

PUBLIC WORKS MEMORANDUM
#43-2024

DATE: Nov. 18, 2024

TO: Honorable Mayor Meredith Leighty and City Council Members

THROUGH: Heather Geyer, City Manager *hmg*
Jason Loveland, Deputy City Manager *AL2*

FROM: Sarah Borgers, P.E., Director of Public Works *SB*

SUBJECT: CR-173 – On-Call Meter Replacement Change Order #1

PURPOSE

To consider CR-173, a resolution approving Change Order #1 to the contract with Brannan Construction Company for the On-Call Meter Replacement Project.

BACKGROUND

In May 2024, the City Manager approved a Professional Services Agreement to Brannan Construction for On-Call Meter Replacement in the amount of \$50,000. A copy of the agreement is included as Attachment 1.

The contract provides for on-call repair and/or replacement of residential water meters throughout the City. Staff identified 41 meters that needed to be moved from inside customer homes to an outside, accessible location. The contractor completed 15 meters. The remaining meters require additional funding to move.

Each of these individual meter projects comes with challenges that make estimating price difficult – particularly since evaluating existing meters requires access inside customer residences. Staff and Brannan Construction have evaluated the remaining work and estimate that \$110,000 would cover the cost for the remaining meters.

BUDGET/TIME IMPLICATIONS

Staff is requesting a change order in the amount of \$110,000 to cover the cost to replace the remaining residential water meters. The adjusted total expenditure limit is proposed at \$160,000, coming from the Water Fund. The project continuation would begin in 2024 and would roll into 2025 for completion.

	Amount
On-Call Meter Replacement contract	\$50,000
Change Order #1	\$110,000
Total Expenditure	\$160,000

STAFF RECOMMENDATION

Attached is CR-173, a resolution that, if approved, would authorize the City Manager to execute Change Order #1 to the contract between the City and Brannan Construction for the On-Call Meter Replacement Project in an amount not to exceed \$110,000. The total project cost would not exceed \$160,000. Staff recommends approval of CR-173.

CR-173 – On-Call Meter Replacement Change Order #1
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STAFF REFERENCE

If Council Members have any questions, please contact Sarah Borgers, P.E., Public Works Director, at sborgers@northglenn.org or 303.450.4005.

ATTACHMENT

1. On-Call Meter Replacement Contract 2024-091

CR-173 – On-Call Meter Replacement Change Order #1

AGREEMENT FOR PROFESSIONAL SERVICES

THIS AGREEMENT is made and entered into this 1st day of May 2024 by and between the City of Northglenn, State of Colorado (hereinafter referred to as the "City") and Brannan Construction Company (hereinafter referred to as "Contractor").

RECITALS:

A. The City requires professional services.

B. Contractor has held itself out to the City as having the requisite expertise and experience to perform the required work for the Project.

NOW, THEREFORE, it is hereby agreed for the consideration hereinafter set forth, that Contractor shall provide to the City, professional consulting services for the Project.

I. SCOPE OF SERVICES

Contractor shall furnish all labor and materials to perform the work and services required for the complete and prompt execution and performance of all duties, obligations, and responsibilities for the Project which are described or reasonably implied from **Exhibit A** which is attached hereto and incorporated herein by this reference.

II. THE CITY'S OBLIGATIONS/CONFIDENTIALITY

The City shall provide Contractor with reports and such other data as may be available to the City and reasonably required by Contractor to perform hereunder. No project information shall be disclosed by Contractor to third parties without prior written consent of the City or pursuant to a lawful court order directing such disclosure. All documents provided by the City to Contractor shall be returned to the City. Contractor is authorized by the City to retain copies of such data and materials at Contractor's expense.

III. OWNERSHIP OF WORK PRODUCT

The City acknowledges that the Contractor's work product is an instrument of professional service. Nevertheless, the products prepared under this Agreement shall become the property of the City upon completion of the work.

