



BOARD OF TRUSTEES
December 14, 2021
6:30 PM

Leeper Center, 3800 Wilson Avenue, Wellington, CO

Regular Meeting Agenda

Individuals that attend the meeting in person will be required to wear a face covering while in attendance.

Individuals wishing to make public comments must attend the meeting in person or may submit comments by sending an email to euckerkk@wellingtoncolorado.gov. The email must be received by 4:00 p.m. Tuesday December 14, 2021. The comments will be provided to the Trustees and added as an addendum to the packet. Emailed comments will not be read during the meeting.

The Zoom information below is for online viewing and listening only.

<https://us06web.zoom.us/j/87361851681?pwd=NDI1RVJQNy9SdjY0NWtUWGdWa2I3UT09>

Passcode: 172521

Or One tap mobile :

US: +12532158782,,87361851681# or +13462487799,,87361851681#

Or Telephone:

US: +1 253 215 8782 or +1 346 248 7799 or +1 720 707 2699

Webinar ID: 873 6185 1681

A. CALL TO ORDER

1. Pledge of Allegiance
2. Roll Call
3. Amendments to Agenda
4. Conflict of Interest

B. COMMUNITY PARTICIPATION

1. Public Comment

C. PRESENTATION

1. Strategic Plan 2021 Final Update
 - Presentation: Hallie Sheldon, Management Analyst

D. CONSENT AGENDA

1. Minutes of the November 9, 2021 regular Board of Trustees meeting and November 16, 2021 special Board of Trustees meeting

E. ACTION ITEMS

1. Ozone Equipment Purchase for Water Treatment Plant Expansion & Hensel Phelps-Hydro Construction Contract
 - Presentation: Meagan Smith, Deputy Public Works Director and DJ Jones, Water Superintendent
2. Authorize the Execution of Contracts for Larimer County Site Plan Review – Water Treatment Plant and Wastewater Treatment Plant
 - Presentation: Nathan Ewert, Civil Engineer II
3. Amendment to Professional Services Agreement with SAFEbuilt Colorado, LLC
 - Presentation: Cody Bird, Planning Director
4. Resolution No. 33-2021 - A Resolution of the Town of Wellington, Colorado, Calling for a Regular Municipal Election to be held as a Mail Ballot Election on Tuesday, April 5, 2022 and Delegating Authority to the Town Clerk to Appoint Election Judges
 - Presentation: Krystal Eucker, Town Clerk
5. Consideration of 2022 Statement of Work and Budget Agreement By and Between County of Larimer and Town of Wellington
 - Presentation: Michael Rairdon, Larimer County Sheriff's Office
6. Resolution No. 34-2021 - A Resolution of the Board of Trustees Appointing Town Treasurer
 - Presentation: Patti Garcia, Town Administrator
7. Contract Amendment for Town Administrator
 - Presentation: Stephanie Anderson, Human Resource Manager
8. Cancellation of December 21, 2021 Work Session and December 28, 2021 Regular Board of Trustees Meeting
 - Presentation: Patti Garcia, Town Administrator

F. LIQUOR LICENSE AUTHORITY

1. Annual Renewal - Big T Ventures LLC, d/b/a Cantina Liquors

- Presentation: Krystal Eucker, Town Clerk

2. Annual Renewal - Kum & Go LC., d/b/a Kum & Go #934

- Presentation: Krystal Eucker, Town Clerk

G. REPORTS

1. Town Attorney
2. Town Administrator
3. Staff Communications
4. Board Reports

H. ADJOURN

The Town of Wellington will make reasonable accommodations for access to Town services, programs, and activities and special communication arrangements. Individuals needing special accommodation may request assistance by contacting at Town Hall or at 970-568-3380 ext. 110 at least 24 hours in advance.

Board of Trustees Meeting

Date: December 14, 2021
Submitted By: Hallie Sheldon, Management Analyst
Subject: Strategic Plan 2021 Final Update

- **Presentation:** Hallie Sheldon, Management Analyst

EXECUTIVE SUMMARY

The Board of Trustees created the Strategic Plan to guide Town staff in the projects and topics they hope to address in the next 2 years. This document has allowed staff to prioritize projects and resources throughout the year and ensure that the Town is following an efficient and successful path. Town staff have provided updates to the Board of Trustees throughout the year to ensure projects and internal work done by staff aligned with goals set forth by the Strategic Plan. This is the last update reflecting the work accomplished in 2021.

BACKGROUND / DISCUSSION

The Strategic Plan outlines 4 Focus Areas: Growth and Development, Infrastructure, Community Engagement, and Organizational Strength.

Focus Area: Growth and Development

Goal: Balanced and resilient revenues

- American Rescue Plan Act Money
 - Wellington will be receiving \$2.6 million dollars as a result of the Federal American Rescue Plan Act.
 - \$1.3 million was received in 2021 - the Board of Trustees approved to use this in the Water Fund.
 - An additional \$1.3 million will be given in 2022.
- Fee Schedule Review
 - Staff is currently reviewing all town fees to determine the necessary changes to meet regional market standards.
 - This will come before the Board of Trustees for approval in 2022.
- SafeBuilt renegotiation contract
 - The Town has worked diligently to renegotiate the contract with SafeBuilt.
 - The savings from this renegotiation is equal to the cost of 2 additional positions which were approved in the 2022 budget.
 - This also opens opportunities for additional revenue sources for the town moving forward.

Goal: Identify, attract and retain commercial development and businesses

- New Businesses in 2021
 - The Town has welcomed 38 new businesses to Wellington in 2021.
- Grants supporting businesses
 - The Town was awarded \$719,625 in grant funding that directly supports local businesses.

- Lending opportunities
 - Town staff have met with several lending programs in the region to develop partnerships and provide cost-effective opportunities for businesses in Wellington.

Goal: Comprehensive Plan - alignment and execution

- The Comprehensive Plan was adopted by the Planning Commission on August 2, 2021.
- The Land Use Code update is in progress and will be in alignment with the Comprehensive Plan.
 - Final adoption of the Land Use Code is expected in 2022.

Goal: Develop partnerships for long-term funding strategies

- Highlighted partnerships for this year:
 - Wellington Main Streets:
 - There has been significant collaboration in the search, writing, and execution of grants to support Wellington businesses and infrastructure around the town.
 - Colorado Department of Transportation (CDOT):
 - The Town has been working alongside CDOT to determine funding opportunities for infrastructure improvements.
 - North Poudre Irrigation Company (NPIC):
 - Collaboration is occurring regarding the future of the Water Treatment Plant expansion site and the water lease agreements between NPIC and the Town. This partnership is vital to the future of water in Wellington.
 - Northern Water Conservancy District:
 - Northern Water has supported the Town's water conservation program in 2021.
 - They granted the Town 125 showerheads and handhelds to help pilot a showerhead exchange program to help residents save water indoors.
 - These showerheads are currently available in the Library for any resident interested.
 - They also provided free outdoor irrigation audits for residences and HOAs interested.
 - CSU Extension:
 - Water Resource Specialist, Joel Schneekloth from Colorado State University's Extension program held a workshop in July regarding best practices for irrigation and conserving water outdoors.
 - This presentation can be found on the Town's Youtube Page.
 - Regional partners regarding water
 - Town staff has been working with regional water partners across Northern Colorado to determine possible redundant water supplies and ways to partner for the best interest of residents.
 - Metro DPA Program
 - The Board of Trustees approved the offering of the Metro DPA program in Wellington on July 13, 2021.
 - This program is a self-funded homeownership and down payment assistance program available to Front Range communities.
 - B Dams

- There continues to be regional collaboration among the participants regarding the B Dams project.
- Larimer County
 - The Town worked alongside Larimer County during the November election process.
- Department of Local Affairs (DOLA):
 - The Town has continued to work with DOLA regarding grant opportunities.
 - The Town completed a DOLA grant in September 2021 that focused on future space needs for Town departments.

Focus Area: Infrastructure

Goal: Ensure adequate current and future water resources, treatment and delivery

- The Town is continuing conversations with regional water partners to determine redundant water supplies and possible future partnerships.
- Water Conservation program:
 - Town staff is working with Logan Simpson to update the Town's Landscape and Irrigation standards to align with more efficient outdoor watering practices and drought-resistant landscapes.
 - The Town is currently running a Showerhead exchange program where residents can get a free water efficient showerhead to replace older units in their homes.
 - The Town offered free residential irrigation audits in the summer to inform residents of their watering systems and diagnose possible inefficiencies to promote water savings.
 - CSU Extension held an outdoor irrigation program on July 29 to promote best practices for efficient watering outdoors. This can be rewatched on the Town YouTube Page.
 - Town staff held a Youth Water Conservation Program at the Wellington Public Library which included a demonstration of the water treatment plant process.
 - Town staff has also been providing monthly water conservation classes for residents who have applied for the Hardship Utility Grant.
 - Town staff continues to replace old residential water meters with automatic meters. The goal of these replacements will be an Advanced Metering system in the future which will help residents track and understand their water consumption, promote self-education and include leak detection opportunities.
 - All of these programs and projects align with the Town's 2018 adopted Municipal Water Efficiency Plan.
- The Town acquired 14.5 North Poudre Irrigation water shares in 2021 through the development process.

Goal: Plan and develop purposeful community and Town facilities

- Future Town Hall
 - Town staff completed a space needs assessment grant with DOLA which resulted in a cost-benefit matrix tool that will be used for future Town Hall location considerations.
- Harrison House Expansion - Town Services Building
 - The Town of Wellington will be opening the new Town Services building located at 3rd and Harrison Avenue in early 2022.

- This building will house all public-facing services to streamline processes and provide access for residents to staff and resources.

Goal: Create opportunities for transportation and storm water management improvements

- The Town was awarded 2 CDOT grants that support businesses on Main Street.
 - The Town is in the process of submitting additional grants for future infrastructure improvements.
- Stormwater Master Plan:
 - Town staff is currently working with Icon Engineering to create a Stormwater Master Plan.
 - This will help prioritize future projects and determine the needs of the town now and in the future.
- CR9 & Highway 1 Intersection
 - Town staff is working with regional partners regarding the future of the intersection of County Road 9 and Highway 1.
 - The Town has Congestion and Mitigation of Air Quality (CMAQ) Improvement program funds for this project.

Focus Area: Community Engagement

Goal: Build awareness about the Town of Wellington services and programs

- The Town has an increased social media presence.
 - August-December, the Facebook reach was 16,833 accounts. This means that 16, 833 people saw some form of content from Wellington's Facebook page. This includes posts, stories, ads, social information, etc.
 - Instagram reach was up 20.4% and followers increased by 12.6%.
 - Instagram engagement was up 681%.
- Increase unique print materials
 - The Town recognizes that not all community members have access to social media.
 - Town staff created an every door mailer for the November election to inform voters of the ballot questions.
 - Town staff also provided banners for the budget process to ensure residents could access the materials ahead of time for the Budget Boo-nanza event.
 - The Town provided coasters and table tents with information regarding the Land Use Code Update.
- Monthly Newsletter
 - The monthly newsletter was created in December 2020 and is published the first Wednesday of every month.
 - There is a total of 3,681 total sends this year.
 - The Town has a 60% open rate which is much higher than the 28.2% government average.
 - Town staff will further optimize the newsletter in the new year based on user analytics. Staff will look at mobile vs desktop open rates, average read time, and the click rate of items.

Focus Area: Organizational Strength

Goal: Update Personnel Policy

- Town staff updated personnel policies to align with strategic plan goals and the draft document has been sent for legal review.
- This handbook is expected to launch early in 2022.
- The goal of this document is to outline practices and policies to keep Town staff safe and accountable.

Goal: Employee Compensation and Benefits

- The Town is currently reviewing all job descriptions to ensure they are accurate and up to date.
 - The review is being completed through an equity lens to ensure we are encouraging a broad and diverse workforce to apply and be employed by the Town of Wellington.
- A new medical insurance company has been selected for 2022.
 - The new plan is no longer self-funded and reduces the Town's financial risk from high claims.
 - The new coverage goes into effect in 2022.

Goal: On / Off Boarding

- Exit interviews are being completed on staff that are leaving to identify areas the Town can improve and be an employer of choice.
- Next year, the Town is hoping to find a recruiting and HRIS program to help encourage applicants, save advertisement costs for sponsoring job postings, and cut down on the time to hire, leading to a better onboarding experience for the new hire and the hiring manager.

STAFF RECOMMENDATION

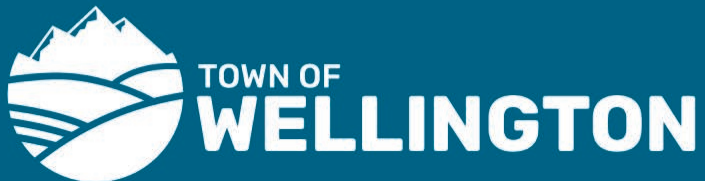
For the discussion of the Board of Trustees.

ATTACHMENTS

1. Strategic Plan Update-December 14, 2021

Strategic Plan Update

December 14, 2021



Hallie Sheldon, Management Analyst

4 Focus Areas

Growth and Development

Infrastructure

Community Engagement

Organizational Strength





Growth and Development

Goal: Balanced and Resilient Revenues



American Rescue Plan Act Money

- Federal funding
- Received \$1.3 million in 2021 – allocated to Water Fund
- \$1.3 million to be received in 2022

Fee Schedule

- Review in progress – presentation to Board in January

SafeBuilt Contract Renegotiation

- Cost savings pays for 2 new positions
- Future revenue potential



Goal: Identify, attract and retain commercial development and businesses

2021 New Businesses

The Town welcomed
38 new businesses
this year

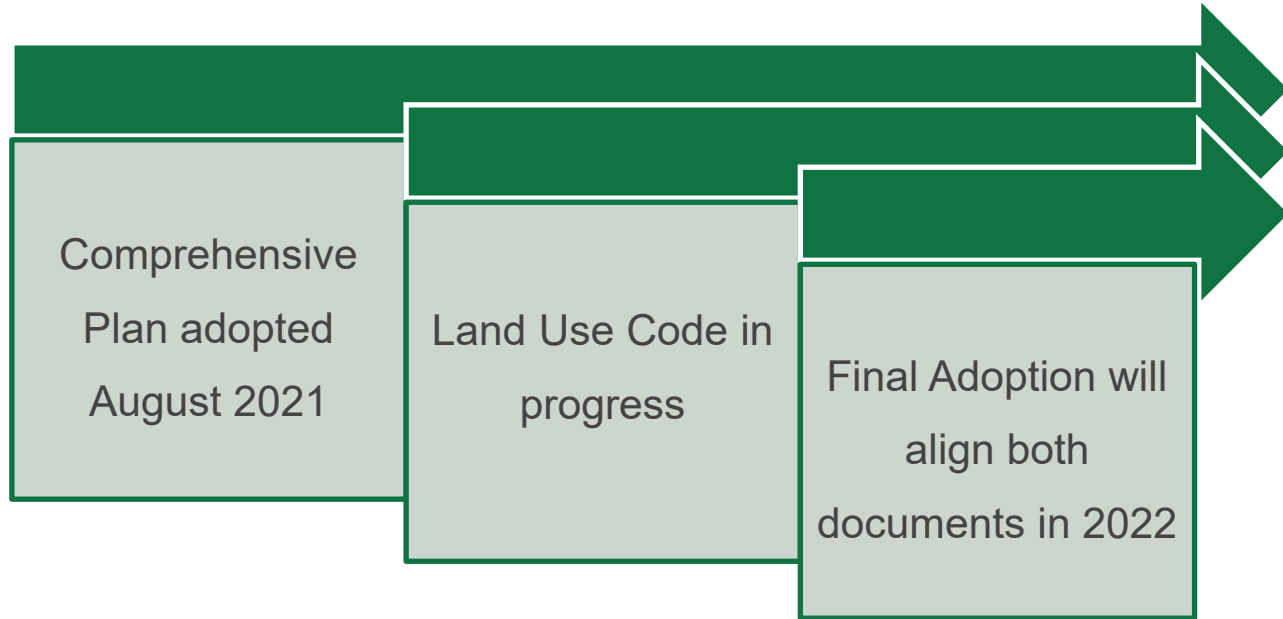
Grant Funding for Businesses

\$719,625 in grant
funding awarded to
support local
businesses

Lending Opportunities

Partnerships were
developed to provide
cost-effective lending
opportunities for local
businesses

Goal: Comprehensive Plan



PLAN WELL
VISION FOR TOMORROW
SOLUTIONS FOR TODAY



Goal: Highlighted Partnerships

Wellington Main Streets- Grants Program Cleveland Avenue

Colorado Department of Transportation – grant funding

North Poudre Irrigation Company- Facility Expansion and Lease Discussions

Northern Water- Water Conservation Programming

CSU Extension- Water Conservation Programming

Regional partners regarding water

Metro DPA Program

B Dams efforts with regional partners

Larimer County – Elections

Department of Local Affairs – grant funding



Infrastructure

Goal: Ensure adequate current and future water supply

Regional Collaboration

- Discussions with regional partners on redundant water supplies ongoing

Water Conservation Program

- Landscape and Irrigation Standards
- Irrigation Audits
- Library Conservation Youth Program
- Education Classes for Utility Grant
- Advanced Metering Replacements
- Showerhead Exchange Program

Water Shares

- 14.5 NPIC shares acquired this year through development



Goal: Plan and Develop Purposeful Facilities



Future Town Hall

Staff completed DOLA reporting and created matrix tool to use for Future Town Hall location considerations



Harrison House Expansion – Town Services Building

Opening January 2022
All public facing services will be available in one location

Goal: Create opportunities for transportation and storm water management improvements

CDOT grants with Main Street

- 2 awarded grants
- Additional applications submitted

Stormwater Improvements

- Stormwater Master Plan in progress

CR9 & HWY 1 Intersection

- CMAQ funds





Community Engagement

Goal: Build awareness about Town services & programs

Increase social media presence

- August-December
 - Facebook reach of 16,833
 - Instagram reach up 20.4%
 - Instagram followers up 12.6%
 - Instagram engagement up 681%



Increase unique print materials

- Every door mailer for election
- Budget Boo-nanza Banner
- Land Use Code Update – coasters and table tents

Goal: Build awareness about Town services & programs continued

Monthly Newsletter

- 1st Wednesday of every month
- Started December 2020
- 3,687 total sends
- Averaging 60% open rate (28.2% government average)

Further optimizing in new year based on user analytics

- Mobile vs Desktop
- Average read time
- Click rate





Organizational Strength

Goal: Personnel Policy



EMPLOYEE HANDBOOK
UPDATED AND IN LEGAL
REVIEW



ANTICIPATED LAUNCH
BEGINNING OF 2022



OUTLINES PRACTICES AND
POLICIES TO KEEP TOWN
STAFF SAFE AND
ACCOUNTABLE.

Goal: Employee Compensation and Benefits



Review of job descriptions



New medical insurance selected

- Reduce Town's financial risk from high claims
- In effect in 2022



Goal: On/Off Boarding

Exit Interviews

- Conducted for staff leaving
- Identify areas to improve for organizational development

Goal: To be an employer of choice



Questions?



Board of Trustees Meeting

Date: December 14, 2021

Submitted By:

Subject: Minutes of the November 9, 2021 regular Board of Trustees meeting and November 16, 2021 special Board of Trustees meeting

EXECUTIVE SUMMARY

BACKGROUND / DISCUSSION

STAFF RECOMMENDATION

ATTACHMENTS

1. 11.09.21 BOT Minutes
2. 11.16.21 BOT Minutes



BOARD OF TRUSTEES

November 9, 2021

6:30 PM

Leeper Center, 3800 Wilson Avenue, Wellington, CO

MINUTES

A video recording of this meeting is available on the Town of Wellington's YouTube page at <https://www.youtube.com/channel/UCPgBI-EYjaSam4hF3mkoFNA>

A. CALL TO ORDER

Mayor Hamman called the meeting to order at 6:30 p.m.

1. Pledge of Allegiance
Mayor Hamman asked that all rise for the pledge of allegiance.
2. Roll Call
Mayor Troy Hamman
Mayor Pro Tem Wyatt Knutson
Trustee Jon Gaiter
Trustee John Jerome
Trustee Rebekka Kinney – Absent
Trustee Ashley Macdonald
Trustee Tim Whitehouse – Absent

Also Present:

Patti Garcia, Town Administrator
Dan Sapienza, March & Olive, LLC, Town Attorney
Cody Bird, Director of Planning
Bob Gowing, Director of Planning
Hallie Sheldon, Management Analyst
Krystal Eucker, Town Clerk
Judi Tippetts, Finance Director
Mahalia Henschel, Communications Specialist
Ross Lagenese, Library Manager
Kelly Houghteling, Deputy Town Administrator
Meagan Smith, Deputy Public Works Director
Michael Rairdon, Larimer County Sheriff's Office
Darla Roselle, Human Resource Administrative Coordinator
Dave Myer, Engineer
DJ Jones, Water Treatment Superintendent

3. Amendments to Agenda
None
4. Conflict of Interest

None

B. COMMUNITY PARTICIPATION

1. Public Comment

Mayor Hamman opened the meeting for public comment to which there was none.

C. ACTION ITEMS

1. Resolution No. 32-2021 - A Resolution Regarding Approval of Colorado Opioids Settlement Memorandum of Understanding

Mr. Sapienza informed the Board that local governments and the state have been involved in ongoing litigation against manufacturers and distributors of opioid drugs. The Colorado Attorney General has been involved in settling the litigation and the MOU and associated documents have been drafted for local entities to agree to the settlement terms and receive funds through the settlement.

The meeting was opened for public comment and Mr. Westfall addressed the Board.

Trustee Macdonald moved to approve Resolution 32-2021 – A Resolution Regarding Approval of Colorado Opioids Settlement Memorandum of Understanding; Trustee Jerome seconded the motion. Roll call on the vote resulted as follows:

Yeas – Gaiter, Jerome, Macdonald, Knutson, Hamman

Nays – None

Motion carried.

2. Budget Review

Ms. Tippetts provided a brief review of the 2022 proposed budget which shows governmental funds with projected revenues of \$13,079,039 and expenditures of \$15,779,844, including \$3,942,416 of capital expenditures and \$1,007,510 for debt service which reflects paying off the 2014 park loan.

The meeting was opened for public comment; Ms. Tietz, Ms. Chollet, Mr. Quinonez and Ms. Andreen provided public comment.

Questions received regarding the budget were answered and placed on the town's website.

Trustee Gaiter moved to utilize the American Rescue Act Funds toward the water utility enterprise fund for the purpose of paying for the water treatment plant expansion; Trustee Macdonald seconded the motion. Roll call on the vote resulted as follows:

Yeas – Gaiter, Jerome, Macdonald, Whitehouse, Hamman

Nays – None

Motion carried.

3. Request for Special Meeting on November 16, 2021

Per Ms. Garcia, staff is requesting to hold a Special Meeting on November 16, 2021 in order to present the 2022 budget for Trustee consideration.

Mayor Pro Tem Knutson moved to approve convening for Special Meeting of the Board of Trustees on November 16, 2021 at 6:30 p.m. at the Leeper Center; Trustee Jerome seconded

the motion. Roll call on the vote resulted as follows:

Yeas – Gaiter, Jerome, Macdonald, Knutson, Hamman

Nays – None

Motion carried.

4. Resolution No. 31-2021 - A Resolution Establishing Non-Residential Water Charges for Wellington Water Enterprise Water Utility Use

Ms. Garcia is requesting postponing this item to the November 16th Special Meeting when all Board Members will be in attendance.

Trustee Macdonald moved to table Resolution 31-2021, A Resolution Establishing Non-Residential Water Charges for Wellington Water Enterprise Water Utility Use to the November 16, 2021 Special Meeting; Trustee Gaiter seconded the motion. Roll call on the vote resulted as follows:

Yeas – Gaiter, Jerome, Macdonald, Knutson, Hamman

Nays – None

Motion carried.

D. REPORTS

1. Town Attorney
None.
2. Town Administrator
None.
3. Staff Communications
 - a. Report of Bills - October 2021
4. Board Reports
Mayor Hammon gave an update on the Veteran's Day Activities and acknowledged the Main Streets Program recognition.

Trustee Gaiter gave a reminder of the traffic survey that will be coming out soon.

E. EXECUTIVE SESSION

1. For the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators pursuant to Section 24-6-402(4)(e), C.R.S. – regarding negotiations with North Poudre Irrigation Company. As required by C.R.S. §24-6-402(2)(d.5)(II)(A) and (II) (E) the executive session proceedings will be electronically recorded and the record will be preserved for 90 days through February 7, 2022.

Trustee Macdonald moved to go into executive session for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators pursuant to Section 24-6-402(4)(e), C.R.S. – regarding negotiations with North Poudre Irrigation Company; Mayor Pro Tem Knutson seconded the motion. Roll call on the vote resulted as follows:

Yeas – Gaiter, Jerome, Macdonald, Knutson, Hamman
Nays – None
Motion carried.

The Board of Trustees moved into executive session at 7:35 p.m.

No official action was taken during the executive session.

Trustee Gaiter moved to close the executive session; Trustee Jerome seconded the motion. Roll call on the vote resulted as follows:

Yeas – Gaiter, Jerome, Macdonald, Knutson, Hamman
Nays – None
Motion carried.

The Board of Trustees closed the executive session at 7:47 p.m.

Mayor Hamman informed the Board that the Veterans Traveling Memorial Wall has run short of funds for the display and they will need an additional \$1,200.

Trustee Jerome moved to take \$600 out of the Board of Trustees Discretionary Fund and donate it to the Veterans Memorial Wall; Trustee Macdonald seconded the motion. Roll call on the vote resulted as follows:

Yeas – Gaiter, Jerome, Macdonald, Knutson, Hamman
Nays – None
Motion carried.

F. ADJOURN

Upon a motion duly made, the meeting was adjourned at 7:50 p.m.

Krystal Eucker, Town Clerk



BOARD OF TRUSTEES
November 16, 2021
6:30 PM

Leeper Center, 3800 Wilson Avenue, Wellington, CO

Special Meeting Minutes

A video recording of this meeting is available on the Town of Wellington's YouTube page at <https://www.youtube.com/channel/UCPgBl-EYjaSam4hF3mkoFNA>

A. CALL TO ORDER

Mayor Hamman called the meeting to order at 6:33 p.m.

1. Roll Call

Mayor Troy Hamman
Mayor Pro Tem Wyatt Knutson
Trustee Jon Gaiter
Trustee John Jerome
Trustee Rebekka Kinney
Trustee Ashley Macdonald
Trustee Tim Whitehouse

Also Present:

Patti Garcia, Town Administrator
Dan Sapienza, March & Olive, LLC, Town Attorney
Judi Tippetts, Finance Director
Stephanie Anderson, Human Resources Manager
Cody Bird, Director of Planning
Bob Gowing, Director of Planning
Meagan Smith, Deputy Public Works Director
Krystal Eucker, Town Clerk
Darla
Dave Myer, Engineer
Hallie Sheldon, Management Analyst
Mahalia Henschel, Communications Specialist
Tyler Sexton, Deputy Finance Director
Kelly Houghteling, Deputy Town Administrator

B. ACTION ITEMS

1. Ordinance No. 12-2021 - An Ordinance Adopting the Budget for the Town of Wellington, Colorado for 2022

Ms. Tippetts gave a brief overview of the proposed 2022 budget for the Town of Wellington.

The meeting was opened for public comment; Ms. Chollet, Ms. Tietz, Ms. Gaiter and Ms. Andreen

gave public comment.

Trustee Macdonald moved to approve Ordinance 12-2021, an Ordinance Adopting the Budget for the Town of Wellington, Colorado for 2022; Trustee Kinney seconded the motion. Roll call on the vote resulted as follows:

Yeas – Jerome, Macdonald, Kinney, Whitehouse, Knutson, Hamman

Nays – Gaiter

Motion carried.

2. Ordinance No. 13-2021 - An Ordinance Appropriating Sums of Money to Defray Expenses and Liabilities

Ms. Tippetts informed the Board that this ordinance is giving the Town the authority to spend money.

The meeting was opened for public comment to which there was none.

Trustee Macdonald moved to approve Ordinance 13-2021, an Ordinance Appropriating Sums of Money to defray Expenses and Liabilities; Mayor Pro Tem Knutson seconded the motion. Roll call on the vote resulted as follows:

Yeas – Gaiter, Jerome, Macdonald, Kinney, Whitehouse, Knutson, Hamman

Nays – None

Motion carried.

3. Ordinance No. 14- 2021 - An Ordinance Levying General Property Taxes for the Taxable Year 2021

Ms. Tippetts informed the Board that this ordinance is to certify the mill levy with Larimer County at 13.096 mills.

The meeting was opened for public comment to which there was none.

Trustee Macdonald moved to approve Ordinance 14-2021, an Ordinance Levying General Property Taxes for the Taxable Year 2021; Mayor Pro Tem Knutson seconded the motion. Roll call on the vote resulted as follows:

Yeas – Gaiter, Jerome, Macdonald, Kinney, Whitehouse, Knutson, Hamman

Nays – None

Motion carried.

4. Resolution No. 31-2021 - A Resolution Establishing Non-Residential Water Charges for Wellington Water Enterprise Water Utility Use

Ms. Garcia presented four options for the non-residential water rates. There are currently 137 non-resident water accounts in Wellington.

After Board discussion, the general consensus was to have a complete water rate study for residential and commercial rates in the future.

The meeting was opened for public comment; Ms. Cannon, Ms. Andreen and Mr. Allen, Mr. Westfall provided public comment.

Trustee Gaiter moved to approve Resolution 31-2021, a Resolution Establishing Non-Residential Water Charges for Wellington Water Enterprise Water Utility Use Option 1: move the monthly base rate for non-residential ¾ inch tap to \$66.00 and the tier usage to

\$4.56, move the monthly base rate for non-residential 1” inch tap to \$103.62 and the tier usage to \$4.56, move the monthly base rate for non-residential 1 ½ inch tap will remain at \$118.73 and the tier usage to \$4.56 and non-residential 2” tap would remain at \$126.03 base rate and the usage tier to \$4.56; Trustee Jerome seconded the motion. Roll call on the vote resulted as follows:

Yeas – Gaiter, Jerome, Whitehouse, Knutson, Hamman

Nays – Macdonald, Kinney

Motion carried.

C. EXECUTIVE SESSION

1. An executive session pursuant to C.R.S. § 24-6-402 (4)(f)(I) to discuss personnel matters concerning the Town Administrator, under circumstances where the Town Administrator has not requested an open meeting.
2. An executive session pursuant to C.R.S. § 24-6-402 (4)(f)(I) to discuss personnel matters concerning the Town Attorney, under circumstances where the Town Attorney has not requested an open meeting.

Trustee Gaiter moved to go into executive session pursuant to C.R.S. § 24-6-402 (4)(f)(I) to discuss personnel matters concerning the Town Administrator, under circumstances where the Town Administrator has not requested an open meeting and pursuant to C.R.S. § 24-6-402 (4)(f)(I) to discuss personnel matters concerning the Town Attorney, under circumstances where the Town Attorney has not requested an open meeting; Trustee Jerome seconded the motion. Roll call on the vote resulted as follows:

Yeas – Gaiter, Jerome, Macdonald, Kinney, Whitehouse, Knutson, Hamman

Nays – None

Motion carried.

Moved into executive session at 8:13 p.m.

Trustee Macdonald moved to close the executive session; Trustee Gaiter seconded the motion. Roll call on the vote resulted as follows:

Yeas – Gaiter, Jerome, Macdonald, Kinney, Whitehouse, Knutson, Hamman

Nays – None

Motion carried.

The executive session closed at 9:01 p.m.

D. ADJOURN

Upon a motion duly made, the meeting was adjourned at 9:07 p.m.

Krystal Eucker, Town Clerk

Board of Trustees Meeting

Date: December 14, 2021
Submitted By: Dave Myer, Engineer
Subject: Ozone Equipment Purchase for Water Treatment Plant Expansion & Hensel Phelps-Hydro Construction Contract

- **Presentation: Meagan Smith, Deputy Public Works Director and DJ Jones, Water Superintendent**

EXECUTIVE SUMMARY

Due to vendor lead times, design needs, and project schedule, prepurchase of ozone equipment is necessary for the Water Treatment Plant Expansion, and a construction contract with Hensel Phelps Hydro Construction (HP-Hydro) must be established to facilitate this purchase.

BACKGROUND / DISCUSSION

Taste and odor removal in the water plant expansion will be achieved with ozone followed by biologically active carbon filtration. Ozone is a powerful oxidizing agent which, when dissolved in water, produces a broad-spectrum biocide able to destroy a wide range of organic compounds and all microorganisms. Ozone is a gas that is produced by equipment that subjects oxygen to high electric voltage.

As mentioned in previous Board meetings, early procurement of ozone equipment is necessary in the scope of the plant's expansion. The selection of the ozone manufacturer has a significant impact on the size of building required, influences design details, and involves a long lead time. Ozone equipment procurement was initiated in early September by the CMAR Contractor (HP-Hydro) with a bid advertisement. The bid form (prepared by Jacobs) specified performance parameters and evaluation criteria consisting of capital cost, power and chemical supply costs, and building footprint size. A pre-proposal meeting with interested ozone vendors was held on September 15. Four (4) bid proposals were received on the closing date of September 28 (bid summary attached). The design team reviewed all bid packages and selected Pureflow/Primozone based on their qualifications, completeness of bid package, and the lowest capital and O&M cost. The team also conducted a site visit to a Castle Rock water treatment facility in June to witness this system in operation and returned with favorable findings.

Pending Board approval, HP-Hydro will issue an intent and contract directly with Pureflow/Primozone for the purchase. This commits Pureflow/Primozone to their price and to providing information through the remaining design process. It is customary for the Contractor to directly contract with equipment providers such that the Contractor holds the warranty to enforce it as part of the post-construction contractual obligation with the Town. Note that terms of the ozone bid package required bidders to hold prices for 120 days after submission of bids that occurred on September 28, 2021. Therefore, it is crucial for HP-Hydro to issue a purchase order to Pureflow/Primozone as soon as possible. Jacobs can then resume design on the ozone treatment facilities shortly after.

A summary of the ozone package costs and payment schedule is attached. The costs include Pureflow/Primozone ozone equipment (\$1,465,875) along with Hensel Phelps Hydro's prepurchase and design management fees (\$19,440) and bonds, insurance, profit, and overhead fees that were negotiated with the Town and incorporated into the ensuing contract (\$147,524), totaling to a not-to-exceed price of \$1,632,839. The



design management fees constitute HP-Hydro's preconstruction services for the Town, involving the early ozone equipment procurement and providing coordination between Jacobs and Pureflow/Primozone

To facilitate the ozone equipment purchase, the CMAR construction contract with HP Hydro must be established at this time. After discussions with the Jacobs engineering team, it was decided that the contract should be based on 2013 Engineers Joint Contract Documents Committee (EJCDC) template to remain consistent with the specifications and other project documents that Jacobs will be preparing. EJCDC is a coalition of stakeholders in the project delivery process who develop and endorse standard contract documents for engineering design and construction projects.

Meetings were held between HP-Hydro and Town staff to discuss aspects of the contract. Draft documents were prepared which were reviewed and ultimately approved by the Town Board Attorney. These documents are based on the same framework as the contract executed with Moltz Construction for the Town's Wastewater Treatment Plant Expansion. The final contract documents are attached that consist of the following:

EJCDC C-525 Agreement

Sets basic terms between the owner and the contractor. Details contractor's basic duties and responsibilities, including bonds and insurance; progress and final payments; substantial completion; status of the engineer during construction; owner's responsibilities; subsurface and hidden site conditions; changes in the work, contract price, or contract time; contractor warranties and guarantees; correction or rejection of defective work; work suspension or termination; and dispute resolution. The C-525 applies to agreements between owners and contractors based on the cost of work plus a fee, with a guaranteed maximum price.

EJCDC C-700 Standard General Conditions of the Construction Contract

For use between the owner and the contractor, the document details the contractor's basic duties and responsibilities, including bonds and insurance; progress and final payments; substantial completion; status of the engineer during construction; owner's responsibilities; subsurface and hidden site conditions; changes in the work, contract price, or contract time; contractor warranties and guarantees; correction or rejection of defective work; work suspension or termination; and dispute resolution.

EJCDC C-800 Supplemental Conditions

These supplemental conditions amend or supplement the Standard General Conditions of the Construction Contract (C-700). The terms of the Supplemental Conditions take precedence over the general conditions. Additional modifications to the Supplemental Conditions will be incorporated with the Guaranteed Maximum Price (GMP) expected to be negotiated mid-March 2022.

These documents, particularly the Agreement, are intended to secure construction services with HP-Hydro. HP-Hydro has already been performing preconstruction services with Wellington and Jacobs during the design, providing constructability review and cost implications, developing two detailed cost estimates (30, 60 percent), assisting with long-lead equipment purchases, and will eventually provide a 90 percent cost estimate and negotiate with Wellington to enter an Amendment to the Contract to establish the Guaranteed Maximum Price (GMP) expected in mid-March 2022. Supplemental Conditions will be further modified and appended at that time.

STAFF RECOMMENDATION

- Authorize execution of contract for construction services with Hensel Phelps Hydro Construction for Wellington's Water Treatment Plant Expansion.



- Authorize Hensel Phelps Hydro Construction to purchase ozone equipment from Pureflow/Primozone in the not to exceed amount of \$1,632,839.00 as part of Wellington's Water Treatment Plant Expansion.

ATTACHMENTS

1. Ozone Equipment Bid Summary
2. Pureflow Primozone Bid Proposal
3. Ozone Package Cost & Payment Schedule
4. EJCDC-HPCC Contract

WEL Est-10A Electronic HENSEL PHELPS Plan. Build. Manage.		UNIT PRICE PROPOSAL SUMMARY		PROCESS EQUIPMENT									
PROJECT Wellington WTP Expansion				HPCC - Expected		DeNora Water Technologies		Aqua Aerobics Systems, Inc.		Pureflow/Primozone		Suez	
Wellington, CO 80549						Colmar, Pennsylvania		Loves Park, Illinois		Whittier, California		Leonia, New Jersey	
						Tel:2159974290		Tel:3037706418		Tel:3036381608		Tel:2016762525	
						Abby Momorella		Josh Queen - Goble Sampson		Steve Hansen - Ambiente H2O		William Nezgod	
						abby.momorella@denora.com		jqueen@goblesampson.com		shansen@ambienteh2o.com		william.nezgod@suez.com	
SEC	DESCRIPTION	Quantity	UN	Notes	TOTAL	UP	TOTAL	UP	TOTAL	UP	TOTAL	UP	TOTAL
	Base Bid				-		\$ 1,180,000.00		\$ 1,504,000.00		\$ 1,450,000.00		\$ 1,768,000.00
00 00 00	44 44 56 OZONE SYSTEM												
	Ozone Generator (1 Standard, 2 Modular)	1			✓		✓		✓	2.00	✓		✓
	Power Supply Unit	1			✓		✓		✓	2.00	✓		✓
	Ozone Destruct Packages	2			✓		✓		✓		✓		✓
	Cooling Water System - Open, Closed/Chiller	2			✓		✓		✓		✓		✓
	O2 Feed System - Filter, PRVs, Valves, Instr.	1 Lot			✓		✓		✓		✓		✓
	N Feed System - Filter PRVs, Valves, Instr., Flow	1 Lot			✓		✓	N/A	✓		✓		✓
	Injection Reactor	1			✓		✓		✓		✓		✓
	Injection Pumps	2			✓		✓		✓		✓		✓
	Ozone Quench Jet Pump & System	1		To be Removed for Comparison, in HP Estimate	N/A		N/A		N/A		✓		N/A
	Ambient O3 Monitor	1		Generator Room	✓		✓	2.00	✓	3.00	✓		✓
	Low Concentration UV Ambient O3 Sensor	4		1 per generator room and destruct/room	✓		✓		✓		✓	5.00	✓
	Medium Concentration UV Ambient O3 Sensor	1		Upstream of Destruct Unit(s)	✓	2.00	✓		✓		✓		✓
	High Concentration UV Ambient O3 Sensor	1		1 per generator	✓		✓		✓		✓	2.00	✓
	DO Monitor/Sampling System	2		1 per Destruct discharge	✓		✓		✓		✓		✓
	Dew Point/Humidity Sensor	1		Combined gas feed	✓		✓		✓		✓		✓
	Thermal Dispersion Gas Flow Sensor	2		Gas Feed per Generator & O3 Flow Injector	✓		✓		✓		✓		✓
	Master Control Panel	1			✓		✓		✓		✓		✓
	Instrumentation	1 Lot			✓		✓		✓		✓		✓
	Valves	1 Lot			✓		✓		✓		✓		✓
	Submittal Lead Time	TBD			TBD		6 weeks		10 weeks		10 weeks		14 weeks
	Equipment Lead Time	TBD			TBD		26 weeks		24 weeks		22 weeks		28 weeks
	Spare Parts	As Spec'd			✓		✓		✓		✓		✓
	Field Services	As Spec'd			✓		✓		✓		✓		✓
	Quote Valid For	120 days from Bid			✓		90 days - Verbal 120		✓		✓		✓
					----		----		----		----		----
					----		----		----		----		----
	BASE BID						\$ 1,180,000.00		\$ 1,504,000.00		\$ 1,450,000.00		\$ 1,768,000.00
	Deduct for Destruct						\$ (48,025.00)		\$ (39,000.00)		\$ (59,470.00)		\$ (85,160.00)
	Deduct for Chiller/Cooling Pumps						\$ (9,595.00)		\$ (33,000.00)		\$ (26,850.00)		\$ (63,000.00)
	DEDUCTS						\$ (57,620.00)		\$ (72,000.00)		\$ (86,320.00)		\$ (148,160.00)
	Base Bid						\$ 1,180,000.00		\$ 1,504,000.00		\$ 1,450,000.00		\$ 1,768,000.00
	Deducts						\$ (57,620.00)		\$ (72,000.00)		\$ (86,320.00)		\$ (148,160.00)
	Guaranteed Energy Present Worth Cost						\$ 267,110.00		\$ 160,020.00		\$ 150,459.11		\$ 327,174.00
	Guaranteed LOX Present Worth Cost						\$ 644,690.00		\$ 69,350.00		\$ 44,455.13		\$ 148,270.00
	Ozone Building Cost				----		\$ 200,590.00		\$ 105,038.00		\$ 85,386.00		\$ 222,600.00
	NET PRESENT WORTH WORKSHEET TOTAL						\$ 2,234,770.00		\$ 1,766,408.00		\$ 1,643,980.24		\$ 2,317,884.00
	NET PRESENT WORTH WORKSHEET TOTAL w/o Deduct						\$ 2,292,390.00		\$ 1,838,408.00		\$ 1,730,300.24		\$ 2,466,044.00
	EXCEPTIONS/CLARIFICATIONS												
	Exceptions						None		None		None		None
	Clarifications						See Proposal		None		See Proposal		See Proposal
								Add'l	No Nitrogen	Add'l	Remove Ozone Quench	Add'l	Standard Destruct
								Deduct	TBD	Deduct	(1,500)	Deduct	(38,715)



PUREFLOW OZONE DIV.
6739 Washington Ave., P.O. Box 469, Whittier, Ca 90608-0469
(800) 926-3426 • (562) 945-3425
FAX (562) 693-5257
info@pfdiv.com • www.pfdiv.com

QUOTATION

TO: Hensel Phelps
77 NW Frontage Road
Fort Collins, CO 80524

ATTENTION: Preston Randall – Project Director

PHONE: 970.225.2211

EMAIL: prandall@henselphelps.com

PAGE: 1 of 1

DATE: 16-Nov-2021

QUOTE NO.: Z1806033 Rev4

SUBJECT: Ozone Generation & Feed System

REFERENCE: Wellington, CO WTP Expansion

WE ARE PLEASED TO OFFER OUR QUOTATION ON THE FOLLOWING

ITEM	QTY	DESCRIPTION
1	1	Pureflow Ozone 153.5 lb / day @ 10% O3 wt ozone generation and feed system, including: two (2) Primozone GM-24 ozone generators, each at 76 lbs / day @ 10% ozone; two (2) Primozone backflow protectors; one (1) Pureflow nitrogen metering system; one (1) voltage transformer; two (2) Pureflow ozone destruct units; two (2) air cooled chillers; one (1) GOX filtration assembly; one (1) GOX pressure regulation assembly; one (1) Mazzei 12" Pipeline Nozzle Manifold; one (1) Mazzei Mass Transfers System including Two (2) Mazzei injector and degas systems for high/low flow conditions; one (1) LOT instrumentation / analyzers: one (1) Ozone System Master Control Panel with programming / integration; engineering submittals; operation and maintenance manual; spare parts; delivery; start-up; commissioning; and training; as detailed in the attached Pureflow Scope of Supply.

Lot Net Total **\$1,465,875.00**

NOTE: Refer to the attached Scope of Supply for a detailed list of equipment and services that are included in this quotation.

Progress Payment Terms:

20% with purchase order or execution of contract
20% upon delivery of mechanical submittal documentation
35% upon release to procurement / fabrication
20% upon equipment delivery to jobsite or thirty (30) days from ready to ship date, whichever occurs first
5% upon commissioning / operator training / client buy-off or six (6) weeks from ready to ship date, whichever occurs first

NOTE: PRICE(S) DOES (DO) NOT INCLUDE ANY TAX UNLESS SPECIFICALLY NOTED

PROGRESS PAYMENT TERMS: See Above

APPROX. DATE OF SHIPMENT: 22-24 Weeks after receipt of
submittal approval

EST. SHIPPING WEIGHT: TBD

F.O.B.: Shipping point, freight pre-paid to job-site

PUREFLOW FILTRATION DIV.

By: _____

Phil Pino

Please sign and return original copy.

Retain duplicate copy for your records.

ACCEPTED BY: _____

Title

Date

IMPORTANT

- Prices specified herein are exclusive of all taxes unless specifically noted.
- This proposal is subject to all terms and conditions printed on face and reverse side.

ORIGINAL-PLEASE SIGN AND RETURN

White - Original Please sign and return 2nd White - Customer Copy Retain for your records Yellow - Representative Copy Pink - Pureflow Copy

**PUREFLOW FILTRATION DIV.
QUOTATION
STANDARD TERMS AND CONDITIONS OF SALE**

1. **AGREEMENT.** The terms and conditions set forth below and on the front side hereof constitute the entire Agreement between the customer named on the front side hereof ("Buyer") and Pureflow Filtration Div., a division of California Environmental Controls, Inc., a California corporation ("Seller").
2. **TERMS OF SALE.** (a) **TAXES:** Unless specifically provided on the front side hereof, prices specified herein on the Goods are exclusive of all local, state, and federal taxes including without limitation taxes on manufacturing, sales, receipts, gross income, occupation, use and all similar taxes, or other taxes of any nature. Wherever applicable, such taxes will be invoiced as a separate charge which Buyer agrees to pay the Seller. (b) **TERMS OF PAYMENT:** Net cash due upon receipt of invoice, unless noted on front side of this quotation, to approved credit accounts. The Buyer agrees to pay Seller an additional charge of one and one-half percent (1 and 1/2%) per month (or such lesser amount equal to the maximum rate permitted by law) on any invoices not paid according to these terms. (c) **SECURITY INTEREST:** Until payment in full of the purchase price therein specified, Seller reserves a security interest in the goods securing payment of such purchase price. (d) **DELIVERY:** Prices quoted are f.o.b. point of origin of shipments unless shipping is specifically included in price offered on front page. Prices include domestic packing for rail or commercial shipments only. Shipment and delivery dates are estimates based upon schedules of Seller's suppliers and are computed from the time of settlement of all details and receipt of full approval of drawings where drawing approval is required. (e) **Field Supervision:** Unless specifically provided on the front side hereof, no installation assistance or field supervision by Seller is included in the terms and conditions of this Agreement.
3. **ENTIRE AGREEMENT.** This agreement supersedes all previous representations, statements, promises, agreements or understandings, written or otherwise. This Agreement is intended by the parties as a final expression of their understanding and no casual or prior dealings shall be relevant to explain any of the terms or conditions hereof. The Seller shall not be bound by any agent's or employee's representations, promises, statements or inducements not set forth in the Agreement. If any inconsistency exists between any typed or handwritten materials on the front hereof and these Standard Terms and Conditions, the former shall be controlling.
4. **ACCEPTANCE.** This quotation is an offer upon the terms and conditions herein specified. Acceptance by the Buyer may be effected by signing a copy of this quotation where specified and returning same to the Seller, or by the Buyer issuing a purchase order and delivering same to the Seller, which shall constitute Buyer's acceptance of this quotation and all of the terms and conditions herein specified. Acceptance of this offer is limited to its terms. Acceptances or confirmation which state additional or different terms from this offer shall be operative as acceptances; provided, however, that all such additional or differing terms shall be deemed material alterations within the meaning of Section 2207 (2) (b) of the California Commercial Code, and notice of objection to them pursuant to Section 2207 (2) (c) of the California Commercial Code is hereby given.
5. **CANCELLATION.** Orders may be cancelled by the Buyer only with Seller's written consent and upon payment of reasonable and proper cancellation charges, including factory costs and expenses.
6. **INSPECTION.** Buyer agrees to inspect the goods, supplies, merchandise and material covered hereby ("Goods") immediately upon their receipt by Buyer, secure a written acknowledgement from the delivering carrier as to any loss or damage and within three (3) business days of their receipt to give written notice to the Seller of any claim that the Goods do not conform with the terms of the Agreement. Failure to make such a claim within the stated period shall constitute an irrevocable acceptance of the Goods and an admission that they fully comply with all of the terms and conditions of the Agreement. Buyer expressly waives any right it may have to revoke acceptance after such three (3) day period.
7. **DELAYS.** Seller shall not be liable for any delays or failures in making shipments or deliveries caused by any contingency beyond Seller's control, or the control of Seller's suppliers or manufacturers, including without limitation failures or delays brought about by, caused by or in any manner arising from (i) labor conditions including strikes and shortages of labor, (ii) shortages of fuel, power, material or supplies, (iii) transportation delays, (iv) acts of God, fires, floods or weather problems, (v) damage to, or destruction in whole or in part of Goods, vehicles or manufacturing plants, (vi) accidents, or (vii) riots, government interference, embargos, regulations, war, insurrection or terrorist acts. The non-occurrence of the above contingencies with respect to Seller, its suppliers and manufacturers is a basic assumption of this agreement.
8. **DELAY IN INSTRUCTIONS.** Buyer agrees to furnish complete shipping instructions in such a manner as to reach the Seller at its main office ten (10) days before the date for any shipment specified herein. Buyer's failure to so furnish complete shipping instructions shall, without notice, automatically extend the shipping date from day to day until the Buyer furnishes complete shipping instructions, or until the Seller exercises its right to terminate the Agreement.
9. **RISK OF LOSS.** Unless Buyer and Seller specifically agree in writing to modify the terms of Paragraph 2. (d), above, all risk or loss shall pass to the Buyer when Goods are delivered by Seller to the carrier. In the event that Buyer and Seller agree in writing that the Goods are sold f.o.b. destination, Seller's responsibility for loss or damage terminates upon tender of delivery to Buyer by the carrier and the written acknowledgement and claims procedure provided for in Paragraph 4, above, shall be a precondition to any claim by Buyer for loss of damage in transit.
10. **RETURNS.** In no case are any Goods to be returned to Seller without first obtaining the written permission of Seller, which permission Seller may refuse to give at Seller's sole discretion. Only standard unused Goods as currently manufactured or inventoried by Seller which have been invoiced to Buyer within the previous ninety (90) days will be considered by Seller for return. Special items manufactured to order may not be returned under any circumstances. Goods which Seller accepts for return and credit will, in any event, be subject to a minimum handling and service charge of 25% plus all transportation charges. All returned Goods, if Seller accepts the return thereof, must in any case be securely packaged and shipped, freight prepaid, and the risk of loss shall remain with Buyer until the Seller actually receives the Goods.
11. **DEFAULTS.** In the event Buyer fails to comply with any of the terms of the Agreement or becomes bankrupt or insolvent or Buyer's financial condition becomes impaired or unsatisfactory to Seller, Seller may do any or all of the following: (a) Terminate the Agreement upon written notice thereof to Buyer without prejudice to Seller's rights to receive any amount then due under the Agreement; (b) Withhold all further deliveries under the Agreement; (c) require that Buyer pay for all future shipments in advance or provide other satisfactory security or guarantees to Seller that all existing and future invoices will be paid on or before their due dates; (d) Make partial shipments only to Buyer, which Buyer agrees to accept; (e) Recall any Goods then in transit and retake the same and repossess all Goods which may be stored with Seller in which case Buyer consents that all Goods so recalled, retaken or repossessed shall become the absolute property of Seller, provided that Buyer is given full credit therefor; (f) Upon written notice to Buyer revise the stated credit terms, if any, contained in this Agreement; (g) Without limitation, exercise any rights or remedies available to Seller under the Uniform Commercial Code as in force and effect on the date of the Agreement; or (h) Without limitation, exercise any other rights or remedies available to Seller under any applicable federal, state or local law.
12. **ATTORNEY'S FEES.** In the event of a default by Buyer of any of the terms or conditions of the Agreement, Buyer agrees to pay all costs of collection and enforcement incurred by Seller including, without limitation, Seller's reasonable attorney's fees and court costs.
13. **RETENTION LIMITATION.** Retention, if any is accepted by Pureflow Filtration Div., shall be limited to a maximum of ten percent (10%) of the contract price. All monies retained shall be paid, in full, upon successful "start-up" of the equipment supplied, or ninety (90) days after shipment of said goods, whichever date first occurs. The payment of monies retained under the terms of this paragraph is not conditioned upon any factors, issues, events or contingencies which are not specifically delineated in this quotation. The right of Pureflow Filtration Division to payment is NOT subject to any payment provisions enforced upon Buyer by the terms of any other contract with either Pureflow or a third party.
14. **CONSEQUENTIAL / LIQUIDATED DAMAGES.** The Buyer agrees that notwithstanding the form in which any legal or equitable action, proceeding or position may be brought or asserted by Buyer against Seller including without limitation claims based upon actual or alleged delays or breaches of warranty, that Seller's liability, if any, arising out of or in any way related to this Agreement, shall be limited to actual money damages in an amount not to exceed the total amount actually paid for the Goods by Buyer. Buyer further agrees that seller shall not, in any event, be liable for indirect, special, consequential or liquidated damages or penalties, whether based upon contract, warranty, tort, or negligence.
15. **PROPRIETARY MATERIAL.** All drawings, patterns, specifications, and information included in this proposal, and all information otherwise supplied by Pureflow Filtration Div. relating to the design, erection, operation, and maintenance of the goods, including filter media and all treatment processes, is the proprietary and / or confidential material or information of Pureflow Filtration Div. Purchaser shall not disclose such material or information to others or allow others to use such material or information without express written permission from an officer of Pureflow Filtration Div.
16. **GOVERNING LAW / CONSENT TO JURISDICTION.** (a) The terms and conditions set forth herein shall be construed under and in accordance with the laws of the State of California. The parties hereto consent to the jurisdiction and venue of any court of general jurisdiction in the Southeast District of Los Angeles County and the United States District Court for the Central District of California, with respect to any proceedings arising out of or in connection with the Agreement or any purchase hereunder, and further agree that mailing to either party by certified or registered mail shall constitute lawful and valid service of process. (b) No Waiver: No waiver by Seller of any default by Buyer shall be deemed a waiver of any subsequent default by Buyer. (c) Severability: Should any of the terms or conditions of the Agreement be declared invalid or unenforceable, it shall not affect the validity or enforceability of any of the remaining terms and conditions.
17. **VALIDITY.** The price quoted is firm for thirty (30) days, unless otherwise identified on the front of this quotation.
18. **ERRORS.** Pureflow Filtration Div. California Environmental Controls, Inc. reserves the right to correct or identify any stenographic or clerical errors in the quotation without any liability to Pureflow Filtration Div. California Environmental Controls, Inc.
19. **TECHNICAL ADVICE.** Upon Buyer's request, Seller may furnish technical advice with reference to the use of the material sold hereunder, to such extent as Seller has such information conveniently available; however, it is expressly agreed that there is no obligation to furnish any such advice, and that if any advice or assistance is furnished, which will be without charge, it shall be given and accepted at Buyer's risk, and Seller shall not be responsible or liable for the advice or assistance given or results thereof.
20. **WARRANTIES:** Except as provided below, Seller warrants that equipment or parts thereof delivered hereunder meet Sellers' standard specification for the equipment or parts, or such other specifications as have been expressly made as part of this Agreement. Equipment and parts sold, but not manufactured, by Seller are warranted to the extent of the manufacturer's original warranty. THERE ARE NO OTHER WARRANTIES, EXPRESSED OR IMPLIED. SELLER MAKES NO WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. THE BUYER WILL MAKE NO WARRANTY OR MODIFY ANY EXISTING WARRANTY TO ANY CUSTOMER BEYOND ANY WARRANTY STATED BY SELLER'S SPECIFICATIONS. NO LIABILITY WILL RESULT TO EITHER PARTY FROM DELAY IN PERFORMANCE OR NON-PERFORMANCE CAUSED BY CIRCUMSTANCES BEYOND THE CONTROL OF THE PARTY AFFECTED. THE MEASURE OF DAMAGES RECOVERABLE BY BUYER SHALL NOT EXCEED THE PURCHASE PRICE PAID BY BUYER TO SELLER. THIS IS BUYER'S SOLE REMEDY AGAINST SELLER. SELLER SHALL NOT BE LIABLE FOR ANY INDIRECT OR PROSPECTIVE, CONSEQUENTIAL OR SPECIAL DAMAGES NOTWITHSTANDING THE FOREGOING. NO EQUIPMENT OR PARTS SHALL BE RETURNED WITHOUT INSTRUCTIONS FROM SELLER'S HOME OFFICE.



Primozone®

Clean water. The natural way.™

FOR 60% DESIGN - SCOPE OF SUPPLY
QUOTATION NO. Z1806033-REV 4, 2021

DATE: TUESDAY, NOVEMBER 16, 2021



CLIENT



TOWN OF WELLINGTON, COLORADO, USA

PROJECT

WELLINGTON WTP 60% DESIGN – 154 LBS / DAY
OZONE GENERATION AND FEED SYSTEM

GENERAL CONTRACTOR



THORNTON, CO, COLORADO, USA

CONSULTANT

Jacobs

LOVELAND, COLORADO, USA

REPRESENTATIVE



SHERIDAN, COLORADO, USA

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Customer: Town of Wellington, CO
Project: 60% Design of Ozone Generation & Feed System
Proposal No.: Z1806033

Date: 11/16/2021
Page: 3 of 16
Rev.: 4

1. INTRODUCTION

Primozone has named Pureflow their Strategic North American Partner for Engineered Systems. The partnership combines an unparalleled ozone generator technology that's revolutionizing the ozone industry with an industry proven water and waste water process / system engineering team. The combination results in highly sophisticated, custom engineered systems based on ground breaking patented ozone generation technology and sound fundamental engineering. The technology is unrivaled, and the quality is unsurpassed.

1.1. PUREFLOW OZONE DIVISION

Pureflow Division of California Environmental Controls, Inc. was founded in 1973. Pureflow is an Original Equipment Manufacturer (OEM) that specializes in the design and manufacture of custom engineered processes and systems for the water and waste water industry. Pureflow's reputation was established by providing quality, custom engineered, ground water pressure filtration system for the removal of heavy metals, sulfides, organics, etc. for drinking water purveyors across North America.

1.2. PRIMOZONE

Since its conception in 2000, Primozone Production AB has strived to provide industry revolutionizing technology. In 2003, Primozone was adopted by the Westfall-Larsen Technology group, a family-owned company founded in 1905 out of Bergen, Norway. Primozone is one (1) of several companies within the Westfall-Larsen family; all of which are dedicated to the research and development of highly-technical products. The Westfall-Larsen group has invested several million dollars into the development of the Primozone's Ozone Generator.

2. THE TECHNOLOGY

The patented, cutting-edge technology behind the Primozone ozone generator is setting the standard for a new generation of ozone generators. The high ozone concentration, the small size and the low life-cycle cost are all features that differentiate the Primozone ozone generator from conventional ozone generators. Primozone is leading the development of innovative ozone technology for water treatment.

2.1. KEY FEATURES

- **High Production Capacity**
Ozone production capacity from 0.54 lbs / day to 5,390 lbs / day. Our custom engineered solutions can be designed with capacities to meet any ozone demand.
- **Highest Ozone Concentration on the Market**
Ozone concentration of up to 20% by weight, the highest on the market. Seven (7) times less reduction in production capacity when operating at 16% by weight than the leading competitor.
- **Highest Gas Output Pressure**
Ozone gas outlet pressures of up to 43.5 psig increase the potential to feed ozone into solution without the need of booster pumps and venturi injectors.
- **Lowest Oxygen Consumption on the Market**
High ozone concentration reduces the oxygen consumption by 50%.
- **Maintenance-Free Reactors**
No time-consuming cleaning of the reactor is necessary. The only maintenance required is an annual inspection.
- **Sophisticated Controls**
Automatic, continuous gas flow or ozone concentration modulation.
- **Modularity**
The modular design ensures a built-in redundancy and there is no need to oversize.
- **Reduced Footprint**
Saves space and enables easy retrofitting.
- **Energy Conservation**
Lower oxygen consumption means lower oxygen production; resulting in smaller air compressors. Higher ozone concentrations yield lower gas volumes; reducing booster pump power requirements for injection. Lower gas volumes at higher concentrations improve dissolution of ozone in water; producing higher mass transfer efficiencies. All things equate to a substantial energy savings.
- **Safe, Quiet and EMC-Approved**
EMC-approval certifies that the ozone generator has no electromagnetic fields that interferes with other products or endangers the safety of the operator. With a noise level of less than 55 dB, this ozone generator can be placed anywhere.



2.2. THE OZONE REACTOR

Primozone's patented ozone generation reactor takes traditional cold plasma ozone generation technology to the next level. The double-sided, flat electrode design is the most compact on the market compared to reactors of comparable capacity and concentration. The compact platform reduces the distance the oxygen travels compared to glass tube style reactors, and allows for significantly higher internal pressures, creating a more efficient environment for oxygen gas to ozone gas conversion. All things key to the Primozone generator's ability to produce ozone gas at concentrations and output pressures remarkably higher than the competition.



2.3. THE POWER SUPPLY

Only Primozone offers modularity like this. Pairing a completely independent, dedicated power supply with every ozone generation cell produces unrivaled flexibility and built-in redundancy. Operating at 40,000 Hz, double the frequency of the competition, the quiet power supply contributed to the low overall sound level of only 55 dBA at 3 feet without the addition of a sound mitigating device.



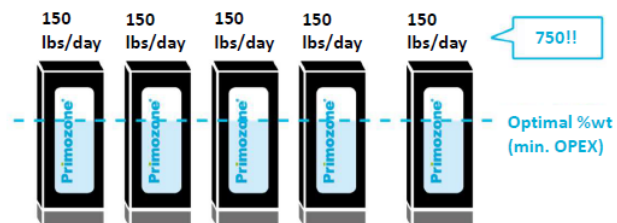
RUNNING BACK UP

THE TRADITIONAL WAY

HOW MUCH POWER AND OXYGEN DOES YOUR OZONE GENERATOR CONSUME IN STAND-BY MODE?



THE RUNNING BACK-UP™ CONCEPT REDUCES CAPEX BY 40%



3. DESIGN CONSIDERATIONS

DESIGN CONSIDERATIONS	
Contactor Design Flow Rate	4.6 MGD (2,930 GPM), and 0.3 MGD minimum
Ozone System Design Flow Rate (per present worth worksheet)	3.7 MGD maximum, and 0.3 MGD minimum
Installation Elevation	5,320 feet above MSL
Ozone Concentration	10% by weight, minimum
Ozone Dosage (max)	4.0 mg / L
Ozone Dosage (min)	1.0 mg / L
Ozone Production Design (max)	154 lbs / day
Ozone Production Rate (max)	123.4 lbs / day
Ozone Production Rate (min)	8.0 lbs / day
Ambient Temperature (Max)	104°F
Ambient Temperature (Min)	TBD
Relative Humidity (Max)	70% (Required indoors for ozone equipment)
Water Temperature (Max)	77.5°F
Water Temperature (Min)	35°F
Injection Transfer Efficiency	95% (Required at max flow rate)

4. PROPOSED SYSTEM SUMMARY

- One (1) Ozone Generation System
- One (1) GOX Preparation System
- One (1) Cooling Water System
- One (1) Ozone Mass Transfer System w/ Mazzei Pipeline Flash Reactor
- One (1) Ozone Destruct System
- One (1) Ozone Quenching System
- One (1) Ozone System Master Control Panel
- (LOT) Instrumentation / Analyzers
- (LOT) Spare Parts

5. TECHNICAL SPECIFICATIONS OF MAJOR EQUIPMENT

OZONE GENERATOR	
Manufacturer	Primozone
Model No.	GM-24
Quantity of Units	Two (2) total, two (2) online units, Providing redundancy for owner This set-up provides the necessary ozone capacity while still providing reliability and redundancy. Each ozone generator will provide twenty-four (24) independent ozone power supplies and twenty-four (24) independent ozone reactor cells. Ultimately, providing the customer with forty-eight (48) power supplies and reactors.
Ozone Concentration	10% by weight at 154 lb / day, higher concentrations are recommended at lower ozone production requirements
Capacity, Unit @ 10%	76 lb / day at 50°F cooling water and 10% concentration
Capacity, Unit, Minimum	7.6 lb / day, minimum production of GM-24 ozone generator @ 10% Conc.
Capacity, Total	154 lb / day at 45°F cooling water and 10% concentration
Oxygen Consumption, Unit	339 cfh @ 10% Concentration
Oxygen Consumption, Total	678 cfh @ 10% Concentration
Electrical	480VAC / 3pH / 60Hz
Power Consumption, Unit	14.4 kW
Power Consumption, Total	28.8 kW

COOLING WATER SYSTEM	
Manufacturer	Thermal Care
Model No.	NQA13
Quantity of Units	Two (2) total, One (1) online unit, plus One (1) unit in standby
Capacity, Unit	13 tons @ 50° F
Electrical	460 VAC / 3 pH / 60 Hz
Power Consumption, Unit	30 AMPS

MASS TRANSFER SYSTEM

Manufacturer	Mazzei
MTS Model No.	S-GDT30EXXBC00X, Skid, Injection, GDT
Pump Manufacturer	TBD
Pump Model No.	TBD – 30 HP, 3500 RPM, TEFC, 3-PH
No. of Pumps	One (1) Duty, plus One (1) in Standby, provided with VFD's
Venturi Injector Manufacturer	Mazzei
Injector Part No.	3 Inch flanged connections, with 2 inch gas connection
No. of Injectors	Two (2) total, One (1) low flow injector, one (1) supplemental flow injector
Quantity of Units	Two (2), both provided on single injection skid
Quantity of Degassing Vessels	Two (2) total, One (1) for low flow injector, one (1) supplemental flow injector
Instrumentation / valves	Flow meter, motive water valves, ozone gas valves
Electrical	480VAC / 3pH / 60Hz
Power Consumption, Unit	30 HP
Power Consumption, Total	30 HP
PFR Manufacturer	Mazzei
No. of Pipeline Flash Reactors	One (1), Pipeline nozzle manifold, utilizing two (2) injection ports
PFR Part No.	PNMHCB084CBA00

OZONE DESTRUCT SYSTEM

Manufacturer	Pureflow
Model No.	PF-ODU15
Quantity of Units	Two (2) total, one (1) online, one (1) standby
Capacity, Unit	900 cfh
Electrical	480 VAC / 3 pH / 60 Hz
Power Consumption, Unit	2 kW

6. SCOPE OF SUPPLY

ITEM QTY DESCRIPTION

6.1. GOX PREPARATION MANIFOLDS

One (1) Pureflow Filter Manifold Assembly, including:

6.1.1.	1	Filter housing with 0.01 micron particulate filter element
6.1.2.	1	Differential pressure indicating transmitters, 4-20mA output, loop-powered
6.1.3.	1	Temperature indicating transmitters, 4-20mA output, loop-powered
6.1.4.	1	Pressure indicating transmitters, 4-20mA output, loop-powered
6.1.5.	LOT	Process isolation ball valves, bypass valve, instrumentation isolation ball valve
6.1.6.	LOT	Manifold and interconnecting piping, welded 316L stainless steel, schedule 10
6.1.7.	LOT	Pre-fabrication / assembly, passivation and oxygen service cleaning / packaging

One (1) Pureflow Pressure Regulating Manifold Assembly, including:

6.1.8.	2	Pressure reducing regulators, Fisher Controls; Type 1098-EGR
6.1.9.	1	Pressure Relief Valves
6.1.10.	LOT	Process isolation ball valves, instrumentation isolation ball valve, pressure gauges, etc.
6.1.11.	LOT	Manifold and interconnecting piping, welded 316L stainless steel, schedule 10
6.1.12.	LOT	Pre-fabrication / assembly, passivation and oxygen service cleaning / packaging

One (1) Pureflow Nitrogen Feed Assembly, including:

6.1.13.	1	Thermal Mass Flow controller, 4-20mA input / output, 24VDC
6.1.14.	1	Pressure indicating transmitters, 4-20mA output, loop-powered
6.1.15.	LOT	Process isolation ball valves, instrumentation isolation ball valve, etc.
6.1.16.	LOT	Panel mounted interconnecting piping, welded 316L stainless steel, schedule 10
6.1.17.	LOT	Pre-fabrication / assembly, passivation and oxygen service cleaning / packaging

ITEM QTY DESCRIPTION

6.2. OZONE GENERATION SYSTEM

6.2.1.	2	Primozone GM-24 ozone generator, 76 ppd @ 10% O ₃ by weight, with local control panel
6.2.2.	2	Transformer, Primary: 480VAC / 3pH / 60Hz, Secondary: 400VAC / 3pH / 60Hz
6.2.3.	2	Primozone backflow protector, 24VDC, capacitive sensor, solenoid valve
6.2.4.	2	Apollo Valve, electrically actuated ozone shut-off ball valve, 316 stainless steel body, PTFE seats, position feedback
6.2.5.	4	Rotork electrically actuated cooling water shut-off ball valve, 316 stainless steel body, PTFE seats, position feedback
6.2.6.	LOT	Process isolation valves, check valves, flex hose, etc.

6.3. COOLING WATER SYSTEM

6.3.1.	2	Thermal Care NQA13 chiller, air-cooled, closed-loop, with local control panel Chillers will be provided as duty / standby, each with 13 ton cooling capacity. Chillers shall be placed outdoors, for efficient rejection of heat.
6.3.2.	LOT	Process isolation ball valves, flow control globe valves, check valves, etc.
6.3.3.	LOT	Cooling loop pressure control assembly including, back pressure globe valve, Pressure gauges, instrumentation isolation valves, etc.

6.4. OZONE DESTRUCT SYSTEM

6.4.1.	1	Ozone Offgas Demisters, 316 stainless steel, Differential pressure gauge
--------	---	--

Two (2) Pureflow skid mounted Ozone Destruct Units, each including the following:

6.4.2.	1	Pureflow, thermal catalytic ozone destruct unit, 15 scfm, heater, blower, VFD, temperatures sensors, etc.
6.4.3.	1	Differential pressure indicating transmitters, 4-20mA output, loop-powered
6.4.4.	1	Value Valve, manual isolation butterfly valve, ductile iron body, PTFE coated 316 stainless steel disk, PTFE coated EPDM resilient seat
6.4.5.	1	Onetork electrically actuated isolation butterfly valve, ductile iron body, PTFE coated 316 stainless steel disk, PTFE coated EPDM resilient seat, position feedback, 120VAC / 1pH / 60Hz
6.4.6.	1	Local control panel with dedicated HMI, PLC, programming, etc. with integration into the Master Ozone Control Panel.
6.4.7.	LOT	Interconnecting skid piping, welded 316L stainless steel pipe, flanges, passivation, etc.

Note: Each ozone destruct unit shall be preassembled and wired on an individual structural steel skid

ITEM QTY DESCRIPTION

6.5. MASS TRANSFER SYSTEM

6.5.1. 1 Mazzei, pipeline nozzle manifold, 12" Diameter and 84" in length, 316L stainless steel, flanged, with two (2) injection ports, model # PNMHCB084CBA00-PRE

One (1) Mazzei S-GDT30EXXBC00X ozone mass transfer skid, including:

6.5.2. 2 Booster pump, 316 stainless steel, flanged, 480VAC / 3pH / 60Hz, 30HP, TEFC, One (1) duty with one (1) as standby,

Note: Pump(s) will be supplied with VFD's.

6.5.3. 2 Mazzei venturi injector, 316L stainless steel, flanged, with one injector utilized for duty / assist operation

6.5.4. 2 Mazzei degassing system, 316L stainless steel, flanged, with one utilized for low flow condition

6.5.5. LOT Flow switch / pressure transmitters, motorized butterfly valves, process isolation valves, check valves, gauges, etc.

6.5.6. LOT Interconnecting skid piping, welded 316L stainless steel pipe, flanges, passivation, etc.

Note: Mass transfer system shall be preassembled and wired on an individual structural steel skid

6.6. INSTRUMENTATION

6.6.1. 2 Teledyne, ambient ozone monitor, local display, 4 – 20 mA output

6.6.2. 2 Teledyne, high-concentration ozone monitor, local display, 4 – 20 mA output

6.6.3. 1 Teledyne, ambient oxygen monitor, local display, 4 – 20 mA output

6.6.4. 2 Teledyne, low-range ozone monitor, local display, 4 – 20 mA output

6.6.5. 1 Teledyne, medium-range ozone monitor, local display, 4 – 20 mA output

6.6.6. 1 KAHN, dewpoint analyzer, indicating transmitter, 4 – 20 mA output, loop-powered

6.6.7. 2 Rosemont, dissolved ozone residual analyzer, 4 – 20 mA output

ITEM QTY DESCRIPTION

6.7. CONTROL PANELS

- | | | |
|--------|---|---|
| 6.7.1. | 1 | Ozone System Master Control Panel, including: NEMA Type 12 enclosure, Allen Bradley 12" HMI, Allen Bradley Compactlogix PLC, ethernet communication, uninterruptable power supply (UPS), etc. |
|--------|---|---|

Note: A SCADA system is not included in this scope of supply. These services can be provided at an additional cost.

