



Public Service Commission
State of North Dakota

COMMISSIONERS

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January 23, 2020

Ross Kopp
Newman Signs, Inc.
dba Newman Outdoor Advertising
PO Box 1728
Jamestown, ND 58402

Re: Case No. GS-19-128
Public Service Commission
2019 One-Call Grant
Grants and Contracts

Dear Mr. Kopp:

At its regular meeting on January 22, 2020 the North Dakota Public Service Commission approved a motion to execute a contract with Newman Signs, Inc., dba Newman Outdoor Advertising for advertising services in the above referenced case.

A copy of the Commission motion and contract is enclosed.

Best Regards,

Patrick Fahm, Director
Public Utilities Division

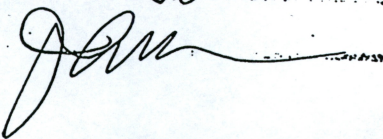
Enclosures

7 **GS-19-128** Filed: 1/23/2020 Pages: 8
Letter enclosing Commission Motion and contract

Public Service Commission

APPROVED

22 JAN. 2020



STATE OF NORTH DAKOTA
PUBLIC SERVICE COMMISSION

Public Service Commission
2019 One-Call Grant
Grants and Contracts

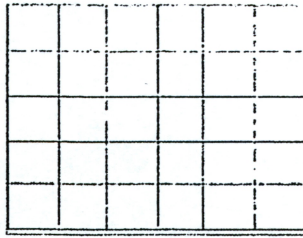
Case No. GS-19-128

MOTION

January 22, 2020

I move the Commission execute a contract for advertising services in Public Service Commission, 2019 One-Call Grant, Grants and Contracts, Case No. GS-19-128.

VFS



P.O. Box 1728
 Jamestown, North Dakota 58402
 1606 6th Ave SW

Jamestown, North Dakota 58401
 Phone: (701) 252-1970
 Fax: (701)252-7325

Booking Report #: PST0002332

ADVERTISER ND Public Service Commission

CUSTOMER # NDO-06-001

ADDRESS 600 E boulevard Ave, Dept. 408 Bismarck ND, 58505

TELEPHONE 701-328-2400

FAX _____

SALES REP Ross Kopp

EMAIL vschock@nd.gov

The undersigned authorizes and directs Newman Signs, Inc., d/b/a Newman Outdoor Advertising, to execute this agreement showing listed below in accordance with the terms and conditions on the reverse of this contract, and, as necessary, to furnish posters in the quantity and at the price stated herein.

MARKET(S)	QTY	MONTHLY RATE PER PANEL	Agency %	NO. OF MONTHS	NET TOTAL	Start/End Date
BISMARCK POSTER-Space for Bismarck(1) and Mandan(1)-	2	\$398.00	0.00	1	\$796.00	4/1/2020 to 4/30/2020
BISMARCK POSTER-Space for Dickinson (1) and Bowman (1)-	2	\$0.00	0.00	1	\$0.00	3/1/2020 to 3/31/2020
FARGO POSTER-Space for Fargo(1) and West Fargo (1)-	2	\$398.00	0.00	1	\$796.00	4/1/2020 to 4/30/2020
FARGO POSTER-Space for Grand Forks(2), Jamestown(1), Devils Lake (1), and Wahpeton(1)-	5	\$398.00	0.00	1	\$1,990.00	3/1/2020 to 3/31/2020
MINOT POSTER-Space for Minot (2)-	2	\$398.00	0.00	1	\$796.00	4/1/2020 to 4/30/2020
MINOT POSTER-Space for Williston (1)-	1	\$398.00	0.00	1	\$398.00	3/1/2020 to 3/31/2020
-PRODUCTION - BISMARCK-	4	\$152.00	0.00	1	\$608.00	4/1/2020 to 4/30/2020
-PRODUCTION - FARGO-	7	\$152.00	0.00	1	\$1,064.00	4/1/2020 to 4/30/2020
-PRODUCTION - MINOT-	3	\$152.00	0.00	1	\$456.00	4/1/2020 to 4/30/2020
				Total	\$6,904.00	

Approval by initial: BK

Additional Contract Notes:

*Note: Billing will commence on the date specified below. Artwork must be approved no later than two weeks prior to post date reserved.

