

CONTRACTOR'S BOND

THE STATE OF TEXAS,)
) KNOW ALL MEN BY THESE PRESENTS:
COUNTY OF HARRIS.)

WHEREAS, LEE ROGERSON has this day entered into a contract by the terms of which he has undertaken to construct for the Fidelity Trust Company of Houston certain improvements on the following described premises, Blocks 2 and 3, Holman Addition, Houston, Harris County, Texas; and,

WHEREAS, it is desired that the faithful performance of said contract by said Lee Rogerson be secured to the said Fidelity Trust Company of Houston and that payment be secured to all persons who may perform labor or furnish material incident to the performance of said contract, in compliance with the provisions of Articles No. 5623 and No. 5623-a of the Revised Statutes of the State of Texas, and at the Owner's desire;

NOW, THEREFORE, we, Lee Rogerson, as principal, and the undersigned as sureties, acknowledge ourselves held and firmly bound, jointly and severally, to the said Fidelity Trust Company of Houston, as well as to all persons who may perform labor or furnish material on said contract or in any manner incident to the performance thereof, in the sum of Three Thousand Six Hundred Dollars (\$3,600.00) lawful money of the United States of America, to be paid to the said Fidelity Trust Company of Houston, or to said persons who may perform labor or furnish material, or their executors, administrators, or assigns, at Houston, Texas, for which payment well and truly to be made, we, jointly and severally, bind our heirs, executors and administrators.

The condition of this obligation is such that if said Lee Rogerson, principal, shall truly and faithfully perform said contract and shall well and truly pay all sub-contractors, workmen, laborers, mechanics and furnishers of materials, in full for all work done, labor performed and material furnished in the performance of said contract, or in any manner incident to the performance thereof, then this obligation shall be null and void, otherwise to remain in full force and effect.

This bond is made for the use of all persons and corporations who may furnish labor or material on the hereinbefore mentioned contract, and may be sued on by them or either of any of them as if they and each of them were specifically named as the obligees herein.

Any alterations made by agreement between the contractor and the owner in the terms of the contract or the nature

of the work to be done or the granting to the contractor, his executors, administrators, heirs or assigns, any extension of time for the performance of the contract or of any of the stipulations therein contained or any forbearance on the part of the owner, his heirs, executors, administrators or assigns, or any change in the plans and specifications shall in no wise release the principal or the sureties hereon.

EXECUTED at Houston, Texas,, this
6 day of ~~xxxxxx~~ Feb., A.D. 1926.

(Sgd) Lee Rogerson

Principal

SOUTHERN SURETY COMPANY

By (Sgd) M.P. Ivey
Atty-in-fact

Sureties.

(SEAL)

Approved this _____ day of _____, 1926.

THIS AGREEMENT, made and entered into this the 6th day of February, 1926, between LEE ROGERSON (hereinafter designated Contractor), and FIDELITY TRUST COMPANY OF HOUSTON (hereinafter designated Owner);

W I T N E S S E T H:

1: This contract is made conditioned upon the HOUSTON NEGRO HOSPITAL (Incorporated) entering into satisfactory contract with the City of Houston with reference to its furnishing and setting aside in perpetuity certain property upon which the improvement herein contracted for shall be erected.

2: Contractor agrees to sufficiently perform and finish, under the direction and to the satisfaction of MAURICE J. SULLIVAN, Architect (acting as Agent of Owner), all the work included in the plumbing, sewerage, gas fitting and steam heating of a certain three story reinforced concrete Negro Hospital building, including the alternate for a high pressure boiler, located on Blocks 2 and 3, Holman Addition, Houston, Texas, such to conform to the drawings, specifications and details made by said Architect, and made a part hereof, and signed by the parties hereto, and to the dimensions and explanations thereon, therein and herein contained, according to the true intent and meaning of said drawings and specifications, and of the presents, including all labor and materials incident thereto, and shall provide all scaffolding, implements and cartage necessary for the due performance of the said work.

3: Should it appear that the work hereby intended to be done or any of the matters relative thereto, are not sufficiently detailed or explained on the said drawings or in the said specifications, the Contractor shall apply to the Architect for such further drawings or explanations as may be necessary, and shall conform to the same as part of this contract, so far as they may be consistent with the original drawings, and in the event of any doubt or question arising respecting the true meaning of the drawings or specifications, reference shall be made to the Architect, whose decision thereon, being just and impartial, shall be final and conclusive. It is mutually understood and agreed that all drawings, plans and specifications are and remain the property of the Architect.

4: Should any alterations be required in the work shown or described by the drawings or specifications, a fair and reasonable valuation of the work added or omitted shall be made by the Architect, and the sum herein agreed to be paid for the work according to the original specification shall be

increased or diminished, as the case may be. In case such valuation is not agreed to, the Contractor shall proceed with the alteration, upon the written order of the Architect, and the valuation of the work added or omitted shall be referred to three (3) Arbitrators (no one of whom shall have been personally connected with the work to which these presents refer), to be appointed as follows: One by each of the parties to this contract, and the third by the two thus chosen; the decision of any two of whom shall be final and binding, and each of the parties hereto shall pay one-half of the expenses of such arbitration.

5: The Contractor shall, within twenty-four hours after receiving written notice from the Architect to that effect, proceed to remove from the grounds or buildings all materials condemned by him, whether worked or unworked, or take down all portions of the work which the Architect shall condemn as unsound or improper, or as in any way failing to conform to the drawings and specifications and to the conditions of this contract; and in case the said Contractor fails, neglects or refuses to take down or remove such condemned work, within said twenty-four hours after having received such notice, the Architect shall have the authority to have such work taken down or removed from the premises, and the expenses thereof shall be deducted from any money then due or thereafter due the Contractor, and should the expense of such work exceed the amount then due or thereafter to become due the Contractor, the said Owner shall pay such amount, and the Contractor shall refund all over and above the amount due him by these presents upon completion of the work. The Contractor shall cover, protect and exercise due diligence to secure the work from injury, and all damage happening to the same by his neglect shall be made good by him.

