

**TOWN OF CASTLE ROCK  
CONSTRUCTION CONTRACT  
(McMurdo Gulch – Terrain Channel Improvements)**

THIS CONSTRUCTION CONTRACT (Contract) between the Town of Castle Rock, a municipal corporation, 100 N. Wilcox Street, Castle Rock, Colorado 80104 (“Town”) and 53 Corporation, LLC, a Colorado limited liability company, 5655 Peterson Road, Sedalia, Colorado 80135 (“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 Work described in the Contract.

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

**LIST OF CONTRACT DOCUMENTS**

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

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

<b>Number</b>	<b>Date</b>	<b>Pages</b>
<i>Addendum No. 1</i>	<i>10/28/19</i>	<i>10</i>
6. Special Conditions of the Contract:
 

<b>Title</b>
<i>Standard Special Provisions</i>
<i>Mile High Flood District (MFHD) Section 00 73 00 Supplementary Conditions</i>
7. The following Specifications:
 

<b>Title</b>
<i>Mile High Flood District (MHFD) Technical Specifications</i>
<i>Town of Castle Rock Construction Methodology and Materials Manual</i>
<i>Town of Castle Rock Temporary Erosion and Sediment Control (TESC) Manual</i>
<i>Town of Castle Rock Details</i>
8. The following Drawings:
 

<b>Title</b>
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*Contract Drawings for the Construction of McMurdo Gulch – Terrain Channel Improvements; 22 pages*  
*Grading, Erosion, and Sediment Control (GESCC) Plan for McMurdo Gulch – Terrain Channel Improvements*

9. Notice of Award;
10. Invitation to Bid;
11. Information and Instructions to Bidders;
12. Notice of Substantial Completion;
13. Notice of Construction Completion;
14. Proposal Forms, including Bid Schedules;
15. Performance, and Labor and Material Payment Bonds;
16. Performance Guarantee; and
17. Insurance Certificates.
18. USACE Section 404 Permit, NOW-2018-01668-DEN.

**CONTRACT PRICE.** The Town shall pay the Contractor for performing the Work and the completion of the Project according to the Contract, subject to Change Orders as approved in writing by the Town, under the guidelines in the General Conditions. The Town will pay \$687,959 (Contract Price), to the Contractor, subject to full and satisfactory performance of the terms and conditions of the Contract. The Contract Price is provisional based on the quantities contained in the Contractor's Bid attached as **Exhibit 1**. The final Contract Price shall be adjusted to reflect actual quantities incorporated into the Work at the specified unit prices. The Town has appropriated money equal or in excess of the Contract Price for this work.

**COMPLETION OF WORK.** The Contractor must begin work covered by the Contract within 10 calendar days, and must complete work within 180-calendar days from and including the date of Notice to Proceed, according to the General Conditions. The Work should be completed by June 12, 2020.

**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 for each day that the Work shall remain uncompleted from monies due or that may become due the Contractor. This sum is not a penalty but is a reasonable estimate of liquidated damages.

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

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

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

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

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

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

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

**STATUS OF CONTRACTOR.** The Contractor is performing all work under the Contract as an independent Contractor and not as an agent or employee of the Town. No employee or official of the Town will supervise the Contractor. The Contractor will not supervise any employee or official of the Town. The Contractor shall not represent that it is an employee or agent of the Town in any capacity. **The Contractor and its employees are not entitled to Town Workers' Compensation benefits and are solely responsible for federal and state income tax on money earned.** This is not an exclusive contract.

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

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

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

Executed this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_.

