

AGREEMENT
Montgomery County, Indiana

THIS AGREEMENT is made and entered into as of the 25 day of November, 2024.
by and between

"OWNER": Montgomery County Commissioners, by and through its Board of Commissioners,

and

"CONTRACTOR": J.R. Kelly Company, Inc., 3450 Concord Road, Lafayette, Indiana 47909

concerning the following:

PROJECT: **THOMAS K. MILLIGAN JUSTICE CENTER - ACCESS IMPROVEMENTS**

ARCHITECT/ENGINEER: **DLZ Indiana LLC, 138 North Delaware Street, Indianapolis,
IN 46204**

RECITALS:

- A. The OWNER has heretofore caused to be prepared certain plans, specifications and other "Contract Documents" as hereinafter listed pertaining to the above described Project and Work, and the CONTRACTOR has filed Proposal to furnish said labor, tools, material, equipment, services, and perform said Work upon the terms and for the price(s) therein fully stated and set forth;
- B. The said Contract Documents accurately and fully describe the terms and conditions upon which the CONTRACTOR is willing to furnish the labor, tools, material, equipment, services, and perform the Work called for by the Contract Documents and in the manner and time and for the price(s) set forth herein.

THE OWNER AND CONTRACTOR AGREE AS FOLLOWS:

1. Contract Documents

1.1 This Agreement consists of the following Contract Documents all of which are as fully a part of this Agreement as if set out verbatim herein or attached hereto and the same do in all particulars become the Agreement between the parties hereto in all matters and things set forth herein and described:

- .1 This Agreement;
- .2 All Addenda issued prior to receipt of Bids, whether or not receipt thereof has been acknowledged by CONTRACTOR in its Bid;
- .3 Special Conditions
- .4 General Conditions
- .5 CONTRACTOR's Itemized Proposal and Declarations
- .6 Technical Specifications
- .7 Plans
- .8 County Standards and Specifications
- .9 Additional Requirements Section of the Bid Documents (wage rates, change order forms, etc.)
- .10 Instructions to Bidders
- .11 Advertisement or Notice to Bidders
- .12 Performance, Payment and Warranty Bonds

1.2 In resolving conflicts, errors, discrepancies and disputes concerning the nature, character, scope or extent of Work to be performed or furnished by the CONTRACTOR, or other rights and obligations of the OWNER and CONTRACTOR, arising from or prescribed by one or more of the Contract Documents, the following rules shall govern:

- .1 A requirement occurring in one Contract Document is as binding as though occurring in all Contract Documents;
- .2 Calculated dimensions shall govern over scaled dimensions;
- .3. The Contract Documents shall be given precedence in the order listed in Paragraph 1.1 above; and
- .4. In documents of equal priority, if any such conflict, error, discrepancy or dispute cannot be resolved or reconciled by application of the rules stated in Subparagraphs 1.2.1 through 1.2.3, then the provision expressing the greater quantity, quality, or scope of work, or

imposing the greater obligation upon the CONTRACTOR or affording the greater right or remedy to the OWNER shall govern, without regard to the party who drafted such provision.

2. Contract Price

- 2.1 The CONTRACTOR shall, in strict conformity with the Contract Documents, furnish all labor, tools, materials, equipment, services, assume and fulfill all obligations and perform all Work required to construct, complete, and make ready for use by the at the Unit Prices as quoted in the above described Bid Proposal the total not to exceed Two hundred seventy-five thousand four hundred dollars (\$275,400.00), subject to any additions or deletions based on actual approved quantities of the respective unit price items, which sum the CONTRACTOR agrees to accept as full payment for all such Work actually performed and accepted as described in the Contract Items specification and other Contract Documents. The CONTRACTOR agrees that each unit price shall be deemed full and complete compensation for all direct and indirect costs for each respective item of Work, including without limitation all materials, labor, supervision, equipment, transportation, warranties, repairs, replacement, overhead and profit for the item, complete and in place.
- 2.2 The above stated Contract Sum will be paid to the CONTRACTOR in the manner and at such times as set forth in the Contract Documents.
- 2.3 For each progress payment made prior to Substantial Completion of the Work, the Owner will withhold the following amount as retainage from payment otherwise due: 5% of the dollar value of all work satisfactorily completed until substantial completion.

3. Contract Time

- 3.1 It is hereby understood and mutually agreed, by and between the CONTRACTOR and OWNER, that the date of commencement and the time for completion of the Work as specified in the Contract Documents are ESSENTIAL CONDITIONS of this Agreement.
- 3.2 The CONTRACTOR agrees that the Work shall be commenced no later than the date indicated in the Notice to Proceed and that the Work shall be prosecuted regularly, diligently and uninterruptedly at such a rate of progress as will insure Substantial Completion on or before April 30, 2025 and Final Completion on or before May 31, 2025.
- 3.3 The CONTRACTOR and OWNER acknowledge and agree that the time allotted by this Agreement for the performance and completion of the Work is reasonable and takes into account any and all risks and adverse conditions assumed by CONTRACTOR hereunder.

