



Public Service Commission

State of North Dakota

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July 29, 2011

Mr. John Sebastian
Hinshaw & Culbertson, LLP
222 North LaSalle Street, Suite 300
Chicago, IL 60601

RE: Buechler/Velva Abandoned Mine Lands (AML) Project
Invoice No. 6 from Kern & Tabery, Inc.

Dear Mr. Sebastian:

Attached is a copy of the sixth invoice the AML Division has received from Kern & Tabery, Inc. for work they have completed at the 2010 Buechler/Velva AML project and staff spreadsheets that are used to track contractor invoices and payments. The amount of Kern & Tabery's sixth invoice is \$27,321.95 for dirt work that has been completed. AML staff has reviewed the invoice and approves payment of this amount in accordance with Covenant No. 3 of the Tender Agreement. We understand that First National Insurance Company of America will pay Kern & Tabery within seven days of your receipt of this letter. After this payment is made, our calculations show that First National Insurance Company of America will have paid the full amount the surety was required to pay under the Tender Agreement. From this time forward, we will be paying Kern and Tabery as they submit invoices for the remaining work that is performed on the Buechler/Velva project, also in accordance with the Tender Agreement.

If you have any questions, please contact Jim Deutsch or Bill Dodd with the AML Division.

Sincerely,

Darrell Nitschke
Executive Secretary

Attachments

cc: Jeff Olson, First National Insurance Company of America
Kevin Tabery, Kern & Tabery, Inc.

AML/2010/Buechler-Velva/KernTabery2011takeover/Surety_K&T_invoice6_7-29-11.doc

CONTRACTOR PRODUCTION FIGURES

Project: Buechler/Velva AML Project ND 004

Contractor: Kern & Tabery Inc. 222 SE 1st Street, Suite 3, Wadena, MN 56482

Submittal Number: 6

From: 7/18/2011 through 7/23/2011

ITEMS	Equipment Description	Operating Hrs.	Avg. Cycle Time	Avg. Load Capacity	Job Eff. Factor	Est. Volumes Moved	TOTALS
(4) Dirt Work	D9G Dozer	23.5	3.0 minutes	10 CY	90%	2045.36 cy @ \$0.96	\$1963.55
	D8N Dozer	39	3.0 minutes	8 CY	90%	2400 cy @ \$0.96	2304.00
	D8R Dozer	43.5	3.0 minutes	8 CY	90%	2600 cy @ \$0.96	2496.00
	D9G Pushcat	40	2.0 minutes	0	90%	-----	----
	637D Scraper	40	7.8 minutes	22 CY	90%	5760 cy @ \$0.96	5529.60
	637D Scraper	37	7.8 minutes	22 CY	90%	5328 cy @ \$0.96	5114.88
	631D Scraper	40	8.0 minutes	20 CY	90%	5400 cy @ \$0.96	5184.00
	631D Scraper	36.5	8.0 minutes	20 CY	90%	4927 cy @ \$0.96	4729.92
	300 Backhoe	26.5	-----	3 CY	90%	-----	----
					Volume Total	28460.36 CY	

TOTAL DOLLARS THIS PAY REQUEST

\$27,321.95

The Contractors signature certifies the accuracy and completeness of these estimated production figures.

KERN & TABERY INC.

Contractor

Kern Tabery
Contractor Signature

Resident-Treasurer

7/27/2011

Date

FIGURE 3

INVOICE: 006
 Project: BUECHLER/VELVA COMPLETION PROJECT
 Project No.: 10168
 Contractor: Kern & Tabery Inc.
 222 SE 1st Street, Suite 3
 Wadena, MN 56482

Contract No.: AM-588-10
 Date of Invoice: 07/28/11
 Dates Service Rendered: 7/18/11 to 7/23/11