IV. COMPENSATION

A. In consideration for the completion of the services specified herein by Contractor, the City shall pay Contractor an amount not to exceed fifty thousand dollars (\$50,000). Payment shall be made in accordance with the schedule of charges in **Exhibit B** which is attached hereto and incorporated herein by this reference. Invoices will be itemized and include hourly breakdown for all personnel and other charges. The maximum fee specified herein shall include all fees and expenses incurred by Contractor in performing all services hereunder.

B. Contractor may submit monthly or periodic statements requesting payment. Such request shall be based upon the amount and value of the work and services performed by Contractor under this Agreement except as otherwise supplemented or accompanied by such supporting data as may be required by the City.

1. All invoices, including Contractor's verified payment request, shall be submitted by Contractor to the City no later than the twenty-fourth (24th) day of each month for payment pursuant to the terms of this Agreement. In the event Contractor fails to submit any invoice

on or before the twenty-fourth (24th) day of any given month, Contractor defers its right to payment pursuant to said late invoice until the twenty-fourth (24th) day of the following month.

2. Progress payments may be claimed on a monthly basis for reimbursable costs actually incurred to date as supported by detailed statements, including hourly breakdowns for all personnel and other charges. The amounts of all such monthly payments shall be paid within thirty (30) days after the timely receipt of invoice as provided by this Agreement.

C. The City has the right to ask for clarification on any Contractor invoice after receipt of the invoice by the City.

D. In the event payment for services rendered has not been made within forty-five (45) days from the receipt of the invoice for any uncontested billing, interest will accrue at the legal rate of interest. In the event payment has not been made within ninety (90) days from the receipt of the invoice for any uncontested billing, Contractor may, after giving seven (7) days written notice and without penalty or liability of any nature, suspend all work on all authorized services specified herein. In the event payment in full is not received within thirty (30) days of giving the seven (7) days written notice, Contractor may terminate this Agreement. Upon receipt of payment in full for services rendered, Contractor will continue with all authorized services.

E. Final payment shall be made within sixty (60) calendar days after all data and reports (which are suitable for reproduction and distribution by the City) required by this Agreement have been turned over to and approved by the City and upon receipt by the City of Contractor's certification that services required herein by Contractor have been fully completed in accordance with this Agreement and all data and reports for the Project.

V. COMMENCEMENT AND COMPLETION OF WORK

Within seven (7) days of receipt from the City of a Notice to Proceed, Contractor shall commence work on all its obligations as set forth in the Scope of Services or that portion of such obligations as is specified in said Notice. Except as may be changed in writing by the City, the Project shall be complete, and Contractor shall furnish the City the specified deliverables as provided in **Exhibit A**.

VI. CHANGES IN SCOPE OF SERVICES

A change in the Scope of Services shall constitute any material change or amendment of services or work which is different from or additional to the Scope of Services specified in Section I of this Agreement. No such change, including any additional compensation, shall be effective, or paid unless authorized by written amendment executed by the City. If Contractor proceeds without such written authorization, then Contractor shall be deemed to have waived any claim for additional compensation, including a claim based on the theory of unjust enrichment, quantum merit or implied contract. Except as expressly provided herein, no agent, employee, or representative of the City shall have the authority to enter into any changes or modifications, either directly or implied by a course of action, relating to the terms and scope of this Agreement.

VII. PROFESSIONAL RESPONSIBILITY

A. Contractor hereby warrants that it is qualified to assume the responsibilities and render the services described herein and has all requisite corporate authority and professional licenses in good standing, required by law.

B. The work performed by Contractor shall be in accordance with generally accepted professional practices and the level of competency presently maintained by other practicing professional firms in the same or similar type of work in the applicable community.

C. Contractor shall be responsible for the professional quality, technical accuracy, timely completion, and the coordination of all designs, drawings, specifications, reports, and other services furnished by Contractor under this Agreement. Contractor shall, without additional compensation, correct or resolve any errors or deficiencies in his designs, drawings, specifications, reports, and other services, which fall below the standard of professional practice, and reimburse the City for construction costs caused by errors and omissions which fall below the standard of professional practice.

