# AGENDA ITEM or FINAL CONTRACT REVIEW SUBMITTAL FORM

**AgendaTitle:**
Consent 16 - Proposal and Construction Contract; Marine Diving Solutions; Dos Rios Clearwell Renovation Project; $18,485

**Action Requested:** County Manager Signature

**Parties to the Agreement:** Marine Diving Solutions and Gunnison County

**Term Begins:** On Signature **Term Ends:** 5/31/2015 **Grant Contract #:**

**Summary:**
Gunnison County accepted proposals for the Clearwell Renovation Project at the Dos Rios Water Treatment Plant. Two bids were received, but one did not bid per the specifications. Staff recommends awarding the bid to Marine Diving Solutions in the amount of $18,485.00.

**Fiscal Impact:** $18,485.00

**Submitted by:** Marlene D. Crosby **Submitter's Email Address:** mcrosby@gunnisoncounty.org

**Finance Review:** (●) Required ( ) Not Required

Comments:

The 2015 budget anticipates adding $29,867 to ending available resources. This capital expense cost will have to be applied against that number.

Reviewed by: GUNCOUNTY1\lNienhueser Discharge Date: 3/11/2015

**County Attorney Review:** (●) Required ( ) Not Required

Comments:

Reviewed by: GUNCOUNTY1\atrezise Discharge Date: 3/11/2015 Certificate of Insurance Required Yes (●) No ( )

**County Manager Review:**

Comments:

Reviewed by: GUNCOUNTY1\mbirnie Discharge Date: 3/12/2015

(●) Consent Agenda ( ) Regular Agenda ( ) Worksession Time Allotted:

Agenda Date: 3/17/2015 Follow Up Agenda Date:

*Revised April 2013*

## SECTION 00300 - PROPOSAL

PROJECT IDENTIFICATION: Gunnison County – Clearwell Renovation Project

THIS PROPOSAL IS SUBMITTED TO: Gunnison County Public Works Department
195 Basin Park Drive
Gunnison, CO 81230

Proposal of Marine Diving Solutions (hereinafter called "Proposer", organized and existing under the laws of the State of Colorado doing business as LLC (S-Corporation) ( a corporation, partnership, individual).

To the Gunnison County (hereinafter called "Owner").

In compliance with your request for Proposals, PROPOSER hereby proposes to perform all WORK for the construction of Clearwell Renovation Project in strict accordance with the CONTRACT DOCUMENTS, within the time set forth therein, and at the prices stated below.

By submission of this PROPOSAL, each PROPOSER certifies, and in the case of a joint PROPOSAL, each party thereto certifies as to its own organization, that this PROPOSAL has been arrived at independently, without consultation, communication, or agreement as to any matter relating to this PROPOSAL with any other PROPOSER or with any competitor.

PROPOSER hereby agrees to commence WORK under this contract on or before a date to be specified in the NOTICE TO PROCEED and to fully complete the PROJECT within the number of consecutive calendar days and date specified in the Agreement. PROPOSER further agrees to pay as liquidated damages, the sum specified in the Agreement for each consecutive calendar day thereafter as provided in Agreement

In submitting this Proposal, Proposer represents, as more fully set forth in the Agreement, that:

(a) Proposer has examined copies of all the Proposal Documents and of the following Addenda (receipt of all which is hereby acknowledged):

| Date | Number |
|---|---|
| 2-26-15 | No. 1 |
| | |

(b) Proposer has familiarized itself with the nature and extent of the Contract Documents, Work, site, locality, characteristics of the area and physical conditions, including without limitation, improvements, soil conditions, drainage, topography, and all other features of the terrain, and with the local conditions and federal, state, and local laws, ordinances, rules, and regulations that in any manner may affect cost, progress, or performance or furnishing of the Work, or apply in any manner whatsoever to the Work.

(c) Proposer has given Engineer written notice of all conflicts, errors or discrepancies that it has discovered in the Contract Documents and the written resolution thereof by Engineer is acceptable to Proposer.

