

## DEMOLITION CONTRACT

This DEMOLITION CONTRACT (the "Contract") is made and entered into as of the \_\_\_ day of \_\_\_\_\_, 20\_\_ by and between the *City of O'Fallon, Illinois*, an incorporated municipality of the State of Illinois (the "Authority Having Jurisdiction"), and \_\_\_\_\_, a corporation organized under the laws of the State of Illinois, having its principal office at \_\_\_\_\_ (the "Contractor").

### RECITALS

A. City of O'Fallon is the Authority Having Jurisdiction of the real property located at XXXXXX in the City of O'Fallon, Illinois, as more particularly described in Exhibit "A" attached hereto (the "Property" or the "Site").

B. The Authority having Jurisdiction (City of O'Fallon) has issued a certain Invitation for Bid (the "IFB"), a copy of which is attached hereto as Exhibit "B" to this Contract, pursuant to which City of O'Fallon has sought bids for the demolition and removal of all Improvements, as defined herein, located on the Property.

C. Contractor has submitted a proposal in response to the IFB which is attached hereto as Exhibit "C" to this Contract, and which has been accepted by City of O'Fallon..

D. The property is being demolished due to \_\_\_\_\_ (Exhibit E) and has been duly bid in accordance with state law.

### AGREEMENT

In consideration of the foregoing recitals, the covenants and agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, City of O'Fallon and Contractor agree as follows:

#### **Section 1. Definitions.**

As used in this Contract, the following terms have the following meanings.

- 1.1. "Applicable Environmental Laws" means any federal, state or local statute, law, rule, regulation, ordinance, code, policy or rule of common law of any Governmental Entity now in effect and in each case as amended from time to time, and any judicial or administrative interpretation thereof, including any judicial or administrative order, consent decree, or judgment, relating to the environment, human health or hazardous materials, including, without limitation, CERCLA; The Hazardous Materials Transportation Act of 1994, as amended, 49 U.S.C. § 5101, et seq.; the Resource Conservation and Recovery Act of 1976, as amended, 42 U.S.C. §6901, et seq.; the Federal Water Pollution Control Act, as amended, 33 U.S.C. §1201, et seq.; the Toxic Substances Control Act, 15 U.S.C. §2601, et seq.; the Clean Air Act, 42 U.S.C. § 7401, et seq.; the Safe Drinking Water Act, 42 U.S.C. §300(f), et seq., the Federal Insecticide, Fungicide and Rodenticide Act, as amended, 7 U.S.C. §136, et seq., the Occupational Safety and Health Act of 1970, 29 U.S.C. §651, et seq., orders, rules and regulations issued by the Illinois Department of Natural Resources Division on Environmental Quality, and the ordinances, rules, and permits of the City of O'Fallon, and any other similar federal, state or local laws, or any federal, state, or local laws relating to the environment or to hazardous or waste materials.
- 1.2. "Authority Having Jurisdiction" or "AHJ" means the City of O'Fallon, IL.

1.2. "CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq.

1.3. "Change Directive" has the meaning set forth in Section 9.4.B.

1.4. "Change Order" has the meaning set forth in Section 9.4.A.

1.5. "Commencement Date" means \_\_\_\_\_, 2022 or on other agreed to time as set forth in writing.

1.6. "Completion Date" means **fourteen (14) calendar days** following the Commencement Date. The Completion Date may be changed only by written Change Order or written Change Directive in accordance with this Contract.

1.7. "Contract Documents" mean this Contract and all Exhibits hereto, the IFB, the Proposal, and any other document listed in this Contract.

1.8. "Contractor-Related Person" has the meaning set forth in Section 14.1.A.

1.9. "Contract Sum" has the meaning set forth in Section 9.1.

1.10. "Contract Time" means the period of time beginning on the Commencement Date and ending on the Completion Date. The Contract Time shall initially be for a period of **fourteen (14) days**, unless increased or decreased by written Change Order or written Change Directive in accordance with this Contract.

1.11. "EPA" means the United States Environmental Protection Agency, or any successor agency.

1.12. "Event of Default" has the meaning set forth in Section 17.3.

1.13. "Final Completion," with respect to the Work, means that all Work, including, without limitation, all grading, disposal and compaction work, has been completed in accordance with the Contract Documents and has been accepted by City of O'Fallon.

1.14. "Governmental Authorities" means governmental agencies, units or officials having jurisdiction over the Work.

1.15. "Governmental Entity" means any court or any federal, state, or local legislative or administrative body or governmental municipality, department, commission, board, bureau, agency or authority.

