



City of Woodland Park

City Council

May 5, 2022 at 7:00 PM

AGENDA

5:45 PM Work Session: Joint worksession of the Woodland Park City Council and the Woodland Park Planning Commission to discuss Short Term Rentals.

- 1. CALL TO ORDER AND ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. CEREMONIES, PRESENTATIONS AND APPOINTMENTS**
 - A.** Introductions and thank you to the 2022 Municipal Election Judges.
(Presenter Deputy City Manager/City Clerk Suzanne Leclercq)
 - B.** Welcome and congratulations to the new City Councilmembers from the Teller County Commissioners.
 - C.** Appointments to the Parks and Recreation Advisory Board and the Historical Preservation Committee. (A)
(Presenter Deputy City Manager/City Clerk Suzanne Leclercq)
 - D.** Presentation of Police Community Engagement Forum.
(Presenter Chief of Police Chris Deisler)
- 4. ADDITIONS, DELETIONS OR CORRECTIONS TO AGENDA**
- 5. CONSENT CALENDAR**
 - A.** Approval of the April 7, 2022 Regular City Council Meeting.
(Presenter Deputy City Manager/City Clerk Suzanne Leclercq)
 - B.** Approval of the March 2022 Statement of Expenditures and authorize the Mayor to sign Warrants in payment thereof. (A)
(Presenter Finance Director Aaron Vassalotti)
 - C.** Baldwin Street - Rampart Range Road/Kellys Pavement Rehabilitation Contract between the City of Woodland Park and Kiewit Infrastructure Co. in the amount of \$2,277,264.00
 - D.** Street and Parking Lot Restriping Contract between the City of Woodland Park and American Striping Company in the amount of \$102,185.60
 - E.** Parking Lot Seal Coating, Patching, and Crack Sealing Contract between the City of Woodland Park and A-1 Chipseal Co. in the Amount of \$104,216.50
- 6. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA (1)**
- 7. UNFINISHED BUSINESS**
(Public Comment may be heard)

8. ORDINANCES ON INITIAL POSTING

(Public comment may be heard)

9. PUBLIC HEARINGS

(Public comment may be heard)

10. NEW BUSINESS

(Public comment may be heard)

- A.** Approve Resolution No. 889, Series 2022 implementing Level 2 Water Restrictions for the City of Woodland Park. (A)
(Presenter Deputy City Manager/Director of Operations Kip Wiley)
- B.** Council discussion and appointments of liaisons to the current City Boards and Committees.
(Presenter Deputy City Manager/City Clerk Suzanne Leclercq)

11. REPORTS

(Public comment not necessary)

- A.** Mayor's Report
- B.** Council Reports
- C.** City Attorney's Report
- D.** City Manager's Report

12. ADJOURNMENT

*Per Ordinance No. 1391, Series 2021 posted on the City Website

Key to agenda abbreviations:

(A) Administrative- matters involving day-to-day decisions such as approving contracts, hiring staff and the procurement of goods and services. Administrative actions generally do not require formal actions by the elected body.

(L)Legislative- typically in the policy arena; legislative matters affect large areas and large groups of people, such as enacting dog regulations or amending the City code. Legislative action generally involves motions, resolutions and ordinances.

(QJ)Quasi-Judicial- apply general rules to a specific interest, such as zoning change affecting a single piece of property, or a special use permit. Quasi-Judicial actions generally involve adjudication, sometimes in writing, but not a resolution or ordinance. Decision for Quasi-Judicial proceedings are made exclusively based upon the testimony presented on the record. Ex-parte communication (communication outside the official hearing) between elected officials and citizens is not permitted on Quasi-Judicial



STAFF REPORT

TO: Mayor LaBarre and City Council

FROM:

DATE: May 5, 2022

SUBJECT: Appointments to the Parks and Recreation Advisory Board and the Historical Preservation Committee. (A)
(Presenter Deputy City Manager/City Clerk Suzanne Leclercq)

BACKGROUND: There are currently four positions on the Parks and Recreation Advisory Board that will expire in April 2022. The City Clerk's office advertised these positions and sent letters to all of the incumbents. The City Clerk's Office received four applications. Three applications were received from incumbents Jerry Smith, Teri Baldwin and Susan Janicki. An application was also received from Kathy Evans. The applications will be sent to the Council for their review. The term of office for these positions will expire in April 2024.

RECOMMENDATION:

ATTACHMENTS: None



City of Woodland Park

April 7, 2022 at 7:00 PM

MINUTES

1. CALL TO ORDER AND ROLL CALL

Mayor LaBarre called the Council Meeting to order at 7:00 PM with the following Councilmembers present: Mayor LaBarre, Mayor Pro-tem Case, Councilmember Alfieri, Councilmember Nakai, Councilmember Neail and Councilmember Zuluaga.

The following staff members were present: City Manager Lawson, Deputy City Manager/City Clerk Leclercq, Assistant to the City Manager Felts, Chief of Police Deisler,

2. PLEDGE OF ALLEGIANCE

3. CEREMONIES, PRESENTATIONS AND APPOINTMENTS

A. Election results and re-cap. (A) (Presenter City Clerk Suzanne Leclercq)

City Clerk Leclercq reviewed the election results of the April 5, 2022 Municipal Election. Leclercq shared that in this election there were 2503 votes returned. Leclercq shared that in 2020 there were 2250 votes returned and that this election turnout was the largest in recent years. Leclercq shared that there were 8 election judges who she will introduced at the next Council Meeting. She shared that there were two watchers and that one of the watchers stayed for about 12 hours on election day. Leclercq shared that even though there were challenges including the loss of power on election day for 4 hours, ballots being mailed to underage voters by the County, all and all things went very smoothly. Leclercq shared how much she appreciated all of the election judges and their help.

B. Farewell to and statements by outgoing City Council Members.
Councilmember Alfieri shared a few words regarding her tenure as a Councilmember.

C. Oath of Office to Mayor. (A) (Presenter City Clerk Suzanne Leclercq)

City Clerk Leclercq administered the Oath of Office to elected Mayor Hilary LaBarre.

D. Oath of Office to members of City Council. (A) (Presenter City Clerk Suzanne Leclercq)

City Clerk Leclercq administered the Oath of Office to elected Councilmember Kellie Case.

City Clerk Leclercq administered the Oath of Office to elected Councilmember Frank Connors.

City Clerk Leclercq administered the Oath of Office to elected Councilmember Catherine Nakai.

City Clerk Leclercq administered the Oath of Office to elected Councilmember David Ott.

- E. Selection of Mayor Pro-tem. (A)**
(Presenter City Clerk Suzanne Leclercq)

Following Council discussion, the following motion was made.

Motion: to appoint Councilmember Kellie Case as Mayor Pro-tem. Neal/Nakai. Motion carried 5-1 with Zuluaga voting no.

- F. Thank you and farewell to interim Police Chief Steve Hasler.**
(City Manager Michael Lawson)

City Manager Lawson thanked Interim Chief Hassler for all of his hard work and dedication as Interim Chief of Police. Hassler thanked the City, the Council and the residents for the opportunity. Hasler also thanked all of the Police Department Staff. Lawson presented Hassler with a city coin.

- G. Oath of Office to Police Chief Chris Deisler. (A)**
Presenter City Clerk Suzanne Leclercq

City Clerk Leclercq administered the Oath of Office to Police Chief Chris Deisler. Deisler thanked the Council and shared a few words.

- H. Citizens Academy Graduation - Class of Winter 2022. (A)**
(Presenter Communications & Marketing Coordinator Grace Johnson)

Communications and Marketing Coordinator Grace Johnson introduced the Citizens Academy graduating class.

4. ADDITIONS, DELETIONS OR CORRECTIONS TO AGENDA

5. CONSENT CALENDAR

- A. Approval of minutes from the March 17, 2022 Council Meeting. (A)**
(Presenter City Clerk Suzanne Leclercq)

Approval of minutes from the March 17, 2022 City Council Meeting. City Clerk Leclercq reviewed the minutes with the Council adding a correction. Ordinance No. 420 did not have the motion in the minutes. The motion was made by Nakai and seconded by Alfieri. Motion passed 6-0.

Motion: To approve the March 17, 2022 minutes as amended. Case/Zuluaga. 7-0.

6. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA

Michale Dalton shared that he is excited for the new Council and the new Police Chief.

7. UNFINISHED BUSINESS

Public comment may be heard

8. ORDINANCES ON INITIAL POSTING

Public comment may be heard

9. PUBLIC HEARINGS

Public comment may be heard

- A. Approval of Ordinance 1421, Series 2022, to amend 2022 Budget expenditure and revenue appropriations (Budget Supplemental Ordinance). (A)**
(Presenter, Finance Director Aaron Vassalotti)

Finance Director Aaron Vassalotti reviewed Ordinance No. 1421, Series 2022 with the Council. There being no Council discussion, Mayor LaBarre opened up the Public Comment. There being no Public Comment, Mayor LaBarre closed the public hearing.

Motion: To approve Ordinance No. 420, Series 2022 to amend 2022 Budget expenditures and revenue appropriations. Connors/Ott. 7-0.

10. NEW BUSINESS

11. REPORTS

A. Mayor's Report

Mayor LaBarre thanked the residents for their support during the election.

B. Council Reports

Councilmembers Case, Connors and Nakai all thanked the residents for their support during the election.

Councilmember Neal shared updates on the Historical Preservation Committee and the Downtown Development Authority.

Councilmember Zuluaga shared an update on PPACG.

C. City Attorney's Report

D. City Manager's Report

- 1. Discussion of City Council members to various Boards, Committees & Commissions. (A)**
(Presenter, City Clerk Suzanne Leclercq)

City Clerk Leclercq shared a sheet with the assignments of liaisons for the various Boards and Committees. Leclercq shared that she would be bringing this back to the Council at a future date for their discussion.

12. ADJOURNMENT

Mayor LaBarre adjourned the City Council meeting at 8:26 PM.

Respectfully submitted:

Suzanne Leclercq MMC, City Clerk

APPROVED THIS ____ DAY OF _____, 2022

Hilary LaBarre, Mayor



STAFF REPORT

TO: Mayor LaBarre and City Council

FROM: Aaron Vassalotti, Finance Director

DATE: May 5, 2022

SUBJECT: Approval of the March 2022 Statement of Expenditures and authorize the Mayor to sign Warrants in payment thereof. (A)
(Presenter Finance Director Aaron Vassalotti)

BACKGROUND: The City Council receives and approves the Statement of Expenditures for each month.

RECOMMENDATION: Approve March 2022 Statement of Expenditures and authorize the Mayor to sign Warrants in payment thereof.

ATTACHMENTS: 1. Statement of Expenditures-March 2022



City of Woodland Park Staff Report for City Council

Meeting Date: May 5, 2022

<u>Agenda Item</u>	<u>Department</u>	<u>Presenter</u>
5E	Finance	Aaron Vassalotti Finance Director

ITEM:

March 2022 Statement of Expenditures

BACKGROUND:

The City Council receives and approves the Statement of Expenditures for each month.

DISCUSSION:

Please review the following and attached check registers in support of the Statement of Expenditures.

Summary

March 2022	
Accounts Payable Checks	930,017.09
Payroll Checks	401,834.21
Vectra Visa credit card EFT	13,565.57
CEBT	74,010.80
Total	1,419,427.67

The Elected Officials expenditures for March 2022 are attached as a separate report.

STAFF RECOMMENDATION:

Approve March 2022 Statement of Expenditures and authorize the Mayor to sign Warrants in payment thereof.

City of Woodland Park
Year End Payment Register

Bank Number: 1 / Name: VECTRA BANK COLORADO / Description: ACCOUNTS PAYABLE (719)687-9246

Payment Number	Type	ID	Name	SRC	Num INV	Gross Amount	Discounts	Net Pay	Payment Date	HP Void	Batch
113608	CHK	A	AIS SPECIALTY PRODUCTS, INC	3074	1	470.00	0.00	470.00	03/03/2022		42740
			CUSTODIAL SUPPLIES - B&G	PSI433762		470.00	0.00	470.00			
113609	CHK	A	AUTO TRUCK GROUP, LLC	4630	1	418.00	0.00	418.00	03/03/2022		42740
			#54 REPAIR	1839024		418.00	0.00	418.00			
113610	CHK	A	BLACK HILLS ENERGY	4035	4	17,318.04	0.00	17,318.04	03/03/2022		42740
			02/2022 CHARGES	2232022		17,318.04	0.00	3,277.31			
			02/2022 CHARGES	2232022		17,318.04	0.00	6,190.52			
			02/2022 CHARGES	2232022		17,318.04	0.00	6,728.19			
			02/2022 CHARGES	2232022		17,318.04	0.00	1,122.02			
113611	CHK	A	BUSINESS SOLUTIONS GROUP	2504	2	844.16	0.00	844.16	03/03/2022		42740
			UTILITY POSTCARD BILLING	15919		844.16	0.00	548.71			
			UTILITY POSTCARD BILLING	15919		844.16	0.00	295.45			
113612	CHK	A	CAPITAL ONE, N.A.	5298	3	394.51	0.00	394.51	03/03/2022		42740
			01/22-02/22 CHARGES	2192022		394.51	0.00	372.87			
			01/22-02/22 CHARGES	2192022		394.51	0.00	14.07			
			01/22-02/22 CHARGES	2192022		394.51	0.00	7.57			
113613	CHK	A	CENTURYLINK	4342	2	397.80	0.00	397.80	03/03/2022		42740
			12/2021 CHARGES	1252022		397.80	0.00	260.42			
			12/2021 CHARGES	1252022		397.80	0.00	137.38			
113614	CHK	A	CORE & MAIN LP	4980	3	1,738.79	0.00	1,738.79	03/03/2022		42740
			SUPPLIES - F/S	Q291325		85.00	0.00	85.00			
			STOCK-F/S-PARTS	Q291328		104.67	0.00	104.67			
			SUPPLIES - F/S	Q291329		1,549.12	0.00	1,549.12			
113615	CHK	A	CORE ELECTRIC COOPERATIVE	5316	8	37,677.00	0.00	37,677.00	03/03/2022		42740
			12/21-01/22 CHARGES	2012022A		7,792.74	0.00	7,107.16			
			12/21-01/22 CHARGES	2012022A		7,792.74	0.00	626.68			
			12/21-01/22 CHARGES	2012022A		7,792.74	0.00	58.90			
			01/22-02/22 CHARGES	2092022B		16,068.82	0.00	7,280.77			
			01/22-02/22 CHARGES	2092022B		16,068.82	0.00	3,579.27			
			01/22-02/22 CHARGES	2092022B		16,068.82	0.00	5,208.78			
			01/22-02/22 CHARGES	2222022C		13,815.44	0.00	2,208.42			
			01/22-02/22 CHARGES	2222022C		13,815.44	0.00	11,607.02			
113616	CHK	A	DATE WITH PAINT	5352	1	126.25	0.00	126.25	03/03/2022		42740
			INSTRUCTOR - P&R	02232022		126.25	0.00	126.25			
113617	CHK	A	DYLAN MILDBRANDT	5312	1	78.00	0.00	78.00	03/03/2022		42740
			REPLACED LIGHTS	02282022		78.00	0.00	78.00			
113618	CHK	A	EL PASO CTY PUBLIC HEALTH LABO	241	1	252.00	0.00	252.00	03/03/2022		42740
			BACTERIOLOGICAL TESTS	013122		252.00	0.00	252.00			
113619	CHK	A	FRONT RANGE KUBOTA	5149	1	1,406.32	0.00	1,406.32	03/03/2022		42740
			#29 REPAIR	14792F		1,406.32	0.00	1,406.32			
113620	CHK	A	GALLS, LLC	5221	7	359.29	0.00	359.29	03/03/2022		42740
			UNIFORM - WPPD	020393630		51.80	0.00	51.80			
			UNIFORM - WPPD	020414296		21.00	0.00	21.00			
			UNIFORM - WPPD	020434334		71.20	0.00	71.20			

City of Woodland Park
Year End Payment Register

Bank Number: 1 / Name: VECTRA BANK COLORADO / Description: ACCOUNTS PAYABLE (719)687-9246

Payment Number	Type	ID	Name	SRC	Num INV	Gross Amount	Discounts	Net Pay	Payment Date	HP Void	Batch
			UNIFORM - WPPD	020446611		75.65	0.00	75.65			
			UNIFORM - WPPD	020457510		104.64	0.00	104.64			
			UNIFORM - WPPD	020468219		17.50	0.00	17.50			
			UNIFORM - WPPD	020468220		17.50	0.00	17.50			
113621	CHK	A	GEMPLER'S	4026	1	442.77	0.00	442.77	03/03/2022		42740
			SAFETY ITEMS - ST.	INV0004491918		442.77	0.00	442.77			
113622	CHK	A	GLASER GAS, INC.	3244	2	140.00	0.00	140.00	03/03/2022		42740
			PROPANE REFILL	93409		70.00	0.00	70.00			
			PROPANE - ZAMBONI	98122		70.00	0.00	70.00			
113623	CHK	A	GOVOS	5349	1	2,120.50	0.00	2,120.50	03/03/2022		42740
			03/2022 VRBO MONITORING	INV-KSW-003117		2,120.50	0.00	2,120.50			
113624	CHK	A	HOME DEPOT CREDIT SERVICES	1758	1	699.09	0.00	699.09	03/03/2022		42740
			01/2022 CHARGES	2232022		699.09	0.00	699.09			
113625	CHK	A	KROGER-KING SOOPERS CUST CHGS	145	1	895.83	0.00	895.83	03/03/2022		42740
			01/2022 CHARGES	3012022		895.83	0.00	895.83			
113626	CHK	A	CONNIE FULLER	1	3	56.76	0.00	56.76	03/03/2022		42740
			UTILITY REFUND	1352.16		56.76	0.00	16.60			
			UTILITY REFUND	1352.16		56.76	0.00	37.70			
			UTILITY REFUND	1352.16		56.76	0.00	2.46			
113627	CHK	A	CATHLEEN A BUETTNER	1	1	58.51	0.00	58.51	03/03/2022		42740
			UTILITY REFUND	2851.02		58.51	0.00	58.51			
113628	CHK	A	KYLE EICHELBURG	1	1	56.00	0.00	56.00	03/03/2022		42740
			REFUND - P&R	35964147		56.00	0.00	56.00			
113629	CHK	A	REMAX PROPERTY MGMT	1	1	15.19	0.00	15.19	03/03/2022		42740
			UTILITY REFUND	3941.21		15.19	0.00	15.19			
113630	CHK	A	STACY DEREMUS	1	1	17.04	0.00	17.04	03/03/2022		42740
			UTILTIY REFUND	706.02		17.04	0.00	17.04			
113631	CHK	A	NATIONAL ALLIANCE/YOUTH SPORTS	3249	1	329.23	0.00	329.23	03/03/2022		42740
			BASKETBALL	59213		329.23	0.00	329.23			
113632	CHK	A	O'REILLY AUTOMOTIVE STORES, IN	4531	1	46.98	0.00	46.98	03/03/2022		42740
			01/2022 CHARGES	1282022		46.98	0.00	46.98			
113633	CHK	A	PEAK INTERNET	3141	6	19,291.79	0.00	19,291.79	03/03/2022		42740
			03/2022 CHARGES	132760		15,806.36	0.00	800.00			
			03/2022 CHARGES	132760		15,806.36	0.00	13,049.88			
			03/2022 CHARGES	132760		15,806.36	0.00	1,156.48			
			03/2022 CHARGES	132760		15,806.36	0.00	800.00			
			03/2022 CHARGES	132761		3,425.48	0.00	3,425.48			
			03/20022 CHARGES	403673		59.95	0.00	59.95			
113634	CHK	A	PRIORITY RESEARCH	4392	1	158.40	0.00	158.40	03/03/2022		42740
			BACKGROUND CHECKS	938210		158.40	0.00	158.40			
113635	CHK	A	REBECCA ALLEN	5329	1	260.00	0.00	260.00	03/03/2022		42740

City of Woodland Park
Year End Payment Register

Bank Number: 1 / Name: VECTRA BANK COLORADO / Description: ACCOUNTS PAYABLE (719)687-9246

Payment Number	Type	ID	Name	SRC	Num INV	Gross Amount	Discounts	Net Pay	Payment Date	HP Void	Batch
			02/2022 CHARGES	103		260.00	0.00	260.00			
113636	CHK	A	SAFEWAY, INC. 11/2021 CHARGES	1908 2142022	1	62.37 62.37	0.00 0.00	62.37 62.37	03/03/2022		42740
113637	CHK	A	SCOTT WILLIAMS INSTRUCTOR - P&R	5320 02282022	1	272.50 272.50	0.00 0.00	272.50 272.50	03/03/2022		42740
113638	CHK	A	SGS ACCUTEST INC. 12/21 WATER QUALITY TEST	4859 52160133717	1	208.00 208.00	0.00 0.00	208.00 208.00	03/03/2022		42740
113639	CHK	A	SOUTHERN GLAZER'S WINE & SPIRI LIQUOR DELIVERY	2805 2732341	1	168.01 168.01	0.00 0.00	168.01 168.01	03/03/2022		42740
113640	CHK	A	TELLER COUNTY 2021 ANIMAL CONTROL CONTRACT	1512 02212022	1	43,481.00 43,481.00	0.00 0.00	43,481.00 43,481.00	03/03/2022		42740
113641	CHK	A	TELLER COUNTY WASTE 2021-2023 Contract Disposal 2021-2023 Contract Disposal 2021-2023 Contract Disposal 2021-2023 Contract Disposal	4158 1062022A 2072022 2072022 2072022	4	572.50 13.75 558.75 558.75 558.75	0.00 0.00 0.00 0.00 0.00	572.50 13.75 332.00 138.00 88.75	03/03/2022		42740
113642	CHK	A	THE AQUEOUS SOLUTION, INC. CHEMICALS - WAC01	3016 87868	1	1,526.02 1,526.02	0.00 0.00	1,526.02 1,526.02	03/03/2022		42740
113643	CHK	A	TRACTOR SUPPLY COMPANY 01/2022 CHARGES	4753 2242022	1	299.99 299.99	0.00 0.00	299.99 299.99	03/03/2022		42740
113644	CHK	A	UC HEALTH PIKES PEAK REGIONAL JOE WAGNER-WORKERS COMP	5040 2064105845	1	721.71 721.71	0.00 0.00	721.71 721.71	03/03/2022		42740
113645	CHK	A	USA BLUEBOOK SUPPLIES - WTP	1779 868098	1	545.74 545.74	0.00 0.00	545.74 545.74	03/03/2022		42740
113646	CHK	A	VERIZON 12/21-01/22 CHARGES 12/21-01/22 CHARGES 12/21-01/22 CHARGES 12/21-01/22 CHARGES 12/21-01/22 CHARGES	3856 9898219438 9898219438 9898219438 9898219438 9898219438	5	2,371.95 2,371.95 2,371.95 2,371.95 2,371.95 2,371.95	0.00 0.00 0.00 0.00 0.00 0.00	2,371.95 139.37 226.46 1,645.01 278.53 82.58	03/03/2022		42740
113647	CHK	A	WAXIE SANITARY SUPPLY CUSTODIAL SUPPLIES - B&G	4189 80681270	1	55.00 55.00	0.00 0.00	55.00 55.00	03/03/2022		42740
113648	CHK	A	XEROX BUSINESS SOLUTIONS SOUTH 01/22-02/22 BILLING 02/22-03/22 BILLING	5336 IN3533749 IN3566031	2	2,835.40 1,417.70 1,417.70	0.00 0.00 0.00	2,835.40 1,417.70 1,417.70	03/03/2022		42740
113649	CHK	A	AUTO TRUCK GROUP, LLC #54 REPAIR	4630 1840122	1	795.00 795.00	0.00 0.00	795.00 795.00	03/10/2022		42757
113650	CHK	A	BIRCHAM'S 02/2022 USAGE	75 340641	1	736.20 736.20	0.00 0.00	736.20 736.20	03/10/2022		42757
113651	CHK	A	BRIAN E. BUNDY	5208	1	840.00	0.00	840.00	03/10/2022		42757

Bank Number: 1 / Name: VECTRA BANK COLORADO / Description: ACCOUNTS PAYABLE (719)687-9246

Payment Number	Type	ID	Name	SRC	Num INV	Gross Amount	Discounts	Net Pay	Payment Date	HP Void	Batch
			ACCT. SUPPORT SERVICES	03062022		840.00	0.00	840.00			
113652	CHK	A	CASELLE INC	2356	2	498.00	0.00	498.00	03/10/2022		42757
			04/2022 CONTRACT	115523		498.00	0.00	323.70			
			04/2022 CONTRACT	115523		498.00	0.00	174.30			
113653	CHK	A	CCP INDUSTRIES	4180	1	119.29	0.00	119.29	03/10/2022		42757
			SUPPLIES - WWTP	IN02957690		119.29	0.00	119.29			
113654	CHK	A	CENTURYLINK	4342	2	403.16	0.00	403.16	03/10/2022		42757
			02/2022 CHARGES	2252022		403.16	0.00	262.62			
			02/2022 CHARGES	2252022		403.16	0.00	140.54			
113655	CHK	A	CINTAS CORPORATION NO 2	4977	2	127.67	0.00	127.67	03/10/2022		42757
			UNIFORMS - FLEET	4111080151		76.68	0.00	76.68			
			UNIFORM - FLEET	4111771712		50.99	0.00	50.99			
113656	CHK	A	COLORADO RANGERS LAW ENFORCEME	5357	1	4,900.00	0.00	4,900.00	03/10/2022		42757
			M.O.U. FEE SCHEDULE	03012022		4,900.00	0.00	4,900.00			
113657	CHK	A	CONSPIRE!	3235	1	220.00	0.00	220.00	03/10/2022		42757
			DRUG SCREEN	21564		220.00	0.00	220.00			
113658	CHK	A	COUNTY SHERIFFS OF COLORADO	2333	1	385.00	0.00	385.00	03/10/2022		42757
			BACKGROUND INVESTIGATION CLASS	22-031BIC		385.00	0.00	385.00			
113659	CHK	A	CREATIVE CONCEPTS OF AMERICA	2676	1	5,819.50	0.00	5,819.50	03/10/2022		42757
			EMPLOYEE CLOTHING	2885		5,819.50	0.00	5,819.50			
113660	CHK	A	CREATIVE SERVICES OF NEW ENGLA	5235	1	264.95	0.00	264.95	03/10/2022		42757
			COMMUNITY BADGE STICKERS	D21-25828		264.95	0.00	264.95			
113661	CHK	A	DARREN TRAYLOR	5358	1	1,064.00	0.00	1,064.00	03/10/2022		42757
			TRAINING - SRO	03072022		1,064.00	0.00	1,064.00			
113662	CHK	A	EMPLOYERS COUNCIL SERVICES, IN	5099	1	210.00	0.00	210.00	03/10/2022		42757
			BACKGROUND CHECK	406289		210.00	0.00	210.00			
113663	CHK	A	FOXWORTH-GALBRAITH LUMBER CO	96	5	1,134.34	0.00	1,134.34	03/10/2022		42757
			01/2022 CHARGES	1312022		273.59	0.00	270.10			
			01/2022 CHARGES	1312022		273.59	0.00	3.49			
			01/2022 CHARGES	2282022		20.30	0.00	20.30			
			02/2022 CHARGES	2282022B		840.45	0.00	55.98			
			02/2022 CHARGES	2282022B		840.45	0.00	784.47			
113664	CHK	A	GALLS, LLC	5221	1	27.40	0.00	27.40	03/10/2022		42757
			UNIFORM - WPPD	020446613		27.40	0.00	27.40			
113665	CHK	A	GAZETTE, THE	276	1	109.33	0.00	109.33	03/10/2022		42757
			LEGAL FEES	02282022		109.33	0.00	109.33			
113666	CHK	A	HACH COMPANY	291	1	352.80	0.00	352.80	03/10/2022		42757
			LAB SUPPLIES - WTP	12878762		352.80	0.00	352.80			
113667	CHK	A	HOME DEPOT CREDIT SERVICES	1758	1	678.06	0.00	678.06	03/10/2022		42757
			02/2022 CHARGES	2252022		678.06	0.00	678.06			

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113668	CHK	A	JACK'S TIRE & OIL MANAGEMENT C TIRES	5215 B30136-88	1	429.52 429.52	0.00 0.00	429.52 429.52	03/10/2022		42757
113669	CHK	A	JDS - HYDRO CONSULTANTS, INC. DISINFECTION 01/22	2894 INV-0122-1812	1	16,627.27 16,627.27	0.00 0.00	16,627.27 16,627.27	03/10/2022		42757
113670	CHK	A	LAW ENFORCEMENT TARGETS, INC TRAINING TARGET RUNNER	5359 0530422-IN	1	2,040.31 2,040.31	0.00 0.00	2,040.31 2,040.31	03/10/2022		42757
113671	CHK	A	LEXIS NEXIS ACCURINT 02/2022 CONTRACT FEE	3379 1209360-20220228	1	30.00 30.00	0.00 0.00	30.00 30.00	03/10/2022		42757
113672	CHK	A	MANOLO DEJESUS TRAINING REIMB - MEALS	5291 03072022	1	1,064.00 1,064.00	0.00 0.00	1,064.00 1,064.00	03/10/2022		42757
113673	CHK	A	MEBULBS LAMPHOLDER - B&G	3794 37811194-01	1	104.81 104.81	0.00 0.00	104.81 104.81	03/10/2022		42757
113674	CHK	A	D CRAIG HARPER AND ASSOCIATES, POLYGRAPH - CHRIS DEISLER	1 02252022	1	110.00 110.00	0.00 0.00	110.00 110.00	03/10/2022		42757
113675	CHK	A	CHAD MASON UTILITY REFUND	1 1408.02	1	12.41 12.41	0.00 0.00	12.41 12.41	03/10/2022		42757
113676	CHK	A	COLORADO COMMUNICATIONS AND UT 2022 MEMBERSHIP	1 1487	1	550.00 550.00	0.00 0.00	550.00 550.00	03/10/2022		42757
113677	CHK	A	THE TRANSLATION & INTERPRETING INTERPRETER	1 17485	1	245.00 245.00	0.00 0.00	245.00 245.00	03/10/2022		42757
113678	CHK	A	JENNIFER & WILLIAM SANDERS UTILITY REFUND	1 4607.05	1	10.35 10.35	0.00 0.00	10.35 10.35	03/10/2022		42757
113679	CHK	A	DOUGLAS BITCON UTILTIY DEPOSIT	1 4661.15	1	13.33 13.33	0.00 0.00	13.33 13.33	03/10/2022		42757
113680	CHK	A	ARDENT INDUSTRIES UTILITY REFUND	1 871.02	1	59.93 59.93	0.00 0.00	59.93 59.93	03/10/2022		42757
113681	CHK	A	MUNICIPAL TREATMENT EQUIPMENT TUBE ASSY - WTP	451 21446	1	46.50 46.50	0.00 0.00	46.50 46.50	03/10/2022		42757
113682	CHK	A	NAPA AUTO PARTS 01/2022 CHARGES 01/2022 CHARGES 01/2022 CHARGES 02/2022 CHARGES 02/2022 CHARGES	2048 1312022 1312022 1312022 2282022 2282022	5	2,000.62 1,237.84 1,237.84 1,237.84 762.78 762.78	0.00 0.00 0.00 0.00 0.00 0.00	2,000.62 47.62 951.46 238.76 638.59 124.19	03/10/2022		42757
113683	CHK	A	O'REILLY AUTOMOTIVE STORES, IN 02/2022 CHARGES	4531 2282022	1	54.42 54.42	0.00 0.00	54.42 54.42	03/10/2022		42757
113684	CHK	A	ONLINE WEB SERVICES RENEWAL -TRACKING SUBSCRIPTION	5117 1847	1	948.00 948.00	0.00 0.00	948.00 948.00	03/10/2022		42757
113685	CHK	A	PERKINS MOTOR CITY DODGE	2354	1	101.88	0.00	101.88	03/10/2022		42757

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			#58 REPAIR	497713CHW		101.88	0.00	101.88			
113686	CHK	A	PHIL LONG FORD	504	1	33.43	0.00	33.43	03/10/2022		42757
			#30 - REPAIR	879893		33.43	0.00	33.43			
113687	CHK	A	PIKES PEAK AUTO BODY SPEC, INC	862	1	969.05	0.00	969.05	03/10/2022		42757
			REPAIR #39-WWTP	21687		969.05	0.00	969.05			
113688	CHK	A	PITNEY BOWES GLOBAL FINANCIAL	2479	1	90.00	0.00	90.00	03/10/2022		42757
			POSTAGE METER LEASE - WPPD	3315243334		90.00	0.00	90.00			
113689	CHK	A	SCHUMACHER'S	561	1	92.00	0.00	92.00	03/10/2022		42757
			#5 REPAIR	71562		92.00	0.00	92.00			
113690	CHK	A	SGS ACCUTEST INC.	4859	1	208.00	0.00	208.00	03/10/2022		42757
			01/22 WATER QUALITY TEST	52160133991		208.00	0.00	208.00			
113691	CHK	A	STATUS: CODE 4, INC	5101	1	100.00	0.00	100.00	03/10/2022		42757
			PEER SUPPORT	58		100.00	0.00	100.00			
113692	CHK	A	TDS BROADBAND LLC	5335	1	98.70	0.00	98.70	03/10/2022		42757
			03/22-04/22 DIGITAL SIGN	02252022		98.70	0.00	98.70			
113693	CHK	A	THE AQUEOUS SOLUTION, INC.	3016	1	696.50	0.00	696.50	03/10/2022		42757
			CHEMICALS - WAC	87892		696.50	0.00	696.50			
113694	CHK	A	TREATMENT TECH, INC.	1494	1	3,358.00	0.00	3,358.00	03/10/2022		42757
			SODIUM HYPOCHLORITE - WTP	185998		3,358.00	0.00	3,358.00			
113695	CHK	A	UNCC UTILITY NOTIFICATION CNTR	2012	2	133.90	0.00	133.90	03/10/2022		42757
			UTILITY LOCATES	222021474		133.90	0.00	46.87			
			UTILITY LOCATES	222021474		133.90	0.00	87.03			
113696	CHK	A	UNITED REPROGRAPHIC SUPPLY	4285	1	98.00	0.00	98.00	03/10/2022		42757
			03/2022 AGREEMENT	3634420		98.00	0.00	98.00			
113697	CHK	A	UPS STORE #1374	416	2	179.18	0.00	179.18	03/10/2022		42757
			LAB SERVICES	1312022		108.20	0.00	108.20			
			02/2022 CHARGES	2282022		70.98	0.00	70.98			
113698	CHK	A	USA BLUEBOOK	1779	2	122.57	0.00	122.57	03/10/2022		42757
			HARDNESS INDICATOR - WTP	823048		53.03	0.00	53.03			
			ELECTRODE SOLUTION - WWTP	880341		69.54	0.00	69.54			
113699	CHK	A	WAGNER EQUIPMENT CO.	666	1	60.71	0.00	60.71	03/10/2022		42757
			PARTS	P39C0376483		60.71	0.00	60.71			
113700	CHK	A	WEX HEALTH INC	5283	1	83.00	0.00	83.00	03/10/2022		42757
			02/2022 FSA	0001483193-IN		83.00	0.00	83.00			
113701	CHK	A	WILSON WILLIAMS LLP	5287	1	16,574.96	0.00	16,574.96	03/10/2022		42757
			02/2022 LEGAL FEES	087		16,574.96	0.00	16,574.96			
113702	CHK	A	WOODLAND HARDWARE & RENTAL	2739	2	324.45	0.00	324.45	03/10/2022		42757
			01/2022 CHARGES	1312021B		324.45	0.00	86.26			
			01/2022 CHARGES	1312021B		324.45	0.00	238.19			

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70	EFT	A	WEX BANK	5187	1	8,781.43	0.00	8,781.43	03/10/2022	HP	42769
			WEX FEB 2022	79137084		8,781.43	0.00	8,781.43			
113706	CHK	A	AUTO TRUCK GROUP, LLC	4630	2	1,198.98	0.00	1,198.98	03/17/2022		42778
			#54 REPAIR	1841366		824.00	0.00	824.00			
			#54 REPAIR	1842826		374.98	0.00	374.98			
113707	CHK	A	BRAVO SCREEN PRINTING, INC.	3466	1	1,042.68	0.00	1,042.68	03/17/2022		42778
			T SHIRTS - VOLLEYBALL	79028		1,042.68	0.00	1,042.68			
113708	CHK	A	CHAD MILD BRANDT	5159	1	103.00	0.00	103.00	03/17/2022		42778
			BARTENDING	03162022		103.00	0.00	103.00			
113709	CHK	A	CONSPIRE!	3235	1	65.00	0.00	65.00	03/17/2022		42778
			DRUG SCREEN - MACKEL	21182		65.00	0.00	65.00			
113710	CHK	A	DATE WITH PAINT	5352	1	261.25	0.00	261.25	03/17/2022		42778
			INSTRUCTOR - P&R	03142022		261.25	0.00	261.25			
113711	CHK	A	DOCUMART COPIES & PRINTING	3252	2	310.00	0.00	310.00	03/17/2022		42778
			BUS. CARDS - LECLERCQ	369121		55.00	0.00	55.00			
			BUSINESS CARDS - WPPD	369399		255.00	0.00	255.00			
113712	CHK	A	FBINAA	4389	2	210.00	0.00	210.00	03/17/2022		42778
			2022 MEMBERSHIP-HASLER	03092022		105.00	0.00	105.00			
			2022 MEMBERSHIP-GEHRETT	03092022A		105.00	0.00	105.00			
113713	CHK	A	GALLS, LLC	5221	2	450.52	0.00	450.52	03/17/2022		42778
			UNIFORM - WPPD	020490206		93.72	0.00	93.72			
			UNIFORM - WPPD	020545609		356.80	0.00	356.80			
113714	CHK	A	GOVOS	5349	1	2,120.50	0.00	2,120.50	03/17/2022		42778
			04/22 VRBO MONITORING/MUNIREVS	INV-KSW-003480		2,120.50	0.00	2,120.50			
113715	CHK	A	GRAINGER INC.	282	4	545.03	0.00	545.03	03/17/2022		42778
			SUPPLIES - WWTP	9217764506		74.88	0.00	74.88			
			PUMP, MAGNETIC DRIVE - WTP	9226511617		306.03	0.00	306.03			
			SUPPLIES - WWTP	9230423015		31.20	0.00	31.20			
			FLASHLIGHT - WWTP	9230423023		132.92	0.00	132.92			
113716	CHK	A	HARRISON'S INK	1659	1	395.75	0.00	395.75	03/17/2022		42778
			SUMMONS TICKETS	03-		395.75	0.00	395.75			
113717	CHK	A	HINKLE & COMPANY, PC	5035	1	8,800.00	0.00	8,800.00	03/17/2022		42778
			2021 INTERIM AUDIT	9642		8,800.00	0.00	8,800.00			
113718	CHK	A	IMAGE BEARERS CLEANING LLC	5082	1	4,112.00	0.00	4,112.00	03/17/2022		42778
			03/2022 CLEANING CONTRACT	3082		4,112.00	0.00	4,112.00			
113719	CHK	A	LEVENTE BOTONO RACZ	5293	1	714.00	0.00	714.00	03/17/2022		42778
			DRE TRAINING	03152022		714.00	0.00	714.00			
113720	CHK	A	ROBERT & CAROL KORZEKWA	1	2	54.67	0.00	54.67	03/17/2022		42778
			UTILITY REFUND	1938.09		54.67	0.00	10.94			
			UTILITY REFUND	1938.09		54.67	0.00	43.73			

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113721	CHK	A	JACOB CENSNER UTILITY REFUND	1 2149.02	1	35.30 35.30	0.00 0.00	35.30 35.30	03/17/2022		42778
113722	CHK	A	PIKES PEAK REGIONAL BUILDING D 02/2022 PLAN FEES	4647 03152022	1	1,063.13 1,063.13	0.00 0.00	1,063.13 1,063.13	03/17/2022		42778
113723	CHK	A	PIKES PEAK TELEVISION, INC 02/22 WEATHER CAMERA CONTRACT	4663 597535-1	1	625.00 625.00	0.00 0.00	625.00 625.00	03/17/2022		42778
113724	CHK	A	POSITIVE PROMOTIONS WATER BOTTLES	4790 06896100	1	510.61 510.61	0.00 0.00	510.61 510.61	03/17/2022		42778
113725	CHK	A	QUADIANT FINANCE USA, INC POSTAGE METER REFILL	5204 02252022	1	500.00 500.00	0.00 0.00	500.00 500.00	03/17/2022		42778
113726	CHK	A	ROSZCZEWSKI, ALICE JEAN INSTRUCTOR - P&R	4440 03142022	1	247.50 247.50	0.00 0.00	247.50 247.50	03/17/2022		42778
113727	CHK	A	RUCKER, KEITH REIMBURSEMENT-VICTIM ADVOCATE	3415 02222022	1	117.17 117.17	0.00 0.00	117.17 117.17	03/17/2022		42778
113728	CHK	A	SAFEWAY, INC. SUPPLIES	1908 3142022	1	62.63 62.63	0.00 0.00	62.63 62.63	03/17/2022		42778
113729	CHK	A	SEACHANGE PRINT INNOVATIONS BALLOT MAILING SERVICES	5216 39965	1	3,400.00 3,400.00	0.00 0.00	3,400.00 3,400.00	03/17/2022		42778
113730	CHK	A	STOP STICK, LTD STOPSTICKS	5362 0024030-IN	1	945.00 945.00	0.00 0.00	945.00 945.00	03/17/2022		42778
113731	CHK	A	RED BARON CAR WASH 02/2022 CHARGES 02/2022 CHARGES	4191 2012 2012	2	265.00 265.00 265.00	0.00 0.00 0.00	265.00 240.00 25.00	03/17/2022		42778
113732	CHK	A	TELLER CNTY CLERK & RECORDER VOTER LIST	609 03012022	1	38.67 38.67	0.00 0.00	38.67 38.67	03/17/2022		42778
113733	CHK	A	WAXIE SANITARY SUPPLY CUSTODIAL SUPPLIES - WAC CUSTODIAL SUPPLIES	4189 80586695 80715746	2	410.88 40.11 370.77	0.00 0.00 0.00	410.88 40.11 370.77	03/17/2022		42778
113734	CHK	A	WIRELESS WATCHDOGS, LLC 02/2022 MAINTENANCE	5102 IN0092365	1	272.00 272.00	0.00 0.00	272.00 272.00	03/17/2022		42778
113735	CHK	A	WOODLAND PARK SCHOOL DIST RE-2 08/2021 ADD'L AMT. SALES TAX	1262 03152022	1	12,393.18 12,393.18	0.00 0.00	12,393.18 12,393.18	03/17/2022		42778
113736	CHK	A	XEROX BUSINESS SOLUTIONS SOUTH 03/22-04/22 BILLING	5336 IN3628392	1	1,417.70 1,417.70	0.00 0.00	1,417.70 1,417.70	03/17/2022		42778
113737	CHK	A	AIS SPECIALTY PRODUCTS, INC SUPPLIES - B&G	3074 PSI435917	1	459.00 459.00	0.00 0.00	459.00 459.00	03/24/2022		42788
113738	CHK	A	AUTO TRUCK GROUP, LLC REPAIR #54	4630 1843352	1	124.36 124.36	0.00 0.00	124.36 124.36	03/24/2022		42788

