



**August 15, 2016  
ADDENDUM NO. 1:**

**Contract Documents - 49th Street Resurfacing dated August 9, 2016**

**To All Plan-holders:**

This addendum shall become part of the Contract Documents as if originally included. The bidder shall acknowledge receipt of the addendum on the Bid Form.

**AD1**

**Add attached Article 2 to follow Article 1 of the Contract Documents.**

Gary Wilson  
Project Manager  
City of Evans, CO

**ARTICLE 2.0**

**GENERAL CONDITIONS**

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## **2.1 DEFINITIONS**

(a) The Contract Documents shall consist of the Advertisement for Bids, Information for Bidders, Non-Collusion Statement, Bid Proposal, Bid Bond, Notice of Award, Agreement, Performance Bond, Payment Bond, Insurance Requirements, Notice to Proceed, Change Order, Notice of Contractor's Settlement, Final Receipt and Guarantee, and Special and General Conditions, Project Specifications and Bid Plans including all modifications thereof incorporated in any of the documents before and after the execution of the Contract.

(b) The CITY and the CONTRACTOR are those named as such in the Agreement. They are treated through the Contract Document as if each were of singular number and masculine gender.

(c) Wherever in this Contract the word "ENGINEER" is used, it shall be understood as referring to the City Engineer, acting personally or through any assistants or assigns.

(d) Any written notice served pursuant to the terms of the Agreement shall be deemed to have been duly served as if delivered in person or by registered mail to the individual, or to a partner, or to an officer of the corporation for whom it is intended, or any authorized representative thereof.

(e) The term "subcontractor" shall mean anyone, other than the contractor, who furnished at the site, under an agreement with the CONTRACTOR, labor, or labor and materials, or labor and equipment, but shall not include any person who furnished services of a personal nature.

(f) Work shall mean the furnishing of all labor, materials, equipment, and other incidentals necessary to the successful completion of the Contract and the carrying out of all duties and obligations imposed by the Contract.

(g) Extra work shall mean such additional labor, materials, equipment, and other incidentals as are required to complete the Contract for the purpose for which it was intended, but was shown on the Drawings or called for in the Specifications, or is authorized by the CITY in addition to that work called for in the Project Specifications.

(h) Dispute shall mean lack of agreement between any parties that have any obligations, duties, or responsibilities under the terms of the Project Specifications.

(i) Mobilization shall consist of preparatory work and operations, including, but not limited to, those necessary for the movement of personnel, equipment, supplies and incidentals to the project site; for the establishment of all offices, buildings and other facilities necessary for work on the project; and for all other work land operations which must be performed in order to begin work on the various items on the project site.

### **2.1.1 ABBREVIATIONS**

Wherever the following abbreviations are used in these general conditions, supplemental conditions, and project specifications, they are to be construed the same as the respective expressions represented.

AASHTO	American Association of State Highway and Transportation Officials
AAN	American Association of Nurserymen
AB	Aggregate Base
Aban	Abandon
ABC	Aggregate base course
AC	Asphalt cement or concrete
ACB	Asphalt concrete base
ACI	American Concrete Institute
ACP	Asbestos cement pipe
ACPA	American Concrete Pipe Association
ACWS	Asphalt concrete wearing surface
AGC	Associated General Contractors of America, Inc.
Agg	Aggregate
Ahd	Ahead
AIA	American Institute of Architects
AIEE	American Institute of Electrical Engineers
AISC	American Institute of Steel Construction
ANSI	American National Standards Institute
APA	American Plywood Association
Approx	Approximate
APWA	American Public Works Association
AR	Aged residue
ASCE	American Society of Civil Engineers
ASME	American Society of Mechanical Engineers
Asph	Asphalt
ASTM	American Society for Testing Materials
Ave	Avenue
AWPA	American Wood Preservers Association
AWSC	American Welding Society Code
AWWA	American Water Works Association
Bbl	Barrel
BC	Beginning of curve
BCR	Beginning of curb return
Beg	Beginning
Bk	Book or Back
Blvd	Boulevard
BM	Bench Mark or Board Measure
Brg	Bearing
BST	Bituminous Surface Treatment
BTB	Bituminous Treated Base
BTU	British Thermal Units

BVC	Beginning of vertical curve
BVCE	Beginning of vertical curve elevation
BVCS	Beginning of vertical curve station
C	Centigrade or Curb
CB	Catch Basin
CBF&C	Catch basin frame & cover
CC or C/C	Center to Center
CCA	Colorado Contractor's Association, Inc.
CDOT	Colorado Department of Transportation
CE	City or County Engineer
Cem	Cement
CF	Curb face
cfs	Cubic Feet per second
CIP	Cast Iron pipe
CIPP	Cast-in-place concrete pipe
CL or C	Centerline
Cm	Centimeter
CMP	Corrugated metal pipe
CO	Clean out
Col	Column
Conc	Concrete
Const	Construct
CP	Concrete pipe(non-reinforced)
CRS	Colorado Revised Statutes
CTB	Cement Treated Base
Cu	Cubic
CY	Cubic Yards
Deg	Degree
DF	Douglas Fir
DG	Decomposed granite
Dia	Diameter
Dim	Dimension
DIP	Ductile Iron Pipe
Div	Division
Dr	Drive
DRCOG	Denver Regional Council of Governments
Drwg	Drawing
Dwy	Driveway
Ea	Each
Ease	Easement
E	East
EC	End of curve
ECR	End of curb return
El or Elv	Elevation

Equa or Eq	Equation
EVC	End of vertical curve
EVCE	End of vertical curve elevation
EVCS	End of vertical curve station
Ex or Exist	Existing
F	Fahrenheit
FB	Field Book
F & C	Frame & cover
FH	Fire hydrant
FL or F	Floor line or flow line
FIEI	Floor Elevation
Fnd	Found
fps	Feet per second
FS	Finished surface
FSS	Federal Specifications and Standards
Ft	Foot or feet
G	Gutter
Ga	Gage
Galv	Galvanized
GL	Ground line
gpm	Gallons per minute
Gr	Grade
H	High or height
HC	House connection
Hdwl	Headwall
Horiz	Horizontal
Hwy	Highway
ID	Improvement District or inside diameter
IE	Invert Elevation
IEEE	Institute of Electrical and Electronic Engineers
In	Inch
Inv	Invert
IP	Iron Pipe
IPS	Iron Pipe Size
Irrig	Irrigation
Jt	Joint
JC	Junction Chamber
Jct	Junction
JS	Junction Structure
L	Length
Lb	Pound

L&T	Lead and tack
LD	Local depression
LF	Linear Feet
LH	Lamp hole
Lin	Linear
Long	Longitudinal
Lt	Left
M	Map or maps
Max	Maximum
Meas	Measured
MH	Manhole
MHF&C	Manhole frame and cover
Min	Minutes or minimum
Misc	Miscellaneous
MLorM	Monument line
Mm	Millimeter
Mon	Monolithic or monument
MTD	Multiple tile duct
MUTCD	Manual of Uniform Traffic Control Devices
N	North
NBS	National Bureau of Standards
NCPI	National Clay Pipe Institute
NE	Northeast
NEC	National Electric Code
NEMA	National Electrical Manufacturer's Association
NFPA	National Fire Protection Association
NP	Non-plastic
NPI	Non pay item
NSC	National Safety Council
NSF	National Sanitation Foundation
NW	Northwest
No	Number
OC	On center
OD	Outside diameter
Oz	Ounces
PC	Point of curvature
PCR	Point of curb return
PCC	Point of compound curve or Portland Cement Concrete
PI	Point of intersection or plastic index
PL	Property line
POC	Point of Curve
POS	Point of Spiral
PP	Power pole

ppm	Parts per million
PRC	Point of reverse curve
Prod	Proposed or property
psi	Pounds per square inch
psf	Pounds per square foot
PTorPOT	Point of Tangent
P&TP	Power and telephone pole
Pvmt	Pavement
Q	Rate of flow
R	Radius
RC	Reinforced concrete
RCP	Reinforced concrete pipe
Rd	Road
Rdwy	Roadway
Reinf	Reinforced, Reinforcing
Ret Wall	Retaining Wall
RGRCP	Rubber Gasket Reinforced Concrete Pipe
rpm	Revolutions Per Minute
Rt	Right
R/W or Row	Right-of-way
S	South or slope
SAE	Society of Automotive Engineers
San	Sanitary
SC	Spiral to Curve
SCCP	Steel cylinder concrete pipe
SD	Storm drain or Sewer District
SDDTC	Storm Drainage Design and Technical Criteria
Sdl	Saddle
Sec	Seconds
Sect	Section
SE	Southeast
SF	Square feet
Sht	Sheet
Spec	Specifications
SPR	Simplified Practice Recommendation
SpMH	Special manhole
Sq Ft Yd	Square Foot, Yard
SS	Sanitary sewer
St	Street
Sta	Station
Std	Standard
Str gr	Structural grade
Struct	Structure or structural
SW	Southwest

