

**(ATTACHMENT 3) ACTION ON MONTHLY FACILITIES MATTERS: FMS AWARD OF CONSTRUCTION, EQUIPMENT PURCHASE AND PROFESSIONAL SERVICES CONTRACTS RECOMMENDATION**

**ORIGINAL**

**MILWAUKEE BOARD OF SCHOOL DIRECTORS**

**CITY OF MILWAUKEE**

**WISCONSIN**

Contract for **Heating Plant Replacement**  
Location: **Hamilton High School**

**THIS CONTRACT**, Made this 30th day of March, 2017 by **Butters-Fetting Co., Inc.** hereinafter called the Contractor;

and \_\_\_\_\_  
a duly licensed surety corporation with an agency in Milwaukee, Wisconsin, hereinafter called the Surety; and the City of Milwaukee, a municipal corporation, represented by its Milwaukee Board of School Directors, hereinafter called the Owner.

**WHEREAS**, The said Contractor has made a proposal in writing to the Milwaukee Board of School Directors, hereinafter called the Board, to do the work hereinafter mentioned for the said Owner, and according to the requirements of the Official Advertisement for bids, the Instructions to Bidders, the General Conditions of the Contract, the Specifications, the Drawings, and the Contractor's Proposal, all of which are hereby made part of this Contract, by reference thereto and are on file in the office of the said Board; and whereas the said Board has awarded the said Contract to the Contractor according to law;

**NOW THEREFORE**, The said Contractor, for and in consideration of the payments hereinafter provided, agrees with the said Owner, to well and truly execute and perform the said Contract, under the superintendence of said Board, for the price and within the time herein stated and according to this Contract.

**ARTICLE 1. SCOPE OF THE WORK.** Furnish all labor and materials required and do all the work necessary in connection with the **FY17 Cyclic Heating Plant Replacement Project** at the **Hamilton School** building in accordance with plans and specifications on file in the office of the Milwaukee Public Schools and **base bid of \$2,100,000.00** received pursuant to advertisement.

**ARTICLE 2. TIME OF COMPLETION.** **This project's start date is scheduled for March 30, 2017 and completion date is September 8, 2017.** The Contractor agrees to proceed with the work expeditiously without any delay or cessation, except such as may reasonably be beyond his control, and to employ a force of workmen sufficient so to perform the work covered by this Contract in such manner as to expedite the work of such other Contractors as may be engaged upon the work, as further provided in the Instructions to Bidders, to the end that the work to be performed by the Contractor shall be fully completed on or before the **8th day of September, 2017**, subject to such adjustment of said date as may be made in accordance with this Contract. It is specifically agreed that the Contractor shall be bounden for damages, as hereinafter provided, for each and every day's delay which may be due or traceable to the Contract. In case the Contractor shall fail to perform fully the Contract within the agreed time limit, he shall pay to the City of Milwaukee, as liquidated damages for such default, the sum of **\$2000.00** per day for each and every day's delay in completing the performance thereof after such time limit.

**ARTICLE 3. PAYMENT.** The City of Milwaukee, by its Milwaukee Board of School Directors, shall pay the Contractor for the full and complete performance of the work, the sum of **Two Million One Hundred Thousand Dollars and 00/100 (\$2,100,000.00)** as provided in the General Conditions of the Contract.

**ARTICLE 4. OBLIGATIONS OF THE CONTRACTOR AND SURETY.** The Contractor and the Surety, in consideration of the award of this Contract to the Contractor, jointly and severally for themselves, their heirs, executors, administrators, and successors or assigns, hereby guarantee, covenant and agree to and with the Owner that:

(a) The Contractor shall well and truly execute and perform this Contract under the superintendence of and to the satisfaction of the Board.

(b) The Contractor shall well and truly make payment to each and every person or party entitled thereto of all claims for work or labor performed and materials furnished for, or in, or about, or under this Contract pursuant to the provisions of Sec. 289.16 W.S., and acts and laws amendatory thereof and supplemental thereto.

(c) The Contractor shall carry the compensation insurance in a duly licensed insurance company for the benefit of the employees of the Contractor and of any sub-contractor and shall keep said insurance in force during the life of the Contract as required by the provisions of Chapter 102 w.s. and acts and laws amendatory thereof and supplemental thereto.

