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# DOCUMENT 00_52_00

## AGREEMENT BETWEEN OWNER AND CONTRACTOR

This Agreement (the "Contract") is made and entered into this ___ day of _____, 2026 (the "Effective Date") by and between Mountain Regional Water Special Service District, a special district of the State of Utah, having an address of 5739 Paintbrush Road, Park City, Utah 84098 ("Owner") and Archer Western Construction, LLC, a Utah limited liability company, having an address of 1055 West 10436 South, Suite 101, South Jordan, Utah 84095 ("Contractor"). The Owner and Contractor are sometimes referred to herein individually as a "Party" and collectively as the "Parties."

Terms used in this Contract have the meanings stated in the General Conditions.

Owner and Contractor hereby agree as follows:

### ARTICLE 1 — WORK

1.01 Contractor shall complete Work as specified or indicated in the Contract Documents. The Work is generally described as follows:

A. Rerouted raw water pipe between Signal Hill raw water pond (onsite) and the treatment plan.

B. New pumped flash mix system.

C. Vertical flocculators in existing basins.

D. Dry-pit membrane feed pumps.

E. Removal of existing membrane filtration skids and installation of new skids.

F. New GAC building extension and additional GAC contactors.

G. Solids improvements including conversion of an existing basin into an equalization basin, a new solids holding tank, a new belt filter press, and a new belt conveyor.

H. A new Chemical Building to house chemical storage and feed systems.

I. The GAC expansion and mechanical dewatering improvements (new belt filter press and new belt conveyor) are part of Bid Alternate A.

### ARTICLE 2 — ENGINEER

2.01 The part of the Project that pertains to the Work has been designed by Carollo Engineers, Inc.

2.02 The Owner has retained Carollo Engineers, Inc. ("Engineer") as construction manager ("Construction Manager" or "CM") to act as Owner's representative, assume duties and

responsibilities of Engineer, and have the rights and authority assigned to Engineer in the Contract.

## ARTICLE 3 — CONTRACT TIMES; LIQUIDATED DAMAGES

3.01 Time is of the essence:

A. All time limits for Milestones, if any, Substantial Completion, and completion and readiness for final payment as stated in the Contract Documents are of the essence of the Contract.

3.02 Contract times:

A. The Work will be substantially complete within 730 days after the date when the Contract Times commence to run as provided in the General Conditions, and completed and ready for final payment in accordance with the General Conditions within 820 days after the date when the Contract Times commence to run.

3.03 Milestones:

A. Parts of the Work must be substantially completed on or before the following Milestone(s):
   1. Milestone 1: Substantial Completion of Temporary Membrane Filtration System April 1, 2028.
   2. General Shutdown Constraints
      a. Any shutdowns that occur outside of requirements listed in Section 01_14_00 - Work Restrictions resulting in Owner unable to meet quantity and quality requirements will be assessed liquidated damages.

3.04 Liquidated Damages:

A. Contractor and Owner recognize that time is of the essence as stated above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the Contract Times, as duly modified. Timely performance of services by others involved in the Work is materially dependent upon Contractor's specific compliance with the delivery requirements. The time, expense and difficulties involved in proving, in a legal or arbitration proceeding, the loss (whether direct, consequential, or otherwise) suffered by Owner if the Work is not timely completed and delivered is difficult to calculate. Accordingly, instead of requiring such proof of loss, Owner and Contractor agree that as liquidated damages for delay, but not as a penalty (the "Liquidated Damages") shall be as follows:
   1. Substantial Completion: Contractor shall pay Owner $5,000 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for Substantial Completion, until the Work is substantially complete.
   2. Completion of Remaining Work: After Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Contractor shall pay Owner $2,500 for each day that expires after such time until the Work is completed and ready for final payment.
   3. Milestones:
      a. Contractor shall pay Owner $5,000 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified above for achievement of Milestones, until Milestones are achieved, or until the time

specified for Substantial Completion is reached, at which time the rate for Substantial Completion will apply, rather than the Milestone rate.

b. Contractor shall pay Owner $5,000 for each day for unplanned General Shutdowns as stated above during the period of November 1 - March 31.

c. Contractor shall pay Owner $10,000 for each day for unplanned General Shutdowns as stated above during the period April 1 - October 31.

