

**AGREEMENT TO PERFORM FULL SERVICE DEMOLITION/RESTORATION OF  
THE HARFORD WASTE-TO-ENERGY FACILITY**

As of \_\_\_\_\_ (“Effective Date”) this Agreement to Perform Full Service Demolition/Restoration of the Harford Waste-To-Energy Facility (“Agreement”) is entered into by and between the Northeast Maryland Waste Disposal Authority (“Authority”) and \_\_\_\_\_ (“Contractor”).

**ARTICLE I – CONTRACT DOCUMENTS**

**Section 2.1 Contract Documents**

The documents that comprise this Agreement (“Contract Documents”), in order of precedence, are:

- a) Agreement, including Attachments;
- b) Request for Proposals dated \_\_\_\_\_ (“RFP”)

*[Plus addenda if applicable];*

- c) Contractor’s Proposal dated \_\_\_\_\_ [plus BAFO if applicable].

**ARTICLE II – SCOPE OF WORK**

**Section 2.1 Description of work**

(a) The Contractor shall furnish all labor, equipment and material necessary to perform the work at the Harford Waste to Energy Facility (“Facility”) that is described in the Contract Documents, in accord with the scope of work and requirements set forth in the Contract Documents including but not limited to the Project Plan in Attachment 1 (“Work”). The Contract Documents are to be read as complementary to each other. Contractor is solely responsible (i) for all means and methods necessary to perform the Work, (ii) for coordinating all portions of the Work, and (iii) for performing the Work in accord with the Contract Documents.

In the event the Authority determines that the Work performed is not in complete conformity with the Contract Documents, or is defective in any way, the Work shall be corrected by and at the sole expense of the Contractor. The Contractor must perform the Work so as to maximize the recovery of materials for reuse and/or sale while minimizing dust, noise and nuisance to the surrounding community.

(b) The Work includes the preparation of engineering drawings and the submission of applications for, and obtaining of, permits and governmental approvals necessary to perform the Work, providing project management for the Work, including but not limited to coordination with the U.S. Army (“Army”) staff and civilian support staff at Aberdeen Proving Grounds, and preparation and completion of all required documentation. No earth moving work or demolition may begin without all permits and approvals (1) in hand and (2) acknowledged, in writing, by the Authority.

(c) The Contractor is required to proceed to demolish the foundations and underground structures at the Facility, to remove all materials that result from the Demolition/Restoration, and to stabilize and restore all areas of the site that were disturbed by the Demolition/Restoration pursuant to applicable permits (“Demolition/Restoration Work”). The Contractor shall obtain all permits and approvals necessary to perform the Demolition/Restoration Work. The Work shall be done in accord with the terms of the permits or other governmental approvals that the Contractor is required to obtain. This may include the restoration of driving surfaces or other hardstand that are damaged during the Demolition/Restoration Work.

A separate Notice to Proceed for the Demolition/Restoration Work will be issued after all sampling results and permits are in hand as set forth in Section 2.4(a).

## **Section 2.2 Standards of Workmanship**

The Contractor is responsible for performing the Work in accord with the highest standards of skill, workmanship and professional standards applicable to work of this nature, using its best skill and attention.

## **Section 2.3 Effect of Review by Authority**

Contractor is not relieved of its obligation to comply with the requirements of the Contract Documents, or for defective work, by (i) approval by the Authority of any drawings, submittals or other documents prepared by Contractor; (ii) the activity, responsibility or administration of the Agreement by the Authority's personnel, or (iii) inspections, tests, or approvals required or performed by persons other than the Contractor.

## **Section 2.4 Site Investigation**

(a) Contractor will conduct the environmental sampling as described in the Contract Documents and provide the results to the Authority as soon as possible. **The Notice to Proceed for the construction work will only take place after the results of the sampling are received and all permits for the Work are in hand and written acceptance of the same is issued by the Authority.**

(b) Contractor acknowledges that it has investigated and satisfied itself as to the conditions affecting the Work, including but not limited to those bearing upon transportation, disposal, handling and storage of materials, availability of labor, water, electric power, roads and uncertainties of weather, physical conditions at the site of the Work, the conformation and conditions of the ground, and the character of equipment and facilities needed preliminary to and during prosecution of the Work. Contractor further acknowledges that it has satisfied itself as to

the character, quality and quantity of surface and subsurface materials or obstacles to be encountered insofar as this information is reasonably ascertainable from inspection of the site, as well as from information contained in the Contract Documents and other information available to or obtainable by Contractor. Any failure of Contractor to acquaint itself with the site characteristics or conditions, or with all information reasonably available to or obtainable by it, does not relieve Contractor from responsibility for estimating properly the difficulty or cost of successfully performing the Work. The Authority assumes no responsibility for any conclusions or interpretations made by Contractor on the basis of the information made available by the Authority. The site investigation “shall” include a sweep for unexploded ordinance, if required by the Army.

## **Section 2.5 Permits and Licenses**

Contractor is responsible for obtaining, at Contractor’s cost, all permits, licenses, and other governmental approvals that are necessary to perform the Work. Demolition/Restoration of foundations and the movement of excavated soils cannot take place until all sediment and erosion control permit requirements related to the Work are in place.

## **Section 2.6 Subcontracting**

The Contractor may not subcontract any part of the Work without the prior written consent of the Authority. Consent is hereby given to any subcontractors specifically identified in Contractor’s Proposal. No agreement or subcontract between Contractor and any other person will limit or otherwise affect Contractor’s obligations under this Agreement.

For testing and subsurface consulting services, Contractor is required to select its subcontractors from the U.S. Army-approved list of firms in Attachment 2.

## **Section 2.7 Security of Site, Coordination of Work, and Safety**

The Contractor is responsible for securing the site and the contents of the buildings on the site on the Effective Date of the Service Agreement, in accord with the requirements in Attachment 1.

Contractor shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

- all persons on the Site or who may be affected by the Work;
- all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
- other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.

Contractor shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with all applicable Laws and Regulations.

