



City of Woodland Park

City Council

January 19, 2023 at 7:00 PM

AGENDA

6:00 PM - Worksession. City Council and Logan Simpson. PRTOS Master Project Update.

1. **CALL TO ORDER AND ROLL CALL**
2. **PLEDGE OF ALLEGIANCE**
3. **CEREMONIES, PRESENTATIONS AND APPOINTMENTS**
 - A. Celebration and Recognition of the Woodland Park High School Cheerleaders for their 3A State Championship win.
(Presenter Shaina Lampton, Head Coach and Kevin Burr, High School Principal)
 - B. Thank you and appreciation to the Woodland Park Hockey Association.
(Presenter, Parks and Recreation Director Cindy Keating)
 - C. Keep Woodland Park Beautiful Annual Report and Beautification Award Presentation.
(Presenter, Sarah Horwood, Chairperson of the Keep Woodland Park Beautiful Committee)
 - D. Appointments to the Board of Review and the Keep Woodland Park Beautiful Committee.
(Presenter Deputy City Manager/City Clerk Suzanne Leclercq)
4. **ADDITIONS, DELETIONS OR CORRECTIONS TO AGENDA**
5. **CONSENT CALENDAR**
 - A. Approval of On Call Engineering and Land Use Development Services Contracts Between the City of Woodland Park, Basis, Baseline, JR Engineering, and Wilson and Co.
(Presenter City Engineer Ben Schmitt)
 - B. Approve November 2022 Statement of Expenditures and authorize the Mayor to sign Warrants in payment thereof.
(Presenter, Finance Director Aaron Vassalotti)
 - C. Approval of purchase of a valve maintenance trailer in the amount of \$76,868.00.
(Presenter, Deputy City Manager/Director of Operations Kip Wiley)
 - D. Approval of a contract with Velocity in the amount of \$1,296,939 for the construction of the DOVE water pump station.
(Presenter, Deputy City Manager/Director of Operations Kip Wiley)
 - E. Approval of a contract with RH Borden and Company LLC in the amount of \$75,000.00 for the survey and investigation of the City's sanitary sewer system.
(Presenter, Deputy City Manager/Director of Operations Kip Wiley)

- 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.898 Establishing the Single Family Residential Water Tap Allotment for 2023.
(Presenter, Deputy City Manager/Director of Operations Kip Wiley)
- 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**

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: January 19, 2023

SUBJECT: Celebration and Recognition of the Woodland Park High School Cheerleaders for their 3A State Championship win.
(Presenter Shaina Lampton, Head Coach and Kevin Burr, High School Principal)

BACKGROUND:

RECOMMENDATION:

ATTACHMENTS: None



STAFF REPORT

TO: Mayor LaBarre and City Council

FROM:

DATE: January 19, 2023

SUBJECT: Thank you and appreciation to the Woodland Park Hockey Association.
(Presenter, Parks and Recreation Director Cindy Keating)

BACKGROUND:

RECOMMENDATION:

ATTACHMENTS: None



STAFF REPORT

TO: Mayor LaBarre and City Council

FROM:

DATE: January 19, 2023

SUBJECT: Keep Woodland Park Beautiful Annual Report and Beautification Award Presentation.
(Presenter, Sarah Horwood, Chairperson of the Keep Woodland Park Beautiful Committee)

BACKGROUND:

RECOMMENDATION:

ATTACHMENTS: 1. KWPB Annual Report (2)

Keep Woodland Park Beautiful 2022 Annual Report



MISSION

The KWPB mission is to aid in the protection of the City of Woodland Park's community, wildlife, and natural beauty by reducing the accumulation of litter, junk, refuse, and rubbish while promoting the responsible handling of trash, refuse, and solid waste through education, enforcement, and an active community participation.

SUMMARY

This year, KWPB met 11 times. KWPB strives to maintain the minimum 9 members required for this working committee, but there are still 9 member vacancies and unlimited openings for youth ambassadors.

2023 Approved Budget \$2,210

RECYCLING PLEDGE

A Recycling Pledge is still available in the city website to promote litter clean up and recycling in Woodland Park and build volunteer pool.

OUTREACH

KWPB continued to maintain a separate Facebook and website presence for 2022.

KWPB surveyed the community for beautification ideas on the WhatsUpWoodlandPark.com platform in February. Received 28 total ideas, and 113 "votes" on those ideas. Full report attached.

The committee is working on new ways to reach and retain potential committee members in 2023.

ANNUAL CLEANUP

The 21st Annual City Clean up took place on August 27, 2022. There were over 100 volunteers that covered 5 1/2 miles of roadways.

Mark your calendar – the 2023 cleanup is May 27 (June 3 weather day) at Memorial Park.



Noteworthy in 2022

FARMER'S MARKET

The committee had a booth at 2 of the Friday Farmer's Markets. Members provided educational materials and interactive displays on wildlife, recycling, volunteer info, and more! Our goal is to have a presence at 2-4 of the 2023 markets.

WELCOME SIGN BEAUTIFICATION

The committee had a booth at 2 of the Friday Farmer's Markets. Members provided educational materials and interactive displays on wildlife, recycling, volunteer info, and more! Our goal is to have a presence at 2-4 of the 2023 markets.

Keep Woodland Park Beautiful 2022 Annual Report



FUTURE RECOMMENDATIONS

- We recommend that the City adopt alternatives to traditional flowers, such as fake flowers or native bushes/grasses, for the Adopt-a-Garden locations due to the low success rate of the gardens over the past few years
- City/committee pursue grant funding for beautification projects and campaigns in 2023
- Committee collaboration with Main Street & Downtown Development Authority on beautification projects and the May 27 Annual Cleanup
- Additionally, the committee will draft new bylaws and present them to Council in 2023, in effort to increase efficiency and productivity of the committee

GOALS (2023)

- Recruit at least 3 new committee members
- Draft new bylaws and present them to Council in effort to increase efficiency/ productivity of the committee
- Identify new funding sources and sponsorship opportunities
- Increase participation in volunteer opportunities (Annual Cleanup, Adopt-a-Garden)
- Continue 2022 programs: Beautification Awards, Adopt-a-Garden & Adopt-a-Spot, Annual Cleanup and Creek Week Cleanup, Community education efforts

BUDGET (2023)

KWPB Budget Categories	Split 2023
Annual City-Wide Clean-Up (food, supplies, roll off)	\$855
Equipment and Supplies (grabbers, gloves, bags, buckets, tools). These supplies can include Creek Week items as well.	\$250
Annual Beautification Projects	\$200
Adopt-a-Spot (signs, supplies)	\$100
Adopt-a-Garden (plaques, supplies)	\$100
Educational Programs (Bear-Aware, Youth Ambassadors, Youth Program)	\$250
Promotions (website, Facebook ads (2 events), brochures)	\$100
Volunteer Appreciation (T-shirts, training, awards, thank-you notes)	\$300
KAB Annual Dues	\$55
Account # 100-114-2276	TOTAL \$2,210



STAFF REPORT

TO: Mayor LaBarre and City Council

FROM:

DATE: January 19, 2023

SUBJECT: Appointments to the Board of Review and the Keep Woodland Park Beautiful Committee.
(Presenter Deputy City Manager/City Clerk Suzanne Leclercq)

BACKGROUND:

RECOMMENDATION:

ATTACHMENTS: None



STAFF REPORT

TO: Mayor LaBarre and City Council

FROM: Ben Schmitt, City Engineer

DATE: January 19, 2023

SUBJECT: Approval of On Call Engineering and Land Use Development Services Contracts Between the City of Woodland Park, Basis, Baseline, JR Engineering, and Wilson and Co.
(Presenter City Engineer Ben Schmitt)

BACKGROUND:

The City staff are working hard to provide safe, reliable, and functional infrastructure to the Citizens of Woodland Park. To complete major capital projects, develop our Citywide MS4 permit, and provide excellent customer service to our developers; the City solicited Request for Qualifications in 2022 through the online procurement portal for On Call Engineering and Land Use Services. The RFQ specified the City could enter into contract with up to four firms, and renew contracts annually for up to five years. The request for approval is to renew the contracts for a second year of the five-year term.

These consultants serve a vital role in design and project completion, since the City currently does not have in-house design and survey teams. It is common practice for municipalities to utilize these services, since they have a breadth of experience across multiple different project types, and have dedicated specialized staff which can provide solutions for unique challenges the City may face.

RECOMMENDATION:

Approve the authorization for the Mayor and City Clerk to execute the Engineering and Land Development review contracts with Baseline Engineering Corporation, Basis Partners, Wilson and Company, and JR Engineering for all items outlined in the proposal.

ATTACHMENTS:

1. 2- 2023 On-Call Consulting Contract - Basis Semi-Executed
2. 2 - 2023 On-Call Consulting Contract - Baseline Semi-Executed
3. 2- 2023 On-Call Consulting Contract- JR Engineering Semi-Executed
4. 2 - 2023 On-Call Consulting Contract - Wilson and Co Semi-Executed

CITY OF WOODLAND PARK

On-Call Engineering and Land Use Development Review Services Consulting Contract

With Basis Partners

THIS CONTRACT ("Contract") for On-Call Engineering and Land Use Development Services is entered into effective as of this _____ day of _____, 2023, by and between the City of Woodland Park, a Colorado home rule city (the "City"), and Basis Partners (the "Consultant") (a Colorado Corporation).

In consideration of the mutual covenants and stipulations contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties do hereto agree as follows:

TERMS

1. **PROJECT DESCRIPTION AND SCOPE OF WORK.** The project shall consist of the provision of the services and all materials and equipment necessary for performing the services, as described in Exhibit A, "Scope of Work" attached hereto and in accordance with the Contract Documents (the "Work").

Consultant shall be responsible for providing, at its cost and expense, all management, supervision, labor, materials, administrative support, supplies and equipment necessary to perform the Work as required by this Contract. Consultant shall perform the Work using that degree of skill and knowledge customarily employed by other professionals performing similar services in the Denver metropolitan area.

2. **CONTRACT DOCUMENTS.** The "Contract Documents" shall collectively include the Contract signed by the City and the Consultant and any change orders issued by the City and all exhibits attached hereto and incorporated herein including the following:

- a) Certificate of Insurance
- b) Service Agreement
- c) Notice of Acceptance
- d) Notice(s) to Proceed
- e) Experience Record
- f) Confidentiality Agreement
- g) Addenda

3. **COMPENSATION.** The City shall compensate the Consultant for the Work, subject to City annual appropriations and in accordance with and subject to all of the conditions in the Contract Documents, in an aggregate amount not to exceed \$_____, based upon the rate schedule set forth in Exhibit B. The workload is solely dependent upon the needs of the City. **There is no guaranteed minimum or maximum amount of work or fee(s).** The not-to-exceed amount includes all of Consultant's direct and indirect costs. Consultant is not entitled to any

compensation beyond the not-to-exceed amount except as approved in writing by the City Engineer.

4. **NON-APPROPRIATION.** Notwithstanding anything contained in this agreement to the contrary, in the event no funds or insufficient funds are appropriated and budgeted or are otherwise unavailable by any means whatsoever in any future fiscal year of the City, commencing in 2022, for payments due under this agreement, the City shall immediately notify Consultant or its assignee in writing of such occurrence and the City's obligations under this agreement shall terminate on the last of day of the fiscal year for which appropriations have been received or made without penalty or expense to the City.

5. **CHANGES IN THE SCOPE OF WORK.** A change in the Scope of Work shall comprise any change or amendment of the services or work, or any services or work which are different from or additional to the Work. No such change, including any additional compensation, shall be effective, or paid unless authorized by written amendment executed by the City Engineer. If the Consultant proceeds without such written authorization, then the Consultant shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum meruit, or implied contract. Except as expressly provided herein, no agent, employee, or representative of the City shall have the authority to enter into any changes or modifications, either directly or implied by a course of action, relating to the terms and scope of this Contract. If Consultant performs any work beyond the Work described in the scope of work set out in Exhibit A, it does so at its own risk.

A. **Progress Payments.** Consultant shall submit monthly invoices to the City's for progress payments for portions of the Work satisfactorily performed during each month during the term of the Contract. The City's approval of invoices shall be a condition of payment. The City will pay approved invoices, or parts thereof, 30 days after submittal. All invoices shall be addressed to the City as follows: "City of Woodland Park, P.O. Box 9007, Woodland Park, CO 80866, ATTN: CITY ENGINEER".

B. **Requirements for Payment.**

1. **Invoices.** Consultant invoices shall be in a format acceptable to the City, shall be supported by cost information in such detail as may be required by the City and shall be sufficient to substantiate all items for a proper audit and post audit thereof. Invoices shall be clearly marked and annotated with the City's assigned Purchase Order number(s) relevant to the task(s) for which payment is being requested.

2. **Invoice Documentation.** With each invoice, the Consultant shall submit a progress report describing the Work performed, results achieved, percentage complete, percentage of total compensation amount, the status of deliverables and a certification that the Consultant is current in payment of all employees and subcontractor and vendors.

C. **Unsatisfactory Invoices or Work.** The City may return to Consultant for revision unsatisfactory invoices and may withhold payment thereof. The City may withhold payment for

Work, which is not completed as scheduled or which is completed unsatisfactorily, until completed satisfactorily and may deny payment for such work upon termination of the Consultant.

5.1 TASK ORDER PROCEDURES.

A. General. The Services are divided into discrete Tasks. The Consultant shall proceed with Services under this Agreement only upon receipt from the City of a written order to perform the Services specified therein, which is issued pursuant to this section ("Task Order"). Each Task Order shall be performed within the Task Order Price.

B. Request for Task Order Submittal. When the City determines it requires the performance of any Task(s) by Consultant, it shall notify the Consultant by issuing a written "Request for Task Order Submittal," setting forth the milestones for key elements of the Task(s), providing any additional detail needed to further describe the Task(s), and establishing the deliverables to be produced by the Consultant for the Task(s).

C. Compensation Calculation. The Task Order Price shall be determined using a Lump Sum Method or Time & Materials Method. In each Request for Task Order Submittal, the City shall specify the method of compensation Consultant shall use to calculate the Proposed Task Order Price in the relevant Task Order Submittal. However, the parties may agree in writing to use a method of compensation other than the one specified by the City in the Request for Task Order Submittal. The Task Order Price for each Task Order shall be finally determined according to the procedures set forth in this section.

D. Consultant's Response. Within seven (7) working days of receipt of the City's Request for Task Order Submittal, the Consultant shall respond by providing the following documents (collectively the "Task Order Submittal") to the City for approval:

1. Names and resumes (if not previously provided) of proposed personnel providing the Services of the Task Order;
2. A schedule in sufficient detail to properly depict the Task(s);
3. Task Order Scope of Services;
4. A work plan that adequately describes the discrete portions of the Task(s); and
5. A Proposed Task Order Price which contains an itemized breakdown of the costs, including necessary staffing, man-hours and Direct Costs corresponding to discrete portions of the Task (Direct Costs mean all direct costs, including but not limited to direct salary costs and those items and costs specifically listed as Direct Costs in Exhibit B and are costs other than the general administrative costs and other overhead costs).

E. Negotiation Regarding Task Order. The City will review the Task Order Submittal and the Parties may negotiate the terms thereof. If the City and the Consultant cannot agree on Task Order Submittal, the City may, in addition to performing the Task itself or engaging a third party to perform the Task, (1) reject the Request for Task Order Submittal or (2) direct the Consultant to proceed on a Specific Rate of Pay Method basis.

F. Issuance of Task Order. If the City approves the Consultant's Task Order Submittal for the identified Task(s) or the parties successfully negotiate the Task Order Submittal, the City may issue a Task Order directing the Consultant to perform the Task(s) pursuant to the Task Order Submittal and for a price which shall not exceed the price provided in the Task Order (the "Task Order Price"). Consultant agrees it shall not be compensated for any amounts in excess of the Task Order Price, unless such amounts have been authorized by the City by a written Task Order amendment prior to the performance of the Service(s) which created the excess. The Consultant shall not initiate any Task(s) prior to the receipt of a Task Order.

F. Suspension of Task(s). The City may, at any time and for any reason, order the Consultant, in writing, to suspend all or any part of the Services required to perform a Task(s) for the period of time the City determines appropriate. In the event of such a suspension, the Consultant shall take all steps necessary to reduce the costs incidental to the suspension.

6. TERM OF CONTRACT/START AND COMPLETION OF WORK. Consultant shall commence Work when the City gives the Consultant a written notice to proceed. The Consultant shall complete all Work by December, 31 2023, or when the Work has been completely performed to the City's satisfaction, whichever first occurs, or otherwise by mutual written agreement of the parties or by the exercise of the termination provisions specified herein.

The City shall have the option to renew the contract for subsequent one-year terms for up to four one-year terms. Renewals would commence on or about January 1 of each subsequent one-year period. Continuation of the contract beyond the first year is at the sole discretion of the City and will be exercised only when such continuation is in the best interest of the City. The Consultant shall notify the City of any and all proposed price adjustments no later than September 30 of the year prior to the year in which any proposed new prices are to be charged to the City. The City reserves the right to reject any price adjustments submitted by the Consultant and/or terminate the contract with the Consultant based on such price adjustments.

7. CONSULTANT'S REPRESENTATIONS.

A. Consultant has the required authority, ability, skills and capacity to, and shall, perform the Work in a manner consistent with this Contract. Further, all employees and subcontractors of Consultant employed in performing the Work shall have the skill, experience and licenses required to perform the Work assigned to them.

B. To the extent the Consultant deems necessary in accordance with prudent engineering practices, it has inspected the sites and all surrounding locations whereupon it may be called to perform its obligations under this Contract, and is familiar with the requirements of the Work and accepts them for such performance.

C. It is validly organized and exists in good standing under the laws of the State of Colorado, and has all requisite power to own its properties and assets and to carry on its business as now conducted or proposed to be conducted and it is duly qualified, registered to do business and in good standing in the State of Colorado.

D. Consultant has knowledge of all of the legal requirements and business practices in the State of Colorado that must be followed in performing the Work and the Work shall be performed by Consultant in conformity with all applicable laws, ordinances, codes, rules and regulations.

E. Workers Without Authorization. Prior to the execution of this agreement, Consultant shall certify to the City, by completing the Worker Without Authorization Addendum attached hereto as Exhibit C, that at the time of certification, it 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.

F. The Consultant hereby agrees that he or she has previously disclosed to the City anyone among their team, any business entity or individual who is, or who is associated with, or is in any way likely to create a conflict of interest or a perception of conflict of interest and acknowledges that he or she has a continuing obligation to disclose any newly discovered or future conflict of interest.

G. Consultant shall employ staff that is courteous, helpful and considerate to provide services under this Contract. Consultant's employees shall not use improper language, or act in any inappropriate or improper manner as determined by the City. Consultant shall reassign any employee after notification by the City that such employee has engaged in unacceptable behavior.

H. Consultant will furnish all of the materials, supplies, tools, equipment, labor, and other services necessary for the construction and completion of the Work Order(s) issued pursuant to this Agreement, unless specified otherwise in the Specifications

I. This Contract constitutes the legal, valid and binding obligation of the Consultant and its respective heirs, executors, administrators, successors, assigns, and is enforceable in accordance with its terms.

8. INDEMNIFICATION.

A. Consultant shall indemnify, defend and hold harmless the City and each of its officers, employees, agents and consultants, from and against, demands, suits, actions, proceedings, judgments, losses, damages, injuries, penalties, costs, and expenses (including reasonable attorneys' fees), and liabilities, of, by or with respect to third parties ("any claims") to the extent they arise from or may be alleged to arise, from the negligent acts or omissions of the Consultant or any of its subcontractors or material suppliers, agents or employees, in connection with this Contract and/or the Consultant's Work hereunder. Further, the Consultant hereby agrees to indemnify, defend and hold harmless the City and each of its officers and employees from and against demands, suits, actions, proceedings, judgments, losses, damages, injuries, penalties, costs and expenses (including reasonable attorneys' fees) and liabilities of, by or with respect to, third parties ("any claims"), arising from the negligent acts or omissions of the Consultant, its employees, subcontractors, material suppliers or agents or employees, or the agents or employees of any subcontractors or material suppliers which causes or allows to continue a condition or event which deprives the City or any of its officers or employees of its sovereign immunity under the Colorado Governmental Immunity Act, Sections 24-10-101, et seq., Colorado Revised Statutes. The obligations of the indemnifications

extended by the Consultant to the City under this section shall survive termination or expiration of this Contract.

B. Consultant's defense, indemnification and insurance obligations shall be to the fullest extent permitted by law and nothing in this Contract shall be construed as requiring the Consultant to defend in litigation, indemnify or insure the City against liability for damage arising out of the death or bodily injury to persons or damage to property caused by the negligence or fault of the City or any third party under the control or supervision of the City.

9. RESPONSIBILITY OF THE CONSULTANT

A. The extent and character of the work to be done by the Contractor shall be subject to the general approval of the City's delegated Project Manager.

B. If any of the work or services being performed does not conform with Contract requirements, the City may require the Contractor to perform the work or services again in conformity with Contract requirements, at no increase in Contract amount. When defects in work or services cannot be corrected by re-performance, the City may (1) require the Contractor to take necessary action to ensure that future performance conforms to Contract requirements and (2) reduce the Contract price to reflect the reduced value of the work or services performed.

C. If the Contractor fails to promptly perform the defective work or services again or to take the necessary action to ensure future performance is in conformity with Contract requirements, the City may (1) by Contract or otherwise, perform the services and charge to the Contractor any cost incurred by the City that is directly related to the performance of such work or service or (2) terminate the Contract for breach of contract.

10. ASSIGNMENT. Neither the City nor Consultant may assign this Contract or parts hereof or its rights hereunder without the express written consent of the other Party.

11. OWNERSHIP OF MATERIALS AND RISK OF LOSS. The City shall be deemed the owner of all materials incorporated into the Work, with the exception of any intellectual property rights contained therein, owned or created by Consultant prior to the effective date of this Agreement; and/or created outside the scope of this Agreement, at such time as the City has paid for those materials, and shall be deemed the owner of all materials paid for by the City. Any reuse or modification by the City of Consultant's work product without Consultant's permission shall be at City's sole risk. Until all of the work is completed, the risk of loss or damage to the Work or work product shall reside with the Consultant.

12. TERMINATION

The City will reserve the right to terminate this contract at any time if, in the opinion of the City Engineer, the Consultant is not performing according to the provisions of the contract.

A. Types of Termination.

1. Default and Termination for Cause. Events of Default. Consultant shall be immediately in default hereunder (an “Event of Default”) upon the occurrence of any of the events described in this section.

- a. Any breach of the terms and conditions of this Contract.
- b. Failure to perform the Work under this Contract, or significant delay or discontinuance of performance of the Work.
- c. Lack of financial responsibility (including failure to obtain and maintain insurance) for loss or damage to the City or its property.
- d. Dishonesty, embezzlement or false reporting of any material financial information, including but not limited to invoices.
- e. Insolvency, bankruptcy or commission of any act of bankruptcy or insolvency; or assignment for the benefit of creditors.
- f. Any attempt by the Consultant to assign its performance of this Contract without the consent specified by this agreement.
- g. Termination of any subcontract for any substantial Work without the prior written consent of the City.

2. Termination Not For Cause. In addition to any other rights provided herein, the City shall have the right in its sole discretion to terminate, not for cause, this Contract and further performance of the Work by delivery to the Consultant of written notice of termination specifying the extent of termination and the effective date of termination.

B. Remedies.

1. City’s Remedies Upon Termination For Cause. Upon an Event of Default by the Consultant, the City may by notice terminate this Contract for cause immediately.

2. City’s Remedies Upon Termination Not For Cause. The City shall provide a notice of termination not for cause to the Consultant thirty days prior to termination.

3. Any Other Remedies Allowed by Law. The City shall be entitled to any other remedies allowed by law in addition to the remedies provided herein.

C. Payment and Liabilities Upon Termination.

1. Termination for Cause. If an Event of Default has occurred, the Consultant shall be liable to the City for any actual damages for losses, including, but not limited to, any and all costs and expenses reasonably incurred by the City or any party acting on the City’s behalf in completing the Work or having the Work completed (excluding changes in the Work by the City following such Event of Default). The City shall determine the total cost of the Work satisfactorily performed by the Consultant prior to the date of termination for cause. All reasonable damages, losses, costs and charges incurred by the City, including attorney’s fees and costs, relating to obtaining and mobilizing another consultant, of completing the Work and of retaining another consultant’s acceptance of full responsibility for all obligations of the Consultant under this Contract shall be deducted from any monies due or which may become due to the Consultant. The City shall determine the total amount due and shall notify the

Consultant in writing of the amount the Consultant owes the City or the amount the City owes the Consultant.

2. Termination Not For Cause. After termination not for cause, the Consultant shall submit a final termination settlement invoice to the City in a form and with a certification prescribed by the City. Consultant shall submit the invoice promptly, but no later than thirty (30) days from the effective date of termination, unless extended in writing by the City upon written request of the Consultant within such thirty-day period. If the Consultant fails to submit the invoice within the time allowed, the City's payment obligations under this Contract shall be deemed satisfied and no further payment by the City to the Consultant shall be made.

D. Consultant's Obligations Upon Termination. After receipt of notice of termination, and unless otherwise directed by the City, the Consultant shall immediately proceed as follows:

1. Stop work on the Work as specified in the notice of termination; and
2. Take any action that may be necessary, or that the City may direct, for the protection and preservation of the property related to this Contract that is in the possession of the Consultant and in which the City has or may acquire an interest.

13. INSURANCE.

A. Consultant shall acquire and maintain in full force and effect, during the entire term of the Contract, including any extensions hereof, and at any time thereafter necessary to protect the City and its respective officers, employees, agents, consultants and Consultant from claims that arise out of or result from the operations under this Contract by Consultant or by a subcontractor or a vendor or anyone acting on their behalf or for which they may be liable, the coverages set forth in this section. All insurance is to be placed with insurance carriers authorized in the State of Colorado with an A.M. Best and Company rating of no less than A or as otherwise accepted by the City. The City and its respective officers, employees, and agents shall be named as an additional insured on the Consultant's commercial general liability insurance, automobile liability insurance, and excess liability insurance. Consultant's insurance shall provide that the insurer will give the City thirty (30) days written notice prior to the cancellation or material modification of any policy of insurance obtained to comply with this section, except for ten (10) days notice for cancellation due to non-payment of premium.

B. Minimum Insurance Coverages:

1. Workers' compensation insurance in accordance with applicable law, including employers' liability with minimum limits of \$100,000 each accident, \$500,000 Disease-Policy Limit, \$100,000 Disease each employee.
2. Commercial general liability insurance in the amount of \$1,000,000 combined single limit bodily injury and property damage, each occurrence; \$2,000,000 general aggregate, and \$1,000,000 products and completed operations aggregate. Coverage shall be on an ISO 1996 Form (CG 0001 or equivalent), include all major divisions of coverage and be on a comprehensive basis, including:

- a. Premises and operations;
- b. Personal injury liability without employment exclusion;
- c. Blanket contractual;
- d. Broad form property damage, including completed operations;
- e. Products and completed operations;
- f. Independent Consultant's coverage;
- g. Explosion, collapse and underground;
- h. Consultants' limited pollution coverage; and
- i. Endorsement CG 2-503 or equivalent; general aggregate applies on a per project basis.

