



360 Main St. • Delta, Colorado 81416 • Phone (970) 874-7566 • Fax (970) 874-8776

Council may take formal action on any item appearing on this Agenda. However, formal action WILL NOT be taken at this meeting on any item of business first identified during the course of the meeting as a change to the Agenda, other business, or Citizen, Councilmember and Staff Comments.

A G E N D A

**Delta City Council
Regular Meeting**

**November 6, 2012
7:00 p.m.**

- A. Pledge of Allegiance**
- B. Changes to the Agenda**
- C. Minutes**
- D. Citizen Comments**
- E. Hamon Contract**
- F. Stantec Contract**
- G. 2013 Budget Updates**
 - Salaries
 - Flower Program
 - Wellness Pool
- H. Public Hearing: 2013 Budget**
- I. Resolution #7, 2012; Setting the Mill Levy**
- J. Resolution #8, 2012; Adopting the 2013 Budget**
- K. Council Bill #17, 2012; First Reading
2013 Appropriations**
- L. Hotel and Restaurant Liquor License Renewal; Days Inn**
- M. Bike Racks and Benches along Main Street**
- N. Updates and Follow Up**
- O. City Attorney Comments**
- P. City Manager Comments**
- Q. Councilmember Comments**

Mayor Ed Sisson called the meeting to order at 7:00 p.m. Also present were Councilmembers Bill Raley, Robert Jurca, Mary Cooper, and Ray Penick along with City Manager Justin Clifton and City Attorney Mike Schottelkotte. A meeting notice was posted in the south window at City Hall at least twenty-four hours prior to the meeting.

Pledge of Allegiance

The Mayor led everyone present in the Pledge of Allegiance.

Changes to the Agenda

There were none.

Minutes

It was moved by Councilmember Penick and seconded by Councilmember Raley to approve the minutes of the October 2, 2012 regular meeting as submitted by the Clerk. All in favor, motion carried.

Citizen Comments

Denise Huff, 734 Antelope Street, commented on her water bill and also on how she was treated by staff when she came into the City office.

Club Liquor License Renewal; BPOE Lodge No 1235

The Clerk reported that BPOE Lodge No 1235 has submitted their club liquor license renewal. The application is complete and all fees have been paid. The Delta Police Department has recommended renewal.

It was moved by Councilmember Cooper and seconded by Councilmember Jurca to approve the club liquor license renewal for BPOE Lodge No 1235. All in favor, motion carried.

Retail Liquor Store License Renewal; Grand Valley Liquors

The Clerk stated that Grand Valley Liquors has submitted their retail liquor store license renewal. The application is complete and all fees have been paid. The Delta Police Department has recommended renewal.

It was moved by Councilmember Jurca and seconded by Councilmember Raley to approve the retail liquor store license renewal for Grand Valley Liquors. All in favor, motion carried.

Hotel and Restaurant Liquor License Renewal; Fiesta Vallarta

The Clerk stated that Fiesta Vallarta has submitted their hotel and restaurant liquor license renewal. The application is complete and all fees have been paid. The Delta Police Department has recommended renewal.

Regular Meeting, Delta City Council, October 16, 2012 (cont.)

Hotel and Restaurant Liquor License Renewal; Fiesta Vallarta (cont.)

It was moved by Councilmember Penick and seconded by Councilmember Raley to approve the hotel and restaurant liquor license for Fiesta Vallarta. All in favor, motion carried.

Report of Changes; House of Chin

The Clerk reported that House of Chin has had a change in corporate structure, therefore, submitted a report of changes on their liquor license. Zong Yong He purchased 80% of stock from Bobby Trinh who owned 100% of the stock. Mr. He did submit his fingerprints which have been forwarded to CBI for review. The Delta Police Department has also done a NCIC/CCIC check on Mr. He for outstanding warrants which was determined to be clear. Staff recommends approving the report of changes contingent upon receiving favorable results on the fingerprint submission from CBI.

It was moved by Councilmember Jurca and seconded by Councilmember Raley to approve the report of changes for House of Chin, Inc. contingent upon receiving favorable results from CBI for Zong Yong He. All in favor, motion carried.

CDOT Property Acquisition

Public Works Director Jim Hatheway stated that CDOT has completed the appraisal process for the drainage ditch property needed for the truck route. CDOT's appraiser determined the value to be between \$3898 and \$19,524 based on varying methods. Tim Woodmansee, CDOT Region 3 Right of Way Manager has used that information and assigned a value of \$4881. When approved by Council, CDOT will prepare a deed and deliver the deed upon receipt of the \$4881. The deed will then be recorded by the City.

It was moved by Councilmember Cooper and seconded by Councilmember Penick to approve the property acquisition from CDOT for \$4881 and authorize the City Manager to complete the transaction. All in favor, motion carried.

City Attorney Comments

City Attorney Michael Schottelkotte stated that the City received a refund in the amount of \$27,600 for the excess amount that was paid in to acquire possession of the Family Household Trust property. He also stated he has an amended Rule and Order that was issued in the Family Household Trust case. He explained that the Delta County Abstract Company issued an unsigned current commitment for title insurance on the trade corridor property that will go to the railroad. He then explained the process moving forward.

City Manager Comments

City Manager Justin Clifton addressed Ms. Huff's previous comment. He then asked Wilma Erven, Recreation Director, to update Council on a few items.

Ms. Erven commented that there was a concern earlier regarding the flowers that were promised to Maverick. She stated that a mural has also been promised. She did not know if Council was aware of that.

Regular Meeting, Delta City Council, October 16, 2012 (cont.)

City Manager Comments (cont.)

Council stated they were not.

Ms. Erven provided Council a little background on the request from Maverick. She then explained the process of getting a mural started. At this time she wanted to update Council and have it discussed at another time.

Councilmember Comments

Councilmember Cooper commented on the new golf course sign pointing in the wrong direction.

Councilmember Penick commented on the following items:

- The Daily Sentinel under the “who said it” column there was a comment complimenting the City of Delta on the flowers.
- He attended a Fore Alliance meeting and the City has received an invitation for DMEA's Business and Energy forum.
- The letter from the Olsen's concerning a code violation.
- He would like to propose a change in the way the Council meetings are conducted. He would like an opportunity to discuss the motion after it is made and before a call for a vote. He would also like a negative vote called after the affirmative is called.

There was discussion regarding Robert's Rules of Order.

The meeting was adjourned at 7:27 p.m.

Jolene E. Nelson, City Clerk



MEMO

To: *Mayor and Council*

From: *Jim Hatheway, Public Works Director*

Date: *31 October 2012*

Subject: *Confluence Drive Construction Contract Award*

RECOMMENDATION

The Public Works Department is recommending that the City award the contract for construction to Hamon Contractors.

BACKGROUND

City staff, Stantec and Hamon Contractors have been working diligently the last several weeks to evaluate the Confluence Drive Project, identify cost savings to the project and develop a final schedule of values. After completing several iterations and meetings, the final schedule of values is complete.

COST

This project has been budgeted in 80-19-31600. The cost of the construction contract, after the mentioned refinement, is \$17,969,000.

ACTIONS TO BE TAKEN IF APPROVED

Staff will issue a Notice of Award, finalize the construction contract and then issue a Notice to Proceed.

SUGGESTED MOTION

I move the City award the construction contract for Confluence Drive to Hamon Contractors and authorize the City Manager to execute the construction contract. (Opposition to the motion would be indicated by a 'no' vote)

CONSTRUCTION CONTRACT

THIS CONSTRUCTION CONTRACT (hereinafter referred to as "Contract" or "Agreement") is made by and between the **CITY OF DELTA**, a Colorado home rule municipal corporation, whose address is 360 Main Street, P.O. Box 19, Delta, Colorado 81416 ("OWNER" or "City") and **HAMON CONTRACTORS, INC.**, ("CONTRACTOR"), a Colorado corporation, whose address is 5670 Franklin Street, Denver, Colorado 80216 for the construction project ("Project") known as: Confluence Drive in Delta, Colorado.

The OWNER's Representative ("OR") is: Jim Hatheway, Public Works Director

NOW THEREFORE, in consideration of the mutual promises made herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and subject to the terms and conditions set forth herein, the OWNER and CONTRACTOR agree as follows:

ARTICLE 1 THE WORK:

The CONTRACTOR shall perform all the Work required by the Contract Documents and attached exhibits for construction of the City of Delta's new highway bypass called Confluence Drive.

ARTICLE 2 TIME OF COMMENCEMENT AND COMPLETION:

The Work to be performed under this Contract shall be commenced upon written notice from the OWNER to proceed on or before December 31, 2012, and pursued with due diligence thereafter until completion which shall occur no later than fifteen (15) months after such notice to proceed is actually issued. (See paragraph 74G of the attached General Conditions for particular terms of project phasing and special CONTRACTOR rights upon OWNER delays of project commencement beyond December 31, 2012. Notwithstanding any other provisions of the Contract Documents to the contrary, the parties agree that the OWNER will issue a Notice to Proceed when substantial portions or phases of the Project are sufficiently ready to enable the CONTRACTOR'S uninterrupted performance of such portions or phases. Time of Commencement, for purposes of Contract Time, shall commence upon issuance of such Notice to Proceed. The CONTRACTOR shall promptly inform the OWNER of any and all delays beyond the reasonable control of the CONTRACTOR that are attributable to events that are hindering or preventing the CONTRACTOR'S performance, including incomplete plans and specifications due from the OWNER. Time attributable to delays beyond the control of the CONTRACTOR shall extend the Contract Time allowed for Project completion as more particularly specified in a Change Order. The OWNER recognizes that substantial delays caused by events beyond the control of the may cause critical seasonal work progress, such as asphalt application, to be postponed until good weather conditions allow resumption of the work.

ARTICLE 3 CONTRACT AMOUNT AND BASIS:

The OWNER shall pay the CONTRACTOR an amount not to exceed that set forth in Exhibit 'A' for the satisfactory performance of the Work, subject to additions and deductions by Change Order as more particularly provided in the General Conditions.

**ARTICLE 4
PROGRESS PAYMENTS:**

Based upon Applications for Payment submitted to the OR by the CONTRACTOR and Certificates for Payment issued by the OR, the OWNER shall make progress payments, subject to Sections 43 and 44 and other applicable sections of the General Conditions, to the CONTRACTOR as follows:

Five percent (5%) of each amount certified for payment shall be retained by the OWNER until final payment. The Parties may agree to a different arrangement for specific projects, so long as such arrangements are made in writing, and agreed to by all Parties. In the absence of a specific written agreement setting forth another amount, the aforementioned five percent (5%) shall be the default amount to be retained.

**ARTICLE 5
FINAL PAYMENT:**

After completion of the Work, provided the Contract is then fully performed, subject to the provisions of Article 61 of the General Conditions, the OWNER shall publish a Notice of Final Settlement twice at least 10 days prior to the date of final settlement. The OWNER shall withhold from final payments any amounts as required pursuant to C.R.S. 38-26-107.

**ARTICLE 6
ENUMERATION OF CONTRACT DOCUMENTS:**

The Contract Documents are as noted in Article 7.1 herein, and are indicated as follows:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Agreement including General Conditions | <input checked="" type="checkbox"/> Modifications - if any |
| <input checked="" type="checkbox"/> Special Conditions | <input checked="" type="checkbox"/> Written Interpretation of OR - if any |
| <input checked="" type="checkbox"/> Specifications | <input checked="" type="checkbox"/> Performance Bond |
| <input checked="" type="checkbox"/> Plans | <input checked="" type="checkbox"/> Payment Bond |
| <input checked="" type="checkbox"/> Addenda | <input checked="" type="checkbox"/> Notice to Proceed |
| <input checked="" type="checkbox"/> Change Orders - if any | <input checked="" type="checkbox"/> Exhibit A. |
| <input checked="" type="checkbox"/> Contractor's Insurance Documentation | |

**ARTICLE 7
CONTRACT DOCUMENTS:**

7.1 The Contract Documents consist of this Agreement (which includes the General Conditions), Special Conditions, the Plans, the Specifications, all Addenda issued prior to the execution of this Agreement, all modifications, any performance or payment bonds, all Change Orders, all Exhibits, and all written interpretations of the Contract Documents issued by the OR. These form the Contract and what is required by any one shall be as binding as if required by all. The intention of the Contract Documents is to include all labor, materials, equipment and other items as provided in Paragraph 10.2 necessary for the proper execution and completion of the Work and the terms and conditions of payment therefor, and also to include all Work which may be reasonably inferable from the Contract Documents as being necessary to produce the intended results.

7.2 The Contract Documents shall be signed in not less than duplicate by the OWNER and the CONTRACTOR. If either the OWNER or the CONTRACTOR do not sign the Drawings, Specifications, or any of the other Contract Documents, the OR shall identify them. By executing the Contract, the CONTRACTOR represents that he has visited the site and familiarized himself with the local conditions under which the Work is to be performed.

7.3 The term Work as used in the Contract Documents includes all labor necessary to produce the construction required by the Contract Documents, and all materials and equipment incorporated or to be incorporated in such

construction.

**ARTICLE 8
OWNER'S REPRESENTATIVE (OR)**

8.1□ The OR will provide general administration of the Contract and will be the OWNER's representative during construction and until issuance of the final Certificate for Payment.

8.2□ The OR shall at all times have access to the Work wherever it is in preparation and progress.

8.3□ The OR will make periodic visits to the site to familiarize himself generally with the progress and quality of the Work and to determine in general if the Work is proceeding in accordance with the Contract Documents. On the basis of his on-site observations, he will keep the OWNER informed of the progress of the Work, and will endeavor to guard the OWNER against defects and deficiencies in the Work of the CONTRACTOR. The OR will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The OR will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, and he will not be responsible for the CONTRACTOR's failure to carry out the Work in accordance with the Contract Documents.

8.4□ Based on such observations and the CONTRACTOR's Applications for Payment, the OR will determine the amounts owing to the CONTRACTOR and will issue Certificates for Payment in accordance with Article 16 hereof.

8.5□ The OR will be, in the first instance, the interpreter of the requirements of the Contract Documents. He will make decisions on all claims and disputes between the OWNER and the CONTRACTOR.

8.6□ The OR will have authority to reject Work which does not conform to the Contract Documents.

**ARTICLE 9
OWNER:**

9.1□ The OWNER shall furnish all surveys.

9.2□ The OWNER shall secure any required permanent easements or real property necessary for the project and advise CONTRACTOR of the boundaries of OWNER's easements or property.

9.3□ The OWNER shall issue all instructions to the CONTRACTOR through the OR.

**ARTICLE 10
CONTRACTOR:**

10.1□ The CONTRACTOR shall supervise and direct the Work, using his best skill and attention. The CONTRACTOR shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract.

10.2□ Unless otherwise specifically noted, the CONTRACTOR shall provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of the Work.

10.3□ The CONTRACTOR shall at all times enforce strict discipline and good order among his

employees, and shall not employ on the Work any unfit person or anyone not skilled in the task assigned to CONTRACTOR.

- 10.4□ The CONTRACTOR shall pay all sales, consumer, use and other similar taxes required by law and shall secure all permits, and licenses necessary for the execution of the Work at CONTRACTOR's expense except as provided in Article 24. The OWNER is exempt from state and local sales and use taxes. CONTRACTOR shall take steps to obtain such exemption from the Colorado Department of Revenue pursuant to C.R.S. 39-26-114(1)(a) XIX and 114(d). The CONTRACTOR shall give all notices and comply with all laws, ordinances, rules, regulations, and orders of any public authority bearing on the performance of the Work, and shall notify the OR if the Plans and Specifications are at variance therewith to the extent that the CONTRACTOR is reasonably able, fully recognizing that CONTRACTOR is not a licensed design professional.
- 10.5□ The CONTRACTOR shall be responsible for the acts and omissions of all his employees and all SUBCONTRACTORS, their agents and employees and all other persons performing any of the Work under a Contract with the CONTRACTOR.
- 10.6□ The CONTRACTOR shall review, stamp with his approval and submit all samples and shop drawings as directed for approval of the OR for conformance with the design concept and with the information given in the Contract Documents. The Work shall be in accordance with approved samples and shop drawings.
- 10.7□ The CONTRACTOR at all times shall keep the premises free from accumulation of waste materials or rubbish caused by his operations. At the completion of the Work he shall remove all his waste materials and rubbish from and about the Project as well as his tools, construction equipment, machinery and surplus materials, and shall clean all glass surfaces and shall leave the Work "broom clean" or its equivalent, except as otherwise specified.
- 10.8□ The CONTRACTOR shall indemnify and hold harmless the OWNER and the OR and their officers, agents and employees from and against all claims, damages, losses and expenses including attorneys' fees arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss or expense (1) is attributable to bodily injury, sickness, disease or death, or to damage to or destruction of tangible property including the loss of use resulting therefrom, and (2) is caused in whole or in part by any act or omission of the CONTRACTOR, any SUBCONTRACTOR, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. In any and all claims against the OWNER or the OR, or any of their officers, agents or employees by any employee of the CONTRACTOR, any SUBCONTRACTOR, anyone directly or indirectly employed by any of them or anyone for whose actions any of them may be liable, the indemnification obligation under this Paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the CONTRACTOR or any SUBCONTRACTOR under worker's compensation acts, disability benefit acts or other employee benefit acts. The obligations of the CONTRACTOR under this Paragraph shall not extend to the liability of the OR, his agents or employees arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, Change Orders, designs or specifications, or (2) the giving of or the failure to give directions or instructions by the OR, his agents or employees provided such giving or failure to give is the primary cause of the injury or damage.

ARTICLE 11

SUBCONTRACTS:

- 11.1□ A SUBCONTRACTOR is a person who has a Contract with the CONTRACTOR to perform

any of the Work at the site.

- 11.2□ Unless otherwise specified in the Contract Documents, the CONTRACTOR, as soon as practicable after the award of the Contract, shall furnish to the OR in writing a list of the names of SUBCONTRACTORS proposed for the principal portions of the Work. The CONTRACTOR shall not employ any SUBCONTRACTOR to whom the OR or the OWNER may have a reasonable objection. The CONTRACTOR shall not be required to employ any SUBCONTRACTOR to whom he has a reasonable objection. Contracts between the CONTRACTOR and the SUBCONTRACTOR shall be in accordance with the terms of this Agreement and shall include the General Conditions of this Agreement insofar as applicable.

ARTICLE 12 SEPARATE CONTRACTS AND OWNER WORK:

- 12.1□ The OWNER reserves the right to award other Contracts in connection with other portions of the Project or other work on the site or to perform such work itself.
- 12.2□ The CONTRACTOR shall afford other CONTRACTORS or OWNER reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work, and shall properly connect and coordinate his Work with theirs.
- 12.3□ Any costs caused by defective or ill-timed work shall be borne by the party responsible therefor.

ARTICLE 13 ROYALTIES AND PATENTS:

The CONTRACTOR shall pay all royalties and license fees. The CONTRACTOR shall defend all suits or claims for infringement of any patent rights and shall save the OWNER harmless from loss on account thereof.

ARTICLE 14 PERFORMANCE AND PAYMENT BONDS:

- 14.1 A Performance and a Payment Bond shall be submitted by CONTRACTOR for all Contracts in excess of fifty thousand U.S. Dollars (\$50,000.00) or if indicated in Article 6. When indicated in Article 6, a clean irrevocable letter of credit payable to the OWNER from a bank acceptable to the OWNER may be substituted for the bonds.
- 14.2 Each bond shall be in the amount of the Contract sum and shall either be in the form supplied by OWNER or shall be in such other form as approved by OWNER. Each bond shall comply with the requirements of C.R.S. 38-26-105 and 106.
- 14.3 Regardless of whether a bond or letter of credit is used by the CONTRACTOR and accepted by the OWNER, such bond or letter of credit shall not expire prior to two (2) years following final settlement.

ARTICLE 15 TIME:

- 15.1□ All time limits stated in the Contract Documents are of the essence to the Contract.
- 15.2□ If the CONTRACTOR is delayed at any time in the progress of the Work by changes ordered in the Work, by labor disputes, fire, unusual delay in transportation, unavoidable casualties,

causes beyond the CONTRACTOR's control, or by any cause which the OR may determine justifies the delay, then the Contract Time shall be extended by Change Order for such reasonable time as the OR may determine.

ARTICLE 16 PAYMENTS:

- 16.1□ Payments shall be made as provided in Article 4 of this Agreement.
- 16.2□ Payments may be withheld on account of (1) defective Work not remedied, (2) claims asserted or evidence which indicates probable assertion of claims, (3) failure of the CONTRACTOR to make payments properly to SUBCONTRACTORS or for labor, materials, or equipment, (4) damage to another CONTRACTOR or OWNER, or (5) unsatisfactory prosecution of the Work by the CONTRACTOR.
- 16.3□ Final payment shall not be due until (1) the CONTRACTOR has delivered to the OWNER cash or an irrevocable letter of credit satisfactory to the OWNER indemnifying OWNER against any claim which has been asserted by anyone for labor, materials, equipment or otherwise arising out of the Contract or on account of any claim which either OWNER or CONTRACTOR believes may be asserted, (2) the OWNER has inspected and approved the Work as complying with the Contract, (3) written consent of surety, if any is given, and (4) any manufacturers or suppliers warranties and equipment literature, and any as built plans required are delivered to OWNER.
- 16.4□ The making of final payment shall constitute a waiver of all claims by the OWNER except those arising from (1) unsettled claims, (2) faulty or defective Work appearing after Substantial Completion, (3) failure of the Work to comply with the requirements of the Contract Documents, or (4) terms of any special guarantees required by the Contract Documents. The acceptance of final payment shall constitute a waiver of all claims by the CONTRACTOR except those previously made in writing and still unsettled.

ARTICLE 17 PROTECTION OF PERSONS AND PROPERTY AND RISK OF LOSS:

The CONTRACTOR shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. CONTRACTOR shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to (1) all employees on the Work and other persons who may be affected thereby, (2) all the Work and all materials and equipment to be incorporated therein, and (3) other property at the site or elsewhere. CONTRACTOR shall bear all risk of loss to the work, or materials or equipment for the work due to fire, theft, vandalism, or other casualty or cause, until the work is fully completed and accepted by the OWNER. CONTRACTOR shall comply with all applicable laws, ordinances, rules, regulations and orders of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. All damage or loss to any property caused in whole or in part by the CONTRACTOR, any SUBCONTRACTOR, any SUB-SUBCONTRACTOR or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, shall be remedied by the CONTRACTOR.

ARTICLE 18 INDEMNIFICATION AND INSURANCE:

18.1: Indemnification:

The CONTRACTOR agrees to indemnify and hold harmless OWNER, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims, and demands, on account of injury, loss, or damage, including without limitation claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Contract, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault of the CONTRACTOR, any SUBCONTRACTOR of the CONTRACTOR, or any officer, employee, representative, or agent of the CONTRACTOR or of any SUBCONTRACTOR of the CONTRACTOR, or which arise out of any worker's compensation claim of any employee of the CONTRACTOR or of any employee of any SUBCONTRACTOR of the CONTRACTOR. The CONTRACTOR agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims or demands at the sole expense of the CONTRACTOR, or at the option of OWNER, agrees to pay OWNER or reimburse OWNER for the defense costs incurred by OWNER in connection with, any such liability, claims, or demands. The CONTRACTOR also agrees to bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not any such liability, claims, or demands alleged are groundless, false, or fraudulent. The obligation of this Section 18.1 shall not extend to any injury, loss, or damage, which is caused solely by the act, omission, or other fault of the OWNER, its officers, or its employees.

18.1 Insurance:

The CONTRACTOR agrees 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 the CONTRACTOR pursuant to this Section 18.1. Such insurance shall be in addition to any other insurance requirements imposed by this Contract or by law. The CONTRACTOR shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to Section 18.1 by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types.

18.2.1 CONTRACTOR shall procure and maintain, and shall cause any SUBCONTRACTOR of the CONTRACTOR to procure and maintain, the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers acceptable to OWNER. All coverages shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by the CONTRACTOR pursuant to Section 18.1. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

18.2.1(A) Worker's Compensation insurance to cover obligations imposed by applicable laws for any employee engaged in the performance of work under this contract, and Employers' Liability insurance with minimum limits of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) each accident, FIVE HUNDRED THOUSAND DOLLARS (\$500,000) disease - policy limit, and FIVE HUNDRED THOUSAND DOLLARS (\$500,000) disease - each employee. Evidence of qualified self-insured status may be substituted for the Worker's Compensation requirements of this paragraph.

18.2.1(B) Commercial General Liability insurance with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent CONTRACTORS, products, and completed operations. The policy shall include coverage for explosion, collapse, and underground hazards. The policy shall contain a severability of interests provision.

18.2.1(C) Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate with respect to each of CONTRACTOR's owned, hired and non-owned vehicles assigned to or used in performance of the services. The policy shall contain a severability of interests provision. If the CONTRACTOR has no owned automobiles, the requirements of this Paragraph shall be met by each employee of the CONTRACTOR providing services to the OWNER under this contract.

18.2.2 The policy required by paragraphs 18.2.1(B) and (C) above shall be endorsed to include OWNER and OWNER's officers and employees as additional insureds. Every policy required above shall be primary insurance and any insurance carried by OWNER, its officers, or its employees, or carried by or provided through any insurance pool of OWNER, shall be excess and not contributory insurance to that provided by CONTRACTOR. No additional insured endorsement to any policy shall contain any exclusion for bodily injury or property damage arising from completed operations. The CONTRACTOR shall be solely responsible for any deductible losses under any policy required above.

18.2.3 The certificate of insurance provided by OWNER shall be completed by the CONTRACTOR's insurance agent as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be reviewed and approved by OWNER prior to commencement of the Contract. No other form of certificate shall be used. The certificate shall identify this Contract and shall provide that the coverages afforded under the policies shall not be cancelled, terminated or materially changed until at least 30 days prior written notice has been given to OWNER. The completed certificate of insurance shall be sent to OWNER.

18.2.4 Failure on the part of the CONTRACTOR to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of this Contract upon which OWNER may immediately terminate this Contract, or at its discretion OWNER may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by OWNER shall be repaid by CONTRACTOR to OWNER upon demand, or OWNER may offset the cost of the premiums against any monies due to CONTRACTOR from OWNER.

18.2.5 OWNER reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

18.2.6 The parties hereto understand and agree that OWNER is relying on, and does not waive or intend to waive by any provision of this Contract, the monetary limitations (presently \$150,000 per person and \$600,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, {24-10-101 et seq., 10 C.R.S.}, as from time to time amended, or otherwise available to OWNER, its officers, or its employees.

18.2.7 The Agreement shall not be executed, and no notice or authorization to proceed shall be given until the Certificates required above, are submitted and approved by the OWNER.

ARTICLE 19 PROPERTY INSURANCE:

19.1 Unless otherwise provided, the CONTRACTOR shall purchase and maintain property insurance upon the entire Work at the site to the full insurable value thereof. This insurance shall include the interest of the OWNER, the CONTRACTOR, SUBCONTRACTORS and Sub-SUBCONTRACTORS in the Work and shall insure against the perils of Fire, Theft,

Extended Coverage, Vandalism and Malicious Mischief. Such policy shall be an "all-risk" Builders Risk policy.

- 19.2□ Any insured loss is to be adjusted with the OWNER and made payable to the OWNER as trustee for the insureds, as their interests may appear, subject to the requirements of any mortgagee clause.
- 19.3□ The CONTRACTOR shall file a copy of all such policies with the OWNER prior to the commencement of the Work.
- 19.4□ The OWNER and CONTRACTOR waive all rights against each other for damages caused by fire or other perils to the extent covered by insurance provided under this paragraph. The CONTRACTOR shall require similar waivers by SUBCONTRACTORS and SUB-SUBCONTRACTORS.

**ARTICLE 20
CHANGES IN THE WORK:**

- 20.1□ The OWNER, without invalidating the Contract, may order Changes in the Work consisting of additions, deletions, or modifications with the Contract Sum and the Contract Time being adjusted accordingly. All such changes in the Work shall be authorized by written Change Order signed by the OWNER, or the OR.
- 20.2□ The Contract Sum and the Contract Time may be changed only by Change Order.
- 20.3□ The cost or credit to the OWNER, if any, from a Change in the Work shall be determined by unit prices if specified in the Contract documents, or by mutual agreement.

**ARTICLE 21
CORRECTION OF WORK:**

The CONTRACTOR shall correct any Work that fails to conform to the requirements of the Contract Documents where such failure to conform appears during the progress of the Work, and shall remedy any defects due to faulty materials, equipment or workmanship which appear within a period of two (2) years from the Date of Final Settlement of the Contract or within such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents. The provisions of this Article 21 apply to Work done by SUBCONTRACTORS as well as to Work done by direct employees of the CONTRACTOR, and are in addition to any other remedies or warranties provided by law.

**ARTICLE 22
TERMINATION BY THE CONTRACTOR:**

If the OR fails to issue a Certificate of Payment for a period of thirty days through no fault of the CONTRACTOR, or if the OWNER fails to make payment thereon for a period of thirty days, the CONTRACTOR may, upon seven days' written notice to the OWNER and the OR, terminate the Contract and recover from the OWNER payment for all Work executed and for any proven loss sustained upon any materials, equipment tools, and construction equipment and machinery, including reasonable profit and damages.