Contractor shall provide a centralized location for the maintenance of the safety data sheets or other hazard communication information required to be made available by any employer on the Site. Location of the material safety data sheets or other hazard communication information shall be readily accessible to the employees of any employer on the Site.

The Contractor shall prepare a site specific Health and Safety Plan (“HASP”) for the Work and submit the same to the Authority within 20 days of execution of the Service Agreement. No field studies or work may begin until the Authority has provided written acceptance of the HASP, which will not be unreasonably withheld.

### **Section 2.8 Authority Project Manager/Inspection and Progress Meetings**

The Authority shall appoint a staff member as a primary contact for the Work to be performed (“Project Manager”), who will, in addition, designate an inspector or inspectors, who may be employed by a third-party engineering firm, to provide inspection services on site (“Authority’s Engineer”). The Project Manager and Oversight Engineers shall be authorized to inspect all Work. The Project Manager and Oversight Engineers are not authorized to revoke, alter, or waive any requirements of the Contract Documents, nor to approve or accept any portion of the Work. The Project Manager or Authority’s Engineer is authorized to call to the attention of the Contractor any failure of the Work to conform to the Agreement, and to reject Work or suspend the Work until any questions at issue can be referred to the Authority’s representative identified in Section 8.1. The Contractor shall be responsible for any and all over-time charged by the Authority’s Engineer that is attributable to the actions or inaction of the Contractor.

### **Section 2.9 Conditions at Site**

Contractor is responsible for clean-up, loading, transporting and disposal of all waste generated by its work, including Demolition/Restoration Work. Effective measures shall be taken by the Contractor to prevent the erosion of soil in compliance with all governmental requirements. If Contractor fails to adequately maintain the site, after notice from the Authority,

the Authority may maintain the site itself and the cost of maintenance will be deducted from monies due or to become due to the Contractor.

Work at the site may only be done during the hours from 8 a.m. to 6 p.m., Monday through Friday, excluding State Holidays or other days of administrative closure. The use of flood lamps is prohibited unless the Contractor demonstrates a safety concern that requires flood lamps and obtains the prior written permission of the Authority.

### **Section 2.10 Final Acceptance**

When the Demolition/Restoration Work is substantially complete, Contractor shall notify the Authority that the Demolition/Restoration Work will be ready for final inspection. For the Demolition/Restoration Work, substantial completion means 100% of the identified improvements, such as foundations and underground utilities, have been removed and grading sufficient to fill in all ruts, divots and depressions caused by the activities of the Contractor and to prevent ponding water is complete. Furthermore, stabilization, pursuant to the applicable permits and the Work Plan in Attachment 1, must be complete (although grass does not yet need to be fully grown). This includes preventing the collecting, ponding and infiltration of water into subterranean features on the Site. Sufficient notice shall be given to permit the Authority to schedule the final inspection. The Authority will inspect the Facility to determine that the Demolition/Restoration Work is complete and has been performed in compliance with the Contract Documents. On the basis of the inspection, if the Authority determines that the Demolition/Restoration Work is not substantially complete, the Contractor shall complete any outstanding work within 7 days. The date of the Authority's determination shall constitute the date of Final Acceptance of the Demolition/Restoration Work. Inspection by the Authority and

Final Acceptance by the Authority shall not excuse or waive any failure of the Contractor to complete the Work as required by the Contract Documents.

### **ARTICLE III – TERM/TIME FOR COMPLETION**

#### **Section 3.1 Term**

The Agreement shall be effective upon execution by both parties, and shall extend to the date of Final Acceptance for the Demolition/Restoration Work. The Contractor's warranties and indemnification obligations set forth in the Contract Documents shall survive the termination of the Agreement.

#### **Section 3.2 Notice to Proceed and Time to Complete**

The Authority shall issue a written Notice to Proceed for the Demolition/Restoration Work. The Contractor shall commence work on the dates established in the Notice to Proceed. Final Acceptance of the Demolition/Restoration Work shall take place within 300 days of the Notice to Proceed with the Demolition/Restoration Work. The word "day" means a calendar day of 24 hours measured from midnight to the next midnight.

#### **Section 3.3 CPM Schedule**

Within 5 days of the date of execution of the Agreement, Contractor shall submit to the Authority a CPM Schedule for the Work which identifies Contractor's detailed sequence, including start and end dates for each activity, for achieving milestones and Final Acceptance for each of the Salvage Work and the Demolition/Restoration Work within the time periods required by the Contract Documents. The Authority shall review the submitted CPM schedule, may request documents or other justification for the schedule, and shall approve a final version of the

CPM schedule (“Approved CPM Schedule.”) The Contractor is responsible for submitting monthly Approved CPM Schedule updates to the Authority’s Project Manager showing the progress of the Work. Failure to update the schedule may result in rejection or delay of payment requests.

### **Section 3.4 Liquidated Damages**

Time is an essential element of this Agreement and it is important that the work be vigorously prosecuted until completion. The Contractor acknowledges that the Authority and Harford County (“County”) will suffer actual damages from a failure to timely complete all Work under this Agreement, including damage to the public interest, but that damages are difficult to ascertain on the date of this Agreement. In addition, the Authority must expend money to dispose of construction debris that the Contractor fails to dispose of. Therefore, the parties agree to the following as Liquidated Damages:

- (a) \$5,000.<sup>00</sup> for each day that the Work remains uncompleted beyond the date specified in this Agreement, as adjusted by any adjustment of the specified Final Acceptance dates granted by approved change orders;
- (b) The Contractor shall pay all documented costs to the Authority that are attributable to the Oversight Engineer for each day that the Work remains uncompleted beyond the date specified in this Agreement, as adjusted by any adjustment of the specified Final Acceptance dates granted by approved change orders for the Demolition/Restoration Work; and
- (c) \$100 per ton of material that the Authority is required to dispose of because the Contractor has failed to do so.

## **ARTICLE IV – PAYMENT**

### **Section 4.1 Payment for Work**

The Authority shall pay Contractor as set forth in Attachment 3.

