

ADDENDUM NO. TWO

THORNTON WATER PROJECT – FIBER OPTIC INSTALLATION

PROJECT NO. 12-777XFO

CITY OF THORNTON, CO

TO: Prospective Bidders and all others concerned

DATE: September 29, 2026

PURPOSE: To provide additional information and clarification to the solicitation documents for the above-referenced Project.

1. The following shall Add to, Modify, and/or Delete portions of the Project Manual and Drawings for the Project-noted above.

A. The Project Manual shall be modified as follows:

a. The attached "Contract" was inadvertently non included in the original IFB and is hereby incorporated.

B. The Invitation for Bid Proposals shall be modified as follows: Sealed Bid Proposals are being solicited only from Contractors Pre-Qualified for this solicitation. The Pre-Qualified Bidders are:

- a. B Comm Constructors LLC
- b. B Jackson Construction & Engineering, LLC
- c. Backbone Fiber Systems, LLC
- d. Colorado Civil Infrastructure Inc
- e. Dillie and Kuhn, Inc
- f. JKL Associates
- g. Lighthouse Transportation Group, LLC
- h. Mears Broadband, LLC
- i. MP Nexlevel, LLC
- j. NETS International Communication LLC
- k. Rapid Wire LLC
- l. Trace LLC

2. The following questions and answers are provided for additional clarification to the Contract Documents.

Question 1: If existing conduit is damaged or unusable, is remediation additional work or included in the fiber installation unit?

Answer 1: Remediation will be considered an unforeseen condition and will be addressed with a Change Order.

Question 2: If existing conduit fails mandrel testing, how will remediation be handled and paid?

Answer 2: Remediation will be considered an unforeseen condition and will be addressed with a Change Order.

Question 3: Is new mule tape/pull tape required after fiber installation? If so, what type and rating?

Answer 3: New mule tape is not required.

Question 4: Is tracer wire installation or testing required along the existing conduit route?

Answer 4: Tracer wire was installed with the pipeline, so installation is not required. Testing may be required if a conduit requires remediation.

Question 5: For the three (3) 2-inch HDPE conduit bundle, is fiber installed in only one conduit with the other two left spare?

Answer 5: Correct.

Question 6: What is required in the two spare 2-inch conduits: pull tape, tracer wire, mandrel testing, and plugs?

Answer 6: There are no requirements for the two (2) spare 2-inch conduits.

Question 7: What are the required specifications for the new 2-inch HDPE conduit, including SDR/DR, wall thickness, color, material standard, and approved manufacturer?

Answer 7: See Key Note 1, Sheet 50FC02.

Question 8: If buried manholes require excavation for fiber pulling, how will this work be paid?

Answer 8: Excavation of buried manholes will be considered an unforeseen condition and will be addressed with a Change Order.

Question 9: Is intermediate splicing required along the approximately 70-mile route? If so, where and how many splices?

Answer 9: Yes, and this will depend on a few factors including length of spools and tensile forces while pulling. If you are looking at a tensile limit perspective, you might average 2000-ft. per pull and if using a center point and pulling in both directions outward, this leads to around one hundred (100) cables spliced. Since we have so many pull boxes, we can use the slack to our advantage and stage pulls to various

midpoints and reduce this number further. This leads to another practical limit on spool lengths. Assuming 10,000-ft., this creates a minimum of around forty (40) splices for the entire line. Splicing will not be allowed inside conduits. Splicing locations will need to be communicated and approved.

Question 10: Are fiber splicing, splice cases, and associated testing included in the fiber installation unit?

Answer 10: Yes

Question 11: Will fiber be required to be armored, and does it need to be loose-tube or ribbon?

Answer 11: We specify Corning ALTOS Loose Tube, 72-strand single mode fiber or equal. With this being installed inside conduit, we do not require armored cable.

Question 12: How much fiber slack is required at handholes, splice locations, and termination points?

Answer 12: Furnish ten percent (10%) percent supplemental coiled cable in handholes and patch panels as specified in Section 26 05 20.

Question 13: What testing is required for splicing, and is testing required on every fiber?

Answer 13: See specifications 26_08_50 and 26_05_20 for exact requirements, but in general we have three tests. First is a visual and mechanical inspection, second is an optical test which measures integrity and attenuation, third is an overall analysis of this data. The exact methods will need to be proposed by the tester, but in general these are fairly straightforward methods provided by default with their associated equipment.

Question 14: Can traffic control be billed as a pass-through cost?

Answer 14: Traffic control is included in Bid Item No. 2 as lump sum.

Question 15: Is the Contractor responsible for engineering and permitting the entire route?

Answer 15: The Contractor is responsible for validated pull calculations for the entire route for 72-strand fiber optic trunk installation and 24-strand fiber optic branch installation. The Contractor is responsible for all work specified on Sheet 50FC02. The Contractor is responsible for all permitting.