3. Commercial automobile liability insurance in the amount of \$1,000,000 combined single limit bodily injury and property damage, each accident covering owned, leased, hired, non-owned, and employee non-owned vehicles used at the consultant project site.

4. Professional Liability – coverage in the amount of \$1,000,000 each claim and in the aggregate covering the negligent acts or omissions of the Consultant and/or its subcontractor in the performance of the Work.

5. Excess Liability Coverage – Liability coverage inclusive of general liability, professional liability, automobile liability and employers liability in the amount of at least \$1,000,000 combined single limit bodily injury and property damage, each occurrence; and \$1,000,000 in the aggregate. Separate aggregates need to be structured as found in the underlying coverages. Excess Liability Coverage may be made up of any combination of primary and excess policies.

6. All coverages specified herein, shall waive any right of subrogation against the City and its officers and employees. The policies shall state: "Permission is expressly granted to the insured to waive any right of subrogation against an individual, firm or corporation, provided such waiver is executed in writing prior to any occurrence giving rise to claims hereunder."

C. Additional Insured Parties. All policies (with the exception of workers' compensation insurance and Professional Liability) shall insure the interest of the City and its respective officers, employees, agents, and consultants.

D. Certificates of Insurance. Prior to commencing any work under the Contract, the Consultant shall provide the City with a certificate or certificates evidencing the coverages identified on the face of the certificate with the contract number for this Contract, the name of the project and a copy of the additional insured endorsement. If the Consultant subcontracts any portion(s) of the work, such subcontractor(s) shall be required to furnish certificates evidencing workers' compensation and employers' liability insurance, commercial general liability insurance coverage, and automobile liability insurance, in amounts satisfactory to the City and the Consultant and containing the "additional insured" and "cancellation" conditions found in this section. If the coverage required expires during the term of this Contract, the Consultant and its subcontractor(s) shall provide

replacement certificate(s) evidencing the continuation of the required policies at least 15 days prior to expiration.

E. Additional Provisions. Each general liability policy and, where required, umbrella/excess liability policy is to contain, or be endorsed to contain, the following:

1. For any claims related to the work performed or to be performed by the Contract, wherever the City is named as an additional insured, the Consultant's insurance coverage shall be primary insurance with respect to the City and its officers and employees. Any insurance maintained by the City (or officers and employees) shall be in excess of the Consultant's insurance and shall not contribute to it.

2. Consultant's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to limits of liability.

F. Failure to Comply with Reporting Provisions. Any failure on the part of the Consultant to comply with reporting provisions or other conditions of the policies shall not affect the obligation of the Consultant to provide the required coverage to the City (and its officers and employees).

G. Claims-Made Policies. If any policy is a claims-made policy, the policy shall provide the Consultant the right to purchase, upon cancellation or termination by refusal to renew the policy, an extended reporting period of not less than two years. Consultant agrees to purchase such an extended reporting period if needed to ensure continuity of coverage. Consultant's failure to purchase such an extended reporting period as required by this paragraph shall not relieve it of any liability under this Contract. If the policy is a claims-made policy, the retroactive date of any such renewal of such policy shall be not later than the date this Contract is executed by the parties hereto. If the Consultant purchases a subsequent claims-made policy in place of any prior claims-made policy, the retroactive date of such subsequent policy shall be no later than the date this Contract is executed by the parties hereto.

H. No Limitation on Other Obligations. The procuring of required policies of insurance shall not be construed to limit the Consultant's liability hereunder or to fulfill the indemnification provisions and requirements of this Contract. Consultant shall be solely responsible for any deductible losses under the policy.

I. Additional Risks and Hazards. If the City requests in writing that insurance for risks other than those described herein or for other special hazards be included in property insurance policies, Consultant shall obtain such insurance, if available, in a form and for a cost approved by the City, and the cost thereof shall be charged to the City.

14. MISCELLANEOUS PROVISIONS.

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

EMPLOYEES OR AGENTS OF THE CITY. THE CITY IS CONCERNED ONLY WITH THE RESULTS TO BE OBTAINED.

B. Time is of the Essence. The performance of the Work of the Consultant shall be undertaken and completed in such sequence as to assure its expeditious completion in light of the purposes of the Contract. It is agreed that time is of the essence in the performance of this Contract.

C. Notices. Any notices or other communications required or permitted by this Contract or by law to be served on, given to, or delivered to either party hereto, by the other party shall be in writing and shall be deemed duly served, given, or delivered when personally delivered to the party to whom it is addressed or in lieu of such personal services, when received in the United States' mail, first-class postage prepaid addressed to:

City:

City of Woodland Park
P.O. Box 9007
Woodland Park, CO 80866
Attn: City Engineer

Consultant:

Basis Partners
25 North Spruce Suite 310
Colorado Springs, CO 80905
Attn: Dan Dahlke

Either party may change its address for the purpose of this section by giving written notice of such change to the other party.

D. Headings. The headings and captions in this Contract are intended solely for the convenience of reference and shall be given no effect in the construction or interpretation of this Contract.

E. Controlling Law and Venue. This Contract shall be governed by and construed in accordance with the laws of the State of Colorado and any legal action concerning the provisions hereof shall be brought in the State of Colorado, County of Teller.

F. No Waiver. No waiver of any of the provisions of this Contract shall be deemed to constitute a waiver of any other of the provisions of this Contract, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed a waiver of any subsequent default hereunder. Failure of either party to insist on strict performance by the other party shall not constitute a waiver of any provision in the Contract Documents, waiver of any other default, or a continuing waiver of the provisions in question.

G. Binding Contract. This Contract shall inure to and be binding on the heirs, executors, administrators, successors, and assigns of the parties hereto.

H. Entire Contract. This Contract constitutes the entire agreement between the parties and sets forth the rights, duties, and obligations of each to the other as of this date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Contract are of no force and effect.

I. Severability. The invalidity or unenforceability of any portion or previous version of this Contract shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Contract and the balance of this Contract shall be construed and enforced as if this Contract did not contain such invalid or unenforceable portion or provisions.

J. Counterpart Execution. This Contract may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

K. Contract Modification. The Contract Documents may not be amended, altered, or otherwise changed except by a written agreement between the parties.

L. Compliance with the Law. The work and services to be performed by Consultant hereunder shall be done in compliance with applicable laws, ordinances, codes, rules and regulations.

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the date first above written. By the signature of its representative below, each party affirms that it has taken all necessary action to authorize said representative to execute this Contract.

CITY OF WOODLAND PARK

By: _____
Its: _____

ATTEST:

APPROVED AS TO FORM:

City Attorney

CONSULTANT

Basis Partners
Nouraldean "Dino" Bakkar, PE

By: _____
Its: President

ATTEST:



Dan Dahlke, PE
Project Manager

Exhibit A

On-Call Engineering and Land Use Development Review Services City of Woodland Park

Scope of Work:

This Scope of Work outlines the services to be provided to the City of Woodland Park on an on-call basis to support the Public Works Department, Utilities Department and Planning Department staffs and other City staff as required. The following tasks are typical of the work expected during period of the contract. Tasks other than routine engineering reviews will require approval by the City Engineer prior to initiation.

1. Engineering Technical Services Task:

The Consultant shall only perform work that is assigned in an authorized Task Order. An awarded Contract does not guarantee that a Task Order shall be issued. The Consultant may provide services to the City including, but not limited to, the following:

- a. Development of City MS4 Permit
- b. Review of development submittals including (but not limited to) Site Plans, Construction Drawings, Drainage Reports, and Traffic Studies.
- c. Provide consulting and professional services including project planning, design, engineering, land surveying, right of way design and acquisition, construction phasing, and drafting services.
- d. Provide professional services during the bid process including preparation of cost estimates and specifications, project construction, and project completion.
- e. Provide field surveys as requested.
- f. Attend all typical CDOT progress meetings, such as Scoping, FIR, FOR, etc.
- g. Provide all specialty groups needed for the project (Environmental, Right of Way, Utilities, Traffic, Hydraulics, Surveying, Geotech, etc.).
- h. Provide maps and mapping services as requested.
- i. Coordinate with all affected agencies including CDOT, railroads, utility and ditch companies, and property/business owners.
- j. Preparation and review of legal descriptions for easements, Rights-of-Way, etc.
- k. Review the City's requested project and/or task to be accomplished, and provide preliminary consultation, research and evaluation of same.
- l. Assist the City's Engineering Division with presentations and/or recommendations to City staff administration, or City Council.
- m. Review and provide comments on environmental documents for proposed projects submitted to the City in accordance with the Colorado Department of Health and Environment requirements.
- n. Provide other engineering and design services as requested.

2. Planning/Land Use Development Review Services Task:

To adequately serve our development community, the City requires the services of qualified individuals or firms to manage applications or specific projects offsite or occasionally on-site at City Hall, according to Planning Department staffing needs. Under the direction of the Director of Planning, the consultant(s) will provide the

range of expertise necessary to carry out the normal functions of a professional planner. All services provided by the consultant shall be performed by individuals who meet the qualifications, education, and certifications/licensing requirements for the professional Planning levels of Planner I to Senior Planner. Qualified individuals shall possess five (5) or more years of professional planning work experience in the public or private sector. The primary needs are in the Planner I to Senior Planner categories; however the Planning Department would like to have the flexibility to call upon any level of Planning professional during workload increases. Based on qualifications presented in the response to this RFP, the City will select a firm or individual that is best able to provide such services for upcoming projects.

Examples of land use development review projects:

- Subdivision (Lot Line Adjustment, Minor and Major)
- PUD Amendments
- Site Plan (multi-family, commercial, industrial and mixed use)

At such time when the consultant's services are required, staff will email a request for services, including a project description and any pertinent supporting information. The consultant will evaluate the proposal and provide a brief response including the proposed scope of work, timeline, and hourly rates (if such rates differ from the rates specified in the Professional Services Agreement).

Exhibit B

RATE SCHEDULE

{Rate schedule should include rates for all key personnel}

The tables below will be used to bill labor and expenses for services performed during 2023. Labor rates are per hour and include time spent working on the project whether in the office, field, or traveling.

HOURLY LABOR RATES BY CLASSIFICATION					
CLASSIFICATION	RATE	CLASSIFICATION	RATE	CLASSIFICATION	RATE
Principal 1	\$260.00	Professional 8	\$185.00	Technical 7	\$135.00
Project Manager	\$215.00	Professional 9	\$195.00	Technical 8	\$145.00
Professional 1	\$110.00	Professional 10	\$205.00	Technical 9	\$155.00
Professional 2	\$120.00	Technical 1	\$75.00	Technical 10	\$165.00
Professional 3	\$130.00	Technical 2	\$85.00	Intern	\$60.00
Professional 4	\$140.00	Technical 3	\$95.00		
Professional 5	\$150.00	Technical 4	\$105.00		
Professional 6	\$160.00	Technical 5	\$115.00		
Professional 7	\$170.00	Technical 6	\$125.00		

OTHER REIMBURSABLE COSTS			
EXPENSE	RATE	EXPENSE	RATE
Vehicle mileage	Included ¹	Subconsultants	At cost
Travel per diem - M&IE	At cost ²	Vendors	At cost
Travel per diem - Lodging	At cost ²		
Other travel costs	Included ¹		
Reproduction Supplies	Included ¹		
Other Expenses	Included ^{1,3}		

¹ Expenses marked "included" are included in the labor rates and will not be billed separately.

² Per diem will only be billed if required by the contract and paid to the employee. Per diem rates will match the federal GSA rate in effect for the location.

³ Unless specified otherwise in the contract.

Exhibit C

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 Basis Partners, (hereinafter "Consultant") dated this 13 day of December, 2022.

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

1. Consultant certifies that, at the time of executing this Addendum, Consultant does not knowingly employ or contract with a worker without authorization who will perform work under the Agreement and that Consultant 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. Consultant 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. Consultant 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. Consultant 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 Consultant obtains actual knowledge that a subcontractor performing work under the Agreement knowingly employs or contracts with a worker without authorization, Consultant is required to:
 - a) Notify the subcontractor and the City within three (3) days that Consultant 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 Consultant 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. Consultant 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, Consultant has executed this Addendum on the date first above written. By the signature of its representative below, Consultant affirms that it has taken all necessary action to authorize said representative to execute this Addendum.

CONSULTANT

Signature:	
Name:	<u>Dino Bakkar</u>
Title:	<u>President</u>
Date:	<u>12/13/2022</u>

CITY OF WOODLAND PARK

On-Call Engineering and Land Use Development Review Services Consulting Contract

With Baseline Engineering Corporation

THIS CONTRACT ("Contract") for On-Call Engineering and Land Use Development Services is entered into effective as of this _____ day of _____, 2023, by and between the City of Woodland Park, a Colorado home rule city (the "City"), and Baseline Engineering Corporation (the "Consultant") (a Colorado Corporation).

In consideration of the mutual covenants and stipulations contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties do hereto agree as follows:

TERMS

1. **PROJECT DESCRIPTION AND SCOPE OF WORK.** The project shall consist of the provision of the services and all materials and equipment necessary for performing the services, as described in Exhibit A, "Scope of Work" attached hereto and in accordance with the Contract Documents (the "Work").

Consultant shall be responsible for providing, at its cost and expense, all management, supervision, labor, materials, administrative support, supplies and equipment necessary to perform the Work as required by this Contract. Consultant shall perform the Work using that degree of skill and knowledge customarily employed by other professionals performing similar services in the Denver metropolitan area.

2. **CONTRACT DOCUMENTS.** The "Contract Documents" shall collectively include the Contract signed by the City and the Consultant and any change orders issued by the City and all exhibits attached hereto and incorporated herein including the following:

- a) Certificate of Insurance
- b) Service Agreement
- c) Notice of Acceptance
- d) Notice(s) to Proceed
- e) Experience Record
- f) Confidentiality Agreement
- g) Addenda

3. **COMPENSATION.** The City shall compensate the Consultant for the Work, subject to City annual appropriations and in accordance with and subject to all of the conditions in the Contract Documents, in an aggregate amount not to exceed \$_____, based upon the rate schedule set forth in Exhibit B. The workload is solely dependant upon the needs of the City. **There is no guaranteed minimum or maximum amount of work or fee(s).** The not-to-exceed amount includes all of Consultant's direct and indirect costs. Consultant is not entitled to any

compensation beyond the not-to-exceed amount except as approved in writing by the City Engineer.

4. **NON-APPROPRIATION.** Notwithstanding anything contained in this agreement to the contrary, in the event no funds or insufficient funds are appropriated and budgeted or are otherwise unavailable by any means whatsoever in any future fiscal year of the City, commencing in 2022, for payments due under this agreement, the City shall immediately notify Consultant or its assignee in writing of such occurrence and the City's obligations under this agreement shall terminate on the last of day of the fiscal year for which appropriations have been received or made without penalty or expense to the City.

5. **CHANGES IN THE SCOPE OF WORK.** A change in the Scope of Work shall comprise any change or amendment of the services or work, or any services or work which are different from or additional to the Work. No such change, including any additional compensation, shall be effective, or paid unless authorized by written amendment executed by the City Engineer. If the Consultant proceeds without such written authorization, then the Consultant shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum meruit, or implied contract. Except as expressly provided herein, no agent, employee, or representative of the City shall have the authority to enter into any changes or modifications, either directly or implied by a course of action, relating to the terms and scope of this Contract. If Consultant performs any work beyond the Work described in the scope of work set out in Exhibit A, it does so at its own risk.

A. **Progress Payments.** Consultant shall submit monthly invoices to the City's for progress payments for portions of the Work satisfactorily performed during each month during the term of the Contract. The City's approval of invoices shall be a condition of payment. The City will pay approved invoices, or parts thereof, 30 days after submittal. All invoices shall be addressed to the City as follows: "City of Woodland Park, P.O. Box 9007, Woodland Park, CO 80866, ATTN: CITY ENGINEER".

B. **Requirements for Payment.**

1. **Invoices.** Consultant invoices shall be in a format acceptable to the City, shall be supported by cost information in such detail as may be required by the City and shall be sufficient to substantiate all items for a proper audit and post audit thereof. Invoices shall be clearly marked and annotated with the City's assigned Purchase Order number(s) relevant to the task(s) for which payment is being requested.

2. **Invoice Documentation.** With each invoice, the Consultant shall submit a progress report describing the Work performed, results achieved, percentage complete, percentage of total compensation amount, the status of deliverables and a certification that the Consultant is current in payment of all employees and subcontractor and vendors.

C. **Unsatisfactory Invoices or Work.** The City may return to Consultant for revision unsatisfactory invoices and may withhold payment thereof. The City may withhold payment for

Work, which is not completed as scheduled or which is completed unsatisfactorily, until completed satisfactorily and may deny payment for such work upon termination of the Consultant.

5.1 TASK ORDER PROCEDURES.

A. General. The Services are divided into discrete Tasks. The Consultant shall proceed with Services under this Agreement only upon receipt from the City of a written order to perform the Services specified therein, which is issued pursuant to this section ("Task Order"). Each Task Order shall be performed within the Task Order Price.

B. Request for Task Order Submittal. When the City determines it requires the performance of any Task(s) by Consultant, it shall notify the Consultant by issuing a written "Request for Task Order Submittal," setting forth the milestones for key elements of the Task(s), providing any additional detail needed to further describe the Task(s), and establishing the deliverables to be produced by the Consultant for the Task(s).

C. Compensation Calculation. The Task Order Price shall be determined using a Lump Sum Method or Time & Materials Method. In each Request for Task Order Submittal, the City shall specify the method of compensation Consultant shall use to calculate the Proposed Task Order Price in the relevant Task Order Submittal. However, the parties may agree in writing to use a method of compensation other than the one specified by the City in the Request for Task Order Submittal. The Task Order Price for each Task Order shall be finally determined according to the procedures set forth in this section.

D. Consultant's Response. Within seven (7) working days of receipt of the City's Request for Task Order Submittal, the Consultant shall respond by providing the following documents (collectively the "Task Order Submittal") to the City for approval:

1. Names and resumes (if not previously provided) of proposed personnel providing the Services of the Task Order;
2. A schedule in sufficient detail to properly depict the Task(s);
3. Task Order Scope of Services;
4. A work plan that adequately describes the discrete portions of the Task(s); and
5. A Proposed Task Order Price which contains an itemized breakdown of the costs, including necessary staffing, man-hours and Direct Costs corresponding to discrete portions of the Task (Direct Costs mean all direct costs, including but not limited to direct salary costs and those items and costs specifically listed as Direct Costs in Exhibit B and are costs other than the general administrative costs and other overhead costs).

E. Negotiation Regarding Task Order. The City will review the Task Order Submittal and the Parties may negotiate the terms thereof. If the City and the Consultant cannot agree on Task Order Submittal, the City may, in addition to performing the Task itself or engaging a third party to perform the Task, (1) reject the Request for Task Order Submittal or (2) direct the Consultant to proceed on a Specific Rate of Pay Method basis.

F. Issuance of Task Order. If the City approves the Consultant's Task Order Submittal for the identified Task(s) or the parties successfully negotiate the Task Order Submittal, the City may issue a Task Order directing the Consultant to perform the Task(s) pursuant to the Task Order Submittal and for a price which shall not exceed the price provided in the Task Order (the "Task Order Price"). Consultant agrees it shall not be compensated for any amounts in excess of the Task Order Price, unless such amounts have been authorized by the City by a written Task Order amendment prior to the performance of the Service(s) which created the excess. The Consultant shall not initiate any Task(s) prior to the receipt of a Task Order.

F. Suspension of Task(s). The City may, at any time and for any reason, order the Consultant, in writing, to suspend all or any part of the Services required to perform a Task(s) for the period of time the City determines appropriate. In the event of such a suspension, the Consultant shall take all steps necessary to reduce the costs incidental to the suspension.

6. TERM OF CONTRACT/START AND COMPLETION OF WORK. Consultant shall commence Work when the City gives the Consultant a written notice to proceed. The Consultant shall complete all Work by December, 31 2023, or when the Work has been completely performed to the City's satisfaction, whichever first occurs, or otherwise by mutual written agreement of the parties or by the exercise of the termination provisions specified herein.

The City shall have the option to renew the contract for subsequent one-year terms for up to four one-year terms. Renewals would commence on or about January 1 of each subsequent one-year period. Continuation of the contract beyond the first year is at the sole discretion of the City and will be exercised only when such continuation is in the best interest of the City. The Consultant shall notify the City of any and all proposed price adjustments no later than September 30 of the year prior to the year in which any proposed new prices are to be charged to the City. The City reserves the right to reject any price adjustments submitted by the Consultant and/or terminate the contract with the Consultant based on such price adjustments.

7. CONSULTANT'S REPRESENTATIONS.

A. Consultant has the required authority, ability, skills and capacity to, and shall, perform the Work in a manner consistent with this Contract. Further, all employees and subcontractors of Consultant employed in performing the Work shall have the skill, experience and licenses required to perform the Work assigned to them.

B. To the extent the Consultant deems necessary in accordance with prudent engineering practices, it has inspected the sites and all surrounding locations whereupon it may be called to perform its obligations under this Contract, and is familiar with the requirements of the Work and accepts them for such performance. Unless the scope of services includes an explicit undertaking by Baseline to confirm the accuracy of plans, drawings, specifications, criteria, maps, surveys or other documents or information furnished by or on behalf of Client ("Client Data"), Baseline shall be entitled to rely upon Client Data as accurate and correct without investigation. Client waives any and all claims against, and agrees to indemnify, defend and hold Baseline harmless from any and all claims, damages, losses, liabilities and expenses incurred as a result of inaccuracies, discrepancies or

errors in the Data, and agrees to equitably compensate Baseline if errors in Data necessitate an increase in Baseline's services.

C. It is validly organized and exists in good standing under the laws of the State of Colorado, and has all requisite power to own its properties and assets and to carry on its business as now conducted or proposed to be conducted and it is duly qualified, registered to do business and in good standing in the State of Colorado.

D. Consultant has knowledge of all of the legal requirements and business practices in the State of Colorado that must be followed in performing the Work and the Work shall be performed by Consultant in conformity with all applicable laws, ordinances, codes, rules and regulations.

E. Workers Without Authorization. Prior to the execution of this agreement, Consultant shall certify to the City, by completing the Worker Without Authorization Addendum attached hereto as Exhibit C, that at the time of certification, it 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.

F. The Consultant hereby agrees that he or she has previously disclosed to the City anyone among their team, any business entity or individual who is, or who is associated with, or is in any way likely to create a conflict of interest or a perception of conflict of interest and acknowledges that he or she has a continuing obligation to disclose any newly discovered or future conflict of interest.

G. Consultant shall employ staff that is courteous, helpful and considerate to provide services under this Contract. Consultant's employees shall not use improper language, or act in any inappropriate or improper manner as determined by the City. Consultant shall reassign any employee after notification by the City that such employee has engaged in unacceptable behavior.

H. Consultant will furnish all of the materials, supplies, tools, equipment, labor, and other services necessary for the construction and completion of the Work Order(s) issued pursuant to this Agreement, unless specified otherwise in the Specifications

I. This Contract constitutes the legal, valid and binding obligation of the Consultant and its respective heirs, executors, administrators, successors, assigns, and is enforceable in accordance with its terms.

8. INDEMNIFICATION.

A. Consultant shall indemnify, defend and hold harmless the City and each of its officers, employees, agents and consultants, from and against any and all claims, demands, suits, actions, proceedings, judgments, losses, damages, injuries, penalties, costs, and expenses (including reasonable attorneys' fees), and liabilities, of, by or with respect to third parties ("any claims") to the extent they arise from or may be alleged to arise, directly or indirectly, in whole or in part, from the negligent acts or omissions of the Consultant or any of its subcontractors or material suppliers, agents

or employees, in connection with this Contract and/or the Consultant's Work hereunder. Further, the Consultant hereby agrees to indemnify, defend and hold harmless the City and each of its officers and employees from and against any and all claims, demands, suits, actions, proceedings, judgments, losses, damages, injuries, penalties, costs and expenses (including reasonable attorneys' fees) and liabilities of, by or with respect to, third parties ("any claims"), arising directly or indirectly, in whole or in part, from the negligent acts or omissions of the Consultant, its employees, subcontractors, material suppliers or agents or employees, or the agents or employees of any subcontractors or material suppliers which causes or allows to continue a condition or event which deprives the City or any of its officers or employees of its sovereign immunity under the Colorado Governmental Immunity Act, Sections 24-10-101, et seq., Colorado Revised Statutes. The obligations of the indemnifications extended by the Consultant to the City under this section shall survive termination or expiration of this Contract.

B. Consultant's defense, indemnification and insurance obligations shall be to the fullest extent permitted by law and nothing in this Contract shall be construed as requiring the Consultant to defend in litigation, indemnify or insure the City against liability for damage arising out of the death or bodily injury to persons or damage to property caused by the negligence or fault of the City or any third party under the control or supervision of the City.

9. PROJECT WARRANTIES.

A. Consultant's warranties in respect of the Work (the "Project Warranties") are as follows: Consultant represents to the City that the Work shall be free from defects and that all work shall meet all requirements of this Contract. Work not conforming to the Project Warranties shall be considered defective. Consultant shall comply with the standard of care for similar professionals undertaking similar work in the same geographic area.

B. Consultant shall promptly correct Work rejected by the City for failing to conform to the Project Warranties. Consultant shall bear all costs of correcting such rejected Work and compensating the City for expenses made necessary thereby.

C. Project Warranties shall commence on the date work has been completed. Notwithstanding the foregoing provisions of this section of this Contract is terminated prior to completion of the Work, Project Warranties in respect of all Work performed under this Contract by the Consultant prior to such termination shall be deemed to commence on the date immediately preceding the effective date of such termination.

D. If at any time within one year 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, the Consultant shall correct it promptly after receipt of written notice from the City to do so.

10. ASSIGNMENT. Neither the City nor Consultant may assign this Contract or parts hereof or its rights hereunder without the express written consent of the other Party.

11. OWNERSHIP OF MATERIALS AND RISK OF LOSS.

This is an agreement for services, not goods. The instruments of Baseline's services are not intended or represented to be suitable for reuse by Client or others on extensions of the Project or on any other project. Reuse without the prior express written consent of Baseline shall be at Client's sole risk and without liability or loss exposure to Baseline, and Client agrees to indemnify, defend and hold Baseline harmless from any and all claims, damages, losses, liabilities and expenses, including attorney fees and expert and consulting fees, arising out of or resulting from unauthorized reuse. All reports, drawings, specifications, computer files, field data, notes and other documents and instruments prepared by Baseline are instruments of service and Baseline retains common law, statutory, and other ownership and reserved rights therein, including the copyright thereto.

12. TERMINATION

The City will reserve the right to terminate this contract at any time if, in the opinion of the City Engineer, the Consultant is not performing according to the provisions of the contract.

A. Types of Termination.

1. Default and Termination for Cause. Events of Default. Consultant shall be immediately in default hereunder (an "Event of Default") upon the occurrence of any of the events described in this section.