(d) This Proposal is genuine and not made in the interest of or on behalf of any undisclosed person, firm or corporation and is not submitted in conformity with any agreement or rules of any group, association, organization or corporation; Proposer has not directly or indirectly induced or solicited any other Proposer to submit a false or sham Proposal; Proposer has not solicited or induced any

person, firm or corporation to refrain from Proposing; and Proposer has not sought by collusion to obtain for itself any advantage over any other Proposer or over Owner.

(e) Proposer hereby certifies that, as of the date hereof, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement, and the Contractor will participate in the federal e-verify program or the state program pursuant to CRS 8-17-102(5) in order to confirm eligibility of all employees who are newly hired for employment under this agreement.

Proposer agrees to perform all Work described in the Contract Documents for the following lump sum for the full scope of work specified and detailed in Section 00350 Measurement and Payment:

PROPOSAL FORM – Clearwell Renovation Project

| | Qty | Unit Cost | Total |
|---|---|---|---|
| **Total Base Proposal** including inlet pipe extension and three baffle curtains complete | | | $18,485.00 |

Proposer agrees that the Work will be substantially complete within the timeframe described in the Agreement and completed and ready for final payment in accordance with the time required in the Agreement.

Proposer accepts the provisions of the Agreement as to liquidated damages in the event of failure to complete the Work on time. All work must be completed by May 1, 2015.

The following documents are attached to and made a condition of this Proposal:

(a) A tabulation of Subcontractors, Suppliers and other persons and organizations including any subcontractors who will enter the clearwell and their qualifications and the supplier of the baffle curtains.

(b) A statement of Proposer's Qualification with supporting data and references regarding similar projects.

7. Communications concerning this Proposal shall be addressed to: Gunnison County Public Works Department, 195 Basin Park Drive, Gunnison, CO 81230, 970 641 0044.

Submitted on March 4th, 20 15.

Respectfully submitted:

Jan Stigh — 7275 S. Revere Pkwy. Ste 802, Centennial, CO 80112

Signature — Address

Owner — 3/2/15

Title — Date

License number (if applicable) — 303-309-0091

Phone

SEAL - (if PROPOSAL is by a corporation)

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 1/20/2015

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
Denver Agency
210 University Blvd, Suite 600
Denver CO 80206-4661

CONTACT NAME: Tierney Aldridge
PHONE (A/C, No, Ext): (303) 892-6900 FAX (A/C, No): (303) 892-6938
E-MAIL ADDRESS: tierney@denveragency.com

| INSURER(S) AFFORDING COVERAGE | NAIC # |
|---|---|
| INSURER A: Lloyds of London Underwriter | |
| INSURER B: Continental Divide Ins Co | |
| INSURER C: Pinnacol Assurance | 41190 |
| INSURER D: Hartford Insurance | |
| INSURER E: | |
| INSURER F: | |