Question 16: If designated access is inadequate, is the Contractor responsible for obtaining and paying for additional temporary access/easements

Answer 16: Additional access, if required, will be considered an unforeseen condition and will be addressed with a Change Order.

Question 17: Is all restoration included in the Restoration Allowance?

Answer 17: Typical surface restoration will be paid under Bid Item No. 9, Seeding and Surface Restoration. Any restoration deemed beyond the scope of Bid Item No. 9 will be paid under Bid Item No. 11, Restoration Allowance. Utilization of Bid Item No. 11 will require Owner authorization.

Question 18: Does the Mobilization bid item cover all project mobilizations and remobilizations or only the initial mobilization?

Answer 18: The Mobilization bid item will cover all required project mobilizations.

Question 19: If the required 60-day notice is provided, are Owner/landowner access delays considered excusable?

Answer 19: Delays in excess of the 60-day notice will be considered an unforeseen condition and will be addressed with a Change Order.

Question 20: What is the typical and maximum spacing between existing vaults/handholes?

Answer 20: The typical maximum spacing was established as 1,000-feet. There are some instances where this criteria was extended to accommodate property lines and/or surface feature constraints. See plans for actual spacings.

Question 21: Will coordinates be provided for all vaults/handholes, including buried locations, and how are buried vaults identified in the field?

Answer 21: A GIS database will be provided upon Contract Award. Buried vault will be included in the GIS database and have been installed with marker balls for field location.

Question 22: Are prevailing wage requirements applicable to this project? If so, what wage determination and rates apply?

Answer 22: Prevailing Wages are not required.

Question 23: Is the project subject to Build America, Buy America (BABA) requirements?

Answer 23: The Project is not subject to BABA requirements.

Question 24: What materials are Contractor-furnished versus Owner-furnished for the project?

Answer 24: All materials are Contractor furnished.

Question 25: Will any markets include federally funded work requiring Davis-Bacon or prevailing wages?

Answer 25: The Project is not federally funded and not subject to Davis-Bacon or prevailing wages.

Question 26: What is the source of the funding, could you provide the name of the grant (or source of funding) and a list of the applicable flow-downs such as prevailing wage, BABA, etc.?

Answer 26: The project is Owner funded.

Question 27: Who is supplying material?

Answer 27: The General Contractor will supply material.

Question 28: What size is the duct?

Answer 28: Three (3) 2-inch HDPE conduits.

Question 29: How old is the duct?

Answer 29: All ducts have been installed within the last five (5) years.

Question 30: Can we use subcontractors? And if so, what percentage of work does the contractor have to do? \

Answer 30: Subcontractors are allowed and there are no contractual requirements or limitations on percentage of subcontractor work.

Question 31: Is this a prevailing wage or Davis Bacon job?

Answer 31: No.

Question 32: Do you have any KMZ files?

Answer 32: A GIS database will be provided upon Contract Award.

Question 33: Are all hand holes flush with the ground?

Answer 33: The majority are flush mounted and accessible. A small number of handholes are buried with the conduits running through with sleeves. If pull calculations limit stresses to acceptable limits, the fiber may be pulled directly through these buried handholes and they will not require excavations. If stresses exceed limitations, these handholes will need to be excavated for access.

Question 34: How far are the handholes apart?

Answer 34: The typical maximum spacing was established as 1,000-feet. There are some instances where this criteria was extended to accommodate property lines and/or surface feature constraints.

Question 35: Fiber needs to be blown in, correct?

Answer 35: Mule tape has been installed in all three conduits for pulling fiber.

Question 36: How much of the duct is in place and ready for fiber?

Answer 36: Phasing of fiber installation will be consistent with completed and remaining construction. See Summary of Work for phasing and work restrictions.

Question 37: Will we get notes from the Pre-Bid? Including a list of contractors that were present at the Pre-Bid?

Answer 37: Notes from the Pre-Bid Conference will not be published. A list of attending Contractors is published with this Addendum.

Question 38: If conduit all conduit pathway for a handhole to handhole span is obstructed and needs to be investigated and repaired in order to install fiber optic cable, what will the compensation mechanism be to compensate this additional labor to fix the conduit pathway?

Answer 38: Remediation will be considered an unforeseen condition and will be addressed with a Change Order.

Question 39: Document "Thornton_SWPS_FO_Vol2of11_IFB_Specs_Print Ready" Section 01_35_73 speaks about Delegated Design Procedures. There are no scope units to price in the RFP that this would be related to. Can you please clarify what particular scope this requirement would be applicable for?

Answer 39: Sheet 50FC02 defines the work associated with the delegated design. See Item 8 in Section 01_20_20.

3. The Pre-Bid Conference Sign-In Sheet is attached for general information.
4. This Addendum becomes part of the Contract Documents. All other conditions and requirements of the Contract Documents will remain unchanged. Receipt of this Addendum must be acknowledged in the space provided on the Bid Proposal Form in the Project Manual.

