

**AGREEMENT
BETWEEN THE CITY OF SHEBOYGAN, WISCONSIN AND
METALS TREATMENT TECHNOLOGIES, LLC, FOR THE REMEDIATION OF
LEAD FROM THE POLICE DEPARTMENT PRACTICE RANGE LOCATED AT THE
WASTEWATER TREATMENT FACILITY**

This Agreement is made and entered into effective this ____ day of _____, 2022 (the “Effective Date”), by and between the City of Sheboygan, (“City”), a municipal corporation with principal offices at 828 Center Avenue, Sheboygan, WI 53081, and Metals Treatment Technologies, LLC, (“Contractor”), a limited liability company with principal offices located at 14045 W. 66th Avenue, Arvada, Colorado 80004.

WITNESSETH:

WHEREAS, the City owns real property at 3333 Lakeshore Drive, Sheboygan, Wisconsin, (“Property”) whereupon the Sheboygan Police Department (“Department”) has long conducted shooting practice; and,

WHEREAS, after many years and countless thousands of practice shots, the Property’s earthen berm requires remediation to remove the spent lead bullet fragments; and,

WHEREAS, lead remediation from soil is a highly specialized enterprise requiring specialized equipment, licensure and services; and,

WHEREAS, the City issued and advertised a Request for Bids from qualified contractors; and,

WHEREAS, Contractor provided the City with the lowest bid and possesses the necessary knowledge, skill, equipment, and labor to provide the desired lead remediation services.

NOW, THEREFORE, the Parties hereto agree as follows:

Article 1. Scope of Services.

Contractor shall provide all labor, materials, equipment, transportation, appliances and services necessary to complete all work identified or reasonably inferred from the “Scope of Work” and “Pricing” sections identified in the MT2 Bid Submittal dated 8/24/2022, a copy of which is attached as Exhibit 1, and incorporated herein as if fully set forth. Contractor’s services shall be performed in accordance with all applicable federal, state and local laws and regulations. Contractor shall be responsible for obtaining all applicable permits and paying applicable permit fees prior to commencement.

Additional services not set forth herein, or changes in Services, must be authorized in writing by the City or its Representative(s) prior to such work being performed or expenses incurred.

Article 2. Standard of Care

Contractor shall be responsible for completion of Services in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances (“Standard of Care”). The City’s Representative shall be the sole judge of the adequacy of Contractor’s work in meeting the Standard of Care; however, the City’s Representative

shall not unreasonably withhold its approval as to the adequacy of Contractor's performance. Upon notice to Contractor, Contractor will, without additional compensation, correct or replace any and all Services not meeting the Standard of Care.

Contractor shall be solely responsible for all construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under this Agreement. The Contractor must employ, as far as possible, such methods and means in carrying out the work as will minimize disruption to Police Department operations and shall not cause any interruption or interference with the operation of the Wastewater Treatment Plant or with any other contractors.

Article 3. City's Representative.

The City designates the below individuals as its Representatives for purposes of this Agreement (the "City's Representative" or "Owner's Representative"). If the City's Representatives deem it appropriate, the City's Representative may consult with other employees of the City, or may retain an appropriate outside expert to assist with the management of this Project.

Sheboygan Police Department
Capt. Steve Cobb
1315 N 23rd St.
Sheboygan, WI 53081

Wastewater Treatment Facility
Jordan Skiff
3333 Lakeshore Dr.
Sheboygan, WI 53081

If the City's Representatives observe any work performed by the Contractor to not be in conformity with the Agreement, the City's Representative will report that to the Contractor. The City's Representatives will have authority to stop any portion of the work not in conformity with the Agreement until the City has investigated and decided upon an appropriate procedure.

Article 4. Compensation.

The City shall pay Contractor for the Services an amount not to exceed \$32,000.00 ("Contract Amount"). This amount includes the costs of labor, materials, water, fuel, tools, equipment, transportation and all other expenses as may be necessary for the proper execution and completion of the Services.

Contractor shall submit an invoice to the City upon completion of the Services. City shall pay Contractor within 60 days of receipt. The City shall not make payment for any unauthorized work or expense. The invoice shall be sent to:

City of Sheboygan Finance Department
Attn: Bernard Rammer
828 Center Ave.
Sheboygan, WI 53081

The submission of an invoice shall be deemed a waiver and release by Contractor of all liens and claims with respect to the work and period to which such invoice pertains, except as specifically reserved and noted on such request.

The City may withhold payment, in whole or in part, in addition to a 10% retainage, to the extent necessary to protect itself from loss on account of any of the following:

- Payments that may be earned or due for just claims for labor or materials furnished in and about the work.
- Defective work not remedied.
- Failure of Contractor to make payments due to subcontractors, material suppliers, or employees.
- Reasonable doubt that this Contract can be completed for the balance then unpaid.
- The probable filing of claims by other parties against Contractor which may adversely affect the City.
- Damage to the City or a third party.

