

GENERAL CONSTRUCTION AGREEMENT

This Agreement is entered into as of the _____ day of April 2017, between the Rio Blanco Fire Protection District Board of Directors, Meeker, County of Rio Blanco, State of Colorado, ("Owner"), whose legal address is Rio Blanco Fire Protection District, 236 7th Street, Meeker, Colorado 81641, and _____ ("Contractor"), whose legal address is _____ for services in connection with the **following described project:**

MEEKER FIRE RESCUE STATION ANNEX REDEVELOPMENT AND ADDITION PROJECT

The Owner and the Contractor agree as set forth below.

ARTICLE 1

THE CONSTRUCTION TEAM AND THE EXTENT OF AGREEMENT

- 1.1 The Contractor accepts the relationship of trust and confidence established between him and the Owner by this Agreement. The Contractor agrees to furnish the Work set forth herein and agrees to furnish the construction services set forth herein with the highest quality standard of care and agrees to furnish efficient business administration and superintendence, and to use his best efforts to complete the Project in the best and soundest way and in the most expeditious manner consistent with the interests of the Owner. The amount of funds appropriated by Owner for this Contract is equal to or in excess of the Contract amount. This Agreement is subject to the annual appropriation by Owner of the amounts due hereunder.
- 1.2 EXTENT OF AGREEMENT. The Contract Documents, as enumerated below, constitute the entire Agreement between the Owner and the Contractor, and supersede all prior negotiations, representations or agreements:
 - 1.2.1 This Agreement between Owner and Contractor;
 - 1.2.2 Advertisement for Bids;
 - 1.2.3 Information to Bidders;
 - 1.2.4 Bid Form;
 - 1.2.5 Contract Change Order;
 - 1.2.6 Statement to Bidders' Qualifications;
 - 1.2.7 Bid Bond Requirement;
 - 1.2.8 Notice of Award;
 - 1.2.9 Performance Bond;

- 1.2.10 Payment Bond;
- 1.2.11 Certificate of Insurance;
- 1.2.12 Notice to Proceed;
- 1.2.13 Certificate of Substantial Completion;
- 1.2.14 General Requirements;
- 1.2.15 Technical Specifications;
- 1.2.16 Plans, Drawings and Specifications;
- 1.2.17 Insurance Policies and Certificates;
- 1.2.18 Performance and Payment Bond;
- 1.2.19 Drawings and Specifications;
- 1.2.20 Tests and engineering data;
- 1.2.21 Approved Change Orders;
- 1.2.22 Contractor's Requests for Payment;
- 1.2.23 General Conditions of the Construction Agreement;
- 1.2.24 All addenda issued by the Owner prior to the Awarding of the Contract.
- 1.2.25 Soils Report

ARTICLE 2

CONTRACTOR'S RESPONSIBILITIES

2.1 CONTRACTOR'S SERVICES

- 2.1.1 The Contractor shall be responsible for the construction of the Project. The Owner and Contractor shall develop a construction phase schedule and the Owner shall be responsible for prompt decisions and approvals so as to maintain the approved schedule.

2.2 RESPONSIBILITIES WITH RESPECT TO CONSTRUCTION

2.2.1 The Contractor shall keep such full and detailed accounts as it deems necessary for proper financial management under this Agreement. The system shall be satisfactory to the Owner, who shall be afforded access to all the Contractor's records, books, correspondence, instructions, drawings, receipts, vouchers, memoranda and similar data relating to this Agreement. The Contractor shall preserve all such records for a period of three (3) years after the final payment or longer where required by law.

2.2.2 The Contractor agrees the performance of construction work which affects the utility systems and roadways shall be scheduled to be performed only at times acceptable to the respective authorities having jurisdiction ("AHJ").

In the event that it is necessary to either interrupt or to impose abnormal operating conditions on any utility system or roadway, such procedure must be acceptable to the AHJ and a complete understanding and agreement must be reached by all parties concerned five (5) business days in advance of the time schedule for such operation, and such understanding shall be definite as to date, time of day, and length of time required. All work shall be scheduled to suit the Owner's and AHJ's convenience taking into consideration the facilities and requirements at all times during construction. The Contractor shall be responsible for paying all regular and premium time labor costs arising from the necessity to perform work which affects the Owner's system facilities at times other than regular working hours.

2.2.3 The Contractor may be permitted to use available land on the site of the work for construction purposes and for the storage of material and equipment. The location and extent of the areas so used shall be as designated by the Owner's Representative. Contractor shall be responsible to re-vegetate all disturbed areas with same grasses and/or landscaping that was in place prior to the commencement of construction and as noted in the drawings.