6.8. SPARE PARTS

- | | | |
|--------|---|---|
| 6.8.1. | 2 | Primozone, ozone reactor cells |
| 6.8.2. | 2 | Primozone, power supplies |
| 6.8.3. | 1 | (LOT) Primozone, GM-24 gasket set, flow controller, flow monitor, pressure sensor, temperature sensor |
| 6.8.4. | 1 | Solenoid valve, injection system |
| 6.8.5. | 1 | (LOT) Gaskets / O-rings for injection and destruct systems |
| 6.8.6. | 1 | Primozone, destruct unit replacement catalyst |
| 6.8.7. | 1 | Primozone, destruct unit heater unit |

6.9. ENGINEERING EQUIPMENT SUBMITTALS

- | | | |
|--------|---|--|
| 6.9.1. | 1 | Digital Copy, indexed, including, calculations, drawings, datasheets, etc. |
|--------|---|--|

6.10. OPERATION & MAINTENANCE MANUALS

- | | | |
|---------|---|--|
| 6.10.1. | 1 | Digital Copy, indexed, including, calculations, drawings, datasheets, etc. |
| 6.10.2. | 1 | Hardcopy, including, calculations, drawings, datasheets, etc. |

7. DELIVERY

7.1. ENGINEERING / EQUIPMENT SUBMITTALS

Eight (8) to ten (10) weeks from receipt of purchase order.

7.2. EQUIPMENT DELIVERY

Eighteen (18) to twenty-two (22) weeks from approval of engineering equipment submittals and / or notice to proceed with procurement / fabrication.



Customer: Town of Wellington, CO
Project: 60% Design of Ozone Generation & Feed System
Proposal No.: Z1806033

Date: 11/16/2021
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<u>ITEM</u>	<u>QTY</u>	<u>DESCRIPTION</u>
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8. ON-SITE SERVICES

8.1. PRE-STARTUP ASSISTANCE

8.1.1.	LOT	One (1) trip, two (2) days on-site
--------	-----	------------------------------------

8.2. START-UP / COMMISSIONING

8.2.1.	LOT	Three (3) trips, fifteen (15) days on-site
--------	-----	--

8.3. OPERATOR TRAINING

8.3.1.	LOT	Two (2) days on-site, trip shall coincide with system start-up / commissioning
--------	-----	--

9. STANDARD WARRANTY

Unless stated otherwise, eighteen (18) months from shipment or twelve (12) months from customer buy-off, whichever occurs first.

Plate style dielectrics shall be guaranteed against failure for a period of five (5) years from date of startup. Please see attached Primozone dielectric warranty found in the appendix.

The Thermal Care chiller compressor shall be guaranteed against failure for a period of five (5) years from date of startup.

10. FREIGHT

Freight-on-board shipping point (Whittier, CA), Freight-Pre-Paid to Job Site

11. EXCEPTIONS

None

12. SCOPE NOT INCLUDED

- 12.1.1. Additional instrumentation outside of those specifically stated above as included in the ozone supplier scope of supply, and additional integration
- 12.1.2. Design, supply and installation of interconnecting (i.e. I/C) piping, tubing, cabling and conduit, including design and materials for control, signal and power wiring located outside of equipment container
- 12.1.3. Labor for installing the equipment, cabling, and instrumentation provided
- 12.1.4. Costs for oxygen cleaning of field piping
- 12.1.5. Electrical supplies of serviceable quality to the electrical enclosures
- 12.1.6. Lightning protection and electrical ground connection
- 12.1.7. Custom duties and fees, local taxes and local transportation outside of cost of delivery to the jobsite
- 12.1.8. Payment, performance, or warranty bonds that are to be provided by the General Contractor
- 12.1.9. Unloading of all the components
- 12.1.10. Storage of all the components supplied, if required
- 12.1.11. Videotaping of training sessions
- 12.1.12. Access to the lay down area at the job site.
- 12.1.13. Plant Wide Control System
- 12.1.14. Anchor Bolts
- 12.1.15. Concrete work including foundations, bases, below slab piping, floor openings, sumps, basins, grout, trenches and concrete embedment's (All civil work)
- 12.1.16. Site painting work
- 12.1.17. Permits approval by any federal, state or municipal regulatory authorities.
- 12.1.18. Chemicals, lubricants and other consumables (outside of what is specified in our offer)
- 12.1.19. Heat tracing and other freeze protection
- 12.1.20. Sizing / Locating of any required Sleeves, Conduit, Floor Drains, etc. for foundation penetrations as it relates to the ozone equipment
- 12.1.21. Utility costs associated with starting and testing on-site (including LOX, cooling water, power, etc)



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Project: 60% Design of Ozone Generation & Feed System
Proposal No.: Z1806033

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13. ACKNOWLEDGEMENT OF ADDENDA

The following addenda have been reviewed and incorporated within this scope of supply:
Addendum #1, Dated 09-23-2021

14. SYSTEM PRICE

OZONE SYSTEM LOT NET TOTAL \$ 1,465,875.00

15. PROGRESS PAYMENT TERMS

- 20% With purchase order or execution of contract
- 20% Upon approval of the mechanical equipment engineering documentation submittal, or four (4) weeks from date of issuance of the mechanical equipment engineering documentation submittal, whichever occurs first.
- 35% Upon release to procurement / fabrication
- 20% Upon equipment delivery to jobsite or thirty (30) days from ready to ship date, whichever occurs first.
- 5% Upon commissioning / operator training / client buy-off or six (6) months from ready to ship date, whichever occurs first.

NOTE: THIS SCOPE OF SUPPLY INCLUDES ONLY EQUIPMENT SPECIFICALLY MENTIONED HEREIN AND DOES NOT INCLUDE, OR INFER INCLUSION OF, ANY ADDITIONAL EQUIPMENT, PIPING, VALVES, WIRING, INSTALLATION OR SERVICES ETC., REGARDLESS OF ITS RELATION TO THE SUPPLIED EQUIPMENT.



Customer: Town of Wellington, CO
Project: 60% Design of Ozone Generation & Feed System
Proposal No.: Z1806033

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APPENDIX A: EQUIPMENT DATASHEETS
Equipment Drawing and P&ID
Warranty Statement
Equipment Delivery Schedule
Installation List

Löddeköpinge, September 15th 2021

Warranty Statement

Primozone Production AB (hereinafter "Primozone") warrants the products sold to Pureflow Ozone Division of California Environmental Controls, Inc. (hereinafter "Pureflow") for the "Town Of Wellington, Co Water Treatment Plant Expansion" project against defects in materials and workmanship. Primozone warrants the goods provided to be free from defects in materials and workmanship under normal conditions and use for a period of one (1) year from the date the goods are put into service, or eighteen (18) months from shipment of the equipment, whichever first shall occur. This warranty shall not apply to any goods or parts which have been altered or repaired without the prior written consent of Primozone, applied, stored, maintained, used, operated or installed contrary to Primozone's instructions or subject to misuse, chemical attack/degradation, negligence or accident.

The warranty terms above apply to the Modular Ozone Generator Cells. Additionally, the dielectric elements of the Modular Ozone Generation Cells have a non-prorated warranty for a period of five (5) years from shipment of the equipment.

The warranty terms above apply under the condition that all prerequisites for operation of the Primozone Ozone Generators specified in Primozone's manuals and instructions are met, including the oxygen content of the feed gas to the Modular Ozone Generator Cells, which is to be equal or above 94% at any given moment during operation.

Subject to the remainder of this document, with respect to any goods for which the warranty is breached during the applicable warranty period, Primozone shall, in its sole discretion, either repair or replace such goods (or the defective part).

Replacements under warranty shall be executed according to the following procedure:

- Pureflow ships at their own cost to Primozone the affected equipment by the failure claimed to be covered by warranty.
- Primozone analyzes the equipment and determines if the failure is covered by warranty.
- If the failure is covered by warranty, Primozone repairs the equipment and ships it back to site at its own cost, then issues a credit note to Pureflow of equal value to the freight cost of the affected equipment back to Primozone.
- If the failure is not covered by warranty, Primozone issues to Pureflow a quotation for repair and shipment back to site of the equipment. At receipt of



purchase order for the issued quote, Primozone invoices Pureflow for the purchase order, repairs the equipment and ships it back to site.

- The replacement of the ozone generator shall be performed at no additional cost to the Owner by Pureflow, more specifically by personnel that has been trained at Primozone's factory in Sweden and is therefore authorized by Primozone to service the supplied products.
- If Pureflow and/or Owner wishes to rent replacement equipment to replace the affected equipment during analysis and repair, Primozone will offer this service at conditions to be agreed upon and specified as part of a Service Agreement.

Primozone shall not be liable for a breach of any warranty set forth above unless: (i) the Pureflow Ozone Division gives written notice of the defect, reasonably described, to Primozone within ten (10) days of the time when the Pureflow Ozone Division discovers or ought to have discovered the defect; (ii) Primozone is given a reasonable opportunity after receiving the notice to examine such goods and the Pureflow Ozone Division (if requested to do so by Primozone) returns such goods to Primozone's place of business at Primozone's cost for the examination to take place there; and (iii) Primozone reasonably verifies the claim that the goods are defective.

EXCEPT FOR THE WARRANTIES SET FORTH ABOVE, PRIMOZONE MAKES NO WARRANTY WHATSOEVER WITH RESPECT TO THE GOODS, INCLUDING ANY (a) WARRANTY OF MERCHANTABILITY; OR (6) WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE; WHETHER EXPRESS OR IMPLIED BY LAW, COURSE OF DEALING, COURSE OF PERFORMANCE, USAGE OF TRADE OR OTHERWISE. THE REMEDIES SET FORTH ABOVE SHALL BE THE SOLE AND EXCLUSIVE REMEDIES AND PRIMOZONE'S ENTIRE LIABILITY FOR ANY BREACH OF THE WARRANTIES SET FORTH ABOVE.

Sincerely,

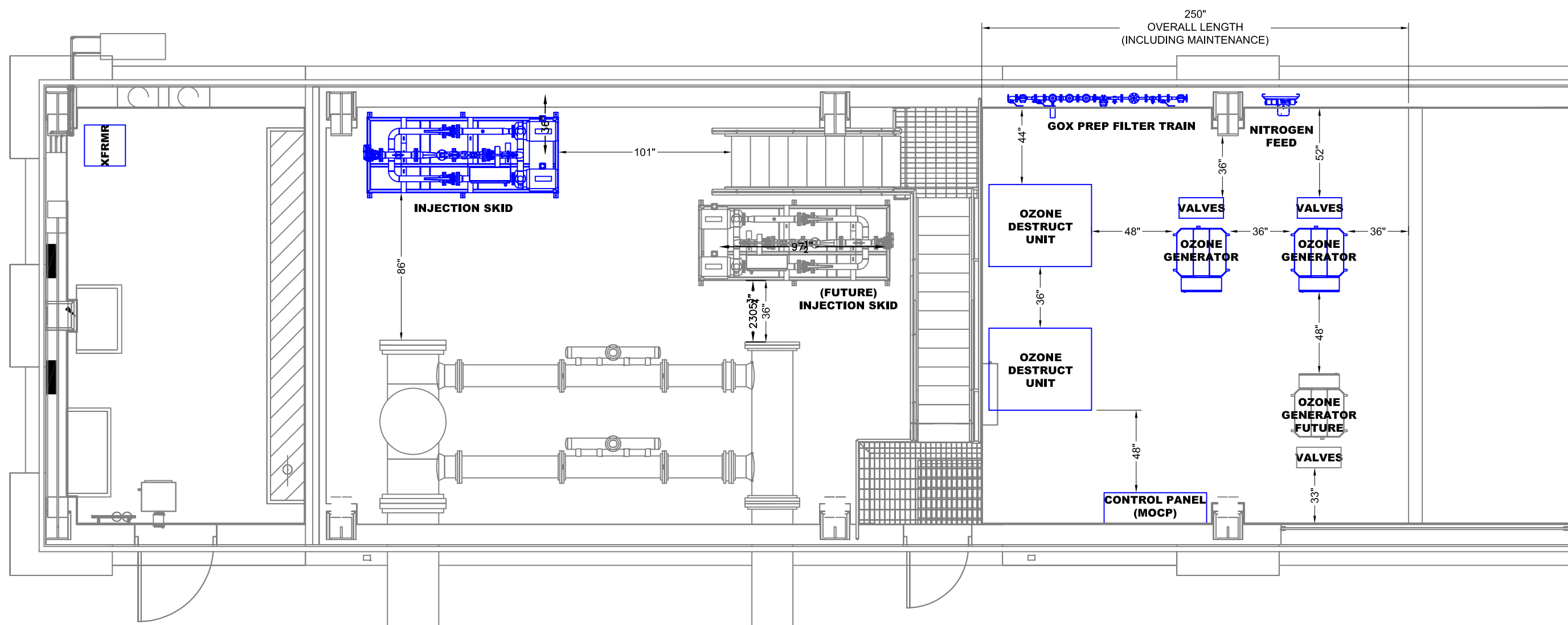


Ola Olsson

Managing Director

PLAN VIEW

BUILDING LAYOUT
SCALE: $\frac{1}{32}'' = 1'-0''$



PLAN VIEW

OZONE (EQUIPMENT) ROOM
SCALE: 3/16" = 1'-0"

Pureflow
OZONE DIV.

CALIFORNIA ENVIRONMENTAL CONTROLS, INC.
6759 SOUTH WASHINGTON AVENUE
WHITTIER, CA 90601
(800) 926-3426 (562) 945-3425
Fax: (562) 693-5257
Email: pureflow@pdlv.com

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ENGINEER

CONTRACTOR

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CITY OF WELLINGTON,
COLORADO, USA

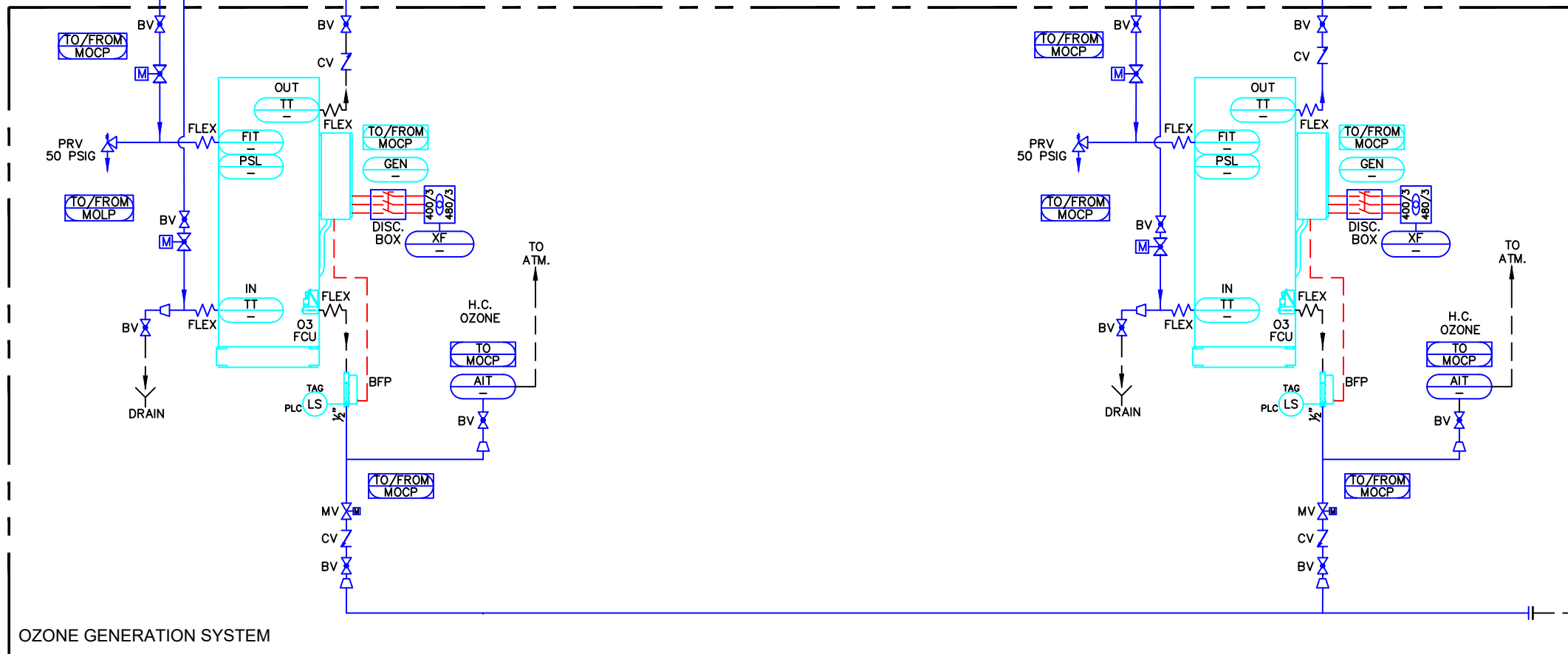
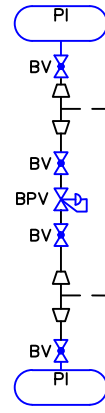
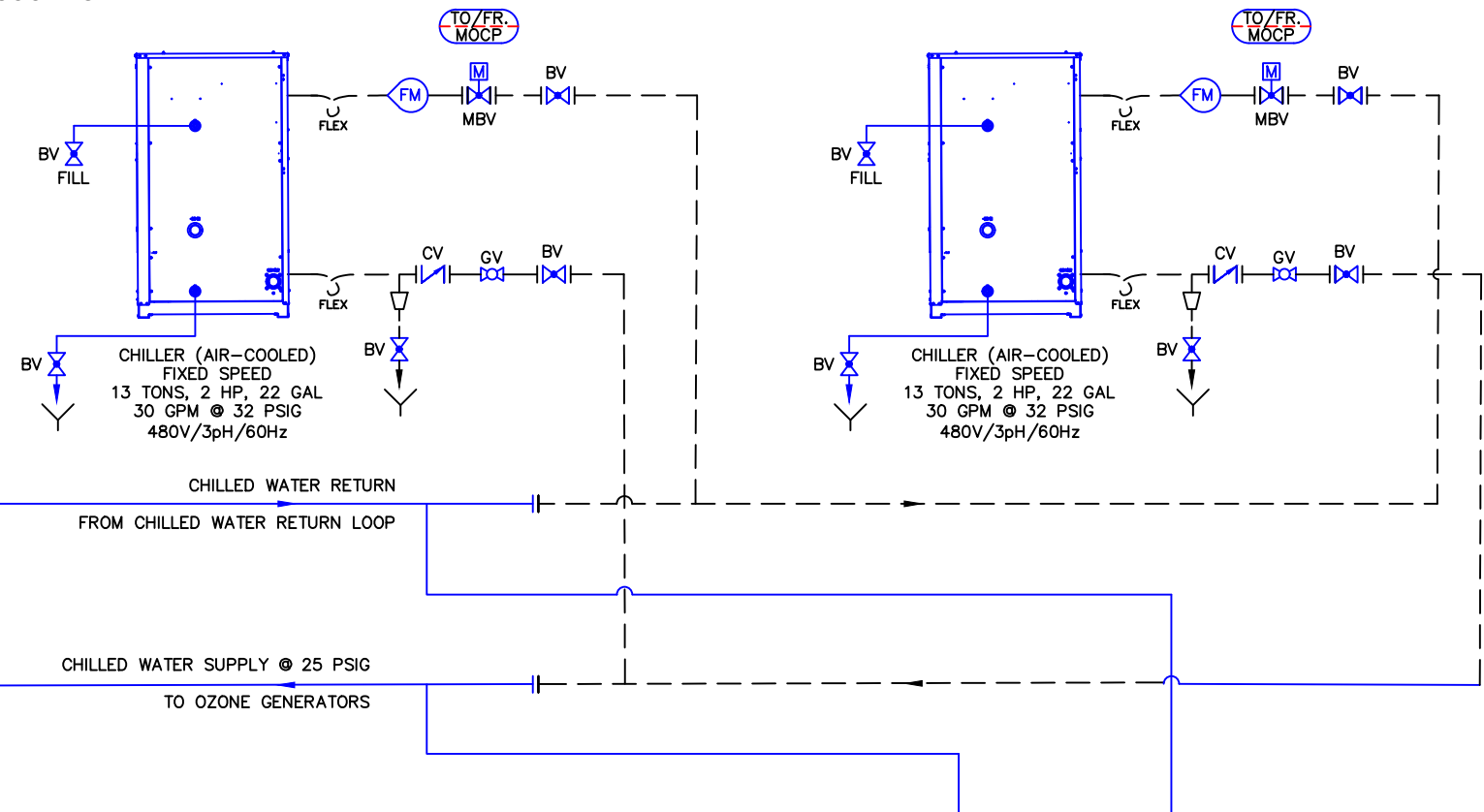
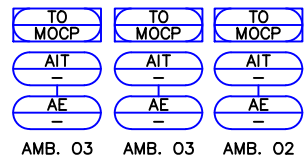
CLIENT

OZONE GENERATION AND FEED SYSTEM

PROJECT

CONCEPTUAL EQUIPMENT LAYOUT

TITLE			
DRAWN BY		S. JOHNSON	
CHECKED BY			
APPROVED BY			
DATE		9/27/21	
DRAWING NO.		L-100	
'B' SIZE SCALE		NONE	
JOB NO.		Z1806033	
SHEET	1 OF 1	REVISION	1



Pureflow

ZONE DIV.

CALIFORNIA ENVIRONMENTAL CONTROLS, INC.
6739 SOUTH WASHINGTON AVENUE
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(800) 926-3426 (562) 945-3425
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Email: pureflow@pidiv.com

HENSEL PHELPS
THORNTON, CO.

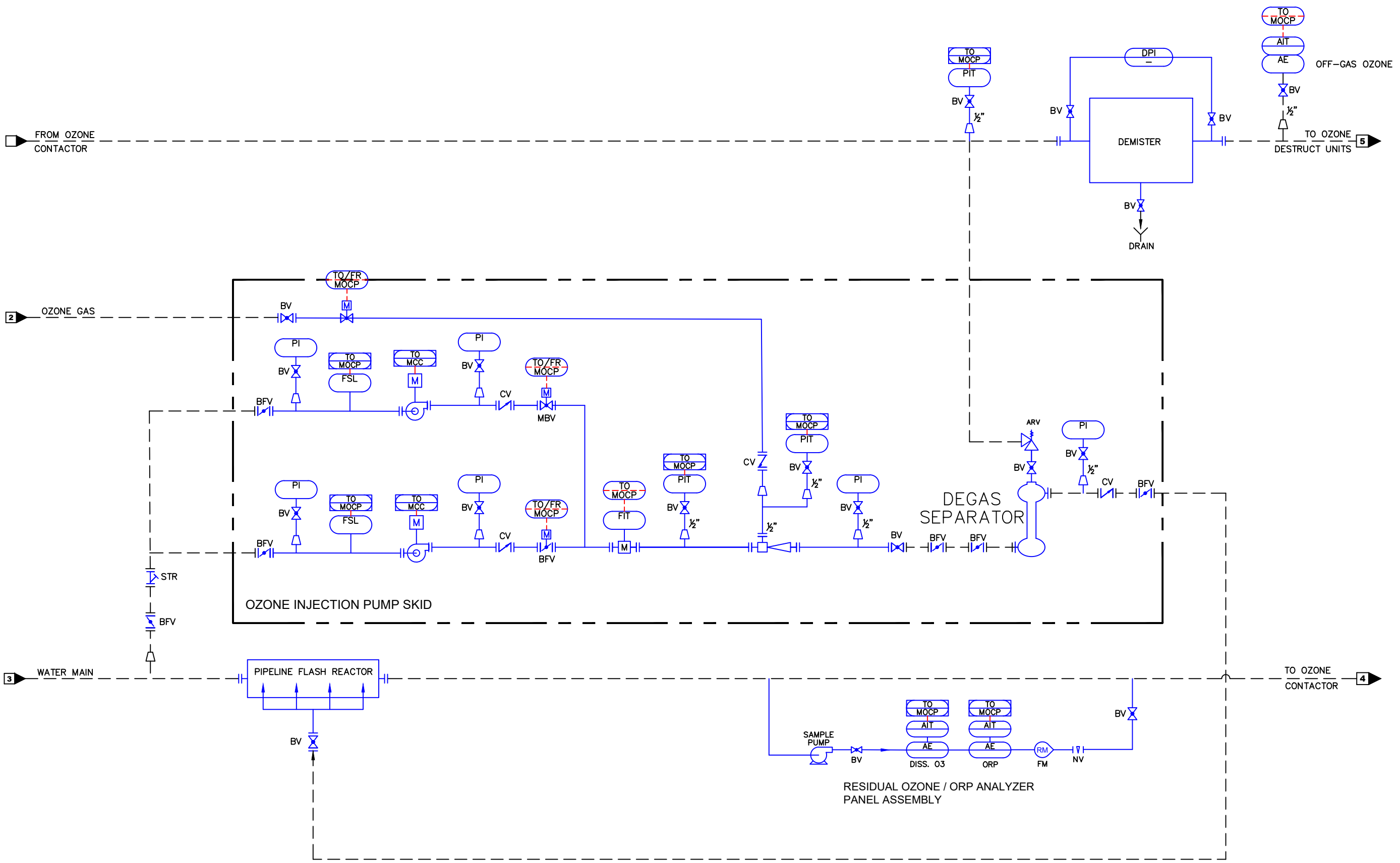
HYDRO
CONSTRUCTION
FORT COLLINS, CA.

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TOWN OF
WELLINGTON, CO.

PROCESS
AND
INSTRUMENTATION
DIAGRAM

DRAWN BY		J. PAULETTI
CHECKED BY		S. JOHNSON
APPROVED BY		S. JOHNSON
DATE		09/15/2021
DRAWING NO.		P-100
'B' SIZE SCALE		NONE
JOB NO.		Z1809033
SHEET	2 of 4	REVISION NC





OZONE DIV.

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HENSEL PHELPS THORNTON, CO.

ENGINEER

HYDRO CONSTRUCTION
FORT COLLINS, CA.

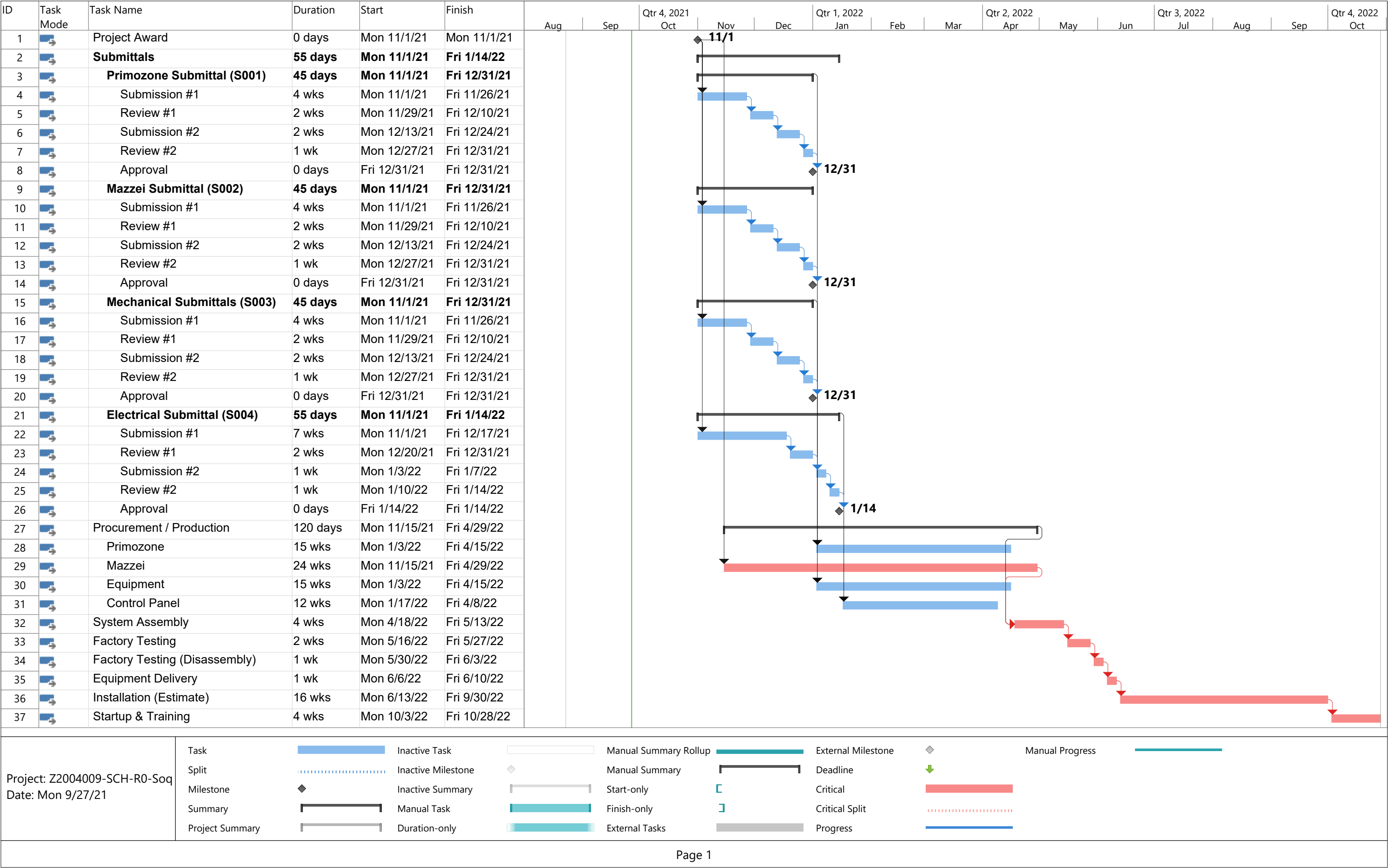
CONTRACTOR

REVISIONS		
DESCRIPTION	DATE	APP

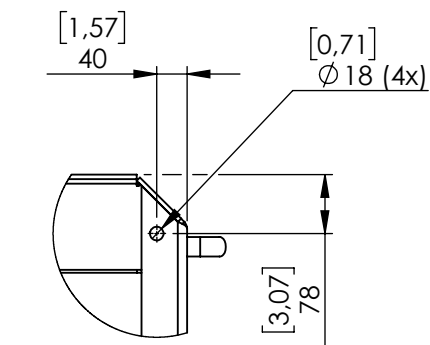
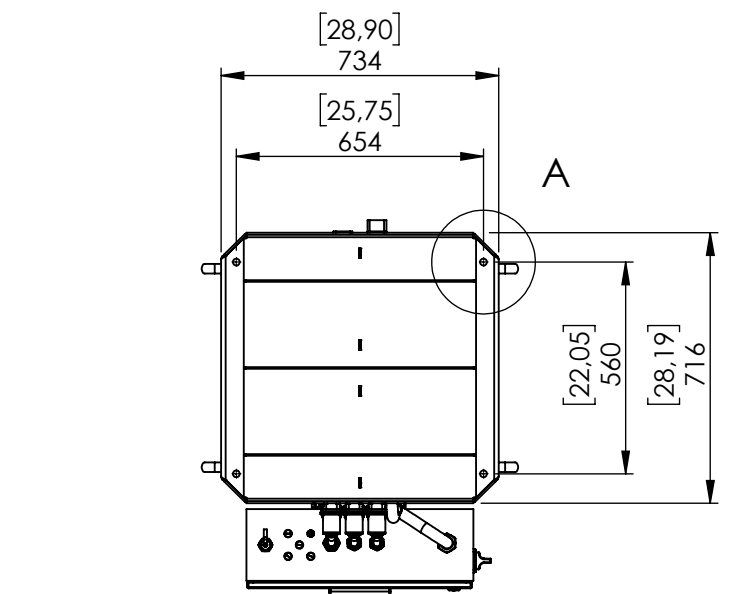
OZONE GENERATION AND FEED SYSTEM
CLIENT

TOWN OF WELLINGTON, CO.
PROJECT

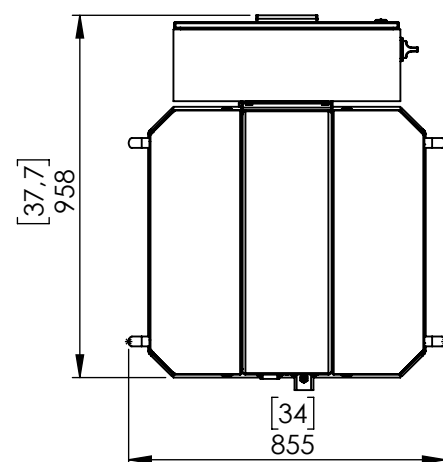
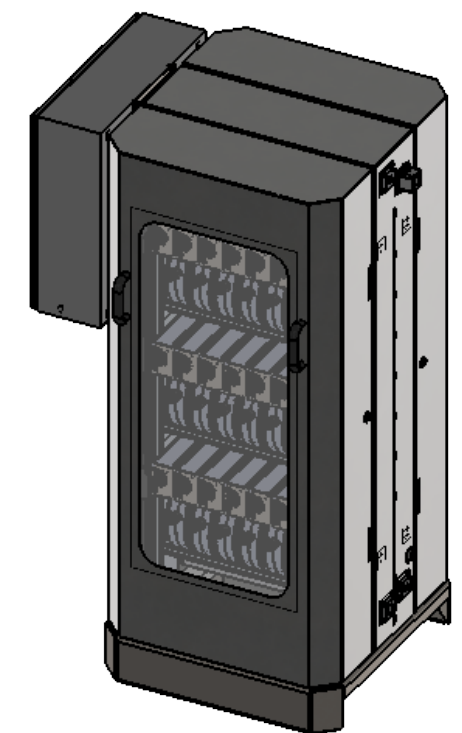
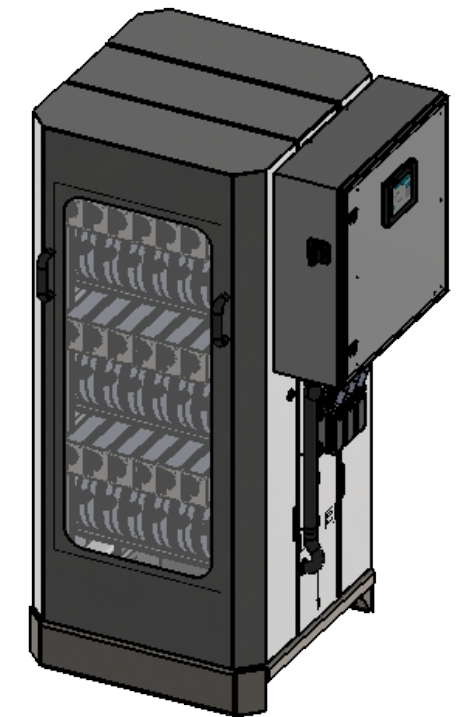
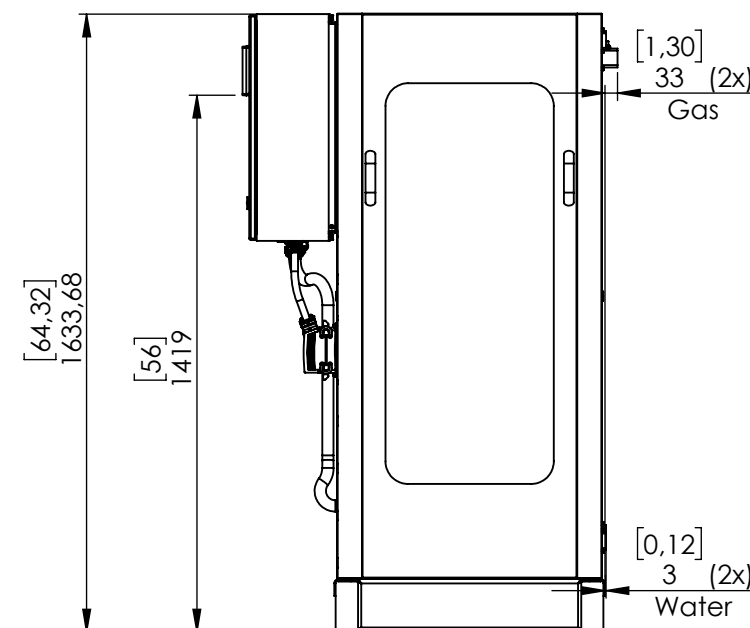
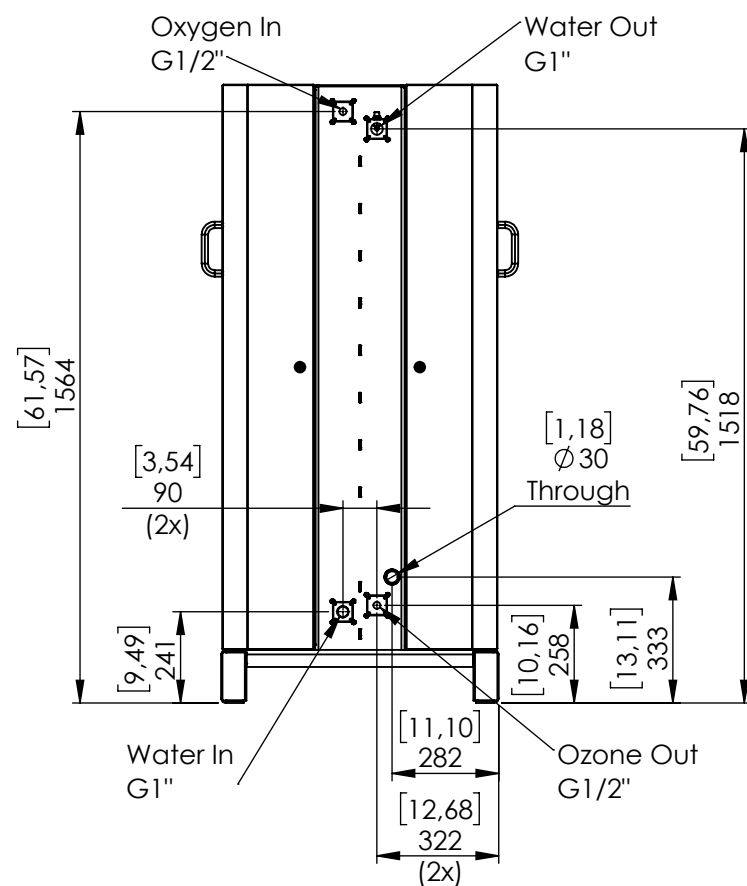
PROCESS AND INSTRUMENTATION DIAGRAM	
TITLE	
DRAWN BY	J. PAULETTI
CHECKED BY	S. JOHNSON
APPROVED BY	S. JOHNSON
DATE	09/15/2021
DRAWING NO.	P-100
'B' SIZE SCALE	NONE
JOB NO.	Z1809033
SHEET	3 OF 4



Page 1



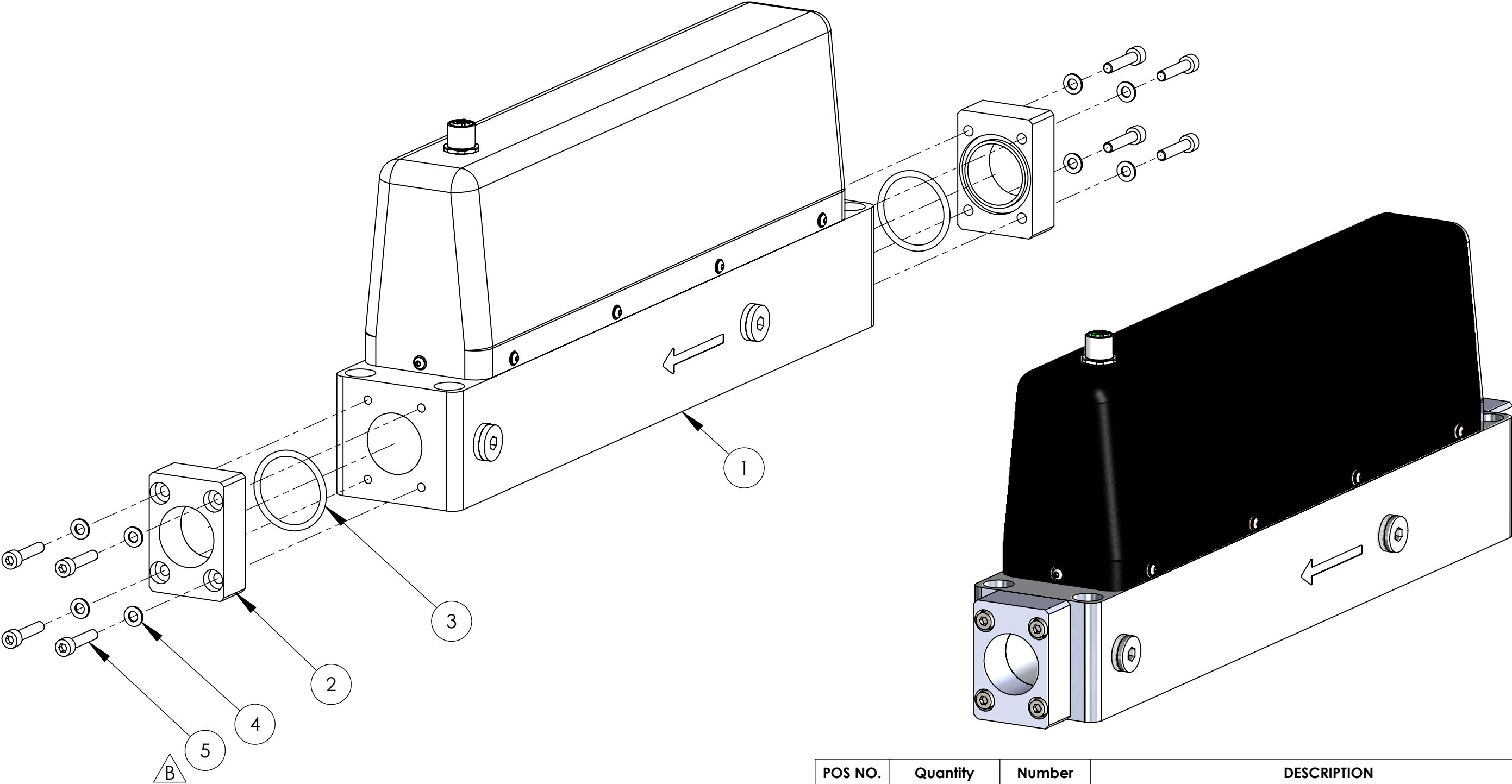
DETAIL A
SCALE 1 : 10



Approx measurements in mm / [Inches]

		Gen tolerance SS-ISO 2768-1	Material	Surface Treatment	Replaces Backward compatible	
ConstrBy jovan	DrwnBy FKST	CheckedBy	Surface roughness Ra	Manufacturing Assembly	A3	Last Saved Date 2019-10-04
Standard		Workpiece		Scale 1:20	Created Date 2015-10-14	
		Remarks Description		Sheet 1 of 1	DrwNo 100813	Rev. C
Production AB +46 46 70 45 70		GM 24 2.0		Inst. Drawing		

REVISIONS				
ZONE	REV.	DESCRIPTION	DATE	APPROVED
B7	B	Screw length changed from 30 to 25	2019-12-17	



POS NO.	Quantity	Number	DESCRIPTION		
1	1	400059	BFP		
2	2	200714	BFP Adapter 1"		
3	2	400051	O-ring 34,3x3 Teflon		
4	8	300003	Plain Washer, RB 5,3 A2 - A4		
5	8		Hex Socket Head, MC6S M5x25 A2 - A4		
		Gen tolerance SS-ISO 2768-1	Material	Surface Treatment	Replaces Backward compatible
ConstrBy	DrwnBy	CheckedBy	Surface roughness Ra	Manufacturing	A3
Standard			Workpiece		Scale
			Remarks		1:2
			Description		Created Date
					2015-03-05
					Sheet
					1 of 1
					DrwNo
					100613
					Rev.
					B

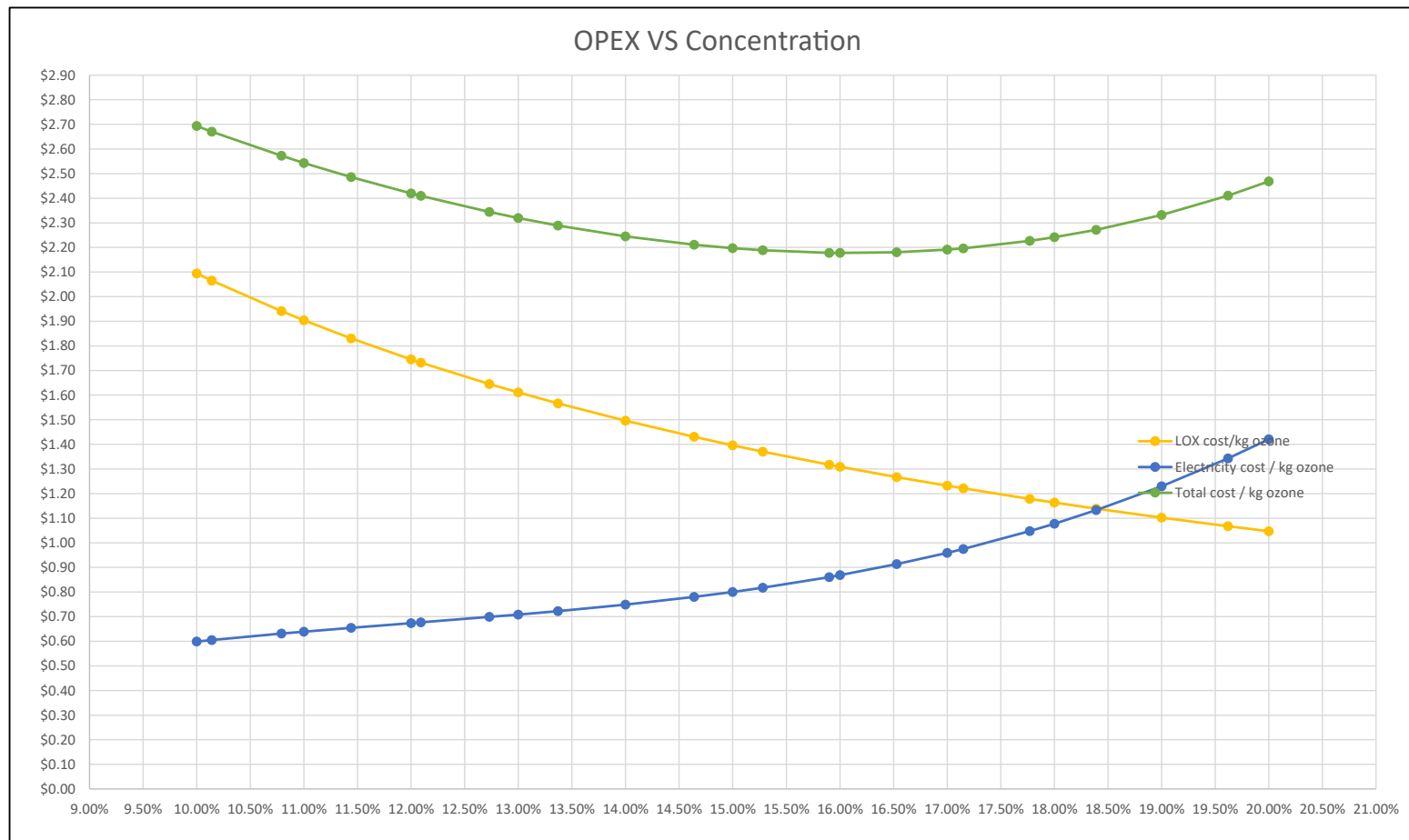
Primozone
Production AB
+46 46 70 45 70

BFP350

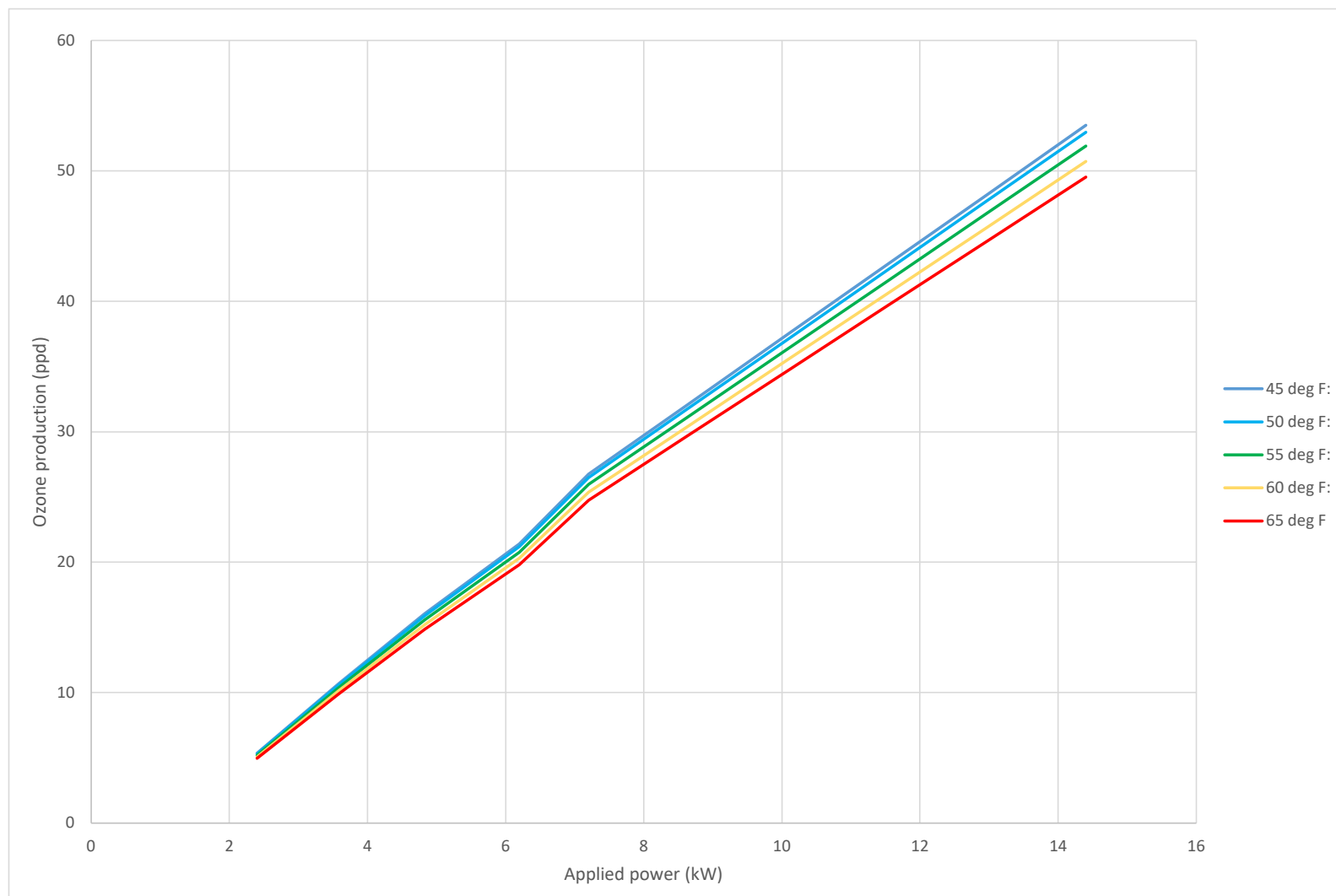
Find the most cost effective operating concentration and savings compared to 10%wt

Starting Data				
Operating temperature	Electricity cost	LOX cost	Generator capacity	Operating hours / year
[°F]	[\$/kWh]	[\$/lb]	[ppd]	[hr/aaaa]
50	0.0605	0.095	154	8760

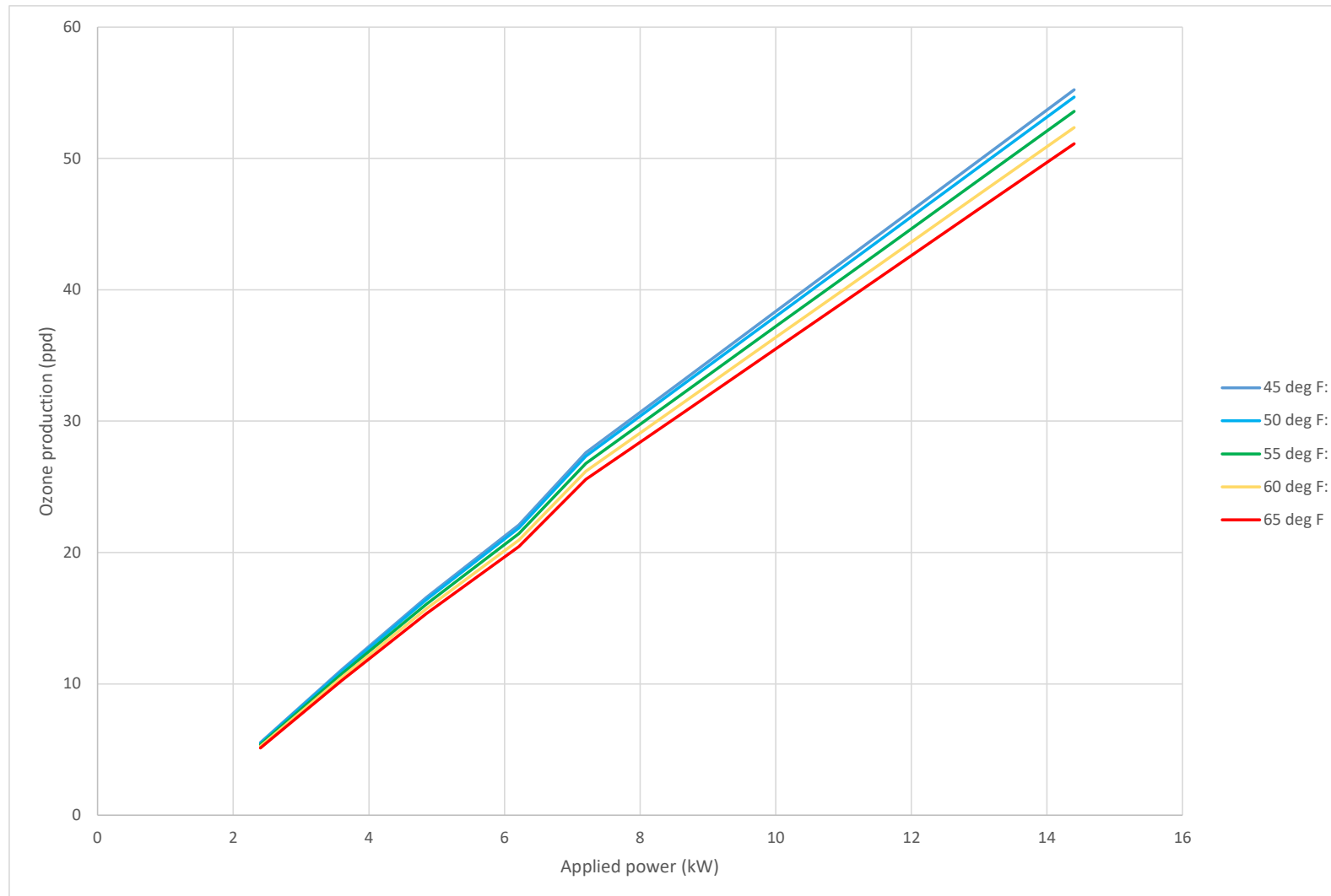
Results					
Best operating concentration	Total cost / lb ozone operating @ best %wt	Total cost / lb ozone operating @ 10%wt	Total annual cost operating @ best %wt	Total annual cost operating @ 10%wt	Annual Savings operating @ best %wt
[%wt]					
16.00%	\$ 0.99	\$ 1.22	\$ 55,574.82	\$ 68,728.31	\$ 13,153.49



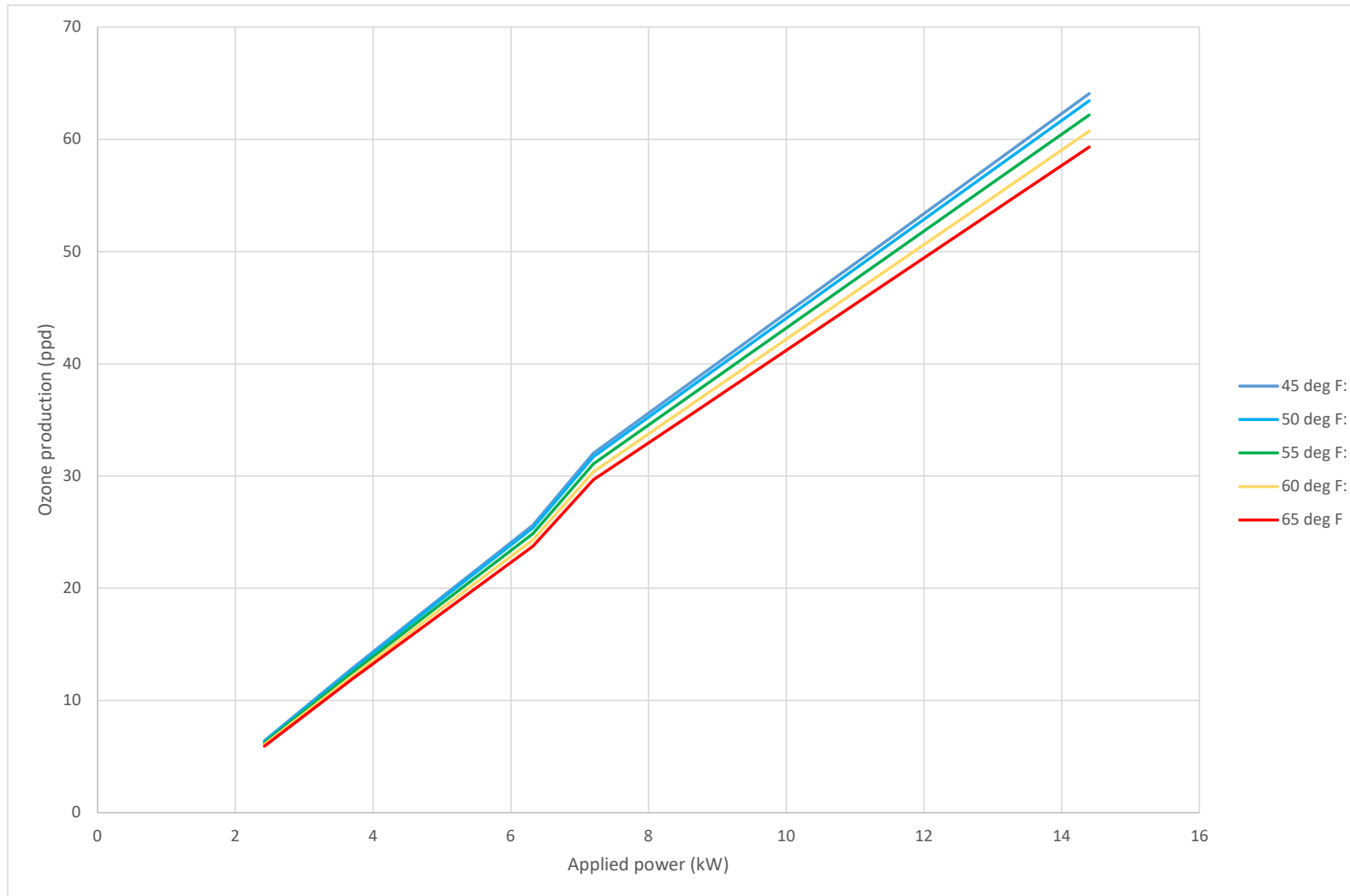
Performance of Primozone GM24 Ozone Generator @ 240 g/Nm³ = 16wt%



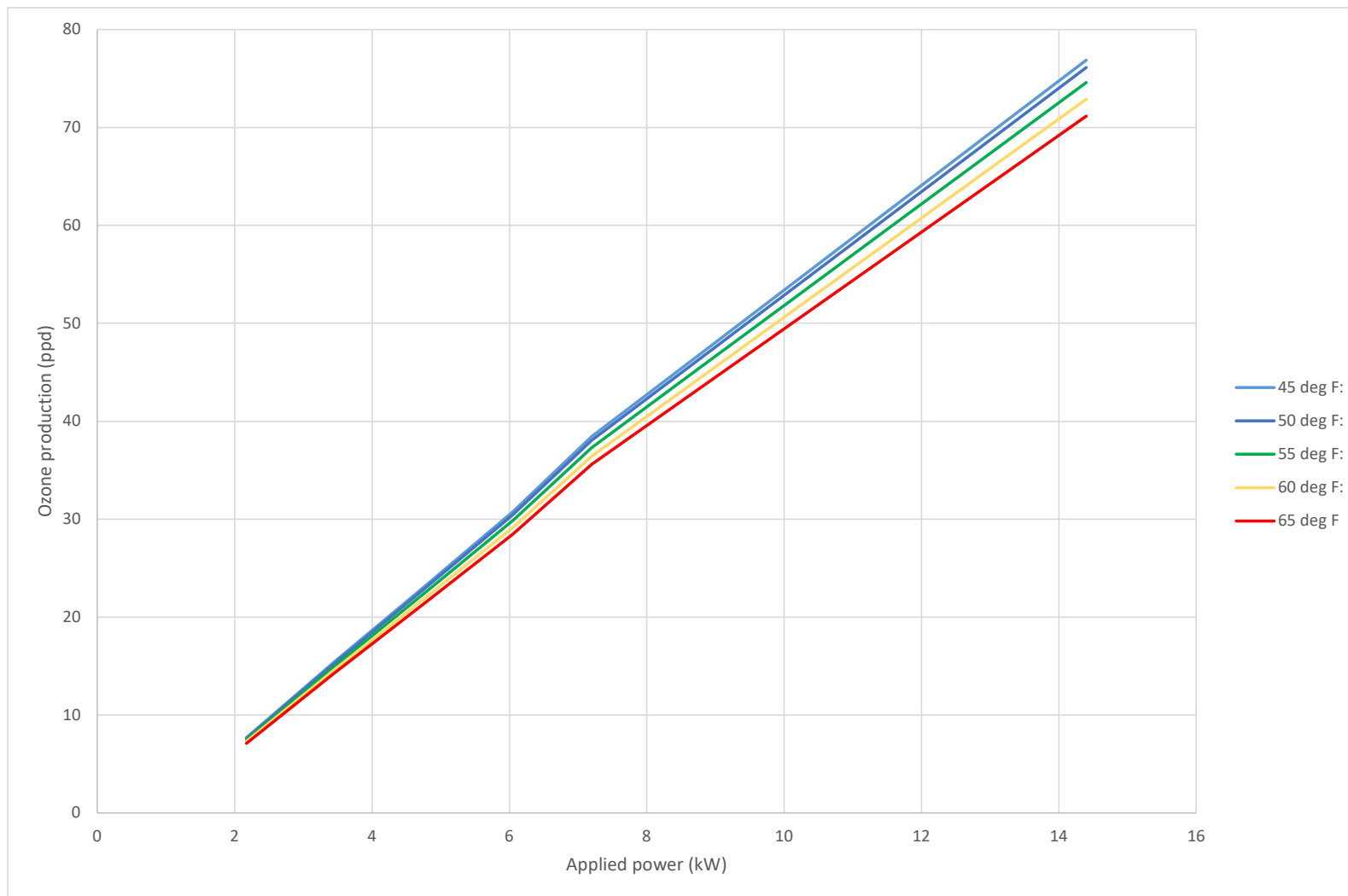
Performance of Primozone GM24 Ozone Generator @ 235 g/Nm³ = 15.6%wt



Performance of Primozone GM24 Ozone Generator @ 200 g/Nm³ = 13.4wt%



Performance of Primozone GM24 Ozone Generator @ 150g/Nm³ = 10%wt%



Pounds per day generated	Ozone Concentration (%wt)	Gas Flow (lbs/day O2)
10	15.6	64
20	16.0	125
30	16.0	188
40	16.0	250
50	16.0	313
60	16.0	375
70	16.0	438
80	16.0	500
90	16.0	563
100	16.0	625
110	15.0	733
120	13.4	896
130	12.7	1021
140	11.4	1224
150	10.1	1479

1

2

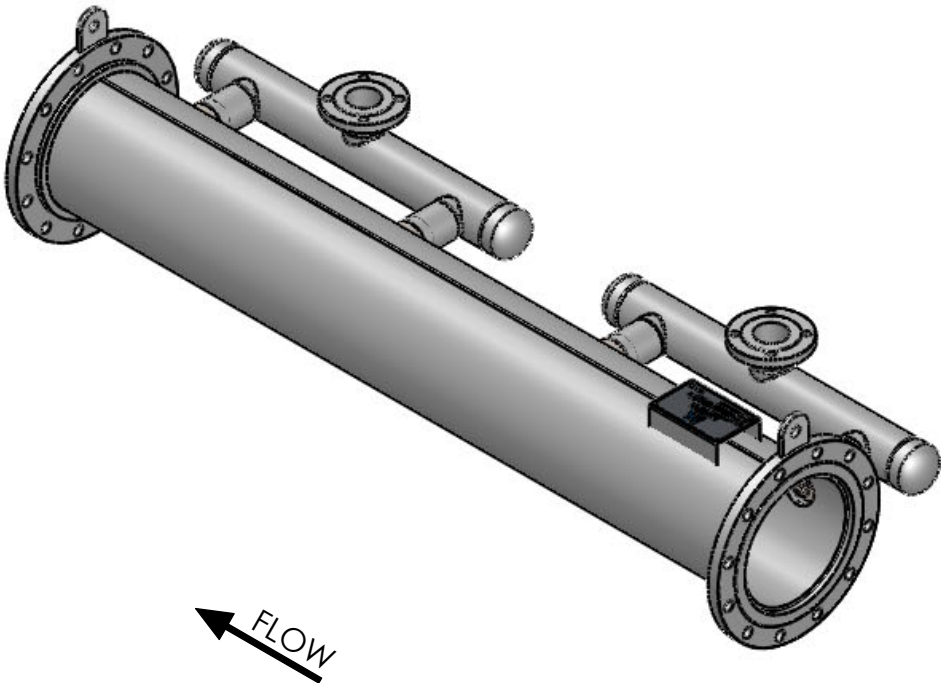
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NOTES:

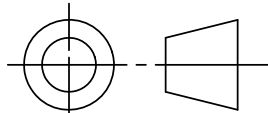
- 1. MATERIAL OF CONSTRUCTION: TYPE 316L, STAINLESS STEEL
- 2. MTR/HEAT NUMBERS ARE PROVIDED AND SHALL MEET APPLICABLE MATERIAL SPECIFICATIONS.
- 3. FLANGE BOLT HOLES TO STRADDLE COMMON CENTERLINES, UNLESS OTHERWISE NOTED.
- 4. PIPELINE CONNECTION:
12.00 DIA., ANSI B16.5, CLASS 150, SCHED. 40, RAISED FACE - SLIP ON FLANGE.
- 5. SIDESTREAM CONNECTION:
3.00 DIA., ANSI B16.5, CLASS 150, SCHED. 40, RAISED FACE - WELD NECK FLANGE.
- 6. WELDING JOINTS TO BE COMPLETE JOINT PENETRATION, WHERE POSSIBLE.
- 7. DYE PENETRANT TESTING IN ACCORDANCE WITH ASME B31.3 NORMAL SERVICE RECOMMENDATIONS WILL BE PERFORMED ON A MINIMUM OF 20% OF LINEAR LENGTH OF WELDS.
- 8. CLEANED FOR PASSIVATION PER ASTM A380 GUIDELINES.
- 9. PASSIVATED PER ASTM A967 SPECIFICATION.
- 10. FINISH: INTERIOR AND EXTERIOR BEAD BLASTED.
- 11. WELD MAP, NON DESTRUCTIVE TESTING (NDT), CLEANING AND INSPECTION REPORTS TO BE PROVIDED BY MAZZEI.

REVISIONS			
REV.	DESCRIPTION	DATE	APPROVED



ISOMETRIC VIEW

PRELIMINARY ONLY
NOT ISSUED FOR CONSTRUCTION
TO BE USED FOR PICTORAL USE ONLY

CONFIDENTIALITY NOTICE		UNLESS OTHERWISE SPECIFIED DIM ARE IN INCHES TOL ON ANGLE ± .50° 2 PL ± .06 3 PL ± .030 INTERPRET DIM AND TOL PER ASME Y14.5M-1994		APPROVALS		DATE			MAZZEI INJECTOR CO., LLC						
THE INFORMATION CONTAINED IN THIS DRAWING IS THE SOLE PROPERTY OF MAZZEI INJECTOR COMPANY LLC. ANY REPRODUCTION IN PART OR AS A WHOLE WITHOUT THE WRITTEN PERMISSION OF MAZZEI IS STRICTLY PROHIBITED.				DRAWN: F. FLORES		11/3/2021			500 ROOSTER DRIVE BAKERSFIELD, CA 93307 PHONE: (661) 363-6500 FAX: (661)363-7500 WWW.MAZZEI.NET						
				CHECKED: -				TITLE: PIPELINE NOZZLE MANIFOLD							
				APPROVED: -											
DRAWING MAY NOT BE PRINTED FULL SIZE DO NOT SCALE				QA: -				SIZE: B		JOB NO.: 18-P032		DRAWING NUMBER: 18-P032 - PNMHCB084CBA00-PRE		REV: A	
				CUSTOMER APPROVAL: -											
				CUSTOMER: -											
								SCALE: NONE		WEIGHT: 580.57 LBS		SHEET: 1 OF 2			

1

2

3

4

1

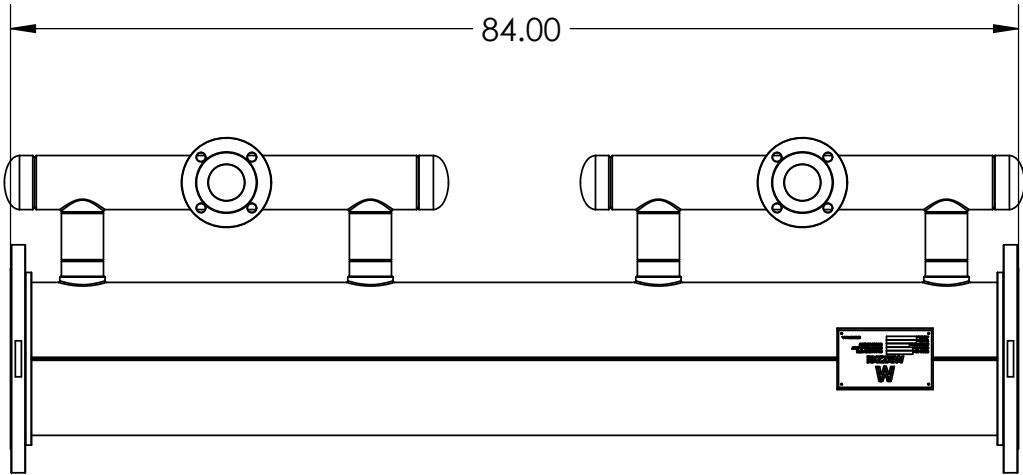
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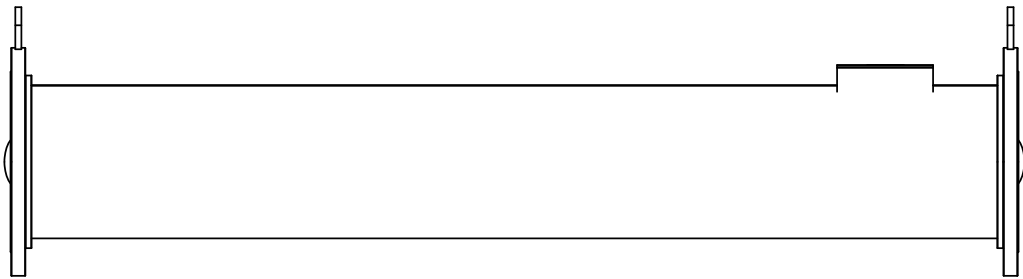
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REVISIONS			
REV.	DESCRIPTION	DATE	APPROVED

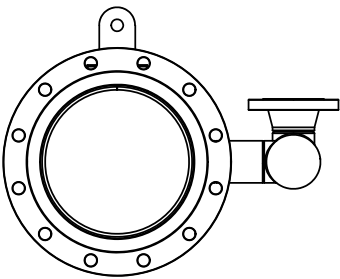
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TOP VIEW



SIDE VIEW



INLET VIEW

PIPELINE NOZZLE MANIFOLD

SIZE: B	JOB NO.: 18-P032	DRAWING NUMBER: 18-P032 - PNMHCB084CBA00-	REV.: A
SCALE: NONE	WEIGHT: PRE	N/A	SHEET: 2 OF 2

1

2

3

4

NOTES:

1.
- IN GENERAL, THE P&ID SYMBOLS AND DEVICE IDENTIFICATIONS ARE BASED ON INTERNATIONAL SOCIETY OF AUTOMATION, STANDARD PRACTICES ISA-S5.1 (1988). SOME MODIFICATIONS, ADDITIONS, AND ALTERATIONS HAVE BEEN MADE AS NEEDED TO ACCOMMODATE THE PROJECT REQUIREMENTS.
2.
- SOME CONTROL AND INTERLOCK REQUIREMENTS WHICH CAN BE MORE CLEARLY ISLLUSTRATED ON SCHEMATIC DRAWINGS HAVE BEEN OMITTED FROM THE P&ID DRAWINGS.
3.
- THIS IS A GENERAL LEGEND SHEET, SOME SYMBOLS AND ABBREVIATIONS MAY NOT BE UTILIZED ON THIS SPECIFC PROJECT.
4.
- PIPING AND EQUIPMENT LEGEND APPLIES TO P&ID SHEETS ONLY AND MAY DIFFER FROM LEGENDS FOR OTHER SHEETS.

