

EXHIBIT J1
STANDARD FORM OF AGREEMENT – SAMPLE

THIS AGREEMENT is dated as of the __ day of _____ in the year 2024 by and between the City of Fort Walton Beach (hereinafter called Owner) and _____ (hereinafter called Contractor). Owner and Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK.

Contractor shall complete the following work as specified or indicated in the Contract Documents. The Work is generally described as follows:

Fort Walton Landing Improvements Phase II
City of Fort Walton Beach

Article 2. ENGINEER.

The Project has been designed by:

AVCON, INC.
320 Bayshore Drive, Suite A
Niceville, Florida 32578
850-678-0050 office

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 3. CONTRACT TIMES.

- 3.1 The work shall be substantially complete within 365 calendar days after the date when the Contract Times commence to run as provided in Section 5.6 of the Invitation to Bid. The work shall be completed and ready for final payment in accordance with Section 5.11.4 of the Invitation to Bid within 405 calendar days after the date when the Contract Times commence to run. \
- 3.2 *Liquidated Damages.* Owner and Contractor 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 3.1 above, plus any extensions thereof allowed in accordance with Section 3.14.3 and 4.3.3 of the Invitation to Bid and Article 12 of the General Conditions. They also recognize the delays, expense and difficulties involved in proving the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring of such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay Owner the amount specified in Paragraph 3.3 for each day that expires after

the time specified in paragraph 3.1 for Substantial Completion until the Work is substantially complete (in accordance with Section 3.14 of the Invitation to Bid and FDOT Workbook Section 8-10). After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the time specified in paragraph 3.1 for completion and readiness for final payment or any proper extension thereof granted by Owner, Contractor shall pay Owner the amount specified in Paragraph 3.3 for each day that expires after the time specified in paragraph 3.1 for completion and readiness for final payment.

3.3 Liquidated damages, based upon the original contract amount of \$ _____, will be:

3.3.1 One Thousand Six-Hundred Ninety-Nine dollars (\$1,699.00) per calendar day if the original contract amount is more than \$300,000 but less than \$2,000,000, or

3.3.2 Two Thousand Six-Hundred Fifty dollars (\$2,650.00) per calendar day if the original contract amount is more than \$2,000,000 but less than \$5,000,000.

Article 4. CONTRACT PRICE.

4.1 *This is a unit price contract.* 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 established unit price for each separately identified item of Unit Price Work times the estimated quantity of that item as indicated in the Bid Schedule submitted in the Bid Form. The cost of this project is \$ _____ as per the attached Contractor bid.

4.2 Unit prices have been computed as provided in Section 7 of the Invitation to Bid.

4.3 The City shall pay Contractor for the performance of this Contract in an amount not to exceed \$ _____, as approved by City Council.

4.4 Any additional work performed under this Contract shall be through the Issuance of a Contract Amendment, and change order of the City Purchase order.

Article 5. PAYMENT PROCEDURES.

Contractor shall submit Application 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; Retainage.* 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 or about the ___ day of each month during construction as provided in paragraphs 5.1.1 and 5.1.2 below. All such payments will be measured based on the number of units completed.

5.1.1 Prior to Substantial completion, 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 shall determine, or Owner

may withhold, in accordance with paragraph 14.7 of the General Conditions.

95 % of Work completed (with the balance being retainage).

95 % (with the balance being retainage) of materials and equipment not incorporated in the Work (but delivered, suitably stored and accompanied by documentation satisfactory to Owner as provided in paragraph 14.2 of the General Conditions).

- 5.1.2 Upon Substantial Completion, in an amount sufficient to increase total payments to Contractor to 95 % of the Contract Price (with the balance being retainage), less such amounts as Engineer shall determine, or Owner may withhold, in accordance with paragraph 14.7 of the General Conditions.
- 5.1.3 Retainage requirements may be changed to reflect a proposed change to state regulatory statutes.
- 5.2 *Final Payment.* Upon final completion and acceptance of the Work in accordance with paragraph 14.13 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said paragraph 14.13.
- 5.3 **All invoices shall be directed to Accounts Payable, City of Fort Walton Beach, 107 Miracle Strip Pkwy, SW, Fort Walton Beach, Florida, 32548.**

NOTE: ALL INVOICES MUST CLEARLY INDICATE THE CITY CONTRACT NUMBER & PURCHASE NUMBER AS STATED HEREIN.

Article 6. CONTRACTOR'S REPRESENTATIONS.

In order to induce Owner to enter into this Agreement, Contractor makes the following representations:

- 6.1 Contractor has examined and carefully studied the Contract Documents (including the Addenda listed in Article 7) and the other related data identified in the Bidding Documents including "technical data."
- 6.2 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, performance or furnishing of the Work.
- 6.3 Contractor is familiar with and is satisfied as to all federal, state, and local Laws and Regulations that may affect cost, progress, performance and furnishing of the Work.
- 6.4 Contractor has carefully studied all reports of explorations and tests of subsurface conditions at or contiguous to 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 paragraph 4.2.1 of the General Conditions. Contractor accepts the determination set forth in paragraph 4.2 of the General

Conditions of the extent of the "technical data" contained in such reports and drawings upon which Contractor is entitled to rely as provided in paragraph 4.2 of the General Conditions. Contractor acknowledges that such reports and drawings are not Contract Documents and may not be complete for Contractor's purposes. Contractor acknowledges that Owner and Engineer do not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to Underground Facilities at or contiguous to the site. Contractor has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies, and data concerning conditions (surface, subsurface, and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance, or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor and safety precautions, and programs incident thereto. Contractor does not consider that any additional examinations, investigations, explorations, tests, studies, or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times and in accordance with the other terms and conditions of the Contract Documents.