The Contractor shall be solely responsible for obtaining and shall pay all costs in connection with any additional work area, storage sites, access to the site, or temporary right-of-way which may be required for proper completion of the work.

The responsibility for protection and safekeeping of equipment and materials on or near the site is entirely that of the Contractor and no claim shall be made against the Owner or respective property owner(s) by reason of any act of an employee or trespasser. It shall be further understood that should any occasion arise necessitating access to the sites occupied by these stored materials and equipment, the Contractor shall immediately move. No materials or equipment may be placed upon the property of the Owner or other adjacent property owners until the Owner has agreed to the location contemplated by the Contractor to be used for storage.

The Contractor shall not use nor operate any water valves, hydrants, switches, traffic control boxes, or any other utility facilities or utilities of any kind without the written consent of the Owner's Representative or AHJ. All fire hydrants and water control valves shall be kept free from obstruction and available for use at all times.

- 2.2.4 The Contractor is required to maintain access to all private and public drives and all dedicate public rights-of-way throughout the contract period for this project.

The Contractor shall erect, maintain, and remove all barricades, traffic control signs, and devices necessary for any lane closure including detour signs. All such barricades and traffic control signs and devices shall be in accordance with the Manual on Uniform Traffic Control Devices for Streets and Highways published by U.S. Department of transportation, Federal Highway Administration and as directed by the engineer.

The Contractor shall be responsible for ensuring that all work sites are properly cleaned and barricaded prior to the completion of the day's activities. A barricading plan shall be submitted to the Owner and appropriate AHJ(s) at least four (4) working days prior to performing any work affecting public traffic.

- 2.2.5 Contractor's Duty of Cooperation – The Contractor accepts and realizes that the release of and use of these specific construction documents contemplates further cooperation among the owner, his contractor(s), and the designers of record. Design and construction processes by their nature are complex. Although the designer(s) of record have performed their services with due care and diligence, they cannot guarantee perfection. Communication is imperfect and every contingency cannot be anticipated. Any errors, omissions, or discrepancy discovered by the user of these documents shall be reported immediately to the designer of record. Failure to notify the designer of record compounds the misunderstanding and increases construction costs. A failure to cooperate by a simple notice to the designer of record shall relieve the designer of record from responsibility of all consequences. Changes made from the plans without the consent of the designer of record are unauthorized and shall relieve the designer of record of responsibility of all consequences. These drawings have been prepared specifically for this project listed in the title block. They are not suitable for use for any other site without express permission of the designer of record. Reproduction of this sheet is allowed, as long as the reproduction is performed in support for the project as noted in the title block, reproduction for any other use is forbidden without expressed written permission of the designer of record.

2.3 WARRANTIES AND COMPLETION

- 2.3.1 The Contractor warrants to the Owner that all Work will be of best quality, will be performed in a good and workmanlike manner, free from improper workmanship and defective materials and in conformance with the Drawings, Specifications, and all applicable AHJ regulations and that the Project will be fit for its intended use.
- 2.3.2 The Contractor will secure required certificates of inspection or approval and deliver them to the Owner.
- 2.3.3 The Contractor shall at its own expenses: (i) correct or re-execute any parts of the Work that fail to conform with the requirements of the Contract Documents and appear during the progress of the Work, (ii) correct any defects in the Work due to faulty materials or workmanship which appear within a period of two (2) years from the date of Initial Acceptance of the Project by the Owner and any applicable AHJ(s). Should the Contractor fail to make corrections required by this paragraph Owner may do so at the expense and for the account of the Contractor. The Performance Bond shall remain in full force and effect through this two (2) year period plus 90 days.

2.4 PREFERENCE FOR LOCAL LABOR AND MATERIALS FOR LABOR PERFORMED IN THE STATE OF COLORADO - The Contractor shall make an affirmative effort to employ, where at all possible, qualified local labor as part of the work force. Local sub-contractors must comply with union labor agreements to which the Contractor or his sub-contractors are bound, if any. C.R.S §8-17-102 is incorporated herein by reference.

ARTICLE 3

OWNER'S RESPONSIBILITIES

- 3.1 The Owner shall designate an Individual who shall be fully acquainted with the Project and has authority to approve changes in the scope of the Project, render decisions promptly, and furnish information expeditiously and in time to meet the dates set forth in the Progress Schedule.
- 3.2 The Owner has furnished reasonable evidence satisfactory to the Contractor, prior to signing this Agreement, that sufficient funds are available and committed for the entire cost of the Project. If the Contractor elects to execute this Agreement without having received such evidence, the Owner shall provide it within a reasonable time upon request by the Contractor. The Contractor may stop work upon fifteen (15) days' notice if such evidence has not been furnished within a reasonable time.
- 3.3 Should it appear that the Work, intended to be described, or any of the matters relative thereto, are not sufficiently detailed or explained in the Contract Documents, Contractor

shall apply to Owner's designated representative (project manager / owner's representative) for such further documentation or explanations as may be necessary, and shall conform to the same as far as he shall be consistent with original Contract Documents. In the event of any question arising with respect to the true meaning of the Contract Documents, reference shall be made to Owner's designated representative whose decision shall be final and conclusive. In no case shall any work proceed in uncertainty.

