



City of Woodland Park

City Council

July 6, 2023 at 6:30 PM

AGENDA

6:00 PM - Worksession regarding Short Term Rentals

1. **CALL TO ORDER AND ROLL CALL**
2. **PLEDGE OF ALLEGIANCE**
3. **CEREMONIES, PRESENTATIONS AND APPOINTMENTS**
 - A. Appointment to the Utility Advisory Committee. (A)
(Presenter Deputy City Manager/City Clerk Suzanne Leclercq)
 - B. Celebration of Beverly Hodge's service and retirement from the Woodland Park Police Department.
(Presenter Chief of Police, Chris Deisler)
 - C. Celebration and Congratulations to Gateway Elementary for receiving the Governor's Distinguished Improvement Award.
4. **ADDITIONS, DELETIONS OR CORRECTIONS TO AGENDA**
5. **CONSENT CALENDAR**
 - A. Approval of the May 2023 Statement of Expenditures and Authorize the Mayor to sign Warrants in payment thereof.
 - B. Consider Ordinance No. 1454, Series 2023, an Ordinance on initial posting Approving a Conditional Use Permit with a Site Plan Review for the Purpose of Allowing Renovation and Expansion of the Core Electric Cooperative Facilities Located at 800 N. Hwy 67 in the Community Commercial (CC) Zone and set the Public Hearing for July 20, 2021 (QJ)
(Presenter, Planning Director Karen Schminke, AICP)
 - C. Consider Ordinance No. 1455, Series 2023 on initial posting, an Ordinance of the City Council for the City of Woodland Park, Colorado Amending Titles 5 and 18 of the Woodland Park Municipal Code, Concerning Business Regulations and Zoning, to License and Regulate Short-Term Rentals and set the Public Hearing for July 20, 2023. (L)
(Presenter, Planning Director Karen Schminke, AICP)
 - D. Approval of the April 20, 2023 City Council Minutes amended to include statement from Councilmember Zuluaga.
(Presenter Deputy City Manager/City Clerk Suzanne Leclercq)
 - E. Approval of the May 4, 2023 City Council Meeting Minutes.
(Presenter Deputy City Manager/City Clerk Suzanne Leclercq)
 - F. Approval of the June 1, 2023 City Council Meeting Minutes.
(Presenter Deputy City Manager/City Clerk Suzanne Leclercq)

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)

- A.** Approval of a transfer of a Hotel and Restaurant Liquor License to Mountainera Cucina Italiana located at 727 Gold Hill Place South, Woodland Park, CO. (QJ)
(Presenter Deputy City Manager/City Clerk Suzanne Leclercq)

10. NEW BUSINESS

(Public comment may be heard)

- A.** Approve 2023 Chipseal, Crackseal, Fogseal, and Citywide Striping Projects Contract between A1 Chipseal Co and Rocky Mountain Pavment, LLC and The City of Woodland Park for \$453,604.074.
(Presenter Ben Schmitt, Director of Public Works)
- B.** Approval of On Call Asphalt and Concrete Contract between Olgoonik Enterprises, LLC and the City of Woodland Park - Presenter Ben Schmitt, Director of Public Works
- C.** Council discussion on Woodland Park School District's Sales Tax IGA.
(Presenter City Attorney, Geoff Wilson)

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: Aaron Vassalotti, Finance Director

DATE: July 6, 2023

SUBJECT: Approval of the May 2023 Statement of Expenditures and Authorize the Mayor to sign Warrants in payment thereof.

BACKGROUND: Approval of the May 2023 Statement of Expenditures and Authorize the Mayor to sign Warrants in payment thereof.

RECOMMENDATION: Approval of the May 2023 Statement of Expenditures and Authorize the Mayor to sign Warrants in payment thereof.

ATTACHMENTS: 1. Statement of Expenditures - May 2023



City of Woodland Park Staff Report for City Council

Meeting Date: July 6, 2023

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

ITEM:

May 2023 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

<u>May 2023</u>	
Accounts Payable Checks	1,062,440.91
Payroll Checks	476,451.01
US Bank Wire-CWRPDA	44,669.34
Zions Bank Wire - GF Bonds 2015	134,543.75
Vectra Visa credit card EFT	25,408.19
Total	<u><u>1,743,513.20</u></u>

The Elected Officials expenditures for May 2023 are attached as a separate report.

STAFF RECOMMENDATION:

Approve May 2023 Statement of Expenditures and authorize the Mayor to sign Warrants in payment thereof.

City of Woodland Park
Year End Payment Register

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

Payment Number	Type	ID	Name	SRC	Num INV	Gross Amount	Discounts	Net Pay	Payment Date	HP Void	Batch
108	EFT	A	WEX BANK April 2023 WEX Bill	5187 88930431	1	11,407.63 11,407.63	0.00 0.00	11,407.63 11,407.63	05/03/2023	HP	44499
116513	CHK	A	ACA SECURITY, INC QUARTERLY MONITORING	4212 19982	1	330.00 330.00	0.00 0.00	330.00 330.00	05/04/2023		44301
116514	CHK	A	AMERICAN STRIPING COMPANY LLC 2022 CITYWIDE RESTRIPIING	5418 INV22055.1	1	26,636.60 26,636.60	0.00 0.00	26,636.60 26,636.60	05/04/2023		44301
116515	CHK	A	APPLIED CONCEPTS INC MAINTENANCE RADAR	5279 418376	1	332.50 332.50	0.00 0.00	332.50 332.50	05/04/2023		44301
116516	CHK	A	BASLINE ENGINEERING CORPORATI 03/23 PROF.SERVICES	5408 27686	1	261.00 261.00	0.00 0.00	261.00 261.00	05/04/2023		44301
116517	CHK	A	BASIS PARTNERS city Hall Security/P&R Door city Hall Security/P&R Door	5431 751 751	2	2,615.00 2,615.00 2,615.00	0.00 0.00 0.00	2,615.00 615.00 2,000.00	05/04/2023		44301
116518	CHK	A	BIRCHAM'S 04/23 CHARGES	75 357608	1	620.24 620.24	0.00 0.00	620.24 620.24	05/04/2023		44301
116519	CHK	A	CINTAS CORPORATION NO 2 UNIFORMS - FLEET UNIFORMS - FLEET	4977 4153206441 4153890418	2	243.67 133.80 109.87	0.00 0.00 0.00	243.67 133.80 109.87	05/04/2023		44301
116520	CHK	A	COLORADO ANALYTICAL LAB LAB SERVICES LAB SERVICES LAB SERVICES - WWTP	4028 230307094 230404020 230404021	3	876.40 623.40 119.00 134.00	0.00 0.00 0.00 0.00	876.40 623.40 119.00 134.00	05/04/2023		44301
116521	CHK	A	CORE & MAIN LP SUPPLIES	4980 S595266	1	292.70 292.70	0.00 0.00	292.70 292.70	05/04/2023		44301
116522	CHK	A	CORE ELECTRIC COOPERATIVE 04/2023 CHARGES 04/2023 CHARGES 04/2023 CHARGES 04/2023 CHARGES	5316 05012023 05012023 05012023 05012023	4	38,214.80 38,214.80 38,214.80 38,214.80 38,214.80	0.00 0.00 0.00 0.00 0.00	38,214.80 10,367.61 11,692.22 9,579.18 6,575.79	05/04/2023		44301
116523	CHK	A	CPS DISTRIBUTORS, INC SHOVEL & BLADES - P&R	194 0010036473-002	1	447.62 447.62	0.00 0.00	447.62 447.62	05/04/2023		44301
116524	CHK	A	EL PASO CTY PUBLIC HEALTH LABO 03/23 BACTERIOLOGICAL TESTS	241 EHS20219651	1	252.00 252.00	0.00 0.00	252.00 252.00	05/04/2023		44301
116525	CHK	A	EMCS, INC. MAINTENANCE AGREEMENT MAINTENANCE AGREEMENT	5397 15594 15595	2	850.00 500.00 350.00	0.00 0.00 0.00	850.00 500.00 350.00	05/04/2023		44301
116526	CHK	A	ENGER, JANE INSTRUCTOR - P&R	3876 05012023	1	120.75 120.75	0.00 0.00	120.75 120.75	05/04/2023		44301
116527	CHK	A	GALLS, LLC UNIFORMS - WPPD UNIFORMS - WPPD	5221 024141968 024218928	5	739.33 84.99 271.96	0.00 0.00 0.00	739.33 84.99 271.96	05/04/2023		44301

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			UNIFORMS - WPPD	024218931		169.98	0.00	169.98			
			UNIFORMS - WPPD	024218932		130.62	0.00	130.62			
			UNIFORM - WPPD	024218941		81.78	0.00	81.78			
116528	CHK	A	GOVOS	5349	1	2,120.50	0.00	2,120.50	05/04/2023		44301
			05/23 MUNIREVS & VRBO	INV-1401		2,120.50	0.00	2,120.50			
116529	CHK	A	GRAINGER INC.	282	6	775.78	0.00	775.78	05/04/2023		44301
			SUPPLIES - WWTP	9663993229		71.40	0.00	71.40			
			TRASH BAGS - WWTP	9666521746		216.54	0.00	216.54			
			SUPPLIES - WWTP	9676725790		47.61	0.00	47.61			
			SUPPLIES - WWTP	9676807366		53.28	0.00	53.28			
			SUPPLIES - WWTP	9677965064		142.95	0.00	142.95			
			THERMOMETER - WTP	9682638581		244.00	0.00	244.00			
116530	CHK	A	HACH COMPANY	291	2	860.40	0.00	860.40	05/04/2023		44301
			LAB SUPPLIES - WTP	13533281		394.90	0.00	394.90			
			LAB SUPPLIES - WTP	13542580		465.50	0.00	465.50			
116531	CHK	A	HOLMAN	4630	1	1,642.00	0.00	1,642.00	05/04/2023		44301
			PARTS	1939807		1,642.00	0.00	1,642.00			
116532	CHK	A	JACK'S TIRE & OIL MANAGEMENT C	5215	3	1,209.35	0.00	1,209.35	05/04/2023		44301
			TIRES	23-0369779-088		691.87	0.00	449.71			
			TIRES	23-0369779-088		691.87	0.00	242.16			
			DISPOSALS	23-0373581-088		517.48	0.00	517.48			
116533	CHK	A	JULIE CEDERBLOM	5445	1	49.50	0.00	49.50	05/04/2023		44301
			INSTRUCTOR - P&R	04272023		49.50	0.00	49.50			
116534	CHK	A	KUBWATER RESOURCES INC	4643	1	4,727.52	0.00	4,727.52	05/04/2023		44301
			COMPOST - WWTP	11693		4,727.52	0.00	4,727.52			
116535	CHK	A	LOGAN SIMPSON DESIGN INC	5282	4	13,666.17	0.00	13,666.17	05/04/2023		44301
			Development Code Finalization	31221		1,902.50	0.00	1,902.50			
			Development Code Finalization	31495		797.50	0.00	797.50			
			PTOS Master Plan	31548		9,431.17	0.00	9,431.17			
			Development Code Finalization	31687		1,535.00	0.00	1,535.00			
116536	CHK	A	MARY MOODEY	5480	1	96.00	0.00	96.00	05/04/2023		44301
			BARTENDING - UPCC	05012023		96.00	0.00	96.00			
116537	CHK	A	MEDICINE FOR BUSINESS AND INDU	5476	1	90.00	0.00	90.00	05/04/2023		44301
			DRUG SCREEN	746412		90.00	0.00	90.00			
116538	CHK	A	MICHOW COX & MCASKIN	5404	1	6,969.50	0.00	6,969.50	05/04/2023		44301
			03/23-04/23 GENERAL COUNSEL	WPDDA.APR.2023.0016		969.50	0.00	6,969.50			
116539	CHK	A	DAVID KEATHLEY	1	1	233.42	0.00	233.42	05/04/2023		44301
			CLOTHING REIMBURSEMENT	04272023		233.42	0.00	233.42			
116540	CHK	A	STEVE VARNER	1	1	267.30	0.00	267.30	05/04/2023		44301
			CLOTHING REIMBURSEMENT	05012023		267.30	0.00	267.30			
116541	CHK	A	DEAN WATERS	1	1	200.00	0.00	200.00	05/04/2023		44301
			CEMETERY REIMBURSEMENT	05012023A		200.00	0.00	200.00			

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116542	CHK	A	MIDWEST LABORATORIES, INC	1	1	17.00	0.00	17.00	05/04/2023		44301
			SHIPPING CHARGES	1128444		17.00	0.00	17.00			
116543	CHK	A	AMAZON CAPITAL SERVICES	1	1	455.33	0.00	455.33	05/04/2023		44301
			PHONE SCREEN PROTECTORS	14KL-K633-3R9T		455.33	0.00	455.33			
116544	CHK	A	PATRICIA & IAN HYSLOP	1	2	904.38	0.00	904.38	05/04/2023		44301
			UTILITY REFUND	1845.03		904.38	0.00	51.70			
			UTILITY REFUND	1845.03		904.38	0.00	852.68			
116545	CHK	A	DAVE & DAWN BANTLY	1	1	30.69	0.00	30.69	05/04/2023		44301
			UTILITY REFUND	616.07		30.69	0.00	30.69			
116546	CHK	A	DEAN WATERS	1	1	914.09	0.00	914.09	05/04/2023		44301
			USE TAX REFUND	N06323		914.09	0.00	914.09			
116547	CHK	A	DEAN WATERS	1	1	1,273.72	0.00	1,273.72	05/04/2023		44301
			USE TAX REFUND	N56990		1,273.72	0.00	1,273.72			
116548	CHK	A	STEVE VARNER	1	1	25.96	0.00	25.96	05/04/2023		44301
			FLOORING SUPPLIES	S010511053.001		25.96	0.00	25.96			
116549	CHK	A	NAPA AUTO PARTS	2048	3	1,121.51	0.00	1,121.51	05/04/2023		44301
			04/2023 CHARGES	4292023		1,121.51	0.00	10.66			
			04/2023 CHARGES	4292023		1,121.51	0.00	114.31			
			04/2023 CHARGES	4292023		1,121.51	0.00	996.54			
116550	CHK	A	O.J. WATSON COMPANY INC	477	1	2,045.73	0.00	2,045.73	05/04/2023		44301
			REPAIR - PARTS	0106309-IN		2,045.73	0.00	2,045.73			
116551	CHK	A	PERKINS MOTOR CITY DODGE	2354	1	212.50	0.00	212.50	05/04/2023		44301
			#42 REPAIR	573537		212.50	0.00	212.50			
116552	CHK	A	PHIL PYLES	4777	1	119.50	0.00	119.50	05/04/2023		44301
			CLOTHING REIMBURSEMENT	05012023		119.50	0.00	119.50			
116553	CHK	A	PRIORITY RESEARCH	4392	1	138.60	0.00	138.60	05/04/2023		44301
			BACKGROUND CHECKS	1056130		138.60	0.00	138.60			
116554	CHK	A	QUALITY DESIGN, LLC	4921	1	534.00	0.00	534.00	05/04/2023		44301
			PUBLIC HEARING POSTERS	04242023		534.00	0.00	534.00			
116555	CHK	A	RE/SPEC INC.	4817	1	10,888.75	0.00	10,888.75	05/04/2023		44301
			DOVE - ARP	INV-0323-1257		10,888.75	0.00	10,888.75			
116556	CHK	A	REBECCA ALLEN	5329	1	200.00	0.00	200.00	05/04/2023		44301
			04/2023 INVOICE	454		200.00	0.00	200.00			
116557	CHK	A	ROSZCZEWSKI, ALICE JEAN	4440	1	762.00	0.00	762.00	05/04/2023		44301
			DOG TRAINING INSTRUCTOR	05012023		762.00	0.00	762.00			
116558	CHK	A	SGS ACCUTEST INC.	4859	3	634.00	0.00	634.00	05/04/2023		44301
			12/22 WATER QUALITY TEST	52160143693		213.00	0.00	213.00			
			03/23 WATER QUALITY TEST	52160146445		213.00	0.00	213.00			
			03/23 WATER QUALITY TEST	52160146602		208.00	0.00	208.00			

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116559	CHK	A	SPRUCE NETWORKS, LLC	5437	2	4,504.50	0.00	4,504.50	05/04/2023		44301
			Network Engineering Support	1005		2,709.00	0.00	2,709.00			
			Network Engineering Support	1006		1,795.50	0.00	1,795.50			
116560	CHK	A	STANDARD INSURANCE COMPANY	1091	1	2,032.11	0.00	2,032.11	05/04/2023		44301
			05/23 STD & LTD	04172023		2,032.11	0.00	2,032.11			
116561	CHK	A	TIMECLOCK PLUS, LLC	5450	2	3,952.41	0.00	3,952.41	05/04/2023		44301
			City-wide Timekeeping Solution	INV00224225		3,806.25	0.00	3,806.25			
			City-wide Timekeeping Solution	INV00251470		146.16	0.00	146.16			
116562	CHK	A	TRANSWEST TRUCK TRAILER RV	5253	1	111.58	0.00	111.58	05/04/2023		44301
			#32 FILTER	008P187826		111.58	0.00	111.58			
116563	CHK	A	UNITED REPROGRAPHIC SUPPLY	4285	1	107.80	0.00	107.80	05/04/2023		44301
			05/23 FORMAT PRINTER	4095758		107.80	0.00	107.80			
116564	CHK	A	UPS STORE #1374	416	3	499.95	0.00	499.95	05/04/2023		44301
			03/23-04/23 CHARGES	4262023		499.95	0.00	76.21			
			03/23-04/23 CHARGES	4262023		499.95	0.00	199.97			
			03/23-04/23 CHARGES	4262023		499.95	0.00	223.77			
116565	CHK	A	USA BLUEBOOK	5471	7	791.19	0.00	791.19	05/04/2023		44301
			TUBE - WTP	305752		34.95	0.00	34.95			
			TUBING/CONNECTOR - WTP	305935		275.93	0.00	275.93			
			SUPPLIES - WWTP	305962		180.37	0.00	180.37			
			SUPPLIES - WWTP	305967		57.37	0.00	57.37			
			SAFETY ITEMS	307128		131.28	0.00	85.33			
			SAFETY ITEMS	307128		131.28	0.00	45.95			
			SUPPLIES - WWTP	323620		111.29	0.00	111.29			
116566	CHK	A	WOODLAND PARK SCHOOL DIST RE-2	1262	2	455,376.36	0.00	455,376.36	05/04/2023		44301
			02/23 SALES TAX	05022023		194,309.26	0.00	194,309.26			
			03/23 SALES TAX	05022023A		261,067.10	0.00	261,067.10			
116571	CHK	A	BADGER METER INC	4278	2	5,087.24	0.00	5,087.24	05/11/2023		44384
			CELLULAR LTE UNIT	80120468		2,455.51	0.00	2,455.51			
			CELLULAR LTE UNIT	80125666		2,631.73	0.00	2,631.73			
116572	CHK	A	BASIS PARTNERS	5431	1	8,988.75	0.00	8,988.75	05/11/2023		44384
			Design/CM/MMOF Sidewalks/trail	752		8,988.75	0.00	8,988.75			
116573	CHK	A	BECKER ARENA PRODUCTS, INC.	1992	1	135,395.98	0.00	135,395.98	05/11/2023		44384
			Hockey Rink Dasher&Sheilding	608510		135,395.98	0.00	135,395.98			
116574	CHK	A	BLACK HILLS ENERGY	4035	4	26,129.93	0.00	26,129.93	05/11/2023		44384
			04/2023 CHARGES	4232023		26,129.93	0.00	3,493.14			
			04/2023 CHARGES	4232023		26,129.93	0.00	5,387.89			
			04/2023 CHARGES	4232023		26,129.93	0.00	16,286.73			
			04/2023 CHARGES	4232023		26,129.93	0.00	962.17			
116575	CHK	A	BRIAN E. BUNDY	5208	1	840.00	0.00	840.00	05/11/2023		44384
			ACCT. SUPPORT SERVICES	05052023		840.00	0.00	840.00			
116576	CHK	A	BSN SPORT SUPPLY GROUP INC.	3468	1	5,561.91	0.00	5,561.91	05/11/2023		44384
			SOCCER GOALS	921335913		5,561.91	0.00	5,561.91			

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116577	CHK	A	CAPITAL ONE, N.A. 04/2023 CHARGES	5298 4192023	1	22.83 22.83	0.00 0.00	22.83 22.83	05/11/2023		44384
116578	CHK	A	CASELLE INC 06/23 CONTRACT 06/23 CONTRACT	2356 124504 124504	2	513.00 513.00 513.00	0.00 0.00 0.00	513.00 333.45 179.55	05/11/2023		44384
116579	CHK	A	CENTURYLINK 04/2023 CHARGES 04/2023 CHARGES	4342 4252023 4252023	2	420.08 420.08 420.08	0.00 0.00 0.00	420.08 146.18 273.90	05/11/2023		44384
116580	CHK	A	CINTAS CORPORATION NO 2 UNIFORMS - FLEET	4977 4154602378	1	109.87 109.87	0.00 0.00	109.87 109.87	05/11/2023		44384
116581	CHK	A	CPS DISTRIBUTORS, INC REPLACEMENT BLADE - F&G	194 0010131235-001	1	38.22 38.22	0.00 0.00	38.22 38.22	05/11/2023		44384
116582	CHK	A	DOCUMART COPIES & PRINTING BUSINESS CARDS - WPPD VA BUSINESS CARDS	3252 373634 373721	2	445.00 380.00 65.00	0.00 0.00 0.00	445.00 380.00 65.00	05/11/2023		44384
116583	CHK	A	DYCHES, STANLEY LEE JR. VOLLEYBALL OFFICIAL	4932 05032023	1	168.00 168.00	0.00 0.00	168.00 168.00	05/11/2023		44384
116584	CHK	A	EL PASO CTY PUBLIC HEALTH LABO 04/23 LAB SERVICES	241 EHS202110041	1	273.00 273.00	0.00 0.00	273.00 273.00	05/11/2023		44384
116585	CHK	A	EMPLOYERS COUNCIL SERVICES, IN BACKGROUND CHECKS	5099 463117	1	117.50 117.50	0.00 0.00	117.50 117.50	05/11/2023		44384
116586	CHK	A	GALLS, LLC UNIFORM - WPPD UNIFORM - WPPD UNIFORM - WPPD	5221 024218905 024268658 024268659	3	557.22 113.12 300.60 143.50	0.00 0.00 0.00 0.00	557.22 113.12 300.60 143.50	05/11/2023		44384
116587	CHK	A	GAZETTE, THE 04/23 LEGAL NOTICES	276 04302023	1	147.10 147.10	0.00 0.00	147.10 147.10	05/11/2023		44384
116588	CHK	A	GOTO COMMUNICATIONS, INC. 05/23 CHARGES	5410 IN7101943962	1	2,701.81 2,701.81	0.00 0.00	2,701.81 2,701.81	05/11/2023		44384
116589	CHK	A	GRAINGER INC. SUPPLIES - WWTP SUPPLIES - WWTP EQUIPMENT - WWTP	282 9686762452 9690775466 9692850689	3	1,164.58 158.63 119.99 885.96	0.00 0.00 0.00 0.00	1,164.58 158.63 119.99 885.96	05/11/2023		44384
116590	CHK	A	HACH COMPANY SUPPLIES - WTP	291 13558834	1	2,988.04 2,988.04	0.00 0.00	2,988.04 2,988.04	05/11/2023		44384
116591	CHK	A	HOME DEPOT CREDIT SERVICES 03/2023 CHARGES	1758 4282023	1	1,282.60 1,282.60	0.00 0.00	1,282.60 1,282.60	05/11/2023		44384
116592	CHK	A	IMAGE BEARERS CLEANING LLC 05/23 CLEANING	5082 3392	1	5,432.00 5,432.00	0.00 0.00	5,432.00 5,432.00	05/11/2023		44384
116593	CHK	A	INTERSTATE CHEMICAL CO, INC.	2387	1	7,330.01	0.00	7,330.01	05/11/2023		44384

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			SODIUM HYPOCHLORITE	537126		7,330.01	0.00	7,330.01			
116594	CHK	A	IRON MOUNTAIN SHRED, RETRIEVAL, DESTRUCTION	1376 HLRP580	1	761.92 761.92	0.00 0.00	761.92 761.92	05/11/2023		44384
116595	CHK	A	JONATHAN EDWARDS BASEBALL PITCHING CAMP	5482 04272023	1	712.50 712.50	0.00 0.00	712.50 712.50	05/11/2023		44384
116596	CHK	A	LAWSON PRODUCTS, INC. CLEANING SUPPLIES - F&G	2935 9310523620	1	68.03 68.03	0.00 0.00	68.03 68.03	05/11/2023		44384
116597	CHK	A	MEBULBS LED LIGHTS	3794 41570890-02	1	345.27 345.27	0.00 0.00	345.27 345.27	05/11/2023		44384
116598	CHK	A	BRADY WARNER REIMBURSE CONCESSION PURCHASE	1 05032023	1	337.88 337.88	0.00 0.00	337.88 337.88	05/11/2023		44384
116599	CHK	A	PAUL GABALDON REIMBURSEMENT - UNIFORM	1 05042023	1	425.84 425.84	0.00 0.00	425.84 425.84	05/11/2023		44384
116600	CHK	A	PATRICIA GARCIA UTILITY REFUND	1 599.08	1	143.83 143.83	0.00 0.00	143.83 143.83	05/11/2023		44384
116601	CHK	A	THBWP LLC UTILITY REFUND	1 6860.01	1	92.66 92.66	0.00 0.00	92.66 92.66	05/11/2023		44384
116602	CHK	A	DEAN WATERS USE TAX REFUND	1 M55483	1	1,134.04 1,134.04	0.00 0.00	1,134.04 1,134.04	05/11/2023		44384
116603	CHK	A	DEAN WATERS USE TAX REFUND	1 N44798	1	1,390.60 1,390.60	0.00 0.00	1,390.60 1,390.60	05/11/2023		44384
116604	CHK	A	O'REILLY AUTOMOTIVE STORES, IN 04/2023 CHARGES	4531 4282023	1	40.78 40.78	0.00 0.00	40.78 40.78	05/11/2023		44384
116605	CHK	A	OCCUPATIONAL HEALTH CENTERS OF PRE EMPLOYMENT - WPPD	5300 16462008	1	247.00 247.00	0.00 0.00	247.00 247.00	05/11/2023		44384
116606	CHK	A	PERKINS MOTOR CITY DODGE #91	2354 580660	1	72.52 72.52	0.00 0.00	72.52 72.52	05/11/2023		44384
116607	CHK	A	PROFORCE LAW ENFORCEMENT RpLmt Firearms for PD	3727 517012	1	1,129.80 1,129.80	0.00 0.00	1,129.80 1,129.80	05/11/2023		44384
116608	CHK	A	QUADIENT FINANCE USA, INC POSTAGE METER REFILL	5204 04272023	1	500.00 500.00	0.00 0.00	500.00 500.00	05/11/2023		44384
116609	CHK	A	RAMPART SUPPLY, INC. SUPPLIES	528 2920937-00	1	154.29 154.29	0.00 0.00	154.29 154.29	05/11/2023		44384
116610	CHK	A	TDS BROADBAND LLC 05/23 CHARGES 05/23 CHARGES 05/23 CHARGES 05/23 CHARGES 05/2023 CHARGES	5335 04052023A 04052023C 04252023B 04252023D 04252023E	5	3,806.37 833.18 638.78 92.45 638.78 1,603.18	0.00 0.00 0.00 0.00 0.00	3,806.37 833.18 638.78 92.45 638.78 1,603.18	05/11/2023		44384

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116611	CHK	A	TIAA COMMERCIAL FINANCE, INC	5175	1	594.00	0.00	594.00	05/11/2023		44384
			05/23 CONTRACT	9518536		594.00	0.00	594.00			
116612	CHK	A	UNCC UTILITY NOTIFICATION CNTR	2012	2	206.40	0.00	206.40	05/11/2023		44384
			UTILITY LOCATES	223041517		206.40	0.00	72.24			
			UTILITY LOCATES	223041517		206.40	0.00	134.16			
116613	CHK	A	US POSTAL SERVICE	516	2	3,000.00	0.00	3,000.00	05/11/2023		44384
			UTILITY BILLING	05052023		3,000.00	0.00	1,050.00			
			UTILITY BILLING	05052023		3,000.00	0.00	1,950.00			
116614	CHK	A	WAXIE SANITARY SUPPLY	4189	1	424.05	0.00	424.05	05/11/2023		44384
			CUSTODIAL SUPPLIES	81655847		424.05	0.00	424.05			
116615	CHK	A	WESTWOOD LAKES WATER DISTRICT	679	1	5,475.14	0.00	5,475.14	05/11/2023		44384
			03/23-04/23 WELLFIELD	04252023		5,475.14	0.00	5,475.14			
116616	CHK	A	WEX HEALTH INC	5283	1	83.00	0.00	83.00	05/11/2023		44384
			04/23 FSA	0001719715-IN		83.00	0.00	83.00			
113	EFT	A	VECTRA BANK COLORADO	4705	4	25,408.19	0.00	25,408.19	05/17/2023	HP	44595
			April 2023 Visa Bill	04302023		25,408.19	0.00	127.88			
			April 2023 Visa Bill	04302023		25,408.19	0.00	38.28			
			April 2023 Visa Bill	04302023		25,408.19	0.00	21,197.30			
			April 2023 Visa Bill	04302023		25,408.19	0.00	4,044.73			
116617	CHK	A	AFFORDABLE FLAGS & FIREWORKS	24	1	271.06	0.00	271.06	05/18/2023		44440
			FLAG POLE PARTS	123573		271.06	0.00	271.06			
116618	CHK	A	ALEXANDER'S METER READING SOLU	5483	1	1,720.00	0.00	1,720.00	05/18/2023		44440
			VERSA PROBE REPAIRS	11262P		1,720.00	0.00	1,720.00			
116619	CHK	A	BADGER METER INC	4278	1	1,416.64	0.00	1,416.64	05/18/2023		44440
			METER ITEMS	1578011		1,416.64	0.00	1,416.64			
116620	CHK	A	BASLINE ENGINEERING CORPORATI	5408	2	88.50	0.00	88.50	05/18/2023		44440
			04/23 PROFESSIONAL SERVICES	27812		58.00	0.00	58.00			
			04/23 PROFESSIONAL SERVICES	27813		30.50	0.00	30.50			
116621	CHK	A	BENBEN SPORTSWEAR LLC	5481	1	1,109.00	0.00	1,109.00	05/18/2023		44440
			PARTS - SOCCER GOALS	8983		1,109.00	0.00	1,109.00			
116622	CHK	A	BOBCAT OF THE ROCKIES, LLC	3724	1	595.24	0.00	595.24	05/18/2023		44440
			EQUIPMENT - F&G	66143973		595.24	0.00	595.24			
116623	CHK	A	BSN SPORT SUPPLY GROUP INC.	3468	1	710.00	0.00	710.00	05/18/2023		44440
			BASEBALL, EQUIP, SCOREBOARD	921527353		710.00	0.00	710.00			
116624	CHK	A	CINTAS CORPORATION NO 2	4977	1	109.87	0.00	109.87	05/18/2023		44440
			UNIFORMS - FLEET05	4155170991		109.87	0.00	109.87			
116625	CHK	A	CIVICPLUS, LLC	5189	1	10,562.50	0.00	10,562.50	05/18/2023		44440
			Permit SW-Setup&First Year	260717		10,562.50	0.00	10,562.50			
116626	CHK	A	GALLS, LLC	5221	15	1,911.40	0.00	1,911.40	05/18/2023		44440
			UNIFORM - WPPD	024268660		137.98	0.00	137.98			

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			UNIFORM - WPPD	024268661		163.18	0.00	163.18			
			UNIFORM - WPPD	024268662		130.62	0.00	130.62			
			UNIFORM - WPPD	024268664		193.17	0.00	193.17			
			UNIFORM - WPPD	024268665		128.79	0.00	128.79			
			UNIFORM - WPPD	024282743		9.18	0.00	9.18			
			UNIFORM - WPPD	024309238		73.59	0.00	73.59			
			UNIFORM - WPPD	024309242		59.79	0.00	59.79			
			UNIFORM - WPPD	024309247		169.98	0.00	169.98			
			UNIFORM - WPPD	024309260		327.12	0.00	327.12			
			UNIFORM - WPPD	024309280		173.98	0.00	173.98			
			UNIFORM - WPPD	024323174		128.79	0.00	128.79			
			UNIFORM - WPPD	024323182		129.04	0.00	129.04			
			UNIFORM - WPPD	024323183		8.00	0.00	8.00			
			UNIFORM - WPPD	024323200		78.19	0.00	78.19			
116627	CHK	A	GOLDSTAR PRODUCTS, INC	4502	1	1,749.75	0.00	1,749.75	05/18/2023		44440
			WEED KILLER - F&G	0078121-IN		1,749.75	0.00	1,749.75			
116628	CHK	A	GRAINGER INC.	282	1	17.71	0.00	17.71	05/18/2023		44440
			SUPPLIES - WWTP	9700092647		17.71	0.00	17.71			
116629	CHK	A	JUDD'S GLASS & MIRROR	5340	1	39.95	0.00	39.95	05/18/2023		44440
			REPAIR #69	816576		39.95	0.00	39.95			
116630	CHK	A	KS STATEBANK	5217	1	377.98	0.00	377.98	05/18/2023		44440
			KYOCERA COPIER - WAC	57341-6-2023		377.98	0.00	377.98			
116631	CHK	A	KUBWATER RESOURCES INC	4643	1	4,727.52	0.00	4,727.52	05/18/2023		44440
			COMPOST - WWTP	11739		4,727.52	0.00	4,727.52			
116632	CHK	A	L.L. JOHNSON DISTRIBUTING CO.	1414	1	8,792.15	0.00	8,792.15	05/18/2023		44440
			Field Condtioner	1901015-00		8,792.15	0.00	8,792.15			
116633	CHK	A	LAW FIRM OF SUZANNE M. ROGERS,	5054	1	3,840.90	0.00	3,840.90	05/18/2023		44440
			04/23-05/23 LEGAL SERVICES	05102023		3,840.90	0.00	3,840.90			
116634	CHK	A	DEPT. OF REVENUE - LIQUOR ENFO	1	1	625.00	0.00	625.00	05/18/2023		44440
			2023-2024 LIQUOR LIC. RENEWAL	05102023		625.00	0.00	625.00			
116635	CHK	A	DEPARTMENT OF REVENUE - LIQUOR	1	1	30.00	0.00	30.00	05/18/2023		44440
			MELODY KLEMA-NEW MANAGER REG.	05102023A		30.00	0.00	30.00			
116636	CHK	A	KYLE LINDH	1	1	150.00	0.00	150.00	05/18/2023		44440
			COLLECTIONS 1	05152023		150.00	0.00	150.00			
116637	CHK	A	MARCUS WOODWARD	1	1	42.24	0.00	42.24	05/18/2023		44440
			REIMBURSEMENT - UPS POSTAGE	5162023		42.24	0.00	42.24			
116638	CHK	A	PIKES PEAK TELEVISION, INC	4663	1	1,000.00	0.00	1,000.00	05/18/2023		44440
			04/23 WEATHER CAMERA	636981-4		1,000.00	0.00	1,000.00			
116639	CHK	A	PITNEY BOWES GLOBAL FINANCIAL	2479	1	90.00	0.00	90.00	05/18/2023		44440
			05/23 POSTAGE METER	3317393430		90.00	0.00	90.00			
116640	CHK	A	RAMPART SUPPLY, INC.	528	2	634.38	0.00	634.38	05/18/2023		44440
			SUPPLIES - F/S	2923604-00		536.38	0.00	536.38			