**ARTICLE 23
TERMINATION BY THE OWNER:**

If the CONTRACTOR defaults or neglects to carry out the Work in accordance with the Contract

Documents or fails to perform any provision of the Contract, the OWNER may, after seven days' written notice to the CONTRACTOR and without prejudice to any other remedy he may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due the CONTRACTOR or, at his option, may terminate CONTRACTOR's work under the Contract and take possession of the site and of all materials, equipment, tools, and construction equipment and machinery thereon owned by the CONTRACTOR and may finish the Work by whatever method he may deem expedient, and if the unpaid balance of the Contract Sum exceeds the expense of finishing the Work, such excess shall be paid to the CONTRACTOR, but if such expense exceeds such unpaid balance, the CONTRACTOR shall pay the difference to the OWNER. These rights and remedies are in addition to any right to damages or other rights and remedies allowed by law.

ARTICLE 24 PERMITS:

OWNER shall be responsible for paying all Permit fees, water and sewer tap fees, and electrical deposits. CONTRACTOR shall obtain and pay for any state electrical permits and fees that may be required for the CONTRACTOR'S own field office and yard.

ARTICLE 25 MISCELLANEOUS PROVISIONS:

25.1 This Contract is governed by the laws of the State of Colorado.

25.2 CONTRACTOR shall not assign this Contract. The provisions of the Contract are binding on the heirs, successors or assignees of the parties.

25.3 The rights and remedies available under this Contract shall be in addition to any rights and remedies allowed by law.

25.4 No failure to enforce any provision of the Contract on account of any breach thereof, shall be considered as a waiver of any right to enforce provisions of this Contract concerning any subsequent or continuing breach.

25.5 The terms of this Agreement shall remain in full force and effect following final payment.

ARTICLE 26 HAZARDOUS CONDITIONS

26.1 For the purposes of this Article 26, "Hazardous Conditions" are any materials, wastes, substances and chemicals deemed to be hazardous by State, Federal, or local laws, rules, or regulations (hereinafter "Laws"), or the handling, storage, remediation, or disposal of which are regulated by applicable Laws.

26.1.1 Unless otherwise expressly provided in the Contract Documents to be part of the Work, CONTRACTOR is not responsible for any Hazardous Conditions encountered at the site. Upon encountering any Hazardous Conditions, CONTRACTOR will stop Work immediately in the affected area and duly notify OWNER and, if required by applicable Laws, all government or quasi-government entities with jurisdiction over the Work or site.

26.1.2 Upon receiving notice of the presence of suspected Hazardous Conditions, OWNER shall take the necessary measures required to ensure that the Hazardous Conditions are remediated or rendered

harmless. Such necessary measures shall include OWNER retaining qualified independent experts to (i) ascertain whether Hazardous Conditions have actually been encountered, and, if they have been encountered, (ii) prescribe the remedial measures that OWNER must take either to remove the Hazardous Conditions or render the Hazardous Conditions harmless.

26.1.3 CONTRACTOR shall be obligated to resume Work at the affected area only after OWNER's expert provides it with written certification that (i) the Hazardous Conditions have been removed or rendered harmless and (ii) all necessary approvals have been obtained from all government and quasi-government entities having jurisdiction over the Work or site.

26.1.4 CONTRACTOR will be entitled, in accordance with applicable sections or articles of this Contract, to an adjustment in its Contract Price and/or Contract Time(s) to the extent CONTRACTOR's cost and/or time of performance have been adversely impacted by the presence of Hazardous Conditions.

26.1.5 OWNER is not responsible for Hazardous Conditions introduced to the site by CONTRACTOR, Subcontractors, or anyone for whose acts they may be liable. CONTRACTOR shall indemnify, defend and hold harmless OWNER and OWNER's officers, directors, employees and agents from and against all claims, losses, damages, liabilities and expenses, including attorneys' fees and expenses, arising out of or resulting from those Hazardous Conditions introduced to the site by CONTRACTOR, Subcontractors or anyone for whose acts they may be liable.

26.1.6 CONTRACTOR shall release and hold harmless the OWNER and OWNER's officers, directors, employees and agents from and against all claims, losses, damages, liabilities and expenses, including attorneys' fees and expenses, arising out of or resulting from those Hazardous Conditions present at the site.

ARTICLE 27

ADDITIONAL PROVISIONS:

27.1 Further Assurances. Each Party hereto agrees to cooperate in all reasonable respects necessary to consummate the transactions contemplated by this Agreement, and from time to time to do such acts and things and execute and deliver such documents and instruments as may reasonably be required in order to implement the transactions contemplated hereby. Each Party hereto agrees to cooperate in the execution of subsequent addenda, or to re-execute an amended version of this Agreement, in the event that a Party discovers: 1) a clerical error; or 2) a misinterpretation of law; or 3) an error as to form; when such error(s) obviate or hinder the consideration, performance or enforcement of this Agreement.

27.2 Upon any discovery of archaeological resources, historical resources, or paleontological resources, as those terms are defined in 17 CR 1, 1-94; (8 CCR 1504-7), *et seq.*, or any similar, like thing, CONTRACTOR shall notify the OWNER of its presence upon the site, so that OWNER may take appropriate action, or perform its due diligence in order to comply with CRS § 24-80-401, *et seq.*, as amended from time to time by the State of Colorado. CONTRACTOR will be entitled, in accord with applicable sections or articles of this CONTRACT, to an adjustment in its Contract Price

and/or Contract Tim(s) should CONTRACTOR'S cost and/or time of performance be adversely impacted by the actual presence of any such resources.

27.3 The following provisions are required by HB 06-1343, as amended by HB 07-1073 and SB 08-139:

27.3.1 CONTRACTOR shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

27.3.2 CONTRACTOR shall not enter into a contract with a Subcontractor that fails to certify to the CONTRACTOR that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. CONTRACTOR shall, within twenty (20) days of hiring a new employee during the term of this Agreement, cause a written, notarized copy of its affirmation of said employee's status to be sent to the OWNER.

27.3.3 CONTRACTOR hereby affirms that it has confirmed or attempted to confirm the employment eligibility of all employees who are newly hired for employment in the United States through participation in the e-verify program, ("e-verify program" means the employment verification program authorized in 8 U.S.C. 1324a, as amended, that is administered by the United States Department of Homeland Security, or the "department program"). If the CONTRACTOR is not accepted into the e-verify program, prior to entering into this Agreement, the CONTRACTOR shall apply to participate in the e-verify program every three (3) months until the CONTRACTOR is accepted or this Agreement has been completed, whichever is earlier. CONTRACTOR is prohibited from using the e-verify program procedures to undertake preemployment screening of job applicants while this Agreement is being performed. This subparagraph "27.3.3" shall not be effective if the e-verify program is discontinued. CONTRACTOR shall certify to OWNER if it chooses to participate in the "department program".

27.3.4 If the CONTRACTOR obtains actual knowledge that a Subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, the CONTRACTOR shall be required to: (a) notify the Subcontractor and the OWNER within three (3) days that the CONTRACTOR 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 (3) days of receiving the notice required pursuant to section (a) of this subparagraph, if the Subcontractor does not stop employing or contracting with the illegal alien; except that the CONTRACTOR shall not terminate the contract with the Subcontractor if during such three (3) days the Subcontractor provides information to establish that the Subcontractor has not knowingly employed or contracted with an illegal alien.

27.3.5 CONTRACTOR shall comply with any reasonable request by the applicable State agency or department made in the course of an investigation that said agency or department is undertaking pursuant to its lawful authority. If CONTRACTOR violates a provision of this Section 27.3, OWNER may terminate this Agreement for material breach. If this Agreement is so terminated,

CONTRACTOR shall be liable for actual and consequential damages to OWNER. OWNER is required by State law to notify the Office of the Secretary of State if CONTRACTOR violates a provision of this Section 27.3, and OWNER terminates this Agreement for that reason.

27.4 Additional Terms: See General and Special Conditions attached hereto and made a part of the overall Contract Document package. In the event of any conflict or material inconsistency between or among the Contract Documents, the following order of priority for reconciliation shall be observed unless express provisions of the pertinent instruments require otherwise: Provisions in this Contract shall be deemed to prevail over those in any other Contract Documents, after which the Special Conditions shall be deemed to prevail, then the Plans , then the Specifications, followed by the General Conditions.

THIS AGREEMENT is effective this _____ day of _____, 2012.

CITY OF DELTA, COLORADO

By: _____
Justin Clifton, City Manager

CONTRACTOR: Hamon Contractors, Inc., a
Colorado corporation

By: _____
Bruce W. Hamon, President

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1. CONTENTS

The following Contract Provisions are general in scope and may refer to conditions which will not be encountered in the performance of the Work included in this Contract, and which are not applicable thereto. Any requirements, provisions or other stipulations of these General Conditions which pertain to a non-applicable condition shall be excluded from the scope of the Contract. Where conflict appears, "Special Conditions" shall take precedence over "General Conditions" unless specifically provided.

2. DEFINITIONS AND TERMS

When the Contract indicates that Work shall be "accepted, acceptable, approved, authorized, condemned, considered necessary, contemplated, deemed necessary, designated, determined, directed, disapproved, established, given, indicated, insufficient, interpreted, ordered, permitted, rejected, required, reserved, satisfactory, specified, sufficient, suitable, suspended, unacceptable, unsatisfactory," it shall be understood that these expressions are followed by the words "by the Owner".

Wherever the following abbreviations, terms, or pronouns are used in these Specifications, Plans, or other Contract Documents, the intent and meaning shall be interpreted as follows:

ABBREVIATIONS -

AAN	American Association of Nurserymen
AAR	Association of American Railroads
AASHTO	American Association of State Highway and Transportation Officials
ACI	American Concrete Institute
ADA	Americans With Disabilities Act
AGC	Associated General Contractors of America
AI	Asphalt Institute
AIA	American Institute of Architects
AISC	American Institute of Steel Construction
AISI	American Iron and Steel Institute
AITC	American Institute of Timber Construction
ANSI	American National Standards Institute, Inc.
ARA	American Railway Association
AREA	American Railway Engineering Association
ARTBA	American Road and Transportation Builders Association
ASCE	American Society of Civil Engineers
ASLA	American Society of Landscape Architects

ASME	American Society of Mechanical Engineers
ASTM	American Society for Testing and Materials
ATSSA	American Traffic Safety Services Association
AWG	American Wire Gauge
AWPA	American Wood Preservers' Association
AWS	American Welding Society
AWWA	American Water Works Association
CCA	Colorado Contractors Association
CDOT	Colorado Department of Transportation
CP	Colorado Procedure
CPSC	Consumer Products Safety Commission
CRS	Colorado Revised Statutes, 1973, as amended
CRSI	Concrete Reinforcing Steel Institute
EIA	Electric Industries Association
FHWA	Federal Highway Administration Department of Trans.
FSS	Federal Specifications and Standards
IEEE	Institute of Electrical and Electronics Engineers
IES	Illuminating Engineering Society
IMSA	International Municipal Signal Association
IPCEA	Insulated Power Cable Engineers Association
ITE	Institute of Transportation Engineers
MIL	Military Specifications
MUTCD	Manual on Uniform Traffic Control Devices
NEC	National Electrical Code
NEMA	National Electrical Manufacturers' Association
NIST	National Institute of Standards and Technology
NSF	National Sanitation Foundation
OSHA	Occupational Safety and Health Act

SAE Society of Automotive Engineers

UL Underwriters Laboratories, Inc.

ADVERTISEMENT - A public announcement inviting Proposals for Work to be performed and or Materials and Equipment to be furnished.

AWARD - The acceptance by the Owner of a Proposal.

BASIS OF PAYMENT - The terms under which Work is paid, as a designated Contract Item in accordance with the quantity measured and the Contract Documents.

BIDDER - An individual, firm or corporation submitting a Proposal for the advertised Work.

CALENDAR DAY - Each and every Day shown on the calendar, beginning and ending at midnight.

CERTIFIED INVOICE - An invoice from a supplier which has been reliably endorsed by the Contractor guarantying that the material was purchased and received for the Project and establishing the value of the Material.

CHANGED OR EXTRA WORK - Work not provided for in the Contract as awarded but determined by the Owner to be essential to the satisfactory completion of the Contract within its intended scope.

COMPLETION DATE - The date on which all the Contract Work is specified to be substantially completed.

CONDITION PRECEDENT – An act or event that shall occur prior to the start of a subsequent act or event as defined by the Contract Documents.

CONSTRUCTION EQUIPMENT – All plant, machinery, tools, and apparatus, including parts and supplies for operation and maintenance, which are necessary for the proper construction and acceptable completion of the Work.

CONTRACT CHANGE ORDER - A written order issued to the Contractor by the Owner which covers additions, deletions, or revisions to the Contract Documents, as well as Extra Work and which establishes the Basis Of Payment and any time adjustment for the Work affected by the Contract Change Order. The Contract Change Order is the only method authorized for modifying the Contract.

CONTRACT DOCUMENTS - The Contract Documents are comprised of the items listed in the Contract.

CONTRACT ITEM (PAY ITEM) - A specifically described unit of Work for which a price is provided in the Contract Documents.

CONTRACTOR – The party contracting directly with the Owner to furnish and perform all Work in accordance with the Contract Documents.

CONTRACT PRICE – The moneys payable by Owner to Contractor for completion of the Work in accordance with the Contract Documents.

CONTRACT TIME - The number of Calendar Days including authorized time extensions, allowed for Substantial Completion of the Contract Work. Where a calendar date of completion is specified, the Contract Work shall be substantially completed on or before that date, including authorized time extensions.

CONTRACT UNIT PRICE - Prices as established by the Bid Proposal, Schedule of Contract Items and Prices.

COUNTY - The County in which the Work is to be done.

DAY - Unless otherwise defined shall mean Calendar Day.

DEFECTIVE - An adjective which, when modifying the word Work refers to work that is unsatisfactory, faulty or deficient, in that it does not conform to the Contract Documents, or does not meet the requirements of any inspection, reference standard, test or approval referred to in the Contract Documents, or has been damaged prior to final payment (unless responsibility for the protection thereof has been assumed by Owner in writing at Substantial Completion).

ENGINEER - The Director of Public Works, Contract Manager, or their designated representatives.

FINAL ACCEPTANCE - The acknowledgment by the Owner that the Guaranty Period has expired and there appear to be no outstanding items to be corrected under the provision of the guaranty.

FINAL SETTLEMENT DATE - The date designated by the Owner in accordance with CRS 38-26-107, or as subsequently amended.

GENDER AND NUMBER - References are made as if masculine in gender and singular in number unless neuter gender is appropriate in the context; however, the use of any gender shall be applicable to all genders and the use of singular number shall include the plural and conversely.

GOOD AND WORKMANLIKE MANNER - In a manner generally considered skillful by those capable of judging such Work and as compared to the industry standard practices in the Denver Metropolitan Area.

GOOD REPAIR - A condition free from any defect, functional problems or structural deterioration (except that from ordinary and reasonable use) which appreciably reduces the effectiveness or efficiency of the Work or improvement for the purpose intended, or any departure from the standards of original construction described in the Contract Documents. The Contractor warrants that the Work shall be in Good Repair during the Guaranty Period.

GUARANTY PERIOD - The period from Initial Acceptance to Final Acceptance that the Contractor is responsible for corrections to keep the Work in Good Repair.

INITIAL ACCEPTANCE - An acknowledgment by the Owner that, to the best of the Owner's knowledge, all Work including punch list items has been completed in accordance with the Plans and Specifications. Initial Acceptance shall not release the Contractor of any warranty or guaranty obligations.

INSPECTOR - The Owner's authorized representative assigned to make detailed inspections of Contract performance.

MATERIALS AND/OR EQUIPMENT - All components, articles, appliances, devices, substances, supplies and miscellaneous items specified or required for use in the construction of the Project.

MAY - Permissive

METHOD OF MEASUREMENT - The manner in which a Contract Item is measured to conform with the Contract Unit Price.

MILESTONE DATE - A principal event specified in the Contract Documents relating to an intermediate completion date or time prior to Substantial Completion of the Work.

NON-CONFORMANCE - Not in accordance with the terms and conditions set forth in the Bid Documents.

NOTICE TO PROCEED - Written notice to the Contractor to proceed with the Contract Work including, when applicable, the date of beginning and ending of Contract Time.

OWNER - The City of Delta or its designated representative, may also be referred to as Delta or COD.

PLANS - The drawings, or reproductions, provided by the Owner which show the location, character, dimensions, and details of the Work to be done.

PROJECT - The Work to be completed pursuant to this Contract.

PROPOSAL - The offer of a Bidder, on the prescribed form, to perform the Work at the prices quoted, may also be referred to as Bid or Bid Proposal.

PROPOSAL FORM - The documents furnished by the Owner on which the offer of a Bidder is submitted.

PROPOSAL GUARANTY - The security furnished with a Proposal to guaranty that the Bidder will enter into the Contract if the Proposal is accepted.

REFERENCE TO TRADE CONTRACTORS - When only this principal Contract exists for all Work covered by the Contract Documents, reference to trade contractors in the Contract Documents shall not create any contractual relationship between the Owner and any trade Contractor with whom the principal Contractor may subcontract.

RIGHT – OF - WAY - A general term denoting land, property, or interest therein, acquired for or devoted to the construction of an improvement; may also be referred to as R.O.W.

SALVAGEABLE MATERIAL - Material that can be saved or salvaged.

SAMPLES - Physical examples furnished or constructed by the Contractor to illustrate Materials, and Equipment, workmanship or finishes, and to establish standards by which the Work will be judged.

SCHEDULE OF WORK – A bar chart schedule or a critical path method schedule, as the Contract Documents require, which graphically depicts the Contractor's plan for the performance of the Work from Notice to Proceed to Substantial Completion of the Project.

"SHALL" IMPLIED - In the interest of conciseness, some sentences, statements and clauses used in the Specifications exclude any form of the verb "shall" normally expressed in a verb phrase with verbs such as "furnish", "install", "provide", "perform", "construct", "erect", "comply", "apply", "submit", etc. but any such sentences, statements and clauses shall be interpreted to include the applicable form of the phrase "The Contractor shall" and the requirements described therein shall be interpreted as mandatory elements of the Contract.

SHALL - Mandatory.

SUBMITTALS - Shop Drawings, diagrams, illustrations, certificates, test reports, schedules, performance charts, brochures, shop layouts, fabrication layouts, assembly layouts, foundation layouts, wiring and piping layouts, specifications and descriptive literature, and any other submittals required by the Contract Documents, which are prepared by the Contractor or any Subcontractor, manufacturer, supplier, or distributor, and which illustrate some portion of the Work.

SPECIFICATIONS – Those portions of the Contract Documents, also know as the Technical Specifications, consisting of the written technical descriptions of Materials and Equipment, construction systems, standards and workmanship as applied to the completion of the Work.

SUBCONTRACTOR – A party supplying labor and material or only labor for Work at the site of the Project for, and under separate Contract or agreement with, the Contractor. Nothing contained in the Contract Documents shall create any contractual relationship between the Owner and any Subcontractor.

SUBSTANTIAL COMPLETION - When the Work is sufficiently completed so it may be utilized by the Owner, for all of the purposes for which it was intended, in accordance with applicable life, health and safety codes but exclusive of minor Work to be completed or corrected as typically referred to in the construction industry as "punch list" Work.

SUPERINTENDENT - The Contractor's authorized representative in charge of directing the Contractor's on site Work.

WORK - All Materials, and Equipment incorporated or to be incorporated into the construction and all labor, expendable equipment, utilities, transportation, operations and services necessary to produce the construction, including in part all obligations, duties, and responsibilities necessary to the successful completion of the construction in Good and Workmanlike Manner.

3. CONTRACTOR'S UNDERSTANDING

- A. It is understood and mutually agreed that by executing this Contract, the Contractor acknowledges that he has carefully examined all documents pertaining to the Work, and certifies that he has completed a thorough site investigation including but not limited to the locations, accessibility, and general character of the site of the Work and all existing buildings and structures within and adjacent to the site, and has satisfied himself as to the nature of the Work, the condition of existing buildings and structures, the conformation of the ground, the character, quality, and Construction Equipment, and any other facilities needed preliminary to and during prosecution of the Work, the general and local conditions, the construction hazards, and all other matters, including but not limited to the labor situation which can in any way affect the Work under the Contract. It is further mutually agreed that by executing this Contract, the Contractor acknowledges that he has satisfied himself as to the feasibility and correctness of the Contract Documents for the construction of the Work and that he accepts all the terms, conditions, and stipulations contained therein; and that he is prepared to work in peace and harmony with other Contractors performing Work on the site. The Parties acknowledge that the Contractor's review of the Work is made in its capacity as a building contractor and not as a licensed design professional.
- B. No verbal agreement or conversation with any officer, agent, or employee of the Owner, either before or after the execution of the Contract, shall affect or modify any of the terms, conditions, or other obligations set forth in any of the Contract Documents. All Contract modifications must be in writing from the authorized agent of the Owner and be in the form of a Contract Change Order.

4. REFORMATION (CORRECTION) OF WORK

- A. The Contractor shall promptly correct Work that is rejected by the Owner for failure to conform to the requirements of the Contract Documents before Final Settlement, whether or not fabricated, installed or completed. Cost of correcting such Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Owner's services and expenses made necessary thereby, shall be paid or reimbursed by the Contractor.
- B. In addition to the Contractor's obligations under Section 61, if, within two (2) years after the date of Final Settlement, any conditions of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a specific notice of acceptance of such condition. The Owner shall give such notice promptly upon its discovery of the pertinent condition. During the two (2) year period for correction of Work, if the Owner fails to notify the Contractor and give it an opportunity to make the necessary correction, the Owner waives the right to require correction by the Contractor and to make any related claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time after receipt of notice during that time from the Owner, the Owner may correct it in accord with Section 69.

- C. The two(2) year period for guarantee and correction of Work shall be extended with respect to portions of the Work first performed Final Settlement by the period of time between Final Settlement and the actual completion of that portion of the Work. The two(2) year period for correction of the Work shall not be extended by corrective performed by the Contractor under this Section 4.
- D. The Contractor shall remove from the Project sites any portions of the Work that are not in accord with the requirements of the Contract Documents and that are neither corrected by the Contractor nor accepted by the Owner.
- E. The Contractor shall bear the cost of correcting destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work that is not in accord with the requirements of the Contract Documents.
- F. Nothing contained in this Section 4 shall be construed to establish a period of limitation with respect to other obligations of the Contractor under the Contract Documents. Establishment of the aforementioned two (2) year period for correction of the Work relates only to the Contractor's specific obligation to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor the time within which proceedings may be commenced to establish the Contractor's liability with respect to its obligations other than to specifically correct the Work.
- G. If the Owner prefers to accept Work that is not in accord with the Contract Documents, the Owner may do so instead of requiring its removal or correction, in which event the Contract Sum will be reduced as appropriate and equitable. Such reduction shall be effected whether or not Final Settlement has occurred.

5. NOTICE AND SERVICE THEREOF

Where the manner of giving notice is not otherwise provided for in the Contract Documents, any notice to the Contractor from the Owner relative to any part of the Contract shall be in writing and considered delivered and the service thereof completed, when said notice is posted, by certified mail, to the Contractor at the address given in the Contractor's Proposal, or at the last business address known to him who gives the notice, or delivered in person to the Contractor or his authorized representative on the site. It is mutually agreed that such notice shall be sufficient and adequate.

6. PROPOSALS (NOT APPLICABLE)

7. NON-CONFORMING PROPOSALS (NOT APPLICABLE)

8. WITHDRAWAL OR REVISION OF PROPOSALS (NOT APPLICABLE)

9. CORPORATE BIDDERS (NOT APPLICABLE)

10. INTERPRETATIONS (NOT APPLICABLE)

11. POST-QUALIFICATION OF BIDDERS (NOT APPLICABLE)

12. OR EQUAL CLAUSE (NOT APPLICABLE)

13. RETURN OF BID SECURITY (NOT APPLICABLE)

14. REJECTION OF BIDS (NOT APPLICABLE)

15. AWARD

The Owner will Award the Contract by Written Notice of Award.

16. SECURITY - CONTRACT

A. The Contractor shall furnish two separate surety bonds (the form of which shall be substantially as attached), each in an amount at least equal to one hundred (100) percent of the Contract Price as security for the following:

1. The faithful performance of the Contract and the terms, conditions, and stipulations contained therein;
2. Payment of all laborers and mechanics for labor performed and payment for all Materials and Equipment furnished and for all Materials and Equipment used or rented in the performance of the Contract.

B. The Surety on such bonds shall be satisfactory to the Owner and shall be a duly authorized Surety company licensed to do business in the State of Colorado, and appearing on the latest Federal Register circular 570 as published by the Department of the Treasury unless otherwise approved by the Owner. In no case will Sureties with less than a Best's B Rating be approved. The Surety will in no way be financially associated with the Contractor.

C. Any and all bonds shall be so written as to make these bond Specifications a part hereof, whether by reference or attachment, in order to give the Surety full notice of the conditions thereof.

D. The Contractor shall within ten (10) consecutive Calendar Days from and including the date of receipt of Notice of Award, furnish the Owner with the required "Performance Bond" and "Labor and Materials Payment Bond" each in a sum equal to the amount of the Contract Price.

E. If at any time, a Surety or any such bond shall become insolvent, is declared bankrupt, loses its right to do business in the state in which the Work is to be performed, or is no longer listed in Department of the Treasury Circular 570, Contractor shall within ten (10) Days after notice from the Owner to do so, substitute acceptable bonds in such form and sum and signed by such other sureties as may be satisfactory to the Owner.

17. DATE OF CONTRACT

A formal written Contract will be entered into by the parties and be binding upon the Owner and Contractor

when approved and executed by the Owner. The date of the Contract shall be the date the Contract is executed by the Owner.

18. TIME FOR FURNISHING BOND

The Contractor shall furnish bond or bonds satisfactorily to the Owner within ten (10) Calendar Days after Notice of Award of Contract has been issued to it by the Owner.

19. SCHEDULE OF CONSTRUCTION AND COMPLETION

The Contractor shall submit to the Owner within fourteen (14) Days after award of Contract, or as may be otherwise requested by the Owner, a schedule showing the order in which the Contractor proposes to carry on the Work and at a rate sufficient to successfully construct all of the Work set forth in the Contract Documents within the Contract Time. Such schedule shall show the dates at which the Contractor will start and complete the several parts of the Work, and the order of construction and delivery dates of critical Materials and Equipment. The schedule shall be subject to approval by the Owner. The schedule shall be binding on the Contractor and shall be complied with by the Contractor unless, for good cause shown, a modification of the schedule shall be requested in writing to and approved by the Owner in accordance with General Conditions, Section 74, Extension of Contract Time.

20. ORDER OF CONSTRUCTION

Where the Owner's operations require specific sequencing of the Work, such sequencing requirements as provided for in the Contract Documents shall be followed.

21. TAXES

- A. Contractor shall pay all sales, consumer, use or other similar taxes required to be paid in accordance with the laws and regulations of the place of the Project which are applicable during performance of the Work. Owner is exempt from Colorado State, and City of Delta sales and use taxes on Materials and Equipment to be permanently incorporated into the Work. Said taxes shall not be included in the Contractor's Bid or the Contract Price.
- B. Contractor shall apply to the Colorado Department of Revenue for an exemption certificate and purchase the Materials and Equipment tax free (Section 39-26-104, C.R.S. as amended). Contractor shall be liable for exempt taxes paid due to the failure to apply for exemption certificates or failure to use said certificates.

22. ASSIGNMENTS

The Contractor shall not assign the whole or any part of the Contract or any monies due or to become due thereunder without the written consent of the Owner and of the Surety on the Contractor's Bond. A copy of such consent of Surety, together with a copy of the assignment, shall be filed with the Owner. If the Contractor assigns all or any part of any monies due or to become due under the Contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any monies due or to become due to the Contractor shall be subject to prior claims and liens of all persons, firms, and corporations for services rendered; for the payment of all Materials and Equipment furnished and for payment of all Materials and Equipment used or rented in the performance of the Work called for in the Contract; and for the payment of any liens, claims, or amounts due the Federal, State, or local government or any of their funds.

23. SUBCONTRACTING

- A. The Contractor may utilize the services of specialty Subcontractors on those parts of the Work which, under normal contracting practices, are performed by specialty Subcontractors.
- B. The Contractor shall not award any Work to any Subcontractor without prior written approval of the Owner. This approval will not be given until the Contractor submits to the Owner a written statement

concerning the proposed award to the Subcontractor, which statement shall contain such information as the Owner may require.