SY	Square Yard
T	Tangent Distance
Tel	Telephone
Temp	Temporary
TH	Test hole
TP	Telephone pole
Tr	Tract
Trans	Transition
TS	Traffic signal or Tangent to spiral
TSC	Traffic signal conduit
Typ	Typical
UD & FCD	Urban Drainage and Floor Control District
USDCM	Urban Storm Drainage Criteria Manual
UL	Underwriters Laboratories
USC&GS	United States Coast and Geodetic Survey
USGS	United States Geological Survey
V	Velocity of flow
VC	Vertical curve
VCP	Vitrified clay pipe
Vert	Vertical
W	West or width
WI	Wrought iron
WS	Wearing surface
Wt	Weight
Yd	Yard
'	feet or minutes
"	inches or seconds
o	degrees
%	percent
#	number or pound
@	at
/	per
=	equals

## 2.1.2 GENERAL DEFINITIONS AND TERMS:

Whenever in these specifications or in other contract documents the following terms or pronouns in place of them are used, the intent and meaning shall be interpreted as follows:

**Addendum:** A Supplement to any of the Contract Documents issued, in writing, after advertisement of but prior to the opening of bids for a contract.

**Advertisement:** The public announcement, as required by law, inviting bids for work to be performed or materials to be furnished.

**Agency:** The government agency for which the construction is being done, either by permit or contract.

**Agreement:** The written agreement between OWNER and CONTRACTOR covering the Work to be performed; other Contract Documents are made a part thereof as provided therein.

**Application for Payment:** The form accepted by the ENGINEER which is to be used by CONTRACTOR in requesting progress or final payment and which is to include such supporting documentation as required by the Contract Documents.

**Award:** The formal action of the governing body in accepting a proposal.

**Backfill:** Material placed in an excavated space to fill such space. For trenches this space will be the area from 1 foot above the top of the pipe or conduit to the existing or proposed finished grade of pavement.

**Base Course:** The upper course of the granular base of a pavement or the lower course of an asphalt concrete pavement structure.

**Bedding:** Is the material placed in the area from the bottom of the trench to 1 foot above the top of the pipe or conduit.

**Bid:** The offer or proposal of the Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.

**Bidder:** Any qualified individual, firm, partnership, corporation or combination thereof, acting directly or through a duly authorized representative who legally submits a proposal for the advertised work.

**Bond Issue Project:** A project financed from bonds issued by the CITY pledging credit or a revenue resource.

**Bridge:** A structure, including supports, erected over a depression or an

obstruction, as water, highway, or railway, and having a track or passageway for carrying traffic or other moving loads and having a length measured along the center of roadway of more than 20 feet between undercopings of abutments or extreme ends of openings for multiple boxes.

(Length) The length of a bridge structure is the over-all length measured along the line of survey stationing back to back of backwalls of abutments, if present, otherwise end to end of the bridge floor; but in no case less than the total clear opening of the structure.

(Roadway Width) The clear width measured at right angles to the longitudinal centerline of the bridge between the bottom of curbs or guard timbers or in the case of multiple height of curbs, between the bottom of the lower risers.

**Budget Project:** A project financed by funds from General Tax levies and shared revenue funds set aside in the annual budget adopted by the Evans City Council.

**Building:** Any structure built for the support, shelter, or enclosure of persons, animals, chattel or movable property.

**Building Code:** A regulation adopted by the governing body establishing minimum standards of construction for the protection of the public health, safety, and welfare in terms of measured performance rather than in terms of rigid specifications of materials and methods.

**Calendar Day:** Every day shown on the calendar.

**Change Order:** A written order issued by the ENGINEER to the CONTRACTOR to make changes in the work or to perform extra work, and setting forth conditions for payment and/or adjustment in time of completion.

**City:** A municipal corporation, organized and existing under and by virtue of the laws of the State of Colorado.

**City Clerk:** The duly authorized person who performs the duties of clerk for the Contracting Agency.

**Completion Time:** The number of calendar days for completion of an act, including authorized time extensions. In case a calendar date of completion is shown in the proposal in lieu of the number of calendar days, the contract shall be completed by that date. The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day be Sunday or a legal holiday, that shall be excluded.

**Conflicting Utility Line:** An existing utility line, shown or not shown on the drawings, is a conflicting line when any part falls within the trench pay widths as listed or within the dimensions, as shown on the drawings, for appurtenant

structures.

**Construction Project:** The erection, installation, remodeling, alteration, of durable facilities upon, under, or over the ground. This shall include, but is not limited to buildings, roadways and utility pipes, lines, poles or other structures.

**Contingent Bid Item:** This is a minor bid item which is likely, but not certain, to occur during the course of work. If the ENGINEER determines that this work is required, the CONTRACTOR will accomplish the work and payment will be made based on the contingent unit bid price included in the proposal. Since the quantity listed in the proposal is primarily for bid comparison, the amount of work required by the ENGINEER may vary materially from this.

**Contract:** The written instrument executed by the CONTRACTOR and the Contracting Agency by which the CONTRACTOR is bound to furnish all labor, equipment, and materials and to perform the work specified, and by which the Contracting Agency is obligated to compensate the CONTRACTOR therefore at the prices set forth therein. The Contract Documents are herewith by reference made a part of the contract as if fully set forth therein.

**Contract Documents:** 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 Bonds, these General Conditions, the Supplementary Conditions, and the Project Specifications, City of Evans Street Standards as the same are more specifically identified in the Agreement, together with all amendments, modifications and supplements issued on or after the Effective Date of the Agreement.

**Contracting Agency:** The legal entity that has contracted for the performance of the work or for whom the work is being performed.

**Contractor:** The individual, firm, partnership, corporation or combination thereof entering into a contract with the Contracting Agency to perform the advertised work.

**Council:** The City Council that by law constitutes the Legislative Department of the City organized and existing under and by virtue of the laws of the State of Colorado.

**Culvert:** Any structure not classified as a bridge, which provides an opening under or adjacent to the roadway.

**Days:** Unless otherwise designated, days will be understood to mean calendar days.

**Emergency:** Unforeseen occurrences and combinations of circumstances involving the public welfare or the protection of work already done under the Contract Documents, or which endanger life or property and call for immediate action or

remedy.

**Engineer:** The person, appointed as ENGINEER by the CITY acting directly or through his duly authorized representative.

**Equipment:** (Construction)-All machinery and equipment, together with the necessary supplies for upkeep and maintenance, and also tools and apparatus necessary for the proper construction and acceptable completion of work.

(Installed)-All material or articles used in equipping a facility as furnishings or apparatus to fulfill a functional design.

**Extra Work:** An item of work not provided for in the contract as awarded but found essential to the satisfactory completion of the contract within its intended scope.

**Field Order:** A written set of emergency instructions to the CONTRACTOR issued only where the time required for preparation and execution of a formal Change Order would result in a delay or a stoppage of work, or would allow a hazardous condition to exist.

**Flooding:** Flooding will consist of the inundation of the entire lift with water, puddled with poles or bars to insure saturation of the entire lift.

**Foundation:** For buildings or structures, this will be the substructure. For pipe this will be the native material or prepared material on which the pipe rests; normally, this is the bottom grade line of the trench.

**Full Depth Pavement:** An asphalt concrete pavement structure in which the granular base and sub-base are replaced by equivalent structural thickness of asphalt concrete.

