

**CONSTRUCTION AGREEMENT**  
**FOR SIDEWALK INSTALLATION**

THIS CONSTRUCTION AGREEMENT FOR SIDEWALK INSTALLATION ("Agreement") is dated as of the \_\_\_\_\_ day of August, 2016 by and between Village of Big Rock, an Illinois municipal corporation, P.O. Box 128, Big Rock, Illinois 60511 ("Owner") and \_\_\_\_\_, an Illinois corporation, \_\_\_\_\_, Illinois ("Contractor").

Owner and Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

**Article 1. WORK**

The Contractor shall fully execute the Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others. The Contract Documents are attached hereto as Exhibit "A" and incorporated herein. The Work under the Contract Documents is generally described as follows:

Sidewalk installation, related drainage work and restoration along 6<sup>th</sup> Street, Village of Big Rock, Illinois, as depicted in the Contract Documents prepared by Red Pencil/Western, LLC, dated \_\_\_\_\_, 2016.

**Article 2. ENGINEER**

The Project has been designed by Red Pencil/Western, LLC ("Engineer") for Owner. The Engineer shall have the authority of the Owner to inspect and monitor the Work performed by Contractor and to order the Contractor to correct any deficiencies in the Work.

**Article 3. CONTRACT TIME**

3.1 The Contractor shall submit to the Owner a construction schedule for the Work to be completed. Contractor shall achieve Final Completion no later than October 31, 2016.

3.2 Liquidated Damages.

A. Owner and Contractor recognize that time is of the essence of this Agreement and that Owner will suffer financial loss if the Work is not completed within the time specified above, plus any extensions thereof agreed upon by the parties to this Agreement. They also recognize the delays, expense and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay Owner Five Hundred and 00/100 (\$500.00) for each day that expires after the time specified above for Final Completion until all Work is complete.

#### **Article 4. CONTRACT PRICE**

- 4.1 Owner shall pay Contractor for performance of the Work in accordance with the Contract Documents as follows:
- 4.2 The Owner shall pay the Contractor the Contract Price in current funds for the Contractor's performance of the Contract. The Contract Price shall be Nineteen Thousand \_\_\_\_\_ and \_\_\_/100 Dollars (\$19,\_\_\_\_\_.\_\_) as identified on Contractor's total Project cost itemized proposal dated \_\_\_\_\_, 2016 and attached hereto as Exhibit "B", subject to additions and deductions pursuant to written Change Orders, as agreed to in writing by the parties to this Agreement.

#### **Article 5. PAYMENT PROCEDURES**

Contractor shall submit applications for payment to the Owner, but not more than one application for payment shall be submitted per thirty-day period. Payments for completed work shall not be released until the Contractor has supplied the Owner with lien waivers and a sworn contractor's statement for payment, and the completed work has been inspected and approved by the Engineer.

- 5.1 *Progress Payments.* Owner shall make progress payments on the basis of Contractor's applications for payment as recommended by Engineer, on or about the 15th day of each month during construction as provided below.
- 5.2 *Final Payment.* Upon final completion and acceptance of the Work, Owner shall pay the remainder of the Contract Price as recommended by Engineer.

#### **Article 6. PERFORMANCE BOND**

Contractor shall file a Performance Bond and Payment Bond, each in the amount of One Hundred Ten Percent (110%) of the Contract Price. These bonds shall not be canceled prior to the expiration of the one year guarantee/warranty period, and shall remain in full force and effect if Owner makes any claims within the one year guarantee/warranty period until such claims are resolved to the satisfaction of Owner.

#### **Article 7. CONTRACTOR'S REPRESENTATIONS**

In order to induce Owner to enter into this Agreement, Contractor makes the following representation:

- 7.1 Contractor has familiarized himself with the nature and extent of the Contract Documents, Work, locality, and with all local conditions and Federal, State, and local laws, Ordinances, rules, and regulations that in any manner may affect cost, progress, or performance of the work.
- 7.2 Contractor has studied carefully all available reports of investigations and tests of subsurface and

latent physical conditions at the site or otherwise affecting cost, progress, or performance of the Work, if any.

- 7.3 Contractor has made or caused to be made examinations, investigations, and tests and studies of such reports and related data as he deems necessary for the performance of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports, or similar data are or will be required by Contractor for such purposes.

### **Article 8. CONTRACT DOCUMENTS**

The Contract Documents, which comprise the entire agreement between Owner and Contractor are attached to this Agreement as Exhibit “A”, made a part hereof and consist of the following:

- 8.1 This Agreement.
- 8.2 Performance Bond and Payment Bond.
- 8.3 Engineering Drawings (“Contract Documents”) prepared by Engineer.
- 8.4 Any modification, including Change Orders, duly delivered after execution of Agreement.