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			SUPPLIES - F/S	2924137-00		98.00	0.00	98.00			
116641	CHK	A	SGS ACCUTEST INC. 04/23 WATER QUALITY TEST	4859 52160147055	1	213.00 213.00	0.00 0.00	213.00 213.00	05/18/2023		44440
116642	CHK	A	SOLITUDE LAKE MANAGEMENT 05/23 MEMORIAL PARK POND	5073 PSI-73164	1	424.32 424.32	0.00 0.00	424.32 424.32	05/18/2023		44440
116643	CHK	A	RED BARON CAR WASH 04/23 CHARGES 04/23 CHARGES	4191 2237 2237	2	314.88 314.88 314.88	0.00 0.00 0.00	314.88 284.88 30.00	05/18/2023		44440
116644	CHK	A	TELLER COUNTY WASTE 06/23 CONTRACT 06/23 CONTRACT 06/23 CONTRACT 06/23 CONTRACT 06/2023 PORTABLE RESTROOMS KWPB CLEANUP	4158 05022023 05022023 05022023 05022023 46505 47815	6	1,492.45 723.75 723.75 723.75 723.75 474.70 294.00	0.00 0.00 0.00 0.00 0.00 0.00 0.00	1,492.45 88.75 433.00 163.00 39.00 474.70 294.00	05/18/2023		44440
116645	CHK	A	USA BLUEBOOK SUPPLIES - WTP PIPE SADDLE - WTP SUPPLIES - WTP DISPENSER - WTP	5471 344981 346223 346368 346409	4	1,865.95 407.05 115.95 1,096.15 246.80	0.00 0.00 0.00 0.00 0.00	1,865.95 407.05 115.95 1,096.15 246.80	05/18/2023		44440
116646	CHK	A	VERIZON 03/2023 CHARGES 03/2023 CHARGES 04/2023 CHARGES 04/2023 CHARGES 04/2023 CHARGES 04/2023 CHARGES	3856 9931088745 9931088745 9933476077 9933476077 9933476077 9933476077	6	1,097.46 512.51 512.51 584.95 584.95 584.95 584.95	0.00 0.00 0.00 0.00 0.00 0.00 0.00	1,097.46 141.12 371.39 72.79 51.69 319.45 141.02	05/18/2023		44440
116647	CHK	A	WILSON WILLIAMS LLP 04/23 LEGAL FEES	5287 243	1	17,308.24 17,308.24	0.00 0.00	17,308.24 17,308.24	05/18/2023		44440
116648	CHK	A	WIRELESS WATCHDOGS, LLC 04/23 MAINTENANCE	5102 IN0104365	1	84.00 84.00	0.00 0.00	84.00 84.00	05/18/2023		44440
116649	CHK	A	WOODLAND PUMP & SUPPLY CO INC. ELECTRIC CONTROL BOXES	699 14289	1	1,660.00 1,660.00	0.00 0.00	1,660.00 1,660.00	05/18/2023		44440
116650	CHK	A	XEROX BUSINESS SOLUTIONS SOUTH 05/23-06/23 BILLING	5336 IN4432265	1	1,524.03 1,524.03	0.00 0.00	1,524.03 1,524.03	05/18/2023		44440
116687	CHK	A	NICHOLE SAUER REIMBURSEMENT	1 052423	1	141.42 141.42	0.00 0.00	141.42 141.42	05/24/2023		44456
116654	CHK	A	AFFORDABLE FLAGS & FIREWORKS FLAG POLE PARTS	24 123644	1	19.20 19.20	0.00 0.00	19.20 19.20	05/25/2023		44454
116655	CHK	A	ALFONSO H ARCHULETA INSTRUCTOR - P&R	5487 05232023	1	132.50 132.50	0.00 0.00	132.50 132.50	05/25/2023		44454
116656	CHK	A	AN ANIMAL & PEST CONTROL SPECI	5441	3	3,500.00	0.00	3,500.00	05/25/2023		44454

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			PEST CONTROL-MEADOWOOD	92755		600.00	0.00	600.00			
			PEST CONTROL - RED MTN. PARK	92756		2,000.00	0.00	2,000.00			
			PEST CONTROL - CRESTWOOD PARK	92757		900.00	0.00	900.00			
116657	CHK	A	BASIS PARTNERS	5431	1	1,465.00	0.00	1,465.00	05/25/2023		44454
			ROOF SHED - WPPD	691		1,465.00	0.00	1,465.00			
116658	CHK	A	BLAZER ELECTRIC SUPPLY MANAGEM	4830	1	3,045.00	0.00	3,045.00	05/25/2023		44454
			STREET LIGHT GLOBES	S002418514.001		3,045.00	0.00	3,045.00			
116659	CHK	A	BOBCAT OF THE ROCKIES, LLC	3724	3	1,094.78	0.00	1,094.78	05/25/2023		44454
			PARTS - SNOW PUSHER	66144775		272.88	0.00	272.88			
			PLOW BLADE	66144776		692.16	0.00	692.16			
			#95 - FILTER	66144777		129.74	0.00	129.74			
116660	CHK	A	BRIAN E. BUNDY	5208	1	1,200.00	0.00	1,200.00	05/25/2023		44454
			ACCT. SUPPORT SERVICES	05192023		1,200.00	0.00	1,200.00			
116661	CHK	A	BSN SPORT SUPPLY GROUP INC.	3468	1	2,213.10	0.00	2,213.10	05/25/2023		44454
			GOALS - F&G	921470590		2,213.10	0.00	2,213.10			
116662	CHK	A	CIVICPLUS, LLC	5189	1	1,323.66	0.00	1,323.66	05/25/2023		44454
			COPIES OF SUPPLEMENT 21-2022	257167		1,323.66	0.00	1,323.66			
116663	CHK	A	CO ASPHALT PAVEMENT ASSOC., INC	4265	1	250.00	0.00	250.00	05/25/2023		44454
			2023 MEMBERSHIP	2561		250.00	0.00	250.00			
116664	CHK	A	COLORADO TRAINING SOLUTIONS	5485	1	4,795.00	0.00	4,795.00	05/25/2023		44454
			CDL TRAINING PROGRAM	CA-6/8/23		4,795.00	0.00	4,795.00			
116665	CHK	A	CROSS POINT POLYGRAPH	5294	1	200.00	0.00	200.00	05/25/2023		44454
			PRE-EMPLOYMENT POLY	1207		200.00	0.00	200.00			
116666	CHK	A	DARREN TRAYLOR	5358	1	236.00	0.00	236.00	05/25/2023		44454
			TRAINING REIMBURSEMENT	05162023		236.00	0.00	236.00			
116667	CHK	A	DATE WITH PAINT	5352	1	78.75	0.00	78.75	05/25/2023		44454
			INSTRUCTOR - P&R	05172023		78.75	0.00	78.75			
116668	CHK	A	DAVID A. LANGLEY ARCHITECTS	3720	1	5,315.00	0.00	5,315.00	05/25/2023		44454
			City Hall Facade Design	22-22-2318		5,315.00	0.00	5,315.00			
116669	CHK	A	DEE ANN WEED	5488	1	37.50	0.00	37.50	05/25/2023		44454
			INSTRUCTOR - P&R	05232023		37.50	0.00	37.50			
116670	CHK	A	DEEP ROCK	5263	1	131.87	0.00	131.87	05/25/2023		44454
			MEMBERSHIP WATER	21072370051323		131.87	0.00	131.87			
116671	CHK	A	DYLAN MILDBRANDT	5312	1	87.00	0.00	87.00	05/25/2023		44454
			BARTENDER - UPCC	05192023		87.00	0.00	87.00			
116672	CHK	A	ECONO SIGNS AND BARRICADE	4831	1	710.15	0.00	710.15	05/25/2023		44454
			SIGNAGE - ST.	10-982017		710.15	0.00	710.15			
116673	CHK	A	FOXWORTH - GALBRAITH LUMBER CO	96	1	441.36	0.00	441.36	05/25/2023		44454
			04/2023 CHARGES	5012023		441.36	0.00	441.36			

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
116674	CHK	A	GALLS, LLC	5221	12	2,302.69	0.00	2,302.69	05/25/2023		44454
			UNIFORMS - WPPD	024309210		147.18	0.00	147.18			
			UNIFORM - WPPD	024309246		156.38	0.00	156.38			
			UNIFORM - WPPD	024346052		1,003.04	0.00	1,003.04			
			UNIFORM - WPPD	024346067		78.19	0.00	78.19			
			UNIFORM - WPPD	024360437		247.00	0.00	247.00			
			UNIFORM - WPPD	024360445		72.98	0.00	72.98			
			UNIFORM - WPPD	024360452		61.54	0.00	61.54			
			UNIFORM - WPPD	024374535		44.00	0.00	44.00			
			UNIFORM - WPPD	024374545		173.80	0.00	173.80			
			UNIFORMS - WPPD	024420861		84.99	0.00	84.99			
			UNIFORMS - WPPD	024420862		59.79	0.00	59.79			
			UNIFORM - WPPD	024420932		173.80	0.00	173.80			
116675	CHK	A	JEFFREY LOUIS SANCHEZ	5188	1	345.00	0.00	345.00	05/25/2023		44454
			TRAINING REIMBURSEMENT	05162023		345.00	0.00	345.00			
116676	CHK	A	JOHNSON CONTROLS SECURITY SOLU	5259	2	15,659.52	0.00	15,659.52	05/25/2023		44454
			ACCESS CONTROL - PD	38629212		13,935.84	0.00	13,935.84			
			SOFTWARE UPDATE	38738201		1,723.68	0.00	1,723.68			
116677	CHK	A	LOGAN SIMPSON DESIGN INC	5282	1	13,214.94	0.00	13,214.94	05/25/2023		44454
			PTOS Master Plan	31857		13,214.94	0.00	13,214.94			
116678	CHK	A	CARTER REALTY	1	1	144.91	0.00	144.91	05/25/2023		44454
			UTILITY REFUND	2283.15		144.91	0.00	144.91			
116679	CHK	A	POLCO	5489	1	19,800.00	0.00	19,800.00	05/25/2023		44454
			2023 SUBSCRIPTION FEE	17391		19,800.00	0.00	19,800.00			
116680	CHK	A	PROSOURCE SPECIALTIES LLC	5486	1	1,070.16	0.00	1,070.16	05/25/2023		44454
			COMMUNITY PROGRAMS	41030TL		1,070.16	0.00	1,070.16			
116681	CHK	A	SECURITAS TECHNOLOGY CORPORATI	4042	1	398.82	0.00	398.82	05/25/2023		44454
			06/23 MAINT. CHARGES	6003338100		398.82	0.00	398.82			
116682	CHK	A	SILL-TERHAR MOTORS INC	4533	2	45,595.00	0.00	45,595.00	05/25/2023		44454
			Ford Interceptor Purchase	167174		40,301.00	0.00	40,301.00			
			Ford Interceptor Purchase	168191		5,294.00	0.00	5,294.00			
116683	CHK	A	SUN BADGE CO	5427	1	504.69	0.00	504.69	05/25/2023		44454
			New Uniform Badges	413244		504.69	0.00	504.69			
116684	CHK	A	TDS BROADBAND LLC	5335	1	89.95	0.00	89.95	05/25/2023		44454
			05/23-06/23 CHARGES	05062023		89.95	0.00	89.95			
116685	CHK	A	VERO BROADBAND, LLC	5423	5	12,077.78	0.00	12,077.78	05/25/2023		44454
			05/2023 CHARGES	052223-1		2,365.81	0.00	2,365.81			
			05/2023 CHARGES	52223		9,711.97	0.00	710.58			
			05/2023 CHARGES	52223		9,711.97	0.00	491.55			
			05/2023 CHARGES	52223		9,711.97	0.00	491.55			
			05/2023 CHARGES	52223		9,711.97	0.00	8,018.29			
116686	CHK	A	WOODLAND HARDWARE & RENTAL	2739	4	1,153.92	0.00	1,153.92	05/25/2023		44454
			04/2023 CHARGES	4302023		1,153.92	0.00	103.99			
			04/2023 CHARGES	4302023		1,153.92	0.00	810.12			

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
			04/2023 CHARGES		4302023	1,153.92	0.00	112.91			
			04/2023 CHARGES		4302023	1,153.92	0.00	126.90			
REGISTER TOTALS			Checks: 170	Voids: 0	283	1,062,440.91	0.00	1,062,440.91			

Bank Number: 99 / Name: VECTRA BANK COLORADO/PAYROLL / Description: PAYROLL ACCOUNT						
Payment Number	Position	Num Inv	Gross Amount	Discounts	Net Pay	Payment Date
19079	Lifeguard	1	268.69	24.56	244.13	5/5/2023
19080	Lifeguard	1	111.06	8.49	102.57	5/5/2023
19081	Lifeguard	1	139.72	10.69	129.03	5/5/2023
19082	Lifeguard	1	204.20	16.63	187.57	5/5/2023
19083	Lifeguard	1	214.99	18.45	196.54	5/5/2023
19084	Maint. Worker I - PBG	1	1,728.80	487.28	1,241.52	5/5/2023
19085	GSI Tech	1	1,134.20	232.69	901.51	5/5/2023
19086	Sports Coordinator	1	902.65	176.66	725.99	5/19/2023
19087	Lifeguard	1	272.27	24.83	247.44	5/19/2023
19088	Lifeguard	1	250.78	22.18	228.60	5/19/2023
19089	Lifeguard	1	214.95	18.44	196.51	5/19/2023
19090	Lifeguard	1	46.57	3.56	43.01	5/19/2023
19091	Lifeguard	1	225.70	19.26	206.44	5/19/2023
19092	PT Victim Advocate	1	720.00	97.81	622.19	5/19/2023
19093	Maint. Worker I - PBG	1	1,728.80	487.27	1,241.53	5/19/2023
52123	Fleet Mechanic I	1	1,995.43	579.25	1,416.18	5/5/2023
52124	Lifeguard	1	525.53	88.56	436.97	5/5/2023
52125	Police Officer II	1	2,826.53	686.52	2,140.01	5/5/2023
52126	Police Officer II	1	2,767.50	658.45	2,109.05	5/5/2023
52127	Sergeant	1	3,405.84	752.94	2,652.90	5/5/2023
52128	Police Officer I	1	1,303.65	388.14	915.51	5/5/2023
52129	IT Intern	1	495.00	51.86	443.14	5/5/2023
52130	Dispatcher I	1	2,413.53	658.17	1,755.36	5/5/2023
52131	MWI	1	216.19	119.92	96.27	5/5/2023
52132	WTO	1	1,513.60	352.92	1,160.68	5/5/2023
52133	Utility Billing Techni	1	2,030.40	681.83	1,348.57	5/5/2023
52134	Planner	1	2,758.40	882.99	1,875.41	5/5/2023
52135	Grant Analyst	1	2,491.87	408.47	2,083.40	5/5/2023
52136	Maintenance Worker II Field S	1	2,510.57	626.52	1,884.05	5/5/2023
52137	Water Fitness Instruct	1	441.00	37.73	403.27	5/5/2023
52138	Crew Chief-Field Service	1	3,108.27	1,787.87	1,320.40	5/5/2023
52139	Support Servcs Coord	1	1,903.80	304.07	1,599.73	5/5/2023
52140	Dispatcher	1	1,924.29	374.97	1,549.32	5/5/2023
52141	MUNICIPAL COURT CLERK	1	1,327.78	279.21	1,048.57	5/5/2023
52142	Maintenance Worker I P	1	1,460.00	351.59	1,108.41	5/5/2023
52143	Police Officer II	1	2,754.64	512.34	2,242.30	5/5/2023
52144	Sergeant	1	4,193.17	1,835.42	2,357.75	5/5/2023
52145	Lifeguard	1	3,003.54	937.91	2,065.63	5/5/2023
52146	Chief of Police	1	4,796.92	1,278.85	3,518.07	5/5/2023
52147	Police Officer I	1	2,705.02	551.70	2,153.32	5/5/2023
52148	Lifeguard	1	556.24	61.90	494.34	5/5/2023
52149	PT Snow Plowing	1	884.52	91.66	792.86	5/5/2023
52150	Police Officer I	1	2,014.32	500.27	1,514.05	5/5/2023
52151	Accounting Manager	1	3,209.79	1,083.21	2,126.58	5/5/2023
52152	MWI	1	1,328.00	207.99	1,120.01	5/5/2023
52153	Sales Tax Accountant	1	2,002.20	321.16	1,681.04	5/5/2023
52154	Lifeguard	1	337.38	32.81	304.57	5/5/2023
52155	PT Snow Plowing	1	476.91	42.48	434.43	5/5/2023
52156	Police Officer I	1	2,700.07	742.63	1,957.44	5/5/2023
52157	Sports Coordinator	1	5,303.00	1,712.21	3,590.79	5/5/2023

Bank Number: 99 / Name: VECTRA BANK COLORADO/PAYROLL / Description: PAYROLL ACCOUNT						
Payment Number	Position	Num Inv	Gross Amount	Discounts	Net Pay	Payment Date
52158	Lifeguard	1	580.13	67.12	513.01	5/5/2023
52159	Senior Planner	1	3,076.92	901.69	2,175.23	5/5/2023
52160	MW I	1	1,552.00	577.15	974.85	5/5/2023
52161	Lifeguard	1	193.46	15.79	177.67	5/5/2023
52162	Dispatcher I	1	1,931.88	730.13	1,201.75	5/5/2023
52163	Communications Specialist	1	1,840.00	574.98	1,265.02	5/5/2023
52164	MW II	1	1,816.80	623.58	1,193.22	5/5/2023
52165	PD Admin Assist/Teen C	1	2,372.49	656.85	1,715.64	5/5/2023
52166	Finance Admin. Asst./C	1	1,904.00	632.28	1,271.72	5/5/2023
52167	Police Officer	1	3,258.41	827.14	2,431.27	5/5/2023
52168	Dispatcher II	1	2,119.15	495.58	1,623.57	5/5/2023
52169	HR Manager	1	3,283.46	1,201.02	2,082.44	5/5/2023
52170	Assistant to the City Manager	1	3,005.41	914.79	2,090.62	5/5/2023
52171	Police Officer II	1	3,423.85	639.48	2,784.37	5/5/2023
52172	Pool Attendant	1	272.27	24.82	247.45	5/5/2023
52173	MWI	1	1,602.60	337.68	1,264.92	5/5/2023
52174	Parks and Rec Director	1	4,360.77	1,545.67	2,815.10	5/5/2023
52175	WWTO	1	1,574.14	539.12	1,035.02	5/5/2023
52176	Lifeguard	1	290.18	27.20	262.98	5/5/2023
52177	Lifeguard	1	1,100.88	224.62	876.26	5/5/2023
52178	Event Center Coordinat	1	1,923.08	505.11	1,417.97	5/5/2023
52179	Lifeguard	1	214.99	18.45	196.54	5/5/2023
52180	Construction Inspector	1	2,415.50	997.73	1,417.77	5/5/2023
52181	Maintenance Worker II - Stree	1	1,660.00	311.93	1,348.07	5/5/2023
52182	City Manager	1	5,993.97	1,952.14	4,041.83	5/5/2023
52183	DCM - City Clerk	1	4,796.92	2,544.98	2,251.94	5/5/2023
52184	Lifeguard	1	143.33	10.97	132.36	5/5/2023
52185	Lifeguard	1	162.58	12.44	150.14	5/5/2023
52186	Dispatcher II	1	2,502.81	687.17	1,815.64	5/5/2023
52187	WWTO	1	1,757.18	589.03	1,168.15	5/5/2023
52188	Police Officer III	1	5,532.57	1,170.62	4,361.95	5/5/2023
52189	WWTO B	1	2,606.85	563.58	2,043.27	5/5/2023
52190	P&R Sports Site Supv	1	632.63	61.41	571.22	5/5/2023
52191	UPCC-ASSISTANT	1	598.32	107.68	490.64	5/5/2023
52192	Lifeguard	1	349.40	26.72	322.68	5/5/2023
52193	Deputy City Clerk	1	2,239.32	544.48	1,694.84	5/5/2023
52194	Sports Site Supervisor	1	231.26	17.70	213.56	5/5/2023
52195	Victim Advocate	1	764.80	76.51	688.29	5/5/2023
52196	Assistant Aquatics Manager	1	1,828.18	468.28	1,359.90	5/5/2023
52197	Victims Advocate Coord	1	2,898.81	1,156.77	1,742.04	5/5/2023
52198	Water Treatment Operat	1	2,020.00	619.35	1,400.65	5/5/2023
52199	Superintendent	1	3,342.39	1,201.06	2,141.33	5/5/2023
52200	Lifeguard	1	72.05	5.51	66.54	5/5/2023
52201	Program Coordinator	1	1,888.92	700.14	1,188.78	5/5/2023
52202	Lifeguard	1	268.69	24.55	244.14	5/5/2023
52203	Lieutenant	1	3,330.12	1,520.97	1,809.15	5/5/2023
52204	Dispatcher	1	1,770.28	642.32	1,127.96	5/5/2023
52205	Planning Director	1	4,397.95	2,020.42	2,377.53	5/5/2023
52206	Public Works Director	1	5,312.77	1,528.35	3,784.42	5/5/2023
52207	Help Desk Tech	1	2,120.69	429.13	1,691.56	5/5/2023

Bank Number: 99 / Name: VECTRA BANK COLORADO/PAYROLL / Description: PAYROLL ACCOUNT						
Payment Number	Position	Num Inv	Gross Amount	Discounts	Net Pay	Payment Date
52208	PT Meter Reader	1	315.00	30.10	284.90	5/5/2023
52209	Utilities Supervisor	1	2,866.56	1,245.12	1,621.44	5/5/2023
52210	Permit Technician	1	1,306.45	340.66	965.79	5/5/2023
52211	MW II	1	2,811.00	1,026.26	1,784.74	5/5/2023
52212	Lifeguard	1	105.79	8.10	97.69	5/5/2023
52213	Fitness Instructor	1	44.34	3.39	40.95	5/5/2023
52214	Lifeguard	1	554.40	78.12	476.28	5/5/2023
52215	Lifeguard	1	444.86	46.03	398.83	5/5/2023
52216	WWTP Chief Operator	1	3,402.29	1,371.56	2,030.73	5/5/2023
52217	Lifeguard	1	365.19	35.93	329.26	5/5/2023
52218	Fleet Crew Chief	1	2,758.40	857.08	1,901.32	5/5/2023
52219	Lifeguard	1	168.38	12.88	155.50	5/5/2023
52220	Lifeguard	1	1,031.82	168.36	863.46	5/5/2023
52221	Dispatch Supervisor	1	3,315.68	1,513.70	1,801.98	5/5/2023
52222	Sergeant	1	3,861.40	1,247.08	2,614.32	5/5/2023
52223	Police Officer I	1	2,543.03	354.54	2,188.49	5/5/2023
52224	Crew Chief - PBG	1	2,927.00	820.85	2,106.15	5/5/2023
52225	Finance Director	1	5,455.50	1,689.07	3,766.43	5/5/2023
52226	Police Officer II	1	2,798.45	701.83	2,096.62	5/5/2023
52227	Sergeant	1	4,196.80	1,213.76	2,983.04	5/5/2023
52228	PT Meter Reader	1	863.90	126.09	737.81	5/5/2023
52229	Aquatic Manager	1	2,976.79	930.14	2,046.65	5/5/2023
52230	WTP CHIEF OPERATOR	1	4,207.46	2,272.61	1,934.85	5/5/2023
52231	Utilities Director	1	5,315.21	2,470.57	2,844.64	5/5/2023
52232	Lifeguard	1	347.50	34.58	312.92	5/5/2023
52233	Lifeguard	1	150.47	11.52	138.95	5/5/2023
52234	Front Desk Representative	1	1,183.11	188.90	994.21	5/5/2023
52235	WTO	1	1,932.18	379.57	1,552.61	5/5/2023
52236	Fleet Mechanic I	1	1,995.43	579.25	1,416.18	5/19/2023
52237	Lifeguard	1	204.75	16.95	187.80	5/19/2023
52238	Police Officer II	1	2,129.40	562.01	1,567.39	5/19/2023
52239	Police Officer II	1	2,288.25	569.41	1,718.84	5/19/2023
52240	Sergeant	1	3,131.19	681.78	2,449.41	5/19/2023
52241	Police Officer I	1	2,606.91	679.92	1,926.99	5/19/2023
52242	IT Intern	1	445.50	46.08	399.42	5/19/2023
52243	Dispatcher I	1	2,007.29	521.61	1,485.68	5/19/2023
52244	WTO	1	1,782.64	412.41	1,370.23	5/19/2023
52245	Utility Billing Techni	1	2,030.40	681.84	1,348.56	5/19/2023
52246	Planner	1	2,758.40	882.99	1,875.41	5/19/2023
52247	Grant Analyst	1	2,409.54	402.82	2,006.72	5/19/2023
52248	Maintenance Worker II Field S	1	2,596.84	663.23	1,933.61	5/19/2023
52249	Water Fitness Instruct	1	358.68	28.44	330.24	5/19/2023
52250	Crew Chief-Field Service	1	9,775.71	4,352.27	5,423.44	5/19/2023
52251	Support Servcs Coord	1	1,728.80	283.70	1,445.10	5/19/2023
52252	Dispatcher	1	1,686.05	321.93	1,364.12	5/19/2023
52253	MUNICIPAL COURT CLERK	1	1,427.55	302.82	1,124.73	5/19/2023
52254	Maintenance Worker I P	1	1,460.00	351.59	1,108.41	5/19/2023
52255	Police Officer II	1	2,579.64	480.79	2,098.85	5/19/2023
52256	Sergeant	1	5,126.98	2,099.29	3,027.69	5/19/2023
52257	Lifeguard	1	2,214.66	747.92	1,466.74	5/19/2023

Bank Number: 99 / Name: VECTRA BANK COLORADO/PAYROLL / Description: PAYROLL ACCOUNT						
Payment Number	Position	Num Inv	Gross Amount	Discounts	Net Pay	Payment Date
52258	Chief of Police	1	4,796.92	1,278.86	3,518.06	5/19/2023
52259	Police Officer I	1	2,530.02	520.16	2,009.86	5/19/2023
52260	Lifeguard	1	225.23	19.23	206.00	5/19/2023
52261	PT Snow Plowing	1	1,900.08	296.83	1,603.25	5/19/2023
52262	Police Officer I	1	2,284.10	548.56	1,735.54	5/19/2023
52263	Accounting Manager	1	3,209.79	1,083.21	2,126.58	5/19/2023
52264	MWI	1	1,328.00	208.00	1,120.00	5/19/2023
52265	Sales Tax Accountant	1	1,918.40	307.67	1,610.73	5/19/2023
52266	Lifeguard	1	158.88	12.15	146.73	5/19/2023
52267	PT Snow Plowing	1	1,317.18	168.94	1,148.24	5/19/2023
52268	Police Officer I	1	2,748.28	755.94	1,992.34	5/19/2023
52269	Lifeguard	1	419.74	43.10	376.64	5/19/2023
52270	Senior Planner	1	3,076.92	901.70	2,175.22	5/19/2023
52271	MW I	1	1,552.00	577.15	974.85	5/19/2023
52272	Lifeguard	1	290.18	27.20	262.98	5/19/2023
52273	Dispatcher I	1	2,032.95	751.97	1,280.98	5/19/2023
52274	Communications Specialist	1	1,840.00	574.98	1,265.02	5/19/2023
52275	MW II	1	1,342.62	509.39	833.23	5/19/2023
52276	PD Admin Assist/Teen C	1	2,197.49	601.95	1,595.54	5/19/2023
52277	Finance Admin. Asst./C	1	1,904.00	632.28	1,271.72	5/19/2023
52278	Police Officer	1	3,047.53	818.50	2,229.03	5/19/2023
52279	Dispatcher II	1	1,971.31	460.54	1,510.77	5/19/2023
52280	HR Manager	1	3,283.46	1,201.03	2,082.43	5/19/2023
52281	Assistant to the City Manager	1	3,005.41	914.78	2,090.63	5/19/2023
52282	Police Officer II	1	2,774.11	524.09	2,250.02	5/19/2023
52283	Pool Attendant	1	118.22	9.05	109.17	5/19/2023
52284	MWI	1	1,987.85	422.87	1,564.98	5/19/2023
52285	Parks and Rec Director	1	4,360.77	1,545.68	2,815.09	5/19/2023
52286	WWTO	1	1,574.14	539.12	1,035.02	5/19/2023
52287	Event Center Coordinat	1	1,923.08	505.12	1,417.96	5/19/2023
52288	Lifeguard	1	259.35	23.84	235.51	5/19/2023
52289	Construction Inspector	1	2,574.00	1,035.89	1,538.11	5/19/2023
52290	Maintenance Worker II - Stree	1	1,909.00	371.86	1,537.14	5/19/2023
52291	City Manager	1	5,993.97	1,952.14	4,041.83	5/19/2023
52292	DCM - City Clerk	1	4,796.92	2,544.99	2,251.93	5/19/2023
52293	Lifeguard	1	20.48	1.57	18.91	5/19/2023
52294	Lifeguard	1	220.70	18.89	201.81	5/19/2023
52295	Dispatcher II	1	2,056.77	550.61	1,506.16	5/19/2023
52296	WWTO	1	1,757.18	589.04	1,168.14	5/19/2023
52297	Police Officer III	1	2,607.05	644.34	1,962.71	5/19/2023
52298	WWTO B	1	2,320.45	495.28	1,825.17	5/19/2023
52299	Presiding Municipal Co	1	1,717.28	292.37	1,424.91	5/19/2023
52300	P&R Sports Site Supv	1	392.23	32.00	360.23	5/19/2023
52301	UPCC-ASSISTANT	1	598.32	107.68	490.64	5/19/2023
52302	Lifeguard	1	349.40	26.73	322.67	5/19/2023
52303	Deputy City Clerk	1	2,064.32	503.09	1,561.23	5/19/2023
52304	Sports Site Supervisor	1	489.81	66.96	422.85	5/19/2023
52305	Assistant Aquatics Manager	1	1,653.18	425.90	1,227.28	5/19/2023
52306	Victims Advocate Coord	1	2,673.22	1,091.53	1,581.69	5/19/2023
52307	Water Treatment Operat	1	2,020.00	619.34	1,400.66	5/19/2023

Bank Number: 99 / Name: VECTRA BANK COLORADO/PAYROLL / Description: PAYROLL ACCOUNT						
Payment Number	Position	Num Inv	Gross Amount	Discounts	Net Pay	Payment Date
52308	Superintendent	1	3,342.39	1,201.07	2,141.32	5/19/2023
52309	Lifeguard	1	160.73	12.30	148.43	5/19/2023
52310	Program Coordinator	1	1,713.92	658.74	1,055.18	5/19/2023
52311	Lieutenant	1	3,330.12	1,520.98	1,809.14	5/19/2023
52312	Dispatcher	1	1,676.00	610.37	1,065.63	5/19/2023
52313	Planning Director	1	4,397.95	2,020.43	2,377.52	5/19/2023
52314	Public Works Director	1	5,312.77	1,528.35	3,784.42	5/19/2023
52315	Help Desk Tech	1	1,890.30	376.17	1,514.13	5/19/2023
52316	PT Meter Reader	1	450.00	46.42	403.58	5/19/2023
52317	Utilities Supervisor	1	2,866.56	1,245.13	1,621.43	5/19/2023
52318	Permit Technician	1	1,361.91	353.46	1,008.45	5/19/2023
52319	MW II	1	2,811.00	1,026.25	1,784.75	5/19/2023
52320	GSI Tech	1	1,918.40	461.98	1,456.42	5/19/2023
52321	Lifeguard	1	105.79	8.09	97.70	5/19/2023
52322	Fitness Instructor	1	44.34	3.40	40.94	5/19/2023
52323	Lifeguard	1	1,243.44	238.80	1,004.64	5/19/2023
52324	Lifeguard	1	237.51	21.16	216.35	5/19/2023
52325	WWTP Chief Operator	1	3,721.27	1,448.23	2,273.04	5/19/2023
52326	Lifeguard	1	282.51	26.62	255.89	5/19/2023
52327	Fleet Crew Chief	1	2,758.40	857.07	1,901.33	5/19/2023
52328	Lifeguard	1	157.63	12.05	145.58	5/19/2023
52329	Lifeguard	1	1,122.16	190.11	932.05	5/19/2023
52330	Dispatch Supervisor	1	2,883.20	1,306.40	1,576.80	5/19/2023
52331	Sergeant	1	2,915.40	978.95	1,936.45	5/19/2023
52332	Lifeguard	1	103.89	7.95	95.94	5/19/2023
52333	Police Officer I	1	2,032.31	261.27	1,771.04	5/19/2023
52334	Crew Chief - PBG	1	3,061.60	853.28	2,208.32	5/19/2023
52335	Finance Director	1	5,455.50	1,689.07	3,766.43	5/19/2023
52336	Police Officer II	1	3,193.84	809.63	2,384.21	5/19/2023
52337	Sergeant	1	5,590.00	1,616.65	3,973.35	5/19/2023
52338	PT Meter Reader	1	837.60	123.07	714.53	5/19/2023
52339	Aquatic Manager	1	2,976.79	930.12	2,046.67	5/19/2023
52340	WTP CHIEF OPERATOR	1	4,354.91	2,307.58	2,047.33	5/19/2023
52341	Utilities Director	1	5,315.21	2,470.56	2,844.65	5/19/2023
52342	Lifeguard	1	114.64	8.77	105.87	5/19/2023
52343	Lifeguard	1	257.94	23.73	234.21	5/19/2023
52344	Front Desk Representative	1	926.60	132.62	793.98	5/19/2023
52345	WTO	1	1,757.18	340.67	1,416.51	5/19/2023
Totals			476,451.01	144,434.56	332,016.45	



City of Woodland Park

Staff Report for City Council

Meeting Date: July 6, 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 May 2023.