D. Approval by the City of drawings, designs, specifications, reports, and incidental work or materials furnished hereunder shall not in any way relieve Contractor of responsibility for technical adequacy of the work. Neither the City's review, approval or acceptance of, nor payment for, any of the services shall be construed to operate as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement, and Contractor shall be and remain liable in accordance with applicable performance of any of the services furnished under this Agreement.

E. The rights and remedies of the City provided for under this Agreement are in addition to any other rights and remedies provided by law.

VIII. INDEMNIFICATION

A. INDEMNIFICATION – GENERAL: The City cannot and by this Agreement does not agree to indemnify, hold harmless, exonerate or assume the defense of the Contractor or any other person or entity whatsoever, for any purpose whatsoever. Provided that the claims, demands, suits, actions or proceedings of any kind are not the result of professional negligence, the Contractor, to the fullest extent permitted by law, shall defend, indemnify and hold harmless the City, its Council members, officials, officers, directors, agents and employees from any and all claims, demands, suits, actions or proceedings of any kind or nature whatsoever, including worker's compensation claims, in any way resulting from or arising from the services rendered by Contractor, its employees, agents or subcontractors, or others for whom the Contractor is legally liable, under this Agreement; provided, however, that the Contractor need not indemnify or save harmless the City, its Council members, its officers, agents and employees from damages resulting from the negligence of the Council members, officials, officers, directors, agents and employees.

B. INDEMNIFICATION FOR PROFESSIONAL NEGLIGENCE: The Contractor shall, to the fullest extent permitted by law, defend, indemnify and hold harmless the City, its Council members, and any of its officials, officers, directors, and employees from and against damages, liability, losses, costs and expenses, including reasonable attorneys fees, but only to the extent caused by or arising out of the negligent acts, errors or omissions of the Contractor, its employees, agents or subcontractors, or others for whom the Contractor is legally liable, in the performance of professional services under this Agreement. The Contractor is not obligated under this subparagraph IX.B. to indemnify the City for the negligent acts of the City, its Council members, or any of its officials, officers, directors, agents and employees.

C. INDEMNIFICATION – COSTS: Contractor shall, to the fullest extent permitted by law, defend, investigate, handle, respond to, and provide defense for and defend against, any such liability, claims or demands at the sole expense of Contractor or, at the option of the City, agrees to pay the City or reimburse the City for the defense costs incurred by the City in connection with any such liability, claims or demands. Contractor shall, to the fullest extent permitted by law, defend and bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not any such liability, claims or demands alleged are groundless, false or fraudulent. If it is determined by the final judgment of a court of any competent jurisdiction that such injury, loss or damage was caused in whole or in part by the act, omission or other fault of the City, its Council members, officials, officers, directors, agents and employees, the City shall reimburse Contractor for

the portion of the judgment attributable to such act, omission or other fault of the City, its Council members, officials, officers, directors, agents and employees.

D. To the extent this Agreement is subject to C.R.S. § 13-50.5-102(8), Contractor's liability under this provision shall be to the fullest extent of, but shall not exceed, that amount represented by the degree or percentage of negligence or fault attributable to Contractor, any subcontractor of Contractor, or any officer, employee, representative, or agent of Contractor or of any subcontractor of Contractor. If Contractor is providing architectural, engineering, surveying or other design services under this Agreement, the extent of Contractor's obligation to defend, indemnify and hold harmless the City may be determined only after Contractor's liability or fault has been determined by adjudication, alternative dispute resolution or otherwise resolved by mutual agreement of the Parties, as provided by C.R.S. § 13-50.5-102(8)(c).

IX. INSURANCE

A. The Contractor agrees to obtain and maintain during the life of this Contract, a policy or policies of insurance against all liability, claims, demands, and other obligations assumed by Contractor pursuant to Section IX. above. Such insurance shall be in addition to any other insurance requirements imposed by this Contract or by law. The Contractor shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to Section IX above, by reason of its failure to obtain or maintain during the life of this Contract insurance in sufficient amounts, durations, or types.

