

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

THIS AGREEMENT is dated as of the \_\_\_\_\_ day of \_\_\_\_\_ in the year 2025 by and between Fire Adapted Bailey (hereinafter called OWNER), and **Selected Contractor** (hereinafter called CONTRACTOR). OWNER and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

### **ARTICLE 1. WORK**

CONTRACTOR shall complete all work as specified or indicated in the Contract Documents as defined in Article 9 of this Agreement. The work is generally described as the Construction of the Fire Adapted Bailey Burland Pond Complex Rehabilitation Project.

### **ARTICLE 2. ENGINEER**

The Project has been designed by: W. W. Wheeler and Associates, Inc. (Wheeler). Wheeler is hereinafter called ENGINEER and shall act as OWNER's representative and have the rights and authority assigned to ENGINEER in the Contract Documents in connection with completion of the work in accordance with the Contract Documents.

### **ARTICLE 3. CONTRACT TIME**

- 3.1 Physical on-site work as depicted in the Construction Documents shall be substantially completed on or before December 7, 2026, and completed and ready for final payment in accordance with Paragraph 15.03 of the General Conditions on or before December 18, 2026, based on a Notice to Proceed issued by the OWNER on or before July 7, 2026.
- 3.2 CONTRACTOR shall provide the OWNER and ENGINEER with a detailed construction plan and schedule prior to initiating the work.

### **ARTICLE 4. CONTRACT PRICE**

OWNER shall pay CONTRACTOR a total sum of \$ \_\_\_\_\_ for completion of work in accordance with the Contract Documents in current funds as prescribed in the CONTRACTOR's Bid.

### **ARTICLE 5. PAYMENT PROCEDURES**

- 5.1 A mutually acceptable payment method shall be developed by the CONTRACTOR and OWNER and reviewed by the ENGINEER prior to Construction. Applications for Payment will be processed by OWNER.
- 5.2 OWNER shall withhold five percent (5%) as retainage from each progress payment. Retainage shall be released to contractor at the time of final payment.

## **ARTICLE 6. INTEREST**

All monies not paid when due as provided in Article 5 of the General Conditions shall bear interest of two (2) percent annual percentage rate. Monies withheld in accordance with Article 5 of the General Conditions are not overdue.

## **ARTICLE 7. CONTRACTORS WARRANTY**

CONTRACTOR shall warrant to the OWNER that the work will be in accordance with contract documents and construction performed to be free from defects in material and workmanship for a period of 24 months from the date of substantial completion.

## **ARTICLE 8. CONTRACTOR'S REPRESENTATIONS**

In order to induce OWNER to enter into this Agreement CONTRACTOR makes the following representations:

- 8.1. CONTRACTOR has familiarized itself with the nature and extent of the Contract Documents, work, site, locality, and all local conditions and Laws and Regulations in any manner that may affect cost, progress, furnishing, or performance of the work.
- 8.2. CONTRACTOR has studied carefully all reports of explorations and tests of subsurface conditions and drawings of physical conditions which are identified in the Issued for Construction Drawings and Specifications dated October 2025.
- 8.3. CONTRACTOR has obtained and carefully studied (or assumes responsibility for obtaining and carefully studying) all such examinations, investigations, explorations, tests, reports, and studies (in addition to or to supplement those referred to in Paragraph 8.2 above) which pertain to the subsurface or physical conditions at or contiguous to the site or otherwise may affect the cost, progress, furnishing, or performance of the work as CONTRACTOR considers necessary for the performance or furnishing of the work at the Contract Price, within the Contract Time, and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of Article 5 of the General Conditions; and no additional examinations, investigations, explorations, tests, reports, studies, or similar information or data are or will be required by CONTRACTOR for such purposes.
- 8.4. CONTRACTOR has reviewed and checked all information and data shown or indicated on the Contract Documents with respect to existing Underground Facilities at or contiguous to the site and assumes responsibility for the accurate location of said Underground Facilities. No additional examinations, investigations, explorations, tests, reports,

studies, or similar information or data in respect of said Underground Facilities are or will be required by CONTRACTOR in order to furnish and perform the work at the Contract Price, within the Contract Time, and in accordance with the other terms and conditions of the Contract Documents, including specifically the provisions of Article 5 of the General Conditions.

