



PRIVATE CONSTRUCTION CONTRACT

THIS AGREEMENT, made and entered into on the _____ day of _____, 20____, by and between _____, hereinafter called the "Contractor", and _____, hereinafter called the "Owner":

WITNESSETH: That the Contractor and Owner, for the consideration stated herein, agree as follows:

ARTICLE I: SCOPE OF WORK

The Contractor hereby agrees to complete the work comprising the below referenced improvements or project as specified in the contract documents, which are officially on file in the office of the City Clerk. The work under this contract shall be constructed in accordance with the Urban Standard Specifications for Public Improvements including all revisions dated on or before October 18, 2005 (a.k.a. Iowa SUDAS Specifications, 2006 Edition), as further modified by the supplemental specifications and special provisions included in said contract documents. The Contractor further agrees to complete the work in strict accordance with said contract documents, and to guarantee the work as required by law, for the time required in said contract documents, after its acknowledgment of completion and/or acceptance by the City of Des Moines, Iowa, hereinafter called the "Jurisdiction". This contract includes all contract documents, as defined in the Standard Specifications, for the construction of the following described improvements:

The Quantity of work to be done is estimated as shown on Private Construction Contract Attachment A.

ARTICLE II: COMMENCEMENT AND COMPLETION OF WORK

The Contractor hereby agrees to commence the work not later than _____, and to fully complete the improvement not later than _____.

ARTICLE III: THE CONTRACT SUM

Upon performance of this private construction contract by the Contractor, the Owner shall pay to the Contractor the lump sum of _____ dollars (\$ _____), or the total amount based upon the actual quantities constructed and the unit prices listed on Private Construction Contract Attachment A, which payment shall be in full compensation and settlement for the work. Except as hereafter provided, the details regarding actual payment by the Owner to the Contractor for compensation for work completed shall be between the Owner and the Contractor; however, the Jurisdiction shall hold the Owner solely responsible for the work, and completion of the work, until final acceptance is made. Final acceptance of the construction or work shall be defined as final approval of the project only in the sense that it has been constructed, cleaned up, and completed in apparent substantial compliance with the contract documents. Said final acceptance is stipulated to mean a written acceptance by the Des Moines City Council. It is mutually agreed between the parties to the contract, that a certificate of completion of the project, submitted by the Des Moines City Engineer and approved by the Des Moines City Council, shall constitute final acceptance of the work and materials included in the contract on the date of such approval, subject to the provision that such approval and acceptance shall not constitute an acceptance of any unauthorized work, and that no approval, acceptance or payment shall constitute an acceptance of unauthorized or defective work or improper material.

ARTICLE IV: GENERAL

A. BONDS, INSURANCE AND INDEMNITY

The Contractor agrees that the insurance required by Section 1030, Part 5 - Insurance, of said Urban Standard Specifications for Public Improvements through the period of operations covered by this contract until acknowledgment of completion and/or acceptance by the Des Moines City Council; and the Contractor shall defend, indemnify, and hold harmless the Jurisdiction and its officers, agents, and employees in accordance with Section 1030, 5.04 Contract's Indemnity - Contractual Liability Insurance. The Contractor agrees to provide, on the form provided, a Performance, Payment and Maintenance Bond in the full amount of this contract with the maintenance period of four years.

B. ENGINEERING SERVICES AND INSPECTIONS

The Contractor agrees to comply with all normal procedures required by the Jurisdiction to include, but not limited to: plan check, testing, and construction inspection(s). The Jurisdiction reserves the right to inspect all work on said improvement to the same standard as if the improvement was a Jurisdiction-funded public improvement. The Owner agrees to furnish all engineering work lines and grades and copies of the contract documents needed for the improvement. The Owner shall hire a licensed surveyor to do all survey work needed for this private construction contract including an as-built survey. The surveyor shall contact the Jurisdiction regarding format and information required on the as-built survey.

C. INSPECTION COORDINATION

The Contractor shall contact the Des Moines Engineering Department at 515-283-4177 (or cellular 515-208-4177), 24-hours before beginning construction and coordinate for inspection. The Contractor shall notify the Owner and the City Engineer in writing when all construction work, including the punch list and final cleanup, is completed; so that the City Engineer can make a final inspection of the work, and the Owner can order the as-built survey if required.

D. NON-DISCRIMINATION

The Contractor hereby acknowledges and agrees to comply with any and all applicable provisions of the Des Moines Human Rights Ordinance, Chapter 62 of the Des Moines Municipal Code. The Contractor specifically agrees not to discriminate against any employees or applicants for employment on the basis of age, race, religion, creed, color, sex, sexual orientation, national origin, ancestry or disability. The Contractor further agrees to include this provision in all subcontracts for this project.