END OF ADDENDUM NO. TWO

DocuSigned by: <i>Patrick Hinterberger</i> 6DA8F281E4154C8...	9/30/2026
Patrick Hinterberger Contracts Supervisor	Date

PRE-BID MEETING

DATE: September 22, 2026

TITLE: Thornton Water Project - Fiber Optic Installation

BID/PROJECT NO: 12-777XFO

TIME: 1:00pm

CONFERENCE ROOM: IMC Community Room

NO.	NAME / FIRM	E-MAIL	PHONE
1	Patrick Hinterberger / COT	Patrick.hinterberger@ThorntonCO.gov	303.538.7648
2	Cameron Vandermark / Lighthouse	cameron.vandermark@↓	303-350-7566
3	Javier Canales / BComm / PSC	Javier.Canales@prim.com/lighthouse+g.org	
4	Andrew Scott / BComm / PSC	A.scott@prim.com	571-651-0489
5	Pavel Aguirre / BComm / PSC	Paguwaga@Prim.com	317-308-0956
6	Stu Ruwig / American Telecom Infrastructure	AMERICAN TELECOM INFRASTRUCTURE@GMAIL.COM	303-502-6156
7	Kyle Bregel / Trace LLC	KBRENGEL@TRACE-FS.COM	907-778-9390
8	Billy Rousey / Maxis Broadband	Billy.Rousey@MaxisBroadband	719-314-6112
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NO.	NAME / FIRM	E-MAIL	PHONE
1	Patrick Hinterberger / COT	Patrick.hinterberger@ThorntonCO.gov	303.538.7648
2	MARK LOVACHIO / CO. CIVIL INFRASTRUCTURE	mark@CO-CIVIL.COM	303 475 1116
3	Ricin Russel Consolidated Resource	rrussel@conresllc.com	970 673 5234
4	Ken Pafford Lighthouse Transportation Group	Ken.Pafford@LighthouseTG.org	303 522 0372
5	Bryan Crawford - Dillie & Kuhn	BCrawford@DKtelecom.net	719-337-4266
6	TERRY BARRIENTES - STK	terry.barrientes@stkc.com	303 328 1544
7	NEIL HALLEN DILLIE & KUHN	NHALLEN@CRESTONE-SERVICES.COM	303 578-8484
8	KRIS HANON	KHANON@BICONSTRUCTION.COM	303-728-4239
9	Michael Corde - Backbone Fiber	mcorde@backbonefiber.com	970-491-8693
10	Jyle Brand - JKL Associates Inc	JBrand@JklAssociatesinc.com	541-647-0513
11	Hannah Quillen Lighthouse	hannah.quillen@lighthouseTG.org	910-672-7327
12	CHRIS HARRIS Rapid Wire LLC	CHarris@rapidwirellc.com	303-324-0660
13	ALI KAZIM NETS INTERNATIONAL	ali.kazim@nets-international.com	202-3677627
14	ETHAN HOMER mp Next Level LLC	ethan.homer@mpnextlevel.us	430-302-9522
15	HAFIZ ALI / NETS INTERNATIONAL	Hafiz.Ali@NETS-International.com	945-398-7835
16	Scott Wendland - NICX	ScottW@NICXCO.com	256-417-3538
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**THE CITY OF THORNTON
9500 CIVIC CENTER DRIVE
THORNTON, CO 80229-4326**

**Project Manual
For
Construction of**

**THORNTON WATER PROJECT
FIBER OPTIC INSTALLATION**

PROJECT NO. 12-777XFO

SEPTEMBER 2026

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I. CONTRACT

This Contract for construction of the **Thornton Water Project – Fiber Optic Installation, Project No. 12-777XFO** and entered onto this ____ day of _____, 20__ between the **City of Thornton**, a home rule municipality, in the state of Colorado, (“Thornton”), and **[insert contractor’s Company Name]** (“Contractor”) whose office is located at **[insert contractor’s address]**. Thornton and Contractor hereinafter may be referred to collectively as, the “Parties” or individually as the “Party.”

I. RECITALS

- A. On **[insert solicitation’s opening date]**, Thornton solicited one or more contractors to perform construction and construction related services needed for the **Thornton Water Project – Fiber Optic Installation, Project No. 12-777XFO** the “Project”).
- B. On **[insert Award date]**, after the solicitation closed, Thornton awarded the Project to the above-named Contractor.
- C. Thornton also contracted with Carollo Engineers, Inc. (“Consultant”) to provide the professional engineering services (“Professional Services”) this Project requires.
- D. Thornton now requires Contractor to perform the construction services in connection with the Project.
- E. Contractor represents that it is experienced and knowledgeable in doing this type of work, has the equipment and other resources necessary to perform the Work, and is ready, willing and able to perform the services this Project requires within the required timeline.