INSURED
Marine Diving Solutions LLC
7453 S Norfolk Street
Aurora CO 80016

COVERAGES CERTIFICATE NUMBER: MASTER COI 2015-2016 REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE | ADDL INSR | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS | |
|---|---|---|---|---|---|---|---|---|
| A | GENERAL LIABILITY<br>X COMMERCIAL GENERAL LIABILITY<br>X CLAIMS-MADE OCCUR<br>X Errors & Omissions<br>X Pollution Liability<br>GEN'L AGGREGATE LIMIT APPLIES PER<br>X POLICY PRO-JECT LOC | | | 15AEARK043228 | 1/14/2015 | 1/14/2016 | EACH OCCURRENCE<br>DAMAGE TO RENTED PREMISES (Ea occurrence)<br>MED EXP (Any one person)<br>PERSONAL & ADV INJURY<br>GENERAL AGGREGATE<br>PRODUCTS - COMP/OP AGG | $ 1,000,000<br>$ 100,000<br>$ Excluded<br>$<br>$ 2,000,000<br>$ 2,000,000<br>$ |
| B | AUTOMOBILE LIABILITY<br>X ANY AUTO<br>ALL OWNED AUTOS<br>SCHEDULED AUTOS<br>HIRED AUTOS<br>NON-OWNED AUTOS | | | 05APM003591-02 | 1/14/2015 | 1/14/2016 | COMBINED SINGLE LIMIT (Ea accident)<br>BODILY INJURY (Per person)<br>BODILY INJURY (Per accident)<br>PROPERTY DAMAGE (Per accident)<br>Medical payments | $ 1,000,000<br>$<br>$<br>$<br>$ 5,000 |
| | UMBRELLA LIAB OCCUR<br>EXCESS LIAB CLAIMS-MADE<br>DED RETENTION $ | | | | | | EACH OCCURRENCE<br>AGGREGATE | $<br>$<br>$ |
| C | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY<br>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N<br>(Mandatory in NH)<br>If yes, describe under DESCRIPTION OF OPERATIONS below | N/A | | 4170578 | 1/1/2015 | 1/1/2016 | WC STATU-TORY LIMITS OTH-ER<br>E.L. EACH ACCIDENT<br>E.L. DISEASE - EA EMPLOYEE<br>E.L. DISEASE - POLICY LIMIT | $ 1,000,000<br>$ 1,000,000<br>$ 1,000,000 |
| D | Inland Marine | | | 34MSAQ8406 | 1/14/2015 | 1/14/2016 | Leased/ Rented<br>Deductible | $100,000<br>$1,000 |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

CERTIFICATE HOLDER

FOR INFORMATION ONLY

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

T Aldridge/TIERNE


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## CONSTRUCTION CONTRACT

## AGREEMENT

**THIS AGREEMENT** is made between the **GUNNISON COUNTY**, Colorado, (Owner or County) and the Contractor, _____for the Construction Project known as: **DOS RIOS CLEARWELL RENOVATION project**

The Owner's Representative (OR) is: As designated by the Owner at the Preconstruction Conference.

The Owner and Contractor agree as follows:

ARTICLE 1
THE WORK:

The Contractor shall perform all the Work required by the Contract Documents for: Dos Rios Clearwell Renovation Project described in the Contract Documents. Contractor shall furnish all labor, services, materials, tools, and equipment for the construction and completion of the work proposed to be done under this Agreement. Contractor will construct and complete the work in a thorough and workmanlike manner in every respect to the satisfaction and approval of the Owner, within the time specified herein and in strict accordance with the Contract Documents

ARTICLE 2
TIME OF COMMENCEMENT AND COMPLETION:

2.1 The Work to be performed under this Contract shall commence upon Notice to Proceed. Submittals for the baffle curtains shall be provided within 7days of Notice to Proceed and work inside the clearwell shall be completed in 5 days. All work including clean up shall be completed before May 1, 2015.

ARTICLE 3
CONTRACT AMOUNT AND BASIS:

The Owner shall pay the Contractor for the satisfactory performance of the Work, subject to additions and deductions by Change Order as provided in this Agreement based on the unit prices in the Contractor's Proposal.

ARTICLE 4
PROGRESS PAYMENTS:

Based upon Applications for Payment submitted to the OR by the Contractor accompanied by such supporting documentation, and Certificates for Payment issued by the OR the Owner shall make progress payments to the Contractor as follows:

One payment for 20% of the Proposal cost upon approval of baffle curtain submittal

70% of total project cost at completion and acceptance of installation of inlet piping and all baffle curtains

Final 10% after publication of Notice of Final Settlement (see Article 5)

ARTICLE 5
FINAL PAYMENT:

After completion of the Work, provided the Contract be then fully performed, subject to the provisions of Article 16 of the General Conditions, the Owner shall publish a Notice of Final Settlement twice at least 10 days prior to the date of final settlement. The Owner shall withhold from final payments any amounts as required pursuant to C.R.S. 38-26-107.

