



**FIRST AMENDMENT TO TOWN OF CASTLE ROCK
CONSTRUCTION CONTRACT
(Plum Creek Water Purification Facility Expansion Project)**

DATE: May 7, 2024

PARTIES: **TOWN OF CASTLE ROCK**, a Colorado municipal corporation, 100 N. Wilcox Street, Castle Rock, Colorado 80104 (“Town”).

GARNEY COMPANIES, INC., a Missouri corporation, with a local address of 7911 Shaffer Parkway, Littleton, Colorado 80127 (“Contractor”).

RECITALS:

- I. The Town and Contractor are parties to the Town of Castle Rock Construction Contract (Plum Creek Water Purification Facility Expansion Project) dated December 19, 2023 (the “Agreement”), which Agreement was approved by the Town Council pursuant to Resolution No. 2023-152 (the “Resolution”). The Agreement is attached hereto as *Exhibit A*. The Agreement approved preconstruction services for a not-to-exceed compensation amount of \$311,022.00.
- II. The Plum Creek Water Purification Facility Expansion Project (the “Project”) will be completed in Work Packages. The Parties originally anticipated completion of the Project in two Work Packages. The Parties now desire to amend the Agreement to provide for three Work Packages.
- III. Contractor is to be paid a not-to-exceed Contract Price for completion of each Work Package in accordance with the Contract Documents. The Contract Price will be no greater than the Guaranteed Maximum Price (“GMP”) established for each Work Package.
- IV. The Parties hereby desire to amend the Agreement to expand Contractor’s scope of work to incorporate Work Package One and to establish the GMP for Work Package One, as provided in the supplementary scope of work attached as *Exhibit B*. The Parties further desire to amend the Agreement to set a completion of work date for Work Package One.
- V. The Town and Contractor wish to memorialize these changes in this First Amendment to the Agreement (“First Amendment”).

TERMS:

1. **Amendment.** The Section of the Agreement titled “SCOPE OF WORK” is amended to read as follows:

“**SCOPE OF WORK.** The Contractor shall execute the entire scope of work described in the Contract (“Work”), in accordance with *Exhibit 1* to the Contract and *Exhibit B* to the First Amendment, subject to any Modifications or Change



Orders issued and approved after execution of the Contract, under the guidelines in the General Conditions. Contractor shall perform the Work for Work Package One, as set forth in *Exhibit B* to the First Amendment, and the Drawings and Specifications for Work Package One, all of which shall be a part of the Contract Documents.”

2. **Amendment.** The Section of the Agreement titled “LIST OF CONTRACT DOCUMENTS” is amended to read as follows:

“LIST OF CONTRACT DOCUMENTS.

The Contract Documents consist of this Agreement and all documents to be added by Amendment to this Agreement upon completion of the scoping, design and pricing of the Project. The work associated Contract Documents, Contractor’s pricing as agreed to, and all other necessary components shall be added to this Agreement by Amendment and shall become a fully enforceable part of this Agreement.

Contract Documents include the following for Preconstruction Services:

- Construction Contract
- General Conditions
- 30% Drawings and Specifications
- Exhibits A1 and A2. Initial Guaranteed Maximum Prices Cost Summary dated November 30, 2023
- Exhibit C. Labor Rates dated November 30, 2023
- Exhibit D1. Staff Time Allocation, Work Package #1 dated November 30, 2023
- Exhibit D2. Staff Time Allocation, Work Package #2 dated November 30, 2023
- Contractor’s Proposal/Bid

Contract Documents that will be added to this Agreement by Amendment shall be as follows:

- Construction Contract
- General Conditions
- Supplemental Conditions, if applicable
- Final Drawings and Specifications
- Project Manual
- Change Orders
- Notice of Award and Notice to Proceed
- Performance, Labor and Material Payment Bonds
- Insurance Certificates
- Notice of Substantial Completion
- Notice of Final Completion



Exhibit A1. Final Guaranteed Maximum Price Cost Summary for Work Package #1, 60% Cost Summary for Work Packages #2 and #3, dated April 24, 2024
 Exhibit B1. Detailed General Conditions Costs, Work Package #1
 Exhibit B2. Detailed General Conditions Costs, Work Package #2
 Exhibit B3. Detailed General Conditions Costs, Work Package #3
 Exhibit C. Labor Rates
 Exhibit D1. Staff Time Allocation, Work Package #1
 Exhibit D2. Staff Time Allocation, Work Package #2
 Exhibit D3. Staff Time Allocation, Work Package #3
 Exhibit E. Allowance List, Alternates and Unit Prices – Work Packages #1, #2, & #3
 Exhibit F. Project Schedule
 Exhibit G. Monthly Partial Payment/Cash Flow Projections
 Exhibit H. Subcontractor Bid Tabulations
 Exhibit I. Exceptions and Clarifications
 Exhibit J. Contractor’s Equipment Rates”

3. **Amendment.** The Section of the Agreement titled “CONTRACT PRICE” is amended to read as follows:

“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.

Preconstruction Services shall be based on actual costs using approved billable rates for staff, and reimbursable expenses at actual cost without mark-ups. The preconstruction compensation shall be a not-to-exceed amount of \$311,022.

The Town shall pay Contractor a not-to-exceed Contract Price for completion of each Work Package in accordance with the Contract Documents. The Contract Price shall be no greater than the Guaranteed Maximum Price (GMP) established for each Work Package. Any costs above the GMP shall be paid by Contractor without reimbursement by the Town, subject to additions and deductions by Change Order as provided in the Contract Documents. The Town and Contractor shall together develop the GMP for each Work Package.

The GMP for Work Package One shall be a not-to-exceed amount of **\$18,571,591.00**, and is subject to the full and satisfactory performance of the terms and conditions of the Contract. (The GMP for Work Package One includes a construction contingency in the amount of \$952,389.00.) Any costs above the GMP for Work Package One shall be paid by Contractor without reimbursement by the Town, subject to additions and deductions by Change Order as provided in the Contract Documents. The Town has appropriated money equal to or in excess of the Contract Price for this work.



Contractor acknowledges and agrees that this Agreement does not commit the Town to a full construction contract with Contractor, beyond the preconstruction compensation not-to-exceed amount of \$311,022 for preconstruction services and the GMP for Work Package One in the not-to-exceed amount of \$18,571,591.00.”

4. **Amendment.** The Section of the Agreement titled “COMPLETION OF WORK” is amended to read as follows:

“COMPLETION OF WORK.

Substantial Completion of the Work will be made as set forth in the Drawings and Specifications in each Work Package. Construction Completion of the Work will be made on or before the date set forth in each Work Package.

Construction Completion of the Work for Work Package One shall occur on or before **June 30, 2028.**

The Town and Contractor recognize that time is of the essence of this Contract and that the Town will suffer financial loss if the Work is not completed by the Substantial Completion Date, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions. The General Conditions are attached hereto and incorporated herein as *Exhibit 2.*”

5. **Amendment.** The Section of the Agreement titled “LIQUIDATED DAMAGES” is amended to read as follows:

“LIQUIDATED DAMAGES.

If the Contractor fails to complete the Work by the date set for 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 \$1,000.00 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. Liquidated damages shall apply to completion of WP#3 only.

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.”



6. **Amendment.** Section 2.9 of Exhibit 2 “Town of Castle Rock Construction Contract General Conditions” to the Agreement, titled “Phased Construction,” is amended to read as follows:

“2.9 **Phased Construction.** The Project will be designed and constructed in three Work Packages. The Contractor will work with the Owner and Owner’s Design Consultant in preparing a detailed description of the Work to be included in each Work Package and all documents appurtenant thereto, including Drawings and Specifications. The Contractor shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities and procurement and construction scheduling issues in preparing detailed estimates, an Initial GMP, and a Final GMP for each Work Package.”

7. **Ratification.** In all other respects, the Agreement shall remain in full force and effect.

ATTACHED EXHIBITS:

EXHIBIT A – Agreement

EXHIBIT B – Scope of Work for Work Package One

EXHIBIT A1 – Final Guaranteed Maximum Price Cost Summary for Work Package #1, 60% Cost Summary for Work Packages #2 and #3, dated April 24, 2024

EXHIBIT B1 – Detailed General Conditions Costs, Work Package #1

EXHIBIT C – Labor Rates

EXHIBIT D1 – Staff Time Allocation, Work Package #1

EXHIBIT E – Allowance List, Alternates and Unit Prices – Work Packages #1, #2, & #3

EXHIBIT F – Project Schedule

EXHIBIT G – Monthly Partial Payment/Cash Flow Projections

EXHIBIT H – Subcontractor Bid Tabulations

EXHIBIT I – Exceptions and Clarifications

EXHIBIT J – Contractor’s Equipment Rates

[SIGNATURE BLOCK TO FOLLOW]



ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jason Gray, Mayor


Approved as to form:

Approved as to content:

Kaitlin Parker, Assistant Town Attorney

Mark Marlowe, Director of Castle Rock
Water

CONTRACTOR – GARNEY COMPANIES, INC.:

By: 
(Signature)

Joel Heimbeck
(Print Name)

Its: Director of Operations
(Title)



EXHIBIT A
AGREEMENT

CON-2023-0940



**TOWN OF CASTLE ROCK
CONSTRUCTION CONTRACT
(PLUM CREEK WATER PURIFICATION FACILITY EXPANSION PROJECT)**

THIS CONSTRUCTION CONTRACT (“Contract”) is made between the **TOWN OF CASTLE ROCK**, a Colorado municipal corporation (“Town”), 100 N. Wilcox Street, Castle Rock, Colorado 80104 and **GARNEY COMPANIES, INC.**, a Missouri corporation, with a local address of 7911 Shaffer Parkway, Littleton, CO 80127 (“Contractor”).

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

SCOPE OF WORK. The Contractor shall execute the entire scope of work described in the Contract and *Exhibit 1* (“Work”).

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 Contract Documents attached as Exhibits and or added by Amendment. 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 consist of this Agreement and all documents to be added by Amendment to this Agreement upon completion of the scoping, design and pricing of the Project. The work associated Contract Documents, Contractor’s pricing as agreed to, and all other necessary components shall be added to this Agreement by Amendment and shall become a fully enforceable part of this Agreement.

Contract Documents include the following for Preconstruction Services:

- Construction Contract
- General Conditions
- 30% Drawings and Specifications
- Exhibits A1 and A2. Initial Guaranteed Maximum Prices Cost Summary dated November 30, 2023
- Exhibit C. Labor Rates dated November 30, 2023
- Exhibit D1. Staff Time Allocation, Work Package #1 dated November 30, 2023
- Exhibit D2. Staff Time Allocation, Work Package #2 dated November 30, 2023
- Contractor’s Proposal/Bid

Contract Documents that will be added to this Agreement by Amendment shall be as follows:

- Construction Contract
- General Conditions
- Supplemental Conditions, if applicable
- Final Drawings and Specifications
- Project Manual
- Change Orders
- Notice of Award and Notice to Proceed
- Performance, Labor and Material Payment Bonds
- Insurance Certificates
- Notice of Substantial Completion
- Notice of Final Completion
- Exhibit A. Final Guaranteed Maximum Price Cost Summary



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- Exhibit B1. Detailed General Conditions Costs, Work Package #1
- Exhibit B2. Detailed General Conditions Costs, Work Package #2
- Exhibit C. Labor Rates
- Exhibit D1. Staff Time Allocation, Work Package #1
- Exhibit D2. Staff Time Allocation, Work Package #2
- Exhibit E. Allowance List, Alternates and Unit Prices – Work Packages #1, & #2
- Exhibit F. Project Schedule
- Exhibit G. Monthly Partial Payment/Cash Flow Projections
- Exhibit H. Subcontractor Bid Tabulations

CONTRACT PRICE.

Preconstruction Services shall be based on actual costs using approved billable rates for staff, and reimbursable expenses at actual cost without mark-ups. The preconstruction compensation shall be a not-to-exceed amount of \$311,022. Contractor acknowledges and agrees that this Agreement does not commit the Town to a full construction contract with Contractor, beyond the preconstruction compensation not-to-exceed amount of \$311,022 for preconstruction services.

The Town shall pay Contractor a not-to-exceed Contract Price for completion of each Work Package in accordance with the Contract Documents. The Contract Price shall be no greater than the Guaranteed Maximum Price (GMP) established for each Work Package. Any costs above the GMP shall be paid by Contractor without reimbursement by the Town, subject to additions and deductions by Change Order as provided in the Contract Documents. The Town and Contractor shall together develop the GMP for each Work Package.

COMPLETION OF WORK. Substantial Completion of the Work will be made as set forth in the Drawings and Specifications in each Work Package. Construction Completion of the Work will be made on or before the date set forth in each Work Package. The Town and Contractor recognize that time is of the essence of this Contract and that the Town will suffer financial loss if the Work is not completed by the Substantial Completion Date, plus any extensions thereof allowed in accordance with Article 12 of the General Conditions; the General Conditions are attached hereto and incorporated herein as *Exhibit 2*.

LIQUIDATED DAMAGES. If the Contractor fails to complete the Work by the date set for 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 \$1,000.00 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. Liquidated damages shall apply to completion of WP#2 only.

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:



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

With a copy to: Legal@crgov.com

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. *The Certificate of Insurance ("COI") must be submitted along with the executed contract as Exhibit 3.*

RESPONSIBILITY FOR DAMAGE CLAIMS. See Article 6 of the General Conditions in *Exhibit 2.*

The Contractor also agrees to pay the Town all expenses, including attorney's fees, incurred to enforce this Responsibility for Damage Claims 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. Contractor has completed the Affidavit of Independent Contractor Status, attached as *Exhibit 4*, and submitted same at the time of execution of this Contract. 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.

AMERICANS WITH DISABILITIES ACT. Contractor agrees to ensure that any deliverables, work, services, or equipment developed, designed, constructed or produced pursuant to this Contract, to include website design services, will comply with all requirements of Title II of the Americans with Disabilities Act and, where applicable, Section 504 of the Rehabilitation Act, the Architectural Barriers Act, and the Colorado Anti-Discrimination Act. To the extent any deliverables, work, services, or equipment developed, designed, constructed or produced pursuant to this Contract fail to comply with the requirements of this Section, Contractor shall indemnify the Town in accordance with the terms of this Contract and, at the Town's option, shall re-vise, re-construct, or similar, the non-compliant deliverable, work, service, or

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equipment, or reimburse the Town for the cost associated with bringing the non-compliant deliverable, work, service or equipment into compliance.

NO DISCRIMINATION IN EMPLOYMENT. The Town is a governmental agency and, therefore, in connection with the performance of Work or Services under this Contract, Contractor shall not refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability, or any other protected class under Federal or State law; and Contractor shall insert the foregoing provision in any subcontracts hereunder.

TITLE VI COMPLIANCE. To the extent applicable, Contractor shall ensure its current and future compliance with Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq., as amended, which prohibits the exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin.

ADVERTISING AND PUBLIC DISCLOSURE. Contractor shall not include any reference to this Contract or goods or services provided pursuant to this Contract in any of Contractor's advertising or public relations materials without first obtaining the written approval of the Town. Nothing herein, however, shall preclude the transmittal of any information to officials of the Town, including without limitation, the Town Attorney, Town Manager, and the Town Council.

VENUE, CHOICE OF LAW AND DISPUTES. Venue for all legal actions shall lie in the District Court in and for the County of Douglas, State of Colorado, and shall be governed by the laws of the State of Colorado as well as the Charter and Municipal Code, rules, regulations, Executive Orders, and fiscal rules of the Town.

AUTHORITY. The individuals executing this Contract represent that they are expressly authorized to enter into this Contract on behalf of the Town and the Contractor and bind their respective entities. This Contract is executed and made effective as provided herein.

LICENSES/TAXES. Contractor affirms it is licensed to do business in the State of Colorado and is in good standing. Further, Contractor shall be solely responsible for paying all applicable taxes associated with or rising out of this Contract.