Spec No.	Description	Orig. Quantity	Unit	Unit Price	Bid Amount	Previous Invoices		Current Invoice		Total To Date		
						Quantity	Amount	Quantity	Amount	Quantity	Amount	
(1)	Mobilization	1	L. Sum	\$75,432.00	\$75,432.00	0.80	\$60,345.60		\$0.00	0.8	\$60,345.60	
(2)	Water Management	1	L. Sum	\$9,000.00	\$9,000.00	0.70	\$6,300.00		\$0.00	0.7	\$6,300.00	
(3A)	Topsail Salvage	1	Cu. Yds.	\$1.85	\$1.85	1600.00	\$2,960.00		\$0.00	1600	\$2,960.00	
(3B)	Topsail Salvage-Respread	20048	Cu. Yds.	\$1.25	\$25,060.00		\$0.00		\$0.00	0	\$0.00	
(4)	Dirt Work	824586	Cu. Yds.	\$0.96	\$791,602.56	182879.00	\$175,563.84	28460.36	\$27,321.95	211339.36	\$202,885.79	
(5)	Culvert	240	Ft.	\$85.00	\$20,400.00		\$0.00		\$0.00	0	\$0.00	
(6)	Fert. Seed & Mulching	150	Acres	\$420.00	\$63,000.00		\$0.00		\$0.00	0	\$0.00	
(7)	Wattles	12000	Ft.	\$2.67	\$32,040.00		\$0.00		\$0.00	0	\$0.00	
(8)	Force Account	1	L. Sum	\$80,000.00	\$80,000.00		\$0.00		\$0.00	0	\$0.00	
(9)	Clean-up	1	L. Sum	\$3,360.00	\$3,360.00		\$0.00		\$0.00	0	\$0.00	
					Original Contract	\$1,099,896.41		\$245,169.44		\$27,321.95		\$272,491.39
					Change Orders (+)	\$0.00	Change Order(s)	\$0.00	Change Order(s)	\$0.00	Total CO.	\$0.00
					Change Orders (-)	\$0.00						
					Grand Total	\$1,099,896.41						
					Contract Balance	\$827,405.02						
							Amount Paid	\$245,169.44	AMOUNT DUE	\$27,321.95	Total Amt.	\$272,491.39

Project Manager:
 AML Director:

M.E. X.
WIS 7-29-11 *JW*

AMOUNT DUE = \$27,321.95
 Please note: Surety (Liberty) to pay first \$272,491.39

**Contractor Payment Requests
2011 Buechler/Velva Project
Kern & Tabery, Inc.
Tender Agreement**

Note: Under Tender Agreement, Surety agreed to pay the first 272,491.40, which is the Contract Shortfall amount.
When this amount is exhausted, PSC will pay the remainder of the Tender Agreement Amount.

Pay 1 : For Surety Payment 5-23-11
Dates of Service: May 18-21, 2011

Item	Units	Unit Price	Total	Cumulative Units	Cumulative \$\$	Bid Price	%
Mobilization LS	0.50	\$75,432.00	\$37,716.00	0.50	\$37,716.00	\$75,432.00	50.00%
Water Management LS	0.20	\$9,000.00	\$1,800.00	0.20	\$1,800.00	\$9,000.00	20.00%
Topsoil Salvage 3A CY	1600.00	\$1.85	\$2,960.00	1600.00	\$2,960.00	\$1.85	160000.00%
Topsoil Salvage 3B (respread) CY	0.00	\$1.25	\$0.00	0.00	\$0.00	\$25,060.00	0.00%
Dirt Work CY	11000.00	\$0.96	\$10,560.00	11000.00	\$10,560.00	\$791,602.56	1.33%
Culvert FT	0.00	\$85.00	\$0.00	0.00	\$0.00	\$20,400.00	0.00%
Fert/Seed/Mulch AC	0.00	\$420.00	\$0.00	0.00	\$0.00	\$63,000.00	0.00%
Wattles FT	0.00	\$2.67	\$0.00	0.00	\$0.00	\$32,040.00	0.00%
Force Account LS	0.00	\$80,000.00	\$0.00	0.00	\$0.00	\$80,000.00	0.00%
Clean Up LS	0.00	\$3,360.00	\$0.00	0.00	\$0.00	\$3,360.00	0.00%
Total This Invoice			<u>\$53,036.00</u>		\$53,036.00	\$1,099,896.41	4.82%

Note: The Topsoil Salvage 3A bid item was an unknown and was bid with a unit cost and 1 unit. Any costs for this item will be monitored and charged to the force account so that there will be no addition to the total contract price.

