

**STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND CONTRACTOR**

THIS AGREEMENT made as of the 14 day of October
in the year 2021 by and between the

CITY OF DIAMONDHEAD, MISSISSIPPI
(hereinafter called the OWNER) and

Bottom 2 Top Construction LLC.
(hereinafter called CONTRACTOR)

WITNESSETH that OWNER and CONTRACTOR in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 WORK

CONTRACTOR shall perform all work as specified or indicated in the Contract Documents for the completion of the Project generally described as follows:

**Hilo Street Culvert
Diamondhead, Mississippi
Pickering Firm, Inc. Project No. 26025.01**

ARTICLE 2 ENGINEER

The Project has been designed by Pickering Firm, Inc. (126 Rue Magnolia, Biloxi, Mississippi 39530), who is hereinafter called ENGINEER and who will assume all duties and responsibilities and have the rights and authority assigned to ENGINEER in accordance with the Contract Documents.

ARTICLE 3 CONTRACT TIME

The work herein described shall be completed within **60 consecutive calendar days** for the project after the date of the Contract Time commences. This date is proposed from the date when the Contract Time commences to run following the issuing of a Notice to Proceed order.

ARTICLE 4 CONTRACT PRICE

OWNER shall pay CONTRACTOR for performance of the work in accordance with the Contract Documents in current funds at the lump sum or unit prices presented in the Schedule of Values attached to this Agreement.

ARTICLE 5 APPLICATION FOR PAYMENT

OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR'S Application for Payment as recommended by ENGINEER during the course of this Agreement. All progress payments will be on the basis of the progress of the work completed and stored to date.

ARTICLE 6 PROGRESS AND FINAL PAYMENTS

OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR'S Application for payment as approved by ENGINEER. All progress payments will be on the basis of the progress of the work measured by the Schedule of Values.

- 6.1 *Progress Payments.* Prior to substantial completion, OWNER shall make progress payments in an amount equal to: 95% of the work completed, and 95% of material and equipment not incorporated in the work but delivered and suitably stored, less than each case the aggregate of payments previously made.

The OWNER at any time, however, after fifty (50) percent of the WORK has been completed, if ENGINEER recommends to OWNER that satisfactory progress is being made, OWNER shall reduce retainage to two and one-half (2-1/2) percent on the current and remaining estimates.

- 6.2 *Retainage.* Upon substantial completion, OWNER shall pay an amount sufficient to increase total payments of CONTRACTOR to 97.5% of the Contract Price, less retainage as the ENGINEER shall determine.

- 6.3 *Final Acceptance and Payment.* Upon final completion of the work and settlement of all claims, the CONTRACTOR may request a final inspection and may make a final Application for Payment upon the OWNER'S certificate of final acceptance.

The CONTRACTOR shall furnish the OWNER a notarized affidavit certifying that all claims, liens and other outstanding obligations incurred by him and his subcontractors in the performance of the work have been paid and settled at the submission of the Application for Final Payment.

ARTICLE 7 CONTRACT DOCUMENTS

The Contract Documents which comprise the contract between the OWNER and CONTRACTOR consist of the following documents, which are made a part of this agreement as fully as if disclosed and written at length and made a part thereof:

- 7.1 Invitation for Bids,
7.2 Standard Form of Agreement (AG-1 to AG-5, inclusive) and exhibits to this agreement,
7.3 Contractor's Performance Bond and Payment Bond,

- 7.4 Instructions to Bidders, (pages IB-1 to IB-6 inclusive),
- 7.5 E-Verify Certification and Bid Package Checklist
- 7.6 Standard General Conditions of Contract,
- 7.7 Supplementary General Conditions and Exhibit A,
- 7.8 Bid Proposal (pages P-1 to P-7, inclusive) and any Addenda,
- 7.9 Technical Specifications,
- 7.10 Construction Drawings,
- 7.11 Any modifications, including Change Orders, duly delivered after execution of this agreement,
- 7.12 Notice of Award,
- 7.13 Notice to Proceed, and
- 7.14 Contractor's Bid Bond/Bid Security