4. Liquidated Damages for failing to timely attain Milestones, Substantial Completion, and final completion are not additive, and will not be imposed concurrently.

5. If Owner recovers Liquidated Damages for a delay in completion by Contractor, then such liquidated damages are Owner's sole and exclusive remedy for such delay, and Owner is precluded from recovering any other damages, whether actual, direct, excess, or consequential, for such delay, except for special damages (if any) specified in this Contract.

3.05 Special Damages:

A. The Special Damages imposed in this paragraph are supplemental to any Liquidated Damages for delayed completion established in this Contract.

B. Contractor shall reimburse Owner for:

1. Any fines or penalties imposed on Owner as a direct result of the Contractor's failure to attain Substantial Completion according to the Contract Times, and

2. The actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified for Substantial Completion (as duly adjusted pursuant to the Contract), until the Work is substantially complete.

C. After Contractor achieves Substantial Completion, if Contractor shall neglect, refuse, or fail to complete the remaining Work within the Contract Times, Contractor shall reimburse Owner for the actual costs reasonably incurred by Owner for engineering, construction observation, inspection, and administrative services needed after the time specified for Work to be completed and ready for final payment (as duly adjusted pursuant to the Contract), until the Work is completed and ready for final payment.

## ARTICLE 4 — CONTRACT PRICE

4.01 Owner will pay Contractor for completion of the Work in accordance with the Contract Documents, the amounts that follow, subject to adjustment under the Contract:

A. For Work other than Unit Price Work, a lump sum of $46,798,172.72.

1. All specific cash allowances are included in the above price in accordance with the General Conditions.

B. For Unit Price Work, an amount equal to the sum of the extended prices (established for each separately identified item of Unit Price Work by multiplying the unit price times the actual quantity of that item).

| Unit Price Work | | | | | |
|---|---|---|---|---|---|
| **Item No.** | **Description** | **Unit** | **Estimated Quantity** | **Unit Price** | **Extended Price** |
| 2.A | Asphalt | sq ft | 17,500 | $10.00 | $175,000.00 |
| Total of Extended Prices for Unit Price Work (subject to final adjustment based on actual quantities) | | | | | $175,000.00 |

C. The extended prices for Unit Price Work set forth as of the Effective Date of the Contract are based on estimated quantities. As provided in the General Conditions, estimated quantities are not guaranteed, and determinations of actual quantities and classifications are to be made by Engineer.

D. Total of Lump Sum Amount and Unit Price Work (subject to final Unit Price adjustment) $46,973,172.72.

E. For Work, at the prices stated in Contractor's Bid, attached hereto as an exhibit.

## ARTICLE 5 — PAYMENT PROCEDURES

5.01 Submittal and processing of Payments:

A. Contractor shall submit Applications for Payment in accordance with the General Conditions.

5.02 Progress Payments; Retainage:

A. Owner will make progress payments on the basis of Contractor's Applications for Payment on or about the 5th day of each month during performance of the Work as provided in below, provided that such Applications for Payment have been submitted in a timely manner and otherwise meet the requirements of the Contract.
   1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated below but, in each case, less the aggregate of payments previously made and less such amounts as Owner may withhold, including, but not limited to, liquidated damages, in accordance with the Contract.
      a. If 50 percent or more of the Work has been completed, as determined by Engineer, and if the character and progress of the Work have been satisfactory to Owner and Engineer, then as long as the character and progress of the Work remain satisfactory to Owner and Engineer, there will be no additional retainage; and
      b. 95 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

B. In accordance with Utah Code, Section 13-8-5, 95 percent of the value of the Work completed (with the balance being retainage).

C. In accordance with Utah Code, Section 13-8-5, 95 percent of cost of materials and equipment not incorporated in the Work (with the balance being retainage).