In consideration of the promises stated herein, Contractor and Thornton agree as follows:

II. TERMS & CONDITIONS

- A. **Project Description.** The Project consists of installation of over 70 miles of fiber optic in existing conduit, terminations at several facets of the Thornton Water Project (TWP), install of conduit and cable at the Wes Brown Water Treatment Plant (WBWTP), and further described in the Contract Documents.
- B. **Contractor’s Role in General; The Work.** Contractor shall complete and perform all Work in connection with **Thornton Water Project – Fiber Optic Installation, Project No. 12-777XFO** in accordance with the Contract Documents.
- C. **Commencement Date; Substantial Completion Date.**
 - 1. **Commencement Date.** The Project will commence on the date specified in the written Notice to Proceed received from Thornton (“Commencement Date”).

2. Substantial Completion Date. Contractor shall diligently and continuously perform and substantially complete all Work by **November 1, 2027** ("Substantial Completion Date"), and be subject to the General Conditions' Article XIII, Substantial Completion.

D. **Contract Documents.**

1. This Agreement consists of the contract documents listed as follows:
 - a. This Project Manual for Construction;
 - b. Special Conditions;
 - c. General Conditions;
 - d. Drawings;
 - e. Specifications;
 - f. All Change Orders;
 - g. Notice of Award;
 - h. Notice to Proceed;
 - i. All documents, exhibits, attachments and appendices expressly found and referenced in items a, through i, listed above; and
 - j. Addendums approved before execution of this Agreement but does not include, the Bid Proposal Form submitted by the Contractor, Invitation for Bid Proposals, Information for Bidders, Procedure for Contract Signing and those documents clearly not intended to be part of this Agreement.
2. Addendums. Any supplemental information, including answers to bidder questions, contained in the addenda issued in connection with the Invitation to Bid and the Bidder's Bid Proposal Form, is incorporated into this Contract. Any failure to update the plans, specifications, or other documents with the information contained within the addenda does not negate the Contractor's responsibility to abide by the requirements established in the addenda. However, if there is an apparent ambiguity, error, or omission in any Contract Documents, the Contractor's Bid Proposal Form may be used as a point of reference to correct a mutually agreed ambiguity, error, or omission. Similarly, the information contained in the original bidding documents, including the information for bidders, could be used for clarification, when necessary.

3. Order of Precedence. Where conflicts may exist within the Contract Documents, the documents shall govern in the following order:
 - a. Change Orders;
 - b. Written Amendments;
 - c. Addenda;
 - d. Contract (this instrument);
 - e. Special Conditions;
 - f. General Conditions;
 - g. Drawings; and
 - h. Specifications (notwithstanding the above Specifications shall control over Drawings as to quality of materials and installation);
 - i. Among other categories of documents having the same order of precedence, the term or provision that includes the latest date shall control.
4. Reconciliation of Conflicts in the Contract Documents. If any portion of the Contract Documents conflict with any other portion, the various documents comprising the Contract Documents shall govern in the order of precedence as set forth above or unless it specifically states otherwise in the Contract Documents themselves. Contractor shall notify Thornton's representative for resolution of the conflicting issue before beginning the Work in question.
5. Intent of the Contract Documents. It is the intent of the Contract Documents to describe a functionally complete Project. Any work, materials or equipment that may reasonably be inferred from or identified by the Contract Documents required to produce the intended result shall be provided by Contractor whether or not specified.
6. References Made in the Contract Documents. References to standard specifications, manuals or codes of any technical society, organization or association or to the laws or regulations of any governmental authority shall mean the latest standard specification, manual, code or laws or regulations in effect at the time of opening of bids, except as may be otherwise specifically stated or modified by a change order.
7. Correction of the Contract Documents. If, during the performance of the Work, Contractor finds a conflict, error or discrepancy in the Contract Documents, Contractor shall immediately submit in writing to Thornton's representative a request for clarification no later than three (3) Calendar

Days from when Contractor identified the conflict, error or discrepancy. Before proceeding with the Work affected thereby, Thornton's representative shall provide Contractor with a written interpretation or clarification of the conflict, error or discrepancy within fourteen (14) Calendar Days from the receipt of Contractor's written request. Should Thornton find it is reasonable and necessary, the Parties may negotiate an equitable adjustment in Contract Time or Contract Price or both. Any work completed by Contractor before Thornton renders a decision, Contractor does at risk of removal and re-performance at Contractor's own expense. Thornton's clarifications are final and binding.

E. Contract Price.

1. Thornton shall pay, and Contractor will accept, the Contract Price for performance of the Work as set forth in the Contract Documents. The total amount of this Contract is [REDACTED] (\$) ("Contract Price"), which is subject to adjustment by the approval of a Change Order and/or written amendment.
2. Thornton shall pay Contractor by the unit prices as set forth in Exhibit D - Schedule Of Contract Pay Items And Prices to be used in the Application for Payment Form. The Contract Price is subject to adjustment only by a written Change Order authorized by Thornton in writing in accordance with its current policies.

