

(SAMPLE)

CONSTRUCTION CONTRACT

This Agreement made this _____ day of _____, 20____, by and between the **CITY OF CENTERVILLE**, an Ohio municipal corporation, 100 West Spring Valley Road, Centerville, Ohio 45458-3759 ("Owner") and COMPANY NAME; COMPANY ADDRESS ("Contractor").

WITNESSETH:

WHEREAS, pursuant to the requirements of Centerville Municipal Code, bids for the construction of the City of Centerville, PROJECT NAME ("Project") were solicited through the duly advertised bidding process; and

WHEREAS, Contractor was found to be the lowest and best bidder by the Owner; and

WHEREAS, the parties now wish to enter into a contract for the construction of said Project.

NOW, THEREFORE, in consideration of the foregoing recitations and the benefits to them mutually accruing, the parties agree as follows:

SECTION 1. EFFECTIVE DATE.

This Agreement shall be effective on the date the Notice to Proceed is issued by the Owner.

SECTION 2. CONTRACT DOCUMENTS.

The following documents pertaining to the above-mentioned project shall be considered to be part of this Agreement and are hereby incorporated herein: the Legal Notice, Instructions to Bidders, Conditions of the Contract (General, Supplementary and Other Conditions), Drawings, Specifications, addenda issued prior to execution of this Construction Contract, any other documents listed in this Agreement and any modifications issued after execution. The Contract Documents represent the entire agreement between the parties hereto and supersede any prior negotiations, representations, or agreements, either written or oral.

SECTION 3. CONSTRUCTION WORK.

The Contractor shall undertake and execute all necessary work described in the Contract Documents and to complete same within the time stipulated therein.

SECTION 4. CONTRACT AMOUNT.

At the times hereinafter called for, Owner shall pay the Contractor for the Contractor's performance under this Agreement the total contract amount of \$_____ subject to any change orders, additions and deductions as provided in the Contract Documents.

SECTION 5. SCHEDULE OF PAYMENT.

If satisfactory progress is being made, the Contractor will receive monthly payments of the amount of value of work and materials in place. The monthly payments shall be based upon certification by the Owner's City Engineer and said payment may be approximate only in which event all partial estimates and payments shall be subject to correction in the final estimate and payment. Ninety-four percent (94%) of the value so determined, less any previous payments made, will be paid to the Contractor through the completion of the work at which time there shall be no further retainage. All payments and all retainage shall be made in accordance with the provisions of Chapter 153, Ohio Revised Code.

No estimate or payment will be paid until the Contractor has presented to the Owner's City Engineer certificates from the Industrial Commission of Ohio that the Contractor has complied with every condition of Sections 4123.01 and 4123.94 of the Ohio Revised Code and, further, that Contractor has fully complied with the provisions of Chapter 1311, Ohio Revised Code with respect to liens on public funds.

The Contractor shall submit requests for partial payments to the Owner's City Engineer on a monthly basis on a schedule to be agreed upon at the preconstruction conference.

Should any defective work or material or acceptable work that has been damaged by the Contractor's operations be discovered previous to the final acceptance as to the integrity of any part of the completed work, the estimate and payment for such defective or questioned work shall not be allowed until the defect has been remedied and cause for doubt removed.

It is mutually agreed by and between the parties hereto that because of the short-term duration of the contract, no escrow account will be established as is required pursuant to Sections 153.13, 153.14 and 153.63 of the Ohio Revised Code nor shall any interest be paid on any retainage.

SECTION 6. FINAL PAYMENT.

Final payment, constituting the entire unpaid balance of the contract amount, shall be made by the Owner to the Contractor (including any disbursements from the escrow account provided pursuant to Chapter 153, Ohio Revised Code) when (1) the contract has been fully performed by the Contractor except for Contractor's responsibility to correct nonconforming work as provided in the General Conditions and to satisfy other requirements, if any, which necessarily survive final payment; and (2) a final certificate for payment has been issued by the City Engineer; such final payment shall be made by the Owner not more than thirty (30) days after the issuance of the City Engineer's final certificate for payment.

SECTION 7. CHANGE ORDERS.

In addition to any other provisions relating to Change Orders, any change of the scope of work to be performed will be requested in the form of a written Change Order. Included in the Change Order will be item description, unit price and total.

SECTION 8. INDEMNIFICATION.

The Contractor agrees to indemnify and hold the Owner harmless and free from damages of any kind or nature due to or arising out of the work to be performed pursuant to this Contract of any kind or nature except damages, if any, due to the fault or negligence of the Owner, its City Engineer, or its agents or employees and the Contractor agrees to reimburse the Owner for any and every reasonable expense incurred as a result of any such claim for damages.

SECTION 9. PERFORMANCE BOND.

A Performance Bond in the amount of one hundred percent (100%) of this contract price shall be posted at the time of signing this Contract. Said Performance Bond shall be with a surety authorized to do surety business in the State of Ohio.

SECTION 10. NONDISCRIMINATION.

The Contractor agrees that in the hiring of employees for the performance of work under this Contract or for any subcontract related thereto, the Contractor or subcontractors shall not, by reason of race, color, religion, sex, age, handicap, national origin or ancestry, discriminate against any citizen in the employment of any person qualified and available to perform work to which this Agreement relates; and the Contractor, subcontractor or any person acting on behalf of the Contractor or subcontractor shall not, in any manner, discriminate against, intimidate, or retaliate against any employee hired for the performance of work under this Agreement on account of race, color, religion, sex, age, handicap, national origin or ancestry.

SECTION 11. TERMINATION OR SUSPENSION.

The Contract may be terminated by the Owner or the Contractor as provided in the General Conditions. The work may be suspended by the Owner as provided in the General Conditions. Attached hereto and incorporated herein is a listing of all contract documents.

SECTION 12. GOVERNING LAW.

The provisions of this Contract shall be governed by the laws of the State of Ohio.

Section 13. TERMS AND CONDITIONS

The parties are specifically agreeing to be bound by all included Contract Documents, including but not limited to the terms and conditions set forth in the instructions for bidders bid packet.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

OWNER
City of Centerville

By: _____
Wayne Davis, City Manager

CONTRACTOR

By: _____
Signature

Printed Name and Title

Approved As To Form:

Scott A, Liberman, Municipal Attorney

CERTIFICATION OF FISCAL OFFICER

The undersigned, as Director of Finance of the City of Centerville, hereby certifies that funds sufficient to meet the requirements of this Contract have been lawfully appropriated for such purpose and are in the treasury, or in the process of collection.

By: _____
Director of Finance