- a. Any breach of the terms and conditions of this Contract.
- b. Failure to perform the Work under this Contract, or significant delay or discontinuance of performance of the Work.
- c. Lack of financial responsibility (including failure to obtain and maintain insurance) for loss or damage to the City or its property.
- d. Dishonesty, embezzlement or false reporting of any material financial information, including but not limited to invoices.
- e. Insolvency, bankruptcy or commission of any act of bankruptcy or insolvency; or assignment for the benefit of creditors.
- f. Any attempt by the Consultant to assign its performance of this Contract without the consent specified by this agreement.
- g. Termination of any subcontract for any substantial Work without the prior written consent of the City.

2. Termination Not For Cause. In addition to any other rights provided herein, the City shall have the right in its sole discretion to terminate, not for cause, this Contract and further performance of the Work by delivery to the Consultant of written notice of termination specifying the extent of termination and the effective date of termination.

B. Remedies.

1. City's Remedies Upon Termination For Cause. Upon an Event of Default by the Consultant, the City may by notice terminate this Contract for cause immediately.

2. City's Remedies Upon Termination Not For Cause. The City shall provide a notice of termination not for cause to the Consultant thirty days prior to termination.

3. Any Other Remedies Allowed by Law. The City shall be entitled to any other remedies allowed by law in addition to the remedies provided herein.

C. Payment and Liabilities Upon Termination.

1. Termination for Cause. If an Event of Default has occurred, the Consultant shall be liable to the City for any actual damages for losses, including, but not limited to, any and all costs and expenses reasonably incurred by the City or any party acting on the City's behalf in completing the Work or having the Work completed (excluding changes in the Work by the City following such Event of Default). The City shall determine the total cost of the Work satisfactorily performed by the Consultant prior to the date of termination for cause. All reasonable damages, losses, costs and charges incurred by the City, including attorney's fees and costs, relating to obtaining and mobilizing another consultant, of completing the Work and of retaining another consultant's acceptance of full responsibility for all obligations of the Consultant under this Contract shall be deducted from any monies due or which may become due to the Consultant. The City shall determine the total amount due and shall notify the Consultant in writing of the amount the Consultant owes the City or the amount the City owes the Consultant.

2. Termination Not For Cause. After termination not for cause, the Consultant shall submit a final termination settlement invoice to the City in a form and with a certification prescribed by the City. Consultant shall submit the invoice promptly, but no later than thirty (30) days from the effective date of termination, unless extended in writing by the City upon written request of the Consultant within such thirty-day period. If the Consultant fails to submit the invoice within the time allowed, the City's payment obligations under this Contract shall be deemed satisfied and no further payment by the City to the Consultant shall be made.

D. Consultant's Obligations Upon Termination. After receipt of notice of termination, and unless otherwise directed by the City, the Consultant shall immediately proceed as follows:

1. Stop work on the Work as specified in the notice of termination; and
2. Take any action that may be necessary, or that the City may direct, for the protection and preservation of the property related to this Contract that is in the possession of the Consultant and in which the City has or may acquire an interest.

13. INSURANCE.

A. Consultant shall acquire and maintain in full force and effect, during the entire term of the Contract, including any extensions hereof, and at any time thereafter necessary to protect the City and its respective officers, employees, agents, consultants and Consultant from claims that arise out of or result from the operations under this Contract by Consultant or by a subcontractor or a vendor or anyone acting on their behalf or for which they may be liable, the coverages set forth in this section.

All insurance is to be placed with insurance carriers authorized in the State of Colorado with an A.M. Best and Company rating of no less than A or as otherwise accepted by the City. The City and its respective officers, employees, and agents shall be named as an additional insured on the Consultant's commercial general liability insurance, automobile liability insurance, and excess liability insurance. Consultant's insurance shall provide that the insurer will give the City thirty (30) days written notice prior to the cancellation or material modification of any policy of insurance obtained to comply with this section, except for ten (10) days notice for cancellation due to non-payment of premium.

B. Minimum Insurance Coverages:

1. Workers' compensation insurance in accordance with applicable law, including employers' liability with minimum limits of \$100,000 each accident, \$500,000 Disease-Policy Limit, \$100,000 Disease each employee.

2. Commercial general liability insurance in the amount of \$1,000,000 combined single limit bodily injury and property damage, each occurrence; \$2,000,000 general aggregate, and \$1,000,000 products and completed operations aggregate. Coverage shall be on an ISO 1996 Form (CG 0001 or equivalent), include all major divisions of coverage and be on a comprehensive basis, including:

- a. Premises and operations;
- b. Personal injury liability without employment exclusion;
- c. Blanket contractual;
- d. Broad form property damage, including completed operations;
- e. Products and completed operations;
- f. Independent Consultant's coverage;
- g. Explosion, collapse and underground;
- h. Consultants' limited pollution coverage; and
- i. Endorsement CG 2-503 or equivalent; general aggregate applies on a per project basis.

3. Commercial automobile liability insurance in the amount of \$1,000,000 combined single limit bodily injury and property damage, each accident covering owned, leased, hired, non-owned, and employee non-owned vehicles used at the consultant project site.

4. Professional Liability – coverage in the amount of \$1,000,000 each claim and in the aggregate covering the negligent acts or omissions of the Consultant and/or its subcontractor in the performance of the Work.

5. Excess Liability Coverage – Liability coverage inclusive of general liability, professional liability, automobile liability and employers liability in the amount of at least \$1,000,000 combined single limit bodily injury and property damage, each occurrence: and \$1,000,000 in the aggregate. Separate aggregates need to be structured as found in the underlying coverages. Excess Liability Coverage may be made up of any combination of primary and excess policies.

6. All coverages specified herein, shall waive any right of subrogation against the City and its officers and employees. The policies shall state: "Permission is expressly granted to the insured to waive any right of subrogation against an individual, firm or corporation, provided such waiver is executed in writing prior to any occurrence giving rise to claims hereunder."

C. Additional Insured Parties. All policies (with the exception of workers' compensation insurance and Professional Liability) shall insure the interest of the City and its respective officers, employees, agents, and consultants.

D. Certificates of Insurance. Prior to commencing any work under the Contract, the Consultant shall provide the City with a certificate or certificates evidencing the coverages identified on the face of the certificate with the contract number for this Contract, the name of the project and a copy of the additional insured endorsement. If the Consultant subcontracts any portion(s) of the work, such subcontractor(s) shall be required to furnish certificates evidencing workers' compensation and employers' liability insurance, commercial general liability insurance coverage, and automobile liability insurance, in amounts satisfactory to the City and the Consultant and containing the "additional insured" and "cancellation" conditions found in this section. If the coverage required expires during the term of this Contract, the Consultant and its subcontractor(s) shall provide replacement certificate(s) evidencing the continuation of the required policies at least 15 days prior to expiration.

E. Additional Provisions. Each general liability policy and, where required, umbrella/excess liability policy is to contain, or be endorsed to contain, the following:

1. For any claims related to the work performed or to be performed by the Contract, wherever the City is named as an additional insured, the Consultant's insurance coverage shall be primary insurance with respect to the City and its officers and employees. Any insurance maintained by the City (or officers and employees) shall be in excess of the Consultant's insurance and shall not contribute to it.

2. Consultant's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to limits of liability.

F. Failure to Comply with Reporting Provisions. Any failure on the part of the Consultant to comply with reporting provisions or other conditions of the policies shall not affect the obligation of the Consultant to provide the required coverage to the City (and its officers and employees).

G. Claims-Made Policies. If any policy is a claims-made policy, the policy shall provide the Consultant the right to purchase, upon cancellation or termination by refusal to renew the policy, an extended reporting period of not less than two years. Consultant agrees to purchase such an extended reporting period if needed to ensure continuity of coverage. Consultant's failure to purchase such an extended reporting period as required by this paragraph shall not relieve it of any liability under this Contract. If the policy is a claims-made policy, the retroactive date of any such renewal of such policy shall be not later than the date this Contract is executed by the parties hereto. If the

Consultant purchases a subsequent claims-made policy in place of any prior claims-made policy, the retroactive date of such subsequent policy shall be no later than the date this Contract is executed by the parties hereto.

H. No Limitation on Other Obligations. The procuring of required policies of insurance shall not be construed to limit the Consultant's liability hereunder or to fulfill the indemnification provisions and requirements of this Contract. Consultant shall be solely responsible for any deductible losses under the policy.

I. Additional Risks and Hazards. If the City requests in writing that insurance for risks other than those described herein or for other special hazards be included in property insurance policies, Consultant shall obtain such insurance, if available, in a form and for a cost approved by the City, and the cost thereof shall be charged to the City.

14. MISCELLANEOUS PROVISIONS.

A. INDEPENDENT CONSULTANT. CONSULTANT IS AN INDEPENDENT CONSULTANT AND NOTHING HEREIN CONTAINED SHALL CONSTITUTE OR DESIGNATE THE CONSULTANT OR ANY OF ITS EMPLOYEES OR AGENTS AS EMPLOYEES OR AGENTS OF THE CITY. THE CITY IS CONCERNED ONLY WITH THE RESULTS TO BE OBTAINED.

B. Time is of the Essence. Baseline will perform services with reasonable diligence and expediency consistent with sound professional practices.

C. Notices. Any notices or other communications required or permitted by this Contract or by law to be served on, given to, or delivered to either party hereto, by the other party shall be in writing and shall be deemed duly served, given, or delivered when personally delivered to the party to whom it is addressed or in lieu of such personal services, when received in the United States' mail, first-class postage prepaid addressed to:

City:

City of Woodland Park
P.O. Box 9007
Woodland Park, CO 80866
Attn: City Engineer

Consultant:

Baseline Engineering
1046 Elkton Dr,
Colorado Springs, CO 80907
Attn: Noah J Nemmers, PE

Either party may change its address for the purpose of this section by giving written notice of such change to the other party.

D. Headings. The headings and captions in this Contract are intended solely for the convenience of reference and shall be given no effect in the construction or interpretation of this Contract.

E. Controlling Law and Venue. This Contract shall be governed by and construed in accordance with the laws of the State of Colorado and any legal action concerning the provisions hereof shall be brought in the State of Colorado, County of Teller.

F. No Waiver. No waiver of any of the provisions of this Contract shall be deemed to constitute a waiver of any other of the provisions of this Contract, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed a waiver of any subsequent default hereunder. Failure of either party to insist on strict performance by the other party shall not constitute a waiver of any provision in the Contract Documents, waiver of any other default, or a continuing waiver of the provisions in question.

G. Binding Contract. This Contract shall inure to and be binding on the heirs, executors, administrators, successors, and assigns of the parties hereto.

H. Entire Contract. This Contract constitutes the entire agreement between the parties and sets forth the rights, duties, and obligations of each to the other as of this date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Contract are of no force and effect.

I. Severability. The invalidity or unenforceability of any portion or previous version of this Contract shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Contract and the balance of this Contract shall be construed and enforced as if this Contract did not contain such invalid or unenforceable portion or provisions.

J. Counterpart Execution. This Contract may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

K. Contract Modification. The Contract Documents may not be amended, altered, or otherwise changed except by a written agreement between the parties.

L. Compliance with the Law. The work and services to be performed by Consultant hereunder shall be done in compliance with applicable laws, ordinances, codes, rules and regulations.

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the date first above written. By the signature of its representative below, each party affirms that it has taken all necessary action to authorize said representative to execute this Contract.

CITY OF WOODLAND PARK

By: _____
Its: _____

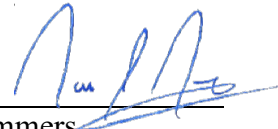
ATTEST:

APPROVED AS TO FORM:

City Attorney

CONSULTANT

By: Noah J Nemmers
Its: Engineering Division Manager



ATTEST:

Exhibit A

On-Call Engineering and Land Use Development Review Services City of Woodland Park

Scope of Work:

This Scope of Work outlines the services to be provided to the City of Woodland Park on an on-call basis to support the Public Works Department, Utilities Department and Planning Department staffs and other City staff as required. The following tasks are typical of the work expected during period of the contract. Tasks other than routine engineering reviews will require approval by the City Engineer prior to initiation.

1. Engineering Technical Services Task:

The Consultant shall only perform work that is assigned in an authorized Task Order. An awarded Contract does not guarantee that a Task Order shall be issued. The Consultant may provide services to the City including, but not limited to, the following:

- a. Development of City MS4 Permit
- b. Review of development submittals including (but not limited to) Site Plans, Construction Drawings, Drainage Reports, and Traffic Studies.
- c. Provide consulting and professional services including project planning, design, engineering, land surveying, right of way design and acquisition, construction phasing, and drafting services.
- d. Provide professional services during the bid process including preparation of cost estimates and specifications, project construction, and project completion.
- e. Provide field surveys as requested.
- f. Attend all typical CDOT progress meetings, such as Scoping, FIR, FOR, etc.
- g. Provide all specialty groups needed for the project (Environmental, Right of Way, Utilities, Traffic, Hydraulics, Surveying, Geotech, etc.).
- h. Provide maps and mapping services as requested.
- i. Coordinate with all affected agencies including CDOT, railroads, utility and ditch companies, and property/business owners.
- j. Preparation and review of legal descriptions for easements, Rights-of-Way, etc.
- k. Review the City's requested project and/or task to be accomplished, and provide preliminary consultation, research and evaluation of same.
- l. Assist the City's Engineering Division with presentations and/or recommendations to City staff administration, or City Council.
- m. Review and provide comments on environmental documents for proposed projects submitted to the City in accordance with the Colorado Department of Health and Environment requirements.
- n. Provide other engineering and design services as requested.

2. Planning/Land Use Development Review Services Task:

To adequately serve our development community, the City requires the services of qualified individuals or firms to manage applications or specific projects offsite or occasionally on-site at City Hall, according to Planning Department staffing needs. Under the direction of the Director of Planning, the consultant(s) will provide the

range of expertise necessary to carry out the normal functions of a professional planner. All services provided by the consultant shall be performed by individuals who meet the qualifications, education, and certifications/licensing requirements for the professional Planning levels of Planner I to Senior Planner. Qualified individuals shall possess five (5) or more years of professional planning work experience in the public or private sector. The primary needs are in the Planner I to Senior Planner categories; however the Planning Department would like to have the flexibility to call upon any level of Planning professional during workload increases. Based on qualifications presented in the response to this RFP, the City will select a firm or individual that is best able to provide such services for upcoming projects.

Examples of land use development review projects:

- Subdivision (Lot Line Adjustment, Minor and Major)
- PUD Amendments
- Site Plan (multi-family, commercial, industrial and mixed use)

At such time when the consultant's services are required, staff will email a request for services, including a project description and any pertinent supporting information. The consultant will evaluate the proposal and provide a brief response including the proposed scope of work, timeline, and hourly rates (if such rates differ from the rates specified in the Professional Services Agreement).

Exhibit B

RATE SCHEDULE

{Rate schedule should include rates for all key personnel}

Company Standard Billing Rates – 2023

<u>Description/Job Title</u>	<u>2023 Rate</u>	<u>Description/Job Title</u>	<u>2023 Rate</u>
ENGINEERING SERVICES		SURVEYING SERVICES	
Principal	\$240	Senior Survey Manager, PLS	\$195
Division Manager	\$214	Survey Manager, PLS	\$165
Senior Project Manager, PE	\$199	Survey Project Manager	\$140
Project Manager, PE	\$179	Chief Surveyor, PLS	\$130
Project Engineer, PE II	\$158	Land Surveyor	\$110
Project Engineer, PE I	\$140	Survey Technician II	\$80
Project Engineer, EIT	\$130	Survey Technician I	\$65
Staff Engineer/Designer III	\$125	CAD Technician II	\$115
Staff Engineer/Designer II	\$117	CAD Technician I	\$107
Staff Engineer/Designer	\$110	Administrative	\$80
CAD Technician I	\$107	Truck/ATV	\$25
Administrative	\$80	FIELD SERVICES	
PLANNING SERVICES		Survey Crew (2 man)	\$195
Lead Planner, AICP	\$188	Survey Crew (1 man)	\$170
Planning Manager	\$160	Field Inspector II	\$140
Senior Planning Project Manager	\$150	Field Inspector	\$119
Senior Planner	\$132	Truck/ATV	\$25
Principal Planner	\$124	ENVIRONMENTAL SERVICES	
Associate Planner	\$113	Environmental Division Manager	\$205
CAD Technician I	\$107	Senior Consultant	\$190
Planning Technician	\$95	Senior Scientist/Engineer	\$175
LANDSCAPE SERVICES		Senior Project Scientist/Engineer	\$150
Landscape Architect (PLA)	\$137	Project Scientist/Engineer	\$135
Landscape Designer II	\$120	Environmental Staff Engineer II	\$120
Landscape Designer I	\$105	Environmental Staff Engineer I	\$100
OTHER DIRECT COSTS			
Prints	0.40/sf (B/W) 6.25/sf (Color)	Photocopies	0.10-0.20 (B/W) 0.40-0.80 (Color)
Mylar (does not include photo mylar)	2.50/sf	REIMBURSABLES	Cost + 10%

Notes:

1. Reproduction required for Consultant's own office work is included in Agreement. Reproduction required for submittals to reviewing agencies, contractors, architect, planner, client, etc. shall be billed at the rates listed above.
2. Communication and local transportation expenses are included in the fees associated with project services, unless otherwise noted in Agreement.
3. Outside services provided by others and charged to Baseline Engineering Corporation shall be billed at the rate of cost plus 10%. These services include technical and/or professional work not specifically included in the Scope of Services provided by Baseline Engineering Corporation.
4. Overtime work directed by Client shall be charged at 1.5 times the standard hourly rates listed above.
5. Mileage and Per Diem when applicable are charged at the current federal GSA rate found at <http://www.gsa.gov/portal/category/21283>
6. A 3% discount is included in the hourly rates above in compliance with Baseline's Standard Form of Agreement for Professional Services as follows: payment to Baseline shall be in the form of a check or Electronic Funds Transfer (contact Baseline for EFT information) payable to Baseline Engineering Corporation. Other payment arrangements must be approved in advance by Baseline and may be subject to forfeiture of the discount and/or additional terms and conditions including, without limitation, a personal guaranty.

Exhibit C

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 _____, (hereinafter "Consultant") dated this ____ day of _____, 2022.

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

1. Consultant certifies that, at the time of executing this Addendum, Consultant does not knowingly employ or contract with a worker without authorization who will perform work under the Agreement and that Consultant 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. Consultant 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. Consultant 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. Consultant 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 Consultant obtains actual knowledge that a subcontractor performing work under the Agreement knowingly employs or contracts with a worker without authorization, Consultant is required to:
 - a) Notify the subcontractor and the City within three (3) days that Consultant 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 Consultant 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. Consultant 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, Consultant has executed this Addendum on the date first above written. By the signature of its representative below, Consultant affirms that it has taken all necessary action to authorize said representative to execute this Addendum.

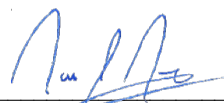
CONSULTANT

Signature: _____

Name: _____

Title: _____

Date: _____



Noah J Nemmers, PE
Engineering Division Manager
1/3/2023

CITY OF WOODLAND PARK

On-Call Engineering and Land Use Development Review Services Consulting Contract

With JR Engineering

THIS CONTRACT ("Contract") for On-Call Engineering and GIS Services is entered into effective as of this _____ day of _____, 2023, by and between the City of Woodland Park, a Colorado home rule city (the "City"), and JR Engineering (the "Consultant") (a Colorado Corporation).

In consideration of the mutual covenants and stipulations contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties do hereto agree as follows:

TERMS

1. **PROJECT DESCRIPTION AND SCOPE OF WORK.** The project shall consist of the provision of the services and all materials and equipment necessary for performing the services, as described in Exhibit A, "Scope of Work" attached hereto and in accordance with the Contract Documents (the "Work").

Consultant shall be responsible for providing, at its cost and expense, all management, supervision, labor, materials, administrative support, supplies and equipment necessary to perform the Work as required by this Contract. Consultant shall perform the Work using that degree of skill and knowledge customarily employed by other professionals performing similar services in the Denver metropolitan area.

2. **CONTRACT DOCUMENTS.** The "Contract Documents" shall collectively include the Contract signed by the City and the Consultant and any change orders issued by the City and all exhibits attached hereto and incorporated herein including the following:

- a) Certificate of Insurance
- b) Service Agreement
- c) Notice of Acceptance
- d) Notice(s) to Proceed
- e) Experience Record
- f) Confidentiality Agreement
- g) Addenda

3. **COMPENSATION.** The City shall compensate the Consultant for the Work, subject to City annual appropriations and in accordance with and subject to all of the conditions in the Contract Documents, in an aggregate amount not to exceed \$_____, based upon the rate schedule set forth in Exhibit B. The workload is solely dependant upon the needs of the City. **There is no guaranteed minimum or maximum amount of work or fee(s).** The not-to-exceed amount includes all of Consultant's direct and indirect costs. Consultant is not entitled to any

compensation beyond the not-to-exceed amount except as approved in writing by the City Engineer.

4. **NON-APPROPRIATION.** Notwithstanding anything contained in this agreement to the contrary, in the event no funds or insufficient funds are appropriated and budgeted or are otherwise unavailable by any means whatsoever in any future fiscal year of the City, commencing in 2022, for payments due under this agreement, the City shall immediately notify Consultant or its assignee in writing of such occurrence and the City's obligations under this agreement shall terminate on the last of day of the fiscal year for which appropriations have been received or made without penalty or expense to the City.

5. **CHANGES IN THE SCOPE OF WORK.** A change in the Scope of Work shall comprise any change or amendment of the services or work, or any services or work which are different from or additional to the Work. No such change, including any additional compensation, shall be effective, or paid unless authorized by written amendment executed by the City Engineer. If the Consultant proceeds without such written authorization, then the Consultant shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum meruit, or implied contract. Except as expressly provided herein, no agent, employee, or representative of the City shall have the authority to enter into any changes or modifications, either directly or implied by a course of action, relating to the terms and scope of this Contract. If Consultant performs any work beyond the Work described in the scope of work set out in Exhibit A, it does so at its own risk.

A. **Progress Payments.** Consultant shall submit monthly invoices to the City's for progress payments for portions of the Work satisfactorily performed during each month during the term of the Contract. The City's approval of invoices shall be a condition of payment. The City will pay approved invoices, or parts thereof, 30 days after submittal. All invoices shall be addressed to the City as follows: "City of Woodland Park, P.O. Box 9007, Woodland Park, CO 80866, ATTN: CITY ENGINEER".

B. **Requirements for Payment.**

1. **Invoices.** Consultant invoices shall be in a format acceptable to the City, shall be supported by cost information in such detail as may be required by the City and shall be sufficient to substantiate all items for a proper audit and post audit thereof. Invoices shall be clearly marked and annotated with the City's assigned Purchase Order number(s) relevant to the task(s) for which payment is being requested.

2. **Invoice Documentation.** With each invoice, the Consultant shall submit a progress report describing the Work performed, results achieved, percentage complete, percentage of total compensation amount, the status of deliverables and a certification that the Consultant is current in payment of all employees and subcontractor and vendors.

C. **Unsatisfactory Invoices or Work.** The City may return to Consultant for revision unsatisfactory invoices and may withhold payment thereof. The City may withhold payment for

Work, which is not completed as scheduled or which is completed unsatisfactorily, until completed satisfactorily and may deny payment for such work upon termination of the Consultant.

5.1 TASK ORDER PROCEDURES.

A. General. The Services are divided into discrete Tasks. The Consultant shall proceed with Services under this Agreement only upon receipt from the City of a written order to perform the Services specified therein, which is issued pursuant to this section ("Task Order"). Each Task Order shall be performed within the Task Order Price.

B. Request for Task Order Submittal. When the City determines it requires the performance of any Task(s) by Consultant, it shall notify the Consultant by issuing a written "Request for Task Order Submittal," setting forth the milestones for key elements of the Task(s), providing any additional detail needed to further describe the Task(s), and establishing the deliverables to be produced by the Consultant for the Task(s).

C. Compensation Calculation. The Task Order Price shall be determined using a Lump Sum Method or Time & Materials Method. In each Request for Task Order Submittal, the City shall specify the method of compensation Consultant shall use to calculate the Proposed Task Order Price in the relevant Task Order Submittal. However, the parties may agree in writing to use a method of compensation other than the one specified by the City in the Request for Task Order Submittal. The Task Order Price for each Task Order shall be finally determined according to the procedures set forth in this section.

D. Consultant's Response. Within seven (7) working days of receipt of the City's Request for Task Order Submittal, the Consultant shall respond by providing the following documents (collectively the "Task Order Submittal") to the City for approval:

1. Names and resumes (if not previously provided) of proposed personnel providing the Services of the Task Order;
2. A schedule in sufficient detail to properly depict the Task(s);
3. Task Order Scope of Services;
4. A work plan that adequately describes the discrete portions of the Task(s); and
5. A Proposed Task Order Price which contains an itemized breakdown of the costs, including necessary staffing, man-hours and Direct Costs corresponding to discrete portions of the Task (Direct Costs mean all direct costs, including but not limited to direct salary costs and those items and costs specifically listed as Direct Costs in Exhibit B and are costs other than the general administrative costs and other overhead costs).

E. Negotiation Regarding Task Order. The City will review the Task Order Submittal and the Parties may negotiate the terms thereof. If the City and the Consultant cannot agree on Task Order Submittal, the City may, in addition to performing the Task itself or engaging a third party to perform the Task, (1) reject the Request for Task Order Submittal or (2) direct the Consultant to proceed on a Specific Rate of Pay Method basis.

F. Issuance of Task Order. If the City approves the Consultant's Task Order Submittal for the identified Task(s) or the parties successfully negotiate the Task Order Submittal, the City may issue a Task Order directing the Consultant to perform the Task(s) pursuant to the Task Order Submittal and for a price which shall not exceed the price provided in the Task Order (the "Task Order Price"). Consultant agrees it shall not be compensated for any amounts in excess of the Task Order Price, unless such amounts have been authorized by the City by a written Task Order amendment prior to the performance of the Service(s) which created the excess. The Consultant shall not initiate any Task(s) prior to the receipt of a Task Order.

F. Suspension of Task(s). The City may, at any time and for any reason, order the Consultant, in writing, to suspend all or any part of the Services required to perform a Task(s) for the period of time the City determines appropriate. In the event of such a suspension, the Consultant shall take all steps necessary to reduce the costs incidental to the suspension.

6. TERM OF CONTRACT/START AND COMPLETION OF WORK. Consultant shall commence Work when the City gives the Consultant a written notice to proceed. The Consultant shall complete all Work by December, 31 2023, or when the Work has been completely performed to the City's satisfaction, whichever first occurs, or otherwise by mutual written agreement of the parties or by the exercise of the termination provisions specified herein.

The City shall have the option to renew the contract for subsequent one-year terms for up to four one-year terms. Renewals would commence on or about January 1 of each subsequent one-year period. Continuation of the contract beyond the first year is at the sole discretion of the City and will be exercised only when such continuation is in the best interest of the City. The Consultant shall notify the City of any and all proposed price adjustments no later than September 30 of the year prior to the year in which any proposed new prices are to be charged to the City. The City reserves the right to reject any price adjustments submitted by the Consultant and/or terminate the contract with the Consultant based on such price adjustments.

7. CONSULTANT'S REPRESENTATIONS.

A. Consultant has the required authority, ability, skills and capacity to, and shall, perform the Work in a manner consistent with this Contract. Further, all employees and subcontractors of Consultant employed in performing the Work shall have the skill, experience and licenses required to perform the Work assigned to them.

