

**AMENDMENT NO. 2 TO AGREEMENT
BETWEEN OWNER AND CONSTRUCTION MANAGER AS CONSTRUCTOR
(COST OF THE WORK PLUS A FEE WITH GUARANTEED MAXIMUM PRICE)**

ARTICLE 1 – PURPOSE

- 1.01 Pursuant to Paragraph 4.02.K of the Agreement dated June 5, 2024 between the City of Olathe, Kansas (“Owner”) and Crossland Heavy Contractors, Inc. (“Construction Manager”) for construction of the West Cedar Creek Sewer Interceptor Project (1-C-011-24), the Owner and Construction Manager establish a guaranteed Maximum for the Work as set forth below.
- 1.02 For the purposes of this Amendment No. 2 the Work is defined as all work identified in GMP #2 and described in the Contract Documents.

ARTICLE 2 – GENERAL PROVISIONS

2.01 *Contents*

- A. Pursuant to Paragraph 3.01.A.7 of the Agreement, the following are identified as Contract Documents under the Agreement.
1. Technical Specifications and General Requirements (not attached but incorporated by reference) as included in the Request for Proposals bearing the following general title: West Cedar Creek Interceptor Project.
 2. Drawings (not attached but incorporated by reference) consisting of 71 sheets total between two plan sets with each sheet bearing the following general title: West Cedar Creek Interceptor Project.
 3. Addenda (not attached but incorporated by reference) issued for development of the Guaranteed Maximum Price (numbers 1 to 4, inclusive).
 4. Exhibits to this Amendment (enumerated as follows):
 - a. Exhibit A – Construction Manager’s Guaranteed Maximum Price Proposal prepared in accordance with Paragraph 4.02.K of the Agreement.
 - b. Exhibit B – Performance & Maintenance bond (pages ___ to ___, inclusive).
 - c. Exhibit C – Statutory bond (pages ___ to ___, inclusive).
- B. The documents listed in Paragraph 2.01.A are attached to this Agreement (except as expressly noted otherwise above).
- C. The Contract Documents may only be amended, modified, or supplemented by Amendment to this Agreement during the Preconstruction Phase or through a Change Order as provided in the General Conditions during the Construction Phase.

ARTICLE 3 – CONTRACT TIMES

3.01 *Time 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: Milestones*

- A. The Work will be substantially completed by the milestones identified below. Contract Times commence to run as provided in Paragraph SC 4.01 of the Supplementary Conditions, and completed and ready for final payment in accordance with Paragraph 15.06 of the General Conditions within 30 days after the specified milestones below. Work and milestones associated with previous GMPs remain unchanged unless specifically noted otherwise below.
1. GMP #2 – All Bid Packages: December 31, 2026

3.03 *Liquidated Damages*

- A. Construction Manager and Owner recognize that time is of the essence as stated in Paragraph 3.01 above and that Owner will suffer financial and other losses if the Work is not completed and Milestones not achieved within the times specified in Paragraph 3.02 above, plus any extensions thereof allowed in accordance with the Contract. The parties also recognize the delays, expense, and difficulties involved in proving in a legal proceeding the actual loss suffered by Owner if the Work is not completed on time. Accordingly, instead of requiring any such proof, Owner and Construction Manager agree that as liquidated damages for delay (but not as a penalty):
1. Substantial Completion: Construction Manager shall pay Owner \$500.00 for each day that expires after the time (as duly adjusted pursuant to the Contract) specified in Paragraph 3.02.A above for Substantial Completion until the Work is substantially complete.
 2. Completion of Remaining Work: After Substantial Completion, if Construction Manager shall neglect, refuse, or fail to complete the remaining Work within the Contract Time (as duly adjusted pursuant to the Contract) for completion and readiness for final payment, Construction Manager shall pay Owner \$500.00 for each day that expires after such time until the Work is completed and ready for final payment.
 3. Liquidated damages for failing to timely attain Substantial Completion and Final Completion are not additive and will not be imposed concurrently.

ARTICLE 4 – GUARANTEED MAXIMUM PRICE

- 4.01 The total cost for Work provided pursuant to this Amendment is \$ 30,044,776.00. Owner shall pay Construction Manager for completion of the Work in accordance with the Contract Documents in current funds the Total GMP amount as shown below:

GMP #1:	\$ 1,543,553.00	Amendment No. 1
GMP #2:	\$ 30,044,776.00	Amendment No. 2 (this amendment)
Total GMP:	\$ 31,558,329.00	

- 4.02 A list of clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price, pursuant to Paragraph 4.02.K.6 of the Agreement, is set forth in Exhibit A attached hereto.

