

CONTRACT FOR LOCAL IMPROVEMENT

- I. This agreement made this _____ day of _____, 2016, between the city of Chisholm, County of St. Louis, State of Minnesota, which city is municipal corporation and is hereafter referred to as the city, and _____ of _____ hereinafter called the contractor, witnesseth;
- II. The contractor, for and in consideration of the payment or payments herein specified and by the city to be made, hereby covenants and agrees to furnish all materials, all necessary tools and equipment, and to do and perform all of the work and labor necessary in the construction of the _____ all in strict conformity with the plans and specifications prepared therefor, and filed in the office of the city clerk of the city. Said plans are hereby referred to and made a part of this contract as fully and to the same extent as if herein set forth in detail.
- III. The contractor also agrees that all the work and labor shall be done in the best and most diligent manner and that all materials and labor shall be in entire and strict conformity in every respect with the said specifications and plans and shall be subject to the inspection and approval of the engineer designated by the proper authorities of the city for the supervision of the work, and in case any of said material or labor shall be rejected by the engineer as defective or unsuitable, then the materials shall be removed and replaced with other approved materials and the labor shall be done anew to the satisfaction and approval of the engineer at the cost and expense of the contractor.
- IV. The contractor further agrees to make good, replace, and renew at the contractor's own cost and expense any loss or damage to the construction work and improvement project occurring during the construction thereof or prior to the final delivery to and acceptance thereof of the city, by reason of fire, tornado, theft, or any cause whatsoever, and to be wholly responsible for the construction, completion and delivery of the construction work and improvement project in its entirety for the final acceptance by the city; and any payment or payments made to the contractor hereunder, shall not be construed as operating to relieve the contractor from responsibility for the construction from responsibility for the construction and delivery of the construction work and improvement project as herein provided and agreed.
- V. The contractor agrees to commence the work herein provided for, at the earliest practicable date, and in any event not later than _____, 2016, and to prosecute the same diligently and without delay and to have the work entirely completed in every respect to the satisfaction and approval of the engineer, aforesaid, on or before _____, 2016. In case of the failure on the part of the contractor, for any reason except with the written consent of the council of the city, to complete the work on or before the date aforesaid, the city shall have the right to deduct from any money due or which may become due to the contractor, the amount of _____ dollars (\$ _____) per day for each and every day elapsing between the time stipulated for the completion and the actual date of completion, in accordance with the terms thereof; or if no moneys shall be due the contractor, the city shall have the right to recover such sum; such deduction to be made or such sum to be recovered not as a penalty, but as liquidated damages, and in addition to such liquidated damages, the contractor agrees to pay all costs of local superintendence of the work during such delay. The contractor agrees to notify the council of the municipality in writing of any and all causes of delay of such work or any part thereof, within 24 hours after such cause of delay shall

arise, and in case of the failure of the contractor to perform this contract and complete the work at the time hereinafter specified, the city may immediately, or at any time thereafter, proceed to complete the work at the cost and expense of the contractor. Upon receipt of written notice from the contractor of the existence of causes over which the contractor has no control and which must delay the completion of work, the council may at its discretion, extend the date hereinbefore specified for the completion of the work and in such case the contractor shall become liable for such liquidated damages for failure to perform and for all costs of local superintendence of the work during any delay after the time is so extended.

- VI. No claim for extra work done or materials furnished by the contractor will be made by the contractor or allowed by the city, nor shall the contractor do any work or furnish any materials not covered by the plans and specification of this contract, unless such work or materials is ordered in writing by the council. Any such work or materials which may be done or furnished, by the contractor without such written order first being given, shall be done at the contractor's own risk and expense. When any extra work or materials is ordered by the council to be done or furnished, the contractor shall furnish such materials and do such work for the actual cost thereof plus ten percent; and when any alteration of plans is ordered by the council of the city, the contractor agrees to perform the work as altered and if such alteration shall reduce the cost of doing such work, the actual amount of such reduction in cost shall be deducted from the contract price for the work.
- VII. The contractor further agrees to pay all laborers employed, and all subcontractors furnishing material to the contractor in and about the performance of this contract, and for all labor and material by them so performed and furnished, but in case the contractor shall fail so to pay and to satisfy every and all claims and demands for labor and materials as aforesaid, the city may apply the monies due and coming to the contractor under this contract toward paying and satisfying such claims and demands, and the city is herewith given the right to apply monies due and coming to the contractor hereunder towards paying any indebtedness or claim heretofore accrued or which may hereafter come due to the city from the contractor or any account whatsoever, and the amount of such payments shall be charged against the balance due to the contractor hereunder; provided that nothing herein contained nor any variation from the amounts of the installments or from the manner and times of their payment shall be construed as impairing the right of the city or of those to whose benefit the bond herein agreed upon shall insure, to hold the contractor or surety liable on the bond for any breach of the conditions or the same nor as imposing upon the city any obligation to laborers, materialmen, contractors, or sureties to pay or to retain for their benefit any monies coming to the contractor hereunder.
- VIII. The contractor agrees that in the hiring of common or skilled labor for the performance of any work under this contract or any such subcontract hereunder, no contractor, material supplier, or vendor, shall, by reason of race, creed, color, sex or national origin, discriminate against any person or persons who are citizens of the United States and who are qualified and available to perform the work to which such employment relates; that neither he nor any subcontractor, material supplier, or vendor, shall in any manner discriminate against, or intimidate, or prevent the employment of any such person or persons from the performance of work under this contract or any subcontract hereunder on account of race, creed, color, sex or national origin; that any violation of this paragraph shall be a misdemeanor; and that this contract may be canceled or terminated by the city and all money due, or to become due hereunder, may be forfeited, for a second or any subsequent violation of the terms or conditions of this contract.