ARTICLE 8 MISCELLANEOUS

- 8.1 Terms used in this Agreement which are defined in the Standard General Conditions shall have the meanings indicated in the Standard General Conditions.
- 8.2 Neither the OWNER nor CONTRACTOR shall, without prior written consent of the other, assign or sublet in whole or in part his/her interest under any of the Contract Document; and specifically, CONTRACTOR shall not assign any moneys due or to become due without prior written consent of OWNER.
- 8.3 OWNER and CONTRACTOR each binds himself/herself, his/her partners, successors, assigns and legal representatives to the other party hereto in respect to all covenants, agreements and obligations contained in the Contract Documents.
- 8.4 The Contract Documents constitute the entire agreement between OWNER and CONTRACTOR and may be only altered, amended or repealed by a duly executed written instrument.
- 8.5 CONTRACTOR shall guarantee all work for one (1) full year after substantial completion as defined in the Standard General Conditions.
- 8.6 CONTRACTOR shall pay liquidated damages in the amount of FIVE HUNDRED DOLLARS (\$ 500.00) per calendar day for each consecutive calendar day over the contract time.

- 8.7 Insurance requirements: CONTRACTOR shall meet all of the insurance requirements stipulated in the Standard General Conditions and Supplementary General Conditions.

ARTICLE 9 OTHER PROVISIONS

- 9.1 OWNER will monitor the performance of CONTRACTOR against goals and performance standards required herein. Substandard performance as determined by OWNER will constitute non-compliance with this agreement. If action to correct such substandard performance is not taken by CONTRACTOR within a reasonable period of time after being notified by OWNER, contract suspension or termination procedures will be initiated in accordance with the Standard General Conditions.
- 9.2 OWNER may also suspend or terminate this contract at any time by giving written notice to CONTRACTOR of such suspension or termination as specified in Section 15 of the Standard General Conditions of this CONTRACT. CONTRACTOR may STOP WORK or TERMINATE WORK in accordance with Section 15.04 of the Standard General Conditions and as modified by the Supplementary General Conditions both of this CONTRACT.
- 9.3 CONTRACTOR shall retain all records pertinent to expenditures incurred under this contract for a period of three (3) years after the termination of all activities funded under this agreement or after the resolution of all activities funded under this agreement.
- 9.4 CONTRACTOR shall ensure that each SUBCONTRACT includes all the provisions of this contract. CONTRACTOR is responsible for monitoring all SUBCONTRACTORS to ensure compliance with the provisions contained herein. CONTRACTOR shall not enter into any SUBCONTRACT without the written approval of OWNER.
- 9.5 Regarding Section 16.01 *Methods and Procedures* of **ARTICLE 16 - DISPUTE RESOLUTION** of the Standard General Conditions, this Section has been deleted via the Supplementary General Conditions and replaced with the following:

16.01 Methods and Procedures

- A. OWNER has not agreed to binding arbitration as a method and procedure for resolving disputes between OWNER and CONTRACTOR. A court of competent jurisdiction will only be used to settle all claims, disputes, and other matters in question arising out of, or relating to, the CONTRACT or breach thereof.

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IN WITNESSETH WHEREOF; the parties have executed this Agreement the day and year first above written.

CITY OF DIAMONDHEAD, MISSISSIPPI

BY: _____
Sign

Name: _____
Print

Title: _____
Print

(SEAL)

ATTEST: _____
Sign

Name: _____
Print

Title: _____
Print

CONTRACTOR:

Bottom 2 Top Construction LLC.

BY: Sara Fox
Sign

Name: SARA FOX
Print

Title: owner
Print

Address 23272 Hwy 49 Frontage Rd.
Suite B Savier, MS 39574



(SEAL)

ATTEST: Amanda Garcia
Sign

Name: AMANDA GARCIA
Print

Title: office manager
Print

2021-319



5000 Diamondhead Circle ·
Diamondhead, MS 39525-3260

September 29, 2021

Mayor and Council
City of Diamondhead
5000 Diamondhead Circle
Diamondhead, MS 39525

Dear Councilmembers:

Re: Hilo Street Culvert Replacement

Sealed bids were received, opened and reviewed. The bids received were as follows:

Bottom 2 Top Construction LLC	\$184,054.50
DNA Underground	\$451,283.00:

The project engineer has reviewed the proposal and has recommended to accept the bids and award the project to Bottom 2 Top Construction, LLC in the amount of \$184,054.50 and to authorize the City Manager to execute the contract and issue the Notice to Proceed as appropriate.

Thank you for your consideration and approval in this matter.

