

## AGREEMENT

An Agreement made as of the \_\_\_\_\_ day of \_\_\_\_\_, by and between the Jordan Valley Water Conservancy District, a water conservancy district organized under the laws of the State of Utah ("OWNER"), and \_\_\_\_\_, a \_\_\_\_\_ corporation qualified to do business and doing business in the State of Utah ("CONTRACTOR").

### TERMS:

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

### ARTICLE I WORK

CONTRACTOR shall complete all Work as specified or indicated in the Contract Documents for the \_\_\_\_\_. The Work is generally described as follows:

Furnishing all labor, services, materials, equipment, and supplies except for such materials, equipment, and services as may be stipulated in the Contract Documents to be furnished by the OWNER; furnishing and removing all plant machinery, temporary structures, tools, supplies, transportation, utilities, and all other items, facilities and equipment, and to do everything required by this Agreement and the Contract Documents; accepting all responsibility for and paying for all loss and damage arising out of the nature of the Work aforesaid, or from the action of the elements, or from any unforeseen difficulties which may arise during the prosecution of the Work until its acceptance by OWNER, and for all risks of every description connected with the Work; also for all expenses resulting from the suspension or discontinuance of work, except as in the Contract Documents are expressly stipulated to be borne by OWNER.

### ARTICLE II ENGINEER

The Project has been designed by the OWNER. The OWNER will assume all duties and responsibilities and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

**[ALTERNATE PARAGRAPH]** The Project has been designed by \_\_\_\_\_, a \_\_\_\_\_ corporation qualified to do business and doing business in the State of Utah, 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 completion of the Work in accordance with the Contract Documents.

### ARTICLE III CONTRACT TIME

- 3.1 The Work shall be complete, in accordance with paragraphs 14.08 and 14.09 of the General Conditions, on or before \_\_\_\_\_.
- 3.2 Liquidated Damages: OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that the OWNER will suffer financial loss if the Work is not completed within the time specified in paragraph 3.1 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. They 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 proof of loss, OWNER and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty) CONTRACTOR shall pay OWNER the amount specified in Article 14.07 of the General Conditions and in Article 18.01 of the Supplementary General Conditions for each day that expires after the time specified in paragraph 3.1 for final completion until the Work is substantially complete. And, after Substantial Completion if CONTRACTOR neglects, refuses or fails to complete the remaining Work within forty-five (45) days or any proper extension thereof granted by OWNER, CONTRACTOR shall pay OWNER the amount specified in Article 14.07 of the General Conditions and in Article 18.01 of the Supplemental General Conditions for each day that expires after the forty-five (45) days until readiness for final payment.

### ARTICLE IV CONTRACT PRICE

All payments to Contractor shall be made in accordance with the Contract Documents. OWNER shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents in current funds those prices stated in the approved Bid Schedule as named in the Notice of Award.

### ARTICLE V PAYMENT PROCEDURES

CONTRACTOR shall submit Applications for Payment in accordance with Article 14 of the General Conditions. Applications for Payment will be processed by ENGINEER as provided in the General Conditions.

- 5.1 Progress Payments: OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR's Applications for Payment

as recommended by ENGINEER, on a monthly basis. All progress payments will be on the basis of the progress of the Work measured by the schedule of values established 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 in the General Conditions.

- 5.2 Final Payment: Upon final completion and acceptance of the Work in accordance with Article 14 of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in Article 14.

## ARTICLE VI INTEREST

All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the rate of twelve percent (12%) per annum.

## ARTICLE VII CONTRACTOR'S REPRESENTATION

In order to induce OWNER to enter into the Agreement, CONTRACTOR makes the following representations:

- 7.1 CONTRACTOR has familiarized itself with the nature and extent of the Contract Documents, Work, site, locality, and all local conditions and Laws and Regulations that in any manner may affect cost, progress, performance or furnishing of the Work.
- 7.2 CONTRACTOR has studied carefully all exploration reports and test of subsurface conditions and drawings of physical conditions which are identified in the Supplementary General Conditions, as provided in paragraph 4.02 of the General Conditions, and accepts the Technical Data contained in such reports and drawings upon which CONTRACTOR is entitled to rely.
- 7.3 CONTRACTOR has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests, reports and studies (in addition to or to supplement those referred to in paragraph 7.2 above) which pertain to the subsurface or physical conditions at or contiguous to the site or otherwise may affect the cost, progress, performance or furnishing of the Work as CONTRACTOR considers necessary for the performance or furnishing of the Work at the Contract Price, within the Contract Time and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of paragraph 4.02 of the General Conditions; and no additional examinations, investigations, explorations, tests, reports,

studies or similar information or data are or will be required by CONTRACTOR for such purposes.

- 7.4 CONTRACTOR has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities.
- 7.5 CONTRACTOR has correlated the results of all observations, examinations, investigations, explorations, tests, reports and studies with the terms and conditions of the Contract Documents.
- 7.6 CONTRACTOR has given ENGINEER written notice of all conflicts, errors or discrepancies that he had discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

## ARTICLE VIII CONTRACT DOCUMENTS

The Contract Documents for the \_\_\_\_\_, which comprise the entire agreement between OWNER and CONTRACTOR concerning the Work, consist of the following:

- 8.1 This Agreement;
- 8.2 Performance and Payment Bonds;
- 8.3 Notice of Award;
- 8.4 Notice to Proceed;
- 8.5 General Conditions;
- 8.6 Supplemental General Conditions;
- 8.7 Notice Inviting Bids;
- 8.8 Instructions to Bidders;
- 8.9 Information Required of Bidder;
- 8.10 Technical Specifications;
- 8.11 Drawings - Sheet Number One;
- 8.12 Addendum Number One; and,
- 8.13 CONTRACTOR's Bid, including all schedules and explanatory attachments; attached as Exhibit A.

The CONTRACTOR (1) acknowledges that he has received a copy of each document, specified above, (2) acknowledges that he has read and understands each document specified above and (3) agrees to every term, condition and contract obligation set forth in each document specified above.

There are no Contract Documents other than those listed above in this Article 8. The Contract Documents may only be amended, modified or supplemented as provided in paragraphs 3.03 of the General Conditions.

ARTICLE IX  
FEDERAL REQUIREMENTS

The CONTRACTOR shall comply with federal regulations as stated in the Supplemental General Conditions, Article 21.

ARTICLE X  
MISCELLANEOUS

- 10.1 Terms used in this Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.
- 10.2 No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but without limitation, moneys that may become due and moneys that are 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.
- 10.3 In the event any legal action or other proceeding is brought for the enforcement of this Agreement and/or the Contract Documents, or for damages, because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions thereof, the successful or prevailing party shall be entitled to recover reasonable attorneys= fees and other costs incurred in the action or proceeding, in addition to any other relief to which it may be entitled.
- 10.4 Any notice to be given hereunder shall be deemed given when sent by registered or certified mail, postage prepaid to the parties at their respective addresses stated below or at any other address when notice of such change of address has been given as provided in this Article 10.4.

“OWNER”:

JORDAN VALLEY WATER  
CONSERVANCY DISTRICT  
8215 SOUTH 1300 WEST  
WEST JORDAN, UT 84088

By: \_\_\_\_\_  
Richard P. Bay  
Its Chief Executive Officer  
and General Manager

“CONTRACTOR”:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Utah License No. \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

EXHIBIT A  
CONTRACTOR'S BID