

## SETTLEMENT AGREEMENT

This Settlement Agreement (“the Agreement”) is entered into on this date by and among J3 Company, LLC, (“**Claimant**” or “**J3**”) on the one hand, and the City of San Antonio, including its officers, directors, predecessors, successors, assigns, representatives, agents, and/or employees (the “**City**” or “**CoSA**”), and the Port Authority of San Antonio, a Defense-Base Development Authority, including its officers, directors, predecessors, successors, assigns, representatives, agents, and/or employees (the “**Port**”, and collectively with the City, the “**Respondents**”) on the other hand. This Agreement collectively refers to Claimant and the Respondents as “the Parties.”

WHEREAS Claimant furnished labor and materials related to the project awarded J3 Company, LLC under Ordinance 2019-01-17-0025 (also referred to as Project ID 23-01633) (the “**Project**”); and

WHEREAS Claimant was requested to perform certain warranty repairs to the Project, including, but not limited to what the Parties have referred to as “concrete channel cracking repair,” “Berman Road settlement/ trench repair,” “Billy Mitchell Blvd. sinkhole repair,” and “Perrin Road sinkhole repair;” and

WHEREAS Claimant did perform the above repairs, but disputes that the repairs were necessitated by defects in its work, and performed the repairs under protest; and

WHEREAS certain scopes of work were removed from the Project pursuant to one or more agreed mutually-executed change orders, including but not limited to demolition of a structure known as “Building 324;” and

WHEREAS the Parties, wishing to avoid incurring further litigation, costs, attorneys fees, and expense in connection with disputes concerning the Project, now enter this compromise settlement Agreement;

NOW, THEREFORE, in consideration of the promises and the mutual covenants set forth herein, the Parties agree as follows:

1. Payment of Consideration. Respondents shall pay or cause to be paid to Claimant and Claimant shall accept the sum of \$650,000.00 in exchange for full and final settlement and release of all claims and causes of action of any kind whatsoever which Claimant has or may have against Respondents and any of their employees, agents, assigns arising out of the Project. Payment of this sum is contingent on the approval of the San Antonio City Council, if necessary under applicable law. Payment shall be made as soon as reasonably possible within the constraints of the City's policies.

2. Release of City of San Antonio. Except for those rights and obligations created by this agreement, in consideration of the execution of this Agreement and the payment of funds as provided herein, J3 Company, LLC, for themselves and for their parent, subsidiary, or affiliated companies, entities, successors, and assigns and all of their past, present and future officers, directors, managers, successors, and employees, knowingly and with the advice of counsel, hereby irrevocably and unconditionally ACQUIT, RELEASE AND FOREVER DISCHARGE the City of San Antonio, as well as any and all of its insurers/re-insurers, affiliates, officers, directors, employees, successors, assigns, agents, and all affiliated entities for any and all actions, causes of actions, suits, debts, charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, and expenses, of any nature whatsoever, in law or in equity, related to the Project.

3. Release of Port Authority of San Antonio. Except for those rights and obligations created by this agreement, in consideration of the execution of this Agreement and the payment of funds as provided herein, J3 Company, LLC, for themselves and for their parent, subsidiary, or affiliated

companies, entities, successors, and assigns and all of their past, present and future officers, directors, managers, successors, and employees, knowingly and with the advice of counsel, hereby irrevocably and unconditionally ACQUIT, RELEASE AND FOREVER DISCHARGE the Port Authority of San Antonio, as well as any and all of its insurers/re-insurers, affiliates, officers, directors, employees, successors, assigns, agents, and all affiliated entities for any and all actions, causes of actions, suits, debts, charges, complaints, claims, liabilities, obligations, promises, agreements, controversies, damages, and expenses, of any nature whatsoever, in law or in equity, related to the Project.

4. Warranty. The Parties expressly agree and stipulate that all warranties under the contract concerning the Project have expired. The Parties further agree to forgo any further disputes related to the Project other than to those rights and obligations created by this Agreement.

5. Third Parties and Indemnity. Claimant expressly warrants that it possesses full ownership of any and all claims and/or causes of actions related to the Project, and that no other person or entity has standing to bring those claims and/or causes of actions. **IT IS SPECIFICALLY AGREED AND EXPRESSLY STIPULATED THAT FOR THE CONSIDERATION EXPRESSED, THAT J3 COMPANY, LLC COVENANTS TO INDEMNIFY AND HOLD FOREVER HARMLESS AND DEFEND THE CITY OF SAN ANTONIO AND PORT AUTHORITY OF SAN ANTONIO AGAINST ANY LOSS FROM ANY AND ALL CLAIMS, DEMANDS, CAUSES OF ACTION IN LAW OR IN EQUITY, INCLUDING ATTORNEY'S FEES AND COSTS, AND PROPERTY DAMAGE CLAIMS, THAT MAY HERINAFTER AT ANY TIME BE BROUGHT BY, THROUGH OR ON BEHALF OF J3 COMPANY, LLC AND/OR ITS PARENT, SUBSIDIARY, OR AFFILIATED COMPANIES, ENTITIES, SUCCESSORS, AND ASSIGNS AND ALL OF THEIR PAST,**

