

**AMENDMENT NO. 1**

**TO**

**General Contractor/Construction Manager (GC/CM) Preconstruction  
Services Contract**

**W.O. 19-42, West End Water Treatment Plant Project**

THIS AGREEMENT, made and entered into on \_\_\_\_\_, 2023, by and between  
the following:

CITY OF BILLINGS, a Municipal Corporation,  
Billings, Montana 59103,  
Hereinafter designated the City

and

Garney Companies, Inc.  
7911 Shaffer Parkway  
Littleton, CO 80127  
Hereinafter designated the Contractor

WITNESSETH:

WHEREAS, the City and Contractor have entered into a contract dated September 30, 2021, for Contractor to provide preconstruction services to the City for Work Order 19-42 West End Water Treatment Plant Project, and;

WHEREAS, the City has need for additional preconstruction services, and;

WHEREAS, the City has authority to contract for preconstruction services, and;

WHEREAS, the Contractor represents that he is qualified to perform such services and is willing to furnish such services to the City;

NOW, THEREFORE, in consideration of the terms, conditions, covenants and performance contained herein, or attached and incorporated herein, the Parties hereto agree as follows:

*Part I, Section 3, Paragraph C.* Delete paragraph and replace with the following:

C. The Contract shall terminate at midnight on December 31, 2023.

*Appendix A, Section 3.* Add the following to the Scope of Work.

The City and Contractor desire to establish a Guaranteed Maximum Price (GMP) for performance of a portion of Work consisting of equipment supplier submittals in accordance with the exhibits listed below, which are a part of this Agreement:

1. EXHIBIT A: The Drawings, Technical Specifications, Request for Proposal (RFP), and Bid Evaluation Criteria for the City of Billings W.O. 19-42, West End Water Treatment Plant; Preliminary Design, Burns & McDonnell Project No. 118386, September 2022
  - Drawings: Issued for 30% Design Review, September 2022
  - Technical Specifications: Issued for Equipment Procurement, September 2022
  - RFP: Work Package 1 Equipment Supply, September 2022 & Addendums 1,2,3
  - Bid Evaluation Criteria: From H2O Innovation dated 10/14/22
2. EXHIBIT B: Unit Prices attached herein.
3. EXHIBIT C: Assumptions and Calculations on which the GMP is based attached herein. This scope is specifically for Submittals to be provided from the selected Equipment Suppliers as further described in EXHIBIT C.
4. EXHIBIT D: Project Schedule attached herein.
5. EXHIBIT E: Labor Rates attached herein.

All subsequent Work not included in the GC/CM Preconstruction Services Contract and this Amendment No. 1 shall be established in authorized future Amendment(s) or in a future Construction Contract. Separate GMP(s) shall be established for all future Work according to the provisions of the GC/CM Preconstruction Services Contract.

*Appendix B, Section 1.* add the following:

For services rendered under this Amendment No. 1 only, the Contractor shall be paid in accordance with the Unit Prices in EXHIBIT B attached herein. The estimated \$21,960 in General Conditions costs shall be based on actual time accrued in accordance with the labor rates in EXHIBIT E attached herein. The Contractor's GMP for services rendered under is Amendment No. 1 is \$471,747.

**TOTAL, Amendment No. 1**

**\$471,747.00**

CONSULTANT

NAME: MATT WAMPLER

BY: 

TITLE: SENIOR PROJECT MANAGER

DATE: 2/13/23

CITY OF BILLINGS, MONTANA

BY: \_\_\_\_\_  
Mayor

DATE: \_\_\_\_\_

**W.O. 19-42 West End Water Treatment Plant Project**  
**Work Package 1 – Submittals**  
**Scope of Work Exhibits**

**Exhibit A: Drawings and Specifications**

The Drawings, Technical Specifications, Request for Proposal (RFP), and Bid Evaluation Criteria for the City of Billings W.O. 19-42, West End Water Treatment Plant; Preliminary Design, Burns & McDonnell Project No. 118386, as listed below.

Drawings: Issued for 30% Design Review, September 2022  
 Technical Specs: Issued for Equipment Procurement, September 2022  
 RFP: Work Package 1 Equipment Supply, September 2022 & Addendums 1,2,3  
 Bid Evaluation Criteria: From H2O Innovation dated 10/14/22 attached herein

**Exhibit B: Unit Prices**

The Price authorized in this Agreement is \$471,747.00 and is calculated using the Cost Summary Worksheet shown below.

