

ETHYL CORPORATION

ENGINEERING DEPARTMENT

November 4, 1974

ETHYL TOWER
451 FLORIDA
BATON ROUGE, LA 70801

Mr. C. L. St. Clair
Senior Vice President
Nichols Construction Corporation
P. O. Box 2750
Baton Rouge, LA 70821

SUBJECT: Addendum #3 to Revise Intermittent Construction Contract

Dear Mr. St. Clair:

With reference to discussions between your Mr. R. M. Toups and our Mr. H. A. Trische, we propose to revise our Contractual Agreement of April 17, 1967, and paragraph #1 of Addendum #1 (Ethyl letter dated November 12, 1973), and to cancel Addendum #2 (Nichol's letter dated September 13, 1974). The attached new sheets 5, 6, 7, 8, 9, and 10 dated November 4, 1974 revise Articles III, IV and V of the Contractual Agreement and paragraph #1 of Addendum #1 (Ethyl letter dated November 12, 1973) accordingly.

Please signify your agreement to the above modifications to our Contractual Agreement of April 17, 1967, and ~~Addendums~~ ADDENDA 1 and 2 by signing below and returning two signed copies to us.

Respectfully yours,

G. S. Roberts
Chief Engineer

Accepted:

NICHOLS CONSTRUCTION CORPORATION

C. L. St. Clair, Senior Vice President _____ Date _____

repair or overhaul of equipment and tools), cost of job facilities, field office direct expense, safety equipment, consumables (Exhibit B), start-up expense, and similar mutually agreed items, but excluding any main office expense.

(4) Cost of specialty contract work subcontracted to third parties with prior written approval of the Owner. Specialty contract work shall consist of work usually known by that name such as built up roofing, masonry, plastering, lathing, power lines, insulation, terazzao floors and other work of any specialized nature or where the Owner considers subcontracting to be the lowest cost to the job.

(5) The Contractor's "out-of-pocket" expenditures to employees' welfare funds created by the local Building Trades Council or other labor union, which are paid by all similarly engaged contractors in the area pursuant to a lawful agreement with a labor union, provided that such expenditures are related to labor engaged in the performance of work hereunder. Contractor shall be obligated to keep the Owner fully informed as to all of the negotiations with labor unions pertaining to such employees' welfare funds.

(6) An amount to be fixed at 21.63% of the cost of labor, figured on a straight time basis, (excluding items a thru f, Page 6, and union fringe fund payments) including field craftsmen, field foremen, field superintendents, and necessary field office forces as reimbursement for the following items:

(a) F.I.C.A. taxes @ 5.85%

(b) Louisiana State unemployment insurance @ 2.70%

(c) Federal unemployment insurance @ .50%

(d) Insurance coverage as required by Article X herein @ 8.00%

(e) Home office - payroll, buying and accounting @ 2.00%

(f) Small tools having a new replacement value of $200 each, or less @ 2.58%

Note: Items a, b, c, and d apply to straight time portion of labor only. Any costs for these items relating to premium part of pay will be reimbursable at cost. Since items a, b, c, and d are included in the 21.63% reimbursement, this amount may be adjusted for cost changes in these items that result from future changes to State or Federal law, or statewide "manual" increases beyond control of the Contractor.

B. CONTRACTOR'S FEES, AS FOLLOWS:

(1) The fixed fee is revised from 30% to 8.37% of the estimated cost (see Article 1) of field labor, figured on a straight time basis, (excluding payroll taxes and union fringe fund payments) including field craftsmen, field foremen, field superintendents, and necessary field office forces. The revised fixed fee is to cover Nichol's Home Office overhead and profit.

The amount of the fixed fee shall remain unchanged notwithstanding the fact that the final completed cost of field labor

may vary from the estimated amounts set out in the schedule of the estimated cost furnished to Contractor by Owner. The fixed fee is subject to additions and deductions only as provided for in Article V hereof.

(2) Five percent (5%) of the cost of materials and supplies purchased by Contractor.

(3) Five percent (5%) of the cost of lump sum subcontracts.

(4) Five percent (5%) of the cost of cost plus subcontracts.

IV.