ARTICLE 4

CONTRACT TIME SCHEDULE

- 4.1 The Work to be performed under this Agreement shall be commenced within ten (10) days of receiving the Notice to Proceed. The contractor will have _____ working days to complete the project from the start date, based on weather conditions, it is assumed the contractor will be giving a notice to proceed on or about _____. Working days are considered Monday to Friday excluding federally recognized holidays.
- 4.2 The Date of Initial and Final Acceptance of the Project is defined at Article 2.13 of the General Conditions of the Construction Agreement. Warranties called for by this Agreement or by the Drawings and Specifications shall commence on the Date of Final Acceptance of the Project and not the date of Initial Acceptance.
- 4.3 If the Contractor is delayed in the performance of the Work by any neglect of the Owner, or by an employee, agent or representative of the Owner, or by changes ordered in the work by the Owner or by the combined action of workmen (either those employed on the work or in any industry essential to the conduct of the Work) in no way caused by or resulting from default or collusion on the part of the Contractor or any sub-contractor, or by strikes, lockouts, embargoes, fires, unavoidable casualties, unusual inclement weather, or by any other causes which the Contractor could not reasonably control or circumvent, then the Scheduled Completion Date shall be extended for a period equal to the length of such delay, if and only if within ten (10) calendar days after the expiration of any such delay, the Contractor delivers to the Owner a request for extension for such delay and such request is approved by the Owner, which approval shall not be unreasonably withheld by the Owner. In the case of a continuing cause of delay of a particular nature, the Contractor shall be required to make only one (1) such request with respect thereto.

Extension of time shall be the Contractor's sole remedy for any such delay unless the same shall have been caused by acts constituting intentional interference by the Owner with the Contractor's performance of the work where and to the extent such acts continue after the Contractor's written notice to the Owner of such interference. Owner's exercise of any of its rights under Changes in the Work as set forth in the General Conditions of the General Construction Agreement, regardless of the extent or

number of such changes, or Owner's exercise of any of its remedies of suspension of the work or requirement of correction or re-execution of any defective work shall not, under any circumstances, be construed as intentional interference with the Contractor's performance of the work.

ARTICLE 5

CONTRACTOR'S COMPENSATION

5.1 Contract Fixed Price: The Contract Fixed Price for which the Contractor agrees to perform all the Work, and guarantee the fixed price of _____(\$XXXXXXXX) to the Owner, for the entire scope of the Work, including the costs of the Work, all subcontracts, all general conditions, all fees, overhead and profit, all permits, all risks, and the contractor's contingency and all other costs and fees that are required to perform the Work described herein. The Contract Fixed Price will be subject to changes in the Work only as provided in Section GC-17.00 entitled "Changes in the Work" of the General Conditions of the General Construction Agreement.

5.2 Payments

5.2.1 Progress Payments: Progress payments are required monthly. On or before the first day of each month during the performance of the Work, Contractor shall submit to Owner for its approval a request for payment (Request for Payment) in form and substance satisfactory to Owner. Each Request for Payment shall be for a sum equal to all of Contractor's Costs and Fees incurred during the preceding month. Requests for Payment shall include the value of materials or equipment not incorporated in the Work, but delivered and suitably stored at the site or at some location agreed upon. Title to all equipment and materials shall pass to the Owner upon payment therefor, and Contractor shall prepare and execute all documents necessary to affect and perfect such transfer of title.

In each Request for Payment, Contractor shall certify that such Request for Payment represents a just estimate of cost reimbursable to Contractor and shall also certify as follows:

That there are no known mechanics' or materialmen's liens outstanding at the date of this requisition, that all due and payable bills with respect to the Work have been paid to date or are included in the amount requested in the current application, and that, except for such bills not paid but so included, there is no known basis for the filing of any mechanics' or materialmen's liens on the Work, and that waivers from all subcontractors and materialmen for work done and materials furnished to the effective date of such Request have been obtained in such form as to constitute an effective waiver of lien

under the laws of the State where the Work is being performed. Copies of all conditional and unconditional lien waivers from subcontractors and materialmen that Contractor is requesting payment thereof are to be submitted with each request for payment application. The Owner shall provide the Contractor is suitable interim conditional and unconditional lien wavier forms and conditional and unconditional final lien wavier forms. The appropriate lien wavier forms must be included in each and every monthly request-for-payment.

