

Building and Construction Contract

(Lock & Key)

Agreement made effective as of the ____ day of July, 2017 by and between Marshall County Road Department 160 Homer Lucas Ln. Benton Ky. 42025, hereinafter referred to as Owner and GLEN HARRIS CONSTRUCTION, INC., of 650 Harvey Road, Benton Ky 42025, by and through its President, Glen Harris, hereinafter referred to as Contractor, as follows:

Section One
Description of work:

Contractor shall perform the following described work: We hereby submit specifications for construction of an addition to the existing shop building at 160 Homer Lucas Ln. Benton Ky. 42025:

Scope:

- From a prepared site provided by Marshall County Road Department
- Building layout and excavate for footings, columns and grade beams.
- Furnish and place all concrete that is required for the building (60'x60'), based on 6" reinforced concrete that includes a 4" floor drain with a 2'x2' box. Doorways will include concrete aprons the width of the doors and extend 6'. For the 16'x60' lean to concrete will be 6" reinforced.
- Design, furnish and erect a 60'x60' Pre-engineered metal building with a 16' x60' lean to. Building will have a 26 ga standing seam roof with lean to having a 26 ga screw down panel. With matching gutters.
- 8' liner panels for interior of walls
- Furnish and install 3- 14'2" x 14' 24 ga steel insulated, commercial ribbed garage doors with openers
- Furnish and install 1- 3070 man door
- Furnish and install 2- Infrasive 110,000 BTU 40' tube heaters
- Engineering and permits
- Furnish all electrical including 15- 110 receptacles, 3-220 receptacles, 1- 3 phase receptacle, 1- 3 phase disconnect box and 12- LED High Bay lights
- Insulation R-30 in the roof / R-19 in walls
- Wall panels – Bigbee Rib II Light Stone
- Enclosed building Roof panels – Bigbee Lok -324 Galv.
- Metal Corners – Light Stone
- Framed openings and gutters – Ash Grey

Owner provides building pad and white rock.

Concrete pricing based on level and stable building pad any additional fill or excavating needed will be supplied by owner.

Floor drain is priced by bid documents, it will be required to be hooked to an oil/water separator and septic or waste fill subject to Health Department requirements at an additional cost.

This Contract is based on the site being compacted and stable to receive the footing and foundation.

Location of work to be performed:
160 Homer Lucas Ln. Benton Ky 42025

Section Two
Contract Price

A. Owner agrees to pay contractor, for the work described, the total price of One hundred and sixty-seven Thousand and twenty, Dollars (\$167,020.00).

B. Payment of this amount is subject to additions or deductions in accordance with the provisions of this contract and of the other documents to which this contract is subject.

C. Payment on the total contract price is to be made in installments as follows:

\$4,500.00 deposit at the time of signing this contract, which amount shall be credited against the final payment under this contract.

Progress payments shall be made within 48 hours of the Marshall County Fiscal Court meeting immediately following notice of a completed stage by the Contractor, but if there is not such a meeting within thirty (30) days of a notice from Contractor then payment shall be made within thirty (30) days of notice. Progress payments shall be based on the percentage of work that has been completed and material that has been purchased.

Before completion date the contractor shall give written notice to owner of the anticipated completion date. On or before 30 days prior to the completion date the owner shall inspect the construction project. The owner shall then provide a written list (punch list) of all items which need a finishing, correcting or repair (if any). When the contractor completes the punch list, the contractor shall send a final notice to the owner that the construction project is complete. The completion date shall be the date of the final notice.

It is further agreed that all payments to contractor as stated herein shall be paid by owner within five (5) business days of each notice of a completed stage.

D. Allotment for excavation work: The owner is not aware of and has not advised the contractor of any subsurface conditions that will create problems in completing the excavation, foundation and floors on the lot where the structure is to be constructed. In the event unknown conditions such as, but not limited to, solid rock, unstable subsurface, underground springs or creeks are discovered, the owner will be responsible for additional costs to prepare and complete the excavation, foundation and floors to support the structure to be built.

Section Three Progress Payments

A. Owner shall make progress payments on account of the contract price to contractor on the basis of applications for payment submitted to Owner by contractor as the work progresses.