1.16. "Hazardous Materials" means:

A. any substance, material, or waste that is included within the definitions of "hazardous substances", "hazardous materials," "hazardous waste," "toxic substances," "toxic materials," "toxic waste," or words of similar import in any Environmental Law;

B. the substances listed as hazardous substances by the United States Department of Transportation (or any successor agency) (49 C.F.R. 172.101 and amendments thereto) or by the EPA (40 C.F.R. 302 and amendments thereto); and

C. any substance, material, or waste that is petroleum, petroleum related, or a petroleum by-product, asbestos or asbestos containing material, lead or lead containing materials, polychlorinated biphenyls, flammable, explosive, or radioactive materials, Freon gas, radon, or a pesticide, herbicide, or any other agricultural chemical.

- 1.17. “Improvements” mean all buildings, structures, and other improvements, and all equipment and other physical components of any of the foregoing located on the Property.
- 1.18. “Legal Requirements” means laws, ordinances, rules, codes, regulations, permits, licenses and legal requirements of any kind issued by any Governmental Authority, to the extent they apply to the Work under the laws of the state of Illinois and as to the obligations of the Parties generally under this Contract.
- 1.19. “OSHA” means the United States Occupational Safety and Health Administration, or its successor.
- 1.20. “Outstanding Work” has the meaning ascribed to it in Section 17.8.
- 1.21. “City of O’Fallon Indemnified Person” or “City of O’Fallon Indemnified Persons” has the meaning set forth in Section 14.1.
- 1.22. “City of O’Fallon’s Certificate of Acceptance” has the meaning ascribed to it in Section 11.1.
- 1.23. “Property” or “Site” has the meaning set forth in the Recitals.
- 1.24. “Proposal” has the meaning set forth in the Recitals.
- 1.25. “Project” has the meaning set forth in Section 2.2.
- 1.26. “Subcontractor” means any person or entity under a direct contract with Contractor to perform any part of the Work, supply any materials to be incorporated into the Work, or to supply any tools, equipment, or other articles or services to be used in the Work.
- 1.27. “IFB” has the meaning set forth in the Recitals.
- 1.28. “Work” has the meaning set forth in Section 4.1.

## **Section 2. Project Description and Contract Documents.**

- 2.1. Contract Documents. The Contract Documents are incorporated into this Contract by this reference for all purposes and constitute the entire and integrated agreement between City of O’Fallon and Contractor. If anything contained in any of the Contract Documents other than this Contract is inconsistent with this Contract, this Contract shall govern.
- 2.2. Site and Project. The Work under this Contract and the Contract Documents is generally described as the demolition of the Improvements and the disposal of all debris relating thereto (the “Project”).

## **Section 3. Commencement and Completion of the Work.**

- 3.1. Commencement and Completion Dates. Contractor shall commence the Work on or before the Commencement Date and shall complete the work on or before the Completion Date.
- 3.2. Timely Completion Required. Time is of the essence under this Contract. The time for completion of the Work shall not be extended except as agreed by City of O’Fallon and Contractor by a written Change Order or by Change Directive.

## **Section 4. Work.**

- 4.1. Work. Contractor shall provide all necessary labor, professional services, supervision, materials, tools, accessories, equipment, permits, fees, testing, inspections, and certifications which may be necessary to properly complete the Project to the satisfaction of City of O’Fallon and all applicable Governmental Authorities in accordance with the Contract Documents and all Legal Requirements (the

“Work”). The term “Work,” as used herein, includes all demolition, services, labor, materials, tools, machinery, equipment, transportation, disposal, permitting, utilities, and other facilities and services necessary for the proper execution and completion of the Work.

4.2. Scope of Work. The specific Work to be performed under this Contract is generally described as follows:

The dismantling, leveling and demolition of improvements in accordance with the attached IFB including accessory structures; removal of any footing and foundations; removal of any wells, cisterns or septic tanks according to local, county or state law; removal of any trees or brush as deemed necessary by the City of O’Fallon; removal and proper disposal of all debris resulting from such Work; proper compaction and grading of the Site following the removal of all improvements and debris therefrom; proper installation of seed and straw throughout disturbed areas

4.4. Workmanlike Manner and Compliance with Laws. Contractor shall complete the Work in a first class, good and workmanlike manner in accordance with the terms of this Contract, and generally accepted engineering practices adopted by firms performing services of a similar nature to the Work.

Contractor agrees that it shall comply with, and shall cause all Subcontractors, consultants, and engineers retained by Contractor to comply with all federal, state and municipal laws, codes, ordinances, rules and regulations and other Legal Requirements effective where the Work is to be performed.