May 2023

Description	Budget	Month Exp	YTD Exp	Balance	% Expended
Miscellaneous expenses	\$17,950	\$55.00	\$55.00	\$17,895.00	0%
Training/Travel	\$10,000	\$0.00	\$5,008.28	\$4,991.72	50%
Supplies	\$150	\$0.00	\$76.88	\$73.12	51%
Meetings/Mileage/Meals	\$3,000	\$0.00	\$1,179.26	\$1,820.74	39%
Special Projects	\$500	\$0.00	\$0.00	\$500.00	0%
Total	\$31,600	\$55.00	\$6,319.42	\$25,280.58	20%



STAFF REPORT

TO: Mayor LaBarre and City Council

FROM: Karen Schminke, Director of Planning & Building Services

DATE: July 6, 2023

SUBJECT: Consider Ordinance No. 1454, Series 2023, an Ordinance on initial posting Approving a Conditional Use Permit with a Site Plan Review for the Purpose of Allowing Renovation and Expansion of the Core Electric Cooperative Facilities Located at 800 N. Hwy 67 in the Community Commercial (CC) Zone and set the Public Hearing for July 20, 2021 (QJ)
(Presenter, Planning Director Karen Schminke, AICP)

BACKGROUND: CORE (previously known as IREA) provides essential electricity services to the City of Woodland Park and the greater Teller County Area. They received their first building permit on this property in 1979 and have been providing both administrative services and support of their field operations from this location, but have never previously been issued a Conditional Use Permit. They are now requesting a Conditional Use Permit to allow their existing operation to continue as well as renovate and expand their facilities.

RECOMMENDATION: Approve Ordinance No. 1454, Series 2023, on initial posting, an Ordinance Approving a Conditional Use Permit with a Site Plan Review for the Purpose of Allowing Renovation and Expansion of the Core Electric Cooperative Facilities Located at 800 N. Hwy 67 in the Community Commercial (CC) Zone, and set the Public Hearing for July 20, 2023.

ATTACHMENTS: 1. Ordinance No. 1454 CORE CUP and SPR

CITY OF WOODLAND PARK ORDINANCE NO. 1454, SERIES 2023

AN ORDINANCE APPROVING A CONDITIONAL USE PERMIT WITH A SITE PLAN REVIEW FOR THE PURPOSE OF ALLOWING RENOVATION AND EXPANSION OF THE CORE ELECTRIC COOPERATIVE FACILITIES LOCATED AT 800 N. HWY 67 IN THE COMMUNITY COMMERCIAL (CC) ZONE

WHEREAS, the City of Woodland Park has received a request for a Conditional Use Permit with Site Plan Review for the purpose of allowing the existing operation as well as renovation and expansion at their facility located at 800 N. Highway 67, Woodland Park, Colorado (with a legal description of Lot 1R, Carey Subdivision, Filing No. 2) within the Community Commercial (CC) Zone District; and

WHEREAS, an application to establish said conditional use has been accepted and considered pursuant to Municipal Code Chapter 18.57; and

WHEREAS, pursuant to Municipal Code Sections 18.57.050 and 18.72.060 and Charter Sections 7.6 and 15.7.b.1, a notice of the public hearings was published, a sign was posted, letters were mailed to adjacent property owners; and

WHEREAS, the Woodland Park Planning Commission considered the request on June 8, 2023 and recommended approval based on evidence contained in the staff report and presented at public hearing; and

WHEREAS, City Council considered the request, the Planning Commission recommendation, the staff recommendation, and after holding a public hearing on July 20, 2023, hereby finds that based on evidence contained in the staff report and presented at the public hearing, the request meets the standards for granting a Conditional Use Permit; and

NOW, THEREFORE, THE CITY OF WOODLAND PARK, COLORADO, ORDAINS:

Section 1. Approval. The Conditional Use Permit for the purpose of allowing the existing operation and additional facilities to continue operation at the facility located at 800 N. Highway 67, Woodland Park, Colorado:

1. Prior to the issuance of a building permit, the applicant shall submit for and receive approval of a:
 - a. Final Site Plan for a permitted use including landscaping, drainage, architectural elevations, access, etc.;
 - b. Infrastructure Zoning Development Permit
 - c. ZDP's and Building Permits for all new construction, including:
 - i. All Civil/Construction drawings
 - ii. Final Drainage Report
 - iii. Final Landscaping Plan
 - iv. Final Site Plan
 - v. Final Floor Plans and Elevations
 - vi. Final Grading, Sediment and Erosion Control Plan (with BMP's)

- vii. Final Utility Plan (water, sewer, power, etc.)
 - viii. Final Photometric Plan
 - ix. CO Stormwater Permit/Stormwater Management Plan
2. A final updated site plan, resolving all issues identified on the redlined plans must be approved by the City before any Zoning Development Permit (ZDP) will be issued.
 3. All development impact fees must be paid prior to any ZDP issuance including but not limited to tap fees, stormwater capital improvement fees, transportation capital fees, etc. Fees shall be calculated concurrent with the ZDP review.
 4. The applicant must submit documentation from the Colorado Department of Public Health (CDPHE) demonstrating proper removal of the underground fuel storage tanks.
 5. Prior to final site plan approval, the applicant must identify a different material for the wainscot on the heated vehicle parking/warehouse building (Building B) and the unheated parking building (Building C) as well as work with staff to ensure all proposed structures adhere to the Woodland Park aesthetic.

Section 2. Recitals. The recitals contained in this Ordinance constitute the findings of City Council and are incorporated herein by reference.

PASSED BY CITY COUNCIL ON SECOND AND FINAL READING FOLLOWING
PUBLIC HEARING THIS ____ DAY OF _____, 2023.

The Honorable Mayor Hilary LaBarre

ATTEST: _____
City Clerk Suzanne Leclercq



STAFF REPORT

TO: Mayor LaBarre and City Council

FROM: Karen Schminke, Director of Planning & Building Services

DATE: July 6, 2023

SUBJECT: Consider Ordinance No. 1455, Series 2023 on initial posting, an Ordinance of the City Council for the City of Woodland Park, Colorado Amending Titles 5 and 18 of the Woodland Park Municipal Code, Concerning Business Regulations and Zoning, to License and Regulate Short-Term Rentals and set the Public Hearing for July 20, 2023. (L)
(Presenter, Planning Director Karen Schminke, AICP)

BACKGROUND: City Council held a work session on March 2, 2023 and again on June 1, 2023 to discuss the potential licensing and regulation of short-term rentals. At the June 1, 2023 work session, it was the consensus of a majority of Council members to request a new ordinance to license and regulate STRs, starting with the original Planning Commission recommendation from September 29, 2022, but with revisions.

Planning Commission held work sessions on June 8, 2023 and June 22, 2023 where the revisions requested by City Council were reviewed. The Planning Commission further refined the ordinance, and after their June 29th public hearing, are providing their recommendation.

RECOMMENDATION: Approve Ordinance No. 1455, Series 2023, on initial posting, an Ordinance of the City Council for the City of Woodland Park, Colorado Amending Titles 5 and 18 of the Woodland Park Municipal Code, Concerning Business Regulations and Zoning, to License and Regulate Short-Term Rentals, and set the Public Hearing for July 20, 2023.

ATTACHMENTS: None

Amendment to the April 20 City Council Minutes as requested by Councilmember Zuluaga:

10 E. Approval of Resolution No. 905, Series 2023, a Resolution Approving the Woodland Station development agreement and Authorizing the Woodland Park Downtown Development Authority to Convey the Woodland Station Property to TAVA House Properties, LLC.

Councilmember Zuluaga asked Mr. Waggoner of Tava House Properties if the uses of phases 2 and 3 are subject to change from commercial. Mr. Waggoner stated that they are not subject to change and will be commercial uses. This is significant because it directly contradicts the language adopted by council in the newly amended Plan of Development. (To hear Councilmember Zuluaga's entire statement you can view the You Tube recording of the meeting. It starts at (3 hours and 37 minutes)

Add the following to the minutes for the record: Councilmember Zuluaga stated that he was concerned that the Disposition Development Agreement from 2009 and the two amendments were not included in the packet for Council to review and see the consequences of. Zuluaga stated that this agreement is between the City Council and the DDA, not an agreement with the buyer. (To hear Councilmember Zuluaga's entire statement you can view the You Tube recording of the meeting. It starts at 4 hours and 30 minutes).



City of Woodland Park

April 20, 2023 at 7:00 PM

MINUTES

1. CALL TO ORDER AND ROLL CALL

The time being 7:00 PM Mayor LaBarre called the City Council Meeting to order.

The following Councilmembers were present: Mayor LaBarre, Mayor Pro-tem Case, Councilmember Connors, Councilmember Nakai, Councilmember Neal and Councilmember Zuluaga.

The following staff members were present: City Manager Michael Lawson, Deputy City Manager/City Clerk Suzanne Leclercq, Finance Director Aaron Vassalotti, Planning Director Karen Schminke, Senior Planner CJ Gates, Public Works Director Ben Schmitt, Community Engagement Coordinator Kristen Higginbotham, Utilities Director Kip Wiley and Deputy City Clerk/Public Works Admin Assistant Sarah Minton.

2. PLEDGE OF ALLEGIANCE

3. CEREMONIES, PRESENTATIONS AND APPOINTMENTS

- A. Graduation of the Class of 2023 Citizens Academy.
(Presenter Assistant to the City Manager Grace Johnson)

City Manager Lawson introduced the Citizen Academy Graduates for the 2023 year. Mayor LaBarre gave each graduate a Mayor's pin.

- B. Introduction and Presentation by CORE.
(Presenter Local Government and Business Relations Manager Angie Bedolla)

Angie Bedolla, Business Relations Manager of CORE Electric, shared what is new and exciting at CORE Electric for the 2023 year.

- C. Introduction and Presentation of UC Health,
(Presenter Hospital Administrator Ron Fitch)

Ron Fitch, Hospital Administrator, and Brian West, Head Nurse of UC Health at Pikes Peak Regional Hospital shared an update of what is occurring at the Hospital.

4. ADDITIONS, DELETIONS OR CORRECTIONS TO AGENDA

5. CONSENT CALENDAR

- A. Approval of the March 2023 Statement of Expenditures and authorize the Mayor to sign warrants in payment thereof.

Motion: to approve the March 2023 Statement of expenditures and authorize the Mayor to sign warrants in payment thereof. Zuluaga/Neal. Motion carried 6-0.

- B. Approval of Housing Needs Assessment Contract.
(Presenter Assistant to the City Manager, Grace Johnson)

City Manager Lawson presented the Housing Needs Assessment Contract to the Council. Councilmember Neal had some questions regarding the fact that the scope of work in the contract did not include STR's. Neal shared that he felt that the Housing Needs Assessment would be used to generate information for the Council regarding STR's and that could be used as a guide for the Council. City Manager Lawson shared that STR's are mentioned in additional information provided by the contractor. Councilmember Neal shared that he felt comfortable with that.

Motion: To approve the Housing Needs Assessment Contract. Neal/Nakai. Motion carried 6-0.

6. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA (1)

Carol Greenstreet shared that the School Board needs to understand that community leaders are aware that they are not following policies and that there is a distrust of them and their actions in the community.

Craig Johnson, shared that the school and parents need the Council's help. Johnson shared that the School Board is choosing to eliminate mental health services in the district and that it is greatly needed.

Zehan Rodgers, a student from Woodland Park High School shared that he is worried about teacher retention and that the School Board has created a hostile work environment for the teachers and that the teachers feel silenced.

Bridget Curran shared that the tax dollars that the voters approved (Sales Tax 1.09%) are not being used to benefit the students. The School Board is choosing not to apply for the grants needed.

Carrol Harvey shared that she wanted to address the 1.09% Sales Tax with the Council and that the Council could choose to reduce the amount. Harvey shared that the School Board is not using the Sales Tax for the intended purpose as per the IGA between the School District and the City.

Jamie Anderson, a local therapist, was very concerned about the School Board taking away mental health services from the students in the School District. Anderson shared the importance of mental health for students.

Ashlee Shields, a suicide prevention coordinator for Teller County, shared the importance of mental health services for students and asked the Council to consider a proclamation for Mental Health Awareness month in May.

James Friesma shared that he was concerned about statements made by School Board Member David Illingworth regarding SRO's and mental health services at the school. Friesma shared that he was concerned that the School Board has chosen to forego 1.2 million dollars in grants and has eliminated 15 mental health positions in the district.

Dr. Michael Stewart shared that elections have consequences and that Mr. Witt, the school district superintendent, was recalled from Jeff Co. He was concerned that over 100 families were trying to enroll their families in other districts and he felt, as a result of this school board, the schools were in trouble.

Jason Roshek shared that amongst all of the turmoil at the school, teachers and administrators leaving, that the students were excelling and doing great things.

Jerry Penland shared that the Council has had 63 days to do what is right regarding STR's and has chosen to do nothing. Penland shared that now it will be up to the citizens to decide via a citizen's initiative to do what is right.

7. UNFINISHED BUSINESS

(Public Comment may be heard)

8. ORDINANCES ON INITIAL POSTING

(Public comment may be heard)

- A.** Consider Ordinance No. 1446, Series 2023, on initial posting, an Ordinance Amending Chapter 15.02 of The Municipal Code of The City of Woodland Park by Adopting by Reference the Pikes Peak Regional Building Code, 2023 Edition, Which Adopted by Reference Certain Secondary Codes, as Amended, Including The 2021 International Building Code (IBC), The 2021 International Residential Code (IRC); The 2021 International Mechanical Code (IMC); The 2021 International Fuel Gas Code (IFGC); The 2021 International Energy Conservation Code (IECC); The 2021 International Existing Building Code (IEBC); The 2021 International Pool And Spa Code (ISPSC); And Certain State Adopted Codes Related to Electrical, Plumbing, and Conveyances; and set the Public Hearing for May 18, 2023. (L)
(Presenter, Planning Director, Karen Schminke)

Planning Director Karen Schminke reviewed Ordinance No. 1446, Series 2023 on initial posting.

Motion: to approve Ordinance No. 1446, Series 2023 on initial posting, Ordinance amending Chapter 15.02 of the Municipal Code and set the Public Hearing for May 18, 2023. Connors/Case. motion carried 5-1 with Zuluaga voting no.

- B.** Consider Ordinance No. 1447, Series 2023 on initial posting, an Ordinance of the City Council for the City of Woodland Park, Colorado Amending Title 5 of the Woodland Park Municipal Code, Concerning Business Regulations, to License and Regulate Short Term Rentals and set the Public Hearing for May 4, 2023.
(A)
(Presenter City Attorney Geoff Wilson)

City Attorney Wilson deferred the introduction of Ordinance No. 1447, Series 2023 on initial posting, to Councilmember Neal as it was Councilmember Neal and Mayor Pro-tem Case who asked that this ordinance be drafted. Following Council discussion, Councilmember Neal asked that this ordinance be withdrawn.

Motion: to withdraw Ordinance No. 1447, Series 2023 on initial posting. Neal/Case. Motion carried 6-0.

The time being 9:07 PM, Mayor LaBarre called for a short recess.

At 9:20 PM, Mayor LaBarre called the meeting back into session.

- C.** Consider Ordinance No. 1448, Series 2023 on initial posting, an Ordinance Adjusting Expenditure Appropriations to the Various Funds, in the Amounts and

for the Purpose as Set Forth Below, for the City of Woodland Park, Colorado for the 2023 Budget Year, and Amending Ordinance No. 1433, Series 2022 and set the Public Hearing for May 5, 2023. (A)
(Presenter Finance Director Aaron Vassalotti)

Finance Director Vassalotti presented Ordinance No. 1448, Series 2023 on initial posting.

Motion: To approve Ordinance No. 1448, Series 2023 on initial posting, an Ordinance adjusting Expenditure Appropriations to the Various Funds, in the Amounts and for the Purpose as Set Forth Below, for the City of Woodland Park, Colorado for the 2023 Budget Year, and Amending Ordinance No. 1443, Series 2022 and set the Public Hearing for May 5, 2023. Zuluaga/Nakai. Motion carried 6-0.

9. PUBLIC HEARINGS

(Public comment may be heard)

- A.** Approval of a Modification of a Tavern Liquor License for 110 Reserve located at 110 Midland Avenue, Woodland Park, CO 80863.
(Presenter Deputy City Clerk / Public Works Admin, Sarah Minton)

Deputy City Clerk/Public Works Admin Assistant Sarah Minton reviewed the modification of a Tavern Liquor License for 110 Reserve located at 110 Midland Avenue, Woodland Park, CO. Minton reviewed that 110 Reserve is now taking over the area known as Miss Priss and would like to license that area for alcohol use.

Mayor LaBarre opened the Public Comment portion of the Public Hearing. There being no Public Comment, Mayor LaBarre closed the Public Comment portion of the Public Hearing and the following motion was made.

Motion: To approve a modification of a Tavern Liquor License for 110 Reserve located at 110 Midland Avenue, Woodland Park, CO 80863. Nakai/Case. Motion carried 6-0.

- B.** Approval of Stone Ridge Village Filing No. 5 Final Plat Public Hearing (QJ)
(Presenter, Senior Planner, CJ Gates)

Senior Planner CJ Gates presented Filing No. 5 Stone Ridge Village Final Plat to the Council. Gates reviewed his Staff Report with the Council.

SUB#2022-06: Stone Ridge Village Filing No. 5. Final Plat. A request by Dana Duncan, Stone Ridge Village, LLC. (Property Owner) and Skip Howes (Applicant and Project Coordinator) to approve a major subdivision of 7.95 acres platted into 18 lots with easements and road rights-of-way in the Stone Ridge Village Planned Unit Development (PUD) situated to the North and West of the existing intersection of Firestone Drive and Stone Ridge Drive. The property is located in the S1/2 of the NE1/4 of Section 14, Township 12 South, Range 69 West of the 6th P.M. in the City of Woodland Park, Teller County.

Background: Annexation of the 200-acre Stone Ridge Village property was approved by City Council on July 18, 2002. Two years later, a PUD zone district was established with approval of a PUD Final Development Plan and Preliminary Plat. Stone Ridge Village PUD is a unique blend of single-family residential neighborhoods, a variety of multi-family units, commercial tracts for offices, churches, institutional uses and neighborhood services with more than 51 acres of public open space.

The Preliminary Plat and PUD Final Development Plan were approved March 18, 2004. Stone Ridge Village Filings No. 1 and No. 2 were approved October 5, 2006 with 71

single-family lots. Stone Ridge Village Filing No. 3 was approved on September 21, 2017 with 28 lots on 11.87 acres, and Stone Ridge Village Filing No. 4 was approved on July 18, 2019 with 21 lots on 9.44 acres. This final plat request for Stone Ridge Village Filing No. 5 includes 18 lots on 7.95 acres.

PROCESS

As a major subdivision, this platting involves:

- construction of new streets, sidewalks, curbs, gutters and stormwater system;
- extension of municipal facilities (i.e., water and sanitary sewer system) and dry utilities;
- no adverse effect to the remainder of the parcel or adjoining property; and
- conformance with the City's comprehensive plan and other adopted plans, as well as the zoning ordinance, and subdivision regulations.

A major subdivision authorization is a two-step public process with approval of a Preliminary Plat (completed in 2004) and submission of a final subdivision plat (that includes public hearings before the Planning Commission and City Council).

SURROUNDING ZONING and USES

	Zone	Land Use
North	PUD	Vacant land, which is part of the Stone Ridge Subdivision Preliminary Plat.
West	PUD	Vacant land, which is part of the Stone Ridge Subdivision Preliminary Plat.
East	PUD	Single family homes/lots in Stone Ridge Village Filing No. 3.
South	PUD/SR	Single family homes/lots in Northwoods Subdivision Filing No. 4.
South	PUD/UR	Single family homes/lots in Stone Ridge Village Filing No. 1.
East		Vacant land that is unplatted owned by Spruce Ridge Properties, LLC

Stone Ridge Village PUD is located west of Highway 67 and is accessed from Stone Ridge Drive which is directly west of Kelly's Road. Stone Ridge Drive intersects with Firestone Drive, the majority of the existing road is located within filing 3 of Stone Ridge. As part of filing 5 Firestone Drive will be extended to the west and Stone Ridge Drive will be extended to the north. The aerial photo in Figure 2 provides an overview of the subject area. Specific uses and zoning can be seen within the table.

Stone Ridge Village PUD is subject to the following dimensional standards as established by a 2005 PUD amendment:

- Height: 35-foot maximum building height measured at mean grade.
- Setbacks: 25-foot minimum front/rear setback for ½ acre lots (21,780 SF) or less; an 18-foot front/rear setback is allowed with no more than two adjacent lots with side-by-side 18-foot setbacks, or no more than three lots if one of the three is a corner lot. 8-foot minimum side setback for ½ acre lots (21,780 SF) or less, a 5-foot side minimum setback on one side of the lot is allowed while the other side must be 8 feet and two 5-foot side lot setbacks may straddle a common lot line. For corner lots, the front setback adjacent to one street shall be a minimum of 25 feet and the reverse street side may have a minimum 18-foot setback.

- Garages: 25-foot minimum setback from the front property line to garage vehicle access point.
 - Lot area: Minimum: 11,000 SF Maximum: 47,500 SF
 - Lot coverage: Per maximums as provided in Article 17.40.250 of Woodland Park Subdivision regulations.
 - Lot Frontage: 25-foot minimum along road.

• **PROPOSED PLAT**

Residential use is permitted in this portion of the overall Stone Ridge PUD. In this filing of the Stone Ridge Subdivision, the Applicant proposes to develop 18 lots for single family dwelling units as seen in Figure 3. Construction of each dwelling unit is subject to administrative approval of a Zoning Development Permit (ZDP). The ZDP process also includes a compliance check of criteria such as setbacks, height, parking, landscaping, architecture and other site improvements for utilities, grading, drainage, and erosion control.

The configuration of the proposed final plat is consistent with the approved 2004 Preliminary Plat. In comparing the preliminary and final plats, the only minor differences to note relate to small changes in lot shape and reduced road right-of-way widths. Even with small changes to the lot shapes, the lots range in size from 14,556 SF to 27,962 SF which is consistent with the preliminary plat.

Regarding right-of-way widths, Firestone Drive was originally proposed to have a 50-foot road right-of-way (ROW) width. The final plat now shows the ROW to be 45-feet by the intersection with Stone Ridge Drive and tapers to 40-feet in width at the west end of the plat. The original wider ROW width was designed to include road pavement and the installation of utilities, such as gas and electric, on either side of the pavement within the ROW. Local gas and electric utilities now desire to have easements for their use dedicated outside the ROW. This plat reflects that desire and includes a *15-foot Public Utilities & Improvements Easement* on either side of the ROW to accommodate the utilities.

The other item to note is, in Stone Ridge Filing No. 1, at the end of Snowshoe Court there is a 30-foot utility easement between Lots 32 and 33 (as seen on Figure 4). There is an 8" water main and an 8" sanitary sewer main in this easement. The construction drawings for this filing show the 8" water main connecting with the water main in Michael Lane. Consistent with the preliminary plat, this easement needs to be extended into the southeast corner of Lot 17 of the proposed plat for filing No. 5.

INFRASTRUCTURE

The applicant submitted Zoning Development Permit (ZDP) applications to the City of Woodland Park for approval of Grading and Infrastructure Plans. City staff conditionally approved these ZDPs on May 17, 2022 and the construction has commenced on this site. The approved construction documents are attached hereto.

Drainage improvements include curb, gutter and an overall stormwater system in accordance with the drainage plan and report that was previously approved for the Stone Ridge PUD. Addendum No. 1 to the Final Drainage Report was prepared by JPS Engineering on

June 7, 2019 which concluded that “the existing capacity of Detention Pond L1 is adequate for the remaining phases of single-family development within Stone Ridge subdivision.”

Water and sanitary sewer mains and service lines are currently under construction in accordance with the 2011 City Engineering Specifications. Stone Ridge Village is subject to prior agreements including the City’s conversion from “developer supplied water” to water development fees. Per Ordinance No. 838, the Developer deeded his water rights, wells, easements, and appurtenances to the City. Also, Ordinance No. 838 requires payment of a Water Development Fee of \$1,200 per residential lot prior to recording the Final Plat. Because wells and water rights were conveyed to the City, no water rights fees are collected for the development of this property.

Access and traffic flow to Filing No. 5 is provided from Hwy 67 via Stone Ridge Drive and a second access at Research Drive which connects to Ridgestone Drive and subsequently to Firestone Drive. The majority of the lots within filing No. 5 are to the west of the intersection of Stone Ridge Drive and Firestone Drive. Stone Ridge Village PUD has two access points to Hwy 67, which will serve 136 homes when Filings Nos. 1 – 5 are built-out.

The road network within Filing No. 5 includes a 50-foot wide right-of-way for Stone Ridge Drive. As noted above, the right-of-way for Firestone Drive is 45-feet wide by the intersection with Stone Ridge Drive and tapers to 40-feet in width at the west end of the plat.

As this PUD continues to build out, other connections into the residential areas of the development include:

1. A connection from the southern edge of Eagle Pines Subdivision at Eagle Pines Drive; and
2. At the south west corner of Stone Ridge Village connecting at Meadow Wood Sports Complex and on to Evergreen Heights Drive.

These proposed access points are part of an overall road network to service the interior of Stone Ridge Village with a total of 340 residential units.

Pursuant to the Stone Ridge Village Annexation Agreement, improvements to the intersection of Kelley’s Road and Highway 67 (i.e., deceleration and acceleration lanes, left turn lanes) were completed by the owner with the first filing. In addition, the owner provided the City with an \$82,000 letter of credit to be used toward a new traffic signal on Highway 67 which has been installed and is operational.

CODE COMPLIANCE

Final Plat Chapter 17.24 and Design Standards Chapter 17.40

The Subdivision Regulations contain platting and design standards for all types of subdivisions. The platting standards contain specifications relating to the form of the plat while the design standards contain specifications for a reasonable layout and design of lots, blocks, streets, sidewalks, easements and alleys to ensure an efficient, orderly, well planned subdivision ready for future construction. In italics below are the relevant plat and design standards applicable to this major subdivision application followed by a staff analysis.

§17.24.070 Completed plat preparation. A. The design should conform to the preliminary plat, if applicable, as conditionally approved, except that the final plat may constitute on that

portion of the approved preliminary plat which is proposed for immediate recording.

Complies. The lots mostly conform to the preliminary plat. There are minor variations in lot size for the properties along Firestone Drive. The width of Firestone Drive was modified from 50 feet, to a varying right of way width of 45 to 40 feet. To compensate for the reduced road width, a 15 foot wide public utilities and improvements easement is proposed on each side of the roadway.

§17.24.080 Information. Note: This is lengthy list of technical information required to be contained on the Final Plat and prepared by a licensed professional land surveyor.

Complies. The criteria from this section has been reviewed by staff and is determined to be acceptable.

§17.40.010 - Purpose. *The character and environment of the City of Woodland Park for future years will be greatly affected by the design of subdivisions and the plats that are approved by the City. Planning, layout and design of a subdivision are of the utmost concern. The residents must have available to them within the area, safe and convenient movement to points of destination or collection. Modes of travel to achieve this objective should not conflict with each other or with abutting land uses. Lots and blocks should provide desirable settings for the buildings that are to be constructed, make use of natural contours and protect the view, afford privacy for the residents and protection from adverse noise and vehicular traffic. Natural features and vegetation of the area must be preserved if at all possible. Schools, parks, churches and other community facilities should be planned as an integral part of the area. In order to meet the above objectives, the city encourages innovative subdivision design.*

Complies. As determined at Preliminary Plat, this subdivision provides for a well-designed subdivision with lots that are accessible from the extension of Firestone Drive and Stone Ridge Drive. Safe and convenient vehicular and pedestrian movement is provided with local streets and sidewalks designed to City standards. Staff finds that the proposed subdivision:

- Provides safe and convenient vehicular and pedestrian movement;
- Provides desirable lots and settings for single family homes;
- Makes use of natural contours, views and affords privacy;
- Protects from adverse noise and vehicular traffic; and
- Schools, parks, churches and other community facilities are within reasonable proximity to the subdivision.

§17.40.020 - Site consideration. *Land which the city finds to be unsuitable for subdivision or development due to flooding, improper drainage, steep slopes, rock formations, adverse earth formations or topography, utility easements, or other features which will reasonably be harmful to the safety, health and general welfare of the present or future inhabitants of the subdivision and/or its surrounding areas, shall not be subdivided or developed unless adequate methods are formulated by the developer and approved by the city to solve the problems created by the unsuitable land conditions. If the problem cannot be suitably corrected, such land shall be set aside for uses which shall not involve a danger or a harmful situation.*

Complies. Filing No. 5 is suitable for development. The proposed lots have similar topographical features to the surrounding previously developed lots in Stone Ridge Village, as well as the Northwoods Subdivision located to the south.

§17.40.050 - Streets—Frontage. *No subdivision shall be approved unless the area to be subdivided shall have a frontage on an existing street shown upon a plat approved by the planning commission and city council and recorded in the county clerk and recorder's office. Wherever an area to be subdivided is to utilize an existing adjacent street, the subdivider shall be required to improve said street to city specifications.*

Complies. Each lot has adequate frontage with a minimum of 25' frontage. Lots will be accessed off of newly constructed portions of Firestone Drive, and Stone Ridge Drive. The applicant has begun construction of the infrastructure within this filing. They have provided cost estimates for the construction of these roadways, and are required to complete their construction. A subdivision development agreement is required and the applicant must provide a financial guarantee for the cost of the public improvements prior to the filing of the final plat with Teller County.

§17.40.170 - Easements. *Where required, easements for all utilities other than public sewer and water lines shall be a minimum of twenty feet wide, ten feet of which shall be on each side of common rear lot lines where said lines abut. Where the rear lot line abuts on property outside of the subdivision of which there are no easements provided for of at least ten feet in width, then the easement or alley on the rear lot lines in the subdivision shall be at least twenty feet in width. Side lot easements, where necessary shall be at least ten feet in width, five feet of which shall be on each side of a common lot line. Where required, easements for public sewer or water shall be required with the width to be determined in accordance with the city engineering specifications.*

Substantially complies. All easements are shown on the final plat and adequate for all utilities. Public utility and improvement easements are provided along each property line. The easements are as follows:

- 15 feet along right of way frontages.
- 5 feet per lot alongside property lines.
- 10 feet along rear property lines, except for lots 13-17 which contain a 30 foot conservation easement.

The following easements are also necessary:

- The 30-foot utility easement between Lots 32 and 33 of Filing No. 1 needs to be extended across the southeast corner of Lot 17 in filing No. 5.
- Instead of the currently proposed 10-foot easement, a 15-foot easement is needed along the west property line of lots 11 and 12. These west property lines will abut the Ridgestone Drive ROW when it is extended as part of a future filing.
- The applicant provided staff an updated Final Plat Exhibit, including the necessary easements as staff outlined above, just prior to the Planning Commission hearing on March 23rd. The updated Final Plat Exhibit is attached hereto. This condition still substantially complies due to the fact that the changes made by the applicant have not been provided on the Final Plat document that will be signed and recorded. Staff's goal

is to ensure all of the correct easement information is shown on the Final Plat document that would ultimately be recorded.

§17.40.210 - Lots. *The lot arrangement shall be such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits to build on all lots in compliance with the zoning ordinance and in driveway access to buildings on such lots from an approved street.*

Complies. All lots are reasonably arranged and buildable with adequate provision made for driveway access from an approved street and a viable building envelope.

§17.40.250 – Land use intensity ratios. *Each single family lot resulting from a new subdivision or replat of an existing subdivision shall include a lot coverage standard as permitted in the Table LCS below. Lot coverage is that are of the lot that is covered by a principle building or accessory building. Driveways, decks, and patios are not calculated as part of the lot coverage standard.*

Complies. Table LCS requires that lots between 14,556 SF to 27,962 SF have a maximum site coverage of 25% to 20%. Plat note No. 6 reflects this regulation. Below are the relevant portions of Table LCS.

12,000-18,000 square feet	25% minus 1% for each additional 1,200 square feet of lot area, to a maximum site coverage of 20%
18,000+ square feet	20%

§17.36.020 – Park capital fees or dedication of land. *Every major or minor subdivision which is platted for residential use shall pay a park capital fee in the amount established by city council per resolution for public parks, recreation areas and open space. The city council based upon advisement from the parks and recreation advisory board and subsequent recommendation by the Planning Commission may, at its option subject to policy established by Section 17.36.050 require land dedication in the amount of 0.027 acres per residential unit. In a cluster development, this land shall not count toward the minimum required open space.*

Complies. The Stone Ridge PUD approved in 2004 required the developer to dedicate 22.93 acres of park land adjacent to Meadow Wood Sports Complex (deeded to the City in 2004) and various open space tracts; therefore, no park capital fees are collected with Filing No. 5. As development occurs into the future, various open space tracts will be dedicated to the City for a total of 28.71 open space within the 200 acre PUD.

PUBLIC NOTICES

Notice of the Planning Commission and City Council hearings was sent to the owners of the property to be subdivided, to adjacent property owners within 150 feet of the site, and to the appropriate agencies at least ten days prior to the hearing date. A notice of the public hearing was published in the Pikes Peak Courier at least seven days prior to the Planning Commission hearing and posted on the proposed subdivision site at least ten days prior to the hearing. One public comment has been submitted to staff and is attached hereto.

The subdivision plat was referred to various City departments including Public Works, Utilities, Parks and Recreation, Finance, CORE, NETCFD, Black Hills Energy, Century Link, Peak

Internet and TDS Cable. The final Plat application was presented to the Parks and Recreation Advisory Board on March 8th, 2023. The Board took no action on this item because all land requirements have been met.