B. To the extent the Consultant deems necessary in accordance with prudent engineering practices, it has inspected the sites and all surrounding locations whereupon it may be called to perform its obligations under this Contract, and is familiar with the requirements of the Work and accepts them for such performance.

C. It is validly organized and exists in good standing under the laws of the State of Colorado, and has all requisite power to own its properties and assets and to carry on its business as now conducted or proposed to be conducted and it is duly qualified, registered to do business and in good standing in the State of Colorado.

D. Consultant has knowledge of all of the legal requirements and business practices in the State of Colorado that must be followed in performing the Work and the Work shall be performed by Consultant in conformity with all applicable laws, ordinances, codes, rules and regulations.

E. Workers Without Authorization. Prior to the execution of this agreement, Consultant shall certify to the City, by completing the Worker Without Authorization Addendum attached hereto as Exhibit C, that at the time of certification, it 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.

F. The Consultant hereby agrees that he or she has previously disclosed to the City anyone among their team, any business entity or individual who is, or who is associated with, or is in any way likely to create a conflict of interest or a perception of conflict of interest and acknowledges that he or she has a continuing obligation to disclose any newly discovered or future conflict of interest.

G. Consultant shall employ staff that is courteous, helpful and considerate to provide services under this Contract. Consultant's employees shall not use improper language, or act in any inappropriate or improper manner as determined by the City. Consultant shall reassign any employee after notification by the City that such employee has engaged in unacceptable behavior.

H. Consultant will furnish all of the materials, supplies, tools, equipment, labor, and other services necessary for the construction and completion of the Work Order(s) issued pursuant to this Agreement, unless specified otherwise in the Specifications

I. This Contract constitutes the legal, valid and binding obligation of the Consultant and its respective heirs, executors, administrators, successors, assigns, and is enforceable in accordance with its terms.

8. INDEMNIFICATION.

A. Consultant shall indemnify, defend and hold harmless the City and each of its officers, employees, agents and consultants, from and against any and all claims, demands, suits, actions, proceedings, judgments, losses, damages, injuries, penalties, costs, and expenses (including reasonable attorneys' fees), and liabilities, of, by or with respect to third parties ("any claims") to the extent they arise from or may be alleged to arise, directly or indirectly, in whole or in part, from the negligent acts or omissions of the Consultant or any of its subcontractors or material suppliers, agents or employees, in connection with this Contract and/or the Consultant's Work hereunder. Further, the Consultant hereby agrees to indemnify, defend and hold harmless the City and each of its officers and employees from and against any and all claims, demands, suits, actions, proceedings, judgments, losses, damages, injuries, penalties, costs and expenses (including reasonable attorneys' fees) and liabilities of, by or with respect to, third parties ("any claims"), arising directly or indirectly, in whole or in part, from the negligent acts or omissions of the Consultant, its employees, subcontractors, material suppliers or agents or employees, or the agents or employees of any subcontractors or material suppliers which causes or allows to continue a condition or event which deprives the City or any of its officers or employees of its sovereign immunity under the Colorado Governmental

Immunity Act, Sections 24-10-101, et seq., Colorado Revised Statutes. The obligations of the indemnifications extended by the Consultant to the City under this section shall survive termination or expiration of this Contract.

B. Consultant's defense, indemnification and insurance obligations shall be to the fullest extent permitted by law and nothing in this Contract shall be construed as requiring the Consultant to defend in litigation, indemnify or insure the City against liability for damage arising out of the death or bodily injury to persons or damage to property caused by the negligence or fault of the City or any third party under the control or supervision of the City.

9. PROJECT WARRANTIES.

A. Consultant's warranties in respect of the Work (the "Project Warranties") are as follows: Consultant warrants to the City that the Work shall be free from defects and that all work shall meet all requirements of this Contract. Work not conforming to the Project Warranties shall be considered defective. Consultant shall comply with the standard of care for similar professionals undertaking similar work in the same geographic area.

B. Consultant shall promptly correct Work rejected by the City for failing to conform to the Project Warranties. Consultant shall bear all costs of correcting such rejected Work and compensating the City for expenses made necessary thereby.

C. Project Warranties shall commence on the date work has been completed. Notwithstanding the foregoing provisions of this section of this Contract is terminated prior to completion of the Work, Project Warranties in respect of all Work performed under this Contract by the Consultant prior to such termination shall be deemed to commence on the date immediately preceding the effective date of such termination.

D. If at any time within one year 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, the Consultant shall correct it promptly after receipt of written notice from the City to do so.

10. ASSIGNMENT. Neither the City nor Consultant may assign this Contract or parts hereof or its rights hereunder without the express written consent of the other Party.

11. OWNERSHIP OF MATERIALS AND RISK OF LOSS. The City shall be deemed the owner of all materials incorporated into the Work, with the exception of any intellectual property rights contained therein, owned or created by Consultant prior to the effective date of this Agreement; and/or created outside the scope of this Agreement, at such time as the City has paid for those materials, and shall be deemed the owner of all materials paid for by the City. Any reuse or modification by the City of Consultant's work product without Consultant's permission shall be at City's sole risk. Until all of the work is completed, the risk of loss or damage to the Work or work product shall reside with the Consultant

12. TERMINATION

The City will reserve the right to terminate this contract at any time if, in the opinion of the City Engineer, the Consultant is not performing according to the provisions of the contract.

A. Types of Termination.

1. Default and Termination for Cause. Events of Default. Consultant shall be immediately in default hereunder (an “Event of Default”) upon the occurrence of any of the events described in this section.

- a. Any breach of the terms and conditions of this Contract.
- b. Failure to perform the Work under this Contract, or significant delay or discontinuance of performance of the Work.
- c. Lack of financial responsibility (including failure to obtain and maintain insurance) for loss or damage to the City or its property.
- d. Dishonesty, embezzlement or false reporting of any material financial information, including but not limited to invoices.
- e. Insolvency, bankruptcy or commission of any act of bankruptcy or insolvency; or assignment for the benefit of creditors.
- f. Any attempt by the Consultant to assign its performance of this Contract without the consent specified by this agreement.
- g. Termination of any subcontract for any substantial Work without the prior written consent of the City.

2. Termination Not For Cause. In addition to any other rights provided herein, the City shall have the right in its sole discretion to terminate, not for cause, this Contract and further performance of the Work by delivery to the Consultant of written notice of termination specifying the extent of termination and the effective date of termination.

B. Remedies.

1. City’s Remedies Upon Termination For Cause. Upon an Event of Default by the Consultant, the City may by notice terminate this Contract for cause immediately.

2. City’s Remedies Upon Termination Not For Cause. The City shall provide a notice of termination not for cause to the Consultant thirty days prior to termination.

3. Any Other Remedies Allowed by Law. The City shall be entitled to any other remedies allowed by law in addition to the remedies provided herein.

C. Payment and Liabilities Upon Termination.

1. Termination for Cause. If an Event of Default has occurred, the Consultant shall be liable to the City for any actual damages for losses, including, but not limited to, any and all costs and expenses reasonably incurred by the City or any party acting on the City’s behalf in completing the Work or having the Work completed (excluding changes in the Work by the City following such Event of Default). The City shall determine the total cost of the

Work satisfactorily performed by the Consultant prior to the date of termination for cause. All reasonable damages, losses, costs and charges incurred by the City, including attorney's fees and costs, relating to obtaining and mobilizing another consultant, of completing the Work and of retaining another consultant's acceptance of full responsibility for all obligations of the Consultant under this Contract shall be deducted from any monies due or which may become due to the Consultant. The City shall determine the total amount due and shall notify the Consultant in writing of the amount the Consultant owes the City or the amount the City owes the Consultant.

2. Termination Not For Cause. After termination not for cause, the Consultant shall submit a final termination settlement invoice to the City in a form and with a certification prescribed by the City. Consultant shall submit the invoice promptly, but no later than thirty (30) days from the effective date of termination, unless extended in writing by the City upon written request of the Consultant within such thirty-day period. If the Consultant fails to submit the invoice within the time allowed, the City's payment obligations under this Contract shall be deemed satisfied and no further payment by the City to the Consultant shall be made.

D. Consultant's Obligations Upon Termination. After receipt of notice of termination, and unless otherwise directed by the City, the Consultant shall immediately proceed as follows:

1. Stop work on the Work as specified in the notice of termination; and
2. Take any action that may be necessary, or that the City may direct, for the protection and preservation of the property related to this Contract that is in the possession of the Consultant and in which the City has or may acquire an interest.

13. INSURANCE.

A. Consultant shall acquire and maintain in full force and effect, during the entire term of the Contract, including any extensions hereof, and at any time thereafter necessary to protect the City and its respective officers, employees, agents, consultants and Consultant from claims that arise out of or result from the operations under this Contract by Consultant or by a subcontractor or a vendor or anyone acting on their behalf or for which they may be liable, the coverages set forth in this section. All insurance is to be placed with insurance carriers authorized in the State of Colorado with an A.M. Best and Company rating of no less than A or as otherwise accepted by the City. The City and its respective officers, employees, and agents shall be named as an additional insured on the Consultant's commercial general liability insurance, automobile liability insurance, and excess liability insurance. Consultant's insurance shall provide that the insurer will give the City thirty (30) days written notice prior to the cancellation or material modification of any policy of insurance obtained to comply with this section, except for ten (10) days notice for cancellation due to non-payment of premium.

B. Minimum Insurance Coverages:

1. Workers' compensation insurance in accordance with applicable law, including employers' liability with minimum limits of \$100,000 each accident, \$500,000 Disease-Policy Limit, \$100,000 Disease each employee.

2. Commercial general liability insurance in the amount of \$1,000,000 combined single limit bodily injury and property damage, each occurrence; \$2,000,000 general aggregate, and \$1,000,000 products and completed operations aggregate. Coverage shall be on an ISO 1996 Form (CG 0001 or equivalent), include all major divisions of coverage and be on a comprehensive basis, including:

- a. Premises and operations;
- b. Personal injury liability without employment exclusion;
- c. Blanket contractual;
- d. Broad form property damage, including completed operations;
- e. Products and completed operations;
- f. Independent Consultant's coverage;
- g. Explosion, collapse and underground;
- h. Consultants' limited pollution coverage; and
- i. Endorsement CG 2-503 or equivalent; general aggregate applies on a per project basis.

3. Commercial automobile liability insurance in the amount of \$1,000,000 combined single limit bodily injury and property damage, each accident covering owned, leased, hired, non-owned, and employee non-owned vehicles used at the consultant project site.

4. Professional Liability – coverage in the amount of \$1,000,000 each claim and in the aggregate covering the negligent acts or omissions of the Consultant and/or its subcontractor in the performance of the Work.

5. Excess Liability Coverage – Liability coverage inclusive of general liability, professional liability, automobile liability and employers liability in the amount of at least \$1,000,000 combined single limit bodily injury and property damage, each occurrence: and \$1,000,000 in the aggregate. Separate aggregates need to be structured as found in the underlying coverages. Excess Liability Coverage may be made up of any combination of primary and excess policies.

6. All coverages specified herein, shall waive any right of subrogation against the City and its officers and employees. The policies shall state: "Permission is expressly granted to the insured to waive any right of subrogation against an individual, firm or corporation, provided such waiver is executed in writing prior to any occurrence giving rise to claims hereunder."

C. Additional Insured Parties. All policies (with the exception of workers' compensation insurance and Professional Liability) shall insure the interest of the City and its respective officers, employees, agents, and consultants.

D. Certificates of Insurance. Prior to commencing any work under the Contract, the Consultant shall provide the City with a certificate or certificates evidencing the coverages identified on the face of the certificate with the contract number for this Contract, the name of the project and a

copy of the additional insured endorsement. If the Consultant subcontracts any portion(s) of the work, such subcontractor(s) shall be required to furnish certificates evidencing workers' compensation and employers' liability insurance, commercial general liability insurance coverage, and automobile liability insurance, in amounts satisfactory to the City and the Consultant and containing the "additional insured" and "cancellation" conditions found in this section. If the coverage required expires during the term of this Contract, the Consultant and its subcontractor(s) shall provide replacement certificate(s) evidencing the continuation of the required policies at least 15 days prior to expiration.

E. Additional Provisions. Each general liability policy and, where required, umbrella/excess liability policy is to contain, or be endorsed to contain, the following:

1. For any claims related to the work performed or to be performed by the Contract, wherever the City is named as an additional insured, the Consultant's insurance coverage shall be primary insurance with respect to the City and its officers and employees. Any insurance maintained by the City (or officers and employees) shall be in excess of the Consultant's insurance and shall not contribute to it.

2. Consultant's insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to limits of liability.

F. Failure to Comply with Reporting Provisions. Any failure on the part of the Consultant to comply with reporting provisions or other conditions of the policies shall not affect the obligation of the Consultant to provide the required coverage to the City (and its officers and employees).

G. Claims-Made Policies. If any policy is a claims-made policy, the policy shall provide the Consultant the right to purchase, upon cancellation or termination by refusal to renew the policy, an extended reporting period of not less than two years. Consultant agrees to purchase such an extended reporting period if needed to ensure continuity of coverage. Consultant's failure to purchase such an extended reporting period as required by this paragraph shall not relieve it of any liability under this Contract. If the policy is a claims-made policy, the retroactive date of any such renewal of such policy shall be not later than the date this Contract is executed by the parties hereto. If the Consultant purchases a subsequent claims-made policy in place of any prior claims-made policy, the retroactive date of such subsequent policy shall be no later than the date this Contract is executed by the parties hereto.

H. No Limitation on Other Obligations. The procuring of required policies of insurance shall not be construed to limit the Consultant's liability hereunder or to fulfill the indemnification provisions and requirements of this Contract. Consultant shall be solely responsible for any deductible losses under the policy.

I. Additional Risks and Hazards. If the City requests in writing that insurance for risks other than those described herein or for other special hazards be included in property insurance policies, Consultant shall obtain such insurance, if available, in a form and for a cost approved by the City, and the cost thereof shall be charged to the City.

14. MISCELLANEOUS PROVISIONS.

A. INDEPENDENT CONSULTANT. CONSULTANT IS AN INDEPENDENT CONSULTANT AND NOTHING HEREIN CONTAINED SHALL CONSTITUTE OR DESIGNATE THE CONSULTANT OR ANY OF ITS EMPLOYEES OR AGENTS AS EMPLOYEES OR AGENTS OF THE CITY. THE CITY IS CONCERNED ONLY WITH THE RESULTS TO BE OBTAINED.

B. Time is of the Essence. The performance of the Work of the Consultant shall be undertaken and completed in such sequence as to assure its expeditious completion in light of the purposes of the Contract. It is agreed that time is of the essence in the performance of this Contract.

C. Notices. Any notices or other communications required or permitted by this Contract or by law to be served on, given to, or delivered to either party hereto, by the other party shall be in writing and shall be deemed duly served, given, or delivered when personally delivered to the party to whom it is addressed or in lieu of such personal services, when received in the United States' mail, first-class postage prepaid addressed to:

City:

City of Woodland Park
P.O. Box 9007
Woodland Park, CO 80866
Attn: City Engineer

Consultant:

JR Engineering
5475 Tech Center Drive, Suite 235
Colorado Springs, CO 80919
Attn: Glenn Ellis, PE

Either party may change its address for the purpose of this section by giving written notice of such change to the other party.

D. Headings. The headings and captions in this Contract are intended solely for the convenience of reference and shall be given no effect in the construction or interpretation of this Contract.

E. Controlling Law and Venue. This Contract shall be governed by and construed in accordance with the laws of the State of Colorado and any legal action concerning the provisions hereof shall be brought in the State of Colorado, County of Teller.

F. No Waiver. No waiver of any of the provisions of this Contract shall be deemed to constitute a waiver of any other of the provisions of this Contract, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed a waiver of any subsequent default hereunder. Failure of either party to insist on strict performance by the other party shall not constitute a waiver of any provision in the Contract Documents, waiver of any other default, or a continuing waiver of the provisions in question.

G. Binding Contract. This Contract shall inure to and be binding on the heirs, executors, administrators, successors, and assigns of the parties hereto.

H. Entire Contract. This Contract constitutes the entire agreement between the parties and sets forth the rights, duties, and obligations of each to the other as of this date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Contract are of no force and effect.

I. Severability. The invalidity or unenforceability of any portion or previous version of this Contract shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Contract and the balance of this Contract shall be construed and enforced as if this Contract did not contain such invalid or unenforceable portion or provisions.

J. Counterpart Execution. This Contract may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

K. Contract Modification. The Contract Documents may not be amended, altered, or otherwise changed except by a written agreement between the parties.

L. Compliance with the Law. The work and services to be performed by Consultant hereunder shall be done in compliance with applicable laws, ordinances, codes, rules and regulations.

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the date first above written. By the signature of its representative below, each party affirms that it has taken all necessary action to authorize said representative to execute this Contract.

CITY OF WOODLAND PARK

By: _____
Its: _____

ATTEST:

APPROVED AS TO FORM:

City Attorney

CONSULTANT

Glenn D. Ellis
By: Glenn Ellis, PE
Its: Client Manager

ATTEST:

Bryan T. Law
Bryan T. Law

Exhibit A

On-Call Engineering and Land Use Development Review Services City of Woodland Park

Scope of Work:

This Scope of Work outlines the services to be provided to the City of Woodland Park on an on-call basis to support the Public Works Department, Utilities Department and Planning Department staffs and other City staff as required. The following tasks are typical of the work expected during period of the contract. Tasks other than routine engineering reviews will require approval by the City Engineer prior to initiation.

1. Engineering Technical Services Task:

The Consultant shall only perform work that is assigned in an authorized Task Order. An awarded Contract does not guarantee that a Task Order shall be issued. The Consultant may provide services to the City including, but not limited to, the following:

- a. Development of City MS4 Permit
- b. Review of development submittals including (but not limited to) Site Plans, Construction Drawings, Drainage Reports, and Traffic Studies.
- c. Provide consulting and professional services including project planning, design, engineering, land surveying, right of way design and acquisition, construction phasing, and drafting services.
- d. Provide professional services during the bid process including preparation of cost estimates and specifications, project construction, and project completion.
- e. Provide field surveys as requested.
- f. Attend all typical CDOT progress meetings, such as Scoping, FIR, FOR, etc.
- g. Provide all specialty groups needed for the project (Environmental, Right of Way, Utilities, Traffic, Hydraulics, Surveying, Geotech, etc.).
- h. Provide maps and mapping services as requested.
- i. Coordinate with all affected agencies including CDOT, railroads, utility and ditch companies, and property/business owners.
- j. Preparation and review of legal descriptions for easements, Rights-of-Way, etc.
- k. Review the City's requested project and/or task to be accomplished, and provide preliminary consultation, research and evaluation of same.
- l. Assist the City's Engineering Division with presentations and/or recommendations to City staff administration, or City Council.
- m. Review and provide comments on environmental documents for proposed projects submitted to the City in accordance with the Colorado Department of Health and Environment requirements.
- n. Provide other engineering and design services as requested.

2. Planning/Land Use Development Review Services Task:

To adequately serve our development community, the City requires the services of qualified individuals or firms to manage applications or specific projects offsite or occasionally on-site at City Hall, according to Planning Department staffing needs. Under the direction of the Director of Planning, the consultant(s) will provide the

range of expertise necessary to carry out the normal functions of a professional planner. All services provided by the consultant shall be performed by individuals who meet the qualifications, education, and certifications/licensing requirements for the professional Planning levels of Planner I to Senior Planner. Qualified individuals shall possess five (5) or more years of professional planning work experience in the public or private sector. The primary needs are in the Planner I to Senior Planner categories; however the Planning Department would like to have the flexibility to call upon any level of Planning professional during workload increases. Based on qualifications presented in the response to this RFP, the City will select a firm or individual that is best able to provide such services for upcoming projects.

Examples of land use development review projects:

- Subdivision (Lot Line Adjustment, Minor and Major)
- PUD Amendments
- Site Plan (multi-family, commercial, industrial and mixed use)

At such time when the consultant's services are required, staff will email a request for services, including a project description and any pertinent supporting information. The consultant will evaluate the proposal and provide a brief response including the proposed scope of work, timeline, and hourly rates (if such rates differ from the rates specified in the Professional Services Agreement).

Exhibit B

RATE SCHEDULE

{Rate schedule should include rates for all key personnel}

Exhibit C

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 _____, (hereinafter "Consultant") dated this ____ day of _____, 2022.

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

1. Consultant certifies that, at the time of executing this Addendum, Consultant does not knowingly employ or contract with a worker without authorization who will perform work under the Agreement and that Consultant 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. Consultant 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. Consultant 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. Consultant 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 Consultant obtains actual knowledge that a subcontractor performing work under the Agreement knowingly employs or contracts with a worker without authorization, Consultant is required to:
 - a) Notify the subcontractor and the City within three (3) days that Consultant 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 Consultant 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. Consultant 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, Consultant has executed this Addendum on the date first above written. By the signature of its representative below, Consultant affirms that it has taken all necessary action to authorize said representative to execute this Addendum.

CONSULTANT

Signature:	<u>Glenn D. Ellis</u>
Name:	<u>Glenn Ellis, PE</u>
Title:	<u>Client Manager</u>
Date:	<u>December 9, 2022</u>

CITY OF WOODLAND PARK

On-Call Engineering and Land Use Development Review Services Consulting Contract

With
Wilson and Company, Inc.

THIS CONTRACT ("Contract") for On-Call Engineering and Land Use Development Services is entered into effective as of this _____ day of _____, 2023, by and between the City of Woodland Park, a Colorado home rule city (the "City"), and Wilson & Company, Inc., Engineers & Architects (the "Consultant") (a Kansas Corporation).

In consideration of the mutual covenants and stipulations contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties do hereto agree as follows:

TERMS

1. **PROJECT DESCRIPTION AND SCOPE OF WORK.** The project shall consist of the provision of the services and all materials and equipment necessary for performing the services, as described in Exhibit A, "Scope of Work" attached hereto and in accordance with the Contract Documents (the "Work").

Consultant shall be responsible for providing, at its cost and expense, all management, supervision, labor, materials, administrative support, supplies and equipment necessary to perform the Work as required by this Contract. Consultant shall perform the Work using that degree of skill and knowledge customarily employed by other professionals performing similar services in the Denver metropolitan area.

2. **CONTRACT DOCUMENTS.** The "Contract Documents" shall collectively include the Contract signed by the City and the Consultant and any change orders issued by the City and all exhibits attached hereto and incorporated herein including the following:

- a) Certificate of Insurance
- b) Service Agreement
- c) Notice of Acceptance
- d) Notice(s) to Proceed
- e) Experience Record
- f) Confidentiality Agreement
- g) Addenda

3. **COMPENSATION.** The City shall compensate the Consultant for the Work, subject to City annual appropriations and in accordance with and subject to all of the conditions in the Contract Documents, in an aggregate amount not to exceed \$_____, based upon the rate schedule set forth in Exhibit B. The workload is solely dependent upon the needs of the City. **There is no guaranteed minimum or maximum amount of work or fee(s).** The not-to-exceed amount includes all of Consultant's direct and indirect costs. Consultant is not entitled to any

compensation beyond the not-to-exceed amount except as approved in writing by the City Engineer.

4. **NON-APPROPRIATION.** Notwithstanding anything contained in this agreement to the contrary, in the event no funds or insufficient funds are appropriated and budgeted or are otherwise unavailable by any means whatsoever in any future fiscal year of the City, commencing in 2022, for payments due under this agreement, the City shall immediately notify Consultant or its assignee in writing of such occurrence and the City's obligations under this agreement shall terminate on the last of day of the fiscal year for which appropriations have been received or made without penalty or expense to the City.

5. **CHANGES IN THE SCOPE OF WORK.** A change in the Scope of Work shall comprise any change or amendment of the services or work, or any services or work which are different from or additional to the Work. No such change, including any additional compensation, shall be effective, or paid unless authorized by written amendment executed by the City Engineer. If the Consultant proceeds without such written authorization, then the Consultant shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum meruit, or implied contract. Except as expressly provided herein, no agent, employee, or representative of the City shall have the authority to enter into any changes or modifications, either directly or implied by a course of action, relating to the terms and scope of this Contract. If Consultant performs any work beyond the Work described in the scope of work set out in Exhibit A, it does so at its own risk.

A. **Progress Payments.** Consultant shall submit monthly invoices to the City's for progress payments for portions of the Work satisfactorily performed during each month during the term of the Contract. The City's approval of invoices shall be a condition of payment. The City will pay approved invoices, or parts thereof, 30 days after submittal. All invoices shall be addressed to the City as follows: "City of Woodland Park, P.O. Box 9007, Woodland Park, CO 80866, ATTN: CITY ENGINEER".

B. **Requirements for Payment.**

1. **Invoices.** Consultant invoices shall be in a format acceptable to the City, shall be supported by cost information in such detail as may be required by the City and shall be sufficient to substantiate all items for a proper audit and post audit thereof. Invoices shall be clearly marked and annotated with the City's assigned Purchase Order number(s) relevant to the task(s) for which payment is being requested.

2. **Invoice Documentation.** With each invoice, the Consultant shall submit a progress report describing the Work performed, results achieved, percentage complete, percentage of total compensation amount, the status of deliverables and a certification that the Consultant is current in payment of all employees and subcontractor and vendors.

C. **Unsatisfactory Invoices or Work.** The City may return to Consultant for revision unsatisfactory invoices and may withhold payment thereof. The City may withhold payment for

Work, which is not completed as scheduled or which is completed unsatisfactorily, until completed satisfactorily and may deny payment for such work upon termination of the Consultant.

5.1 TASK ORDER PROCEDURES.

A. General. The Services are divided into discrete Tasks. The Consultant shall proceed with Services under this Agreement only upon receipt from the City of a written order to perform the Services specified therein, which is issued pursuant to this section ("Task Order"). Each Task Order shall be performed within the Task Order Price.

B. Request for Task Order Submittal. When the City determines it requires the performance of any Task(s) by Consultant, it shall notify the Consultant by issuing a written "Request for Task Order Submittal," setting forth the milestones for key elements of the Task(s), providing any additional detail needed to further describe the Task(s), and establishing the deliverables to be produced by the Consultant for the Task(s).

C. Compensation Calculation. The Task Order Price shall be determined using a Lump Sum Method or Time & Materials Method. In each Request for Task Order Submittal, the City shall specify the method of compensation Consultant shall use to calculate the Proposed Task Order Price in the relevant Task Order Submittal. However, the parties may agree in writing to use a method of compensation other than the one specified by the City in the Request for Task Order Submittal. The Task Order Price for each Task Order shall be finally determined according to the procedures set forth in this section.

D. Consultant's Response. Within seven (7) working days of receipt of the City's Request for Task Order Submittal, the Consultant shall respond by providing the following documents (collectively the "Task Order Submittal") to the City for approval:

1. Names and resumes (if not previously provided) of proposed personnel providing the Services of the Task Order;
2. A schedule in sufficient detail to properly depict the Task(s);
3. Task Order Scope of Services;
4. A work plan that adequately describes the discrete portions of the Task(s); and
5. A Proposed Task Order Price which contains an itemized breakdown of the costs, including necessary staffing, man-hours and Direct Costs corresponding to discrete portions of the Task (Direct Costs mean all direct costs, including but not limited to direct salary costs and those items and costs specifically listed as Direct Costs in Exhibit B and are costs other than the general administrative costs and other overhead costs).

