

MAINE STATE LEGISLATURE

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EIGHTY-SECOND LEGISLATURE

S. P. No. 120

S. D. No. 52

In Senate, Feb. 5, 1925.

Tabled by Senator Maher of Kennebec and 1000 copies ordered printed.

ROYDEN V. BROWN, Secretary.

Presented by Senator Hinckley of Cumberland.

STATE OF MAINE

**IN THE YEAR OF OUR LORD ONE THOUSAND NINE
HUNDRED AND TWENTY-FIVE**

RESOLVE, in Favor of F. W. Cunningham & Sons for Contractors' Fees as per Contract with the State Dated October Nineteen Hundred and Twenty-three in Connection with the State Prison, Thomaston, Maine, Together with Disbursements.

Resolved: That there be and hereby is appropriated the
2 sum of four thousand six hundred and eighty-four dollars
3 and forty-seven cents (\$4,684.47) to be paid to F. W. Cun-
4 ningham & Sons of Portland, Me., for contractors' fee of
5 four per cent as per contract with the state of Maine dated
6 October nineteen hundred and twenty-three, together with
7 cash disbursements in connection therewith.

STATEMENT OF FACTS

Following verbal conversation between Governor Percival P. Baxter and a representative of F. W. Cunningham & Sons, general contractors, F. W. Cunningham & Sons submitted a proposal to Governor Percival P. Baxter under date of September 18, 1923, by a letter of that date, a copy of which is hereto attached and marked Exhibit No. 1.

This was followed by a second letter to Percival P. Baxter, governor of Maine, by F. W. Cunningham & Sons under date of September 28, 1923, a copy of which letter is hereto attached and marked Exhibit No. 2.

In October, 1923, a contract was prepared in connection therewith under the direction of Percival P. Baxter, governor of Maine, and duly executed by F. W. Cunningham & Sons by John J. Cunningham, president, and by the state of Maine by H. H. Hastings, Leslie Boynton, and Frank H. Hargraves, board of prison commissioners, a copy of which contract is herewith attached, marked Exhibit No. 3.

That F. W. Cunningham & Sons proceeded to carry out the terms of the said contract but were prevented from completing its terms by Percival P. Baxter, governor of Maine, and claim the amount due in accordance with said contract as per bill hereto attached, marked Exhibit No. 4.

EXHIBIT NO. 1

Portland, Me., Sept. 18, 1923.

Hon. Percival P. Baxter,
Augusta, Maine.

Dear Sir:

Confirming verbal conversation with you regarding rebuilding and repairing buildings destroyed or damaged by fire at State Prison, Thomaston, Maine, we propose to furnish all plans and details, blueprints and specifications for various trades or materials as generally furnished by architects, schedule such materials as is necessary to be purchased, and give all necessary assistance in getting bids on various trades and materials, act as general contractors by giving you the benefit of our office organization without charge, or traveling expenses for them, supervise all the work, furnish you with competent

superintendent, foreman, or bosses for all labor, prison or otherwise, assist in procuring, if necessary, masons and carpenters. It is understood that prison labor is to be used where practicable and as much as possible.

We also agree to provide without charge such derricks, engines, or other gear as we have on hand as may be needed, also to provide a concrete mixer for concrete and mortar. A charge to be made for the loading and unloading, carting or freight on same. All small tools such as picks, shovels, wheelbarrows, or tradesmen tools to be used by prisoners to be furnished by the state. State to pay for liability insurance and staging (which can be used up or salvaged).

For the above services we are to be paid five (5) per cent of the cost of all the work exclusive of prison labor, tearing down and materials salvaged.

We are prepared to begin work at once and push the same with all possible speed.

We will make no charge for preliminary sketches which we are now working on, if no contract is entered into with us. It is understood and agreed that the state of Maine reserves the right to obtain prices on various sub-contractors on the different parts of the work or for materials to be furnished, and that the state shall designate to whom bids are to be sent and by whom the contracts are to be awarded or materials purchased.

It is also understood that the state auditor or other officials designated by the state shall keep a record of all cost, and the state is to pay all the bills in connection with same. These costs are to be taken as the basis of our commission.

