



CONTRACT DOCUMENTS

2024 MILL & OVERLAY – ARAPAHO HILLS

City Project No. 24-03

CONSTRUCTION CONTRACT

THIS CONSTRUCTION CONTRACT (“Contract”) is made and entered into on the date of the last city signature set forth below, by and between the City of Littleton, a municipal corporation within the State of Colorado (the “city”), and Metro Pavers, Inc, a Colorado corporation, (the “Contractor”). The Contractor and the city are referred to as a “Party” or collectively the “Parties.”

RECITALS AND REPRESENTATIONS

WHEREAS the city issued a solicitation for bids for the **2024 Mill and Overlay – Arapaho Hills – City Project No. 24-03** and the Contractor submitted a bid to perform the work; and

WHEREAS the city has elected to accept the Contractor’s bid.

NOW, THEREFORE, in consideration of the mutual covenants herein set forth, the Parties agree as follows:

1.1 **Contract Documents and Exhibits.** The term “Contract Documents” consist of this Contract together with the following:

Exhibit A	Scope of Work
Exhibit B	Bid Schedule
Exhibit C	General Conditions
Exhibit D	Construction Contract Forms
Exhibit E	Drawings and Specifications
Exhibit F	Special Conditions

All exhibits referred to in this Contract are attached hereto and are, by reference, incorporated herein for all purposes. In the event any matter, term, provision, or condition that is the subject of this Contract requires clarification or is in dispute, or is the subject of a difference of opinion, the purpose and intent of the Contract shall be first ascertained by reference to the Contract Documents in their entirety. In the event of any dispute or differences between the respective documents that constitute the Contract Documents, then the Contractor shall secure the written instructions from the city before proceeding with the performance of the services affected by such conflicts, omissions or discrepancies.

1.2 **Project.** The Contractor shall commence and complete the Scope of Work (“Work”), **Exhibit A**, in accordance with the Contract Documents, as defined herein. The Contractor agrees to perform and complete the Work in a proper and workmanlike manner, consistent with the highest standards of professional and construction practices and in full compliance with, and as required by or pursuant to, this Contract, and with the greatest economy, efficiency, and expedition consistent therewith, with only new, undamaged and first quality equipment, materials and supplies. The Contractor shall, at its own expense, furnish all labor, materials, tools, supplies, machinery, utilities, permits, licenses, and other equipment

that may be necessary for the completion of the Work, as outlined in the Contract Documents. No work shall commence until a Notice to Proceed has been issued, and if required by the city, until after approval by the city council in accordance with the city charter and city code.

- 1.3 **Commencement and Completion of the Project.** The Contractor understands and agrees that all Work required under this Contract shall be fully completed, as set forth in the Contract Documents, within **90** calendar days of the date of the Notice to Proceed. The Contractor acknowledges and understands that it is an essential term of this Contract that Contractor maintain a rate of progress in the Work that will result in completion of the Work in accordance with the Contract Documents, and to that end, Contractor agrees to proceed with all due diligence to complete the Work in a timely manner in accordance with the Contract Documents.

- 1.4 **Contract Price.** The city accepts the Contractor's bid for the estimated quantities and costs as set forth in the Bid Schedule, **Exhibit B**, in the total amount of **\$1,987,441.77**. The city shall make payment(s) to Contractor in the manner and at such times as set forth in the General Conditions of such amounts as are required by the Contract Documents. The city shall deduct and retain **5%** from the total amount of each approved invoice, including Change Orders. The city may also deduct in addition to retainage as stated above, the additional amount(s) of any and all outstanding claims pursuant to C.R.S §38-26-107 from each approved invoice. The city has appropriated sufficient funds for the competition of this work.

- 1.5 **Payments to Constitute Current Expenditures.**
 - 1.5.1 Notwithstanding any other term, provision, or condition herein, all financial obligations of the city are contingent on funds for that purpose being appropriated, budgeted and otherwise made available by the city council. The city's obligations under the Contract shall not constitute a multiple-fiscal year direct or indirect debt or other financial obligation of the city within the meaning of Article X, Section 20 of the Colorado Constitution.

 - 1.5.2 Further, pursuant to 103.6(2) of Article 91, Title 24, C.R.S., no Change Order, Amendment, or other form of order or directive by the city which requires additional compensable work to be performed, and which work causes the aggregate amount payable under this Contract to exceed the amount appropriated for the original Contract, shall be executed, or shall work be performed by the Contractor, unless the city provides written assurances to the Contractor that lawful appropriations to cover the costs of such additional work have been made or unless such work is covered under a remedy-granting provision of this Contract. For purposes of this paragraph, "remedy-granting provision" shall be defined as set forth in 24-91-103.6(4), C.R.S.

- 1.6 **Confidentiality.** Notwithstanding any provision in the Contract Documents to the contrary, the city is obligated to comply with the Colorado Open Records Act (C.R.S.

§§24-72-101 *et seq.*), which may require the city to disclose all or a portion of communications relating to the Contract, or terms of same, or of any transaction under the Contract, and other related matters. The Contractor shall familiarize itself with the Colorado Open Records Act. In no event shall the city be liable to the Contractor for the disclosure of all or a portion of communications, or relating documents, or electronic imaging, including all documents and exhibits that may be included as part of this Contract.

1.7 **Insurance.**

1.7.1 The Contractor shall not commence work, and shall not allow any subcontractor to commence work, until it has obtained all insurance required herein and such insurance has been approved by city. For the duration of the Contract, the Contractor must maintain the insurance coverage required in this section. The city's acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Contract shall not act as a waiver of the Contractor's breach of Contract or of any of the city's rights or remedies under this Contract.

1.7.2 The Contractor shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to the Contract Documents 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.

1.7.3 The Contractor shall procure and maintain at its own cost, and shall cause each subcontractor of the Contractor to procure and maintain at its own cost (or shall insure the activity of Contractor's subcontractors in Contractor's own policy with respect to), the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers acceptable to the city. All coverages shall be continuously maintained from the date of commencement of the Work. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

1. Workers' Compensation 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. The policy shall cover obligations imposed by the Workers' Compensation Act of Colorado and any other applicable laws for any employee engaged in the performance of Work.
2. Commercial General Liability insurance with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and TWO MILLION DOLLARS (\$2,000,000) 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.

3. Comprehensive Automobile Liability insurance with a minimum combined single limit for bodily injury and property damage of ONE MILLION DOLLARS (\$1,000,000) with respect to each of Contractor's owned, hired and/or non-owned vehicles assigned to or used in performance of the Work. The policy shall contain a severability of interests provision.
4. Builder's Risk insurance with minimum limits of not less than the insurable value of the work to be performed at completion less the value of the materials and equipment insured under Installation Floater insurance. The policy shall be written in completed value form and shall protect the Contractor and the city against risks of damage to buildings, structures, and materials and equipment not otherwise covered under Installation Floater insurance, from the perils of fire and lightning, the perils included in the standard coverage endorsement, and the perils of vandalism and malicious mischief. Equipment such as pumps, engine-generators, compressors, motors, switch-gear, transformers, panelboards, control equipment, and other similar equipment shall be insured under Installation Floater insurance when the aggregate value of the equipment exceeds \$10,000. The policy shall provide for losses to be payable to the Contractor and the city as their interests may appear. The policy shall contain a provision that in the event of payment for any loss under the coverage provided, the insurance company shall have no rights of recovery against the Contractor or the city.
5. Installation Floater with minimum limits of not less than the insurable value of the work to be performed at completion, less the value of the materials and equipment insured under Builder's Risk insurance. The value shall include the aggregate value of any city-furnished equipment and materials to be erected or installed by the Contractor not otherwise insured under Builder's Risk insurance. The policy shall protect the Contractor and the city from all insurable risks of physical loss or damage to materials and equipment not otherwise covered under Builder's Risk insurance, while in warehouses or storage areas, during installation, during testing, and after the Work under this Contract is completed. The policy shall be of the "all risks" type, with coverages designed for

the circumstances which may occur in the particular Work to be performed under this Contract. The policy shall provide for losses to be payable to the Contractor and the city as their interests may appear. The policy shall contain a provision that in the event of payment for any loss under the coverage provided, the insurance company shall have no rights of recovery against the Contractor or the city.

- 1.7.4 The policies required above, except for the Workers' Compensation and Employers' Liability insurance, shall be endorsed to include the city, and its officers and employees, as additional insureds. Every policy required above shall be primary insurance, and any insurance carried by the city, its officers, or its employees, shall be excess and not contributory insurance to that provided by Contractor. The additional insured endorsement for the Comprehensive General Liability insurance required above shall not contain any exclusion for bodily injury or property damage arising from completed operations. The Contractor shall be solely responsible for any deductible losses under each of the policies required above.
- 1.7.5 Certificates of insurance shall be completed by the Contractor's insurance company 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 city. The certificate cannot contain "endeavor to" language in the portion of the certificate addressing cancellation. The city reserves the right to request and receive a certified copy of any policy and any endorsement thereto.
- 1.7.6 The coverages afforded under the policies shall not be cancelled, terminated or materially changed until at least thirty (30) days' prior written notice has been given to the city. 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 Contract upon which the city may immediately terminate the Contract, or at its discretion 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 city shall be repaid by Contractor to the city upon demand, or the city may offset the cost of the premiums against any monies due to Contractor from the city.
- 1.7.7 The Parties hereto understand and agree that the city is relying on, and does not waive or intend to waive by any provision of this Contract, the monetary limitations (presently \$387,000 per person and \$1,093,000 per occurrence) 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 city, its officers, or its employees.
- 1.8 **Taxes.** The City of Littleton is not subject to taxation. The Contractor shall not invoice the city for any state, federal or local taxes whatsoever. Upon written notification by the

city, the Contractor shall reimburse the city in a timely manner for any taxes erroneously paid by the city.

- 1.9 **Waiver of Breach.** A waiver by any Party to the Contract or the breach of any term or provision of the Contract shall not operate or be construed as a waiver of any subsequent breach by either Party.
- 1.10 **No Third-Party Beneficiaries.** It is expressly understood and agreed that enforcement of the terms and conditions of this Contract, and all rights of action relating to such enforcement, shall be strictly reserved to the city and the Contractor and nothing contained in this Contract shall give or allow any such claim or right of action to any other third-party on this Contract. It is the express intention of the city and the Contractor that any person other than the city or the Contractor receiving services or benefits under this Contract shall be deemed to be an incidental beneficiary only.
- 1.11 **Independent Contractor.** The Contractor shall perform the Work as an independent contractor and shall not be deemed by virtue of this Contract to have entered into any partnership, joint venture, employer/employee or other relationship with the city other than as a contracting party and independent contractor.
- 1.12 **Non-Discrimination.** In connection with the performance of the Work, the Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, national origin, ethnicity, citizenship, immigration status, sex, gender, age, sexual orientation, gender identity or gender expression, marital status, source of income, military status, protective hairstyle, genetic information, pregnancy, or disability, or any other status protected by applicable law. The Contractor will take affirmative action to ensure applicants are employed, and employees are treated during employment, without regard to their race, color, religion, national origin, ethnicity, citizenship, immigration status, sex, gender, age, sexual orientation, gender identity or gender expression, marital status, source of income, military status, protective hairstyle, genetic information, pregnancy, disability, or any other status protected by applicable law. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
- 1.13 **Indemnification.** The Contractor agrees to investigate, defend, indemnify and hold harmless the city, its officers, employees, insurers, and self-insurance pool, from and against all liability, claims and demands on account of any losses, injuries, and damages, including but not limited to, alleged personal injury claims, and/or death claims, or property damage claims, or errors and omissions, which arise solely out of the Contractor's and/or any of its agents' officers or employees performance of the Contractor's obligations under this Contract. The city is prohibited by Article XI, Section 1, Colorado Constitution, from indemnifying any individual or entity. Therefore, the city does not indemnify the Contractor, successors, or assigns under this Contract. Notwithstanding the foregoing, nothing herein is intended to constitute a covenant, promise, or agreement to indemnify

and hold harmless the city from any liability or damages directly caused by or attributable to the city's own negligence, nor is anything herein intended to be nor may be construed as a waiver of the immunities, protections, or limitations on damages provided to the City by the Colorado Governmental Immunity Act, C.R.S. §§24-10-101 et seq., as it may from time to time be amended.

- 1.14 **Governing Law and Venue.** The Contract shall be governed by the laws of the State of Colorado. Venue for any action arising under the Contract or for the enforcement of the Contract shall be in the appropriate court for Arapahoe County, Colorado.
- 1.15 **Additional Documents or Action.** The Parties agree to execute any additional documents and to take any additional action that is necessary to carry out this Contract.
- 1.16 **Binding Effect.** This Contract shall inure to the benefit of, and be binding upon, the Parties, their respective legal representatives, successors, heirs, and assigns; provided, however, that nothing in this paragraph shall be construed to permit the assignment of this Contract except as otherwise expressly authorized herein.
- 1.17 **Integration, Amendment, and Severability.** This Contract represents the entire agreement between the Parties and there are no oral or collateral agreements or understandings. This Contract may be amended only by an instrument in writing signed by the Parties or as otherwise provided herein. If any other provision of this Contract is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Contract shall continue in full force and effect.
- 1.18 **Binding Authority.** The Contractor represents and affirms that the signature page hereof accurately states the full legal name of Contractor (whether as a corporation, partnership, limited liability company, sole proprietorship, or other), contains all requisite signature(s) on behalf of Contractor, has been properly acknowledged by attestation, notary acknowledgment, or both, and in all other respects is effective to bind Contractor, in accordance with all applicable statutes, regulations, resolutions, rules, bylaws, agreements, or similar sources of authority or limitation. This Contract may be executed in counterpart(s), each of which shall be deemed to be an original, and all of which, taken together, shall constitute one instrument.
- 1.19 **Subject to Legislative Approval and Compliance with Law.** The Contractor acknowledges and agrees that if a Change Order is required under the terms of the Contract, the city shall not incur any liability whatsoever for claims of payment, compensation, damages, or adjustment of any kind by the Contractor due to any delays for the required approvals and execution under Section 1.3 of the General Conditions, **Exhibit C**. The Contractor further acknowledges and agrees that this Contract's execution may be contingent upon approval by the city council, in compliance with all applicable provisions of the city charter and city code. The city shall not incur any liability whatsoever if this Contract is not approved by city council.

1.20 **Electronic Signatures and Electronic Records.** The Contractor consents to the use of electronic signatures by the city. The Contract, and any other documents requiring a signature hereunder, may be signed electronically by the city in the manner specified by the city. The Parties agree not to deny the legal effect or enforceability of the Contract solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Contract in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

DATED this ____ day of _____, 2024.

City of Littleton
City Manager

ATTEST:

City Clerk

Date

APPROVED AS TO FORM:

City Attorney

Date

DEPARTMENT APPROVAL

Name

Date

CONTRACTOR

Name

Date

Exhibit A Scope of Work

The work will involve approximately 63,000 SY of 2” asphalt milling, including approximately 7,000 tons of asphalt overlay, and 2,600 tons of asphalt patching, as well as approximately 2,500 LF of curb, gutter & sidewalk, and approximately 530 SY of concrete curb ramp. Work will also involve associated traffic control, landscape restoration, and erosion control. The project area will be on various local streets in the Arapaho Hills neighborhood in Littleton, Colorado.

Exhibit B
Bid Schedule

2024 MILL AND OVERLAY - ARAPAHO HILLS
CITY PROJECT NO. 24-03 BIDDERS PROPOSAL EXHIBIT A

ITEM NO.	ITEM	UNIT	ESTIMATE D	UNIT COST	EXTENDED COST
202	REMOVAL OF CONCRETE	SY	2081	\$ 33.62	\$ 69,963.22
202-00220	REMOVAL OF ASPHALT MAT	SY	7,068	\$ 10.00	\$ 70,680.00
202-00240	REMOVAL OF ASPHALT MAT (PLANNING)	SY	63,026	\$ 2.46	\$ 155,043.96
202	REMOVAL OF DRIVEWAY RAMP	EA	10	\$ 200.00	\$ 2,000.00
208	EROSION CONTROL	LS	1	\$ 2,500.00	\$ 2,500.00
210	ADJUST MANHOLE	EA	67	\$ 300.00	\$ 20,100.00
210-04050	ADJUST VALVE BOX	EA	59	\$ 180.00	\$ 10,620.00
304-06007	AGGREGATE BASE COURSE (CLASS 6)	TON	2,738	\$ 73.62	\$ 201,571.56
403	HOT MIX ASPHALT (PATCHING)(ASPHALT)	TON	2,332	\$ 124.79	\$ 291,010.28
403	HOT MIX ASPHALT (GRADING SX)(PG 58-28)(75)	TON	6,933	\$ 114.00	\$ 790,362.00
608-00010	CONCRETE CURB RAMP	SY	525	\$ 164.43	\$ 86,325.75
609	CURB, GUTTER, AND SIDEWALK TYPE 2 (SECTION MS)	LF	2,500	\$ 64.71	\$ 161,775.00
609	GUTTER TYPE 2	LF	85	\$ 84.00	\$ 7,140.00
626-00000	MOBILIZATION	LS	1	\$ 10,350.00	\$ 10,350.00
630-00016	TRAFFIC CONTROL	LS	1	\$ 8,000.00	\$ 8,000.00
700-70010	MINOR CONTRACT REVISIONS	F/A	1	\$ 100,000.00	\$ 100,000.00
0					\$ 1,987,441.77

TOTAL BID IN WRITTEN WORDS: One Million nine hundred eightyseven thousand four hundred fortyone dollars and seventy seven cents



**Exhibit C
General Conditions**

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SECTION 1 SCOPE OF WORK

1.1. PLANS AND SPECIFICATIONS:

- 1.1.1. The Contractor shall perform all items of Work covered and stipulated in the Specifications, Bid, Contract, General Conditions and Special Provisions, together with any authorized alterations, Extra Work and Change Orders, all in accordance with the Plans. The Contractor shall furnish, unless otherwise provided in the Specifications and/or Special Provisions, all materials, implements, machinery, equipment, tools, supplies, transportation and labor necessary to perform and complete the Work.
- 1.1.2. The Contractor shall be responsible for taking all steps reasonably necessary to ascertain the nature and location of the Work, and the general and local conditions which can affect the Work or the cost of the work. Failure by the Contractor to do so will not relieve it from responsibility for successfully performing Work without additional expense to Owner. The Owner will not be responsible for any understanding or representations concerning conditions unless such understanding or representations are expressly stated in the Contract.

1.2. **SPECIAL WORK:** Should any construction or conditions which are not thoroughly stipulated or set forth by the Specifications be anticipated on any proposed Project, Special Conditions for such Work may be prepared and attached hereto as **Exhibit F**, and shall be considered as part of the Specifications, the same as though contained fully therein. Should any Special Conditions conflict with the Specifications, the Special Conditions will govern.

1.3. CHANGES AND INCREASED OR DECREASED QUANTITIES OF WORK:

- 1.3.1. Without invalidating the Contract, the Project Manager and/or Owner reserves and shall have the right, without notice to any Sureties, by written Change Order, to make any changes, from time to time, to the character and quantity of the Work, including but not limited to, the Drawings, Specifications, Plans or Addenda, as may be considered necessary or desirable to complete fully and acceptably the proposed Contract in a satisfactory manner. Such Change Order shall set forth with specificity the changed Work to be done and shall set forth any changes or extensions to the time of completion.
- 1.3.2. *Increase in Cost and Required Approvals.*
- i. Such Change Orders shall not increase the total cost of the Work, based on the original estimate of quantities and unit prices contained in the Bid, by more than 10% (ten percent) without the approval of the City of Littleton City Manager or authorized designee. Contractor shall be entitled to the cost of said increased units at the original price within the Original Bid, but not to an adjustment of unit price.
 - ii. In the event said Change Order increases the total cost of the Contract based upon the unit price bid by more than ten percent (10%), an equitable adjustment will be

made and the Contract modified accordingly by a written Change Order, to be approved by the City of Littleton City Manager or authorized designee, subject to subsection 1.3.2(iii) herein; provided, however, that except for claims based on errors in the Contract, no claim for change hereunder will be allowed for cost incurred more than twenty (20) days before the Contractor gives written notice as herein required; and in the case of errors in the Contract for which the Owner is responsible, the adjustment will be increased costs, reasonably incurred by the Contractor in attempting to comply with such errors in the Contract.

- iii. Any Change Order or other Amendment that increases the total cost of the Contract, based on the original estimate or quantities and the unit price within the bid by more than five-hundred thousand and 00/100 dollars (\$500,000.00) shall require the approval of city council.
- iv. In case a satisfactory adjustment in price cannot be reached for any item requiring a written Change Order, the city reserves the right to terminate the Contract as to said item as it applies to the terms in question and make such arrangements as may be deemed necessary to complete the Work.
- v. The Contractor shall require Subcontractors to certify to the best of their knowledge and belief that the cost and pricing data submitted are accurate, complete, and current as of the date of execution, which date shall be as close as possible to the date of agreement on the negotiated price of the Change Order.
- vi. The Contractor shall not start Work on any alteration until the agreement, whether by Change Order or more formal amendment, setting forth the adjusted prices has been executed by the Owner and the Contractor, subject to all requirements of Title 1, Chapter 15 of the City of Littleton code and the city's procurement policy. All changes or approvals for increasing the Work as required and authorized herein, shall be in written form and approved and signed by the city prior to the Work being done. All such writings and approvals shall be specific as to the nature of the Work and the quantities involved. Any Work performed without prior written approval of the city shall not be binding on the city.

1.3.3. *Field Order for Minor Changes.* The Project Manager may at any time, by issuing a Field Order, order minor changes in the Work not involving an increase or decrease in the Contract amount and not involving a change in the time for completion. If the Contractor believes that any order for minor changes in the Work involves changes in the Contract amount or time for completion, he shall not proceed with the minor changes so ordered and shall within seven days of the receipt of such order notify the Project Manager in writing of his estimate of the changes in the Contract amount and time for completion he believes to be appropriate. Such estimate shall thereafter be treated as a Change Order Request.

1.3.4. *Equitable Adjustment.*

- i. If the Contractor intends to assert a claim for an equitable adjustment under this Section, the Contractor shall, within 30 days after receipt of a written Change Order or the furnishing of a written notice of requested changes by the Project Manager, submit to the Project Manager a written statement setting forth the general nature and monetary extent of such claim. No claim by the Contractor for an equitable adjustment hereunder will be allowed unless asserted as described above.
- ii. In the event the Contractor and the city are unable to agree upon the Contractor's entitlement to an equitable adjustment or upon the amount thereof, or in the event that it is in the best interest of the city to have the Work proceed pending negotiation of amount of an equitable adjustment, the city may direct the Contractor to perform the Work in accordance with the Change Order, direction, instruction, interpretation, or determination, with any Work price adjustments and progress payments for the Work to be determined on a Force Account basis in accordance with Section 7.6. The Contractor shall continue diligently to perform the Work in accordance with the city's order, direction, instruction, interpretation, or determination during negotiations with respect to the Contractor's entitlement to an equitable adjustment hereunder or to the amount of any Work price adjustment hereunder or to the amount or any Work price adjustment or time extension. The Contractor and the city may agree on certain aspects of an equitable adjustment and take those aspects out of operation of Force Account provisions.

1.3.5. *Payments for Change Orders.*

- i. Payment will not be made under the provisions of this Section for such Work or materials which are so required to be done or furnished in or about or for the performance of the Work and which are not mentioned, specified or indicated or otherwise provided for in the Work so far as such Work or materials may be, in the opinion of the Project Manager, susceptible of classification under or reasonably inferred to be included in the Bid.
- ii. In the event the Contractor is ordered to perform Work under this Section for which payments are not determined hereunder, which in the opinion of the Owner it is impracticable to have performed by the Contractor's own employees, the Contractor will, subject to the written approval of the Owner, be paid the actual cost to him of such Work and, in addition thereto, an amount of ten (10) percent of the actual costs to cover the Contractor's superintendence, administration and other overhead expenses. The terms and conditions of any subcontract which the Contractor may propose to enter into in connection with Work under the provisions of this Section, shall be subject to the written approval of the Owner before such subcontract is made.
- iii. In cases other than those described above, the Owner and the Contractor (on his own behalf and on behalf of their Subcontractors) shall endeavor to negotiate a reasonable price and line adjustment in a Change Order on terms appropriate to the changed Work. The Contractor will be required to submit a sufficiently detailed price bid supported with sufficient documentation so that the Owner can determine

that (1) the bid reflects all impacts on the Work from Work additions, deletions and modifications shown in the change order being priced, and (2) the proposed prices are set out in such a way that their reasonableness can be evaluated against prices based on adequate price competition, unit prices, established catalog or market prices of commercial items sold in substantial quantities to the general public, prices set by law or regulation, recognized published price lists and indices, independently developed cost estimate and other appropriate price comparisons; and (3) cost-increase provisions relating to Work changes are complied with, including but not limited to City of Littleton City Manager or City Council approvals. If any prices or other aspects are conditional, such as on firm orders being made by a certain date or the occurrence or non-occurrence of an event, the Contractor shall identify these aspects in his bid, under this section. A negotiated Change Order shall set out prices, scheduling requirements, time extensions and all costs of any nature arising out of the issuance of a Change Order except for those cost and time aspects explicitly reserved on the face of the Change Order.

