

AGREEMENT

THIS AGREEMENT, made and entered into this 21st day of NOVEMBER, 2019, by and between the Board of County Commissioners of Johnson County, Kansas, hereinafter referred to as the "OWNER" and Insituform Technologies USA, LLC hereinafter referred to as the "CONTRACTOR".

WITNESSETH:

WHEREAS, the OWNER has caused to be prepared, in accordance with law, specifications, plans and Bidding and Contract Documents for the proposed work or public improvement(s) herein described, and has caused to be published an advertisement inviting sealed bids for the furnishing of necessary materials, labor and equipment for, and in connection with, the public improvement(s) as herein designated and described; and

WHEREAS, the CONTRACTOR, in response to the advertisement, submitted to the OWNER, in the manner and time specified, a sealed bid for the proposed work or public improvement(s) as herein designated and described; and

WHEREAS, the OWNER, in the manner prescribed by law, publicly opened, examined and canvassed the bids submitted, and as a result of such canvass determined and declared the CONTRACTOR to be the lowest and best, responsive and responsible bidder for the proposed work or public improvement(s) as herein designated and described, and duly awarded to the CONTRACTOR an Agreement therefore, for the sum named in the CONTRACTOR's Bid.

NOW, THEREFORE, in consideration of the above and foregoing recitals, the mutual promises, covenants and agreements hereinafter contained, and for other good and valuable consideration, the parties to these presents do hereby agree as follows:

ARTICLE 1 - WORK

1.1 The CONTRACTOR shall, in a good and workmanlike manner, and at his or her cost and expense, furnish all labor, tools, equipment, materials, and incidentals necessary to perform and complete the Work herein designated and described and required by the Contract Documents.

1.2 The Work is generally described as follows: the entire construction of the sanitary sewer line rehabilitation as described in the Authorization encompassing all Cured In Place Pipe (CIPP) lining and additional collection system rehabilitation and repair services, including, but not limited to, manhole rehabilitation and replacement, point repairs, closed circuit televising of pipes (CCTV), and pipe cleaning issued by the Owner to the Contractor and required to be completed in accordance with the Contract Documents and includes all labor necessary to produce such construction, and all materials, supplies and equipment incorporated or to be incorporated in such construction.

1.3 In the event that an open cut repair is necessary prior to installation of the liner due to blockage, collapsed host pipe, or as required by the specifications, the Owner will direct the Contractor to repair per the unit rates listed in the bid form, Tables F and G.

1.4 The specific services to be provided by the CONTRACTOR under this Agreement shall be based upon written Authorization(s) signed by the Johnson County General Manager for each individual Authorization. The Authorization shall describe the PROJECT, the services to be performed, the amount of compensation, as herein provided, and the established time of completion. The CONTRACTOR shall, upon receipt of an Authorization, furnish the required services in relation to the project described by the Authorization. An example of a typical Authorization form is provided on Page A-

5.

ARTICLE 2 - ENGINEER

Any and all references to Engineer as used in the Contract Documents shall be reasonably interpreted and construed to mean or refer to the Owner unless otherwise specified by Owner as different.

ARTICLE 3 - CONTRACT TIME

3.1 The CONTRACTOR agrees the initial term of this Agreement shall be for the period commencing with the effective date of this Agreement and ending after on calendar year; provided, however, this Agreement may be renewed for four (4) additional one year periods, subject to, and in accordance with, the terms and conditions of this Agreement.

3.2 The CONTRACTOR agrees the Work will be substantially complete by the dates stated in the Authorization, and the Work completed and ready for final payment in accordance with Paragraph 14.07 of the General Conditions within the time indicated in the Authorization after the date when the Contract Time commences to run as provided in the General Conditions of the Contract Documents.

3.3 Liquidated Damages. OWNER and CONTRACTOR recognize that time is of the essence of this Agreement and that if the Work is not completed within the time specified in each authorization, plus any extensions thereof allowed in accordance with the Contract Documents, OWNER and CONTRACTOR agree that as liquidated damages for delay, but not as a penalty, CONTRACTOR shall pay OWNER One Thousand Dollars (\$1,000.00) for each and every calendar day that expires following the time indicated in each Authorization for completion of the Work. OWNER shall have the right to deduct the liquidated damages from any money in its hands, otherwise due, or to become due, to CONTRACTOR, or to sue for and recover compensation for damages for non-performance of this Contract within the time stipulated.