PLANNING COMMISSION RECOMMENDATION

Planning Commission held a public hearing on March 23, 2023 (draft minutes attached). After consideration of the staff report, and comments made at the public hearing, the Planning Commission voted unanimously to recommend to City Council approval of the Stone Ridge Village Filing No. 5 with a variance to allow 40'-45' road right-of-way width for Fire Stone Drive and subject to the following conditions:

1. The developer must enter into a subdivision development agreement including financial guarantee for the cost estimate (approved by the city) of the remaining infrastructure to be installed. The agreement shall be the City's standard Subdivision Development Agreement with any amendments or additions as required by the city.
2. The Final Plat shall be amended prior to recording with the following notes or corrections:
 - The 30-foot utility easement between Lots 32 and 33 of Filing No. 1 needs to extend across the southeast corner of Lot 17 in Filing No. 5.
 - Instead of the currently proposed 10-foot easement, a 15-foot easement is needed along the west property line of lots 11 and 12. These west property lines will abut the Ridgestone Drive ROW when it is extended as part of a future filing.
1. Prior to recording a Final Plat, the Applicant shall pay a \$1,200 Water Development Fee for each single-family residential lot (a total of \$21,600 for Filing No. 5). Water tap fees in Stone Ridge Village are not subject to water rights fees.
2. Developer shall provide the City a copy of the final "Declaration of Covenants, Conditions and Restrictions," which Covenants must be recorded simultaneously with the Final Plat.

Following Gates presentation Mayor LaBarre opened up the Public Comment portion of the Public Hearing. There being no Public Comment Mayor LaBarre closed the Public Comment portion of the Public Hearing. There being no Council discussion the following motion was made.

Motion: To approve Stone Ridge Village Filing No. 5 Final Plat. Zuluaga/Connors. Motion carried 6-0.

- C. Approval of Ordinance No. 1445, Series 2023, an Ordinance of the City Council for the City of Woodland Park, Colorado Adopting the Plastic Pollution Reduction Act and Establishing Penalties for Violating the Act. (L)
(Presenter Finance Director Aaron Vassalotti)

Finance Director Vassalotti presented Ordinance No. 1445, Series 2023. Vassalotti shared the following information regarding this ordinance.

- The Colorado legislature adopted House Bill 21-1162, the Plastic Pollution Reduction Act ("the Act"), which imposes a ten cent (\$0.10) per bag fee on plastic and paper carryout bags

beginning January 1, 2023

- Between January 1, 2023, and January 1, 2024, a store may furnish a recycled paper carryout bag or a single-use plastic carryout bag to a customer at the point of sale if the customer pays a fee of 10 cents per bag or a higher fee adopted by the municipality or county in which the store is located. On and after January 1, 2024, a store may furnish only a recycled paper carryout bag to a customer at the point of sale at a fee of 10 cents per bag or a higher fee imposed by the municipality or county in which the store is located

- A store is required to remit, on a quarterly basis beginning April 1, 2024, 60% of the carryout bag fee revenues to the municipality or county within which the store is located and may retain the remaining 40% of the carryout bag fee revenues.

- *The carryout bag fee does not apply to a customer that provides evidence to the store that the customer is a participant in a federal or state food assistance program.

Allowable Uses

- Administrative and Enforcement Costs incurred as a result of HB21-1162

- Any Recycling, Composting, or other waste diversion programs and related outreach and education activities

- The Act provides that Stores, as defined therein, must collect the bag fee and remit sixty percent (60%) of such fees to the local municipality on a monthly basis beginning July 1, 2023.

Council Direction from initial posting

- Penalties for violation. Violation of the provisions of the Plastic Pollution Reduction Act as adopted by the City by this section shall be punishable by the issuance of a written warning for a first offense within two years; a fine of \$50.00 for a second offense within two years; and a fine of \$100.00 for a third or subsequent offense within two years.

At this time Mayor LaBarre opened up the Public Comment portion of the Public Hearing. There being no Public Comment nor any Council discussion Mayor LaBarre closed the Public Hearing and the following motion was made.

Motion: To approve Ordinance No. 1445, Series 2023 an Ordinance of the City Council for the City of woodland Park, Colorado Adopting the Plastic Pollution Reduction Act and Establishing Penalties for Vilolating the Act. Case Connors. Motion carried 5-1 with Zuluaga voting no.

- D. Approval of Ordinance No. 1444, Series 2023, an Ordinance Granting a Special Use Permit with a Site Plan Review for the Purpose of Verizon to Construct and Utilize a Concealed Antenna Communication Facility in the Public/Semi-Public Lands (P/SPL) Zone. (QJ) (Continuance of Council deliberation, from the April 6, 2023 Council Meeting - Public Testimony has been concluded)
(Presenter, CJ Gates, Senior Planner)

Prior to the continuing discussion of this item by Council, Councilmember Zuluaga read the following in to the record and recused himself from this hearing:

"I have a written statement for the record: Suzanne, I am asking that you put this in the written minutes for this meeting.

At the Council meeting of April 6, 2023, Item 9 (b) was brought before Council in the matter of Approval of Ordinance No. 1444, Series 2023, an Ordinance Granting a Special Use Permit with a Site Plan Review for the Purpose of Verizon to Construct and Utilize a Concealed Antenna Communication Facility in the Public/Semi-Public Lands (P/SPL) Zone. (QJ). A continuance of this matter is before us this evening.

It seems that according to our City attorney(s), they feel that I overstepped my role as your representative as an elected City Councilman in one of the hats we are asked to wear as a judge. Privately, our City Attorney sent an exhaustive 2 ½ page letter to myself, my fellow councilmembers and City staff, chastising me and accusing me of unlawful behavior, bias and violating my legal responsibilities, and the possibility of creating legal jeopardy for any action by council.

Let me set my position straight so there is no ambiguity in anyone's mind as to my intention to faithfully serve my oath of office as your elected representative on this Council. If I have violated your trust in me, or I have compromised the City in my sincere desire to serve your interests to the best of my ability; I ask for your forgiveness.

My oath to faithfully perform the duties of office of Councilman consists of 3 parts; to Support

1. the Constitution of the United States,
2. the Constitution of the State of Colorado and
3. the Charter and Ordinances of the City of Woodland Park.

Keeping it brief, I have learned there is a difference between my role as a Legislator and another role that has been gradually being drummed into my head; as that is, in some matters to serve as a Judge. According to our Charter, serving as a judge in what is termed Quasi-Judicial matters is only spelled out in Title 5 when the City Manager denies a license or application. The matter can then be brought before Council. The question of Due Process is a much larger discussion.

Where is the unlawful or unconstitutional behavior that are the cause of such uproar amongst those who get paid the big bucks vs. your volunteer elected officials?

I quote our attorney from his confidential Attorney- Client Privileged Communication I choose to disclose:

"As your attorneys, we lack the power to order Councilmember Zuluaga to take the action that we recommend. Nor can Council (this is not a conflict of interest, under the Charter) force Councilmember Zuluaga to recuse himself."

I spoke to no one about the quasi-judicial matter brought before Council at that meeting. I endeavor to do my due diligence as I prepare for our meetings and that represents hours and hours of study and research. When reviewing the above mentioned item, I felt prompted by an inner prompting to answer a question that arose out of reviewing this material; "what about the effects upon the close proximity to our children?" I did not come with any predetermined opinions or conclusions to the Council meeting; I came with questions and concerns which I offered to my colleagues to examine. They were supposed to be in the packet tonight, however this information is not in the written record for any one's authentic examination. Those more skilled in QJ matters recommended that my comments be disregarded

presuming them to reflect bias and prejudice.

In the interest of giving my colleagues and the applicant the opportunity to adjudicate this matter without further delay; I recuse myself from this matter in good faith to defuse any legal tension surrounding this application.

I will continue to serve you from the best of my understanding of the original intent of our nation's founders and our City fathers."

As this was a continuation of Ordinance No. 1444, Series 2023 from the April 6, 2023 Council Meeting, Gates did not re-do the presentation that was done on April 6. Mayor LaBarre shared that the Public Comment portion of the Public Hearing was concluded on April 6 and there would be no Public Comment on this item this evening. LaBarre reviewed with the Council that this item was continued for Council deliberation only.

Following Council discussion regarding the height of the tower, lightning strikes and the aesthetics of the tower, the following motion was made.

Motion: to approve Ordinance NO. 1444, Series 2023 an Ordinance Granting a Special Use Permit with a Site Plan Review for the Purpose of Verizon to Construct and Utilize a Concealed Antenna Communication Facility in the Public/Semi- Public Lands Zone. Neal/Case. Motion carried 4-1. Connors voting no and Zuluaga recusing himself.

- E. Approval of Resolution No. 904, Series 2023, a Resolution Approving an Amendment to the Woodland Park Downtown Development Authority Plan of Development. (QJ)
(Presenter Planning Director Karen Schminke)

Planning Director Schminke reviewed the Staff Report for Resolution No. 904, Series 2023, a Resolution Approving an Amendment to the Woodland Park Downtown Development Authority Plan of Development.

Summary TAVA House Properties, LLC (THP) shall proceed with the following Plan of Development (Plan) for the 6.63 acres this is commonly known as "Woodland Station". While there are other adjacent properties that may eventually be incorporated into the Plan, since THP does not own or control those parcels, our focus for this Plan is just for the Woodland Station property. Once THP acquires the 6.63 acres, immediate work begins in working with the City of Woodland Park Planning Staff in the form of submittals for Phase I, the TAVA Restaurant facilities. It is the hope of THP that site work can begin late summer of this year, with a grand opening in the summer of 2024. Phases 2-3 will occur as outlined below, with Phase 4 eventually bringing in a housing component or mixed-use development, so Phases 1-3 will all be commercial uses. It should be noted that Phases 2-4 are subject to change and are dependent on market factors and demands, and as such, the uses and placement of those uses is in concept form only. THP will conform to all City of Woodland Park Zoning standards and also the Woodland Station Overlay District Regulations as well as Design Guidelines.

Phase 1

Within six (6) months after the conveyance of the Woodland Station property (the "Subject Property") by the DDA to THP (the "Phase 1 Approval Deadline"), THP shall use best efforts

to obtain final non-appealable approval from the City of Woodland Park and any other governmental or quasi-governmental entities having jurisdiction of all entitlements or approvals necessary to construct all necessary private and public improvements necessary (the "Phase 1 Improvements") to support Phase 1, including a replat of the Subject Property to create a separate lot or lots for Phase 1. This Phase will see the beginning of construction for the TAVA House Restaurant that will house 2 restaurant concepts, a culinary school and a small banquet hall. Consisting of about 10,000 square feet, this facility will employ 40+/- people in various capacities for restaurant management along with full and part time workers.

Phase 2

THP shall commence construction on improvements within the Phase 2 portion of the Subject Property on or before December 31, 2025. Buyer anticipates such improvements to be commercial buildings around a center town square concept, with the end-users/tenants to be determined at a future date. Buyer shall substantially complete construction of the public and private improvements within Phase 2 of the Property on or before December 31, 2027.

Phase 3

THP shall commence construction on improvements within the Phase 3 portion of the Subject Property on or before December 31, 2027. TAVA House anticipates such improvements to include any additional infrastructure work needed in collaboration, including cost-sharing, with the City of Woodland Park, State of Colorado, Colorado Department of Transportation, Colorado Public Health Department, and United States Army Corps of Engineers, and other governmental or third parties as may be required. THP shall substantially complete construction of the improvements within Phase 3 of the Property on or before December 31, 2029.

Phase 4

THP, or its successor and/or assignee, shall commence construction on improvements within the Phase 4 portion of the Property as soon as reasonably practicable after completion of the Phase 3 improvements, subject to applicable market conditions. TAVA House currently estimates such construction to commence on or before December 31, 2030. Buyer anticipates such improvements to include primarily residential improvements, with possible commercial improvements as well, to be determined by prevailing market conditions and the final product constructed upon Phase 1, Phase 2 and Phase 3. THP, or its successor and/or assignee, shall substantially complete construction of the improvements within Phase 4 of the Property on or before the date that is thirty-six (36) months after the date THP (or its successor/assign) commences construction of improvements located within the Phase 4 portion of the Property.

Following the review of the four phases of the POD being proposed, Schminke also drew attention to the section of the staff report that listed other considerations that would be reviewed in more detail at the time of subdivision and subsequent site plan reviews. These items included lot configuration, infrastructure, environmental concerns, site access and circulation. Director Schminke noted that since the primary access into the property is from Highway 24, CDOT review and approval is required and they may require improvements such as changes in signalization or turning lanes, which could potentially impact Bergstrom

Park. She also identified land uses, parking, architectural design and landscaping, parks & trails, and historical assets as items that would be addressed in more detail in subsequent applications.

Councilmember Zuluaga asked the DDA questions regarding the amendment and the Disposition Agreement. Council heard from the developer Derek Wagoneer, DDA Chairperson Tony Perry and DDA Attorney Marcus McAskin regarding the Development Authority Plan and they answered Councilmember Zuluaga's questions. Following Councilmember Zuluaga's questions, Mayor LaBarre opened up the Public Comment portion of the Public Hearing.

Tanner Coy wanted to add clarification regarding the Plan of Development. Coy shared that the Foundation Plan guides the DDA in all its activities. Coy shared that he felt they were confusing the Plan of Development and the Foundation Plan and that they needed to be careful.

The time being 10:56 PM, the following motion was made.

Motion: to continue the Council Meeting to midnight. Case/Neal. Motion carried 6-0.

Chairperson Perry asked the DDA Attorney to respond to Mr. Coy's comments. Mr McAskin commented that the text of Resolution No. 904 has the clarity needed in it and that the Foundation Plan is not being replaced.

At this time, there being no further questions, Mayor LaBarre closed the Public Comment portion of the Public Hearing and the following motion was made.

Motion: To approve Resolution No. 904, Series 2023, a Resolution Approving an Amendment to the Woodland Park Downtown Development Authority Plan of Development. Case/Nakai. Motion carried 5-1 with Zuluaga voting no.

10. NEW BUSINESS

(Public comment may be heard)

- A.** Request by Brad Bealby for billing credit for his water bill - reference Resolution No. 264, Series 1993.

(Utilities Director Kip Wiley and Resident Brad Bealby)

Utilities Director Kip Wiley reviewed the following with the Council.

Utility billing had discovered continuous water flow at 600 Pinon Ridge Dr. starting on Friday December 23, 2022 and continued until Monday December 26, 2022. Utility Billing called the customer on January 6, 2023 to inform them. Utility billing was out of the office for the holiday and was out of the office on vacation the first couple of days in January. The normal monthly usage for this customer is usually between 2,000 and 5,000 gallons. With continuous water flow for the 4 days in question the monthly billing jumped to 35,000 gallons. This was a 5 week billing cycle so I would estimate normal usage to be around 5,000 gallons for the month. The discrepancy in water usage would be 30,000 gallons.

During the conversation with the customer on January 6th the customer informed the City that they were out of town and in no way was water being used. The City informed him eyeonwater reports usage data by the hour and it showed water started running at 2:00p.m.

on the 23rd and stopped on the 26th at approximately 3:00p.m. The customer wanted relief on their water bill and the City directed them to Resolution 264 series 1993 for unexplained high water usage. The customer and the City have gone through the steps for determining if there is truly unexplained water usage per the resolution. The City has determined that the meter was reporting accurately and there is not an unexplained high water usage.

The customer believes it is truly unexplained and would like relief of the water bill. After going through the steps for water bill relief on Resolution 264 the City determined the unexplained water usage started when the customer left their home and stopped when they returned. The City performed three additional meter reads (usually one read per week) after the event. Those reads showed the City's existing meter was accurately reporting usage based off of previous usage. The City also performed an inspection on February 13, 2023 of the water fixtures in the home. They found two water closets could be leaking and the downstairs water closet actually leaked during the inspection. This could be the culprit to the unexplained usage. The City then replaced the existing meter after verifying it was accurately reporting meter readings with a new meter and collected three additional readings (about one reading per week) to confirm accurate water usage with the previous usage. The meter reads were confirmed and the new meter is reporting the same usage as the old meter. The City did not send the old meter in for testing as it would not be cost prohibited and we believe it is reporting accurately. It would cost more to test the meter than to give the customer relief on the water bill.

The customer has also had the water fixtures in the home inspected by a licensed plumber. The plumber did not find any leaks and has provided a report stating their finding. The customer also believes that a leaking toilet cannot use that much water in a four-day span. I am sure the customer will provide his own data to the Council.

At this time, Mayor LaBarre invited Mr. Brad Bealby to the podium who shared the following information:

On January 6, 2023 he was informed by Judy Bundy from the City that he was going to receive a very large city bill due to high water usage. Mr. Bealby shared that this was the first time he was aware of any issue. Bealby shared that, due to the extreme amount of water, he took it upon himself to immediately inspect his property for any signs of a water leak. He determined there was no leak. Mr. Bealby shared the process that he went through to determine the cause of the overage. Mr. Bealby also hired a plumber to validate his findings.

Mr. Bealby shared in his conclusion that there was adequate information that pointed towards the possibility that the meter had an issue. Mr. Bealby shared that he met with Deputy City Manager Leclercq and Utilities Director Wiley on March 28th to speak with them about recourse available to him and, as a result of that conversation, he is here this evening. Mr. Bealby would like reimbursement available to him following Resolution 264, from 1993.

Following discussion by the Council, the following motion was made.

Motion: to approve the reimbursement payment of \$475.00 to Mr. Bard Bealby. Neal/Zuluaga. Motion carried 6-0.

Council directed Director Wiley to update Resolution 264 from 1993 to reflect the costs of plumbers today.

**B. Approval of Subdivision Development Agreement - The Haven At Paradise.
(Presenter, Senior Planner, CJ Gates)**

Senior Planner CJ Gates reviewed the Staff Report regarding the Haven at Paradise information.

When developing a subdivision the developer/subdivider has the option of either completing all the infrastructure improvements prior to requesting approval of the final plat, or entering into a Subdivision Development Agreement (SDA) with the City of Woodland Park. It is at the City's discretion, to enter into a contract with the subdivider whereby the subdivider shall guarantee to complete all improvements required by City Code, or otherwise specified by the city according to city specifications.

City Council approved the final plat for The Haven At Paradise subdivision at the March 16, 2023 meeting. That approval was subject to the condition that the developer must enter into a subdivision development agreement including financial guarantee for the cost estimate of the remaining infrastructure to be installed. The agreement is to be the city's standard subdivision development agreement with any amendments or additions as required by the city. Any special requirements unique to a particular subdivision due to terrain, etc., shall be defined in the agreement.

To secure this contract, the subdivider is required to provide, subject to approval of the city council, either a cash escrow, an irrevocable letter of credit, or bond. The amount of the financial security is required to be at least equal to the cost, as estimated by the subdivider and approved by the city engineer, of installing all required improvement plus 50 percent. The developer for The Haven At Paradise has provided the cost estimates for completing the infrastructure and these have been approved by the City Engineer.

The developer has yet to finalize and provide the form of financial security. The recommendation is for City Council to approve the SDA and Exhibit A (Improvement Costs) as presented. The SDA and associated final plat are to be recorded concurrently after the financial guarantee is provided to the City.

The following motion was made.

Motion: to approve the Subdivision Development Agreement - the Haven at Paradise. Case/Neal. Motion carried 6-0.

**C. Approval of Subdivision Development Agreement - Stone Ridge Subdivision
Filing No. 5.**

(Presenter, Senior Planner, CJ Gates)

Skip Howes, the applicant, asked that this item be tabled to the 5/4/2023 Council Meeting.

Motion: to table the approval of the Subdivision Development Agreement - Stone Ridge Filing No. 5. Neal/Nakai. Motion carried 6-0.

**D. Approval of Resolution No. 903 Codifying the City Council Rules and
Procedures. (A)**

(Presenter City Manager, Michael Lawson)

This item was tabled to the May 4, 2023 City Council Meeting.

Motion: To table Resolution 903, Series 2023, Codifying the City Council Rules and Procedures to the May 4, 2023 City Council Meeting. Case/Neal. Motion carried 6-0.

- E.** Approval of Resolution No. 905, Series 2023, a Resolution Approving the Woodland Station Development Agreement and Authorizing the Woodland Park Downtown Development Authority to Convey the Woodland Station Property to TAVA House Properties, LLC. (QJ)
(Presenter, Planning Director Karen Schminke)

Planning Director Schminke introduced Resolution No. 905, Series 2023 to the Council.

Chairperson Perry, of the DDA, shared Fair Value Information with the City Council. Perry shared that Fair Value is somewhat subjective (the statute states that Fair Value is whatever the DDA and Council determine FV to be). Factors that the DDA and Council must take into account include the following:

In addition, Mr. Perry shared that the Council should (in determining fair value) also take into account the fact that (1) the DDA has not pledged any TIF for any phase of the plan of Development, and (2) the uses proposed in the plan will generate sales tax, property tax and use tax revenues for the City. Councilmember Zuluaga shared that he did not agree with how Mr. Perry came up with the Fair Value.

Councilmember Zuluaga shared that he was concerned that the buyer could come to the City for infrastructure costs and that Section 9.17 of the Charter does not permit that. Perry shared that the buyer would be having SMART Meetings with the City and that they have yet to be determined. Perry shared that some of the infrastructure costs are the City's responsibility and Zuluaga shared that the DDA lays out that the developer is responsible.

Following further Council discussion, the following motion was made.

Motion: to approve Resolution No. 905, Series 2023, a Resolution Approving the Woodland Station Development Agreement and Authorizing the Woodland Park Downtown Development Authority to Convey the Woodland Station Property to TAVA House Properties, LLC. Connors/Nakai. Motion carried 5-1 with Zuluaga voting no.

- F.** Signature Events Micro-Grant Program Process review.
(Presenter, Assistant to the City Manager Grace Johnson)

The time being 11:56 PM the Council voted to continue the meeting until 12:15 AM.

Motion: Continue the City Council Meeting until 12:15 AM. Nakai/Case. Motion carried 6-0.

City Manager Lawson reviewed the Signature Events Micro-Grant Program. Sharing the following information.

During the 2023 Budget Process, Council set aside \$15,000 out of lodging tax revenue to support signature events in our community. The City Staff staff was tasked with creating the development of a program to distribute funding to qualifying signature events.

Program Overview is as follows:

- Qualifying events will be invited to apply for funding by completing an application online or in-person
- The Parks and REcreation Advisory Board will receive all applications digitally after the application period closes.
- Individually, PRAB members will score each application using the provided rubric
- At a public PRAB meeting, members will review and discuss each application. Majority vote by the board will determine funding approval and amount.

Lawson shared with the Council that because the program is funded specifically from lodging tax, the primary purpose is to increase tourism. Signature events are events that primarily attract tourists from outside of Woodland Park, but also attract community involvement and local interest. They have the potential for economic impact, ie. increased hotel occupancy, visitation, and restaurant sales. Signature events balance community impact and interest and City lodging/sales tax benefits.

Lawson shared that the Eligibility events will be as follows:

- To be considered for funding, applicants must complete the application in its entirety by the deadline advertised.
- One supplemental page supporting the application may be added if desired.
- Funding will be determined solely on the merit of the application and presentations will not be required.
- Awarded funds must be used for events held in 2023.
- The maximum amount of funding that can be requested is \$5,000 per event.
- Applicants must provide a W-9
- Applicants must include the City logo on promotional materials where applicable.
- No funds distributed under this program shall be used for the promotion of religion or in support of any political candidate or ballot issue or prospective political candidate or ballot issue.
- The City has the sole discretion to award all or none of these funds.

Lawson shared that the funding could be used for the enhancement of existing events, promotion and day of event expenses. Disallowable expenses include cash awards, prizes, scholarships, loan reduction and any expenses not directly related to the event.

Lawson reviewed that a final report will be required from each event receiving Signature Event funding for each year and must be submitted by December 31 of the funded year. Failure to submit a final report may result in in-eligibility for future funding. Lawson shared that this is a pilot program and it will be evaluated and modified as needed for 2024. City Staff will also be collecting data throughout the year to identify exact quantities of in-kind and financial support we already provide for signature/community events. Lawson shared the proposed timeline with the Council.

City Manager Lawson asked for Council consensus to proceed and Council concurred. Councilmember Zuluaga stated he was not in agreement.

11. REPORTS

(Public comment not necessary)

A. Mayor's Report

Mayor LaBarre shared the upcoming events for the next two weeks. LaBarre also reminded the staff to work on the Ordinance for setbacks regarding towers etc.

B. Council Reports

Mayor Pro-tem Case shared the winners of the coloring contest. Case reminded Staff to update the Resolution regarding utility reimbursements from 1993.

C. City Attorney's Report

D. City Manager's Report

12. ADJOURNMENT

Mayor LaBarre adjourned the City Council meeting at 12:12 AM.

Respectfully submitted:

Suzanne Leclercq MMC, City Clerk

APPROVED THIS ____ DAY OF _____, 2023

Hilary LaBarre, Mayor



City of Woodland Park

May 4, 2023 at 7:00 PM

MINUTES

1. CALL TO ORDER AND ROLL CALL

Following a 6 PM Council Worksession interviewing prospective Council Candidates, Mayor LaBarre called the meeting to order at 7:00 PM.

The following Councilmembers were present: Mayor LaBarre, Mayor Pro-tem Case, Councilmember Connors, Councilmember Nakai, Councilmember Neal and Councilmember Zuluaga.

The following staff members were present: City Manager Lawson, Deputy City Manager/City Clerk Leclercq, Planning Director Schminke, Public Works Director Schmitt, Utilities Director Wiley, Assistant to the City Manager Johnson, IT Intern Barnes, Deputy City Clerk/Public Works admin Assistant Johnson and City Attorney Williams.

2. PLEDGE OF ALLEGIANCE

3. CEREMONIES, PRESENTATIONS AND APPOINTMENTS

- A. Appointment of Councilmember to fill vacated Council term. (A)
(Presenter Deputy City Manager/City Clerk Suzanne Leclercq)

City Clerk Leclercq reviewed the appointment process of the new Councilmember with the Council. Leclercq shared that she would hand out paper ballots with the two candidates' names on them and that the Council should vote for one. Leclercq said that if there was a majority vote for one candidate, they would be appointed. Leclercq shared that if there was a tie vote they would vote two more times to see if the tie vote changed. Following the second tie vote, they would play a game of chance. Leclercq shared that she had a deck of cards ready and that in the event of a tie the candidate that drew the high card would be appointed.

Leclercq distributed the ballots and collected the ballots once Council was finished.

Leclercq read the following into the record:

Councilmember Zuluaga - voted for Don Dezellem
Councilmember Connors - voted for Don Dezellem
Councilmember Neal - voted for Carrol Harvey
Councilmember Nakai - voted for Carrol Harvey
Mayor LaBarre - voted for Carrol Harvey
Mayor Pro-tem Case - voted for Carrol Harvey

The vote being 4 votes for Harvey and 2 votes for Dezellem. Harvey was appointed to the

City Council.

Leclercq administered the Oath of Office to Harvey and she took her seat on the dais.

- B.** Appointment of Downtown Development Authority Member to fill vacated term.
(A)
(Presenter Deputy City Manager/City Clerk Suzanne Leclercq)

Following an interview with Eric Cabrera for the appointment to the DDA the following motion was made by the Council.

Motion: To appoint Eric Cabrera to the Downtown Development Authority. Neal/Case. Motion carried 7-0.

City Clerk Leclercq administered the Oath of Office to Cabrera.

- C.** Proclamation Recognizing May as Mental Health Awareness Month.
(Presenter Ashlee Shields, Suicide Prevention Coordinator - Teller County)

Ashlee Shields, Suicide Prevention Coordinator for Teller County and Sara Lee former teacher for the Woodland Park School District shared information on Mental Health.

Following their presentation, Mayor LaBarre read a Proclamation into the record Recognizing May as Mental Health Awareness Month.

- D.** Celebration and Congratulations of the Woodland Park High School Welding Team on their State Champion placements.
(Presenter CTE Teacher/Coordinator, Gary Adamson)

Gary Adamson, CTE Teacher and Coordinator, introduced the welders that took first place in the Welding State Championship. The welders shared their projects with the Council and Mayor LaBarre presented them with a Mayor's pin.

- E.** Welcome and introduction of Justin Kurth, Field Representative & Outreach Coordinator for Congresswoman Brittany Pettersen (CO-7).

Justin Kurth, Field Representative & Outreach Coordinator for Congresswoman Brittany Pettersen introduced himself and shared that he was looking forward to working with the Woodland Park Community.

4. ADDITIONS, DELETIONS OR CORRECTIONS TO AGENDA

5. CONSENT CALENDAR

- A.** Approval of the April 6, 2023 and April 20, 2023 Regular City Council meeting minutes. (A)
(Presenter Deputy City Manager/City Clerk Suzanne Leclercq)

Councilmember Zuluaga shared that he felt what he spoke about at the April 20, 2023 City Council Meeting was not reflected in the minutes. Council had a brief discussion on the minutes being action minutes and not verbatim minutes. Council asked City Clerk Leclercq to share what Councilmember Zuluaga was asking to have in the minutes and they would review it. Leclercq shared that she would be out of town and would bring this to Council at the June 15, City Council Meeting.

Motion: to approve the April 6, 2023 City Council Meeting Minutes. Nakai/Zuluaga. Motion

carried 6-0 with Harvey abstaining.

Motion: to table the approval of the April 20, City Council Meeting Minutes to the June 15 City Council Meeting. Neal/Connors. Motion carried 5-2 with LaBarre and Case voting no.

6. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA (1)

Aaron Helstrom - spoke in support of the current School Board and Merit Academy.

DeAnn Betterman - spoke regarding the school sales tax and that it is being used for every district school.

Nate Owen - thanked the Council for the Mental Health proclamation and spoke about the mental health services being discontinued at the school next year.

Chris Austin - thanked the Council for the Mental Health proclamation and shared that the current School Board has refused over one million dollars in grant funds.

Mike Nakai - shared information regarding Wild Fire prep day, which would be occurring on May 20.

7. UNFINISHED BUSINESS

(Public Comment may be heard)

8. ORDINANCES ON INITIAL POSTING

(Public comment may be heard)

- A.** Consider Ordinance No. 1450, Series 2023, on initial posting, an Ordinance for the City of Woodland Park, Approving An Amendment to a Conditional Use Permit and Site Plan, for 18.09090.N.5 "*Apartment Building(S) On A Single Lot*" Use Located on Tamarac Parkway with a Legal Description of Lot 6, Tamarac Tech Park Filing No. 5 within the Multi-Family Residential-Urban Zone District and set the Public Hearing for May 18, 2023. (QJ) (Presenter Planning Director Karen Schminke)

Planning Director Schminke introduced Ordinance No. 1450 on initial posting.

Motion: to approve Ordinance No. 1450, series 2023 on initial posting, and Ordinance for the City of Woodland Park, Approving an Amendment to a Conditional Use Permit and Site Plan, for 18.09090.N5 Apartment Building on a Singl lot Use locate on Tamamrac Parkway with a legal Descrition of Lot 6, Tamarac Tech Park Filing No. 5 within the Multi- Family Residential Urban Zone District and set the Public Hearing for May 18, 2023. Case/Connor. Motion carried 6-0. Councilmember Zuluaga was out of the room at the time of the vote.

- B.** Consider Ordinance No. 1449, Series 2023, on initial posting, an Ordinance of the City Council for the City of Woodland Park, Colorado Creating Chapter 2.16 of the Woodland Park Municipal Code, Regarding Emergency Management, To Establish a Process for the Declaration of a Local Emergency and to Specify the Authority of the City Council and City Manager During the Same and set the Public Hearing for May 18, 2023. (L) (Presenter City Attorney Nina Williams)

City Attorney Williams introduced Ordinance No. 1449, Series 2023 on initial posting.

Councilmember Zuluaga shared that he felt emergencies are serious matters and should be the responsibility of the Elected Officials, not the employees.

Motion: To approve Ordinance NO. 1449, Series 2023, an initial posting, an Ordinance of the City Council for the City of Woodland Park, Colorado Creating Chapter 2.16 of the Woodland Park Municipal Code, Regarding Emergency Management, to Establish a Process for the

Declaration of a Local Emergency and to Specify the Authority of the City Council and City Manager During the Same and set the Public Hearing for May 18, 2023. Harvey/Case. Motion carried 6-1 with Zuluaga voting no.

9. PUBLIC HEARINGS

(Public comment may be heard)

- A.** Approval of a change of location for Shadi Inc. DBA Judges, currently located at 108 East Midland Avenue, to 100 Morning Sun Drive, Woodland Park, Colorado. (QJ)
(Presenter Deputy City Manager/City Clerk Suzanne Leclercq)

City Clerk Leclercq requested Council to table this item until the next City Council Meeting.

Motion: to table the approval of a change of location for Shadi, Inc. DBA Judges until the May 18, 2023 City Council Meeting. Case/Nakai. Motion carried 7-0.

- B.** Approval of a Modification of a Hotel and Restaurant Liquor License for Thai Good Eats located at 102-104 Midland Avenue, Woodland Park, CO 80863. (Presenter Deputy City Manager / City Clerk, Suzanne Leclercq)

City Clerk Leclercq introduced this modification of a Hotel and Restaurant Liquor License to the Council.

There being no Council discussion or Public Comment the following motion was made.

Motion: to approve a Modification of a Hotel and Restaurant Liquor License for Thai Good Eats located at 102-104 Midland Avenue, Woodland Park, Colorado. Zuluaga/Connors. Motion carried 7-0.

- C.** Approval of Ordinance No. 1448, Series 2023, an Ordinance Adjusting Expenditure Appropriations to the Various Funds, in the Amounts and for the Purpose as set Forth Below, for the City of Woodland Park, Colorado for the 2023 Budget Year, and Amendment Ordinance No. 1433, Series 2022. (A)
(Presenter Finance Director Aaron Vassalotti)

Finance Director Vassalotti reviewed Ordinance No. 1448, Series 2023 with the City Council. There being no Council discussion, Mayor LaBarre opened the Public Comment portion of the Public Hearing. There being no Public Comment, Mayor LaBarre closed the Public Hearing and the following motion was made.

Motion: to approve Ordinance No. 1448, Series 2023, an Ordinance Adjusting Expenditure Appropriations to the Various Funds, in the Amounts and for the Purpose as set Forth Below, for the City of Woodland Park, Colorado for the 2023 Budget Year, and Amendment to Ordinance No. 1433, Series 2022. Case/Nakai. Motion carried 7-0.