- 1.3.6. *Claims for Concealed or Unknown Conditions.* If conditions are encountered at the site which are (1) subsurface 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 notice by the observing party shall be given to the other party promptly before conditions are disturbed and in no event later than seven (7) days after first observance of the conditions. Site conditions which an experienced and prudent contractor could have anticipated by visiting the site, familiarizing himself with the local conditions under which the work is to be performed and correlating his observations with the requirements of the Contract Documents shall not be considered as claims for concealed or unknown conditions, nor shall the locations of utilities which differ from locations provided by the utility companies. The Project Manager will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in the Contractor's cost of, or the required time for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Project Manager 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 Project Manager shall so notify the Owner and Contractor in writing, stating the reasons. Claims by either party in opposition to such determination must be made within twenty-one (21) days after the Project Manager has given notice of the decision. If the Owner and Contractor cannot agree on an adjustment in the Contract Sum or Contract Time, the adjustment shall be subject to further proceedings pursuant to Section 1.3.4 and Section 1.3.9. Such sections shall apply to claims by either party, notwithstanding language in said sections that they apply only to claims brought by the Contractor.
- 1.3.7. *Inspection, Recordkeeping.* For any Change Orders, the Contractor shall maintain and the city, or its representative, shall have the right to examine books, records, documents and other evidence and accounting principles and practices sufficient to reflect properly all

direct and indirect costs of whatever nature claimed to have been incurred and anticipated to be incurred for the performance of the Contract changes. At the request of the city, the Contractor shall submit any documents reasonably necessary to permit adequate evaluation of the cost or pricing data submitted including, but not limited to, computations, projections, price competition, catalog and market prices etc. If inadequate or incomplete documentation is submitted, then the city may refuse to complete negotiation until such a time that satisfactory documentation is submitted. The requirements of section are in addition to other audit, inspection and record keeping provisions elsewhere in the Contract Documents.⁷

- 1.3.8. Changes involving aggregate increases and decreases in excess of \$100,000.00 shall be subject to the following:
- a. A change, defined for the purposes of this subsection 1.3.8, involves aggregate increases and decreases in excess of \$100,000.00 if the total value of Work affected, without regard to any increases or decreases, exceeds this amount. For example, a Change Order adding Work in the amount of \$75,000.00 and deleting Work in the amount of \$50,000.00 will be considered to involve aggregate increases and decreases of \$125,000.00.
 - b. The Contractor shall submit in support of all items not based upon unit prices or lump sum prices contained in the Contract or upon the established prices at which commercial items are sold in substantial quantities to the public, statements by his vendors that the prices charged the Contractor are not greater than the prices charged by the respective vendors to their most favored customers for the same items in similar quantities.
 - c. Price reductions for defective cost or pricing data--price adjustments: If any price, including profit and fee, negotiated in connection with any price adjustment was increased by any significant sums because:
 - (1) The Contractor furnished cost or pricing data which were not complete, accurate, and current as certified in the contractor's certificate of current cost or pricing data; or
 - (2) Adjustments or any subcontract provisions therein required, furnished costs or pricing data which were not complete, accurate, and current as certified in the Subcontractor's certificate of current cost or pricing data; or
 - (3) The Subcontractor or his prospective subcontractor furnished cost or pricing data which were required to be complete, accurate, and current and to be submitted to support a subcontract cost estimate furnished by the Contractor but which were not complete, accurate and current; or
 - (4) The Contractor or a Subcontractor or his prospective subcontractor furnished any data, which were not complete, accurate, and current as submitted.

Then the price shall be reduced accordingly and the Contract shall be modified in writing accordingly to reflect such reduction. Any reduction in the Contract price due to defective subcontract data of prospective subcontractor, when the subcontract was not subsequently awarded to such subcontractor, will be limited to the amount (plus applicable overhead and profit markup) by which the actual subcontract, was less than the prospective subcontract cost estimate submitted by the Contractor, provided the actual subcontract price was not affected by defective cost or pricing data; or

The Contractor shall require Subcontractors to certify to the best of their knowledge and belief that the cost and pricing data submitted are accurate, complete, and current as of the date of execution, which date shall be as close as possible to the date of agreement on the negotiated price of the Contract Change Order.

1.3.9. In case a satisfactory adjustment in price cannot be reached for any item requiring a Change Order, the Owner reserves the right to terminate the Contract as to said item as it applies to the terms in question and make such arrangements as may be deemed necessary to complete the Work.

1.4. **OMITTED ITEMS:** The Project Manager may, in writing, order omitted from the Work any item other than Major Items, which are found by the Project Manager or Owner to be unnecessary to the Project and such omission shall not be a waiver of any condition of the Contract nor invalidate any of the provisions thereof. Major Items may be omitted by Amendments to the Original Contract. The Contractor will be paid for all Work done toward the completion of the item prior to such omission as provided in Section 7.5.

1.5. EXTRA WORK:

1.5.1. When additional Work is necessary for the proper completion of the Project for which no quantities or prices were given in the Bid or Contract, the same shall be called "Extra Work" and shall be performed by the Contractor when so directed in writing by the Project Manager. Extra Work shall be performed by the Contractor in accordance with these Specifications in a skillful and workmanlike manner and as may be directed by the Project Manager.

1.5.2. Prices for Extra Work shall be itemized and covered by a Change Order. Pricing shall be submitted by the Contractor and approved by the Owner prior to the actual starting of such Work, in accordance with Section 1.3 of the General Conditions herein. Should the parties be unable to agree on unit prices for the Extra Work or if this method of pricing is impractical, the Project Manager may instruct the Contractor to proceed with the Work by day labor or Force Account as hereinafter provided in Section 7.6. Claims for Extra Work not authorized in writing by the Project Manager prior to the Work being done will be rejected and shall not be compensated for.

1.5.3. Extra Work shall not include materials, labor or equipment which is incidental or appurtenant to the Work indicated on the Drawings and in the Specifications. Such Work

shall be completed and paid for as part of the Work to which it is appurtenant.

1.6.UNAUTHORIZED WORK: Work performed beyond the lines and grades shown on the Contract Drawings, approved Work and Shop Drawings and Extra Work done without written authorization will be considered “Unauthorized Work” and the Contractor will receive no compensation therefore. If required by the Owner, Unauthorized Work shall be remedied, removed or replaced by the Contractor at Contractor's expense. Upon failure of the Contractor to remedy, remove or replace unauthorized Work, the Owner may take action as provided in Section 2.11, Removal of Defective and Unauthorized Work.

1.7.MAINTENANCE AND CONTROL OF TRAFFIC:

1.7.1. Unless the Contract specifically provides for the closing to traffic of any local road or highway while construction is in progress, such road or highway shall be kept open to all traffic by the Contractor. The Contractor shall also provide and maintain in a safe condition temporary approaches, crossings or intersections with roads and highways.

1.7.2. The Contractor will provide their own traffic control, including flagging, traffic control supervisor, and traffic control devices for the duration of the project per the most current edition of the Manual on Uniform Traffic Control Devices (MUTCD). Traffic control plans will be required for review and approval prior to commencement on Work.

1.7.3. The Contractor shall bear all expense of maintaining traffic over the section of road affected by the Work to be done under this Contract, and of constructing and maintaining such approaches, crossings, intersections and any accessory features without direct compensation, except as otherwise provided.

1.8.REMOVAL AND DISPOSAL OF STRUCTURES AND OBSTRUCTIONS: All structures or obstructions found on the site and shown on the Plans which are not to remain in place or which are not to be used in the new construction shall be removed as directed by the Project Manager. Unless specified in the Bid, this Work will not be paid for separately but will be included in the price bid for that portion of the Work requiring the removal of the obstruction. All material found on the site or removed therefrom shall become the property of the Contractor unless otherwise indicated. Materials determined by the Project Manager to be unsuitable for backfill shall be disposed of off the site at the Contractor's expense.

1.9.USE OF MATERIALS FOUND ON THE WORK:

1.9.1. The Contractor, with the approval of the Project Manager, may use in the proposed construction, any stone, sand, or gravel found on the site. The Contractor will not be paid for such excavation unless specifically stated in the Bid, and he shall replace with other suitable material, without compensation, all of that portion of the material so removed and used as was contemplated for use in the embankments or otherwise. If it was intended that any or all of the material so excavated and used was to have been wasted, then the Contractor will not be required to replace it. The Contractor shall not excavate any material

from the site which is not within the excavation as indicated by the slope and grade lines, without being authorized in writing by the Project Manager.

1.9.2. Specific job mix designs conforming to specifications for any Work shall be submitted for approval within ten (10) consecutive calendar days of the Notice to Proceed or a minimum of seven (7) consecutive calendar days prior to use of the material. This material approval applies to asphaltic concrete paving materials, concrete, aggregate base course, and fine grading material.

1.10. **FINAL CLEAN UP:**

1.10.1. During the Project's final cleanup, the Contractor shall remove from the site(s) all machinery, equipment, surplus and discarded materials, rubbish, temporary structures, and stumps or portions of trees. The streets and adjacent properties in the Project shall be repaired to as good or better condition than existed prior to construction. This shall include removal of all dirt or mud from streets and lawns. No extra payment shall be made for these items. The Contractor shall leave the Project in a neat and presentable condition.

1.10.2. The Contractor shall provide written notification to the Project Manager that the Work is complete and the site (s) ready for final inspection. If the Project Manager determines that the Work is not complete, he will immediately notify the Contractor in writing, stating the reasons. If the Project Manager determines the Work is complete, the Project Manager and Owner will inspect within seven (7) calendar days and prepare a final cleanup list. When the final cleanup list is completed by the Contractor and inspected by the Project Manager, the Project Manager will recommend to the Owner that the Work be accepted. The Owner will then initiate the Acceptance and Final Payment procedures as stated in Section 7.9. The final cleanup shall be completed before the expiration of the Contract's Time of Completion as set forth in the Contract Documents.

1.11. **DELAYS:** No payment, compensation, damages, or adjustment of any kind, other than extension of the contract time if received in writing by Owner shall be made to, or claimed by, Contractor because of hindrances or delays from any cause in the commencement, prosecution, or completion of the work, whether caused by Owner or any other party and whether avoidable or unavoidable other than as set forth in a change order described fully above.

SECTION 2 CONTROL OF THE WORK

2.1. **AUTHORITY OF PROJECT MANAGER:** The Project Manager shall decide any and all questions which may arise as to the quality and acceptability of the materials furnished, the Work performed, the manner of performance and the rate of progress of the Work. The Project Manager shall decide all questions which may arise as to the interpretation of the Plans and Specifications, all questions as to acceptable fulfillment of the Contract, all disputes and mutual rights by the Contractors if there be more than one Contractor on the Work, and all questions as to compensation. The decision of the Project Manager shall be final and shall have executive

authority to make effective such decisions and to enforce the Contractor to carry out all orders promptly.

2.2.PLANS AND SHOP DRAWINGS:

- 2.2.1. The Contractor shall bring discrepancies between different Plans, or between Plans and Specifications, or regulations and codes covering the Work to the attention of the Project Manager in writing before the date of Bid closing. In the event such discrepancies exist and the Project Manager is not so notified, the Project Manager shall reserve the right to exercise sole arbitration authority. It is mutually agreed that all authorized alterations affecting the requirements and information given on the Approved Plans shall be in writing and approved by the Project Manager.
- 2.2.2. The Plans will be supplemented by Shop Drawings as necessary to adequately control the Work or as specified. Shop Drawings are not part of the Contract Documents. Shop Drawings may consist of drawings, diagrams, illustrations, schedules, calculations, and other data prepared by the Contractor, Subcontractor, manufacturer, supplier, or distributor, which will illustrate how specific portions of the Work shall be fabricated and/or installed in accordance with the Plan details and Specifications. Any Work done prior to the Owner's approval of Shop Drawings will be at the Contractor's risk.
- 2.2.3. The Project Manager may request additional details and require the Contractor to make changes in the design which are necessary to conform to the provisions and intent of these Specifications without additional cost to the Owner.
- 2.2.4. Approval of the Shop Drawings by the Project Manager shall not be construed as a complete check and verification, but will indicate that general conformance with the design concept and general compliance with the information given in the Contract has been achieved. Any information or action to be taken as set forth in the Shop Drawings is subject to the requirements of the Plans and Specifications. The Contractor shall be responsible for all dimensions and quantities shown on the Shop Drawings. The Project Manager shall be notified in writing of any information in the Shop Drawings that deviates from the requirements of the Contract documents. Appropriate action will then be taken by the Project Manager.
- 2.2.5. Approval by the Project Manager of the Contractor's Shop Drawings shall not relieve the Contractor of his obligation to meet all requirements of the Plans and Specifications and shall not relieve the Contractor of his responsibility for the correctness of the Shop Drawings.
- 2.2.6. Five (5) sets of Shop Drawings shall be submitted to the Project Manager either in hard copy format or electronic format. No faxed copies will be accepted. After checking, two sets will be returned to the Contractor; one for his use and the other for the fabricator or supplier's use.
 - i. Shop Drawings being returned will be stamped to indicate the following:

- i) Shop Drawings approved for use in construction will have one of the following statements checked: Approved, No Exception Taken, or Approved as Noted.
- ii) Shop Drawings to be corrected or redrawn and resubmitted for approval will have one of the following statements checked: Revise as Noted, Resubmit; or Rejected.

If Shop Drawings are returned for correction, corrections shall be made and the corrected drawings shall be resubmitted by the Contractor in the same manner as the first submittal. The time required for approval of each submittal will not exceed four (4) weeks after Shop Drawings are received by the Project Manager.

- ii. It is the intent of these Specifications that no more than two submittals will be required. If, however, additional submittals are required by actions of the Contractor, the additional time for Shop Drawing approval will be borne by the Contractor. If additional submittals are required, or if Shop Drawing approval is delayed by actions of the Project Manager, and if the Contractor's controlling operations are delayed or interfered with by reason of the delay in Shop Drawing reviews, an extension of time commensurate with the delay in completion of the Work thus caused will be granted as provided herein.

iii. Specifications for the Shop Drawings:

- i) Electronic shop drawings and work drawings are preferred.
- ii) All manually drafted Shop Drawings shall be 34 inches long and 22 inches wide overall. There shall be a two inch margin on the left side of the sheet and one-half inch margin on the other three sides. A blank space, six inches by three inches, shall be left near the lower right-hand corner for an approval stamp. Computer drafted 11-inch by 17-inch drawings may be submitted.
- i) Where design notes or catalogue cuts are required, they may be submitted on 8-1/2 in. x 11 in. sheets in lieu of the size mentioned above.
- ii) There shall be a title block in the lower right-hand corner of each sheet. The title block shall show the Owner's name, structure number, the location of the structure, and the contents of the sheet.
- iii) The Contract price will include the cost of furnishing all Shop Drawings. Shop drawings and working drawings submitted to the Project Manager by the Contractor, Subcontractor or any lower tier Subcontractor pursuant to the Work, may be duplicated by the Owner and the Owner may use and disclose, in any manner and for any purpose such Shop Drawings and Working Drawings delivered under this Contract.

This Section 2.2 shall be included in all subcontracts hereunder at all times.

2.3.OPERATING MANUALS AND PARTS LISTS: The Contractor shall submit four (4) complete operating manuals and parts lists to the Project Manager for all items of mechanical and electrical equipment incorporated into the Work.

2.4.AS-BUILT DRAWINGS: The Contractor shall maintain a set of drawings at the site, with all changes or deviations from the original drawings neatly marked thereon in brightly contrasting color. This shall be a separate set of drawings, not used for construction purposes, which shall be kept up to date as the job progresses and shall be made available for inspection by the Project Manager at all times. Upon completion of the Contract, this set of drawings shall be delivered to the Project Manager.

2.5.CONFORMITY WITH PLANS AND ALLOWABLE DEVIATIONS: Finished surfaces shall conform with lines, grades, cross sections and dimensions shown on the Approved Plans. Any deviation from the Plans and working drawings, as may be required by the demands of construction, will in all cases be determined by the Project Manager and authorized in writing.

2.6.COORDINATION OF SPECIFICATIONS, PLANS AND SPECIAL PROVISIONS: The Specifications, the Plans, Special Provisions, and all supplementary Plans and documents are essential parts of the Contract, and a requirement occurring in one is as binding as though occurring in all. They are intended to be cooperative to describe and provide for a complete Work. In case of discrepancy, figured dimensions, unless obviously incorrect, shall govern over scaled dimensions. Plans shall govern over Specifications and Special Provisions shall govern over both Plans and Specifications. The Contractor shall not use to his advantage any apparent error or omission in the Plans or Specifications. In the event the Contractor discovers any apparent error or discrepancy, he shall immediately call upon the Project Manager for his interpretation and decision and such decision shall be final. In the event contradiction and/or conflicts occur in the Specifications not otherwise covered by Special Provisions, the Specifications deemed by the Project Manager to be most restrictive shall govern.

2.7.CONSTRUCTION SURVEYING: The Contractor will furnish and set all construction stakes. The Project Manager will review the stakes. The Contractor shall be held responsible for the proper preservation of all marks and stakes. If, in the opinion of the Project Manager, any marks or stakes have been willfully or carelessly disturbed or destroyed by the Contractor, or his employees, the cost of replacing them will be charged against the Contractor and be deducted from the final payment.

2.8.RIGHT OF ENTRY: At all times, a representative of the Owner, the City of Littleton, shall have the right to enter and inspect the Project premises.

2.9.AUTHORITY AND DUTIES OF INSPECTORS:

2.9.1. All Work shall be subject to inspection and testing by the Project Manager, Owner or their agent at all reasonable times and at all places prior to acceptance. Inspectors, employed by the Owner, are authorized to inspect all Work done and all material furnished. Such inspection may extend to all of any part of the Work and to the preparation, fabrication, or

manufacture of the materials to be used. The Inspector is not authorized to revoke, alter, or waive any requirements of the Plans and Specifications. The Inspector is authorized to call to the attention of the Contractor any failure of the Work or materials to conform to the Specifications and Contract Documents.

- 2.9.2. The Inspector shall have the authority to reject materials or suspend the Work until any question at issue can be referred to and decided by the Project Manager. If the Contractor refuses to suspend operations on verbal order, the Inspector shall issue a written order giving the reason for shutting down the Work. Work done during the absence of the Inspector will not be accepted nor paid for.
- 2.9.3. Inspections by the Project Manager, or the Owner, or any of their representatives, or others shall not relieve the Contractor from his obligations to perform the Work in accordance with the requirements of the Contract Documents and to also inspect his own Work.
- 2.9.4. Any plan of action, method of work or construction procedure suggested to the Contractor by the Project Manager, or the Owner, or their consultants, or any of their representatives, whether orally or in writing, if adopted or followed by the Contractor in whole or in part, shall be at the sole risk and responsibility of the Contractor.
- 2.9.5. The Inspector shall neither act as foreman or perform other duties for the Contractor nor interfere with the management of the Work by the Contractor. Any advice which the Inspector may give the Contractor shall, in no way, be construed as binding to the Project Manager in any way or releasing the Contractor from fulfilling any of the terms of the Contract.

2.10. **INSPECTION:**

- 2.10.1. Until final payment, all parts of the work may be subject to inspection and testing by Owner or its designated representatives. Contractor may furnish, at its own expense, all reasonable access, assistance, and facilities required by Owner for such inspection and testing. The Contractor may furnish the Project Manager with every reasonable facility for ascertaining whether the Work performed and materials used are in accordance with the requirements and intent of the Specifications and Contract. In the event of night Work, the Contractor may furnish proper lighting to adequately perform and inspect the Work being performed.
- 2.10.2. If the Project Manager requests it, the Contractor may, at any time before acceptance of the Work, remove or uncover such portion of the finished Work as may be directed. After examination, the Contractor may restore said portions of the Work to the standard required by the Specifications. Should the Work thus exposed or examined prove acceptable, the uncovering, or removing, and the replacing of the coverage or making good of the parts removed, may be paid for as Extra Work; but should the Work so exposed or examined prove unacceptable, the uncovering, or removing, and the replacing of the covering or making good of the parts removed, maybe at the Contractor's expense. Any Work done or materials used by the Contractor without suitable supervision or inspection by the Project

Manager or his authorized representative may be ordered removed and replaced at the Contractor's expense.

2.10.3. If Contractor does not promptly replace rejected material or correct rejected workmanship the Owner may: (a) by separate Contract or otherwise, replace such material or correct such workmanship and charge the cost thereof to the Contractor, or (b) terminate the Contractor's right to proceed in accordance with this Agreement pursuant to Section 4.10. Such inspection and test is for the sole benefit of Owner and shall not relieve Contractor of the responsibility of providing quality control measures to assure that the Work strictly complies with the Contract. No inspection or test by the Owner, Project Manager or their agent may be construed as constituting or implying acceptance. Inspection or test shall neither relieve Contractor of responsibility for damage to or loss of the material prior to acceptance, nor in any way affect the continuing rights of the Owner after acceptance of the completed Work.

2.10.4. Any Work outside the normal five (5) day, forty (40) hour week will require the Project Manager or Inspector on the job. All inspection so required shall be done at the Contractor's expense and the cost thereof may be deducted from the final payment. Overtime inspection may be done by the city at the Contractor's expense at \$100.00 per hour. The payment by the Contractor of overtime inspection fees shall not relieve the Contractor from the liquidated damages provisions as specified in Section 4.8 herein.

2.11. REMOVAL OF DEFECTIVE AND UNAUTHORIZED WORK:

2.11.1. All Work which has been rejected or condemned by Owner or Project Manager shall be repaired, or if it cannot be satisfactorily repaired, be removed and replaced at the Contractor's expense. The following work will be done at the Contractor's risk and will be considered "unauthorized." At the Project Manager's discretion the "Unauthorized Work" may not be measured and paid for and may need to be removed at the Contractor's sole expense.

- i. Work done beyond the lines and grades shown on the Plans, or as given, except as herein provided;
- ii. Work done without giving timely notice to the Project Manager so the Project Manager may, if he wishes, be present to observe the Work in progress; or
- iii. Any Extra or unclassified Work done without written authority and prior Agreement in writing as to prices.

2.11.2. Upon the failure of the Contractor to satisfactorily repair or to remove and replace, if so directed, rejected, unauthorized, or condemned Work immediately after receiving formal notice from the Project Manager, the Owner may, at its sole option, recover for such defective Work on the Contractor's bond or by action in a court having proper jurisdiction over such matters, or may employ labor and equipment and satisfactorily repair or remove and replace such Work and charge the cost of the same to the Contractor, which cost will be deducted from any money due him.

2.12. SUPERVISION AND SUPERINTENDENCE:

- 2.12.1. The Contractor shall supervise and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. The Contractor shall be solely responsible for the means, methods, techniques, sequences, and procedures of construction. The Contractor shall be responsible to see that the completed work complies with the Contract Documents.
- 2.12.2. The Contractor shall designate and keep on any work site(s), at all times during its progress, a competent Superintendent who shall not be replaced without prior written notice to the Owner. The Contractor shall provide contact information for the Superintendent who may be reached twenty-four (24) hours a day. The Superintendent will be the Contractor's representative at the site and shall have authority to act on behalf of the Contractor. All communications given to the Superintendent shall be as binding as if given to the Contractor. During periods when the Work is suspended, the Contractor shall make appropriate arrangements for any emergency work which may be required.
- 2.12.3. Whenever the Superintendent is not present on any particular part of the Work where the Project Manager may desire to inform the Contractor relative to interpretation of the Plans and Specifications or to disapproval or rejection of materials or Work performed, the Project Manager may so inform the foreman or other worker in charge of the particular part of the Work in reference to which the information is given. Information so given shall be as binding as if given to the Superintendent.
- 2.12.4. The Contractor will be supplied with four (4) copies of the Plans, and three (3) copies of the Specifications and Special Provisions. He shall have available on the Work at all times one copy each of said Plans, Specifications and Special Provisions, exclusive of the set designated for As-Built Drawings in Section 2.4 Additional copies of Plans, Specifications and Special Provisions can be obtained by the Contractor for the cost of reproduction.

