

TOWN OF CASTLE ROCK, COLORADO

CONSTRUCTION CONTRACT FOR THE

HECKENDORF POND RUNDOWN IMPROVEMENTS

THIS CONTRACT is made at the Town of Castle Rock, Colorado, between the Town of Castle Rock, Colorado (Town), a municipal corporation, and **Sabell's Enterprises LLLP** (Contractor), a Colorado limited partnership, whose address is: 9888 W. Belleview Ave., #122, Littleton, CO 80123

In consideration of these mutual covenants and conditions, the Town and Contractor agree as follows:

SCOPE OF WORK The Contractor shall execute the entire Work described in the Contract.

CONTRACT The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, written or oral representations and agreements. The Contract incorporates the following Contract Documents. In resolving inconsistencies among two or more of the Contract Documents, precedence will be given in the same order as enumerated.

LIST OF CONTRACT DOCUMENTS

The Contract Documents, except for Modifications issued after execution of this Agreement, are:

1. Change Orders;
2. Notice to Proceed;
3. Agreement for Construction Contract;
4. The following Addenda, if any:

Number	Date	Pages
5.	Town of Castle Rock Construction Contract General Conditions	
6.	Project Special Conditions as included in the Contract Documents;	
7.	Construction Specifications as included in the Contract Documents;	
8.	The following Drawings:	
	Title	Pages
9.	Notice of Substantial Completion;	
10.	Notice of Construction Completion;	
11.	Request for Payment;	
12.	Notice of Final Acceptance;	
13.	Performance, and Labor and Material Payment Bonds;	
14.	Warranty Bond;	
15.	Letter of Damage Guarantee; and	
16.	Insurance Certificates.	

CONTRACT PRICE. The Town shall pay the Contractor for performing the Work and the completion of the Project according to the Contract, subject to Change Orders as approved in writing by the Town, under the guidelines in the General Conditions. The Town will pay **TWO HUNDRED FIFTY THREE THOUSAND TWENTY ONE DOLLARS, (\$253,021)**, to the Contractor, subject to full and satisfactory performance of the terms and conditions of the Contract. The Contract Price is provisional based on the quantities contained in the Proposal as attached to the end of this document. The final Contract Price shall be adjusted to reflect actual quantities incorporated into the Work at the specified unit prices. The Town has appropriated money equal or in excess of the Contract Price for this work.

COMPLETION OF WORK. The Contractor must begin work covered by the Contract within 10 calendar days, and must complete work within 90-working days from and including the date of Notice to Proceed, according to the General Conditions. The Work should be completed by **December 31, 2015**.

LIQUIDATED DAMAGES. If the Contractor fails to substantially complete the Work by the date set for substantial completion in the Contract, or if the completion date is extended by a Change Order, by the date set in the Change Order, the Town may permit the Contractor to proceed, and in such case, may deduct the sum of \$750 for each day that the Work shall remain uncompleted from monies due or that may become due the Contractor. This sum is not a penalty but is a reasonable estimate of liquidated damages.

The parties agree that, under all of the circumstances, the daily basis and the amount set for liquidated damages is a reasonable and equitable estimate of all the Town's actual damages for delay. The Town expends additional personnel effort in administering the Contract or portions of the Work that are not completed on time, and has the cost of field and office engineering, inspecting, and interest on financing and such efforts and the costs thereof are impossible to accurately compute. In addition, some, if not all, citizens of Castle Rock incur personal inconvenience and lose confidence in their government as a result of public projects or parts of them not being completed on time, and the impact and damages, certainly serious in monetary as well as other terms are impossible to measure.

SERVICE OF NOTICES. Notices to the Town are given if sent by registered or certified mail, postage prepaid, to the following address:

TOWN OF CASTLE ROCK
100 N. Wilcox Street
Castle Rock, CO 80104

INSURANCE PROVISIONS. The Contractor must not begin any work until the Contractor obtains, at the Contractor's own expense, all required insurance as specified in the General Conditions. Such insurance must have the approval of the Town of Castle Rock as to limits, form and amount.

RESPONSIBILITY FOR DAMAGE CLAIMS. The Contractor shall indemnify, save harmless, and defend the Town, its officers and employees, from and in all suits, actions or claims of any character brought because of: any injuries or damage received or sustained by any person, persons or property because of operations for the Town under the Contract; including but not limited to claims or amounts recovered from any infringements of patent, trademark, or copyright; or pollution or environmental liability. The Town may retain so much of the money due the Contractor under the Contract, as the Town considers necessary for such purpose. If no money is due, the Contractor's Surety may be held until such suits, actions, claims for injuries or damages have been settled. Money due the Contractor will not be withheld when the Contractor produces satisfactory evidence that the Contractor and the Town are adequately protected by public liability and property damage insurance.

The Contractor also agrees to pay the Town all expenses, including attorney's fees, incurred to enforce this Responsibility for Damage Claim clause.

Nothing in the **INSURANCE PROVISIONS of the General Conditions** shall limit the Contractor's responsibility for payment of claims, liabilities, damages, fines, penalties, and costs resulting from its performance or nonperformance under the Contract.

STATUS OF CONTRACTOR. The Contractor is performing all work under the Contract as an independent Contractor and not as an agent or employee of the Town. No employee or official of the Town will supervise the Contractor. The Contractor will not supervise any employee or official of the Town. The Contractor shall not represent that it is an employee or agent of the Town in

any capacity. **The Contractor and its employees are not entitled to Town Workers' Compensation benefits and are solely responsible for federal and state income tax on money earned.** This is not an exclusive contract.

THIRD PARTY BENEFICIARIES. None of the terms or conditions in the Contract shall give or allow any claim, benefit, or right of action by any third person not a party to the Contract. Any person, except the Town or the Contractor, receiving services or benefits under the Contract is an incidental beneficiary only.

INTEGRATION. This contract integrates the entire understanding of the parties with respect to the matters set forth. No representations, agreements, covenants, warranties, or certifications, express or implied, shall exist as between the parties, except as specifically set forth in this Contract.

DEFINITIONS. The Definitions in the General Conditions apply to the entire Contract unless modified within a Contract Document.

Executed this _____ day of _____, 2015.

TOWN OF CASTLE ROCK

ATTEST

David Corliss, Town Manager

Sally A. Misare, Town Clerk

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

Robert J. Slentz, Town Attorney

Mark Marlowe, Utilities Director

STATE OF Colorado)
) ss.
COUNTY OF Douglas)

The foregoing instrument was acknowledged before me this _____ day of _____, 20__ by Sally Misare as Town Clerk and David Corliss as Town Manager of the Town of Castle Rock, Colorado.

Witness my official hand and seal.

My commission expires: _____

(S E A L)

Notary Public



Town of Castle Rock

Requesting Department: Utilities, Stormwater Division

Contact Person: Barbara Horton, Stormwater Engineer

Phone: 720.733.6041

Request For Quotes (RFQ) - Addendum #1 Heckendorf Pond Rundown Improvements

Bidder: SaBell's Enterprises LLLP
9888 W. Belleview Ave., #122
Littleton, CO 80123
303-901-3641

Date Issued: 7/16/2015
Date Due: 7/27/2015
Time Due: 5:00 PM

Quotes may be emailed by the due date and time to: bhorton@crgov.com

Base Bid - 54" RCP Storm Sewer

Item	Qty	Units	Description	Unit price	Total
1	1	LS	Mobilization	\$22,300.00	\$22,300.00
2	2,500	CY	Backfill and Grading of eroded slope; assumes material to be recovered from pond bottom *	\$ 10.50	\$26,250.00
3	80	LF	18" Class III RCP	\$ 52.00	\$ 4,160.00
4	2	EA	Type C Inlet	\$ 3,722.00	\$ 7,444.00
5	180	LF	Remove and Dispose of existing 42" RCP and FES	\$ 24.00	\$ 4,320.00
6	145	LF	42" Class III RCP	\$ 142.00	\$20,590.00
7	185	LF	54" Class III RCP	\$ 236.00	\$43,660.00
8	1	EA	54" FES	\$ 2,848.00	\$ 2,848.00
9	1	EA	6' Dia. Precast Manhole (14' depth)	\$ 9,392.00	\$ 9,392.00
10a	1	EA	7.5' Dia. Precast Manhole (12'-17' 14' depth)	\$ 9,572.00	\$ 9,572.00
10b	1	EA	7.5' Dia. Precast Manhole (15' depth)	\$10,391.00	\$10,391.00
10c	1	EA	7.5' Dia. Precast Manhole (17' depth), includes connection to existing 42" RCP	\$10,883.00	\$10,883.00
11	1	LS	Remove and dispose of existing boxbase manhole, replace with 7.5' Dia. Precast Manhole	\$ 450.00	\$ 450.00
12	1	LS	Concrete Forebay per Town Drainage Criteria Manual Figure 14-9, includes soil riprap as shown	\$23,267.00	\$23,267.00
13	1	EA	Vehicle Tracking Control	\$ 1,250.00	\$ 1,250.00
14	1	EA	Concrete Washout Area	\$ 700.00	\$ 700.00
15	1	LS	Stabilized Staging Area	\$ 1,600.00	\$ 1,600.00
16	200	LF	Silt Fence *	\$ 2.75	\$ 550.00
17	2.0	AC	Soil Amendment (Class I Compost) *	\$ 5,828.00	\$11,656.00
18	2.0	AC	Seed (DC Permanent Seed Mix) *	\$ 1,010.00	\$ 2,020.00
19	1.0	AC	Erosion Control Blanket (Straw/Coconut), Installation per GESD Detail 9-B *	\$12,336.00	\$12,336.00
20	1.0	AC	Mulch *	\$ 2,150.00	\$ 2,150.00
				Subtotal - Base	\$227,789.00

* Quantities are approximate.

Construction Duration: 60 days

Heckendorf Pond Rundown Improvements - Cont.

A: Bid Alternate 1 - Cast-in-Place Manholes (Replaces Base Bid Items 9-11) *

A-1	1	EA	Box Base Manhole for 42" RCP (14' depth), per CDOT Detail M-604-20	No Bid	No Bid
A-2a	1	EA	Box Base Manhole for 54" RCP (12'-17' 14' depth), per CDOT Detail M-604-20	No Bid	No Bid
A-2b	1	EA	Box Base Manhole for 54" RCP (15' depth), per CDOT Detail M-604-20	No Bid	No Bid
A-2c	1	EA	Box Base Manhole for 54" RCP (17' depth), per CDOT Detail M-604-20, includes connection to existing 42" RCP	No Bid	No Bid
A-3	1	LS	Remove and dispose of existing boxbase manhole, replace with Box Base Manhole (12'-17' depth), per CDOT Detail M-604-20	No Bid	No Bid
* Will require structural analysis prior to construction.				Subtotal - Alt A	No Bid
				Construction Duration (Add/Deduct from Base Bid):	No Bid

B: Bid Alternate 2 - Dual 42" RCP Storm Sewer (Replaces Base Bid Items 1, 5-12)

B-1	1	LS	Mobilization	\$27,300.00	\$ 27,300.00
B-2	80	LF	Remove and Dispose of existing 42" RCP and FES	\$ 24.00	\$ 1,920.00
B-3	470	LF	42" Class III RCP	\$ 142.00	\$ 66,740.00
B-4	2	EA	42" FES	\$ 2,100.00	\$ 4,200.00
B-5	7	EA	6' Dia. Precast Manhole (12'-15' depth)	\$ 4,873.00	\$ 34,111.00
B-6	1	LS	Concrete Forebay per Town Drainage Criteria Manual Figure 14-9, includes soil riprap as shown, assume total width = 6D to account for 2 FES	\$27,500.00	\$ 27,500.00
				Subtotal - Alt B	\$161,771.00
				Construction Duration:	65 Days

C: Add Alternate 1 - Pond Dredging *

C-1	1	LS	Mobilization	\$1,000.00	\$ 1,000.00
C-2	1	LS	Water Control and Dewatering	\$2,500.00	\$ 2,500.00
C-3	1,500	CY	Removal of sediment from pond bottom	\$ 4.00	\$ 6,000.00
C-4	1,500	CY	On-site placement and grading of material	\$ 4.00	\$ 6,000.00
				Subtotal - Alt C	\$15,500.00
				Construction Duration:	5 Days

C-4a	1,500	CY	Hauling and off-site disposal of material at Ray Waterman WTP (Castle Oaks)	\$ 11.00	\$16,500.00
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* Quantities are approximate. Material is to be placed on-site to the extent possible.

Heckendorf Pond Rundown Improvements - Cont.

D: Add Alternate 2 - Forebay Improvements

D-1	1	LS	Mobilization	\$ 1,500.00	\$ 1,500.00
D-2	1	LS	Water Control and Dewatering	\$ 1,000.00	\$ 1,000.00
D-3	100	CY	Earthwork (approximate volume)	\$ 12.00	\$ 1,200.00
D-4	70	LF	Grouted Boulder Wall	\$ 290.00	\$13,300.00
D-5	100	CY	Salvage and Reuse Type M Riprap	\$ 40.00	\$ 4,000.00
D-6	20	CY	Type M Riprap (approximate volume, may not be required if salvaged riprap fulfills quantity need)	\$ 70.00	\$ 1,400.00
D-7	25	CY	Extend Concrete Forebay (includes saw cutting and removal of existing concrete and #4 dowels embedded into existing concrete)	\$ 525.00	\$13,125.00
				Subtotal - Alt D	\$35,525.00

Construction Duration: 7 Days

E: Add Alternate 3 - Trickle Channel

E-6	360	LF	4' Concrete Trickle Channel with 6" Curb, includes fiber mesh and 6" Type II Bedding Material	\$ 79.00	\$28,440.00
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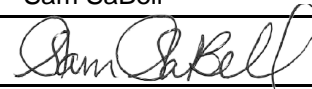
THIS IS NOT AN ORDER

Important: This is a quote on the goods or services shown, subject to the Terms and Conditions accompanying this form. Any changes by Bidder to the Town's Terms and Conditions will cause Bidder's quote to be rejected. The successful contractor may be required to enter into a contract acceptable to the Town.

