

Project: CORAL CANYON

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RUSSELL SHIRTS \* WASHINGTON CO RECORDER  
1999 MAY 07 12:10 PM FEE \$88.00 BY BJ  
FOR: SUNCOR DEVELOPMENT CO

SUNCOR DEVELOPMENT COMPANY  
321 N. Mall Drive  
Suite H  
St. George, Utah  
(435) 634-9455

## STANDARD CONSTRUCTION AGREEMENT

This Agreement is made this 20<sup>th</sup> day of April, 1999, by and between **SUNCOR DEVELOPMENT COMPANY** ("Owner") and **Progressive Contracting, Inc.** an Utah corporation ("Contractor"), Utah Contractor's License No. 89-249391-550, relating to the project known as Coral Canyon (the "Project") on Owner's property located in Washington County, Utah and legally described in Exhibit A attached hereto and incorporated herein by this reference. Owner and Contractor agree as follows:

1. The Work and Contract Documents. Contractor agrees to furnish, at its sole expense, to the satisfaction of Owner, all labor, equipment and materials necessary to complete the work described below (the "Work"):

**Install Pressure Sewer Outfall Line and Waterline Extension and Fire Hydrants... as described in the Contract Documents.**

The Contract Documents are listed on Exhibit B attached hereto and incorporated herein by this reference. The Contract Documents consist of this Agreement, the Plans and Specifications, the completed Bid Proposal Form, Owners Estimated Quantities, Supplemental Bid Information and all other documents set forth in Exhibit B.

2. Contract Time. Contractor shall commence the Work on or about **May 3, 1999**, but in no event later than 24 hours after issuance by Owner of a written Notice to Proceed. Contractor shall complete the Work not later than **28 days** after the date of commencement (the "Contract Time"). The date of commencement of the Work shall be the date established in Owner's Notice to Proceed. If there is no Notice to Proceed, the date of commencement shall be the date established in this paragraph.

3. Contract Sum. In consideration of the complete and timely performance of the Work, subject to changes as provided in this paragraph and in Paragraph 5 below, Owner shall pay Contractor the sum of **Two Hundred Twenty Seven Thousand, Four Hundred Seventy Four Dollars (\$227,474.00)** (the "Contract Sum"). The Contract Documents contain an engineer's estimate of the quantities of material to be installed on the Owner's property. These quantities were used in establishing the Contract Sum. The final Contract Sum will be adjusted according to actual field measurements of installed materials multiplied by the Contractor's per unit prices. Lump sum quantities will not be subject to adjustment. All such measurements are subject to confirmation by the Owner.

4. Inspection, Safety and Compliance. Contractor has inspected the jobsite and has thoroughly reviewed the Contract Documents including, without limitation, the Plans and Specifications listed on Exhibit B, as the same may be revised by Owner, and is not relying on any opinions or representations of Owner. Contractor agrees to perform and complete such Work in strict accordance with the Contract Documents and under the general direction of Owner in accordance with the Contract Time described in Paragraph 2 above as the same may be revised. Contractor agrees that any exclusions of any Work must be approved in writing by Owner prior to acceptance of this Agreement or same shall not be excluded hereunder. Contractor is responsible for all safety precautions and programs and shall provide all protection and necessary supervision to implement said precautions and programs. Contractor shall take all reasonable precautions for the safety of and provide reasonable protection to prevent damage, injury or loss to: (a) employees or others on the Project; (b) the Work and materials; and (c) other property at the Project or adjacent thereto. Contractor shall designate a responsible person on the Project whose duty shall be prevention of accidents. Contractor shall provide all competent supervision necessary to execute all Work and any Work incidental thereto in a thorough, first-class workmanlike manner. It is Contractor's responsibility that all of the Work and any work incidental thereto conforms to, and is performed in accordance with all applicable federal, state, county and city laws, codes, ordinances, regulations (including NPDES and air pollution) and orders of public authorities bearing on performance of the Work by qualified, careful and efficient workers satisfactory to Owner. Contractor shall obtain all applicable licenses and permits for the conduct of its business and the performance of the Work.

5. Changes in the Work. Owner may, without invalidating this Agreement, order changes in the Work consisting of additions, deletions or other revisions to the Contract Documents and the Contract Sum and the Contract Time shall be adjusted as provided below. The Contract Sum and/or the Contract Time may only be changed by Owner's written directive or approval authorizing said change, and said changes shall be performed under the applicable conditions of the Contract Documents.

