


PROJECT MANUAL			
	Engineering Division 2026 New Jersey Ave Sheboygan, WI 53081	Document Title:	Agreement
		Section:	00 52 16 (ADDENDUM 3)
		Bid Number:	

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

THIS AGREEMENT is by and between City of Sheboygan (“Owner”) and Norcon Corporation (“Contractor”).

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: The project consists of General Construction and Rehabilitation to the existing north and south aeration basins including concrete walkway repairs, leaking expansion joint repairs and sealing, and baffle and pipe support removal and replacement.

ARTICLE 2 – THE PROJECT

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

City of Sheboygan
 Regional Wastewater Treatment Facility
 Aeration Basin Rehabilitation
 Sheboygan, Wisconsin

ARTICLE 3 – ENGINEER

3.01 The Project has been designed by Donohue & Associates, Inc, who is hereinafter called Engineer and who is to act as Owner’s representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

4.01 *Time 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.

4.02 *Contract Times: Dates*

A. All the Work (with the exception of the concrete walkway repair work and tunnel expansion joints) will be substantially completed on or before August 30, 2024, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before September 30, 2024. The Work associated with the concrete walkway repairs and tunnel expansion joints shall be completed and ready for final payment in accordance with Article 15 of the General Conditions on or before November 15, 2024.

4.03 *Milestones*

A. Not Applicable.


PROJECT MANUAL			
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		Bid Number:	

4.04 *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 the amount identified in paragraph 19.01 of the Supplementary Conditions for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A 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 the amount identified in paragraph 19.01 of the Supplementary Conditions for each day that expires after such time until the Work is completed and ready for final payment.
 3. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.
 4. Milestones: Contractor shall pay Owner the amount identified in paragraph 19.01 of the Supplementary Conditions for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for achievement of each Milestone, until Milestone is achieved.
- 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.

4.05 *Special Damages*

- C. In addition to the amount provided for liquidated damages, 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, 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.
- D. 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, 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.

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	Engineering Division 2026 New Jersey Ave Sheboygan, WI 53081	Document Title:	Agreement
		Section:	00 52 16 (ADDENDUM 3)
		Bid Number:	

ARTICLE 5 – CONTRACT PRICE

- 5.01 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 Unit Price Work, an amount equal to the sum of the extended prices (established for each separately identified item of Unit Price Work by multiplying the unit price times the actual quantity of that item) as stated in Contractor's Bid, attached hereto as an exhibit.
 - B. The extended prices for Unit Price Work set forth as of the Effective Date of the Contract are based on estimated quantities. As provided in Paragraph 13.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer.


ARTICLE 6 – PAYMENT PROCEDURES

6.01 *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.

6.02 *Progress Payments; Retainage*

- A. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment on the third Wednesday of the Month during performance of the Work as provided in Paragraph 6.02.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 Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and
 - b. 0 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 100 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 200 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.

PROJECT MANUAL			
	Engineering Division 2026 New Jersey Ave Sheboygan, WI 53081	Document Title:	Agreement
		Section:	00 52 16 (ADDENDUM 3)
		Bid Number:	

6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06.


6.04 *Interest*

- A. All amounts not paid when due shall bear interest at the rate of 0 percent per annum.

ARTICLE 7 – CONTRACT DOCUMENTS

7.01 *Contents*

- A. The Contract Documents consist of the following:
 1. This Agreement.
 2. Bonds:
 - a. Performance bond (together with power of attorney).
 - b. Payment bond (together with power of attorney).
 3. Division 00, Appendix, and technical Specifications as listed in the table of contents of the project manual (copy of list attached and incorporated by reference).
 4. Drawings, not attached hereto, consisting of a cover sheet and sheets numbered 1 through 12, inclusive, with each sheet bearing the following general title: CITY OF SHEBOYGAN, REGIONAL WASTEWATER TREATMENT FACILITY, AERATION BASIN REHABILITATION, SHEBOYGAN, WISCONSIN.
 5. Addenda (not attached but incorporated by reference)
 - a. Number 1 dated 11/20/2023.
 - b. Number 2 dated 11/30/2023.
 - c. Number 3 dated 12/06/2023.
 6. Exhibits to this Agreement (enumerated as follows):
 - a. Contractor’s Bid consisting of 1 page.
 7. 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,
 - b. Work Change Directives,
 - c. Change Orders,
 - d. Field Order,
 - e. Task Orders.
- B. The Contract Documents listed in Paragraph 7.01.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 7.


PROJECT MANUAL			
	Engineering Division 2026 New Jersey Ave Sheboygan, WI 53081	Document Title:	Agreement
		Section:	00 52 16 (ADDENDUM 3)
		Bid Number:	

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

ARTICLE 8 – ARTICLE 8—REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

8.01 *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.

PROJECT MANUAL			
	Engineering Division 2026 New Jersey Ave Sheboygan, WI 53081	Document Title:	Agreement
		Section:	00 52 16 (ADDENDUM 3)
		Bid Number:	


8.02 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.

8.03 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.

(Continued on next page)

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		Section:	00 52 16 (ADDENDUM 3)
		Bid Number:	

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

This Agreement will be effective on _____ (which is the Effective Date of the Contract).