ARTICLE 5 – CONSTRUCTION MANAGER’S REPRESENTATIONS

- 5.01 In order to induce Owner to enter into this Contract, Contractor makes the following representations:
- A. Construction Manager has examined and carefully studied the Contract Documents, and any data and reference items identified in the Contract Documents.
 - B. Construction Manager has visited the Site, conducted a thorough, alert visual examination of the Site and adjacent areas, and become familiar with and is satisfied as to the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
 - C. Construction Manager is familiar with and is satisfied as to all Laws and Regulations that may affect cost, progress, and performance of the Work.
 - D. Construction Manager has carefully studied all: (1) reports of explorations and tests of subsurface conditions at or adjacent to the Site and all drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, and (2) reports and drawings relating to Hazardous Environmental Conditions, if any, at or adjacent to the Site that have been identified in the Supplementary Conditions, especially with respect to Technical Data in such reports and drawings, if any.
 - E. Construction Manager has considered the information known to Construction Manager 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 Site-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on (1) the cost, progress, and performance of the Work; (2) the means, methods, techniques, sequences, and procedures of construction to be employed by Construction Manager; and (3) Construction Manager’s safety precautions and programs, if any such reports and drawings are so identified.
 - F. Based on the information and observations referred to in the preceding paragraph, Construction Manager agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Guaranteed Maximum Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
 - G. Construction Manager 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.
 - H. Construction Manager has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Construction Manager has discovered in the Contract Documents, and the written resolution thereof by Engineer is acceptable to Construction Manager.
 - I. The Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
 - J. Construction Manager’s entry into this Contract constitutes an incontrovertible representation by Construction Manager that without exception all prices in the Agreement are premised upon performing and furnishing the Work required by the Contract Documents.

IN WITNESS WHEREOF, Owner and Construction Manager have signed this Amendment to the Agreement.

OWNER:

City of Olathe, Kansas

By: _____

Title: Mayor

Attest: _____

Title: _____

Address for giving notices:

P.O. Box 768

Olathe, KS 66051

CONSTRUCTION MANAGER:

Crossland Heavy Contractors, Inc.

By: [Signature]

Title: VP/Division Manager

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

Attest: JOSEFA BARNES

Title: SENIOR PROJECT MANAGER

Address for giving notices:

License No.: _____
(where applicable)

Agent for service of process:

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

Approved as to form:

City Attorney or Deputy/Assistant City Attorney

CROSSLAND HEAVY CONTRACTORS

501 S. East Avenue • P.O. Box 350

Columbus, KS 66725

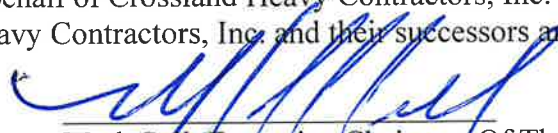
tel 620.429.1410

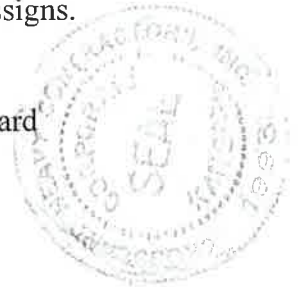
fax 620.429.2977

Corporate Resolution

BE IT RESOLVED: that at the monthly meeting of the Board of Directors of Crossland Heavy Contractors, Inc., held on the 27th day of October 2023, the Board of Directors did, by unanimous decision, authorize Mark Sell, Chris Walters, Erick Lowe, Justin Lillie, Dan Thompson or Ivan Crossland, Jr. to sign on behalf of said Corporation all documents and papers pertaining to the business of said Corporation.

All documents signed by Mark Sell, Chris Walters, Justin Lillie, Dan Thompson, Erick Lowe or Ivan Crossland, Jr. on behalf of Crossland Heavy Contractors, Inc. shall be legally binding on Crossland Heavy Contractors, Inc. and their successors and assigns.