4.5. General Requirements. Subject to additional requirements as set forth in the Contract Documents, Contractor shall perform the following duties in connection with the Work:

A. Utilities. Contractor shall contact all relevant utilities to determine the location of any underground utilities located at the Site and to properly cap off all utilities as appropriate in accordance with all applicable Legal Requirements.

B. Fill and Compaction. Any depressions resulting from the removal of underground utilities, building foundations or other items shall be filled to grade with clean fill.

C. Grading. Following the removal of all on-grade improvements, underground improvements and debris, Contractor shall grade all disturbed surface areas and apply seed and straw. Seed and straw shall not be applied until verification of proper debris removal by our office.

D. Disposal of Hazardous Materials. All federal, state and local laws shall be followed by Contractor when disposing of any hazardous materials.

4.6. Salvage. Contractor shall have salvage rights to all components of the Improvements to the Site, except only any asbestos containing materials, equipment containing polychlorinated bi-phenyls or any other Hazardous Materials, which must be disposed of as provided for herein.

### **Section 5. Representations and Warranties of Contractor.**

Contractor hereby represents and warrants to City of O’Fallon and AHJ’s successors and assigns as follows:

Site Inspected. Contractor has inspected the Site and is satisfied with the improvements, the surface and subsurface of the Site, available labor supplies, available materials and supplies, and all other matters that could, in reasonable probability, affect the nature of and cost to perform the Work. No adjustments shall

be made to the Contract Sum for concealed or unknown conditions except to the extent that the same could not have reasonably been discovered or anticipated by a competent contractor using its best efforts to determine the scope of the Work based upon typical conditions in the vicinity of the site of the Work.

#### **Section 6. Licenses and Permits.**

Prior to conducting any physical demolition work at the Site, the Contractor shall obtain all necessary licenses and permits required to perform the Work that have not been obtained by the City.

#### **Section 7. Conducting and Supervising Work.**

7.1. Contractor Solely Responsible for Means, Methods, Techniques, Sequences and Procedures. Contractor shall have full control over and sole responsibility for the means, methods, techniques, sequences and procedures of the Work and shall coordinate the Work with any other work being done by City of O’Fallon or City of O’Fallon’s separate contractors.

#### **Section 8. Subcontractors.**

Subcontractors may be used for a portion of the Work provided Contractor receives written approval of the City of O’Fallon. Contractor warrants that all work pursuant to this Contract shall be performed or completed by employees or subcontractors that are legally able to perform such work according to applicable federal or state law. Contractor shall indemnify, defend and hold harmless the City of O’Fallon from any and all damages, losses, claims, demands, actions, causes of action, costs or penalties, expenses, liabilities, obligations of any kind whatsoever including but not limited to attorney fees arising out of, related to, or connected with the provision of work by its employees or subcontractors.

#### **Section 9. Contract Sum.**

9.1. Amount. Except as modified by a Change Order or Change Directive, the City of O’Fallon agrees to pay the Contractor for the performance of the Work the sum of XXXXXXXXX (the “Contract Sum”).

9.2. Amount Changed Only by Change Order. Notwithstanding anything to the contrary contained in this Contract, it is the specific intent of City of O’Fallon and of Contractor that the Contract Sum may not, under any circumstances, be increased, other than by a written Change Order signed by authorized representatives of both City of O’Fallon and Contractor or by Change Directive.

9.3. Amounts Outside of Contract Sum. Contractor agrees that it will not perform any work outside the scope of this Contract prior to receipt of a signed Change Order or Change Directive from City of O’Fallon. Any such additional work performed without a Change Order or Change Directive shall not be subject to reimbursement by City of O’Fallon. Contractor will be solely responsible for all its costs and expenses incurred in connection with this Contract that are not specifically provided for herein or in a written Change Order or Change Directive.

9.4. Changes in the Work.

A. A “Change Order” is a written agreement signed by City of O’Fallon and Contractor stating their agreement upon a change in the Work, the amount of the adjustment of the Contract Sum, if any, and the extent of the adjustment in the Contract Time and Completion Date, if any.

