

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF MISSISSIPPI  
ABERDEEN DIVISION**

In re:	)	
	)	
	)	
EXPRESS GRAIN TERMINALS, LLC,	)	Case No. 21-11832-SDM
	)	
Debtor.	)	Chapter 11
	)	Jointly Administered

**MOTION FOR ALLOWANCE OF ADMINISTRATIVE EXPENSE CLAIM**

COMES NOW Borton, LC (“**Borton**”) by and through counsel, and files this *Motion for Allowance of Administrative Expense Claim* (the “**Motion**”). In support hereof, Borton shows as follows:

1. Borton was party to two (2) related pre-petition executory contracts with the Debtor – a Construction Services Contract and a Materials Contract – for construction of grain storage and related facility improvements at its Greenwood, Mississippi, facility. These contracts are attached as Exhibits “A” and “B”, respectively.

2. As of the petition date, Borton was owed \$141,904.22 for unpaid amounts owed under the Contracts as set forth in its Proof of Claim filed herein. *See* Claim No. 83 in Claims Register.

3. Borton was not advised of the Debtor’s bankruptcy filing and continued to perform its obligations under the Contracts from and after the petition date in good faith and in conformity with the project plans.

4. Eventually, through CR3 Partners, Borton was advised of the bankruptcy filing and requested to continue construction under the Contracts pursuant to which it would receive

**EXHIBIT "A"**

payments from the Debtor on a weekly basis for work performed. Borton was not timely or fully paid as represented. Borton incurred a total of \$246,418.91 (the “**Admin Claim Amount**”) for work performed and materials provided under the Contracts post-petition for which it was not paid. *See* Exhibit “C” comprised of Post-Petition Invoices.

5. These amounts were reasonable and necessary to performance of the Contracts and to completion of the project for which Borton was engaged and obligated to perform.

6. Borton terminated the Contracts on or around November 1, 2021, after it was advised that it would not be paid any additional amounts for any post-petition work already performed or to be performed, and the Debtor did not seek to assume the Contracts and cure the defaults thereunder.

7. Borton is entitled to allowance of an administrative claim in the Admin Claim Amount pursuant to § 503(b)(1)(A) for actual costs incurred in preserving and enhancing property of the estate through its performance of the Contracts after the petition date. Borton’s administrative claim should be afforded priority under § 507(a)(2).

WHEREFORE, PREMISES CONSIDERED, Borton respectfully requests this Court enter an Order granting its Motion and allowing its administrative claim in the Admin Claim Amount as requested herein and that the Court grant any other relief this Court deems necessary and proper.

THIS the 28th day of March, 2022.

Respectfully submitted,

**BORTON, LC**

By: /s/ Douglas C. Noble

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**McCraney | Montagnet | Quin | Noble PLLC**  
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**CERTIFICATE OF SERVICE**

I do hereby certify that the foregoing pleading was filed electronically through the Court's CM/ECF system and served electronically on all parties enlisted to receive service electronically

SO CERTIFIED, this the 28th day of March, 2022.

/s/ Douglas C. Noble

# EXHIBIT

# A



## **CONSTRUCTION SERVICES CONTRACT**

THIS CONSTRUCTION SERVICES CONTRACT (the "Contract") entered into as of the last date signed by a party hereto (the "Effective Date") is by and between **Express Grain**, ("Owner"), and **Borton, LC**, ("Contractor").

### **RECITALS**

- A. Owner desires to contract with Contractor for work at the Project.
- B. Contractor and Owner have agreed on a price for work to be performed on this project by Contractor. The scope and specs of the work are attached as Exhibit A.
- C. The parties hereto enter into this Contract to agree to and confirm the terms and conditions of the construction to be undertaken by the Contractor.

NOW, THEREFORE, in consideration of the mutual undertakings herein contained, the parties hereto agree as follows:

#### **1. PROJECT**

This Contract is for the project located in Greenwood, MS.

#### **2. DESCRIPTION OF CONTRACT**

- a. Proposal #03-034-20 with detailed scope of work & specs attached as "Exhibit-A"

#### **3. ACCEPTANCE AND AGREEMENT**

The Owner accepts the Contractor's bid or proposal for the construction of the Project, and the Contractor agrees to perform the construction under and pursuant to the terms and conditions of the Contract.

#### **4. CHANGE ORDERS**

- a. The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly in writing. If the Owner and Contractor cannot agree to a change in the Contract Sum, the Owner shall pay the Contractor actual cost-plus reasonable overhead and profit.
- b. Changes in the manner, method or time of construction shall be made by mutual agreement only and signed by both parties hereto.

#### **5. MANNER OF CONSTRUCTION**

The sequence and schedule of construction is agreed upon by the Owner and Contractor, reduced to writing and made a part of this Contract (see Exhibit A). The Owner may, from time to time, during the progress of construction of the Project, make changes, additions to or subtractions from the plans, specifications, construction sheets, drawings and in the sequence of construction as conditions may warrant, all of which shall be in writing and agreed to by the Contractor beforehand. If any such change in the construction requires an extension of time, a reasonable extension will be granted. In addition, if Contractor's costs are increased by such change or addition, the Owner shall pay the Contractor for the reasonable cost thereof, to be agreed upon by the parties.



6. **SUPERVISION AND INSPECTION OF CONSTRUCTION**

The Contractor shall employ a construction superintendent (the "Superintendent") who shall be present at the Project during working hours and shall supervise construction for the Contractor. The Contractor shall also employ capable, experienced and reliable foremen and skilled workers as may be required for the various classes of work to be performed.

7. **CONSTRUCTION PRICE AND PAYMENT THEREOF**

- a. The parties agree that the amount for the construction on the Project is the amount of \$623,630.86 (the "Construction Price").
- b. The Owner understands that the Construction Price is subject to the State of Mississippi's 3.5% tax on non-resident construction. The owner agrees that 3.5% will be added to the construction price in the amount of \$21,827.08 (the "State of Mississippi non-resident tax").
- c. The parties agree that the amount to be paid by Owner to Contractor for the construction on the Project is the amount of \$645,457.94 (the "Total Price"). This shall be paid by Contractor invoicing Owner within the first fifteen (15) days of each calendar month for the percentage of construction completed during the previous month. Owner will pay the invoice amount within thirty (30) days of the invoice date. The balance of the Construction Price shall be paid not later than fifteen (15) days after the Contractor completes the Project.
- d. Interest at the rate of one and one-half (1-1/2%) per annum higher than the "Prime Rate" published in the Wall Street Journal in its first issue of the month, but in no event greater than that allowed by any Federal or State laws shall be paid by the Owner to the Contractor on all unpaid balances due on monthly estimates, commencing fifteen (15) days after the due date; provided the delay in the payment beyond the due date is not cause by a condition within the control of the Contractor. Said interest rate shall be determined as of the first date interest becomes due. The due date for purpose of such monthly payments shall be thirty (30) days after submittal by the contractor to the Owner of its invoice for that period.
- e. Interest at the rate of one and one-half percent (1-1/2%) per annum higher than the "Prime Rate" published in the Wall Street Journal in its first issue of the month, but in no event greater than that allowed by Federal or State laws shall be paid by the Owner to the Contractor on the final payment for the Project, commencing fifteen (15) days after the due date. Said interest rate shall be determined as of the first date interest becomes due.

8. **PROTECTION OF PERSONS AND PROPERTY**

The Contractor shall at all times take reasonable precautions for the safety of employees and of the public, and shall comply with all applicable provisions of federal, state and municipal safety laws, environmental regulations, and building and construction codes.

9. **INSURANCE**

Contractor shall maintain the following insurance coverage during the terms of the Contract. Contractor shall provide evidence of such insurance coverage to the Owner in the form of a certificate of insurance. Such certificates of insurance shall be provided to Owner before Contractor starts construction and upon any renewal of such policies. Failure to provide such certificates of insurance shall be grounds for declaring Contractor in default of the terms of this Contract:

- a. Workers Compensation and Employer Liability:
  1. Employers Liability Insurance limits of at least \$500,000 each accident for bodily injury by accident and \$500,000 each employee for injury by disease.



- b. Commercial General Liability (CGL) with limits of insurance not less than \$1,000,000 each occurrence and \$2,000,000 annual aggregate:
  - 1. General aggregate limit shall apply separately to each Project.
  - 2. Cover liability arising from premises, operations, independent contractors, products, completed operations, personal and advertising injury.
- c. Owner shall be included as insured on the CGL.
- d. Automobile Liability:
  - 1. Business auto liability with limits of at least \$1,000,000 each accident.
  - 2. Business auto coverage must include coverage for liability arising out of all owned, leased, hired and non-owned automobiles.
- e. Commercial Umbrella:
  - 1. Umbrella limits must be at least \$1,000,000.
  - 2. Umbrella coverage for such additional insured shall apply as primary before any other insurance or self-insurance, including any deductible, maintained by, or provided to, the additional insured other than the CGL, Auto Liability and Employers Liability coverages maintained by the Contractor.
- f. Certificates of Insurance:
  - 1. Shall include a clause to require the insurer or insurance company agent, broker, or representative to notify the Owner thirty (30) days in advance of any cancellation or change in insurance coverage.
  - 2. Cancellation clause of the certificate shall cross out words "endeavor to" and "But failure to do so shall impose no obligation or liability of any kind upon insurer its agents or representatives".
  - 3. Be on a form that is acceptable to Owner and with insurers that have a current rating of at least A-V.
- g. All above policies shall be endorsed to waive subrogation against Owner.
- h. If municipalities and easement owners require different kinds of coverage on insurance, the Contractor will comply therewith.
- i. Builder shall add the Project to Builder's Risk insurance policy and owner shall be named an additional insured. Builder shall pass the cost of the Builder's Risk policy on to Owner for payment.

**10. DELIVERY OF POSSESSION/CONTROL TO OWNER**

At such time as payment of the construction price is complete, full possession and control of the Project shall be delivered to the Owner and upon such delivery the risk and obligations of the Contractor as set forth in Paragraph 9 hereof shall be terminated.

**11. COMPLIANCE WITH STATUTES AND REGULATIONS**

The Contractor shall comply with all applicable statutes, ordinances, rules and regulations pertaining to the construction of the Project.

**12. SUBCONTRACTORS**

In the event the Contractor uses any subcontractors to perform any of the construction of the Project, the Owner shall be notified of such prior to commencement of construction hereunder; the subcontractor shall agree, in writing, to all of the terms, provisions and conditions of this



Contract; the amount being paid by the Contractor to all subcontractors shall be fully disclosed to the Owner; and the subcontractor shall waive the right to any and all statutory, verbal, or written mechanics or other liens it might impose upon the Project in the event of nonpayment on the part of the Contractor. Use of a subcontractor by the Contractor shall in no way relieve the Contractor of any of its obligations hereunder.

**13. REMEDIES UPON DEFAULT AND/OR TERMINATION**

The following shall apply in the event of a default and/or termination by either party:

- a. If either party wishes to terminate this contract due to an alleged default made by the other party in the performance of any of the terms of this Contract, that party shall serve a written notice upon the other party requiring them to cause such default to be corrected forthwith. Unless within thirty (30) days after the service of such notice the default is corrected or arrangements for the correction thereof, the non-defaulting party may terminate this contract and pursue remedies available to them by law.
- b. If the Owner chooses to terminate this contract for any reason other than paragraph (a) of this subsection, Owner shall give Contractor ten (10) days notice of the same. Contractor shall be compensated for all work completed and materials purchased through the notice of termination date after receipt of invoice pursuant to Section 7 herein. In addition, Contractor shall receive reasonable demobilization costs.
- c. Should Contractor and Owner fail to agree on change orders or increases in costs as outlined in Section 5, this contract can be mutually terminated and Contractor compensated for all work completed and materials purchased through the date mutual termination is determined.
- d. Every right or remedy herein conferred upon or reserved to the parties shall be cumulative, shall be in addition to every right and remedy now or hereafter existing at law or in equity or by statute and the pursuit of any right or remedy shall not be construed as an election.

**14. OWNER REPRESENTATIVE**

At the outset of construction of the Project, the Owner shall designate to the Contractor its representative who shall be the point of contact with the Owner on the part of the Contractor and such representative shall be readily accessible to the Contractor for consultations, questions, and viewing of the progress of the Project.

**15. ASSIGNMENT OF CONTRACT**

The Contractor shall not assign this Contract, or any interest in the funds that may be due or become due hereunder, or enter into any contract with any person, firm or corporation for the performance of the Contractor's obligations hereunder, or any part thereof, without the prior approval, in writing, of the Owner and of the surety or sureties on the bond furnished by the Contractor for the faithful performance of the Contractor's obligations hereunder.