CONFIDENTIALITY. Contractor agrees that it shall treat as confidential all information provided by the Town regarding the Town's business and operations. All confidential information provided by the Town hereto shall be used by Contractor solely for the purposes of rendering services or work pursuant to this Contract and, except as may be required in carrying out the terms of this Contract, shall not be disclosed to any third party without the prior consent of the Town. The foregoing shall not be applicable to any information that is publicly available when provided or which thereafter becomes publicly available or which is required to be disclosed by any regulatory authority in the lawful and appropriate exercise of its jurisdiction over a party, any auditor of the parties hereto, by judicial or administrative process or otherwise by applicable law or regulation.

ATTACHED EXHIBITS:

EXHIBIT 1 – SCOPE OF WORK

EXHIBIT 2 – TOWN OF CASTLE ROCK CONSTRUCTION CONTRACT GENERAL CONDITIONS

EXHIBIT 3 – CONTRACTOR'S CERTIFICATE OF INSURANCE

EXHIBIT 4 – TOWN OF CASTLE ROCK AFFIDAVIT OF INDEPENDENT CONTRACTOR STATUS

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Executed this 19th day of December, 2023. DocuSigned by:

DocuSigned by:
ATTEST: Robbie Schouler
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TOWN OF CASTLE ROCK

DocuSigned by:
Jason Gray
77301453A94A
Jason Gray, Mayor

Lisa Anderson, Town Clerk

DocuSigned by:
Approved as to form: Kaitlin Parker
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Kaitlin Parker, Assistant Town Attorney

Approved as to content:

DocuSigned by:
Mark Marlowe
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Mark Marlowe, Director of Castle Rock Water

**CONTRACTOR:
GARNEY COMPANIES, INC.**

By: [Signature]
(Signature)

Joel Heimbuck
(Print Name)

Its: Director
(Title)



Previously Executed

EXHIBIT 1

SCOPE OF WORK

The Plum Creek Water Purification Facility (PCWPF) Expansion Project will in general terms expand the facilities water treatment and pumping capacities from 6 million gallons per day (MGD) to 12 MGD. Expansion work will also include modifying the solids handling processes, installing a new emergency electrical generator for the original PCWPF Building (relocating current generator to the Castle Rock Water's Operation & Maintenance building), and increasing laboratory areas for additional sampling and water quality testing needs. For example, treatment system improvements will include a new building adjacent to the existing pretreatment building to house 6 MGD capacity of a new rapid mix basin, flocculation and sedimentation treatment steps, and new Biologically Active Carbon filter bays. The project will add membrane filtration racks with 78 modules each to match existing racks. Ozone system improvements will include additional liquid oxygen storage with vaporizers, new ozone generators with chillers, ozone injection and destruct skids, and a new ozone loop reactor made of stainless steel piping. Ten GAC filters will also be added in an expansion of the PCWPF Advanced Treatment building.

During the preconstruction period, Contractor will work with the Town and Burns & McDonnell Engineering, Inc. to ensure that construction fits within the budget, and will provide services including but not limited to: project management, budgeting, estimating, scheduling, constructability reviews, value analysis of all systems and components, determination of sequencing of work, information and reporting systems, subcontractor bid strategies and procurement throughout the construction document design phase, and attendance at regularly scheduled meetings during the design phase.

The Town intends to release completed designs of the Work to Contractor in two Work Packages, each of which shall be an Amendment to the Agreement. Each of the two Work Packages shall include a Guaranteed Maximum Price ("GMP") for the Work described in the Drawings and Specifications for that Work Package, all of which shall be part of the Contract Documents.

1. Work Package One (WP#1) includes procurement of long lead equipment.
2. Work Package Two (WP#2) includes the balance of the Project.

No portion of the Work shall begin until the Town has approved the Work Package describing such portion of the Work and establishing the GMP.

The Contractor shall perform the Work in a good and workmanlike manner. The Work shall include, in addition to the Work expressly described in the Contract Documents, any and all work reasonably inferable by Contractor from the Contract Documents. Contractor shall exercise reasonable diligence and critical judgment in the review of all information, reports, surveys, drawings and tests pertaining to the Work or Project prior to proceeding with any work or activity based upon the same. Contractor is expected to be reasonably familiar with local building codes and requirements, and to bring to the attention of the Town's Design Consultant (Burns & McDonnell Engineering, Inc.) any discrepancy or compliance issue Contractor suspects or becomes aware of during the course of the Project.

EXHIBIT 2

 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

- 1.1 Whenever used in the Bidding Documents and Contract Documents, the following terms shall have the following meanings, applicable to both the singular and plural:
- 1.0.1 **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.
 - 1.0.2 **Allowances:** Items of Work that cannot be definitively quantified prior to the actual performance of the Work. The Allowances used to develop each Work Package will not be used for payment to Contractor but shall be adjusted accordingly by Change Order.
 - 1.0.3 **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.
 - 1.0.4 **Bid:** The proposal the Bidder submits on the prescribed Bid Forms stating the prices for the Work to be performed.
 - 1.0.5 **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.
 - 1.0.6 **Bidder:** The person, partnership, or corporation submitting a Proposal for the performance of the Work covered by the Contract.
 - 1.0.7 **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).
 - 1.0.8 **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.
 - 1.0.9 **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. The approved price of the Change Order will be added or subtracted to the Guaranteed Maximum Price. Change Order Work shall be accounted for in the same manner as all other items of Work contained in the applicable Work Package.

- 1.1.10 **Claim:** A written demand for payment of money, extension of time, or other relief allowed by this Contract.
- 1.0.11 **Completion Date:** The date the Contract specifies the Work is to be completed.
- 1.1.12 **Construction Completion:** Construction Completion of the Work occurs following Substantial Completion and when the Contractor has completed the Work in accordance with the Contract Documents, including completion of all punch lists and cleanup work, and the Contractor has submitted to the Owner:
- (a) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work have been paid or otherwise satisfied;
 - (b) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect;
 - (c) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents;
 - (d) consent of surety, if any, to final payment;
 - (e) all operating and maintenance manuals;
 - (f) identification lists of all materials and equipment;
 - (g) inspection Certificates;
 - (h) record documents;
 - (i) demonstration by the Contractor to the Owner concerning the proper operation and maintenance of all equipment;
 - (j) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and
 - (k) if required by the Contract Documents, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner.
- 1.0.13 **Contract:** The Construction Contract for the Plum Creek Water Purification Facility Expansion Project, consisting of the Agreement for a Construction Contract and the incorporated Contract Documents.
- 1.0.14 **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.

- 1.0.15 **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, Technical Specifications, Work Packages, and documents establishing the Guaranteed Maximum Price. No one part of the Contract Documents shall constitute the Contract, but the whole taken together shall be the Contract between the parties.
- 1.0.16 **Contract Price:** The total monies payable to the Contractor under the terms and conditions of the Contract.
- 1.0.17 **Contract Time:** The number of days stated in the Contract for the completion of the Project.
- 1.0.18 **Contractor:** The person, company, firm or corporation contracting with the Town to construct, erect, alter, install or repair any work or construction project.
- 1.1.19 **Contractor's Contingency;** A cost included within the Guaranteed Maximum Price that can be utilized exclusively by the Contractor for the completion of Work that is required by the Contract Documents. The Contractor's Contingency may not be used for General Conditions Costs or the Contractor's Fee.
- 1.1.20 **Contractor's Fee;** An amount specifically identified in the Guaranteed Maximum Price, which the parties have agreed Owner will pay Contractor for performing Work in addition to the Costs of the Work itself. The Contractor's Fee, defined as Overhead and Profit, shall be calculated as a percentage of the Cost of the Work, including Direct Work and the General Conditions Costs only. At the time of the acceptance of the Final Guaranteed Maximum Price, this fee shall be converted into a fixed dollar amount.
- 1.1.21 **Cost of the Work:** Costs necessarily incurred by the Contractor in the proper performance of the completed construction exclusive of General Conditions Costs
- 1.0.22 **Date of Contract:** The execution date in the Construction Contract.
- 1.0.23 **Day:** A calendar day of twenty-four hours each.
- 1.1.24 **Defective:** Work and/or Materials that are unsatisfactory, faulty or deficient, do not conform to the Contract Documents, do not meet the requirements of any inspection, reference standard, test or approval referred to in the Contract Documents, or have been damaged prior to final payment (unless responsibility for the protection thereof has been assumed by Owner in accordance with this Contract).
- 1.1.25 **Direct Work:** Actual Work that is required by the Contract Documents exclusive of Work that has been identified as General Conditions Costs. Direct Work is the actual Work performed by Subcontractors, Suppliers and Self-Perform Work by the Contractor.
- 1.0.26 **Drawings:** The part of the Contract prepared or approved by the Project Manager showing the characteristics and scope of the Work to be performed.

- 1.0.27 **Field Order:** A written order directing a change in the Project issued by the Project Manager to the Contractor during construction, but does not involve a change in the Contract Price or the Contract Time.
- 1.1.28 **Final Guaranteed Maximum Price:** The maximum amount that the Owner agrees to compensate the Contractor for the successful completion of the Work including Contractor's Fee, as defined in the Contract Documents, based on actual and justifiable costs as demonstrated by the Contractor to the Owner, and subject to adjustments as provided for in the Contract Documents.
- 1.1.29 **General Conditions Costs:** All the costs required by the Contractor to manage and perform all aspects of the Work that are not elements of the Direct Work. These costs are all costs required by the Contractor to manage all aspects of the Project that are not permanent elements of the Work.
- 1.1.30 **Guaranteed Maximum Price (GMP):** A price guaranteed by the Contractor as a not-to-exceed amount for full performance of the Work including the Contractor's Fee.
- 1.1.31 **Initial Guaranteed Maximum Price:** The initial estimated price of the Work, including detailed costs based on assumptions including 30% design documents, preliminary project schedules, fixed general conditions costs, billable rates and rental rates, Contractor's Fee and additional information as required by the Owner.
- 1.0.32 **Inspector:** The Town's authorized representative assigned to make detailed inspection of the Work performed by the Contractor.
- 1.1.33 **Milestone:** A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of all the Work.
- 1.0.34 **Notice of Award:** The written notice of the acceptance of the Bid from the Town to the successful Bidder.
- 1.0.35 **Notice of Construction Completion:** The written acknowledgment that construction is complete which starts the warranty period.
- 1.0.36 **Notice of Final Acceptance:** The written acceptance of Work performed under the Contract, following satisfactory conclusion of the warranty period.
- 1.0.37 **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.
- 1.0.38 **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.
- 1.0.39 **Owner.** The Town; see Section 1.1.52.

- 1.1.40 **Owner's Design Consultant:** The person, firm or corporation retained by Owner to provide engineering services as Owner's independent professional associate or consultant for the Work.
- 1.0.41 **Project:** The undertaking to be performed as provided in the Contract.
- 1.0.42 **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."
- 1.1.43 **Self-Perform Work:** Certain Direct Work identified in the Bidding Documents to be performed by the Contractor's own forces under a separate subcontract, other than Work defined in the General Conditions Costs.
- 1.0.44 **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.
- 1.0.45 **Special Conditions:** Additions to the General Conditions containing instructions and conditions peculiar to an individual Project.
- 1.0.46 **Specifications:** A part of the Contract Documents consisting of written technical description of materials, equipment, construction systems, standards, and workmanship.
- 1.1.47 **Subcontract:** A contract between a Contractor and a Subcontractor.
- 1.0.48 **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.
- 1.1.49 **Substantial Completion:** Substantial completion occurs when the Work (or a specified part thereof) has progressed to the point that it can be utilized for the purposes for which it is intended, as further specified in Article 14. The terms "substantially complete" and "substantially completed" as applied to any Work refer to Substantial Completion thereof. A certificate of occupancy alone is not evidence of Substantial Completion.

Substantial Completion for the Project is further defined as (i) that degree of completion of the Project's operating facilities or systems sufficient to provide the Owner the full time, uninterrupted, continuous beneficial operation of the Work; and (ii) all required functional, performance and acceptance or startup testing has been successfully demonstrated for all components, devices, equipment, and instrumentation and control to the satisfaction of the Owner's Design Consultant in accordance with the requirements of the Specifications; and (iii) all inspections required have been completed and identified conditions corrected.

Specific items of Work, which shall be completed prior to declaration of Substantial Completion date includes, but are not limited to the following:

- (a) Correction of all state, local, and other regulatory agencies defective work lists.

- (b) Operation and maintenance manuals have been received and approved by the Owner including, but not necessarily limited to, the following:
 - (i) Contractor's redline mark-ups to Owner's Design Consultant.
 - (ii) Operation and maintenance manuals, including service and maintenance agreements.
 - (iii) Equipment and data forms.
- (c) All special accessories have been provided that are required to place each item of equipment in full operation. These special accessory items include, but are not limited to, specified spare parts, valve operators, and other expendable items required for startup and operation of the operating facilities or systems as a whole.
- (d) All additional warranty or insurance coverage requirements have been provided.
- (e) All safety features are completed.
- (f) Any and all required occupancy permits have been issued by any governmental entity having jurisdiction.

Owner occupancy and use of substantially completed Work does not constitute final acceptance by the Owner of such Work.

- 1.0.50 **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.
- 1.0.51 **Surety:** The entity which is bound with and for the Contractor for the Performance of the Work and for the Labor and Material Bond.
- 1.1.52 **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.
- 1.1.53 **Undefined Holds:** An amount specifically identified in the Guaranteed Maximum Price which the parties have agreed will be required costs to complete the work but have not yet been secured as a component of Self-Perform Work or through Subcontractors or material suppliers.
- 1.0.54 **Unit Price:** An amount stated in the Bid as a price per unit of measurement for materials or services as described in the Contract.
- 1.1.55 **Unit Price Work:** Work to be paid for on the basis of unit prices.
- 1.1.56 **Warranty Work:** Work that is not in conformance with the Contract Documents. This includes Work that is defective.
- 1.0.57 **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.

- 1.1.58 **Work Change Directive:** A written directive to Contractor, issued on or after the Effective Date of the Agreement, ordering an addition, deletion or revision in the Work, or responding to differing or unforeseen physical conditions under which the Work is to be performed as provided in the Agreement or responding to emergencies under the Agreement. A Work Change Directive may not change the Contract Price or the Contract Time, but it is evidence that the parties expect that the change directed or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order following negotiations by the parties as to its effect, if any, on the Contract Price or Contract Time as provided in the Agreement.
- 1.1.59 **Work Package:** The set of documents, including Drawings and Specifications, describing a phase of the total Work upon which a Guaranteed Maximum Price is based.
- 1.1.60 **Written Amendment:** A change to the Contract Documents that is signed by Owner and Contractor on or after the Effective Date of the Contract and normally addresses non-engineering or non-technical rather than strictly Work-related aspects of the Contract Documents. A Written Amendment may also add Work to the scope of the Contract.
- 1.1 **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 MATTER

- 2.1 **Notice to Proceed:** 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:** 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:** 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:** Contractor, or if applicable Subcontractor, shall be responsible for applying for, and obtaining all Town, County, State and/or Federal licenses and permits required to do the Work. Contractor will not be required to pay for Town permits, with the exception of the Grading, Erosion, and Sediment Control (GESC) permit. All GESC permit fees must be paid by Contractor or Subcontractor as a condition to issuance of such GESC Permit.
- 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. Such Schedule shall include the submission of Contractor's Guaranteed Maximum Price proposal. 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:** 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**
- 2.7.3 The Contractor shall cooperate with Utility Owners to mitigate damage whenever the Contractor's work affects their utilities.
- 2.7.4 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.
- 2.7.5 Contractor shall give notice of the commencement, extent, and duration of the excavation work at least two business days before beginning Work.

- 2.7.6 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

- 2.9 **Phased Construction:** The Project will be designed and constructed in two Work Packages. The Contractor will work with the Owner and Owner's Design Consultant in preparing a detailed description of the Work to be included in each Work Package and all documents appurtenant thereto, including Drawings and Specifications. The Contractor shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities and procurement and construction scheduling issues in preparing detailed estimates, an Initial GMP, and a Final GMP for each Work Package.