Quotation valid for: 45 days

Quotation prepared by: Sam SaBell

Signature of Bidder's Authorized Representative: _____



Contract Authorization

Base Bid	\$ 227,789
Add Alternate 1	\$ 15,500
Bonds (4%)	\$ 9,732
Total	\$ 253,021



**TOWN OF CASTLE ROCK
UTILITIES DEPARTMENT**

CONTRACT DOCUMENTS

for the

HECKENDORF POND RUNDOWN IMPROVEMENTS

Issued for Construction
August 2015

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**TOWN OF CASTLE ROCK
CONSTRUCTION CONTRACT GENERAL CONDITIONS**

SCOPE: Since the General Conditions are general, some conditions may not apply to a particular Project.

Article 1--DEFINITIONS AND ABBREVIATIONS

Whenever used in the Bidding Documents and Contract Documents, the following terms shall have the following meanings, applicable to both the singular and plural:

- 1.1.1 **Addenda:** Written changes to the Bidding Documents issued at least two days before the Opening of Bids which modify or interpret the Contract or changes the date set for the Opening of Bids.
- 1.1.2 **Alternate Bid:** An Alternate Bid is an amount stated in the Bid added to or deducted from the base amount of the Bid when the Town accepts a corresponding change in project scope, materials or method of construction described in the Contract.
- 1.1.3 **Bid:** The proposal the Bidder submits on the prescribed Bid Forms stating the prices for the Work to be performed.
- 1.1.4 **Bid Forms:** The Bid Proposal, Bid Bond, Bid Schedule, Bidder's Qualifications and Data, Bidder's Officials Data, Non-Collusion Affidavit of Prime Bidder, and Subcontractors and Related Data.
- 1.1.5 **Bidder.** The person, partnership, or corporation submitting a Proposal for the performance of the Work covered by the Contract.
- 1.1.6 **Bidding Documents:** The Invitation to Bid, Bid Forms, Information and Instructions to Bidders, Specifications, Drawings, Sample Forms, Special and General Conditions and Addenda (if any).
- 1.1.7 **Bonds:** Bid Bonds, Performance, and Labor and Material Payment Bonds or other instruments of security, furnished by the Contractor and its Surety according to the Contract.
- 1.1.8 **Change Order:** A written modification of the Contract, issued after award to the Contractor, authorizing an addition, deletion or revision in the Work within the general scope of the Contract or authorizing an adjustment in the Contract Price or Contract Time, mutually agreed upon between the Town and the Contractor.
- 1.1.9 **Town:** The Town of Castle Rock, in the State of Colorado, acting by and through its Mayor, Town Council, Town Manager, or other authorized representative.
- 1.1.10 **Completion Date:** The date the Contract specifies the Work is to be completed.
- 1.1.11 **Contract:** The Construction Contract consisting of the Agreement for a Construction Contract and the incorporated Contract Documents.
- 1.1.12 **Contract Coordinator:** The authorized representative of the Town designated to act for the Town in processing the Award of Contracts, maintaining centralized official Contract documentation, providing administrative liaison/coordination, legal liaison/coordination via Town Attorney, and processing of Contract Payment authorizations as approved by the Project Manager.
- 1.1.13 **Contract Documents:** All the documents expressly incorporated into the Contract by the Agreement for Construction Contract, including but not limited to Addenda, Bid Forms, Change

Orders, Town Project Final Acceptance, Drawings, General Conditions, Information and Instruction to Bidders, Insurance Certificates, Invitation to Bid, Notice of Award, Notice of Construction Completion, Notice to Proceed, Notice of Substantial Completion, Performance and Labor and Material Payment Bonds, Special Conditions, Supplemental Drawings and Schedules, and Technical Specifications.

- 1.1.14 **Contract Price:** The total monies payable to the Contractor under the terms and conditions of the Contract.
- 1.1.15 **Contract Time:** The number of days stated in the Contract for the completion of the Project.
- 1.1.16 **Contractor:** The person, company, firm or corporation contracting with the Town to construct, erect, alter, install or repair any work or construction project.
- 1.1.17 **Drawings:** The part of the Contract prepared or approved by the Project Manager showing the characteristics and scope of the Work to be performed.
- 1.1.18 **Date of Contract:** The execution date in the Agreement for a Construction Contract.
- 1.1.19 **Day:** A calendar day of twenty-four hours each.
- 1.1.20 **Field Order:** A written order directing a change in the Project issued by the Project Manager to the Contractor during construction.
- 1.1.21 **Inspector:** The Town's authorized representative assigned to make detailed inspection of the Work performed by the Contractor.
- 1.1.22 **Notice of Award:** The written notice of the acceptance of the Bid from the Town to the successful Bidder.
- 1.1.23 **Notice of Construction Completion:** The written acknowledgment that construction is complete which starts the warranty period.
- 1.1.24 **Notice of Final Acceptance:** The written acceptance of Work performed under the Contract, following satisfactory conclusion of the warranty period.
- 1.1.25 **Notice to Proceed:** The written notice by the Town to the Contractor authorizing it to proceed with the Work which establishes the Contract commencement and Contract Coordinators.
- 1.1.26 **Notice of Substantial Completion:** The written notice of the date, as certified by the Project Manager, when the Project or a specified part is sufficiently completed, according to the Contract, so the Project or specified part can be used for the intended purposes.
- 1.1.27 **Owner.** The Town; see 1.1.9.
- 1.1.28 **Project:** The undertaking to be performed as provided in the Contract.
- 1.1.29 **Project Manager:** The authorized representative of the Town, known as the Project Manager, assigned to the Project to ensure that all Work is performed according to the terms and conditions of the Contract. Also see Article 10, "Project Manager's Responsibilities."
- 1.1.30 **Shop Drawings:** All Drawings, diagrams, illustrations, brochures, schedules, and other data prepared by the Contractor, a Subcontractor, manufacturer, Supplier or distributor which illustrate how specific portions of the Work will be fabricated or installed.

- 1.1.31 **Special Conditions:** Additions to the General Conditions containing instructions and conditions peculiar to an individual Project.
- 1.1.32 **Specifications:** A part of the Contract Documents consisting of written technical description of materials, equipment, construction systems, standards, and workmanship.
- 1.1.33 **Subcontractor:** Any person, company, firm or corporation, having a subcontract with the Contractor to furnish and perform on-site labor, with or without furnishing materials for the project.
- 1.1.34 **Supplier:** Any person or organization who supplies materials or equipment for the Work, including that fabricated to a special design, but who does not perform labor at the site.
- 1.1.35 **Surety:** The entity which is bound with and for the Contractor for the Performance of the Work and for the Labor and Material Bond.
- 1.1.36 **Unit Price:** An amount stated in the Bid as a price per unit of measurement for materials or services as described in the Contract.
- 1.1.37 **Work:** The construction and services required by the Contract, whether completed or partially completed, including all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may be the whole or a part of the Project.
- 1.2 **Abbreviations:** When the following abbreviations appear in the documents, they are defined as follows:

AASHTO	American Association of State Highway and Transportation Officials
ACI	American Concrete Institute
AISC	American Institute of Steel Construction
ANSI	American National Standards Institute
ASA	American Standards Association
ASCE	American Society of Civil Engineers
ASME	American Society of Mechanical Engineers
ASTM	American Society for Testing and Materials
AWS	American Welding Society
AWWA	American Water Works Association
CDOT	Colorado Department of Transportation
EPA	Environmental Protection Agency
MUTCD	Manual on Uniform Traffic Control Devices
OSHA	Occupational Safety & Health Administration
WW-P	Federal Specifications Prefix

Article 2--PRELIMINARY MATTERS

2.1 Notice to Proceed

2.1.1 Following the execution of the Contract by the Parties, the Project Manager will give the Contractor written Notice to Proceed with the Work. The Contractor shall begin and continue the Work regularly and without interruption (unless otherwise directed in writing by the Project Manager) with the force necessary to complete the Work within the time stated in the Contract.

2.2 Contractor's Understanding

2.2.1 The Contractor agrees that, by careful examination, it is satisfied as to the nature and location of the Work, the conformation of the ground, the character, quality, and quantity of the materials to be encountered, the character of equipment and facilities needed before beginning and for the

Project, the general and local conditions, and all other matters, which can in any way affect the Work under the Contract. No oral agreement with any officer, agent or employee of the Town either before or after the execution of the Contract shall affect or change any of the terms or obligations contained in the Contract.

2.3 Contractor's Warranty

2.3.1 The Contractor warrants that it has the knowledge, ability, experience, and expertise to perform the Work competently. The Contractor warrants the capacity of the Contractor's construction plant, personnel, and its ability to complete the Project within the allotted time.

2.4 Contractor's License and Permits

2.4.1 The Contractor will obtain all licenses and permits required to do the Work. It will have all permits required by the Town, as well as those required by County, State and Federal agencies. The Town will not charge for Town permits. Subcontractors shall also have the proper permits. The Town will not charge for the Subcontractor's permits.

2.5 Schedules, Reports, and Records

2.5.1 Before beginning construction, the Contractor shall submit to the Project Manager a Construction Progress Schedule, on a form approved by the Project Manager, showing all Work the Contractor and all Subcontractors will perform. The Project Manager may require the Contractor to substitute a Critical Path Method schedule (CPM), or bar graph type schedule. The Special Conditions will state when a CPM network schedule is required.

2.5.2 The schedule shall be in enough detail for the Project Manager to readily determine the Work to be performed each day. When requested by the Project Manager, the Contractor shall update the schedule.

2.5.3 Before beginning construction, the Contractor shall give the Project Manager the dates it expects to submit Shop Drawings, manufacturers' details, catalog cuts or other required special detail Drawings and also the dates of beginning manufacture, testing, delivery and installation of special equipment and materials.

2.6 Contractor's Address

2.6.1 The address in the Bid Proposal is designated as the place to which all communications to the Contractor will be delivered or mailed. The delivery at the listed address, in person or by certified mail, of any notice, letter or other communication to the Contractor, is adequate service upon the Contractor, and the date of the service is the date of delivery.

2.7 Notification of Utility Owners

2.7.1 The Contractor shall cooperate with Utility Owners to mitigate damage whenever the Contractor's work affects their utilities.

2.7.2 The Contractor shall not excavate without first notifying the owners, operators or association of owners and operators having underground facilities in the area of such excavation. Notice may be given in person, by telephone or in writing. Notice to an association is notice to each member of the association.

2.7.3 Contractor shall give notice of the commencement, extent, and duration of the excavation work at least two business days before beginning Work.

2.7.4 If the Project affects fences, landscaping, mailboxes, driveways and other improvements, the Contractor shall notify the affected property owners or occupants IN WRITING at least two

business days before beginning Work. The Contractor shall cooperate with the owners or occupants to reduce inconvenience where reasonably possible.

2.8 Department of Revenue Forms

- 2.8.1 It is the responsibility of the Contractor to apply for a Colorado State Sales and Use Tax Exemption Certificate from the State Dept. of Revenue and to use it when purchasing materials or supplies in connection with the Project.
- 2.8.2 The Town's Tax Exemption Numbers are to be used only when obtaining the Contractor's own Tax Exemption Certificate for each specific Town project:
- a. Federal Tax Exemption Number: 84-6000640
 - b. State of Colorado Tax Exemption Number: 98-05820-0000

Article 3--DRAWINGS AND SPECIFICATIONS

3.1 Intent of Drawings and Specifications

- 3.1.1 In the Drawings and Specifications, the Town intends that the Contractor furnish all superintendence, labor, materials, tools, equipment, supplies, machinery and transportation necessary for the proper execution of the Work unless specifically noted otherwise. The Contractor shall do all the Work shown on the Drawings and described in the Specifications and all incidental Work reasonably necessary to complete the Project in a substantial and acceptable manner, and to complete fully the Work, ready for use, by the Town.
- 3.1.2 The Contractor shall complete all Work according to the Specifications and Plans, and in compliance with applicable laws of Colorado and ordinances of the Town.
- 3.1.3 In interpreting the Contract, words describing materials or work having a well-known technical or trade meaning, unless otherwise specifically defined, will be construed according to well-known meanings as recognized by engineers, architects, and the trades.
- 3.1.4 When the Contract refers to a provision of the General Conditions or another Contract Document, the Contract means the provision as amended or supplemented by other provisions of the Contract.
- 3.1.5 When the Specifications state the words "as directed," or "as required," or "as permitted," or words of like meaning, it is understood that the direction, requirement or permission of the Project Manager is intended. Similarly, the words **approved, acceptable or satisfactory** shall refer to approval by the Project Manager.
- 3.1.6 The Contract Documents are intended to be complementary, and Work called for on any Drawing and not mentioned in the Specifications, or Work described in the Specifications and not shown on any Drawing, is included under the Contract as if set forth in both the Specifications and Drawings.

3.2 Copies of Drawings and Specifications Furnished

- 3.2.1 The Project Manager will furnish to the Contractor, free of charge, four copies of Drawings and Specifications of the Work. All additional copies will be furnished at reproduction costs.

3.3 Discrepancies in Drawings

- 3.3.1 Contractor shall immediately report any discrepancies found between the Drawings and Specifications and site conditions or any errors or omissions in the Drawings or Specifications to the Project Manager, who shall promptly correct such error or omission IN WRITING. Any Work done by the Contractor after discovery of such discrepancies, errors or omissions is done at the Contractor's risk. In all cases, the Project Manager shall decide the intent of the Drawings and Specifications. The decision is final.

