

AGREEMENT

THIS AGREEMENT is entered into this 7th day of November, 1994, between the ROCKFORD DITCH ASSOCIATION (hereinafter "Ditch Company"), and HENDRICK RANCH ASSOCIATES, L.L.C., a Colorado limited liability company (hereinafter "Developer");

WITNESSETH:

WHEREAS, the Developer is the owner of certain real property situated in the Town of Carbondale, County of Garfield, State of Colorado, which property is more specifically described on the Final Plat for the Hendrick Ranch P.U.D. (hereinafter "Final Plat"), and as described in Reception No. 471033, of the records of the Garfield County Clerk & Recorder (hereinafter "Property"); and

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WHEREAS, the Ditch Company owns the water rights in Rockford Ditch, which ditch crosses the Property in the location as shown on the Final Plat and is labeled thereon as "Rockford Ditch Easement"; and

WHEREAS, the Developer intends to obtain final P.U.D. approval for the Property from the Town of Carbondale (hereinafter "Town") for the Hendrick Ranch P.U.D., and Developer will be required to enter into a Subdivision Improvements Agreement (hereinafter "SIA") with the Town; and

WHEREAS, the Developer and the Ditch Company agree that Rockford Ditch shall be piped underground across the entire Property, and the Town has recommended the construction of such an underground piping system; and

WHEREAS, the Developer and the Ditch Company desire to cooperate in the construction of the Rockford Ditch pipe system, and the purpose of this Agreement is to set forth the parties' respective rights and obligations which regard to said pipe system.

WHEREFORE, for and in consideration of the mutual covenants contained herein, the sufficiency of which is hereby acknowledged, the Developer and the Ditch Company agree as follows:

1. Pipeline Design. The Developer agrees to construct and install a pipeline system for the Rockford Ditch across the Property in conformance with the design drawings and specifications prepared by High Country Engineering and using good workmanship, which are attached as Exhibits A and B and incorporated herein by this reference. Said design drawings and specifications for the construction of the pipeline are hereby approved by the Ditch Company.

2. Responsibility for Pipeline. The Ditch Company agrees that it is solely responsible for the purchase and installation of all necessary grates to keep debris and other objects from flowing into the pipe, and the Ditch Company shall provide such in its sole

LEAVENWORTH & CALOIA
ATTN: SHERRY CALOIA
1011 GRAND AVE.
GLENWOOD SPRINGS, CO 81601

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discretion and at its sole cost.

3. Security. In the event that the pipeline improvements are not completed before execution of the SIA between the Town of Carbondale and the Developer, Developer shall provide adequate security to the Town for completion of such improvements as they are set forth on Exhibit B, for the benefit of the Ditch Company. In the event that such improvements are not adequately completed, Developer agrees that the Town shall require that the security be used to complete said improvements.

4. Safety Locks. All manholes covers on the pipeline shall be designed to allow the Ditch Company to install safety locks, which locks may be purchased and installed at the sole discretion and cost of the Ditch Company.

5. Ditch Easement. Simultaneously with the filing of the Final Plat, the Town, for itself, its heirs, successors, and assigns, shall grant a perpetual thirty (30) foot easement to the Ditch Company over, above, across, through, and under that portion of the Property situated directly above the underground pipeline, which easement shall extend twenty (20) feet on the east side of the ditch center line, and ten (10) feet on the west side of the center line, for the purpose of installation, construction, operation, maintenance, repair or replacement of the Rockford pipeline, as more fully shown on Exhibits A and B. Such easement deed is attached hereto as Exhibit C.

The Developer agrees, for itself, its heirs, successors and assigns not to interfere with the Ditch Company's use of said easement, and to refrain from constructing, or allowing another party to construct, any structure, building, facility, or similar improvement on the easement. The parties recognize that the Town has required Developer to construct an asphalt bicycle path for dedication to the Town to the specifications as set forth in the SIA, and in accordance with the specifications therein such path may, at the Town and Developer's sole option and responsibility, cross the easement as shown on Exhibit B.

The Developer shall include the easement on the Final Plat documents for the development. Developer or the Town further agrees to convey said easement to the Ditch Company by a deed, simultaneous with the execution of this Agreement, free and clear of all liens and encumbrances which would interfere, as determined by the Ditch Company, with its use of the easement. The Ditch Company may specifically use heavy equipment to conduct maintenance, repair, replacement and other necessary activities on the ditch, pipeline structure, manholes, fencing, and grates.