5.1 Contract Adjustments. The Contract Sum shall be adjusted as a result of a change in the Work as follows:

(a) Additions: When Owner increases the scope of the Work, Contractor will perform the increased work pursuant to Contractor's Unit Prices set forth in the Contract Documents and, if a lump sum item, pursuant to Contractor's Schedule of Hourly Charges as set forth in the Contract Documents.

(b) Deletions: When Owner decreases the Work resulting in a decrease in Contractor's quantity of the Work, Owner shall be allowed a decrease in the Contract Sum amounting to the quantity of the deleted Work multiplied by the Contractor's Unit Prices and if a lump sum item, pursuant to Contractor's Schedule of Hourly Charges set forth in the Contract Documents.

(c) Estimating: Whenever Owner is considering a change to the Work, Contractor shall promptly, and in any event within three (3) business days, estimate the price of the contemplated additional or deleted Work in good faith and as accurately as is then feasible. The estimate shall show quantities of labor, material and equipment and shall be pursuant to the Unit Prices and Schedule of Hourly Rates set forth in the Contract Documents.

6. Payment. Payment shall be conditioned upon Contractor's compliance with the payment terms and conditions set forth below, and payment shall be made within thirty (30) days of Contractor's full compliance with said terms and conditions. Contractor expressly acknowledges and agrees that the Contract Sum is an estimated amount based upon an engineer's estimate of the quantities of the materials deemed necessary to perform the Work and that the amount of any payment to be made pursuant to this Agreement shall be determined by the field measured quantities of materials actually installed by Contractor. Material or equipment delivered to the Project by or on behalf of Contractor shall not constitute material or equipment furnished in the performance of the Work until same has been incorporated into the improvements constituting the Project. Payment shall not constitute acceptance by Owner or evidence thereof of any Work performed.

6.1 Retention. Until the Work is complete and accepted by Owner or Owner's designated project representative and Owner has approved an application for payment of retention, Owner will pay 90% of the amount due Contractor on account of progress payments, with Owner retaining 10% until the Project is complete (the "Retention"). The word "complete" as used above shall apply to defective, incorrect, unfinished or incomplete work or latent defects which are discovered at, or immediately following, the point of completion of the Project.

6.2 Progress Payments. Except as provided in Paragraph 6.5, progress payments shall be made in monthly installments for work satisfactorily completed and materials incorporated into the Project. On a monthly basis, Contractor shall submit its itemized application for payment, supported by such data, including signed lien waivers, substantiating Contractor's right to payment as Owner's designated project representative may require or as required by this Agreement. Owner shall have the right to withhold payment to Contractor until Contractor furnishes satisfactory evidence that all bills for labor, materials or other liabilities in connection with the requested payment have been paid to date and valid lien waivers, as described below, have been furnished. Owner shall have the right to offset sums due Contractor hereunder against any and all sums owed to Owner by Contractor or to protect against any asserted claims or liens, until the claim or lien has been adjusted by the Contractor to Owner's satisfaction, regardless of whether Contractor may have posted a payment or performance bond.

6.3 Lien Waivers. Each application for payment submitted by Contractor shall be accompanied by:

- (i) Contractor's completed and fully executed lien waivers on progress payments inform satisfactory to Owner; and
- (ii) fully executed unconditional lien waivers on progress payments from all subcontractors, lower-tier subcontractors and materialmen inform satisfactory to Owner covering all work and materials related to the previous progress payment made by Owner, if any.

The submission of the foregoing lien waivers with each application for payment shall be a condition precedent to Contractor's right to payment, and any application for payment submitted without said lien waivers shall be deemed incomplete. Contractor warrants that title to all work, materials and equipment covered by an application for payment will pass to Owner by the earlier of

the incorporation of the Work or receipt of payment by Contractor, free and clear of all liens, claims, security interests or encumbrances.

6.4 Form of Payment. Owner may pay Contractor by check made payable to Contractor or by joint check made payable to Contractor and any subcontractor, lower-tier subcontractor or materialmen.

6.5 Bulk Material Orders. With the prior written approval of Owner, Contractor may advance order the bulk delivery of work materials to be incorporated into the Work over the course of this Agreement, and upon delivery and receipt of Contractor's proper application for payment Owner shall pay the full amount billed in the supplier invoice either directly to the Contractor, or to the vendor or by joint check to Contractor and vendor, and shall receive a full lien release for the amount paid from vendor and Contractor. Contractor agrees to assume full responsibility for the safekeeping of all said materials and shall guarantee to Owner that said materials shall remain safe from theft or damage from any and all causes (unless caused by the sole negligence of Owner). Contractor shall immediately replace, repair or restore said materials to their original condition so as to not cause any delay in the Work, and Contractor shall indemnify and hold harmless Owner from and against any and all loss, cost, liability or expense resulting from any loss or damage to any of the materials described herein from any cause unless due to Owner's sole negligence. Should Owner have reason to believe Contractor is not properly safeguarding any of the said materials, Owner shall have the right to immediately take such steps as it deems necessary to do so, including removing Contractor from the job, replacing any materials or expending any sums to properly carry out Contractor's responsibility hereunder, and any amounts so expended shall be billed back to Contractor or deducted from any sums then or thereafter due to Contractor. Contractor shall fully insure all materials stored on site as required by Owner, and if such insurance is not obtainable due to a lack of insurable interest, Owner shall have the right to obtain such insurance and charge the amount thereof back to Contractor or deduct said amount from any funds then or thereafter due to Contractor.