MEASURED VARIABLE

INSTRUMENT FUNCTION

EQUIPMENT CODE ABBREVIATIONS

(AH) ACCESS HATCH
(BFP) BACKFLOW PREVENTER
(BSN) BASIN
(COM) COMPRESSOR
(CP) CONTROL PANEL
(DRV) DEGAS RELIEF VALVE
(DS) DEGAS SEPARATOR
(DPS) DIAPHRAGM SEAL
(FLT) FILTER
(FITNG) FITTING, MISCELLANEOUS
(FR) FLASH REACTOR
(GD) GAS DETECTOR
(INJ) INJECTOR
(LCP) LOCAL CONTROL PANEL
(MCC) MOTOR CONTROL CENTER
(NZ) NOZZLE
(NZM) NOZZLE MANIFOLD
(OHD) OVERHEAD DOOR
(OZA) OZONE ANALYZER
(OZD) OZONE DESTRUCT
(OGR) OZONE GENERATOR
(OIS) OZONE INJECTION SKID
(PFR) PIPELINE FLASH REACTOR
(PSU) POWER SUPPLY UNIT
(PD) PULSATION DAMPNER
(PC) PUMP, CENTRIFUGAL END SUCTION
(PPD) PUMP, POSITIVE DISPLACEMENT
(PS) PUMP, SUBMERSIBLE
(PV) PUMP, VERTICLE
(RWP) PUMP, RAW WATER
(RM) ROTAMETER
(SG) SIGHT GLASS
(STR) STRAINER
(TNK) TANK, GENERAL
(VB) VALVE, BALL
(VBF) VALVE, BUTTERFLY
(VC) VALVE, CHECK
(VFW) VALVE, FOUR WAY
(VG) VALVE, GATE
(VGL) VALVE, GLOBE
(VND) VAVLE, NEEDLE
(VPR) VAVLE, PRESSURE REDUCING
(VPS) VALVE, PRESSURE SUSTAINING
(VTW) VALVE, THREE WAY
(VVP) VALVE, V-PORT BALL
(VFD) VARIABLE SPEED DRIVE

PIPELINE MATERIAL CODE ABBREVIATIONS

CPVC - EXH# 3060-381 - CHLORINATED POLYVINYL CHLORIDE
FRP - EXH# 3060-382 - FIBERGLASS REINFORCED PLASTIC
PP - EXH# 3060-383 - POLYPROPYLENE
PVC - EXH# 3060-384 - POLYVINYL CHLORIDE PIPE
PVDF - EXH# 3060-385 - POLYVINYLDENE FLUORIDE
SS - EXH# 3060-386 - STAINLESS STEEL PIPE
SP - EXH# 3060-387 - STEEL PIPE
DIP - EXH# 3060-388 - DUCTILE IRON PIPE

PIPELINE CODES

(NH3) AMMONIA
(ASC) ANTISCALANT
(DRN) CHEMICAL DRAIN LINE
(CLG) CHLORINE GAS
(CLS) CHLORINE SOLUTION
(CACD) CITRIC ACID
(COAG) COAGULANT
(CWR) COOLING WATER RETURN
(CWS) COOLING WATER SUPPLY
(DRA) DRAINAGE SYSTEM
(FECL) FERRIC CHLORIDE
(FLT) FILTERED WATER
(GOX) GASEOUS OXYGEN
(OVF) OVERFLOW
(OZG) OZONE GAS
(OZW) OZONATED WATER
(PP) PHOSPHATE
(AIR) PLANT AIR
(PW) PRODUCED WATER
(RW) RAW WATER
(SPW) SAMPLE WATER
(SLW) SETTLED WATER
(ASH) SODA ASH
(NAOH) SODIUM HYDROXIDE
(NAOCL) SODIUM HYPOCHLORITE
(SACD) SULFURIC ACID
(TRW) TREATED WATER
(VNT) VENT

A	ANALYSIS
B	BURNER FLAME
C	(ELECTRICAL)
D	DENSITY (MASS) OR SPECIFIC GRAVITY
E	VOLTAGE (EMF)
F	FLOW RATE
FF	FLOWRATIO
G	GAUGING (DIMENSION)
H	HAND (MANUAL)*
I	CURRENT (ELECTRICAL)
J	POWER
K	TIME
L	LEVEL
M	MOISTURE OR HUMIDITY
N	EMERGENCY SHUTDOWN
O	
P	PRESSURE OR VACUUM
PD	DIFFERENTIAL PRESSURE
Q	QUANTITY
R	RADIOACTIVTY
S	SPEED OR FREQUENCY
T	TEMPERATURE
TD	DIFFERENTIAL TEMPERATURE
U	MULTIVARIABLE
V	VISCOSITY
W	WEIGHT
X	UNCLASSIFIED
XV	VIBRATION
Y	STATUS***
Z	POSITION

- * REFER RO OPERATOR OR PILOT DEVICE LEGEND
- ** LETTER INDICATES POSITION (O = OPEN, C = CLOSED, R = RAISE, L = LOWER, ETC)
- *** PI# # = 1, 2, 3 ETC. AND REPRESENTS A UNIQUE IDENTIFIER AND IS APPLICABLE TO ALL ITMES IN THETABLE ABOVE

ELEMENT	TRANSMITTER	INDICATING TRANSMITTER	INDICATOR	RECORDER	CONTROLLER	INDICATING CONTROLLER	RECORDING CONTROLLER	SWITCH	ALARM LOW	ALARM HIGH	TOTALIZE INDICATOR TRANSMITTER	VALVE	LIGHT
AE	AT	AIT	AI	AR	AC	AIC	ARC	AS	AAL	AAH			AL
BE	BT	BIT	BI	BR	BC	BIC	BRC	BS	BAL	BAH			BL
CE	CT	CIT	CI	CR	CC	CIC	CRC	CS	CAL	CAH			CL
DE	DT	DIT	DI	DR	DC	DIC	DRC	DS	DAL	DAH			DL
FE	FT	FIT	FI	FR	FC	FIC	FRC	FS	FAL	FAH	FQI	FCV	FL
			FFI		FFC	FFIC		FFS					FLL
					HC			HS*				HV	HL
	IT	IIT	II	IR	IC	IIC	IRC	IS	IAL	IAH			IL
			KI	KR	KC	KIC	KRC	KS	KAL	KAH		KV	KL
LE	LT	LIT	LI	LR	LC	LIC	LRC	LS	LAL	LAH		LCV	LL
ME	MT	MIT	MI	MR	MC	MIC	MRC	MS	MAL	MAH			ML
PE	PT	PIT	PI***	PR	PC	PIC	PRC	PS****	PAL	PAH		PCV	PL
	PDT	PDIT	PDI	PDR	PDC	PDIC	PDRC	PDS	PDAL	PDAH		PDCV	PDL
QE	QT	QIT	QI	QR				QS	QAL	QAH			
SE	ST	SIT	SI	SR	SC	SIC	SRC	SS	SAL	SAH			
TE	TT	TIT	TI	TR	TC	TIC	TRC	TS	TAL	TAH		TCV	TL
	TDT	TDIT	TDI	TDR	TDC	TDIC	TDRC	TDS	TDAL	TDAH		TDCV	TDL
			UI	UR	UC	UIC	URC	US					UL
VE	VT	VIT	VI	VR	VC	VIC	VRC	VS	VAL	VAH			VL
WE	WT	WIT	WI	WR				WS	WAL	WAL			
XE	CXT	CXIT	XI	XR	XC	XIC	XRC	XS	XAL	XAH		XCV	XL
XVE	XVT		XVI	XVR				XVS		XVAH			XVL
			YI***										YL
ZE	ZT	ZIT	ZI					ZS**				ZV	ZL**

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UNLESS OTHERWISE SPECIFIED
DIM ARE IN INCHES
TOL ON ANGLE ± .50°
2 PL ± .06 3 PL ± .030
INTERPRET DIM AND TOL PER
ASME Y14.5M-1994

THIRD ANGLE PROJECTION

APPROVALS

DRAWN:
F. FLORES

CHECKED:

APPROVED:

QA:
-

CUSTOMER APPROVAL:
-

CUSTOMER:
-

DATE

11/3/2021

MAZZEI INJECTOR CO., LLC

500 ROOSTER DRIVE BAKERSFIELD, CA 93307
PHONE: (661) 363-6500 FAX: (661)363-7500
WWW.MAZZEI.NET

TITLE:

INSTRUMENTATION

SYMBOLS & ABBREVIATIONS

SIZE:
B

JOB NO.:
18-P032

DRAWING NUMBER:
S-GDT30EXXBC00X - P&ID - 18-P032

REV:
C

SCALE:
NONE

WEIGHT:
LBS

SHEET:
1 OF 4

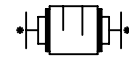
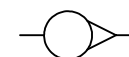
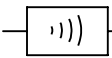
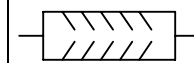
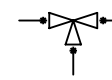
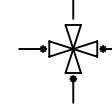
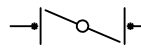
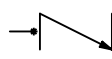
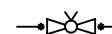
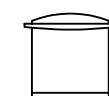
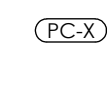
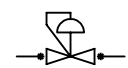
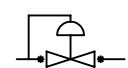
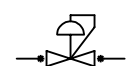
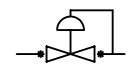
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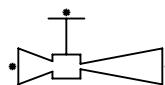
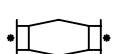
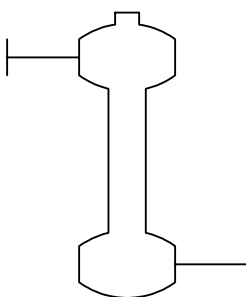
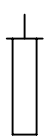
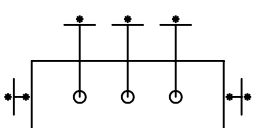
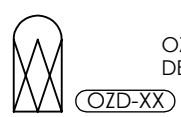
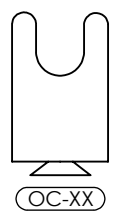
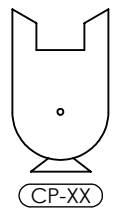
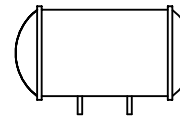
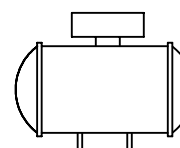
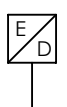
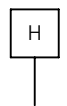
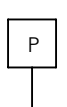
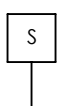
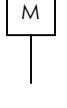
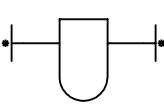
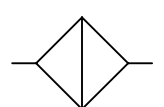
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B	EQUIPMENT IDENTIFICATION DESCRIPTION		LINE TYPES		FLOW	PROCESS PIPING	PROCESS VALVES	MISCELLANEOUS
	 EQUIPMENT CODE SYSTEM NUMBER NOMINAL CONNECTION SIZE SEQUENTIAL UNIT NUMBER AAA - B CC D EXAMPLE: VTW - 2401		PROCESS PIPING ELECTRICAL SIGNAL HYDRAULIC SIGNAL PNEUMATIC SIGNAL INTERNAL SYSTEM SIGNAL LINK (SOFTWARE)		 MAGNETIC  THERMAL DISPERSION  PADDLE WHEEL  ROTAMETER  ULTRASONIC  PITOT TUBE / ANNUBAR  PITOT TUBE (AVERAGING)  PROPELLER -TURBINE  ORIFICE PLATE  FLOW CONDITIONER	 CAPPED OR PLUGGED  CONCENTRIC REDUCER  ECCENTRIC REDUCER  DRAIN OPEN DRAIN (BY OTHERS)  BLIND FLANGE  FLANGE  UNION  VENT  EXPANSION COUPLING  FLEXIBLE CONNECTION  REMOVABLE SPOOL  QUICK CONNECT  END CAP	 BALL  3-WAY  4-WAY  BUTTERFLY  GLOBE  NEEDLE  BALL CHECK  SWING CHECK  PLUG  V-PORT BALL	 BREATHER  POWER SUPPLY REQUIRED  SAMPLE PORT  VENT TO ATMOSPHERE  DIAPHRAGM SEAL  PULSATION DAMPENER  LIQUID TRAP
	PIPELINE IDENTIFICATION DESCRIPTION		DRAWING CONTINUATION LEGEND					
	PIPELINE CODE - DENOTES ASSOCIATED PROCESS STREAM PIPE SIZE - INCHES U.N.O. (OPTIONAL) PIPELINE MATERIAL CODE AAA - BBB - (CCC) EXAMPLE: OZG - 040 - SS		PROCESS LINE - CONTINUATION PROCESS LINE - IDENTIFICATION MATCH LINE NO. MATCH SHEET NO. IDENTIFIER PROCESS LINE DESCRIPTION					
	POWER SUPPLY ABBREVIATIONS		PUMPS	PRESSURE VALVES				
EXAMPLE: ES - 120V AS AIR SUPPLY ES ELECTRIC SUPPLY HS HYDRAULIC SUPPLY POWER SUPPLY SOURCE LABEL. USED ONLY WHERE NECESSARY TO HELP CLARIFY AN INSTRUMENT OR SYSTEM FUNCTION.		 PC-X END-SUCTION CENTRIFUGAL  PC-X SUBMERSIBLE  PPD-X POSITIVE DISPLACEMENT  PV-X VERTICAL	 PRESSURE SUSTAINING SELF CONTAINED  PRESSURE SUSTAINING EXTERNAL TAP  PRESSURE REDUCING SELF CONTAINED  PRESSURE REDUCING EXTERNAL TAP  PRESSURE RELIEF  VACUUM RELIEF  AIR/VACUUM RELIEF COMBINATION					
GENERAL INSTRUMENT SYMBOLS								
XXX 01 FIELD MOUNTED INSTRUMENT XXX 01 INSTRUMENT MOUNTED ON FACE OF PANEL XXX 01 INSTRUMENT MOUNTED BEHIND OR INSIDE OF LOCAL PANEL XXX 01 INSTRUMENT MOUNTED BEHIND OR INSIDE OF PANEL XXX 01 INSTRUMENT MOUNTED ON FACE OF LOCAL PANEL XXX 01 SINGLE INSTRUMENT HOUSING CONTAINING TWO (OR MORE) FUNCTIONS								
SYSTEM NUMBER DESIGNATIONS								
1 MAINLINE 2 SUCTION LINE 3 DEGAS LINE 4 INLET/OUTLET LINE 5 RECIRCULATION LINE 6 OTHER SEE EQUIPMENT IDENTIFICATION DESCRIPTION. SYSTEM BUMBER USED TO HELP CLARIFY AN INSTRUMENT OR SYSTEM LOCATION.								

TITLE: INSTRUMENTATION			
SYMBOLS & ABBREVIATIONS II			
SIZE: B	JOB NO.: 18-P032	DRAWING NUMBER: S-GDT30EXXBC00X - P&ID - 18-P032	REV: C
SCALE: NONE	WEIGHT: LBS	SHEET: 2 OF 4	

1	2	3	4		
MAZZEI EQUIPMENT	GENERAL EQUIPMENT	PANEL DEVICE SYMBOLS	ACTUATORS	FILTERS	STORAGE TANKS
 INJECTOR (INJ)  FLASH REACTOR (FR)  DEGAS SEPARATOR (DS)  DEGAS RELIEF VAVLE (DRV)  MIXING NOZZLE (MTM)  PIPELINE FLASH REACTOR (PFR)	 OZONE DESTRUCT OZD-XX  OXYGEN CONCENTRATOR OC-XX  COMPRESSOR CP-XX  OZONE GENERATOR  OZONE GENERATOR WITH POWER SUPPLY	<div><div><div>HS</div><div>H/O/A</div><div>FUNCTION SUBSCRIPT</div></div><div>HAND SWITCH (MANUAL SELECTOR)</div></div> <div><div><div>PB</div><div>H/O/A</div><div>FUNCTION SUBSCRIPT</div></div><div>PUSH BUTTON</div></div> <div><div colspan="3">FUCTION SUBSCRIPTS FOR HAND SWITCH AND PUSHBUTTON CONTROLS:</div><div><div>ESTOP F/O/R F/O/JR H/O/A H/O/R H/O/SBY L/O/R M/A O/C O/C/A O/O O/S/C RS R/L R/O SC S/S S/SLO</div><div><div>E-STOP FORWARD-OFF-REVERSE FORWARD-OFF-JOG REVERSE HAND-OFF-AUTO HAND-OFF-REMOTE HAND-OFF-STANDBY LOCAL-OFF-REMOTE MANUAL-AUTO OPEN-CLOSE OPEN-CLOSE-AUTO ON-OFF OPEN-STOP-CLOSE RESET REMOTE-LOCAL RUN-OFF SPEED CONTROL POTENTIOMETER START-STOP START-STOP WITH LOCKOUT</div></div></div></div> <div><div><div>R</div><div>IL</div></div><div>INDICATING LIGHT</div></div> <div><div><div>G-GREEN (OFF, STOP, CLOSED) R-RED (RUN, START, OPEN) W-WHITE (POWER ON) A-AMBER (ALARM CONDITION) F-FLASHES ON ELECTRIC OR MECHANICAL MALFUNCTION</div></div></div> <div><div><div>1</div></div><div>INTERLOCK 1 - NOTE NUMBER</div></div> <div><div><div>A</div><div></div></div><div>STROBE LIGHT A - AMBER W - WHITE R - RED B - BLUE</div></div> <div><div><div>V F D</div></div><div>VARIABLE FREQUENCY DRIVE</div></div> <div><div><div>M C C</div></div><div>MOTOR CONTROL CENTER</div></div> <div><div><div>L C P</div></div><div>LOCAL CONTROL PANEL</div></div>	 DIAPHRAGM  ELECTRIC DISCRETE  ELECTRIC MODULATING  HYDRAULIC  PNEUMATIC  SOLENOID  HW HANDWHEEL  CW CHAINWHEEL  L LEVER  M MOTORIZED  MANUAL NOTE: ON LOSS OF PRIMARY POWER FO = FAIL OPEN FC = FAIL CLOSE FLP = FAIL LAST POSITION	 BASKET STRAINER BS-XX  FILTER, GENERAL  Y-TYPE STRAINER BFP-XX DIGITAL SYSTEMS INTERFACE SYMBOLS  COMPUTER DISPLAY FUNCTION BLOCK  PLC SYSTEM FUNCTION BLOCK  ANALOG I/O  DISCRETE I/O NOTE: REFER TO DETAILED SYSTEM SPECIFICATIONS FOR FUNCTIONAL DESCRIPTION. ALSO SEE I/O SCHEDULES FOR COMPLETE INPUT AND OUTPUT LISTINGS.	TITLE: INSTRUMENTATION SYMBOLS & ABBREVIATIONS III SIZE: B JOB NO.: 18-P032 DRAWING NUMBER: S-GDT30EXXBC00X - P&ID - 18-P032 REV: C SCALE: NONE WEIGHT: LBS SHEET: 3 OF 4
1	2	3	4		

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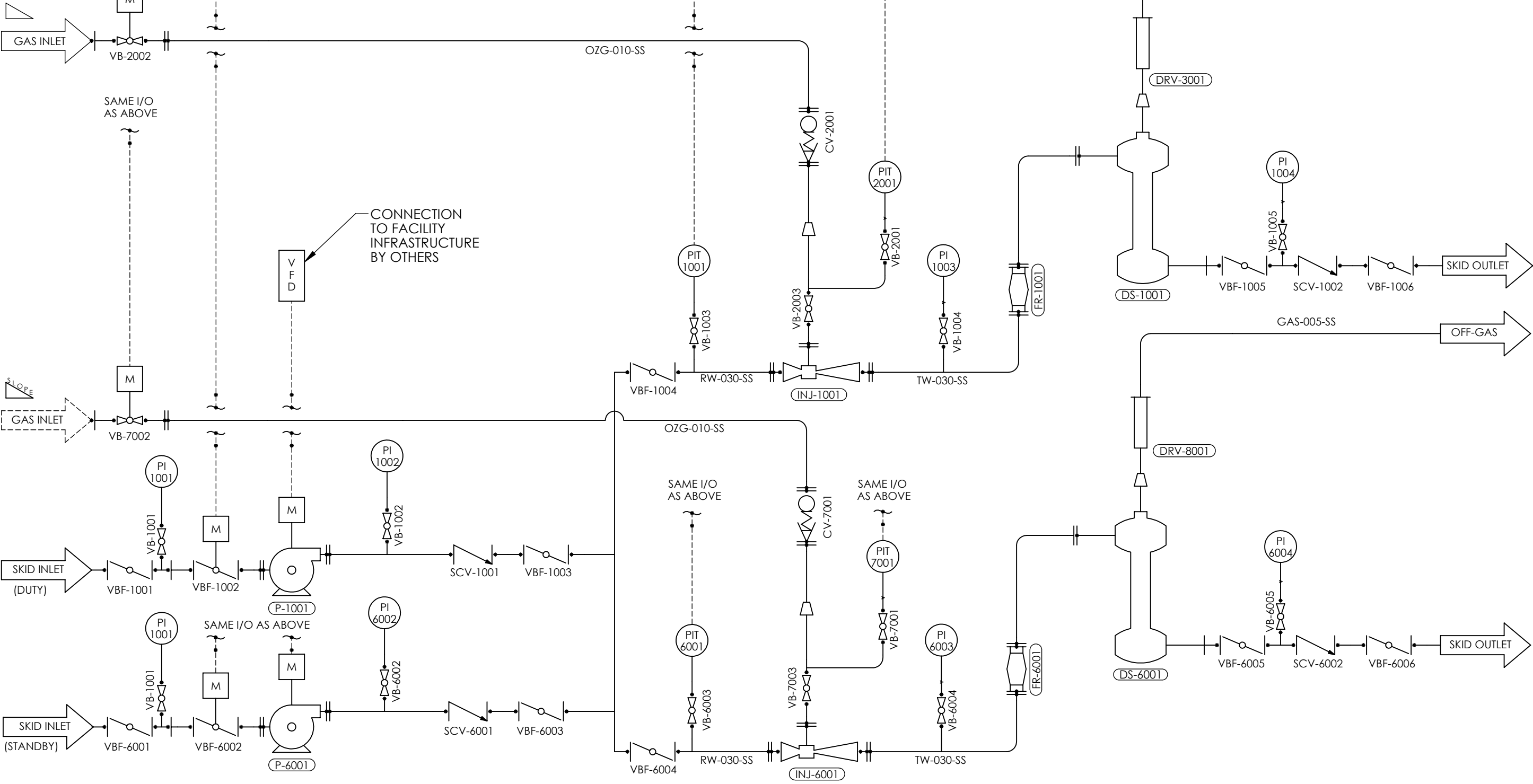
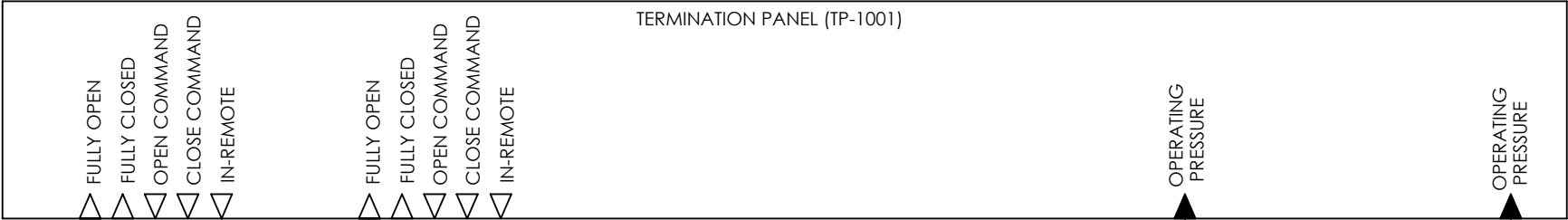
REVISIONS			
REV.	DESCRIPTION	DATE	APPROVED
C	SKID COMPLEXITY UPDATED TO MATCH PROJECT DRAWINGS	11/16/2021	FMF

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PIPING & INSTRUMENTATION DIAGRAM

SIZE:	JOB NO.:	DRAWING NUMBER:	REV:
B	18-P032	S-GDT30EXXBC00X - P&ID - 18-P032	C
SCALE:	WEIGHT:	LBS	SHEET:
NONE			4 OF 4

1

2

3

4

OZONE DISSOLUTION SYSTEM

Project Design Basis used to establish the acceptable performance requirements of the overall system, and components

FORM# 3100-360a Rev A (Jan 1 2021)

18-P035 v2.0

FACILITY DESIGN BASIS

WELLINGTON WTP

Last Updated: 11/3/2021

Wellington, CO

These calculations are intended to only be used as a guide to aid in system design. Mazzei is not, and does not present itself as, a licensed engineering firm and does not warrant these calculations as anything more than system design guidelines. The actual water quality requirements should be determined by formal means such as pilot tests, extensive operation experience, the guidance from a licensed engineer, etc.

Site Information			Facility Information							Gas Production Information								
Design Flow No.	Water Temp	Jobsite Elevation	Plant Flowrate	No. of Pipelines	Pipeline Flowrate	Pipeline Flowrate	Pipeline Size	Pipeline Velocity	Pipeline Pressure	Applied Dose	Gas Prod.	Gas Prod.	Gas Prod.	Gas Conc.	Gas Conc.	Gas Vol.	Gas Vol.	TARGET MTE
#	C	ft	TOTAL mgd	#	PER mgd	PER gpm	OD	ft/s	ft wc	mg/l	kg/hr	kg/d	ppd	% wt	NOTE 1 Ng/m3	m ³ /hr	scfm	NOTE 2 %
1a	25	5,203	7.5	1	7.5	5,205	12.75	14.2	50.0	4.00	4.7	114	250	10	147.7	32.0	20.3	95 ±1%
1b										2.00	2.4	57	125			16.0	10.2	95 ±1%
			Future Build-Out															
2a			4.6	1	4.6	3,192	12.75	8.7	50.0	4.00	2.9	70	154	10	147.7	19.6	12.5	95 ±1%
2b										2.00	1.5	35	77			9.8	6.2	95 ±1%
3a			2.3	1	2.3	1,596		4.3	36.8	4.00	1.5	35	77	10	147.7	9.8	6.2	95 ±1%
3b										2.00	0.7	17	38			4.9	3.1	95 ±1%
4a			1.2	1	1.2	833		2.3	25.0	4.00	0.8	18	40	10	147.7	5.1	3.2	95 ±1%
4b										2.00	0.4	9	20			2.6	1.6	95 ±1%
5a			0.5	1	0.5	347		0.9	25.0	4.00	0.3	8	17	15	225.0	1.4	0.9	95 ±1%
5b										2.00	0.2	4	8			0.7	0.4	95 ±1%
6a			0.3	1	0.3	208		0.6	25.0	4.00	0.2	5	10	15	225.0	0.8	0.5	95 ±1%
6b										2.00	0.1	2	5			0.4	0.3	95 ±1%

NOTE 1 Gas Temperature = 0 C; Pressure = 1.013 bar, absolute.

NOTE 2 Assumes reaction or consumption rate of ozone < 3 seconds

OZONE DISSOLUTION SYSTEM

Project Design Basis used to establish the acceptable performance requirements of the overall system, and components

FORM# 3100-360a Rev A (Jan 1 2021)

SIDESTREAM INJECTION DESIGN BASIS

WELLINGTON WTP

11/3/2021

Wellington, CO

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Gas Production Information						Sidestream Injection Information			Pump Information	
Design Flow No.	Contactor Flow	Applied Dose	Gas Prod.	Gas Concen.	Gas Vol.	No. of Skids	Skid Model	Gas Pressure	Pump NPSH	Pump Rating
#	mgd	mg/l	ppd	wt%	scfm	#		psig	psig	TOTAL bHP
1a	7.5	4.00	250	10	20.3	2	S-GDT30E-X	0	17	51
1b		2.00	125		10.2	2		0		26
							Future Build-Out			
2a	4.6	4.00	154	10	12.5	1	S-GDT30E-X	0	17	26
2b		2.00	77		6.2	1		0		13
3a	2.3	4.00	77	10	6.2	1		0	13	15
3b		2.00	38		3.1	1		0		8
4a	1.2	4.00	40	10	3.2	1		0	9	7
4b		2.00	20		1.6	1		0		3
5a	0.5	4.00	17	15	0.9	1		0	9	3
5b		2.00	8		0.4	1		0		3
6a	0.3	4.00	10	15	0.5	1		0	9	3
6b		2.00	5		0.3	1		0		3



NQA10 with PLC Controller Option

Since 1969, Thermal Care has manufactured industrial cooling equipment using the best available component technologies for a portable chiller that provides long lasting and dependable performance. All NQ Series chillers are produced in our ISO 9001:2008 certified facility.

Easy to Install

Compact and easy to maneuver, with a built-in process fluid reservoir and pump wired and piped ready for simple field connections, our NQ Series chillers are easy to install.

Complete Chilled Water System

Built in a heavy-duty industrial machine cabinet with casters, NQ Series chillers include a properly sized coolant reservoir and pump to eliminate the need to source and install multiple components.

Rugged, Compact Design

With our components neatly arranged in the cabinet, we make good use of space while maintaining a balance between minimized floor space and easy access for maintenance and operation.

Electrical Components Mounted and Wired

All electrical components and sensors are mounted, wired, and fully tested at the factory to reduce installation time and ensure the chiller is up and running quickly.

Tools Free Cabinet Access

Multiple heavy-gauge machine access doors with industrial grade tools-free latches provide easy access to all components for quick start-up, operation, and maintenance.

Reliable

The use of the best available components and control software combined with our extensive experience in manufacturing industrial cooling equipment ensures our chillers provide outstanding reliability.

Direct-Drive Scroll Compressors

Direct drive hermetic scroll compressors with their proven longevity in industrial cooling applications for outstanding reliability, low-maintenance, and high-efficiency operation.

Stainless Steel Evaporators

Stainless steel plate copper brazed evaporators provide maximum performance, long life, and a level of corrosion protection not available in conventional steel shell and copper tube evaporators.

Stainless Steel Pump

All pumps are stainless steel and designed for peak performance for the utmost in corrosion protection and a long useful life under harsh industrial conditions.

Nonferrous Reservoir and Water Lines

All nonferrous water lines and a nonferrous insulated reservoir eliminate the potential for rust formation in the chiller and deliver maximum protection from corrosion.

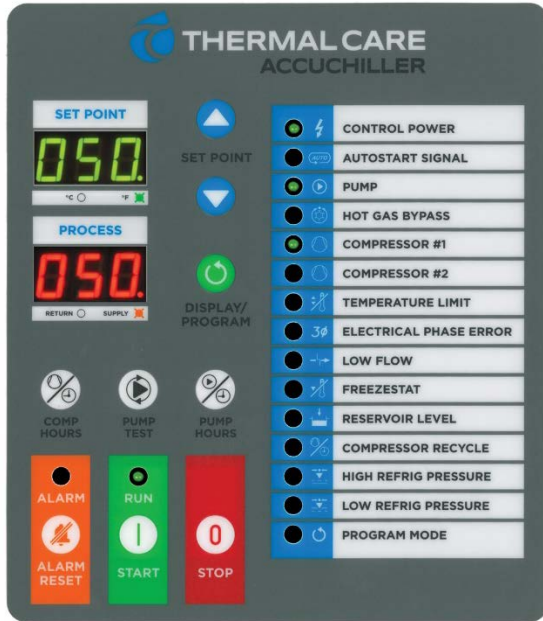
Evaporator Inlet Strainer

An evaporator inlet strainer is built-in filtration system to keep debris in the process fluid from causing costly downtime and repair due to a clogged chiller evaporator.

Powerful Controls

Our control system is an excellent combination of proven hardware and a powerful software control system for outstanding performance that is reliable and easy to use.

Standard Control System Operator Interface



Compressor Protection Technology

Our compressor protection technology has start-to-start anti-recycle compressor control logic that limits compressor cycling under low-loads to extend compressor life.

Compressor and Pump Run Hour Displays

The ability to store and recall total compressor and pump running hours is a very useful tool for monitoring actual total run time to scheduling planned maintenance.

Power Monitor

The power monitor protects the chiller from improper power causing extensive damage to the compressor and pump due to main power phase reversal or loss of phase.

Temperature Deviation Warnings and Alarms

The deviation warning alerts the operator of a potential problem before a fault occurs. If the condition gets worse, the alarm sounds an alarm and stops the chiller to prevent equipment damage.

Adjustable Deviation Alarm Time Delays

Adjustable deviation alarms allow a way to program a start-up time delay to deactivate the alarms low enough for the process loop to stabilize without causing nuisance temperature alarms.

Reservoir Low Level Alarm

The reservoir low-level alarm protects the process pump and chiller from expensive damage caused if the chiller operates when the reservoir level is critically low.

Master Reset

The master reset function is a quick and easy way to reset the control system and restore the system to factory default settings if a control parameter is mistakenly changed.

Supply and Return Temperature Displays

The ability to toggle between supply and return temperatures allows for a simple way to monitor the process conditions and quickly check the chiller operation.

Other Alarms

Loss of flow, freezestat, high and low refrigeration pressure, temperature sensor faults, and freezestat sensor fault alarms for additional system monitoring.

C-UL508A Control Panel

Built for heavy-duty industrial operation we use a NEMA-12 control panel, high quality components, and 24 VDC control circuit power to provide safe, consistent, and reliable operation.

Rotary Non-Fused Disconnect Switch

The rotary non-fused disconnect switch is a useful way to safely disconnect main power for quick and easy movement of the chiller to another production area during maintenance.

High-Quality 24 VDC Power Supply

The 24-volt DC power supply ensures dependable control circuit power and isolates the control circuit from static interference to ensure stable and precise operation.

Warranty

5-year parts on microprocessor

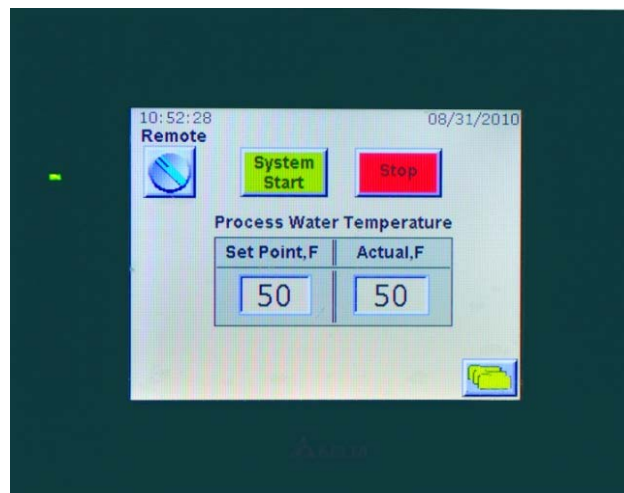
18 months parts on entire unit

1-year labor

Lifetime \$175 controller exchange after 5-years

Available Options

- Oversized pumps for increased process fluid flows and/or pressures
- High flow unit design for reduced internal pressure loss at higher processes fluid flows
- Low temperature condenser air operation for indoor chillers (0°F to 110°F)
- Outdoor unit design for integral air-cooled condenser chiller (-20°F and 110°F)
- Remote air-cooled condenser coil coating for installations near coastal regions
- Pump and tank deduct for applications that do not require the standard internal pump and tank
- Stainless steel cabinetry for special applications such as food processing plants
- Automatic electric water make-up valve for applications requiring automatic fluid make-up
- High pressure variable-speed fans for air-cooled condenser chillers for ducting of discharge air
- Modbus RTU, BACnet, LonWorks, or SPI communications ports
- 4 to 20 mA cooling supply temperature retransmit
- Emergency stop button to provide a quick means of stopping the chiller
- Hand-held remote controller with 50 foot wire to duplicate unit mounted controls
- Special color paint for applications requiring the chiller match the color of other equipment



Optional PLC Controller Color Touch-Screen HMI

- PLC with touch screen interface for enhanced diagnostic and operational display capabilities
- Refrigeration pressure transducers with fault alarms (requires PLC option)
- Process flow meter with digital flow display on the touch screen interface (requires PLC option)
- Set point ambient tracking or remote control for specialize process applications
- 3-way water temperature control valve for isolation heat exchangers (requires PLC option)

Air-Cooled Portable Chillers

Model	NQA04	NQA05	NQA08	NQA10	NQA13	NQA15	NQA20	NQA25	NQA30
Cooling Capacity (tons) ¹	4.4	5.1	7.8	11.0	12.5	14.9	20.9	25.6	30.6
Set Point Range (°F)	20 to 80	20 to 80	20 to 80	20 to 80	20 to 80	20 to 80	20 to 80	20 to 80	20 to 80
Refrigerant	R410A	R410A	R410A	R410A	R410A	R410A	R410A	R410A	R410A
Condenser Air Flow (cfm)	4,000	4,000	8,000	8,000	8,000	10,450	18,000	20,000	24,000
Sound Pressure @ 1 meter (dBA)	73.8	74.0	75.8	76.2	76.2	82.2	84.4	84.4	85.9
Minimum Unloaded Capacity (tons)	1.0	1.2	1.8	2.7	3.1	3.6	4.8	6.0	7.2
Pump Motor Size (hp)	1.5	1.5	1.5	1.5	1.5	3	3	5	5
Pump Flow (gpm)	11	12	19	27	30	36	48	60	72
Net Available Pump Pressure (psi) ²	35	36	35	30	28	48	39	58	55
Unit MCA @ 460/3/60 (amps) ³	15.6	18.1	26.1	30.9	36.5	44.3	55.5	70.0	83.1
Length (inches)	48	48	75	75	75	87	87	105	105
Width (inches)	35	35	35	35	35	41	41	41	41
Height (inches)	61	61	61	61	61	94	94	94	94
Height w/high pressure fans (inches)	n/a	n/a	63	63	63	96	96	96	96
Reservoir Holding Capacity (gal)	11	11	22	22	22	50	50	67	67
Process Connections (inches)	1½	1½	1½	1½	1½	2	2	2	2
Shipping Weight (lbs)	720	720	1,195	1,195	1,215	3,200	3,300	3,800	4,150

¹Cooling tons based on 12,000 BTU/Hr/ton with 50°F leaving coolant and 95°F ambient air.

²Net available pressure at outlet of chiller is pump discharge pressure less internal coolant circuit pressure loss.

³MCA is Minimum Circuit Amps (for wire sizing), complies with NEC, Section 430-24.

Water-Cooled Portable Chillers

Model	NQW05	NQW08	NQW10	NQW15	NQW20	NQW25	NQW30	NQW35	NQW40
Cooling Capacity (tons) ¹	5.5	8.1	12.0	16.5	22.6	28.1	33.3	38.9	43.4
Set Point Range (°F)	20 to 80	20 to 80	20 to 80	20 to 80	20 to 80	20 to 80	20 to 80	20 to 80	20 to 80
Refrigerant	R410A	R410A	R410A	R410A	R410A	R410A	R410A	R410A	R410A
Condenser Water Flow (gpm)	17	24	36	48	65	82	96	111	124
Sound Pressure @ 1 meter (dBA)	69.8	70.3	71.3	73.3	73.7	73.7	74.7	76.6	78.1
Minimum Unloaded Capacity (tons)	1.3	1.9	2.9	3.9	5.2	6.6	7.8	8.9	9.9
Pump Motor Size (hp)	1.5	1.5	1.5	3	3	5	5	5	5
Pump Flow (gpm)	13	20	29	39	54	67	79	92	102
Net Available Pump Pressure (psi) ²	35	34	28	45	32	54	51	48	44
Unit MCA @ 460/3/60 (amps) ³	16.4	22.6	27.4	39.7	46.3	60.8	69.3	73.7	77.2
Length (inches)	48	75	75	75	87	87	105	105	105
Width (inches)	35	35	35	35	41	41	41	41	41
Height (inches)	54	54	54	54	47	47	47	47	47
Reservoir Holding Capacity (gal)	11	22	22	22	50	50	67	67	67
Process Connections (inches)	1½	1½	1½	1½	2	2	2	2½	2½
Condenser Connections (inches)	1½	1½	1½	1½	2½	2½	2½	2½	3
Shipping Weight (lbs)	720	1,195	1,195	1,315	1,900	2,100	2,250	3,400	3,900

¹Cooling tons based on 12,000 BTU/Hr/ton with 50°F leaving coolant and 85°F condenser water.

²Net available pressure at outlet of chiller is pump discharge pressure less internal coolant circuit pressure loss.

³MCA is Minimum Circuit Amps (for wire sizing), complies with NEC, Section 430-24.



Remote Air-Cooled Condenser Chillers

Model	NQR05	NQR08	NQR10	NQR15	NQR20	NQR25	NQR30	NQR35	NQR40
Cooling Capacity (tons) ¹	5.3	7.6	11.0	15.3	20.8	25.8	30.7	35.5	39.9
Set Point Range (°F)	20 to 80	20 to 80	20 to 80	20 to 80	20 to 80	20 to 80	20 to 80	20 to 80	20 to 80
Refrigerant	R410A	R410A	R410A	R410A	R410A	R410A	R410A	R410A	R410A
Sound Pressure @ 1 meter (dBA) ²	69.8	70.3	71.3	73.3	73.7	73.7	74.7	76.6	78.1
Minimum Unloaded Capacity (tons)	1.2	1.8	2.7	3.6	4.8	6.0	7.2	8.4	9.6
Pump Motor Size (hp)	1.5	1.5	1.5	3	3	5	5	5	5
Pump Flow (gpm)	13	18	27	36	48	61	73	83	92
Net Available Pump Pressure (psi) ³	35	36	30	48	39	57	54	53	50
Unit MCA @ 460/3/60 (amps) ⁴	16.4	22.6	27.4	39.7	46.3	60.8	69.3	73.7	77.2
Length (inches)	48	75	75	75	87	87	105	105	105
Width (inches)	35	35	35	35	41	41	41	41	41
Height (inches)	54	54	54	54	47	47	47	47	47
Reservoir Holding Capacity (gal)	11	22	22	22	50	50	67	67	67
Process Connections (inches)	1½	1½	1½	1½	2	2	2	2½	2½
Refrigerant Liquid Line (inches)	⅝	⅝	⅞	⅞	⅞	1⅝	1⅝	1⅝	1⅝
Refrigerant Discharge Line (inches)	⅝	⅝	⅞	⅞	⅞	1⅝	1⅝	1⅝	1⅝
Shipping Weight (lbs)	720	1,195	1,195	1,315	1,900	2,100	2,250	3,400	3,900

¹Cooling tons based on 12,000 BTU/Hr/ton with 50°F leaving coolant and 95°F ambient air.

²Sound pressure is for chiller unit only, see Remote Air-Cooled Condenser table for remote condenser sound pressure ratings.

³Net available pressure at outlet of chiller is pump discharge pressure less internal coolant circuit pressure loss.

⁴MCA is Minimum Circuit Amps (for wire sizing), complies with NEC, Section 430-24.

Remote Air-Cooled Condensers

Condenser Model	Chiller Used With	Dimensions (in)			Weights (Lbs)		Total Air Flow (cfm)	Sound Pressure (dBA) ¹	MCA @ 460/3/60 (amps) ²	Refrigerant Connections (in)	
		L	W	H	Ship	Oper				Inlet	Outlet
KCM009	NQR05	42	43	48	245	Operating weight varies based on system charge and operating conditions	6,870	60	1.4	⅞	1⅝
KCM011	NQR08	42	43	48	265		6,620	60	1.4	⅞	1⅝
KCM014	NQR10	83	43	48	415		14,400	62	2.6	1⅝	1⅝
KCL023	NQR15	113	45	54	680		24,000	72	7.0	2⅝	1⅝
KCL030	NQR20	113	45	54	720		22,600	72	7.0	2⅝	1⅝
KCL037	NQR25	113	45	54	1,050		20,600	72	7.0	2⅝	1⅝
KCL045	NQR30	168	45	54	1,075		33,900	73	10.1	2⅝	1⅝
KCL054	NQR35	168	45	54	1,175		32,000	73	10.1	2⅝	2⅝
KCL056	NQR40	168	45	54	1,450		30,900	73	10.1	2⅝	2⅝

¹Sound pressure at 3 meters.

²MCA is Minimum Circuit Amps (for wire sizing) as provided by the remoter condenser manufacturer.





HENSEL PHELPS

Plan. Build. Manage.

Town of Wellington

WTP Expansion 2021 - Ozone Procurement Package

Based on: Pureflow Proposal # Z1806033 Rev. 4

Dated: November 16, 2021

Phase 1 - Ozone Procurement Package Costs and Payment Schedule

Ozone Package Cost			
Pureflow Ozone Package - Purchase			\$ 1,465,875
Hensel Phelps General Conditions			
Avg. Project Management Rate	\$ 81.00 \$/hr		
Combined Staff Time	6 Weeks		
	\$ 19,440.00		\$ 19,440
Bonds & Insurance (1.32%)			\$ 19,606
Profit & Overhead (8.5%)			\$ 127,918
Total			\$ 1,632,839

Phase 1 Payment Schedule			
Milestone	Target Date	% of Total	Value
HP Execute Contract with Pureflow	9-Dec-21	0%	\$ -
Board Approval/Notice to Proceed	15-Dec-21	20%	\$ 326,568
Delivery of Mechanical Submittal Package	21-Jan-22	20%	\$ 326,568
Release for Fabrication/Project GMP Approval	12-Apr-22	35%	\$ 571,494
Equipment Delivery to Jobsite	30-Sep-22	20%	\$ 326,568
Upon Successful Startup/Testing	Testing Schedule TBD	5%	\$ 81,641

AGREEMENT
BETWEEN OWNER AND CONTRACTOR
FOR CONSTRUCTION CONTRACT (COST-PLUS)

THIS AGREEMENT is by and between Town of Wellington, Colorado, a Colorado Statutory Town ("Owner") and Hensel Phelps Construction Co. 77 NW Frontage Road, Fort Collins, CO 80524 ("Contractor").

Owner and Contractor hereby agree as follows:

ARTICLE 1 – WORK

1.01 *Phase 1 – Ozone Equipment Purchase and GMP Preparation Services:*

- A. The Contractor agrees to provide all of the Phase 1 – Ozone Equipment Purchase and GMP Preparation Services described in Pureflow's quote in accordance with Article 14.
- B. Contractor shall perform GMP preparation services for the Town of Wellington Water Treatment Plant (WTP) Expansion including, but not limited the following:
 - 1. Collaborate with the Owner and Engineer to develop the project (although nothing here shall be construed as the Contractor having the duties of design).
 - 2. Identify and mitigate risk through analysis and assessment.
 - 3. Develop a maximum of one (1) detailed cost estimate which may be the detailed cost estimate which is the basis for the Guaranteed Maximum Price for Phase 2 – Construction Services.
 - 4. Perform constructability review services with Engineer.
 - 5. Develop a list of long lead equipment and associated schedule.
 - 6. Provide Owner with a Guaranteed Maximum Price for Phase 2 – Construction Services.
 - 7. Negotiate with Owner and enter into an Amendment to the Contract to establish the Guaranteed Maximum Price (GMP) for the Phase 2 – Construction Services.
- C. Within twenty-eight (28) days of the Engineer's issuance of the ninety percent (90%) design level Drawings and Specifications, the Contractor will submit to the Owner its Final Guaranteed Maximum Price (GMP) for the Work based on the updated Drawings and Specifications.
- D. If, within five (5) weeks of the Contract's submittal of the Final GMP, the Owner and Contractor do not agree on the Final GMP and the then-current Drawings and Specifications, the Owner may, in its sole discretion, terminate this Agreement.
- E. If, within five (5) weeks of the Contractor's submittal of the Final GMP, the Owner and Contractor agree on the Final GMP and the then-current Drawings and Specifications, the Owner and Contractor will execute a Change order, incorporating the Final GMP into this Agreement.

1.02 *Phase 2 – Construction Services:*

- A. Upon execution of the Amendment to the Contract to establish the Guaranteed Maximum Price (GMP) for the Construction Services, the Contractor shall complete the Construction

Phase as provided in the Contract Documents, including without limitation, providing and paying for all materials, tools, equipment, labor, and services, and performing all other acts and supplying all other things necessary to complete the Work as required by the Contract Documents.

- B. The General Conditions for the Project shall be the Standard General Conditions of the Construction Contract (GC's), as amended by the Supplementary Conditions (SC's), which follow this Agreement. The final Contract Documents for the Project shall include the foregoing, plus the Specifications, the Drawings, and the Design Details, all of which will be provided as part of the final Construction Contract Documents.
- C. Contractor shall perform Construction Phase Services for the Project, including, but not limited to the following:
 - 1. Collaborate with Owner and Engineer to execute the Project.
 - 2. Complete all Work as specified or indicated in the Contract Documents.
 - 3. Develop and update Project Schedules throughout the Construction Phase.

ARTICLE 2 – THE PROJECT

- 2.01 The Project, of which the Work under the Contract Documents is a part, is generally described as follows: The work is for all services incidental to the construction management and administration of the expansion to the Wellington Water Treatment Plant. The Contractor will be responsible to provide construction means, methods, sequencing, scheduling, preparation of submittals, subcontractor and construction coordination, and selection of subcontractors to perform the work. This construction project will be funded through the State Revolving fund (SRF), and all corresponding required specifications as issued by the State shall become part of the final GMP contract.

ARTICLE 3 – ENGINEER

- 3.01 The Owner has retained Jacobs Engineering ("Engineer") to act as Owner's representative, assume all duties and responsibilities, and have the rights and authority assigned to Engineer in the Contract Documents in connection with the completion of the Work in accordance with the Contract Documents.

ARTICLE 4 – CONTRACT TIMES

4.01 *Time of the Essence*

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

4.02 *Contract Times: Dates*

- A. The Work related to Phase 2 – Construction Services will be substantially complete within a certain number of days after the Notice to Proceed is delivered to Contractor. The certain number of days are to be defined by the Amendment to the Contract to establish the Guaranteed Maximum Price (GMP) for the Construction Services, after the date when the Contract Times commence to run as provided in Paragraph 4.01 of the General Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within 60 days after Substantial Completion.

4.03 *Liquidated Damages*

- A. Contractor and Owner recognize that time is of the essence as stated in Paragraph 4.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 4.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal or arbitration proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Contractor agree that as liquidated damages for delay (but not as a penalty) and as Owner's sole remedy for delay:
1. *Substantial Completion*: Contractor shall pay Owner \$1500 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 4.02.A above for Substantial Completion until the Work is substantially complete.
 2. *Completion of Remaining Work*: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner \$ 750 for each day that expires after such until the Work is completed and ready for final payment.
 3. Liquidated damages for failing to timely attain Substantial Completion and final completion are not additive and will not be imposed concurrently.
- B. If Owner recovers liquidated damages for a delay in completion by Contractor, then such liquidated damages are Owner's sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay.

4.04 Intentionally omitted.

ARTICLE 5 – CONTRACT PRICE

- 5.01 Owner shall pay Contractor for completion of the Work in accordance with the Contract Documents the amounts that follow, subject to adjustment under the Contract:
- A. Phase 1 – Ozone Equipment Purchase and GMP Preparation Services is one million six hundred thirty-two thousand eight hundred thirty-nine (\$1,632,839), subject to additions and deletions as provided in the Contract. Payment terms for Phase 1 are subject to the Hensel Phelps Phase 1 - Ozone Procurement Package Cost & Payment Schedule in accordance with Article 10 and 14.
 - B. For all Work other than Phase 1 – Ozone Equipment Purchase and GMP Preparation Services, the Cost of the Work plus a Contractor's fee for overhead and profit, both of which shall be determined as provided in Articles 8 and 9 below.
 - C. Intentionally omitted.

ARTICLE 6 – COST OF THE WORK

- 6.01 Cost of the Work for Phase 1 – Ozone Equipment Purchase and GMP Preparation Services is one million six hundred thirty-two thousand eight hundred thirty-nine (\$1,632,839), subject to additions and deletions as provided in the Contract and subject to the limitations set forth in Article 8 below.

- 6.02 Cost of the Work for Phase 2 – Construction Services will be determined by the Amendment to the Contract to establish the Guaranteed Maximum Price (GMP) for the Construction Services and will be determined as provided in Article 13 of the General Conditions, as duly modified.

ARTICLE 7 – CONTRACTOR'S FEE

- 7.01 Contractor's fee shall be determined as follows:

- A. For Phase 1 – Ozone Equipment Purchase and GMP Preparation Services, fee is included in the cost of work of one million six hundred thirty-two thousand eight hundred thirty-nine (\$1,632,839), subject to additions and deletions as provided in the Contract and subject to the limitations set forth in Article 8 below.
- B. For Phase 2 – Construction Services, a fee of 8.5 percent of the Cost of the Work. Cost of work will include payroll costs, material and equipment costs, amounts paid to subcontractors and special consultants, and supplemental costs, and other costs as described in Article 13 of the General Conditions, as duly modified.
 - 1. No fee will be payable on the basis of costs itemized in Paragraph 13.01.C of the General Conditions.

ARTICLE 8 – GUARANTEED MAXIMUM PRICE

- 8.01 Contractor guarantees that the maximum amount payable by Owner for the Phase 2 – Construction Services under Article 1 Section 1.02 (Guaranteed Maximum Price, or GMP) for the sum of the Cost of the Work under Article 6 plus Contractor's fee under Article 7 will not exceed a certain amount, which is to be defined by the Amendment to the Contract to establish the Guaranteed Maximum Price (GMP) for the Construction Services, subject to increases or decreases for changes in the Work. The Guaranteed Maximum Price (GMP) shall be developed as part of, and at the conclusion of Phase 1 – Ozone Equipment Purchase and GMP Preparation Services. GMP will include contingencies for Owner, Contractor, and Warranty, each to be defined during Phase 1 – Ozone Equipment Purchase and GMP Preparation Services.

ARTICLE 9 – CHANGES IN THE CONTRACT PRICE

- 9.01 The amount of any increases or decreases in Contractor's fee or in any Guaranteed Maximum Price which results from a Change Order shall be set forth in the applicable Change Order subject to the following:
- A. If Contractor's fee is a percentage fee, Contractor's fee will adjust automatically as the Cost of the Work changes, subject to any Guaranteed Maximum Fee and Guaranteed Maximum Price.
 - B. Wherever there is a Guaranteed Maximum Price:
 - 1. In the case of net additions in the Work, the amounts of any increase in the Guaranteed Maximum Price shall be in accordance with Paragraph 7.01.A , exclusive of any mark-ups for profit, overhead, or fees of Contractor, Subcontractors, or Suppliers.
 - 2. In the case of net deletions in the Work, the amount of any decrease in the Guaranteed Maximum Price shall be in accordance with Paragraph 7.01.A.

ARTICLE 10 – PAYMENT PROCEDURES

10.01 *Submittal and Processing of Payments*

- A. Contractor shall submit Applications for Payment in accordance with Article 15 of the General Conditions. Applications for Payment will indicate the amount of Contractor's fee then payable. Applications for Payment will be processed by Engineer as provided in the General Conditions.

10.02 *Progress Payments; Retainage*

- A. For Phase 2 Services, Owner shall make progress payments on account of the Contract Price on the basis of Contractor's Applications for Payment as recommended by Engineer on or about the 5th day of each month during construction as provided in Paragraphs 10.02.A.1 and 10.02.A.2 below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract. All such payments will be measured by the Schedule of Values established as provided in the General Conditions (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no Schedule of Values, as provided elsewhere in the Contract.
 - 1. *For Cost of the Work:* Progress payments on account of the Cost of the Work will be made:
 - a. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including but not limited to liquidated damages, in accordance with the Contract:
 - 1) 95% percent Cost of Work completed (with the balance being retainage). If the Work has been 50 percent completed as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and
 - 2) 95% percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage); and
 - 3) 100 percent of the costs identified in Paragraphs 13.01.B.1 of the General Conditions.
 - b. Upon Substantial Completion, Owner shall pay an amount sufficient to increase total payments to Contractor to 100 percent of the Work completed, less such amounts set off by Owner pursuant to Paragraph 15.01.E of the General Conditions, and less 150 percent of the mutually agreeable estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.
 - c. If Contractor's fee is a percentage fee, payments prior to Substantial Completion will be in an amount equal to 95 percent of such fee (less in each case payments previously made on account of such fee) based on the Cost of the Work completed, and upon Substantial Completion in an amount sufficient to increase total payments to Contractor on account of that fee to 100 percent of Contractor's fee.
 - B. For Phase 1 Services no retainage will be withheld.

10.03 *Final Payment*

- A. Upon final completion and acceptance of the Work in accordance with Paragraph 15.06 of the General Conditions, Owner shall pay the remainder of the Contract Price as recommended by Engineer as provided in said Paragraph.

ARTICLE 11 – INTEREST

- A. All amounts not paid when due shall bear interest at the rate of as defined by the Prime Rate as published by the Wall Street Journal (WSJ) per annum. Said interest will only be due after Contractor provides Owner or Owners Representatives or Owners Engineers ten days written notice of non-payment. Written notice of non-payment may be provided after billing has been received by Owner or Owners Representatives or Owner's Engineers.

ARTICLE 12 – CONTRACTOR'S REPRESENTATIONS

12.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:

- A. Contractor has examined and carefully studied the Contract Documents, and data and reference items identified in the Contract Documents.
- B. Contractor has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
- C. Contractor is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
- D. Contractor has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site, if any, that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to any Technical Data in such reports and drawings.
- E. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor,; and (3) Contractor's safety precautions and programs.
- F. Intentionally omitted.
- G. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
- H. Contractor has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents.
- I. Intentionally omitted.
- J. Intentionally omitted.

ARTICLE 13 – ACCOUNTING RECORDS

- 13.01 Contractor shall keep such full and detailed accounts of materials incorporated and labor and equipment utilized for the Work consistent with the requirements of Paragraph 13.01.E of the General Conditions and as may be necessary for proper financial management under this Agreement. Subject to prior written notice, Owner shall be afforded reasonable access during normal business hours to all Contractor's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda, and similar data relating to the Cost of the Work and Contractor's fee. Contractor shall preserve all such documents for a period of three years after the final payment by Owner.

ARTICLE 14 – CONTRACT DOCUMENTS

14.01 *Contents*

- A. The Contract Documents consist of the following:
1. This Agreement (pages 1 to █, inclusive).
 2. Performance bond (pages █ to █, inclusive).
 3. Payment bond (pages █ to █, inclusive).
 4. General Conditions (pages █ to █, inclusive).
 5. Supplementary Conditions (pages █ to █, inclusive).
 6. Exhibits to this Agreement (enumerated as follows):
 - a. Pureflow quote dated 11/16/2021.
 - b. Hensel Phelps Phase 1 - Ozone Procurement Package Cost & Payment Schedule
 7. The following which may be delivered or issued on or after the Effective Date of the Contract or attached to the following amendment to the Contract to establish the Guaranteed Maximum Price for the Construction Services and are not attached hereto:
 - a. Notice to Proceed.
 - b. Work Change Directives.
 - c. Change Orders.
 - d. Field Orders.
 - e. Performance bond.
 - f. Payment bond.
 - g. Supplementary Conditions.
 - h. Specifications as listed in the table of contents of the Project Manual.
 - i. Drawings as listed in the table of contents of the Project Manual.
 - j. Other contract amendments as mutually agreed upon by Contractor and Owner.
 - k. Colorado State Revolving Fund Required Specifications, as related to this project, to be provided by Owner.
- B. The documents listed in Paragraph 14.01.A are attached to this Agreement (except as expressly noted otherwise above).

- C. There are no Contract Documents other than those listed above in this Article 14.
- D. The Contract Documents may only be amended, modified, or supplemented as provided in the General Conditions.

ARTICLE 15 – MISCELLANEOUS

15.01 *Terms*

- A. Terms used in this Agreement will have the meanings stated in the General Conditions and the Supplementary Conditions.

15.02 *Assignment of Contract*

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

15.03 *Successors and Assigns*

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

15.04 *Severability*

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

15.05 *Contractor's Certifications*

- A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive or coercive practices in competing for or in executing the Contract. For the purposes of this Paragraph 15.05:
 - 1. "corrupt practice" means the offering, giving, receiving or soliciting of any thing of value to influence the action of a public official in the bidding process or in the Contract execution;
 - 2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
 - 3. "collusive practice" means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and

4. “coercive practice” means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

15.06 *Other Provisions*

- A. Intentionally omitted.
- B. Contractors, subcontractors, and equipment and material suppliers on the Project, or their sureties, shall maintain no direct action against CONSULTANT, CONSULTANT's officers, employees, affiliated corporations, and subcontractors for any claim arising out of, in connection with, or resulting from the engineering services performed. TOWN will be the only beneficiary of any undertaking by CONSULTANT.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

This Agreement will be effective on (which is the Effective Date of the Contract).

1.

OWNER:

CONTRACTOR:

By: _____

By: Richard G. Tucker

Title: _____

Title: Executive Vice President

(If Contractor is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)

Attest: _____

Attest: _____

Title: _____

Title: _____

Address for giving notices:

Address for giving notices:

Hensel Phelps Construction Co.
77 NW Frontage Road
Fort Collins, CO, 80524

License No.: N/A No Colorado State License
(where applicable)

(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)

NOTE TO USER: Use in those states or other jurisdictions where applicable or required.

This document has important legal consequences; consultation with an attorney is encouraged with respect to its use or modification. This document should be adapted to the particular circumstances of the contemplated Project and the controlling Laws and Regulations.

STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

Prepared by



Issued and Published Jointly by



Endorsed by

These General Conditions have been prepared for use with the Agreement Between Owner and Contractor for Construction Contract (EJCDC® C-520, Stipulated Sum, or C-525, Cost-Plus, 2013 Editions). Their provisions are interrelated and a change in one may necessitate a change in the other.

To prepare supplementary conditions that are coordinated with the General Conditions, use EJCDC's Guide to the Preparation of Supplementary Conditions (EJCDC® C-800, 2013 Edition). The full EJCDC Construction series of documents is discussed in the Commentary on the 2013 EJCDC Construction Documents (EJCDC® C-001, 2013 Edition).

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STANDARD GENERAL CONDITIONS OF THE CONSTRUCTION CONTRACT

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ARTICLE 1 – DEFINITIONS AND TERMINOLOGY

1.01 *Defined Terms*

- A. Wherever used in the Bidding Requirements or Contract Documents, a term printed with initial capital letters, including the term's singular and plural forms, will have the meaning indicated in the definitions below. In addition to terms specifically defined, terms with initial capital letters in the Contract Documents include references to identified articles and paragraphs, and the titles of other documents or forms.
1. *Addenda*—Written or graphic instruments issued prior to the opening of Bids which clarify, correct, or change the Bidding Requirements or the proposed Contract Documents.
 2. *Agreement*—The written instrument, executed by Owner and Contractor, that sets forth the Contract Price and Contract Times, identifies the parties and the Engineer, and designates the specific items that are Contract Documents.
 3. *Application for Payment*—The form acceptable to Engineer which is to be used by Contractor during the course of the Work in requesting progress or final payments and which is to be accompanied by such supporting documentation as is required by the Contract Documents.
 4. *Bid*—The offer of a Bidder submitted on the prescribed form setting forth the prices for the Work to be performed.
 5. *Bidder*—An individual or entity that submits a Bid to Owner.
 6. *Bidding Documents*—The Bidding Requirements, the proposed Contract Documents, and all Addenda.
 7. *Bidding Requirements*—The advertisement or invitation to bid, Instructions to Bidders, Bid Bond or other Bid security, if any, the Bid Form, and the Bid with any attachments.
 8. *Change Order*—A document which is signed by Contractor and Owner and authorizes an addition, deletion, or revision in the Work or an adjustment in the Contract Price or the Contract Times, or other revision to the Contract, issued on or after the Effective Date of the Contract.
 9. *Change Proposal*—A written request by Contractor, duly submitted in compliance with the procedural requirements set forth herein, seeking an adjustment in Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; challenging a set-off against payments due; or seeking other relief with respect to the terms of the Contract.
 10. *Claim*—(a) A demand or assertion by Owner directly to Contractor, duly submitted in compliance with the procedural requirements set forth herein: seeking an adjustment of Contract Price or Contract Times, or both; contesting an initial decision by Engineer concerning the requirements of the Contract Documents or the acceptability of Work under the Contract Documents; contesting Engineer's decision regarding a Change Proposal; seeking resolution of a contractual issue that Engineer has declined to address; or seeking other relief with respect to the terms of the Contract; or (b) a demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer's decision

regarding a Change Proposal; or seeking resolution of a contractual issue that Engineer has declined to address. A demand for money or services by a third party is not a Claim.

11. *Constituent of Concern*—Asbestos, petroleum, radioactive materials, polychlorinated biphenyls (PCBs), hazardous waste, and any substance, product, waste, or other material of any nature whatsoever that is or becomes listed, regulated, or addressed pursuant to (a) the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. §§9601 et seq. (“CERCLA”); (b) the Hazardous Materials Transportation Act, 49 U.S.C. §§5101 et seq.; (c) the Resource Conservation and Recovery Act, 42 U.S.C. §§6901 et seq. (“RCRA”); (d) the Toxic Substances Control Act, 15 U.S.C. §§2601 et seq.; (e) the Clean Water Act, 33 U.S.C. §§1251 et seq.; (f) the Clean Air Act, 42 U.S.C. §§7401 et seq.; or (g) any other federal, state, or local statute, law, rule, regulation, ordinance, resolution, code, order, or decree regulating, relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic, or dangerous waste, substance, or material.
12. *Contract*—The entire and integrated written contract between the Owner and Contractor concerning the Work.
13. *Contract Documents*—Those items so designated in the Agreement, and which together comprise the Contract.
14. *Contract Price*—The money that Owner has agreed to pay Contractor for completion of the Work in accordance with the Contract Documents. .
15. *Contract Times*—The number of days or the dates by which Contractor shall: (a) achieve Milestones, if any; (b) achieve Substantial Completion; and (c) complete the Work.
16. *Contractor*—The individual or entity with which Owner has contracted for performance of the Work.
17. *Cost of the Work*—See Paragraph 13.01 for definition.
18. *Drawings*—The part of the Contract that graphically shows the scope, extent, and character of the Work to be performed by Contractor.
19. *Effective Date of the Contract*—The date, indicated in the Agreement, on which the Contract becomes effective.
20. *Engineer*—The individual or entity named as such in the Agreement.
21. *Field Order*—A written order issued by Engineer which requires minor changes in the Work but does not change the Contract Price or the Contract Times.
22. *Hazardous Environmental Condition*—The presence at the Site of Constituents of Concern in such quantities or circumstances that may present a danger to persons or property exposed thereto. The presence at the Site of materials that are necessary for the execution of the Work, or that are to be incorporated in the Work, and that are controlled and contained pursuant to industry practices, Laws and Regulations, and the requirements of the Contract, does not establish a Hazardous Environmental Condition.
23. *Laws and Regulations; Laws or Regulations*—Any and all applicable laws, statutes, rules, regulations, ordinances, codes, and orders of any and all governmental bodies, agencies, authorities, and courts having jurisdiction.
24. *Liens*—Charges, security interests, or encumbrances upon Contract-related funds, real property, or personal property.

25. *Milestone*—A principal event in the performance of the Work that the Contract requires Contractor to achieve by an intermediate completion date or by a time prior to Substantial Completion of all the Work.
26. *Notice of Award*—The written notice by Owner to a Bidder of Owner's acceptance of the Bid.
27. *Notice to Proceed*—A written notice by Owner to Contractor fixing the date on which the Contract Times will commence to run and on which Contractor shall start to perform the Work.
28. *Owner*—The individual or entity with which Contractor has contracted regarding the Work, and which has agreed to pay Contractor for the performance of the Work, pursuant to the terms of the Contract.
29. *Progress Schedule*—A schedule, prepared and maintained by Contractor, describing the sequence and duration of the activities comprising the Contractor's plan to accomplish the Work within the Contract Times.
30. *Project*—The total undertaking to be accomplished for Owner by engineers, contractors, and others, including planning, study, design, construction, testing, commissioning, and start-up, and of which the Work to be performed under the Contract Documents is a part.
31. *Project Manual*—The written documents prepared for, or made available for, procuring and constructing the Work, including but not limited to the Bidding Documents or other construction procurement documents, geotechnical and existing conditions information, the Agreement, bond forms, General Conditions, Supplementary Conditions, and Specifications. The contents of the Project Manual may be bound in one or more volumes.
32. *Resident Project Representative*—The authorized representative of Engineer assigned to assist Engineer at the Site. As used herein, the term Resident Project Representative or "RPR" includes any assistants or field staff of Resident Project Representative.
33. *Samples*—Physical examples of materials, equipment, or workmanship that are representative of some portion of the Work and that establish the standards by which such portion of the Work will be judged.
34. *Schedule of Submittals*—A schedule, prepared and maintained by Contractor, of required submittals and the time requirements for Engineer's review of the submittals and the performance of related construction activities.
35. *Schedule of Values*—A schedule, prepared and maintained by Contractor, allocating portions of the Contract Price to various portions of the Work and used as the basis for reviewing Contractor's Applications for Payment.
36. *Shop Drawings*—All drawings, diagrams, illustrations, schedules, and other data or information that are specifically prepared or assembled by or for Contractor and submitted by Contractor to illustrate some portion of the Work. Shop Drawings, whether approved or not, are not Drawings and are not Contract Documents.
37. *Site*—Lands or areas indicated in the Contract Documents as being furnished by Owner upon which the Work is to be performed, including rights-of-way and easements, and such other lands furnished by Owner which are designated for the use of Contractor.

38. *Specifications*—The part of the Contract that consists of written requirements for materials, equipment, systems, standards, and workmanship as applied to the Work, and certain administrative requirements and procedural matters applicable to the Work.
39. *Subcontractor*—An individual or entity having a direct contract with Contractor or with any other Subcontractor for the performance of a part of the Work.
40. *Substantial Completion*—The time at which the Work (or a specified part thereof) has progressed to the point where, in the opinion of Engineer, the Work (or a specified part thereof) is sufficiently complete, in accordance with the Contract Documents, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. The terms “substantially complete” and “substantially completed” as applied to all or part of the Work refer to Substantial Completion thereof.
41. *Successful Bidder*—The Bidder whose Bid the Owner accepts, and to which the Owner makes an award of contract, subject to stated conditions.
42. *Supplementary Conditions*—The part of the Contract that amends or supplements these General Conditions.
43. *Supplier*—A manufacturer, fabricator, supplier, distributor, materialman, or vendor having a direct contract with Contractor or with any Subcontractor to furnish materials or equipment to be incorporated in the Work by Contractor or a Subcontractor.
44. *Technical Data*—Those items expressly identified as Technical Data in the Supplementary Conditions, with respect to either (a) subsurface conditions at the Site, or physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities) or (b) Hazardous Environmental Conditions at the Site. If no such express identifications of Technical Data have been made with respect to conditions at the Site, then the data contained in boring logs, recorded measurements of subsurface water levels, laboratory test results, and other factual, objective information regarding conditions at the Site that are set forth in any geotechnical or environmental report prepared for the Project and made available to Contractor are hereby defined as Technical Data with respect to conditions at the Site under Paragraphs 5.03, 5.04, and 5.06.
45. *Underground Facilities*—All underground pipelines, conduits, ducts, cables, wires, manholes, vaults, tanks, tunnels, or other such facilities or attachments, and any encasements containing such facilities, including but not limited to those that convey electricity, gases, steam, liquid petroleum products, telephone or other communications, fiber optic transmissions, cable television, water, wastewater, storm water, other liquids or chemicals, or traffic or other control systems.
46. *Unit Price Work*—Work to be paid for on the basis of unit prices.
47. *Work*—The entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction; furnishing, installing, and incorporating all materials and equipment into such construction; and may include related services such as testing, start-up, and commissioning, all as required by the Contract Documents.
48. *Work Change Directive*—A written directive to Contractor issued on or after the Effective Date of the Contract, signed by Owner and recommended by Engineer, ordering an addition, deletion, or revision in the Work.

1.02 Terminology

- A. The words and terms discussed in the following paragraphs are not defined but, when used in the Bidding Requirements or Contract Documents, have the indicated meaning.
- B. *Intent of Certain Terms or Adjectives:*
1. The Contract Documents include the terms “as allowed,” “as approved,” “as ordered,” “as directed” or terms of like effect or import to authorize an exercise of professional judgment by Engineer. In addition, the adjectives “reasonable,” “suitable,” “acceptable,” “proper,” “satisfactory,” or adjectives of like effect or import are used to describe an action or determination of Engineer as to the Work. It is intended that such exercise of professional judgment, action, or determination will be solely to evaluate, in general, the Work for compliance with the information in the Contract Documents and with the design concept of the Project as a functioning whole as shown or indicated in the Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective is not intended to and shall not be effective to assign to Engineer any duty or authority to supervise or direct the performance of the Work, or any duty or authority to undertake responsibility contrary to the provisions of Article 10 or any other provision of the Contract Documents.
- C. *Day:*
1. The word “day” means a calendar day of 24 hours measured from midnight to the next midnight.
- D. *Defective:*
1. The word “defective,” when modifying the word “Work,” refers to Work that is unsatisfactory, faulty, or deficient in that it:
 - a. does not conform to the Contract Documents; or
 - b. does not meet the requirements of any applicable inspection, reference standard, test, or approval referred to in the Contract Documents; or
 - c. has been damaged prior to Engineer’s recommendation of final payment (unless responsibility for the protection thereof has been assumed by Owner at Substantial Completion in accordance with Paragraph 15.03 or 15.04).
- E. *Furnish, Install, Perform, Provide:*
1. The word “furnish,” when used in connection with services, materials, or equipment, shall mean to supply and deliver said services, materials, or equipment to the Site (or some other specified location) ready for use or installation and in usable or operable condition.
 2. The word “install,” when used in connection with services, materials, or equipment, shall mean to put into use or place in final position said services, materials, or equipment complete and ready for intended use.
 3. The words “perform” or “provide,” when used in connection with services, materials, or equipment, shall mean to furnish and install said services, materials, or equipment complete and ready for intended use.
 4. If the Contract Documents establish an obligation of Contractor with respect to specific services, materials, or equipment, but do not expressly use any of the four words

“furnish,” “install,” “perform,” or “provide,” then Contractor shall furnish and install said services, materials, or equipment complete and ready for intended use.

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

ARTICLE 2 – PRELIMINARY MATTERS

2.01 *Delivery of Bonds and Evidence of Insurance*

- A. *Bonds*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner such bonds as Contractor may be required to furnish.
- B. *Evidence of Contractor's Insurance*: When Contractor delivers the executed counterparts of the Agreement to Owner, Contractor shall also deliver to Owner, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract), the certificates and other evidence of insurance required to be provided by Contractor in accordance with Article 6.
- C. *Evidence of Owner's Insurance*: After receipt of the executed counterparts of the Agreement and all required bonds and insurance documentation, Owner shall promptly deliver to Contractor, with copies to each named insured and additional insured (as identified in the Supplementary Conditions or otherwise), the certificates and other evidence of insurance required to be provided by Owner under Article 6.