Owner may make such exceptions to Contractor's certification as Owner deems necessary or appropriate under the state of circumstances then obtaining.

On or before thirty (30) days after submission of each fully complete and acceptable request for payment application as deemed by the Owner, Owner shall make payment to Contractor. The payment of any Request for Payment by Owner does not constitute approval of or acceptance of any item of cost in such Request for Payment, nor shall it be construed to be final acceptance or approval of that part of the Work to which the payment relates nor relieve Contractor of any of its obligations hereunder with respect thereto.

5.2.2 Final Payment:

After the Date of Final Acceptance Contractor shall submit a final request (Final Request) which shall set forth all amounts due and remaining unpaid to Contractor and upon approval thereof by Owner, Owner shall pay to Contractor the amount due under such Final Request.

The Final Request for Payment shall not be made until Contractor delivers to Owner a complete release of all liens arising out of this Agreement and an affidavit that so far as Contractor has knowledge or information the release includes and covers all materials and services for which a lien could be filed, but Contractor may, if any Subcontractor or supplier refuses to furnish a release in full, furnish a bond satisfactory to Owner to indemnify Owner against any lien.

Payment of the Final Request shall not constitute approval of or acceptance of any item of cost included therein, the items of cost being subject to final audit and adjustment by Owner within a reasonable time after payment of the Final Request.

The Contractor is notified that the final settlement/payment is subject to public notice pursuant to Colorado Revised Statutes and the Contractor realizes, understands, and accepts, that final payment and final settlement may take longer than 30 days, refer to Article 6.

5.2.3 Withholding from Payments

- (a) Any provision hereof to the contrary notwithstanding, Owner may withhold from any payment due or to become due the Contractor, amounts sufficient to reimburse Owner for its expenditures for the account of Contractor and to secure (1) correction or re-execution of work which is defective or has not been performed in accordance with the Contract Documents, (2) past due payments to Subcontractors and suppliers, (3) Owner's remedies in consequence of any default of this Agreement, (4) claims of Owner or others pending against Contractor, and (5) pending or imminent claims indemnified in Article 7 hereof,
- (b) If Owner, in its good faith judgment, determines that the portion of the Contract Fixed Price then remaining unpaid will not be sufficient to complete the Work in accordance with this Contract, no additional payments will be due Contractor hereunder unless and until Contractor, at its sole cost, performs a sufficient portion of the Work so that such portion of the Contract Fixed Price then remaining unpaid is determined by Owner to be sufficient to complete the Work.

In no event shall any interest be due and payable by Owner to Contractor, any Subcontractor, or any other party on any of the sums retained by Owner pursuant to any of the terms or provisions of any of the Contract Documents.

All sums paid to Contractor pursuant to this Agreement shall constitute a trust fund for the purpose of performance of the Work. At least eight (8) days prior to the submission of each Request for Payment, beginning with the second Request for Payment, Contractor shall furnish to Owner a certified statement accounting for the disbursement of funds received from Owner, as evident by an executed Unconditional lien waiver from all recipients receiving funds from the previous request for payment. Such statement shall itemize all disbursements to Subcontractors and suppliers and shall be accompanied by copies of Subcontract payment vouchers, suppliers' invoices, payrolls, and other data substantiating actual expenditures. Vouchers covering final payments to Subcontractors, suppliers, and others furnishing labor, materials, and material and labor in connection with performance of the Work shall be accompanied by a release from each such party in the form approved by Owner. However, no provision hereof shall be construed to require Owner to see to the proper disposition or application of the monies paid to Contractor.

ARTICLE 6

PAYMENTS TO THE CONTRACTOR

6.1 At least fifteen (15) days before final settlement and issuance of Final Payment, the Owner shall publish such final settlement and payment in accordance with C.R.S. §38-26-107. If claims are filed pursuant to such Statute, then the Owner may withhold payment in accordance with such Statute.

6.1.1 If Owner, in its good faith judgment, determines that the portion of the Contract Sum then remaining unpaid will not be sufficient to complete the Work in accordance with the Plans and Specifications, no additional payments will be due the Contractor hereunder unless and until the Contractor, at its sole cost, performs a sufficient portion of the Work so that such portion of the Contract Sum then remaining unpaid is determined by Owner to be sufficient to so complete the Work.

In no event shall any interest be due and payable by Owner to the Contractor, any sub-contractor, or any other party on any of the sums retained by Owner pursuant to any of the terms or provisions of any of the Contract Documents.