B. A “Change Directive” is a written order prepared by City of O’Fallon directing a change in the Work and stating a proposed basis for adjustment, if any, in the Contract Sum or Contract Time, or both. City of O’Fallon may by Change Directive, without invalidating this Contract, order changes in the Work within

the general scope of the Contract Documents consisting of additions, deletions or other revisions, with the Contract Sum and/or Contract Time being adjusted accordingly. A Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

C. Changes in the Work may be accomplished after execution of this Contract, and without invalidating this Contract, by Change Order or Change Directive, subject to the limitations stated in this Section 9.4 and elsewhere in the Contract Documents. A Change Order shall be based upon agreement among City of O'Fallon and Contractor. A Change Directive issued by City of O'Fallon may or may not be agreed to by Contractor, however Contractor shall perform the changes in the Work under applicable provisions of the Contract Documents, and Contractor shall proceed promptly to perform all such changes in the Work (including, without limitation, under a Change Directive whether or not agreed to by Contractor) even if Contractor does not sign the Change Directive.

D. A Change Directive signed by Contractor indicates the agreement of Contractor therewith, including adjustment in the Contract Sum and/or Contract Time or the method for determining same. Such agreement shall be effective immediately and shall be recorded as a Change Order.

E. No more than ten percent (10%) profit and overhead will be allowed on any Change Order.

#### **Section 10. Taxes.**

The Contractor agrees to pay and hereby assumes full and exclusive liability for the payment of any and all contributions or taxes imposed by the laws of United States or by the laws of any state or city and which are measured by the wages, salaries, or other remuneration paid to persons employed by the Contractor on the Work to be performed hereunder or by material and equipment cost therefor. The Contract Sum includes, and the Contractor shall be liable for the payment of all sales, use, or other taxes of whatever nature levied or assessed against the City of O'Fallon or the Contractor arising out of the Work and the furnishing or installing by the Contractor hereunder of any kind of materials, supplies, or equipment.

#### **Section 11. Payment of Contract Sum.**

11.1. Final Completion and Invoice. After Contractor has completed all the Work in accordance with the Contract Documents, Contractor shall notify City of O'Fallon in writing by submitting an invoice for work performed.

11.2. Inspections. Prior to making the final payment required, City of O'Fallon shall have the right, but not the obligation, to conduct inspections of the Work. Should City of O'Fallon elect to retain a consultant for such inspections, such consultant shall have the authority, in the consultant's sole discretion, to reject all nonconforming Work and to make recommendations to City of O'Fallon regarding issuance or non-issuance of the City of O'Fallon's Certificate of Completion.

11.3. Payment of Final Invoice. City of O'Fallon shall pay the Contract Sum to Contractor within thirty (30) days after City of O'Fallon's receipt of the final invoice and after all inspections have been completed and approved by the City of O'Fallon.

11.4. Withholding Payments. Payments may be withheld by City of O'Fallon for any of the following reasons:

- A. Contractor fails to correct defective or non-conforming Work;
- B. Claims or liens have been filed or threatened;

- C. Contractor has failed to make timely and adequate payments to Subcontractors or others;
- D. Contractor has failed to carry out the Work in accordance with this Contract;
- E. Any cost or expense incurred by City of O’Fallon to cancel or discharge one or more liens as provided in Section 12;
- F. All damages City of O’Fallon has suffered under this Contract as provided for in Section 17.6; and
- G. The amount, if any, by which the costs incurred by City of O’Fallon to complete the Work exceed the balance of the Contract Sum at the time of termination, and any other losses incurred as a result of Contractor’s default, as provided for in Section 17.9.

#### **Section 12. No Liens.**

Contractor shall pay all debts, dues and demands incurred in the performance of its Work to ensure that no liens are brought against the City of O’Fallon for Contractor’s nonpayment. Contractor must have a lien waiver signed by all laborers, material suppliers and subcontractors before the final payment for work will be made.

#### **Section 14. Indemnification.**

The Contractor shall, to the fullest extent permitted by law, indemnify and defend the City of O’Fallon and all of the other Indemnitees and save them harmless from and against any and all claims, damages, losses, liabilities, suits, judgments, actions, and all expenses (including attorney’s fees and disbursements in the event Contractor fails to defend as required hereunder) arising out of or claimed to have arisen out of or resulting from any negligent or wrongful act, error, or omission or breach of contract or infringement of any patent right by the Contractor or any of its subcontractors or suppliers of any tier in connection with the performance of the Work hereunder, and such indemnity shall apply regardless of the active or passive negligence or wrong doing of any Indemnitee and will not be released or excused by reason of any approval by any Indemnitee of any method of performing the Work or any other approval. The foregoing indemnity shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any indemnitee hereunder. The foregoing indemnity shall include but is not limited to bodily injury and death of any employee of the Contractor and shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable under any applicable workers’ compensation, disability benefits, or other similar employee benefits acts.