2.02 *Copies of Documents*

- A. Owner shall furnish to Contractor four printed copies of the Contract (including one fully executed counterpart of the Agreement), and one copy in electronic portable document format (PDF). Additional printed copies will be furnished upon request at the cost of reproduction.
- B. Owner shall maintain and safeguard at least one original printed record version of the Contract, including Drawings and Specifications signed and sealed by Engineer and other design professionals. Owner shall make such original printed record version of the Contract available to Contractor for review. Owner may delegate the responsibilities under this provision to Engineer.

2.03 *Before Starting Construction*

- A. *Preliminary Schedules*: Within 10 days after the Effective Date of the Contract (or as otherwise specifically required by the Contract Documents), Contractor shall submit to Engineer for timely review:
 - 1. a preliminary Progress Schedule indicating the times (numbers of days or dates) for starting and completing the various stages of the Work, including any Milestones specified in the Contract;
 - 2. a preliminary Schedule of Submittals; and
 - 3. a preliminary Schedule of Values for all of the Work which includes quantities and prices of items which when added together equal the Contract Price and subdivides the Work into component parts in sufficient detail to serve as the basis for progress payments during performance of the Work. Such prices will include an appropriate amount of overhead and profit applicable to each item of Work.

2.04 *Preconstruction Conference; Designation of Authorized Representatives*

- A. Before any Work at the Site is started, a conference attended by Owner, Contractor, Engineer, and others as appropriate will be held to establish a working understanding among the parties as to the Work and to discuss the schedules referred to in Paragraph 2.03.A, procedures for handling Shop Drawings, Samples, and other submittals, processing Applications for Payment, electronic or digital transmittals, and maintaining required records.
- B. At this conference Owner and Contractor each shall designate, in writing, a specific individual to act as its authorized representative with respect to the services and responsibilities under the Contract. Such individuals shall have the authority to transmit and receive information, render decisions relative to the Contract, and otherwise act on behalf of each respective party.

2.05 *Initial Acceptance of Schedules*

- A. At least 10 days before submission of the first Application for Payment a conference, attended by Contractor, Engineer, and others as appropriate, will be held to review for acceptability to Engineer as provided below the schedules submitted in accordance with Paragraph 2.03.A. Contractor shall have an additional 10 days to make corrections and adjustments and to complete and resubmit the schedules. No progress payment shall be made to Contractor until acceptable schedules are submitted to Engineer.
 - 1. The Progress Schedule will be acceptable to Engineer if it provides an orderly progression of the Work to completion within the Contract Times. Such acceptance will not impose on Engineer responsibility for the Progress Schedule, for sequencing, scheduling, or progress of the Work, nor interfere with or relieve Contractor from Contractor's full responsibility therefor.
 - 2. Contractor's Schedule of Submittals will be acceptable to Engineer if it provides a workable arrangement for reviewing and processing the required submittals.
 - 3. Contractor's Schedule of Values will be acceptable to Engineer as to form and substance if it provides a reasonable allocation of the Contract Price to the component parts of the Work.

2.06 *Electronic Transmittals*

- A. Except as otherwise stated elsewhere in the Contract, the Owner, Engineer, and Contractor may transmit, and shall accept, Project-related correspondence, text, data, documents, drawings, information, and graphics, including but not limited to Shop Drawings and other submittals, in electronic media or digital format, either directly, or through access to a secure Project website.
- B. If the Contract does not establish protocols for electronic or digital transmittals, then Owner, Engineer, and Contractor shall jointly develop such protocols.
- C. When transmitting items in electronic media or digital format, the transmitting party makes no representations as to long term compatibility, usability, or readability of the items resulting from the recipient's use of software application packages, operating systems, or computer hardware differing from those used in the drafting or transmittal of the items, or from those established in applicable transmittal protocols.

ARTICLE 3 – DOCUMENTS: INTENT, REQUIREMENTS, REUSE

3.01 *Intent*

- A. The Contract Documents are complementary; what is required by one is as binding as if required by all.
- B. It is the intent of the Contract Documents to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents.
- C. Unless otherwise stated in the Contract Documents, if there is a discrepancy between the electronic or digital versions of the Contract Documents (including any printed copies derived from such electronic or digital versions) and the printed record version, the printed record version shall govern.
- D. The Contract supersedes prior negotiations, representations, and agreements, whether written or oral.
- E. Engineer will issue clarifications and interpretations of the Contract Documents as provided herein.

3.02 *Reference Standards*

- A. Standards Specifications, Codes, Laws and Regulations
 - 1. Reference in the Contract Documents to standard specifications, manuals, reference standards, or codes of any technical society, organization, or association, or to Laws or Regulations, whether such reference be specific or by implication, shall mean the standard specification, manual, reference standard, code, or Laws or Regulations in effect at the time of opening of Bids (or on the Effective Date of the Contract if there were no Bids), except as may be otherwise specifically stated in the Contract Documents.
 - 2. No provision of any such standard specification, manual, reference standard, or code, or any instruction of a Supplier, shall be effective to change the duties or responsibilities of Owner, Contractor, or Engineer, or any of their subcontractors, consultants, agents, or employees, from those set forth in the part of the Contract Documents prepared by or for Engineer. No such provision or instruction shall be effective to assign to Owner, Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, any duty or authority to supervise or direct the performance of the Work or any duty or authority to undertake responsibility inconsistent with the provisions of the part of the Contract Documents prepared by or for Engineer.

3.03 *Reporting and Resolving Discrepancies*

- A. *Reporting Discrepancies:*
 - 1. *Contractor's Verification of Figures and Field Measurements:* Before undertaking each part of the Work, Contractor shall carefully study the Contract Documents, and check and verify pertinent figures and dimensions therein, particularly with respect to applicable field measurements. Contractor shall promptly report in writing to Engineer any conflict, error, ambiguity, or discrepancy that Contractor discovers, or has actual knowledge of, and shall not proceed with any Work affected thereby until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.

2. *Contractor's Review of Contract Documents:* If, before or during the performance of the Work, Contractor discovers any conflict, error, ambiguity, or discrepancy within the Contract Documents, or between the Contract Documents and (a) any applicable Law or Regulation, (b) actual field conditions, (c) any standard specification, manual, reference standard, or code, or (d) any instruction of any Supplier, then Contractor shall promptly report it to Engineer in writing. Contractor shall not proceed with the Work affected thereby (except in an emergency as required by Paragraph 7.15) until the conflict, error, ambiguity, or discrepancy is resolved, by a clarification or interpretation by Engineer, or by an amendment or supplement to the Contract Documents issued pursuant to Paragraph 11.01.
 3. Contractor shall not be liable to Owner or Engineer for failure to report any conflict, error, ambiguity, or discrepancy in the Contract Documents unless Contractor had actual knowledge thereof.
- B. *Resolving Discrepancies:*
1. Except as may be otherwise specifically stated in the Contract Documents, the provisions of the part of the Contract Documents prepared by or for Engineer shall take precedence in resolving any conflict, error, ambiguity, or discrepancy between such provisions of the Contract Documents and:
 - a. the provisions of any standard specification, manual, reference standard, or code, or the instruction of any Supplier (whether or not specifically incorporated by reference as a Contract Document); or
 - b. the provisions of any Laws or Regulations applicable to the performance of the Work (unless such an interpretation of the provisions of the Contract Documents would result in violation of such Law or Regulation).

3.04 *Requirements of the Contract Documents*

- A. During the performance of the Work and until final payment, Contractor and Owner shall submit to the Engineer all matters in question concerning the requirements of the Contract Documents (sometimes referred to as requests for information or interpretation—RFIs), or relating to the acceptability of the Work under the Contract Documents, as soon as possible after such matters arise. Engineer will be the initial interpreter of the requirements of the Contract Documents, and judge of the acceptability of the Work thereunder.
- B. Engineer will, with reasonable promptness, render a written clarification, interpretation, or decision on the issue submitted, or initiate an amendment or supplement to the Contract Documents. Engineer's written clarification, interpretation, or decision will be final and binding on Contractor, unless it appeals by submitting a Change Proposal, and on Owner, unless it appeals by filing a Claim.
- C. If a submitted matter in question concerns terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work under the Contract Documents, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, then Engineer will promptly give written notice to Owner and Contractor that Engineer is unable to provide a decision or interpretation. If Owner and Contractor are unable to agree on resolution of such a matter in question, either party may pursue resolution as provided in Article 12.

3.05 *Reuse of Documents*

- A. Contractor and its Subcontractors and Suppliers shall not:
 - 1. have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer or its consultants, including electronic media editions, or reuse any such Drawings, Specifications, other documents, or copies thereof on extensions of the Project or any other project without written consent of Owner and Engineer and specific written verification or adaptation by Engineer; or
 - 2. have or acquire any title or ownership rights in any other Contract Documents, reuse any such Contract Documents for any purpose without Owner's express written consent, or violate any copyrights pertaining to such Contract Documents.
- B. The prohibitions of this Paragraph 3.05 will survive final payment, or termination of the Contract. Nothing herein shall preclude Contractor from retaining copies of the Contract Documents for record purposes.

ARTICLE 4 – COMMENCEMENT AND PROGRESS OF THE WORK

4.01 *Commencement of Contract Times; Notice to Proceed*

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

4.02 *Starting the Work*

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

4.03 *Reference Points*

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

4.04 *Progress Schedule*

- A. Contractor shall adhere to the Progress Schedule established in accordance with Paragraph 2.05 as it may be adjusted from time to time as provided below.
 - 1. Contractor shall submit to Engineer for acceptance (to the extent indicated in Paragraph 2.05) proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.

2. Proposed adjustments in the Progress Schedule that will change the Contract Times shall be submitted in accordance with the requirements of Article 11.
- B. Contractor shall carry on the Work and adhere to the Progress Schedule during all disputes or disagreements with Owner. No Work shall be delayed or postponed pending resolution of any disputes or disagreements, or during any appeal process, except as permitted by Paragraph 16.04, or as Owner and Contractor may otherwise agree in writing.

4.05 *Delays in Contractor's Progress*

- A. If Owner, Engineer, or anyone for whom Owner is responsible, delays, disrupts, or interferes with the performance or progress of the Work, then Contractor shall be entitled to an equitable adjustment in the Contract Times and Contract Price. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- B. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for delay, disruption, or interference caused by or within the control of Contractor. Delay, disruption, and interference attributable to and within the control of a Subcontractor or Supplier shall be deemed to be within the control of Contractor.
- C. If Contractor's performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Owner, Contractor, and those for which they are responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times. Such an adjustment shall be Contractor's sole and exclusive remedy for the delays, disruption, and interference described in this paragraph. Causes of delay, disruption, or interference that may give rise to an adjustment in Contract Times under this paragraph include but are not limited to the following:
 1. severe and unavoidable natural catastrophes such as fires, floods, epidemics, and earthquakes;
 2. abnormal weather conditions;
 3. acts or failures to act of utility owners (other than those performing other work at or adjacent to the Site by arrangement with the Owner, as contemplated in Article 8); and
 4. acts of war or terrorism.
- D. Delays, disruption, and interference to the performance or progress of the Work resulting from the existence of a differing subsurface or physical condition, an Underground Facility that was not shown or indicated by the Contract Documents, or not shown or indicated with reasonable accuracy, and those resulting from Hazardous Environmental Conditions, are governed by Article 5.
- E. Paragraph 8.03 governs delays, disruption, and interference to the performance or progress of the Work resulting from the performance of certain other work at or adjacent to the Site.
- F. Contractor shall not be entitled to an adjustment in Contract Price or Contract Times for any delay, disruption, or interference if such delay is concurrent with a delay, disruption, or interference caused by or within the control of Contractor.
- G. Contractor must submit any Change Proposal seeking an adjustment in Contract Price or Contract Times under this paragraph within 30 days of the commencement of the delaying, disrupting, or interfering event.

ARTICLE 5 – AVAILABILITY OF LANDS; SUBSURFACE AND PHYSICAL CONDITIONS; HAZARDOUS ENVIRONMENTAL CONDITIONS

5.01 *Availability of Lands*

- A. Owner shall furnish the Site. Owner shall notify Contractor of any encumbrances or restrictions not of general application but specifically related to use of the Site with which Contractor must comply in performing the Work.
- B. Upon reasonable written request, Owner shall furnish Contractor with a current statement of record legal title and legal description of the lands upon which permanent improvements are to be made and Owner's interest therein as necessary for giving notice of or filing a mechanic's or construction lien against such lands in accordance with applicable Laws and Regulations.
- C. Contractor shall provide for all additional lands and access thereto that may be required for temporary construction facilities or storage of materials and equipment.

5.02 *Use of Site and Other Areas*

- A. *Limitation on Use of Site and Other Areas:*
 - 1. Contractor shall confine construction equipment, temporary construction facilities, the storage of materials and equipment, and the operations of workers to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas permitted by Laws and Regulations, and shall not unreasonably encumber the Site and such other adjacent areas with construction equipment or other materials or equipment. Contractor shall assume full responsibility for (a) damage to the Site; (b) damage to any such other adjacent areas used for Contractor's operations; (c) damage to any other adjacent land or areas; and (d) for injuries and losses sustained by the owners or occupants of any such land or areas; provided that such damage or injuries result from the performance of the Work or from other actions or conduct of the Contractor or those for which Contractor is responsible.
 - 2. If a damage or injury claim is made by the owner or occupant of any such land or area because of the performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible, Contractor shall (a) take immediate corrective or remedial action as required by Paragraph 7.12, or otherwise; (b) promptly attempt to settle the claim as to all parties through negotiations with such owner or occupant, or otherwise resolve the claim by arbitration or other dispute resolution proceeding, or at law; and (c) to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner, Engineer, or any other party indemnified hereunder to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor's performance of the Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.
- B. *Removal of Debris During Performance of the Work:* During the progress of the Work the Contractor shall keep the Site and other adjacent areas free from accumulations of waste

materials, rubbish, and other debris. Removal and disposal of such waste materials, rubbish, and other debris shall conform to applicable Laws and Regulations.

- C. *Cleaning*: Prior to Substantial Completion of the Work Contractor shall clean the Site and the Work and make it ready for utilization by Owner. At the completion of the Work Contractor shall remove from the Site and adjacent areas all tools, appliances, construction equipment and machinery, and surplus materials and shall restore to original condition all property not designated for alteration by the Contract Documents.
- D. *Loading of Structures*: Contractor shall not load nor permit any part of any structure to be loaded in any manner that will endanger the structure, nor shall Contractor subject any part of the Work or adjacent structures or land to stresses or pressures that will endanger them.

5.03 *Subsurface and Physical Conditions*

- A. *Reports and Drawings*: The Supplementary Conditions identify:
 - 1. those reports known to Owner of explorations and tests of subsurface conditions at or adjacent to the Site;
 - 2. those drawings known to Owner of physical conditions relating to existing surface or subsurface structures at the Site (except Underground Facilities); and
 - 3. Technical Data contained in such reports and drawings.
- B. *Reliance by Contractor on Technical Data Authorized*: Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely upon the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer, or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, with respect to:
 - 1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor, and safety precautions and programs incident thereto; or
 - 2. other data, interpretations, opinions, and information contained in such reports or shown or indicated in such drawings; or
 - 3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions, or information.

5.04 *Differing Subsurface or Physical Conditions*

- A. *Notice by Contractor*: If Contractor believes that any subsurface or physical condition that is uncovered or revealed at the Site either:
 - 1. is of such a nature as to establish that any Technical Data on which Contractor is entitled to rely as provided in Paragraph 5.03 is materially inaccurate; or
 - 2. is of such a nature as to require a change in the Drawings or Specifications; or
 - 3. differs materially from that shown or indicated in the Contract Documents; or

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

then Contractor shall, promptly after becoming aware thereof and before further disturbing the subsurface or physical conditions or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), notify Owner and Engineer in writing about such condition. Contractor shall not further disturb such condition or perform any Work in connection therewith (except with respect to an emergency) until receipt of a written statement permitting Contractor to do so.

- B. *Engineer's Review:* After receipt of written notice as required by the preceding paragraph, Engineer will promptly review the subsurface or physical condition in question; determine the necessity of Owner's obtaining additional exploration or tests with respect to the condition; conclude whether the condition falls within any one or more of the differing site condition categories in Paragraph 5.04.A above; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the subsurface or physical condition in question and the need for any change in the Drawings or Specifications; and advise Owner in writing of Engineer's findings, conclusions, and recommendations.
- C. *Owner's Statement to Contractor Regarding Site Condition:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the subsurface or physical condition in question, addressing the resumption of Work in connection with such condition, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations, in whole or in part.
- D. *Possible Price and Times Adjustments:*
 1. Contractor shall be entitled to an equitable adjustment in Contract Price or Contract Times, or both, to the extent that the existence of a differing subsurface or physical condition, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. such condition must fall within any one or more of the categories described in Paragraph 5.04.A;
 - b. with respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03; and,
 - c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
 2. Contractor shall not be entitled to any adjustment in the Contract Price or Contract Times with respect to a subsurface or physical condition if:
 - a. Contractor knew of the existence of such condition at the time Contractor made a commitment to Owner with respect to Contract Price and Contract Times by the submission of a Bid or becoming bound under a negotiated contract, or otherwise; or
 - b. the existence of such condition reasonably could have been discovered or revealed as a result of any examination, investigation, exploration, test, or study of the Site

and contiguous areas expressly required by the Bidding Requirements or Contract Documents to be conducted by or for Contractor prior to Contractor's making such commitment; or

- c. Contractor failed to give the written notice as required by Paragraph 5.04.A.
- 3. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a Change Order.
- 4. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the subsurface or physical condition in question.

5.05 *Underground Facilities*

- A. *Contractor's Responsibilities:* The information and data shown or indicated in the Contract Documents with respect to existing Underground Facilities at or adjacent to the Site is based on information and data furnished to Owner or Engineer by the owners of such Underground Facilities, including Owner, or by others. Unless it is otherwise expressly provided in the Supplementary Conditions:
 - 1. Owner and Engineer do not warrant or guarantee the accuracy or completeness of any such information or data provided by others; and
 - 2. the cost of all of the following will be included in the Contract Price, and Contractor shall have full responsibility for:
 - a. reviewing and checking all information and data regarding existing Underground Facilities at the Site;
 - b. locating all Underground Facilities shown or indicated in the Contract Documents as being at the Site;
 - c. coordination of the Work with the owners (including Owner) of such Underground Facilities, during construction; and
 - d. the safety and protection of all existing Underground Facilities at the Site, and repairing any damage thereto resulting from the Work.
- B. *Notice by Contractor:* If Contractor believes that an Underground Facility that is uncovered or revealed at the Site was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, then Contractor shall, promptly after becoming aware thereof and before further disturbing conditions affected thereby or performing any Work in connection therewith (except in an emergency as required by Paragraph 7.15), identify the owner of such Underground Facility and give written notice to that owner and to Owner and Engineer.
- C. *Engineer's Review:* Engineer will promptly review the Underground Facility and conclude whether such Underground Facility was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy; obtain any pertinent cost or schedule information from Contractor; prepare recommendations to Owner regarding the Contractor's resumption of Work in connection with the Underground Facility in question; determine the extent, if any, to which a change is required in the Drawings or Specifications to reflect and document the consequences of the existence or location of the Underground Facility; and advise Owner in writing of Engineer's findings, conclusions, and

recommendations. During such time, Contractor shall be responsible for the safety and protection of such Underground Facility.

- D. *Owner's Statement to Contractor Regarding Underground Facility:* After receipt of Engineer's written findings, conclusions, and recommendations, Owner shall issue a written statement to Contractor (with a copy to Engineer) regarding the Underground Facility in question, addressing the resumption of Work in connection with such Underground Facility, indicating whether any change in the Drawings or Specifications will be made, and adopting or rejecting Engineer's written findings, conclusions, and recommendations in whole or in part.
- E. *Possible Price and Times Adjustments:*
1. Contractor shall be entitled to an equitable adjustment in the Contract Price or Contract Times, or both, to the extent that any existing Underground Facility at the Site that was not shown or indicated in the Contract Documents, or was not shown or indicated with reasonable accuracy, or any related delay, disruption, or interference, causes an increase or decrease in Contractor's cost of, or time required for, performance of the Work; subject, however, to the following:
 - a. Contractor did not know of and could not reasonably have been expected to be aware of or to have anticipated the existence or actual location of the Underground Facility in question;
 - b. With respect to Work that is paid for on a unit price basis, any adjustment in Contract Price will be subject to the provisions of Paragraph 13.03;
 - c. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times; and
 - d. Contractor gave the notice required in Paragraph 5.05.B.
 2. If Owner and Contractor agree regarding Contractor's entitlement to and the amount or extent of any adjustment in the Contract Price or Contract Times, or both, then any such adjustment shall be set forth in a Change Order.
 3. Contractor may submit a Change Proposal regarding its entitlement to or the amount or extent of any adjustment in the Contract Price or Contract Times, or both, no later than 30 days after Owner's issuance of the Owner's written statement to Contractor regarding the Underground Facility in question.

5.06 *Hazardous Environmental Conditions at Site*

- A. *Reports and Drawings:* The Supplementary Conditions identify:
1. those reports and drawings known to Owner relating to Hazardous Environmental Conditions that have been identified at or adjacent to the Site; and
 2. Technical Data contained in such reports and drawings.
- B. *Reliance by Contractor on Technical Data Authorized:* Contractor may rely upon the accuracy of the Technical Data expressly identified in the Supplementary Conditions with respect to such reports and drawings, but such reports and drawings are not Contract Documents. If no such express identification has been made, then Contractor may rely on the accuracy of the Technical Data (as defined in Article 1) contained in any geotechnical or environmental report prepared for the Project and made available to Contractor. Except for such reliance on Technical Data, Contractor may not rely upon or make any claim against Owner or Engineer,

or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors with respect to:

1. the completeness of such reports and drawings for Contractor's purposes, including, but not limited to, any aspects of the means, methods, techniques, sequences and procedures of construction to be employed by Contractor and safety precautions and programs incident thereto; or
 2. other data, interpretations, opinions and information contained in such reports or shown or indicated in such drawings; or
 3. any Contractor interpretation of or conclusion drawn from any Technical Data or any such other data, interpretations, opinions or information.
- C. Contractor shall not be responsible for removing or remediating any Hazardous Environmental Condition encountered, uncovered, or revealed at the Site unless such removal or remediation is expressly identified in the Contract Documents to be within the scope of the Work.
- D. Contractor shall be responsible for controlling, containing, and duly removing all Constituents of Concern brought to the Site by Contractor, Subcontractors, Suppliers, or anyone else for whom Contractor is responsible, and for any associated costs; and for the costs of removing and remediating any Hazardous Environmental Condition created by the presence of any such Constituents of Concern.
- E. If Contractor encounters, uncovers, or reveals a Hazardous Environmental Condition whose removal or remediation is not expressly identified in the Contract Documents as being within the scope of the Work, or if Contractor or anyone for whom Contractor is responsible creates a Hazardous Environmental Condition, then Contractor shall immediately: (1) secure or otherwise isolate such condition; (2) stop all Work in connection with such condition and in any area affected thereby (except in an emergency as required by Paragraph 7.15); and (3) notify Owner and Engineer (and promptly thereafter confirm such notice in writing). Owner shall promptly consult with Engineer concerning the necessity for Owner to retain a qualified expert to evaluate such condition or take corrective action, if any. Promptly after consulting with Engineer, Owner shall take such actions as are necessary to permit Owner to timely obtain required permits and provide Contractor the written notice required by Paragraph 5.06.F. If Contractor or anyone for whom Contractor is responsible created the Hazardous Environmental Condition in question, then Owner may remove and remediate the Hazardous Environmental Condition, and impose a set-off against payments to account for the associated costs.
- F. Contractor shall not resume Work in connection with such Hazardous Environmental Condition or in any affected area until after Owner has obtained any required permits related thereto, and delivered written notice to Contractor either (1) specifying that such condition and any affected area is or has been rendered safe for the resumption of Work, or (2) specifying any special conditions under which such Work may be resumed safely.
- G. If Owner and Contractor cannot agree as to entitlement to or on the amount or extent, if any, of any adjustment in Contract Price or Contract Times, or both, as a result of such Work stoppage or such special conditions under which Work is agreed to be resumed by Contractor, then within 30 days of Owner's written notice regarding the resumption of Work, Contractor may submit a Change Proposal, or Owner may impose a set-off.
- H. If after receipt of such written notice Contractor does not agree to resume such Work based on a reasonable belief it is unsafe, or does not agree to resume such Work under such special

conditions, then Owner may order the portion of the Work that is in the area affected by such condition to be deleted from the Work, following the contractual change procedures in Article 11. Owner may have such deleted portion of the Work performed by Owner's own forces or others in accordance with Article 8.

- I. To the fullest extent permitted by Laws and Regulations, Owner shall indemnify and hold harmless Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to a Hazardous Environmental Condition, provided that such Hazardous Environmental Condition (1) was not shown or indicated in the Drawings, Specifications, or other Contract Documents, identified as Technical Data entitled to limited reliance pursuant to Paragraph 5.06.B, or identified in the Contract Documents to be included within the scope of the Work, and (2) was not created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.I shall obligate Owner to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- J. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible. Nothing in this Paragraph 5.06.J shall obligate Contractor to indemnify any individual or entity from and against the consequences of that individual's or entity's own negligence.
- K. The provisions of Paragraphs 5.03, 5.04, and 5.05 do not apply to the presence of Constituents of Concern or to a Hazardous Environmental Condition uncovered or revealed at the Site.

ARTICLE 6 – BONDS AND INSURANCE

6.01 *Performance, Payment, and Other Bonds*

- A. Contractor shall furnish a performance bond and a payment bond, each in an amount at least equal to the Contract Price, as security for the faithful performance and payment of all of Contractor's obligations under the Contract. These bonds shall remain in effect until one year after the date when final payment becomes due or until completion of the correction period specified in Paragraph 15.08, whichever is later, except as provided otherwise by Laws or Regulations, the Supplementary Conditions, or other specific provisions of the Contract. Contractor shall also furnish such other bonds as are required by the Supplementary Conditions or other specific provisions of the Contract.
- B. All bonds shall be in the form prescribed by the Contract except as provided otherwise by Laws or Regulations, and shall be executed by such sureties as are named in "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (as amended and supplemented) by the Financial Management Service, Surety Bond Branch, U.S. Department of the Treasury. A bond

signed by an agent or attorney-in-fact must be accompanied by a certified copy of that individual's authority to bind the surety. The evidence of authority shall show that it is effective on the date the agent or attorney-in-fact signed the accompanying bond.

- C. Contractor shall obtain the required bonds from surety companies that are duly licensed or authorized in the jurisdiction in which the Project is located to issue bonds in the required amounts.
- D. If the surety on a bond furnished by Contractor is declared bankrupt or becomes insolvent, or its right to do business is terminated in any state or jurisdiction where any part of the Project is located, or the surety ceases to meet the requirements above, then Contractor shall promptly notify Owner and Engineer and shall, within 20 days after the event giving rise to such notification, provide another bond and surety, both of which shall comply with the bond and surety requirements above.
- E. If Contractor has failed to obtain a required bond, Owner may exclude the Contractor from the Site and exercise Owner's termination rights under Article 16.
- F. Upon request, Owner shall provide a copy of the payment bond to any Subcontractor, Supplier, or other person or entity claiming to have furnished labor or materials used in the performance of the Work.

6.02 *Insurance—General Provisions*

- A. Owner and Contractor shall obtain and maintain insurance as required in this Article and in the Supplementary Conditions.
- B. All insurance required by the Contract to be purchased and maintained by Owner or Contractor shall be obtained from insurance companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue insurance policies for the required limits and coverages. Unless a different standard is indicated in the Supplementary Conditions, all companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better.
- C. Contractor shall deliver to Owner, with copies to each named insured and additional insured (as identified in this Article, in the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Contractor has obtained and is maintaining the policies, coverages, and endorsements required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.
- D. Owner shall deliver to Contractor, with copies to each named insured and additional insured (as identified in this Article, the Supplementary Conditions, or elsewhere in the Contract), certificates of insurance establishing that Owner has obtained and is maintaining the policies, coverages, and endorsements required of Owner by the Contract (if any). Upon request by Contractor or any other insured, Owner shall also provide other evidence of such required insurance (if any), including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Owner may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.
- E. Failure of Owner or Contractor to demand such certificates or other evidence of the other party's full compliance with these insurance requirements, or failure of Owner or Contractor

to identify a deficiency in compliance from the evidence provided, shall not be construed as a waiver of the other party's obligation to obtain and maintain such insurance.

- F. If either party does not purchase or maintain all of the insurance required of such party by the Contract, such party shall notify the other party in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.
- G. If Contractor has failed to obtain and maintain required insurance, Owner may exclude the Contractor from the Site, impose an appropriate set-off against payment, and exercise Owner's termination rights under Article 16.
- H. Without prejudice to any other right or remedy, if a party has failed to obtain required insurance, the other party may elect to obtain equivalent insurance to protect such other party's interests at the expense of the party who was required to provide such coverage, and the Contract Price shall be adjusted accordingly.
- I. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests.
- J. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to Owner and other individuals and entities in the Contract.

6.03 *Contractor's Insurance*

- A. *Workers' Compensation*: Contractor shall purchase and maintain workers' compensation and employer's liability insurance for:
 - 1. claims under workers' compensation, disability benefits, and other similar employee benefit acts.
 - 2. United States Longshoreman and Harbor Workers' Compensation Act and Jones Act coverage (if applicable).
 - 3. claims for damages because of bodily injury, occupational sickness or disease, or death of Contractor's employees (by stop-gap endorsement in monopolist worker's compensation states).
 - 4. Foreign voluntary worker compensation (if applicable).
- B. *Commercial General Liability—Claims Covered*: Contractor shall purchase and maintain commercial general liability insurance, covering all operations by or on behalf of Contractor, on an occurrence basis, against:
 - 1. claims for damages because of bodily injury, sickness or disease, or death of any person other than Contractor's employees.
 - 2. claims for damages insured by reasonably available personal injury liability coverage.
 - 3. claims for damages, other than to the Work itself, because of injury to or destruction of tangible property wherever located, including loss of use resulting therefrom.
- C. *Commercial General Liability—Form and Content*: Contractor's commercial liability policy shall be written on a 1996 (or later) ISO commercial general liability form (occurrence form) and include the following coverages and endorsements:
 - 1. Products and completed operations coverage:
 - a. Such insurance shall be maintained for three years after final payment.

- b. Contractor shall furnish Owner and each other additional insured (as identified in the Supplementary Conditions or elsewhere in the Contract) evidence of continuation of such insurance at final payment and three years thereafter.
 2. Blanket contractual liability coverage, to the extent permitted by law, including but not limited to coverage of Contractor's contractual indemnity obligations in Paragraph 7.18.
 3. Broad form property damage coverage.
 4. Severability of interest.
 5. Underground, explosion, and collapse coverage.
 6. Personal injury coverage.
 7. Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 10 01 and CG 20 37 10 01 (together); or CG 20 10 07 04 and CG 20 37 07 04 (together); or their equivalent.
 8. For design professional additional insureds, ISO Endorsement CG 20 32 07 04, "Additional Insured—Engineers, Architects or Surveyors Not Engaged by the Named Insured" or its equivalent.
- D. *Automobile liability*: Contractor shall purchase and maintain automobile liability insurance against claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance, or use of any motor vehicle. The automobile liability policy shall be written on an occurrence basis.
- E. *Umbrella or excess liability*: Contractor shall purchase and maintain umbrella or excess liability insurance written over the underlying employer's liability, commercial general liability, and automobile liability insurance described in the paragraphs above. Subject to industry-standard exclusions, the coverage afforded shall follow form as to each and every one of the underlying policies.
- F. *Contractor's pollution liability insurance*: Contractor shall purchase and maintain a policy covering third-party injury and property damage claims, including clean-up costs, as a result of pollution conditions arising from Contractor's operations and completed operations. This insurance shall be maintained for no less than three years after final completion.
- G. *Additional insureds*: The Contractor's commercial general liability, automobile liability, umbrella or excess, and pollution liability policies shall include and list as additional insureds Owner and Engineer, and any individuals or entities identified in the Supplementary Conditions; include coverage for the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds; and the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis. Contractor shall obtain all necessary endorsements to support these requirements.
- H. *Contractor's professional liability insurance*: If Contractor will provide or furnish professional services under this Contract, through a delegation of professional design services or otherwise, then Contractor shall be responsible for purchasing and maintaining applicable professional liability insurance. This insurance shall provide protection against claims arising out of performance of professional design or related services, and caused by a negligent error, omission, or act for which the insured party is legally liable. It shall be maintained throughout the duration of the Contract and for a minimum of two years after Substantial

Completion. If such professional design services are performed by a Subcontractor, and not by Contractor itself, then the requirements of this paragraph may be satisfied through the purchasing and maintenance of such insurance by such Subcontractor.

- I. *General provisions:* The policies of insurance required by this Paragraph 6.03 shall:
 1. include at least the specific coverages provided in this Article.
 2. be written for not less than the limits of liability provided in this Article and in the Supplementary Conditions, or required by Laws or Regulations, whichever is greater.
 3. contain a provision or endorsement that the coverage afforded will not be canceled, materially changed, or renewal refused until at least 10 days prior written notice has been given to Contractor. Within three days of receipt of any such written notice, Contractor shall provide a copy of the notice to Owner, Engineer, and each other insured under the policy.
 4. remain in effect at least until final payment (and longer if expressly required in this Article) and at all times thereafter when Contractor may be correcting, removing, or replacing defective Work as a warranty or correction obligation, or otherwise, or returning to the Site to conduct other tasks arising from the Contract Documents.
 5. be appropriate for the Work being performed and provide protection from claims that may arise out of or result from Contractor's performance of the Work and Contractor's other obligations under the Contract Documents, whether it is to be performed by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable.
- J. The coverage requirements for specific policies of insurance must be met by such policies, and not by reference to excess or umbrella insurance provided in other policies.

6.04 *Owner's Liability Insurance*

- A. In addition to the insurance required to be provided by Contractor under Paragraph 6.03, Owner, at Owner's option, may purchase and maintain at Owner's expense Owner's own liability insurance as will protect Owner against claims which may arise from operations under the Contract Documents.
- B. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.

6.05 *Property Insurance*

- A. *Builder's Risk:* Unless otherwise provided in the Supplementary Conditions, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the full insurable replacement cost thereof (subject to such deductible amounts as may be provided in the Supplementary Conditions or required by Laws and Regulations). This insurance shall:
 1. include the Owner and Contractor as named insureds, and all Subcontractors, and any individuals or entities required by the Supplementary Conditions to be insured under such builder's risk policy, as insureds or named insureds. For purposes of the remainder of this Paragraph 6.05, Paragraphs 6.06 and 6.07, and any corresponding Supplementary Conditions, the parties required to be insured shall collectively be referred to as "insureds."

2. be written on a builder's risk "all risk" policy form that shall at least include insurance for physical loss or damage to the Work, temporary buildings, falsework, and materials and equipment in transit, and shall insure against at least the following perils or causes of loss: fire; lightning; windstorm; riot; civil commotion; terrorism; vehicle impact; aircraft; smoke; theft; vandalism and malicious mischief; mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; flood; collapse; explosion; debris removal; demolition occasioned by enforcement of Laws and Regulations; water damage (other than that caused by flood); and such other perils or causes of loss as may be specifically required by the Supplementary Conditions. If insurance against mechanical breakdown, boiler explosion, and artificially generated electric current; earthquake; volcanic activity, and other earth movement; or flood, are not commercially available under builder's risk policies, by endorsement or otherwise, such insurance may be provided through other insurance policies acceptable to Owner and Contractor.
 3. cover, as insured property, at least the following: (a) the Work and all materials, supplies, machinery, apparatus, equipment, fixtures, and other property of a similar nature that are to be incorporated into or used in the preparation, fabrication, construction, erection, or completion of the Work, including Owner-furnished or assigned property; (b) spare parts inventory required within the scope of the Contract; and (c) temporary works which are not intended to form part of the permanent constructed Work but which are intended to provide working access to the Site, or to the Work under construction, or which are intended to provide temporary support for the Work under construction, including scaffolding, form work, fences, shoring, falsework, and temporary structures.
 4. cover expenses incurred in the repair or replacement of any insured property (including but not limited to fees and charges of engineers and architects).
 5. extend to cover damage or loss to insured property while in temporary storage at the Site or in a storage location outside the Site (but not including property stored at the premises of a manufacturer or Supplier).
 6. extend to cover damage or loss to insured property while in transit.
 7. allow for partial occupation or use of the Work by Owner, such that those portions of the Work that are not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
 8. allow for the waiver of the insurer's subrogation rights, as set forth below.
 9. provide primary coverage for all losses and damages caused by the perils or causes of loss covered.
 10. not include a co-insurance clause.
 11. include an exception for ensuing losses from physical damage or loss with respect to any defective workmanship, design, or materials exclusions.
 12. include performance/hot testing and start-up.
 13. be maintained in effect, subject to the provisions herein regarding Substantial Completion and partial occupancy or use of the Work by Owner, until the Work is complete.
- B. *Notice of Cancellation or Change:* All the policies of insurance (and the certificates or other evidence thereof) required to be purchased and maintained in accordance with this

Paragraph 6.05 will contain a provision or endorsement that the coverage afforded will not be canceled or materially changed or renewal refused until at least 10 days prior written notice has been given to the purchasing policyholder. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured.

- C. *Deductibles*: The purchaser of any required builder's risk or property insurance shall pay for costs not covered because of the application of a policy deductible.
- D. *Partial Occupancy or Use by Owner*: If Owner will occupy or use a portion or portions of the Work prior to Substantial Completion of all the Work as provided in Paragraph 15.04, then Owner (directly, if it is the purchaser of the builder's risk policy, or through Contractor) will provide notice of such occupancy or use to the builder's risk insurer. The builder's risk insurance shall not be canceled or permitted to lapse on account of any such partial use or occupancy; rather, those portions of the Work that are occupied or used by Owner may come off the builder's risk policy, while those portions of the Work not yet occupied or used by Owner shall remain covered by the builder's risk insurance.
- E. *Additional Insurance*: If Contractor elects to obtain other special insurance to be included in or supplement the builder's risk or property insurance policies provided under this Paragraph 6.05, it may do so at Contractor's expense.
- F. *Insurance of Other Property*: If the express insurance provisions of the Contract do not require or address the insurance of a property item or interest, such as tools, construction equipment, or other personal property owned by Contractor, a Subcontractor, or an employee of Contractor or a Subcontractor, then the entity or individual owning such property item will be responsible for deciding whether to insure it, and if so in what amount.

6.06 *Waiver of Rights*

- A. All policies purchased in accordance with Paragraph 6.05, expressly including the builder's risk policy, shall contain provisions to the effect that in the event of payment of any loss or damage the insurers will have no rights of recovery against any insureds thereunder, or against Engineer or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors. Owner and Contractor waive all rights against each other and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all Subcontractors, all individuals or entities identified in the Supplementary Conditions as insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused. None of the above waivers shall extend to the rights that any party making such waiver may have to the proceeds of insurance held by Owner or Contractor as trustee or fiduciary, or otherwise payable under any policy so issued.
- B. Owner waives all rights against Contractor, Subcontractors, and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, for:
 - 1. loss due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by,

arising out of, or resulting from fire or other perils whether or not insured by Owner; and

2. loss or damage to the completed Project or part thereof caused by, arising out of, or resulting from fire or other insured peril or cause of loss covered by any property insurance maintained on the completed Project or part thereof by Owner during partial occupancy or use pursuant to Paragraph 15.04, after Substantial Completion pursuant to Paragraph 15.03, or after final payment pursuant to Paragraph 15.06.
- C. Any insurance policy maintained by Owner covering any loss, damage or consequential loss referred to in Paragraph 6.06.B shall contain provisions to the effect that in the event of payment of any such loss, damage, or consequential loss, the insurers will have no rights of recovery against Contractor, Subcontractors, or Engineer, or the officers, directors, members, partners, employees, agents, consultants, or subcontractors of each and any of them.
- D. Contractor shall be responsible for assuring that the agreement under which a Subcontractor performs a portion of the Work contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified in the Supplementary Conditions as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from any of the perils or causes of loss covered by builder's risk insurance and any other property insurance applicable to the Work.

6.07 *Receipt and Application of Property Insurance Proceeds*

- A. Any insured loss under the builder's risk and other policies of insurance required by Paragraph 6.05 will be adjusted and settled with the named insured that purchased the policy. Such named insured shall act as fiduciary for the other insureds, and give notice to such other insureds that adjustment and settlement of a claim is in progress. Any other insured may state its position regarding a claim for insured loss in writing within 15 days after notice of such claim.
- B. Proceeds for such insured losses may be made payable by the insurer either jointly to multiple insureds, or to the named insured that purchased the policy in its own right and as fiduciary for other insureds, subject to the requirements of any applicable mortgage clause. A named insured receiving insurance proceeds under the builder's risk and other policies of insurance required by Paragraph 6.05 shall distribute such proceeds in accordance with such agreement as the parties in interest may reach, or as otherwise required under the dispute resolution provisions of this Contract or applicable Laws and Regulations.
- C. If no other special agreement is reached, the damaged Work shall be repaired or replaced, the money so received applied on account thereof, and the Work and the cost thereof covered by Change Order, if needed.

ARTICLE 7 – CONTRACTOR'S RESPONSIBILITIES

7.01 *Supervision and Superintendence*

- A. Contractor shall supervise, inspect, and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction.

- B. At all times during the progress of the Work, Contractor shall assign a competent resident superintendent who shall not be replaced without written notice to Owner and Engineer except under extraordinary circumstances.

7.02 *Labor; Working Hours*

- A. Contractor shall provide competent, suitably qualified personnel to survey and lay out the Work and perform construction as required by the Contract Documents. Contractor shall at all times maintain good discipline and order at the Site.
- B. Except as otherwise required for the safety or protection of persons or the Work or property at the Site or adjacent thereto, and except as otherwise stated in the Contract Documents, all Work at the Site shall be performed during regular working hours, Monday through Friday. Contractor will not perform Work on a Saturday, Sunday, or any legal holiday. Contractor may perform Work outside regular working hours or on Saturdays, Sundays, or legal holidays only with Owner's written consent, which will not be unreasonably withheld.

7.03 *Services, Materials, and Equipment*

- A. Unless otherwise specified in the Contract Documents, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities and incidentals necessary for the performance, testing, start up, and completion of the Work, whether or not such items are specifically called for in the Contract Documents.
- B. All materials and equipment incorporated into the Work shall be of good quality and new, except as otherwise provided in the Contract Documents. All special warranties and guarantees required by the Specifications shall expressly run to the benefit of Owner. If required by Engineer, Contractor shall furnish satisfactory evidence (including reports of required tests) as to the source, kind, and quality of materials and equipment.
- C. All materials and equipment shall be stored, applied, installed, connected, erected, protected, used, cleaned, and conditioned in accordance with instructions of the applicable Supplier, except as otherwise may be provided in the Contract Documents.

7.04 *"Or Equals"*

- A. Whenever an item of material or equipment is specified or described in the Contract Documents by using the name of a proprietary item or the name of a particular Supplier, the Contract Price has been based upon Contractor furnishing such item as specified. The specification or description of such an item is intended to establish the type, function, appearance, and quality required. Unless the specification or description contains or is followed by words reading that no like, equivalent, or "or equal" item is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment, or items from other proposed suppliers under the circumstances described below.
 - 1. If Engineer in its sole discretion determines that an item of material or equipment proposed by Contractor is functionally equal to that named and sufficiently similar so that no change in related Work will be required, Engineer shall deem it an "or equal" item. For the purposes of this paragraph, a proposed item of material or equipment will be considered functionally equal to an item so named if:

- a. in the exercise of reasonable judgment Engineer determines that:
 - 1) it is at least equal in materials of construction, quality, durability, appearance, strength, and design characteristics;
 - 2) it will reliably perform at least equally well the function and achieve the results imposed by the design concept of the completed Project as a functioning whole;
 - 3) it has a proven record of performance and availability of responsive service; and
 - 4) it is not objectionable to Owner.
 - b. Contractor certifies that, if approved and incorporated into the Work:
 - 1) there will be no increase in cost to the Owner or increase in Contract Times; and
 - 2) it will conform substantially to the detailed requirements of the item named in the Contract Documents.
- B. *Contractor's Expense:* Contractor shall provide all data in support of any proposed "or equal" item at Contractor's expense.
- C. *Engineer's Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each "or-equal" request. Engineer may require Contractor to furnish additional data about the proposed "or-equal" item. Engineer will be the sole judge of acceptability. No "or-equal" item will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an "or-equal", which will be evidenced by an approved Shop Drawing or other written communication. Engineer will advise Contractor in writing of any negative determination.
- D. *Effect of Engineer's Determination:* Neither approval nor denial of an "or-equal" request shall result in any change in Contract Price. The Engineer's denial of an "or-equal" request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents.
- E. *Treatment as a Substitution Request:* If Engineer determines that an item of material or equipment proposed by Contractor does not qualify as an "or-equal" item, Contractor may request that Engineer consider the proposed item as a substitute pursuant to Paragraph 7.05.

7.05 Substitutes

- A. Unless the specification or description of an item of material or equipment required to be furnished under the Contract Documents contains or is followed by words reading that no substitution is permitted, Contractor may request that Engineer authorize the use of other items of material or equipment under the circumstances described below. To the extent possible such requests shall be made before commencement of related construction at the Site.
 - 1. Contractor shall submit sufficient information as provided below to allow Engineer to determine if the item of material or equipment proposed is functionally equivalent to that named and an acceptable substitute therefor. Engineer will not accept requests for review of proposed substitute items of material or equipment from anyone other than Contractor.

2. The requirements for review by Engineer will be as set forth in Paragraph 7.05.B, as supplemented by the Specifications, and as Engineer may decide is appropriate under the circumstances.
3. Contractor shall make written application to Engineer for review of a proposed substitute item of material or equipment that Contractor seeks to furnish or use. The application:
 - a. shall certify that the proposed substitute item will:
 - 1) perform adequately the functions and achieve the results called for by the general design,
 - 2) be similar in substance to that specified, and
 - 3) be suited to the same use as that specified.
 - b. will state:
 - 1) the extent, if any, to which the use of the proposed substitute item will necessitate a change in Contract Times,
 - 2) whether use of the proposed substitute item in the Work will require a change in any of the Contract Documents (or in the provisions of any other direct contract with Owner for other work on the Project) to adapt the design to the proposed substitute item, and
 - 3) whether incorporation or use of the proposed substitute item in connection with the Work is subject to payment of any license fee or royalty.
 - c. will identify:
 - 1) all variations of the proposed substitute item from that specified, and
 - 2) available engineering, sales, maintenance, repair, and replacement services.
 - d. shall contain an itemized estimate of all costs or credits that will result directly or indirectly from use of such substitute item, including but not limited to changes in Contract Price, shared savings, costs of redesign, and claims of other contractors affected by any resulting change.
- B. *Engineer's Evaluation and Determination:* Engineer will be allowed a reasonable time to evaluate each substitute request, and to obtain comments and direction from Owner. Engineer may require Contractor to furnish additional data about the proposed substitute item. Engineer will be the sole judge of acceptability. No substitute will be ordered, furnished, installed, or utilized until Engineer's review is complete and Engineer determines that the proposed item is an acceptable substitute. Engineer's determination will be evidenced by a Field Order or a proposed Change Order accounting for the substitution itself and all related impacts, including changes in Contract Price or Contract Times. Engineer will advise Contractor in writing of any negative determination.
- C. *Special Guarantee:* Owner may require Contractor to furnish at Contractor's expense a special performance guarantee or other surety with respect to any substitute.
- D. *Reimbursement of Engineer's Cost:* Engineer will record Engineer's costs in evaluating a substitute proposed or submitted by Contractor. Whether or not Engineer approves a substitute so proposed or submitted by Contractor, Contractor shall reimburse Owner for the reasonable charges of Engineer for evaluating each such proposed substitute. Contractor shall also reimburse Owner for the reasonable charges of Engineer for making changes in the

Contract Documents (or in the provisions of any other direct contract with Owner) resulting from the acceptance of each proposed substitute.

- E. *Contractor's Expense*: Contractor shall provide all data in support of any proposed substitute at Contractor's expense.
- F. *Effect of Engineer's Determination*: If Engineer approves the substitution request, Contractor shall execute the proposed Change Order and proceed with the substitution. The Engineer's denial of a substitution request shall be final and binding, and may not be reversed through an appeal under any provision of the Contract Documents. Contractor may challenge the scope of reimbursement costs imposed under Paragraph 7.05.D, by timely submittal of a Change Proposal.

7.06 *Concerning Subcontractors, Suppliers, and Others*

- A. Contractor may retain Subcontractors and Suppliers for the performance of parts of the Work. Such Subcontractors and Suppliers must be acceptable to Owner.
- B. Contractor shall retain specific Subcontractors, Suppliers, or other individuals or entities for the performance of designated parts of the Work if required by the Contract to do so.
- C. Subsequent to the submittal of Contractor's Bid or final negotiation of the terms of the Contract, Owner may not require Contractor to retain any Subcontractor, Supplier, or other individual or entity to furnish or perform any of the Work against which Contractor has reasonable objection.
- D. Prior to entry into any binding subcontract or purchase order, Contractor shall submit to Owner the identity of the proposed Subcontractor or Supplier (unless Owner has already deemed such proposed Subcontractor or Supplier acceptable, during the bidding process or otherwise). Such proposed Subcontractor or Supplier shall be deemed acceptable to Owner unless Owner raises a substantive, reasonable objection within five days.
- E. Owner may require the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work. Owner also may require Contractor to retain specific replacements; provided, however, that Owner may not require a replacement to which Contractor has a reasonable objection. If Contractor has submitted the identity of certain Subcontractors, Suppliers, or other individuals or entities for acceptance by Owner, and Owner has accepted it (either in writing or by failing to make written objection thereto), then Owner may subsequently revoke the acceptance of any such Subcontractor, Supplier, or other individual or entity so identified solely on the basis of substantive, reasonable objection after due investigation. Contractor shall submit an acceptable replacement for the rejected Subcontractor, Supplier, or other individual or entity.
- F. If Owner requires the replacement of any Subcontractor, Supplier, or other individual or entity retained by Contractor to perform any part of the Work, then Contractor shall be entitled to an adjustment in Contract Price or Contract Times, or both, with respect to the replacement; and Contractor shall initiate a Change Proposal for such adjustment within 30 days of Owner's requirement of replacement.
- G. No acceptance by Owner of any such Subcontractor, Supplier, or other individual or entity, whether initially or as a replacement, shall constitute a waiver of the right of Owner to the completion of the Work in accordance with the Contract Documents.

- H. On a monthly basis Contractor shall submit to Engineer a complete list of all Subcontractors and Suppliers having a direct contract with Contractor, and of all other Subcontractors and Suppliers known to Contractor at the time of submittal.
- I. Contractor shall be fully responsible to Owner and Engineer for all acts and omissions of the Subcontractors, Suppliers, and other individuals or entities performing or furnishing any of the Work just as Contractor is responsible for Contractor's own acts and omissions.
- J. Contractor shall be solely responsible for scheduling and coordinating the work of Subcontractors, Suppliers, and all other individuals or entities performing or furnishing any of the Work.
- K. Contractor shall restrict all Subcontractors, Suppliers, and such other individuals or entities performing or furnishing any of the Work from communicating with Engineer or Owner, except through Contractor or in case of an emergency, or as otherwise expressly allowed herein.
- L. The divisions and sections of the Specifications and the identifications of any Drawings shall not control Contractor in dividing the Work among Subcontractors or Suppliers or delineating the Work to be performed by any specific trade.
- M. All Work performed for Contractor by a Subcontractor or Supplier shall be pursuant to an appropriate contractual agreement that specifically binds the Subcontractor or Supplier to the applicable terms and conditions of the Contract Documents for the benefit of Owner and Engineer.
- N. Owner may furnish to any Subcontractor or Supplier, to the extent practicable, information about amounts paid to Contractor on account of Work performed for Contractor by the particular Subcontractor or Supplier.
- O. Nothing in the Contract Documents:
 - 1. shall create for the benefit of any such Subcontractor, Supplier, or other individual or entity any contractual relationship between Owner or Engineer and any such Subcontractor, Supplier, or other individual or entity; nor
 - 2. shall create any obligation on the part of Owner or Engineer to pay or to see to the payment of any money due any such Subcontractor, Supplier, or other individual or entity except as may otherwise be required by Laws and Regulations.

7.07 *Patent Fees and Royalties*

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

performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device specified in the Contract Documents, but not identified as being subject to payment of any license fee or royalty to others required by patent rights or copyrights.

- C. To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.

7.08 *Permits*

- A. Unless otherwise provided in the Contract Documents, Contractor shall obtain and pay for all construction permits and licenses. Owner shall assist Contractor, when necessary, in obtaining such permits and licenses. Contractor shall pay all governmental charges and inspection fees necessary for the prosecution of the Work which are applicable at the time of the submission of Contractor's Bid (or when Contractor became bound under a negotiated contract). Owner shall pay all charges of utility owners for connections for providing permanent service to the Work

7.09 *Taxes*

- A. Contractor shall pay all sales, consumer, use, and other similar taxes required to be paid by Contractor in accordance with the Laws and Regulations of the place of the Project which are applicable during the performance of the Work.

7.10 *Laws and Regulations*

- A. Contractor shall give all notices required by and shall comply with all Laws and Regulations applicable to the performance of the Work. Except where otherwise expressly required by applicable Laws and Regulations, neither Owner nor Engineer shall be responsible for monitoring Contractor's compliance with any Laws or Regulations.
- B. If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action. It shall not be Contractor's responsibility to make certain that the Work described in the Contract Documents is in accordance with Laws and Regulations, but this shall not relieve Contractor of Contractor's obligations under Paragraph 3.03.
- C. Owner or Contractor may give notice to the other party of any changes after the submission of Contractor's Bid (or after the date when Contractor became bound under a negotiated contract) in Laws or Regulations having an effect on the cost or time of performance of the Work, including but not limited to changes in Laws or Regulations having an effect on procuring permits and on sales, use, value-added, consumption, and other similar taxes. If Owner and Contractor are unable to agree on entitlement to or on the amount or extent, if

any, of any adjustment in Contract Price or Contract Times resulting from such changes, then within 30 days of such notice Contractor may submit a Change Proposal, or Owner may initiate a Claim.

7.11 *Record Documents*

- A. Contractor shall maintain in a safe place at the Site one printed record copy of all Drawings, Specifications, Addenda, Change Orders, Work Change Directives, Field Orders, written interpretations and clarifications, and approved Shop Drawings. Contractor shall keep such record documents in good order and annotate them to show changes made during construction. These record documents, together with all approved Samples, will be available to Engineer for reference. Upon completion of the Work, Contractor shall deliver these record documents to Engineer.

7.12 *Safety and Protection*

- A. Contractor shall be solely responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Such responsibility does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with applicable safety Laws and Regulations. Contractor shall take all necessary precautions for the safety of, and shall provide the necessary protection to prevent damage, injury, or loss to:
 - 1. all persons on the Site or who may be affected by the Work;
 - 2. all the Work and materials and equipment to be incorporated therein, whether in storage on or off the Site; and
 - 3. other property at the Site or adjacent thereto, including trees, shrubs, lawns, walks, pavements, roadways, structures, other work in progress, utilities, and Underground Facilities not designated for removal, relocation, or replacement in the course of construction.
- B. Contractor shall comply with all applicable Laws and Regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall erect and maintain all necessary safeguards for such safety and protection. Contractor shall notify Owner; the owners of adjacent property, Underground Facilities, and other utilities; and other contractors and utility owners performing work at or adjacent to the Site, when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property or work in progress.
- C. Contractor shall comply with the applicable requirements of Owner's safety programs, if any. The Supplementary Conditions identify any Owner's safety programs that are applicable to the Work.
- D. Contractor shall inform Owner and Engineer of the specific requirements of Contractor's safety program with which Owner's and Engineer's employees and representatives must comply while at the Site.
- E. All damage, injury, or loss to any property referred to in Paragraph 7.12.A.2 or 7.12.A.3 caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be remedied by Contractor at its expense (except damage or loss attributable to the fault of Drawings or Specifications or to the acts or omissions of Owner or Engineer or anyone employed by any of them, or anyone for whose acts any of them may be liable, and not attributable, directly

or indirectly, in whole or in part, to the fault or negligence of Contractor or any Subcontractor, Supplier, or other individual or entity directly or indirectly employed by any of them).

- F. Contractor's duties and responsibilities for safety and protection shall continue until such time as all the Work is completed and Engineer has issued a notice to Owner and Contractor in accordance with Paragraph 15.06.B that the Work is acceptable (except as otherwise expressly provided in connection with Substantial Completion).
- G. Contractor's duties and responsibilities for safety and protection shall resume whenever Contractor or any Subcontractor or Supplier returns to the Site to fulfill warranty or correction obligations, or to conduct other tasks arising from the Contract Documents.

7.13 *Safety Representative*

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

7.14 *Hazard Communication Programs*

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

7.15 *Emergencies*

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

7.16 *Shop Drawings, Samples, and Other Submittals*

- A. *Shop Drawing and Sample Submittal Requirements:*
 - 1. Before submitting a Shop Drawing or Sample, Contractor shall have:
 - a. reviewed and coordinated the Shop Drawing or Sample with other Shop Drawings and Samples and with the requirements of the Work and the Contract Documents;
 - b. determined and verified all field measurements, quantities, dimensions, specified performance and design criteria, installation requirements, materials, catalog numbers, and similar information with respect thereto;
 - c. determined and verified the suitability of all materials and equipment offered with respect to the indicated application, fabrication, shipping, handling, storage, assembly, and installation pertaining to the performance of the Work; and
 - d. determined and verified all information relative to Contractor's responsibilities for means, methods, techniques, sequences, and procedures of construction, and safety precautions and programs incident thereto.
 - 2. Each submittal shall bear a stamp or specific written certification that Contractor has satisfied Contractor's obligations under the Contract Documents with respect to Contractor's review of that submittal, and that Contractor approves the submittal.

3. With each submittal, Contractor shall give Engineer specific written notice of any variations that the Shop Drawing or Sample may have from the requirements of the Contract Documents. This notice shall be set forth in a written communication separate from the Shop Drawings or Sample submittal; and, in addition, in the case of Shop Drawings by a specific notation made on each Shop Drawing submitted to Engineer for review and approval of each such variation.
- B. *Submittal Procedures for Shop Drawings and Samples:* Contractor shall submit Shop Drawings and Samples to Engineer for review and approval in accordance with the accepted Schedule of Submittals. Each submittal will be identified as Engineer may require.
1. *Shop Drawings:*
 - a. Contractor shall submit the number of copies required in the Specifications.
 - b. Data shown on the Shop Drawings will be complete with respect to quantities, dimensions, specified performance and design criteria, materials, and similar data to show Engineer the services, materials, and equipment Contractor proposes to provide and to enable Engineer to review the information for the limited purposes required by Paragraph 7.16.D.
 2. *Samples:*
 - a. Contractor shall submit the number of Samples required in the Specifications.
 - b. Contractor shall clearly identify each Sample as to material, Supplier, pertinent data such as catalog numbers, the use for which intended and other data as Engineer may require to enable Engineer to review the submittal for the limited purposes required by Paragraph 7.16.D.
 3. Where a Shop Drawing or Sample is required by the Contract Documents or the Schedule of Submittals, any related Work performed prior to Engineer's review and approval of the pertinent submittal will be at the sole expense and responsibility of Contractor.
- C. *Other Submittals:* Contractor shall submit other submittals to Engineer in accordance with the accepted Schedule of Submittals, and pursuant to the applicable terms of the Specifications.
- D. *Engineer's Review:*
1. Engineer will provide timely review of Shop Drawings and Samples in accordance with the Schedule of Submittals acceptable to Engineer. Engineer's review and approval will be only to determine if the items covered by the submittals will, after installation or incorporation in the Work, conform to the information given in the Contract Documents and be compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents.
 2. Engineer's review and approval will not extend to means, methods, techniques, sequences, or procedures of construction or to safety precautions or programs incident thereto.
 3. Engineer's review and approval of a separate item as such will not indicate approval of the assembly in which the item functions.
 4. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for any variation from the requirements of the Contract Documents unless Contractor has complied with the requirements of Paragraph 7.16.A.3 and

Engineer has given written approval of each such variation by specific written notation thereof incorporated in or accompanying the Shop Drawing or Sample. Engineer will document any such approved variation from the requirements of the Contract Documents in a Field Order.

5. Engineer's review and approval of a Shop Drawing or Sample shall not relieve Contractor from responsibility for complying with the requirements of Paragraph 7.16.A and B.
6. Engineer's review and approval of a Shop Drawing or Sample, or of a variation from the requirements of the Contract Documents, shall not, under any circumstances, change the Contract Times or Contract Price, unless such changes are included in a Change Order.
7. Neither Engineer's receipt, review, acceptance or approval of a Shop Drawing, Sample, or other submittal shall result in such item becoming a Contract Document.
8. Contractor shall perform the Work in compliance with the requirements and commitments set forth in approved Shop Drawings and Samples, subject to the provisions of Paragraph 7.16.D.4.

E. *Resubmittal Procedures:*

1. Contractor shall make corrections required by Engineer and shall return the required number of corrected copies of Shop Drawings and submit, as required, new Samples for review and approval. Contractor shall direct specific attention in writing to revisions other than the corrections called for by Engineer on previous submittals.
2. Contractor shall furnish required submittals with sufficient information and accuracy to obtain required approval of an item with no more than three submittals. Engineer will record Engineer's time for reviewing a fourth or subsequent submittal of a Shop Drawings, sample, or other item requiring approval, and Contractor shall be responsible for Engineer's charges to Owner for such time. Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges.
3. If Contractor requests a change of a previously approved submittal item, Contractor shall be responsible for Engineer's charges to Owner for its review time, and Owner may impose a set-off against payments due to Contractor to secure reimbursement for such charges, unless the need for such change is beyond the control of Contractor.

7.17 *Contractor's General Warranty and Guarantee*

- A. Contractor warrants and guarantees to Owner that all Work will be in accordance with the Contract Documents and will not be defective. Engineer and its officers, directors, members, partners, employees, agents, consultants, and subcontractors shall be entitled to rely on Contractor's warranty and guarantee.
- B. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
 1. abuse, modification, or improper maintenance or operation by persons other than Contractor, Subcontractors, Suppliers, or any other individual or entity for whom Contractor is responsible; or
 2. normal wear and tear under normal usage.
- C. Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. None of the following will constitute an acceptance of Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:

1. observations by Engineer;
 2. recommendation by Engineer or payment by Owner of any progress or final payment;
 3. the issuance of a certificate of Substantial Completion by Engineer or any payment related thereto by Owner;
 4. use or occupancy of the Work or any part thereof by Owner;
 5. any review and approval of a Shop Drawing or Sample submittal;
 6. the issuance of a notice of acceptability by Engineer;
 7. any inspection, test, or approval by others; or
 8. any correction of defective Work by Owner.
- D. If the Contract requires the Contractor to accept the assignment of a contract entered into by Owner, then the specific warranties, guarantees, and correction obligations contained in the assigned contract shall govern with respect to Contractor's performance obligations to Owner for the Work described in the assigned contract.

7.18 *Indemnification*

- A. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable.
- B. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.
- C. The indemnification obligations of Contractor under Paragraph 7.18.A shall not extend to the liability of Engineer and Engineer's officers, directors, members, partners, employees, agents, consultants and subcontractors arising out of:
1. the preparation or approval of, or the failure to prepare or approve maps, Drawings, opinions, reports, surveys, Change Orders, designs, or Specifications; or
 2. giving directions or instructions, or failing to give them, if that is the primary cause of the injury or damage.

7.19 *Delegation of Professional Design Services*

- A. Contractor will not be required to provide professional design services unless such services are specifically required by the Contract Documents for a portion of the Work or unless such services are required to carry out Contractor's responsibilities for construction means, methods, techniques, sequences and procedures. Contractor shall not be required to provide professional services in violation of applicable Laws and Regulations.
- B. If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of Contractor by the Contract Documents, Owner and Engineer will specify all performance and design criteria that such services must satisfy. Contractor shall cause such services or certifications to be provided by a properly licensed professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to Engineer.
- C. Owner and Engineer shall be entitled to rely upon the adequacy, accuracy, and completeness of the services, certifications, or approvals performed by such design professionals, provided Owner and Engineer have specified to Contractor all performance and design criteria that such services must satisfy.
- D. Pursuant to this paragraph, Engineer's review and approval of design calculations and design drawings will be only for the limited purpose of checking for conformance with performance and design criteria given and the design concept expressed in the Contract Documents. Engineer's review and approval of Shop Drawings and other submittals (except design calculations and design drawings) will be only for the purpose stated in Paragraph 7.16.D.1.
- E. Contractor shall not be responsible for the adequacy of the performance or design criteria specified by Owner or Engineer.

ARTICLE 8 – OTHER WORK AT THE SITE

8.01 *Other Work*

- A. In addition to and apart from the Work under the Contract Documents, the Owner may perform other work at or adjacent to the Site. Such other work may be performed by Owner's employees, or through contracts between the Owner and third parties. Owner may also arrange to have third-party utility owners perform work on their utilities and facilities at or adjacent to the Site.
- B. If Owner performs other work at or adjacent to the Site with Owner's employees, or through contracts for such other work, then Owner shall give Contractor written notice thereof prior to starting any such other work. If Owner has advance information regarding the start of any utility work at or adjacent to the Site, Owner shall provide such information to Contractor.
- C. Contractor shall afford each other contractor that performs such other work, each utility owner performing other work, and Owner, if Owner is performing other work with Owner's employees, proper and safe access to the Site, and provide a reasonable opportunity for the introduction and storage of materials and equipment and the execution of such other work. Contractor shall do all cutting, fitting, and patching of the Work that may be required to properly connect or otherwise make its several parts come together and properly integrate with such other work. Contractor shall not endanger any work of others by cutting, excavating, or otherwise altering such work; provided, however, that Contractor may cut or

alter others' work with the written consent of Engineer and the others whose work will be affected.

- D. If the proper execution or results of any part of Contractor's Work depends upon work performed by others under this Article 8, Contractor shall inspect such other work and promptly report to Engineer in writing any delays, defects, or deficiencies in such other work that render it unavailable or unsuitable for the proper execution and results of Contractor's Work. Contractor's failure to so report will constitute an acceptance of such other work as fit and proper for integration with Contractor's Work except for latent defects and deficiencies in such other work.

8.02 *Coordination*

- A. If Owner intends to contract with others for the performance of other work at or adjacent to the Site, to perform other work at or adjacent to the Site with Owner's employees, or to arrange to have utility owners perform work at or adjacent to the Site, the following will be set forth in the Supplementary Conditions or provided to Contractor prior to the start of any such other work:
 - 1. the identity of the individual or entity that will have authority and responsibility for coordination of the activities among the various contractors;
 - 2. an itemization of the specific matters to be covered by such authority and responsibility; and
 - 3. the extent of such authority and responsibilities.
- B. Unless otherwise provided in the Supplementary Conditions, Owner shall have sole authority and responsibility for such coordination.

8.03 *Legal Relationships*

- A. If, in the course of performing other work at or adjacent to the Site for Owner, the Owner's employees, any other contractor working for Owner, or any utility owner for whom the Owner is responsible causes damage to the Work or to the property of Contractor or its Subcontractors, or delays, disrupts, interferes with, or increases the scope or cost of the performance of the Work, through actions or inaction, then Contractor shall be entitled to an equitable adjustment in the Contract Price or the Contract Times, or both. Contractor must submit any Change Proposal seeking an equitable adjustment in the Contract Price or the Contract Times under this paragraph within 30 days of the damaging, delaying, disrupting, or interfering event. The entitlement to, and extent of, any such equitable adjustment shall take into account information (if any) regarding such other work that was provided to Contractor in the Contract Documents prior to the submittal of the Bid or the final negotiation of the terms of the Contract. When applicable, any such equitable adjustment in Contract Price shall be conditioned on Contractor assigning to Owner all Contractor's rights against such other contractor or utility owner with respect to the damage, delay, disruption, or interference that is the subject of the adjustment. Contractor's entitlement to an adjustment of the Contract Times is conditioned on such adjustment being essential to Contractor's ability to complete the Work within the Contract Times.
- B. Contractor shall take reasonable and customary measures to avoid damaging, delaying, disrupting, or interfering with the work of Owner, any other contractor, or any utility owner performing other work at or adjacent to the Site. If Contractor fails to take such measures and as a result damages, delays, disrupts, or interferes with the work of any such other contractor or utility owner, then Owner may impose a set-off against payments due to Contractor, and assign to such other contractor or utility owner the Owner's contractual

rights against Contractor with respect to the breach of the obligations set forth in this paragraph.

- C. When Owner is performing other work at or adjacent to the Site with Owner's employees, Contractor shall be liable to Owner for damage to such other work, and for the reasonable direct delay, disruption, and interference costs incurred by Owner as a result of Contractor's failure to take reasonable and customary measures with respect to Owner's other work. In response to such damage, delay, disruption, or interference, Owner may impose a set-off against payments due to Contractor.
- D. If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, Owner, or Engineer, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference.

ARTICLE 9 – OWNER'S RESPONSIBILITIES

9.01 *Communications to Contractor*

- A. Except as otherwise provided in these General Conditions, Owner shall issue all communications to Contractor through Engineer.

9.02 *Replacement of Engineer*

- A. Owner may at its discretion appoint an engineer to replace Engineer, provided Contractor makes no reasonable objection to the replacement engineer. The replacement engineer's status under the Contract Documents shall be that of the former Engineer.

9.03 *Furnish Data*

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

9.04 *Pay When Due*

- A. Owner shall make payments to Contractor when they are due as provided in the Agreement.

9.05 *Lands and Easements; Reports, Tests, and Drawings*

- A. Owner's duties with respect to providing lands and easements are set forth in Paragraph 5.01.
- B. Owner's duties with respect to providing engineering surveys to establish reference points are set forth in Paragraph 4.03.
- C. Article 5 refers to Owner's identifying and making available to Contractor copies of reports of explorations and tests of conditions at the Site, and drawings of physical conditions relating to existing surface or subsurface structures at the Site.

9.06 *Insurance*

- A. Owner's responsibilities, if any, with respect to purchasing and maintaining liability and property insurance are set forth in Article 6.

9.07 *Change Orders*

- A. Owner's responsibilities with respect to Change Orders are set forth in Article 11.

9.08 *Inspections, Tests, and Approvals*

- A. Owner's responsibility with respect to certain inspections, tests, and approvals is set forth in Paragraph 14.02.B.

9.09 *Limitations on Owner's Responsibilities*

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

9.10 *Undisclosed Hazardous Environmental Condition*

- A. Owner's responsibility in respect to an undisclosed Hazardous Environmental Condition is set forth in Paragraph 5.06.

9.11 *Evidence of Financial Arrangements*

- A. Upon request of Contractor, Owner shall furnish Contractor reasonable evidence that financial arrangements have been made to satisfy Owner's obligations under the Contract Documents (including obligations under proposed changes in the Work).

9.12 *Safety Programs*

- A. While at the Site, Owner's employees and representatives shall comply with the specific applicable requirements of Contractor's safety programs of which Owner has been informed.
- B. Owner shall furnish copies of any applicable Owner safety programs to Contractor.

ARTICLE 10 – ENGINEER'S STATUS DURING CONSTRUCTION

10.01 *Owner's Representative*

- A. Engineer will be Owner's representative during the construction period. The duties and responsibilities and the limitations of authority of Engineer as Owner's representative during construction are set forth in the Contract.

10.02 *Visits to Site*

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

the basis of such visits and observations, Engineer will keep Owner informed of the progress of the Work and will endeavor to guard Owner against defective Work.

- B. Engineer's visits and observations are subject to all the limitations on Engineer's authority and responsibility set forth in Paragraph 10.08. Particularly, but without limitation, during or as a result of Engineer's visits or observations of Contractor's Work, Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work.

10.03 *Project Representative*

- A. If Owner and Engineer have agreed that Engineer will furnish a Resident Project Representative to represent Engineer at the Site and assist Engineer in observing the progress and quality of the Work, then the authority and responsibilities of any such Resident Project Representative will be as provided in the Supplementary Conditions, and limitations on the responsibilities thereof will be as provided in Paragraph 10.08. If Owner designates another representative or agent to represent Owner at the Site who is not Engineer's consultant, agent, or employee, the responsibilities and authority and limitations thereon of such other individual or entity will be as provided in the Supplementary Conditions.

10.04 *Rejecting Defective Work*

- A. Engineer has the authority to reject Work in accordance with Article 14.

10.05 *Shop Drawings, Change Orders and Payments*

- A. Engineer's authority, and limitations thereof, as to Shop Drawings and Samples, are set forth in Paragraph 7.16.
- B. Engineer's authority, and limitations thereof, as to design calculations and design drawings submitted in response to a delegation of professional design services, if any, are set forth in Paragraph 7.19.
- C. Engineer's authority as to Change Orders is set forth in Article 11.
- D. Engineer's authority as to Applications for Payment is set forth in Article 15.

10.06 *Determinations for Unit Price Work*

- A. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor as set forth in Paragraph 13.03.

10.07 *Decisions on Requirements of Contract Documents and Acceptability of Work*

- A. Engineer will render decisions regarding the requirements of the Contract Documents, and judge the acceptability of the Work, pursuant to the specific procedures set forth herein for initial interpretations, Change Proposals, and acceptance of the Work. In rendering such decisions and judgments, Engineer will not show partiality to Owner or Contractor, and will not be liable to Owner, Contractor, or others in connection with any proceedings, interpretations, decisions, or judgments conducted or rendered in good faith.