Mark Sell, Executive Chairman Of The Board



ATTEST: 
Holly Rhodes, Secretary

State of Kansas, County of Cherokee:

Before me, the undersigned Notary Public in and for the County and State aforesaid, personally appeared Mark Sell, Chairman Of The Board of Crossland Heavy Contractors, Inc. a corporation duly organized and existing in the State of Kansas, and he acknowledged the same on behalf of said Corporation.

In witness thereof I have set my hand and affixed my seal this 4th day of November 2024.


Notary Public

My Commission Expires:

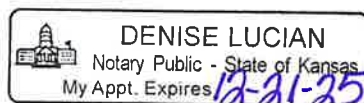


EXHIBIT A

Guaranteed Max Price #1 Proposal



West Cedar Creek Sewer Interceptor

GMP 2 Submission

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CROSSLAND HEAVY CONTRACTORS

501 South East Ave.
Columbus, KS 66725
Tel: 620.429.1410

February 4, 2025
Aaron Wasko & Nicole Woods
Project Managers
West Cedar Creek Sewer Interceptor
City of Olathe, Kansas

RE: West Cedar Creek Sewer Interceptor – GMP #2

Mr. Wasko and Ms. Woods,

Crossland Heavy Contractors is pleased to present to you the GMP #2 for the West Cedar Creek Sewer Interceptor project based on design documents provided by the Trekk Design Group / Allgeier Martin & Associates Design Team. The basis of the GMP as presented has been developed based on the following documents being submitted within the GMP. Below is the summary of costs for consideration of approval with a GMP 2 amount of **\$30,044,776**.

Total Cost of Work =	\$25,148,671
General Conditions Fee (7% of Cost of Work) =	\$1,760,407
Construction Managers Fee (5.75% of Total Cost of Work) =	\$1,547,272
Bonds & Insurance Fee (1.6% of Total Cost of Work) =	\$430,545
Contingency Including 5.75% CM Fee =	\$1,135,521
GMP 2 Total =	\$30,044,776

Please call or email with questions or concerns regarding the Guaranteed Maximum Price Proposal.

Respectfully,

Ryan Adler
Director of Pre-Construction
479-721-5082
radler@heavycontractors.com
Crossland Heavy Contractors

Statement of Estimated Cost

WEST CEDAR CREEK SEWER INTERCEPTOR PRICING SUMMARY

COST MODEL SUMMARY		GMP 1	GMP 2	COMBINED TOTALS
ITEM		TOTAL COST	TOTAL COST	TOTAL COST
A	GENERAL CONDITIONS	\$ -	\$ -	\$ -
B	EROSION CONTROL	\$ 189,613	\$ -	\$ 189,613
C	TREE CLEARING	\$ 631,913	\$ -	\$ 631,913
D	GENERAL SITEWORK	\$ 368,500	\$ -	\$ 368,500
E	BLASTING	\$ 53,500	\$ -	\$ 53,500
F	SITE IMPROVEMENTS	\$ -	\$ -	\$ -
G	PIPING SYSTEMS COMPLETE	\$ -	\$ 18,996,606	\$ 18,996,606
H	TRENCHLESS EXCAVATION	\$ -	\$ 4,836,492	\$ 4,836,492
I	INTERCEPTOR LIFT STATION	\$ -	\$ 616,378	\$ 616,378
YY	SUBCONTRACTOR BONDING	\$ 10,000	\$ 319,721	\$ 329,721
ZZ	SUBCONTRACTOR MOBILIZATION	\$ 52,500	\$ 379,475	\$ 431,975
TOTAL COST OF WORK =		\$ 1,306,026	\$ 25,148,671	\$ 26,454,698
GC FEE (7.0% OF COST OF WORK) =		\$ 91,422	\$ 1,760,407	\$ 1,851,829
ESTIMATED TOTAL COST OF WORK =		\$ 1,397,448	\$ 26,909,078	\$ 28,306,527
CM FEE (5.75% OF COST OF WORK) =		\$ 80,353	\$ 1,547,272	\$ 1,627,625
BONDS & INSURANCE FEE (1.6% OF COST OF WORK) =		\$ 22,359	\$ 430,545	\$ 452,904
CONTINGENCY INCLUDING 5.75% FEE =		\$ 65,751	\$ 1,135,521	\$ 1,201,273
PROJECT TOTAL =		\$ 1,543,553	\$ 30,044,776	\$ 31,588,329