- C. The City of Delta encourages all Contractors to utilize minority, disadvantaged, and women-owned businesses whenever possible.
- D. The Contractor shall be as fully responsible to the Owner for the acts and omissions of his Subcontractors, and of persons either directly or indirectly employed by them, or under their control, as he is for the acts and omissions of himself and of persons directly employed by him.
- E. The Contractor shall cause appropriate provisions to be inserted in all Subcontracts relative to the Work to bind Subcontractors to the Contractor under any provision of the Contract Documents, including all insurance requirements.
- F. Nothing contained in the Contract Documents shall create any contractual relationship between any Subcontractor and the Owner.

24. SEPARATE CONTRACTS

- A. The Owner reserves the right to let other Contracts in connection with the Work, to include deletions in portions of this Contract. The Contractor shall afford other Contractors reasonable opportunity for the introduction and storage of their materials, machinery, equipment, supplies, and the execution of their Work, and shall properly connect and coordinate his Work with theirs.
- B. If any part of the Contractor's Work depends upon the Work of any other contractor for proper execution or results, the Contractor shall inspect and promptly report in writing to the Owner any lack of progress or defects in the other contractor's Work that render it unsuitable for proper execution or results.
- C. To insure the proper execution of this subsequent Work, the Contractor shall measure existing Work and shall at once report in writing to the Owner any incompatibility between the existing Work and the Work anticipated by the Contract Documents.

25. LINES AND GRADES

(Not applicable to Building and Plant type construction). Reasonably necessary line and grade points as determined by the Owner shall be provided by the Owner in a timely manner unless otherwise stipulated in the Special Conditions. If the Contractor, through willfulness or carelessness, removes, causes, or allows such marks to be removed before the prosecution of Work requires it, the replacing of such line and grade points shall be done at the expense of the Contractor.

26. LAWS, PERMITS, LICENSES, REGULATIONS, ETC.

- A. The Contractor in the execution of the Work shall conform to all applicable Federal and State laws, municipal ordinances, and the rules and regulations of all authorities having jurisdiction over employment discrimination, wages and working conditions, and the construction of the Work, including but not limited to all construction codes, O.S.H.A. Requirements, and safety codes, which may apply to:
 - 1. Performance of the Work;
 - 2. Protection of adjoining and adjacent property; and
 - 3. Maintenance of passage-ways, guard fences or other protective facilities
- B. Subject to the Owner's obligation to pay all related fees, the Contractor shall obtain all permits, licenses and approvals required for the construction of the Work and give all required notices.

27. CITY PROPERTY

The Owner will furnish land as shown in the Contract Documents for the performance of the Work under the Contract. Contractor shall confine his operations to the city property furnished.

28. OPERATIONS AND STORAGE AREAS

- A. All operations of the Contractor (including storage of Materials, and Equipment) shall be confined to areas authorized by the Owner. The Contractor shall be liable for any and all damages caused by him to such premises.
- B. The Contractor shall hold and save the Owner free and harmless from liability of any nature or kind arising from any use, trespass, or damage occasioned by his operations on the premises of third persons.
- C. The Contractor shall be wholly responsible for the care, compliance with law, and storage of Materials, or Equipment delivered on the Work site or purchased for use thereon. Stored Materials, or Equipment shall be carefully and continuously protected from damage or deterioration and so located so as to facilitate inspection by the Owner. The responsibility for the care and storage of Materials, or Equipment shall be with the Contractor whether such Materials, or Equipment are furnished by the Contractor or by the Owner. Storage of Materials, or Equipment shall not unduly interfere with the progress of the Contractor's Work or the Work of any other Contractor.

29. RIGHT-OF-ENTRY

Contractor shall provide to the Owner, or representative of the Federal, State, County, District and Municipal governmental officials and services, complete and free access to the Work, whenever access is requested by the Owner.

30. ACCESS AND DRAINAGE

The Contractor shall keep a sufficient clear area around fire hydrants to permit their full and effective use in case of fire. The Contractor shall keep natural drainage and water courses unobstructed or provide other equal courses effectively placed.

31. SANITARY CONVENIENCES

The Contractor shall furnish the necessary sanitary conveniences, properly secluded, for the use of workers during construction, and these conveniences shall be maintained in a manner that will be inoffensive and in compliance with Federal, State and local health and sanitation requirements.

32. CLEANUP PRACTICES

- A. The Contractor shall maintain general cleanup practices to keep all streets, alleys, sidewalks, or other premises as free from material and debris as the character of the Work will permit, and upon completion of any part of the Work, shall as required and or as directed by the Owner, remove all surplus material, mud, rubbish, debris, or other objectionable items and leave Right-Of-Way and premises in a safe, acceptable, condition. Under no circumstances shall the Contractor allow any condition to exist which creates a nuisance, fire hazard, or an environment injurious to health or safety, or an attraction for children, animals, birds, rodents, etc., during or after construction.
- B. Failure to comply with this provision, after due and proper notice had been given by the Owner or his agent, will be sufficient grounds, but shall not constitute the duty for the Owner to proceed to clean up such material and debris, make repairs, and charge same to the Contractor, who hereby agrees to the provisions as set forth herein.

33. PLANS AND SPECIFICATIONS

- A. The Owner will provide the Contractor with four sets of Plans, and Specifications after the execution of the Contract. If additional Plans, and Specifications are required, the Contractor shall compensate the Owner for same.
- B. When in the opinion of the Owner, revised partial Plans, and Specifications are required to clarify or reflect Changed or Extra Work the Owner shall provide four copies of such revisions to Contractor. Additional copies required must be paid for by the Contractor. Contractor shall immediately post such revisions to his record set of Contract Documents.
- C. The Plans, and Specifications are the property of the Owner, and are furnished to the Contractor for the construction of Work under the Contract only.
- D. Data and Measurements. The data given in the Specifications and shown on the Plans is believed to be accurate but the accuracy is not guaranteed. The Contractor must confirm all levels, locations, measurements, and verify all dimensions on the job site prior to construction and adapt his Work into the exact limits of construction. Scale measurements taken from Plans are not considered for more than reference.
- E. The Contractor is entitled to rely upon the adequacy, accuracy and completeness of the Plans and Specifications presented to it by the Owner.

34. CORRELATION OF DOCUMENTS

- A. Plans, and Specifications are complimentary and supplementary. Portions of the Work which can best be illustrated by the Plans may not be included in the Specifications and portions best described by the Specifications may not be depicted on the Plans. All items necessary or incidental to completely construct or erect the Work specified shall be furnished, whether called for in the Specifications or shown on the Plans, except as otherwise modified by the Contract Documents.
- B. The order of precedence of the documents shall be as established in the Contract. Any discrepancies between the documents shall be brought to the Owners attention for a resolution.

35. SUBMITTALS, SHOP DRAWINGS, SAMPLES, AND OPERATOR'S INSTRUCTIONS

- A. Within fourteen (14) Calendar Days from Notice of Award, the Contractor shall submit a schedule of Shop Drawing and Sample submittals, which shall list each required submittal, the times for Contractor submittal as well as the times for the Owner's review and approval of each submittal. This schedule of submittals shall be consistent with the Contractor's Schedule of Work for completion of the Project. All Shop Drawing and Sample submittals shall be submitted to the Owner for review and approval in accordance with this schedule of Shop Drawing and Sample submittals.
- B. The Contractor shall furnish all Shop Drawings and Samples which are specified or required by the Contract Documents for the completion of the Work. Shop Drawings of Material and Equipment offered by the Contractor for approval by the Owner shall be in sufficient detail to adequately show construction and operation. A minimum of four (4) copies of the submittals shall be provided to the Owner for review unless otherwise specified. Shop Drawings and Samples submitted as herein provided by the Contractor and approved by the Owner for conformance with the design concept shall be executed in conformity with the Contract Documents unless otherwise required by the Owner.
- C. Work performed in connection with the purchase, fabrication, manufacture, shipment, installation or erection of Material or Equipment prior to the Owner's review and approval, as specified herein, shall be at the Contractor's sole risk, responsibility, and expense.

- D. Shop Drawing and Sample submittals shall be accompanied by a letter of transmittal which shall list submittal numbers and dates of submittal, and shall be in the form required by the Owner. Shop Drawings shall be complete in every respect and bound in sets. Any resubmittals shall show submittal and resubmittal numbers as well as the dates for previous submittals and resubmittals.
- E. The Contractor shall submit all Shop Drawings and Samples sufficiently in advance of construction requirements to allow ample time for checking, correcting, resubmitting, rechecking and approving to avoid any delay in the progress of the Work.
- F. Shop Drawings or Samples submitted shall be marked with the name of the Project, and submittal number, and bear the stamp or specific written indication of approval of the Contractor as evidence that the Shop Drawings and Samples have been checked by the Contractor. Any Shop Drawings or Samples submitted without the Contractor's stamp of approval or specific written indication of approval shall not be considered by Owner and shall be returned to the Contractor for approval and resubmission.
- G. At the time of each submission, the Contractor shall give the Owner specific notice of each variation between the Shop Drawing or Sample and the requirements of the Contract Documents. The Contractor shall place a specific notation on the Shop Drawing or Sample and call such variation to the Owner's attention in the Contractor's letter of transmittal. If the variation as submitted is acceptable, the Owner will provide written approval of the variation to the Contractor. The Owner's review and approval of Shop Drawings or Samples shall not relieve the Contractor from responsibility for strict compliance with the requirements of the Contract Documents, unless the Contractor has, in writing, called the Owner's attention to each such variation at the time of submission, as required above, and the Owner has given unconditional written approval of each such variation to Contractor. The Owner's review and approval of any variation shall not extend to means, methods, techniques, sequences or procedures of the construction of the Work or to safety precautions or programs incident thereto.
- H. By approving and submitting Shop Drawings and Samples, the Contractor thereby represents that:
1. He has determined and verified all field dimensions and measurements, quantities of Work, field construction criteria and installation requirements, Materials and Equipment, catalog numbers, and similar data;
 2. He has checked, and coordinated such submittals with the requirements of the Work and the Contract Documents; and
 3. Data shown on the Shop Drawings are complete and accurate.
- I. All items of standard equipment shall be the latest model at time of delivery.
- J. When Shop Drawings are submitted for the purpose of showing the installation in greater detail, their approval shall not excuse the Contractor from requirements shown on the Plans and Specifications.
- K. Shop Drawing and Sample submittals not conforming completely with the above requirements shall be returned to the Contractor, without action by the Owner, for resubmittal. Any subsequent delay shall be entirely the responsibility of the Contractor.
- L. The Owner's review and approval of Shop Drawings and Samples submitted by the Contractor shall be only for general conformance with design concept, as otherwise provided, and shall not be construed as:
1. Permitting any departure from the Contract requirements;

2. Relieving the Contractor of the responsibility for any error in details, dimensions, or otherwise that may exist in such submittals;

3. Constituting a blanket approval of dimensions, quantities, or details of the Material or Equipment shown; or

4. Approving departures from additional details or instruction previously furnished by the Owner. Such check or approval shall not relieve the Contractor of the full responsibility of meeting all of the requirements of the Contract Documents.

M. Four (4) sets of bound operator's instructions shall be furnished by the Contractor for Equipment furnished under the Contract that is specially listed or that is considered to be of a special or complex nature. Operator's instruction shall include, in part, detailed lubrication drawings showing type and frequency of lubrication. Detailed parts drawings shall show location, name and catalog numbers of parts.

N. Four (4) sets each of bound service parts manuals shall be furnished by the Contractor for all items of standard manufacture.

O. All operator instructions, service, and parts manuals shall be bound in permanent binders satisfactory to the Owner and shall be furnished to the Owner before Initial Acceptance of the installation by the Owner.

36. CERTIFICATES AND GUARANTIES

Four (4) copies of any manufacturer's guaranty/warranty or certificate for any type of Material or Equipment provided shall be submitted to the Owner prior to Initial Acceptance of the Work by the Owner.

37. DRAWINGS SHOWING CHANGES DURING CONSTRUCTION

Throughout the progress of construction, the Contractor shall maintain a thorough up-to-date record of all changes on the Plans during actual construction. Prior to Initial Acceptance by the Owner, the Contractor shall file with the Owner one (1) set of complete reproducible drawings with all changes and Contractor's field construction notes neatly and legibly recorded thereon. Such drawings shall include but not be limited to, the exact routing, if changed from drawing location, of sewer, water, gas, oxygen supply, condenser water lines, fuel oil tanks and lines, fire protection lines, and any buried utility lines and routing of buried electrical feeder lines and changes to routing of conduit runs which are buried or concealed in concrete slabs. Such information shall be used to prepare record drawings for the Owner.

38. MATERIALS, EQUIPMENT, SUPPLIES, SERVICES, FACILITIES

A. It is understood that, except as otherwise specifically stated in the Contract Documents, the Contractor shall provide and pay for all Materials and Equipment, Construction Equipment including rental equipment, water, heat, light, fuel, power, transportation, superintendence, temporary construction of every nature, and all other services and facilities of every nature whatsoever necessary to execute, complete, and deliver the Work in a Good and Workmanlike Manner within the specified Contract Time.

B. No Materials, or Equipment, for the Work shall be purchased by the Contractor or by any Subcontractor subject to any chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller.

39. WORKMANSHIP, MATERIALS, AND EQUIPMENT

A. All Material and Equipment furnished by the Contractor shall be new and unused and shall strictly conform to the Contract Documents. Competent labor, mechanics and tradesmen shall be used on

the Work. Experienced manufacturer's representatives shall be used to supervise the installation of Equipment as may be required by the Owner. Any special tools or Construction Equipment which may be required shall be provided by the Contractor.

- B. The acceptance at any time of Materials or Equipment by or on behalf of the Owner shall not be a bar to future rejection if they are subsequently found to be Defective, inferior in quality, or uniformity to the Material or Equipment specified, or are not as represented to the Owner.

40. QUALITY OF MATERIALS

In the absence of detailed Specifications, all Materials and Equipment shall conform to the latest standards of the American Society for Testing Materials available at the time notice inviting Contractors to Bid is published (the Advertisement For Bids) unless otherwise indicated.

41. REFERENCE TO STANDARD SPECIFICATIONS

Any reference to standard specifications in any of the Contract Documents shall always imply the latest edition of such standard specification or specifications available as of the time of execution of the Contract unless otherwise indicated.

42. VARIATION FROM ESTIMATED QUANTITIES

The Contractor may reasonably expect a variation in estimated quantities such that the total payment for the completed Work may range from seventy-five (75) to one hundred and twenty five (125) percent of the total amount of the Contract based on the estimated quantities. The Contractor shall not be allowed any claims for anticipated profits, for loss of profits, or for any damages because of a difference between the estimate of any Contract Item and the amount of the Contract Item actually required or for the elimination or reduction of the Contract Items of the Proposal or any of the Work as may be required to bring the cost of the Work within the limits of available funds.

43. PROGRESS PAYMENTS

A. When monthly progress payments are authorized, the Contractor shall, on the date established by the Owner, submit to the Owner an itemized application for payment, on forms provided by the Owner, and supported by such data substantiating the Contractor's right to payment, as the Owner may require.

- B. If payments are to be authorized on account of Materials, and Equipment not incorporated in the Work, but delivered and suitably stored at the site which are necessary for the orderly prosecution of the Work, the Contractor shall furnish with his application for payment bills of sale, bills of lading, invoices or such other evidence as may be appropriate and satisfactory to the Owner that establishes:

1. Actual cost, including transportation to the site, of such Materials, and Equipment;
2. Titles thereof in Owner's name, upon payment;
3. Appropriate insurance coverage to protect the Owner's interest therein upon payment.

- C. The Contractor warrants that title to all Materials, and Equipment covered by an application for payment, whether incorporated into the Work or not, shall pass to the Owner, upon receipt of payment by the Contractor. The Contractor further warrants that upon submittal of an application for payment all Work for which payment has been received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of all liens, claims, security interests or encumbrances in favor of the Contractor, Subcontractors, suppliers, or other persons or entities making a claim by reason of having provided labor, Materials or Equipment relating to the Work; and that such Materials, or Equipment furnished or installed comply with the applicable

requirements of the Contract Documents.

- D. The passing of title to the Owner as herein provided shall not be construed as relieving the Contractor of the sole and complete responsibility for:
1. The care and protection of the Work, Materials and Equipment, for which payment has been made.
 2. The restoration of any damaged or destroyed Work, Materials, or Equipment. Such responsibility shall continue until all Work under the Contract has been completed and accepted by the Owner.
- E. Owner shall make progress payments on account of the Contract Price on the basis of Contractor's application for progress payments and shall make payment to Contractor within thirty (30) Days after the application for payment is approved by the Owner. All such payments will be measured by the schedule of values established in the Contract Documents (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 in the Special Conditions.

Prior to Substantial Completion, progress payments will be made less a five percent (5%) retainage, and less such amounts as Owner may withhold in accordance with General Conditions, Section 44 Payment Withheld:

1. If the Work has been fifty (50) percent completed as determined by the Owner, and if the character and progress of the Work have been satisfactory to the Owner, Owner may, in its sole and absolute discretion, determine that as long as the character and progress of the Work remain satisfactory to it, there will be no additional retainage except as provided by the General Conditions for compliance with state law.

Pursuant to Section 24-91-101, C.R.S., et. seq., Contractor may substitute acceptable securities for the whole or any portion of the retainage.

- F. Under no circumstances shall payment constitute a waiver of the Owner's right to require the Contractor to fulfill all of the terms and conditions of this Contract.

44. PAYMENT WITHHELD

- A. The Owner may withhold payment or, on account of subsequently discovered evidence, may nullify the whole or part of any payment certificate of such extent as may be necessary to protect the Owner from loss on account of any one or more of the following:
1. Defective Work not remedied.
 2. Claims filed or notice indicating probable filing of claims of other parties against the Contractor.
 3. Failure of the Contractor to make payments properly to Subcontractors or to make payments for labor, Material, Equipment, Construction Equipment or equipment rental.
 4. A reasonable doubt that the Contract can be completed for the balance then unpaid.
 5. Damage to a Subcontractor or another contractor.
 6. Failure or refusal by the Contractor to comply with an instruction of the Owner within a reasonable time.

7. Unsatisfactory prosecution of the Work.
 8. Liquidated Damages payable by the Contractor.
 9. Any other violation of or failure to comply with the provisions of the Contract Documents.
 10. Being in arrears to the Owner for any invoices.
 11. Failure to supply or update the Contractor's Schedule of Work.
 12. Damage to the Owner's Property or Equipment.
- B. When the above grounds are removed, payment shall be made for amounts withheld because of them. The right to withhold payment however, shall not preclude the Owner from his right to declare the Contractor in default of his Contract for any of the reasons stipulated under General Conditions, Section 76 Contract in Default.

45. FINAL MEASUREMENTS

Final measurements, on unit price contracts, shall be made by the Owner, and the Contractor shall at his own expense provide help and other assistance as may be required for making same. The parties agree that this is a "unit price" contract".

46. PAYMENT, USE OR OCCUPANCY OF WORK

No progress or final payment, nor any partial or entire use or occupancy of the Work or improvement, nor acceptance thereof, by the Owner shall be evidence of the performance of the Contract or construed to be acceptance of Defective Work or improper Materials or Equipment, either wholly or in part. The Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute.

- A. When the Contractor considers the Work to be substantially complete, the Contractor shall make a written request to the Owner for the issuance of a Certificate of Substantial Completion. The Owner upon receipt of the written request shall make an inspection of the Work and either issue a written Certificate of Substantial Completion or deny the Contractor's request in writing and provide the reasons for such denial.
- B. In the case of a denial of the issuance of a Certificate of Substantial Completion, the Contractor shall complete the Work so as to address the Owner's concerns and comply with the Contract Documents and shall again request in writing that the Owner issue a written Certificate of Substantial Completion. The Owner will handle any such subsequent requests as outlined above.
- C. If the Owner grants the Contractor's request and issues a Certificate of Substantial Completion, the Certificate shall list any remaining items to be completed as "Punch List" items and shall set a date certain by which the Contractor shall correct the items. If the Contractor does not provide a written request with good and sufficient reasons why the Punch List Work cannot be completed by the date established in the Certificate of Substantial Completion within two (2) working Days of the issuance of the Certificate of Substantial Completion, the date shall be as established and the Punch List Work will be completed by that date. The Owner will grant an extension of the Punch List completion date in writing, if warranted. If the Contractor does not complete the items on the Punch List by the fixed date, the Owner, upon seven (7) Days notice, shall have the option to complete any uncompleted or deficient Work for the Contractor and deduct the cost from any amounts due the Contractor and or seek full compensation from the Surety.

- D. Upon completion of the Punch List items, the Contractor shall make written application to the Owner for inspection of the Work. The Owner will promptly make such inspection and, when the Owner finds the Work acceptable under the Contract Documents and Contract Work fully performed, the Owner will promptly advertise the Project for Final Settlement and establish a Final Settlement Date in accordance with CRS 38-26-107 as may be amended.
- E. The Contractor shall submit a final application for payment upon completion of the Punch List and prior to receiving final payment, the Contractor, if requested by the Owner, shall file with the Owner:
 - 1. A receipt showing payment in full, or
 - 2. A waiver of claim and/or lien, from each Subcontractor, materialman, supplier, manufacturer, and dealer for all labor, Material and Equipment used or furnished by each on the Work and
 - 3. A complete release of all claims and/or liens which may have arisen under the Contract.

In lieu thereof, the Owner may request and the Contractor shall file statements showing the balance due on all accounts. The manner in which settlement is made by the Owner with the Contractor shall not release the Contractor or his Surety under the payment provisions of his bond.

- F. The Guaranty Period shall not begin until the date of Final Settlement. The Owner will issue a written acceptance for the Guaranty Period setting out the beginning and end dates for the Guaranty Period.
- G. The Contractor shall be responsible for the maintenance, security, heat, utilities, damages to the Work, and insurance until the date of Final Settlement. In addition, the Contractor shall be responsible for the provision of maintenance, security, heat, utilities, damages to the Work and insurance for the affected portion of the Work during any period in which the Contractor is called upon to perform guaranty Work. Neither the final certificate of payment nor any provision in the Contract Documents nor partial or entire occupancy of the premises by the Owner shall constitute an acceptance of Work not done in accordance with the Contract Documents or relieve the Contractor of liability in respect to any expressed or implied warranties or responsibility for faulty Materials or Equipment or workmanship.

47. ACCEPTANCE OF FINAL PAYMENT CONSTITUTES RELEASE

- A. The acceptance of final payment by the Contractor shall operate as a release to the Owner of all claims by the Contractor for all things done or furnished in connection with the Contract and for every act and neglect of the Owner, and others relating to or arising out of the Work under the Contract, except for claims previously made in writing and still unsettled.
- B. No payment, final or otherwise, shall operate to release the Contractor or his Surety from any obligations under the Contract or under the Performance Bond or Labor and Materials Payment Bond, including, but not necessarily limited to any one or more of the following:
 - 1. Obligations arising from or relating to latent defects.
 - 2. Faulty Work or material appearing after any payment.
 - 3. Failure of the Work to perform efficiently in accordance with the requirements of the Contract Documents.
 - 4. Unsettled claims.
 - 5. Claims for non-payment of laborers, mechanics, materialmen, or suppliers, or for

Construction Equipment used or rented.

6. Claims under the maintenance requirements of the Contract Documents or any special guaranties provided for under the Contract Documents.

48. CONTRACTOR'S RESPONSIBILITY

The Contractor agrees that the following are additional Contractor's responsibility, under the Contract Documents.

- A. Contractor shall supervise, inspect and direct the Work completely 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. Contractor shall be responsible to see that the complete Work complies accurately with the Contract Documents. If required by Owner, Contractor shall promptly, as directed, either correct all Defective Work, whether or not fabricated, installed or completed, or, if the Work has been rejected by Owner, remove it from the site and replace it with Work that is not Defective. Contractor shall pay all claims, costs, losses and damages caused by or resulting from such correction or removal (including, but not limited to, all costs of repair or replacement of Work of others).
- B. The Contractor shall comply with all Federal, State, County, District, and Municipal Laws, Ordinances, Rules, Regulations, Construction Codes, and Safety Codes relating to or applicable to the Work and shall furnish certification of compliance at completion of the Work upon request of the Owner.
- C. The Contractor shall perform all Work and furnish all Materials and Equipment, Construction Equipment, labor, transportation, superintendence, testing, facilities, services, means, methods, techniques, insurance, bonding and utilities, except as otherwise specified in the Contract Documents, necessary or proper to perform and complete all Work required by and in accordance with the Contract Documents and pay all applicable taxes incidental to performing said Work and furnishing such items.
- D. The Contractor alone shall be completely responsible for:
 1. All construction means, methods, techniques, sequences, and coordination of all Work and services under the Contract Documents;
 2. All conditions at the job site, including in part safety of all persons and property;
 3. The supervision, direction, and control of all Work and services under the Contract; and
 4. All safety procedures and precautions necessary in connection with the Work and services.
- E. These responsibilities of the Contractor shall apply continuously and shall not be limited to normal working hours. Review of construction by the Owner shall not relieve the Contractor of such responsibilities.
- F. The Contractor shall furnish, erect, maintain, and remove all construction plant and all temporary works and facilities as may be required to perform the Contract.
- G. The Contractor alone shall be fully responsible for the safety, efficiency, and adequacy of his Construction Equipment, Material and Equipment, facilities and appliances, and for any damage which may result from their failure or their improper construction, maintenance, or operation.

49. WEATHER

During weather unsuitable for the proper execution of the Work in a first-class manner, all Work affected by such condition shall be properly protected from weather-related damage.

50. OVERTIME

Any Work necessary to be performed after regular working hours (7:00 a.m. to 4:00 p.m. Monday through Friday), on Saturdays or Sundays, or legal holidays, shall be performed without additional expense to the Owner unless otherwise provided in the Contract Documents. The Contractor must notify the Owner in writing, two (2) working Days in advance of any overtime Work being performed.

51. MUTUAL RESPONSIBILITY OF CONTRACTORS

If, through acts or neglect on the part of the Contractor, any other contractor or Subcontractor shall suffer loss or damage to his Work, the Contractor agrees to settle with such other contractor or Subcontractor by agreement or arbitration if such other contractor or Subcontractor shall so settle. If such other Contractor or Subcontractor asserts any claim against the Owner on account of any damage alleged to have been so sustained, the Owner shall notify the Contractor who shall indemnify and save harmless the Owner against such claims and for any costs in connection with such claims.

52. ACCIDENT PREVENTION - EMERGENCY - AUTHORITY TO ACT

Precaution shall be exercised by the Contractor at all times for the protection of all persons, Work and property, and hazardous conditions shall be guarded against or eliminated. In an emergency affecting the safety of life or property, the Contractor shall be allowed to act in a diligent manner, without special instruction or authorization from the Owner, at his discretion to prevent such threatened loss or injury, and he shall so act, without appeal, if so instructed or authorized. Contractor shall notify the Owner immediately thereafter. Any compensation, claimed by the Contractor on account of emergency Work affecting the safety of life or property, other than the Contractor's Work or property, shall be determined as provided under General Conditions, Section 59 Claims for Extra Cost subject to the approval of the Owner.

53. PROTECTION OF WORK

The Contractor, at no additional expense to Owner, shall at all times safely guard and protect the Work; provide, erect, and maintain suitable barriers around all excavations or obstructions to prevent accidents; and provide, place, and maintain during the night sufficient lights, signals, and signs for this purpose on or near the Work. The Contractor shall at all times, until its completion and Final Acceptance, protect his Work Equipment, and Material from accidental or any other damage; and make good any damages thus occurring at no additional cost to the Owner.

54. PROTECTION OF PROPERTY

A. The Contractor, at no additional expense to the Owner, shall at all times:

1. Safely guard the Owner's property and abutting or adjacent property from injury, loss, or damage in connection with the Contract;
2. Protect by false work, braces, shoring, or other effective means all buildings, foundations, walls, fences, and other property along his line of Work, or affected directly by his Work, including, but not limited to the Owner's property, against damage;
3. Cover or otherwise protect stockpiles of Materials to avoid damage to any property from such Materials; and/or

4. Repair, replace, or make good any such damage, loss or injury, unless such is caused directly by the Owner or his duly authorized representatives.
- B. The Contractor shall exercise care to protect from injury all water lines, sanitary sewer lines, gas mains, telephone cables, electric cables, services pipes, and other utilities or fixtures which may be encountered during the progress of the Work. All utilities and other service facilities or fixtures if damaged, shall be repaired by the Contractor without additional compensation.

55. PROTECTION OF PERSONS

- A. The Contractor shall:
1. At all times protect the lives and health of his employees under the Contract;
 2. Take all necessary precautions for the safety of all persons on or in the vicinity of the Work site;
 3. Comply with all applicable provisions of Federal, State, County and Municipal safety laws and building codes; and
- B. Contractor shall comply with all provisions of the "Williams Steiger Occupational Safety and Health Act of 1970", including any amendments thereto and rules and regulations issued pursuant thereto, applicable to the Work and performance of the Contract. Whereas the State in which the Work is performed has passed legislation bearing on Occupational Safety and Health, such legislation and amendments thereto, together with rules and regulations issued pursuant thereto shall be complied with by the Contractor.