**PRESENT AND FUTURE OFFICERS, DIRECTORS, MANAGERS, SUCCESSORS, AND EMPLOYEES, INCLUDING WITHOUT LIMITATION ALL CLAIMS FOR CONTRIBUTION AND INDEMNITY, AND EXPRESSLY INCLUDING ANY CLAIMS ARISING OUT OF THE RELEASED PARTIES' SOLE, COMPARATIVE, OR ANY OTHER TYPE NEGLIGENCE OR FAULT, WHICH ARE RELATED TO THE PROJECT. J3 COMPANY, LLC AGREES THAT THE INDEMNIFICATION INCLUDES THE AMOUNT OF THE CLAIMS, THE COST OF DEFENDING AGAINST THE CLAIMS, AND ATTORNEYS' FEES.**

6. Attorneys' Fees. The Parties hereto expressly agree, in the event of litigation, all Parties waive rights to payment of attorneys' fees that otherwise might be recoverable, pursuant to the Texas Civil Practice and Remedies Code Chapter 38, Texas Local Government Code §271.153, the Prompt Payment Act, common law or any other provision for payment of attorney's fees.

7. Mandatory Venue. Any action to enforce or otherwise arising from this agreement must be brought and can only be maintained in the State District Court of Bexar County, Texas.

8. Additional Terms. The Parties acknowledge, represent, warrant and confirm the following:

- A. It has: (i) made a careful and independent investigation into the facts and circumstances of its relationship with all other parties hereto; and (ii) carefully read and does understand the effects of this Agreement.
- B. The execution of this Agreement is not based upon its reliance upon any promise, representation, understanding or agreement not expressly set forth herein, and no party hereto has made any promise or representation to him or it not expressly set forth herein.
- C. It understands that it will be entitled to no consideration for execution of this Agreement other than expressly provided herein.
- D. It executed this Agreement as its free and voluntary act, without duress, coercion or undue influence exerted by or on behalf of any other party hereto.

- E. It is the sole owner of the claims or causes of action being released by it herein and it has not conveyed or assigned any interest in any such claims or causes of action to any person or entity not a party hereto.
- F. It has full and complete authorization and power to execute this Agreement in the capacity herein stated, and this Agreement is a valid, binding and enforceable obligation and does not violate any law, rule, regulation, contract or agreement enforceable against it.
- G. All provisions of this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors, assigns, heirs and legal representatives.
- H. If any term, provision, covenant or condition of this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect and shall in no way be affected, impaired or invalidated.
- I. This Agreement, for convenience only, has been divided into Sections, and it is understood that the rights, powers, privileges, duties and other legal relations of the parties hereto shall be determined from this Agreement as an entirety without regard to the aforesaid division into Sections.
- J. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original, and all of which together shall constitute one and the same Agreement.
- K. This Agreement constitutes the entire agreement of the parties hereto, and shall supersede any prior agreement between the parties hereto, whether written or oral, relating to the subject hereof. There are no unwritten oral agreements among the parties.
- L. This Agreement shall constitute a contract entered into under, and shall be construed, governed by, and enforced in accordance with, the substantive laws of the State of Texas, excluding the choice of law or conflicts of law doctrines of such jurisdiction. Venue for any litigation or other dispute resolution proceeding shall be in Bexar County, Texas.
- M. Since this Agreement is expressly conditioned upon the approval of the City Council of the City of San Antonio and Port (or previous Port resolution), should either fail to approve this Agreement, the settlement agreement shall be null and void from its beginning.
- N. If this Agreement is rejected by either the City Council of the City of San Antonio or the Port, neither CoSA nor Port will raise the defense of limitations or laches as to the claims involved in this dispute so long as J3 files suit on such claims within 180 days of its counsel being provided written notice of such rejection.

- O. The parties expressly agree and acknowledge that this Agreement was prepared and approved jointly by the parties, and not by either party to the exclusion of the other.
- P. Each party agrees to execute such other documents and to take such other action, without additional remuneration, as may be reasonably necessary or appropriate to further the purpose of this Agreement.

**SIGNATURES**

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the dates of their respective acknowledgments, to be effective as of the date first hereinabove written.

**J3 Company LLC**

By:   
Name:           Hugh Jons            
Its:           Vice President            
On:           April 17, 2024           (date)

**City of San Antonio**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_  
On: \_\_\_\_\_ (date)

**Port Authority of San Antonio**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Its: \_\_\_\_\_  
On: \_\_\_\_\_ (date)