6.6 Final Progress Payment. Upon Contractor's application for final progress payment as provided below, Owner shall make payment in an amount determined by field measuring the quantities of materials actually installed on the Property and computing the payment amount pursuant to the Unit Prices and Schedule of Hourly Rates contained in the Contract Documents. When Contractor considers the Work complete, Contractor shall provide written notice thereof to Owner together with Contractor's statement of quantities actually installed on the Property. All quantities will be subject to verification by Owner and Owner's designated project representative may make an inspection. Final payment constituting the unpaid balance of the Contract Sum, excluding the Retention, shall be due thirty (30) days after Owner:

- (i) receives Contractor's completed and fully executed conditional lien waiver on progress payment, and fully executed unconditional lien waivers on progress payments from all subcontractors, lower-tier subcontractors and materialmen covering all work and materials related to the previous progress payment made by Owner. If any subcontractor or materialman refuses to furnish a release or waiver required by Owner, Owner may choose, in its discretion, to withhold back a sum from Contractor sufficient to satisfy the unpaid obligation to such subcontractor or materialman. Alternatively, Owner may require Contractor to

furnish a bond satisfactory to Owner to indemnify against any lien or claim being filed or stop notice being served by such subcontractor or materialman. If any such lien or claim remains unsatisfied after all payments are made, Contractor shall refund to Owner all monies that Owner may be compelled to pay in discharging such lien or stop notice, including all costs and reasonable attorneys' fees.

6.7 Payment of Retention. Payment of the Retention shall be conditioned upon the submittal to, and approval by, Owner of "AS-BUILT" drawings (if not supplied by Owner's engineer), operating instructions and manuals, equipment warranties and complete service and maintenance instructions for all equipment furnished under this Agreement. Payment of the Retention shall not be due from Owner until Owner:

- (i) receives Contractor's completed and fully executed lien waiver and release on final progress payment inform satisfactory to Owner,
- (ii) receives fully executed unconditional lien waivers on final payment from all subcontractors, lower-tier subcontractors and materialmen who provided any labor or materials to the Project inform satisfactory to Owner,
- (iii) determines the Work acceptable under the Contract Documents and the Agreement fully performed,
- (iv) receives final approval of the Work by all governmental agencies and political subdivisions having jurisdiction,
- (v) receives Contractor's affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which Owner or its Property might in any way be responsible have been paid or otherwise satisfied, and
- (vi) determines that Contractor has completed the correction or repair of any discovered condition required by Owner to be corrected or repaired.

7. Work by Owner or by Separate Contractors. The Owner reserves the right to perform work related to the Project with its own forces, and to award separate contracts in connection with such work. When separate contracts are awarded for different portions of the Project or other work on the site, the term "Contractor" in the Contract Documents in each case shall mean the contractor who executes each separate owner-contractor agreement. The Owner will provide for the coordination of the work of his own forces and of each separate contractor with the Work of the Contractor herein and the Contractor herein shall cooperate with the Owner's coordination of separate contractors.

8. Performance of the Work, Scheduling and Delay Damages.

8.1 Work Scheduling. Time is of the essence of this Agreement. Contractor shall provide Owner with any requested scheduling information and a proposed schedule for performance of the Work in a form acceptable to Owner providing for commencement and completion of the Work

within the Contract Time described in Paragraph 2 above. Owner may establish a final progress time schedule to be followed, and may revise such schedule during the course of the Work. Contractor, to induce Owner to enter into this Agreement, has and does hereby agree to fully perform and complete the Work for the Contract Sum within the Contract Time. Contractor shall prosecute the Work in a prompt and diligent manner and without hindering or delaying the work of other contractors or subcontractors on the Project. Contractor shall comply with instructions given by Owner, including any decision to suspend, delay or accelerate the Work.

