

## SECTION 00500

### AGREEMENT

#### FORM OF AGREEMENT

**THIS AGREEMENT IS BY AND BETWEEN VILLAGE OF HANOVER (HEREINAFTER CALLED OWNER) AND LOUIE'S TRENCHING SERVICE, INC. HEREINAFTER CALLED CONTRACTOR).**

**OWNER AND CONTRACTOR, IN CONSIDERATION OF THE MUTUAL COVENANTS HEREINAFTER SET FORTH, 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:

Village of Hanover – Wastewater Treatment Plant Rock Filter

#### ARTICLE 2 - THE PROJECT

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

Village of Hanover - Wastewater Treatment Plant Rock Filter

#### ARTICLE 3 - ENGINEER

**3.01 The Project** has been designed by Fehr Graham 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 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 Days to Achieve Substantial Completion and Final Payment

- A. Owner's expectation is for the project construction work to commence immediately after the awarded contractor receives the Notice to Proceed from the Engineer with required contract documents signed and verified. The Work will be substantially completed within 30 days after the date when the Contract Times commence to run as provided in Section 2.03 of the General Conditions and completed and ready for final payment in accordance with Section 14.07 of the General Conditions within 40 days after the date when the Contract Times commence to run.

##### 4.03 Liquidated Damages

- A. CONTRACTOR and OWNER recognize that time is of the essence of this Agreement and that OWNER will suffer financial loss if the Work is not completed within the times specified in paragraph 4.02 above, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. 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), CONTRACTOR shall pay OWNER \$250 for each day that expires after the time specified in paragraph 4.02 for Substantial Completion until the Work is substantially complete. After Substantial Completion, if CONTRACTOR shall neglect, refuse, or fail to complete the remaining Work within the Contract Time or any proper extension thereof granted by OWNER, CONTRACTOR shall pay OWNER \$250 for each day that expires after the time specified in paragraph 4.02 for completion and readiness for final payment until the Work is completed and ready for final payment.

## 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 equal to the sum of the amounts determined pursuant to paragraphs 5.01.A, 5.01.B, and 5.01.C below:

A. For all Work other than Unit Price Work, a Lump Sum of:

### Base Bid

No.	Item	Unit	Est. Qty.	Price	Total Est. Price
1.	Rock Filter Project, Complete	LS	1	\$72,100.00	\$72,100.00
<b>Total</b>					\$72,100.00

Quantities are not guaranteed. Final payment will be based on actual quantities.

- ❖ Bid evaluation and Contractor selection shall be done on the Base Bid items. The intent of the Supplemental Pricing is to provide costs for possible additional items that may be desired (or required) to complete the construction work.

### Supplemental Pricing Items Complete (if Desired/Required)

No.	Item	Unit	Est. Qty.	Price	Total Est. Price
1.	Rock Filter Aggregate Media	TON	1	\$30.00	\$30.00
2.	Lagoon Fencing	FT	1	\$10.00	\$10.00
<b>Total</b>					\$

Quantities are not guaranteed. Final payment will be based on actual quantities.

Note: The items bid herein include all labor, transportation, equipment, services and materials needed to complete the operation. Any project items not listed as pay items are considered incidental to the total construction project.

Upon evaluation of the bids, Owner shall make contract award to lowest responsive bidder as Lump Sum Bid to one Contractor.

Owner still reserves the right to reject all bids and not award a Contract.

## ARTICLE 6 - PAYMENT PROCEDURES

### 6.01 Submittal and Processing of Payments

A. **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.

### 6.02 Progress Payments; Retainage

A. **OWNER** shall make progress payments on account of Contract Price on the basis of **CONTRACTOR's** Applications for Payment on or about the 15th day of each month 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 Section 2.07.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, 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 **ENGINEER** may determine or **OWNER** may withhold, in accordance with Section 14.02 of the General Conditions:

- a. 90% of Work completed (with the balance being retainage). If the Work has been 50% completed as determined by ENGINEER, and if the character and progress of the Work has been satisfactory to OWNER and ENGINEER, OWNER, on recommendation of ENGINEER, may determine that as long as the character and progress of the Work remain satisfactory to them, there will be no retainage on account of Work subsequently completed, in which case the remaining progress payments prior to Substantial Completion will be in an amount equal to 100% of the Work completed less the aggregate of payments previously made; and
  - b. 90% of cost of materials and equipment not incorporated in the Work (with the balance being retainage).
  - c. All payments by the OWNER will be made only on receipt of an accurate Contractor's Affidavit, with accompanying signed Lien Waivers (partial for work-to-date or final).
2. Upon Substantial Completion, OWNER shall pay an amount sufficient to increase total payments to CONTRACTOR to 95% of the Work completed, less such amounts as ENGINEER shall determine in accordance with Section 14.02.B.5 of the General Conditions and less 90% 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 Section 14.07 of the General Conditions, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER as provided in said Section 14.07.