56. POTENTIALLY DANGEROUS WORK

- A. When the use of explosives, driving, or removal of piles, wrecking, excavation Work or other similarly potentially dangerous Work is necessary for the prosecution of the Work, the Contractor shall exercise the utmost care so as not to endanger life or property. The Contractor shall be fully responsible for any and all damages, claims, and for the defense of any actions against the Owner resulting from the prosecution of such Work in connection with or arising out of the Contract.
- B. The Contractor shall notify each public utility company or other Owner of property having structures or improvements in proximity to the site of the Work, of his intent to perform potentially dangerous Work. Such notice shall be given sufficiently in advance to enable the companies or the Owners of property to take such steps as they may deem necessary to relieve the Contractor of responsibility for any damages, claims, or the defense of any actions against the Owner resulting from the performance of such Work in connection with or arising out of the Contract.
- C. All explosives shall be stored in a secure manner and all storage places shall be marked clearly "EXPLOSIVES - KEEP OFF", and shall be in the care of competent watchmen at all times.

57. PATENTS, COPYRIGHTS, AND ROYALTIES

- A. The Contractor shall protect, defend, indemnify, and save harmless the Owner and each of its officers, agents, servants, and employees from liability of any nature or kind, including cost and expenses for, or on account of any patented or unpatented invention, process, article, or appliance manufactured or used in the performance of the Contract, including its use by the Owner, or the Owner's officers, agents, servants, or employees unless otherwise specifically stipulated in the Contract Documents.
- B. If the Contractor uses any design, device, or Materials and Equipment covered by letters, patent or copyright, he shall provide for such use by suitable agreement with the owner of such patented or

copyrighted design, device or material. It is mutually agreed and understood that without exception, the Contractor shall pay all royalty and license fees and the Contract Prices shall include all royalties or costs arising from the use of such design, device, or Materials and Equipment in any way involved in the Work. The Contractor and/or his Surety shall indemnify and save harmless the Owner of the Work from any and all claims for design, device, or Materials and Equipment, or any trademark or copyright in connection with the Work agreed to be performed under the Contract, and shall indemnify the Owner of the cost, expense, or damage which it may be obligated to pay by reason of such infringement at any time during the prosecution of the Work or after completion of the Work.

58. CHANGED OR EXTRA WORK

- A. The Owner, reserves the right, at any time during the progress of the Work, to make necessary alterations of, deviations from, additions to, or deletions from the Contract, or to require the performance of Extra Work neither covered by the Plans and Specifications nor included in the Contractor's Proposal, but forming a part of the contracted Work.
- B. The Contractor shall not proceed with any Changed or Extra Work without a written Contract Change Order approved by the Owner. Any Changed or Extra Work performed by Contractor without approval from the Owner shall be done solely at the Contractor's risk; the Contractor hereby waives any claim for additional compensation.
- C. Changed or Extra Work shall in no way injuriously affect to invalidate the Contract or the Contractor's bonds, but the difference in cost shall be added to or deducted from the Contract Price, as the case may be. No anticipated profits shall be allowed for Work deleted. Adjustments, if any, in the Contract Price by reason of any such Changed or Extra Work shall be determined by one of the following methods in the order as listed. Adjustments, if any, in the Contract Time by reason of any such Changed or Extra Work shall be determined in accordance with General Conditions, Section 74 Extension of Contract Time.
 - 1. Method A By unit prices contained in the Contractor's Proposal for the same type or class of Work.
 - 2. Method B If applicable unit prices are not included in the Contractor's Proposal, then by an acceptable unit sum price Proposal from the Contractor.
 - 3. Method C If unit prices are not available and a unit sum price Proposal cannot be agreed on, then by an acceptable lump sum price Proposal from the Contractor.
 - 4. Method D If the Owner and the Contractor cannot agree on pricing per Method B or C before the Owner requests the Contractor to begin Work on the Changed or Extra Work then the Contractor shall be paid the "actual field cost" (as defined by Paragraph F below) of the Work completed by his own forces plus a fifteen (15) percent markup.
- D. Method A -- Whenever any Changed or Extra Work is to be done, for which unit prices for the same type or class of Work are contained in the Contractor's Proposal, such Work shall be done, measured and paid for pursuant to Method A hereinabove set forth and the applicable portion of the Contract Documents.
- E. Methods B and C -- Methods B and C shall include an itemized cost breakdown for labor (including labor man-hours), Materials and Equipment, Construction Equipment (including rental equipment), Subcontractor costs, incidental expenses, overhead and profit. In determining the amount payable to the Contractor, an additional five (5) percent may be added to the amount payable to a Subcontractor, but no "pyramiding" or additional percentage shall be authorized for any Work done by a Subcontractor.

- F. Method D -- When any Changed or Extra Work is performed under Method D, the term "actual field cost" of such Changed or Extra Work is hereby defined to be and shall include:
1. The actual payroll cost, of all workmen such as foremen, equipment operators, carpenters, electricians, mechanics, and laborers, for the time actually performing the Changed or Extra Work.
 2. The actual cost of all Materials and Equipment incorporated in the Changed or Extra Work.
 3. The cost of all Construction Equipment for the time actually employed or used in the performance of the Changed or Extra Work based on the Colorado State Department of Transportation's Equipment Schedule in force at the date of the Contract Change Order Request.
 4. Transportation charges necessarily incurred in connection with any Construction Equipment authorized by the Owner for use on said Changed or Extra Work but which is not already on site.
 5. The actual cost of all power, fuel, lubricants, water, and similar operating expenses as well as other expendable materials.
 6. All incidental expenses incurred as a direct result of such Changed or Extra Work, including payroll taxes, and a prorata portion of premiums related to the Contractor's bonds and where the premiums therefor are based on payroll costs, on insurance required by the Contract.

When any Changed or Extra Work is performed under Method D, the Owner may direct the form in which the accounts of the actual field costs shall be kept and may also specify in writing, before the Work commences, the method of doing the Work and the type and kind of Construction Equipment, if required, which shall be used in the performance of the Changed or Extra Work.

When any Changed or Extra Work is performed under Method D, the fifteen (15) percent markup of the "actual field cost" to be paid to the Contractor shall cover and be full compensation for the Contractor's general superintendence, field office expense, home office overhead, profits, and all other elements of cost not embraced within the "actual field cost" as defined herein. In determining the amount payable to the Contractor, an additional five (5) percent may be added to the amount payable to a Subcontractor, but no "Pyramiding" or additional percentage shall be authorized for any Work done by Subcontractors.

- G. The Contractor shall furnish satisfactory bills, payrolls, and vouchers covering all items of cost and when requested by the Owner, give the Owner access to accounts relating thereto.
- H. Any Changed or Extra Work shall be considered a part of the Contract, subject to all of its terms, conditions, stipulations, review, guaranties, and tests and may be performed without notice to the Surety on the Contractor's bonds. The Contractor and Surety hereby agree to these provisions.

59. CLAIMS FOR EXTRA COST

- A. In case any instructions, either oral or written, appear to the Contractor to involve Changed or Extra Work for which, in his opinion, he should receive extra compensation, the Contractor shall make a written request to the Owner for a Contract Change Order authorizing such Changed or Extra Work. Should a difference of opinion arise as to what does or does not constitute Changed or Extra Work, or concerning the payment thereof, and the Owner insists on this conformance, the Contractor shall proceed with the Work after presenting a written notice of its Claim for Extra Cost to the Owner. Performance, by Contractor, of the Work in question shall not in any way prejudice the Contractor's ability to receive compensation per its Claim for Extra Cost.

The Contractor shall keep an accurate account of the "actual field cost" thereof as provided for in Method D under General Conditions, Section 58 Changed or Extra Work. The Contractor shall thereby not waive any right he might have to compensation for the Claim for Extra Cost in connection with the Changed or Extra Work. Upon receipt of the Contractor's Claim for Extra Cost, the Owner will make a final determination as to whether or not Changed or Extra Work was involved, and if so, the amount due to the Contractor.

- B. Any Claims for Extra Cost pursuant to this Section, together with supporting documents and receipts, must be filed within ten (10) consecutive Calendar Days after performing the Work for which Extra Cost is claimed. The Owner shall have the right to reject any Claim for Extra Cost if the foregoing procedure is not followed.
- C. In giving verbal instructions, the Owner shall have the authority to make minor changes that do not involve extra cost or time of performance and are not inconsistent with the design concept and purposes of the contracted Work; but otherwise, except in an emergency endangering life or property, no Changed or Extra Work shall be performed unless in pursuance of a Contract Change Order approved by the Owner, and no Claim for Extra Cost shall be valid unless so approved, except as otherwise provided herein.

60. CONCEALED OR UNKNOWN CONDITIONS

If conditions are encountered at the site which are (1) sub-surface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, then written notice by the observing party shall be given to the other party promptly before conditions are disturbed and in no event later than ten (10) Days after first observance of the conditions.

The Owner shall promptly investigate such conditions and, if they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, shall provide an adjustment in the Contract Price or Contract Time, or both. If the Owner determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Owner shall so notify the Contractor in writing, stating the reasons. Opposition to the Owner's determination must be made in writing by the Contractor, stating his reasons therefor, within ten (10) Days after the Owner has given notice of the decision.

61. GUARANTY PERIOD

- A. For a period of two (2) years following Final Settlement, the Contractor hereby guarantees all materials and equipment furnished, and all work performed under the Contract, to be free from all defects and in compliance with the Contract Documents. Upon written notice by certified mail from the Owner or the Owner's representative to the Contractor of any aspect of the Work found by the Owner to be defective or not in accord with the Contract Documents, the Contractor shall promptly perform the necessary corrective work as more specifically required by Section 4. The Contractor's Performance Bond shall remain in full effect during the guarantee period.
- B. It is intended that this provision shall apply whether or not a bond is required, as a personal obligation of the Contractor. If the Contractor shall not proceed to remedy such defects, deficiencies, deteriorations, or departures called to his attention in the notice within seven (7) consecutive Calendar Days after mailing of notice, and diligently pursue such repairs, the Owner may cause the repairs to be made as the Owner deems best and the entire cost thereof shall be paid by the Contractor or its Surety or deducted from any amounts as are due to the Contractor from the Owner.

- C. The obligations of the Contractor as herein provided shall be in addition to and not in limitation of any obligations imposed upon by him by special guaranty or warranty required by the Contract Documents or otherwise prescribed by law.

62. AUTHORITY OF OWNER

- A. The Owner, or his duly authorized representative, shall furnish engineering services during construction of the Work to the extent provided in the Contract Documents. He shall observe and review the Work in the process of construction or erection. Compliance with the Contract Documents shall be the Contractor's responsibility notwithstanding such observation or review. The Owner has authority to recommend suspension of the Work when it appears such suspension may be necessary to accomplish the proper implementation of the intent of the Contract Documents.

The authority to observe, review, or recommend suspension of the Work, or exercise such other authority as may be granted by the Contract Documents, shall not be construed or interpreted to mean supervision of construction, which is the Contractor's responsibility, nor make the Owner responsible for providing a safe place for the performance of Work by the Contractor or by the Contractor's employees or those of suppliers or Subcontractors or for access, visits, use, work, travel, or occupancy by any other person. The Owner shall also have the authority to reject any or all Work, Materials, or Equipment which do not conform to the Contract Documents and to decide technical questions which arise in the execution of the Work.

- B. The Owner shall determine the amount, quality, acceptability, and fitness of the several kinds of Work, Materials, and Equipment which are to be paid for under the Contract and shall decide all questions which may arise in relation to said Work and the construction thereof.

The Owner's estimates and decisions shall be final and conclusive, except as otherwise expressly provided. In case any question shall arise between the parties to the Contract relative to the Contract Documents, the determination or decision of the Owner shall be a Condition Precedent to the right of the Contractor to receive any money or payment for Work under the Contract affected in any manner or to any extent by such question.

- C. The Owner shall decide the meaning and intent of any portion of the Contract Documents where the same may be found obscure or to be in disagreement.

63. DECISIONS OF THE OWNER

The Owner, through its duly authorized representatives, shall within a reasonable time after appropriate notice, make decisions in writing on requests, disagreements and claims between the Contractor and Owner. Such decisions shall be regarded as final.

64. PERSONAL LIABILITY OF OWNER

In carrying out any of the provisions of the Contract or in exercising any power or authority granted thereby, there shall be no liability upon the Owner or his duly authorized representatives, either personally or as an official of the Owner, it being understood that in such matters, they act as agent and representatives of the Owner.

65. AUTHORITY AND DUTIES OF OWNER'S FIELD REPRESENTATIVE

- A. Inspectors are placed on the Work to keep the Owner informed as to the progress of the Work and the manner in which it is being done; to keep records; act as liaison between the Contractor and the Owner; also to call the attention of the Contractor to any deviations from the Contract Documents, but failure of the Inspector to call the attention of the Contractor to Defective Work or deviations from the Contract Documents shall not constitute acceptance of said Work.

- B. The Inspector may reject or accept Materials and Equipment to be incorporated in the Work, and such specific items as he is authorized by the Owner to accept.
- C. When any Material or Equipment has been accepted by the Inspector, it passes from his control to the control of the Contractor and remains there until the Work, as a whole, is complete. Since the Inspector cannot control how the Material or Equipment is used, the responsibility for its safety and proper use shall be the Contractor's. Until the job is finally completed, the Contractor may do Work that changes or modifies Work previously done, and even though at any given time, a portion of Work might be well done and acceptable in quality, the responsibility for keeping it in that condition until the Work is complete is the sole responsibility of the Contractor. For this reason, it is impossible to accept, finally, any portion of the Work until the Project as a whole is acceptable and control of said Project is withdrawn from the Contractor by Final Acceptance by the Owner.
- D. Since one of the Inspector's primary interests is to see that Work on the Project progresses expediently and in a Good and Workmanlike Manner, he may at various times offer suggestions to the Contractor, which the Contractor may or may not follow, at his discretion. Such suggestions are never to be considered as anything but suggestions, and involve no assumption of responsibility, financial or otherwise, by either the Inspector himself, or the Owner.
- E. Any personal assistance which an Inspector may give the Contractor will not be construed as the basis of any assumption of responsibility in any manner, financial or otherwise, by the Inspector, or the Owner.
- F. The Inspector is not and does not purport to be a Safety Engineer and is not engaged in that capacity by the Owner and shall have neither authority nor the responsibility to enforce construction safety laws, rules, regulations, procedures, or the safety of persons on and about the construction site.
- G. The presence or absence of an Inspector on any job will be at the sole discretion of the Owner, and such presence, or absence of an Inspector will not relieve the Contractor of his responsibility to obtain the construction results specified in the Contract Documents.
- H. The Inspector shall not be authorized to approve or accept any portion of the Work or to issue instructions contrary to the Contract Documents. Such approvals, acceptance or instructions, when given, must be in writing and signed by the Owner. The Inspector shall have authority to reject Defective Materials and Equipment; however the failure of the Inspector to reject Defective material or any other Work involving deviations from the Contract Documents shall not constitute acceptance of such Work.
- I. Nothing in this subsection shall in any way be so construed as to require or to place responsibility for the method, manner or supervision of the performance of the Work under this Contract upon the Inspector, or the Owner. Such responsibility rests solely with the Contractor.

66. CONTRACTOR'S EMPLOYEES

- A. The Contractor shall provide and maintain, continually on the site of the Work during its progress, adequate and competent superintendence of all operations for and in connection with the Work under the Contract. The Contractor shall either personally superintend his Work or shall cause it to be done by a capable Superintendent acceptable to the Owner. Such representative shall be able to read, write, and speak English fluently and shall be authorized to receive instructions from the Owner. Said Superintendent shall have authority to see that the Work is carried out in accordance with the Contract Documents and in a first class, thorough, and Good and Workmanlike Manner in every respect.
- B. Incompetent, disorderly, intemperate, or incorrigible employees shall be dismissed by the Contractor or his representative when requested by the Owner, and such person shall not again be permitted to return to the Work without the written consent of the Owner.

- C. The Contractor agrees to indemnify and hold the Owner harmless from any and all loss or damages arising out of jurisdictional labor disputes or other labor troubles of any kind that may occur during the construction and performance of the Contract.
- D. The Contractor shall provide, at the request of the Owner, such reasonable information about his employees as may be necessary, including in part, name address and social security number.

67. CONSTRUCTION REVIEW AND TESTING

- A. During the progress, the Work shall be subject to the review and observation of the Owner. The Contractor shall afford every reasonable facility and assistance to the Owner to make such review. If any Work is covered up without approval or consent of the Owner, it will be uncovered for examination at the Contractor's expense.
- B. The fact that the Owner is on the job site shall not be taken as an acceptance of the Contractor's Work or any part of it. The Contractor shall notify the Owner upon completion of his Contract, and the Work shall be given final construction review by the Owner, and any tests and re-tests shall be witnessed by the Owner or his representative. If all parts of the Work are acceptable and substantially comply with the intent of the Contract Documents, Initial Acceptance shall be made by the Owner. If parts of the Work are not acceptable and require additional Work by the Contractor to complete the Project, necessitating additional cost, the costs shall be paid for by the Contractor to the Owner.
- C. Contractor shall submit to the Owner, ten (10) Days in advance of construction and without charge, Samples or Specifications of Materials and Equipment he proposes to use and shall not use these Materials and Equipment until he has received approval from the Owner.
- D. Contractor shall furnish tests and reports on tests of all Materials and Equipment called for in the Contract Documents. The testing laboratory must be approved by the Owner and the Contractor shall pay the cost of the test, and necessary re-tests, including all transportation charges unless otherwise provided by the Contract Documents.
- E. All tests and re-tests unless otherwise provided, shall be in accordance with the pertinent sections of the latest edition of the standards applicable to the material or devices to be tested. A partial list of the principal societies referred to and their abbreviations follows:

A.A.S.H.T.O.	American Association of State Highway and Transportation Officials
A.C.I.	American Concrete Institute
A.I.S.C.	American Institute of Steel Construction
A.N.S.I.	American National Standards Institute
A.S.T.M.	American Society of Testing Materials
A.W.W.A.	American Water Work Association
C.P.I.	Clay Pipe Institute
C.S.	Commercial Standards
F.S.	Federal Specifications
N.E.C.	National Electric Code
T.M.C.A.	Tile and Marble Contractors of America
- F. All parts of the Work and improvements shall conform to the standard of construction as given in detail under the various items of the Contract Documents, and in general, to the intent thereof and if they do not conform, shall be made to do so by rebuilding or replacing or otherwise as instructed by the Owner, without further cost to the Owner.
- G. If after the commencement of the Work the Owner determines that any Work requires special inspection, testing, or approval not otherwise provided for, the Owner shall issue written authorization

instructing the Contractor to order such special inspection, testing, or approval, and the Contractor shall give timely notice of its readiness and of the date arranged so the Owner may observe such inspecting, testing, or approval. If such special inspection or testing reveals a failure of the Work to comply with the requirements of the Contract Documents or with respect to the performance of the Work, with laws, ordinances, rules, regulations, or orders of any public authority having jurisdiction, the Contractor shall bear all costs thereof.

- H. Required certificates of inspection, testing, or approval shall be secured by the Contractor and promptly delivered by him to the Owner.

68. USE OR OCCUPANCY OF COMPLETED PORTIONS

- A. The Owner shall have the right to take possession of, use, or occupy any completed or partially completed portions of the Work, notwithstanding the time for completing the entire Work or any portions, may, or may not, have expired. Such taking possession, use or occupancy shall not be deemed an acceptance of any Work until all Work has been completed in accordance with the Contract Documents.

If such prior use or occupancy increases the cost, or delays the Work, the Contractor shall be granted an adjustment to the Contract Price or the Contract Time, or both, as Owner may recommend.

- B. Consent of Surety and endorsement from the insurance carrier or carriers permitting prior occupancy or use of any completed or partially completed portions of the Work by the Owner shall be secured by the Contractor. Contractor and his Surety and enforcement from the insurance carrier or carriers permitting prior occupancy or use of any completed or partially completed portions of the Work by the Owner shall be secured by the Contractor. Contractor and his Surety and insurance carrier hereby agree that such consent shall not be unduly withheld.

69. OWNER'S RIGHT TO CORRECT DEFICIENCIES

If the Contractor should neglect to prosecute the Work properly in accordance with the Contract Documents or fails to correct Work which is not in accordance with the Contract Documents, the Owner, after seven (7) Calendar Days' written notice to the Contractor, may, without prejudice to any other remedy the Owner may have, correct such deficiencies in Work intended to become a permanent part of the Project, and may deduct the cost thereof from the payment then or thereafter due the Contractor.

70. SUSPENSION OF WORK BY OWNER

The Owner shall have the right to suspend and reinstate execution of the whole or any part of the Work contracted for without invalidating the provisions of the Contract in any way for such period or periods of time as the Owner may deem necessary due to unsuitable weather or such other conditions considered unfavorable for the suitable prosecution of the Work, including, in part, failure of the Contractor to supply labor, Materials, or Equipment meeting the requirements for the Contract Documents; or failure to carry out instructions or to perform such other provisions of the Contract considered unfavorable for the orderly or suitable prosecution of the Work. During periods of suspension, the Contractor shall properly protect the Work from possible damage. Orders for suspension or reinstatement of the Work shall be issued by the Owner to the Contractor in writing.

71. RIGHT OF OWNER TO TERMINATE CONTRACT

Should it appear any time that the Work is not being prosecuted with sufficient competence or rapidity to insure the proper completion of the Work within the Contract Time, and if upon seven (7) Calendar Days' written notice to the Contractor, he fails to increase the quality or the quantity of his Work or both, the Owner reserves the right to terminate the Contract and relet the Work or any part thereof, or at the Owner's option to complete it by day labor. The Contractor shall not be entitled to any claims for damages on account of such termination, and he will be

held liable for costs and expenses incurred in reletting or completing the Work under the Contract. All money due the Contractor will be retained until the Work is completed and all expenses and costs have been deducted and any money due the Owner, after such deductions have been made, shall be paid by the Contractor or his Surety who hereby agrees to these provisions.

72. TERMINATION FOR CONVENIENCE

- A. Termination Notice - The Owner may terminate Work under this Contract in whole or in part if such determination is in the Owner's best interest. Contract termination will be initiated by the Owner's written Contract Termination Notice to the Contractor which will specify the effective date of termination.
- B. Canceled Commitments - The Contractor, after receiving the Contract Termination Notice, shall cancel any outstanding commitments for procurement of Materials and Equipment. In addition, the Contractor shall use reasonable effort to cancel or divert any outstanding subcontracted commitments to the extent they relate to any Work terminated unless otherwise requested by the Owner. With respect to such canceled commitments the Contractor shall:
1. Settle all outstanding liabilities and all claims arising out of these canceled commitments. Such settlements shall be approved by the Owner and shall be final; and
 2. Assign to the Owner all of the rights, title and interest of the Contractor under the terminated orders and subcontracts as directed by the Owner. The Owner will then have the right to settle or pay any or all claims arising out of the termination of these commitments.
- C. Termination Claim - The Contractor shall submit its termination claim to the Owner within ninety (90) Calendar Days after the effective date of the Contract Termination Notice. During the ninety (90) Day period, the Contractor may make a written request to the Owner for a time extension in preparing the claim. Any time extension must be approved by the Owner. If the Contractor fails to submit its termination claim within the time allowed, the Owner may determine the amount due the Contractor, if any, by reason of the termination.
- D. Payment - Subject to Paragraph C above, the Contractor and Owner may agree upon the whole or any part of the amount to be paid the Contractor as a result of the termination. The amount may include reasonable cancellation charges incurred by the Contractor. The amount may also include any reasonable loss upon outstanding commitments for subcontracts which the Contractor is unable to cancel, provided the Contractor has proven reasonable effort to divert the commitments to other activities. The amount agreed upon shall be embodied in a Contract Change Order and the Contractor shall be paid that amount. Payments claimed and agreed to pursuant to termination shall be based on the Contract Unit Prices. Payment for partially completed lump sum items may be made in the proportion that the partially completed Work is to the total lump sum item. Where Work performed is of a nature that it is impossible to separate the costs of uncompleted Work from completed units, the Contractor shall be paid the actual cost incurred for the necessary preparatory Work and other Work accomplished.

The Owner may from time to time, under the terms and conditions it may prescribe, make partial payment against costs incurred by the Contractor in connection with the Contract termination. The total of such payments shall not exceed the amount, as determined by the Owner, the Contractor will be entitled to hereunder.

- E. Disposition of Work and Inventory - The Contractor shall transfer title and deliver to the Owner, such items which, if the Contract had been completed, would have been furnished to the Owner including:
1. Completed and partially completed Work; and

2. Materials or Equipment produced or in process or acquired in connection with the performance of the Work terminated by the notice.

Other than the above, any termination inventory resulting from the Contract termination may, with written approval of the Engineer, be sold or acquired by the Contractor under the conditions prescribed by and at prices approved by the Engineer. The proceeds of any such disposition shall be applied to reduce any payments to the Contractor under this Contract, or shall otherwise be credited to the cost of Work covered by this Contract, or paid in a manner as directed by the Engineer. Until final disposition, the Contractor shall protect and preserve all the Material and Equipment related to this Contract which is in his possession and in which the Owner has or may have an interest.

- F. Cost Records - The Contractor agrees to make cost records available to the extent they are necessary to determine the validity and amount of each item claimed.
- G. Contractual Responsibilities - Termination of a Contract or portion thereof shall not relieve the Contractor of contractual responsibilities for the Work completed, nor shall it relieve the Surety of its obligation for and concerning any just claim arising out of the Work performed.

73. LIQUIDATED DAMAGES - TIME AN ESSENTIAL ELEMENT

- A. It is mutually understood and agreed by and between the parties to the Contract that in the execution of the same, time is an essential element of the Contract, and it is important that the Work progress vigorously to completion.
- B. The Contractor agrees that said Work shall be prosecuted regularly, diligently, and uninterrupted at such rate of progress as will insure Substantial Completion thereof within the Contract Time. It is expressly understood and agreed, by and between the Contractor and the Owner, that the completion time set forth in the Contract Documents is a reasonable time for the completion of the Work, taking into consideration the average of the preceding ten (10) years' climatic range during the specified Contract Time based on U.S. Weather Bureau statistics for the locality where the Work is performed and the usual industrial conditions prevailing in that locality.
- C. If the Contractor neglects, fails, or refuses to complete the Work within the Contract Time, then for each Calendar Day after the end of the Contract Time, Substantial Completion of the Work is not achieved, the amount per Calendar Day specified in the Special Conditions shall be assessed by the Owner, not as a penalty, but as a predetermined and agreed upon liquidated damage.
 1. If no amount for Liquidated Damages is set forth in the Special Conditions, or if no Special Conditions are attached hereto, the default amount of Liquidated Damages is hereby agreed to be five hundred U.S. Dollars (\$500.00) per day for the first week after the end of the Contract Time; the default amount of Liquidated Damages is hereby agreed to be one thousand U.S. Dollars (\$1,000.00) per day for the second week after the end of the Contract Time, and for all other weeks thereafter.
- D. The said amount is fixed and agreed upon by and between the Contractor and the Owner because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Owner would sustain in the event the Work is not completed within the Contract Time.
- E. The Owner shall have the right to deduct said Liquidated Damages from any money due, or to become due to said Contractor and to sue for and recover any additional compensation for damages for non-performance of the Contract at the time stipulated and provided for in the Contract Documents.
- F. The assessment of Liquidated Damages for failure to complete the Work within the Contract Time shall not constitute a waiver of the Owner's right to collect any additional damages which the Owner may sustain by failure of the Contractor to carry out the terms of this Contract.

74. EXTENSION OF CONTRACT TIME AND REMEDIES FOR CERTAIN PROJECT DELAYS

- A. The Contractor expressly covenants and agrees that in undertaking to complete the Work within the Contract Time, he has taken into consideration and made allowances for all delays and hindrances incidental to such Work, whether growing out of delays in securing Materials and Equipment or workmen, normal inclement weather, or otherwise.
- B. If the Contractor is delayed at any time in the progress of the Work by an act or omission of the Owner, or its designated representative, any separate contractor employed by the Owner, or by Changed or Extra Work, industry-wide labor strikes, fire, epidemics, quarantine restrictions, freight embargoes, unavoidable casualties, abnormal weather conditions, any causes beyond the Contractor's control, or by any other cause which the Owner determines may justify the delay, then the Contract Time shall be extended for such reasonable time as the Owner may determine based on the timing and submittal requirements of this Section provided, however, that such delay could not have been avoided by the exercise of due diligence by the Contractor.
- C. No extension of the Contract Time will be granted for:
1. Variations between original Contract quantities and actual quantities which cannot be predetermined and which variance (plus or minus) is less than twenty five (25) percent of the Contract quantities.
 2. Rain, snow, wind, flood, or natural phenomena of normal intensity for the locality where the Work is performed.
 3. Acts or omissions of the Contractor or its Subcontractors.
 4. Delays occurring concurrently (either at the same time, on the same critical path or on a concurrent critical path) with delays attributable to acts or omissions of the Contractor or its Subcontractors.
 5. Delays occurring to activities which are not on the then-current critical path.
- D. A Request for an Extension of the Contract Time shall be made in writing to the Owner not later than seven (7) Days after the commencement of the delay. In the case of a continuing delay for the same cause only one request is necessary.