ARTICLE 6
ENUMERATION OF CONTRACT DOCUMENTS:

The Contract Documents are indicated by a check or X in the boxes below:

[ X ] Agreement including General Conditions
[ X ] Request for Proposals and Instructions to Proposers
[ X ] Proposal Form[
[ X ] Measurement and Payment
[ X ] Specifications
[ X ] Drawings
[ X ] Addenda – if any
[ X ] Change Orders - if any
[ X ] Modifications - if any
[ X ] Written Interpretation of OR - if any
[ X ] Performance Bond
[ X ] Payment Bond (if contract exceeds $50,000)
[ X ] Notice of Award
[ X ] Notice to Proceed

ARTICLE 7
CONTRACT DOCUMENTS:

7.1 The Contract Documents consist of this Agreement (which includes provisions commonly referred to as General Conditions), and the documents indicated in Article 6 by a check or an X. These form the Contract and what is required by any one shall be as binding as if required by all. The intention of the Contract Documents is to include all labor, materials, equipment and other items as provided in Paragraph 10.2 necessary for the proper execution and completion of the Work and the terms and conditions of payment therefore, and also to include all Work which may be reasonably inferable from the Contract Documents as being necessary to produce the intended results.

7.2 The Contract Documents shall be signed in not less than triplicate by the Owner and the Contractor. By executing the Contract, the Contractor represents that he has visited the site and familiarized himself with the local conditions under which the Work is to be performed.

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

ARTICLE 8
OWNER'S REPRESENTATIVE (OR)

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

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

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

8.4 Based on such observations and the Contractor's Applications for Payment, the OR will determine the amounts owing to the Contractor and will review Requests for Payment in accordance with Article 16.

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

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

8.7 No act, representation, or instruction of OR or Engineer shall in any way relieve the Contractor from liability for damages or costs that result from activities of the Contractor

ARTICLE 9
OWNER:

The Owner shall issue all instructions to the Contractor through the OR.

ARTICLE 10
CONTRACTOR:

10.1 The Contractor shall supervise and direct the Work competently and efficiently, using his best skill, expertise, and attention in order to perform the work in accordance with the Contract Documents proceeding in an efficient sequence without delays. Contractor shall keep a competent superintendent of work on the premises at all times to receive instructions and to comply with them. The Contractor shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract.

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

10.3 The Contractor shall at all times enforce strict discipline and good order among his employees, and shall not employ on the Work any unfit person or anyone not skilled in the task assigned to him.

10.4 The Contractor warrants to the Owner and the OR that all materials and equipment incorporated in the Work will be new unless otherwise specified, and that all Work will be of good quality, free from faults and defects, approved for use in potable water, and in conformance with

the Contract Documents. All Work not so conforming to these standards may be considered defective.

10.5 The Contractor shall pay all sales, consumer, use and other similar taxes required by law and shall secure all permits, and licenses necessary for the execution of the Work at Contractor's expense except as provided in Article 24. The Owner is exempt from state and local sales and use taxes on construction and building materials for use in the project. Contractor shall take steps to obtain such exemption from the Colorado Department of Revenue pursuant to C.R.S. 39-26-708.

10.6 The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations, and orders of any public authority bearing on the performance of the Work, and shall notify the OR if the Drawings and Specifications are at variance therewith.

10.7 The Contractor shall be responsible for the acts and omissions of all its employees and all Subcontractors, their agents and employees and all other persons performing any of the Work under a contract with the Contractor.

10.8 The Contractor shall review, stamp with his approval and submit all samples and shop drawings as directed for approval of the OR for conformance with the design concept and with the information given in the Contract Documents. The Work shall be in accordance with approved samples and shop drawings. Work subject to submittal shall not commence until Engineer approval of submittal has been received.

10.9 The Contractor at all times shall keep the premises free from accumulation of waste materials or rubbish caused by his operations. At the completion of the Work he shall remove all his waste materials and rubbish from and about the Project as well as his tools, construction equipment, machinery and surplus materials, and shall leave the Work "broom clean" or its equivalent, except as otherwise specified.