2.10 Preliminary Cost Estimates

- 2.10.1 Within 21 days of Contract execution, the Contractor will prepare an Initial GMP based on the available design documents for the Owner's Design Consultant's review and Owner's approval. If the Owner's Design Consultant suggests alternative materials and systems, the Contractor shall provide cost evaluations of those alternative materials and systems. Once the Initial GMP is approved by the Owner, the Initial GMP will become the cost basis that the entire team will work toward as the design evolves.
- 2.10.2 At the time of the Initial GMP, the General Conditions Costs will be converted to a guaranteed maximum amount within the Initial GMP, which may be increased or decreased by Change Order per the process noted in section 11.4. An Initial Guaranteed Maximum Price will be developed for each Work Package, which will include an allocation of General Conditions Costs for each Work Package. The Initial Work Package GMPs will ultimately be developed into the Final GMP at the end of the design work. Applications for Payment may allocate General Conditions Costs by Work Package.
- 2.10.3 As the Owner's Design Consultant progresses with the preparation of the Design and Construction Documents, the Contractor shall prepare and update, at appropriate intervals agreed to by the Owner, Contractor and Owner's Design Consultant, estimates of the Cost of the Work of increasing detail and refinement and allowing for the further development of the design, including cost studies on alternate systems and materials, until such time as the Owner and Contractor agree on a Guaranteed Maximum Price for each Work Package. Such estimates shall be provided for the Owner's Design Consultant's review and the Owner's approval using estimating systems and procedures which are acceptable to the

Owner. The Contractor shall inform the Owner and Owner's Design Consultant when estimates of the Cost of the Work exceed the Initial GMP and make recommendations for corrective action. The Contractor and Owner's Design Consultant shall work together to jointly ensure that Guaranteed Maximum Price for the Project does not exceed the Initial GMP. If the Guaranteed Maximum Price exceeds the Initial GMP, then the Contractor and the Owner's Design Consultant shall work together to bring the Work within the Initial GMP through value engineering and acceptable alternates to reduce the cost.

2.11 Representations

- 2.11.1 The Contractor shall exercise reasonable care in preparing schedules and estimates. The Contractor, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Final Guaranteed Maximum Price and the guarantee on the total General Conditions Costs. The Contractor is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Owner's Design Consultant and Owner any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Owner's Design Consultant may require.
- 2.11.2 Contractor hereby represents, promises, and warrants that Contractor is financially solvent and possesses sufficient experience, licenses, authority, personnel and working capital to complete the Work required hereunder.

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:** 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:** 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:** Figured dimensions shall govern over scaled dimensions.
- 3.5 **Drawings and Specifications at Job Site:** 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**
- 3.6.6 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.
- 3.6.7 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.
- 3.6.8 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.
- 3.6.9 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:** 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

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

- (a) Subsurface or latent physical conditions at the job-site differing materially from those indicated in the Contract; or
- (b) 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.

3.8.10 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.

- (a) No claim will be allowed under this Article unless the Contractor has given the written notice required in Article 3.8.1.
- (b) 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:** 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:** 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. Town, at its option may assign the responsibility to Contractor to 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 reseeded if necessary, at the completion of the Project.
- 4.4 **Temporary Storage Facilities:** 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:** 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**
- 5.2.2 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.

- 5.2.3 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 **General Conditions:** Contractor agrees to secure, at or before the time of execution of this Agreement, the following insurance covering all operations, goods or services provided pursuant to this Agreement. Contractor shall keep the required insurance coverage in force at all times during the term of the Agreement, or any extension thereof, during any warranty period, and for eight (8) years after termination of the Agreement. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as A-VII or better. Each policy shall require notification to the Town in the event any of the required policies be canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the Town. Said notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior. If such written notice is unavailable from the insurer, Contractor shall provide written notice of cancellation, non-renewal and any reduction in coverage to the Town by certified mail, return receipt requested within three (3) business days of such notice by its insurer(s). Contractor shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement are the minimum requirements, and these requirements do not lessen or limit the liability of the Contractor. The Contractor shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement. All commercial and automobile liability policies shall have the following additional provisions:

- (a) Severability of interests or separation of insureds provision;
- (b) Provision that coverage is primary and non-contributory with other coverage maintained by the Town;
- (c) The underlying Agreement is an “insured contract” under the policy; and
- (d) Defense costs shall be outside the policy limits for liability coverage.

- 5.3.2 **Proof of Insurance:** Contractor may not commence services or work relating to the Agreement prior to placement of coverages required under this Agreement. Contractor certifies that the certificate of insurance attached as *Exhibit 3*, preferably an ACORD form, complies with all insurance requirements of this Agreement. The Town’s acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of Contractor’s breach of this Agreement or of any of the Town’s rights or remedies under this Agreement. 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 may require additional proof of insurance, including but not limited to policies and endorsements.

- 5.3.3 **Additional Insureds:** For Commercial General Liability, Automobile Liability, Contractors Pollution Liability (if required) and Excess Liability/Umbrella (if required), Contractor and subcontractor’s insurer(s) shall include the Town, its elected and appointed officials, officers, employees, agents (including Burns & McDonnell Engineering, Inc.) and volunteers acting within the course and scope of their duties for the Town as additional insured.
- 5.3.4 **Waiver of Subrogation:** For all coverages required under this Agreement, Contractor’s insurer shall waive subrogation rights against the Town its elected and appointed officials, officers, employees, agents (including Burns & McDonnell Engineering, Inc.) and volunteers acting within the course and scope of their duties for the Town.
- 5.3.5 **Subcontractors and Subconsultants:** All subconsultants, subcontractors, independent contractors, suppliers or other entities providing goods or services required by this Agreement shall be subject to all of the requirements herein. Contractor shall require all of its subcontractors and subconsultants of any tier to provide insurance coverage in types and amounts required by the Contractor, but in amounts of at least \$1,000,000 Commercial General Liability, Business Automobile Liability insurance of \$1,000,000 combined single limit, statutory Workers’ Compensation coverage, and \$1,000,000 professional liability for any subcontractor performing design or engineering work. Contractor agrees to provide proof of insurance for all such subcontractors, subconsultants, independent contractors, suppliers or other entities upon request by the Town.
- 5.3.6 **Workers’ Compensation and Employer’s Liability Insurance:** Contractor shall maintain the coverage as required by statute for each work location and shall maintain Employer’s Liability insurance with minimum limits of \$100,000 per occurrence for each bodily injury claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims.
- 5.3.7 **Commercial General Liability:** Contractor shall maintain a Commercial General Liability insurance policy with minimum limits of \$1,000,000 for each occurrence and \$2,000,000 products and completed operations aggregate, and \$2,000,000 general aggregate (per project). The policy shall provide coverage for all claims for bodily injury, property damage (including loss of use), products and completed operations, and contractual liability.
- 5.3.8 **Business Automobile Liability:** Contractor shall maintain Business Automobile Liability, or its equivalent, with minimum limits of \$1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement. If transporting wastes, hazardous material, or regulated substances, Contractor shall carry a pollution coverage endorsement and an MCS 90 endorsement on their policy. Transportation coverage under the Contractors Pollution Liability policy shall be an acceptable replacement for a pollution endorsement to the Business Automobile Liability policy.

- 5.3.9 **Builder's Risk or Installation Floater:** Contractor shall maintain limits equal to the completed value of the project. Coverage shall be written on an all risk, replacement cost basis including coverage for soft costs, flood and earth movement, if in a flood or quake zone, and, if applicable, equipment breakdown including testing. The Town, Contractor, and subcontractors shall be Additional Named Insureds under the policy. Policy shall remain in force until acceptance of the project by the Town.
- 5.3.10 **Contractor's Pollution Liability:** Contractor shall maintain minimum limits of \$1,000,000 per occurrence and \$2,000,000 policy aggregate. Policy to include bodily injury; property damage including loss of use of damaged property; defense costs including costs and expenses incurred in the investigation, defense or settlement of claims; and clean-up costs. Policy shall include a severability of interest or separation of insured provision (no insured vs. insured exclusion) and a provision that coverage is primary and non-contributory with any other coverage or self-insurance maintained by the Town.
- 5.3.11 **Additional Provisions:**
- 5.3.11.1 For claims-made coverage: The retroactive date must be on or before the contract date or the first date when any goods or services were provided to the Town, whichever is earlier.
- 5.3.11.2 Contractor shall advise the Town in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At their own expense, and where such general aggregate or other aggregate limits have been reduced below the required per occurrence limit, the Contractor will procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.
- 5.3.12 **Governmental Immunity:** 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 \$424,000 per person, \$1,195,000 for two or more persons, per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, §24-10-101, et seq., 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

- 6.1.1 The Contractor shall indemnify, save harmless, and defend the Town, its officers and employees, and Burns & McDonnell Engineering, Inc., 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.
- 6.1.2 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.
- 6.1.3 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.
- 6.1.4 This indemnification obligation shall survive the expiration or termination of this 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 Castle Rock Water. 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 Castle Rock Water 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 Castle Rock Water 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 The Contractor is responsible for the health and safety of each and every person on or at the Work site. The Contractor shall take all necessary and reasonable precautions and actions to protect all such persons from injury, death or loss. 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.
- 7.8.2 Contractor shall prepare and implement a safety program complying with all of the requirements in this Section. Prior to the start of construction, Contractor shall provide the safety program to the Project Manager.
- 7.8.3 Prior to the start of construction, the Contractor shall provide the Project Manager with a statement signed by the Contractor's Superintendent that all Contractor Personnel have been or will be briefed on the Contractor's safety program prior to being allowed on the Work site.
- 7.8.4 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, whichever is most restrictive. The Town assumes no duty to ensure that the Contractor follows the safety regulations issued by OSHA or the State of Colorado.

- 7.8.5 The Town shall have the right at any time to request a safety compliance review of the Contractor's and its Subcontractor's safety policies, practices, and procedures. The Contractor shall provide to the Project Manager a complete copy of any OSHA correspondence, report, warning, citation, directive or notice within twenty-four (24) hours after it is received. The Contractor shall also provide the Project Manager a copy of any Contractor reply to any OSHA correspondence, report, warning, citation, directive or notice. This submittal is for informational purposes only and shall not alter the Contractor's responsibilities for safety of the Work site.
- 7.8.6 The Contractor shall provide written notice of any report of injury on the Work site to the Project Manager within forty-eight (48) hours after Contractor becomes aware of same. In addition, the Contractor shall provide verbal notice of the injury to the Project Manager immediately following the report of the injury. Contractor shall thereafter provide a copy of any investigation into the injury and a written statement of resolution of the injury, which should include but is not limited to, the cause of the injury and remediation steps the Contractor will take to prevent another similar injury.
- 7.8.7 The Contractor shall employ at the Work site a responsible qualified person whose duties shall include the protection of persons and property and the administration of the Contractor's safety program. This person must have safety training, a working knowledge of safety requirements, and experience administering safety programs. The Contractor shall provide the Project Manager with this person's name prior to the start of construction.
- 7.8.8 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.
- 7.8.9 The Contractor shall provide all necessary protective devices and safety precautions. Such devices and precautions may include but are not limited to: posting of danger signs warning against hazards such as, but not limited to, hoists, well holes, elevator hatchways, scaffolding, openings, stairways, trip and fall hazards and falling materials; placement of warning flares; equipment back-up alarms; installation of barricades; promulgation and application of safety regulations and employment of safety personnel and guards. Signs will not be considered to be an adequate substitute for physical protective barriers. The costs of all protective devices and the planning and implementing of safety precautions are considered to be included in the Contract Amount.
- 7.8.10 This Section shall be interpreted in its broadest sense for the protection of persons and property, and no act or omission to act by the Town, its officers, employees or agents, or by any consultant shall relieve the Contractor of its obligations and duties hereunder.

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.
- 7.16 **Initial GMP**
- 7.16.1 The Contractor has been selected through a qualitative and cost-related process. The proposal has identified specific terms and conditions that, once approved by the Owner, shall be incorporated into the Initial GMP and carried through to the Final GMP, unless specific adjustments are approved in writing by the Owner. The Owner reserves the right to accept or reject the Initial GMP.

- 7.16.2 The Contractor is required to develop an Initial GMP bound report including detailed estimates, assumptions in developing the report, project schedules, fixed (not-to-exceed) General Conditions Costs, staffing matrices, approved billable rates and equipment rental rates, and additional information as required by the Owner during the qualitative and cost related process. The Contractor is not required to execute a formal guarantee of this Initial GMP, however the Owner is relying on the accuracy and reasonableness of the Initial Guaranteed Maximum Price. Therefore, the Initial GMP should be the Contractor's most realistic estimate of what the Contractor believes will be for the Work's final cost once the design is 100% complete and the Final GMP is executed.
- 7.16.3 Once the Initial GMP has been approved in writing by the Owner, the Contractor and the Owner's Design Consultant shall work together throughout the evolution of the design to be certain that the Final GMP remains within the approved Initial Guaranteed Maximum Price. In the event that the Initial GMP, any interim estimate, or the Final GMP are trending beyond the approved Initial GMP, it is the responsibility of the Contractor and the Owner's Design Consultant in collaboration with the Owner to provide preconstruction services including but not limited to value engineering to bring the project back within the approved Initial GMP.
- 7.16.4 The Contractor will work with the team to refine the assumptions leading to the Initial GMP. The Initial GMP may include review and pricing input from critical Subcontractor trades. Once the Initial GMP is approved by the Owner, this Initial GMP will become the basis that the entire team will work toward as the design evolves.

7.17 Budget Updates

- 7.17.1 Contractor's estimating and budgeting systems must be flexible to allow comparisons of building systems and components. It must include a means to provide a variance analysis throughout each budget update starting from the Initial GMP to the Final GMP. The format of the estimating system will include detailed sheets for each scope that will reflect unit prices, quantities, and extensions for labor and materials. The estimate must be in a detailed open book collaborative manner that provides adequate information to allow the Owner to make informed decisions. If the Owner does not feel the estimate is in a format that meets the Owner's requirements, the Contractor shall restructure the format and detail as directed by the Owner.
- 7.17.2 The Contractor shall provide, at a minimum, a complete budget update based on 30% Design Development, 60% Design Development documents, 90% Design Documents for each Work Package, and 100% Construction Documents. These budget updates are to include review and pricing input from critical Subcontractor trades. The budget updates are intended to confirm the status of the Initial GMP and the Contractor shall include any value engineering/scope adjustments necessary to assure that the budget remains within the Owner's approved Initial GMP.
- 7.17.3 Each budget shall also include a detailed list of clarifications as they relate to the preparation of each budget update. Allowances are also to be clearly identified within each budget update.
- 7.17.4 At the request of the Owner, Contractor shall also develop interim budgets and participate in additional budget and estimating exercises throughout the Preconstruction Phase.

7.18 Final GMP Proposal

- 7.18.1 When the design for each Work Package is sufficiently complete to describe the clear intent and scope of each Work Package, at 90% Design Documents for each Work Package, the Contractor shall prepare a GMP proposal for each Work Package for the Owner's review and acceptance unless the Owner and Contractor have mutually agreed in writing to a different time for the GMP proposal. The Contractor shall implement a competitive bid process with Subcontractors, suppliers and vendors with a minimum of three Subcontractors or material suppliers for each scope of Work. Only when the Contractor can demonstrate that there are not three qualified bidders for a particular scope of the Work the Owner may consider a reduction in the number of bidders required. The Owner must authorize a reduction in the number of bidders required. The GMP in the proposal shall be the sum of the Contractor's estimate of the Cost of the Work as defined in section 11.4, including Contractor Contingency, and the Contractor's Fee.
- 7.18.2 To the extent that the Drawings and Specifications are anticipated to require further development by the Owner's Design Consultant, the Contractor shall provide within the GMP for such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include such things as changes in scope, systems, kinds and quality of materials, finishes or equipment, all of which, if required, shall be incorporated by Change Order as described in section 11.4.
- 7.18.3. The Contractor shall include with the GMP proposal a written statement of its basis, which shall include the following:
- (a) A list of the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract;
 - (b) A list of the clarifications and assumptions made by the Contractor in the preparation of the GMP proposal, to supplement the information provided by the Owner and contained in the Drawings and Specifications;
 - (c) A statement of the proposed GMP, including a statement of the estimated Cost of the Work organized by CSI categories or systems, allowances, Contractor's Contingency, and the Contractor's Fee;
 - (d) The anticipated date of Substantial Completion upon which the proposed GMP is based; and
 - (e) A date by which the Owner must accept the GMP.
- 7.18.4. In preparing the Contractor's GMP proposal, the Contractor shall include a Contractor's Contingency for the Contractor's use to cover costs to the extent that the Drawings and Specifications are anticipated to require further development by the Owner's Design Consultant, to cover costs to expedite the schedule, and other unanticipated costs which are properly considered reimbursable as a Cost of the Work but do not form the basis for a Change Order as a result of changes in the scope of the Work. The Contractor's Contingency shall not exceed five percent (5%) for the Initial GMP, and shall not exceed three percent (3%) for individual Bid Packages or in the Final GMP. No Fee is added to the Contractor's Contingency at the time the GMP is prepared.