10. NEW BUSINESS

(Public comment may be heard)

- A.** Approval of Resolution No. 903, Series 2023 Codifying the City Council Rules and Procedures. (A)
(Presennter City Manager Michael Lawson)

City Manager Lawson reviewed Resolution No. 903, Series 2023 Codifying the City Council Rules and Procedures. Following Council discussion, an amendment was made to the Rules of Procedures to make the start time of the City Council Meetings at 6:30 PM.

Motion: to approve Resolution No. 903, Series 2023 Codifying the City Council Rules and Procedures with the amendment of the start time of the City Council Meetings to be 6:30 PM. Case/LaBarre. Motion carried 5-2 with LaBarre and Case voting no.

- B.** Approve Resolution 902 establishing 10 Multifamily Residential Water Tap Allotments for a portion of W ½ of the NW ¼ of Section 24, Township 12 South, Range 69 West of the 6TH Principle Meridian, also known as part of the Kowitz Tracts. (A)
(Presenter Utilities Director Kip Wiley)

Utilities Director Kip Wildey presented Resolution No. 902, Series 2023.

Motion: to approve Resolution no. 902, Series 2023 establishing 10 Multi-Family Residential Water Tap Allotments for a portion of W1/2 of the NW 1/4 of Section 24, Township 12 South, Range 69 West of the 6th Principle Meridian, also known as the Kowitz Tracts. Zuluaga/Nakai. Motion carried 7-0.

- C.** Approval of Subdivision Development Agreement - Stone Ridge Subdivision Filing No. 5.
(Presenter, Planning Director Karen Schminke)

Following a lengthy Council discussion, this item was tabled to the May 18, 2023 City Council Meeting.

Motion: to table Approval of Subdivision Development agreement - Stone Ridge Subdivision Filing No. 5 to the May 18, 2023 City Council Meeting. Connors/Neal. Motion carried 7-0,

11. REPORTS

(Public comment not necessary)

- A.** Mayor's Report

Mayor LaBarre shared the upcoming events for the next two weeks.

- B.** Council Reports

Councilmember Connors shared some Veteran updates.

Councilmember Nakai shared that she would like to see an accountability of the Sales Tax given to the school.

Councilmember Neal shared updates of the DDA.

Councilmember Harvey shared that it is an obligation of the Council to review the IGA with the School regarding Sales Tax.

Councilmember Zuluaga shared information regarding the Arkansa Water Basin conference that he and Councilmember Nakai attended.

- C.** City Attorney's Report

- D.** City Manager's Report

12. ADJOURNMENT

There being no further City business, Mayor LaBarre adjourned the City Council Meeting at 10:24 PM.

Respectfully submitted:

Suzanne Leclercq MMC, City Clerk

APPROVED THIS ____ DAY OF _____,2023

Hilary LaBarre, Mayor



City of Woodland Park

June 1, 2023 at 6:30 PM

MINUTES

1. CALL TO ORDER AND ROLL CALL

Mayor LaBarre called the City Council meeting to order at 6:46 PM following a work session with the Council on Short Term Rentals.

The following Councilmembers were present: Mayor LaBarre, Mayor Pro-tem Case, Councilmember Connors, Councilmember Neal, Councilmember Nakai, Councilmember Harvey and Councilmember Zuluaga.

The following Staff Members were present: City Manager Lawson, IT Intern Barnes, Public Works Director Schmitt, Utilities Director Wiley, Planning Director Schminke, Assistant to the City Manager Johnson.

2. PLEDGE OF ALLEGIANCE

3. CEREMONIES, PRESENTATIONS AND APPOINTMENTS

- A. Police Department Promotion and Award Ceremony.
(Presenter Chief of Police Chris Deisler)

Police Chief Deisler presented the Woodland Park Police Department promotions and awards for the quarter.

- B. Presentation on Housing Needs Assessment Scope of Work (Presenter, Brian Points, Points Consulting)

4. ADDITIONS, DELETIONS OR CORRECTIONS TO AGENDA

5. CONSENT CALENDAR

- A. Approval of the May 18, 2023 City Council Regular Council Meeting Minutes.
(Presenter, Grace Johnson)

Motion: To approve the May 18, 2023 City Council Meeting Minutes. Nakai/Zuluaga. Motion carried 7-0.

6. PUBLIC COMMENT ON ITEMS NOT ON THE AGENDA (1)

Jeremy Lyons spoke against the Citizen's Initiative Petition that is currently being circulated.

Makenna Norma and Coraliss Palmer introduced the Girls of the West.

Jerry Penland shared information on the Citizen's Initiative Petition.

7. UNFINISHED BUSINESS

(Public Comment may be heard)

- A.** Approval of Subdivision Development Agreement - Stone Ridge Subdivision Filing No. 5.
(Presenter, Planning Director Karen Schminke)

Planning Director Schminke introduced this item and shared with the Council as to why it is before the Council again.

Councilmember Zuluaga addressed Skip Howes and stated that Council can either approve or deny the Subdivision Development Agreement and nothing else. Mayor LaBarre confirmed that. Mr. Howes asked that the Council approve his version of the SDA and City Attorney Williams recommended that the Council not do that.

Motion: To approve the Development Agreement for Stone Ridge Subdivision Filing No. 5 as prepared and presented by the Planning Department and the City attorney's Office. Harvey/Nakai. Motion carried 6 to 1 with Neal voting no.

8. ORDINANCES ON INITIAL POSTING

(Public comment may be heard)

9. PUBLIC HEARINGS

(Public comment may be heard)

- A.** Approval of Ordinance No. 1451, Series 2023, approving the lease agreement between the City and Cellco Partnership d/b/a Verizon Wireless for the Purposes of Building a Permanent Cell Tower Located at 111 N. Baldwin. (Presenter, City Attorney, Geoff Wilson)

Following the presentation of Ordinance No. 1452, Series 2023 Mayor LaBarre opened up the Public Comment portion of the Public Hearing. Jim French discussed pollution insurance and that the City may want to consider it. Following Public Comment Mayor LaBarre closed the Public Comment portion of the Public Hearing.

Motion: To approve Ordinance No. 1451, Series 2023, approving the lease agreement between the City and Cellco Partnership dba Verizon Wireless for the Purposes of Building a Permanent Cell Tower located at 111 North Baldwin. Case/Neal. Motion carried 5-2 with Connors and Zuluaga voting no.

- B.** Approval of Ordinance No. 1452, Series 2023, approving the lease agreement between the City and Cellco Partnership d/b/a Verizon Wireless for the Purposes of Placing a Temporary Cell Tower at 220 W South Ave. (Presenter, City Attorney, Geoff Wilson)

Following a brief presentation regarding Ordinance No. 1452, Series 2023, Mayor LaBarre opened the Public Comment portion of the Public Hearing. There being no Public Comment, Mayor LaBarre closed the Public Hearing and the following motion was made.

Motion: To approve Ordinance No. 1452, Series 2023, approving the lease agreement between the City and Cellco Partnership dba Verizon Wireless for the Purposes of Placing a Temporary Cell Tower at 220 West South Avenue. Case/Nakai. Motion carried 7-0.

- C.** Approval of Ordinance No. 1453, Series 2023, approval of a Lease Agreement Between the City and CORE Electric Cooperative for the Purposes of Use of Land for an Electric Vehicle Charging Station. (Presenter, City Attorney, Geoff Wilson)

Following brief presentation of Ordinance No. 1453, Series 2023 Mayor LaBarre opened the Public Comment portion of the Public Hearing. There being no Public Comment, Mayor LaBarre closed the Public Hearing and the following motion was made.

Motion: to Approve Ordinance No. 1453, Series 2023, approval of a Lease Agreement Between the City and CORE Electric Cooperative for the Purposes of Use of Land for an Electric Vehicle Charging Station. Neal/Case. Motion carried 6-1 with Zuluaga voting no.

10. NEW BUSINESS

(Public comment may be heard)

11. REPORTS

(Public comment not necessary)

A. Mayor's Report

Mayor LaBarre shared the upcoming events for the next two weeks.

B. Council Reports

Council member Nakai shared that 160 people attended Wildfire Preparedness Day.

Councilmember Connors shared information regarding the upcoming Sheriff's open house, the American Legion Pig Roast and Flag Day.

C. City Attorney's Report

D. City Manager's Report

12. ADJOURNMENT

There being no further City business, Mayor LaBarre adjourned the City Council Meeting at 8:46 PM.

Respectfully submitted:

Suzanne Leclercq MMC, City Clerk

APPROVED THIS ____ DAY OF _____, 2023

Hilary LaBarre, Mayor



STAFF REPORT

TO: Mayor LaBarre and City Council

FROM: Suzanne Leclercq, Deputy City Manager/City Clerk

DATE: July 6, 2023

SUBJECT: Approval of a transfer of a Hotel and Restaurant Liquor License to Mountainara Cucina Italiana located at 727 Gold Hill Place South, Woodland Park, CO. (QJ)
(Presenter Deputy City Manager/City Clerk Suzanne Leclercq)

BACKGROUND: CITY OF WOODLAND PARK Liquor License Summary

Note: Liquor License forms contain a mixture of confidential and public information. In an effort to protect the confidentiality of items such as Social Security Numbers, Drivers License numbers, and dates of birth, liquor application forms will no longer be available to the public. This summary is intended to give Council and citizens the public content of the issue at hand.

=====

Type of Action Requested: Conduct Public Hearing for a transfer Hotel and Restaurant Liquor License.

Applicant: Mountainara Mamas, LLC dba Mountainara Cucina Italiana located at 727 Gold Hill Place South, Woodland Park, CO 80863

Application details:

- Applicant is Kirsten Bieber.
- LLC has current sales tax license and FEIN number.
- A petition of needs and desires is not necessary for a transfer liquor license since the location has previously been licensed.
- The location is eligible to be licensed.
- Possession of the property is documented by a Lease expiring July 31, 2027.

Factual Findings:

- The application was submitted on May 10, 2023.
- Subject property was posted on June 26, 2023 as required by law.

- Public Notice was published on the City's Website June 26, 2023.
- Character of the applicant is not an issue for this hearing.
- All applicable fees have been paid.

Recommended Action:

Following Public Hearing, approve application from Mountainara Mamas, LLC dba Mountainara Cucina Italiana for a transfer Hotel and Restaurant Liquor License located at 727 Gold Hill Place South, Woodland Park, Colorado.

RECOMMENDATION:

ATTACHMENTS: None



STAFF REPORT

TO: Mayor LaBarre and City Council

FROM: Ben Schmitt, City Engineer

DATE: July 6, 2023

SUBJECT: Approve 2023 Chipseal, Crackseal, Fogseal, and Citywide Striping Projects Contract between A1 Chipseal Co and Rocky Mountain Pavment, LLC and The City of Woodland Park for \$453,604.074.
(Presenter Ben Schmitt, Director of Public Works)

BACKGROUND: The City staff are working hard to provide safe, reliable, and functional roadways to the Citizens of Woodland Park. To continue to work toward a City Wide network pavement quality index of 70, the 10 year plan for recommended treatments on segments of roadway (detailed in the 2019 City of Woodland Park Pavement Management Plan) is the guide staff uses to identify projects requiring annual maintenance treatments to meet this goal.

The City solicited bids for Chip seal, Fog seal, and Crack seal and City wide Striping treatments for 2023.

The solicitation resulted in a single responsive bidder, A1 chipseal, for \$412,367.34. Please note that in 2019 and 2022, the City received only one responsive bidder for the same RFPs as well.

The Proposed Contract includes

- *Crack Seal* – complete the “Green” Crack seal sections of 2023.
- *Chip Seal (1/4” aggregate and fog coat)* – single layer chip seal to cover the “Pink” sections of roadway in 2023
- *Double Chip and Fog Seal (1/4” aggregate over 3/8” aggregate and fog coat)* – double layer chip seal to cover “Blue” roadways in 2023.
- City Wide Striping of the entire roadway network

After each treatment is performed, work maps will be updated with the completed treatments each year. Attached are the maps showing the ten-year plan for treatments for your review. Staff is asking for approval of the original contract, plus a 10% construction contingency to be managed by staff, for a total of \$453,604.074.

RECOMMENDATION: Approve the Contract between A1 Chipseal Co and Rocky Mountain Pavment, LLC and The City of Woodland Park for \$453,604.074

- ATTACHMENTS:**
1. 1 - Woodland Park - Semi Executed
 2. Contract - General Conditions Construction Contract - Woodland Park
 3. 2023 Crackseal and Chipseal Map



CONSTRUCTION AGREEMENT

This **CONSTRUCTION AGREEMENT** (this "Agreement") is entered into this ____ day of _____, 2023 by and between the City of Woodland Park, Colorado (hereinafter referred to as the "Owner") and A-1 Chipseal Co. & Rocky Mountain Pavement, LLC (hereinafter referred to as the "Contractor").

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

ARTICLE 1 WORK

- 1.01 Contractor shall complete all work as specified or indicated in the Contract Documents (defined below). The work is generally described as follows: Crack seal, chip seal, double chip seal and City Wide Striping select City streets in 2023; The Contractor shall provide street and parking lot striping at various locations within the City of Woodland Park, per the itemized list provided in the bid package. See Appendix A for itemized list of streets for work to be performed.

ARTICLE 2 THE PROJECT

- 2.01 The project for which the work under the Contract Documents may be the whole or only a part is generally described as follows: Crack seal, chip seal, double chip seal and City Wide Striping select City streets in 2023; The Contractor shall provide street and parking lot striping at various locations within the City of Woodland Park, per the itemized list provided in the bid package. Appendix A for itemized list of streets for work to be performed See (the "Project").

ARTICLE 3 ENGINEER

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

ARTICLE 4 WORKER WITHOUT AUTHORIZATION EMPLOYMENT

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

ARTICLE 5 CONTRACT TIMES

- 5.01 Time is of the Essence

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



5.02 Days to Achieve Substantial Completion and Final Payment

- A. Contractor shall achieve Substantial Completion within 180 calendar days of the issuance by the Owner of a Notice to Proceed and shall finally complete the Work so that it is ready for final payment within 60 calendar days of the issuance by the Owner of a Notice to Proceed.

5.03 Liquidated Damages

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



ARTICLE 6 CONTRACT PRICE

- 6.01 Owner shall pay Contractor Four hundred and twelve thousand, three hundred sixty-seven dollars and thirty four cents dollars (\$ 412,367.34) for completion of the Work as full compensation for everything furnished and done by Contractor under this Agreement, including all loss or damage arising out of the work or from the action of the elements; for any unforeseen obstruction or difficulty encountered in the prosecution of the work, including increased prices for or shortages of materials for any reason, including natural disasters; for all risks of every description associated with the work; for all expenses incurred due to the suspension or discontinuation of the work; and for well and faithfully completing the work as provided in this Agreement.

ARTICLE 7 PAYMENT PROCEDURES

7.01 Submittal and Processing of Payments

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

7.02 Progress Payments; Retainage

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

7.03 Final Payment

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

ARTICLE 8 PROJECT WARRANTIES

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

ARTICLE 9 INSURANCE

- 9.01 Insurance Requirements. Contractor shall not commence work under this Agreement until



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

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

ARTICLE 10 CONTRACTOR'S REPRESENTATIONS

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

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



- G. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. Contractor warrants and guarantees to Owner and Engineer that all Work will be in accordance with the Contract Documents and will not be defective within two (2) years of Substantial Completion.
- K. Contractor is organized, validly existing and in good standing under the laws of the State of Colorado and has all requisite power to own its properties and assets and carry on its business as now conducted or proposed to be conducted.

ARTICLE 11 CONTRACT DOCUMENTS

11.01 Contents

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

ARTICLE 12 PERFORMANCE BOND

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



Performance Bond shall be held by the City through the two (2) year Project Warranties period specified in this Agreement.

ARTICLE 13 MISCELLANEOUS

13.01 Indemnification

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

13.02 Assignment of Contract

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

13.03 Successors and Assigns

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

13.04 Severability

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

13.05 Independent Contractor

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

13.06 No Waiver of Governmental Immunity

Nothing herein is intended as nor shall it be construed as a waiver of the protections and immunities afforded the Owner pursuant to the Colorado Governmental Immunity Act,



Sections 24-10-101, et seq., Colorado Revised Statutes, or pursuant to any other applicable laws.

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

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

CITY OF WOODLAND PARK

Name: _____

Title: _____

ATTEST:

CONTRACTOR

A-1 Chipseal Co.



Name: Josh Krueger

Title: Vice President

ATTEST:



Stephanie Wallis, Corporate Secretary



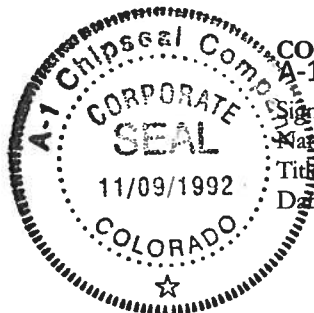
WORKER WITHOUT AUTHORIZATION ADDENDUM

This Worker Without Authorization Addendum (hereinafter "Addendum") attached hereto and incorporated herein by this reference, is made to this Agreement by and between the City of Woodland Park (hereinafter "City"), a municipal corporation of the State of Colorado, and A-1 Chipseal Co. (hereinafter "Contractor") dated this 2 day of June, 2023.

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

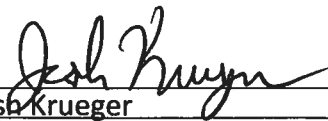
1. Contractor certifies that, at the time of executing this Addendum, Contractor does not knowingly employ or contract with a worker without authorization who will perform work under the Agreement and that Contractor will participate in the federal E-Verify Program or the Colorado Department of Labor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

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



CONTRACTOR
A-1 Chipseal Co.

Signature:
Name:
Title:
Date:



Josh Krueger
Vice President
6/5/2023

Appendix A

Table D.6: Budget Recommended Rehabilitations - Achieve a PQI of 70 over 10 years - Customized (sorted by Section, Implementation Year and Cost-Effectiveness)

All Paved Roads, 2019 to 2028, MinExd: 1, Int: 2%, Disc: 3%, Incl Superf No, Committed: Yes, Tol: 1%

Street	From	To	CL Length (ft)	Area (sq. yd)	Functional Class	Implementation Year	Budget Rehab Type
ARDILLA CAMINO	DEL ESTE	CENTER ST	249.6	610	LOCAL	2023	Crack Seal
ARDILLA CAMINO	CENTER ST	MATEO CAMINO	464.0	1,134	LOCAL	2023	Crack Seal
BALDWIN ST	PARK DR	CENTER AV	258.1	586	LOCAL	2023	Crack Seal
BALDWIN ST	FULLVIEW AV	PARK DR	295.8	750	LOCAL	2023	Crack Seal
BERGSTROM ALY	CENTER ST	END	118.3	171	COLLECTOR	2023	Crack Seal
BLACK BEAR TR	GRAY HORSE CI	OSAGE LN	691.0	1,837	LOCAL	2023	Crack Seal
BLACK BEAR TR	OSAGE LN	GRAY HORSE CI	241.2	639	LOCAL	2023	Crack Seal
BLUE SPRUCE ST	PINE RIDGE AV	CIRCLE DR	163.8	394	LOCAL	2023	Crack Seal
BLUE SPRUCE ST	SADDLE DR	PINE RIDGE AV	375.3	910	LOCAL	2023	Crack Seal
BOUNDARY RD	GUNNISON AV	FULLVIEW AV	235.3	542	LOCAL	2023	Crack Seal
BOUNDARY ST	SOUTH AV	LAKE AV	347.7	963	LOCAL	2023	Crack Seal
BOUNDARY ST	HENRIETTA AV	SOUTH AV	148.0	406	LOCAL	2023	Crack Seal
BOUNDARY ST	MIDLAND AV	HENRIETTA AV	347.8	921	LOCAL	2023	Crack Seal
BOUNDARY ST	GRACE AV	MIDLAND AV	374.0	1,008	LOCAL	2023	Crack Seal
BOWMAN AV	FAIRVIEW ST	HIGHLAND ST	367.9	811	LOCAL	2023	Crack Seal
BOWMAN AV	ELM ST	MAPLE ST	353.1	804	LOCAL	2023	Crack Seal
BOWMAN AV	WHISPERING WINDS DR	KAREN LN	364.5	969	LOCAL	2023	Crack Seal
BOWMAN AV	SR-67	WALNUT ST	428.1	1,058	LOCAL	2023	Crack Seal
BRADFORD DR	MISTY PINES CI	EVERGREEN HEIGHTS DR	307.8	827	LOCAL	2023	Crack Seal
CENTER AV	BALDWIN ST	FULLVIEW ST	268.1	608	LOCAL	2023	Crack Seal
CENTER ST	TAOPI LN	EMERSON CT	245.9	660	LOCAL	2023	Crack Seal
CENTER ST	SADDLE CLUB AVE	BERGSTROM ALY	298.5	730	COLLECTOR	2023	Double Chip Seal + Fog Seal
CENTER ST	GUNNISON AV	COUNTY RD	279.4	730	LOCAL	2023	Crack Seal
CHAR LN	FOREST EDGE RD	TELEMARK DR	268.7	746	LOCAL	2023	Crack Seal
CHESTER AV	BOUNDARY ST	BALDWIN ST	356.7	1,063	LOCAL	2023	Crack Seal
CHESTNUT ST	LAFALETTE AV	BROWNING AV	365.0	1,044	LOCAL	2023	Crack Seal
CIRCLE DR	WEST ST	BLUE SPRUCE ST	521.8	1,237	LOCAL	2023	Crack Seal
CIRCLE DR	BLUE SPRUCE ST	PARK ST	806.4	2,240	LOCAL	2023	Crack Seal
COLUMBINE AV	RIDGE WAY ST	PARK ST	814.6	1,885	LOCAL	2023	Crack Seal
COLUMBINE AV	WEST ST	RIDGE WAY ST	267.5	624	LOCAL	2023	Crack Seal
CORALINE ST	MIDLAND AV	SPRUCE RIDGE LN	445.3	1,023	LOCAL	2023	Crack Seal
CORALINE ST	SPRUCE RIDGE LN	SPRUCE HAVEN DR	176.2	422	LOCAL	2023	Crack Seal
COTTONTAIL TR	CHIPMUNK DR	KELLEY S RD	229.1	662	COLLECTOR	2023	Crack Seal
COUNTY RD	SR-67	LOG HAVEN DR	282.0	762	COLLECTOR	2023	Crack Seal
COUNTY RD	CENTER ST	CENTER ST	134.1	365	LOCAL	2023	Crack Seal
COUNTY RD	LOG HAVEN DR	WALNUT ST	161.6	431	LOCAL	2023	Crack Seal
COUNTY RD	WALNUT ST	ELM ST	290.4	764	LOCAL	2023	Crack Seal
COUNTY RD	PINE ST	CENTER ST	231.3	619	LOCAL	2023	Crack Seal
COUNTY RD	WALNUT ST	WALNUT ST	94.6	249	LOCAL	2023	Crack Seal
COUNTY RD	ELM ST	MAPLE ST	360.2	954	LOCAL	2023	Crack Seal

Table D.6: Budget Recommended Rehabilitations - Achieve a PQI of 70 over 10 years - Customized (sorted by Section, Implementation Year and Cost-Effectiveness)

All Paved Roads - 2019 to 2028, MinExd :1, Inf:2%, Disc:3%, Incl Superf:No, Committed:Yes, Tol:1%

Street	From	To	CL Length (ft)	Area (sq. yd.)	Functional Class	Implementation Year	Budget Rehab Type
CRESTVIEW WY	PINON RIDGE DR	BRADFORD DR	619.7	1,670	LOCAL	2023	Crack Seal
CRESTWOOD DR	VALLEY VIEW DR	CREST CT	746.0	1,989	LOCAL	2023	Crack Seal
DALLAS ALLEY	SHERIDAN AV	CHESTER AV	1109.7	1,582	LOCAL	2023	Crack Seal
EAGLE PINES DR	END	HAWKRIDGE DR	188.1	460	COLLECTOR	2023	Double Chip Seal + Fog Seal
ELK GROVE	BEGIN	TRULL RD	294.6	786	MINOR	2023	Crack Seal
ELM ST	GUNNISON AV	BOWMAN AV	390.9	912	LOCAL	2023	Crack Seal
ELM ST	SUNDANCE CI	COUNTY RD	873.0	2,093	LOCAL	2023	Crack Seal
ELM ST	MIDLAND AV	HENRIETTA AV	356.2	1,006	LOCAL	2023	Crack Seal
ELM ST	BOWMAN AV	LAKE AV	351.6	853	LOCAL	2023	Crack Seal
ELM ST	COUNTY RD	GUNNISON AV	307.5	752	LOCAL	2023	Crack Seal
FAIRVIEW ST	MIDLAND AV	HENRIETTA AV	343.7	840	LOCAL	2023	Crack Seal
FAIRVIEW ST	US-24	MIDLAND AV	108.4	366	LOCAL	2023	Crack Seal
FLAGSTICK DR	WOODLAND VALLEY RANCH DR	MASTERS DR	364.4	1,117	LOCAL	2023	Crack Seal
FOREST EDGE CI	FOREST EDGE RD	FOREST EDGE RD	43.0	119	LOCAL	2023	Crack Seal
FOREST EDGE RD	FOREST EDGE PL	PINE RIDGE RD	426.4	1,050	LOCAL	2023	Crack Seal
FOREST EDGE RD	FOREST EDGE CI	FOREST EDGE PL	466.8	1,210	LOCAL	2023	Crack Seal
FOREST EDGE RD	LAKE AV	FOREST EDGE CI	473.5	1,263	LOCAL	2023	Crack Seal
FOREST EDGE RD	FOREST EDGE CI	FOREST HILL RD	312.9	852	LOCAL	2023	Crack Seal
FOREST EDGE RD	CHAR LN	CHARWEST DR	480.3	1,307	LOCAL	2023	Crack Seal
FOREST EDGE RD	KELLEY S RD	CHAR LN	358.2	1,018	LOCAL	2023	Crack Seal
FOREST HILL RD	PARK VIEW RD	EDGE HILL DR	324.4	757	LOCAL	2023	Crack Seal
FOREST HILL RD	FOREST EDGE CI	PARK VIEW RD	278.7	694	LOCAL	2023	Crack Seal
FOSTER AV	PARK ST	FAIRVIEW ST	379.9	1,048	LOCAL	2023	Crack Seal
FOSTER AV	FAIRVIEW ST	WOODLAND AV	115.8	319	LOCAL	2023	Crack Seal
FULLVIEW AV	FULLVIEW ST	RAMPART RANGE RD	240.4	663	LOCAL	2023	Crack Seal
GRACE AV	PARK ST	END	369.0	1,329	LOCAL	2023	Crack Seal
GRAY HORSE CI	BLACK BEAR TR [W]	BLACK BEAR TR [E]	1154.2	3,014	LOCAL	2023	Crack Seal
GUNNISON AV	MAPLE ST	WEST ST	353.4	847	LOCAL	2023	Crack Seal
GUNNISON AV	WALNUT ST	ELM ST	394.2	949	LOCAL	2023	Crack Seal
GUNNISON AV	WEST ST	PINE ST	363.0	961	LOCAL	2023	Crack Seal
GUNNISON AV	CENTER ST	PARK ST	361.6	927	LOCAL	2023	Crack Seal
GUNNISON AV	FAIRVIEW ST	HIGHLAND ST	370.1	915	LOCAL	2023	Chip Seal + Fog Seal
HENRIETTA AV	WEST ST	PINE ST	369.4	1,019	LOCAL	2023	Crack Seal
HENRIETTA AV	PINE ST	CENTER ST	366.7	1,066	LOCAL	2023	Crack Seal
HIGHLAND ST	BOWMAN AV	GUNNISON AVE	353.6	815	LOCAL	2023	Chip Seal + Fog Seal
IRON WOOD DR	SUNNY WOOD AV	CITY LIMIT	258.2	689	LOCAL	2023	Crack Seal
KANSAS ALLEY	WEST ST	PINE ST	364.6	520	LOCAL	2023	Crack Seal
KINGS CROWN RD	PARADISE VALLEY DR	PONDEROSA WY	3859.7	8,864	LOCAL	2023	Crack Seal
KINGS CROWN RD	KINGS CROWN RD	PONDEROSA WY	733.7	1,630	LOCAL	2023	Crack Seal
KINGS CROWN RD	SUN VALLEY DR	END	1475.8	3,703	LOCAL	2023	Crack Seal

Table D.6: Budget Recommended Rehabilitations - Achieve a PQI of 70 over 10 years - Customized (sorted by Section, Implementation Year and Cost-Effectiveness)

All Paved Roads 2019 to 2028 MinExd -1.1 Inft -2% Disc -3% Incl SuperNo Committed Yes Tol -1%

Street	From	To	CL Length (ft)	Area (sq. yd.)	Functional Class	Implementation Year	Budget Rehab Type
LAUREL ST	GRACE AV	MIDLAND AV	366.2	1,007	LOCAL	2023	Crack Seal
LAUREL ST	US-24	GRACE AV	102.1	390	LOCAL	2023	Chip Seal + Fog Seal
LORRAINE AV	BEGIN	ARTHUR ST	474.0	1,168	LOCAL	2023	Crack Seal
LORRAINE AV	EVERGREEN ST	CORALINE ST	344.8	932	LOCAL	2023	Crack Seal
LORRAINE AV	BURDETTE ST	CHESTNUT ST	407.7	1,091	LOCAL	2023	Crack Seal
LORRAINE AV	CORALINE ST	BURDETTE ST	400.0	1,074	LOCAL	2023	Crack Seal
MAPLE ST	US-24	MIDLAND AV	98.3	245	LOCAL	2023	Crack Seal
MAPLE ST	BOWMAN AV	GUNNISON AV	382.7	896	LOCAL	2023	Crack Seal
MATEO CAMINO	MONTANA VISTA	ARDILLA CAMINO	218.4	485	LOCAL	2023	Crack Seal
MEADOWRUE CT	BEGIN	PARADISE VALLEY DR	308.6	829	MINOR	2023	Crack Seal
MICHAEL LN	NORTHWOODS DR [E]	NORTHWOODS DR [W]	451.1	1,190	LOCAL	2023	Crack Seal
MIDLAND AV	BOUNDARY ST	BALDWIN ST	352.1	1,102	LOCAL	2023	Crack Seal
MIDLAND AV	CHESTNUT ST	WALNUT ST	340.4	949	LOCAL	2023	Crack Seal
MIDLAND AV	ELM ST	MAPLE ST	348.3	1,064	LOCAL	2023	Crack Seal
MIDLAND AV	MAPLE ST	WEST ST	197.6	706	LOCAL	2023	Crack Seal
MIDLAND AV	WALNUT ST	ELM ST	402.2	1,661	LOCAL	2023	Crack Seal
MISTY PINES CI	BRADFORD DR	EVERGREEN HEIGHTS DR	874.6	2,332	LOCAL	2023	Crack Seal
MORNING SUN DR	US-24	SUN VALLEY DR	820.0	2,642	LOCAL	2023	Crack Seal
NEW	PRIVATE DR	PRIVATE DR	543.5	1,449	COLLECTOR	2023	Crack Seal
NEW	STONE RIDGE DR	PRIVATE DR	809.0	2,157	COLLECTOR	2023	Crack Seal
NORTHWOODS DR EAST	NORTHWOODS DR WEST	NORTHWOODS DR WEST	1485.4	4,072	LOCAL	2023	Crack Seal
NORTHWOODS DR EAST	EVERGREEN HEIGHTS DR	NORTHWOODS DR WEST	161.6	456	LOCAL	2023	Crack Seal
NORTHWOODS DR WEST	NORTHWOODS DR EAST	TERRI LN	945.5	2,600	LOCAL	2023	Crack Seal
NORTHWOODS DR WEST	TERRI LN	NORTHWOODS DR EAST	444.9	1,145	LOCAL	2023	Crack Seal
PARADISE CI	PARADISE VALLEY DR	PONDEROSA WY	537.9	1,748	COLLECTOR	2023	Crack Seal
PARADISE CI	PONDEROSA WY	MAJESTIC PY	752.1	2,229	COLLECTOR	2023	Crack Seal
PARADISE CI	MANOR CT	US-24	230.4	700	COLLECTOR	2023	Crack Seal
PARADISE CI	US-24	PARADISE VALLEY DR	794.8	2,444	COLLECTOR	2023	Crack Seal
PARADISE CI	MAJESTIC PY	GREENWAY CT	190.7	593	COLLECTOR	2023	Double Chip Seal + Fog Seal
PARADISE VALLEY DR	DEERBRUSH CT	RED CLOVER CT	349.0	943	LOCAL	2023	Crack Seal
PARADISE VALLEY DR	PARADISE CI	DEERBRUSH CT	406.2	1,113	LOCAL	2023	Crack Seal
PARADISE VALLEY DR	MEADOWRUE CT	KINGS CROWN RD	1432.2	3,886	LOCAL	2023	Crack Seal
PARK DR	WOODLAND DR	BALDWIN ST	945.4	2,521	LOCAL	2023	Crack Seal
PARK DR	FULLVIEW ST	RAMPART RANGE RD	277.0	739	LOCAL	2023	Crack Seal
PARK ST	PINTO DR	SADDLE DR	494.1	1,153	LOCAL	2023	Crack Seal
PARK ST	PINE RIDGE AV	CIRCLE DR	300.1	714	LOCAL	2023	Crack Seal
PARK ST	VALLEY DR	BLUE SPRUCE ST	424.9	1,050	LOCAL	2023	Crack Seal
PARK ST	GUNNISON AV	COUNTY RD	268.4	701	LOCAL	2023	Crack Seal
PARK ST	BOWMAN AV	GUNNISON AV	360.7	965	LOCAL	2023	Crack Seal
PEMBROOK DR	OXFORD LN	REGENT DR	670.3	2,073	LOCAL	2023	Crack Seal

Table D.6: Budget Recommended Rehabilitations - Achieve a PQI of 70 over 10 years - Customized (sorted by Section, Implementation Year and Cost-Effectiveness)

