

MUTUAL RELEASE

Conditioned on payment of the final contract amount of TWO HUNDRED FIFTY TWO THOUSAND SEVEN HUNDRED THIRTY FOUR DOLLARS AND FOUR CENTS (\$252,734.04), including a final payment of NINETY-SEVEN THOUSAND NINE HUNDRED FIFTY-SEVEN DOLLARS AND FORTY-FOUR CENTS (\$97,957.44), from Lexington-Fayette Urban County Government ("LFUCG"), Free Contracting, Inc. ("Free Contracting") and LFUCG do hereby mutually release and forever discharge each other from any and all claims, demands, damages, actions, causes of action, obligations, rights, expenses, costs, compensation, or suits at law or in equity they now or may hereafter have against the other whatsoever, related to the Contract for the Blue Sky Treatment Plant Demolition and Lagoon Dewatering project, LFUCG Contract No. 301-2014 (authorized by Resolution No. 616-2014 and hereinafter the "Contract"), and hereby release, acquit and forever discharge each other and their respective officials, agents, employees, successors and assigns, and all other persons, firms, or corporations connected therewith, of and from any and all claims, demands, damages, actions, causes of action, obligations, rights, expenses, costs, compensation, or suits at law or in equity, of whatever kind or nature whatsoever which they now have or which may hereafter accrue to either of them on account of, or in any way growing out of any claims based on performance of the above Contract.

It is further understood and agreed by the parties that LFUCG and Free Contracting have agreed to a cancellation of the Contract for convenience pursuant to

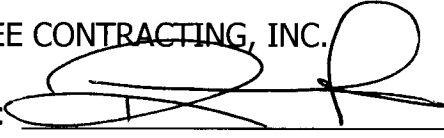
paragraph 14.2.11 of the Contract General Conditions and that this Mutual Release, when effective, completely and forever settles all matters in dispute between Free Contracting and LFUCG which have been, are, or could have been alleged in relation to the Contract, including any claim that is or could be made by LFUCG against Performance Bond No. 0482787 and the Performance Bond surety, Ohio Farmers Insurance Company.

It is also understood and agreed that this Mutual Release, when effective, shall be binding on the parties and on all of their successors, officers, directors, employees, assigns, heirs, executors, administrators, agents, sureties, insurers and legal representatives, in relation to the above Contract and Performance Bond.

It is further understood and agreed that Free Contracting is responsible for the negotiation, compromise, and satisfaction of any and all liens or claims of any type by third parties relating to or arising out of performance of the above Contract, and Free Contracting warrants and represents to LFUCG that there are no such claims pending or known, but Free Contracting understands and agrees that the indemnification and hold harmless provisions of the Contract (Part V, Special Conditions, Section 2, Risk Management Provisions – Insurance and Indemnification, SC-3) shall remain in force and effect as provided therein, notwithstanding this release.

This Mutual Release represents the entire agreement of the parties with regard to the matters set forth herein. All prior representations are merged into this agreement.

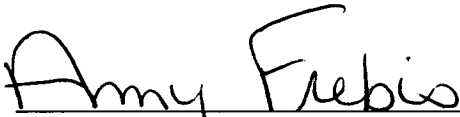
IN WITNESS WHEREOF, the parties have hereunto set their hand this 11th day of February, 2016.

FREE CONTRACTING, INC.
BY: 
Rhonda W. Fister, P.E., President


STATE OF KENTUCKY)
)
COUNTY OF FAYETTE)

Subscribed and sworn to before me by Rhonda W. Fister, P.E., President of Free Contracting, Inc., on this the 11th day of February, 2016.

My Commission Expires: 8-13-19


NOTARY PUBLIC, STATE AT LARGE,
KENTUCKY

LEXINGTON-FAYETTE URBAN COUNTY
GOVERNMENT

BY: 

Jim Gray, Mayor

STATE OF KENTUCKY)
)
COUNTY OF FAYETTE)

Subscribed and sworn to before me by Jim Gray, Mayor, Lexington-Fayette Urban
County Government, on this the 11th day of ~~February~~, 2016.