SECTION 3 CONTROL OF MATERIAL

3.1.MATERIAL:

- 3.1.1. Unless otherwise indicated in this Contract, equipment, material and products incorporated in the Work covered by this Contract, shall be new and of the grade specified for the purpose intended. Unless otherwise specifically indicated, reference to equipment, material, product, or patented process by trade names, make or catalog number, shall be regarded as establishing a standard of quality and shall not be construed as limiting competition, and the Contractor may, with permission by the Project Manager, use any equipment, material, article, or process which is equivalent to that named, subject to the requirements of this Section.
- 3.1.2. Within the scope of his authority, the Project Manager shall be the sole judge of the quality and suitability of proposed alternative equipment, material, article or process. The burden

of proving the quality and suitability of the alternative shall be upon the Contractor. Information required by the Project Manager in judging an alternative shall be supplied by the Contractor at the Contractor's expense.

3.2.APPROVAL AND ACCEPTANCE OF MATERIALS:

- 3.2.1. Samples of all materials to be tested may be taken by the Project Manager or his authorized representative at the discretion of the Project Manager. Materials may be sampled either prior to shipment or after being received at the construction site. All sampling, inspection, and testing shall be done in accordance with the Specifications contained in the contract documents.
- 3.2.2. The Contractor shall provide such facilities as the Project Manager or his representative may require for conducting field tests and for collecting and forwarding samples. The Contractor shall not use or incorporate into the Work any materials represented by the samples until tests have been approved by the Project Manager or his authorized agents. Any material, which after approval, has for any reason become unfit for use, shall not be incorporated into the Work.
- 3.2.3. Tests or approvals by the Project Manager or others shall not relieve the Contractor from his obligations to perform the Work in accordance with the requirements of the Contract Documents.

3.3.CITED SPECIFICATIONS; SAMPLES AND TESTS:

- 3.3.1. Except as otherwise provided, sampling and testing of all materials, and the laboratory sampling and testing of equipment required under these Specifications, shall be in accordance with the current edition of the ASTM publication of Standards, adopted and in effect on the date of the Invitation for bid.
- 3.3.2. When designated, sampling and testing of materials shall be in accordance with the current edition of "The American Standards Association Specifications;" the current edition of the AASHTO publication "Standard Specification for Highway Materials and Methods of Sampling and Testing;" the current edition of the "American Water Works Association Specifications"; the current edition of the "Federal Specifications" or the current edition of "MIL Specifications" adopted and in effect on the date of the Invitation for bid.
- 3.3.3. The testing of all samples and materials shall be made at the expense of the Owner, when specified herein as by the Owner, unless the tests reveal nonconformance in which case said costs shall be reimbursed by the Contractor to the Owner. The Contractor shall furnish the required samples without charge. The Contractor shall give sufficient notification of the placing of orders for materials in order to permit the Project Manager to arrange for appropriate testing.

- 3.4.**STORAGE:** Materials shall be stored to insure the preservation of their quality and fitness for the Work. When necessary, they shall be placed on wooden platforms, or other hard, clean

surfaces and not on the ground and shall be placed under cover when directed. Stored materials shall be located to facilitate prompt inspection.

3.5.SUBSTITUTION OF MATERIALS AFTER AWARD OF CONTRACT: Substitution of equipment and materials of makes and types other than those specified and/or those that have been given written approval prior to closing of the Bid will be considered for approval only as hereafter provided: Proposed substitutes shall be equal or superior to items specified or previously approved. The Contractor shall submit any requests on his letterhead in duplicate within two weeks after the date of award of Contract. This request for substitutions shall be a complete typewritten list submitted at one time and must be accompanied by a statement outlining reasons for each requested substitution. The request shall include catalog number, technical data, cuts diagrams and such other descriptive data or samples as may be required. The Contractor shall also provide in his letter a detailed statement listing all significant details in which each item requested for approval differs from the item specified. Such listing or the failure to so list such information shall not relieve the Contractor from providing properly functioning and/or fitting materials, regardless of the approval action taken by the Project Manager. If so requested by the Project Manager, the Contractor shall submit samples of both the specified material or equipment and the proposed substitute. In case of a difference in price, the Owner shall receive all benefits of the difference for any substitutions, and the Contract amount shall be altered by Change Order to credit the Owner with any savings so obtained.

3.6.DEFECTIVE MATERIALS: All materials not conforming to the requirements of the Specifications shall be considered defective. Whether in place or not, such material shall be removed immediately from the site of the Work, unless otherwise permitted by the Project Manager. No rejected material, the defects of which have been subsequently corrected, shall be used until approval by the Project Manager has been given. Upon failure of the Contractor to comply promptly with any order of the Project Manager made under the provisions of this Section, the Owner shall have authority to remove defective materials and to deduct the cost of removal and replacement with specified materials from any moneys due or to become due to the Contractor or said costs of removal and replacement may be recovered in any action by the Owner against the Contractor's Surety Bond.

3.7.PROPERTY RIGHTS IN MATERIALS: The Contractor shall have no property right in materials after they have been attached, affixed or incorporated in the Work or the soil, or after payment has been made by the Owner to the Contractor for materials delivered to the site of the Work or stored subject to or under the control of Owner.

3.8.DAMAGE TO THE WORK AND RESPONSIBILITY FOR MATERIALS:

3.8.1. The Contractor shall be responsible for materials delivered and Work performed until completion and final acceptance of the entire construction thereof.

3.8.2. The Contractor shall bear the risk of injury, loss or damage to any and all parts of the Work for whatever cause, whether arising from the execution or from the non-execution of Work. The Contractor shall rebuild, repair or restore Work and materials which have been damaged or destroyed from any causes before completion and acceptance of the Work and

shall bear the expense thereof. The Contractor shall provide security and drainage and erect temporary structures as necessary to protect the Work and materials from damage.

- 3.8.3. The Contractor shall be responsible for materials not delivered to the site for which any progress payment has been made to the same extent as if the materials were so delivered.

SECTION 4 PERFORMANCE AND PROGRESS

4.1.SUBCONTRACTING OR ASSIGNMENT OF WORK:

- 4.1.1. No Contractual relationship will be recognized under the Contract other than the Contractual relationship between the Owner and Contractor.
- 4.1.2. No portion of the Contract shall be subcontracted, assigned or otherwise disposed of except with the written consent of the Owner or his authorized representative and Surety, which consent shall not be unreasonably withheld.
- 4.1.3. Requests for permission to subcontract, assign or otherwise dispose of any portion of the Contract shall be in writing and accompanied by a showing that the organization which will perform the Work is particularly experienced and equipped for such Work. Consent to subcontract, assign or otherwise dispose of any portion of the Contract shall not be construed to relieve the Contractor of any responsibility for the fulfillment of the Contract.

4.2.COMMENCEMENT OF WORK: The Contractor shall begin the Work within the prescribed amount of days set by the city in the written Notice to Proceed. The Contractor shall notify the Project Manager at least forty-eight (48) hours in advance of the time he intends to begin Work. Work shall be completed in the prescribed amount of days set by the city in the Contract Documents, including any Change Orders or Amendment. The Contractor shall conduct Work in such a manner and with sufficient materials, equipment, and labor as is considered necessary to insure its completion within the time limit set forth in the Contract. Should the prosecution of Work for any reason be discontinued by the Contractor, with the consent of the Project Manager, he shall notify the Project Manager at least 48 hours in advance of resuming operations.

4.3.LIMITATION OF OPERATIONS: Each item of Work shall be performed to completion without delay and in no instance will the Contractor be permitted to transfer his force from uncompleted Work to new Work without the permission of the Project Manager. The Contractor shall not open up Work to the prejudice of Work already started.

4.4.PROGRESS SCHEDULE:

- 4.4.1. The Contractor shall prepare and submit to the Project Manager for approval five (5) calendar days prior to the Preconstruction Conference, a practicable schedule, showing the order in which the Contractor proposes to carry on the Work, the date on which he will start the several salient features (including procurement of materials and equipment) and the contemplated dates for completing the same. The schedule shall be in the form of a progress chart of suitable scale to indicate appropriately the percentage of Work scheduled for completion at any time. The Contractor shall enter on the chart the actual progress at

such intervals as directed by the Project Manager and shall immediately deliver three copies thereof. If the Contractor fails to submit a progress schedule within the time herein prescribed, the Project Manager may withhold approval of progress payment estimates until such time as the Contractor submits the required progress schedule.

- 4.4.2. The Contractor shall perform the Work in accordance with the latest approved progress Schedule. If the progress of items along the critical path is delayed, the Contractor shall revise his planning to include additional forces, equipment, shifts or hours as necessary to meet the time or times of completion specified in this Contract. Additional costs resulting therefrom will be borne by the Contractor. The Contractor shall make such changes when his progress at any check period does not meet at least one of the following two tests:
- i. The percentage of dollar value of completed Work with respect to the total amount of the Contract is within ten percentage points of the percentage of the Contract time elapsed, or;
 - ii. The percentage of dollar value of completed Work is within ten percentage points of the dollar value which should have been performed according to the Contractor's own network analysis previously approved by the Project Manager.
- 4.4.3. Failure of the Contractor to comply with the requirements under this Section will be grounds for determination that the Contractor is not performing the Work with such diligence as will ensure completion within the time of completion specified in this Contract. Upon such determination, the Owner may terminate the Contractor's right to proceed with the Work, or any separate part thereof, in accordance with the provisions contained herein. The Owner may extend the time periods reflected by subparagraphs (i) and (ii) above, if those subparagraphs do not reasonably reflect upon the Contractor's prosecution of the Work.

4.5.CHARACTER OF WORKMEN AND EQUIPMENT:

- 4.5.1. The Contractor shall employ such superintendents, foremen, and workmen as are careful and competent, and the Project Manager may demand the dismissal of any person or persons employed by the Contractor in, about, or upon the Work who shall misconduct himself/herself or be incompetent or negligent in the proper performance of his or her duties, or neglects or refuses to comply with the directions given, and such person or persons shall not be employed again thereon without the written consent of the Project Manager. Should the Contractor continue to employ, or again employ such person or persons, the Project Manager may withhold all payments which are or may become due, or the Project Manager may suspend the Work until such orders are complied with.
- 4.5.2. In the employment of labor, preference shall be given, other conditions being equal, to residents of the area wherein the Work is being done, but no other preference or discrimination among citizens of the United States shall be made, except as may be required by special labor provisions. No convict labor shall be employed. The Contractor shall furnish such equipment as is considered necessary for the prosecution of the Work in an acceptable manner and at a satisfactory rate of progress. All equipment, tools, and machinery used for handling materials and executing any part of the Work shall be subject

to the approval of the Project Manager and shall be maintained in a satisfactory working condition. Equipment used on any portion of the Work shall be such that no injury to the Work, roadways, adjacent property, or other objects will result from its use. The Contract may be terminated if the Contractor fails to provide adequate equipment for the Work.

4.6.TEMPORARY SUSPENSION OF WORK: The Project Manager and/or Owner shall have the right to suspend, delay or interrupt the Work wholly or in part for such period as he may determine to be appropriate because of the failure on the part of the Contractor to perform properly the Work in accordance with the Contract, to carry out orders or to remove defective material or Work. The Contractor shall not suspend the Work without written order given by the Project Manager and prior to resuming Work shall give the Project Manager forty-eight (48) hours' notice to afford opportunity to reestablish supervision.

4.7.DETERMINATION AND EXTENSION OF CONTRACT TIME FOR COMPLETION:

4.7.1. The Contractor shall perform fully, entirely, and in a satisfactory and acceptable manner the Work, within the number of calendar days stipulated in the Contract. Time will be assessed against the Contractor beginning with the actual date the Work is started in accordance with the Notice to Proceed. If the Contractor does not begin the Work within the limit as designated in the Notice to Proceed, the calendar days shall start on the first calendar day after the expiration of the limit as stated in the Notice to Proceed.

4.7.2. In adjusting the Contract time for the completion of the Project, all strikes, lockouts, unanticipated delays in transportation or any condition over which the Contractor has no control, and any suspensions ordered by the Owner for causes not the fault of the Contractor, shall be excluded from the computation of the Contract time for completion of the Work and the Owner may extend the time for completion in such amount as the conditions justify. In order to secure an extension of time for delays beyond his control, the Contractor, shall within ten (10) days from the beginning of any such delay, notify the Owner in writing of the causes of delay, where upon the Owner shall ascertain the facts and the extent of the delay and extend the time for completing the Work when, in his judgment, the findings of fact justify such an extension, and his finding of fact thereon shall be final and conclusive. No allowances will be made for delays or suspensions of the performance of the Work which are in the control of the Contractor.

4.7.3. If the satisfactory execution and completion of the Contract shall require Work or materials in greater amounts or quantities than those set forth in the Contract, then the Contract time shall automatically be increased in the same proportion as the cost of the additional Work bears to the original Work contracted for.

4.8.FAILURE TO COMPLETE WORK ON TIME:

4.8.1. The Owner and Contractor agree and recognize that time is of the essence for every time period set forth in the Contract Documents and that the Owner will suffer financial loss if the Work is not substantially complete within the time set forth in the Contract Documents, plus any allowable extensions in writing. If the Contractor shall fail to fully perform and

complete the Work in conformity with the provisions and conditions of the Contract within the specified time limit for such performance and completion or within such further time as, in accordance with the provision of this Contract, shall be fixed or allowed for such performance and completion, the Owner and Contractor agree that as liquidated damages, and not as a penalty, for the delay in performance, the Contractor shall pay to the Owner in the amount stipulated below for each and every calendar day that expires after the time set forth in the Contract Documents until the same is finally complete and ready for Final Payment as provided herein.

Original Contract Amount	Amount of Liquidated Damages Per Day
Less than \$100,000	\$300.00
\$100,000 and less than \$500,000	\$600.00
\$500,000 and less than \$1,000,000	\$1,000.00
\$1,000,000 and over	\$1,500.00

- 4.8.2. The Owner shall recover said inspection charges and damages by deducting the amount thereof out of any moneys which may be due or may become due to the Contractor, and/or by an action at law against the Contractor or his Surety. It is understood and agreed that aside from any other penalty or damage, all costs of the Project Manager and inspection on behalf of the Owner may be charged to the Contractor and be deducted from any estimate or payment otherwise due and payable to him.
- 4.8.3. If the Contractor shall fail to pay such liquidated damages promptly upon demand therefor, the Surety on the Performance Bond shall pay such damages. In addition, and at the Owner’s option, the Owner may withhold all or any part of such liquidated damages from any payment due the Contractor.

4.9.ADJUSTMENT FOR SUSPENDED WORK:

- 4.9.1. In the event the Contractor is ordered by the Owner, in writing, to suspend Work for some unforeseen cause not provided for in the Contract, and over which the Contractor has no control, the Contractor may be reimbursed for actual money expended on the job during the period of shutdown. No allowance will be made for lost profits. The period of shutdown shall be computed from the date set out in the written order for Work to cease until the date of the written order for Work to resume. Claims for such compensation shall be filed with the Owner within 10 days after date of written order to resume Work or such claims will not be considered. The Contractor shall submit with his claim, substantiating papers covering the entire amount shown on the claim. The Owner shall take the claim under consideration, and may make such investigations as are deemed necessary, and shall be the sole judge as to the equitability of such claim and such decision shall be final.
- 4.9.2. Notwithstanding any provisions of this Contract to the contrary, no provision of this section shall be construed as entitling the Contractor to compensation for delays due to inclement

weather, delays due to failure of Surety, for suspensions made at the request of the Contractor, or for any other delay provided for in the Contract Documents, Specifications, Special Provisions, Bid, Contract, Change Order or Field Order.

4.10. **TERMINATION OF CONTRACT FOR DEFAULT:**

4.10.1. The Owner shall serve written notice upon the Contractor of its intention to terminate this Contract in the presence of at least one of the following events, collectively an “Event of Default:”

- i. Failure of the Contractor to start the Work on the date given in the Notice to Proceed or if the Contractor, in any way, abandons the Work;
- ii. Evidence that the progress being made by the Contractor is insufficient to complete the Work within the specified time, as it may be extended in accordance with the Contract Documents;
- iii. Willful or deliberate failure or violation on the part of the Contractor of any requirement of the Contract Documents, including the Plans and Specifications, Special Provisions, or if the Contractor is executing the same in bad faith or otherwise not in accordance with its obligations;
- iv. Failure to maintain any required bonds, licenses, permits, and/or insurance as required in the Contract Documents;
- v. Failure of the Contractor to promptly repair, replace or remove any defects in materials or Work or any defects in materials or Work of any other nature, the correction of which has been directed in writing by the Project Manager;
- vi. Substantial evidence of collusion for the purpose of illegally procuring a Contract or perpetrating fraud on the Owner in the construction of Work under Contract;
- vii. If the Contractor files a voluntary petition in bankruptcy, if a receiver is appointed for the Contractor or any of its property, or the insolvency of the Contractor;
- viii. If the Contractor shall allow any final judgment to stand against him unsatisfied for a period of ten (10) days or shall make an assignment for the benefit of creditors;
- ix. If the Contractor or any of its officers or employees are convicted, plead nolo contendere, enter into a formal agreement in which they admit guilt, enter a plea of guilty, or otherwise admit culpability to criminal offenses of bribery, kickbacks, collusive bidding, bid-rigging, anti-trust, fraud, undue influence, theft, extortion, or any offense of similar nature, in connection with the Contractor’s business;
- x. If other just causes exist for termination.

4.10.2. Written Notice. Owner shall provide Contractor and Surety with written notice of intent to terminate. Contractor and/or Surety has ten (10) days from receipt of notice to cure any default or to provide to the Project Manager a detailed plan, in writing, of how the Contractor will cure the causes for termination listed within the written notice. If a satisfactory effort has not been made by the Contractor or his Surety to correct the default within the prescribed period in the notice, or, if in the judgment of the Project Manager, any submitted written plan does not ensure satisfactory performance of the Work, the Owner may declare the Contract terminated and notify the Contractor and his Surety accordingly. Upon receipt of notice from the Owner that the Contract has been terminated, the Contract-

tor shall immediately discontinue all operations. The Owner may then proceed with the Work in any lawful manner that he may elect until completion.

4.10.3. Owner reserves the right to take possession of any machinery, implements, tools, or materials of any description that shall be found upon the Work, to account for said equipment and materials, and to use the same to complete the Project. When the Work is thus finally completed, the total cost of the same will be computed. If the total cost is more than the Contract price, the difference shall be paid to the Owner either by the Contractor or his Surety. In case of termination all expenses incident to ascertaining and collecting losses under the bond, including Project Managing and legal services, shall be assessed against the bond.

4.11. **TERMINATION FOR CONVENIENCE OF THE OWNER:** This Contract and the performance of the Work hereunder may be terminated at any time, in whole or in part, for convenience. Any such termination shall be effected by delivery to the Contractor of a written notice (“Notice of Termination”) specifying the extent to which performance of Work is terminated, the date upon which termination becomes effective, and any necessary actions to be taken by the Contractor to effectuate termination and close-out the Contract. If the Contract is terminated, the Contractor shall be paid on a prorated basis of Work satisfactorily completed, under the Work. The portion of Work satisfactorily completed but not yet accepted by the Owner shall be determined by the Owner.

4.12. **COOPERATION WITH OTHER CONTRACTORS:** In connection with the improvements under this Contract, the right is reserved by the Owner to award any Work not included in the Contract to another Contractor for performance during the progress of this Contract, or to perform such Work with the Owner's forces, and the Contractor for this Contract shall cooperate and so conduct his operation as to minimize the interference therewith, as directed by the Project Manager.

4.13. **TERMINATING OF CONTRACTOR'S RESPONSIBILITY:** This Contract will be considered complete when all Work and final cleanup has been finished, the Work accepted by the Owner, and all claims for payment of labor, materials, or services of any kind used in connection with the Work have been settled for by the Contractor or his Surety. The Contractor will then be released from further obligation except as set forth in the Surety Bond and for his responsibility for injury to persons or property arising from his duties and obligations under Section 7. The Surety Bond executed for performance of this Contract shall be in full effect for a period of one year following acceptance of the Work, except that with regard to the representation regarding copyright infringement found in Section 6.4, the Surety shall remain in effect for three years and with regard to the representation regarding patent infringement found in Section 6.4, the Surety shall remain in effect for six years. Neither the final payment nor any provision in the Contract documents shall relieve the Contractor of the responsibility for negligence or faulty materials or workmanship. The Contractor shall warrant his work to be free from faulty materials or workmanship for the period of two (2) years after Final Acceptance and upon written notice he shall remove any defect due thereto and pay for any damage due to other Work resulting there from which shall appear within the two-year period.

Remedied Work shall carry the same warranty as the original Work starting with the date of acceptance of the replacement or repair. Payment to the Contractor will not relieve him of any obligation under this Contract.

SECTION 5 WARRANTY

5.1. SCOPE OF WARRANTY:

- 5.1.1. Contractor warrants that the work and all of its components shall be free from defects and flaws in design, workmanship, and materials; shall strictly conform to the requirements of this contract; and shall be fit, sufficient and suitable for the purposes expressed in, or reasonably inferred from, this contract. The warranty herein expressed shall be in addition to any other warranties expressed or implied by law, which are hereby reserved unto Owner. In all emergencies the Contractor shall immediately remedy, repair, or replace, without cost to the Owner and to the entire satisfaction of the Owner, defects, damages or imperfections due to faulty materials or workmanship appearing in said Work within said period of not less than two years from the date of Final Acceptance. Remedied Work shall carry the same warranty as the original Work starting with the date of acceptance of the replacement or repair. Payment to the Contractor will not relieve him of any obligation under this Contract.
- 5.1.2. The Contractor, at no additional expense to the Owner, shall also remedy damage to equipment, the site, or the buildings or the contents thereof which is the result of any failure or defect in the Work, and restore any Work damaged in fulfilling the requirements of the Contract. Should the Contractor fail to remedy any such failure or defect within a reasonable time after receipt of notice thereof, the Owner will have the right to replace, repair, or otherwise remedy such failure or defect at the Contractor's expense.
- 5.1.3. Subcontractors', manufacturers', and suppliers' warranties and guarantees, expressed or implied, respecting any part of the Work and any material used therein shall be deemed obtained and shall be enforced by the Contractor for the benefit of the Owner without the necessity of separate transfer or assignment thereof.
- 5.1.4. The rights and remedies of the Owner provided in this Section are in addition to and do not limit any rights and remedies afforded by the Contract or by law. The Contractor specifically waives all the provisions of Chapter 8 of Article 20 of Title 13, Colorado Revised Statutes regarding defects in the Work under the Contract.

5.2. OWNER'S RIGHT TO CORRECT. If, within five (5) business days after Owner gives Contractor notice of any defect, damage, flaw, unsuitability, nonconformity, or failure to meet warranty subject to correction by Contractor, Contractor neglects to make, or undertake with due diligence to make, the necessary corrections, then Owner shall be entitled to make, either with its own forces or with contract forces, the corrections and to recover from Contractor all resulting costs, expenses, losses, or damages, including attorneys' fees and administrative expenses.

5.3.WARRANTY PERIOD: Except where longer periods of warranty are indicated for certain items, the Contractor warrants Work under the Contract to be free from faulty materials and workmanship for a period of not less than two (2) years from date of Final Acceptance, which one year period shall be covered by the Performance Bond and Payment Bond, as specified in this Contract. In cases of warranty work, which is not an emergency, all necessary repairs shall be made within a reasonable time not to exceed twenty (20) days after notice of the required repair is received by the Contractor. For those items of warranty work which cannot be completed within said twenty (20) day period, the parties shall negotiate a reasonable period of time.

SECTION 6 LEGAL RELATIONSHIP AND RESPONSIBILITY TO THE PUBLIC

6.1.LAWS TO BE OBSERVED: The Contractor, shall at all times, observe and comply with all Federal, State and local laws, codes, ordinances, and regulations, which pertain to and affect the conduct of the Work, and the Contractor and his Surety shall indemnify and save harmless the city and all its officers, agents, employees, or any of their heirs, successors or assigns against any claim, judgment, demand, costs, liability or expenses, including, but not limited to, attorney's fees and costs of suit arising from or based on the violation of any such law, ordinance, regulations, order, or decree, whether such claim, judgment, demand, costs, liability or expenses arises from actions by himself, his employees, or agents or subcontractors. Nothing contained herein shall be deemed to create liability for the contractor for any design defects not managed by the Contractor.