3.4 Dimensions

- 3.4.1 Figured dimensions shall govern over scaled dimensions.

3.5 Drawings and Specifications at Job Site

- 3.5.1 The Contractor shall keep one complete set of all Drawings and Specifications at the job-site, available to the Project Manager or the Manager's representative at all times.

3.6 Shop Drawings

- 3.6.1 The Contractor shall provide Shop Drawings, settings, schedules, and such other Drawings as may be necessary for the prosecution of the Work in the shop and in the field as required by the Drawings, Specifications or Project Manager's instructions.
- 3.6.2 The Contractor shall submit for approval four reproducible copies of all Shop Drawings and descriptive data as applicable showing all features not fully detailed on the Contract Plans but essential for a completely coordinated installation.
- 3.6.3 The Town's approval of Shop Drawings indicates only that the type and kind of equipment, general method of construction or detailing are satisfactory, but the Contractor may not construe the approval as a complete check. The Contractor has the responsibility for incorporating into the Work satisfactory materials and equipment meeting the requirements of the Contract Plans and Specifications, the proper dimensions, and the detailing of connections.
- 3.6.4 The review of Shop Drawings is only to check for compliance with the design concept of the Project and general compliance with the Contract Documents. Approval does not indicate the waiver of any contract requirement. Changes in the Work are authorized only by separate written Change Order.

3.7 Record Documents

- 3.7.1 The Contractor shall keep one record copy of all Addenda, Change Orders, Drawings, Field Orders, Modifications, and Shop Drawings and Specifications in good order. The Contractor shall record any changes made during construction on the record copies. The Contractor shall make a set of "Record Drawings" by marking this set of prints with all changes from the original Drawings as bid, including all Change Orders, alignment changes, depth changes of underground pipes and utilities, and all other items that are not the same as originally drawn. The Contractor shall keep the Record Drawings up to date as the Project progresses. The Project Manager may require, as a condition of the approval of the monthly progress payment, periodic inspection of the Record Drawings. The Contractor will deliver the Record Drawings to the Project Manager upon completion of the Project before Final Payment.

3.8 Differing Site Conditions

- 3.8.1 The Contractor shall promptly, before such conditions are further disturbed, notify the Project Manager in writing of:

- 3.8.1.1 Subsurface or latent physical conditions at the job-site differing materially from those indicated in the Contract; or
- 3.8.1.2 Unknown physical conditions at the job-site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in Work of the character provided for in the Contract.
- 3.8.2 Upon receipt of written notification from the Contractor of alleged differing site conditions, the Project Manager shall promptly investigate the conditions and if it finds the conditions materially differ, and so cause an increase or decrease in the Contractor's cost of or the time required for performance of any part of the Work under the Contract, an equitable adjustment will be made and the Contract modified in writing as provided for in Article 11 of these General Conditions.
- 3.8.3 No claim will be allowed under this Article unless the Contractor has given the written notice required in Article 3.8.1.
- 3.8.4 No claim will be allowed under this Article if Final Payment has been made.

3.9 **Surveys**

- 3.9.1 The Project Manager shall develop and arrange for all detail surveys necessary. The Contractor assumes full responsibility for construction according to the established lines and grades.
- 3.9.2 The Contractor shall carefully protect all monuments and property markers from disturbance or damage.

Article 4--AVAILABILITY OF RIGHT-OF-WAY

4.1 Acquisition of Right-of-Way

- 4.1.1 Before issuance of Notice to Proceed, the Town shall obtain all land and right-of-way necessary for carrying out and completion of the Work to be performed pursuant to the Contract, unless otherwise mutually agreed.
- 4.1.2 The Town shall provide to the Contractor information which delineates and describes the lands owned and rights-of-way acquired, when necessary. The Contractor shall confine its operations within the areas designated by the Project Manager.

4.2 Access to Right-of-Way

- 4.2.1 The Town will provide right of access to all places necessary for the performance of the Work. Nothing contained in the Contract shall give the Contractor exclusive occupancy of the area provided by the Town. The Town, other Contractors of the Town and utility companies may enter upon or occupy portions of the land furnished by the Town for any purpose, but without unreasonably interfering with the completion of the Project. Joint occupancy or use of the territory shall not be the basis of any claim for delay or damages.

4.3 State Highway Right-of-Way

- 4.3.1 If any part of the Project is within the right-of-way of a roadway under the jurisdiction of the Colorado Division of Transportation (CDOT) the Town shall obtain the necessary permits from CDOT to perform such Work. The Contractor shall conform to all the requirements and restrictions indicated on the permit. The Contractor shall restore the area to its original condition, including reseeding if necessary, at the completion of the Project.

4.4 Temporary Storage Facilities

- 4.4.1 The Contractor may secure at its own expense, and without liability to the Town, use of any additional land that the Contractor may desire for temporary construction activities, and facilities, or storage of materials.

Article 5--BONDS AND INSURANCE

5.1 Performance Bond and Labor and Material Payment Bond

- 5.1.1 The Contractor shall, within ten days after receipt of the Notice of Award, and before the commencement of any operations hereunder execute the Contract and furnish the Town with separate Performance, and Labor and Material Payment Bonds each in a penal sum equal to the amount of the Contract Price, conditioned upon the Contractor's performance of all undertakings, covenants, terms, conditions, and agreements of the Contract, and upon the Contractor's prompt payment to all persons supplying labor and materials in the prosecution of the Work provided by the Contract. The Contractor and a corporate Bonding company, licensed to transact such business in the State of Colorado and acceptable to the Town, shall execute the Bonds. The Contractor bears the expense of these Bonds. If at any time the Surety on such Bonds becomes irresponsible or loses its right to do business in the State of Colorado, the Town may require another Surety, which the Contractor shall furnish within ten days after receipt of written notice to do so. Evidence of authority of an attorney-in-fact acting for the corporate Surety shall be provided in the form of a certificate as to its power of attorney and to the effect that it is not terminated and remains in full force and effect on the date of the Bonds. The form of the Bonds is subject to the Town's approval.

5.2 Insurance

- 5.2.1 The insurance requirements contained in the Contract shall not limit or redefine the obligations of the Contractor as provided elsewhere in the Contract.
- 5.2.2 Contractor agrees to procure and maintain, at its own cost, the following policy or policies of insurance. Contractor shall not be relieved of any liability, claims, demands or other obligations assumed pursuant to the Contract Documents by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types.
- 5.2.2.1. Contractor shall procure and maintain, and shall cause each subcontractor of the Contractor to procure and maintain a policy the minimum insurance coverage listed below. Such coverage shall be procured and maintained with forms and insurers acceptable to the Town. All coverage shall be continuously maintained from the date of commencement of services hereunder. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

5.3 Insurance Requirements

- 5.3.1 The Contractor shall purchase and maintain, for the full period of the Contract, including any warranty period, at the Contractor's or Subcontractor's sole expense, insurance policies providing coverage as follows:
- 5.3.1.1 Comprehensive Automobile Liability Insurance with minimum combined single limits for bodily injury and property damage of not less than ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate with respect to each of Contractor's owned, hired and/or non-owned vehicles assigned to or used in performance of the services. The policy shall contain a severability of interests provision.

- 5.3.1.2 Comprehensive General Liability insurance with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall contain a severability of interests provision.
- 5.3.1.3 Workers Compensation insurance to cover obligations imposed by the Workers Compensation Act of Colorado and any other applicable laws for any employee engaged in the performance of Work under this contract, and Employer's Liability insurance with minimum limits of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) each accident, FIVE HUNDRED THOUSAND DOLLARS (\$500,000) disease-policy limit, and FIVE HUNDRED THOUSAND DOLLARS (\$500,000) disease-each employee.
- 5.3.1.4 Builder's Risk: a builder's risk or installation floater policy, at the Town's discretion, in an amount equal to the value of the Project where the possibility exists of losses or damage to the Project. The Special Conditions of the Contract Documents will state if and when Builder's Risk is required.
- 5.3.2 The policies required above, except Workers' Compensation insurance and Employers' Liability insurance shall be endorsed to include the Town, its officers and employees, as additional insureds. Every policy required above shall be primary insurance, and any insurance carried by the Town, its officers, or its employees, shall be excess and not contributory insurance to that provided by Contractor. The additional insured endorsement for the Comprehensive General Liability insurance required above shall not contain any exclusion for bodily injury or property damage arising from completed operations. The Contractor shall be solely responsible for any deductible losses under each of the policies required above.
- 5.3.3 Certificates of insurance shall be completed by Contractor's insurance agent as evidence that policies providing the required coverage, conditions and minimum limits are in full force and effect, and shall be subject to review and approval by the Town. Each certificate shall identify the Project and shall provide that coverage afforded under the policies shall not be cancelled, terminated or materially changed until at least 30 days prior written notice has been given to the Town. If the words "endeavor to" appear in the portion of the certificate addressing cancellation, those words shall be stricken from the certificate by the agent(s) completing the certificate. The Town reserves the right to request and receive a certified copy of any policy and any endorsement thereto. .
- 5.3.4 Failure on the part of Contractor to procure or maintain policies providing the required coverage, conditions, and minimum limits shall constitute a material breach of contract upon which at the Town's discretion may procure or renew any such policy or any extended connection therewith, and all monies so paid by the Town shall be repaid by Contractor to the Town upon demand, or the Town may offset the cost of the premiums against any monies due to Contractor from the Town.
- 5.3.5 The parties understand and agree that the Town is relying on, and does not waive or intend to waive by any provision of this contract, the monetary limitations (presently \$350,000 per person, \$990,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, §24-10-101, et seq., 10 C.R.S., as from time to time amended, or otherwise available to Town, its officers, or its employees.

Article 6--INDEMNIFICATION

- 6.1 **Responsibility for Damage Claims:** The Contractor shall indemnify, save harmless, and defend the Town, its officers and employees, from and in all suits, actions or claims of any character brought because of: any injuries or damage received or sustained by any person, persons or property because of operations for the Town under the Contract; the Contractor's failure to comply with the provisions of the Contract; the Contractor's neglect of materials while constructing the Work; because of any act or omission, neglect or misconduct of the Contractor; because of any claims or amounts recovered from any infringements of patent, trademark, or copyright, unless the design, device, materials or process involved are specifically required by Contract; from any claims or amount arising or recovered under the "Workers' Compensation Act," by reason of the Contractor's failure to comply with the act; pollution or environmental liability; or any failure of the Contractor to comply with any other law, ordinance, order or decree. The Town may retain so much of the money due the Contractor under the Contract, as the Town considers necessary for such purpose, for the Town's use. If no money is due, the Contractor's Surety may be held until such suits, actions, claims for injuries or damages have been settled. Money due the Contractor will not be withheld when the Contractor produces satisfactory evidence that it and the Town are adequately protected by public liability and property damage insurance.
- 6.1.1 The Contractor also agrees to pay the Town all expenses incurred to enforce this "Responsibility for Damage Claim" agreement and if the insurer of the Contractor fails to provide or pay for the defense of the Town of Castle Rock, its officers and employees, as additional insured, the Contractor agrees to pay for the cost of that defense.
- 6.1.2 Nothing in the **INSURANCE PROVISIONS** shall limit the Contractor's responsibility for payment of claims, liabilities, damages, fines, penalties, and costs resulting from its performance or nonperformance under the Contract.

Article 7--CONTRACTOR'S RESPONSIBILITIES

7.1 Control of the Work

- 7.1.1 When the Contractor is not present on the Project it shall have a Superintendent or other representative acceptable to the Town present who shall, during the absence of the Contractor, be its representative and have immediate charge of the Project. The Superintendent or representative shall have the Contractor's authority to act in its absence.
- 7.1.2 Any person employed on the Project who fails, refuses or neglects to obey the Superintendent or Contractor's other designated representative, shall, upon the order of the Project Manager, be at once removed from the Project and not again employed on any part of the Project.

7.2 General Use of Subcontractors

- 7.2.1 The Contractor may utilize the services of specialty Subcontractors on those parts of the Work which, under normal contracting practices, are performed by specialty Subcontractors.
- 7.2.2 The Contractor shall not sublet or subcontract any portion of the Work to be done under the Contract until approval of such action has been obtained from the Town.
- 7.2.3 The Contractor is fully responsible to the Town for the acts and omissions of its Subcontractors, and of persons either directly or indirectly employed by them.
- 7.2.4 Nothing contained in the Contract creates any contractual relationship between any Subcontractor and the Town.

- 7.2.5 The Contractor shall put appropriate provisions in all Subcontracts relative to the Work to bind Subcontractors to the terms of the Contract insofar as applicable to the Work of Subcontractors, and to give the Contractor the same power to terminate any Subcontractor that the Town may exercise over the Contractor.
- 7.2.6 The Contractor shall make available to each proposed Subcontractor, before the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement which may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-Subcontractors.

7.3 **Materials and Equipment Furnished by the Contractor**

- 7.3.1 The Contractor shall furnish and pay the cost of all of the necessary materials not furnished by the Town, all the superintendence, labor, tools, equipment, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery and transportation. The Contractor shall perform all the work required for the construction of all structures listed and itemized under the Bid Schedule of the Bid in strict accordance with the plans, Specifications and requirements and any amendments thereto and supplemental plans and Specifications hereafter approved.
- 7.3.2 Unless otherwise provided for in the Specifications, all workmanship, equipment, materials, and articles incorporated in the Project are to be the best of their respective kinds, new and undamaged.
- 7.3.3 Materials, supplies or equipment to be incorporated into the Project shall not be purchased by the Contractor or any Subcontractor subject to chattel mortgage or under a conditional sales contract or other agreement by which an interest is retained by the seller.
- 7.3.4 The Contractor shall furnish the Project Manager, for the Manager's approval, the name of the manufacturer of machinery and other equipment for materials the Contractor contemplates incorporating in the Project. The Contractor shall also furnish information on capacities, efficiencies, sizes, etc., and other information as may be required by the Project Manager. The Contractor shall submit samples for approval when requested. Machinery, equipment, materials, and articles installed or used without the Project Manager's approval are at the risk of subsequent rejection.
- 7.3.5 The Contractor shall give the Project Manager three copies of all shop manuals, operating manuals, parts lists, classifications, catalog cuts, Specifications, warranties and guarantees for all equipment and machinery installed.
- 7.3.6 **Consideration of a product as an "equal" by the Project Manager may require that the manufacturer of such product furnish guarantees that extend beyond the usual product warranty time.** The refusal of a manufacturer to provide such guarantees is sufficient reason for rejecting the product.