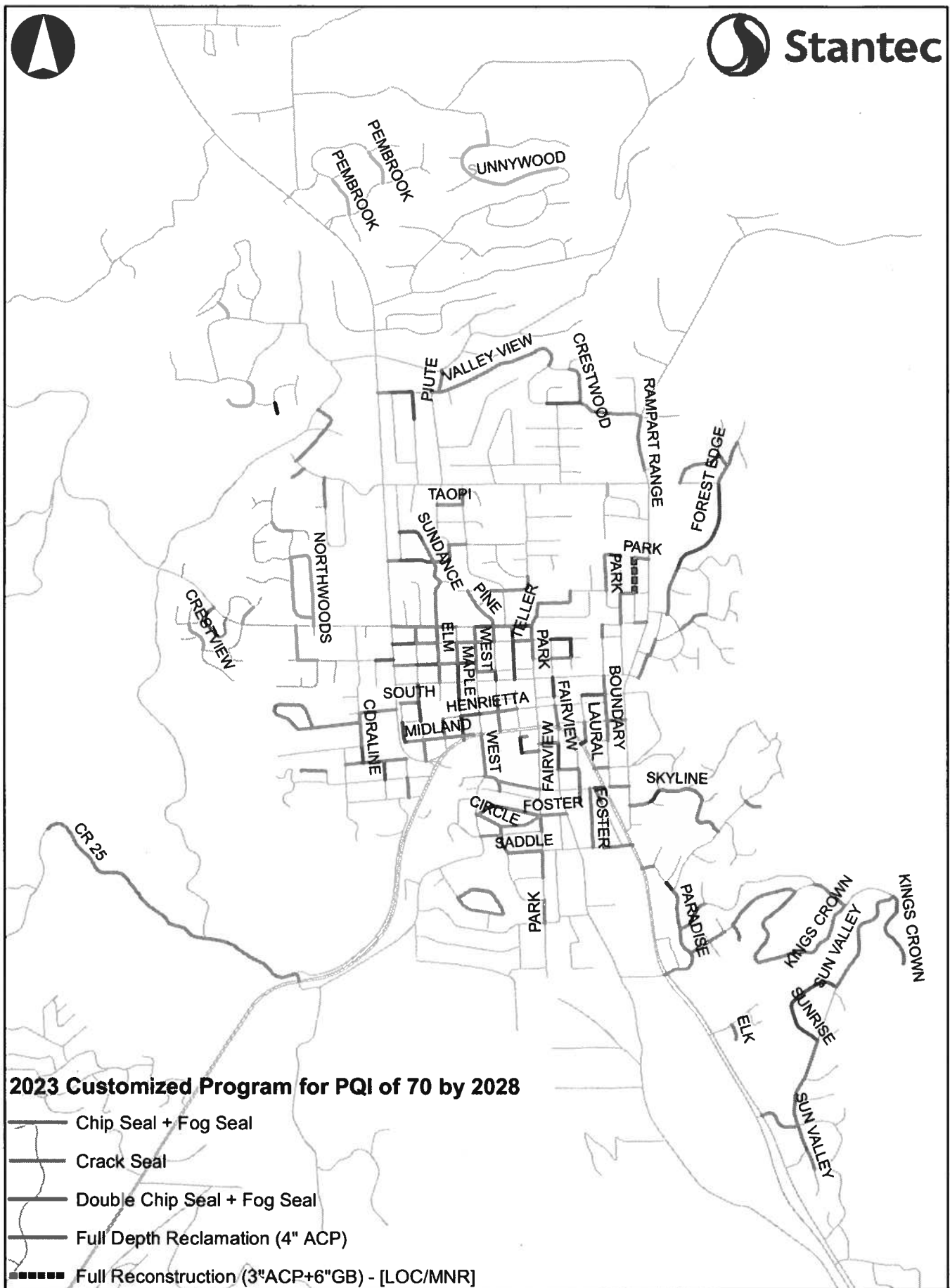
All Paved Roads - 2019 to 2028 MinExp: 1 Inft: 2% Disc: 3% Incl Street No. Committed: Yes Tol: 1%

Street	From	To	CL Length (ft)	Area (sq. yd.)	Functional Class	Implementation Year	Budget Rehab Type
PENBROOK LN	REGENT DR	PARKWAY LN	760.0	2,027	LOCAL	2023	Crack Seal
PIKE VIEW AV	WEST ST	PARK ST	1291.8	3,039	LOCAL	2023	Crack Seal
PIKES PEAK AV	FAIRVIEW ST	WILLOW ST	365.0	845	LOCAL	2023	Crack Seal
PIKES PEAK AV	US-24	BOUNDARY ST	283.6	1,116	LOCAL	2023	Crack Seal
PINE RIDGE AV	WEST ST	BLUE SPRUCE ST	399.3	821	LOCAL	2023	Crack Seal
PINE ST	DEL ESTE	ARDILLA CAMINO	358.8	934	LOCAL	2023	Crack Seal
PINE ST	GUNNISON AV	COUNTY RD	286.0	744	LOCAL	2023	Crack Seal
PINE ST	COUNTY RD	DEL ESTE	486.1	1,224	LOCAL	2023	Crack Seal
PINE ST	US-24	HENRIETTA AV	361.1	940	LOCAL	2023	Crack Seal
PINE ST	HENRIETTA AV	SOUTH AV	228.3	630	LOCAL	2023	Crack Seal
PINON RIDGE DR	EVERGREEN HEIGHTS DR	MISTY PINES CI	394.7	888	LOCAL	2023	Crack Seal
PUTE TR	APACHE TR	VALLEY VIEW DR	415.0	1,107	LOCAL	2023	Crack Seal
PONDEROSA WY	PARADISE CI	PONDEROSA CT	689.5	1,634	LOCAL	2023	Crack Seal
PTARMIGAN DR	STONE RIDGE DR [W]	COBALT DR	542.0	1,445	COLLECTOR	2023	Crack Seal
RAMPART RANGE ROAD	FOX HILL CT	VALLEY VIEW DR	1015.7	2,765	COLLECTOR	2023	Crack Seal
RED FEATHER LN	SUNDANCE CI	VAQUERO SENDA	586.8	1,434	LOCAL	2023	Crack Seal
RED FEATHER LN	SR-67	SUNDANCE ST	245.3	831	LOCAL	2023	Crack Seal
RIDGE WAY ST	DEWELL RD	COLUMBINE AV	210.5	331	LOCAL	2023	Crack Seal
ROYAL OAK CT	MAJESTIC PY	END	302.0	822	MINOR	2023	Crack Seal
SADDLE CLUB AVE	CENTER ST	PARK ST	323.5	1,006	COLLECTOR	2023	Crack Seal
SADDLE DR	BLUE SPRUCE ST	PARK ST	651.3	1,520	LOCAL	2023	Crack Seal
SCOTT AV	SPRUCE ST	CHESTER AV	285.6	645	LOCAL	2023	Crack Seal
SHERIDAN AV	SCOTT AV	US-24	201.2	525	LOCAL	2023	Crack Seal
SHERIDAN AV	SPRUCE ST	SCOTT AV	346.6	921	LOCAL	2023	Crack Seal
SKYLINE DR	SKYLINE CT	MAJESTIC PY	858.5	2,480	LOCAL	2023	Crack Seal
SKYLINE DR	THUNDER RIDGE	SKYLINE CT	385.4	1,124	LOCAL	2023	Crack Seal
SKYLINE DR	PANTHER CT	THUNDER RIDGE	565.3	1,670	LOCAL	2023	Crack Seal
SKYLINE DR	BALDWIN ST	OWL CT	418.6	1,209	LOCAL	2023	Crack Seal
SKYLINE DR	OWL CT	PANTHER CT	270.4	789	LOCAL	2023	Chip Seal + Fog Seal
SNOWSHOE CT	END	STONE RIDGE DR	273.4	729	COLLECTOR	2023	Crack Seal
SOUTH AV	CHESTNUT ST	WALNUT ST	339.0	794	LOCAL	2023	Crack Seal
SPRUCE HAVEN DR	CORALINE ST	SR-67	706.7	1,702	LOCAL	2023	Crack Seal
SPRUCE RIDGE LN	SPRUCE RIDGE LN	CORALINE ST	906.9	1,713	LOCAL	2023	Crack Seal
SPRUCE RIDGE LN	SPRUCE RIDGE LN	SPRUCE RIDGE LN	1916.7	5,075	LOCAL	2023	Crack Seal
SUN VALLEY DR	MORNING SUN DR	SUN RIDGE CT	513.3	1,378	LOCAL	2023	Crack Seal
SUN VALLEY DR	SUNDIAL DR	MORNING SUN DR	497.3	1,340	LOCAL	2023	Crack Seal
SUN VALLEY DR	MORNING SUN DR	SUNDIAL DR	373.8	1,018	LOCAL	2023	Crack Seal
SUN VALLEY DR	SUN RIDGE CT	MORNINGSTAR CT	437.9	1,192	LOCAL	2023	Crack Seal
SUN VALLEY DR	MORNINGSTAR CT	SUNRISE CI	743.7	2,080	LOCAL	2023	Crack Seal
SUN VALLEY DR	SUNRISE CI	KINGS CROWN RD	2238.2	6,175	LOCAL	2023	Crack Seal

Table D.6: Budget Recommended Rehabilitations - Achieve a PQI of 70 over 10 years - Customized (sorted by Section, Implementation Year and Cost-Effectiveness)

All Paved Roads - 2019 to 2028. MinExd -1.1In, .2% Disc -3% Incl Supercr No. Committed Yes Tol -1%

Street	From	To	CL Length (ft)	Area (sq. yd.)	Functional Class	Implementation Year	Budget Rehab Type
SUNDANCE CI	ELM ST	RED FEATHER LN	432.8	1,042	LOCAL	2023	Crack Seal
SUNDANCE CI	RED FEATHER LN	RED FEATHER LN	502.0	1,227	LOCAL	2023	Crack Seal
SUNNY WOOD AV	CITY LIMIT	WOODY CREEK CT	1673.5	4,463	LOCAL	2023	Crack Seal
SUNNY WOOD AV	WOOD VALLEY CT	IRON WOOD DR	606.5	1,617	LOCAL	2023	Crack Seal
SUNNY WOOD AV	WOODY CREEK CT	WOOD VALLEY CT	423.1	1,128	LOCAL	2023	Crack Seal
TAOPI LN	CHIPEWA TR	CENTER ST	484.3	1,345	LOCAL	2023	Crack Seal
TELEMARK DR	KELLEY S RD	CHAR LN	980.8	2,697	LOCAL	2023	Crack Seal
TELLER LN	ROLLING PARK DR	WOODLAND DR	1066.2	2,656	LOCAL	2023	Crack Seal
TELLER LN	COUNTY RD	ROLLING PARK DR	176.9	482	LOCAL	2023	Crack Seal
TROUT CREEK RD	CITY LIMIT	US-24	5965.6	16,405	COLLECTOR	2023	Crack Seal
VALLEY VIEW DR	CRESTWOOD DR	KINNICKINNIK DR	1091.1	2,910	LOCAL	2023	Crack Seal
VALLEY VIEW DR	VALLEY VIEW CT	CRESTWOOD DR	2401.3	6,403	LOCAL	2023	Crack Seal
VALLEY VIEW DR	SR-67	COLUMBINE VILLAGE DR	257.4	694	LOCAL	2023	Crack Seal
VALLEY VIEW DR	KINNICKINNIK DR	RAMPART RANGE ROAD	124.7	333	LOCAL	2023	Crack Seal
VALLEY VIEW DR	PIUTE TR	VALLEY VIEW CT	175.7	488	LOCAL	2023	Crack Seal
VALLEY VIEW DR	CHIPEWA TR	PIUTE TR	135.2	364	LOCAL	2023	Crack Seal
VAQUERO SENDA	RED FEATHER LN	CENTER ST	327.3	794	LOCAL	2023	Crack Seal
WALNUT ST	SOUTH AV	LAKE AV	355.8	880	LOCAL	2023	Crack Seal
WALNUT ST	GUNNISON AV	COUNTY RD	314.8	790	LOCAL	2023	Crack Seal
WALNUT ST	SR-67	MIDLAND AV	402.7	2,025	LOCAL	2023	Crack Seal
WEST ST	KANSAS ALLEY	BOWMAN AV	170.1	463	COLLECTOR	2023	Crack Seal
WEST ST	BOWMAN AV	GUNNISON AV	387.1	1,054	COLLECTOR	2023	Crack Seal
WEST ST	COLUMBINE AV	US-24	816.2	2,290	COLLECTOR	2023	Crack Seal
WEST ST	GUNNISON AV	COUNTY RD	293.2	779	COLLECTOR	2023	Crack Seal
WHISPERING WINDS DR	BOWMAN AV	EVERGREEN HEIGHTS DR	649.4	1,593	LOCAL	2023	Crack Seal
WILLOW ST	CHESTER AV	PIKES PEAK AV	383.7	753	LOCAL	2023	Crack Seal
WILLOW ST	BEGIN	CHESTER AV	262.0	362	MINOR	2023	Crack Seal
WINDFLOWER LN	MOUNTAIN MEADOWS RD	END	961.3	2,519	LOCAL	2023	Crack Seal



Code	Description	UOM	Comment	Price	Quantity	Total Cost
S1	2' Wide Stop Bars - White Stripes are 2' wide and 12' long (Various Locations)	Each		120	83	9,960.00
S2	4" Solid White (Various Locations)	Linear Foot/Feet		0.5	288	144
S3	4" Single Yellow (Various Locations)	Linear Foot/Feet		0.5	500	250
S4	8" Solid White (Various Locations)	Linear Foot/Feet		1	2,872.00	2,872.00
S5	Crosswalks - Item is unit price for entire crosswalk, 2' white white bars w/ 2' spacing	Each		745	45	33,525.00
S6	4" Double Yellow (various Locations)	Linear Foot/Feet		1	24,236.00	24,236.00
S7	Speed Bumps (Various Locations)	Each		225	18	4,050.00
S8	Directional arrows, letters, and emblems (Various Locations)	Each		180	74	13,320.00
S9	Parking Stall Lines in Parking Lots (Various Locations)	Linear Foot/Feet		0.75	15,955.00	11,966.25
S11	Parking lot 4" wide hash marks or center lines (Various Locations)	Linear Foot/Feet		0.75	4,321.00	3,240.75
RM1	Crackseal	Square Yard		0.97	252,897.00	245,310.09
RM2	Chip Seal and Fog Seal (3/8")	Square Yard		9.75	2,909.00	28,362.75
RM3	Double Chip Seal and Fog Seal (3/8" and 1/4")	Square Yard		18.5	1,783.00	32,985.50
S10	Handicapped Parking emblems with 4" white border (Various Locations)	Linear Foot/Feet		65	33	2,145.00
Total						412,367.34

THE AMERICAN INSTITUTE OF ARCHITECTS



Bond No. 30191672

AIA Document A312

Performance Bond

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONTRACTOR (Name and Address):

A-1 Chipseal Company
2505 E. 74th Avenue
Denver, CO 80229

SURETY (Name and Principal Place of Business):

Western Surety Company
151 N. Franklin Street
Chicago, IL 60606

OWNER (Name and Address):

City of Woodland Park
220 W. South Avenue
Woodland Park, CO 80863

CONSTRUCTION CONTRACT

Date:

Amount: \$412,367.34 Four Hundred Twelve Thousand Three Hundred Sixty Seven Dollars and 34/100

Description (Name and Location): Crack Seal, Chip Seal, Double Chip Seal and City Wide Striping Select City Streets in 2023; Street and Parking Lot Striping at Various Locations Within the City of Woodland Park

BOND

Date (Not earlier than Construction Contract Date):

Amount: \$412,367.34 Four Hundred Twelve Thousand Three Hundred Sixty Seven Dollars and 34/100

Modifications to this Bond:

☒ None

☐ See Page 3

**CONTRACTOR AS PRINCIPAL
Company:**

A-1 Chipseal Company

Signature: Josh Krueger

Name and Title: Josh Krueger, V.P.

**SURETY
Company:**

Western Surety Company

Signature: Elizabeth Ostblom

Name and Title: Elizabeth Ostblom
Attorney-in-Fact



(Any additional signatures appear on page 3)

(FOR INFORMATION ONLY - Name, Address and Telephone)
AGENT or BROKER:

Moody Insurance Agency, Inc.
8055 E. Tufts Ave., Suite 1000
Denver, CO 80237
303-824-6600

OWNER'S REPRESENTATIVE (Architect, Engineer or other party):

1 The Contractor and the Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except to participate in conferences as provided in Subparagraph 3.1.

3 If there is no Owner Default, the Surety's obligation under this Bond shall arise after:

3.1 The Owner has notified the Contractor and the Surety at its address described in Paragraph 10 below that the Owner is considering declaring a Contractor Default and has requested and attempted to arrange a conference with the Contractor and the Surety to be held not later than fifteen days after receipt of such notice to discuss methods of performing the Construction Contract. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default; and

3.2 The Owner has declared a Contractor Default and formally terminated the Contractor's right to complete the contract. Such Contractor Default shall not be declared earlier than twenty days after the Contractor and the Surety have received notice as provided in Subparagraph 3.1; and

3.3 The Owner has agreed to pay the Balance of the Contract Price to the Surety in accordance with the terms of the Construction Contract or to a contractor selected to perform the Construction Contract in accordance with the terms of the contract with the Owner.

4 When the Owner has satisfied the conditions of Paragraph 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

4.1 Arrange for the Contractor, with consent of the Owner, to perform and complete the Construction Contract; or

4.2 Undertake to perform and complete the Construction Contract itself, through its agents or through independent contractors; or

4.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and the contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Paragraph 6 in excess of the Balance of the Contract Price incurred by the Owner resulting from the Contractor's default; or

4.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

.1 After investigation, determine the amount for

which it may be liable to the Owner and, as soon as practicable after the amount is determined, tender payment therefor to the Owner; or

.2 Deny liability in whole or in part and notify the Owner citing reasons therefor.

5 If the Surety does not proceed as provided in Paragraph 4 with reasonable promptness, the Surety shall be deemed to be in default on this Bond fifteen days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Subparagraph 4.4, and the Owner refuses the payment tendered or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

6 After the Owner has terminated the Contractor's right to complete the Construction Contract, and if the Surety elects to act under Subparagraph 4.1, 4.2, or 4.3 above, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. To the limit of the amount of this Bond, but subject to commitment by the Owner of the Balance of the Contract Price to mitigation of costs and damages on the Construction Contract, the Surety is obligated without duplication for:

6.1 The responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;

6.2 Additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Paragraph 4; and

6.3 Liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

7 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators or successors.

8 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

9 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation avail-

able to sureties as a defense in the jurisdiction of the suit shall be applicable.

10 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the signature page.

11 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. The intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

12 DEFINITIONS

12.1 Balance of the Contract Price: The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Con-

tractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

12.2 Construction Contract: The agreement between the Owner and the Contractor identified on the signature page, including all Contract Documents and changes thereto.

12.3 Contractor Default: Failure of the Contractor, which has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Construction Contract.

12.4 Owner Default: Failure of the Owner, which has neither been remedied nor waived, to pay the Contractor as required by the Construction Contract or to perform and complete or comply with the other terms thereof.

MODIFICATIONS TO THIS BOND ARE AS FOLLOWS:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

Company: _____ (Corporate Seal)

SURETY

Company: _____ (Corporate Seal)

Signature: N/A
Name and Title: _____
Address: _____

Signature: N/A
Name and Title: _____
Address: _____

THE AMERICAN INSTITUTE OF ARCHITECTS



Bond No. 30191672

AIA Document A311

Labor and Material Payment Bond

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

KNOW ALL MEN BY THESE PRESENTS: that A-1 Chipseal Company
(Here insert full name and address or legal title of Contractor)

2505 E. 74th Avenue Denver, CO 80229

as Principal, hereinafter called Principal, and, Western Surety Company
(Here insert full name and address or legal title of Surety)

151 N. Franklin Street, Chicago, IL 60606

as Surety, hereinafter called Surety, are held and firmly bound unto City of Woodland Park
(Here insert full name and address or legal title of Owner)

220 W. South Avenue Woodland Park, CO 80863

as Obligee, hereinafter called Owner, for the use and benefit of claimants as hereinbelow defined, in the

amount of Four Hundred Twelve Thousand Three Hundred Sixty Seven Dollars and 34/100
(Here insert a sum equal to at least one-half of the contract price) Dollars (\$ 412,367.34),

for the payment whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS,

Principal has by written agreement dated _____, entered into a contract with Owner
for

(Here insert full name, address and description of project)

Crack Seal, Chip Seal, Double Chip Seal and City Wide Striping Select City Streets in 2023; Street and Parking Lot Striping at Various Locations Within the City of Woodland Park

in accordance with Drawings and Specifications prepared by _____
(Here insert full name and address or legal title of Architect)

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

LABOR AND MATERIAL PAYMENT BOND

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

1. A claimant is defined as one having a direct contract with the Principal or with a Subcontractor of the Principal for labor, material, or both, used or reasonably required for use in the performance of the Contract, labor and material being construed to include that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental of equipment directly applicable to the Contract.

2. The above named Principal and Surety hereby jointly and severally agree with the Owner that every claimant as herein defined, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed, or materials were furnished by such claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. The owner shall not be liable for the payment of any costs or expenses of any such suit.

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

a) Unless claimant, other than one having a direct contract with the Principal, shall have given written notice to any two of the following: the Principal, the Owner, or the Surety above named, within ninety (90) days after such claimant did or performed the last of the work or labor, or furnished the last of the materials for which said claim is made, stating with substantial accuracy the amount claimed

and the name of the party to whom the materials were furnished, or for whom the work or labor was done or performed. Such notice shall be served by mailing the same by registered mail or certified mail, postage prepaid, in an envelope addressed to the Principal, Owner or Surety, at any place where an office is regularly maintained for the transaction of business, or served in any manner in which legal process may be served in the state in which the aforesaid project is located, save that such service need not be made by a public officer.

b) After the expiration of one (1) year following the date on which principal ceased Work on said Contract, it being understood, however, that if any limitation embodied in this bond is prohibited by any law controlling the construction hereof such limitation shall be deemed to be amended so as to be equal to the minimum period of limitation permitted by such law.

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

4. The amount of this bond shall be reduced by and to the extent of any payment or payments made in good faith hereunder, inclusive of the payment by Surety or mechanics' liens which may be filed of record against said improvement, whether or not claim for the amount of such lien be presented under and against this bond.

Signed and sealed this

day of

ATTEST:

By: [Signature]

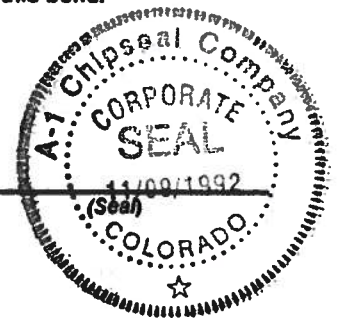
(Witness)

A-1 Chipseal Company

(Principal)

By: [Signature]

Josh Krueger, V.P. (Title)



WITNESS:

By: [Signature]

(Witness)

Western Surety Company

(Surety)

(Seal)

By: [Signature]

Elizabeth Ostblom (Title) Attorney-in-Fact

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

Elizabeth Ostblom , Individually

of Denver, CO its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

Surety Bond No.: 30191672
Principal: A-1 Chipseal Company
Obligee: City of Woodland Park

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law and Resolutions printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 9th day of May, 2023.



WESTERN SURETY COMPANY

Larry Kasten

Larry Kasten, Vice President

State of South Dakota } ss
County of Minnehaha }

On this 9th day of May, 2023, before me personally came Larry Kasten, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is a Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires
March 2, 2026



M. Bent

M. Bent, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law and Resolutions of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this _____ day of _____,



WESTERN SURETY COMPANY

L. Nelson

L. Nelson, Assistant Secretary

Authorizing By-Laws and Resolutions

ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

This Power of Attorney is signed by Larry Kasten, Vice President, who has been authorized pursuant to the above Bylaw to execute power of attorneys on behalf of Western Surety Company.

This Power of Attorney may be signed by digital signature and sealed by a digital or otherwise electronic-formatted corporate seal under and by the authority of the following Resolution adopted by the Board of Directors of the Company by unanimous written consent dated the 27th day of April, 2022:

“RESOLVED: That it is in the best interest of the Company to periodically ratify and confirm any corporate documents signed by digital signatures and to ratify and confirm the use of a digital or otherwise electronic-formatted corporate seal, each to be considered the act and deed of the Company.”



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
06/02/2023

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

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

PRODUCER Moody Insurance Agency, Inc. 8055 East Tufts Avenue Suite 1000 Denver CO 80237		CONTACT NAME: Moody Insurance PHONE (A/C, No, Ext): (303) 824-6600 FAX (A/C, No): (303) 370-0118 E-MAIL ADDRESS: certrequest@moodyins.com	
		INSURER(S) AFFORDING COVERAGE	
		INSURER A: Selective Insurance Co of America	NAIC # 12572
		INSURER B: Pinnacol Assurance	41190
		INSURER C: Evanston Insurance Company	35378
		INSURER D:	
		INSURER E:	
		INSURER F:	

INSURED A-1 Chipseal Company, DBA: Rocky Mountain Pavement, LLC 2505 E. 74th Ave Denver CO 80229-6621	
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COVERAGES **CERTIFICATE NUMBER:** 23-24 Master **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☐ LOC OTHER:			S2501487	02/01/2023	02/01/2024	EACH OCCURRENCE \$ 1,000,000
			DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000				
			MED EXP (Any one person) \$ 15,000				
			PERSONAL & ADV INJURY \$ 1,000,000				
A	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO OWNED AUTOS ONLY ☐ SCHEDULED AUTOS HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY			S2501487	02/01/2023	02/01/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
			BODILY INJURY (Per person) \$				
			BODILY INJURY (Per accident) \$				
			PROPERTY DAMAGE (Per accident) \$				
A	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED ☒ RETENTION \$ \$0			S2501487	02/01/2023	02/01/2024	Uninsured motorist \$ 1,000,000
			EACH OCCURRENCE \$ 10,000,000				
			AGGREGATE \$ 10,000,000				
			\$				
B	☒ WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N ☒ N	N/A	4055760	02/01/2023	02/01/2024	☒ PER STATUTE ☐ OTHER
			E.L. EACH ACCIDENT \$ 500,000				
			E.L. DISEASE - EA EMPLOYEE \$ 500,000				
			E.L. DISEASE - POLICY LIMIT \$ 500,000				
C	Pollution Liability			CPLMOL114903	02/01/2023	02/01/2025	Each Occurrence Limit \$5,000,000 Aggregate Limit \$5,000,000 Deductible \$10,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Crack Seal, Chip Seal, Double Chip Seal and City Wide Striping Select City Streets in 2023 and Street and Parking Lot Striping at Various Locations with in the City of Woodland Park

CERTIFICATE HOLDER

City of Woodland Park, Colorado 220 W. South Avenue Woodland Park CO 80863
--

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
AUTHORIZED REPRESENTATIVE Moody Insurance Agency

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ADDITIONAL REMARKS SCHEDULE

Page ____ of ____

AGENCY Moody Insurance Agency, Inc.		NAMED INSURED A-1 Chipseal Company, DBA: Rocky Mountain Pavement, LLC	
POLICY NUMBER		EFFECTIVE DATE:	
CARRIER	NAIC CODE		

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 **FORM TITLE:** Certificate of Liability Insurance: Notes

CONTRACTUAL LIABILITY APPLIES PER POLICY TERMS AND CONDITIONS

Additional Named Insureds:

A-1 Chipseal Company
 DBA Rocky Mountain Pavement, LLC
 Black Rock Material & Supply, LLC
 DBA Rocky Mountain Parking Lot Services

Location Schedule:

2505 E. 74th Avenue, Denver, CO 80229
 7231-35 Cole View, Colorado Springs, CO 80915
 20 Monarch Lane, Pueblo, CO 81004
 4690 Joliet Street, Denver, CO 80229
 10800 Highway 90, Arvada CO 80403

Inland Marine Policy:

Policy Number: S2501487
 Policy Effective Dates: 2-1-2023 to 2-1-2024
 Insurer: Selective Insurance Company of America

Total Combined Scheduled Contractor's Equipment Value: \$8,139,068

Scheduled Contractor's Equipment Deductible: \$10,000
 Leased & Rented Equipment From Others Limit: \$1,000,000

General Liability Policy:

General Liability Deductible: \$2,000
 CG 73 00 01/19 From Attached Includes:
 Blanket Additional Insured status applies only to the extent provided in form CG 79 88 01/19.

Blanket Waiver of Subrogation applies only to the extent provided in form CG 73 00 01/19.
 General Liability Policy is Primary and Non-Contributory only to the extent provided in form CG 79 88 01/19.

Auto Liability Policy:

Physical Damage Deductibles: Comprehensive: \$2,000, Collision: \$2,000
 CA 78 09 / From Attached Includes:
 Blanket Additional Insured status applies only to the extent provided in form CA 78 09 11/17.
 Blanket Waiver of Subrogation applies only to the extent provided in form CA 78 09 11/17.

Umbrella Policy:

Umbrella Policy is on a follow(1) form basis for underlying insurance coverages: General Liability, Automobile Liability, and Employers Liability.
 Additional insured status will follow when required by written contract, including Primary and Non-Contributory Status.

Worker's Compensation Policy:

359-B Form Attached Includes:
 Blanket Waiver of Subrogation status applies when required by written contract.

****Please Note Hard Copies of Endorsement will not be sent out via mail. All Endorsements will only be sent electronically via email. Please send your email address to certrequest@moodyins.com for forms and future mailings****

Commercial Automobile Extension

COMMERCIAL AUTO
CA 78 16 11 17

SCHEDULE OF COVERAGE EXTENSIONS AND LIMITS OF INSURANCE

This ElitePac Schedule is a summary of additional coverages, coverage modifications and corresponding Limits of Insurance that supplements the Business Auto Coverage Form. No coverage is provided by this summary. Refer to the actual endorsement for changes affecting your insurance protection.

DESCRIPTION	
AMENDMENTS TO SECTION II - LIABILITY COVERAGE	
Newly Acquired Or Formed Organizations	Coverage Extension
Limited Liability Companies	Coverage Extension
Employees As Insureds	Coverage Extension
Blanket Additional Insureds	Coverage Extension
Expenses For Bail Bonds And Loss Of Earnings	
Bail Bonds	\$3,000 Per "Accident"
Loss Of Earnings	\$1,000 Per Day
Employee Indemnification and Employer's Liability Amendment	Coverage Extension
Fellow Employee Coverage	Coverage Extension
Care, Custody Or Control Amendment	\$1,000 per "Accident"; \$500 Deductible Per "Accident"
AMENDMENTS TO SECTION III - PHYSICAL DAMAGE COVERAGE	
Towing And Labor	Coverage Extension
Private Passenger Auto, Social Service Van or Bus, Light Truck Medium, Heavy and Extra Heavy Trucks	\$75 Per Tow \$150 Per Tow
Glass Breakage Deductible	Coverage Extension
Additional Transportation Expenses	\$60 per day up to a maximum of \$1,800
Hired Auto Physical Damage Coverage	\$75,000 per "loss"
Hired Auto Loss of Use Coverage	\$750 Per "Accident"
Auto Loan/Lease Gap Coverage (Not Available in New York)	Coverage Extension
Personal Effects	\$500 Per "Accident"
Airbag Coverage	Coverage Extension
Expanded Audio, Visual, And Data Electronic Equipment Coverage	Coverage Extension
Comprehensive Deductible - Location Tracking Device	Coverage Extension
Physical Damage Limit Of Insurance	Coverage Extension

DESCRIPTION	
AMENDMENTS TO SECTION IV - BUSINESS AUTO CONDITIONS	
Duties In The Event Of Accident, Claim, Suit Or Loss	Coverage Extension
Waiver of Subrogation	Coverage Extension
Multiple Deductibles	Coverage Extension
Concealment, Misrepresentation Or Fraud	Coverage Extension
Policy Period, Coverage Territory	Coverage Extension
Two Or More Coverage Forms Or Policies Issued By Us - Deductibles	Coverage Extension
AMENDMENTS TO SECTION V - DEFINITIONS	
Bodily Injury Including Mental Anguish (Not Applicable in New York)	Broadened Definition
Coverage Territory	Broadened Definition

General Liability Extension Endorsement

COMMERCIAL GENERAL LIABILITY
CG 73 00 01 19

SUMMARY OF COVERAGES (including index)

This is a summary of the various additional coverages and coverage modifications provided by this endorsement. No coverage is provided by this summary. Refer to the actual endorsement (Pages 3-through-9) for changes affecting your insurance protection.

DESCRIPTION	PAGE FOUND
Additional Insureds - Primary and Non-Contributory Provision	Page 8
Blanket Additional Insureds - As Required By Contract	Page 5
• Owners, Lessees or Contractors (includes Architects, Engineers or Surveyors) • Lessors of Leased Equipment • Managers or Lessors of Premises • Mortgagees, Assignees and Receivers • Any Other person or organization other than a joint venture • Grantors of Permits	
Broad Form Vendors Coverage	Page 7
Damage To Premises Rented To You (Including Fire, Lightning or Explosion)	Page 3
Electronic Data Liability (\$100,000)	Page 4
Employee Definition Amended	Page 9
Employees As Insureds Modified	Page 5
Employer's Liability Exclusion Amended (Not applicable in New York)	Page 3
Incidental Malpractice Exclusion modified	Page 7
Knowledge of Occurrence, Claim, Suit or Loss	Page 7
Liberalization Clause	Page 8
Mental Anguish Amendment (Not applicable to New York)	Page 9
Newly Formed or Acquired Organizations	Page 5
Non-Owned Aircraft	Page 3
Non-Owned Watercraft (under 60 feet)	Page 3
Not-for-profit Members - as additional insureds	Page 5
Personal And Advertising Injury - Discrimination Amendment (Not applicable in New York)	Page 8
Products Amendment (Medical Payments)	Page 4
Supplementary Payments Amended - Bail Bonds (\$5,000) and Loss of Earnings (\$1,000)	Page 4
Two or More Coverage Parts or Policies Issued By Us	Page 8
Unintentional Failure to Disclose Hazards	Page 8
Waiver of Transfer of Rights of Recovery (subrogation)	Page 8
When Two or More Coverage Parts of this Policy Apply to a Loss	Page 3

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General Liability Extension Endorsement

COMMERCIAL GENERAL LIABILITY
CG 73 00 01 19

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies the insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The **SECTIONS** of the Commercial General Liability Coverage Form identified in this endorsement will be amended as shown below. However, if (a) two or more Coverage Parts of this policy, or (b) two or more forms or endorsements within the same Coverage Part apply to a loss, coverage provision(s) with the broadest language will apply, unless specifically stated otherwise within the particular amendment covering that loss.

