compensation therefore whatsoever.
- 6) That if any additional work is performed or additional materials provided by the CONTRACTOR upon authorization by the CITY, the CONTRACTOR shall be compensated as agreed to by both parties in the execution of the Change Order.
- 7) That the CONTRACTOR shall perform the work and provide the materials strictly in accordance with the specifications as to quality and kind and all work and materials shall be subject to rejection by the CITY through its authorized representatives for failure to meet such requirements, and in the event of such rejection, the CONTRACTOR shall replace the work and materials without compensation therefor by the CITY.
- 8) The CONTRACTOR shall complete the work in accordance with the terms of this Agreement. The CONTRACTOR further agrees to pay as liquidated damages as stipulated in the contract document General Conditions for each calendar day thereafter.
- 9) The CONTRACTOR shall furnish surety bonds and certificate of insurance as specified herein which bonds and insurance must be approved by the CITY prior to issuance of the Work Order and commencement of work on the project.
- 10) IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed, in three (3) duplicate originals, the day and year first above written.

To that end, no provision of this CONTRACT or of any such aforementioned document shall be interpreted or given legal effect to create an obligation on the part of the CITY to third persons, including, by way of illustration but not exclusion, sureties upon performance bonds, payment bonds or other bonds, assignees of the CONTRACTOR, subcontractors, and persons performing labor, furnishing material or in any other way contributing to or assisting in the performance of the obligations of the CONTRACTOR; nor shall any such provisions be interpreted or given legal effect to afford a defense against any obligation owed or assumed by such third person to the CITY or in any way to restrict the freedom of the CITY to exercise full discretion in its dealing with the Contractor.

12) The sworn, notarized statement below must be signed and notarized before this Contract will become effective.

STATE OF Oklahoma
COUNTY OF Logan

Kara Barn, of lawful age, being first duly sworn, on oath says that (s)he is the agent authorized by CONTRACTOR to submit the above CONTRACT to the CITY. Affiant further states that CONTRACTOR has not paid, given or donated or agreed to pay, give, or donate to any officer or employee of the CITY any money or other thing of value, either directly or indirectly, in the procuring of the CONTRACT.

Kara Barn

Submitted and sworn to before me this 29 day of Jan, 20 16

CHASE EDSON
Notary Public

My Commission Expires:

9-18-16



IN WITNESS WHEREOF, the said parties of the First and Second Part have hereunto set their hands and seals respectively the 29 day of January, 2016, and the ____ day of _____, 20____.

(Corporate Seal) (where applicable)

W. B. B.
Principal

ATTEST:

Signed: Kara B.

Authorized Representative
Manager
Title

Corporate Secretary (where applicable)

Address:

3105 Glenn Drive
Edmond, OK 73034

Telephone:

405-202-3237

CITY OF NORMAN

Approved as to form and legality this ____ day of _____, 20____.

City Attorney

Approved by the City Council of the City of Norman this ____ day of _____, 20____.

ATTEST:

City Clerk

Mayor

Contract No. K-1516-117
Page 5 of 5