

SECTION 00 52 00

AGREEMENT

THIS AGREEMENT is by and between _____
(hereinafter called OWNER) and _____
(hereinafter called CONTRACTOR).

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

OWNER and CONTRACTOR, in consideration of the mutual covenants set forth herein, 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:

Article 2. THE PROJECT

2.01 The Project for which the Work under the Contract Documents may be the whole or only a part is generally described as follows:

Article 3. ENGINEER

3.01 OWNER has retained Strand Associates, Inc.[®] ("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 except for resident project representative services. OWNER will assume these duties and responsibilities and the rights and authority thereto in accordance with the Contract Documents.

3.02 The part of the Project that pertains to the Work has been designed by ENGINEER.

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 Dates for Substantial Completion and Final Payment

A. The Work will be substantially complete on or before May 15, 2026 and will be completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions on or before June 5, 2026.

In addition to the required substantial and final completion times, there are milestones by which certain items of work must be completed. See General Requirements for milestone requirements.

Milestone 1 May 1, 2026

4.03 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 \$500 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. This amount is comprised of \$250 per day for engineering, construction administration services, and construction observation services, and \$250 per day for administration, labor, expenses, and other costs that will be incurred by OWNER.

2. Completion of Remaining Work: After Substantial Completion, if CONTRACTOR shall neglect, refuse, or fail to complete the remaining Work within the Contract Time (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, CONTRACTOR shall pay OWNER \$500 for each day that expires after such time until the Work is completed and ready for final payment. This amount is comprised of \$250 per day for engineering, construction administration services, and construction observation services, and \$250 per day for administration, labor, expenses, and other costs that will be incurred by OWNER.

3. Milestones: CONTRACTOR shall pay OWNER \$500 for each day that expires after the time (as duly pursuant to the Contract) specified above for achievement of Milestone 1, until Milestone 1 is achieved, or until the time specified for Substantial Completion is reached, at which time the rate indicated in Paragraph 4.03.A.1 will apply, rather than the Milestone rate.

4. Liquidated damages for failing to timely attain Milestones, Substantial Completion, and final completion are not additive, and will not be imposed concurrently.

Article 5. CONTRACT PRICE

5.01 OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount in current funds as follows, subject to adjustment under the Contract:

A. For all Work, at the prices stated in CONTRACTOR's Bid, attached hereto as an exhibit.

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 as established at the preconstruction conference during performance of the Work as provided in Paragraphs 6.02.A.1 and 6.02.A.2 below. All such payments will be measured by the schedule of values established in Paragraph 2.05.A of 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 in the General Requirements:

1. Prior to Substantial Completion, OWNER will retain an amount equal to 5% of each progress payment application until 50% of the Work has been completed. At 50% completion, further progress payment applications shall be paid in full to CONTRACTOR and no additional amounts will be retained unless ENGINEER certifies to OWNER that the job is not proceeding satisfactorily. Amounts previously retained shall not be paid to CONTRACTOR until substantial completion of the Work. At 50% completion of the Work, or any time thereafter when the character and progress of the Work is not satisfactory to OWNER on recommendation of ENGINEER, additional amounts may be retained, but in no event shall the total retainage be more than 10% of the value of the work completed.

2. Upon Substantial Completion, OWNER shall pay an amount sufficient to increase total payments to CONTRACTOR to 98% of the Work completed, less such amounts as ENGINEER shall determine in accordance with Paragraph 15.01.C.5 and 15.01.C.6 of the General Conditions and less 100% of ENGINEER's estimate of the value of Work to be completed or corrected as shown on the tentative list of items to be completed or corrected attached to the certificate of Substantial Completion.