4. Liquidated Damages

There are no liquidated damages as part of this project.

5. Effective Date

This Agreement shall be deemed effective as of the date and year first above written notwithstanding the date on which this Agreement has been executed by the respective parties or their representatives as stated below.

IN TESTIMONY THEREOF, the CONTRACTOR has hereunder set his hand this 19th day of November, 2024.

Address 3450 Concord Road, Lafayette, Indiana 47909

By: Adrian Kienast
Signature

Title: President

IN WITNESS WHEREOF, the OWNER does hereby accept the foregoing Agreement, and has herewith set his/her hand this 25 day of November, 2024.


OWNER:
MONTGOMERY COUNTY, INDIANA
by and through its Board of Commissioners

Date: 11-25-24

Date: November 25, 2024

Date: _____

ATTEST:



Mindy Byers, County Auditor

Date: 11/25/2024

Addendum to Contract

1. Suspension and Debarment Certification. Neither the contractor nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this contract by any federal agency or by any department, agency or political subdivision of the State. The contractor agrees that if after the execution of this agreement, either it or any of its principals are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into contracts similar to this one that it will immediately notify the County Administrator. For purposes of this agreement, the term "principal" means an officer, director, owner, partner, key employee, or other person with primary management or supervisory responsibilities, or a person who has a critical influence on or substantive control of the operations of the contractor or who has managerial or supervisory responsibilities for the services to be delivered under this agreement. In addition, the contractor represents that none of its subcontractors or subconsultants are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this contract by any federal agency or by any department, agency or political subdivision of the State. The contractor is solely responsible for any recoupment, penalties or costs that arise from the use of a suspended or debarred subconsultant. If any subconsultant becomes debarred or suspended, the contractor will immediately notify the County Administrator and, at the request of Montgomery County, take all steps required by the County to terminate the contractor's contractual relationship with said subconsultant for work to be performed under this contract. If the contractor breaches its obligations under this paragraph, including but not limited to, the condition and obligation of not being debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from entering into this contract, the County shall have the right to terminate this contract and to delay, withhold or deny work under any supplement or amendment, change order or other contractual device issued pursuant to this contract.

2. Employment Eligibility Verification. Contractor affirms under the penalties of perjury that it does not knowingly employ and unauthorized alien. Contractor shall enroll in and verify the work eligibility of all its newly hired employees through the E-Verify program as defined in Ind. Code § 22-5-1.7-3.

Contractor shall not knowingly employ or contract with an unauthorized alien. Contractor shall not retain as an employee or contract with a person that Contractor subsequential learns is an unauthorized alien.

Contractor shall require its subconsultant(s), who perform work under this Agreement, to certify to Contractor that the subconsultant does not knowingly employ or contract with an unauthorized alien and that the subconsultant has enrolled and is participating in the E-Verify program. Contractor agrees to maintain this certification through the duration for the term of a contract with a subconsultant.

3. No Investment in Iran. Contractor affirms under the penalties of perjury that Contractor is not engaged in investment activities in Iran. Providing false certification may result in the consequences listed in Ind. Code § 5-22-16.5-14, including termination of this Agreement and denial of future state contracts, as well as imposition of a civil penalty.

4. Non-Discrimination. Pursuant to Indiana and Federal Law, Contractor, and Contractor's subcontractors, if any, shall not discriminate against any employee or applicant for employment, to be employed in the performance of work under this Agreement, with respect to hire, tenure, terms, conditions, or privileges of employment or any matter directly or indirectly related to employment because of race, color, religion, sex, disability, national origin or ancestry. Breach of this covenant may be regarded as a material breach of the Agreement.

Dated this 19th day of November, 2024.

Contractor J.R. Kelly Company, Inc.
3450 Concord Road, Lafayette, Indiana 47909

Alesa Dienhart

By Alesa Dienhart, its President

State of Indiana

County of Tippecanoe

SS:

Before me personally appeared Alesa Dienhart, who being first duly sworn under penalties for perjury and signed the above and foregoing Addendum this 19th day of November, 2024.

Guadalupe Harvell
Notary Public Guadalupe Harvell

My Commission Expires: September 12, 2032
County of Residence: Fountain



GUADALUPE HARVELL
Notary Public, State of Indiana
Fountain County
My Commission Expires
September 12, 2032
Commission # **0690694**