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113739	CHK	A	BADGER METER INC	4278	1	2,323.79	0.00	2,323.79	03/24/2022		42788
			CELLULAR LTE SERVICE	80092679		2,323.79	0.00	2,323.79			
113740	CHK	A	BOBCAT OF THE ROCKIES, LLC	3724	1	3,300.00	0.00	3,300.00	03/24/2022		42788
			1ST PYMT. TRADEOUT-EXCAVATOR	66125431		3,300.00	0.00	3,300.00			
113741	CHK	A	BRIAN E. BUNDY	5208	1	840.00	0.00	840.00	03/24/2022		42788
			ACCT. SUPPORT SERVICES	03202022		840.00	0.00	840.00			
113742	CHK	A	CINTAS CORPORATION NO 2	4977	2	113.44	0.00	113.44	03/24/2022		42788
			UNIFORMS - FLEET	4112444030		62.45	0.00	62.45			
			UNIFORMS - FLEET	4113130655		50.99	0.00	50.99			
113743	CHK	A	CORE & MAIN LP	4980	3	2,616.31	0.00	2,616.31	03/24/2022		42788
			REPAIR KIT - F/S	Q411550		301.80	0.00	301.80			
			SUPPLIES - F/S	Q411593		683.29	0.00	683.29			
			SUPPLIES - F/S	Q412014		1,631.22	0.00	1,631.22			
113744	CHK	A	DEEP ROCK	5263	1	87.80	0.00	87.80	03/24/2022		42788
			SUBSCRIPTION-WATER	21072370031922		87.80	0.00	87.80			
113745	CHK	A	EL PASO CTY PUBLIC HEALTH LABO	241	1	252.00	0.00	252.00	03/24/2022		42788
			BACTERIOLOGICAL TESTS - WTP	022822		252.00	0.00	252.00			
113746	CHK	A	ELECTION SYSTEMS & SOFTWARE, L	4396	1	6,811.00	0.00	6,811.00	03/24/2022		42788
			ELECTION EQUIP. & SUPPLIES	CD2018889		6,811.00	0.00	6,811.00			
113747	CHK	A	ENGER, JANE	3876	1	167.75	0.00	167.75	03/24/2022		42788
			INSTRUCTOR - P&R	03212022		167.75	0.00	167.75			
113748	CHK	A	FISH WINDOW CLEANING	5346	1	312.00	0.00	312.00	03/24/2022		42788
			WINDOW CLEANING - CITY HALL	2832-54800		312.00	0.00	312.00			
113749	CHK	A	GALLS, LLC	5221	2	961.69	0.00	961.69	03/24/2022		42788
			UNIFORM - PD	020571743		492.00	0.00	492.00			
			UNIFORM - PD-RIVERA	020628881		469.69	0.00	469.69			
113750	CHK	A	GRAINGER INC.	282	2	420.74	0.00	420.74	03/24/2022		42788
			SUPPLIES - WWTP	9217415661		104.80	0.00	104.80			
			SUPPLIES - WWTP	9238633797		315.94	0.00	315.94			
113751	CHK	A	HARRELL'S INC	5104	1	2,778.00	0.00	2,778.00	03/24/2022		42788
			MARKING DUST & CHEMICALS	INV01598042		2,778.00	0.00	2,778.00			
113752	CHK	A	JACK'S TIRE & OIL MANAGEMENT C	5215	1	746.68	0.00	746.68	03/24/2022		42788
			#93 - REPAIR	B31022-88		746.68	0.00	746.68			
113753	CHK	A	JUDD'S GLASS & MIRROR	5340	2	3,091.61	0.00	3,091.61	03/24/2022		42788
			GYM MIRROR	03012022		2,837.61	0.00	2,837.61			
			#43 - REPAIR	70224		254.00	0.00	254.00			
113754	CHK	A	KUBWATER RESOURCES INC	4643	1	4,250.52	0.00	4,250.52	03/24/2022		42788
			COMPOST - WWTP	10904		4,250.52	0.00	4,250.52			
113755	CHK	A	LAFEVER, DALTON	4494	1	360.00	0.00	360.00	03/24/2022		42788
			OFFICIAL - P&R	03162022		360.00	0.00	360.00			

City of Woodland Park
Year End Payment Register

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Payment Number	Type	ID	Name	SRC	Num INV	Gross Amount	Discounts	Net Pay	Payment Date	HP Void	Batch
113756	CHK	A	LOGAN SIMPSON DESIGN INC	5282	1	3,750.00	0.00	3,750.00	03/24/2022		42788
			COMP PLAN AND CODE REVIEW	28971		3,750.00	0.00	3,750.00			
113757	CHK	A	MATTHEW BENDER & CO., INC.	2776	1	114.43	0.00	114.43	03/24/2022		42788
			2022 RULES	30300355		114.43	0.00	114.43			
113758	CHK	A	200 CHESTNUT LLC	1	1	106.30	0.00	106.30	03/24/2022	VOID	42788
			UTILITY REFUND	1051.04		106.30	0.00	106.30			
113759	CHK	A	ANITA GENTRY	1	3	58.41	0.00	58.41	03/24/2022		42788
			UTILITY REFUND	2467.03		58.41	0.00	32.72			
			UTILITY REFUND	2467.03		58.41	0.00	2.07			
			UTILITY REFUND	2467.03		58.41	0.00	23.62			
113760	CHK	A	JERRY JACOBSON	1	1	85.00	0.00	85.00	03/24/2022		42788
			CLASS A WATER RENEWAL	252576		85.00	0.00	85.00			
113761	CHK	A	JERRY JACOBSON	1	1	85.00	0.00	85.00	03/24/2022		42788
			CLASS A WASTEWATER RENEWAL	252577		85.00	0.00	85.00			
113762	CHK	A	PREMIERE COPIER INC.	1	1	82.61	0.00	82.61	03/24/2022		42788
			COPIES - WAC	70484		82.61	0.00	82.61			
113763	CHK	A	SUPERIOR PROPERTIES INC	1	1	168.55	0.00	168.55	03/24/2022		42788
			UTILITY REFUND	964.02A		168.55	0.00	168.55			
113764	CHK	A	OTIS ELEVATOR COMPANY	2706	1	100.00	0.00	100.00	03/24/2022		42788
			ELEVATOR SERVICE	1839762		100.00	0.00	100.00			
113765	CHK	A	SCHUMACHER'S	561	2	103.00	0.00	103.00	03/24/2022		42788
			#93 REPAIR	71579		80.00	0.00	80.00			
			#60 REPAIR	71595		23.00	0.00	23.00			
113766	CHK	A	SGS ACCUTEST INC.	4859	1	208.00	0.00	208.00	03/24/2022		42788
			01/22 WATER QUALITY TEST	52160134541		208.00	0.00	208.00			
113767	CHK	A	TELLER COUNTY WASTE	4158	1	350.00	0.00	350.00	03/24/2022		42788
			02/20022 PORTABLE RESTROOMS	24802		350.00	0.00	350.00			
113768	CHK	A	THE LOCK SHOP	2431	2	1,377.76	0.00	1,377.76	03/24/2022		42788
			REPAIR-CC DOOR	001073		120.00	0.00	120.00			
			REPAIR-CC DOOR	001242		1,257.76	0.00	1,257.76			
113769	CHK	A	UNIVAR USA INC.	2762	3	1,477.50	0.00	1,477.50	03/24/2022		42788
			CHEMICALS - WWTP	49857341		768.00	0.00	768.00			
			CHEMICALS - WWTP	50011426		167.00	0.00	167.00			
			CHEMICALS-WWTP	50059202		542.50	0.00	542.50			
113770	CHK	A	US POSTAL SERVICE	516	2	3,000.00	0.00	3,000.00	03/24/2022		42788
			UTILITY BILL MAILING PERMIT 24	03182022		3,000.00	0.00	1,050.00			
			UTILITY BILL MAILING PERMIT 24	03182022		3,000.00	0.00	1,950.00			
113771	CHK	A	USA BLUEBOOK	1779	2	1,812.95	0.00	1,812.95	03/24/2022		42788
			SUPPLIES - WWTP	888647		49.95	0.00	49.95			
			SUPPLIES - WTP	893493		1,763.00	0.00	1,763.00			

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Payment Number	Type	ID	Name	SRC	Num INV	Gross Amount	Discounts	Net Pay	Payment Date	HP Void	Batch
113772	CHK	A	WAXIE SANITARY SUPPLY	4189	1	1,153.53	0.00	1,153.53	03/24/2022		42788
			CUSTODIAL SUPPLIES - B&G	80697845		1,153.53	0.00	1,153.53			
113773	CHK	A	WESTWOOD LAKES WATER DISTRICT	679	1	6,464.13	0.00	6,464.13	03/24/2022		42788
			02/2022 WELLFIELD	02222022		6,464.13	0.00	6,464.13			
113774	CHK	A	WIRELESS WATCHDOGS, LLC	5102	2	169.86	0.00	169.86	03/24/2022		42788
			PHONE SUPPLIES - PD	IN0092546		84.93	0.00	84.93			
			PHONE SUPPLIES - PD	IN0092547		84.93	0.00	84.93			
113775	CHK	A	WOODLAND HARDWARE & RENTAL	2739	3	160.49	0.00	160.49	03/24/2022		42788
			02/2022 CHARGES	2282022		160.49	0.00	47.16			
			02/2022 CHARGES	2282022		160.49	0.00	103.04			
			02/2022 CHARGES	2282022		160.49	0.00	10.29			
113776	CHK	A	WOODLAND PARK SCHOOL DIST RE-2	1262	2	502,276.08	0.00	502,276.08	03/24/2022		42788
			12/2021 SALES TAX	03222022		314,528.51	0.00	314,528.51			
			01/2022 SALES TAX	03222022A		187,747.57	0.00	187,747.57			
113779	CHK	A	AIS SPECIALTY PRODUCTS, INC	3074	1	280.00	0.00	280.00	03/30/2022		42815
			SUPPLIES - STREETS	PSI436687		280.00	0.00	280.00			
113780	CHK	A	AUTO TRUCK GROUP, LLC	4630	1	147.48	0.00	147.48	03/30/2022		42815
			#30 REPAIR	1845160		147.48	0.00	147.48			
113781	CHK	A	BADGER METER INC	4278	1	1,115.00	0.00	1,115.00	03/30/2022		42815
			METER REPAIR PARTS	1493939		1,115.00	0.00	1,115.00			
113782	CHK	A	BLACK HILLS ENERGY	4035	4	18,770.47	0.00	18,770.47	03/30/2022		42815
			02/2022 CHARGES	3232022		18,770.47	0.00	6,720.12			
			02/2022 CHARGES	3232022		18,770.47	0.00	7,403.18			
			02/2022 CHARGES	3232022		18,770.47	0.00	1,217.95			
			02/2022 CHARGES	3232022		18,770.47	0.00	3,429.22			
113783	CHK	A	BRUCKNER TRUCK SALES	4482	1	800.19	0.00	800.19	03/30/2022		42815
			REPAIR #35 JOB #4 100	RA121001404		800.19	0.00	800.19			
113784	CHK	A	CAPITAL ONE, N.A.	5298	1	47.05	0.00	47.05	03/30/2022		42815
			03/2022 CHARGES	3192022		47.05	0.00	47.05			
113785	CHK	A	CHAD MILDBRANDT	5159	1	369.00	0.00	369.00	03/30/2022		42815
			BARTENDING & TIPS	03282022		369.00	0.00	369.00			
113786	CHK	A	CINTAS CORPORATION NO 2	4977	1	50.99	0.00	50.99	03/30/2022		42815
			UNIFORMS - FLEET	4113822806		50.99	0.00	50.99			
113787	CHK	A	CINTAS FIRE PROTECTION	3604	1	265.77	0.00	265.77	03/30/2022		42815
			ALARM INSPECTION - PD	0F47563335		265.77	0.00	265.77			
113788	CHK	A	COLORADO ANALYTICAL LAB	4028	1	134.00	0.00	134.00	03/30/2022		42815
			LAB SERVICES - WWTP	220308008		134.00	0.00	134.00			
113789	CHK	A	CORE & MAIN LP	4980	3	3,820.24	0.00	3,820.24	03/30/2022		42815
			SUPPLIES - F/S	Q439863		2,477.60	0.00	2,477.60			
			PVC PIPE	Q449548		1,017.60	0.00	1,017.60			
			7/8" DRILL	Q501703		325.04	0.00	325.04			

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Payment Number	Type	ID	Name	SRC	Num INV	Gross Amount	Discounts	Net Pay	Payment Date	HP Void	Batch
113790	CHK	A	CORE ELECTRIC COOPERATIVE	5316	8	38,539.03	0.00	38,539.03	03/30/2022		42815
			01/22-02/22 CHARGES	01032022B		7,682.89	0.00	56.23			
			01/22-02/22 CHARGES	01032022B		7,682.89	0.00	6,985.10			
			01/22-02/22 CHARGES	01032022B		7,682.89	0.00	641.56			
			02/22-03/22 CHARGES	3092022B		16,898.31	0.00	8,308.96			
			02/22-03/22 CHARGES	3092022B		16,898.31	0.00	3,245.93			
			02/22-03/22 CHARGES	3092022B		16,898.31	0.00	5,343.42			
			02/22-03/22 CHARGES	3222022		13,957.83	0.00	2,213.52			
			02/22-03/22 CHARGES	3222022		13,957.83	0.00	11,744.31			
113791	CHK	A	COUNTY DOOR AND HARDWARE	1464	1	95.00	0.00	95.00	03/30/2022		42815
			SERVICE CALL & LABOR - UPCC	11500		95.00	0.00	95.00			
113792	CHK	A	DARREN TRAYLOR	5358	1	428.87	0.00	428.87	03/30/2022		42815
			GYM MATERIALS	03242022		428.87	0.00	428.87			
113793	CHK	A	DOCUMART COPIES & PRINTING	3252	1	110.00	0.00	110.00	03/30/2022		42815
			BUSINESS CARDS	369589		110.00	0.00	110.00			
113794	CHK	A	FITNESS SYSTEMS, INC	5363	1	4,919.00	0.00	4,919.00	03/30/2022		42815
			GYM EQUIPMENT - WPPD	12640		4,919.00	0.00	4,919.00			
113795	CHK	A	GEMPLER'S	4026	2	276.78	0.00	276.78	03/30/2022		42815
			SAFETY ITEMS F/S	INV0004494980		207.98	0.00	207.98			
			SAFETY VESTS - STREETS	INV0004495069		68.80	0.00	68.80			
113796	CHK	A	GRAINGER INC.	282	5	647.04	0.00	647.04	03/30/2022		42815
			SUPPLIES - WWTP	9246976444		12.29	0.00	12.29			
			SUPPLIES - B&G	9247247795		28.44	0.00	28.44			
			SUPPLIES - WWTP	9249738668		423.97	0.00	423.97			
			MOTOR - WTP	9250086577		80.00	0.00	80.00			
			SUPPLIES - WWTP	9250352623		102.34	0.00	102.34			
113797	CHK	A	HAYNES MECHANICAL SYSTEMS	3359	1	9,918.50	0.00	9,918.50	03/30/2022		42815
			Annual Maintenance	SRVCE000106879		9,918.50	0.00	9,918.50			
113798	CHK	A	JDS - HYDRO CONSULTANTS, INC.	2894	1	13,583.75	0.00	13,583.75	03/30/2022		42815
			02/22 DISINFECTION	INV-0222-1450		13,583.75	0.00	13,583.75			
113799	CHK	A	KAREASE BROEKER	5347	1	140.00	0.00	140.00	03/30/2022		42815
			OFFICIAL - P&R	03212022		140.00	0.00	140.00			
113800	CHK	A	KIMLEY-HORN AND ASSOCIATES, INC	5164	3	15,120.59	0.00	15,120.59	03/30/2022		42815
			Project 096883004.1	20194711		7,750.00	0.00	7,750.00			
			Project 096883004.1	20451695		4,312.50	0.00	4,312.50			
			Project 096883004.1	20662050		3,058.09	0.00	3,058.09			
113801	CHK	A	KS STATEBANK	5217	1	377.98	0.00	377.98	03/30/2022		42815
			KYOCERA COPIER - WAC	57341-5-2022		377.98	0.00	377.98			
113802	CHK	A	LAFEVER, DALTON	4494	1	100.00	0.00	100.00	03/30/2022		42815
			OFFICIAL - P&R	03212022		100.00	0.00	100.00			
113803	CHK	A	MEBULBS	3794	1	388.84	0.00	388.84	03/30/2022		42815
			LAMPHOLDER - B&G	38002602-01		388.84	0.00	388.84			

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Payment Number	Type	ID	Name	SRC	Num INV	Gross Amount	Discounts	Net Pay	Payment Date	HP Void	Batch
113804	CHK	A	KELLY RODARMEL UTILITY REFUND	1 1051.04A	1	106.30 106.30	0.00 0.00	106.30 106.30	03/30/2022		42815
113805	CHK	A	MATTHEW COLLIER UTILITY REFUND	1 3149.14	1	5.48 5.48	0.00 0.00	5.48 5.48	03/30/2022		42815
113806	CHK	A	MITCH ROTH CLOTHNG REIMBURSEMENT	1 4173363	1	119.94 119.94	0.00 0.00	119.94 119.94	03/30/2022		42815
113807	CHK	A	SNO-WHITE LINEN & UNIFORM, INC EVENT EXPENSE	581 S34198	1	275.74 275.74	0.00 0.00	275.74 275.74	03/30/2022		42815
113808	CHK	A	STANLEY CONVERGENT SECURITY SO 04/2022 MAINTENANCE	4042 6002249499	1	398.82 398.82	0.00 0.00	398.82 398.82	03/30/2022		42815
113809	CHK	A	STUART C IRBY LED - B&G	4624 S012871956.001	1	1,290.00 1,290.00	0.00 0.00	1,290.00 1,290.00	03/30/2022		42815
113810	CHK	A	TAYLER CURLEY JONES INSTRUCTOR - P&R	5360 03282022	1	442.50 442.50	0.00 0.00	442.50 442.50	03/30/2022		42815
113811	CHK	A	TELLER COUNTY WASTE 2021-2023 Contract Disposal 2021-2023 Contract Disposal 2021-2023 Contract Disposal 2021-2023 Contract Disposal	4158 3032022 3032022 3032022 3032022	4	597.75 597.75 597.75 597.75 597.75	0.00 0.00 0.00 0.00 0.00	597.75 332.00 138.00 39.00 88.75	03/30/2022		42815
113812	CHK	A	TIAA COMMERCIAL FINANCE, INC 02/2022 COPIER CONTRACT 03/2022 COPIER CONTRACT	5175 8727280 8787855	2	1,306.80 653.40 653.40	0.00 0.00 0.00	1,306.80 653.40 653.40	03/30/2022		42815
113813	CHK	A	US POSTAL SERVICE 2022 ELECTION BOX RENEWAL	516 03172022	1	312.00 312.00	0.00 0.00	312.00 312.00	03/30/2022		42815
113814	CHK	A	USA BLUEBOOK SUPPLIES - WTP HOSE - WWTP MANHOLE HOOK	1779 900257 907888 910016	3	553.84 78.66 165.95 309.23	0.00 0.00 0.00 0.00	553.84 78.66 165.95 309.23	03/30/2022		42815
113815	CHK	A	VERIZON 01/22-02/22 CHARGES 01/22-02/22 CHARGES 01/22-02/22 CHARGES 01/22-02/22 CHARGES 01/22-02/22 CHARGES	3856 9900471592 9900471592 9900471592 9900471592 9900471592	5	3,609.08 3,609.08 3,609.08 3,609.08 3,609.08	0.00 0.00 0.00 0.00 0.00	3,609.08 155.16 199.96 2,907.13 264.25 82.58	03/30/2022		42815
113816	CHK	A	WAXIE SANITARY SUPPLY CUSTODIAL SUPPLIES - B&G	4189 80586740	1	526.76 526.76	0.00 0.00	526.76 526.76	03/30/2022		42815
REGISTER TOTALS			Checks: 204 Voids: 1		314	930,017.09	0.00	930,017.09			

Bank Number: 99 / Name: VECTRA BANK COLORADO/PAYROLL / Description: PAYROLL ACCOUNT						
Payment Number	Position	Num Inv	Gross Amount	Discounts	Net Pay	Payment Date
18822	Lifeguard	1	103.62	7.92	95.70	2022-03-11
18823	Lifeguard	1	429.68	45.87	383.81	2022-03-11
18824	Maintenance Worker II	1	248.00	18.96	229.04	2022-03-11
18825	Maintenance Worker III	1	886.40	206.52	679.88	2022-03-11
18826	Lifeguard	1	197.82	17.13	180.69	2022-03-11
18827	MWI PBG	1	1,312.12	357.29	954.83	2022-03-11
18828	Lifeguard	1	649.98	87.92	562.06	2022-03-11
18829	Lifeguard	1	361.10	36.63	324.47	2022-03-25
18830	Lifeguard	1	329.58	33.21	296.37	2022-03-25
18831	Maintenance Worker II	1	232.00	17.76	214.24	2022-03-25
18832	Lifeguard	1	97.34	7.45	89.89	2022-03-25
18833	Victim Advocate	1	700.00	71.55	628.45	2022-03-25
18834	Lifeguard	1	141.30	10.81	130.49	2022-03-25
18835	MWI PBG	1	1,508.92	404.96	1,103.96	2022-03-25
48897	Corporal	1	3,815.18	793.27	3,021.91	2022-03-11
48898	Dispatcher II	1	1,834.29	485.17	1,349.12	2022-03-11
48899	Police Officer I	1	2,273.60	561.98	1,711.62	2022-03-11
48900	IT Manager	1	3,417.52	1,154.18	2,263.34	2022-03-11
48901	Dispatcher I	1	1,749.44	446.02	1,303.42	2022-03-11
48902	Utility Billing Techni	1	1,859.20	629.62	1,229.58	2022-03-11
48903	Planning and Building	1	2,461.50	753.99	1,707.51	2022-03-11
48904	Water Fitness Instruct	1	366.18	31.02	335.16	2022-03-11
48905	WWTO	1	1,851.06	506.94	1,344.12	2022-03-11
48906	WTO	1	2,099.52	1,090.14	1,009.38	2022-03-11
48907	MUNICIPAL COURT CLERK	1	1,194.68	253.77	940.91	2022-03-11
48908	Police Officer II	1	2,385.18	434.05	1,951.13	2022-03-11
48909	Sergeant	1	2,951.26	973.00	1,978.26	2022-03-11
48910	Assistant Dispatch Supervisor	1	1,924.17	596.20	1,327.97	2022-03-11
48911	Lifeguard	1	615.44	96.36	519.08	2022-03-11
48912	Police Officer I	1	2,202.24	454.82	1,747.42	2022-03-11
48913	Lifeguard	1	1,380.00	192.95	1,187.05	2022-03-11
48914	Maintenance Worker I -	1	1,312.12	259.87	1,052.25	2022-03-11
48915	Accounting Manager	1	2,826.32	957.67	1,868.65	2022-03-11
48916	Event Center Coordinat	1	1,872.28	600.80	1,271.48	2022-03-11
48917	Detective/MPO	1	3,550.79	980.09	2,570.70	2022-03-11
48918	Assistant to the City	1	2,765.29	879.68	1,885.61	2022-03-11
48919	Lifeguard	1	439.60	46.64	392.96	2022-03-11
48920	PT Snow Plowing	1	340.12	27.01	313.11	2022-03-11
48921	Police Officer I	1	2,586.34	594.75	1,991.59	2022-03-11
48922	Sports Coordinator	1	1,789.95	432.81	1,357.14	2022-03-11
48923	IT Intern	1	324.00	32.79	291.21	2022-03-11
48924	Deputy Chief of Police	1	3,826.14	790.31	3,035.83	2022-03-11
48925	Maintenance Worker I -	1	1,336.79	523.11	813.68	2022-03-11
48926	Lifeguard	1	194.68	16.89	177.79	2022-03-11
48927	Interim Chief of Polic	1	5,221.15	1,145.84	4,075.31	2022-03-11
48928	PD Admin Assist/Teen C	1	2,012.32	595.33	1,416.99	2022-03-11
48929	Finance Admin. Asst./C	1	1,676.00	576.68	1,099.32	2022-03-11
48930	Sergeant	1	3,278.03	1,169.69	2,108.34	2022-03-11
48931	Police Officer	1	2,287.50	254.66	2,032.84	2022-03-11
48932	Dispatch II	1	2,053.50	464.99	1,588.51	2022-03-11

Bank Number: 99 / Name: VECTRA BANK COLORADO/PAYROLL / Description: PAYROLL ACCOUNT						
Payment Number	Position	Num Inv	Gross Amount	Discounts	Net Pay	Payment Date
48933	HR Generalist	1	2,566.53	968.59	1,597.94	2022-03-11
48934	Water Treatment Operat	1	2,377.24	532.38	1,844.86	2022-03-11
48935	Communication and Mark	1	1,985.16	508.60	1,476.56	2022-03-11
48936	Police Officer I	1	2,196.80	394.80	1,802.00	2022-03-11
48937	Pool Attendant	1	379.94	39.07	340.87	2022-03-11
48938	Lifeguard	1	207.24	17.86	189.38	2022-03-11
48939	Parks and Rec Director	1	3,795.48	1,366.06	2,429.42	2022-03-11
48940	Lifeguard	1	530.66	60.86	469.80	2022-03-11
48941	Lifeguard	1	808.38	160.86	647.52	2022-03-11
48942	City Manager	1	5,346.16	1,691.13	3,655.03	2022-03-11
48943	City Clerk/Deputy City	1	4,174.85	2,257.26	1,917.59	2022-03-11
48944	Corporal	1	4,104.26	1,168.57	2,935.69	2022-03-11
48945	Dispatcher II	1	2,138.74	598.41	1,540.33	2022-03-11
48946	WWTO	1	1,499.20	469.35	1,029.85	2022-03-11
48947	Crew Chief - Fleet	1	3,009.72	1,250.57	1,759.15	2022-03-11
48948	Police Officer	1	2,934.49	585.50	2,348.99	2022-03-11
48949	Presiding Municipal Co	1	1,422.82	235.58	1,187.24	2022-03-11
48950	Maintenance Worker I P	1	1,693.42	387.94	1,305.48	2022-03-11
48951	P&R Sports Site Supv	1	328.31	26.12	302.19	2022-03-11
48952	UPCC-ASSISTANT	1	547.92	97.71	450.21	2022-03-11
48953	Admin Assistant P&R	1	1,698.40	461.55	1,236.85	2022-03-11
48954	Dispatcher	1	1,719.18	341.31	1,377.87	2022-03-11
48955	Code Enforcement	1	1,920.00	645.90	1,274.10	2022-03-11
48956	Construction Inspector	1	3,703.04	1,088.36	2,614.68	2022-03-11
48957	Police Officer I	1	2,961.66	847.80	2,113.86	2022-03-11
48958	Lifeguard	1	62.80	4.80	58.00	2022-03-11
48959	Maint. Worker II - Str	1	2,774.03	830.28	1,943.75	2022-03-11
48960	Front Desk Representative/Lif	1	705.00	135.55	569.45	2022-03-11
48961	Police Officer II	1	2,868.31	1,123.95	1,744.36	2022-03-11
48962	Planning Director	1	3,910.31	1,843.40	2,066.91	2022-03-11
48963	City Engineer	1	4,423.08	1,211.39	3,211.69	2022-03-11
48964	Utilities Technician	1	2,571.42	1,147.14	1,424.28	2022-03-11
48965	Permit Technician	1	789.95	236.42	553.53	2022-03-11
48966	WWTO	1	2,574.17	903.24	1,670.93	2022-03-11
48967	Lifeguard	1	967.88	179.37	788.51	2022-03-11
48968	Lifeguard	1	426.54	44.63	381.91	2022-03-11
48969	WWTP Chief Operator	1	3,115.65	1,314.32	1,801.33	2022-03-11
48970	Lifeguard	1	285.13	27.81	257.32	2022-03-11
48971	Fleet Mechanic II	1	2,438.52	726.40	1,712.12	2022-03-11
48972	Lifeguard	1	185.26	15.18	170.08	2022-03-11
48973	Lifeguard	1	580.90	71.73	509.17	2022-03-11
48974	PR Sports Site Supervi	1	262.60	25.10	237.50	2022-03-11
48975	Dispatch Supervisor	1	2,400.18	911.72	1,488.46	2022-03-11
48976	Police Officer I	1	2,639.99	824.18	1,815.81	2022-03-11
48977	Maint. Worker III - St	1	3,848.42	1,335.95	2,512.47	2022-03-11
48978	Crew Chief - PBG	1	2,710.18	641.30	2,068.88	2022-03-11
48979	Finance Director	1	3,916.84	1,131.27	2,785.57	2022-03-11
48980	Victims Advocate Coord	1	2,331.43	1,405.74	925.69	2022-03-11
48981	Police Officer II	1	2,705.79	636.81	2,068.98	2022-03-11
48982	Maint. Worker I - PBG	1	3,520.00	862.36	2,657.64	2022-03-11

Bank Number: 99 / Name: VECTRA BANK COLORADO/PAYROLL / Description: PAYROLL ACCOUNT						
Payment Number	Position	Num Inv	Gross Amount	Discounts	Net Pay	Payment Date
48983	Aquatic Manager	1	2,272.38	683.28	1,589.10	2022-03-11
48984	WTP CHIEF OPERATOR	1	4,480.00	2,300.05	2,179.95	2022-03-11
48985	Assistant Aquatic Mana	1	1,934.07	633.41	1,300.66	2022-03-11
48986	Utilities Director/Dep	1	4,867.41	2,156.79	2,710.62	2022-03-11
48987	Lifeguard	1	197.82	17.13	180.69	2022-03-11
48988	Lifeguard	1	511.82	56.53	455.29	2022-03-11
48989	Lifeguard	1	310.86	30.77	280.09	2022-03-11
48990	Front Desk Representat	1	843.48	122.88	720.60	2022-03-11
48991	WTO	1	1,674.20	322.34	1,351.86	2022-03-11
48992	Finance Technician	1	1,499.20	390.58	1,108.62	2022-03-25
48993	Corporal	1	2,985.06	643.61	2,341.45	2022-03-25
48994	Dispatcher II	1	1,795.04	474.72	1,320.32	2022-03-25
48995	Police Officer I	1	2,529.38	608.39	1,920.99	2022-03-25
48996	IT Manager	1	3,242.52	1,094.30	2,148.22	2022-03-25
48997	Dispatcher I	1	2,007.88	532.97	1,474.91	2022-03-25
48998	Utility Billing Techni	1	1,859.20	629.63	1,229.57	2022-03-25
48999	Planning and Building	1	2,340.80	724.28	1,616.52	2022-03-25
49000	Water Fitness Instruct	1	371.57	31.42	340.15	2022-03-25
49001	WWTO	1	1,851.06	506.92	1,344.14	2022-03-25
49002	WTO	1	2,118.31	1,088.92	1,029.39	2022-03-25
49003	MUNICIPAL COURT CLERK	1	948.71	194.44	754.27	2022-03-25
49004	Police Officer II	1	2,143.20	386.80	1,756.40	2022-03-25
49005	Sergeant	1	2,984.80	1,013.87	1,970.93	2022-03-25
49006	Assistant Dispatch Supervisor	1	1,814.82	579.31	1,235.51	2022-03-25
49007	Lifeguard	1	483.56	67.08	416.48	2022-03-25
49008	Police Officer I	1	2,394.59	494.84	1,899.75	2022-03-25
49009	Lifeguard	1	1,350.00	185.65	1,164.35	2022-03-25
49010	Maintenance Worker I -	1	1,558.12	314.28	1,243.84	2022-03-25
49011	Accounting Manager	1	2,826.32	957.67	1,868.65	2022-03-25
49012	Event Center Coordinat	1	1,872.28	600.80	1,271.48	2022-03-25
49013	Detective/MPO	1	3,336.97	941.33	2,395.64	2022-03-25
49014	Assistant to the City	1	2,590.29	837.29	1,753.00	2022-03-25
49015	Lifeguard	1	489.84	52.47	437.37	2022-03-25
49016	PT Snow Plowing	1	448.34	40.30	408.04	2022-03-25
49017	Police Officer I	1	2,913.17	703.13	2,210.04	2022-03-25
49018	Sports Coordinator	1	1,789.95	432.81	1,357.14	2022-03-25
49019	Deputy Chief of Police	1	5,044.07	1,145.28	3,898.79	2022-03-25
49020	Maintenance Worker I -	1	1,336.79	523.11	813.68	2022-03-25
49021	Lifeguard	1	354.82	36.15	318.67	2022-03-25
49022	Interim Chief of Polic	1	5,221.15	1,145.85	4,075.30	2022-03-25
49023	PD Admin Assist/Teen C	1	2,012.32	595.31	1,417.01	2022-03-25
49024	Maitenance Worker III	1	1,587.99	351.62	1,236.37	2022-03-25
49025	Finance Admin. Asst./C	1	1,676.00	576.68	1,099.32	2022-03-25
49026	Sergeant	1	3,653.83	1,289.83	2,364.00	2022-03-25
49027	Police Officer	1	1,909.60	246.46	1,663.14	2022-03-25
49028	Dispatch II	1	1,872.94	430.44	1,442.50	2022-03-25
49029	HR Generalist	1	2,566.53	968.60	1,597.93	2022-03-25
49030	Water Treatment Operat	1	2,377.24	532.37	1,844.87	2022-03-25
49031	Communication and Mark	1	1,985.16	508.61	1,476.55	2022-03-25
49032	Police Officer I	1	2,918.42	524.88	2,393.54	2022-03-25

Bank Number: 99 / Name: VECTRA BANK COLORADO/PAYROLL / Description: PAYROLL ACCOUNT						
Payment Number	Position	Num Inv	Gross Amount	Discounts	Net Pay	Payment Date
49033	Pool Attendant	1	364.24	37.86	326.38	2022-03-25
49034	Lifeguard	1	103.62	7.92	95.70	2022-03-25
49035	Parks and Rec Director	1	3,795.48	1,366.06	2,429.42	2022-03-25
49036	Lifeguard	1	157.00	12.01	144.99	2022-03-25
49037	Lifeguard	1	786.63	155.59	631.04	2022-03-25
49038	City Manager	1	5,346.16	1,691.13	3,655.03	2022-03-25
49039	City Clerk/Deputy City	1	4,174.85	2,257.26	1,917.59	2022-03-25
49040	Corporal	1	2,893.47	829.65	2,063.82	2022-03-25
49041	Dispatcher II	1	2,428.04	697.18	1,730.86	2022-03-25
49042	WWTO	1	1,499.20	469.34	1,029.86	2022-03-25
49043	Crew Chief - Fleet	1	2,834.72	1,208.17	1,626.55	2022-03-25
49044	Police Officer	1	2,913.17	575.64	2,337.53	2022-03-25
49045	Presiding Municipal Co	1	1,572.59	271.36	1,301.23	2022-03-25
49046	Maintenance Worker I P	1	1,398.22	322.84	1,075.38	2022-03-25
49047	P&R Sports Site Supv	1	471.23	43.05	428.18	2022-03-25
49048	UPCC-ASSISTANT	1	547.92	97.70	450.22	2022-03-25
49049	Admin Assistant P&R	1	1,698.40	461.56	1,236.84	2022-03-25
49050	Dispatcher	1	1,544.18	302.41	1,241.77	2022-03-25
49051	Lead Lifeguard	1	354.83	54.90	299.93	2022-03-25
49052	Victims Advocate Coord	1	2,571.84	1,466.74	1,105.10	2022-03-25
49053	Code Enforcement	1	1,920.00	645.90	1,274.10	2022-03-25
49054	Construction Inspector	1	3,703.04	1,088.35	2,614.69	2022-03-25
49055	Police Officer I	1	2,361.42	757.75	1,603.67	2022-03-25
49056	Lifeguard	1	78.50	6.01	72.49	2022-03-25
49057	Maint. Worker II - Str	1	2,654.10	800.70	1,853.40	2022-03-25
49058	Front Desk Representative/Lif	1	1,080.00	226.24	853.76	2022-03-25
49059	Police Officer II	1	2,823.03	1,115.87	1,707.16	2022-03-25
49060	Planning Director	1	3,910.31	1,843.39	2,066.92	2022-03-25
49061	City Engineer	1	4,423.08	1,211.40	3,211.68	2022-03-25
49062	Utilities Technician	1	2,524.09	1,133.74	1,390.35	2022-03-25
49063	Permit Technician	1	891.52	259.36	632.16	2022-03-25
49064	WWTO	1	2,574.17	903.23	1,670.94	2022-03-25
49065	Lifeguard	1	815.63	142.43	673.20	2022-03-25
49066	Lifeguard	1	117.00	8.95	108.05	2022-03-25
49067	WWTP Chief Operator	1	3,115.65	1,314.32	1,801.33	2022-03-25
49068	Lifeguard	1	316.58	31.22	285.36	2022-03-25
49069	Fleet Mechanic II	1	2,329.32	688.18	1,641.14	2022-03-25
49070	Lifeguard	1	113.04	8.65	104.39	2022-03-25
49071	Lifeguard	1	619.13	80.47	538.66	2022-03-25
49072	PR Sports Site Supervi	1	426.73	54.04	372.69	2022-03-25
49073	Lifeguard	1	543.22	64.06	479.16	2022-03-25
49074	Dispatch Supervisor	1	2,400.18	911.71	1,488.47	2022-03-25
49075	Police Officer I	1	2,152.50	689.90	1,462.60	2022-03-25
49076	Maint. Worker III - St	1	3,391.22	1,178.66	2,212.56	2022-03-25
49077	Crew Chief - PBG	1	2,400.18	560.44	1,839.74	2022-03-25
49078	Finance Director	1	3,916.84	1,131.26	2,785.58	2022-03-25
49079	Police Officer II	1	2,826.35	684.40	2,141.95	2022-03-25
49080	Maint. Worker I - PBG	1	1,474.71	291.19	1,183.52	2022-03-25
49081	Aquatic Manager	1	2,272.38	683.28	1,589.10	2022-03-25
49082	WTP CHIEF OPERATOR	1	4,406.19	2,282.56	2,123.63	2022-03-25

Bank Number: 99 / Name: VECTRA BANK COLORADO/PAYROLL / Description: PAYROLL ACCOUNT						
Payment Number	Position	Num Inv	Gross Amount	Discounts	Net Pay	Payment Date
49083	Assistant Aquatic Mana	1	1,650.76	551.46	1,099.30	2022-03-25
49084	Utilities Director/Dep	1	4,867.41	2,158.57	2,708.84	2022-03-25
49085	Lifeguard	1	106.76	8.17	98.59	2022-03-25
49086	Lifeguard	1	153.86	11.76	142.10	2022-03-25
49087	Lifeguard	1	226.08	20.30	205.78	2022-03-25
49088	Front Desk Representat	1	805.14	115.11	690.03	2022-03-25
49089	WTO	1	1,499.20	283.46	1,215.74	2022-03-25
			401,834.21	120,920.29	280,913.92	



City of Woodland Park Staff Report for City Council

Meeting Date: May 5, 2022

<u>Agenda Item</u>	<u>Department</u>	<u>Presenter</u>
Interoffice Memorandum	Finance	Aaron Vassalotti Finance Director

ITEM:

Monthly Report of Mayor and Council Expenses

The following is a recap of the Council and Mayor Expense line items for March 2022.

March 2022

Description	Budget	Month Exp	YTD Exp	Balance	% Expended
Miscellaneous expenses	\$17,950	\$0.00	\$0.00	\$17,950.00	0%
Training/Travel	\$2,400	\$0.00	\$0.00	\$2,400.00	0%
Supplies	\$150	\$0.00	\$0.00	\$150.00	0%
Meetings/Mileage/Meals	\$1,500	\$0.00	\$0.00	\$1,500.00	0%
Special Projects	\$500	\$0.00	\$0.00	\$500.00	0%
Total	\$22,500	\$0.00	\$0.00	\$22,500.00	0%

There were no monthly expenditures for March 2022.



STAFF REPORT

TO: Mayor LaBarre and City Council

FROM:

DATE: May 5, 2022

SUBJECT: Baldwin Street - Rampart Range Road/Kellys Pavement Rehabilitation Contract between the City of Woodland Park and Kiewit Infrastructure Co. in the amount of \$2,277,264.00

BACKGROUND: The Baldwin Street - Rampart and Kelly's Road Pavement rehabilitation and ADA improvement projects were identified in the 2018 adopted pavement management plan as critical collector roadways to be reconstructed in order to move the City average pavement quality index (PQI) from 56 (failing) to the state average of 70. The projects include a combination of full depth reclamation and mill and overlay construction methods, as well as improvements to ADA ramps and drainage appurtenances. There is an additive alternate to install conduit for a fiber backbone during the project, providing cost savings to the City and adhering to a "dig once" philosophy to get multiple projects completed at the same time.

The City received two responsive bids for both portions of these projects as follows:
Baldwin to Rampart - Kiewit (\$1,218,054.00) and Schmidt Construction (\$1,289,532.45)
Kelly's Rd - Kiewit (\$1,059,210.00) and Schmidt Construction (\$1,193,030.10)
The low bid was Keiwit for both projects, so the projects have been combined into a single contract since the contractor will be mobilized one time and work on both projects concurrently.

The engineers' estimate of probable cost for these projects was \$1,505,285 for Baldwin - Rampart and \$1,344,481 for Kelly's.