7.4 **Patents and Copyrights**

- 7.4.1 The Contractor shall provide a suitable legal agreement with the patentee giving the Contractor the right to use any design, device, material, or process covered by letters patent or copyright, in the construction of the Project when the use has not been specified or required by the Drawings and Specifications. The Contractor shall file a copy of this agreement with the Town, if requested. The Contractor and the Surety shall indemnify, defend and save harmless the Town from all claims for infringements on patented design, devices, material, process or any trademark or copyright during the prosecution or after the completion of the Project.

7.4.2 If any design, device, material, process or product of a particular manufacturer covered by letters patent or copyright is specified for use by the Drawings and Specifications, the Town is responsible for any claims for infringement by reason of the use of such design, device, material, process or product of a particular manufacturer; but the Contractor shall pay any royalties or license fees required.

7.5 Existing Utilities

7.5.1 The Town has collected and shown on the Drawings available information on the location of existing underground, surface and overhead structures and utilities. However, the Town does not guarantee the results of the investigations are accurate or complete. It is the Contractor's responsibility to verify all locations of existing structures and utilities shown on the Drawings and to ascertain whether any other structures and utilities exist.

7.5.2 The Contractor shall support, and protect from injury, existing power lines, telephone lines, water mains, gas mains, sewers, cables, conduits, ditches, curbs, walks, pavements, driveways, and other structures in the vicinity of the Project which are not authorized to be removed until completion of the Project.

7.6 Coordination with Utilities Departments

7.6.1 The Contractor shall always coordinate its Work with the Town of Castle Rock Utilities Department. If it becomes necessary to close portions of any water or sewer system due to construction operations, a minimum of 48 hours notification shall be given the Utilities Department and whenever possible one week's notice should be given. It is the Contractor's responsibility to ensure continuity of the utilities.

7.6.2 All water from Town owned utilities required for the Project will be provided at the Contractor's expense.

7.7 Laws and Ordinances

7.7.1 The Contractor shall perform all obligations under the Contract in strict compliance with all federal, state, and municipal laws, rules, statues, charter provisions, ordinances, and regulations, applicable to the performance of the Contractor under the Contract.

7.7.2 The Contractor shall obtain all other permits and licenses required in the prosecution of the Work.

7.7.3 IT IS UNLAWFUL AND UNETHICAL FOR ANY PERSON TO OFFER, GIVE OR AGREE TO GIVE ANY TOWN EMPLOYEE, TOWN OFFICIAL OR FORMER TOWN EMPLOYEE, OR FOR ANY TOWN EMPLOYEE, TOWN OFFICIAL OR FORMER TOWN EMPLOYEE TO SOLICIT, DEMAND, ACCEPT OR AGREE TO ACCEPT FROM ANOTHER PERSON, A GRATUITY OR AN OFFER OF EMPLOYMENT IN CONNECTION WITH ANY DECISION, APPROVAL, DISAPPROVAL, RECOMMENDATION OR PREPARATION OF ANY PART OF A PROGRAM REQUIREMENT OR A PURCHASE REQUEST, INFLUENCING THE CONTENT OF ANY SPECIFICATION OR PROCUREMENT STANDARD, RENDERING OF ADVICE, INVESTIGATION, AUDITING OR IN ANY OTHER ADVISORY CAPACITY IN ANY PROCEEDING OR APPLICATION, REQUEST FOR RULING, DETERMINATION, CLAIM OR CONTROVERSY, OR OTHER PARTICULAR MATTER, PERTAINING TO ANY PROGRAM REQUIREMENT OR A CONTRACT OR SUBCONTRACT, OR TO ANY SOLICITATION OR PROPOSAL THEREFOR.

7.7.4 IT IS UNLAWFUL AND UNETHICAL FOR ANY PAYMENT, GRATUITY OR OFFER OF EMPLOYMENT TO BE MADE BY OR ON BEHALF OF A SUBCONTRACTOR UNDER A CONTRACT TO THE PRIME CONTRACTOR OR HIGHER TIER SUBCONTRACTOR OF ANY PERSON ASSOCIATED THEREWITH, AS AN INDUCEMENT FOR THE AWARD OF A SUBCONTRACT OR ORDER.

7.8 Protection of Persons

7.8.1 It is a condition of the Contract, and the Contractor shall make a condition of each Subcontract entered into pursuant to the Contract, that the Contractor and any Subcontractor shall not require any laborer, mechanic or other person employed in performance of the Contract to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to health or safety. The Contractor shall comply with all applicable safety rules and regulations adopted by the United States Department of Labor Occupational Safety and Health Administration (OSHA), the Industrial Commission of the State of Colorado or the Town of Castle Rock, whichever is most restrictive. The Town assumes no duty to insure that the Contractor follows the safety regulations issued by OSHA or the State of Colorado.

7.8.2 For operations involving trenching, excavation or any other underground construction, the Contractor's attention is specially directed to and its Work shall conform to the Construction Safety and Health Regulations, Part P Subparagraph 1926.650-653 by OSHA, latest revision.

7.8.3 The Contractor shall always, whether or not so specifically directed by the Project Manager, take necessary precautions to ensure the protection of the public. The Contractor shall furnish, erect, and maintain at its own expense all necessary precautions for the protection of the Work and safety of the public through and around its construction operations.

7.9 Protection of Property

7.9.1 The Contractor shall continuously and adequately protect the Work from damage, injury or loss arising in connection with the Contract. It shall repair or replace at its expense any such damage, injury or loss, except such as may be directly due to error in the Contract or caused by agents or employees of the Town. It shall provide and maintain at its expense all passageways, barricades, guard fences, lights, and other protection facilities required by public authority or local conditions.

7.9.2 The Contractor is responsible for protection of all public and private property on and adjacent to the site of the Work. It shall use every precaution necessary to prevent damage to curbs, sidewalks, driveways, trees, shrubs, sod, mailboxes, fences, and other private and public improvements. It shall protect carefully from disturbance or damage all land monuments and property markers until an authorized agent has witnessed or otherwise referenced their locations, and shall not remove them until directed.

7.10 Protection of Historical Sites

7.10.1 When the Contractor's excavating operations encounter remains of prehistoric people's dwelling sites or artifacts of historical or archeological significance, the Contractor shall temporarily discontinue the operations, and immediately advise the Project Manager. The Project Manager will contact archeological authorities to determine the disposition of the items in question. When directed, the Contractor shall excavate the site in such a manner as to preserve the artifacts encountered and remove them for delivery to the custody of the proper authorities. Such excavation is considered, and paid for, as extra Work.

7.11 Responsibility to Repair

- 7.11.1 Should any existing property be damaged, the Contractor shall immediately notify the owner of such property. Unless authorized in writing by the owner of the property or directed by the Project Manager, the Contractor shall not attempt to make repairs. Written authorization from the owner to make repairs must be so worded as to save the Town harmless from any responsibility whatsoever relative to the sufficiency of the repairs. The Contractor shall give the Project Manager a copy of the written authorization to make repairs.
- 7.11.2 When any direct or indirect damage or injury is done to any public or private property or utility by or on account of any act, omission, neglect or misconduct in the execution of the Work, the Contractor shall restore the damaged property at its own expense to a condition equal to or better than that existing before such damage or injury.
- 7.11.3 The Contractor shall replace any materials and equipment lost, stolen, damaged or otherwise rendered useless during the performance of Work on the Project.

7.12 Traffic Control

- 7.12.1 The Contractor shall arrange Work to disrupt traffic as little as possible. All traffic Control Devices used shall conform to the latest edition of the Manual of Uniform Traffic Control Devices, (MUTCD). Except as otherwise permitted, two way traffic shall be maintained at all times in public roadways. At least 7 days before starting any Work in Town right-of-way, the Contractor shall submit a detailed traffic control plan for review from the Public Works Department, with a copy to the Police Department. The approval shall establish the requirements for closures related to the number of lanes and time of day lanes or streets may be closed. The Traffic Control Plan (TC Plan) shall include the name of the contractor, the name and phone number of the person responsible for the traffic control, the date for beginning and ending construction activity and hours of operation expected. The TC Plan should show the widths of streets involved, traffic lanes, the size and location of the Work area with distances from the curb, distance to the nearest intersection and the type and location of traffic control devices. No changes to the TC Plan shall be permitted without prior approval by the Public Works Director.
- 7.12.2 The Contractor shall furnish and maintain all necessary signs, barricades, lights, and flaggers necessary to control traffic and provide for safety of the public, all in compliance with the MUTCD with subsequent revisions and additions, and to the satisfaction of the Public Works Director.
- 7.12.3 Whenever a police officer is necessary for traffic control, the Contractor shall hire and pay a uniformed off-duty police officer with authority in the Town to direct traffic. The police department will determine the rate of pay for the officers.
- 7.12.4 The Contractor shall make its Traffic Control plans in concurrence with the Town requirements.

7.13 Sanitary Regulations

- 7.13.1 The Contractor is responsible for providing proper health and sanitation facilities for its employees, in compliance with any rules and regulations of the State Board of Health or any other bodies having jurisdiction.
- 7.13.2 The Contractor shall always provide an abundant supply of safe drinking water for its employees and shall give orders against the drinking of any water known to be unsafe in the vicinity of the Project.
- 7.13.3 At convenient places, the Contractor shall provide fly-proof outside toilets which are to be maintained in a sanitary condition. Toilets shall not be permitted in any reservoir area and shall not be permitted where they may pollute a water supply.

7.14 **Pollution Control**

- 7.14.1 The Contractor shall comply with all applicable Federal and State laws, orders, and regulations concerning the control, prevention, and abatement of water pollution and air pollution in all operations pertaining to the Contract whether on right-of-way provided by the Town or elsewhere.
- 7.14.2 The Contractor shall use construction methods that prevent release, entrance or accidental spillage of solid matter, contaminants, debris, and other objectionable pollutants and wastes including, but not restricted to refuse, garbage, cement, concrete, sewage effluent, industrial waste, radioactive substances, oil and other petroleum products, aggregate processing tailings, mineral salts, and thermal pollution. Non-regulated solid wastes shall be disposed of by methods approved under applicable laws and regulations, including, the Resource Conservation and Recovery Act (RCRA), Subtitle D, as administered by Colorado and local Health Departments and the EPA. Contaminated and hazardous materials are regulated by RCRA, Subtitles C and D. The Contractor shall notify the Colorado Department of Health, local Health Departments, and Town Fire Departments if suspect materials are encountered.
- 7.14.3 The Contractor shall utilize methods and devices that are reasonably available to control, prevent, and otherwise minimize atmospheric emissions or discharges of air contaminants including dust in its construction activities and operation of equipment.
- 7.14.4 **The Contractor shall not emit dust into the atmosphere during any operations, including but not limited to:** grading; excavating; manufacturing, handling or storing of aggregates; trenching; or cement or pozzolans. The Contractor shall use the necessary methods and equipment to collect, deposit, and prevent dust from its operations from damaging crops, orchards, fields or dwellings or causing a nuisance to persons. The Contractor is liable for any damage resulting from dust.
- 7.14.5 The Contractor may not operate equipment and vehicles with excessive emission of exhaust gases due to improper mechanical adjustments, or other inefficient operating conditions, until repairs or adjustments are made.
- 7.14.6 Burning trash, rubbish, trees, brush or other combustible construction materials is not permitted.
- 7.14.7 De-watering for structure foundations or earthwork operations adjacent to or encroaching on lakes, streams or water courses shall be done in a manner which prevents muddy water and eroded materials from entering the lakes, streams or water courses, by construction of intercepting ditches, bypass channels, barriers, settling ponds or by other approved means. Excavated materials may not be deposited or stored in or alongside lakes or water courses where they can be washed away by high water or storm runoff.
- 7.14.8 The Contractor may not allow waste water from aggregate processing, concrete batching or other construction operations to enter lakes, streams, water courses or other surface waters without turbidity control methods such as settling ponds, gravel-filter entrapment dikes, approved flocculation processes that are not harmful to fish, recirculation systems for washing of aggregates or other approved methods. Any waste waters discharged into surface waters shall conform to applicable discharge standards of the Colorado Department of Health and the Federal Government.

7.15 **Cleaning Up and Restoration**

- 7.15.1 The Contractor shall clean up all refuse or scrap materials so the site presents a neat, orderly, and workmanlike appearance at all times.

7.15.2 Upon completion of the Project, and before Final Inspection, the Contractor shall remove from the construction site and any occupied adjoining property all plants, buildings, refuse, unused materials, forming lumber, sanitary facilities, and any other materials and equipment that belong to the Contractor or its Subcontractors.

7.15.3 The Town may clean up and restore the construction site satisfactorily when the Contractor fails to do so. Any costs the Town incurs will be deducted from the Final Payment due the Contractor.

Article 8--OTHER WORK

8.1 The Town reserves the right to award other Contracts in connection with the Project. The Contractor shall cooperate with and afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their Work, and shall coordinate its Work with theirs.