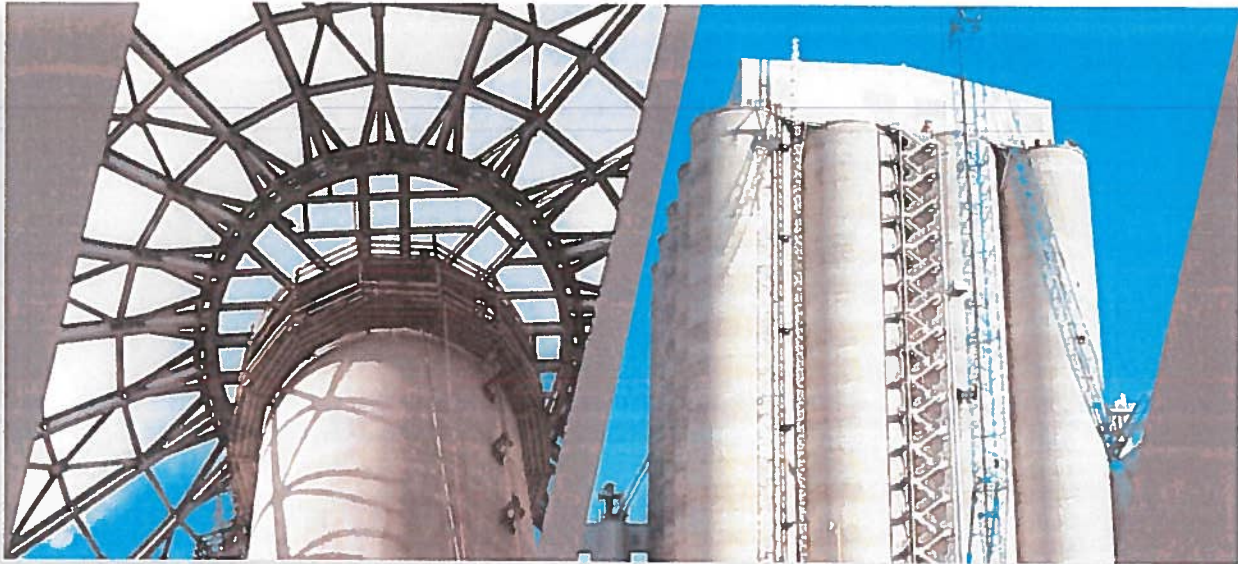
**16. EQUAL OPPORTUNITY STATEMENT**

The Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demoting or transfer,

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# BORTON

"EXHIBIT-A"



**BUILD FOR THE FUTURE.  
BUILD WITH BORTON.**

## **BID PROPOSAL**

Proposal Number: 03-034-20

### LABOR / MATERIALS / ENGINEERING

Prepared for Express Grain – April 10, 2020  
2015 River Road  
Greenwood, MS 38930

Attn: John Coleman  
President – Express Grain

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## Company Overview

**BORTON**

Borton, LC, headquartered in South Hutchinson, KS, offers 90 plus years of experience successfully completing 6,000+ projects. Our expertise spans a wide range of industries including but not limited to; grain, cement, glass, power, food, pet food, flour, aggregates, minerals, mining, LNG and water. Borton specializes in new construction, repairs and renovations and bulk material conveying. From concept to start-up, we deliver projects on-time and on-budget, helping companies save time with efficient and innovative solutions tailored to each project's specifications.



Safety is our absolute number one principle. Borton instills a safety culture that is workforce driven and focuses on task analysis prior to work performance. We place focus on hazard recognition and believe that training employees creates abilities to recognize them. We believe, that under no circumstances, will a production goal override safety. As a company, we follow a rather simple philosophy: Everyone goes home safe – one crew, one job, one day at a time.



Since 1926, Borton has built relationships by staying true to the core principles we were founded on: experience, reliability, quality and value. We believe that innovations in engineering and construction methods enhance production and foster business growth for ourselves and our customers. By maintaining dedicated customer service, accountability and superior performance throughout the company, we meet our customer's needs and exceed their expectations.



## RELEVANT PROJECT EXPERIENCE

**BORTON**



Kalama, WA. - 2013  
Cargill-TEMPCO  
8-Pack of 30' dia. Slipform Silos, River  
Loadout, Fill & Reclaim Conveying

Jonesboro, AR – 2018  
Riceland Foods, Inc.  
Rice Flour Extrusion Addition to Building “J”  
Equipment Installation

Glen Elder, KS – 2019  
Central Valley Ag  
(2) 76' Jumpform Silos, Aeration, Bin  
Monitoring, Fill & Reclaim Conveying Equip.

Bunge - 2011  
Destrehan, LA  
(3) 65' Soybean Meal Silos, Aeration,  
Receiving, Fill, & Reclaim Conveying Equip.

## PROJECT CONTROL



Borton has a group of people functioning as a team to design and engineer a quality, on-schedule project for our clients well versed in agricultural construction. Our execution team is comprised of the following personnel to effectively manage and control your project.

### Engineering

By Borton and included.

Silos – By the owner.

### Borton Quality Control

Borton has an in-house team highly skilled with years of experience specializing in agricultural construction, slipform silo construction, and facility & silo renovations to design and engineer a quality, on-schedule project for our clients.

### Safety

At Borton, safety is our "#1" priority with no exceptions. Borton maintains a full-time in-house safety manager trained & experienced in current safety regulations. Borton enforces a corporate safety program and follows current OSHA & MSHA regulations, as well as customer safety requirements.

### Sales Representative

The sales representative is responsible for preparation of this proposal, presentation to the owner and the finalization of all details that are pertinent for contract award.

### Project Manager

The project manager will oversee and coordinate all efforts of the administrative office to fully support all field activities. These duties include leading all departments (engineering, field, and accounting), managing the scope of work and schedule for the project, project coordination, and communication between all parties to keep everyone current on project status throughout the project.

### Site Construction Superintendent

On-site construction will be supervised by a skilled superintendent having years of experience specific to the project. The superintendent will be assisted by an experienced labor crew who are safety trained, task skilled and accompany the superintendent from project to project.

# PROPOSAL



Mr. Coleman,

Borton very much appreciates the opportunity to submit this budgetary bid proposal for the work located at your project Greenwood, MS facility.

## 1. SUMMARY

101. Borton proposes to utilize merit shop (non-union) labor and has not included union labor or prevailing wage pay scales.
102. This proposal includes Borton providing all required construction rental equipment necessary to complete Borton's scope of work on this project.
103. This proposal includes Borton providing the layout design and supply of stamped engineered drawings for the project.
104. This proposal includes Borton supplying the labor to install all material handling equipment, aeration, dust collection, receiving hopper, pellet bin hopper, bulk-weight system, bridges/towers, & platforms, equipment monitoring devices,
105. This proposal includes Borton supplying the kanal system fill materials and shotcrete.
106. This proposal includes Borton supplying the materials for conveyor and bucket elevator bracing and supports.
107. This proposal includes Borton supplying all spouting, transitions, 2-way valves, & inlet/discharge gates.
108. This proposal includes Borton supplying equipment maintenance platforms & bin entry platforms.
109. This proposal includes Borton supplying the cleaner & scalper support structures.
110. This proposal includes Borton supplying the receiving hopper (steel hopper).
111. This proposal includes Borton supplying the pellet bin hopper.

## 2. SCOPE OF WORK

### 201. Mobilization & Preparation

- a. Complete owners required onsite safety training/orientations.
- b. Meet with the owners onsite representative to determine hot work requirements, lockout/tagout protocols, communicate issues/hazards/concerns, establish emergency contacts and emergency assembly areas, etc.
- c. Stage Borton tool trailer (or) tool container, site office (if required), porta-pots, etc.
- d. Determine laydown area.
- e. Inventory equipment that has been delivered.



- f. Work with McPherson Concrete to locate and install block-outs in the silo floor, walls, and roof.
  - Borton will provide necessary block-outs (inserts) for all spouting and equipment.
- g. Set -up and begin work.

**202. Design & Engineering**

- a. Borton will provide design, layout & engineered drawings for the civil/concrete on the following items:
  - Receiving pit (to include the approaches)
  - Cleaner foundation
  - Scalper foundation
  - Bulk-Weigher foundation
  - Structural tower foundations
  - Equipment slabs/foundations
  - Misc. machinery slabs
- b. Borton will provide design, layout & engineered drawings for the mechanical on the following items:
  - Block-outs (spouting & equipment inserts) locations in the silo floor, walls, and roof. Borton will work with McPherson Concrete to detail and locate needed block-out inserts in the silo roof, walls, and floor for equipment (aeration, equipment transitions, spouting), etc.
  - All equipment layout, arrangement, and installation.
  - Aeration
    - *Borton will work directly with the vendor to supply design, layout, and installation of the aeration and kanal system*
    - Kanal chute discharges
  - Dust collection
    - *Borton will work directly with the vendor to supply design, layout, and installation of the dust collection for the receiving pit and loadout*
  - Receiving hopper
  - Conveyors
  - Bucket Elevators
  - Cleaner/Scalper
  - Bulk-Weigher
  - Loadout system
  - All support towers and bridges design, layout and installation.
    - Equipment supports
    - Bucket elevator towers (if applicable)
    - Cleaner/scalper support structures



- Bridge support towers
- Bridges/Catwalks
- Bulk-Weigher support tower
- Misc. structural supports
- All spouting and transition layout, arrangement, and installation.
- Pellet bin steel cone hopper design, layout, and installation.
- Misc. layout, arrangement and installation for the process tie-in to the new equipment.

**203. Excavation/Concrete**

- a. Borton will provide design and supply engineered drawings.
- b. Excavation Labor & Materials:
  - o All excavation labor & materials are by the owner.
- c. Concrete Labor & Materials:
  - o All concrete labor & materials are by the owner.

**204. Receiving**

- a. Supply/Install the receiving hopper, baffles, and grate:
  - Approx. 10' x 22' steel hopper.
  - Supply/Install hopper dust baffles.
  - Supply/Install the hopper grate.
  - Supply/Install the hopper discharge gate – electrically operated.
- b. Supply/Install the pit ladder and manhole cover.
- c. Install the receiving hopper dust collection:
  - Borton will install the dust system for the receiving hopper/baffle system.
  - Dust collector and accessories to be supplied by the owner.
  - Borton to supply misc. bracing materials for the dust collector and ductwork.
- d. Install the receiving conveyor from the hopper to the bucket elevator:
  - Borton will supply all materials for supporting the conveyor.
  - Supply/Install the receiving conveyor discharge gate – electrically operated.
  - Supply/Install all transitions for inlets, discharges, and spouting.
  - Receiving spouting & transitions to be designed for 20,000 bu/hr.
  - Spouting and transitions to be lined per owner specifications.
  - o Conveyor to be supplied by the owner.
  - o All oil and lubricants for gear box drives – by owner.
  - Borton will install the lubricants.
- e. Install the receiving bucket elevator support tower:
  - Borton will install the bucket elevator support tower.



- Tower to be supplied by the owner.
  - f. Install the receiving bucket elevator:
    - Borton will supply all materials for bracing the bucket elevator to the silo walls.
    - Supply/Install bucket elevator discharge 2-way – electrically operated.
    - Supply/Install storage bins fill spouting and “future” 2-way valves from the bucket elevator to the storage bins – electrically operated.
    - Supply/Install all transitions for inlets, discharges, and spouting.
      - Fill spouting & transitions to be designed for 20,000 bu/hr.
      - Spouting and transitions to be lined per owner specifications.
    - Bucket elevator to be supplied by the owner.
    - All oil and lubricants for gear box drives – by owner.
    - Borton will install the lubricants.
  - g. Install the receiving bucket elevator head platform.
    - Borton will install the head platform and access ladders/rest platforms.
    - Bucket elevator platform to be supplied by the owner.
- 205. Storage Silos - Fill**
- a. Install level sensor devices for the storage silos:
    - Borton will install all mechanical level indicator devices.
    - Level indicator devices to be supplied by the owner.
    - All electrical installation by others.
  - b. Supply/Install (1) bin entry platform per silo:
    - Platforms to be approx. 4' x 6' with a ladder for access.
    - Platform ladder (entry/exit) and handrail to be OSHA compliant.
  - c. Supply/Install the catwalk from storage silo #1 to storage silo #2:
    - Catwalk to span from silo to silo and have an approx. 30" to 36" wide walkway with osha compliant handrail and toe board.
- 206. Storage Silos - Reclaim**
- a. Aeration mechanical equipment:
    - Borton will install the kanal troughs, duct work, upper & lower fans, exhausters, etc. for a complete aeration system.
    - Aeration system to be supplied by the owner.
  - b. Aeration kanals:
    - Supply/Install the fill material for the kanals.
    - Supply/Install the shotcrete for the kanal system.
  - c. Supply/Install the storage silo reclaim discharge kanal chutes – 1 per silo:
    - Kanal chutes to be designed for a reclaim rate of 5,000 bu/hr.



- The gravity spout on the kanal chute to have a manually operated gate.
  - The aeration spout on the kanal chute to have an electrically operated discharge gate.
  - Borton will supply the silo wall block-out inserts for the kanals and work with McPherson Concrete to layout and install them in the silo wall.
- d. Install storage silos reclaim conveyor:
- Borton will supply all materials for supporting the conveyor.
  - Supply/Install the reclaim conveyor discharge gates – electrically operated.
  - Supply/Install all transitions for inlets, discharges, and spouting.
    - Reclaim spouting & transitions to be designed for 5,000 bu/hr.
    - Spouting and transitions to be lined per owner specifications.
  - Conveyor to be supplied by the owner.
  - All oil and lubricants for gear box drives – by owner.
  - Borton will install the lubricants.
- e. Supply/Install maintenance platform at head section of reclaim conveyor:
- Platform based on approx. 6' x 8' wide with ladder access and OSHA compliant handrail & toe-board.
- f. Supply/Install grain recycle spouts:
- Borton will supply the silo wall inserts, spouting, transitions, and gates.
  - Install (1) grain recycle spout per silo.
  - Supply/Install (1) manually operated 2-way valve that the recycle spout from each silo will tie-into and spout back into the bucket elevator.
207. **Cleaner / Scalper**
- a. Supply/Install support structures and maintenance platforms for the cleaner and the scalper:
- Structures based on approx. 8' x 8' structure x 10' tall – (1) each.
  - Each structure to have a maintenance platform based on approx. 6' x 8' wide with ladder access and OSHA compliant handrail & toe-board.
- b. Install the Ferrell-Ross Cleaner and the Carter-Day Scalper:
- Cleaner & Scalper to be supplied by the owner.
  - Supply/Install transition from discharge of reclaim conveyor to inlet of Ferrell-Ross Cleaner.
    - Transition based on 5,000 bu/hr.
    - Transition to be lined per owners specifications.
  - All oil and lubricants for gear box drives – by owner.
  - Borton will install the lubricants.
- c. Install conveyor from cleaner to scalper:



- Borton will supply all materials for supporting the conveyor.
- Supply/Install all spouting & transitions for inlets, discharges.
- Reclaim spouting & transitions to be designed for 5,000 bu/hr.
- Spouting and transitions to be lined per owner specifications.
- Supply/Install spouting & transitions from the Carter-Day Scalper to the milling process take-away equipment.
- Spouting & transitions to be designed for 5,000 bu/hr.
- Spouting and transitions to be lined per owner specifications.
- Conveyor to be supplied by the owner.
- All oil and lubricants for gear box drives – by owner.
- Borton will install the lubricants.