The City will disburse, and shall have the right to act as agent for Contractor in disbursing the Withheld Amounts to the party or parties who are entitled to payment. The City will provide the Contractor with a proper accounting of all such funds disbursed on behalf of the Contractor.

The City also reserves the right to refuse payment of the final 10% due to Contractor until the City's Representative is satisfied that all subcontractors, material suppliers, and employees of the Contractor have been paid in full.

Partial payment made under this Agreement is not evidence of the proper performance by Contractor either in whole or in part, and no payment made by the City shall be construed to be an acceptance of defective or improper work. Acceptance of the work by the City shall occur only upon Final Payment by the City which will occur after Final Acceptance. The City agrees to make reasonable efforts to schedule its Final Inspection in a timely manner and to process the Final Payment in a timely manner upon Final Acceptance. (For the avoidance of doubt, the warranties and guarantees in this Agreement shall continue to apply even after Final Payment by the City.)

Article 5. Appropriation of Funds

Notwithstanding any other provision of this Agreement, if funds for the continued fulfillment of this Agreement by the City are at any time not forthcoming or are insufficient, through failure of any entity, including the City itself, to appropriate funds or otherwise, then the City shall have the right to terminate this Agreement without penalty. The City agrees that it will make its best effort to obtain sufficient funds for the Agreement to meet its obligations hereunder in full.

Article 6. Performance and Payment Bond

Contractor shall, within ten days of the execution of this Agreement by the City of Sheboygan, provide the City with a Performance Bond and a Payment Bond in the amount of one hundred percent (100%) of the contract amount.

Failure by Contractor to perform the work in a timely or satisfactory fashion may result in forfeiture of Contractor's Performance Bond.

If the Surety on any bond furnished by Contractor becomes a party to supervision or liquidation, or its right to do business in the State of Wisconsin is terminated, Contractor shall, within thirty (30) calendar days thereafter, substitute another bond or surety, both of which must be acceptable to the City.

Article 7. Schedule

Contractor shall commence work after receiving a Notice to Proceed from the City's Representative. At that point, Contractor shall commence work promptly, and shall continue the execution of the Services as quickly as is practicable until the Services are completed.

Contractor shall complete the services by December 20, 2022, or within such extra time as may have been allowed by a mutually agreed extension (the "Deadline"). The City's Representative shall have the authority to consent to an extension of the Deadline on behalf of the City.

The Parties agree that no charges or claims for damages shall be made by Contractor for any delays or hindrances, from any cause whatsoever, during the progress of any portion of the services specified in the Agreement. Such delays or hindrances, if any, may be compensated for by an extension of time for a reasonable period as may be mutually agreed upon between the Parties, it being understood however, that permitting Contractor to proceed to complete any service, or any part of the services / project, after the date to which the time of completion may have been extended shall, in no way operate as a waiver on the part of the City of any of its rights herein.

No work aside from that performed during the regular work week will be allowed unless prior notice is given to the City's Representative and the City's Representative consents to the work being performed during that time. (Emergency work may be performed without prior permission.) Any work performed without prior notice and approval to do so may be required to be removed for inspection at Contractor's expense.

Article 8. Safety Requirements.

Contractor shall be responsible for the safety of its employees at all times and shall provide all equipment necessary to insure their safety. Contractor shall ensure the enforcement of all applicable safety rules, regulations, ordinances and laws, whether federal, state, or local.

Contractor shall provide the necessary safeguards including, but not limited to, warning signs and barricades, to avoid all necessary hazards and protect the public, the work, and the property at all times, including on days when no work is being done.

The City shall not be responsible for any loss or damage to the project materials prior to their installation or to Contractor's tools and equipment from any cause whatsoever.

Contractor's Superintendent of Safety shall make daily inspections upon the arrival and leaving of the site at the close of each workday.

Article 9. Access to Records

Both parties understand that the City is bound by the Wisconsin Public Records Law and, as such, this contract is subject to that law. Contractor acknowledges that it is obligated to assist the City in retaining and producing records related to the contract, and that the failure to do so shall constitute a material breach of the contract, in which case Contractor must defend and hold the City harmless from liability under that law.

Contractor shall maintain all records related to this contract for a period of not less than 7 years after receipt of Final Payment under the Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case records shall also be maintained until the disposition of all such litigation, appeals, claims, or exceptions related thereto.

Article 10. Termination.

The City may terminate or suspend performance of this Agreement at the City's prerogative at any time upon written notice to Contractor. The City's Representative shall have the authority to provide this written notice. Contractor shall terminate or suspend performance of the Services on a schedule acceptable to the City and the City shall pay Contractor for all the Services performed up to the date that written notice is received, plus reasonable termination or suspension expenses. Upon restart, an equitable adjustment shall be made to Contractor's compensation and the schedule of services.