### **Section 4.2 Retainage**

Each progress payment to the Contractor will be subject to retainage in the amount of 10% of the payment. Retainage will be released to Contractor upon determination by the Authority that Final Acceptance for Salvage Work has occurred and determination by the Authority that Final Acceptance for Demolition/Restoration Work has occurred.

### **Section 4.3 Payment Procedures/Late Payment**

Contractor may invoice the Authority for each progress payment after notice from the Authority that the work represented by the progress payment has been inspected and approved under the Demolition/Restoration Work. Invoices are to be sent to the Authority at the address shown in Section 8.5. Payment will be made within 45 days of receipt of an approved invoice from Contractor, minus a 10% retainage of the gross amount invoiced. Any amounts payable by the Authority that are not paid when due shall bear interest at the amount equal to the Bank of America N.A. prime interest rate of interest, as adjusted from time to time, plus 2%.

### **Section 4.4 Withholding and Recovery of Payments to Contractor**

No payment made to the Contractor shall constitute an acceptance by the Authority of any Work not in accordance with the Contract Documents. The Authority may withhold or recover the whole or part of any Contractor payment to such extent as may be necessary to reimburse or protect the Authority from loss on account of defective Work not remedied, failure

of the Contractor to make payments properly to subcontractors, a reasonable doubt by the Authority that the Work can be completed by the completion date or for the balance of the Agreement price, or other damage caused by the Contractor for which the Authority may reasonably be liable. Final payment, including the retainage, shall not be made until all Work is complete to the satisfaction of the Authority and the Contractor provides a Maintenance Bond, in the amount of 10% of the total gross value of the project, to the Authority. This Bond must be renewed annually for a total coverage period of 3 years from the date of Final Acceptance.

## **ARTICLE V – CHANGES TO WORK**

### **Section 5.1 Changes to Work**

(a) The Authority unilaterally may, at any time, without notice to the sureties, by written order designated or indicated to be a change order, make any change in the Work within the general scope of the Agreement, including but not limited to changes (i) in the specifications; (ii) in the method or manner of performance of the Work; (iii) in the Authority-furnished facilities, equipment, materials, services, or site; or (iv) directing acceleration in the performance of the Work. Except as herein provided, no order, statement, or conduct of the Authority shall be treated as a change under this section.

(b) If any change under this section causes an increase or decrease in Contractor's cost of, or the time required for, the performance of any part of the Work under this Agreement, an equitable adjustment shall be made and the Agreement modified in writing accordingly; provided, however, that no claim for any change shall be allowed for any costs incurred more than 10 days before Contractor gives written notice of such costs.

(c) If Contractor intends to assert a claim for an equitable adjustment under this clause, it shall, within 15 days after receipt of a written change order, submit to the Authority a written

statement setting forth the general nature and monetary extent of such a claim, unless this period is extended by the Authority.

(d) No claim by Contractor for an equitable adjustment shall be allowed if asserted after final payment under this Agreement.

## **Section 5.2 Differing Site Conditions**

(a) The Authority is providing no information regarding latent or subsurface conditions at the site of the Work. Contractor is responsible for seeking out any such information that may be available to it through public or other sources.

(b) Contractor shall promptly, and before such conditions are disturbed, notify the Authority in writing of unknown physical conditions at the site of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inhering in work of the character provided for in this Agreement, knowledge of which was not reasonably available to the Contractor from public or private sources or from a site investigation. The Authority shall promptly investigate the conditions, and if it finds that such conditions do materially so differ and cause an increase or decrease in the Contractor's cost of, or the time required for, performance of any part of the Work under this Agreement, an equitable adjustment shall be made and the Agreement modified in writing accordingly.

(c) No claim by the Contractor for an equitable adjustment hereunder shall be allowed if asserted after final payment under this Agreement.

(d) Any claim under this clause is subject to the provisions of Section 2.4, Site Investigation.

### **Section 5.3 Suspension of Work**

(a) The Authority may unilaterally order the Contractor in writing to suspend, delay, or interrupt all or any part of the Work for a period of time it may determine to be appropriate for the convenience of the Authority or the County.

(b) If the performance of all or any part of the Work is for an unreasonable amount of time, suspended, delayed, or interrupted through no fault of the Contractor and solely by an act of the Authority in the administration of this Agreement, or by its failure to act within the time specified in this Agreement (or, if no time is specified, within a reasonable time), an adjustment shall be made for any increase in the cost of performance of this Agreement (excluding profit) necessarily caused by an unreasonable suspension, delay or interruption, and the Agreement modified in writing accordingly. However, no adjustment shall be made under this clause for any suspension, delay, or interruption to the extent (i) that performance would have been so suspended, delayed, or interrupted by any other cause, including the fault or negligence of Contractor, or (ii) for which an equitable adjustment is provided for or excluded by any other provision of this Agreement.

(c) No claim under this section shall be allowed (i) for any costs incurred more than 10 days before Contractor shall have notified the Authority in writing of the act or failure to act involved, and (ii) unless the claim, in any amount stated, is asserted in writing as soon as practicable after the termination of a suspension, delay, or interruption, but not later than the date of final payment, under the Agreement.

#### **Section 5.4 Authority to Make Changes in the Work**

Only the Authority Representative identified in Section 8.1 has the authority to make changes in the Work, to accept Work, or to approve an equitable adjustment to the price to be paid to Contractor.

### **ARTICLE VI – DELAYS/DEFAULT/TERMINATION**

#### **Section 6.1 Termination for Default—Damages for Delay—Time Extensions**

(a) If Contractor fails to fulfill its obligations under this Agreement properly and on time, or otherwise violates any provision of this Agreement, the Authority may terminate the Agreement by written notice to Contractor, specifying the acts or omissions relied upon as cause for termination (“Notice of Termination”). All finished or unfinished work provided by Contractor shall, at the Authority’s option, become the Authority’s property. The Authority shall pay Contractor fair and equitable compensation for satisfactory performance prior to receipt of Notice of Termination, less the amount of damages cause by Contractor’s breach. If the damages are more than the compensation payable to Contractor, Contractor will remain liable after termination and the Authority can affirmatively collect damages.