B. Contractor shall obtain and maintain during the life of this Contract and shall cause any subcontractor to obtain and maintain during the life of this Contract, the minimum insurance coverages listed below. Such coverages shall be obtained and maintained with forms and insurers acceptable to the City. All coverages shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by the Contractor pursuant to Section IX. above. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

1. Worker's Compensation Insurance to cover obligations imposed by applicable law for any employee engaged in the performance of the work under this Contract, and Employers Liability Insurance with minimum limits of five hundred thousand dollars (\$500,000) each incident, five hundred thousand dollars (\$500,000) disease - policy limit, and five hundred thousand dollars (\$500,000) disease - each employee.

2. Commercial general liability insurance with minimum combined single limits of one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) general aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, products, and completed operations. The policy shall contain a severability of interests provision.

3. Professional liability insurance on projects over \$1,000,000 with minimum limits of six hundred thousand dollars (\$600,000) each claim and one million dollars (\$1,000,000) general aggregate.

C. The policy required by paragraph 2. above shall be endorsed to include the City and the City's officers, employees, and Contractors as additional insureds. Every policy required above shall be primary insurance, and any insurance carried by the City, its officers, its employees, or its Contractors shall be excess and not contributory insurance to that provided by Contractor. No additional insured endorsement to the policy required by paragraph 1. above shall contain any exclusion for bodily injury or property damage arising from completed operations. Contractor shall

be solely responsible for any deductible losses under any policy required above.

D. The certificate of insurance provided for the City shall be completed by Contractor's insurance agent as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect, and shall be reviewed and approved by the City prior to commencement of the Agreement. No other form of certificate shall be used. If the City is named as an additional insured on any policy which does not allow for the automatic addition of additional insureds, the Contractor's insurance agent shall also provide a copy of all accompanying endorsements recognizing the City as an additional insured. The certificate shall identify this Agreement and shall provide that the coverages afforded under the policies shall not be cancelled, terminated or materially changed until at least thirty (30) days prior written notice has been given to the City. The completed certificate of insurance shall be sent to:

City of Northglenn
Attn: Risk Manager
11701 Community Center Drive
Northglenn, Colorado 80233-8061

E. Failure on the part of Contractor to procure or maintain policies providing the required coverages, conditions, and minimum limits shall constitute a material breach of agreement upon which the City may immediately terminate this Agreement, or at its discretion, the City may procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the City shall be repaid by Contractor to the City upon demand, or the City may offset the cost of the premiums against any monies due to Contractor from the City.

F. The City reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

G. The parties hereto understand and agree that the City, its officers, and its employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations (presently three hundred fifty thousand dollars (\$350,000) per person and nine hundred ninety thousand dollars (\$990,000) per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Colo. Rev. Stat. §§ 24-10-101, et seq., as from time to time amended, or otherwise available to the City, its officers, or its employees.

X. NON-ASSIGNABILITY

Neither this Agreement, nor any of the rights or obligations of the parties hereto, shall be assigned by either party without the written consent of the other.

XI. TERMINATION

This Agreement shall terminate at such time as the work in Section I is completed and the requirements of this Agreement are satisfied, or upon the City's providing Contractor with seven (7) days advance written notice, whichever occurs first. In the event the Agreement is terminated by the City's issuance of said written notice of intent to terminate, the City shall pay Contractor for all work previously authorized and completed prior to the date of termination. If, however, Contractor has substantially or materially breached the standards and terms of this Agreement, the City shall have any remedy or right of set-off available at law and equity. If the Agreement is terminated for any reason other than cause prior to completion of the Project, any use of documents by the City thereafter shall be at the City's sole risk, unless otherwise consented to by Contractor.

XII. CONFLICT OF INTEREST

The Contractor shall disclose any personal or private interest related to property or business within the City. Upon disclosure of any such personal or private interest, the City shall determine if the interest constitutes a conflict of interest. If the City determines that a conflict of interest exists, the City may treat such conflict of interest as a default and terminate this Agreement.