While the estimated amount for these projects in the Capital Improvement Plan was \$1,016,306 for Baldwin-Rampart and \$575,000 for Kelly's, these bids are considered competitive based on the exponential increase in construction costs over the past year when referenced to comparative State and Local bids.

RECOMMENDATION: Approve Contract with Kiewit for (\$1,218,054.00) and (\$1,059,210.00) for the Baldwin - Rampart and Kelly's rehabilitation projects.

ATTACHMENTS: 1. 2 - City of Woodland Park Pavement Rehabilitation Projects Signed



CONSTRUCTION AGREEMENT

This **CONSTRUCTION AGREEMENT** (this “Agreement”) is entered into this ____ day of _____, 2022 by and between the City of Woodland Park, Colorado (hereinafter referred to as the “Owner”) and Kiewit Infrastructure Co. (hereinafter referred to as the “Contractor”).

Owner and Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 WORK

- 1.01 Contractor shall complete all work as specified or indicated in the Contract Documents (defined below). The work is generally described as follows: Baldwin Street – Rampart Range Road Pavement Rehabilitation and ADA Improvements, and Kelly’s Road Pavement Rehabilitation and ADA Improvements.

ARTICLE 2 THE PROJECT

- 2.01 The project for which the work under the Contract Documents may be the whole or only a part is generally described as follows: City of Woodland Park Pavement Rehabilitation Projects (the “Project”).

ARTICLE 3 ENGINEER

- 3.01 The City Engineer or designated representative shall serve as construction management engineer who is hereinafter called Engineer and who is to act as Owner’s representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the work in accordance with the Contract Documents.

ARTICLE 4 WORKER WITHOUT AUTHORIZATION EMPLOYMENT

- 4.01 Prior to the execution of this Agreement, Contractor shall certify to the City, by completing the Worker Without Authorization Addendum attached hereto, that at the time of certification, Contractor does not knowingly employ or contract with any worker without authorization who will perform work under this Agreement as well as other certifications therein contained.

ARTICLE 5 CONTRACT TIMES

5.01 Time is of the Essence

- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

5.02 Days to Achieve Substantial Completion and Final Payment

- A. Contractor shall achieve Substantial Completion within 150 calendar days of the issuance by the Owner of a Notice to Proceed and shall finally complete the Work so that it is ready for final payment within 30 calendar days of the issuance by the Owner of a Notice of



Substantial Completion.

5.03 Liquidated Damages

- A. Contractor understands and agrees that time is an essential condition of this Agreement. Contractor further understands and agrees that delay in completion of the project will cause Owner to suffer substantial losses and damages which cannot be measured, including without limitation the loss of revenues for services, loss of other revenue incidental to the operation of the facility, additional engineering, legal, accounting and administrative costs, reduced public confidence and adverse public relations which would reduce future revenues, and additional interest and financing costs and charges if the Work is not completed within the times specified above, plus any extensions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or mediation proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring proof of such losses and damages, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay two hundred fifty dollars (\$250.00) for each day that expires after the time specified above for Substantial Completion until the Work is substantially complete.
- B. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the contract time or any proper extension thereof granted by Owner, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay two hundred fifty dollars (\$250.00) for each day that expires after the time specified above for final completion and readiness for final payment until the Work is finally complete and ready for final payment.
- C. Owner shall have the right to deduct the liquidated damages from any money in its hands, otherwise due, or to become due, to Contractor, or to sue for and recover compensation for damages for nonperformance of this Contract.
- D. Any liquidated damages payable by Contractor may, at Owner's election be deducted from any amounts owed to Contractor. In the event no funds are due Contractor at a time when Contractor becomes liable to Owner for liquidated damages, then Contractor agrees to pay all accrued liquidated damages to Owner on the first (1st) day and on the fifteenth (15th) day of each month when Contractor is liable to Owner for liquidated damages. Permitting Contractor to continue and finish the Work or any part thereof after the deadline for completion of the Work shall not act as a waiver of these liquidated damages provisions.
- E. The aggregate liability of Contractor to pay liquidated damages pursuant to this Article shall not exceed an amount equal to fifty percent (50%) of the Contract Price. This Article shall not be construed to limit Contractor's other obligations or liabilities arising under or in connection with this Contract.
- F. In the event that this section conflicts with any other provisions regarding liquidated damages within the Contract Documents, this section shall control.

ARTICLE 6 CONTRACT PRICE

- 6.01 Owner shall pay Contractor two million two hundred seventy seven thousand two hundred sixty four dollars (\$2,277,264.00) for completion of the Work as full compensation for everything furnished and done by Contractor under this Agreement, including all loss or damage arising out of the work or from the action of the elements; for



any unforeseen obstruction or difficulty encountered in the prosecution of the work, including increased prices for or shortages of materials for any reason, including natural disasters; for all risks of every description associated with the work; for all expenses incurred due to the suspension or discontinuation of the work; and for well and faithfully completing the work as provided in this Agreement.

ARTICLE 7 PAYMENT PROCEDURES

7.01 Submittal and Processing of Payments

- A. Contractor shall submit Applications for Payment to the Owner on a monthly basis, which shall be processed by the Engineer.

7.02 Progress Payments; Retainage

- A. Owner shall make progress payments towards the Contract Price, less five percent (5%) for retainage, on the basis of Contractor's Applications for Payment, as verified and recommended by Engineer, on or about the twenty-fifth (25th) day of each month during performance of the Work. In the Engineer's discretion, the Owner may withhold some or all of a progress payment where the Contractor's Application for Payment does not reflect the actual amount of the Work completed.

7.03 Final Payment

- A. Upon final completion and acceptance of the Work as recommended by the Engineer, Owner shall pay the remainder of the Contract Price, including any retainage previously withheld.

ARTICLE 8 PROJECT WARRANTIES

- 8.01 Contractor's warranties in respect of the Work (the "Project Warranties") are as follows: Contractor warrants to Owner that the Work shall be fit for its intended purposes, that materials and equipment furnished under this Agreement shall be of good quality and new, that all Work shall be free from defects and that all Work shall meet all of the requirements of this Agreement. Contractor shall furnish satisfactory evidence that it has met the Project Warranties. The Project Warranties shall commence on the date Contractor achieves final completion of the Work satisfactorily to Owner. If at any time within two (2) years after the date on which the Project Warranties commenced, any portion of the Work is found to be not in accordance with the Project Warranties, Contractor shall correct it promptly after receipt of notice from Owner to do so unless Owner has previously given Contractor a written acceptance of such condition.

ARTICLE 9 INSURANCE

- 9.01 Insurance Requirements. Contractor shall not commence work under this Agreement until Contractor has obtained all insurance required under this Article and the insurance has been approved by the City Administrator or his designee. The City of Woodland Park shall be named as an additional insured. Certificates of insurance shall be issued prior to execution of the Notice to Proceed. Additionally, Contractor shall not allow any approved subcontractor to commence work on his or her subcontract until all similar insurance required of subcontractor has been so obtained and approved. The following insurance



shall be required:

- A. Commercial General Liability Insurance: At a minimum, combined single limits of \$1,000,000 per occurrence and \$1,000,000 for general aggregate for bodily injury and property damage, which coverage shall include products/completed operations, independent contractors, and contractual liability each at \$1,000,000 per occurrence.
- B. Workers' Compensation and Employer's Liability: Workers' compensation insurance for all of Contractor's employees engaged in work at the site of the project including occupational disease coverage in accordance with scope and limits as required by the State of Colorado.
- C. Comprehensive Automobile Liability Insurance: Including coverage for all owned, non-owned, and rented vehicles with \$1,000,000 combined single limit for each occurrence.

ARTICLE 10 CONTRACTOR'S REPRESENTATIONS

- 10.01 In order to induce Owner to enter into this Agreement, Contractor makes the following representations:
- A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
 - B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. Contractor is familiar with and is satisfied as to all federal, state, and local laws and regulations that may affect cost, progress, and performance of the Work.
 - D. Contractor has obtained and carefully studied (or assumes responsibility for having done so) any examinations, investigations, explorations, tests, studies, and data concerning conditions at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including applying the specific means, methods, techniques, sequences, and procedures of construction, if any, expressly required by the Contract Documents to be employed by Contractor, and safety precautions and programs incident thereto.
 - E. Contractor does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
 - F. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
 - G. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
 - H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or



discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.

- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. Contractor warrants and guarantees to Owner and Engineer that all Work will be in accordance with the Contract Documents and will not be defective within two (2) years of Substantial Completion.
- K. Contractor is organized, validly existing and in good standing under the laws of the State of Colorado and has all requisite power to own its properties and assets and carry on its business as now conducted or proposed to be conducted.

ARTICLE 11 CONTRACT DOCUMENTS

11.01 Contents

- A. The Contract Documents consist of the following:
 - 1. This Agreement;
 - 2. Bidding Documents;
 - 3. General Conditions;
 - 4. Supplementary Conditions;
 - 5. Technical Specifications;
 - 6. Measurement and Payment Provisions;
 - 7. Construction Plans;
 - 8. Labor & Materials Payment Bond;
 - 9. Performance Bond; and
 - 10. Any written amendments or work change orders which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto.
- B. There are no Contract Documents other than those listed above in this Article.
- C. The Contract Documents may only be amended, modified, or supplemented by written agreement signed by both parties.

ARTICLE 12 PERFORMANCE BOND

- A. To secure performance of Contractor's obligations under this Agreement, the Contractor shall provide the Owner with a Performance Bond in the amount of the full contract price. Prior to execution of this Agreement, the Contractor shall provide the form of the Performance Bond to the City for its review and approval. The City shall be authorized to draw upon the Performance Bond to correct any default by Builder under this Agreement, which default shall be determined and substantiated by an Affidavit of Default signed by the Engineer. The Performance Bond shall be held by the City through the two (2) year Project Warranties period specified in this Agreement.

ARTICLE 13 MISCELLANEOUS

13.01 Indemnification



- A. The Contractor agrees to indemnify, save, and hold harmless the Owner, its officers, employees, and agents from any and all liability, loss, costs, charges, obligations, expenses, attorney's fees, litigation, judgments, damages, claims, and demands of any kind arising from or out of any negligent act, error, omission or other tortious conduct of the Contractor, its officers, subcontractors, employees, or agents in the performance or non-performance of its obligations under this Agreement.

13.02 Assignment of Contract

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

13.03 Successors and Assigns

- A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

13.04 Severability

- A. Any provision or part of the Contract Documents held to be void or unenforceable by any court of competent jurisdiction shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

13.05 Independent Contractor

CONTRACTOR IS AN INDEPENDENT CONTRACTOR AND NOTHING HEREIN CONTAINED SHALL CONSTITUTE OR DESIGNATE THE CONTRACTOR OR ANY OF ITS EMPLOYEES OR AGENTS AS EMPLOYEES OR AGENTS OF THE OWNER.

13.06 No Waiver of Governmental Immunity

Nothing herein is intended as nor shall it be construed as a waiver of the protections and immunities afforded the Owner pursuant to the Colorado Governmental Immunity Act, Sections 24-10-101, et seq., Colorado Revised Statutes, or pursuant to any other applicable laws.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, Owner and Contractor have signed and executed this Agreement in duplicate on the date first written above. One counterpart each has been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or identified by Owner and Contractor or on their behalf.

CITY OF WOODLAND PARK

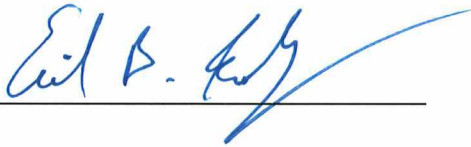
Name: _____
Title: _____

ATTEST:

CONTRACTOR


Name: Christopher J. Krommunde
Title: Senior Vice President

ATTEST:



WORKER WITHOUT AUTHORIZATION ADDENDUM

This Worker Without Authorization Addendum (hereinafter "Addendum") attached hereto and incorporated herein by this reference, is made to this Agreement by and between the City of Woodland Park (hereinafter "City"), a municipal corporation of the State of Colorado, and Kiewit, (hereinafter "Contractor") dated this 26 day of April, 2022.

Pursuant to Section 8-17.5-101, *et seq.*, C.R.S., the following provisions are hereby incorporated:

1. Contractor certifies that, at the time of executing this Addendum, Contractor does not knowingly employ or contract with a worker without authorization who will perform work under the Agreement and that Contractor will participate in the federal E-Verify Program or the Colorado Department of Labor and Employment's Employment Verification Program (hereinafter "CDLE's Program") in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the Agreement.
2. Contractor hereby agrees that it shall not:
 - a) Knowingly employ or contract with a worker without authorization to perform work under the Agreement; or
 - b) Enter into a contract with a subcontractor that fails to certify that the subcontractor shall not knowingly employ or contract with a worker without authorization to perform work under the Agreement.
3. Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the Agreement through participation in either the E-Verify Program or CDLE's Program.
4. Contractor is prohibited from using either the E-Verify Program or CDLE's Program procedures to undertake pre-employment screening of job applicants while the Agreement is being performed.
5. If Contractor obtains actual knowledge that a subcontractor performing work under the Agreement knowingly employs or contracts with a worker without authorization, Contractor is required to:
 - a) Notify the subcontractor and the City within three (3) days that Contractor has actual knowledge that the subcontractor is employing or contracting with a worker without authorization; and
 - b) Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required by Subsection (5) (a) above the subcontractor does not stop employing or contracting with the worker without authorization; except that Contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with a worker without authorization.
6. Contractor is required to comply with any reasonable request that CDLE makes in the course of an investigation that CDLE is undertaking pursuant to Section 8-17.5-102(5), C.R.S.

IN WITNESS WHEREOF, Contractor has executed this Addendum on the date first above written. By the signature of its representative below, Contractor affirms that it has taken all necessary action to authorize said representative to execute this Addendum.

CONTRACTOR

Signature:
Name:
Title:
Date:


Christopher J. Krumwiede
Senior Vice President
4/26/2022

GENERAL CONDITIONS
OF THE
CONSTRUCTION CONTRACT

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GENERAL CONDITIONS

ARTICLE 1 - DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

A. Wherever used in the Contract Documents and printed with initial or all capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof.

1. *Addenda*--Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the Contract Documents.

2. *Agreement*--The written instrument which is evidence of the agreement between OWNER and CONTRACTOR covering the Work.

3. *Application for Payment*--The form acceptable to ENGINEER which is to be used by CONTRACTOR during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

4. *Asbestos*--Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.

5. *Bid*--The offer or proposal of a bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

6. *Bidding Documents*--The Bidding Requirements and the proposed Contract Documents (including all Addenda issued prior to receipt of Bids).

7. *Bidding Requirements*--The Advertisement or Invitation to Bid, Instructions to Bidders, Bid security form, if any, and the Bid form with any supplements.

8. *Bonds*--Those performance or payment bonds which CONTRACTOR is obligated to obtain pursuant to Article 5 of these General Conditions.

9. *Change Order*--A document recommended by ENGINEER which is signed by CONTRACTOR and OWNER and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Agreement.

10. *Claim*--A demand or assertion by OWNER or CONTRACTOR seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.

11. *Contract*--The entire and integrated written agreement between the OWNER and CONTRACTOR concerning the Work. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.

12. *Contract Documents*--The Contract Documents establish the rights and obligations of the parties and include the Agreement, Addenda (which pertain to the Contract Documents), CONTRACTOR's Bid (including documentation accompanying the Bid and any post Bid documentation submitted prior to the Notice of Award) when attached as an exhibit to the Agreement, the Notice to Proceed, the Bonds, these General Conditions, the Supplementary Conditions, the Specifications and the Drawings as the same are more specifically identified in the Agreement, together with all Written Amendments, Change Orders, Work Change Directives, Field Orders, and ENGINEER's written interpretations and clarifications issued on or after the Effective Date of the Agreement. Approved Shop Drawings and the reports and drawings of subsurface and physical conditions are not Contract Documents. Only printed or hard copies of the items

listed in this paragraph are Contract Documents. Files in electronic media format of text, data, graphics, and the like that may be furnished by OWNER to CONTRACTOR are not Contract Documents.

13. *Contract Price*--The moneys payable by OWNER to CONTRACTOR for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of paragraph 11.03 in the case of Unit Price Work).

14. *Contract Times*--The number of days or the dates stated in the Agreement to: (i) achieve Substantial Completion; and (ii) complete the Work so that it is ready for final payment as evidenced by ENGINEER's written recommendation of final payment.

15. *CONTRACTOR*--The individual or entity with whom OWNER has entered into the Agreement.

16. *Cost of the Work*--See paragraph 11.01.A for definition.

17. *Drawings*--That part of the Contract Documents prepared or approved by ENGINEER which graphically shows the scope, extent, and character of the Work to be performed by CONTRACTOR. Shop Drawings and other CONTRACTOR submittals are not Drawings as so defined.

18. *Effective Date of the Agreement*--The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

19. *ENGINEER*--Martin/Martin, Inc., Consulting Engineers.

20. *ENGINEER's Consultant*--An individual or entity having a contract with ENGINEER to furnish services as ENGINEER's independent professional associate or consultant with respect to the Project and who is identified as such in the Supplementary Conditions.

21. *Field Order*--A written order issued by ENGINEER which requires minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.

22. *General Requirements*--Sections of Division 1 of the Specifications. The General Requirements pertain to all sections of the Specifications.

23. *Hazardous Environmental Condition*--The presence at the Site of Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto in connection with the Work.

24. *Hazardous Waste*--The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.

25. *Laws and Regulations; Laws or Regulations*--Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

26. *Lien*--Verified statements of claim filed with OWNER pursuant to the Colorado Revised Statutes.

27. *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.

28. *Notice of Award*--The written notice by OWNER to the apparent successful bidder stating that upon timely compliance by the apparent successful bidder with the conditions precedent listed therein, OWNER will sign and deliver the Agreement.

29. *Notice to Proceed*--A written notice given by OWNER to CONTRACTOR fixing the date on which the Contract Times will commence to run and on which CONTRACTOR shall start to perform the Work under the Contract Documents.

30. *OWNER*--The City of Woodland Park, a home rule municipality of the State of Colorado and the entity with whom CONTRACTOR has entered into the Agreement and for whom the Work is to be performed.

31. *Partial Utilization*--Use by OWNER of a substantially completed part of the Work for the purpose for which it is intended (or a related purpose) prior to Substantial Completion of all the Work.

32. *PCBs*--Polychlorinated biphenyls.

33. *Petroleum*--Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.

34. *Project*--The total construction of which the Work is to be performed under the Contract Documents may be the whole, or a part as may be indicated elsewhere in the Contract Documents.

35. *Project Manual*--The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents. Includes Bidding requirements, Contract Forms, General Conditions of the Contract and Technical Specifications.

36. *Radioactive Material*--Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.

37. *Resident Project Representative*--The authorized representative of ENGINEER who may be assigned to the Site or any part thereof.

38. *Samples*--Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

39. *Shop Drawings*--All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for CONTRACTOR and submitted by CONTRACTOR to illustrate some portion of the Work.

40. *Site*--Lands or areas indicated in the Contract Documents as being furnished by OWNER upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by OWNER which are designated for the use of CONTRACTOR.

41. *Specifications*--That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.

42. *Subcontractor*--An individual or entity having a direct contract with CONTRACTOR or with any other Subcontractor for the performance of a part of the Work at the Site.

43. *Substantial Completion*--The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of ENGINEER, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" applied to all or part of the Work refer to Substantial Completion thereof.

44. *Supplementary Conditions*--That part of the Contract Documents which amends or supplements these General Conditions.

45. *Supplier*--A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with CONTRACTOR or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by CONTRACTOR or any Subcontractor.

46. *Underground Facilities*--All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.

47. *Unit Price Work*--Work to be paid for on the basis of unit prices.

48. *Work*--The entire completed construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.

49. *Work Change Directive*--A written statement to CONTRACTOR issued on or after the Effective Date of the Agreement and signed by OWNER and recommended by ENGINEER ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered 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 Times.

50. *Written Amendment*--A written statement modifying the Contract Documents, signed by OWNER and CONTRACTOR on or after the Effective Date of the Agreement and normally dealing with the nonengineering or nontechnical rather than strictly construction-related aspects of the Contract Documents.

1.02 *Terminology*

A. *Intent of Certain Terms or Adjectives*

1. Whenever in the Contract Documents the terms “as allowed” “as approved,” or terms of like effect or import are used, or the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of ENGINEER as to the Work, it is intended that such action or determination will be solely to evaluate, in general, the completed Work for compliance with the requirements of and information in the Contract Documents and conformance with the design concept of the completed Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective shall not be effective to assign to ENGINEER any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraph 9.10 or any other provision of the Contract Documents.

B. *Day*

1. The word “day” shall constitute a calendar day of 24 hours measured from midnight to the next midnight.

C. *Defective*

1. The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it does not conform to the Contract Documents or does not meet the requirements of any inspection, reference standard, test, or approval referred to in the Contract Documents, or has been damaged prior to ENGINEER’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by OWNER at Substantial Completion in accordance with paragraph 14.04 or 14.05).

D. *Furnish, Install, Perform, Provide*

1. The word “furnish,” when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.

2. The word “install,” when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.

3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.

4. When “furnish,” “install,” “perform,” or “provide” is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of CONTRACTOR, “provide” is implied.

E. Unless stated otherwise in the Contract Documents, words or phrases which have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 - PRELIMINARY MATTERS

2.01 *Delivery of Bonds*

A. When CONTRACTOR delivers the executed Agreements to OWNER, CONTRACTOR shall also deliver to OWNER such Bonds as CONTRACTOR may be required to furnish.

2.02 *Copies of Documents*

A. OWNER shall furnish to CONTRACTOR complete sets of the Contract Documents for use in the execution of the Work. Additional copies will be furnished, upon request, at the cost of the reproduction, which is \$50.00 per project manual and complete set of project drawings.

2.03 *Commencement of Contract Times; Notice to Proceed*

A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Agreement or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Agreement. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Agreement, whichever date is earlier.

2.04 *Starting the Work*

A. CONTRACTOR shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to the date on which the Contract Times commence to run.

2.05 *Before Starting Construction*

A. *CONTRACTOR's Review of Contract Documents:* Before undertaking each part of the Work, CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. CONTRACTOR shall promptly report in writing to ENGINEER any conflict, error, ambiguity, or discrepancy which CONTRACTOR may discover and shall obtain a written interpretation or clarification from ENGINEER before proceeding with any Work affected thereby; however, CONTRACTOR shall not be liable to OWNER or ENGINEER for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless CONTRACTOR knew or reasonably should have known thereof.

B. *Preliminary Schedules:* Within ten days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), CONTRACTOR shall submit to ENGINEER for its timely review:

1. a preliminary progress schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract Documents;
2. a preliminary schedule of Shop Drawing and Sample submittals which will list each required submittal and the times for submitting, reviewing, and processing such submittal; and
3. a preliminary schedule of values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

C. *Evidence of Insurance:* Before any Work at the Site is started, CONTRACTOR shall deliver to OWNER, with copies to each additional insured identified in the supplementary conditions, certificates of insurance (and other evidence of insurance which OWNER or an additional insured may request) which CONTRACTOR is required to purchase and maintain in accordance with Article 5.

2.06 *Preconstruction Conference*

A. Within 20 days after the Contract Times start to run, but before any Work at the Site is started, a conference attended by CONTRACTOR, ENGINEER, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in paragraph 2.05.B, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.

2.07 *Initial Acceptance of Schedules*

A. Unless otherwise provided in the Contract Documents, at least ten days before submission of the first Application for Payment a conference attended by CONTRACTOR, ENGINEER, and others as appropriate will be held to review for acceptability to ENGINEER as provided below the schedules submitted in accordance with paragraph 2.05.B. CONTRACTOR shall have an additional ten days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to CONTRACTOR until acceptable schedules are submitted to ENGINEER.

1. The progress schedule will be acceptable to ENGINEER if it provides an orderly progression of the Work to completion within any specified Milestones and the Contract Times. Such acceptance will not impose on ENGINEER responsibility for the progress schedule, for sequencing, scheduling, or progress of the Work nor interfere with or relieve CONTRACTOR from CONTRACTOR's full responsibility therefor.
2. CONTRACTOR's schedule of Shop Drawing and Sample submittals will be acceptable to ENGINEER if it provides a workable arrangement for reviewing and processing the required submittals.
3. CONTRACTOR's schedule of values will be acceptable to ENGINEER as to form and substance if it provides a reasonable allocation of the Contract Price to component parts of the Work.

ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.01 *Intent*

A. The Contract Documents are complementary; what is called for by one is as binding as if called for by all.

B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result will be provided whether or not specifically called for at no additional cost to OWNER.

C. Clarifications and interpretations of the Contract Documents shall be issued by ENGINEER as provided in Article 9.

3.02 *Reference Standards*

A. *Standards, Specifications, Codes, Laws, and Regulations*

1. Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard, specification, manual, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Agreement if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.

2. No provision of any such standard, specification, manual or code, or any instruction of a Supplier shall be effective to change the duties or responsibilities of OWNER, CONTRACTOR, or ENGINEER, or any of their subcontractors, consultants, agents, or employees from those set forth in the Contract Documents, nor shall any such provision or instruction be effective to assign to OWNER, ENGINEER, or any of ENGINEER's Consultants, agents, or employees any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies*

1. If, during the performance of the Work, CONTRACTOR discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents or between the Contract Documents and any provision of any Law or Regulation applicable to the performance of the Work or of any standard, specification, manual or code, or of any instruction of any Supplier, CONTRACTOR shall report it to ENGINEER in writing at once. CONTRACTOR shall not proceed with the Work affected thereby (except in an emergency as required by paragraph 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in paragraph 3.04; provided, however, that CONTRACTOR shall not be liable to OWNER or ENGINEER for failure to report any such conflict, error, ambiguity, or discrepancy unless CONTRACTOR knew or reasonably should have known thereof.

B. *Resolving Discrepancies*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:

- a. the provisions of any standard, specification, manual, code, or instruction (whether or not specifically incorporated by reference in the Contract Documents); or
- b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Amending and Supplementing Contract Documents*

A. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof in one or more of the following ways: (i) a Written Amendment; (ii) a Change Order; or (iii) a Work Change Directive.

B. So long as no change to the Contract Price or the Contract Times results, the requirements of the Contract Documents may be supplemented, and minor variations and deviations in the work may be authorized, by one or more of the following ways: (i) a Field Order; (ii) ENGINEER's approval of a Shop Drawing or Sample; or (iii) ENGINEER's written interpretation or clarification.

3.05 *Reuse of Documents*

A. CONTRACTOR and any Subcontractor or Supplier or other individual or entity performing or furnishing any of the Work under a direct or indirect contract with OWNER: (i) shall not have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of ENGINEER or ENGINEER's Consultant, including electronic media editions; and (ii) shall not reuse any of such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of OWNER and ENGINEER and specific written verification or adoption by ENGINEER. This prohibition will survive final payment, completion, and acceptance of the Work, or termination or completion of the Contract. Nothing herein shall preclude CONTRACTOR from retaining copies of the Contract Documents for record purposes.

ARTICLE 4 - AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; REFERENCE POINTS

4.01 *Availability of Lands*

A. OWNER shall furnish the Site.

B. CONTRACTOR shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

4.02 *Subsurface and Physical Conditions*

A. *Reports and Drawings:* The Supplementary Conditions identify:

1. those reports of explorations and tests of subsurface conditions at or contiguous to the Site that ENGINEER has used in preparing the Contract Documents; and
2. those drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) that ENGINEER has used in preparing the Contract Documents.

B. *Limited Reliance by CONTRACTOR on Technical Data Authorized:* CONTRACTOR may rely upon the general accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," CONTRACTOR may not rely upon or make any Claim against OWNER, ENGINEER, or any of ENGINEER's Consultants with respect to:

1. the completeness of such reports and drawings for CONTRACTOR purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by CONTRACTOR, and safety precautions and programs incident thereto; or
2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
3. any CONTRACTOR interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions, or information.

4.03 *Differing Subsurface or Physical Conditions*

A. *Notice:* If CONTRACTOR believes that any subsurface or physical condition at or contiguous to the Site that is uncovered or revealed either:

1. is of such a nature as to establish that any "technical data" on which CONTRACTOR is entitled to rely as provided in paragraph 4.02 is materially inaccurate; or
2. is of such a nature as to require a change in the Contract Documents; or

3. differs materially from that shown or indicated in the Contract Documents; or

4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then CONTRACTOR shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by paragraph 6.16.A), notify OWNER and ENGINEER in writing about such condition. CONTRACTOR shall not further disturb such condition or perform any Work in connection therewith (except as aforesaid) until receipt of written order to do so.

B. *ENGINEER's Review:* After receipt of written notice as required by paragraph 4.03.A, ENGINEER will promptly review the pertinent condition, determine the necessity of OWNER obtaining additional exploration or tests with respect thereto, and advise OWNER in writing (with a copy to CONTRACTOR) of ENGINEER's findings and conclusions.

C. *Possible Price and Times Adjustments*

1. The Contract Price or the Contract Times, or both, will be equitably adjusted to the extent that the existence of such differing subsurface or physical condition causes an increase or decrease in CONTRACTOR's cost of, or time required for, performance of the Work; subject, however, to the following:

- a. such condition must meet any one or more of the categories described in paragraph 4.03.A; and
- b. with respect to Work that is paid for on a Unit Price Basis, any adjustment in Contract Price will be subject to the provisions of paragraphs 9.08 and 11.03.

2. CONTRACTOR shall not be entitled to any adjustment in the Contract Price or Contract Times if:

a. CONTRACTOR knew or should, in the exercise of reasonable diligence, have known of the existence of such conditions at the time CONTRACTOR made a final commitment to OWNER in respect of Contract Price and Contract Time by the submission of a Bid or becoming bound under a negotiated contract; or

b. the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for CONTRACTOR prior to CONTRACTOR's making such final commitment; or

c. CONTRACTOR failed to give the written notice within the time and as required by paragraph 4.03.A.

3. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefor as provided in paragraph 10.05. However, OWNER, ENGINEER, and ENGINEER's Consultants shall not be liable to CONTRACTOR for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by CONTRACTOR on or in connection with any other project or anticipated project.

4.04 *Underground Facilities*

A. *Shown or Indicated:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the Site is based on information and data furnished to OWNER or ENGINEER by the owners of such Underground Facilities, including OWNER, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:

1. OWNER and ENGINEER shall not be responsible for the accuracy or completeness of any such information or data; and

2. the cost of all of the following will be included in the Contract Price, and CONTRACTOR shall have full responsibility for:

- a. reviewing and checking all such information and data,
- b. locating all Underground Facilities shown or indicated in the Contract Documents,
- c. coordination of the Work with the owners of such Underground Facilities, including OWNER, during construction, and
- d. the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.

B. Not Shown or Indicated

1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, CONTRACTOR shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by paragraph 6.16.A), identify the owner of such Underground Facility and give written notice to that owner and to OWNER and ENGINEER.

4.05 Reference Points

A. OWNER shall provide engineering surveys to establish reference points for construction which in ENGINEER's judgment are necessary to enable CONTRACTOR to proceed with the Work. CONTRACTOR shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of OWNER. CONTRACTOR shall report to ENGINEER whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.06 Hazardous Environmental Condition at Site

A. *Reports and Drawings:* Reference is made to the Supplementary Conditions for the identification of those reports and drawings relating to a Hazardous Environmental Condition identified at the Site, if any, that have been utilized by the ENGINEER in the preparation of the Contract Documents.

B. *Limited Reliance by CONTRACTOR on Technical Data Authorized:* CONTRACTOR may rely upon the general accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," CONTRACTOR may not rely upon or make any Claim against OWNER, ENGINEER or any of ENGINEER's Consultants with respect to:

1. the completeness of such reports and drawings for CONTRACTOR's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by CONTRACTOR and safety precautions and programs incident thereto; or
2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
3. any CONTRACTOR interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions or information.

C. CONTRACTOR shall not be responsible for any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. CONTRACTOR shall be responsible for a Hazardous Environmental Condition created with any materi-

als brought to the Site by CONTRACTOR, Subcontractors, Suppliers, or anyone else for whom CONTRACTOR is responsible.

D. If CONTRACTOR encounters a Hazardous Environmental Condition or if CONTRACTOR or anyone for whom CONTRACTOR is responsible creates a Hazardous Environmental Condition, CONTRACTOR shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by paragraph 6.16); and (iii) notify OWNER and ENGINEER (and promptly thereafter confirm such notice in writing). OWNER shall promptly consult with ENGINEER concerning the necessity for OWNER to retain a qualified expert to evaluate such condition or take corrective action, if any.

E. CONTRACTOR shall not be required to resume Work in connection with such condition or in any affected area until after OWNER has obtained any required permits related thereto and delivered to CONTRACTOR written notice: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. If OWNER and CONTRACTOR cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by CONTRACTOR, either party may make a Claim therefor as provided in paragraph 10.05.

F. If after receipt of such written notice CONTRACTOR does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then OWNER may order the portion of the Work that is in the area affected by such condition to be deleted from the Work. If OWNER and CONTRACTOR cannot agree as to entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim therefor as provided in paragraph 10.05. OWNER may have such deleted portion of the Work performed by OWNER's own forces or others in accordance with Article 7.

G. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultants, and the officers, directors, partners, employees, agents, other consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition created by CONTRACTOR or by anyone for whom CONTRACTOR is responsible. Nothing in this paragraph 4.06.F shall obligate CONTRACTOR to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

H. The provisions of paragraphs 4.02, 4.03, and 4.04 are not intended to apply to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 5 - BONDS AND INSURANCE

5.01 *Performance, Payment, and Other Bonds*

A. CONTRACTOR shall furnish performance and payment Bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all CONTRACTOR's obligations under the Contract Documents. These Bonds shall remain in effect at least until one year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents. CONTRACTOR shall also furnish such other Bonds as are required by the Contract Documents.

B. All Bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All Bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act.

C. If the surety on any Bond furnished by CONTRACTOR is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of paragraph

5.01.B, CONTRACTOR shall within 20 days thereafter substitute another Bond and surety, both of which shall comply with the requirements of paragraphs 5.01.B and 5.02.

5.02 *Licensed Sureties and Insurers*

A. All Bonds and insurance required by the Contract Documents to be purchased and maintained by CONTRACTOR shall be obtained from surety or insurance companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue Bonds or insurance policies for the limits and coverages so required. Such surety and insurance companies shall also meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.

5.03 *Certificates of Insurance*

A. CONTRACTOR shall deliver to OWNER, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by OWNER or any other additional insured) which CONTRACTOR is required to purchase and maintain.

5.04 *CONTRACTOR's Liability Insurance*

A. CONTRACTOR shall purchase at its own expense and maintain such liability and other insurance in full force and effect at all times as is appropriate for the Work being performed and as will provide protection from claims set forth below which may arise out of the Work and CONTRACTOR's performance of the Work and CONTRACTOR's other obligations under the Contract Documents, whether it is to be performed by CONTRACTOR, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the work, or by anyone for whose acts any of them may be liable:

1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;
2. claims for damages because of bodily injury, occupational sickness or disease, or death of CONTRACTOR's employees or uninsured subcontractors under any applicable law;
3. claims for damages because of bodily injury, sickness or disease, or death of any person other than CONTRACTOR's employees;
4. claims for damages insured by personal injury liability;
5. Claims for damages other than to the CONTRACTOR's own work itself; and
6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

B. The policies of insurance so required by this paragraph 5.04 to be purchased and maintained shall include but not be limited to:

1. with respect to insurance required by paragraphs 5.04.A.3 through 5.04.A.6 inclusive, include as additional insureds (subject to any customary exclusion in respect of professional liability) OWNER, ENGINEER, ENGINEER's Consultants, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insureds, and include coverage for the respective officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;
2. include at least the specific coverages and be written for not less than the limits of liability provided in the Supplementary Conditions or required by Laws or Regulations, whichever is greater;
3. include completed products and operations insurance;

4. include contractual liability insurance covering CONTRACTOR's indemnity obligations under paragraphs 6.07, 6.11, and 6.20;

5. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least thirty days prior written notice has been given to OWNER and CONTRACTOR and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the CONTRACTOR pursuant to paragraph 5.03 will so provide);

6. remain in effect at least until final payment and at all times thereafter when CONTRACTOR may be correcting, removing, or replacing defective Work in accordance with paragraph 13.07; and

7. with respect to completed products and operations insurance, and any insurance coverage written on a claims-made basis, remain in effect for at least two years after final payment (and CONTRACTOR shall furnish OWNER and each other additional insured identified in the Supplementary Conditions, to whom a certificate of insurance has been issued, evidence satisfactory to OWNER and any such additional insured of continuation of such insurance at final payment and one year thereafter).

5.05 *Property Insurance*

A. Unless otherwise provided in the supplementary conditions, CONTRACTOR shall purchase and maintain property insurance upon the Work at the site in the amount of the full replacement cost thereof. All deductible amounts with regard to such insurance shall be the responsibility of the CONTRACTOR. This insurance shall:

1. include the interests of OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as an additional insured;

2. be written on a Builder's Risk policy or open peril or special causes of loss policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, false work, and materials and equipment which is to be used for the Work, whether in-transit or elsewhere, and shall insure against at least the following perils and causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage, and such other perils or causes of loss as may specifically be required by the Supplementary Conditions;

3. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);

4. cover materials and equipment stored at the Site or at another location that was agreed to in writing by OWNER prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by ENGINEER;

5. allow for partial utilization of the Work by OWNER;

6. include testing and startup; and

7. be maintained in effect until final payment is made unless otherwise agreed to in writing by OWNER, CONTRACTOR, and ENGINEER with 30 days written notice to each other additional insured to whom a certificate of insurance has been issued.

B. CONTRACTOR shall purchase and maintain such boiler and machinery insurance or additional property insurance as may be required by the Supplementary Conditions or Laws and Regulations which will include the interests of OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants, and any other individuals or entities identified in the Supplementary Conditions, each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured.

C. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with paragraph 5.05 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 days prior written notice has been given to OWNER and CONTRACTOR and to each other additional insured to whom a certificate of insurance has been issued.

D. OWNER shall not be responsible for purchasing and maintaining any property insurance specified in this paragraph 5.05 to protect the interests of CONTRACTOR, Subcontractors, or others in the Work to the extent of any deductible amounts that are identified in the Supplementary Conditions. The risk of loss within such identified deductible amount will be borne by CONTRACTOR, Subcontractors, or others suffering any such loss, and if any of them wishes property insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.

5.06 *Waiver of Rights*

A. OWNER and CONTRACTOR intend that all policies purchased in accordance with paragraph 5.05 will protect OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them) in such policies and will provide primary coverage for all losses and damages caused by the perils or causes of loss covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or additional insureds thereunder.

5.07 *Receipt and Application of Insurance Proceeds*

A. Any insured loss under the policies of insurance required by paragraph 5.05 will be adjusted with OWNER and made payable to OWNER as representative for, not as fiduciary for, the insureds, as their interests may appear, subject to the requirements of any applicable mortgage clause and of paragraph 5.07.B. OWNER shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof, and the Work and the cost thereof covered by an appropriate Change Order or Written Amendment.

B. OWNER shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to OWNER's exercise of this power. If such objection be made, OWNER as representative for, not as fiduciary for, shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, OWNER as fiduciary shall adjust and settle the loss with the insurers and, if required in writing by any party in interest, OWNER as fiduciary shall give bond for the proper performance of such duties.

5.08 *Acceptance of Bonds and Insurance; Option to Replace*

A. If either OWNER or CONTRACTOR has any objection to the coverage afforded by or other provisions of the Bonds or insurance required to be purchased and maintained by the other party in accordance with Article 5 on the basis of non-conformance with the Contract Documents, the objecting party shall so notify the other party in writing within 10 days after receipt of the certificates (or other evidence requested) required by paragraph 2.05.C. OWNER and CONTRACTOR shall each provide to the other such additional information in respect of insurance provided as the other may reasonably request. If either party does not purchase or maintain all of the Bonds and insurance required of such party by the Contract Documents, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage. Without prejudice to any other right or remedy, the other party may elect to obtain equivalent Bonds or insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

5.09 *Partial Utilization, Acknowledgment of Property Insurer*

A. If OWNER finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in paragraph 14.05, no such use or occupancy shall commence before the insurers providing the property insurance pursuant to paragraph 5.05 have acknowledged notice thereof and in writing effected any changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or

policies, but the property insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy.

ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES

6.01 *Supervision and Superintendence*

A. CONTRACTOR shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction, but CONTRACTOR shall not be responsible for the negligence of OWNER or ENGINEER in the design or specification of a specific means, method, technique, sequence, or procedure of construction which is shown or indicated in and expressly required by the Contract Documents. CONTRACTOR shall be responsible to see that the completed Work complies accurately with the Contract Documents.

B. At all times during the progress of the Work, CONTRACTOR shall assign a competent resident superintendent thereto who shall not be replaced without written notice to OWNER and ENGINEER except under extraordinary circumstances. The superintendent will be CONTRACTOR's representative at the Site and shall have authority to act on behalf of CONTRACTOR. All communications given to or received from the superintendent shall be binding on CONTRACTOR.

6.02 *Labor; Working Hours*

A. CONTRACTOR shall provide competent, suitably qualified personnel to survey, lay out, and construct the Work as required by the Contract Documents. CONTRACTOR shall at all times maintain good discipline and order at the Site.

B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, and CONTRACTOR will not permit overtime work or the performance of Work on Saturday, Sunday, or any legal holiday without OWNER's written consent (which will not be unreasonably withheld) given after prior written notice to ENGINEER.

6.03 *Services, Materials, and Equipment*

A. Unless otherwise specified in the General Requirements, CONTRACTOR shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work.

B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All warranties and guarantees specifically called for by the Specifications shall expressly run to the benefit of OWNER. If required by ENGINEER, CONTRACTOR shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

6.04 *Progress Schedule*

A. CONTRACTOR shall adhere to the progress schedule established in accordance with paragraph 2.07 as it may be adjusted from time to time as provided below.

1. CONTRACTOR shall submit to ENGINEER for acceptance (to the extent indicated in paragraph 2.07) proposed adjustments in the progress schedule that will not result in changing the Contract Times (or Milestones). Such adjustments will conform generally to the progress schedule then in effect and additionally will comply with any provisions of the General Requirements applicable thereto.

2. Proposed adjustments in the progress schedule that will change the Contract Times (or Milestones) shall be submitted in accordance with the requirements of Article 12. Such adjustments may only be made by a Change Order or Written Amendment in accordance with Article 12.