(b) If Contractor refuses or fails to prosecute the Work, or any separable part thereof, with such diligence as shall insure its completion within the time specified in this Agreement, or any extension thereof, or fails to complete said Work within this time, the Authority may, by written notice to the Contractor, terminate its right to proceed with the Work or the part of the Work as to which there has been delay. In this event, the Authority may take over the Work and prosecute the same to completion, by contract or otherwise, and may take possession of and utilize in completing the Work the materials, appliances, and plant foundations as may be on the site of the Work and necessary therefor. Whether or not Contractor’s right to proceed with the

Work is terminated, Contractor and its sureties shall be liable for any damage to the Authority or County resulting from Contractor's refusal or failure to complete the Work within the specified time.

(c) If the Authority terminates Contractor's right to proceed, the resulting damages shall consist of the liquidated damages specified in this Agreement until a reasonable time as may be required for final completion of the Work, together with any increased costs incurred by the Authority to complete the Work.

(d) If the Authority does not terminate Contractor's right to proceed, the resulting damages shall consist of the liquidated damages specified in this Agreement until the Work is completed and accepted.

(e) Contractor's right to proceed may not be so terminated nor Contractor charged with liquidated damages if

(i) the delay in the completion of the Work arises from unforeseeable causes beyond the control and without the fault or negligence of Contractor, including Contractor's subcontractors or suppliers, and

(ii) Contractor, within 10 days from the beginning of any such delay, notifies the Authority in writing of the causes of the delay. The Authority shall ascertain the facts and extent of the delay and extend the time for completing the Work, when, in its judgment, the findings of fact justify such an extension, and the Authority's findings of fact shall be final and conclusive on the parties, subject to the Administrative Dispute Resolution provisions in this Agreement.

(f) The rights and remedies of the Authority provided in this clause are in addition to any other rights and remedies provided by law or under this Agreement.

**Section 6.2 Termination for Convenience.**

The performance of Work under this Agreement may be terminated by the Authority in whole or in part, whenever the Authority shall determine that such termination is in the best interests of the Authority or the County. Any such termination shall be effected by delivery to Contractor of a Notice of Termination specifying the extent to which performance of Work under this Agreement is terminated, and the date upon which such termination becomes effective. In the event of a termination for convenience, the Authority will pay all reasonable costs associated with this Agreement that Contractor has incurred up to the date of termination and all reasonable costs associated with termination of the Agreement. Contractor will not be entitled to payment for any anticipatory profits that have not been earned up to the date of termination. Termination hereunder, including the determination of the rights and obligations of the parties, shall be governed by the provisions of COMAR 21.07.02.09(2)-(6).

**ARTICLE VII – DISPUTE RESOLUTION**

**Section 7.1 Administrative Dispute Resolution Procedure.**

The Authority and the Contractor shall in good faith attempt to resolve any dispute or matter in controversy under this Agreement. As a condition to seeking judicial resolution of a dispute, the Authority and Contractor agree to follow an administrative dispute resolution procedure. Under this procedure either party may initiate dispute resolution by giving notice of its claim to the other party. If a claim for additional compensation is being made under Article V, the notice of claim must be made within the time limits specified. Within 30 days of receiving such a claim, the party receiving the claim shall investigate the merits of the claim, and the parties shall meet to attempt resolution. If after completing this process resolution of the claim is not successful, either party may seek judicial resolution

## **Section 7.2 Applicable Law/Venue/Duty to Proceed**

All disputes under this Agreement, if not resolved by the parties, shall be resolved by a court of competent jurisdiction in Harford County, Maryland, and in accord with the laws of the State of Maryland. Pending resolution of any claim or dispute, the Contractor is obligated to continue performance of the Agreement.

## **ARTICLE VIII – GENERAL TERMS AND CONDITIONS**

### **Section 8.1 Authority Representative**

The Authority Representative for this Agreement shall be the Executive Director of the Authority or the Executive Director's designee, as established in writing to Contractor. Only the Authority Representative shall have the authority to make changes in the Work, to approve or accept Work, or to establish substantial completion or Final Acceptance.

### **Section 8.2 Performance Security**

For the duration of the Agreement, Contractor shall provide and maintain in effect a Performance Bond in the amount of \$1,500,000, from a surety licensed to do business in Maryland and acceptable to the Authority, covering the Contractor's performance obligations under this Agreement, or, alternatively if approved by the Authority, a letter of credit in the same amount, each in the form set forth in Attachment 4. Failure to provide and maintain the required Performance Security shall be considered an event of default under the Agreement.

### **Section 8.3 Payment Security**

Contractor agrees to provide security, in a form approved by the Authority and executed by Contractor and a surety licensed to do business in Maryland and acceptable to the Authority,

guaranteeing that Contractor will pay in full all of its bills and accounts for materials and labor used for the Work.

#### **Section 8.4 Compliance with Laws**

The Contractor shall comply with all applicable legal and regulatory requirements in the performance of Work under this Agreement. The Contractor shall provide, at the Contractor's own expense, all licenses, permits, insurance or other applicable Governmental Approvals needed to perform the work. The Contractor will be fully liable for any and all actual damages assessed against the Authority for a violation of applicable law or regulation related to the performance of the Work.

#### **Section 8.5 Notices**

All notices, designations, consents, approvals, and other communications required, permitted or otherwise delivered under this Agreement shall be in writing and may be delivered by hand or mailed by first class registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

**For the Authority:**

Executive Director, Northeast Maryland Waste Disposal Authority  
Tower II, Suite 402  
100 S. Charles Street  
Baltimore, Maryland 21201

**For the Contractor:**

## **Section 8.6 Non-discrimination**

Contractor agrees that it will not discriminate or permit discrimination against a person because of race, color, religion, creed, age, sex, national origin, ancestry or disability, and shall comply with all applicable federal, State and local laws, rules and regulations relating to non-discrimination and equal employment opportunity. This provision is a material term of this Agreement.