All sums paid to the Contractor pursuant to this Agreement shall constitute a trust fund for the purpose of performance of the Work and the construction, furnishing, and equipping of the improvements in accordance with the Plans and Specifications.

6.1.2 The acceptance of Final Payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and unsettled.

ARTICLE 7

INSURANCE, INDEMNITY AND WAIVER OF SUBROGATION

7.1 Indemnity

7.1.1 The Contractor shall at its own expense fully protect, indemnify and hold harmless Owner, Owner's representatives, and designers (architects and engineers) of record, from and against the following:

- (a) All claims or liens of laborers, mechanics, materialmen, sub-contractors, and his sub-contractors.
- (b) All fines, penalties, assessments or other extractions imposed by any governmental authority by reason of Contractor's failure to comply with Paragraph 36.01 of the General Conditions of the General Construction Agreement.
- (c) All losses and expenses incurred by Owner because of failure of Contractor to obtain and maintain in force in the limits provided herein, any insurance required to be furnished by Contractor.
- (d) To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, its consultants, and its agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from the performance of the Work, provided that any such claim, damage, loss or expense is (1) is attributable to bodily injury or to

destruction of tangible property (other than the Work itself) including the loss of use resulting therefrom, and (2) is caused in whole or in part by any negligent act or omission of the Contractor, or any sub-contractor retained by the Contractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described herein.

If any and all claims against the Owner, its consultants, or any of its agents or employees by any employee of the Contractor, any sub-contractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Contractor or any sub-contractor under worker's or workmen's compensation acts, disability benefit acts or other employee benefit acts.

- (e) Loss, damages and expenses incurred by reason or infringement or alleged infringement of any patent rights, except where such claims arise from designs or methods specified by Owner.
- (f) Nothing contained herein shall have the effect of waiving or modifying in any manner the provisions of the Colorado Governmental Immunity Act.

Upon failure of the Contractor, within fifteen (15) days after notice of any lien or claim indemnified hereunder, to secure discharge or release of Owner therefrom, Owner may, as authorized agent and for the account of the Contractor take over exclusive handling such claim and secure such release or discharge in any reasonable manner; provided that such shall accrue with respect to claims required to be covered by insurance only upon default or denial of coverage by the insurer. All expenses of Owner (including attorney's fees and expenses of administration) incurred on account of the claims indemnified hereunder shall be for the account of (deducted from) the Contractor.

- 7.1.2 The Owner shall cause any other Contractor who may have a contract with the Owner to perform work in the areas where Work will be performed under this Agreement, to agree to indemnify the Owner and the Contractor and hold them harmless from all claims for bodily injury and property damage (other than property insured under Paragraph 7.4) that may arise from the Contractor's operations. Such provisions shall be in a form satisfactory to the Contractor.

7.2 CONTRACTOR'S LIABILITY INSURANCE

- 7.2.1 The Contractor shall purchase and maintain such insurance as will protect him from the claims set forth below which may arise out of or result from the Contractor's operations under this Agreement whether such operations be by themselves or by any sub-contractor or by anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable.
- 7.2.1.1 Claims under workers' compensation, disability benefit and other similar employee benefit acts which are applicable to the Work to be performed.
- 7.2.1.2 Claims for damage because of bodily injury, occupational sickness or disease, or death of his employees under any applicable employer's liability law.
- 7.2.1.3 Claims for damages because of bodily injury, or death of any person other than his employees.
- 7.2.1.4 Claims for damages insured by usual personal injury liability coverage which are sustained: (1) by any person as a result of an offense directly or indirectly related to the employment of such person by the Contractor; or (2) by any other person.
- 7.2.1.5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use therefrom.
- 7.2.1.6 Claims for damages because of bodily injury or death of any person or property damage arising out of the ownership, maintenance or use of any motor vehicle.
- 7.2.2 The Comprehensive General Liability Insurance shall include premises-operations (including explosion, collapse and underground coverage) elevators, independent contractors, completed operations, and blanket contractual liability on all written contracts, all including broad form property damage coverage.
- 7.2.3 The Contractor's Comprehensive General and Automobile Liability Insurance, as required by sub-paragraph 7.2 shall be written for the limits of liability outlined below:

(a) Comprehensive General Liability

1. Personal Injury \$2,000,000.00, Each Occurrence
(Completed Operations)
2. Property Damage \$2,000,000.00, Each Occurrence /
\$2,000,000.00 Aggregate

(b) Comprehensive Automobile Liability

1. Bodily Injury \$2,000,000.00 Each Person
\$2,000,000.00 Each Person
2. Property Damage \$2,000,000.00
Each Occurrence

7.2.4 Comprehensive General Liability Insurance may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by an Excess Umbrella Liability Policy.