ARTICLE 4 - CONTRACT PRICE

OWNER shall pay CONTRACTOR for the completion of Work in accordance with the Contract Documents and CONTRACTOR shall accept in full compensation therefore, the sum set out in each Authorization, as referenced in paragraph 6.12 of this Agreement, at the unit costs set out in the CONTRACTOR's Bid. The contract maximum is five million dollars (\$5,000,000) for the initial one-year term and each mutually agreed upon renewal period for a total maximum contract price of twenty-five million dollars (\$25,000,000) over the five-year period, subject to annual funding and appropriation by the Owner.

ARTICLE 5 - PAYMENT PROCEDURES

OWNER shall pay the CONTRACTOR in the manner specified in the Contract Documents. Applications for Payment shall be submitted by the CONTRACTOR and processed in accordance with the Contract Documents.

5.1 Progress Payments. OWNER shall make progress payments on account of the Contract Price on the basis of CONTRACTOR's Applications for Payment. Upon OWNER's approval of CONTRACTOR's Application for Payment, OWNER will pay or cause to be paid an amount equal to the estimated value of the Work performed less a retained amount in accordance with the following schedule and subject to the applicable provisions of the Contract Documents.

5.1.1 Prior to Final Completion, progress payments will be ninety-five percent (95%) with five percent (5%) retained until the Work is complete.

5.2 Final Payment. Upon final completion and acceptance of the Work, OWNER shall pay the remainder of the Contract Price as recommended by ENGINEER in accordance with the applicable provisions of the Contract Documents.

ARTICLE 6 - CONTRACT DOCUMENTS

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

- 6.1 This Agreement (pages AG-1 to AG-5, inclusive).
- 6.2 Exhibits to this Agreement (pages N/A to N/A inclusive).
- 6.3 Bid Request No. 2019-002, including detailed specification requirements and drawings.
- 6.4 Performance and other Bonds, attached herewith and consisting of 6 pages.
- 6.5 Notice of Award.
- 6.6 Notice to Proceed.
- 6.7 General Conditions (pages 00700-1 to 00700-43, inclusive).
- 6.8 Supplementary Conditions (pages SC-1 to SC-16, inclusive).
- 6.9 Additional Supplementary Conditions (pages ASC-1 to ASC-11, inclusive).
- 6.10 Addenda numbers (pages _____ to _____, inclusive).
- 6.11 CONTRACTOR's Bid (pages BF-1 to BF-21, inclusive).
- 6.12 Other documents, if any, listed below:
 - 6.12.1 The Authorization(s) issued by the Owner to the Contractor for each Sanitary Sewer Collection System Rehabilitation and Repair Project specified thereunder,
 - 6.12.2 The documents listed in paragraphs 6.2 et. seq. above, whether or not attached to this Agreement, are hereby incorporated by reference as if set forth fully herein and shall be made binding on OWNER and CONTRACTOR.
 - 6.12.3 The Questionnaire on Page Q-1 to Q-2,
 - 6.12.4 The Standard Detailed Technical Specifications of Johnson County Wastewater approved by KDHE on June 6, 2019,
 - 6.12.5 The Modifications to Detailed Specifications.

IN WITNESS WHEREOF, CONTRACTOR and OWNER have caused this Agreement to be executed by their duly authorized representatives in nine (9) counterparts in the prescribed manner and form on the day and year first above written.

CONTRACTOR

Insituform Technologies USA, LLC

By *Janet Hass*

Janet Hass
Contracting & Attesting Officer

Printed Name and Title

[SEAL]



ATTEST:

By *Jana Lause*

Jana Lause
Contracting & Attesting Officer

Printed Name and Title

OWNER

BOARD OF COUNTY COMMISSIONERS
OF JOHNSON COUNTY, KANSAS

Ed Eilert

Ed Eilert, Chairman



ATTEST:

Linda Adair
Interim Clerk of the Board Deputy County Clerk

APPROVED AS TO FORM:

Wanda Cole
Attorney for the Owner