## **Section 8.7 Contractor Representations and Warranties**

The Contractor represents and warrants that:

A. It is qualified to do business in the State of Maryland and will take such action necessary to remain so qualified during the entire term of this Agreement.

B. It is not in arrears with respect to the payment of any moneys due and owing the State of Maryland, including, but not limited to the payment of taxes and employee benefits, and it will not become so in arrears during the term of this Agreement.

C. It shall comply with all federal, State and local laws, ordinances, rules and regulations applicable to its activities and obligations under this Agreement.

D. It shall obtain, at its expense, all licenses, permits, insurance and governmental approvals necessary to the performance of its obligations under this Agreement.

## **Section 8.8 Compliance with Election Law Requirement**

Contractor shall comply with the Maryland Code, Election Law Article, §§14-101 to 14-108 regarding disclosure of political contributions.

## **Section 8.9 Insurance**

Contractor shall obtain and maintain in full force and effect for the duration of this Agreement insurance necessary to cover claims arising from Contractor's operations under this agreement, in accord with the requirements of Attachment 5 ("Required Insurance"). Within 10 business days of the execution of this Agreement by the Authority, and at any time thereafter as required by the Authority, Contractor shall deliver to the Authority copies of all certificates of insurance for Required Insurance. Except for Worker's Compensation Insurance, each policy shall include the Authority and Harford County as additional insureds, shall require the insurer to provide the Authority 60 days' prior written notice of termination or cancellation or of any material change in coverage or deductibles under such policy, and shall waive subrogation rights against the Authority and Harford County. Contractor shall use only responsible insurance companies of recognized standing which are authorized to do business in Maryland as providers of all Required Insurance. The Company shall carry all Required Insurance with insurance companies rated at least "A-" or its equivalent by Best's Key Rating or another national rating organization. The Company may affect Required Insurance by endorsement of blanket insurance policies. Failure to obtain or maintain Required Insurance shall constitute a material breach of the Agreement and may be grounds for termination for default.

## **Section 8.10 Indemnification**

To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless the Authority and Harford County and their respective employees, agents, officers, directors, elected representatives, officials, and other representatives from and against all liability, suits, judgments and claims by third parties, damages, losses and expenses, including attorneys' fees, which may arise as a result of the performance of this Agreement by Contractor

or any of its subcontractors. This indemnification obligation shall survive termination of this Agreement.

### **Section 8.11 Retention of Records and Authority Right to Audit**

Contractor shall maintain in a safe place at the Site one record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications in good order and annotated to show changes made during construction. These record documents together with all approved Samples and a counterpart of all approved Shop Drawings will be available to Authority and Authority's Consultant for reference. Upon completion of the Work, these record documents, Samples, and Shop Drawings will be delivered to Authority.

Contractor shall, upon request, review with Authority and Authority's Consultant the status of record documents in connection with the Authority's review of an Application for Payment. Failure to maintain complete and current record documents may, at the discretion of the Authority, constitute cause for Authority's withholding payments for Work performed.

Contractor shall retain and maintain all records and documents relating to this Agreement for 3 years after final payment by the Authority or any applicable statute of limitations, whichever is longer, and shall make them available for inspection and audit by authorized representatives of the Authority and County at all reasonable times.

### **Section 8.12 County as Third-Party Beneficiary**

Harford County is a third-party beneficiary of all of the obligations of Contractor under this Agreement. The County has the right, but not the obligation, to enforce rights, remedies, powers, and privileges of the Authority under this Agreement if the County provides 10 days' prior written notice to the Authority and Contractor. Unless such prior notice is given by the

County, it is understood that the Authority Representative shall have the authority to direct Contractor with respect to Agreement and Contractor shall have the right to rely on such direction.

### **Section 8.13 Assignment**

Neither this Agreement nor any right or duty hereunder may be assigned, delegated or otherwise disposed of by the Contractor without the prior written consent of the Authority. Any assignment, delegation or other disposal in violation of the Section shall be null and void.

### **Section 8.14 Amendment or Modification**

Except as provided in Article V, this Agreement may be amended only by written instrument executed by both parties.

### **Section 8.15 Maryland Law Applies**

This Agreement shall be interpreted in accord with the laws of the State of Maryland, without regard to its conflict of laws provisions.

### **Section 8.16 Tax Exemption**

The Authority is exempt from all sales tax and federal excise tax, Maryland Tax No. 30002563. Contractor will not charge such taxes to the Authority for any materials or supplies included in the Work. Contractor shall pay Maryland state tax on all materials and supplies used in furnishing or providing the Work in accordance with Maryland Law.

### **Section 8.17 Counterparts**

This Agreement may be executed in counterparts, each of which is deemed an original, and all of which, when executed and delivered, together constitute one and the same instrument.

Signatures appear on the next page.

DRAFT

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed.

**NORTHEAST MARYLAND WASTE  
DISPOSAL AUTHORITY**

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Christopher W. Skaggs  
Executive Director

Date signed: \_\_\_\_\_

**CONTRACTOR**

\_\_\_\_\_  
Witness

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date Signed: \_\_\_\_\_

## ATTACHMENT 1

### PROJECT PLAN

*[PROVIDED BY CONTRACTOR TO HAVE THE FOLLOWING DETAILS:]*

#### **Proposed Plan for Project:**

- A detailed plan of action to address the scope of Demolition/Restoration Work, including staffing, subcontractors, and laboratories involved in completing each task.
  - The Plan will describe the critical path proposed for the project, and include responsibilities of the Contractor and Authority/County at each step. Man-hours and pricing are to be summarized for the critical path in a table at the end of the section.
    - The Plan will include a description of the following:
      - securing of the site as required;
      - controls to reduce potential damage to the site by the Contractor;
      - coordination with the Army for any and all needed permitting
      - Obtain all necessary permits (listing of conditions and plans to meet those conditions) photo-documentation and other record keeping efforts;
      - communications with the Authority /County (to include a kick-off meeting, monthly progress meetings and reports, and daily safety/tailgate meetings; see Exhibit A to this attachment for details) ;
      - demolition of improvements and buried utilities;
      - restoration of site, as required by permit and the lease

