

CONSTRUCTION CONTRACT

2024 TOWN OF JOHNSTOWN LITTLE THOMPSON RIVER PEDESTRIAN BRIDGE PROJECT

THIS CONTRACT is made at the Town of Johnstown, Colorado, by and between the **Town of Johnstown, Colorado** (Town), a municipal corporation, and **RCD Construction, Inc.** (Contractor), a Colorado corporation, whose address is 1830 1ST Ave GREELEY, COLORADO 80631.

In consideration of these mutual covenants and conditions, the Town and Contractor agree as follows:

SCOPE OF WORK. The Contractor shall execute the entire Work described in the Contract.

CONTRACT DOCUMENTS. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, written or oral representations and agreements. The Contract incorporates the following Contract Documents. In resolving inconsistencies among two or more of the Contract Documents, precedence will be given in the same order as enumerated.

LIST OF CONTRACT DOCUMENTS.

The Contract Documents, except for Modifications issued after execution of this Agreement, are:

1. Change Orders;
2. Agreement for Construction Contract;
3. The following addenda, if any:

#01	September 19, 2024	Pages 1-2
#02	October 4, 2024	Pages 1
#03	October 4, 2024	Pages 1-7
4. Special Conditions
5. Town of Johnstown Construction Contract General Conditions;
6. Technical Specifications
7. The following Drawings:

Little Thompson River Trail Bridge	September 10, 2024
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8. Notice to Proceed
9. Notice of Award
10. Invitation to Bid
11. Bid Bond
12. Proposal
13. Information and Instructions to Bidders
14. Performance Bond and Payment Bond
15. Insurance Certificates
16. Work Schedule.

CONTRACT PRICE. The Town shall pay the Contractor on a per unit price basis for the total quantity of Work performed and the completion of the Project according to the Contract, subject to change orders as approved in writing by the Town, under the guidelines in the General Conditions. The Town will pay the Contractor, in accordance with the unit prices of the Bid Schedule, a total amount not to exceed **\$332,558.66 DOLLARS (Contract Price)**, to the Contractor, subject to full and satisfactory performance of the terms and conditions of the Contract. The Town has appropriated sufficient funds for this work.

COMPLETION OF WORK. The Contractor must begin work covered by the Contract within 10 calendar days from and including the date of Notice to Proceed, and must complete the work within 90 consecutive calendar days thereafter, on or before XXX, 2025. The foregoing completion date supersedes and replaces the provision in the contract documents providing that the work is required to be complete by April 15, 2025.

LIQUIDATED DAMAGES. If the Contractor fails to substantially complete the Work by the date set for substantial completion in the Contract, or if the completion date is extended by a change order, by the date set in the change order, the Town may permit the Contractor to proceed, and in such case, may deduct the sum of \$1400.00 for each calendar day that the Work shall remain uncompleted from monies due or that may become due to the Contractor. This sum is not a penalty but is the cost of field and office engineering, inspecting, interest on financing and liquidated damages.

The parties agree that, under all of the circumstances, the daily basis and the amount set for liquidated damages is a reasonable and equitable estimate of all the Town's actual damages for delay. The Town expends additional personnel effort in administrating the Contract or portions of it that are not completed on time, and such efforts and the costs thereof are impossible to accurately compute. In addition, some, if not all, citizens of the Town of Johnstown incur personal inconvenience and lose confidence in their government as a result of public projects or parts of them not being completed on time, and the impact and damages, certainly serious in monetary as well as other terms are impossible to measure.

SERVICE OF NOTICES. Notices to the Town are given if sent by registered or certified mail, postage prepaid, to the following address:

TOWN OF JOHNSTOWN
 ATTN: Matt LeCerf
 notices@johnstownco.gov
 450 S. Parish Ave
 JOHNSTOWN, CO 80534

INSURANCE PROVISIONS. The Contractor must not begin any work until the Contractor obtains, at the Contractor's own expense, all required insurance as specified in the General Conditions. Such insurance must have the approval of the Town of Johnstown as to limits, form and amount.

RESPONSIBILITY FOR DAMAGE CLAIMS. The Contractor shall indemnify, save harmless, and defend the Town, its officers and employees, from and in all suits, actions or claims of any character brought because of: any injuries or damage received or sustained by any person, persons or property because of operations for the Town under the Contract; the Contractor's failure to comply with the provisions of the Contract; the Contractor's neglect of materials while constructing the Work; because of any act or omission, neglect or misconduct of the Contractor; because of any claims or amounts recovered from any infringements of patent, trademark, or copyright, unless the design, device, materials or process involved are specifically required by Contract; from any claims or amount arising or recovered under the "Workers' Compensation Act," by reason of the Contractor's failure to comply with the act; pollution or environmental liability; or any failure of the Contractor to comply with any other law, ordinance, order or decree. The Town may retain so much of the money due the Contractor under the Contract, as the Town considers necessary for such purpose, for the Town's use. If no money is due, the Contractor's Surety may be held until such suits, actions, claims for injuries or damages have been settled. Money due the Contractor will not be withheld when the Contractor produces satisfactory evidence that the Contractor and the Town are adequately protected by public liability and property damage insurance.

The Contractor also agrees to pay the Town all expenses incurred to enforce this "Responsibility for Damage Claim" agreement and if the Contractor's insurer fails to provide or pay for the defense of the Town of Johnstown, its officers and employees, as additional insureds, the Contractor agrees to pay for the cost of that defense.

Nothing in the **INSURANCE PROVISIONS of the General Conditions** shall limit the Contractor's responsibility for payment of claims, liabilities, damages, fines, penalties, and costs resulting from its performance or nonperformance under the Contract.

STATUS OF CONTRACTOR. The Contractor is performing all work under the Contract as an independent contractor and not as an agent or employee of the Town. No employee or official of the Town will supervise the Contractor nor will the Contractor exercise supervision over any employee or official of the Town. The Contractor shall not represent that it is an employee or agent of the Town in any capacity. **The Contractor and its employees are not entitled to Town Workers' Compensation benefits and are obligated to pay federal and state income tax on money earned pursuant to the Contract.** This is not an exclusive contract.

THIRD PARTY BENEFICIARIES. None of the terms or conditions in the Contract shall give or allow any claim, benefit, or right of action by any third person not a party to the Contract. Any person except the Town or the Contractor receiving services or benefits under the Contract shall be only an incidental beneficiary.

INTEGRATION. The Contract is an integration of the entire understanding of the parties with respect to the matters set forth in it.

DEFINITIONS. The Definitions in the General Conditions apply to the entire Contract unless modified within a Contract Document.

EXECUTED this _____ day of _____ 2024.

TOWN OF JOHNSTOWN

By: _____
Town Manager

Attest:

Hannah Hill, Town Clerk

CONTRACTOR

By: _____

Title: _____

NOTARY BLOCK

State of _____)

) ss:

County of _____)

The foregoing instrument was acknowledged before me by _____

(Name of party signing)

as _____ of _____

(Title of party signing)

(Name of corporation)

a _____ corporation, on behalf of the corporation, this (State of incorporation)

_____ day of _____, 2024.

Witness my hand and official Seal.

My Commission expires _____

Notary Public _____