XIII. VENUE

This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in the County of Adams, State of Colorado.

XIV. INDEPENDENT CONTRACTOR

Contractor is an independent contractor. Notwithstanding any provision appearing in this Agreement, all personnel assigned by Contractor to perform work under the terms of this Agreement shall be, and remain at all times, employees or agents of Contractor for all purposes. Contractor shall make no representation that it is the employee of the City for any purposes.

XV. NO WAIVER

Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the City shall not constitute a waiver of any of the other terms or obligation of this Agreement.

XVI. ENTIRE AGREEMENT

This Agreement and the attached **Exhibits A and B** is the entire Agreement between Contractor and the City, superseding all prior oral or written communications. None of the provisions of this Agreement may be amended, modified, or changed, except as specified herein.

XVII. SUBJECT TO ANNUAL APPROPRIATION

Consistent with Article X, Section 20 of the Colorado Constitution, any financial obligations of the City not to be performed during the current fiscal year are subject to annual appropriation, and thus any obligations of the City hereunder shall extend only to monies currently appropriated.

XVII. NOTICE

Any notice or communication between Contractor and the City which may be required, or which may be given, under the terms of this Agreement shall be in writing, and shall be deemed to have been sufficiently given when directly presented or sent pre-paid, first class United States Mail, addressed as follows:

The City: City of Northglenn
11701 Community Center Drive
Northglenn, Colorado 80233-8061

Contractor: Brannan Construction Company
2500 E Brannan Way
Denver, CO 80229

IN WITNESS WHEREOF, the parties hereto each herewith subscribe the same in duplicate.

CITY OF NORTHGLENN, COLORADO

By: Heather Geyer

Heather Geyer
Print Name

City Manager 5.1.24
Title

ATTEST:

Johanna Small 05/02/2024
Johanna Small, MMC Date
City Clerk

APPROVED AS TO FORM:

Corey Y. Hoffmann 5/2/24
Corey Y. Hoffmann Date
City Attorney

CONTRACTOR: BRANNAN CONSTRUCTION COMPANY

By: J. C. Marvel, Jr.

J. C. Marvel, Jr.
Print Name

President 4/24/2024
Title Date

ATTEST:

By: Ann VanPortfliet
Ann VanPortfliet
Print Name
Secretary/Treasurer 4/24/2024
Title Date

ON-CALL SCOPE OF SERVICES

1. The following list includes potential required services, but may not be limited to:
 - a. Attend construction meetings as required.
 - b. Provide equipment and materials for repair and/or replacement of water meters throughout the City of Northglenn, complete-in-place, including:
 - i. Excavation and protection of existing area.
 - ii. Removal and disposal of existing materials.
 - iii. New meter installation.
 - iv. Backfill (including flow fill) and compaction of trenches.
 - c. Work site storing of all construction equipment and materials.
 - d. Work site safety and security conforming to OSHA standards.
 - e. Restoration of project area as approved by the City.
 - f. Provide erosion control measures when required.
 - g. Any other work as requested by the City.

2. The Contractor is required to follow all applicable City Public Right-of-Way Standard and Specifications (latest edition) in the repair and/or replacement of water meters.



BRANNAN CONSTRUCTION COMPANY
2024 Labor Rates

<u>Description</u>	<u>Unit</u>	<u>Rate</u>	<u>Ot Rate</u>
PROJECT MANAGER	HR	\$ 105.00	\$ 157.50
PROJECT SUPERVISOR	HR	\$ 100.00	\$ 150.00
PROJECT ASSISTANT	HR	\$ 79.00	\$ 112.50
FOREMAN	HR	\$ 76.00	\$ 114.00
OPERATOR/CREW LEAD MAN	HR	\$ 69.00	\$ 103.50
PIPELAYER	HR	\$ 58.00	\$ 87.00
LABORER	HR	\$ 51.00	\$ 76.50
PARTS RUNNER	HR	\$ 58.00	\$ 87.00
MECHANIC-FUEL TRUCK	HR	\$ 53.00	\$ 79.50
TRUCK DRIVER	HR	\$ 53.00	\$ 79.50
LOW-BOY DRIVER	HR	\$ 58.00	\$ 87.00