GENERAL TERMS AND CONDITIONS

- Newman Signs Inc., d/b/a Newman Outdoor Advertising (Newman) agrees to display all designs herein contracted for within five (5) days of the date reserved. Credit for failure to do so will be issued for the period from the date reserved to the date posting is executed, or the Advertiser may, at its option, receive make-good posting for an equal period.

2. Advertiser agrees to pay Newman within 30 days following the date the aforesaid advertising is displayed. Except as otherwise recorded herein said monthly sum shall be payable, whether or not the display shall be used or operated by the Advertiser. Interest shall accumulate at the maximum lawful rate provided for by applicable statutes on the accounts sixty days overdue. Inability of Newman to erect all advertising display(s) at one time, or secure all locations contracted for shall in no way constitute a breach of this contract, and any advertising display(s) which Newman is unable to erect, shall be cancelled from the contract at no charge to advertiser.
3. Political contracts shall be accepted only upon receipt of ten percent (10%) of the total amount of the contract, which is non-refundable. The balance shall be due and payable sixty (60) days in advance of the date(s) reserved.
4. Newman reserves the right to reject any copy (either before or after posting) which is morally offensive, false, misleading, deceptive or which violates existing laws. Advertiser warrants that all approved designs do not infringe upon any trademarks or copyrights, state or federal.
5. If this contract is signed by an advertising agency, the term "Advertiser" as used herein shall include both the actual Advertiser and the advertising agency where applicable and all obligations of the Advertiser shall be joint and several obligations of both the actual Advertiser and the advertising agency. The actual Advertiser acknowledges that payments made to its advertising agency are not considered payments under this contract until received by Newman.
6. This agreement is subject to approval by Newman. This agreement is accepted and executed in the State in which the displays are actually located and the laws of that State shall govern its interpretation, effect and rights and liabilities of the parties. The parties hereby irrevocably submit to the jurisdiction of the District Court located in Burleigh County over any action or proceeding to enforce or defend any matter arising from or relating to this contract. Advertiser hereby irrevocably waives the defense of an inconvenient forum as a defense to maintenance of any such action or proceeding in said court.
7. It is expressly agreed that Newman is not bound by any stipulation, representation or agreement, verbal or otherwise, which is not set forth specifically in this contract.
8. Advertiser shall not sublet, transfer, donate, or assign any advertising spots without the prior written consent of Newman.
9. It is agreed that in the event of failure of the Advertiser to pay any rental installment due hereunder within sixty (60) days of the date due, the entire rental called for under the terms of this agreement shall become immediately due and payable and Newman shall be entitled to immediate recovery of the same, or Newman may, at its option, cancel this agreement or any part thereof and remove the advertising display(s) and recover the overdue balance. It is specifically agreed that should it be necessary for Newman to employ an attorney to enforce the provisions of this agreement or to file suit against the Advertiser to recover any amounts due hereunder, the Advertiser shall be obligated to pay a reasonable attorney fee to Newman, if Newman prevails in such lawsuit. In the event of default, the parties hereto consent to the jurisdiction of the North Dakota District Court located in Burleigh County, North Dakota to hear all disputes related to this contract.
10. If Newman is prevented from posting or maintaining any of the spaces provided for herein by causes beyond its control of whatever nature, including, but not limited to, acts of God, strikes, work stoppages or picketing, or in the event of damage or destruction of any of the spaces, or in the event Newman is unable to deliver any portion of the services required in this contract, this shall not constitute a breach of contract by Newman. Credit shall be allowed to the Advertiser at the rate set forth herein for such space or service for the period that such space or service shall not be furnished.
11. This contract is assignable in its entirety only, unless prior written consent from Newman is obtained allowing a partial assignment. It is the Advertiser's responsibility prior to an effective assignment to file a written contract or assignments signed by the Advertiser and any successor with Newman and secure Newman's approval in writing. The advertiser shall remain responsible for all payments remaining on said contract until the assignment procedure set forth above have been completely satisfied. In the event the Advertiser assigns his contract to a successor who requires change in copy, the cost of such change in copy must be mutually agreed upon between Newman and the successor of the Advertiser, then reduced to writing before any assignment thereof shall be valid.
12. It is the Advertiser's responsibility to inform Newman whether it is a sole proprietorship, partnership, corporation, etc. Incorporated Advertiser's shall be bound by the signatures of the authorized agents. Unauthorized individuals who execute this document purportedly on behalf of an incorporated Advertiser shall assume personal responsibility for satisfying said contract.
13. Upon approval by Newman, this contract is binding upon and shall inure to the benefit of all the parties hereto, as well as the respective heirs, successors, executors, administrators and assigns. All contracts are non-cancellable by Advertiser.