(d) The Contractor will well and truly save and indemnify and keep harmless the City of Milwaukee from and against all liability for claims, damages, judgements, costs and expenses, which may in anywise come against said City in consequence of the award of this Contract, or which may in anywise result from the carelessness or neglect of the said Contractor or his agents, employees, or workmen in any respect whatever.

(e) Neither the extension by the Owner of time to the Contractor or to other contractors or sub-contractors for the completion of their work, nor the assignment, subletting, alteration or modification of this Contract or other contracts in the premises, nor change in the work covered thereby, shall in any way release the Contractor or Surety from full liability under this contract. Notice of any such default, delay, extensions of time, assignment, subletting, alteration or modification is hereby expressly waived by the Contractor and the Surety.

**ARTICLE 5. MINIMUM WAGE.** The Contractor and the Surety, in consideration of the award of this Contract to the said Contractor, jointly and severally for themselves, their heirs, executors, administrators, and successors or assigns hereby agree to pay all employees in and about the construction or performance of the work under this Contract in accordance with the schedule of wages contained in the Instructions to Bidders for work in any trade or occupation listed therein. The Contractor shall make wage reports as required by said Instructions. Strict compliance with said minimum wage requirements is demanded by the Owner and shall be considered as of the essence of this Contract. It is hereby agreed that the City of Milwaukee by its Milwaukee Board of School Directors shall have the right at all times to examine all persons employed upon the project by the Contractor and carryon and make such investigations as it may deem necessary to see that the terms of this agreement, relating to such wage payments, are being fully observed.

**ARTICLE 6. ASSIGNING OR SUB-LETTING OF CONTRACT.** This Contract shall not be assigned nor sublet by the Contractor or Surety without prior written consent thereto of the Board.

**ARTICLE 7. FINAL DETERMINATION BY BOARD.** The Board shall have the right and power to adjust and determine finally all questions as to the proper and timely performance of the work and the amounts earned under this Contract, all as provided in General Conditions.

**ARTICLE 8. MILWAUKEE BOARD OF SCHOOL DIRECTORS AUTHORITY.** It is hereby agreed and declared that this Contract is made expressly subject to the powers granted to said Milwaukee Board of School Directors, by the applicable provisions of Chapter 119 and Sec. 62.15 of the Wisconsin Statutes of 1969, and acts and laws amendatory thereof and supplemental thereto.

IN WITNESS WHEREOF, the parties have executed this Contract the day and the year first above written and the Contractor and Surety have affixed their corporate seals thereto.

Sealed and delivered in presence of

**Butters-Fetting Co., Inc.**

CONTRACTOR

Contractor's  
Corporate  
Seal

PRESIDENT

SECRETARY

BONDING COMPANY

Bonding  
Company  
Seal

(ATTORNEY-IN-FACT) OR (AGENT)

WITNESS AS TO CONTRACTOR

WITNESS AS TO THE SURETY

CITY OF MILWAUKEE, represented by its  
Milwaukee Board of School Directors

PRESIDENT

SUPERINTENDENT OF SCHOOLS

Countersigned this \_\_\_\_\_ day of \_\_\_\_\_, year of \_\_\_\_\_

COMPTROLLER

Approved as to form and execution this \_\_\_\_\_ day of \_\_\_\_\_, year of \_\_\_\_\_

ASSISTANT CITY ATTORNEY

STATE OF WISCONSIN  
MILWAUKEE COUNTY

\_\_\_\_\_, being duly sworn on oath deposes and says  
that he/she is (attorney-in-fact) or (agent) of said \_\_\_\_\_  
(BONDING COMPANY)

Affiant further deposes and says that no officer, official, or employee of the City of Milwaukee has any interest, directly or indirectly, or is receiving any premium, commission, or fee or other thing of value on account of the sale or furnishing of this bond, undertaking or contract of indemnity, guaranty or suretyship in connection with the above mentioned contract.

Subscribed and sworn to before me this

\_\_\_\_\_ day of \_\_\_\_\_ A.D. Year of \_\_\_\_\_

Position \_\_\_\_\_

Notary Public, Milwaukee Co., Wis.

My commission expires \_\_\_\_\_