6.2.PERMITS AND LICENSES: The Contractor shall, at his own expense, procure all permits and licenses, pay all charges and fees, and give all notices necessary and incidental to the due and lawful prosecution of the Work. Any costs incurred for these permits must be included in the unit costs Bid for the Work.

6.3.PAYMENT OF TAXES:

6.3.1. With the exception of being exempt from City of Littleton Sales and Use taxes, the Contractor shall pay all sales and use taxes required to be paid, shall maintain such records in respect to his Work, which shall be separate and distinct from all other records maintained by the Contractor and shall be available for inspection by the Owner at any and all reasonable times, and shall furnish the Owner with such data, as may be necessary to enable the Owner to obtain any refunds of such taxes which may be available to the Owner under the laws, ordinances, rules or regulations applicable to such taxes. The Contractor shall require each of his Subcontractors to pay all sales and use taxes required to be paid and to maintain such records and furnish the Contractor with such data as may be necessary to enable the Owner to obtain a refund of the taxes paid by such subcontractors.

6.3.2. In accordance with Colorado Revised Statutes Sections 39-26-114 and 39-26-203, and the related regulation of the Department of Revenue, State of Colorado, the Contractor shall apply to the Department of Revenue, and secure prior to commencing the Project an

exemption certificate, which when issued by the Department of Revenue will enable the Contractor to purchase for the Project all materials free of State Sales and Use Taxes and Regional Transportation District (RTD) Tax, provided that any building permit fee shall be included in any bid with respect to the Project. Further, if awarded the Project, no Littleton sales and/or use tax shall be included in any billing with respect to the Project. This provision shall apply to all contractors, subcontractors and material suppliers. When Littleton sales tax is paid to licensed Littleton vendors for materials, which become part of the Project by a Contractor, the City of Littleton will refund that tax to the Contractor upon receipt of an application from the Contractor at the conclusion of the Project. Accompanying the application must be the material receipt(s) displaying a description of the item(s) purchased, date of purchase, amount of purchase, tax paid and any other documentation and information which may be required by the city to substantiate the payment and help validate a refund.

- 6.3.3. The Contractors who purchase materials, which become part of the Project in governmental entities, which do not honor the exemption and thereby pay sales tax will not be reimbursed for that tax payment by the City of Littleton. The Contractor shall bear the risk of any added or increased taxes occurring during the performance of the Work. A change in taxes shall under no circumstances entitle the Contractor to an adjustment under the Contract.

6.4. PATENTED DEVICES, MATERIALS AND PROCESSES: If the Contractor is required or desires to use any design, device, material or processes covered by patent or copyright, he shall provide for such use by suitable legal Agreement with the patentee or patent owner. The Contractor shall warrant that the materials, equipment or devices used on or incorporated in the Work shall be delivered free of any rightful claim of any third party for infringement of any United States patent or copyright. If notified promptly in writing and given authority, information and assistance, the Contractor shall defend, or may settle, at his expense, any suit or proceeding against the Owner or the Project Manager so far as based on a claimed patent or copyright infringement which would result in a breach of this warranty, and the Contractor shall pay all damages and costs awarded therein against the Owner or the Project Manager due to such breach. In case any use of any materials, equipment or devices is in such suit held to constitute an infringement and such use is enjoined, the Contractor shall, at his expense and option, either procure for the Owner the right to continue using said materials, equipment or devices, or replace same with noninfringing materials, or devices, or replace same with noninfringing materials, equipment or devices, or modify same so it becomes noninfringing. The Contractor shall report to the Owner promptly and in reasonable written detail each notice or claim of patent or copyright infringement based on the performance of this Contract of which the Contractor has knowledge. In the event of any claim or suit against the Owner as a result of any alleged patent or copyright infringement arising out of the performance of this Contract or out of the use of any supplies furnished or Work or services performed hereunder, the Contractor shall furnish to the Owner when requested by the Owner, all evidence and information in possession of the Contractor pertaining to such suit or claim. Such evidence and information shall be furnished at the expense of the Owner except where the Contractor has agreed to indemnify the Owner. This clause shall be included in all subcontracts.

6.5. 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 and regulations of the State Department of Health and the Occupational Safety and Health Administration (OSHA). As stated in OSHA Construction Standard 1926.51 C, the Contractor shall supply temporary sanitary facilities as per the following table:

<u>Number of Employees</u>	<u>Minimum Toilet Facilities</u>
20 or less	1 Toilet
21 to 50	1 Toilet and 1 Urinal per 40 workers
51 or more	1 Toilet and 1 Urinal per 50 workers

This requirement to provide sanitary facilities will not be measured and paid for separately but shall be considered incidental to and included in the cost of the Work.

6.6.PUBLIC CONVENIENCE AND SAFETY:

- 6.6.1. The Contractor shall fully comply with all applicable Federal, State and local laws governing safety. He shall provide all safeguards, safety devices and protective equipment and take any other needed actions on his own responsibility reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the Work. Materials stored upon the site shall be so placed and the Work shall, at all times, be so conducted as to cause no greater obstruction to traffic than is considered necessary by the Project Manager.
- 6.6.2. The Contractor shall not close any road to the public except by the express permission of the Owner. When the improvement under construction is being used by the traveling public, special attention shall be paid to keeping both the sub-grade and surfacing in such condition that the public can travel over same in comfort and safety. The Contractor shall cooperate with the Project Manager in the regulation of traffic. If the Contractor constructs temporary bridges or temporary stream crossings, his responsibility for accidents shall include the roadway approaches as well as the structures of such crossing.

6.7.BARRICADES, SIGNS AND HAZARD MARKINGS:

- 6.7.1. The Contractor shall provide, erect and maintain all necessary barricades, signs, danger signals and lights for the protection of the Work and the safety of the public. All barricades, signs and obstructions erected by the Contractor shall be illuminated at night and all devices for this purpose shall be kept illuminated from sunset to sunrise.
- 6.7.2. The Contractor shall be held responsible for all damage to the Work due to failure of barricades, signs, lights and watchman to protect it , and whenever evidence of such damage is found prior to acceptance, the Project Manager may order the damaged portion immediately removed and replaced by the Contractor without cost to the Owner if, in the opinion of the Project Manager, such action is justified. The Contractor's responsibility for the maintenance of barricades, signs and lights shall not cease until the Project has been accepted.

6.8.USE OF EXPLOSIVES: When the use of explosives is necessary for the prosecution of the Work, the Contractor shall use the utmost care so as not to endanger life or property, and whenever directed by the Project Manager, the number and size of the charges shall be reduced. The Contractor shall notify the proper representatives of any public services corporation, the Owner, any company, or any individual at least 8 hours in advance of any blasting which may damage his or their property on, along, or adjacent to the site. The Contractor shall comply with the requirements of Title 9, Article 7 of the Colorado Revised Statutes, as amended, titled "Explosive Permits". The Contractor shall also be required, at a minimum, to notify the Littleton Fire Department and the Littleton Police Department. All explosives shall be stored in a secure manner and all storage places shall be marked clearly "DANGEROUS EXPLOSIVES," and shall be in care of competent watchmen at all times.

6.9.PROTECTION AND RESTORATION OF PROPERTY:

6.9.1. The Contractor shall not enter upon private property for any purpose without first obtaining permission, and he shall be responsible for the preservation of all public and private property, sod, trees, fences, monuments, underground structures, etc., on and adjacent to the site(s) and shall use every precaution necessary to prevent damage or injury thereto. He shall protect carefully, from disturbance or damage, all land monuments and property markers until an authorized agent has witnessed or otherwise referenced their location and shall not remove them until directed.

6.9.2. He shall be responsible for all damage or injury to property of any character resulting from any act, omission, neglect or misconduct in his manner, or method of executing said Work, or due to his non-execution of said Work, or at any time due to defective Work or materials, and said responsibility shall not be released until the Work shall have been completed and accepted.

6.9.3. The Contractor's attention is directed to the importance of protecting all public utilities encountered on all projects. Such utilities may include, but are not limited to telephone, telegraph and power lines, water lines, sewer lines, gas lines, railroad tracks, and other overhead and under ground utilities, cable television lines and facilities. Before any excavation is to begin in the vicinity of water lines, railroad tracks or structures, sewer lines, cable television lines, gas lines or telephone conduits, each utility company concerned must be notified in advance of such excavation, and such excavation shall not be made until an authorized representative of the utility company concerned is on the ground and has designated the location of their facilities.

6.9.4. When or where any direct or indirect damage or injury is done to public or private property by or on account of any act, omission, neglect or misconduct in the execution of the Work, or in consequence of the non-execution thereof on the part of the Contractor, he shall restore, at his own expense, such property to a condition similar or equal to that existing before such damage or injury was done by repairing, rebuilding, or otherwise restoring, as may be directed, or he shall make good such damage or injury in an acceptable manner. In case of the failure on the part of the Contractor to restore such property or to have started

action to make good such damage or injury, the Owner may upon forty-eight (48) hours' notice, proceed to repair, rebuild or otherwise restore such property as may be deemed necessary and the cost thereof will be deducted from any moneys due or which may become due the Contractor under the Contract or prosecuted as a claim against the Contractor's Surety Bond.

6.9.5. The cost of insurance for damages due to Contractor's operation or cost of protecting utilities where required to permit construction under this Contract shall be included in the original Contract prices for the Project.

6.10. **INDEMNIFICATION AND HOLD HARMLESS:** The Contractor and his Surety shall indemnify and save harmless the city, its officers, agents, employees, successors and assigns from all suits, demands, actions, or claims of any nature whatsoever brought or made against the city, its officers, agents, employees, successors or assigns from any injuries or damages sustained by any person, firm or corporation or property or resulting from or arising out of any neglect in safeguarding the Work, or through the use of unacceptable materials in the construction of the improvement, or as a result of any act or omission by the said Contractor, or from the use, misuse, storage or handling of explosives or on account of any claims or amounts recovered for any infringement of patent, trademark, or copyright, or from any claims or amounts arising or recovered under the Workmen's Compensation Laws, or any other law, by-law, ordinance, order or decree, and so much of the money due the said Contractor under and by virtue of the Work, as shall be considered necessary by the city, may be retained or, in case no money is due, his surety shall be held until such suit or suits, action or actions, claim or claims, for injuries or damages as aforesaid, shall have been settled and satisfactory evidence to that effect furnished to the city.

6.11. **NO PERSONAL LIABILITY OF THE PROJECT MANAGER:** The Project Manager is an agent of Owner and the Project Manager, his agents, heirs, successors and assigns shall have no liability to any third party as a result of his performance of this Contract.

6.12. **NO WAIVER OF LEGAL RIGHTS:** Inspection by the Project Manager or by any of his duly authorized representatives, of any order, measurement, or certificate by the Project Manager; of any order by the Owner for the payment of money; of any payment for or acceptance of any Work or any extension of time; or of any possession taken by the Owner, shall not operate as a waiver of any provision of the Contract, or any power therein provided. A waiver of any breach or term of the Contract shall not be deemed to be a waiver of any other or subsequent breach. The Owner reserves the right to correct any error that may be discovered in any estimate that may have been paid, and to adjust the same to meet the requirements of the Contract and Specifications. The Owner reserves the right to claim and recover, by process of law, sums as may be sufficient to correct any error or make good any deficit in the Work resulting from such error, dishonesty, or collusion upon proof of collusion or dishonesty between the Contractor or his agents and the Project Manager or his assistants, discovered in the Work after the final payment has been made.

6.13. **RIGHTS-OF-WAY:** The Owner shall furnish all lands and rights-of-way required for completion of this Contract. In acquiring rights-of-way, the Owner will proceed as

expeditiously as possible, but in the event all rights-of-way or easements are not acquired prior to the beginning of construction, the Contractor shall begin Work on such lands and rights-of-way as have been acquired. No claim for damage will be allowed or shall be made by reason of the Owner's delay in obtaining lands, easements or rights-of-way. In the event of litigation or other delays in acquiring rights-of-way, the time allowed herein for completion will be extended to compensate for the time actually lost by such delay.

6.14. SAFETY:

6.14.1. The Contractor shall be solely and completely responsible for conditions of the jobsite, including safety of all persons and property during performance of the Work. The Contractor shall fully comply with all State, Federal and other laws, rules, and regulations relating to safety of the public and workers.

6.14.2. The right of the Project Manager to conduct construction review or observation of the Contractor's performance will not include review or observation of the adequacy of the Contractor's safety measures in, on, or near the construction site.

**SECTION 7
MEASUREMENT AND PAYMENT**

7.1. BONDS.

7.1.1. Contemporaneous with Contractor's execution of this contract, Contractor shall provide a Performance Bond and a Labor and Material Payment Bond, as security for the faithful performance and payment of all Contractor's obligations under the Contract Documents. All bonds shall be in the form prescribed by the Owner, executed by a surety company i) licensed to do business in the State of Colorado; ii) with a general rating of A and a financial size category of Class X or better in Best's Insurance Guide, each in the penal sum of the contract price; and iii) in conformance with C.R.S. §§ 38-26-105 and 106 ("Bonds"). All Bonds signed by an agent or attorney-in-fact shall be accompanied by a certified copy of the signatory's authority to act. Contractor shall, at all times while providing, performing, or completing the work, including, without limitation, at all times while correcting any failure to meet warranty pursuant to Section 5 of this contract, maintain and keep in force, at Contractor's expense, the Bonds required hereunder.

7.1.2. If the surety on any bond furnished by the Contractor is i) placed in the hands of a receiver, is declared bankrupt; ii) its rights to do business in Colorado is terminated; or iii) it ceases to meet the requirements specified herein, the Contractor shall, within five (5) days thereafter, substitute another bond and surety, both of which shall be acceptable to the Owner.

7.2. MEASUREMENT OF WORK PERFORMED: The determination of the amount of Work acceptably completed under the terms of the Contract, or as directed by the Project Manager in writing, will be made by the Project Manager based on measurements taken by him or his agents. These measurements will be taken according to the United States standard measure.

All surface and linear measurements will be taken horizontally unless otherwise shown on Plans or specified. Structures shall be measured to the neat lines as shown on the Plans, or as ordered in writing by the Project Manager.

7.3.SCOPE OF PAYMENT:

7.3.1. The Contractor shall accept the compensation, as herein provided, in full payment for furnishing all materials, equipment, labor, tools, and incidentals necessary to complete the Work and for performing all Work contemplated and embraced under the Contract; also for loss or damage arising from the nature of the Work, or from the action of the elements, or from any unforeseen difficulties which may be encountered during the prosecution of the Work until the final acceptance by the Owner, and for all risks of every description connected with the prosecution of the Work, for all expenses incurred in consequence of the suspension or discontinuance of the Work as herein specified, and for any infringement of patent, trademark, or copyright; and for completing the Work according to the Plans and Specifications. Neither the payment of any partial payment nor of any retained percentage shall relieve the Contractor of any obligation to make good any defective Work or material. No moneys, payable under Contract, or any part thereof, except the partial payment for the first month period, shall become due and payable if the Owner so elects, until the Contractor shall satisfy the Owner that he has fully settled or paid for all materials and equipment used in or upon the Work and labor done in connection therewith, and the Owner, if he so elects, may pay any or all such bills, wholly or in part, and deduct the amount or amounts so paid from any monthly or final partial payment excepting the first estimate.

7.4.PAYMENT FOR INCREASED OR DECREASED QUANTITIES: When alterations in the Plans or quantities of Work are ordered and performed without a written Change Order or Amendment, the Contractor shall accept payment in full at the Contract unit price for the actual quantities of Work done, and only upon the Owner's review and approval of said Work. No allowance will be made for lost profits. Increased or decreased Work without a written Change Order will be paid for as stipulated herein.

7.5.PAYMENT FOR OMITTED ITEMS:

7.5.1. For any item omitted from the Work, the Owner will pay the Contractor a fair and equitable amount for costs incurred directly related to such item prior to the date of the Owner's order to omit the item, subject to Section 1.4 of the General Conditions. No allowance will be made for lost profits in reimbursements to the Contractor for omitted items of Work. Acceptable materials ordered by the Contractor or delivered to the Work site prior to the date of cancellation, alteration, or suspension of the Work by order of the Project Manager will be paid for at the actual cost to the Contractor and shall thereupon become the property of the Owner.

7.5.2. The Contractor shall immediately submit certified statements covering all money expended in preparation for any omitted item, and he shall be reimbursed for any money expended in preparation for Work on any omitted item when such preparation has no value to the

remaining items of the Contract, or for a proportionate amount based on the total Contract price over which such preparation would ordinarily be distributed when other items are included in such preparation.

7.6.EXTRA AND FORCE ACCOUNT WORK:

- 7.6.1. Extra Work, for which no price is provided in the Bid, shall be covered by Change Order to be signed by both parties before such Work is commenced. Extra Work will be paid for either at a lump sum, or unit prices agreed upon, or on a Force Account basis, subject to Section 1.5 of the General Conditions. For all labor, teams, and foremen in direct charge of the specific operations accomplished on a Force Account basis, the Contractor shall receive the current local rate of wage, to be agreed upon before starting the Work, to which shall be added fifteen (15) percent of the sum thereof to cover cost of supervision, the rental of small tools and ordinary equipment, additional Bond, Unemployment Insurance, all overhead and any other costs not specifically stated. In addition, the Contractor shall be paid a sum equal to the Worker's Compensation insurance premium, the actual costs of Social Security taxes computed on the base rate for the class of Work involved for the actual amount of the payroll, and the public liability and property damage insurance premium; provided, however, that nothing in this Section will change the legal status of the relationship between the Parties to this Agreement. For all materials furnished and used by the Contractor on a Force Account basis, he shall receive the actual cost of such materials, including transportation charges as shown by original receipted bills, to which shall be added fifteen (15) percent of said actual cost.
- 7.6.2. For machine power tools or equipment, including fuel and lubricant, used on Force Account Work, payment for the same will be made on a rental basis at the rate agreed upon between the Contractor and the Project Manager, to which rate no percentage shall be added.
- 7.6.3. The compensation as herein provided shall be received by the Contractor as payment for Extra Work done on a Force Account basis and subject to any conditions or limitations as specified in Section 1.5 of the General Conditions. The Contractor shall make no claim for Force Account Work, unless performed on written order and in accordance therewith. The Contractor's representative and the Inspector shall compare records of Extra Work done on a Force Account basis at the end of each day. Copies of these records shall be made upon suitable forms provided for this purpose and signed by both the Inspector and the Contractor's representative, one copy being forwarded to the Project Manager and one copy to the Contractor.
- 7.6.4. All claims for Extra Work done on a Force Account basis shall be submitted each month to the Project Manager by the Contractor upon certified statements, or upon forms furnished by the Owner. Work performed prior to a written order by the Project Manager will not be paid for.

7.7.PARTIAL PAYMENTS:

- 7.7.1. Partial progress payments shall be made by the Owner to the Contractor for the percentage of the Work completed, subject to inspection by the Project Manager to verify percentage of completion. The Owner and/or Project Manager alone shall determine when work has been completed and progress payments shall not constitute a waiver of the Owner's right to require fulfillment of all terms of the Contract Documents and the delivery of all Work contemplated herein, complete and satisfactory to the Owner.
- 7.7.2. The Project Manager will make an estimate once each month as the Work progresses of the value of the Work performed and materials completed and in-place or delivered to the site in accordance with the Contract. On request of the Project Manager, the Contractor shall furnish a detailed estimate of the total Contract price showing the amount included therein for each category of Work, to provide a basis for determining the amount of progress payments. The market value of materials and equipment delivered to the construction site but not yet incorporated in the Work may, at the discretion of the Owner, be included with a progress payment. However, payment by the Owner for such materials and equipment shall not relieve the Contractor of the responsibility for the care of such materials and equipment because the Owner shall not be deemed to have assumed ownership of the materials or equipment until these are incorporated into the completed and accepted Work. Such increases to progress payments, if authorized, are intended only to reduce the cost of doing business with the Owner.
- 7.7.3. In accordance with C.R.S. § 24-91-103, where the Contract price exceeds one hundred fifty thousand dollars (\$150,000.00), partial payments shall be authorized at the end of each calendar month, or as soon thereafter as practicable, to the Contractor upon satisfactory performance of the Contract. The Owner shall, from the total of the Contract estimate so ascertained, deduct an amount equivalent to five (5) percent of the whole, to be retained by the Owner until acceptance of the entire Contract and the balance of the sum equivalent to ninety-five (95) percent of the whole, shall be certified to by the Project Manager for payment.
- 7.7.4. Where the Contract price does not exceed one-hundred fifty thousand dollars (\$150,000.00), the Owner shall, from the total of the Contract estimate so ascertained, deduct an amount equivalent to ten (10) percent of the whole, to be retained by the Owner until acceptance of the entire Contract and the balance of the sum equivalent to ninety (90) percent of the whole, shall be certified to by the Project Manager for payment.
- 7.7.5. The Owner shall retain from all progress payments an amount equal to all statutory claims filed against Contractor pursuant to C.R.S. § 38-26-107. No partial payments except final payment will be made for a sum less than \$1,000.00. The estimates will be approximate only, and all partial or monthly estimates and payments shall be subject to correction in the estimate and payment rendered following discovery of an error in any previous estimates or payments. Should any defective Work or material be discovered, or should a reasonable doubt arise as to the integrity of any part of the Work completed previous to the final acceptance and payment, there will be deducted from the first payment rendered after the discovery of such Work an amount equal in value to the defective or questioned Work, and

this Work will not be included in a subsequent estimate or payment until the defects have been remedied or the causes for doubt removed.

7.8. PUNCH LIST AND FINAL ACCEPTANCE. The Work shall be finally accepted when, and only when, the whole and all parts thereof shall have been completed to the satisfaction of Owner in full compliance with, and as required by or pursuant to, this contract. Upon receipt of Contractor's Written Notice of Completion, Owner shall make a review of the Work and notify Contractor in writing of all Punch List Work, if any, to be completed or corrected. Following Contractor's completion or correction of all Punch List Work, Owner shall make another review of the work and prepare and deliver to Contractor either a written notice of additional Punch List Work to be completed or corrected or a written notice of Final Acceptance of the Work.

7.9. ACCEPTANCE AND FINAL PAYMENT:

7.9.1. Two weeks after acceptance of the Work, including final cleanup, the Owner shall initiate the Acceptance and Final Payment procedures. All prior partial estimates and payments shall be subject to correction in the final estimate and payment. Upon completion of the Acceptance and Final Payment Procedures, the Work will be considered accepted, the Contract considered complete, and, upon compliance with the provisions of State law, the final payment shall be executed and submitted to the Contractor.

7.9.2. The acceptance by the Contractor of the last payment as aforesaid shall operate as and shall be a release of the Owner from all claims for liability arising from the performance of the Work under the Contract.

7.10. LIENS.

7.10.1. *Title.* Nothing in this contract shall be construed as vesting in Contractor any right of property in any equipment, materials, supplies, and other items provided under this Contract after they have been installed in, incorporated into, attached to, or affixed to, the Work or the Work site(s). All such equipment, materials, supplies, and other items shall, upon being so installed, incorporated, attached or affixed, become the property of Owner, but such title shall not release Contractor from its duty to insure and protect the Work in accordance with the requirements of this Contract.

7.10.2. *Waivers of Lien.* Contractor shall, from time to time at Owner's request and in any event prior to final payment, furnish to Owner such receipts, releases, affidavits, certificates, and other evidence as may be necessary to establish, to the reasonable satisfaction of Owner, that no lien against the work or the public funds held by Owner exists in favor of any person whatsoever for or by reason of any equipment, material, supplies, or other item furnished, labor performed, or other thing done in connection with the work or this contract ("Lien") and that no right to file any Lien exists in favor of any person whatsoever.

7.10.3. *Removal of Liens.* If at any time any notice of any Lien is filed, then Contractor shall, promptly and without charge, discharge, remove, or otherwise dispose of such Lien. Until

such discharge, removal, or disposition, Owner shall have the right to retain from any money payable hereunder an amount that Owner, in its sole judgment, deems necessary to satisfy such Lien and to pay the costs and expenses, including attorneys' fees and administrative expenses, of any actions brought in connection therewith or by reason thereof.

7.10.4. *Protection of Owner Only.* This section shall not operate to relieve Contractor's surety or sureties from any of their obligations under the Bonds, nor shall it be deemed to vest any right, interest, or entitlement in any subcontractor or supplier. Owner's retention of funds pursuant to this section shall be deemed solely for the protection of its own interests pending removal of such Liens by Contractor, and Owner shall have no obligation to apply such funds to such removal but may, nevertheless, do so where Owner's interests would thereby be served.