10.08 *Limitations on Engineer's Authority and Responsibilities*

- A. Neither Engineer's authority or responsibility under this Article 10 or under any other provision of the Contract, nor any decision made by Engineer in good faith either to exercise or not exercise such authority or responsibility or the undertaking, exercise, or performance of any authority or responsibility by Engineer, shall create, impose, or give rise to any duty in

contract, tort, or otherwise owed by Engineer to Contractor, any Subcontractor, any Supplier, any other individual or entity, or to any surety for or employee or agent of any of them.

- B. Engineer will not supervise, direct, control, or have authority over or be responsible for Contractor's means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or for any failure of Contractor to comply with Laws and Regulations applicable to the performance of the Work. Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.
- C. Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractor, any Supplier, or of any other individual or entity performing any of the Work.
- D. Engineer's review of the final Application for Payment and accompanying documentation and all maintenance and operating instructions, schedules, guarantees, bonds, certificates of inspection, tests and approvals, and other documentation required to be delivered by Paragraph 15.06.A will only be to determine generally that their content complies with the requirements of, and in the case of certificates of inspections, tests, and approvals, that the results certified indicate compliance with the Contract Documents.
- E. The limitations upon authority and responsibility set forth in this Paragraph 10.08 shall also apply to the Resident Project Representative, if any.

10.09 *Compliance with Safety Program*

- A. While at the Site, Engineer's employees and representatives will comply with the specific applicable requirements of Owner's and Contractor's safety programs (if any) of which Engineer has been informed.

ARTICLE 11 – AMENDING THE CONTRACT DOCUMENTS; CHANGES IN THE WORK

11.01 *Amending and Supplementing Contract Documents*

- A. The Contract Documents may be amended or supplemented by a Change Order, a Work Change Directive, or a Field Order.
 - 1. *Change Orders:*
 - a. If an amendment or supplement to the Contract Documents includes a change in the Contract Price or the Contract Times, such amendment or supplement must be set forth in a Change Order. A Change Order also may be used to establish amendments and supplements of the Contract Documents that do not affect the Contract Price or Contract Times.
 - b. Owner and Contractor may amend those terms and conditions of the Contract Documents that do not involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, without the recommendation of the Engineer. Such an amendment shall be set forth in a Change Order.
 - 2. *Work Change Directives:* A Work Change Directive will not change the Contract Price or the Contract Times but is evidence that the parties expect that the modification ordered or documented by a Work Change Directive will be incorporated in a subsequently issued Change Order, following negotiations by the parties as to the Work Change Directive's effect, if any, on the Contract Price and Contract Times; or, if negotiations are unsuccessful, by a determination under the terms of the Contract Documents

governing adjustments, expressly including Paragraph 11.04 regarding change of Contract Price. Contractor must submit any Change Proposal seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 30 days after the completion of the Work set out in the Work Change Directive. Owner must submit any Claim seeking an adjustment of the Contract Price or the Contract Times, or both, no later than 60 days after issuance of the Work Change Directive.

3. *Field Orders*: Engineer may authorize minor changes in the Work if the changes do not involve an adjustment in the Contract Price or the Contract Times and are compatible with the design concept of the completed Project as a functioning whole as indicated by the Contract Documents. Such changes will be accomplished by a Field Order and will be binding on Owner and also on Contractor, which shall perform the Work involved promptly. If Contractor believes that a Field Order justifies an adjustment in the Contract Price or Contract Times, or both, then before proceeding with the Work at issue, Contractor shall submit a Change Proposal as provided herein.

11.02 *Owner-Authorized Changes in the Work*

- A. Without invalidating the Contract and without notice to any surety, Owner may, at any time or from time to time, order additions, deletions, or revisions in the Work. Such changes shall be supported by Engineer's recommendation, to the extent the change involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters. Such changes may be accomplished by a Change Order, if Owner and Contractor have agreed as to the effect, if any, of the changes on Contract Times or Contract Price; or by a Work Change Directive. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved; or, in the case of a deletion in the Work, promptly cease construction activities with respect to such deleted Work. Added or revised Work shall be performed under the applicable conditions of the Contract Documents. Nothing in this paragraph shall obligate Contractor to undertake work that Contractor reasonably concludes cannot be performed in a manner consistent with Contractor's safety obligations under the Contract Documents or Laws and Regulations.

11.03 *Unauthorized Changes in the Work*

- A. Contractor shall not be entitled to an increase in the Contract Price or an extension of the Contract Times with respect to any work performed that is not required by the Contract Documents, as amended, modified, or supplemented, except in the case of an emergency as provided in Paragraph 7.15 or in the case of uncovering Work as provided in Paragraph 14.05.

11.04 *Change of Contract Price*

- A. The Contract Price may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Price shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment of Contract Price shall comply with the provisions of Article 12.
- B. An adjustment in the Contract Price will be determined as follows:
 1. where the Work involved is covered by unit prices contained in the Contract Documents, then by application of such unit prices to the quantities of the items involved (subject to the provisions of Paragraph 13.03); or
 2. where the Work involved is not covered by unit prices contained in the Contract Documents, then by a mutually agreed lump sum (which may include an allowance for overhead and profit not necessarily in accordance with Paragraph 11.04.C.2); or

3. where the Work involved is not covered by unit prices contained in the Contract Documents and the parties do not reach mutual agreement to a lump sum, then on the basis of the Cost of the Work (determined as provided in Paragraph 13.01) plus a Contractor's fee for overhead and profit (determined as provided in Paragraph 11.04.C).
- C. *Contractor's Fee*: When applicable, the Contractor's fee for overhead and profit shall be determined as follows:
1. a mutually acceptable fixed fee; or
 2. if a fixed fee is not agreed upon, then a fee based on the following percentages of the various portions of the Cost of the Work:
 - a. for costs incurred under Paragraphs 13.01.B.1 and 13.01.B.2, the Contractor's fee shall be 15 percent;
 - b. for costs incurred under Paragraph 13.01.B.3, the Contractor's fee shall be five percent;
 - c. where one or more tiers of subcontracts are on the basis of Cost of the Work plus a fee and no fixed fee is agreed upon, the intent of Paragraphs 11.04.C.2.a and 11.04.C.2.b is that the Contractor's fee shall be based on: (1) a fee of 15 percent of the costs incurred under Paragraphs 13.01.A.1 and 13.01.A.2 by the Subcontractor that actually performs the Work, at whatever tier, and (2) with respect to Contractor itself and to any Subcontractors of a tier higher than that of the Subcontractor that actually performs the Work, a fee of five percent of the amount (fee plus underlying costs incurred) attributable to the next lower tier Subcontractor; provided, however, that for any such subcontracted work the maximum total fee to be paid by Owner shall be no greater than 27 percent of the costs incurred by the Subcontractor that actually performs the work;
 - d. no fee shall be payable on the basis of costs itemized under Paragraphs 13.01.B.4, 13.01.B.5, and 13.01.C;
 - e. the amount of credit to be allowed by Contractor to Owner for any change which results in a net decrease in cost will be the amount of the actual net decrease in cost plus a deduction in Contractor's fee by an amount equal to five percent of such net decrease; and
 - f. when both additions and credits are involved in any one change, the adjustment in Contractor's fee shall be computed on the basis of the net change in accordance with Paragraphs 11.04.C.2.a through 11.04.C.2.e, inclusive.

11.05 *Change of Contract Times*

- A. The Contract Times may only be changed by a Change Order. Any Change Proposal for an adjustment in the Contract Times shall comply with the provisions of Paragraph 11.06. Any Claim for an adjustment in the Contract Times shall comply with the provisions of Article 12.
- B. An adjustment of the Contract Times shall be subject to the limitations set forth in Paragraph 4.05, concerning delays in Contractor's progress.

11.06 *Change Proposals*

- A. Contractor shall submit a Change Proposal to Engineer to request an adjustment in the Contract Times or Contract Price; appeal an initial decision by Engineer concerning the requirements of the Contract Documents or relating to the acceptability of the Work under the Contract Documents; contest a set-off against payment due; or seek other relief under

the Contract. The Change Proposal shall specify any proposed change in Contract Times or Contract Price, or both, or other proposed relief, and explain the reason for the proposed change, with citations to any governing or applicable provisions of the Contract Documents.

1. *Procedures:* Contractor shall submit each Change Proposal to Engineer promptly (but in no event later than 30 days) after the start of the event giving rise thereto, or after such initial decision. The Contractor shall submit supporting data, including the proposed change in Contract Price or Contract Time (if any), to the Engineer and Owner within 15 days after the submittal of the Change Proposal. The supporting data shall be accompanied by a written statement that the supporting data are accurate and complete, and that any requested time or price adjustment is the entire adjustment to which Contractor believes it is entitled as a result of said event. Engineer will advise Owner regarding the Change Proposal, and consider any comments or response from Owner regarding the Change Proposal.
 2. *Engineer's Action:* Engineer will review each Change Proposal and, within 30 days after receipt of the Contractor's supporting data, either deny the Change Proposal in whole, approve it in whole, or deny it in part and approve it in part. Such actions shall be in writing, with a copy provided to Owner and Contractor. If Engineer does not take action on the Change Proposal within 30 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of Engineer's inaction the Change Proposal is deemed denied, thereby commencing the time for appeal of the denial under Article 12.
 3. *Binding Decision:* Engineer's decision will be final and binding upon Owner and Contractor, unless Owner or Contractor appeals the decision by filing a Claim under Article 12.
- B. *Resolution of Certain Change Proposals:* If the Change Proposal does not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters, then Engineer will notify the parties that the Engineer is unable to resolve the Change Proposal. For purposes of further resolution of such a Change Proposal, such notice shall be deemed a denial, and Contractor may choose to seek resolution under the terms of Article 12.

11.07 Execution of Change Orders

- A. Owner and Contractor shall execute appropriate Change Orders covering:
1. changes in the Contract Price or Contract Times which are agreed to by the parties, including any undisputed sum or amount of time for Work actually performed in accordance with a Work Change Directive;
 2. changes in Contract Price resulting from an Owner set-off, unless Contractor has duly contested such set-off;
 3. changes in the Work which are: (a) ordered by Owner pursuant to Paragraph 11.02, (b) required because of Owner's acceptance of defective Work under Paragraph 14.04 or Owner's correction of defective Work under Paragraph 14.07, or (c) agreed to by the parties, subject to the need for Engineer's recommendation if the change in the Work involves the design (as set forth in the Drawings, Specifications, or otherwise), or other engineering or technical matters; and
 4. changes in the Contract Price or Contract Times, or other changes, which embody the substance of any final and binding results under Paragraph 11.06, or Article 12.

- B. If Owner or Contractor refuses to execute a Change Order that is required to be executed under the terms of this Paragraph 11.07, it shall be deemed to be of full force and effect, as if fully executed.

11.08 *Notification to Surety*

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

ARTICLE 12 – CLAIMS

12.01 *Claims*

- A. *Claims Process:* The following disputes between Owner and Contractor shall be submitted to the Claims process set forth in this Article:
 - 1. Appeals by Owner or Contractor of Engineer's decisions regarding Change Proposals;
 - 2. Owner demands for adjustments in the Contract Price or Contract Times, or other relief under the Contract Documents; and
 - 3. Disputes that Engineer has been unable to address because they do not involve the design (as set forth in the Drawings, Specifications, or otherwise), the acceptability of the Work, or other engineering or technical matters.
- B. *Submittal of Claim:* The party submitting a Claim shall deliver it directly to the other party to the Contract promptly (but in no event later than 30 days) after the start of the event giving rise thereto; in the case of appeals regarding Change Proposals within 30 days of the decision under appeal. The party submitting the Claim shall also furnish a copy to the Engineer, for its information only. The responsibility to substantiate a Claim shall rest with the party making the Claim. In the case of a Claim by Contractor seeking an increase in the Contract Times or Contract Price, or both, Contractor shall certify that the Claim is made in good faith, that the supporting data are accurate and complete, and that to the best of Contractor's knowledge and belief the amount of time or money requested accurately reflects the full amount to which Contractor is entitled.
- C. *Review and Resolution:* The party receiving a Claim shall review it thoroughly, giving full consideration to its merits. The two parties shall seek to resolve the Claim through the exchange of information and direct negotiations. The parties may extend the time for resolving the Claim by mutual agreement. All actions taken on a Claim shall be stated in writing and submitted to the other party, with a copy to Engineer.
- D. *Mediation:*
 - 1. At any time after initiation of a Claim, Owner and Contractor may mutually agree to mediation of the underlying dispute. The agreement to mediate shall stay the Claim submittal and response process.
 - 2. If Owner and Contractor agree to mediation, then after 60 days from such agreement, either Owner or Contractor may unilaterally terminate the mediation process, and the Claim submittal and decision process shall resume as of the date of the termination. If the mediation proceeds but is unsuccessful in resolving the dispute, the Claim submittal

and decision process shall resume as of the date of the conclusion of the mediation, as determined by the mediator.

3. Owner and Contractor shall each pay one-half of the mediator's fees and costs.
- E. *Partial Approval*: If the party receiving a Claim approves the Claim in part and denies it in part, such action shall be final and binding unless within 30 days of such action the other party invokes the procedure set forth in Article 17 for final resolution of disputes.
- F. *Denial of Claim*: If efforts to resolve a Claim are not successful, the party receiving the Claim may deny it by giving written notice of denial to the other party. If the receiving party does not take action on the Claim within 90 days, then either Owner or Contractor may at any time thereafter submit a letter to the other party indicating that as a result of the inaction, the Claim is deemed denied, thereby commencing the time for appeal of the denial. A denial of the Claim shall be final and binding unless within 30 days of the denial the other party invokes the procedure set forth in Article 17 for the final resolution of disputes.
- G. *Final and Binding Results*: If the parties reach a mutual agreement regarding a Claim, whether through approval of the Claim, direct negotiations, mediation, or otherwise; or if a Claim is approved in part and denied in part, or denied in full, and such actions become final and binding; then the results of the agreement or action on the Claim shall be incorporated in a Change Order to the extent they affect the Contract, including the Work, the Contract Times, or the Contract Price.

ARTICLE 13 – COST OF THE WORK; ALLOWANCES; UNIT PRICE WORK

13.01 *Cost of the Work*

- A. *Purposes for Determination of Cost of the Work*: The term Cost of the Work means the sum of all costs necessary for the proper performance of the Work at issue, as further defined below. The provisions of this Paragraph 13.01 are used for two distinct purposes:
 1. To determine Cost of the Work when Cost of the Work is a component of the Contract Price, under cost-plus-fee, time-and-materials, or other cost-based terms; or
 2. To determine the value of a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price. When the value of any such adjustment is determined on the basis of Cost of the Work, Contractor is entitled only to those additional or incremental costs required because of the change in the Work or because of the event giving rise to the adjustment.
- B. *Costs Included*: Except as otherwise may be agreed to in writing by Owner, costs included in the Cost of the Work shall be in amounts no higher than those prevailing in the locality of the Project, shall not include any of the costs itemized in Paragraph 13.01.C, and shall include only the following items:
 1. Payroll costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Payroll costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. Payroll costs shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers' compensation, health and retirement benefits, bonuses, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing

Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the above to the extent authorized by Owner.

2. Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and Suppliers' field services required in connection therewith. All cash discounts shall accrue to Contractor unless Owner deposits funds with Contractor with which to make payments, in which case the cash discounts shall accrue to Owner. All trade discounts, rebates, and refunds and returns from sale of surplus materials and equipment shall accrue to Owner, and Contractor shall make provisions so that they may be obtained.
3. Payments made by Contractor to Subcontractors for Work performed by Subcontractors. If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids to Owner, who will then determine, with the advice of Engineer, which bids, if any, will be acceptable. If any subcontract provides that the Subcontractor is to be paid on the basis of Cost of the Work plus a fee, the Subcontractor's Cost of the Work and fee shall be determined in the same manner as Contractor's Cost of the Work and fee as provided in this Paragraph 13.01.
4. Costs of special consultants (including but not limited to engineers, architects, testing laboratories, surveyors, attorneys, and accountants) employed for services specifically related to the Work.
5. Supplemental costs including the following:
 - a. The proportion of necessary transportation, travel, and subsistence expenses of Contractor's employees incurred in discharge of duties connected with the Work.
 - b. Cost, including transportation and maintenance, of all materials, supplies, equipment, machinery, appliances, office, and temporary facilities at the Site, and hand tools not owned by the workers, which are consumed in the performance of the Work, and cost, less market value, of such items used but not consumed which remain the property of Contractor.
 - c. Rentals of all construction equipment and machinery, and the parts thereof, whether rented from Contractor or others in accordance with rental agreements approved by Owner with the advice of Engineer, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.
 - d. Sales, consumer, use, and other similar taxes related to the Work, and for which Contractor is liable, as imposed by Laws and Regulations.
 - e. Deposits lost for causes other than negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, and royalty payments and fees for permits and licenses.
 - f. Losses and damages (and related expenses) caused by damage to the Work, not compensated by insurance or otherwise, sustained by Contractor in connection with the performance of the Work (except losses and damages within the deductible amounts of property insurance established in accordance with Paragraph 6.05), provided such losses and damages have resulted from causes other than the negligence of Contractor, any Subcontractor, or anyone directly or

indirectly employed by any of them or for whose acts any of them may be liable. Such losses shall include settlements made with the written consent and approval of Owner. No such losses, damages, and expenses shall be included in the Cost of the Work for the purpose of determining Contractor's fee.

- g. The cost of utilities, fuel, and sanitary facilities at the Site.
- h. Minor expenses such as communication service at the Site, express and courier services, and similar petty cash items in connection with the Work.
- i. The costs of premiums for all bonds and insurance that Contractor is required by the Contract Documents to purchase and maintain.

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

- 1. Payroll costs and other compensation of Contractor's officers, executives, principals (of partnerships and sole proprietorships), general managers, safety managers, engineers, architects, estimators, attorneys, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks, and other personnel employed by Contractor, whether at the Site or in Contractor's principal or branch office for general administration of the Work and not specifically included in the agreed upon schedule of job classifications referred to in Paragraph 13.01.B.1 or specifically covered by Paragraph 13.01.B.4. The payroll costs and other compensation excluded here are to be considered administrative costs covered by the Contractor's fee.
- 2. Expenses of Contractor's principal and branch offices other than Contractor's office at the Site.
- 3. Any part of Contractor's capital expenses, including interest on Contractor's capital employed for the Work and charges against Contractor for delinquent payments.
- 4. Costs due to the negligence of Contractor, any Subcontractor, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable, including but not limited to, the correction of defective Work, disposal of materials or equipment wrongly supplied, and making good any damage to property.
- 5. Other overhead or general expense costs of any kind and the costs of any item not specifically and expressly included in Paragraph 13.01.B.

D. *Contractor's Fee:* When the Work as a whole is performed on the basis of cost-plus, Contractor's fee shall be determined as set forth in the Agreement. When the value of any Work covered by a Change Order, Change Proposal, Claim, set-off, or other adjustment in Contract Price is determined on the basis of Cost of the Work, Contractor's fee shall be determined as set forth in Paragraph 11.04.C.

E. *Documentation:* Whenever the Cost of the Work for any purpose is to be determined pursuant to this Article 13, Contractor will establish and maintain records thereof in accordance with generally accepted accounting practices and submit in a form acceptable to Engineer an itemized cost breakdown together with supporting data.

13.02 Allowances

- A. It is understood that Contractor has included in the Contract Price all allowances so named in the Contract Documents and shall cause the Work so covered to be performed for such sums and by such persons or entities as may be acceptable to Owner and Engineer.

- B. *Cash Allowances*: Contractor agrees that:
 - 1. the cash allowances include the cost to Contractor (less any applicable trade discounts) of materials and equipment required by the allowances to be delivered at the Site, and all applicable taxes; and
 - 2. Contractor's costs for unloading and handling on the Site, labor, installation, overhead, profit, and other expenses contemplated for the cash allowances have been included in the Contract Price and not in the allowances, and no demand for additional payment on account of any of the foregoing will be valid.
- C. *Contingency Allowance*: Contractor agrees that a contingency allowance, if any, is for the sole use of Owner to cover unanticipated costs.
- D. Prior to final payment, an appropriate Change Order will be issued as recommended by Engineer to reflect actual amounts due Contractor on account of Work covered by allowances, and the Contract Price shall be correspondingly adjusted.

13.03 *Unit Price Work*

- A. Where the Contract Documents provide that all or part of the Work is to be Unit Price Work, initially the Contract Price will be deemed to include for all Unit Price Work an amount equal to the sum of the unit price for each separately identified item of Unit Price Work times the estimated quantity of each item as indicated in the Agreement.
- B. The estimated quantities of items of Unit Price Work are not guaranteed and are solely for the purpose of comparison of Bids and determining an initial Contract Price. Payments to Contractor for Unit Price Work will be based on actual quantities.
- C. Each unit price will be deemed to include an amount considered by Contractor to be adequate to cover Contractor's overhead and profit for each separately identified item.
- D. Engineer will determine the actual quantities and classifications of Unit Price Work performed by Contractor. Engineer will review with Contractor the Engineer's preliminary determinations on such matters before rendering a written decision thereon (by recommendation of an Application for Payment or otherwise). Engineer's written decision thereon will be final and binding (except as modified by Engineer to reflect changed factual conditions or more accurate data) upon Owner and Contractor, subject to the provisions of the following paragraph.
- E. Within 30 days of Engineer's written decision under the preceding paragraph, Contractor may submit a Change Proposal, or Owner may file a Claim, seeking an adjustment in the Contract Price if:
 - 1. the quantity of any item of Unit Price Work performed by Contractor differs materially and significantly from the estimated quantity of such item indicated in the Agreement;
 - 2. there is no corresponding adjustment with respect to any other item of Work; and
 - 3. Contractor believes that it is entitled to an increase in Contract Price as a result of having incurred additional expense or Owner believes that Owner is entitled to a decrease in Contract Price, and the parties are unable to agree as to the amount of any such increase or decrease.

ARTICLE 14 – TESTS AND INSPECTIONS; CORRECTION, REMOVAL OR ACCEPTANCE OF DEFECTIVE WORK

14.01 *Access to Work*

- A. Owner, Engineer, their consultants and other representatives and personnel of Owner, independent testing laboratories, and authorities having jurisdiction will have access to the Site and the Work at reasonable times for their observation, inspection, and testing. Contractor shall provide them proper and safe conditions for such access and advise them of Contractor's safety procedures and programs so that they may comply therewith as applicable.

14.02 *Tests, Inspections, and Approvals*

- A. Contractor shall give Engineer timely notice of readiness of the Work (or specific parts thereof) for all required inspections and tests, and shall cooperate with inspection and testing personnel to facilitate required inspections and tests.
- B. Owner shall retain and pay for the services of an independent inspector, testing laboratory, or other qualified individual or entity to perform all inspections and tests expressly required by the Contract Documents to be furnished and paid for by Owner, except that costs incurred in connection with tests or inspections of covered Work shall be governed by the provisions of Paragraph 14.05.
- C. If Laws or Regulations of any public body having jurisdiction require any Work (or part thereof) specifically to be inspected, tested, or approved by an employee or other representative of such public body, Contractor shall assume full responsibility for arranging and obtaining such inspections, tests, or approvals, pay all costs in connection therewith, and furnish Engineer the required certificates of inspection or approval.
- D. Contractor shall be responsible for arranging, obtaining, and paying for all inspections and tests required:
 - 1. by the Contract Documents, unless the Contract Documents expressly allocate responsibility for a specific inspection or test to Owner;
 - 2. to attain Owner's and Engineer's acceptance of materials or equipment to be incorporated in the Work;
 - 3. by manufacturers of equipment furnished under the Contract Documents;
 - 4. for testing, adjusting, and balancing of mechanical, electrical, and other equipment to be incorporated into the Work; and
 - 5. for acceptance of materials, mix designs, or equipment submitted for approval prior to Contractor's purchase thereof for incorporation in the Work.

Such inspections and tests shall be performed by independent inspectors, testing laboratories, or other qualified individuals or entities acceptable to Owner and Engineer.

- E. If the Contract Documents require the Work (or part thereof) to be approved by Owner, Engineer, or another designated individual or entity, then Contractor shall assume full responsibility for arranging and obtaining such approvals.
- F. If any Work (or the work of others) that is to be inspected, tested, or approved is covered by Contractor without written concurrence of Engineer, Contractor shall, if requested by Engineer, uncover such Work for observation. Such uncovering shall be at Contractor's expense unless Contractor had given Engineer timely notice of Contractor's intention to

cover the same and Engineer had not acted with reasonable promptness in response to such notice.

14.03 *Defective Work*

- A. *Contractor's Obligation*: It is Contractor's obligation to assure that the Work is not defective.
- B. *Engineer's Authority*: Engineer has the authority to determine whether Work is defective, and to reject defective Work.
- C. *Notice of Defects*: Prompt notice of all defective Work of which Owner or Engineer has actual knowledge will be given to Contractor.
- D. *Correction, or Removal and Replacement*: Promptly after receipt of written notice of defective Work, Contractor shall correct all such defective Work, whether or not fabricated, installed, or completed, or, if Engineer has rejected the defective Work, remove it from the Project and replace it with Work that is not defective.
- E. *Preservation of Warranties*: When correcting defective Work, Contractor shall take no action that would void or otherwise impair Owner's special warranty and guarantee, if any, on said Work.
- F. *Costs and Damages*: In addition to its correction, removal, and replacement obligations with respect to defective Work, Contractor shall pay all claims, costs, losses, and damages arising out of or relating to defective Work, including but not limited to the cost of the inspection, testing, correction, removal, replacement, or reconstruction of such defective Work, fines levied against Owner by governmental authorities because the Work is defective, and the costs of repair or replacement of work of others resulting from defective Work. Prior to final payment, if Owner and Contractor are unable to agree as to the measure of such claims, costs, losses, and damages resulting from defective Work, then Owner may impose a reasonable set-off against payments due under Article 15.

14.04 *Acceptance of Defective Work*

- A. If, instead of requiring correction or removal and replacement of defective Work, Owner prefers to accept it, Owner may do so (subject, if such acceptance occurs prior to final payment, to Engineer's confirmation that such acceptance is in general accord with the design intent and applicable engineering principles, and will not endanger public safety). Contractor shall pay all claims, costs, losses, and damages attributable to Owner's evaluation of and determination to accept such defective Work (such costs to be approved by Engineer as to reasonableness), and for the diminished value of the Work to the extent not otherwise paid by Contractor. If any such acceptance occurs prior to final payment, the necessary revisions in the Contract Documents with respect to the Work shall be incorporated in a Change Order. If the parties are unable to agree as to the decrease in the Contract Price, reflecting the diminished value of Work so accepted, then Owner may impose a reasonable set-off against payments due under Article 15. If the acceptance of defective Work occurs after final payment, Contractor shall pay an appropriate amount to Owner.

14.05 *Uncovering Work*

- A. Engineer has the authority to require additional inspection or testing of the Work, whether or not the Work is fabricated, installed, or completed.
- B. If any Work is covered contrary to the written request of Engineer, then Contractor shall, if requested by Engineer, uncover such Work for Engineer's observation, and then replace the covering, all at Contractor's expense.

- C. If Engineer considers it necessary or advisable that covered Work be observed by Engineer or inspected or tested by others, then Contractor, at Engineer's request, shall uncover, expose, or otherwise make available for observation, inspection, or testing as Engineer may require, that portion of the Work in question, and provide all necessary labor, material, and equipment.
 - 1. If it is found that the uncovered Work is defective, Contractor shall be responsible for all claims, costs, losses, and damages arising out of or relating to such uncovering, exposure, observation, inspection, and testing, and of satisfactory replacement or reconstruction (including but not limited to all costs of repair or replacement of work of others); and pending Contractor's full discharge of this responsibility the Owner shall be entitled to impose a reasonable set-off against payments due under Article 15.
 - 2. If the uncovered Work is not found to be defective, Contractor shall be allowed an increase in the Contract Price or an extension of the Contract Times, or both, directly attributable to such uncovering, exposure, observation, inspection, testing, replacement, and reconstruction. If the parties are unable to agree as to the amount or extent thereof, then Contractor may submit a Change Proposal within 30 days of the determination that the Work is not defective.

14.06 *Owner May Stop the Work*

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

14.07 *Owner May Correct Defective Work*

- A. If Contractor fails within a reasonable time after written notice from Engineer to correct defective Work, or to remove and replace rejected Work as required by Engineer, or if Contractor fails to perform the Work in accordance with the Contract Documents, or if Contractor fails to comply with any other provision of the Contract Documents, then Owner may, after seven days written notice to Contractor, correct or remedy any such deficiency.
- B. In exercising the rights and remedies under this Paragraph 14.07, Owner shall proceed expeditiously. In connection with such corrective or remedial action, Owner may exclude Contractor from all or part of the Site, take possession of all or part of the Work and suspend Contractor's services related thereto, and incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere. Contractor shall allow Owner, Owner's representatives, agents and employees, Owner's other contractors, and Engineer and Engineer's consultants access to the Site to enable Owner to exercise the rights and remedies under this paragraph.
- C. All claims, costs, losses, and damages incurred or sustained by Owner in exercising the rights and remedies under this Paragraph 14.07 will be charged against Contractor as set-offs against payments due under Article 15. Such claims, costs, losses and damages will include but not be limited to all costs of repair, or replacement of work of others destroyed or damaged by correction, removal, or replacement of Contractor's defective Work.

- D. Contractor shall not be allowed an extension of the Contract Times because of any delay in the performance of the Work attributable to the exercise by Owner of Owner's rights and remedies under this Paragraph 14.07.

ARTICLE 15 – PAYMENTS TO CONTRACTOR; SET-OFFS; COMPLETION; CORRECTION PERIOD

15.01 *Progress Payments*

- A. *Basis for Progress Payments:* The Schedule of Values established as provided in Article 2 will serve as the basis for progress payments and will be incorporated into a form of Application for Payment acceptable to Engineer. Progress payments on account of Unit Price Work will be based on the number of units completed during the pay period, as determined under the provisions of Paragraph 13.03. Progress payments for cost-based Work will be based on Cost of the Work completed by Contractor during the pay period.
- B. *Applications for Payments:*
1. At least 20 days before the date established in the Agreement for each progress payment (but not more often than once a month), Contractor shall submit to Engineer for review an Application for Payment filled out and signed by Contractor covering the Work completed as of the date of the Application and accompanied by such supporting documentation as is required by the Contract Documents. If payment is requested on the basis of materials and equipment not incorporated in the Work but delivered and suitably stored at the Site or at another location agreed to in writing, the Application for Payment shall also be accompanied by a bill of sale, invoice, or other documentation warranting that Owner has received the materials and equipment free and clear of all Liens, and evidence that the materials and equipment are covered by appropriate property insurance, a warehouse bond, or other arrangements to protect Owner's interest therein, all of which must be satisfactory to Owner.
 2. Beginning with the second Application for Payment, each Application shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied on account to discharge Contractor's legitimate obligations associated with prior Applications for Payment.
 3. The amount of retainage with respect to progress payments will be as stipulated in the Agreement.
- C. *Review of Applications:*
1. Engineer will, within 10 days after receipt of each Application for Payment, including each resubmittal, either indicate in writing a recommendation of payment and present the Application to Owner, or return the Application to Contractor indicating in writing Engineer's reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application.
 2. Engineer's recommendation of any payment requested in an Application for Payment will constitute a representation by Engineer to Owner, based on Engineer's observations of the executed Work as an experienced and qualified design professional, and on Engineer's review of the Application for Payment and the accompanying data and schedules, that to the best of Engineer's knowledge, information and belief:
 - a. the Work has progressed to the point indicated;
 - b. the quality of the Work is generally in accordance with the Contract Documents (subject to an evaluation of the Work as a functioning whole prior to or upon

Substantial Completion, the results of any subsequent tests called for in the Contract Documents, a final determination of quantities and classifications for Unit Price Work under Paragraph 13.03, and any other qualifications stated in the recommendation); and

- c. the conditions precedent to Contractor's being entitled to such payment appear to have been fulfilled in so far as it is Engineer's responsibility to observe the Work.
3. By recommending any such payment Engineer will not thereby be deemed to have represented that:
- a. inspections made to check the quality or the quantity of the Work as it has been performed have been exhaustive, extended to every aspect of the Work in progress, or involved detailed inspections of the Work beyond the responsibilities specifically assigned to Engineer in the Contract; or
 - b. there may not be other matters or issues between the parties that might entitle Contractor to be paid additionally by Owner or entitle Owner to withhold payment to Contractor.
4. Neither Engineer's review of Contractor's Work for the purposes of recommending payments nor Engineer's recommendation of any payment, including final payment, will impose responsibility on Engineer:
- a. to supervise, direct, or control the Work, or
 - b. for the means, methods, techniques, sequences, or procedures of construction, or the safety precautions and programs incident thereto, or
 - c. for Contractor's failure to comply with Laws and Regulations applicable to Contractor's performance of the Work, or
 - d. to make any examination to ascertain how or for what purposes Contractor has used the money paid on account of the Contract Price, or
 - e. to determine that title to any of the Work, materials, or equipment has passed to Owner free and clear of any Liens.
5. Engineer may refuse to recommend the whole or any part of any payment if, in Engineer's opinion, it would be incorrect to make the representations to Owner stated in Paragraph 15.01.C.2.
6. Engineer will recommend reductions in payment (set-offs) necessary in Engineer's opinion to protect Owner from loss because:
- a. the Work is defective, requiring correction or replacement;
 - b. the Contract Price has been reduced by Change Orders;
 - c. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible; or
 - e. Engineer has actual knowledge of the occurrence of any of the events that would constitute a default by Contractor and therefore justify termination for cause under the Contract Documents.

D. *Payment Becomes Due:*

1. Ten days after presentation of the Application for Payment to Owner with Engineer's recommendation, the amount recommended (subject to any Owner set-offs) will become due, and when due will be paid by Owner to Contractor.

E. *Reductions in Payment by Owner:*

1. In addition to any reductions in payment (set-offs) recommended by Engineer, Owner is entitled to impose a set-off against payment based on any of the following:
 - a. claims have been made against Owner on account of Contractor's conduct in the performance or furnishing of the Work, or Owner has incurred costs, losses, or damages on account of Contractor's conduct in the performance or furnishing of the Work, including but not limited to claims, costs, losses, or damages from workplace injuries, adjacent property damage, non-compliance with Laws and Regulations, and patent infringement;
 - b. Contractor has failed to take reasonable and customary measures to avoid damage, delay, disruption, and interference with other work at or adjacent to the Site;
 - c. Contractor has failed to provide and maintain required bonds or insurance;
 - d. Owner has been required to remove or remediate a Hazardous Environmental Condition for which Contractor is responsible;
 - e. Owner has incurred extra charges or engineering costs related to submittal reviews, evaluations of proposed substitutes, tests and inspections, or return visits to manufacturing or assembly facilities;
 - f. the Work is defective, requiring correction or replacement;
 - g. Owner has been required to correct defective Work in accordance with Paragraph 14.07, or has accepted defective Work pursuant to Paragraph 14.04;
 - h. the Contract Price has been reduced by Change Orders;
 - i. an event that would constitute a default by Contractor and therefore justify a termination for cause has occurred;
 - j. liquidated damages have accrued as a result of Contractor's failure to achieve Milestones, Substantial Completion, or final completion of the Work;
 - k. Liens have been filed in connection with the Work, except where Contractor has delivered a specific bond satisfactory to Owner to secure the satisfaction and discharge of such Liens;
 - l. there are other items entitling Owner to a set off against the amount recommended.
2. If Owner imposes any set-off against payment, whether based on its own knowledge or on the written recommendations of Engineer, Owner will give Contractor immediate written notice (with a copy to Engineer) stating the reasons for such action and the specific amount of the reduction, and promptly pay Contractor any amount remaining after deduction of the amount so withheld. Owner shall promptly pay Contractor the amount so withheld, or any adjustment thereto agreed to by Owner and Contractor, if Contractor remedies the reasons for such action. The reduction imposed shall be binding on Contractor unless it duly submits a Change Proposal contesting the reduction.

3. Upon a subsequent determination that Owner's refusal of payment was not justified, the amount wrongfully withheld shall be treated as an amount due as determined by Paragraph 15.01.C.1 and subject to interest as provided in the Agreement.

15.02 *Contractor's Warranty of Title*

- A. Contractor warrants and guarantees that title to all Work, materials, and equipment furnished under the Contract will pass to Owner free and clear of (1) all Liens and other title defects, and (2) all patent, licensing, copyright, or royalty obligations, no later than seven days after the time of payment by Owner.

15.03 *Substantial Completion*

- A. When Contractor considers the entire Work ready for its intended use Contractor shall notify Owner and Engineer in writing that the entire Work is substantially complete and request that Engineer issue a certificate of Substantial Completion. Contractor shall at the same time submit to Owner and Engineer an initial draft of punch list items to be completed or corrected before final payment.
- B. Promptly after Contractor's notification, Owner, Contractor, and Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor in writing giving the reasons therefor.
- C. If Engineer considers the Work substantially complete, Engineer will deliver to Owner a preliminary certificate of Substantial Completion which shall fix the date of Substantial Completion. Engineer shall attach to the certificate a punch list of items to be completed or corrected before final payment. Owner shall have seven days after receipt of the preliminary certificate during which to make written objection to Engineer as to any provisions of the certificate or attached punch list. If, after considering the objections to the provisions of the preliminary certificate, Engineer concludes that the Work is not substantially complete, Engineer will, within 14 days after submission of the preliminary certificate to Owner, notify Contractor in writing that the Work is not substantially complete, stating the reasons therefor. If Owner does not object to the provisions of the certificate, or if despite consideration of Owner's objections Engineer concludes that the Work is substantially complete, then Engineer will, within said 14 days, execute and deliver to Owner and Contractor a final certificate of Substantial Completion (with a revised punch list of items to be completed or corrected) reflecting such changes from the preliminary certificate as Engineer believes justified after consideration of any objections from Owner.
- D. At the time of receipt of the preliminary certificate of Substantial Completion, Owner and Contractor will confer regarding Owner's use or occupancy of the Work following Substantial Completion, review the builder's risk insurance policy with respect to the end of the builder's risk coverage, and confirm the transition to coverage of the Work under a permanent property insurance policy held by Owner. Unless Owner and Contractor agree otherwise in writing, Owner shall bear responsibility for security, operation, protection of the Work, property insurance, maintenance, heat, and utilities upon Owner's use or occupancy of the Work.
- E. After Substantial Completion the Contractor shall promptly begin work on the punch list of items to be completed or corrected prior to final payment. In appropriate cases Contractor may submit monthly Applications for Payment for completed punch list items, following the progress payment procedures set forth above.

- F. Owner shall have the right to exclude Contractor from the Site after the date of Substantial Completion subject to allowing Contractor reasonable access to remove its property and complete or correct items on the punch list.

15.04 *Partial Use or Occupancy*

- A. Prior to Substantial Completion of all the Work, Owner may use or occupy any substantially completed part of the Work which has specifically been identified in the Contract Documents, or which Owner, Engineer, and Contractor agree constitutes a separately functioning and usable part of the Work that can be used by Owner for its intended purpose without significant interference with Contractor's performance of the remainder of the Work, subject to the following conditions:
 - 1. At any time Owner may request in writing that Contractor permit Owner to use or occupy any such part of the Work that Owner believes to be substantially complete. If and when Contractor agrees that such part of the Work is substantially complete, Contractor, Owner, and Engineer will follow the procedures of Paragraph 15.03.A through E for that part of the Work.
 - 2. At any time Contractor may notify Owner and Engineer in writing that Contractor considers any such part of the Work substantially complete and request Engineer to issue a certificate of Substantial Completion for that part of the Work.
 - 3. Within a reasonable time after either such request, Owner, Contractor, and Engineer shall make an inspection of that part of the Work to determine its status of completion. If Engineer does not consider that part of the Work to be substantially complete, Engineer will notify Owner and Contractor in writing giving the reasons therefor. If Engineer considers that part of the Work to be substantially complete, the provisions of Paragraph 15.03 will apply with respect to certification of Substantial Completion of that part of the Work and the division of responsibility in respect thereof and access thereto.
 - 4. No use or occupancy or separate operation of part of the Work may occur prior to compliance with the requirements of Paragraph 6.05 regarding builder's risk or other property insurance.

15.05 *Final Inspection*

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

15.06 *Final Payment*

- A. *Application for Payment:*
 - 1. After Contractor has, in the opinion of Engineer, satisfactorily completed all corrections identified during the final inspection and has delivered, in accordance with the Contract Documents, all maintenance and operating instructions, schedules, guarantees, bonds, certificates or other evidence of insurance, certificates of inspection, annotated record documents (as provided in Paragraph 7.11), and other documents, Contractor may make application for final payment.

2. The final Application for Payment shall be accompanied (except as previously delivered) by:
 - a. all documentation called for in the Contract Documents;
 - b. consent of the surety, if any, to final payment;
 - c. satisfactory evidence that all title issues have been resolved such that title to all Work, materials, and equipment has passed to Owner free and clear of any Liens or other title defects, or will so pass upon final payment.
 - d. a list of all disputes that Contractor believes are unsettled; and
 - e. complete and legally effective releases or waivers (satisfactory to Owner) of all Lien rights arising out of the Work, and of Liens filed in connection with the Work.
3. In lieu of the releases or waivers of Liens specified in Paragraph 15.06.A.2 and as approved by Owner, Contractor may furnish receipts or releases in full and an affidavit of Contractor that: (a) the releases and receipts include all labor, services, material, and equipment for which a Lien could be filed; and (b) all payrolls, material and equipment bills, and other indebtedness connected with the Work for which Owner might in any way be responsible, or which might in any way result in liens or other burdens on Owner's property, have been paid or otherwise satisfied. If any Subcontractor or Supplier fails to furnish such a release or receipt in full, Contractor may furnish a bond or other collateral satisfactory to Owner to indemnify Owner against any Lien, or Owner at its option may issue joint checks payable to Contractor and specified Subcontractors and Suppliers.

B. *Engineer's Review of Application and Acceptance:*

1. If, on the basis of Engineer's observation of the Work during construction and final inspection, and Engineer's review of the final Application for Payment and accompanying documentation as required by the Contract Documents, Engineer is satisfied that the Work has been completed and Contractor's other obligations under the Contract have been fulfilled, Engineer will, within ten days after receipt of the final Application for Payment, indicate in writing Engineer's recommendation of final payment and present the Application for Payment to Owner for payment. Such recommendation shall account for any set-offs against payment that are necessary in Engineer's opinion to protect Owner from loss for the reasons stated above with respect to progress payments. At the same time Engineer will also give written notice to Owner and Contractor that the Work is acceptable, subject to the provisions of Paragraph 15.07. Otherwise, Engineer will return the Application for Payment to Contractor, indicating in writing the reasons for refusing to recommend final payment, in which case Contractor shall make the necessary corrections and resubmit the Application for Payment.

- C. *Completion of Work:* The Work is complete (subject to surviving obligations) when it is ready for final payment as established by the Engineer's written recommendation of final payment.
- D. *Payment Becomes Due:* Thirty days after the presentation to Owner of the final Application for Payment and accompanying documentation, the amount recommended by Engineer (less any further sum Owner is entitled to set off against Engineer's recommendation, including but not limited to set-offs for liquidated damages and set-offs allowed under the provisions above with respect to progress payments) will become due and shall be paid by Owner to Contractor.

15.07 *Waiver of Claims*

- A. The making of final payment will not constitute a waiver by Owner of claims or rights against Contractor. Owner expressly reserves claims and rights arising from unsettled Liens, from defective Work appearing after final inspection pursuant to Paragraph 15.05, from Contractor's failure to comply with the Contract Documents or the terms of any special guarantees specified therein, from outstanding Claims by Owner, or from Contractor's continuing obligations under the Contract Documents.
- B. The acceptance of final payment by Contractor will constitute a waiver by Contractor of all claims and rights against Owner other than those pending matters that have been duly submitted or appealed under the provisions of Article 17.

15.08 *Correction Period*

- A. If within one year after the date of Substantial Completion (or such longer period of time as may be prescribed by the terms of any applicable special guarantee required by the Contract Documents, or by any specific provision of the Contract Documents), any Work is found to be defective, or if the repair of any damages to the Site, adjacent areas that Contractor has arranged to use through construction easements or otherwise, and other adjacent areas used by Contractor as permitted by Laws and Regulations, is found to be defective, then Contractor shall promptly, without cost to Owner and in accordance with Owner's written instructions:
 - 1. correct the defective repairs to the Site or such other adjacent areas;
 - 2. correct such defective Work;
 - 3. if the defective Work has been rejected by Owner, remove it from the Project and replace it with Work that is not defective, and
 - 4. satisfactorily correct or repair or remove and replace any damage to other Work, to the work of others, or to other land or areas resulting therefrom.
- B. If Contractor does not promptly comply with the terms of Owner's written instructions, or in an emergency where delay would cause serious risk of loss or damage, Owner may have the defective Work corrected or repaired or may have the rejected Work removed and replaced. Contractor shall pay all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such correction or repair or such removal and replacement (including but not limited to all costs of repair or replacement of work of others).
- C. In special circumstances where a particular item of equipment is placed in continuous service before Substantial Completion of all the Work, the correction period for that item may start to run from an earlier date if so provided in the Specifications.
- D. Where defective Work (and damage to other Work resulting therefrom) has been corrected or removed and replaced under this paragraph, the correction period hereunder with respect to such Work will be extended for an additional period of one year after such correction or removal and replacement has been satisfactorily completed.
- E. Contractor's obligations under this paragraph are in addition to all other obligations and warranties. The provisions of this paragraph shall not be construed as a substitute for, or a waiver of, the provisions of any applicable statute of limitation or repose.

ARTICLE 16 – SUSPENSION OF WORK AND TERMINATION

16.01 *Owner May Suspend Work*

- A. At any time and without cause, Owner may suspend the Work or any portion thereof for a period of not more than 90 consecutive days by written notice to Contractor and Engineer. Such notice will fix the date on which Work will be resumed. Contractor shall resume the Work on the date so fixed. Contractor shall be entitled to an adjustment in the Contract Price or an extension of the Contract Times, or both, directly attributable to any such suspension. Any Change Proposal seeking such adjustments shall be submitted no later than 30 days after the date fixed for resumption of Work.

16.02 *Owner May Terminate for Cause*

- A. The occurrence of any one or more of the following events will constitute a default by Contractor and justify termination for cause:
 - 1. Contractor's persistent failure to perform the Work in accordance with the Contract Documents (including, but not limited to, failure to supply sufficient skilled workers or suitable materials or equipment or failure to adhere to the Progress Schedule);
 - 2. Failure of Contractor to perform or otherwise to comply with a material term of the Contract Documents;
 - 3. Contractor's disregard of Laws or Regulations of any public body having jurisdiction; or
 - 4. Contractor's repeated disregard of the authority of Owner or Engineer.
- B. If one or more of the events identified in Paragraph 16.02.A occurs, then after giving Contractor (and any surety) ten days written notice that Owner is considering a declaration that Contractor is in default and termination of the contract, Owner may proceed to:
 - 1. declare Contractor to be in default, and give Contractor (and any surety) notice that the Contract is terminated; and
 - 2. enforce the rights available to Owner under any applicable performance bond.
- C. Subject to the terms and operation of any applicable performance bond, if Owner has terminated the Contract for cause, Owner may exclude Contractor from the Site, take possession of the Work, incorporate in the Work all materials and equipment stored at the Site or for which Owner has paid Contractor but which are stored elsewhere, and complete the Work as Owner may deem expedient.
- D. Owner may not proceed with termination of the Contract under Paragraph 16.02.B if Contractor within seven days of receipt of notice of intent to terminate begins to correct its failure to perform and proceeds diligently to cure such failure.
- E. If Owner proceeds as provided in Paragraph 16.02.B, Contractor shall not be entitled to receive any further payment until the Work is completed. If the unpaid balance of the Contract Price exceeds the cost to complete the Work, including all related claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals) sustained by Owner, such excess will be paid to Contractor. If the cost to complete the Work including such related claims, costs, losses, and damages exceeds such unpaid balance, Contractor shall pay the difference to Owner. Such claims, costs, losses, and damages incurred by Owner will be reviewed by Engineer as to their reasonableness and, when so approved by Engineer, incorporated in a Change Order. When

exercising any rights or remedies under this paragraph, Owner shall not be required to obtain the lowest price for the Work performed.

- F. Where Contractor's services have been so terminated by Owner, the termination will not affect any rights or remedies of Owner against Contractor then existing or which may thereafter accrue, or any rights or remedies of Owner against Contractor or any surety under any payment bond or performance bond. Any retention or payment of money due Contractor by Owner will not release Contractor from liability.
- G. If and to the extent that Contractor has provided a performance bond under the provisions of Paragraph 6.01.A, the provisions of that bond shall govern over any inconsistent provisions of Paragraphs 16.02.B and 16.02.D.

16.03 *Owner May Terminate For Convenience*

- A. Upon seven days written notice to Contractor and Engineer, Owner may, without cause and without prejudice to any other right or remedy of Owner, terminate the Contract. In such case, Contractor shall be paid for (without duplication of any items):
 - 1. completed and acceptable Work executed in accordance with the Contract Documents prior to the effective date of termination, including fair and reasonable sums for overhead and profit on such Work;
 - 2. expenses sustained prior to the effective date of termination in performing services and furnishing labor, materials, or equipment as required by the Contract Documents in connection with uncompleted Work, plus fair and reasonable sums for overhead and profit on such expenses; and
 - 3. other reasonable expenses directly attributable to termination, including costs incurred to prepare a termination for convenience cost proposal.
- B. Contractor shall not be paid on account of loss of anticipated overhead, profits, or revenue, or other economic loss arising out of or resulting from such termination.

16.04 *Contractor May Stop Work or Terminate*

- A. If, through no act or fault of Contractor, (1) the Work is suspended for more than 90 consecutive days by Owner or under an order of court or other public authority, or (2) Engineer fails to act on any Application for Payment within 30 days after it is submitted, or (3) Owner fails for 30 days to pay Contractor any sum finally determined to be due, then Contractor may, upon seven days written notice to Owner and Engineer, and provided Owner or Engineer do not remedy such suspension or failure within that time, terminate the contract and recover from Owner payment on the same terms as provided in Paragraph 16.03.
- B. In lieu of terminating the Contract and without prejudice to any other right or remedy, if Engineer has failed to act on an Application for Payment within 30 days after it is submitted, or Owner has failed for 30 days to pay Contractor any sum finally determined to be due, Contractor may, seven days after written notice to Owner and Engineer, stop the Work until payment is made of all such amounts due Contractor, including interest thereon. The provisions of this paragraph are not intended to preclude Contractor from submitting a Change Proposal for an adjustment in Contract Price or Contract Times or otherwise for expenses or damage directly attributable to Contractor's stopping the Work as permitted by this paragraph.

ARTICLE 17 – FINAL RESOLUTION OF DISPUTES

17.01 *Methods and Procedures*

- A. *Disputes Subject to Final Resolution:* The following disputed matters are subject to final resolution under the provisions of this Article:
 - 1. A timely appeal of an approval in part and denial in part of a Claim, or of a denial in full; and
 - 2. Disputes between Owner and Contractor concerning the Work or obligations under the Contract Documents, and arising after final payment has been made.
- B. *Final Resolution of Disputes:* For any dispute subject to resolution under this Article, Owner or Contractor may:
 - 1. elect in writing to invoke the dispute resolution process provided for in the Supplementary Conditions; or
 - 2. agree with the other party to submit the dispute to another dispute resolution process; or
 - 3. if no dispute resolution process is provided for in the Supplementary Conditions or mutually agreed to, give written notice to the other party of the intent to submit the dispute to a court of competent jurisdiction.

ARTICLE 18 – MISCELLANEOUS

18.01 *Giving Notice*

- A. Whenever any provision of the Contract Documents requires the giving of written notice, it will be deemed to have been validly given if:
 - 1. delivered in person, by a commercial courier service or otherwise, to the individual or to a member of the firm or to an officer of the corporation for which it is intended; or
 - 2. delivered at or sent by registered or certified mail, postage prepaid, to the last business address known to the sender of the notice.

18.02 *Computation of Times*

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

18.03 *Cumulative Remedies*

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

18.04 *Limitation of Damages*

- A. With respect to any and all Change Proposals, Claims, disputes subject to final resolution, and other matters at issue, neither Owner nor Engineer, nor any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors, shall be liable to Contractor for any claims, costs, losses, or damages sustained by Contractor on or in connection with any other project or anticipated project.

18.05 *No Waiver*

- A. A party's non-enforcement of any provision shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of this Contract.

18.06 *Survival of Obligations*

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

18.07 *Controlling Law*

- A. This Contract is to be governed by the law of the state in which the Project is located.

18.08 *Headings*

- A. Article and paragraph headings are inserted for convenience only and do not constitute parts of these General Conditions.

SUPPLEMENTARY CONDITIONS

These Supplementary Conditions amend or supplement the Standard General Conditions of the Construction Contract, EJCDC® C-700 (2013 Edition). All provisions that are not so amended or supplemented remain in full force and effect.

The terms used in these Supplementary Conditions have the meanings stated in the General Conditions. Additional terms used in these Supplementary Conditions have the meanings stated below, which are applicable to both the singular and plural thereof.

The address system used in these Supplementary Conditions is the same as the address system used in the General Conditions, with the prefix “SC” added thereto.

SC-4.06 Add the following new paragraph immediately after Paragraph 4.05:

SC-4.06 *COVID-19 and Infectious Diseases:* The Contract Price and Contract Times: (i) are sufficient for Contractor to perform the Work based on currently known or reasonably anticipated disruptions caused by the disease known as COVID-19; and (ii) include Contractor’s compliance with all currently enacted governmental health orders and safety requirements associated with COVID-19. The Contract Price and Contract Times do not contemplate, and specifically exclude, all other cost or schedule impacts caused by COVID-19 or other infectious disease outbreaks, including, but not limited to, future changes to governmental health orders and safety requirements, future labor or material shortages that cannot be reasonably anticipated, or other future disruptions to the Work that cannot be reasonably anticipated. Such cost and schedule impacts will be negotiated by the parties and documented by a written Change Order, provided that to the extent the Contractor claims any delay in the commencement or the progress in the Work as a result of COVID-19 or an infectious disease outbreak, then such claims shall be asserted within the time required by, and shall otherwise comply with the requirements of, Paragraph 4.05.G.

SC-17.02 Add the following new paragraph immediately after Paragraph 17.01:

SC-17.02 *Attorneys’ Fees:* For any matter subject to final resolution under this Article, the prevailing party shall be entitled to an award of its attorneys’ fees incurred in the final resolution proceedings, in an equitable amount to be determined in the discretion of the court, arbitrator, arbitration panel, or other arbiter of the matter subject to final resolution, taking into account the parties’ initial demand or defense positions in comparison with the final result.

Make the following revisions as noted below:

Article 1.01A.10:

- Delete “(a)”
- In the first sentence delete “by Owner directly to Contractor”
- Delete “or (b) a demand or assertion by Contractor directly to Owner, duly submitted in compliance with the procedural requirements set forth herein, contesting Engineer’s decision regarding a Change Proposal; or seeking resolution of a contractual issue that Engineer has declined to address.”

Article 1.01A, 40:

- In the first sentence delete “, in the opinion of Engineer,”

Article 1.01A, 48:

- Delete “and recommended by Engineer”

Article 1.02:

- Delete paragraph B
- Delete paragraph D.1.c

Article 4.04A.1

- Change to “Contractor shall notify Engineer (to the extent indicated in Paragraph 2.05) of proposed adjustments in the Progress Schedule that will not result in changing the Contract Times.”

Article 4.05C

- Change to first sentence to “If Contractor’s performance or progress is delayed, disrupted, or interfered with by unanticipated causes not the fault of and beyond the control of Contractor and those for which Contractor is responsible, then Contractor shall be entitled to an equitable adjustment in Contract Times.”

Article 5.02A.2

- Change bullet (c) to “to the fullest extent permitted by Laws and Regulations, indemnify and hold harmless Owner and its officers, directors, members, partners, and employees from and against any such claim, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any claim or action, legal or equitable, brought by any such owner or occupant against Owner to the extent caused directly or indirectly, in whole or in part by, or based upon, Contractor’s performance of the

Work, or because of other actions or conduct of the Contractor or those for which Contractor is responsible.”

Article 5.05A.1

- Delete the words “and Engineer”. Change “does” to “do”

Article 5.06J

- Modify first sentence to “To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and its officers, directors, members, partners, and employees from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the failure to control, contain, or remove a Constituent of Concern brought to the Site by Contractor or by anyone for whom Contractor is responsible, or to a Hazardous Environmental Condition created by Contractor or by anyone for whom Contractor is responsible.”

Article 6.03C:

- Paragraph 7: modify to “Additional insured endorsements that include both ongoing operations and products and completed operations coverage through ISO Endorsements CG 20 10 and CG 20 37 (together); or their equivalent.”
- Paragraph 8: delete “07 04”

Article 6.05A:

- Delete “Unless otherwise provided in the Supplementary Conditions,”

Article 6.05A.3

- Modify subparagraph (a) to “the Work and all materials, supplies, machinery, apparatus, equipment, fixtures, and other property of a similar nature that are to be permanently incorporated into the Work, including Owner-furnished or assigned property; ”

Article 7.06

- Paragraph I, delete “and Engineer”
- Paragraph M, delete “and Engineer”

Article 7.07C

- Modify to “To the fullest extent permitted by Laws and Regulations, Contractor shall indemnify and hold harmless Owner and its officers, directors, members, partners, and employees from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to any infringement of patent rights or copyrights incident to the use in the performance of the Work or resulting from the incorporation in the Work of any invention, design, process, product, or device not specified in the Contract Documents.”

Article 7.10B

- Modify first sentence to “If Contractor performs any Work or takes any other action knowing or having reason to know that it is contrary to Laws or Regulations, Contractor shall bear all resulting costs and losses, and shall indemnify and hold harmless Owner and its officers, directors, members, partners, and employees from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such Work or other action.”

Article 7.17

- Paragraph D, delete this paragraph in its entirety

Article 7.18

- Paragraph A, modify to “To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and its officers, directors, members, partners, and employees, from and against all claims, costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to the performance of the Work, provided that any such claim, cost, loss, or damage is attributable to bodily injury, sickness, disease, or death, or to injury to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work or anyone for whose acts any of them may be liable.”
- Paragraph C, modify to “In any and all claims against Owner or any of its officers, directors, members, partners, or employees by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation under Paragraph 7.18.A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or

entity under workers' compensation acts, disability benefit acts, or other employee benefit acts."

Article 8.03D

- Modify to "If Contractor damages, delays, disrupts, or interferes with the work of any other contractor, or any utility owner performing other work at or adjacent to the Site, through Contractor's failure to take reasonable and customary measures to avoid such impacts, or if any claim arising out of Contractor's actions, inactions, or negligence in performance of the Work at or adjacent to the Site is made by any such other contractor or utility owner against Contractor, or Owner, then Contractor shall (1) promptly attempt to settle the claim as to all parties through negotiations with such other contractor or utility owner, or otherwise resolve the claim by arbitration or other dispute resolution proceeding or at law, and (2) indemnify and hold harmless Owner and its officers, directors, members, partners, and employees from and against any such claims, and against all costs, losses, and damages (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals and all court or arbitration or other dispute resolution costs) arising out of or relating to such damage, delay, disruption, or interference."

Article 9.01A

- Replace "shall" with "may" and delete "all"

Article 11.01A.1.b

- Modify to "Owner and Contractor may amend the terms and conditions of the Contract Documents at any time. If the terms and conditions involve (1) the performance or acceptability of the Work, (2) the design (as set forth in the Drawings, Specifications, or otherwise), or (3) other engineering or technical matters, Owner and Contractor may first obtain the recommendation of the Engineer in accordance with Paragraph 11.06. Such an amendment shall be set forth in a Change Order."

11.07

- Deleted paragraph B.

Article 12.01A

- Replace "The following" with "All"

Article 12.01B

- Delete "The party submitting the Claim shall also furnish a copy to the Engineer, for its information only."

Article 12.01C

- Delete “, with a copy to Engineer.”

Article 13.01B.1

- Modify to “Costs for employees in the direct employ of Contractor in the performance of the Work under schedules of job classifications, and at billable rates, agreed upon by Owner and Contractor. Such employees shall include, without limitation, superintendents, foremen, and other personnel employed full time on the Work. Costs for employees not employed full time on the Work shall be apportioned on the basis of their time spent on the Work. The billable rate shall include, but not be limited to, salaries and wages plus the cost of fringe benefits, which shall include social security contributions, unemployment, excise, and payroll taxes, workers’ compensation, health and retirement benefits, bonuses, sick leave, and vacation and holiday pay applicable thereto. The expenses of performing Work outside of regular working hours, on Saturday, Sunday, or legal holidays, shall be included in the billable rate.”

Article 13.01B.3

- Modify second sentence to “If required by Owner, Contractor shall obtain competitive bids from subcontractors acceptable to Owner and Contractor and shall deliver such bids and make recommendations to Owner and Engineer for their review.”

Article 13.01B.5.c

- Modify to “Rentals of all construction equipment and machinery, and the parts thereof, whether rented from Contractor or others in accordance with rental agreements approved by Owner, and the costs of transportation, loading, unloading, assembly, dismantling, and removal thereof. All construction equipment owned or rented from Contractor will be invoiced at rates provided in Contractor’s proposal. All such costs shall be in accordance with the terms of said rental agreements. The rental of any such equipment, machinery, or parts shall cease when the use thereof is no longer necessary for the Work.”

Article 13.01B.5.i

- Modify to “The costs of premiums for all of Contractor’s bonds and insurance as well as the cost of Subcontractor bonds and insurance.”

Article 13.01E

- Delete “in a form acceptable”

Article 13.02

- Add “and Contingencies” to the article title.
- Paragraph A delete “and Engineer”.

Article 14.03

- Add new paragraph G to state “G. Correction of work during the correction period will be handled in accordance with Paragraph 15.08.”

Article 14.07B

- Delete the second sentence.

Article 15.01C.6.e

- Add “material” before the word default

Article 15.01E.1.i

- Modify to “there are other items entitling Owner to a set off under this Agreement against the amount recommended.”

Article 15.06A.1.2.e

- Add “conditional” before the word “releases”

Article 16.02A

- Delete bullet 4

Article 16.02D

- Replace “seven” with “ten”

Article 17.01A

- Replace “The following” with “All”

Board of Trustees Meeting

Date: December 14, 2021
Submitted By: Nathan Ewert, Civil Engineer II
Subject: Authorize the Execution of Contracts for Larimer County Site Plan Review – Water Treatment Plant and Wastewater Treatment Plant

- **Presentation: Nathan Ewert, Civil Engineer II**

EXECUTIVE SUMMARY

Town staff requested proposals from qualified Planning & Architecture firms to prepare the documents and submittal packages required by Larimer County for the Site Plan Review process. The Site Plan Review process includes an extensive checklist of various reports, documents and plans that are required to be submitted to the County for review and approval. After reviewing three proposals Town staff is recommending a team of MTA Planning and Architecture along with Jacobs Engineering Group Inc. to prepare the required documents necessary for the County Site Plan Review for the Water Treatment Plant and the Wastewater Treatment Plant.

BACKGROUND / DISCUSSION

The Water Treatment Plant and the Wastewater Treatment Plant for the Town are located on parcels of land that are outside the Town limits within Larimer County. The location of the two treatment plants outside Town limits requires that any proposed development on those sites follow the Larimer County Land Use Code. In March of 2021 Larimer County (County) released an update to their Land Use Code. Within this update in Article 6.4.4 it specifies that Municipal Treatment Plants are required to go through the County's Location and Extent Review (L&E). Prior to the 2021 Code update municipal treatment plants were exempt from the L&E process. Town staff contacted County Planning staff to start the L&E process and also get a better understanding of its requirements. At the Pre-Application meeting County planning staff informed Town staff that the L&E process was not required as both plants were already existing, rather the two plant expansion projects would need to follow the County's Site Plan Review process.

The current Water Treatment Plant Design scope of work for Jacobs Engineering Group Inc. was signed September 11, 2020 and the Wastewater Treatment Plant Design contract was signed on December 16, 2020. As previously discussed at that time municipal treatment plants were exempt from the County Review process. Currently the Jacobs design contract does not include work specific to the Site Plan Review submittals to the County. At the Pre-Application Conference Town staff received a 26 point checklist of items that are required for the County Site Plan review. After deliberation, Town staff decided to continue through the process with the assistance of a Development Planner as the process is much more related to planning rather than engineering. Town staff requested proposals to complete the deliverables required for the Site Plan Review from three (3) planning and architecture firms as well as Jacobs Engineering Group. A total of three proposals were received from Jacobs Engineering Group Inc., MTA Planning & Architecture, and Ripley Design. The proposals were all based on the same limited scope that was provided by Town staff. Proposals were ranked based on experience with the County Planning process, and proposed fee.

Based on the proposal criteria, Town staff selected a team of MTA Architecture and Planning to handle the planning portions of the work with Jacobs Engineering Group providing the engineering support. The selected proposals are included as an attachment.

Two contracts and two contract amendments have been prepared to separate the work for each plant and each consultant. Funding for the contract and contract amendment for the Water Treatment Plant Site Plan Review will come from the plant expansion budget (G/L 211-80-4010). Funding for the contract and contract amendment for the Wastewater Treatment Plant Site Plan Review will come from the WWTP expansion budget (G/L 211-80-4061).

STAFF RECOMMENDATION

Staff recommends that the board authorize the execution of contracts for the Larimer County Site Plan Review with MTA Planning and Architecture for Water Treatment Plant and the Wastewater Treatment Plant.

- Contract: MTA Planning and Architecture - \$ 15,250.00 (G/L 211-80-4010) (WTP)
- Contract: MTA Planning and Architecture - \$ 15,250.00 (G/L 211-80-4061) (WWTP)

Staff recommends that the board authorize the execution of contract amendments for the Larimer County Site Plan Review with Jacobs Engineering Group Inc. for Water Treatment Plant and the Wastewater Treatment Plant.

- Contract Amendment (Task 12): Jacobs Engineering Group Inc. - \$ 34,550.00 (G/L 211-80-4010) (WTP)
- Contract Amendment (Task 7): Jacobs Engineering Group Inc. - \$ 32,446.00 (G/L 211-80-4061) (WWTP)

ATTACHMENTS

1. 21-INQ3577 -WTP Site Plan Review Packet_2021.10.06
2. 21-INQ3633 -WWTP Site Plan Review Packet_2021.10.06
3. Bid Evaluation
4. Wellington Contract _Larimer County Site Plan Review-WTP_MTA
5. Wellington Contract _Larimer County Site Plan Review-WWTP_MTA
6. Wellington WTP Jacobs Contract Amendment 2
7. Wellington WWTP Contract Amendment 1

SITE PLAN - SUBMITTAL REQUIREMENTS

**LARIMER COUNTY COMMUNITY DEVELOPMENT
PLANNING DEPARTMENT**

CONTACT INFO:

LARIMER.ORG/PLANNING
200 W. OAK ST., 3RD FLOOR
(970) 498-7683

SITE PLAN PROCESS



Community Development Mission:

We provide quality service to our customers and the community – residents and visitors of Larimer County. Using public and private partnerships we protect health, safety and welfare, enhance quality of life, maintain property values, find creative development solutions, and plan for the future.

1. Application Submittal & Processing (pre-application conference required)
2. Staff & Referral Agency Review - 21-day referral period after project has been assigned
3. Review & Decision - Planning Director Determination
4. Post-Decision Actions

Purpose:

The submittal requirements listed in this packet are intended to collect all information required for Larimer County staff and review agencies to fully evaluate the Site Plan proposal. Additional information may be requested from the applicant during the review process if necessary to address specific issues that may arise.

The site plan review procedure is intended to ensure compliance with the development and design standards of the Land Use Code and to encourage quality development reflective of the adopted goals and objectives of the county. The Site Plan Review procedure ensures that the county has an opportunity to mitigate potential impacts of development prior to issuance of a building permit.

Please Note: All surrounding property owners within a minimum of 500 feet of the property boundary lines will be notified of this request. Once submitted to the County, all application materials become a matter of public record.

Submittal Requirements

One Electronic Set of ALL Submittal Materials

(must be in PDF format and names as listed below)

Item	Description:	No. Paper Copies Required	Staff sign- off
1.	Application Form – must be signed by all property owners and the applicant	1	
2.	Application Fee- Current fee at time of submission	TBD	
3.	Other Associated Fees- see fee schedule for more information	n/a	
4.	Project Description – detailed description of the proposed project, include review criteria from Article 6.4.1. of the Land Use Code. Please see page 5 for Project Description requirements	1	
5.	Ownership & Encumbrance - Contact a Title Company for this information and must be current (within one year)	1	
6.	Preliminary Site Plan - See page 6 for requirements must be 24x36	1	
7.	Building Project Information Page - see attached	1	
8.	Development Construction Plans - - If property is located in a GMA, refer to of the Urban Area Street Standards in Article 4.13.2. - If property is not within an established GMA, refer to Article 4.13.1. of the Larimer County Rural Area Road Standards.	1	
9.	Draft Copies of new Deed of Dedication for new right-of-way	1 - if applicable	
Reports & Plans (see page 8)			
13.	Drainage and Erosion Control Report and Plan	1	
14.	Fire Protection Plan	1	
14.	Fugitive Dust Control Plan	1	
15.	Hazard Mitigation Plan	n/a	
16.	Hazard Material Impact Analysis	1 - if applicable	
17.	Irrigation Facilities Plan	n/a	

Note: All proposed developments must meet the requirements of Article 4, Development Standards, of the Larimer County Land Use Code.

Submittal Requirements Cont.

Item	Description:	No. Paper Copies Required	Staff sign- off
18.	Landscape Plan	1	
19.	Traffic Impact Study	1	
20.	Sewage Disposal Report (new construction only)	1	
21.	Site Lighting Photometric Plan	1	
22.	Soils	1	
23.	Wildlife Conservation Plan	n/a	
24.	Wetland Mitigation Report	1	
25.	Wildfire Mitigation Report	n/a	
26.	Water & Air Quality Report	1	

FINAL SITE DEVELOPMENT SUBMITTAL REQUIREMENTS

Item	Description:	No. Paper Copies Required	Staff sign- off
1.	Final Site Plan - 24" x 36" FOLDED	yes	
2.	Development Construction Plans- must be signed by utility providers and stamped by Engineer licensed in the State of Colorado	↓	
3.	Landscape Plan		
4.	Drainage and Erosion Control Report & Plan		
5.	Final Executed Drainage Agreement – must include recording fees		
6.	Final Executed Road Deed of Dedication or Deed of Easement		
7.	Annexation Agreement (if applicable)	n/a	
8.	Development Agreement or Development Acknowledgement	yes	

Additional Information

Appeal for On-Site Sewage Treatment Systems in the Growth Management Areas – A development in a Growth Management Area that includes a proposal to use On-Site Sewage Treatment Systems must submit an appeal as part of their application. The appeal must include the following items:

- A technical/economic analysis demonstrating that public sewer is not feasible;
- A letter from the applicable city utility or sanitation district indicating concurrence that it is not feasible to connect to public sewer;
- A letter from the applicable municipality indicating their concurrence that the development as proposed will achieve the land use pattern envisioned for this part of the Growth Management Area;
- A letter from the applicable municipality that indicates their willingness to annex the property when it becomes eligible for annexation; and
- Information demonstrating that On-Site Sewage Treatment Systems can be safely provided as anticipated in Article 4.3.5.2.

Sign Plan – a separate Sign Plan application will need to be submitted if signage is being proposed

****Please include the following stamp on each page of the Site Plan and Development Construction Plans:**

Project # _____

Reviewed By: _____
Engineering Date

Planning Date

Approved By: _____
Date

ADDITIONAL RESOURCES

1. Development Review Calendar
2. Development Review Fee Schedule
3. Neighborhood Meeting Packet
4. Transportation Capital Expansion Fee (TCEF) Informational Handout or view it online at <http://www.larimer.org/engineering/Transportation/TCEFs/TCEFs.htm>
5. Larimer County Land Use Code (view online at Larimer.org/planning)

Item# 4 Project Description

Element	Description	Include
Summary	The project description should be a written narrative.	How the proposal meets the development standards, existing conditions, and to explain any unusual or unique circumstances about the property or proposal.
Review Criteria	Written description of how this proposal meets the criteria.	Please explain how this proposed change will meet Article 6.4.1.D, number 1-5 of the Land Use code
Infrastructure	A written detailed description of the current infrastructure.	- Stormwater detention or retention ponds and easements - Existing and proposed utilities and easements
Proposed Changes	List any proposed changes or improvements.	- Size (outer dimensions and area in square feet) of all new proposed buildings - Proposed uses of all new buildings - Proposed additions/uses to existing buildings and outdoor space - Buildings being removed
Traffic & Access	A written detailed description of traffic and access information.	- Approximate sight distance at proposed access location as measured from the drivers eye entering and exiting the access point. See Larimer County Rural Area Road Standards (Chapter 4 & 10) - Spacing between the nearest existing and proposed access points on both sides of the adjacent road - Legal Access – Please Note: If the property does not gain direct access to a public right-of- way, please describe any existing easements that grant access to the property. (The applicant may be asked to demonstrate that they have the legal ability to use the existing access points and easements for the proposed use) - Surface of access (gravel, asphalt, concrete, etc.) - Include transportation worksheet (attached) that addresses anticipated traffic volumes for employees, customers, etc.
Appeals	Must be incorporated into the project description.	How the appeal will comply with the applicable review criteria (see Article 6.7.2 of the Land Use Code)
Drainage / Stormwater	A written detailed description of drainage features and patterns	List and show on an exhibit any on-site or nearby drainages, water bodies, irrigation ditches, low ponding areas - Describe if any upstream flows that flow into the site, how flows are conveyed across the site, and where the flows go when leaving the site
Operation	A detailed written description of the operating plan.	- Hours and days of operation - Number of employees and/or subcontractors arriving/leaving the site each day - Number of clients/customers arriving/leaving the site each day - Total square footage of buildings used - Number of residences - Any outdoor display or storage areas proposed - Special events outside normal operations

Item# 6 Preliminary Site Plan

The following information should be included if applicable		
1.	Drawing Title and Project Name	Johnson's Special Review, File Number 21-ZONE0000
2.	Applicant Information	Name, Address, Phone Number
3.	Owner Information	Name, Address, Phone Number
4.	North Arrow and Scale	
5.	Site Data	- Gross and net square footage of the lot/parcel - Square footage of new structure(s) or addition(s) - Square footage of existing structure(s) - Proposed number and type of use(s) - Number of parking spaces required and provided for - handicapped - regular - Distance between property lines and all existing and proposed buildings & structures - Project boundary annotated with distances - Setbacks (building, parking and etc.) – See Article 4.1, 4.9. - Off-site property information
6.	Locate and label existing and proposed locations of:	- Buildings on and adjacent to the subject site - Structures (i.e. retaining walls, drainage structures, signs, etc.) - Outdoor use areas - Parking Areas - Trailer parking/storage with dimensions - Vehicular access and drives including widths - Loading and delivery areas - Storage areas with dimensions - Fences - Outdoor lighting - Fire hydrants - Trash receptacle location and any screening - Floodways and/or floodplains - Drainage features (e.g. detention ponds, swales, etc.) - Location and name of any water courses, ditches or wetlands - Location of utilities (gas, elec., water, sewer, well and/or septic system, etc.) - Landscape areas (without landscaping detail) - Existing and proposed access points adjacent roadway names and existing right-of-way
7.	Engineering Items	- Current and proposed width, name, type, and location of adjacent rights-of-way and easements - Vehicular access - Emergency vehicular access - Proposed road right-of-way dedications- See Article 5.3.1. Proposed right-of-way must meet currently adopted roadway classifications.