Equipment Rates

<u>Description</u>	<u>Unit</u>	<u>Rate</u>
PICKUP TRUCK w/ CREW TOOLS	HR	\$ 45.00
UTILITY TRUCKS w/ Welder	HR	\$ 63.00
TRENCH BOX	HR	\$ 63.00
125 AIR COMPRESSOR	HR	\$ 42.00
GENERATOR	HR	\$ 79.00
VAC TRAILER	HR	\$ 116.00
SMALL WACKER GENSET	HR	\$ 42.00
WELDING MACHINE	HR	\$ 16.00
BACKHOE	HR	\$ 90.00
WHEEL LOADER	HR	\$ 105.00
SKID STEER LOADER	HR	\$ 82.00
SKID STEER BROOM ATTACHMENT	HR	\$ 42.00
SKID STEER BREAKER ATTACHMENT	HR	\$ 42.00
WALK BEHIND PLATE COMPACTOR	HR	\$ 37.00
JUMPING JACK COMPACTOR	HR	\$ 42.00
EXCAVATOR - SMALL	HR	\$ 142.00
EXCAVATOR - MEDIUM	HR	\$ 163.00
EXCAVATOR - LARGE	HR	\$ 210.00
EXCAVATOR COMPACTOR ATTACHMENT	HR	\$ 48.00
TANDEM AXLE DUMP TRUCK	HR	\$ 98.00
END DUMP TRAILER	HR	\$ 139.00
WATER TRUCK	HR	\$ 90.00
LOW-BOY TRACTOR TRAILER	HR	\$ 168.00
2" PUMP	HR	\$ 27.00
3" PUMP	HR	\$ 32.00
4" PUMP	HR	\$ 37.00
Small Power/Pneumatic Hand Tools	HR	\$ 17.00

*** Equipment Rates do NOT include operator.

CONTRACT APPROVAL

TO: City Manager

FROM: Engineering Division

SUBJECT: On Call Meter Replacement Contract

Project Name

On Call Meter Replacement

Project Description

The on-call contractor will provide equipment and material for the repair and/or replacement of residential water meters throughout the City.

Contract approval


City Manager Approval

Contract Amount

\$50,000

Funding Source

50.65.260.62330



Kent Kisselman, PE
Director of Public Works

5/1/25

Date

SPONSORED BY: MAYOR LEIGHTY

COUNCIL MEMBER'S RESOLUTION

RESOLUTION NO.

No. CR-173
Series of 2024

Series of 2024

A RESOLUTION APPROVING CHANGE ORDER NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT BETWEEN THE CITY OF NORTHGLENN AND BRANNAN CONSTRUCTION COMPANY FOR THE ON-CALL METER REPLACEMENT PROJECT

WHEREAS, the City of Northglenn entered into a Professional Services Agreement dated May 1, 2024 with Brannan Construction Company for an amount not to exceed \$50,000.00 for the on-call meter replacement project; and

WHEREAS, the City desires to supplement the Agreement with Change Order No. 1 to allow for an additional scope of services.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NORTHGLENN, COLORADO THAT:

Section 1. Change Order No. 1 to the Professional Services Agreement between the City of Northglenn and Brannan Construction Company, attached hereto, for a total amount not to exceed \$110,000.00 for the on-call residential water meter replacement project is hereby approved and the Mayor is authorized to execute same on behalf of the City of Northglenn. The total project amount shall not exceed \$160,000.00.

DATED, at Northglenn, Colorado, this _____ day of _____, 2024.

MEREDITH LEIGHTY
Mayor

ATTEST:

JOHANNA SMALL, MMC
City Clerk

APPROVED AS TO FORM:

COREY Y. HOFFMANN
City Attorney

