

NOTICE OF AWARD

Date of Issuance: May 03, 2022

Owner: City of Jackson

Owner's Contract No.:

Engineer: Horner & Shifrin, Inc.

Engineer's Project No.: 1721200

Contract Name: Kimbeland Pump Station Improvement Project

Bidder: Robinson Industrial, Heavy & Commercial Contracting, Inc. (RIHC Contracting)

Bidder's Address: 2411 Walters Lane, Perryville, MO 63775

TO BIDDER:

You are notified that Owner has accepted your Bid dated March 10, 2022, for the above Contract, and that you are the Successful Bidder and are awarded a Contract for:

The Work in general consists of removal/abandonment of the existing Kimbeland pump station and replacement with a new duplex submersible pumping station, new gravity sewers, force main, miscellaneous piping/valves, controls/electrical improvements, and other sanitary sewer appurtenances.

The Contract Price of the awarded Contract is: \$ 2,042,345.00 ^[1]

[1] Award of Contract "Kimbeland Pump Station Improvement Project" is contingent upon acceptance of deduct Change Order No.1 to be issued concurrently with this Notice of Award.

[2] unexecuted counterparts of the Agreement accompany this Notice of Award, and one copy of the Contract Documents accompanies this Notice of Award, or has been transmitted or made available to Bidder electronically.

☒ a set of the Drawings will be delivered separately from the other Contract Documents.

You must comply with the following conditions precedent within ten (10) days of the date of receipt of this Notice of Award:

1. Deliver to Owner [2] counterparts of the Agreement and **Change Order No. 1**, fully executed by Bidder.
2. Deliver with the executed Agreement(s) the Contract security (performance and payment bonds) and insurance documentation as specified in the Instructions to Bidders, General Conditions Articles 2 and 6, and Supplementary Conditions as applicable.
3. Verification of employment eligibility (E-Verify) for each employee per Section 285.530 RSMo of the Revised Statutes of Missouri
4. Documentation of compliance with OSHA 10-Hour safety training per Section 292.675 RSMo of the Revised Statutes of Missouri

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award, and declare your Bid security forfeited.

Within ten days after you comply with the above conditions, Owner will return to you one fully executed counterpart of the Agreement, together with any additional copies of the Contract Documents as indicated in Paragraph 2.02 of the General Conditions.

Owner:

Authorized Signature

By: _____

Title: _____

AGREEMENT

BETWEEN OWNER AND CONTRACTOR FOR CONSTRUCTION CONTRACT

THIS AGREEMENT is by and between City of Jackson, Missouri ("Owner") and
Robinson Industrial, Heavy & Commercial Contracting, Inc. dba RIHC Contracting ("Contractor").

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

- 1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. Work is generally described as follows:

BASE BID: The Work in general consists of removal/abandonment of the existing Kimbeland pump station and replacement with a new duplex submersible pumping station, new gravity sewers, force main, miscellaneous piping/valves, controls/electrical improvements, and other sanitary sewer appurtenances. On-line detention storage is included as an alternative and may be added to the project as a contract adder per Owner's option.

ARTICLE 2 – THE PROJECT

- 2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: See Article 1 – Work above for project description.

ARTICLE 3 – ENGINEER

- 3.01 The Project has been designed by Horner & Shifrin, Inc.
- 3.02 The Owner has retained Horner & Shifrin, Inc. ("Engineer") to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

- 4.01 Time of the Essence
- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.
- 4.02 Contract Times: Dates
- A. The Work will be substantially completed within **three-hundred (300) days** after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within **three-hundred and sixty five (365) days** after the date when the Contract Times commence to run.

4.03 Liquidated Damages

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties 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):
1. Substantial Completion: Contractor shall pay Owner **\$500** for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.
 2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner **\$500** for each day that expires after such time until the Work is completed and ready for final payment.
 3. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.

4.04 Special Damages

- A. In addition to the amount provided for liquidated damages, Contractor shall reimburse Owner (1) for any fines or penalties imposed on Owner as a direct result of the Contractor's failure to attain Substantial Completion according to the Contract Times, and (2) for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Substantial Completion (as duly adjusted pursuant to the Contract), until the Work is substantially complete.
- B. After Contractor achieves Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times, Contractor shall reimburse Owner for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Work to be completed and ready for final payment (as duly adjusted pursuant to the Contract), until the Work is completed and ready for final payment.