Special Proposed Uses

The following information is required if you are proposing one of the following uses

Mining Operation (includes sand & gravel extraction, quarries, and all other mining activities)	• Location and type of all equipment and operations on site Type and weight of all trucks, frequency of trips to the site, and expected travel route • Impact of the trucks on existing traffic in the area (a detailed traffic impact study may be required) • All application materials submitted to the State Mined Land Reclamation Board, including detailed mining and reclamation plans • Plans for disposal/storage of overburden, waste materials, or rubble Frequency of blasting • Identify the names and addresses of any residences within 1,000 feet of the mine or excavation • Proposed time schedule for mining and reclamation • Plans for minimizing dust, noise pollution and water Explanation of any associated processing that will occur (e.g. batch plants, washing, crushing, screening, etc.) • Hydraulic modeling report • Ground water modeling report
Kennel or Stable (includes breeding, training, boarding, and riding academies)	• Number and type of animals to be on site • Associated facilities or services on the site (e.g. grooming, vet service, riding lessons, training, riding shows, etc.) • Plans for minimizing potential noise pollution • Plans for minimizing impacts of dust, flies, outdoor lighting • Plan for kennel/stable/arena maintenance, and disposal of animal wastes • Expected traffic • Impact of the kennel/stable (number and frequency of vehicles to the site, impact on local existing traffic patterns, etc)
Campground or Mobile Home Park (includes recreational vehicle parks)	• Describe the proposed water and sewer systems • Describe the proposed construction of all roads • Describe all accessory uses and structures (recreation areas, clubhouse, vehicle storage, carports, etc.) • Fire protection facilities available (fire hydrants, reservoirs, etc.)

Reports & Plans

Traffic Impact Memo	See Article 4.3.3. of the Land Use Code. A report prepared by a professional engineer to analyze the short and long term impacts of vehicular traffic associated with new development and identification of any improvements necessary to mitigate the impacts. • If property is within an established Growth Management Area (GMA), refer to Urban Area Street Standards, Chapter 4. • If property is not within an established Growth Management Area (GMA), refer to the Larimer Rural Area Road Standards.
Drainage and Erosion Report and Plan (new site improvements)	A report prepared by a professional engineer that analyzes stormwater and water quality impacts associated with new development. Include a hydrologic analysis for peak flow rates of storm water entering, passing through, and leaving the site for the minor and major storm events. Refer to the Stormwater Design Standards for submittal requirements. See Article 4.3.4
Sewage Disposal Report (new construction only)	• If public sewer: A letter from the Sanitation District committing to provide such service consistent with Article 4.3.5 of the Land Use Code shall be provided • If on-site sewage disposal: A description on how sewage treatment will be provided including a narrative and site drawing. See Article 4.3.5.2
Fire Protection Plan	A written description addressing Section 4.3.6.G and water supply for proposed fire protection and a letter from the water district indicating water system flows and pressures
Water Supply Report	A letter from the Water District committing to provide such service consistent with Article 4.3.7. of the Land Use Code shall be provided.
Wetland Mitigation Report	See Article 4.4.2. of the Land Use Code.
Hazard Mitigation Plan	See Article 4.4.3 of the Land Use Code.
Hazard Materials Impact Analysis	A written description answering the following questions: • What hazardous materials will be brought to the site? • What are the likely scenarios for a release of hazardous materials? • What will be done to keep the release from being a community risk?
Wildfire Mitigation Report	See Article 4.4.3.M.
Wildlife Conservation Plan	See Article 4.4.4. of the Land Use Code.
Landscape Plan	See Article 4.7.2.C. and refer to the Landscaping Guide
Irrigation Facilities Plan	See Article 4.7.8.
Site Lighting Photometric Plan	See Article 4.10. of the Land Use Code.
Soils Report	A report prepared by a professional engineer to analyze soils and groundwater conditions for the design of individual on-site sewage disposal and pavement design for on-site and off-site improvements. • If property is within an established GMA, refer to Chapters 5 and 10 of the Urban Area Street Standards. • If property is not within an established GMA, Refer to Chapter 5 of the Larimer County Rural Area Road Standards.
Water & Air Quality	See Articles 4.12. & 4.11. of the Land Use Code. Please explain how water & air quality will be maintained during construction.
Fugitive Dust Control Plan	See Article 4.11.5. of the Land Use Code
Manure & Pasture Management Plan	A written description of how manure and pastures will be managed to prevent odor, water quality, soil quality, ground cover and animal & human health issues.

SITE PLAN PROCESS



Larimer County Non-Subdivision Water Supply Inquiry (for land development applications which do not create a new parcel or lot)

Date: _____

Property Address: _____ City: _____

Parcel Number(s): _____

Legal Description (including Section, Township and Range): _____

Property Owner Name: _____ Phone #: _____

Property Owner Address: _____ City: _____ Zip: _____

Contact Person: _____ Phone: _____

Contact Person Address: _____ City: _____

Zip: _____

Proposed Land Use Description: (Please circle one):

Agricultural; Business, Commercial, Equestrian, Lodging, Public Use or Other (if other, please explain)

Type of Business (include the type of business, hours/days of operation, area irrigated and # of people served):

Proposed Source of Water Supply: _____ Estimated Water Use (gallons per day): _____

If on a Well:

How well water will be used: _____ Current Well Permit #: _____

Permitted Use: If Well Permit # unknown, please list owners names (past and present). (Locating the current well permit # is strongly encouraged): _____

of Users of the Well: _____ Sewage Disposal System: Existing: _____ Proposed: _____

If the applicant would like to have an initial evaluation from the State Engineer regarding the well and use, please send this information to:

State of Colorado, Office of the State Engineer Attn: Sarah Brucker

1313 Sherman Street Room 821

Denver CO 80203

Phone: 303-866-3581

Fax: 303-866-3589

PROPOSED BUILDING PROJECT INFORMATION SHEET

For Commercial & Multi-family only

Occupancy Classification of Proposed Structure: (Per International Building Code.)
{Check all that apply and list approximate square footage of each Occupancy Classification.}

	Occupancy	Sq. Ft.
A – (Assembly Occupancy, such as; Church or Restaurant)	_____	_____
B – (Business Occupancy, such as; Offices, Banks)	_____	_____
E – (Educational Occupancy, such as; Schools)	_____	_____
F – (Factory Occupancy, such as Manufacturing)	_____	_____
H – (Hazardous Occupancy, such as Hazardous Materials Manufacturing & Storage)	_____	_____
I – (Institutional Occupancy, such as Hospitals, Jails)	_____	_____
M – (Mercantile Occupancies, such as Retail Stores)	_____	_____
R – (Residential Occupancies, such as Hotels, Apartments)	_____	_____
S – (Storage Occupancies, such as Warehouses)	_____	_____
U – (Utility Occupancies, such as Private Garages, Barns)	_____	_____

Proposed Type of Construction for your Proposed Structure (Check one)

- Type I – Noncombustible _____
- Type II – Noncombustible _____
- Type III – Noncom. Exterior walls _____
- Type IV – Heavy Timber _____
- Type V – Combustible _____

Number of Stories for your proposed structure: _____ (1, 2, 3, etc..)

Other Information about you proposed structure: (Circle one, please)

Will the structure be fully sprinkled? Yes or No

Will the structure be 1-hour fire rated or of Fire Resistive Construction? Yes or No

Please attach this form to the Site Plan for your project.

sg/92006



LAND USE APPLICATION

Applicant Information		
Applicant Name:		
Applicant Company:		
Address:		
City:	State:	ZIP Code:
Telephone:		Email Address (required):
Property Owner Information		
Property Owner Name:		
Property Owner Address:		
City:	State:	ZIP Code:
Telephone:		Email Address (required):
Property Owner Information		
Property Owner Name:		
Property Owner Address:		
City:	State:	ZIP Code:
Telephone:		Email Address (required):
Engineer/Surveyor Information (please list which profession)		
Name:		
Company:		
Address:		
City:	State:	ZIP Code:
Telephone:		Email Address (required):
Assessor's Parcel Number(s): _____		
SIGNATURES REQUIRED BY ALL PROPERTY OWNERS AND THE APPLICANT		
I hereby certify that I am the lawful owner of the parcel(s) of land that this application concerns and consent to the action. I hereby permit county officials to enter upon the property for the purposes of inspection relating to the application. Building Permits <u>will not be processed</u> while this application is in process.		
_____ Property Owner(s) Printed Name	Date: _____	
_____ Property Owner(s) Signature	Date: _____	
_____ Property Owner(s) Printed Name	Date: _____	
_____ Property Owner(s) Signature	Date: _____	
In submitting the application materials and signing this application agreement, I acknowledge and agree that the application is subject to the applicable processing and public hearing requirements set forth in the Larimer County Land Use Code (which can be viewed at larimer.org)		
_____ Applicant Signature	Date: _____	

→ THIS SECTION IS FOR PLANNING STAFF TO COMPLETE ←
AT THE PRE-APPLICATION CONFERENCE

PROJECT SITE INFORMATION

Project Case Number: 21-INQ3577

Project Address (if available): 10691 N. CR 11
Wellington, CO

Assessor's Parcel Numbers (list all parcels that pertain to the project): #8919000916

Pre-Application Conference Date: 10/06/21 Planner: Tawn Hillenbrand

Pre-Application Conference attended by: Nathan Ewert

Proposed Request: Site Plan Review approval for the wastewater treatment plant expansion.

Plan Area (if applicable): n/a

Lot Size(s):

Related Files: n/a

Setback Information:

Zoning Setbacks: Front: 25'; Side: 25'; Rear: 25'

Highway or County Road Setback(s): CR 11 - 70' from the ROW centerline

Streams, Creeks or Rivers Setback(s): 100' from the centerline of the watercourse

Other Setbacks: wetlands - 50' or 100' buffer Building Envelope? no

Utilities: Water: well Sewer: septic Fire: Wellington Fire

Current Zoning: O - Open Flood Zone: n/a

Any Additional Information: GIS mapping indicates that wetlands exist on site. Refer to Article 4.4.2

Development Review Process: _____ Application Phase: _____

SITE PLAN - SUBMITTAL REQUIREMENTS

**LARIMER COUNTY COMMUNITY DEVELOPMENT
PLANNING DEPARTMENT**

CONTACT INFO:

LARIMER.ORG/PLANNING
200 W. OAK ST., 3RD FLOOR
(970) 498-7683

SITE PLAN PROCESS



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9.	Draft Copies of new Deed of Dedication for new right-of-way	n/a	
Reports & Plans (see page 8)			
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14.	Fire Protection Plan	1	
14.	Fugitive Dust Control Plan	1	
15.	Hazard Mitigation Plan	n/a	
16.	Hazard Material Impact Analysis	1- if applicable	
17.	Irrigation Facilities Plan	n/a	

Note: All proposed developments must meet the requirements of Article 4, Development Standards, of the Larimer County Land Use Code.

Submittal Requirements Cont.

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Sign Plan – a separate Sign Plan application will need to be submitted if signage is being proposed

****Please include the following stamp on each page of the Site Plan and Development Construction Plans:**

Project # _____

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Engineering Date

Planning Date

Approved By: _____
Date

ADDITIONAL RESOURCES

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Traffic & Access	A written detailed description of traffic and access information.	- Approximate sight distance at proposed access location as measured from the drivers eye entering and exiting the access point. See Larimer County Rural Area Road Standards (Chapter 4 & 10) - Spacing between the nearest existing and proposed access points on both sides of the adjacent road - Legal Access – Please Note: If the property does not gain direct access to a public right-of- way, please describe any existing easements that grant access to the property. (The applicant may be asked to demonstrate that they have the legal ability to use the existing access points and easements for the proposed use) - Surface of access (gravel, asphalt, concrete, etc.) - Include transportation worksheet (attached) that addresses anticipated traffic volumes for employees, customers, etc.
Appeals	Must be incorporated into the project description.	How the appeal will comply with the applicable review criteria (see Article 6.7.2 of the Land Use Code)
Drainage / Stormwater	A written detailed description of drainage features and patterns	List and show on an exhibit any on-site or nearby drainages, water bodies, irrigation ditches, low ponding areas - Describe if any upstream flows that flow into the site, how flows are conveyed across the site, and where the flows go when leaving the site
Operation	A detailed written description of the operating plan.	- Hours and days of operation - Number of employees and/or subcontractors arriving/leaving the site each day - Number of clients/customers arriving/leaving the site each day - Total square footage of buildings used - Number of residences - Any outdoor display or storage areas proposed - Special events outside normal operations

Item# 6 Preliminary Site Plan

The following information should be included if applicable		
1.	Drawing Title and Project Name	Johnson's Special Review, File Number 21-ZONE0000
2.	Applicant Information	Name, Address, Phone Number
3.	Owner Information	Name, Address, Phone Number
4.	North Arrow and Scale	
5.	Site Data	- Gross and net square footage of the lot/parcel - Square footage of new structure(s) or addition(s) - Square footage of existing structure(s) - Proposed number and type of use(s) - Number of parking spaces required and provided for - handicapped - regular - Distance between property lines and all existing and proposed buildings & structures - Project boundary annotated with distances - Setbacks (building, parking and etc.) – See Article 4.1, 4.9. - Off-site property information
6.	Locate and label existing and proposed locations of:	- Buildings on and adjacent to the subject site - Structures (i.e. retaining walls, drainage structures, signs, etc.) - Outdoor use areas - Parking Areas - Trailer parking/storage with dimensions - Vehicular access and drives including widths - Loading and delivery areas - Storage areas with dimensions - Fences - Outdoor lighting - Fire hydrants - Trash receptacle location and any screening - Floodways and/or floodplains - Drainage features (e.g. detention ponds, swales, etc.) - Location and name of any water courses, ditches or wetlands - Location of utilities (gas, elec., water, sewer, well and/or septic system, etc.) - Landscape areas (without landscaping detail) - Existing and proposed access points adjacent roadway names and existing right-of-way
7.	Engineering Items	- Current and proposed width, name, type, and location of adjacent rights-of-way and easements - Vehicular access - Emergency vehicular access - Proposed road right-of-way dedications- See Article 5.3.1. Proposed right-of-way must meet currently adopted roadway classifications.

Special Proposed Uses

The following information is required if you are proposing one of the following uses

Mining Operation (includes sand & gravel extraction, quarries, and all other mining activities)	• Location and type of all equipment and operations on site Type and weight of all trucks, frequency of trips to the site, and expected travel route • Impact of the trucks on existing traffic in the area (a detailed traffic impact study may be required) • All application materials submitted to the State Mined Land Reclamation Board, including detailed mining and reclamation plans • Plans for disposal/storage of overburden, waste materials, or rubble Frequency of blasting • Identify the names and addresses of any residences within 1,000 feet of the mine or excavation • Proposed time schedule for mining and reclamation • Plans for minimizing dust, noise pollution and water Explanation of any associated processing that will occur (e.g. batch plants, washing, crushing, screening, etc.) • Hydraulic modeling report • Ground water modeling report
Kennel or Stable (includes breeding, training, boarding, and riding academies)	• Number and type of animals to be on site • Associated facilities or services on the site (e.g. grooming, vet service, riding lessons, training, riding shows, etc.) • Plans for minimizing potential noise pollution • Plans for minimizing impacts of dust, flies, outdoor lighting • Plan for kennel/stable/arena maintenance, and disposal of animal wastes • Expected traffic • Impact of the kennel/stable (number and frequency of vehicles to the site, impact on local existing traffic patterns, etc)
Campground or Mobile Home Park (includes recreational vehicle parks)	• Describe the proposed water and sewer systems • Describe the proposed construction of all roads • Describe all accessory uses and structures (recreation areas, clubhouse, vehicle storage, carports, etc.) • Fire protection facilities available (fire hydrants, reservoirs, etc.)

Reports & Plans

Traffic Impact Memo	See Article 4.3.3. of the Land Use Code. A report prepared by a professional engineer to analyze the short and long term impacts of vehicular traffic associated with new development and identification of any improvements necessary to mitigate the impacts. • If property is within an established Growth Management Area (GMA), refer to Urban Area Street Standards, Chapter 4. • If property is not within an established Growth Management Area (GMA), refer to the Larimer Rural Area Road Standards.
Drainage and Erosion Report and Plan (new site improvements)	A report prepared by a professional engineer that analyzes stormwater and water quality impacts associated with new development. Include a hydrologic analysis for peak flow rates of storm water entering, passing through, and leaving the site for the minor and major storm events. Refer to the Stormwater Design Standards for submittal requirements. See Article 4.3.4
Sewage Disposal Report (new construction only)	• If public sewer: A letter from the Sanitation District committing to provide such service consistent with Article 4.3.5 of the Land Use Code shall be provided • If on-site sewage disposal: A description on how sewage treatment will be provided including a narrative and site drawing. See Article 4.3.5.2
Fire Protection Plan	A written description addressing Section 4.3.6.G and water supply for proposed fire protection and a letter from the water district indicating water system flows and pressures
Water Supply Report	A letter from the Water District committing to provide such service consistent with Article 4.3.7. of the Land Use Code shall be provided.
Wetland Mitigation Report	See Article 4.4.2. of the Land Use Code.
Hazard Mitigation Plan	See Article 4.4.3 of the Land Use Code.
Hazard Materials Impact Analysis	A written description answering the following questions: • What hazardous materials will be brought to the site? • What are the likely scenarios for a release of hazardous materials? • What will be done to keep the release from being a community risk?
Wildfire Mitigation Report	See Article 4.4.3.M.
Wildlife Conservation Plan	See Article 4.4.4. of the Land Use Code.
Landscape Plan	See Article 4.7.2.C. and refer to the Landscaping Guide
Irrigation Facilities Plan	See Article 4.7.8.
Site Lighting Photometric Plan	See Article 4.10. of the Land Use Code.
Soils Report	A report prepared by a professional engineer to analyze soils and groundwater conditions for the design of individual on-site sewage disposal and pavement design for on-site and off-site improvements. • If property is within an established GMA, refer to Chapters 5 and 10 of the Urban Area Street Standards. • If property is not within an established GMA, Refer to Chapter 5 of the Larimer County Rural Area Road Standards.
Water & Air Quality	See Articles 4.12. & 4.11. of the Land Use Code. Please explain how water & air quality will be maintained during construction.
Fugitive Dust Control Plan	See Article 4.11.5. of the Land Use Code
Manure & Pasture Management Plan	A written description of how manure and pastures will be managed to prevent odor, water quality, soil quality, ground cover and animal & human health issues.

SITE PLAN PROCESS



Larimer County Non-Subdivision Water Supply Inquiry (for land development applications which do not create a new parcel or lot)

Date: _____

Property Address: _____ City: _____

Parcel Number(s): _____

Legal Description (including Section, Township and Range): _____

Property Owner Name: _____ Phone #: _____

Property Owner Address: _____ City: _____ Zip: _____

Contact Person: _____ Phone: _____

Contact Person Address: _____ City: _____

Zip: _____

Proposed Land Use Description: (Please circle one):

Agricultural; Business, Commercial, Equestrian, Lodging, Public Use or Other (if other, please explain)

Type of Business (include the type of business, hours/days of operation, area irrigated and # of people served):

Proposed Source of Water Supply: _____ Estimated Water Use (gallons per day): _____

If on a Well:

How well water will be used: _____ Current Well Permit #: _____

Permitted Use: If Well Permit # unknown, please list owners names (past and present). (Locating the current well permit # is strongly encouraged): _____

of Users of the Well: _____ Sewage Disposal System: Existing: _____ Proposed: _____

If the applicant would like to have an initial evaluation from the State Engineer regarding the well and use, please send this information to:

State of Colorado, Office of the State Engineer Attn: Sarah Brucker

1313 Sherman Street Room 821

Denver CO 80203

Phone: 303-866-3581

Fax: 303-866-3589

PROPOSED BUILDING PROJECT INFORMATION SHEET

For Commercial & Multi-family only

Occupancy Classification of Proposed Structure: (Per International Building Code.)
{Check all that apply and list approximate square footage of each Occupancy Classification.}

	Occupancy	Sq. Ft.
A – (Assembly Occupancy, such as; Church or Restaurant)	_____	_____
B – (Business Occupancy, such as; Offices, Banks)	_____	_____
E – (Educational Occupancy, such as; Schools)	_____	_____
F – (Factory Occupancy, such as Manufacturing)	_____	_____
H – (Hazardous Occupancy, such as Hazardous Materials Manufacturing & Storage)	_____	_____
I – (Institutional Occupancy, such as Hospitals, Jails)	_____	_____
M – (Mercantile Occupancies, such as Retail Stores)	_____	_____
R – (Residential Occupancies, such as Hotels, Apartments)	_____	_____
S – (Storage Occupancies, such as Warehouses)	_____	_____
U – (Utility Occupancies, such as Private Garages, Barns)	_____	_____

Proposed Type of Construction for your Proposed Structure (Check one)

- Type I – Noncombustible _____
- Type II – Noncombustible _____
- Type III – Noncom. Exterior walls _____
- Type IV – Heavy Timber _____
- Type V – Combustible _____

Number of Stories for your proposed structure: _____ (1, 2, 3, etc..)

Other Information about you proposed structure: (Circle one, please)

Will the structure be fully sprinkled? Yes or No

Will the structure be 1-hour fire rated or of Fire Resistive Construction? Yes or No

Please attach this form to the Site Plan for your project.

sg/92006



LAND USE APPLICATION

Applicant Information

Applicant Name:

Applicant Company:

Address:

City:

State:

ZIP Code:

Telephone:

Email Address (required):

Property Owner Information

Property Owner Name:

Property Owner Address:

City:

State:

ZIP Code:

Telephone:

Email Address (required):

Property Owner Information

Property Owner Name:

Property Owner Address:

City:

State:

ZIP Code:

Telephone:

Email Address (required):

Engineer/Surveyor Information (please list which profession)

Name:

Company:

Address:

City:

State:

ZIP Code:

Telephone:

Email Address (required):

Assessor's Parcel Number(s): _____

SIGNATURES REQUIRED BY ALL PROPERTY OWNERS AND THE APPLICANT

I hereby certify that I am the lawful owner of the parcel(s) of land that this application concerns and consent to the action. I hereby permit county officials to enter upon the property for the purposes of inspection relating to the application. Building Permits will not be processed while this application is in process.

Property Owner(s) Printed Name

Date: _____

Property Owner(s) Signature

Date: _____

Property Owner(s) Printed Name

Date: _____

Property Owner(s) Signature

Date: _____

In submitting the application materials and signing this application agreement, I acknowledge and agree that the application is subject to the applicable processing and public hearing requirements set forth in the Larimer County Land Use Code (which can be viewed at larimer.org)

Applicant Signature

Date: _____

→ THIS SECTION IS FOR PLANNING STAFF TO COMPLETE ←
AT THE PRE-APPLICATION CONFERENCE

PROJECT SITE INFORMATION

Project Case Number: 21-INQ3633

Project Address (if available): 6172 NE Frontage Rd.
Wellington, CO

Assessor's Parcel Numbers (list all parcels that pertain to the project): #9910208903

Pre-Application Conference Date: 10/06/21 Planner: Tawn Hillenbrand

Pre-Application Conference attended by: Nathan Ewert

Proposed Request: Site Plan Review approval for a water reclamation facility expansion and improvements.

Plan Area (if applicable): n/a

Lot Size(s): 15 acres

Related Files: n/a

Setback Information:

Zoning Setbacks: Front: 25'; Side: 25'; Rear: 25'

Highway or County Road Setback(s): n/a

Streams, Creeks or Rivers Setback(s): 100' from the centerline of the watercourse

Other Setbacks: wetlands - 50' or 100' buffer Building Envelope? no

Utilities: Water: well Sewer: septic Fire: Wellington Fire

Current Zoning: O - Open Flood Zone: yes; see note below

Any Additional Information: - GIS mapping indicates that wetlands exist on site. Refer to Article 4.4.2
- Floodplain staff are currently working with the Town and project engineer on this WWTP expansion.

Development Review Process: _____ Application Phase: _____

Larimer County Site Plan Review
Wastewater Treatment Plant - County Site Plan Review
(Planning only)

			Scoring Criteria (1-5)		Overall
Company	Bid	Additional	Experience	Price	
Jacobs Engineering Inc.	\$59,598.00	N/A	2	1	3
MTA Planning and Architecture	\$15,295.00	Wetlands Delineation Cost	4	5	9
Ripley Design	\$20,500.00	\$4500 Irrigation Design Fee	4	3	7

WaterTreatment Plant - County Site Plan Review
(Planning only)

			Scoring Criteria (1-5)		Overall
Company	Bid	Additional	Experience	Price	
Jacobs Engineering Inc.	\$59,598.00	N/A	2	1	3
MTA Planning and Architecture	\$15,295.00	Wetlands Delineation Cost	4	5	9
Ripley Design	\$20,500.00	\$4500 Irrigation Design Fee	4	3	7

Note: Scoring based on 1 (low) - 5 (high)



Town of Wellington
3735 Cleveland Avenue
P.O. Box 127
Wellington, CO 80549
PUBLIC WORKS (970) 568-0447
TOWN HALL (970) 568-3381

Larimer County Site Plan Review – Water Treatment Plant

CONSULTANT CONTRACT FOR SERVICES, GL No. 211-80-4010

Parties: The parties to this Contract are the Town of Wellington, 3735 Cleveland Avenue, Wellington, Colorado 80549 (Town) and MTA Planning & Architecture, 108 Rutgers Avenue, Fort Collins CO 80525 (Consultant).

Purpose of Contract: The purpose of this Contract is for the Town of Wellington to retain the services of the Consultant to render certain technical or professional services hereinafter described.

Term of Contract and Required Approvals: This Contract is effective when all parties have executed it (Effective Date). The term of the Contract is from the Effective Date through August 31, 2022. All services shall be completed during this term.

If the Consultant has been delayed and as a result will be unable to complete performance fully and satisfactorily within this Contract period, the Consultant may be granted an extension of time upon submission of evidence of the causes of delay satisfactory to the Town.

Responsibilities of the Consultant:

Scope of Services: The Consultant shall perform the specific services required under this Contract in a satisfactory and proper manner as outlined in Attachment A. The standard of care for the Consultant under this Contract will be the care and skill ordinarily used by members of the Consultant's profession providing similar services for projects of similar size, location, scope, and complexity to this project.

The scope of services shall be as defined within the Consultant's proposal and any further stipulation of the terms specified in Attachment A.

Personnel: All services required hereunder will be performed by the Consultant or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized, licensed, or permitted under state law to perform such services if state law requires such authorization, license, or permit.

Records Administration: The Consultant shall maintain or supervise the maintenance of all records necessary to properly account for the payments made to the Consultant for costs authorized by this Contract. The Consultant shall be responsible and responsive to the Town in its requests and requirements related to the scope of this Contract. The Consultant shall select and analyze all data in a systematic and meaningful manner to contribute directly in meeting the objectives of the project and shall present this information clearly and concisely in a professional and workmanlike manner.

Reports, Maps, Plans, Models and Documents: A minimum of one (1) copy of maps, plans, worksheets, logs, field notes or other documents prepared under this Contract as relevant to this project shall be submitted to the Town. The Consultant shall also submit any computer program or spreadsheet developed as a part of this project. Digital media shall be labeled to provide sufficient detail to access the information on the media. Any user manuals shall be submitted to the Town with complete documentation of computer programs developed under this Contract. The user manual shall also specify the source code language and the type of computer equipment necessary to operate the program(s).

Subcontracts:

(i) Approval Required for Subcontracts: Any subcontractors required by the Consultant in connection with the services, work performed or rendered under this Contract will be limited to such individuals or firms as were specifically identified in the proposal and agreed to during negotiations or are specifically authorized by the Town during the performance of this Contract. During the performance of the Contract, substitutions in or additions to such subcontracts will be subject to the prior approval by the Town. The Consultant shall be responsible for the actions of the subcontractors.

(ii) Billing for Subcontracts: Billings for subcontractor services shall include any mark up as set forth in Attachment A. Subcontract costs shall be documented by attaching subcontractor billings to the Consultant's billing submittals.

Responsibilities of the Town:

Data to be Furnished: All information, data, drawings, reports, maps, etc. as are available to the Town and necessary for the carrying out of the scope of services shall be furnished to the Consultant without charge, and the Town shall cooperate with the Consultant in the carrying out of the project.

Report Reviews and Criteria: The Town shall examine all studies, reports, sketches, drawings, opinions of costs, and other documents presented by the Consultant and shall promptly render the Town's decisions pertaining thereto. The Town shall provide all criteria and full information regarding its requirements for the project.

General Provisions:

Amendments: Any changes, modifications, revisions, or amendments to this Contract which are mutually agreed upon by the parties to this Contract shall be incorporated by written instrument executed by all parties to this Contract.

Assignment Prohibited and Contract Shall Not Be Used as Collateral: Neither party shall assign or otherwise transfer any of the rights or delegate any of the duties set out in this Contract without the prior written consent of the other party. The Consultant shall not use this Contract, or any portion thereof, for collateral for any financial obligation.

Audit and Access to Records: The Town shall have access to any books, documents, papers, electronic data, and records of the Consultant which are pertinent to this Contract. The Consultant shall immediately, upon receiving written instruction from the Town, provide to any independent auditor or accountant all books, documents, papers, electronic data, and records of the Consultant which are pertinent to this Contract.

Authority: Provisions of this Contract are pursuant to the authority set forth in the Town of Wellington Municipal Code. Mandatory applicable state and federal regulations also apply.

Compliance with Laws: The Consultant shall keep informed of and comply with all applicable federal, state, and local laws and regulations in the performance of this Contract.

Confidentiality: Each party shall retain as confidential all information and data furnished to it by the other party which are designated in writing by such other party as confidential at the time of transmission and are obtained or acquired by the receiving party in connection with this Contract, and said parties shall not reveal such information to any third party. However, nothing herein is meant to preclude either disclosing and/or otherwise using confidential information (i) when the confidential information is actually known to the receiving party before being obtained or derived from the transmitting party; or (ii) when confidential information is generally available to the public without the receiving party's fault at any time before or after it is acquired from the transmitting party; or (iii) where the confidential information is obtained or acquired in good faith at any time by the receiving party from a third party who has the same in good faith and who is not under any obligation to the transmitting party in respect thereof; or (iv) is required by law or court order to be disclosed.

Conflicts of Interest: The Consultant stipulates that none of its officers or employees are officers or employees of the Town of Wellington unless disclosure has been made in accordance with Town ordinances and policies. Furthermore, the Consultant certifies that it has not offered or given any gift or compensation prohibited by local, state, or federal law, to any officer or employee of the Town of Wellington to secure favorable treatment with respect to being awarded this Contract. The Consultant shall not engage in providing consultation or representation of clients, agencies or firms which may constitute a conflict of interest which results in a disadvantage to the Town or a disclosure which would adversely affect the interests of the Town. The Consultant shall notify the Town of any potential or actual conflicts of interest arising during this Contract. This Contract may be terminated in the event a conflict of interest arises. Termination of the Contract will be subject to a mutual settlement of accounts. In the event the Contract is terminated under this provision, the Consultant shall take steps to ensure that the file, evidence, evaluation and data are provided to the Town or its designee. This does not prohibit or affect the Consultant's ability to engage in consultations, evaluations or representation under agreement with other agencies, firms, facilities, or attorneys so long as no conflict exists. A conflict of interest warranting termination of this Contract may include, but is not necessarily limited to, acting

on behalf of a client in an adversarial proceeding against the Town or initiating suits in equity including injunctions, declaratory judgments, writs of prohibition, or quo warranto.

Contract Jurisdiction, Choice of Law, and Venue: The provisions of the Contract shall be governed by the laws of the State of Colorado. The parties will submit to the jurisdiction of the courts of the State of Colorado. Venue shall be Larimer County, Colorado.

Contract Renegotiation, Modifications and Award of Related Contracts: This Contract may be amended, modified, or supplemented only by written amendment to the Contract, executed by the parties hereto, and attached to the original signed copy of the Contract. The Town may undertake or award supplemental or successor contracts for work related to this Contract or may award contracts to other contractors for work related to this Contract. The Consultant shall cooperate fully with other contractors and the Town in all such cases. The Town, at its sole discretion and through duly authorized contract amendments, may request the Consultant to complete additional phases beyond the scope of services included in this Contract.

Disbarment: The Consultant certifies that neither it nor its principals are presently disbarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from participation in this transaction (Contract) by any governmental department or agency. If the Consultant cannot certify this statement, a written explanation for review by the Town shall be provided.

Entirety of Contract: This Contract, consisting of twelve (12) pages inclusive of Attachment A, represents the entire and integrated Contract between the parties and supersede all prior negotiations, representations, and agreements, whether written or oral. In the event of a conflict or inconsistency between the language of this Contract and the language of any attachment or document incorporated by reference, the language of this Contract shall control.

Equal Opportunity Clause: The Consultant agrees to abide by the provisions under Title VI and VII of the Civil Rights Act of 1964 (42USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on a basis of race, religion, color, or national origin. This includes abiding to Executive Order 11246 which prohibits discrimination on the basis of sex, and 45 CFR which prohibits discrimination on the basis of age, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of a disability.

Force Majeure: Neither party shall be liable for failure to perform under this Contract if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event and takes all reasonable steps to minimize delays.

Indemnification: The Consultant agrees to indemnify, save harmless, and release the Town of Wellington and all of its officers, agents, volunteers, and employees from and against any and all loss, damage, injury, liability, suits, and proceedings arising out of the performance of this Contract to the extent caused by the negligence of the Consultant's

officers, agents, volunteers, or employees, but not for claims from the Town's negligence.

Independent Contractor: The Consultant shall function as an independent contractor for the purposes of this Contract and shall not be considered an employee of the Town for any purpose and as such, have no authorization, express or implied to by the Town of Wellington, to any agreements, settlements, liability or understanding whatsoever, and agrees not to perform any acts as an agent for the Town except as expressly set forth herein. The Consultant shall be responsible for the payment of all income tax and social security amounts due because of payments received from the Town. Persons employed by the Town and acting under the direction of the Town shall not be deemed to be employees or agents of the Consultant. Nothing in this Contract shall be interpreted as authorizing the Consultant or its agents or employees to act as an agent or representative or to incur any obligation of any kind for or on behalf of the Town. The Consultant agrees that no health or hospitalization benefits, workers' compensation, unemployment insurance, or similar benefits available to Town employees will inure to the benefit of the Consultant or the Consultant's agents or employees because of this Contract.

Insurance Coverage: The Consultant shall not commence work under this Contract until it has obtained all the insurance required by the Town. The Consultant shall obtain and maintain the following insurance in accordance with the Insurance Requirements set forth below and shall provide the Town with proofs of these insurance upon request:

(i) Automobile Liability Insurance: The Consultant shall maintain automobile liability insurance covering any auto (including owned, hired, and non-owned) with minimum limits of \$1,000,000 each accident combined single limit.

(ii) Commercial, General Liability Insurance: The Consultant shall maintain commercial general liability insurance (CGL) coverage, occurrence form, covering liability claims for bodily injury and property damage arising out of premises, operations, products and completed operations, and personal and advertising injury, with minimum limits as stated below. The CGL policy shall include coverage for Explosion, Collapse and Underground property damage. This coverage may not be excluded by endorsement.

- (a) \$1,000,000 each occurrence;
- (b) \$1,000,000 personal injury and advertising injury;
- (c) \$2,000,000 general aggregate; and
- (d) \$2,000,000 products and completed operations.

(iii) Professional Liability or Errors and Omissions Liability Insurance: The Consultant shall maintain professional liability insurance or errors and omissions liability insurance protecting against any and all claims arising from the Consultant's alleged or real professional errors, omissions, or mistakes in the performance of professional duties under this Contract, with minimum limits as stated below.

- (a) \$1,000,000 each claim; and
- (b) \$2,000,000 general aggregate.

(iv) Unemployment Insurance: The Consultant shall be duly registered with the Colorado Department of Labor and Employment and obtain such unemployment insurance coverage as required.

(v) Workers' Compensation and Employer's Liability Insurance: Employees hired in Colorado to perform work under this Contract shall be covered by workers' compensation coverage per the Colorado Department of Labor and Employment's Workers' Compensation program as statutorily required. Employees brought into Colorado from Consultant's home state to perform work under this Contract shall be covered by workers' compensation coverage obtained through the same or other state or private workers' compensation insurance approved by the Colorado Department of Labor and Employment as statutorily required.

Insurance Requirements:

(i) During the term of this Contract, the Consultant shall obtain and maintain, and ensure that each subcontractor obtains and maintains, each type of insurance coverage specified in Insurance Coverage above.

(ii) All policies (except for Workers' Compensation and Professional Liability) shall be primary over any insurance or self-insurance program carried by the Consultant or the Town. All policies (except for Professional Liability) shall include clauses stating that each insurance carrier shall waive all rights of recovery under subrogation or otherwise against Consultant or the Town, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

(iii) The Consultant shall provide Certificates of Insurance to the Town, verifying each type of coverage required herein.

(iv) All policies shall be endorsed to provide at least thirty (30) days advance written notice of cancellation to the Town. A copy of the policy endorsement shall be provided with the Certificate of Insurance.

(v) In case of a breach of any provision relating to Insurance Requirements or Insurance Coverage, the Town may, at the Town's option, obtain and maintain, at the expense of the Consultant, such insurance in the name of the Consultant, or subcontractor, as the Town may deem proper and may deduct the cost of obtaining and maintaining such insurance from any sums which may be due or become due to the Consultant under this Contract.

(vi) All policies required by this Contract shall be issued by an insurance company with an A.M. Best rating of A- VIII or better.

(vii) The Town reserves the right to reject any policy issued by an insurance company that does not meet these requirements.

Limitation of Liability: Excluding the Consultant's liability for bodily injury or damage to the property of third parties, the total aggregate liability of the Consultant arising out of the performance or breach of this Contract shall not exceed the compensation paid to the Consultant under this Contract. Notwithstanding any other provision of this Contract, the Consultant shall have no liability to the Town for contingent, consequential, or other indirect damages including, without limitation, damages for loss of use, revenue or profit; operating costs and facility downtime, however the same may be caused. The limitations and exclusions of liability set forth in this Article shall apply regardless of the fault, breach of contract, tort (including negligence), strict liability or otherwise of the Consultant, its employees, or subconsultants.

Notice of Sale or Transfer: The Consultant shall provide the Town with notice of any sale, transfer, merger, or consolidation of the assets of the Consultant. Such notice shall be provided in accordance with the notices provision of this Contract and, when possible and lawful, in advance of the transaction. If the Town determines that the sale, transfer, merger, or consolidation is not consistent with the continued satisfactory performance of the Consultant's obligations under this Contract, then the Town may, at its discretion, terminate or renegotiate the Contract.

Ownership of Documents and Information: The Town owns all documents, data compilations, reports, computer programs, photographs, drawings, data, and other work provided to or produced by the Consultant in the performance of this Contract. Upon termination of services for any reason and payment to Consultant, the Consultant agrees to return all such original and derivative information and documents to the Town in a useable format. Any use or reuse other than for the purposes set forth herein shall be at the Town's sole risk and liability.

Patent or Copyright Protection: The Consultant recognizes that certain proprietary matters or techniques may be subject to patent, trademark, copyright, license or other similar restrictions, and warrants that no work performed by the Consultant or its subcontractors will violate any such restriction. The Consultant shall defend and indemnify the Town for any infringement or alleged infringement of such patent, trademark, copyright, license, or other restrictions.

Severability: A declaration by any court or any other binding legal source that any provision of this contract is illegal and void shall not affect the legality and enforceability of any provision of this Contract unless the provisions are mutually dependent.

Taxes: The Consultant shall pay all taxes and other such amounts required by federal, state and local law, including, but not limited to, federal and social security taxes, workers' compensation, unemployment insurance, and sales taxes.

Termination of Contract: This Contract may be terminated with cause by either party in advance of the specified termination date upon written notice being provided by the other party. Unless the Town determines a default is not remediable, there have been prior violations with notice, or a default is determined to be detrimental to public safety, the party in violation will be given thirty (30) working days after notification to correct and cease the violations after which the Contract may be terminated for cause. This Contract may be terminated without cause in advance of a specified expiration date by either party upon thirty (30) days prior written notice being given by the other party.

Prohibition Against Employing Illegal Aliens: This paragraph shall apply to all Consultants whose performance of work under this Contract does not involve the delivery of a specific end product other than reports that are merely incidental to the performance of said work. Pursuant to Section 8-17.5-101, C.R.S., et. seq., Consultant represents and agrees that:

(i) As of the date of this Contract:

- (a) Consultant does not knowingly employ or contract with an illegal alien; and
- (b) Consultant has participated or attempted to participate in the basic pilot employment verification program created in Public Law 208, 104th Congress,

as amended, and expanded in Public Law 156, 108th Congress, as amended, administered by the United States Department of Homeland Security (the "Basic Pilot Program") in order to confirm the employment eligibility of all newly hired employees.

(ii) Consultant shall not knowingly employ or contract with an illegal alien to perform work under this Contract or knowingly enter into a contract with a subcontractor that knowingly employs or contracts with an illegal alien to perform work under this Contract.

(iii) Consultant shall continue to apply to participate in the Basic Pilot Program and shall in writing verify same every three (3) calendar months thereafter, until Consultant is accepted or the public contract for services has been completed, whichever is earlier. The requirements of this section shall not be required or effective if the Basic Pilot Program is discontinued.

(iv) Consultant is prohibited from using Basic Pilot Program procedures to undertake pre-employment screening of job applicants while this Contract is being performed.

(v) If Consultant obtains actual knowledge that a subcontractor performing work under this Contract knowingly employs or contracts with an illegal alien, Consultant shall:

(a) Notify such subcontractor and the Town within three days that Consultant has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

(b) Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to this section the subcontractor does not cease employing or contracting with the illegal alien; except that Consultant 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.

(vi) Consultant shall comply with any reasonable request by the Colorado Department of Labor and Employment (the "Department") made in the course of an investigation that the Department undertakes or is undertaking pursuant to the authority established in Subsection 8-17.5-102 (5), C.R.S.

(vii) If Consultant violates a provision of this Contract pertaining to the duties imposed by Subsection 8-17.5-102, C.R.S. the Town may terminate this Contract. If this Contract is so terminated, Consultant shall be liable for actual and consequential damages to the Town arising out of Consultant's violation of Subsection 8-17.5-102, C.R.S.

(viii) The Town will notify the Office of the Secretary of State if Consultant violates this provision of this Contract and the Town terminates the Contract for such breach.

Project Requirements:

Final Deliverables and Stamping: The Consultant shall use the Contract Scope of Services as the outline for draft and final reports or technical memoranda so that Consultant compliance with Contract provisions can be verified. If the final report or technical memoranda contain information of an engineering nature, the cover of the final report, memoranda, all plates, and any executive summary must be stamped and

signed by a Professional Engineer licensed in the State of Colorado.

The Consultant shall provide the final documents and related materials in a digital format or as specified in the Attachment A. This digital report shall be contained on USB drive(s) or other media as approved by the Town and shall be in Adobe Acrobat (PDF) format.

Project Access: The Consultant shall be responsible for obtaining access as required for project tasks.

Stand-By Time: The Town will not reimburse the Consultant for stand-by time charges for the Consultant's supervisory personnel.

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BLANK.**

Payment and Billing:

Reimbursement of Expenses: The Town agrees to pay the Consultant an amount based on the approved hourly rates and reimbursable expenses price schedules shown in Attachment A for the services described in Attachment A and incorporated by reference as part of this Contract. Payment shall be made directly to the Consultant. The Consultant shall maintain hourly records of time worked by its personnel. Total payment under this Contract shall not exceed fifteen thousand two hundred fifty dollars and no cents (\$15,250.00).

Project Budget: The anticipated project budget for the task(s) is included in Attachment A. The amounts shown for each task are not to be exceeded unless authorized by the Town. The Contract total amount is controlling.

Billing Statements: Billing statements shall be submitted no more often than monthly, on or before the 10th calendar day of each billing month, for activities and costs accrued since the last billing report and shall be made on forms approved by the Town. Each billing statement must include written justification of the cost items contained in the billing statement. Billing statements shall be transmitted electronically to project manager: Dave Myer, myerdk@wellingtoncolorado.gov.

Payment Procedures: The Town shall pay the Consultant upon receipt of billing reports as the services are performed for the task(s) outlined in Attachment A. The Town will initiate the payment process upon the receipt of a verified statement of services, and payment shall be made within thirty (30) days following receipt of billing.

Money Withheld: If the Town has reasonable grounds to believe that the Consultant will be unable to perform this Contract fully and satisfactorily within the time fixed for performance, then the Town may withhold payment of such portion of any amount otherwise due and payable to the Consultant reasonably deemed appropriate. These amounts may be withheld until the cause for the withholding is cured to the Town's satisfaction or this Contract is terminated per the General Provisions above. No interest shall be payable by the Town on any amounts withheld under this provision.

Withholding of Payment: If a work element has not been received by the Town by the dates established in Attachment A, the Town may withhold all payments beginning with the month following that date until such deficiency has been corrected.

Final Payment: The final payment shall be made upon acceptance of the final work product and receipt of the final billing.

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Signatures:

The parties to this Contract, either personally or through their duly authorized representatives, have executed this Contract on the dates set out below and certify that they have read, understood, and agreed to the terms and conditions of this Contract. The Effective Date of this Contract is the date of the signature last affixed to this page.

TOWN OF WELLINGTON

Signature

Date

Printed Name

Title

Primary Contact Printed Name

Contact Info. (email, phone, etc.)

Witness Signature (if required)

Date

Printed Name

Title**MTA PLANNING & ARCHITECTURE**

Signature

Date

Printed Name

Title

Primary Contact Printed Name

Contact Info. (email, phone, etc.)

Witness Signature (if required)

Date

Printed Name

Title

Scope of Services:

Town of Wellington
Public Works Department
c/o Bob Gowing, Director
4021 Grant Avenue
Wellington, CO 80549



December 8, 2021

MTA Planning & Architecture is pleased to offer this proposal for land planning services to the town of Wellington for the **“Water Treatment Plant Expansion” project** at 10691 N. CR 11., Wellington, on Larimer County parcel 8919000916. MTA has extensive experience with land use approvals in Larimer County, and we welcome the opportunity to work together with the Town of Wellington on the Site Plan approval by Larimer County.

Please see the item-by-item description below defining the scope of work proposed by MTA (**in bold**), and clarifying what part of the scope would be by others:

Initial Submittal:

- Initial Submittal Item 1) Application Form. By others (Wellington Public Works Department staff). - Initial Submittal Item 2) Application Fee. By others (Wellington Public Works Department staff). - Initial Submittal Item 3) Other Associated Fees N/A.	N/A
Initial Submittal Item 4) Project Description. MTA will take the lead on generating a written document to act as a project description (including a summary of county review criteria) including coordinating with the Wellington Public Works department and the consulting project engineering firm (Jacobs) as needed. (2.5% of scope)	3.05 hrs @ \$125/hr = \$381.25
Initial Submittal Item 5) O&E. MTA will take the lead on ordering and providing an Ownership and Encumbrance report, including coordination with a title company. (0.5% of scope)	0.61 hrs @ \$125/hr = \$76.25
Initial Submittal Item 6) Site Plan. MTA will create a 24"x36" site plan in accordance with page 6 of the county's Site Plan Submittal Requirements packet, to include using the cad linework to be obtained from the third party project consulting engineering firm (Jacobs). (20% of scope)	24.4 hrs @ \$125/hr = \$3,050.
Initial Submittal Item 7) Building Project Information. MTA has registered Architects on staff and will take the lead on filling out the county's building project information sheets for each proposed building as described on page 10 of the county's Site Plan Submittal Requirements packet. (3% of scope)	3.66 hrs @ \$125/hr = \$457.50

- Initial Submittal Item 8) Development Construction Plans. By others (Jacobs). - Initial Submittal Item 9) Deed of Dedication of New Right-of-Way. N/A. (Note the numbering jumps from item 9 to item 13 on the item numbers on the county's Site Plan Submittal Requirements packet) - Initial Submittal Item 13) Drainage and Erosion Control Report and Plan. By others (Jacobs).	N/A
Initial Submittal Item 14a) Fire Protection Plan. MTA will take the lead on generating a written document to act as a Fire Protection Plan including coordinating with the fire district, the Wellington Public Works department and the project consulting engineering firm as needed. (5% of scope)	6.1 hrs @ \$125/hr. = \$762.50
Initial Submittal Item 14b) Fugitive Dust Control Plan. MTA will take the lead on generating a written document to act as a Fugitive Dust Control Plan, including coordinating with county staff, the Wellington Public Works department and the project consulting engineering firm as needed. (2% of scope)	2.44 hrs @ \$125/hr. = \$305.00
Initial Submittal Item 15) Hazard Mitigation Plan. N/A	N/A
Initial Submittal Item 16) Hazardous Materials Impact Analysis (most likely will be applicable). MTA will take the lead on generating a written document to act as a Hazard Mitigation Plan, including coordinating with fire district staff, the Wellington Public Works department and the project consulting engineering firm as needed. (2% of scope)	2.44 hrs @ \$125/hr. = \$305.00
Initial Submittal Item 17) Irrigation Facilities Plan. N/A	N/A
Initial Submittal Item 18) Landscape Plan. MTA will generate landscape plan per county code requirements. (30% of scope)	36.6 hours @\$125/hr = \$4,575.00
- Initial Submittal Item 19) Traffic Memo. By others (Wellington Public Works Department staff). - Initial Submittal Item 20) Sewage Disposal Report (new construction only). By others (Jacobs). - Initial Submittal Item 21) Site Lighting Photometric Plan. By others (Jacobs). - Initial Submittal Item 22) Soils Report. By others. It is MTA's understanding that a third party geotechnical engineering firm has already generated a soils report sufficient for submittal. - Initial Submittal Item 23) Wildlife Conservation Plan. N/A	N/A

Initial Submittal Item 24) Wetland Mitigation Report. To the extent that existing wetlands within the ponds of the active treatment process are addressed in a report, MTA will take the lead on generating a Wetland Mitigation Report, and will work together with Wellington Public Works staff to generate said report. To the extent that wetlands need to be delineated , MTA recommends using Eric Berg with Wildland Consultants to delineate the wetlands (in the field with flags) and generate a short report of the delineation findings. It is assumed Wellington public works staff or Jacobs will do the surveying work necessary to locate the flags onto a cad drawing. MTA will coordinate any subsequent applicable wetland buffers with county staff. (10% of scope)	12.2 hrs @ \$125/hr. = \$1,525.00
- Initial Submittal Item 25) Wildfire Mitigation Report. N/A - Initial Submittal Item 26) Water & Air Quality Report. By others (Jacobs).	N/A

Final Submittal Items:

Final Submittal Item 1) Final Site Plan 24"x36" Folded. MTA. (5% of scope)	6.1 hrs @ \$125/hr. = \$762.50
Final Submittal Item 2) Development Construction Plans. By others (Jacobs).	N/A
Final Submittal Item 3) Landscape Plan. MTA. (5% of scope)	6.1 hrs @ \$125/hr. = \$762.50
- Final Submittal Item 4) Drainage and Erosion Control Report and Plan. By others (Jacobs). - Final Submittal Item 5) Final Executed Drainage Agreement. By others (Jacobs). - Final Submittal Item 6) Final Executed Road or Easement Dedication. If applicable, by others (Jacobs). - Final Submittal Item 7) Annexation Agreement. N/A	N/A
Final Submittal Item 8) Final Development Agreement or Development Acknowledgement. MTA will work together with Wellington town staff and county staff to negotiate the terms of any applicable development agreement. (15% of scope)	18.3 hrs @ \$125/hr. = \$2,287.50

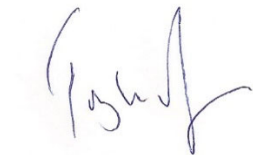
The assumption is that Jacobs and Wellington town staff will be providing some of the submittal items as described above. MTA will provide the submittal items as described above (**in bold**), including coordination with Wellington staff, project engineers (Jacobs), county staff, referral agency staff, and other project consultants (such as surveyors, geotechnical engineers, traffic engineers, wetland experts,

etc.) to address all comments during the review as needed. This proposal only includes fees for work conducted by MTA, and specifically does not include fees for any other project consultant.

It is anticipated there will be one initial round of review, and one subsequent resubmittal needed to address the comments. After the resubmittal has been reviewed by county staff and referral agencies, it is anticipated that we will be ready to submit the "final" set of documents right away. MTA has availability to get started immediately, and can be ready to submit the items generated likely within 2 to 3 weeks of being hired for the project. Depending on the timing of the other submittal item (by others), I think it is realistic to get the initial submittal in before the end of the year. If so, we will get comments back in late January. Assuming a 2 to 3 week turn-around to address comments, we can likely get a resubmittal addressing the comments back in to the county, optimistically as early as mid-February. If the second round of review goes well, we will likely be asked by the county to submit the final submittal items by early March, with the likelihood of wrapping up the approval entirely before the end of March.

MTA proposes to perform the above tasks (**in bold**), for this Wastewater Treatment Plant Expansion project for a not-to-exceed price of \$15,250, based on an estimated 122 hours of work at the hourly rate of \$125/hour. We will only bill for the hours incurred and if the project takes less than 122 hours, we will not bill the entire \$15,250. So long as the scope remains substantially similar to the description of the scope in this proposal, if the project takes more than 122 hours, MTA will stop billing once the 122 hours has been reached, but will continue work until the project completion. MTA will invoice each month for hourly work performed since the last billing cycle, throughout the process.

Thank you for your consideration for this project. Let me know if you have any questions.

A handwritten signature in blue ink, appearing to read 'Troy W. Jones', with a stylized flourish at the end.

Troy W. Jones, Land Planner, Architect
MTA Planning & Architecture
troy@architex.com
970-416-7431



Town of Wellington
3735 Cleveland Avenue
P.O. Box 127
Wellington, CO 80549
PUBLIC WORKS (970) 568-0447
TOWN HALL (970) 568-3381

Larimer County Site Plan Review – Wastewater Treatment Plant

CONSULTANT CONTRACT FOR SERVICES, GL No. 211-80-4061

Parties: The parties to this Contract are the Town of Wellington, 3735 Cleveland Avenue, Wellington, Colorado 80549 (Town) and MTA Planning & Architecture, 108 Rutgers Avenue, Fort Collins CO 80525 (Consultant).

Purpose of Contract: The purpose of this Contract is for the Town of Wellington to retain the services of the Consultant to render certain technical or professional services hereinafter described.

Term of Contract and Required Approvals: This Contract is effective when all parties have executed it (Effective Date). The term of the Contract is from the Effective Date through July 29, 2022. All services shall be completed during this term.

If the Consultant has been delayed and as a result will be unable to complete performance fully and satisfactorily within this Contract period, the Consultant may be granted an extension of time upon submission of evidence of the causes of delay satisfactory to the Town.

Responsibilities of the Consultant:

Scope of Services: The Consultant shall perform the specific services required under this Contract in a satisfactory and proper manner as outlined in Attachment A. The standard of care for the Consultant under this Contract will be the care and skill ordinarily used by members of the Consultant's profession providing similar services for projects of similar size, location, scope, and complexity to this project.

The scope of services shall be as defined within the Consultant's proposal and any further stipulation of the terms specified in Attachment A.

Personnel: All services required hereunder will be performed by the Consultant or under its supervision, and all personnel engaged in the work shall be fully qualified and shall be authorized, licensed, or permitted under state law to perform such services if state law requires such authorization, license, or permit.

Records Administration: The Consultant shall maintain or supervise the maintenance of all records necessary to properly account for the payments made to the Consultant for costs authorized by this Contract. The Consultant shall be responsible and responsive to the Town in its requests and requirements related to the scope of this Contract. The Consultant shall select and analyze all data in a systematic and meaningful manner to contribute directly in meeting the objectives of the project and shall present this information clearly and concisely in a professional and workmanlike manner.

Reports, Maps, Plans, Models and Documents: A minimum of one (1) copy of maps, plans, worksheets, logs, field notes or other documents prepared under this Contract as relevant to this project shall be submitted to the Town. The Consultant shall also submit any computer program or spreadsheet developed as a part of this project. Digital media shall be labeled to provide sufficient detail to access the information on the media. Any user manuals shall be submitted to the Town with complete documentation of computer programs developed under this Contract. The user manual shall also specify the source code language and the type of computer equipment necessary to operate the program(s).

Subcontracts:

(i) Approval Required for Subcontracts: Any subcontractors required by the Consultant in connection with the services, work performed or rendered under this Contract will be limited to such individuals or firms as were specifically identified in the proposal and agreed to during negotiations or are specifically authorized by the Town during the performance of this Contract. During the performance of the Contract, substitutions in or additions to such subcontracts will be subject to the prior approval by the Town. The Consultant shall be responsible for the actions of the subcontractors.

(ii) Billing for Subcontracts: Billings for subcontractor services shall include any mark up as set forth in Attachment A. Subcontract costs shall be documented by attaching subcontractor billings to the Consultant's billing submittals.

Responsibilities of the Town:

Data to be Furnished: All information, data, drawings, reports, maps, etc. as are available to the Town and necessary for the carrying out of the scope of services shall be furnished to the Consultant without charge, and the Town shall cooperate with the Consultant in the carrying out of the project.

Report Reviews and Criteria: The Town shall examine all studies, reports, sketches, drawings, opinions of costs, and other documents presented by the Consultant and shall promptly render the Town's decisions pertaining thereto. The Town shall provide all criteria and full information regarding its requirements for the project.

General Provisions:

Amendments: Any changes, modifications, revisions, or amendments to this Contract which are mutually agreed upon by the parties to this Contract shall be incorporated by written instrument executed by all parties to this Contract.

Assignment Prohibited and Contract Shall Not Be Used as Collateral: Neither party shall assign or otherwise transfer any of the rights or delegate any of the duties set out in this Contract without the prior written consent of the other party. The Consultant shall not use this Contract, or any portion thereof, for collateral for any financial obligation.

Audit and Access to Records: The Town shall have access to any books, documents, papers, electronic data, and records of the Consultant which are pertinent to this Contract. The Consultant shall immediately, upon receiving written instruction from the Town, provide to any independent auditor or accountant all books, documents, papers, electronic data, and records of the Consultant which are pertinent to this Contract.

Authority: Provisions of this Contract are pursuant to the authority set forth in the Town of Wellington Municipal Code. Mandatory applicable state and federal regulations also apply.

Compliance with Laws: The Consultant shall keep informed of and comply with all applicable federal, state, and local laws and regulations in the performance of this Contract.

Confidentiality: Each party shall retain as confidential all information and data furnished to it by the other party which are designated in writing by such other party as confidential at the time of transmission and are obtained or acquired by the receiving party in connection with this Contract, and said parties shall not reveal such information to any third party. However, nothing herein is meant to preclude either disclosing and/or otherwise using confidential information (i) when the confidential information is actually known to the receiving party before being obtained or derived from the transmitting party; or (ii) when confidential information is generally available to the public without the receiving party's fault at any time before or after it is acquired from the transmitting party; or (iii) where the confidential information is obtained or acquired in good faith at any time by the receiving party from a third party who has the same in good faith and who is not under any obligation to the transmitting party in respect thereof; or (iv) is required by law or court order to be disclosed.

Conflicts of Interest: The Consultant stipulates that none of its officers or employees are officers or employees of the Town of Wellington unless disclosure has been made in accordance with Town ordinances and policies. Furthermore, the Consultant certifies that it has not offered or given any gift or compensation prohibited by local, state, or federal law, to any officer or employee of the Town of Wellington to secure favorable treatment with respect to being awarded this Contract. The Consultant shall not engage in providing consultation or representation of clients, agencies or firms which may constitute a conflict of interest which results in a disadvantage to the Town or a disclosure which would adversely affect the interests of the Town. The Consultant shall notify the Town of any potential or actual conflicts of interest arising during this Contract. This Contract may be terminated in the event a conflict of interest arises. Termination of the Contract will be subject to a mutual settlement of accounts. In the event the Contract is terminated under this provision, the Consultant shall take steps to ensure that the file, evidence, evaluation and data are provided to the Town or its designee. This does not prohibit or affect the Consultant's ability to engage in consultations, evaluations or representation under agreement with other agencies, firms, facilities, or attorneys so long as no conflict exists. A conflict of interest warranting termination of this Contract may include, but is not necessarily limited to, acting

on behalf of a client in an adversarial proceeding against the Town or initiating suits in equity including injunctions, declaratory judgments, writs of prohibition, or quo warranto.

Contract Jurisdiction, Choice of Law, and Venue: The provisions of the Contract shall be governed by the laws of the State of Colorado. The parties will submit to the jurisdiction of the courts of the State of Colorado. Venue shall be Larimer County, Colorado.

Contract Renegotiation, Modifications and Award of Related Contracts: This Contract may be amended, modified, or supplemented only by written amendment to the Contract, executed by the parties hereto, and attached to the original signed copy of the Contract. The Town may undertake or award supplemental or successor contracts for work related to this Contract or may award contracts to other contractors for work related to this Contract. The Consultant shall cooperate fully with other contractors and the Town in all such cases. The Town, at its sole discretion and through duly authorized contract amendments, may request the Consultant to complete additional phases beyond the scope of services included in this Contract.

Disbarment: The Consultant certifies that neither it nor its principals are presently disbarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from participation in this transaction (Contract) by any governmental department or agency. If the Consultant cannot certify this statement, a written explanation for review by the Town shall be provided.

Entirety of Contract: This Contract, consisting of twelve (12) pages inclusive of Attachment A, represents the entire and integrated Contract between the parties and supersede all prior negotiations, representations, and agreements, whether written or oral. In the event of a conflict or inconsistency between the language of this Contract and the language of any attachment or document incorporated by reference, the language of this Contract shall control.

Equal Opportunity Clause: The Consultant agrees to abide by the provisions under Title VI and VII of the Civil Rights Act of 1964 (42USC 2000e) which prohibits discrimination against any employee or applicant for employment or any applicant or recipient of services, on a basis of race, religion, color, or national origin. This includes abiding to Executive Order 11246 which prohibits discrimination on the basis of sex, and 45 CFR which prohibits discrimination on the basis of age, Section 504 of the Rehabilitation Act of 1973, or the Americans with Disabilities Act of 1990 which prohibits discrimination on the basis of a disability.

Force Majeure: Neither party shall be liable for failure to perform under this Contract if such failure to perform arises out of causes beyond the control and without the fault or negligence of the nonperforming party. Such causes may include, but are not limited to, acts of God or the public enemy, fires, floods, epidemics, quarantine restrictions, freight embargoes, and unusually severe weather. This provision shall become effective only if the party failing to perform immediately notifies the other party of the extent and nature of the problem, limits delay in performance to that required by the event and takes all reasonable steps to minimize delays.

Indemnification: The Consultant agrees to indemnify, save harmless, and release the Town of Wellington and all of its officers, agents, volunteers, and employees from and against any and all loss, damage, injury, liability, suits, and proceedings arising out of the performance of this Contract to the extent caused by the negligence of the Consultant's

officers, agents, volunteers, or employees, but not for claims from the Town's negligence.

Independent Contractor: The Consultant shall function as an independent contractor for the purposes of this Contract and shall not be considered an employee of the Town for any purpose and as such, have no authorization, express or implied to by the Town of Wellington, to any agreements, settlements, liability or understanding whatsoever, and agrees not to perform any acts as an agent for the Town except as expressly set forth herein. The Consultant shall be responsible for the payment of all income tax and social security amounts due because of payments received from the Town. Persons employed by the Town and acting under the direction of the Town shall not be deemed to be employees or agents of the Consultant. Nothing in this Contract shall be interpreted as authorizing the Consultant or its agents or employees to act as an agent or representative or to incur any obligation of any kind for or on behalf of the Town. The Consultant agrees that no health or hospitalization benefits, workers' compensation, unemployment insurance, or similar benefits available to Town employees will inure to the benefit of the Consultant or the Consultant's agents or employees because of this Contract.

Insurance Coverage: The Consultant shall not commence work under this Contract until it has obtained all the insurance required by the Town. The Consultant shall obtain and maintain the following insurance in accordance with the Insurance Requirements set forth below and shall provide the Town with proofs of these insurance upon request:

(i) Automobile Liability Insurance: The Consultant shall maintain automobile liability insurance covering any auto (including owned, hired, and non-owned) with minimum limits of \$1,000,000 each accident combined single limit.

(ii) Commercial, General Liability Insurance: The Consultant shall maintain commercial general liability insurance (CGL) coverage, occurrence form, covering liability claims for bodily injury and property damage arising out of premises, operations, products and completed operations, and personal and advertising injury, with minimum limits as stated below. The CGL policy shall include coverage for Explosion, Collapse and Underground property damage. This coverage may not be excluded by endorsement.

- (a) \$1,000,000 each occurrence;
- (b) \$1,000,000 personal injury and advertising injury;
- (c) \$2,000,000 general aggregate; and
- (d) \$2,000,000 products and completed operations.

(iii) Professional Liability or Errors and Omissions Liability Insurance: The Consultant shall maintain professional liability insurance or errors and omissions liability insurance protecting against any and all claims arising from the Consultant's alleged or real professional errors, omissions, or mistakes in the performance of professional duties under this Contract, with minimum limits as stated below.

- (a) \$1,000,000 each claim; and
- (b) \$2,000,000 general aggregate.

(iv) Unemployment Insurance: The Consultant shall be duly registered with the Colorado Department of Labor and Employment and obtain such unemployment insurance coverage as required.

(v) Workers' Compensation and Employer's Liability Insurance: Employees hired in Colorado to perform work under this Contract shall be covered by workers' compensation coverage per the Colorado Department of Labor and Employment's Workers' Compensation program as statutorily required. Employees brought into Colorado from Consultant's home state to perform work under this Contract shall be covered by workers' compensation coverage obtained through the same or other state or private workers' compensation insurance approved by the Colorado Department of Labor and Employment as statutorily required.

Insurance Requirements:

(i) During the term of this Contract, the Consultant shall obtain and maintain, and ensure that each subcontractor obtains and maintains, each type of insurance coverage specified in Insurance Coverage above.

(ii) All policies (except for Workers' Compensation and Professional Liability) shall be primary over any insurance or self-insurance program carried by the Consultant or the Town. All policies (except for Professional Liability) shall include clauses stating that each insurance carrier shall waive all rights of recovery under subrogation or otherwise against Consultant or the Town, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

(iii) The Consultant shall provide Certificates of Insurance to the Town, verifying each type of coverage required herein.

(iv) All policies shall be endorsed to provide at least thirty (30) days advance written notice of cancellation to the Town. A copy of the policy endorsement shall be provided with the Certificate of Insurance.

(v) In case of a breach of any provision relating to Insurance Requirements or Insurance Coverage, the Town may, at the Town's option, obtain and maintain, at the expense of the Consultant, such insurance in the name of the Consultant, or subcontractor, as the Town may deem proper and may deduct the cost of obtaining and maintaining such insurance from any sums which may be due or become due to the Consultant under this Contract.

(vi) All policies required by this Contract shall be issued by an insurance company with an A.M. Best rating of A- VIII or better.

(vii) The Town reserves the right to reject any policy issued by an insurance company that does not meet these requirements.

Limitation of Liability: Excluding the Consultant's liability for bodily injury or damage to the property of third parties, the total aggregate liability of the Consultant arising out of the performance or breach of this Contract shall not exceed the compensation paid to the Consultant under this Contract. Notwithstanding any other provision of this Contract, the Consultant shall have no liability to the Town for contingent, consequential, or other indirect damages including, without limitation, damages for loss of use, revenue or profit; operating costs and facility downtime, however the same may be caused. The limitations and exclusions of liability set forth in this Article shall apply regardless of the fault, breach of contract, tort (including negligence), strict liability or otherwise of the Consultant, its employees, or subconsultants.

Notice of Sale or Transfer: The Consultant shall provide the Town with notice of any sale, transfer, merger, or consolidation of the assets of the Consultant. Such notice shall be provided in accordance with the notices provision of this Contract and, when possible and lawful, in advance of the transaction. If the Town determines that the sale, transfer, merger, or consolidation is not consistent with the continued satisfactory performance of the Consultant's obligations under this Contract, then the Town may, at its discretion, terminate or renegotiate the Contract.

Ownership of Documents and Information: The Town owns all documents, data compilations, reports, computer programs, photographs, drawings, data, and other work provided to or produced by the Consultant in the performance of this Contract. Upon termination of services for any reason and payment to Consultant, the Consultant agrees to return all such original and derivative information and documents to the Town in a useable format. Any use or reuse other than for the purposes set forth herein shall be at the Town's sole risk and liability.

Patent or Copyright Protection: The Consultant recognizes that certain proprietary matters or techniques may be subject to patent, trademark, copyright, license or other similar restrictions, and warrants that no work performed by the Consultant or its subcontractors will violate any such restriction. The Consultant shall defend and indemnify the Town for any infringement or alleged infringement of such patent, trademark, copyright, license, or other restrictions.

Severability: A declaration by any court or any other binding legal source that any provision of this contract is illegal and void shall not affect the legality and enforceability of any provision of this Contract unless the provisions are mutually dependent.

Taxes: The Consultant shall pay all taxes and other such amounts required by federal, state and local law, including, but not limited to, federal and social security taxes, workers' compensation, unemployment insurance, and sales taxes.

Termination of Contract: This Contract may be terminated with cause by either party in advance of the specified termination date upon written notice being provided by the other party. Unless the Town determines a default is not remediable, there have been prior violations with notice, or a default is determined to be detrimental to public safety, the party in violation will be given thirty (30) working days after notification to correct and cease the violations after which the Contract may be terminated for cause. This Contract may be terminated without cause in advance of a specified expiration date by either party upon thirty (30) days prior written notice being given by the other party.

Prohibition Against Employing Illegal Aliens: This paragraph shall apply to all Consultants whose performance of work under this Contract does not involve the delivery of a specific end product other than reports that are merely incidental to the performance of said work. Pursuant to Section 8-17.5-101, C.R.S., et. seq., Consultant represents and agrees that:

(i) As of the date of this Contract:

- (a) Consultant does not knowingly employ or contract with an illegal alien; and
- (b) Consultant has participated or attempted to participate in the basic pilot employment verification program created in Public Law 208, 104th Congress,

as amended, and expanded in Public Law 156, 108th Congress, as amended, administered by the United States Department of Homeland Security (the "Basic Pilot Program") in order to confirm the employment eligibility of all newly hired employees.

(ii) Consultant shall not knowingly employ or contract with an illegal alien to perform work under this Contract or knowingly enter into a contract with a subcontractor that knowingly employs or contracts with an illegal alien to perform work under this Contract.

(iii) Consultant shall continue to apply to participate in the Basic Pilot Program and shall in writing verify same every three (3) calendar months thereafter, until Consultant is accepted or the public contract for services has been completed, whichever is earlier. The requirements of this section shall not be required or effective if the Basic Pilot Program is discontinued.

(iv) Consultant is prohibited from using Basic Pilot Program procedures to undertake pre-employment screening of job applicants while this Contract is being performed.

(v) If Consultant obtains actual knowledge that a subcontractor performing work under this Contract knowingly employs or contracts with an illegal alien, Consultant shall:

(a) Notify such subcontractor and the Town within three days that Consultant has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

(b) Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to this section the subcontractor does not cease employing or contracting with the illegal alien; except that Consultant 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.

(vi) Consultant shall comply with any reasonable request by the Colorado Department of Labor and Employment (the "Department") made in the course of an investigation that the Department undertakes or is undertaking pursuant to the authority established in Subsection 8-17.5-102 (5), C.R.S.

(vii) If Consultant violates a provision of this Contract pertaining to the duties imposed by Subsection 8-17.5-102, C.R.S. the Town may terminate this Contract. If this Contract is so terminated, Consultant shall be liable for actual and consequential damages to the Town arising out of Consultant's violation of Subsection 8-17.5-102, C.R.S.

(viii) The Town will notify the Office of the Secretary of State if Consultant violates this provision of this Contract and the Town terminates the Contract for such breach.

Project Requirements:

Final Deliverables and Stamping: The Consultant shall use the Contract Scope of Services as the outline for draft and final reports or technical memoranda so that Consultant compliance with Contract provisions can be verified. If the final report or technical memoranda contain information of an engineering nature, the cover of the final report, memoranda, all plates, and any executive summary must be stamped and

signed by a Professional Engineer licensed in the State of Colorado.

The Consultant shall provide the final documents and related materials in a digital format or as specified in the Attachment A. This digital report shall be contained on USB drive(s) or other media as approved by the Town and shall be in Adobe Acrobat (PDF) format.

Project Access: The Consultant shall be responsible for obtaining access as required for project tasks.