E. Negotiation Regarding Task Order. The City will review the Task Order Submittal and the Parties may negotiate the terms thereof. If the City and the Consultant cannot agree on Task Order Submittal, the City may, in addition to performing the Task itself or engaging a third party to perform the Task, (1) reject the Request for Task Order Submittal or (2) direct the Consultant to proceed on a Specific Rate of Pay Method basis.

F. Issuance of Task Order. If the City approves the Consultant's Task Order Submittal for the identified Task(s) or the parties successfully negotiate the Task Order Submittal, the City may issue a Task Order directing the Consultant to perform the Task(s) pursuant to the Task Order Submittal and for a price which shall not exceed the price provided in the Task Order (the "Task Order Price"). Consultant agrees it shall not be compensated for any amounts in excess of the Task Order Price, unless such amounts have been authorized by the City by a written Task Order amendment prior to the performance of the Service(s) which created the excess. The Consultant shall not initiate any Task(s) prior to the receipt of a Task Order.

F. Suspension of Task(s). The City may, at any time and for any reason, order the Consultant, in writing, to suspend all or any part of the Services required to perform a Task(s) for the period of time the City determines appropriate. In the event of such a suspension, the Consultant shall take all steps necessary to reduce the costs incidental to the suspension.

6. TERM OF CONTRACT/START AND COMPLETION OF WORK. Consultant shall commence Work when the City gives the Consultant a written notice to proceed. The Consultant shall complete all Work by December, 31 2023 or when the Work has been completely performed to the City's satisfaction, whichever first occurs, or otherwise by mutual written agreement of the parties or by the exercise of the termination provisions specified herein.

The City shall have the option to renew the contract for subsequent one-year terms for up to four one-year terms. Renewals would commence on or about January 1 of each subsequent one-year period. Continuation of the contract beyond the first year is at the sole discretion of the City and will be exercised only when such continuation is in the best interest of the City. The Consultant shall notify the City of any and all proposed price adjustments no later than September 30 of the year prior to the year in which any proposed new prices are to be charged to the City. The City reserves the right to reject any price adjustments submitted by the Consultant and/or terminate the contract with the Consultant based on such price adjustments.

7. CONSULTANT'S REPRESENTATIONS.

A. Consultant has the required authority, ability, skills and capacity to, and shall, perform the Work in a manner consistent as a professional practicing in the same or similar locality under the same or similar circumstances at the time the Services are performed (the "Standard of Care"), with this Contract. Further, all employees and subcontractors of Consultant employed in performing the Work shall have the skill, experience and licenses required to perform the Work assigned to them.

B. To the extent the Consultant deems necessary in accordance with prudent engineering practices, it has inspected the sites and all surrounding locations whereupon it may be called to perform its obligations under this Contract, and is familiar with the requirements of the Work and accepts them for such performance.

C. It is validly organized and exists in good standing under the laws of the State of Colorado, and has all requisite power to own its properties and assets and to carry on its business as

now conducted or proposed to be conducted and it is duly qualified, registered to do business and in good standing in the State of Colorado.

D. Consultant has knowledge of all of the legal requirements and business practices in the State of Colorado that must be followed in performing the Work and the Work shall be performed by Consultant in conformity with all applicable laws, ordinances, codes, rules and regulations.

E. Workers Without Authorization. Prior to the execution of this agreement, Consultant shall certify to the City, by completing the Worker Without Authorization Addendum attached hereto as Exhibit C, that at the time of certification, it 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.

F. The Consultant hereby agrees that he or she has previously disclosed to the City anyone among their team, any business entity or individual who is, or who is associated with, or is in any way likely to create a conflict of interest or a perception of conflict of interest and acknowledges that he or she has a continuing obligation to disclose any newly discovered or future conflict of interest.

G. Consultant shall employ staff that is courteous, helpful and considerate to provide services under this Contract. Consultant's employees shall not use improper language, or act in any inappropriate or improper manner as determined by the City. Consultant shall reassign any employee after notification by the City that such employee has engaged in unacceptable behavior.

H. Consultant will furnish all of the materials, supplies, tools, equipment, labor, and other services necessary for the construction and completion of the Work Order(s) issued pursuant to this Agreement, unless specified otherwise in the Specifications

I. This Contract constitutes the legal, valid and binding obligation of the Consultant and its respective heirs, executors, administrators, successors, assigns, and is enforceable in accordance with its terms.

8. INDEMNIFICATION.

A. Consultant shall indemnify, defend (and hold harmless the City and each of its officers, employees, and consultants, from and against any and all claims, demands, suits, actions, proceedings, judgments, losses, damages, bodily injuries, penalties, costs, and expenses (including reasonable attorneys' fees), and liabilities, of, by or with respect to third parties ("any claims") to the extent caused by or arise from,, the negligent acts or omissions of the Consultant or any of its subcontractors or material suppliers, agents or employees, in connection with this Contract and/or the Consultant's Work hereunder. Further, the Consultant hereby agrees to indemnify, defend) and hold harmless the City and each of its officers and employees from and against any and all claims, demands, suits, actions, proceedings, judgments, losses, , damages, bodily injuries, penalties, costs and expenses (including reasonable attorneys' fees) and liabilities of, by or with respect to, third parties ("any claims"), arising fromthe negligent acts or omissions of the Consultant, its employees, subcontractors, material suppliers or agents or employees, or the agents or employees of any

subcontractors or material suppliers which causes or allows to continue a condition or event which deprives the City or any of its officers or employees of its sovereign immunity under the Colorado Governmental Immunity Act, Sections 24-10-101, et seq., Colorado Revised Statutes. The obligations of the indemnifications extended by the Consultant to the City under this section shall survive termination or expiration of this Contract.

B. Consultant's defense, indemnification and insurance obligations shall be to the fullest extent permitted by law and nothing in this Contract shall be construed as requiring the Consultant to defend in litigation, indemnify or insure the City against liability for damage arising out of the death or bodily injury to persons or damage to property caused by the negligence or fault of the City or any third party under the control or supervision of the City.

9. PROJECT WARRANTIES.

A. Notwithstanding any other provision of the this Agreement, or any other document constituting a part of this Agreement to the contrary, it is agreed as follows: (i) Consultant expressly disclaims all express or implied warranties and guarantees with respect to the quality of performance of professional services, (ii) it is agreed that the quality of such services shall be judged solely as to whether Consultant performed the Services consistent with the Standard of Care, (iii) Consultant shall not provide indemnification or defense of any indemnitee other than to the extent provided for in Section 8 above and in the other sections contained in the body of this Agreement (excluding any indemnity provisions of any document incorporated as part of this Agreement or any other document forming a part of this Agreement), (iv) any provision in this Agreement that requires compliance with any laws or regulations or the requirements of any authority having jurisdiction over the project or specifies that any work, services or documents must comply with laws, regulations or such requirements shall be interpreted to mean that Consultant shall exercise the Standard of Care to comply with such laws, regulations and requirements.

10. ASSIGNMENT. Neither the City nor Consultant may assign this Contract or parts hereof or its rights hereunder without the express written consent of the other Party.

11. OWNERSHIP OF MATERIALS AND RISK OF LOSS. The City shall be deemed the owner of all materials incorporated into the Work, with the exception of any intellectual property rights contained therein, owned or created by Consultant prior to the effective date of this Agreement; and/or created outside the scope of this Agreement, at such time as the City has paid for those materials, and shall be deemed the owner of all materials paid for by the City. Any reuse or modification by the City of Consultant's work product without Consultant's permission shall be at City's sole risk. Until all of the work is completed, the risk of loss or damage to the Work or work product shall reside with the Consultant

12. TERMINATION

The City will reserve the right to terminate this contract at any time if, in the opinion of the City Engineer, the Consultant is not performing according to the provisions of the contract.

A. Types of Termination.

1. Default and Termination for Cause. Events of Default. Consultant shall be immediately in default hereunder (an "Event of Default") upon the occurrence of any of the events described in this section.

- a. Any breach of the terms and conditions of this Contract.
- b. Failure to perform the Work under this Contract, or significant delay or discontinuance of performance of the Work.
- c. Lack of financial responsibility (including failure to obtain and maintain insurance) for loss or damage to the City or its property.
- d. Dishonesty, embezzlement or false reporting of any material financial information, including but not limited to invoices.
- e. Insolvency, bankruptcy or commission of any act of bankruptcy or insolvency; or assignment for the benefit of creditors.
- f. Any attempt by the Consultant to assign its performance of this Contract without the consent specified by this agreement.
- g. Termination of any subcontract for any substantial Work without the prior written consent of the City.

2. Termination Not For Cause. In addition to any other rights provided herein, the City shall have the right in its sole discretion to terminate, not for cause, this Contract and further performance of the Work by delivery to the Consultant of written notice of termination specifying the extent of termination and the effective date of termination.

B. Remedies.

1. City's Remedies Upon Termination For Cause. Upon an Event of Default by the Consultant, the City may by notice terminate this Contract for cause immediately.

2. City's Remedies Upon Termination Not For Cause. The City shall provide a notice of termination not for cause to the Consultant thirty days prior to termination.

3. Any Other Remedies Allowed by Law. The City shall be entitled to any other remedies allowed by law in addition to the remedies provided herein.

C. Payment and Liabilities Upon Termination.

1. Termination for Cause. If an Event of Default has occurred, the Consultant shall be liable to the City for any actual damages for losses, including, but not limited to, any and all costs and expenses reasonably incurred by the City or any party acting on the City's behalf in completing the Work or having the Work completed (excluding changes in the Work by the City following such Event of Default). The City shall determine the total cost of the Work satisfactorily performed by the Consultant prior to the date of termination for cause. All reasonable damages, losses, costs and charges incurred by the City, including attorney's fees and costs, relating to obtaining and mobilizing another consultant, of completing the Work and of retaining another consultant's acceptance of full responsibility for all obligations of the

Consultant under this Contract shall be deducted from any monies due or which may become due to the Consultant. The City shall determine the total amount due and shall notify the Consultant in writing of the amount the Consultant owes the City or the amount the City owes the Consultant.

2. Termination Not For Cause. After termination not for cause, the Consultant shall submit a final termination settlement invoice to the City in a form and with a certification prescribed by the City. Consultant shall submit the invoice promptly, but no later than thirty (30) days from the effective date of termination, unless extended in writing by the City upon written request of the Consultant within such thirty-day period. If the Consultant fails to submit the invoice within the time allowed, the City's payment obligations under this Contract shall be deemed satisfied and no further payment by the City to the Consultant shall be made.

D. Consultant's Obligations Upon Termination. After receipt of notice of termination, and unless otherwise directed by the City, the Consultant shall immediately proceed as follows:

1. Stop work on the Work as specified in the notice of termination; and
2. Take any action that may be necessary, or that the City may direct, for the protection and preservation of the property related to this Contract that is in the possession of the Consultant and in which the City has or may acquire an interest.

13. INSURANCE.

A. Consultant shall acquire and maintain in full force and effect, during the entire term of the Contract, including any extensions hereof, and at any time thereafter necessary to protect the City and its respective officers, employees, agents, consultants and Consultant from claims that arise out of or result from the operations under this Contract by Consultant or by a subcontractor or a vendor or anyone acting on their behalf or for which they may be liable, the coverages set forth in this section. All insurance is to be placed with insurance carriers authorized in the State of Colorado with an A.M. Best and Company rating of no less than A or as otherwise accepted by the City. The City and its respective officers, employees, and agents shall be named as an additional insured on the Consultant's commercial general liability insurance, automobile liability insurance, and excess liability insurance. Consultant's insurance shall provide that the insurer will give the City thirty (30) days written notice prior to the cancellation or material modification of any policy of insurance obtained to comply with this section, except for ten (10) days notice for cancellation due to non-payment of premium.

B. Minimum Insurance Coverages:

1. Workers' compensation insurance in accordance with applicable law, including employers' liability with minimum limits of \$100,000 each accident, \$500,000 Disease-Policy Limit, \$100,000 Disease each employee.
2. Commercial general liability insurance in the amount of \$1,000,000 per occurrence limit bodily injury and property damage, each occurrence; \$2,000,000 general aggregate, and \$1,000,000 products and completed operations aggregate. Coverage shall be

on an ISO 1996 Form (CG 0001 or equivalent), include all major divisions of coverage subject to policy terms, conditions and exclusions and be on a comprehensive basis, including:

- a. Premises and operations;
- b. Personal injury liability without employment exclusion;
- c. Blanket contractual;
- d. Broad form property damage, including completed operations;
- e. Products and completed operations;
- f. Independent Consultant's coverage;
- g. Explosion, collapse and underground;
- h. Consultants' limited pollution coverage; and
- i. Endorsement CG 2-503 or equivalent; general aggregate applies on a per project basis.

3. Commercial automobile liability insurance in the amount of \$1,000,000 combined single limit bodily injury and property damage, each accident covering owned, leased, hired, non-owned, and employee non-owned vehicles used at the consultant project site.

4. Professional Liability – coverage in the amount of \$1,000,000 each claim and in the aggregate covering the negligent acts or omissions of the Consultant and/or its subcontractor in the performance of the Work.

5. Excess Liability Coverage – Liability coverage inclusive of general liability, automobile liability and employers liability in the amount of at least \$1,000,000 combined single limit bodily injury and property damage, each occurrence: and \$1,000,000 in the aggregate. Separate aggregates need to be structured as found in the underlying coverages. Excess Liability Coverage may be made up of any combination of primary and excess policies.

6. All coverages specified herein, shall waive any right of subrogation against the City and its officers and employees. The policies shall state: "Permission is expressly granted to the insured to waive any right of subrogation against an individual, firm or corporation, provided such waiver is executed in writing prior to any occurrence giving rise to claims hereunder."

C. Additional Insured Parties. All policies (with the exception of workers' compensation insurance and Professional Liability) shall insure the interest of the City and its respective officers, employees, agents, and consultants.

D. Certificates of Insurance. Prior to commencing any work under the Contract, the Consultant shall provide the City with a certificate or certificates evidencing the coverages identified on the face of the certificate with the contract number for this Contract, the name of the project and a copy of the additional insured endorsement. If the Consultant subcontracts any portion(s) of the work, such subcontractor(s) shall be required to furnish certificates evidencing workers' compensation and employers' liability insurance, commercial general liability insurance coverage, and automobile liability insurance, in amounts satisfactory to the City and the Consultant and containing the

“additional insured” and “cancellation” conditions found in this section. If the coverage required expires during the term of this Contract, the Consultant and its subcontractor(s) shall provide replacement certificate(s) evidencing the continuation of the required policies at least 15 days prior to expiration.

E. Additional Provisions. Each general liability policy and, where required, umbrella/excess liability policy is to contain, or be endorsed to contain, the following:

1. For any claims related to the work performed or to be performed by the Contract, wherever the City is named as an additional insured, the Consultant’s insurance coverage shall be primary insurance with respect to the City and its officers and employees. Any insurance maintained by the City (or officers and employees) shall be in excess of the Consultant’s insurance and shall not contribute to it.

2. Consultant’s insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to limits of liability.

F. Failure to Comply with Reporting Provisions. Any failure on the part of the Consultant to comply with reporting provisions or other conditions of the policies shall not affect the obligation of the Consultant to provide the required coverage to the City (and its officers and employees).

G. Claims-Made Policies. If any policy is a claims-made policy, the policy shall provide the Consultant the right to purchase, upon cancellation or termination by refusal to renew the policy, an extended reporting period of not less than two years. Consultant agrees to purchase such an extended reporting period if needed to ensure continuity of coverage. Consultant’s failure to purchase such an extended reporting period as required by this paragraph shall not relieve it of any liability under this Contract. If the policy is a claims-made policy, the retroactive date of any such renewal of such policy shall be not later than the date this Contract is executed by the parties hereto. If the Consultant purchases a subsequent claims-made policy in place of any prior claims-made policy, the retroactive date of such subsequent policy shall be no later than the date this Contract is executed by the parties hereto.

H. No Limitation on Other Obligations. The procuring of required policies of insurance shall not be construed to limit the Consultant’s liability hereunder or to fulfill the indemnification provisions and requirements of this Contract. Consultant shall be solely responsible for any deductible losses under the policy.

I. Additional Risks and Hazards. If the City requests in writing that insurance for risks other than those described herein or for other special hazards be included in property insurance policies, Consultant shall obtain such insurance, if available, in a form and for a cost approved by the City, and the cost thereof shall be charged to the City.

14. MISCELLANEOUS PROVISIONS.

A. **INDEPENDENT CONSULTANT.** CONSULTANT IS AN INDEPENDENT CONSULTANT AND NOTHING HEREIN CONTAINED SHALL CONSTITUTE OR DESIGNATE THE CONSULTANT OR ANY OF ITS EMPLOYEES OR AGENTS AS EMPLOYEES OR AGENTS OF THE CITY. THE CITY IS CONCERNED ONLY WITH THE RESULTS TO BE OBTAINED.

B. **Timeliness of Performance.** The performance of the Work of the Consultant shall be undertaken and completed in such sequence as to assure its expeditious completion in light of the purposes of the Contract. The Consultant acknowledges the importance to the City of the City's project schedule and agrees to put forth reasonable efforts in performing the services with due diligence under this agreement in a manner consistent with the schedule. The City understands, however, that the Consultant's performance must be governed by sound professional practices..

C. **Notices.** Any notices or other communications required or permitted by this Contract or by law to be served on, given to, or delivered to either party hereto, by the other party shall be in writing and shall be deemed duly served, given, or delivered when personally delivered to the party to whom it is addressed or in lieu of such personal services, when received in the United States' mail, first-class postage prepaid addressed to:

City:

City of Woodland Park
P.O. Box 9007
Woodland Park, CO 80866
Attn: City Engineer

Consultant:

WILSON + COMPANY
5755 MARK DARBUNG BLDG, STE 220
COLORADO SPRINGS, CO 80919
Attn: BRIAN SPANO

Either party may change its address for the purpose of this section by giving written notice of such change to the other party.

D. **Headings.** The headings and captions in this Contract are intended solely for the convenience of reference and shall be given no effect in the construction or interpretation of this Contract.

E. **Controlling Law and Venue.** This Contract shall be governed by and construed in accordance with the laws of the State of Colorado and any legal action concerning the provisions hereof shall be brought in the State of Colorado, County of Teller.

F. **No Waiver.** No waiver of any of the provisions of this Contract shall be deemed to constitute a waiver of any other of the provisions of this Contract, nor shall such waiver constitute a continuing waiver unless otherwise expressly provided herein, nor shall the waiver of any default hereunder be deemed a waiver of any subsequent default hereunder. Failure of either party to insist on strict performance by the other party shall not constitute a waiver of any provision in the Contract Documents, waiver of any other default, or a continuing waiver of the provisions in question.

G. **Binding Contract.** This Contract shall inure to and be binding on the heirs, executors, administrators, successors, and assigns of the parties hereto.

H. Entire Contract. This Contract constitutes the entire agreement between the parties and sets forth the rights, duties, and obligations of each to the other as of this date. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Contract are of no force and effect.

I. Severability. The invalidity or unenforceability of any portion or previous version of this Contract shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Contract and the balance of this Contract shall be construed and enforced as if this Contract did not contain such invalid or unenforceable portion or provisions.

J. Counterpart Execution. This Contract may be executed in counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument.

K. Contract Modification. The Contact Documents may not be amended, altered, or otherwise changed except by a written agreement between the parties.

L. Compliance with the Law. The work and services to be performed by Consultant hereunder shall be done in compliance with applicable laws, ordinances, codes, rules and regulations.

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the date first above written. By the signature of its representative below, each party affirms that it has taken all necessary action to authorize said representative to execute this Contract.

CITY OF WOODLAND PARK

By: _____
Its: _____

ATTEST:

APPROVED AS TO FORM:

City Attorney

CONSULTANT

WILSON + COMPANY

By:

Its:

Vice President

ATTEST:

_____

Exhibit A

On-Call Engineering and Land Use Development Review Services City of Woodland Park

Scope of Work:

This Scope of Work outlines the services to be provided to the City of Woodland Park on an on-call basis to support the Public Works Department, Utilities Department and Planning Department staffs and other City staff as required. The following tasks are typical of the work expected during period of the contract. Tasks other than routine engineering reviews will require approval by the City Engineer prior to initiation.

1. Engineering Technical Services Task:

The Consultant shall only perform work that is assigned in an authorized Task Order. An awarded Contract does not guarantee that a Task Order shall be issued. The Consultant may provide services to the City including, but not limited to, the following:

- a. Development of City MS4 Permit
- b. Review of development submittals including (but not limited to) Site Plans, Construction Drawings, Drainage Reports, and Traffic Studies.
- c. Provide consulting and professional services including project planning, design, engineering, land surveying, right of way design and acquisition, construction phasing, and drafting services.
- d. Provide professional services during the bid process including preparation of cost estimates and specifications, project construction, and project completion.
- e. Provide field surveys as requested.
- f. Attend all typical CDOT progress meetings, such as Scoping, FIR, FOR, etc.
- g. Provide all specialty groups needed for the project (Environmental, Right of Way, Utilities, Traffic, Hydraulics, Surveying, Geotech, etc.).
- h. Provide maps and mapping services as requested.
- i. Coordinate with all affected agencies including CDOT, railroads, utility and ditch companies, and property/business owners.
- j. Preparation and review of legal descriptions for easements, Rights-of-Way, etc.
- k. Review the City's requested project and/or task to be accomplished, and provide preliminary consultation, research and evaluation of same.
- l. Assist the City's Engineering Division with presentations and/or recommendations to City staff administration, or City Council.
- m. Review and provide comments on environmental documents for proposed projects submitted to the City in accordance with the Colorado Department of Health and Environment requirements.
- n. Provide other engineering and design services as requested.

2. Planning/Land Use Development Review Services Task:

To adequately serve our development community, the City requires the services of qualified individuals or firms to manage applications or specific projects offsite or occasionally on-site at City Hall, according to Planning Department staffing needs. Under the direction of the Director of Planning, the consultant(s) will provide the

range of expertise necessary to carry out the normal functions of a professional planner. All services provided by the consultant shall be performed by individuals who meet the qualifications, education, and certifications/licensing requirements for the professional Planning levels of Planner I to Senior Planner. Qualified individuals shall possess five (5) or more years of professional planning work experience in the public or private sector. The primary needs are in the Planner I to Senior Planner categories; however the Planning Department would like to have the flexibility to call upon any level of Planning professional during workload increases. Based on qualifications presented in the response to this RFP, the City will select a firm or individual that is best able to provide such services for upcoming projects.

Examples of land use development review projects:

- Subdivision (Lot Line Adjustment, Minor and Major)
- PUD Amendments
- Site Plan (multi-family, commercial, industrial and mixed use)

At such time when the consultant's services are required, staff will email a request for services, including a project description and any pertinent supporting information. The consultant will evaluate the proposal and provide a brief response including the proposed scope of work, timeline, and hourly rates (if such rates differ from the rates specified in the Professional Services Agreement).

Exhibit B

RATE SCHEDULE

{Rate schedule should include rates for all key personnel}

Exhibit C

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 _____, (hereinafter "Consultant") dated this ____ day of _____, 2022.

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

1. Consultant certifies that, at the time of executing this Addendum, Consultant does not knowingly employ or contract with a worker without authorization who will perform work under the Agreement and that Consultant 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. Consultant 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. Consultant 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. Consultant 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 Consultant obtains actual knowledge that a subcontractor performing work under the Agreement knowingly employs or contracts with a worker without authorization, Consultant is required to:
 - a) Notify the subcontractor and the City within three (3) days that Consultant 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 Consultant 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. Consultant 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, Consultant has executed this Addendum on the date first above written. By the signature of its representative below, Consultant affirms that it has taken all necessary action to authorize said representative to execute this Addendum.