#### **Listing of Project Deliverables:**

- Project Schedule
- Summary Reports (allowing for two rounds of edits) for the following:
  - any environmental sampling or analysis necessary to comply with regulatory or contract requirements for facility closure (pre-construction, during construction and post-construction);
  - sampling, analysis and evaluations of materials as necessary to provide for proper disposal;
  - all survey data, including topography, structure locations, surface waters, utilities, wetlands, roadways, and other features, required to prepare site plans for Demolition/Restoration;
  - grading plan;
  - afforestation plan;
  - compaction testing for all fill areas greater than eight inches in depth; and
  - monthly progress reports.
- Record Drawings

- Topographic Coverage for to the facility boundary shown on enclosure for the HWTEF Site only, no mapping shall be performed of the abutting APG property;
- Full ground based survey of the 13 acre-site, with 1-foot contours, showing remaining stormwater ponds and any structures abandoned in place. Survey shall be tied to the Maryland State Plane Coordinate System and the 1983 NAD. No aerial survey (this includes the use of drones) will be allowed. Survey work is limited to the lease site and may not include any properties outside of the lease border;
- Features to be shown: buildings, roads, railroads, drainage features, bridges, culverts, fences, driveways, poles, individual trees, tree groups, sidewalks, fire hydrants, catch basins, ponds, traces of transmission lines and their structure, water courses, bodies of water, retaining walls and target locations shall be shown.
- Two copies on CD-ROM or USB flash drive, or by download, in AutoCAD Release 2007 and PDF format, and 2 full paper sets, each of the design drawings and the final as-built drawings. All drawings shall be stamped by a MD licensed Professional Engineer.
- Close-out Report, Demolition/Restoration

Include disposal price, disposition, any bills of lading or other evidence of receipt by the disposal facility.

Exhibit A to Attachment 1

The Contractor shall schedule, hold, and facilitate Monthly Project Progress Meetings and at other times if requested by the Authority to discuss and review project-related activities for the entire duration of the project. The format for the Monthly Project Progress Meetings shall be approved by the Authority. The Contractor shall issue agendas seven (7) days prior to the meeting for review, comment and acceptance. At such meetings, discussions will be held concerning all aspects of the project work including, but not limited to:

Minutes or notes regarding the previous meeting;

Progress since the last meeting across all work tasks;

Status of deliverables and deliverable reviews;

Planned progress for the next month or months, as necessary;

Status of the project schedule;

Coordination between parties;

Problems, conflicts, and observations;

Safety concerns;

Status of budget;

Status of current open and closed action items for meetings. The Contractor shall maintain a rolling list of formerly open and closed action items as a separate project record document;

Other business; and

Next meeting date.

**ATTACHMENT 2**  
**ARMY LIST OF APPROVED UXO CONTRACTORS**

**CBRNE Analytical Remediation Activity no longer performs that work. The Army neither provides endorsement of the contractors on list nor limits the selection to the list. There are many more contractors qualified to perform this work.**

**In discussions with the Army Safety Office, they recommend that an excavation permit be requested even for under slab excavations.**

**Weston Solutions**

1309 Continental Drive, Suite M  
Abingdon, MD 21009-2335  
Phone: 410-612-5900  
Fax: 410-612-5901

**Shaw E & I**

2113 Emmorton Park Road  
Edgewood, MD 21040-1037  
(410) 612-6350

**USA Environmental Inc.**

720 Brooker Creek Blvd., Ste. 204  
Oldmar, FL 34677  
(813) 343- 6336

**Reactives Management Corp.**

1025 Executive Blvd., Suite 101  
Chesapeake, VA 23320  
(757) 436-1033  
(800) EPA-OSHA (800-372-6742)

**CBRNE Analytical Remediation Activity (CARA)**

Tech Ops/BE2200  
APG, MD 21005-5001  
Tel (410) 436-6351/1924

**Tetra Tech EC**

5700 Lake Wright Drive  
Twin Oaks I Suite 309  
Norfolk, VA 23502  
(757) 461-3932  
POC - Bert Ramsay, [bert.ramsay@tetrattech.com](mailto:bert.ramsay@tetrattech.com)

**Tetra Tech NUS**

2171 W. Park Court, Suite E  
Stone Mountain, GA 30087  
(770) 413-0965  
POC : Ralph Brooks, [ralph.brooks@tetratech.com](mailto:ralph.brooks@tetratech.com)

**EHS-International, Inc.**

13228 NE 20th Street, Suite 100  
Bellevue, WA 98005  
Phone: 425.455.2959  
Fax: 425.646.7247  
Website: [www.ehsintl.com](http://www.ehsintl.com)  
POC: Larry Toimil, President  
Email: [larryt@ehsintl.com](mailto:larryt@ehsintl.com)  
Alt. POC: Joan Kenton, Business Development Manager  
Email: [joank@ehsintl.com](mailto:joank@ehsintl.com)

**Ordnance & Explosives Remediation, Inc.**

135 King Street  
Cohasset, MA 02025-1364  
Phone: (781) 838-8339  
POC: Hugh. S Sease III  
[Sease@OER-Inc.com](mailto:Sease@OER-Inc.com)

**CH2M HILL**

5700 Cleveland Street, Suite 101  
Virginia Beach, VA 23462  
Office: (757) 671-6250  
Cell: (757) 663-2057  
POC: [John.Bowles@CH2M.com](mailto:John.Bowles@CH2M.com)

**EA Engineering**

1311 Continental Drive  
Abingdon, MD 21009  
Phone - 410-671-6057  
Fax - 410-671-6056  
POC: Scott Dobson  
Email - [sdobson@eaest.com](mailto:sdobson@eaest.com)