**208. Meal Bin - Fill**

- a. Install level sensor devices for the storage silos:
  - Borton will install all mechanical level indicator devices.
  - Level indicator devices to be supplied by the owner.
  - All electrical installation by others.
- b. Supply/Install (1) bin entry platform per silo:
  - Platforms to be approx. 4' x 6' with a ladder for access.
  - Platform ladder (entry/exit) and handrail to be OSHA compliant.
- c. Install meal fill conveyor – bridge support tower:
  - Install the tower that supports the meal fill conveyor bridge.
  - Tower supplied by the owner.
- d. Install meal fill conveyor – bridge:
  - Install the bridge from the tower to the top of the meal silo for the meal fill conveyor.
  - Bridge supplied by the owner.
- e. Install meal fill conveyor:
  - Borton will supply all materials for supporting the conveyor.
  - Supply/Install spouting & transitions from the process equipment discharge to the meal fill conveyor inlet.
  - Reclaim spouting & transitions to be designed for 5,000 bu/hr.
  - Spouting and transitions to be lined per owner specifications.
  - Supply/Install meal fill conveyor discharge 2-way – electrically operated.
  - Supply/Install meal fill spout & transitions from the meal fill conveyor to the meal silo.
  - Supply/Install spouting and transitions from 2-way to the flat storage overhead conveyor.
  - Spouting & transitions to be designed for 5,000 bu/hr.



- Spouting and transitions to be lined per owner specifications.
- o Conveyor to be supplied by the owner.
- o All oil and lubricants for gear box drives – by owner.
- Borton will install the lubricants.

**209. Meal Bin - Reclaim**

- a. Center discharge – center sump:
  - Borton will supply (1) block-out insert for the center discharge and work with McPherson Concrete to layout and install in the silo floor.
  - Borton will install the Laidig center sump for the center discharge of the silo.
  - o Center sump to be supplied by the owner.
  - Supply/Install (1) center discharge gate – electrically operated.
  - Center gate based on 60,000 bu/hr – 300 TPH.
  - Supply Install (1) center discharge transition.
  - Transition based on 60,000 bu/hr - 300 TPH.
  - Transition to be lined per owners specifications.
- b. Intermediate discharges:
  - Borton will supply (5) block-out inserts for the intermediate discharges and work with McPherson Concrete to layout and install them in the silo floor.
  - Supply/Install (5) intermediate discharge gates – manually operated.
  - Intermediate gates based on 60,000 bu/hr – 300 TPH.
  - Supply Install (5) intermediate discharge transitions.
  - Transition based on 60,000 bu/hr - 300 TPH.
  - Transition to be lined per owners specifications.
- c. Laidig bin sweep:
  - Borton will supply a service opening block-out insert for a 30" square service opening and work with McPherson Concrete to layout and install.
  - Borton will install the Laidig bin sweep.
  - Borton will supply all materials for supporting the sweep.
  - Supply/Install (1) VFD device for the Laidig sweep.
  - o Laidig sweep to be supplied by the owner.
  - o All electrical by others.
  - o All oil and lubricants for gear box drives – by owner.
  - Borton will install the lubricants.
- d. Meal bin reclaim conveyor:
  - Borton will supply all materials for supporting the conveyor.
  - Supply/Install the reclaim conveyor.
  - Supply/Install the reclaim conveyor discharge spouting & transition to the bucket elevator.



- Spouting & transitions to be designed for 60,000 bu/hr – 300 TPH.
- Spouting and transitions to be lined per owner specifications.
- o Conveyor to be supplied by the owner.
- o All oil and lubricants for gear box drives – by owner.
- Borton will install the lubricants.

**210. Bulk - Meal Loadout**

- a. Install meal loadout bucket elevator support tower:
  - Borton will install the bucket elevator support tower.
  - o Tower to be supplied by the owner.
- b. Install the meal loadout bucket elevator:
  - Borton will supply all materials for bracing the bucket elevator to the silo wall.
  - Supply/Install bucket elevator discharge 2-way – electrically operated.
  - Supply/Install spouting from the bucket elevator 2-way to the bulk-weigher.
  - Supply/Install spouting from the bucket elevator 2-way to the flat storage overhead conveyor.
  - Supply/Install all spouting transitions.
  - Spouting & transitions to be designed for 60,000 bu/hr – 300 TPH.
  - Spouting and transitions to be lined per owner specifications.
  - o Bucket elevator to be supplied by the owner.
  - o All oil and lubricants for gear box drives – by owner.
  - Borton will install the lubricants.
- c. Install the meal loadout bucket elevator head platform.
  - Borton will install the head platform and access ladders/rest platforms.
  - o Bucket elevator platform to be supplied by the owner.
- d. Install bulk-weigher system:
  - Borton will assemble & install the bulk-weigher structure.
  - Set bulk-weigher lower garner.
  - Set bulk-weigher weigh hopper.
  - Set bulk-weigher upper garner.
  - Install Hydraulic unit.
  - Auto lift kit.
  - Test weights.
  - Hydraulic power unit.
  - Install bulk-weigher control gate.
  - Install bulk-weigher exterior platforms.
  - Install handrails
  - Ladders/cages
  - o Structure to be supplied by the owner.



- Bulk-Weigher to be supplied by the owner.
  - e. Install bulk-weigher loadout spout system:
    - Borton will install the adjustable loadout spout.
    - Borton will install the fall protection system (if applicable).
- 211. Pellet Bin – Fill**
- a. Install transition from the process conveying equipment to the pellet fill equipment.
  - Borton will Supply/Install the transition from the equipment feeding the top of the pellet bin fill inlet.
  - Spouting & transitions to be designed for 60,000 bu/hr – 300 TPH.
  - Spouting and transitions to be lined per owner specifications.
  - Conveyor feeding the pellet bin – by others.
  - Installation of the conveyor and bridges/towers feeding the pellet bin – by others.
- 212. Pellet Bin – Reclaim**
- a. Supply/Install pellet silo – steel cone hopper:
  - 40' dia. x 45 deg. sloped hopper.
  - Bolt together construction.
  - Designed for inside bin height of 112'.
  - Adjustable ring-beam structure with wall flashing.
  - Steel support legs and cross members.
  - 19" x 24" hopper manhole.
  - Primed & painted.
  - Supply/Install hopper discharge gate – electrically operated.
  - Supply/Install discharge transitions – design TBD.
  - Transition based on 60,000 bu/hr – 300 TPH.
  - Transition to be lined per owners specifications.
  - Borton will supply all materials for supporting the conveyor.
  - Borton will supply all materials for supporting the scale equipment.
  - Install loadout scale equipment.
  - Install loadout conveying equipment.
  - Scale equipment to be supplied by the owner.
  - Conveyor to be supplied by the owner.
  - All oil and lubricants for gear box drives – by owner.
  - Borton will install the lubricants.
- 213. Construction Equipment**
- a. All equipment needed for Borton's scope of work (forklifts, boom lifts, cranes, etc.) has been accounted for and is included in this proposal.
- 214. Painting**
- a. Painting shall be per manufacture specifications and touched up onsite.



**215. Electrical**

- a. All electrical has been excluded from this proposal.

**216. Freight**

- a. All freight for Borton's scope of work has been accounted for and is included in this proposal.

**3. ITEMS PROVIDED TO BORTON FOR TEMPORARY CONSTRUCTION**

**301. Utilities to within 50'-0" of work area:**

- a. Electrical – construction electricity consisting of 115-volt / 230-volt single phase, 50 amp minimum. (*Location of disconnect shall be in close proximity to the construction area*).
- b. Construction Water – (if needed) water for construction supplied by a general hose-bib, etc. (*Location of hose bib to be within close proximity to the construction area*).

**302. Equipment Laydown Area:**

- a. Sufficient all-weather area near existing facility for tool trailer and storage of materials and equipment.

**303. Access to Work Area:**

- a. All weather construction road to be used during course of construction.

**4. ITEMS NOT INCLUDED**

401. This Proposal excludes owner's permits or building permits, payment and performance bonds, contractor or mechanical licenses, or specialty insurance.

402. Geotechnical investigation report.

403. Testing of any kind (welding and leak test of silo, soil & concrete testing).

404. Site work (roads, rail siding, grading, dust control, erosion control, landscaping, fencing, storm water management or traffic plan.

405. All civil work, excavation & concrete (materials and labor) has been excluded from this proposal.

406. Supply of any equipment (drag/belt conveyors, bucket elevators, scales, bins, dust collection, aeration, cleaners/screeners), etc.

407. Supply of structural equipment (equipment support towers, bridges/catwalks or metal buildings), etc.

408. Removal of any contaminated soils or hazardous waste.

409. Removal or rerouting of any aboveground or belowground obstructions.



- 410. Construction or maintenance of roads and parking areas, including construction access road and road upkeep.
- 411. Special construction methods: (sheet piling, auger cast piles, geo piers, soil enhancements), etc.
- 412. Removal of grain, debris, machinery, water, dirt, etc. from work area originating from the operation of the facility or any source other than the contractor.
- 413. Security services.
- 414. Oil & lubricants for motor & drives on conveying equipment.
- 415. Rail (or) railroad work.
- 416. Electrical, utilities of any kind, phone/data services, supply or install.

#### **5. OUR BID IS BASED UPON**

- 501. This proposal is good for thirty (30) days. After that time, prices will need to be reviewed and negotiated.
- 502. Should Borton be awarded the contract, this proposal is to be made part of the contract document.
- 503. This proposal is contingent upon review of Express Grain's General Terms and Conditions, Special Terms and Conditions, and Borton's right to take exceptions.
- 504. Borton's bid is based on Borton being awarded the entire Scope of Work shown in this proposal.
- 505. Borton's proposal is proprietary in nature and is to be treated as such. No part of this proposal may be used by Express Grain for any purpose without Borton's prior approval.
- 506. Terms of Payment per the enclosed Borton "Terms of Payment" sheet. Final payment is due thirty (30) days after project completion.
- 507. Once work has started, Borton is to have uninterrupted access to the work area.
- 508. Borton has based their bid proposal on using merit shop labor rates. During the course of construction, should there be job delays, hostile activities or job shutdowns cause by the local organized trade unions, then Borton reserves the right to cancel the contract. At that point, Express Grain would pay Borton for all costs incurred to date plus twelve percent (12%) for overhead and profit.
- 509. Labor burden taxes have been included in our bid.

**BORTON**

510. State of Mississippi sales and use tax on permanent materials have been included in our bid.

**Note:** *If this project qualifies as Tax Exempt, the purchaser must provide a tax-exempt form to Borton along with the signed contract. If a tax-exempt form is supplied after a contract billing has been processed by Borton, and changes are required to accommodate the tax-exempt status, then Borton will bill extra for the cost incurred to facilitate the changes required.*

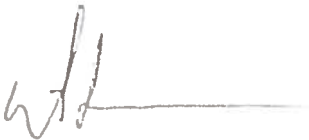
511. The estimated construction time frame for the millwright work is approximately eighteen (18) weeks from mobilization to demobilization.

**Borton's bid for the above described work ..... \$1,417,751.00**

State of Mississippi contractor's license number: #06650


Borton appreciates the opportunity to submit this bid to perform this work. Should you have any questions or need additional information, please do not hesitate to call.

Sincerely,



Troy Jacobson | Grain Field Manager

**BORTON, LC**

  
Acceptance by Express Grain, Authorized Representative

04/20/2020  
Date

## Terms of Payment



### TERMS OF PAYMENT

1. At the time of contract signing, there shall be TEN PERCENT (10%) of the contract amount due.
2. The Contractor thereafter shall on or about the first day of the month submit to Owner a request for progress payments on the percentage of work completed. Owner and Contractor shall each designate a representative who shall jointly determine the monthly percentage of units of work completed.
  - a. On the first day of the month, next following the commencement of the work, there shall be paid to Contractor a sum equal to ninety-five percent (95%) of the value of the work completed, plus the cost of materials stored at the site of the Facility; thereafter on the first day of each successive month as the work progresses, similar payments shall be made equal to ninety-five percent (95%) of the value of the work completed plus the cost of materials stored at the site of the facility. The down payment amount shall be credited back based on the percentage of work completed each month. Payments for additional work or alternations, if any, under this Agreement shall be made in like manner.
  - b. Upon written notice to Owner by Contractor of completion of Facility and acceptance by the Owner, the final payment; including retainage, shall be made within thirty (30) days thereafter.
3. Contractor shall deliver statements to Owner for payments due Contractor hereunder in accordance with the cost billing breakdown. Any payments which are not paid to the Contractor within fifteen (15) days after the same shall become due shall bear interest at the rate of 1.5% per month from date of invoice.



## Time and Material Rates

1. **Labor**

The following rates are to be used for all cost-plus work performed on this project.

**Hourly Billing Labor Rates:**

<b><u>Classification</u></b>	<b><u>(0-59 Hr. Week)</u></b>	<b><u>(60+ Hr. Week)</u></b>
Superintendent	\$ 95.50	\$ 95.50
Operator	\$ 85.00	\$ 89.50
Foreman	\$ 72.25	\$ 76.25
Skilled	\$ 68.50	\$ 72.00
Semi-Skilled	\$ 61.75	\$ 64.75
Laborer	\$ 50.75	\$ 53.00
Office Project Manager	\$ 89.75	\$ 89.75

Hourly billing rates as defined above are all-inclusive as a minimum, but not limited to, the costs of maintaining proper payroll, accounting records, general liability and worker's compensation insurance, federal and state unemployment insurance, social security and other applicable payroll taxes, subsistence, \*small tools (see note below), salary/wage cost, and profits. Time is tracked via FM Pro software sent day after. Owner has one (1) business day to dispute time, otherwise time is approved as is.

