

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

CONTRACT AMENDMENT— CONSTRUCTION MANAGER AT RISK SERIES

Prepared By



CONTRACT AMENDMENT NO. 002
(WORK AUTHORIZATION 3 AND GUARANTEED MAXIMUM PRICE)

Project No. _____

Owner: Town of Johnstown, Colorado _____

Owner's Advisor and Engineer: Burns & McDonnell Engineering Company, Inc., a Missouri Corporation _____

Construction Manager at Risk: MWH Constructors, Inc. _____

Project: Johnstown Water Treatment Plant Expansion Project _____

Contract Name: Agreement Between Owner and Construction Manager at Risk _____

Contract Amendment: 002 _____

Date Issued: July 15, 2024 Effective Date of Contract Amendment: July 15, 2024

RECITALS

1. On or about October 16, 2023, the Town of Johnstown, a Colorado home rule municipality ("Owner"), and MWH Constructors, Inc., a Delaware corporation ("CMAR"), entered into that certain Agreement Between Owner and Construction Manager at Risk, with an Effective Date of November 20, 2023, concerning the Johnstown Water Treatment Plant Expansion Project ("Agreement").
2. At the time of the execution of the Agreement, the design phase of the Project was approximately sixty percent (60%) complete. To move toward completion of the Project in a timely manner despite the early stages of the Project, the Owner and CMAR agreed upon two initial Work Authorizations: (i) Work Authorization 1, relating to procurement of equipment; and (ii) Work Authorization 2, relating to procurement of early construction activities.
3. On or about January 11, 2024, Owner and CMAR executed Contract Amendment No. 001 to the Agreement, amending Work Authorization 1 and Work Authorization 2.
4. The Agreement contemplated that, when the Drawings and Specifications were ninety percent (90%) complete, the Owner and CMAR would execute a Contract Amendment setting forth, among other items: (i) Work Authorization 3, containing the full scope of the Work associated with the Project; (ii) the Guaranteed Maximum Price of the Contract; and (iii) the Substantial Completion Date and the Final Completion Date.
5. At this time, the Drawings and Specifications are one-hundred percent (100%) complete and the Owner and CMAR desire into this Contract Amendment No. 002 to set forth, among other matters, the foregoing items.
6. Capitalized terms used herein shall have the meaning set forth in the Agreement.

AGREEMENT

Incorporating the Recitals as if fully set forth herein, the Contract is modified as follows upon execution of this Contract Amendment No. 002:

AMENDMENTS TO AGREEMENT:

- Paragraph 11.03 of the Agreement shall be amended as follows:

11.03. A binding GMP will be established at any time agreeable to Owner and CMAR, but not later than the time when the Drawings and Specifications are 100% complete. The GMP shall be set forth in an agreed upon Contract Amendment.

- A. The Work Packages released and authorized prior to 100% completion of the Drawings and Specifications shall be counted when calculating the time period establishment of the GMP.
- B. If the Work will be authorized over time, as the design for individual Work Packages is completed, in a series of incremental Work Authorizations (fast tracking or similar design/construction process) then the binding GMP will be developed in a series of incremental changes as the design for each Work Package reaches 100% completion, culminating, when all Work Packages have been authorized, in a binding GMP for the Contract.

- Paragraph 12.01.B of the Agreement shall be amended as follows:

12.01.B. The Owner's Contingency Allowance is included in the Contract Price and is part of the GMP.

- Paragraph 16.01 of the Agreement shall be amended as follows:

1. Paragraph 16.01.A.5.c. shall be added to the Contract: "Work Authorization 3 Project Drawings (100% Complete), Town of Johnstown, Colorado" dated May 17, 2024. *[Notwithstanding the inclusion of such document, the Owner and CMAR understand and agree that the Drawings that will be "issued for construction" will be finalized at a subsequent date, but shall not amend or impact the Guaranteed Maximum Price attached hereto and set forth herein.]*

2. Paragraph 16.01.A.5.d. shall be added to the Contract: "Work Authorization 3 Project Technical Specifications (100% Complete), Johnstown Water Treatment Plant Expansion" dated May 17, 2024. *[Notwithstanding the inclusion of such document, the Owner and CMAR understand and agree that the Specifications that will be "issued for construction" will be finalized at a subsequent date, but shall not amend or impact the Guaranteed Maximum Price attached hereto and set forth herein.]*

3. Paragraph 16.01.A.5.e. shall be added to the Contract: Submittal 466133-001-02: "Design Phase – Non-Priority Mechanical Re-Submittal (Rev 2)" dated October 13, 2023.