10.10 The Contractor shall be solely responsible for providing a confined space plan and for its execution.

ARTICLE 11
SUBCONTRACTS:

11.1 A Subcontractor is a person who has a contract with the Contractor to perform any of the Work at the site.

11.2 Unless otherwise specified in the Contract Documents or in the Instructions to Proposers, the Contractor, as soon as practicable after the award of the Contract, shall furnish to the Engineer a written list of the names of Subcontractors proposed for the principal portions of the Work. The Contractor shall not employ any Subcontractor to whom the Engineer, OR, or the Owner may have a reasonable objection. The Contractor shall not be required to employ any Subcontractor to whom he has a reasonable objection. Contracts between the Contractor and the Subcontractor shall be in accordance with the terms of this Agreement and shall include the General Conditions of this Agreement insofar as applicable.

ARTICLE 12
SEPARATE CONTRACTS AND OWNER WORK:

12.1 The Owner reserves the right to award other contracts in connection with other portions of the Project or other work on the site or to perform such work itself.

12.2 The Contractor shall afford other contractors and/or Owner reasonable opportunity for the introduction and storage of their materials and equipment and the execution of their work, and shall properly connect and coordinate its Work with theirs.

12.3 Any costs caused by defective or ill-timed work shall be borne by the party responsible therefore.

ARTICLE 13
ROYALTIES AND PATENTS:

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

ARTICLE 14
PERFORMANCE AND PAYMENT BONDS:

A Performance Bond shall be submitted and a Payment Bond shall be submitted by Contractor for all contracts in excess of $50,000 or if indicated in Article 6.

Each bond shall be in the amount of the contract sum and shall either be in the form supplied by Owner or shall be in such other form as approved by Owner. Each bond shall comply with the requirements of C.R.S. 38-26-105 and 106 and shall remain in effect no less than one year after final payment.

ARTICLE 15
Time and Liquidated Damages

15.1 All time limits stated in the Contract Documents are of the essence of the Contract. Contractor further agrees to pay as liquidated damage the sum of $400.00 for each day that expires after the deadlines in Contract Documents.

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

15.3 Contractor waives any claim for damages due to delay unless caused in whole or in part by the acts or omissions within the control of the Owner or persons acting on behalf thereof.

ARTICLE 16
PAYMENTS:

16.1 Payments shall be made as provided in Article 4 of this Agreement.

16.2 Payments may be withheld on account of (1) defective Work not remedied, (2) claims asserted or evidence which indicates probable assertion of claims, (3) failure of the Contractor to make payments properly to Subcontractors or for labor, materials, or equipment, (4) damage to another contractor or Owner, or (5) unsatisfactory prosecution of the Work by the Contractor. No funds, payable under this Agreement or any part thereof, shall become due and payable, if the Owner so elects, until the Contractor shall satisfy the Owner that it has fully settled or paid for all materials and equipment used in or upon the work and labor done in connection therewith. The Owner may pay any or all such claims or bills, wholly or in part, and deduct the amount or amounts so paid from any

funds due Contractor. In the event the surety on any contract, performance bond, payment bond, or warranty bond given by the Contractor becomes insolvent, or is placed in the hands of a receiver, or has its right to do business in the state revoked, the Owner may withhold payment of funds due Contractor until the Contractor has provided a bond or other security to the satisfaction of the Owner in lieu of the bond so executed by such surety.

16.3 Final payment shall not be due until (1) the Contractor has delivered to the Owner a bond, a clean irrevocable letter of credit, cash or other security satisfactory to the Owner indemnifying Owner against any claim which has been asserted by anyone for labor, materials, equipment or otherwise arising out of the contract or on account of any claim which either Owner or Contractor believes may be asserted, (2) the Owner has inspected and approved the Work as complying with the contract, (3) written consent of surety, if any is given, and (4) any manufacturers or suppliers warranties and equipment literature, and any as built plans and O&M manuals required are delivered to Owner.

16.4 The making of final payment shall constitute a waiver of all claims by the Owner except those arising from (1) unsettled claims, (2) faulty or defective Work appearing after final Payment, (3) failure of the Work to comply with the requirements of the Contract Documents, or (4) terms of any warranties or special guarantees required by the Contract Documents. The acceptance of final payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and still unsettled.

