

CONSTRUCTION CONTRACT

THIS CONTRACT is made as of this ____ day of _____, ____ by and between _____ (“Owner”) and _____ (“Contractor”).

Owner and Contractor agree as follows:

1. Work Contractor shall provide all labor, equipment and materials required to _____ in accordance with the plans and specifications attached as Exhibit A (the “Work”). The plans and specifications, along with this Contract and all exhibits attached hereto, constitute the “Contract Documents.”
2. Contract Time
 - a. Commencement Date. The date of commencement shall be _____.
 - b. Completion Contractor shall complete its Work not later than _____ (“Date of Completion”). Time is of the essence. By executing the Contract, Contractor confirms that the Date of Completion is a reasonable period for performing the Work. Contractor shall be entitled to extensions of time for causes beyond the reasonable control of Contractor and its subcontractors and suppliers (of every tier) provided that Owner has been given timely written notice of the extension and the reasons for any such extension in the form of a change order.
3. Contract Sum and Payments. Owner shall pay Contractor in current United States funds for the performance of the Work, subject to additions and deductions provided by Change Orders, the “Contract Sum” of \$ _____. Contractor shall submit to Owner applications for progress payment in accordance with the Shakopee Mdewakanton Sioux Community, hereinafter Community, Construction Loan Progress Payment Schedule. Payment shall be made after approval of the payment request by the Community Building Official.
4. Changes in the Work Owner may order changes in the Work within the general scope of the Contract, and Contractor shall perform the changes ordered by Owner. The Contract Sum and Date of Completion shall be adjusted by written change order as mutually agreed. The written change order shall describe the work to be done and provide a fixed price for said work. Contractor shall not be entitled to any increase in the Contract Sum or the Date of Completion without a written change order signed by Owner.
5. Warranty Contractor warrants to Owner that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform to the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by Contractor, improper or insufficient maintenance, improper operation or normal wear and tear and normal usage. If required by

Owner, Contractor shall furnish satisfactory evidence as to the kind and quality of material and equipment. Contractor shall arrange for Owner to have the benefit of and right to enforce all warranties by subcontractors, sub-subcontractors, suppliers, and manufacturers.

6. Insurance Contractor shall procure and maintain workers' compensation insurance as required by law, commercial general liability insurance with a minimum limit of liability of \$1,000,000 and builders risk insurance sufficient to cover the cost of all materials and labor for the Work. Contractor shall provide Owner and the Community with a certificate of insurance prior to commencing its Work. The certificate of insurance shall be in a form acceptable to Owner and the Community and shall provide satisfactory evidence that Contractor has complied with all insurance requirements. Contractor's general liability insurance shall include Owner and any other entities required by Owner as additional insureds using ISO Form 2010 edition date 11/85 or its equivalent. Contractor shall maintain the required worker's compensation and general liability insurance in force continuously from before commencing work for a period of at least twelve months after final completion.

7. Indemnification.

a. To the fullest extent permitted by law, Contractor shall indemnify and hold harmless Owner from and against claims, damages, losses and expenses, including but not limited to attorneys' fees related thereto or to the enforcement of this paragraph, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property, including loss of use therefrom, but only to the extent caused by the negligent acts or omissions of Contractor, a subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder. Contractor agrees to obtain, maintain, and pay for such general liability coverage and endorsements (including product and completed operations coverage) as will insure the provisions of this Section.

b. Except only to the extent caused by the failure of Owner to make payment to Contractor as required by this Contract, Contractor shall indemnify, defend, and save harmless Owner from any claims or liens filed or threatened by Contractor or any subcontractors, sub-subcontractors of any tier, or suppliers of any tier related to the Work, and any related costs (including attorneys' fees related thereto or to the enforcement of this subparagraph), liabilities, judgments, executions, and disbursements and shall immediately remove any liens upon demand of Owner.

8. Site Maintenance, Clean-up and Debris Removal. During the Work the entire site shall be maintained in a presentable and clean condition and no rubbish, trash, building materials, eroded soil, waste vegetation or any other material shall be allowed to leave the site except in a proper container for disposal or reuse. Upon completion of the Work, Contractor shall remove all waste materials and rubbish occasioned by the Work from the Work site as well as all of its tools, construction equipment, machinery and surplus materials. The Work and grounds

immediately adjacent to the Work shall be left in a broom-clean condition upon completion of the Work.

9. Site Condition. Contractor shall comply with all aspects of the Site Development Permit issued for the Work Site and Work. Contractor's obligation to maintain the site in accordance with requirements of the Site Development Permit shall not terminate until the Community approves transfer of said permit to another entity or all conditions of said permit are met including establishment of 70% vegetative cover on the Work Site and removal of all remaining erosion control devices.

10. Licenses, Permits, Fees. Contractor shall obtain any required building permit and all other governmental and Community permits, approvals and inspections which may be necessary to perform the Work. Contractor shall comply with all applicable law, including all applicable tribal regulations, ordinances, and codes specifically including, but not limited to, the Community Building Code and Storm Water Management Ordinance. Failure to obtain permits or comply with Community law shall be considered a material breach of this Contract.

11. Safety. Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs required for the performance of the Work and for complying with Community safety policies as directed by Community staff or its agents.

12. Access to the Site. Owner or its approved representative shall have reasonable access to the Work Site and all Work. Community staff shall have access to the Work Site and the Work at all times for purposes of inspecting the Work Site and Work for compliance with Community law and regulations.

13. Claims. Claims by Contractor for an adjustment in the Contract Sum or the Date of Completion must be initiated by written notice to Owner within twenty one (21) days after occurrence of the event giving rise to such claim.

14. Termination.

a. If either party materially breaches this Contract, and if the breaching party fails to cure the breach within fourteen (14) days of receipt of a written notice of breach by the other party, then the non-breaching party may terminate this Contract after serving an additional seven days' written notice to the breaching party.

b. Owner may at any time and for any reason terminate this Contract by written notice to Contractor. Owner shall be liable for payment for any costs or actual damages incurred by Contractor until and including the day of termination of this Contract. Owner shall not be liable for Contractor's lost profits or other consequential damages related to termination of this contract. In addition, Owner may, without cause, order Contractor in writing to suspend, delay or interrupt the Work in whole or in part for such period of time as Owner may determine. Owner shall be responsible for reasonable costs incurred by Contractor related to complying with such a request to suspend, delay or interrupt the Work.

15. Assignment of Contract. Contractor may not assign, transfer, convey, pledge, or otherwise dispose of its interest, or any part thereof, in this Contract. Owner may, at any time, assign, transfer, convey, pledge, or otherwise dispose of its interest, or any part thereof, under this Contract.

16. Miscellaneous. This Contract (i) shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors, and assigns; (ii) may be executed in one or more counterparts, all of which shall be considered one and the same agreement; (iii) embodies the entire agreement and understanding, and supersedes all prior agreements and understandings between Owner and Contractor relating to the subject matter hereof; and (iv) may be amended or modified only in writing or as specifically provided herein.

IN WITNESS THEREOF, the parties have hereunto set their hands the day and year first above written.

CONTRACTOR:

OWNER:

By _____
(signature)

By _____
(signature)