

**AGREEMENT  
BETWEEN OWNER AND CONTRACTOR  
FOR CONSTRUCTION CONTRACT (STIPULATED PRICE)**

This Agreement is by and between Town of Saratoga ("Owner") and  
Rocky Mountain Sand & Gravel, LLC ("Contractor").

Terms used in this Agreement have the meanings stated in the General Conditions and the Supplementary Conditions.

Owner and Contractor hereby agree as follows:

**ARTICLE 1—THE PROJECT**

2.01 The Project Name, of which the Work under the Contract Documents is a part, is as follows:

**2025 WEST BENCH SANITARY SEWER IMPROVEMENTS**

**ARTICLE 2—ENGINEER**

2.01 The Project has been designed by:

ENGINEERING ASSOCIATES  
PO Box 370  
Saratoga, WY 82331  
(307) 326-8301

2.02 The Owner has retained ENGINEERING ASSOCIATES ("Engineer") to act as Owner's representative, assume all duties and responsibilities of Engineer, and have the rights and authority assigned to Engineer in the Contract.

**ARTICLE 3—CONTRACT TIMES**

3.01 *Time is of the Essence*

A. All time limits for Milestones (if any), Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

3.02 *Contract Times: Days*

A. The Work will be substantially complete within **180 calendar days (Substantial Completion)** after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within **200 calendar days (Final Completion)** after the date when the Contract Times commence to run.

3.03 *Milestones*

A. Parts of the Work must be substantially completed on or before the following Milestone(s):

1. Milestones: *October 1, all asphalt surfacing (patches) and gravel surfacing shall be completed.*

### 3.04 *Liquidated Damages*

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the Contract Times, as duly modified. The parties also recognize the delays, expense, and difficulties involved in proving, in a legal or arbitration proceeding, the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty):
1. *Substantial Completion:* Contractor shall pay Owner **\$1,500 for each calendar day** that expires after the time (as duly adjusted pursuant to the Contract) specified above for Substantial Completion, until the Work is substantially complete.
  2. *Completion of Remaining Work:* After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner **\$750 for each calendar day** that expires after such time until the Work is completed and ready for final payment.
  5. Liquidated damages for failing to timely attain milestones, Substantial Completion, and Final Completion are not additive, and will not be imposed concurrently.
- B. If Owner recovers liquidated damages for a delay in completion by Contractor, then such liquidated damages are Owner's sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Agreement.

### 3.05 *Special Damages*

- A. Contractor shall reimburse Owner (1) for any fines or penalties imposed on Owner as a direct result of the Contractor's failure to attain Substantial Completion according to the Contract Times, and (2) for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, legal and administrative services needed after the time specified in Paragraph 4.02 for Substantial Completion (as duly adjusted pursuant to the Contract), until the Work is substantially complete.
- B. After Contractor achieves Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times, Contractor shall reimburse Owner for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, legal and administrative services needed after the time specified in Paragraph 4.02 for Work to be completed and ready for final payment (as duly adjusted pursuant to the Contract), until the Work is completed and ready for final payment.
- C. The special damages imposed in this paragraph are supplemental to any liquidated damages for delayed completion established in this Agreement.

## ARTICLE 4—CONTRACT PRICE

- 4.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents, the amounts that follow, subject to adjustment under the Contract:
- A. For all Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

As provided in paragraph 11.03 of the General Conditions estimated quantities are not guaranteed, and determinations of actual quantities and classification are to be made by ENGINEER as provided in paragraph 9.08 of the General Conditions

## **ARTICLE 5—PAYMENT PROCEDURES**

### **5.01     *Submittal and Processing of Payments***

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

### **5.02     *Progress Payments; Retainage***

- A. Owner shall make progress payments on the basis of Contractor's Applications for Payment on or about the 20th day of each month during performance of the Work as provided in Paragraph 5.02.A.1 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
  - 1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract.
    - a. 95 percent of the value of the Work completed (with the balance being retainage); and
    - b. 95 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
- B. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 95 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 100 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

### **5.03     *Final Payment***

- A. Upon final completion and acceptance of the Work, Owner shall pay the remainder of the Contract Price in accordance with Paragraph 15.06 of the General Conditions.
- B. The Owner shall not be required to make Final Payment to the Contractor until such time as the provisions of Wyoming Statute Sections 15-1-113(h), 16-6-116, and 16-6-117, have been fulfilled. If no claims or liens have been filed within a forty-one (41) day period after completion and acceptance of the Project, the retained percentage will be paid within thirty (30) days of the expiration thereof. Further, the Contractor shall execute and file with the Clerk of the Owner the sworn statement required by Section 16-6-117 of the Wyoming Statutes as a condition precedent to receiving final payment from the Owner.

### **5.04     *Consent of Surety***

- A. Owner will not make final payment, or return or release retainage at Substantial Completion or any other time, unless Contractor submits written consent of the surety to such payment, return, or release.

