
Standard Form of Agreement Between Owner and Contractor

*where the basis of payment is a
STIPULATED SUM*

The name of this Agreement is:

Agreement to provide construction services for the demolition
of the Town Common Radio Tower

AGREEMENT

made as of the day of March in the year of
two thousand-seventeen (2017)

BETWEEN the Owner, City of Greenville:

(Name and address)

City of Greenville
Recreation and Parks
P.O. Box 7207
Greenville, NC 278385-7207

and the Contractor:

(Name and address)

The Contractor is a corporation organized and existing under the laws of the
State of North Carolina.

The Project is:

(Name and location)

Town Common Radio Tower Demolition
105 East 1st Street
Greenville, NC 278558

The Owner and Contractor agree as set forth below.

ARTICLE 1 **THE CONTRACT DOCUMENTS**

The Contract Documents Consist of this Agreement, Conditions of the contract (General, and other Conditions), Site Plan, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement and Modifications issued after execution of this Agreement; these form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. An enumeration of the Contract Documents, other than Modifications, appears in Article 9.

ARTICLE 2
THE WORK OF THIS CONTRACT

The Contractor shall execute the entire Work described in the Contract Documents, except to the extent specifically indicated in the Contract Documents to be the responsibility of others, or as follows:

- 2.1 The Contractor is the single prime contractor.
- 2.2 This is a multiprime contract project, and the Contractor is:
- 2.2.1 the general contractor.
 - 2.2.2 the plumbing contractor.
 - 2.2.3 the electrical contractor.
 - 2.2.4 the HVAC contractor.
 - 2.2.5 the contractor to perform the Work.

ARTICLE 3
DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

3.1 The date of commencement is the date from which the Contract Time of Paragraph 3.2 is measured, ~~and shall be the date of this Agreement, as first written above, unless a different date is stated below or provision is made for the date to be fixed in a notice to proceed issued by the Owner.~~

(Insert the date of commencement, if it differs from the date of this Agreement or, if applicable, state that the date will be fixed in a notice to proceed.)

The date of commencement shall be:

- the date of this Agreement.
- fixed in a notice to proceed.
- April 18, 2017

Unless the date of commencement is established by a notice to proceed issued by the Owner, the Contractor shall notify the Owner in writing not less than five days before commencing the Work to permit the timely filing of mortgages, mechanic's liens and other security interests.

3.2 The Contractor shall achieve Substantial Completion of the entire Work not later than 60 days after the date of commencement referred to in paragraph 3.1.

(Insert in the preceding sentence the calendar date or number of calendar days after the date of commencement. Also insert below any requirements for earlier Substantial Completion of certain portions of the Work, if not stated elsewhere in the Contract Documents.)

subject to adjustments of this Contract Time as provided in the Contract Documents.

(Insert provisions, if any, for liquidated damages relating to failure to complete on time.)

ARTICLE 4
CONTRACT SUM

4.1 The Owner shall pay the Contractor in current funds for the Contractor's performance of the Contract the Contract Sum of _____ Dollars (\$ _____), subject to additions and deductions as provided in the Contract Documents.

4.2 The Contract Sum is based upon the following alternates, if any, which are described in the Contract Documents and are hereby accepted by the Owner: **None.**

(State the numbers or other identification of accepted alternates. If decisions on other alternates are to be made by the Owner subsequent to the execution of this Agreement, attach a schedule of such other alternates showing the amount for each and the date until which that amount is valid.)

4.3 Unit prices, if any, are as follows:

ARTICLE 5 PROGRESS PAYMENTS

5.1 Based upon Applications for Payment submitted to the ~~Architect~~ OWNER by the Contractor and ~~Certificates for Payment issued by the Architect~~, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

5.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

15th day of the month.

5.3 Provided an Application for Payment is received by the ~~Architect~~ OWNER not later than the 20th day of a month, the Owner shall make payment to the Contractor not later than the 15th day of the following month. If an Application for Payment is received by the ~~Architect~~ OWNER after the application date fixed above, payment shall be made by the Owner not later than 45 days after the ~~Architect~~ OWNER receives the Application for Payment.