6.05 *Substitutes and “Or-Equal”*

A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or “or-equal” item or no substitution is permitted, other items of material or equipment or material or equipment of other Suppliers may be submitted to ENGINEER for review under the circumstances described below:

1. “Or-Equal” *Items*: If in ENGINEER’s sole discretion an item of material or equipment proposed by CONTRACTOR is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by ENGINEER as an “Or-Equal” item, in which case review and approval of the proposed item may, in ENGINEER’s sole discretion, be accomplished without compliance with some or all of the requirements for approval of proposed substitute items. For the purposes of this paragraph 6.05.A.1, a proposed item of material or equipment will be considered functionally equal to an item so named if:

a. in the exercise of reasonable judgment ENGINEER determines that: (i) it is at least equal in quality, durability, appearance, strength, and design characteristics; (ii) it will reliably perform at least equally well the function imposed by the design concept of the completed Project as a functioning whole, and;

b. CONTRACTOR certifies that: (i) there is no increase in cost to the OWNER; and (ii) it will conform substantially, even with deviations, to the detailed requirements of the item named in the Contract Documents.

2. *Substitute Items*

a. If in ENGINEER’s sole discretion an item of material or equipment proposed by CONTRACTOR does not qualify as an “or-equal” item under paragraph 6.05.A.1, it will be considered a proposed substitute item.

b. CONTRACTOR shall submit sufficient information as provided below to allow ENGINEER to determine that the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefor. Requests for review of proposed substitute items of material or equipment will not be accepted by ENGINEER from anyone other than CONTRACTOR.

c. The procedure for review by ENGINEER will be as set forth in paragraph 6.05.A.2.d, as supplemented in the General Requirements and as ENGINEER may decide is appropriate under the circumstances.

d. CONTRACTOR shall first make written application to ENGINEER for review of a proposed substitute item of material or equipment that CONTRACTOR seeks to furnish or use. The application shall certify that the proposed substitute item will perform adequately the functions and achieve the results called for by the general design, be similar in substance to that specified, and be suited to the same use as that specified. The application will state the extent, if any, to which the use of the proposed substitute item will prejudice CONTRACTOR’s achievement of Substantial Completion on time, whether or not use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with OWNER for work on the Project) to adapt the design to the proposed substitute item and whether or not incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute item from that specified will be identified in the application, and available engineering, sales, maintenance, repair, and replacement services will be indicated. The application will also contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including costs of redesign and claims of other contractor’s affected by any resulting change, all of which will be considered by ENGINEER in evaluating the proposed substitute item. ENGINEER may require CONTRACTOR to furnish additional data about the proposed substitute item.

B. *Substitute Construction Methods or Procedures:* If a specific means, method, technique, sequence, or procedure of construction is shown or indicated in and expressly required by the Contract Documents, CONTRACTOR may furnish or utilize a substitute means, method, technique, sequence, or procedure of construction approved by ENGINEER. CONTRACTOR shall submit sufficient information to allow ENGINEER, in ENGINEER's sole discretion, to determine that the substitute proposed is equivalent to that expressly called for by the Contract Documents. The procedure for review by ENGINEER will be similar to that provided in subparagraph 6.05.A.2.

C. *ENGINEER's Evaluation:* ENGINEER will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to paragraphs 6.05.A and 6.05.B. ENGINEER will be the sole judge of acceptability. No "or-equal" or substitute will be ordered, installed or utilized until ENGINEER's review is complete, which will be evidenced by either a Change Order for a substitute or an approved Shop Drawing for an "or equal." ENGINEER will advise CONTRACTOR in writing of any negative determination.

D. *Special Guarantee:* OWNER may require CONTRACTOR to furnish at CONTRACTOR's expense a special performance guarantee or other surety with respect to any substitute.

E. *ENGINEER's Cost Reimbursement:* ENGINEER will record time required by ENGINEER and ENGINEER's Consultants in evaluating substitute proposed or submitted by CONTRACTOR pursuant to paragraphs 6.05.A.2 and 6.05.B and in making changes in the Contract Documents (or in the provisions of any other direct contract with OWNER for work on the Project) occasioned thereby. Whether or not ENGINEER approves a substitute item so proposed or submitted by CONTRACTOR, CONTRACTOR shall reimburse OWNER for the charges of ENGINEER and ENGINEER's Consultants for evaluating each such proposed substitute.

F. *CONTRACTOR's Expense:* CONTRACTOR shall provide all data in support of any proposed substitute or "or-equal" at CONTRACTOR's expense.

6.06 *Concerning Subcontractors, Suppliers, and Others*

A. CONTRACTOR shall not employ any Subcontractor, Supplier, or other individual or entity (including those acceptable to OWNER as indicated in paragraph 6.06.B), whether initially or as a replacement, against whom OWNER may have reasonable objection.

B. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other individuals or entities to be submitted to OWNER in advance for acceptance by OWNER by a specified date prior to the Effective Date of the Agreement, and if CONTRACTOR has submitted a list thereof in accordance with the Supplementary Conditions, OWNER's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. CONTRACTOR shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued or Written Amendment signed. No acceptance by OWNER of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of OWNER or ENGINEER to reject defective Work.

C. CONTRACTOR shall be fully responsible to OWNER and ENGINEER for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as CONTRACTOR is responsible for CONTRACTOR's own acts and omissions. Nothing in the Contract Documents shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between OWNER or ENGINEER and any such Subcontractor, Supplier or other individual or entity, nor shall it create any obligation on the part of OWNER or ENGINEER to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

D. CONTRACTOR shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with CONTRACTOR.

E. CONTRACTOR shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with ENGINEER through CONTRACTOR.

F. The divisions and sections of the Specifications and the identifications of any Drawings shall not control CONTRACTOR in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.

G. All Work performed for CONTRACTOR by a Subcontractor or Supplier will be pursuant to an appropriate agreement between CONTRACTOR and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of OWNER and ENGINEER.

6.07 Patent Fees and Royalties

A. CONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if to the actual knowledge of OWNER or ENGINEER its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by OWNER in the Contract Documents. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultants, and the officers, directors, partners, employees or agents, and other consultants of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

6.08 Permits

A. Unless otherwise provided in the Supplementary Conditions, CONTRACTOR shall obtain and pay for all construction permits and licenses. OWNER shall assist CONTRACTOR, when necessary, in obtaining such permits and licenses. CONTRACTOR shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of opening of Bids, or, if there are no Bids, on the Effective Date of the Agreement. CONTRACTOR shall pay all charges of utility owners for connections to the Work.

6.09 Laws and Regulations

A. CONTRACTOR shall give all notices and comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither OWNER nor ENGINEER shall be responsible for monitoring CONTRACTOR's compliance with any Laws or Regulations.

B. If CONTRACTOR performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, CONTRACTOR shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work; however, it shall not be CONTRACTOR's primary responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve CONTRACTOR of CONTRACTOR's obligations under paragraph 3.03.

C. Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance of the Work may be the subject of an adjustment in Contract Price or Contract Times. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in paragraph 10.05.

6.10 Taxes

A. OWNER is exempt from Colorado State Sales and Use Taxes on materials and equipment to be incorporated in the Work (exemption No. 98-00361). Said Taxes shall not be included in the Contract Price or modifications to the Contract Price.

B. Prior to the purchase of any property to be incorporated into the Work, the CONTRACTOR and any subcontractor shall apply to the Department of Revenue, State of Colorado, for an exemption to be used for all Work done under this Contract (Form DR-172). All purchases for the Work shall use the exemption from sales tax.

6.11 *Use of Site and Other Areas*

A. *Limitation on Use of Site and Other Areas*

1. CONTRACTOR shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and other areas with construction equipment or other materials or equipment. CONTRACTOR shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or areas resulting from the performance of the Work.

2. Should any claim be made by any such owner or occupant because of the performance of the Work, CONTRACTOR shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.

3. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultant, and the officers, directors, partners, employees, agents, and other consultants of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against OWNER, ENGINEER, or any other party indemnified hereunder to the extent caused by or based upon CONTRACTOR's performance of the Work.

B. *Removal of Debris During Performance of the Work:* During the progress of the Work CONTRACTOR shall keep the Site and other areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.

C. *Cleaning:* Prior to Substantial Completion of the Work CONTRACTOR shall clean the Site and make it ready for utilization by OWNER. At the completion of the Work CONTRACTOR shall remove from the Site all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

D. *Loading Structures:* CONTRACTOR shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall CONTRACTOR subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

6.12 *Record Documents*

A. CONTRACTOR shall maintain in a safe place at the Site one record copy of all Drawings, Specifications, Addenda, Written Amendments, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications in good order and annotated to show changes made during construction. These record documents together with all approved Samples and a counterpart of all approved Shop Drawings will be available to ENGINEER for reference. Upon completion of the Work, these record documents, Samples, and Shop Drawings will be delivered to ENGINEER for OWNER.

6.13 *Safety and Protection*

A. CONTRACTOR shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. CONTRACTOR shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

1. all persons on the Site or who may be affected by the Work;
2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and

3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.

B. CONTRACTOR shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. CONTRACTOR shall notify owners of adjacent property and of Underground Facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property. All damage, injury, or loss to any property referred to in paragraph 6.13.A.2 or 6.13.A.3 caused, directly or indirectly, in whole or in part, by CONTRACTOR, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by CONTRACTOR (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of OWNER or ENGINEER or ENGINEER's Consultant, or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of CONTRACTOR or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them). CONTRACTOR's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and ENGINEER has issued a notice to OWNER and CONTRACTOR in accordance with paragraph 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

6.14 *Safety Representative*

A. CONTRACTOR shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

6.15 *Hazard Communication Programs*

A. CONTRACTOR shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

6.16 *Emergencies*

A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, CONTRACTOR is obligated to act to prevent threatened damage, injury, or loss. CONTRACTOR shall give ENGINEER prompt written notice if CONTRACTOR believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If ENGINEER determines that a change in the Contract Documents is required because of the action taken by CONTRACTOR in response to such an emergency, a Work Change Directive or Change Order will be issued.

6.17 *Shop Drawings and Samples*

A. CONTRACTOR shall submit Shop Drawings to ENGINEER for review and approval in accordance with the acceptable schedule of Shop Drawings and Sample submittals. All submittals will be identified as ENGINEER may require and in the number of copies specified in the General Requirements. The data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show ENGINEER the services, materials, and equipment CONTRACTOR proposes to provide and to enable ENGINEER to review the information for the limited purposes required by paragraph 6.17.E.

B. CONTRACTOR shall also submit Samples to ENGINEER for review and approval in accordance with the acceptable schedule of Shop Drawings and Sample submittals. Each Sample will be identified clearly as to material, Supplier, pertinent data such as catalog numbers, and the use for which intended and otherwise as ENGINEER may require to enable ENGINEER to review the submittal for the limited purposes required by paragraph 6.17.E. The numbers of each Sample to be submitted will be as specified in the Specifications.

C. Where a Shop Drawing or Sample is required by the Contract Documents or the schedule of Shop Drawings and Sample submittals acceptable to ENGINEER as required by paragraph 2.07, any related Work performed prior to ENGINEER's review and approval of the pertinent submittal will be at the sole expense and responsibility of CONTRACTOR.

D. Submittal Procedures

1. Before submitting each Shop Drawing or Sample, CONTRACTOR shall have determined and verified:
 - a. all field measurements, quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
 - b. all materials with respect to intended use, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work;
 - c. all information relative to means, methods, techniques, sequences, and procedures of construction and safety precautions and programs incident thereto; and
 - d. CONTRACTOR shall also have reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents.
2. Each submittal shall bear a stamp or specific written indication that CONTRACTOR has satisfied CONTRACTOR's obligations under the Contract Documents with respect to CONTRACTOR's review and approval of that submittal.
3. At the time of each submittal, CONTRACTOR shall give ENGINEER specific written notice of such variations, if any, that the Shop Drawing or Sample submitted may have from the requirements of the Contract Documents, such notice to be in a written communication separate from the submittal; and, in addition, shall cause a specific notation to be made on each Shop Drawing and Sample submitted to ENGINEER for review and approval of each such variation.

E. ENGINEER's Review

1. ENGINEER will timely review and approve Shop Drawings and Samples in accordance with the schedule of Shop Drawings and Sample submittals acceptable to ENGINEER. ENGINEER's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
2. ENGINEER's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
3. ENGINEER's review and approval of Shop Drawings or Samples shall not relieve CONTRACTOR from responsibility for any variation from the requirements of the Contract Documents unless CONTRACTOR has in writing called ENGINEER's attention to each such variation at the time of each submittal as required by paragraph 6.17.D.3 and ENGINEER has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample approval; nor will any approval by ENGINEER relieve CONTRACTOR from responsibility for complying with the requirements of paragraph 6.17.D.1.

F. Resubmittal Procedures

1. CONTRACTOR shall make corrections required by ENGINEER and shall return the required number of corrected copies of Shop Drawings and submit as required new Samples for review and approval. CONTRACTOR shall direct specific attention in writing to revisions other than the corrections called for by ENGINEER on previous submittals.

6.18 Continuing the Work

A. CONTRACTOR shall carry on the Work and adhere to the progress schedule during all disputes or disagreements with OWNER. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as permitted by paragraph 15.04 or as OWNER and CONTRACTOR may otherwise agree in writing.

6.19 *CONTRACTOR's General Warranty and Guarantee*

A. CONTRACTOR warrants and guarantees to OWNER, ENGINEER, and ENGINEER's Consultants that all Work will be in accordance with the Contract Documents and will not be defective. CONTRACTOR's warranty and guarantee hereunder excludes defects or damage caused by:

1. abuse, modification, or improper maintenance or operation by persons other than CONTRACTOR, Subcontractors, Suppliers, or any other individual or entity for whom CONTRACTOR is responsible; or
2. normal wear and tear under normal usage.

B. CONTRACTOR's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of CONTRACTOR's obligation to perform the Work in accordance with the Contract Documents:

1. observations by ENGINEER;
2. recommendation by ENGINEER or payment by OWNER of any progress or final payment;
3. the issuance of a certificate of Substantial Completion by ENGINEER or any payment related thereto by OWNER;
4. use or occupancy of the Work or any part thereof by OWNER;
5. any acceptance by OWNER or any failure to do so;
6. any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by ENGINEER;
7. any inspection, test, or approval by others; or
8. any correction of defective Work by OWNER.

6.20 *Indemnification*

A. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultants, and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage:

1. is caused or is alleged to be caused in whole or in part by any negligent act or omission of CONTRACTOR, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable, regardless of whether or not caused or alleged to be caused in part by any negligence or omission of an individual or entity indemnified hereunder or whether liability is imposed upon such indemnified party by Laws and Regulations regardless of the negligence of any such individual or entity.

B. In any and all claims against OWNER or ENGINEER or any of their respective consultants, agents, officers, directors, partners, or employees by any employee (or the survivor or personal representative of such employee) of CONTRACTOR, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under

paragraph 6.20.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for CONTRACTOR or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

C. The indemnification obligations of CONTRACTOR under paragraph 6.20.A shall not extend to the liability of ENGINEER and ENGINEER's Consultants or to the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them arising out of:

1. the preparation or approval of, or the failure to prepare or approve, maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

ARTICLE 7 - OTHER WORK

7.01 *Related Work at Site*

A. OWNER or others may perform other work related to the Project at the Site by OWNER's employees, or let other direct contracts therefor, or have other work performed by utility owners. If such other work is not noted in the Contract Documents, then:

1. written notice is hereby given to CONTRACTOR that such other work will be performed; and
2. CONTRACTOR shall not be entitled to any amount or extent of any adjustment in the Contract Price or Contract Times as a result of such other work.

B. CONTRACTOR shall afford each other contractor who is a party to such a direct contract and each utility owner (and OWNER, if OWNER is performing the other work with OWNER's employees) proper and safe access to the Site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work and shall properly coordinate the Work with theirs. Unless otherwise provided in the Contract Documents, CONTRACTOR shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. CONTRACTOR shall not endanger any work of others by cutting, excavating, or otherwise altering their work and will only cut or alter their work with the written consent of ENGINEER and the others whose work will be affected. The duties and responsibilities of CONTRACTOR under this paragraph are for the benefit of such other contractors.

C. If the proper execution or results of any part of CONTRACTOR's Work depends upon work performed by others under this Article 7, CONTRACTOR shall inspect such other work and promptly report to ENGINEER in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of CONTRACTOR's Work. CONTRACTOR's failure to so report will constitute an acceptance of such other work as fit and proper for integration with CONTRACTOR's Work except for latent defects and deficiencies in such other work.

7.02 *Coordination*

A. If OWNER intends to contract with others for the performance of other work on the Project at the Site, the following will be set forth in Supplementary Conditions:

1. the individual or entity who will have authority and responsibility for coordination of the activities among the various contractors will be identified;
2. the specific matters to be covered by such authority and responsibility will be itemized; and
3. the extent of such authority and responsibilities will be provided.

B. Unless otherwise provided in the Supplementary Conditions, OWNER shall have sole authority and responsibility for such coordination.

ARTICLE 8 - OWNER'S RESPONSIBILITIES

8.01 *Communications to CONTRACTOR*

A. Except as otherwise provided in these General Conditions, OWNER shall issue all communications to CONTRACTOR through ENGINEER.

8.02 *Replacement of ENGINEER*

A. In case of termination of the employment of ENGINEER, OWNER may, in OWNER's sole discretion, appoint a replacement engineer whose status under the Contract Documents shall be that of the former ENGINEER.

8.03 *Furnish Data*

A. OWNER shall promptly furnish the data required of OWNER under the Contract Documents.

8.04 *Payment*

A. OWNER shall make payments to CONTRACTOR promptly when they are due, subject to CONTRACTOR's satisfaction of all terms and conditions contained in section 14, and OWNER's right to withhold payment thereunder.

8.05 *Lands and Easements*

A. OWNER's duties in respect of providing lands and providing engineering surveys to establish reference points are set forth in paragraphs 4.01 and 4.05. Paragraph 4.02 refers to OWNER's identifying and making available to CONTRACTOR copies of reports of explorations and tests of subsurface conditions and drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site that have been utilized by ENGINEER in preparing the Contract Documents.

8.06 *Change Orders*

A. OWNER may execute Change Orders as indicated in paragraph 10.03. Upon OWNER's agreement to the terms thereof, OWNER is obligated to execute the Change Order.

B. OWNER will issue no Change Order or other form of order or directive requiring additional work to be performed, which work causes aggregate amounts payable under the Contract to exceed the amount appropriated for the original Contract, unless the CONTRACTOR is given written assurance by the OWNER that lawful appropriations to cover the costs of the additional work have been made or unless such work is covered by remedy granting provisions of the Contract.

8.07 *Inspections, Tests, and Approvals*

A. OWNER's responsibility in respect to certain inspections, tests, and approvals is set forth in paragraph 13.03.B.

8.08 *Limitations on OWNER's Responsibilities*

A. The OWNER shall not supervise, direct, or have control or authority over, nor be responsible for, CONTRACTOR's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of CONTRACTOR to comply with Laws and Regulations applicable to the performance of the Work. OWNER will not be responsible for CONTRACTOR's failure to perform the Work in accordance with the Contract Documents.

8.09 *Undisclosed Hazardous Environmental Condition*

A. OWNER's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in paragraph 4.06.

8.10 *Evidence of Financial Arrangements*

A. OWNER shall furnish CONTRACTOR with a statement that the amount of money appropriated is equal to or in excess of the contract amount.

ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION

9.01 *OWNER's Representative*

A. ENGINEER will be OWNER's representative during the construction period. The duties and responsibilities and the limitations of authority of ENGINEER as OWNER's representative during construction are set forth in the Contract Documents and will not be changed without written consent of OWNER and ENGINEER.

9.02 *Visits to Site*

A. ENGINEER will make visits to the Site at intervals appropriate to the various stages of construction as ENGINEER deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of CONTRACTOR's executed Work. Based on information obtained during such visits and observations, ENGINEER, for the benefit of OWNER, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. ENGINEER shall not be required to make exhaustive or continuous inspections of the Site. ENGINEER's efforts will be directed toward providing for OWNER a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, ENGINEER will keep OWNER informed of the progress of the Work and will endeavor to guard OWNER against defective Work.

B. ENGINEER's visits and observations are subject to all the limitations on ENGINEER's authority and responsibility set forth in paragraph 9.10, and particularly, but without limitation, during or as a result of ENGINEER's visits or observations of CONTRACTOR's Work ENGINEER will not supervise, direct, control, or have authority over or be responsible for CONTRACTOR's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of CONTRACTOR to comply with Laws and Regulations applicable to the performance of the Work.

9.03 *Project Representative*

A. If OWNER and ENGINEER agree, ENGINEER will furnish a Resident Project Representative to assist ENGINEER in providing more extensive observation of the Work. The responsibilities and authority and limitations thereon of any such Resident Project Representative and assistants will be as provided in paragraph 9.10 and in the Supplementary Conditions. If OWNER designates another representative or agent to represent OWNER at the Site who is not ENGINEER's Consultant, agent or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

9.04 *Clarifications and Interpretations*

A. ENGINEER will issue with reasonable promptness such written clarifications or interpretations of the requirements of the Contract Documents as ENGINEER may determine necessary, which shall be consistent with the intent of and reasonably inferable from the Contract Documents. Such written clarifications and interpretations will be binding on OWNER and CONTRACTOR. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a written clarification or interpretation, a Claim may be made therefor as provided in paragraph 10.05.

9.05 *Authorized Variations in Work*

A. ENGINEER may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. These may be accomplished by a Field Order and will be binding on OWNER and also on CONTRACTOR, who shall perform the Work involved promptly. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of a Field Order, a Claim may be made therefor as provided in paragraph 10.05.

9.06 Rejecting Defective Work

A. ENGINEER will have authority to disapprove or reject Work which ENGINEER believes to be defective, or that ENGINEER believes will not produce a completed Project that conforms to the Contract Documents or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. ENGINEER will also have authority to require special inspection or testing of the Work as provided in paragraph 13.04, whether or not the Work is fabricated, installed, or completed.

9.07 Shop Drawings, Change Orders and Payments

- A. In connection with ENGINEER's authority as to Shop Drawings and Samples, see paragraph 6.17.
- B. In connection with ENGINEER's authority as to Change Orders, see Articles 10, 11, and 12.
- C. In connection with ENGINEER's authority as to Applications for Payment, see Article 14.

9.08 Determinations for Unit Price Work

A. ENGINEER will determine the actual quantities and classifications of Unit Price Work performed by CONTRACTOR. ENGINEER will review with CONTRACTOR the ENGINEER's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). ENGINEER's written decision thereon will be final and binding (except as modified by ENGINEER to reflect changed factual conditions or more accurate data) upon OWNER and CONTRACTOR, subject to the provisions of paragraph 10.05.

9.09 Decisions on Requirements of Contract Documents and Acceptability of Work

A. ENGINEER will be the initial interpreter of the Contract Documents. Claims, disputes and other matters relating to the acceptability of the Work, the quantities and classifications of Unit Price Work, the interpretation of the requirements of the Contract Documents pertaining to the performance of the Work, and Claims seeking changes in the Contract Price or Contract Times will be referred initially to ENGINEER in writing, in accordance with the provisions of paragraph 10.05, with a request for a formal decision.

B. When functioning as interpreter and judge under this paragraph 9.09, ENGINEER will not show partiality to OWNER or CONTRACTOR and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity. The rendering of a decision by ENGINEER pursuant to this paragraph 9.09 with respect to any such Claim, dispute, or other matter (except any which have been waived by the making or acceptance of final payment as provided in paragraph 14.07) will be a condition precedent to any exercise by OWNER or CONTRACTOR of such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any such Claim, dispute, or other matter.

9.10 Limitations on ENGINEER's Authority and Responsibilities

A. ENGINEER will not supervise, direct, control, or have authority over or be responsible for CONTRACTOR's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of CONTRACTOR to comply with Laws and Regulations applicable to the performance of the Work. ENGINEER will not be responsible for CONTRACTOR's failure to perform the Work in accordance with the Contract Documents.

B. ENGINEER will not be responsible for the acts or omissions of CONTRACTOR or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.

C. ENGINEER's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, Bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by paragraph 14.07.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals that the results certified indicate compliance with, the Contract Documents.

D. The limitations upon authority and responsibility set forth in this paragraph 9.10 shall also apply to ENGINEER's Consultants, Resident Project Representative, and assistants.

ARTICLE 10 - CHANGES IN THE WORK; CLAIMS

10.01 *Authorized Changes in the Work*

A. Without invalidating the Agreement and without notice to any surety, OWNER may, at any time or from time to time, order additions, deletions, or revisions in the Work by a Written Amendment, a Change Order, or a Work Change Directive. Upon receipt of any such document, CONTRACTOR shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).

B. If OWNER and CONTRACTOR are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefor as provided in paragraph 10.05.

10.02 *Unauthorized Changes in the Work*

A. CONTRACTOR shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents as amended, modified, or supplemented as provided in paragraph 3.04, except in the case of an emergency as provided in paragraph 6.16 or in the case of uncovering Work as provided in paragraph 13.04.B.

10.03 *Execution of Change Orders*

A. OWNER and CONTRACTOR shall execute appropriate Change Orders recommended by ENGINEER (or Written Amendments) covering:

1. changes in the Work which are: (i) ordered by OWNER pursuant to paragraph 10.01.A, (ii) required because of acceptance of defective Work under paragraph 13.08.A or OWNER's correction of defective Work under paragraph 13.09, or (iii) agreed to by the parties;
2. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive; and
3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by ENGINEER pursuant to paragraph 10.05; provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, CONTRACTOR shall carry on the Work and adhere to the progress schedule as provided in paragraph 6.18.A.

10.04 *Notification to Surety*

A. If notice of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times) is required by the provisions of any Bond to be given to a surety, the giving of any such notice will be CONTRACTOR's responsibility. The amount of each applicable Bond will be adjusted to reflect the effect of any such change.

10.05 *Claims and Disputes*

A. *Notice:* Written notice stating the general nature of each Claim, dispute, or other matter shall be delivered by the claimant to ENGINEER and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. Notice of the amount or extent of the Claim, dispute, or other matter with supporting data shall be delivered to the ENGINEER and the other party to the Contract within 60 days after the start of such event (unless ENGINEER allows additional time for claimant to submit additional or more accurate data in support of such Claim, dispute, or other matter). A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of paragraph 12.01.B. A Claim for an adjustment in Contract Time shall be prepared in accordance with the provisions of paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event. The opposing party shall submit any response to ENGINEER and the claimant within 30 days after receipt of the claimant's last submittal (unless ENGINEER allows additional time).

B. *ENGINEER's Decision:* ENGINEER will render a formal decision in writing within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any. ENGINEER's written decision on such Claim, dispute, or other matter will be final and binding upon OWNER and CONTRACTOR unless:

1. an appeal from ENGINEER's decision is taken within the time limits and in accordance with the dispute resolution procedures set forth in Article 16; or

2. if no such dispute resolution procedures have been set forth in Article 16, a written notice of intention to appeal from ENGINEER's written decision is delivered by OWNER or CONTRACTOR to the other and to ENGINEER within 30 days after the date of such decision, and a formal proceeding is instituted by the appealing party in a forum of competent jurisdiction within 60 days after the date of such decision or within 60 days after Substantial Completion, whichever is later (unless otherwise agreed in writing by OWNER and CONTRACTOR), to exercise such rights or remedies as the appealing party may have with respect to such Claim, dispute, or other matter in accordance with applicable Laws and Regulations.

C. If ENGINEER does not render a formal decision in writing within the time stated in paragraph 10.05.B, a decision denying the Claim in its entirety shall be deemed to have been issued 31 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any.

D. No Claim for an adjustment in Contract Price or Contract Times (or Milestones) will be valid if not submitted in accordance with this paragraph 10.05.

ARTICLE 11 - COST OF THE WORK; CASH ALLOWANCES; UNIT PRICE WORK

11.01 *Cost of the Work*

A. *Costs Included:* The term Cost of the Work means the sum of all costs necessarily incurred and paid by CONTRACTOR in the proper performance of the Work. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, the costs to be reimbursed to CONTRACTOR will be only those additional or incremental costs required because of the change in the Work or because of the event giving rise to the Claim. Except as otherwise may be agreed to in writing by OWNER, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items, and shall not include any of the costs itemized in paragraph 11.01.B.

1. Payroll costs for employees in the direct employ of CONTRACTOR in the performance of the Work under schedules of job classifications agreed upon by OWNER and CONTRACTOR. Such employees shall include without limitation superintendents, foremen, and other personnel employed full time at the Site. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses,

sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by OWNER.

2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to CONTRACTOR unless OWNER deposits funds with CONTRACTOR with which to make payments, in which case the cash discounts shall accrue to OWNER. All trade discounts, rebates and refunds and returns from sale of surplus materials and equipment shall accrue to OWNER, and CONTRACTOR shall make provisions so that they may be obtained.

3. Payments made by CONTRACTOR to Subcontractors for Work performed by Subcontractors. If required by OWNER, CONTRACTOR shall obtain competitive bids from subcontractors acceptable to OWNER and CONTRACTOR and shall deliver such bids to OWNER, who will then determine, with the advice of ENGINEER, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as CONTRACTOR's Cost of the Work and fee as provided in this paragraph 11.01.

4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.

5. Supplemental costs including the following:

a. The proportion of necessary transportation, travel, and subsistence expenses of CONTRACTOR's employees incurred in discharge of duties connected with the Work.

b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of CONTRACTOR.

c. Rentals of all construction equipment and machinery, and the parts thereof whether rented from CONTRACTOR or others in accordance with rental agreements approved by OWNER with the advice of ENGINEER, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.

d. Sales, consumer, use, and other similar taxes related to the Work, and for which CONTRACTOR is liable, imposed by Laws and Regulations.

e. Deposits lost for causes other than negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.

f. The cost of utilities, fuel, and sanitary facilities at the Site.

g. Minor expenses such as telegrams, long distance telephone calls, telephone service at the Site, expressage, and similar petty cash items in connection with the Work.

h. When the Cost of the Work is used to determine the value of a Change Order or of a Claim, the cost of premiums for additional Bonds and insurance required because of the changes in the Work or caused by the event giving rise to the Claim.

i. When all the Work is performed on the basis of cost-plus, the costs of premiums for all Bonds and insurance CONTRACTOR is required by the Contract Documents to purchase and maintain.

B. *Costs Excluded:* The term Cost of the Work shall not include any of the following items:

1. Payroll costs and other compensation of CONTRACTOR's officers, executives, principals (of partnerships and sole proprietorships), general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by CONTRACTOR, whether at the Site or in CONTRACTOR's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in paragraph 11.01.A.1 or specifically covered by paragraph 11.01.A.4, all of which are to be considered administrative costs covered by the CONTRACTOR's fee.

2. Expenses of CONTRACTOR's principal and branch offices other than CONTRACTOR's office at the Site.

3. Any part of CONTRACTOR's capital expenses, including interest on CONTRACTOR's capital employed for the Work and charges against CONTRACTOR for delinquent payments.

4. Costs due to the negligence or intentional tortious conduct of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.

5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in paragraphs 11.01.A and 11.01.B.

C. *CONTRACTOR's Fee:* When all the Work is performed on the basis of cost-plus, CONTRACTOR's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, CONTRACTOR's fee shall be determined as set forth in paragraph 12.01.C.

D. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to paragraphs 11.01.A and 11.01.B, CONTRACTOR will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to ENGINEER an itemized cost breakdown together with supporting data.

11.02 *Cash Allowances*

A. It is understood that CONTRACTOR has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums as may be acceptable to OWNER and ENGINEER. CONTRACTOR agrees that:

1. the allowances include the cost to CONTRACTOR (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and

2. CONTRACTOR's costs for unloading and handling on the Site, labor, installation costs, overhead, profit, and other expenses contemplated for the allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

B. Prior to final payment, an appropriate Change Order will be issued as recommended by ENGINEER to reflect actual amounts due CONTRACTOR on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

11.03 *Unit Price Work*

A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by CONTRACTOR will be made by ENGINEER subject to the provisions of paragraph 9.08.

B. Each unit price will be deemed to include an amount considered by CONTRACTOR to be adequate to cover CONTRACTOR's overhead and profit for each separately identified item.

C. OWNER or CONTRACTOR may make a Claim for an adjustment in the Contract Price in accordance with paragraph 10.05 if:

1. the quantity of any item of Unit Price Work performed by CONTRACTOR differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and
2. there is no corresponding adjustment with respect any other item of Work; and
3. if CONTRACTOR believes that CONTRACTOR is entitled to an increase in Contract Price as a result of having incurred additional expense or OWNER believes that OWNER is entitled to a decrease in Contract Price and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 12 - CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES

12.01 *Change of Contract Price*

A. The Contract Price may only be changed by a Change Order or by a Written Amendment. Any Claim for an adjustment in the Contract Price shall be based on written notice submitted by the party making the Claim to the ENGINEER and the other party to the Contract in accordance with the provisions of paragraph 10.05.

B. The value of any Work covered by a Change Order or of any Claim for an adjustment in the Contract Price will be determined as follows:

1. where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions of paragraph 11.03); or
2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with paragraph 12.01.C.2); or
3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in paragraph 11.01) plus a CONTRACTOR's fee for overhead and profit (determined as provided in paragraph 12.01.C).

C. *CONTRACTOR's Fee:* The CONTRACTOR's fee for overhead and profit shall be determined as follows:

1. a mutually acceptable fixed fee; or
2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. for costs incurred under paragraphs 11.01.A.1 and 11.01.A.2, the CONTRACTOR's fee shall be 15 percent;
 - b. for costs incurred under paragraph 11.01.A.3, the CONTRACTOR's fee shall be five percent;
 - c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of paragraph 12.01.C.2.a is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and CONTRACTOR will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;
 - d. no fee shall be payable on the basis of costs itemized under paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;

e. the amount of credit to be allowed by CONTRACTOR to OWNER for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in CONTRACTOR's fee by an amount equal to five percent of such net decrease; and

f. when both additions and credits are involved in any one change, the adjustment in CONTRACTOR's fee shall be computed on the basis of the net change in accordance with paragraphs 12.01.C.2.a through 12.01.C.2.e, inclusive.

12.02 *Change of Contract Times*

A. The Contract Times (or Milestones) may only be changed by a Change Order or by a Written Amendment. Any Claim for an adjustment in the Contract Times (or Milestones) shall be based on written notice submitted by the party making the claim to the ENGINEER and the other party to the Contract in accordance with the provisions of paragraph 10.05.

B. Any adjustment of the Contract Times (or Milestones) covered by a Change Order or of any Claim for an adjustment in the Contract Times (or Milestones) will be determined in accordance with the provisions of this Article 12.

12.03 *Delays Beyond CONTRACTOR's Control*

A. Where CONTRACTOR is prevented from completing any part of the Work within the Contract Times (or Milestones) due to delay beyond the control of CONTRACTOR, the Contract Times (or Milestones) will be extended in an amount equal to the time lost due to such delay if a Claim is made therefor as provided in paragraph 12.02.A. Delays beyond the control of CONTRACTOR shall include, but not be limited to, acts or neglect by OWNER, fires, floods, epidemics, abnormal weather conditions, or acts of God.

12.04 *Delays Within CONTRACTOR's Control*

A. The Contract Times (or Milestones) will not be extended due to delays within the control of CONTRACTOR. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of CONTRACTOR.

12.05 *Delays Beyond OWNER's and CONTRACTOR's Control*

A. Except where the delay is due to the County or the County Work, where CONTRACTOR is prevented from completing any part of the Work within the Contract Times (or Milestones) due to delay beyond the control of both OWNER and CONTRACTOR, an extension of the Contract Times (or Milestones) in an amount equal to the time lost due to such delay shall be CONTRACTOR's sole and exclusive remedy for such delay.

12.06 *Delay Damages*

A. In no event shall OWNER or ENGINEER be liable to CONTRACTOR, any Subcontractor, any Supplier, or any other person or organization, or to any surety for or employee or agent of any of them, for damages arising out of or resulting from:

1. delays caused by or within the control of CONTRACTOR; or
2. delays beyond the control of both OWNER and CONTRACTOR including but not limited to fires, floods, epidemics, abnormal weather conditions or acts of God.

B. Nothing in this paragraph 12.06 bars a change in Contract Price pursuant to this Article 12 to compensate CONTRACTOR due to delay, interference, or disruption directly attributable to actions or inactions of OWNER or anyone for whom OWNER is responsible.

ARTICLE 13 - TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

13.01 *Notice of Defects*

A. Prompt notice of all defective Work of which OWNER or ENGINEER has actual knowledge will be given to CONTRACTOR. All defective Work may be rejected, corrected, or accepted as provided in this Article 13.

13.02 *Access to Work*

A. OWNER, ENGINEER, ENGINEER's Consultants, other representatives and personnel of OWNER, independent testing laboratories, and governmental agencies with jurisdictional interests will have access to the Site and the Work at reasonable times for their observation, inspecting, and testing. CONTRACTOR shall provide them proper and safe conditions for such access and advise them of CONTRACTOR's Site safety procedures and programs so that they may comply therewith as applicable.

13.03 *Tests and Inspections*

A. CONTRACTOR shall give ENGINEER timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.

B. OWNER shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:

1. for inspections, tests, or approvals covered by paragraphs 13.03.C and 13.03.D below;
2. that costs incurred in connection with tests or inspections conducted pursuant to paragraph 13.04.B shall be paid as provided in said paragraph 13.04.B; and
3. as otherwise specifically provided in the Contract Documents.

C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, CONTRACTOR shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish ENGINEER the required certificates of inspection or approval.

D. CONTRACTOR shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for OWNER's and ENGINEER's acceptance of materials or equipment to be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to CONTRACTOR's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to OWNER and ENGINEER.

E. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by CONTRACTOR without written concurrence of ENGINEER, it must, if requested by ENGINEER, be uncovered for observation.

F. Uncovering Work as provided in paragraph 13.03.E shall be at CONTRACTOR's expense unless CONTRACTOR has given ENGINEER timely notice of CONTRACTOR's intention to cover the same and ENGINEER has not acted with reasonable promptness in response to such notice.

13.04 *Uncovering Work*

A. If any Work is covered contrary to the written request of ENGINEER, it must, if requested by ENGINEER, be uncovered for ENGINEER's observation and replaced at CONTRACTOR's expense.

B. If ENGINEER considers it necessary or advisable that covered Work be observed by ENGINEER or inspected or tested by others, CONTRACTOR, at ENGINEER's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as ENGINEER may require, that portion of the Work in question, furnishing all necessary

labor, material, and equipment. If it is found that such Work is defective, CONTRACTOR shall pay all Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and OWNER shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount thereof, OWNER may make a Claim therefor as provided in paragraph 10.05. If, however, such Work is not found to be defective, CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Times (or Milestones), or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, CONTRACTOR may make a Claim therefor as provided in paragraph 10.05.

13.05 *OWNER May Stop the Work*

A. If the Work is defective, or CONTRACTOR fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, OWNER may order CONTRACTOR to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of OWNER to stop the Work shall not give rise to any duty on the part of OWNER to exercise this right for the benefit of CONTRACTOR, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

13.06 *Correction or Removal of Defective Work*

A. CONTRACTOR shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by ENGINEER, remove it from the Project and replace it with Work that is not defective. CONTRACTOR shall pay all Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).

13.07 *Correction Period*

A. If within one year after the date of Substantial Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any Work is found to be defective, or if the repair of any damages to the land or areas made available for CONTRACTOR's use by OWNER or permitted by Laws and Regulations as contemplated in paragraph 6.11.A is found to be defective, CONTRACTOR shall promptly, without cost to OWNER and in accordance with OWNER's written instructions: (i) repair such defective land or areas, or (ii) correct such defective Work or, if the defective Work has been rejected by OWNER, remove it from the Project and replace it with Work that is not defective, and (iii) satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom. If CONTRACTOR does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, OWNER may have the defective Work corrected or repaired or may have the rejected Work removed and replaced, and all Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by CONTRACTOR.

B. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications or by Written Amendment.

C. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph 13.07, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

D. CONTRACTOR's obligations under this paragraph 13.07 are in addition to any other obligation or warranty. The provisions of this paragraph 13.07 shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitation or repose.

13.08 *Acceptance of Defective Work*

A. If, instead of requiring correction or removal and replacement of defective Work, OWNER (and, prior to ENGINEER's recommendation of final payment, ENGINEER) prefers to accept it, OWNER may do so. CONTRACTOR shall pay all Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) attributable to OWNER's evaluation of and determination to accept such defective Work (such costs to be approved by ENGINEER as to reasonableness) and the diminished value of the Work to the extent not otherwise paid by CONTRACTOR pursuant to this sentence. If any such acceptance occurs prior to ENGINEER's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and OWNER shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work so accepted. If the parties are unable to agree as to the amount thereof, OWNER may make a Claim therefor as provided in paragraph 10.05. If the acceptance occurs after such recommendation, an appropriate amount will be paid by CONTRACTOR to OWNER.

13.09 *OWNER May Correct Defective Work*

A. If CONTRACTOR fails within a reasonable time after written notice from ENGINEER to correct defective Work or to remove and replace rejected Work as required by ENGINEER in accordance with paragraph 13.06.A, or if CONTRACTOR fails to perform the Work in accordance with the Contract Documents, or if CONTRACTOR fails to comply with any other provision of the Contract Documents, OWNER may, after seven days written notice to CONTRACTOR, correct and remedy any such deficiency.

B. In exercising the rights and remedies under this paragraph, OWNER shall proceed expeditiously. In connection with such corrective and remedial action, OWNER may exclude CONTRACTOR from all or part of the Site, take possession of all or part of the Work and suspend CONTRACTOR's services related thereto, take possession of CONTRACTOR's tools, appliances, construction equipment and machinery at the Site, and incorporate in the Work all materials and equipment stored at the Site or for which OWNER has paid CONTRACTOR but which are stored elsewhere. CONTRACTOR shall allow OWNER, OWNER's representatives, agents and employees, OWNER's other contractors, and ENGINEER and ENGINEER's Consultants access to the Site to enable OWNER to exercise the rights and remedies under this paragraph.

C. All Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by OWNER in exercising the rights and remedies under this paragraph 13.09 will be charged against CONTRACTOR, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and OWNER shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount of the adjustment, OWNER may make a Claim therefor as provided in paragraph 10.05. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of CONTRACTOR's defective Work.