If applicable, state repair contract sales tax to be added separately to billing.

**NOTE:** Small company-owned tools such as: cutting torches, 3/8" and 1/2" electric drills, Hilti hammer drills, and other like small tools.

2. **Tool/Connex van/Trailer Rental**

Tool/connex van/trailer rental will be billed at \$175.00 per week per each on site.

3. **Pickup Truck Rental**

Pickup truck rental will be billed at \$275.00 per week per each on site.

4. **Material, Sales Tax (if applicable) & Freight**

Material, sales tax and freight will be billed at cost plus Fifteen percent (15%) and billed separately from labor.



5. **Contractor-Owned Equipment Rental**

Contractor-Owned equipment will be billed at minimum daily rates per attached sheets. If not on attached sheet, the latest published edition of the Rental Rates for Construction Equipment compiled by the Associated Equipment Distributors will be used.

6. **Commercial Equipment Rental**

Commercial equipment will be billed at the Contractor's cost plus Fifteen percent (15%) plus Ten percent (10%) fuel surcharge.

7. **Subcontracts**

Subcontracts will be billed at cost plus Fifteen percent (15%).

8. **Mobilization/Demobilization**

Mobilization/demobilization will be billed at cost plus Fifteen percent (15%) on mileage and time for crew along with freight for tool/connex van/trailer. Borton uses Google Maps to determine mileage and time from Hutchinson, KS to the job site. IRS standard mileage rates are used.

Troy Jacobson  
Grain Field Manager

Date

Acceptance by Owner Rep

04/20/2020

Date



## Equipment T&M Rates

### EQUIPMENT RENTAL RATES

	<u>Monthly</u>	<u>Weekly</u>	<u>Daily</u>	
Adhesion Tester (DeFelsko)	\$ 450	\$ 160	\$ 50	
Adhesion Tester Dollies				\$15 per Dolly
Air Compressors(Electric)	\$ 1,113	\$ 411	\$ 135	125 - 249cfm (Jenny 2T25B-240)
Air Compressors(Electric)	\$ 350	\$ 121	\$ 35	Tank Mounted 9-11HP
Air Compressors(Electric)	\$ 928	\$ 308	\$ 60	Tank Mounted >=16HP
Cable Climbers / motor	\$ 675	\$ 240	\$ 100	
Concrete Tester (Windsor)	\$ 450	\$ 160	\$ 50	
Crack Injection Machine	\$ 965	\$ 360	\$ 150	
Drill(Diamond Core)	\$ 547	\$ 190	\$ 56	
Drill(Hammer)	\$ 387	\$ 146	\$ 73	
Generator	\$ 732	\$ 210	\$ 42	to 5,000 Watts
Generator	\$ 1,450	\$ 450	\$ 90	5,001-10,000 Watts
Hoist(Electric Chain or cable)	\$ 270	\$ 100	\$ 33	
Plasma Cutter	\$ 453	\$ 167	\$ 63	
Pressure Washer - Hot	\$ 1,341	\$ 500	\$ 208	>2500 PSI
Rebar Scanner (Ferroskan)	\$ 1,360	\$ 490	\$ 150	
Sandblaster	\$ 830	\$ 286	\$ 89	300-700 lbs
Threading Machine	\$ 135	\$ 49	\$ 21	
Transformer	\$ 500	\$ 175	\$ 50	
Tripod w/ Winch		\$ 545	\$ 130	
Vacuum Grinder	\$ 640	\$ 240	\$ 100	
Welder(electric)	\$ 261	\$ 87	\$ 18	To 200 amps
Welder Gas Miller bobcat or =	\$ 943	\$ 261	\$ 53	201 - 300 amps
Welder Multi Quip	\$ 1,473	\$ 415	\$ 83	301 - 400 amps (DLW400ES)
Welder	\$ 744	\$ 248	\$ 50	4 pack electric
Wrench(Impact)	\$ 198	\$ 74	\$ 32	Under 1"
Wrench(Impact)	\$ 238	\$ 89	\$ 34	1" and Over

BUILD FOR THE FUTURE, BUILD WITH



21 Des Moines Ave.  
South Hutchinson, KS 67505  
(620) 669-8211 | Phone  
(620) 662-3225 | Fax  
Online: [www.borton.net](http://www.borton.net)

DOCUMENT: "EXHIBIT-B"

DATE: 5/21/2020

"EXHIBIT-B"

REF: Additional documentation for the project contract

PROJECT: Express Grain

LOCATION: Greenwood, MS

#### **BORTON SUPPLIED MATERIALS BREAKDOWN**

✚ Listed below are the "materials" supplied by Borton for the Greenwood, MS – Express Grain project as outlined in the proposal dated April 10<sup>th</sup>, 2020 and signed by both parties.

- Fill Material for the Kanal System.
- Shotcrete for the Kanal System.
- Receiving Hopper
- Hopper Grate
- Hopper Baffles
- Bracing Materials for the Receiving Dust Collection Ductwork
- Receiving Pit Ladder
- Receiving Pit Manhole Cover
- Storage Bin Reclaim Conveyor Maintenance Platform
- Storage Bins Reclaim Discharge Kanal Chute Spouting & Gates
- (1) Grain Recycle Spout & Gate per Storage Silo
- (1) Cleaner Support Structure Approx. 8' x 8' x 10' Tall or Smaller
- (1) Scalper Support Structure Approx. 8' x 8' x 10' Tall or Smaller
- Meal Bin Secondary Reclaim Gates
- Meal Bin Center Gate (if Not Supplied by Laidig)
- Bracing Materials for the Loadout Dust Collection Ductwork
- Material for All Conveyor Supports  
(minus the Pellet Bin Fill Conveyor and the Conveyor to Processing)
- Material for All Bucket Elevator Bracing
- (1) Approx. 4' x 6' or Smaller Bin Entry Platform per Bin
- (1) Catwalk from Storage Bin #1 to Storage Bin #2 (for Personnel Only)



- Pellet Bin Steel Cone Hopper
- Pellet Bin Hopper Discharge Gate
- Materials for Supporting the Pellet Bin Weigh Scale
- Spouting "Socks" for the Pellet Bin Weigh Scale
- All Spouting & Flanges  
(minus the pellet bin fill Conveyor inlet & the conveyor to processing)
- All Transitions & Flanges  
(minus the Pellet Bin Fill Conveyor Inlet & the Conveyor to Processing)
- Liner for all Spouting & Transitions
- Two-Way Valves & Gates
  - (2) Two-Ways for Storage Bins Fill Spouting
  - (1) Two-Way for the Cleaner Fill
  - (1) Two-Way for the Meal Bin Fill
  - (1) K-Valve for the Meal Loadout
- Primer/Paint for all Platforms/Structures Fabricated & Supplied by Borton
- Primer/Paint for all Spouting & Transitions Fabricated & Supplied by Borton

**ITEMS BORTON IS NOT RESPONSIBLE FOR SUPPLYING BREAKDOWN**

✚ Listed below for clarity purposes are specific items not supplied by Borton for the Greenwood, MS – Express Grain project as outlined in the proposal dated April 10<sup>th</sup>, 2020 and signed by both parties.

- Bins/Silos
- Aeration Equipment
- Conveying Equipment (i.e. - conveyors, bucket elevators, bulk weigher, scales, cleaners/scalpers, etc.)
- Dust Collection
- Samplers
- Bin Monitoring Devices
- Conveying Equipment Monitoring Devices
- Hazard Monitoring Devices
- Bin Sweeps, etc.
- Buildings, Electrical Rooms, Control Rooms, etc.
- Truck/Train Loadout Spouts or Equipment
- Towers  
(Borton will supply the Cleaner & Scalper support structure as stated above)
- Bridges/Catwalks



(Borton will supply the Catwalk between the storage bins as stated above)

- By-Pass Inlets (these should be supplied by the vendor with the conveyor)

Borton Rep.  
Troy Jacobson | Borton LC

5/21/2020

Date:

Owners Rep.  
Express Grain LLC

06/04/2020

Date:

# EXHIBIT B



## **MATERIALS CONTRACT**

THIS MATERIALS CONTRACT (the "Contract") entered into as of the last date signed by a party hereto (the "Effective Date") is by and between **Express Grain**, ("Owner"), and **Borton, LC**, ("Contractor").

### **RECITALS**

- A. Owner desires to contract with Contractor for certain materials to be installed in the Project.
- B. Contractor and Owner have agreed on a price for said materials to be permanently installed in said project. Detailed materials are attached as Exhibit A.
- C. The parties hereto enter into this Contract to agree to and confirm the terms and conditions of the construction to be undertaken by the Contractor.

NOW, THEREFORE, in consideration of the mutual undertakings herein contained, the parties hereto agree as follows:

#### **1. PROJECT**

This Contract is for the project located in Greenwood, MS.

#### **2. DESCRIPTION OF CONTRACT**

- a. Proposal #03-034-20 with detailed scope of work & specs attached as "Exhibit-A"
- b. Material Breakdown Document attached as "Exhibit-B"

#### **3. ACCEPTANCE AND AGREEMENT**

The Owner accepts the Contractor's bid or proposal for these materials and Contractor agrees to provide the materials for installation in the project.

#### **4. CHANGE ORDERS**

Any changes or substitutions of materials shall be made by mutual agreement only and signed by both parties hereto.

#### **5. MATERIALS PRICE AND PAYMENT THEREOF**

- a. The parties agree that the amount to be paid by Owner to Contractor for the materials to be installed in the Project is the amount of \$794,119.54 (the "Materials Price"). This shall be paid by Contractor invoicing Owner within the first fifteen (15) days of each calendar month for materials installed during the previous month. Owner will pay the invoice amount within thirty (30) days of the invoice date. The balance of the Materials Price shall be paid not later than fifteen (15) days after the Contractor completes the Project.
- b. The parties agree that Materials provided by the Contractor are not subject to Sales Tax nor the State of Mississippi's 3.5% tax on non-resident construction and agree that should any taxes be owed for materials provided by the Contractor, the cost of the taxes shall be the responsibility of the Owner and paid by the Owner.
- c. Interest at the rate of one and one-half (1-1/2%) per annum higher than the "Prime Rate" published in the Wall Street Journal in its first issue of the month, but in no event greater than that allowed by any Federal or State laws shall be paid by the Owner to the Contractor



on all unpaid balances due on monthly estimates, commencing fifteen (15) days after the due date; provided the delay in the payment beyond the due date is not caused by a condition within the control of the Contractor. Said interest rate shall be determined as of the first date interest becomes due. The due date for purpose of such monthly payments shall be thirty (30) days after submittal by the contractor to the Owner of its invoice for that period.

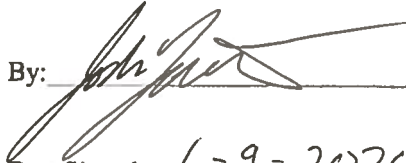
- d. Interest at the rate of one and one-half percent (1-1/2%) per annum higher than the "Prime Rate" published in the Wall Street Journal in its first issue of the month, but in no event greater than that allowed by Federal or State laws shall be paid by the Owner to the Contractor on the final payment for the Project, commencing fifteen (15) days after the due date. Said interest rate shall be determined as of the first date interest becomes due.
  - e. Any warranty available from manufacture on materials shall be provided to Owner upon completion of Project.
6. **DELIVERY OF POSSESSION/CONTROL TO OWNER**  
When all materials have been installed, full possession and control of the Project shall be delivered to the Owner and upon such delivery the risk and obligations of the Contractor shall be terminated.
7. **REMEDIES UPON DEFAULT AND/OR TERMINATION**  
The following shall apply in the event of a default and/or termination by either party:
- a. If either party wishes to terminate this contract due to an alleged default made by the other party in the performance of any of the terms of this Contract, that party shall serve a written notice upon the other party requiring them to cause such default to be corrected forthwith. Unless within thirty (30) days after the service of such notice the default is corrected or arrangements for the correction thereof, the non-defaulting party may terminate this contract and pursue remedies available to them by law.
  - b. If the Owner chooses to terminate this contract for any reason other than paragraph (a) of this subsection, Owner shall give Contractor ten (10) days notice of the same. Contractor shall be compensated all materials purchased through the notice of termination date after receipt of invoice pursuant to Section 7 herein.
  - c. Should Contractor and Owner fail to agree on change orders or increases in costs as outlined in Section 4, this contract can be mutually terminated and Contractor compensated for all materials purchased through the date mutual termination is determined.
  - d. Every right or remedy herein conferred upon or reserved to the parties shall be cumulative, shall be in addition to every right and remedy now or hereafter existing at law or in equity or by statute and the pursuit of any right or remedy shall not be construed as an election.
8. **EXTENSION TO SUCCESSORS AND ASSIGNS**  
Each and all of the covenants and agreements herein contained shall extend to and be binding upon the permitted successors and assigns of the parties hereto.

**BORTON**

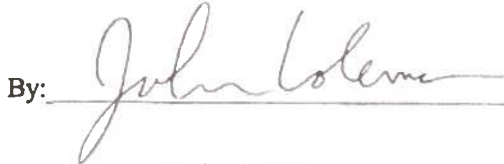
IN WITNESS WHEREOF, the parties hereto have caused this Contract to be signed in their respective entity names by their presidents and that such officer has the full authority and by his or her signature does fully bind his or her respective party.