Article 9--TOWN'S RESPONSIBILITIES

9.1 The Town will furnish the data required by the Contract and will make payments to the Contractor as provided by these General Conditions.

Article 10--PROJECT MANAGER'S RESPONSIBILITIES

10.1 The Project Manager is designated by the Town to exercise all authority on its behalf under the Contract and to see that the Project is completed according to its terms and conditions. The Project Manager may assume exclusive control of the performance of the Contractor whenever such performance is located in or upon the Town's property. The Project Manager will furnish all explanations, directions, stakes or markers, and inspections necessary to carry out and complete the Project.

10.2 Lines and Grades

10.2.1 The Contractor shall survey and stake as needed to complete project.

10.2.2 The Project Manager may appoint a Surveyor who will furnish all lines and grades. The Contractor shall give assistance, as required by the Surveyor, to aid in the staking, including clearing, improving access, exploratory excavations, and suspending operations to permit the Surveyor to perform its Work.

10.2.3 The Contractor shall give notice to the Surveyor at least three full days before initial lines and grades are needed. Thereafter, the Contractor shall give the Surveyor notice at least one full day before additional line and grade stakes are needed. The Project Manager is not responsible for providing lines and grades until the Contractor meets this Article's notice requirements.

10.2.4 The Contractor shall preserve all stakes, bench marks, and any other survey points. If they are destroyed by the Contractor or its employees, the Contractor shall pay for their replacement.

10.3 Inspection

10.3.1 The Project Manager shall appoint Inspectors to inspect the Project. Inspection may extend to all or any part of the Project. The Inspectors are not authorized to alter the provisions of the Drawings or Specifications or to delay the fulfillment of the Contract by failure to inspect materials and Work with reasonable promptness.

10.3.2 An Inspector has authority to reject defective materials and to suspend any Work that is being done improperly subject to the final decision of the Project Manager.

- 10.3.3 The Contractor shall give the Project Manager due and timely notice of readiness when the Project is to be inspected, tested or approved by someone other than the Inspector. The Contractor shall give the Project Manager required certificates of inspection, testing or approval. Inspection, tests or approvals by the Project Manager or others does not relieve the Contractor from its obligations to perform the Work according to the requirements of the Contract.
- 10.3.4 If the Project Manager considers it necessary or advisable that previously completed or covered Work be inspected or tested, the Contractor shall uncover, expose or otherwise make the Work available to the Project Manager for inspection and testing. The Contractor shall furnish all tools, labor, material, and equipment necessary to make the Work available. If the Project Manager finds the Work defective, the Contractor shall pay for the cost of satisfactory reconstruction and making the Work available. However, if the Work is not found defective, the Contractor will be allowed an increase in the Contract Price and/or an extension of the Contract Time for costs and time directly attributable to making the Work available and for reconstruction.
- 10.3.5 If the Contractor's operations require inspecting, testing or surveying to be done outside normal working hours or on Town holidays, it shall be at the Contractor's expense.

10.4 **Stop Work Order**

- 10.4.1 The Project Manager has the authority to suspend Work on the Project either in whole or in part, for as long as the Project Manager deems necessary due to:
- X Unsuitable weather;
 - X Faulty workmanship;
 - X Improper superintendence;
 - X Contractor's failure to carry out orders or to perform any provision of the Contract;
 - X Conditions which may be considered unfavorable for the prosecution of Work on the Project; or
 - X Work being carried on in an unsafe manner.
- 10.4.2 If it is necessary to stop work for an indefinite period, the Contractor shall, if directed by the Project Manager, store all materials in such a manner that they will not become an obstruction or become damaged in any way. The Contractor shall take every precaution to prevent damage to or deterioration of the Work, providing suitable drainage and erecting temporary structures where necessary.
- 10.4.3 The Project Manager will put the Stop Work order in writing and the Contractor may not proceed with Work on the suspended portion of the Project until notified in writing by the Project Manager.

10.5 **Disputes**

- 10.5.1 If the Contractor considers any Work directed by the Town to be outside the Contract requirements, or if it considers any ruling of the Project Manager to be unfair, it shall immediately ask for a written instruction or decision and shall perform the Work in conformance with the Project Manager's ruling. If the Contractor considers such instructions unsatisfactory, it shall file a written protest with the Project Manager within ten days after their receipt.
- 10.5.2 All claims, disputes and other matters in question arising out of or relating to the Contract shall be submitted to the Project Manager before the Contractor can begin litigation.

Article 11--CHANGES

11.1 General

- 11.1.1 The Town may make alterations to the Project without the consent of the Surety at any time during the Work. The Contractor shall perform the Work as changed, as if originally specified. The alterations do not invalidate the Contract in any way.
- 11.1.2 The Project Manager may, at any time, without notice to the Surety, by written notice to the Contractor, make any change in the Work to be performed within the general scope of the Contract, including but not limited to changes:
- X In the Specifications (including Drawings and designs);
 - X In the method or manner of the performance of the Work;
 - X In facilities, equipment, materials, services or site furnished by the Town; or
 - X Directing acceleration in the performance of the Work.
- 11.1.3 Any other written order or verbal order (which terms as used in this Article shall include direction, instruction, interpretation or determination) from the Project Manager, which causes the change, will be treated as a Change Order under this Article, provided that the Contractor gives the Project Manager written notice stating the date, circumstances, and source of the order and that the Contractor regards the order as a Change Order.
- 11.1.4 The Contractor may not treat any order, statement or conduct of the Project Manager as a change under this Article nor become entitled to an equitable adjustment in the Contract Price or Performance Time, except as provided in this Article.
- 11.1.5 If any change under this clause causes an increase or decrease in the Contractor's cost or the time required for the performance of any part of the Work under the Contract, whether or not changed by any order, an equitable adjustment will be made and the Contract modified in writing accordingly.
- 11.1.6 Claims for changes in the Contract Price or Contract Time of Performance will not be considered after the Final Payment has been made.

11.2 Compliance with §24-91-103.6

- 11.2.1 Notwithstanding any other language in this contract, the issuance of any Change Order or other form of order or directive by the Town requiring additional compensable work to be performed which will cause the Contract Price to exceed the amount appropriated for the Work is prohibited unless the Contractor is given written assurance by the Town that lawful appropriations to cover the costs of the additional work have been made or unless the Contract contains a remedy granting provision.

11.3 Field Orders

- 11.3.1 The Project Manager may make changes in the details of the Project at any time, by issuing a Field Order. The Contractor shall proceed with the performance of any changes in the Project ordered by the Project Manager. If the Contractor believes that such Field Order entitles it to a change in Contract Price or Time, or both, it shall give the Project Manager written notice within ten days after the receipt of the Field Order. Thereafter, the Contractor shall document the basis for the change in Contract Price or Time within thirty days.

11.4 Change Orders

- 11.4.1 Changes in the Contract Price are authorized only by Change Orders. Changes in contract time may be made by Change Order or by other appropriate written authorization.

- 11.4.2 Any difference in cost from Change Orders shall be added to or deducted from the amount of the Contract, as the case may be. Adjustments in the amounts to be paid to the Contractor on account of changed Work will be determined by one of the following methods in the order listed:
- X Unit Prices submitted in the Bid Schedule;
 - X Negotiated Unit Prices; and
 - X Negotiated lump sum.

11.5 Extras and Force Account Work

11.5.1 The Contractor shall perform any Work and furnish materials and equipment necessary or desirable for proper completion of the Contract if the Project Manager believes it necessary to order Work or materials or equipment which, in the Project Manager's opinion, are not susceptible to classification under the Unit Price items named in the Bid Schedule, and are not included in any lump sum bid item. The Project Manager will order such labor, material and equipment in writing before the extra Work is started. The labor, material and equipment will be classed as extra Work. The Town will not pay for extra Work unless the Town orders in extra work in writing. All claims for extra Work shall be submitted to the Project Manager, supplemented by any data the Project Manager requires.

11.5.2 Extra Work and Work involving a combination of increases and decreases in the Work will ordinarily be paid for at a lump sum or Unit Price agreed upon in writing by the Project Manager and Contractor before the extra Work Order is issued. In the negotiation of lump sum or Unit Prices, the agreed estimated cost of the Work plus an allowance for overhead and profit, not to exceed the allowances stated in Section 11.5.3, shall be used.

11.5.3 The allowance for overhead and profit will include full compensation for superintendence, bonds and insurance premiums, taxes (other than sales or use taxes included in the cost of materials), office expense, and all other items of expense or cost not included in the cost of labor, materials, or equipment provided under Sections 11.5.4, 11.5.5 and 11.5.6. The allowance for overhead and profit will be according to the following schedule:

ACTUAL NECESSARY COST ALLOWANCE:

Labor	20 percent
Materials	15 percent
Equipment	10 percent

The Actual Necessary Cost for labor, materials, or equipment will be computed according to Sections 11.5.4, 11.5.5 and 11.5.6.

Superintendence, bond and insurance premiums, taxes (other than sales or use taxes inclusive in the cost of materials), and other general expense will not be included in the computation of actual necessary cost. When all or any part of the extra Work is performed by a Subcontractor or specialty firm, the prime Contractor may add five percent of the Subcontractor's total cost for the extra Work. The Contractor shall give the Project Manager daily report sheets covering the direct cost of labor and materials and charges for equipment. The daily report sheets shall provide names or identifications and classifications of workers and hours worked, as well as size, type and identification number of equipment and hours operated. Material charges shall be substantiated by valid copies of vendors' invoices. The Project Manager will make any necessary adjustments and compile the costs of cost-plus Work. When these reports are agreed upon and signed by both parties, they become the basis of payment for the Work performed.

11.5.4 Labor: The cost of labor used in performing the Work by the Contractor, a Subcontractor, or other forces will be the sum of the actual wages paid plus any employer payments to, or on behalf of, workers for fringe benefits including health and welfare, pension, vacation, and similar purposes; all payments imposed by State and Federal laws including, but not limited to,

compensation insurance, and social security payments; and the amount paid for subsistence and travel required in accordance with the regular practice of the employer.

At the beginning of the contract or as later requested by the Project Manager, the Contractor shall furnish the Project Manager proof of labor compensation rates being paid or already paid.

- 11.5.5 **Materials:** The cost of materials used in performing the Work, including transportation charges for delivery (exclusive of machinery rentals), will be the cost to the purchaser, whether Contractor, Subcontractor or other forces, from the Supplier thereof, inclusive of sales or use taxes, except if, in the opinion of the Project Manager, the cost of materials is excessive, or the Contractor does not furnish satisfactory evidence of the cost of such material. If the Project Manager finds the cost excessive or the Contractor has not furnished evidence of the cost, then the cost will be deemed to be the lowest current wholesale price for the quantity concerned delivered to the job-site less cash or trade discounts.

The Town reserves the right to furnish materials for the Work and the Contractor may not claim costs and profit on materials furnished by the Town.

The Town reserves the right to purchase from the Contractor any materials previously purchased for a project and not used. Payment for the materials will be based on the actual material cost as shown on the Supplier's invoice, any transportation charges incurred, plus a fifteen percent handling fee.

- 11.5.6 **Equipment:** The Contractor will be paid according to the rental rates agreed upon in writing before extra or force account Work is begun, for any machinery or special equipment (other than small tools) authorized by the Project Manager. The Contractor may furnish cost data to assist the Project Manager in the establishment of the rental rate.

The rental rates paid, as provided above, shall include the cost of fuel, oil, lubrication supplies, small tools, necessary attachments, repairs and maintenance of all kinds, depreciation, storage, insurance, and all incidentals. Operator wages will be paid separately, as provided in Section 11.5.4.

Individual pieces of equipment or tools having a replacement value of \$100.00 or less, whether or not consumed by use, are considered small tools and no payment will be made for them.

Rental time will not be allowed while equipment is inoperative due to breakdowns or storage on-site.

- 11.5.7 **Equipment on the Work:** The rental time to be paid for equipment on the Work is the time the equipment is in productive operation on the extra Work being performed.

- 11.5.8 **Eliminating Items:** The Project Manager shall notify the Contractor in writing to eliminate any items contained in the proposal unnecessary for the proper completion of the Work. Such action will not invalidate the contract. The Contractor, by Change Order, will be reimbursed for actual work done and all cost incurred, including mobilization of materials and equipment before the elimination of such items.

Article 12--CONTRACT TIME

12.1 General

- 12.1.1 Time is of the essence in the performance of all Work contemplated in the Contract. Therefore, the Work shall be commenced no later than ten days from and including the date of Notice to Proceed and shall be fully completed in a satisfactory and acceptable manner within the time stated in the Contract.

12.1.2 The capacity of the Contractor's construction plant and force shall be sufficient as to insure completion of the Project within the allotted time. The Contractor shall use multiple crews if necessary to complete the Project within the allotted time.

12.2 Delays

12.2.1 Delay claims fall into three categories: non-excusable, excusable, or compensable. Any payment for delays or the granting of time extensions require a properly executed Change Order per Article 11.

12.2.1.1 **Non-excusable delay** is one caused by factors within the Contractor's reasonable control. The delay is the Contractor's fault; no additional time or additional compensation is allowed. Typical types of non-excusable delays are:

- X Late submittal of Shop Drawings;
- X Late procurement of materials or equipment;
- X Insufficient personnel;
- X Unqualified personnel;
- X Inadequate coordination of Subcontractors or other contractors;
- X Subcontractor delays;
- X Late response to Town and Project Manager inquiries; or
- X Construction not conforming to contract requirements making repeated re-working necessary.

12.2.1.2 **Excusable delay** is caused by factors beyond the Contractor's reasonable control, but is not the result of the Town's actions or failure to act. An excusable delay entitles the Contractor to an extension of time but no additional compensation for the cost of the delay.

