Standard Form of Agreement between Owner and Contractor on the Basis of A Stipulated Price

This agreement is dated as of the 15th day October, 2019 by and between Yellowstone County, Montana (hereinafter called Owner), and Automated Maintenance, Inc., Billings, Montana (hereinafter called Contractor).

Owner and Contractor, in consideration of the material covenants hereinafter set forth, agree as follows:

1. Scope of Work

Contractor shall provide all labor, materials and equipment necessary for the custodial services of the Yellowstone County Courthouse located at 217 North 27th Street Billings, MT as outlined in the Owner’s Scope of Work attached as Exhibit “A”

2. Contract Times

The term of this contract will run for a period of three years starting November 1st, 2019 and expiring October 31st, 2022. Either party has the right to terminate this contract for no reason with 90 days written notice.

The first performance bond will run for a period of three years starting November 1st, 2019 and expiring October 31st, 2022 or can be in 12 month periods starting November 1st, 2019 with an annual renewal; this will be the decision of the Contractor.

3. Contract Price

Owner shall pay the Contractor in monthly increments for the Yellowstone County Courthouse, Year One ($152,638.00) – November 2019 through October 2020, $12,719.83 per month. Year Two ($156,027.00) – November 2020 through October 2021, $13,002.25 per month. Year Three ($159,837.00) - $13,319.75 per month. Invoices shall be sent to the Yellowstone County Courthouse, PO Box 35005. Billings, MT 59107.

4. Contractors Representation

4.1 Contractor has examined and reviewed the Contract Documents and other related paperwork.

4.2 Contractor has visited the site and become familiar with and is satisfied as to the general, local and site conditions that may affect cost, progress, performance and furnishing of the work.
4.3 Contractor is familiar with and is satisfied as to all federal, state and local laws and regulations that may affect cost, progress, performance and furnishing of the work.

4.4 Contractor has given Owner written notice of all conflicts, errors, ambiguities or discrepancies that the Contractor has discovered in the Contract Documents and that the Contract Documents are generally sufficient to indicate and convey the understanding of all terms and conditions for performance and furnishings of the work.

5. Contract Documents

The Contract Documents, which comprise the entire agreement between Owner and Contractor, consist of the following:

5.1 This Agreement.

5.2 Yellowstone County’s Scope of Work.

5.3 Contractor’s proposal submitted September 9th, 2019.

5.4 Performance bond for 100% of the annual contract amount.

5.5 Contractor’s current Certificate of Insurance and Workers Compensation coverage.

6. Miscellaneous

6.1 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without written 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 discharge the assignor from any duty or responsibility under the Contract Documents.

6.2 Contractor hereby agrees to hold harmless and indemnify the owner from and against all claims, losses, damages or legal liability arising from the Contractor’s negligence or that of his or her employees or agents. Owner hereby agrees to hold harmless and indemnify Contractor from and against all claims, losses, damages or liability arising from Owner’s negligence or that of its employees or agents.
6.3 The Contractor agrees to perform the labor and terms of this contract as an independent contractor and nothing herein contained shall be construed to be inconsistent with this relationship or status. Nothing in this contract shall be in any way construed to constitute the Contractor, or any of his (or her, or its) agents or employees as the agent, employee or representative of Yellowstone County for any purpose, or to be recipients of any benefits, pensions, insurance plans, payroll taxes, worker's compensation or State or Federal withholding taxes.

6.4 Owner and Contractor each binds itself, its partners, successors, assign and legal representative to the other party hereto, its partners, successors, assign and legal representative to respect to all covenants, agreements and obligations contained in the Contract Documents.

6.5 Contractor must give preference to the employment of bona fide residents of Montana in the performance of this work.

6.6 All work and materials must be warranted for a period of one year from date of installation.

6.7 The Parties agree that the laws of the State of Montana shall govern this contract, and that venue shall be in the Thirteenth Judicial District Court, Yellowstone County, Montana.

6.8 In the event of litigation, the prevailing party shall be entitled to reimbursement of Court costs and reasonable Attorney fees by the non-prevailing party.

6.9 The Contractor must, in performance of work under this contract, fully comply with all applicable federal, state or local laws, rules, regulations, including the Montana Human Rights Act, Civil Rights Act of 1964, the Age Discrimination Act of 1975 and the American with Disabilities Act of 1990. Any subletting or subcontracting by the Contractor subjects subcontractors to the same provisions. In accordance with section 49-3-207, MCA, the Contractor agrees that the hiring of persons to perform the contract will be made on the basis of merit and qualifications and there will be no discrimination based upon race, color, religion, creed, political ideas, sex, age, marital status, physical or mental disability, or national origin by the persons performing under the contract.

7.0 The Contractor will be required to follow all the directives included in section 18-2-422 of the Montana Code Annotated concerning Montana Prevailing Wages. Those directives are as follows:

(1) The contractor and employers shall pay the standard prevailing wage rate, including fringe benefits, for each job classification during duration of this contract;
(2) each contractor and employer are required to maintain payroll records in a manner readily capable of being certified for submission
(2) each contractor and employer are required to maintain payroll records in a manner readily capable of being certified for submission under statute 18-2-423, for not less than 3 years after the contractor’s or employer’s completion of work on the project;

(3) each contractor is required to post a statement of all wages and fringe benefits in compliance with 18-2-423.

Statute 18-2-423 is as follows: If a complaint is filed with the department alleging noncompliance with 18-2-422, the department may require the project to submit to it certified copies of the payroll records for workers employed on that project. A contractor or a subcontractor shall pay employees receiving an hourly wage on a weekly basis. If a wage violation complaint is filed with the department, the contractor or subcontractor shall provide the employee’s payroll records to the in 5 days of receiving the payroll request from the department.

(4) The Contractor is required to comply with all other applicable provisions of Title 18, Chapter 2, Part 4 of the Montana Code Annotated.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in duplicate. One counterpart each will be delivered to OWNER and CONTRACTOR. All portions of the Contract Documents have been signed, initialed or identified by OWNER and CONTRACTOR.

This Agreement will be effective November 1st, 2019

OWNER:
Yellowstone County
Billings, Montana 59101

CONTRACTOR:
Automated Maintenance Services, Inc.
Billings, MT 59104

Denis Pitman
BOCC Chair

Dan Kooyman
Manager

Attest:
(Seal)

Jeff Martin
Clerk and Recorder