

Signing A Post-Frame Building Contract

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Farm expansion is an exciting time for agricultural producers, especially when a new building is added to the farmstead. However, many producers are so eager to begin building that they are prone to sign any contract put before them. Producers are advised to take the time and effort to review every item before signing a contract. This publication provides a list of items that should be specified in writing before signing a building contract. To illustrate how specific items discussed in the text are incorporated into a contract, locate the letters in parenthesis that follow the specific items on the sample contract (Figure 1) that appears at the end of this publication. Herein, the party that is purchasing the building will be referred to as the “owner” and the party that is building the structure will be referred to as the “contractor.”

Duties of the Contractor

In most cases, the contractor supplies all labor, equipment, and materials to complete the structure (a). The contractor is usually responsible for temporary electrical service during construction (b).

Duties of the Owner

The owner usually provides telephone service and water required during construction. Any of the work, equipment, or materials to be supplied by the owner should be specified. The owner should be available throughout the project for consultation or interpretation of plans and specifications.

Permits

The contractor is usually responsible for obtaining any necessary permits (c). Make sure that the party responsible for obtaining permits is specified in the contract.

Drawings and Specifications

No building should be constructed without a complete set of plans or technical drawings (not free-hand draw-

ings) and written specifications (d). These may be supplied by either the owner or the contractor and should be included as a part of the written contract.

Insurance

Four general types of insurance coverage are required to afford complete protection during construction:

1. Worker’s compensation
2. Public liability and property damage
3. Owner’s protective, and
4. Builder’s risk.

Workman’s Compensation Insurance

This insurance covers injury to employees working at the construction site and is provided by the contractor (e).

Public Liability and Property Damage Insurance

This insurance provides protection for the contractor and subcontractors from claims for personal injury, including death, and from claims of property damage. The contractor provides public liability and property damage insurance.

Owner’s Protective Liability

The owner or contractor may provide this insurance, which protects the owner in the event of liability claims that arise from the construction project.

Builder’s Risk Insurance

This type of insurance protects labor and on-site materials in the event of loss or damage by fire or other disasters. The contractor usually provides this, although the owner may be responsible in cost-plus types of contracts (f).

Either the owner or the contractor must secure adequate risk protection. Make sure that the parties responsible

for obtaining the insurance coverages are specified in the contract. For more information on insurance during building projects, see “Selecting a Post-Frame Building Contractor” (VCE Publication 442-761).

Changes or Alterations

Changes in the original plans and specifications will probably be made during every construction project. Therefore, the owner and contractor must agree on the procedural policy to implement changes (g). Procedures should include details on initiation of changes, revisions in plans and specifications, and contract price revision necessitated by the change. A record should be created for all changes and signed by both parties

Substitutions

Delivery schedules, equipment model changes, and price changes are all factors that can require substitutions during construction. Substitutions should be subject to the approval of the owner before being incorporated into the structure.

Cleanup

The contractor should be required to clear the site of all construction debris and to clean all building surfaces upon completion of the construction (h). If the owner assumes all or part of this responsibility, the contract should reflect the work of each party.

Laws and Regulations

Building design and construction should conform to all applicable laws and regulations in a given locality (i). The owner should be notified when inspections by a local authority will occur.

Payment

The written contract should specify the method and time of payment for the project. In general, large projects require payment of portions of the contract price at specific points during the construction process (j), with the final payment due on completion, inspection and/or approval by the building inspector. Make sure the contract specifies who is responsible for payment of the subcontractors on the project.

Storage of Materials

Weatherproof on-site storage of construction materials may be provided by either the contractor or the owner. The responsible party should be indicated in the contract.

Utility Connections

Responsibility for connections and associated costs for electric, water, sewer and gas lines and the extension of utility lines to the building site as required should be specified.

Warranties

Terms of the contractor-supplied warranty should be spelled out in the contract (k). Provisions should also be made for transferring any warranties provided by manufacturers or suppliers of component parts from the contractor to the owner.

Service Manuals and Operational Instructions

The contractor should be responsible for providing the owner with all operational and service manuals for component equipment. The contractor should also provide instruction in the proper and safe utilization of utilities installed in the project.

Time Schedule for Completion

For some construction projects, particularly those involving animal housing, it is essential that a completion date be known well in advance. The owner and contractor should agree upon a completion date and any penalties to be paid if the contracted completion date is delayed.

Summary

The majority of dealings between owners and contractors result in the satisfactory completion of the desired building. However, difficulties do arise, usually as a result of poor communication between the owner and the contractor. The items listed above should be thoroughly discussed with potential bidders to ensure that the desired building is properly constructed. Make sure each of these items is specified in writing before signing a contract. An important part of construction communication is a contract that adequately addresses the issues discussed in this publication as well as other project specific issues. Consultation with an attorney prior to signing any contract is highly recommended.