B. Progress payments may be withheld if:

- (1) Work is found defective and not remedied;
- (2) Contractor does not make prompt and proper payments to subcontractors;
- (3) Contractor does not make prompt and proper payments for labor, materials, or equipment furnished him;
- (4) Another contractor is damaged by an act for which contractor is responsible;
- (5) Claims or liens are filed on the job.

Section Four Final Payment

A. Owner shall make final payment to contractor within five (5) business days after the work is completed.

B. Owner by making payment waives all claims except those arising out of:

- (1) Faulty work appearing after substantial completion has been granted;
- (2) Work that does not comply with the contract documents;
- (3) Outstanding claims or liens by or from third parties; or;
- (4) Failure of contractor to comply with any special guarantees required by the contract documents.

C. Contractor, by accepting final payment, waives all claims except those that he has previously made in writing, and which remain unsettled at the time of acceptance.

Section Five Starting Date and Completion Date

Excavation under this contract shall begin _____ weeks after the receipt of the deposit and signed contract.

Completion of this contract will be _____ months after the arrival of the metal building.

Section Six
Contract Documents

A. The contract documents on which the agreements between owner, and contractor is based, that contain the plans and specifications in accordance with which the work is to be done, and that provide for the method of payment of the contract price are as follows:

- (1) This agreement, with supplementary agreements and conditions attached to this agreement;
- (2) The plans and specifications, with addenda attached to such plans and specifications, issued before execution of this agreement and any amendments made after the effective date of this agreement;
- (3) Written interpretations of the contract documents and directives to be made from time to time by the owner; and
- (4) Work change orders issued, or to be issued

B. The contract documents together form the contract for the work described in this agreement. The parties intend that the documents include provisions for all labor, materials, equipment, supplies, and other items necessary for the execution and completion of the work, and all terms and conditions of payment. The documents also include all work and procedures not expressly indicated in such documents necessary for proper execution of the above-described project.

C. The contract documents are to be separately executed in duplicate by owner and contractor. If by inadvertence any of the contract documents are not signed. Owner shall identify them.

Section Seven
Responsibilities of Owner

A. Owner shall give all instructions to contractor and shall furnish all necessary surveys for the work, and shall secure and pay for easements for permanent structures or permanent changes in existing structures or facilities on the work site, or which are necessary for its proper completion.

B. Owner reserves the right to enter into other contracts, in connection with the project, which are not part of the scope of work to be completed under this contract. Contractor shall cooperate with all other contractors to the effect that their work shall not be impeded by his construction, and shall give such other contractors access to the work site necessary to perform their contracts.

C. Owner shall provide and pay for all utilities needed in the construction of the project described herein. This cost is in addition to the contract price as stated in section two.

D. Indemnity, Defend and Hold Harmless Agreement: Owner agrees to indemnify, defend and hold harmless the Contractor, its agents, representatives, employees and sub-contractors, from and against any and all third-party claims, demands, actions or threats of action, along with all costs, liabilities, damages, expenses and fees, including reasonable attorneys' fees associated therewith, which arise from or relate to the negligent, reckless, willful or intentional acts or omissions of Owner, its employees, representatives or agents.

Section Eight
Responsibilities of the Contractor

Contractor's duties and rights are in connection with the above-described project are as follows:

A. Responsibility for and Supervision of Construction. Contractor shall be solely responsible for all construction under this contract, including the techniques, sequences, procedures and means, and for coordination of all work. Contractor shall supervise and direct

the work to the best of his ability, and give it all attention necessary for such proper supervision and direction.

B. Discipline and Employment. Contractor shall maintain at all times strict discipline among his employees and contractor agrees not to employ for work on the project any person unfit or without sufficient skill to perform the job for which he or she was employed.

C. Furnishing of labor, materials, etc. Contractor shall provide and pay for all labor, materials and equipment, including tools, construction equipment, and machinery, furnished by owner for the completion of work on the project in accordance with the contract documents.

D. Payment of Taxes; Procurement of Licenses and Permits. Contractor shall pay all taxes required by law in connection with work on the project in accordance with this agreement including sales, use and similar taxes and shall secure all licenses and permits necessary for proper completion of the work, paying the fees for such licenses and permits.

E. Compliance with Construction Laws and Regulations. Contractor shall comply with all laws and ordinances and the rules regulations, or orders of all public authorities relating to the performance of the work under and pursuant to this agreement. If any of the contract documents are at variance with any such laws, ordinances, rules, regulations, or orders, he shall notify owner promptly on discovery of such variance.