| <b>DIRECT COST</b>                  |   | <b>WORK PACKAGE 1 -<br/>SUBMITTALS</b> |
|-------------------------------------|---|--|
| DIV11                               | DIVISION 11 - PROCESS EQUIP - SUBMITTALS  | 401,233                                |
| <b>SUBTOTAL DIRECT COSTS</b>        |   | <b>401,233</b>                         |
| 9.50%                               | Construction Fee                          | 38,117                                 |
|                                     | General Conditions (No Fee Added)         | 21,960                                 |
| 1.25%                               | Bonds and Insurance                       | 5,766                                  |
| 1.00%                               | Montana Tax                               | 4,671                                  |
| <b>SUBTOTAL INDIRECT COSTS</b>      |   | <b>471,747</b>                         |
|                                     | GC/CM Escalation Allowance (to Materials) | -                                      |
|                                     | GC/CM Contingency                         | -                                      |
| <b>PROJECT TOTAL COST - PHASE 1</b> |   | <b>471,747</b>                         |

**Markups**

- Construction Fee of 9.50% will be applied to the Direct Cost
- General Conditions are included and allow for Garney to provide supervision of this portion of work which includes submittal review.
- Bonds and Insurance Fee of 1.25% will be Applied to the Direct Cost, Construction Fee, and General Conditions Cost
- Montana Tax Fee of 1.00% will be Applied to the Direct Cost, Construction Fee, General Conditions, and Bonds and Insurance Cost.

**Exhibit C: Assumption and Calculations on Which the GMP is Based**

This Agreement is for the **Equipment Supply Submittals (Phase 1)** and formally documents the approval to award Equipment Supply Packages to the vendors listed below.

|               |                                   |                 |
|---------------|-----------------------------------|-----------------|
| Spec 46-40-13 | Solids Removal Equipment          | Jim Myers       |
| Spec 46-41-33 | Horizontal Flocculation Equipment | Jim Myers       |
| Spec 46-43-76 | Inclined Plate Settlers           | Jim Myers       |
| Spec 46-61-33 | Membrane Filtration System        | H2O Innovations |

Phase 1 – Submittals – Authorized by This Agreement

Phase 1 authorizes Garney to enter into agreements with the selected vendors, upon which the Vendors will provide Submittals as required in the specifications. This provides critical inputs into the Burns and McDonnell design and will result in a customized and efficient design. This also allows the Submittals to begin prior to reaching an Overall GMP agreement.

No procurement, fabrication, or manufacturing shall be performed under Phase 1. In the event Garney and the City are not able to enter into an agreement for the Overall GMP, the City will only be responsible to pay for Phase 1 Submittals. Phase 2 for the Balance of Scope will be canceled.

Phase 2 - Balance of Scope – NOT AUTHORIZED AT THIS TIME

If Garney and the City execute an Overall GMP for the balance of the construction project, then at that time Garney will amend the Agreements with the chosen vendors to include the Balance of the Equipment Supply Scope, which includes the manufacturing, supply, and startup of the listed equipment.

In the event Garney and the City are unable to reach agreement for Phase II, The Balance of the Construction Project, the terms of the Garney Purchase Orders are transferrable to the City if the City elects to continue the project with the Vendor.

- Membrane Filtration System (H2O Innovations): The Vendor's price for Phase II shall be subject to escalation if the release to manufacture is not received by January 1, 2024.
- Solids Removal Equipment/Horizontal Flocculation Equipment/Inclined Plate Settlers (Jim Myers), Vendor's price for Phase II shall be subject to escalation if the release to manufacture is not received by June 1, 2023.

Vendor Pricing

The table below shows the Vendor pricing for Phase 1 and Phase 2. Phase 1 Authorizes Garney to enter into agreements with the selected vendors in the amount of \$401,233.00. This amount includes the Value Engineering items reviewed and approved by the City as listed below.