**General Conditions:** Uniform general specifications adopted as standard specifications by the ENGINEER.

**Holiday:** Holidays recognized by collective bargaining agreements in the State of Colorado are:

- New Year's Day
- Memorial Day
- Independence Day
- Labor Day
- Thanksgiving Day
- Christmas Day

Additional holidays recognizable by the State of Colorado Cities and Counties are:

- Martin Luther King's Birthday
- Presidents Day
- Columbus Day

Veteran's Day  
General Election Day in even-numbered years

When New Year's Day, Independence Day or Christmas Day fall on Sunday, the following Monday shall be considered a holiday.

Additional legal holidays, when designated by the State Governor or President of the United States, will also be recognized by the State, City and/or County.

**Improvement District Project:** A project financed by assessments against the property included in a special assessment district authorized under, or implemented by an act of the legislature of the State and/or a procedural ordinance of the City or County.

**Inspector:** The ENGINEER's authorized representative assigned to make detailed inspections of contract performance.

**Jetting:** Jetting is the densification of material, using a continuous supply of water, under pressure, transmitted to the material through a rigid pipe of sufficient length to reach the bottom of the lift being densified. In all cases, the entire lift will be completely saturated working from the top to the bottom.

**Laboratory:** The established materials testing laboratory of the Contracting Agency's Engineering Department, or other laboratories acceptable to and/or authorized by the ENGINEER to test materials and work involved in the Contract.

**Liquidated Damages:** A daily charge made against the CONTRACTOR for each working day, including free time, that any work shall remain uncompleted after elapse of Contract time.

**Major Item:** Any item of work and/or materials having an original contract value that exceeds ten percent of the amount of the original contract.

**Materials:** Any substance specified in the project, equipment and other material used or consumed in the performance of the work.

**Median:** The portion of a divided highway separating the roadways used by traffic going in opposite directions.

**Method of Measurement:** The manner in which a "Pay Item" is measured to conform to the "Pay Unit."

**Non Pay Item:** An item of work for which no separate payment will be made under the proposal, but which must be included as an incidental cost for payment on an associated pay item included in the proposal.

**Notice of Award:** A letter from the CITY advising the CONTRACTOR that he is the

successful Bidder and the Evans City Council has accepted his proposal.

**Notice to Bidders:** The standard forms inviting proposals or bids.

**Notice to Proceed:** A directive issued by the Engineer, authorizing the CONTRACTOR to start the work or improvements required in the Contract.

**Obligee:** One to whom another is obligated. For bonding purposes, the OWNER is the obligee.

**Open Trench:** The excavated area shall be considered as open trench until all the aggregate base course for pavement replacement has been placed and compacted or, if outside of a pavement area, until the excavated area is brought to finish grade or natural grade.

**Owner:** City of Evans, State of Colorado, acting through its legally constituted officials, officers or employees.

**Pavement:** Any surface of streets, alleys, sidewalks, courts, driveways, etc., consisting of mineral aggregate bound into a rigid or semi-rigid mass by a suitable binder such as, but not limited to, portland cement or asphalt cement.

**Pavement Structure:** The combination of sub-base, base course, and surface course placed on a sub-grade to support the traffic load and distribute it to the roadbed.

**Pay Item:** A detail of work for which individual payments are to be made under the Contract, as specified in the proposal.

**Payment Bond:** The security provided by the CONTRACTOR solely for the protection of claimants, supplying labor and materials to the CONTRACTOR or his Subcontractors.

**Performance Bond:** The security by the CONTRACTOR solely for the protection of the Contracting Agency and conditioned upon the faithful performance of the contract in accordance with the contract documents, drawings, specifications and conditions thereof.

**Permit:** The license to do construction in public rights-of-way and/or easements; issued by an Agency to a CONTRACTOR working for another party.

**Plans:** All approved drawings or reproductions thereof pertaining to the work and details therefor, which are made a part of the Project Manual and Contract Documents.

**Plant:** The Contractors' and/or subcontractors' facilities, including but not limited to small tools and mobile equipment, located on and/or offsite, necessary for

preparation of materials and prosecution of work for the project.

**Principal:** The individual, firm or corporation primarily liable on an obligation, as distinguished from a surety.

**Profile Grade:** The trace of a vertical plane intersecting the top surface of the proposed wearing surface, usually along the longitudinal centerline of the roadbed. Profile grade means either elevation or gradient of such trace according to the context.

**Project:** A specific coordinated construction or similar undertaking identified by a single project number and bid and awarded as one contract. On occasion two or more projects may be bid and awarded as a single contract.

**Project Manual:** All the integral documents of the contract including but not limited to, Contract Documents, General Conditions, Supplemental Conditions, Project Specifications and Bid Plans.

**Project Supplemental Conditions:** See definition for Supplemental Conditions.

**Proposal:** The offer of a bidder on the prescribed form, to perform the work and to furnish the labor and materials at the prices quoted.

**Proposal Form:** The approved form on which the Contracting Agency requires bids to be prepared and submitted for the work.

**Proposal Guarantee:** The security furnished with a bid to guarantee that the bidder will enter into the contract if his bid is accepted.

**Proposal Pamphlet:** The book or pamphlet pertaining to a specific project, containing proposal forms, special provisions and other information necessary for and pertinent to the preparation of the proposal or bid.

**Referred Documents:** On all work authorized by the Contracting Agency, any referenced documents in the specification, i.e., Bulletins, Standards, Rules, Methods of Analysis or test. Codes and Specifications of other Agencies, Engineering Societies or Industrial Associations, refer to the Latest Edition thereof, including Amendments, which are in effect and published at the time of Advertising for Bids or the issuing of a permit for the work, unless otherwise stated.

**Resident Project Representative:** The authorized representative of ENGINEER who may be assigned to the site or any part thereof. Also called the Inspector.

**Reasonably Close Conformity:** Compliance with reasonable and customary manufacturing and construction tolerances where working tolerances are not specified. Where working tolerances are specified, reasonably close conformity means compliance with such working tolerances.

**Right-of-Way:** A general term denoting, land, property or interest therein, usually in a strip, acquired for or devoted to a street, highway, or other public improvement.

**Road:** A general term denoting a public way for purposes of vehicular travel, including the entire area within the right-of-way.

**Roadside:** A general term denoting the area adjoining the outer edge of the roadway. Extensive areas between the roadways of a divided highway may also be considered roadside.

**Roadside Development:** Those items necessary to the complete roadway that provide for the preservation of landscape materials and features; the rehabilitation and protection against erosion of all areas disturbed by construction through seeding, sodding, mulching and the placing of other ground covers; such suitable planting and other improvements as may increase the effectiveness and enhance the appearance of the roadway.

**Roadway:** The portion of the right-of-way intended primarily for vehicular traffic, and including all appurtenant structures and other features necessary for proper drainage and protection. Where curbs exist, it is that portion of roadway between the faces of the curbs.

**Salvageable Material:** Material that can be saved or salvaged. Unless designated or directed by the ENGINEER or shown on the drawings, all salvageable material shall remain the property of the CONTRACTOR.

**Sewers:** Conduits and related appurtenances employed to collect and carry off water and waste matter to a suitable point of final discharge.

**Shop Drawings:** Drawings or reproduction of drawings, detailing; fabrication and erection of structural elements, falsework and forming for structures, fabrication of reinforcing steel, installed equipment and installation of systems, or any other supplementary drawings or similar data, which the CONTRACTOR is required to submit for approval.

**Shoulder:** The portion of the roadway contiguous with the traveled way for accommodation of stopped vehicles, for emergency use, and for lateral support of base and surface courses.

**Sidewalk:** That portion of the roadway primarily constructed for the use of pedestrians.

**Supplemental Conditions:** The special conditions, requirements, additions, and/or revisions to the General Conditions and Standard Specifications, applicable to the work, to cover conditions or requirements peculiar to the project under consideration. Supplemental Conditions fall within one of the two following

categories and take precedence over the General Conditions.

(a) **Project Special Conditions.** Special Conditions peculiar to the project and not otherwise thoroughly nor appropriately set forth in the general conditions or standard specifications or bid plans or drawings.

(b) **Standard Special Conditions.** Special directions or requirements not otherwise thoroughly or appropriately set forth in the standard specifications, and which are peculiar to a selected group of projects or which are intended for temporary use.

**Specifications:** The descriptions, directions, provisions, and requirement for performing the work as contained in the Contract Documents.