- 8.5. CONTRACTOR has correlated the results of all such observations, examinations, investigations, explorations, tests, reports, and studies with the terms and conditions of the Contract Documents.
- 8.6. CONTRACTOR has given ENGINEER written notice of all conflicts, errors, or discrepancies that he has discovered in the Contract Documents and the written resolution thereof by ENGINEER is acceptable to CONTRACTOR.

## **ARTICLE 9. CONTRACT DOCUMENTS**

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

- 9.1. INVITATION TO BID
- 9.2. INSTRUCTIONS TO BIDDERS
- 9.3. CONTRACTOR'S BID
- 9.4. THIS AGREEMENT
- 9.5. THE 2018 EJCDC STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT THAT IS CONSIDERED TO BE PART OF THIS AGREEMENT.
- 9.6. PERFORMANCE BOND
- 9.7. NOTICE TO PROCEED
- 9.8. DRAWINGS ENTITLED: REHABILITATION DESIGN, BURLAND POND NO. 1, ISSUED FOR CONSTRUCTION, DATED OCTOBER 2025.
- 9.9. TECHNICAL SPECIFICATIONS ENTITLED: BURLAND POND 1 DAM REHABILITATION DESIGN, ISSUED FOR CONSTRUCTION, DATED OCTOBER 2025.
- 9.10. DRAWINGS ENTITLED: REHABILITATION DESIGN, BURLAND POND NO. 2, ISSUED FOR CONSTRUCTION, DATED OCTOBER 2025.
- 9.11. TECHNICAL SPECIFICATIONS ENTITLED: BURLAND POND 2 DAM REHABILITATION DESIGN, ISSUED FOR CONSTRUCTION, DATED OCTOBER 2025.

- 9.12. DRAWINGS ENTITLED: REHABILITATION DESIGN, BURLAND POND NO. 3, ISSUED FOR CONSTRUCTION, DATED OCTOBER 2025.
- 9.13. TECHNICAL SPECIFICATIONS ENTITLED: BURLAND POND 3 DAM REHABILITATION DESIGN, ISSUED FOR CONSTRUCTION, DATED OCTOBER 2025.

**ARTICLE 10. MISCELLANEOUS**

- 10.1. Terms used in this Agreement which are defined in Article 1 of the General Conditions shall have the meanings indicated in the General Conditions.
- 10.2. No assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically but with limitation monies that may become due and monies that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.
- 10.3. OWNER and CONTRACTOR each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect of all covenants, agreements, and obligations contained in the Contract Documents.
- 10.4. CONTRACTOR shall determine the true and correct locations of existing utilities that may impact the work. Prior to performing the work, contractor shall notify utility location services.
- 10.5. CONTRACTOR shall repair any changes to or damage that occurs to any property that is used for construction including access, staging, and storage areas at no expense to the OWNER. The surrounding properties shall be returned to the condition observed prior to construction.
- 10.6. CONTRACTOR shall stabilize and reseed all disturbed areas. Seed mix shall be approved by OWNER.
- 10.7. In the event of a breach of this Agreement, the prevailing party shall be entitled to reasonable attorney fees and costs.

IN WITNESS WHEREOF, OWNER and CONTRACTOR have signed this Agreement in triplicate. One counterpart each has been delivered to OWNER, CONTRACTOR, and ENGINEER.

This Agreement will be effective on \_\_\_\_\_, 2025.

OWNER Fire Adapted Bailey

CONTRACTOR Selected Contractor

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

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

[CORPORATE SEAL]

[CORPORATE SEAL]

ATTEST: \_\_\_\_\_

ATTEST: \_\_\_\_\_

APPROVED AS TO FORM:

\_\_\_\_\_  
Fire Adapted Bailey

Address for Giving Notices:

Fire Adapted Bailey  
P.O. Box 4  
Bailey, Colorado 80421

Address for Giving Notices:

Selected Contractor  
Address Line 1  
Address Line 2