D. In accordance with Utah Code, Section 13-8-5, upon Substantial Completion, Owner will pay an amount sufficient to increase total payments to Contractor to 100 percent of the Work completed, less such amounts set off by Owner in accordance with the General Conditions, and less 125 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

E. Upon Substantial Completion, Owner will pay an amount sufficient to increase total payments to Contractor to 100 percent of the Work completed, less such amounts set off by Owner pursuant to the General Conditions, and less 125 percent of Engineer's estimate of the value of Work to be completed or corrected as shown on the punch list of items to be completed or corrected prior to final payment.

5.03 Final payment:

A. Upon final completion and acceptance of the Work, Owner will pay the remainder of the Contract Price in accordance with the General Conditions.

5.04 Consent of surety:

A. Owner will not make final payment or return or release retainage at Substantial Completion or any other time, unless Contractor submits written consent of the surety to such payment, return, or release.

## ARTICLE 6 — CONTRACT DOCUMENTS

6.01 Contents:

A. The Contract Documents consist of the following:
   1. This Contract.
   2. Bonds:
      a. Document 00_61_10 - Performance Bond (together with power of attorney).
      b. Document 00_61_15 - Payment Bond (together with power of attorney).
   3. Document 00_72_00 - General Conditions.
   4. Document 00_73_00 - Supplementary Conditions.
   5. Specifications as listed in the table of contents of the project manual.
   6. Drawings listed on the sheet index.
   7. Addenda (numbers 1 to 3, inclusive).
   8. Exhibits to this Agreement (enumerated as follows):
      a. Successful Bidder's Form
      b. Document 00_43_36 - Proposed Subcontractors Form.
      c. Document 00_43_35 - List of Equipment Manufacturers.
      d. Document 00_45_38 - Bid Preferences.
      e. Document 00_54_01 - Escrow Agreement for Security Deposits in Lieu of Retention.
      f. Exhibit B: Post-Award Contract Clarifications and Modifications No. 1.
   9. The following which may be delivered or issued on or after the Effective Date of the Contract and are not attached hereto:
      a. Document 00_55_00 - Notice to Proceed.
      b. Field Orders per Document 01_26_00 - Contract Modification Procedures.
      c. Work Change Directives per Document 01_26_00 - Contract Modification Procedures.
      d. Change Orders per Document 01_26_00 - Contract Modification Procedures.
   10. The assignment of a procurement contract, previously entered into by Owner (as "Buyer") with a manufacturer or distributor (as "Seller") for the direct purchase of goods (most commonly equipment) and related special services:
      a. Document 00_54_34 - Assignment of Procurement Contract.
      b. Document 00_60_09 - Surety's Agreement to Assignment.

11. The Contract Documents listed above are attached to this Agreement (except as expressly noted otherwise above).

B. There are no Contract Documents other than those listed above.

C. The Contract Documents may only be amended, modified, or supplemented as provided in the Contract.

D. In accordance with Utah Code, Section 63G-6-817, the statute of limitations for actions with respect to the Contract are set forth.

## ARTICLE 7 — REPRESENTATIONS, CERTIFICATIONS, AND STIPULATIONS

7.01 Contractor's representations:

A. In order to induce Owner to enter into this Contract, Contractor makes the following representations:
   1. Contractor has examined and carefully studied the Contract Documents, including Addenda.
   2. Contractor has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
   3. Contractor is familiar with Laws and Regulations that may affect cost, progress, and performance of the Work.
   4. Contractor has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the General Conditions.
   5. Contractor has considered the information known to Contractor itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Contract Documents; and the Technical Data identified in the General Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on:
      a. the cost, progress, and performance of the Work;
      b. the means, methods, techniques, sequences, and procedures of construction to be employed by Contractor; and
      c. Contractor's safety precautions and programs.
   6. Based on the information and observations referred to in the preceding paragraph, Contractor agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
   7. Contractor is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Contract Documents.
   8. Contractor has given Engineer written notice of conflicts, errors, ambiguities, or discrepancies that Contractor has discovered in the Contract Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
   9. The Contract Documents are generally sufficient to indicate and convey understanding of terms and conditions for performance and furnishing of the Work.

10. Contractor's entry into this Contract constitutes an incontrovertible representation by Contractor that without exception prices in the Contract are premised upon performing and furnishing the Work required by the Contract Documents.