There are no Contract Documents other than those listed above in this Article 8. The Contract Documents may only be altered, amended, or repealed by a modification approved by the parties in writing.

### **Article 9. MISCELLANEOUS**

- 9.1 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.
- 9.3 Owner and Contractor each binds himself, his partners, successors, assigns and legal representatives to the other party hereto, his partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

### **Article 10. OTHER PROVISIONS.**

- 10.1 Assignment of the contract or any part thereof, or any funds to be received thereunder, shall be subject to the approval of Owner.
- 10.2 Default – This Agreement may be canceled or annulled by the Owner in whole or in part by written

notice of default to the Contractor upon nonperformance or violation of contract terms. In such event, the defaulting Contractor (or his surety) shall be liable to the Owner for actual damages incurred by Owner as a result of the default. The Contractor shall continue the performance of this contract to the extent not terminated under the provisions of this clause. Failure of the Contractor to deliver materials or services within the time stipulated on its bid, unless extended in writing by the Owner or its representative, or any other material breach, shall constitute contract default.

- 10.3 Health and Safety Act - All work under this contract shall comply with the occupational Safety and Health Act (OSHA) of 1975, and all other Federal, state or local statutes, rules, or regulations affecting the work done under the contract.
- 10.4 Prevailing Wage Requirement – Owner has adopted a prevailing wage ordinance. Contractor shall comply fully with currently established wage rates and reporting requirements pursuant to Village ordinance, the Prevailing Wage Act and State of Illinois Department of Labor provisions. Contractor shall submit certified payroll records with each Application for Payment. To the extent the Illinois Department of Labor provides updated prevailing wage payment information, Contractor shall have the duty to apprise itself of such updated prevailing wages and to comply with the same. The bonds required by this Agreement shall include a provision guaranteeing that the Contractor will comply with all provisions of the Illinois Prevailing Wage Act.
- 10.5 Any legal action between the parties concerning this Agreement or the Work shall be filed in the Circuit Court for Kane County. The prevailing party in any such litigation shall be entitled to recovery its reasonable attorneys’ fees and court costs from the non-prevailing party.
- 10.6 Insurance – Contractor shall carry liability insurance protecting against property damage and personal injury as a result of the performance of the Work under this Agreement in an amount of not less than \$1 million. Said policy of insurance shall name the Village of Big Rock as an additional insured. Contractor shall also carry worker’s compensation insurance in the statutorily required amounts to the extent that Contractor utilizes employees in the performance of the Work. Contractor shall carry automobile insurance for any vehicles used in the performance of the Work.
- 10.7 Indemnification – To the fullest extent permitted by law, Contractor shall indemnify and hold harmless the Village of Big Rock, its elected and appointed officials, officers, employees and agents from and against any and all claims, demands, lawsuits and judgments of any kind which are related to the Contractor’s acts or omissions in performing the Work under this Agreement. This indemnification shall survive the termination of this Agreement.
- 10.8 Warranty – Contractor shall perform the Work in a professional and workman-like manner, in accordance with sound construction practices and in accordance with the Contract Documents. Contractor shall warranty the Work for a period of one (1) year following final payment to Contractor from the Owner under this Agreement. Upon written notice from Owner to Contractor of any deficiencies in the labor or materials furnished by Contractor under this Agreement, Contractor shall promptly take all necessary actions to cure said deficiencies at Contractor’s expense.

IN WITNESS WHEREOF, the parties hereto have signed this Agreement in duplicate. One counterpart each has been delivered to Contractor, and Owner. All portions of the Contract Documents have been signed or identified by Owner and Contractor or by Engineer on their behalf.

This Agreement will be effective on the \_\_\_\_\_ day of August, 2016.

**OWNER:**

**CONTRACTOR:**

VILLAGE OF BIG ROCK,  
ILLINOIS  
an Illinois Municipal corporation

\_\_\_\_\_  
an Illinois corporation

By \_\_\_\_\_

By \_\_\_\_\_

Title \_\_\_\_\_

Title \_\_\_\_\_

Address for giving notices

Address for giving notices

Village of Big Rock  
P. O. Box 128  
Big Rock, Illinois 60511

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\_\_\_\_\_

**EXHIBIT "A"**

**CONTRACT DOCUMENTS**

**EXHIBIT "B"**

**CONTRACTOR'S PROPOSAL FOR WORK**