The Contractor shall support its Request for an Extension of the Contract Time with a supplemental submittal, which shall be filed with the Owner within fourteen (14) Days of making the Request. The Contractor's supplemental submittal shall include:

1. A description of the activities that were delayed, the reasons for the delay, an explanation of how they were delayed and a detailed factual statement relative to all relevant dates, locations, etc.
2. A schedule analysis (based on the critical path method) which shows in graphic form how and where a delay on the then-current critical path occurred and its effect on the Contract Time.
3. An explanation of the Contractor's efforts to reschedule the Work in order to mitigate the effect of the delay and/or prevent further delays resulting from such cause.

- E. If abnormal weather conditions are the basis for a Request for an Extension of the Contract Time, such Request shall be supported by data substantiating that weather conditions during the period of time impacted were unusually severe for the time period, and could not have been reasonably anticipated. To establish the existence of abnormal weather, the Contractor must submit documentation which shows that the weather conditions experienced fall outside of the extreme ranges of weather data for the area of Delta, Colorado published by the National Climatic Data Center during the same month over the prior ten (10) year period. The existence of abnormal weather shall not relieve the Contractor of the burden of proving that the abnormal weather delayed specific activities that were on the then-current critical path that controlled the overall completion of the Work.
- F. Failure to strictly comply with the timing and submittal requirements of this Section shall constitute a waiver of any Request for an Extension of the Contract Time. All extensions to the Contract Time shall be by Contract Change Order. No oral time extensions shall be granted by the Owner or relied upon by the Contractor.
- G. With regard to certain project delays attributable to the Owner, the parties have negotiated and agreed to the following provisions notwithstanding anything else to the contrary in any of the Contract Documents:

The Parties understand and acknowledge that the Project subject to this Agreement is not yet ready for the construction phase to begin and will not be commenced until the Owner issues a Notice to Proceed hereafter. In the meantime, they intend to have the Contractor conduct a Value Engineering (“VE”) process by which certain project economies beneficial to the Owner can be investigated and determined.

If, by December 31, 2012 a Notice to Proceed with the construction phase of the Project is not issued by the Owner, or if the Owner determines before said date that, for any reason, it will be unwilling or unable to expeditiously perform all or any part of the remainder of the Project, either Party may fully terminate this Agreement. In that event, the Contractor shall be entitled to prompt compensation from the Owner for any and all costs and fees that have actually been incurred in relation to the VE process and in relation to any other work performed by the Contractor under any request made in writing by the Owner prior to the date of such termination. The Contractor shall have no right to recover any other type or amount of damage or lost profit attributable to the Owner’s inability to perform its obligations on the remainder of the Project in a timely manner.

Anticipated costs and fees recoverable by the Contractor from the Owner under this subparagraph 74(G) as a result of work performed during the course of the VE Process are more specifically identified as follows:

1. Costs to evaluate and finalize the 80-90% bidding documents to Contract Documents with the status of “Released for Construction”;
2. All office costs relating to the process, including general and administrative expense, overhead, and indirects;
3. Salaries of any individuals providing VE services to the Owner;
4. Costs of preparation and submission of the Contractor’s response to the Owner’s request for VE participation;
5. Subsistence and travel costs for any and all personnel of the Contractor, subcontractors, consultants and subconsultants who work directly on the VE process for the Owner’s benefit;

6. Cost of any Project materials that are purchased and/or stored by the Contractor for the Owner's benefit under any express written authority of the Owner given after the date of execution of this Agreement.

Nothing stated above shall preclude the Contractor from including price escalation costs for subcontractors, suppliers and fuel during the Value Engineering process to compensate the Contractor for those escalations incurred beyond the original 60 day guaranteed price proposal period. However, it is provided that the Owner's obligation to pay for VE work performed by the Contractor under this paragraph 74G shall not exceed a cumulative total of \$25,000.00 unless the parties agree otherwise in writing.

75. CONTRACT IN DEFAULT

The Owner may declare the Contract in default for any one or more of the following reasons as determined by the Owner in his sole discretion:

- A. Failure to complete the Work within the Contract Time or any proper extension thereof granted by the Owner.
- B. Failure or refusal to comply with an instruction of the Owner within a reasonable time.
- C. Failure or refusal to remove rejected Materials or Equipment.
- D. Failure or refusal to perform any Work or repair any Defective or unacceptable Work.
- E. Bankruptcy or insolvency, or the making of an assignment for the benefit of creditors.
- F. Failure to provide a qualified Superintendent, or sufficient and competent workmen or Subcontractors to carry on the Work in a satisfactory and Good and Workmanlike Manner; or failure to prosecute the Work in accordance with the Contractor's Schedule of Work.
- G. Failure to provide proper Materials, and Equipment.
- H. Failure to comply with any important provisions of the Contract Documents as determined by the Owner.
- I. Disregard of laws, ordinances, rules, or regulations or order of any public body having jurisdiction, or the violation of any construction or safety codes.
- J. Failure to prosecute the Work with sufficient competence or rapidity to insure the proper completion of the Work within the Contract Time.

76. CONTRACT IN DEFAULT - PROCEDURE FOR DECLARING

The Owner may declare the Contract in default by giving written notice to the Contractor and his Surety to that effect. Said notice shall contain the reason or reasons for default and shall fix a day certain, not less than seven (7) Calendar Days after the date of said notice, when the Contract shall be declared in default, unless the Contractor or his Surety remedies the default to Owner's satisfaction or makes satisfactory arrangements with the Owner for its remedy prior to the day certain fixed in said notice for declaring the Contract in default. The Owner may, at its sole option, extend the day certain for declaring the Contract in default without prejudice to the Owner's right to thereafter declare the Contract in default. If the Contractor or his Surety fail to remedy the default or make arrangements for its remedy prior to the date set for declaring the Contract in default, or any extension thereof, the Contract shall be declared in default.

77. CONTRACT IN DEFAULT - COMPLETION OF

- A. If for any reason a Contract is declared in default, the Surety shall have the right to take over and perform the Contract; provided however, if the Surety does not commence performance thereof within seven (7) consecutive Calendar Days after the date of notice to the Contractor and his Surety that the Contract has been declared in default, the Owner, without process or action at law, may take over all or any portion of the Work and complete it at Owner's option whether by reletting or by day labor, for the account and at the expense of the Contractor or his Surety.
- B. Whether the Surety takes over and completes the Contract, or the Owner takes over and completes it by reletting or day labor, the Contractor and his Surety shall be liable to the Owner for any cost in excess of the original Contract Price expended in completing the Work, including in part, any direct and indirect costs and the professional services, and any Liquidated Damages stipulated in the Special Conditions, together with such other damages which the Owner may suffer on account of the Contractor's nonperformance of his Contract. The Owner may waive such portion of the Liquidated Damages as may occur after the Work is in condition for the safe, convenient and beneficial use or occupancy by the Owner for all of the purposes for which it was intended.
- C. In the event the Owner takes over the Work and prosecutes the same to completion, either by reletting or by day labor, the Contractor shall peaceably relinquish possession of said Work or the parts thereof specified in the above notice of declared default to the Contractor and his Surety.
- D. The Owner may, at Owner's option and at a rental which it considers reasonable, take possession of and utilize in completing the Work such Material, Equipment, and Construction Equipment on the site of the Work and suitable therefor until the Work is complete.
- E. All money due the Contractor shall be retained until the Work is completed and all expenses and costs have been deducted and any money due the Owner after such deductions or adjustments have been made as herein provided shall be paid by the Contractor or his Surety who hereby agree to all provisions herein.
- F. Neither the Owner, nor any of its officers, agents, or employees shall be in any way liable or accountable to the Contractor or his Surety for the method by which the completion of the said Work, or any portion thereof, may be accomplished or for the price paid therefor. Should the cost of the Contract completion, including all proper charges, be less than the original Contract Price, the amount so saved shall be paid to the Contractor.
- G. The Owner, notwithstanding the method used in completing the Contract, shall not forfeit the right to recover damages from the Contractor or his Surety for the Contractor's failure to complete his entire Contract. The Contractor shall not be entitled to any claim for damages on account of the method used by the Owner in completing the Contract.
- B. Maintenance of the Work shall continue to be the Contractor's and his Surety's responsibilities as provided for in the bond or guaranty requirements of the Contract Documents or any special guaranties provided under the Contract Documents.

78. OWNER'S REMEDIES CUMULATIVE AND NONWAIVER

No right or remedy conferred upon or reserved to the Owner by the Contract shall be considered exclusive of any other remedy or contractual right, but the same shall be distinct, separate, and cumulative, and shall be in addition to every other remedy existing at law or in equity or by statute; and every remedy given by the Contract to the Owner may be exercised from time to time as often as the occasion may arise, or as may be deemed expedient. No delay or omission on the part of the Owner to exercise any right or remedy arising from any default on the part of the Contractor shall impair such right or remedy or shall be construed to be a waiver of any such default or an acquiescence thereto, or

otherwise affect the right of the Owner to enforce the same in the event of any subsequent breach or default by the Contractor.

79. DISPUTE VENUE

In the event of any dispute arising under these Contract Documents, venue shall lie in the District Court in and for the County of Delta, State of Colorado, notwithstanding that either of the parties hereto may find it necessary to take some action in furtherance hereof outside said County.

80. SEVERABILITY CLAUSE

The provisions of this Contract shall be deemed to be severable, and if any term, phrase or portion of the Contract shall be determined to be unlawful or otherwise unenforceable, the remainder of the Contract shall remain in full force and effect, so long as the clause severed does not affect the intent of the parties.

81. INDEMNIFICATION

The Contractor agrees to indemnify and hold harmless the Owner (City of Delta), and its officers and its employees, from and against all liability, claims, demands, and expenses, including court costs and attorney fees, on account of any injury, loss, or damage, which arise out of or are in any manner connected with the Work to be performed under this Contract, if such injury, loss, or damage is caused in whole or in part by, or is claimed to be caused in whole or in part by, the negligent acts, errors, or omissions of the Contractor, any Subcontractor of the Contractor, or any officer, employee, or agent of the Contractor. The obligations of this Section shall not apply to damages which the Owner shall become liable by final judgment to pay to a third party as the result of the negligent act, error, or omission of the Owner.

82. INSURANCE

- A. The Contractor agrees to procure and maintain in force during the term of this Contract, at its own cost, the following coverages:
 - 1. Workers' Compensation Insurance as required by the Labor Code of the State of Colorado and Employer's Liability Insurance.
 - 2. Commercial General Liability Insurance with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) general aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall include coverage for explosion, collapse, and underground hazards.
 - 3. Automobile Liability Insurance with minimum combined single limits for bodily injury and property damage of not less than ONE MILLION DOLLARS (\$1,000,000) for any one occurrence, with respect to each of Contractor's owned, hired or non-owned vehicles assigned to or used in performance of the services or Work under this Contract.
- B. Contractor shall procure and maintain, and shall cause any Subcontractor of the Contractor to procure and maintain, the minimum insurance coverages listed herein. Such coverages shall be procured and maintained with forms and insurers acceptable to Delta. All coverages shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by the Contractor pursuant to Paragraph 1 of this Section. 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. A Certificate of Insurance shall be completed by the Contractor's Insurance Agent(s) as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect and shall be subject to review and approval by the Owner prior to commencement of any services under this Contract. The Certificate shall identify this Contract and shall provide that the coverages afforded under the policies shall not be canceled, terminated or materially changed until at least thirty (30) Days prior written notice has been given to Delta. The Certificate shall name The City of Delta, its officers and its employees as additional insured with respect to the General Liability Insurance. The completed Certificate of Insurance shall be sent to:

City of Delta
Public Works Department
P.O. Box 19
Delta, CO 81416

- D. Failure on the part of the Contractor or Subcontractor to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of Contract upon which the Owner may immediately terminate this Contract, or at its discretion, the Owner may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the Owner shall be repaid by Contractor to upon demand, or the Owner may offset the cost of the premiums against any monies due to Contractor from the Owner.
- E. The Owner reserves the right to request and receive a certified copy of any policy and any endorsement thereto. Contractor agrees to execute any and all documents necessary to allow the Owner access to any and all insurance policies and endorsements pertaining to this particular job.
- F. Every policy required above shall be primary insurance, and any insurance carried by the Owner, its officers, or its employees shall be excess and not contributory insurance to that provided by the Contractor. The Contractor shall be solely responsible for any deductible losses under the policies required above.
- G. The Contractor shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to this Contract by reason of its failure to procure and maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types.
- H. As an independent contractor the Contractor is not entitled to Worker's Compensation benefits under the Owner's plan. Further the Contractor is obligated to pay federal and state income tax on any monies earned pursuant to this contractual relationship.
- I. The parties hereto understand and agree that the Owner, its officers, and its employees, are relying on, and do not waive or intend to waive by any provision of this Contract, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. 24-10-101 et seq., as from time to time amended, or otherwise available to the Owner, its officers, or its employees.

83. NON-DISCRIMINATION

Contractor, its agents, employees, and Subcontractors shall not discriminate on the basis of race, color, creed, national origin, ancestry, age, sex, religion, or disability in any policy or practice.

End of General Conditions

Special Conditions Confluence Drive

The Standard Specifications for this project shall be the "Colorado Department of Transportation Standard Specifications for Road and Bridge Construction (2011), except as modified as stated in the General Conditions, Special Conditions and/or Plans and Specifications, hereinafter which are incorporated in the contract documents by reference as though embodied herein in their entirety.

PLANS

Plans sets are currently available via an FTP site and CD. These plans are currently at 80-90% of completion. Plans will be finalized prior to the issuance of the Owner's Notice to Proceed.

INSURANCE

The Contractor shall provide insurance for this project in accordance with the requirements of Articles 18 and 19 of the Construction Contract.

In the event a claim arises by cause of the Contractor's activities within the boundaries of the project, the Contractor shall conform to the following procedure:

1. The Contractor's Representative shall be contacted as soon as possible by the Contractor's work crew. The Contractor's Representative shall immediately contact the City of Delta's Representative.
2. The Contractor's Representative shall recommend resolution of the matter in writing to the claimant with a copy to the City of Delta no more than 48 hours following the occurrence.
3. The Contractor shall purchase insurance as described Article 18 and 19 of the Construction Contract with the understanding minor claims are to be considered as well as major claims.

EXEMPTION FROM SALES TAX

The City of Delta is exempt from State and local sales and use taxes. The Contractor shall take steps to obtain such exemption from the Colorado Department of Revenue pursuant to C. R. S. 39-25-114(1)(a) XIX and 114(d).

CONTRACT TIME

The Contract Time for completion of all required Work shall be 15 months from the date the Notice To Proceed is signed by the City of Delta.

INTERPRETATION OF ESTIMATED QUANTITIES

The Contract Documents include a list of approximate quantities for the work. These quantities are approximate only. As the plans are finalized, quantities will likely be adjusted up and down.

SPECIFICATIONS

Detailed specifications are currently not available. The project will in general adhere to the specifications as listed on the cover of the plan set. Prior to issuance of the Owner's Notice to Proceed, final specifications will be provided to the Contractor.

RESTORATION

Contractor shall be required to restore the surfaces of the areas within the right of way, temporary construction easements, other easements and all areas adjoining or disturbed by construction activities to its original condition, or as shown on the plans or directed by the Engineer. The Contractor shall also restore any disturbed structures; utility appurtenances or fencing not designated for removal within the project limits, to its original condition. Restoration shall be considered incidental to the work and no separate payment shall be made for this work.

CONCURRENT OPERATIONS

The City of Delta or other contractors acting on the Cities behalf will likely be working in the construction area concurrent with this project to upgrade utility lines and infrastructure. These work items will be clearly defined and communicated to the contractor at least one week in advance.

LOCATION AND PROTECTION OF UTILITIES

The Contractor shall be responsible for the location and protection of all utilities within the project area. This shall include, but not be limited to, the location of all buried power lines, telephone lines, fiber optic cables, sewer lines, irrigation lines, and water lines. The Contractor shall be responsible for the coordination of any activities affecting utilities, and any utility relocation efforts required for utilities disturbed by this project.

The Contractor shall comply with Article 1.5 of Title 9, Colorado Revised Statutes, 1986 Repl. Vol., as amended by Senate Bill 93-155. ("Excavation Requirements") when excavation or grading is planned in the area of underground utility facilities. The Contractor shall notify all affected utilities at least two (2) business days, (NOT INCLUDING THE DAY OF NOTICE OR THE DAY OF EXCAVATION) prior to commencing such operations. Contact the Utility Notification Center of Colorado (UNCC 1-800-922-1987) to have locations of UNCC registered lines marked by member companies. All other underground facilities shall be located by contacting the respective company. Utility service laterals shall also be located prior to beginning ANY excavation.

TRAFFIC CONTROL PLAN - GENERAL

If work is required to take place in the roadways, a Traffic Control Plan in accordance with Section 630 of the Colorado Department of Transportation, Standard Specifications for Road and Bridge construction.

It shall be the Contractor's responsibility to notify all emergency response agencies and the school district and familiarize them with his intent and operations during construction of this project. It shall be the Contractor's responsibility to keep the pavement of all affected roadways free of mud, rocks, gravel and other construction debris. The Contractor shall sweep or otherwise clean all affected roadway within 100 feet of the project limits at the direction of the Engineer. Such work shall be incidental to construction and at no additional cost to the City of Delta.

PRIVATE RESIDENCES AND PEDESTRIAN TRAFFIC

The Contractor shall be responsible for coordinating with property owners whose primary access falls within the construction activities. This shall include a minimum of 24-hour notification and coordinating private driveway and/or other site improvements with the homeowner or business. The

Contractor will be required to provide safe pedestrian access, business access and access for the US Postal Service, through the project during construction.

PROTECTION OF ADJOINING PROPERTIES

The Contractor shall at all times take such actions as necessary to protect all adjoining property and improvements from damage due to the conduct of his operations. Construction of improvements requiring excavation adjacent to trees or shrubs not specified for removal shall be performed by manual methods so as to minimize the impact on existing root systems.

SANITARY PROVISIONS

The Contractor shall provide and maintain in a neat, sanitary condition such accommodations for the use of his employees as may be necessary to comply with the requirements of the State, County and other local Boards of Health, having jurisdiction.

FIELD OFFICE

The Contractor shall not be required to provide a field office at its expense for this Project.

MATERIALS AND QUALITY CONTROL TESTING

All materials and quality control field testing will be provided by the Contractor. The City of Delta may request additional testing by the Contractor in areas that do not meet the specifications and/or were not tested. The Contractor shall provide proof rolling of excavated areas as requested by the City of Delta, or their designated representative. This service is incidental to the project.

CONFIDENTIAL MATTERS

All data and information gathered by the Contractor and its subcontractors, and all reports, recommendations, drawings, documents, and data shall be treated by the Contractor and its subcontractors as confidential. The Contractor and its subcontractors must agree not to communicate and disclose the aforesaid matters to a third party or use them in advertising, or propaganda and/or in another job or jobs, unless prior written consent is obtained from the City.

APPROPRIATION OF FUNDS

The Owner has secured through prior bonding arrangements all funds required for the completion of the subject construction Project and has appropriated all such funds to the Project through fiscal year 2013. Any funds required for the Project that are not expended in fiscal year 2013 are expected to be appropriated in fiscal year 2014 and so forth. However, in the event that any amount of funds required for completing the Project after fiscal year 2013 are not appropriated, for any reason currently unforeseen, the Owner shall not be obligated to pay any portion of payments exceeding the appropriations thereafter made. The Owner agrees to promptly notify the Contractor of any act of the Delta City Council which eliminates or limits appropriation of remaining Project funding for the year 2014 and thereafter. No penalty shall accrue to the Owner in the event of a properly announced act of non-appropriation.

LIQUIDATED DAMAGES

All time limits stated in the Contract Documents are of the essence of the Contract.

If the Contractor is delayed at any time in the progress of the Work by changes ordered in the Work, by labor disputes, fire, unusual delay in transportation, unavoidable casualties, causes beyond the Contractor's control, or by any cause which the OR may determine justifies the delay, then the Contract Time shall be extended by Change Order for such reasonable time as the OR may determine.

A daily charge will be made against the Contractor for each calendar day that any work remains uncompleted after the elapse of the contract time. This daily charge will be deducted from any money due the Contractor. This deduction will not be considered a penalty but as liquidated damages.

The schedule of liquidated damages is as set in the table below.

Original Contact Amount		Liquidated Damages per Day when Contract Time is Based
From More Than	To and Including	On Calendar Day or Completion
\$ 0	\$ 50,000	\$ 350
50,000	100,000	380
100,000	250,000	440
250,000	500,000	520
500,000	1,000,000	640
1,000,000	2,000,000	820
2,000,000	4,000,000	1,080
4,000,000	8,000,000	1,450
8,000,000	12,000,000	1,820
12,000,000	16,000,000	2,250
		Increase per each additional 2,000,000 Contract Amount or part thereof over 16,000,000
16,000,000	No Limit	120

Due account will be taken of any adjustment of the Contract Time for completion of the Work

granted under the provisions of Article 15.2 of the Construction Contract.

Permitting the Contractor to continue and finish the Work or any part thereof after lapse of Contract Time will not operate as a waiver on the part of the City of any of its rights under the Contract.

Any deduction assessed as liquidated damages under this subsection shall not relieve the Contractor from liability for any damages or costs resulting from delays to other contractors or subcontractors on the project or other projects caused by failure of the assessed Contractor to complete the Work according to Contract times.

VALUE ENGINEERING PROCESS

Prior to the issuance of a Notice to Proceed construction, the contractor will participate in a value engineering process to identify cost savings that can be applied back to the project. During the course of the Value Engineering process, the Contractor shall furnish the City of Delta with regular monthly reports summarizing work performed and estimating costs and fees attributable to the City for the Value Engineering process to the date of each report. Contractor will not be compensated for Value Engineering work, unless the contract is terminated by either the City or Contractor as provided in paragraph 74(G) of the General Conditions, and then such compensation shall be determined in accord with provisions of said paragraph 74(G)..

CONFLUENCE DRIVE
ALTERNATE TRUCK ROUTE BYPASS
 City of Delta, Colorado



EXHIBIT A

<i>Item Number</i>	<i>Line Item</i>	<i>Description</i>	<i>Plan Quantity</i>	<i>Units</i>	<i>Unit Price</i>	<i>Total</i>
BASE CONTRACT						
201-00000	5	Clearing & Grubbing	31.00	AC	\$484.33	\$15,014.23
202-00015	20	Rem of Headwall	2.00	EA	\$249.37	\$498.74
202-00035	25	Rem of Pipe	884.00	LF	\$14.45	\$12,773.80
202-00037	30	Rem of End Section	5.00	EA	\$116.10	\$580.50
202-00019	35	Rem of Inlet	9.00	EA	\$580.48	\$5,224.32
202-00200	40	Rem of Sidewalk	2,267.00	SY	\$3.08	\$6,982.36
202-00203	50	Rem of Curb & Gutter	5,488.00	LF	\$2.86	\$15,695.68
202-00210	55	Rem of Conc (Drives)	1,479.00	SY	\$5.96	\$8,814.84
202-00220	60	Rem of Asph Mat	26,336.00	SY	\$1.63	\$42,927.68
202-00250	70	Rem Pvmnt Markings	4,500.00	SF	\$2.10	\$9,450.00
202-00610	80	Rem of RR Tracks, Ties, OTM (Salvage)	12,133.00	TF	\$5.17	\$62,727.61
202-00611	85	Rem of RR Turnout, Ties, OTM (Salvage)	13.00	EA	\$1,376.10	\$17,889.30
202-00612	90	Rem of RR Grade Crossing	140.00	TF	\$48.87	\$6,841.80
202-01000	110	Rem of Fence	100.00	LF	\$1.50	\$150.00
202-01130	115	Rem of Guard Rail Ty 3	100.00	LF	\$12.00	\$1,200.00
206-00000	130	Structure Excavation	461.00	CY	\$8.08	\$3,724.88
206-00100	135	Structure Backfill (Class 1)	29,481.00	CY	\$17.81	\$525,056.61
206-00200	140	Structure Backfill (Class 2)	30.00	CY	\$23.27	\$698.10
206-01010	145	Bed Course Matl (Subballast)	19,939.00	CY	\$23.21	\$462,784.19
206-00360	150	Mechan Reinforcement of Soil	28,540.00	CY	\$29.80	\$850,492.00
208-00011	160	Erosion Bales (Weed Free)	370.00	EA	\$7.60	\$2,812.00
208-00020	165	Silt Fence	5,180.00	LF	\$0.25	\$1,295.00
208-00050	170	Storm Drain Inlet Protection	38.00	EA	\$25.00	\$950.00
208-99999	175	Vehicle Tracking Pad	375.00	CY	\$25.05	\$9,393.75
210-00010	180	Reset Mailbox Structure	1.00	EA	\$929.72	\$929.72
210-00065	185	Reset Monument	1.00	EA	\$299.57	\$299.57
210-01200	195	Reset End Anchor	1.00	EA	\$955.00	\$955.00
210-01000	200	Reset Fence	266.00	LF	\$5.00	\$1,330.00
210-04010	205	Adj Manhole	20.00	EA	\$712.88	\$14,257.60
210-04050	210	Adj Valve Box	12.00	EA	\$390.39	\$4,684.68
216-00041	285	Soil Reten Blnkt (S/C)	12,558.00	SY	\$2.00	\$25,116.00
304-06000	290	Agg Base Course (Class 6)	1,200.00	TON	\$19.71	\$23,652.00
403-34871	295	Hot Bit Pvmnt Patching & Misc. Driveways	200.00	TON	\$92.00	\$18,400.00
412-00600	300	Conc Driveway (6 Inch)	690.00	SY	\$46.11	\$31,815.90
	305	Chlp & Seal	5,740.00	SY	\$5.75	\$33,005.00
403	306	Pit Run from Reynolds Pit - Option #3 (10" Thick)	50,222.00	TN	\$6.90	\$346,531.80
403	307	Class 6 Base Course - Option #3 (6" Thick)	30,133.00	TN	\$15.60	\$470,074.80
403	309	Geogrid - Option # 3	90,400.00	SY	\$3.71	\$335,384.00
412-00900	310	Concrete Moment Slab (13" Thick)	85.00	CY	\$224.26	\$19,062.10
420-00000	315	Geomembrane	4,285.00	SY	\$7.00	\$29,995.00
420-00134	320	Geotextile (Separator - Class 3)	2,500.00	SY	\$3.01	\$7,525.00
502-00100	325	Drill Hole To Facil Pile Driving	180.00	VF	\$199.49	\$35,908.20
502-00460	330	Pile Tip	48.00	EA	\$107.75	\$5,172.00
502-02000	335	Dynamic Load Testing	2.00	EA	\$7,200.00	\$14,400.00
502-11274	340	Steel Piling (HP 12x 74)	789.00	LF	\$48.35	\$38,148.15
502-11489	345	Steel Piling (HP 14x89)	1,691.00	LF	\$51.71	\$87,441.61
503-00036	350	Drilled Caisson (36 Inch)	56.00	LF	\$241.76	\$13,538.56
503-00042	355	Drilled Caisson (42 Inch)	51.00	LF	\$303.36	\$15,471.36
503-00048	360	Drilled Caisson (48 Inch)	40.00	LF	\$418.05	\$16,722.00
503-00048	365	Drilled Caisson (54 Inch)	153.00	LF	\$469.79	\$71,877.87
504-04420	380	Precast Panel Facing	50,738.00	SF	\$7.00	\$355,166.00
506-00206	385	Rip Rap (6 Inch)	350.00	CY	\$75.49	\$26,421.50
506-00212	390	Rip Rap (12 Inch)	30.00	CY	\$115.06	\$3,451.80