- IX. The contractor agrees to indemnify the city and hold it harmless from and against any and all claims, suits, and actions against, and all loss, damage, costs, or expense to the city occasioned by or arising from any infringement or claim of infringement of any letters patent, or patent rights upon or covering any patented article or articles furnished or installed by the contractor under this contract for the city, of from or by reason of the use by the city of any patented article or articles furnished or installed by the contractor for the city under this contract.
- X. The contractor guarantees and agrees to maintain the stability of all work and materials done, furnished, and installed under this contract for the period of one year after the date of final payment hereunder, and does hereby make and agree to perform fully all other guarantees as set forth in the specifications hereinbefore referred to and made a part hereof, and to secure the performance of the guarantee and of the obligation of the contractor thereof, the contractor agrees to furnish a surety bond running to the city of such reasonable sum as the council may require, executed by a surety company authorized to do business in this state, the surety bond to be furnished before the final payment hereunder is made to the contractor.
- XI. The contractor agrees to hold the city harmless from all damages and claims for damages that may arise by reason of any negligence or violation of the law on the part of the contractor, contractor's agents or employees, while engaged in the performance of this contract and agrees to take all precautions necessary to protect the public against injury, and to keep danger signals out at night and at such other times and such places as public safety may require. In addition, contractor agrees to keep in force statutory workers' compensation insurance. Additionally, he shall maintain liability coverage for all work covered under the contract naming the city as an additional insured in at least the amount of _____ per claimant and _____ for each incident. Contractor further agrees to make, execute and deliver to the city separate performance and payment bonds executed by a surety company authorized to do business in this state in the sum of _____ (insert amount of bond which must equal the contract price) (\$ _____) for the use of the city and all persons doing work or furnishing skill, tools, machinery, materials, or insurance premiums under or for the purpose of this contract, to secure the faithful performance of this contract by the contractor and to be conditioned as required by Minn. Stat. §§ 574.26 to 574.32.
- XII. In consideration of the covenants and agreements stated above the city agrees to pay the contractor the sum mentioned in the proposal or bid of the contractor, which is attached hereto and made a part of this contract as fully and to the same extent as if herein set forth in full. If the contractor properly performs the work, the council shall, from month to month before completion of the work, pay contractor 95 percent of the amount already earned under the contract, upon the estimate of the engineer or other competent person selected by the council. When the work is 95 percent or more completed, upon the recommendation of the engineer, such portions of the retained price shall be released as the council determines need not be retained to protect the interest of the city in the satisfactory completion of the contract. The balance shall be retained by the city until the final performance and completion of this contract by the contractor to the satisfaction, approval, and acceptance of the city council including provision by the contractor of Minn. Dept. of Revenue Form IC-134 or other authorized proof of the contractor's compliance with applicable state laws. Failure to pay any amount due and payable under the terms of this contract within 30 days of a monthly estimate or within 90 days after the final estimate of the amount earned shall obligate the city to pay to the contractor

simple interest on the past due amount at an annual rate equal to the monthly index of long-term United States Government bond yields for the month prior to the month in which this obligation is incurred, plus an additional one percent per annum. Interest shall not be payable with respect to any amount which the city may legally withhold as a result of breach of contract or other contractual claim or if the delay is caused by the contractor. All contractor bonds shall be furnished by the contractor in a form and with a surety satisfactory to the city council.

- XIII. It is agreed and understood by the parties hereto that the use of said work and improvement project at any time by the city for any purposes shall not be construed to be or operate as an acceptance by the city of the work to be done by the contractor under this contract.
- XIV. Nothing in this agreement shall be construed to waive any immunities or limitations to which the city is entitled under Minn. Stat. Chapter 466 or otherwise.

IN WITNESS WHEREOF, the parties have caused this agreement to be signed in their behalf by the proper officers thereunto duly authorized and their corporate seal to be affixed, the day and year first above written.

In the presence of

_____	City of Chisholm
_____	By _____
	Mayor
Witnesses	_____
_____	Clerk
_____	_____
	(Signature of Contractor)

	(Signature of agent or officer acting for contractor)