It is here suggested a system of printed orders be used in connection with all contracts or purchases.

If we have omitted anything that is generally done by an architect or general contractor, it is our understanding that we are to cover all services usually rendered by both.

Hoping this proposal may appear favorable to you, and being at your call, we are

Respectfully yours,

F. W. CUNNINGHAM & SONS,

By

President.

EXHIBIT NO. 2

Portland, Me., Sept. 28, 1923.

Hon. Percival P. Baxter,
Augusta, Maine.

Dear Governor:

Confirming our conversation relative to proposal on the work at the State Prison, would say that if we do not furnish plans, details, and specifications, we would reduce our commission to four (4) per cent.

Respectfully yours,

F. W. CUNNINGHAM & SONS,

By Treasurer.

EXHIBIT NO. 3

Memorandum of an agreement made and entered into by and between the State of Maine and F. W. Cunningham & Sons, a corporation duly existing by law and located at Portland, Maine,

WITNESSETH: That the said F. W. Cunningham & Sons in consideration of the promises of the State of Maine hereinafter contained hereby agree as follows in regard to the repairs and rebuilding of certain buildings at the State Prison at Thomaston, Maine, to wit:

1. To make a schedule of such materials as it is necessary to purchase to carry out the work according to the plans and specifications prepared by Bunker & Savage, architects, and to give all necessary assistance in getting bids on various trades and materials.

2. To act as general contractor by giving the State the benefit of the contractor's office organization without charge or travelling expenses for them; supervise all the work, furnish the State with competent superintendent, foreman or bosses for all labor, prison or otherwise, and assist in procuring, if necessary, masons and carpenters.

It is understood that prison labor is to be used when practicable and as much as possible and that the Warden of the State Prison is to act as inspector of the work.

3. F. W. Cunningham & Sons are to provide without charge such derricks, engines and other gear as they may have on

hand and which may be needed, also to provide a concrete mixer for concrete and mortar, a charge to be made for the loading and unloading, carting and freight on same. All small tools, such as picks, shovels, wheelbarrows and tradesmen's tools to be used by the prisoners to be furnished by the State. The work to begin at once and to be pushed with all possible speed to completion.

It is understood and agreed that the State reserves the right to obtain prices on different parts of the work and for materials to be furnished and the State shall designate to whom any bids are to be sent and by whom the contracts are to be awarded or from whom materials purchased, and that the State Auditor shall keep a record of all costs and all bills in connection with same are to be paid by the State, which costs are to be taken as the basis for the compensation to be paid to F. W. Cunningham & Sons.

In full for all of the above mentioned services F. W. Cunningham & Sons are to be paid by the State four per cent upon the cost of all work exclusive of prison labor, tearing down and material salvaged.

The State shall pay for liability insurance and for staging (which can be used up or salvaged).

Dated this day of October, 1923.

F. W. CUNNINGHAM & SONS,

By JOHN J. CUNNINGHAM, Pres.

STATE OF MAINE,

By H. H. HASTINGS,

LESLIE BOYNTON,

FRANK H. HARGRAVES,

Board of Prison Commissarie.

EXHIBIT NO. 4

Portland, Me., Jan. 23, 1925.

State of Maine, Dr.

Cost of Construction Work		
at State Prison, Thomaston, Maine	\$411,770.86	
Contractor's Fee 4% as per contract		
dated October 1923	\$16,470.83	
Payments received	12,564.48	\$3,906.35

Cash expended for the use of the State of Maine for unloading material, telephone charges, etc., as per our invoice No. 13261 dated Sept. 19, 1924.	80.15
Cash expended for the use of the State of Maine for wages week ending September 17, 1924, as per our invoice No. 13268 dated September 19, 1924.	460.28
Cash expended for the use of the State of Maine for liability and compensation insurance covering a period of time from July 3, 1924, to August 28, 1924, as per our invoice No. 13278 dated September 24, 1924.	203.99
Cash expended for the use of the State of Maine for liability and compensation insurance covering a period of time from August 28, 1924, to September 17, 1924, as per our invoice No. 13334 dated October 24, 1924.	33.70
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Total amount due	\$4,684.47