If Contractor defaults or fails to fulfill in a timely and proper manner its obligations pursuant to this Agreement, the City may, 7 days after written notice has been delivered to Contractor, and without prejudice to any other remedy it may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due to Contractor. In the alternative the City may, at its option, terminate this Agreement and take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by Contractor, and may finish the project by whatever method it may deem expedient. In case the expenses incurred by the City (including payments previously made to Contractor) shall be less than the sum which would have been payable under the Agreement if it had been completed by Contractor, Contractor shall be entitled to receive the difference. However, in case such expense shall exceed the sum which would have been payable under the Agreement, Contractor will be liable and shall pay to the City the amount of said excess. By taking over prosecution of the work, the City does not forfeit the right to recover damages from Contractor or its surety, for failure to complete the work or for defects in the work.

For the avoidance of doubt, the specific remedies identified in this Article 10 are not exclusive. The parties may pursue any remedy in law or equity in the event that Contractor defaults under this Agreement.

Article 11. Default.

If Contractor breaches this Agreement or fails to perform the work in an acceptable manner, it shall be considered in default. Any one or more of the following will be considered a default:

- Failure to begin the work under this Agreement within the time specified.
- Failure to perform the work with sufficient supervision, workers, equipment and materials to ensure prompt completion of said work within the time limits allowed.

- Unsuitable performance of the work as determined by City.
- Neglecting or refusing to remove defective materials or failure to perform anew such work as shall have been rejected.
- Discontinuing the prosecution of the work or any part of it.
- Inability to finance the work adequately.
- If, for any other reason, Contractor breaches this Agreement or fails to carry on the work in an acceptable manner.

The City shall send Contractor a written notice of default. If Contractor, within a period of 7 days after such notice, fails to remedy the default, then the City shall have full power and authority, without violation of the Agreement, to take the prosecution of the work out of the hands of Contractor, as set forth in this Agreement.

Article 12. Identity of Contractor.

Contractor acknowledges that one of the primary reasons for its selection by the City to perform the Services is the qualifications and experience of Contractor. Contractor thus agrees that the Services to be performed pursuant to this Agreement shall be performed by Contractor. Contractor shall not subcontract any part of the Services without the prior written permission of the City. The City's Representative shall have the ability to provide this written permission. In the event that the City allows part of the Services to be subcontracted, Contractor shall remain fully responsible to the City for the acts or omissions of any subcontractor and anyone employed directly or indirectly by the subcontractor. This is in addition to any liability imposed by law upon the Contractor.

The City reserves the right to perform a criminal background check on any employee of Contractor or an approved Subcontractor performing work at the Wastewater Treatment Plant, to reject any of the Contractor's personnel or approved Subcontractor's personnel, and the City reserves the right to request that acceptable replacement personnel be assigned to the project.

Article 13. Independent Contractor Status.

During the entire term of this Agreement, Contractor shall be an independent contractor, and in no event shall any of its personnel, agents or subcontractors be construed to be, or represent themselves to be, employees of the City. Contractor shall be solely responsible for the payment and reporting of all employee and employer taxes, including social security, unemployment, and any other federal, state, or local taxes required to be withheld from employees or payable on behalf of its employees.

Article 14. Indemnification.

Contractor is responsible to the City for the acts and omissions of its employees, subcontractors, and any other persons performing any of the work under a contract with Contractor.

As such, to the extent permitted by law, Contractor shall defend and hold the City—including its Officials, Agents, and Employees—harmless from all liability, including, but not limited to, claims, actions, causes of action, liens, losses, damages, costs, legal fees, expenses, or judgments resulting from claimed injury, death, damage to property, or loss of use of property or any person or legal entity arising out of or in any way connected with the performance of work or work to be performed under this Agreement.

This duty to defend and hold the City harmless applies, among other instances, if the claimed liability arises out of:

- A violation of any law, ordinance, regulation, order, or decree by the Contractor, its employees, subcontractors, or any other person performing any of the work under a contract with Contractor.
- The failure on the part of Contractor, its employees, subcontractors, or any other person performing any of the work under a contract with Contractor, to complete any of the covenants, acts, matters, or things assigned to them under this Agreement.

Contractor shall reimburse the City for any costs, expenses, judgments, and legal fees paid or incurred, by or on behalf of the City, its Officials, Agents, or Employees, or paid for on behalf of the City, its Officials, Agents, or Employees by insurance purchased or self-insurance provided by the City.

Contractor shall further hold the City, its Officials, Agents, and Employees harmless from liability or claims for any injuries to or death of Contractor's employees (or the employees of any authorized subcontractor) arising out of or in any way connected with the work or work to be performed under this Agreement, including protection against any claim of the contractor or subcontractor for any payments under any worker's compensation law or any expenses of or any payments made by any worker's compensation insurance carrier on behalf of said contractor or sub-contractor, and the contractor shall hold the City harmless from any costs, expenses, judgments, and attorney's fees with respect to any above referenced workers' compensation claims incurred or paid by the City or paid on its behalf or on behalf of its Officials, Agents, or Employees by insurance purchased or self-insurance provided by the City.

Article 15. Insurance

Contractor shall not commence work under this Agreement until it has obtained all insurance required under this Article. Additionally, Contractor shall not allow any approved subcontractor to commence work on its subcontract until the subcontractor has obtained all insurance required under this Article.