7.11. DEDUCTIONS.

7.11.1. *Owner's Right To Withhold.* Notwithstanding any other provision of this Contract and without prejudice to any of Owner's other rights or remedies, Owner shall have the right at any time, to deduct and withhold from any Progress or final payment that may be or become due under this contract such amount as may reasonably appear necessary to compensate Owner for any actual or prospective loss due to:

- i. Work that is defective, damaged, flawed, unsuitable, nonconforming, or incomplete;
- ii. Claims or liens filed or reasonable evidence indicating probable filing of claims or liens from third-parties, regardless of merit;
- iii. Failure of the Contractor to make payments property and promptly to subcontractors for material or labor;
- iv. Failure of the Contractor to prosecute any portion of the Work in compliance with an approved schedule;
- v. Reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract value;
- vi. Failure of the Contractor to submit on a timely basis, any documentation required by the Contract Documents, including without limitation, monthly reports, schedules, or request for approval of subcontractors.
- vii. Unauthorized Work or deviations by the Contractor from the Contract Documents;
- viii. Damage to the Owner or to another contractor;

- ix. State or local sales, use, or excise taxes from which Owner is exempt;
- x. Any other failure of Contractor to perform any of its obligations under this contract; or
- xi. The cost to Owner, including attorneys' fees and administrative costs, of correcting any of the aforesaid matters or exercising any one or more of Owner's remedies set forth within the Contract Documents.

7.11.2. *Release and Use of Withheld Funds.* Owner shall be entitled to retain any and all amounts withheld pursuant to subsection 7.11.1 above until Contractor shall have either performed the obligations in question or furnished security for such performance satisfactory to Owner. Owner shall be entitled to apply any money withheld or any other money due Contractor under this contract to reimburse itself for any and all costs, expenses, losses, damages, liabilities, suits, judgments, awards, attorneys' fees and administrative expenses incurred, suffered, or sustained by Owner and chargeable to Contractor under this contract.

7.11.3. *Waiver under C.R.S. § 38-26-107.* Execution of the Contract Documents by the Contractor shall constitute waiver by the Contractor to claim any right of payment of interest upon any such retained funds, or to claim any right of payment of interest upon funds withheld under the provisions of C.R.S. § 38-26-107.

SECTION 8 DISPUTES AND REMEDIES

8.1. DISPUTE RESOLUTION PROCEDURE.

8.1.1. *Notice of Disputes and Objections.* If Contractor disputes or objects to any requirement, direction, instruction, interpretation, determination, or decision of Owner, Contractor may notify Owner in writing of the issue and of the amount of any equitable adjustment to the contract price or contract time to which Contractor claims it will be entitled as a result thereof; provided, however, that Contractor shall, nevertheless, proceed without delay to perform the Work as required, directed, instructed, interpreted, determined, or decided by Owner, without regard to such dispute or objection. Unless Contractor so notifies Owner within two business days after receipt of such requirement, direction, instruction, interpretation, determination, or decision, Contractor shall be conclusively deemed to have waived all such disputes or objections and all claims based thereon.

8.1.2. *Negotiation of Disputes and Objections.* To avoid and settle without litigation any such dispute or objection, Owner and Contractor agree to engage in good faith negotiations. Within ten (10) business days after Owner's receipt of Contractor's written notice of dispute or objection, a conference between Owner and Contractor shall be held to resolve the dispute. Within ten (10) business days after the end of the conference, Owner shall render its final decision, in writing, to Contractor. If Contractor objects to the final decision of Owner, then it shall, within ten (10) business days, give Owner notice thereof and, in such notice, shall state its final demand for settlement of the dispute. Unless Contractor so

notifies Owner, Contractor shall be conclusively deemed: i) To have agreed to and accepted Owner's final decision; ii) To have waived all claims based on such final decision.

8.2.DISPUTED CLAIMS FOR EXTRA WORK: In case the Contractor deems extra compensation is due him for Work or material not covered in the Contract Documents, or not ordered by the Project Manager as Extra Work, the Contractor shall notify the Project Manager in writing of his intention to make claim for such extra compensation before he begins the Work on which he bases the claim and shall afford the Project Manager every facility for keeping actual cost of the Work. Failure on the part of the Contractor to give such notification or to afford the Project Manager proper facilities for keeping strict account of actual cost shall constitute a waiver of the claim for such extra compensation. The filing of such notice by the Contractor and the keeping of costs by the Project Manager shall not in any way be construed to prove the validity of the claim. When the Work has been completed, the Contractor shall, within ten (10) days, file his claim for extra compensation with the Project Manager, who will present it to the Owner for consideration.

8.3.CONTRACTOR'S REMEDIES. If Owner fails or refuses to satisfy a final demand made by Contractor pursuant to Section 8.2 of this Contract, or to otherwise resolve the dispute which is the subject of such demand to the satisfaction of Contractor, within ten days following receipt of such demand, then Contractor shall be entitled to pursue such remedies, not inconsistent with the provisions of this Contract, as it may have in law or equity.

8.4.OWNER'S REMEDIES. If it should appear at any time prior to final payment that an Event of Default, and has failed to cure any such Event of Default, as defined within Section 4.10 of the General Conditions herein, then the Owner shall have the right, at its election and without prejudice to any other remedies provided by law or equity, to pursue any one or more of the following remedies:

- i. Owner may require Contractor, within such reasonable time as may be fixed by Owner, to complete or correct all or any part of the work that is defective, damaged, flawed, unsuitable, nonconforming, or incomplete; to remove from the work site any such work; to accelerate all or any part of the work; and to take any or all other action necessary to bring Contractor and the work into strict compliance with this Contract.
- ii. Owner may perform or have performed all work necessary for the accomplishment of the results stated in Paragraph (i) above and withhold or recover from Contractor all the cost and expense, including attorneys' fees and administrative costs, incurred by Owner in connection therewith.
- iii. Owner may accept the defective, damaged, flawed, unsuitable, nonconforming, incomplete, or dilatory Work or part thereof and make an equitable reduction in the contract price.
- iv. Owner may terminate this contract without liability for further payment of amounts due or to become due under this Contract, pursuant to Section 4.10 of the General Conditions herein.

- v. Upon any termination of this contract or of Contractor's rights under this contract in accordance with Section 4.10 or 4.11 of the General Conditions herein, and at Owner's option exercised in writing, any or all subcontracts and supplier contracts of Contractor shall be deemed to be assigned to Owner without any further action being required, but Owner shall not thereby assume any obligation for payments due under such subcontracts and supplier contracts for any Work provided or performed prior to such assignment.
- vi. Owner may withhold from any Progress Payment or Final Payment, whether or not previously approved, or may recover from Contractor, any and all costs, including attorneys' fees and administrative expenses, incurred by Owner as the result of any Event of Default or as a result of actions taken by Owner in response to any Event of Default.
- vii. Owner may recover any damages suffered by Owner.

8.5.OWNER'S SPECIAL REMEDY FOR DELAY. If the work is not completed by Contractor, in full compliance with, and as required by or pursuant to, this contract, within the contract time as such time may be extended by Change Order, then Owner may invoke its remedies under Section 8.4 of this Contract or may, in the exercise of its sole and absolute discretion, permit Contractor to complete the work but charge to Contractor, and deduct from any Progress or Final Payments, whether or not previously approved, administrative expenses and costs for each day completion of the work is delayed beyond the Completion Date, computed as set forth in Section 4.8, as well as any additional damages caused by such delay.

8.6.ATTORNEY FEES: In the event there is any dispute between the Contractor or the Surety and the Owner, its officers, agents or employees, and the Owner, its officers, agents or employees prevail, the Owner, its officers, agents or employees shall be granted all of its costs, including but not limited to attorney's fees, court costs and expert witness fees.

SECTION 9 OTHER PROVISIONS

9.1. Wherever a number of days is specified in this Contract it shall mean calendar days unless otherwise specified.

9.2. When a delay on any aspect of the Work occurs, the Contractor, to the maximum extent possible, shall utilize his resources elsewhere on the project. If the Contractor, after complying the maximum extent possible by the reassignment of his labor force, equipment and materials, alleges to have suffered damages due to delay, and the delay is caused in whole or in part by acts or omissions within the control of the Owner or persons acting on its behalf, then such a claim shall be treated as a change order request and shall be processed in accordance with the change order, audit and inspection requirements specified in the General Provisions or it shall be deemed forever waived. Nothing herein contained shall be interpreted so as to allow the

Contractor to recover delay damages from the Owner for delays caused by acts of God, the acts or omissions of the Contractor, its subcontractors, employees or agents, or persons over which the Owner has no control.

9.3. Work performed by Contractor under this Contract shall conform to reasonable and normal professional standards and the Contractor shall conduct himself at all times in a manner consistent with industry standards.

9.4. No reports, graphics or other material produced specifically for the owner under this contract shall be the subject of an application for copyright or trademark by or on behalf of contractor.

9.5. No assignment of any claim or proceeds under this contract shall be binding upon the owner unless it shall be first notified thereof in writing.

9.6. Notices required in this contract shall be deemed to have been delivered five (5) business days after actual date of Notice of Award after having been placed in the U.S. mails, sent by certified mail, return receipt requested, addressed as set forth in the contract award page hereof, or to such other addresses as the parties may mutually designate in writing.

SCHEDULE OF CONTRACT TERMS

Whenever the following terms or pronouns are used in the Specifications and Contract Documents, the intent and meaning shall be as follows:

1-1 **AASHTO:** The American Association of State Highway and Transportation Officials.

1-2 **ASA:** American Standards Association.

1-3 **ASTM:** American Society for Testing Materials.

1-4 **AWWA:** American Water Works Association.

1-5 **BIDS:** The offer or bid of the Bidder submitted on the prescribed forms setting forth the prices for the Work to be performed.

1-6 **BIDDER:** Any individual, firm, or corporation, submitting a Bid for the Work contemplated herein, acting directly or through a duly authorized representative.

1-7 **BID SECURITY:** The security, as designated in the Invitation to Bidders or in the Bid form furnished with the Bid by the Bidder as a guaranty that he will enter into Contract and furnish Bond as required, if the Work be awarded to him.

1-8 **BONDS:** Bid, performance and payment and material bonds.

1-9 **CHANGE ORDER:** A written modification of the Contract, issued after award to the Contractor, authorizing an addition, deletion, or revision to the Work within the general scope of the Contract or authorizing an adjustment in the Contract Price or Contract Time mutually agreed upon between the Owner and the Contractor.

1-10 **CDOT:** Colorado Department of Transportation

1-11 **CONTRACT OR CONTRACT DOCUMENTS:** The written Agreement executed between the Owner and the successful Bidder, covering the performance of the Work and the furnishing of labor and materials, by which the Contractor is bound to perform the Work and furnish the labor and materials and by which the Owner is obligated to compensate him therefore at a mutually established and accepted rate or price. The Contract shall include this Contract Agreement, Invitation for bid , Bidder's Bid, Performance, Labor and Material Payment Bond, Notice of Award and Notice to Proceed, Final Acceptance and Warranty Initiation, Final Receipt, Notice of End of Basic Warranty Period, Special Provisions, General Provisions, Technical Specifications, Plans, Specifications, Drawings and Addenda or Change Orders, which may be subsequently entered into to complete the Work in an acceptable manner in accordance with the Plans and Specifications.

1-12 **CONTRACTOR:** The individual, partnership, firm, or corporation executing the Contract, acting directly or through lawful agents or employees, primarily liable for the acceptable performance of the Work for which contracted, and for the payment of all legal debts pertaining to the Work.

1-13 **DRAWINGS:** The Plans, profiles, typical cross-sections, general cross-sections, elevations, schedules, and details which show locations, character, dimensions, and details of the Work.

1-14 **DISTRICT:** A legally constituted group of individuals who have joined together in order to facilitate construction of utility systems within the limits of their property. The district shall be represented by its authorized Board of Directors.

1-15 **E-VERIFY:** (formerly known as the Basic Pilot/Employment Eligibility Verification Program) An internet based system operated by the Department of Homeland Security (DHS) in partnership with the Social Security Administration (SSA) that allows participating employers to electronically verify the employment eligibility of their newly hired employees.

1-16 **ENGINEER OR PROJECT MANAGER:** The Engineer or Project Manager, duly authorized representative of the city, acting directly or through an assistant or representative.

1-17 **EQUIPMENT:** All machinery, together with the necessary supplies for upkeep and maintenance, and all tools and apparatus necessary for the proper construction and acceptable completion of the Work.

1-18 **EXTRA WORK:** Work not provided for in the Contract as awarded but found to be essential to the satisfactory completion of the Contract, within its intended scope.

1-19 **FEDERAL SPECIFICATIONS:** The Federal Specifications and Standards, and supplements, amendments, and indices thereto, as prepared and issued by the General Services Administration of the Federal Government. These may be purchased from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C.

1-20 **FIELD ORDER:** A written order effecting minor change in the Work not involving an adjustment in the Contract Price or an extension of the Contract Time, issued by the Project Manager to the Contractor during construction.

1-21 **FINAL ACCEPTANCE:** An acknowledgment made by the city that all Work, as defined in Paragraph 1-47 herein, has been completed.

1-22 **FORCE ACCOUNT:** A method of payment, other than lump sum or unit price, for Work ordered by a Change Order.

1-23 **INSPECTOR:** An authorized representative of the Project Manager assigned to make all necessary inspection of the Work performed or being performed, or of the materials furnished or being furnished by the Contractor.

1-24 **INTENTION OF TERMS:** Whenever, in these Specifications or upon the Plans, the words "directed," "required," "permitted," "ordered," "designated," "prescribed," or words of like import, are used, it shall be understood that the direction, requirement, permission, order, designation, or prescription of the Project Manager is intended; and similarly, the words "approved," "acceptable," "satisfactory," or words of like import shall mean approved by, or acceptable to or satisfactory to the Project Manager, unless otherwise expressly stated, subject in each case to the final determination of the Owner.

Any reference to a paragraph or subparagraph within a section shall include the general provision of the section or sections and paragraph pertinent thereto.

1-25 **LABORATORY:** The official testing laboratories of the Owner or such other laboratories as may be designated by the Project Manager.

1-26 **NOTICE OF AWARD:** A written notice to the successful Bidder stating that this Bid has been accepted and that, in accordance with the terms of the notice to Contractors and the Specifications, he is required to execute the Contract and furnish satisfactory Contract bond.

1-27 **NOTICE TO PROCEED:** A written notice to the Contractor of the date on which he is to begin the prosecution of the Work for which he has contracted.

1-28 **NOTICE OF TERMINATION:** Written notice from the Owner to the Contractor to stop Work under the Contract on the date and to the extent specified in the Notice of Termination.

1-29 **OWNER:** City of Littleton, Colorado

1-30 **PAYMENT BOND:** The approved form of security furnished by the Contractor and his surety as a guarantee that he will pay in full all bills and accounts for materials and labor used in the construction of the Work, as provided by law.

1-31 **PERFORMANCE BOND:** The approved form of security furnished by the Contractor and his surety as a guarantee of good faith and ability on the part of the Contractor to execute the Work in accordance with the terms of the Plans, Specifications, and Contract. In lieu of a separate Performance Bond, a combination Performance, Labor and Material Payment Bond may be supplied by the Contractor.

1-32 **PERFORMANCE, LABOR AND MATERIAL PAYMENT BOND:** Security furnished by the Contractor and his surety as a guarantee that he will pay in full all bills and accounts for materials and labor used in the Work and that he will execute the Work in accordance with the Contract.

1-33 **PLANS:** The official Plans, working drawings, or supplemental drawings or exact reproductions thereof, approved by the Project Manager which show the locations, character, dimensions, and details of the Work to be done and which are to be considered as part of the Contract, supplementary to these Specifications.

1-34 **PROGRESS SCHEDULE:** A construction schedule prepared by the Contractor in a bar-chart, critical path or other format acceptable to the Project Manager which includes the start and completion dates of all salient features of the Work as specified in Section 4.4 hereof.

1-35 **PROJECT:** The total construction of which the Work to be provided under the Contract may be the whole or part, as indicated elsewhere in the Contract.

1-36 **PROPOSAL:** The written offer of the Bidder, when submitted on the approved Proposal form, to perform the contemplated Work and furnish the necessary materials in accordance with the provisions of the Plans and Specifications.

1-37 **SHOP DRAWINGS:** All drawings, diagrams, illustrations, brochures, schedules and other data which are prepared by the Contractor, a subcontractor, manufacturer, supplier, or distributor, which illustrate how specific portions of the Work shall be fabricated or installed.

1-38 **SPECIAL PROVISIONS:** The specific clauses setting forth conditions or requirements particular to the Project under consideration, covering Work or materials involved in the Proposal and estimate, which are not thoroughly or satisfactorily stipulated in the General Provisions or Technical Specifications.

1-39 **SPECIFICATIONS:** The directions, provisions, and requirements contained herein, supplemented by Special Provisions, pertaining to the method and manner of performing the Work, or to the quantities or the qualities of materials to be furnished under the Contract.

1-40 **STRUCTURES:** As used in this Contract, shall mean bridges, culverts, sewers, catch basins, retaining walls, manholes, headwalls, buildings, valve vaults and other features which may be encountered in the Work and not otherwise classified herein.

1-41 **SUBCONTRACTOR:** An individual, firm or corporation having a direct contract with the Contractor or with any other Subcontractor for the performance of a part of the Work at the site.

1-42 **SUBSTANTIAL COMPLETION:** The Work (or a specified part thereof) has progressed to the point where, in the opinion of the Project Manager, it is sufficiently complete, in accordance with the Contract, so that the Work (or a specified part thereof) can be utilized for the purposes for which it is intended. For the purposes of final acceptance of the work, this term shall include cleanup of the jobsite and all work areas.

1-43 **SUPERINTENDENT:** Executive representative for the Contractor present on the Work at all times, authorized to receive and fulfill instructions from the Project Manager and capable of superintending the Work efficiently.

1-44 **[INTENTIONALLY OMITTED]**

1-45 **SUPPLIER:** Any person or organization who supplies materials or equipment for the Work, including that fabricated to a special design.

1-46 **SURETY:** The corporate body or individuals who are bound by the Performance Bond and the Payment Bond or the Performance, labor and Material Payment Bond, with and for the Contractor and which engage to be responsible for the entire and satisfactory fulfillment of the Contract and for the payment of all debts incurred in fulfilling the Contract.

1-47 **TECHNICAL SPECIFICATIONS:** A part of the Contract Documents consisting of written descriptions of a technical nature of materials, equipment, construction systems, standards and workmanship. Also called SPECIFICATIONS.

1-48 **UNIT PRICE WORK:** Work to be paid for on the basis of unit prices.

1-49 **WORK:** The term "Work" shall be understood to mean the furnishing of all labor, materials, equipment, and other incidentals necessary or convenient to the successful completion of the Project and the carrying out of all the duties and obligations imposed by the Contract.

Exhibit D
Construction Contract Forms

PERFORMANCE, LABOR AND MATERIAL PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS that _____ (Contractor), as Principal (the "Principal") and _____, a corporation organized under the laws of the State of _____, and authorized to transact business in the State of Colorado, as "Surety," jointly and severally, including their heirs, personal representatives, successors and assigns, are held and firmly bound unto the City of Littleton as Obligee, hereinafter called Owner, for the use and benefit of claimants as herein below defined, in the amount of _____ Dollars (\$ _____), as adjusted by approved change orders, for the payment and interest as provided by law for the performance of the Construction Contract between the Principal and the Owner, dated _____, 202____, for the following project: _____ in accordance with drawings and specifications; which Construction Contract is made a part hereof, and is hereinafter referred to as the Contract, and incorporated by this reference.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION is such that if the Principal, at all times, shall promptly and faithfully perform said Contract, and shall promptly make payment to all claimants as hereinafter defined, for all labor and material used or reasonably required for use in the performance of the Contract, any authorized modifications thereof during the original term of the Contract, any extensions thereof that may be granted by the Owner, and during the term of any guarantee or warranty required under the Contract, and shall fully indemnify and save harmless the Owner from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the Owner all outlay and expense when the Owner may incur in making good any default, then the Principal and Surety shall have no obligation under this Bond, otherwise it shall remain in full force and effect.

The Surety, for value received, agrees that no extension of time, change in, addition to, or other alteration or modification of the terms of the Contract or work to be performed there under or any other forbearance on the part of either the Owner or the Principal to the other shall in any way release or impact the Surety's liability or obligation on this Bond, and the Surety hereby waives notice of any extension of time, change in, addition to, or other alteration or forbearance.

Whenever the Owner terminates the Contract in accordance with the terms thereof, the Surety shall, within fifteen (15) calendar days after written notice of such termination, notify the Owner in writing of its election to complete the Contract in accordance with its terms and conditions, or notify the Owner that the Surety elects not to complete the Contract. If the Surety fails to provide the written notice within the fifteen (15) calendar day period, then it will have deemed to have not elected to complete the Contract. Should the Surety elect to complete the Contract, then it shall, within fifteen (15) additional calendar days, following written notice of

such election, obtain a bid or bids for submission to Owner for completing the Contract in accordance with its terms and conditions. Upon determination by Owner and Surety of the lowest Bidder, arrange for a contract between such Bidder and Owner, and make available as work progresses (even though there should be a default or a succession of defaults under the contract or contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the Contract price; but not exceeding, including other costs, attorneys fees of the Owner and damages for which the Surety shall be liable hereunder, the amount set forth in the first paragraph hereof. In the event of termination, the Surety may not engage the Principal to complete the Contract, without prior written consent of the Owner, which consent may be withheld in the Owner's sole discretion. If the Surety elects to complete the Contract, then it shall be entitled to receive the balance of the Contract price, less i) any amounts paid by the Owner to the Principal; ii) costs incurred by the Owner in correcting the defective work; iii) any additional legal, design professional or other costs incurred by the Owner resulting from Principal's default; and iv) any liquidated damages caused by the delayed performance or nonperformance of the Principal. Any progress payments, less retainage, due but not paid at the date of termination shall be paid to the Surety so long as the Surety has agreed to indemnify the Owner for the amount thereof and no other claims have been made to such funds by subcontractors or suppliers in accordance with the Contract or any applicable law. In the event that the Surety elects not to complete the Contract, the Owner may then have work completed by such means and in such manner, as it may deem advisable. The Surety, in such event, shall at all times make available, as work progresses under the Contract between the Owner and new contractor, sufficient funds to pay the cost of completion of the Contract pursuant to the its terms together with the other amounts set forth above, but in no event shall the Surety be responsible for the payment of any sums to the Owner until the Owner has paid in full its total obligation under the terms of the original Contract, plus change orders or amendments less deductions and claims chargeable by law or by the Contract, if any, and less the retainage which will be disbursed as provided by the Contract and any applicable law.

Any proceeding, whether legal or equitable, under this bond, except for claims for payment of labor and material, or copyright or patent infringement, must be instituted before the expiration of two (2) years from the date on which final payment under the Contract falls due.

Further, the above named Principal and Surety hereby jointly and severally agree with the Owner that the Principal shall promptly make payment to all persons, firms, subcontractors, and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such Contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, repairs or machinery, equipment and tools, consumed or used in connection with the construction of such work, whether by subcontractor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

The above named Principal and Surety hereby jointly and severally agree with the Owner that every claimant, who has not been paid in full before the expiration of a period of ninety (90) days after the date on which the last of such claimant's work or labor was done or performed or materials were furnished by such, claimant, may sue on this bond for the use of such claimant, prosecute the suit to final judgment for such sum or sums as may be justly due claimant, and have execution thereon. Provided, further, that no final settlement between the Owner and the Principal

shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied. The Owner shall not be liable for the payment of any costs, attorney fees, or other expenses of any such suit.

SIGNED this _____ day of _____ 20_____.

In the presence of:

(Contractor / Principal)

(Surety)

(Accompany this bond with Attorney in-fact's authority from the Surety to execute the bond, certified to include the date of the bond.)

APPROVED FOR THE OWNER:

By: _____ TITLE: _____
City Department Director

NOTICE TO PROCEED
2024 Mill and Overlay – Arapaho Hills – City Project No. 24-03

Date: _____

TO: Metro Pavers, Inc.
7875 I-76 Frontage Road
Henderson, CO 80640

You are hereby authorized to proceed on this date, **[Date]** with the work covered in the contract documents titled **2024 Mill and Overlay – Arapaho Hills – City Project No. 24-03** . Work must commence within **[Number of Days in which construction must commence]** days of acceptance of this Notice to Proceed.

