

**SUPPLEMENT TO GENERAL CONDITIONS OF THE CONTRACT FOR
CONSTRUCTION - LARIMER COUNTY COLORADO**

These supplemental conditions are a material part of the contract documents. This supplement shall be interpreted and applied together with all of the contract documents. In the event of any direct and unresolvable conflict between this Supplement and other contract documents, this supplement shall control.

1.1.2 Article 1.1.2 is changed to read:

The Contract Documents form the Contract as defined in Article 1.1.1 for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind

(1) between the Architect and Contractor, (2) between the Owner and a Subcontractor or Sub-subcontractor or (3) between any persons or entities other than the Owner and Contractor except to the extent that a subcontractor or sub-subcontractor shall be contractually obligated for the warranties described in Article

3.5.1 and shall warrant to the Owner that all materials and equipment furnished under this Contract will be new unless otherwise specified; that all work will be of good quality, free from faults and defects and in conformance with the Contract Documents. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

1.2.4 Section 1.2.4 is added:

In any event, if any error or disagreement in the Drawings and Specifications exist, or appear to exist, the Contractor shall not avail himself of such manifestly unintentional error or omissions, but shall have the same explained or adjusted by the Architect or Owner before proceeding with the Work in question. In the event of the Contractor's failure to give written notice, it shall, at its own expense, make good any damage to or defect in the Work caused by such omission. Where a conflict occurs between or within standards, Specifications and Drawings, the more stringent or higher quality requirements shall apply. The precedence of the Contract Documents shall be in the following sequence:

1. Addenda and modifications to the Drawings and Specifications take precedence over the original construction documents.
2. Should there be a conflict within the Specifications, or the Drawings, or between the Specifications and the Drawings, the Owner shall decide which stipulation will provide the best installation and its decision shall be final.

2.1.1 Article 2.1.1 is deleted, replaced with the following:

The Owner is Larimer County Colorado, identified as such in the Contract and is referred to throughout the Contract Documents as "Owner" or as the "County" as if singular in number and masculine in gender. The terms "Owner" or "County" shall include the Owner's Project Manager who shall have the authority to act for the Owner on the Project.

2.1.2 Article 2.1.2 is deleted and replaced with the following:

Owner represents that the amount of money appropriated for this project is equal to or in excess of the contract amount. No change order shall be executed which increases the amount payable under the Contract without funds being appropriated therefore, or the Contractor has otherwise been given written assurances that lawful appropriations to cover the extra costs have been made.

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2.3.4 Article 2.3.4 is deleted and replaced with the following:

The Owner shall furnish surveys describing the physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. Unless the Contractor has actual knowledge to the contrary, the Contractor shall be entitled to rely on the accuracy of the information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work

2.3.6 Article 2.3.6 is deleted and replaced with the following:

The Owner shall furnish Contractor with the Drawings and Project Manuals in the form of Portable Document Format (PDF) files.

3.3.1 Article 3.3.1 is amended as follows:

Replace first sentence with: The Contractor shall perform, supervise and direct the Work using the industry's best skill and attention normally required for similar projects.

Delete last sentence.

3.4.4 Article 3.4.4 added:

The Contractor shall have available for use when needed all necessary construction machinery and equipment which is safe, in good working condition and adequate for the task and in the numbers needed to maintain a rate of progress sufficient to complete the work within the Contract Time and milestones.

3.5 Article 3.5 is deleted in its entirety and replaced with the following:

CONTRACTOR'S WARRANTIES AND CORRECTION OF WORK

3.5.1 The Contractor warrants that all parts, materials, components, equipment and other items used to perform the Work shall be new (unless otherwise specified) and suitable for the purpose used and will be of good quality, free from faults and defects and all Work will be free from defects and in conformance with the Contract Documents. The Contractor also warrants that its workers will be sufficiently skilled to produce the highest quality of work, which is free from faults and defects. Work not so conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor shall, when requested, furnish the Owner with satisfactory evidence as to the kind and quality of materials and equipment. The Contractor further warrants that the construction processes and methods employed to perform the work shall be suitable for the results required and expected. If the Contractor proposes to use an unproved and untried method, process or product, the Architect must be advised of the proposal in writing for purposes of discussion with the Owner. The Owner may permit experimentation, but may require special guarantees of the Contractor to cover the work produced by any new and untried process, method or product.

3.5.2 The Contractor further warrants that it has full title to all equipment, components and other items conveyed to the Owner under the terms of this Contract, that its transfer of such title to the Owner is rightful and that all such equipment, components and other items shall be transferred free and clear from all security interest, liens or encumbrances whatsoever. The Contractor agrees to warrant and defend such title against all persons claiming the whole or any part thereof at no cost to the Owner.