D. CONTRACTOR shall not be allowed an extension of the Contract Times (or Milestones) because of any delay in the performance of the Work attributable to the exercise by OWNER of OWNER's rights and remedies under this paragraph 13.09.

ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION

14.01 *Schedule of Values*

A. The schedule of values established as provided in paragraph 2.07.A will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to ENGINEER. Progress payments on account of Unit Price Work will be based on the number of units completed.

14.02 *Progress Payments*

A. Applications for Payments

1. At least 20 days before the date established for each progress payment (but not more often than once a month), CONTRACTOR shall submit to ENGINEER for review an Application for Payment filled out and signed by CONTRACTOR covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale or invoice or other documentation warranting that OWNER has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance or other arrangements to protect OWNER's interest therein, all of which must be satisfactory to OWNER.

2. Beginning with the second Application for Payment, each Application shall include an affidavit of CONTRACTOR stating that all previous progress payments received on account of the Work have been applied on account to discharge CONTRACTOR's legitimate obligations associated with prior Applications for Payment.

3. The amount of retainage with respect to progress payments will be as provided in the Agreement.

B. Review of Applications

1. ENGINEER will, within 10 days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to OWNER or return the Application to CONTRACTOR indicating in writing ENGINEER's reasons for refusing to recommend payment. In the latter case, CONTRACTOR may make the necessary corrections and resubmit the Application.

2. ENGINEER's recommendation of any payment requested in an Application for Payment will constitute a representation by ENGINEER to OWNER, based on ENGINEER's observations on the Site of the executed Work as an experienced and qualified design professional and on ENGINEER's review of the Application for Payment and the accompanying data and schedules, that to the best of ENGINEER's knowledge, information and belief:

a. the Work has progressed to the point indicated;

b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, to a final determination of quantities and classifications for Unit Price Work under paragraph 9.08, and to any other qualifications stated in the recommendation); and

c. the conditions precedent to CONTRACTOR being entitled to such payment appear to have been fulfilled in so far as it is ENGINEER's responsibility to observe the Work.

3. By recommending any such payment ENGINEER will not thereby be deemed to have represented that: (i) inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to ENGINEER in the Contract Documents; or (ii) that there may not be other matters or issues between the parties that might entitle CONTRACTOR to be paid additionally by OWNER or entitle OWNER to withhold payment to CONTRACTOR.

4. Neither ENGINEER's review of CONTRACTOR's Work for the purposes of recommending payments nor ENGINEER's recommendation of any payment, including final payment, will impose responsibility on ENGINEER to supervise, direct, or control the Work or for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for CONTRACTOR's failure to comply with Laws and Regulations applicable to CONTRACTOR's performance of the Work. Additionally, said review or recommendation will not impose responsibility on ENGINEER to make any examination to ascertain how or for what purposes CONTRACTOR has used the moneys paid on account of the Contract Price, or to determine that title to any of the Work, materials, or equipment has passed to OWNER free and clear of any Liens.

5. ENGINEER may refuse to recommend the whole or any part of any payment if, in ENGINEER's opinion, it would be incorrect to make the representations to OWNER referred to in paragraph 14.02.B.2. ENGINEER may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests, revise or revoke any such payment recommendation previously made, to such extent as may be necessary in ENGINEER's opinion to protect OWNER from loss because:

- a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;
- b. the Contract Price has been reduced by Written Amendment or Change Orders;
- c. OWNER has been required to correct defective Work or complete Work in accordance with paragraph 13.09; or
- d. ENGINEER has actual knowledge of the occurrence of any of the events enumerated in paragraph 15.02.A.

C. Payment Becomes Due

1. Ten days after presentation of the Application for Payment to OWNER with ENGINEER's recommendation, the amount recommended will (subject to the provisions of paragraph 14.02.D) become due, and when due will be paid by OWNER to CONTRACTOR.

D. Reduction in Payment

1. OWNER may refuse to make payment of the full amount recommended by ENGINEER because:
 - a. claims have been made against OWNER on account of CONTRACTOR's performance or furnishing of the Work;
 - b. Liens have been filed in connection with the Work;
 - c. there are other items entitling OWNER to a set-off against the amount recommended; or
 - d. OWNER has actual knowledge of the occurrence of any of the events enumerated in paragraphs 14.02.B.5.a through 14.02.B.5.c or paragraph 15.02.A.

2. If OWNER refuses to make payment of the full amount recommended by ENGINEER, OWNER must give CONTRACTOR immediate written notice (with a copy to ENGINEER) stating the reasons for such action and promptly pay CONTRACTOR any amount remaining after deduction of the amount so withheld. OWNER shall promptly pay CONTRACTOR the amount so withheld, or any adjustment thereto agreed to by OWNER and CONTRACTOR, when CONTRACTOR corrects to OWNER's satisfaction the reasons for such action.

3. If it is subsequently determined that OWNER's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by paragraph 14.02.C.1.

14.03 CONTRACTOR's Warranty of Title

A. CONTRACTOR warrants and guarantees that title to all Work, materials, and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to OWNER no later than the time of payment free and clear of all Liens.

14.04 Substantial Completion

A. When CONTRACTOR considers the entire Work ready for its intended use CONTRACTOR shall notify OWNER and ENGINEER in writing that the entire Work is substantially complete (except for items specifically listed by CONTRACTOR as incomplete) and request that ENGINEER issue a certificate of Substantial Completion. Promptly thereafter, OWNER, CONTRACTOR, and ENGINEER shall make an inspection of the Work to determine the status of completion. If

ENGINEER does not consider the Work substantially complete, ENGINEER will notify CONTRACTOR in writing giving the reasons therefor. If ENGINEER considers the Work substantially complete, ENGINEER will prepare and deliver to OWNER a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. OWNER shall have seven days after receipt of the tentative certificate during which to make written objection to ENGINEER as to any provisions of the certificate or attached list. If, after considering such objections, ENGINEER concludes that the Work is not substantially complete, ENGINEER will within 14 days after submission of the tentative certificate to OWNER notify CONTRACTOR in writing, stating the reasons therefor. If, after consideration of OWNER's objections, ENGINEER considers the Work substantially complete, ENGINEER will within said 14 days execute and deliver to OWNER and CONTRACTOR a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as ENGINEER believes justified after consideration of any objections from OWNER. At the time of delivery of the tentative certificate of Substantial Completion ENGINEER will deliver to OWNER and CONTRACTOR a written recommendation as to division of responsibilities pending final payment between OWNER and CONTRACTOR with respect to security, operation, safety, and protection of the Work, maintenance, heat, utilities, insurance, and warranties and guarantees. Unless OWNER and CONTRACTOR agree otherwise in writing and so inform ENGINEER in writing prior to ENGINEER issuing the definitive certificate of Substantial Completion, ENGINEER's aforesaid recommendation will be binding on OWNER and CONTRACTOR until final payment.

B. OWNER shall have the right to exclude CONTRACTOR from the Site after the date of Substantial Completion, but OWNER shall allow CONTRACTOR reasonable access to complete or correct items on the tentative list.

14.05 *Partial Utilization*

A. Use by OWNER at OWNER's option of any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which OWNER, ENGINEER, and CONTRACTOR agree constitutes a separately functioning and usable part of the Work that can be used by OWNER for its intended purpose without significant interference with CONTRACTOR's performance of the remainder of the Work, may be accomplished prior to Substantial Completion of all the Work subject to the following conditions.

1. OWNER at any time may request CONTRACTOR in writing to permit OWNER to use any such part of the Work which OWNER believes to be ready for its intended use and substantially complete. If CONTRACTOR agrees that such part of the Work is substantially complete, CONTRACTOR will certify to OWNER and ENGINEER that such part of the Work is substantially complete and request ENGINEER to issue a certificate of Substantial Completion for that part of the Work. CONTRACTOR at any time may notify OWNER and ENGINEER in writing that CONTRACTOR considers any such part of the Work ready for its intended use and substantially complete and request ENGINEER to issue a certificate of Substantial Completion for that part of the Work. Within a reasonable time after either such request, OWNER, CONTRACTOR, and ENGINEER shall make an inspection of that part of the Work to determine its status of completion. If ENGINEER does not consider that part of the Work to be substantially complete, ENGINEER will notify OWNER and CONTRACTOR in writing giving the reasons therefor. If ENGINEER considers that part of the Work to be substantially complete, the provisions of paragraph 14.04 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

2. No occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of paragraph 5.10 regarding property insurance.

14.06 *Final Inspection*

A. Upon written notice from CONTRACTOR that the entire Work or an agreed portion thereof is complete, ENGINEER will promptly make a final inspection with OWNER and CONTRACTOR and will notify CONTRACTOR in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. CONTRACTOR shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

14.07 *Final Payment*

A. *Application for Payment*

1. After CONTRACTOR has, in the opinion of ENGINEER, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, Bonds, certificates or other evidence of insurance certificates of inspection, marked-up record documents (as provided in paragraph 6.12), and other documents, CONTRACTOR may make application for final payment following the procedure for progress payments.

2. The final Application for Payment shall be accompanied (except as previously delivered) by: (i) all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by subparagraph 5.04.B.7; and (ii) consent of the surety, if any, to final payment; and (iii) complete and legally effective releases or waivers (satisfactory to Owner) of all Liens filed in construction with the Work.

B. Review of Application and Acceptance

1. If, on the basis of ENGINEER's observation of the Work during construction and final inspection, and ENGINEER's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, ENGINEER is satisfied that the Work has been completed and CONTRACTOR's other obligations under the Contract Documents have been fulfilled, ENGINEER will, within ten days after receipt of the final Application for Payment, indicate in writing ENGINEER's recommendation of payment and present the Application for Payment to OWNER for payment. At the same time ENGINEER will also give written notice to OWNER and CONTRACTOR that the Work is acceptable subject to the provisions of paragraph 14.09. Otherwise, ENGINEER will return the Application for Payment to CONTRACTOR, indicating in writing the reasons for refusing to recommend final payment, in which case CONTRACTOR shall make the necessary corrections and resubmit the Application for Payment.

C. Payment Becomes Due

1. Thirty days after the presentation to the OWNER of the Application for Payment and accompanying documentation, the amount recommended by ENGINEER will become due and, when due, will be paid by OWNER to CONTRACTOR, excluding those sums withheld by OWNER pursuant to section 38-26-107, Colorado Revised Statutes.

14.08 Final Completion Delayed

A. If, through no fault of CONTRACTOR, final completion of the Work is significantly delayed, and if ENGINEER so confirms, OWNER shall, upon receipt of CONTRACTOR's final Application for Payment and recommendation of ENGINEER, and without terminating the Agreement, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by OWNER for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if Bonds have been furnished as required in paragraph 5.01, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by CONTRACTOR to ENGINEER with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

14.09 Waiver of Claims

A. The making and acceptance of final payment will constitute:

1. a waiver of all Claims by OWNER against CONTRACTOR, except those arising from defective Work appearing after final inspection pursuant to paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from CONTRACTOR's continuing obligations under the Contract Documents; and

2. a waiver of all Claims by CONTRACTOR against OWNER other than those previously made in writing which are still unsettled.

ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION

15.01 OWNER May Suspend Work

A. At any time and without cause, OWNER may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by notice in writing to CONTRACTOR and ENGINEER which will fix the date on which Work will be resumed. CONTRACTOR shall resume the Work on the date so fixed. CONTRACTOR shall be allowed an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension if CONTRACTOR makes a Claim therefor as provided in paragraph 10.05.

15.02 *OWNER May Terminate for Cause*

A. The occurrence of any one or more of the following events will justify termination for cause:

1. CONTRACTOR's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the progress schedule established under paragraph 2.07 as adjusted from time to time pursuant to paragraph 6.04);
2. CONTRACTOR's disregard of Laws or Regulations of any public body having jurisdiction;
3. CONTRACTOR's disregard of the authority of ENGINEER; or
4. CONTRACTOR's violation in any substantial way of any provisions of the Contract Documents.

B. If one or more of the events identified in paragraph 15.02.A occur, OWNER may, after giving CONTRACTOR (and the surety, if any) seven days written notice, terminate the services of CONTRACTOR, exclude CONTRACTOR from the Site, and take possession of the Work and of all CONTRACTOR's tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by CONTRACTOR (without liability to CONTRACTOR for trespass or conversion), incorporate in the Work all materials and equipment stored at the Site or for which OWNER has paid CONTRACTOR but which are stored elsewhere, and finish the Work as OWNER may deem expedient. In such case, CONTRACTOR shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by OWNER arising out of or relating to completing the Work, such excess will be paid to CONTRACTOR. If such claims, costs, losses, and damages exceed such unpaid balance, CONTRACTOR shall pay the difference to OWNER. Such claims, costs, losses, and damages incurred by OWNER will be reviewed by ENGINEER as to their reasonableness and, when so approved by ENGINEER, incorporated in a Change Order. When exercising any rights or remedies under this paragraph OWNER shall not be required to obtain the lowest price for the Work performed.

C. Where CONTRACTOR's services have been so terminated by OWNER, the termination will not affect any rights or remedies of OWNER against CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of moneys due CONTRACTOR by OWNER will not release CONTRACTOR from liability.

15.03 *OWNER May Terminate For Convenience*

A. Upon seven days written notice to CONTRACTOR and ENGINEER, OWNER may, without cause and without prejudice to any other right or remedy of OWNER, elect to terminate the Contract. In such case, CONTRACTOR shall be paid (without duplication of any items):

1. for completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
2. for expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses;
3. for reasonable expenses directly attributable to termination.

B. CONTRACTOR shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

C. CONTRACTOR shall include in all contracts entered with any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by CONTRACTOR to perform any of the Work, a Termination for Convenience Clause similar to that listed in Section 15.03. Recovery by such any Subcontractor, any Supplier, or other individual or entity upon OWNER's termination for convenience shall be limited by the terms listed in Section 15.03.

15.04 *CONTRACTOR May Stop Work or Terminate*

A. If, through no act or fault of CONTRACTOR, the Work is suspended for more than 90 consecutive days by OWNER or under an order of court or other public authority, or ENGINEER fails to act on any Application for Payment within 30 days after it is submitted, or OWNER fails for 30 days to pay CONTRACTOR any sum finally determined to be due, then CONTRACTOR may, upon seven days written notice to OWNER and ENGINEER, and provided OWNER or ENGINEER do not remedy such suspension or failure within that time, terminate the Contract and recover from OWNER payment on the same terms as provided in paragraph 15.03. In lieu of terminating the Contract and without prejudice to any other right or remedy, if ENGINEER has failed to act on an Application for Payment within 30 days after it is submitted, or OWNER has failed for 30 days to pay CONTRACTOR any sum finally determined to be due, CONTRACTOR may, seven days after written notice to OWNER and ENGINEER, stop the Work until payment is made of all such amounts due CONTRACTOR, including interest thereon. The provisions of this paragraph 15.04 are not intended to preclude CONTRACTOR from making a Claim under paragraph 10.05 for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to CONTRACTOR's stopping the Work as permitted by this paragraph.

ARTICLE 16 - DISPUTE RESOLUTION

16.01 *Methods and Procedures*

A. In an effort to resolve any conflicts that arise during the construction of the Project or following the completion of the Project, all parties to this Agreement agree that all disputes arising out of or relating to this Agreement shall be submitted to nonbinding mediation, unless the parties mutually agree otherwise.

ARTICLE 17 - MISCELLANEOUS

17.01 *Giving Notice*

A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

17.02 *Computation of Times*

A. When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

17.03 *Cumulative Remedies*

A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract Documents, and the provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

17.04 *Survival of Obligations*

A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion, and acceptance of the Work or termination or completion of the Agreement.

17.05 *Controlling Law*

A. This Contract shall be governed and construed according to the law of the State of Colorado. All civil actions brought in relation to this Contract shall be filed in District Court, Teller County, State of Colorado.

17.06 *Addresses*

A. All notices, letters and communication directed to OWNER shall be addressed and delivered to: Ben Sheets, City Engineer, City of Woodland Park, 220 W. South Avenue, Woodland Park, Colorado 80863.

All notices, letters and communication directed to ENGINEER shall be addressed and delivered to:

C. The business addresses of CONTRACTOR given in the Bid Form and CONTRACTOR's office at the site of the Work are hereby designated as the places to which all notices, letters, and other communication to CONTRACTOR will be delivered.

D. Either OWNER, CONTRACTOR, or ENGINEER may change his address at any time by an instrument in writing delivered to the other two.

City of Woodland Park - S. Baldwin St.
Bid Form

Project Description: S. Baldwin Street - Rampart Range Road
City, State: Woodland Park, Colorado
Consultant: Kimley-Horn and Associates, Inc.

Bidder: Kiewit Infrastructure Co.

1. Bid Exceptions and Qualifications		
	Select	There are no exceptions/qualifications to this bid
	Select	The following exceptions/qualifications are made to this bid:

2. Estimated Calendar Days to Complete Project:	
---	--

3. Earliest Start Date is:	
----------------------------	--

4. Base Bid Unit Price Schedule					
Item #	Quantity		Description	Unit Cost	Total Cost
202-00200	70	SY	Removal of Sidewalk	\$ 35.00	\$ 2,450.00
202-00206	330	SY	Removal of Concrete Curb Ramp	\$ 30.00	\$ 9,900.00
202-00240	909	SY	Removal of Asphalt Mat	\$ 10.00	\$ 9,090.00
202-00240	19,108	SY	Removal of Asphalt Mat (Planing)	\$ 2.50	\$ 47,770.00
203-00000	197	CY	Unclassified Excavation	\$ 40.00	\$ 7,880.00
210-04000	8	EA	Adjust Curb Chases	\$ 4,000.00	\$ 32,000.00
304-06000	834	SY	ABC (Class 6) (9-inch)	\$ 25.00	\$ 20,850.00
403-34721	19,108	SY	HMA (Sx, N 75, PG 58-28 mix) (2-inch)	\$ 13.00	\$ 248,404.00
403-34722	834	SY	HMA (Sx, N 75, PG 58-28 mix) (5.5-inch)	\$ 38.00	\$ 31,692.00
506-00005	2	SY	Soil Riprap (Type L)	\$ 500.00	\$ 1,000.00
608-00000	215	SY	Concrete Sidewalk	\$ 80.00	\$ 17,200.00
608-00010	372	SY	Concrete Curb Ramp	\$ 180.00	\$ 66,960.00
609-21900	70	LF	Curb and Gutter (Type 1)	\$ 45.00	\$ 3,150.00
609-21901	27	LF	Woodland Park Mountable Curb (Type #5)	\$ 72.00	\$ 1,944.00
609-23001	137	SY	Concrete Cross Pan	\$ 170.00	\$ 23,290.00
610-00020	76	SF	Patterned Concrete	\$ 25.00	\$ 1,900.00
625-00000	1	LS	Construction Surveying	\$ 20,000.00	\$ 20,000.00
626-00000	1	LS	Mobilization	\$ 84,000.00	\$ 84,000.00
627-00003	4,026	SF	Thermoplastic Pavement Marking (Inlaid)	\$ 18.00	\$ 72,468.00
627-00009	30	GAL	Modified Epoxy Pavement Marking (Inlaid)	\$ 425.00	\$ 12,750.00
630-00016	1	LS	Traffic Control	\$ 30,000.00	\$ 30,000.00
700-70010	1	LS	F/A Minor Contract Revisions	\$ 15,000.00	\$ 15,000.00
700-70380	1	LS	Erosion Control	\$ 25,000.00	\$ 25,000.00
700-70580	1	LS	Testing	\$ 15,000.00	\$ 15,000.00
				\$ -	\$ -
				\$ -	\$ -
				\$ -	\$ -
				\$ -	\$ -
Total Base Bid:				\$	799,698.00

5. Alternate A					
Item #	Quantity		Description	Unit Cost	Total Cost
613-00200	6,826	LF	2-inch Duct Bank (Microtrench)	\$ 56.00	\$ 382,256.00
613-07004	11	EA	CDOT Fiber Pull Box (Type 4)	\$ 2,700.00	\$ 29,700.00
613-07005	2	EA	CDOT Fiber Pull Box (Type 5)	\$ 3,200.00	\$ 6,400.00
Total Alternate 1 Bid:				\$	418,356.00

6. Alternate B					
Item #	Quantity		Description	Unit Cost	Total Cost
				\$ -	

Item #	Quantity	Description		
			\$	-
				\$ -

					\$ -

6. Bidder shall include unit costs for items to be added or subtracted in the following quantities:					
Item #	Quantity		Description	Unit Cost	Total Cost
				\$ -	\$ -

Note: Any additional work completed will be based upon unit rates bid.
Note: The City reserves the right to place an associated per day dollar value on the contractors estimated days to complete work.
This value and specified days will be used in evaluating submitted bids.

7. Bidder Correspondence			
		Administrative Mailing Address	Payment Mailing Address
Address (NO PO BOXES):		160 Inverness Drive West, Suite 110	Address: 160 Inverness Drive West, Suite 110
City:		Englewood	City: Englewood
State and Zip Code:		CO, 80112	State and Zip Code: CO, 80112
Contact Name:		Mike McDonald, Operations Manager	Contact Name: Central District Accts / Woodland Park 20044946
Phone:		719-491-3654	Phone: 303-979-9330
Fax:		303-325-0304	Fax: 303-325-0304
Email:		Mike.McDonald@kiewit.com	Fed Tax ID: 47-0640263

SUBCONTRACTOR LISTING

	Subcontractor:	Work Description:
1)	Thout Bros Concrete	Flatwork
2)	Continental Milling	Milling
3)	Mountain Barricade	Traffic Control
4)	Powell Restoration	Erosion Control
5)	RoadSafe	Pavement Marking
6)	Ross Electric	Micro Trench & Pull Boxes

The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into a written agreement with the City of Woodland Park (City) using their standard contract. This Bid will remain subject to acceptance by the City for 120 days after the Bid Due Date. Bidder will complete the work for the prices listed in this completed Bid Form.

Bidder agrees the items listed in this Bid Form may be incorporated into the Project at the sole discretion of the City; any alternates added, including payment and performance bonds, will be added by use of a Change Order based only on the Unit Prices listed.

		MONTH		DATE		YEAR
Submitted on:		April		11		2022
By:		Kiewit Infrastructure Co.				(Bidder's Legal Company Name)
Signed:						
Title		Vice President				
(Printed Name):		Christopher J. Krumwiede				
Phone:		303-979-9330		Fax:	303-325-0304	



NOTE:
Faxed bids will not be accepted by the City. Emailed bids will be accepted with a hard copy bid proposal received within 24 hours of the bid due date and time. All bids shall remain subject to acceptance for 120 days from bid due date. Bid results will not be publicized or solicited.

City of Woodland Park - S. Baldwin St.
Bid Form

Project Description: Kelley's Road

City, State: Woodland Park, Colorado

Consultant: Kimley-Horn and Associates, Inc.

Bidder: Kiewit Infrastructure Co.

1. Bid Exceptions and Qualifications

	Select	There are no exceptions/qualifications to this bid
	Select	The following exceptions/qualifications are made to this bid:

2. Estimated Calendar Days to Complete Project:

3. Earliest Start Date is:

4. Base Bid Unit Price Schedule					
Item #	Quantity		Description	Unit Cost	Total Cost
202-00200	153	SY	Removal of Sidewalk	\$ 35.00	\$ 5,355.00
202-00206	341	LF	Removal of Curb and Gutter	\$ 12.00	\$ 4,092.00
202-00206	338	SY	Removal of Concrete Curb Ramp	\$ 30.00	\$ 10,140.00
202-00240	3,363	SY	Removal of Asphalt Mat	\$ 5.00	\$ 16,815.00
202-00240	13,758	SY	Removal of Asphalt Mat (Planing)	\$ 2.50	\$ 34,395.00
203-00000	327	CY	Unclassified Excavation	\$ 40.00	\$ 13,080.00
304-06000	3,363	SY	ABC (Class 6) (9-inch)	\$ 25.00	\$ 84,075.00
403-34721	13,758	SY	HMA (Sx, N 75, PG 58-28 mix) (2-inch)	\$ 13.00	\$ 178,854.00
403-34722	3,363	SY	HMA (Sx, N 75, PG 58-28 mix) (5.5-inch)	\$ 36.00	\$ 121,068.00
608-00000	172	SY	Concrete Sidewalk	\$ 80.00	\$ 13,760.00
608-00010	356	SY	Concrete Curb Ramp	\$ 180.00	\$ 64,080.00
609-21900	341	LF	Curb and Gutter (Type 1)	\$ 45.00	\$ 15,345.00
625-00000	1	LS	Construction Surveying	\$ 20,000.00	\$ 20,000.00
626-00000	1	LS	Mobilization	\$ 72,000.00	\$ 72,000.00
627-00003	1,421	SF	Thermoplastic Pavement Marking (Inlaid)	\$ 18.00	\$ 25,578.00
627-00009	45	GAL	Modified Epoxy Pavement Marking (Inlaid)	\$ 425.00	\$ 19,125.00
630-00016	1	LS	Traffic Control	\$ 25,000.00	\$ 25,000.00
700-70010	1	LS	F/A Minor Contract Revisions	\$ 15,000.00	\$ 15,000.00
700-70380	1	LS	Erosion Control	\$ 20,000.00	\$ 20,000.00
700-70580	1	LS	Testing	\$ 15,000.00	\$ 15,000.00
				\$ -	\$ -
				\$ -	\$ -
				\$ -	\$ -
				\$ -	\$ -
Total Base Bid:				\$	772,762.00

5. Alternate A					
Item #	Quantity		Description	Unit Cost	Total Cost
613-00200	4,633	LF	2-inch Duct Bank (Microtrench)	\$ 56.00	\$ 259,448.00
613-07004	10	EA	CDOT Fiber Pull Box (Type 4)	\$ 2,700.00	\$ 27,000.00
				\$ -	\$ -
Total Alternate 1 Bid:				\$	286,448.00

6. Alternate B					
Item #	Quantity		Description	Unit Cost	Total Cost
				\$ -	
					\$ -

Item #	Quantity		Description		
				\$ -	
					\$ -

					\$ -

6. Bidder shall include unit costs for items to be added or subtracted in the following quantities:					
Item #	Quantity		Description	Unit Cost	Total Cost
				\$ -	\$ -

Note: Any additional work completed will be based upon unit rates bid.
Note: The City reserves the right to place an associated per day dollar value on the contractors estimated days to complete work.
This value and specified days will be used in evaluating submitted bids.

7. Bidder Correspondence			
		<u>Administrative Mailing Address</u>	<u>Payment Mailing Address</u>
Address (NO PO BOXES):		160 Inverness Drive West, Suite 110	Address: 160 Inverness Drive West, Suite 110
City:		Englewood	City: Englewood
State and Zip Code:		CO, 80112	State and Zip Code: CO, 80112
Contact Name:		Mike McDonald, Operations Manager	Contact Name: Central District Accts / Woodland Park 20045064
Phone:		719-491-3654	Phone: 303-979-9330
Fax:		303-325-0304	Fax: 303-325-0304
Email:		Mike McDonald@kiewit.com	Fed Tax ID: 47-0640263

SUBCONTRACTOR LISTING

	Subcontractor:	Work Description:
1)	Thout Bros Concrete	Flatwork
2)	Continental Milling	Milling
3)	Mountain Barricade	Traffic Control
4)	Powell Restoration	Erosion Control
5)	RoadSafe	Pavement Marking
6)	Ross Electric	Micro Trench & Pull Boxes

The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into a written agreement with the City of Woodland Park (City) using their standard contract. This Bid will remain subject to acceptance by the City for 120 days after the Bid Due Date. Bidder will complete the work for the prices listed in this completed Bid Form.

Bidder agrees the items listed in this Bid Form may be incorporated into the Project at the sole discretion of the City; any alternates added, including payment and performance bonds, will be added by use of a Change Order based only on the Unit Prices listed.

		MONTH		DATE		YEAR
Submitted on:		April		11		2022
By:		Kiewit Infrastructure Co.				(Bidder's Legal Company Name)
Signed:						
Title		Senior Vice President				
(Printed Name):		Christopher J. Krumwiede				
Phone:		303-979-9330		Fax:	303-325-0304	

NOTE:
Faxed bids will not be accepted by the City. Emailed bids will be accepted with a hard copy bid proposal received within 24 hours of the bid due date and time. All bids shall remain subject to acceptance for 120 days from bid due date. Bid results will not be publicized or solicited.



STAFF REPORT

TO: Mayor LaBarre and City Council

FROM:

DATE: May 5, 2022

SUBJECT: Street and Parking Lot Restriping Contract between the City of Woodland Park and American Striping Company in the amount of \$102,185.60

BACKGROUND: As part of the annual maintenance of the City road network, the City solicited bids for paint striping and pavement markings for all City Streets and parking lots. There were two responsive bids for the project; (\$102,185.60) from American Striping Company and (\$52,000) from AA "Accurate and Affordable" Striping, Inc. The estimated amount in the Capital Improvement Plan was \$70,000.

The City previously used Affordable AA Striping in 2017, and has a signed memorandum for "performance issues and work management concerns" detailing issues with the contractor during the project. Staff recommends the public interest would be best served by accepting the second low bid from American Striping Company.

RECOMMENDATION: Approve Contract for (\$102,185.60) from American Striping Company.

ATTACHMENTS: 1. 2 - Striping Construction Contract Signed



CONSTRUCTION AGREEMENT

This **CONSTRUCTION AGREEMENT** (this "Agreement") is entered into this ____ day of _____, 2022 by and between the City of Woodland Park, Colorado (hereinafter referred to as the "Owner") and American Striping Company (hereinafter referred to as the "Contractor").

Owner and Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 WORK

- 1.01 Contractor shall complete all work as specified or indicated in the Contract Documents (defined below). The work is generally described as follows: Provide street and parking lot striping at various locations within the City of Woodland Park, per the itemized list provided in the bid package.

ARTICLE 2 THE PROJECT

- 2.01 The project for which the work under the Contract Documents may be the whole or only a part is generally described as follows: City Wide Restriping and Pavement Markings (the "Project").

ARTICLE 3 ENGINEER

- 3.01 The City Engineer or designated representative shall serve as construction management engineer who is hereinafter called Engineer and who is to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the work in accordance with the Contract Documents.

ARTICLE 4 WORKER WITHOUT AUTHORIZATION EMPLOYMENT

- 4.01 Prior to the execution of this Agreement, Contractor shall certify to the City, by completing the Worker Without Authorization Addendum attached hereto, that at the time of certification, Contractor does not knowingly employ or contract with any worker without authorization who will perform work under this Agreement as well as other certifications therein contained.

ARTICLE 5 CONTRACT TIMES

5.01 Time is of the Essence

- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

5.02 Days to Achieve Substantial Completion and Final Payment

- A. Contractor shall achieve Substantial Completion within 60 calendar days of the issuance by the Owner of a Notice to Proceed and shall finally complete the Work so that it is ready for final payment within 30 calendar days of the issuance by the Owner of a Notice of



Substantial Completion

5.03 Liquidated Damages

- A. Contractor understands and agrees that time is an essential condition of this Agreement. Contractor further understands and agrees that delay in completion of the project will cause Owner to suffer substantial losses and damages which cannot be measured, including without limitation the loss of revenues for services, loss of other revenue incidental to the operation of the facility, additional engineering, legal, accounting and administrative costs, reduced public confidence and adverse public relations which would reduce future revenues, and additional interest and financing costs and charges if the Work is not completed within the times specified above, plus any extensions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or mediation proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring proof of such losses and damages, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay two hundred fifty dollars (\$250.00) for each day that expires after the time specified above for Substantial Completion until the Work is substantially complete.
- B. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the contract time or any proper extension thereof granted by Owner, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay two hundred fifty dollars (\$250.00) for each day that expires after the time specified above for final completion and readiness for final payment until the Work is finally complete and ready for final payment.
- C. Owner shall have the right to deduct the liquidated damages from any money in its hands, otherwise due, or to become due, to Contractor, or to sue for and recover compensation for damages for nonperformance of this Contract.
- D. Any liquidated damages payable by Contractor may, at Owner's election be deducted from any amounts owed to Contractor. In the event no funds are due Contractor at a time when Contractor becomes liable to Owner for liquidated damages, then Contractor agrees to pay all accrued liquidated damages to Owner on the first (1st) day and on the fifteenth (15th) day of each month when Contractor is liable to Owner for liquidated damages. Permitting Contractor to continue and finish the Work or any part thereof after the deadline for completion of the Work shall not act as a waiver of these liquidated damages provisions.
- E. The aggregate liability of Contractor to pay liquidated damages pursuant to this Article shall not exceed an amount equal to fifty percent (50%) of the Contract Price. This Article shall not be construed to limit Contractor's other obligations or liabilities arising under or in connection with this Contract.
- F. In the event that this section conflicts with any other provisions regarding liquidated damages within the Contract Documents, this section shall control.

ARTICLE 6 CONTRACT PRICE

- 6.01 Owner shall pay Contractor one hundred two thousand, one hundred eighty five dollars and sixty cents (\$102,185.60) for completion of the Work as full compensation for everything furnished and done by Contractor under this Agreement, including all loss or damage arising out of the work or from the action of the elements; for any unforeseen



obstruction or difficulty encountered in the prosecution of the work, including increased prices for or shortages of materials for any reason, including natural disasters; for all risks of every description associated with the work; for all expenses incurred due to the suspension or discontinuation of the work; and for well and faithfully completing the work as provided in this Agreement.

ARTICLE 7 PAYMENT PROCEDURES

7.01 Submittal and Processing of Payments

- A. Contractor shall submit Applications for Payment to the Owner on a monthly basis, which shall be processed by the Engineer.

7.02 Progress Payments; Retainage

- A. Owner shall make progress payments towards the Contract Price, less five percent (5%) for retainage, on the basis of Contractor's Applications for Payment, as verified and recommended by Engineer, on or about the twenty-fifth (25th) day of each month during performance of the Work. In the Engineer's discretion, the Owner may withhold some or all of a progress payment where the Contractor's Application for Payment does not reflect the actual amount of the Work completed.

7.03 Final Payment

- A. Upon final completion and acceptance of the Work as recommended by the Engineer, Owner shall pay the remainder of the Contract Price, including any retainage previously withheld.

ARTICLE 8 PROJECT WARRANTIES

- 8.01 Contractor's warranties in respect of the Work (the "Project Warranties") are as follows: Contractor warrants to Owner that the Work shall be fit for its intended purposes, that materials and equipment furnished under this Agreement shall be of good quality and new, that all Work shall be free from defects and that all Work shall meet all of the requirements of this Agreement. Contractor shall furnish satisfactory evidence that it has met the Project Warranties. The Project Warranties shall commence on the date Contractor achieves final completion of the Work satisfactorily to Owner. If at any time within two (2) years after the date on which the Project Warranties commenced, any portion of the Work is found to be not in accordance with the Project Warranties, Contractor shall correct it promptly after receipt of notice from Owner to do so unless Owner has previously given Contractor a written acceptance of such condition.

ARTICLE 9 INSURANCE

- 9.01 Insurance Requirements. Contractor shall not commence work under this Agreement until Contractor has obtained all insurance required under this Article and the insurance has been approved by the City Administrator or his designee. The City of Woodland Park shall be named as an additional insured. Certificates of insurance shall be issued prior to execution of the Notice to Proceed. Additionally, Contractor shall not allow any approved subcontractor to commence work on his or her subcontract until all similar insurance required of subcontractor has been so obtained and approved. The following insurance



shall be required:

- A. Commercial General Liability Insurance: At a minimum, combined single limits of \$1,000,000 per occurrence and \$1,000,000 for general aggregate for bodily injury and property damage, which coverage shall include products/completed operations, independent contractors, and contractual liability each at \$1,000,000 per occurrence.
- B. Workers' Compensation and Employer's Liability: Workers' compensation insurance for all of Contractor's employees engaged in work at the site of the project including occupational disease coverage in accordance with scope and limits as required by the State of Colorado.
- C. Comprehensive Automobile Liability Insurance: Including coverage for all owned, non-owned, and rented vehicles with \$1,000,000 combined single limit for each occurrence.

ARTICLE 10 CONTRACTOR'S REPRESENTATIONS

10.01 In order to induce Owner to enter into this Agreement, Contractor makes the following representations:

- A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
- B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Contractor is familiar with and is satisfied as to all federal, state, and local laws and regulations that may affect cost, progress, and performance of the Work.
- D. Contractor has obtained and carefully studied (or assumes responsibility for having done so) any examinations, investigations, explorations, tests, studies, and data concerning conditions at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including applying the specific means, methods, techniques, sequences, and procedures of construction, if any, expressly required by the Contract Documents to be employed by Contractor, and safety precautions and programs incident thereto.
- E. Contractor does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- F. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- G. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or



discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.

- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. Contractor warrants and guarantees to Owner and Engineer that all Work will be in accordance with the Contract Documents and will not be defective within two (2) years of Substantial Completion.
- K. Contractor is organized, validly existing and in good standing under the laws of the State of Colorado and has all requisite power to own its properties and assets and carry on its business as now conducted or proposed to be conducted.

ARTICLE 11 CONTRACT DOCUMENTS

11.01 Contents

- A. The Contract Documents consist of the following:
 - 1. This Agreement;
 - 2. Bidding Documents;
 - 3. General Conditions;
 - 4. Technical Specifications;
 - 5. Measurement and Payment Provisions;
 - 6. Labor & Materials Payment Bond;
 - 7. Performance Bond; and
 - 8. Any written amendments or work change orders which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto.
- B. There are no Contract Documents other than those listed above in this Article.
- C. The Contract Documents may only be amended, modified, or supplemented by written agreement signed by both parties.

ARTICLE 12 PERFORMANCE BOND

- A. To secure performance of Contractor's obligations under this Agreement, the Contractor shall provide the Owner with a Performance Bond in the amount of the full contract price. Prior to execution of this Agreement, the Contractor shall provide the form of the Performance Bond to the City for its review and approval. The City shall be authorized to draw upon the Performance Bond to correct any default by Builder under this Agreement, which default shall be determined and substantiated by an Affidavit of Default signed by the Engineer. The Performance Bond shall be held by the City through the two (2) year Project Warranties period specified in this Agreement.

ARTICLE 13 MISCELLANEOUS

13.01 Indemnification

- A. The Contractor agrees to indemnify, save, and hold harmless the Owner, its officers, employees, and agents from any and all liability, loss, costs, charges, obligations, expenses, attorney's fees,



litigation, judgments, damages, claims, and demands of any kind arising from or out of any negligent act, error, omission or other tortious conduct of the Contractor, its officers, subcontractors, employees, or agents in the performance or non-performance of its obligations under this Agreement.

13.02 Assignment of Contract

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

13.03 Successors and Assigns

- A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

13.04 Severability

- A. Any provision or part of the Contract Documents held to be void or unenforceable by any court of competent jurisdiction shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

13.05 Independent Contractor

CONTRACTOR IS AN INDEPENDENT CONTRACTOR AND NOTHING HEREIN CONTAINED SHALL CONSTITUTE OR DESIGNATE THE CONTRACTOR OR ANY OF ITS EMPLOYEES OR AGENTS AS EMPLOYEES OR AGENTS OF THE OWNER.

13.06 No Waiver of Governmental Immunity

Nothing herein is intended as nor shall it be construed as a waiver of the protections and immunities afforded the Owner pursuant to the Colorado Governmental Immunity Act, Sections 24-10-101, et seq., Colorado Revised Statutes, or pursuant to any other applicable laws.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, Owner and Contractor have signed and executed this Agreement in duplicate on the date first written above. One counterpart each has been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or identified by Owner and Contractor or on their behalf.

CITY OF WOODLAND PARK

Name: _____
Title: _____

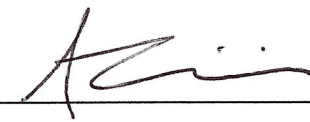
ATTEST:

CONTRACTOR



Name: BRACK LEWIS
Title: PRESIDENT

ATTEST:



WORKER WITHOUT AUTHORIZATION ADDENDUM

This Worker Without Authorization Addendum (hereinafter "Addendum") attached hereto and incorporated herein by this reference, is made to this Agreement by and between the City of Woodland Park (hereinafter "City"), a municipal corporation of the State of Colorado, and ASL, (hereinafter "Contractor") dated this 25 day of April, 2022.

Pursuant to Section 8-17.5-101, *et seq.*, C.R.S., the following provisions are hereby incorporated:

1. Contractor certifies that, at the time of executing this Addendum, Contractor does not knowingly employ or contract with a worker without authorization who will perform work under the Agreement and that Contractor will participate in the federal E-Verify Program or the Colorado Department of Labor and Employment's Employment Verification Program (hereinafter "CDLE's Program") in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the Agreement.
2. Contractor hereby agrees that it shall not:
 - a) Knowingly employ or contract with a worker without authorization to perform work under the Agreement; or
 - b) Enter into a contract with a subcontractor that fails to certify that the subcontractor shall not knowingly employ or contract with a worker without authorization to perform work under the Agreement.
3. Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the Agreement through participation in either the E-Verify Program or CDLE's Program.
4. Contractor is prohibited from using either the E-Verify Program or CDLE's Program procedures to undertake pre-employment screening of job applicants while the Agreement is being performed.
5. If Contractor obtains actual knowledge that a subcontractor performing work under the Agreement knowingly employs or contracts with a worker without authorization, Contractor is required to:
 - a) Notify the subcontractor and the City within three (3) days that Contractor has actual knowledge that the subcontractor is employing or contracting with a worker without authorization; and
 - b) Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required by Subsection (5) (a) above the subcontractor does not stop employing or contracting with the worker without authorization; except that Contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with a worker without authorization.
6. Contractor is required to comply with any reasonable request that CDLE makes in the course of an investigation that CDLE is undertaking pursuant to Section 8-17.5-102(5), C.R.S.

IN WITNESS WHEREOF, Contractor has executed this Addendum on the date first above written. By the signature of its representative below, Contractor affirms that it has taken all necessary action to authorize said representative to execute this Addendum.

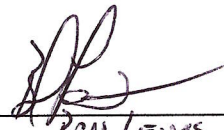
CONTRACTOR

Signature: _____

Name: _____

Title: _____

Date: _____



BRAD LEWIS

PRESIDENT

4.25.22

GENERAL CONDITIONS
OF THE
CONSTRUCTION CONTRACT

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GENERAL CONDITIONS

ARTICLE 1 - DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

A. Wherever used in the Contract Documents and printed with initial or all capital letters, the terms listed below will have the meanings indicated which are applicable to both the singular and plural thereof.

