

**STANDARD FORM OF AGREEMENT
BETWEEN OWNER AND CONTRACTOR
ON THE BASIS OF A STIPULATED PRICE**

THIS AGREEMENT is by and between the Town of Munster
(Owner) and Milestone Contractors L.P. (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: Paving and Traffic Calming Improvements CCMG 24-1 – Meadow Ln, Highland Pl, Linden Ave, Independence Dr

ARTICLE 2 – THE PROJECT

- 2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: water main installation, storm sewer improvements, pavement milling, subbase repair, concrete curb repairs, sidewalk and curb ramp removal and replacement, installation of traffic control ,asphalt paving, striping., and all restoration in the Town of Munster, Indiana.

ARTICLE 3 – ENGINEER

- 3.01 The Owner may retain an Engineer 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 the Essence*

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: Dates*

The Work will be substantially completed by June 1, 2025 and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions by July 1, 2025.

4.03 *Liquidated Damages*

Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial loss 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 \$500 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 \$500 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.

ARTICLE 5 – CONTRACT PRICE

5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:

- A. For all Unit Price Work, an amount equal to the sum of the extended prices (established for each separately identified item of Unit Price Work by multiplying the unit price times the actual quantity of that item).

Unit Price Work					
Item No.	Description	Unit	Estimated Quantity	Unit Price	Extended Price
	See Attached Bid Form				
Total of all Extended Prices for Unit Price Work (subject to final adjustment based on actual quantities)					\$

The extended prices for Unit Price Work set forth as of the Effective Date of the Agreement are based on estimated quantities. As provided in Paragraph 13.03 of the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer.

ARTICLE 6 – PAYMENT PROCEDURES

6.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will be processed by Engineer as provided in the General Conditions.

6.02 *Progress Payments; Retainage*

- A. Subject to the provisions of the Supplementary Conditions, Owner shall make monthly progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment during performance of the Work as provided in Paragraph 6.02.A.1 below, provided that such Applications of Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in 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 elsewhere in the Contract:
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 Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract:
 - a. 90 percent of Work completed (with the balance being retainage).

6.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph 15.06.

ARTICLE 7 – CONTRACTOR’S REPRESENTATIONS

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

Contractor has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.

Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, 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.

Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.

Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings.

Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and (3) Contractor’s safety precautions and programs.

Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no 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.

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.

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.

The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

Contractor’s entry into this Contract constitutes an incontrovertible representation by Contractor that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

ARTICLE 8 – CONTRACT DOCUMENTS

8.01 *Contents*

The Contract Documents consist of the following:

1. Addenda (numbers 00 00 1__ to 00 00 1__, inclusive).
2. This Agreement (pages 00 52 00-1 to 00 52 00-6, inclusive).
3. Performance Bond (Document 00 61 13).

4. Payment Bond (Document 00 61 14).
5. General Conditions (pages 00 72 00-1 to 00 72 00-65, inclusive).
6. Supplementary Conditions (pages 00 73 00-1 to 00 73 00-7, inclusive).
7. Specifications as listed in the table of contents of the Project Manual.
8. Project Plan Sheets
9. Exhibits to this Agreement (enumerated as follows).
 - a. Contractor's Bid (Document 00 41 00).
 - b. Documentation submitted by Contractor prior to Notice of Award (pages ____ to ____, inclusive).
 - c. Certificate of Insurance.
10. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
 - a. Notice to Proceed.
 - b. Field Order(s).
 - c. Work Change Directive(s).
 - d. Change Order(s).

The documents listed in Paragraph 8.01 are attached to this Agreement (except as expressly noted otherwise above).

There are no Contract Documents other than those listed above in this Article 8.

The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

ARTICLE 9 – MISCELLANEOUS

9.01 Terms

Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

9.02 Assignment of Contract

Unless expressly agreed to elsewhere in the Contract, 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, money that may become due and money that is 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.

9.03 Successors and Assigns

Owner and Contractor each binds itself, its successors, assigns, and legal representatives to the other party hereto, its successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

9.04 Severability

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.

9.05 *Contractor's Certifications*

Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 9.05:

1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

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

OWNER:

Town of Munster

By: David B. Nellans

Title: Town Council President

[CORPORATE SEAL]

Attest: Wendy Mis

Title: Clerk-Treasurer

Address for Giving Notices:

1005 Ridge Road

Munster, IN 46321

219-836-6900

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of Owner-Contractor Agreement).

Designated Representative:

Name: Patricia Abbott

Title: Controller, Town of Munster

Address: 508 Fisher Street

Munster, IN 46321

Phone: 219-836-6946

Facsimile: 219-836-8379

CONTRACTOR:

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By:

Title:

[CORPORATE SEAL]

Attest:

Title:

Address for Giving Notices:

License No. (Where Applicable)

Agent for service of process:

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

Designated Representative:

Name:

Title:

Address

Phone:

Facsimile:

END OF SECTION