**State:** The State of Colorado.

**Standard Details:** Uniform detail drawings of structures or devices adopted as Standard Details by the ENGINEER.

**Standard:** Uniform general specifications adopted as Standard Specifications by the ENGINEER.

**Storm Drain:** Any conduit and appurtenance intended for the reception and transfer of stormwater.

**Street:** Streets, avenues, alleys, highways, crossings, lanes, intersections, courts, places, and grounds now open or dedicated or hereafter opened or dedicated to public use and public ways.

**Structures:** Bridges, culverts, catch basins, drop inlets, retaining walls, cribbing, manholes, endwalls, sewers, service pipes, underdrains, foundation drains, fences, swimming pools, and other features which may be encountered in the work and not otherwise classed herein.

**Sub-base:** The lower course of the base of a roadway, immediately above the sub-grade.

**Subcontractors:** Those having direct contracts with the CONTRACTOR and those who furnish material worked into a special design according to the Project Specifications and Bid Plans for the work, but not those who merely furnish material not so worked.

**Sub-grade:** The supporting structures on which the pavement and its special undercourses rest.

**Substantial Completion:** The work (or a specified part thereof) has progressed to the point where, in the opinion of ENGINEER and OWNER as evidenced by a letter

of Substantial Completion, it is sufficiently complete, in accordance with the Contract Documents, so that the Work (or specified part) can be utilized for the purposes for which it was intended. The terms "substantially complete" and "substantially completed" as applied to any work refer to Substantial Completion thereof. The work must meet the following criteria for Substantial Completion to apply:

- X At least 90% of all pay items have been completed and are eligible for payment.
- X The facilities constructed by CONTRACTOR are ready for use.
- X All traffic features have been completed.
- X A list of incomplete work items has been issued by the OWNER or ENGINEER to the CONTRACTOR and the CONTRACTOR has accepted and acknowledges the list.

**Substructure:** All of that part of the structure or building below the bearings of simple and continuous spans, skewbacks of arches and tops of footings of rigid frames, together with the backwalls, wingwalls, and wing protection railings.

**Superintendent:** The Contractor's authorized representative in responsible charge of the work.

**Superstructure:** The entire structure or building except the substructure.

**Supplemental Specifications:** Additions and revisions to the Standard Specifications that are adopted subsequent to issuance of the printed Project Manual.

**Surety:** The individual, firm or corporation, bound with and for the CONTRACTOR for the acceptable performance, execution, and completion of the work, and for the satisfaction of all obligations incurred.

**Surface Course:** The finish or wearing course of an asphalt concrete pavement structure.

**Title or Headings:** The titles or headings or the sections and subsections herein are intended for convenience of reference and shall not be considered as having any bearing on their interpretation.

**Township, City, Town or District:** A subdivision of the COUNTY used to designate or identify the location of the proposed work.

**Traveled Way:** The portion of the roadway for the movement of vehicles, exclusive of shoulders and auxiliary lanes.

**Utility:** Pipe lines, conduits, ducts, transmission lines, overhead or underground wires, railroads, storm drains, sanitary sewers, irrigation facilities, street lighting traffic signals, and fire alarm systems, and appurtenances of public utilities and

those of private industry, businesses or individuals solely for their own use or use of their customers which are operated or maintained in, on, under, over or across public right-of-way or public or private easement.

**Waterworks (Water Supply System):** The reservoirs, pipe lines, wells, pumping equipment, purification works, mains, service pipes, and all related appliances and appurtenances utilized in the procurement, transportation and delivery of an adequate, safe, and palatable water supply for the Contracting Agency.

**Work:** Any of all of the improvements mentioned and authorized to be made, and the construction, demolition, reconstruction, and repair of all or any portion of such improvements, and all labor, services, incidental expenses, and material necessary or incidental thereto.

**Working Day:** A calendar day, exclusive of Saturdays, Sundays and Contracting Agency recognized legal holidays, on which weather and other conditions not under the control of the CONTRACTOR will permit construction operations to proceed for the major part of the day with the normal working force engaged in performing the controlling item or items of work which would be in progress at that time.

## **2.2 GENERAL CONTRACT REQUIREMENTS**

### **2.2.1 FAMILIARITY WITH WORK**

The CITY has endeavored to ascertain all pertinent information regarding site conditions, and subsurface conditions, and has, to the best of his ability, furnished all such information to the CONTRACTOR. Such information is given, however, as being the best factual information available to the CITY, but is advisory only. The CONTRACTOR, by careful examination, shall satisfy himself as to the nature and location of the work, the character of equipment and facilities needed preliminary to and during the prosecution of the work, the general and local conditions, and all other matters that can in any way affect the work under this Contract.

Bidder shall examine the site of the proposed work and all documents pertaining to the work. It is mutually agreed that the submission of a proposal shall be considered prima facie evidence that the bidder has made such examination and is familiar with the character, quality and quantity of the work to be performed and material to be furnished.

Logs of test hole, ground water levels, and any accompanying soil reports as furnished by the Contracting Agency are furnished for general information only. The field condition so set forth shall not constitute a representation or warranty, expressed or implied, that such conditions are actually existent. Bidders shall make their own investigations and form their own estimates of the site conditions. After the submission of the proposal, no complaint or claim that there was any misunderstanding as to the quantities, conditions or nature of the work will be entertained.

### **2.2.2 CHANGED CONDITIONS**

The CONTRACTOR shall promptly, and before such conditions are disturbed, except in the event of any emergency, notify the CITY in writing of: (1) Subsurface or latent physical conditions at the site differing materially from those indicated in this Contract; or (2), previously unknown physical or other conditions at the site, of an unusual nature, not generally recognized as inherent in work of the character provided for in this Contract. The ENGINEER shall promptly investigate the conditions, and if he finds that such conditions do so materially differ and cause an increase or decrease in the cost of, or the time required for, performance of this Contract, an equitable adjustment shall be made and the Contract modified in writing accordingly. Any claim of the CONTRACTOR for adjustment hereunder shall not be allowed unless he has given notice as above required, provided that the ENGINEER may, if he determines the facts so justify, consider and adjust any such claims assessed before the date of final settlement of the Contract. If the parties fail to agree upon the adjustment to be made, the dispute shall be determined as provided in Paragraph 2.2.33 hereof.

### **2.2.3 ORDER OF COMPLETION**

The CONTRACTOR shall submit, at such times as may reasonably be requested by the ENGINEER, schedules which shall show the order in which the CONTRACTOR proposes to carry on the work, with dates at which the CONTRACTOR will start the several parts. The special provisions or plans may require that certain phases or parts of the work be completed first or in a certain order. If the CONTRACTOR elects to use PERT or CPM charts, he shall furnish copies of them to the ENGINEER upon request.

### **2.2.4 DESIGN AND INSTRUCTIONS**

It is agreed that the CITY will be responsible for the adequacy of design and Specifications. The CITY, through the ENGINEER, shall furnish Specifications, which adequately represent the requirements of the work to be performed under the Contract. All such instructions shall be consistent with the Contract Documents and shall be true developments thereof. Specifications that adequately represent the work to be done shall be furnished prior to the time of entering into the Contract. The ENGINEER may, during the life of the Contract, and in accordance with Paragraph 2.2.15, issue additional instructions, by means of drawings or other media, necessary to illustrate changes in the work.

### **2.2.5 SURVEYS**

The CITY has provided a suitable number of bench marks adjacent to the work. From the information provided by the CITY, the CONTRACTOR shall develop and make all detail surveys needed for construction, such as slope stakes, batter boards, stakes for pile locations, and other working points, lines, and elevations. The CONTRACTOR shall be responsible for any mistakes made in his detail surveys.

The CONTRACTOR shall carefully preserve bench marks, reference points and stakes, and in case of willful or careless destruction, he shall be charged with the resulting expense and shall be responsible for any mistakes that may be caused by their necessary loss or disturbance.

### **2.2.6 CLAIMS**

If the CONTRACTOR claims that any instructions by drawings or otherwise, issued after the date of the Contract, involve extra cost under the Contract, he shall give the ENGINEER written notice thereof within ten (10) days, after the receipt of such instruction, and in any event before proceeding to execute the work, except emergency endangering life or property, and the procedure shall than be as provided for changes in the work. No such claim shall be valid unless so made.