16.5 Contractor's obligation to perform and complete the Work in accordance with the Contract Documents shall be absolute. Neither recommendation of any progress or final payment by Engineer, nor the issuance of a certificate of Substantial Completion, nor any payment by Owner to Contractor under the Contract Documents, nor any use or occupancy of the Work or any part thereof by Owner, nor any act of acceptance by Owner nor any failure to do so, nor any review and approval of a Shop Drawing or sample submission, nor the issuance of a notice of acceptability by Engineer pursuant to paragraphs regarding "Final Payment" above, nor any correction of defective Work by Owner will constitute an acceptance of Work not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents.

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

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Contractor shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to (1) all employees on the Work and other persons who may be affected thereby, (2) all the Work and all materials and equipment to be incorporated therein, and (3) other property at the site or elsewhere. Contractor shall bear all risk of loss to the work, or materials or equipment for the work due to fire, theft, vandalism, or other casualty or cause, until the work is fully completed and accepted by the Owner. Contractor shall comply with all applicable laws, ordinances, rules, regulations and orders of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. All damage or loss to any property caused in whole or in part by the Contractor, any Subcontractor, any Sub-subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, shall be remedied by the Contractor. At no time shall any part of the work be left in an unsafe condition where it could cause injury to any employee or the public.

ARTICLE 18
INDEMNIFICATION AND INSURANCE:

18.1: Indemnification: The CONTRACTOR agrees to indemnify and hold harmless the, OWNER, its

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

18.2 Insurance: The CONTRACTOR agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by the CONTRACTOR pursuant to Section 18.1. Such insurance shall be in addition to any other insurance requirements imposed by this contract or by law. The CONTRACTOR shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to Section 18.1 by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types.

18.2.1 CONTRACTOR shall procure and maintain, and shall cause any subcontractor of the CONTRACTOR to procure and maintain, the minimum insurance coverages listed below. The Contractor shall not allow any subcontractor to commence work on this project until all similar insurance required of the subcontractor has been obtained and approved. For the duration of this Agreement, the Contractor must maintain the insurance coverage required in this section Such coverages shall be procured and maintained with forms and insurers acceptable to OWNER. All coverages shall be continuously maintained from the date of commencement of work to cover all liability, claims, demands, and other obligations assumed by the CONTRACTOR pursuant to Section 18.1. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

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

18.2.1(B) Commercial General Liability insurance on ISO occurrence form CG 00 01 10/93 or equivalent covering bodily injury, premises operations, broad form property damage (including completed operations) fire damage, independent contractors, products and broad form property insurance including completed operations, blanket Grantual liability, personal injury (including coverage for contractual and employee acts), and advertising liability with minimum combined single limits of (a) ONE MILLION DOLLARS ($1,000,000) each occurrence, (b) TWO MILLION DOLLARS ($2,000,000) aggregate, (c) ONE MILLION ($1,000,000) products and completed operations

aggregate, and (d) FIFTY THOUSAND ($50,000) any fire.. The policy shall be applicable to all premises and operations. The policy shall include coverage for explosion, collapse, and underground hazards. The policy shall contain a severability of interests provision. If any aggregate limit is reduced below $2,000,000 because of claims made or paid, CONTRACTOR shall immediately obtain additional insurance to restore the full aggregate limit and furnish to OWNER a certificate or other document satisfactory to OWNER showing compliance with this provision.

18.2.1(C) Comprehensive Automobile Liability insurance with minimum combined single limits for bodily injury and property damage of not less than ONE MILLION DOLLARS ($1,000,000) each occurrence and ONE MILLION DOLLARS ($1,000,000) aggregate with respect to each of CONTRACTOR's owned, hired and/or non-owned vehicles assigned to or used in performance of the services. The policy shall contain a severability of interests provision. If the CONTRACTOR has no owned automobiles, the requirements of this Paragraph (3) shall be met by each employee of the CONTRACTOR providing services to the OWNER under this contract.