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For Additional Information:

On Contractor Selection

VCE Publication 442-761, "Selecting a Post-Frame Building Contractor"

Publication Modified from:

Meador, N.F. 1993. Selecting and Working with a Farm Building Contractor. Agricultural Publication G1005, MU Extension, University of Missouri-Columbia, Columbia, MO.

Harmon, J.D. 1998. Choosing and Working with a Farm Building Contractor. AEN-194, Iowa State University Extension, Ames, IA.

- (a) **1. SCOPE OF WORK** The Contractor agrees to furnish all the labor, equipment, and materials, and perform all the work for the erection of the building described in the attached plans and specifications.
- The Contractor agrees to complete all the work set forth in the plans and specifications for the erection of the building. The Contractor specifically agrees to pursue the work without delay after the construction of the building has been started. All work shall be new and all workmanship done and performed by the Contractor shall be of good quality and performed in a workmanlike manner. The Contractor shall protect all work from damage by cold or other elements. The Contractor shall also be responsible
- (b) for temporary electrical service. The Contractor shall be responsible for the building permit, gas permit, and sewer permit and for the expense of obtaining the permits. The Contractor further agrees to sign a Release of Mechanic's Lien before any work is started.
- (c) **2. TIME OF COMPLETION** The work shall be started as soon as possible, weather permitting, and shall be completed as soon as possible, Acts of God, strikes, material shortages, or government regulations excepted.
- 3. DELAY OF COMPLETION** If the building has been substantially completed and is serviceable, and full completion is delayed through no fault of the Contractor, the Owners shall pay the balance due to the Contractor for the part of the work that has been completed and deemed acceptable by the Owners.
- 4. ASSIGNMENTS** The Contractor shall not assign this Contract to others. However, this shall not prohibit the sub-contracting of parts of the work to others by the Contractor.
- (d) **5. CONTRACT DOCUMENTS** The Contract documents shall consist of the Contract Agreement, the Specifications, and the Plans.
- (e) **6. INSURANCE** The Contractor shall insure himself against all claims under Workman's Compensation Acts and all other claims for damage for personal injuries, including death, which may arise from operations under this Contract by anyone directly or indirectly employed by him. The Owners shall maintain fire and vandalism insurance on the structure and the Contractor shall be reimbursed from the insurance for any and all loss due to fire.
- (f)
- 7. EXTRA WORK OR ALTERATIONS** The Owners shall have the right to make alterations, but any order shall be in writing and signed by the Owners and the Contractor; the amount shall be stated in the written order, and shall be paid to the Contractor before final payment is made. (g)
- 8. CLEANING UP** The Contractor shall, at all times, keep the premises free from all unnecessary accumulation of waste material or rubbish caused by his employees or the work and at the completion of the work he shall remove all rubbish from and about the building, and all tools, scaffolding, surplus material, and shall leave the work "broom clean." (h)
- 9. ORDINANCE COMPLIANCE** The Contractor shall conform in all respects to the regulations of any local building acts or ordinances. (i)
- 10. ARBITRATIONS CLAUSE** In the event any dispute arises between the parties which cannot be settled, each party shall appoint an arbitrator within three days after receipt of written request from the other, the two appointed arbitrators shall select a third arbitrator within three days after notice of their appointment, and the arbitrators shall hear the dispute and, by majority decision, make a decision or award.
- 11. TIME OF PAYMENTS**
- 1st Stage – Post and Poles: 10%;
 2nd Stage – Trusses: 35%;
 3rd Stage – Purlins and Permanent Braces: 25%;
 4th Stage – Roofing: 20%;
 5th Stage – Completed: 10%. (j)
- 12. ACCEPTANCE BY OWNERS AND OCCUPANCY** It is agreed that upon completion, the building shall be inspected by the Owners and the Contractor, and that any necessary repairs shall be made by the Contractor. It is agreed that the Owners shall not be permitted to occupy the building until the Contractor is paid in full. Occupancy of the building by the Owners in violation of these provisions shall constitute unconditional acceptance of the building and a waiver of any defects or uncompleted work.
- (k) **13. WARRANTY** The final payment shall not relieve the Contractor of responsibility for faulty materials or workmanship; and he shall remedy any defects within a period of one year, material free with minimum service charge. This warranty is only valid when the Contractor is paid the contract cost in full.

Figure 1. Sample contract between owners and a building contractor. This contract should be used only as an example. Consultation with an attorney prior to signing any contract is highly recommended.