6. Date of Completion. All construction in connection with the pipeline set forth in this Agreement may be commenced after November 7, 1994, and must be completed on or before December 15, 1994, subject to approval by the Ditch Company. The Developer shall notify the Ditch Company four days prior to actual installation of the pipeline. Notification shall be a telephone call to Mark Nieslanik. The parties to this Agreement agree that time is of the essence with regard to the execution of the provisions of this Agreement.

7. Open Ditch. Nothing herein shall prevent the Ditch Company from reconstructing the Rockford Ditch as an open irrigation ditch if it in its sole discretion so decides. Any reconstruction as an open ditch shall be accomplished at the cost of the Ditch Company.
8. Weaver and Leonhardy. When the Weaver and Leonhardy Ditch (a/k/a Weaver Ditch) crossing is moved or eliminated, the Ditch Company shall have full authority to fill the area to fully bury its pipeline.
9. Ownership and Maintenance. The pipeline, when fully constructed and installed, shall be the property of the Ditch Company, and shall be the responsibility of the Ditch Company to maintain. Any and all warranties or guarantees associated with any materials, labor, design and workmanship of the pipeline, and inlet and outlet structures, manholes, burying of the pipeline, and all other work and facilities shall inure to the benefit of the Ditch Company, its heirs, successors, and assigns.
10. Overflow Easement. Developer shall convey to the Ditch Company a six-foot wide nonexclusive easement for the sole purpose of diverting or carrying Rockford Ditch water overflow. Such easement is as shown on the Final Plat along the southerly boundary of the property labelled "Overflow Irrigation Ditch." The easement and deed conveying such is attached hereto as Exhibit D. Developer shall construct said ditch.
11. Covenants in This Agreement. The parties agree and intend that this Agreement shall run with the Property and be a burden and covenant on that Property.
12. Waiver of Defects. In executing this Agreement, Developer waives all objections it may have concerning defects, if any, in the formalities whereby it is executed, and concerning the procedure, substance, and form of this Agreement.
13. Captions. The captions in this Agreement are inserted only for the purpose of convenient reference and in no way define, limit, or prescribe the scope or intent of this Agreement or any part thereof.
14. Invalid Provision. If any provision of this Agreement shall be determined to be void by any court of competent jurisdiction, then such determination shall not affect any other provision hereof, all of which other provisions shall remain in full force and effect, and such void provision shall be replaced with a valid provision which most closely sets forth the intentions of the parties. It is the intention of the parties hereto that if any provision of this Agreement is capable of two constructions, one of which would render the provision void, and the other of which would render the provision valid, then the provision shall have the meaning which renders it valid.
15. Governing Law. The laws of the State of Colorado shall govern the validity, performance, and enforcement of this Agreement. Should either party institute legal suit or action for enforcement of any obligation contained herein, it is agreed that the venue of such suit or action shall be in Garfield County, Colorado.

16. Complete Agreement. This Agreement constitutes the entire and complete agreement of the parties on the subject matter herein. No promise or undertaking has been made by any party, and no understanding exists with respect to the transaction herein contemplated, except as expressly set forth herein. All prior and contemporaneous negotiations and understandings between the parties are embodied and merged into this Agreement. Any modification or amendment must be in a written form and executed in the same manner as this Agreement.

17. Attorney Fees, Costs. In the event that either party deems it necessary to pursue litigation to enforce any provision of this Agreement, the prevailing party shall be entitled to reasonable attorney fees and costs of suit actually incurred in such litigation.

18. Binding. This Agreement shall be binding upon and inure to the benefit of the parties and their assigns and successors in interest.

19. Authority. Each person executing this Agreement represents and warrants that he or she has been duly authorized by one of the parties to execute this Agreement and has authority to bind said party to the terms and conditions hereof.

20. Severability. In the event any term or condition of this Agreement is declared invalid by court of competent jurisdiction, this Agreement and all other terms and conditions shall remain in full force and effect.

21. Notices. All notices, requests, demands, consents, and other communications pertaining to this Agreement shall be transmitted in writing and shall be deemed duly given when received by the parties at their addresses below or any subsequent addresses provided to the other party in writing.

Notice to Developer:

Hendrick Ranch Associates, L.L.C.
c/o Jon D. Seigle, Manager
Seigle Management Group
925 Chatfield Road
Aspen, CO 81611

Notice to Ditch Company:

Rockford Ditch Association
c/o Mark Nieslanik, President
38 Pine Street
Carbondale, CO 81623

With copy to:

Leavenworth & Caloia, P.C.
P. O. Drawer 2030
Glenwood Springs, CO 81602

IN WITNESS WHEREOF, the Ditch Company and the Developer have caused this Agreement to be executed on the day and year first written above.