Pay 2 : For Surety Payment 6-7-11
Dates of Service: May 23 to June 4, 2011

Item	Units	Unit Price	Total	Cumulative Units	Cumulative \$\$	Bid Price	%
Mobilization LS	0.00	\$75,432.00	\$0.00	0.50	\$37,716.00	\$75,432.00	50.00%
Water Management LS	0.00	\$9,000.00	\$0.00	0.20	\$1,800.00	\$9,000.00	20.00%
Topsoil Salvage 3A CY	0.00	\$1.85	\$0.00	1600.00	\$2,960.00	\$1.85	160000.00%
Topsoil Salvage 3B (respread) CY	0.00	\$1.25	\$0.00	0.00	\$0.00	\$25,060.00	0.00%
Dirt Work CY	20660.00	\$0.96	\$19,833.60	31660.00	\$30,393.60	\$791,602.56	3.84%
Culvert FT	0.00	\$85.00	\$0.00	0.00	\$0.00	\$20,400.00	0.00%
Fert/Seed/Mulch AC	0.00	\$420.00	\$0.00	0.00	\$0.00	\$63,000.00	0.00%
Wattles FT	0.00	\$2.67	\$0.00	0.00	\$0.00	\$32,040.00	0.00%
Force Account LS	0.00	\$80,000.00	\$0.00	0.00	\$0.00	\$80,000.00	0.00%
Clean Up LS	0.00	\$3,360.00	\$0.00	0.00	\$0.00	\$3,360.00	0.00%
Total This Invoice			<u>\$19,833.60</u>		\$72,869.60	\$1,099,896.41	6.63%

Pay 3 : For Surety Payment 6-21-11
Dates of Service: June 6-18, 2011

Item	Units	Unit Price	Total	Cumulative Units	Cumulative \$\$	Bid Price	%
Mobilization LS	0.15	\$75,432.00	\$11,314.80	0.65	\$49,030.80	\$75,432.00	65.00%
Water Management LS	0.00	\$9,000.00	\$0.00	0.20	\$1,800.00	\$9,000.00	20.00%
Topsoil Salvage 3A CY	0.00	\$1.85	\$0.00	1600.00	\$2,960.00	\$1.85	160000.00%
Topsoil Salvage 3B (respread) CY	0.00	\$1.25	\$0.00	0.00	\$0.00	\$25,060.00	0.00%
Dirt Work CY	26020.00	\$0.96	\$24,979.20	57680.00	\$55,372.80	\$791,602.56	7.00%
Culvert FT	0.00	\$85.00	\$0.00	0.00	\$0.00	\$20,400.00	0.00%
Fert/Seed/Mulch AC	0.00	\$420.00	\$0.00	0.00	\$0.00	\$63,000.00	0.00%
Wattles FT	0.00	\$2.67	\$0.00	0.00	\$0.00	\$32,040.00	0.00%
Force Account LS	0.00	\$80,000.00	\$0.00	0.00	\$0.00	\$80,000.00	0.00%
Clean Up LS	0.00	\$3,360.00	\$0.00	0.00	\$0.00	\$3,360.00	0.00%
Total This Invoice			<u>\$36,294.00</u>		\$109,163.60	\$1,099,896.41	9.92%