### **2.2.7 EXECUTION AND CORRELATION OF DOCUMENTS**

The Agreement shall be signed in duplicate by the CITY and the CONTRACTOR.

The Contract Documents are complimentary and what is called for by anyone shall be as binding as if called for by all. Special Specifications shall govern over Standard

Specifications. Materials or work described in words which so applied have a well-known technical or trade meaning shall be held to refer to such recognized standards.

### **2.2.8 MATERIALS AND APPLIANCES**

Unless otherwise stipulated, the CONTRACTOR shall provide and pay for all materials, labor, water, tools, equipment, light, power, transportation and other facilities necessary for the execution and completion of work. The CONTRACTOR shall, if required, furnish satisfactory evidence as to the kind and quality of materials.

### **2.2.9 EMPLOYEES**

The CONTRACTOR shall, at all times, enforce strict discipline and good order among his employees, and shall seek to avoid employing, for the Contract, any unfit person or anyone not skilled in the work assigned to him.

Adequate sanitary facilities shall be provided by the CONTRACTOR.

Employees of the CONTRACTOR and/or any subcontractor working on the project shall not be considered as employees of the City of Evans, nor shall they be entitled to any of the benefits provided to City of Evans employees.

### **2.2.10 ROYALTIES AND PATENTS**

The CONTRACTOR shall pay all applicable royalties and license fees. He shall defend all suits or claims for infringement for any patent rights and save the CITY harmless from loss on accounts thereof, except that the CITY shall be responsible for any such loss when a particular process, design, or the product of a particular manufacturer or manufacturers is specified, unless the CITY has notified the CONTRACTOR prior to the signing of the Contract that the particular process, design, or product is patented or is believed to be patented.

### **2.2.11 PERMITS, LICENSES AND REGULATIONS**

Permits and licenses of a temporary nature, necessary for the prosecution of the work, shall be secured and paid for by the CONTRACTOR. Permits, licenses and easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by the CITY, unless otherwise specified. The CONTRACTOR shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the work as drawn and specified. If the CONTRACTOR observes that the Specifications are at variance therewith, he shall promptly notify the ENGINEER in writing, and any necessary changes shall be adjusted in the Contract for changes in the work.

### **2.2.12 INSPECTION OF WORK**

All materials and equipment used in the construction of the project shall be subject to adequate testing in accordance with generally accepted standards as required by the Contract Documents.

The CITY shall provide sufficient competent personnel, working under qualified supervision for the inspection of the work, while such work is in progress, to ascertain that the completed work will comply in all respects with the standards and requirements set forth in the Specifications. The inspection of the Contract will be as it relates to the compliance with the Specifications, quality of workmanship, and material. Notwithstanding such inspection, the CONTRACTOR will be held responsible for the acceptability of the work.

The ENGINEER and his representatives shall at all times have access to work whenever it is in preparation or progress, and the CONTRACTOR shall provide proper facilities for such access and for inspection.

If the Specifications, the ENGINEER's instructions, laws, ordinances, or any public authority require any work to be specially tested or approved, the CONTRACTOR shall give the ENGINEER timely notice to its readiness for inspection, and if the inspection is by an authority other than the ENGINEER, a date shall be fixed for such an inspection. Inspections by the ENGINEER shall be promptly made, and where applicable, at the source of supply. Any work required by the ENGINEER to be uncovered for examination shall be properly restored at the CONTRACTOR's expense unless the ENGINEER has unreasonably delayed inspection.

Re-examination of any work may be ordered by the ENGINEER, and if so ordered, the work must be uncovered by the CONTRACTOR. If such work is found to be in accordance with the Contract Documents, the CITY shall pay the cost of re-examination. If such work is not in accordance with the Contract Document, the CONTRACTOR shall pay such cost.

### **2.2.13 SUPERINTENDENTS**

The CONTRACTOR shall keep on his work at all times during its progress, competent superintendents and/or responsible assistants. The superintendent shall represent the CONTRACTOR and all directions given to him shall immediately be confirmed in writing to the CONTRACTOR. Superintendent shall be named in writing by CONTRACTOR at the beginning of the work.

### **2.2.14 PRECONTRACT EXAMINATION AND DISCOVERY OF DISCREPANCIES DURING WORK**

Before submitting his proposal, the CONTRACTOR will examine all construction plans and the entire and complete specifications. The CONTRACTOR will become well and fully informed as to the materials and the character of the work required, the relationship of all of the particular parts of the work, and he will visit and inspect the site, observing and examining the conditions existing.

After the execution of the Contract, no consideration will be granted for any misunderstanding of the materials to be furnished or the work to be done, it being mutually understood that the tender of the proposal carried with it an agreement to this end and all other conditions mentioned in the Contract and the Specifications, and implied a full and complete understanding of them and all construction plans, drawings, notes, indications, and requirements.

Should anything be omitted from the construction plans or specifications necessary to the proper completion of the work herein described, it shall be the duty of the CONTRACTOR to so notify the CITY before signing the Contract, and in the event of failure of the CONTRACTOR to give such notice, he shall make good any damage or defect in his work caused thereby without extra charge. No allowance will be made for lack of full knowledge of all conditions, except such underground conditions as are determined after commencement of the work and were unknown to the CONTRACTOR.

If the CONTRACTOR, in the course of the work, finds any discrepancy between the Specifications and the physical conditions of the locality, or any errors or omissions in the layout as given by survey points and instruction, he shall immediately inform the ENGINEER, in writing, and the ENGINEER shall promptly verify the same. Any work done after such discovery, until authorized, will be done at the CONTRACTOR's risk, except in the event of an emergency.

#### **2.2.15 CHANGES IN THE WORK**

At any time by written order, the CITY may make changes in the Specifications or scheduling of the Contract within the general scope. All such work shall be executed under the time constraints of the original contract except that any claim for extension of time caused thereby shall be allowed and adjusted at the time of ordering such change or at such time as it can be ascertained.

In giving instruction, the ENGINEER shall have authority to make minor changes in the work not involving extra cost, and not inconsistent with the purpose of the work. Except in an emergency endangering life and property, no claim for an addition to the contract sum shall be valid unless the additional work was so ordered by the ENGINEER.

The CONTRACTOR shall proceed with the work as changed and the value of any such work or change shall be determined as provided for in the Agreement herein.

The CITY may at any time, as the need arises, order changes within the scope of the work without invalidating the Agreement. If such changes increase or decrease the amount due under the Contract Documents, or in the time required for performance of the work, the CONTRACTOR shall perform the same at the unit prices or lump sum indicated in the bid. Changes may occur to a maximum of twenty-five percent (25%) of the contract price. After exceeding twenty-five percent (25%), the applicable unit price or lump sum may be negotiable and an equitable adjustment shall be authorized by change order.

#### **2.2.16 EXTENSION OF TIME**

a. Extension of time stipulated in the Contract for completion of the work will be made when changes in the work occur, as provided in Paragraph 2.2.15; when the work is suspended as provided in Paragraph 2.2.17; and when the work of the CONTRACTOR is delayed on account of conditions which could not have been foreseen, or which were beyond the control of the CONTRACTOR, his subcontractors or suppliers, and which were not the result of their fault or negligence.

Extension of time for completion shall also be allowed for any delays in the progress of the work that in the opinion of the ENGINEER entitles the CONTRACTOR to an extension of time.

b. The CONTRACTOR shall notify the ENGINEER promptly of any occurrence or condition which in the CONTRACTOR's opinion entitles him to an extension of time. Such notice shall be in writing and shall be submitted in ample time to permit full investigation and evaluation of the CONTRACTOR's claim. Failure to provide such notice shall constitute a waiver by the CONTRACTOR of any claim.

#### **2.2.17 SUSPENSION OF WORK**

The CITY may at any time suspend the work, or any part thereof, by giving three (3) days' notice to the CONTRACTOR in writing.