OWNER, CITY OF LITTLETON

By: _____ TITLE: _____

CONTRACTOR ACCEPTANCE OF NOTICE TO PROCEED

By: _____
this _____ day of _____, 20__.
Title: _____

CONTRACTOR’S RECEIPT FOR FINAL PAYMENT

2024 Mill and Overlay – Arapaho Hills – City Project No. 24-03

Date: _____

TO: **Metro Pavers, Inc.**
7875 I-76 Frontage Road
Henderson, CO 80640

The undersigned has accepted the City of Littleton’s Check No. _____ dated _____, 20____ in the amount of _____ Dollars (\$ _____), as final payment of all sums due for work done under the Contract Documents titled **2024 Mill and Overlay – Arapaho Hills – City Project No. 24-03**, as amended, and as complete performance by the Contractor of all obligations to be performed by it pursuant thereto. The Contractor acknowledges and agree that no future claims for additional payments shall be made.

CONTRACTOR

By: _____ TITLE: _____

FINAL ACCEPTANCE AND WARRANTY INITIATION

2024 Mill and Overlay – Arapaho Hills – City Project No. 24-03

Date: _____

**TO: Metro Pavers, Inc.
7875 I-76 Frontage Road
Henderson, CO 80640**

You are hereby notified that on the ___ day _____, 20___, the City of Littleton has accepted the construction work completed by _____, for the construction work covered under the contracts documents titled **2024 Mill and Overlay – Arapaho Hills – City Project No. 24-03 .**

You are also notified that the warranty terms and conditions as set forth in the contract documents are initiated as of the date of this acceptance.

Final payment receipt form is attached within the contract documents for your convenience. Should this form not be returned within ten (10) calendar days, properly signed and approved, it will be assumed that lack of such performance constitutes informal giving of a receipt and satisfaction by the contractor for final settlement of all amounts due.

CITY OF LITTLETON

By: _____ TITLE: _____

NOTICE OF END OF BASIC WARRANTY PERIOD

2024 Mill and Overlay – Arapaho Hills – City Project No. 24-03

Date: _____

TO: _____

You are hereby notified that on the ____ day of _____, 20____, the City of Littleton has ended the basic warranty period for the construction work completed by _____ for the construction work covered under the contract documents titled **2024 Mill and Overlay – Arapaho Hills – City Project No. 24-03**. The basic warranty two (2) years from the date of Final Acceptance and Warranty Initiation.

You are also notified that the contract provisions concerning additional warranties on remedied work; patented devices, materials, and processes which may have been used in this construction; or other expressed warranties are not relinquished by the owner as a result of the issuance of this notice.

CITY OF LITTLETON

By: _____
Title: _____

Exhibit E
Drawings and Specifications

CITY OF LITTLETON, COLORADO

PUBLIC WORKS

MILL AND OVERLAY - ARAPAHO HILLS
CITY PROJECT NO. 24-03



PUBLIC WORKS DEPARTMENT/ENGINEERING DIVISION

2255 West Berry Avenue
Littleton, CO 80120
303-795-3865
www.littletongov.org

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02	GEN-01	GENERAL NOTES AND TYPICAL SECTIONS
03-04	SAQ-01 TO SAQ-02	QUANTITIES
05-06	PNP-01 TO PNP-02	MILL & OVERLAY MAPS
07-13	PNP-03 TO PNP-09	MISCELLANEOUS CONCRETE REPLACEMENT



FOR BURIED UTILITY INFORMATION
**THREE (3) BUSINESS DAYS
BEFORE YOU DIG**
CALL 811
(or 1-800-922-1987)
UTILITY NOTIFICATION
CENTER OF COLORADO (UNCC)
www.uncc.org



AREA OF CONCRETE REPLACEMENT ONLY
- ASPHALT PAVING BY OTHERS

PROJECT AREA (TYP)

VICINITY MAP
NOT TO SCALE



PROJECT NUMBER

24-03

MILL AND OVERLAY - ARAPAHO HILLS
TITLE SHEET

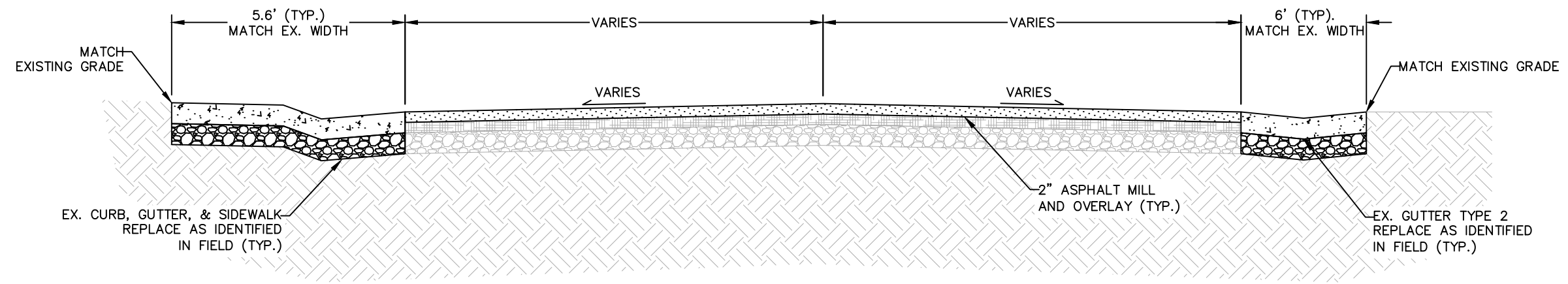
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Detailer	KDM
Checked	MMM



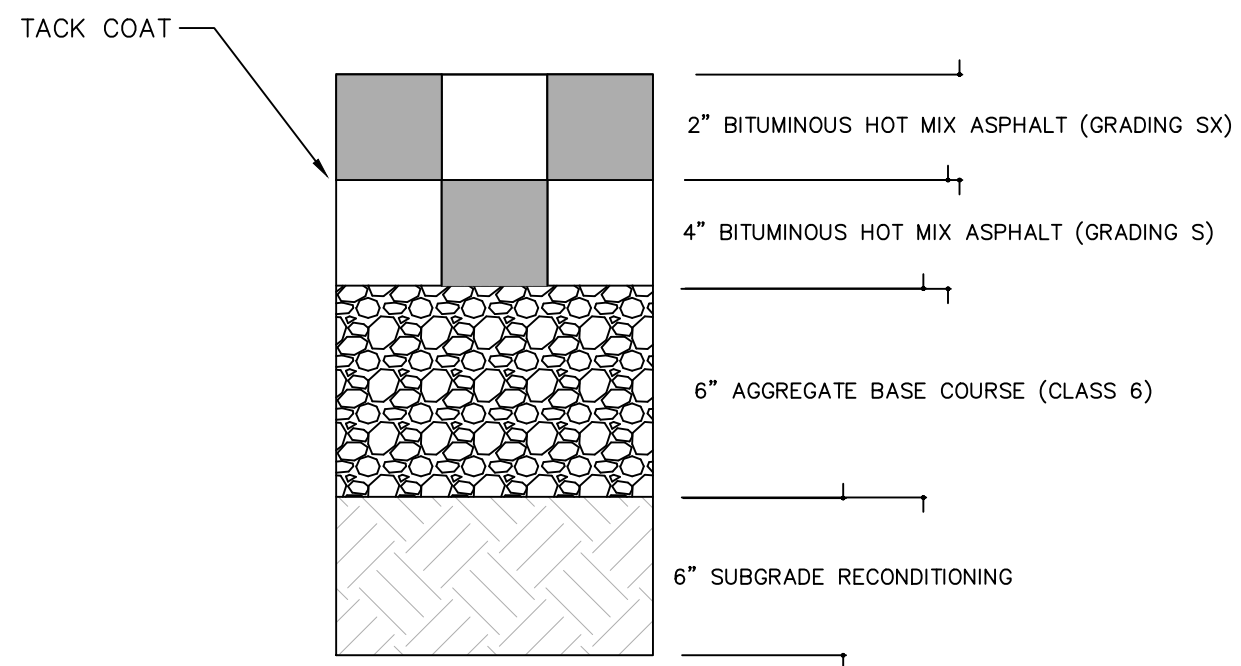
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PLOTTED BY: Kyle Morris
XREFS:







TYPICAL SECTION
NOT TO SCALE



HOT MIX ASPHALT
PATCHING SECTION
NOT TO SCALE

LEGEND:

-  MILL AND OVERLAY
-  REMOVE AND REPLACE CURB RAMP
-  REMOVE AND REPLACE CURB, GUTTER, & SIDEWALK
-  REMOVE AND REPLACE GUTTER TYPE II

GENERAL NOTES:

1. ASPHALT PATCHING SHALL CONSIST OF 6" OF ASPHALT BASE COURSE (CLASS 6), 4" OF HMA (GRADING SX) AND A TOP LIFT OF 2" OF HMA (GRADING SX).
2. FOR PRELIMINARY PLAN QUANTITIES OF PAVEMENT MATERIALS, THE FOLLOWING APPLICATION RATES WERE USED:
BITUMINOUS PAVEMENT - 110 LBS./SQ. YD./INCH
AGGREGATE BASE COURSE (CLASS 6) - 133 LBS./CU. FT.
3. TACK COAT SHALL BE APPLIED BETWEEN INDIVIDUAL LIFTS OF ASPHALT AND BETWEEN THE 2" ASPHALT OVERLAY AND THE MILLED SURFACE. TACK COAT WILL NOT BE PAID FOR SEPARATELY, BUT SHALL BE INCLUDED IN THE COST OF WORK.
4. PRIOR TO THE PLACEMENT OF HMA, THE PAVED SURFACE SHALL BE SWEEPED AND CLEANED. THIS WILL NOT BE PAID FOR SEPARATELY, BUT SHALL BE INCLUDED IN THE COST OF WORK.
5. COMPACTION OF EXISTING SUBGRADE MATERIAL, AND SUBGRADE RECONDITIONING, SHALL NOT BE PAID FOR SEPARATELY, BUT SHALL BE INCLUDED IN THE COST OF WORK.
6. EXCAVATION REQUIRED FOR ACHIEVING THE PROPOSED DEPTH OF AGGREGATE BASE COURSE SHALL NOT BE PAID FOR SEPARATELY, BUT SHALL BE INCLUDED IN THE COST OF WORK.
7. ALL EXCAVATED MATERIAL SHALL BECOME THE PROPERTY OF CONTRACTOR. HAULING AND DISPOSAL OF EXCAVATED MATERIALS SHALL NOT BE PAID FOR SEPARATELY, BUT SHALL BE INCLUDED IN THE COST OF WORK.
8. CONCRETE CURB RAMP LAYOUT SHALL BE CONSTRUCTED PER CDOT M STANDARD PLAN (M-608-1).
9. CURBS, GUTTERS, AND SIDEWALKS LAYOUT SHALL BE CONSTRUCTED PER CDOT M STANDARD PLAN (M-609-1).
10. ANY SIDEWALK, LANDING, AND CURB RAMP CONSTRUCTED BY THE PROJECT THAT IS FOUND TO NOT BE IN COMPLIANCE WITH CURRENT ADA STANDARDS SHALL BE BROUGHT TO COMPLIANCE BY THE CONTRACTOR PRIOR TO INITIAL ACCEPTANCE AT NO ADDITIONAL COST TO THE PROJECT.
11. DETECTABLE WARNING SURFACES SHALL BE UNCOATED CAST IRON. DETECTABLE WARNING SURFACES SHALL NOT BE PAID FOR SEPARATELY, BUT SHALL BE INCLUDED IN THE COST OF CONCRETE CURB RAMP.
12. CONCRETE PAVEMENT FILLETS AT STREET INTERSECTIONS SHALL BE PAID FOR AS CONCRETE CURB RAMP.
13. REMOVAL OF DRIVEWAY RAMP SHALL CONSIST OF REMOVING EXISTING RETROFITTED CONCRETE RAMPS AT VARIOUS DRIVEWAY CONNECTIONS SHOWN ON THE PLANS. CARE SHALL BE TAKEN TO PRESERVE THE EXISTING CURB AND GUTTER BENEATH THE RAMPS.
14. ALL WORK SHALL BE COMPLETED WITHIN PUBLIC RIGHT OF WAY. NO WORK SHALL OCCUR ON PRIVATE PROPERTY.
15. THE CONTRACTOR SHALL PROTECT ALL EXISTING SURVEY MONUMENTATION. ANY MONUMENTS DISTURBED BY THE CONTRACTOR SHALL BE RESET AT THE CONTRACTOR'S EXPENSE.
16. THE CONTRACTOR SHALL BE RESPONSIBLE FOR IDENTIFYING STAGING AND STORAGE AREAS.
17. ALL ADDITIONAL REMOVALS, NOT SHOWN IN THESE PLANS AND QUANTITIES, SHALL BE AT THE CONTRACTOR'S EXPENSE UNLESS VERIFIED IN WRITING BY AN AUTHORIZED CITY OF LITTLETON REPRESENTATIVE.
18. ALL EXISTING VALVES AND MANHOLES WITHIN THE MILL AND OVERLAY AREA SHALL BE ADJUSTED TO 0.25" BELOW FINISHED GRADE. VALVE AND MANHOLE LOCATIONS SHOWN ON THE PLAN ARE APPROXIMATE.
19. RISERS ASSOCIATED WITH ADJUSTED SANITARY SEWER MANHOLES SHALL BE FURNISHED BY VALLEY SANITATION DISTRICT.
20. ASPHALT PATCHING AND CONCRETE REMOVAL & REPLACEMENT QUANTITIES ARE APPROXIMATE. FINAL LIMITS SHALL BE DETERMINED VIA FIELD INVESTIGATION IMMEDIATELY PRIOR TO THE START OF WORK BY A CITY OF LITTLETON REPRESENTATIVE.
21. ANY LANDSCAPING OR PRIVATE PROPERTY THAT IS DISTURBED OR DAMAGED DURING THE PROJECT SHALL BE RESTORED TO EXISTING OR BETTER CONDITION, BY THE CONTRACTOR, AT NO ADDITIONAL COST TO THE PROJECT. PRE-CONSTRUCTION PHOTOS ARE HIGHLY ENCOURAGED PRIOR TO CONSTRUCTION ACTIVITIES.

Designer	KDM
Detailer	KDM
Checked	MMM

Littleton
Colorado
ENGINEERING & UTILITIES DIVISION
2255 West Berry Avenue
Littleton, CO 80120 (303) 795-3865
www.littleton.gov

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PLOTTED BY: Kyle Morris
PLOT DATE: April 24, 2024

MILL AND OVERLAY - ARAPAHO HILLS
SUMMARY OF APPROXIMATE QUANTITIES

ARAPHOE HILLS MILL & OVERLAY			LATONKA RD		CAMARGO RD		NEWTON ST		MEADE ST	
CITY PROJECT NO. 24-03										
CITY OF LITTLETON										
ITEM NO.	ITEM	UNIT	QUANTITY	TOTAL	QUANTITY	TOTAL	QUANTITY	TOTAL	QUANTITY	TOTAL
202	REMOVAL OF CONCRETE	SY	56		35		285		160	
202-00220	REMOVAL OF ASPHALT MAT	SY	673		505		883		852	
202-00240	REMOVAL OF ASPHALT MAT (PLANNING)	SY	6504		4909		7768		7914	
202	REMOVAL OF DRIVEWAY RAMP	EA	0		0		0		1	
208	EROSION CONTROL	LS	0.09		0.07		0.13		0.12	
210	ADJUST MANHOLE	EA	4		4		8		9	
210-04050	ADJUST VALVE BOX	EA	2		4		6		6	
304-06007	AGGREGATE BASE COURSE (CLASS 6)	TON	218		162		349		303	
403	HOT MIX ASPHALT (PATCHING)(ASPHALT)	TON	222		167		291		281	
403	HOT MIX ASPHALT (GRADING SX)(PG 58-28)(75)	TON	715		540		854		871	
608-00010	CONCRETE CURB RAMP	SY	56		35		98		70	
609	CURB, GUTTER, AND SIDEWALK TYPE 2 (SECTION MS)	LF	0		0		300		145	
609	GUTTER TYPE 2	LF	0		0		0		0	
626-00000	MOBILIZATION	LS	0.09		0.07		0.13		0.12	
630-00016	TRAFFIC CONTROL	LS	0.09		0.07		0.13		0.12	

ARAPHOE HILLS MILL & OVERLAY			MANITOU RD		MABRE CT		HILLSIDE PL		BELLEVIEW PL	
CITY PROJECT NO. 24-03										
CITY OF LITTLETON										
ITEM NO.	ITEM	UNIT	QUANTITY	TOTAL	QUANTITY	TOTAL	QUANTITY	TOTAL	QUANTITY	TOTAL
202	REMOVAL OF CONCRETE	SY	0		244		0		14	
202-00220	REMOVAL OF ASPHALT MAT	SY	328		743		588		361	
202-00240	REMOVAL OF ASPHALT MAT (PLANNING)	SY	3278		6536		5881		3550	
202	REMOVAL OF DRIVEWAY RAMP	EA	0		5		0		0	
208	EROSION CONTROL	LS	0.04		0.10		0.08		0.05	
210	ADJUST MANHOLE	EA	3		10		6		3	
210-04050	ADJUST VALVE BOX	EA	4		7		4		6	
304-06007	AGGREGATE BASE COURSE (CLASS 6)	TON	98		295		176		112	
403	HOT MIX ASPHALT (PATCHING)(ASPHALT)	TON	108		245		194		119	
403	HOT MIX ASPHALT (GRADING SX)(PG 58-28)(75)	TON	361		719		647		391	
608-00010	CONCRETE CURB RAMP	SY	0		42		0		14	
609	CURB, GUTTER, AND SIDEWALK TYPE 2 (SECTION MS)	LF	0		325		0		0	
609	GUTTER TYPE 2	LF	0		0		0		0	
626-00000	MOBILIZATION	LS	0.04		0.10		0.08		0.05	
630-00016	TRAFFIC CONTROL	LS	0.04		0.10		0.08		0.05	

Designer KDM
Detailer KDM
Checked MMM



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PLOTTED BY: Kyle Morris PLOT DATE: April 24, 2024 XREFS:

MILL AND OVERLAY - ARAPAHO HILLS
SUMMARY OF APPROXIMATE QUANTITIES

ARAPHOE HILLS MILL & OVERLAY			OSCEOLA ST		MICHIGAN CT		MONMOUTH AVE	
CITY PROJECT NO. 24-03								
CITY OF LITTLETON								
ITEM NO.	ITEM	UNIT	QUANTITY	TOTAL	QUANTITY	TOTAL	QUANTITY	TOTAL
202	REMOVAL OF CONCRETE	SY	149		134		600	
202-00220	REMOVAL OF ASPHALT MAT	SY	537		280		1173	
202-00240	REMOVAL OF ASPHALT MAT (PLANNING)	SY	4817		2314		9554	
202	REMOVAL OF DRIVEWAY RAMP	EA	0		3		0	
208	EROSION CONTROL	LS	0.08		0.04		0.16	
210	ADJUST MANHOLE	EA	6		3		11	
210-04050	ADJUST VALVE BOX	EA	4		3		13	
304-06007	AGGREGATE BASE COURSE (CLASS 6)	TON	206		124		531	
403	HOT MIX ASPHALT (PATCHING)(ASPHALT)	TON	177		93		387	
403	HOT MIX ASPHALT (GRADING SX)(PG 58-28)(75)	TON	530		255		1051	
608-00010	CONCRETE CURB RAMP	SY	56		28		84	
609	CURB, GUTTER, AND SIDEWALK TYPE 2 (SECTION MS)	LF	150		170		830	
609	GUTTER TYPE 2	LF	0		0		85	
626-00000	MOBILIZATION	LS	0.08		0.04		0.16	
630-00016	TRAFFIC CONTROL	LS	0.08		0.04		0.16	

ARAPHOE HILLS MILL & OVERLAY			GRANDE AVE		CHENANGO AVE		TOTAL	
CITY PROJECT NO. 24-03								
CITY OF LITTLETON								
ITEM NO.	ITEM	UNIT	QUANTITY	TOTAL	QUANTITY	TOTAL	QUANTITY	TOTAL
202	REMOVAL OF CONCRETE	SY	277		126		2081	
202-00220	REMOVAL OF ASPHALT MAT	SY	100		46		7068	
202-00240	REMOVAL OF ASPHALT MAT (PLANNING)	SY	0		0		63026	
202	REMOVAL OF DRIVEWAY RAMP	EA	1		0		10	
208	EROSION CONTROL	LS	0.02		0.02		1.00	
210	ADJUST MANHOLE	EA	0		0		67	
210-04050	ADJUST VALVE BOX	EA	0		0		59	
304-06007	AGGREGATE BASE COURSE (CLASS 6)	TON	113		51		2738	
403	HOT MIX ASPHALT (PATCHING)(ASPHALT)	TON	33		15		2332	
403	HOT MIX ASPHALT (GRADING SX)(PG 58-28)(75)	TON	0		0		6933	
608-00010	CONCRETE CURB RAMP	SY	28		14		525	
609	CURB, GUTTER, AND SIDEWALK TYPE 2 (SECTION MS)	LF	400		180		2500	
609	GUTTER TYPE 2	LF	0		0		85	
626-00000	MOBILIZATION	LS	0.02		0.02		1.00	
630-00016	TRAFFIC CONTROL	LS	0.02		0.02		1.00	

Designer	KDM
Detailer	KDM
Checked	MMM

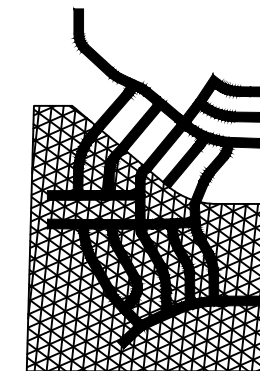
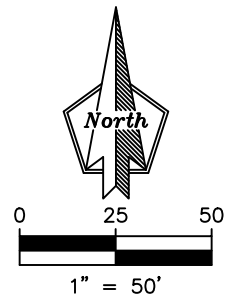
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PLOTTED BY: Kyle Morris | PLOT DATE: April 24, 2024
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 PLOTTED BY: Kyle Morris
 PLOT DATE: April 24, 2024
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PROJECT NUMBER

24-03

MILL AND OVERLAY - ARAPAHO HILLS
 MILL AND OVERLAY MAP

Designer KDM
 Detailer KDM
 Checked MMM

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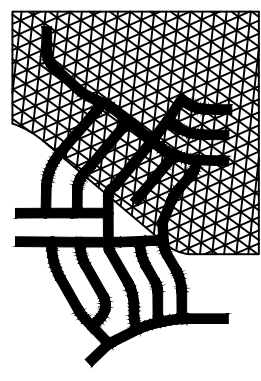
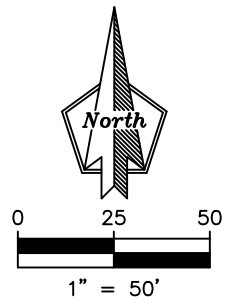
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PROJECT NUMBER