Stand-By Time: The Town will not reimburse the Consultant for stand-by time charges for the Consultant's supervisory personnel.

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BLANK.**

Payment and Billing:

Reimbursement of Expenses: The Town agrees to pay the Consultant an amount based on the approved hourly rates and reimbursable expenses price schedules shown in Attachment A for the services described in Attachment A and incorporated by reference as part of this Contract. Payment shall be made directly to the Consultant. The Consultant shall maintain hourly records of time worked by its personnel. Total payment under this Contract shall not exceed fifteen thousand two hundred fifty dollars and no cents (\$15,250.00).

Project Budget: The anticipated project budget for the task(s) is included in Attachment A. The amounts shown for each task are not to be exceeded unless authorized by the Town. The Contract total amount is controlling.

Billing Statements: Billing statements shall be submitted no more often than monthly, on or before the 10th calendar day of each billing month, for activities and costs accrued since the last billing report and shall be made on forms approved by the Town. Each billing statement must include written justification of the cost items contained in the billing statement. Billing statements shall be transmitted electronically to project manager: Nathan Ewert, ewertna@wellingtoncolorado.gov.

Payment Procedures: The Town shall pay the Consultant upon receipt of billing reports as the services are performed for the task(s) outlined in Attachment A. The Town will initiate the payment process upon the receipt of a verified statement of services, and payment shall be made within thirty (30) days following receipt of billing.

Money Withheld: If the Town has reasonable grounds to believe that the Consultant will be unable to perform this Contract fully and satisfactorily within the time fixed for performance, then the Town may withhold payment of such portion of any amount otherwise due and payable to the Consultant reasonably deemed appropriate. These amounts may be withheld until the cause for the withholding is cured to the Town's satisfaction or this Contract is terminated per the General Provisions above. No interest shall be payable by the Town on any amounts withheld under this provision.

Withholding of Payment: If a work element has not been received by the Town by the dates established in Attachment A, the Town may withhold all payments beginning with the month following that date until such deficiency has been corrected.

Final Payment: The final payment shall be made upon acceptance of the final work product and receipt of the final billing.

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Signatures:

The parties to this Contract, either personally or through their duly authorized representatives, have executed this Contract on the dates set out below and certify that they have read, understood, and agreed to the terms and conditions of this Contract. The Effective Date of this Contract is the date of the signature last affixed to this page.

TOWN OF WELLINGTON

Signature

Date

Printed Name

Title

Primary Contact Printed Name

Contact Info. (email, phone, etc.)

Witness Signature (if required)

Date

Printed Name

Title**MTA PLANNING & ARCHITECTURE**

Signature

Date

Printed Name

Title

Primary Contact Printed Name

Contact Info. (email, phone, etc.)

Witness Signature (if required)

Date

Printed Name

Title

Town of Wellington
Public Works Department
c/o Bob Gowing, Director
4021 Grant Avenue
Wellington, CO 80549



November 16, 2021

MTA Planning & Architecture is pleased to offer this proposal for land planning services to the town of Wellington for the “**Water Reclamation Facility Expansion and Improvements**” project at 6172 NE Frontage Rd., Wellington, on Larimer County parcel 9910208903. MTA has extensive experience with land use approvals in Larimer County, and we welcome the opportunity to work together with the Town of Wellington on the Site Plan approval by Larimer County.

Please see the item-by-item description below defining the scope of work proposed by MTA (**in bold**), and clarifying what part of the scope would be by others:

Initial Submittal:

- Initial Submittal Item 1) Application Form. By others (Wellington Public Works Department staff). - Initial Submittal Item 2) Application Fee. By others (Wellington Public Works Department staff). - Initial Submittal Item 3) Other Associated Fees N/A.	N/A
Initial Submittal Item 4) Project Description. MTA will take the lead on generating a written document to act as a project description (including a summary of county review criteria) including coordinating with the Wellington Public Works department and the consulting project engineering firm (Jacobs) as needed.	3.05 hrs @ \$125/hr = \$381.25
Initial Submittal Item 5) O&E. MTA will take the lead on ordering and providing an Ownership and Encumbrance report, including coordination with a title company.	0.61 hrs @ \$125/hr = \$76.25
Initial Submittal Item 6) Site Plan. MTA will create a 24"x36" site plan in accordance with page 6 of the county's Site Plan Submittal Requirements packet, to include using the cad linework to be obtained from the third party project consulting engineering firm (Jacobs).	24.4 hrs @ \$125/hr = \$3,050
Initial Submittal Item 7) Building Project Information. MTA has registered Architects on staff and will take the lead on filling out the county's building project information sheets for each proposed building as described on page 10 of the county's Site Plan Submittal Requirements packet.	3.66 hrs @ \$125/hr = \$457.50

- Initial Submittal Item 8) Development Construction Plans. By others (Jacobs). - Initial Submittal Item 9) Deed of Dedication of New Right-of-Way. N/A. (Note the numbering jumps from item 9 to item 13 on the item numbers on the county's Site Plan Submittal Requirements packet) - Initial Submittal Item 13) Drainage and Erosion Control Report and Plan. By others (Jacobs).	N/A
Initial Submittal Item 14a) Fire Protection Plan. MTA will take the lead on generating a written document to act as a Fire Protection Plan including coordinating with the fire district, the Wellington Public Works department and the project consulting engineering firm as needed.	6.1 hrs @ \$125/hr. = \$762.50
Initial Submittal Item 14b) Fugitive Dust Control Plan. MTA will take the lead on generating a written document to act as a Fugitive Dust Control Plan, including coordinating with county staff, the Wellington Public Works department and the project consulting engineering firm as needed.	2.44 hrs @ \$125/hr. = \$305.00
Initial Submittal Item 15) Hazard Mitigation Plan. N/A	N/A
Initial Submittal Item 16) Hazardous Materials Impact Analysis (most likely will be applicable). MTA will take the lead on generating a written document to act as a Hazard Mitigation Plan, including coordinating with fire district staff, the Wellington Public Works department and the project consulting engineering firm as needed.	2.44 hrs @ \$125/hr. = \$305.00
Initial Submittal Item 17) Irrigation Facilities Plan. N/A	N/A
Initial Submittal Item 18) Landscape Plan. MTA will generate landscape plan per county code requirements.	36.6 hours @\$125/hr = \$4,575.00
- Initial Submittal Item 19) Traffic Memo. By others (Wellington Public Works Department staff). - Initial Submittal Item 20) Sewage Disposal Report (new construction only). By others (Jacobs). - Initial Submittal Item 21) Site Lighting Photometric Plan. By others (Jacobs). - Initial Submittal Item 22) Soils Report. By others. It is MTA's understanding that a third party geotechnical engineering firm has already generated a soils report sufficient for submittal. - Initial Submittal Item 23) Wildlife Conservation Plan. N/A	N/A
Initial Submittal Item 24) Wetland Mitigation Report. To the extent that existing wetlands within the ponds of the active treatment process are addressed in a report, MTA will take the lead on generating a Wetland Mitigation Report, and will work together with	12.2 hrs @ \$125/hr. = \$1,525.00

Wellington Public Works staff to generate said report. To the extent that wetlands need to be delineated , MTA recommends using Eric Berg with Wildland Consultants to delineate the wetlands (in the field with flags) and generate a short report of the delineation findings. It is assumed Wellington public works staff or Jacobs will do the surveying work necessary to locate the flags onto a cad drawing. MTA will coordinate any subsequent applicable wetland buffers with county staff.	
- Initial Submittal Item 25) Wildfire Mitigation Report. N/A - Initial Submittal Item 26) Water & Air Quality Report. By others (Jacobs).	N/A

Final Submittal Items:

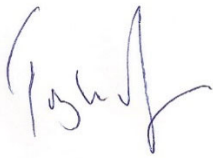
Final Submittal Item 1) Final Site Plan 24"x36" Folded. MTA.	6.1 hrs @ \$125/hr. = \$762.50
Final Submittal Item 2) Development Construction Plans. By others (Jacobs).	N/A
Final Submittal Item 3) Landscape Plan. MTA.	6.1 hrs @ \$125/hr. = \$762.50
- Final Submittal Item 4) Drainage and Erosion Control Report and Plan. By others (Jacobs). - Final Submittal Item 5) Final Executed Drainage Agreement. By others (Jacobs). - Final Submittal Item 6) Final Executed Road or Easement Dedication. If applicable, by others (Jacobs). - Final Submittal Item 7) Annexation Agreement. N/A	N/A
Final Submittal Item 8) Final Development Agreement or Development Acknowledgement. MTA will work together with Wellington town staff and county staff to negotiate the terms of any applicable development agreement.	18.3 hrs @ \$125/hr. = \$2,287.50

The assumption is that Jacobs and Wellington town staff will be providing some of the submittal items as described above. MTA will provide the submittal items as described above (**in bold**), including coordination with Wellington staff, project engineers (Jacobs), county staff, referral agency staff, and other project consultants (such as surveyors, geotechnical engineers, traffic engineers, wetland experts, etc.) to address all comments during the review as needed.

It is anticipated there will be one initial round of review, and one subsequent resubmittal needed to address the comments. After the resubmittal has been reviewed by county staff and referral agencies, it is anticipated that we will be ready to submit the "final" set of documents right away. MTA has availability to get started immediately, and can be ready to submit the items generated likely within 2 to 3 weeks of being hired for the project. Depending on the timing of the other submittal item (by others),

I think it is realistic to get the initial submittal in before the end of the year. If so, we will get comments back in late January. Assuming a 2 to 3 week turn-around to address comments, we can likely get a resubmittal addressing the comments back in to the county, optimistically as early as mid-February. If the second round of review goes well, we will likely be asked by the county to submit the final submittal items by early March, with the likelihood of wrapping up the approval entirely before the end of March.

MTA proposes to perform the above tasks (**in bold**), for this Water Reclamation Facility Expansion and Improvements project for a not-to-exceed price of \$15,250, based on an estimated 122 hours of work at the hourly rate of \$125/hour. We will only bill for the hours incurred and if the project takes less than 122 hours, we will not bill the entire \$15,250. So long as the scope remains substantially similar to the description of the scope in this proposal, if the project takes more than 122 hours, MTA will stop billing once the 122 hours has been reached, but will continue work until the project completion. MTA will invoice each month for hourly work performed since the last billing cycle, throughout the process. Thank you for your consideration for this project. Let me know if you have any questions.

A handwritten signature in blue ink, appearing to read 'Troy W. Jones', with a stylized flourish at the end.

Troy W. Jones, Land Planner, Architect
MTA Planning & Architecture
troy@architex.com
970-416-7431



Town of Wellington
3735 Cleveland Avenue
P.O. Box 127
Wellington, CO 80549
PUBLIC WORKS (970) 568-0447
TOWN HALL (970) 568-3381

**WELLINGTON WATER TREATMENT PLANT EXPANSION
ENGINEERING DESIGN AND CONSTRUCTION SERVICES
AMENDMENT TWO
TO
CONTRACT FOR SERVICES, GL No. 211-80-4010**

Parties. The parties to this Amendment are the Town of Wellington, 3735 Cleveland Avenue, Wellington, Colorado 80549 (Town) and Jacobs Engineering Group Inc., 200 East 7th Street, Loveland, Colorado, 80537 (Consultant).

Purpose of Amendment. This Amendment constitutes the second amendment to the Engineering Design and Construction Services Contract (Contract) between the Town and the Consultant. The purpose of this Amendment is to add Task 12: Larimer County Site Plan Review – Water Treatment Plant

The original Contract with amendment one, effective December 17, 2020, is for all engineering design and construction services related to the expansion of Wellington's Water Treatment Plant (WTP) including amendment one for a total Contract amount of three million four hundred five thousand two hundred seventy-eight dollars and no cents (\$3,405,278.00) with an expiration date of June 30, 2025. On the effective date of Amendment 2, the total Contract amount will be amended to three million four hundred thirty nine thousand eight hundred twenty eight dollars and no cents (\$3,439,828.00).

Term of the Amendment. This Amendment shall commence upon the date the last required signature is affixed hereto (Effective Date) and shall remain in full force through the term of the Contract, as amended, unless terminated at an earlier date pursuant to the provisions of the Contract.

Amendment(s).

1. Append to the Contract the following task with respect to the Larimer County Site Plan Review – Water Treatment Plant Scope of Work and associated Consultant rates (attached):
 - a. Task 12: Larimer County Site Plan Review – Water Treatment Plant
2. Increase the Contract amount by thirty four thousand five hundred fifty dollars and no cents (\$34,550.00) for the aforementioned appended task.

Amended Responsibilities of the Consultant. Responsibilities of the Consultant are subject to fulfillment of the attached Scope of Work within the stated fees of \$34,550.00.

Amended Responsibilities of the Town. Responsibilities of the Town are subject to any provisions within the attached Scope of Work and payment to the Consultant for these additional services not to exceed \$34,550.00.

Same Terms and Conditions. Except for items explicitly delineated in this Amendment, all terms and conditions of the original Contract, and any previous amendments, between the Town and the Consultant, remain unchanged and in full force and effect.

Entirety of Contract. The original Contract, consisting of fifty-four (54) pages, Amendment One, consisting of nine (9) pages (including attachments), and Amendment Two, consisting of nine (9) pages (including attachments) represent the entire and integrated Contract between the parties.

Signatures. The parties to this Amendment, through their duly authorized representatives, have executed this Amendment on the dates set out below and certify that they have read, understood, and agreed to the terms and conditions of this Amendment.

TOWN OF WELLINGTON

Signature

Date

Printed Name

Title

JACOBS ENGINEERING GROUP, INC.

Signature

Date

Printed Name

Title



Town of Wellington Water Treatment Plant Improvements – Amendment 2 - Larimer County Site Plan Review

Scope of Services

Jacobs Engineering Group Inc. (CONSULTANT) agrees to furnish the Town of Wellington (TOWN) professional services for the TOWN's Water Treatment Plant (WTP) Improvements Project (Project) based on the following task descriptions. This scope of services will supplement the Wellington Water Treatment Plant Expansion Engineering Design and Construction Services contract (design contract) approved on September 12, 2020, to assist the Town with the Larimer County site plan review process. The CONSULTANT's cost estimate for these supplemental services is based on the task descriptions in this scope.

The TOWN has designated Mr. Nathan Ewert, Civil Engineer II, as TOWN Project Manager for the work performed in this amendment. He will be the primary point of contact with respect to the work performed under this agreement, with authority to transmit instructions, receive information, interpret and define TOWN policies and decisions relative to elements pertinent to the work covered by this Agreement.

In preparing this scope of services and associated fee, we have assumed economies of scale with the use of CONSULTANT's tools, procedures, document control platform, and similar staff members to the design project.

Project Purpose and Background

The Town of Wellington is planning to expand their water treatment plant (WTP) to a raw water flow rate of approximately 4.2 million gallons per day. The expansion will include new filtration, flocculation/sedimentation, ozone, solids drying beds, and backwash equalization processes. The Town is in the process of purchasing additional land for the expansion.

The CONSULTANT will provide services to assist the TOWN with the Larimer County site plan review process per the March 31, 2021 version of the Land Use Code and as defined in the specific Task descriptions below. The TOWN will lead the effort for this approval process and will coordinate with Larimer County. Some of the subtasks for the approval process will be performed by the TOWN, or possibly the TOWN's planning consultant, as noted below and CONSULTANT has not included hours for performing or reviewing those subtasks in our fee estimate. The TOWN will incorporate the elements of the approval requirements performed by CONSULTANT, and the TOWN will coordinate and provide the overall submittal to Larimer County.

Task 1—Project Management

The purpose of this task is to manage, coordinate and lead the CONSULTANT Team's activities and perform administration of the CONSULTANT's portion of the Larimer County site plan review process. The CONSULTANT will perform the following subtasks as part of this Task.

Sub Task 1.1 – Project Execution Planning

Services for this scope will be communicated to the CONSULTANT's team members for the project. This task includes the activities associated with administration of the Contract and coordination with the TOWN.

Sub Task 1.2 – Quality Control Review, Coordination and Response

The CONSULTANT will provide management of the Quality Assurance/Quality Control (QA/QC) aspects of the supplemental services detailed in this scope that are being performed by CONSULTANT.

Sub Task 1.3 – Task Schedule

CONSULTANT will coordinate with the TOWN on schedule specifics for the site plan review process that includes major tasks, TOWN reviews, and County reviews.

Task 2—Larimer County Coordination

Sub Task 2.1—Coordination during Site Plan Review Process

The TOWN will coordinate with Larimer County through the site plan review process to answer questions from CONSULTANT and monitor progress.

Task 3 — Site Plan Review Initial Submittal

The Site Plan Review tasks are outlined below for the initial submittal to the Larimer County Planning Department.

Sub Task 3.1 – Application Forms

The TOWN will prepare the Site Plan Review application form and Building Project Information Sheet.

Sub Task 3.2 – Project Description

The TOWN will prepare the project description portion of the application.

Sub Task 3.3—Ownership and Encumbrance

- The TOWN will contact the Title Company to obtain an Ownership and Encumbrance Report for the site. It is assumed that the TOWN will own the property on which the Water Treatment Plant is located, and that the TOWN will prepare all documentation related to that property; note that the property is currently being negotiated for purchase from North Poudre Irrigation Company.

Sub Task 3.4 – Preliminary Site Plan

The TOWN will prepare a Preliminary Site Plan that meets the requirements of Larimer County Community Development Planning.

Sub Task 3.5 – Development Construction Plans

The CONSULTANT will compile the design contract construction plans currently in progress. Address comments from the Site Plan Review, and update the plans as needed.

Task Deliverable(s)

1. Two draft versions of Development Construction Plans (TOWN and County)

Sub Task 3.6—Drainage and Erosion Control Report and Plan

The CONSULTANT will prepare a Drainage and Erosion Control Report signed by a registered professional engineer that analyzes stormwater and water quality impacts associated with the proposed site development. The report will be prepared in accordance with the Larimer County Stormwater Design Standards and will include the following items.

1. An analysis of overall drainage considerations including a watershed map.
2. Identification of nearby drainage features that will be affected by drainage in the development area.
3. Stormwater peak flow rates entering, passing through, and leaving the site for the minor and major storm events.
4. Plan drawings showing site drainage features for the minor and major drainage systems. It's assumed that select drawings from the 90% design contract plan set will be used to satisfy this requirement.
5. Erosion control plan drawings to indicate methods to be used during and after construction to control erosion and sediment control within the site development. It's assumed that the overall erosion control sheet from the 90% design contract plan set will be used to satisfy this requirement along with selected design details.
6. Documentation and data utilized in the sizing of drainage facilities including calculations for on-site stormwater features.
7. Soil classification reports which are being provided as part of Task 3.12.
8. Address comments from two rounds of review; one for the Town and one for the County.

Task Deliverable(s)

1. Two draft versions of Drainage and Erosion Control Report and Plan (TOWN and County)

Sub Task 3.7 – Fire Protection Plan

The TOWN will develop the fire protection plan for site plan review process.

Sub Task 3.8 – Fugitive Dust Control Plan

The TOWN will prepare a dust control plan describing control measures to be implemented to minimize the release of fugitive dust from the site during construction.

Sub Task 3.9 – Hazardous Material Impact Analysis

The TOWN will analyze the impacts of hazardous materials that will be present on the site for the site plan review process.

Sub Task 3.10 – Landscape Plan

The TOWN will provide the landscaping plan and design (if needed) for the site plan review process.

Sub Task 3.11 – Traffic Impact Study

The TOWN will provide a summary of estimated impacts to local traffic that could be attributed to the WTP construction project once completed.

Sub Task 3.12 – Soils Report

The TOWN will summarize the current soils report for the design project. It is assumed that no updates to the soils report, completed by SoilLogic on September 16, 2021 and added to in the July 7, 2021 addendum, will be required.

Sub Task 3.13 – Site Lighting and Photometric Plan

The CONSULTANT will develop a lighting plan to meet the development standards in Article 4.10 of the March 31, 2021 Larimer County Land Use Code. The plan will include lighting to illuminate buildings, parking areas, and walkways.

Task Deliverable(s)

1. Two draft versions of Site Lighting Photometric Plan (TOWN and County)

Sub Task 3.14 – Wetland Mitigation

The TOWN will confirm absence of wetlands or prepare a wetland mitigation plan if wetlands are found. The CONSULTANT has no scope related to wetlands. Consultant understands that the TOWN is soliciting from others for all of the wetland-related work.

Sub Task 3.15 – Water and Air Quality Report

The TOWN will prepare a memorandum documenting applicable air quality and water quality regulations from the Environmental Assessment (from the design contract) and how the project will comply with regulations.

Task 4 – Final Site Development Submittal

Upon approval of the Site Plan application, the CONSULTANT will compile final site development documents, including the following items:

- Development Construction Plans and signed by utility providers and stamped by an Engineer licensed in the State of Colorado

- Final version of Site Lighting Photometric Plan and stamped by an Engineer licensed in the State of Colorado
- Drainage and Erosion Control Report and Plan and stamped by an Engineer licensed in the State of Colorado
- Final Executed Drainage Agreement (including recording fees paid by TOWN). It is assumed that this is a one-page form that will not require any additional effort beyond what is needed in Task 3.6.
- It is assumed that a Final Executed Road Deed of Dedication or Deed of Easement will not be required.
- Development Agreement or Development Acknowledgement. It is assumed that this is a one-page form to be filled out by TOWN that will not require any additional effort beyond what is needed in Task 3.5.
- Any legal exhibits or descriptions that may be required are to be provided by the TOWN and are not in the CONSULTANT's scope.

Schedule

Note that the scheduled due date for the 100% Design deliverable is currently April 30, 2022 based on delays documented in Amendment 3 submitted concurrently to the Town, and hence the matching schedule outlined in Table 1.

TABLE 1 – SITE PLAN REVIEW SCHEDULE

Wellington WTP Expansion

Task	Completion Date
Notice to Proceed	December 17, 2021
Initial Site Plan Review Submittal Documents to Town (using the 90% design documents)	March 15, 2021
Revised Site Plan Review Submittal Documents for Town's submission to County (using the 100% design documents; if the 100% design deliverable is delayed, this date shall be extended to 2 weeks following completion of the 100% design submittal)	May 5, 2022 July 5, 2022
Final Site Plan Review Submittal Documents for Town's submission to County (Date is estimated as review times by TOWN and County, and performance of related work by others, are all beyond the control of CONSULTANT)	

Payment

Compensation will be on a time and expense basis with labor billed at hourly labor rates based on labor code. Direct expenses will be billed at actual cost or standard billing rates. The hourly billing rates include allowances for salary, benefits, overhead, and profit. Other expenses will include travel, printing, mailing, copying, supplies, and other similar costs incurred in performance of the work. A budgetary amount for the CONSULTANT's services is included in **Attachment 1**.

The CONSULTANT shall make reasonable efforts to complete the work within this budget and will keep the TOWN informed of progress toward that end so that the budget or work effort can be adjusted if found necessary. The CONSULTANT shall not exceed the total budgetary amount without prior written approval from the TOWN. CONSULTANT is allowed to manage to the overall total budget, which allows underruns or overruns at the sub task level.

Attachment 1
Wellington WTP Site Plan Review - Amendment 2

Site Plan Review Tasks		PM	Process	Civil	Process	Electrical	Civil	Env	Env			Graphics	Total
		Richard	Madalyn	Robert	Hilary	Hassaan	Mike	Misty	Erin	Dan		Pete	Hours
		Saxton	Murphy	Townsend	Feier	Idrees	Monahan	Swan	Kraft	Soucy		Barney	
Labor Rate		230	127	195	143	143	143	117	106	106	106	127	
1	Project Management	14	18	0	0	0	0	0	0	0	0	0	32
1.1	Project Execution Planning	4	10										14
1.2	QA/QC	10	4										14
1.3	Task Schedule		4										4
2	Larimer County Coordination	0	0	0	0	0	0	0	0	0	0	0	0
2.1	County Coordination by TOWN												0
3	Site Plan Review Initial Submittal	0	12	32	32	15	16	4	0	0	0	20	131
3.1	Application Forms by TOWN												0
3.2	Project Description by TOWN												0
3.3	Ownership and Encumbrance by TOWN												0
3.4	Preliminary Site Plan by TOWN												0
3.5	Development Construction Plans		4		32							8	44
3.6	Drainage and Erosion Control Report and Plan		4	32			16	4				8	64
3.7	Fire Protection Plan by TOWN												0
3.8	Fugitive Dust Control Plan by TOWN												0
3.9	Hazardous Material Impact Analysis by TOWN												0
3.10	Landscape Plan by TOWN												0
3.11	Traffic Impact Study by TOWN												0
3.12	Soils Report by TOWN												0
3.13	Site Lighting and Photometric Plan		4			15						4	23
3.14	Wetland Mitigation by TOWN									0			0
3.15	Water and Air Quality Report by TOWN												0
4	Final Site Development Submittal	4	8	8	8	5	12	4				12	61
Subtotal		18	38	40	40	20	28	8	0	0	0	32	224
Bill Rate		230.00	127.00	195.00	143.00	143.00	143.00	117.00	106.00	106.00	106.00	127.00	
Invoiced Cost		\$4,140.0	\$4,826.0	\$7,800.0	\$5,720.0	\$2,860.0	\$4,004.0	\$936.0	\$0.0	\$0.0	\$0.0	\$4,064.0	\$34,350.0

Estimated Direct Costs *	
Mileage/POV	\$200.00
GPS Equipment Rental	
Per Diem	
Mailings postage/printing (1000)	
US Mail & Express Delivery	
Reproduction	
Misc	
Subtotal	\$200.00
Summary	
Labor costs	\$34,350
Direct Expenses	\$200
GRAND TOTAL	\$34,550

* All reimbursable items to be billed at cost



Town of Wellington
3735 Cleveland Avenue
P.O. Box 127
Wellington, CO 80549
PUBLIC WORKS (970) 568-0447
TOWN HALL (970) 568-3381

**WELLINGTON WASTEWATER TREATMENT PLANT EXPANSION
ENGINEERING DESIGN AND CONSTRUCTION SERVICES
AMENDMENT ONE
TO
CONTRACT FOR SERVICES, GL No. 211-80-4061**

Parties. The parties to this Amendment are the Town of Wellington, 3735 Cleveland Avenue, Wellington, Colorado 80549 (Town) and Jacobs Engineering Group Inc., 200 East 7th Street, Loveland, Colorado, 80537 (Consultant).

Purpose of Amendment. This Amendment constitutes the first amendment to the Engineering Design and Construction Services Contract (Contract) between the Town and the Consultant. The purpose of this Amendment is to add Task 7: Larimer County Site Plan Review – Wastewater Treatment Plant

The original Contract effective date December 16, 2020, is for all engineering design and construction services related to the expansion of Wellington's Wastewater Treatment Plant (WWTP) for a total Contract amount of four million nine hundred thirty seven thousand four hundred twenty four dollars and no cents (\$4,937,424.00). On the effective date of Amendment 1, the total Contract amount will be amended to four million nine hundred sixty nine thousand eight hundred seventy dollars and no cents (\$4,969,870.00).

Term of the Amendment. This Amendment shall commence upon the date the last required signature is affixed hereto (Effective Date) and shall remain in full force through the term of the Contract, as amended, unless terminated at an earlier date pursuant to the provisions of the Contract.

Amendment(s).

1. Append to the Contract the following task with respect to the Larimer County Site Plan Review – Wastewater Treatment Plant Scope of Work and associated Consultant rates (attached):
 - a. Task 7: Larimer County Site Plan Review – Wastewater Treatment Plant
2. Increase the Contract amount by thirty two thousand four hundred forty six dollars and no cents (\$32,446.00) for the aforementioned appended task.

Amended Responsibilities of the Consultant. Responsibilities of the Consultant are subject to fulfillment of the attached Scope of Work within the stated fees of \$32,446.00.

Amended Responsibilities of the Town. Responsibilities of the Town are subject to any provisions within the attached Scope of Work and payment to the Consultant for these additional services not to exceed \$32,446.00.

Same Terms and Conditions. Except for items explicitly delineated in this Amendment, all terms and conditions of the original Contract, and any previous amendments, between the Town and the Consultant, remain unchanged and in full force and effect.

Entirety of Contract. The original Contract, consisting of fifty-four (54) pages and Amendment one, consisting of six (6) pages (including attachments) represent the entire and integrated Contract between the parties.

Signatures. The parties to this Amendment, through their duly authorized representatives, have executed this Amendment on the dates set out below and certify that they have read, understood, and agreed to the terms and conditions of this Amendment.

TOWN OF WELLINGTON

Signature

Date

Printed Name

Title

JACOBS ENGINEERING GROUP, INC.

Signature

Date

Printed Name

Title



Town of Wellington Wastewater Treatment Plant Improvements - Larimer County Site Plan Review

Scope of Services

Jacobs Engineering Group Inc. (CONSULTANT) agrees to furnish the Town of Wellington (TOWN) professional services for the TOWN's Wastewater Treatment Plant (WWTP) Improvements Project (Project) based on the following task descriptions. This scope of services will supplement the Wellington Wastewater Treatment Plant Expansion Engineering Design and Construction Services contract (design contract) approved on December 16, 2020, to assist the Town with the Larimer County site plan review process. The CONSULTANT's cost estimate for these supplemental services is based on the task descriptions in this scope.

The TOWN has designated Mr. Nathan Ewert, Civil Engineer II, as TOWN Project Manager. He will be the primary point of contact with respect to the work performed under this agreement, with authority to transmit instructions, receive information, interpret and define TOWN policies and decisions relative to elements pertinent to the work covered by this Agreement.

In preparing this scope of services and associated fee, we have assumed economies of scale with the use of CONSULTANT's tools, procedures, document control platform, and similar staff members to the design project.

Project Purpose and Background

The Town of Wellington is planning to improve their wastewater treatment plant (WWTP) located at 6190 NE Frontage Road, Wellington, Colorado. The plant is nearing its capacity, will need to meet more stringent regulations for effluent discharge in the near term, and the original facilities are aging. Proposed improvements would increase the plant capacity from 0.9 million gallons per day (mgd) to 1.75 mgd and consist of new influent screening, new grit removal, new influent pumping, additional aeration, additional clarification, new UV disinfection, additional aerobic digestion, additional sludge dewatering, and additional administration facilities. The project would also move the existing fence to the west side of the Town's WWTP property limit. All proposed improvements would occur within the Town's existing property for the WWTP.

CONSULTANT will provide services to assist the TOWN with the Larimer County site plan review process per the March 31, 2021 version of the Land Use Code and as defined in the specific Task descriptions below. The TOWN will lead the effort for this approval process and will coordinate with Larimer County. Some of the subtasks for the approval process will be performed by the TOWN, or possibly the TOWN's planning consultant, as noted below and CONSULTANT has not included hours for performing or reviewing those subtasks in our fee estimate. The TOWN will incorporate the elements of the approval requirements performed by CONSULTANT, and the TOWN will coordinate and provide the overall submittal to Larimer County.

Task 1—Project Management

The purpose of this task is to manage, coordinate and lead the CONSULTANT Team's activities and perform administration of the CONSULTANT's portion of the Larimer County site plan review process. The CONSULTANT will perform the following subtasks as part of this Task.

Sub Task 1.1 – Project Execution Planning

Services for this scope will be communicated to the CONSULTANT's team members for the project. This task includes the activities associated with administration of the Contract and coordination with the TOWN.

Sub Task 1.2 – Quality Control Review, Coordination and Response

The CONSULTANT will provide management of the Quality Assurance/Quality Control (QA/QC) aspects of the supplemental services detailed in this scope that are being performed by CONSULTANT.

Sub Task 1.3 – Task Schedule

CONSULTANT will coordinate with the TOWN on schedule specifics for the site plan review process that includes major tasks, TOWN reviews, and County reviews.

Task 2—Larimer County Coordination

Sub Task 2.1—Coordination during Site Plan Review Process

The TOWN will coordinate with Larimer County through the site plan review process to answer questions from CONSULTANT and monitor progress.

Task 3 — Site Plan Review Initial Submittal

The Site Plan Review tasks are outlined below for the initial submittal to the Larimer County Planning Department.

Sub Task 3.1 – Application Forms

The TOWN will prepare the Site Plan Review application form and Building Project Information Sheet.

Sub Task 3.2 – Project Description

The TOWN will prepare the project description portion of the application.

Sub Task 3.3—Ownership and Encumbrance

The TOWN will contact the Title Company to obtain an Ownership and Encumbrance Report for the site.

Sub Task 3.4 – Preliminary Site Plan

The TOWN will prepare a Preliminary Site Plan that meets the requirements of Larimer County Community Development Planning.

Sub Task 3.5 – Development Construction Plans

The CONSULTANT will compile the design contract construction plans currently in progress. Address comments from the Site Plan Review, and update the plans as needed.

Task Deliverable(s)

1. Two draft versions of Development Construction Plans (TOWN and County)

Sub Task 3.6—Drainage and Erosion Control Report and Plan

The CONSULTANT will prepare a Drainage and Erosion Control Report signed by a registered professional engineer that analyzes stormwater and water quality impacts associated with the proposed site development. The report will be prepared in accordance with the Larimer County Stormwater Design Standards and will include the following items.

1. An analysis of overall drainage considerations including a watershed map.
2. Identification of nearby drainage features that will be affected by drainage in the development area.
3. Stormwater peak flow rates entering, passing through, and leaving the site for the minor and major storm events.
4. Plan drawings showing site drainage features for the minor and major drainage systems. It's assumed that select drawings from the 90% design contract plan set will be used to satisfy this requirement.
5. Erosion control plan drawings to indicate methods to be used during and after construction to control erosion and sediment control within the site development. It's assumed that the overall erosion control sheet from the 90% design contract plan set will be used to satisfy this requirement along with selected design details.
6. Documentation and data utilized in the sizing of drainage facilities including calculations for on-site stormwater features.
7. Soil classification reports which are being provided as part of Task 3.12.
8. Address comments from two rounds of review; one for the Town and one for the County.

Task Deliverable(s)

1. Two draft versions of Drainage and Erosion Control Report and Plan (TOWN and County)
2. Two draft versions of Drainage Agreement (TOWN and County)

Sub Task 3.7 – Fire Protection Plan

The TOWN will develop the fire protection plan for site plan review process.

Sub Task 3.8 – Fugitive Dust Control Plan

The TOWN will prepare a dust control plan describing control measures to be implemented to minimize the release of fugitive dust from the site during construction.

Sub Task 3.9 – Hazardous Material Impact Analysis

The TOWN will analyze the impacts of hazardous materials that will be present on the site for the site plan review process.

Sub Task 3.10 – Landscape Plan

The TOWN will provide the landscaping plan and design (if needed) for the site plan review process.

Sub Task 3.11 – Traffic Impact Study

The TOWN will provide a summary of estimated impacts to local traffic that could be attributed to the WWTP construction project once completed.

Sub Task 3.12 – Soils Report

The TOWN will summarize the current soils report for the design project. It is assumed that no updates to the soils report, completed by CTL Thompson under the design contract, will be required.

Sub Task 3.13 – Site Lighting and Photometric Plan

The CONSULTANT will develop a lighting plan to meet the development standards in Article 4.10 of the March 31, 2021 Larimer County Land Use Code. The plan will include lighting to illuminate buildings, parking areas, and walkways.

Task Deliverable(s)

1. Two draft versions of Site Lighting Photometric Plan (TOWN and County)

Sub Task 3.14 – Wetland Mitigation

The TOWN will confirm absence of wetlands on the site based on the County's wetlands inventory, and note the absence in the site plan review package.

Sub Task 3.15 – Water and Air Quality Report

The TOWN will prepare a memorandum documenting applicable air quality and water quality regulations from the Environmental Assessment (from the design contract) and how the project will comply with regulations.

Task 4 – Final Site Development Submittal

Upon approval of the Site Plan application, the CONSULTANT will compile final site development documents, including the following items:

- Development Construction Plans and signed by utility providers and stamped by an Engineer licensed in the State of Colorado
- Final version of Site Lighting Photometric Plan and stamped by an Engineer licensed in the State of Colorado
- Drainage and Erosion Control Report and Plan and stamped by an Engineer licensed in the State of Colorado

- Final Executed Drainage Agreement (including recording fees paid by TOWN). It is assumed that this is a one-page form that will not require any additional effort beyond what is needed in Task 3.6.
- It is assumed that a Final Executed Road Deed of Dedication or Deed of Easement will not be required.
- Development Agreement or Development Acknowledgement. It is assumed that this is a one-page form to be filled out by TOWN that will not require any additional effort beyond what is needed in Task 3.5.

Schedule

To meet the design contract project construction schedule, a target date of completion of June 1, 2022 is proposed for the scope of services herein.

TABLE 1 – SITE PLAN REVIEW SCHEDULE

Wellington WWTP Expansion

Task	Completion Date
Notice to Proceed	December 17, 2021
Initial Site Plan Review Submittal Documents to Town	January 28, 2021
Revised Site Plan Review Submittal Documents for submission to County	February 25, 2022
Final Site Development Submittal (to County)	June 1, 2022

Payment

Compensation will be on a time and expense basis with labor billed at hourly labor rates based on labor code. Direct expenses will be billed at actual cost or standard billing rates. The hourly billing rates include allowances for salary, benefits, overhead, and profit. Other expenses will include travel, printing, mailing, copying, supplies, and other similar costs incurred in performance of the work. A budgetary amount for the CONSULTANT's services is included in **Attachment 1**.

The CONSULTANT shall make reasonable efforts to complete the work within this budget and will keep the TOWN informed of progress toward that end so that the budget or work effort can be adjusted if found necessary. The CONSULTANT shall not exceed the total budgetary amount without prior written approval from the TOWN. CONSULTANT is allowed to manage to the overall total budget, which allows underruns or overruns at the sub task level.

Attachment 1
Wellington WWTP Site Plan Review

Site Plan Review Tasks		PM	Process	Civil	Mechanical	Electrical	Civil	Env	Graphics	Total
		Kile	Madalyn	Sang	Scott	Hassaan	Aaron	Misty	Pete	Hours
		Snider	Murphy	Nguyen	Garner	Idrees	Cook	Swan	Barney	
Labor Rate		230	127	143	106	143	195	117	127	
1	Project Management	14	18	0	0	0	0	0	0	32
1.1	Project Execution Planning	4	10							14
1.2	QA/QC	10	4							14
1.3	Task Schedule		4							4
2	Larimer County Coordination	0	0	0	0	0	0	0	0	0
2.1	County Coordination by TOWN									0
3	Site Plan Review Initial Submittal	0	12	32	32	15	16	4	20	131
3.1	Application Forms by TOWN									0
3.2	Project Description by TOWN									0
3.3	Ownership and Encumbrance by TOWN									0
3.4	Preliminary Site Plan by TOWN									0
3.5	Development Construction Plans		4		32				8	44
3.6	Drainage and Erosion Control Report and Plan		4	32			16	4	8	64
3.7	Fire Protection Plan by TOWN									0
3.8	Fugitive Dust Control Plan by TOWN									0
3.9	Hazardous Material Impact Analysis by TOWN									0
3.10	Landscape Plan by TOWN									0
3.11	Traffic Impact Study by TOWN									0
3.12	Soils Report by TOWN									0
3.13	Site Lighting and Photometric Plan		4			15			4	23
3.14	Wetland Mitigation by TOWN									0
3.15	Water and Air Quality Report by TOWN									0
4	Final Site Development Submittal	4	8	8	8	5	12	4	12	61
Subtotal		18	38	40	40	20	28	8	32	224

Invoiced Cost	\$4,140.0	\$4,826.0	\$5,720.0	\$4,240.0	\$2,860.0	\$5,460.0	\$936.0	\$4,064.0	\$32,246.0
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Estimated Direct Costs *	
Mileage/POV	\$200.00
GPS Equipment Rental	
Per Diem	
Mailings postage/printing (1000)	
US Mail & Express Delivery	
Reproduction	
Misc	
Subtotal	\$200.00

Summary	
Labor costs	\$32,246
Direct Expenses	\$200

GRAND TOTAL	\$32,446
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* All reimbursable items to be billed at cost

Board of Trustees Meeting

Date: December 14, 2021
Submitted By: Cody Bird, Planning Director
Subject: Amendment to Professional Services Agreement with SAFEbuilt Colorado, LLC

- **Presentation: Cody Bird, Planning Director**

EXECUTIVE SUMMARY

- The Town employs SAFEbuilt Colorado, LLC to perform professional building plan review and inspection services. SAFEbuilt has also historically provided Building Official services and Permit Technician support services for the Town.
- The Town last renewed the professional services agreement with SAFEbuilt in 2019.
- Since the 2019 renewal, the Town has approved staffing positions to provide Building Department services utilizing Town employees.
 - A Building Official was hired in May 2021 and a position for Building Permit Technician was approved in the 2022 budget and recruitment is underway.
- It is advisable to update the scope of services and fee structure of the professional services agreement with SAFEbuilt to reflect only the services needed and to balance the costs to the Town.
- Reviewing and updating the scope of services and fee schedule for professional services supports the Board's Strategic Plan goals:
 - Community Engagement Goal #2 – Improve Access and Transparency to Local Government. Addition of the Building Official and Building Permit Technician allows Building Department services to be available at Town offices and improves customer service through better ease of access and timely responses.
 - Growth and Development Goal #1 – Balanced and Resilient Revenues. Town fees collected for an associated service offset the cost of resources needed to provide the service. Positions added to the Building Department are covered by building permit fees collected, and revising the fees paid to SAFEbuilt allows the additional staffing without increasing fees for customers.
 - Growth and Development Goal #4 – Develop Partnerships for Long Term Funding Strategies. Updating the scope of services with SAFEbuilt allows the Town to continue to utilize the long-lasting relationship and expertise that SAFEbuilt has provided while also allowing options for the Town to select which services are needed on an hourly rate basis and thereby balancing the Town's personnel costs and fees for professional services.

BACKGROUND / DISCUSSION

- The attached Amendment identifies changes to the services provided by SAFEbuilt in the Scope of Services (Exhibit A) and a revised Fee Schedule (Exhibit B). The current 2019 agreement is structured so that the agreement can remain the same and only the Scope of Services and Fee Schedule need to be amended. The 2019 agreement is proposed to remain and is also attached for reference.
- Proposed changes to the Scope of Services (Exhibit A) include:
 - Building Official services is reduced to being available on an as-needed basis.

- Reporting services is removed (reporting to Town on building activities is not necessary due to increased staffing levels and Town access to the building permit software tracking system).
- Software services are available to the Town (currently and with proposed amendment) and is included in the building permit fee remittance paid to SAFEbuilt. SAFEbuilt has indicated that further reduction to the scope of services (and therefore associated fee remittance) may result in the software service no longer being available at no cost. The option to pay for software and support services would still be an option.
- The current Fee Schedule (Exhibit B) identifies all fees to be paid to SAFEbuilt as a percentage of the fees collected by the Town. The current fees are paid to SAFEbuilt at 78% of fees collected. The Amendment proposes to reduce the percentage of fees paid to reflect the changes to the Scope of Services. Proposed changes to the Fee Schedule (Exhibit B) include:
 - Reducing the percentage of collected fees paid to SAFEbuilt for inspection services and plan review services from 78% to 55%.
 - Changing fees for re-inspections, after hours inspections, and re-review fees from a percentage to a flat hourly rate.
 - Reducing fees associated with Electrical inspections from 78% to 75% (State law requires electrical inspections be performed by a Master Electrician, adding costs to hire inspectors with the Master Electrician credential).
 - Reducing fees for “one-stop” permits from 78% to 60% (“One-stop” permits are permits that do not need plan review and typically only have one inspection, such as reroofs, window replacement, furnace/AC replacement and similar permits).
 - Permit re-activation fees and investigation fees are removed from the Fee Schedule and will be 100% retained by the Town (activities will be performed by Town staff).
 - Building Official services will no longer be included at no cost and instead will be paid at an hourly rate on an as-needed basis.
 - Pre-move inspections for moving dwellings is removed from the fee schedule. Moving dwellings is rare in Wellington and these will be performed by Town staff as needed or may be paid to SAFEbuilt at an hourly rate for Building Official services.
- Building permit fees collected by the Town offset actual expenses incurred by the Town in the processing, plan review and inspection services associated with development and construction activities, including contractual services provided by SAFEbuilt.
- It is desirable for costs directly associated with the Town Building Department to be offset by revenues collected from building permit fees.
 - Reductions in the percentage of fees paid to SAFEbuilt will result in the Town retaining more revenues associated with building permit activities. Projected revenue and expenditures are provided based upon the 2022 approved budget (excerpt sheets attached).
 - Proposed revisions to the Fee Schedule will result in costs directly attributed to the Building Official and Building Permit Technician positions to be satisfied by revenues from building permit fees.

STAFF RECOMMENDATION

Move to approve Amendment One to the agreement for professional services with SAFEbuilt Colorado, LLC and authorize the Mayor to execute the amendment.

ATTACHMENTS

1. Amendment One to SAFEbuilt Agreement
2. SAFEbuilt Agreement - 2019



3. 2022 Budget Excerpts
4. 2022 Revised Building Fee Revenues/Expenditures

AMENDMENT ONE
PROFESSIONAL SERVICES AGREEMENT
BETWEEN TOWN OF WELLINGTON, COLORADO
AND SAFEbuilt COLORADO, LLC

This Amendment is entered into to amend the Professional Services Agreement previously entered into on December 05, 2019, by and between Town of Wellington, Colorado, (Municipality) and SAFEbuilt Colorado, LLC, a wholly owned subsidiary of SAFEbuilt, LLC, (Consultant). Municipality and Consultant shall be jointly referred to as the “Parties”.

Amendment Effective Date: This Amendment shall be effective on the latest date fully executed by both Parties.

RECITALS AND REPRESENTATIONS

Parties entered into a Professional Services Agreement (Agreement), by which both Parties established the terms and conditions for service delivery on December 05, 2019; and

Parties hereto now desire to amend the Agreement as set forth herein; and

NOW, THEREFORE

Agreement is hereby amended as set forth below; and

A. Agreement, Exhibit A - List of Services is hereby amended as follows:

- 1) Building Official Services shall be provided on an on-call/as requested basis.
- 2) Section titled Reporting Services is deleted from Agreement.
- 3) Community Core Systems shall be replaced with the following:
 2. COMMUNITY CORE SYSTEMS
 - ✓ Consultant shall provide Services using Community Core Systems, formerly known as Meritage, hardware and software package including the Business License and Contractor Licensing modules.
 - ✓ Consultant will provide software at no cost to Municipality at current service level included in the Agreement and as amended by this amendment.
 - ✓ Unless otherwise agreed to, if Municipality requests Consultant service level to be substantially reduced below the current service level as covered by the Agreement and this amendment, no-cost Community Core Services will be discontinued. Municipality may exercise the option to purchase Community Core Systems software from Consultant.

B. Agreement, Exhibit B, 1. Fee Schedule shall be replaced with and read in its entirety as follows:

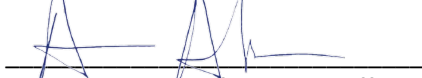
1. FEE SCHEDULE
 - ✓ Municipality will promptly notify Consultant of any revisions or amendments to Municipal Fee Schedule.
 - ✓ Municipality and Consultant will review the Municipal Fee Schedule and valuation tables annually to discuss making adjustments to reflect increases in the costs incurred by Consultant to provide Services.
 - ✓ Beginning January 01, 2023 and annually thereafter, the hourly rates listed shall be increased based upon the annual increase in the Department of Labor, Bureau of Labor Statistics or successor thereof, Consumer Price Index (United States City Average, All Items (CPI-U), Not Seasonally adjusted, All Urban Consumers, referred to herein as the “CPI”) for the Municipality or, if not reported for the Municipality the CPI for cities of a similar size within the applicable region from the previous calendar year, such increase, however, not to exceed 4% per annum. The increase will become effective upon publication of the applicable CPI data. If the index decreases, the rates listed shall remain unchanged.

✓ Consultant fees for Services provided pursuant to this Agreement will be as follows:

Service Fee Schedule:	
Inspection Services	55% of Municipal Building Permit Fee established by Ordinance
Plan Review Services Excludes engineer review fees	55% of Municipal Plan Review Fee established by Ordinance
SAFEbuilt Re-Inspection Fee	\$75.00 per inspection
Inspections Outside of Normal Business Hours	\$100.00 per hour – one (1) hour minimum
Re-review of Previously Approved Plans	\$75.00 per hour – one (1) hour minimum
Electrical Fees	75% Based on the most current version of the State of Colorado Electrical Board fee schedule (+ or – 15%)
Furnace or A/C Replacement Water Heater Replacement Lawn Sprinkler Roof / Reroof Siding Replacement Window Replacement Demolition	60% of Municipal Fee established by Ordinance
Town Administrative Fee Town Re-Inspection Fee Town Permit Issuance Fee Certificate of Occupancy Temporary Certificate of Occupancy Fence Temporary Sign Permit Zoning Permit Contractor licensing	Municipality to retain 100% of fees collected by Municipality
Structural Engineering Plan Review (upon request)	\$150.00 per hour – one (1) hour minimum
Building Official Services	\$125.00 per hour – one (1) hour minimum
Business License Inspection	\$75.00 – Per Inspection - Town will retain 100% of Town Administration Fee
Stock Model / “Same As” Plan Review	\$45.00 – No Changes \$100.00 – Minor Changes
Mobile / Manufactured / Factory Built	\$155.00 – Approved mobile home park 75.00 – Temporary or Accessory

All other provisions of the original Agreement shall remain in effect, to the extent not modified by Amendment.

IN WITNESS HEREOF, the undersigned have caused this Amendment to be executed in their respective names on the dates hereinafter enumerated.


 Avner Alkhas, Chief Financial Officer
 SAFEbuilt Colorado, LLC

December 06, 2021
 Date

 Troy Hamman, Mayor
 Town of Wellington, Colorado

 Date

 Patti Garcia, Town Administrator
 Town of Wellington, Colorado

 Date

**PROFESSIONAL SERVICES AGREEMENT
BETWEEN TOWN OF WELLINGTON, COLORADO
AND SAFEbuilt COLORADO, LLC**

This Professional Services Agreement ("Agreement") is made and entered into by and between Town of Wellington, Colorado, ("Municipality") and SAFEbuilt Colorado, LLC, a whole subsidiary of SAFEbuilt, LLC, ("Consultant"). Municipality and Consultant shall be jointly referred to as "Parties".

RECITALS

WHEREAS, Municipality is seeking a consultant to perform the services listed in Exhibit A – List of Services, ("Services"); and

WHEREAS, Consultant is ready, willing, and able to perform Services.

NOW THEREFORE, for good and valuable consideration, the sufficiency of which is hereby acknowledged, Municipality and Consultant agree as follows:

1. SCOPE OF SERVICES

Consultant will perform Services in accordance with codes, amendments and ordinances adopted by the elected body of Municipality. The qualified professionals employed by Consultant will maintain current certifications, certificates, licenses as required for Services that they provide to Municipality. Consultant is not obligated to perform services beyond what is contemplated by this Agreement.

2. CHANGES TO SCOPE OF SERVICES

Any changes to Services between Municipality and Consultant shall be made in writing that shall specifically designate changes in Service levels and compensation for Services. Both Parties shall determine a mutually agreed upon solution to alter services levels and a transitional timeframe that is mutually beneficial to both Parties. No changes shall be binding absent a written Agreement or Amendment executed by both Parties.

3. FEE STRUCTURE

In consideration of Consultant providing services, Municipality shall pay Consultant for Services performed in accordance with Exhibit B – Fee Schedule for Services.

4. INVOICE & PAYMENT STRUCTURE

Consultant will invoice Municipality on a monthly basis and provide all necessary supporting documentation. All payments are due to Consultant within thirty (30) days of Consultant's invoice date. Payments owed to Consultant but not made within sixty (60) days of invoice date shall bear simple interest at the rate of one percent (1%) per month. If payment is not received within ninety (90) days of invoice date, Services may be discontinued until all invoices are paid in full. Municipality may request, and Consultant shall provide, additional information before approving the invoice. When additional information is requested Municipality will identify specific disputed item(s) and give specific reasons for any request. Undisputed portions of any invoice shall be due within thirty (30) days of Consultants invoice date, if additional information is requested, Municipality will submit payment within thirty (30) days of dispute resolution.

5. TERM

This Agreement shall be effective on the latest date on which this Agreement is fully executed by both Parties. The initial term of this Agreement shall be twelve (12) months. Subsequently, Agreement shall automatically renew for twelve (12) month terms unless prior notification is delivered to either Party at least thirty (30) days in advance of the renewal date of this Agreement. In the absence of written documentation, this Agreement will continue in force until such time as either Party notifies the other of their desire to terminate this Agreement.

6. TERMINATION

Either Party may terminate this Agreement, or any part of this Agreement upon ninety (90) days written notice, with or without cause and with no penalty or additional cost beyond the rates stated in this Agreement. In case of such termination, Consultant shall be entitled to receive payment for work completed up to and including the date of termination.

All structures that have been permitted, a fee collected, and not yet expired at the time of termination may be completed through final inspection by Consultant if approved by Municipality. Consultant's obligation is met upon completion of final inspection or permit expiration, provided that the time period to reach such completion and finalization does not exceed ninety (90) days. Alternately, Municipality may exercise the option to negotiate a refund for permits where a fee has been collected but inspections have not been completed. The refund will be prorated according to percent of completed inspections as determined by Consultant and mutually agreed upon by all Parties. No refund will be given for completed work.

7. TABOR

It is understood and acknowledged that Municipality is subject to Article X, § 20 of the Colorado Constitution ("TABOR"). Parties do not intend to violate the terms and requirements of TABOR by the execution of this Agreement. It is understood and agreed that this Agreement does not create a multi-fiscal year direct or indirect debt or obligation within the meaning of TABOR and, therefore, notwithstanding anything in this Agreement to the contrary, all payment obligations of Municipality are expressly dependent and conditioned upon the continuing availability of funds beyond the term of Municipality's current fiscal period ending upon the next succeeding December 31.

8. FISCAL NON-APPROPRIATION CLAUSE

Financial obligations of Municipality payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available in accordance with the rules, regulations, and resolutions of Municipality, and other applicable law. Upon the failure to appropriate such funds, this Agreement shall be terminated.

9. MUNICIPALITY OBLIGATIONS

Municipality shall timely provide all data information, plans, specifications and other documentation reasonably required by Consultant to perform Services. Municipality grants Consultant full privilege, non-exclusive, non-transferable license to use all such materials as reasonably required to perform Service, subject to section 18 herein.

10. PERFORMANCE STANDARDS

Consultant shall perform the Services using that degree of care, skill, and professionalism ordinarily exercised under similar circumstances by members of the same profession practicing or performing the substantially same or similar services. Consultant represents to Municipality that Consultant retains employees that possess the skills, knowledge, and abilities to competently, timely, and professionally perform Services in accordance with this Agreement. Municipality's sole remedy and Consultant's sole obligation in the event of failure to perform Services in accordance with the terms of this Section shall be re-performance of the services by Consultant.

11. INDEPENDENT CONTRACTOR

Consultant is an independent contractor, and neither Consultant, nor any employee or agent thereof, shall be deemed for any reason to be an employee or agent of Municipality. As Consultant is an independent contractor, Municipality shall have no liability or responsibility for any direct payment of any salaries, wages, payroll taxes, or any and all other forms or types of compensation or benefits to any personnel performing services for Municipality under this Agreement. Consultant shall be solely responsible for all compensation, benefits, insurance and employment-related rights of any person providing Services hereunder during the course of or arising or accruing as a result of any employment, whether past or present, with Consultant, as

well as all legal costs including attorney's fees incurred in the defense of any conflict or legal action resulting from such employment or related to the corporate amenities of such employment.

12. INDEMNIFICATION

To the fullest extent permitted by law, Consultant shall defend, indemnify, and hold harmless Municipality, its elected and appointed officials, employees and volunteers and others working on behalf of Municipality, from and against any and all third-party claims, demands, suits, costs (including reasonable legal costs), expenses, and liabilities ("Claims") alleging personal injury, including bodily injury or death, and/or property damage, but only to the extent that any such Claims are caused by the negligence of Consultant or any officer, employee, representative, or agent of Consultant. Consultant shall have no obligations under this Section to the extent that any Claim arises as a result of Consultants compliance with Municipal law, ordinances, rules, regulations, resolution, executive orders or other instructions received from Municipality.

13. ASSIGNMENT

Neither party shall assign all or part of its rights, duties, obligations, responsibilities, nor benefits set forth in this Agreement to another entity without the written approval of both Parties; consent shall not be unreasonably withheld. Notwithstanding the preceding, Consultant may assign this Agreement to its parent, subsidiaries or sister companies (Affiliates) without notice to Municipality. Consultant may subcontract any or all of the services to its Affiliates without notice to Municipality. Consultant may subcontract any or all of the services to other third parties provided that Consultant gives Municipality prior written notice of the persons or entities with which Consultant intends to subcontract and the Municipality has provided written consent. Consultant remains responsible for any Affiliate's or subcontractor's performance or failure to perform. Affiliates and subcontractors will be subject to the same performance criteria expected of Consultant. Performances clauses will be included in agreements with all subcontractors to assure quality levels and agreed upon schedules are met.

14. INSURANCE

- A. Consultant agrees during the term of this Agreement to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by Consultant pursuant to this Agreement. Such insurance shall be in addition to any other insurance requirements imposed by law.
- B. At a minimum, Consultant shall procure and maintain, and shall cause any subcontractor of Consultant to procure and maintain, the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers acceptable to Municipality. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.
- C. Worker's compensation insurance to cover obligations imposed by applicable law for any employee engaged in the performance of work under this Agreement, and Employer's Liability insurance with minimum limits of one million dollars (\$1,000,000) bodily injury each accident, one million dollars (\$1,000,000) bodily injury by disease – policy limit, and one million dollars (\$1,000,000) bodily injury by disease – each employee.
- D. Commercial general liability insurance with minimum combined single limits of one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) general aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage, personal injury (including coverage for contractual and employee acts), blanket contractual, independent Consultant's, and products. The policy shall contain a severability of interest provision and shall be endorsed to include Municipality and Municipality's officers, employees, and consultants as additional insureds.
- E. Professional liability insurance with minimum limits of five million dollars (\$5,000,000) each claim and five million dollars (\$5,000,000) general aggregate.

- F. Automobile Liability: If performance of this Agreement requires use of motor vehicles licensed for highway use, Automobile Liability Coverage is required that shall cover all owned, non-owned, and hired automobiles with a limit of not less than \$1,000,000 combined single limit each accident.
- G. Municipality shall be named as an additional insured on Consultant's insurance coverage.
- H. Prior to commencement of Services, upon request of the Municipality, and if insurance coverage shall change, Consultant shall submit certificates of insurance acceptable to Municipality.

15. THIRD PARTY RELIANCE

This Agreement is intended for the mutual benefit of Parties hereto and no third-party rights are intended or implied.

16. OWNERSHIP OF DOCUMENTS

Except as expressly provided in this Agreement, Municipality shall retain ownership of all work product and deliverables created by Consultant pursuant to this Agreement and all records, documents, notes, data and other materials required for or resulting from the performance of Services hereunder shall not be used by Consultant for any purpose other than the performance of Services hereunder without the express prior written consent of Municipality. All such records, documents, notes, data and other materials shall become the exclusive property of Municipality when Consultant has been compensated for the same as set forth herein, and Municipality shall thereafter retain sole and exclusive rights to receive and use such materials in such manner and for such purposes as determined by it. Notwithstanding the preceding, Consultant may use the work product, deliverables, applications, records, documents and other materials required for or resulting from the Services, all solely in anonymized form, for purposes of (i) benchmarking of Municipality's and others performance relative to that of other groups of customers served by Consultant; (ii) sales and marketing of existing and future Consultant services; (iii) monitoring Service performance and making improvements to the Services. For the avoidance of doubt, Municipality Data will be provided to third parties only on an anonymized basis and only as part of a larger body of anonymized data. If this Agreement expires or is terminated for any reason, all records, documents, notes, data and other materials maintained or stored in Consultant's secure proprietary software pertaining to Municipality will be exported into a CSV file and become property of Municipality. Notwithstanding the preceding, Consultant shall own all rights and title to any Consultant provided software and any improvements or derivative works thereof.

Upon reasonable prior written notice, Municipality and its duly authorized representatives shall have access to any books, documents, papers and records of Consultant that are related to this Agreement for the purposes of audit or examination, other than Consultant's financial records, and may make excerpts and transcriptions of the same at the cost and expense of Municipality.

17. CONSULTANT ACCESS TO RECORDS

Parties acknowledge that Consultant requires access to Records in order for Consultant to perform its obligations under this Agreement. Accordingly, Municipality will either provide to Consultant on a daily basis such data from the Records as Consultant may reasonably request (in an agreed electronic format) or grant Consultant access to its Records and Record management systems so that Consultant may download such data. Data provided to or downloaded by Consultant pursuant to this Section shall be used by Consultant solely in accordance with the terms of this Agreement. Records subject to section 18 herein.

18. CONFIDENTIALITY

Consultant shall not disclose, directly or indirectly, any confidential information or trade secrets of Municipality without the prior written consent of Municipality or pursuant to a lawful court order directing such disclosure.

19. CONSULTANT PERSONNEL

Consultant shall employ a sufficient number of experienced and knowledgeable employees to perform Services in a timely, polite, courteous and prompt manner. Consultant shall determine appropriate staffing levels and shall promptly inform Municipality of any reasonably anticipated or known employment-related actions which may affect the performance of Services. Additional staffing resources shall be made available to Municipality when assigned employee(s) is unavailable. Municipality may be provided advance opportunity to make recommendation to Consultant regarding any proposed hiring, retention, or selection of any new employee that will provide Services to Municipality. Such recommendation by Municipality concerning an employment-related action shall not be binding on Consultant.

20. DISCRIMINATION & ADA COMPLIANCE

Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, age, sex, disability, national origin or any other category protected by applicable federal or state law. Such action shall include but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notice to be provided by an agency of the federal government, setting forth the provisions of Equal Opportunity laws.

Consultant shall comply with the appropriate provisions of the Americans with Disabilities Act (the "ADA"), as enacted and as from time to time amended, and any other applicable federal regulations. A signed certificate confirming compliance with the ADA may be requested by Municipality at any time during the term of this Agreement.

21. PROHIBITION AGAINST EMPLOYING ILLEGAL ALIENS

Consultant is registered with and is authorized to use and uses the federal work authorization program commonly known as E-Verify. Consultant shall not knowingly employ or contract with an illegal alien to perform work under this Agreement and will verify immigration status to confirm employment eligibility. Consultant shall not enter into an agreement with a subcontractor that fails to certify to Consultant that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. Consultant is prohibited from using the E-Verify program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

22. SOLICITATION/HIRING OF CONSULTANT'S EMPLOYEES

During the term of this Agreement and for six (6) months thereafter, Municipality shall not solicit, recruit or hire, or attempt to solicit, recruit or hire, any employee or former employee of Consultant who provided services to Municipality pursuant to this Agreement ("Service Providers"), or who interacted with Municipality in connection with the provision of such services (including but not limited to supervisors or managers of Service Providers, customer relations personnel, accounting personnel, and other support personnel of Consultant). Notwithstanding the foregoing, Municipality shall not be precluded from hiring any former employee who has not provided services to Consultant for a period of six (6) months prior to Municipality's hiring of the Service Provider. Parties agree that this provision is reasonable and necessary in order to preserve and protect Consultant's trade secrets and other confidential information, its investment in the training of its employees, the stability of its workforce, and its ability to provide competitive building department programs in this market. If any provision of this section is found by a court or arbitrator to be overly broad, unreasonable in scope or otherwise unenforceable, Parties agree that such court or arbitrator shall modify such provision to the minimum extent necessary to render this section enforceable. In the event that Municipality hires any such employee during the specified period, Municipality shall pay to Consultant a placement fee equal to 25% of the employee's annual salary.

23. NOTICES

Any notice under this Agreement shall be in writing and shall be deemed sufficient when presented in person, or sent, pre-paid, first class United States Mail, or delivered by electronic mail to the following addresses:

If to Municipality:	If to Consultant:
Ed Cannon, Town Administrator Town of Wellington PO Box 127 Wellington, Colorado 80549 Email: cannonel@wellingtoncolorado.gov	Tom T. Klein, CRO SAFEbuilt, LLC 3755 Precision Drive, Suite 140 Loveland, CO 80538 Email: tklein@safebuilt.com
with a copy to: Brad March March & Olive, LLC 1312 S. College Avenue Fort Collins, CO 80524	

24. FORCE MAJEURE

Any delay or nonperformance of any provision of this Agreement by either Party (with the exception of payment obligations) which is caused by events beyond the reasonable control of such party, shall not constitute a breach of this Agreement, and the time for performance of such provision, if any, shall be deemed to be extended for a period equal to the duration of the conditions preventing such performance.

25. DISPUTE RESOLUTION

In the event a dispute arises out of or relates to this Agreement, or the breach thereof, and if said dispute cannot be settled through negotiation, Parties agree first to try in good faith to settle the dispute by mediation, before resorting to arbitration, litigation, or some other dispute resolution procedure. The cost thereof shall be borne equally by each Party.

26. ATTORNEY'S FEES

In the event of dispute resolution or litigation to enforce any of the terms herein, each Party shall pay all its own costs and attorney's fees.

27. AUTHORITY TO EXECUTE

The person or persons executing this Agreement represent and warrant that they are fully authorized to sign and so execute this Agreement and to bind their respective entities to the performance of its obligations hereunder.

28. GOVERNING LAW AND VENUE

This Agreement shall be construed under and governed by the laws of the State of Colorado and all services to be provided will be provided in accordance with applicable federal, state and local law, without regard to its conflict of laws provisions. Venue shall be solely in the Courts of Larimer County.

29. COUNTERPARTS

This Agreement and any amendments may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. For purposes of executing this Agreement, scanned signatures shall be as valid as the original.

30. ELECTRONIC REPRESENTATIONS AND RECORDS

Parties hereby agree to regard electronic representations of original signatures as legally sufficient for executing this Agreement and scanned signatures emailed by PDF or otherwise shall be as valid as the original. Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

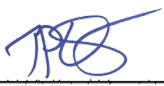
31. WAIVER

Failure to enforce any provision of this Agreement shall not be deemed a waiver of that provision. Waiver of any right or power arising out of this Agreement shall not be deemed waiver of any other right or power.

32. ENTIRE AGREEMENT

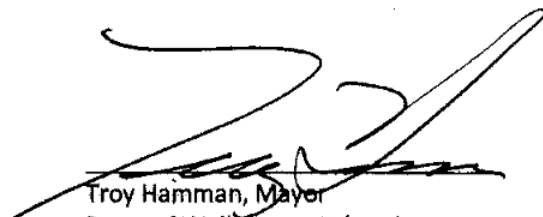
This Agreement, along with attached exhibits, constitutes the complete, entire and final agreement of the Parties hereto with respect to the subject matter hereof, and shall supersede any and all previous communications, representations, whether oral or written, with respect to the subject matter hereof. Invalidity of any of the provisions of this Agreement or any paragraph sentence, clause, phrase, or word herein or the application thereof in any given circumstance shall not affect the validity of any other provision of this Agreement.

IN WITNESS HEREOF, the undersigned have caused this Agreement to be executed in their respective names on the dates hereinafter enumerated.