CONSULTANT

Signature:
Name:
Title:
Date:


CAROL WILSON
VICE PRESIDENT
11/31/2023



STAFF REPORT

TO: Mayor LaBarre and City Council

FROM: Aaron Vassalotti, Finance Director

DATE: January 19, 2023

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

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

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

ATTACHMENTS: 1. Statement of Expenditures-November 2022



City of Woodland Park Staff Report for City Council

Meeting Date: January 19, 2023

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

ITEM:

November 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

November 2022

Accounts Payable Checks	1,750,785.95
Payroll Checks	423,311.40
US Bank Wire - WPCRF	44,668.34
CEBT	82,518.17
Zion Wire - COP '15	210,825.00
Zion Wire - COP '15 Payoff	562,943.75
Vectra Visa credit card EFT	25,694.67
Total	<u>3,100,747.28</u>

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

STAFF RECOMMENDATION:

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

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
115459	CHK	A	BLACK HILLS ENERGY	4035	4	8,757.58	0.00	8,757.58	11/03/2022		43673
			10/22 CHARGES	10242022		8,757.58	0.00	1,924.45			
			10/22 CHARGES	10242022		8,757.58	0.00	5,520.05			
			10/22 CHARGES	10242022		8,757.58	0.00	176.39			
			10/22 CHARGES	10242022		8,757.58	0.00	1,136.69			
115460	CHK	A	BRAVO SCREEN PRINTING, INC.	3466	1	1,337.60	0.00	1,337.60	11/03/2022		43673
			T SHIRTS	81673		1,337.60	0.00	1,337.60			
115461	CHK	A	CAPITAL ONE, N.A.	5298	2	377.51	0.00	377.51	11/03/2022		43673
			09/22-10/22 CHARGES	10192022		377.51	0.00	343.64			
			09/22-10/22 CHARGES	10192022		377.51	0.00	33.87			
115462	CHK	A	CHAD MILDBRANDT	5159	1	86.00	0.00	86.00	11/03/2022		43673
			BARTENDING - UPCC	10312022		86.00	0.00	86.00			
115463	CHK	A	CINTAS CORPORATION NO 2	4977	1	111.67	0.00	111.67	11/03/2022		43673
			UNIFORMS - FL	4135014252		111.67	0.00	111.67			
115464	CHK	A	CIVICPLUS, LLC	5189	1	950.00	0.00	950.00	11/03/2022		43673
			ONLINE CODE HOSTING	243747		950.00	0.00	950.00			
115465	CHK	A	COLLINS, KARLA	4431	1	336.66	0.00	336.66	11/03/2022	VOID	43673
			CONFERENCE REIMBURSEMENT	10272022		336.66	0.00	336.66			
115466	CHK	A	CSU ENVIRONMENTAL QUALITY LAB	2660	1	180.00	0.00	180.00	11/03/2022		43673
			COMPOST TESTING	EQL:5533		180.00	0.00	180.00			
115467	CHK	A	DEEP ROCK	5263	1	110.80	0.00	110.80	11/03/2022		43673
			WATER SUBSCRIPTION	21072370102922		110.80	0.00	110.80			
115468	CHK	A	DRIVE TRAIN AMERICA	5430	1	759.94	0.00	759.94	11/03/2022	VOID	43673
			SNOW PLOW LIGHT	0190410151		759.94	0.00	759.94			
115469	CHK	A	DYCHES, STANLEY LEE JR.	4932	1	97.00	0.00	97.00	11/03/2022		43673
			OFFICIATING	10272022		97.00	0.00	97.00			
115470	CHK	A	GALLS, LLC	5221	9	1,056.90	0.00	1,056.90	11/03/2022		43673
			UNIFORM - WPPD	022318636		72.79	0.00	72.79			
			UNIFORM - WPPD	022355241		84.55	0.00	84.55			
			UNIFORM - JOHNSON	022355281		161.95	0.00	161.95			
			UNIFORM - WPPD	022407692		53.42	0.00	53.42			
			UNIFORM - WPPD	022407693		5.00	0.00	5.00			
			UNIFORM - WPPD	022407715		72.79	0.00	72.79			
			UNIFORM - WPPD	022419722		48.40	0.00	48.40			
			UNIFORM - WPPD	022419723		71.95	0.00	71.95			
			Navy Blue Uniform Shirts	11012022		486.05	0.00	486.05			
115471	CHK	A	GOVDIRECT, INC	5419	1	1,243.00	0.00	1,243.00	11/03/2022		43673
			PD Laptop Comuters GovD.056628	INV0007226		1,243.00	0.00	1,243.00			
115472	CHK	A	HIGH COUNTRY PEST CONTROL	3822	1	112.00	0.00	112.00	11/03/2022		43673
			10/22 PEST CONTROL	126865		112.00	0.00	112.00			
115473	CHK	A	HOLMAN	4630	1	22.76	0.00	22.76	11/03/2022		43673
			PARTS #92	1887523		22.76	0.00	22.76			

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115474	CHK	A	IWDOR	5429	2	900.00	0.00	900.00	11/03/2022		43673
			TRAINING - CHASE LAMBERT	AFFEDB09-0002		450.00	0.00	450.00			
			CDL TRAINING - CHRIS ADAMS	AFFEDB09-0004		450.00	0.00	450.00			
115475	CHK	A	KENYON, P JORDAN PH.D.	4333	1	275.00	0.00	275.00	11/03/2022		43673
			PRE EMPLOYMENT	2410-6		275.00	0.00	275.00			
115476	CHK	A	LOGAN SIMPSON DESIGN INC	5282	1	961.40	0.00	961.40	11/03/2022		43673
			PTOS Master Plan	30444		961.40	0.00	961.40			
115477	CHK	A	MATTHEW SCHUTZ	5413	2	123.00	0.00	123.00	11/03/2022		43673
			OFFICIATING	10272022		26.00	0.00	26.00			
			OFFICIAL - P&R	10272022A		97.00	0.00	97.00			
115478	CHK	A	ELIZABETH MCCLINTOCK	1	1	369.66	0.00	369.66	11/03/2022		43673
			TRAINING REIMBURSEMENT	10272022		369.66	0.00	369.66			
115479	CHK	A	LOREN GILLILAND	1	1	13.61	0.00	13.61	11/03/2022		43673
			UTILITY REFUND	1689.03		13.61	0.00	13.61			
115480	CHK	A	BENJAMIN & DANAE DURTSCHI	1	1	212.83	0.00	212.83	11/03/2022		43673
			UTILITY REFUND	388.05		212.83	0.00	212.83			
115481	CHK	A	JENNIFER & JAMES DYER	1	1	177.00	0.00	177.00	11/03/2022		43673
			UTILITY REFUND	5189.03		177.00	0.00	177.00			
115482	CHK	A	ELIZABETH A MCCLINTOCK	1	1	125.00	0.00	125.00	11/03/2022		43673
			UTILITY REFUND	5290.04		125.00	0.00	125.00			
115483	CHK	A	MITY LITE	2013	1	45.00	0.00	45.00	11/03/2022		43673
			CHAIR MAINTENANCE	00152426		45.00	0.00	45.00			
115484	CHK	A	MYLES WILEY	5414	1	117.00	0.00	117.00	11/03/2022		43673
			OFFICIAL - P&R	10272022		117.00	0.00	117.00			
115485	CHK	A	PEAK INTERNET	3141	1	59.95	0.00	59.95	11/03/2022		43673
			11/22-12/22 WP SIGN @ BALDWIN	435740		59.95	0.00	59.95			
115486	CHK	A	PIKES PEAK NEWSPAPER INC	4812	1	30.00	0.00	30.00	11/03/2022		43673
			SUBSCRIPTION - PLANNING	10052022		30.00	0.00	30.00			
115487	CHK	A	PRIORITY RESEARCH	4392	1	39.60	0.00	39.60	11/03/2022		43673
			BACKGROUND CHECKS	1009051		39.60	0.00	39.60			
115488	CHK	A	SCHMIDT CONSTRUCTION	559	1	150.00	0.00	150.00	11/03/2022		43673
			DUMP FEE - RECYCLE ASPHALT	2747243		150.00	0.00	150.00			
115489	CHK	A	USA BLUEBOOK	1779	2	282.36	0.00	282.36	11/03/2022		43673
			SUPPLIES - WWTP	130703		180.36	0.00	180.36			
			SUPPLIES - WWTP	136337		102.00	0.00	102.00			
115490	CHK	A	UTE PASS RENTAL INC.	654	1	77.52	0.00	77.52	11/03/2022		43673
			PROPANE	32553		77.52	0.00	77.52			
115491	CHK	A	WAGNER EQUIPMENT CO.	666	1	12.83	0.00	12.83	11/03/2022		43673
			PARTS #32	P39C0386366		12.83	0.00	12.83			

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115492	CHK	A	WAXIE SANITARY SUPPLY	4189	1	190.07	0.00	190.07	11/03/2022		43673
			CUSTODIAL SUPPLIES - WAC	81265638		190.07	0.00	190.07			
115493	CHK	A	WESTWOOD LAKES WATER DISTRICT	679	1	882.71	0.00	882.71	11/03/2022		43673
			09/22-10/22 WELLFIELD	10242022		882.71	0.00	882.71			
115494	CHK	A	WILSON WILLIAMS LLP	5287	1	14,316.66	0.00	14,316.66	11/03/2022		43673
			10/22 LEGAL FEES	184		14,316.66	0.00	14,316.66			
115495	CHK	A	ACZ LABORATORIES, INC.	3111	1	349.25	0.00	349.25	11/10/2022		43684
			COMPOST TESTING - WWTP	77733		349.25	0.00	349.25			
115496	CHK	A	BASIS PARTNERS	5431	1	3,350.00	0.00	3,350.00	11/10/2022		43684
			ROOF SLED - WPPD	572		3,350.00	0.00	3,350.00			
115497	CHK	A	BEEHIVE INDUSTRIES LLC	5398	3	7,500.00	0.00	7,500.00	11/10/2022		43684
			First year cost of software.	2559		7,500.00	0.00	2,250.00			
			First year cost of software.	2559		7,500.00	0.00	3,000.00			
			First year cost of software.	2559		7,500.00	0.00	2,250.00			
115498	CHK	A	BIRCHAM'S	75	1	603.71	0.00	603.71	11/10/2022		43684
			10/22 CHARGES	350246		603.71	0.00	603.71			
115499	CHK	A	BLAZER ELECTRIC SUPPLY MANAGEM	4830	1	730.48	0.00	730.48	11/10/2022		43684
			SUPPLIES - WWTP	S002312497.007		730.48	0.00	730.48			
115500	CHK	A	BRIAN E. BUNDY	5208	1	820.00	0.00	820.00	11/10/2022		43684
			ACCT. SUPPORT SERVICES	11072022		820.00	0.00	820.00			
115501	CHK	A	BURLAP BAG CLOTHING/BOOTS	1356	1	55.10	0.00	55.10	11/10/2022		43684
			UNIFORM - SOCZEK	22-10771		55.10	0.00	55.10			
115502	CHK	A	CENTURYLINK	4342	2	404.84	0.00	404.84	11/10/2022		43684
			10/2022 CHARGES	10252022		404.84	0.00	141.10			
			10/2022 CHARGES	10252022		404.84	0.00	263.74			
115503	CHK	A	CHAD MILDBRANDT	5159	1	258.00	0.00	258.00	11/10/2022		43684
			BARTENDER - UPCC	11072022		258.00	0.00	258.00			
115504	CHK	A	CINTAS CORPORATION NO 2	4977	1	111.67	0.00	111.67	11/10/2022		43684
			UNIFORMS - FL	4135720169		111.67	0.00	111.67			
115505	CHK	A	CPS DISTRIBUTORS, INC	194	1	443.63	0.00	443.63	11/10/2022		43684
			VALVE - F&G	0008277337-001		443.63	0.00	443.63			
115506	CHK	A	DONNA FITZGERALD	5405	1	6.00	0.00	6.00	11/10/2022		43684
			INSTRUCTOR - P&R	11032022		6.00	0.00	6.00			
115507	CHK	A	EMPLOYERS COUNCIL SERVICES, IN	5099	1	240.00	0.00	240.00	11/10/2022		43684
			BACKGROUND CHECKS	0000439015		240.00	0.00	240.00			
115508	CHK	A	ENGER, JANE	3876	1	78.50	0.00	78.50	11/10/2022		43684
			INSTRUCTOR - P&R	11022022		78.50	0.00	78.50			
115509	CHK	A	FOXWORTH - GALBRAITH LUMBER CO	96	3	164.34	0.00	164.34	11/10/2022		43684
			10/22 CHARGES	1112022		164.34	0.00	131.36			

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			10/22 CHARGES	1112022		164.34	0.00	24.99			
			10/22 CHARGES	1112022		164.34	0.00	7.99			
115510	CHK	A	GAZETTE, THE	276	1	114.39	0.00	114.39	11/10/2022		43684
			LEGAL NOTICE - PL	10312022		114.39	0.00	114.39			
115511	CHK	A	GOTO COMMUNICATIONS, INC.	5410	1	2,597.72	0.00	2,597.72	11/10/2022		43684
			11/22 CHARGES	IN7101507853		2,597.72	0.00	2,597.72			
115512	CHK	A	GRAINGER INC.	282	2	219.09	0.00	219.09	11/10/2022		43684
			SUPPLIES - WWTP	9488760209		121.35	0.00	121.35			
			SUPPLIES - WWTP	9491121951		97.74	0.00	97.74			
115513	CHK	A	HOME DEPOT CREDIT SERVICES	1758	1	884.87	0.00	884.87	11/10/2022		43684
			10/22 CHARGES	10292022		884.87	0.00	884.87			
115514	CHK	A	IRON MOUNTAIN	1376	1	898.91	0.00	898.91	11/10/2022		43684
			ON SITE SHREDDING	GYPM838		898.91	0.00	898.91			
115515	CHK	A	JACK'S TIRE & OIL MANAGEMENT C	5215	1	691.87	0.00	691.87	11/10/2022		43684
			#49	22-0301948-088		691.87	0.00	691.87			
115516	CHK	A	JUDD'S GLASS & MIRROR	5340	1	290.00	0.00	290.00	11/10/2022		43684
			REPAIR #39	815047		290.00	0.00	290.00			
115517	CHK	A	KUBWATER RESOURCES INC	4643	1	4,727.52	0.00	4,727.52	11/10/2022		43684
			COMPOST - WWTP	11375		4,727.52	0.00	4,727.52			
115518	CHK	A	LIGHTING, ACCESSORY & WARNING	4770	1	56.67	0.00	56.67	11/10/2022		43684
			#61	21807		56.67	0.00	56.67			
115519	CHK	A	MACDOUGALL & WOLDRIDGE, PC	1228	1	105.00	0.00	105.00	11/10/2022		43684
			PROFESSIONAL FEES	162481		105.00	0.00	105.00			
115520	CHK	A	MEBULBS	3794	1	281.88	0.00	281.88	11/10/2022		43684
			BULBS - F&G	40274349-01		281.88	0.00	281.88			
115521	CHK	A	MICHOW COX & MCASKIN	5404	1	3,840.63	0.00	3,840.63	11/10/2022		43684
			09/22-10/22 CHARGES	WPDDA.SEP.2022.0013,		840.63	0.00	3,840.63			
115522	CHK	A	MIRACLE RECREATION EQUIPMENT	3118	1	895.16	0.00	895.16	11/10/2022		43684
			CLIMBING WALL	848320		895.16	0.00	895.16			
115523	CHK	A	NICKALUS PEARCE	1	1	98.33	0.00	98.33	11/10/2022		43684
			UTILITY REFUND	2957.09		98.33	0.00	98.33			
115524	CHK	A	JOHN & ERIN BLACKWELL	1	1	75.00	0.00	75.00	11/10/2022		43684
			UTILITY REFUND	354.03		75.00	0.00	75.00			
115525	CHK	A	VIRGINIA GEORGE	1	1	22.35	0.00	22.35	11/10/2022		43684
			UTILITY REFUND	648.02		22.35	0.00	22.35			
115526	CHK	A	MISSION COMMUNICATIONS,LLC	4748	1	1,360.20	0.00	1,360.20	11/10/2022		43684
			ANNUAL SERVICE PACKAGE	1069844		1,360.20	0.00	1,360.20			
115527	CHK	A	O'REILLY AUTOMOTIVE STORES, IN	4531	1	34.47	0.00	34.47	11/10/2022		43684

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			10/22 CHARGES	10282022		34.47	0.00	34.47			
115528	CHK	A	PITNEY BOWES GLOBAL FINANCIAL	2479	1	90.00	0.00	90.00	11/10/2022		43684
			11/22 POSTAGE METER LEASE10	3316510367		90.00	0.00	90.00			
115529	CHK	A	PLANT ENGINEERING CONSULTANTS,	5391	1	4,048.80	0.00	4,048.80	11/10/2022		43684
			AC DESIGN & CONSTRUCTION-UPCC	15063		4,048.80	0.00	4,048.80			
115530	CHK	A	PROFORCE LAW ENFORCEMENT	3727	1	429.00	0.00	429.00	11/10/2022		43684
			TESTING GUN	496672		429.00	0.00	429.00			
115531	CHK	A	REBECCA ALLEN	5329	1	175.00	0.00	175.00	11/10/2022		43684
			10/22 CHARGES	115		175.00	0.00	175.00			
115532	CHK	A	ROSZCZEWSKI, ALICE JEAN	4440	1	289.50	0.00	289.50	11/10/2022		43684
			INSTRUCTOR - P&R	11032022		289.50	0.00	289.50			
115533	CHK	A	SCHUMACHER'S	561	1	92.00	0.00	92.00	11/10/2022		43684
			#51 REPAIR	72260		92.00	0.00	92.00			
115534	CHK	A	SHERWIN-WILLIAMS	1890	1	357.44	0.00	357.44	11/10/2022		43684
			PAINT - F&G	6953-7		357.44	0.00	357.44			
115535	CHK	A	SNO-WHITE LINEN & UNIFORM, INC	581	2	347.90	0.00	347.90	11/10/2022		43684
			EVENT EXPENSE	S0079117		191.70	0.00	191.70			
			EVENT EXPENSE	S0080153		156.20	0.00	156.20			
115536	CHK	A	SOLITUDE LAKE MANAGEMENT	5073	1	408.00	0.00	408.00	11/10/2022		43684
			5 month Contract Memorial Park	PI-A00862218		408.00	0.00	408.00			
115537	CHK	A	STANDARD INSURANCE COMPANY	1091	1	1,791.19	0.00	1,791.19	11/10/2022		43684
			11/22 STD & LTD	10172022		1,791.19	0.00	1,791.19			
115538	CHK	A	TDS BROADBAND LLC	5335	3	2,209.44	0.00	2,209.44	11/10/2022		43684
			11/22 DIGITAL SIGN	10252022		92.45	0.00	92.45			
			11/22 METROE - CITY HALL	10252022A		833.18	0.00	833.18			
			10/22-11/22 INTERNET	10252022B		1,283.81	0.00	1,283.81			
115539	CHK	A	TELLER COUNTY WASTE	4158	1	793.80	0.00	793.80	11/10/2022		43684
			ROLL OFF	36481		793.80	0.00	793.80			
115540	CHK	A	TEVIN M. JAMES	5409	1	81.00	0.00	81.00	11/10/2022		43684
			OFFICIAL - P&R	11022022		81.00	0.00	81.00			
115541	CHK	A	TIAA COMMERCIAL FINANCE, INC	5175	1	594.00	0.00	594.00	11/10/2022		43684
			11/22 COPIER CONTRACT	9231326		594.00	0.00	594.00			
115542	CHK	A	UNCC UTILITY NOTIFICATION CNTR	2012	2	211.90	0.00	211.90	11/10/2022		43684
			UTILITY LOCATES	222101531		211.90	0.00	74.17			
			UTILITY LOCATES	222101531		211.90	0.00	137.73			
115543	CHK	A	UNITED REPROGRAPHIC SUPPLY	4285	1	98.00	0.00	98.00	11/10/2022		43684
			11/22 FORMAT PRINTER	3899100		98.00	0.00	98.00			
115544	CHK	A	USA BLUEBOOK	1779	1	289.81	0.00	289.81	11/10/2022		43684
			LAB SUPPLIES - WWTP	142879		289.81	0.00	289.81			

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115545	CHK	A	VENDOR MANAGEMENT CONSULTING TRASH SAVINGS	5378 1247	1	366.75 366.75	0.00 0.00	366.75 366.75	11/10/2022		43684
115546	CHK	A	WEX HEALTH INC 10/22 FSA	5283 0001615640-IN	1	83.00 83.00	0.00 0.00	83.00 83.00	11/10/2022		43684
115547	CHK	A	XEROX BUSINESS SOLUTIONS SOUTH 10/22-11/22 BILLING	5336 IN4063129	1	1,524.03 1,524.03	0.00 0.00	1,524.03 1,524.03	11/10/2022		43684
95	EFT	A	WEX BANK WEX 11/2022	5187 84809073	1	10,281.35 10,281.35	0.00 0.00	10,281.35 10,281.35	11/10/2022	HP	43715
115548	CHK	A	BATTERIES PLUS BULBS BATTERIES - WWTP	2133 P56314122	1	105.27 105.27	0.00 0.00	105.27 105.27	11/17/2022		43692
115549	CHK	A	BLUETARP FINANCIAL TUNDRA 2 JACKET	4474 51089027	1	37.99 37.99	0.00 0.00	37.99 37.99	11/17/2022		43692
115550	CHK	A	BURLAP BAG CLOTHING/BOOTS UNIFORM - CASE UNIFORM - CASE UNIFORM - DROSTE UNIFORM - SOCZEK	1356 22-10812 22-10812 22-10827 22-10841	4	427.50 165.30 165.30 197.60 64.60	0.00 0.00 0.00 0.00 0.00	427.50 107.44 57.86 197.60 64.60	11/17/2022		43692
115551	CHK	A	CASELLE INC 12/22 CONTRACT 12/22 CONTRACT	2356 120612 120612	2	513.00 513.00 513.00	0.00 0.00 0.00	513.00 333.45 179.55	11/17/2022		43692
115552	CHK	A	CASEY'S LUMBER, INC. DOUG FIR - LOGS - WWTP	123 19853	1	211.20 211.20	0.00 0.00	211.20 211.20	11/17/2022		43692
115553	CHK	A	CHAD MILDBRANDT BARTENDING - UPCC	5159 11142022	1	207.00 207.00	0.00 0.00	207.00 207.00	11/17/2022		43692
115554	CHK	A	CINTAS CORPORATION NO 2 UNIFORMS - FL UNIFORMS - FL	4977 4136414440 4137107517	2	247.28 135.61 111.67	0.00 0.00 0.00	247.28 135.61 111.67	11/17/2022		43692
115555	CHK	A	CINTAS FIRE PROTECTION INSPECTION - FLEET	3604 0F47568345	1	671.27 671.27	0.00 0.00	671.27 671.27	11/17/2022		43692
115556	CHK	A	CML COLORADO MUNICIPAL LEAGUE 2023 MEMBERSHIP DUES	172 3620-2023	1	6,686.00 6,686.00	0.00 0.00	6,686.00 6,686.00	11/17/2022		43692
115557	CHK	A	CONSPIRE! DRUG SCREEN	3235 23030	1	155.00 155.00	0.00 0.00	155.00 155.00	11/17/2022		43692
115558	CHK	A	CORE ELECTRIC COOPERATIVE 10/2022 CHARGES 10/2022 CHARGES 10/2022 CHARGES 10/2022 CHARGES	5316 11012022 11012022 11012022 11012022	4	45,328.11 45,328.11 45,328.11 45,328.11 45,328.11	0.00 0.00 0.00 0.00 0.00	45,328.11 6,717.58 13,098.25 13,322.94 12,189.34	11/17/2022		43692
115559	CHK	A	CROWN TROPHY NAME BADGE - JOHNSON	4177 52788	1	24.25 24.25	0.00 0.00	24.25 24.25	11/17/2022		43692

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
115560	CHK	A	DC FROST ASSOCIATES, INC OIL - WWTP	5214 43369	1	1,299.61 1,299.61	0.00 0.00	1,299.61 1,299.61	11/17/2022		43692
115561	CHK	A	EL PASO CTY PUBLIC HEALTH LABO BACTERIOLOGICAL TESTS - WTP	241 EHS20215344	1	252.00 252.00	0.00 0.00	252.00 252.00	11/17/2022		43692
115562	CHK	A	FRED'S TOWING, LLC TOW - 3 VEHICLES	4254 8816	1	379.63 379.63	0.00 0.00	379.63 379.63	11/17/2022		43692
115563	CHK	A	FRONT RANGE KUBOTA CUTTING EDGE/BOLT - F&G	5149 FTN-4000222	1	692.54 692.54	0.00 0.00	692.54 692.54	11/17/2022		43692
115564	CHK	A	GLASER GAS, INC. PROPANE TANK REFILL	3244 101082	1	63.00 63.00	0.00 0.00	63.00 63.00	11/17/2022		43692
115565	CHK	A	GRAINGER INC. SUPPLIES - WWTP SUPPLIES - F&G UTILITY PUMP - WWTP SUPPLIES - WWTP	282 9499266493 9499986520 9501391859 9506639658	4	267.46 14.40 15.48 169.98 67.60	0.00 0.00 0.00 0.00 0.00	267.46 14.40 15.48 169.98 67.60	11/17/2022		43692
115566	CHK	A	HAWKEYE STRIPING RESTRIPE BB COURTS	4115 3865	1	1,250.00 1,250.00	0.00 0.00	1,250.00 1,250.00	11/17/2022		43692
115567	CHK	A	HOLMAN VEH #6 - PARTS	4630 1889172	1	261.32 261.32	0.00 0.00	261.32 261.32	11/17/2022		43692
115568	CHK	A	IMAGE BEARERS CLEANING LLC 11/22 CLEANING CONTRACT	5082 3270	1	4,112.00 4,112.00	0.00 0.00	4,112.00 4,112.00	11/17/2022		43692
115569	CHK	A	JACK'S TIRE & OIL MANAGEMENT C #54	5215 00-0C47316-088	1	288.09 288.09	0.00 0.00	288.09 288.09	11/17/2022		43692
115570	CHK	A	KIEWIT INFRASTRUCTURE CO BALDWIN, RAMPART, KELLY'S ROAD 3	4850 3	1	1,566,828.81 1,566,828.81	0.00 0.00	1,566,828.81 1,566,828.81	11/17/2022		43692
115571	CHK	A	KROGER-KING SOOPERS CUST CHGS 10/22-11/22 CHARGES	145 11082022	1	111.79 111.79	0.00 0.00	111.79 111.79	11/17/2022		43692
115572	CHK	A	LAFEVER, DALTON OFFICIAL	4494 11152022	1	240.00 240.00	0.00 0.00	240.00 240.00	11/17/2022		43692
115573	CHK	A	LAW FIRM OF SUZANNE M. ROGERS, 10/22 LEGAL SERVICES	5054 11092022	1	2,623.10 2,623.10	0.00 0.00	2,623.10 2,623.10	11/17/2022		43692
115574	CHK	A	MFCP INC. PARTS #41	2402 8436180	1	80.13 80.13	0.00 0.00	80.13 80.13	11/17/2022		43692
115575	CHK	A	CHRIS ADAMS REIMB. PERMIT	1 11082022	1	38.22 38.22	0.00 0.00	38.22 38.22	11/17/2022		43692
115576	CHK	A	DELORIS & SAMUEL NICHOLSON UTILITY REFUND	1 1238.03	1	72.31 72.31	0.00 0.00	72.31 72.31	11/17/2022		43692
115577	CHK	A	CARTER REALTY UTILITY REFUND	1 409215	1	35.89 35.89	0.00 0.00	35.89 35.89	11/17/2022		43692

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Payment Number	Type	ID	Name	SRC	Num INV	Gross Amount	Discounts	Net Pay	Payment Date	HP Void	Batch
115578	CHK	A	JANELLE STERLING	1	1	34.49	0.00	34.49	11/17/2022		43692
			UTILTIY REFUND	891.02		34.49	0.00	34.49			
115579	CHK	A	NAPA AUTO PARTS	2048	2	1,362.66	0.00	1,362.66	11/17/2022		43692
			10/22 CHARGES	10312022		1,362.66	0.00	1,163.27			
			10/22 CHARGES	10312022		1,362.66	0.00	199.39			
115580	CHK	A	NICOLE S EVANS	4994	1	2.00	0.00	2.00	11/17/2022		43692
			BARTENDING	11142022		2.00	0.00	2.00			
115581	CHK	A	NORTHERN SAFETY &INDUSTRIAL CO	2417	1	51.07	0.00	51.07	11/17/2022		43692
			RAINWEAR JACKET - F&G	905000066		51.07	0.00	51.07			
115582	CHK	A	PEAK INTERNET	3141	5	12,077.78	0.00	12,077.78	11/17/2022		43692
			11/2022 CHARGES	11022022		9,711.97	0.00	491.55			
			11/2022 CHARGES	11022022		9,711.97	0.00	491.55			
			11/2022 CHARGES	11022022		9,711.97	0.00	8,018.29			
			11/2022 CHARGES	11022022		9,711.97	0.00	710.58			
			11/2022 CHARGES	11022022-1		2,365.81	0.00	2,365.81			
115583	CHK	A	PHIL LONG FORD	504	3	199.88	0.00	199.88	11/17/2022		43692
			#11 REPAIR	583037		169.88	0.00	169.88			
			#60 REPAIR	912654		138.54	0.00	138.54			
			CREDIT	CM912654		108.54-	0.00	108.54-			
115584	CHK	A	PIKES PEAK REGIONAL BUILDING D	4647	1	28.68	0.00	28.68	11/17/2022		43692
			10/22 PLAN FEES	11082022		28.68	0.00	28.68			
115585	CHK	A	PIPESTONE EQUIPMENT, LLC	5127	1	622.81	0.00	622.81	11/17/2022		43692
			REPAIR KIT - WTP	13373		622.81	0.00	622.81			
115586	CHK	A	PROFORCE LAW ENFORCEMENT	3727	1	8,992.25	0.00	8,992.25	11/17/2022		43692
			As quoted on #621729	499126		8,992.25	0.00	8,992.25			
115587	CHK	A	RAMPART SUPPLY, INC.	528	1	129.09	0.00	129.09	11/17/2022		43692
			SUPPLIES - F&G	2849405-00		129.09	0.00	129.09			
115588	CHK	A	SGS ACCUTEST INC.	4859	1	415.00	0.00	415.00	11/17/2022		43692
			10/22 WATER QUALITY TEST	52160142230		415.00	0.00	415.00			
115589	CHK	A	SOUTHERN GLAZER'S WINE & SPIRI	2805	2	666.67	0.00	666.67	11/17/2022		43692
			LIQUOR ORDER	2957401		76.83	0.00	76.83			
			LIQUOR ORDER	2957402		589.84	0.00	589.84			
115590	CHK	A	TELLER COUNTY WASTE	4158	1	640.00	0.00	640.00	11/17/2022		43692
			12/22 PORTABLE RESTROOMS	38551		640.00	0.00	640.00			
115591	CHK	A	TRACTOR SUPPLY COMPANY	4753	2	130.97	0.00	130.97	11/17/2022		43692
			10/2022 CHARGES	10312022		130.97	0.00	97.98			
			10/2022 CHARGES	10312022		130.97	0.00	32.99			
115592	CHK	A	TROEGER, KRISTOFER L	4499	1	51.47	0.00	51.47	11/17/2022		43692
			CLOTHING REIMBURSEMENT	11142022		51.47	0.00	51.47			
115593	CHK	A	WASTE MANAGEMENT WOODLAND PARK	3004	1	37.43	0.00	37.43	11/17/2022		43692
			DEER DISPOSAL	0006215-2517-9		37.43	0.00	37.43			