24-03

MILL AND OVERLAY - ARAPAHO HILLS
 MILL AND OVERLAY MAP

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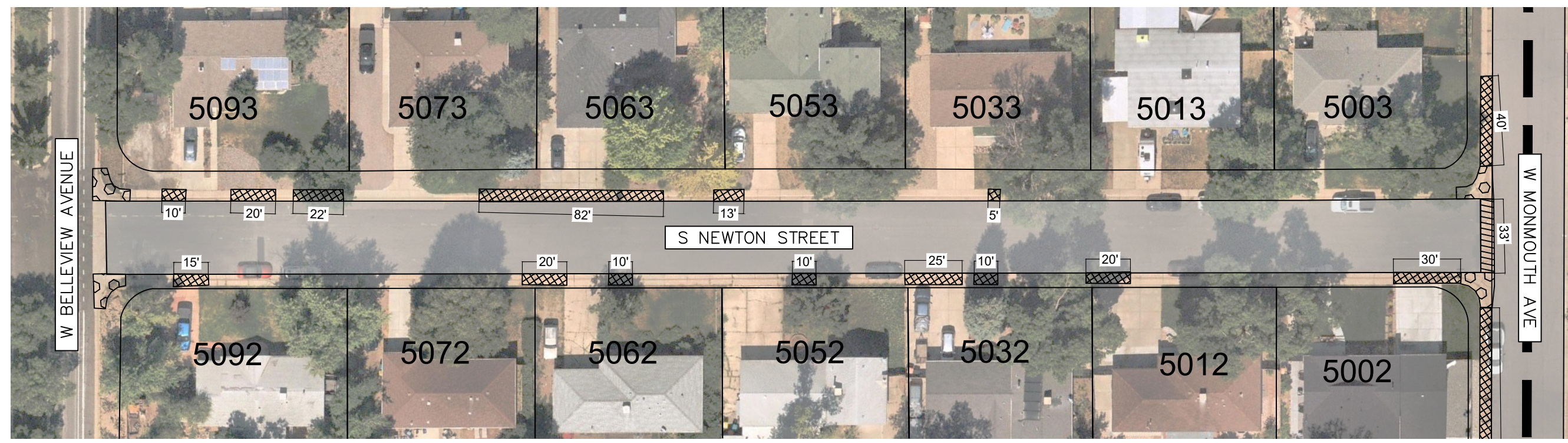
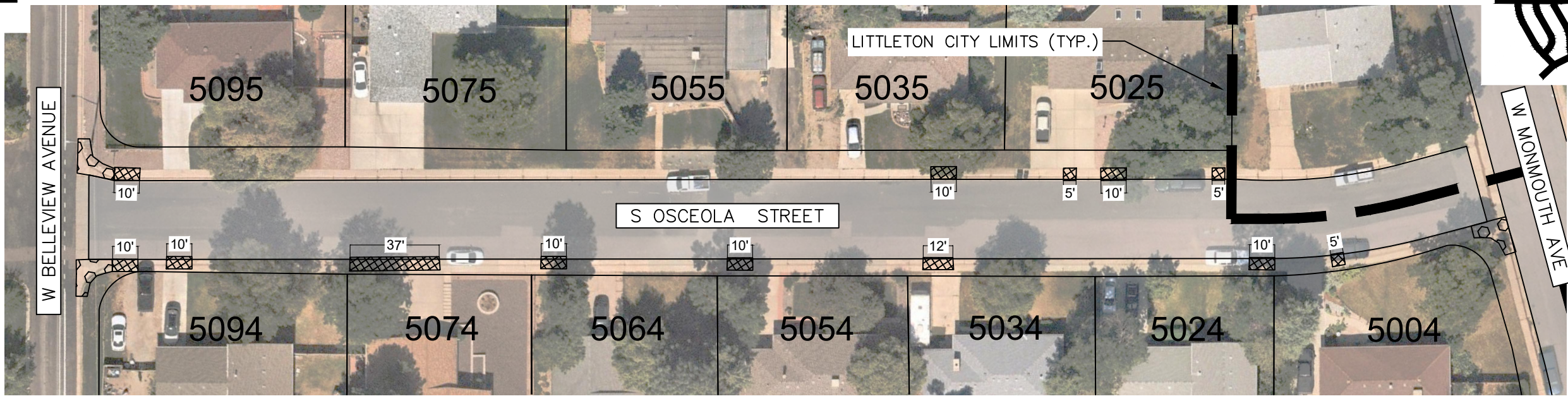
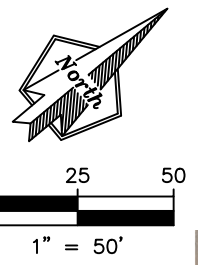
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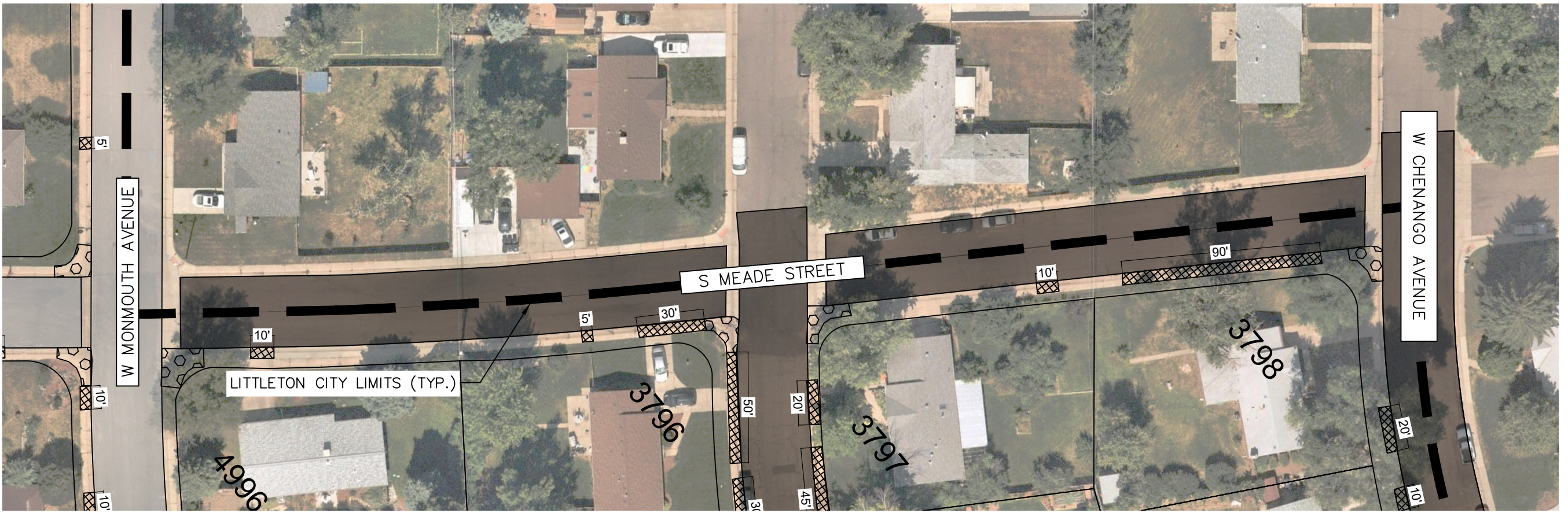
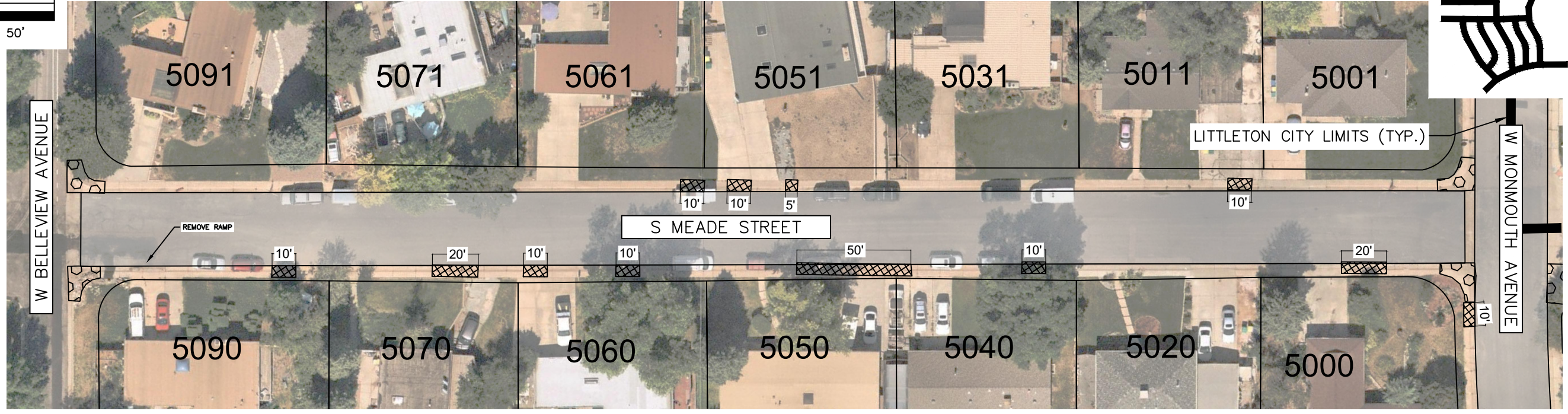
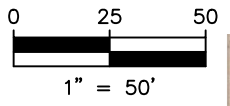
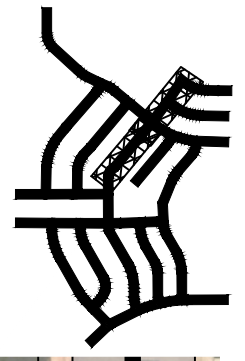
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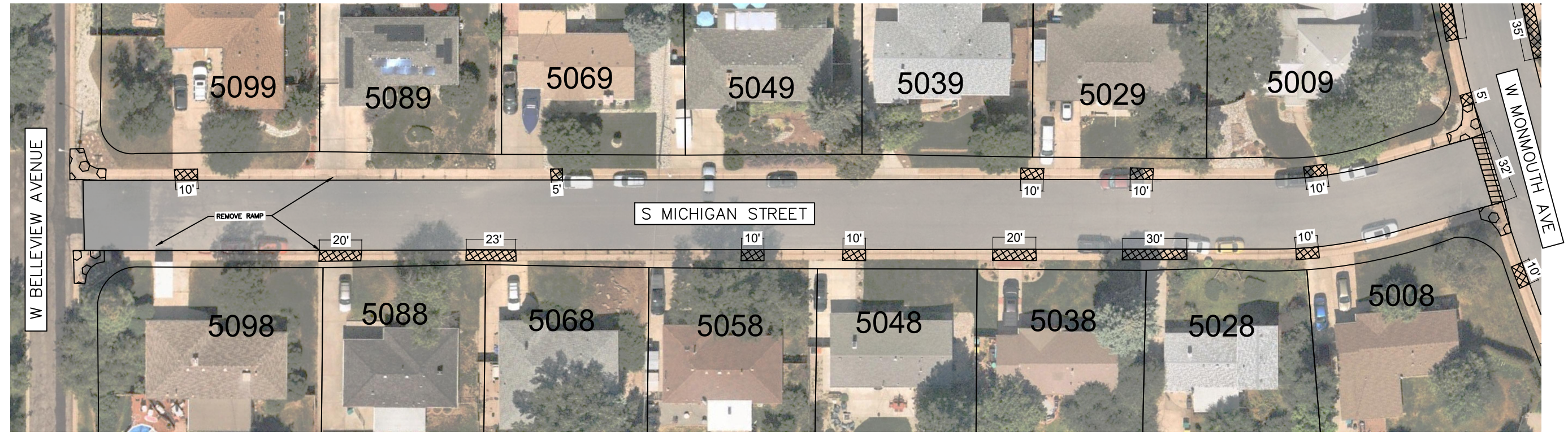
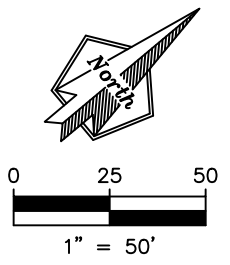
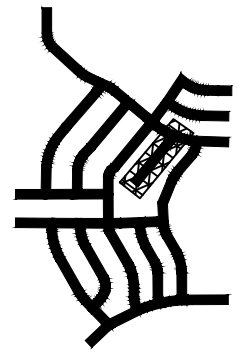
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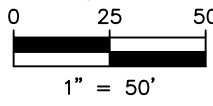
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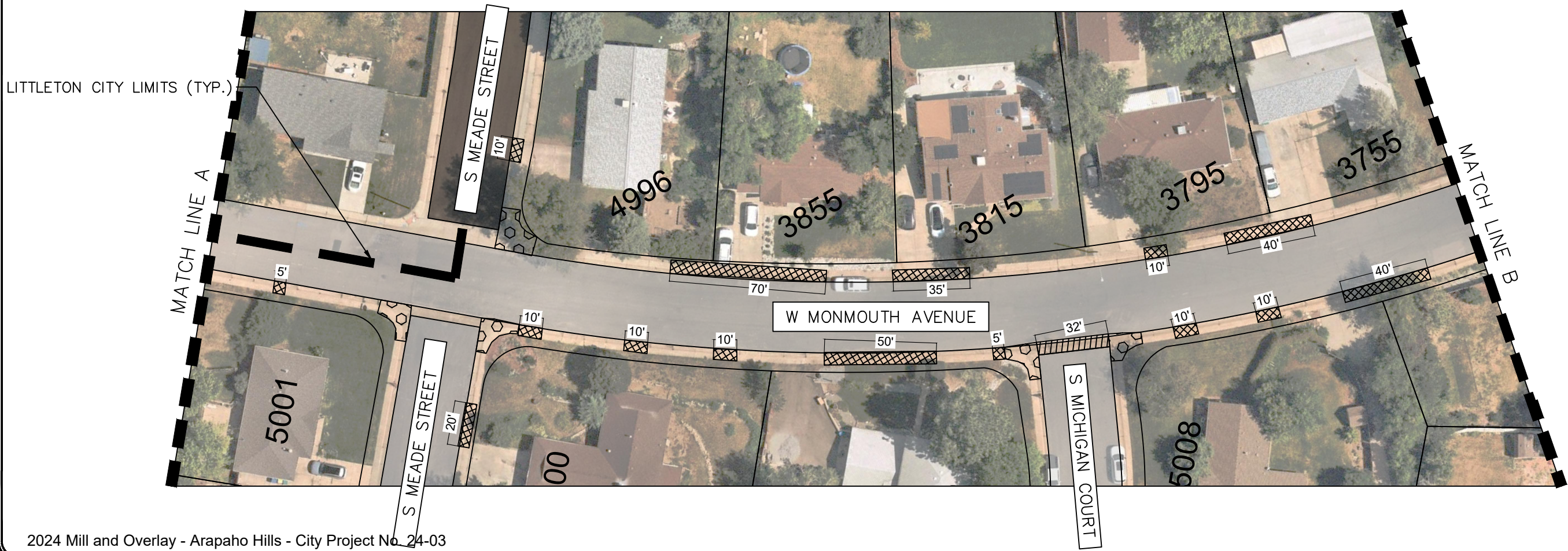
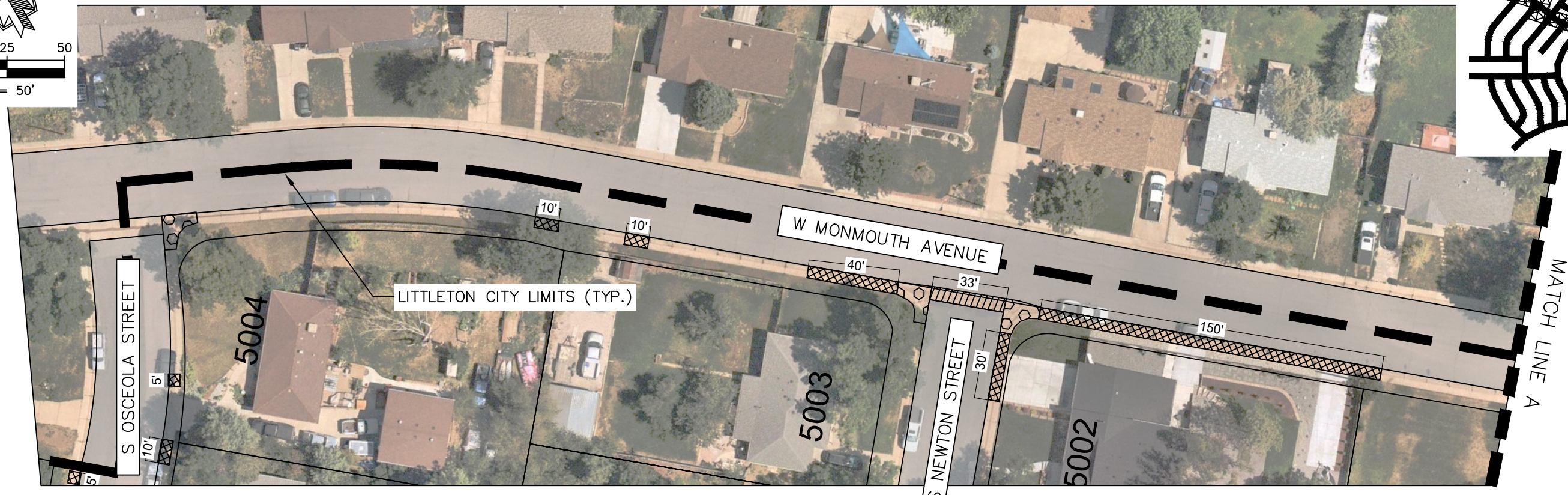
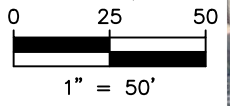
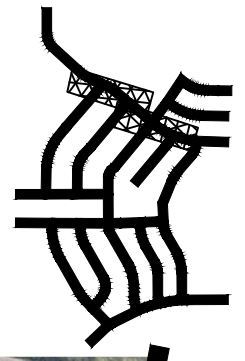
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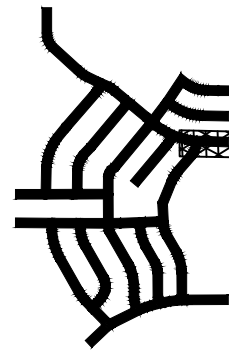
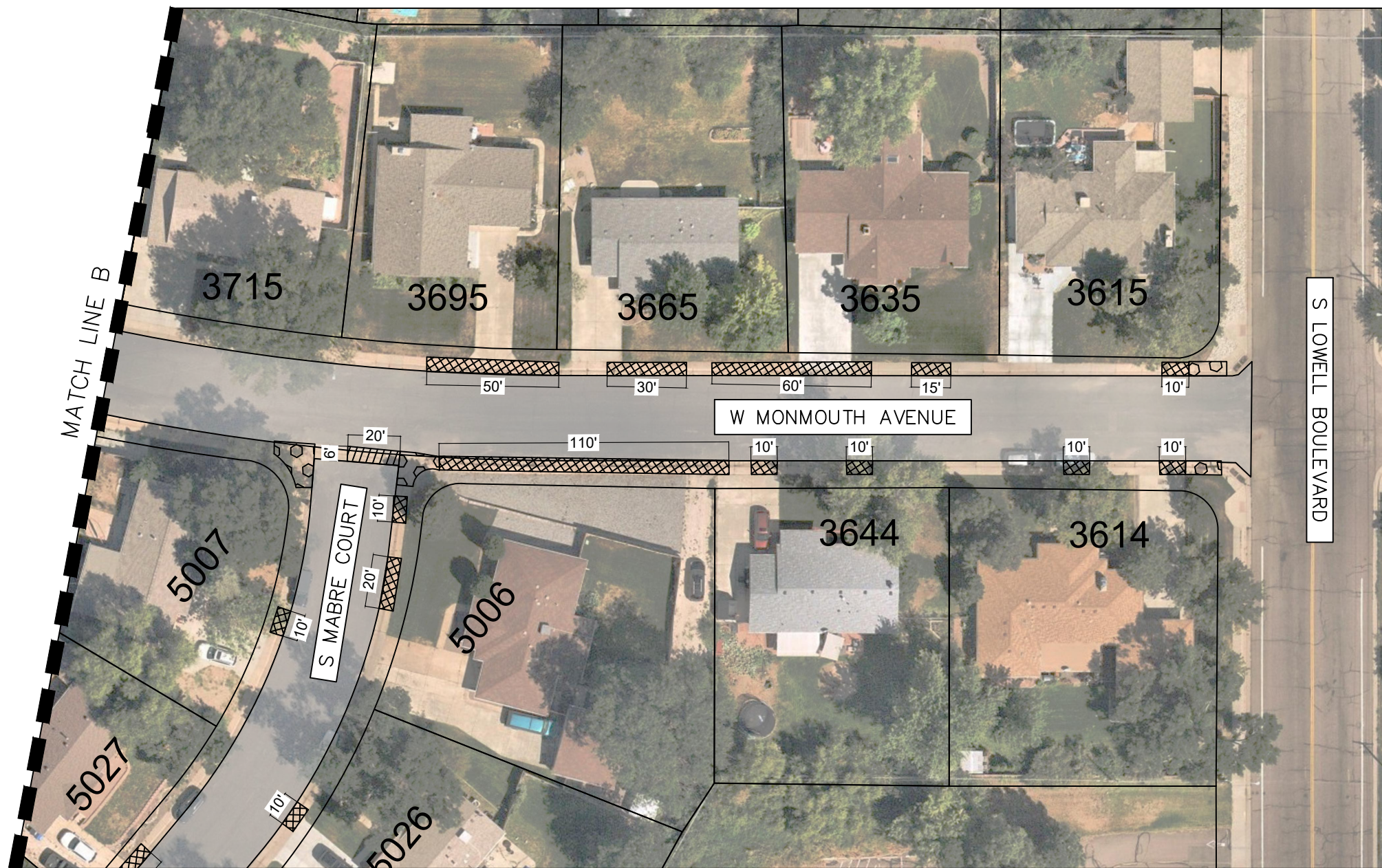
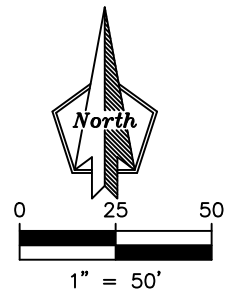
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PROJECT NUMBER

24-03

MILL AND OVERLAY - ARAPAHO HILLS
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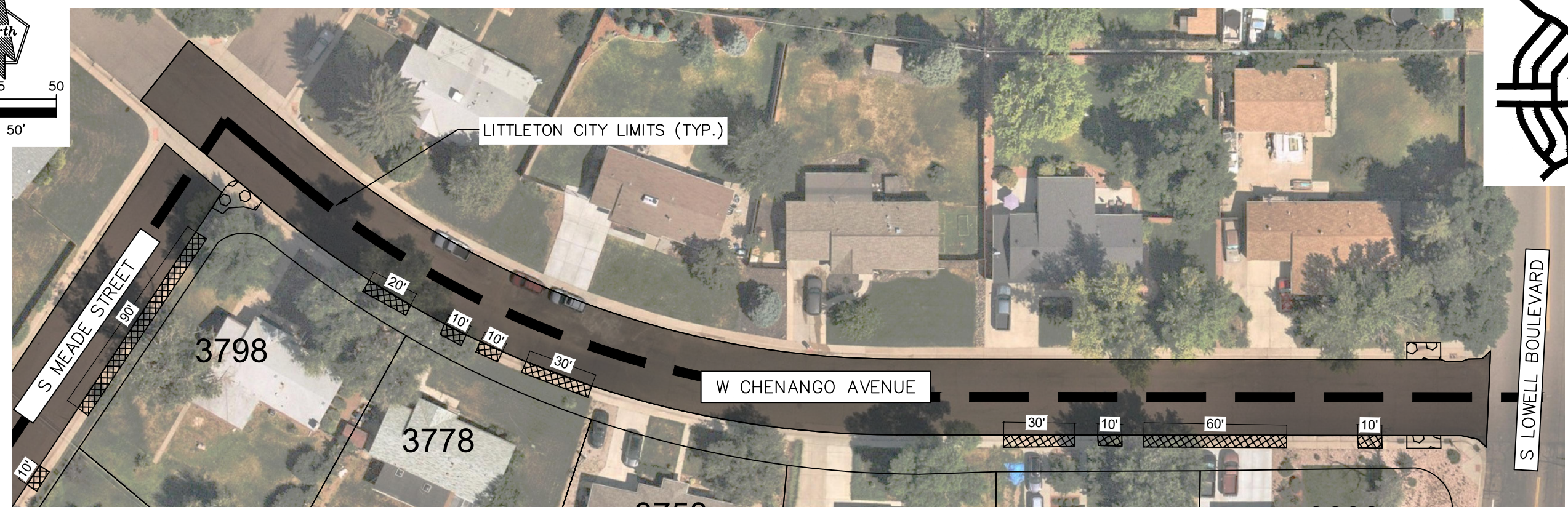
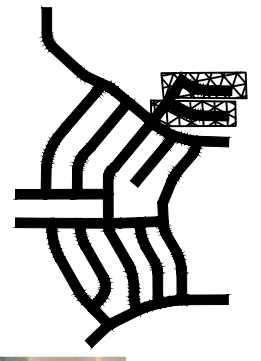
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Exhibit F
Special Conditions

**2024 Mill & Overlay – Arapaho Hills
CITY PROJECT No. 24-03
CITY OF LITTLETON, COLORADO**

**MODIFICATIONS TO COLORADO DEPARTMENT OF
TRANSPORTATION STANDARD SPECIFICATIONS**

The technical specifications for this project shall be the Colorado Department of Transportation 2022 Standard Specifications for Road and Bridge Construction and the most recent version of the Metropolitan Government Pavement Engineers Council (MGPEC) Pavement Design Standards and Construction Specifications. The following special provisions supplement or modify the Standard Specifications and Supplemental Specifications and take precedence over the Standard Specifications, Supplemental Specifications, and plans.