- 6.5 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.
- 6.6 Contractor has correlated the information known to Contractor, information and observation 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.
- 6.7 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, and 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

The Contract Documents that comprise the entire agreement between Owner and Contractor concerning the Work consist of the following:

- 7.1 This Agreement (pages A-1 to A-8, inclusive)
- 7.2 Performance, Payment, and other Bonds and required Insurance coverages
- 7.3 Notice to Proceed and City Purchase Order
- 7.4 General Conditions of the project manual; and terms, conditions and requirements of Invitation to Bid #24-006
- 7.5 Specifications package as listed in the table of contents thereof

- 7.6 Drawings package as listed in the table of contents thereof (Exhibits E1, F1, G1, and H1)
- 7.7 Addenda numbers issued and acknowledged at Bid.
- 7.8 Contractor's Bid Proposal, including submitted Bid Form and Bid Schedule
- 7.9 Documentation submitted by Contractor prior to Notice of Award
- 7.10 The following which may be delivered or issued after the Effective Date of the Agreement and are not attached hereto:

All Written Amendments and other documents amending, modifying or supplementing the Contract Documents pursuant to paragraphs 3.5 and 3.6 of the General Conditions

The documents listed in paragraph 7.2 et seq. above are attached to this Agreement (except as expressly noted otherwise above).

There are not Contract Documents other than those listed above in this Article 7. The Contract Documents may only be amended, modified or supplemented as provided in paragraphs 3.5 and 3.6 of the General Conditions.

Article 8. MISCELLANEOUS.

- 8.1 Terms used in this Agreement which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions.
 - 8.1.1 The complete terms and conditions stated, regardless of which document listed in ITB 24-006, are incorporated by reference into this document. This project is funded in part by NRDA.
- 8.2 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.
- 8.3 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.
- 8.4 Any provisions 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.

- 8.5 **Termination for Convenience:** The Owner may terminate for its convenience at any time, in whole, or in part, any proposal award. In the event of termination for convenience, the Owner's sole obligations will be to reimburse Contractor for (1) those goods and/or services actually shipped /performed and accepted up to the date of termination, and (2) costs incurred by the Contractor for unfinished goods, which are specifically manufactured for the Owner and which are not standard products of the Contractor, as of the date of termination, and a reasonable profit thereon. In no event is the Owner responsible for loss of anticipated profit nor will reimbursement exceed the proposal value.
- 8.5.1 Contractor's associated costs of procuring those reimbursable goods and/or services are considered part of the amount incurred.
- 8.6 **Termination For Default:** The Owner may terminate all or any part of this contract, by giving Notice of Default to the Contractor, if the Contractor:
- 8.6.1 refuses or fails to deliver the goods or services within the time specified,
- 8.6.2 fails to comply with any of the provisions of this Contract or so fails to make progress as to endanger performance hereunder,
- 8.6.3 becomes insolvent or subject to proceedings under any law relating to bankruptcy, insolvency, or relief of debtors,
- 8.6.4 fails to supply enough skilled workers or properly operating equipment, to perform the work required under the contract in a timely and proper fashion and to assure prompt completion of the work,
- 8.6.5 fails to make prompt payment to subcontractors, or payments for or labor;
- 8.6.6 Persistently disregards law, ordinances or the instructions of the Owner, or otherwise violates any provision of the contract or contract documents;
- 8.6.7 Performs the work unsuitably or neglects or refuses to repair work that has been rejected by the Owner;
- 8.6.8 Fails to resume work which has been discontinued within a reasonable time after being furnished notification to do so; OR
- 8.6.9 Fails to secure, replace, and/or maintain the insurance required in this Contract.
- In the event of termination for default, the Owner's liability will be limited to the payment for services delivered and accepted as of the date of termination.
- 8.7 **Florida Law Applies & Venue:** The parties acknowledge and agree that this contract shall be governed by, and construed pursuant to the laws of the State of Florida and that the venue for any action related to this contract lies within Okaloosa County, Florida.
- 8.8 **Sovereign Immunity:** Nothing contained herein is intended nor shall it be construed to waive the City's sovereign rights and immunities under the common law or Florida Statute 769.28 as amended from time to time.

8.9 Non-Exclusivity - This Contract is considered a non-exclusive Contract between the parties.

IN WITNESS WHEREOF, Owner, and Contractor have signed this Agreement in triplicate. One counterpart each has been delivered to Owner, Contractor, and Engineer. All portions of the Contract Documents have been signed, initialed or identified by Owner, and Contractor, or identified by Engineer on their behalf.

This Agreement will be effective on _____, 2024 (which is the Effective Date of the Agreement).

OWNER:
CITY OF FORT WALTON BEACH

CONTRACTOR

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

Signed: _____

Signed: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

[CORPORATE SEAL]

[CORPORATE SEAL]

ATTEST

ATTEST

Signed: _____

Signed: _____

Printed Name: _____

Printed Name: _____

Address for giving notices:

Address for giving notices:

Email: _____

Email: _____

Phone: _____

Phone: _____