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Payment Number	Type	ID	Name	SRC	Num INV	Gross Amount	Discounts	Net Pay	Payment Date	HP Void	Batch
115594	CHK	A	WAXIE SANITARY SUPPLY	4189	2	278.35	0.00	278.35	11/17/2022		43692
			CUSTODIAL SUPPLIES - UPCC	81151065		105.01	0.00	105.01			
			CUSTODIAL SUPPLIES - WAC	81300414		173.34	0.00	173.34			
115595	CHK	A	WIRELESS WATCHDOGS, LLC	5102	1	348.00	0.00	348.00	11/17/2022		43692
			10/22 MAINTENANCE	IN0099373		348.00	0.00	348.00			
115596	CHK	A	WOODLAND HARDWARE & RENTAL	2739	3	532.07	0.00	532.07	11/17/2022		43692
			10/22 CHARGES	103122		532.07	0.00	53.95			
			10/22 CHARGES	103122		532.07	0.00	208.67			
			10/22 CHARGES	103122		532.07	0.00	269.45			
REGISTER TOTALS Checks: 137 Voids: 2 185 1,750,785.95 0.00 1,750,785.95											

Bank Number: 99 / Name: VECTRA BANK COLORADO/PAYROLL / Description: PAYROLL ACCOUNT						
Payment Number	Position	Num Inv	Gross Amount	Discounts	Net Pay	Payment Date
18967	Pool Attendant	1	1039.35	352.85	686.5	11/4/2022
18968	Lifeguard	1	228.8	20.51	208.29	11/4/2022
18969	Lifeguard	1	263.8	25.18	238.62	11/4/2022
18970	Lifeguard	1	389.11	40.78	348.33	11/4/2022
18971	Lifeguard	1	100.48	7.69	92.79	11/4/2022
18972	Lifeguard	1	9.89	0.76	9.13	11/4/2022
18973	Water Treatment Operat	1	1513.6	414.75	1098.85	11/4/2022
18974	Grant Analyst	1	2316.87	379.08	1937.79	11/18/2022
18975	Sales Tax Accountant	1	1804.36	292.25	1512.11	11/18/2022
18976	Lifeguard	1	475.68	51.38	424.3	11/18/2022
18977	MWI	1	705.5	106.25	599.25	11/18/2022
18978	Lifeguard	1	260.5	24.93	235.57	11/18/2022
18979	Lifeguard	1	19.79	1.52	18.27	11/18/2022
18980	PT Meter Reader	1	234	21.9	212.1	11/18/2022
18981	Water Treatment Operat	1	1513.6	414.73	1098.87	11/18/2022
50717	Fleet Mechanic I	1	1918.68	395.09	1523.59	11/4/2022
50718	Corporal	1	3239.62	712.14	2527.48	11/4/2022
50719	Assistant Dispatch Supervisor	1	1064.68	363.36	701.32	11/4/2022
50720	Police Officer I	1	2506.64	619.73	1886.91	11/4/2022
50721	Dispatcher I	1	1981	531.61	1449.39	11/4/2022
50722	Utility Billing Techni	1	1952	654.65	1297.35	11/4/2022
50723	Planner	1	2722.8	819.74	1903.06	11/4/2022
50724	Maintenance Worker II Field S	1	1840	447.85	1392.15	11/4/2022
50725	Water Fitness Instruct	1	508.95	48.83	460.12	11/4/2022
50726	WWTO	1	2095.8	589.87	1505.93	11/4/2022
50727	Crew Chief-Field Service	1	2988.72	1371.29	1617.43	11/4/2022
50728	Dispatcher	1	1621.2	315.47	1305.73	11/4/2022
50729	MUNICIPAL COURT CLERK	1	1380.06	299.21	1080.85	11/4/2022
50730	Maintenance Worker I P	1	1337.28	324.78	1012.5	11/4/2022
50731	Police Officer II	1	2963.35	552.53	2410.82	11/4/2022
50732	Sergeant	1	3530.1	1446.33	2083.77	11/4/2022
50733	Assistant Dispatch Supervisor	1	2129.48	670.89	1458.59	11/4/2022
50734	Chief of Police	1	4482.69	1153.1	3329.59	11/4/2022
50735	Police Officer I	1	2770.61	571.1	2199.51	11/4/2022
50736	Lifeguard	1	1606.5	242.93	1363.57	11/4/2022
50737	Code Compliance	1	239.8	99.59	140.21	11/4/2022
50738	Maitenance Worker III	1	1937.52	414.28	1523.24	11/4/2022
50739	Accounting Manager	1	3086.34	1055.92	2030.42	11/4/2022
50740	Maintenance Worker II Street	1	2370.34	648.1	1722.24	11/4/2022
50741	Event Center Coordinat	1	393.41	214	179.41	11/4/2022
50742	Sergeant	1	3701.75	899.32	2802.43	11/4/2022
50743	Lifeguard	1	141.79	10.85	130.94	11/4/2022
50744	PT Snow Plowing	1	129.84	9.94	119.9	11/4/2022
50745	Police Officer I	1	2758.5	678.99	2079.51	11/4/2022
50746	Sports Coordinator	1	1879.45	458.33	1421.12	11/4/2022
50747	Maintenance Worker I -	1	1421.4	547.44	873.96	11/4/2022
50748	Lifeguard	1	122.01	9.33	112.68	11/4/2022
50749	Dispatcher I	1	1938.6	512.68	1425.92	11/4/2022
50750	PD Admin Assist/Teen C	1	2406.79	688.25	1718.54	11/4/2022
50751	PT Meter Reader	1	1177.4	259.5	917.9	11/4/2022

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Payment Number	Position	Num Inv	Gross Amount	Discounts	Net Pay	Payment Date
50752	Finance Admin. Asst./C	1	1830.4	582.65	1247.75	11/4/2022
50753	Police Officer	1	2105.33	493.68	1611.65	11/4/2022
50754	Dispatch II	1	1895.49	439.85	1455.64	11/4/2022
50755	HR Generalist	1	3283.46	1172	2111.46	11/4/2022
50756	Assistant to the City Manager	1	2889.82	895.52	1994.3	11/4/2022
50757	Police Officer I	1	2638.8	503.02	2135.78	11/4/2022
50758	Lifeguard	1	220.93	19.91	201.02	11/4/2022
50759	Parks and Rec Director	1	3985.25	1411.35	2573.9	11/4/2022
50760	WWTO	1	1513.6	286.65	1226.95	11/4/2022
50761	Lifeguard	1	174.77	14.37	160.4	11/4/2022
50762	Lifeguard	1	1115.6	235.23	880.37	11/4/2022
50763	Construction Inspector	1	2322.6	923.93	1398.67	11/4/2022
50764	Maintenance Worker II - Street	1	1655.85	316	1339.85	11/4/2022
50765	City Manager	1	5346.16	1727.12	3619.04	11/4/2022
50766	City Clerk/Deputy City	1	4383.59	2353.66	2029.93	11/4/2022
50767	Corporal	1	3589.76	944.36	2645.4	11/4/2022
50768	Maintenance Worker I P	1	441.87	46.8	395.07	11/4/2022
50769	Dispatcher II	1	2120.65	595.59	1525.06	11/4/2022
50770	WWTO	1	1689.6	519.52	1170.08	11/4/2022
50771	Crew Chief - Fleet	1	3151.46	1298.54	1852.92	11/4/2022
50772	Police Officer	1	2655.98	579.61	2076.37	11/4/2022
50773	WWTO B	1	2406.2	525.64	1880.56	11/4/2022
50774	Presiding Municipal Co	1	1415.34	233.29	1182.05	11/4/2022
50775	P&R Sports Site Supv	1	527.15	50.33	476.82	11/4/2022
50776	UPCC-ASSISTANT	1	575.28	103.54	471.74	11/4/2022
50777	Lifeguard	1	336	26.7	309.3	11/4/2022
50778	Deputy City Clerk	1	1984.92	543.46	1441.46	11/4/2022
50779	Victim Advocate	1	367.6	31.13	336.47	11/4/2022
50780	Assistant Aquatics Manager	1	1764.6	458.69	1305.91	11/4/2022
50781	Victims Advocate Coord	1	3020.22	1849.62	1170.6	11/4/2022
50782	Lifeguard	1	407.42	43.17	364.25	11/4/2022
50783	Superintendent	1	3213.84	949.7	2264.14	11/4/2022
50784	Police Officer I	1	2798.41	862.94	1935.47	11/4/2022
50785	Lifeguard	1	405.68	42.04	363.64	11/4/2022
50786	Maint. Worker II - Str	1	2341.37	715.72	1625.65	11/4/2022
50787	Program Coordinator	1	1823	681.28	1141.72	11/4/2022
50788	Lifeguard	1	679.29	94.09	585.2	11/4/2022
50789	Police Officer II	1	3308.93	1379.03	1929.9	11/4/2022
50790	Planning Director	1	4228.8	1964.24	2264.56	11/4/2022
50791	City Engineer	1	4644.23	1293.85	3350.38	11/4/2022
50792	Lifeguard	1	115.41	8.82	106.59	11/4/2022
50793	Help Desk Tech	1	1817.6	367.99	1449.61	11/4/2022
50794	Utilities Technician	1	2650.29	1169.1	1481.19	11/4/2022
50795	Permit Technician	1	829.5	245.41	584.09	11/4/2022
50796	Maint. Worker I - PBG	1	2702.88	949.67	1753.21	11/4/2022
50797	Fitness Instructor	1	26.65	2.04	24.61	11/4/2022
50798	Lifeguard	1	731.04	121.83	609.21	11/4/2022
50799	Lifeguard	1	90.63	6.94	83.69	11/4/2022
50800	WWTP Chief Operator	1	3271.43	1237.53	2033.9	11/4/2022
50801	Lifeguard	1	78.49	6.01	72.48	11/4/2022

Bank Number: 99 / Name: VECTRA BANK COLORADO/PAYROLL / Description: PAYROLL ACCOUNT						
Payment Number	Position	Num Inv	Gross Amount	Discounts	Net Pay	Payment Date
50802	Fleet Mechanic II	1	2223.44	648.64	1574.8	11/4/2022
50803	Lifeguard	1	382.51	39.26	343.25	11/4/2022
50804	Lifeguard	1	748.53	109.31	639.22	11/4/2022
50805	Dispatch Supervisor	1	2520.19	943.83	1576.36	11/4/2022
50806	Police Officer I	1	2664.39	851.85	1812.54	11/4/2022
50807	Maint. Worker III - St	1	3186.84	1098.27	2088.57	11/4/2022
50808	Lifeguard	1	148.39	11.35	137.04	11/4/2022
50809	Crew Chief - PBG	1	2695.19	769.51	1925.68	11/4/2022
50810	Finance Director	1	4763.64	1381.15	3382.49	11/4/2022
50811	Police Officer II	1	2433.21	597.05	1836.16	11/4/2022
50812	Aquatic Manager	1	2862.3	851.15	2011.15	11/4/2022
50813	WTP CHIEF OPERATOR	1	4059.96	1948.21	2111.75	11/4/2022
50814	Utilities Director/Dep	1	5110.78	2337.94	2772.84	11/4/2022
50815	Lifeguard	1	211.04	19.15	191.89	11/4/2022
50816	Lifeguard	1	52.76	4.04	48.72	11/4/2022
50817	Front Desk Representative/Lif	1	855.53	126	729.53	11/4/2022
50818	WTO	1	1864.6	372.52	1492.08	11/4/2022
50819	MWI	1	1337.6	305.01	1032.59	11/4/2022
50820	Fleet Mechanic I	1	1918.68	395.09	1523.59	11/18/2022
50821	Pool Attendant	1	2167.43	582.33	1585.1	11/18/2022
50822	Corporal	1	4797.66	1074.81	3722.85	11/18/2022
50823	Assistant Dispatch Supervisor	1	1167.43	393.09	774.34	11/18/2022
50824	Police Officer I	1	2506.64	619.73	1886.91	11/18/2022
50825	Dispatcher I	1	1924.4	504.01	1420.39	11/18/2022
50826	Utility Billing Techni	1	1952	654.66	1297.34	11/18/2022
50827	Planner	1	2619.12	795.36	1823.76	11/18/2022
50828	Maintenance Worker II Field S	1	1840	447.85	1392.15	11/18/2022
50829	WWTO	1	2095.8	589.88	1505.92	11/18/2022
50830	Crew Chief-Field Service	1	2988.72	1371.29	1617.43	11/18/2022
50831	Dispatcher	1	1448.91	268.95	1179.96	11/18/2022
50832	MUNICIPAL COURT CLERK	1	1099.62	231.08	868.54	11/18/2022
50833	Maintenance Worker I P	1	1387.44	336.63	1050.81	11/18/2022
50834	Police Officer II	1	2362.88	440.81	1922.07	11/18/2022
50835	Sergeant	1	2957.94	1279.02	1678.92	11/18/2022
50836	Assistant Dispatch Supervisor	1	2129.48	670.88	1458.6	11/18/2022
50837	Chief of Police	1	4482.69	1153.09	3329.6	11/18/2022
50838	Police Officer I	1	2548.55	515.92	2032.63	11/18/2022
50839	Lifeguard	1	1732.5	271.17	1461.33	11/18/2022
50840	Maintenance Worker III	1	1684.8	356.65	1328.15	11/18/2022
50841	Accounting Manager	1	3086.34	1055.9	2030.44	11/18/2022
50842	Maintenance Worker II Street	1	2034.03	552.23	1481.8	11/18/2022
50843	Event Center Coordinat	1	1965.89	628.74	1337.15	11/18/2022
50844	Sergeant	1	2957.94	764.8	2193.14	11/18/2022
50845	Lifeguard	1	362.73	37.75	324.98	11/18/2022
50846	Lifeguard	1	49.46	3.78	45.68	11/18/2022
50847	PT Snow Plowing	1	259.68	19.86	239.82	11/18/2022
50848	Police Officer I	1	2797.14	665.97	2131.17	11/18/2022
50849	Sports Coordinator	1	1879.45	458.33	1421.12	11/18/2022
50850	Maintenance Worker I -	1	1421.4	547.46	873.94	11/18/2022
50851	Lifeguard	1	260.5	24.93	235.57	11/18/2022

Bank Number: 99 / Name: VECTRA BANK COLORADO/PAYROLL / Description: PAYROLL ACCOUNT						
Payment Number	Position	Num Inv	Gross Amount	Discounts	Net Pay	Payment Date
50852	Dispatcher I	1	1868.4	494.5	1373.9	11/18/2022
50853	PD Admin Assist/Teen C	1	2112.94	588.13	1524.81	11/18/2022
50854	Finance Admin. Asst./C	1	1830.4	582.63	1247.77	11/18/2022
50855	Police Officer	1	2124.13	491.94	1632.19	11/18/2022
50856	Dispatch II	1	1895.49	439.85	1455.64	11/18/2022
50857	HR Generalist	1	3283.46	1172.02	2111.44	11/18/2022
50858	Assistant to the City Manager	1	2889.82	895.53	1994.29	11/18/2022
50859	Police Officer I	1	2682.78	488.17	2194.61	11/18/2022
50860	Lifeguard	1	207.74	17.89	189.85	11/18/2022
50861	Parks and Rec Director	1	3985.25	1411.34	2573.91	11/18/2022
50862	WWTO	1	1513.6	286.66	1226.94	11/18/2022
50863	Lifeguard	1	557.28	66.56	490.72	11/18/2022
50864	Lifeguard	1	845.27	169.12	676.15	11/18/2022
50865	Construction Inspector	1	2322.6	923.93	1398.67	11/18/2022
50866	Maintenance Worker II - Street	1	2359.09	503.64	1855.45	11/18/2022
50867	City Manager	1	5346.16	1727.13	3619.03	11/18/2022
50868	City Clerk/Deputy City	1	4383.59	2353.66	2029.93	11/18/2022
50869	Corporal	1	5117.05	1385.26	3731.79	11/18/2022
50870	Maintenance Worker I P	1	187.96	16.38	171.58	11/18/2022
50871	Dispatcher II	1	2025.33	559.19	1466.14	11/18/2022
50872	WWTO	1	1689.6	519.52	1170.08	11/18/2022
50873	Crew Chief - Fleet	1	2976.46	1254.98	1721.48	11/18/2022
50874	Police Officer	1	4222.58	831.35	3391.23	11/18/2022
50875	WWTO B	1	2440.38	534.37	1906.01	11/18/2022
50876	Presiding Municipal Co	1	2516.16	498.77	2017.39	11/18/2022
50877	P&R Sports Site Supv	1	401.45	34.71	366.74	11/18/2022
50878	UPCC-ASSISTANT	1	761.05	145.33	615.72	11/18/2022
50879	Lifeguard	1	386.4	33.57	352.83	11/18/2022
50880	Deputy City Clerk	1	1984.92	543.46	1441.46	11/18/2022
50881	Victim Advocate	1	790.34	82.46	707.88	11/18/2022
50882	Assistant Aquatics Manager	1	1589.6	416.32	1173.28	11/18/2022
50883	Victims Advocate Coord	1	2570.4	1200.73	1369.67	11/18/2022
50884	Lifeguard	1	250.72	23.17	227.55	11/18/2022
50885	Superintendent	1	3213.84	949.71	2264.13	11/18/2022
50886	Police Officer I	1	2855.53	873.61	1981.92	11/18/2022
50887	Lifeguard	1	175.89	14.46	161.43	11/18/2022
50888	Maint. Worker II - Str	1	2341.37	715.71	1625.66	11/18/2022
50889	Program Coordinator	1	1648	638.91	1009.09	11/18/2022
50890	Lifeguard	1	98.93	7.56	91.37	11/18/2022
50891	Police Officer II	1	3067.22	1336.48	1730.74	11/18/2022
50892	Planning Director	1	4228.8	1964.26	2264.54	11/18/2022
50893	City Engineer	1	4644.23	1293.84	3350.39	11/18/2022
50894	Lifeguard	1	98.93	7.57	91.36	11/18/2022
50895	Help Desk Tech	1	1817.6	367.98	1449.62	11/18/2022
50896	Utilities Technician	1	2650.29	1169.1	1481.19	11/18/2022
50897	Permit Technician	1	1007.25	284.78	722.47	11/18/2022
50898	Maint. Worker I - PBG	1	2702.88	949.66	1753.22	11/18/2022
50899	Lifeguard	1	643.47	102.3	541.17	11/18/2022
50900	WWTP Chief Operator	1	3434.99	1283.86	2151.13	11/18/2022
50901	Lifeguard	1	238.26	22.22	216.04	11/18/2022

Bank Number: 99 / Name: VECTRA BANK COLORADO/PAYROLL / Description: PAYROLL ACCOUNT						
Payment Number	Position	Num Inv	Gross Amount	Discounts	Net Pay	Payment Date
50902	Fleet Mechanic II	1	2223.44	648.65	1574.79	11/18/2022
50903	Lifeguard	1	98.93	7.57	91.36	11/18/2022
50904	Lifeguard	1	1002.44	168.31	834.13	11/18/2022
50905	Dispatch Supervisor	1	2646.19	979.12	1667.07	11/18/2022
50906	Police Officer I	1	2820.05	882.37	1937.68	11/18/2022
50907	Maint. Worker III - St	1	2771.16	954.24	1816.92	11/18/2022
50908	Crew Chief - PBG	1	2693.44	772.62	1920.82	11/18/2022
50909	Finance Director	1	4763.64	1381.15	3382.49	11/18/2022
50910	Police Officer II	1	3578.65	893.59	2685.06	11/18/2022
50911	Aquatic Manager	1	2862.3	851.16	2011.14	11/18/2022
50912	WTP CHIEF OPERATOR	1	4059.96	1948.19	2111.77	11/18/2022
50913	Utilities Director/Dep	1	5110.78	2337.95	2772.83	11/18/2022
50914	Front Desk Representative/Lif	1	865.59	127.78	737.81	11/18/2022
50915	WTO	1	1689.6	333.63	1355.97	11/18/2022
50916	MWI	1	1337.6	305.02	1032.58	11/18/2022
			423,311.40	127,506.66	295,804.74	



City of Woodland Park

Staff Report for City Council

Meeting Date: January 19, 2023

<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 summary of the Council and Mayor Expenses for November 2022.

November 2022

Description	Budget	Month Exp	YTD Exp	Balance	% Expended
Emergency Management	\$2,300	\$0.00	\$1,392.00	\$908.00	61%
Miscellaneous expenses	\$15,650	\$0.00	\$11,014.53	\$4,635.47	70%
Training/Travel	\$2,400	\$0.00	\$8,661.21	-\$6,261.21	361%
Supplies	\$150	\$0.00	\$58.20	\$91.80	39%
Meetings/Mileage/Meals	\$1,500	\$265.75	\$1,224.06	\$275.94	82%
Special Projects	\$500	\$0.00	\$0.00	\$500.00	0%
Total	\$22,500	\$266	\$22,350	\$150.00	99%



STAFF REPORT

TO: Mayor LaBarre and City Council
FROM: Kip Wiley, Director of Operations
DATE: January 19, 2023
SUBJECT: Purchase valve maintenance trailer

BACKGROUND: This purchase comes before City Council as it was not in the 2023 budget and we are requesting to purchase it. The cost of the valve maintenance trailer is \$76,868.00.

A valve maintenance trailer adds significant benefits to our water distribution system as well as reducing staff time and response time. Currently the City owns and operates approximately 1500 water valves (not counting property shut off valves) within the water distribution system. These valves are typically seven feet plus below grade. The valve box (which is used to gain access to the valve) usually fills in with dirt and water. The valve maintenance trailer has a mobile vacuum and a pressurized water sprayer unit that is used to clean and remove material to access the valve itself. The trailer is equipped with a valve turning apparatus that will measure the number of turns as well as the amount of torque needed to open and close (turn) the valve. To open and close a water valve one will typically see one to two staff members standing in the road, holding on to a metal pipe looking tool (in the shape of a "T") walking in a circle (dancing together). We received two proposals for this piece of equipment, one from Ten Point Sale at \$76,868.00 and the other from Intermountain Sale Inc. at \$81,995.00.

Currently the City uses a larger piece of equipment that requires a CDL to remove the material within the valve box. As you know it has been difficult to find CDL drivers. This piece of equipment would eliminate that need. We do not have an apparatus for turning the valve either. Currently we use the valve key and staff just has to use their muscles while turning.

We are in great need of this valve maintenance trailer as our valves need more exercising. The water enterprise is in a good position to purchase this equipment as the fund balance has the reserves at this time. The projected 2022 year end fund balance is \$4.548M.

RECOMMENDATION: Approve the purchase of the valve maintenance trailer for \$76,868.00

ATTACHMENTS: Cost break out for the trailer



**Transmissive Acoustics Assessments
and Manhole Inspections**

This agreement made this 13th day of December 2022 by and between City of Woodland Park with primary business address of 220 W. South Avenue, Woodland Park, CO, 80866, hereinafter referred to as The Customer, and RH Borden and Company, LLC with primary business address of 2961 Maple Loop Drive, Lehi, UT, 84043, hereinafter referred to as The Provider. These parties jointly are hereinafter referred to as The Parties.

1. The Parties hereby agree to the following:

a. The Customer will provide to The Provider:

- i. Permission to open manholes and make assessments. By execution of this agreement permission is hereby granted.
- ii. A map of all manholes and sewer lines to be assessed including manhole locations and which sewer line segments are to be assessed.
- iii. Permission to access the desired manhole locations.
- iv. Traffic Control assistance for roads that are greater than two lanes or with speed limits greater than 30 mile per hour. All required traffic control permits shall be the responsibility of the Customer.

b. The Provider will conduct sewer line inspections using transmissive acoustics for the Customer as follows:

- i. Sewer line Acoustic Transmissive Inspection services as specified in ASTM F3220 – 17 “Standard Practice for Prioritizing Sewer Pipe Cleaning Operations by Using Transmissive Acoustic Inspection”. These services will be accomplished by using the systems provided by InfoSense, Inc. using equipment known as Sewer Line Rapid Assessment Tools (SL-RAT).
- ii. A detailed summary of each sewer line assessed including the following:
 - i. Unique Measurement Identification Number
 - ii. Time and Date of Measurement
 - iii. Length of pipe segment measured as measured by available Global Positioning Services (GPS).
 - iv. GPS Location of Transmitter and Receiver at the time of measurement
 - v. The Condition of the pipe will be reported on a scale including but not limited to a score of 0-10 as shown below:
 - a. 10 = Good - No significant obstructions within the pipe
 - b. 7-10 = Good – Minor impediments within the pipe such as joint offsets, partial sags, protruding laterals, debris, minor grease, and/or minor root fibers and/or other obstructions that could affect the score.
 - c. 4-6 = Impediments within the pipe such as joint offsets, partial sags, protruding laterals, debris, grease, and/or root fibers. Single or multiple occurrences and/or other obstructions that could affect the score.
 - d. 1-3 = Significant impediments within the pipe such as multiple joint offsets, near full pipe sag, multiple protruding laterals, significant debris, significant grease, significant root fibers and/or root balls. Single or multiple occurrences and/or other obstructions that could affect the score.
 - e. 0 = Full pipe sag, single or multiple obstructions within the pipe reaching or nearly reaching the flow and/or other obstructions that could affect the score.
- iii. The format of the final report shall be provided electronically as a hosted GIS dashboard.

- c. The Provider will perform a visual manhole inspection for each manhole for Customer as follows:
 - i. Each manhole will be visually inspected and rated as Good, Poor, or Fair for the following attributes:
 - i. Proper seating of manhole lid
 - ii. Condition of manhole collar
 - iii. Condition of overall interior manhole structure
 - iv. Condition of manhole shelf
 - v. Presence of infiltration
 - ii. Data from manhole inspections shall be added as attribute data along with the acoustic assessments in the GIS dashboard.