**ATTEST:**

**TOWN OF CASTLE ROCK**

\_\_\_\_\_  
Lisa Anderson, Town Clerk

\_\_\_\_\_  
Jason Gray, Mayor

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Robert J. Slentz, Town Attorney

**CONTRACTOR:**

**53 CORPORATION, LLC**  
a Colorado limited liability company

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

Title: \_\_\_\_\_

**EXHIBIT 1  
(BID)**

# EXHIBIT 1

## MCMURDO GULCH AT TERRAIN Bid Schedule

BID ITEM NO.	UDFCD / MHFD BID ITEM CODE	DESCRIPTION OF BID ITEM	PAY UNIT	QUANTITY	UNIT PRICE	TOTAL COST
1	GN-01-001	Clearing and Grubbing	AC	3.8	1,700.00	6,460.00
2	GN-02-001	Mobilization	LS	1	40,000.00	40,000.00
3	GN-04-001	Surveying	LS	1	22,000.00	22,000.00
4	GN-05-001	Traffic Control	LS	1	10,000.00	10,000.00
5	GN-06-001	Water Control	LS	1	25,000.00	25,000.00
6	GN-10-001	Materials Testing	LS	1	9,000.00	9,000.00
7	RR-09-001	Modify Existing Check Structures	SF	946	15.00	14,190.00
8	RR-10-001	Remove and Replace Curb and Gutter	LF	20	85.00	1,700.00
9	RR-10-002	Remove and Replace Concrete Sidewalk	SY	25	150.00	3,750.00
10	ESC-03-002	Check Dam, Reinforced	CY	20	215.00	4,300.00
11	ESC-05-001	Concrete Washout Area (for Flow Fill)	EA	1	1,100.00	1,100.00
12	ESC-09-001	Inlet Protection	EA	1	250.00	250.00
13	ESC-13-001	Sediment Control Log	LF	1316	5.00	6,580.00
14	ESC-15-001	Silt Fence	LF	284	2.00	568.00
15	ESC-15-002	Construction Fence	LF	500	2.00	1,000.00
16	ESC-17-003	Repair Access Road	CY	1170	43.00	50,310.00
17	ESC-20-001	Vehicle Tracking Control	SY	91	30.00	2,730.00
18	ESP-05-001	Excavation, Muck, Replace with Approved Material	CY	500	70.00	35,000.00
19	ESP-07-001	Topsoil, Excavate, Stockpile, and Replace	CY	2360	15.00	35,400.00
20	ESP-02-001	Earthwork, Excavation and Fill On-Site	CY	3425	12.00	41,100.00
21	ESP-02-002	Earthwork, Excavation, and Haul Off Site	CY	5683	12.00	68,196.00
22	LS-02-006	Erosion Control Blanket Coir mat	SY	4800	8.00	38,400.00
23	GG-02-001	Geotextile, Non-Woven (5.4' Boulder Cascade)	SY	76	7.00	532.00
24	RW-06-002	Boulder, Feature, 24-Inch (5.4' Boulder Cascade)	EA	32	155.00	4,960.00
25	RW-06-003	Boulder, Feature, 30-Inch (5.4' Boulder Cascade)	EA	53	205.00	10,865.00
26	RW-06-004	Boulder, Feature, 36-Inch (5.4' Boulder Cascade - Anchor Boulders)	EA	30	330.00	9,900.00
27	RW-11-004	Riprap, Void-Filled, Type H (5.4' Boulder Cascade)	CY	416	80.00	33,280.00
28	RW-13-001	Pitrun (Below the Upper Pool of the Boulder Cascade)	CY	7	115.00	805.00
29	RW-14-001	Boulder Backfill (Between Upper Row of Boulders on the Boulder Cascade)	CY	3	375.00	1,125.00
30	RW-12-002	Soil Riprap, Type L (Rock Toe Along Outside of Bends)	CY	172	67.00	11,524.00
31	RW-12-002	Soil Riprap, Type L (Boulder Cascade Overbank Rock)	CY	212	67.00	14,204.00
32	RW-11-003	Riprap, Void-Filled, Type M (Low-Flow Crossing Armoring)	CY	142	100.00	14,200.00
33	RW-11-003	Riprap, Void-Filled, Type M (Tributary Rundowns)	CY	197	100.00	19,700.00
34	RW-11-004	Riprap, Void-Filled, Type H (Riffle Rock)	CY	1801	75.00	135,075.00
Planting						
35	LS-07-001	Mulch, Broadcast Straw (Under Coir Mat)	AC	1.0	1,550.00	1,550.00
36	LS-07-002	Mulch, Crimped Straw (Outside blanket area)	AC	1.9	1,700.00	3,230.00
37	LS-09-002	Plug, Wetland (10-cc tubelings)	EA	1440	2.50	3,600.00
38	LS-09-003	Plug, Wetland (Onsite Transplant)	EA	450	2.50	1,125.00
39	LS-10-002	Seeding, Riparian, Drilled	AC	1.7	1,000.00	1,700.00
40	LS-10-006	Seeding, Upland, Drilled (Douglas County Permanent Upland Seed Mix)	AC	1.3	750.00	975.00
41	LS-11-004	Shrub / Planting, 2 Gallon	EA	85	40.00	3,400.00
42	LS-11-005	Shrub / Planting, 5 Gallon	EA	15	45.00	675.00
43	LS-14-004	Willow Stakes	EA	700	5.00	3,500.00
					TOTAL =	692,959.00