3.5.3 The Contractor shall promptly repair, replace or otherwise correct any of its workmanship and any parts, materials, components, equipment or other items in the work which contain faults or defects, whether such failures are observed by the Owner, Architect or Contractor before or after Final Completion. The Contractor

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shall bear all costs of correcting such work covered by the warranties.

- 3.5.4** The Contractor shall further warrant, and the Subcontractors and Sub-subcontractors shall and hereby warrant that all Work executed under this contract shall be free from defects of materials and workmanship for a period of two (2) years from the date of Substantial Completion, except items of Work completed after date of Substantial Completion shall run from the date of final payment to the Contractor for their guarantee period. This warranty is a remedy available to the Owner in addition to claims the Owner may have arising out of Work or materials found to be noncomplying, out of specification or otherwise in breach of this Contract no matter when discovered. The above parties further agree they will, at their own expense, repair and replace all such defective work and all other work damaged thereby which become defective during the term of the Guarantee Warranty. Whenever guarantees or warranties are required by the Specifications for a longer period than the two (2) year, such period shall govern. Owner shall have the full benefit of longer warranties provided by particular Subcontractors or other suppliers.

Upon discovery of any warranty defect or defects under Article 3.5.4, the Owner shall give written notice thereof to the Contractor. If, within ten (10) days after the mailing of such written notice by the Owner to the Contractor or its agent, requesting such repairs or replacement, the Contractor shall neglect to make, or undertake with due diligence to make the same, the Owner may make such repairs at the Contractor's expense; provided, however, that in the case of emergency and within the judgment of the Owner, delay would cause certain loss or damage, repairs or replacement may be made without notice being given to the Contractor, and the Contractor shall pay the cost thereof.

The checking or cracking of walls, floors or ceilings, except cracks from concrete shrinking which are within industry standard tolerances, and the chipping or flaking of paint shall, during the first year after acceptance of the building, be deemed to be a defect covered by this guarantee without proof of use of inferior materials, equipment or workmanship. Such defects shall not, in and if themselves, cause a duty to investigate for structural defects.

- 3.5.5** Nothing herein shall be construed to establish a period of limitation with respect to any other obligation, which the Contractor might have under the Contract Documents. The establishment of the warranty periods set forth in Article 3.5.4 relates only to the specific obligations of the Contractor to correct known defects in the work, and has no relationship to the time within which its obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to its obligations and resulting damages other than specifically to correct known defects in the work which are discovered and called to the Contractor's attention during the warranty period.
- 3.5.6** The Contractor at its own expense shall also repair or replace any damages to any equipment, facilities or other personal or real property owned or leased by the Owner which is damaged as a result of any such fault or defect, at no cost to the Owner.
- 3.5.7** All subcontractors', manufacturers' and suppliers' warranties and guarantees, expressed or implied, for any part of the work and any materials used therein, shall be obtained and enforced by the Contractor for the benefit of the Owner whether or not these warranties have been assigned or otherwise transferred to the Owner. The Contractor shall assign or transfer such warranties and guarantees to the Owner if the Owner requests the Contractor to do so, but such transfer shall not affect the Contractor's obligation to enforce such warranties and guarantees.
- 3.5.8** Remedies for breach of warranty are cumulative and in addition to any other remedy Owner may have for defective Work or Work not in compliance with the contract documents.

- 3.6 Article 3.6 is deleted in its entirety and replaced with the following:**

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All Contractors and Subcontractors performing work on the Project shall apply to the State of Colorado Department of Revenue for a Tax Exemption Certificate. All Contractors are to have their own tax exemption number to cover the purchase of materials provided to this job. Contractors and Subcontractors shall apply for the Tax Exemption Certificate using Form DR172 (Rev. 6/79). This form may be obtained from the State of Colorado Department of Revenue. Contractors and Subcontractors shall submit their Tax Exemption Certificate numbers to the Owner prior to beginning any work. The Contract shall be exclusive of state, county and municipal sales and use taxes as allowed by Colorado Revised Statutes.

3.7.1 Article 3.7.1 is deleted in its entirety and replaced with the following:

The Architect will apply to the Colorado Department of Labor, Safety Division, for the plan review and Building Permit, and distribute the permit to the Owner and General Contractor. The Contractor shall pay for the Plan Review, Building Permit and inspection fees associated with the Larimer County Building Department. The Owner will retain the professional services and pay for Special Inspections as required by I.B.C. Section 1704. The Contractor will be liable to the Owner for costs of re-inspections for any non-conforming work.

The Contractors shall pay for all other required inspections, permits, licenses, and fees. The Contractors shall call for all inspections required by applicable authorities.

Assessments against the property are the obligation of the Owner and will be paid by the Owner as necessary to assure issuance of permits specified above. This includes sewer and water charges for capital improvements and line extensions, including plant investment fees and connections charges based on the cost of mains serving the site.