F. Change to Scope of Work, Terms or Conditions.

1. Any change to the Scope of Work, or to any term or condition of the Contract shall either be by a written Change Order and/or written Amendment.
2. No such change, including any additional compensation, shall be effective or paid unless authorized by a Change Order and/or Written Amendment executed by the Thornton City Manager ("City Manager") or City Manager's designee(s). Should Contractor proceed without the written authorization of City Manager, or City Manager's designee then Contractor shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum meruit, or implied contract.
3. Except as expressly provided by the Contract, no agent, employee, or representative of Thornton has the authority to change or modify - directly or by an implied course of action - the Scope of Work or a term or condition of the Contract. Any change made to the Scope of Work shall be in accordance with the General Conditions.

G. **Payments.**

1. Contractor shall submit applications for payment in accordance with the General Conditions' Article XIV, Payments and in accordance with Exhibit D - Schedule Of Contract Pay Items And Prices (as amended) to be used in the Application for Payment form.
2. **Retainage.** The amount of retainage withheld shall be in accordance with the General Conditions' Article XIV, Section G, Retainage\Withholding of Funds.

H. **Liquidated Damages for Unexcused Delay.**

1. The Parties agree time is of the essence with respect to Contractor completing the Project by the scheduled Substantial Completion Date. The Parties further agree the actual damages Thornton would incur are difficult or impossible to calculate with any certainty should Contractor fail to substantially complete the Work ("Unexcused Delay"). The harm to Thornton would include but not be limited to increased Project cost, loss of use of the Project, and an incalculable inconvenience to the general public if the Substantial Completion Date, and other specified milestones are not met as set forth in the Contract Documents.
2. As a remedy, and not as a penalty for Contractor's failure to meet the Substantial Completion Date, Contractor shall pay as Liquidated Damages the amount of **two thousand dollars (\$2,000)** for each Calendar Day after the Substantial Completion Date until the Work is Substantially Complete.
3. Thornton, at its sole discretion, shall have the right to offset and keep any amount Contractor owes Thornton as Liquidated Damages, in whole or in part against any money or fees due to Contractor. Thornton will attempt to notify the Contractor in writing of any Liquidated Damages before Thornton deducts such sums from money owed and payable to the Contractor. In the alternative, if remaining funds owed Contractor by Thornton are insufficient, Contractor shall pay the Liquidated Damages (without offset or deduction for any amounts Contractor claims Thornton may owe) by certified or cashier's check or by wire transfer to a bank account designated by Thornton within thirty (30) days of receipt of invoice, which Thornton may issue from time to time until Substantial Completion has occurred.
4. Liquidated Damages shall be in lieu of all liability for any extra cost, losses, expenses, claims and other damages Thornton may be entitled to collect because of Contractor's delay in substantially completing the Work by the scheduled Substantial Completion and Milestone Dates. However, the Liquidated Damages remedy hereunder shall not limit Thornton's other available remedies, either at law or in equity, which Thornton may have for any other breach or failure to perform by Contractor under this Agreement.

5. Notwithstanding Contractor's claim that its Unexcused Delay was caused by Thornton, such a claim will not operate as a waiver against Thornton's ability to assess or collect Liquidated Damages from Contractor in accordance with this Section.

III. ADDITIONAL TERMS AND CONDITIONS

A. Bonds and Insurance.

1. Contractor shall provide performance and payment bonds on forms provided by Thornton in accordance with Exhibit F. The penal sum of the payment and performance bonds shall be equal to the total Contract Price.
2. Contractor shall not commence work under the Contract until it has obtained all required insurance coverages in accordance with the requirements set forth in Exhibit G- Insurance Requirements & Certificate. Thornton's review of the insurance requirements shall not relieve nor decrease the liability of Contractor.
3. Contractor shall require each Subcontractor performing work under this Agreement, at Subcontractor's own expense, to maintain during the term of the Contract, adequate minimum levels of insurance including the required provisions and additional policy conditions as shown in this Contract. Alternatively, Contractor may include its Subcontractors as additional insured on its own coverage as prescribed under these requirements. Contractor's certificate of insurance shall note in such event that Subcontractors are included as additional insured and that Contractor agrees to provide Workers' Compensation for Subcontractors and their employees.
4. Contractor shall furnish proof of insurance from Subcontractor's at Thornton's request.

