

C O N T R A C T

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Dayton & Francis

And

Magnolia Dist. Board of Education.

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NEW MARTINSVILLE SCHOOL.

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THIS AGREEMENT; made the twenty-first day of August in the year one Thousand Nine Hundred and Twenty-two (1922) by and between Dayton and Francis of New Martinsville, W. Va., party of the first part (hereinafter designated the Contractor) and the Magnolia District Board of Education of Wetzel County, W. Va., party of the second part (hereinafter designated the Owner).

WITNESS, that for and in consideration of the mutual covenants and agreements herein contained, it is agreed as follows:-

The contractor will provide all material and labor according to plans and specifications prepared by F. F. Faris, Architect, acting as agent of Owner for the new high school building for owner located in New Martinsville, W. Va.

This contract includes all work called for in specifications and as shown on plans excepting, the following omissions are to be made;- All partition walls in basement to be left out excepting all bearing partitions. The partitions at stairs to go in on all floors. Cement plaster to be left off the outside foundation walls. All inside walls of first floor to be made 12 inch load bearing tile set on end. All inside walls of second floor to be made 12" load bearing tile set on end instead of 9 inch brick walls. Court wall of second floor to be backed with 5 x 8 inch tile with 4 inch pressed brick on outside. Tile backing to be used under windows. All partitions excepting bearing partitions, plaster and wood finish and inside painting to be left out of first and second floors. The 2 inch concrete over the metal joist and 2 x 3 sleepers to be laid as shown and specified. Metal lath to be left off underside of metal joist. Gymnasium to be finished as shown and specified, except bleachers and wood ceiling will be omitted. All cement floor in basement excepting in gymnasium to be omitted. The three flights of main stairs and vestibule doors to be in as shown and specified. The small stairs at locker rooms and machine rooms to be omitted.

It is agreed by contractor that the work contracted for is to be a finished piece of work as contemplated by the specifications and

drawings. Said work contracted for to be left satisfactory to Owner and Architect.

Contractor agrees to work as many workmen and mechanics on the work as deemed necessary by the architect and further agrees that if he should refuse to have the number of mechanics and workmen as deemed necessary by the architect, then the owner will have the right to employ additional mechanics and workmen and charge such expense to contractor.

Contractor also agrees to have the required materials on ground as per plans and specifications to keep the work steadily advancing; should he refuse to have the required materials on the ground, then the Owner will have the right to purchase materials and charge same to the contractor.

No alterations to be made in the plans and specifications excepting those hereinbefore mentioned unless ordered by architect or Owner, and when so made the value of the work added or omitted shall be computed by the architect and the amount so ascertained shall be added to or deducted from the contract price.

The contractor shall within twenty-four hours after receiving written notice from the architect to that effect, proceed to remove from the premises all materials condemned by him whether worked or unworked and to take down all portions of the work which the architect or his superintendent shall by like written notice condemn as unsound or improper or as in any way failing to conform to the drawings and specifications and contract.

Should contractor fail in the performance of any of the agreements herein contained, the Owner will have the right to terminate the employment of the contractor and to enter upon the premises and take possession of all materials, tools and appliances thereon and to employ any other person or persons to finish the work and to provide the materials therefor and in case such discontinuance of the employment of contractor, he shall not be entitled to receive any further payment under this contract until the said work shall be entirely finished, if

the unpaid balance due the contractor shall exceed the expense incurred by the Owner for finishing the work such excess shall be paid by the Owner to the contractor, but if such expense shall exceed the unpaid balance, the contractor shall pay the difference to the Owner. The expense as incurred by such default shall be audited and certified by the architect, whose certificate thereof shall be conclusive upon the parties. The Owner has the right to make any additions or deductions from the contract, without invalidating the contract.

It is hereby mutually agreed between the parties hereto that the sum to be paid by the Owner to the contractor for said work and materials shall be Ninety Two Thousand Dollars (\$92,000.00).

Estimates on the contract for work in place shall be paid in current funds by the Owner to the contractor as follows:- Payment to be made every thirty days on estimates of architect, providing however, the work is satisfactory. Ten per cent (10%) of each estimate reserved until completion and acceptance of work contracted for.

If at any time there shall be evidence of any lien or claim which if established the Owner of the said premises might become liable, and which is chargeable to the contractor the Owner shall have the right to retain out of any payment then due or thereafter to become due an amount sufficient to completely indemnify him against such lien or claim; should there prove to be any such lien or claim after all payments are made the contractor shall refund to the Owner all moneys that the latter may be compelled to pay in discharging any lien or claim.

It is further mutually agreed between the parties hereto that no certificate given or payment made under this contract except the final certificate or final payment, shall be conclusive evidence of the performance of this contract, either wholly or in part and that no payment shall be construed to be an acceptance of defective work or improper materials.

The contractor agrees to take out all necessary insurance and to save the Owner harmless from all claims and damages to persons or

property and the adjoining property during the carrying out of the work herein provided for or resulting therefrom.

The contractor shall be responsible for the labor and materials furnished by him under this contract, until the same shall have been finally accepted by Owner and replace the same at his own expense in case it is damaged or destroyed.

In case the Owner and contractor fail to agree on any matters pertaining to this contract or should either of them dissent from the decision of the architect, then the matter shall be referred to a Board of Arbitration to consist of one person selected by the Owner and one person selected by the contractor, these two to select a third. The decision of any two of this Board shall be final and binding. Each party hereto shall pay one-half of the expense of such reference.

The said parties for themselves, their heirs, executors, administrators and assigns do hereby agree to the full performance of the covenants herein contained.

IN WITNESS WHEREOF, the parties to these presents have hereunto set their hands and seals, the day and year above written.

Dayton Hoban (SEAL)
By J. L. Dayton

Magnolia District Board (SEAL)
of Education
By J. J. Williams (SEAL)