#### **Section 15. Insurance.**

15.1. General and Specifications Exhibit. Attached hereto as Exhibit “D” are specifications for insurance and bonds to be obtained and maintained by Contractor and insurance to be obtained and maintained by Subcontractors. The specifications are in addition to the requirements set out in this Section 15. In the event of any conflict between the specification in Exhibit “D” and the requirements set out in the below sections of this Section 15, the specifications in the Exhibit “D” control and amend and supersede the conflicting requirement set out in the below sections of Section 15. Contractor will maintain certificates and evidence of insurance from all Subcontractors, enumerating, among other information, the waivers of subrogation in favor of and additional insured status of the City of O’Fallon Indemnified Persons, as required by the Contract Documents.

15.3. Contractor’s Liability Insurance. Contractor shall purchase from and maintain in a company or companies lawfully authorized to do business in the State of Illinois such insurance as expressly required

by the insurance requirements in the Contract Documents and as will protect Contractor from any foreseeable and/or unforeseeable claims, and/or liabilities.

15.4. Limits, Occurrence and Claims-Made Basis. The insurance required by this Section 15 and Exhibit "D" shall be written for not less than limits of liability specified in the Contract Documents or required by law, whichever coverage is greater, with the minimum limits being \$1,000,000.00 for bodily injury and property damage, \$200,000.00 Workers compensation for each employee, and \$500,000.00 for each accident. Coverages, whether written on an occurrence or claims-made basis, shall be maintained without interruption from the date of commencement of the Work until the date of final payment and termination of any coverage required to be maintained after final payment, and, with respect to Contractor's completed operations coverage, until the expiration of five (5) years from final completion. Notwithstanding the foregoing, such coverage required hereunder shall not be written on a claims-made basis without the advance express written consent of City of O'Fallon, which consent may be withheld or denied in City of O'Fallon's sole discretion, and if consent is not obtained then the insurance is to be written on an occurrence basis. No deductible or self-insured retention in excess of ten-thousand dollars (\$10,000) is permitted without the prior written approval of City of O'Fallon. No policy may include an endorsement restricting, limiting or excluding coverage in any manner without the prior written approval of City of O'Fallon.

15.5. Policies and Certificates of Insurance. Certificates of insurance acceptable to City of O'Fallon shall be filed with City of O'Fallon prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance. The insurance policies required by this Section 15 and Exhibit "D" shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least thirty (30) days' prior written notice has been given to City of O'Fallon. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with Contractor's final invoice and thereafter upon renewal or replacement of such coverage until the expiration of the time required by Section 15.4. Information concerning reduction of coverage on account of revised limits or claims paid under the general aggregate, or both, shall be furnished by Contractor with reasonable promptness. Prior to commencement of Work and thereafter as requested by City of O'Fallon, Contractor shall provide City of O'Fallon with a certified true and correct copy of the insurance of Contractor's and such of the Subcontractors of any tier requested by City of O'Fallon. When any required insurance, due to the attainment of a normal expiration date or renewal date shall expire, Contractor shall supply City of O'Fallon with certificates of insurance and amendatory riders or endorsements that clearly evidence the continuation of all coverage in the same manner, limits of protection, and scope of coverage as was provided by the previous policy. In the event any renewal or replacement policy, for whatever reason obtain or required, is written by a carrier other than that with whom the coverage was previously placed, or the subsequent policy differs in any way from the previous policy, Contractor shall also furnish City of O'Fallon with a certified copy of the renewal or replacement policy unless City of O'Fallon provides Contractor with prior written consent to submit only a Certificate of insurance for any such policy. All renewal and replacement policies shall be in form and substance satisfactory to City of O'Fallon and written by carrier acceptable to City of O'Fallon.

15.6. Endorsements. Contractor shall cause the commercial liability, auto and umbrella liability coverage required by the Contract Documents to include (1) City of O'Fallon and City of O'Fallon's officers and directors as additional insureds for claims caused in whole or in part by Contractor's acts or omissions during Contractor's operations; and (2) City of O'Fallon and City of O'Fallon's officers and directors as additional insured for claims caused in whole or in part by Contractor's acts or omissions during



Contractor's completed operations. All such liability policies carried and maintained by Contractor must be endorsed to be primary to any liability insurance policies carried by the additional insureds with respect to Contractor's operations hereunder. Waivers of subrogation shall be provided in favor of the additional insureds on general, auto, workers compensation/employers, umbrella, pollution and all other liability policies carried and maintained by Contractor.