E. FEES PAID BY THE OWNER AND/OR CONTRACTOR

The Owner and/or Contractor agree to obtain all federal, state, and local permits and pay all fees necessary for the contract work including, but not limited to, Grading and NPDES permits.

The Owner agrees to pay the City's administrative, inspection, and testing fees in accordance with Section 94-321 of the Des Moines City Code, at the time the private contracts are submitted to the City Engineer for review and prior to presentation to City Council for approval and permission to construct the improvement. Said fees were established by the City Council on December 18, 2002, under Roll Call No. 02-3007 as follows:

Description of Service/Permit	Fee
Administrative Fee for private construction contracts	\$900.00 per contract
Inspection and Testing Fee for private Paving construction contracts	6% of the first \$30,000 of construction contract cost and 2% thereafter
Inspection and Testing Fee for private Sanitary Sewer construction contracts	8% of the first \$30,000 of construction contract cost and 3% thereafter
Inspection and Testing Fee for private Storm Sewer construction contracts	8% of the first \$30,000 of construction contract cost and 2% thereafter

Payment should be made payable to the City of Des Moines and presented with this contract.

FEE CALCULATION

Enter data for this contract and calculate fees below, which is the sum of the \$900.00 administrative fee plus the inspection and testing fees based upon the contract costs. (See instructions for example calculations.)

Paving Fee: Construction Amount \$ _____

Administrative Fee: \$900.00 \$ _____

Inspection and Testing Fee:

- 6% of first \$30,000 of paving construction cost \$ _____

- 2% of the remaining paving construction cost over \$30,000 \$ _____

Total Paving Fee: \$ _____

Sanitary Sewer Fee: Construction Amount \$ _____

Administrative Fee: \$900.00 \$ _____

Inspection and Testing Fee:

- 8% of first \$30,000 of sanitary sewer construction cost \$ _____

- 3% of the remaining sanitary sewer construction cost over \$30,000 \$ _____

Total Sanitary Sewer Fee: \$ _____

Storm Sewer Fee: Construction Amount \$ _____

Administrative Fee: \$900.00 \$ _____

Inspection and Testing Fee:

- 8% of first \$30,000 of storm sewer construction cost \$ _____

- 2% of the remaining storm sewer construction cost over \$30,000 \$ _____

Total Storm Sewer Fee : \$ _____

F. CITY'S STANDARD FORM CONTRACT CONTROLS

The Owner and the Contractor acknowledge that this contract has been prepared utilizing a standard form City of Des Moines contract provided by the City or downloaded from the City's website in WORD format. The Owner and Contractor represent that no changes have been made to the form of this Contract other than to insert required information and text in text boxes provided for that purpose, and they agree that unauthorized changes made to the form of the contract shall not be binding on them or on the City and that the form of the contract as it appears on the City's website shall govern and be binding on the parties to this contract.

IN WITNESS WHEREOF, the Parties hereto have caused this Instrument to be executed in four (4) original counterparts as of the day and year first above written.

OWNER

Owner's Name
By _____
Signature

Printed Name

Title

Address

City, State, Zip Code

Telephone Number
Type or print the name and title of the company's owner, president, CEO, etc. if a different person than entered above.

Name

Title

CONTRACTOR

Contractor's Name
By _____
Signature

Printed Name

Title

Address

City, State, Zip Code

Telephone Number
Type or print the name and title of the company's owner, president, CEO, etc. if a different person than entered above.

Name

Title

CONTRACTOR IDENTIFICATION INFORMATION To Be Provided By:

1. All Contractors: Contractor's public registration number issued by the Iowa Commissioner of Labor pursuant to Section 91C.5 of the Iowa Code: _____.
2. Out-of-State Contractors: Contractor's Bond (State of Iowa, Division of Labor, Out-of-State Contractor Project Bond) pursuant to Section 91C.7 of the Iowa Code
Bond No: _____
Name of Surety: _____

NOTE: All signatures on this contract must be original signatures in ink; copies or facsimile of any signature will not be accepted.

PRIVATE CONSTRUCTION CONTRACT ATTACHMENT

In accordance with Article I: Scope of Work, the Quantity of work to be done is estimated on this Private Construction Contract Attachment A as listed below.

In accordance with Article III: The Contract Sum is the compensation to be paid by the Owner to the Contractor.

- If the Contractor is to be paid based upon a lump sum price, this amount should be entered on the contract and only the Item Number, Description, and Quantity of the work as shown on the construction plans need to be listed below.
- If the Contractor is to be paid based upon the total amount of the actual quantities constructed instead of based upon a lump sum price, then the Item Number, Description, and Estimated Quantities of work as shown on the construction plans as well as the Unit Prices, and Total Prices are to be listed below, and the total contract sum should be entered in the space provided for the contract sum on the contract.