Thomas P. Wilkas, CFO
SAFEbuilt Colorado, LLC

December 05, 2019
Date



Troy Hamman, Mayor
Town of Wellington, Colorado

12/5/19
Date

Attest:



Ed Cannon, Town Administrator
Town of Wellington, Colorado

12/5/19
Date

EXHIBIT A – LIST OF SERVICES

1. LIST OF SERVICES

Building Official Services

- ✓ Manage and help administer the department and report to Municipality's designated official
- ✓ Be a resource for Consultant team members, Municipal staff, and applicants
- ✓ Help guide citizens through the complexities of the codes in order to obtain compliance
- ✓ Monitor changes to the codes including state or local requirements and determine how they may impact projects in the area and make recommendations regarding local amendments
- ✓ Assist Municipal staff in revising and updating municipal code to comply with adopted requirements
- ✓ Provide Building Code interpretations for final approval
- ✓ Oversee our quality assurance program and will make sure that we are meeting our agreed upon performance measurements and your expectations
- ✓ Provide training for our inspectors on Municipality adopted codes and local amendments as needed
- ✓ Oversee certificate of occupancy issuance to prevent issuance without compliance of all departments
- ✓ Attend staff and council meetings as mutually agreed upon
- ✓ Responsible for reporting for Municipality – frequency and content to be mutually agreed upon
- ✓ Responsible for client and applicant satisfaction
- ✓ Work with Municipal staff to establish and/or refine building department processes
- ✓ Issue stop-work notices for non-conforming activities – as needed
- ✓ Provide Business license inspections as needed
- ✓ Provide Court testimony as needed

Building, Electrical, Plumbing, and Mechanical Inspection Services

- ✓ Consultant utilizes an educational, informative approach to improve the customer's experience.
- ✓ Perform code compliant inspections to determine that construction complies with approved plans
- ✓ Meet or exceed agreed upon performance metrics regarding inspections
- ✓ Provide onsite inspection consultations to citizens and contractors while performing inspections
- ✓ Return calls and emails from permit holders in reference to code and inspection concerns
- ✓ Identify and document any areas of non-compliance
- ✓ Leave a copy of the inspection ticket and discuss inspection results with site personnel

Plan Review Services

- ✓ Provide plan review services electronically or in the traditional paper format
- ✓ Review plans for compliance with adopted building codes, local amendments or ordinances
- ✓ Be available for pre-submittal meetings by appointment
- ✓ Coordinate plan review tracking, reporting, and interaction with applicable departments
- ✓ Provide feedback to keep plan review process on schedule
- ✓ Communicate plan review findings and recommendations in writing
- ✓ Return a set of finalized plans and all supporting documentation
- ✓ Provide review of plan revisions and remain available to applicant after the review is complete

Emergency Response Services

In cases of natural disaster, Consultant will provide emergency disaster response including:

- ✓ Rapid assessment of the structural integrity of damaged buildings using appropriate forms
- ✓ Determine whether structures are safe for use or if entry should be restricted or prohibited
- ✓ Post the structure with the appropriate placard
- ✓ Coordinate any disaster or emergency response with the appropriate local, state or federal agency(s)
- ✓ Track all hours and expenses for reimbursement from federal agencies when appropriate
- ✓ Survey construction sites for control of debris hazards
- ✓ Coordinate emergency permitting procedures

Reporting Services

- ✓ Consultant will work with Municipality to develop a mutually agreeable reporting schedule and format

2. COMMUNITY CORE SYSTEMS

- ✓ Consultant shall provide Services using Community Core Systems, formerly known as Meritage, hardware and software package including the Business license and Contractor licensing modules.
- ✓ Consultant will provide software at no cost to the Municipality

3. MUNICIPAL OBLIGATIONS

- ✓ Municipality will issue permits and collect all fees
- ✓ Municipality will intake plans and related documents for pick up by Consultant or submit electronically

4. TIME OF PERFORMANCE

- ✓ Perform Services during normal business hours excluding Municipal holidays
- ✓ Inspectors will be dispatched on a daily basis
- ✓ Inspectors will pick-up and drop-off plans and permits
- ✓ Consultants representative(s) will be available by cell phone and email

Deliverables			
INSPECTION SERVICES	Perform inspections requested prior to 4:00 PM the next business day		
AM/PM INSPECTION WINDOW	Provide an AM or PM window of time to homeowners. A call ahead time is also available to homeowners. AM and PM requests are NOT allowed to contractors or home builders.		
MOBILE RESULTING	Provide our inspectors with field devices to enter results immediately		
PRE-SUBMITTAL MEETINGS	Provide pre-submittal meetings to applicants by appointment		
PLAN REVIEW TURNAROUND TIMES	Provide comments within the following timeframes: Day 1 = first full business day after receipt of plans and all supporting documents		
	<u>Project Type:</u>	<u>First Comments</u>	<u>Second Comments</u>
	✓ Single-family within	5 business days	5 business days or less
	✓ Multi-family within	10 business days	5 business days or less
	✓ Small commercial within (under \$2M in valuation)	10 business days	5 business days or less
	✓ Large commercial within	20 business days	10 business days or less
APPLICANT SATISFACTION	Put a survey in place that allows applicants to provide feedback on their experience throughout the process		

EXHIBIT B – FEE SCHEDULE FOR SERVICES

1. FEE SCHEDULE

- ✓ Municipality will promptly notify Consultant of any revisions or amendments to Municipal Fee Schedule
- ✓ Municipality will periodically review its Municipal Fee Schedule and valuation tables and make adjustment to reflect increases in the cost incurred by Consultant in providing Services
- ✓ Consultant fees for Services provided pursuant to this Agreement will be as follows:

Service Fee Schedule:	
Inspection Services	78% of Municipal Building Permit Fee established by Ordinance
Plan Review Services Excludes engineer review fees	78% of Municipal Plan Review Fee established by Ordinance
SAFEbuilt Re-Inspection Fee	100% of Municipal Fee established by Ordinance
Inspections Outside of Normal Business Hours	100% of Municipal Fee established by Ordinance
Re-review of Previously Approved Plans	100% of Municipal Fee established by Ordinance
Electrical Fees	78% Based on the most current version of the State of Colorado Electrical Board fee schedule (+ or – 15%)
Furnace or A/C Replacement Water Heater Replacement Lawn Sprinkler Roof / Reroof Siding Replacement Window Replacement Demolition	78% of Municipal Fee established by Ordinance
Re-Activation of Expired Permits	78% of Municipal Fee established by Ordinance
Investigation Fee	78% of Municipal Fee established by Ordinance
Town Administrative Fee Town Re-Inspection Fee Town Permit Issuance Fee Certificate of Occupancy Temporary Certificate of Occupancy Fence Temporary Sign Permit Zoning Permit Contractor licensing	Municipality to retain 100% of fees collected by Municipality
Structural Engineering Plan Review	\$150.00 per hour – one (1) hour minimum
Building Official Services	Included in percentage of fees above
Business License Inspection	\$75.00 – Per Inspection - Town will retain 100% of Town Administration Fee
Stock Model / "Same As" Plan Review	\$45.00 – No Changes \$100.00 – Minor Changes
Pre-Move Inspection of Dwellings	\$150.00 – Within 30 miles of Municipality \$250.00 – Greater than 30 miles of Municipality
Mobile / Manufactured / Factory Built	\$155.00 – Approved mobile home park 75.00 – Temporary or Accessory

		2020	2021	2022	PERCENTAGE
		ACTUAL	PROJECTED	BUDGETED	CHANGE
FUND/DIVISION - 201					
Taxes and Impact Fees					
201-01-3110	Property Taxes	1,426,728	1,532,458	1,653,374	8%
201-01-3130	Sales Tax	1,765,037	1,950,850	2,134,069	9%
201-01-3135	Severance Tax	42,538	42,538	42,538	0%
201-01-3140	Use Tax - Building Materials	785,010	434,250	390,000	-10%
201-01-3195	Interest-Delinquent Taxes	659	307	1,000	226%
201-03-3160	Franchise Fee-Electricity	133,048	140,000	148,000	6%
201-03-3170	Franchise Fee-Natural Gas	24,139	20,000	24,000	20%
201-03-3180	Franchise Fee-Telephone	1,328	2,000	2,400	20%
201-03-3190	Franchise Fee-Cable Television	26,325	24,000	25,000	4%
		4,204,811	4,146,403	4,420,381	7%
Licenses and Permits					
201-02-3462	Bldg. Inspection Fees	737,460	382,355	420,000	10%
201-04-3220	Business License	38,165	18,109	17,500	-3%
201-04-3210	Liquor License	150	802	1,200	50%
201-04-3270	Animal License	45	-	-	0%
		775,820	401,266	438,700	9%
Intergovernmental					
201-01-3320	Cigarette Tax	6,608	6,913	4,300	-38%
		6,608	6,913	4,300	-38%
Charges for Services					
201-02-3155	Town Plan Review Fees	25,005	19,232	21,800	13%
201-02-3430	County Tax Vendors Fee	10,628	5,200	6,500	25%
201-02-3435	Fire Dept. Vendor Fee	18,863	-	-	0%
201-02-3450	Bldg. Admin. Fee	63,973	38,400	40,000	4%
201-05-3420	Land Use Fees	32,767	7,095	15,000	111%
201-05-3460	General Charges For Services	602	1,894	-	-100%
201-05-3510	Community Center User Fees	1,608	233	1,000	330%
201-06-3555	LCSO Administrative Fees	1,260	1,640	500	-70%
201-07-3470	Cemetery-Grave Openings	1,600	2,400	1,200	-50%
201-07-3480	Cemetery-Perpetual Care	1,225	1,200	1,000	-17%
201-07-3490	Cemetery-Sale Of Lots	5,165	4,700	5,000	6%
		162,695	81,993	92,000	12%
Fines and Forfeitures					
201-06-3550	Court Fines & Costs	8,385	3,092	4,000	29%
		8,385	3,092	4,000	29%
Earnings and Investments					
201-08-3355	Investment Earnings - Library	3,083	170	200	18%
201-08-3610	Investment Earnings-General	49,860	5,000	5,000	0%
		52,942	5,170	5,200	1%
Grants					
201-08-3350	Grants	15,476	-	1,881,296	0%
		15,476	-	1,881,296	0%
Other Revenues					
201-08-3373	Library Contrib./Fines/Misc.	6,923	8,013	9,000	12%
201-08-3440	Sale Of Maps & Publications	25	-	-	0%
201-08-3912	Water Share Rental	4,500	7,650	9,000	18%
201-08-3913	Sponsorship & Donations	1,500	-	-	0%
201-08-3630	Car Show Revenue	-	1,810	2,000	
201-08-3690	Miscellaneous Revenue	8,682	11,867	1,000	-92%
		21,630	29,340	21,000	-28%
Transfer Into General Fund					
201-09-3694	Trans. In From Street Fund	480,761	548,182	631,107	15%
201-09-3695	Trans.-In - From Water Fund	714,101	935,901	974,426	4%
201-09-3696	Trans. In From Sewer Fund	487,931	621,843	842,378	35%
201-09-3697	Trans. In From Drainage Fund	99,164	120,139	242,833	102%
201-09-3698	Trans. In From Park Fund	294,417	367,438	409,988	12%
		2,076,375	2,593,503	3,100,732	20%
Total Revenues		7,324,743	7,267,680	9,967,609	37%

PLANNING AND ZONING
BUDGET SUMMARY

		EXPENDITURES			
		2020	2021	2021	2022
		ACTUAL	PROJECTED	BUDGETED	BUDGETED
FUND/DIVISION - 18					
Personnel Services					
201-18-5100	Wages & Salaries	213,027	353,161	376,843	468,669
201-18-5101	Seasonal	-	-	15,000	-
201-18-5102	Benefits	43,302	97,519	139,145	145,559
		256,329	450,680	530,988	614,228
Materials & Supplies					
201-18-5214	Office Supplies	6,378	1,776	11,000	7,500
201-18-5331	Recording & Legal Publishing	1,551	1,055	2,500	2,500
201-18-5375	Protective Insp. Equipment	1,346	1,000	3,000	3,000
		9,276	3,831	16,500	13,000
Operations & Maintenance					
201-18-5335	Dues and Subscriptions	853	500	1,830	1,603
201-18-5350	Building Insp. Fee Remittance	575,406	309,316	450,000	350,000
201-18-5352	Legal Services	-	1,000	10,000	-
201-18-5354	Reimbursable Legal Services	-	2,000	2,500	-
201-18-5355	Reimbursable Services	2,948	1,000	30,000	40,000
201-18-5356	Professional Services	-	5,000	30,000	50,000
201-18-5357	Reimbursable Planning Services	-	5,000	10,000	-
201-18-5374	Humane Society Holding Charges	3,946	3,000	4,000	4,000
201-18-5380	Travel & Training	1,466	1,000	9,965	8,072
201-18-5381	Mileage Reimbursement	196	-	480	-
		584,815	327,816	548,775	453,675
TOTAL EXPENDITURES		850,419	782,327	1,096,263	1,080,903

Building Permit Revenues/Expenditures
2022 Proposed SAFEbuilt Fee Amendment

	2022 Approved Budget	2022 Revised SAFEbuilt Fees
Revenues		
Bldg. Inspection Fees	\$ 420,000	\$ 420,000
Bldg. Admin. Fee	\$ 40,000	\$ 40,000
TOTAL REVENUES	\$ 460,000	\$ 460,000

	2022 Approved Budget	2022 Revised SAFEbuilt Fees
Expenditures		
Building Insp. Fee Remittance (SAFEbuilt fees)	\$ 350,000	\$ 243,600
Wages, Salaries and Benefits (Building Official & Permit Tech)	\$ 198,072	\$ 198,072
Dues and Subscriptions	\$ 585	\$ 585
Travel & Training	\$ 1,209	\$ 1,209
Protective Inspection Equipment	\$ 1,000	\$ 1,000
Office Supplies	\$ 1,500	\$ 1,500
TOTAL EXPENDITURES	\$ 552,366	\$ 445,966

NET	\$ (92,366)	\$ 14,034
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Board of Trustees Meeting

Date: December 14, 2021
Submitted By: Krystal Eucker, Town Clerk
Subject: Resolution No. 33-2021 - A Resolution of the Town of Wellington, Colorado, Calling for a Regular Municipal Election to be held as a Mail Ballot Election on Tuesday, April 5, 2022 and Delegating Authority to the Town Clerk to Appoint Election Judges

- **Presentation:** Krystal Eucker, Town Clerk

EXECUTIVE SUMMARY

The Town of Wellington will be holding its regular municipal election on April 5, 2022 for three Trustee seats and one Mayor seat.

BACKGROUND / DISCUSSION

There are two forms of municipal elections: mail ballot election and polling place election.

In mail ballot elections, ballots are mailed to active registered electors and there are no polling locations. At least one mail ballot drop off location is designated for voters to drop ballots off instead of mailing them. The drop off location is available during regular business hours beginning the day ballots are mailed out through election day.

In polling place elections, one or more locations are designated where registered electors can walk in and vote. Polling locations are open only on the date of the election from 7:00 a.m. to 7:00 p.m.

Recent Voter Turnout

- 2018 – Polling place election voter turnout of 9.13%
- 2020 – Mail ballot election voter turnout of 20.12%
- 2021 – Coordinated mail ballot election voter turnout of 44.11%

The 2022 General Fund Election Expense (201-15-5414) has been approved for \$32,000.

It is appropriate to adopt the type of election being conducted prior to candidate packets being distributed. The nomination period for the candidate petitioning process opens on Tuesday, January 4, 2022. The last regular meeting of the Board of Trustees for 2021 is December 14, 2021 and the next meeting is on January 11, 2022. Adopting this resolution will provide needed information for the candidates.

Pursuant to C.R.S 31-10-401, election judges must be appointed at least 15 days prior to the day of the election and the governing body may delegate that authority and responsibility to the Town Clerk.

STAFF RECOMMENDATION

Move to approve Resolution 33-2021 - A Resolution of the Town of Wellington, Colorado, Calling for a Regular Municipal Election to be held as a Mail Ballot Election on Tuesday, April 5, 2022 and Delegating Authority to the Town Clerk to Appoint Election Judges

ATTACHMENTS

1. Mail Ballot Resolution

TOWN OF WELLINGTON

RESOLUTION NO. 33-2021

A RESOLUTION OF THE TOWN OF WELLINGTON, COLORADO, CALLING FOR A REGULAR ELECTION TO BE HELD AS A MAIL BALLOT ELECTION ON TUESDAY, APRIL 5, 2022 AND DELEGATING AUTHORITY TO THE TOWN CLERK TO APPOINT ELECTION JUDGES

WHEREAS, in accordance with C.R.S. 31-1-101(I0)(a) and -101(10)(b) regular elections are to be held on the first Tuesday of April in each even-numbered year; and

WHEREAS, the next regular election for the Town of Wellington is scheduled for Tuesday, April 5, 2022; and

WHEREAS, C.R.S. 31-10-908 allows the governing body to determine that an election may be conducted by mail ballot; and

WHEREAS, C.R.S. 31-10-401 requires the governing body to appoint election judges or to delegate the authority and responsibility to appoint election judges to the Town Clerk; and

WHEREAS, Part 9 of the Municipal Election Code, specifically C.R.S. 31-10-907 through -913, governs the conduct of mail ballot elections.

WHEREAS, the Board of Trustees desires to confirm that the April 5, 2022 regular municipal election shall be conducted as a mail ballot election in accordance with the Municipal Election Code and other governing law.

NOW, THEREFORE, be it resolved by the Board of Trustees for the Town of Wellington, Colorado, as follows:

1. As authorized by the municipal Election Code, the April 5, 2022 regular election shall be conducted as a mail ballot election in accordance with the applicable provisions of Part 9 of Article 10, Title 31, C.R.S.
2. The Town Clerk is hereby authorized to appoint the judges of the regular municipal election to be held on April 5, 2022.

Upon motion duly made, seconded and carried, the foregoing Resolution was adopted this 14th day of December, 2021.

TOWN OF WELLINGTON, COLORADO

By: _____
Troy Hamman, Mayor

ATTEST:

Krystal Eucker, Town Clerk



Board of Trustees Meeting

Date: December 14, 2021
Submitted By: Patti Garcia, Town Administrator
Subject: Consideration of 2022 Statement of Work and Budget Agreement By and Between County of Larimer and Town of Wellington

- **Presentation: Michael Rairdon, Larimer County Sheriff's Office**

EXECUTIVE SUMMARY

The Town of Wellington has contracted with the Larimer County Sheriff's Office for law enforcement services dating back to the early 1980's. The existing contract was signed in 2020 for January 1, 2021 through December 31, 2025. Each year a Statement of Work and Budget Agreement details the number of employees the Sheriff's Office will dedicate to the Town of Wellington to fulfill the contract and the costs associated with it. The Statement of Work and Budget Agreement for 2022 has been reviewed by the Larimer County Attorney's Office and the Wellington Town Attorney and approved as to form.

BACKGROUND / DISCUSSION

In 2020 Larimer County indirect costs were added to the agreement. At that time the costs to LCSO were 9.57% of salary and benefits, in 2021 those costs increased to 9.95%. A graduated amount of that cost was agreed upon where the Town of Wellington paid 3% of salary and benefits in 2021, increasing to 6% in 2022 and the full cost in 2023. There are no increases in the number of deputies assigned for 2022. In 2021 salaries for sworn personnel of LCSO were increased to remain competitive in the Northern Colorado market, resulting in a total increase to Wellington for Salary (Wages and Benefits) of \$143,145. Vehicle costs were adjusted by LCSO to coincide with actual vehicles assigned in the Town, rather than an average vehicle cost. This resulted in a \$17,607 decrease in cost to the Town. Equipment and Administrative costs both had increases in 2021 to reflect actual costs more accurately. The total contract increased \$203,517 from \$1,388,417 to \$1,591,934.

STAFF RECOMMENDATION

Move to approve the 2022 Statement of Work and Budget Agreement as presented.

ATTACHMENTS

1. 2022 Wellington Statement of Work and Budget - Attachment A (Draft 120921)
2. Wellington 2021-2025 Contract and 2021 Statement of Work and Budget Agreement

ATTACHMENT A

2022 STATEMENT OF WORK AND BUDGET AGREEMENT BY AND BETWEEN COUNTY OF LARIMER AND TOWN OF WELLINGTON

This 2022 Statement of Work and Budget Agreement, Pursuant to the Municipal Law Enforcement Services Agreement between the Town of Wellington and Larimer County (currently in effect through 2025), will be in effect from January 1, 2022 through December 31, 2022, unless superseded by a new agreement.

1.0 SCOPE OF WORK

The County, through the Sheriff's Office, will provide the services of one (1) full-time sworn sergeant, one (1) full-time sworn corporal, six (6) full-time sworn deputies, one (1) half-time sworn investigator, one (1) full-time sworn desk deputy and one (1) full-time sworn School Resource Officer to assist the Town with law enforcement activities as more specifically described below.

2.0 SUPERVISORS

The Sergeant will be responsible for the supervision of law enforcement and public safety operations for the Town. The Sergeant will work closely with the Town Administrator to exchange information, ensure the Sheriff is meeting expectations and is in compliance with this agreement, and to determine the needs of the Town and define priorities and goals for the Town's law enforcement activities. The Sergeant will also ensure the Town receives timely monthly reports as required under Section 1.8 of the Municipal Law Enforcement Services Agreement.

The Corporal will assist the Sergeant with the supervision of the deputies working in Wellington, and will assume the duties of the Sergeant when the Sergeant is unavailable.

Further, the supervisors will supplement Town patrol coverage by performing general law enforcement duties and will cover for vacancies when practical and appropriate.

3.0 PATROL DEPUTIES

Six (6) sworn deputies will work a combined average of thirty hours per day, which will generally encompass the hours between 6:45 am and 2:30 am. The actual time periods during each day spent in providing patrol services shall be dependent upon several factors including, but not limited to, the day of the week, the time of the month, school day versus non-school day, holiday, etc. These times will not include travel time to and from Wellington. The County is allowed to use flexible scheduling to prevent the development of patrol hour patterns. The supervisors will supplement this coverage and will fill in for vacancies, when practical. When vacancies are not able to be covered with contract deputies or a supervisor, and during the hours outside of this agreement, calls for service will be handled by regular on-duty Sheriff's deputies in the same manner and level as they cover unincorporated areas of the County.

Contracted patrol services shall include, but not be limited to, the following: enforcement of Colorado state statutes and county and municipal ordinances; general traffic enforcement; business checks by foot patrol or by vehicle; vacation checks of private residences (as requested); development and maintenance of crime prevention programs for commercial and residential use; investigation of traffic accidents; and, investigation of criminal offenses.

4.0 DESK DEPUTY

The Desk Deputy is expected to work normal business hours and be in the office most of the time. Duties include: being available in the office to answer citizen and town employee questions, take walk-in and phone reports, VIN checks, and other duties as appropriate for the position. The Desk Deputy may be required to work outside normal business hours and days in order to meet the needs of the Town and the Sheriff's Office.

5.0 INVESTIGATOR

The Sheriff will assign an Investigator to work half-time (approximately 85 hours per month on average) on Town cases. The Investigator will be expected to spend time in the town and assist with crime prevention efforts as needed.

6.0 SCHOOL RESOURCE OFFICER

The School Resource Officer's primary function, during the school year, will be working in the Wellington Schools to provide law enforcement services and security within the schools. During the summer and non-school days, the School Resource Officer(s) will supplement Town patrol coverage by performing general law enforcement duties and will cover for vacancies when practical and appropriate.

7.0 CONTRACT WORK HOURS

In general, full-time sworn positions provide 171 hours of service and half-time positions provide 85 hours of service per month. Patrol training, court, and benefit time are included in the monthly hours.

From January 1, 2022, through December 31, 2022, the Larimer County Sheriff's Office will provide 342 hours of supervisor time, 1026 hours of general patrol service, 85 hours of investigative services, 171 hours of Desk Deputy time, and 171 hours of School Resource services per month within the corporate limits of the Town.

Extra hours worked in any month will be applied to any month where the number of hours worked does not total the contract requirement.

8.0 CHANGES TO LEVEL OF SERVICE

Changes to the level of services requested, including temporary or emergency staffing needs will be provided as set forth in Section 2 of the Municipal Law Enforcement Services Agreement.

9.0 BUDGET/COSTS FOR SERVICES PROVIDED (*For 2022 Calendar year*)

COSTS FOR WELLINGTON 2022

POSITION	SGT	CPL	PATROL DEPUTIES (6)	DESK DEPUTY	SRO ***	INVEST (.50)	OTHER	TOTAL
Salary (Wages + Full Benefits)	150,435	135,622	736,698	117,676	73,670	67,811	-	1,281,912
Overtime	5,000	5,000	30,000	500	5,000	2,000	-	47,500
Vehicle - fully equipped w/o radio	-	-	-	-	-	-	-	0
Vehicle Lease (fuel, maintenance, etc.)	11,350	10,024	68,100	-	6,810	5,675	-	101,959
Equipment / Clothing	-	-	-	-	-	-	-	0
Equipment Replacement Costs**	3,915	3,915	23,490	3,125	2,349	1,958	-	38,752
Administrative Costs (Computer, Network Cell Phone, etc.)	4,363	4,363	26,178	2,217	2,618	2,182	-	41,921
Office Space	-	-	-	-	-	-	-	0
Copy Machine Rental	-	-	-	-	-	-	2,675	2,675
Bicycle Maintenance	-	-	-	-	-	-	300	300
Plus factor of 3% to cover unknown	-	-	-	-	-	-	-	0
TOTALS LCSO	175,063	158,924	884,466	123,518	90,447	79,626	2,975	1,515,019
*Larimer County Indirect Cost (6% of salary and benefits)	9,026	8,137	44,202	7,061	4,420	4,069	-	76,915
TOTAL with Larimer County Indirect Costs	184,089	167,061	928,668	130,579	94,867	83,695	2,975	1,591,934

*Larimer County 2022 indirect costs are currently 9.95% of salary and benefits. All indirect costs go back to Larimer County.
This will increase from 3% (2021), 6% (2022), to the full amount over 3 years.

**Equipment replacement costs include cost of AXON (body worn cameras).

***This cost is Wellington's share of the SRO position. Poudre School District covers 50% of the costs for the SRO for the school year.
Wellington covers the other half, plus the costs for the summer months.

Quarterly Payments	
Jan - Mar	\$397,983.50
Apr - June	\$397,983.50
July - Sept	\$397,983.50
Oct - Dec	\$397,983.50

**2022 STATEMENT OF WORK AND BUDGET AGREEMENT
BY AND BETWEEN
COUNTY OF LARIMER AND TOWN OF WELLINGTON**

IN WITNESS WHEREOF, the Town of Wellington, by resolution duly adopted by its governing body, caused this Agreement to be signed by its Mayor and attested by its Town Clerk, and the County of Larimer, by the Board of County Commissioners, has caused these presents to be subscribed by the Larimer County Sheriff and the Chairperson of said Board and the seal of said Board to be affixed thereto and attested by the Deputy Clerk of said Board, all on the day and year first above written.

TOWN OF WELLINGTON

ATTEST

Mayor Date

Town Clerk Date
(SEAL)

BOARD OF COUNTY COMMISSIONERS
OF LARIMER COUNTY

ATTEST

Chair Date

Deputy Clerk Date
(SEAL)

SHERIFF

APPROVED AS TO FORM

Larimer County Sheriff Date

Senior County Attorney Date

**MUNICIPAL LAW ENFORCEMENT SERVICES AGREEMENT
BY AND BETWEEN
LARIMER COUNTY, COLORADO AND THE TOWN OF WELLINGTON,
COLORADO**

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**MUNICIPAL LAW ENFORCEMENT SERVICES AGREEMENT
BY AND BETWEEN
LARIMER COUNTY, COLORADO AND THE TOWN OF WELLINGTON,
COLORADO**

THIS AGREEMENT, is made and entered effective the 1st day of January 2021, between the Town of Wellington, Colorado, a municipal corporation (the "Town"); and the Board of County Commissioners of the County of Larimer, Colorado through the Larimer County Sheriff (the "County").

WITNESSETH:

WHEREAS, the Town is desirous of contracting with the County for the performance of law enforcement services through the Larimer County Sheriff's Office (hereinafter referred to as "Sheriff" or "Sheriff's Office"); and

WHEREAS, the County is agreeable to rendering such law enforcement services on the terms and conditions set forth in this Agreement; and

WHEREAS, such law enforcement services agreements are authorized and provided for by the provisions of Colorado Revised Statutes §29-1-203 and §30-11-410.

NOW THEREFORE, in consideration of the mutual covenants contained herein, and for good and valuable consideration, the parties mutually agree as follows:

1.0 SCOPE OF SERVICES

- 1.1 The County agrees, through the Sheriff, to provide general law enforcement services within the corporate limits of the Town to the extent and in the manner hereinafter set forth in this Agreement. Annually, the Sheriff and Town will negotiate the budget, which sets forth the level of services provided and the associated costs (See section 2 for details).
- 1.2 Except as otherwise specifically set forth in this Agreement, such services shall be the basic level of services which are provided for unincorporated areas of Larimer County.

- 1.3 **Contracted Law Enforcement Services** - General law enforcement services performed hereunder may include, if requested by the Town and included on the annual Statement of Work and Budget Agreement (See Section 2): supplemental sworn officer support, supplemental security support, and supplemental professional civilian support staff.
- 1.4 **Training & Equipment** - The Sheriff will provide equipment, training, uniforms, vehicles, and supplies for deputies provided hereunder, on the same basis as the Sheriff provides to deputies assigned outside of the Town, adequate to provide the services agreed to hereunder.
- 1.5 **Police Records Management** - The Sheriff shall maintain in the Sheriff's records system, and in accordance with the Sheriff's applicable records retention policies, records relating to criminal complaints, arrests, and other official law enforcement actions taken by the Sheriff under this Agreement. During and after termination of this Agreement, the Town shall have continuous access to the Sheriff's records for all information pertaining to any entry made by the Sheriff on behalf of the Town under this Agreement, which access shall be granted at no charge and for legitimate Town law enforcement purposes.
- 1.6 **Dispatch Services** - The Sheriff shall provide law enforcement dispatching services necessary to maintain the services set forth in this Agreement. Other dispatching services may be provided to the town at a rate determined through a negotiation process between the Town and the Sheriff and documented in the annual Statement of Work and Budget Agreement. This process determines the Town's share of payment for communications services using the same formula for determining payment for communications services which is applied to the other government entities.
- 1.7 **Evidence Storage and Processing** - The Sheriff shall provide for the storage, processing, disposition and management of standard evidence collected on behalf of the Town as necessary to maintain the services set forth in this Agreement, except in situations involving hazardous material or other special circumstances outlined in Section 2.8 below.
- 1.8 **Monthly Reports** - The Sheriff shall provide a monthly written report to the Town Administrator detailing law enforcement and public service activities provided under this Agreement. Said report is to be submitted to the Town prior to the 15th

of the following month. Said report shall include the number of hours of patrol time spent within the corporate limits of the Town by deputies assigned to the Town; a detailed record of time spent by additional deputies within the corporate limits of the Town will be reported in a separate sheet; and the number and type of incidents handled within the corporate limits.

2.0 STAFFING AND SERVICE LEVELS

- 2.1 The personnel, resources, and services performed hereunder and specifically requested by the Town shall be developed in conjunction with the Sheriff and indicated on the annual Statement of Work and Budget Agreement, attached hereto as Attachment A and incorporated herein by this reference.
- 2.2 A new Statement of Work and Budget Agreement for the ensuing calendar year shall be authorized and signed annually by the Town and the Sheriff or his designee by December 15th, and attached hereto as an Amendment to this Agreement.
- 2.3 Should the Town request a change in level of service other than pursuant to the annual readjustment, an additional Statement of Work and Budget Agreement shall be signed and authorized by the Town and the Sheriff or his designee and attached hereto as an Amendment to this Agreement.
- 2.4 The most recent dated and signed Statement of Work and Budget Agreement attached to this Agreement shall be the staffing level in effect between the Sheriff and the Town.
- 2.5 The Town may also request any other service in the field of public safety, law, or related fields within the legal power of the Sheriff to provide. Such other services shall be reflected in an amended Statement of Work and Budget Agreement under the procedures set forth in Sections 2.2 and 2.3 above.
- 2.6 **Supervisor Position** – If sworn deputies are included on the Statement of Work and Budget Agreement, it will include at least one deputy, of the rank of Sergeant or higher, to be responsible for the supervision of deputies assigned to the Town and will carry the responsibilities as Chief of Police. The Supervisor appointed by the Sheriff shall be subject to the approval and ongoing consent of the Town, which consent shall not be unreasonably withheld. It is the intent of the parties that consistency, continuity, and experience of service to the Town are important elements of the Supervisor position. It shall be understood by the Town that this

assignment is to be a three-year appointment by the Sheriff, with the option of one-year extensions, which extensions shall be at the discretion of the Sheriff.

- 2.7 **Other Deputies** - Selection of the Sheriff's deputies to be assigned to the Town under this Agreement will be made by the Sheriff with the ongoing consent of the Town, which consent shall not be unreasonably withheld. Deputies assigned to the Town will be required to serve a minimum of one (1) year in the position unless circumstances prevent it. The Sheriff will ensure that deputies assigned to the Town of Wellington through this Agreement will spend the majority of their time in the Town of Wellington. When the Sheriff is unable to staff a deputy in the Town during the normal contracted hours (as set forth in Attachment A) due to vacations, training, or other circumstances, calls for service in the Town will be handled by normal Sheriff's patrol as provided for unincorporated areas of Larimer County.
- 2.8 **Overtime/Extraordinary Investigations** - It is not intended that overtime expenses above the amount budgeted will be assessed for deputies assigned to the Town, however, the parties recognize that extraordinary criminal investigation scenarios may arise that will require unanticipated levels of service which will require unforeseen resources. In cases of an extraordinary criminal investigation, the Town and Sheriff will meet to discuss cost sharing of overtime expenses, forensic examination expenses, expert analysis expenses and other expenses incurred that are specific to that investigation. The Sheriff determines when an investigation becomes an extraordinary criminal investigation and notifies the Town Administrator of said determination.
- 2.9 **Special Event Staffing** – When the Town requires additional staffing for special events, beyond what the contract deputies can supply, the Sheriff will work with the Town to provide extra staffing. Volunteers, such as Reserve Deputies, Posse, and Explorers may be used, when available and appropriate, to supplement staffing. If extra-duty deputies are requested, the Town will be financially responsible for compensating the County for the hours worked by these deputies at the contractual extra-duty rate charged by the Sheriff's Office.
- 2.10 **Call Response/Other Jurisdictions.** The deputies assigned to the Town are responsible for call response and routine patrol inside the Town during their scheduled work hours. In order to minimize unnecessary duplication of law

enforcement services, the Parties agree that deputies assigned to the Town may from time to time respond to other adjacent jurisdictions, including unincorporated Larimer County, as needed. The deputy will be returned to the Town patrol area as soon as possible in these instances. Similarly, Sheriff's personnel assigned elsewhere may from time to time be used for law enforcement services within the Town.

3.0 ADMINISTRATION OF PERSONNEL

- 3.1 The Sheriff shall be responsible for personnel administration of Sheriff's Office employees.
- 3.2 The rendition of the services performed by the Sheriff's Office, the standards of performance, the discipline of deputies, and other matters incident to the performance of such services and the control of personnel so employed shall remain with the County.
- 3.3 Any complaints of violation of law or policy by Sheriff's deputies assigned to the Town shall be made by the Town or other complaining person in writing, directed to the Sheriff and in compliance with the Sheriff's policy and procedure for Internal Affairs investigations. Pursuant to that policy, the Sheriff or his designee, shall inform the Town in writing when any such complaint is received, including the name of the deputy complained against and the nature of the complaint. The Sheriff, or his designee, shall also notify the Town that the issue has been addressed after the Sheriff's internal investigation has been completed.
- 3.4 In the event of a dispute between the parties to this Agreement as to the extent of the duties and functions to be rendered hereunder, or the minimum level or manner of performance of such service, the Town shall be consulted and a mutual determination thereof shall be made by both the Sheriff and the Town.
- 3.5 With regard to Sections 3.3 and 3.4 above, the Sheriff, in an unresolved dispute, shall have final and conclusive determination as between the parties hereto.
- 3.6 All Town employees who work in conjunction with the Sheriff's Office pursuant to this Agreement shall remain employees of the Town and shall not have any claim or right to employment, civil service protection, salary, or benefits or claims of any kind from the County based on this Agreement. No Town employee as such shall become an employee of the County unless by specific additional agreement in the

form of a merger agreement which must be concurrently adopted by the Town and the County.

- 3.7 The Parties agree that the relationship of the Sheriff to the Town under this Agreement is that of an independent contractor. In this capacity, and for the sole purpose of providing the services contracted for hereunder, the Sheriff may be considered to be an agent of the Town; for all other purposes, however, the Sheriff and his deputies provided under this Agreement shall be considered to be officials or employees of Larimer County and not employees of the Town. All other persons who are employed by or acting as agents of the Town shall be considered to be employees or agents of the Town and not of the Sheriff. No person who is not a deputy of, employed by, or expressly commanded by, the Sheriff in the course of providing law enforcement services hereunder shall be considered to be an agent or employee of the Sheriff for any purpose.
- 3.8 The Town shall not be called upon to assume any liability for the direct payment of any Sheriff's Office salaries, wages, or other compensation to any County personnel performing services hereunder for said Town.
- 3.9 The Town shall not be liable for workers' compensation or unemployment insurance for any of the Sheriff's employees for injuries or sickness arising out of their employment by the Sheriff. The County shall, to the extent of County insurance, cover such liabilities, and provide any required workers' compensation insurance program and unemployment insurance coverage for Sheriff's employee.
- 3.10 Municipal and County Court - Sheriff's deputies making arrests or issuing summonses to violators for appearance in court shall appear at the appointed time and date to give all evidence and testimony required by the court. Sheriff's deputies failing to comply with this requirement may be subject to disciplinary action by the Sheriff. Deputies assigned to the Town will not act as court recorders and are not held responsible for scheduling or monitoring of community service sentenced by the court. An assigned deputy will act as the court bailiff if the Town does not have a bailiff.

4.0 RESOURCES TO BE PROVIDED BY THE TOWN

- 4.1 For the purpose of performing said general law enforcement services, County shall furnish and supply all necessary labor, supervision, equipment, communication

facilities, and supplies necessary to maintain the agreed level of service to be rendered hereunder.

- 4.2 Notwithstanding the foregoing, the Town may provide additional resources for the County to utilize in performance of the services.
- 4.3 When and if both parties to this Agreement concur as to the necessity of maintaining a law enforcement headquarters or Sheriff's Office substation within the Town which would not normally be provided by the Sheriff, the Town shall furnish at its own cost and expense all necessary office space, including: phone lines and data lines adequate for access to the Sheriff's computer network, light, water, and other utilities. The Town agrees to maintain liability insurance on the building as set forth in Section 5.2 of this Agreement.
- 4.4 It is expressly further understood that in the event a local office or building is maintained in said Town, such local office or building may be used by the Sheriff in connection with the performance of his duties in territory outside of the Town, provided, however, that the performance of such outside duties shall not be at any additional cost to the Town.
- 4.5 It is agreed that the County shall furnish and supply all labor, supervision, equipment communications facilities for dispatching, cost of jail detention (of any person for five (5) days or less)^a and transport (for thirty (30) miles or less one way)^b, and all supplies necessary to maintain the services to be rendered.
- 4.6 Notwithstanding the foregoing, it is mutually agreed that in all instances where special supplies, stationery, notices, forms, and the like must be issued in the name of said Town, the same shall be supplied by the Town at its own cost and expense.
- 4.7 The Town will continue to contract with the Larimer Humane Society, or other service provider, for the storage, care and management of animals taken into custody on behalf of the Town.

^a If any person is sentenced to detention by the Wellington Municipal Court for more than five (5) days, other than at the request or consent of the County, Wellington shall be obligated for any period of incarceration over five (5) days at the lower of the normal daily rate charged for Municipal incarceration to the City of Fort Collins or the City of Loveland.

^b If any person is transported by order of the Wellington Municipal Court for more than thirty (30) miles, one way, other than at the request or consent of the County, Wellington shall be obligated for per mile transport costs over thirty (30) miles one way at the lower of the normal mileage charges billed to the City of Fort Collins or the City of Loveland.

5.0 LIABILITY

- 5.1 Governmental Immunity/Insurance. Larimer County and the Town are "public entities" within the meaning of the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.* as amended (the "Act"). Larimer County shall at all times during the terms of this Agreement, maintain such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Act. The County is authorized under C.R.S. § 24-10-115 (2)(a) to self-insure, and, pursuant to such authorization does so self-insure.
- 5.2 The Town agrees to obtain commercial liability insurance adequate to cover liability associated with substation premises in the Town, owned or controlled by the Town and used by the Sheriff under this Agreement. The insurance policy shall have minimum limits which match or exceed the maximum governmental liability limits set forth in C.R.S. § 24-10-114, as amended, and shall name Larimer County as an additional insured.
- 5.3 The Town further agrees to cooperate fully in the defense of all claims arising from incidents where the Sheriff or any of the deputies subject to this Agreement, was acting on behalf of the Town under the authority of this Agreement. Larimer County agrees to cooperate with the legal counsel retained under the insurance policy for claims subject to this paragraph.
- 5.4 Larimer County shall provide the Town with proof of self-insurance showing Larimer County's coverage for comprehensive general liability, police professional liability, auto liability, and workers compensation, and will provide timely updates of any changes in the County's insurance program.
- 5.5 No term or condition of this Agreement shall be construed or interpreted as a waiver of the monetary limits, notice requirements, immunities, rights, benefits, defenses, limitations and protections available to all parties under any applicable law, including but not limited to the Colorado Governmental Immunity Act, C.R.S. 24-10-101 *et seq.*, as currently written or hereafter amended or implemented.
- 5.6 Pursuant to Colorado Constitution Article XI, §1 and 2, and Article X, §20, the County and Town are each prohibited from indemnifying or holding harmless another entity or person. No provision of this Agreement is intended nor shall be construed as an agreement by the County or the Town to assume liability for or hold harmless any other entity or person.

6.0 TERM OF AGREEMENT

- 6.1 The term of this Agreement shall be from January 1, 2021 through December 31, 2025, unless sooner terminated or extended as provided for herein.
- 6.2 At the option of the Board of County Commissioners and with the consent of the Town Council and agreement of the Sheriff, this Agreement may be renewed or extended for successive periods not to exceed five (5) years each.
- 6.3 Nine (9) months prior to the expiration of this Agreement, the parties shall meet and confer in good faith to discuss the possible renewal or extension of this Agreement pursuant to Section 6.2 above. The parties shall reach an agreement as to the terms of any renewal or extension period no later than six (6) months prior to the expiration of this Agreement. Absent mutual agreement by the parties within that time frame, this Agreement shall expire at the conclusion of the then-existing term.
- 6.4 The Level of Service and Budget Agreement (Attachment A) will be updated annually as set forth in Section 2.0 of this agreement.

7.0 RIGHT OF TERMINATION

- 7.1 This Agreement may be terminated at any time, with or without cause, by either party upon written notice given to the other party at least one hundred eighty (180) days before the date specified for such termination.
- 7.2 Notwithstanding any provision herein to the contrary, the Town may terminate this Agreement upon notice in writing to the County given within sixty (60) days of receipt of written notice from the County of any increase in the rate for any service to be performed hereunder, and in such an event this Agreement shall terminate sixty (60) calendar days from the date of the Town's notice to the County.
- 7.3 In the event of a termination, each party shall fully discharge all obligations owed to the other party accruing prior to the date of such termination, and, except as otherwise provided herein, each party shall be released from all obligations which would otherwise accrue subsequent to the date of termination.

8.0 BILLING RATES

- 8.1 The Town shall pay the County for the services provided under the terms of this Agreement at the rates set forth in the Statement of Work and Budget Agreement (Attachment A).
- 8.2 The rates set forth in the Statement of Work and Budget Agreement (Attachment A) shall be readjusted agreed upon by the County and Town annually effective January 1 of each year, and attached hereto as an Amendment to this Agreement.
- 8.3 The Town shall be billed based on the service level provided within the parameters of the Statement of Work and Budget Agreement (Attachment A).
- 8.4 The cost of other services requested pursuant to Section 2.5, 2.8, or 2.9 of this Agreement and not set forth in Attachment A shall be billed at the contractual extra-duty rate charged by the Sheriff's Office or at a rate agreed upon by the Town and Sheriff.

9.0 PAYMENT PROCEDURES

- 9.1 The Town will pay the County one fourth (1/4) of the contract amount quarterly, as indicated on the yearly Statement of Work and Budget Agreement (Attachment A). The County, through the Sheriff, shall render to said Town within ten (10) days after the close of each quarter a summarized invoice which covers all services performed during said quarter, and said Town shall pay the County for all undisputed amounts within sixty (60) days after date of said invoice.
- 9.2 If such payment is not delivered to the County office which is described on said invoice within sixty (60) days after the date of the invoice, the County is entitled to recover interest thereon. For all disputed amounts, the Town shall provide County with written notice of the dispute including the invoice date, amount, and reasons for dispute within twenty (20) days after receipt of the invoice. The parties shall memorialize the resolution of the dispute in writing. For any disputed amounts, interest shall accrue if payment is not received within sixty (60) days after the dispute resolution is memorialized.
- 9.3 Interest shall be at the rate of ten percent (10%) per annum or any portion thereof, calculated from the last day of the month in which the services were performed, or in the case of disputed amounts, calculated from the date the resolution is memorialized.

10.0 NOTICES

Unless otherwise specified herein, all notices or demands required or permitted to be given or made under this Agreement shall be in writing and shall be hand delivered with signed receipt or mailed by first class registered or certified mail, postage prepaid, addressed to the parties at the following addresses and to the attention of the person named. Addresses and persons to be notified may be changed by either party by giving ten (10) calendar days prior written notice thereof to the other party.

Notices for the Sheriff/County:

Larimer County Sheriff	and	Larimer County Attorney
2501 Midpoint Dr.		224 Canyon Ave Unit 200
Fort Collins, CO 80525		Fort Collins, CO 80521

Notices for the Town:

Town of Wellington	and	Wellington Town Attorney
Attn: Town Administrator		1312 S. College Ave.
3735 Cleveland Ave.		Fort Collins, CO 80524
PO Box 127		
Wellington, CO 80549		

11.0 AMENDMENTS

All changes, modifications, or amendments to this Agreement must be in the form of a written Amendment duly executed by the Board of County Commissioners and an authorized representative of the Town. Notwithstanding, the Sheriff or his designee is hereby authorized to execute on behalf of the County any Amendments and/or supplemental agreements referenced in Sections 1.3, 1.6, 2.0, 4.3, 8.2, 8.4 and 9.2 of this Agreement.

12.0 AUTHORIZATION WARRANTY

12.1 The Town represents and warrants that the person executing this Agreement for the Town is an authorized agent who has actual authority to bind the Town to each and

every term, condition, and obligation of this Agreement and that all requirements of the Town have been fulfilled to provide such actual authority.

- 12.2 The County represents and warrants that the person executing this Agreement for the County is an authorized agent who has actual authority to bind the County to each and every term, condition, and obligation of this Agreement and that all requirements of the County have been fulfilled to provide such actual authority.

13.0 ENTIRE AGREEMENT

This Agreement, Attachment A, and any executed Amendments thereto constitute the complete and exclusive statement of understanding of the parties which supersedes all previous agreements, written or oral, and all communications between the parties relating to the subject matter of this Agreement. No change to this Agreement shall be valid unless prepared pursuant to Section 11.0, Amendments, of this Agreement.

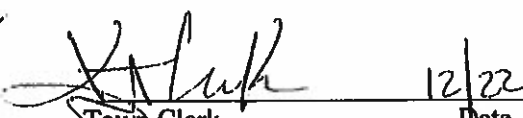
**MUNICIPAL LAW ENFORCEMENT SERVICES AGREEMENT
BY AND BETWEEN
COUNTY OF LARIMER AND TOWN OF WELLINGTON**

IN WITNESS WHEREOF, the Town of Wellington, by resolution duly adopted by its governing body, caused this Agreement to be signed by its Mayor and attested by its Town Clerk, and the County of Larimer, by the Board of County Commissioners, has caused these presents to be subscribed by the Larimer County Sheriff and the Chairperson of said Board and the seal of said Board to be affixed thereto and attested by the Deputy Clerk of said Board, all on the day and year first above written.

TOWN OF WELLINGTON

ATTEST


Mayor _____ Date 12/29/20


Town Clerk _____ Date 12/22/20
(SEAL)



BOARD OF COUNTY COMMISSIONERS
OF LARIMER COUNTY

ATTEST


Chair _____ Date 1/12/21

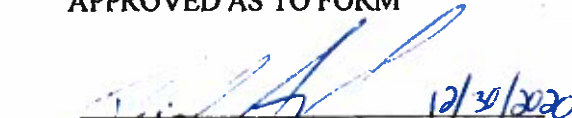

Deputy Clerk _____ Date 1/12/21
(SEAL)



SHERIFF

APPROVED AS TO FORM


Larimer County Sheriff _____ Date 1-20-21


Senior County Attorney _____ Date 12/30/2020

ATTACHMENT A

2021 STATEMENT OF WORK AND BUDGET AGREEMENT BY AND BETWEEN COUNTY OF LARIMER AND TOWN OF WELLINGTON

This 2021 Statement of Work and Budget Agreement, Pursuant to the Municipal Law Enforcement Services Agreement between the Town of Wellington and Larimer County (currently in effect through 2020), will be in effect from January 1, 2021 through December 31, 2021, unless superseded by a new agreement.

1.0 SCOPE OF WORK

The County, through the Sheriff's Office, will provide the services of one (1) full-time sworn sergeant, one (1) full-time sworn corporal, six (6) full-time sworn deputies, one (1) half-time sworn investigator, one (1) full-time sworn desk deputy and one (1) full-time sworn School Resource Officer to assist the Town with law enforcement activities as more specifically described below.

2.0 SUPERVISORS

The Sergeant will be responsible for the supervision of law enforcement and public safety operations for the Town. The Sergeant will work closely with the Town Administrator to exchange information, ensure the Sheriff is meeting expectations and is in compliance with this agreement, and to determine the needs of the Town and define priorities and goals for the Town's law enforcement activities. The Sergeant will also ensure the Town receives timely monthly reports as required under Section 1.8 of the Municipal Law Enforcement Services Agreement.

The Corporal will assist the Sergeant with the supervision of the deputies working in Wellington, and will assume the duties of the Sergeant when the Sergeant is unavailable.

Further, the supervisors will supplement Town patrol coverage by performing general law enforcement duties and will cover for vacancies when practical and appropriate.

3.0 PATROL DEPUTIES

Six (6) sworn deputies will work a combined average of thirty hours per day, which will generally encompass the hours between 6:45 am and 2:30 am. The actual time periods during each day spent in providing patrol services shall be dependent upon several factors including, but not limited to, the day of the week, the time of the month, school day versus non-school day, holiday, etc. These times will not include travel time to and from Wellington. The County is allowed to use flexible scheduling to prevent the development of patrol hour patterns. The supervisors will supplement this coverage and will fill in for vacancies, when practical. When vacancies are not able to be covered with contract deputies or a supervisor, and during the hours outside of this agreement, calls for service will be handled by regular on-duty Sheriff's deputies in the same manner and level as they cover unincorporated areas of the County.

Contracted patrol services shall include, but not be limited to, the following: enforcement of Colorado state statutes and county and municipal ordinances; general traffic enforcement; business checks by foot patrol or by vehicle; vacation checks of private residences (as requested); development and maintenance of crime prevention programs for commercial and residential use; investigation of traffic accidents; and, investigation of criminal offenses.

4.0 DESK DEPUTY

The Desk Deputy is expected to work normal business hours and be in the office most of the time. Duties include: being available in the office to answer citizen and town employee questions, take walk-in and phone reports, VIN checks, and other duties as appropriate for the position. The Desk Deputy may be required to work outside normal business hours and days in order to meet the needs of the Town and the Sheriff's Office.

5.0 INVESTIGATOR

The Sheriff will assign an Investigator to work half-time (approximately 85 hours per month on average) on Town cases. The Investigator will be expected to spend time in the town and assist with crime prevention efforts as needed.

6.0 SCHOOL RESOURCE OFFICER

The School Resource Officer's primary function, during the school year, will be working in the Wellington Schools to provide law enforcement services and security within the schools. During the summer and non-school days, the School Resource Officer(s) will supplement Town patrol coverage by performing general law enforcement duties and will cover for vacancies when practical and appropriate.

7.0 CONTRACT WORK HOURS

In general, full-time sworn positions provide 171 hours of service and half-time positions provide 85 hours of service per month. Patrol training, court, and benefit time are included in the monthly hours.

From January 1, 2021, through December 31, 2021, the Larimer County Sheriff's Office will provide 342 hours of supervisor time, 1026 hours of general patrol service, 85 hours of investigative services, 171 hours of Desk Deputy time, and 171 hours of School Resource services per month within the corporate limits of the Town.

Extra hours worked in any month will be applied to any month where the number of hours worked does not total the contract requirement.

8.0 CHANGES TO LEVEL OF SERVICE

Changes to the level of services requested, including temporary or emergency staffing needs will be provided as set forth in Section 2 of the Municipal Law Enforcement Services Agreement.

9.0 BUDGET/COSTS FOR SERVICES PROVIDED (*For 2021 Calendar year*)

COSTS FOR WELLINGTON 2021

POSITION	SGT	CPL	PATROL DEPUTIES (6)	DESK DEPUTY	SRO **	INVEST (.50)	OTHER	TOTAL
Salary (Wages + Full Benefits)	139,295	122,262	648,846	104,625	62,608	61,131	-	1,138,767
Overtime *	5,000	5,000	30,000	500	5,000	2,000	-	47,500
Vehicle - fully equipped w/o radio	-	-	-	-	-	-	-	0
Vehicle Lease (fuel, maintenance, etc.)	14,616	14,616	75,720	-	7,306	7,308	-	119,566
Equipment / Clothing	-	-	-	-	-	-	-	0
Equipment Replacement Costs ***	1,822	1,822	10,932	1,470	1,055	911	-	18,012
Administrative Costs	2,760	2,760	16,560	2,376	1,598	1,380	-	27,434
Office Space	-	-	-	-	-	-	-	0
Copy Machine Rental	-	-	-	-	-	-	2,675	2,675
Bicycle Maintenance	-	-	-	-	-	-	300	300
TOTALS LCSO	163,493	146,460	782,058	108,971	77,567	72,730	2,975	1,354,254
****Larimer County indirect cost (3% of salary and benefits)	4,179	3,668	19,465	3,139	1,878	1,834	-	34,163
TOTAL with Larimer County Indirect Costs	167,672	150,128	801,523	112,110	79,445	74,564	2,975	1,388,417

Quarterly Payments	
Jan - Mar	\$347,104.25
Apr - June	\$347,104.25
July - Sept	\$347,104.25
Oct - Dec	\$347,104.25

* Typical overtime costs are included in the yearly costs, but significant incidents/events may not be (see section 2.8 & 2.9 of the Municipal Law Enforcement Agreement for details)

** This cost is the Town's share of the SRO position. Poudre School District covers 50% of the costs for the SRO for the school year. Wellington covers the other half, plus the costs for the summer months.

*** Equipment replacement costs include cost of Axon (body worn cameras)

****Larimer County 2021 indirect costs are currently 9.57% of salary and benefits. All indirect costs go back to Larimer County. This will increase from 3% to the full amount over 3 years.

IN WITNESS WHEREOF, the Town of Wellington, by resolution duly adopted by its governing body, caused this Agreement to be signed by its Mayor and attested by its Town Clerk, and the County of Larimer, by the Board of County Commissioners, has caused these presents to be subscribed by the Larimer County Sheriff and the Chairperson of said Board and the seal of said Board to be affixed thereto and attested by the Deputy Clerk of said Board, all on the day and year first above written.

The seal of the Town of Wellington, Colorado, is a circular emblem. It features a double-lined border. Inside the border, the words "TOWN OF WELLINGTON" are written in a semi-circle at the top, and "COLORADO" is written at the bottom. In the center of the seal, the word "SEAL" is prominently displayed in a bold, serif font.The seal of the Larimer County Clerk, Colorado, is a circular emblem. It features a double-lined border. The outer ring contains the text "LARIMER COUNTY CLERK" at the top and "COLORADO" at the bottom, separated by small dots. In the center of the seal, the word "SEAL" is prominently displayed in a bold, serif font.



Board of Trustees Meeting

Date: December 14, 2021
Submitted By: Krystal Eucker, Town Clerk
Subject: Resolution No. 34-2021 - A Resolution of the Board of Trustees Appointing Town Treasurer

- **Presentation: Patti Garcia, Town Administrator**

EXECUTIVE SUMMARY

Section 2-3-30 of the Code provides that the Board shall appoint a Town Treasurer. The previous Town Treasurer resigned her position effective December 3, 2021.

BACKGROUND / DISCUSSION

STAFF RECOMMENDATION

Staff recommends approval of Resolution 34-2021, of the Board of Trustees of the Town of Wellington Appointing Town Treasurer.

ATTACHMENTS

1. Resolution 34-2021 Treasurer Appointment

TOWN OF WELLINGTON

RESOLUTION NO. 34-2021

A RESOLUTION OF THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON
APPOINTING TOWN TREASURER

WHEREAS, the Board of Trustees of the Town of Wellington, Colorado (the “Board”) has adopted and reenacted the Wellington Municipal Code; and

WHEREAS, Section 2-3-30 of the Code provides that the Board shall appoint a Town Treasurer; and

WHEREAS, the previous Town Treasurer resigned her position effective December 3, 2021.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF WELLINGTON, COLORADO, AS FOLLOWS:

1. The Board of Trustees appoints Patti Garcia to serve as Town Treasurer to and until a successor is appointed.

Upon a motion duly made, seconded and carried, the foregoing Resolution was adopted this 14th day of December, 2021.

TOWN OF WELLINGTON, COLORADO

Troy Hamman, Mayor

ATTEST:

Krystal Eucker, Town Clerk



Board of Trustees Meeting

Date: December 14, 2021
Submitted By: Stephanie Anderson, Human Resources Manager
Subject: Contract Amendment for Town Administrator

- **Presentation: Stephanie Anderson, Human Resource Manager**

EXECUTIVE SUMMARY

Contract amendment for Town Administrator for 2022 to include a change in salary and meeting attendance requirements.

BACKGROUND / DISCUSSION

The Town Administrator Annual Review was conducted and presented to the Board of Trustees on 11/16/2021 in an executive session. The review was favorable and the Board was in agreement to adjust the salary and meeting attendance requirements for Patti Garcia, Town Administrator. The Town of Wellington follows a pay for performance model when calculating merit earnings. This type of model links compensation to measure of work quality. The Board had previously approved a pool for Cost of Living Adjustments (COLA) and Merit based on 5.5% of the Town's salaries.

STAFF RECOMMENDATION

The Board agrees to follow the same Merit and Cost of Living Adjustment (COLA) as Town staff. COLA is a 2% increase and the remaining pool of 3.5% of the budget is distributed Town-wide based on performance as outlined above. The recommendation for Patti Garcia is a COLA increase of 2% and a merit increase of 4.45% leading to a new annual salary of \$154,355.79.

The Board also agrees to update the requirement to attend all meetings. The Town Administrator will still be required to attend all Board of Trustees meetings, and all Planning commission meetings as outlined in the Town Code, but will only attend all other meetings when reasonably possible, meaning at least once per year.

ATTACHMENTS

1. TA Amendment

TOWN ADMINISTRATOR
EMPLOYMENT AGREEMENT AMENDMENT

THIS TOWN ADMINISTRATOR EMPLOYMENT AGREEMENT AMENDMENT (“Amendment”) is made this _____ day of December, 2021, between the TOWN OF WELLINGTON, Colorado, a Colorado statutory municipality (the “Town”), and PATTI GARCIA (“Garcia”) to amend that Town Administrator Employment Agreement entered into by the Town and Garcia in November, 2020 (“Agreement”).

A. RECITALS

1. The Town requires the services of a professional administrator to perform the duties of Town Administrator as provided by the C.R.S. §31-4-304 and the Wellington Municipal Code (the “Town Code”), including at Section 2-3-20.

2. The Town Board of Trustees completed an annual performance evaluation of Garcia on November 23, 2021, finding her performance to exceed expectations and desires to make certain changes to her compensation and required duties to reflect her performance and to make best use of her time as Town Administrator.

B. AGREEMENT

NOW, THEREFORE, the Town and Garcia agree that the Agreement is amended to include the following changes and additional terms; otherwise, all terms and conditions of the Agreement shall remain in full force and effect.

1. COMPENSATION. Commencing on and after January 1, 2022, the Town shall pay Garcia a base annual salary of one hundred fifty four thousand three hundred fifty five dollars and seventy nine cents (\$154,355.79), reflecting a six and forty five hundredths percent (6.45%) increase over the salary in the Agreement.

2. ATTENDANCE AT CERTAIN TOWN MEETINGS. Pursuant to Section 2-30-20 of the Town Code, the Town Administrator shall attend, when reasonably possible, meetings of all Town boards and committees, other than Board of Trustees meetings and Planning Commission Meetings. To remain in compliance with this Town Code provision, Garcia shall attend at least one meeting per calendar year of meetings of standing Board of Trustees committees and duly elected or appointed boards and commissions of the Town.

IN WITNESS WHEREOF, the parties have caused this Amendment to be signed and executed on the day and year first written above.

TOWN OF WELLINGTON, COLORADO:

ATTEST:

Troy Hamman, Mayor
Clerk

Krystal Eucker, Wellington Town

GARCIA

Patti Garcia

Board of Trustees Meeting

Date: December 14, 2021
Submitted By: Patti Garcia, Town Administrator
Subject: Cancellation of December 21, 2021 Work Session and December 28, 2021 Regular Board of Trustees Meeting

- **Presentation: Patti Garcia, Town Administrator**

EXECUTIVE SUMMARY

BACKGROUND / DISCUSSION

Due to the upcoming holidays, it has been requested that the balance of the Trustee meetings in December be cancelled. Approval of this motion will cancel the December 21, 2021 work session and December 28, 2021 regular board meeting. The next regular meeting of the Trustees will be January 11, 2022.

STAFF RECOMMENDATION

Move to cancel the December 21, 2021 work session and December 28, 2021 regular meeting of the Board of Trustees.

ATTACHMENTS

None

Board of Trustees Meeting

Date: December 14, 2021
Submitted By: Krystal Eucker, Town Clerk
Subject: Annual Renewal - Big T Ventures LLC, d/b/a Cantina Liquors

- **Presentation:** Krystal Eucker, Town Clerk

EXECUTIVE SUMMARY

Big T Ventures LLC., d/b/a Cantina Liquors has submitted their annual renewal for their Liquor Store liquor license. A review of the application found the establishment is in good standing with the Colorado Secretary of State and the Larimer County Sheriff's Office reported no issues directly related to the establishment's liquor license. There were no issues or concerns during a visual inspection of the premise.

Sales tax compliance has yet to be confirmed.

BACKGROUND / DISCUSSION

STAFF RECOMMENDATION

Staff recommends approval of the annual renewal for Big T Ventures, d/b/a Cantina Liquors contingent on a report from the Department of Revenue that the business is in compliance with sales tax reporting.

ATTACHMENTS

1. Big T Ventures LLC_Redacted

CANTINA LIQUORS
PO BOX 1635
Wellington CO 80549

Fees Due	
Renewal Fee	227.50
Storage Permit \$100 X _____	\$
Sidewalk Service Area \$75.00	\$
Additional Optional Premise Hotel & Restaurant \$100 X _____	\$
Related Facility - Campus Liquor Complex \$160.00 per facility	\$
Amount Due/Paid	\$227.50

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

Retail Liquor or Fermented Malt Beverage License Renewal Application

Please verify & update all information below

Return to city or county licensing authority by due date

Licensee Name BIG T VENTURES LLC		Doing Business As Name (DBA) CANTINA LIQUORS		
Liquor License # 03-05581	License Type Liquor Store (city)	Sales Tax License # [REDACTED]	Expiration Date 12/06/2021	Due Date 10/22/2021
Business Address 8310 6TH STREET UNIT 5 Wellington CO 80549				Phone Number 9705689596
Mailing Address PO BOX 1635 Wellington CO 80549			Email [REDACTED]	
Operating Manager Matt Thomas	Date of Birth [REDACTED]	Home Address [REDACTED]	Phone Number FC 80528	
1. Do you have legal possession of the premises at the street address above? Are the premises owned or rented? ☒ Owned ☐ Rented *If rented, expiration date of lease 10/1/2025 partner ship				
2. Are you renewing a storage permit, additional optional premises, sidewalk service area, or related facility? If yes, please see the table in upper right hand corner and include all fees due. ☒ Yes ☐ No				
3a. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant, been found in final order of a tax agency to be delinquent in the payment of any state or local taxes, penalties, or interest related to a business? Yes ☐ No ☒				
3b. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant failed to pay any fees or surcharges imposed pursuant to section 44-3-503, C.R.S.? Yes ☐ No ☒				
4. Since the date of filing of the last application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. Yes ☐ No ☒				
5. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. Yes ☐ No ☒				
6. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. Yes ☐ No ☒				
7. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. Yes ☐ No ☒				

Affirmation & Consent

I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.

Type or Print Name of Applicant/Authorized Agent of Business MAIT HUMPHS	Title Managing Owner
Signature 	Date 10/22/21

Report & Approval of City or County Licensing Authority

The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 44, Articles 4 and 3, C.R.S., and Liquor Rules.

Therefore this application is approved.

Local Licensing Authority For		Date
Signature	Title	Attest

OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE OF FACT OF GOOD STANDING

I, Jena Griswold, as the Secretary of State of the State of Colorado, hereby certify that, according to the records of this office,

Big T Ventures, LLC

is a

Limited Liability Company

formed or registered on 08/26/2015 under the law of Colorado, has complied with all applicable requirements of this office, and is in good standing with this office. This entity has been assigned entity identification number 20151555281 .

This certificate reflects facts established or disclosed by documents delivered to this office on paper through 12/01/2021 that have been posted, and by documents delivered to this office electronically through 12/02/2021 @ 11:45:54 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this official certificate at Denver, Colorado on 12/02/2021 @ 11:45:54 in accordance with applicable law. This certificate is assigned Confirmation Number 13623488 .



Jena Griswold

Secretary of State of the State of Colorado

*****End of Certificate*****

Notice: A certificate issued electronically from the Colorado Secretary of State's Web site is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Validate a Certificate page of the Secretary of State's Web site, <http://www.sos.state.co.us/biz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our Web site, <http://www.sos.state.co.us/> click "Businesses, trademarks, trade names" and select "Frequently Asked Questions."



Board of Trustees Meeting

Date: December 14, 2021
Submitted By: Krystal Eucker, Town Clerk
Subject: Annual Renewal - Kum & Go LC., d/b/a Kum & Go #934

- **Presentation:** Krystal Eucker, Town Clerk

EXECUTIVE SUMMARY

Kum & Go LC., d/b/a Kum & Go #934 has submitted their annual renewal for their Fermented Malt liquor license. A review of the application found the establishment is in good standing with the Colorado Secretary of State and the Larimer County Sheriff's Office reported no issues directly related to the establishment's liquor license. There were no issues or concerns during a visual inspection of the premise.

Sales tax compliance has yet to be confirmed.

BACKGROUND / DISCUSSION

STAFF RECOMMENDATION

Staff recommends approval of the annual renewal for Kum & Go LC., d/b/a Kim & Go #934 contingent on a report from the Department of Revenue that the business is in compliance with sales tax reporting.

ATTACHMENTS

1. Kum and Go_Redacted

Submit to Local Licensing Authority

Fees Due		
Renewal Fee		
Storage Permit	\$100 X _____	\$
Sidewalk Service Area	\$75.00	\$
Additional Optional Premise Hotel & Restaurant	\$100 X _____	\$
Related Facility - Campus Liquor Complex	\$160.00 per facility	\$
Amount Due/Paid		\$

Make check payable to: Colorado Department of Revenue. The State may convert your check to a one-time electronic banking transaction. Your bank account may be debited as early as the same day received by the State. If converted, your check will not be returned. If your check is rejected due to insufficient or uncollected funds, the Department may collect the payment amount directly from your banking account electronically.

Retail Liquor or Fermented Malt Beverage License Renewal Application

Please verify & update all information below

Return to city or county licensing authority by due date

Licensee Name Kum & Go LC		Doing Business As Name (DBA) Kum & Go #934	
Liquor License # 12-40424-0025	License Type FMB	Sales Tax License # [REDACTED]	Expiration Date 12.12.2021
Business Address 8150 6th Street - Wellington, CO 80549			Due Date 10.28.2021
Mailing Address 1459 Grand Ave - Des Moines, IA 50309			Phone Number [REDACTED]
Operating Manager Adam Moore		Email licenses@kumandgo.com	
Date of Birth [REDACTED]	Home Address ft Collins, CO 80524	Phone Number [REDACTED]	

- Do you have legal possession of the premises at the street address above? ☒ Yes ☐ No
 Are the premises owned or rented? ☐ Owned ☒ Rented* *If rented, expiration date of lease **12.5.2038**
- Are you renewing a storage permit, additional optional premises, sidewalk service area, or related facility? If yes, please see the table in upper right hand corner and include all fees due. ☐ Yes ☒ No
- 3a. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant, been found in final order of a tax agency to be delinquent in the payment of any state or local taxes, penalties, or interest related to a business? ☐ Yes ☒ No
- 3b. Since the date of filing of the last application, has the applicant, including its manager, partners, officer, directors, stockholders, members (LLC), managing members (LLC), or any other person with a 10% or greater financial interest in the applicant failed to pay any fees or surcharges imposed pursuant to section 44-3-503, C.R.S.? ☐ Yes ☒ No
4. Since the date of filing of the last application, has there been any change in financial interest (new notes, loans, owners, etc.) or organizational structure (addition or deletion of officers, directors, managing members or general partners)? If yes, explain in detail and attach a listing of all liquor businesses in which these new lenders, owners (other than licensed financial institutions), officers, directors, managing members, or general partners are materially interested. ☐ Yes ☒ No
5. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been convicted of a crime? If yes, attach a detailed explanation. ☐ Yes ☒ No
6. Since the date of filing of the last application, has the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) been denied an alcohol beverage license, had an alcohol beverage license suspended or revoked, or had interest in any entity that had an alcohol beverage license denied, suspended or revoked? If yes, attach a detailed explanation. ☒ Yes ☐ No **attach Violations**
7. Does the applicant or any of its agents, owners, managers, partners or lenders (other than licensed financial institutions) have a direct or indirect interest in any other Colorado liquor license, including loans to or from any licensee or interest in a loan to any licensee? If yes, attach a detailed explanation. ☒ Yes ☐ No **attached Licensed locations.**

Affirmation & Consent

I declare under penalty of perjury in the second degree that this application and all attachments are true, correct and complete to the best of my knowledge.

Type or Print Name of Applicant/Authorized Agent of Business

Jody Deiter

Title

Risk Mgmt Analyst

Signature

Jody Deiter

Date

10.20.2021

Report & Approval of City or County Licensing Authority

The foregoing application has been examined and the premises, business conducted and character of the applicant are satisfactory, and we do hereby report that such license, if granted, will comply with the provisions of Title 44, Articles 4 and 3, C.R.S., and Liquor Rules.

Therefore this application is approved.

Local Licensing Authority For

Date

Signature

Title

Attest

Licensed Locations

Store Num	Address	City	State	Zip
0305	3033 8th Avenue	Evans	Colorado	80620
0308	7450 Federal Blvd	Westminster	Colorado	80030
0313	5480 E. 120th Ave.	Thornton	Colorado	80241
0316	2999 Bonanza Dr	Erie	Colorado	80516
0319	18465 W. Colfax Avenue	Golden	Colorado	80401
0320	250 E 136th Avenue	Thornton	Colorado	80241
0321	237 E 120th Ave	Thornton	Colorado	80233
0325	11505 W Belleview Avenue	Littleton	Colorado	80127
0329	450 S. Santa Fe Drive	Denver	Colorado	80223
0332	4720 N. Tower Road	Denver	Colorado	80249
0335	16351 Green Valley Ranch Blvd	Denver	Colorado	80239
0643	3802 North Nevada Avenue	Colorado Springs	Colorado	80907
0650	17970 Knoll Wood DR	Monument	Colorado	80132
0657	2190 Vickers Drive	Colorado Springs	Colorado	80918
0658	6125 Barnes Rd	Colorado Springs	Colorado	80922
0659	9665 Prominent Point	Colorado Springs	Colorado	80924
0661	3525 Spectrum Air Way	Colorado Springs	Colorado	80911
0663	5771 N Carefree Cir	Colorado Springs	Colorado	80917
0665	1206 Interquest Pkwy	Colorado Springs	Colorado	80921
0667	7375 Duryea Rd	Colorado Springs	Colorado	80923
0668	3091 N Chestnut ST	Colorado Springs	Colorado	80907
0669	6735 N Carefree Cir	Colorado Springs	Colorado	80922
0670	8050 Fountain Mesa Rd	Fountain	Colorado	80817
0672	3025 Hancock Expy	Colorado Springs	Colorado	80907
0673	620 East Fillmore Street	Colorado Springs	Colorado	80907
0674	1021 S Nevada Ave.	Colorado Springs	Colorado	80903
0676	2588 Airport Road	Colorado Springs	Colorado	80910
0684	2422 Research Parkway	Colorado Springs	Colorado	80920
0685	6615 Dalby Drive	Colorado Springs	Colorado	80923
0686	2410 N Academy Blvd	Colorado Springs	Colorado	80916
0687	525 Wooten Road	Colorado Springs	Colorado	80915
0689	4512 Austin Bluffs Parkway	Colorado Springs	Colorado	80918
0690	1450 Garden of the Gods Rd	Colorado Springs	Colorado	80907
0693	441 Flyway Pt	Colorado Springs	Colorado	80916
0697	361 N Union Blvd	Colorado Springs	Colorado	80909
0901	895 Yampa Ave	Craig	Colorado	81625
0902	1302 W Victory Way	Craig	Colorado	81625
0905	905 Main St	Silt	Colorado	81652
0906	10 Stone Quarry Rd	Battlement Mesa	Colorado	81635
0907	101 Ruby Ranch Rd	Silverthorne	Colorado	80498
0909	605 Park Ave	Kremmling	Colorado	80459
0910	366 71st Ave	Greeley	Colorado	80634
0912	30393 Kings Valley Dr	Conifer	Colorado	80433
0913	13799 Pacific Cir	Longmont	Colorado	80542
0914	7027 20th St	Greeley	Colorado	80634
0919	317 E Main St	Rangely	Colorado	81648

0920	2032 Curve Plz	Steamboat Springs	Colorado	80477
0921	120 E 1st St	Rifle	Colorado	81650
0922	120 E 26th St	Rifle	Colorado	81650
0927	801 Castle Valley Blvd	New Castle	Colorado	81647
0928	80 Anglers Dr	Steamboat Springs	Colorado	80477
0930	2150 E Bridge St	Brighton	Colorado	80601
0931	2901 37th St	Evans	Colorado	80620
0933	115 Knobcone Dr	Loveland	Colorado	80538
0934	8150 6th St	Wellington	Colorado	80549
0935	103 Oakridge Dr	Gypsum	Colorado	81637
0937	4530 Old US Highway 6	De Beque	Colorado	81630
0938	308 Agate Ave	Granby	Colorado	80446
0939	5112 East Bromley Lane	Brighton	Colorado	80603
0940	70 W Bridge St	Brighton	Colorado	80601
0942	6503 29th Street	Greeley	Colorado	80634
0948	55 Lusher Ct	Frisco	Colorado	80443
0949	375 E Main Street	Windsor	Colorado	80550
0973	127 Laura Way	Dacono	Colorado	80514
0975	1319 Miner St	Idaho Springs	Colorado	80452
0978	18 Market St	Eagle	Colorado	81631
0994	4330 Clydesdale Pkwy	Loveland	Colorado	80538
0995	1600 E Eisenhower Blvd	Loveland	Colorado	80537
1903	700 Victory Way East	Craig	Colorado	81625
1904	230 West Jefferson Avenue	Hayden	Colorado	81639
2303	3253 S. Parker Road	Denver	Colorado	80014
2306	14725 West 84th Place	Arvada	Colorado	80005
2310	3432 Clear Creek Drive	Wheat Ridge	Colorado	80401
2312	2700 S Havana St	Aurora	Colorado	80014
2315	7995 Sheridan Blvd	Arvada	Colorado	80003
2926	2510 Gilstrap Ct	Glenwood Springs	Colorado	81601
4923	705 Taughenbaugh Blvd	Rifle	Colorado	81650
4951	105 6th St	Glenwood Springs	Colorado	81601
7702	1610 Little Raven St Suite 102	Denver	Colorado	80202
7705	1250 East 17th Avenue	Denver	Colorado	80218

Violations- Kum & Go LC

City	State	County	StoreNum	ViolationTy	ViolationDate	ViolationFrom
Erie	Colorado	Weld	0316	Alcohol	10/4/2019	Colorado Dept. of Revenue
Golden	Colorado	Jefferson	0319	Alcohol	12/25/2020	State of Colorado
Colorado Springs	Colorado	El Paso	0643	Alcohol	12/25/2020	State of Colorado
Colorado Springs	Colorado	El Paso	0663	Alcohol	12/25/2020	State of Colorado
Colorado Springs	Colorado	El Paso	0667	Alcohol	12/25/2020	State of Colorado
Colorado Springs	Colorado	el paso	0668	Alcohol	12/25/2020	State of Colorado
Colorado Springs	Colorado	El Paso	0672	Alcohol	12/25/2020	State of Colorado
Colorado Springs	Colorado	El Paso	0673	Alcohol	12/25/2020	State of Colorado
Colorado Springs	Colorado	El Paso	0674	Alcohol	12/25/2020	State of Colorado
Colorado Springs	Colorado	El Paso	0676	Alcohol	12/25/2020	State of Colorado
Colorado Springs	Colorado	El Paso	0684	Alcohol	12/25/2020	State of Colorado
Colorado Springs	Colorado	El Paso	0685	Alcohol	12/25/2020	State of Colorado
Colorado Springs	Colorado	El Paso	0693	Alcohol	12/25/2020	State of Colorado
Silverthorne	Colorado	Summit	0907	Alcohol	12/25/2020	State of Colorado
Kremmling	Colorado	Grand	0909	Alcohol	6/23/2017	State of Colorado
Conifer	Colorado	Jefferson	0912	Alcohol	9/8/2017	Jefferson County County Liquor Licensing Authority
Battlement Mesa	Colorado	Garfield	0929	Alcohol	12/26/2017	Colorado Department of Revenue - Liquor Division
Brighton	Colorado	Adams	0930	Alcohol	6/19/2019	City of Brighton
Wellington	Colorado	Larimer	0934	Alcohol	12/25/2020	State of Colorado
Gypsum	Colorado	Eagle	0935	Alcohol	12/25/2020	State of Colorado
De Beque	Colorado	Mesa	0937	Alcohol	12/25/2020	State of Colorado
Brighton	Colorado	Adams	0940	Alcohol	11/6/2017	Colorado Department of Revenue - Liquor Division
Greeley	Colorado	Weld	0942	Alcohol	5/12/2017	Greeley Police Department
Idaho Springs	Colorado	Clear Creek	0975	Alcohol	12/25/2020	State of Colorado
Eagle	Colorado	Eagle	0978	Alcohol	12/25/2020	State of Colorado
Loveland	Colorado	Larimer	0994	Alcohol	12/25/2020	State of Colorado
Hayden	Colorado	Routt	1904	Alcohol	1/2/2021	State of Colorado
Rifle	Colorado	Garfield	4923	Alcohol	9/25/2017	Colorado Liquor Enforcement Division

OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE OF FACT OF GOOD STANDING

I, Jena Griswold, as the Secretary of State of the State of Colorado, hereby certify that,
according to the records of this office,

KUM & GO, L.C.

is an entity formed or registered under the law of Iowa, has complied with all
applicable requirements of this office, and is in good standing with this office. This entity has
been assigned entity identification number 20011042768 and has provided the assumed entity
name for use in Colorado

KUM & GO FOODSTORES, LLC

This certificate reflects facts established or disclosed by documents delivered to this office on
paper through 12/01/2021 that have been posted, and by documents delivered to this office
electronically through 12/02/2021 @ 12:14:26 .

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this
official certificate at Denver, Colorado on 12/02/2021 @ 12:14:26 in accordance with applicable law. This
certificate is assigned Confirmation Number 13623642 .



Jena Griswold

Secretary of State of the State of Colorado

*****End of Certificate*****

Notice: A certificate issued electronically from the Colorado Secretary of State's Web site is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Validate a Certificate page of the Secretary of State's Web site, <http://www.sos.state.co.us/biz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our Web site, <http://www.sos.state.co.us/> click "Businesses, trademarks, trade names" and select "Frequently Asked Questions."