---

**BORTON, LC.**

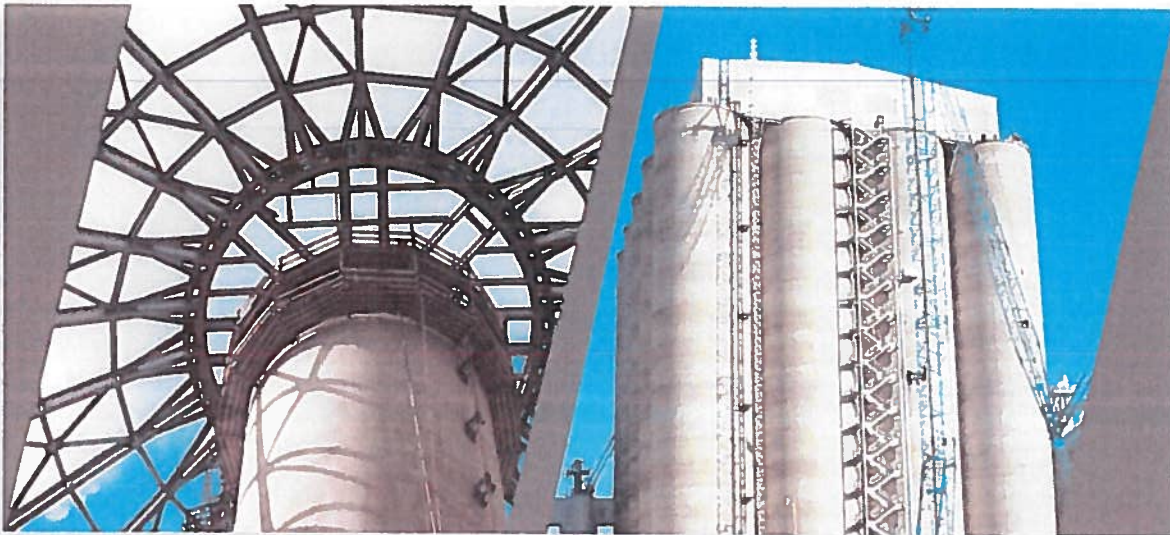
By:   
Date Signed: 6-9-2020

**Express Grain**

By:   
Date Signed: 06/04/2020

# BORTON

"EXHIBIT-A"



**BUILD FOR THE FUTURE.  
BUILD WITH BORTON.**

## BID PROPOSAL

Proposal Number: 03-034-20

### LABOR / MATERIALS / ENGINEERING

Prepared for Express Grain – April 10, 2020  
2015 River Road  
Greenwood, MS 38930

Attn: John Coleman  
President – Express Grain

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## Company Overview

**BORTON**

Borton, LC, headquartered in South Hutchinson, KS, offers 90 plus years of experience successfully completing 6,000+ projects. Our expertise spans a wide range of industries including but not limited to; grain, cement, glass, power, food, pet food, flour, aggregates, minerals, mining, LNG and water. Borton specializes in new construction, repairs and renovations and bulk material conveying. From concept to start-up, we deliver projects on-time and on-budget, helping companies save time with efficient and innovative solutions tailored to each project's specifications.

Safety is our absolute number one principle. Borton instills a safety culture that is workforce driven and focuses on task analysis prior to work performance. We place focus on hazard recognition and believe that training employees creates abilities to recognize them. We believe, that under no circumstances, will a production goal override safety. As a company, we follow a rather simple philosophy: Everyone goes home safe – one crew, one job, one day at a time.

Since 1926, Borton has built relationships by staying true to the core principles we were founded on: experience, reliability, quality and value. We believe that innovations in engineering and construction methods enhance production and foster business growth for ourselves and our customers. By maintaining dedicated customer service, accountability and superior performance throughout the company, we meet our customer's needs and exceed their expectations.



## RELEVANT PROJECT EXPERIENCE

**BORTON**



**Kalama, WA. - 2013**

**Cargill-TEMPCO**

**8-Pack of 30' dia. Slipform Silos, River  
Loadout, Fill & Reclaim Conveying**

**Jonesboro, AR – 2018**

**Riceland Foods, Inc.**

**Rice Flour Extrusion Addition to Building “J”  
Equipment Installation**

**Glen Elder, KS – 2019**

**Central Valley Ag**

**(2) 76' Jumpform Silos, Aeration, Bin  
Monitoring, Fill & Reclaim Conveying Equip.**

**Bunge - 2011**

**Destrehan, LA**

**(3) 65' Soybean Meal Silos, Aeration,  
Receiving, Fill, & Reclaim Conveying Equip.**

## PROJECT CONTROL



Borton has a group of people functioning as a team to design and engineer a quality, on-schedule project for our clients well versed in agricultural construction. Our execution team is comprised of the following personnel to effectively manage and control your project.

### Engineering

By Borton and included.

Silos – By the owner.

### Borton Quality Control

Borton has an in-house team highly skilled with years of experience specializing in agricultural construction, slipform silo construction, and facility & silo renovations to design and engineer a quality, on-schedule project for our clients.

### Safety

At Borton, safety is our “#1” priority with no exceptions. Borton maintains a full-time in-house safety manager trained & experienced in current safety regulations. Borton enforces a corporate safety program and follows current OSHA & MSHA regulations, as well as customer safety requirements.

### Sales Representative

The sales representative is responsible for preparation of this proposal, presentation to the owner and the finalization of all details that are pertinent for contract award.

### Project Manager

The project manager will oversee and coordinate all efforts of the administrative office to fully support all field activities. These duties include leading all departments (engineering, field, and accounting), managing the scope of work and schedule for the project, project coordination, and communication between all parties to keep everyone current on project status throughout the project.

### Site Construction Superintendent

On-site construction will be supervised by a skilled superintendent having years of experience specific to the project. The superintendent will be assisted by an experienced labor crew who are safety trained, task skilled and accompany the superintendent from project to project.

## PROPOSAL



Mr. Coleman,

Borton very much appreciates the opportunity to submit this budgetary bid proposal for the work located at your project Greenwood, MS facility.

### 1. SUMMARY

101. Borton proposes to utilize merit shop (non-union) labor and has not included union labor or prevailing wage pay scales.
102. This proposal includes Borton providing all required construction rental equipment necessary to complete Borton's scope of work on this project.
103. This proposal includes Borton providing the layout design and supply of stamped engineered drawings for the project.
104. This proposal includes Borton supplying the labor to install all material handling equipment, aeration, dust collection, receiving hopper, pellet bin hopper, bulk-weight system, bridges/towers, & platforms, equipment monitoring devices,
105. This proposal includes Borton supplying the kanal system fill materials and shotcrete.
106. This proposal includes Borton supplying the materials for conveyor and bucket elevator bracing and supports.
107. This proposal includes Borton supplying all spouting, transitions, 2-way valves, & inlet/discharge gates.
108. This proposal includes Borton supplying equipment maintenance platforms & bin entry platforms.
109. This proposal includes Borton supplying the cleaner & scalper support structures.
110. This proposal includes Borton supplying the receiving hopper (steel hopper).
111. This proposal includes Borton supplying the pellet bin hopper.

### 2. SCOPE OF WORK

#### 201. Mobilization & Preparation

- a. Complete owners required onsite safety training/orientations.
- b. Meet with the owners onsite representative to determine hot work requirements, lockout/tagout protocols, communicate issues/hazards/concerns, establish emergency contacts and emergency assembly areas, etc.
- c. Stage Borton tool trailer (or) tool container, site office (if required), porta-pots, etc.
- d. Determine laydown area.
- e. Inventory equipment that has been delivered.



- f. Work with McPherson Concrete to locate and install block-outs in the silo floor, walls, and roof.
    - Borton will provide necessary block-outs (inserts) for all spouting and equipment.
  - g. Set-up and begin work.
202. **Design & Engineering**
- a. Borton will provide design, layout & engineered drawings for the civil/concrete on the following items:
    - Receiving pit (to include the approaches)
    - Cleaner foundation
    - Scalper foundation
    - Bulk-Weigher foundation
    - Structural tower foundations
    - Equipment slabs/foundations
    - Misc. machinery slabs
  - b. Borton will provide design, layout & engineered drawings for the mechanical on the following items:
    - Block-outs (spouting & equipment inserts) locations in the silo floor, walls, and roof. Borton will work with McPherson Concrete to detail and locate needed block-out inserts in the silo roof, walls, and floor for equipment (aeration, equipment transitions, spouting), etc.
    - All equipment layout, arrangement, and installation.
    - Aeration
      - *Borton will work directly with the vendor to supply design, layout, and installation of the aeration and kanal system*
    - Kanal chute discharges
    - Dust collection
      - *Borton will work directly with the vendor to supply design, layout, and installation of the dust collection for the receiving pit and loadout*
    - Receiving hopper
    - Conveyors
    - Bucket Elevators
    - Cleaner/Scalper
    - Bulk-Weigher
    - Loadout system
    - All support towers and bridges design, layout and installation.
      - Equipment supports
      - Bucket elevator towers (if applicable)
      - Cleaner/scalper support structures



- Bridge support towers
- Bridges/Catwalks
- Bulk-Weigher support tower
- Misc. structural supports
- All spouting and transition layout, arrangement, and installation.
- Pellet bin steel cone hopper design, layout, and installation.
- Misc. layout, arrangement and installation for the process tie-in to the new equipment.

**203. Excavation/Concrete**

- a. Borton will provide design and supply engineered drawings.
- b. Excavation Labor & Materials:
  - All excavation labor & materials are by the owner.
- c. Concrete Labor & Materials:
  - All concrete labor & materials are by the owner.

**204. Receiving**

- a. Supply/Install the receiving hopper, baffles, and grate:
  - Approx. 10' x 22' steel hopper.
  - Supply/Install hopper dust baffles.
  - Supply/Install the hopper grate.
  - Supply/Install the hopper discharge gate – electrically operated.
- b. Supply/Install the pit ladder and manhole cover.
- c. Install the receiving hopper dust collection:
  - Borton will install the dust system for the receiving hopper/baffle system.
  - Dust collector and accessories to be supplied by the owner.
  - Borton to supply misc. bracing materials for the dust collector and ductwork.
- d. Install the receiving conveyor from the hopper to the bucket elevator:
  - Borton will supply all materials for supporting the conveyor.
  - Supply/Install the receiving conveyor discharge gate – electrically operated.
  - Supply/Install all transitions for inlets, discharges, and spouting.
  - Receiving spouting & transitions to be designed for 20,000 bu/hr.
  - Spouting and transitions to be lined per owner specifications.
  - Conveyor to be supplied by the owner.
  - All oil and lubricants for gear box drives – by owner.
  - Borton will install the lubricants.
- e. Install the receiving bucket elevator support tower:
  - Borton will install the bucket elevator support tower.



- Tower to be supplied by the owner.
- f. Install the receiving bucket elevator:
  - Borton will supply all materials for bracing the bucket elevator to the silo walls.
  - Supply/Install bucket elevator discharge 2-way – electrically operated.
  - Supply/Install storage bins fill spouting and “future” 2-way valves from the bucket elevator to the storage bins – electrically operated.
  - Supply/Install all transitions for inlets, discharges, and spouting.
  - Fill spouting & transitions to be designed for 20,000 bu/hr.
  - Spouting and transitions to be lined per owner specifications.
  - Bucket elevator to be supplied by the owner.
  - All oil and lubricants for gear box drives – by owner.
  - Borton will install the lubricants.
- g. Install the receiving bucket elevator head platform.
  - Borton will install the head platform and access ladders/rest platforms.
  - Bucket elevator platform to be supplied by the owner.
- 205. **Storage Silos - Fill**
  - a. Install level sensor devices for the storage silos:
    - Borton will install all mechanical level indicator devices.
    - Level indicator devices to be supplied by the owner.
    - All electrical installation by others.
  - b. Supply/Install (1) bin entry platform per silo:
    - Platforms to be approx. 4' x 6' with a ladder for access.
    - Platform ladder (entry/exit) and handrail to be OSHA compliant.
  - c. Supply/Install the catwalk from storage silo #1 to storage silo #2:
    - Catwalk to span from silo to silo and have an approx. 30" to 36" wide walkway with osha compliant handrail and toe board.
- 206. **Storage Silos - Reclaim**
  - a. Aeration mechanical equipment:
    - Borton will install the kanal troughs, duct work, upper & lower fans, exhausters, etc. for a complete aeration system.
    - Aeration system to be supplied by the owner.
  - b. Aeration kanals:
    - Supply/Install the fill material for the kanals.
    - Supply/Install the shotcrete for the kanal system.
  - c. Supply/Install the storage silo reclaim discharge kanal chutes – 1 per silo:
    - Kanal chutes to be designed for a reclaim rate of 5,000 bu/hr.



- The gravity spout on the kanal chute to have a manually operated gate.
  - The aeration spout on the kanal chute to have an electrically operated discharge gate.
  - Borton will supply the silo wall block-out inserts for the kanals and work with McPherson Concrete to layout and install them in the silo wall.
- d. Install storage silos reclaim conveyor:
- Borton will supply all materials for supporting the conveyor.
  - Supply/Install the reclaim conveyor discharge gates – electrically operated.
  - Supply/Install all transitions for inlets, discharges, and spouting.
    - Reclaim spouting & transitions to be designed for 5,000 bu/hr.
    - Spouting and transitions to be lined per owner specifications.
    - o Conveyor to be supplied by the owner.
    - o All oil and lubricants for gear box drives – by owner.
    - Borton will install the lubricants.
- e. Supply/Install maintenance platform at head section of reclaim conveyor:
- Platform based on approx. 6' x 8' wide with ladder access and OSHA compliant handrail & toe-board.
- f. Supply/Install grain recycle spouts:
- Borton will supply the silo wall inserts, spouting, transitions, and gates.
  - Install (1) grain recycle spout per silo.
  - Supply/Install (1) manually operated 2-way valve that the recycle spout from each silo will tie-into and spout back into the bucket elevator.
- 207. Cleaner / Scalper**
- a. Supply/Install support structures and maintenance platforms for the cleaner and the scalper:
- Structures based on approx. 8' x 8' structure x 10' tall – (1) each.
  - Each structure to have a maintenance platform based on approx. 6' x 8' wide with ladder access and OSHA compliant handrail & toe-board.
- b. Install the Ferrell-Ross Cleaner and the Carter-Day Scalper:
- Cleaner & Scalper to be supplied by the owner.
  - Supply/Install transition from discharge of reclaim conveyor to inlet of Ferrell-Ross Cleaner.
    - Transition based on 5,000 bu/hr.
    - Transition to be lined per owners specifications.
    - o All oil and lubricants for gear box drives – by owner.
    - Borton will install the lubricants.
- c. Install conveyor from cleaner to scalper:



- Borton will supply all materials for supporting the conveyor.
- Supply/Install all spouting & transitions for inlets, discharges.
- Reclaim spouting & transitions to be designed for 5,000 bu/hr.
- Spouting and transitions to be lined per owner specifications.
- Supply/Install spouting & transitions from the Carter-Day Scalper to the milling process take-away equipment.
- Spouting & transitions to be designed for 5,000 bu/hr.
- Spouting and transitions to be lined per owner specifications.
- Conveyor to be supplied by the owner.
- All oil and lubricants for gear box drives – by owner.
- Borton will install the lubricants.