May

My Commission Expires: *28-Dec-2019*

 #547793

NOTARY PUBLIC, STATE AT LARGE,
KENTUCKY

**LEXINGTON-FAYETTE URBAN COUNTY
GOVERNMENT CONTRACT CHANGE ORDER**
Page 1 of 2

Date:	November 18, 2015	
Project:	Blue Sky PS & FM - Contract 3	
Location:	Division of Water Quality	
Contract No.	Resolution #616-2014	
Original Contract Amt.	\$361,124.00	
Cumulative Amount of Previous Change Orders	\$0.00	
Percent Change - Previous Change Orders		0.00%
Total Contract Amount Prior to this Change Order	\$361,124.00	
Change Order No.	#1 FINAL	

You are hereby requested to comply with the following changes from the contract plans and specification;

Current Change Order

Item No.	Description of changes-quantities, unit prices, change in completion date, etc.	Decrease in contract price	Increase in contract price	
1	Reduce WWTP demo/disposal	\$330.00		
2	Reduce chem building demo / disposal	\$7,200.00		
3	Reduce lagoon fill	\$59,460.00		
4	Reduce seed and straw	\$15,000.00		
5	Reduce asphalt paving	\$30,000.00		
6	Increase silt material removal		\$3,600.04	
	Total decrease	\$111,990.00		
	Total increase		\$3,600.04	
	Net Amount of this Change Order	(\$108,389.96)		
	New Contract Amount Including this Change Order	\$252,734.04		
	Percent Change - This Change Order			-42.89%
	Percent Change - All Change Orders			-30.01%

The time provided for the completion in the contract and all provisions of the contract will apply hereto.

Recommended by _____ (Proj. Engr.) Date _____
 Accepted by _____ (Design Engineer) Date _____
 Approved by Charlotte Pitts (Director) Date 2/10/16
 Approved by Dorothy Hoskins Squier (Commissioner) Date 5/3/16
 Approved by John Gray (Mayor or CAO) Date 17-Mar-2016

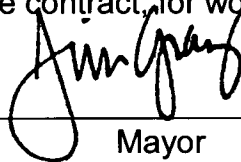
JUSTIFICATION FOR CHANGE

PROJECT: Blue Sky PS & FM

CONTRACT NO. Resolution #616-2014

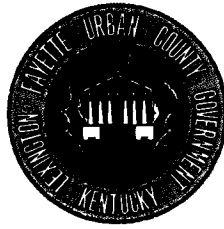
CHANGE ORDER: #1 FINAL

1. Necessity for change: Reducing quantities so that remaining work can be completed with internal forces or be transferred to pending salt barn design contract.
2. Is proposed change an alternate bid? ___ Yes X No
3. Will proposed change alter the physical size of the project? X Yes ___ No
If "Yes", explain. Scope of project reduced in lagoon fill and compacting.
4. Effect of this change on other prime contractors: N/A
5. Has consent of surety been obtained? X Yes ___ Not Necessary
6. Will this change affect expiration or extent of insurance coverage? ___ Yes X No
If "Yes", will the policies be extended? ___ Yes ___ No
7. Effect on operation and maintenance costs: N/A
8. Effect on contract completion date: Reflects appropriate compensation, based on unit prices contained in the contract, for work completed.



Mayor

Date




Lexington-Fayette Urban County Government
DEPARTMENT OF PUBLIC WORKS & ENVIRONMENTAL QUALITY

Jim Gray
Mayor

Dowell Hoskins-Squier, P.E.
Commissioner

TO: Mayor Jim Gray
Urban County Council

FROM: 
Charles H. Martin, P.E., Director
Division of Water Quality

DATE: February 10, 2016

SUBJECT: Change Order #1 Final
Blue Sky Pump Station and Force Main Contract 3

Request

The purpose of this memorandum is to request approval of Change Order #1 (Final) to the Blue Sky Pump Station and Force Main Contract 3 agreement with Free Contracting, reducing the contract amount by \$108,389.96 to a new, final contract amount of \$252,734.04.