F. Furnishing of Samples and Shop Drawings. Contractor agrees to furnish at Owners direction all samples and shop drawings for his or her consideration and approval as to conformance with specifications of the contract documents and his concepts of design called for in such specifications.

G. Clean-up. Contractor agrees to keep the work premises and adjoining ways free of waste material and rubbish caused by his work or that of his subcontractors. Contractor further agrees to remove all such waste material and rubbish on termination of the project, together with all his tools, equipment, machinery, and operations, including the cleaning of all glass surfaces, paved streets and walks, steps and interior floors and walls.

H. Indemnity, Defend and Hold Harmless Agreement. Contractor agrees to indemnify, defend and hold harmless the Owner, its agents, representatives, and employees, from and against any and all third-party claims, demands, actions or threats of action, along with all costs, liabilities, damages, expenses and fees, including reasonable attorneys' fees associated therewith, which arise from or relate to the negligent, reckless, willful or intentional acts or omissions of Contractor, its agents, representatives, employees or sub-contractors.

Section Nine Time of Essence; Extension of time

A. All times stated in this agreement or in the contract documents are of the essence hereof.

B. The times stated in this agreement or in the contract documents will be extended by a change order from Owner for such reasonable time as he or she may determine, when contractor is delayed in work progress by change orders, labor disputes, fire, prolonged transportation delays, injuries, weather, acts of God, or other causes beyond contractor' control or which justify the delay.

Section Ten Insurance

A. Contractor's Liability Insurance. Contractor agrees to keep in force, at his own expense, during the entire period of construction on the project a general liability insurance policy, which shall include coverage for Contractor's negligent work or performance, and any necessary remedial work as a result thereof following completion of the project. The coverage for said remedial work shall include coverage for claims made for a period of one (1) year after final payment or occupancy, whichever occurs first. Contractor shall also maintain such insurance as will protect him from claims, under workers' compensation and other employee benefit laws, for bodily injury and death and for property damage, that may arise out of work under this agreement, whether directly or indirectly by contractor, or directly or specified in the

contract documents or by law for that type of damage claim. Proof of such insurance shall be filed by contractor with owner within a reasonable time after execution of this agreement, and Owner may reasonably, from time to time, request proof of the foregoing required insurance coverage.

B. Owner's Liability Insurance. Owner agrees to maintain in force his or her own liability insurance during the construction on this project, and reserves the right to purchase additional insurance as in his or her opinion is necessary to protect him or her against claims arising out of the contractor's operation, without diminishing contractor's obligation to carry the insurance specified in this agreement on contractor's part to be carried.

C. Property Damage Insurance on Work Site. The Owner shall purchase and maintain property insurance and/or builders risk on the work to be performed using the current edition of ISO form or its equivalent including "Special Form" and Earthquake perils of loss in the amount of the contract sum, plus the value of subsequent modifications, plus the replacement cost of any structure that is being modified or where the work to be performed is being attached. Insurance shall cover portions of the work that is off the site and also portions of the work that are in transit. Contractor and its subcontractors shall be named as a Named Insured on all such insurance policies. Policies shall be endorsed to and all parties shall waive rights of subrogation in favor of all parties. Owner shall file a copy of all such policies with contractor before construction begins under and pursuant to this agreement.

D. Waiver of work site property damage claims to extent of Insurance Coverage. Owner and contractor hereby waive all claims against each other for damage from perils covered by insurance provided in paragraph C of this section.

Section Eleven Correcting Work

A. When it appears to contractor that any work does not conform to the provisions of the contract documents, contractor shall make necessary corrections so that such work will conform. Contract makes no warranties, nor agrees to perform any corrections, beyond the applicable statute of limitations by this Section.

Section Twelve Work Changes

A. Owner reserves the right to order work changes in the nature of additions, or modifications, without invalidating this agreement, and agreed to make corresponding adjustments in the contract price and time for completion.

B. All changes will be authorized by a written change order signed by owner or by owner's agent. The change order will include Conforming changes in the agreement contract and completion time.

C. Work shall be changed, and the contract price and completion time shall be modified only as set out in the written change order.

D. Any adjustment in the contract price resulting in a credit or a change to owner shall be determined by mutual agreement of the parties, before starting the work involved in the change.