5.4 Each Application for Payment shall be based upon the schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work and be prepared in such form and supported by such data to substantiate its accuracy as the ~~Architect~~ OWNER may require. This Schedule, unless objected to by the ~~Architect~~ OWNER, shall be used as a basis for reviewing the Contractor's Applications for Payment.

5.5 Applications for Payment shall indicate the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

5.6 Subject to the provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

5.6.1 Take that portion of the Contract Sum properly allocable to completed Work as determined by multiplying the percentage completion of each portion of the Work by the share of the total Contract Sum allocated to that portion of the Work in the schedule of values, less retainage of zero percent (0 %). Pending final determination of cost to the Owner of changes in the Work, amounts not in the dispute may be included as provided in Subparagraph 7.3.7 of the General Conditions even though the Contract Sum has not yet been adjusted by Change Order;

5.6.2 Add that portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction (or, if approved in advance by the Owner, suitably stored off the Site at a location agreed upon in writing), less retainage of twenty percent (20 %);

5.6.3 Subtract the aggregate of previous payments made by the Owner; and

5.6.4 Subtract amounts, if any, for which the ~~Architect~~ OWNER has withheld or nullified a Certificate for Payment as provided in Paragraph 9.5 of the General Conditions.

5.7 The progress payment amount determined in accordance with Paragraph 5.6 shall be further modified under the following circumstances:

5.7.1 Add, upon Substantial Completion of the Work, a sum sufficient to increase the total payments to One Hundred percent (100%) of the Contract Sum, less such amounts as the ~~Architect~~ OWNER shall determine for incomplete Work and unsettled claims; and

5.7.2 Add, if final completion of the Work is thereafter materially delayed through no fault of the Contractor, any additional amounts payable in accordance with Subparagraph 9.10.3 of the General Conditions.

5.8 Reduction or limitation of retainage, if any, shall be as follows: not applicable

(If it is intended, prior to Substantial Completion of the entire Work, to reduce or limit the retainage resulting from the percentages inserted in Subparagraph 5.6.1 and 5.6.2 above, and this is not explained elsewhere in the Contract Documents, insert here provisions for such reduction or limitation.)

**ARTICLE 6
FINAL PAYMENT**

Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor within 30 days after ~~when (1)~~ the Contract has been fully performed by the Contractor except for the Contractor's responsibility to correct nonconforming Work as provided in Subparagraph 12.2.2 of the General Conditions and to satisfy other requirements, if any, which necessarily survive final payment; and ~~(2) a final Certificate for Payment has been issued by the Architect; such final payment shall be made by the Owner not more than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:~~

**ARTICLE 7
MISCELLANEOUS PROVISIONS**

7.1 Where reference is made in this Agreement to a provision of the General Conditions or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

7.2 Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, ~~or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.~~ *(Insert rate of interest agreed upon, if any.)*

four (4) percent simple interest per year

(Usury laws and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Contractor's principal places of business, the location of the Project and elsewhere may affect the validity of this provision. Legal advice should be obtained with respect to deletions or modifications, and also regarding requirements such as written disclosures or waivers.)

7.3 Other provisions: (Check one box.)

- Subparagraph 7.3.1, titled "Liquidated Damages," shall apply to this Agreement. The amount of liquidated damages shall be Five Hundred dollars (\$500) per day.
- Subparagraph 7.3.1, titled "Liquidated Damages," shall not apply to this Agreement.

