

# CONTRACT AGREEMENT

**THIS AGREEMENT** is by and between The City of Torrington (hereinafter called CITY) and \_\_\_\_\_ (hereinafter called CONTRACTOR).

CITY 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 Contractor shall supply all necessary equipment, operators, labor, tools, asphalt emulsion, polymer modifier, crushed mineral aggregate, mineral filler, water, optional additives and other services excluding those specifically stated to perform a micro-surfacing system treatment of approximately 51,449 square yards. The City of Torrington will perform pre- and post-sweeping of roads and traffic control.

## **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 The Project has been designed by the City of Torrington Engineering Department under direction of the City Engineer who hereinafter called ENGINEER and who is to act as the City'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 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

B. The Work will be substantially by September 30, 2003.

4.03 Liquidated Damages

A. CONTRACTOR and CITY recognize that time is of the essence of this Agreement and that CITY 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 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 CITY if the Work is not completed on time. Accordingly, instead of requiring any such proof, CITY and CONTRACTOR agree that as liquidated damages for delay (but not as a penalty), CONTRACTOR shall pay CITY \$1,000.00 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 complete the remaining Work within the Contract Time or any proper extension thereof granted by CITY, CONTRACTOR shall pay CITY \$1,000.00 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 CITY shall pay CONTRACTOR for completion of the Work in accordance with the Contract Documents an amount equal to the sum of the established Contract Unit Price for each separately identified item of Unit Price Work times the estimated quantity of that item as indicated below.

**UNIT PRICE WORK**

<u>Item No.</u>	<u>Payment Reference Note</u>	<u>Total Estimated Quantity</u>	<u>Description</u>	<u>Unit Price</u>	<u>Total Amount</u>
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“See attached Exhibit A”

TOTAL OF ALL UNIT PRICES: \_\_\_\_\_  
(use words)

\_\_\_\_\_  
(use figures)

Estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by ENGINEER as provided in paragraph 1.10 of the General Conditions.

**ARTICLE 6 – CONTRACTOR’S REPRESENTATIONS**

6.01 In order to induce CITY 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 carefully studied all available: (1) reports of explorations and tests of subsurface conditions at or contiguous to the Site and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) which have been identified in the Supplementary Conditions as provided in the General Conditions and (2) reports and drawings of a Hazardous Environmental Condition, if any, at the Site which has been identified in the Supplementary Conditions.
- E. CONTRACTOR has obtained and carefully studied (or assumes responsibility for having done so) all additional or supplementary 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.
- F. 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.
- G. CONTRACTOR is aware of the general nature of work to be performed by CITY and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. 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.
- I. 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.
- J. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

## ARTICLE 7 – CONTRACT DOCUMENTS

### 7.01 Contents

- A. The Contract Documents consist of the following:
  - 1. This Agreement (pages 31 to 36, inclusive);
  - 2. Performance Bond
  - 3. Payment Bond
  - 4. Specifications as listed in the table of contents of the Project Manual;
  - 5. Addenda (numbers \_\_\_\_\_ to \_\_\_\_\_, inclusive);
  - 6. Exhibits to this Agreement (enumerated as follows):
    - a. Notice to Proceed (pages \_\_\_\_\_ to \_\_\_\_\_, inclusive);
    - b. CONTRACTOR’S Bid (pages \_\_\_\_\_ to \_\_\_\_\_, inclusive);
    - c. Documentation submitted by CONTRACTOR prior to Notice of Award (pages \_\_\_\_\_ to \_\_\_\_\_, inclusive);
  - 7. 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 7.01A 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 7.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

## ARTICLE 8 – MISCELLANEOUS

### 8.01 Terms

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

### 8.02 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.

### 8.03 Successors and Assigns

- A. CITY 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.

### 8.04 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 CITY and CONTRACTOR, who agree what 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.

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

This Agreement will be effective on \_\_\_\_\_, 20\_\_\_\_\_(which is the Effective Date of the Agreement).

CITY:  
\_\_\_\_\_  
City Of Torrington

CONTRACTOR:  
\_\_\_\_\_

By: \_\_\_\_\_  
(mayor)  
(CORPORATE SEAL)

By: \_\_\_\_\_  
(CORPORATE SEAL)

Attest \_\_\_\_\_

Attest \_\_\_\_\_

Address for giving notices:

Address for giving notices:

City Engineer  
City of Torrington  
140 Main Street  
Torrington, CT 06790

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

License No. \_\_\_\_\_  
(Where applicable)

Agent for service of process: \_\_\_\_\_

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

City's Designated Representative:

Contractor's Representative:

Name: Edward J. Fabbri, P.E.

Name: \_\_\_\_\_

Title: City Engineer

Title: \_\_\_\_\_

Address: 140 Main Street

Address: \_\_\_\_\_

Torrington, CT 06790

\_\_\_\_\_

Phone: 860-489-2234

Phone: \_\_\_\_\_

Facsimile: 860-489-2550

Facsimile: \_\_\_\_\_