ARTICLE 5 – CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:

- A. For all Unit Price Work, an amount equal to the sum of the extended prices (established each separately identified item of Unit Price Work by multiplying the unit price times the actual quantity of that item):

Total Base Bid Price (from Bid Form) = \$ 2,042,345.00

\$ Two Million, Forty-Two Thousand, Three-Hundred and Forty-Five Dollars
(use words)

- B. The extended prices for Unit Price Work set forth as of the Effective Date of the Contract are based on estimated quantities. As provided in Paragraph 13.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer.

ARTICLE 6 – PROGRESS SCHEDULE

- 6.01 The Contractor shall submit for approval immediately after execution of the Agreement, a carefully-prepared Progress Schedule, showing the proposed dates of starting and completing each of the various sections of the work, the anticipated monthly payments to become due the Contractor, and the accumulated percent of progress each month.

ARTICLE 7 – PAYMENT PROCEDURES

7.01 Submittal and Processing of Payments

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

7.02 Progress Payments; Retainage

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on or about the 1st day of each month during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
 - 1. Progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract
 - a. **95 percent (95%)** of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and
 - b. **95 percent (95%)** of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

7.03 Final Payment

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06.

7.04 Penalties for Failure to Provide Safety Training

- A. In the event that the Missouri Department of Labor and Industrial Relations has determined that a violation of Section 292.675 RSMo has occurred and that a penalty as described in Specification Section 01020 shall be assessed, the Owner shall withhold and retain all sums and amounts due and owing when making payments to Contractor under this Contract.

ARTICLE 8 – INTEREST

8.01 Not Used.

ARTICLE 9 – CONTRACTOR’S REPRESENTATIONS

9.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:

- A. Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
- B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.
- E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor’s safety precautions and programs.
- F. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. Contractor’s entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

ARTICLE 10 – CONTRACT DOCUMENTS

10.01 Contents

- A. The Contract Documents consist of the following:
 - 1. Notice of Award
 - 2. This Agreement (pages 1 to 7, inclusive).
 - 3. Performance bond (pages 1 to 3, inclusive).
 - 4. Payment bond (pages 1 to 3, inclusive).
 - 5. General Conditions.
 - 6. Supplementary Conditions.
 - 7. Specifications as listed in the table of contents of the Project Manual.
 - 8. Drawings (not attached but incorporated by reference) consisting of **27 sheets** with each sheet bearing the following general title: City of Jackson, Kimbeland Pump Station Improvements Project.
 - 9. Addenda (numbers 1 to 2, inclusive).
 - 10. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor's Bid (pages 1 to 58, inclusive).
 - b. List of Proposed Major Subcontractors
 - c. Qualification Statement with Supporting Data
 - 11. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Notice to Proceed
 - b. Work Change Directives.
 - c. Change Orders.
 - 1) **Deduct Change Order No.1 which reduces the Contract Price from \$2,042.345.00 to \$1,841,951.00 to be issued with the Notice of Award and to be executed on the Effective Date of the Contract.**
 - d. Field Orders.
- B. The documents listed in Paragraph 10.01 are attached to this Agreement (except as expressly noted otherwise above).
- C. There are no Contract Documents other than those listed above in this Article 10.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

ARTICLE 11 – MISCELLANEOUS

11.01 Terms

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

11.02 Assignment of Contract

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is 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.

11.03 Successors and Assigns

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

11.04 Severability

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

11.05 Contractor's Certifications

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 11.05:
 - 1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 - 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
 - 4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

11.06 Other Provisions

Owner stipulates that if the General Conditions that are made a part of this Contract are based on EJCDC® C-700, Standard General Conditions for the Construction Contract, published by the Engineers Joint Contract Documents Committee®, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.

ARTICLE 12 – SEQUENCE OF CONSTRUCTION

12.01 Contractors Work Sequence shall comply with the specification Section 01030 – ADDITIONAL CONSTRUCTION REQUIREMENTS.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on _____ (which is the Effective Date of the Contract).

OWNER:

CONTRACTOR:

City of Jackson, MO

By:

Title: _____

Title: _____

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: _____

Attest: _____

Title: _____

Title: _____

Address for giving notices:

Address for giving notices:

License No.: _____

(where applicable)

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

NOTE TO USER: Use in those states or other jurisdictions where applicable or required.