7.2.5 The foregoing policies shall contain a provision that coverage afforded under the policies will not be canceled or not renewed until at least thirty (30) days prior written notice has been given to the Owner. Certificates of Insurance showing such coverages to be in force shall be filed with the Owner prior to commencement of the Work.

7.2.6 Certificates of Insurance shall list, Littleton Fire Protection District, City of Centennial, and Colorado Department of Transportation.

7.3 OWNER'S LIABILITY INSURANCE

7.3.1 The Owner shall be responsible for purchasing and maintaining his own liability insurance and, at its option, may purchase and maintain such insurance as will protect him against claims which may arise from operations under this Agreement. Nothing contained herein shall constitute a waiver of Rio Blanco Fire Protection District Governmental Immunity.

7.4 INSURANCE TO PROTECT THE PROJECT

7.4.1 The Contractor shall purchase and maintain property insurance in a form acceptable to the Owner on the entire Project for the full cost of

replacement at the time of any loss. This insurance shall include as named insurers the Contractor, Owner, and Owner's representatives and shall insure against loss from perils of Fire, Extended Coverage, and shall include "All Risk" insurance for physical loss or damage including, without duplication of coverage, at least theft, vandalism, malicious mischief, transit, collapse, testing. The Contractor will be responsible for any co-insurance penalties.

7.4.1.1 If the Owner will find it necessary to occupy or use a portion or portions of the Project prior to Final Acceptance thereof, such occupancy shall not commence prior to a time mutually agreed to by the Owner and the Contractor and to which the insurance company or companies providing the property insurance have consented by endorsement to the policy or policies. This insurance shall not be canceled, reduced or lapsed on account of such partial occupancy. Consent of the Contractor and of the insurance company or companies to such occupancy or use shall not be unreasonably withheld.

7.4.2 The Contractor shall file a copy of all policies with the Owner before an exposure to loss may occur. Copies of any subsequent endorsements will be furnished to the Owner. The Owner will be given thirty (30) days written notice of cancellation non-renewal, or any endorsements restricting or reducing coverage.

7.4.3 The Contractor will be responsible any deductible of any insurance claim.

7.5 PROPERTY INSURANCE LOSS ADJUSTMENT

7.5.1 Any insured loss shall be adjusted with the Owner and the Contractor and made payable to the Owner who shall disburse the funds.

7.5.2 Upon the occurrence of an insured loss, monies received will be deposited in a separate account and the Owner shall make distribution in accordance with the Agreement of the parties in interest.

7.6 WAIVER OF SUBROGATION

7.6.1 The Owner and Contractor waive all rights against each other for damages caused by perils covered by insurance provided under Paragraph 7.4, except such rights as he may have to the proceeds of such insurance held by the Owner and Contractor as trustees. The Contractor shall require similar waivers from the sub-contractors.

- 7.6.2 The Owner and Contractor waive all rights against each other for loss or damage to any equipment used in connection with the Project which loss is covered by the property insurance. The Contractor shall require similar waivers from all sub-contractors.
- 7.6.3 The Owner waives subrogation against the Contractor on all property and consequential loss policies carried by the Owner on adjacent properties and under property and consequential loss policies purchased for the Project after its completion.
- 7.6.4 If the policies of insurance referred to in this Paragraph require an endorsement to provide for continued coverage where there is a waiver of subrogation, the owners of such policies will cause them to be so endorsed.

ARTICLE 8

BOND

- 8.1 The Contractor shall obtain prior to the commencement of construction activities and maintain thereafter at all times during the performance of the Work a Performance Bond, Payment Bond, and a Labor and Material Payment Bond with good and sufficient surety, each in form and substance satisfactory to Owner, and each in a penal sum not less than the Contract Sum. The Bonds shall comply in all respects with C.R.S. §38-26-105 and C.R.S. §38-26-106, as amended, and shall be in an amount sufficient to compensate Owner for any and all damages as a result of Contractor's failure to perform this Contract; which damage shall include but are not limited to attorney's fees, Owner's representative's fees, architectural fees, engineering fees, interest on Bonds, and all other costs incurred by Owner in completing the Project. The premiums for such Bonds are included in the Contract Fixed Price per section 5.1. The Owner will accept and approve Bonds written on its Bond Forms by sureties legally authorized to write such Bonds in the State of Colorado, provided such surety, companies are rated in Best's Insurance Guide (latest edition), not lower than A:AAAA. If at any time, a surety on such a Bond becomes irresponsible or loses its right to do business in the State of Colorado, the Owner may require another surety acceptable to the Owner, which the Contractor shall furnish within (10) ten days after receipt of written notice to do so. The Performance Bond shall remain in place during the warranty period plus ninety (90) days. The Bonds are to written on the most current edition of AIA bond.