During the performance of any and all Services under this Agreement, Contractor shall maintain the following insurance in full force and effect, and shall provide proof of insurance to the City's Representative listing the City of Sheboygan as an additional insured:

- a. Workers' Compensation Insurance – Contractor shall acquire and maintain, for the duration of the Agreement, Workers' Compensation Insurance that meets all statutory requirements.
- b. Commercial General Liability and Property Damage Insurance – Contractor shall acquire and maintain, for the duration of this Agreement, Commercial General Liability Insurance with a policy limit of at least \$2,000,000 per occurrence and \$2,000,000 in the aggregate. The Commercial General Liability Insurance shall include operations, contractor's protective insurance, products coverage, completed operations, and contractual coverage.

- c. Comprehensive Automobile Liability and Property Damage – Contractor shall acquire and maintain, for the duration of this Agreement, Comprehensive Automobile Liability and Property Damage Insurance that covers the operation of owned, hired, and non-owned motor vehicles with a policy limit – for liability, bodily injury, and property damage – of at least \$1,000,000 per occurrence and \$1,000,000 in the aggregate.

The proof of insurance referenced above shall require the insurance company to notify the City at least 30 days prior to the expiration, cancellation, non-renewal, or material change in the coverage. The Certificate Holder on the proof of insurance should be listed as:

City of Sheboygan, Wisconsin
828 Center Ave., Suite 110
Sheboygan, Wisconsin 53081

The proof of insurance must contain an original signature. Approval of the insurance by the City's Representative shall not relieve or decrease the extent to which Contractor may be held responsible for payment of damages resulting from Contractor's provision of the Services or its operations under this Agreement. If Contractor fails or refuses to procure or maintain the insurance required by these provisions, or fails or refuses to furnish the City the required proof that the insurance has been procured and is in force and paid for, the City shall have the right at its election to terminate the Agreement.

Article 16. Conflict of Interest

Contractor declares that it has no present interest, nor shall it acquire any interest, direct or indirect, which would conflict with the performance of Services under this Agreement. Contractor agrees that no person having any such interest shall be employed in the performance of this Agreement.

Article 17. Waiver

No failure of either party to enforce a term of this Agreement against the other shall be construed as a waiver of that term, nor shall it in any way affect the party's right to enforce that term. No waiver by any party of any term of this Agreement—which may only occur in writing—shall be considered to be a waiver of any other term or breach thereof.

Article 18. Severability

The invalidity, illegality, or unenforceability of any provision of this Agreement or the occurrence of any event rendering any portion or provision of this Agreement void shall in no way affect the validity or enforceability of any other portion or provision of this Agreement. Any void provision shall be deemed severed from this Agreement, and the balance of the Agreement shall be construed and enforced as if it did not contain the particular provision held to be void. The parties further agree to amend this Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision. The provisions of this Article shall not prevent this entire Agreement from being void should a provision which is of the essence of this Agreement be determined void.

Article 19. Assignment

Neither the City nor Contractor shall assign any rights or duties under this Agreement without the prior written consent of the other party and, to the extent necessary, Contractor's Surety. Such written approval by the City shall not relieve the Contractor of the obligations incurred by the Contractor under the terms of this Agreement.

Article 20. Third Party Rights

Nothing in this Agreement shall be construed to give any rights or benefits to anyone other than the City and Contractor.

Nothing in this Agreement shall create any contractual relationship between any subcontractor and the City. Contractor agrees to bind every approved subcontractor (and every subcontractor of a subcontractor) by the terms of this Contract as far as applicable to that subcontractor's work, unless specifically noted to the contrary in a subcontract approved in writing as adequate by the City. The City's Representative shall have the authority to consent to a subcontract as being adequate.

Article 21. Governing Law and Venue

This Agreement shall be governed by the laws of the State of Wisconsin. Venue of any disputes arising under this Agreement shall be in the Sheboygan County Circuit Court, Wisconsin.

Article 22. Non-Discrimination and Equal Opportunity

In connection with the performance of work under this Agreement, Contractor agrees not to discriminate against any employee or applicant for employment because of age, race, religion, color, handicap, sex, physical condition, disability, developmental disability (as defined in Wis. Stat. 51.01(5)), sexual orientation (as defined in Wis. Stat. 111.32(13m)), gender identity, or national origin. This provision shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

Contractor further agrees to take affirmative action to ensure equal employment opportunities.

Article 23. Compliance with Laws

In performing the Services under this Agreement, Contractor shall comply with any and all applicable federal, state, and local statutes, ordinances, plans, rules, and regulations.

The City reserves the right to cancel this Agreement if Contractor fails to follow the requirements of Wis. Stat. 77.66 and related statutes regarding certification for collection of sales and use tax. The City also reserves the right to cancel this Agreement with any state or federally debarred contractor.

Contractor shall have any and all licenses and permits required to perform the work specified, and shall furnish proof of such licensing authorization and permits upon request.