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

COVERAGES - Amendments

SECTION I - COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY

EXCLUSIONS

Employer's Liability Amendment

(This provision is not applicable in the State of New York).

The following is added to Exclusion **e. Employer's Liability** under **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions**:

This exclusion also does not apply to any "temporary worker".

Non-Owned Aircraft, Auto or Watercraft

A. Paragraph (2) of Exclusion **g. Aircraft, Auto Or Watercraft** under **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions** is deleted in its entirety and replaced with the following:

(2) A watercraft you do not own that is:

- (a) Less than 26 feet long and not being used to carry persons or property for a charge; or
- (b) At least 26 feet, but less than 60 feet long, and not being used to carry persons or property for a charge. Any person is an insured who uses or is responsible for the use of such watercraft with your expressed or implied consent. However, if the insured has any other valid and collectible insurance for "bodily injury" or "property damage" that would be covered under this provision, or on any other basis, this coverage is then excess, and subject to Condition 4. **Other Insurance, b. Excess Insurance** under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**.

B. The following is added to Exclusion **g. Aircraft, Auto Or Watercraft** under **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions**:

This exclusion does not apply to:

- (6) Any aircraft, not owned or operated by any insured, which is hired, chartered or loaned with a paid crew. However, if the insured has any other valid and collectible insurance for "bodily injury" or "property damage" that would be covered under this provision, or on any other basis, this coverage is then excess, and subject to Condition 4. **Other Insurance, b. Excess Insurance** under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**.

Damage To Premises Rented to You

A. The last paragraph of Paragraph 2. **Exclusions** under **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE** is deleted in its entirety and replaced with the following:

Exclusions **c. through n.** do not apply to damage by fire, lightning or explosion to premises rented to you or temporarily occupied by you with the permission of the owner. A separate limit of insurance applies to this coverage as described in **SECTION III - LIMITS OF INSURANCE**.

B. Paragraph 6. under **SECTION III - LIMITS OF INSURANCE** is deleted in its entirety and replaced with the following:

6. Subject to Paragraph 5. above, the most we will pay under **COVERAGE A** for damages because of "property damage" to any one premises, while rented to you, or in the case of damage caused by fire, lightning or explosion, while rented to you or temporarily occupied by you with permission of the owner, for all such damage caused by fire, lightning or explosion proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of the three, is the amount shown in the Declarations for the Damage To Premises Rented To You Limit.

C. Paragraph a. of Definition 9. "Insured contract" under **SECTION V - DEFINITIONS** is deleted in its entirety and replaced with the following:

a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with the permission of the owner is not an "insured contract";

Electronic Data Liability

A. Exclusion p. **Access or Disclosure Of Confidential Or Personal Information And Data-related Liability** under **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions** is deleted in its entirety and replaced by the following:

p. **Access or Disclosure Of Confidential Or Personal Information And Data-related Liability**

Damages arising out of:

- (1) Any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information or any other type of nonpublic information; or
- (2) The loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate "electronic data" that does not result from physical injury to tangible property.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in Paragraph (1) or (2) above.

B. The following paragraph is added to **SECTION III - LIMITS OF INSURANCE**:

Subject to 5. above, the most we will pay under **COVERAGE A** for "property damage" because of all loss of "electronic data" arising out of any one "occurrence" is a sub-limit of \$100,000.

SECTION I - COVERAGE C MEDICAL PAYMENTS

EXCLUSIONS

Any Insured Amendment

Exclusion a. **Any Insured** under **COVERAGE C MEDICAL PAYMENTS, 2. Exclusions** is deleted in its entirety and replaced with the following:

a. **Any Insured**

To any insured.

This exclusion does not apply to:

- (1) "Not-for-profit members";
- (2) "Golfing facility" members who are not paid a fee, salary, or other compensation; or
- (3) "Volunteer workers".

This exclusion exception does not apply if **COVERAGE C MEDICAL PAYMENTS** is excluded by another endorsement to this Coverage Part.

Product Amendment

Exclusion f. **Products-Completed Operations Hazard** under **COVERAGE C MEDICAL PAYMENTS, 2. Exclusions** is deleted in its entirety and replaced with the following:

f. **Products-Completed Operations Hazard**

Included within the "products-completed operations hazard".

This exclusion does not apply to "your products" sold for use or consumption on your premises, while such products are still on your premises.

This exclusion exception, does not apply if **COVERAGE C MEDICAL PAYMENTS** is excluded by another endorsement to this Coverage Part.

SECTION I - SUPPLEMENTARY PAYMENTS - COVERAGES A AND B

Expenses For Bail Bonds And Loss Of Earnings

A. Subparagraph 1.b. under **SUPPLEMENTARY PAYMENTS - COVERAGES A AND B** is deleted in its entirety and replaced with the following:

b. Up to \$5,000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

B. Subparagraph 1.d. under **SUPPLEMENTARY PAYMENTS - COVERAGES A AND B** is deleted in its entirety and replaced with the following:

- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$1,000 a day because of time off from work.

SECTION II - WHO IS AN INSURED - Amendments

Not-for-Profit Organization Members

The following paragraph is added to **SECTION II - WHO IS AN INSURED**:

If you are an organization other than a partnership, joint venture, or a limited liability company, and you are a not-for-profit organization, the following are included as additional insureds:

1. Your officials;
2. Your trustees;
3. Your members;
4. Your board members;
5. Your commission members;
6. Your agency members;
7. Your insurance managers;
8. Your elective or appointed officers; and
9. Your "not-for-profit members".

However only with respect to their liability for your activities or activities they perform on your behalf.

Employees As Insureds Modified

- A. Subparagraph 2.a.(1)(a) under **SECTION II - WHO IS AN INSURED** does not apply to "bodily injury" to a "temporary worker" caused by a co-"employee" who is not a "temporary worker".
- B. Subparagraph 2.a.(2) under **SECTION II - WHO IS AN INSURED** does not apply to "property damage" to the property of a "temporary worker" or "volunteer worker" caused by a co-"employee" who is not a "temporary worker" or "volunteer worker".
- C. Subparagraph 2.a.(1)(d) under **SECTION II - WHO IS AN INSURED** does not apply to "bodily injury" caused by cardio-pulmonary resuscitation or first aid services administered by a co-"employee".

With respect to this provision only, Subparagraph (1) of Exclusion 2. e. **Employer's Liability** under **SECTION I - COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY** does not apply.

Newly Formed Or Acquired Organizations

- A. Subparagraph 3.a. under **SECTION II - WHO IS AN INSURED** is deleted in its entirety and replaced with the following:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier. However, **COVERAGE A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization.

- B. The following paragraph is added to **SECTION II - WHO IS AN INSURED**, Paragraph 3:

If you are engaged in the business of construction of dwellings three stories or less in height, or other buildings three stories or less in height and less than 25,000 square feet in area, you will also be an insured with respect to "your work" only, for the period of time described above, for your liability arising out of the conduct of any partnership or joint venture of which you are or were a member, even if that partnership or joint venture is not shown as a Named Insured. However, this provision only applies if you maintain or maintained an interest of at least fifty percent in that partnership or joint venture for the period of that partnership or joint venture.

This provision does not apply to any partnership or joint venture that has been dissolved or otherwise ceased to function for more than thirty-six months.

With respect to the insurance provided by this provision, **Newly Formed or Acquired Organizations**, the following is added to **SECTION IV - COMMERCIAL GENERAL LIABILITY**, Paragraph 4. **Other Insurance**, Subparagraph b. **Excess Insurance**:

The insurance provided by this provision, **Newly Formed or Acquired Organizations**, is excess over any other insurance available to the insured, whether primary, excess, contingent or on any other basis.

(All other provisions of this section remain unchanged)

Blanket Additional Insureds - As Required By Contract

Subject to the **Primary and Non-Contributory** provision set forth in this endorsement, **SECTION II - WHO IS AN INSURED** is amended to include as an additional insured:

A. Owners, Lessees or Contractors/Architects, Engineers and Surveyors

1. Any person or organization for whom you are performing operations when you and such person or organization have agreed in a written contract, written agreement or written permit that such person or organization be added as an additional insured on your commercial general liability policy; and

2. Any other person or organization, including any architects, engineers or surveyors not engaged by you, whom you are required to add as an additional insured under your policy in the contract or agreement in Paragraph 1. above:

Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

- a. Your acts or omissions; or
- b. The acts of omissions of those acting on your behalf;

in the performance of your ongoing operations performed for the additional insured in Paragraph 1., above.

However, this insurance does not apply to:

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services by or for you, including:

- a. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
- b. Supervisory, inspection, architectural or engineering activities.

Professional services do not include services within construction means, methods, techniques, sequences and procedures employed by you in connection with your operations in your capacity as a construction contractor.

A person or organization's status as an additional insured under this endorsement ends when your operations for the person or organization described in Paragraph 1. above are completed.

B. Other Additional Insureds

Any of the following persons or organizations with whom you have agreed in a written contract, written agreement or written permit that such persons or organizations be added as an additional insured on your commercial general liability policy:

1. Lessors of Leased Equipment

Any person or organization from whom you lease equipment, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

2. Managers or Lessors of Premises

Any person or organization from whom you lease premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you.

This insurance does not apply to any "occurrence" which takes place after you cease to be a tenant of that premises.

3. Mortgagees, Assignees or Receivers

Any person or organization with respect to their liability as mortgagee, assignee or receiver and arising out of the ownership, maintenance or use of your premises.

This insurance does not apply to any "occurrence" which takes place after the mortgage is satisfied, or the assignment or receivership ends.

4. Any Person or Organization Other Than A Joint Venture

Any person or organization (other than a joint venture of which you are a member), but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts of omissions of those acting on your behalf in the performance of your ongoing operations or in connection with property owned by you.

5. State or Governmental Agency or Political Subdivision - Permits or Authorizations

Any state or governmental agency or subdivision or political subdivision, but only with respect to:

- a. Operations performed by you or on your behalf for which the state or governmental agency or subdivision or political subdivision has issued a permit or authorization; or
- b. The following hazards for which the state or governmental agency or subdivision or political subdivision has issued a permit or authorization in connection with premises you own, rent or control and to which this insurance applies:

- (1) The existence, maintenance, repair, construction, erection or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street banners or decorations and similar exposures;
- (2) The construction, erection or removal of elevators; or
- (3) The ownership, maintenance or use of any elevators covered by this insurance.

This insurance does not apply to:

- (a) "Bodily injury" or "property damage" arising out of operations performed for the federal government, state or municipality; or
- (b) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

With respect to Paragraphs 2. through 4., this insurance does not apply to structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

The provisions of this coverage extension do not apply unless the written contract or written agreement has been signed by the Named Insured or written permit issued prior to the "bodily injury" or "property damage" or "personal and advertising injury".

Broad Form Vendors Coverage

Subject to the **Primary and Non-Contributory** provision set forth in this endorsement, **SECTION II - WHO IS AN INSURED** is amended to include as an additional insured any person or organization (referred to below as vendor) for whom you have agreed in a written contract or written agreement to provide coverage as an additional insured under your policy. Such person or organization is an additional insured only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business. However, the insurance afforded the vendor does not apply to:

- a. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement; however this exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- b. Any express warranty unauthorized by you;

- c. Any physical or chemical change in the product made intentionally by the vendor;
- d. Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
- e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business in connection with the sale of the product; or
- f. Products which, after distribution or sale by you, have been labeled or re-labeled or used as a container, part of ingredient of any other thing or substance by or for the vendor; however this insurance does not apply to any insured person or organization, from who you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

The provisions of this coverage extension do not apply unless the written contract or written agreement has been signed by the Named Insured prior to the "bodily injury" or "property damage".

Incidental Malpractice

Subparagraph 2.a.(1)(d) under **SECTION II - WHO IS AN INSURED** is deleted in its entirety and replaced with the following:

- (d) Arising out of his or her providing or failing to provide professional health care services.

This does not apply to nurses, emergency medical technicians or paramedics if you are not in the business or occupation of providing any such professional services.

This also does not apply to "bodily injury" caused by cardio-pulmonary resuscitation or first aid services administered by a co-"employee".

This provision does not apply if you are a Social Service or Senior Living risk.

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS - Amendments

Knowledge Of Occurrence, Claim, Suit Or Loss

The following is added to Paragraph 2. **Duties in the Event of Occurrence, Offense, Claim or Suit** under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**:

The requirements under this paragraph do not apply until after the "occurrence" or offense is known to:

1. You, if you are an individual;
2. A partner, if you are a partnership;



3. An "executive officer" or insurance manager, if you are a corporation;
4. Your members, managers or insurance manager, if you are a limited liability company; or
5. Your elected or appointed officials, officers, members, trustees, board members, commission members, agency members, or your administrator or your insurance manager if you are an organization other than a partnership, joint venture, or limited liability company.

Primary and Non-Contributory Provision

The following is added to Paragraph 4. **Other Insurance, b. Excess Insurance** under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:**

This insurance is primary to and we will not seek contribution from any other insurance available to an additional insured under this policy provided that:

- (1) The additional insured is a Named Insured under such other insurance; and
- (2) You have agreed in a written contract, written agreement or written permit that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

Unintentional Failure To Disclose Hazards

The following is added to Paragraph 6. **Representations** under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:**

However, if you should unintentionally fail to disclose any existing hazards in your representations to us at the inception date of the policy, or during the policy period in connection with any additional hazards, we shall not deny coverage under this Coverage Part based upon such failure to disclose hazards.

Waiver Of Transfer Of Rights Of Recovery

The following is added to Paragraph 8. **Transfer of Rights Of Recovery Against Others To Us** under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:**

We will waive any right of recovery we may have against a person or organization because of payments we make for "bodily injury" or "property damage" arising out of your ongoing operations or "your work" done under a written contract or written agreement and included in the "products-completed operations hazard", if:

1. You have agreed to waive any right of recovery against that person or organization in a written contract or written agreement;
2. Such person or organization is an additional insured on your policy; or

3. You have assumed the liability of that person or organization in that same contract, and it is an "insured contract".

The section above only applies to that person or organization identified above, and only if the "bodily injury" or "property damage" occurs subsequent to the execution of the written contract or written agreement.

Liberalization

The following condition is added to **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:**

If we revise this Coverage Part to provide more coverage without additional premium charge, subject to our filed company rules, your policy will automatically provide the additional coverage as of the day the revision is effective in your state.

Two or More Coverage Parts or Policies Issued By Us

(This provision is not Applicable in the state of New York or Wisconsin).

The following condition is added to **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:**

It is our intention that the various coverage parts or policies issued to you by us, or any company affiliated with us, do not provide any duplication or overlap of coverage. We have exercised diligence to draft our coverage parts and policies to reflect this intention. However, if the facts and circumstances that will respond to any claim or "suit" give rise to actual or claimed duplication or overlap of coverage between the various coverage parts or policies issued to you by us or any company affiliated with us, the limit of insurance under all such coverage parts or policies combined shall not exceed the highest applicable limit under this coverage, or any one of the other coverage forms or policies.

This condition does not apply to any Excess or Umbrella policy issued by us specifically to apply as excess insurance over this coverage part or policy to which this coverage part is attached.

SECTION V - DEFINITIONS

Discrimination

(This provision does not apply in New York).

- A. The following is added to Definition 14. "Personal and advertising injury":

"Personal and advertising injury" also means "discrimination" that results in injury to the feelings or reputation of a natural person, however only if such "discrimination" or humiliation is:

1. Not done by or at the direction of:
 - a. The insured; or

- b. Anyone considered an insured under **SECTION II - WHO IS AN INSURED;**

- 2. Not done intentionally to cause harm to another person.
- 3. Not directly or indirectly related to the employment, prospective employment or termination of employment of any person or persons by any insured.
- 4. Not arising out of any "advertisement" by the insured.

B. The following definition is added to SECTION V - DEFINITIONS:

"Discrimination" means:

- a. Any act or conduct that would be considered discrimination under any applicable federal, state, or local statute, ordinance or law;
- b. Any act or conduct that results in disparate treatment of, or has disparate impact on, a person, because of that person's race, religion, gender, sexual orientation, age, disability or physical impairment; or
- c. Any act or conduct characterized or interpreted as discrimination by a person based on that person's race, religion, gender, sexual orientation, age, disability or physical impairment.

It does not include acts or conduct characterized or interpreted as sexual intimidation or sexual harassment, or intimidation or harassment based on a person's gender.

Electronic Data

The following definition is added to **SECTION V - DEFINITIONS:**

"Electronic data" means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cell, data processing devices or any other media which are used with electronically controlled equipment. For the purpose of the Electronic Data Liability coverage provided by this endorsement, Definition 17. "Property damage" is deleted in its entirety and replaced by the following:

17. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or

- b. Loss of, loss of use of, damage to, corruption of, inability to access, or inability to properly manipulate "electronic data", resulting from physical injury to tangible property. All such loss of "electronic data" shall be deemed to occur at the time of the "occurrence" that caused it.

For the purpose of the Electronic Data Liability coverage provided by this endorsement, "electronic data" is not tangible property.

Employee Amendment

Definition 5. "Employee" under **SECTION V - DEFINITIONS** is deleted in its entirety and replaced by the following:

- 5. "Employee" includes a "leased worker", or a "temporary worker". If you are a School, "Employee" also includes a student teacher.

Golfing Facility

The following definition is added to **SECTION V - DEFINITIONS:**

"Golfing facility" means a golf course, golf club, driving range, or miniature golf course.

Mental Anguish Amendment

(This provision does not apply in New York).

Definition 3. "Bodily injury" under **SECTION V - DEFINITIONS** is deleted in its entirety and replaced with the following:

- 3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time. This includes mental anguish resulting from any bodily injury, sickness or disease sustained by a person. (In New York, mental anguish has been determined to be "bodily injury").

Not-for-profit Member

The following definition is added to **SECTION V - DEFINITIONS:**

"Not-for-profit member" means a person who is a member of a not-for-profit organization, including clubs and churches, who receives no financial or other compensation.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US — BLANKET BASIS (WAIVER OF SUBROGATION)

COMMERCIAL UMBRELLA LIABILITY
CXL 456 06 22

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY COVERAGE PART

A. The following is added to Paragraph M. Transfer Of Rights Of Recovery Against Others To Us under SECTION IV — CONDITIONS:

We will waive any right of recovery against a person or organization because of payments we make under this Commercial Umbrella Liability Coverage Part. This waiver applies only if the insured has agreed in a written contract or written agreement to:

1. Either:
 - a. Waive any right of recovery against that person or organization; or
 - b. Assume the liability of that person or organization pursuant to a written contract or written agreement that qualifies as an "insured contract";
2. And:
 - a. Include such person or organization as an additional insured on your Commercial Umbrella Liability Coverage Part; and
 - b. The "underlying insurance" contains a substantially similar waiver of recovery rights.

Such waiver by us applies only to the person or organization identified above and only to the extent that the insured has waived its right of recovery against such person or organization prior to loss.

B. The following Definition is added to SECTION V — DEFINITIONS:

"Insured contract" means:

- a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire to premises while rented to you or temporarily occupied by you with permission of the owner is not an "insured contract";
- b. A sidetrack agreement;
- c. Any easement or license agreement, except in connection with construction or demolition operations on or within 50 feet of a railroad;

- d. An obligation, as required by ordinance, to indemnify a municipality, except in connection with work for a municipality;
- e. An elevator maintenance agreement;
- f. That part of any other contract or agreement pertaining to your business (including an indemnification of a municipality in connection with work performed for a municipality) under which you assume the tort liability of another party to pay for "bodily injury" or "property damage" to a third person or organization. Tort liability means a liability that would be imposed by law in the absence of any contract or agreement.

Paragraph f. does not include that part of any contract or agreement:

- (1) That indemnifies a railroad for "bodily injury" or "property damage" arising out of construction or demolition operations, within 50 feet of any railroad property and affecting any railroad bridge or trestle, tracks, roadbeds, tunnel, underpass or crossing;
- (2) That indemnifies an architect, engineer or surveyor for injury or damage arising out of:
 - (a) Preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
 - (b) Giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage; or
- (3) Under which the insured, if an architect, engineer or surveyor, assumes liability for an injury or damage arising out of the insured's rendering or failure to render professional services, including those listed in (2) above and supervisory, inspection, architectural or engineering activities.

OTHER INSURANCE CONDITION FOR ADDITIONAL INSURED — NON-CONTRIBUTORY - BLANKET BASIS

COMMERCIAL UMBRELLA LIABILITY
CXL 449 06 17

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

COMMERCIAL UMBRELLA LIABILITY COVERAGE PART

The following is added to **SECTION IV — CONDITIONS**, Paragraph H. **Other Insurance**:

With respect to each additional insured under **SECTION II, WHO IS AN INSURED**, Paragraph A.5., this insurance is (i) excess over any "underlying policy", and (ii) primary to, and we will not seek contribution from, any other insurance providing coverage to any such additional insured whether primary or excess. However, we will not waive our right to seek contribution from other insurance unless:

- a. The additional insured is a Named Insured under such other insurance;
- b. The additional insured is included as an additional insured on an "underlying policy";
- c. You have agreed in a written contract, written agreement or written permit that this insurance would be primary to and/or would not seek contribution from any other insurance provided to the additional insured; and
- d. The written contract or written agreement has been executed (executed means signed by the Named Insured) or written permit issued prior to the "bodily injury" or "property damage" or "personal and advertising injury".

The most we will pay on behalf of the additional insured is the amount of insurance required by the written contract, written agreement or written permit, less any amounts payable by any "underlying insurance", subject to **SECTION III — LIMITS OF INSURANCE**.

This provision is included within and does not act to increase the Limits of Insurance stated in the Declarations.

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ElitePac®
Commercial Automobile Extension

COMMERCIAL AUTO
CA 78 09 11 17

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Business Auto Coverage Form apply unless modified by the endorsement.

AMENDMENTS TO SECTION II - LIABILITY COVERAGE

A. If this policy provides Auto Liability coverage for Owned Autos, the following extensions are applicable accordingly:

NEWLY ACQUIRED OR FORMED ORGANIZATIONS

The following is added to **SECTION II, A.1. - Who Is An Insured:**

Any organization you newly acquire or form, other than a partnership, joint venture or limited liability company over which you maintain ownership or majority interest, will qualify as a Named Insured if there is no similar insurance available to that organization. However:

1. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier;
2. Coverage does not apply to "bodily injury" or "property damage" resulting from an "accident" that occurred before you acquired or formed the organization.

No person or organization is an "insured" with respect to the conduct of any current or past partnership, joint venture or limited liability company that is not shown as a Named Insured in the Declarations.

EXPENSES FOR BAIL BONDS AND LOSS OF EARNINGS

Paragraphs (2) and (4) of **SECTION II, A.2.a. - Supplementary Payments** are deleted in their entirety and replaced with the following:

- (2) Up to the Limit of Insurance shown on the ElitePac Schedule for the cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" covered under this policy. We do not have to furnish these bonds.
- (4) All reasonable expenses incurred by the "insured" at our request. This includes actual loss of earnings because of time off from work, which we will pay up to the Limit of Insurance shown on the ElitePac Schedule.

EMPLOYEE INDEMNIFICATION AND EMPLOYER'S LIABILITY AMENDMENT

The following is added to **SECTION II, B.4. - Exclusions:**

This exclusion does not apply to a "volunteer worker" who is not entitled to workers compensation, disability or unemployment compensation benefits.

FELLOW EMPLOYEE COVERAGE

The **Fellow Employee** Exclusion, **SECTION II, B.5. -** is deleted in its entirety.

CARE, CUSTODY OR CONTROL AMENDMENT

The following is added to **SECTION II, B.6. - Exclusions:**

This exclusion does not apply to property owned by anyone other than an "insured", subject to the following:

1. The most we will pay under this exception for any one "accident" is the Limit of Insurance stated in the ElitePac Schedule; and
2. A per "accident" deductible as stated in the ElitePac Schedule applies to this exception.

B. If this policy provides Auto Liability coverage for Owned Autos or Non-Owned Autos, the following extension is applicable accordingly:

LIMITED LIABILITY COMPANIES

The following is added to **SECTION II, A.1. - Who Is An Insured:**

If you are a limited liability company, your members and managers are "insureds" while using a covered "auto" you don't own, hire or borrow during the course of their duties for you.

BLANKET ADDITIONAL INSUREDS - As Required By Contract

The following is added to **SECTION II, A.1. - Who Is An Insured:**

Any person or organization whom you have agreed in a written contract, written agreement or written permit that such person or organization be added as an additional "insured" on your policy. Such person or organization is an additional "insured" only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by your ownership, maintenance or use of a covered "auto". This coverage shall be primary and non-contributory with respect to the additional "insured". This provision only applies if:

1. It is required in the written contract, written agreement or written permit identified in this section;
2. It is permitted by law; and
3. The written contract or written agreement has been executed (executed means signed by a named insured) or written permit issued prior to the "bodily injury" or "property damage".

C. If this policy provides Auto Liability coverage for Non-Owned Autos, the following extension is applicable accordingly:

EMPLOYEES AS INSURED

If this policy provides Auto Liability coverage for Non-Owned Autos, the following is added to **SECTION II, A.1. - Who Is An Insured:**

Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

An "employee" of yours is an "insured" while operating an "auto" hired or rented under a contract or agreement in that "employee's" name with your permission, while performing duties related to the conduct of your business.

AMENDMENTS TO SECTION III - PHYSICAL DAMAGE COVERAGE

If this policy provides Comprehensive, Specified Causes of Loss or Collision coverage, the following extensions are applicable for those "autos" for which Comprehensive, Specified Causes of Loss or Collision coverage is purchased:

TOWING AND LABOR

SECTION III, A.2. - Towing is deleted in its entirety and replaced with the following:

We will pay all reasonable towing and labor costs up to the maximum Limit of Insurance shown on the ElitePac Schedule per tow each time a covered "Private Passenger Auto", "Social Service Van or Bus" or "Light Truck" is disabled and up to the maximum Limit of Insurance per tow each time a covered "Medium Truck", "Heavy Truck" or "Extra Heavy Truck" is disabled.

For labor charges to be eligible for reimbursement the labor must be performed at the place of disablement.

This coverage extension does not apply to Emergency Services Organizations and Governmental Entities.

GLASS BREAKAGE DEDUCTIBLE

The following is added to **SECTION III, A.3. - Glass Breakage - Hitting A Bird Or Animal - Falling Objects or Missiles:**

If damaged glass is repaired rather than replaced, no deductible will apply for such repair. This extension does not apply to Emergency Services Organizations and Governmental Entities.

ADDITIONAL TRANSPORTATION EXPENSES
SECTION III, A.4.a. - Transportation Expenses is deleted in its entirety and replaced with the following:

We will pay up to the maximum Limit of Insurance shown on the ElitePac Schedule for temporary transportation expenses that you incur because of any "loss" to a covered "auto", but only if the covered "auto" carries the coverages and meets the requirements described in 1. or 2. below:

1. We will pay temporary transportation expenses for total theft of a covered "auto". We will only pay for such expenses incurred during the period beginning 24 hours after the theft and ending, regardless of the policy's expiration, when the covered "auto" is returned to use or we pay for its "loss".
2. For "loss" other than total theft of a covered "auto" under Comprehensive or Specified Causes of Loss Coverage, or for any "loss" under Collision Coverage to a covered "auto", we will only pay for those temporary transportation expenses incurred during the policy period beginning 24 hours after the "loss" and ending, regardless of the policy's expiration, with the lesser of the number of days reasonably required to repair or replace the covered "auto" or 30 days.

Paragraph 2. of this extension does not apply while there are spare or reserve "autos" available to you for your operations.

This coverage extension does not apply to Emergency Services Organizations and Governmental Entities.

HIRED AUTO PHYSICAL DAMAGE COVERAGE

The following is added to **SECTION III, A.4. - Coverage Extensions:**

Physical Damage coverage is hereby extended to apply to Physical Damage "loss" to "autos" leased, hired, rented or borrowed without a driver. We will provide coverage equal to the broadest coverage available to any covered "auto" shown in the Declarations. But, the most we will pay for "loss" to each "auto" under this coverage extension is the lesser of:

1. The Limit of Insurance stated in the ElitePac Schedule; or
2. The actual cash value of the damaged or stolen property as of the time of the "loss"; or
3. The actual cost of repairing or replacing the damaged or stolen property with other property of like kind and quality. A part is of like kind and quality when it is of equal or better condition than the pre-accident part. We will use the original equipment from the manufacturer when:
 - (a) The operational safety of the vehicle might otherwise be impaired;
 - (b) Reasonable and diligent efforts to locate the appropriate rebuilt, aftermarket or used part have been unsuccessful; or
 - (c) A new original equipment part of like kind and quality is available and will result in the lowest overall repair cost.

For each leased, hired, rented or borrowed "auto" our obligation to pay "losses" will be reduced by a deductible equal to the highest deductible applicable to any owned "auto" for that coverage. No deductible will be applied to "losses" caused by fire or lightning.

SECTION IV, B.5. Other Insurance Condition, Paragraph 5.b. is deleted in its entirety and replaced by the following:

For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

1. Any covered "auto" you lease, hire, rent, or borrow; and
2. Any covered "auto" hired or rented by your "employee" under a contract or agreement in that "employee's" name, with your permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

This coverage extension does not apply to Emergency Services Organizations and Governmental Entities.

HIRED AUTO LOSS OF USE COVERAGE

The following is added to **SECTION III, A.4. - Coverage Extensions**:

We will pay expenses for which you are legally responsible to pay up to the Limit of Insurance shown on the ElitePac Schedule per "accident" for loss of use of a leased, hired, rented or borrowed "auto" if it results from an "accident".

This coverage extension does not apply to Emergency Services Organizations, Governmental Entities, and Schools.

AUTO LOAN/LEASE GAP COVERAGE (Not Applicable in New York)

The following is added to **SECTION III, A.4. - Coverage Extensions**:

In the event of a total "loss" to a covered "auto" we will pay any unpaid amount due on the lease or loan for a covered "auto", less:

1. The amount paid under the Physical Damage Coverage Section of the policy; and
2. Any:
 - a. Overdue lease/loan payments at the time of "loss";
 - b. Financial penalties imposed under a lease for excessive use, abnormal wear and tear, high mileage or similar charges;
 - c. Security deposits not refunded by the lessor or financial institution;
 - d. Costs for extended warranties, credit life, health, accident, or disability insurance purchased with the loan or lease; and
 - e. Carry-over balances from previous leases or loans.

You are responsible for the deductible applicable to the "loss" for the covered "auto".

PERSONAL EFFECTS

The following is added to **SECTION III, A.4. - Coverage Extensions**:

If this policy provides Comprehensive Coverage for a covered "auto" you own and that covered "auto" is stolen, we will pay up to the Limit of Insurance shown on the ElitePac Schedule, without application of a deductible, for lost personal effects that were in the covered "auto" at the time of theft. Personal effects do not include jewelry, tools, money, or securities. This coverage is excess over any other collectible insurance.

AIRBAG COVERAGE

The following is added to **SECTION III, B.3.a. - Exclusions**:

Mechanical breakdown does not include the accidental discharge of an airbag.

This coverage extension does not apply to Emergency Services Organizations and Governmental Entities.

EXPANDED AUDIO, VISUAL, AND DATA ELECTRONIC EQUIPMENT COVERAGE

SECTION III, B.4. - Exclusions

This exclusion does not apply to the following:

1. Global positioning systems;
2. "Telematic devices"; or
3. Electronic equipment that reproduces, receives or transmits visual or data signals and accessories used with such equipment, provided such equipment is:

- a. Permanently installed in or upon the covered "auto" at the time of the "loss";
- b. Removable from a housing unit that is permanently installed in the covered "auto" at the time of the "loss";
- c. Designed to be solely operated by use of power from the "auto's" electrical system; or
- d. Designed to be used solely in or upon the covered "auto".

For each covered "loss" to such equipment, a deductible of \$50 shall apply, unless the deductible otherwise applicable to such equipment is less than \$50, at which point the lower deductible, if any, will apply.

COMPREHENSIVE DEDUCTIBLE - LOCATION TRACKING DEVICE

The following is added to **SECTION III, D. - Deductible:**

Any Comprehensive Coverage Deductible shown in the Declarations will be reduced by 50% for any "loss" caused by theft if the covered "auto" is equipped with a location tracking device and that device was the sole method used to recover the "auto".

PHYSICAL DAMAGE LIMIT OF INSURANCE

SECTION III, C. - Limit Of Insurance is deleted in its entirety and replaced with the following:

The most we will pay for a "loss" in any one "accident" is the lesser of:

1. The actual cash value of the damaged or stolen property as of the time of the "loss"; or
2. The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

This coverage extension does not apply to Emergency Services Organizations and Governmental Entities.

AMENDMENTS TO SECTION IV - BUSINESS AUTO CONDITIONS

DUTIES IN THE EVENT OF ACCIDENT, CLAIM, SUIT OR LOSS

The following is added to **SECTION IV, A.2.a. - Duties In The Event Of Accident, Claim, Suit Or Loss:**

The notice requirements for reporting "accident" claim, "suit" or "loss" information to us, including provisions related to the subsequent investigation of such "accident", claim, "suit" or "loss" do not apply until the "accident", claim, "suit" or "loss" is known to:

1. You, if you are an individual;
2. A partner, if you are a partnership;

3. An executive officer or insurance manager, if you are a corporation;
4. Your members, managers or insurance manager, if you are a limited liability company;
5. Your elected or appointed officials, trustees, board members or your insurance manager, if you are an organization other than a partnership, joint venture or limited liability company.

But, this section does not amend the provisions relating to notification of police or protection or examination of the property that was subject to the "loss".

WAIVER OF SUBROGATION

SECTION IV, A.5. - Transfer Of Rights Of Recovery Against Others To Us is deleted in its entirety and replaced with the following:

We waive any right of recovery we may have against any person or organization because of payments we make for "bodily injury" or "property damage" resulting from the ownership, maintenance or use of a covered "auto" but only when you have assumed liability for such "bodily injury" or "property damage" in an "insured contract". In all other circumstances, if a person or organization to or for whom we make payment under this Coverage Form has rights to recover damages from another, those rights are transferred to us.

MULTIPLE DEDUCTIBLES

The following is added to **SECTION IV, A. - Loss Conditions:**

If a "loss" from one event involves two or more covered "autos" and coverage under Comprehensive or Specified Causes of Loss applies, only the highest applicable deductible will be applied.