MGPEC STANDARD SPECIFICATIONS LIST

<u>Item #</u>	<u>Item Name</u>	<u>Date</u>
ITEM 1	REMOVAL OF PAVEMENT	2021
ITEM 13	AGGREGATE BASE COURSE	2021
ITEM 20	ASPHALT PAVEMENT MATERIALS	2022
ITEM 21	ASPHALT MILLING	2021
ITEM 27	ASPHALT PATCH	2021
ITEM 30	PORTLAND CEMENT CONCRETE MATERIALS	2022
ITEM 31	CONCRETE CURBS, GUTTERS, AND SIDEWALKS	2021

PROJECT SPECIAL PROVISIONS

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NOTICE TO BIDDERS

Pursuant to subsections 102.04 and 102.05, it is recommended that bidders on this project review the work site and plan details prior to submitting a proposal. Prospective bidders may contact the following listed authorized City representative prior to the Bid Question Submittal Deadline listed in the Bid Documents and questions and responses will be posted online from the Rocky Mountain E-Purchasing System at www.govbids.com, if such is prepared.

City CIP Program Manager: Matthew Matuszewski, PE – Mmatuszewski@littletongov.org
City Project Manager: Jeremy Clayton – jclayton@littletongov.org

The above referenced individual or his designee are the only representatives of the City with authority to provide any information, clarification, or interpretation regarding the plans, specifications, and any other contract documents or requirements.

COMMENCEMENT AND COMPLETION OF WORK

The Contractor shall commence work under the Contract within seven (7) calendar days after date of the "Notice to Proceed" work shall be completed within **90 calendar days**. Minimum salient features to be shown on the Contractor's Progress Schedule for all schedules (in the tabulation of quantities) are:

1. Submittals
2. Traffic Control & Erosion Control
3. Removals
4. Concrete Forming
5. Concrete Pouring
6. Asphalt Milling
7. Asphalt Patching
8. Hot Mix Asphalt Laydown
9. Roadway Sweeping and Clean Up
10. Landscaping
11. Final Acceptance

REVISION OF SECTION 101 – GENERAL PROVISIONS

SECTION 101 of the Standard Specifications is hereby revised for this project as follows:

101 DEFINITIONS & TERMS

Technical Specifications related to construction materials and methods for the work embraced under this Contract shall consist of the Colorado Department of Transportation Standard Specifications for Road and Bridge Construction dated 2022.

Certain terms utilized in the Specifications referred to in the paragraph above shall be interpreted to have different meaning within the scope of this Contract. A summary of redefinitions follows:

Subsection 101.28 “Department” shall mean the City of Littleton, Colorado.

Subsection 101.29 “Chief Engineer” shall mean the City Engineer, Littleton, Colorado, or designated representative.

Subsection 101.39 “Laboratory” shall mean Littleton, Colorado or their designated representative.

Subsection 101.51 “Project Engineer” or “Project Manager” shall mean the City Engineer, Littleton, Colorado, or their designated representative.

Subsection 101.76 “State” shall mean Littleton, Colorado (where applicable).

REVISION OF SECTION 105 – CONTROL OF WORK

SECTION 105 of the Standard Specifications is hereby revised for this project as follows:

105.17 REMOVAL OF UNACCEPTABLE WORK AND UNAUTHORIZED WORK

Shall include the following:

Existing condition or damage to any adjacent infrastructure and/or structures shall be the responsibility of the Contractor to fully document prior to any work. The Contractor shall notify the Engineer of any existing damage and provide photographs or videos of pre-construction conditions and to confirm the various locations, and their limits, of existing damage prior to any work.

REVISION OF SECTION 107 – LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC

Section 107 of the Standard Specifications is hereby revised for this project as follows:

107.02 PERMITS, LICENSES, AND TAXES

Shall include the following:

Unless otherwise specified, the Contractor shall procure all required permits and licenses; pay all charges, fees, and taxes, including permits procured for this project by others; and give all notices necessary and incidental to the due and lawful prosecution of the work. The costs of these permits will not be paid for separately but shall be included in the work. City of Littleton permits can be obtained by the Contractor for no fee.

Prior to beginning work, the Contractor shall furnish the Engineer with a written list of all permits required for the proper completion of the contract. The list shall clearly identify the types of permits that must be obtained before work on any particular phase or phases of work can be started. Copies of the fully executed permits shall be furnished to the Engineer prior to construction.

107.07 PUBLIC CONVENIENCE AND SAFETY

Shall include the following:

The Contractor shall provide the following services on an ongoing basis throughout the duration of the project:

- a. A contact person for the project shall be designated by the Contractor at the preconstruction conference. This individual shall be primarily responsible for maintaining communications with the Engineer and impacted residents/businesses; provide information on a regular basis to private individuals, local organizations interested in the project and the affected agencies.
- b. The following agencies, at a minimum, shall be coordinated with on an ongoing basis:

**City of Littleton
South Metro Fire and Rescue
City of Littleton Police Department
Adjacent Businesses / Residents
RTD**

- c. A letter of introduction and notice of work shall be delivered to all affected landowners and tenants at least five (5) business days and no more than ten (10) business days prior to mobilization and the commencement of work for each project site. This letter must

be submitted to the City's project manager prior to distribution. The letter shall contain the following information as a minimum:

Contractor – Name, Address, Phone Number
Field Superintendent – Name, Mobile Phone Number
Schedule and description of work
Information regarding private property and repair procedures

- d. Updates shall be on a weekly basis after mobilization and one (1) week prior to any major traffic switches.
- e. In the event a driveway entrance will be impacted the contractor shall notify the property owner in writing a minimum of forty-eight (48) hours prior to the commencement of construction activities at the corresponding address.
- f. Payment for the above requirements will not be made separately but shall be included in the work.

107.10 BARRICADES AND SIGNS

Shall include the following:

Construction traffic control signs or devices not in use shall be removed from the roadway and pedestrian walkway (sidewalk & trails). Laying the sign down in a horizontal position or turning the sign parallel is not permitted on the sidewalk and/or within private property such as residential yards.

Variable Message Boards (VMB) shall contain the following information at a minimum: type of work, the scheduled week of work, and the phrase "ALTERNATE ROUTES ADVISED". Any missing or defaced signs shall be replaced within twenty-four (24) hours.

"NO PARKING" signs shall be placed a minimum of forty-eight (48) hours in advance of any conflicting construction activities on specific segments of streets with proposed improvements where on-street parking is permitted. No Parking signs shall specify the date range and time where no parking will be allowed due to construction activities.

Any other signs as required by the Traffic Engineer shall be placed.

For locations that do not have sufficient right-of-way available to store the sign(s) or device(s), they must be picked up or moved to an approved storage area. Signs that are placed in the medians must be dismantled, laid down, or relocated to the approved storage area.

REVISION OF SECTION 108 – PROSECUTION AND PROGRESS

SECTION 108 of the Standard Specifications is here by revised for this project as follows:

108.03 SCHEDULE

Shall include the following:

The contractor shall provide a construction schedule at the pre-construction meeting for review by the Engineer. The Engineer may adjust the construction schedule, with notification to the Contractor, to ensure completion of certain road segments by certain dates.

108.05 LIMITATION OF OPERATIONS

Shall include the following:

In residential areas, the Contractor shall limit hours of operation to **7:00 a.m. to 7:00 p.m. Monday thru Friday**, or as otherwise approved in writing by the Engineer. In non-residential areas, the Contractor is encouraged to perform work activities during evening and weekend hours as approved in writing by the Engineer.

The Contractor shall work on, at most, three (3) streets. Additional work zones may be approved by the Owner if the contractor demonstrates the ability to perform the work in a timely manner.

108.09 FAILURE TO COMPLETE WORK ON TIME

Shall include the following:

A daily charge will be made against the Contractor for each calendar day that work is performed outside the working times listed in 108.09, Limitation of Operations.

REVISION OF SECTION 630 – CONSTRUCTION ZONE TRAFFIC CONTROL

Section 630 of the Standard Specifications is hereby revised as follows:

Subsection 630.01 is revised to include the following:

1. Working hours shall be 7:00 a.m. to 7:00 p.m. Monday through Friday in all residential areas, or as otherwise approved in writing by the Engineer.
2. The use of alternate one-way traffic may be approved on a case-by-case basis.
3. All work done outside the times above must be approved by the Engineer in writing.

As required by, in descending order of precedence, these plans and special specifications, the current Standard Specifications, as augmented by the Colorado Department of Transportation M and/or S standards, and the current version of the Manual on Uniform Traffic Control Devices (MUTCD) for Streets and Highways.

Subsection 630.10 through 630.11 shall be modified to read:

Traffic control throughout the construction area is the responsibility of the Contractor. Before starting construction, the Contractor shall submit, in writing, the proposed Method of Handling Traffic (MHT) for the initial phase of construction. When a different MHT is required for a subsequent construction phase, it must be submitted two weeks prior to starting that phase. All proposed methods of handling traffic shall be approved, in writing, by the Engineer. No phase of construction shall start until an acceptable MHT has been received and approved by the Engineer. The proposed methods shall include, as a minimum, the following:

A detailed diagram which shows the location of all sign placements, including advance construction signs (if not previously approved) and speed limit signs; method length and time duration for lane closures; and location of flag persons.

A tabulation of all traffic control devices shown in the detailed diagram including, but not limited to: construction signs, vertical panels; vertical panels with lights; Type 1 and Type 2 barricades; cones and drum channelizing devices; concrete barrier (temporary); advance warning flashing or sequencing arrow panels.

Approval of the proposed MHT is intended to indicate all devices to complete the project safely. Such approval does not relieve the contractor of liability specifically assigned to him under the contract. The Contractor shall erect and maintain warning lights, signs, barricades, and sufficient safeguards around all excavations, embankments, stockpiles, equipment, and obstructions.

Non-metallic drums may be substituted for vertical panel channelizing devices if site dimensions allow.

The Contractor shall, at the preconstruction conference, designate one of their employees, other than the Superintendent, to be responsible for traffic control management. This responsibility shall include management for the contractor's signing and all other details covered by the specifications which contribute to the convenience, safety, and orderly movement of traffic and to the comfort of the traveling public. The designated employee will have the Certification of the Traffic Control Supervisor as a Worksite Traffic Supervisor by the American Traffic Safety Services Association (ATSSA) in lieu of completion of the CDOT minimum training requirements.

Traffic control managements shall be maintained on a 24-hour per day basis. The contractor shall make arrangements so that the Traffic Control supervisor or their approved representative will be available on every working day, "on call" at all times and available upon the Engineer's request at other than normal working hours. The Traffic Control Supervisor shall have an up-to-date copy of Part VI of the MUTCD, pertaining to traffic controls for street and highway constructions, and the approved MHT available at all times.

The contractor shall apply for and receive a City of Littleton right-of-way use permit (at no cost to the contractor) prior to commencing operations.

Due to the mobility of the operation, the contractor will need to provide traffic control consistent with the MUTCD. For sweeping operations, the contractor will need to provide an MHT. The flagger's STOP/SLOW sign paddle shall be 18 inches with letters six inches high.

Subsection 630.13 is revised to include the following:

Towing

Vehicles shall be identified by the Engineer and shall be limited to any class of vehicle that is upright and on wheels. 'No Parking' signs shall have been in-place and maintained for a minimum of forty-eight (48) hours along the proposed street segment prior to towing a vehicle.

The Contractor shall make every reasonable attempt as determined by the Engineer, including but not limited to door-to-door investigation, to locate the owner/operator of the vehicle prior to initiating the towing process.

Towing shall be limited to towing a vehicle conflicting with the current or proposed work activities. Vehicles shall be towed using techniques that do not damage the towed vehicle or the roadway, adjacent structures, or other public property or assets. Vehicles shall be towed to a location designated by the Engineer at the time of towing, typically to an adjacent street beyond the proposed work area. **Towed vehicles shall be positioned in a legal parking space within a public roadway in a manner that permits through traffic.**

Immediately after towing a vehicle, the Contractor shall affix a notice to the windshield or other appropriate place on the motor vehicle, stating "This vehicle was parked within a Temporary Construction Work Zone. It was moved to this location by order of the City of Littleton Public Works.", or similar language approved by the Engineer.

The City shall not grant additional time or compensation for any resulting delays or loss of production because of failure to comply with the requirements of the Contract Documents including posting of notices and identifying and towing vehicles.

Towing Tickets

The Contractor shall deliver a towing ticket identifying the following information:

- · Date and time towing request received,
- · Make, model, and license number of vehicle towed,
- · Locations vehicle towed from and to, and
- · Signature of an authorized City Representative with time and date work performed.

Towing Equipment Requirements

Towing equipment shall, at a minimum, be equipped with a power winch, two-way radio, ten-pound dry fire extinguisher, motorcycle sling, dollies or flatbed equipment, and other modern towing and safety devices. All equipment shall be in good working condition when reporting for use.

630.17 METHOD OF MEASUREMENT and 630.18 BASIS OF PAYMENT are hereby deleted in their entirety and replaced with the following:

Traffic control shall be paid on a lump sum basis to be paid for as follows: 50 percent of the Schedule amount upon first utilization and the remaining 50 percent of the Schedule amount when 75 percent of the original schedule amount has been earned.

In the event towing services are required, the Contractor shall furnish certified invoices for reimbursement through the Force Account Item for Minor Contract Revisions. The City will reimburse the contractor up to \$150.00 per towing event, contingent upon the contractor providing certified invoices as well as proof of appropriate construction signage and timely placement. Any towing performed without required signage or pre-authorization will not be paid for.

PAY ITEM
Traffic Control

UNIT
Lump Sum

REVISION OF ITEM 27 – ASPHALT PAVEMENT MATERIALS

DESCRIPTION

The asphalt binder content (A/C) of Hot Mix Asphalt designs shall conform to the following:

Minimum A/C: 5.7%

Maximum A/C: 6.1%

BASIS OF PAYMENT

Asphalt binder shall be included in the price of Hot Mix Asphalt and shall not be paid for separately.

FORCE ACCOUNT ITEMS

DESCRIPTION

This special provision contains the City's estimate for force account items included in the Contract. Such estimated amounts will be added to the total bid to determine the Project Commitment Amount and the amount of the performance and payment bonds. Force Account work shall be performed as directed by the Engineer.

BASIS OF PAYMENT

Payment will be made in accordance with subsection 109.04. Payment will constitute full compensation for all work necessary to complete the item.

Force account work valued at \$5,000 or less, that must be performed by a licensed journeyman in order to comply with federal, state, or local codes, may be paid for after receipt of an itemized statement endorsed by the Contractor.

<u>Force Account Item</u>	<u>Quantity</u>	<u>Estimated Amount</u>
Minor Contract Revisions	F.A.	\$100,000.00

ADDITIONS, ALTERATIONS AND MODIFICATIONS TO EXISTING FACILITIES

1. GENERAL: The existing facilities shall be altered in accordance with the drawings and notes. Materials removed may be re-used if in good condition and insofar as they are adaptable to the requirements of the drawings and specifications, and if approved by the Engineer, except as hereinafter specified or noted on the drawings to be replaced with new materials. Re-used material, if and when so directed, shall be altered to suit new requirements and items in need of repair shall be repaired as directed. Materials and construction of additions and altered portions shall conform with present material and type of construction unless otherwise indicated or noted on drawings or otherwise herein specified. Joining of new and old construction shall be made tight and uniform in appearance. Salvaged materials not used in new construction shall become the property of the Contractor and removed from the site. Present work or existing facilities damaged during alteration or otherwise marred or disfigured as a result of the completion of this contract shall be repaired or replaced as directed by the Engineer. Rough, raw or unfinished areas, exposed as a result of removal of existing items shall be patched, repaired and finished as shown on drawings or as directed by the Engineer.

2. INCIDENTAL WORK: This portion of additions, alterations and modifications covers the performance of incidental work including cleaning of existing inlets and storm drains, and removal and/or relocation of existing fences.
 - a. Removal and/or Relocation of Existing Fences: Existing fences where noted on the drawings, shall be carefully removed and relocated in a manner similar to the original installation. The new location of the fence shall be as determined by the Engineer. Should the Engineer determine that the fence need not be reinstalled, the Contractor shall pile all materials neatly in the location directed by the Engineer for handling by the appropriate property owner.

3. EXISTING CURBS, WALKS AND PAVEMENTS: All existing sidewalks, curbs, and paved or surfaced areas removed or damaged during the construction shall be repaired and/or replaced with materials and construction similar to the existing facilities, unless otherwise directed by the Engineer.

4. EXISTING LAWN AREAS: Existing lawn areas destroyed or damaged during construction shall be back-filled, graded and re-sodded as directed by the Engineer. The area shall be thoroughly moistened prior to cutting and replacing the sod. The sod shall be pressed firmly into contact with the sod bed by tamping or rolling so as to eliminate air pockets and to provide a true and even surface and insure knitting. Soil of good quality shall be used to fill all cracks between sod. Where required, sod shall be fastened to stay in the slope. Work performed within existing lawn areas shall be included with the Landscape Restoration pay item.

5. WATER FOR CONSTRUCTION: The Contractor will be responsible for obtaining any water which may be needed for backfill compacting, line flushing, or any other purpose during construction. All costs, fees, permits and arrangements for obtaining water shall be the responsibility of the Contractor.

PROJECT DESCRIPTION

The work will involve approximately 63,000 SY of 2" asphalt milling, including approximately 7,000 tons of asphalt overlay, and 2,600 tons of asphalt patching, as well as approximately 2,500 LF of curb, gutter & sidewalk, and approximately 530 SY of concrete curb ramp. Work will also involve associated traffic control, landscape restoration, and erosion control. The project area will be on various local streets in the Arapaho Hills neighborhood in Littleton, Colorado.

CONSTRUCTION NOTES

1. All construction shall be in accordance with the most recent versions of the "Colorado Department of Transportation – Standards Specifications for Road and Bridge Construction" and "Colorado Department of Transportation – Standard Plans, Metropolitan Government Pavement Engineers Council Pavement Design Standards and Construction Specifications and the project drawings and specifications included herein.
2. After an award has been made, a Preconstruction Conference will be held at the offices of the City of Littleton, Engineering Division. The Contractor shall submit a construction schedule to the Engineer for approval before the Preconstruction Conference.
3. The City will issue the Contractor a "No Fee" City of Littleton Right of Way Permit for the Work.
4. The Contractor shall make continuous progress on each street or location and shall limit the active work area to three streets or locations at any given time, unless obtaining specific written approval from the Project Engineer.
5. The City will allow the Contractor to temporarily store equipment and/or materials within the Right-Of-Way. All storage locations must be approved by the Engineer. If the Contractor chooses to store any equipment and/or material on private property, the Contractor shall provide a copy of any written agreement or approval from the owner of the property which

is to be utilized. The City may allow the Contractor to store equipment or materials at secured City storage facilities, if space is available.

6. The Contractor shall familiarize themselves with the extent of landscaping, walls, fences, sod and irrigation lines which will be affected by the construction prior to preparing their bid. The cost of replacement of landscaping, walls, fences, sod or irrigation lines shall be incidental to the work and will not be paid for separately. Removal of landscaping shall be kept to a minimum.
7. The Contractor shall verify and be responsible for all features, including all underground and above ground utilities, prior to beginning any work. See "CDOT Standard Specifications for Road and Bridge Construction", Subsection 105.11. For utility construction coordination, the Contractor shall contact the utility notification center for Colorado at 800.922.1987. The Contractor shall be responsible for field locating, verifying, and protecting all existing utilities within the project areas. The Contractor shall:
 - a) Work with the appropriate utility company in verifying locations.
 - b) Pay for any damage to and arrange for the repair of any existing utilities damaged or disrupted during construction. "Utilities" shall include lawn irrigation pipes and appurtenances.
8. The concrete and asphalt removal shall be limited to what is marked in the field by the Engineer. Maximum asphalt patching limits associated with concrete replacement, for payment purposes, shall be 2.0 feet from the edge of proposed gutters but may be less provided a neat line or front form can be used and properly compacted, as marked in the field by the Engineer and verified by the Inspector. Adjustment to these limits may be made as specified by the Engineer and all payment for removal work shall be considered payment in full regardless of thickness of each removal area. The asphalt shall be saw-cut to a smooth line and the cost of saw-cutting shall be included in the work. Asphalt removed beyond these limits, and not approved previously by the Engineer, shall be replaced by the Contractor at their expense. Asphalt patching shall be Grade S 58-28 at a compacted thickness to match the existing pavement thickness with a maximum total thickness of 6 inches with no single lift exceeding 3 inches, and shall be paid for by the ton, complete in place, including tack oil.
9. All concrete shall be replaced to six (6) inches thickness except for pans and aprons, which shall be eight (8) inches. Concrete shall be paid for by the square yard or linear foot as noted on the plans and in these contract documents, complete in place, including any specified reinforcement.

10. Prior to mobilization, the Contractor shall submit the job mix design for Hot Mix Asphalt Pavement and Portland Cement Concrete for approval by the Owner.
11. All excess excavation, destroyed sod and other material determined unsuitable for backfill in the opinion of the Engineer shall be removed (including loading, hauling, and dumping fees, etc.) from the site at no additional cost to the Owner. The Contractor shall not carelessly remove material suitable for backfill from the site. New concrete shall be backfilled, and adjacent landscaping restored to its original, or better, condition at no additional cost to the project. Existing soil generated from concrete work may be used for backfill, provided it does not contain trash, organic material or broken concrete or asphalt.
12. The Contractor shall be responsible for securing the safety of the construction area with adequate fence, tape or other approved measures. The cost of erecting and removing fence or other approved devices to secure the construction area shall not be paid for separately but shall be included in the cost of the Work.
13. The Contractor shall be responsible for repairing all pavement surfaces not marked for removal, but which might be damaged by staging, stockpiling materials or equipment operation. The Engineer and the Contractor shall together document existing conditions and other information prior to any construction activities.
14. For this project no soils investigation was done. It shall be incumbent upon the Contractor to do their own testing at their sole expense, if they so desire.
15. Access to adjacent properties and driveways shall be maintained for the duration of the Work and shall be the responsibility of the Contractor. This will require constructing pans, alleys, sidewalks and driveways in phases.
16. The Contractor is responsible for setting any needed line or grade construction staking, the cost of which shall be considered included in the cost of the work.
17. Measurement and payment for "Concrete Curb Ramp" shall be for the ramp and transition, and truncated domes, but shall not include any pan or apron domes. Leveling, fine grading and compaction and any other necessary work shall be included in the unit cost for the work.
18. Only cast-iron truncated dome detectable warning plates, as manufactured by EJ, Neenah Foundry, Duralast, or approved equal will be allowed.
19. Excavation, filling and compaction of soft spots shall be paid with the pay item "Aggregate Base Course (Class 6)", which shall consist of Class 6 aggregate base course material. This pay item shall cover any "unclassified excavation" and "embankment material". This material shall be placed at the direction of the owner. Any material placed without direct approval by the Engineer or Inspector will not be paid separately but will be considered included in the work.

20. The Contractor shall be responsible for preparing a construction Stormwater Management Plan (SWMP) for erosion control. This plan shall be submitted at the pre- construction meeting for City of Littleton approval. The Contractor shall be required to inspect and maintain erosion and sediment control devices to ensure they are functioning as intended and submit inspection reports for Owner’s review at 2-week intervals and also following precipitation events. Payment shall be under “Erosion Control”.
21. The Contractor shall be responsible for the project and shall take such precautions as may be necessary to construct the work in a dry condition and provide for drainage, dewatering, and control of all surface and subsurface water. The Contractor shall erect any necessary temporary structures or other facilities at their expense, which will not be paid for separately, but shall be considered part of the work.
22. The Contractor shall minimize excavations for formwork at landscaping adjacent to the work. All lawn surfaces adjacent to the work shall be backfilled, and restored to its original condition at no additional cost to the project.
23. UTILITIES Known utilities in the project area and the contact personnel for such utilities are:

Denver Water Department

Paul Peloquin
 303-628-6620
 1600 West 12th. Ave.
 Denver, CO 80204

Valley Sanitation District

General Manager
 Cynthia Lane
 720-726-5046

Xcel Energy

Builders Call Line
 1-800-628-2121
 10001 W. Hampden Ave.
 Lakewood, CO 80227

City of Littleton

Grounds and Landscaping
 Kelsey Stansfield
 303-795-3766

Century Link

Oscar Somellera Hernandez
 osomellera@congruex.com
 7759 S. Wheeling Ct.
 Englewood, CO
 80112

Streets

Mike Somsen
 303-795-3949

Comcast

Kayla Jones
 720-601-4729
 10312 W. Hampden Ave.
 Lakewood, CO 80227

Sanitary and Storm Sewer

Art Duran
 303-795-3967

Traffic Signals

Tim Weaver
 303-795-3834