12.2.1.3 **Compensable delay** is one where the Town has failed to meet an obligation stated or implied in the construction contract. If the Project Manager considers a delay as compensable, the Town will grant a time extension and reimburse the Contractor for the increased cost caused by the delay. Typical types of Town-caused delays are:

- X Late approval of Shop Drawings and samples;
- X Delays in answers to field inquiries by the Contractor;
- X Interference with the Contractor during construction;
- X Town-caused schedule changes;
- X Design changes; or
- X Interference by other contractor's or the Town's forces.

12.2.1.4 Failure to Prosecute Work. If, in the opinion of the Town's Project Manager, or other authorized agent of the Town, the Contractor is not prosecuting the Work under the Contract, written notice will be given and the Contractor shall have seven days to resume the Work with due diligence.

12.3 Failure to Complete Work on Time--Liquidated Damages

12.3.1 The Town may permit the Contractor to proceed if the Contractor fails to complete the Work on or before the original date set forth for or on or before the corrected. In such case, the Town will deduct the sum specified in the Contract for each day that the Work remains uncompleted. This sum shall not be a penalty but is liquidated damages.

12.3.2 The parties agree that, under all of the circumstances, the daily basis and the amount set forth as liquidated damages is reasonable and equitable. The Town expends additional personnel effort in administrating the Contract or portions of it that are not completed on time, and such efforts

and the costs thereof are impossible to accurately compute. In addition, some, if not all, citizens of Castle Rock incur personal inconvenience and lose confidence in their government as a result of public projects or parts of them not being completed on time, and the impact and damages, certainly serious in monetary as well as other terms, are impossible to measure.

- 12.3.3 Permitting the Contractor to continue and finish the Work, or any part of it, after the time fixed for its completion, or after the date to which the time of completion may have been extended, shall not operate as a waiver on the part of the Town of liquidated damages or any of its rights under the Contract.

Article 13--WARRANTY AND GUARANTEE: SAMPLES AND TESTING; DEFECTIVE WORK AND MATERIALS

13.1 Warranty and Guarantees

- 13.1.1 The Contractor and its Surety are jointly responsible for maintenance and satisfactory operation of Work performed under the Contract for a period of one year following the Notice of Construction Completion or until warranty work is fully satisfied. They are responsible for the satisfactory repair or replacement of any Work, materials or equipment which are found defective during this period, provided any failure results directly or indirectly from faulty workmanship or negligence by the Contractor, from faulty manufacturing or from faulty erection or improper handling of materials or equipment furnished or installed by the Contractor. Neither the Contractor nor Surety are liable for any failure resulting from the Town's neglect or improper operation of facilities or the act of a third party.

13.2 Samples and Testing

- 13.2.1 All materials and equipment used in the Project will be subject to sampling and testing according to generally accepted standards and as required in the Contract Documents. In the absence of direct references, the sampling and testing of materials will be done according to current Specifications of the American Society for Testing and Materials or the American Water Works Association. The Contractor shall cooperate with the Project Manager in collecting and forwarding required samples.
- 13.2.2 The Contractor shall not incorporate any materials into the Project or cover any part of the Work until it has been inspected and approved according to the Contract Documents.
- 13.2.3 The Contractor shall furnish all samples without charge. The Contractor will cooperate with the Project Manager in collecting, handling, storing, and forwarding required samples including the furnishing of manpower and equipment when necessary.
- 13.2.4 The Contractor will pay the cost of the initial test except when the Contract states otherwise. The Contractor will pay the costs for repeated tests due to failure of the initial test.

13.3 Access to Work

- 13.3.1 The Project Manager and the Manager's representatives shall have access to the Project at any time for purposes of inspection, sampling, and testing. Access shall extend to authorized representatives of participating federal or state agencies and to other public authorities having jurisdiction established by law. The Contractor shall provide proper facilities for access to the Project.
- 13.3.2 Access to the Project shall mean wherever and whenever it is in manufacture, preparation or progress. It shall include access to payrolls, records of personnel, invoices of materials, terms and conditions of sale of materials and equipment to be incorporated in the Project, files, records,

books, correspondence, instructions, Drawings, receipts, subcontracts, purchase orders, vouchers, memoranda and any other relevant data and records relating to the Contract.

13.3.3 The Town may, at reasonable times, inspect the part of the plant, place of business or worksite of the Contractor or Subcontractor at any tier which is pertinent to the performance of the Contract.

13.4 Defective Work and Materials

13.4.1 Material and workmanship not conforming to the requirements of the Contract are deemed defective. Defective Work or material shall be removed immediately from the Project site and replaced with acceptable Work and material at the Contractor's expense.

13.4.2 If the Contractor fails to replace rejected materials or Work within ten days after receipt of written notice, the Town may replace or correct them and charge the cost to the Contractor and may terminate the right of the Contractor to proceed. Failure to detect previously installed defective materials or workmanship shall not impair the Town's right to receive a completed project which is free of defects and meets all of the requirements of the Contract Documents.

Article 14--PAYMENTS TO CONTRACTOR AND COMPLETION

14.1 General

14.1.1 Unless expressly provided otherwise, the prices shown in the Bid Schedule include the cost of all labor, materials, equipment, tools, forms, services, utilities, royalties, fees, and any other thing or expense necessary to complete the Project. Items not shown on the Plans, Specifications or Special Provisions but which are necessary to construct the Project will be considered a part of the Project whether specified or not and no separate payment will be made for these items.

14.1.2 Unless expressly provided otherwise in the Contract, the amount to be paid for the Work includes all labor, materials, forms, tools, scaffolding, plants, equipment, service, utilities, royalties, fees, and everything, whether temporary or permanent, necessary to complete the Project.

14.2 Determination of Amounts and Quantities

14.2.1 The Project Manager shall verify determinations of amounts and quantities of Work performed. The Project Manager shall have access to the records as stated in Article 13.3. The method of measurement of the Contract Bid Items will be as specified in the Special Conditions.

14.3 Variations in Estimated Quantities

14.3.1 Where the quantity of a pay item in the Contract is an estimated quantity and where the actual quantity of such pay item varies more than twenty-five percent below the estimated quantity stated in the Contract, the Contractor shall make an equitable adjustment in the Contract Price, upon demand of the Town. The Contract Price adjustment will be based upon any decrease in costs due solely to the variation below seventy-five percent of the estimated quantity.

Where the quantity of a pay item in the Contract is an estimated quantity and the actual quantity of such pay item is more than twenty-five percent above the estimated quantity in the Contract, the Town may elect to terminate the Contract or issue a Change Order to adjust the Contract Price.

14.4 Monthly Estimates--Partial Payments

14.4.1 The Contractor shall prepare monthly partial estimates (monthly estimates) for all Work completed up to that time. The authorized Town representative(s) shall approve the monthly

estimates before progress payments will be made. The format of the monthly estimates will be related to the format of the Bid Proposal.

- 14.4.2 In making such progress payments, subject to the exceptions in this Article, the Town will retain five percent of the total amount earned as indicated in the monthly estimate until the Project is substantially completed, provided, however, that at any time after the value of the completed Work equals or exceeds fifty percent of the face value of the Contract, the Town shall, if it finds that satisfactory progress is being made, retain the amount previously withheld but make the remaining partial payments in full. At no time may the amount retained exceed five percent of the total Contract Price.
- 14.4.3 Intentionally deleted.
- 14.4.4 If the Town finds that satisfactory progress is being made in all phases of the Contract, it may, upon written request by the Contractor, authorize payment from the withheld percentage. Before such payment is made, the Town shall determine that satisfactory and substantial reasons exist for the payment and shall require written approval from any Surety furnishing Bonds for the Contract. The Contractor shall make partial payments of the amount due to each of its Subcontractors in the same manner as the Town is required to pay the Contractor under this Article, providing that the Subcontractor is satisfactorily performing under its Contract with the Contractor.
- 14.4.5 Monthly estimates may include the value of acceptable materials required in the construction which have been delivered on the site of the Work or to adjacent railway siding and for which acceptable provisions have been made for preservation and storage, providing the Contractor submits with its monthly estimate, paid invoices in duplicate for the material for which payment is being requested. Material paid for by the Town becomes the property of the Town and, in the event of the default on the part of the Contractor, the Town may use or cause to be used such materials in construction of the Work provided for in the Contract.
- 14.4.6 The Town may withhold, in addition to retained percentages from Contractor payments, such an amount or amounts as may be necessary to cover:
- 14.4.6.1 Claims for labor or materials furnished the Contractor or Subcontractor(s) or reasonable evidence indicating probable filing of such claims;
- 14.4.6.2 Failure of the Contractor to make proper payment to Subcontractors or for material or labor furnished by others;
- 14.4.6.3 A reasonable doubt that the Contract can be completed for the balance then unpaid;
- * Evidence of damage to another Contractor or private property;
 - * Uncorrected defective Work or guarantees that have not been met;
 - * Failure of the Contractor to submit cost breakdowns, schedules, reports and other information required under the Contract;
 - * Persistent failure to carry out the Work according to the Contract; or
 - * Reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay.
- 14.4.7 The Town may disburse and has the right to act as agent for the Contractor in disbursing funds, withheld pursuant to this paragraph, to the party or parties who are entitled to payment therefrom, but the Town assumes no obligation to make such disbursement. The Town will render to the Contractor a proper accounting of all funds disbursed under this paragraph.

14.5 Escrow Contract in Lieu of Retainage

- 14.5.1 When sums are withheld to assure satisfactory performance of any contract exceeding fifty thousand dollars, the Contractor may withdraw the whole or any portion of the withheld sums if the Contractor deposits acceptable securities with the Director of Finance to negotiate the acceptable securities and to receive the payments due the Town pursuant to law or the terms of the Contract. To the extent there are excess funds resulting from negotiation, the balance shall be returned to the Contractor. Acceptable securities which are deposited shall have a market value at least equal in value to the amount withdrawn at all times. If at any time the Town determines that the market value of the acceptable securities deposited has fallen below the amount withdrawn, the Director of Finance shall give notice to the Contractor, who shall deposit additional acceptable securities in an amount sufficient to re-establish a total deposit of securities equal in value to the amount withdrawn.
- 14.5.2 The Town may enter into an escrow contract or agreement with any national bank, state bank, trust company or savings and loan association located in this state and designated by the Contractor, after notice to the Surety, to provide an escrow agent for the custodial care and servicing of any obligations deposited with it pursuant to $\text{\textcircled{24-91-106}}$, C.R.S., as amended. Such services shall include the safekeeping of the obligations and the rendering of all services required to effectuate the purpose of $\text{\textcircled{24-91-106}}$ and $\text{\textcircled{38-26-107}}$, C.R.S., as amended.
- 14.5.3 The Town or any national bank, state bank, trust company or savings and loan association located in the state and designated by the Contractor to serve as custodian for the obligations pursuant to $\text{\textcircled{24-91-106}}$, C.R.S., as amended, shall collect all interest and income when due on the obligations deposited and shall pay them, when and as collected, to the Contractor who deposited the obligations. If the deposit is in the form of coupon Bonds the escrow agent shall deliver each coupon, as it matures, to the Contractor. The Contractor may not charge any expense incurred for this service to the Town.
- 14.5.4 Any amount deducted by the Town, pursuant to law or the terms of a Contract, from the retained payments otherwise due to the Contractor, will be deducted first from that portion of the retained payments for which no obligation has been substituted and then from the proceeds of any deposited obligation, in which case, the Contractor is entitled to receive the interest, coupons or income only from those obligations which remain on deposit after such amount has been deducted.
- 14.5.5 Provided that the Subcontractor has performed under its Contract with the Contractor, the Contractor shall disburse to each Subcontractor all retained payments and interest disbursed to the Contractor by the Town, in proportion to the respective amounts of retained payments, if any, which the Contractor has withheld from its Subcontractors.
- 14.5.6 The provisions of this Article do not apply if a part of the Contract Price is to be paid with funds from the federal government or from some other source and if the federal government or such other source has inconsistent requirements concerning retention or payment of funds applicable to the Contract.
- 14.5.7 If it becomes necessary for the Town to take over the completion of any Contract, all of the amount owed the Contractor, including the withheld percentage, shall first be applied toward the cost of completion of the Contract and any liquidated damages. Any balance remaining in the retained percentage shall be payable to the Contractor or the Contractor's creditors. Such retained percentage, as may be due any Contractor, shall be due and payable at the expiration of thirty days from the date of the Town Project Final Acceptance.
- 14.6 Town's Right to Accept Portion of the Project**
- 14.6.1 The Town reserves the right to accept and make use of any completed section of the Project without invalidating the Contract or obligating the Town to accept the remainder of the Project.

14.7 Substantial Completion

14.7.1 When the Contractor considers the entire work ready for its intended use, the Contractor shall notify the Project Manager in writing that the entire Work is substantially complete (except for items specifically listed by Contractor as incomplete) and request that the Project Manager issue a Notice of Substantial Completion. Within a reasonable time, the Contractor, Project Manager and any other appropriate Town representatives shall make an inspection of the Work to determine the status of completion. If the Project Manager does not consider the Work substantially complete, the Project Manager will notify the Contractor in writing giving the reasons for denial of the Notice of Substantial Completion. If the Project Manager considers the Work substantially complete, the Project Manager will prepare and deliver to the contractor a Notice of Substantial Completion which shall fix the date of Substantial Completion. The Project Manager shall attach to the certificate a tentative list ("punch list") of items to be completed or corrected before Final Payment. Warranties required by the Contract shall commence on the date set in the Notice of Construction Completion for the Project, or the date set in the Notice of Construction Completion for a designated portion of the Project, unless otherwise provided in the notice of Substantial Completion.