18.2.2 The policy required by paragraphs 18.2.1(B) and (C) above shall be endorsed to include the State of Colorado, the OWNER and OWNER's officers and employees as additional insureds. Every policy required above shall be primary insurance and any insurance carried by OWNER, its officers, or its employees, or carried by or provided through any insurance pool of OWNER, shall be excess and not contributory insurance to that provided by CONTRACTOR. No additional insured endorsement to any policy shall contain any exclusion for bodily injury or property damage arising from completed operations. The CONTRACTOR shall be solely responsible for any deductible losses under any policy required above. Additional insured coverage for completed operations shall be on endorsements CG 2010 11/85, CG 2037, or equivalent.

18.2.3 The certificates of insurance which are consistent with State requirements shall be completed by the CONTRACTOR's insurance agent as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be reviewed and approved by OWNER prior to commencement of the contract. Each certificate shall identify this contract and shall provide that the coverages afforded under the policies shall not be cancelled, non renewed, terminated or materially changed until at least 30 days prior written notice has been given to OWNER. If the words "endeavor to" appear in the portion of the certificate addressing cancellation, those words shall be stricken from the certificate by the agent(s) completing the certificate. The completed certificate of insurance shall be sent to OWNER.

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

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

18.2.6 The parties hereto understand and agree that OWNER is relying on, and does not waive or intend to waive by any provision of this contract, the monetary limitations (presently $350,000 per person and $990,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, 24-10-101 et seq., 10 C.R.S., as from time to time amended, or otherwise available to OWNER, its officers, or its employees.

18.2.7 Subrogation Waiver – All insurance policies in any way related to the project and secured

and maintained by the CONTRACTOR as required herein shall include clauses stating that each carrier shall waive all rights of recovery, under subrogation or otherwise, against OWNER or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

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

18.2.9 In carrying out any of the provisions of this Agreement or in exercising any power or authority thereby, there shall be no personal liability of the Owner, its governing body, staff, consultants, officials, attorneys, representatives, agents, or employees.

ARTICLE 19
PROPERTY INSURANCE:

19.1 Unless otherwise provided, the Contractor shall purchase and maintain property insurance upon the entire Work at the site to the full insurable value thereof. This insurance shall include the interest of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Work and shall insure against the perils of Fire, Theft, Extended Coverage, Vandalism and Malicious Mischief. Such policy shall be an "all-risk" Builders Risk policy.

19.2 Any insured loss is to be adjusted with the Owner and made payable to the Owner as trustee for the insureds, as their interests may appear, subject to the requirements of any mortgagee clause.

19.3 The Contractor shall file a copy of all such policies with the Owner prior to the commencement of the Work.

19.4 The Owner and Contractor waive all rights against each other for damages caused by fire or other perils to the extent covered by insurance provided under this paragraph. The Contractor shall require similar waivers by Subcontractors and Sub-subcontractors.

ARTICLE 20
CHANGES IN THE WORK:

20.1 The Owner without invalidating the Contract may order Changes in the Work consisting of additions, deletions, or modifications with the Contract Sum and the Contract Time being adjusted accordingly. All such changes in the Work shall be authorized by written Change Order signed by the Owner.

20.2 The Contract Sum and the Contract Time may be changed only by Change Order.

20.3 The cost or credit to the Owner, if any, from a Change in the Work shall be determined by unit prices if specified in the contract documents, or by mutual agreement using materials costs and estimated labor times as a base where practical.

ARTICLE 21
CORRECTION OF WORK:

21.1 The Contractor shall correct any Work that fails to conform to the requirements of the Contract Documents where such failure to conform appears during the progress of the work and shall remedy any defects due to faulty materials, equipment or workmanship which appear within a period of one year from the Date of Final Settlement of the Contract or within such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the

Contract Documents. The provisions of this Article 21 apply to Work done by Subcontractors as well as to Work done by direct employees of the Contractor, and are in addition to any other remedies or warranties provided by law, or other provisions of the Contract Documents. Neither the payment of any estimate or progress payment nor the payment of any retained percentage shall relieve the Contractor of any obligations to correct any defective work or material.