Sincerely,



Michael Reso
City Manager

MR:jk

APPROVED BY COUNCIL

10/6/21 [Signature]
 DATE BY



2021-319



September 24, 2021

Michael J. Reso, City Manager
City of Diamondhead
5000 Diamondhead Circle
Diamondhead, MS 39525
Sent via Email to:

**Re: Bid Award Recommendation
HILO STREET CULVERT @ Hilo Street, Diamondhead, MS**

Dear Mr. Reso:

Bids on the referenced project were received and opened at 10:00 AM on Wednesday, September 23, 2021, in the City Hall of Diamondhead at 5000 Diamondhead Circle, Diamondhead, Mississippi. Enclosed, please find a certified tabulation (1 page) of the bids received.

After review of bids received, we noted that Bottom 2 Top Construction, llc. was the lowest bidder for the amount of \$184,054.50. Pickering has reviewed the bid and determined it to be a complete bid package.

Per the "Bid Proposal," the OWNER reserves the right to award the Hilo Street Culvert. The Construction Contract will be awarded to the lowest and best, responsive, responsible bidder based on the Bid Combination as selected by the owner."

Per the paragraph above, it is Pickering's recommendation that the bid submitted by Bottom 2 Top Construction, llc. be accepted as the successful bid. Should the City of Diamondhead opt. to award the work in the Base Bid, this award amount will equal \$184,054.50.

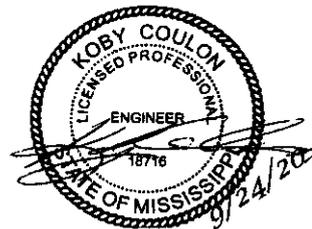
We are available should you have any questions regarding this matter or if we can be of any assistance.

Sincerely,
PICKERING FIRM, INC.