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 Consent of Surety

A. OWNER will not make final payment unless CONTRACTOR submits written consent of the surety to such payment.

Article 7. HIERARCHY

7.01 In resolving inconsistencies among two or more sections of the Contract Documents, precedence shall be given in the following order:

First:	WRITTEN AMENDMENTS
Second:	CHANGE ORDERS/FIELD ORDERS/WORK CHANGE DIRECTIVES
Third:	ADDENDA
Fourth:	AGREEMENT
Fifth:	SUPPLEMENTARY CONDITIONS
Sixth:	GENERAL CONDITIONS
Seventh:	SPECIFICATIONS
Eighth:	DRAWINGS

For categories that have the same order of precedence, the document that includes the latest date shall control. Figure dimensions (numerical) on Drawings shall take precedence over dimensions measured utilizing a scale.

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, if any, 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.

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.

Article 9. CONTRACT DOCUMENTS

9.01 Contents

A. The Contract Documents consist of the following:

1. This Agreement (pages 00 52 00-1 through 00 52 00-____, inclusive);
2. Performance Bond (pages 00 61 13.13-1 through 00 61 13.13-4, inclusive);
3. Payment Bond (pages 00 61 13.16-1 through 00 61 13.16-4, inclusive);
4. Other bonds
 - a. _____ (pages _____ to _____, inclusive);
 - b. _____ (pages _____ to _____, inclusive);
 - c. _____ (pages _____ to _____, inclusive);
5. General Conditions (pages 00 72 00-1 through 00 72 00-____, inclusive);
6. Supplementary Conditions (pages 00 73 00-1 through 00 73 00-____, inclusive);
7. Specifications as listed in the table of contents of the Project Manual;
8. Drawings—Sheets No. _____ through No. _____

inclusive incorporated herein by reference with each sheet bearing the following general title:

as well as drawings listed in the table of contents that are bound at the back of these Specifications.

9. Addenda (_____).
10. Exhibits to this Agreement (enumerated as follows:)
 - a. CONTRACTOR's Bid (pages _____ to _____);

- b. Documentation submitted by CONTRACTOR prior to Notice of Award
(_____);
- c. (_____);

11. The following may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:

- a. Notice to Proceed (pages {_____} to {_____}, inclusive);
- b. Erosion Control Certification (pages {_____} to {_____}, inclusive);
- c. Work Change Directives (not attached to this Agreement);
- d. Change Order(s) (not attached to this Agreement);
- e. Warranty Bond, if any.

B. The Contract Documents listed in Paragraph 9.01.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 9.

D. The Contract Documents may only be amended, modified, or supplemented as provided in Paragraph 11.01 of the General Conditions.

Article 10. MISCELLANEOUS

10.01 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.

10.02 Integration

A. The parties' entire agreement is contained in the Contract Documents, and the provisions of the Contract Documents supersede all prior discussions or writings between the parties.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in duplicate. One counterpart each has been delivered to OWNER and CONTRACTOR. All portions of the Contract Documents have been signed or identified by OWNER and CONTRACTOR or identified by ENGINEER on their behalf.

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

OWNER

Signature and Title

ATTEST:

By:

Signature and Title

Address for Giving Notices:

Name:

Street:

City, State, Zip Code:

Phone:

Facsimile:

E-mail:

Designated Representative:

CONTRACTOR _____

Signature and Title

ATTEST:

By: _____

Signature and Title

Address for Giving Notices:

Name: _____

Street: _____

City, State, Zip Code: _____

Phone: _____

Facsimile: _____

E-mail: _____

Designated Representative: _____

License No.: _____
(Where applicable)

(If CONTRACTOR is a corporation, limited liability company, or a partnership, attach evidence of authority to sign.)

Approved as to form:

OWNER's Attorney

Date

OWNER's City Manager

Date

Provision has been made to pay the liability that will accrue under this Agreement:

Countersigned:

OWNER's Comptroller, Treasurer, or Auditor

Date

INSTRUCTIONS FOR EXECUTING CONTRACT

The full name and business address of CONTRACTOR should be inserted and the Agreement should be signed with CONTRACTOR's official signature. Please have the name of the signing party printed under all signatures to the Agreement.

