

SUPERIOR METROPOLITAN DISTRICT NO. 1
RESOLUTION NO. R-4
SERIES 2022

A RESOLUTION OF THE SUPERIOR METROPOLITAN DISTRICT NO. 1
BOARD OF DIRECTORS APPROVING A CONSTRUCTION CONTRACT WITH
SUMMERS CONSTRUCTION FOR THE INSTALLATION OF A SEWER MAIN
TO SERVE THE KUPFNER SUBDIVISION

BE IT RESOLVED BY THE METROPOLITAN DISTRICT NO. 1 BOARD OF
DIRECTORS, as follows:

Section 1. The construction contract between the Superior
Metropolitan District No. 1 and Summers Construction for the
installation of a sewer main to serve the Kupfner subdivision is
hereby approved in substantially the same form as attached hereto,
subject to final approval by the Town Attorney.

ADOPTED this 26th day of September, 2022.



Clint Folsom, President

ATTEST:



Lydia Yecke, Acting Secretary



CONSTRUCTION CONTRACT

THIS CONSTRUCTION CONTRACT (the "Contract") is made and entered into this 26th day of September, 2022 (the "Effective Date"), by and between the Superior Metropolitan District No. 1, 124 East Coal Creek Drive, Superior, CO 80027, a Colorado municipal corporation (the "District"), and Summers Construction, an independent contractor with a principal place of business at 3490 Helena Street, Aurora, CO 80011 ("Contractor") (each a "Party" and collectively the "Parties").

For the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Scope of Work. Contractor shall perform the following described work (the "Work"), in accordance with this Contract and the Contract Documents, attached hereto and incorporated herein by this reference:

Installation of 773 LF of sewer main within Superior Self Storage and the Kupfner Subdivision

2. Bonds. Within 10 days of the date of this Contract, Contractor shall provide the payment and performance bond and certificate of insurance required by the Contract Documents.

3. Commencement and Completion of Work. Contractor shall commence the Work within 10 days of date of the Notice to Proceed. Substantial Completion of the Work shall be accomplished by the 30th day of January 2023, unless the period for completion is extended otherwise in accordance with the Contract Documents. Final Completion of the Work shall be accomplished within 60 days of the date of Substantial Completion.

4. Compensation/Contract Price. The District agrees to pay Contractor, subject to all of the terms and conditions of the Contract Documents, for the Work, an amount not to exceed \$299,110. The Town shall pay Contractor in the manner and at such times as set forth in the General Provisions such amounts as required by the Contract Documents.

5. Keep Jobs In Colorado Act. Pursuant to the Keep Jobs in Colorado Act, C.R.S. § 8-17-101, *et seq.* (the "Act"), and the rules adopted by the Division of Labor of the Colorado Department of Labor and Employment implementing the Act (the "Rules"), Contractor shall employ Colorado labor to perform at least 80% of the work under this Contract and shall obtain and maintain the records required by the Act and the Rules. For purposes of this Section, "Colorado labor" means a person who is a resident of the state of Colorado at the time of this Contract, without discrimination as to race, color, creed, sex, sexual orientation, marital status, national origin, ancestry, age, or religion except when sex or age is a *bona fide* qualification. A resident of the state of Colorado is a person with a valid Colorado driver's license, a valid Colorado state-issued photo identification, or documentation that he or she has resided in Colorado for the last 30 days. Contractor represents that it is familiar with the requirements of the Act and the Rules and will fully comply with same. This Section shall not apply to any project for which appropriation or expenditure of moneys may be reasonably expected not to exceed \$500,000 in the aggregate for any fiscal year.

6. Governing Law and Venue. This Contract shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Boulder County, Colorado.

7. No Waiver. Delays in enforcement or the waiver of any one or more defaults or breaches of this Contract by the District shall not constitute a waiver of any of the other terms or obligation of this Contract.

8. Integration. This Contract and any attached exhibits constitute the entire Contract between Contractor and the District, superseding all prior oral or written communications.

9. Third Parties. There are no intended third-party beneficiaries to this Contract.

10. Notice. Any notice under this Contract shall be in writing, and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail, addressed to:

The District: Alex Ariniello
Town of Superior
124 East Coal Creek Drive
Superior, CO 80027

Contractor: ADAM SUMMERS
SUMMERS CONSTRUCTION
3490 HELWIG ST
AURORA, CO 80011

11. Severability. If any provision of this Contract is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

12. Modification. This Contract may only be modified upon written agreement of the Parties.

13. Assignment. Neither this Contract nor any of the rights or obligations of the Parties shall be assigned by either party without the written consent of the other.

14. Governmental Immunity. The District and its officers, attorneys and employees are relying on, and do not waive or intend to waive by any provision of this Contract, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the District and its officers, attorneys or employees.

15. Rights and Remedies. The rights and remedies of the District under this Contract are in addition to any other rights and remedies provided by law. The expiration of this Contract shall in no way limit the District's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

16. Subject to Annual Appropriation. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the District not performed during the current fiscal year

is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement or liability beyond the current fiscal year.

IN WITNESS WHEREOF, this Construction Contract has been executed by the Parties as of the Effective Date.



SUPERIOR METROPOLITAN DISTRICT NO. 1

Clint Folsom
Clint Folsom, President

ATTEST:

Lydia Yecke
Lydia Yecke, Acting Secretary



CONTRACTOR

By: [Signature]

STATE OF COLORADO)
) ss.
COUNTY OF Adams)

The foregoing instrument was subscribed, sworn to and acknowledged before me this 7th day of October, 2022 by Kimberly D. Mcchesney as Office Manager of Summers Construction.

My commission expires: 5-30-2023

(SEAL)

Kimberly D. Mcchesney
Notary Public

KIMBERLY DAWN MCHESNEY
NOTARY PUBLIC - STATE OF COLORADO
Notary ID #20154021068
My Commission Expires May 30, 2023