CONFLUENCE DRIVE
ALTERNATE TRUCK ROUTE BYPASS
 City of Delta, Colorado



EXHIBIT A

<i>Item Number</i>	<i>Line Item</i>	<i>Description</i>	<i>Plan Quantity</i>	<i>Units</i>	<i>Unit Price</i>	<i>Total</i>
506-00224	395	Rip Rap (24 Inch)	90.00	CY	\$89.83	\$8,084.70
515-00400	400	Conc Sealer	3,170.00	SY	\$6.00	\$19,020.00
518-01004	405	Bridge Expan Device (0-4 Inch)	398.00	LF	\$138.97	\$55,310.06
601-01030	410	Conc Class B (Box Culvert)	90.00	CY	\$463.46	\$41,711.40
601-01040	415	Conc Class B (Bridge)	132.00	CY	\$557.17	\$73,546.44
601-03000	420	Conc Class D	100.00	CY	\$191.30	\$19,130.00
601-05000	425	Conc Class H	1,692.00	CY	\$467.41	\$790,857.72
601-40250	430	Bridge Deck Finish (Saw Grooved)	2,987.00	SY	\$4.20	\$12,545.40
602-00000	440	Reinforcing Steel	3,800.00	LB	\$0.69	\$2,622.00
602-00020	445	Reinforcing Steel (Epoxy)	397,427.00	LB	\$0.80	\$317,941.60
603-02240	480	30 x 19 Elliptical RCP	125.00	LF	\$185.56	\$23,195.00
603-05124	500	30 x 19 Elliptical RCP End Section	1.00	EA	\$3,117.35	\$3,117.35
603-10180	505	18 Inch CSP	93.00	LF	\$31.11	\$2,893.23
603-10240	510	24 Inch CSP	1,527.00	LF	\$42.09	\$64,271.43
603-10420	515	42 Inch CSP	28.00	LF	\$131.58	\$3,684.24
603-30018	520	18 Inch CSP End Section	15.00	EA	\$430.34	\$6,455.10
603-30024	525	24 Inch CSP End Section	5.00	EA	\$440.34	\$2,201.70
603-30030	530	30 Inch CSP End Section	2.00	EA	\$741.18	\$1,482.36
603-30042	540	42 Inch CSP End Section	1.00	EA	\$1,510.69	\$1,510.69
603-30060	545	60 Inch CSP End Section	1.00	EA	\$2,169.79	\$2,169.79
	551	2" Watermain Lowering	1.00	EA	\$1,619.58	\$1,619.58
	552	6" Watermain Lowering	5.00	EA	\$2,743.29	\$13,716.45
	553	8" Watermain Lowering	4.00	EA	\$3,170.38	\$12,681.52
	554	Concrete Pipe Supports on 30" Sanitary Sewer	2.00	EA	\$1,890.70	\$3,781.40
603-50018	555	18 Inch Plastic Pipe	3,078.00	LF	\$20.26	\$62,360.28
603-50024	560	24 Inch Plastic Pipe	966.00	LF	\$36.59	\$35,345.94
603-50030	565	30 Inch Plastic Pipe	318.00	LF	\$36.90	\$11,734.20
603-50036	570	36 Inch Plastic Pipe	75.00	LF	\$59.42	\$4,456.50
603-50048	580	48 Inch Plastic Pipe	412.00	LF	\$134.27	\$55,319.24
603-50060	590	60 Inch Plastic Pipe	1,376.00	LF	\$214.31	\$294,890.56
603-70303	605	Conc Box Culvert (3 Ft x 3 Ft)	5.00	LF	\$1,006.92	\$5,034.60
603-70605	615	Conc Box Culvert (6 Ft x 5 Ft)	215.00	LF	\$326.97	\$70,298.55
603-71004	630	Conc Box Culvert (10 Ft x 4 Ft)	103.00	LF	\$643.42	\$66,272.26
603-71208	640	Conc Box Culvert (12 Ft x 8 Ft)	156.00	LF	\$964.86	\$150,518.16
603-99998	645	Tie Into Existing Inlet / Pipe	4.00	EA	\$946.56	\$3,786.24
603-99999	650	60 Inch Steel Pipe (Jacked)	85.00	LF	\$1,484.19	\$126,156.15
	651	60 Inch Steel Pipe (Open Cut)	22.00	LF	\$587.46	\$12,924.12
	653	6 Inch Steel Encasement	80.00	LF	\$68.97	\$5,517.60
	656	12 Inch Steel Encasement	400.00	LF	\$67.23	\$26,892.00
604-30010	670	Manhole (Slab) H=10 Ft	9.00	EA	\$4,059.09	\$36,531.81
604-30015	675	Manhole (Slab) H=15 Ft	3.00	EA	\$5,377.26	\$16,131.78
604-00305	680	Inlet Ty C	10.00	EA	\$2,899.31	\$28,993.10
604-00510	685	Inlet Ty D (H=10 Ft)	3.00	EA	\$4,735.44	\$14,206.32
604-13005	690	Inlet Ty 13 (H=5 Ft)	1.00	EA	\$2,814.34	\$2,814.34
604-19105	695	Inlet Ty R L5	13.00	EA	\$4,950.96	\$64,362.48
604-19110	700	Inlet Ty R L10	1.00	EA	\$7,685.83	\$7,685.83
606-00301	705	Guardrail Ty 3 (6-3)	6,149.00	LF	\$15.80	\$97,154.20
606-02003	720	End Anchorage (Non-Flared)	5.00	EA	\$1,800.00	\$9,000.00
606-01370	730	Guardrail Transition Ty 3G	8.00	EA	\$1,200.00	\$9,600.00
606-10700	740	Bridge Rail Ty 7	1,152.00	LF	\$68.31	\$78,693.12
607-11200	745	Fence Comb w/Mtl Posts	7,118.00	LF	\$7.10	\$50,537.80
607-53172	755	Fence CLF (72 Inch)	1,158.00	LF	\$17.25	\$19,975.50
607-53191	760	Fence (96 Inch) (Special)	720.00	LF	\$75.30	\$54,216.00
607-60290	765	40 Ft Gate Double (CLF)	1.00	EA	\$2,410.00	\$2,410.00

**CONFLUENCE DRIVE
ALTERNATE TRUCK ROUTE BYPASS**
City of Delta, Colorado



EXHIBIT A

Item Number	Line Item	Description	Plan Quantity	Units	Unit Price	Total
608-00004	770	Conc Sidewalk (4 Inch)	1,338.00	SY	\$37.96	\$50,790.48
608-00006	775	Conc Sidewalk (6 Inch)	595.00	SY	\$44.75	\$26,626.25
608-00010	780	Conc Curb Ramp	228.00	SY	\$98.81	\$22,528.68
609-21010	785	C&G Ty 2 (Sect I-B)	5,354.00	LF	\$13.26	\$70,994.04
609-21020	790	C&G Ty 2 (Sect II-B)	19,757.00	LF	\$13.04	\$257,631.28
609-24006	800	Gutter Ty 2 (6 Ft)	275.00	LF	\$52.12	\$14,333.00
	802	Concrete Cross Pan	470.00	SY	\$69.62	\$32,721.40
612-00001	810	Delineator (Ty I)	158.00	EA	\$14.00	\$2,212.00
612-00001	815	Delineator (Ty II)	35.00	EA	\$17.00	\$595.00
613-07034	825	Pull Box (24"x36"x18")	20.00	EA	\$1,150.00	\$23,000.00
613-00300	840	3 Inch Elect Cond	3,000.00	LF	\$9.50	\$28,500.00
613-00301	845	3 Inch Elect Cond (Jacked)	900.00	LF	\$35.00	\$31,500.00
613-10000	850	Electrical Wiring	1.00	LS	\$28,800.00	\$28,800.00
613-70250	855	Luminaire HP5 (250 W)	10.00	EA	\$440.00	\$4,400.00
613-71500	860	Luminaire HP5 (Ty B - Tunnel)	4.00	EA	\$720.00	\$2,880.00
614-00011	865	Sign Panel (Class I)	960.00	SF	\$15.00	\$14,400.00
614-00013	870	Sign Panel (Class III)	400.00	SF	\$27.00	\$10,800.00
614-00200	875	Steel Sign Post (2-3/8" Tube)	1,560.00	LF	\$10.00	\$15,600.00
614-32400	885	Monotube Ovhd Sign Cantilever (24 Inch)	2.00	EA	\$32,686.80	\$65,373.60
614-70150	890	Ped Signal Face (16) (Countdown)	4.00	EA	\$575.00	\$2,300.00
614-70336	895	Traff Signal Face (12-12-12)	35.00	EA	\$760.00	\$26,600.00
614-70560	900	Traff Signal Face (12-12-12-12-12)	4.00	EA	\$1,360.00	\$5,440.00
614-72855	905	Traffic Signal Controller Cabinet	3.00	EA	\$12,700.00	\$38,100.00
614-72860	910	Ped Push Button	4.00	EA	\$100.00	\$400.00
614-72875	912	Loop Detection Wire	9,500.00	LF	\$3.00	\$28,500.00
614-81115	915	Traff Sig Pole Steel (1-15 Ft Mast Arm)	1.00	EA	\$13,850.00	\$13,850.00
614-81125	925	Traff Sig Pole Steel (1-25 Ft Mast Arm)	1.00	EA	\$12,000.00	\$12,000.00
614-81140	940	Traff Sig Pole Steel (1-40 Ft Mast Arm)	2.00	EA	\$14,000.00	\$28,000.00
614-81145	945	Traff Sig Pole Steel (1-45 Ft Mast Arm)	1.00	EA	\$14,100.00	\$14,100.00
614-81150	950	Traff Sig Pole Steel (1-50 Ft Mast Arm)	2.00	EA	\$14,400.00	\$28,800.00
614-81151	970	Traff Sig Pole Steel (1-50 & 1-60 Ft Mast Arm)	1.00	EA	\$26,770.00	\$26,770.00
614-81152	975	Traff Sig Pole Steel (1-50 & 1-55 Ft Mast Arm)	1.00	EA	\$26,900.00	\$26,900.00
614-81157	985	Traff Sig Pole Steel (1-55 & 1-40 Ft Mast Arm)	1.00	EA	\$26,300.00	\$26,300.00
614-86245	1005	Controller (Ty 170)	3.00	EA	\$3,500.00	\$10,500.00
618-00154	1015	Prestress Conc I (BT-54)	1,927.00	LF	\$191.51	\$369,039.77
618-00172	1020	Prestress Conc I (BT-72)	1,427.00	LF	\$203.01	\$289,695.27
621-00110	1030	RR Track, Timber, Ties OTM, (Ballasted) 136 lb	8,858.00	TF	\$174.00	\$1,541,292.00
621-00116	1050	Conc Road X-ing Pnls (8.125)	9.00	EA	\$2,800.00	\$25,200.00
621-00117	1055	Bumping Post (Earthen)	1.00	EA	\$550.00	\$550.00
621-00120	1060	No 11 RR Turnout (Ballasted)	4.00	EA	\$107,500.00	\$430,000.00
621-00121	1065	No 11 RR DbI Switch (Ballasted)	4.00	EA	\$26,000.00	\$104,000.00
	1066	Furnish Only - No. 11 Left Hand Turn Out	1.00	EA	\$96,700.00	\$96,700.00
	1067	Furnish Only - 136 lb. Rail, Ties, OTM	413.00	TF	\$171.00	\$70,623.00
	1068	Furnish Only - Railroad Ballast	1,127.00	TN	\$27.90	\$31,443.30
625-00000	1070	Construction Survey	1.00	LS	\$214,487.42	\$214,487.42
626-00000	1075	Mobilization	1.00	LS	\$392,658.00	\$392,658.00
627-00005	1080	Pvmnt Marking Paint (Epoxy)	580.00	GAL	\$68.00	\$39,440.00
627-30205	1085	Thermoplastic Pvmnt Marking (W-Symbol)	1,528.00	SF	\$14.60	\$22,308.80
627-30210	1090	Thermoplastic Pvmnt Marking (X-Stop)	2,465.00	SF	\$10.75	\$26,498.75
630-00012	1095	Traff Control & Management	1.00	LS	\$78,000.00	\$78,000.00
	1100	Potholing	80.00	HR	\$250.00	\$20,000.00
	1105	Earthwork - Roadway Alignments - Embankment	59,800.00	CY	\$5.75	\$343,850.00
	1110	Earthwork - Ponds	33,388.00	CY	\$6.02	\$200,995.76
	1115	Earthwork - Channels	3,978.00	CY	\$7.60	\$30,232.80

**CONFLUENCE DRIVE
ALTERNATE TRUCK ROUTE BYPASS**
City of Delta, Colorado



EXHIBIT A

<i>Item Number</i>	<i>Line Item</i>	<i>Description</i>	<i>Plan Quantity</i>	<i>Units</i>	<i>Unit Price</i>	<i>Total</i>
	1120	Earthwork - RR Cut	31,175.00	CY	\$5.10	\$158,992.50
	1125	Earthwork - Unclassified (Muck)	11,021.00	CY	\$3.80	\$41,879.80
	1130	Earthwork - Unclassified (Beet Waste)	7,500.00	CY	\$2.95	\$22,125.00
	1135	6" Asphalt	23,082.00	TN	\$80.00	\$1,846,560.00
	1140	4" Asphalt	2,593.00	TN	\$85.00	\$220,405.00
	1145	Saw Cut Asphalt (4" to 6" Thick)	2,427.00	LF	\$3.30	\$8,009.10
SUB-TOTAL - DIRECT COST - GENERAL CONDITIONS -						\$14,635,314.45 \$1,683,975.55
SUB-TOTAL - HOME OFFICE EXPENSES AND PROFIT -						\$16,319,290.00 \$1,554,551.00
SUB-TOTAL - BOND -						\$17,873,841.00 \$95,159.00
TOTAL BASE CONTRACT -						\$17,969,000.00

CONTRACT ALTERNATES

202-00010	1205	Removal of Tree	1.00	EA	\$170.46
202-00700	1210	Removal of Light Standard	1.00	EA	\$550.00
202-00810	1215	Removal of Ground Sign	1.00	EA	\$141.48
210-00000	1220	Relocate Pins	1.00	EA	\$300.00
207-00205	1225	Topsoll	1.00	CY	\$22.55
212-00006	1230	Seeding (Native)	1.00	ACRE	\$700.00
212-00003	1235	Mulching (Weed Free)	1.00	ACRE	\$2,394.00
610-00030	1240	Median Cover Material (Conc)	1.00	SF	\$9.07
	1245	5 Ft Cobble Landscape Border Median	1.00	SF	\$13.15
	1250	Track Salvage	1.00	LS	(\$166,657.76)

DELTA - CONFLUENCE DRIVE - ATR

EXHIBIT A - CLARIFICATIONS

- Railroad Flagging as required is not included in the cost of this project. Railroad Flagging will be reimbursed to the contractor at actual cost on a Force Account basis. Hamon has included the Railroad Protective Insurance.
- Embankment material will be developed from native sources on the project with the exception that the pavement sub-base as required for the composite pavement section will be R-60.
- The R-60 material furnished to the project will be native pit run material. The majority of the material will be 6 inch minus with some particles as large as 8 inches.
- The City of Delta will provide approximately 12,000 CY of R-60 material stockpiled north of the bridges for use as embankment material at no cost to Hamon Contractors
- Hamon Contractors has not included environmental testing or remediation (including asbestos and lead paint).
- Hamon Contractors has not included the demolition of the existing skating rink.
- Hamon Contractors has not included a Field Office or Field Laboratory for the Owner.
- Hamon Contractors has included Quality Control Testing for: earthwork, concrete, and asphalt paving as required. The City of Delta will provide Quality Assurance oversight.
- Hamon Contractors has included the following permits:
 - Fugitive Dust
 - Storm Water
 - Construction Dewatering
- Hamon Contractors has not included either the 404 Permit or 401 Permit being secured by the City.
- Hamon Contractors has not included vibration monitoring during pile driving.
- The Moment Slab detailed on drawing W19 has been included in its own pay item. Reinforcing steel for the Moment Slab is assumed to be included in the pay item quantities for Reinforcing Steel and Reinforcing Steel (Epoxy).

DELTA - CONFLUENCE DRIVE - ATR

EXHIBIT A - CLARIFICATIONS

- Hamon Contractors has included the Erosion Control Supervisor, Vehicle Tracking Pads, and Removal and Disposal of Sediment as items incidental to the Project.
- Hamon Contractors has included the removal and disposal of approximately 7,000 CY of sugar beet waste.
- Page 17 of the Geotechnical Report states that there is a potential for settlement of 8 to 12 inches under embankments. Hamon Contractors has not included this quantity; should settlement occur, the additional quantities of Embankment and/or Structure Backfill Class 1 will be measured and paid at contract unit prices.
- All costs associated with complying with the UPRR's Right of Entry Agreement will be reimbursed at cost.
- Raw water for moisture/density control and dust suppression will be available from the lake AT NO COST TO THE Contractor.
- Hamon Contractors has included the cost of waterline lowerings and pipe cradles. Sanitary sewer sleeves have not been included in this proposal.
- The cost of stockpiling track to be removed on site for disposal or salvage by the City of Delta is included.
- Muck Excavation will be stockpiled on site to be spread as topsoil. The Muck Excavation pay item includes removal only without replacement.
- Hamon Contractors has included the required filter fabric under the sub-ballast in the unit cost of this item.
- Hamon Contractors has included engineered shop drawings and design calculations for MSE Walls stamped by a Colorado PE for *Internal Stability* only. Global Stability and Foundation Bearing Capacity for MSE Walls shall be the responsibility of the Owner.
- Removals will be stockpiled at a City-provided location, at no cost to the contractor, within five miles of the project.
- Excludes quantities in excess of those listed on this Exhibit A as well as items of work not listed. Quantities and items of work may be added through the Change Order process.

DELTA - CONFLUENCE DRIVE - ATR

EXHIBIT A - CLARIFICATIONS

- **DOCUMENTS INCLUDED:** During the CM/GC process, Hamon Contractors and Stantec agreed that specific design drawings will form the basis of this proposal. These Bid Record Drawings numbered 1 through 234 and the Final Railroad Drawings numbered 1 through 45 are attached to and made a part of this Contract.

- As a result of the fast track basis of the CM/GC project delivery method, the Record Bid Documents, do not reflect all the scope of work changes that have been made. The scope of work for this project is as outlined in our summary of bid items and approximate quantities. Specific items that have been deleted at the request of the City of Delta and/or Stantec are as follows:
 - Removal of any Buildings, Houses or Skate Rink.
 - Removal of Trees.
 - Dump Fees.
 - Removal of Light Standards.
 - Removal of Ground Signs.
 - Relocation of Property Pins.
 - Seeding (Native)
 - Mulching (Weed Free)
 - Imported Topsoil
 - Drilled Caisson (72")
 - Trickle Channels, Linings, Filter Material and/or Seeding at Water Quality and Wetland Ponds.
 - Structural Concrete Coating.
 - Fence Wood (96 Inch)

 - Flashing Beacon
 - Traffic Signal Pedestal Pole Steel.
 - Intersection Detection System (Camera).
 - 12" Plastic Water Main
 - Line and Surface Railroad Track
 - Shift Existing Railroad Track.
 - Railroad Crossover (Ballasted) (Gates, Flashers, Bungalow)
 - Median Cover Material (Concrete)
 - Native Grass Median
 - Stamped Concrete Border Median
 - 5 Ft Cobble Landscape Border Median.
 - Palmer Street Concrete Trail
 - Dry Utility Lowerings/Relocates
 - Steel Encasement of Existing Utilities as Shown on "Record Bid Documents", Plan Sheets 125, 126 and 127.

DELTA - CONFLUENCE DRIVE - ATR

EXHIBIT A - CLARIFICATIONS

- During a meeting to review final quantities held on October 30, 2012 the following changes to the Record Bid Documents were directed by Stantec:

<i>Change Type</i>	<i>Drawing No.</i>	<i>Notes</i>
○ Change drive type to asphalt	PP2	US Tractor entry drive change from conc. to asphalt – to be paid as asphalt patching by the ton.
○ Change drive type to asphalt	PP3	Entry drive into shopping center from conc. to asphalt – to be paid as asphalt patching by the ton.
○ Change drive type to asphalt	PP13	Entry drive on North side of Confluence Drive from conc. to asphalt – to be paid as asphalt patching by the ton.
○ Remove 10' conc. sidewalk	PP2	Remove the 10' wide sidewalk @ north side of A&W/KFC – walk to be performed by the City.
○ Remove 10' conc. sidewalk	PP15	Remove the 10' wide sidewalk – Palmer Trail @ the south/east side of the box – walk to be performed by the City.
○ Eliminate from scope of work	PP3	Work @ the south side of Confluence in the Bank & Hotel entrance including conc. median access & C&G Type 2 Section IB.
○ Eliminate from scope of work	PP17	Remove approximately 360 lineal feet of 1 st Street roadway North West of Frontage Road/1 st Street tie-in.
○ Change asphalt depth from 4" to 6"	PP6, PP7, PP8	Change depth of asphalt on 1 st Street Frontage Road from 4" to 6".
○ Add depressed median	PP6, PP7, PP8	Add depressed median along Confluence Drive from approximate Sta. 36+40-53+10.
○ Change median nose type	PP8	Change median type from concrete to asphalt with painted median from Sta. 54+70-53+00 Confluence Drive.
○ Change median nose type	PP10	Change median type from concrete to asphalt with painted median from Sta. 71+50-73+10 Confluence Drive and Sta. 74+10-76+60.
○ Change median nose type	PP26	Change median type from concrete to asphalt with painted median from Sta. 84+00-84+50 SH 348 North of Confluence Drive.
○ Change scope of work	PP11	On North side of Confluence Drive in front of the building remove the 8' wide shoulder and extend the curb & gutter Type 2 IIB for the length of the building.
○ Change scope of work	PP13	On North side of Confluence Drive from entry drive East to PCR South of building – remove 4' shoulder and replace with curb & gutter Type 2 Section IIB.

- During the October 30, 2012 meeting, the following list of cross pans and drives was developed:

DELTA - CONFLUENCE DRIVE - ATR

EXHIBIT A - CLARIFICATIONS

CROSS PANS:

- Sta 12+00 LT
- Sta 12+60 RT
- Sta 14+25 LT
- Sta 16+23 LT / RT
- Palmer Sta 304+45
- Palmer Sta 310+00 LT
- 2nd Sta 605+00 – 606+00 RT
- 2nd Sta 611+50 – 613+00 RT
- 3rd Sta 44+75 LT

DRIVES (PCC CITY DETAIL):

- Sta 18+75 LT
- 1st Sta 510+33 RT
- 1st Sta 510+80 RT
- 1st Sta 511+20 RT
- 5th Sta 53+00 LT
- 5th Sta 53+75 LT
- 348 Sta 81+50 LT
- 348 Sta 86+20 LT



MEMO

To: *Mayor and Council*

From: *Jim Hatheway, Public Works Director*

Date: *31 October 2012*

Subject: *Confluence Drive Construction Management and Engineering Change Order for Stantec*

RECOMMENDATION

The Public Works Department is recommending that the City execute a Change Order for Stantec to allow them to transition into the Construction Management role for the Confluence Drive Project.

BACKGROUND

There are two components for this Change Order.

1. The first is to approve additional budget dollars to pay for the required engineering support during truck route construction. During construction, there are submittals that need to be reviewed for compliance with the project plans and specifications, request for information responses and other coordination that needs to occur between the design engineer and the construction company. State law also requires the design engineer to be present during the construction of the overpasses to verify compliance with the structural design. (See Exhibit A)
2. The second is to allow Stantec to provide Construction Management services during construction to verify quantities, and strict compliance with the design and specifications. This scope also includes Quality Assurance testing for soils and other materials placement. (See Exhibit B)

In order to verify that the costs proposed by Stantec for Construction Management were not excessive, the City commissioned Jacobs in December 2011 to review the scope prepared by Stantec and provide a similar cost proposal (fee analysis). Stantec's proposal was \$412,000 as compared to Jacobs cost estimate of \$440,744. Stantec's updated cost on 30 October 2012 for the same scope is \$429,150, which is still below the fee analysis provided by Jacobs in 2011.

As part of the fee evaluation process, Stantec also commissioned a fee analysis for the geotechnical QA services. This process resulted in finding a qualified geotechnical firm (Kleinfelder) that could provide the services at a savings to the City. The final cost of the QA related work is \$100,260.

COST

These scopes have been budgeted in 80-19-31600. The cost associated with the Engineering component is a not to exceed cost of \$423,358. The cost of the Construction Management and QA component is a not to exceed cost of \$529,410. Total cost for the change order is a not to exceed cost of \$952,768.

ACTIONS TO BE TAKEN IF APPROVED

Staff will issue a change order to the existing contract for the scopes and not to exceed costs provided by Stantec.

SUGGESTED MOTION

I move the City approve a Change Order to the Stantec Contract for Engineering, Construction Management and QA services for the Confluence Drive Project and authorize the Public Works Director to execute the Change Order. (Opposition to the motion would be indicated by a 'no' vote)

Confluence Drive

Construction Phase ~ Engineering ~ Scope of Work Exhibit A

October 30, 2012

DEFINITIONS:

Owner	City of Delta
Consultant	Stantec Consulting Services, Inc. and any personnel provided through this agreement to perform consultant construction phase services as described below
Contractor	The performing builder under contract to the City of Delta to construct Confluence Drive in accordance with the Plans and Specifications

PROJECT STAFF:

Stantec will provide a project team to assist the City of Delta during the construction of Confluence Drive. The following personnel have been selected for this task:

- Construction Phase Project Manager – Rob Pratt, PE
- Construction Phase Structural Project Manager – Paul Greco, PE
- Construction Engineering Support – Charlene Sammons, PE
- Construction Observer (full-time on site) – Roy Warner
- Construction Observer (on site as needed) – Kleinfelder
- Materials Testing and Inspection Firm – Kleinfelder
- Materials Testing Technician (part-time on site) – Kleinfelder

All members of the above team, have extensive experience working on similar projects for CDOT and other public agencies.

PROJECT STANDARDS:

For the purposes of this document, Construction Administration, Observation, and Materials Testing shall be known as “the work”, and shall be in accordance with the Colorado Department of Transportation (CDOT) Construction Manual, Standard Specifications for Road and Bridge Construction including Supplemental Specifications, CDOT M&S Standards, CDOT Field Materials Manual, Standard Special Provisions, Project Special Provisions, and City of Delta Standards and Specifications, currently in use when this construction project is advertised. All work performed shall be in accordance with these cited references, or as authorized by the Owner.

Rob Pratt PE, Paul Greco PE, and Charlene Sammons PE, will be available on a time and materials basis to assist in answering any design-related questions that may arise in the field. Rob will attend each bi-weekly on-site coordination meeting, and Paul will attend one on-site coordination meeting per month (as necessary).

WORK DURATION:

The time period for the work described in this scope is estimated to be 60 weeks, beginning with the Pre-Construction Meeting in mid-November, 2012 and project conclusion at the end of December, 2013.

AUTHORIZATION TO PROCEED:

Work shall not commence until the consultant receives written Notice To Proceed from the City of Delta Public Works Director. The work shall be completed in the time specified.

PRE-CONSTRUCTION ACTIVITIES:

Consultant construction phase services to assist the City of Delta Public Works Director begin with the Pre-Construction Conference.

CONSTRUCTION ENGINEERING SERVICES:

The following tasks will be performed by Stantec project staff during the course of construction. These items will be performed on an “as-needed” basis and billed as time & materials:

- Review and accept/reject shop drawings
- Maintain a log of all submittals which includes the following:
 - Submittal Description
 - Date Received
 - Date transmitted back to sender
- Review the construction contractor’s shop drawings for conformance and compliance with the contract documents, the provision of the current “Standard Specifications for Road and Bridge Construction” and with the time frames shown in the CDOT specifications in conjunction with the contract work.

-
- Structural Engineering on site as needed during the following:
 - Pile driving/caisson drilling
 - Major concrete placements
 - Placement of girders
 - Monthly Progress Reports
 - Provide Engineering and Drafting Services for revisions required due to plan corrections/updates
 - Review Methods of Handling Traffic (MHTs) proposed by the contractor – recommendations will be made to City for acceptance.
 - Answer Requests for Information (RFIs) from the contractor.
 - Attend bi-weekly on-site coordination meetings.
 - Attend final walk through and develop punch list.
 - Review permits.
 - Assist the City of with Public Information services.

RECORD DRAWINGS:

- Record Drawings and an as-built survey are not part of this scope of services.

ONGOING DESIGN SERVICES:

Assist the City of Delta with on-going design services, including:

- Have staff available to assist in minor re-design efforts.
- Work with City staff to avoid conflicts such as utilities, due to discrepancies between the design and actual field conditions.

NOT INCLUDED ITEMS:

The Following items are not included in this scope of work. If requested they can be provided for a negotiated additional fee.

- Construction Staking
- Development of a Newsletter
- Public Process
- Website Development
- Record Drawings

Confluence Drive

Construction Phase ~ Observation ~ Scope of Work Exhibit B

October 30, 2012

DEFINITIONS:

Owner	City of Delta
Consultant	Stantec Consulting Services, Inc. and any personnel provided through this agreement to perform consultant construction phase services as described below
Contractor	The performing builder under contract to the City of Delta to construct Confluence Drive in accordance with the Plans and Specifications

PROJECT STAFF:

Stantec will provide a project team to assist the City of Delta during the construction of Confluence Drive. The following personnel have been selected for this task:

Construction Phase Project Manager – Rob Pratt, PE

Construction Phase Structural Project Manager – Paul Greco, PE

Construction Engineering Support – Charlene Sammons, PE

Construction Observer (full-time on site) – Roy Warner

Construction Observer (on site as needed) – Kleinfelder

Materials Testing and Inspection Firm – Kleinfelder.

Materials Testing Technician (part-time on site) – Kleinfelder

All members of the above team, have extensive experience working on similar projects for CDOT and other public agencies.

PROJECT STANDARDS:

For the purposes of this document, Construction Administration, Observation, and Materials Testing shall be known as “the work”, and shall be in accordance with the Colorado Department of Transportation (CDOT) Construction Manual, Standard Specifications for Road and Bridge Construction including Supplemental Specifications, CDOT M&S Standards, CDOT Field Materials Manual, Standard Special Provisions, Project Special Provisions, and City of Delta Standards and Specifications, currently in use when this construction project is advertised. All work performed shall be in accordance with these cited references, or as authorized by the Owner.