*Table is on next page.*

|  |  |                                       |             |                    |  |  |  |
|--|--|---------------------------------------|-------------|--------------------|--|--|--|
| <b>PROJECT:</b> WEST END WATER TREATMENT PLANT |  | <b>COMPANY NAME:</b> JIM MYERS        |             | H2O INNOVATION USA |  | <b>SELECTED</b>  |  |
| <b>LOCATION:</b> CITY OF BILLINGS, MT          |  | <b>MFG CONTACT:</b> DON BERSELL       |             | SHAYAN YAGHOUBI    |  | <b>SUPPLIERS</b>   |  |
| <b>DATE/TIME:</b> 12/14/2022                   |  | <b>MFG PHONE NUMBER:</b> 980-867-3532 |             | 619-884-5834       |  | <b>12.14.22</b>  |  |
| <b>SPEC.</b>                                   | <b>DESCRIPTION OF WORK / MATERIAL</b>  | <b>QTY</b>                            | <b>UNIT</b> | <b>H2O</b>         |  | <b>SELECTED SUPPLIER</b>                                 |  |
| <b>46-40-13</b>                                | <b>SOLIDS REMOVAL EQUIPMENT</b>  |                                       |             |                    |  | <b>JIM MYERS</b>   |  |
|  | PURCHASE SOLIDS REMOVAL EQUIPMENT  | 4                                     | EA          | \$268,104          |  | \$268,104  |  |
|  | BID BOND PRICE   |                                       |             | \$2,681            |  | \$2,681  |  |
| <b>46-41-33</b>                                | <b>HORIZONTAL FLOCCULATION EQUIPMENT</b>   |                                       |             |                    |  | <b>JIM MYERS</b>   |  |
|  | PURCHASE HORIZONTAL FLOC EQUIPMENT   | 6                                     | EA          | \$306,952          |  | \$306,952  |  |
|  | BID BOND PRICE   |                                       |             | \$3,070            |  | \$3,070  |  |
| <b>46-43-76</b>                                | <b>INCLINED PLATE SETTLERS</b>   |                                       |             |                    |  | <b>JIM MYERS</b>   |  |
|  | PURCHASE INCLINED PLATE SETTLERS   | 2                                     | EA          | \$862,461          |  | \$862,461  |  |
|  | BID BOND PRICE   |                                       |             | \$8,625            |  | \$8,625  |  |
| <b>46-61-33</b>                                | <b>MEMBRANE FILTRATION SYSTEM</b>  |                                       |             |                    |  | <b>H2O INNOVATIONS</b>                                   |  |
|  | PURCHASE MEMBRANE EQUIPMENT  | 7                                     | EA          |                    | \$7,837,904  | \$7,837,904  |  |
|  | BID BOND PRICE   |                                       |             |                    | \$117,568  | \$117,568  |  |
| <b>VALUE ENGINEERING ITEMS ACCEPTED</b>        |  |                                       |             |                    |  |  |  |
| JMS  | SUPPLY STANDARD SLUDGE COLLECTOR PANELS (2, 2-UNIT PANELS WITH AN AB MICROLOGIX 1400 PLC, POWERFLEX 4M VFD'S, AND 5.7" MAGELIS HMI | 1                                     | LS          | -\$80,000          |  | SEE ITEMS BELOW  |  |
| JMS  | JMS PRICE ESCALTION INCREASE TO 2/13 AND BASED ON JUNE 1, 2023 PRICE HOLD  | 1                                     | LS          | \$65,000           |  | -\$80,000  |  |
| H20-1  | SUPPLY TORAY HFUG-2020AN MODULES   | 1                                     | LS          |                    | -\$364,058   | \$65,000   |  |
| H20-2  | REMOVE REDUNDANT PLC   | 1                                     | LS          |                    | -\$50,196  | -\$364,058   |  |
| H20-3  | REMOVE REDUNDANCE ON CIP SYSTEM AND OPTIMIZE NEUTRLIZATION FUNCTION  | 1                                     | LS          |                    | -\$418,601   | -\$50,196  |  |
| H20-4  | SUPPLY CIP-NEUTRALIZATION SYSTEMS LOOSE SHIPPED, SUBSET OF VE-3, SAVINGS \$212, 550  | 1                                     | LS          |                    | Pending Garney review, can be added at next Work Package | -\$418,601   |  |
| H20-5  | HDPE TANKAGE IN LIEU OF FRP TANKAGE, SUBSET OF VE-3  | 1                                     | LS          |                    | -\$160,085   | Pending Garney review, can be added at next Work Package |  |
| H20-6  | SUPPLY IMMERSION HEATERS FOR CIP TANK, SUBSET OF VE-3  | 1                                     | LS          |                    | -\$48,998  | -\$160,085   |  |
| H20-7  | SUPPLY GRUNDFOS IN-LIEU OF GOULDS PUMPS  | 1                                     | LS          |                    | -\$258,034   | -\$48,998  |  |
| H20-8  | REDUCE MECHANICAL AND WORKMANSHIP WARRANTY TO 1-YEAR   | 1                                     | LS          |                    | -\$67,739  | -\$258,034   |  |
|  |  |                                       |             |                    |  | -\$67,739  |  |
|  | <b>TOTAL AMOUNT</b>  |                                       |             |                    | \$1,436,892  | \$6,587,762  |  |
|  | <b>PHASE 1 - SUBMITTALS</b>  | <b>5.0%</b>                           | <b>PCT</b>  |                    | <b>\$71,845</b>  | <b>\$329,388</b>   |  |
|  | PHASE 2 - BALANCE OF SCOPE   | 95.0%                                 | PCT         |                    | \$1,365,048  | \$6,258,374  |  |
|  |  |                                       |             |                    |  | \$7,623,421  |  |

#### **Exhibit D: Project Schedule**

The dates below are for Submittals only. Fabrication and delivery of this equipment will be included later and will be part of the overall project schedule in a subsequent Work Package.

Start Date: February 15, 2023  
 Submittals provided for review by: September 1, 2023

#### **Exhibit E: Labor Rates**

Labor Rates below are used for this Submittals Work Package. The General Conditions estimate is based on 160 hours of work by the Project Manager Classification [160 hours x \$137.25/hour equals \$21,960.00]. The other rates are listed in the event they assist with the work.

- Senior Project Manager \$166.25
- Project Manager \$137.25
- Project Engineer \$87.25