Pay 4 : For Surety Payment 7-6-11

Dates of Service: June 20-July 2, 2011

Item	Units	Unit Price	Total	Cumulative Units	Cumulative \$\$	Bid Price	%
Mobilization LS	0.15	\$75,432.00	\$11,314.80	0.80	\$60,345.60	\$75,432.00	80.00%
Water Management LS	0.00	\$9,000.00	\$0.00	0.20	\$1,800.00	\$9,000.00	20.00%
Topsoil Salvage 3A CY	0.00	\$1.85	\$0.00	1600.00	\$2,960.00	\$1.85	160000.00%
Topsoil Salvage 3B (respread) CY	0.00	\$1.25	\$0.00	0.00	\$0.00	\$25,060.00	0.00%
Dirt Work CY	46519.00	\$0.96	\$44,658.24	104199.00	\$100,031.04	\$791,602.56	12.64%
Culvert FT	0.00	\$85.00	\$0.00	0.00	\$0.00	\$20,400.00	0.00%
Fert/Seed/Mulch AC	0.00	\$420.00	\$0.00	0.00	\$0.00	\$63,000.00	0.00%
Wattles FT	0.00	\$2.67	\$0.00	0.00	\$0.00	\$32,040.00	0.00%
Force Account LS	0.00	\$80,000.00	\$0.00	0.00	\$0.00	\$80,000.00	0.00%
Clean Up LS	0.00	\$3,360.00	\$0.00	0.00	\$0.00	\$3,360.00	0.00%
Total This Invoice			<u>\$55,973.04</u>		\$165,136.64	\$1,099,896.41	15.01%

Pay 5: For Surety Payment 7-20-11

Dates of Service: July 5-16, 2011

Item	Units	Unit Price	Total	Cumulative Units	Cumulative \$\$	Bid Price	%
Mobilization LS	0.00	\$75,432.00	\$0.00	0.80	\$60,345.60	\$75,432.00	80.00%
Water Management LS	0.50	\$9,000.00	\$4,500.00	0.70	\$6,300.00	\$9,000.00	70.00%
Topsoil Salvage 3A CY	0.00	\$1.85	\$0.00	1600.00	\$2,960.00	\$1.85	160000.00%
Topsoil Salvage 3B (respread) CY	0.00	\$1.25	\$0.00	0.00	\$0.00	\$25,060.00	0.00%
Dirt Work CY	78680.00	\$0.96	\$75,532.80	182879.00	\$175,563.84	\$791,602.56	22.18%
Culvert FT	0.00	\$85.00	\$0.00	0.00	\$0.00	\$20,400.00	0.00%
Fert/Seed/Mulch AC	0.00	\$420.00	\$0.00	0.00	\$0.00	\$63,000.00	0.00%
Wattles FT	0.00	\$2.67	\$0.00	0.00	\$0.00	\$32,040.00	0.00%
Force Account LS	0.00	\$80,000.00	\$0.00	0.00	\$0.00	\$80,000.00	0.00%
Clean Up LS	0.00	\$3,360.00	\$0.00	0.00	\$0.00	\$3,360.00	0.00%
Total This Invoice			<u>\$80,032.80</u>		\$245,169.44	\$1,099,896.41	22.29%

* Note that Surety has \$27,321.96 remaining to pay under the Tender Agreement.

Pay 6: For Surety Payment 7-29-11

Dates of Service: July 18-23, 2011

Item	Units	Unit Price	Total	Cumulative Units	Cumulative \$\$	Bid Price	%
Mobilization LS	0.00	\$75,432.00	\$0.00	0.80	\$60,345.60	\$75,432.00	80.00%
Water Management LS	0.00	\$9,000.00	\$0.00	0.70	\$6,300.00	\$9,000.00	70.00%
Topsoil Salvage 3A CY	0.00	\$1.85	\$0.00	1600.00	\$2,960.00	\$1.85	160000.00%
Topsoil Salvage 3B (respread) CY	0.00	\$1.25	\$0.00	0.00	\$0.00	\$25,060.00	0.00%
Dirt Work CY	28460.36	\$0.96	\$27,321.95	211339.36	\$202,885.79	\$791,602.56	25.63%
Culvert FT	0.00	\$85.00	\$0.00	0.00	\$0.00	\$20,400.00	0.00%
Fert/Seed/Mulch AC	0.00	\$420.00	\$0.00	0.00	\$0.00	\$63,000.00	0.00%
Wattles FT	0.00	\$2.67	\$0.00	0.00	\$0.00	\$32,040.00	0.00%
Force Account LS	0.00	\$80,000.00	\$0.00	0.00	\$0.00	\$80,000.00	0.00%
Clean Up LS	0.00	\$3,360.00	\$0.00	0.00	\$0.00	\$3,360.00	0.00%
Total This Invoice			<u>\$27,321.95</u>		\$272,491.39	\$1,099,896.41	24.77%

* With this invoice, Surety will have paid its total amount under the tender agreement.