7.3.1 Liquidated Damages. The parties recognize that Owner will suffer financial loss if the Work is not completed within the Contract Time (including adjustments and extensions, if any). They also recognize the delays, expense, and difficulty to both parties involved in proving or contesting the amounts of those losses. Instead of requiring proof of those amounts, it is agreed that Contractor shall be liable for and shall pay Owner the amount specified above in paragraph 7.3 per day as liquidated damages, and not as a penalty, for each day after the Contract Time until Substantial Completion. The amounts stated as liquidated damages are agreed to be reasonable estimates of Owner's losses and expenses for delays, including inspections, architectural and engineering services, and administrative costs. If any part of those delays is caused by Owner, liquidated damages shall not be charged for the portion of the delay time that was caused by Owner but shall be charged for the portion not so caused. Owner may collect liquidated damages by retaining moneys otherwise due Contractor in the amount of such damages, and by other legal means. Nothing in this Subparagraph 7.3.1 shall reduce Owner's rights under Article 14 of the General Conditions or other provisions of the Contract Documents. In its discretion, Owner may waive some or all liquidated damages against the Contractor. Such a waiver is valid only if done by a signed writing that refers specifically to this Subparagraph 7.3.1 and specifically mentions "liquidated damages." Such a waiver shall not constitute an extension of the Contract Time.

EXHIBIT – A Sample Standard for of Agreement

7.3.2 **Performance and Payment bonds** The Contractor is is not required to furnish performance and payment bonds.

7.3.3 **Additional Provisions:**

7.3.3.3 Iran Divestment Act Certification. The Contractor hereby certifies that, it is not on the Iran Final Divestment List created by the North Carolina State Treasurer pursuant to N.C.G.S. 147-86.58. The Contractor shall not utilize in the performance of the Agreement any subcontractor that is identified on the Iran Final Divestment List.

7.3.3.4 E-Verify Compliance: The Contractor shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statues. Further if the Contractor utilizes a subcontractor, the Contractor shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statues. The Contractor represents that the Contractor and its subcontractors are in compliance with the requirements of Article 2 of Chapter 64 of the North Carolina General Statues.

**ARTICLE 8
TERMINATION OR SUSPENSION**

- 8.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of the General Conditions.
- 8.2 The Work may be suspended by the Owner as provided in Article 14 of the General Conditions.

**ARTICLE 9
ENUMERATION OF CONTRACT DOCUMENTS**

- 9.1 The Contract Documents, except for Modifications issued after execution of this Agreement, are enumerated as follows:
 - 9.1.1 The Agreement is this executed Standard Form of Agreement Between Owner and Contractor.
 - 9.1.2 The General Conditions are the General Conditions of the Contract for Construction.

Date of Contract Documents: February 6, 2017

Document	Title	Pages
	Minority and Women Business Enterprise Documents	
	Maintenance and Condition Assessment Report	
	Asbestos and Lead Inspection Report	

9.1.4 The Specifications are those contained in the Project Manual dated as in Subparagraph 9.1.3, and are as follows:
(Either list the Specifications here or refer to an exhibit attached to this Agreement.)

Section	Title	Pages
Exhibit A	Specifications for Demolition of Town Common Radio Tower	

9.1.5 The Drawings are as follows, and are dated unless a different date is shown below:
(Either list the Drawings here or refer to an exhibit attached to this Agreement.)

Number	Title	Date
Exhibit B	Site and Demolition Plan	02/06/17

EXHIBIT – A Sample Standard for of Agreement

9.1.6 The Addenda, if any, are as follows:

Number	Date	Pages

Portions of Addenda relating to bidding requirements are not part of the Contract Documents unless the bidding requirements are also enumerated in this Article 9.

9.1.7 Other documents, if any, forming part of the Contract Documents are as follows:

SAMPLE

EXHIBIT – A Sample Standard for of Agreement

IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed in duplicate originals as of the day and year first above written.

CITY OF GREENVILLE:

CONSTRUCTION COMPANY'S NAME

BY: _____
Barbara Lipscomb
City Manager

BY: _____

APPROVED AS TO FORM:

BY: _____
David A. Holec, City Attorney

PRE-AUDIT CERTIFICATION:

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

Bernita W. Demery, Director of Financial Services

Date _____

Account Number **060-04-00-00-000-000-
532000-**

Project Code (if applicable) **TC**