If CONTRACTOR is operating as a partnership, each partner should sign the Agreement. If the Agreement is not signed by each partner, there should be attached to the Agreement a duly authenticated power of attorney evidencing the signer's (signers') authority to sign such Agreement for and on behalf of the partnership.

If CONTRACTOR is an individual, the trade name (if CONTRACTOR is operating under a trade name) should be indicated in the Agreement and the Agreement should be signed by such individual. If signed by other than CONTRACTOR, there should be attached to the Agreement a duly authenticated power of attorney evidencing the signer's authority to execute such Agreement for and on behalf of CONTRACTOR.

If CONTRACTOR is operating as a limited liability company, and it is member-managed, each member should sign the Agreement, or an authorized member should sign. If the LLC is manager-managed, an authorized manager should sign. If the Agreement is not signed by each member, there should be attached to the Agreement a duly authenticated power of attorney evidencing the signer's (signers') authority to sign such Agreement for and on behalf of the LLC.

If CONTRACTOR is a corporation, the Secretary of the corporation should sign the certificate below. If the Agreement itself is signed by the Secretary of the corporation, the certificate below should be executed by some other officer of the corporation. In lieu of the following certificate, there may be attached to the Agreement copies of so much of the records of the corporation which will show the official character and authority of the officers signing, duly certified by the Secretary or Assistant Secretary to be true copies.

I, _____, certify that I am the _____
(*Print Name*) *(Title of Individual Signing this Certificate)*

of the corporation named as CONTRACTOR herein above; that _____
(*Print Name of Officer Signing Agreement*)

who signed the foregoing Agreement on behalf of CONTRACTOR was then
_____ of said corporation; that said Agreement was duly signed
(*Title of Officer Signing Agreement*)

for and on behalf of said Corporation by authority of its governing body, and is within the scope of its corporate powers.

(*Individual Signature*)

END OF SECTION

SECTION 00 55 00
NOTICE TO PROCEED

Dated: _____

TO: _____
(CONTRACTOR)

ADDRESS: _____

PROJECT: _____

OWNER'S CONTRACT NO.: _____

CONTRACT FOR: _____

(Insert name of Contract as it appears in the Bidding Documents)

You are notified that the Contract Time under the above Contract will commence to run on _____ day of _____, 20_____. On that date, you are to start performing your obligations under the Contract Documents.

Before you may start any work at the site, Paragraph 2.01.B of the General Conditions provides that you must deliver to OWNER (with copies to ENGINEER and other identified additional insureds) certificates of insurance, copies of endorsements, and other evidence of insurance which you are required to purchase and maintain in accordance with the Contract Documents.

Also before you may start any work at the site, you must _____

(Add Other Requirements)

(OWNER)
By: _____
(Authorized Signature)

(Title)

END OF SECTION

SECTION 00 55 10
EROSION CONTROL CERTIFICATION

Dated: _____

TO: _____
(OWNER)

ADDRESS: _____

PROJECT: _____

OWNER'S CONTRACT NO.: _____

CONTRACT FOR: _____

(Insert name of Contract as it appears in the Bidding Documents)

I certify under penalty of law that I understand the terms and conditions of the General National Pollutant Discharge Elimination System (NPDES) Permit that authorizes the stormwater discharges associated with industrial activities from the construction site and as may be detailed in the Contract Documents.

I agree to indemnify and hold OWNER harmless from any claims, demands, suits, causes of action, settlements, fines, or judgments and the costs of litigation, including, but not limited to, reasonable attorneys fees and costs of investigation and arising from a condition, obligation, or requirement assumed or to be performed by CONTRACTOR for storm water pollution and erosion control.

Fines and other costs incurred against OWNER for CONTRACTOR's failure to provide the required erosion control practices will be paid by CONTRACTOR.

(CONTRACTOR)

By: _____
(Authorized Signature)

(Title)

END OF SECTION