HENDRICK RANCH ASSOCIATES, L.L.C.

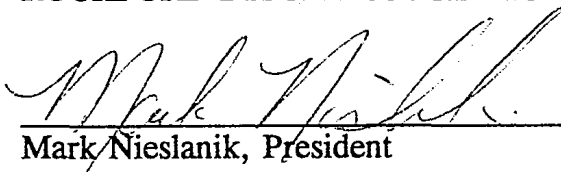
By



Jon D. Seigle, Manager


ROCKFORD DITCH ASSOCIATION

By



Mark Nieslanik, President

ATTEST



Margaret Palmer, Secretary

STATE OF COLORADO)
COUNTY OF Garfield) ss.

Acknowledged, subscribed, and sworn to before me this 15th day of November, 1994, by Jon D. Seigle, Manager, Hendrick Ranch Associates, L.L.C.

WITNESS my hand and official seal.

My Commission expires: 12/23/96

Margaret A. Joy
Notary Public

STATE OF COLORADO)
COUNTY OF Garfield) ss.

Acknowledged, subscribed, and sworn to before me this 16th day of November, 1994, by Mark Nieslanik, President, Rockford Ditch Association.

WITNESS my hand and official seal.

My Commission expires: 8/22/98

Antonia Palmuth
Notary Public

STATE OF COLORADO)
COUNTY OF Garfield) ss.

Acknowledged, subscribed, and sworn to before me this 7th day of November, 1994, by Margaret Palmer, Secretary, Rockford Ditch Association.

WITNESS my hand and official seal.

My Commission expires: 11-8-96

Ellen J. Gaugle
Notary Public

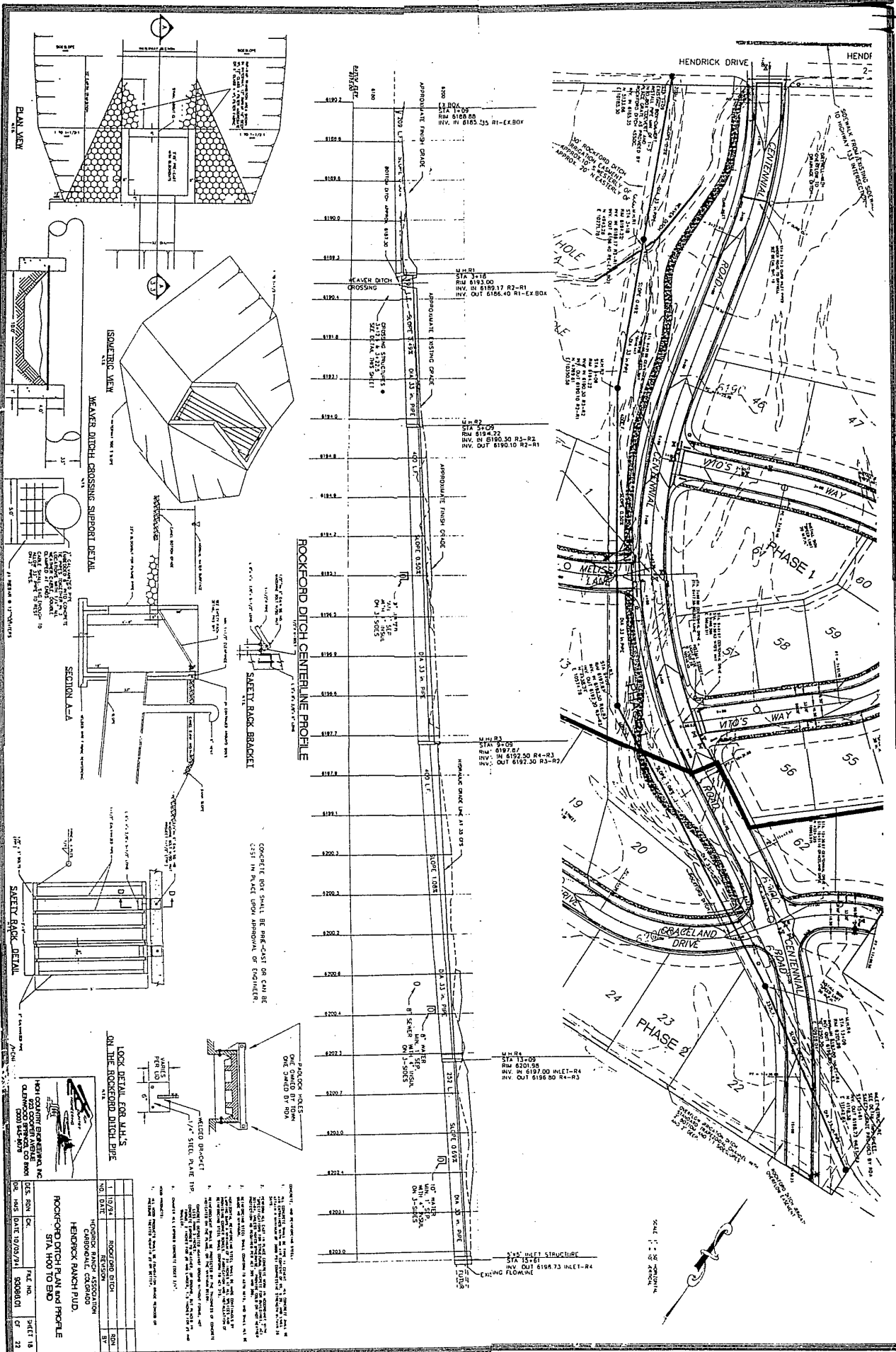
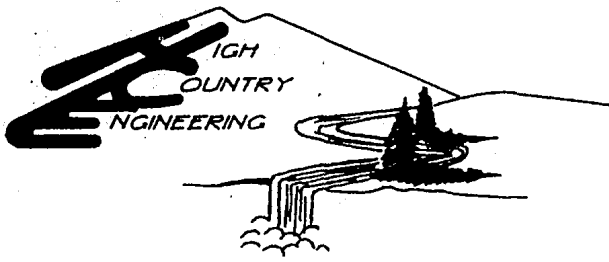