The following fees shall be paid by the Owner if applicable to the work:

1. Water plant investment fee and water tap fee.
2. Sewer plant investment fee, sewer reimbursement charge, and sewer tap fee.
3. Bringing permanent electrical service to the transformer including transformer pad.
4. Street oversizing fee.
5. Storm drainage fee.
6. Gas tap fees.

3.7.3 Article 3.7.3 is deleted in its entirety and replaced with the following:

If the Contractor performs any Work knowing it to be contrary to any laws, ordinances, rules and regulations, regardless of whether such work is in accordance with Contract Documents and without notice to Owner and Architect that the Contract Documents are at variance with applicable laws, ordinances, rules or regulations, then the Contractor shall assume full responsibility therefor and shall bear all costs attributable thereto. Codes and ordinances shall take full and complete precedence over anything contained in the Contract Documents, except where the Contract Documents require work or materials of higher standards than those required by codes and ordinances, in which case the Contract Documents shall govern.

3.9.1 Article 3.9.1 is deleted and replaced with the following:

The Contractor shall employ as superintendent and project manager the persons identified in the Contractor's bid. The superintendent shall be in attendance at the Project site during performance of the work. The superintendent and project manager shall represent the Contractor, and communications given to the superintendent and/or project manager shall be as binding as if given to the Contractor. Important communications shall be confirmed in writing. Other communications shall be similarly confirmed on written request in each case.

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3.10 Article 3.10 is deleted and replaced with the following:

- 3.10.1** The Contractor, immediately after being awarded the Contract, shall prepare and submit for the Owner's and Architect's review and approval a progress schedule for the work. The progress schedules shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the work. The progress schedules shall be updated bi-weekly throughout the duration of the Project and such updates shall be submitted to the Owner for review and approval.
- 3.10.2** The Contractor shall schedule and coordinate the work of all of its subcontractors and suppliers, including their use of the work site. The Contractor shall keep the subcontractors and suppliers informed of the Project construction schedule to enable the subcontractors and suppliers to plan and perform their work properly.
- 3.10.3** The Contractor shall, in accordance with the requirements of the Technical Specifications, submit a construction schedule, which shall provide for the expeditious and practicable execution of the work.
- 3.10.4** The construction schedule for the performance of the work shall be a critical path method system with reasonable detail, including a time scaled network and computer printout, all as more fully detailed in the Technical Specifications.
- 3.10.5** Float or slack is defined as the amount of time between the early start date and the late start date, or the early finish date and the late finish date, of any activities in the schedule. Float or slack is for the exclusive use or benefit of the Contractor to meet its obligations to complete the Work within the Contract Time. Any schedule delay claim must be a reasonably justifiable impact to the Contractors ability to meet its obligations to complete the Work within the Contract Time.
- 3.10.6** The Contractor shall submit a weekly progress report and schedule update in accordance with the scheduling provision of the Technical Specifications.
- 3.10.7** The Contractor shall complete the work within the Contract Time and in accord with the most recent schedule, which has been approved in writing by the Owner and Architect.
- 3.10.8** The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically designated.

3.15.1 Article 3.15.1 is deleted and replaced with the following:

The Contractor shall at all times keep the work and premises clean and free from accumulations of waste materials or rubbish, caused by his employees or work, to the satisfaction of the Architect. The Contractor shall designate trash and debris areas where all building debris shall be put daily (these areas to be cleaned weekly). The Work shall be reasonably cleaned daily. At the completion of the work, the Contractor shall remove all his rubbish from and about the building and all his tools, scaffolding, and surplus materials. The Contractor shall do the following special cleaning for all trades at completion of work: clean all glass, woodwork, painted and decorated work, hardware, tile work, fixtures, floors, windows, metal surfaces (leave the work perfectly clean).

4.2.15 Article 4.2.15 is added:

In carrying out his duties of administering the Contract, the Architect will consult with subcontracted engineers and other professionals as necessary. The Architect will advise the Owner if, in the Architect's judgment, additional professionals should be retained.

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4.2.16 Article 4.2.16 is added:

Nothing in this Contract shall be interpreted as superseding the Architect's duties and responsibilities as stated in the Contract between the Owner and Architect, except to the extent that this Contract imposes additional duties on the Architect.

4.3 LEGAL ACTIONS

4.3.1 As a condition precedent to and as an additional consideration for the award of any Contract or Subcontract pursuant to these Contract Documents, the Contractor, all Subcontractors and Sub-subcontractors, suppliers and other parties to the performance of the work required by these Contract Documents do agree that in event any party institutes a suit against any other party because of any alleged failure to perform properly hereunder, or any alleged error, omission, breach of warranty, negligence or malpractice hereunder; and if such suit is not successfully prosecuted to a judgment in favor of the party plaintiff, or if it is dismissed, or if judgment is rendered for any defendant or defendants, the party instituting the suit hereby agrees to pay in full all actual costs of defense, including but not limited to, attorney fees, expert witness fees, costs of investigations in preparation for trial, and professional time expended by principals and employees of the prevailing party, and that the same shall be taxed as costs in said action and judgment entered thereon. This section does not apply to suits by or against the owner.