Article 24. Notices

Any notice required by this Agreement shall be made in writing to the individuals/addresses specified below:

City:**Contractor:**

City Clerk		
City of Sheboygan		Metals Treatment Technologies, LLC
828 Center Ave.		14045 W, 66 th Ave.
Sheboygan, Wisconsin 53083		Arvada, CO 80004

Nothing contained in this Article shall be construed to restrict the transmission of routine communications between representatives of the City and Contractor.

Article 25. Intent to be Bound

The City and Contractor each binds itself and its successors, executors, administrators, permitted assigns, legal representatives and, in the case of a partnership, its partners to the other party to this Agreement, and to the successors, executors, administrators, permitted assigns, legal representatives and partners of such other party in respect to all provisions of this Agreement.

Article 26. Force Majeure

Neither party shall be in default by reason of any failure in performance of this Agreement when such failure in performance is caused by or results from causes beyond the reasonable control of the affected party and without fault or negligence on the part of the affected party. Such causes may include, but are not restricted to, acts of nature or the public enemy, acts of the government in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather.

Article 27. Integration and Modification

This Agreement may be modified only by a written amendment signed by both parties hereto. This Agreement consists of the following parts, each of which is as fully a part of this Agreement as if fully set out herein:

1. This Agreement and its Exhibit
 - a. Exhibit 1 – MT2 Bid Submittal dated 8/24/2022
2. Any Written Amendment to the Agreement which may be delivered or issued after the Effective Date of the Agreement (including Change Orders)

(collectively “the Contract”).

This Contract is the entire and integrated agreement between the City and Contractor regarding the subject matter of this Contract. It supersedes all prior and contemporaneous communications, representations and agreements that are not part of this Contract.

In resolving conflicts, errors, discrepancies and disputes concerning the Scope of Work to be performed by Contractor, the document expressing the greater quantity, quality, or other scope of work in question, or imposing the greater obligation upon Contractor and affording the greater right or remedy to the City shall govern. If the Contract Documents and the Specifications should be contradictory in any part, the Specifications shall govern; otherwise, the documents shall be given precedence in the order set forth above.

Article 28. Non-Collusion

Contractor is certifying, under penalty of perjury, that to the best of its knowledge and belief:

1. The prices in its bid were arrived at independently, without collusion, consultation, communication, or agreement for the purpose of restricting competition as to any other matter relating to such prices with any other bidder or with any other competitor.
2. Unless otherwise required by law, the prices quoted in Contractor's bid were not disclosed by Contractor prior to opening.
3. No attempt was made to induce any other person, partnership, or corporation to submit or not submit a response to the City regarding the Services for the purpose of restricting competition.

Article 29. Other Provisions

1. Material Safety Data Sheet. If any item(s) on an order(s) resulting from this Agreement is a hazardous chemical, as defined under 29 C.F.R. 1910.1200, Contractor shall provide 1 copy of a Material Safety Data Sheet for each item with the shipped container(s) and 1 copy with the Request for Payment(s).
2. Advertising and News Releases. Reference to or use of the City, or any of its departments, officials, or employees, for commercial promotion is prohibited. News releases pertaining to this procurement shall not be made without prior approval of the City's Representative. Release of broadcast e-mails pertaining to this procurement shall not be made without prior written authorization of the City's Representative.
3. Foreign Corporation. A foreign corporation (any corporation other than a Wisconsin corporation) which becomes a party to this Agreement is required to conform to all the requirements of Wis. Stat. 180 relating to a foreign corporation, and must possess a certificate of authority from the Wisconsin Department of Financial Institutions, unless the corporation is transacting business in interstate commerce or is otherwise exempt from the requirement of obtaining a certificate of authority.
4. Authority. Each person executing this Agreement on behalf of a party hereto represents and warrants to the other party: That the execution and delivery of this Agreement has been duly authorized, that the person or persons executing this Agreement have the full power, authority, and right to do so, and that such execution is sufficient and legally binding on such party to enable this Agreement to be enforceable in accordance with its terms.
5. Intellectual Property. Contractor shall pay for any royalties and license fees associated with intellectual property used in the completion of the Services. Contractor shall defend any suits or claims for infringement of any intellectual property rights related to the

completion of the Services, and shall hold the City harmless from any liability associated with any such suit or claim.

6. Interpreting the Contract Documents. In interpreting the Agreement, words describing materials that have a well-known technical or trade meaning shall be construed in accordance with such well known meanings unless otherwise specifically defined.
7. Asbestos Materials.
 - a. The City is not aware of any Asbestos Containing Materials that will be disturbed or impacted by the Services. Roofing materials are assumed to contain asbestos. If the Contractor needs to remove roofing materials, the roofing materials can be sent to a licensed landfill with other demolition debris.
 - b. During the course of work, should Contractor encounter any materials believed to contain asbestos, the City shall be notified immediately.
8. Definitions.
 - a. Final Acceptance: The event that occurs when the City issues to Contractor a written statement that Contractor has completed all Punch List items, has made all necessary submittals to the City, and has satisfied all of Contractor's obligations under the Agreement.
 - b. Final Inspection: The inspection conducted by the City to determine what work must still be completed by Contractor in order for Completion of the Services to occur. After the Final Inspection, the City shall provide Contractor with a Punch List that Contractor must complete in order for Completion of the Services to occur.
 - c. Final Payment: Payment by the City to Contractor after Completion of the Services the result of which is Contractor receiving all payments due under the terms of the Agreement for performing and completing the Services.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first written above.