ARTICLE 9

CONTRACTOR'S REPRESENTATIONS AND WARRANTIES

9.1 INSPECTION OF SITE

The Contractor represents that it has inspected the location of the Work and all data relating thereto, including, without limitation, soils, stream flows, locations of adjacent structures and utilities, access to the site, and governmental regulations which may affect its activities on the site, and has satisfied itself as to the condition thereof and that the Contract Fixed Price is just and reasonable compensation for all the Work, including all foreseen and foreseeable risks, hazards and difficulties in connection therewith.

9.2 FINANCIAL AND PHYSICAL ABILITY

The Contractor represents and warrants that it is financially solvent, able to pay its debts as they mature, and possesses sufficient working capital to complete this Agreement; that it is possible to furnish the plant, tools, materials, supplies, equipment and labor, and is experienced in and competent to perform the Work contemplated by this Agreement, and that it is authorized to do business in the State of Colorado.

9.3 LICENSE

The Contractor represents and warrants that the Contractor holds a license, permit or other special license to perform the services contemplated by this Agreement, as required by law, or employs or works under the general supervision of the holder of such license, permit or special license.

ARTICLE 10

LIQUIDATED DAMAGES

- 10.1 It is understood and agreed that should the Project not be completed by the date of final completion as specified in this Agreement, as the same may be extended by the provisions hereof, or by the mutual agreement of the parties, either because of the Contractor's failure to so complete the Project, or due to delay in completion occasioned by Owner availing himself of his rights to arrange for completion of the Agreement after termination as herein provided, the actual damages sustained by Owner due to such delay will be extremely difficult or impractical to determine. Contractor and Owner have made a good faith effort at the time of execution of this Agreement to determine a reasonable daily sum of damage which will accrue to Owner due to said delay. The parties establish the sum of Seven Hundred and Fifty and 00/100 dollars (\$750.00) per calendar day as the liquidated amount which Contractor shall pay to Owner for each day's delay in fully completing said Project beyond the time specified in the Agreement, or beyond any extension of time permitted under the Agreement or by mutual agreement of the parties.

Notwithstanding the foregoing, Owner may be entitled to any other measure of damage, or item of damage, as against Contractor for any other breach of the Agreement.

ARTICLE 11

ASSIGNMENT AND GOVERNING LAW

- 11.1 Neither the Owner nor the Contractor shall assign his interest in this Agreement without the written consent of the other.
- 11.2 This Agreement shall be governed by the laws in effect in the State of Colorado.
- 11.3 Venue for any Court action arising from this Contract shall be only in the District Court in and for the County of Arapahoe, State of Colorado.

ARTICLE 12

EMPLOYMENT OF ILLEGAL ALIENS

- 12.1 This Contractor also shall comply with any and all laws and regulations prohibiting discrimination in the specific programs(s) which is/are the subject of this contract. In consideration of and for the purpose of obtaining any and all federal, state and/or local financial assistance, the contractor makes the following assurances and certification, upon which the County relies.
 - 12.1.1 The Contractor certifies that, at the time of this certification, it does not knowingly employ or contract with an illegal alien and that the contractor has participated or attempted to participate in the Basic Pilot Program in order to verify that it does not employ any illegal aliens.
 - 12.1.2 The Contractor shall not knowingly employ or contract with an illegal alien to perform work under the Public Contract for Services.
 - 12.1.3 The Contractor shall not enter into a contract with a subcontractor that fails to certify to the contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under the Public Contract for Services.

- 12.1.4 The Contractor has verified or attempted to verify through participation in the Basic Pilot Program that the contractor does not employ any illegal aliens and, if the contractor is not accepted into the Basic Pilot Program prior to entering into a Public Contract for Services, that the contractor shall apply to participate in the Basic Pilot Program every three months until the contractor is accepted or the Public Contract for Services has been completed, whichever is earlier. The provision specified in this subparagraph 12.1.4 shall not be required or effective in a Public Contract for Services if the Basic Pilot Program is discontinued.
- 12.1.5 The Contractor is prohibited from using the Basic Pilot Program procedure to undertake pre-employment screening of job applicants while the Public Contract for Services is being performed.
- 12.1.6 If the Contractor obtains actual knowledge that a subcontractor performing work under the Public Contract for Services knowingly employs or contracts with an illegal alien, the contractor shall be required to:
- (a) Notify the subcontractor and the contracting state agency or political subdivision within three days that the contractor has actual knowledge that the subcontractor is employing or contracting with and illegal alien; and
 - (b) Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to sub-subparagraph (a) of this subparagraph 12.1.6 the subcontractor does not stop employing or contracting with the illegal alien; except that the contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.
- 12.1.7 The contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to the authority established in subsection (5) of C.R.S. 8-17.5-101.
- 12.1.8 If a contractor violates a provision of the Public Contract for Services required pursuant to Subsection (2) of C.R.S. 8-17.5-101, the state agency or political subdivision may terminate the contract for a breach of the contract. If the contract is so terminated, the contractor shall be liable for actual and consequential damages to the state agency or political subdivision.