### **Section 17. Termination or Suspension.**

17.1. Termination for Convenience. City of O'Fallon may terminate this Contract or any portion of the Work at any time, with or without cause, by five (5) days prior written notice to Contractor provided, however, that City of O'Fallon shall compensate Contractor for the verifiable direct cost of all Work properly performed and profit earned prior to Contractor's receipt of notice and all of Contractor's reasonable, verifiable direct costs and expenses incurred in demobilizing following any such termination. Under no circumstances is Contractor entitled to reimbursement for any lost profits, lost opportunity costs, productivity losses, lost efficiencies or any other direct, indirect or consequential damage or cost occasioned by City of O'Fallon's termination for convenience.

17.2. Suspension for Convenience. City of O'Fallon may suspend performance of all or any portion of the Work at any time, with or without cause, by ten (10) days prior written notice to Contractor provided, however, that as Contractor's sole and exclusive remedy with respect thereto, Contractor shall be entitled to a Change Order in accordance with 9.4. During any such suspension, Contractor shall protect and secure the Work in such manner as City of O'Fallon may require at City of O'Fallon's expense, if such suspension is for convenience. Unless City of O'Fallon otherwise directs, Contractor shall, at City of O'Fallon's expense, if such suspension is for convenience, maintain its readiness on or near the Site to proceed with the Work upon City of O'Fallon's further instructions. Contractor shall use its best efforts to use its material, labor and equipment in a manner that will mitigate costs associated with such a suspension. Following a suspension, City of O'Fallon may at any time give Contractor notice to continue with the suspended Work.

17.3. Events of Default. Each of the following circumstances or events shall constitute an "Event of Default" by the party specified at the beginning of each sub-clause below:

A. by either party, if: a proceeding is instituted against the party seeking to adjudicate it as bankrupt or insolvent and such proceeding is not dismissed within sixty (60) days of filing; the party makes a general assignment for the benefit of its creditors; a receiver is appointed on account of the insolvency of the party; the party files a petition seeking to take advantage of any other applicable laws relating to bankruptcy, insolvency, reorganization, winding up or composition or readjustment of debts; or the party is unable to pay its debts when due or as they mature;

B. by City of O'Fallon, if City of O'Fallon fails to pay any undisputed amount and such failure continues unremedied for more than thirty (30) days after first written notice thereof by Contractor;

C. by Contractor, if Contractor fails to perform any material obligation under this Contract and such failure continues and/or has not been remedied, and/or the effects of such failure have not been remedied, in each case for more than fifteen (15) days after first written notice thereof by City of O'Fallon;

D. by Contractor, if Contractor fails to fully complete the Project within ten (10) days or more beyond the Completion Date;

E. by Contractor, if Contractor abandons performance of the Work and such abandonment is not cured within seven (7) days after first written notice thereof by City of O'Fallon;

F. by Contractor, if any Contractor-Related Person is in breach of any Applicable Environmental Laws and such breach is not cured within seven (7) days after first written notice thereof by City of O’Fallon; and

G. By Contractor, if Contractor fails to obtain or maintain, in full force and effect, any insurance or permit required to be obtained by Contractor or its Subcontractors pursuant to this Contract and such failure is not cured within seven (7) days after notice thereof.

17.4. Notice of Default. Any notice of default pursuant to Section 17.3 shall be given in accordance with Section 18.1.

17.5. Termination for Default. Upon an Event of Default by a party, the other party may by written notice to the defaulting party, effective immediately or on such other date as the terminating party may specify, terminate this Contract, and (except as expressly limited in this Contract) exercise all other remedies under the Agreement, at law or in equity with respect to such termination and the relevant Event of Default.

17.6. General Obligations. If City of O’Fallon elects to terminate this Contract pursuant to this Section 17, Contractor shall, at City of O’Fallon’s request and at Contractor’s expense, do the following:

A. cease all Work, except such Work as City of O’Fallon may specify in the termination notice for the sole purpose of protecting that part of the Work already executed;

B. terminate all subcontracts; except those to be assigned to City of O’Fallon pursuant to Section 17.7.C;

C. immediately assign to City of O’Fallon title to all Work not already owned by Company

D. remove from the Site all machinery, tools, trash and debris as City of O’Fallon may request.

17.7. Payment Obligations. If City of O’Fallon terminates this Contract as a result of an Event of Default with respect to Contractor pursuant to 17.5, City of O’Fallon is not obligated to make any further payments to Contractor until either (i) the Work that remained outstanding on the date of termination (the “Outstanding Work”) has been completed by or on behalf of City of O’Fallon, or (ii) City of O’Fallon has decided to abandon the Project. Upon completion of the Outstanding Work or abandonment of the Project (as the case may be), City of O’Fallon shall pay Contractor the portion of the Contract Sum applicable to all Work properly performed in accordance with this Contract.