CITY OF SHEBOYGAN, WISCONSIN

**METALS TREATMENT
TECHNOLOGIES, LLC**

BY: _____
Ryan Sorenson, Mayor

BY: _____

ATTEST: _____
Meredith DeBruin, City Clerk

ATTEST: _____

DATE: _____

DATE: _____

This Agreement Authorized by Resolution No. ____-22-23.

EXHIBIT 1

August 24, 2022

Bernard Rammer, Purchasing Agent
City of Sheboygan
City Hall, Suite 110
828 Center Avenue
Sheboygan WI 53081
Bernard.rammer@sheboyganwi.gov.

RE: **RFB # 2025-22 REMEDIATION OF EXTERIOR EARTHEN
BERM STYLE SHOOTING RANGE**

Metals Treatment Technologies, LLC (MT2) is pleased to present the attached information in response to the City of Sheboygan's Request for Bid (RFB) 2025-22, Remediation of Exterior Earthen Berm Style Shooting Range. MT2's response is based on review of the RFB documents and our previous firing range design-build, berm resurfacing, and lead removal experience at sites nationwide for military, law enforcement, and government agencies.

Experience you can trust! *MT2 is the #1 and largest nationwide professional firing range lead reclamation, maintenance, cleaning & construction contractor.* We offer a wide range of outdoor firing range services from routine range maintenance, cleaning, lead/brass reclamation, and recycling, to trap reconstruction, soil stabilization, all the way to remediation and closure, to best serve your range needs. *Our personnel have on average 24 years industry experience* – this expertise saves time and money for our customers since there will be no learning curve that may be incurred by less experienced firms. MT2 staff maintain applicable certifications (e.g. OSHA HAZWOPER) and licensing. Additional information is provided in the attached: *MT2 Firing Range Services Experience and Expertise*.

Clients who work with us have the peace of mind that their project will be effortlessly scheduled, successfully completed with minimal down-time for their range, and quickly receive a check for their reclaimed lead. *MT2 is committed to getting you the absolute highest value for your range lead* so we offer *the opportunity to lock in the lead credit value at:* 1) The time of contracting **or** 2) When we arrive onsite and package the lead – *You are in control!*

To discuss your project in further detail, please contact me at (888) 435-6645 or email: mburkett@mt2.com.

Sincerely,



Michael Burkett, Executive Vice President

**MT2 is the Nation's #1 Firing
Range
Maintenance/Reclamation
Services Provider**

- >20 years' experience
- MT2 provides the most comprehensive liability protection for range owners in the industry
- Over 3,000 firing range projects nationwide
- Design/Build expertise – new construction, improvements, closure
- Recovery of > 15,000,000 lbs of lead
- Successful treatment of > 10,000,000 tons of lead impacted soils
- Credited > \$5,600,000 to range