4.3.2 Unless otherwise agreed in writing, the Contractor shall carry on the Work and maintain its progress during any litigation. The Owner shall continue to make payments to the Contractor in accordance with the Contract Documents, unless the Owner, in good faith, believes the monies are not owing or are subject to set off or adjustments.

4.3.3 In the event of material breach by the Contractor of any provisions of the Contract Documents, the Owner may, in addition to all other legal and equitable remedies available to it, recover from the Contractor all costs and reasonable attorney fees which the Owner may incur as a result of such breach or in the enforcement of the Contract Documents.

4.3.4 In like manner, in the event the Contractor sues the Owner for nonpayment, the Contractor may, in addition to all other legal and equitable remedies available to it, recover from the Owner all costs and reasonable attorney fees which the Contractor may incur as a result of such nonpayment. This clause shall not apply to Owner's nonpayment resulting from a reasonable belief of Contractor breach.

4.3.5 All actions shall be tried in the courts in Larimer County, Colorado.

4.3.6 Nothing shall prohibit the parties from mutually agreeing to arbitration.

7.3.11 Article 7.3.11 is added:

All adjustments to the Contract Amount shall be determined by using one or more of the following methods:

1. A negotiated lump sum. If requested by the Owner, the Contractor shall promptly provide itemized and sufficient substantiating data, including calculations, measurements, cost records, production rates, equipment types and capacity, labor costs by craft and other information which the Owner may reasonably require the Contractor to produce in order to permit the Owner to evaluate the Contractor's lump sum change order proposals. The Subcontractor is allowed a maximum of 10% markup for overhead and profit on the net cost of their work. The Contractor is allowed a **TBD**% markup for corporate overhead and profit on the net cost of the change order.
2. Unit prices stated in the Contract Documents or subsequently agreed upon multiplied by final

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verified quantities of work performed.

7.3.12 Article 7.3.12 is added:

7.3.12 CONTRACT SUM DETERMINATION

Contractor shall not request any increase in payment for any claim of a subcontractor which the Contractor believes is overstated or to which the Contractor believes there is a legitimate defense. In no event shall the charge or credit to the Owner associated with any change exceed the sum of the following:

7.3.12.1 Direct Labor: At the rates included in the RFP which increase or decrease in the cost of the Contractor's labor for all work associated with the work. Contractor's labor shall be limited to labor (including salaried field personnel) that performs the individual change in the work full-time.

7.3.12.2 Labor Burden: Contractor's costs for worker's compensation and liability insurance, payroll taxes, social security and employees' fringe benefits (including employer paid health insurance) imposed on the basis of payrolls. This burden must reflect the variability of some burdens, i.e., social security. The burden shall include all small tools, which cost less than \$200 a piece. The cost of Labor Burden is included in the Direct Labor rates listed in 7.3.12.1.

7.3.12.3 Direct Material, Supplies, and Installed Equipment: Actual net direct cost of materials, supplies and equipment incorporated in or consumed by the work. If actual costs are not available, the cost shall be the lowest commercially available price, including all discounts and rebates and all applicable taxes. Cost shall be based on buying the material, supplies and equipment in the largest practical quantity to receive quantity discounts.

7.3.12.4 Equipment: Actual net cost to the Contractor of owned and/or rented equipment other than small tools, to be determined using the following methods:

1. Owned equipment rental costs shall be in accordance with the rates included in the GMP Proposal. and shall be in accordance with the requirements of A102-2007 Article 5.1.4.
2. Rental equipment costs shall be determined using actual invoiced rates less all discounts for bare equipment rental.
3. Mobilization/demobilization costs will be paid if the equipment is mobilized exclusively for work described in a Change Order. If the equipment is used on base Contract work, no mobilization or demobilization cost will be paid. Mobilization/demobilization cost will be based on using the least expensive means to mobilize or demobilize. Equipment shall be obtained from the nearest available source. When the least expensive methods are used, then costs shown in the actual invoice will be the basis for pricing.

7.3.12.5 Costs of premiums for all bonds and insurance, permit fees, and other costs related to the Work; and additional costs of supervision and field office personnel directly attributable to the change; and General Contractor's general conditions, overhead and profit.

9.2 Article 9.2 is deleted and replaced with the following:

Before the first Application for Payment, the Contractor shall submit to the Architect and the Owner a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Architect and Owner may require. This schedule must be realistic, and unless objected to by the Architect or the Owner shall be used as a basis for reviewing the Contractor's applications for payment. No payments will be made under this Contract until the Owner and Architect agree

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to the schedule of values.