### **ARTICLE 7 - INTEREST**

- 7.01** All moneys not paid when due as provided in Article 14 of the General Conditions shall bear interest at the rate of 6% per annum.

### **ARTICLE 8 - CONTRACTOR'S REPRESENTATIONS**

- 8.01** In order to induce OWNER to enter into this Agreement CONTRACTOR makes the following representations:

- A. CONTRACTOR has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
- B. CONTRACTOR has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. CONTRACTOR is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the Site which may affect cost progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by CONTRACTOR, including applying the specific means, methods, techniques, sequences, and procedures of construction, if any, expressly required by the Contract Documents to be employed by CONTRACTOR, and safety precautions and programs incident thereto.
- E. CONTRACTOR does not consider that any 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 Documents.
- F. 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.

- G. CONTRACTOR has correlated the information known to CONTRACTOR, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- H. CONTRACTOR has given ENGINEER written notice of all conflicts, errors, ambiguities, or discrepancies that CONTRACTOR has discovered in the Contract Documents, and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

## **ARTICLE 9 - CONTRACT DOCUMENTS**

### **9.01 Contents**

- A. The Contract Documents consist of the following:
  - 1. This Agreement;
  - 2. Performance Bond;
  - 3. Payment Bond;
  - 4. General Conditions;
  - 5. Supplementary Conditions;
  - 6. Specifications as listed in the table of contents;
  - 7. Drawing consists of a single sheet (Sheet 1 of 1) bearing the following general title: Village of Hanover – Wastewater Treatment Plant Rock Filter Project contained in Attachment A of the Specifications
  - 8. Exhibits to this Agreement (enumerated as follows):
    - a. Notice to Proceed;
    - b. CONTRACTOR's Bid;
    - c. Documentation submitted by CONTRACTOR prior to Notice of Award;
  - 9. The following which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto:
    - a. Written Amendments;
    - b. Work Change Directives;
    - c. Change Order(s).
- B. The 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 Section 3.04 of the General Conditions.

## **ARTICLE 10 - MISCELLANEOUS**

### **10.01 Terms**

- A. Terms used in this Agreement will have the meanings indicated in the General Conditions.

### **10.02 Assignment of Contract**

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, 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.

### 10.03 Successors and Assigns

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

### 10.04 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.

### 10.05 Contract Warranty

- A. Upon issue date of the Certificate of Substantial Completion, the CONTRACTOR shall guarantee all work and construction materials for one (1) year. Any project faultiness incurred during this duration of time, based on contractor workmanship or failure to follow the contract documents, shall be repaired to the satisfaction of the OWNER at no cost to the OWNER.

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 on their behalf.

This Agreement will be effective on 6-27-2018 DS  
6-12-18 (which is the Effective Date of the Agreement).

OWNER:

CONTRACTOR:

**Village of Hanover**

**Louie's Trenching Service, Inc.**

By: Donald E. Schmitt  
[Corporate Seal]

By: Robert A. Hal  
[Corporate Seal]

Attest: [Signature]  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Attest: Rebecca Fisher  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Address for giving notices: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Address for giving notices: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**LOUIE'S TRENCHING SERVICE, INC**

9720 Highway 20 West  
GALENA, ILLINOIS 61036

If OWNER is a corporation, attach evidence of authority to sign.

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

If OWNER is a public body, attach evidence of authority to sign and where applicable, resolution or other documents authorizing execution of OWNER-CONTRACTOR Agreement.

If OWNER is a partnership, attach evidence of authority to sign.

Agent for service of process:

Agent for service of process:

Designated Representative:

Name: Darin W. Stykel  
Title: Sr. Engineering Technician  
Address: 221 East Main Street, #200  
Freeport, IL 61032  
Phone: (815) 235-7643  
Facsimile: (815) 235-4632

Designated Representative:

Name: Robert Hahn  
Title: Corp Sec Manager  
Address: 9720 Hwy 20 W  
Galena, IL 61036  
Phone: 815-777-0865  
Facsimile: 815-777-9158

END OF SECTION