B. Indemnification.

1. Contractor agrees to fully defend, indemnify and hold harmless, Thornton and the elected and appointed officials, employees, officers, directors, volunteers, and representatives of Thornton, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death or property damage, made upon Thornton directly or indirectly arising out of, resulting from or related to Contractor's activities under this Contract, including any acts or omissions of Contractor, or any agent, officer, director, representative, employee, consultant or the Subcontractor of Contractor, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or duties under this Contract, and will pay to

Thornton any expenses incurred by reason of such liability, judgments, damages or losses, including, but not limited to, court costs and reasonable attorneys' fees incurred in defending or investigating such claims. Such payments to (or on behalf of) Thornton shall be in addition to any and all other legal remedies available to Thornton and shall not be considered Thornton's exclusive remedy.

2. The indemnity provided for in the paragraph above does not apply to any liability resulting from the negligence of Thornton, its officers or employees, separate contractors or assigned contractors, in instances where such negligence causes personal injury, death or property damage.
3. Notice Required. Contractor shall promptly advise Thornton in writing of any claim or demand against Thornton or against Contractor, which involves Thornton and is known to Contractor and related to or arising out of Contractor's activities under this Contract.
4. Limited Joint and Several Liability. If Contractor and Thornton are found jointly liable by a court of competent jurisdiction, liability will be apportioned comparatively in accordance with the laws of the state of Colorado, without waiving any governmental immunity or defenses available to Thornton under Colorado law. The provisions of this indemnification are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.

C. **Funding Availability**

1. Pursuant to C.R.S. § 24-91-103.6, as may be amended from time to time, the amount of money appropriated by Thornton for this Contract is equal to or in excess of the original Contract Price. No Change Order or other form of order or directive by Thornton requiring additional compensable Work to be performed, which Work causes the aggregate amount payable under the Contract to exceed the amount appropriated for the original Contract, shall be issued unless the Contractor is given written assurance by Thornton that lawful appropriations to cover the cost of the additional Work have been made or unless such Work is covered under the remedy-granting provision of this Contract.
2. In the event that the Thornton City Council reduces the appropriation or fails to appropriate additional funds should they be needed for the continuation of this Contract, Thornton may, upon prior written notice as provided for herein, terminate this Contract without penalty or further liability and thereupon be released of further obligations pursuant thereto.

D. **Unresolved Contractor Disputes.**

1. After the General Conditions and Special Conditions procedures intended to address matters in dispute between Contractor and Thornton have failed, Contractor and Thornton shall use the process as set forth in the General Conditions' Alternative Dispute Resolution, to resolve the dispute or claim, before proceeding with litigation.
2. Notwithstanding the foregoing, nothing herein shall hinder, prevent, or be construed as a waiver of either party's right to seek redress on any disputed matter in a court of competent jurisdiction when it is clear that the parties have in good faith, exhausted the Dispute Resolution process attempting to correct or resolve any issue pertaining to the Contract.
3. Nothing herein shall waive or be construed as a waiver of Thornton's governmental immunity.

E. **Waivers.** No delay or omission by either party in exercising any right or power arising from non-compliance or failure of performance by the other party with any of the provisions of this Contract shall impair or constitute a waiver of any such right or power. Should either party previously waive any Contract term or condition, it shall not be construed as a waiver of any subsequent breach of any other Contract term or condition.

F. **Governing Law; Jurisdiction; Venue.**

1. This Contract shall be governed and interpreted in accordance with the laws of the State of Colorado without resort to any jurisdiction's conflict of laws, rules or doctrines. Any claim, action, suit or proceeding (collectively, "the claim") between Thornton and Contractor that arises from or relates to this Contract shall be brought and conducted solely and exclusively within the District Court of Adams County for the State of Colorado. If, however, the claim must be brought in a federal forum, then it shall be brought and conducted solely and exclusively within the United States District Court for the District of Colorado. Contractor, by the signature herein of its authorized representative, hereby consents to the *in personam* jurisdiction of said courts. In no event shall this section be construed as a waiver by Thornton of any form of defense or immunity, based on the 11th Amendment to the United States Constitution, or otherwise, from any claim or from the jurisdiction.
2. Any action arising out of or relating to the Contract or the Work asserted by Contractor against Thornton shall be brought within two (2) years from when the action accrued, pursuant to C.R.S. § 13-80-102(h).

G. **No Third Party Beneficiary or Claims.**

1. It is expressly understood and agreed that enforcement of the terms and conditions of this Contract, and all rights of action relating to such

enforcement, is strictly reserved to Thornton and Contractor, and nothing contained in this Contract shall give or support any sponsored claim on the behalf of another or right of action by any other entity or third party. It is the express intention of Thornton and Contractor that any person other than Thornton or Contractor receiving any benefit or payment because of this Contract is only incidental, and is not a beneficiary under legal or equitable theory available at law.