1. *Addenda*--Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the Contract Documents.

2. *Agreement*--The written instrument which is evidence of the agreement between OWNER and CONTRACTOR covering the Work.

3. *Application for Payment*--The form acceptable to ENGINEER which is to be used by CONTRACTOR during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.

4. *Asbestos*--Any material that contains more than one percent asbestos and is friable or is releasing asbestos fibers into the air above current action levels established by the United States Occupational Safety and Health Administration.

5. *Bid*--The offer or proposal of a bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

6. *Bidding Documents*--The Bidding Requirements and the proposed Contract Documents (including all Addenda issued prior to receipt of Bids).

7. *Bidding Requirements*--The Advertisement or Invitation to Bid, Instructions to Bidders, Bid security form, if any, and the Bid form with any supplements.

8. *Bonds*--Those performance or payment bonds which CONTRACTOR is obligated to obtain pursuant to Article 5 of these General Conditions.

9. *Change Order*--A document recommended by ENGINEER which is signed by CONTRACTOR and OWNER and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, issued on or after the Effective Date of the Agreement.

10. *Claim*--A demand or assertion by OWNER or CONTRACTOR seeking an adjustment of Contract Price or Contract Times, or both, or other relief with respect to the terms of the Contract. A demand for money or services by a third party is not a Claim.

11. *Contract*--The entire and integrated written agreement between the OWNER and CONTRACTOR concerning the Work. The Contract supersedes prior negotiations, representations, or agreements, whether written or oral.

12. *Contract Documents*--The Contract Documents establish the rights and obligations of the parties and include the Agreement, Addenda (which pertain to the Contract Documents), CONTRACTOR's Bid (including documentation accompanying the Bid and any post Bid documentation submitted prior to the Notice of Award) when attached as an exhibit to the Agreement, the Notice to Proceed, the Bonds, these General Conditions, the Supplementary Conditions, the Specifications and the Drawings as the same are more specifically identified in the Agreement, together with all Written Amendments, Change Orders, Work Change Directives, Field Orders, and ENGINEER's written interpretations and clarifications issued on or after the Effective Date of the Agreement. Approved Shop Drawings and the reports and drawings of subsurface and physical conditions are not Contract Documents. Only printed or hard copies of the items

listed in this paragraph are Contract Documents. Files in electronic media format of text, data, graphics, and the like that may be furnished by OWNER to CONTRACTOR are not Contract Documents.

13. *Contract Price*--The moneys payable by OWNER to CONTRACTOR for completion of the Work in accordance with the Contract Documents as stated in the Agreement (subject to the provisions of paragraph 11.03 in the case of Unit Price Work).

14. *Contract Times*--The number of days or the dates stated in the Agreement to: (i) achieve Substantial Completion; and (ii) complete the Work so that it is ready for final payment as evidenced by ENGINEER's written recommendation of final payment.

15. *CONTRACTOR*--The individual or entity with whom OWNER has entered into the Agreement.

16. *Cost of the Work*--See paragraph 11.01.A for definition.

17. *Drawings*--That part of the Contract Documents prepared or approved by ENGINEER which graphically shows the scope, extent, and character of the Work to be performed by CONTRACTOR. Shop Drawings and other CONTRACTOR submittals are not Drawings as so defined.

18. *Effective Date of the Agreement*--The date indicated in the Agreement on which it becomes effective, but if no such date is indicated, it means the date on which the Agreement is signed and delivered by the last of the two parties to sign and deliver.

19. *ENGINEER*--Martin/Martin, Inc., Consulting Engineers.

20. *ENGINEER's Consultant*--An individual or entity having a contract with ENGINEER to furnish services as ENGINEER's independent professional associate or consultant with respect to the Project and who is identified as such in the Supplementary Conditions.

21. *Field Order*--A written order issued by ENGINEER which requires minor changes in the Work but which does not involve a change in the Contract Price or the Contract Times.

22. *General Requirements*--Sections of Division 1 of the Specifications. The General Requirements pertain to all sections of the Specifications.

23. *Hazardous Environmental Condition*--The presence at the Site of Asbestos, PCBs, Petroleum, Hazardous Waste, or Radioactive Material in such quantities or circumstances that may present a substantial danger to persons or property exposed thereto in connection with the Work.

24. *Hazardous Waste*--The term Hazardous Waste shall have the meaning provided in Section 1004 of the Solid Waste Disposal Act (42 USC Section 6903) as amended from time to time.

25. *Laws and Regulations; Laws or Regulations*--Any and all applicable laws, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.

26. *Lien*--Verified statements of claim filed with OWNER pursuant to the Colorado Revised Statutes.

27. *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.

28. *Notice of Award*--The written notice by OWNER to the apparent successful bidder stating that upon timely compliance by the apparent successful bidder with the conditions precedent listed therein, OWNER will sign and deliver the Agreement.

29. *Notice to Proceed*--A written notice given by OWNER to CONTRACTOR fixing the date on which the Contract Times will commence to run and on which CONTRACTOR shall start to perform the Work under the Contract Documents.

30. *OWNER*--The City of Woodland Park, a home rule municipality of the State of Colorado and the entity with whom CONTRACTOR has entered into the Agreement and for whom the Work is to be performed.

31. *Partial Utilization*--Use by OWNER of a substantially completed part of the Work for the purpose for which it is intended (or a related purpose) prior to Substantial Completion of all the Work.

32. *PCBs*--Polychlorinated biphenyls.

33. *Petroleum*--Petroleum, including crude oil or any fraction thereof which is liquid at standard conditions of temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute), such as oil, petroleum, fuel oil, oil sludge, oil refuse, gasoline, kerosene, and oil mixed with other non-Hazardous Waste and crude oils.

34. *Project*--The total construction of which the Work to be performed under the Contract Documents may be the whole, or a part as may be indicated elsewhere in the Contract Documents.

35. *Project Manual*--The bound documentary information prepared for bidding and constructing the Work. A listing of the contents of the Project Manual, which may be bound in one or more volumes, is contained in the table(s) of contents. Includes Bidding requirements, Contract Forms, General Conditions of the Contract and Technical Specifications.

36. *Radioactive Material*--Source, special nuclear, or byproduct material as defined by the Atomic Energy Act of 1954 (42 USC Section 2011 et seq.) as amended from time to time.

37. *Resident Project Representative*--The authorized representative of ENGINEER who may be assigned to the Site or any part thereof.

38. *Samples*--Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and which establish the standards by which such portion of the Work will be judged.

39. *Shop Drawings*--All drawings, diagrams, illustrations, schedules, and other data or information which are specifically prepared or assembled by or for CONTRACTOR and submitted by CONTRACTOR to illustrate some portion of the Work.

40. *Site*--Lands or areas indicated in the Contract Documents as being furnished by OWNER upon which the Work is to be performed, including rights-of-way and easements for access thereto, and such other lands furnished by OWNER which are designated for the use of CONTRACTOR.

41. *Specifications*--That part of the Contract Documents consisting of written technical descriptions of materials, equipment, systems, standards, and workmanship as applied to the Work and certain administrative details applicable thereto.

42. *Subcontractor*--An individual or entity having a direct contract with CONTRACTOR or with any other Subcontractor for the performance of a part of the Work at the Site.

43. *Substantial Completion*--The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of ENGINEER, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms "substantially complete" and "substantially completed" applied to all or part of the Work refer to Substantial Completion thereof.

44. *Supplementary Conditions*--That part of the Contract Documents which amends or supplements these General Conditions.

45. *Supplier*--A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with CONTRACTOR or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by CONTRACTOR or any Subcontractor.

46. *Underground Facilities*--All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.

47. *Unit Price Work*--Work to be paid for on the basis of unit prices.

48. *Work*--The entire completed construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.

49. *Work Change Directive*--A written statement to CONTRACTOR issued on or after the Effective Date of the Agreement and signed by OWNER and recommended by ENGINEER ordering an addition, deletion, or revision in the Work, or responding to differing or unforeseen subsurface or physical conditions under which the Work is to be performed or to emergencies. A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the change ordered 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 Times.

50. *Written Amendment*--A written statement modifying the Contract Documents, signed by OWNER and CONTRACTOR on or after the Effective Date of the Agreement and normally dealing with the nonengineering or nontechnical rather than strictly construction-related aspects of the Contract Documents.

1.02 *Terminology*

A. *Intent of Certain Terms or Adjectives*

1. Whenever in the Contract Documents the terms “as allowed” “as approved,” or terms of like effect or import are used, or the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of ENGINEER as to the Work, it is intended that such action or determination will be solely to evaluate, in general, the completed Work for compliance with the requirements of and information in the Contract Documents and conformance with the design concept of the completed Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective shall not be effective to assign to ENGINEER any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility contrary to the provisions of paragraph 9.10 or any other provision of the Contract Documents.

B. *Day*

1. The word “day” shall constitute a calendar day of 24 hours measured from midnight to the next midnight.

C. *Defective*

1. The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it does not conform to the Contract Documents or does not meet the requirements of any inspection, reference standard, test, or approval referred to in the Contract Documents, or has been damaged prior to ENGINEER’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by OWNER at Substantial Completion in accordance with paragraph 14.04 or 14.05).

D. *Furnish, Install, Perform, Provide*

1. The word “furnish,” when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.

2. The word “install,” when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.

3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.

4. When “furnish,” “install,” “perform,” or “provide” is not used in connection with services, materials, or equipment in a context clearly requiring an obligation of CONTRACTOR, “provide” is implied.

E. Unless stated otherwise in the Contract Documents, words or phrases which have a well-known technical or construction industry or trade meaning are used in the Contract Documents in accordance with such recognized meaning.

ARTICLE 2 - PRELIMINARY MATTERS

2.01 *Delivery of Bonds*

A. When CONTRACTOR delivers the executed Agreements to OWNER, CONTRACTOR shall also deliver to OWNER such Bonds as CONTRACTOR may be required to furnish.

2.02 *Copies of Documents*

A. OWNER shall furnish to CONTRACTOR complete sets of the Contract Documents for use in the execution of the Work. Additional copies will be furnished, upon request, at the cost of the reproduction, which is \$50.00 per project manual and complete set of project drawings.

2.03 *Commencement of Contract Times; Notice to Proceed*

A. The Contract Times will commence to run on the thirtieth day after the Effective Date of the Agreement or, if a Notice to Proceed is given, on the day indicated in the Notice to Proceed. A Notice to Proceed may be given at any time within 30 days after the Effective Date of the Agreement. In no event will the Contract Times commence to run later than the sixtieth day after the day of Bid opening or the thirtieth day after the Effective Date of the Agreement, whichever date is earlier.

2.04 *Starting the Work*

A. CONTRACTOR shall start to perform the Work on the date when the Contract Times commence to run. No Work shall be done at the Site prior to the date on which the Contract Times commence to run.

2.05 *Before Starting Construction*

A. *CONTRACTOR's Review of Contract Documents:* Before undertaking each part of the Work, CONTRACTOR shall carefully study and compare the Contract Documents and check and verify pertinent figures therein and all applicable field measurements. CONTRACTOR shall promptly report in writing to ENGINEER any conflict, error, ambiguity, or discrepancy which CONTRACTOR may discover and shall obtain a written interpretation or clarification from ENGINEER before proceeding with any Work affected thereby; however, CONTRACTOR shall not be liable to OWNER or ENGINEER for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless CONTRACTOR knew or reasonably should have known thereof.

B. *Preliminary Schedules:* Within ten days after the Effective Date of the Agreement (unless otherwise specified in the General Requirements), CONTRACTOR shall submit to ENGINEER for its timely review:

1. a preliminary progress schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract Documents;
2. a preliminary schedule of Shop Drawing and Sample submittals which will list each required submittal and the times for submitting, reviewing, and processing such submittal; and
3. a preliminary schedule of values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

C. *Evidence of Insurance:* Before any Work at the Site is started, CONTRACTOR shall deliver to OWNER, with copies to each additional insured identified in the supplementary conditions, certificates of insurance (and other evidence of insurance which OWNER or an additional insured may request) which CONTRACTOR is required to purchase and maintain in accordance with Article 5.

2.06 *Preconstruction Conference*

A. Within 20 days after the Contract Times start to run, but before any Work at the Site is started, a conference attended by CONTRACTOR, ENGINEER, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in paragraph 2.05.B, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, and maintaining required records.

2.07 *Initial Acceptance of Schedules*

A. Unless otherwise provided in the Contract Documents, at least ten days before submission of the first Application for Payment a conference attended by CONTRACTOR, ENGINEER, and others as appropriate will be held to review for acceptability to ENGINEER as provided below the schedules submitted in accordance with paragraph 2.05.B. CONTRACTOR shall have an additional ten days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to CONTRACTOR until acceptable schedules are submitted to ENGINEER.

1. The progress schedule will be acceptable to ENGINEER if it provides an orderly progression of the Work to completion within any specified Milestones and the Contract Times. Such acceptance will not impose on ENGINEER responsibility for the progress schedule, for sequencing, scheduling, or progress of the Work nor interfere with or relieve CONTRACTOR from CONTRACTOR's full responsibility therefor.

2. CONTRACTOR's schedule of Shop Drawing and Sample submittals will be acceptable to ENGINEER if it provides a workable arrangement for reviewing and processing the required submittals.

3. CONTRACTOR's schedule of values will be acceptable to ENGINEER as to form and substance if it provides a reasonable allocation of the Contract Price to component parts of the Work.

ARTICLE 3 - CONTRACT DOCUMENTS: INTENT, AMENDING, REUSE

3.01 *Intent*

A. The Contract Documents are complementary; what is called for by one is as binding as if called for by all.

B. It is the intent of the Contract Documents to describe a functionally complete Project (or part thereof) to be constructed in accordance with the Contract Documents. Any labor, documentation, services, materials, or equipment that may reasonably be inferred from the Contract Documents or from prevailing custom or trade usage as being required to produce the intended result will be provided whether or not specifically called for at no additional cost to OWNER.

C. Clarifications and interpretations of the Contract Documents shall be issued by ENGINEER as provided in Article 9.

3.02 *Reference Standards*

A. *Standards, Specifications, Codes, Laws, and Regulations*

1. Reference to standards, specifications, manuals, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard, specification, manual, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Agreement if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.

2. No provision of any such standard, specification, manual or code, or any instruction of a Supplier shall be effective to change the duties or responsibilities of OWNER, CONTRACTOR, or ENGINEER, or any of their subcontractors, consultants, agents, or employees from those set forth in the Contract Documents, nor shall any such provision or instruction be effective to assign to OWNER, ENGINEER, or any of ENGINEER's Consultants, agents, or employees any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the Contract Documents.

3.03 *Reporting and Resolving Discrepancies*

A. *Reporting Discrepancies*

1. If, during the performance of the Work, CONTRACTOR discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents or between the Contract Documents and any provision of any Law or Regulation applicable to the performance of the Work or of any standard, specification, manual or code, or of any instruction of any Supplier, CONTRACTOR shall report it to ENGINEER in writing at once. CONTRACTOR shall not proceed with the Work affected thereby (except in an emergency as required by paragraph 6.16.A) until an amendment or supplement to the Contract Documents has been issued by one of the methods indicated in paragraph 3.04; provided, however, that CONTRACTOR shall not be liable to OWNER or ENGINEER for failure to report any such conflict, error, ambiguity, or discrepancy unless CONTRACTOR knew or reasonably should have known thereof.

B. *Resolving Discrepancies*

1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the Contract Documents shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between the provisions of the Contract Documents and:

- a. the provisions of any standard, specification, manual, code, or instruction (whether or not specifically incorporated by reference in the Contract Documents); or
- b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Amending and Supplementing Contract Documents*

A. The Contract Documents may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof in one or more of the following ways: (i) a Written Amendment; (ii) a Change Order; or (iii) a Work Change Directive.

B. So long as no change to the Contract Price or the Contract Times results, the requirements of the Contract Documents may be supplemented, and minor variations and deviations in the work may be authorized, by one or more of the following ways: (i) a Field Order; (ii) ENGINEER's approval of a Shop Drawing or Sample; or (iii) ENGINEER's written interpretation or clarification.

3.05 *Reuse of Documents*

A. CONTRACTOR and any Subcontractor or Supplier or other individual or entity performing or furnishing any of the Work under a direct or indirect contract with OWNER: (i) shall not have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of ENGINEER or ENGINEER's Consultant, including electronic media editions; and (ii) shall not reuse any of such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of OWNER and ENGINEER and specific written verification or adoption by ENGINEER. This prohibition will survive final payment, completion, and acceptance of the Work, or termination or completion of the Contract. Nothing herein shall preclude CONTRACTOR from retaining copies of the Contract Documents for record purposes.

ARTICLE 4 - AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; REFERENCE POINTS

4.01 *Availability of Lands*

A. OWNER shall furnish the Site.

B. CONTRACTOR shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

4.02 *Subsurface and Physical Conditions*

A. *Reports and Drawings:* The Supplementary Conditions identify:

1. those reports of explorations and tests of subsurface conditions at or contiguous to the Site that ENGINEER has used in preparing the Contract Documents; and
2. those drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site (except Underground Facilities) that ENGINEER has used in preparing the Contract Documents.

B. *Limited Reliance by CONTRACTOR on Technical Data Authorized:* CONTRACTOR may rely upon the general accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," CONTRACTOR may not rely upon or make any Claim against OWNER, ENGINEER, or any of ENGINEER's Consultants with respect to:

1. the completeness of such reports and drawings for CONTRACTOR purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by CONTRACTOR, and safety precautions and programs incident thereto; or
2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
3. any CONTRACTOR interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions, or information.

4.03 *Differing Subsurface or Physical Conditions*

A. *Notice:* If CONTRACTOR believes that any subsurface or physical condition at or contiguous to the Site that is uncovered or revealed either:

1. is of such a nature as to establish that any "technical data" on which CONTRACTOR is entitled to rely as provided in paragraph 4.02 is materially inaccurate; or
2. is of such a nature as to require a change in the Contract Documents; or

3. differs materially from that shown or indicated in the Contract Documents; or

4. is of an unusual nature, and differs materially from conditions ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract Documents;

then CONTRACTOR shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by paragraph 6.16.A), notify OWNER and ENGINEER in writing about such condition. CONTRACTOR shall not further disturb such condition or perform any Work in connection therewith (except as aforesaid) until receipt of written order to do so.

B. *ENGINEER's Review:* After receipt of written notice as required by paragraph 4.03.A, ENGINEER will promptly review the pertinent condition, determine the necessity of OWNER obtaining additional exploration or tests with respect thereto, and advise OWNER in writing (with a copy to CONTRACTOR) of ENGINEER's findings and conclusions.

C. *Possible Price and Times Adjustments*

1. The Contract Price or the Contract Times, or both, will be equitably adjusted to the extent that the existence of such differing subsurface or physical condition causes an increase or decrease in CONTRACTOR's cost of, or time required for, performance of the Work; subject, however, to the following:

- a. such condition must meet any one or more of the categories described in paragraph 4.03.A; and
- b. with respect to Work that is paid for on a Unit Price Basis, any adjustment in Contract Price will be subject to the provisions of paragraphs 9.08 and 11.03.

2. CONTRACTOR shall not be entitled to any adjustment in the Contract Price or Contract Times if:

- a. CONTRACTOR knew or should, in the exercise of reasonable diligence, have known of the existence of such conditions at the time CONTRACTOR made a final commitment to OWNER in respect of Contract Price and Contract Time by the submission of a Bid or becoming bound under a negotiated contract; or
- b. the existence of such condition could reasonably have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site and contiguous areas required by the Bidding Requirements or Contract Documents to be conducted by or for CONTRACTOR prior to CONTRACTOR's making such final commitment; or
- c. CONTRACTOR failed to give the written notice within the time and as required by paragraph 4.03.A.

3. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, a Claim may be made therefor as provided in paragraph 10.05. However, OWNER, ENGINEER, and ENGINEER's Consultants shall not be liable to CONTRACTOR for any claims, costs, losses, or damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by CONTRACTOR on or in connection with any other project or anticipated project.

4.04 *Underground Facilities*

A. *Shown or Indicated:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or contiguous to the Site is based on information and data furnished to OWNER or ENGINEER by the owners of such Underground Facilities, including OWNER, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:

1. OWNER and ENGINEER shall not be responsible for the accuracy or completeness of any such information or data; and

2. the cost of all of the following will be included in the Contract Price, and CONTRACTOR shall have full responsibility for:

- a. reviewing and checking all such information and data,
- b. locating all Underground Facilities shown or indicated in the Contract Documents,
- c. coordination of the Work with the owners of such Underground Facilities, including OWNER, during construction, and
- d. the safety and protection of all such Underground Facilities and repairing any damage thereto resulting from the Work.

B. Not Shown or Indicated

1. If an Underground Facility is uncovered or revealed at or contiguous to the Site which was not shown or indicated, or not shown or indicated with reasonable accuracy in the Contract Documents, CONTRACTOR shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by paragraph 6.16.A), identify the owner of such Underground Facility and give written notice to that owner and to OWNER and ENGINEER.

4.05 Reference Points

A. OWNER shall provide engineering surveys to establish reference points for construction which in ENGINEER's judgment are necessary to enable CONTRACTOR to proceed with the Work. CONTRACTOR shall be responsible for laying out the Work, shall protect and preserve the established reference points and property monuments, and shall make no changes or relocations without the prior written approval of OWNER. CONTRACTOR shall report to ENGINEER whenever any reference point or property monument is lost or destroyed or requires relocation because of necessary changes in grades or locations, and shall be responsible for the accurate replacement or relocation of such reference points or property monuments by professionally qualified personnel.

4.06 Hazardous Environmental Condition at Site

A. *Reports and Drawings:* Reference is made to the Supplementary Conditions for the identification of those reports and drawings relating to a Hazardous Environmental Condition identified at the Site, if any, that have been utilized by the ENGINEER in the preparation of the Contract Documents.

B. *Limited Reliance by CONTRACTOR on Technical Data Authorized:* CONTRACTOR may rely upon the general accuracy of the "technical data" contained in such reports and drawings, but such reports and drawings are not Contract Documents. Such "technical data" is identified in the Supplementary Conditions. Except for such reliance on such "technical data," CONTRACTOR may not rely upon or make any Claim against OWNER, ENGINEER or any of ENGINEER's Consultants with respect to:

1. the completeness of such reports and drawings for CONTRACTOR's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by CONTRACTOR and safety precautions and programs incident thereto; or
2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
3. any CONTRACTOR interpretation of or conclusion drawn from any "technical data" or any such other data, interpretations, opinions or information.

C. CONTRACTOR shall not be responsible for any Hazardous Environmental Condition uncovered or revealed at the Site which was not shown or indicated in Drawings or Specifications or identified in the Contract Documents to be within the scope of the Work. CONTRACTOR shall be responsible for a Hazardous Environmental Condition created with any materi-

als brought to the Site by CONTRACTOR, Subcontractors, Suppliers, or anyone else for whom CONTRACTOR is responsible.

D. If CONTRACTOR encounters a Hazardous Environmental Condition or if CONTRACTOR or anyone for whom CONTRACTOR is responsible creates a Hazardous Environmental Condition, CONTRACTOR shall immediately: (i) secure or otherwise isolate such condition; (ii) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by paragraph 6.16); and (iii) notify OWNER and ENGINEER (and promptly thereafter confirm such notice in writing). OWNER shall promptly consult with ENGINEER concerning the necessity for OWNER to retain a qualified expert to evaluate such condition or take corrective action, if any.

E. CONTRACTOR shall not be required to resume Work in connection with such condition or in any affected area until after OWNER has obtained any required permits related thereto and delivered to CONTRACTOR written notice: (i) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work; or (ii) specifying any special conditions under which such Work may be resumed safely. If OWNER and CONTRACTOR cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by CONTRACTOR, either party may make a Claim therefor as provided in paragraph 10.05.

F. If after receipt of such written notice CONTRACTOR does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special conditions, then OWNER may order the portion of the Work that is in the area affected by such condition to be deleted from the Work. If OWNER and CONTRACTOR cannot agree as to entitlement to or on the amount or extent, if any, of an adjustment in Contract Price or Contract Times as a result of deleting such portion of the Work, then either party may make a Claim therefor as provided in paragraph 10.05. OWNER may have such deleted portion of the Work performed by OWNER's own forces or others in accordance with Article 7.

G. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultants, and the officers, directors, partners, employees, agents, other consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition created by CONTRACTOR or by anyone for whom CONTRACTOR is responsible. Nothing in this paragraph 4.06.F shall obligate CONTRACTOR to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.

H. The provisions of paragraphs 4.02, 4.03, and 4.04 are not intended to apply to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 5 - BONDS AND INSURANCE

5.01 *Performance, Payment, and Other Bonds*

A. CONTRACTOR shall furnish performance and payment Bonds, each in an amount at least equal to the Contract Price as security for the faithful performance and payment of all CONTRACTOR's obligations under the Contract Documents. These Bonds shall remain in effect at least until one year after the date when final payment becomes due, except as provided otherwise by Laws or Regulations or by the Contract Documents. CONTRACTOR shall also furnish such other Bonds as are required by the Contract Documents.

B. All Bonds shall be in the form prescribed by the Contract Documents except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. All Bonds signed by an agent must be accompanied by a certified copy of such agent's authority to act.

C. If the surety on any Bond furnished by CONTRACTOR is declared bankrupt or becomes insolvent or its right to do business is terminated in any state where any part of the Project is located or it ceases to meet the requirements of paragraph

5.01.B, CONTRACTOR shall within 20 days thereafter substitute another Bond and surety, both of which shall comply with the requirements of paragraphs 5.01.B and 5.02.

5.02 *Licensed Sureties and Insurers*

A. All Bonds and insurance required by the Contract Documents to be purchased and maintained by CONTRACTOR shall be obtained from surety or insurance companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue Bonds or insurance policies for the limits and coverages so required. Such surety and insurance companies shall also meet such additional requirements and qualifications as may be provided in the Supplementary Conditions.

5.03 *Certificates of Insurance*

A. CONTRACTOR shall deliver to OWNER, with copies to each additional insured identified in the Supplementary Conditions, certificates of insurance (and other evidence of insurance requested by OWNER or any other additional insured) which CONTRACTOR is required to purchase and maintain.

5.04 *CONTRACTOR's Liability Insurance*

A. CONTRACTOR shall purchase at its own expense and maintain such liability and other insurance in full force and effect at all times as is appropriate for the Work being performed and as will provide protection from claims set forth below which may arise out of the Work and CONTRACTOR's performance of the Work and CONTRACTOR's other obligations under the Contract Documents, whether it is to be performed by CONTRACTOR, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the work, or by anyone for whose acts any of them may be liable:

1. claims under workers' compensation, disability benefits, and other similar employee benefit acts;
2. claims for damages because of bodily injury, occupational sickness or disease, or death of CONTRACTOR's employees or uninsured subcontractors under any applicable law;
3. claims for damages because of bodily injury, sickness or disease, or death of any person other than CONTRACTOR's employees;
4. claims for damages insured by personal injury liability;
5. Claims for damages other than to the CONTRACTOR's own work itself; and
6. claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.

B. The policies of insurance so required by this paragraph 5.04 to be purchased and maintained shall include but not be limited to:

1. with respect to insurance required by paragraphs 5.04.A.3 through 5.04.A.6 inclusive, include as additional insureds (subject to any customary exclusion in respect of professional liability) OWNER, ENGINEER, ENGINEER's Consultants, and any other individuals or entities identified in the Supplementary Conditions, all of whom shall be listed as additional insureds, and include coverage for the respective officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of all such additional insureds, and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby;
2. include at least the specific coverages and be written for not less than the limits of liability provided in the Supplementary Conditions or required by Laws or Regulations, whichever is greater;
3. include completed products and operations insurance;

4. include contractual liability insurance covering CONTRACTOR's indemnity obligations under paragraphs 6.07, 6.11, and 6.20;

5. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed or renewal refused until at least thirty days prior written notice has been given to OWNER and CONTRACTOR and to each other additional insured identified in the Supplementary Conditions to whom a certificate of insurance has been issued (and the certificates of insurance furnished by the CONTRACTOR pursuant to paragraph 5.03 will so provide);

6. remain in effect at least until final payment and at all times thereafter when CONTRACTOR may be correcting, removing, or replacing defective Work in accordance with paragraph 13.07; and

7. with respect to completed products and operations insurance, and any insurance coverage written on a claims-made basis, remain in effect for at least two years after final payment (and CONTRACTOR shall furnish OWNER and each other additional insured identified in the Supplementary Conditions, to whom a certificate of insurance has been issued, evidence satisfactory to OWNER and any such additional insured of continuation of such insurance at final payment and one year thereafter).

5.05 *Property Insurance*

A. Unless otherwise provided in the supplementary conditions, CONTRACTOR shall purchase and maintain property insurance upon the Work at the site in the amount of the full replacement cost thereof. All deductible amounts with regard to such insurance shall be the responsibility of the CONTRACTOR. This insurance shall:

1. include the interests of OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants, and any other individuals or entities identified in the Supplementary Conditions, and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them, each of whom is deemed to have an insurable interest and shall be listed as an additional insured;

2. be written on a Builder's Risk policy or open peril or special causes of loss policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, false work, and materials and equipment which is to be used for the Work, whether in-transit or elsewhere, and shall insure against at least the following perils and causes of loss: fire, lightning, extended coverage, theft, vandalism and malicious mischief, earthquake, collapse, debris removal, demolition occasioned by enforcement of Laws and Regulations, water damage, and such other perils or causes of loss as may specifically be required by the Supplementary Conditions;

3. include expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects);

4. cover materials and equipment stored at the Site or at another location that was agreed to in writing by OWNER prior to being incorporated in the Work, provided that such materials and equipment have been included in an Application for Payment recommended by ENGINEER;

5. allow for partial utilization of the Work by OWNER;

6. include testing and startup; and

7. be maintained in effect until final payment is made unless otherwise agreed to in writing by OWNER, CONTRACTOR, and ENGINEER with 30 days written notice to each other additional insured to whom a certificate of insurance has been issued.

B. CONTRACTOR shall purchase and maintain such boiler and machinery insurance or additional property insurance as may be required by the Supplementary Conditions or Laws and Regulations which will include the interests of OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants, and any other individuals or entities identified in the Supplementary Conditions, each of whom is deemed to have an insurable interest and shall be listed as an insured or additional insured.

C. All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with paragraph 5.05 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 30 days prior written notice has been given to OWNER and CONTRACTOR and to each other additional insured to whom a certificate of insurance has been issued.

D. OWNER shall not be responsible for purchasing and maintaining any property insurance specified in this paragraph 5.05 to protect the interests of CONTRACTOR, Subcontractors, or others in the Work to the extent of any deductible amounts that are identified in the Supplementary Conditions. The risk of loss within such identified deductible amount will be borne by CONTRACTOR, Subcontractors, or others suffering any such loss, and if any of them wishes property insurance coverage within the limits of such amounts, each may purchase and maintain it at the purchaser's own expense.

5.06 *Waiver of Rights*

A. OWNER and CONTRACTOR intend that all policies purchased in accordance with paragraph 5.05 will protect OWNER, CONTRACTOR, Subcontractors, ENGINEER, ENGINEER's Consultants, and all other individuals or entities identified in the Supplementary Conditions to be listed as insureds or additional insureds (and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them) in such policies and will provide primary coverage for all losses and damages caused by the perils or causes of loss covered thereby. All such policies shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any of the insureds or additional insureds thereunder.

5.07 *Receipt and Application of Insurance Proceeds*

A. Any insured loss under the policies of insurance required by paragraph 5.05 will be adjusted with OWNER and made payable to OWNER as representative for, not as fiduciary for, the insureds, as their interests may appear, subject to the requirements of any applicable mortgage clause and of paragraph 5.07.B. OWNER shall deposit in a separate account any money so received and shall distribute it in accordance with such agreement as the parties in interest may reach. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the moneys so received applied on account thereof, and the Work and the cost thereof covered by an appropriate Change Order or Written Amendment.

B. OWNER shall have power to adjust and settle any loss with the insurers unless one of the parties in interest shall object in writing within 15 days after the occurrence of loss to OWNER's exercise of this power. If such objection be made, OWNER as representative for, not as fiduciary for, shall make settlement with the insurers in accordance with such agreement as the parties in interest may reach. If no such agreement among the parties in interest is reached, OWNER as fiduciary shall adjust and settle the loss with the insurers and, if required in writing by any party in interest, OWNER as fiduciary shall give bond for the proper performance of such duties.

5.08 *Acceptance of Bonds and Insurance; Option to Replace*

A. If either OWNER or CONTRACTOR has any objection to the coverage afforded by or other provisions of the Bonds or insurance required to be purchased and maintained by the other party in accordance with Article 5 on the basis of non-conformance with the Contract Documents, the objecting party shall so notify the other party in writing within 10 days after receipt of the certificates (or other evidence requested) required by paragraph 2.05.C. OWNER and CONTRACTOR shall each provide to the other such additional information in respect of insurance provided as the other may reasonably request. If either party does not purchase or maintain all of the Bonds and insurance required of such party by the Contract Documents, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage. Without prejudice to any other right or remedy, the other party may elect to obtain equivalent Bonds or insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and a Change Order shall be issued to adjust the Contract Price accordingly.

5.09 *Partial Utilization, Acknowledgment of Property Insurer*

A. If OWNER finds it necessary to occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in paragraph 14.05, no such use or occupancy shall commence before the insurers providing the property insurance pursuant to paragraph 5.05 have acknowledged notice thereof and in writing effected any changes in coverage necessitated thereby. The insurers providing the property insurance shall consent by endorsement on the policy or

policies, but the property insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy.

ARTICLE 6 - CONTRACTOR'S RESPONSIBILITIES

6.01 *Supervision and Superintendence*

A. CONTRACTOR shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. CONTRACTOR shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction, but CONTRACTOR shall not be responsible for the negligence of OWNER or ENGINEER in the design or specification of a specific means, method, technique, sequence, or procedure of construction which is shown or indicated in and expressly required by the Contract Documents. CONTRACTOR shall be responsible to see that the completed Work complies accurately with the Contract Documents.

B. At all times during the progress of the Work, CONTRACTOR shall assign a competent resident superintendent thereto who shall not be replaced without written notice to OWNER and ENGINEER except under extraordinary circumstances. The superintendent will be CONTRACTOR's representative at the Site and shall have authority to act on behalf of CONTRACTOR. All communications given to or received from the superintendent shall be binding on CONTRACTOR.

6.02 *Labor; Working Hours*

A. CONTRACTOR shall provide competent, suitably qualified personnel to survey, lay out, and construct the Work as required by the Contract Documents. CONTRACTOR shall at all times maintain good discipline and order at the Site.

B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, and CONTRACTOR will not permit overtime work or the performance of Work on Saturday, Sunday, or any legal holiday without OWNER's written consent (which will not be unreasonably withheld) given after prior written notice to ENGINEER.

6.03 *Services, Materials, and Equipment*

A. Unless otherwise specified in the General Requirements, CONTRACTOR shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start-up, and completion of the Work.

B. All materials and equipment incorporated into the Work shall be as specified or, if not specified, shall be of good quality and new, except as otherwise provided in the Contract Documents. All warranties and guarantees specifically called for by the Specifications shall expressly run to the benefit of OWNER. If required by ENGINEER, CONTRACTOR shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

6.04 *Progress Schedule*

A. CONTRACTOR shall adhere to the progress schedule established in accordance with paragraph 2.07 as it may be adjusted from time to time as provided below.

1. CONTRACTOR shall submit to ENGINEER for acceptance (to the extent indicated in paragraph 2.07) proposed adjustments in the progress schedule that will not result in changing the Contract Times (or Milestones). Such adjustments will conform generally to the progress schedule then in effect and additionally will comply with any provisions of the General Requirements applicable thereto.

2. Proposed adjustments in the progress schedule that will change the Contract Times (or Milestones) shall be submitted in accordance with the requirements of Article 12. Such adjustments may only be made by a Change Order or Written Amendment in accordance with Article 12.

6.05 *Substitutes and "Or-Equal"*

A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the specification or description is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or-equal" item or no substitution is permitted, other items of material or equipment or material or equipment of other Suppliers may be submitted to ENGINEER for review under the circumstances described below:

1. "Or-Equal" Items: If in ENGINEER's sole discretion an item of material or equipment proposed by CONTRACTOR is functionally equal to that named and sufficiently similar so that no change in related Work will be required, it may be considered by ENGINEER as an "Or-Equal" item, in which case review and approval of the proposed item may, in ENGINEER's sole discretion, be accomplished without compliance with some or all of the requirements for approval of proposed substitute items. For the purposes of this paragraph 6.05.A.1, a proposed item of material or equipment will be considered functionally equal to an item so named if:

a. in the exercise of reasonable judgment ENGINEER determines that: (i) it is at least equal in quality, durability, appearance, strength, and design characteristics; (ii) it will reliably perform at least equally well the function imposed by the design concept of the completed Project as a functioning whole, and;

b. CONTRACTOR certifies that: (i) there is no increase in cost to the OWNER; and (ii) it will conform substantially, even with deviations, to the detailed requirements of the item named in the Contract Documents.

2. *Substitute Items*

a. If in ENGINEER's sole discretion an item of material or equipment proposed by CONTRACTOR does not qualify as an "or-equal" item under paragraph 6.05.A.1, it will be considered a proposed substitute item.

b. CONTRACTOR shall submit sufficient information as provided below to allow ENGINEER to determine that the item of material or equipment proposed is essentially equivalent to that named and an acceptable substitute therefor. Requests for review of proposed substitute items of material or equipment will not be accepted by ENGINEER from anyone other than CONTRACTOR.

c. The procedure for review by ENGINEER will be as set forth in paragraph 6.05.A.2.d, as supplemented in the General Requirements and as ENGINEER may decide is appropriate under the circumstances.

d. CONTRACTOR shall first make written application to ENGINEER for review of a proposed substitute item of material or equipment that CONTRACTOR seeks to furnish or use. The application shall certify that the proposed substitute item will perform adequately the functions and achieve the results called for by the general design, be similar in substance to that specified, and be suited to the same use as that specified. The application will state the extent, if any, to which the use of the proposed substitute item will prejudice CONTRACTOR's achievement of Substantial Completion on time, whether or not use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with OWNER for work on the Project) to adapt the design to the proposed substitute item and whether or not incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty. All variations of the proposed substitute item from that specified will be identified in the application, and available engineering, sales, maintenance, repair, and replacement services will be indicated. The application will also contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including costs of redesign and claims of other contractor's affected by any resulting change, all of which will be considered by ENGINEER in evaluating the proposed substitute item. ENGINEER may require CONTRACTOR to furnish additional data about the proposed substitute item.

B. *Substitute Construction Methods or Procedures:* If a specific means, method, technique, sequence, or procedure of construction is shown or indicated in and expressly required by the Contract Documents, CONTRACTOR may furnish or utilize a substitute means, method, technique, sequence, or procedure of construction approved by ENGINEER. CONTRACTOR shall submit sufficient information to allow ENGINEER, in ENGINEER's sole discretion, to determine that the substitute proposed is equivalent to that expressly called for by the Contract Documents. The procedure for review by ENGINEER will be similar to that provided in subparagraph 6.05.A.2.

C. *ENGINEER's Evaluation:* ENGINEER will be allowed a reasonable time within which to evaluate each proposal or submittal made pursuant to paragraphs 6.05.A and 6.05.B. ENGINEER will be the sole judge of acceptability. No "or-equal" or substitute will be ordered, installed or utilized until ENGINEER's review is complete, which will be evidenced by either a Change Order for a substitute or an approved Shop Drawing for an "or equal." ENGINEER will advise CONTRACTOR in writing of any negative determination.

D. *Special Guarantee:* OWNER may require CONTRACTOR to furnish at CONTRACTOR's expense a special performance guarantee or other surety with respect to any substitute.

E. *ENGINEER's Cost Reimbursement:* ENGINEER will record time required by ENGINEER and ENGINEER's Consultants in evaluating substitute proposed or submitted by CONTRACTOR pursuant to paragraphs 6.05.A.2 and 6.05.B and in making changes in the Contract Documents (or in the provisions of any other direct contract with OWNER for work on the Project) occasioned thereby. Whether or not ENGINEER approves a substitute item so proposed or submitted by CONTRACTOR, CONTRACTOR shall reimburse OWNER for the charges of ENGINEER and ENGINEER's Consultants for evaluating each such proposed substitute.

F. *CONTRACTOR's Expense:* CONTRACTOR shall provide all data in support of any proposed substitute or "or-equal" at CONTRACTOR's expense.

6.06 *Concerning Subcontractors, Suppliers, and Others*

A. CONTRACTOR shall not employ any Subcontractor, Supplier, or other individual or entity (including those acceptable to OWNER as indicated in paragraph 6.06.B), whether initially or as a replacement, against whom OWNER may have reasonable objection.

B. If the Supplementary Conditions require the identity of certain Subcontractors, Suppliers, or other individuals or entities to be submitted to OWNER in advance for acceptance by OWNER by a specified date prior to the Effective Date of the Agreement, and if CONTRACTOR has submitted a list thereof in accordance with the Supplementary Conditions, OWNER's acceptance (either in writing or by failing to make written objection thereto by the date indicated for acceptance or objection in the Bidding Documents or the Contract Documents) of any such Subcontractor, Supplier, or other individual or entity so identified may be revoked on the basis of reasonable objection after due investigation. CONTRACTOR shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity, and the Contract Price will be adjusted by the difference in the cost occasioned by such replacement, and an appropriate Change Order will be issued or Written Amendment signed. No acceptance by OWNER of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of any right of OWNER or ENGINEER to reject defective Work.

C. CONTRACTOR shall be fully responsible to OWNER and ENGINEER for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as CONTRACTOR is responsible for CONTRACTOR's own acts and omissions. Nothing in the Contract Documents shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between OWNER or ENGINEER and any such Subcontractor, Supplier or other individual or entity, nor shall it create any obligation on the part of OWNER or ENGINEER to pay or to see to the payment of any moneys due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

D. CONTRACTOR shall be solely responsible for scheduling and coordinating the Work of Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work under a direct or indirect contract with CONTRACTOR.

E. CONTRACTOR shall require all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work to communicate with ENGINEER through CONTRACTOR.