Section Thirteen Termination

A. Contractor's Termination. Contractor may, on ten days written notice to owner, terminate this agreement before the completion date specified in this agreement when for a period of five days after a progress payment is due, through no fault of contractor; owner fails to make the payment. On such termination, contractor may recover from owner payment for all work completed and for any loss sustained by contractor for materials, equipment, tools, or machinery to the extent of actual loss thereon plus loss of a reasonable profit, provided he can prove such loss and damages.

B. Owner's Termination. Owner may, on thirty days notice to contractor, terminate this

agreement before the completion date specified in this agreement, without prejudice to any other remedy he or she may have when contractor defaults in performance of any provision in this agreement, or fails to carry out the construction in accordance with the provisions of the contract documents. Written notice of termination by Owner specifically includes the alleged default by Contractor for which the Owner seeks to terminate this agreement, and Contractor shall have fifteen(15) days from the date of such notice to remedy the default.

C. On any default by contractor, Owner may elect not to terminate this agreement, and he or she may make good the deficiency of which the default consists, and deduct the costs from the progress payment then or to become due to contractor; provided however, Owner shall first give Contractor written notice of the work default and Contractor shall have fifteen (15) days from the date of such notice to remedy the default.

Section Fourteen Governing Law

It is agreed that this agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Kentucky.

Section Fifteen Attorney Fees

In the event that any action is filed in relation to this agreement, each party shall be responsible for its own costs, expenses and fees, including attorneys' fees, except in the event it is determined, by the trier of fact in the action, that a party acted intentionally, willfully or in bad faith in its failure to satisfy and comply with its obligations under this contract (herein "bad faith party"), then the bad faith party shall be liable and responsible for the other party's costs, expenses and fees, including reasonable attorneys' fees.

Section Sixteen Entire Agreement

This agreement shall constitute the entire agreement between the parties and any prior understanding or representation of any kind preceding the date of this agreement shall not be binding upon either party except to the extent incorporated in this agreement.

Section Seventeen Modification of Agreement

Any modification of this agreement or additional obligation assumed by either party in connection with this agreement shall be binding only if evidenced in writing signed by each party or any authorized representative of each party.

Section Eighteen Notices

Any notice provided for or concerning this agreement shall be in writing and be deemed sufficiently given when sent by certified or registered mail if sent to the respective address of each party as set forth at the beginning of this agreement.

Section Nineteen Assignment of Rights

The rights of each party under this agreement are personal to that party and may not be assigned or transferred to any other person, firm, corporation, or other entity without the prior, express, and written consent of the other party.

Section Twenty Paragraph Readings

The titles to the paragraphs of this agreement are solely for the convenience of the parties and shall not be used to explain, modify, simplify, or aid in the interpretation of the provisions of this agreement.

Section Twenty-One Dispute Resolution

A. Initial Dispute Resolution: If a dispute arises out of or relates to this Agreement, or the breach thereof, the parties agree to, in good faith, endeavor to settle the dispute first through direct discussions. If the dispute cannot be settled through direct discussions, the parties agree to, in good faith, endeavor to settle the dispute by mediation under the Construction Industry Mediation Rules of the American Arbitration Association before seeking recourse in a legal proceeding.

B. Work Continuation and Payment: Unless otherwise agreed in writing, The Contractor shall carry on the work and maintain the schedule of work pending a dispute resolution. If the Contractor is continuing to perform, the owner shall continue to make payments in accordance with this Agreement.

C. Governing Law, Jurisdiction & Venue: This contract shall be governed and construed in accordance with the laws of Kentucky. The parties agree that jurisdiction and venue for any legal action arising out of, or associated with, this contract or the project shall be in the Graves Circuit located in Graves County, Kentucky or the McCracken Circuit Court located in McCracken County, Kentucky. Each party irrevocably submits to jurisdiction in said courts and waives any claim of forum non conveniens.

D. No Limitation of Rights or Remedies: Nothing in this article shall limit any rights or remedies not expressly waived by the Contractor which the Contractor may have under lien laws or payment bonds.

IN WITNESS WHEREOF, each party to this agreement has caused it to be executed at
160 Homer Lucas Ln. Benton Ky 42025
on the _____ day of July, 2017.

CONTRACTOR:
GLEN HARRIS CONSTRUCTION, INC.

By: _____
Glen Harris, President

OWNER (S):
Marshall County Road Department.

By: _____
Wendy Greer; Superintendent