#### **2.2.18 THE CITY'S RIGHT TO TERMINATE CONTRACT**

If the CONTRACTOR should be adjudged bankrupt, or if he should make a general assignment for the benefit of his creditors, or if a receiver should be appointed as a result of his insolvency, or if he should persistently or repeatedly refuse or should fail, except for cases in which extensions of time are provided, to supply enough properly-skilled workmen or materials, or if he should fail to make payments to subcontractors or for materials or labor so as to affect the progress of the work or persistently be guilty of a substantial violation of the Contract, then the CITY, upon written notice from the ENGINEER that sufficient cause exists to justify such action and without prejudice to any other right or remedy, and after giving the CONTRACTOR and his Surety seven (7) days' written notice, terminate the employment of the CONTRACTOR and take possession of the premises and of all materials, tools, equipment and other facilities installed on the work and paid for by the CITY, and finish the work by whatever method the ENGINEER may be deem expedient.

In such case, the CONTRACTOR shall not be entitled to receive any further payment until the work is finished. If the unpaid balance of the contract price shall exceed the expense of finishing the work, including compensation for additional managerial and administrative services, such excess shall be paid to the CONTRACTOR. If such expense shall exceed such unpaid balance, the CONTRACTOR shall pay the difference to the CITY. The expense incurred by the CITY as herein provided, and the damage incurred through the CONTRACTOR's default, shall be certified by the ENGINEER.

Where the Contract has been terminated by the CITY, said termination shall not affect or terminate any of the rights of the CITY then existing or which may thereafter accrue because of such default as against the CONTRACTOR or his Surety. Any retention or payment of moneys by the CITY due to the CONTRACTOR under the terms of the Contract, shall not release the CONTRACTOR or his Surety from liability for the CONTRACTOR's default.

### **2.2.19 CONTRACTOR'S RIGHT TO STOP WORK OR TERMINATE CONTRACT**

If the work should be stopped under an order of any court, or other public authority, for a period of more than three (3) months, through no act or fault of the CONTRACTOR of an undisputed sum with forty-five (45) days of its maturity and presentation, then the CONTRACTOR may, upon seven (7) days' written notice to the ENGINEER, stop work or terminate this Contract and recover from the CITY payment for all work executed, plus any loss sustained upon any plant or materials, plus reasonable profit and damages.

### **2.2.20 CANCELLATION OF CONTRACT**

Failure of the CONTRACTOR to comply with any of the requirements of the Contract and the Specifications may be considered as evidence of the inability on the part of the CONTRACTOR to maintain the quality and service standards deemed necessary, and shall be sufficient cause for the cancellation of the Agreement and the initiating of legal action against the Performance Bond of the CONTRACTOR.

### **2.2.21 CORRECTION OF WORK BEFORE FINAL PAYMENT**

The CONTRACTOR shall promptly remove from the premises all materials and work condemned by the ENGINEER as failing to meet contract requirements, whether incorporated in the work or not, and the CONTRACTOR shall promptly replace and re-execute his own work in accordance with the Contract and without expense to the CITY and shall bear the expense of making good all work of other CONTRACTORS destroyed or damaged by such removal or replacement.

All removal and replacement work shall be done at the CONTRACTOR's expense. If the CONTRACTOR does not take action to remove such condemned work and materials within ten (10) days after written notice, the CITY may remove them and store the material at the expense of the CONTRACTOR. If the CONTRACTOR does not pay the expense of such removal and storage within ten (10) days' time thereafter, the CITY may, upon ten (10) days' written notice, sell such materials at auction or at private sale and shall pay the CONTRACTOR any net proceeds thereof, after deducting all costs and expenses that should have been borne by the CONTRACTOR.

### **2.2.22 REMOVAL OF EQUIPMENT**

In the case of termination of this Contract before completion for whatever cause, the CONTRACTOR, if notified to do so by the CITY, shall promptly remove any part or all of his equipment and supplies from the property of the CITY, failing which, the CITY shall have the right to exercise control over and to remove such equipment and supplies at the expense of, and without recourse, by the CONTRACTOR.

### **2.2.23 RESPONSIBILITY FOR WORK**

The CONTRACTOR assumes full responsibility for the work. Until final acceptance, the CONTRACTOR shall be responsible for damage to or destruction of the work, except for any part covered by partial acceptance as set forth in Paragraph 2.2.24 and except such damage or destruction that is caused by the negligent or willful acts of the CITY.

### **2.2.24 PARTIAL COMPLETION AND ACCEPTANCE**

If at any time prior to the issuance of the final certificate, referred to in Paragraph 2.2.34 hereinafter, any portion of the permanent construction has been satisfactorily completed to the ENGINEER's satisfaction, and if the ENGINEER determines that such portion of the permanent construction is not required for the operations of the CONTRACTOR, but is needed by the CITY, the ENGINEER shall issue to the CONTRACTOR a Certificate of Partial Completion, and thereupon or at any time thereafter, the CITY may take over and use the portion of the permanent construction described in such certificate.

The issuance of a Certificate of Partial Completion shall not be construed to constitute an extension of the CONTRACTOR's time to complete the portion of the permanent construction to which it relates, if he fails to complete it in accordance with the terms of this Contract. The issuance of such a certificate shall not operate to release the CONTRACTOR or his Sureties from any obligations under this Contract or the Performance Bond.

If such prior use increases the cost of or delays the work, the CONTRACTOR shall be entitled to extra compensation, or extension of time, or both, as the ENGINEER may determine, unless otherwise provided.

### **2.2.25 PAYMENT WITHHELD PRIOR TO FINAL ACCEPTANCE OF WORK**

As a result of subsequently discovered evidence, the CITY may withhold or nullify the whole or part of any certificate of payment to such extent as may be necessary to protect himself from loss occasioned by:

- (a) Defective work not remedied by the CONTRACTOR
- (b) Claims filed or reasonable evidence indicating probable filing of claims by other parties against the CONTRACTOR for work done on the project
- (c) Failure of the CONTRACTOR to make payments properly to subcontractors or for material or labor
- (d) Damage by the CONTRACTOR to subcontractors or to another contractor

When the above grounds are removed, or the CONTRACTOR provides Surety Bond satisfactory to the CITY that will protect the CITY in the amount withheld, payment shall be made for amounts withheld because of them. No moneys may be withheld under (b) and

(c) if a Payment Bond is included in the Contract.

## **2.2.26 CONTRACTOR'S INSURANCE AND INDEMNIFICATION**

The CONTRACTOR shall secure and maintain such insurance policies as will protect himself, his subcontractors, and City of Evans, its employees and agents, from claims for bodily injuries, death, or property damage, which may arise from operations under this Contract, whether such operations be by himself or by any subcontractor or anyone employed by them directly or indirectly. The following insurance policies are required and must be evidenced by Certificates of Insurance:

(a) Statutory Workers' Compensation

(b) Commercial General Liability

General Aggregate	\$1,200,000
Products/ (Completed Operations Aggregate)	\$1,200,000
Each Occurrence	\$ 600,000
Personal & Advertising Injury	\$ 600,000
Fire Damage	\$ 50,000
Medical Expense	\$ 5,000

(c) Automobile Liability

Bodily Injury and Property Damage (Combined Single Limit)	\$ 600,000
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Certificates of Insurance must show "City of Evans, its employees and agents" as an Additional Insured.

All policies shall be for not less than the amount set forth above or as stated in the Special Conditions. Other forms of insurance shall also be provided if called for by the Special Conditions.

All Certificates of Insurance must be filed with the ENGINEER along with the Performance and Payment Bonds and shall be subject to his approval as to adequacy of protection, within the requirements as stated herein. Said Certificates of Insurance shall contain a thirty (30) days' written notice of cancellation in favor of the CITY.

The CONTRACTOR shall indemnify and hold harmless the City of Evans, its employees and agents, from and against any and all claims, damages, losses, injuries and expenses, including attorney's fees, arising out of or resulting from the performance of work.

All insurance and bonding companies providing coverage or surety under this contract shall have a Best Insurance Rating of "A" or better.

### **2.2.27 SURETY BONDS**

The CITY shall have the right, prior to the signing of the Contract, to require the CONTRACTOR to furnish Payment and Performance Bonds in such form as the CITY may prescribe in the bidding documents and executed by one or more financially responsible Sureties licensed to do business in the State of Colorado. The premiums for said Bonds shall be paid by the CONTRACTOR. Such Bonds shall cover the entire Contract amount, regardless of changes therein, shall remain in full effect for a period of one year from the date of issuance of a Certificate of Completion, and shall be filed with the ENGINEER prior to the commencement of any work on the project.