2. In consideration of the foregoing, The Parties agree that:

- a. The Provider will ensure that all assessment equipment will be used properly, as prescribed by the manufacturer, to collect assessment data.
- b. Provider will follow the acoustic assessment process as specified in ASTM F3220 – 17 as noted above.
- c. Data provided indicates the pipe and manhole condition at the time of measurement and does not include any factors or conditions that arise after the time of the inspection.
- d. Provider does not warrant or otherwise guarantee collection system performance or structural condition.
- e. Provider agrees to indemnify, save, and hold harmless the Customer, 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 Provider, its officers, subcontractors, employees, or agents in the performance or non-performance of its obligations under this Agreement.
- f. Nothing in this Agreement shall be construed to create a partnership, joint venture, or employment relationship. Notwithstanding any provision herein to the contrary, Customer assumes no responsibility for any damage or loss that may occur to Provider's property, except for willful or intentional damage to the property of Provider caused by the Customer. Customer has no responsibility for any maintenance of Provider's equipment, or for Provider's employees.

- 3. Customer agrees to pay Provider a standard fee of \$0.18 per foot assessed with the SL-RAT for assessment and \$10.00 per manhole that is visually inspected for services specified herein. This fee shall apply to manholes located in the main thoroughfare and with straightforward access. Manholes that are not easily accessed such as those off the main road, in easements, back yards, alley ways, fields or other such difficult to access locations shall be charged an additional rate of \$10.00 per manhole when the manhole is assessed. The Provider will make all reasonable efforts to locate and access all manholes to conduct the inspection. If one or more manholes are buried, unknown, blocked, on private property or for any reason inaccessible, the Provider will skip the assessments of these segments and communicate the manhole status to the Customer. The Customer shall have the option to locate the manholes themselves and relay this information to the Provider to perform the assessments. If the Provider's attendance is requested as the manholes are being located, the Customer agrees to pay a wait fee of \$150.00 per hour while the customer locates and makes the manhole(s) accessible.
- 4. The term of this agreement shall be for 1 year following the first date of service. During the term Provider shall perform assessments as requested by the customer.
- 5. The Parties agree that this Service Agreement constitutes the entire agreement and understanding between them and supersedes any other written or oral agreement now in place pertaining to this subject. It is understood that this agreement is legally binding upon each Party, their successors, and assigns. Any change or modification hereto may only be made in writing and agreed to by an officer or owner of each Party.

In agreement hereof and in recognition that we are authorized to execute agreements for our respective Party, we hereto set our signatures:

RH Borden and Company, LLC

City of Woodland Park

By: 

by: _____

Date: 13 December, 2022

Date _____



STAFF REPORT

TO: Mayor LaBarre and City Council

FROM: Kip Wiley, Director of Operations

DATE: January 19, 2023

SUBJECT: Dove Project- 3R pump station construction contract between the City of Woodland Park and Velocity in the amount of \$1,296,939.00

BACKGROUND: The DOVE project, also known as 3R pump station is a State mandated project. DOVE stands for Disinfection Outreach Verification Evaluation. The City has worked with the State for five plus years on this project. This project entails adding a pump station at the exit point of the City main water tank. This location is strategic as it will monitor water disinfection capabilities before any customer receives water and the main tank is large enough to provide adequate chlorine contact time to meet State requirements. The booster station will also be pumping water back up the hill to approximately 11 customers. Those customers currently are serviced with water before the City's main water tank. The booster station will also increase fire flows to this area.

The City received four responsive bids for this project as follows: Velocity at (\$1,269,939), GSE Construction at (\$1,392,800), Asian Construction at (\$1,639,000) and Jenkins Restorations at (\$1,415,583). The low bid was Velocity. We have worked with Velocity previously. They constructed the headworks building at the wastewater treatment plant in 2010. They did a good job on that project.

While the estimated amount for these projects in the Capital Improvement Plan was budgeted at \$1,000,000, 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.

This project is funded by the ARP funds at \$1,000,000.00. The remaining \$296,000.00 will come from the Water Enterprise Fund. The projected fund balance at the end of 2022 is \$4.548M. The fund is healthy and will continue to fund projects into future years.

We have tried to cut costs for this project. We tried to re-use the generator from the wastewater plant for backup power however, we learned that constructing a small building for the existing generator cost more than purchasing a standalone generator. We are currently regrouping to purchase the generator ourselves however long lend times are causing some issues that we are working through. We also looked at different building materials to costs to reduce cost. We are hopeful that we will be able to cut cost on other items as we work through the construction with the contractor.

RECOMMENDATION: Approve Contract with Velocity for (\$1,296,939.00) for the DOVE – 3R pump station project.

ATTACHMENTS: 1. Construction Contract

SECTION 00500

AGREEMENT

THIS AGREEMENT is made this _____ day of _____, 2021, by and between the **City of Woodland Park**, a quasi-municipal corporation and political subdivision of the State of Colorado located in the Teller County, State of Colorado, hereinafter referred to as "**OWNER**," and _____, a limited liability company, hereinafter referred to as "**CONTRACTOR**."

In consideration of the mutual covenants, agreements, conditions and undertakings hereinafter specified, **OWNER** and **CONTRACTOR** agree as follows:

PART 1 CONTRACTOR'S AGREEMENT AND SCOPE OF WORK

- A. CONTRACTOR** agrees to furnish all the necessary labor, materials, equipment, tools and services necessary to perform and complete in a workmanlike manner all Work required for the construction of the Project in strict compliance with the Contract Documents as herein defined.

PART 2 CONTRACT DOCUMENTS

- A.** The "Contract Documents" which comprise the entire agreement and contract between **OWNER** and **CONTRACTOR** and which are attached to this Agreement and are incorporated herein by this reference, consist of:

1. This Agreement and any Amendments thereto;
2. Payment, Performance and Warranty Bond;
3. Notice of Award;
4. Notice to Proceed;
5. Contract Drawings;
6. Specifications, Appendices, and Standards;
7. General Conditions and Supplementary Conditions, if any;
8. Any Modifications, Change Orders, Field Orders or other such revisions properly authorized after execution hereof;
9. Documentation submitted by **CONTRACTOR** with Bid and prior to Notice of Award;
10. **CONTRACTOR**'s Bid Form, which is attached hereto and incorporated herein by this reference as Exhibit A, (hereafter, "**CONTRACTOR**'s Bid", the "Bid", or the "Bid Form");
11. Notice of Substantial Completion and Notice of Final Completion and Acceptance;
12. All documents contained within the Contract Specifications for the Project.

- B.** There are no Contract Documents other than those listed above in this Part 2. The Contract Documents may only be altered, amended or repealed by a Modification (as defined in the General Conditions). In the event of a conflict between this Agreement and the General Conditions, this Agreement shall control.

PART 3 ENGINEER AND OWNER'S REPRESENTATIVE

- A. The Project has been designed by JDS-Hydro Consultants, a Division of RESPEC, (hereinafter called "**ENGINEER**"), who will assume all duties and responsibilities and who will have the rights and authority assigned to **ENGINEER** in the Contract Documents.
- B. **OWNER's Representative** is Kip Wiley (hereinafter called "**OWNER's Representative**"), who will assume all duties and responsibilities, and who will have the rights and authority assigned to **OWNER's Representative** in the Contract Documents. **OWNER's Representative** will make himself available to perform its services under the Contract Documents. **OWNER's Representative** may also undertake some duties and responsibilities assigned to **ENGINEER**.

PART 4 AGREEMENT PRICE

- A. For the performance of Work and completion of the Project as specified in the Contract Documents, **OWNER** shall pay **CONTRACTOR** _____, and in accordance with the Contract Documents. The Agreement Price shall be subject to adjustment for changes in the Drawings and Specifications or for extensions of time to complete performance, if approved by **OWNER** and **CONTRACTOR** as hereinafter provided, and for changes in quantities, if bid on a unit-price basis in the Bid Form, which shall be verified by **ENGINEER**.

PART 5 CONTRACT TIME

- A. **CONTRACTOR** shall commence performance on the Project within ten (10) days after receipt of written Notice to Proceed. The Work will be completed according to the following schedule:

Substantial Completion – September 29, 2023

Final Completion (Including Revegetation) – October 31, 2023

- B. **OWNER** and **CONTRACTOR** recognize that time is of the essence of this Agreement and that **OWNER** will suffer financial loss if Project is not substantially completed within the time specified in Part 5 A., above, plus any extensions thereof allowed in accordance with the General Conditions. They also recognize the delays, expense, and difficulties involved in proving, in a legal or arbitration proceeding, the actual loss suffered by **OWNER** if Project is not substantially completed on time. Accordingly, instead of requiring any such proof, **OWNER** and **CONTRACTOR** agree that as liquidated damages for delay (but not as a penalty) **CONTRACTOR** shall pay **OWNER** in accordance with the following:

- | | | |
|----|-----------------------------|-----------------------|
| 1. | Late Substantial Completion | \$ <u>300</u> Per Day |
| 2. | Late Final Completion | \$ <u>150</u> Per Day |

PART 6 PAYMENT PROCEDURES

- A. On or before the first (1) day of each month, **CONTRACTOR** shall submit an Application for Partial Payment for the preceding month, in accordance with the General Conditions. Applications for payment will be reviewed and processed by **ENGINEER** and **OWNER's Representative** as provided in the General Conditions.
- B. **OWNER** shall make progress payments on the basis of **CONTRACTOR's** Applications for Payment, as recommended by **OWNER's Representative**, within five business days following the fourth Wednesday of each month (the "Due Date").
1. If **CONTRACTOR** is satisfactorily performing this Agreement, progress payments shall be in an amount equal to ninety five percent of the calculated value of any Work completed, less the aggregate of payments previously made, until one hundred percent of the Work required by this Agreement has been performed. If, in the opinion of **OWNER**, satisfactory progress is not being made on the Project, or if a claim is filed under Section 38-26-107, Colorado Revised Statutes, **OWNER** may retain such additional amounts as may be deemed reasonably necessary by **OWNER** to assure completion of the Work or to pay such claims and any **ENGINEER's** and attorney's fees reasonably incurred or to be incurred by **OWNER** in defending or handling such claims.

The withheld percentage of the Agreement Price shall be retained until this Agreement is completed satisfactorily and the Project is finally accepted by **OWNER** in accordance with the provisions of the Contract Documents. Progress payments shall not constitute final acceptance of the Work.

2. Payments will be made for materials stored on-site in accordance with Part 14.01 B of the General Conditions.

- C. **OWNER** shall make final payment, including release of any retainage, to **CONTRACTOR** as recommended by **ENGINEER**, and in accordance with the Contract Documents and Section 38-26-107, C.R.S.

PART 7 INTEREST

- A. All invoices approved for payment and not paid when due hereunder, exclusive of retainage which shall be retained as provided in Part 6, shall bear simple interest at eight percent (8%) per annum from the Due Date until paid.

PART 8 CONTRACTOR'S REPRESENTATIONS

- A. In order to induce **OWNER** to enter into this Agreement, **CONTRACTOR** makes the following representations:
 1. **CONTRACTOR** has familiarized himself with the nature and extent of the Contract Documents, Work, Locality, and with all local conditions and Federal, State and local laws, ordinances, rules and regulations that in any manner may affect cost, progress or performance of Project.
 2. **CONTRACTOR** has carefully studied the site and has performed all necessary investigations, tests, subsurface investigations to define the latent physical conditions of the construction site affecting cost, progress, or performance of Project.
 3. **CONTRACTOR** has made or caused to be made examinations, investigations, and tests and studies of such reports and related data as he deems necessary for the performance of Project at the Agreement Price, within the Contract Time, and in accordance with the other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports, or similar data are or will be required by **CONTRACTOR** for such purposes.
 4. **CONTRACTOR** has correlated the results of all such observations, examinations, investigations, tests, reports and data with the terms and conditions of the Contract Documents.
 5. **CONTRACTOR** has given **ENGINEER** written notice of all conflicts, errors or discrepancies that he has discovered in the Contract Documents, and the written resolution thereof by **ENGINEER** is acceptable to **CONTRACTOR**.

PART 9 OWNER'S REPRESENTATIONS

- A. **OWNER** makes the following representations:
 1. The **OWNER** has appropriated an amount of money equal to or in excess of the Contract Sum for the Work to be performed under this Agreement.
 2. The **OWNER** is prohibited from issuing any Change Order or other form of order or directive requiring additional compensable work to be performed by the Contractor, if such directive causes the aggregate Contract Sum under the Agreement to exceed the amount appropriated for the original Agreement, unless the **CONTRACTOR** is given written assurance by the **OWNER** that lawful appropriations to cover the costs of the additional work have been made and the appropriations are available prior to performance of the additional work or unless such work is covered under a remedy-granting provision in the Agreement. "Remedy-granting provision" means any contract clause which permits additional compensation in the event that a specific contingency or event occurs. Such term shall include, but not be limited to, change clauses, differing site

conditions clauses, variations in quantities clauses and termination for convenience clauses.

3. For any form of order or directive requiring additional compensable work to be performed by the **CONTRACTOR**, the **OWNER** shall reimburse the **CONTRACTOR** for the **CONTRACTOR'S** costs on a periodic basis, for all additional directed work performed until a Change Order is finalized. In no instance shall the periodic reimbursement be required before the Contractor has submitted an estimate of cost to the **OWNER** for the additional compensable work to be performed.

PART 10 MISCELLANEOUS

- A. Terms used in this Agreement which are defined in Part 1 of the General Conditions shall have the meanings indicated in the General Conditions.
- B. **CONTRACTOR** shall not, at any time, assign any interest in this Agreement or the other Contract Documents to any person or entity without the prior written consent of **OWNER**, specifically including, 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). Any attempted assignment which is not in compliance with the terms hereof shall be null and void. 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.

The terms of this Agreement, and all covenants, agreements, and obligations contained in the Contract Documents shall inure to and be binding upon the partners, legal representatives, successors, heirs, and permitted assigns of the parties hereto.

- C. If any term, section or other provision of the Contract Documents shall, for any reason, be held to be invalid or unenforceable, the invalidity or unenforceability of such term, section or other provision shall not affect any of the remaining provisions of the Contract Documents, and to this end, each term, section and provision of the Contract Documents shall be severable.
- D. No waiver by either party of any right, term or condition of the Contract Documents shall be deemed or construed as a waiver of any other right, term or condition, nor shall a waiver of any breach hereof be deemed to constitute a waiver of any subsequent breach, whether of the same or of a different provision of the Contract Documents.
- E. None of the remedies provided to either party under the Contract Documents shall be required to be exhausted or exercised as a prerequisite to resort to any further relief to which such party may then be entitled. Every obligation assumed by, or imposed upon, either party hereto shall be enforceable by any appropriate action, petition or proceeding at law or in equity. The Contract Documents shall be construed in accordance with the laws of the State of Colorado, and particularly those relating to governmental contracts.
- F. This Agreement may be executed in multiple counterparts, each of which shall constitute an original, but all of which shall constitute one and the same document.
- G. This Agreement, together with the other Contract Documents, constitutes the entire Agreement between the parties concerning the subject matter herein, and all prior negotiations, representations, contracts, understandings or agreements pertaining to such matters are merged into, and superseded by, the Contract Documents.
- H. In the event any provision of this Agreement conflicts with any provision of any other Contract Document, then the provisions of this Agreement shall govern and control such conflicting provisions.
- I. Unless otherwise expressly provided, any reference herein to "days" shall mean calendar days. All times stated in the Contract Documents are of the essence.
- J. In performing work under this Agreement, the Contractor acts as an independent contractor and not as an employee of the Owner. The Contractor shall be solely and entirely responsible for its acts, and the acts of its employees, agents, servants and subcontractors during the term and performance of this

Agreement. No employee, agent, servant or subcontractor of the Contractor shall be deemed to be an employee, agent or servant of the Owner because of the performance of any services or Work under this Agreement. The Contractor, at its expense, shall procure and maintain workers' compensation insurance and unemployment compensation insurance as required by law. Pursuant to the Workers' Compensation Act § 8-40-202(2)(b)(IV), C.R.S., the Contractor understands that it and its employees and servants are not entitled to workers' compensation benefits from the Owner. The Contractor further understands that it is solely obligated for the payment of federal and state income tax on any moneys earned pursuant to this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement on the day and year first above written.

OWNER:

CITY OF WOODLAND PARK

By: _____

Title: Director of Operations/DCM

Address: 220 W South Ave.

Woodland Park, CO 80866

Phone: 719-687-5208

STATE OF COLORADO)
) ss
COUNTY OF)

The foregoing Agreement was acknowledged before me this ____ day of _____, 2022, by _____
_____ as Director of Operations/DCM of City of Woodland Park.

Witness my hand and official seal.

My Commission expires:

[SEAL]

Notary Public

CONTRACTOR:

(include type of entity and state where organized, e.g. "a Colorado Corporation", limited liability company, etc.):

By: _____

Title: _____

Address: _____

Phone: _____

CONTRACTOR'S LICENSE NO.: _____

AGENT FOR SERVICE OF PROCESS:_____

STATE OF COLORADO)
) ss
COUNTY OF)

The foregoing Agreement was acknowledged before me this ____day of _____, 2022, by
_____ as _____ of _____.

Witness my hand and official seal.

My Commission expires:

Notary Public

END OF SECTION

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.



STAFF REPORT

TO: Mayor LaBarre and City Council

FROM: Kip Wiley, Director of Operations

DATE: January 10, 2023

SUBJECT: Contract between the City of Woodland Park and RH Borden and Company LLC in the amount of \$75,000.00 for City wide collection system investigation.

BACKGROUND: This contract will significantly improve the City's sanitary collection system by providing us the knowledge to effectively maintain its operation. This investigation will provide a visual inspection of every manhole as well as information on each sanitary collection line. The information will tell us which lines to focus on for cleaning. Basically giving us a priority map for which lines need cleaned first and so on. The challenge with the collection system is you never really know how plugged a line is until a camera rolls down it. This new technology will save us time without having to roll a crew and camera out to each and every sewer line. This technology assess the lines with acoustics and provides us with much faster and accurate information on line operability.

An added benefit to the timing of this work is the data collection during the investigation will be available to add to the new asset management system (Beehive) and we will have an accurate (GPS) map of the City's collection system. We will be able to provide accurate estimate on repairs and increase efficiencies with cleaning and manhole rehabilitation. The City currently maintains approximately 68 miles of sanitary collection lines and approximately 1000 manholes.

Lastly, CIRSA has also approved this technology for this use and will help us with future claims as well as provide assistance with insurance premiums.

RECOMMENDATION: Approve Contract with RH Borden and Company LLC for \$75,000.00 and allowing for the City Manager to approve any changes up to 10% of the contract price.

ATTACHMENTS: Contract



Sewer Collections System Service Agreement

Transmissive Acoustics Assessments and Manhole Inspections

This agreement made this _____ day of _____, 2021 by and between City of Woodland Park with primary business address of 220 W. South Avenue, Woodland Park, CO, 80866, hereinafter referred to as The Customer, and RH Borden and Company, LLC with primary business address of 2961 Maple Loop Drive, Lehi, UT, 84043, hereinafter referred to as The Provider. These parties jointly are hereinafter referred to as The Parties.

1. The Parties hereby agree to the following:

- a. The Customer will provide to The Provider:
 - i. Permission to open manholes and make assessments. By execution of this agreement permission is hereby granted.
 - ii. A map of all manholes and sewer lines to be assessed including manhole locations and which sewer line segments are to be assessed.
 - iii. Permission to access the desired manhole locations.
 - iv. Traffic Control assistance for roads that are greater than two lanes or with speed limits greater than 30 mile per hour. All required traffic control permits shall be the responsibility of the Customer.
- b. The Provider will conduct sewer line inspections using transmissive acoustics for the Customer as follows:
 - i. Sewer line Acoustic Transmissive Inspection services as specified in ASTM F3220 – 17 “Standard Practice for Prioritizing Sewer Pipe Cleaning Operations by Using Transmissive Acoustic Inspection”. These services will be accomplished by using the systems provided by InfoSense, Inc. using equipment known as Sewer Line Rapid Assessment Tools (SL-RAT).
 - ii. A detailed summary of each sewer line assessed including the following:
 - i. Unique Measurement Identification Number
 - ii. Time and Date of Measurement
 - iii. Length of pipe segment measured as measured by available Global Positioning Services (GPS).
 - iv. GPS Location of Transmitter and Receiver at the time of measurement
 - v. The Condition of the pipe will be reported on a scale including but not limited to a score of 0-10 as shown below:
 - a. 10 = Good - No significant obstructions within the pipe
 - b. 7-10 = Good – Minor impediments within the pipe such as joint offsets, partial sags, protruding laterals, debris, minor grease, and/or minor root fibers and/or other obstructions that could affect the score.
 - c. 4-6 = Impediments within the pipe such as joint offsets, partial sags, protruding laterals, debris, grease, and/or root fibers. Single or multiple occurrences and/or other obstructions that could affect the score.
 - d. 1-3 = Significant impediments within the pipe such as multiple joint offsets, near full pipe sag, multiple protruding laterals, significant debris, significant grease, significant root fibers and/or root balls. Single or multiple occurrences and/or other obstructions that could affect the score.
 - e. 0 = Full pipe sag, single or multiple obstructions within the pipe reaching or nearly reaching the flow and/or other obstructions that could affect the score.
 - iii. The format of the final report shall be provided electronically as a hosted GIS dashboard.

- c. The Provider will perform a visual manhole inspection for each manhole for Customer as follows:
 - i. Each manhole will be visually inspected and rated as Good, Poor, or Fair for the following attributes:
 - i. Proper seating of manhole lid
 - ii. Condition of manhole collar
 - iii. Condition of overall interior manhole structure
 - iv. Condition of manhole shelf
 - v. Presence of infiltration
 - ii. Data from manhole inspections shall be added as attribute data along with the acoustic assessments in the GIS dashboard.

2. In consideration of the foregoing, The Parties agree that:

- a. The Provider will ensure that all assessment equipment will be used properly, as prescribed by the manufacturer, to collect assessment data.
- b. Provider will follow the acoustic assessment process as specified in ASTM F3220 – 17 as noted above.
- c. Data provided indicates the pipe and manhole condition at the time of measurement and does not include any factors or conditions that arise after the time of the inspection.
- d. Provider does not warrant or otherwise guarantee collection system performance or structural condition.
- ~~d.e. Provider agrees to indemnify, save, and hold harmless the Customer, 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 Provider, its officers, subcontractors, employees, or agents in the performance or non-performance of its obligations under this Agreement.~~
- ~~e. Each Party shall indemnify and hold the other harmless against any claim of liability or loss from personal injury or property damage resulting from or arising out of the negligence, reckless misconduct, or willful misconduct of the indemnifying Party, its employees, contractors, or agents, except to the extent such claims or damages may be due to or caused by the negligence, reckless misconduct, or willful misconduct of the other Party, or its employees, contractors, or agents. The indemnified Party will provide the indemnifying Party with prompt, written notice of any claim covered by this indemnification; provided that any failure of the indemnified Party to provide any such notice, or to provide it promptly, shall not relieve the indemnifying Party from its indemnification obligation in respect of such claim, except to the extent the indemnifying Party can establish actual prejudice and direct damages as a result thereof. The indemnified Party will cooperate appropriately with the indemnifying Party in connection with the indemnifying Party's defense of such claim. The indemnifying Party shall defend any indemnified Party, at the indemnified Party's request, against any claim with counsel reasonably satisfactory to the indemnified Party. The indemnifying Party shall not settle or compromise any such claim or consent to the entry of any judgment without the prior written consent of each indemnified Party and without an unconditional release of all claims by each claimant or plaintiff in favor of each indemnified Party.~~
- f. Nothing in this Agreement shall be construed to create a partnership, joint venture, or employment relationship. Notwithstanding any provision herein to the contrary, Customer assumes no responsibility for any damage or loss that may occur to Provider's property, except for willful or intentional damage to the property of Provider caused by the Customer. Customer has no responsibility for any maintenance of Provider's equipment, or for Provider's employees.

3. Customer agrees to pay Provider a standard fee of \$0.18 per foot assessed with the SL-RAT for assessment and \$10.00 per manhole that is visually inspected for services specified herein. This fee shall apply to manholes located in the main thoroughfare and with straightforward access. Manholes that are not easily accessed such as those off the main road, in easements, back yards, alley ways, fields or other such difficult to access locations shall be charged an additional rate of \$10.00 per manhole when the manhole is assessed. The Provider will make all reasonable efforts to locate and access all manholes to conduct the inspection. If one or more manholes are buried, unknown, blocked, on private property or for any reason inaccessible, the Provider will skip the

assessments of these segments and communicate the manhole status to the Customer. The Customer shall have the option to locate the manholes themselves and relay this information to the Provider to perform the assessments. If the Provider's attendance is requested as the manholes are being located, the Customer agrees to pay a wait fee of \$150.00 per hour while the customer locates and makes the manhole(s) accessible.

4. The term of this agreement shall be for 1 year following the first date of service. During the term Provider shall perform assessments as requested by the customer.
5. The Parties agree that this Service Agreement constitutes the entire agreement and understanding between them and supersedes any other written or oral agreement now in place pertaining to this subject. It is understood that this agreement is legally binding upon each Party, their successors, and assigns. Any change or modification hereto may only be made in writing and agreed to by an officer or owner of each Party.

In agreement hereof and in recognition that we are authorized to execute agreements for our respective Party, we hereto set our signatures:

RH Borden and Company, LLC

City of Woodland Park

by _____

by _____

Date _____

Date _____



City of Woodland Park

Staff Report for City Council

Meeting Date: January 19, 2023

<u>Agenda Item</u>	<u>Department</u>	<u>Presenter</u>
10.A	Operations	Kip Wiley Director of Operations

ITEM:

Resolution 898, Single Family Water Tap Allotment for 2023

BACKGROUND:

The City's Water Tap Management plan adopted in 1997 provides the mechanism by which the City controls single family residential (SFR) water tap sales so that growth in the City stays compatible with the City's water supply. The plan requires a periodic assessment of water supply and demand and an annual allotment of SFR water taps.

For 2023, the total recommended single family water tap allotment is 80, the same number in 2022.

The 2023 water tap allotment includes 60 taps based on the water supply and the most recent tap planning number of 1014; and it includes 20 taps available from the borrow bank set up as part of the original water tap management plan.

STAFF RECOMMENDATION:

Approve Resolution 898, establishing the number of Single Family Residential water taps available for the year 2023 at 80.

**CITY OF WOODLAND PARK, COLORADO
RESOLUTION NO. 898, SERIES 2023**

**A RESOLUTION ESTABLISHING THE SINGLE FAMILY RESIDENTIAL
WATER TAP ALLOTMENT FOR 2023.**

WHEREAS, the City Council of the City of Woodland Park adopted a Water Tap Management Plan in 1997; and

WHEREAS, the implementation of the Water Tap Management Plan requires the annual establishment of a single family residential water tap allotment in accordance with procedures established by the plan.

NOW, THEREFORE, BE IT HEREBY RESOLVED BY THE CITY COUNCIL OF THE CITY OF WOODLAND PARK THAT:

The single family residential water tap allotment for the calendar year 2023 shall be as follows:

Annual SFR Allotment for 2023 (10% of current water tap planning no. and no more than 60)	60
Available from Tap Borrow Bank	<u>20</u>
Total Available SFR Water Taps for 2023	80

This resolution was adopted at a regular meeting of the City Council of the City of Woodland Park, Colorado held on the _____ day of _____, 2023.

Hilary LaBarre, Mayor

ATTEST:

Suzanne Leclercq, City Clerk