**Section 18. Notices.**

18.1. Method. All notices hereunder shall be in writing and shall be sent by personal delivery e-mail or United States Mail, postage prepaid, addressed as follows:

*If to City of O’Fallon:*

City of O’Fallon, Illinois  
c/o Chad Truran  
255 S. Lincoln  
O’Fallon, IL. 62269  
Phone--618-624-4500 ext.4  
Email—ctruran@ofallon.org

*If to Contractor:*

XXXXXXXXXX  
  
Phone--  
Email--

18.2. Effective Date. All notices shall be deemed to have been given when sent except that notice of change of address shall be deemed to have been given when received.

**Section 19. Miscellaneous.**

19.1. Entire Contract. This Contract, including the Exhibits, contains the entire Contract between City of O’Fallon and Contractor pertaining to the transaction contemplated by this Contract and fully supersedes all prior Contracts and understandings between City of O’Fallon and Contractor pertaining to such transaction.

19.2. Conflicts. In the event there is any conflict among this Contract and the Drawings, the provisions of this Contract shall be controlling, and in the event any Drawings, specifications, working drawings or similar project documents are not specific, the better quality or better quantity of work or materials shall be taken to be that specified under this Contract.

19.3. Attorneys’ Fees. In the event of any controversy, claim or dispute between City of O’Fallon and Contractor affecting or relating to the subject matter or performance of this Contract, the prevailing party shall be entitled to recover from the non-prevailing party all of the prevailing party’s reasonable expenses, including, without limitation, attorneys’ fees, accountants’ fees and court costs.

19.4. Binding Effect. This Contract shall not be binding upon either City of O’Fallon or Contractor unless and until both City of O’Fallon and Contractor have executed this Contract or any counterpart hereof.

19.5. No Third-Party Beneficiary. No provision contained in this Contract shall create or confer any benefit with or rights to any third parties nor give to third parties any claim or right of action beyond such as may legally exist in the absence of any such provision.

19.8. Governing Law. This Contract shall be governed by and construed in accordance with the substantive laws of County of St. Clair, State of Illinois. Each of the parties hereby irrevocably submits to and accepts the jurisdiction of any state court sitting in the County of St. Clair, Illinois, and each of the parties hereby irrevocably agrees that any action may be heard and determined in such state court.

19.10. Counterpart and Electronic Signatures. This Contract may be executed in counterparts, each of which shall be an original and all of which taken together shall constitute one and the same agreement. Signatures transmitted by facsimile or electronic mail (via pdf or other similar digital imaging method) shall constitute original signatures for purposes hereof.

IN WITNESS WHEREOF, the parties hereto have, through their duly authorized representatives, executed this Demolition Contract.

CITY OF O’FALLON:

CONTRACTOR:

City of O’Fallon, Illinois

XXXXXXXXXXXXXXXXXXXX.

Representative:

Representative:

\_\_\_\_\_ [Name]

\_\_\_\_\_ [Name]

**EXHIBIT A**

Parcel number--

**EXHIBIT B**

INVITATION FOR BID

[See Attached]

**EXHIBIT C**

PROPOSAL

[See Attached]

**EXHIBIT D**

CONTRACTOR'S INSURANCE SPECIFICATIONS

**EXHIBIT E**

Court case number if needed

**(Exhibit D)**

<b>Insurance</b>	<b>Minimum Limits</b>	<b>Other Requirements</b>
Disposal Site Operator		Contract is to furnish City of O'Fallon evidence of pollution legal liability insurance maintained by the disposal site operator for losses arising from the insured facility accepting waste under this Contract. Coverage certified to City of O'Fallon this paragraph must be maintained in minimum amounts of \$25,000,000 per loss.
Worker's Compensation	Statutory Limits (if state has no statutory limit, \$1,000,000)	1. <u>Form</u> . No "alternative" forms of coverage will be permitted.  2. <u>Waiver of Subrogation</u> . Waiver of subrogation by carrier as to claims against City of O'Fallon and City of O'Fallon's officers and directors.  3. <u>Rating</u> . Issuer must be at least a Best's Key Rating Guide A/VII company.
Employer's Liability	\$1,000,000 each accident for bodily injury by accident  \$1,000,000 each employee for bodily injury by disease	1. <u>Waiver of Subrogation</u> . Waiver of subrogation by carrier as to claims against City of O'Fallon and City of O'Fallon's officers and directors.  2. <u>Rating</u> . Issuer must be at least a Best's Key Rating Guide A/VII company.
Commercial General Liability (Occurrence Basis)	\$1,000,000 per occurrence	1. <u>Form</u> . ISO form CG 00 01 or equivalent.  2. <u>Insured Contracts</u> . Coverage shall apply to but not be limited to liability assumed by Contractor under the