WORK DURATION:

The time period for the work described in this scope is estimated to be 60 weeks, beginning with the Pre-Construction Meeting in mid-November, 2012 and project conclusion at the end of December, 2013. Construction phase services by the consultant will be required during the Contractor’s restricted work hours in accordance with the work time limitations provided in the Project Special Provisions (Construction Zone Traffic Control - Revision of Section 630).

Roy Warner will be on the project 50 hours per week for the duration of the 60 weeks (3000 hours). A second Observer doubling as the QA Field Technician will be assisting Roy Warner 40 hours per week for 50 weeks (2000 hours). Our project staff will live in the area during active construction of the project. The consultant supervisory staff will review daily reports, progress reports, and assist with technical issues as required.

AUTHORIZATION TO PROCEED:

Work shall not commence until the consultant receives written Notice To Proceed from the City of Delta Public Works Director. The work shall be completed in the time specified.

PRE-CONSTRUCTION ACTIVITIES:

Consultant construction phase services to assist the City of Delta Public Works Director begin with the Pre-Construction Conference.

CONSTRUCTION ACTIVITIES:

Review shop drawings, diagram illustrations, brochures, catalog data, mix designs, materials data (including slump tests, density tests, and moisture tests), inspections and other data which the contractor is required to submit. All Contractor submittals shall indicate conformance with the design concept of the Project and compliance with the information given in the Contract Documents resulting from but not limited to:

- Results of Materials Testing
- Traffic Control Plans
- Progress Schedules
- Method Statements

Provide the following documentation, reports, and billing on a routine basis:

- Maintain a Log of Submittals from the Contractor showing the current status of all submittals.
- Perform independent field measurements and on-site observations needed to verify quantity of contractor's work which is acceptable for payment in accordance with the Contract Documents.
- Maintain a daily diary for each day the construction observer is on the project. The contents of the diary shall be brief and accurate statements of progress and conditions encountered during the prosecution of the work. Editorial comments are not to be incorporated in the diaries or any written correspondence applicable to the project.
- Maintain communication with the City of Delta regarding project progress, problems, and any possible modifications to project plans.
- Serve as the City's representative in communicating with the Contractor. Stantec personnel will make recommendations to the City where warranted, relating to the execution and progress of the Contractor's work.
- Conduct weekly coordination meetings to be attended by the Owner, Consultant, Contractor, and others as necessary.
- Monitor contractor's work for compliance with contract plans and specifications.
- Analyze Contractor's progress at each monthly payment, for current and forecasted status with the Contractor's Schedule.
- Analyze Contractor requests for additional time and/or compensation.
- Review and comment on changed conditions as necessary for City of Delta approval of Change Orders. Consultant personnel will provide documentation of the change, justification of the change, and a formal recommendation regarding the change, to the City of Delta.
- Anticipate project problems and direct solutions to the City of Delta Public Works Director.
- Document all revisions made to the planned work during the construction period and submit all revisions immediately to City of Delta and to the construction phase Project Manager. Consultant engineering staff will prepare drawings of the revisions once the project is completed.
- Work with adjacent landowners to resolve issues that arise due to construction.
- Perform construction observation and materials testing as required by CDOT Manuals and guides to assure that Contractor's work is in conformance with the plans and specifications.
- Schedule and provide adequate construction observation staffing so that the construction phase Project Manager may make certification for payment of Contractor's work at interim payments and at final acceptance of the project. Note: Computers, cellular telephones and a digital camera will be provided by Stantec Corporation.
- Monitor Contractor's compliance with the approved Method of Handling Traffic (MHT). Any detected noncompliance will be immediately reported to the contractor and/or appropriate City Officials.

-
- Personnel provided by the consultant who do not meet the specified requirements, or who fail to perform their work in an acceptable manner, shall be removed from the project when determined and directed by the City of Delta.
 - Conduct a formal inspection (walk-through) with representatives of the City of Delta to determine if the project is substantially complete, and prepare a letter of “Substantial Completion” indicating uncompleted work items.
 - Make a final inspection to determine if the project has been completed in accordance with the Contract Documents, and that the punch list items have been completed. Consultant personnel will submit any recommendations concerning project status, as it may affect the City of Delta’s final payment to the contractor(s).
 - Consultant will not direct activities of the performing Contractor. Consultant will provide any clarification needed to relay design intent of the Plans and Specifications, and will provide information regarding decisions made by the Owner. The performing Contractor is solely responsible for managing the construction operations.

FIELD REPRESENTATIVE REQUIREMENTS:

The Construction Administration team being proposed by Stantec is experienced and knowledgeable. This team has successfully worked together on other transportation infrastructure projects on the western slope of Colorado with similar design guidelines specs and CDOT involvement. Roy and Rob have an understanding and appreciation of each other’s skill sets which has proven to be very beneficial on projects in the past. Roy brings with him the following skills and knowledge which will benefit the contractor and City through the duration of the project:

- 40 Years Engineering and Construction Management Experience
- Engineering Intern (EI)
- Over 20 years CDOT Experience
- ACI Transportation Construction Inspector
- CRMCA Pavement Inspector
- ACI Laboratory Technician
- CAPA Certified Asphalt Paving Inspector Certification
- CDOT Core Curriculum (Hwy Math, Hwy Surveying, Hwy Plans Reading)
- WAQT Soils Certification
- ACI Concrete Inspector
- ACI Field Tech – Level 1
- OSHA Trained in Hazardous Materials & Disposal
- Erosion Control Supervisor
- Traffic Control Supervisor

CONSTRUCTION QUALITY ASSURANCE TESTING

Project Standards

Construction Management, Inspection and Testing shall be in accordance with the Colorado Department of Transportation (CDOT) Construction Manual and the applicable Standard Specifications for Road and Bridge Construction and Supplement, project Standard and Special Provisions, project plans, CDOT M&S Standards, CDOT Field Materials Manual, and other Field Manuals currently in use when the construction project is advertised. All personnel shall report to the project with all associated standards and manuals.

Work Duration

The time period for the work described in this Scope of Work will last approximately 50 weeks. Work may be required night and/or day, on weekends, holidays, and/or on a split shift basis. Work weeks may be in excess of or less than the standard 40 hour week.

Labor, Vehicles, and Equipment

The Consultant shall assign personnel for the duration of the Task Order unless otherwise approved by the Engineer.

The Consultant Project Tester(s) / Inspector(s) will be thoroughly familiar with CDOT and City of Delta specifications, manuals, forms, test procedures and documentation requirements. Personnel provided by the Consultant who do not meet all of the specified requirements, or who fail to perform their work in an acceptable manner, shall be removed from the project when determined and directed by the Engineer.

The Consultant shall furnish all personnel, each with a suitable vehicle (equipped with a flashing amber beacon), cellular phone, computer, and miscellaneous equipment (calculators, office supplies, safety equipment, generic software, etc.) required to perform the work.

The Consultant shall inform the Project Engineer, in a timely manner, of all planned and unplanned absences, or when there is an occurrence of not being able to report to work on-time.

PROJECT MATERIALS TESTING

General work description for project materials testing

The consultant shall sample, test and inspect those specified materials utilized in construction. Test results and inspection observations shall be documented and approved by the Engineer in accordance with the references cited below under project standards. Project specific work will be defined by task order, prior to work commencing.

Management of consultant project materials testing

The consultant tester / inspector shall follow the requirements of CP-16 to meet, coordinate and schedule the required work. The consultant shall complete all work in accordance with their approved schedule.

Project staffing authority

The project engineer is in direct charge of the work and is responsible for administration of the project contract as defined in the standard specifications. This includes approving and setting work hours for both project construction and the materials testing.

Project standards

All sampling, testing, and documentation shall be in accordance with the Colorado Department of Transportation (CDOT) Field Materials Manual, Construction Manual, CDOT M&S Standards and applicable Project and Standard Special Provisions in the construction project contract and the applicable CDOT Standard Specifications for Road and Bridge Construction. The applicable CDOT Field Materials Manual, including Colorado Procedures and Laboratory Manual of Test Procedures, shall be the one currently in use when the construction project is advertised. If the required method is not described in the CDOT Field Materials Manual, the required work shall be completed in accordance with the current AASHTO Standard Specifications for Transportation Materials and Methods of Sampling and Testing (as revised and supplemented) or the ASTM Standards and Tentatives. Proposed work procedures shall be coordinated with the Engineer prior to the start of work.

Sampling and testing will be conducted at a rate of approximately one (1) assurance test for each five (5) quality control tests, or testing will be conducted at a minimum in accordance with the Independent Assurance Schedule listed in the Materials Manual. The testing technician will be contacted by the project engineer when tests are requested.

Labor, materials, and equipment

The consultant shall furnish all personnel, materials, and equipment required to perform the work. Some work will be required at the consultant laboratory located in Grand Junction. The engineer will advise the consultant on the availability of the field laboratory. When a field laboratory is not provided, the consultant shall use his own facilities. When the consultant is required to use his own facility, he shall follow the laboratory qualification program requirements contained in the applicable CP-10.

The following equipment and supplies shall be furnished by the consultant for each project in sufficient quantity to ensure performance of all work required in a timely manner. The consultant shall ensure that the testing equipment provided to the project is calibrated and copies of the calibration

record shall be maintained in the project materials files. Such equipment and supplies shall remain the property of the consultant.

1. A.C. content gauge and/or extraction equipment and solvents
2. Nuclear moisture/density gauge
3. Concrete air meter, slump cone, and other concrete testing equipment
4. Sieves for aggregates and soil gradations
5. Scales
6. Sample containers and small tools
7. Proctor equipment for soil curves and 1 point tests
8. Atterberg equipment
9. Sample drying equipment
10. Miscellaneous equipment for performing the required soils, concrete and asphalt field tests
11. Concrete cylinder molds, which conform to AASHTO requirements, except that paper molds shall not be used, and plastic molds shall not be reused
12. Cell phone for each tester
13. Computer and printer for each test lab (CDOT or consultant). This equipment needs to have capability to operate all current CDOT project software as defined in the current migration plan. This includes site manager.
14. Ignition oven for determining asphalt binder content meeting specifications of CPL 5120.

Personnel staffing level and qualifications of testing personnel and laboratories for the project shall be subject to the approval of the Engineer. The Engineer shall receive and review the testing personnel and consultant laboratory qualifications prior to commencement of testing on the project.

Sampling and testing personnel qualifications shall be in conformance with the requirements of the applicable CP-10. Additionally the tester must possess a current and valid Colorado driver's license.

The consultant's work shall be under the direction of, and shall be reviewed, stamped and signed by a professional engineer registered in the state of Colorado. The only work to be stamped will be the summary sheets; i.e., CDOT forms 6, 9, 58, 69, 212, 250, and 554. The project engineer may request that additional forms be stamped. The professional engineer shall be available to review work, resolve problems, and make decisions in a timely manner as requested by the Engineer, and must be experienced and competent in road and bridge construction materials testing. The consultant's professional engineer shall stamp all project material testing summary sheets and the final project Form #250.

Copies of the tester's required certifications and a resume including his/her materials testing experience shall be provided to the Engineer.

The materials testing technician(s) shall be thoroughly familiar with CDOT testing procedures, forms and documentation requirements. If oversight is necessary, the consultant shall provide the supervision and guidance needed for completion of the work. Oversight required by the consultant will not be paid for by CDOT. The materials testing technician(s) and inspector(s) shall be thoroughly familiar with CDOT forms and documentation requirements.

Personnel provided by the consultant who do not meet all of the specified requirements, or who fail to perform their work in an acceptable manner, shall be removed from the project when determined and directed by the Engineer. Failure to perform the testing and documentation processes may result in termination of the task order as determined by the task order administrator (project manager).

Specific testing requirements:

The consultant shall sample, test, inspect, and document all materials generated and produced on the project at a rate of approximately one assurance test for each five quality control test. This includes: materials delivered to the project that are listed in the summary of approximate quantities in accordance with the Independent Assurance Schedule in the field materials manual; materials that may be added to the project through contract modification; and altered material quantities whether increased or decreased. The consultant's field tester(s) shall be required to review project quantities on a monthly basis to ensure that sufficient tests have been performed for the material placed to date. The consultant shall also provide any other services as requested by the Engineer.

Testing of materials that are specifically designated to be preinspected or pretested by this or any other department of transportation shall remain the responsibility of Delta.

Documentation

Each of the consultant's field testers shall maintain a daily diary for each day the tester performs work on the project. They may use CDOT's Form 103, project diary, or a form as approved by the Engineer. The contents of the diary shall be brief and accurate statement of progress and conditions encountered during the prosecution of the work. Editorial comments are not to be incorporated in the diaries or on any written correspondence applicable to the project. A copy of the daily diary shall be given to the CDOT project engineer within three working days of its date. Test results, sample submittals and inspection documentation transmitted to CDOT's region or central laboratory shall be recorded on appropriate CDOT forms. The consultant's field tester(s) shall be required to review project quantities on a weekly basis to ensure that sufficient tests have been performed for the material placed to date. The consultant may use CDOT worksheets or worksheets approved by the Engineer. CDOT forms and worksheets are available through the residency head tester at no cost to the consultant. The use of electronic spreadsheets is not permitted unless approved by the Project Engineer. When permitted, all original data and worksheets will be included in the project files.

The consultant shall furnish the Engineer with copies of all worksheets on a daily basis. The consultant shall also keep the CDOT Form 626 up to date at all times and provide copies of this form to the Engineer and the contractor daily for tests that meet specifications. For any material found to be out of compliance with the specifications, the consultant shall immediately contact the project engineer and the contractor. Written results shall be provided within 4 hours of any failing test.

The consultant shall be notified of the need for independent assurance tests by the project engineer

Submittal of final documentation:

Final documentation shall be submitted to the Engineer within 20 working days after project acceptance. A completed CDOT Form 250 shall be submitted to the Engineer 10 days after the

consultant has been notified of final quantities. Failure to submit final documentation as required may result in withholding any and all consultant payments.

Documentation

The Consultant's project assigned personnel shall each maintain a daily diary for each day work on the project is performed. CDOT's Automated Form 103a – Project Diary shall be used, unless otherwise approved by the Engineer. The contents of the diary shall be brief and accurate statements of the progress and conditions encountered during the prosecution of the work. Editorial comments are not to be incorporated in the diaries or on any written correspondence applicable to the project. A copy of the daily diary shall be given to the Engineer within one working day of the date on the diary.

The Consultant's project assigned personnel shall each maintain notes, workbooks, records, or other documentation, on an ongoing basis, that can be used to recreate payment quantities, if necessary.

3.1 Submittal of Documentation at Season's End

Documentation required at project end or suspension shall be submitted to the CDOT Project Engineer within 20 working days after the date of work ending. Failure to submit the required final documentation may result in the withholding of Consultant's payments until the documentation is received.

NOT INCLUDED ITEMS:

The Following items are not included in this scope of work. If requested they can be provided for a negotiated additional fee.

- Construction Staking
- Development of a Newsletter
- Public Process
- Website Development
- Record Drawings

Observation - Cost Summary

October 30, 2012

TASK	<u>Stantec</u> Senior Observer	<u>KF</u> Junior Observer	<u>KF</u> Geotech Technician	<u>KF</u> Geotech PM	<u>KF</u> Geotech PE	<u>KF</u> Senior Admin	TASK HOURS	TASK COST
Field Observation	3000	800					3800	\$326,400
QA			1200	96	20	50	1366	\$72,120
Total Hours	3000	800	1200	96	20	50		
Hourly Rate	\$96	\$48	\$48	\$95	\$150	\$48		
Labor Cost	\$288,000	\$38,400	\$57,600	\$9,120	\$3,000	\$2,400	\$398,520	\$398,520

DIRECT EXPENSES

On Site Vehicle (14 Months)		\$14,000
Lodging (14 Months)		\$30,000
Per Diem (14 Months)		\$12,500
Supplies/Other Indirects		\$8,000
KF - Per Diem		\$28,750
KF - Lodging		\$17,500
KF - On site Lab		\$12,000
KF - Lab Equipment		\$2,000
KF - Lab Mobilization		\$3,800
KF - Vehicle		\$2,340
Total Direct Expenses		\$130,890

TOTAL PROJECT COST

\$529,410



MEMO

To: City Council
From: Justin Clifton, City Manager
Date: November 2, 2012
Subject: Budget Item

RECOMMENDATION

Please consider the three enclosed documents pertaining to budget approval.

BACKGROUND

City Council Members requested additional information at the October 16, 2012 Budget Workshop including:

- City Staff Salary Information
- Possible Revenue Associated with the Wellness Pool Project
- Information About the City Flower Program

Enclosed in your packets is information on all three items. Staff will be present to answer any questions.

COST

See enclosed documents

ACTIONS TO BE TAKEN IF APPROVED

Additional direction to staff and possible amendments to the Draft Budget

SUGGESTED MOTION

NA

Salary Comparison FY 2011

Cities Used for Comparison:

Year 2011 City	Population	# of Full Time Employees
Cortez	8,700	130
Craig	9,106	84
Fruita	11,500	62
Glenwood Springs	9,250	165
Grand Junction	55,000	621
Gunnison	5,303	80
Montrose	17,369	183
Rifle	7,500	67

Tips for Reading this Report:

- *These are not actual salaries.
- *This comparison includes Delta's "Open" Salary compared to Mid Market
- *This comparison is not complete. Some positions have less data for comparisons
- *These comparisons are not perfect. Different communities structure positions differently
- *Different communities have different financial constraints, cost of living etc.

2011 Salary Survey for the Year 2012
"Open" salary compared to Mid-Market
Directors

Job Title	Municipalities	Actual
City Manager	Cortez	92,000
	Craig	132,516
	Delta	101,712
	Fruita	104,270
	Glenwood Springs	130,874
	Grand Junction	153,167
	Gunnison	101,525
	Montrose	127,308
	Rifle	105,870
Comm/Dev Director	Cortez	
	Craig	115,978
	Delta	89,190
	Fruita	75,645
	Glenwood Springs	102,504
	Grand Junction	
	Gunnison	85,700
	Montrose	89,417
	Rifle	89,932
Cul. & Rec. Director	Cortez	
	Craig	
	Delta	89,190
	Fruita	75,824
	Glenwood Springs	
	Grand Junction	
	Gunnison	78,000
	Montrose	
	Rifle	81,241
	<i>Carbondale</i>	<i>79,151</i>
Finance Director	Cortez	81,141
	Craig	106,808
	Delta	89,190
	Fruita	83,408
	Glenwood Springs	100,004
	Grand Junction	110,069
	Gunnison	89,300
	Montrose	89,700
	Rifle	95,639

2011 Salary Survey for the Year 2012
"Open" salary compared to Mid-Market
Directors

Job Title	Municipalities	Actual
Golf Director	Cortez	
	Craig	
	Delta	71,739
	Fruita	
	Glenwood Springs	
	Grand Junction	76,381
	Gunnison	
	Montrose	
	Rifle	
	<i>Lafayette</i>	<i>70,590</i>
Parks Director	Cortez	63,304
	Craig	77,398
	Delta	71,698
	Fruita	72,384
	Glenwood Springs	77,656
	Grand Junction	108,816
	Gunnison	78,000
	Montrose	66,673
	Rifle	72,384
	Chief of Police	Cortez
Craig		106,808
Delta		97,594
Fruita		83,034
Glenwood Springs		102,381
Grand Junction		120,141
Gunnison		89,500
Montrose		92,100
Rifle		103,768
Public Works Director		Cortez
	Craig	111,316
	Delta	89,190
	Fruita	79,456
	Glenwood Springs	104,942
	Grand Junction	117,218
	Gunnison	83,100
	Montrose	90,400
	Rifle	95,639

2011 Salary Survey for the Year 2012
"Open" salary compared to Mid-Market
Directors

Job Title	Municipalities	Actual
Utilities Director	Cortez	
	Craig	
	Delta	93,933
	Fruita	
	Glenwood Springs	88,389
	Grand Junction	117,112
	Gunnison	85,200
	Montrose	92,100
	Rifle	95,639
	<i>DMEA</i>	<i>111,000</i>

2011 Salary Survey for the Year 2012
"Open" salary compared to Mid-Market
Administrative Staff

Job Title	Municipalities	<u>Mid/Market</u>
City Clerk	Cortez	48,214
	Craig	80,647 Supervisory
	Delta	43,472
	Fruita	56,320 Supervisory
	Glenwood Springs	59,185 Supervisory
	Grand Junction	76,383 Supervisory
	Gunnison	63,800 Supervisory
	Montrose	61,150 Supervisory
	Rifle	
	<i>Cedaredge</i>	<i>33,314</i>
Muni Judge Clerk	Cortez	28,237
	Craig	
	Delta	25,376
	Fruita	30,073
	Glenwood Springs	
	Grand Junction	
	Gunnison	37,100
	Montrose	38,409
	Rifle	42,708

2011 Salary Survey for the Year 2012
"Open" salary compared to Mid-Market
Finance

Job Title	Municipalities	Mid/Market
Senior Accountant	Cortez	
	Craig	
	Delta	52,936
	Fruita	
	Glenwood Springs	59,185
	Grand Junction	53,952
	Gunnison	49,737
	Montrose	55,590
	Rifle	
Accounting Clerk	Cortez	32,386
	Craig	
	Delta	38,418
	Fruita	
	Glenwood Springs	
	Grand Junction	38,075
	Gunnison	35,600
	Montrose	
	Rifle	
Utilities Billing Clerk	Cortez	
	Craig	45,542
	Delta	40,352
	Fruita	
	Glenwood Springs	40,865
	Grand Junction	
	Gunnison	36,500
	Montrose	37,730
	Rifle	46,126
Cashier	Cortez	
	Craig	
	Delta	29,994
	Fruita	
	Glenwood Springs	
	Grand Junction	
	Gunnison	
	Montrose	
	Rifle	

2011 Salary Survey for the Year 2012
"Open" salary compared to Mid-Market
Finance

Job Title	Municipalities	Mid/Market
Sales Tax/Payroll Tech	Cortez	32,386
	Craig	
	Delta	35,672
	Fruita	
	Glenwood Springs	
	Grand Junction	38,075
	Gunnison	
	Montrose	41,195
	Rifle	

2011 Salary Survey for the Year 2012
"Open" salary compared to Mid-Market
Community Development

Job Title	Municipalities	Mid/Market
Admin Asst/Sec	Cortez	
	Craig	
	Delta	31,533
	Fruita	
	Glenwood Springs	
	Grand Junction	32,387
	Gunnison	
	Montrose	32,278
	Rifle	
	<i>Delta County</i>	<i>38,401</i>
Building Official	Cortez	
	Craig	63,084
	Delta	50,398
	Fruita	
	Glenwood Springs	68,636
	Grand Junction	
	Gunnison	68,700
	Montrose	69,620
	Rifle	70,789
Code Enforcement	Cortez	
	Craig	49,404
	Delta	40,352
	Fruita	
	Glenwood Springs	
	Grand Junction	46,468
	Gunnison	
	Montrose	51,189
	Rifle	44,692

2011 Salary Survey for the Year 2012
"Open" salary compared to Mid-Market
Police Department

Job Title	Municipalities	Mid/Market
Commander/Asst Chief	Cortez	
	Craig	
	Delta	66,123
	Fruita	
	Glenwood Springs	
	Grand Junction	92,561
	Gunnison	77,543
	Montrose	80,822
	Rifle	
	<i>Delta County</i>	74,212
Police Sergeant	Cortez	48,568
	Craig	58,168
	Delta	57,034
	Fruita	
	Glenwood Springs	65,330
	Grand Junction	75,899
	Gunnison	62,100
	Montrose	63,115
	Rifle	
	<i>Delta County</i>	55,932
Police Officer	Cortez	40,082
	Craig	47,850
	Delta	45,656
	Fruita	
	Glenwood Springs	55,479
	Grand Junction	56,597
	Gunnison	49,500
	Montrose	50,439
	Rifle	
	<i>Delta County</i>	46,503
Evidence Custodian	Cortez	32,386
	Craig	
	Delta	38,418
	Fruita	
	Glenwood Springs	
	Grand Junction	44,170
	Gunnison	
	Montrose	
	Rifle	
	<i>Canon City</i>	37,350

2011 Salary Survey for the Year 2012
"Open" salary compared to Mid-Market
Police Department

Job Title	Municipalities	Mid/Market
Victim Advocate	Cortez	34,986
	Craig	
	Delta	43,472
	Fruita	
	Glenwood Springs	
	Grand Junction	47,045
	Gunnison	
	Montrose	41,738
	Rifle	
	<i>Delta County</i>	41,470
Police Records	Cortez	32,386
	Craig	43,732
	Delta	38,418
	Fruita	
	Glenwood Springs	39,868
	Grand Junction	38,075
	Gunnison	
	Montrose	37,730
	Rifle	39,545
	<i>Delta County</i>	32,876

2011 Salary Survey for the Year 2012
"Open" salary compared to Mid-Market
Public Works

Job Title	Municipalities	Mid/Market
Public Works Supervisor	Cortez	
	Craig	
	Delta	58,448
	Fruita	
	Glenwood Springs	
	Grand Junction	
	Gunnison	61,000
	Montrose	65,442
	Rifle	65,244
	<i>Delta County</i>	<i>59,605</i>
GIS Specialist	Cortez	42,514
	Craig	
	Delta	51,667
	Fruita	
	Glenwood Springs	
	Grand Junction	49,451
	Gunnison	
	Montrose	71,645
	Rifle	60,132
	<i>Delta County</i>	<i>53,240</i>
Lead Muni/Service/Worker	Cortez	
	Craig	
	Delta	44,533
	Fruita	
	Glenwood Springs	41,887
	Grand Junction	48,054
	Gunnison	47,300
	Montrose	
	Rifle	
	<i>Delta County</i>	<i>42,682</i>
Muni/Service/Worker	Cortez	32,240
	Craig	
	Delta	35,672
	Fruita	32,694
	Glenwood Springs	
	Grand Junction	
	Gunnison	33,000
	Montrose	34,915
	Rifle	
	<i>Delta County</i>	<i>37,195</i>

2011 Salary Survey for the Year 2012
"Open" salary compared to Mid-Market
Public Works

Job Title	Municipalities	Mid/Market
Street Sweeper	Cortez	32,240
	Craig	43,732
	Delta	34,798
	Fruita	
	Glenwood Springs	38,896
	Grand Junction	42,988
	Gunnison	
	Montrose	37,200
	Rifle	44,946
Correction Crew Supervisor	Cortez	
	Craig	51,455
	Delta	45,656
	Fruita	46,720
	Glenwood Springs	
	Grand Junction	
	Gunnison	51,300
	Montrose	
	Rifle	52,424

2011 Salary Survey for the Year 2012
"Open" salary compared to Mid Market
City Shop

Job Title	Municipalities	Mid/Market
Lead Mechanic	Cortez	50,690
	Craig	
	Delta	58,448
	Fruita	
	Glenwood Springs	48,576
	Grand Junction	
	Gunnison	58,428
	Montrose	49,328
	Rifle	
Mechanic	Cortez	40,882
	Craig	49,404
	Delta	41,371
	Fruita	
	Glenwood Springs	44,008
	Grand Junction	46,326
	Gunnison	43,500
	Montrose	43,164
	Rifle	52,424
	<i>Delta County</i>	42,177
Fleet Manager	Cortez	76,981
	Craig	
	Delta	66,123
	Fruita	
	Glenwood Springs	60,665
	Grand Junction	65,349
	Gunnison	60,300
	Montrose	65,442
	Rifle	

2011 Salary Survey for the Year 2012
"Open" salary compared to Mid Market
ML&P

Job Title	Municipalities	Mid/Market
Electric Supervisor	Cortez	
	Craig	
	Delta	66,123
	Fruita	
	Glenwood Springs	62,182
	Grand Junction	
	Gunnison	69,900
	Montrose	
	Rifle	
	<i>DMEA</i>	<i>74,214</i>
Line Crew Chief	Cortez	
	Craig	
	Delta	55,619
	Fruita	
	Glenwood Springs	63,736
	Grand Junction	
	Gunnison	63,800
	Montrose	
	Rifle	
Journey Line Person	Cortez	
	Craig	
	Delta	54,267
	Fruita	
	Glenwood Springs	62,182
	Grand Junction	
	Gunnison	60,700
	Montrose	
	Rifle	
	<i>DMEA</i>	<i>68,765</i>
Apprentice Line Person	Cortez	
	Craig	
	Delta	39,374
	Fruita	
	Glenwood Springs	54,959
	Grand Junction	
	Gunnison	
	Montrose	
	Rifle	
	<i>DMEA</i>	<i>56,098</i>

2011 Salary Survey for the Year 2012
"Open" salary compared to Mid Market
Waste Water

Job Title	Municipalities	Mid/Market
Chief Plant Operator	Cortez	
	Craig	55,797
	Delta	59,925
	Fruita	
	Glenwood Springs	56,333
	Grand Junction	71,780
	Gunnison	62,500
	Montrose	57,461
	Rifle	61,148
Plant Operator - D Lic.	Cortez	
	Craig	
	Delta	42,390
	Fruita	
	Glenwood Springs	40,865
	Grand Junction	
	Gunnison	
	Montrose	37,200
	Rifle	44,946
Plant Operator - C Lic.	Cortez	
	Craig	40,328
	Delta	42,390
	Fruita	
	Glenwood Springs	
	Grand Junction	
	Gunnison	
	Montrose	39,958
	Rifle	48,541
Lab Technician	Cortez	
	Craig	42,008
	Delta	42,390
	Fruita	
	Glenwood Springs	
	Grand Junction	48,231
	Gunnison	42,900
	Montrose	
	Rifle	

2011 Salary Survey for the Year 2012
"Open" salary compared to Mid Market
Waste Water

<u>Job Title</u>	<u>Municipalities</u>	<u>Mid/Market</u>
Environmental Officer	Cortez	
	Craig	
	Delta	49,171
	Fruita	
	Glenwood Springs	
	Grand Junction	
	Gunnison	
	Montrose	
	Rifle	
	<i>Delta County</i>	47,639

2011 Salary Survey for the Year 2012
"Open" salary compared to Mid Market
Refuse

<u>Job Title</u>	<u>Municipalities</u>	<u>Mid/Market</u>
Refuse Worker	Cortez	40,206
	Craig	
	Delta	35,672
	Fruita	
	Glenwood Springs	
	Grand Junction	
	Gunnison	36,900
	Montrose	37,200
	Rifle	41,616

2011 Salary Survey for the Year 2012
"Open" salary compared to Mid Market
Recreation Center

Job Title	Municipalities	Mid/Market
Aquatics Manager	Cortez	
	Craig	38,387
	Delta	43,472
	Fruita	
	Glenwood Springs	47,392
	Grand Junction	
	Gunnison	47,300
	Montrose	
	Rifle	
Rec Coordinator	Cortez	
	Craig	47,418
	Delta	43,472
	Fruita	38,834
	Glenwood Springs	44,008
	Grand Junction	48,231
	Gunnison	43,600
	Montrose	
	Rifle	47,078
Custodian	Cortez	
	Craig	
	Delta	27,872
	Fruita	
	Glenwood Springs	
	Grand Junction	28,961
	Gunnison	
	Montrose	31,530
	Rifle	
	<i>Delta County</i>	<i>28,061</i>

2011 Salary Survey for the Year 2012
"Open" salary compared to Mid Market
Golf Course

<u>Job Title</u>	<u>Municipalities</u>	<u>Mid/Market</u>
Golf Superintendant	Cortez	40,882
	Craig	
	Delta	55,619
	Fruita	
	Glenwood Springs	
	Grand Junction	76,381
	Gunnison	
	Montrose	
	Rifle	

2011 Salary Survey for the Year 2012
"Open" salary compared to Mid Market
Parks

<u>Job Title</u>	<u>Municipalities</u>	<u>Mid/Market</u>
Parks Superintendant	Cortez	50,118
	Craig	
	Delta	55,619
	Fruita	
	Glenwood Springs	60,665
	Grand Junction	76,383
	Gunnison	51,800
	Montrose	65,442
	Rifle	

Memo



Paul Suppes
Parks Director
874-7973

To: City Manager, and City Council
From: Paul D. Suppes
Date: 10-31-12
Subject: Flower Questions Follow up.