Koby Coulon, PE

HILO CULVERT
CITY OF DIAMONDHEAD, MS

BASE BID				Engineers's Estimate Pickering Firm, Inc. 126 Rue Magnolia Biloxi, MS 39531		Bottom 2 Top Construction, llc. 23272 Highway 49 Frontage Rd. Suite B. Saucier, MS 39574		DNA Underground, llc. 16101 S. Swan Road, Gulfport, MS 39503	
Item No.	Description	Unit	Qty	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension
1	MOBILIZATION	LS	1	\$ 25,000.00	\$ 25,000.00	\$ 15,195.60	\$ 15,195.60	\$ 65,000.00	\$ 65,000.00
2	TEMPORARY CONSTRUCTION ENTRANCE	EA	1	\$ 3,500.00	\$ 3,500.00	\$ 3,600.00	\$ 3,600.00	\$ 1,750.00	\$ 1,750.00
3	TEMPORARY ROCK CHECK DAM	EA	1	\$ 1,000.00	\$ 1,000.00	\$ 3,008.00	\$ 3,008.00	\$ 4,000.00	\$ 4,000.00
4	TEMPORARY SEDIMENT BAFFLE	LF	70	\$ 8.00	\$ 560.00	\$ 15.28	\$ 1,069.60	\$ 70.00	\$ 4,900.00
5	TEMPORARY STRAW WATTLE	LF	80	\$ 6.00	\$ 480.00	\$ 26.33	\$ 2,106.40	\$ 12.00	\$ 960.00
6	TEMPORARY SILT FENCE	LF	220	\$ 6.00	\$ 1,320.00	\$ 4.66	\$ 1,025.20	\$ 10.00	\$ 2,200.00
7	EROSION CONTROL BLANKET	SY	1190	\$ 6.00	\$ 7,140.00	\$ 3.58	\$ 4,260.20	\$ 10.00	\$ 11,900.00
8	CLEARING & GRUBBING	SY	910	\$ 6.00	\$ 5,460.00	\$ 6.50	\$ 5,915.00	\$ 17.00	\$ 15,470.00
9	REMOVAL & REPLACEMENT OF WODDEN FENCE	LF	20	\$ 25.00	\$ 500.00	\$ 56.10	\$ 1,122.00	\$ 40.00	\$ 800.00
10	REMOVAL OF CONCRETE HEADWALL	EA	1	\$ 1,500.00	\$ 1,500.00	\$ 750.00	\$ 750.00	\$ 9,000.00	\$ 9,000.00
11	REMOVAL OF YARD INLET	EA	1	\$ 1,500.00	\$ 1,500.00	\$ 600.00	\$ 600.00	\$ 3,750.00	\$ 3,750.00
12	REMOVAL OF CMP STORM PIPING, ALL SIZES	LF	238	\$ 12.00	\$ 2,856.00	\$ 14.00	\$ 3,332.00	\$ 130.00	\$ 30,940.00
13	EXCESS EXCAVATION (FM) - REGRADE & SHAPE EXIST DITCH	CY	256	\$ 15.00	\$ 3,840.00	\$ 43.40	\$ 11,110.40	\$ 115.00	\$ 29,440.00
14	EXCESS EXCAVATION (FM) - GOLF COURSE POND DREDGING	CY	495	\$ 40.00	\$ 19,800.00	\$ 62.00	\$ 30,690.00	\$ 115.00	\$ 56,925.00
15	BEDDING MATERIAL IN UNDERCUT AREAS (FM)	CY	50	\$ 26.00	\$ 1,300.00	\$ 21.36	\$ 1,068.00	\$ 90.00	\$ 4,500.00
16	24" THICK ROCK RIP-RAP (200 LB) (INCLUDES GEOTEXTILE FABRIC)	SY	31	\$ 160.00	\$ 4,960.00	\$ 77.96	\$ 2,416.76	\$ 300.00	\$ 9,300.00
17	GRASSING	SY	966	\$ 1.20	\$ 1,159.20	\$ 4.48	\$ 4,327.68	\$ 13.00	\$ 12,558.00
18	BERMUDA SOD	SY	686	\$ 6.00	\$ 4,116.00	\$ 7.72	\$ 5,295.92	\$ 25.00	\$ 17,150.00
19	ASPHALT ROAD REPAIR	SY	60	\$ 110.00	\$ 6,600.00	\$ 73.16	\$ 4,389.60	\$ 300.00	\$ 18,000.00
20	CONCRETE DRIVE REPAIR	SY	12	\$ 100.00	\$ 1,200.00	\$ 111.60	\$ 1,339.20	\$ 125.00	\$ 1,500.00
21	ASPHALT CART PATH REPAIR (4" DEPTH-9.5 MM MT S.C.) (INCLUDES ADJACENT CURB REPAIR)	SY	50	\$ 50.00	\$ 2,500.00	\$ 80.10	\$ 4,005.00	\$ 325.00	\$ 16,250.00
22	4" WHITE PAINTED STRIPE	LF	60	\$ 1.25	\$ 75.00	\$ 4.96	\$ 297.60	\$ 3.00	\$ 180.00
23	4" DOUBLE YELLOW PAINTED STRIPE	LF	30	\$ 1.25	\$ 37.50	\$ 9.92	\$ 297.60	\$ 3.00	\$ 90.00
24	CAST IN PLACE 5' X 8' YARD INLET / CONFLICT BOX	EA	1	\$ 7,000.00	\$ 7,000.00	\$ 6,200.00	\$ 6,200.00	\$ 28,500.00	\$ 28,500.00
25	SINGLE BARREL REINF. CONCRETE HEADWALL FOR 65"X40" RCAP	EA	1	\$ 5,000.00	\$ 5,000.00	\$ 8,928.00	\$ 8,928.00	\$ 15,000.00	\$ 15,000.00
26	65"X40" REINFORCED CONCRETE ARCH FLARED END SECTION	EA	1	\$ 3,500.00	\$ 3,500.00	\$ 4,349.60	\$ 4,349.60	\$ 12,000.00	\$ 12,000.00
27	65"X40" REINFORCED CONCRETE ARCH PIPE	LF	234	\$ 175.00	\$ 40,950.00	\$ 237.21	\$ 55,507.14	\$ 330.00	\$ 77,220.00
28	8" DUCTILE IRON SEWER PIPE	LF	20	\$ 125.00	\$ 2,500.00	\$ 92.40	\$ 1,848.00	\$ 100.00	\$ 2,000.00
TOTAL - BASE BID					\$ 155,353.70		\$ 184,054.50		\$ 451,283.00
BASE BID					\$ 155,353.70		\$ 184,054.50		\$ 451,283.00



I, THE UNDERSIGNED REGISTERED PROFESSIONAL ENGINEER, DO HEREBY CERTIFY THE ABILITY AND UNDERSTANDING, THIS IS A TRUE AND ACCURATE TABULATION OF THE B CITY OF DIAMONDHEAD ,ON MAY 12, 2021 AT 10:00 A.M. FOR THE SUBJECT PROJECT I

KOBY COULON, LICENSED PROFESSIONAL ENGINEER

9/24/2021