7.02 Contractor's certifications:

A. Contractor certifies that it has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for or in executing the Contract. For the purposes of this paragraph:
   1. "corrupt practice" means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process or in the Contract execution;
   2. "fraudulent practice" means an intentional misrepresentation of facts made (a) to influence the bidding process or the execution of the Contract to the detriment of Owner, (b) to establish Bid or Contract prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition;
   3. "collusive practice" means a scheme or arrangement between 2 or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish Bid prices at artificial, non-competitive levels; and
   4. "coercive practice" means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

## ARTICLE 8 — MISCELLANEOUS

8.01 Governing Law and Venue: This Contract has been and shall be construed as having been made and delivered within the State of Utah, and it is agreed by each Party hereto that this Contract shall be governed by the laws, rules, and regulations of Summit County and the State of Utah, both as to interpretation and performance. Any action of law, suit in equity or judicial proceeding arising from this Contract shall be brought in a court of competent jurisdiction in the State of Utah. Venue shall be in Summit County, the Silver Summit District Court, Third Judicial District.

8.02 Independent Contractor:

A. Contractor and subcontractor(s), in the performance of this Contract, shall act in an independent capacity and not as officers or employees or agents of Owner.

B. No agent, employee, or representative of Contractor of subcontractor(s) shall be deemed to be an employee, agent, or representative of the Owner for any purpose, and the employees of the Contractor and subcontractor(s) are not entitled to any of the benefits the Owner provides to its employees. The Contractor or subcontractor(s) will be solely and entirely responsible for their acts and for the acts of their agents, employees, representatives during the performance of this Contract.

C. In the performance of the Work herein contemplated Contractor and subcontractor(s) are independent contractors with the authority to control and direct the performance of the details of the Work, however, the results of the Work contemplated herein must meet the approval of the Owner and shall be subject to the Owner's general rights of inspection and review to secure the satisfactory completion thereof.

8.03 Debarment: Contractor certifies that it is not presently nor has ever been debarred, suspended, or proposed for debarment by any governmental department or agency, whether international, national, state, or local. Contractor must notify Owner within thirty (30) days if debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any contract by any governmental entity during this Contract.

8.04 Public Information: Contractor agrees that this Contract, related purchase orders, related pricing documents, and invoices will be public documents and may be available for public and private distribution in accordance with the State of Utah Government Records Access and Management Act ("GRAMA"), Utah Code Title 63G, Chapter 2, as amended. Contractor gives Owner express permission to make copies of this Contract, related sales orders, related pricing documents, and invoices in accordance with GRAMA. Except for sections identified in writing by Contractor and expressly approved by Owner, Contractor also agrees that the Contractor's proposal to the solicitation will be a public document, and copies may be given to the public as permitted under GRAMA. Owner is not obligated to inform Contractor of any GRAMA requests for disclosure of this Contract, related purchase orders, related pricing documents, or invoices.

8.05 Assignment: Contractor may not assign, sell, transfer, subcontract or sublet rights, or delegate any right or obligation under this Contract, in whole or in part, without the prior written approval of Owner. It is further agreed that said approval must be sought in writing by the Contractor not less than thirty (30) days prior to the date of any proposed assignment or subcontract. Any assignment or subcontract made without the prior express written approval of Owner shall be deemed null and void.

8.06 Site: Signal Hill Water Treatment Plant, 7563 N. Promontory Ranch Road, Park City, Utah 84098.

8.07 Governmental Immunity: Owner is a body corporate and politic of the State of Utah, subject to the Governmental Immunity Act of Utah (the "Act"), Utah Code §§ 63g-7-101, et. seq., as amended. The Parties agree that Owner shall only be liable within the parameters of the Governmental Immunity Act. Nothing contained in this Contract shall be construed in any way, to modify the limits of liability set forth in that Act or the basis for liability as established in the Act.

8.08 No Third-Party Beneficiaries: No term or provision of this Contract or the attachments hereto is intended to be, nor shall any such term or provision be construed to be, for the benefit of any person, firm, corporation, or other entity not a Party hereto, and no such other person, firm, corporation, or entity shall have any right or cause of action hereunder.