Questions:

What is the extent of the flower program?

Background history:

- Began in the late 80's and has grown marginally since.
- Major cost growth has been in the cost of purchasing plants.
- Some expansion has been funded by reduced cost in other areas (spring tulips and pansies/ fall decorations).

Current status:

- 2 gardeners (1200 hrs per season/ approximately \$28,000)
- Approximately \$9,200 in flowers
- 67 flower pots, 11 medians and 13 flower beds throughout the City.

What does the future hold?

- City Council and staff should decide path forward. Options include:
 - Master Planning public landscaping
 - Deal with expansions during budget time
 - Set financial parameters and let staff allocate resources

What is the agreement with Maverick?

- Previous City Manager made arrangements to extend flowers to Maverick (also wanted other expansion beyond Main St.)
- Maverick was to build beds and bring water
- Parks was to provide soil, Micro sprays and flowers
- Parks was to provide maintenance
 - Each bed will receive about 3 to 6 hours of attention per week throughout the summer.
 - Cost is about \$1,350 for the 3 beds (\$450 per bed for planting and about \$30 to \$60 per week for labor)

Cost of the Maverick beds:

- Will not add to the seasonal labor budget
- We will drop a couple small beds and reassign the new beds.
- We have harvested approximately 1,000 of this year's bulbs and tubers and will plant next year to save \$8,000 to \$10,000.

Other Considerations:

- Highway 50 South is yet to be determined
- We expect to have 3 added beds of undetermined size.
- Parks Dept. would like to plant the available space as this is the entry point to Delta and we would be able to showcase three different points:
 - A large area with grass and flower beds on the South side
 - A current bed at Pizza Hut
 - A small median by the Stockyards Café
 - Finally a large set of median beds prior to the light plant.
 - We should be able to give Council a more definitive answer after final design

Memo

Date: October 17, 2012
To: Delta City Council
CC: Justin Clifton, City Manager
From: Wilma Erven, Culture & Recreation Director
Re: Anticipated Revenue Increases after Expansion

What was the Question?

What is the anticipated revenue for the Wellness Pool Expansion?

The Challenge: Revenue vs. Value

Actual estimated revenue numbers would be just that, “estimated” at this time. Therefore, in addition to providing estimated opportunities for new revenues, below is supplemental information to help establish the value of the Wellness Pool Expansion.

Expansion Opportunities to Increase Revenues

- Approved Arthritis Foundation Classes due to warm water
- Walking therapy in the warm water and lazy river
- Double the number of Swim Lessons offered
- Increase water fitness classes
- Personal Training in warm water
- Lap pool open all hours not just afternoons
- Increase amenities that are not offered for children in area
- Offer special classes for combating obesity in children as well as adults
- Offer lifeguard games due to additional water space
- Increase in Physical Therapists using the facility

Increased Value:

- Increase of services to the community that have been brought to staffs attention both by personal contact and through the public meetings held for the master plan.
- Availability for keeping all pools open the whole day.
- Funding is available now.
- Funding may not always be available.
- The need to provide the type of expanded facility that best serves the whole community long range.
- The existing therapy pool has lost value due to old age

Additional Information to Consider:

- Citizens voted in 1991 to increase sales tax by 1% with $\frac{3}{4}$ % to sunset in 2011.
- Citizens voted in 2008 to continue the $\frac{3}{4}$ % until 2020.
- Citizens voted in 2010 to have the $\frac{3}{4}$ % used for capital improvements as all as maintenance.
- In 2009 a Master Plan was completed with citizen meetings to take their input
- Master Plan not able to financially be done all at once.
- Fulfilling expectation of capital improvement through a phased process

How do we Measure Success?

- Set goals on expectations
- Develop & implement strategies to achieve these goals
- Continue with our actual participant counts done hourly
- Record numbers of all participants taking part in special activities
- Evaluate the information and make priorities for the uses of new available water.
- Continually monitor performance and adjust to achieve our goals.

Resolution #7, 2012

A RESOLUTION LEVYING GENERAL
PROPERTY TAXES FOR THE YEAR OF 2012
TO HELP DEFRAY THE COSTS OF
GOVERNMENT OF THE CITY OF DELTA,
COLORADO, FOR THE 2013 BUDGET YEAR

WHEREAS, the City Council of the City of Delta, Colorado, has determined that the amount of money necessary to balance the 2012 budget for general operating expenses is \$0.00; and

WHEREAS, the 2012 valuation of assessment for the City of Delta, Colorado, as certified by the County Assessor, is \$80,346,400.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DELTA, COLORADO:

Section 1. That for the purpose of meeting all general operating expenses of the City of Delta during the 2013 budget year, there is hereby levied a tax of 0 mills upon each dollar of the total valuation for assessment of all taxable property within the City for the year 2012.

Section 2. That the City Manager is hereby authorized and directed to immediately certify to the County Commissioners of Delta County, Colorado, the mill levies for the City of Delta as hereinabove determined and set.

Adopted this _____ day of _____, 2012.

Mayor

ATTEST:

City Clerk

Resolution #8, 2012

A RESOLUTION ADOPTING A BUDGET FOR THE CITY OF DELTA, COLORADO, FOR THE CALENDAR YEAR BEGINNING THE FIRST DAY OF JANUARY, 2013, AND ENDING ON THE THIRTY-FIRST DAY OF DECEMBER, 2013

WHEREAS, the City Manager of the City of Delta, pursuant to Section 58 of the City Charter, has prepared and submitted to the City Council of the City of Delta a proposed budget for consideration by the City Council; and

WHEREAS, upon due and proper notice, published in accordance with the requirements of the Charter, the proposed budget has been open to public inspection at the Municipal Building and a public hearing was held November 6, 2012, giving interested taxpayers the opportunity to file or register any objections to the proposed budget; and

WHEREAS, the proposed budget is ready to be acted upon by the City Council.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Delta, Colorado, that the budget as submitted by the City Manager be, and the same hereby is, approved and adopted as the budget for the City of Delta for the year 2013.

Dated this ____ day of _____, 2012.

Mayor

ATTEST:

City Clerk

Council Bill #17, 2012

AN ORDINANCE APPROPRIATING SUMS OF MONEY TO THE VARIOUS FUNDS AND SPENDING AGENCIES IN THE AMOUNTS AND FOR THE PURPOSES SET FORTH BELOW FOR THE CITY OF DELTA, COLORADO, FOR THE 2013 BUDGET YEAR

WHEREAS, the City Council has adopted the annual budget on November 6, 2012; and

WHEREAS, the City Council has made provision therein for revenues in an amount equal to or greater than the total proposed expenditures as set forth in said budget; and

WHEREAS, it is not only required by law, but also necessary to appropriate the revenues provided in the budget to and for the purposes described below, so as not to impair the operations of the City.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DELTA, COLORADO:

Section 1. That the following sums are hereby appropriated from the revenue of each fund, to each fund, as follows:

General Fund	\$ 5,145,951
Conservation Trust Fund	142,000
Recreation Center Fund	4,538,715
City-Wide Capital Improvements Fund	5,047,480
Municipal Light and Power Fund	7,245,947
Sewer Fund	1,894,743
Water Fund	1,963,513
Refuse Fund	648,716
Golf Course Fund	904,751
Internal Service Fund	1,481,139
Employees' Dental Insurance Fund	49,800
Capital Project Fund	22,823,319
Debt Service Fund	1,779,105
Perpetual Care Fund	1,000

ADOPTED on first reading and ordered published this ____
day of _____, 2012.

Mayor

ATTEST:

City Clerk

ADOPTED on second and final reading and ordered published
this ____ day of _____, 2012.

Mayor

ATTEST:

City Clerk



360 Main St. • Delta, Colorado 81416 • Phone (970) 874-7566 • Fax (970) 874-8776

MEMO

To: City Council, City Manager
From: Jolene E. Nelson, City Clerk
Date: November 1, 2012
Subject: Hotel/Restaurant Liquor License Renewal for Days Inn

Recommendation

Staff recommends approval of the Hotel/Restaurant License Renewal for Days Inn located at 903 Main Street. The Police Department's report and recommendation is attached.

Background

The current liquor license expires November 21, 2012. As you may recall, earlier this year they submitted a Report of Changes for their name change from Sundance Best Western to Days Inn.

Cost

There is no cost to the City to renew this license. The applicant has paid the \$500 renewal fee to the State, and the City renewal fee of \$150 as well as the City's \$400 liquor occupation tax for a hotel/restaurant liquor license.

Action to be Taken if Approved

The Mayor and Clerk will sign the renewal application, and the Clerk will mail it to the State, who will review the application and issue the State license.

Suggested Motion

I move to approve the hotel/restaurant liquor license renewal for Days Inn.

APPLICATION DOCUMENTS CHECKLIST AND WORKSHEET

Instructions: This check list should be utilized to assist applicants with filing all required documents for licensure. All documents must be properly signed and correspond with the name of the applicant exactly. All documents must be typed or legibly printed. Upon final State approval the license will be mailed to the local licensing authority. Application fees are nonrefundable.

ITEMS SUBMITTED, PLEASE CHECK ALL APPROPRIATE BOXES COMPLETED OR DOCUMENTS SUBMITTED

I. APPLICANT INFORMATION

- A. Applicant/Licensee identified.
- B. State sales tax license number listed or applied for at time of application.
- C. License type or other transaction identified.
- D. Return originals to local authority.
- E. Additional information may be required by the local licensing authority.

II. DIAGRAM OF THE PREMISES

- A. No larger than 8 1/2" X 11".
- B. Dimensions included (doesn't have to be to scale). Exterior areas should show control (fences, walls, etc.).
- C. Separate diagram for each floor (if multiple levels).
- D. Kitchen - identified if Hotel and Restaurant.

III. PROOF OF PROPERTY POSSESSION

- A. Deed in name of the Applicant ONLY (or)
- B. Lease in the name of the Applicant ONLY.
- C. Lease Assignment in the name of the Applicant (ONLY) with proper consent from the Landlord and acceptance by the Applicant.
- D. Other Agreement if not deed or lease.

IV. BACKGROUND INFORMATION AND FINANCIAL DOCUMENTS

- A. Individual History Record(s) (Form DR 8404-I).
- B. Fingerprints taken and submitted to local authority. (State authority for master file applicants.)
- C. Purchase agreement, stock transfer agreement, and or authorization to transfer license.
- D. List of all notes and loans.

V. CORPORATE APPLICANT INFORMATION (If Applicable)

- A. Certificate of Incorporation (and/or)
- B. Certificate of Good Standing if incorporated more than 2 years ago.
- C. Certificate of Authorization if foreign corporation.
- D. List of officers, directors and stockholders of parent corporation (designate 1 person as "principal officer").

VI. PARTNERSHIP APPLICANT INFORMATION (If Applicable)

- A. Partnership Agreement (general or limited). Not needed if husband and wife.

VII. LIMITED LIABILITY COMPANY APPLICANT INFORMATION (If Applicable)

- A. Copy of articles of organization (date stamped by Colorado Secretary of State's Office).
- B. Copy of operating agreement.
- C. Certificate of Authority (if foreign company).

VIII. MANAGER REGISTRATION FOR HOTEL AND RESTAURANT, TAVERN LICENSES WHEN INCLUDED WITH THIS APPLICATION

- A. \$75.00 fee.
- B. Individual History Record (DR 8404-I).

6. Is the applicant (including any of the partners, if a partnership; members or manager if a limited liability company; or officers, stockholders or directors if a corporation) or manager under the age of twenty-one years?	Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>												
7. Has the applicant (including any of the partners, if a partnership; members or manager if a limited liability company; or officers, stockholders or directors if a corporation) or manager ever (in Colorado or any other state); (a) been denied an alcohol beverage license? <input type="checkbox"/> <input checked="" type="checkbox"/> (b) had an alcohol beverage license suspended or revoked? <input type="checkbox"/> <input checked="" type="checkbox"/> (c) had interest in another entity that had an alcohol beverage license suspended or revoked? <input type="checkbox"/> <input checked="" type="checkbox"/> If you answered yes to 7a, b or c, explain in detail on a separate sheet.													
8. Has a liquor license application (same license class), that was located within 500 feet of the proposed premises, been denied within the preceding two years? If "yes," explain in detail. <input type="checkbox"/> <input checked="" type="checkbox"/>													
9. Are the premises to be licensed within 500 feet of any public or private school that meets compulsory education requirements of Colorado law, or the principal campus of any college, university or seminary? <input type="checkbox"/> <input checked="" type="checkbox"/>													
10. Has a liquor or beer license ever been issued to the applicant (including any of the partners, if a partnership; members or manager if a limited liability company; or officers, stockholders or directors if a corporation)? If yes, identify the name of the business and list any current or former financial interest in said business including any loans to or from a licensee. <input checked="" type="checkbox"/> <input type="checkbox"/>													
11. Does the Applicant, as listed on line 2 of this application, have legal possession of the premises by virtue of ownership, lease or other arrangement? <input checked="" type="checkbox"/> Ownership <input type="checkbox"/> Lease <input type="checkbox"/> Other (Explain in Detail) _____ <input type="checkbox"/> <input type="checkbox"/>													
a. If leased, list name of landlord and tenant, and date of expiration, EXACTLY as they appear on the lease:													
<table border="1" style="width:100%; border-collapse: collapse;"> <tr> <td style="width:35%; height: 20px;">Landlord</td> <td style="width:35%;">Tenant</td> <td style="width:30%;">Expires</td> </tr> </table>	Landlord	Tenant	Expires										
Landlord	Tenant	Expires											
Attach a diagram and outline or designate the area to be licensed (including dimensions) which shows the bars, brewery, walls, partitions, entrances, exits and what each room shall be utilized for in this business. This diagram should be no larger than 8 1/2" X 11". (Doesn't have to be to scale)													
12. Who, besides the owners listed in this application (including persons, firms, partnerships, corporations, limited liability companies), will loan or give money, inventory, furniture or equipment to or for use in this business; or who will receive money from this business. Attach a separate sheet if necessary.													
<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th style="width:35%;">NAME</th> <th style="width:15%;">DATE OF BIRTH</th> <th style="width:20%;">FEIN OR SSN</th> <th style="width:30%;">INTEREST</th> </tr> </thead> <tbody> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </tbody> </table>		NAME	DATE OF BIRTH	FEIN OR SSN	INTEREST								
NAME	DATE OF BIRTH	FEIN OR SSN	INTEREST										
Attach copies of all notes and security instruments, and any written agreement, or details of any oral agreement, by which any person (including partnerships, corporations, limited liability companies, etc.) will share in the profit or gross proceeds of this establishment, and any agreement relating to the business which is contingent or conditional in any way by volume, profit, sales, giving of advice or consultation.													
13. Optional Premises or Hotel and Restaurant Licenses with Optional Premises Has a local ordinance or resolution authorizing optional premises been adopted? Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>													
Number of separate Optional Premises areas requested. _____ (See License Fee Chart)													
14. Liquor Licensed Drug Store applicants, answer the following: (a) Does the applicant for a Liquor Licensed Drug Store have a license issued by the Colorado Board of Pharmacy? COPY MUST BE ATTACHED. Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>													
15. Club Liquor License applicants answer the following and attach: (a) Is the applicant organization operated solely for a national, social, fraternal, patriotic, political or athletic purpose and not for pecuniary gain? <input type="checkbox"/> <input checked="" type="checkbox"/> (b) Is the applicant organization a regularly chartered branch, lodge or chapter of a national organization which is operated solely for the object of a patriotic or fraternal organization or society, but not for pecuniary gain? <input type="checkbox"/> <input checked="" type="checkbox"/> (c) How long has the club been incorporated? _____ (Three years required) <input type="checkbox"/> <input checked="" type="checkbox"/> (d) Has applicant occupied an establishment for three years that was operated solely for the reasons stated above? <input type="checkbox"/> <input checked="" type="checkbox"/>													
16. Brew-Pub License or Vintner Restaurant Applicants answer the following: (a) Has the applicant received or applied for a Federal Permit? (Copy of permit or application must be attached) Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>													
17a. Name of Manager (for all on-premises applicants) <u>MAHENDRA PATEL</u> (If this is an application for a Hotel, Restaurant or Tavern License, the manager must also submit an Individual History Record (DR 8404-I-_____)													
17b. Does this manager act as the manager of, or have a financial interest in, any other liquor licensed establishment in the State of Colorado? If yes, provide name, type of license and account number. Yes No <input type="checkbox"/> <input checked="" type="checkbox"/>													
18. Tax Distraint Information. Does the applicant or any other person listed on this application and including its partners, officers, directors, stockholders, members (LLC) or managing members (LLC) and any other persons with a 10% or greater financial interest in the applicant currently have an outstanding tax distraint issued to them by the Colorado Department of Revenue? Yes No <input type="checkbox"/> <input checked="" type="checkbox"/> If yes, provide an explanation and include copies of any payment agreements.													

19. If applicant is a corporation, partnership, association or limited liability company, applicant must list ALL OFFICERS, DIRECTORS, GENERAL PARTNERS, AND MANAGING MEMBERS. In addition applicant must list any stockholders, partners, or members with OWNERSHIP OF 10% OR MORE IN THE APPLICANT. ALL PERSONS LISTED BELOW must also attach form DR 8404-I (Individual History record), and submit finger print cards to their local licensing authority.

NAME	HOME ADDRESS, CITY & STATE	DOB	POSITION	% OWNED*
M. J. Benekel, Partner	2786 P. L. on Woodley Colorado CA 92882	[REDACTED]	Manager	85%

*If total ownership percentage disclosed here does not total 100% applicant must check this box
 Applicant affirms that no individual other than these disclosed herein, owns 10% or more of the applicant

Additional Documents to be submitted by type of entity

- CORPORATION Cert. of Incorp. Cert. of Good Standing (if more than 2 yrs. old) Cert. of Auth. (if a foreign corp.)
- PARTNERSHIP Partnership Agreement (General or Limited) Husband and Wife partnership (no written agreement)
- LIMITED LIABILITY COMPANY Articles of Organization Cert. of Authority (if foreign company) Operating Agrmt.
- ASSOCIATION OR OTHER Attach copy of agreements creating association or relationship between the parties

Registered Agent (if applicable) _____ Address for Service _____

OATH OF APPLICANT

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. I also acknowledge that it is my responsibility and the responsibility of my agents and employees to comply with the provisions of the Colorado Liquor or Beer Code which affect my license.

Authorized Signature: M. J. Benekel Title: Manager Date: 11/1/12

REPORT AND APPROVAL OF LOCAL LICENSING AUTHORITY (CITY/COUNTY)

Date application filed with local authority: 11/1/2012 Date of local authority hearing (for new license applicants; cannot be less than 30 days from date of application 12-47-311 (1) C.R.S.): _____

THE LOCAL LICENSING AUTHORITY HEREBY AFFIRMS:

- That each person required to file DR 8404-I (Individual History Record) has:
- Been fingerprinted Yes No
 - Been subject to background investigation, including NCIC/CCIC check for outstanding warrants Yes No

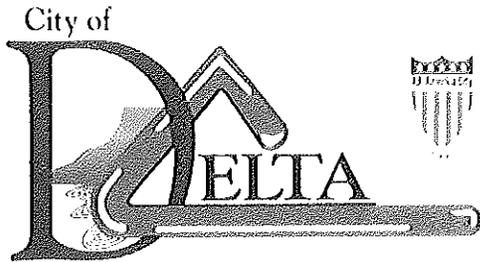
That the local authority has conducted, or intends to conduct, an inspection of the proposed premises to ensure that the applicant is in compliance with, and aware of, liquor code provisions affecting their class of license Yes No

(Check One)
 Date of Inspection or Anticipated Date _____
 Upon approval of state licensing authority.

The foregoing application has been examined; and the premises, business to be conducted, and character of the applicant are satisfactory. We do report that such license, if granted, will meet the reasonable requirements of the neighborhood and the desires of the adult inhabitants, and will comply with the provisions of Title 12, Article 46 or 47, C.R.S. **THEREFORE, THIS APPLICATION IS APPROVED.**

Local Licensing Authority for _____ Telephone Number _____
 TOWN, CITY
 COUNTY

Signature _____ Title _____ Date _____
 Signature (attest) _____ Title _____ Date _____



360 Main St. • Delta, Colorado 81416 • Phone (970) 874-7566 • Fax (970) 874-8776

LIQUOR LICENSE RENEWAL RECOMMENDATION

To: City Council

Re: Application of Pramukh Hospitality, LLC
DBA: Days Inn

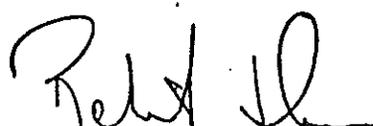
The report sheets show the following liquor violations for the past twelve months for the above named applicant:

No liquor violations in the past twelve months.

Remarks:

Police Department recommendation:

Recommend liquor license renewal.



Robert Thomas, Chief of Police

MEMO



Community Development

www.cityofdelta.net

360 Main St. • Delta, Colorado 81416
Phone (970) 874-7903 • Fax (970) 874-6931

Date: November 6, 2012
To: Mayor, City Council and City Manager
From: Glen L. Black, Director of Community Development *GLB*
Re: Possible Code Revisions to Allow Bench and Bike Rack for CB's Tavern

RECOMMENDATION

Staff is presenting possible code language to allow the placement and maintenance of certain private facilities by permit.

BACKGROUND

CB's Tavern requested permission to place a bench and bike rack in the front of CB's Tavern at 334 Main Street. City of Delta Municipal Code does not have a provision to clearly address this request.

This item was introduced at the October 16, 2012 City Council meeting. Staff and Council concluded that current Code language did not cover the use in question but expressed support for the idea. Council directed staff to propose revised language that would allow for the placement of such public use improvements while reserving control of public spaces.

STAFF REVIEW AND DISCUSSION

Chapter 12 of the Delta Municipal Code provides for an issuance of a permit for the use of public property for private purposes. The pertinent sections are listed below with possible revisions.

12.10.10 Use of public property for private purposes. It shall be unlawful for any person to use public property or rights of way including, but not limited to, that portion of any street right of way outside of the roadway, for private purposes, except as permitted by ordinance, franchise, public right, lease, Council permit, or otherwise in accordance with law. (Ord. 3, §6(part), 1987)

12.10.030 Permits.

A. **Upon application,** The City Council may grant a special permit for the temporary use or occupation of a street, alley or other public property for civic events, parades, special sales or other events of a public or quasi-public nature **or to place certain private facilities, such as benches, bicycle racks and the like for public use.** Upon issuance of a permit, parties must comply with terms and/or conditions for location, size, quality and style of the permitted facilities. The permittee shall maintain the sidewalk and premises in good and safe condition and shall **preserve a minimum of nine feet** of sidewalk **adjacent to the curb** to be clear of obstructions. Any such permit may be revoked by the Council at any time.

1. Any issued permit shall expressly state that it remains fully terminable by the Delta City Council at any time, with or without cause, subject only to the requirement of mailing written notice of termination to the permit holder. Before a permit is issued, the applicant shall provide liability insurance to the City, naming the City as additional insured, to hold harmless, defend and indemnify the City, its officers and employees on account of any claim made or adjudged against the City, its officers or employees.

B. 1. If the limitations of Subsection 12.10.020(A) above are met, along with other applicable requirements of City ordinances or regulations, parties in lawful possession of property in the B-1 Central Business District may utilize a portion of the abutting City sidewalk located on Main Street right-of-way for display of merchandise for sale, **without a permit.**

2. Any person utilizing the sidewalk for these purposes shall maintain the sidewalk and premises in good and safe condition and shall **preserve a minimum of nine feet** of sidewalk **adjacent to the curb** to be clear of merchandise and obstructions.

3. The City Council may revoke or suspend the rights granted herein as it deems appropriate in its sole discretion. No vested right to the use of City sidewalk shall be obtained.

4. There is hereby created a "right of action" against the owners of property abutting City sidewalks which have businesses thereon which make any utilization of the sidewalk pursuant to this Section, on account of their failure to remove snow, ice, debris or obstructions from abutting sidewalks, to maintain abutting sidewalks in a safe condition, or to correct any dangerous condition of such abutting sidewalks. The owners of the abutting property shall be civilly liable for the violation of any provisions of this Section by anyone injured as a result thereby and shall be civilly liable to hold harmless, defend and indemnify the City, its officers and employees on account of any claim made or adjudged against the City, its officers or employees on account of their failure to comply with the provisions of this Section. (Ord. 3, §6(part), 1987; Ord. 15, §1, 1998)

ACTION TO BE TAKEN IF APPROVED

Staff will prepare an ordinance for Council consideration, as directed by the City Council.

SUGGESTED MOTION

I would move that the City Council direct staff to prepare an ordinance to amend the Code as follows

Thank you for your attention.



MEMO

To: City Council
From: Justin Clifton, City Manager
Date: November 2, 2012
Subject: Follow up from October 16, 2012 Council Meeting

RECOMMENDATION

FYI for information purposes only

BACKGROUND

It is of great importance to me as City Manager and the City Leadership Team that City Council is able to get timely and thorough information to the Council when requested. I am also aware that not all items need to be placed on the regular agenda. If it pleases the Council, staff will make use of an agenda item titled "Updates/ Follow Up" to provide additional information to Council as needed. Staff will also use this agenda item to provide updates on a periodic basis.

Question from Oct 16th meeting:

At the October 16, 2012 City Council Meeting Council Member Jurca expressed concerns about observations he made of Delta City Police Officers who looked like they may have been spending work hours engaged in casual interpersonal conversation.

Findings:

A thorough investigation was conducted including call logs, incident reports and other hard data that revealed the officers in question were responding to a missing juvenile report. Although the behavior may have looked more like casual conversation to a bystander, the officers were conferring appropriately to address a potentially serious incident.