2. The Parties agree neither Party shall be responsible or liable to the other for any damages claimed by or through a "pass-through claim" as that term is understood under the laws of Colorado. Neither Party shall be liable to the other under any legal theory for: a) damages suffered by third-parties who are not a party to this Contract, or b) damages or liability of the other Party that is contingent upon the recovery of a third-party's damages against a Party to this Agreement.
- H. **Federal and State Funded Projects.** If all or part of the funds appropriated for the Project come from federal or state sources, Thornton may waive, suspend or modify any term or condition which conflicts with any federal or state statute, rule, regulation or procedure, where such waiver, suspension or modification is essential to receipt by Thornton of such funds for the Project. In the case that any Project is wholly partially financed by federal or state funds, any standards required by the enabling statute, or any rules, regulations or procedures adopted pursuant thereto, shall be controlling.
- I. **Purchase Order Terms and Conditions.** It is agreed and understood that if Thornton issues Contractor any Purchase Orders in connection with the Work covered by this Contract, any preprinted terms and conditions appearing on such Purchase Orders shall be superseded by the terms and conditions of the Contract Documents.
- J. **Excused Performance, Force Majeure.**
1. **Excused Performance.** Neither party shall be liable for any delay beyond its reasonable control that prevents or stops the performance of the Work, provided it was not the fault or negligence of the delayed party ("Force Majeure"). A Force Majeure event includes but is not limited to the following:
 - a. Unavoidable and unforeseeable labor disputes not involving the Contractor;
 - b. A declared natural or manmade disaster;
 - c. A catastrophic power failure lasting more than three (3) days;
 - d. Impossibility or inability to procure needed materials, supplies or equipment critical to perform the Work;

- e. A change in federal, state, local governmental laws, executive orders, and/or regulations that directly prevent the completion of the Work;
 - f. Civil unrest riots, insurrections, declaration of war, foreign wars;
 - g. Economic embargo (unknown at time of the bid closing date);
 - h. Fire and hazardous condition arising during the work that prevents continuing performance;
 - i. Unavailability of transportation of critical construction materials; and
 - j. Circumstances related to a declared public health emergency not known or foreseeable at the time of bid.
2. Cause of Delay, Mitigation. If the reason for the delay was a Force Majeure event, the delayed party shall use its best efforts to minimize the delay caused by such an event. Additionally, the delayed party agrees to pursue all reasonably available options to mitigate and minimize the effects of the Force Majeure event as it relates to the Work schedule and Contract Price. Furthermore, no party shall mark up its costs or charge any overhead or profit for any additional materials or services provided because of the occurrence of a Force Majeure event.
3. Extension of Contract Time, Cost Escalation. Contract Time will be extended for the time corresponding to the amount of time delayed on the critical path schedule that is actually delayed by a Force Majeure event. Notwithstanding extending the time to perform because of one or more of the Force Majeure events listed above, Thornton shall not be obligated to adjust the Contract Price if Contractor failed to contract for the then prevailing costs of materials, goods and services needed to perform the Work, or failed to contract with its subcontractors, suppliers and materialmen when it was awarded this Contract ("Cost Escalation"). Thornton shall be relieved from compensating Contractor for any Cost Escalation caused by Contractor's failure to lock in the cost of needed materials and goods, or contract with its subcontractors, suppliers and materialmen at the time of Award.
4. Notice of Delay Required. Thereafter, the delayed party shall notify the other party within three (3) Calendar Days after the Force Majeure event is known, or should have been known, when requesting an equitable adjustment of time, Contract Price or both. If the delayed party fails to provide the required notice of the Force Majeure event, any resulting delay will not be excused. Any such notice shall describe the nature of the Force Majeure event, how the occurrence of the Force Majeure event delayed performance, the Work affected by the Force Majeure event, the known time and cost impacts, and the expected duration of the delay.

5. **Documentation of Delay.** The delayed party shall provide documentation to the other party that satisfactorily justifies that a Force Majeure event has in fact occurred. The documentation shall at a minimum, include:
- a. A written narrative detailing all time and cost impacts to the Project, and the efforts taken to mitigate the delays to performing the Work by the Substantial Completion date.
 - b. If Contractor is delayed, then Contractor shall provide an updated Critical Path Method Schedule, along with most recent prior baseline Critical Path Method Schedule, evidencing the impact of the Force Majeure event to the schedule in the critical path and total duration.
 - c. Evidence of the circumstances leading to the Force Majeure event.
 - d. Provide documentation supporting (a) any requested Cost Escalations; and (b) the material, supply and subcontractor agreements detrimentally affected by the Force Majeure event.
6. **Affidavit.** Any request for an equitable adjustment of time or cost or both related to a Force Majeure event shall be accompanied by a signed and notarized affidavit indicating that the circumstances leading to the Force Majeure event were unavoidable by the delayed party, that the delayed party took all possible preventative measures to avoid a cost increase or a time delay and exhausted all possible remedies to avoid a cost increase or a time delay, and further, that the delayed party insures that all information is accurate, correct, and complete.
- K. **Notice.** All Notices pertaining to the Contract or otherwise required to be given shall be transmitted in writing, to the responsible individuals at their current addresses, and shall be deemed duly given when received by the parties at their addresses or any subsequent persons or addresses provided to the other party in writing.
- L. **Titles and Captions.** The titles and captions are for convenience only and not as a limitation on the meaning of the provision.
- M. **Non-Discrimination.** In connection with the performance of Work under this Contract, Contractor agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, marital status, or physical or mental disability; and Contractor further agrees to insert the foregoing provision in all subcontracts hereunder.