6: The Contractor shall permit the Architect, and all persons appointed by the Architect, to visit and inspect the said work, or any part thereof, at all times and places during the progress of the same, and shall provide sufficient, safe and proper facilities for such inspection.

7: The Contractor shall and will proceed with said work, and every part and detail thereof, in a prompt and diligent manner, and shall and will wholly finish the said work according to the said drawings and specifications, and this contract, within ninety (90) working days after this contract becomes effective under the terms of Paragraph 1 hereof, provided that possession of the premises be given the Contractor and lines and levels of the building furnished immediately upon this contract becoming effective, and in default thereof the Contractor shall pay to the Owner Five Dollars (\$5.00) for every day thereafter that the said work shall remain unfinished, as and for agreed liquidated damages.

8: Should the Contractor be delayed in the prosecution or completion of the work by the act, neglect or default of the Owner, of the Architect, or of any other Contractor employed by the Owner upon the work, or by any damage caused by fire or other casualty for which the Contractor is not responsible, or by general strikes or lockouts caused by acts of the employees, then the time herein fixed for the completion of the work shall be extended for a period equivalent to the time lost by reason of any or all the causes aforesaid, which extended period shall be determined and fixed by the Architect; but no such allowance shall be made unless a claim therefor is presented in writing to the Architect within forty-eight hours of the occurrence of such delay.

9: The Contractor shall not let, assign or transfer this contract, or any interest therein, without the written consent of the Architect.

10: The Contractor shall make no claim for additional work unless the same shall be done in pursuance of an order from the Architect, and notice of all claims shall be made to the Architect in writing within ten days of the beginning of such work.

11: The Owner agrees to provide all materials not included in this contract in such manner as not to delay the material progress of the work, and in the event of failure so to do, thereby causing loss to the Contractor, agrees that it will reimburse the Contractor for such loss, and the Contractor agrees that if he shall delay the material progress of the work so as to cause any damage for which the Owner shall become liable (as above stated), then he shall make good to the Owner any such damage over and above any damage for general delay herein otherwise provided, the amount of such loss or damage, in either case, to be fixed and determined by the Architect, or by arbitration, as provided in Article 4.

12: The Owner shall effect insurance on said mechanical work in its own name and in the name of the Contractor, against loss or damage by fire, in such sums as may from time to time be agreed upon with the Contractor, the policies being made to cover work incorporated in the building, and materials for the same in or about the premises, and made payable to the parties hereto, as their interest may appear.

13: Should the Contractor at any time refuse or neglect to supply a sufficiency of properly skilled workmen, or of materials of proper quality, or fail in any respect to prosecute the work with promptness and diligence, or fail in the performance of any of the agreements on his part herein

contained, such refusal, neglect or failure being certified by the Architect, the Owner shall be at liberty, after three days' written notice to the Contractor, to provide any such labor or materials, and to deduct the cost thereof from any money then due or thereafter to become due to the Contractor under this contract; and if the Architect shall certify that such refusal, neglect or failure is sufficient ground for such action, the Owner shall also be at liberty to terminate the employment of the Contractor for said work, and to enter upon the premises and take possession of all materials thereon, and to employ any other person or persons to finish the work, and to provide the materials therefor; and in case of such discontinuance of the employment of the Contractor he shall not be entitled to receive any further payment under this contract until the said work shall be wholly finished, at which time, if the unpaid balance of the amount to be paid under this contract shall exceed the expense incurred by the Owner, in finishing the work, such excess shall be paid by the Owner to the Contractor, but if such expense shall exceed such unpaid balance, the Contractor shall pay the difference to the Owner. The expense incurred by the Owner as herein provided, either for furnishing materials or for finishing the work, and any damage incurred through such default, shall be audited and certified by the Architect, whose certificate thereof shall be conclusive upon the parties.

14: And 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 material shall be Ten Thousand Seven Hundred and Seventeen Dollars (\$10,717.00), subject to the additions or deductions on account of alterations hereinbefore provided. Payments will be made by Owner to the Contractor by the 5th day of each month for eighty per cent (80%) of the work done and material on the ground the preceding month. The Contractor will submit an itemized statement to the Architect for his approval three days before payment is to be made, and same will be based on the amount allowed by the Architect.

It being understood that the final payment shall be made within thirty days after this contract is completely finished; provided, that in each of the said cases the Architect shall certify in writing that all the work upon the performance of which the payment is to become due has been done to his satisfaction; and, provided further, that before each payment the Contractor shall give the Architect good and sufficient evidence that the premises are free from all liens and claims chargeable to the said Contractor; and further, that if at any time there shall be any lien or claim for which, if established, the Owner of the said premises might be made liable, and which would be chargeable to the said 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 it against such lien or claim, until the claim shall be effectually satisfied, discharged or cancelled. And should there prove to be any such claim after all payments are made, the Contractor shall refund to the Owner all monies that the latter may be compelled to pay in discharging any lien on said premises made obligatory in consequence of the former's default.

15: 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, against any claim of the Owner, and no payment shall be construed to be an acceptance of any defective work.

16: And the said Owner hereby promises and agrees with the said Contractor to employ, and does hereby employ him to provide the materials and to do the said work according to the terms and conditions herein contained and referred to for the price aforesaid, and hereby contracts to pay the same at the time, in the manner and upon the conditions above set forth.

17: And 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 first above written.

(Sgd) Lee Rogerson

Contractor

FIDELITY TRUST COMPANY OF HOUSTON,

By (Sgd) W. W. Moore

President,

Owner.