SIX HUNDRED NINETY TWO THOUSAND NINE HUNDRED FIFTY  
NINE DOLLARS AND ZERO CENTS.

## McMurdo Gulch at Terrain Channel Improvements

### BID SCHEDULE DEDUCTIONS

The Owner intends to award McMurdo Gulch at Terrain Channel Improvements project to the lowest responsible and responsive Bidder, within the limits of funds available and which best serves their interest. In an effort to maximize this intent, the Owner is considering options for award of this project in conjunction with the McMurdo Gulch Priority 1 Channel Improvements project, being bid on the same date.

Award of McMurdo Gulch at Terrain Channel Improvements project and McMurdo Gulch Priority 1 Channel Improvements project may be to one Contractor or to two separate Contractors. If one Contractor is to be awarded both projects, then the lowest responsible and responsive Bidder will, in part, be based on the total of the Bid Schedule plus the Bid Schedule Deduct. If separate Contractors are to be awarded each project, then the lowest responsible and responsive Bidder will, in part, be based on the total of the Bid Schedule.

The Contractor agrees that the following deduction shall be applied to the bid schedule if both the McMurdo Gulch at Terrain Channel Improvements project and the McMurdo Gulch Priority 1 Channel Improvements project contracts are awarded to the same Contractor. The deduction shall be the decrease in cost for Bid Item No. 2 Mobilization in the McMurdo Gulch at Terrain Channel Improvements. A separate and additional deduction is included in the McMurdo Gulch Priority 1 Channel Improvements project bid package.

DEDUCT – BID ITEM NO. 2 MOBILIZATION

\$ 5,000.00

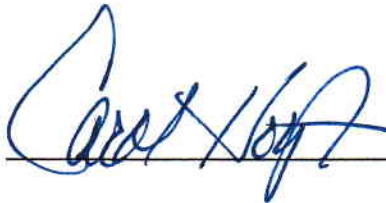
### PROJECT SCHEDULE ADJUSTMENT

The Contractor agrees that if both the McMurdo Gulch at Terrain Channel Improvements project and the McMurdo Gulch Priority 1 Channel Improvements project contracts are awarded to the same Contractor the combined project schedule shall be adjusted to allow for a One Hundred Eighty (180) day construction schedule in which to complete the combined projects.

This proposal is submitted by:

CONTRACTOR: 53 CORPORATION, LLC  
5055 PETERSON RD.

BY:



ADDRESS: SEDALIA, CO 80135

TITLE:

MANAGING MEMBER

Attest:

SECRETARY:

(if corporation)

DATE:

11/7/19

McMurdo Gulch at Terrain Channel Improvements