**208. Meal Bin - Fill**

- a. Install level sensor devices for the storage silos:
  - Borton will install all mechanical level indicator devices.
  - Level indicator devices to be supplied by the owner.
  - All electrical installation by others.
- b. Supply/Install (1) bin entry platform per silo:
  - Platforms to be approx. 4' x 6' with a ladder for access.
  - Platform ladder (entry/exit) and handrail to be OSHA compliant.
- c. Install meal fill conveyor – bridge support tower:
  - Install the tower that supports the meal fill conveyor bridge.
  - Tower supplied by the owner.
- d. Install meal fill conveyor – bridge:
  - Install the bridge from the tower to the top of the meal silo for the meal fill conveyor.
  - Bridge supplied by the owner.
- e. Install meal fill conveyor:
  - Borton will supply all materials for supporting the conveyor.
  - Supply/Install spouting & transitions from the process equipment discharge to the meal fill conveyor inlet.
  - Reclaim spouting & transitions to be designed for 5,000 bu/hr.
  - Spouting and transitions to be lined per owner specifications.
  - Supply/Install meal fill conveyor discharge 2-way – electrically operated.
  - Supply/Install meal fill spout & transitions from the meal fill conveyor to the meal silo.
  - Supply/Install spouting and transitions from 2-way to the flat storage overhead conveyor.
  - Spouting & transitions to be designed for 5,000 bu/hr.



- Spouting and transitions to be lined per owner specifications.
- o Conveyor to be supplied by the owner.
- o All oil and lubricants for gear box drives – by owner.
- Borton will install the lubricants.

**209. Meal Bin - Reclaim**

**a. Center discharge – center sump:**

- Borton will supply (1) block-out insert for the center discharge and work with McPherson Concrete to layout and install in the silo floor.
- Borton will install the Laidig center sump for the center discharge of the silo.
- o Center sump to be supplied by the owner.
- Supply/Install (1) center discharge gate – electrically operated.
- Center gate based on 60,000 bu/hr – 300 TPH.
- Supply Install (1) center discharge transition.
- Transition based on 60,000 bu/hr - 300 TPH.
- Transition to be lined per owners specifications.

**b. Intermediate discharges:**

- Borton will supply (5) block-out inserts for the intermediate discharges and work with McPherson Concrete to layout and install them in the silo floor.
- Supply/Install (5) intermediate discharge gates – manually operated.
- Intermediate gates based on 60,000 bu/hr – 300 TPH.
- Supply Install (5) intermediate discharge transitions.
- Transition based on 60,000 bu/hr - 300 TPH.
- Transition to be lined per owners specifications.

**c. Laidig bin sweep:**

- Borton will supply a service opening block-out insert for a 30" square service opening and work with McPherson Concrete to layout and install.
- Borton will install the Laidig bin sweep.
- Borton will supply all materials for supporting the sweep.
- Supply/Install (1) VFD device for the Laidig sweep.
- o Laidig sweep to be supplied by the owner.
- o All electrical by others.
- o All oil and lubricants for gear box drives – by owner.
- Borton will install the lubricants.

**d. Meal bin reclaim conveyor:**

- Borton will supply all materials for supporting the conveyor.
- Supply/Install the reclaim conveyor.
- Supply/Install the reclaim conveyor discharge spouting & transition to the bucket elevator.



- Spouting & transitions to be designed for 60,000 bu/hr – 300 TPH.
- Spouting and transitions to be lined per owner specifications.
- o Conveyor to be supplied by the owner.
- o All oil and lubricants for gear box drives – by owner.
- Borton will install the lubricants.

**210. Bulk - Meal Loadout**

- a. Install meal loadout bucket elevator support tower:
  - Borton will install the bucket elevator support tower.
  - o Tower to be supplied by the owner.
- b. Install the meal loadout bucket elevator:
  - Borton will supply all materials for bracing the bucket elevator to the silo wall.
  - Supply/Install bucket elevator discharge 2-way – electrically operated.
  - Supply/Install spouting from the bucket elevator 2-way to the bulk-weigher.
  - Supply/Install spouting from the bucket elevator 2-way to the flat storage overhead conveyor.
  - Supply/Install all spouting transitions.
  - Spouting & transitions to be designed for 60,000 bu/hr – 300 TPH.
  - Spouting and transitions to be lined per owner specifications.
  - o Bucket elevator to be supplied by the owner.
  - o All oil and lubricants for gear box drives – by owner.
  - Borton will install the lubricants.
- c. Install the meal loadout bucket elevator head platform.
  - Borton will install the head platform and access ladders/rest platforms.
  - o Bucket elevator platform to be supplied by the owner.
- d. Install bulk-weigher system:
  - Borton will assemble & install the bulk-weigher structure.
  - Set bulk-weigher lower garner.
  - Set bulk-weigher weigh hopper.
  - Set bulk-weigher upper garner.
  - Install Hydraulic unit.
  - Auto lift kit.
  - Test weights.
  - Hydraulic power unit.
  - Install bulk-weigher control gate.
  - Install bulk-weigher exterior platforms.
  - Install handrails
  - Ladders/cages
  - o Structure to be supplied by the owner.



- Bulk-Weigher to be supplied by the owner.
  - e. Install bulk-weigher loadout spout system:
    - Borton will install the adjustable loadout spout.
    - Borton will install the fall protection system (if applicable).
- 
- 211. Pellet Bin – Fill**
- a. Install transition from the process conveying equipment to the pellet fill equipment.
    - Borton will Supply/Install the transition from the equipment feeding the top of the pellet bin fill inlet.
    - Spouting & transitions to be designed for 60,000 bu/hr – 300 TPH.
    - Spouting and transitions to be lined per owner specifications.
    - Conveyor feeding the pellet bin – by others.
    - Installation of the conveyor and bridges/towers feeding the pellet bin – by others.
- 212. Pellet Bin – Reclaim**
- a. Supply/Install pellet silo – steel cone hopper:
    - 40' dia. x 45 deg. sloped hopper.
    - Bolt together construction.
    - Designed for inside bin height of 112'.
    - Adjustable ring-beam structure with wall flashing.
    - Steel support legs and cross members.
    - 19" x 24" hopper manhole.
    - Primed & painted.
    - Supply/Install hopper discharge gate – electrically operated.
    - Supply/Install discharge transitions – design TBD.
    - Transition based on 60,000 bu/hr – 300 TPH.
    - Transition to be lined per owners specifications.
    - Borton will supply all materials for supporting the conveyor.
    - Borton will supply all materials for supporting the scale equipment.
    - Install loadout scale equipment.
    - Install loadout conveying equipment.
    - Scale equipment to be supplied by the owner.
    - Conveyor to be supplied by the owner.
    - All oil and lubricants for gear box drives – by owner.
    - Borton will install the lubricants.
- 213. Construction Equipment**
- a. All equipment needed for Borton's scope of work (forklifts, boom lifts, cranes, etc.) has been accounted for and is included in this proposal.
- 214. Painting**
- a. Painting shall be per manufacture specifications and touched up onsite.



215. **Electrical**

- a. All electrical has been excluded from this proposal.

216. **Freight**

- a. All freight for Borton's scope of work has been accounted for and is included in this proposal.

**3. ITEMS PROVIDED TO BORTON FOR TEMPORARY CONSTRUCTION**

301. Utilities to within 50'-0" of work area:

- a. Electrical – construction electricity consisting of 115-volt / 230-volt single phase, 50 amp minimum. (*Location of disconnect shall be in close proximity to the construction area*).
- b. Construction Water – (if needed) water for construction supplied by a general hose-bib, etc. (*Location of hose bib to be within close proximity to the construction area*).

302. Equipment Laydown Area:

- a. Sufficient all-weather area near existing facility for tool trailer and storage of materials and equipment.

303. Access to Work Area:

- a. All weather construction road to be used during course of construction.

**4. ITEMS NOT INCLUDED**

- 401. This Proposal excludes owner's permits or building permits, payment and performance bonds, contractor or mechanical licenses, or specialty insurance.
- 402. Geotechnical investigation report.
- 403. Testing of any kind (welding and leak test of silo, soil & concrete testing).
- 404. Site work (roads, rail siding, grading, dust control, erosion control, landscaping, fencing, storm water management or traffic plan.
- 405. All civil work, excavation & concrete (materials and labor) has been excluded from this proposal.
- 406. Supply of any equipment (drag/belt conveyors, bucket elevators, scales, bins, dust collection, aeration, cleaners/screeners), etc.
- 407. Supply of structural equipment (equipment support towers, bridges/catwalks or metal buildings), etc.
- 408. Removal of any contaminated soils or hazardous waste.
- 409. Removal or rerouting of any aboveground or belowground obstructions.



- 410. Construction or maintenance of roads and parking areas, including construction access road and road upkeep.
- 411. Special construction methods: (sheet piling, auger cast piles, geo piers, soil enhancements), etc.
- 412. Removal of grain, debris, machinery, water, dirt, etc. from work area originating from the operation of the facility or any source other than the contractor.
- 413. Security services.
- 414. Oil & lubricants for motor & drives on conveying equipment.
- 415. Rail (or) railroad work.
- 416. Electrical, utilities of any kind, phone/data services, supply or install.

#### **5. OUR BID IS BASED UPON**

- 501. This proposal is good for thirty (30) days. After that time, prices will need to be reviewed and negotiated.
- 502. Should Borton be awarded the contract, this proposal is to be made part of the contract document.
- 503. This proposal is contingent upon review of Express Grain's General Terms and Conditions, Special Terms and Conditions, and Borton's right to take exceptions.
- 504. Borton's bid is based on Borton being awarded the entire Scope of Work shown in this proposal.
- 505. Borton's proposal is proprietary in nature and is to be treated as such. No part of this proposal may be used by Express Grain for any purpose without Borton's prior approval.
- 506. Terms of Payment per the enclosed Borton "Terms of Payment" sheet. Final payment is due thirty (30) days after project completion.
- 507. Once work has started, Borton is to have uninterrupted access to the work area.
- 508. Borton has based their bid proposal on using merit shop labor rates. During the course of construction, should there be job delays, hostile activities or job shutdowns cause by the local organized trade unions, then Borton reserves the right to cancel the contract. At that point, Express Grain would pay Borton for all costs incurred to date plus twelve percent (12%) for overhead and profit.
- 509. Labor burden taxes have been included in our bid.

**BORTON**

510. State of Mississippi sales and use tax on permanent materials have been included in our bid.

**Note:** *If this project qualifies as Tax Exempt, the purchaser must provide a tax-exempt form to Borton along with the signed contract. If a tax-exempt form is supplied after a contract billing has been processed by Borton, and changes are required to accommodate the tax-exempt status, then Borton will bill extra for the cost incurred to facilitate the changes required.*

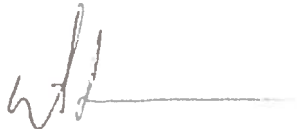
511. The estimated construction time frame for the millwright work is approximately eighteen (18) weeks from mobilization to demobilization.

**Borton's bid for the above described work ..... \$1,417,751.00**

State of Mississippi contractor's license number: #06650


Borton appreciates the opportunity to submit this bid to perform this work. Should you have any questions or need additional information, please do not hesitate to call.

Sincerely,



Troy Jacobson | Grain Field Manager

**BORTON, LC**

  
Acceptance by Express Grain, Authorized Representative

04/20/2020  
Date

## Terms of Payment

**BORTON**

### TERMS OF PAYMENT

1. At the time of contract signing, there shall be **TEN PERCENT (10%)** of the contract amount due.
2. The Contractor thereafter shall on or about the first day of the month submit to Owner a request for progress payments on the percentage of work completed. Owner and Contractor shall each designate a representative who shall jointly determine the monthly percentage of units of work completed.
  - a. On the first day of the month, next following the commencement of the work, there shall be paid to Contractor a sum equal to ninety-five percent (95%) of the value of the work completed, plus the cost of materials stored at the site of the Facility; thereafter on the first day of each successive month as the work progresses, similar payments shall be made equal to ninety-five percent (95%) of the value of the work completed plus the cost of materials stored at the site of the facility. The down payment amount shall be credited back based on the percentage of work completed each month. Payments for additional work or alternations, if any, under this Agreement shall be made in like manner.
  - b. Upon written notice to Owner by Contractor of completion of Facility and acceptance by the Owner, the final payment; including retainage, shall be made within thirty (30) days thereafter.
3. Contractor shall deliver statements to Owner for payments due Contractor hereunder in accordance with the cost billing breakdown. Any payments which are not paid to the Contractor within fifteen (15) days after the same shall become due shall bear interest at the rate of 1.5% per month from date of invoice.

## Time and Material Rates



1. **Labor**

The following rates are to be used for all cost-plus work performed on this project.