- 7.18.5 The Contractor shall report and reconcile the Contractor's Contingency to the Owner on a monthly basis. Contractor's Contingency will be allocated to specific line items in the Estimate through the use of a Change Order signed by the Owner and Contractor, including a description of the items covered by the Contractor's Contingency. A Fee as defined within the Contract Documents will be added to the Change Order on the contingency amount at the time the contingency is allocated to individual line items, and deducted from the entire contingency amount so as not to cause an increase in the GMP.
- 7.18.6 The Owner shall not unreasonably withhold approval of a Change Order as described in section 10.4 to utilize the Contractor's Contingency so long as:
- (a) the contingency amount does not exceed the GMP,
 - (b) the Contractor utilizes the Contractor's Contingency for items required for the Project that are otherwise recoverable as Costs of the Work under the Contract Documents, and
 - (c) the Contractor's Contingency is used for any of the following items:
 - (i) Scope of the Work that is unclear, incomplete or conflicting on the Contract Documents but which is Work consistent with the intent of with the Contract Documents and reasonably inferable as being necessary to produce the intended results.
 - (ii) Additional resources necessary to recover lost time. If overtime is required to maintain the schedule, the Contractor shall obtain the Owner's prior written approval before moving forward with such overtime.
 - (iii) Delays caused by market, labor, material or transportation conditions, labor disputes, weather or other causes which are costs of the Work but do not justify an increase in the GMP.
- 7.18.7 The Contractor's Contingency is not available for:
- (a) use by the Contractor for mistakes that result from Self- Performed Work secured through competitive bidding, mistakes of Subcontractors or vendors, Subcontractor's warranty work, or manufacturer's warranty work.
 - (b) use by the Owner for allowance overruns, changes in the Scope of Work, differing or changed site conditions, or design errors.
- 7.18.8. At Construction Completion of the Project, any Contractor's Contingency remaining in the Final GMP will be returned 100% to the Owner.
- 7.18.9. The Contractor shall meet with the Owner and Owner's Design Consultant to review the GMP proposal for each Work Package. In the event that the Owner and Owner's Design Consultant discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Contractor, who shall make appropriate adjustments to the GMP proposal, its basis, or both. If the GMP exceeds Initial GMP, the Contractor will work with

the Owner and the Owner's Design Consultant to bring the project back within budget in a timely manner at the Contractor's sole expense.

7.19 Final GMP Amendment

- 7.19.1 If the Owner notifies the Contractor that the Owner has accepted the Final GMP proposal in writing, the GMP proposal shall be deemed effective without further acceptance from the Contractor. Following acceptance of a GMP, the Owner and Contractor shall execute a Written Amendment to the Contract incorporating the Final GMP ("Final GMP Amendment"), a copy of which the Owner shall provide to the Owner's Design Consultant. The Final GMP Amendment shall set forth the agreed upon Final GMP with the information and assumptions upon which it is based, including the Final GMPs on both individual Work Packages.
- 7.19.2. The Owner shall authorize the Owner's Design Consultant to provide the revisions to the Drawings and Specifications to incorporate the agreed-upon assumptions and clarifications contained in the Final GMP Amendment. The Owner shall promptly furnish those revised Drawings and Specifications to the Contractor as they are revised. The Contractor shall notify the Owner and Owner's Design Consultant of any inconsistencies between the Final GMP Amendment and the revised Drawings and Specifications.
- 7.19.3 The Owner, Owner's Design Consultant and Contractor will work together to assure that the scope, budget and schedule meets the Owner's requirements. The team will rely on the Contractor's knowledge of pricing and scheduling to provide guidance to the team in key areas. Each team member shall make contributions from their respective areas of expertise to work together to assure that the Final GMP is established within the prior approved Initial GMP.
- 7.19.4 In the event the Contractor's proposed Final GMP exceeds the approved Initial GMP, if the Owner so directs, the Contractor and the Owner's Design Consultant shall work together to bring the Project back within the Owner's approved budget, all within the Owner's approved scope based on the Owner's written acceptance of the 100% Construction Documents. The Contractor's expenses associated with this effort shall be the sole responsibility of the Contractor and Owner shall have no obligation to pay or reimburse any expenses thereof.
- 7.19.5 The Contractor's Fee is established as a percentage during the selection process and remains as a percentage for the Initial GMP up to the establishment of the Final GMP. With the establishment of the Final GMP, the fee shall be converted to a fixed dollar amount that corresponds to the fee percentage determined in the Initial GMP.

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:
- (a) Unsuitable weather;
 - (b) Faulty workmanship;
 - (c) Improper superintendence;
 - (d) Contractor's failure to carry out orders or to perform any provision of the Contract;
 - (e) Conditions which may be considered unfavorable for the prosecution of Work on the Project; or
 - (f) 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:
- (a) In the Specifications (including Drawings and designs);
 - (b) In the method or manner of the performance of the Work;
 - (c) In facilities, equipment, materials, services or site furnished by the Town; or
 - (d) 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:** 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:** 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

11.4.6 Changes in the Contract Price or the Guaranteed Maximum Price are authorized only by a Change Order or by a Written Amendment. Changes in contract time may be made by Change Order or by other appropriate written authorization.

11.4.7 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:

- (a) Unit Prices submitted in the Bid Schedule;
- (b) Negotiated Unit Prices; and
- (c) 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.

12.2.2 **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:

- (a) Late submittal of Shop Drawings;
- (b) Late procurement of materials or equipment;
- (c) Insufficient personnel;
- (d) Unqualified personnel;
- (e) Inadequate coordination of Subcontractors or other contractors;
- (f) Subcontractor delays;
- (g) Late response to Town and Project Manager inquiries; or
- (h) Construction not conforming to contract requirements making repeated re-working necessary.

- 12.2.3 **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.
- 12.2.4 **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:
- (a) Late approval of Shop Drawings and samples;
 - (b) Delays in answers to field inquiries by the Contractor;
 - (c) Interference with the Contractor during construction;
 - (d) Town-caused schedule changes;
 - (e) Design changes; or
 - (f) Interference by other contractor's or the Town's forces.
- 12.2.5 **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.
- 13.1.2 The obligations of 13.1.1 shall survive termination of the Contract under the provisions of Article 15.
- 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:** 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

14.3.2 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.

14.3.2 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

- 14.4.2 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.
- 14.4.3 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.
- 14.4.4 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:
- (a) Claims for labor or materials furnished the Contractor or Subcontractor(s) or reasonable evidence indicating probable filing of such claims;
 - (b) Failure of the Contractor to make proper payment to Subcontractors or for material or labor furnished by others;
 - (c) A reasonable doubt that the Contract can be completed for the balance then unpaid;
 - (d) Evidence of damage to another Contractor or private property;
 - (e) Uncorrected defective Work or guarantees that have not been met;
 - (g) Failure of the Contractor to submit cost breakdowns, schedules, reports and other information required under the Contract;

- (h) Persistent failure to carry out the Work according to the Contract; or
- (i) 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 Town's 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 Town's 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 §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 §§24-91-106 and 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 §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:** 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:** 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:** 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:** 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:** 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:** 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

- 15.3.4 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.
- 15.3.2 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.
- 15.3.3 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:
- 16.1.4 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.
- 16.1.5 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:** 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.



EXHIBIT 3

CONTRACTOR'S CERTIFICATE OF INSURANCE

Previously Executed



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
12/15/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Arthur J. Gallagher Risk Management Services, LLC 595 Market Street Suite 2100 San Francisco CA 94105 License#: 0D69293 GARNCOM-02		CONTACT NAME: PHONE (A/C, No, Ext): 415-391-1500 E-MAIL ADDRESS: CertRequests@ajg.com FAX (A/C, No): 415-391-1882	
		INSURER(S) AFFORDING COVERAGE	
		INSURER A: Liberty Mutual Fire Insurance Company	
		INSURER B: Travelers Property Casualty Co of America	
		INSURER C: Berkley Assurance Company	
		INSURER D:	
		INSURER E:	
		INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** 602074163 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PROJECT <input type="checkbox"/> LOC OTHER:	Y	Y	TB2641426942723	10/1/2023	10/1/2024	EACH OCCURRENCE	\$ 5,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 300,000
							MED EXP (Any one person)	\$ 10,000
							PERSONAL & ADV INJURY	\$ 5,000,000
							GENERAL AGGREGATE	\$ 10,000,000
							PRODUCTS - COMP/OP AGG	\$ 10,000,000
								\$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	AS2641426942713	10/1/2023	10/1/2024	COMBINED SINGLE LIMIT (Ea accident)	\$ 5,000,000
							BODILY INJURY (Per person)	\$
							BODILY INJURY (Per accident)	\$
							PROPERTY DAMAGE (Per accident)	\$
								\$
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$	Y	Y	CUP6778484628NF	10/1/2023	10/1/2024	EACH OCCURRENCE	\$ 15,000,000
							AGGREGATE	\$ 15,000,000
								\$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below <input type="checkbox"/> Y <input checked="" type="checkbox"/> N <input type="checkbox"/> N/A	Y	Y	WA264D426942733	10/1/2023	10/1/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER	
							E.L. EACH ACCIDENT	\$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	\$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	\$ 1,000,000
B	Inland Marine		Y	6301L164501TIL23	10/1/2023	10/1/2024	Leased/Rented Equip.	\$3,000,000
C	Professional Liability		Y	PCADB50232031023	10/1/2023	10/1/2024	Ea. Claim-Occ./Agg.	\$10,000,000
	Pollution Liability		Y				Ea. Claim-Occ./Agg.	\$10,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Garney Job #6499
RE: Plum Creek Water Purification Facility Expansion Project
ADDITIONAL INSURED(S): The Town of Castle Rock, its elected and appointed officials, officers, employees, agents, including Burns & McDonnell Engineering, Inc., and volunteers acting within the course and scope of their duties for the Town.

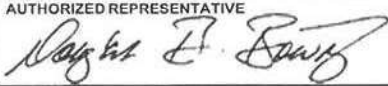
CERTIFICATE HOLDER Town of Castle Rock 100 N. Wilcox Street Castle Rock, CO 80104	CANCELLATION SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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EXHIBIT 4
**TOWN OF CASTLE ROCK
 AFFIDAVIT OF INDEPENDENT CONTRACTOR STATUS**

In accordance with Section 8-70-115, C.R.S., I certify the following:

- With respect to the Contract, Garney Companies, Inc. (“Entity”) represents and warrants that it is the Entity’s express intention to be employed as an independent contractor of the Town of Castle Rock (the “Town”) for purposes of performing the work or services which are the subject of the Contract, to include all employees and agents of the above-named Entity. Entity understands and confirms that the Town reasonably relied on this intention in entering into the Contract.
- The Town does not require Entity work exclusively for the Town, except that Entity may choose to work exclusively for the Town for a finite period of time specified in the document.
- The Town does not establish a quality standard for the work or services performed pursuant to the Contract, except that the Town may provide plans and specifications regarding the work but cannot oversee the actual work or provide instruction as to how the work is performed.
- The Town does not pay a salary or hourly rate but rather a fixed or contract rate, as noted in the terms and conditions of the Contract, and any Exhibits made part of the Contract.
- The Town cannot terminate the work or services performed during the contract period unless otherwise agreed to in the terms and conditions of the Contract.
- Entity is not provided with anything, if at all, more than minimal training from the Town.
- The Town does not provide Entity with tools or benefits for the performance of the work or services which are the subject of the Contract, except materials and equipment may be supplied.
- The Town does not dictate the time of performance, except that a completion schedule and a range of mutually agreeable work hours may be established in the Contract.
- The Town does not pay Entity personally but rather makes checks payable to the trade or business name of the Entity, who is a party to the Contract; and the Town does not combine their business operations in any way with the Entity’s business, but instead maintains such operations as separate and distinct.
- Entity understands that if a professional license to practice a particular occupation under the laws of the State of Colorado requires the exercise of a supervisory function with regard to the work of services performed under this Contract, such supervisory role shall not affect the independent contractor relationship with the Town.
- **ENTITY UNDERSTANDS THAT NEITHER ENTITY NOR ITS EMPLOYEES ARE ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS OF THE TOWN. THE ONLY AVAILABLE UNEMPLOYMENT COMPENSATION COVERAGE IS THAT PROVIDED BY THE ENTITY.**



- ENTITY UNDERSTANDS THAT IT IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX ON MONEYS PAID PURSUANT TO THE CONTRACT.

INDEPENDENT CONTRACTOR:

GARNEY COMPANIES, INC.

By:


 Name Joel Heimbeck, Director



STATE OF COLORADO)


) ss.

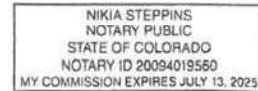
COUNTY OF Jefferson)

The foregoing instrument as acknowledged before me this 15th day of December, 2023 by Joel Heimbeck as Director of the above-mentioned Independent Contractor.

Witness my official hand and seal.

My commission expires: July 13, 2025


 Notary Public



Previously Executed

EXHIBIT B

SCOPE OF WORK FOR WORK PACKAGE ONE

EXHIBIT B

SCOPE OF WORK

The Plum Creek Water Purification Facility (PCWPF) Expansion Project will in general terms expand the facilities water treatment and pumping capacities from 6 million gallons per day (MGD) to 12 MGD. Expansion work will also include modifying the solids handling processes, installing a new emergency electrical generator for the original PCWPF Building (relocating current generator to the Castle Rock Water's Operation & Maintenance building), and increasing laboratory areas for additional sampling and water quality testing needs. For example, treatment system improvements will include a new building adjacent to the existing pretreatment building to house 6 MGD capacity of a new rapid mix basin, flocculation and sedimentation treatment steps, and new Biologically Active Carbon filter bays. The project will add membrane filtration racks with 78 modules each to match existing racks. Ozone system improvements will include additional liquid oxygen storage with vaporizers, new ozone generators with chillers, ozone injection and destruct skids, and a new ozone loop reactor made of stainless steel piping. Ten GAC filters will also be added in an expansion of the PCWPF Advanced Treatment building.

The amount of the contract amendment is \$18,571,591 and represents Work Package #1 (WP#1). This portion of the construction consists of purchasing equipment packages for the advanced treatment systems as well as site work including buried filter backwash pipe installation. Equipment being purchased with WP#1 includes the rapid mixer, activated carbon adsorption filters, membrane filters, flocculation and sedimentation systems, biologically active filters, and an emergency electrical generator for the PCWPF building. The design team is planning a second work package to be presented to Town Council for the ozone generation and destruct systems, liquid oxygen system, side stream ozone injection system, and high service and membrane feed pumps. A third and final work package is being planned for January 2025 and will include the balance of project work.

The Town intends to release completed designs of the Work to Contractor in two Work Packages, each of which shall be an Amendment to the Agreement. Each of the two Work Packages shall include a Guaranteed Maximum Price ("GMP") for the Work described in the Drawings and Specifications for that Work Package, all of which shall be part of the Contract Documents.

1. Work Package One (WP#1) includes procurement of long lead equipment.
2. Work Package Two (WP#2) includes procurement of the ozone treatment system and the high service and membrane feed pumps.
3. Work Package Three (WP#3) includes the balance of the Project.

No portion of the Work shall begin until the Town has approved the Work Package describing such portion of the Work and establishing the GMP.