EXHIBIT A
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**ADDENDUM No. 1**

**Hendrick Ranch Subdivision
HCE Job No. 93086.02
November 14, 1994**

TO ALL PROSPECTIVE BIDDERS:

Contents of this Addendum No. 1 supersede previously issued contract drawings, specifications and addenda, additions or deletions only insofar as specifically stated herein. All other portions of those documents remain in full force and effect.

This Addendum No. 1 consists of the following items:

1. Scope of work has been modified to include an overflow ditch along the south boundary of the project, including a flume pipe and headwalls.
2. Addition of a support structure for 33" storm drain pipe over Weaver irrigation ditch.
3. Addition of an irrigation line inlet structure.
4. Pipeline size for the Rockford Ditch has changed from 30" to 33".
5. An additional bid schedule reflecting the above items is included as part of this Addendum No. 1. All bids shall be submitted on this revised bid schedule.

SUPPLEMENTARY CONDITIONS SPECIFIC TO ROCKFORD DITCH PIPELINE1. GENERAL

Work to be performed under this section consists of furnishing all labor, materials, equipment and accessories and performing all operations to complete the Rockford Ditch pipeline in accordance with the drawings and specifications.

The Bidder is required to examine carefully the site of the proposed work, the proposal, plans and specifications. He shall satisfy himself as to the character, quality, and quantities of work to be performed, materials to be furnished, and as to the requirements of these specifications. The submission of a Proposal shall be evidence that the Bidder has made such an examination.

2. SCOPE OF WORK

The scope of work for this project includes, but is not limited to, excavation, trenching and backfilling for the installation of the Rockford Ditch pipe, installation of an inlet structure and four manholes, grading of overflow ditch, and placement of 36" flume pipe and headwalls.

3. PIPE

Pipe shall be 33" Ultra-Flo type IR with seamseal and joint seals, and overflow pipe shall be 36" CMP type 1. Both shall be in accordance with the following Guide Specification for Corrugated Metal Pipe and Pipe Arches for Sewers and Drains.

4. CONSTRUCTION STAKING

Owner will provide construction stakes establishing lines, slopes, and bench marks as deemed necessary by the Engineer. These stakes and marks shall constitute the field control by and in accordance with which the Contractor shall establish other necessary controls and perform the work.

The owner will provide staking for each phase of the project defined as follows:

- a. Rockford Ditch Pipe. Stakes with invert and rim cut or fill elevations will be provided at center of manholes and on each end of the projected sewer line beyond each manhole. Contractor will advise surveyor of the desired extension distance beyond manholes, sewer line offset distances and which side of sewer line to stake.