**Hourly Billing Labor Rates:**

<b><u>Classification</u></b>	<b><u>(0-59 Hr. Week)</u></b>	<b><u>(60+ Hr. Week)</u></b>
Superintendent	\$ 95.50	\$ 95.50
Operator	\$ 85.00	\$ 89.50
Foreman	\$ 72.25	\$ 76.25
Skilled	\$ 68.50	\$ 72.00
Semi-Skilled	\$ 61.75	\$ 64.75
Laborer	\$ 50.75	\$ 53.00
Office Project Manager	\$ 89.75	\$ 89.75

Hourly billing rates as defined above are all-inclusive as a minimum, but not limited to, the costs of maintaining proper payroll, accounting records, general liability and worker's compensation insurance, federal and state unemployment insurance, social security and other applicable payroll taxes, subsistence, \*small tools (see note below), salary/wage cost, and profits. Time is tracked via FM Pro software sent day after. Owner has one (1) business day to dispute time, otherwise time is approved as is.

If applicable, state repair contract sales tax to be added separately to billing.

**NOTE:** Small company-owned tools such as: cutting torches, 3/8" and 1/2" electric drills, Hilti hammer drills, and other like small tools.

2. **Tool/Connex van/Trailer Rental**

Tool/connex van/trailer rental will be billed at \$175.00 per week per each on site.

3. **Pickup Truck Rental**

Pickup truck rental will be billed at \$275.00 per week per each on site.

4. **Material, Sales Tax (if applicable) & Freight**

Material, sales tax and freight will be billed at cost plus Fifteen percent (15%) and billed separately from labor.

**BORTON**

5. **Contractor-Owned Equipment Rental**

Contractor-Owned equipment will be billed at minimum daily rates per attached sheets. If not on attached sheet, the latest published edition of the Rental Rates for Construction Equipment compiled by the Associated Equipment Distributors will be used.

6. **Commercial Equipment Rental**

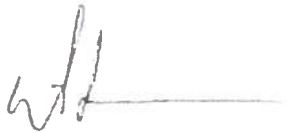
Commercial equipment will be billed at the Contractor's cost plus Fifteen percent (15%) plus Ten percent (10%) fuel surcharge.

7. **Subcontracts**

Subcontracts will be billed at cost plus Fifteen percent (15%).

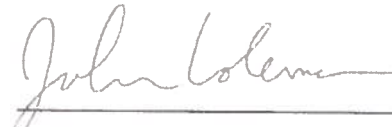
8. **Mobilization/Demobilization**

Mobilization/demobilization will be billed at cost plus Fifteen percent (15%) on mileage and time for crew along with freight for tool/connex van/trailer. Borton uses Google Maps to determine mileage and time from Hutchinson, KS to the job site. IRS standard mileage rates are used.



Troy Jacobson  
Grain Field Manager

Date



Acceptance by Owner Rep

04/20/2020

Date

## Equipment T&M Rates



### EQUIPMENT RENTAL RATES

	<u>Monthly</u>	<u>Weekly</u>	<u>Daily</u>	
Adhesion Tester (DeFelsko)	\$ 450	\$ 160	\$ 50	
Adhesion Tester Dollies				\$15 per Dolly
Air Compressors(Electric)	\$ 1,113	\$ 411	\$ 135	125 - 249cfm (Jenny 2T25B-240)
Air Compressors(Electric)	\$ 350	\$ 121	\$ 35	Tank Mounted 9-11HP
Air Compressors(Electric)	\$ 928	\$ 308	\$ 60	Tank Mounted >=16HP
Cable Climbers / motor	\$ 675	\$ 240	\$ 100	
Concrete Tester (Windsor)	\$ 450	\$ 160	\$ 50	
Crack Injection Machine	\$ 965	\$ 360	\$ 150	
Drill(Diamond Core)	\$ 547	\$ 190	\$ 56	
Drill(Hammer)	\$ 387	\$ 146	\$ 73	
Generator	\$ 732	\$ 210	\$ 42	to 5,000 Watts
Generator	\$ 1,450	\$ 450	\$ 90	5,001-10,000 Watts
Hoist(Electric Chain or cable)	\$ 270	\$ 100	\$ 33	
Plasma Cutter	\$ 453	\$ 167	\$ 63	
Pressure Washer - Hot	\$ 1,341	\$ 500	\$ 208	>2500 PSI
Rebar Scanner (Ferroskan)	\$ 1,360	\$ 490	\$ 150	
Sandblaster	\$ 830	\$ 286	\$ 89	300-700 lbs
Threading Machine	\$ 135	\$ 49	\$ 21	
Transformer	\$ 500	\$ 175	\$ 50	
Tripod w/ Winch		\$ 545	\$ 130	
Vacuum Grinder	\$ 640	\$ 240	\$ 100	
Welder(electric)	\$ 261	\$ 87	\$ 18	To 200 amps
Welder Gas Miller bobcat or =	\$ 943	\$ 261	\$ 53	201 - 300 amps
Welder Multi Quip	\$ 1,473	\$ 415	\$ 83	301 - 400 amps (DLW400ES)
Welder	\$ 744	\$ 248	\$ 50	4 pack electric
Wrench(Impact)	\$ 198	\$ 74	\$ 32	Under 1"
Wrench(Impact)	\$ 238	\$ 89	\$ 34	1" and Over



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(620) 669-8211 | Phone  
(620) 662-3225 | Fax  
Online: [www.borton.net](http://www.borton.net)

DOCUMENT: "EXHIBIT-B"

DATE: 5/21/2020

"EXHIBIT-B"

REF: Additional documentation for the project contract

PROJECT: Express Grain

LOCATION: Greenwood, MS

#### BORTON SUPPLIED MATERIALS BREAKDOWN

⚡ Listed below are the "materials" supplied by Borton for the Greenwood, MS – Express Grain project as outlined in the proposal dated April 10<sup>th</sup>, 2020 and signed by both parties.

- Fill Material for the Kanal System.
- Shotcrete for the Kanal System.
- Receiving Hopper
- Hopper Grate
- Hopper Baffles
- Bracing Materials for the Receiving Dust Collection Ductwork
- Receiving Pit Ladder
- Receiving Pit Manhole Cover
- Storage Bin Reclaim Conveyor Maintenance Platform
- Storage Bins Reclaim Discharge Kanal Chute Spouting & Gates
- (1) Grain Recycle Spout & Gate per Storage Silo
- (1) Cleaner Support Structure Approx. 8' x 8' x 10' Tall or Smaller
- (1) Scalper Support Structure Approx. 8' x 8' x 10' Tall or Smaller
- Meal Bin Secondary Reclaim Gates
- Meal Bin Center Gate (if Not Supplied by Laidig)
- Bracing Materials for the Loadout Dust Collection Ductwork
- Material for All Conveyor Supports  
(minus the Pellet Bin Fill Conveyor and the Conveyor to Processing)
- Material for All Bucket Elevator Bracing
- (1) Approx. 4' x 6' or Smaller Bin Entry Platform per Bin
- (1) Catwalk from Storage Bin #1 to Storage Bin #2 (for Personnel Only)



- Pellet Bin Steel Cone Hopper
- Pellet Bin Hopper Discharge Gate
- Materials for Supporting the Pellet Bin Weigh Scale
- Spouting "Socks" for the Pellet Bin Weigh Scale
- All Spouting & Flanges  
(minus the pellet bin fill Conveyor inlet & the conveyor to processing)
- All Transitions & Flanges  
(minus the Pellet Bin Fill Conveyor Inlet & the Conveyor to Processing)
- Liner for all Spouting & Transitions
- Two-Way Valves & Gates
  - (2) Two-Ways for Storage Bins Fill Spouting
  - (1) Two-Way for the Cleaner Fill
  - (1) Two-Way for the Meal Bin Fill
  - (1) K-Valve for the Meal Loadout
- Primer/Paint for all Platforms/Structures Fabricated & Supplied by Borton
- Primer/Paint for all Spouting & Transitions Fabricated & Supplied by Borton

**ITEMS BORTON IS NOT RESPONSIBLE FOR SUPPLYING BREAKDOWN**

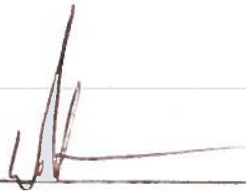
✚ Listed below for clarity purposes are specific items not supplied by Borton for the Greenwood, MS – Express Grain project as outlined in the proposal dated April 10<sup>th</sup>, 2020 and signed by both parties.

- Bins/Silos
- Aeration Equipment
- Conveying Equipment (i.e. - conveyors, bucket elevators, bulk weigher, scales, cleaners/scalpers, etc.)
- Dust Collection
- Samplers
- Bin Monitoring Devices
- Conveying Equipment Monitoring Devices
- Hazard Monitoring Devices
- Bin Sweeps, etc.
- Buildings, Electrical Rooms, Control Rooms, etc.
- Truck/Train Loadout Spouts or Equipment
- Towers  
(Borton will supply the Cleaner & Scalper support structure as stated above)
- Bridges/Catwalks

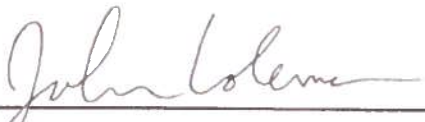
**BORTON**

(Borton will supply the Catwalk between the storage bins as stated above)

- By-Pass Inlets (these should be supplied by the vendor with the conveyor)

  
\_\_\_\_\_  
Borton Rep.  
Troy Jacobson | Borton LC

5/21/2020  
Date:

  
\_\_\_\_\_  
Owners Rep.  
Express Grain LLC

06/04/2020  
Date:

# EXHIBIT C

Borton, LC  
PO Box 2108  
Hutchinson, KS 67504-2108



(620) 669-8211 - Phone  
(620) 662-3225 - Fax  
E-Mail - borton.receipts@borton.net

October 14, 2021

Express Grain  
2015 River Road  
Greenwood, MS 38930  
  
Attention: John Coleman

Borton Job 12186  
Greenwood, MS  
  
Contract Amount - \$1,512,029.04  
(Through CO#12)

Invoice #12186.07 Due on receipt

Description	This Period	Job to Date	Total
Work Completed to Date	\$ 275,029.78	\$ 1,209,548.50	
Less: Previous Invoices	-	(934,518.72)	
<b>Total Invoice</b>			<b>\$275,029.78</b>
<b>Less payment received 10/14/2021</b>			<b>(\$49,611.33)</b>
<b>Amount Due This Invoice</b>			<b>\$225,418.45</b>
Borton, LC Wire/ACH Instructions: Intrust Bank 105 N. Main Street Wichita, KS 67202 ABA/Transit # 101100029 Account # 40510336			

<div><div><div>BORTON</div><div>HUTCHINSON, KANSAS</div></div><div><div>CUSTOMER : Express Grain</div><div>JOB LOCATION : Greenwood, MS</div><div>PROJECT NUMBER : 12186</div><div>APPLICATION NUMBER : 7</div><div>APPLICATION DATE : 10/31/21</div></div></div>						
A DESCRIPTION OF WORK	B SCHEDULED \$ VALUES	C WORK COMPLETED		E TOTAL COMPLETE AND STORED TO DATE (C+D)	F PERCENT COMPLETE E/B	G BALANCE TO FINISH TO FINISH (B-E)
		FROM PREV. APPLICATION	THIS PERIOD			
10% DOWN PAYMENT	141,775.04	141,775.04	0.00	141,775.04	100.00%	0.00
ENGINEERING	67,457.70	67,457.70	0.00	67,457.70	100.00%	0.00
BINS & SILOS - ROOF INSERTS / LEVEL INDICATORS / ENTRY PLATFORMS MATERIAL	9,643.50	964.35	0.00	964.35	10.00%	8,679.15
BINS & SILOS - ROOF INSERTS / LEVEL INDICATORS / ENTRY PLATFORMS LABOR	5,806.80	580.68	0.00	580.68	10.00%	5,226.12
BINS & SILOS RECEIVING	234,098.10	117,049.05	117,049.05	234,098.10	100.00%	0.00
BINS & SILOS RECEIVING	8,893.80	4,446.90	4,446.90	8,893.80	100.00%	0.00
STORAGE SILOS - FILL	39,449.70	13,807.40	25,642.30	39,449.70	100.00%	0.00
STORAGE SILOS - FILL	24,856.20	8,699.67	16,156.53	24,856.20	100.00%	0.00
STORAGE SILOS - RECLAIM	238,860.00	238,860.00	0.00	238,860.00	100.00%	0.00
STORAGE SILOS - RECLAIM	140,018.40	140,018.40	0.00	140,018.40	100.00%	0.00
STORAGE SILOS EQUIPMENT INSTALL	29,724.30	22,293.23	0.00	22,293.23	75.00%	7,431.07
STORAGE SILOS EQUIPMENT INSTALL	14,136.30	10,602.23	0.00	10,602.23	75.00%	3,534.07
CLEANER / SCALPER	46,752.30	46,752.30	0.00	46,752.30	100.00%	0.00
CLEANER / SCALPER	3,713.40	2,970.72	0.00	2,970.72	80.00%	742.68
MEAL BIN - FILL	31,621.50	0.00	0.00	0.00	0.00%	31,621.50
MEAL BIN - FILL	30,060.00	0.00	0.00	0.00	0.00%	30,060.00
MEAL BIN - RECLAIM	18,495.90	9,247.95	0.00	9,247.95	50.00%	9,247.95
MEAL BIN - RECLAIM	11,687.40	5,843.70	0.00	5,843.70	50.00%	5,843.70