The Contractor shall perform the Work in a good and workmanlike manner. The Work shall include, in addition to the Work expressly described in the Contract Documents, any and all work reasonably inferable by Contractor from the Contract Documents. Contractor shall exercise reasonable diligence and critical judgment in the review of all information, reports, surveys, drawings and tests pertaining to the Work or Project prior to proceeding with any work or activity based upon the same. Contractor is expected to be reasonably familiar with local building codes and requirements, and to bring to the attention of the Town's Design Consultant (Burns & McDonnell Engineering, Inc.) any discrepancy or compliance issue Contractor suspects or becomes aware of during the course of the Project.



EXHIBITS A1, B1, C, D1, E, F, G, H, I & J

EXHIBIT A1

PLUM CREEK WATER PURIFICATION FACILITY EXPANSION PROJECT
100% Work Package #1 & 60% Work Packages #2 & #3

Issued Date: 09/06/2023
Submitted Date: 4/24/2024

FIRM NAME: GARNEY CONSTRUCTION, INC.

CSI CODE	DESCRIPTION	PRECONSTRUCTION	TOTAL COST W/P1	TOTAL COST W/P2	TOTAL COST W/P3	TOTAL
	DIRECT WORK TOTAL	\$ -	\$ 15,460,506	\$ 5,649,180	\$ 32,636,379	\$ 53,746,065
01	General Requirements				<i>Included with General Conditions Costs</i>	
02	Site Construction	\$ -	\$ -	\$ -	\$ 1,274,851	\$ 1,274,851
03	Concrete	\$ -	\$ -	\$ -	\$ 6,794,193	\$ 6,794,193
04	Masonry	\$ -	\$ -	\$ -	\$ 927,123	\$ 927,123
05	Metals	\$ -	\$ -	\$ -	\$ 637,427	\$ 637,427
06	Wood and Plastics	\$ -	\$ -	\$ -	\$ 79,611	\$ 79,611
07	Thermal and Moisture Protection	\$ -	\$ -	\$ -	\$ 1,015,014	\$ 1,015,014
08	Doors and Windows	\$ -	\$ -	\$ -	\$ 296,353	\$ 296,353
09	Finishes	\$ -	\$ -	\$ -	\$ 608,002	\$ 608,002
10	Specialties	\$ -	\$ -	\$ -	\$ 128,888	\$ 128,888
11	Equipment	\$ -	\$ -	\$ -	\$ -	\$ -
12	Furnishings	\$ -	\$ -	\$ -	\$ -	\$ -
13	Special Construction	\$ -	\$ 25,000	\$ -	\$ 203,980	\$ 228,980
14	Conveying Equipment	\$ -	\$ -	\$ -	\$ -	\$ -
21	Fire Suppression	\$ -	\$ -	\$ -	\$ 27,598	\$ 27,598
22	Plumbing	\$ -	\$ -	\$ -	\$ 587,291	\$ 587,291
23	Heating, Ventilating, and Air Conditioning (HVAC)	\$ -	\$ -	\$ -	\$ 365,419	\$ 365,419
26	Electrical	\$ -	\$ 1,355,863	\$ -	\$ 7,378,538	\$ 8,734,401
28	Electronic Safety and Security	\$ -	\$ -	\$ -	\$ 150,200	\$ 150,200
31	Earthwork	\$ -	\$ 1,972,028	\$ -	\$ 1,461,212	\$ 3,433,240
32	Exterior Improvements	\$ -	\$ 31,260	\$ -	\$ 1,248,462	\$ 1,279,723
33	Utilities	\$ -	\$ 1,084,338	\$ 1,036,780	\$ 5,435,139	\$ 7,556,257
40	Process Integration	\$ -	\$ -	\$ -	\$ 843,000	\$ 843,000
41	Materials Processing and Handling Equipment	\$ -	\$ -	\$ -	\$ -	\$ -
43	Process Gas and Liquid Handling, Purification and Storage Equipment	\$ -	\$ -	\$ -	\$ -	\$ -
46	Water & Wastewater Equipment	\$ -	\$ 10,992,017	\$ 4,612,400	\$ 3,024,079	\$ 18,628,496
N/A	Subcontractor Bonds	\$ -	\$ -	\$ -	\$ -	\$ -
N/A	Electrical Contingency	\$ -	\$ -	\$ -	\$ 150,000	\$ 150,000
	GENERAL CONDITIONS	\$ -	\$ 412,649	\$ -	\$ 3,219,671	\$ 3,632,319
	General Conditions (Not-to-exceed from Exhibit B)	---	\$ 412,649	\$ -	\$ 3,219,671	\$ 3,632,319
	FEE TOTAL (Based on Direct Work and General Conditions Only)	\$ -	\$ 1,428,584	\$ 508,426	\$ 3,227,045	\$ 5,164,055
	Fee (Overhead & Profit) <i>(Insert percentage)</i>	9.00%	\$ 1,428,584	\$ 508,426	\$ 3,227,045	\$ 5,164,055
	OTHER INDIRECTS TOTAL (NO FEE ON THESE COSTS)	\$ 311,022	\$ 1,269,852	\$ 451,934	\$ 2,868,484	\$ 4,901,293
	Construction Contingency at 6 % of Direct Work	6.00%	\$ 952,389	\$ 338,951	\$ 2,151,363	\$ 3,442,703
	Preconstruction value (Not-to-exceed)	---	\$ 311,022	\$ -	\$ -	\$ 311,022
	Commercial General Liability Insurance <i>(Insert percentage)</i>	0.75%	\$ 119,049	\$ 42,369	\$ 268,920	\$ 430,338
	General Contractor Payment & Performance Bonds <i>(Insert percentage)</i>	0.50%	\$ 79,366	\$ 28,246	\$ 179,280	\$ 286,892
	Builder's Risk Insurance <i>(Insert percentage)</i>	0.75%	\$ 119,049	\$ 42,369	\$ 268,920	\$ 430,338
	ALL Permits/Plan Review Fee/Use Tax - (ALLOWANCE)	---	\$ -	\$ -	\$ -	\$ -
	Taxes	---	\$ -	\$ -	\$ -	\$ -
	TOTAL CONSTRUCTION COSTS	\$ 311,022	\$ 18,571,591	\$ 6,609,541	\$ 41,951,579	\$ 67,443,732

NOTES:

- No taxes included within the Direct Work and General Conditions.
- Performance and Payment Bond are required by Contractor.
- Provide a cost for Builder's Risk in the event the Owner requests it be carried by Contractor.
- Provide the actual % Rate for Insurance/Builders Risk/Bond/Fee above directly in the description.
- INCLUDE A DETAILED BUDGET WITH THIS COST SUMMARY (YOUR FORMAT). *Provided by Garney in electronic format only**
- General Requirements are included with General Conditions.

EXHIBIT B1

**PLUM CREEK WATER PURIFICATION FACILITY EXPANSION PROJECT
DETAILED GENERAL CONDITIONS COSTS**

WORK PACKAGE 1 (100%)

Issued Date: 09/06/2018

Submitted Date: 4/30/2024

FIRM NAME: GARNEY CONSTRUCTION, INC.

ITEM NO.	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL COST
1	PROJECT SUPERVISION TOTAL				\$ 282,614.73
2	Officers of the Company (included in fee)	---	---	---	Included in Fee
3	Project Executive (included in fee)	---	---	---	Included in Fee
4	Project Manager	1040	HR	\$ 121.05	\$ 125,892.00
5	Assistant Project Manager		HR		\$ -
6	Project Engineer		HR		\$ -
7	Assistant Engineer		HR		\$ -
8	Senior Project Superintendent	693	HR	\$ 148.98	\$ 103,243.14
9	Project Superintendent		HR		\$ -
10	Assistant Superintendent		HR		\$ -
11	Field Engineer		HR		\$ -
12	MEP Coordinator		HR		\$ -
13	Administrative Support		HR		\$ -
14	Project Specific Accounting		HR		\$ -
15	Scheduling		HR		\$ -
16	Safety Personal		HR		\$ -
17	Quality Control Personnel		HR		\$ -
18	Project Estimator		HR		\$ -
19	Carpenter Foreman		HR		\$ -
20	Carpenter		HR		\$ -
21	Labor Foreman		HR		\$ -
22	Laborer		HR		\$ -
23	Hoisting Operator		HR		\$ -
24	Crane Operator	173	HR	\$ 85.23	\$ 14,744.79
25	Sr. Estimator		HR		\$ -
26	Sr. Preconstruction Manager	260	HR	\$ 148.98	\$ 38,734.80
27					\$ -
28	PROJECT ON-SITE OFFICE TOTAL				\$ 87,145.27
29	Office Facilities / Rent	3	MONTH	\$ 3,250.00	\$ 9,750.00
30	Office Equipment				\$ -
31	Office Furniture	1	LS	\$ 5,000.00	\$ 5,000.00
32	Office Mobilization	1	LS	\$ 37,715.27	\$ 37,715.27
33	Janitorial				\$ -
34	Radios and Communication				\$ -
35	Company Vehicles	3	MONTH	\$ 11,560.00	\$ 34,680.00
36	Trailer				\$ -
37	Courier service				\$ -
38	Internet service				\$ -
39	Data Processing				\$ -
40	Travel Expense				\$ -
41	Digital camera/Project photos				\$ -
42	Office Supplies				\$ -
43	Postage/Fed ex				\$ -
44	Printing and reproduction				\$ -
45	Drinking Water				\$ -
46					\$ -
47	TEMPORARY FACILITIES TOTAL				\$ 2,793.00
48	Electrical Utility Fees				\$ -
49	Electrical distribution / set-up				\$ -
50	Lighting				\$ -
51	Electrical Generator	1	MONTH	\$ 2,793.00	\$ 2,793.00
52	Water - Construction				\$ -
53	Heating				\$ -
54	Heating and Cooling				\$ -
55	Fire protection and hydrant use				\$ -
56	Sanitation facilities				\$ -
57	Fuel				\$ -
58	Utility consumption costs				\$ -
59	Hoisting				\$ -
60	Hoisting Operator				\$ -
61	Temp Elevator Set-up and use				\$ -
62	Site Protection / Security				\$ -
63	Stairs				\$ -
64	Fencing				\$ -
65	Access to the site				\$ -

EXHIBIT B1

**PLUM CREEK WATER PURIFICATION FACILITY EXPANSION PROJECT
DETAILED GENERAL CONDITIONS COSTS**

WORK PACKAGE 1 (100%)

Issued Date: 09/06/2018

Submitted Date: 4/30/2024

FIRM NAME: GARNEY CONSTRUCTION, INC.

ITEM NO.	DESCRIPTION	QUANTITY	UNIT	UNIT COST	TOTAL COST
66	Staging areas				\$ -
67	Storage Containers				\$ -
68	Signage				\$ -
69	Temporary Utility Connection fees				\$ -
70	Temporary Enclosures				\$ -
71	Rodent and Pest Control				\$ -
72					\$ -
73	ENGINEERING TOTAL				\$ -
74	Layout				\$ -
75	Building controls				\$ -
76	Surveying				\$ -
77	Shop drawing detailing				\$ -
78	As-Built Coordination				\$ -
79					\$ -
80	SAFETY & SECURITY TOTAL				\$ -
81	Safety inspections				\$ -
82	Flagman				\$ -
83	Jobsite safety				\$ -
84	Perimeter guardrails				\$ -
85	Barricades, lights, and signs				\$ -
86	Covered sidewalk enclosures				\$ -
87	Scaffolding, ladders, platforms				\$ -
88	Protective equipment				\$ -
89	Protective materials				\$ -
90	Fire safety				\$ -
91	First aid				\$ -
92					\$ -
93	SITE CONDITIONS TOTALS				\$ 40,096.00
94	Project interim clean-up				\$ -
95	Project final clean-up				\$ -
96	Contractor site equipment				\$ -
97	Material & Man Hoist				\$ -
98	Crane	1	MONTH	\$ 28,536.00	\$ 28,536.00
99	Debris Boxes				\$ -
100	Weather protection	1	LS	\$ 11,560.00	\$ 11,560.00
101	Dust control				\$ -
102	Traffic Control				\$ -
103	Street Cleaning				\$ -
104	Exterior Protection				\$ -
105	Roof Protection				\$ -
106	Small Tools and Consumables				\$ -
107					\$ -
TOTAL GENERAL CONDITIONS					\$ 412,649.00

NOTES:

- 1 It is the Owner's intent that the General Contractor work under a complete "open book" approach.
- 2 It is the Owner's intent that all General Conditions' costs will be identified and included in this Attachment.
- 3 Do not modify the order of these items. If additional space is required to capture further detail, rows may be added at the bottom of the list under the appropriate headings within the spreadsheet.
- 4 General Conditions will become a separate guarantee within the total GMP.

EXHIBIT C

PLUM CREEK WATER PURIFICATION FACILITY EXPANSION PROJECT
 LABOR BURDEN RATES
 WORK PACKAGES 1, 2 & 3
 Issued Date : 09/06/2023
 Submitted Date: 4/30/2024

FIRM NAME: GARNEY CONSTRUCTION, INC.