9.6.9 Article 9.6.9 is added as follows:

From each progress payment, Owner shall withhold five percent of the amount of the payment until the Work has been completed. Nothing shall prevent the Owner from withholding all or a portion of any progress payment for defective or non-complying work or if additionally satisfactory progress is not made toward completing the Work.

9.8.6 Article 9.8.6 is added as follows:

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

Article 9.10 is deleted in its entirety and replaced with the following:

9.10 FINAL COMPLETION AND FINAL PAYMENT

9.10.1 "Final Completion" of the work occurs following Substantial Completion and when the Architect and Owner confirms, in writing, that the Contractor has completed the work in accordance with the Contract, including completion of all punch lists and cleanup work. Upon receipt of written notice that the work is ready for final review and acceptance, and upon receipt of a final Application for Payment, the Owner and the Architect will promptly review the completed work and, if they find the work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of his knowledge, information and belief, and on the basis of his observations, the work has been completed in accordance with the terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor, and noted in said final Certificate of Payment, is due and payable. The Architect's final certificate for Payment will constitute a further representation that the conditions precedent to the Contractor's being entitled to final payment as set forth in Paragraph 9.10.5 have been fulfilled.

9.10.2 The work shall be advertised in accordance with C.R.S. § 38-26-107, by two (2) publications of notice, the last publication appearing at least ten (10) days prior to the time of final settlement. On the date of final settlement thus advertised, and after the Contractor has completed the foregoing requirements, and the Owner is satisfied that no claims have been filed, final payment and settlement shall be made.

9.10.3 If any unpaid claim for labor, materials, rental, machinery, tools, supplies or equipment is filed prior to the date set for final settlement, the Owner shall withhold from the Contractor sufficient funds to ensure the payment of such claim, until the same shall have been paid or withdrawn, such payment or withdrawal to be evidenced by filing a receipt in full or an order for withdrawal signed by the claimant or its duly authorized agent or assignee, or until payment is otherwise allowed by the Colorado Revised Statutes. If it is further understood by the Contractor that the Owner will withhold from payment any funds it may be required by law to withhold or that it may, in the determination of the Owner, be entitled to withhold for any reason including incomplete, unperformed or noncompliant work, and final payment will not be made until, in the sole determination of the Owner, all conditions of law have been met.

9.10.4 In the event there are, at the time set for final settlement, outstanding claims against the Contractor or its subcontractors, or for any other reason the Contractor is not able to give a proper affidavit that liens or other obligations have been properly paid and settled, the Owner may, at its sole discretion, waive the requirement of the said affidavit, provided the surety on the Performance and Payment Bonds will agree to the Owner making final settlement without in any way lessening or modifying the surety's liability under such Performance and Payment Bonds.

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- 9.10.5** Neither the final payment nor the remaining retained percentage shall become due until the Contractor submits to the Owner and the Architect (1) an affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the work for which the Owner or his property might in any way be responsible, have been paid or otherwise satisfied, (2) Consent of Surety to final payment, and (3) if required by the Owner, other data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of liens or verified claims arising out of the Contract, to the extent and in such form as may be designated by the Owner. If any such lien or claim remains unsatisfied after all payments to Contractor are made, the Contractor shall refund to the Owner all monies that the Owner may be compelled to pay in discharging such lien or claim, including all costs and reasonable attorney fees.
- 9.10.6** If, after Substantial Completion of the work, final completion thereof is materially delayed through no fault of the Contractor or by the issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner may, upon application by the Contractor and certification by the Architect, subject to applicable statutory provisions and such other terms as it deems reasonable and necessary, and without terminating the Contract, make payment of the balance due for that portion of the work fully completed and accepted. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims under Paragraph 9.10.7.
- 9.10.7** The making of final payment shall constitute a waiver of all claims by the Owner except those arising from:
1. Unsettled liens or verified claims;
 2. Faulty or defective work;
 3. Failure of the work to comply with the requirements of the Contract Documents, including the terms of any general or special warranties required by, or included in, the Contract Documents; or
 4. Incomplete work appearing or discovered after Substantial Completion.
- 9.10.8** The acceptance of final payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and identified by the contractor as unsettled at the time of the final Application for Payment.
- 10.2.9 Article 10.2.9 is added as follows:**
The Contractor shall take over and assume all responsibility for the areas of work that are covered under the Contract Documents. The Contractor shall provide and maintain all protection as required by the governing laws, rules, regulations, and ordinances. The Contractor shall be responsible for any loss or damage caused by him or his workmen to the property of the Owner and shall make good any loss, damage, or injury without cost to the Owner.
- 10.2.10 Article 10.2.10 is added as follows:**
The Contractor shall be solely responsible for the safety of his work, materials, equipment, tools, etc., on the site and shall, if he deems it necessary or expedient, employ at his own expense the services of a competent watchman. The Owner disclaims all responsibilities for the safety of the work, materials, equipment, tools, etc., or for any damage which may be done to same due to theft or any other cause until such time as the Owner formally accepts the completed work.
- 10.2.11 Article 10.2.11 is added as follows:**
The Contractor shall take special precautions against fire and shall comply fully with the requirements of city, county, and insurance authorities including stipulation as outlined below:
1. Combustible refuse shall be removed from the site and disposed of daily in a manner approved by the governing authorities.
 2. Private and public streets, sidewalks, roads, etc., shall be protected and maintained during the course of work, and any damage to same shall be repaired by the Contractor.