### **2.2.28 CONTRACTOR'S INSURANCE**

The CONTRACTOR shall secure and maintain insurance to one hundred percent (100%) of the insurable value of the entire work in the Contract and any structures attached or adjacent thereto against fire, earthquake, flood, and other perils as he may deem necessary and shall name the CITY and subcontractors as Additional Insured.

All insurance and bonding companies providing coverage or surety under this contract shall have a Best Insurance rating of "A" or better.

### **2.2.29 ASSIGNMENT**

Neither party to the Contract shall assign the Contract or sublet it as a whole without the written consent of the other and its Surety, nor shall the CONTRACTOR assign any moneys due or to become due to him hereunder, except to a bank or financial institution acceptable to the CITY.

### **2.2.30 RIGHTS OF VARIOUS INTERESTS**

Wherever work being done by the CITY's forces, utility companies, or by other CONTRACTOR's forces is contiguous to work covered by this Contract, the respective rights of the various interest invoiced shall be established by the ENGINEER, to secure the completion of the various portions of the work in general harmony.

(a) Before issuance of final payment, the CONTRACTOR, if required in the Special Conditions, shall certify in writing to the ENGINEER that all payrolls, material bills, and other indebtedness connected with the work, have been paid or otherwise satisfied. If the Contract does not include a payment Bond the CONTRACTOR may submit, in lieu of certification of payment, a Surety Bond in the amount of the disputed indebtedness or liens, guaranteeing payment of all such disputed amounts, including all related costs and interest in connection with said disputed indebtedness or liens, which the CITY may be compelled to pay upon adjudication.

(b) The making and acceptance of the final payment shall constitute a waiver of all claims by the CITY, other than those arising from unsettled liens, from faulty work appearing within the guarantee period, provided in the Special Conditions, from the requirements of the Project Specifications and Bid Plans, or from manufacturer's guarantees. It shall also constitute a waiver of all claims by the CONTRACTOR, except those previously made and

still unsettled.

(c) If after the work has been substantially completed, full completion thereof is materially delayed through no fault of the CONTRACTOR, and the ENGINEER so certifies, the CITY shall, upon certificate of the ENGINEER, and without terminating the Contract, make payment of the balance due for that portion of the work fully and 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.

(d) If the CITY fails to make payment as herein provided, there shall be added to each payment daily interest at the rate of six percent (6%) per annum commencing on the first day after said payment is due and continuing until the payment is delivered or mailed to the CONTRACTOR.

### **2.2.31 ENGINEER'S STATUS**

The ENGINEER shall perform technical inspection of the work. He has authority to stop the work whenever such stoppage may be necessary to insure the proper execution of the Contract. He shall also have authority to reject all work and materials which do not conform to the Contract and to decide questions which arise in the execution of the work.

### **2.2.32 ENGINEER'S DECISIONS**

The ENGINEER shall, within a reasonable time after their presentation to him, make decisions in writing on all claims of the CONTRACTOR and on all other matters relating to the execution and progress of the work or the interpretation of the Contract Documents.

### **2.2.33 ARBITRATION**

Any controversy or claim arising out of or relating to this Contract, or the breach thereof, which cannot be resolved by mutual agreement, shall be settled by arbitration in accordance with the Rules of the American Arbitration Association, and judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

### **2.2.34 ACCEPTANCE AND FINAL PAYMENT**

Upon receipt of written notice that the work is substantially complete or ready for final inspection and acceptance, the ENGINEER will promptly make such inspection and when he finds the work acceptable under the Contract and the Contract fully performed or substantially completed, he shall promptly issue a certificate, over his own signature, stating that the work required by this Contract has been substantially completed and is accepted by him under the terms and conditions thereof, and the entire balance found to be due the CONTRACTOR, including the retained percentage, unless a retention based on the ENGINEER's estimate of the fair value of the claims against the CONTRACTOR and the cost of completing the uncompleted or unsatisfactory items of work with specified amounts for each incomplete or defective item of work, is due and payable. No final payment shall be made by the CITY unless and until the CONTRACTOR has certified in writing to the ENGINEER that all payroll, material bills, and other indebtedness connected with the work have been paid or otherwise satisfied.

The making and acceptance of the final payment shall constitute a waiver of all claims by the CITY, other than those arising from unsettled liens, from faulty work appearing within the guarantee period provided in the Special Conditions, from the requirements of the Project Specifications and Bid Plans, or from the manufacturer's guarantees. It shall also constitute a waiver of all claims by the CONTRACTOR, except those previously made and still unsettled.

If, after the work has been substantially completed, full completion thereof is materially delayed through no fault of the CONTRACTOR and the ENGINEER so certifies, the CITY shall, upon certificate of the ENGINEER, and without terminating the Contract, make payment of 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.

The CONTRACTOR shall cause appropriate provisions to be inserted in all subcontracts relative to the project to bind the subcontractors to the CONTRACTOR by the terms of the Contract Documents, and to give the CONTRACTOR the same power as regard to terminating any subcontract that the CITY may exercise over the CONTRACTOR under any provision of the Contract Documents.

Nothing contained in this Agreement shall create any contractual relationship between any subcontractor and the CITY.

Subcontracts, or transfer of Contract, shall not release the CONTRACTOR of his liability under the Contract and Bonds.

**2.2.35 LIQUIDATED DAMAGES**

The CONTRACTOR agrees that he can and will complete the project within the prescribed time limit as stated in Article 1.5.9 (Notice to Proceed) and within the time as may be extended. In the event the CONTRACTOR fails to complete the work within the allotted time limit, the following liquidated damages will be applied:

From More Than	Original Contract Amount To And Including	Daily Charge
\$ 0	\$ 25,000	\$ 85
25,000	50,000	140
50,000	100,000	205
100,000	500,000	280
500,000	1,000,000	420
1,000,000	2,000,000	560
2,000,000	4,000,000	840
4,000,000	8,000,000	1,120
8,000,000	10,000,000	1,400

These rates will be assessed per calendar day for each day which the CONTRACTOR fails to finish the work in excess of the time period allotted. The parties agree that the liquidated

damages, as stated herein, are not a penalty and are reasonable, given the expected harm from a delay in completion, the difficulty of proving actual loss, and the inadequacy of any other remedy.

### **2.2.36 ADVANCE NOTICE**

It shall be the responsibility of the CONTRACTOR to notify the ENGINEER or inspector sufficiently in advance of his operations to enable the ENGINEER or inspector to set the required control stakes and marks.

In order to assure proper availability of construction supervision or other personnel from the ENGINEER's staff, the following notices will be required as minimums:

- (a) One (1) week notice for major additions or modifications to construction staking.
- (b) Two (2) working days' notice for all staking except for emergencies.
- (c) Two (2) days' written notice shall be delivered to the ENGINEER or inspector prior to any work done on Saturday, Sunday, nights, and legal holidays.

The failure of the CONTRACTOR to provide minimum notices will not be considered for time extensions or extra compensations.

### **2.2.37 WORK DONE WITHOUT LINES OR GRADES**

Any work done without having been properly located and established as determined by the Engineer may be ordered removed and replaced at the CONTRACTOR's expense.

### **2.2.38 TAXES**

Except as may be otherwise provided in this Contract, the contract price is to include all applicable taxes, but does not include any tax from which the CITY and the Contractor are exempt. Upon request by the CONTRACTOR, the CITY shall furnish a tax exemption certificate or similar evidence of exemption with respect to any such tax not included in the contract price, pursuant to this provision.

## **2.3 LEGAL RELATIONS & RESPONSIBILITIES TO PUBLIC**

### **2.3.1 LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC**

Laws and Regulations: The CONTRACTOR shall keep himself fully informed of all city and county ordinances and regulations, and state and federal laws which in any manner affect the work herein specified. He shall at all times observe and comply with said ordinances, regulations, or laws, caused by the negligent actions of the CONTRACTOR, his agent, or employees.

### **2.3.2 PROJECT SAFETY**

The CONTRACTOR is solely responsible for and shall take reasonable precautions in the performance of the work under this Contract to protect all persons from hazards to life and property. The CONTRACTOR shall comply with all health, safety and fire protection regulations and requirements.