Purpose of Request

The Division of Water Quality recommends this change order to facilitate transition of final grading the Department of Environmental Quality and Public Works for inclusion in the anticipated FY17 Salt Barn project.

Project Cost in FY16

Reduced by \$108,389.96.

Are Funds Budgeted

Funds were budgeted in: 4003-303408-3468-92811 BLUESYPS_2013 CONSENT_DE 2013.

File Number: Resolution #616-2014

Director/Commissioner: Martin/Hoskins-Squier

Sharon A Jones

From: Michael Cravens
Sent: Thursday, May 05, 2016 3:34 PM
To: Sharon A Jones
Subject: RE: Question re: Blue Sky Pump/Free Contracting

Sharon,

The Mutual Release should be attached to the change order form. Since they've signed the release, and since it is attached to the change order, and since they're part of the same transaction, there's no need for them to sign the change order, too (the signature on the release operates as an acceptance/approval of both).

Michael Cravens
Attorney Senior
Lexington-Fayette Urban County Government
Department of Law
200 E. Main Street
Lexington, KY 40507
Phone: (859)-258-3500
Fax: (859)-258-3538
E-mail: MCravens@lexingtonky.gov

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From: Sharon A Jones
Sent: Thursday, May 05, 2016 3:13 PM
To: Michael Cravens
Subject: Question re: Blue Sky Pump/Free Contracting

The change order form on this is not executed by the vendor, but the "Mutual Release" is – in this situation, can that replace the normal "Change Order" form that we typically use, or do I need to try to get the vendor to sign that as well?

Sharon A. Jones
Deputy Council Clerk
Lexington-Fayette Urban County Government
Council Clerk's Office
200 E. Main Street
Lexington KY 40507
Email: sjones1@lexingtonky.gov
Phone: 859-258-3242



PART 5 CONTRACTOR'S APPLICATION FOR PAYMENT

To (Owner): LFUCG	Application Period: 5/23/15 to 6/19/15	Application Date: 6/19/2015
Project: Blue Sky Pumping Station & Force Main Contract 3- Wastewater Treatment Plant Closure	From (Contractor): Free Contracting, Inc.	
Owner's Contract No:	Application Number: 4	
	Contractor's Project Number: 866	

APPLICATION FOR PAYMENT


Change Order Summary

Approved Change Orders:		
Number	Additions	Deductions
Totals		
Net Change By Change Orders		

1. ORIGINAL CONTRACT PRICE	\$ 361,124.00
2. NET CHANGE BY CHANGE ORDERS	\$
3. CURRENT CONTRACT PRICE (Line 1+2)	\$ 361,124.00
4. TOTAL COMPLETED AND STORED TO DATE	\$ 171,974.00
5. RETAINAGE:	\$ 17,197.40
6. AMOUNT ELIGIBLE TO DATE	\$ 154,776.60
7. LESS PREVIOUS PAYMENT	\$ 118,485.00
8. AMOUNT DUE THIS APPLICATION	\$ 36,291.60
9. BALANCE TO FINISH	\$ 189,150.00

CONTRACTOR'S CERTIFICATION


The undersigned Contractor certifies that: (1) all previous payments received from Owner on account of Work done under the Contract have been applied on account to discharge Contractor's legitimate obligations incurred in connection with Work covered by prior Application for Payment; (2) title of all Work, materials and equipment incorporated in said Work or otherwise listed in or covered by this Application for Payment will pass to Owner at time of payment free and clear of all Liens, security interest and encumbrances (except such as are covered by a Bond acceptable to Owner indemnifying Owner against any such Liens, security interest or encumbrances); and (3) all work covered by this Application for Payment is in accordance with the Contract Documents and is not defective.

 President Date: 6/22/15

is recommended by:

(Inspector) (Date)

(Engineer) (Date)

 6.29.2015
(Owner) (Date)

Amended Contract Amount (pending) 252,734.04
 less Line 7 -118,485.00
 less Line 8 -36,291.60
 amount due 97,957.44