F. The divisions and sections of the Specifications and the identifications of any Drawings shall not control CONTRACTOR in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.

G. All Work performed for CONTRACTOR by a Subcontractor or Supplier will be pursuant to an appropriate agreement between CONTRACTOR and the Subcontractor or Supplier which specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of OWNER and ENGINEER.

6.07 Patent Fees and Royalties

A. CONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use in the performance of the Work or the incorporation in the Work of any invention, design, process, product, or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product, or device is specified in the Contract Documents for use in the performance of the Work and if to the actual knowledge of OWNER or ENGINEER its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by OWNER in the Contract Documents. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultants, and the officers, directors, partners, employees or agents, and other consultants of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

6.08 Permits

A. Unless otherwise provided in the Supplementary Conditions, CONTRACTOR shall obtain and pay for all construction permits and licenses. OWNER shall assist CONTRACTOR, when necessary, in obtaining such permits and licenses. CONTRACTOR shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of opening of Bids, or, if there are no Bids, on the Effective Date of the Agreement. CONTRACTOR shall pay all charges of utility owners for connections to the Work.

6.09 Laws and Regulations

A. CONTRACTOR shall give all notices and comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither OWNER nor ENGINEER shall be responsible for monitoring CONTRACTOR's compliance with any Laws or Regulations.

B. If CONTRACTOR performs any Work knowing or having reason to know that it is contrary to Laws or Regulations, CONTRACTOR shall bear all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work; however, it shall not be CONTRACTOR's primary responsibility to make certain that the Specifications and Drawings are in accordance with Laws and Regulations, but this shall not relieve CONTRACTOR of CONTRACTOR's obligations under paragraph 3.03.

C. Changes in Laws or Regulations not known at the time of opening of Bids (or, on the Effective Date of the Agreement if there were no Bids) having an effect on the cost or time of performance of the Work may be the subject of an adjustment in Contract Price or Contract Times. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any such adjustment, a Claim may be made therefor as provided in paragraph 10.05.

6.10 Taxes

A. OWNER is exempt from Colorado State Sales and Use Taxes on materials and equipment to be incorporated in the Work (exemption No. 98-00361). Said Taxes shall not be included in the Contract Price or modifications to the Contract Price.

B. Prior to the purchase of any property to be incorporated into the Work, the CONTRACTOR and any subcontractor shall apply to the Department of Revenue, State of Colorado, for an exemption to be used for all Work done under this Contract (Form DR-172). All purchases for the Work shall use the exemption from sales tax.

6.11 *Use of Site and Other Areas*

A. *Limitation on Use of Site and Other Areas*

1. CONTRACTOR shall confine construction equipment, the storage of materials and equipment, and the operations of workers to the Site and other areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and other areas with construction equipment or other materials or equipment. CONTRACTOR shall assume full responsibility for any damage to any such land or area, or to the owner or occupant thereof, or of any adjacent land or areas resulting from the performance of the Work.

2. Should any claim be made by any such owner or occupant because of the performance of the Work, CONTRACTOR shall promptly settle with such other party by negotiation or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law.

3. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultant, and the officers, directors, partners, employees, agents, and other consultants of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against OWNER, ENGINEER, or any other party indemnified hereunder to the extent caused by or based upon CONTRACTOR's performance of the Work.

B. *Removal of Debris During Performance of the Work:* During the progress of the Work CONTRACTOR shall keep the Site and other areas free from accumulations of waste materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.

C. *Cleaning:* Prior to Substantial Completion of the Work CONTRACTOR shall clean the Site and make it ready for utilization by OWNER. At the completion of the Work CONTRACTOR shall remove from the Site all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.

D. *Loading Structures:* CONTRACTOR shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall CONTRACTOR subject any part of the Work or adjacent property to stresses or pressures that will endanger it.

6.12 *Record Documents*

A. CONTRACTOR shall maintain in a safe place at the Site one record copy of all Drawings, Specifications, Addenda, Written Amendments, Change Orders, Work Change Directives, Field Orders, and written interpretations and clarifications in good order and annotated to show changes made during construction. These record documents together with all approved Samples and a counterpart of all approved Shop Drawings will be available to ENGINEER for reference. Upon completion of the Work, these record documents, Samples, and Shop Drawings will be delivered to ENGINEER for OWNER.

6.13 *Safety and Protection*

A. CONTRACTOR shall be solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. CONTRACTOR shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury or loss to:

1. all persons on the Site or who may be affected by the Work;
2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and

3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.

B. CONTRACTOR shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. CONTRACTOR shall notify owners of adjacent property and of Underground Facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property. All damage, injury, or loss to any property referred to in paragraph 6.13.A.2 or 6.13.A.3 caused, directly or indirectly, in whole or in part, by CONTRACTOR, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by CONTRACTOR (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of OWNER or ENGINEER or ENGINEER's Consultant, or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly or indirectly, in whole or in part, to the fault or negligence of CONTRACTOR or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them). CONTRACTOR's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and ENGINEER has issued a notice to OWNER and CONTRACTOR in accordance with paragraph 14.07.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).

6.14 *Safety Representative*

A. CONTRACTOR shall designate a qualified and experienced safety representative at the Site whose duties and responsibilities shall be the prevention of accidents and the maintaining and supervising of safety precautions and programs.

6.15 *Hazard Communication Programs*

A. CONTRACTOR shall be responsible for coordinating any exchange of material safety data sheets or other hazard communication information required to be made available to or exchanged between or among employers at the Site in accordance with Laws or Regulations.

6.16 *Emergencies*

A. In emergencies affecting the safety or protection of persons or the Work or property at the Site or adjacent thereto, CONTRACTOR is obligated to act to prevent threatened damage, injury, or loss. CONTRACTOR shall give ENGINEER prompt written notice if CONTRACTOR believes that any significant changes in the Work or variations from the Contract Documents have been caused thereby or are required as a result thereof. If ENGINEER determines that a change in the Contract Documents is required because of the action taken by CONTRACTOR in response to such an emergency, a Work Change Directive or Change Order will be issued.

6.17 *Shop Drawings and Samples*

A. CONTRACTOR shall submit Shop Drawings to ENGINEER for review and approval in accordance with the acceptable schedule of Shop Drawings and Sample submittals. All submittals will be identified as ENGINEER may require and in the number of copies specified in the General Requirements. The data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show ENGINEER the services, materials, and equipment CONTRACTOR proposes to provide and to enable ENGINEER to review the information for the limited purposes required by paragraph 6.17.E.

B. CONTRACTOR shall also submit Samples to ENGINEER for review and approval in accordance with the acceptable schedule of Shop Drawings and Sample submittals. Each Sample will be identified clearly as to material, Supplier, pertinent data such as catalog numbers, and the use for which intended and otherwise as ENGINEER may require to enable ENGINEER to review the submittal for the limited purposes required by paragraph 6.17.E. The numbers of each Sample to be submitted will be as specified in the Specifications.

C. Where a Shop Drawing or Sample is required by the Contract Documents or the schedule of Shop Drawings and Sample submittals acceptable to ENGINEER as required by paragraph 2.07, any related Work performed prior to ENGINEER's review and approval of the pertinent submittal will be at the sole expense and responsibility of CONTRACTOR.

D. *Submittal Procedures*

1. Before submitting each Shop Drawing or Sample, CONTRACTOR shall have determined and verified:
 - a. all field measurements, quantities, dimensions, specified performance criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
 - b. all materials with respect to intended use, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work;
 - c. all information relative to means, methods, techniques, sequences, and procedures of construction and safety precautions and programs incident thereto; and
 - d. CONTRACTOR shall also have reviewed and coordinated each Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents.
2. Each submittal shall bear a stamp or specific written indication that CONTRACTOR has satisfied CONTRACTOR's obligations under the Contract Documents with respect to CONTRACTOR's review and approval of that submittal.
3. At the time of each submittal, CONTRACTOR shall give ENGINEER specific written notice of such variations, if any, that the Shop Drawing or Sample submitted may have from the requirements of the Contract Documents, such notice to be in a written communication separate from the submittal; and, in addition, shall cause a specific notation to be made on each Shop Drawing and Sample submitted to ENGINEER for review and approval of each such variation.

E. *ENGINEER's Review*

1. ENGINEER will timely review and approve Shop Drawings and Samples in accordance with the schedule of Shop Drawings and Sample submittals acceptable to ENGINEER. ENGINEER's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
2. ENGINEER's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction (except where a particular means, method, technique, sequence, or procedure of construction is specifically and expressly called for by the Contract Documents) or to safety precautions or programs incident thereto. The review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
3. ENGINEER's review and approval of Shop Drawings or Samples shall not relieve CONTRACTOR from responsibility for any variation from the requirements of the Contract Documents unless CONTRACTOR has in writing called ENGINEER's attention to each such variation at the time of each submittal as required by paragraph 6.17.D.3 and ENGINEER has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample approval; nor will any approval by ENGINEER relieve CONTRACTOR from responsibility for complying with the requirements of paragraph 6.17.D.1.

F. *Resubmittal Procedures*

1. CONTRACTOR shall make corrections required by ENGINEER and shall return the required number of corrected copies of Shop Drawings and submit as required new Samples for review and approval. CONTRACTOR shall direct specific attention in writing to revisions other than the corrections called for by ENGINEER on previous submittals.

6.18 *Continuing the Work*

A. CONTRACTOR shall carry on the Work and adhere to the progress schedule during all disputes or disagreements with OWNER. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, except as permitted by paragraph 15.04 or as OWNER and CONTRACTOR may otherwise agree in writing.

6.19 *CONTRACTOR's General Warranty and Guarantee*

A. CONTRACTOR warrants and guarantees to OWNER, ENGINEER, and ENGINEER's Consultants that all Work will be in accordance with the Contract Documents and will not be defective. CONTRACTOR's warranty and guarantee hereunder excludes defects or damage caused by:

1. abuse, modification, or improper maintenance or operation by persons other than CONTRACTOR, Subcontractors, Suppliers, or any other individual or entity for whom CONTRACTOR is responsible; or
2. normal wear and tear under normal usage.

B. CONTRACTOR's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of CONTRACTOR's obligation to perform the Work in accordance with the Contract Documents:

1. observations by ENGINEER;
2. recommendation by ENGINEER or payment by OWNER of any progress or final payment;
3. the issuance of a certificate of Substantial Completion by ENGINEER or any payment related thereto by OWNER;
4. use or occupancy of the Work or any part thereof by OWNER;
5. any acceptance by OWNER or any failure to do so;
6. any review and approval of a Shop Drawing or Sample submittal or the issuance of a notice of acceptability by ENGINEER;
7. any inspection, test, or approval by others; or
8. any correction of defective Work by OWNER.

6.20 *Indemnification*

A. To the fullest extent permitted by Laws and Regulations, CONTRACTOR shall indemnify and hold harmless OWNER, ENGINEER, ENGINEER's Consultants, and the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage:

1. is caused or is alleged to be caused in whole or in part by any negligent act or omission of CONTRACTOR, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable, regardless of whether or not caused or alleged to be caused in part by any negligence or omission of an individual or entity indemnified hereunder or whether liability is imposed upon such indemnified party by Laws and Regulations regardless of the negligence of any such individual or entity.

B. In any and all claims against OWNER or ENGINEER or any of their respective consultants, agents, officers, directors, partners, or employees by any employee (or the survivor or personal representative of such employee) of CONTRACTOR, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under

paragraph 6.20.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for CONTRACTOR or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

C. The indemnification obligations of CONTRACTOR under paragraph 6.20.A shall not extend to the liability of ENGINEER and ENGINEER's Consultants or to the officers, directors, partners, employees, agents, and other consultants and subcontractors of each and any of them arising out of:

1. the preparation or approval of, or the failure to prepare or approve, maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

ARTICLE 7 - OTHER WORK

7.01 *Related Work at Site*

A. OWNER or others may perform other work related to the Project at the Site by OWNER's employees, or let other direct contracts therefor, or have other work performed by utility owners. If such other work is not noted in the Contract Documents, then:

1. written notice is hereby given to CONTRACTOR that such other work will be performed; and
2. CONTRACTOR shall not be entitled to any amount or extent of any adjustment in the Contract Price or Contract Times as a result of such other work.

B. CONTRACTOR shall afford each other contractor who is a party to such a direct contract and each utility owner (and OWNER, if OWNER is performing the other work with OWNER's employees) proper and safe access to the Site and a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work and shall properly coordinate the Work with theirs. Unless otherwise provided in the Contract Documents, CONTRACTOR shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. CONTRACTOR shall not endanger any work of others by cutting, excavating, or otherwise altering their work and will only cut or alter their work with the written consent of ENGINEER and the others whose work will be affected. The duties and responsibilities of CONTRACTOR under this paragraph are for the benefit of such other contractors.

C. If the proper execution or results of any part of CONTRACTOR's Work depends upon work performed by others under this Article 7, CONTRACTOR shall inspect such other work and promptly report to ENGINEER in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of CONTRACTOR's Work. CONTRACTOR's failure to so report will constitute an acceptance of such other work as fit and proper for integration with CONTRACTOR's Work except for latent defects and deficiencies in such other work.

7.02 *Coordination*

A. If OWNER intends to contract with others for the performance of other work on the Project at the Site, the following will be set forth in Supplementary Conditions:

1. the individual or entity who will have authority and responsibility for coordination of the activities among the various contractors will be identified;
2. the specific matters to be covered by such authority and responsibility will be itemized; and
3. the extent of such authority and responsibilities will be provided.

B. Unless otherwise provided in the Supplementary Conditions, OWNER shall have sole authority and responsibility for such coordination.

ARTICLE 8 - OWNER'S RESPONSIBILITIES

8.01 *Communications to CONTRACTOR*

A. Except as otherwise provided in these General Conditions, OWNER shall issue all communications to CONTRACTOR through ENGINEER.

8.02 *Replacement of ENGINEER*

A. In case of termination of the employment of ENGINEER, OWNER may, in OWNER's sole discretion, appoint a replacement engineer whose status under the Contract Documents shall be that of the former ENGINEER.

8.03 *Furnish Data*

A. OWNER shall promptly furnish the data required of OWNER under the Contract Documents.

8.04 *Payment*

A. OWNER shall make payments to CONTRACTOR promptly when they are due, subject to CONTRACTOR's satisfaction of all terms and conditions contained in section 14, and OWNER's right to withhold payment thereunder.

8.05 *Lands and Easements*

A. OWNER's duties in respect of providing lands and providing engineering surveys to establish reference points are set forth in paragraphs 4.01 and 4.05. Paragraph 4.02 refers to OWNER's identifying and making available to CONTRACTOR copies of reports of explorations and tests of subsurface conditions and drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Site that have been utilized by ENGINEER in preparing the Contract Documents.

8.06 *Change Orders*

A. OWNER may execute Change Orders as indicated in paragraph 10.03. Upon OWNER's agreement to the terms thereof, OWNER is obligated to execute the Change Order.

B. OWNER will issue no Change Order or other form of order or directive requiring additional work to be performed, which work causes aggregate amounts payable under the Contract to exceed the amount appropriated for the original Contract, unless the CONTRACTOR is given written assurance by the OWNER that lawful appropriations to cover the costs of the additional work have been made or unless such work is covered by remedy granting provisions of the Contract.

8.07 *Inspections, Tests, and Approvals*

A. OWNER's responsibility in respect to certain inspections, tests, and approvals is set forth in paragraph 13.03.B.

8.08 *Limitations on OWNER's Responsibilities*

A. The OWNER shall not supervise, direct, or have control or authority over, nor be responsible for, CONTRACTOR's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of CONTRACTOR to comply with Laws and Regulations applicable to the performance of the Work. OWNER will not be responsible for CONTRACTOR's failure to perform the Work in accordance with the Contract Documents.

8.09 *Undisclosed Hazardous Environmental Condition*

A. OWNER's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in paragraph 4.06.

8.10 *Evidence of Financial Arrangements*

A. OWNER shall furnish CONTRACTOR with a statement that the amount of money appropriated is equal to or in excess of the contract amount.

ARTICLE 9 - ENGINEER'S STATUS DURING CONSTRUCTION

9.01 *OWNER's Representative*

A. ENGINEER will be OWNER's representative during the construction period. The duties and responsibilities and the limitations of authority of ENGINEER as OWNER's representative during construction are set forth in the Contract Documents and will not be changed without written consent of OWNER and ENGINEER.

9.02 *Visits to Site*

A. ENGINEER will make visits to the Site at intervals appropriate to the various stages of construction as ENGINEER deems necessary in order to observe as an experienced and qualified design professional the progress that has been made and the quality of the various aspects of CONTRACTOR's executed Work. Based on information obtained during such visits and observations, ENGINEER, for the benefit of OWNER, will determine, in general, if the Work is proceeding in accordance with the Contract Documents. ENGINEER shall not be required to make exhaustive or continuous inspections of the Site. ENGINEER's efforts will be directed toward providing for OWNER a greater degree of confidence that the completed Work will conform generally to the Contract Documents. On the basis of such visits and observations, ENGINEER will keep OWNER informed of the progress of the Work and will endeavor to guard OWNER against defective Work.

B. ENGINEER's visits and observations are subject to all the limitations on ENGINEER's authority and responsibility set forth in paragraph 9.10, and particularly, but without limitation, during or as a result of ENGINEER's visits or observations of CONTRACTOR's Work ENGINEER will not supervise, direct, control, or have authority over or be responsible for CONTRACTOR's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of CONTRACTOR to comply with Laws and Regulations applicable to the performance of the Work.

9.03 *Project Representative*

A. If OWNER and ENGINEER agree, ENGINEER will furnish a Resident Project Representative to assist ENGINEER in providing more extensive observation of the Work. The responsibilities and authority and limitations thereon of any such Resident Project Representative and assistants will be as provided in paragraph 9.10 and in the Supplementary Conditions. If OWNER designates another representative or agent to represent OWNER at the Site who is not ENGINEER's Consultant, agent or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

9.04 *Clarifications and Interpretations*

A. ENGINEER will issue with reasonable promptness such written clarifications or interpretations of the requirements of the Contract Documents as ENGINEER may determine necessary, which shall be consistent with the intent of and reasonably inferable from the Contract Documents. Such written clarifications and interpretations will be binding on OWNER and CONTRACTOR. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a written clarification or interpretation, a Claim may be made therefor as provided in paragraph 10.05.

9.05 *Authorized Variations in Work*

A. ENGINEER may authorize minor variations in the Work from the requirements of the Contract Documents which do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. These may be accomplished by a Field Order and will be binding on OWNER and also on CONTRACTOR, who shall perform the Work involved promptly. If OWNER and CONTRACTOR are unable to agree on entitlement to or on the amount or extent, if any, of any adjustment in the Contract Price or Contract Times, or both, as a result of a Field Order, a Claim may be made therefor as provided in paragraph 10.05.

9.06 Rejecting Defective Work

A. ENGINEER will have authority to disapprove or reject Work which ENGINEER believes to be defective, or that ENGINEER believes will not produce a completed Project that conforms to the Contract Documents or that will prejudice the integrity of the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. ENGINEER will also have authority to require special inspection or testing of the Work as provided in paragraph 13.04, whether or not the Work is fabricated, installed, or completed.

9.07 Shop Drawings, Change Orders and Payments

- A. In connection with ENGINEER's authority as to Shop Drawings and Samples, see paragraph 6.17.
- B. In connection with ENGINEER's authority as to Change Orders, see Articles 10, 11, and 12.
- C. In connection with ENGINEER's authority as to Applications for Payment, see Article 14.

9.08 Determinations for Unit Price Work

A. ENGINEER will determine the actual quantities and classifications of Unit Price Work performed by CONTRACTOR. ENGINEER will review with CONTRACTOR the ENGINEER's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). ENGINEER's written decision thereon will be final and binding (except as modified by ENGINEER to reflect changed factual conditions or more accurate data) upon OWNER and CONTRACTOR, subject to the provisions of paragraph 10.05.

9.09 Decisions on Requirements of Contract Documents and Acceptability of Work

A. ENGINEER will be the initial interpreter of the Contract Documents. Claims, disputes and other matters relating to the acceptability of the Work, the quantities and classifications of Unit Price Work, the interpretation of the requirements of the Contract Documents pertaining to the performance of the Work, and Claims seeking changes in the Contract Price or Contract Times will be referred initially to ENGINEER in writing, in accordance with the provisions of paragraph 10.05, with a request for a formal decision.

B. When functioning as interpreter and judge under this paragraph 9.09, ENGINEER will not show partiality to OWNER or CONTRACTOR and will not be liable in connection with any interpretation or decision rendered in good faith in such capacity. The rendering of a decision by ENGINEER pursuant to this paragraph 9.09 with respect to any such Claim, dispute, or other matter (except any which have been waived by the making or acceptance of final payment as provided in paragraph 14.07) will be a condition precedent to any exercise by OWNER or CONTRACTOR of such rights or remedies as either may otherwise have under the Contract Documents or by Laws or Regulations in respect of any such Claim, dispute, or other matter.

9.10 Limitations on ENGINEER's Authority and Responsibilities

A. ENGINEER will not supervise, direct, control, or have authority over or be responsible for CONTRACTOR's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of CONTRACTOR to comply with Laws and Regulations applicable to the performance of the Work. ENGINEER will not be responsible for CONTRACTOR's failure to perform the Work in accordance with the Contract Documents.

B. ENGINEER will not be responsible for the acts or omissions of CONTRACTOR or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.

C. ENGINEER's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, Bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by paragraph 14.07.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals that the results certified indicate compliance with, the Contract Documents.

D. The limitations upon authority and responsibility set forth in this paragraph 9.10 shall also apply to ENGINEER's Consultants, Resident Project Representative, and assistants.

ARTICLE 10 - CHANGES IN THE WORK; CLAIMS

10.01 *Authorized Changes in the Work*

A. Without invalidating the Agreement and without notice to any surety, OWNER may, at any time or from time to time, order additions, deletions, or revisions in the Work by a Written Amendment, a Change Order, or a Work Change Directive. Upon receipt of any such document, CONTRACTOR shall promptly proceed with the Work involved which will be performed under the applicable conditions of the Contract Documents (except as otherwise specifically provided).

B. If OWNER and CONTRACTOR are unable to agree on entitlement to, or on the amount or extent, if any, of an adjustment in the Contract Price or Contract Times, or both, that should be allowed as a result of a Work Change Directive, a Claim may be made therefor as provided in paragraph 10.05.

10.02 *Unauthorized Changes in the Work*

A. CONTRACTOR shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents as amended, modified, or supplemented as provided in paragraph 3.04, except in the case of an emergency as provided in paragraph 6.16 or in the case of uncovering Work as provided in paragraph 13.04.B.

10.03 *Execution of Change Orders*

A. OWNER and CONTRACTOR shall execute appropriate Change Orders recommended by ENGINEER (or Written Amendments) covering:

1. changes in the Work which are: (i) ordered by OWNER pursuant to paragraph 10.01.A, (ii) required because of acceptance of defective Work under paragraph 13.08.A or OWNER's correction of defective Work under paragraph 13.09, or (iii) agreed to by the parties;
2. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive; and
3. changes in the Contract Price or Contract Times which embody the substance of any written decision rendered by ENGINEER pursuant to paragraph 10.05; provided that, in lieu of executing any such Change Order, an appeal may be taken from any such decision in accordance with the provisions of the Contract Documents and applicable Laws and Regulations, but during any such appeal, CONTRACTOR shall carry on the Work and adhere to the progress schedule as provided in paragraph 6.18.A.

10.04 *Notification to Surety*

A. If notice of any change affecting the general scope of the Work or the provisions of the Contract Documents (including, but not limited to, Contract Price or Contract Times) is required by the provisions of any Bond to be given to a surety, the giving of any such notice will be CONTRACTOR's responsibility. The amount of each applicable Bond will be adjusted to reflect the effect of any such change.

10.05 *Claims and Disputes*

A. *Notice:* Written notice stating the general nature of each Claim, dispute, or other matter shall be delivered by the claimant to ENGINEER and the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto. Notice of the amount or extent of the Claim, dispute, or other matter with supporting data shall be delivered to the ENGINEER and the other party to the Contract within 60 days after the start of such event (unless ENGINEER allows additional time for claimant to submit additional or more accurate data in support of such Claim, dispute, or other matter). A Claim for an adjustment in Contract Price shall be prepared in accordance with the provisions of paragraph 12.01.B. A Claim for an adjustment in Contract Time shall be prepared in accordance with the provisions of paragraph 12.02.B. Each Claim shall be accompanied by claimant's written statement that the adjustment claimed is the entire adjustment to which the claimant believes it is entitled as a result of said event. The opposing party shall submit any response to ENGINEER and the claimant within 30 days after receipt of the claimant's last submittal (unless ENGINEER allows additional time).

B. *ENGINEER's Decision:* ENGINEER will render a formal decision in writing within 30 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any. ENGINEER's written decision on such Claim, dispute, or other matter will be final and binding upon OWNER and CONTRACTOR unless:

1. an appeal from ENGINEER's decision is taken within the time limits and in accordance with the dispute resolution procedures set forth in Article 16; or

2. if no such dispute resolution procedures have been set forth in Article 16, a written notice of intention to appeal from ENGINEER's written decision is delivered by OWNER or CONTRACTOR to the other and to ENGINEER within 30 days after the date of such decision, and a formal proceeding is instituted by the appealing party in a forum of competent jurisdiction within 60 days after the date of such decision or within 60 days after Substantial Completion, whichever is later (unless otherwise agreed in writing by OWNER and CONTRACTOR), to exercise such rights or remedies as the appealing party may have with respect to such Claim, dispute, or other matter in accordance with applicable Laws and Regulations.

C. If ENGINEER does not render a formal decision in writing within the time stated in paragraph 10.05.B, a decision denying the Claim in its entirety shall be deemed to have been issued 31 days after receipt of the last submittal of the claimant or the last submittal of the opposing party, if any.

D. No Claim for an adjustment in Contract Price or Contract Times (or Milestones) will be valid if not submitted in accordance with this paragraph 10.05.

ARTICLE 11 - COST OF THE WORK; CASH ALLOWANCES; UNIT PRICE WORK

11.01 *Cost of the Work*

A. *Costs Included:* The term Cost of the Work means the sum of all costs necessarily incurred and paid by CONTRACTOR in the proper performance of the Work. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, the costs to be reimbursed to CONTRACTOR will be only those additional or incremental costs required because of the change in the Work or because of the event giving rise to the Claim. Except as otherwise may be agreed to in writing by OWNER, such costs shall be in amounts no higher than those prevailing in the locality of the Project, shall include only the following items, and shall not include any of the costs itemized in paragraph 11.01.B.

1. Payroll costs for employees in the direct employ of CONTRACTOR in the performance of the Work under schedules of job classifications agreed upon by OWNER and CONTRACTOR. Such employees shall include without limitation superintendents, foremen, and other personnel employed full time at the Site. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses,

sick leave, vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by OWNER.

2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to CONTRACTOR unless OWNER deposits funds with CONTRACTOR with which to make payments, in which case the cash discounts shall accrue to OWNER. All trade discounts, rebates and refunds and returns from sale of surplus materials and equipment shall accrue to OWNER, and CONTRACTOR shall make provisions so that they may be obtained.

3. Payments made by CONTRACTOR to Subcontractors for Work performed by Subcontractors. If required by OWNER, CONTRACTOR shall obtain competitive bids from subcontractors acceptable to OWNER and CONTRACTOR and shall deliver such bids to OWNER, who will then determine, with the advice of ENGINEER, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as CONTRACTOR's Cost of the Work and fee as provided in this paragraph 11.01.

4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.

5. Supplemental costs including the following:

a. The proportion of necessary transportation, travel, and subsistence expenses of CONTRACTOR's employees incurred in discharge of duties connected with the Work.

b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of CONTRACTOR.

c. Rentals of all construction equipment and machinery, and the parts thereof whether rented from CONTRACTOR or others in accordance with rental agreements approved by OWNER with the advice of ENGINEER, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.

d. Sales, consumer, use, and other similar taxes related to the Work, and for which CONTRACTOR is liable, imposed by Laws and Regulations.

e. Deposits lost for causes other than negligence of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.

f. The cost of utilities, fuel, and sanitary facilities at the Site.

g. Minor expenses such as telegrams, long distance telephone calls, telephone service at the Site, expressage, and similar petty cash items in connection with the Work.

h. When the Cost of the Work is used to determine the value of a Change Order or of a Claim, the cost of premiums for additional Bonds and insurance required because of the changes in the Work or caused by the event giving rise to the Claim.

i. When all the Work is performed on the basis of cost-plus, the costs of premiums for all Bonds and insurance CONTRACTOR is required by the Contract Documents to purchase and maintain.

B. *Costs Excluded:* The term Cost of the Work shall not include any of the following items:

1. Payroll costs and other compensation of CONTRACTOR's officers, executives, principals (of partnerships and sole proprietorships), general managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by CONTRACTOR, whether at the Site or in CONTRACTOR's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in paragraph 11.01.A.1 or specifically covered by paragraph 11.01.A.4, all of which are to be considered administrative costs covered by the CONTRACTOR's fee.

2. Expenses of CONTRACTOR's principal and branch offices other than CONTRACTOR's office at the Site.

3. Any part of CONTRACTOR's capital expenses, including interest on CONTRACTOR's capital employed for the Work and charges against CONTRACTOR for delinquent payments.

4. Costs due to the negligence or intentional tortious conduct of CONTRACTOR, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.

5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in paragraphs 11.01.A and 11.01.B.

C. *CONTRACTOR's Fee:* When all the Work is performed on the basis of cost-plus, CONTRACTOR's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order or when a Claim for an adjustment in Contract Price is determined on the basis of Cost of the Work, CONTRACTOR's fee shall be determined as set forth in paragraph 12.01.C.

D. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to paragraphs 11.01.A and 11.01.B, CONTRACTOR will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to ENGINEER an itemized cost breakdown together with supporting data.

11.02 *Cash Allowances*

A. It is understood that CONTRACTOR has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums as may be acceptable to OWNER and ENGINEER. CONTRACTOR agrees that:

1. the allowances include the cost to CONTRACTOR (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and

2. CONTRACTOR's costs for unloading and handling on the Site, labor, installation costs, overhead, profit, and other expenses contemplated for the allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.

B. Prior to final payment, an appropriate Change Order will be issued as recommended by ENGINEER to reflect actual amounts due CONTRACTOR on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

11.03 *Unit Price Work*

A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Determinations of the actual quantities and classifications of Unit Price Work performed by CONTRACTOR will be made by ENGINEER subject to the provisions of paragraph 9.08.

B. Each unit price will be deemed to include an amount considered by CONTRACTOR to be adequate to cover CONTRACTOR's overhead and profit for each separately identified item.

C. OWNER or CONTRACTOR may make a Claim for an adjustment in the Contract Price in accordance with paragraph 10.05 if:

1. the quantity of any item of Unit Price Work performed by CONTRACTOR differs materially and significantly from the estimated quantity of such item indicated in the Agreement; and
2. there is no corresponding adjustment with respect any other item of Work; and
3. if CONTRACTOR believes that CONTRACTOR is entitled to an increase in Contract Price as a result of having incurred additional expense or OWNER believes that OWNER is entitled to a decrease in Contract Price and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 12 - CHANGE OF CONTRACT PRICE; CHANGE OF CONTRACT TIMES

12.01 *Change of Contract Price*

A. The Contract Price may only be changed by a Change Order or by a Written Amendment. Any Claim for an adjustment in the Contract Price shall be based on written notice submitted by the party making the Claim to the ENGINEER and the other party to the Contract in accordance with the provisions of paragraph 10.05.

B. The value of any Work covered by a Change Order or of any Claim for an adjustment in the Contract Price will be determined as follows:

1. where the Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved (subject to the provisions of paragraph 11.03); or
2. where the Work involved is not covered by unit prices contained in the Contract Documents, by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with paragraph 12.01.C.2); or
3. where the Work involved is not covered by unit prices contained in the Contract Documents and agreement to a lump sum is not reached under paragraph 12.01.B.2, on the basis of the Cost of the Work (determined as provided in paragraph 11.01) plus a CONTRACTOR's fee for overhead and profit (determined as provided in paragraph 12.01.C).

C. *CONTRACTOR's Fee*: The CONTRACTOR's fee for overhead and profit shall be determined as follows:

1. a mutually acceptable fixed fee; or
2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. for costs incurred under paragraphs 11.01.A.1 and 11.01.A.2, the CONTRACTOR's fee shall be 15 percent;
 - b. for costs incurred under paragraph 11.01.A.3, the CONTRACTOR's fee shall be five percent;
 - c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of paragraph 12.01.C.2.a is that the Subcontractor who actually performs the Work, at whatever tier, will be paid a fee of 15 percent of the costs incurred by such Subcontractor under paragraphs 11.01.A.1 and 11.01.A.2 and that any higher tier Subcontractor and CONTRACTOR will each be paid a fee of five percent of the amount paid to the next lower tier Subcontractor;
 - d. no fee shall be payable on the basis of costs itemized under paragraphs 11.01.A.4, 11.01.A.5, and 11.01.B;

e. the amount of credit to be allowed by CONTRACTOR to OWNER for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in CONTRACTOR's fee by an amount equal to five percent of such net decrease; and

f. when both additions and credits are involved in any one change, the adjustment in CONTRACTOR's fee shall be computed on the basis of the net change in accordance with paragraphs 12.01.C.2.a through 12.01.C.2.e, inclusive.

12.02 *Change of Contract Times*

A. The Contract Times (or Milestones) may only be changed by a Change Order or by a Written Amendment. Any Claim for an adjustment in the Contract Times (or Milestones) shall be based on written notice submitted by the party making the claim to the ENGINEER and the other party to the Contract in accordance with the provisions of paragraph 10.05.

B. Any adjustment of the Contract Times (or Milestones) covered by a Change Order or of any Claim for an adjustment in the Contract Times (or Milestones) will be determined in accordance with the provisions of this Article 12.

12.03 *Delays Beyond CONTRACTOR's Control*

A. Where CONTRACTOR is prevented from completing any part of the Work within the Contract Times (or Milestones) due to delay beyond the control of CONTRACTOR, the Contract Times (or Milestones) will be extended in an amount equal to the time lost due to such delay if a Claim is made therefor as provided in paragraph 12.02.A. Delays beyond the control of CONTRACTOR shall include, but not be limited to, acts or neglect by OWNER, fires, floods, epidemics, abnormal weather conditions, or acts of God.

12.04 *Delays Within CONTRACTOR's Control*

A. The Contract Times (or Milestones) will not be extended due to delays within the control of CONTRACTOR. Delays attributable to and within the control of a Subcontractor or Supplier shall be deemed to be delays within the control of CONTRACTOR.

12.05 *Delays Beyond OWNER's and CONTRACTOR's Control*

A. Except where the delay is due to the County or the County Work, where CONTRACTOR is prevented from completing any part of the Work within the Contract Times (or Milestones) due to delay beyond the control of both OWNER and CONTRACTOR, an extension of the Contract Times (or Milestones) in an amount equal to the time lost due to such delay shall be CONTRACTOR's sole and exclusive remedy for such delay.

12.06 *Delay Damages*

A. In no event shall OWNER or ENGINEER be liable to CONTRACTOR, any Subcontractor, any Supplier, or any other person or organization, or to any surety for or employee or agent of any of them, for damages arising out of or resulting from:

1. delays caused by or within the control of CONTRACTOR; or
2. delays beyond the control of both OWNER and CONTRACTOR including but not limited to fires, floods, epidemics, abnormal weather conditions or acts of God.

B. Nothing in this paragraph 12.06 bars a change in Contract Price pursuant to this Article 12 to compensate CONTRACTOR due to delay, interference, or disruption directly attributable to actions or inactions of OWNER or anyone for whom OWNER is responsible.

ARTICLE 13 - TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

13.01 *Notice of Defects*

A. Prompt notice of all defective Work of which OWNER or ENGINEER has actual knowledge will be given to CONTRACTOR. All defective Work may be rejected, corrected, or accepted as provided in this Article 13.

13.02 *Access to Work*

A. OWNER, ENGINEER, ENGINEER's Consultants, other representatives and personnel of OWNER, independent testing laboratories, and governmental agencies with jurisdictional interests will have access to the Site and the Work at reasonable times for their observation, inspecting, and testing. CONTRACTOR shall provide them proper and safe conditions for such access and advise them of CONTRACTOR's Site safety procedures and programs so that they may comply therewith as applicable.

13.03 *Tests and Inspections*

A. CONTRACTOR shall give ENGINEER timely notice of readiness of the Work for all required inspections, tests, or approvals and shall cooperate with inspection and testing personnel to facilitate required inspections or tests.

B. OWNER shall employ and pay for the services of an independent testing laboratory to perform all inspections, tests, or approvals required by the Contract Documents except:

1. for inspections, tests, or approvals covered by paragraphs 13.03.C and 13.03.D below;
2. that costs incurred in connection with tests or inspections conducted pursuant to paragraph 13.04.B shall be paid as provided in said paragraph 13.04.B; and
3. as otherwise specifically provided in the Contract Documents.

C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, CONTRACTOR shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish ENGINEER the required certificates of inspection or approval.

D. CONTRACTOR shall be responsible for arranging and obtaining and shall pay all costs in connection with any inspections, tests, or approvals required for OWNER's and ENGINEER's acceptance of materials or equipment to be incorporated in the Work; or acceptance of materials, mix designs, or equipment submitted for approval prior to CONTRACTOR's purchase thereof for incorporation in the Work. Such inspections, tests, or approvals shall be performed by organizations acceptable to OWNER and ENGINEER.

E. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by CONTRACTOR without written concurrence of ENGINEER, it must, if requested by ENGINEER, be uncovered for observation.

F. Uncovering Work as provided in paragraph 13.03.E shall be at CONTRACTOR's expense unless CONTRACTOR has given ENGINEER timely notice of CONTRACTOR's intention to cover the same and ENGINEER has not acted with reasonable promptness in response to such notice.

13.04 *Uncovering Work*

A. If any Work is covered contrary to the written request of ENGINEER, it must, if requested by ENGINEER, be uncovered for ENGINEER's observation and replaced at CONTRACTOR's expense.

B. If ENGINEER considers it necessary or advisable that covered Work be observed by ENGINEER or inspected or tested by others, CONTRACTOR, at ENGINEER's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as ENGINEER may require, that portion of the Work in question, furnishing all necessary

labor, material, and equipment. If it is found that such Work is defective, CONTRACTOR shall pay all Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and OWNER shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount thereof, OWNER may make a Claim therefor as provided in paragraph 10.05. If, however, such Work is not found to be defective, CONTRACTOR shall be allowed an increase in the Contract Price or an extension of the Contract Times (or Milestones), or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, CONTRACTOR may make a Claim therefor as provided in paragraph 10.05.

13.05 *OWNER May Stop the Work*

A. If the Work is defective, or CONTRACTOR fails to supply sufficient skilled workers or suitable materials or equipment, or fails to perform the Work in such a way that the completed Work will conform to the Contract Documents, OWNER may order CONTRACTOR to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, this right of OWNER to stop the Work shall not give rise to any duty on the part of OWNER to exercise this right for the benefit of CONTRACTOR, any Subcontractor, any Supplier, any other individual or entity, or any surety for, or employee or agent of any of them.

13.06 *Correction or Removal of Defective Work*

A. CONTRACTOR shall correct all defective Work, whether or not fabricated, installed, or completed, or, if the Work has been rejected by ENGINEER, remove it from the Project and replace it with Work that is not defective. CONTRACTOR shall pay all Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or removal (including but not limited to all costs of repair or replacement of work of others).

13.07 *Correction Period*

A. If within one year after the date of Substantial Completion or such longer period of time as may be prescribed by Laws or Regulations or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any Work is found to be defective, or if the repair of any damages to the land or areas made available for CONTRACTOR's use by OWNER or permitted by Laws and Regulations as contemplated in paragraph 6.11.A is found to be defective, CONTRACTOR shall promptly, without cost to OWNER and in accordance with OWNER's written instructions: (i) repair such defective land or areas, or (ii) correct such defective Work or, if the defective Work has been rejected by OWNER, remove it from the Project and replace it with Work that is not defective, and (iii) satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others or other land or areas resulting therefrom. If CONTRACTOR does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, OWNER may have the defective Work corrected or repaired or may have the rejected Work removed and replaced, and all Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others) will be paid by CONTRACTOR.

B. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications or by Written Amendment.

C. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph 13.07, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.

D. CONTRACTOR's obligations under this paragraph 13.07 are in addition to any other obligation or warranty. The provisions of this paragraph 13.07 shall not be construed as a substitute for or a waiver of the provisions of any applicable statute of limitation or repose.

13.08 *Acceptance of Defective Work*

A. If, instead of requiring correction or removal and replacement of defective Work, OWNER (and, prior to ENGINEER's recommendation of final payment, ENGINEER) prefers to accept it, OWNER may do so. CONTRACTOR shall pay all Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) attributable to OWNER's evaluation of and determination to accept such defective Work (such costs to be approved by ENGINEER as to reasonableness) and the diminished value of the Work to the extent not otherwise paid by CONTRACTOR pursuant to this sentence. If any such acceptance occurs prior to ENGINEER's recommendation of final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work, and OWNER shall be entitled to an appropriate decrease in the Contract Price, reflecting the diminished value of Work so accepted. If the parties are unable to agree as to the amount thereof, OWNER may make a Claim therefor as provided in paragraph 10.05. If the acceptance occurs after such recommendation, an appropriate amount will be paid by CONTRACTOR to OWNER.

13.09 *OWNER May Correct Defective Work*

A. If CONTRACTOR fails within a reasonable time after written notice from ENGINEER to correct defective Work or to remove and replace rejected Work as required by ENGINEER in accordance with paragraph 13.06.A, or if CONTRACTOR fails to perform the Work in accordance with the Contract Documents, or if CONTRACTOR fails to comply with any other provision of the Contract Documents, OWNER may, after seven days written notice to CONTRACTOR, correct and remedy any such deficiency.

B. In exercising the rights and remedies under this paragraph, OWNER shall proceed expeditiously. In connection with such corrective and remedial action, OWNER may exclude CONTRACTOR from all or part of the Site, take possession of all or part of the Work and suspend CONTRACTOR's services related thereto, take possession of CONTRACTOR's tools, appliances, construction equipment and machinery at the Site, and incorporate in the Work all materials and equipment stored at the Site or for which OWNER has paid CONTRACTOR but which are stored elsewhere. CONTRACTOR shall allow OWNER, OWNER's representatives, agents and employees, OWNER's other contractors, and ENGINEER and ENGINEER's Consultants access to the Site to enable OWNER to exercise the rights and remedies under this paragraph.

