



ELECTRONIC AND BACKGROUND DATA AGREEMENT

DATE: _____
PROJECT NO: _____ REQUEST NO: _____

PROJECT DESCRIPTION: _____

OWNER:	_____	CONTRACTOR:	_____
	_____		_____
	_____		_____
	_____		_____
	_____	Attention:	_____

This agreement by and between Osborn Engineering Company ("OEC") and the undersigned Contractor, Subcontractor, or Vendor ("Contractor") is made the date set forth above.

For a sum of dollars to be paid to OEC and for other considerations as set forth herein, the parties agree as follows:

1. This Agreement shall be effective in the event that OEC under terms and conditions set forth herein, agrees to provide, but is not obligated to provide CADD or electronic data, background drawings, or other such items.
2. OEC makes no representation, warranties, or guarantees, express or implied, whatsoever, as to any matter including, without limitation, the condition of any item, or its fitness for any particular use or purpose. All items are provide "as-is".
3. It is understood and agreed that OEC takes no responsibility or liability whatsoever with respect to such data, background drawings, or other items for reasons including, but not limited to, that such items were produced for the use of OEC, there could be differences in computer equipment and programs, that errors or changes can be made by user of the item, that there can be electrical interruptions or interferences, that changes to drawings could have been made by a user of the item, that changes to drawings could have been made by hand and not stored on computer or added to backgrounds, that changes could have been made in dimensions and drawings not revised, that drawings may not be to scale, there could be a virus in a computer system and for other reasons not under the control of OEC.
4. Supply of data or other items shall not in any manner change or alter the requirements of any Contract or Subcontract Documents, or the responsibilities or liabilities of the Contractor.



5. The Drawings, Specifications, and other documents or data prepared by OEC are instruments of OEC's service. Neither the Contractor, nor any lower tier Subcontractor or supplier shall own or claim a copyright in the Drawings, Specifications, and other documents or data prepared by OEC. OEC shall be deemed the author of them and will retain all common law, statutory, and other reserved rights, in addition to the copyright. The Drawings, Specifications, and other documents or data prepared by OEC, and copies thereof furnished to the Contractor are for use solely with respect to this Project. They are not to be used by the Contractor or any lower tier contractor or supplier on other projects or for additions to this Project. The Contractor, lower tier subcontractors, and suppliers are granted a limited license to use and reproduce applicable portions of data prepared by OEC appropriate to and for use in the execution of their Work in the referenced Project. Submittal of distribution to meet official regulatory requirements for other purposes in connection with this Project is not to be construed as publication in derogation of OEC's copyright or other reserved rights.
6. Any data or documents used shall not include or use OEC's name except as otherwise agreed upon in writing.
7. For a period of ten (10) years from the date of disclosure, the Contractor agrees to hold all Confidential Information in trust and confidence for OEC and agrees not to use Confidential Information other than as required for compliance with this Agreement and the Project. Except as may be authorized by OEC in writing, the Contractor shall not disclose any Confidential Information, by publication or otherwise, to any other than the Contractor's employees or lower tier subcontractor or supplier having a need to know. The Contractor shall obtain non-disclosure agreements from persons and firms that it employs. Confidential information shall not include information that was already known to the Contractor prior to its disclosure to the Contractor by OEC that is or becomes publicly available; which is rightfully received by the Contractor from third parties without accompanying secrecy obligations.
8. Without prior written approval of OEC, the Contractor shall have no right to use OEC's trademark or trade name, or the trademark or trade name of the Owner.
9. Contractor waives all claims against OEC, other contractors, Owner and their related entities, Subcontractors of any tier and for all the foregoing their shareholders, directors, officers, employees, agents and each of their successors and assigns (collectively "Designees"); covenants not to sue or arbitrate; agrees the items not matter how provided, shall not be the basis of a change in time or sum in any Contract with OEC; and releases Designees from any and all liabilities, damages, losses, costs, penalties, expenses, or responsibilities of any kind, any of which arises directly or indirectly out of the items at the Project site or at any other location, including any negligence of Designees.
10. Contractor assumes the risk of, and shall appear for, defense, indemnify, and hold harmless Designees against any and all liabilities, damages, losses, economic losses, costs, penalties, expenses or responsibilities including, but not limited to, attorney's fees, sustained in connection with any claim, demand, cause of action, suit, arbitration, provided herein including any negligence of Designees or any claims of Contractor's workers. It is agreed Worker's Compensation shall not be a defense of the Contractor as to Designees. Designees shall have the right to accept or decline any compromise or settlement of any claims or actions against it.



11. This Agreement represents the entire and integrated agreement between Contractor and OEC with respect to items provided herein and supersedes any prior negotiations, representations, or agreements, either written or oral. This Agreement may be amended only by written instrument signed by OEC and Contractor. Nothing in this Agreement shall create a contractual relationship with or duties, obligations or courses of action in favor of any third party against either Owner or OEC.
12. OEC and Contractor, respectively, bind themselves, their successors, assigns and legal representatives to the other party to all agreements and to the successors, assigns and legal representatives of the other party with respect to all covenants. Neither OEC nor Contractor shall assign, sublet or transfer any interest in this Agreement without the written consent of the other. The laws of the State of Ohio shall govern this Agreement. The person signing below represents that he/she has full authority to bind the Contractor.
13. Items provided: See attached "Electronic and Background Data Request & Transmittal Form".
14. Further terms: Electronic files are not transferable.

Total Cost to be paid to OEC: _____
(Make check payable to: The Osborn Engineering Company)

The Osborn Engineering Company

Contractor:

Signature Date

Signature Date

Printed Name

Printed Name

Printed Title

Printed Title

Please return one signed copy of Agreement to OEC with payment.



ELECTRONIC AND BACKGROUND DATA REQUEST AND TRANSMITTAL FORM

PROJECT NO: _____ REQUEST NO: _____ DATE: _____

PROJECT DESCRIPTION: _____

OWNER: _____

CONTRACTOR: _____

OEC ATTN: _____

INTENDED USE OF FILES: _____

REQUEST Contractor to Complete		TRANSMITTAL OEC to Complete <i>After</i> Request		
Drawing No.	Drawing Description and Date	OEC File Name	Copied on Disc No.	Cost
Remarks:		Total Files	Total Discs	Total Cost

Please review attached blank "Electronic and Background Data Agreement". After receipt of "Request and Transmittal Form", OEC will determine cost and send two signed copies of the agreement to the Contractor. Contractor should return to OEC one copy with payment, after which time disc(s) will be forwarded to Contractor. **Electronic drawing files will be in AutoCAD format, unless otherwise noted.**

For Request: _____
Contractor's Signature

Date: _____

For Transmittal: _____
Osborn Signature

Date: _____