

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

THIS AGREEMENT is by and between Webb County a political subdivision of the state of Texas acting through its Commissioner Court, 1000 Houston Street, Laredo Texas 78040 ("Owner") and JMJ Diaz, Corporation d/b/a JMJ Constructors, 2005 N. Los Ebanos Boulevard, Alton, Texas 78573 ("Contractor"). Owner and Contractor hereby agree as follows:

ARTICLE 1 - WORK

1.01 Contractor shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as follows: Facility Improvements (Upgrades) to Webb County's Regional Wastewater Treatment Facility.

ARTICLE 2 - THE PROJECT

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

- A. The complete Work will provide the Owner with upgrades to the existing Webb County Regional Wastewater Treatment Facility. More specifically, the project includes, but is not limited to the following:
1. Rehabilitation of the following facilities: Sequencing Batch Reactors, Blower building, Chlorine Storage Building, Non-Potable Water System, Belt Filter Press Building, and Sludge Drying Beds.
 2. Construction of the following facilities: Headworks and Aerated Sludge Holding Tank.
 3. Rehabilitation and addition of a plant wide SCADA system for monitoring and control of plant processes.

ARTICLE 3 - ENGINEER

- 3.01 The Project has been designed by **Garver, LLC**.
- 3.02 The Owner has retained **Garver, LLC** ("Engineer") to act as Owner's representative, and to have the rights, responsibilities, duties, and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 - CONTRACT TIMES

4.01 ~~Time of the Essence~~

- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

4.02 ~~Contract Times: Days~~

- A. The Work will be substantially completed within the following number of days after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within the following number of days after the date when the Contract Times commence to run.

Substantial Completion	Final Completion
720 Calendar Days	810 Calendar Days

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 times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. 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 **\$2,000.00** for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.
 2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Time (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner **\$2,000.00** for each day that expires after such time until the Work is completed and ready for final payment.
 3. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently. However, if the achieved substantial completion date falls after the specified final completion date, liquidated damages as specified in Completion of Remaining Work will immediately begin accruing from the date of substantial completion until final completion is achieved.

4.04 ~~Special~~ Damages

- A. In addition to the amount provided for liquidated damages, Contractor shall reimburse Owner (1) for any fines or penalties imposed on Owner as a direct result of the Contractor's failure to attain Substantial Completion according to the Contract Times, and (2) for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Substantial Completion (as duly adjusted pursuant to the Contract), until the Work is substantially complete.
- B. After Contractor achieves Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times, Contractor shall reimburse Owner for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified in Paragraph 4.02 for Work to be completed and ready for final payment (as duly adjusted pursuant to the Contract), until the Work is completed and ready for final payment. If the achieved substantial completion date falls after the specified final completion date, these costs will begin accruing immediately from the date of achieved substantial completion.

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 paragraph 5.01.A:

A. For all Work a Lump Sum of:

Ten Million Six Hundred Ninety-Nine Thousand Three Hundred Sixty-Five Dollars

(in words)

\$ 10,699,365.00

(in figures)

All specific cash allowances, unit price work totals, and deductive bid alternatives are included in the above price in accordance with Article 13 of the General

Conditions. **Contract Price includes an Owner's Contingency Allowance of Five Hundred Twenty-Five Thousand (\$525,000.00) Dollars to be used solely at the discretion of the Owner and Engineer.**

ARTICLE 6- PAYMENT PROCEDURES