- ✓ **MT2 is the #1 Largest Nationwide Professional Firing Range Lead Reclamation, Maintenance, Cleaning & Construction Contractor Specializing In:**
 - **Lead:** Treatment, Screening & Reclamation to MAXIMIZE Your Lead Value
 - **Environmental:** EPA & OSHA Consulting, Remediation, Soil/Waste Treatment, and Closure
 - **Maintenance:** Soil and Rubber Berms, Traps, Lead Remediation, and Range Improvements
 - **Construction:** Renovation, Design/Build, Improvements, Dismantling/Demolition
- ✓ **MT2 is the Only Nationwide Firing Range Services Provider:** MT2 operates from our network of regional offices and offers full 50 state coverage with OSHA & EPA-certified work teams to provide fast, professional service to fulfill your project needs and schedule. *MT2 has completed over 3,000 firing range projects nationwide* (see Section 4.0 MT2 Experience).
- ✓ **Lead Removal & Recycling – MT2 exclusively guarantees the highest value for your range lead:** MT2 has performed lead reclamation in all 50 states nationwide to remove and recycle over 15,000,000 lbs. of lead. *To maximize lead recovery*, MT2 uses our proprietary lead separation systems to separate lead from soils based on size, and “finish” the process by separating lead from like-size materials based on density. *MT2 guarantees to pay the highest percent of LME lead value at time of service – we have credited > \$5,600,000 to range owners from lead recycling.*
- ✓ **Lead Recycling Credit Options:** *MT2 guarantees to pay the highest percent of LME lead value. MT2 is committed to getting you the absolute highest value for your range lead so we offer the opportunity to LOCK IN the lead credit value at: 1) The time of contracting or 2) When we arrive onsite and package the lead - You are in control!* When you use our National Service Team to generate maximum lead recycling credit, the Range receives \$\$ in a check, or as credit at the nation’s leading Firing Range Supply Store with preferred pricing. MT2 has developed a strategic alliance with a national distributor of firearms, ammunition and shooting accessories with a 16,000+ catalog of premium firearms & accessories, they have served retail gun shops, major sporting goods stores, gun clubs, shooting ranges and government agencies since 1984; and are a supplier of nearly 100 of the world’s premier shooting industry manufacturers. *You are not limited to using your lead credit for only bullets or targets and we have negotiated highly preferred pricing for you from filters to firearms.*
- ✓ **Exclusive Lead-Contaminated Soil and Waste Treatment:** *MT2 utilizes our exclusive patented and proprietary ECOBOND® technology to treat lead-impacted soils/waste during lead maintenance projects to save an average of 50% on waste disposal or to mitigate potential physical, occupational, and environmental hazards associated with high concentrations of lead in range soils;* as well as achieve compliance with OSHA, US EPA, State, and NRA and NSSF recommended firing range environmental Best Management Practices (BMPs). *ECOBOND® is regularly approved and even specified for use by US EPA and state regulatory agencies.*
- ✓ **MT2’s Liability Defender Compliance & Performance Promise:** Your choice of a lead reclamation contractor could expose your range to US EPA hazardous waste fines up \$50,000 per day (penalties double for subsequent violations) and potential criminal charges. *A range owner ALWAYS retains responsibility for ALL lead waste and materials derived from their range even if it is their chosen contractor that improperly handles, transports, or disposes of the lead waste.*
 - When you hire MT2, you can rely on and trust our extensive prior track record as the industry leader. In addition, we guarantee our performance with a \$10,000,000 environmental and lead pollution insurance liability coverage package that protects range owners and managers from claims or occurrences of lead hazard violations, penalties, and cleanup expenses.
 - **MT2 has never received OSHA or EPA violations.** In fact, not only does MT2 comply with regulations, we also helped establish industry standards for environmental and safety methods. MT2’s zero-tolerance for regulatory violations gives range owners the peace of mind that their project will be successfully completed on a guaranteed schedule.

- ✓ **Environmental Stewardship Planning:** MT2 has extensive experience assisting range owners understand and meet recommended firing range Best Management Practices including the *development of 100's of site-specific Environmental Stewardship Plans to NSSF, NRA, and EPA guidance standards.*
- ✓ **Firing Range Design and Construction:** With over 20 years' experience, MT2 is a fully integrated professional and technical services firm positioned to design and build projects nationwide for public and private sector clients. MT2 was recently recognized as an Inc. 5,000 fastest growing company and is the *ONLY contractor who is the premier all-in-one solution for firing range assessment, and lead maintenance and reclamation who also provides the fully integrated combination of design and build construction services.* With our knowledge of federal, state, and local compliance orders, as well as technical and US EPA RCRA requirements, we can manage, monitor, and inspect progress to ensure services are preformed to necessary standards.

BID FORM

Remediation of Lead from Earthen Style Berm shooting range

Bid Due 1:00 PM

Wednesday August 24, 2022 Local Time

Electronic Submission to:

Bernard.rammer@sheboyganwi.gov

We Metals Treatment Technologies, LLC

~~(a joint venture)~~

~~(a corporation)~~

~~(a partnership)~~

~~(an individual)~~

(Cross out inapplicable)

~~(a limited liability company)~~

of 14045 W 66th Avenue, Arvada, Jefferson, Colorado 80004 Street

City

County

State

ZIP

hereby agree to provide all labor and material required for the construction of the project designated above, for the prices hereinafter set forth, in strict accordance with the specification Documents.

BASE BID –

Excavation of earthen berm style bullet backstop as needed to substantially remove lead bullet fragments from the soils to a depth of not less than 24" from the surface of the entire length of the berm. The soils to be removed will be sifted on-site and the lead fragments recovered for recycling. The soils will then be replaced to effectively reconstruct the earthen berm style bullet backstop in a manner similar in dimensions to that prior to the work being performed.

For the sum of thirty-two thousand Dollars

(\$ 32,000)

RECEIPT OF ADDENDA

The undersigned acknowledges receipt of Addenda numbers None.

COMMENCEMENT AND COMPLETION OF CONTRACT WORK

The undersigned agrees, if awarded the contract, to commence the contract work on or before a date to be specified in a written notice to proceed, and to complete the work within the time stated in the Instructions to Bidders.