CONCEALMENT, MISREPRESENTATION OR FRAUD

The following is added to **SECTION IV, B.2. - Concealment, Misrepresentation Or Fraud:**

If you should unintentionally fail to disclose any existing hazards in your representations to us prior to the inception date of the policy or during the policy period in connection with any newly discovered hazards, we will not deny coverage under this Coverage Form based upon such failure.

POLICY PERIOD, COVERAGE TERRITORY

SECTION IV, B.7. - Policy Period, Coverage Territory is deleted in its entirety and replaced with the following:

Under this Coverage Form, we cover "accidents" and "losses" occurring:

- a. During the policy period shown in the Declarations; and
- b. Within the "Coverage Territory".

We also cover "loss" to or "accidents" involving a covered "auto" while being transported between any of these places.

TWO OR MORE COVERAGE FORMS OR POLICIES ISSUED BY US - DEDUCTIBLES

The following is added to **SECTION IV, B.8. - Two Or More Coverage Forms Or Policies Issued By Us:**

If a "loss" covered under this Coverage Form also involves a "loss" to other property resulting from the same "accident" that is covered under this policy or another policy issued by us or any member company of ours, only the highest applicable deductible will be applied.

AMENDMENTS TO SECTION V - DEFINITIONS

BODILY INJURY INCLUDING MENTAL ANGUISH (Not Applicable in New York)

The definition of bodily injury is deleted in its entirety and replaced by the following:

"Bodily injury" means bodily injury, sickness, or disease sustained by a person, including death resulting from any of these. "Bodily injury" includes mental anguish resulting from bodily injury, sickness or disease sustained by a person.

ADDITIONS TO SECTION V - DEFINITIONS

COVERAGE TERRITORY

"Coverage Territory" means:

1. The United States of America (including its territories and possessions), Canada and Puerto Rico; and
2. Anywhere in the world, except for any country or jurisdiction that is subject to trade or other economic sanction or embargo by the United States of America, if a covered "auto" is leased, hired, rented, or borrowed without a driver for a period of 30 days or less, and the insured's responsibility to pay "damages" is determined in a "suit" on the merits in and under the substantive law of the United States of America (including its territories and possessions), Puerto Rico, or Canada, or in a settlement we agree to.

If we are prevented by law, or otherwise, from defending the "insured" in a "suit" brought in a location described in Paragraph 2. above, the insured will conduct a defense of that "suit". We will reimburse the "insured" for the reasonable and necessary expenses incurred for the defense of any such "suit" seeking damages to which this insurance applies, and that we would have paid had we been able to exercise our right and duty to defend.

EXTRA HEAVY TRUCK

"Extra Heavy Truck" means a truck with a gross vehicle weight rating of 45,001 pounds or more.

HEAVY TRUCK

"Heavy Truck" means a truck with a gross vehicle weight rating of 20,001 pounds to 45,000 pounds.

LIGHT TRUCK

"Light Truck" means a truck with a gross vehicle weight rating of 10,000 pounds or less.

MEDIUM TRUCK

"Medium Truck" means a truck with a gross vehicle weight rating of 10,001 pounds to 20,000 pounds.

PRIVATE PASSENGER AUTO

"Private Passenger Auto" means a four-wheel "auto" of the private passenger or station wagon type. A pickup, panel truck or van not used for business is included within the definition of a "private passenger auto".

SOCIAL SERVICE VAN OR BUS

"Social Service Van or Bus" means a van or bus used by a government entity, civic, charitable or social service organization to provide transportation to clients incidental to the social services sponsored by the organization, including special trips and outings.

TELEMATIC DEVICE

"Telematic Device" includes devices designed for the collection and dissemination of data for the purpose of monitoring vehicle and/or driver performance. This includes Global Positioning System technology, wireless safety communications and automatic driving assistance systems, all integrated with computers and mobile communications technology in automotive navigation systems.

VOLUNTEER WORKER

"Volunteer worker" means a person who performs business duties for you, for no financial or other compensation.

Contracting, Installation, Service and Repair
General Liability Extended ElitePac® Endorsement

COMMERCIAL GENERAL LIABILITY
CG 79 88 01 19

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

1. BLANKET ADDITIONAL INSURED

a. Ongoing Operations

SECTION II — WHO IS AN INSURED is amended to include as an additional insured:

1. Any person or organization for whom you are performing operations when you and such person or organization have agreed in a written contract, written agreement or written permit that such person or organization be added as an additional insured on your commercial general liability policy; and
2. Any other person or organization, including any architects, engineers or surveyors not engaged by you, whom you are required to add as an additional insured under your policy in the contract or agreement in Paragraph 1. above;

Such person or organization is an additional insured only with respect to liability arising out of your ongoing operations performed under that contract, agreement, or permit when that contract, agreement, or permit requires the additional insured be added with respect to liability arising out of your ongoing operations.

If the written contract, written agreement, or written permit does not require that the additional insured be added with respect to liability arising out of your ongoing operations, then such person or organization is an additional insured only with respect to "bodily injury", "property damage" or "personal and advertising injury" caused in whole or in part by your ongoing operations performed under that contract, agreement, or permit.

b. Completed Operations

SECTION II — WHO IS AN INSURED is amended to include as an additional insured:

1. Any person or organization for whom you are performing or have performed operations when you and such person or organization have agreed in a written contract, written agreement or written permit that such person or organization be added as an additional insured on your commercial general liability policy; and
2. Any other person or organization, including any architects, engineers or surveyors not engaged by you, whom you are required to add as an additional insured under your policy in the contract or agreement in Paragraph 1. above;

Such person or organization is an additional insured only with respect to their liability arising out of "your work" performed under that contract, agreement, or permit and included in the "products-completed operations hazard" when that contract, agreement, or permit requires the additional insured be added with respect to liability arising out of "your work" performed under that contract, agreement, or permit and included in the "products-completed operations hazard".



If the written contract, written agreement, or written permit does not require that the additional insured be added with respect to liability arising out of "your work" performed under that contract, agreement, or permit and included in the "products-completed operations hazard", then such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by "your work" performed under that contract, agreement, or permit and included in the "products-completed operations hazard".

- c. The coverages provided in Paragraphs a. and b. do not apply unless the written contract or written agreement has been signed by the Named Insured or written permit issued prior to the "bodily injury", "property damage" or "personal and advertising injury".

d. **Exclusions**

- (1) With respect to the insurance afforded to additional insureds under a. **Ongoing Operations** the following is added to 2. **Exclusions** under **SECTION I — COVERAGE A — BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

This insurance does not apply to "bodily injury", "property damage", or "personal and advertising injury" occurring after:

- (a) All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the site of the covered operations has been completed; or
- (b) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.
- (2) With respect to the insurance afforded to these additional insureds under a. **Ongoing Operations** and b. **Completed Operations**, the following is added to 2. **Exclusions** under **SECTION I — COVERAGE A — BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

This insurance does not apply to:

"Bodily injury", "property damage", or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

- (a) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; or
- (b) Supervisory, inspection, architectural or engineering activities.

e. **Conditions**

With respect to the insurance afforded to these additional insureds under a. **Ongoing Operations** and b. **Completed Operations** the following is added to Paragraph 4. **Other Insurance, a. Primary Insurance** under **SECTION IV — COMMERCIAL GENERAL LIABILITY CONDITIONS**:

This insurance is primary and will not contribute with any other insurance available to an additional insured under this coverage part provided that:

- (1) The additional insured is a Named Insured under such other insurance.
- (2) You have agreed in a written contract, written agreement or written permit to include that additional insured on your General Liability policy on a primary and/or non-contributory basis.

2. **PROPERTY DAMAGE CARE, CUSTODY OR CONTROL**

The following is added to **Exclusion j.** under **SECTION I — COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY**:

Paragraphs (4) and (5) do not apply for the limited purpose of providing the coverage and sub-limits of liability as set forth below.

We will pay those sums that the insured becomes legally obligated to pay as damages arising out of "property damage" to:

- (1) Personal property in the care, custody or control of the insured; and

- (2) That particular part of real property on which you or any contractors or subcontractors working directly or indirectly on your behalf are performing operations, if the "property damage" arises out of those operations.

The most we will pay under (1) and (2) above in any one "occurrence" or for all damages during any one policy period is a sub-limit of \$100,000.

These limits are included in and not in addition to the Limits of Insurance shown in the Declarations of the Commercial General Liability Policy.

Our right and duty to defend the insured against any "suit" for damages under (1) and (2) above ends when we have used up the applicable sub-limit of liability in the payment of judgments or settlements under it.

3. OTHER INSURANCE AMENDMENT — SUPPLEMENTAL COVERAGE FOR INSURED'S INVOLVEMENT IN A CONSOLIDATED (WRAP-UP) INSURANCE PROGRAM OR SIMILAR PROJECT

The following is added to **SECTION IV — COMMERCIAL GENERAL LIABILITY CONDITIONS**, Paragraph 4. **Other Insurance b. Excess Insurance (1)(a)**:

- (v) That is covered by a consolidated (wrap-up) or similar insurance program provided by the prime contractor/project manager or owner of the construction project in which you are involved for your ongoing operations or operations included within the "products-completed operations hazard", unless such consolidated (wrap-up) or similar program is specifically excluded from coverage on this policy.

4. FELLOW EMPLOYEE EXTENSION

Under **SECTION II — WHO IS AN INSURED** Paragraphs 2.a. and 2.a. (1) are replaced by the following:

- a. Your "volunteer workers" only while performing duties related to the conduct of your business, or your "employees", other than either your "executive officers" (if you are an organization other than a partnership, joint venture, or limited liability company) or your managers (if you are a limited liability company), but only for acts within the scope of their employment by you or while performing duties related to the conduct of your business. The Employers Liability exclusion (**SECTION I COVERAGES; COVERAGE A**, exclusion e.) does not apply to this provision. However, none of these "employees" or "volunteer workers" are insureds for:

- (1) "Bodily injury" or "personal and advertising injury":

- (a) Arising out of his or her providing or failing to provide professional health care services.

5. CONTRACTUAL LIABILITY (RAILROADS)

Definition 9. Insured Contract is amended as follows:

Paragraph c. is deleted in its entirety and replaced with the following:

Any easement or license agreement;

Paragraph f.(1) is deleted in its entirety.

6. CONTRACTUAL LIABILITY AMENDMENT — (PERSONAL AND ADVERTISING INJURY)

If it is required in a written contract, written agreement or written permit with the insured that any contractual liability exclusion for Personal Injury be removed from the policy, then Exclusion e. **Contractual Liability** under **COVERAGE B PERSONAL AND ADVERTISING INJURY, 2. Exclusions** is deleted in its entirety and replaced with the following:

e. Contractual Liability

"Personal and advertising Injury" for which the insured has assumed liability in a contract or agreement arising out of an "advertisement". This exclusion does not apply to liability for damages that the insured would have in the absence of the contract or agreement.

7. WAIVER OF GOVERNMENTAL IMMUNITY

We will waive, both in the adjustment of claims and in the defense of "suits" against the insured, any governmental immunity of the insured, unless the insured requests in writing that we not do so.

Waiver of immunity as a defense will not subject us to liability for any portion of a claim or judgment in excess of the applicable limit of insurance.

8. DAMAGE TO PREMISES RENTED TO YOU

The Limit of Insurance for Damage To Premises Rented To You is increased to \$1,000,000.

NCCI #: WC000313B
Policy #: 4055760

A-1 Chipseal Company dba Rocky Mounta
Rocky Mountain Pavement LLC
2505 E 74th Ave
Denver, CO 80229

Moody Insurance Agency Inc
8055 E. Tufts Ave
Ste 1000
Denver, CO 80237
(303) 824-6600

ENDORSEMENT: Blanket Waiver of Subrogation

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.

This agreement shall not operate directly or indirectly to benefit anyone not named in the Schedule.

SCHEDULE

To any person or organization when agreed to under a written contract or agreement, as defined above and with the insured, which is in effect and executed prior to any loss.

Effective Date: February 1, 2023 Expires on: February 1, 2024
Pinnacol Assurance has issued this endorsement January 23, 2023

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*--Drawings Engineer of Record, or OWNER duly designated representative.

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.

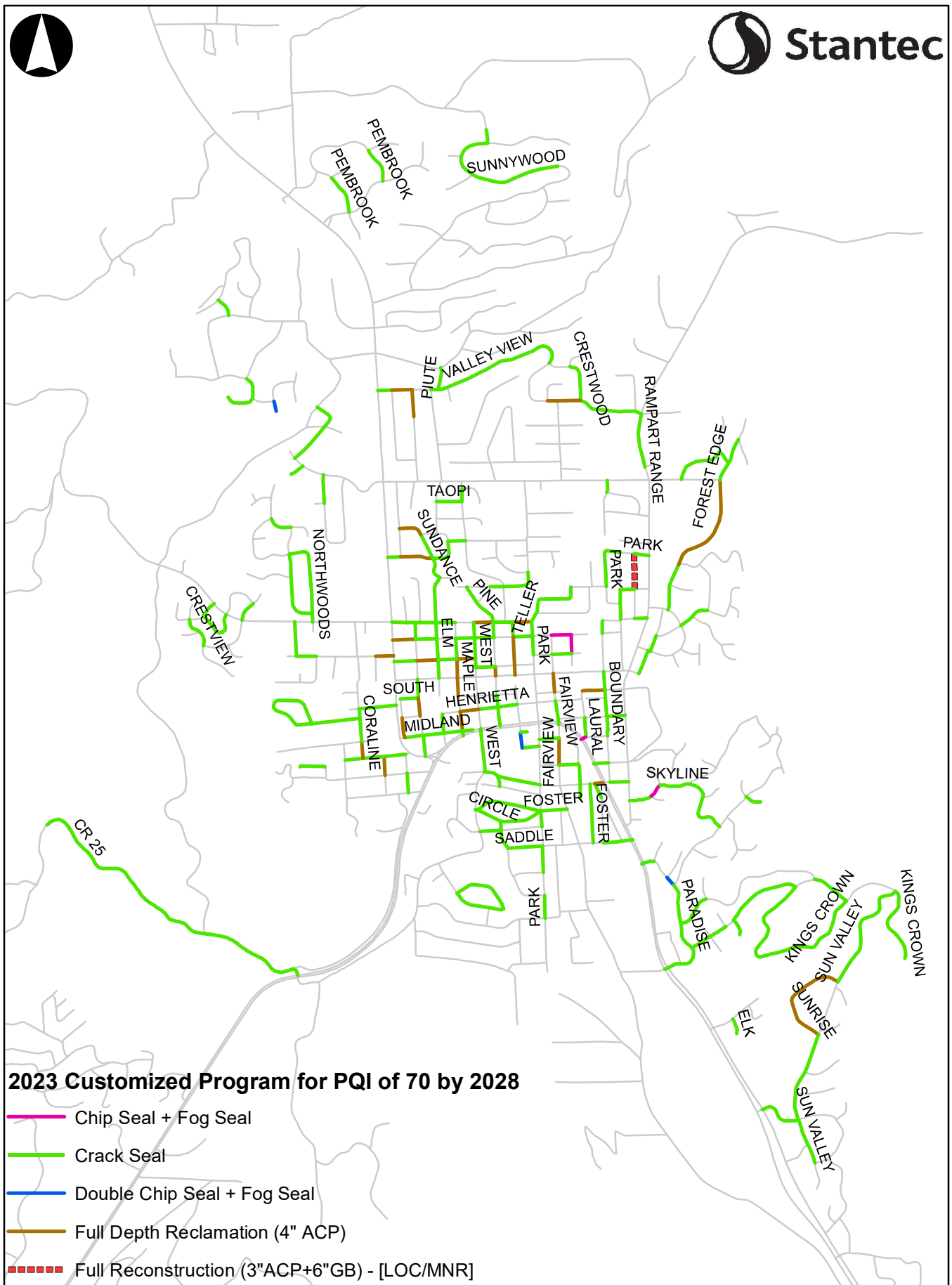
17.06 *Addresses*

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: Ben Schmitt, City Engineer

DATE: July 6, 2023

SUBJECT: Approval of On Call Asphalt and Concrete Contract between Olgoonik Enterprises, LLC and the City of Woodland Park - Presenter Ben Schmitt, Director of Public Works

BACKGROUND: Currently, the City has 1 full-time streets crew member (out of 6 allocated) for a current vacancy of 84%. For reference, to correctly perform asphalt and concrete work, it requires a bare minimum of 3 qualified personnel to do a single street patch. We have received very few qualified applications for our MW II, MW III positions in streets. We have offered more time off. We have made cost of living increases. We have had more team bonding/building events. We have given spot awards. We have replaced the old equipment with new equipment. The public works and field services staff that are employed often log 10-15 hours a week in overtime, just to keep up and ensure the absolute essential tasks are being performed to keep the City road and drainage network usable. They share resources, are extremely efficient with their time, and their dedication and work ethic to this community is nothing short of extraordinary, especially given the limited resources they work with.

To try and mitigate further roadway deterioration to the street and drainage system, the City solicited an on-call asphalt concrete request for proposals to outsource this work until the City can fully restaff.

The City received one responsive bidder for this request, who can perform work on an on-call basis based on applicable task orders for the unit costs attached in the contract, as requested by City staff. The total amount payable to the contractor will be based on these applicable task orders, with a performance period of the contract ending December 31st, 2023 with the option of two one-year extensions.

RECOMMENDATION: Approve the On Call Asphalt and Concrete Contract between Olgoonik Enterprises, LLC and the City of Woodland Park

ATTACHMENTS:

1. 1- Bid Tabs
2. Contract - Olgoonik Construction Agreement 06.08.23
3. Contract - General Conditions Construction Contract - Woodland Park

Code	Description	UOM	Total Cost/Unit
Concrete	Removal and Replacement of Existing Sidewalk (0-100 SY)	Square Yard	\$ 180.00
Concrete	Removal and Replacement of Existing Sidewalk (101-250 SY)	Square Yard	\$ 175.00
Concrete	Removal and Replacement of Existing Sidewalk (251-500 SY)	Square Yard	\$ 170.00
Concrete	Removal and Replacement of Existing Sidewalk (Over 500 SY)	Square Yard	\$ 165.00
Concrete	Installation of New Sidewalk (0-100 SY)	Square Yard	\$ 90.00
Concrete	Installation of New Sidewalk (101-250 SY)	Square Yard	\$ 85.00
Concrete	Installation of New Sidewalk (251-500 SY)	Square Yard	\$ 80.00
Concrete	Installation of New Sidewalk (Over 500 SY)	Square Yard	\$ 75.00
Concrete	Curb and Gutter, Type I or Type II (0-100 LF)	Linear Foot/Feet	\$ 90.00
Concrete	Curb and Gutter, Type I or Type II (101-250 LF)	Linear Foot/Feet	\$ 85.00
Concrete	Curb and Gutter, Type I or Type II (251-500 LF)	Linear Foot/Feet	\$ 80.00
Concrete	Curb and Gutter, Type I or Type II (Over 500 LF)	Linear Foot/Feet	\$ 75.00
Concrete	Remove and Replace 6' Wide Concrete Crossspan	Linear Foot/Feet	\$ 180.00
Concrete	Remove and Replace 8' Wide Concrete Crossspan	Linear Foot/Feet	\$ 240.00
Concrete	Installation of New 8' Wide Concrete Crossspan	Linear Foot/Feet	\$ 192.00
Concrete	Installation of New 6' Wide Concrete Crossspan	Linear Foot/Feet	\$ 144.00
HMA Patch	Hot Mix Asphalt Patch Grade S, up to 3" Remove and Replace (0-60 SY)	Square Yard	\$ 270.00
HMA Patch	Hot Mix Asphalt Patch Grade S, up to 3" Remove and Replace (61-220 SY)	Square Yard	\$ 139.50
HMA Patch	Hot Mix Asphalt Patch Grade S, up to 3" Remove and Replace (221-550 SY)	Square Yard	\$ 87.00
HMA Patch	Hot Mix Asphalt Patch Grade S, up to 3" Remove and Replace (551-2000 SY)	Square Yard	\$ 61.50
HMA Patch	Hot Mix Asphalt Patch Grade S, 3" to 6" Remove and Replace (0-60 SY)	Square Yard	\$ 405.00
HMA Patch	Hot Mix Asphalt Patch Grade S, 3" to 6" Remove and Replace (61-220 SY)	Square Yard	\$ 225.00
HMA Patch	Hot Mix Asphalt Patch Grade S, 3" to 6" Remove and Replace (221-550 SY)	Square Yard	\$ 145.50
HMA Patch	Hot Mix Asphalt Patch Grade S, 3" to 6" Remove and Replace (551-2000 SY)	Square Yard	\$ 106.50
HMA Patch	Hot Mix Asphalt Patch Grade S, 6" to 9" Remove and Replace (0-60 SY)	Square Yard	\$ 547.50
HMA Patch	Hot Mix Asphalt Patch Grade S, 6" to 9" Remove and Replace (61-220 SY)	Square Yard	\$ 315.00
HMA Patch	Hot Mix Asphalt Patch Grade S, 6" to 9" Remove and Replace (221-550 SY)	Square Yard	\$ 315.00
HMA Patch	Hot Mix Asphalt Patch Grade S, 6" to 9" Remove and Replace (551-2000 SY)	Square Yard	\$ 150.00



CONSTRUCTION AGREEMENT

This **CONSTRUCTION AGREEMENT** (this "Agreement") is entered into this ____ day of _____, 2023 by and between the City of Woodland Park, Colorado (hereinafter referred to as the "Owner") and Olgoonik Enterprises, LLC (hereinafter referred to as the "Contractor").

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

ARTICLE 1 WORK

1.01 Contractor shall complete all work as specified or indicated in the Contract Documents (defined below). The work is generally described as follows:

1.01.1 On Call Concrete: This project includes all labor, materials, equipment and incidentals necessary to complete the removal, subgrade/subbase repair, and replacement of existing concrete items and the new construction of various concrete items. These include, but are not limited to, curbside; curb and gutter; 4" thick flatwork; 6" thick flatwork, pavement and crosspans; driveways; curb ramps with truncated domes; grading; asphalt patching and traffic control. This contract also includes arterial concrete pavement repair work. All concrete work shall be built to City of Woodland Park Engineering Specifications. The total amount payable to the contractor shall be based on applicable task orders, with a performance period of the contract ending December 31st, 2023 with the option of two one-year extensions.

1.01.2 On Call Asphalt: This work shall consist of furnishing all labor, materials and equipment to install a HOT ASPHALT PATCH GRADE S (3") (6") (9") (10"). This work shall consist of saw cutting, removing, loading, haul, and disposal of existing asphalt, subgrade and roadbase material, removal of tree roots within the top 6" of the subgrade, preparing and compacting the subgrade and installing hot asphalt patching. The total amount payable to the contractor shall be based on applicable task orders, with a performance period of the contract ending December 31st, 2023 with the option of two one-year extensions.

ARTICLE 2 THE PROJECT

2.01 The project for which the work under the Contract Documents may be the whole or only a part is generally described as follows: The total amount payable to the contractor shall be based on applicable task orders, with a performance period of the contract ending December 31st, 2023 with the option of two one-year extensions. (the "Project").

ARTICLE 3 ENGINEER

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



ARTICLE 4 WORKER WITHOUT AUTHORIZATION EMPLOYMENT

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

ARTICLE 5 CONTRACT TIMES

5.01 Time is of the Essence

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

5.02 Days to Achieve Substantial Completion and Final Payment

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

5.03 Liquidated Damages

- A. Contractor understands and agrees that time is an essential condition of this Agreement. Contractor further understands and agrees that delay in completion of the project will cause Owner to suffer substantial losses and damages which cannot be measured, including without limitation the loss of revenues for services, loss of other revenue incidental to the operation of the facility, additional engineering, legal, accounting and administrative costs, reduced public confidence and adverse public relations which would reduce future revenues, and additional interest and financing costs and charges if the Work is not completed within the times specified above, plus any extensions. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or mediation proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring proof of such losses and damages, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty), Contractor shall pay two hundred fifty dollars (\$250.00) for each day that expires after the time specified above for Substantial Completion until the Work is substantially complete.
- B. After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the contract time or any proper extension thereof granted by Owner, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty) Contractor shall pay two hundred fifty dollars (\$250.00) for each day that expires after the time specified above for final completion and readiness for final payment until the Work is finally complete and ready for final payment.
- C. Owner shall have the right to deduct the liquidated damages from any money in its hands, otherwise due, or to become due, to Contractor, or to sue for and recover compensation for damages for nonperformance of this Contract.
- D. Any liquidated damages payable by Contractor may, at Owner's election be deducted from



any amounts owed to Contractor. In the event no funds are due Contractor at a time when Contractor becomes liable to Owner for liquidated damages, then Contractor agrees to pay all accrued liquidated damages to Owner on the first (1st) day and on the fifteenth (15th) day of each month when Contractor is liable to Owner for liquidated damages. Permitting Contractor to continue and finish the Work or any part thereof after the deadline for completion of the Work shall not act as a waiver of these liquidated damages provisions.

- E. The aggregate liability of Contractor to pay liquidated damages pursuant to this Article shall not exceed an amount equal to fifty percent (50%) of the Contract Price. This Article shall not be construed to limit Contractor's other obligations or liabilities arising under or in connection with this Contract.
- F. In the event that this section conflicts with any other provisions regarding liquidated damages within the Contract Documents, this section shall control.

ARTICLE 6 CONTRACT PRICE

- 6.01 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 this Agreement, in an aggregate amount not to exceed \$_____, based upon the rate schedule set forth in Exhibit A. 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 payment amount is for completion of the Work as full compensation for everything furnished and done by Contractor under this Agreement, including all loss or damage arising out of the work or from the action of the elements; for any unforeseen obstruction or difficulty encountered in the prosecution of the work, including increased prices for or shortages of materials for any reason, including natural disasters; for all risks of every description associated with the work; for all expenses incurred due to the suspension or discontinuation of the work; and for well and faithfully completing the work as provided in this Agreement.

ARTICLE 7 PAYMENT PROCEDURES

7.01 Submittal and Processing of Payments

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

7.02 Progress Payments; Retainage

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

7.03 Final Payment

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



ARTICLE 8 PROJECT WARRANTIES

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

ARTICLE 9 INSURANCE

- 9.01 Insurance Requirements. Contractor shall not commence work under this Agreement until Contractor has obtained all insurance required under this Article and the insurance has been approved by the City Administrator or his designee. The City of Woodland Park shall be named as an additional insured. Certificates of insurance shall be issued prior to execution of the Notice to Proceed. Additionally, Contractor shall not allow any approved subcontractor to commence work on his or her subcontract until all similar insurance required of subcontractor has been so obtained and approved. The following insurance shall be required:
- A. Commercial General Liability Insurance: At a minimum, combined single limits of \$1,000,000 per occurrence and \$1,000,000 for general aggregate for bodily injury and property damage, which coverage shall include products/completed operations, independent contractors, and contractual liability each at \$1,000,000 per occurrence.
 - B. Workers' Compensation and Employer's Liability: Workers' compensation insurance for all of Contractor's employees engaged in work at the site of the project including occupational disease coverage in accordance with scope and limits as required by the State of Colorado.
 - C. Comprehensive Automobile Liability Insurance: Including coverage for all owned, non-owned, and rented vehicles with \$1,000,000 combined single limit for each occurrence.

ARTICLE 10 CONTRACTOR'S REPRESENTATIONS

- 10.01 In order to induce Owner to enter into this Agreement, Contractor makes the following representations:
- A. Contractor has examined and carefully studied the Contract Documents and the other related data identified in the Bidding Documents.
 - B. Contractor has visited the Site and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. Contractor is familiar with and is satisfied as to all federal, state, and local laws and regulations



that may affect cost, progress, and performance of the Work.

- D. Contractor has obtained and carefully studied (or assumes responsibility for having done so) any examinations, investigations, explorations, tests, studies, and data concerning conditions at or contiguous to the Site which may affect cost, progress, or performance of the Work or which relate to any aspect of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, including applying the specific means, methods, techniques, sequences, and procedures of construction, if any, expressly required by the Contract Documents to be employed by Contractor, and safety precautions and programs incident thereto.
- E. Contractor does not consider that any further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract Documents.
- F. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- G. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the Site, reports and drawings identified in the Contract Documents, and all additional examinations, investigations, explorations, tests, studies, and data with the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
- I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
- J. Contractor warrants and guarantees to Owner and Engineer that all Work will be in accordance with the Contract Documents and will not be defective within two (2) years of Substantial Completion.
- K. Contractor is organized, validly existing and in good standing under the laws of the State of Colorado and has all requisite power to own its properties and assets and carry on its business as now conducted or proposed to be conducted.

ARTICLE 11 CONTRACT DOCUMENTS

11.01 Contents

- A. The Contract Documents consist of the following:
 - 1. This Agreement;
 - 2. Bidding Documents;
 - 3. General Conditions;
 - 4. Supplementary Conditions;
 - 5. Technical Specifications;
 - 6. Measurement and Payment Provisions;
 - 7. Construction Plans;
 - 8. Labor & Materials Payment Bond;
 - 9. Performance Bond;



10. _____;
11. _____; and
12. Any written amendments or work change orders which may be delivered or issued on or after the Effective Date of the Agreement and are not attached hereto.

B. There are no Contract Documents other than those listed above in this Article.

C. The Contract Documents may only be amended, modified, or supplemented by written agreement signed by both parties.

ARTICLE 12 PERFORMANCE BOND

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

ARTICLE 13 MISCELLANEOUS

13.01 Indemnification

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

13.02 Assignment of Contract

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

13.03 Successors and Assigns

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

13.04 Severability



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

13.05 Independent Contractor

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

13.06 No Waiver of Governmental Immunity

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

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

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

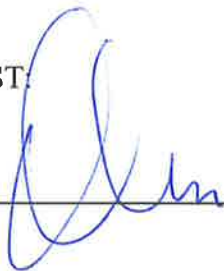
CITY OF WOODLAND PARK

Name: _____
Title: _____

ATTEST:

CONTRACTOR

OLGOONIK ENTERPRISES, LLC
Name: NATALIE OLSEN
Title: ESTIMATOR / P.M.

ATTEST:


WORKER WITHOUT AUTHORIZATION ADDENDUM

This Worker Without Authorization Addendum (hereinafter "Addendum") attached hereto and incorporated herein by this reference, is made to this Agreement by and between the City of Woodland Park (hereinafter "City"), a municipal corporation of the State of Colorado, and OLSON INC (hereinafter "Contractor") dated this ENTER PRICE day of , 2023.

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

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

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

CONTRACTOR

Signature:
Name:
Title:
Date:


NATALIE DEVEN
ESTIMATOR / P.M.

ARTICLE 12 PERFORMANCE BOND

Appendix A

Code	Description	UOM	Quantity	Price (max. 2 decimal places) *	Comment	Total Cost
Concrete	Removal and Replacement of Existing Sidewalk (0-100 SY)	Square Yard	1	180		180
Concrete	Removal and Replacement of Existing Sidewalk (101-250 SY)	Square Yard	1	175		175
Concrete	Removal and Replacement of Existing Sidewalk (251-500 SY)	Square Yard	1	170		170
Concrete	Removal and Replacement of Existing Sidewalk (Over 500 SY)	Square Yard	1	165		165
Concrete	Installation of New Sidewalk (0-100 SY)	Square Yard	1	90		90
Concrete	Installation of New Sidewalk (101-250 SY)	Square Yard	1	85		85
Concrete	Installation of New Sidewalk (251-500 SY)	Square Yard	1	80		80
Concrete	Installation of New Sidewalk (Over 500 SY)	Square Yard	1	75		75
Concrete	Curb and Gutter, Type I or Type II (0-100 LF)	Linear Foot/Feet	1	90		90
Concrete	Curb and Gutter, Type I or Type II (101-250 LF)	Linear Foot/Feet	1	85		85
Concrete	Curb and Gutter, Type I or Type II (251-500 LF)	Linear Foot/Feet	1	80		80
Concrete	Curb and Gutter, Type I or Type II (Over 500 LF)	Linear Foot/Feet	1	75		75
Concrete	Remove and Replace 6' Wide Concrete Crossspan	Linear Foot/Feet	1	180		180
Concrete	Remove and Replace 8' Wide Concrete Crossspan	Linear Foot/Feet	1	240		240
Concrete	Installation of New 8' Wide Concrete Crossspan	Linear Foot/Feet	1	192		192
Concrete	Installation of New 6' Wide Concrete Crossspan	Linear Foot/Feet	1	144		144
Concrete	Installation of New 6' Wide Concrete Crossspan	Square Yard	1	270		270
HMA Patch	Hot Mix Asphalt Patch Grade S, up to 3" Remove and Replace (0-60 SY)	Square Yard	1	139.5		139.5
HMA Patch	Hot Mix Asphalt Patch Grade S, up to 3" Remove and Replace (61-220 SY)	Square Yard	1	87		87
HMA Patch	Hot Mix Asphalt Patch Grade S, up to 3" Remove and Replace (221-550 SY)	Square Yard	1	61.5		61.5
HMA Patch	Hot Mix Asphalt Patch Grade S, up to 3" Remove and Replace (551-2000 SY)	Square Yard	1	405		405
HMA Patch	Hot Mix Asphalt Patch Grade S, 3" to 6" Remove and Replace (0-60 SY)	Square Yard	1	225		225
HMA Patch	Hot Mix Asphalt Patch Grade S, 3" to 6" Remove and Replace (61-220 SY)	Square Yard	1	145.5		145.5
HMA Patch	Hot Mix Asphalt Patch Grade S, 3" to 6" Remove and Replace (221-550 SY)	Square Yard	1	106.5		106.5
HMA Patch	Hot Mix Asphalt Patch Grade S, 6" to 9" Remove and Replace (551-2000 SY)	Square Yard	1	547.5		547.5
HMA Patch	Hot Mix Asphalt Patch Grade S, 6" to 9" Remove and Replace (61-220 SY)	Square Yard	1	315		315
HMA Patch	Hot Mix Asphalt Patch Grade S, 6" to 9" Remove and Replace (221-550 SY)	Square Yard	1	315		315
HMA Patch	Hot Mix Asphalt Patch Grade S, 6" to 9" Remove and Replace (551-2000 SY)	Square Yard	1	150		150

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*--Drawings Engineer of Record, or OWNER duly designated representative.

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.