ITEM NO.	SALARIED STAFF POSITION (PRECON)	2023			2024			2025			2026			2027				
		BASE HOURLY LABOR RATE	BURDEN RATE %	BILLABLE HOURLY RATE	TIME AND HALF HOURLY RATE	DOUBLE TIME HOURLY RATE	BILLABLE HOURLY RATE	TIME AND HALF HOURLY RATE	DOUBLE TIME HOURLY RATE	BILLABLE HOURLY RATE	TIME AND HALF HOURLY RATE	DOUBLE TIME HOURLY RATE	BILLABLE HOURLY RATE	TIME AND HALF HOURLY RATE	DOUBLE TIME HOURLY RATE			
1	Officers of the Company (included in fee)	---	---	---	---	---	---	---	---	---	---	---	---	---	---			
2	Project Executive (included in fee)	---	---	---	---	---	---	---	---	---	---	---	---	---	---			
3	Sr. Preconstruction Manager	\$ 93.50	51.8%	\$ 141.88	---	---	\$ 148.98	---	---	\$ 156.42	---	---	\$ 164.25	---	---	\$ 172.46	---	---
4	Preconstruction Manager	\$ 75.97	51.8%	\$ 115.28	---	---	\$ 121.05	---	---	\$ 127.10	---	---	\$ 133.45	---	---	\$ 140.13	---	---
5	Sr. Estimator	\$ 83.27	51.8%	\$ 126.37	---	---	\$ 132.69	---	---	\$ 139.32	---	---	\$ 146.29	---	---	\$ 153.60	---	---
6	Estimator	\$ 75.97	51.8%	\$ 115.28	---	---	\$ 121.05	---	---	\$ 127.10	---	---	\$ 133.45	---	---	\$ 140.13	---	---
7	Sr. Project Manager	\$ 93.50	51.8%	\$ 141.88	---	---	\$ 148.98	---	---	\$ 156.42	---	---	\$ 164.25	---	---	\$ 172.46	---	---
8	Project Manager	\$ 75.97	51.8%	\$ 115.28	---	---	\$ 121.05	---	---	\$ 127.10	---	---	\$ 133.45	---	---	\$ 140.13	---	---
9	Sr. Project Engineer	\$ 61.36	51.8%	\$ 93.11	---	---	\$ 97.77	---	---	\$ 102.66	---	---	\$ 107.79	---	---	\$ 113.18	---	---
10	Project Engineer	\$ 45.87	51.8%	\$ 69.61	---	---	\$ 73.09	---	---	\$ 76.75	---	---	\$ 80.59	---	---	\$ 84.61	---	---
11	Assistant Engineer	\$ 45.87	51.8%	\$ 69.61	---	---	\$ 73.09	---	---	\$ 76.75	---	---	\$ 80.59	---	---	\$ 84.61	---	---
12	Senior Project Superintendent	\$ 93.50	51.8%	\$ 141.88	---	---	\$ 148.98	---	---	\$ 156.42	---	---	\$ 164.25	---	---	\$ 172.46	---	---
13	Project Superintendent	\$ 75.97	51.8%	\$ 115.28	---	---	\$ 121.05	---	---	\$ 127.10	---	---	\$ 133.45	---	---	\$ 140.13	---	---
14	Assistant Superintendent	\$ 61.36	51.8%	\$ 93.11	---	---	\$ 97.77	---	---	\$ 102.66	---	---	\$ 107.79	---	---	\$ 113.18	---	---
15	Field Engineer	\$ 45.87	51.8%	\$ 69.61	---	---	\$ 73.09	---	---	\$ 76.74	---	---	\$ 80.58	---	---	\$ 84.61	---	---
16	MEP Coordinator	N/A					\$ -			\$ -			\$ -			\$ -		
17	Administrative Support	N/A					\$ -			\$ -			\$ -			\$ -		
18	Project Specific Accounting	\$ 24.31	51.8%	\$ 36.89	---	---	\$ 38.74	---	---	\$ 40.67	---	---	\$ 42.71	---	---	\$ 44.84	---	---
19	Scheduling	\$ 45.87	51.8%	\$ 69.61	---	---	\$ 73.09	---	---	\$ 76.75	---	---	\$ 80.59	---	---	\$ 84.61	---	---
20	3D Modeling/BIM	\$ 45.87	51.8%	\$ 69.61	---	---	\$ 73.09	---	---	\$ 76.75	---	---	\$ 80.59	---	---	\$ 84.61	---	---
21	[enter other staff positions]						\$ -			\$ -			\$ -			\$ -		
22	[enter other staff positions]						\$ -			\$ -			\$ -			\$ -		
ITEM NO.	SALARIED STAFF POSITION (ON-SITE)	2023			2024			2025			2026			2027				
		BASE HOURLY LABOR RATE	BURDEN RATE %	BILLABLE HOURLY RATE	TIME AND HALF HOURLY RATE	DOUBLE TIME HOURLY RATE	BILLABLE HOURLY RATE	TIME AND HALF HOURLY RATE	DOUBLE TIME HOURLY RATE	BILLABLE HOURLY RATE	TIME AND HALF HOURLY RATE	DOUBLE TIME HOURLY RATE	BILLABLE HOURLY RATE	TIME AND HALF HOURLY RATE	DOUBLE TIME HOURLY RATE			
23	Officers of the Company (included in fee)	---	---	---	---	---	---	---	---	---	---	---	---	---	---			
24	Project Executive (included in fee)	---	---	---	---	---	---	---	---	---	---	---	---	---	---			
25	Sr. Project Manager	\$ 93.50	51.8%	\$ 141.88	---	---	\$ 148.98	---	---	\$ 156.42	---	---	\$ 164.25	---	---	\$ 172.46	---	---
26	Project Manager	\$ 75.97	51.8%	\$ 115.28	---	---	\$ 121.05	---	---	\$ 127.10	---	---	\$ 133.45	---	---	\$ 140.13	---	---
27	Assistant Project Manager	\$ 61.36	51.8%	\$ 93.11	---	---	\$ 97.77	---	---	\$ 102.66	---	---	\$ 107.79	---	---	\$ 113.18	---	---
28	Sr. Project Engineer	\$ 61.36	51.8%	\$ 93.11	---	---	\$ 97.77	---	---	\$ 102.66	---	---	\$ 107.79	---	---	\$ 113.18	---	---
29	Project Engineer	\$ 45.87	51.8%	\$ 69.61	---	---	\$ 73.09	---	---	\$ 76.75	---	---	\$ 80.59	---	---	\$ 84.61	---	---
30	Assistant Engineer	\$ 45.87	51.8%	\$ 69.61	---	---	\$ 73.09	---	---	\$ 76.75	---	---	\$ 80.59	---	---	\$ 84.61	---	---
31	Senior/General Superintendent	\$ 93.50	51.8%	\$ 141.88	---	---	\$ 148.98	---	---	\$ 156.42	---	---	\$ 164.25	---	---	\$ 172.46	---	---
32	Project Superintendent	\$ 75.97	51.8%	\$ 115.28	---	---	\$ 121.05	---	---	\$ 127.10	---	---	\$ 133.45	---	---	\$ 140.13	---	---
33	Assistant Superintendent	\$ 61.36	51.8%	\$ 93.11	---	---	\$ 97.77	---	---	\$ 102.66	---	---	\$ 107.79	---	---	\$ 113.18	---	---
34	Field Engineer	\$ 45.87	51.8%	\$ 69.61	---	---	\$ 73.09	---	---	\$ 76.74	---	---	\$ 80.58	---	---	\$ 84.61	---	---
35	MEP Coordinator	N/A					\$ -			\$ -			\$ -			\$ -		
36	Administrative Support	N/A					\$ -			\$ -			\$ -			\$ -		
37	Project Specific Accounting	\$ 24.31	51.8%	\$ 36.89	---	---	\$ 38.74	---	---	\$ 40.67	---	---	\$ 42.71	---	---	\$ 44.84	---	---
38	Scheduling	\$ 45.87	51.8%	\$ 69.61	---	---	\$ 73.09	---	---	\$ 76.75	---	---	\$ 80.59	---	---	\$ 84.61	---	---
39	Safety Director	N/A					\$ -			\$ -			\$ -			\$ -		
40	Safety Personnel	\$ 147.13	51.8%	\$ 223.28	---	---	\$ 234.44	---	---	\$ 246.16	---	---	\$ 258.47	---	---	\$ 271.39	---	---
41	Quality Control Personnel	\$ 48.17	51.8%	\$ 73.09	---	---	\$ 76.75	---	---	\$ 80.59	---	---	\$ 84.61	---	---	\$ 88.85	---	---
42	Project Estimator (on site)	N/A					\$ -			\$ -			\$ -			\$ -		
43	3D Modeling/BIM	N/A					\$ -			\$ -			\$ -			\$ -		
44	[enter other staff positions]						\$ -			\$ -			\$ -			\$ -		
45	[enter other staff positions]						\$ -			\$ -			\$ -			\$ -		
ITEM NO.	CRAFT PERSONNEL POSITION	2023		2024		2025		2026		2027								
		HOURLY LABOR RATE	BURDEN RATE %	TOTAL HOURLY RATE W/BURDEN	TIME AND HALF HOURLY RATE	DOUBLE TIME HOURLY RATE	TOTAL HOURLY RATE W/BURDEN	TIME AND HALF HOURLY RATE	DOUBLE TIME HOURLY RATE	TOTAL HOURLY RATE W/BURDEN	TIME AND HALF HOURLY RATE	DOUBLE TIME HOURLY RATE						
46	Carpenter Foreman	\$ 43.52	51.8%	\$ 66.03	\$ 99.05	N/A	\$ 69.34	\$ 104.00	N/A	\$ 72.80	\$ 109.20	N/A	\$ 76.44	\$ 114.66	N/A	\$ 80.26	\$ 120.40	N/A
47	Carpenter	\$ 37.75	51.8%	\$ 57.29	\$ 85.93	N/A	\$ 60.15	\$ 90.23	N/A	\$ 63.16	\$ 94.74	N/A	\$ 66.32	\$ 99.47	N/A	\$ 69.63	\$ 104.45	N/A
48	Labor Foreman	\$ 43.52	51.8%	\$ 66.03	\$ 99.05	N/A	\$ 69.34	\$ 104.00	N/A	\$ 72.80	\$ 109.20	N/A	\$ 76.44	\$ 114.66	N/A	\$ 80.26	\$ 120.40	N/A
49	Laborer	\$ 32.00	51.8%	\$ 48.56	\$ 72.83	N/A	\$ 50.98	\$ 76.47	N/A	\$ 53.53	\$ 80.30	N/A	\$ 56.21	\$ 84.31	N/A	\$ 59.02	\$ 88.53	N/A
50	Hoist/Elevator Operator	\$ 43.52	51.8%	\$ 66.03	\$ 99.05	N/A	\$ 69.34	\$ 104.00	N/A	\$ 72.80	\$ 109.20	N/A	\$ 76.44	\$ 114.66	N/A	\$ 80.26	\$ 120.40	N/A
51	Crane Operator	\$ 46.71	51.8%	\$ 70.88	\$ 106.32	N/A	\$ 74.43	\$ 111.64	N/A	\$ 78.15	\$ 117.22	N/A	\$ 82.06	\$ 123.08	N/A	\$ 86.16	\$ 129.24	N/A
52	Pipefitter / Pipelayer	\$ 35.84	51.8%	\$ 54.39	\$ 81.58	N/A	\$ 57.11	\$ 85.66	N/A	\$ 59.96	\$ 89.94	N/A	\$ 62.96	\$ 94.44	N/A	\$ 66.11	\$ 99.16	N/A
53	[enter other positions]				\$ -	N/A	\$ -	\$ -	N/A	\$ -	\$ -	N/A	\$ -	\$ -	N/A	\$ -	\$ -	N/A

- NOTES:
- Provide the applicable rates and labor burden as a percentage for the staff positions listed above. Do not use a blended rate, use actual burden rates per title.
 - The General Conditions estimate for Staff should take into consideration the duration of the Project. Therefore, the staff costs carried forward in Attachment B should represent a blended rate for the duration of the Project.
 - Add any staff positions and applicable rates for individuals not included here that are proposed on the project.
 - No fee markups (overhead or profit, bonuses, phones, computers or vehicle allowances, etc.) are allowed within these rates.
 - Rates above are subject to pre-audit.
 - For Salaried Individuals, Premium Time is not allowed.
 - Return Exhibit C in electronic format. Do not convert to PDF.

EXHIBIT D1

PLUM CREEK WATER PURIFICATION FACILITY EXPANSION PROJECT
 STAFF TIME ALLOCATION
 WORK PACKAGE 1
 Issued Date: 09/06/2023
 Submitted Date: 4/30/2024

FIRM NAME: GARNEY CONSTRUCTION, INC.			2023												2024												2025											
ITEM NO.	STAFF POSITION	INDIVIDUAL	TOTAL MONTHS	TOTAL HOURS	OCT HRS	NOV HRS	DEC HRS	JAN HRS	FEB HRS	MAR HRS	APR HRS	MAY HRS	JUN HRS	JUL HRS	AUG HRS	SEP HRS	OCT HRS	NOV HRS	DEC HRS	JAN HRS	FEB HRS	MAR HRS	APR HRS	MAY HRS	JUN HRS	JUL HRS												
PRECONSTRUCTION				1992	0	0	0	0	0	0	0	0	43	65	65	65	109	304	346	346	324	324	0	0	0	0	0											
1	Officers of the Company (included in fee)	Wayne O'Brien	Incl. In Fee	0																																		
2	Project Executive (included in fee)	Joel Hermbuck	Incl. In Fee	0																																		
3	Sr. Preconstruction Manager	Adam Theriault	10	260									22	22	22	22	22	22	43	43	22	22																
4	Preconstruction Manager	Heath Brooks	10	1040									22	43	43	43	43	153	173	173	173	173																
5	Sr. Estimator	Chad Hulan	0	0																																		
6	Estimator	Estimating Team	0	0																																		
7	Sr. Project Manager		0	0																																		
8	Project Manager		0	0																																		
9	Sr. Project Engineer		0	0																																		
10	Project Engineer	TBD	0	0																																		
11	Assistant Engineer		0	0																																		
12	Senior Project Superintendent	Michael Huff	6	693													44	130	130	130	130	130																
13	Project Superintendent		0	0																																		
14	Assistant Superintendent		0	0																																		
15	Field Engineer		0	0																																		
16	MEP Coordinator		0	0																																		
17	Administrative Support		0	0																																		
18	Project Specific Accounting		0	0																																		
19	Scheduling		0	0																																		
20	3D Modeling/BIM		0	0																																		
21	[enter other staff positions]		0	0																																		
22	[enter other staff positions]		0	0																																		
TOTAL:				1992	0	0	0	0	0	0	0	0	43	65	65	65	109	304	346	346	324	324	0	0	0	0	0											

NOTES:
 1 Include the individual per title and breakdown of committed hours per month of each member of staff that shall be on the project for each month of the project.
 2 Include the total months duration that each staff member will be working on the project.
 3 Add any columns for additional months you feel is appropriate.
 4 Assume 173 working hours per month as standard.

EXHIBIT E

PLUM CREEK WATER PURIFICATION FACILITY EXPANSION PROJECT
ALLOWANCE LIST, ALTERNATES & UNIT PRICES

WORK PACKAGES 1, 2 & 3

Issue Date: 09/06/2023

Submitted Date: 4/30/2024

FIRM NAME: GARNEY CONSTRUCTION, INC.

ALLOWANCE LIST (INCLUDED IN THE IGMP)

ITEM NO.	DESCRIPTION	AMOUNT
1		
2		

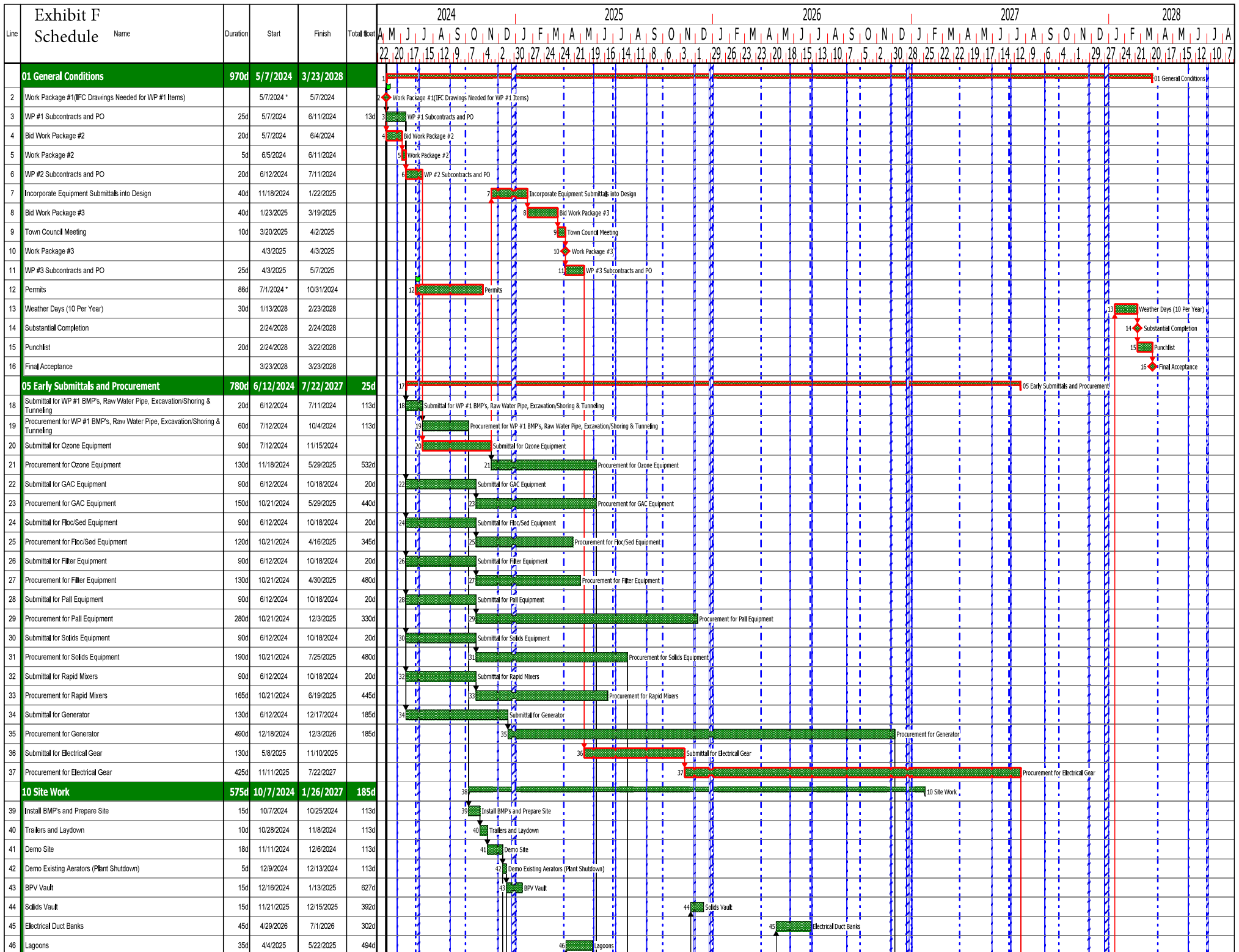
ALTERNATES (NOT INCLUDED IN THE IGMP)