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10.3.3 Article 10.3.3 is deleted in its entirety.

10.3.4 Article 10.3.4 is deleted and replaced with the following:

The Owner shall not be responsible for materials and substances brought to the site by the Contractor.

10.5 Article 10.5 is added as follows:

If, without negligence or other fault by the Contractor, the Contractor is held liable for the cost of remediation of a hazardous material substance solely be reason of performing the Work as required by the Contract Documents, the Contractor may submit a change order request for such additional under Article 7.

Article 11 is deleted in its entirety and replaced with the following:

ARTICLE 11

INSURANCE AND BONDS

Prior to the commencement of any work, Contractor shall forward Certificates of Insurance to Owner. The insurance required shall be procured and maintained for the duration of the Contract and shall be written for not less than the following amounts, or greater if required by law, with insurance companies acceptable to the County. Contractor shall not permit Subcontractors to commence work until insurance has been obtained and accepted.

ANY DEVIATIONS FROM THE STANDARDS GIVEN BELOW MUST BE APPROVED BY THE OWNER

WORKERS' COMPENSATION

1. State of Colorado - statutory.
2. Applicable Federal - statutory.
3. Employer's Liability:
 - (a) \$100,000 each accident;
 - (b) \$500,000 disease - policy limit;
 - (c) \$100,000 disease - each employee.
4. Waiver of Subrogation.

The Contractor shall also require each subcontractor to furnish to him Workers' Compensation insurance, including occupational disease provisions for all of the subcontractor's employees; otherwise the Contractor accepts full liability and responsibility for the subcontractor's employees.

COMMERCIAL GENERAL LIABILITY

Commercial General Liability shall include all major divisions of coverage and be on a comprehensive basis on an Occurrence Form including Premises/Operations; Owners and Independent Contractor's Protective; and Product and Completed Operations. The policy must not exclude or reduce any coverage for mobile equipment; Broad Form Property Damage including completed operations; personal injury; blanket

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contractual; collapse, and underground(C,U) coverages. Personal injury must have the employee exclusion deleted.

1. Bodily Injury: \$2,000,000 per occurrence/ \$5,000,000 aggregate.
2. Property Damage: \$2,000,000 per occurrence/ \$5,000,000 aggregate.
3. Products and Completed Operations must be maintained for three years after final payment. Contractor shall continue to provide evidence of such coverage to Owner
4. An endorsement must be provided stating that such insurance is primary insurance and no other insurance of the Owner will be called on to contribute to a loss.

CONTRACTUAL LIABILITY

1. Bodily Injury: \$2,000,000 per occurrence.
2. Property Damage, including each occurrence: \$2,000,000 per occurrence.

PERSONAL INJURY: Personal injury, with employment exclusion deleted: \$2,000,000 per occurrence.

COMPREHENSIVE AUTOMOBILE LIABILITY

Comprehensive Automobile Liability (owned, non-owned, hired). Statutory Colorado Personal Injury Protection and Statutory Colorado Uninsured/Underinsured Motorist Liability Coverages: Bodily injury and property damage: \$2,000,000 combined single limit.

The Contractor shall be certain coverage is provided which conforms to any specific stipulation in the law.

The required limits of liability can be met through any combination of primary and excess coverage.

UMBRELLA: \$10,000,000 each occurrence.

PROPERTY COVERAGES

1. Contractor shall provide builder's risk insurance on an "All Risk" basis, including flood and earthquake. The limit of coverage will be the amount necessary to cover the bid value of any structures in the Contract and any resultant damage to existing structures where work is being completed. Losses paid under the property insurance policy or policies shall be paid directly to County by the Insurers.
2. The Contractor shall be responsible for the deductible on each and every property loss (builder's risk/installation floater).
3. The Owner shall be named as an additional insured.
4. Boiler and Machinery-The Contractor shall purchase and maintain boiler and machinery insurance, which shall specifically cover such, insured objects during installation and until final acceptance by the County.

All insurance policies (except Workers' Compensation) **shall include Larimer County** and its elected officials and employees as additional insureds as their interests may appear.