- N. **Merger Clause.** No verbal agreement or conversation with any officer, agent or employee of Thornton, either before or after the execution of the Contract, shall affect or modify any of the terms, conditions, or other obligations set forth in any of the Contract Documents. This Contract and its documents along with the attached exhibits constitute the entire agreement between the Parties. No waiver, consent, modification or change of terms of this Contract shall bind either Party unless in a duly authorized written amendment or Change Order. Such waiver, consent, modification or change, if made, shall be effective only in the specific instance and for the specific purpose given. There are no understandings, agreements, or representations, oral or written, not specified herein regarding this Contract. By signing below, Contractor's authorized representative hereby acknowledges after reading this Contract, that they understand it and are bound by its terms and conditions.
- O. **Severability.** The provisions of this Contract shall be severable, if any term, phrase, or portion of the Contract is determined to be unlawful or otherwise unenforceable; however, the remainder of the Contract shall remain in full force and effect, so long as the severed clause does not affect the intent of the Parties.
- P. **Electronic Signatures and Electronic Records.** The Parties consent to the use of electronic signatures. The Contract, and any other documents requiring a signature hereunder, may be signed electronically by the Parties in the manner specified by any applicable City regulation, rule, and/or ordinance. The Parties agree not to deny the legal effect or enforceability of the Contract solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Contract in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the grounds that it is an electronic record or electronic signature or that it is not in its original form or is not an original.
- Q. **Counterparts.** The Parties may sign counterpart copies of the Contract, and each signed counterpart copy shall be considered an original and all countered signed copies shall constitute one and the same instrument.

APPROVED AS TO LEGAL FORM:
Jessica Whitney, Interim City Attorney

CITY OF THORNTON, COLORADO:

By: _____
Michael J. Hickman
Senior Assistant City Attorney

Kimberly Newhart
Finance Director

ATTEST:

CITY OF THORNTON, COLORADO:

Kristen N. Long, City Clerk

Sean Saddler, PE
Interim Executive Director of
Management Services

ATTEST: (FOR FIRM SIGNATURE)
If corporation

INSERT FIRM NAME:

Signature

Signature

Print Name

Print Name

Title

Title

Certificate Of Completion

Envelope Id: 9A982241-B660-821C-8209-3CAAFC2D59AC

Status: Completed

Subject: Complete with Docusign: 12-777XFO Addend no2 9-29-26.pdf

Source Envelope:

Document Pages: 24

Signatures: 1

Envelope Originator:

Certificate Pages: 1

Initials: 0

Patrick Hinterberger

AutoNav: Disabled

9500 Civic Center Drive

Envelopeld Stamping: Disabled

Thornton, CO 80229

Time Zone: (UTC-07:00) Mountain Time (US & Canada)

Patrick.Hinterberger@ThorntonCO.gov

IP Address: 199.117.212.4

Record Tracking

Status: Original

Holder: Patrick Hinterberger

Location: DocuSign

9/30/2026 8:34:24 AM

Patrick.Hinterberger@ThorntonCO.gov

Signer Events

Patrick Hinterberger

Patrick.Hinterberger@ThorntonCO.gov

Sr. Contract Administrator

SHI OBO City of Thornton

Security Level: Email, Account Authentication
(None)

Signature

DocuSigned by:
Patrick Hinterberger
6DA8F281E4154C8...

Signature Adoption: Pre-selected Style
Using IP Address: 199.117.212.4

Timestamp

Sent: 9/30/2026 8:34:31 AM

Viewed: 9/30/2026 8:34:36 AM

Signed: 9/30/2026 8:34:49 AM

Freeform Signing

Electronic Record and Signature Disclosure:

Not Offered via Docusign

In Person Signer Events

Signature

Timestamp

Editor Delivery Events

Status

Timestamp

Agent Delivery Events

Status

Timestamp

Intermediary Delivery Events

Status

Timestamp

Certified Delivery Events

Status

Timestamp

Carbon Copy Events

Status

Timestamp

Witness Events

Signature

Timestamp

Notary Events

Signature

Timestamp

Envelope Summary Events

Status

Timestamps

Envelope Sent

Hashed/Encrypted

9/30/2026 8:34:31 AM

Certified Delivered

Security Checked

9/30/2026 8:34:36 AM

Signing Complete

Security Checked

9/30/2026 8:34:49 AM

Completed

Security Checked

9/30/2026 8:34:49 AM

Payment Events

Status

Timestamps