OWNER:
City of Sheboygan

CONTRACTOR:
Norcon Corporation

By: _____
(signature)
Name,
Title: Ryan Sorenson, Mayor

By: _____
(signature)
Name,
Title: _____
(printed)

Date: _____

Date: _____
(If Bidder is a corporation, a limited liability company, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest:

By: _____
(signature)
Name,
Title: Meredith DeBruin, City Clerk

Address for giving notices:

Date: _____

Signatures authorized pursuant to Res. ___-23-24.

Address for giving notices:
City of Sheboygan – Engineering Division
2026 New Jersey Avenue
Sheboygan, WI 53081

Approved as to form and Execution:

By: _____
(signature)
Name, Charles C. Adams, City Attorney
Title:
Date: _____

PROJECT MANUAL
CITY OF SHEBOYGAN
REGIONAL WASTEWATER TREATMENT FACILITY
AERATION BASIN REHABILITATION
SHEBOYGAN, WISCONSIN

TABLE OF CONTENTS

ADVERTISEMENT FOR BIDS

INSTRUCTIONS TO BIDDERS

BID FORM

BID BOND

GOVERNMENTAL CERTIFICATIONS

State of Wisconsin Disclosure of Ownership

NOTICE OF AWARD

AGREEMENT

NOTICE TO PROCEED

PERFORMANCE BOND

PAYMENT BOND

CERTIFICATES AND OTHER FORMS

GENERAL CONDITIONS

SUPPLEMENTARY CONDITIONS

SPECIFICATIONS

DIVISION 01 – GENERAL REQUIREMENTS

Section 01 11 00 – Summary of Work

Section 01 22 00 – Unit Prices

Section 01 29 73 – Schedule of Values

Section 01 31 19 – Project Meetings

Section 01 32 16 – Progress Schedule (Bar Chart Method)

Section 01 32 33 – Construction Photographs

Section 01 33 00 – Submittal Procedures

Section 01 35 16 – Alteration Project Procedures

Section 01 41 00 – Regulatory Requirements

Section 01 52 00 – Construction Facilities

Section 01 57 19 – Temporary Environmental Controls

Section 01 61 00 – Common Product Requirements

Section 01 74 00 – Cleaning and Waste Management

Section 01 78 39 – Project Record Documents

DIVISION 03 – CONCRETE

Section 03 01 30.71 – Rehabilitation of Cast-in-Place Concrete
Section 03 62 00 – Non-shrink Grouting

DIVISION 05 – METALS

Section 05 50 00 – Metal Fabrications

DIVISION 07 – THERMAL AND MOISTURE PROTECTION

Section 07 92 00 – Joint Sealants

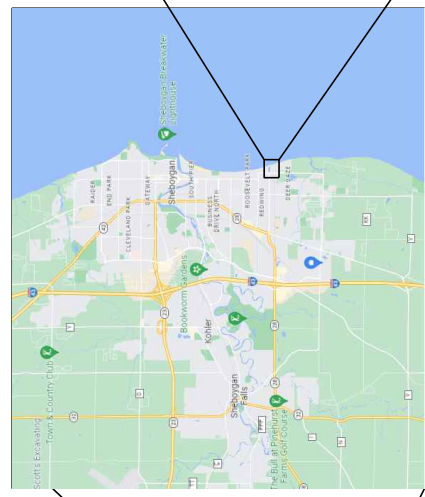
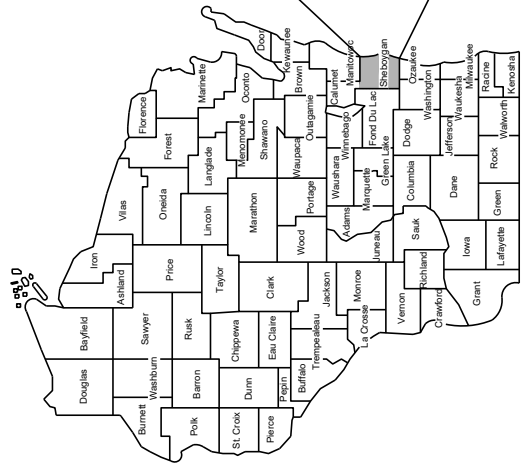
APPENDIX

CITY OF SHEBOYGAN REGIONAL WASTEWATER TREATMENT FACILITY AERATION BASIN REHABILITATION

SHEBOYGAN, WI
OCTOBER 2023

DRAWING INDEX

SHEET NUMBER	DRAWING NUMBER	DRAWING DESCRIPTION
1	COVER	COVER SHEET AND DRAWING INDEX
2	01 GENERAL	GENERAL LEGEND - SYMBOLS AND ABBREVIATIONS
3	02 SITE DEVELOPMENT	SITE LOCATION MAP
4	03 STRUCTURE 100-AERATION BASINS	PLAN
5	100-S-1	PLAN
6	100-S-2	PLAN
7	100-S-3	PLAN
8	100-S-4	PLAN
9	100-S-5	PLAN
10	100-S-6	SECTION AND DETAILS
11	100-S-7	SECTION AND DETAILS
12	100-S-8	PHOTOS
13	100-S-9	STRUCTURAL STANDARD DETAILS
14	100-S-1	



WISCONSIN

PROJECT LOCATION MAP

SHEBOYGAN WASTEWATER TREATMENT FACILITY
3333 LAKESHORE DR
SHEBOYGAN, WI, 53081

PROJECT SITE MAP

PREPARED BY