14.8 Construction Completion

14.8.1 When the Work specified in the Contract is completed and the final cleanup has been performed, the Contractor shall notify the Project Manager that all Work under the Contract has been completed and the Project Manager shall, within five days after such notice, make the final inspection. If the Project Manager finds that the Project has been completed according to the requirements set forth in the Contract, the Town, upon the recommendation of the Project Manager, shall issue a Notice of Construction Completion. Notices of Construction Completion issued orally or without proper Town authorization are void.

14.9 Claims Against the Contractor

14.9.1 Before Final Payment, the Contractor shall sign the Contractor's Certificate and Release form provided by the Town.

14.9.2 As provided by Colorado law, persons or businesses, including Subcontractors, who have not been promptly paid by the Contractor and who have provided materials, services and labor of any kind, or labor and material incidental to the completion of the Project, may file claims and the Town may withhold from the Contractor an amount sufficient to cover such claims.

14.10 Final Payment--Pursuant to Section 38-26-107, C.R.S., as Amended

14.10.1 After the Notice of Construction Completion is issued by the Town, a Notice of Final Settlement shall be advertised at least twice, not less than ten days before the date of Final Settlement, in a newspaper of general circulation in the county where the Work was done. If no claims are filed before the expiration of ten days from the date of the last publication of the Notice of Final Settlement, the Final Payment, including retainage, may be made.

14.10.2 If any Subcontractor or Supplier files a claim before the expiration of ten days from the date of the last publication of the Notice of Final Settlement, for Work done or material furnished that has not been paid for by the Contractor, the Town shall withhold from Final Payment to the Contractor sufficient funds to insure the payment of the claims. The funds shall not be withheld longer than ninety days from the date of Final Settlement unless a legal action is started within that time to enforce payment of the claims.

14.10.3 At the end of ninety days, or any time before, if the person filing the claim acknowledges receipt of payment for the claim, or otherwise releases the claim in writing, the Town shall pay the Contractor the monies not subject to suit or lis pendens notices.

14.10.4 Monies that are the subject of a suit will be withheld until a judgment is rendered in the suit.

Article 15--CONTRACT TERMINATION

15.1 Town's Right to Terminate Contract for Convenience

15.1.1 The Town shall, at any time, have the right to terminate the Contract, for convenience, upon giving written notice to the Contractor. The Contractor shall be entitled to the full amount of the approved estimate for the Work satisfactorily completed under the Contract up to the time of such termination, including the retained percentage. The Town shall reimburse the Contractor for such expenditures as, in the judgment of the Project Manager, are not otherwise compensated for, together with the cost of moving to and from the Project and a reasonable profit on the Work deleted by reason of the annulment of the Contract, in order that an equitable settlement is made with the Contractor.

15.2 Town's Right to Terminate Contract for Default

15.2.1 The Project Manager, with the approval of the Town and acting on behalf of the Town, may serve notice upon the Contractor and its Surety of the intention to terminate the Contract if the performance of the Work set forth under the Contract is unnecessarily or unreasonably delayed by the Contractor, or if any of the provisions of the Contract are being violated by the Contractor or its Subcontractors. The Contract is terminated unless, in the opinion of the Project Manager, the Contractor corrects the violation within five days after the notice is served. In the event of such termination, the Project Manager, acting on behalf of the Town, shall immediately serve notice of the termination and the Surety's right to complete the Contract upon the Surety and the Contractor. The Surety shall have the right to take over and perform the Work called for in the Contract. The Surety is then bound by all the provisions of the Contract. If the Surety does not commence performance of the Work within ten days from the date of the notice, the Town may take over the Project and, without prejudice to any other remedies, complete the Project and the Contractor and its Surety are liable to the Town for any excess costs incurred by the Town.

15.3 Contractor's Right to Terminate Contract

15.3.1 The Contractor may terminate the Contract if the Work is stopped for a period of three months under any order of any court or other public authority through no act or fault of the Contractor or of anyone employed by it.

The Contractor may suspend Work if Town fails to make payments at the times provided in the Contract and the Contractor has given the Town written notice seven days before suspending Work. The Contractor may terminate the Contract, at its option, if the Town continues to be in default thirty days after the date of the written notice. Failure by the Town to make payments at the times provided is a bar to any claim by the Town against the Contractor for delay in completion of the Project if the Contractor suspended Work for that reason.

If the Contractor terminates the Contract, it may recover the price of all Work done and materials provided and all damages sustained.

Article 16--EQUAL OPPORTUNITY

16.1 **General:** During the performance of the Contract, the Contractor agrees as follows:

- 16.1.1 The Contractor shall not discriminate against any employee or applicant for employment because of race, color, age, disability, religion, sex, national origin, or as otherwise prohibited by law.
- 16.1.2 The Contractor shall ensure that all Subcontractors shall not discriminate against any employee or applicant for employment because of race, color, age, disability, religion, sex, national origin, or as otherwise prohibited by law.

Article 17--AUDIT

17.1 Records and Reports

- 17.1.1 The Contractor shall keep and preserve full and detailed accounts relating to the Contract for a period of three years from the date of final payment under the Contract in which the Work is completed.
- 17.1.2 The Subcontractor shall keep and preserve full and detailed accounts relating to the Contract for a period of three years from the date of final payment under the subcontract.

17.2 Access

- 17.2.1 The Contractor shall permit the Town and the Town's accountants to have access as stated in Article 13.3 and to the records kept per Article 17.2 for the purpose of making such financial audits, or verifications as the Town deems necessary or appropriate concerning the Contractor's performance under the Contract.

Article 18--MISCELLANEOUS

- 18.1 **Reservation of Right to Bar Persons from the Work and Site:** The Town reserves the right to bar any person, including employees of the Contractor and Subcontractors, from the Town's Work site. This shall not be treated as a request for the employee's termination but a request that the employee not be assigned to work on the Town Work site. No increase in contract time or price is authorized.
- 18.2 **Provisions Construed as to Fair Meaning.** The provisions of the Contract shall be construed as to their fair meaning, and not for or against any party based upon any attributes to such party of the source of the language in question.
- 18.3 **Headings for Convenience:** All headings, captions and titles are for convenience and reference only and of no meaning in the interpretation or effect of the Contract.
- 18.4 **No Implied Representations:** No representations, agreements, covenants, warranties, or certifications, express or implied, exist as between the parties, except as specifically set forth in the Contract.
- 18.5 **Financial Obligations of Town:** All financial obligations of the Town under the Contract are contingent upon appropriation, budgeting, and availability of specific funds to discharge such obligations. Nothing in the Contract shall be deemed a pledge of the Town's credit, or a payment guarantee by the Town to the Contractor.
- 18.6 **Assignment/transference:** The Contractor may not assign or transfer any interest in the Contract, including any money due or to become due, without the prior written consent of the Town.
- 18.7 **Amendments.** The parties shall only amend the Contract in writing with the proper official signatures and, if required elsewhere in this Contract, on the proper forms.

- 18.8 **Waiver.** No waiver of a breach or default under the Contract is a waiver of any other or subsequent breach or default.
- 18.9 **Governing Law.** The Contract is governed and to be construed according to the laws of the State of Colorado.
- 18.10 **Binding Contract.** The Contract is binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.

SAMPLE FORMS

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CHANGE ORDER NO. _____

Date _____

Project _____

Project Number _____

P.O. Number _____

Bid Number _____

Contractor _____

The following changes are made to the Contract:

Attach support documentation to this Change Order. If paying on multiple accounts and/or project numbers, attach a memo detailing each number and related dollar amount.

Is this Change Order strictly a quantity adjustment? YES NO

The Original Contract Price was\$

Net Change by Previous Change Orders\$

Contract Price before this Change Order.....\$

CURRENT Change Order AMOUNT (note + or -)\$

THE NEW CONTRACT PRICE WILL BE\$

Original contract time: _____ days

Net time change by previous Change Order(s): _____ days

Net adjustment due to this Change Order: _____ days

Current contract time including this Change Order: _____ days

DATE FOR SUBSTANTIAL COMPLETION WILL BE: _____

The contractor hereby certifies that all work specified in this Change Order shall be performed according to the original contract requirements except as modified by Change Order(s).

TOWN DIVISION APPROVAL

TOWN DIVISION APPROVAL

By: _____

By: _____

Title: _____

Title: _____

Date: _____

Date: _____

TOWN DIVISION APPROVAL

CONTRACTOR

By: _____

By: _____

Title: _____

Its: _____

Date: _____

Date: _____

Originals: Contractor; Purchasing and Contracts File

CORPORATE CERTIFICATE

I, _____, certify that I am the Secretary of the Corporation named as Contractor in the foregoing Contract; that _____, who signed the Contract on behalf of the Contractor, was then _____ of the Corporation by authority of its governing body and signed the Contract within the scope of his or her Corporate powers.

PARTNERSHIP CERTIFICATE

STATE OF COLORADO) ss
COUNTY OF DOUGLAS)

On this __ day of _____, 20__, that _____, being duly sworn, personally appeared before me and deposed that he/she is general partner in the firm of _____; that the firm consists of the general partner and _____; and that the general partner executed the Contract on behalf of the firm.

CONTRACTOR'S CERTIFICATE AND RELEASE

FROM: _____
(Contractor)

TO: TOWN OF CASTLE ROCK
100 N. Wilcox Street
Castle Rock, CO 80104

Project Name _____

Bid Number _____ Project No. _____

Agreement for Construction Contract dated _____, 20__.

1. The Contractor certifies that the Town of Castle Rock owes the Contractor the amount of _____
_____ DOLLARS for duly approved Change Orders and modifications under the Contract.

2. The Contractor further certifies that in addition to the amount set forth in Paragraph 1, the following claims are just, due and owing by the Town of Castle Rock to the Contractor:

(a) _____

(b) _____

(c) _____

(d) _____

(Itemize claims and amounts due. If none, so state.)

3. The Contractor certifies that it has performed all Work required by and according to the Contract, including Work required under Change Orders numbers _____ through _____, and that there are no unpaid claims for materials, supplies or equipment and no claims of laborers or mechanics for unpaid wages arising out of the performance of the Contract, and that the wage rates paid by the Contractor and all Subcontractors conform to applicable laws and regulations.

4. Except for the amounts stated under Paragraphs 1 and 2 hereof, the Contractor has received from the Town of Castle Rock all money payable to the Contractor under the Contract, as modified.

5. In consideration of the payment of the amount in Paragraph 1 the Contractor hereby releases the Town of Castle Rock from any claims arising under or by virtue of the Contract, except the amount(s) listed in Paragraph 2; provided, however, that if for any reason the Town of Castle Rock does not pay the amount stated in Paragraph 1 in full, the deduction shall not affect the validity of this release, but the deducted amount shall be automatically included under Paragraph 2 as an amount which the Contractor has not released but will release upon payment. The Contractor certifies that, upon the payment of the amount in Paragraph 2, and of any amount which may be deducted for claims of any nature arising out of the Contract, as modified, the Contractor shall execute such further releases or assurances as the Town may request.

Executed this _____ day of _____, 20__.

Contractor _____

By: _____

Its: _____
Title

(Insert the Corporate or Partnership Certificate as appropriate)

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS: That _____
(full name and address or legal title of Contractor)
_____ as

Principal, hereinafter called Contractor, and as Surety, _____
(full name and address or legal title of Surety)

hereinafter called Surety, are held and firmly bound unto _____
(full name and address or legal title of Owner)

as Obligee, hereinafter called Owner, in the amount of _____ Dollars
(\$ _____) for the payment whereof Contractor and Surety bind themselves, their heirs, executors, administrators,
successors and assigns, jointly and severally, firmly by these present.

WHEREAS, Contractor has by written agreement dated _____, 20___, entered into a
contract with Owner for _____, Project No. _____ in
accordance with Drawings and Specifications prepared by the Town of Castle Rock, 100 North Wilcox Street, Castle Rock,
Colorado, which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Contractor shall promptly and faithfully perform
said Contract then this obligation shall be null and void; otherwise, it shall remain in full force and effect.

The Surety hereby waives notice of any alteration of the contract or extension of time made by Owner.

Whenever Contractor shall be, and declared by Owner to be in default under the Contract, the Owner having performed Owner's
obligations thereunder, the Surety may promptly remedy the default, or shall promptly:

1. Complete the Contract in accordance with its terms and conditions, or;
2. Obtain a bid or bids for completing the contract in accordance with its terms and conditions, and upon determination by
Surety of the lowest responsible bidder, or, if the Owner elects, upon determination by the Owner and the Surety jointly of
the lowest responsible bidder, arrange for a contract between such bidder and Owner, and make available as work
progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion
arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price but not
exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first
paragraph hereof. The term "balance of the contract price" as used in this paragraph, shall mean the total amount payable
by Owner to Contractor under the Contract and any amendments thereto, less the amount properly paid by Owner to
Contractor.

Any suit under this bond must be instituted before the expiration of two (2) years from the date on which final payment under the
Contract falls due.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Owner named herein or
the heirs, executors, administrators or successors of the Owner.

Signed and sealed this _____ day of _____, 20__.

Witness

Principal

Title

Title

Witness

Title

Title

Title

LABOR AND MATERIAL PAYMENT BOND

THIS BOND IS ISSUED SIMULTANEOUSLY WITH PERFORMANCE BOND IN FAVOR OF THE OWNER
CONDITIONED ON THE FULL AND FAITHFUL PERFORMANCE OF THE CONTRACT.