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All of the above staking will be done one time only. Contractor shall notify the Engineer at least two business days in advance to schedule any staking services. Any additional staking or restaking requested by the Contractor will be charged to the Contractor on a time and materials basis.

The Contractor shall be responsible for the preservation of all stakes and marks until the items of construction which they govern have been checked by the Owner or his representative, and removal of the stakes is approved. If any of the construction stakes or marks are carelessly or willfully destroyed or disturbed by the Contractor, the cost of replacing them may be charged against him and deducted from the payment for the work.

5. CLASSIFICATION OF EXCAVATION

All excavation for construction shall be unclassified. The cost of trench excavation shall be included in the unit price of the pipeline installation.

The Contractor shall assume all responsibility for deductions and conclusions which may be made as to the nature of the materials to be excavated, including the difficulty of making and maintaining the required excavation, problems caused by ground water should such be encountered, problems encountered in excavating for lines and structures, and any other difficulties which may result from the geological and physical conditions encountered at the site of the work.

6. CONCRETE STRENGTH REQUIREMENTS

The minimum 28-day compressive strength for all site work concrete (including curb and gutter, pans, sidewalks, drainage structures, and headwalls) shall be 4000 pounds per square inch. Slump shall be one to four inches, and entrained air content shall be $6\% \pm 1\%$.

7. TOPSOIL

Topsoil stripping and stockpiling shall be in accordance with section 02100 of the Technical Specifications.

8. EARTHWORK

Earthwork shall be in accordance with section 02200 of the Technical Specifications.

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9. TRENCHING, EXCAVATION AND BACKFILLING

Trenching, excavation and backfilling of pipelines shall be in accordance with section 02221 of the Technical Specifications.

10. CAST IN PLACE CONCRETE AND REINFORCING STEEL

Cast in place concrete and reinforcing steel for manholes inlet structures and headwalls shall be in accordance with section 03300 of the Technical Specifications.

11. RELATED SITE WORK

Related site work shall be in accordance with Supplementary Conditions specific to site work, SC-1 - SC-5.

12. BID ITEM ADJUSTMENTS

The following items will not be required in the current Bid Schedule.

EST. QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL PRICE
1452	L.F.	30" Storm Drain.	\$ 50.00	\$72,600.00
4	Each	30" Fittings.	\$500.00	\$ 2,000.00
Job	L.S.	Connection to Existing Box Culvert.	\$750.00	\$ 750.00

The following Bid Items need to be added to the current Bid Schedule.

EST. QTY.	UNIT	DESCRIPTION	UNIT PRICE	TOTAL PRICE
1452	L.F.	33" Storm Drain. (Ultra Flo)	\$	\$
1	Each	Inlet Structure.	\$	\$
12	L.F.	36" CMP.	\$	\$
1	L.S.	Support Structure.	\$	\$
2	Each	Headwalls (for 36" CMP).	\$	\$
Job	L.S.	Overflow Ditch	\$	\$

ADDENDUM TOTAL \$ _____

GUIDE SPECIFICATION
FOR
CORRUGATED METAL PIPE AND PIPE ARCHES
FOR SEWERS AND DRAINS

Guide Specification
for

**CORRUGATED METAL PIPE AND PIPE ARCHES
for SEWERS and DRAINS**

1. SCOPE OF SPECIFICATION

- 1.1 This specification covers corrugated metal pipe and flared end sections intended for use for storm water drainage, underdrains, culverts, and similar uses.
- 1.2 The steel sheet used in fabrication of the pipe shall have a protective metallic coating of zinc or aluminum. The aluminum sheet used in fabrication of the pipe shall not have a protective coating.
- 1.3 This specification is intended for corrugated metal pipe, pipe arches and flared end sections in accordance with these Specifications and in conformance with the lines and grades shown on the plans.

2. SCOPE OF WORK

Scope of work shall include furnishing all labor, materials, and equipment to construct the corrugated metal pipe and pipe arches to the dimensions, lines and grades as shown in the plans and specified herein, including but not limited to the following related work:

- 2.1 Furnish and place corrugated metal pipe and pipe arches.
- 2.2 Furnish and place all backfill to limits shown.
- 2.3 Furnish and install all slope collars, headwalls, wingwalls, cutoff walls.
- 2.4 Incidental construction necessary to complete the work in accordance with the plans and specifications.