C. All Claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) incurred or sustained by OWNER in exercising the rights and remedies under this paragraph 13.09 will be charged against CONTRACTOR, and a Change Order will be issued incorporating the necessary revisions in the Contract Documents with respect to the Work; and OWNER shall be entitled to an appropriate decrease in the Contract Price. If the parties are unable to agree as to the amount of the adjustment, OWNER may make a Claim therefor as provided in paragraph 10.05. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of CONTRACTOR's defective Work.

D. CONTRACTOR shall not be allowed an extension of the Contract Times (or Milestones) because of any delay in the performance of the Work attributable to the exercise by OWNER of OWNER's rights and remedies under this paragraph 13.09.

ARTICLE 14 - PAYMENTS TO CONTRACTOR AND COMPLETION

14.01 *Schedule of Values*

A. The schedule of values established as provided in paragraph 2.07.A will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to ENGINEER. Progress payments on account of Unit Price Work will be based on the number of units completed.

14.02 *Progress Payments*

A. Applications for Payments

1. At least 20 days before the date established for each progress payment (but not more often than once a month), CONTRACTOR shall submit to ENGINEER for review an Application for Payment filled out and signed by CONTRACTOR covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale or invoice or other documentation warranting that OWNER has received the materials and equipment free and clear of all Liens and evidence that the materials and equipment are covered by appropriate property insurance or other arrangements to protect OWNER's interest therein, all of which must be satisfactory to OWNER.

2. Beginning with the second Application for Payment, each Application shall include an affidavit of CONTRACTOR stating that all previous progress payments received on account of the Work have been applied on account to discharge CONTRACTOR's legitimate obligations associated with prior Applications for Payment.

3. The amount of retainage with respect to progress payments will be as provided in the Agreement.

B. Review of Applications

1. ENGINEER will, within 10 days after receipt of each Application for Payment, either indicate in writing a recommendation of payment and present the Application to OWNER or return the Application to CONTRACTOR indicating in writing ENGINEER's reasons for refusing to recommend payment. In the latter case, CONTRACTOR may make the necessary corrections and resubmit the Application.

2. ENGINEER's recommendation of any payment requested in an Application for Payment will constitute a representation by ENGINEER to OWNER, based on ENGINEER's observations on the Site of the executed Work as an experienced and qualified design professional and on ENGINEER's review of the Application for Payment and the accompanying data and schedules, that to the best of ENGINEER's knowledge, information and belief:

a. the Work has progressed to the point indicated;

b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon Substantial Completion, to the results of any subsequent tests called for in the Contract Documents, to a final determination of quantities and classifications for Unit Price Work under paragraph 9.08, and to any other qualifications stated in the recommendation); and

c. the conditions precedent to CONTRACTOR being entitled to such payment appear to have been fulfilled in so far as it is ENGINEER's responsibility to observe the Work.

3. By recommending any such payment ENGINEER will not thereby be deemed to have represented that: (i) inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to ENGINEER in the Contract Documents; or (ii) that there may not be other matters or issues between the parties that might entitle CONTRACTOR to be paid additionally by OWNER or entitle OWNER to withhold payment to CONTRACTOR.

4. Neither ENGINEER's review of CONTRACTOR's Work for the purposes of recommending payments nor ENGINEER's recommendation of any payment, including final payment, will impose responsibility on ENGINEER to supervise, direct, or control the Work or for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for CONTRACTOR's failure to comply with Laws and Regulations applicable to CONTRACTOR's performance of the Work. Additionally, said review or recommendation will not impose responsibility on ENGINEER to make any examination to ascertain how or for what purposes CONTRACTOR has used the moneys paid on account of the Contract Price, or to determine that title to any of the Work, materials, or equipment has passed to OWNER free and clear of any Liens.

5. ENGINEER may refuse to recommend the whole or any part of any payment if, in ENGINEER's opinion, it would be incorrect to make the representations to OWNER referred to in paragraph 14.02.B.2. ENGINEER may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests, revise or revoke any such payment recommendation previously made, to such extent as may be necessary in ENGINEER's opinion to protect OWNER from loss because:

- a. the Work is defective, or completed Work has been damaged, requiring correction or replacement;
- b. the Contract Price has been reduced by Written Amendment or Change Orders;
- c. OWNER has been required to correct defective Work or complete Work in accordance with paragraph 13.09; or
- d. ENGINEER has actual knowledge of the occurrence of any of the events enumerated in paragraph 15.02.A.

C. Payment Becomes Due

1. Ten days after presentation of the Application for Payment to OWNER with ENGINEER's recommendation, the amount recommended will (subject to the provisions of paragraph 14.02.D) become due, and when due will be paid by OWNER to CONTRACTOR.

D. Reduction in Payment

1. OWNER may refuse to make payment of the full amount recommended by ENGINEER because:
 - a. claims have been made against OWNER on account of CONTRACTOR's performance or furnishing of the Work;
 - b. Liens have been filed in connection with the Work;
 - c. there are other items entitling OWNER to a set-off against the amount recommended; or
 - d. OWNER has actual knowledge of the occurrence of any of the events enumerated in paragraphs 14.02.B.5.a through 14.02.B.5.c or paragraph 15.02.A.

2. If OWNER refuses to make payment of the full amount recommended by ENGINEER, OWNER must give CONTRACTOR immediate written notice (with a copy to ENGINEER) stating the reasons for such action and promptly pay CONTRACTOR any amount remaining after deduction of the amount so withheld. OWNER shall promptly pay CONTRACTOR the amount so withheld, or any adjustment thereto agreed to by OWNER and CONTRACTOR, when CONTRACTOR corrects to OWNER's satisfaction the reasons for such action.

3. If it is subsequently determined that OWNER's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by paragraph 14.02.C.1.

14.03 CONTRACTOR's Warranty of Title

A. CONTRACTOR warrants and guarantees that title to all Work, materials, and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to OWNER no later than the time of payment free and clear of all Liens.

14.04 Substantial Completion

A. When CONTRACTOR considers the entire Work ready for its intended use CONTRACTOR shall notify OWNER and ENGINEER in writing that the entire Work is substantially complete (except for items specifically listed by CONTRACTOR as incomplete) and request that ENGINEER issue a certificate of Substantial Completion. Promptly thereafter, OWNER, CONTRACTOR, and ENGINEER shall make an inspection of the Work to determine the status of completion. If

ENGINEER does not consider the Work substantially complete, ENGINEER will notify CONTRACTOR in writing giving the reasons therefor. If ENGINEER considers the Work substantially complete, ENGINEER will prepare and deliver to OWNER a tentative certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the certificate a tentative list of items to be completed or corrected before final payment. OWNER shall have seven days after receipt of the tentative certificate during which to make written objection to ENGINEER as to any provisions of the certificate or attached list. If, after considering such objections, ENGINEER concludes that the Work is not substantially complete, ENGINEER will within 14 days after submission of the tentative certificate to OWNER notify CONTRACTOR in writing, stating the reasons therefor. If, after consideration of OWNER's objections, ENGINEER considers the Work substantially complete, ENGINEER will within said 14 days execute and deliver to OWNER and CONTRACTOR a definitive certificate of Substantial Completion (with a revised tentative list of items to be completed or corrected) reflecting such changes from the tentative certificate as ENGINEER believes justified after consideration of any objections from OWNER. At the time of delivery of the tentative certificate of Substantial Completion ENGINEER will deliver to OWNER and CONTRACTOR a written recommendation as to division of responsibilities pending final payment between OWNER and CONTRACTOR with respect to security, operation, safety, and protection of the Work, maintenance, heat, utilities, insurance, and warranties and guarantees. Unless OWNER and CONTRACTOR agree otherwise in writing and so inform ENGINEER in writing prior to ENGINEER issuing the definitive certificate of Substantial Completion, ENGINEER's aforesaid recommendation will be binding on OWNER and CONTRACTOR until final payment.

B. OWNER shall have the right to exclude CONTRACTOR from the Site after the date of Substantial Completion, but OWNER shall allow CONTRACTOR reasonable access to complete or correct items on the tentative list.

14.05 *Partial Utilization*

A. Use by OWNER at OWNER's option of any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which OWNER, ENGINEER, and CONTRACTOR agree constitutes a separately functioning and usable part of the Work that can be used by OWNER for its intended purpose without significant interference with CONTRACTOR's performance of the remainder of the Work, may be accomplished prior to Substantial Completion of all the Work subject to the following conditions.

1. OWNER at any time may request CONTRACTOR in writing to permit OWNER to use any such part of the Work which OWNER believes to be ready for its intended use and substantially complete. If CONTRACTOR agrees that such part of the Work is substantially complete, CONTRACTOR will certify to OWNER and ENGINEER that such part of the Work is substantially complete and request ENGINEER to issue a certificate of Substantial Completion for that part of the Work. CONTRACTOR at any time may notify OWNER and ENGINEER in writing that CONTRACTOR considers any such part of the Work ready for its intended use and substantially complete and request ENGINEER to issue a certificate of Substantial Completion for that part of the Work. Within a reasonable time after either such request, OWNER, CONTRACTOR, and ENGINEER shall make an inspection of that part of the Work to determine its status of completion. If ENGINEER does not consider that part of the Work to be substantially complete, ENGINEER will notify OWNER and CONTRACTOR in writing giving the reasons therefor. If ENGINEER considers that part of the Work to be substantially complete, the provisions of paragraph 14.04 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.

2. No occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of paragraph 5.10 regarding property insurance.

14.06 *Final Inspection*

A. Upon written notice from CONTRACTOR that the entire Work or an agreed portion thereof is complete, ENGINEER will promptly make a final inspection with OWNER and CONTRACTOR and will notify CONTRACTOR in writing of all particulars in which this inspection reveals that the Work is incomplete or defective. CONTRACTOR shall immediately take such measures as are necessary to complete such Work or remedy such deficiencies.

14.07 *Final Payment*

A. *Application for Payment*

1. After CONTRACTOR has, in the opinion of ENGINEER, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, Bonds, certificates or other evidence of insurance certificates of inspection, marked-up record documents (as provided in paragraph 6.12), and other documents, CONTRACTOR may make application for final payment following the procedure for progress payments.

2. The final Application for Payment shall be accompanied (except as previously delivered) by: (i) all documentation called for in the Contract Documents, including but not limited to the evidence of insurance required by subparagraph 5.04.B.7; and (ii) consent of the surety, if any, to final payment; and (iii) complete and legally effective releases or waivers (satisfactory to Owner) of all Liens filed in construction with the Work.

B. Review of Application and Acceptance

1. If, on the basis of ENGINEER's observation of the Work during construction and final inspection, and ENGINEER's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, ENGINEER is satisfied that the Work has been completed and CONTRACTOR's other obligations under the Contract Documents have been fulfilled, ENGINEER will, within ten days after receipt of the final Application for Payment, indicate in writing ENGINEER's recommendation of payment and present the Application for Payment to OWNER for payment. At the same time ENGINEER will also give written notice to OWNER and CONTRACTOR that the Work is acceptable subject to the provisions of paragraph 14.09. Otherwise, ENGINEER will return the Application for Payment to CONTRACTOR, indicating in writing the reasons for refusing to recommend final payment, in which case CONTRACTOR shall make the necessary corrections and resubmit the Application for Payment.

C. Payment Becomes Due

1. Thirty days after the presentation to the OWNER of the Application for Payment and accompanying documentation, the amount recommended by ENGINEER will become due and, when due, will be paid by OWNER to CONTRACTOR, excluding those sums withheld by OWNER pursuant to section 38-26-107, Colorado Revised Statutes.

14.08 Final Completion Delayed

A. If, through no fault of CONTRACTOR, final completion of the Work is significantly delayed, and if ENGINEER so confirms, OWNER shall, upon receipt of CONTRACTOR's final Application for Payment and recommendation of ENGINEER, and without terminating the Agreement, make payment of the balance due for that portion of the Work fully completed and accepted. If the remaining balance to be held by OWNER for Work not fully completed or corrected is less than the retainage stipulated in the Agreement, and if Bonds have been furnished as required in paragraph 5.01, the written consent of the surety to the payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by CONTRACTOR to ENGINEER with the Application for such payment. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

14.09 Waiver of Claims

A. The making and acceptance of final payment will constitute:

1. a waiver of all Claims by OWNER against CONTRACTOR, except those arising from defective Work appearing after final inspection pursuant to paragraph 14.06, from failure to comply with the Contract Documents or the terms of any special guarantees specified therein, or from CONTRACTOR's continuing obligations under the Contract Documents; and

2. a waiver of all Claims by CONTRACTOR against OWNER other than those previously made in writing which are still unsettled.

ARTICLE 15 - SUSPENSION OF WORK AND TERMINATION

15.01 OWNER May Suspend Work

A. At any time and without cause, OWNER may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by notice in writing to CONTRACTOR and ENGINEER which will fix the date on which Work will be resumed. CONTRACTOR shall resume the Work on the date so fixed. CONTRACTOR shall be allowed an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension if CONTRACTOR makes a Claim therefor as provided in paragraph 10.05.

15.02 *OWNER May Terminate for Cause*

A. The occurrence of any one or more of the following events will justify termination for cause:

1. CONTRACTOR's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the progress schedule established under paragraph 2.07 as adjusted from time to time pursuant to paragraph 6.04);
2. CONTRACTOR's disregard of Laws or Regulations of any public body having jurisdiction;
3. CONTRACTOR's disregard of the authority of ENGINEER; or
4. CONTRACTOR's violation in any substantial way of any provisions of the Contract Documents.

B. If one or more of the events identified in paragraph 15.02.A occur, OWNER may, after giving CONTRACTOR (and the surety, if any) seven days written notice, terminate the services of CONTRACTOR, exclude CONTRACTOR from the Site, and take possession of the Work and of all CONTRACTOR's tools, appliances, construction equipment, and machinery at the Site, and use the same to the full extent they could be used by CONTRACTOR (without liability to CONTRACTOR for trespass or conversion), incorporate in the Work all materials and equipment stored at the Site or for which OWNER has paid CONTRACTOR but which are stored elsewhere, and finish the Work as OWNER may deem expedient. In such case, CONTRACTOR shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) sustained by OWNER arising out of or relating to completing the Work, such excess will be paid to CONTRACTOR. If such claims, costs, losses, and damages exceed such unpaid balance, CONTRACTOR shall pay the difference to OWNER. Such claims, costs, losses, and damages incurred by OWNER will be reviewed by ENGINEER as to their reasonableness and, when so approved by ENGINEER, incorporated in a Change Order. When exercising any rights or remedies under this paragraph OWNER shall not be required to obtain the lowest price for the Work performed.

C. Where CONTRACTOR's services have been so terminated by OWNER, the termination will not affect any rights or remedies of OWNER against CONTRACTOR then existing or which may thereafter accrue. Any retention or payment of moneys due CONTRACTOR by OWNER will not release CONTRACTOR from liability.

15.03 *OWNER May Terminate For Convenience*

A. Upon seven days written notice to CONTRACTOR and ENGINEER, OWNER may, without cause and without prejudice to any other right or remedy of OWNER, elect to terminate the Contract. In such case, CONTRACTOR shall be paid (without duplication of any items):

1. for completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
2. for expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses;
3. for reasonable expenses directly attributable to termination.

B. CONTRACTOR shall not be paid on account of loss of anticipated profits or revenue or other economic loss arising out of or resulting from such termination.

C. CONTRACTOR shall include in all contracts entered with any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by CONTRACTOR to perform any of the Work, a Termination for Convenience Clause similar to that listed in Section 15.03. Recovery by such any Subcontractor, any Supplier, or other individual or entity upon OWNER's termination for convenience shall be limited by the terms listed in Section 15.03.

15.04 *CONTRACTOR May Stop Work or Terminate*

A. If, through no act or fault of CONTRACTOR, the Work is suspended for more than 90 consecutive days by OWNER or under an order of court or other public authority, or ENGINEER fails to act on any Application for Payment within 30 days after it is submitted, or OWNER fails for 30 days to pay CONTRACTOR any sum finally determined to be due, then CONTRACTOR may, upon seven days written notice to OWNER and ENGINEER, and provided OWNER or ENGINEER do not remedy such suspension or failure within that time, terminate the Contract and recover from OWNER payment on the same terms as provided in paragraph 15.03. In lieu of terminating the Contract and without prejudice to any other right or remedy, if ENGINEER has failed to act on an Application for Payment within 30 days after it is submitted, or OWNER has failed for 30 days to pay CONTRACTOR any sum finally determined to be due, CONTRACTOR may, seven days after written notice to OWNER and ENGINEER, stop the Work until payment is made of all such amounts due CONTRACTOR, including interest thereon. The provisions of this paragraph 15.04 are not intended to preclude CONTRACTOR from making a Claim under paragraph 10.05 for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to CONTRACTOR's stopping the Work as permitted by this paragraph.

ARTICLE 16 - DISPUTE RESOLUTION

16.01 *Methods and Procedures*

A. In an effort to resolve any conflicts that arise during the construction of the Project or following the completion of the Project, all parties to this Agreement agree that all disputes arising out of or relating to this Agreement shall be submitted to nonbinding mediation, unless the parties mutually agree otherwise.

ARTICLE 17 - MISCELLANEOUS

17.01 *Giving Notice*

A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if delivered in person to the individual or to a member of the firm or to an officer of the corporation for whom it is intended, or if delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the giver of the notice.

17.02 *Computation of Times*

A. When any period of time is referred to in the Contract Documents by days, it will be computed to exclude the first and include the last day of such period. If the last day of any such period falls on a Saturday or Sunday or on a day made a legal holiday by the law of the applicable jurisdiction, such day will be omitted from the computation.

17.03 *Cumulative Remedies*

A. The duties and obligations imposed by these General Conditions and the rights and remedies available hereunder to the parties hereto are in addition to, and are not to be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by Laws or Regulations, by special warranty or guarantee, or by other provisions of the Contract Documents, and the provisions of this paragraph will be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right, and remedy to which they apply.

17.04 *Survival of Obligations*

A. All representations, indemnifications, warranties, and guarantees made in, required by, or given in accordance with the Contract Documents, as well as all continuing obligations indicated in the Contract Documents, will survive final payment, completion, and acceptance of the Work or termination or completion of the Agreement.

17.05 *Controlling Law*

A. This Contract shall be governed and construed according to the law of the State of Colorado. All civil actions brought in relation to this Contract shall be filed in District Court, Teller County, State of Colorado.

17.06 *Addresses*

A. All notices, letters and communication directed to OWNER shall be addressed and delivered to: Ben Sheets, City Engineer, City of Woodland Park, 220 W. South Avenue, Woodland Park, Colorado 80863.

All notices, letters and communication directed to ENGINEER shall be addressed and delivered to:

C. The business addresses of CONTRACTOR given in the Bid Form and CONTRACTOR's office at the site of the Work are hereby designated as the places to which all notices, letters, and other communication to CONTRACTOR will be delivered.

D. Either OWNER, CONTRACTOR, or ENGINEER may change his address at any time by an instrument in writing delivered to the other two.

CITY OF WOODLAND PARK STRIPING BID SHEET

revised August 5, 2020

Item	Estimated Quantity	Unit	Description	Unit Price	Extended Price
2' Wide Stop Bars	83	EA	White Stripes are 2' wide and 12' long/various locations	\$168.00	\$13,944.00
4" Solid White	288	LF	White stripes are 4" wide/various locations	\$1.00	\$288.00
4" Single Yellow	500	LF	Single yellow stripes 4" wide/various locations	\$1.00	\$500.00
8" Solid White	2,872	LF	White stripes 8" wide/various locations	\$2.00	\$5,744.00
8" Single Yellow	0	LF	Yellow stripes 8" wide/various locations	\$2.00	\$0.00
Crosswalks	45	EA	2' wide white bars with 2' spacing for pedestrian crossings	\$112.00	\$5,040.00
4" Double Yellow	24,236	LF	Double Yellow 4" wide/various locations	\$2.00	\$48,472.00
Speed Bumps	18	EA	Speed Bumps/various locations	\$115.00	\$2,070.00
Directional Arrows/Letters	74	EA	Arrows, Letters and Emblems/various locations	\$128.00	\$9,472.00
Parking Lots/Areas	15,955	LF	Parking stall lines /various locations	\$0.60	\$9,573.00
	46	EA	Handicapped parking emblems with 4" white border/various locations	\$65.00	\$2,990.00
	4,321	LF	4" white hash marks or center lines/various locations	\$0.60	\$2,592.60
SUBTOTAL					
Addendum #1	1	EA	New Layout if needed	\$1,500.00	\$1,500.00
TOTAL					\$102,185.60



STAFF REPORT

TO: Mayor LaBarre and City Council

FROM:

DATE: May 5, 2022

SUBJECT: Parking Lot Seal Coating, Patching, and Crack Sealing Contract between the City of Woodland Park and A-1 Chipseal Co. in the Amount of \$104,216.50

BACKGROUND: As part of the 2022 City wide capital improvement plan, the City solicited bids for seal coating, patching, and crack sealing of City owned parking lots as part of annual preventative maintenance. The City received two responsive bids for the project; one for \$125,028.30 from Pikes Peak Asphalt, and one for \$104,216.5 from A-1 Chipseal. The estimated cost for this project in the Capital Improvement Plan was \$125,000.

RECOMMENDATION: Approve Contract for \$104,216.5 with A-1 Chipseal.

ATTACHMENTS: 1. 2 - Parking Lot Seal Coat Contract Signed



CONSTRUCTION AGREEMENT

This **CONSTRUCTION AGREEMENT** (this "Agreement") is entered into this ____ day of _____, 2022 by and between the City of Woodland Park, Colorado (hereinafter referred to as the "Owner") and A-1 Chipseal Co. & Rocky Mountain Pavement, LLC (hereinafter referred to as the "Contractor").

Owner and Contractor, in consideration of the mutual covenants hereinafter set forth, agree as follows:

ARTICLE 1 WORK

- 1.01 Contractor shall complete all work as specified or indicated in the Contract Documents (defined below). The work is generally described as follows: The project is to provide preventative maintenance on City owned parking lots as part of the 2022 City wide capital improvement plan. These parking lots include the Police Station, Meadowood Sports Complex, Aquatic Center, Library, Ute Pass Cultural Center, the Ute, Curves, Coffee Shop, Memorial Park Stalls, Bergstrom Park, Meadowood Tennis Courts, and the Park and Ride. Schedule of work to be completed in these lots is listed on Exhibit "A". Quantities based on City provided quantities. Billing will be based on actual field measurements, not to exceed the contract amount.

ARTICLE 2 THE PROJECT

- 2.01 The project for which the work under the Contract Documents may be the whole or only a part is generally described as follows: Parking Lot Seal Coating, Patching, and Crack Sealing (the "Project").

ARTICLE 3 ENGINEER

- 3.01 The City Engineer or designated representative shall serve as construction management engineer who is hereinafter called Engineer and who is to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the work in accordance with the Contract Documents.

ARTICLE 4 WORKER WITHOUT AUTHORIZATION EMPLOYMENT

- 4.01 Prior to the execution of this Agreement, Contractor shall certify to the City, by completing the Worker Without Authorization Addendum attached hereto, that at the time of certification, Contractor does not knowingly employ or contract with any worker without authorization who will perform work under this Agreement as well as other certifications therein contained.

ARTICLE 5 CONTRACT TIMES

- 5.01 Time is of the Essence

- A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.



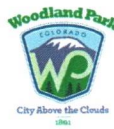
5.02 Days to Achieve Substantial Completion and Final Payment

- A. Contractor shall achieve Substantial Completion within 60 calendar days of the issuance by the Owner of a Notice to Proceed and shall finally complete the Work so that it is ready for final payment within 30 calendar days of the issuance by the Owner of Substantial Completion.

5.03 Liquidated Damages

- A. Contractor understands and agrees that time is an essential condition of this Agreement. Contractor further understands and agrees that delay in completion of the project will cause Owner to suffer substantial losses and damages which cannot be measured, including without limitation the loss of revenues for services, loss of other revenue incidental to the operation of the facility, additional engineering, legal, accounting and administrative costs, reduced public confidence and adverse public relations which would reduce future revenues, and additional interest and financing costs and charges if the Work is not completed within the times specified above, plus any extensions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or mediation proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring proof of such losses and damages, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay two hundred fifty dollars (\$250.00) for each day that expires after the time specified above for Substantial Completion until the Work is substantially complete.
- B. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the contract time or any proper extension thereof granted by Owner, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay two hundred fifty dollars (\$250.00) for each day that expires after the time specified above for final completion and readiness for final payment until the Work is finally complete and ready for final payment.
- C. Owner shall have the right to deduct the liquidated damages from any money in its hands, otherwise due, or to become due, to Contractor, or to sue for and recover compensation for damages for nonperformance of this Contract.
- D. Any liquidated damages payable by Contractor may, at Owner's election be deducted from any amounts owed to Contractor. In the event no funds are due Contractor at a time when Contractor becomes liable to Owner for liquidated damages, then Contractor agrees to pay all accrued liquidated damages to Owner on the first (1st) day and on the fifteenth (15th) day of each month when Contractor is liable to Owner for liquidated damages. Permitting Contractor to continue and finish the Work or any part thereof after the deadline for completion of the Work shall not act as a waiver of these liquidated damages provisions.
- E. The aggregate liability of Contractor to pay liquidated damages pursuant to this Article shall not exceed an amount equal to fifty percent (50%) of the Contract Price. This Article shall not be construed to limit Contractor's other obligations or liabilities arising under or in connection with this Contract.
- F. In the event that this section conflicts with any other provisions regarding liquidated damages within the Contract Documents, this section shall control.

ARTICLE 6 CONTRACT PRICE



- 6.01 Owner shall pay Contractor one hundred and four thousand, two hundred sixteen dollars and fifty cents (\$ 104,216.50) for completion of the Work as full compensation for everything furnished and done by Contractor under this Agreement, including all loss or damage arising out of the work or from the action of the elements; for any unforeseen obstruction or difficulty encountered in the prosecution of the work, including increased prices for or shortages of materials for any reason, including natural disasters; for all risks of every description associated with the work; for all expenses incurred due to the suspension or discontinuation of the work; and for well and faithfully completing the work as provided in this Agreement.

ARTICLE 7 PAYMENT PROCEDURES

7.01 Submittal and Processing of Payments

- A. Contractor shall submit Applications for Payment to the Owner on a monthly basis, which shall be processed by the Engineer.

7.02 Progress Payments; Retainage

- A. Owner shall make progress payments towards the Contract Price, less five percent (5%) for retainage, on the basis of Contractor's Applications for Payment, as verified and recommended by Engineer, on or about the twenty-fifth (25th) day of each month during performance of the Work. In the Engineer's discretion, the Owner may withhold some or all of a progress payment where the Contractor's Application for Payment does not reflect the actual amount of the Work completed.

7.03 Final Payment

- A. Upon final completion and acceptance of the Work as recommended by the Engineer, Owner shall pay the remainder of the Contract Price, including any retainage previously withheld.

ARTICLE 8 PROJECT WARRANTIES

- 8.01 Contractor's warranties in respect of the Work (the "Project Warranties") are as follows: Contractor warrants to Owner that the Work shall be fit for its intended purposes, that materials and equipment furnished under this Agreement shall be of good quality and new, that all Work shall be free from defects and that all Work shall meet all of the requirements of this Agreement. Contractor shall furnish satisfactory evidence that it has met the Project Warranties. The Project Warranties shall commence on the date Contractor achieves final completion of the Work satisfactorily to Owner. If at any time within two (2) years after the date on which the Project Warranties commenced, any portion of the Work is found to be not in accordance with the Project Warranties, Contractor shall correct it promptly after receipt of notice from Owner to do so unless Owner has previously given Contractor a written acceptance of such condition.

ARTICLE 9 INSURANCE

- 9.01 Insurance Requirements. Contractor shall not commence work under this Agreement until Contractor has obtained all insurance required under this Article and the insurance has



been approved by the City Administrator or his designee. The City of Woodland Park shall be named as an additional insured. Certificates of insurance shall be issued prior to execution of the Notice to Proceed. Additionally, Contractor shall not allow any approved subcontractor to commence work on his or her subcontract until all similar insurance required of subcontractor has been so obtained and approved. The following insurance shall be required:

- A. Commercial General Liability Insurance: At a minimum, combined single limits of \$1,000,000 per occurrence and \$1,000,000 for general aggregate for bodily injury and property damage, which coverage shall include products/completed operations, independent contractors, and contractual liability each at \$1,000,000 per occurrence.
- B. Workers' Compensation and Employer's Liability: Workers' compensation insurance for all of Contractor's employees engaged in work at the site of the project including occupational disease coverage in accordance with scope and limits as required by the State of Colorado.
- C. Comprehensive Automobile Liability Insurance: Including coverage for all owned, non-owned, and rented vehicles with \$1,000,000 combined single limit for each occurrence.

ARTICLE 10 CONTRACTOR'S REPRESENTATIONS

10.01 In order to induce Owner to enter into this Agreement, Contractor makes the following representations:

- A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
- B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Contractor is familiar with and is satisfied as to all federal, state, and local laws and regulations that may affect cost, progress, and performance of the Work.
- D. Contractor has obtained and carefully studied (or assumes responsibility for having done so) any examinations, investigations, explorations, tests, studies, and data concerning conditions at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including applying the specific means, methods, techniques, sequences, and procedures of construction, if any, expressly required by the Contract Documents to be employed by Contractor, and safety precautions and programs incident thereto.
- E. Contractor does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- F. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- G. Contractor has correlated the information known to Contractor, information and observations



obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.

- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. Contractor warrants and guarantees to Owner and Engineer that all Work will be in accordance with the Contract Documents and will not be defective within two (2) years of Substantial Completion.
- K. Contractor is organized, validly existing and in good standing under the laws of the State of Colorado and has all requisite power to own its properties and assets and carry on its business as now conducted or proposed to be conducted.

ARTICLE 11 CONTRACT DOCUMENTS

11.01 Contents

- A. The Contract Documents consist of the following:
 - 1. This Agreement;
 - 2. Bidding Documents;
 - 3. General Conditions;
 - 4. Technical Specifications;
 - 5. Measurement and Payment Provisions;
 - 6. Labor & Materials Payment Bond;
 - 7. Performance Bond; and
 - 8. Any written amendments or work change orders which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto.
- B. There are no Contract Documents other than those listed above in this Article.
- C. The Contract Documents may only be amended, modified, or supplemented by written agreement signed by both parties.

ARTICLE 12 PERFORMANCE BOND

- A. To secure performance of Contractor's obligations under this Agreement, the Contractor shall provide the Owner with a Performance Bond in the amount of the full contract price. Prior to execution of this Agreement, the Contractor shall provide the form of the Performance Bond to the City for its review and approval. The City shall be authorized to draw upon the Performance Bond to correct any default by Builder under this Agreement, which default shall be determined and substantiated by an Affidavit of Default signed by the Engineer. The Performance Bond shall be held by the City through the two (2) year Project Warranties period specified in this Agreement.

ARTICLE 13 MISCELLANEOUS



13.01 Indemnification

- A. The Contractor agrees to indemnify, save, and hold harmless the Owner, its officers, employees, and agents from any and all liability, loss, costs, charges, obligations, expenses, attorney's fees, litigation, judgments, damages, claims, and demands of any kind arising from or out of any negligent act, error, omission or other tortious conduct of the Contractor, its officers, subcontractors, employees, or agents in the performance or non-performance of its obligations under this Agreement.

13.02 Assignment of Contract

- A. No assignment by a party hereto of any rights under or interests in the Contract will be binding on another party hereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

13.03 Successors and Assigns

- A. Owner and Contractor each binds itself, its partners, successors, assigns, and legal representatives to the other party hereto, its partners, successors, assigns, and legal representatives in respect to all covenants, agreements, and obligations contained in the Contract Documents.

13.04 Severability

- A. Any provision or part of the Contract Documents held to be void or unenforceable by any court of competent jurisdiction shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Owner and Contractor, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close as possible to expressing the intention of the stricken provision.

13.05 Independent Contractor

CONTRACTOR IS AN INDEPENDENT CONTRACTOR AND NOTHING HEREIN CONTAINED SHALL CONSTITUTE OR DESIGNATE THE CONTRACTOR OR ANY OF ITS EMPLOYEES OR AGENTS AS EMPLOYEES OR AGENTS OF THE OWNER.

13.06 No Waiver of Governmental Immunity

Nothing herein is intended as nor shall it be construed as a waiver of the protections and immunities afforded the Owner pursuant to the Colorado Governmental Immunity Act, Sections 24-10-101, et seq., Colorado Revised Statutes, or pursuant to any other applicable laws.



[The remainder of this page is intentionally left blank.]

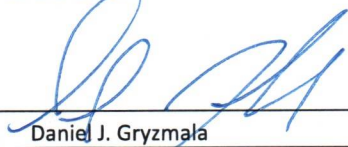
IN WITNESS WHEREOF, Owner and Contractor have signed and executed this Agreement in duplicate on the date first written above. One counterpart each has been delivered to Owner and Contractor. All portions of the Contract Documents have been signed or identified by Owner and Contractor or on their behalf.

CITY OF WOODLAND PARK

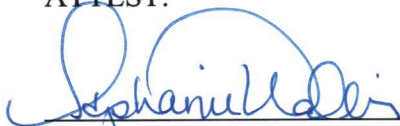
Name: _____
Title: _____

ATTEST:

CONTRACTOR


Name: Daniel J. Gryzmala
Title: President

ATTEST:


Stephanie Wallis, Corporate Secretary



WORKER WITHOUT AUTHORIZATION ADDENDUM

This Worker Without Authorization Addendum (hereinafter "Addendum") attached hereto and incorporated herein by this reference, is made to this Agreement by and between the City of Woodland Park (hereinafter "City"), a municipal corporation of the State of Colorado, and A-1 Chipseal Co., (hereinafter "Contractor") dated this 28 day of April, 2022.

Pursuant to Section 8-17.5-101, *et seq.*, C.R.S., the following provisions are hereby incorporated:

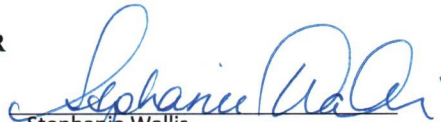
1. Contractor certifies that, at the time of executing this Addendum, Contractor does not knowingly employ or contract with a worker without authorization who will perform work under the Agreement and that Contractor will participate in the federal E-Verify Program or the Colorado Department of Labor and Employment's Employment Verification Program (hereinafter "CDLE's Program") in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the Agreement.
2. Contractor hereby agrees that it shall not:
 - a) Knowingly employ or contract with a worker without authorization to perform work under the Agreement; or
 - b) Enter into a contract with a subcontractor that fails to certify that the subcontractor shall not knowingly employ or contract with a worker without authorization to perform work under the Agreement.
3. Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the Agreement through participation in either the E-Verify Program or CDLE's Program.
4. Contractor is prohibited from using either the E-Verify Program or CDLE's Program procedures to undertake pre-employment screening of job applicants while the Agreement is being performed.
5. If Contractor obtains actual knowledge that a subcontractor performing work under the Agreement knowingly employs or contracts with a worker without authorization, Contractor is required to:
 - a) Notify the subcontractor and the City within three (3) days that Contractor has actual knowledge that the subcontractor is employing or contracting with a worker without authorization; and
 - b) Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required by Subsection (5) (a) above the subcontractor does not stop employing or contracting with the worker without authorization; except that Contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with a worker without authorization.
6. Contractor is required to comply with any reasonable request that CDLE makes in the course of an investigation that CDLE is undertaking pursuant to Section 8-17.5-102(5), C.R.S.

IN WITNESS WHEREOF, Contractor has executed this Addendum on the date first above written. By the signature of its representative below, Contractor affirms that it has taken all necessary action to authorize said representative to execute this Addendum.



CONTRACTOR

Signature:
Name:
Title:
Date:


Stephanie Wallis
Corporate Secretary
4/28/2022



STAFF REPORT

TO: Mayor LaBarre and City Council

FROM: Kip Wiley, Deputy City Manager/Director of Operations

DATE: May 5, 2022

SUBJECT: Approve Resolution No. 889, Series 2022 implementing Level 2 Water Restrictions for the City of Woodland Park. (A)
(Presenter Deputy City Manager/Director of Operations Kip Wiley)

BACKGROUND:

As council will recall May of 2021 level 2 water restrictions were implemented due lack of production (snow accumulation) from our water shares. Water demand in 2021 finished 1.5% higher than compared to 2020 even with level 2 water restrictions implemented. Our customers do a great job conserving water however last year was fairly dry and more water was used. The timeline that was set in place for Level 2 water restrictions have expired and we are looking to continue to conserve water as explained below.

Moving to forward to this year, weather conditions in 2021 and 2022, specifically the lack of snowfall in the Arkansas River Basin and Colorado River Basin, has resulted in low 2021 and 2022 production from our City's shares of transbasin water. This is the water that our City brings to Woodland Park through the Colorado Springs' Homestake Pipeline, and it's the water our City uses to augment local water sources with junior water rights. This transbasin water provides both a portion (25 - 35%) of our physical water supply and, through augmentation, makes it legal to use our local water sources.

The City's transbasin water shares consist of 196.27 shares of Twin Lakes Reservoir and Canal Company, and 663.25 shares of Colorado Canal Company paired with Lake Meredith Company or Lake Henry Company. Twin Lakes is located in Lake County northwest of Buena Vista near the Continental Divide. The Twin Lakes Company derives about 90 percent of its water from the Colorado River Basin through diversion tunnels. Colorado Canal, Lake Meredith and Lake Henry are located east of Pueblo in Crowley County. These companies derive 100 percent of their water from the Arkansas River Basin. Their water rights are fairly junior. During average and good water years the City's total transbasin water shares produce 2 times the City's annual transbasin water needs.

The snow melt in the 2021-22 winter season has produced an insignificant amount of transbasin water. The Arkansas River Basin is significantly below average for this time of year and even below last year's accumulation. The Colorado River Basin had made gains in snow pack last month however is still below average production. The City will meet its augmentation water needs this year by using stored water from previous years. The physical water needs have been met through customer conservation and local water sources especially the North Well Field. The City continues to monitor local conditions very closely. The

physical water needs of the City are not expected to be a problem in 2022. However the outlook for future years is uncertain at this time and we are planning for future years.

The City has augmentation water to meet its augmentation needs for 2022. Its ability to meet the 2023 augmentation needs depends on the 2023 water production and the amount of stored water at the end of 2022. Unless water production from the Colorado Canal shares improves to at least 50 percent of average, the City could be short of augmentation water in 2023. Expected production from the City’s transbasin water shares won’t be known until well into the winter of 2022 - 23. The City will be looking at pursuing lease options for Twin Lakes’ shares as a safety precaution. Any shares purchased this year will help us in the end-of-year storage for next year’s augmentation needs.

The current condition and its adverse impact on the City’s augmentation water supply for 2022 make it appropriate for the City to take reasonable actions now to enhance conservation this irrigation season. Water customers with spray irrigation systems and those who water with hose and sprinklers will be affected by limiting their outdoor water usage. Additional voluntary water conservation, both indoor and outdoor, is also encouraged. Resolution 889 will change watering restrictions from any day of the week to no more than 2 days per week, starting Friday, May 6, 2022.

The 2-day per week watering restrictions will be as follows:

<u>Addresses ending</u>	<u>Designated Watering Days</u>
00 - 20	Sunday and Thursday
21 - 50	Monday and Friday
51 - 99	Tuesday and Saturday
<u>Designated Hours</u>	
May - September	Water before noon or after 6 p.m. only
October - April	Watering allowed at any time provided the temperature is above 32°

- No watering in winds over 10 mph
- Trees, flowers and shrubs may be watered conservatively on any day, but only during designated hours

RECOMMENDATION:

Approve Resolution 889 implementing more restrictive Level 2 watering restrictions effective Friday, May 6, 2022.

ATTACHMENTS: 1. RES 889 - Level 2 Watering Restrictions 05.06.2022

**CITY OF WOODLAND PARK, COLORADO
RESOLUTION NO. 889, SERIES 2022**

**A RESOLUTION IMPLEMENTING LEVEL 2 WATERING RESTRICTIONS IN
THE CITY OF WOODLAND PARK**

WHEREAS, the City Council of the City of Woodland Park, by passage of Ordinance 950 on September 19, 2002, and the passage of Ordinance 971 on June 19, 2003, established Level 1 watering restrictions and more stringent Level 2 watering restrictions to be implemented at appropriate times in the City, and

WHEREAS, Woodland Park along with much of Colorado experienced drought conditions in 2021 which have continued into 2022, and

WHEREAS, the City of Woodland Park's current supply of augmentation water is adequate for 2022 but its adequacy for 2023 is dependent on water production and water conservation

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF WOODLAND PARK, COLORADO, THAT:

Level 2 Watering Restrictions shall be in effect for the City of Woodland Park and its water customers starting Friday, May 6, 2022, at 12:01 a.m. until changed by City Council resolution.

This resolution was adopted at a regular meeting of the City Council of the City of Woodland Park, Colorado held on the _____ day of _____, 2022.

Hilary LaBarre, Mayor

ATTEST:

Suzanne Leclercq, City Clerk

Current Boards and Committee Council Liaisons as of April 5, 2022

PPACG – Pikes Peak Area Council of Government – Secondary - Mayor LaBarre
Primary – Councilmember Zuluaga

Meets 2nd Wednesday of the month 9 AM

KWPB – Keep Woodland Park Beautiful – Councilmember Alfieri

Meets 1st Thursday of the month 5 PM

UAC – Utility Advisory Board – Mayor LaBarre

Meets 2nd Tuesday of the month at 4 PM

Main Street – Councilmember Nakai

Meets 4th Monday of the month at 6 PM

CML Policy Committee- Primary Mayor LaBarre, (Alternate Needed)

PRAB – Parks, Recreation Advisory Board – Councilmember Case

Meets 2nd Wednesday of the month at 6:30 PM

SIF – Seizure Investigation Fund – Councilmember Case

Meets as needed (very rarely)

HPC – Historical Preservation Committee – Councilmember Neal

Meets 1st Monday of the month at 3:30 PM

DDA – Downtown Development Authority – Councilmember Neal

Meets 1st Tuesday of the month at 7:30 AM