The Owner agrees to make payments to the Contractor for work performed hereunder on accounts as follows:

(a) Subject to the provisions of Article III, during the time the Contractor is engaged in any or all work for the Owner hereunder, Contractor will submit weekly invoices covering Contractor's charges for labor, and monthly invoices covering charges for materials and equipment rental, for each project or job being performed hereunder. Such invoice to include Owner's purchase order number(s), project number(s), and be

detailed by cost centers furnished by the Owner; and shall show Contractor's charges for all (1) labor (premium time to be listed separately); (2) materials and supplies purchased by the Contractor; (3) rent due on construction equipment; (4) expenditures for distributable items; (5) expenditures for subcontract work; (6) expenditures to employees' welfare funds; (7) the amount of the reimbursables fixed at 21.63% of labor; (8) the fee on materials and supplies purchased; (9) the fee on the amount of subcontracts performed during the invoice period; and (10) a proportionate amount of the fixed fee determined by multiplying the ratio of Contractor's accrued "out-of-pocket" expenditures for wages and salaries paid to employees of the Contractor in the performance of the work (subparagraph (A) (1) of Article III hereof) during the period covered by the invoice to the total estimated labor cost as set out in the schedule of the estimated cost of the work by the total amount of the fixed fee as set out in the schedule of the estimated cost of the work. Each invoice shall show 90% of the fixed and estimated fees earned during the invoice period which will be the amount of fee due and payable on the invoice. In no event shall the sum of the fee payments called for on the submitted invoices exceed 90 percent of the total amount of the fee prior to the completion of the work.

(b) Owner shall pay to Contractor the amount of each invoice as presented by Contractor within ten (10) days after presentation of same unless Owner makes an exception to the invoice, in which event the

Owner shall pay all amounts not in controversy. In the event that Owner takes exception to any invoice, such exception is to be made in writing by Owner to Contractor; otherwise all invoices will be considered acceptable to Owner, pending any correction as a result of final audit. All invoices prepared by the Contractor and submitted to the Owner for payment shall be subject to audit and review by the Owner. Each charge included thereon shall be separately itemized and supported by suitable evidence of computation and payment. Contractor shall keep accurate records and books of accounts showing the actual cost to it of all expenditures reimbursable hereunder. Contractor shall submit monthly estimate of cost of work completed since cut-off date of last billing to end of current month. (Form Exhibit "A" attached.) Owner or its duly authorized representatives shall have access at all reasonable times to all books, records, correspondence, instructions, receipts, vouchers and documents of any description pertaining to the work under this agreement for the purpose of auditing the costs to Contractor of the work. Contractor shall preserve all such records for a period of one (1) year after the completion of each project performed hereunder.

(c) Upon completion of any work authorized hereunder, the Owner shall pay the Contractor, within thirty (30) days after acceptance of the work by Owner, the unpaid remainder of the agreed fees.

V.

Owner may make minor changes and alterations in the work covered in the schedules without any change in the amount of the fixed fee provided for in Article III (B) hereof. Owner shall also have the right to make major changes in, additions to, subtractions from, and alterations to the work. When making a

major change, the Owner shall estimate the amount of the added or reduced cost therefor, classified as (1) the estimated cost of labor, (2) the estimated cost of materials and supplies to be purchased by the Contractor, (3) the estimated cost of distributable items, (4) the estimated cost of subcontracts, (5) the estimated cost of the reimbursables to be fixed at 21.63% of labor (6) the Contractor's fixed fee, and (7) the estimated cost of Contractor's fees on materials, supplies, and subcontracts. Upon Contractor's acceptance of the Owner's cost estimate of the change, the work authorized hereunder shall be amended accordingly and revised to include such change and the amount of the fixed fee provided for in Article III (B) hereof shall be increased or decreased, as the case may be. In the event the Contractor does not agree to the Owner's estimate of a change, it shall notify Owner to that effect prior to proceeding with the work. If Owner desires that the work continue, Contractor shall nevertheless proceed therewith and the matter shall be subject to arbitration as is hereinafter provided.

VI.

(a) The Owner may, at its option and at no cost or charge to the Contractor, supply to the Contractor equipment and tools required by the Contractor for the performance of the work authorized hereunder. Such equipment and tools shall be maintained by the Contractor and cost thereof will be reimbursed under Paragraph III (A) (3) (B) of this agreement as part of the cost of work. All equipment and tools furnished hereunder to the Contractor shall be returned to the Owner, at the completion of the work, in as good condition as received, normal wear and tear excepted. Title to all equipment and tools furnished the Contractor hereunder shall at all times remain with the Owner. Contractor agrees that equipment and tools supplied hereunder will not be used for work other than that authorized hereunder.