ARTICLE 22
TERMINATION BY THE CONTRACTOR:

If the OR fails to process a request for payment for a period of thirty days through no fault of the Contractor, or if the Owner fails to make payment thereon for a period of thirty days from date of receipt of grant and/or loan funds, the Contractor may, upon seven days' written notice to the Owner and the OR, terminate the Contract and recover from the Owner payment for all Work executed and for any proven loss sustained upon any materials, equipment tools, and construction equipment and machinery, including reasonable profit and damages.

ARTICLE 23
TERMINATION BY THE OWNER:

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

ARTICLE 24
PERMITS:

Contractor shall be responsible for securing any necessary permits for the Work. Contractor shall comply with conditions of all permits secured by the County and those secured by the Contractor.

ARTICLE 25
MISCELLANEOUS PROVISIONS:

25.1 This contract is governed by the laws of the State of Colorado. The parties agree to the jurisdiction and venue of the courts of Gunnison County in connection with any dispute arising out of or in any matter connected with this Agreement.

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

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

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

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

25.6 No change order requiring additional payments for additional compensable work or otherwise shall be issued unless an appropriation is available therefore and the Contractor is so advised in writing.

ARTICLE 26
ADDITIONAL PROVISIONS:

26.1 Government Requirements

26.1a. This contract shall comply with all applicable federal and Colorado state laws and shall be governed by the applicable law of the State of Colorado not withstanding provisions herein to the contrary.

26.1.b. All work shall be performed in accordance with the Colorado Department of Public Health and Environment drinking water regulations and standards and shall be completed consistent with AWWA standards.

26.1c. The Contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 40 CFR part 33 in the award and administration of contracts awarded under EPA financial assistance agreements. Failure by the Contractor to carry out these requirements is a material breach of this contract which may result in the termination of this contract

26.1d. The Contractor must comply with all State Statutes including but not limited to the requirements HB 13-1292- and CRS 8-17.5-101.

26.1.e. Contractor hereby assigns all manufacturers' warranties to Owner and shall assist the Owner in enforcing such warranties. No limitation of any manufacturer's warranties, or additional warranties of Contractor, shall be construed to limit the obligations of the Contractor under any warranties or other provisions of the contract documents.

26.2 WORK HOURS - Owner needs to be able to produce water during the period that the baffle curtains and piping modifications are being completed. The Contractor shall coordinate his work with Owner to insure that the Owner's needs to water are met and inconvenience to the Owner is minimized.

26.3 C.R.S. 8-17.5 and E-Verify Requirements

26.3a. Contractor hereby certifies that, as of the date hereof, it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement, and the Contractor will participate in the federal e-verify program or the state program pursuant to CRS 8-17-102(5) in order to confirm eligibility of all employees who are newly hired for employment under this agreement

26.3b. Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement or enter into a contract with a subcontractor that fails to certify to Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement.

26.3c. Contractor hereby certifies that it has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this agreement through participation in either the e-verify program or the state program.

26.3d. Contractor is prohibited from using either the e-verify program or the state program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.

26.3e. If Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, Contractor shall be required to:

(i) notify the subcontractor and the Owner within three (3) days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

(ii) terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to this subparagraph the subcontractor does not stop employing or contracting with the illegal alien; except that Contractor shall not terminate the contract with the subcontractor if during such three (3) days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

26.2f. Contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment ("Department") made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. Article 8-17.5.

26.3g. If Contractor violates this paragraph, the County may terminate this Agreement for breach of contract. If this Agreement is so terminated, Contractor shall be liable for actual and consequential damages to the County.

26.3h In addition to complying with the above requirements, Contractor is also responsible to comply with federal employment verification requirements including requirements that all employees complete the I-9 Employment Eligibility Verification Form at time of hire and that employer verify the information using e-verify or other legally acceptable method.

This Agreement is dated _____.

GUNNISON COUNTY, COLORADO

By _____

CONTRACTOR:

By _____