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The County reserves the right to reject any insurer it deems not financially acceptable by insurance industry standards. Property and Liability Insurance Companies shall be licensed to do business in Colorado and shall have an AM Best rating of not less than B+ and/or VII.

Certificates of Insurance on all policies shall give the County written notice of not less than thirty (30) days prior to cancellation or change in coverage.

Contractor shall include all Subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each Subcontractor.

Contractor and all subcontractors shall be responsible for all equipment whether owned, leased or borrowed.

In addition to the above, the Contractor, if requested, shall provide the following information prior to Contract:

1. Written Safety Program.
2. Workers' Compensation experience modifiers for the last three years.
3. List of any OSHA citations in the imminent danger, serious, repeat or willful violation categories.

Performance and payment bond

The Contractor shall furnish bonds covering the faithful performance of the Contract and payment of obligations arising hereunder as stipulated in the bidding requirements.

Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall permit a copy to be made.

13.1 Is amended as follows:

The contract shall be governed by Colorado law.

13.3.3 Is added as follows:

All remedies for breach of Contract Documents and breach of warranty are cumulative and not exclusive of each other, providing that double recovery shall not be allowed.

13.4.1 Article 13.4.1 is amended as follows:

Contractor is not responsible under 13.5.1 for the costs of special testing and inspections. Owner shall be responsible for such costs, subject to the provisions of 3.7.1 herein.

Articles 13.6, 13.7, 13.8, 13.9, 13.10, 13.11, 13.12, 13.13, 13.14, 13.15, 13.16, 13.17, 13.18, 13.19, are added:

13.6 Nothing in this contract shall be deemed a waiver of the provisions of the Colorado Governmental Immunity Act.

13.7 In the event the surety on the Contractor's bond becomes irresponsible or insolvent or ceases to be

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qualified to do business within the State of Colorado, then the Contractor shall promptly submit a new performance and payment bond by competent and qualified corporate surety in the same amount and form as that theretofore given.

13.8 Inspection by the Owner or any other person acting in the Owner's behalf; any order by the Owner for the payment of monies; any payment for or acceptance of any work, any extension of time, or any possession taken by Owner, shall not operate as a waiver of any provision of the Contract or any power therein reserved to the Owner or any right to damages herein provided. No waiver of any breach of the Contract shall be held to constitute a waiver of any other or subsequent breach thereof.

13.9 Contractor shall indemnify and hold Owner harmless from any claim, whether covered by insurance or not, resulting from any activity of the Contractor in performing the Work, unless a contrary agreement is specifically stated herein.

13.10 Owner, Construction Manager and Architect, at all reasonable times shall have access to Contractor's project records, including, bid estimates, payment records, payroll records, job meeting minutes, daily reports, logs and diaries.

13.11 All Contract Documents shall include a "stop work" clause, either expressly or by incorporation, that provides for the stoppage of work if evidence of cultural resources is found during construction. If cultural resources are encountered, further disturbance will be avoided. Protection of the resources discovered would occur were possible. If avoidance is not possible, the United States Bureau of Reclamation may enter into consultation with the Colorado State Historic Preservation Officer (SHPO) regarding eligibility of the subject sites for inclusion in the National Register of Historic Places (NRHP).

13.12 Any provision that permits Contractor to stop work for a claimed non-payment by Owner shall be null and void with the exception of the Contractor's rights under Article 14.1.

13.13 The Contractor shall not knowingly employ or contract with an illegal alien to perform work under the Contract; or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor will not knowingly employ or contract with an illegal alien to perform work under the Contract.

13.14 Contractor shall confirm the employment eligibility of all employees who are newly hired for employment to perform work under the Contract through participation in either the E-verify Program or Department Program established by Colo. Rev. Stat. §8-17.5-101 et. Seq.

Contractor shall not use the E-verify Program or Department Program procedures to undertake pre-employment screening of job applicants while the Contract is being performed.

If Contractor obtains actual knowledge that a subcontractor performing work under the Contract knowingly employs or contracts with an illegal alien, Contractor is required to:

- a) Notify the subcontractor and Owner within three days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
- b) Terminate the contract with the subcontractor if within three days of receiving the notice required pursuant to paragraph (a) above the subcontractor does not stop employing or contracting with the illegal alien; except that Contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

Contractor shall comply with any reasonable request by the Department of Labor and Employment made in the course of an investigation that the department is undertaking pursuant to its authority established in Colo. Rev. Stat. 8-17.5-102(5).