3. REFERENCES

- 3.1 American Association of State Highway & Transportation Officials (AASHTO)

3.1.1 Materials

M 218 - Steel Sheet, Zinc-Coated (Galvanized) for Corrugated Steel Pipe
M 274 - Steel Sheet, Aluminum Coated (Type 2) for Corrugated Steel Pipe
M 197 - Aluminum Alloy Sheet for Corrugated Aluminum Pipe

3.1.2 Pipe Manufacturing

M 36 - Corrugated Steel Pipe, Metallic-Coated, for Sewers and Drains
 M 196 - Corrugated Aluminum Pipe for Sewers and Drains

3.1.3 Pipe Design

Standard Specification for Highway Bridges, Section 12 - Soil-Corrugated Metal Structure Interaction Systems

3.1.4 Pipe Installation

Standard Specification for Highway Bridges, Section 26 - Metal Culverts

3.2 American Society of Testing Materials (ASTM)**3.2.1 Materials**

A 444 - Steel Sheet, Zinc-Coated (Galvanized) by the Hot-Dip Process for Storm Sewer and Drainage Pipe

A 819 - Steel Sheet, Aluminum-Coated Type 2 for Storm Sewer and Drainage Pipe

B 744 - Aluminum Alloy Sheet for Corrugated Aluminum Pipe

3.2.2 Pipe Manufacturing

A 760 - Corrugated Steel Pipe, Metallic-Coated for Sewers and Drains

B 745 - Corrugated Aluminum Pipe for Sewers and Drains

3.2.3 Pipe Design

A 796 - Structural Design of Corrugated Steel Pipe, Pipe-Arches, and Arches for Storm and Sanitary Sewers and Other Buried Applications

B 790 - Structural Design of Corrugated Aluminum Pipe, Pipe-Arches, and Arches for Culverts, Storm Sewers, and Other Buried Conduits

3.2.4 Pipe Installation

A 798 - Installing Factory-Made Corrugated Steel Pipe for Sewers and Other Applications

B 788 - Installing Factory-Made Corrugated Aluminum Culverts and Storm Sewer Pipe

4. CLASSIFICATION

- 4.1 Classification shall be as follows for this Specification of corrugated metal pipe and pipe arch:
- 4.1.1 Type I - This pipe shall have a full circular cross section, with a single thickness of corrugated sheet, fabricated with annular or helical corrugations. Standard CMP.
- 4.1.2 Type IR - This pipe shall have a full circular cross section with a single thickness of smooth sheet, fabricated with helical ribs projecting outward. Spiral ribbed CMP or ULTRA FLO pipe.
- 4.1.3 Type II - This pipe shall be a Type I pipe which has been reformed into a pipe-arch, having an approximately flat bottom. Standard CMPA.
- 4.1.4 Type IIR - This pipe shall be a Type IR pipe which has been reformed into a pipe-arch, having an approximately flat bottom. Spiral ribbed pipe-arch or arched ULTRA FLO.
- 4.1.5 Type III - This pipe, intended for use as underdrains or for underground disposal of water, shall be a Type I pipe which has been perforated to permit the inflow or outflow of water. Standard perforated CMP.

4. MATERIALS

4.1 Corrugated Metal Pipe

- 4.1.1 Corrugated metal pipe shall be manufactured by Contech Construction Products Inc. or Engineer approved equal 14 days prior to bid date.
- 4.1.2 Steel Sheet for Pipe - All pipe fabricated under this specification shall be formed from zinc-coated sheet conforming to AASHTO M 218, or aluminum-coated sheet conforming to AASHTO M 274. Type of coating to be specified in the plans.
- 4.1.3 Aluminum Sheet for Pipe - All pipe fabricated under this specification shall be formed from aluminum-alloy sheet conforming to AASHTO M197.
- 4.1.4 Thickness (gage) specified by the Manufacturer's Published Data as verified by Published Industry Standards for the sizes and types used, unless specified otherwise in the plans.
- 4.1.5 Pipe shall be fabricated with helical corrugations having a continuous lock seam extending from end to end of each length of pipe. Each end of each length of pipe shall be rerolled to an annular corrugation. The rerolling shall be a minimum of three corrugations.

4.2 Coupling Bands

4.2.1 Coupling bands shall be Hugger-Type to allow the use of o-ring gaskets as described in section 4.2.5.

4.2.2 Steel Sheet for Coupling Bands - The sheet used in fabricating coupling bands shall conform to the same specification listed in section 4.1.2.

4.2.3 Aluminum Sheet for Coupling Bands - The sheet used in fabricating coupling bands shall conform to the same specification listed in section 4.1.3.

4.2.4 Hardware for Coupling Bands - Bolts and nuts shall conform to the standards set forth in AASHTO M 36 and AASHTO M 196 for the appropriate pipe material.