**ECC (Environmental Chemical Corp.)**

**Munitions Response Division**

1746 Cole Blvd. Suite 350  
Lakewood, CO 80401  
Phone: (804) 298- 7607  
POC: Richard Davis

**Earth Resources Technology, Inc.**

6100 Frost Place, Suite A

Laurel, MD 20707

Phone: (301) 361-0620

Fax: (301) 361-0659

**Chimera Enterprise International**

2893 Yost Court

Edgewood, MD 21040

(443) 243-7247

**Leidos**

3465 A Box Hill Corporate Center Drive

Abingdon, MD 21009

[www.leidos.com](http://www.leidos.com)

C. Mark Van Baalen, PMP | Leidos

EOD Program Manager

phone: 443.402.2297 | fax 443.402.2339

mobile: 443.528.5999 | email: [c.mark.van.baalen@leidos.com](mailto:c.mark.van.baalen@leidos.com)

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**ATTACHMENT 3  
PAYMENT PROVISIONS**

DRAFT

[Add Contractor's Price Proposal and drawdown schedule]

For the Demolition/Restoration Work, each invoice shall specify: (a) the number assigned to this Agreement by the Authority; (b) the total amount of payments received by the Contractor, through the closing date of the invoice period, under this Agreement; (c) the opening and closing dates of the invoice period; and (d) a description of the work performed and itemization of reimbursable expenses incurred during the invoice period (e) summary of salvaged goods and materials (e.g., inventory control #, description, sale amount, buyer) as a credit against the draw-down schedule and the disposition of all disposed materials. The Contractor shall submit with each invoice such supporting documentation, including receipts and invoices for work performed by subcontractors to the Contractor.

**ATTACHMENT 4  
PERFORMANCE BOND/LETTER OF CREDIT**

**PERFORMANCE BOND**

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Principal

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Business Address of Principal

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Surety

a corporation of the State of \_\_\_\_\_ and authorized to do business in the State of Maryland.

Obligee  
Northeast Maryland Waste Disposal Authority  
and  
Harford County, Maryland

Penal Sum of Bond in the amount of  
(express in words and figures)  
One Million and Five Hundred Thousand and Zero Dollars (\$1,500,000)

Date of Agreement: \_\_\_\_\_, 20\_\_

Date Bond Executed: \_\_\_\_\_, 20\_\_

Agreement to provide Demolition/Restoration Services

**KNOW ALL MEN BY THESE PRESENTS**, that we, the Principal named above and Surety named above, are held and firmly bound unto the Obligee named above in the Penal Sum of this Performance Bond stated above, for the payment of which Penal Sum we bind ourselves, our heirs, executors, administrators, personal representatives, successors, and assigns, jointly and severally, firmly by these presents. However, where Surety is composed of corporations acting as co-sureties, we, the co-sureties, bind ourselves, our successors and assigns, in such Penal Sum jointly and severally as well as severally only for the purpose of allowing a joint action or actions against any or all of us, and for all other purposes each co-surety binds itself, jointly and severally with the Principal, for the payment of such sum as appears above its name below, but if no limit of liability is indicated, the limit of such ability shall be the full amount of the Penal Sum.

**WHEREAS**, Principal has entered into or will enter into an Agreement with the Northeast Maryland Waste Disposal Authority (the “Authority”), which Agreement is described and dated as shown above, and incorporated herein by reference. The Agreement and all items incorporated into the Agreement, together with any and all changes, extensions of time, alterations, modifications, or additions to the Agreement or to the work to be performed thereunder or any of them, or to any other items incorporated into the Agreement shall hereinafter be referred to as “the Agreement.”

**NOW, THEREFORE**, during the term of said Agreement, this Performance Bond shall remain in full force and effect unless and until the following terms and conditions are met:

1. Principal shall well and truly perform the Agreement; and
2. Principal and Surety shall comply with the terms and conditions in this Performance Bond.

Whenever Principal shall be declared by the Authority to be in default under the Agreement, the Surety may within fifteen (15) days after notice of default from the Authority notify the Authority of its election to either promptly proceed to remedy the default or promptly proceed to complete the Agreement in accordance with and subject to its terms and conditions. In the event the Surety does not elect to exercise either of the above stated options, then the Authority thereupon shall have the remaining Agreement work completed, Surety to remain liable hereunder for all expenses of completion up to but not exceeding the penal sum stated above.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement or to the work to be performed thereunder or the Specifications accompanying the same shall in any way affect its obligations on this Performance Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Agreement or to the work or to the Specifications.

This Performance Bond shall be governed by and construed in accordance with the laws of the State of Maryland and any reference herein to Principal or Surety in the singular shall include all entities in the plural who or which are signatories under the Principal or Surety heading below.

**IN WITNESS WHEREOF**, Principal and Surety have set their hands and seals to this Performance Bond. If any individual is a signatory under the Principal heading below, then each such individual has signed below on his or her own behalf, has set forth below the name of the firm, if any, in whose name he or she is doing business, and has set forth below his or her title as a sole proprietor. If any partnership or joint venture is a signatory under the Principal heading below, then all members of each such partnership or joint venture have signed below, each member has set forth below his or her title as a general partner, limited partner, or member of joint venture, whichever is applicable. If any corporation is a signatory under the Principal or Surety heading below, then each such corporation has caused the following: the corporation's name to be set forth below, a duly authorized representative of the corporation to affix below the corporation's seal and to attach hereto a notarized corporate resolution or power of attorney authorizing such action, and each such duly authorized representative to sign below and to set forth below his or her title as a representative of the corporation. If any individual acts as a witness to any signature below, then each such individual has signed below and has set forth below his or her title as a witness. All of the above has been done as of the Date of Bond shown above.

In Presence of: Individual Principal  
 \_\_\_\_\_ as to \_\_\_\_\_ (SEAL)  
 Witness

In Presence of: Partnership Principal  
 Witness

\_\_\_\_\_ (SEAL)  
 Name of Partnership

\_\_\_\_\_ (SEAL)  
 \_\_\_\_\_ (SEAL)  
 \_\_\_\_\_ (SEAL)

Corporate Principal

Attest:

(Name of Corporation)

\_\_\_\_\_  
Corporate Secretary

\_\_\_\_\_  
President

AFFIX  
CORPORATE  
SEAL

.....