<div><div>BOERTON</div><div>HUTCHINSON, KANSAS</div></div>				<div><div>CUSTOMER : Express Grain</div><div>JOB LOCATION : Greenwood, MS</div><div>PROJECT NUMBER : 12186</div><div>APPLICATION NUMBER : 7</div><div>APPLICATION DATE : 10/31/21</div></div>				
A		B	C		D	E	F	G
DESCRIPTION OF WORK		SCHEDULED \$ VALUES	WORK COMPLETED		THIS PERIOD	TOTAL COMPLETE AND STORED TO DATE (C+D)	PERCENT COMPLETE E/B	BALANCE TO FINISH (B-E)
			FROM PREV. APPLICATION					
MEAL BIN - LOAD OUT		47,335.50	0.00		0.00	0.00	0.00%	47,335.50
MEAL BIN - LOAD OUT		32,153.40	0.00		0.00	0.00	0.00%	32,153.40
PELLET BIN HOPPER & LOADOUT		231,163.20	115,581.60		0.00	115,581.60	50.00%	115,581.60
PELLET BIN HOPPER & LOADOUT		10,047.60	5,023.80		0.00	5,023.80	50.00%	5,023.80
<u>CHANGE ORDERS</u>								
1 RECEIVING PIT DESIGN CHANGE		6,555.00	6,555.00		0.00	6,555.00	100.00%	0.00
2 AERATION RELOCATION		42,607.00	42,607.00		0.00	42,607.00	100.00%	0.00
3 GOOSENECK VENTS		44,069.00	44,069.00		0.00	44,069.00	100.00%	0.00
4 TWO CONCRETE EQUIPMENT PADS		22,163.00	22,163.00		0.00	22,163.00	100.00%	0.00
5 STORAGE SILO #1 DEAD FILL		14,850.00	14,850.00		0.00	14,850.00	100.00%	0.00
6 SCALPER STRUCTURE FABRICATION & INSTALL		26,194.00	26,194.00		0.00	26,194.00	100.00%	0.00
7 CONTRACT DEDUCTIONS		(295,942.00)	(295,942.00)		0.00	(295,942.00)	100.00%	0.00
8 CONTRACT ADDITIONS		13,616.00	13,616.00		0.00	13,616.00	100.00%	0.00
9 RECEIVING PIT CONSTRUCTION AND APPROACH SLABS		171,900.00	60,165.00		111,735.00	171,900.00	100.00%	0.00
10 SCALPER & RECEIVING BUCKET ELEVATOR PAD EXTENSION		8,701.00	8,701.00		0.00	8,701.00	100.00%	0.00
11 CLEANING USED EQUIPMENT								
(A) COMPLETED THROUGH AUGUST 31		2,680.00	2,680.00		0.00	2,680.00	100.00%	0.00
12 RELOCATE WATER LINE/REMOVE FOOTINGS/RAILROAD SPUR REMOVAL		36,886.00	36,886.00		0.00	36,886.00	100.00%	0.00
TOTALS		1,512,029.04	934,518.72		275,029.78	1,209,548.50	80.00%	302,480.54

Borton, LC  
PO Box 2108  
Hutchinson, KS 67504-2108



(620) 669-8211 - Phone  
(620) 662-3225 - Fax  
E-Mail - borton.receipts@borton.net

November 5, 2021

Express Grain  
2015 River Road  
Greenwood, MS 38930  
Attention: John Coleman

Borton Job 12186  
Greenwood, MS  
  
Contract Amount - \$1,533,029.50  
(Through CO#18)

Invoice #12186.08 Due on receipt

Description	This Period	Job to Date	Total
Work Completed to Date	\$ 21,000.46	\$ 1,230,548.96	
Less: Previous Invoices	-	(1,209,548.50)	
<b>Amount Due This Invoice</b>			<b>\$ 21,000.46</b>
Borton, LC Wire/ACH Instructions: Intrust Bank 105 N. Main Street Wichita, KS 67202 ABA/Transit # 101100029 Account # 40510336			

<div><div><div>BORTON</div><div>HUTCHINSON, KANSAS</div></div><div><div>CUSTOMER : Express Grain</div><div>JOB LOCATION : Greenwood, MS</div><div>PROJECT NUMBER : 12186</div><div>APPLICATION NUMBER : 8</div><div>APPLICATION DATE : 11/05/21</div></div></div>						
A DESCRIPTION OF WORK	B SCHEDULED \$ VALUES	C WORK COMPLETED		E TOTAL COMPLETE AND STORED TO DATE (C+D)	F PERCENT COMPLETE E/B	G BALANCE TO FINISH TO FINISH (B-E)
		FROM PREV. APPLICATION	THIS PERIOD			
10% DOWN PAYMENT	141,775.04	141,775.04	0.00	141,775.04	100.00%	0.00
ENGINEERING	67,457.70	67,457.70	0.00	67,457.70	100.00%	0.00
BINS & SILOS - ROOF INSERTS / LEVEL INDICATORS / ENTRY PLATFORMS MATERIAL	9,643.50	964.35	0.00	964.35	10.00%	8,679.15
BINS & SILOS - ROOF INSERTS / LEVEL INDICATORS / ENTRY PLATFORMS LABOR	5,806.80	580.68	0.00	580.68	10.00%	5,226.12
BINS & SILOS RECEIVING MATERIAL	234,098.10	234,098.10	0.00	234,098.10	100.00%	0.00
BINS & SILOS RECEIVING LABOR	8,893.80	8,893.80	0.00	8,893.80	100.00%	0.00
STORAGE SILOS - FILL MATERIAL	39,449.70	39,449.70	0.00	39,449.70	100.00%	0.00
STORAGE SILOS - FILL LABOR	24,856.20	24,856.20	0.00	24,856.20	100.00%	0.00
STORAGE SILOS - RECLAIM MATERIAL	238,860.00	238,860.00	0.00	238,860.00	100.00%	0.00
STORAGE SILOS - RECLAIM LABOR	140,018.40	140,018.40	0.00	140,018.40	100.00%	0.00
STORAGE SILOS EQUIPMENT INSTALL MATERIAL	29,724.30	22,293.23	0.00	22,293.23	75.00%	7,431.07
STORAGE SILOS EQUIPMENT INSTALL LABOR	14,136.30	10,602.23	0.00	10,602.23	75.00%	3,534.07
CLEANER / SCALPER MATERIAL	46,752.30	46,752.30	0.00	46,752.30	100.00%	0.00
CLEANER / SCALPER LABOR	3,713.40	2,970.72	0.00	2,970.72	80.00%	742.68
MEAL BIN - FILL MATERIAL	31,621.50	0.00	0.00	0.00	0.00%	31,621.50
MEAL BIN - FILL LABOR	30,060.00	0.00	0.00	0.00	0.00%	30,060.00
MEAL BIN - RECLAIM MATERIAL	18,495.90	9,247.95	0.00	9,247.95	50.00%	9,247.95
MEAL BIN - RECLAIM LABOR	11,687.40	5,843.70	0.00	5,843.70	50.00%	5,843.70
MEAL BIN - LOAD OUT MATERIAL	47,335.50	0.00	0.00	0.00	0.00%	47,335.50
MEAL BIN - LOAD OUT LABOR	32,153.40	0.00	0.00	0.00	0.00%	32,153.40
PELLET BIN HOPPER & LOADOUT MATERIAL	231,163.20	115,581.60	0.00	115,581.60	50.00%	115,581.60
PELLET BIN HOPPER & LOADOUT LABOR	10,047.60	5,023.80	0.00	5,023.80	50.00%	5,023.80

BORTON							CUSTOMER : Express Grain JOB LOCATION : Greenwood, MS PROJECT NUMBER : 12186 APPLICATION NUMBER : 8 APPLICATION DATE : 11/05/21						
HUTCHINSON, KANSAS													
A DESCRIPTION OF WORK							B SCHEDULED \$ VALUES	C WORK COMPLETED		D	E TOTAL COMPLETE AND STORED TO DATE (C+D)	F PERCENT COMPLETE E/B	G BALANCE TO FINISH TO FINISH (B-E)
								FROM PREV. APPLICATION	THIS PERIOD				
CHANGE ORDERS													
1 RECEIVING PIT DESIGN CHANGE							6,555.00	6,555.00	0.00		6,555.00	100.00%	0.00
2 AERATION RELOCATION							42,607.00	42,607.00	0.00		42,607.00	100.00%	0.00
3 GOOSENECK VENTS							44,069.00	44,069.00	0.00		44,069.00	100.00%	0.00
4 TWO CONCRETE EQUIPMENT PADS							22,163.00	22,163.00	0.00		22,163.00	100.00%	0.00
5 STORAGE SILO #1 DEAD FILL							14,850.00	14,850.00	0.00		14,850.00	100.00%	0.00
6 SCALPER STRUCTURE FABRICATION & INSTALL							26,194.00	26,194.00	0.00		26,194.00	100.00%	0.00
7 CONTRACT DEDUCTIONS							(295,942.00)	(295,942.00)	0.00		(295,942.00)	100.00%	0.00
8 CONTRACT ADDITIONS							13,616.00	13,616.00	0.00		13,616.00	100.00%	0.00
9 RECEIVING PIT CONSTRUCTION AND APPROACH SLABS							171,900.00	171,900.00	0.00		171,900.00	100.00%	0.00
10 SCALPER & RECEIVING BUCKET ELEVATOR PAD EXTENSION							8,701.00	8,701.00	0.00		8,701.00	100.00%	0.00
11 CLEANING USED EQUIPMENT													
(A) COMPLETED THROUGH AUGUST 31							2,680.00	2,680.00	0.00		2,680.00	100.00%	0.00
12 RELOCATE WATER LINE/REMOVE FOOTINGS/RAILROAD SPUR REMOVAL							36,886.00	36,886.00	0.00		36,886.00	100.00%	0.00
13 DEDUCT FOR OUTSTANDING RECEIVING PIT WORK							(12,468.70)	0.00	(12,468.70)		(12,468.70)	100.00%	0.00
14 EQUIPMENT AND DESIGN DELAY							52,000.00	0.00	52,000.00		52,000.00	100.00%	0.00
15 WEATHER DELAY							82,000.00	0.00	82,000.00		82,000.00	100.00%	0.00
16 DEDUCT FOR OUTSTANDING BINS & SILO RECEIVING WORK							(97,196.76)	0.00	(97,196.76)		(97,196.76)	100.00%	0.00
17 DEDUCT FOR OUTSTANDING STORAGE SILOS-FILL WORK							(35,368.25)	0.00	(35,368.25)		(35,368.25)	100.00%	0.00
18 DEMOB FEE/STANDBY TIME							32,034.17	0.00	32,034.17		32,034.17	100.00%	0.00
TOTALS							1,533,029.50	1,209,548.50	21,000.46		1,230,548.96	80.27%	302,480.54

## SETTLEMENT AGREEMENT AND RELEASE

THIS SETTLEMENT AGREEMENT AND RELEASE (the “**Agreement**”) is entered into by and between Express Grain Terminals, LLC (“**Express**”), as debtor and debtor-in-possession in Case No. 21-11832-SDM (the “**Bankruptcy Case**”) pending in the U.S. Bankruptcy Court for the Northern District of Mississippi (the “**Bankruptcy Court**”); and Borton, L.C. (“**Borton**”). Each of the parties to this Agreement may be referred to herein as a “Party” or collectively as “Parties.”

### RECITALS

WHEREAS, Borton has asserted against Express in the Bankruptcy Case both an administrative expense claim (*see* Docket No. 2617 in the Bankruptcy Case, the “**Administrative Claim**”) and an unsecured claim (*see* Claim No. 83 in the Bankruptcy Case, the “**Proof of Claim**”);

WHEREAS, Express has asserted that it holds various claims against Borton, including potential claims for unauthorized post-petition payment and a preferential transfer (collectively, the “**Turnover Actions**”) neither of which have been formally asserted in the Bankruptcy Case;

WHEREAS, each of the Parties asserts defenses to the claims asserted by the other and believe that multiple adversary proceedings and/or contested matters would be required to resolve them fully and to fully account for the offsetting obligations and defenses thereto; and

WHEREAS, Borton and Express desire to fully and finally resolve these matters between them and to secure a mutual release of claims, and to memorialize their agreement with respect thereto.

### AGREEMENT

NOW THEREFORE, in consideration of the foregoing and the terms set forth in this Agreement, the Parties agree as follows:

1. In exchange for the payment of \$75,000 by Borton to Express, the Parties agree that said payment shall constitute full satisfaction of all mutually owing and claims and amounts existing between them, including but not limited to the claims and defenses asserted and described above. Borton shall, upon this Agreement becoming final and effective, effect withdrawal of its Administrative Claim and its Proof of Claim with prejudice. Express shall be foreclosed by this Agreement from asserting any purported claims for the Turnover Actions or any other claims it may hold.

2. The Parties acknowledge and agree that the actions contemplated by this Agreement shall be in full and final settlement and release of any and all claims that were or could have been asserted by or against either Party. For and in consideration of the above-referenced actions, and other good and valuable considerations, the receipt, adequacy, and sufficiency of all of which is hereby acknowledged, each Party hereby fully, completely, and finally releases, discharges, acquits, and covenants not to sue the other Party with respect to any

and all claims, demands, damages, costs, actions, and causes of action of every kind and nature whatsoever which such Party may have or claim to have, whether known or unknown, against any other Party relating to the Property or the indebtedness satisfied hereby.

3. The finality and enforceability of this Agreement are subject to final approval by the Bankruptcy Court, to be sought mutually by the Parties using their good faith best efforts to obtain. Upon entry of a final and non-appealable order by the Bankruptcy Court in the Bankruptcy Case approving this Agreement, the Parties shall consummate the actions called for by the Parties herein as soon as practicable.

4. This Agreement may be executed in multiple counterparts, all of which when combined will constitute one and the same Agreement. Facsimile or similar electronically transmitted signatures will have the same force and effect as original signatures.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed effective as of the \_\_\_\_\_ day of July, 2022.

AGREED AND APPROVED:

**Express Grain Terminals, LLC**

By:   
Dennis Gerrard, Chief Restructuring Officer

**Borton, L.C.**

By: \_\_\_\_\_  
Josh Foote, President