

North Dakota Income Tax Clearance or Account Number \_\_\_\_\_

Expiration Date of Certification \_\_\_\_\_

## A G R E E M E N T

THIS AGREEMENT, made and entered into this «    » day of «    », 2014, by and between the City of Watford City, a municipal corporation, hereinafter called the "CITY," and «company», with its office at «city», North Dakota, hereinafter called the "CONTRACTOR."

The parties hereto, in consideration of the mutual agreement contained, mutually undertake, promise, and agree for themselves, their respective representatives, successors, and assigns, as follows:

### ARTICLE I

The Contractor shall furnish the materials and perform the work for «type of improvement», for the City of Watford City, McKenzie County, North Dakota, in strict accord with the agreement as herein defined.

### ARTICLE II

The following shall be deemed a part of this agreement:

1. The proposal for bids, instructions to bidders, and requirements for bidders;
2. The bid of the Contractor;
3. The Agreement;
4. The general provisions;
5. The specifications;
6. The contract drawings;
7. The bid bond, performance, and payment bonds and maintenance bond, if any;
8. Certificate of Insurance;
9. All addenda issued by the engineers prior to receipt of bids;
10. Notice of award;
11. Resolution of City awarding the bid;
12. All provisions required by law to be inserted in this contract whether actually inserted or not.

All of the above taken as a whole shall constitute the agreement documents.

### ARTICLE III

The City agrees to pay the Contractor for the performance of this Agreement according to the schedule of approximate quantities, the aggregate of which is estimated to be approximately \$«amount». Payments are to be made as per specifications upon

presentation of the proper certification of the Engineer or his representative and by the terms of this agreement. (Please see attachment.)

#### ARTICLE IV

All provisions of the contract relating to time of performance and completion of the work are of the essence of this contract. Accordingly the Contractor shall begin work on a date to be specified in a written order from the Board of City Commissioners and shall fully and entirely perform this contract, and all work incidental thereto; and all work completed no later than «date». All intermediate completion dates specified in the proposal shall also be adhered to.

#### ARTICLE V

During the performance of this contract, the Contractor agrees as follows:

- (1) The Contractor will not discriminate against any applicant for employment because of race, creed, color, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated fairly during employment, without regard to their race, creed, color, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading demotion or transfer; recruitment or recruitment compensation; and selection for training including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.
- (2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, or national origin.
- (3) The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractors' commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (4) The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies involved as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulations, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The Contractor will include the provisions of Paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the contracting agency may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the contracting agency, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

## ARTICLE VI

During the performance and up to the date of final acceptance, the Contractor shall be under an absolute obligation to protect any damage, loss or injury; and, in the event of such damage, loss or injury, he shall promptly replace or repair such work, whichever the (Engineer) shall determine to be preferable. The obligation to deliver finished work in strict accordance with the contract prior to final acceptance shall be absolute and shall not be affected by the (Engineer's) approval of or failure to prohibit means and methods of construction used by the Contractor.

The Contractor shall be responsible for maintenance and operation of all constructed facilities until final acceptance unless otherwise noted in specifications, notes, or special provisions. This includes locating of contractor constructed underground facilities.

The Contractor must take all reasonable precautions to protect the persons and property of others on or adjacent to the site from damage, loss, or injury resulting from his operations under this contract.

Within three days after notice to him of the happening of any such loss, damage, or injury, the Contractor shall make a full and complete report thereof in writing to the Engineer.

If the persons or property of others on or adjacent to the site sustain loss, damage or injury resulting directly or indirectly from the work of the Contractor, or his subcontractors, in their performance of this contract, or from his or their failure to comply with any of the provisions of this contract or of law, the Contractor shall indemnify and hold the City harmless from any and all claims and judgments for

damage and from costs and expenses to which the City may be subjected or which it may suffer or incur by reason thereof.

The Contractor agrees to indemnify and save harmless the City of Watford City, its appointed and elective officers and employees, from and against all loss or expense, including attorney's fees and costs by reason of liability imposed by law upon the City, its elected or appointed officials or employees for damages because of bodily injury including death at any time resulting therefrom sustained by any person or persons and on account of damage to property including loss of use thereof, arising out of or in consequence of the performance of this work, whether such injuries to persons or damage to property is due to the negligence of the Contractor, his agents or employees, his subcontractors, their employees, City of Watford City, its appointed or elected officers, employees, or their agents, except only such injury or damage as shall have been occasioned by sole negligence of the City, its appointed or elected officials or employees.

The City may suspend or terminate the Agreement, in whole or in part, and suspend work at any time, re-let work to be completed, or order the reconstruction of any part or all of the work improperly done for improper construction or non-compliance with the terms of the agreement. The decision of the City upon any questions connected with the execution of this Agreement or any failure or delay in the prosecution of the work by the Contractor shall be final and conclusive.

Whenever the City determines to suspend or terminate any of the provisions of the Agreement or to suspend work, re-let work, or order the reconstruction of any part or all of the work, the City shall promptly notify the Contractor in writing of the determination and the reasons for the action, together with the effective date.

The Contractor shall give preference, pursuant to North Dakota Century Code Subsection 43-07-20, to the employment of bona fide North Dakota residents with preference given first to honorably discharged disabled veterans of the armed forces of the United States, who are deemed to be qualified in the performance of said work. Such preference shall not apply to engineering, superintendence, management, or office or clerical work. Contracts which involve federal aid funds and where a preference or discrimination would be contrary to federal law or regulations shall be exempt from the requirements of this paragraph.

The Contractor, in employing and maintaining labor, shall do so in conformity with state and federal law and this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be executed as of the date and year first above written.

CITY OF WATFORD CITY  
A Municipal Corporation

(SEAL)

\_\_\_\_\_  
President, Board of City Commissioners

Attest: \_\_\_\_\_  
City Administrator

\_\_\_\_\_  
Date Signed

\* \* \* \* \*

«COMPANY NAME»

(SEAL)

\_\_\_\_\_  
TITLE:

Attest: \_\_\_\_\_  
TITLE:

\_\_\_\_\_  
Date Signed