\_\_\_\_\_  
(Surety)

Attest:

\_\_\_\_\_  
Signature

By: \_\_\_\_\_

Title:

AFFIX  
CORPORATE  
SEAL

Business Address of Surety:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Bonding Agent's name:

\_\_\_\_\_

Agent's Address:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Approved as to legal form and sufficiency this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

Date: \_\_\_\_\_

The Northeast Maryland Waste Disposal Authority  
100 South Charles Street  
Tower II- Suite 402  
Baltimore, MD 21201

DRAFT

FORM OF PERFORMANCE LETTER OF CREDIT

Date: \_\_\_\_\_

Ladies and Gentlemen:

1. We hereby establish, at the request of \_\_\_\_\_ [NAME OF PROPOSER] (“the Contractor”), in your favor and for the account of The Northeast Maryland Waste Disposal Authority, a public body corporate and politic organized and existing under the laws of the State of Maryland (the “Authority”), our Irrevocable Letter of Credit, No. \_\_\_\_\_ (the “Letter of Credit”), in the amount of \_\_\_\_\_ (\$\_\_\_\_\_) DOLLARS (the “Letter of Credit Amount”), effective \_\_\_\_\_ and expiring on \_\_\_\_\_ (the “Expiration Date”).

2. The Letter of Credit is being issued in support of the performance by the Contractor of its obligation to provide Demolition/Restoration Services to the Authority as set forth in the “**DEMOLITION/RESTORATION AGREEMENT**,” dated \_\_\_\_\_, 20\_\_ (the “Agreement”).

3. We hereby irrevocably authorize you to draw on us, at sight and in one or several drawings, an amount up to the Letter of Credit Amount. Such draft(s) shall be in writing and signed by your authorized representative and shall be accompanied by a completed certificate in the form attached hereto as Exhibit 1 (such draft accompanied by such certificate being collectively your “Draft”). The Draft shall be payable by us on-sight in accordance with paragraph 4 below. Funds under this Letter of Credit are available to you against your Draft (referring thereon to the number of this Letter of Credit) upon the occurrence of an Event of Default by the Contractor and the subsequent exercise by the Authority of its rights under the Agreement, all in accordance with the terms of such Agreement.

4. The Draft shall be dated the date of its presentation, and shall be presented to our office located at [NAME OF FINANCIAL INSTITUTION] and [ADDRESS OF FINANCIAL INSTITUTION]. If we receive your Draft at such office, in conformance with the terms and conditions hereof, on or prior to the Expiration Date, we will honor the same in accordance with

Name of Bidder \_\_\_\_\_

the provisions hereof and your payment instructions by 5:00 p.m. on the next succeeding Business Day after presentation of your Draft. For purposes of this Letter of Credit, “Business Day” shall mean any day other than a Saturday, Sunday or public holiday under the laws of the [STATE]. If requested by you, payment under this Letter of Credit may be made by wire transfer of immediately available Federal Funds to your account in a bank on the Federal Reserve wire system or by deposit of immediately available funds into a designated account that you may establish with us. All drawings under the Letter of Credit will be paid with our own funds.

5. If a demand for payment delivered to us pursuant to the foregoing paragraph does not conform to the terms and conditions of this Letter of Credit, we will notify you of our intention to dishonor the same after presentation of the Draft by 5:00 p.m. on the next succeeding Business

Day. Such notice of dishonor shall be promptly confirmed by written notice, specifying the number of this Letter of Credit, the date of the non-conforming Draft and the reasons that we are not honoring the same. Upon being notified that the Draft was not effected in conformity with this Letter of Credit, you may attempt to correct any such non-conforming demand for payment prior to the Expiration Date.

6. Upon the earlier to occur of (a) payment to you or your account of the Letter of Credit Amount, or (b) the Expiration Date, we shall be fully discharged of our obligation under this Letter of Credit with respect to such Draft, and we shall not thereafter be obligated to make any further payments under this Letter of Credit in respect of such Draft to you or to any other person.

7. This Letter of Credit shall be governed by the International Code of Uniform Customs and Practices for Documentary Credits, Publication No. 500 (1993 Revision), including any amendments, modifications or revisions thereto. Communications with respect to this Letter of Credit shall be in writing and shall be addressed to [BANK], [ADDRESS OF BANK], specifically referring to the number of this Letter of Credit. We shall address communications to you at the address noted on the first page of this Letter of Credit unless otherwise advised by you in writing.

8. This Letter of Credit sets forth in full our undertaking, and such undertaking shall not in any way be modified, amended, amplified or limited by reference to any document, instrument or agreement referred to herein (including, without limitation, the Agreement), except only the Draft referred to herein; and any such reference shall not (unless otherwise provided herein) be deemed to incorporate by reference any such document, instrument or agreement except for such Draft.

Very truly yours,  
[NAME OF FINANCIAL INSTITUTION]

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## ATTACHMENT 5

### REQUIRED INSURANCE

Insurance shall be procured and maintained in accord with Section 8.9. Policies shall have the following minimum limits of liability:

- (i) Commercial General Liability -- \$10,000,000 each occurrence. The policy shall contain, but not be limited to, the following coverage endorsements: contractual liability, including subcontractors, personal injury, advertising injury, products and completed operations, explosion, collapse, and underground hazards, pollution liability.
- (ii) Umbrella -- \$5 million each occurrence
- (iii) Automobile Liability -- \$1 million each occurrence and \$1 million aggregate. Coverage for non-owned and hired vehicles shall be included. If hazardous materials are transported, insurance shall comply with all applicable laws.
- (iv) Workers Compensation – as required by Maryland law
- (v) Design Errors and Omissions -- \$2 million each occurrence. If coverage is provided on a claims made basis such coverage must be maintained for a period of three years following Final Acceptance.