### **2.3.3 PROTECTION OF THE PUBLIC AND OF WORK AND PROPERTY**

The CONTRACTOR shall provide and maintain all necessary watchmen, barricades, warning lights, and signs in accordance with the Manual of Uniform Traffic Control Devices, and take all reasonable precautions for the protection and safety of the public. He shall continuously maintain reasonable protection of all work from damage, and shall take all reasonable precautions to protect the CITY's property from injury or loss arising in connection with this Contract. Streets and highways shall be kept free of dirt and litter from CONTRACTOR's handling operations. The CONTRACTOR shall take reasonable precautions to protect private property adjacent to the project from such nuisances as dust and dirt, rock, and excessive noise. He shall make good any damage, injury or loss to his work and to the property owner resulting from lack of reasonable protective precautions, except such as may be due to errors in the Contract Documents, or caused by agents of adjacent private and public property, as provided by law and the Contract Documents.

### **2.3.4 NON-DISCRIMINATION**

In connection with the performance of work under this Contract, the CONTRACTOR agrees not to refuse to hire, discharge, promote, or demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, creed, sex, color, national origin, handicap status or ancestry; and further agrees to inset the foregoing provision in all subcontracts hereunder.

## **2.4 MATERIALS & WORKMANSHIP**

### **2.4.1 GUARANTEES**

The CONTRACTOR shall guarantee his work against defective materials or workmanship for a period of two (2) years from the date of initial acceptance.

Contractor warrants and guarantees to the CITY that all equipment and materials furnished under this Contract are free from all defects in workmanship and materials.

Contractor shall remove from the project area all work or materials rejected by the CITY or its inspector for failure to comply with the Contract Documents, whether incorporated in the construction or not. The CONTRACTOR shall promptly replace the materials or re-execute the work in accordance the Contract Documents and without expense to the CITY which are or become defective due to such defects within two (2) years after the date of receipt by the CITY. The CONTRACTOR shall also bear the expense of making good all work of other contractors destroyed or damaged by such removal or replacement.

## **2.4.2 WARRANTIES**

The CONTRACTOR shall guarantee his work against defective materials and workmanship for a period of two (2) years from the date of initial acceptance.

## **2.5 MEASUREMENT & PAYMENT**

### **2.5.1 PAYMENT**

Partial payment under the Contract shall be made at the request of the CONTRACTOR once each month, based upon partial estimates to be furnished by the CONTRACTOR and approved by the CONTRACTOR once each month, based upon partial estimates to be furnished by the CONTRACTOR and approved by the ENGINEER or inspector. In making such partial payment, there shall be retained three percent (3%) of the estimated amounts until final completion and acceptance of all work covered by the Contract; provided, however, that the ENGINEER, at any time after fifty percent (50%) of the work has been completed, finds that satisfactory progress is being made, shall recommend that the remaining partial payment be paid in full.

In preparing estimates for partial payments, the material delivered on the site and preparatory work done may be taken into consideration.

Payments for work under subcontracts of the CONTRACTOR shall be subject to the above conditions applying to the contract after the work under a subcontract has been fifty percent (50%) completed. In preparing estimates for partial payments, the material delivered on the site and preparatory work done may be taken into consideration.

Should the CONTRACTOR fail to proceed properly and in accordance with the Guarantee, the CITY may have such work performed at the expense of the CONTRACTOR.

### **2.5.2 PAY QUANTITIES**

The CONTRACTOR shall be paid on a unit price basis as indicated by the proposal for the actual quantities installed. In the case of lump sum items, the contractor shall be paid based on the percent complete of the lump sum item.

## **2.6 SCOPE OF WORK**

### **2.6.1 CHANGES IN THE WORK**

At any time by written order, the CITY may make changes in the Project Specifications and Bid Plans or scheduling of the Contract within the general scope. All such work shall be executed under the time constraints of the original Contract, except that any claim for extension of time caused thereby shall be allowed and adjusted at the time of ordering such change or at such time as it can be ascertained.

- (a) Unit prices previously approved
- (b) An agreed lump sum

- (c) The actual cost of labor, direct overhead, materials, supplies, equipment and other services necessary to complete the work. In addition, there shall be added on an amount to be agreed upon, but not to exceed fifteen percent (15%) of the actual cost of the work, to cover the cost of general overhead and profit.

### **2.6.2 SUBLETTING OF CONTRACT**

The CONTRACTOR shall not sublet, sell, transfer, assign, or otherwise dispose of the Contract, or of his rights, title, or interest therein, without written consent of the CITY. The CONTRACTOR may utilize the services of specialty subcontractors on those parts of the project which, under normal contraction practices, are performed by specialty subcontractors.

The CONTRACTOR shall not award work to subcontractors in excess of fifty percent (50%) of the contract price without prior written approval of the CITY.

The CONTRACTOR shall be as fully responsible to the CITY for the acts and omissions of his subcontractors and of persons directly or indirectly employed by him, as he is for the acts and omissions of persons directly employed by him.

### **2.6.3 SEPARATE CONTRACTS**

The CITY reserves the right to let other contracts in connection with this project. The CONTRACTOR shall afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their work, and shall properly connect and coordinate his work with theirs. If the proper execution or results of any part of the CONTRACTOR's work depends upon the work of any other contractor, the CONTRACTOR shall inspect and promptly report to the ENGINEER any defects in such work that render it unsuitable for such proper execution and results.

### **2.6.4 SUBCONTRACTS**

The CONTRACTOR shall, as soon as practicable after signing the Contract, but in any event prior to the performance of any work by any subcontractor, notify the CITY, in writing, of the names of the subcontractors proposed for the work, designating the portions of work to be performed by each.

The CONTRACTOR agrees that he is as fully responsible to the CITY for the acts and omissions of his subcontractors and of persons either directly or indirectly employed by them, as he is for the acts and omissions of persons directly employed by him.

Nothing contained in the Contract Documents shall create any contractual relation between any subcontractor and the CITY.

### **2.6.5 UNDERGROUND OBSTRUCTIONS**

The CONTRACTOR shall anticipate all underground obstructions, such as water lines, gas lines, sewer lines, concrete, debris, and all other types of utility lines. No extra payment will be allowed for the removal, protection, replacement, repair or possible increased cost caused by underground obstruction. Any such lines or obstructions indicated on the Drawings show only the approximate location from the information available and must be verified in the field by the CONTRACTOR. The ENGINEER will endeavor to familiarize the CONTRACTOR with all underground utilities and obstructions, but this will not relieve the CONTRACTOR from full responsibility for anticipating all underground obstructions.

In accordance with C.R.S. Section 9-1.5-103 (1973), the CONTRACTOR shall not make or begin excavation without first notifying the owners, operators or association of owners and operators having underground facilities in the area of such excavation. Notice may be given in person, by telephone, or in writing and shall be given at least two business days prior to beginning work.

The CONTRACTOR shall protect the existing utilities in a manner as requested by the respective utility owners at no extra compensation. The CONTRACTOR, by his signature on this proposal and subsequently on the Agreement, agrees to hold City of Evans, the agencies thereof, and their officers and employees, harmless from any and all losses, damages or claims which may arise out of, or be connected with, construction performed where said utilities are located.

Should it be necessary to relocate utilities in the area of construction, the CITY, at its own expense, will coordinate these relocations with the utility owner and the CONTRACTOR.

### **2.6.6 EMERGENCY WORK**

In an emergency affecting the safety of life or of the work or of adjoining property, the CONTRACTOR is, without special instructions or authorization from the ENGINEER, hereby permitted to act at his discretion to prevent such threatening loss or injury. He shall also act, without appeal, if so authorized or instructed by the ENGINEER. Any compensation claimed by the CONTRACTOR as a result of emergency work, shall be determined by agreement or in accordance with Article 2.2.33.

### **2.6.7 CLEANING UP**

The CONTRACTOR shall remove, at his own expense, from the CITY's property and from all public and private property, all temporary structures, rubbish and waste materials resulting from his operations. This requirement shall not apply to property used for permanent disposal of rubbish or waste materials in accordance with permission of such disposal granted to the CONTRACTOR by the CITY thereof where such disposal is in accordance with local ordinances and is approved by the ENGINEER.