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13.14 Liquidated Damages. Because time is of the essence in the completion of the Project, Contractor agrees to pay for each day of delay in failing to achieve the Date of Substantial Completion, subject to adjustments of this Contract Time as provided in the Contract Documents Two Thousand Dollars (\$2,000) per day (may be revised) as liquidated damages and not as a penalty, and Owner shall be entitled to deduct such liquidated damages from payments due to Contractor. Given that damages resulting from delayed completion are not susceptible to precise calculation, such liquidated damages are agreed to be a reasonable attempt to estimate and liquidate same. The liquidated damages provided for in this Subparagraph 4.4 shall be in lieu of Owner's right to claim costs, losses, expenses, penalties, loss of use, income, profit, financing, business and reputation and any other damages of whatsoever nature, including consequential damages, incurred by Owner resulting from the time delay in achieving Substantial Completion within the time periods set forth above. This provision shall not apply to any other non-performance, and neither Contingency nor Cost Savings can be used to pay Liquidated Damages.

13.15 Contingency. The estimated cost of the Work shall include Contractor's contingency, a sum established by the Contractor for the Contractor's exclusive use to cover costs which are properly reimbursable as Cost of the Work, but not the basis for a Change Order. This includes but is not limited to costs attributable to errors and omissions by the Contractor; costs to correct defective, nonconforming or damaged work; costs related to items necessary only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results; overtime and acceleration costs to meet contract schedule; and costs, including legal fees, for contractual disputes. Contractor shall provide a reconciliation to Owner, as required, to document the utilization of the contingency. The Contractor's contingency shall not be utilized for Owner scope changes, unknown conditions, Architect errors and omissions or other costs which are the basis for a Change Order. Contractor's first obligation shall be to recover the cost of corrective work from the responsible subcontractor or party prior to using Contingency. The use of Contingency shall be reviewed and approved by the Owner prior to any use. Approval by the Owner shall not be unreasonably withheld.

13.16 Cost of the Work. Owner and Contractor hereby agree that the wage, equipment, bond, liability insurance and subcontractor default insurance rates included in the GMP Proposal attached as Exhibit A represent actual cost and are not subject to further audit or adjustment by either party.

13.17 Subcontract Costs. The Contractor shall provide a bid on any portion of the Work that the Contractor intends to perform. The Contractor's team performing such work may include its employees, material providers, and sub-subcontractors. If the Contractor is chosen to perform the work, then such work shall be performed for the Contractor's bid amount on the basis of a Stipulated Lump Sum, and shall not be subject to the cost reimbursement limitations of the Agreement.

13.18 Accounting Records. If the Owner desires to retain an accountant and/or auditor that is not an employee of Owner (the "Third Party Accountant") to review the accounting records, then Owner shall retain a certified public accounting firm licensed to practice in Colorado.

13.19 Delays and Extensions of Time. Sections § 8.3.1 § 15.1.5.2 of the General Conditions are hereby deleted and replaced with the following new paragraph § 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or Architect, or of an employee of either, or of a separate contractor employed by the Owner; or by changes ordered in the Work, including multiple changes issued in a short period of time whose cumulative impact causes delay; or by adverse weather conditions (an adverse weather condition is any day when the Contractor is not able to perform 4 or more hours of work on a critical path item in the construction schedule) only to the extent they are greater than the number of adverse weather days on a cumulative basis as provided for in the construction schedule; or by labor disputes, fire, unusual delay in deliveries, delays caused by City Inspectors, unavoidable casualties or other causes beyond the Contractor's control; or by delay authorized by the Owner pending mediation and arbitration; or by other causes that the Architect determines may justify delay, then the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine.

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15.1.1 Article 15.1.1 is amended as follows:

The Statute of Limitation period shall commence upon such time as the cause of action accrues under Colorado law or upon the date of Final Completion, which ever is later. In the event of termination of the Contract prior to Final Completion, the Commencement date shall be as of the time the cause of action accrues under Colorado Law or the date of termination of the Contract, whichever is later.

15.1.2 Article 15.1.2 is deleted and replaced with the following:

Contractor shall submit a written request for a claim, which shall be clearly titled as such. All Notices shall be numbered sequentially. The Notice shall contain the following:

1. Date of the event giving rise to the claim.
2. A description of the claim.
3. The reasons why the Contractor believes additional compensation or time is due or charges were wrongly assessed.
4. An estimate of any additional costs associated with the claim.
5. Contractor's plan for mitigating costs or delays associated with the claim.
6. Such other information as the Architect or Owner may deem necessary to resolve the claim.
7. The Contractor's certification that:
 - (a) The claim is made in good faith;
 - (b) All supporting data are accurate and complete to the best of the Contractor's knowledge and belief;
 - (c) The amount requested is not overstated or inflated and fairly and accurately reflects that Contract adjustment for which the Contractor believes the Owner is liable; and
 - (d) The prices stated for material and equipment are the lowest reasonably available to the Contractor and include all available discounts.

Claims by either the Owner or Contractor must be initiated by written notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party must be initiated within 10 days after occurrence of the event giving rise to such Claim or within 10 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.