	<p>\$2,000,000 general aggregate</p> <p>\$1,000,000 product-completed operations aggregate limit</p> <p>\$1,000,000 personal and advertising injury limit</p> <p>\$100,000 damage to premises rented to you limit</p> <p>\$10,000 medical expense limit</p>	<p>Construction Documents (including the tort liability of another assumed in a business contract).</p> <p>3. <u>Primary</u>. This insurance shall be endorsed to provide primary and non-contributing liability coverage. It is the specific intent of the parties to this Agreement that all insurance held by City of O’Fallon shall be excess, secondary and non-contributory.</p> <p>4. <u>Separation of Insureds</u>. Separation of insured language will not be modified.</p> <p>5. <u>Dedicated Limits</u>. Aggregate limit of insurance (per project) endorsement ISO CG 25 03, or equivalent.</p> <p>6. <u>Contractual Liability – “Personal Injury”</u>. The contractual liability exclusion with respect to “personal injury” (as defined in ISO policies) will be deleted.</p> <p>7. <u>Defense</u>. Defense will be provided as an additional benefit and not included within the limit of liability.</p> <p>8. <u>Duration</u>. This insurance will be maintained in identical form, and amount, including required endorsements, for at least 4 years following the Date of Final Completion.</p> <p>9. <u>Additional Insureds</u>. City of O’Fallon and City of O’Fallon’s officers and directors will be listed as additional insureds on an ISO CG 20 26 or equivalent form of endorsement.</p> <p>10. <u>Waiver of Subrogation</u>. Endorsed to provide for carrier’s waiver of subrogation for claims against City of O’Fallon, its Regents and employees, and City of O’Fallon’s Architect.</p> <p>11. <u>Rating</u>. Issuer must be at least a Best’s Key Rating Guide A/VII company.</p> <p>12. <u>Prohibited Endorsements</u>. The following exclusions/limitations (or their equivalents) are not permitted:</p> <p>(a) Contractual Liability Limitation, CG 21 39 or its equivalent.</p> <p>(b) Amendment Of Insured Contract Definition, CG 24 26 or its equivalent.</p> <p>(c) Limitation of Coverage to Designated Premises or Project, CG 21 44.</p> <p>(d) Any endorsement modifying or deleting the exception to the Employer’s Liability exclusion.</p> <p>(e) Any “Insured vs. Insured” exclusion.</p>
--	---	---

		(f) Any type of punitive, exemplary or multiplied damages exclusion.
Business Automobile Liability (Occurrence Basis)	\$100,000 combined single limit	<ol style="list-style-type: none"> <li>1. <u>Form</u>. ISO form CA 00 01 or equivalent.</li> <li>2. <u>Scope</u>. Includes liability arising out of operation of owned, hired and non-owned vehicles.</li> <li>3. <u>Rating</u>. Issuer must be at least a Best’s Key Rating Guide A/VII company.</li> </ol>
Umbrella Liability Insurance (Occurrence Basis)	Limits for liability policies may be allocated between underlying policies and an umbrella liability policy, subject to the Other Requirements of these Specifications.	<ol style="list-style-type: none"> <li>1. <u>Scope</u>. Written on an umbrella basis in excess over and no less broad than the liability coverages referenced above.</li> <li>2. <u>Coverage Dates</u>. Inception and expiration dates will be the same as commercial general liability insurance.</li> <li>3. <u>Drop Down Coverage</u>. Coverage must “drop down” for exhausted aggregate limits under the liability coverages referenced above.</li> <li>4. <u>Dedicated Limits</u>. Aggregate limit of insurance per location endorsement dedicating limits to the Project.</li> <li>5. <u>Rating</u>. Issuer must be at least a Best’s Key Rating Guide A/VII company.</li> </ol>
Subcontractors’ Insurance	Unless waived by City of O’Fallon in writing in advance of a Subcontractor’s commencing Work, each Subcontractor of every tier shall have liability insurance coverage meeting the same specifications as set out for Contractor, including designating on the commercial general liability and automobile liability policies that City of O’Fallon and City of O’Fallon’s officers and directors are additional insureds by additional insured endorsements acceptable to City of O’Fallon, and the insurers of the liability policies shall waive rights of subrogation against City of O’Fallon and City of O’Fallon’s officers and directors.	