4.2.5 O-ring Gaskets - These gaskets shall meet or exceed the requirements of AASHTO M 198 and used in conjunction with Hugger-Type Coupling Bands. The use of a TC-40 type mastic will be required at the lap joint with o-ring gaskets. The requirement for the use of o-ring gaskets will be noted on the drawings.

4.3 Fabricated Fittings

4.3.1 Fittings shall be for horizontal and vertical deflections, as specified in the plans.

4.3.2 Fittings may also be for any accessory such as inlets, manhole structures and manhole risers, as specified in the plans.

4.3.3 Fittings shall be at least the same material thickness and coating as the pipeline to which they are joined.

4.4 Flared End Sections

4.4.1 Flared end sections shall be manufactured by Contech Construction Products Inc. or Engineer approved equal 14 days prior to bid date.

4.4.2 Flared end sections shall be at least the same material thickness as the pipeline to which they are joined. The material and coating may differ from that of the pipeline.

4.4.3 Trash racks may be used as specified in the plans.

5. EXECUTION

5.1 Bedding

5.1.1 The bedding shall be of the same materials used for backfill of the pipe. The bed shall be free of rock formations, protruding stones, frozen lumps, roots and any foreign matter that may cause unequal settlement.

5.1.2 The bedding shall be shaped as to conform to the invert of the pipe placed or a well graded material may be used with tamping under the haunches of the pipe..

5.2 Placement of Pipe

5.2.1 The pipe shall be placed in the trench with proper care not to damage the pipe or pipe coating.

5.2.2 The invert of the pipe shall be in full contact with the bedding materials.

5.2.3 Coupling bands shall be attached so the second annular corrugation on the end of the pipe locks in with the corrugation in the coupling band. The first annular corrugation shall be used for the o-ring gasket when required. Gasket lube will be required whenever o-ring gaskets are used.

5.3 Backfill

5.3.1 Backfill material shall be free of rocks, frozen lumps and foreign material that could cause hard spots or decompose to create voids.

5.3.2 Backfill material shall be well graded, non-plastic material. Silts and clays shall not be used, unless approved by the Engineer.

5.3.3 Type of backfill condition and trench shall be recommended by the pipe manufacturer for the type of backfill materials used.

5.3.4 Compaction equipment or methods that cause excessive deflection, distortion or damage shall not be used.

6. METHOD OF MEASUREMENT

6.1 Corrugated metal pipe and pipe aches will be measured for payment per linear foot in place. Length of pipelines with bevel cut ends or flared end sections will be measured along the centerline.

7. BASIS OF PAYMENT

- 7.1 The accepted quantities of corrugated pipe and pipe arches will be paid for at the contract unit price for each of the pay items listed below that appear in the bid schedule.
- 7.2 Except as otherwise indicated on the plans, all bands, o-rings, fittings, cut ends and flared end sections will not be paid separately, but shall be included in the work.

<u>Number</u>	<u>Pay Item</u>	<u>Pay Unit</u>
	Corrugated Steel Pipe (Galvanized)	Linear Foot
	Corrugated Steel Pipe (Aluminized Type 2)	Linear Foot
	Corrugated Steel Pipe Arch (Galvanized)	Linear Foot
	Corrugated Steel Pipe Arch (Aluminized Type 2)	Linear Foot
	Corrugated Aluminum Pipe	Linear Foot
	Corrugated Aluminum Pipe Arch	Linear Foot
	ULTRA FLO Pipe (Galvanized)	Linear Foot
	ULTRA FLO Pipe (Aluminized Type 2)	Linear Foot
	ULTRA FLO Pipe (Aluminum)	Linear Foot
	ULTRA FLO Pipe Arch (Galvanized)	Linear Foot
	ULTRA FLO Pipe Arch (Aluminized Type 2)	Linear Foot
	ULTRA FLO Pipe Arch (Aluminum)	Linear Foot

- 7.2 Structure excavation and structural backfill, including test pits, will be measured and paid for in accordance with the Excavation and Backfill for Structures Specification Section.

EASEMENT AGREEMENT

THIS AGREEMENT is made this 14th day of November, 1994, between the TOWN OF CARBONDALE, COLORADO, a Colorado municipal corporation, and the ROCKFORD DITCH ASSOCIATION, a Colorado corporation. For good and valuable consideration, the receipt of which is acknowledged, the parties agree as follows:

The Town of Carbondale hereby grants unto Rockford Ditch Association, a perpetual easement situate, lying and being in the County of Garfield, and State of Colorado, described as follows and subject to the terms and conditions set forth below:

An easement thirty (30) feet in width for the Rockford Ditch & Pipeline as shown on the final plat for Phase I, Hendrick Ranch PUD, recorded in the Office of the Garfield County Clerk and Recorder as Reception No. _____, labeled thereon as "Easement for Rockford Ditch."