8.09 Severability:

A. If, for any reason, any part, term, or provision of this Contract is held by a court of the United States to be illegal, void or unenforceable, the validity of the remaining provisions shall not be affected, and the rights and obligations of the Parties shall be construed and enforced as if this Contract did not contain the particular provision held to be invalid.

A. If it should appear that any provision hereof is in conflict with any statutory provision of the State of Utah, said provision which may conflict therewith shall be deemed inoperative and null and void insofar as it may be in conflict therewith, and shall be deemed modified to conform in such statutory provisions.

8.10 Entire Agreement: This Contract constitutes the entire agreement between the Parties and supersedes any and all other prior and contemporaneous agreements and understandings between the Parties, whether oral or written.

8.11 Economic Boycott: Contractor shall not engage in economic boycott activities for purposes that are solely related to furthering social, political or ideological interests as set forth in Utah Code §63g-27-201, or successor law ("Economic Boycott"). Further, if after entering into a Contract with the Owner, Contractor engages in an economic boycott, Contractor shall immediately notify the Owner in writing of such. The Contractor's notice may be grounds for termination of this Contract as the sole discretion of the Owner.

8.12 Compliance with Utah's Government Data Privacy Act (Utah Code §63a-19-101 et seq.): "Personal Data" under Utah's Government Data Privacy Act (the "Act") is defined as information that is linked or can be reasonably linked to an identified individual or an identifiable individual. Contractor hereby acknowledges and agrees that, if Contractor processes or has access to "Personal Data" as defined by the Act, Contractor, including Contractor's employees, agents or subcontractors, shall comply with the requirements of the Act as specified in the Act, §63a-19-401.4. This clause survives the termination of this Contract.

**ARTICLE 9 — AUTHORITY**

9.01 Each person signing this Contract represents and warrants that he/she is duly authorized and has legal capacity to execute and deliver this Contract and bind the Parties hereto.

9.02 Each signatory represents and warrants to the other that the execution and delivery of this Contract and the performance of each Party's obligations hereunder have been duly authorized and that this Contract is a valid and legal agreement binding on the Parties and enforceable in accordance with its terms.

9.03 Further, Contractor is registered with the Utah Department of Commerce and is in good standing.

IN WITNESS WHEREOF, Owner and Contractor have signed this Agreement.

Owner:

*(typed or printed name of organization)*

By: _____
*(individual's signature)*

Date: _____
*(date signed)*

Name: _____
*(typed or printed)*

Title: _____
*(typed or printed)*

Attest: _____
*(individual's signature)*

Title: _____
*(typed or printed)*

Address for giving notices:

Designated Representative:

Name: _____
*(typed or printed)*

Title: _____
*(typed or printed)*

Address:

Phone:

Email:

*(If Owner is a corporation, attach evidence of authority to sign. If Owner is a public body, attach evidence of authority to sign and resolution or other documents authorizing execution of this Agreement.)*

Contractor: Archer Western Construction, LLC

*(typed or printed name of organization)*

By: Daniel P. Walsh
*(individual's signature)*

Date: _____
*(date signed)*

Name: Daniel P. Walsh
*(typed or printed)*

Title: President
*(typed or printed)*

*(If Entity is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.)*

Attest: Matthew M. Walsh, IV
*(individual's signature)*

Title: Secretary
*(typed or printed)*

Address for giving notices:

Archer Western Construction, LLC

1055 West 10436 South, Suite 101

South Jordan, UT 84095

Designated Representative:

Name: Bradley Sanders
*(typed or printed)*

Title: Business Group Leader (VP)
*(typed or printed)*

Address:

Archer Western Construction, LLC

4710 Elwood Street, Suite 6

Phoenix, AZ 85040

Phone: 602-246-1485

Email: bsanders@walshgroup.com

License No.: UT 10981031-5501, B100, E100
*(where applicable)*

State: Utah

ARCHER WESTERN CONSTRUCTION LLC LIMITED LIABILITY SEAL ILLINOIS

END OF DOCUMENT

EXHIBIT A - Successful Bidder’s Bid Form