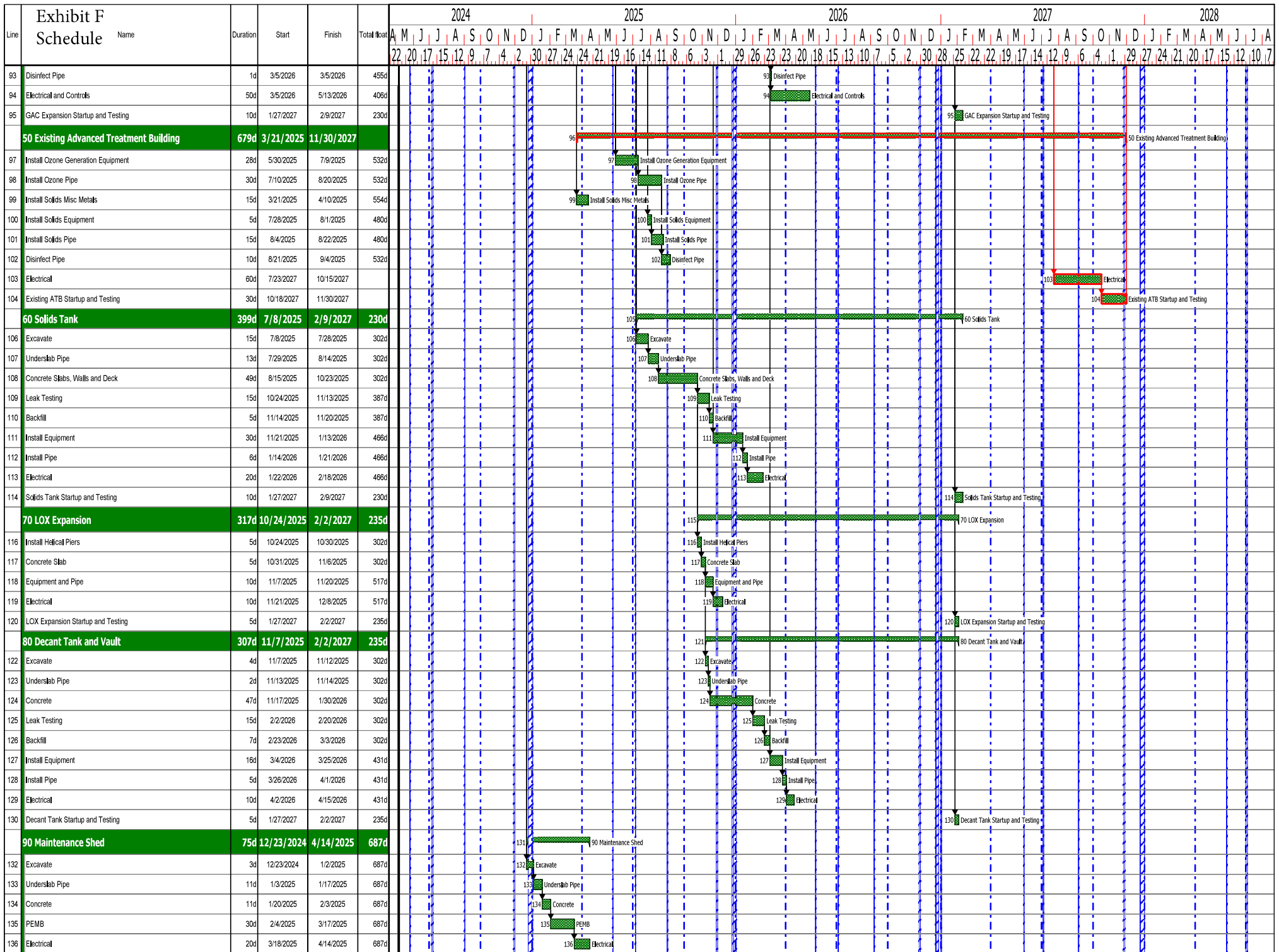
ITEM NO.	DESCRIPTION	AMOUNT
1		
2		
3		
4		

UNIT PRICE LIST - TBD

ITEM NO.	DESCRIPTION	AMOUNT
1		
2		

Exhibit F Schedule





Milestone Appearances
 Diamond

Exhibit G
 Monthly Partial Payment / Cash Flow



PCWPF Expansion Project Cash Flow Projection

1)	Dec-23	\$	6,000.00	44)	Jul-27	\$	865,091.00
2)	Jan-24	\$	10,000.00	45)	Aug-27	\$	643,926.00
3)	Feb-24	\$	25,000.00	46)	Sep-27	\$	494,531.00
4)	Mar-24	\$	30,000.00	47)	Oct-27	\$	458,200.00
5)	Apr-24	\$	30,000.00	48)	Nov-27	\$	374,624.00
6)	May-24	\$	30,000.00	49)	Dec-27	\$	250,200.00
7)	Jun-24	\$	20,000.00	50)	Jan-28	\$	104,374.00
8)	Jul-24	\$	20,000.00	51)	Feb-28	\$	-
9)	Aug-24	\$	45,000.00		TOTAL	\$	67,443,732.00
10)	Sep-24	\$	348,286.00				
11)	Oct-24	\$	891,392.00				
12)	Nov-24	\$	1,784,770.00				
13)	Dec-24	\$	1,385,340.00				
14)	Jan-25	\$	1,764,525.00				
15)	Feb-25	\$	1,834,745.00				
16)	Mar-25	\$	1,809,600.00				
17)	Apr-25	\$	1,934,728.00				
18)	May-25	\$	1,569,539.00				
19)	Jun-25	\$	1,628,657.00				
20)	Jul-25	\$	2,156,116.00				
21)	Aug-25	\$	3,075,656.00				
22)	Sep-25	\$	2,902,599.00				
23)	Oct-25	\$	2,076,784.00				
24)	Nov-25	\$	2,598,263.00				
25)	Dec-25	\$	2,148,411.00				
26)	Jan-26	\$	2,738,531.00				
27)	Feb-26	\$	2,448,604.00				
28)	Mar-26	\$	2,076,427.00				
29)	Apr-26	\$	2,194,788.00				
30)	May-26	\$	2,330,307.00				
31)	Jun-26	\$	2,141,046.00				
32)	Jul-26	\$	2,329,252.00				
33)	Aug-26	\$	2,043,217.00				
34)	Sep-26	\$	2,196,847.00				
35)	Oct-26	\$	2,241,435.00				
36)	Nov-26	\$	2,318,452.00				
37)	Dec-26	\$	2,052,607.00				
38)	Jan-27	\$	2,052,607.00				
39)	Feb-27	\$	1,442,184.00				
40)	Mar-27	\$	1,055,944.00				
41)	Apr-27	\$	851,064.00				
42)	May-27	\$	919,532.00				
43)	Jun-27	\$	694,531.00				

Exhibit H
Subcontractor Bid Tabulations

PROCESS EQUIPMENT SUMMARY

4/30/2024



PROJECT: PCWPF Expansion, WP #1 90%
ENGINEER: BMcD

SPECIFICATIONS							Location		EQUIPMENT PROPOSALS			ESTIMATE				
ITEM#	SECTION	DESCRIPTION	QTY	UM	SPECIFIED MANUFACTURERS	Tag #	Area	Bid Item	MANUFACTURER	REP CONTACT	QUOTED	DELTA	REMARKS	TOTAL	LEAD TIME	SELECTED (IN ESTIMATE)
Subtotal: \$10,824,753																
1																
1	46 31 50	Ozone System General Provisions	1	LS	Primozone		ATP A	46	Primozone	Pureflow Scott Johnson 562-708-8608	\$4,612,400		Now in work package #2	\$4,612,400	12-Weeks Sub 28-Weeks Del	
2	23 64 23	Scroll Water Chillers	1	LS	Carrier Corp, McQuay Trane, York, MTA	PC-CLC-8118	ATP A	46	MTA	Pureflow Scott Johnson 562-708-8608	w/46 31 50					w/Above
3	46 31 54	Modular Ozone Generation Equipment	1	LS	Primozone	GEN-8116 GEN-8117 GEN-8118	ATP A	46	Primozone	Pureflow Scott Johnson 562-708-8608	w/46 31 50					w/Above
4	46 31 55	Ozone Off-Gas Destruction System	1	LS	Primozone	DB-8109	ATP A	46	Primozone	Pureflow Scott Johnson 562-708-8608	w/46 31 50					w/Above
5	46 31 56	Liquid Oxygen System	1	LS	Chart		ATP A	46	Chart	Pureflow Scott Johnson 562-708-8608	w/46 31 50					w/Above
6	46 31 57	Side-Stream Ozone Injection System	1	LS	Mazzie	INJ-8104 INJ-8114 INJ-8115	ATP B	46	Mazzie	Pureflow Scott Johnson 562-708-8608	w/46 31 50					w/Above
7a					Parkson				Parkson	Parkson			1.04 D Communication system will be tested in the field by an MRI trained representative.		10-Weeks Sub	
7a	46 40 13	Solids Removal Equipment	1	LS	JMS		Main A	46	Chris Hanson	Chris Hanson	\$88,000			\$153,000	20-Weeks Del	\$153,000
7a																
7a												\$65,000	1.07 A 4 Alt 2 Cost to upgrade all existing controls panels (MCP-1420, MCP-1421, CP-SED to Division 40 requirements. Cost to retrofit the sludge collection elbows included. Cost to upgrade existing programming per Spec 46 40 13 Section 1.07.A.6 included. Add \$65,000.			
7b									JMS	MISCO Water		\$39,000	1.07 A 3 Alt 1 Cost to modify the existing control system for the existing sludge collectors per Spec 46 40 13 Section 1.07.A.3. Cost to retrofit the sludge collection elbows included. Cost to upgrade existing programming per Spec 46 40 13 Section 1.07.A.6 included. Add \$39,000.		14-Weeks Sub	
7b			1	LS					Adrian Scottorn	Scott Marshall	\$438,129			\$477,129	34-Weeks Del	\$0
7b																
8a	46 41 11	Rapid Mixers	1	LS	SPX/ Lightnin Chemineer Philadelphia	MMX-1080	Main A	46	SPXFLOW/ Lightnin Richard Miller 585-436-5550	MISCO Water Scott Marshall 303-601-5215	\$62,070	\$5,000		\$67,070	26-Weeks Del	\$67,070
8a													Spare Parts \$5,000 Plug			
8b			1	LS					Mixtec Matthew Walker 801-290-1547	Eq Solutions Brian Dieke 303-921-2846	\$35,877	\$5,000		\$40,877	2-Weeks Sub 10-Weeks Del	
8b													Spare Parts \$5,000			
9a	46 41 33	Horizontal Flocculation Equipment	1	LS	Parkson JMS	FLC-1210 FLC-1220	Main A	46	Parkson Chris Hanson	Parkson Chris Hanson	\$330,000		2.02 J All OEM items will have manufacturers standard coating. 2.03 B.6 MRI will provide Type 304L Stainless steel paddles; therefore filler blocks are nonapplicable and will not be provided. 2.04 F 2 Fabricated flocc shaft flanges will be within .015" without need for flange facing 2.05 B Grease fittings will not be necessary as the system will be operated and tested in a dry basin for a minimal duration. This limited dry run will not cause significant wear on the MRI standard UHMW bearing. Add \$3,600 for greased fittings.	\$333,600	10-Weeks Sub 20-Weeks Del	\$333,600
9a						FLC-1230										
9a												\$3,600				

Exhibit H
Subcontractor Bid Tabulations



ENGINEER: BMcD

SPECIFICATIONS							Location		EQUIPMENT PROPOSALS			ESTIMATE				
ITEM#	SECTION	DESCRIPTION	QTY	UM	SPECIFIED MANUFACTURERS	Tag #	Area	Bid Item	MANUFACTURER	REP CONTACT	QUOTED	DELTA	REMARKS	Subtotal:		SELECTED (IN ESTIMATE)
														TOTAL	LEAD TIME	
9a													3.04 B Assessing bearings in a dry basin would not provide an accurate representation of their actual performance.			\$10,824,753
9b								JMS	MISCO Water		\$10,000		Torque switch and NEMA 4 housing is excluded. Add \$10,000		14-Weeks Sub	
9b			1	LS				Adrian Scottorn	Scott Marshall	\$234,455	\$5,000		Add \$5,000 for required spare torque switch	\$267,955	34-Weeks Del	\$0
9b								704-554-8397	303-601-5215		\$14,000		4 field service days are required 0, are in the base bid. Add \$3,500 a day			
9b											\$4,500		2.06 Type 403 Stainless Steel drive chain is excluded Add \$4,500.			
10a					Parkson			Parkson	Parkson				1.03 B 1 c MRI will provide all required elevations but not the effluent settled water channel.		10-Weeks Sub	
10a	46 43 76	Inclined Plate Settlers	1	LS	JMS	PS-1440	Main A	46	Chris Hanson	Chris Hanson	\$399,000	\$19,000	2.03 B MRI will provide our standard plate design in which the top tube of the plate is riveted. Add \$19,000 for welding in lieu of riveted.	\$418,000	20-Weeks Del	\$418,000
10a								720-937-3446	720-937-3446				2.03 E Manufacturer will provide 316 stainless steel support beams as stated in 2.03 P.			
10a													3.04 B 6 establishment of any chemical feed rates are excluded.			
10b								JMS	MISCO Water		\$14,000		4 field service days are required 0, are in the base bid. Add \$3,500 a day		14-Weeks Sub	
10b			1	LS				Adrian Scottorn	Scott Marshall	\$330,911				\$344,911	34-Weeks Del	\$0
10b								704-554-8397	303-601-5215							
11a					WesTech	FLT-1560			WesTech	Goble Sampson					12-Weeks Sub	
11a	46 61 24	Filter Equipment and Media	1	LS	Tonka	FLT-1570	Main B	46	Adrian Williams	Kyle Winneker	\$2,266,000	-\$215,300	Deduct BAF Piping - Supplied by Garney Deduct - \$215,300	\$2,132,810	30-Weeks Del	\$2,132,810
11a						FLT-1580				303-770-6418		\$2,700	8 field service days are required 6, are in the base bid. Add \$1,350 a day			
11a						FLT-1590							All Rockwell Studio and Factory Talk licenses are excluded.			
11a												\$79,410	1.08 Bid Alternate 1 Add \$79,410. Due to the arrangement of the existing control panel, most aspects of Division 40 are not possible to incorporate. The existing panel will remain unchanged with the exception of replacing the existing CPU with a 1756-EN2TR Ethernet module and replacing the existing panel PC with a PanelView Plus 7 OIT to match the new CentROL control panel.			
11a													40 99 90 2.10 D 3 c Phonex Contact TMC8 circuit breakers are included but not specified			
11b			1	LS				Tonka Alan Schneider 612-708-6517	Coombs-Hopkins Bill Peretti 303-956-8642	\$1,314,381	\$15,000		Proposed Media does not meet spec Add \$15,000 to meet spec with Calgon F300 Media System operates differently then existing; additional training may be required at \$1,200 a day plus expenses	\$1,294,381	8-Weeks Sub 44-Weeks Del	\$0
11b																
11b												\$65,000	1.08 Bid Alternate 1 Add \$65,000 1.08 Bid Alternate 2 Add \$65,000			
11b												-\$100,000	Deduct 24" distribution headers supplied by contractor -\$100,000			