The thirty (30) foot easement granted hereby is for the purpose of construction, use, operation, maintenance, repair and replacement of a ditch and/or pipeline known as the Rockford Ditch.

The Town of Carbondale hereby agrees that no structure, building, facility, fence, recreational or other equipment or improvements shall be constructed within said easement area with the exception of an asphalt bicycle path, which shall not be located directly above the pipeline except where necessary. The Town of Carbondale shall have the right to maintain and use the land subject to this easement as open space and for related purposes following the construction and installation of the pipeline so long as such use does not interfere with the use of the easement by the Rockford Ditch Association for purposes set forth herein.

The parties acknowledge the prior existing prescriptive easement for the Rockford Ditch as it crosses the property known as Hendrick Ranch PUD. To the extent that the portions of such historic prescriptive easement are outside of the easement described herein, such portions outside of the herein described thirty (30) foot easement are hereby released and vacated. The Rockford Ditch Association agrees that the Rockford Ditch and/or pipeline where it crosses the property known as Hendrick Ranch PUD shall be located solely within the thirty (30) foot easement described herein.

Notwithstanding any other provision hereof to the contrary, the Rockford Ditch Association shall, before excavation of those areas of the thirty (30) foot easement described herein within the Hendrick Ranch PUD which are platted and dedicated as a roadway, provide prior notice to the Town of Carbondale of any such construction. If excavation is necessary, the Rockford Ditch

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Association agrees to repair the road to substantially the same condition it was in prior to excavation, and to the extent that such repair is not inconsistent with the Carbondale Municipal Code, the Rockford Ditch Association shall comply with Chapter 12.04 of the Carbondale Municipal Code, as it currently exists or as it may be from time to time amended, but shall in no event be required to comply with Section 12.04.050(5) and (6), 12.04.100(6)(B), 12.04.110 and 12.04.130 of that Chapter or any amendments thereto which would impose a requirement of posting a bond, any amendment which imposes more onerous requirements, additional or special conditions not agreed to by the Rockford Ditch Association, or an indemnity. In the event of reconstruction of the Rockford Ditch as an open ditch, said ditch shall be located entirely within the thirty (30) foot easement granted hereby and the Town of Carbondale shall have the right to review the profile of the ditch to be reconstructed prior to such reconstruction. The Rockford Ditch Association shall cooperate with the Town in the profile of the ditch. The reconstructed open ditch will be culverted underneath all roadways.

The Rockford Ditch Association shall be solely responsible for all maintenance and repair and all liability associated with the design, construction or use of the Rockford Ditch and/or pipeline, except to the extent that such ditch or pipeline or related facilities are damaged by the acts of the Town of Carbondale or a third party.

This agreement shall inure to the benefit and detriment of the parties hereto and shall be binding upon execution by the parties.

TOWN OF CARBONDALE, COLORADO

By: 

William K. Gray, Mayor

ATTEST:


Suzanne Cerise, Town Clerk

THE ROCKFORD DITCH ASSOCIATION

By: _____

Mark Nieslanik, President

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ATTEST:

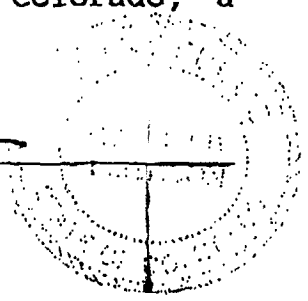
Margaret Palmer, Secretary

STATE OF COLORADO)
) ss.
COUNTY OF GARFIELD)

Subscribed, sworn to, and acknowledged before me this 14th day of November, 1994, by William K. Gray as Mayor and Suzanne Cerise as Town Clerk of the Town of Carbondale, Colorado, a Colorado municipal corporation.

Witness my hand and official seal.

[Signature]
Notary Public



My commission expires: 11/17/97

STATE OF COLORADO)
) ss.
COUNTY OF GARFIELD)

Subscribed, sworn to, and acknowledged before me this day of November, 1994, by Mark Nieslanik as President and Margaret Palmer as Secretary of the Rockford Ditch Association, a Colorado corporation.

Witness my hand and official seal.

Notary Public

My commission expires:

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