5.05 *Interest*

A. *DELETED*

**ARTICLE 6—CONTRACT DOCUMENTS**

6.01 *Contents*

A. The Contract Documents consist of all of the following:

1. This Agreement (pages 00520-1 to 00520-8, inclusive).
2. Bonds:
  - a. Performance bond (together with power of attorney) (pages 00610-1 to 00610-4, inclusive).
  - b. Payment bond (together with power of attorney) (pages 00615-1 to 00615-4, inclusive).
3. General Conditions (pages 00700-1\_ to 00700-70, inclusive).
4. Supplementary Conditions (pages \_00800-1 to 00800-15, inclusive).
5. Specifications as listed in the table of contents of the project manual.
6. Drawings (not attached but incorporated by reference) consisting of 27 sheets with each sheet bearing the following general title: **2025 West Bench Sanitary Sewer Improvements;**
7. Addenda (numbers 00990-1 to 00990-XX, inclusive).
9. Exhibits to this Agreement (enumerated as follows):
  - a. Contractor's Bid Exhibit A (pages 00410-1 to 00410-xx , inclusive).
  - b. Documentation submitted by Contractor prior to Notice of Award (pages N/A to \_\_\_\_\_, inclusive).
  - c. Documentation submitted by Contractor after Notice of Award – Exhibit B – i) Letter of Good Standing from the Wyoming Department of Employment and ii) Letter of Good Standing from the Wyoming Workers Compensation Department and iii) Certificates of Insurance.
10. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
  - a. Notice to Proceed (pages 00500-1, inclusive).
  - b. Work Change Directives (pages 00940-01 to 00940-XX, inclusive).
  - c. Change Orders (pages 0041-1 to 0941-XX, inclusive).
  - d. Field Orders (pages 00942-1 to 00942-XXx, inclusive).
  - e. Warranty Bond, if any.

B. The Contract Documents listed in Paragraph 6.01.A are attached to this Agreement (except as expressly noted otherwise above).

C. There are no Contract Documents other than those listed above in this Article 6.

- D. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

## **ARTICLE 7—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS**

### **7.01 Contractor's Representations**

- A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:
1. Contractor has examined and carefully studied the Contract Documents, including Addenda.
  2. Contractor has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
  3. Contractor is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
  4. Contractor has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, with respect to the Technical Data in such reports and drawings.
  5. Contractor has carefully studied the reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, with respect to Technical Data in such reports and drawings.
  6. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (c) Contractor's safety precautions and programs.
  7. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
  8. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
  9. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
  10. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

11. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

#### 7.02 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 8.02:
  1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
  2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
  3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
  4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

#### 7.03 *Standard General Conditions*

- A. Owner stipulates that if the General Conditions that are made a part of this Contract are EJCDC® C-700, Standard General Conditions for the Construction Contract (2018), published by the Engineers Joint Contract Documents Committee, and if Owner is the party that has furnished said General Conditions, then Owner has plainly shown all modifications to the standard wording of such published document to the Contractor, through a process such as highlighting or "track changes" (redline/strikeout), or in the Supplementary Conditions.

#### 7.04 *Assignment of Contract*

- A. Unless expressly agreed to elsewhere in the Contract, no assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, money that may become due and money that is due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

#### 7.05 *Successors and Assigns*

- A. Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

#### 7.06 *Severability*

- A. Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be

valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

7.06 *Wyoming Laborers*

- A. Contractor, by signing this Agreement, acknowledges the requirements of Wyoming Statute 16-6-203 to hire only Wyoming Laborers on this project. If Wyoming Laborers are not available, or not qualified, to perform the work involved, other laborers may be used. Contractor shall provide certification from the nearest Wyoming Workforce Center to substantiate unavailability. A Contractor's Affidavit of Project Payroll Reporting will be required before Final Payment will be made.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on August 1, 2025 (which is the Effective Date of the Contract).

Owner:

Town of Saratoga  
(typed or printed name of organization)

By: \_\_\_\_\_  
(individual's signature)

Date: \_\_\_\_\_  
(date signed)

Name: \_\_\_\_\_  
(typed or printed)

Title: \_\_\_\_\_  
(typed or printed)

Attest: \_\_\_\_\_  
(individual's signature)

Title: \_\_\_\_\_  
(typed or printed)

Address for giving notices:

Town of Saratoga  
PO Box 486  
Saratoga, WY 82331

Designated Representative:

Name: Emery Penner  
(typed or printed)

Title: Director of Public Works  
(typed or printed)

Address:

Town of Saratoga  
PO Box 486  
Saratoga, WY 82331

Phone: 307-326-8335

Email: e.penner@saratogawyo.org

(If [Type of Entity] is a corporation, attach evidence of authority to sign. If [Type of Entity] is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

Contractor:

Rocky Mountain Sand & Gravel, LLC  
(typed or printed name of organization)

By: \_\_\_\_\_  
(individual's signature)

Date: July 24, 2025  
(date signed)

Name: Crystyn Lasley  
(typed or printed)

Title: CEO  
(typed or printed)

(If [Type of Entity] is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: \_\_\_\_\_  
(individual's signature)

Title: Earl Merrill, COO  
(typed or printed)

Address for giving notices:

Rocky Mountain Sand & Gravel, LLC  
PO BOX 22417  
Cheyenne, WY 82003

Designated Representative:

Name: Crystyn Lasley  
(typed or printed)

Title: CEO  
(typed or printed)

Address:

Rocky Mountain Sand & Gravel, LLC  
Cheyenne, WY 82003

Phone: (307) 203-9809

Email: RockyMountainSand@gmail.com

License No.: \_\_\_\_\_  
(where applicable)

State: Wyoming