Exhibit H
Subcontractor Bid Tabulations



ENGINEER: BMcD

SPECIFICATIONS							Location		EQUIPMENT PROPOSALS			ESTIMATE					
ITEM#	SECTION	DESCRIPTION	QTY	UM	SPECIFIED MANUFACTURERS	Tag #	Area	Bid Item	MANUFACTURER	REP CONTACT	QUOTED	DELTA	REMARKS	Subtotal:		SELECTED (IN ESTIMATE)	
														TOTAL	LEAD TIME		
12					Pall Corporation: Aria	TBD	Main G	46	ARIA Filtra	ARIA Filtra						22-Weeks Sub	
12									Rick Moro	Rick Moro			46 61 33 2.07 A Base bid includes a smart I/O solenoid bank. Skid mounted terminal cabinets are not included. Add \$15,000 if required.			56-Weeks Del	
12	46 61 33	Membrane Filtration Equipment	1	LS					516-924-2054	516-924-2054	\$4,253,987		09 90 00 Base bid coatings match existing. 46 61 33 3.04 A Recorded training videos are copyrighted property of Aria Filtra and intended for owner's internal training purposes only and are non-transferable.	\$4,253,987			\$4,253,987
12													46 61 33 2.08 The budgetary proposal scoped for replacing the existing control panel to the new control panel, however in the final design review for the firm proposal, control panel replacement is not required with the proposed expansion therefore is not included.				
12													Request to delete the following spec 46 61 33 3.02 D 5 k Monitor average power consumption and maximum power demand for the Membrane Filtration System for the duration of the test period. The energy usage shall not be greater than the value indicated in the bid form. Additional cost adder to rent the power usage equipment and the quantity will depend on the plant design.				
12													Request to delete specification 46 61 33 3.02 E 11 completely because this is an expansion of an existing successfully operating plant, and all this information is known and proven successful. Potential minimum add of \$408,500 for contractor to carry the risk to meet the specification.				
13					Calgon Carbon	GAC-8205			Calgon Carbon Corp	Calgon Carbon Corp						3-Weeks Sub	
13	46 61 63	Downflow Liquid Activated Carbon Adsorption Units	1	LS		GAC-8206 GAC-8207	ATP D	46	Bill Brandt	Bill Brandt	\$3,466,286				\$3,466,286	40-Weeks Del	\$3,466,286
13						GAC-8208 GAC-8209			231-450-4174	231-450-4174							
14					Fairbanks	P-2040			Xylem Goulds	Cogent			2.02 B 4 a Mechanical Seals shall be Chesterton			7-Weeks Sub	
14	33 12 41	Membrane Feed Pump	2	EA		Goulds	P-2050	Main B	33		\$1,025,980	\$10,800	\$1,800 a day for site visits: 4 in base bid 10 required	\$1,036,780		30-Weeks Del	
14					Peerless					970-691-0805			Now in work package #2				
15					Fairbanks	P-3100			Xylem Goulds	Cogent			2.02 B 4 a Mechanical Seals shall be Chesterton				
15	33 21 41	High Service Pump	2	EA		Goulds	P-3400	Main G	33		W/33 12 41						
15					Peerless					970-691-0805							

Exhibit I
Exceptions & Clarifications

Exceptions & Clarifications

Project Title / Location

PCWPF Expansion/Castel Rock, CO

Original Issue Date: **1-Jan-24**

Specification Sections

As Listed

Current File Revision is: **6**

Specification Dated

26-Feb-24

Specification Addendum

4

No.	Specification Reference			Comment Category	Specification Statement of Concern	Disposition	Comments
	Section	Page	Paragraph No.				
1	01 25 00 1.04. A. 3. e.	1	0	Submittals	Substitution Request Submittal: Samples, where applicable or requested.	Exception	Aria Filtra would like to take an exception substitution request submittal on samples. This is an extensive process and it is not Aria Filtra's standard offering.
2	01 33 00	1	0	Submittals	Submittal section 01 33 00	Clarification	It is Aria Filtra's understanding is that this section is applicable to contractor, not to the Aria Filtra.
3	01 78 00	1	0	Contract Closeout	Contract closeout section 01 78 00	Clarification	It is Aria Filtra's understanding is that this section is applicable to contractor, not to the Aria Filtra.
4	01 33 00 1.04	8	0	Informational submittals	Informational Submittals are comprised of technical reports, administrative Submittals, and guarantees which relate to the Work, but do not require Engineer approval prior to proceeding with the Work.	Clarification	It is our understanding that the Aria Filtra is exempted from providing these submittals.
5	01 78 36 1.04. A	1	0	Warranty requirements	Related Damages and Losses: When correcting failed or damaged warranted construction, remove and replace construction that has been damaged as a result of such failure or that must be removed and replaced to provide access for correction of warranted construction.	Clarification	It is Aria Filtra's understanding is that this section is applicable to contractor, not to the Aria Filtra.
6	40 90 00 1.03. P.	5	0	Loop Diagram	Loop Diagram: A loop diagram is a collection of all components of an individual instrumentation system, or loop, showing the field, junction, panel rear and front connection points and all associated equipment.	Exception	Loop diagrams are not Aria Filtra's standard offering. Ladder diagrams could be ideal replacement to loop diagrams to meet the requirements. Loop diagrams are not provided in the previous original/expansion projects with Castle Rock. Aria Filtra would like to take an exception to this.
7	40 90 00 1.04. D.	6	0	System Description	Contractor and System Supplier Requirements	Clarification	It is Aria Filtra's understanding that this section is not related to Aria Filtra's scope of supply.
8	40 90 00 1.05. B. 6. a. 2)	8	0	Detailed Wiring Diagrams	Loop Wiring Diagrams showing individual wiring diagram for each analog or pulse frequency loop.	Exception	Loop diagrams are not Aria Filtra's standard offering. Ladder diagrams could be ideal replacement to loop diagrams to meet the requirements. Loop diagrams are not provided in the previous original/expansion projects with Castle Rock. Aria Filtra would like to take an exception to this. The control wiring diagrams will be provided as part of standard offering.
9	40 90 001.05. B. 8.	8	0	Loop Wiring Diagrams	Individual, end-to-end wiring diagram for each analog and discrete or equipment loop	Exception	Loop diagrams are not Aria Filtra's standard offering. Ladder diagrams could be ideal replacement to loop diagrams to meet the requirements. Loop diagrams are not provided in the previous original/expansion projects with Castle Rock. Aria Filtra would like to take an exception to this. The control wiring diagrams will be provided as part of standard offering.
10	40 90 00 2.10. H.	20	0	Analog signal Isolators	1. Furnish signal isolation for analog signals that are sent from one enclosure to another. 2. Do not wire in series instruments on different panels, cabinets, or enclosures.	Clarification	Aria Filtra's standard offering is isolated analog input cards. Aria Filtra would like to clarify that the MF system is self contained within the building and analog signal isolators are not required.
11	40 90 00 2.11. 3.	21	0	Panel Fabrication	Standard Pushbutton Color and Inscriptions	Exception	Aria Filtra's standard Panel ON inscription is of White color.
12	40 92 01 2.04. B. 6. a.	8	0	Wire Colors	Red: AC control circuits	Clarification	Aria Filtra does not carry any AC control circuits in the design.

Exhibit I
Exceptions & Clarifications

13	40 92 01 2.05. B. 3.	12	0	Panel Fabrication	Space Heaters	Exception	Space heaters are not Aria Filtra's standard offering especially with thermostatically controlled buildings. Aria Filtra provided similar panel designs in the previous original/expansion projects with Castle Rock which did not require space heaters for the panel functioning. Aria Filtra would like to take an exception to this.
14	40 99 90 1.03. C.2.b.	2	0	Submittals	Programmable Controller Submittals : Fully documented ladder logic listings	Exception	Our programming design is based Structured text. Please allow to use standard programming in the specification, which is same as that was used in the previous original/expansion projects with Castle Rock. Aria Filtra would like to take an exception to this.
15	40 99 00 2.07. C.	3	0	Software Requirements	Applications software program code and software configuration information for PLCs, OITs and network components shall be non-proprietary and fully documented to allow the Owner to interface with and to operate, program configure and maintain the software. A final copy of the PLC logic in native format will be presented to the Owner at the end of equipment commissioning.	Clarification	Aria Filtra applications software program code is proprietary and requires Non Disclosure agreement for code access. PLC Code is written using Structured Text format and is fully commented. Any code changes require Aria Filtra authorization, and unauthorized changes can void Aria Filtra warranties.
16	46 61 33 2.07. A.	12	0	Skid Mounted Electrical	Provide membrane equipment skid mounted terminal cabinets for all external connections; one for power connections, and one for controls if separate from a remote I/O panel mentioned in ARTICLE 2.07.	Clarification	Aria Filtra offering would include a smart I/O solenoid bank as part of our panel less design on our valve rack. Skid mounted terminal cabinets are not offered in the design, and smart I/O solenoid bank panel less design is currently used in the existing racks. Please allow to use our standard offering.
17	46 61 33 2.07. D.	12	0	Skid Mounted Electrical	Provide a minimum of 65 KAIC rating on all equipment unless otherwise noted.	Exception	Aria Filtra's proven standard branch rated circuit breakers rated at 10 KAIC. Exception taken.
18	47 61 33 2.08. B.	12	0	Integration and controls	The PLC shall be programmed using standard ladder logic type programming with Owner provided Add on Instructions and standard global objects to integrate with Plant SCADA system	Exception	Aria Filtra programming design is based on structured text. Structured text programming have been implemented in the previous original/expansion projects with Castle Rock. Aria Filtra would like to take an exception to this.
19	46 61 33 3.01. B.	17	0	Installation	The Supplier shall supply all necessary control system addresses, control logic, and operator workstation screens in order for the Contractor's System Integrator to program the plant control system operator screens, database, trends, reports and alarms	Clarification	This specification is acceptable to Aria Filtra with an IP License agreement in place.
20	40 96 00 1.03. D. 3. a. & b.	2	0	Software design workshop	Develop PLC software standards for both functional block and ladder logic	Exception	Our programming design is based Structured text. Please allow to use standard programming in the specification, which is same as that was used in the previous original/expansion projects with Castle Rock. Aria Filtra would like to taken an exception to this.
21	40 96 00 2.02. A. 5.	12	0	PLC Program Design	The PLC applications software provides an PLC coil index for each subsection that can be used to quickly search and locate a specific section per major vendor systems and sub-systems.	Exception	PLC Coil Index is not applicable to structured text. Aria Filtra would like to take an exception to this.
22	40 96 00 2.02. B.	12	0	PLC Application Software Design Criteria	Program Flow Diagram	Exception	For our standard MF program, which is complete and thoroughly tested, the flow diagram is just so much additional work. This is Aria Filtra's non standard offering. Aria Filtra would like to take an exception to this.
23	40 96 00 2.02. C.	13	0	PLC Application Software Design Criteria	PLC Program documentation	Clarification	Aria Filtra Standard programming is structured text. Please allow to provide PLC program documentation using structured text.
24	40 96 00 2.02. C. 2	13	0	PLC Application Software Design Criteria	Ladder diagram logic listing	Exception	Aria Filtra Standard programming is structured text and required specification is unavailable in our programming. Aria Filtra would like to take an exception to this.
25	40 96 00 2.09. N. 1. e.	33	0	Sequences	Each sequence shall have a SCS JOG function. The JOG function shall advance the step by one, independent of the normal step advance conditionals and timers.	Exception	The specifications are not available in Aria Filtra's standard text programming and Aria Filtra MF sequences do not have provisions for JOG function. Aria Filtra would like to take an exception to this.

Exhibit I
Exceptions & Clarifications

26	40 91 00 2.02. A. 1. in.	2	0	Magnetic Flow Meter	One RJ-45 port with Ethernet/IP protocol capability	Clarification	This specification is not applicable to Aria Filtra magnetic flow meters as they are hard wired. Ethernet will be provided for any future applications.
27	40 91 00 2.04. D. 4.	6	0	Pressure Indicators (gauges)	Provide seals as shown on the drawings	Clarification	Seals are not included based on the technical comments provided by Engineer.
28	40 91 00 2.04. D. 4. c. & g.	6	0	Pressure Indicators (gauges)	c. Ashcroft; Model Series 1010 g. Owner-approved equal	Clarification	Aria Filtra standard offering for pressure indicators are Ashcroft 1279 model. Ashcroft 1279 model s does meet the enlisted specifications for pressure indicators. Would Ashcroft 1279 model pressure indicators are acceptable to the owner?
29	09 90 00	1	0	Protective Coatings	General	Clarification	Please allow Aria Filtra to use the offering of the painting/protective coating requirements in similar to the Aria Filtra's standard that has been used to existng MF systems at Castle Rock. Aria Filtra's Painting and protective coating standard is attached.
30	46 61 33 3.04. A.	21	0	MEMBRANE FILTRATION SYSTEM TRAINING	The training provided by the Supplier shall be recorded (provide 3 DVD copies and one electronic copy) for further use by the Owner and include the following topics at a minimum:	Clarification	Aria Filtra would like to clarify that the recorded videos in the training are the copyrighted property of Aria Filtra and are intended for the owner's training purposes only. Aria Filtra grants a limited, non-exclusive, non-transferable and non-assignable use of such video recordings for internal training use. Distribution of copyrighted training materials beyond the Castle Rock PUWPF Plant do require Aria Filtra's authorization. It is also Aria Filtra's understanding that the training video recording is not in the scope of supply and shall be scoped by others.
31	46 61 33 2.08	12	0	INTEGRATION AND CONTROLS	Aria Filtra Scope of Supply	Clarification	Aria Filtra interprets the specifications in 46 61 33 and Division 40 as such that the partial migration to Plant Pax objects and AOIs in the scope of, and achieve the compliancy, to the following objects only: Analog and discrete I/O input and output signals includes instruments - pressure, flow, level, temperature, turbidity, discrete switches (flow, level switches), motors/pumps, strainers, valves, heaters on the existing and proposed MF equipment. The Budgetary proposal scoped for replacing the existing control panel to the new control panel, however, in the fianl design review for the firm proposal,control panel replacement is not required with the proposed expansion.
32	46 61 33 1.07. A	4	0	Gurantees	The Supplier shall provide a guaranteed maximum membrane replacement price to the Owner, valid up to 20 years following Initial Acceptance, as a cost per module and as a cost for the total system. The membrane price is subject to adjustment in accordance with the CPI. If at any time the supplier's list price of the membranes is lower than the guaranteed maximum membrane replacement price in the continental United States, the Owner shall be offered the lower price.	Clarification	We have provide the included GUARANTEE OF MEMBRANE REPLACEMENT PRICE Town of Castle Rock, Plum Creek Water Purification Facility Expansion Project that was provided to Pagosa AWSD that was agreed on June 2023 to comply with the requirements. A 20-year price is not possible.
33	46 61 33 1.05 2. D.	3	0	WARRANTIES	If the system fails to meet the specified performance requirements after the Supplier has repaired or replaced the membrane products, the Supplier shall be responsible to provide and install additional membrane elements and all associated components and ancillary equipment, at Suppliers cost.	Exception	Delete all references to install. We did not provide the installation and will not assume additional scope of work related to the warranty.
34	46 61 33 3.01. B.	17	0	Installation	The Supplier shall supply all necessary control system addresses, control logic, and operator workstation screens in order for the Contractor's System Integrator to program the plant control system operator screens, database, trends, reports and alarms.	Exception	This specification is acceptable to Aria Filtra with an IP License agreement in place. Please modify the specifications to include the requirement of IP License Agreement with Aria Filtra.

Exhibit I
Exceptions & Clarifications

35	46 61 33 3.02. D. 5. k.	19	0	Energy Usage	Monitor average power consumption and maximum power demand for the Membrane Filtration System for the duration of the test period. The energy usage shall not be greater than the value indicated in the bid form.	Exception	Additional cost adder to rent the power usage equipment and the quantity will depend on the plant design. Please delete, not necessary.
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Exhibit J
Contractor's Equipment Rates

EQUIPMENT PRICING SHEET

PROJECT: PCWPF Expansion Project

BID DATE - 4/30/24

These rates do not include Fuel, Oil or Grease

EQUIPMENT DESCRIPTION	DEALER	Monthly Rate
Car 349 Excavator	Garney	\$20,185.00
Car 336 Excavator	Garney	\$11,755.00
Car 329 Excavator	Garney	\$11,805.00
Cat 321 Excavator	Garney	\$8,060.00
3.5 cy Loader/624/938	Garney	\$7,370.00
Cat D-5 Dozer w/ Ripper	Garney	\$9,345.00
Rubber Tire Backhoe/IT	Garney	\$4,065.00
110 ton Crawler Crane	Garney	\$20,385.00
80/ 100 ton Crawler Crane	Garney	\$16,310.00
Terex 80 ton Crane	Garney	\$15,595.00
Terex 55 ton Crane	Garney	\$12,440.00
Grove 60 ton Crane	Garney	\$13,000.00
Grove 22-28 ton Crane	Garney	\$8,000.00
Gen Sets - 45-55kva	Garney	\$2,000.00
Air Compressors	Garney	\$ 1350.00