4. Paragraph 16.01.A.5.f. shall be added to the Contract: Submittal 466133-002-01: "Design Phase – Non-Priority Electrical Submittal (Rev 1)" dated October 27, 2023.

- Paragraph 16.01.A.6.d. references "Exhibit D; Work Authorization 3 – GMP." "Exhibit D; Work Authorization 3" is attached hereto and incorporated herein by reference.

AMENDMENTS TO SUPPLEMENTARY CONDITIONS:

- Paragraph 5.03 of the Supplementary Conditions shall be amended as follows:
 1. Paragraph 5.03.E shall be amended to provide: The following table lists the documents provided by Owner and Engineer that were used to create the GMP:

Report Title	Date of Report	Technical Data
Johnstown Water Treatment Plant Expansion Project Drawings Issued for 100% Design	May 2024	Construction Drawings
Johnstown Water Treatment Plant Expansion Project Technical Specifications Issued for 100% Design	May 2024	Technical Specifications
Geotechnical Engineering Report: Johnstown Water Treatment Plant Expansion, Johnstown, Colorado	December 5, 2023	Geotechnical Report
Memcor Approved Mechanical Submittal	October 13, 2023	Memcor Approved Submittal
Memcor Approved Electrical Submittal	October 27, 2023	Memcor Approved Submittal
1985 Johnstown Water Plant Improvements Drawings	1985	As-Built Information
2004 Johnstown Water Treatment Plant Improvements Drawings	January 2004	As-Built Information
2016 Johnstown Water Filter Plant Control Upgrades	September 2016	As-Built Information
Leopold DAF Tank O&M Manual	January 2005	As-Built Information
Leopold DAF Tank Control System O&M Manual Volume 1	October 2005	As-Built Information
Leopold DAF Tank Control System O&M Manual Volume 2	October 2005	As-Built Information

2. Paragraph 5.03.F. shall be omitted.

WORK:

Unless otherwise modified as provided in the Contract Documents, the full scope of the Work is set forth in Exhibit D, Work Authorization 3 - GMP, which supersedes and replaces Work Authorization 1 and Work Authorization 2, and includes, without limitation, the work described in Work Authorization 1 and Work Authorization 2, as amended by Contract Amendment No. 001, and all the remaining work required to bring the Project to Final Completion.

PERFORMANCE BOND AND PAYMENT BONDS:

No later than the execution of this Contract Amendment No. 002, CMAR shall furnish a performance bond and a payment bond, each in an amount at least equal to the Guaranteed Maximum Price set forth herein, as security for the faithful performance and payment of CMAR’s obligations under the Contract.

CHANGE IN CONTRACT PRICE:

Original Contract Price this Work Authorization	\$32,350,663.00
Net Increase from previously approved Contract Amendment No. 0 to No. 001.	\$0
Contract Price prior to this Contract Amendment No. 002.	\$32,350,663.00
Increase by this Contract Amendment No. 002:	\$52,760,726.00
GUARANTEED MAXIMUM PRICE OF THE CONTRACT:	\$85,111,388.00

CONTRACT TIMES:

The completion dates of the Contract are as follows:

Substantial Completion Date: **December 14, 2026**; and

Final Completion Date: **June 9, 2027**.

EFFECT OF CONTRACT AMENDMENT NO. 002:

Except as expressly provided in this Contract Amendment No. 002, the Agreement, including Contract Amendment No. 001, has not been amended, supplemented or altered in any way by this Contract Amendment No. 002, and the Agreement, including Contract Amendment No. 001, shall remain in full force and effect in accordance with its terms. If there is any inconsistency between the terms of the Agreement, including Contract Amendment No. 001, and the terms of this Contract Amendment No. 002, the provisions of this Contract Amendment No. 002 will govern and control.

In WITNESS WHEREOF, the Owner and CMAR have executed this Contract Amendment No. 002 as of the date set forth above.

TOWN OF JOHNSTOWN, COLORADO

ATTEST:

By: _____
Hannah Hill, Town Clerk

By: _____
Michael P. Duncan, Mayor

MWH CONSTRUCTORS, INC.

By: _____
Blair Lavoie, President and CEO