Allowances

West Cedar Creek Sewer Interceptor – Allowance & Alternate Items

Allow. #:	Allowance Descriptions	Unit	Qty	Unit Price	Cost
G1.26	30" & 42" SEWER MAIN IMPROVEMENTS (LINE A) - ROCK EXCAVATION	CY	1000	\$140	\$140,000.00
G3.20	30" & 42" SEWER MAIN IMPROVEMENTS (LINE B) - ROCK EXCAVATION	CY	1000	\$140	\$140,000.00
G4.14	36" GRAVITY SEWER (LINE C) - ROCK EXCAVATION	CY	1000	\$140	\$140,000.00
I46	SITE SECURITY, RESTORATION AT STREAMWAYS (ALLOWANCE) ATV	LS	1	\$80,000	\$80,000.00

Description and Recommendation of Allowance Items:

1. 30" & 42" Sewer Main Improvements (Line A) – Rock Excavation Allowance – G1.26
 - a. This allowance item has been included within the pipeline subcontractors' scope of work to allow for rock excavation where geotechnical borings aren't provided.
2. 30" & 42" Sewer Main Improvements (Line B) – Rock Excavation Allowance – G3.20
 - a. This allowance item has been included within the pipeline subcontractors' scope of work to allow for rock excavation where geotechnical borings aren't provided.
3. 36" Gravity Sewer (Line C) – Rock Excavation Allowance – G4.14
 - a. This allowance item has been included within the pipeline subcontractors' scope of work to allow for rock excavation where geotechnical borings aren't provided.
4. Site Security, Restoration at Streamways ATV Allowance – I46
 - a. This allowance item has been included to provide for site restoration activities deemed necessary at streamways as well as site security fencing, cameras, etc. as needed.

**Construction Manager
Statement of Intended Self-
Perform Bid Packages**

Construction Manager Intended Self-Perform Bid Packages

Crossland Heavy Contractors Intends to self-perform the following bid packages:

1. CHC will not self-perform any of the bid packages in GMP 2.

Assumptions & Clarifications

West Cedar Creek Sewer Interceptor

General Assumptions & Clarifications:

- 1) 1.6% fees for Bonds & Insurance from GMP No.1 have been included into this GMP since they were omitted from GMP No. 1.
- 2) The Tunnel Bores under the BNSF railways have been assumed to be fully in rock since the Tier 3 Geotechnical Borings have not been completed.
- 3) For excavations where Geotechnical Borings aren't provided, the following shall apply:
 - a) Excavations are classified as Unclassified.
 - b) Rock shall be defined as any stone or boulders that cannot be removed with the use of a Caterpillar D-8 Dozer with a single tooth ripper (mass grading), a Caterpillar 349 tracked excavator equipped with rock teeth (utility trenches), or equipment of similar power and capability.
 - c) Station 200+00 to 272+00 – Rock to be assumed 5' above the flowline of the pipe.
 - d) Station 323+00 to 385+00 - Rock to be assumed 5' above the flowline of the pipe.
- 4) A rock excavation allowance has been included in the amount of \$420,000.
- 5) The outstanding BNSF Railroad Permit shall be acquired by 07/31/2025
- 6) The fiber optic conduit installation has been removed from the scope.
- 7) The number of Trench Plugs are planned to be reduced as a cost savings, and the GMP No. 2 has been capped at \$206,000 for the installation of the required Trench Plugs.
- 8) Open Cut Excavations are included for Dennis Avenue, 135th Street, and 127th Street.
- 9) Tunnel Boring is included for the two Railroad Crossings and Old 56 Highway.
- 10) Stream Stabilization has not been included in this GMP No. 2.
- 11) The Trench Cap requirement has been waived and not included in this GMP No. 2.
- 12) Construction Staking is not included in this GMP No. 2.
- 13) City of Olathe property adjacent to the easements can be utilized for material storage and construction staging.
- 14) Additional Northern Long Eared Bat tree survey or any special or additional requirements related to the protection of bats are not included in this GMP No. 2.
- 15) Pricing and schedule are contingent upon Olathe City Council's approval of GMP No. 2 on 02/18/2025.
- 16) Taxes are not included in the GMP.
- 17) Prevailing Wage rates are not included in this GMP No. 2.
- 18) All easements shall be acquired by 12/01/2025.