Metals Treatment Technologies, LLC

(Firm Name)

(303) 456-6977

(Area Code & Telephone Number)

(303) 456-6998

(Fax Number)

Email info@mt2.com

By Michael Burkett

(Signature of Bidder)

Title Michael Burkett, Executive Vice President

(Seal, if bid is by a Corporation)

Date: 8/24/2022

End

Document A310™ – 2010

Conforms with The American Institute of Architects AIA Document 310

Bid Bond

CONTRACTOR:

(Name, legal status and address)

Metals Treatment Technologies, LLC
14045 W 66th Avenue
Arvada, CO 80004

SURETY:

(Name, legal status and principal place of business)

Philadelphia Indemnity Insurance Company
One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004-1403

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

OWNER:

(Name, legal status and address)

City of Sheboygan
2026 New Jersey Avenue
Sheboygan, WI 53081

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

BOND AMOUNT: \$ Five Percent (5%) of the Total Amount Bid

PROJECT:

(Name, location or address, and Project number, if any)

Invitation for Bids # 2025-22, Remediation of Lead from Earthen Style Berm shooting range, Sheboygan, WI


The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters into a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

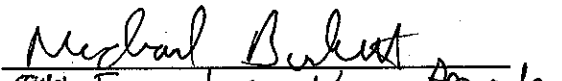
When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.


Signed and sealed this 22nd day of August

2022


(Witness)

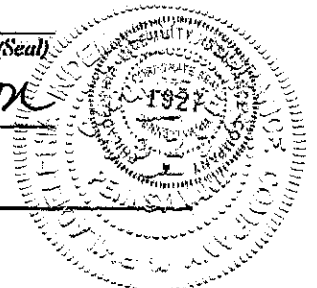
Metals Treatment Technologies, LLC
(Principal) (Seal)


(Title) Executive Vice President


(Witness) Ashlea McCaughey

Philadelphia Indemnity Insurance Company
(Surety) (Seal)


(Title) Sarah C. Brown, Attorney-in-Fact



PHILADELPHIA INDEMNITY INSURANCE COMPANY

One Bala Plaza, Suite 100
Bala Cynwyd, PA 19004-0950

Power of Attorney

KNOW ALL PERSONS BY THESE PRESENTS: That **PHILADELPHIA INDEMNITY INSURANCE COMPANY** (the Company), a corporation organized and existing under the laws of the Commonwealth of Pennsylvania, does hereby constitute and appoint **Todd D. Bengford, Mark Sweigart, Donald E. Appleby, Sarah C. Brown, Jessica Jean Rini and Ashlea McCaughey of Holmes Murphy and Associates, LLC** its true and lawful Attorney-in-fact with full authority to execute on its behalf bonds, undertakings, recognizances and other contracts of indemnity and writings obligatory in the nature thereof, issued in the course of its business and to bind the Company thereby, in an amount not to exceed **\$50,000,000**.

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of PHILADELPHIA INDEMNITY INSURANCE COMPANY on the 14th of November, 2016.

RESOLVED:

That the Board of Directors hereby authorizes the President or any Vice President of the Company: (1) Appoint Attorney(s) in Fact and authorize the Attorney(s) in Fact to execute on behalf of the Company bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof and to attach the seal of the Company thereto; and (2) to remove, at any time, any such Attorney-in-Fact and revoke the authority given. And, be it

**FURTHER
RESOLVED:**

That the signatures of such officers and the seal of the Company may be affixed to any such Power of Attorney or certificate relating thereto by facsimile, and any such Power of Attorney so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN TESTIMONY WHEREOF, PHILADELPHIA INDEMNITY INSURANCE COMPANY HAS CAUSED THIS INSTRUMENT TO BE SIGNED AND ITS CORPORATE SEAL TO BE AFFIXED BY ITS AUTHORIZED OFFICE THIS 5TH DAY OF MARCH, 2021.

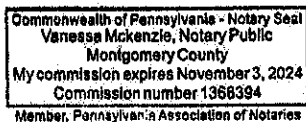


(Seal)

John Glomb, President & CEO
Philadelphia Indemnity Insurance Company

On this 5th day of March, 2021 before me came the individual who executed the preceding instrument, to me personally known, and being by me duly sworn said that he is the therein described and authorized officer of the **PHILADELPHIA INDEMNITY INSURANCE COMPANY**; that the seal affixed to said instrument is the Corporate seal of said Company; that the said Corporate Seal and his signature were duly affixed.

Notary Public:



residing at:

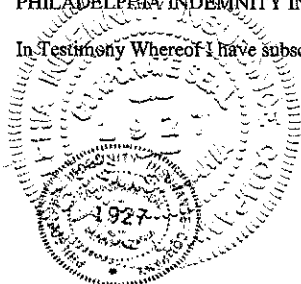
Bala Cynwyd, PA

My commission expires:

November 3, 2024

I, Edward Sayago, Corporate Secretary of PHILADELPHIA INDEMNITY INSURANCE COMPANY, do hereby certify that the foregoing resolution of the Board of Directors and the Power of Attorney issued pursuant thereto on the 5th day March, 2021 are true and correct and are still in full force and effect. I do further certify that John Glomb, who executed the Power of Attorney as President, was on the date of execution of the attached Power of Attorney the duly elected President of PHILADELPHIA INDEMNITY INSURANCE COMPANY.

In Testimony Whereof I have subscribed my name and affixed the facsimile seal of each Company this 22nd day of August, 2022



Edward Sayago, Corporate Secretary
PHILADELPHIA INDEMNITY INSURANCE COMPANY