TERMS AND CONDITIONS SPECIFIC TO BULLETINS

1. When bulletins are contracted for 12 months or longer, after the end of the expired term, contracted bulletins shall continue on a month to month basis or until either party gives a 30 day written termination notice.
2. Newman shall issue credit to the Advertiser for the period any bulletin is not in service and the account of an Advertiser shall be credited for the periods when an illuminated bulletin lacks illumination in an amount of \$12.50 per week per sign for 48' sign or \$6.25 per week for 24' illuminated sign. Any interruption in service to one or more bulletins shall in no way relieve the Advertiser of his obligation to make payments on the remaining bulletins as due nor shall any interruption in service to one or more bulletins void this contract.

TERMS AND CONDITIONS SPECIFIC TO POSTERS

1. The Advertiser agrees to furnish Newman a sufficient quantity of posters to execute posting at least five (5) working days prior to the date reserved, and failure to do so shall not affect or alter the display period and the Advertiser shall remain obligated for payment to Newman for the contract term. If Newman is requested by Advertiser to furnish such posters, such poster content shall be submitted by Newman to the advertiser and Advertiser shall approve such content or provide Newman with substitute posters within ten (10) days after submission by Newman to the Advertiser. In the case of default in furnishing substitute posters or in approving the poster content submitted by Newman within the ten (10) day period, commencement of service under this contract shall be deemed to occur on the date reserved and Advertiser shall remain liable under this contract.
2. Posters provided by Advertiser will have sufficient weight, tensile strength, and opacity to prevent "show through" of previously posted copy and will conform to the standard sizes currently approved by the appropriate industry organization. Newman retains exclusive control and supervision over the posting, maintenance, and removal of posters and over the location on which they are displayed. Unused posters may be disposed of by Newman upon completion of the scheduled called for herein, unless written instructions to do otherwise are received from Advertiser.
3. Illuminated poster panels will be illuminated from one-half hour before dusk until midnight.

TERMS AND CONDITIONS SPECIFIC TO DIGITAL

1. Approved artwork must be supplied to Newman Digital (with creative schedule) by noon the day before the spot is scheduled to run. Artwork set to run on Monday must be supplied to Newman Digital (with creative schedule) by noon the previous Friday. The network's computer runs in pre-programmed 24-hour cycles. No Exceptions. Failure to do so shall not affect or alter the display period and the Advertiser shall remain obligated for payment to Newman for the contract term. If Newman is requested by Advertiser to furnish such sign designs, such design content shall be submitted by Newman to the Advertiser and the Advertiser shall approve such content or provide Newman with substitute designs within ten (10) day after submission by Newman to the Advertiser. In the case of default in furnishing substitute designs or in approving the design content submitted by Newman within the ten (10) day period, commencement of service under this contract shall be deemed to occur on the date reserved and Advertiser shall remain liable under this contract.
2. Submitted designs and/or artwork must meet the preferred file format for content on Newman Digital displays.
3. Digital system may be pre-empted by Amber Alerts, weather related alerts, or issues regarding public safety.

ADVERTISER

NEWMAN SIGNS, INC. dba
NEWMAN OUTDOOR ADVERTISING

Approved by: [Signature]

Date: 1/14/2020

State of North Dakota
Public Service Commission

By: [Signature]

Title: Brian Kroshus, Chairman

Date: Jan 22, 2020

By: [Signature]

Title: Randy Christmann, Commissioner

Date: Jan 22, 2020

By: [Signature]

Title: Julie Fedorchak, Commissioner

Date: Jan 22, 2020

These appendices do NOT need to be filled out and sent back to PHMSA.

RK

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Recipient or the Pipeline and Hazardous Materials Safety Administration to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the Recipient or the Pipeline and Hazardous Materials Safety Administration, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the Recipient will impose such contract sanctions as it or the Pipeline and Hazardous Materials Safety Administration may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement

as the Recipient or the Pipeline and Hazardous Materials Safety Administration may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

RK

PK

APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d *et seq.*, 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 *et seq.*), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 *et seq.*), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 *et seq.*), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures nondiscrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 *et seq.*).