KNOW ALL MEN BY THESE PRESENTS: That _____
(full name and address or legal title of Contractor)
_____ as Principal, hereinafter called
Principal, and _____
(full name and address or legal title of Surety)
as Surety, hereinafter called Surety, are held and firmly bound unto _____
(full name and address or legal title of
Owner)
_____ as Obligee, hereinafter called Owner,
for the use and benefit of claimants as hereinbelow defined, in the amount of _____
Dollars (\$ _____), for the payment whereof Principal and Surety bind themselves, their heirs, executors,
administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, Principal has by written agreement dated _____ 20____,
entered into a contract with Owner for _____
(description of project)
in accordance with Drawings and Specifications prepared by the Town of Castle Rock, 100 North Wilcox Street, Castle
Rock, Colorado, which contract is by reference made a part hereof, and is hereinafter referred to as the Contract.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that, if Principal shall promptly make payment
to all claimants as hereinafter defined, for all labor and material used or reasonably required for use in the performance
of the Contract, then this obligation shall be void, otherwise it shall remain in full force and effect, subject, however, to
the following conditions:

1. A claimant is defined as one having a direct contract with the Principal or with a Subcontractor of the Principal for
labor, material or both, used or reasonably required for use in the performance of the Contract, labor and material
being construed to include that part of water, gas power, light heat, oil, gasoline, telephone service or rental of
equipment directly applicable to the Contract.
2. The above named Principal and Surety hereby jointly and severally agree with the Owner that every claimant as
herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on
which the last of such claimant's work or labor was done or performed, or materials were furnished by such
claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or
sums as may be justly due claimant, and have execution thereon. The Owner shall not be liable for the payment
of any costs or expenses of any such suit.

No suit or action shall be commenced hereunder by any claimant:

- a. Unless claimant, other than one having a direct contact with the Principal, shall have given written notice to
any two of the following: the Principal, the Owner, or the Surety above named, within ninety (90) days after
such claimant did or performed the last of the work or labor, or furnished the last of the materials for which
said claim is made, stating with substantial accuracy the amount claimed and the name of the party to whom
the materials were furnished, or for whom he worked or labor was done or performed. Such notice shall be
served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to
the Principal, Owner or Surety, at any place where an office is regularly maintained for the transaction of
business, or served in any manner in which legal process may be served in the state in which the aforesaid
Project is located, save that such service need not be made by a public officer.
- b. After the expiration of six (6) months following the date on which Principal ceased work on said Contract, it
being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling
the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum
period of limitation permitted by such law.

- c. Other than in a state court of competent jurisdiction in and for the county or other political subdivision of the state in which the Project, or any part thereof is situated, or it the United States District Court for the District in which the Project, or any part thereof, is situated, and not elsewhere.

Signed and sealed this _____ day of _____, 20__.

Witness

Principal

Title

Title

Witness

Title

Witness

Title

WARRANTY BOND

1. KNOW ALL MEN BY THESE PRESENTS, THAT:

(name)

(address)

as Principal, hereinafter called Principal, and

(surety name)

(surety address)

a corporation organized and existing under the laws of the State of _____ and AUTHORIZED TO DO BUSINESS IN THE STATE OF COLORADO, as Surety, hereinafter called Surety, are held firmly bound, unto the Town of Castle Rock as Obligee, hereinafter called the Obligee, in the amount of:

_____ Dollars (\$ _____), lawful money of the United States of America, together with interest as may be provided by law, for the maintenance and guarantee obligations of the Contract, for the payment whereof Principal and Surety bind themselves, their heirs, executors, successors and assigns, jointly and severally, firmly by these presents.

2. WHEREAS, Principal and the Obligee have entered into a contract dated the ____ day of _____, 20__ for the following (project):

McMurdo Gulch Reclamation Project

which contract is by reference made a part hereof, and is hereafter referred to as the Contract.

3. NOW THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the Principal shall promptly, properly and without cost to Obligee perform all maintenance and other guarantee obligations under the terms of the Contract, including any modifications or extensions thereof granted by the Obligee, for a period of one (1) year(s) from the date of final payment upon the Contract by the Obligee, and in the case of each correction or repair, during a period of one year after the date of said correction or repair or for the remaining period of years set forth herein, whichever is longer, then this obligation shall be null and void; otherwise this obligation shall remain in full force and effect.

4. The Surety for value received agrees that no extension of time, change in, addition to, or other alteration or modification of the terms, conditions or obligations of the Contract or work to be performed thereunder, or any forbearance on the

part of either the Obligee or the Principal to the other shall in any way release or affect the Surety's liability or obligation on this Bond, and the surety hereby waives notice of any such extension of time, change, addition, modification, alternation or forbearance.

Signed and sealed on the dates set forth below:

(witness)

(seal)

FOR: _____
(Principal's Name)
BY: _____
ITS: _____
this ____ day of _____, 20__

(witness)

(seal)

FOR: _____
(Surety's Name)
BY: _____
ITS: _____
this ____ day of _____, 20__

BOND # _____
This Bond (___is) (___is not) a SBA Guaranteed Bond.

NOTICE TO PROCEED

Project Name: _____

Bid Number: _____ Project Number: _____

Date of Notice to Proceed: _____

To: _____

Please take notice that:

The Contractor and the Town have signed the Contract for the Project and the Contractor has submitted the items requested prior to the beginning of the Work for the Contract.

The Town has approved the Contract.

Therefore, as the Contractor for the above-described work, you are hereby authorized and directed to proceed within ten days from receipt of this NOTICE, as required by the Contract.

Contract Purchase Order Number: _____ *

*Reference this purchase order number, project name, and project number on all invoices and pay request forms.

*Submit all pay requests on approved forms.

Completion Date _____

TOWN OF CASTLE ROCK

Project Manager

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED is hereby acknowledged this

day of _____, 20__.

CONTRACTOR

SIGNED:

BY ITS: _____

Title

NOTICE OF SUBSTANTIAL COMPLETION

Project Name _____

Project Number _____ Date of Substantial Completion _____

Contractor _____

PROJECT OR SPECIFIED PART OF PROJECT WHICH IS SUBSTANTIALLY COMPLETE:

The Work performed under this Contract has been inspected by authorized representatives of the Town, Contractor, and the Project (or specified part of the Project, as indicated above) is hereby declared to be substantially completed on the above date.

A tentative list of items to be completed or corrected is appended hereto. This list may not be exhaustive, and the failure to include an item on it does not alter the responsibility of the Contractor to complete all the Work according to the Contract. These items shall be completed by the Contractor within _____ days of the date of Substantial Completion.

AUTHORIZED BY: _____
Project Manager

ACKNOWLEDGED BY: _____
Contractor

NOTICE OF CONSTRUCTION COMPLETION

Project Name _____

Project Number _____ Date of Construction Completion _____

To: _____

Please take notice that the Town of Castle Rock has accepted the construction work for the Project, as complete.

In conformance with Contract, your obligations and guarantees will continue until _____, 20__.

Please reference the project name and number stated above and submit your invoice for final payment (in duplicate) to the Project Manager.

TOWN OF CASTLE ROCK

By: _____

Title: _____

Date: _____

Originals: Contractor

Copies: Project Manager Files, Drafting

REQUEST FOR PAYMENT NO. _____

Project Name _____

Project Number _____ P.O. Number _____ Bid Number _____

Final Payment YES_ NO_ If yes, the Notice of Project Construction Completion must be fully completed and signed by the Town of Castle Rock and the Contractor.

Contractor _____ Project Manager _____

Payment Period from _____ to _____

Original Contract Price	\$ _____
Net change by Change Orders	\$ _____
Contract Price to date	\$ _____
Total completed & stored to date	_____ %
Retainage	_____ % of \$ _____
Total earned less retainage	\$ _____
Less previous certificates for payment	\$ _____
CURRENT PAYMENT DUE	\$ _____
Pay on account # _____ *	

If paying from several accounts attach a memo noting dollar amounts for each account number and project number.

Previous Payment Summary:

Payment #1: \$	Payment #4: \$
Payment #2: \$	Payment #5: \$
Payment #3: \$	Payment #6: \$

Change Order Summary:

Number Date Approved Additions Deductions

Change Order(s) Total +/- \$ _____ CURRENT COMPLETION DATE:

The Contractor certifies that the work covered by this Request for Payment has been completed according to the Contract and that the current payment shown here is now due.

TOWN OF CASTLE ROCK

By: _____

Title: _____

Date: _____

Originals: Contractor

Copies: Project Manager Files; Drafting

TOWN PROJECT FINAL ACCEPTANCE

Project Name _____

Project Number _____ Project Final Acceptance Date _____

To: _____

Please take notice that the Town of Castle Rock accepts the Project as complete and hereby formally accepts the project for operation and maintenance as part of the Town of Castle Rock's infrastructure.

TOWN OF CASTLE ROCK

By: _____

Title: _____

Date: _____

CONTRACTOR

By: _____

Its: _____

Date: _____

SECTION 800
PROJECT SPECIAL CONDITIONS

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PROJECT SPECIAL CONDITIONS

- 801 ENGINEER for this PROJECT is **EMK Consultants, Inc.**
- 802 CONTRACTOR's Liability Insurance: CONTRACTOR's Liability Insurance will also include **EMK Consultants, Inc.** as additional insured per GENERAL CONTRACT CONDITION, ARTICLE 5.
- 803 Indemnification: In addition to those specified in GENERAL CONTRACT CONDITION ARTICLE 6, **EMK Consultants, Inc.** shall also be indemnified and held harmless.
- 804 Construction staging areas have been identified for this PROJECT on the DRAWINGS. OWNER and CONTRACTOR shall determine the final location and size of the staging area prior to construction. CONTRACTOR shall be responsible for securing a staging area.
- 805 Representatives of OWNER, State of Colorado, or Applicable Federal Agencies may inspect the PROJECT at any time.
- 806 CONTRACTOR shall forward the following submittals to OWNER for review and acceptance prior to any construction:
- .01 Detailed construction schedule submitted at the pre-construction conference.
 - .02 A Water Control Plan, if required, submitted at the pre-construction conference.
 - .03 Certificates of Insurance of the types and limits as specified in GENERAL CONTRACT CONDITIONS, Article 5, provided prior to start of WORK.
 - .04 Original or certified copy of an Builder's Risk "All Risk" Insurance policy (provided prior to start of WORK) or executed "Letter of Damage Guarantee."
 - .05 Performance and Payment Bonds, provided within 10 days after receipt of Notice of Award.
 - .06 All materials submittals. The cost of the submittals will not be measured and paid for separately but will be included in the cost of the WORK.
- 807 The anticipated start date for this PROJECT is **SEPTEMBER 2015**. The project shall have a duration of **90 CALENDER DAYS**, or be completed by **DECEMBER 31, 2015**, whichever comes sooner.
- 808 OSHA REQUIREMENTS: Observing the rules and regulations required by the Occupational Health and Safety Administration (OSHA) is the responsibility of the contractor on this project.
- 809 SPECIFICATIONS: All work shall be performed in accordance with the Town of Castle Rock Construction Methodology and Materials Manual.
- 810 WATER CONTROL AND DEWATERING: The Contractor shall be responsible for the control of surface and subsurface water during the course of the work. Any damage to the work resulting from base flows, subsurface flows, or flood flows shall be corrected by the Contractor at the Contractor's sole cost. The Contractor shall be responsible for obtaining and satisfying the requirements of any applicable permits pertaining to water control.

The work will take place in and around a drainage system subject to periodic flooding. The flow in the drainage system may fluctuate greatly during the course of construction.

- a. Dewatering.
 1. Provide, operate, and maintain dewatering systems of sufficient size and capacity to permit excavation and subsequent construction in dry conditions and to lower and maintain groundwater level a minimum of 2 feet below the lowest point of excavation.
 2. Continuously maintain excavations free of water, regardless of source, until backfilled to final grade.
 3. Design and Operate Dewatering Systems:
 - a. To prevent loss of ground as water is removed.
 - b. To avoid inducing settlement or damage to existing facilities, completed Work, or adjacent property.
 - c. To relieve artesian pressures and resultant uplift of excavation bottom.
- b. Surface Water Control.
 1. Erosion, Sediment, and Flood Control: Provide, maintain, and operate temporary facilities to control erosion and sediment releases, and to protect Work and existing facilities from flooding during construction period.
 2. Continuously control water during course of construction, including weekends and holidays and during periods of work stoppages, and provide adequate backup systems to maintain control of water.
 3. Remove surface runoff controls when no longer needed.
- c. Disposal of Water.
 1. Dispose of water collected by stormwater control, dewatering operations, and testing in compliance with Dewatering Discharge Permit Application, as applicable.
 2. Discharge water in manner that will not cause erosion or flooding, or otherwise damage existing facilities, completed Work, or adjacent property.
 3. Remove sediment from erosion control facilities and perform other maintenance of temporary facilities as necessary to maintain their efficiency.

811 The OWNER reserves the right to modify the horizontal and vertical layout of facilities and grading shown on the Drawings to respond to field conditions. Quantities associated with such modifications will be added to or deducted from Contract quantities.

812 PERMITS

All WORK must be performed in accordance with all applicable regulatory permits. CONTRACTOR is responsible for obtaining any additional federal, state, and local permits as necessary.

CONTRACTOR shall obtain the following permits prior to beginning the WORK:

01. **Construction Permit** from the Town of Castle Rock. Contractor shall coordinate with the Project Manager to obtain permits through the Town. No fees are required for this permit.
02. **GESC Permit** from the Town of Castle Rock. Contractor shall coordinate with the Project Manager to obtain permits through the Town. No fees are required for this permit.

- 813 BUILDER'S RISK "ALL RISK": a Builder's Risk "All Risk" policy in the amount equal to the value of the Project or completed Letter of Damage Guarantee (included in the Contract Documents) showing that Contractor guarantees that, for the full period of the Contract, including any warranty period, any Work which is damaged in any way by any cause, including but not limited to damage due to floods, will be replaced at Contractor's sole cost. This includes the entire Project which is the subject of the Contract and includes completed Work and Work in progress.

END OF SECTION.

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