ARTICLE 13

SECURITY AT THE SITE

- 13.1 Contractor shall maintain the Work area and access ways in such manner as will keep the premises safe against intrusion by unauthorized person. Contractor shall keep Owner informed of all such procedures. Contractor shall be responsible for keeping all unauthorized persons out of the Work area at all times. Contractor shall be responsible for locking all access ways when the Work area is unoccupied.
- 13.2 Contractor shall use only employees who have worked for Contractor for at least six (6) months prior to commencement of Work under this Contract for any work that requires entry into any occupied interior space. Contractor shall employ on the Project only such persons as are known to Contractor to be trustworthy.

ARTICLE 14

CONTRACTOR'S MEETINGS

- 14.1 As directed by the Contractor, there is to be held at its office or on-site a meeting, at times to be mutually determined by the Project Manager and Contractor, of the representatives of the various trades engaged about the building for furthering the progress of the work and giving of instructions by the Contractor. Where the representatives of the various trades fail in attendance or in executing the instructions given them, they shall, on request of the Owner, be dismissed from the work and other representatives must be immediately substituted. Owner shall be notified in advance of such meeting and will be invited to attend.

ARTICLE 15

INTEGRATION OF THE AGREEMENT

- 15.1 This Contract is formed by the Contract Documents and is considered part of the Contract Documents. The Contract Documents represent the complete, entire and final understanding between the parties and any and all prior or contemporaneous agreements, understandings and communications between the parties, whether written or oral, are deemed merged herein.

ARTICLE 16

MISCELLANEOUS

- 16.1 In the event of a conflict between any of the provisions of this Agreement and the General Conditions of the General Contracting Agreement, the conflict shall be resolved by the Project Manager in its sole discretion.
- 16.2 In the event any Court finds any part of this Agreement or the General Conditions Agreement ambiguous, neither that particular part of the Agreement or the General Conditions Agreement shall be construed against either party.
- 16.3 This agreement may be amended only by written instrument signed by both the Owner and the Contractor.
- 16.4 This Agreement shall be made part of any subcontractor agreement that the Contractor may have with a subcontractor and said subcontractor shall be bound by the same terms and conditions hereof.
- 16.5 Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Rio Blanco County, Colorado.
- 16.6 No Waiver. Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the Owner shall not constitute a waiver of any of the other terms or obligation of this Agreement.
- 16.7 Integration. This Agreement and any attached exhibits constitute the entire Agreement between Contractor and the Owner, superseding all prior oral or written communications. In the event there is a conflict between this Agreement and the Exhibit, the Agreement shall govern.
- 16.8 Third Parties. There are no intended third-party beneficiaries to this Agreement.
- 16.9 Notice. Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail to the party at the address set forth on the first page of this Agreement.
- 16.10 Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.
- 16.11 Modification. This Agreement may only be modified upon written agreement of the Parties.

16.12 Assignment. Neither this Agreement nor any of the rights or obligations of the Parties hereto, shall be assigned by either party without the written consent of the other.

16.13 Governmental Immunity. The District (owner), its officers, and its employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations (presently three hundred fifty thousand dollars (\$350,000) per person and nine hundred ninety thousand dollars (\$990,000) 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 amended, or otherwise available to the District and its officers or employees.

16.14 Rights and Remedies. The rights and remedies of the Owner under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the Owner's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

16.15 Subject to Annual Appropriations. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligations of the District not performed during the current fiscal year are subject to annual appropriation, and thus any obligations of the District hereunder shall extend only to monies currently appropriated and shall not constitute a mandatory charge, requirement or liability beyond the current fiscal year.

16.16 Waiver of Consequential Damages. Contractor forever waives and releases Owner from any and all claims for consequential damages directly arising out of or caused by the performance of the Scope of Services, acts or omissions taken pursuant to this Agreement, any dispute between the parties and/or the termination of this Agreement.

This Agreement entered into as of the day and year first above written.

CONTRACTOR :

OWNER:

Rio Blanco Fire Protection District, of the
County of Rio Blanco, State of Colorado

Name, Title

Board President
Name

Attest:

Secretary/Treasurer