Item No.	Description	Quantity	Unit Price	Total Price
TOTAL CONTRACT SUM:				

OWNER'S CORPORATE ACKNOWLEDGEMENT

State of _____)
) SS
_____ County)

On this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of _____, personally appeared _____ and _____, to me known, who, being by me duly sworn, did say that they are the _____, and _____, respectively, of the corporation executing the foregoing instrument; that (no seal has been procured by) (the seal affixed thereto is the seal of) the corporation; that said instrument was signed (and sealed) on behalf of the corporation by authority of this Board of Directors; that _____ and _____ acknowledged the execution of the instrument to be the voluntary act and deed of the corporation, by it and by them voluntarily executed.

Notary Public in and for the State of _____
My commission expires _____

OWNER'S PARTNERSHIP ACKNOWLEDGMENT

State of _____)
) SS
_____ County)

On this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of _____, personally appeared _____ to me personally known, who being by me duly sworn, did say that the person is one of the partners of _____, a partnership, and that the instrument was signed on behalf of the partnership by authority of the partners and the partner acknowledged the execution of the instrument to be the voluntary act and deed of the partnership by it and by the partner voluntarily executed.

Notary Public in and for the State of _____
My commission expires _____

OWNER'S INDIVIDUAL ACKNOWLEDGEMENT

State of _____)
) SS
_____ County)

On this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of _____, personally appeared _____ and _____, to me known to be the identical person(s) named in and who executed the foregoing instrument, and acknowledged that (he) (she) (they) executed the instrument as (his) (her) (their) voluntary act and deed.

Notary Public in and for the State of _____
My commission expires _____

OWNER'S LIMITED LIABILITY COMPANY ACKNOWLEDGEMENT

State of _____)
) SS
_____ County)

On this _____ day of _____, 20____, before me a Notary Public in and for said county, personally appeared _____, to me personally know, who being by me duly sworn did say that person is _____ of said _____, that (the seal affixed to said instrument is the seal of said OR no seal has been procured by the said) _____, and that said instrument was signed and sealed on behalf of the said _____, by authority of its managers and the said _____ acknowledged the execution of said instrument to be the voluntary act and deed of said _____, by it voluntarily executed.

Notary Public in and for the State of _____
My commission expires _____

CONTRACTOR'S CORPORATE ACKNOWLEDGEMENT

State of _____)

) SS

_____ County)

On this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of _____, personally appeared _____ and _____, to me known, who, being by me duly sworn, did say that they are the _____, and _____, respectively, of the corporation executing the foregoing instrument; that (no seal has been procured by) (the seal affixed thereto is the seal of) the corporation; that said instrument was signed (and sealed) on behalf of the corporation by authority of this Board of Directors; that _____ and _____ acknowledged the execution of the instrument to be the voluntary act and deed of the corporation, by it and by them voluntarily executed.

Notary Public in and for the State of _____
My commission expires _____

CONTRACTOR'S PARTNERSHIP ACKNOWLEDGMENT

State of _____)

) SS

_____ County)

On this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of _____, personally appeared _____ to me personally known, who being by me duly sworn, did say that the person is one of the partners of _____, a partnership, and that the instrument was signed on behalf of the partnership by authority of the partners and the partner acknowledged the execution of the instrument to be the voluntary act and deed of the partnership by it and by the partner voluntarily executed.

Notary Public in and for the State of _____
My commission expires _____

CONTRACTOR'S INDIVIDUAL ACKNOWLEDGEMENT

State of _____)

) SS

_____ County)

On this _____ day of _____, 20____, before me, the undersigned, a Notary Public in and for the State of _____, personally appeared _____ and _____, to me known to be the identical person(s) named in and who executed the foregoing instrument, and acknowledged that (he) (she) (they) executed the instrument as (his) (her) (their) voluntary act and deed.

Notary Public in and for the State of _____
My commission expires _____

CONTRACTOR'S LIMITED LIABILITY COMPANY ACKNOWLEDGEMENT

State of _____)

) SS

_____ County)

On this _____ day of _____, 20____, before me a Notary Public in and for said county, personally appeared _____, to me personally known, who being by me duly sworn did say that person is _____ of said _____, that (the seal affixed to said instrument is the seal of said OR no seal has been procured by the said) _____, and that said instrument was signed and sealed on behalf of the said _____, by authority of its managers and the said _____ acknowledged the execution of said instrument to be the voluntary act and deed of said _____, by it voluntarily executed.

Notary Public in and for the State of _____
My commission expires _____