8.2 Owner's Right to Stop, Carry Out or Correct the Work. If at any time during the performance of the Work, it should appear to the Owner, in its sole discretion, that Contractor will not complete its Work within the Contract Time and pursuant to a progress schedule as the same may be revised, or if the manner in which the Contractor carries out its obligations under this Agreement interferes for any reason with the ability of other contractors or workers to perform work on the same job in accordance with such time schedules, Owner shall have the sole and absolute right on seventy-two (72) hours written notice delivered to Contractor's usual place of business or if said place of business is closed or Contractor cannot be found at a place of business then by posting such written notice on the jobsite, to replace Contractor by taking over the Work or procuring another to complete this contract. In the event Owner deems it necessary to take over, any expense incurred thereby shall be deducted from any sum due to Contractor hereunder for the portion of the Work completed to the date of Owner's said take over, and if such sum is insufficient to defray such expenses, the deficiency shall be charged back to Contractor and shall be due and payable immediately to Owner upon demand. Such taking over shall not constitute or be construed as a waiver by Owner of any action, claim or demand Owner may have against Contractor by reason of injury or damage resulting to Owner because of Contractor's failure of performance hereunder. Contractor shall pay to Owner a sum equal to Owner's total cost of completing such work, and a sum for reasonable attorneys' fees and litigation expenses in taking over and completing such Work. In no event shall any delay in performance hereunder by Contractor be excused unless, and then to the extent only, such delay is excused by Owner in writing.

8.3 Additional Materials and/or Overtime. Contractor expressly agrees that if overtime or additional workers or materials are necessary to meet the Contract Time, that such overtime will be performed or additional workers or materials will be procured by the Contractor, and the additional expense thereof shall be borne by Contractor unless the delay requiring overtime shall have been occasioned directly by the Owner, in which event Contractor shall be entitled to compensation for such overtime work.

8.4 Delay by Contractor. Delays in the performance of the work by Contractor shall be excused only when due to causes beyond the control of the Contractor such as inclement weather, or acts of God; provided that Contractor shall notify Owner in writing within three (3) business days of any circumstance or event which Contractor believes may justify an extension of time.

8.5 Liquidated Damages. It is expressly understood that should Contractor fail to complete the Work covered hereby within the Contract Time, then Contractor agrees to pay and will pay to the Owner upon request therefor by Contractor for each calendar day of delay beyond the original or revised scheduled time of completion of Contractor's work as liquidated damages, and not as a penalty, the following amount: \$500 per day, and said sum shall be deducted as such from the



balance due Contractor. Should such liquidated damages exceed the sum due or to become due to Contractor, then Contractor shall pay to Owner such difference immediately upon written demand from the Owner.

8.5 Damages for Delay by Contractor. It is expressly understood that should Contractor fail to complete the Work covered hereby within the Contract Time, then Contractor shall be liable to Owner and agrees to pay Owner for all losses, costs, expenses, liabilities and damages, including direct, consequential and incidental damages, sustained by Owner or for which Owner may be liable to any other party because of Contractor's delay. The obligation of Contractor to Owner for delay damages under this paragraph shall be deducted from the balance due Contractor. Should such obligation for delay damages exceed the sum due or to become due to Contractor, then Contractor shall pay to Owner such difference immediately upon written demand from the Owner.

8.6 No Damage for Delay by Owner. Contractor shall adjust its operations to conform to any progress schedule changes and hereby waives and releases Owner from any liability for damages or expenses which may be caused to or sustained by Contractor by reason of such changes or by reason of delays in the Work, whether caused in whole or in part by conduct on the part of Owner, including without limitation, any breach of this Agreement or delays by other contractors or subcontractors. Contractor's exclusive remedy in event of delay by Owner shall be an extension of time hereunder to complete the Work.

9. Insurance. Prior to commencing any Work hereunder, Contractor, at its own expense, shall procure and at all times during the construction of the Project and until all obligations under this Agreement are satisfied maintain in force on all of its operation, insurance in accordance with the certificate of insurance contained in the Contract Documents which is attached hereto and incorporated herein by this reference, or such additional coverage as Owner may from time-to-time require. Contractor's insurance shall include, without limitation, the following: Workers' Compensation and Employer's Liability Insurance covering all persons employed by Contractor; Commercial General Liability Insurance; Automobile Liability Insurance, including coverage for all owned, hired and non-owned vehicles. All insurance coverages shall be with such carriers, in such amounts and of such duration as shall be acceptable to or required by Owner. Contractor shall name Owner as an additional insured under all policies with the exception of Workers' Compensation, as to claims by third parties and shall waive all rights of subrogation against Owner. If any policy of insurance requires an endorsement to maintain coverage with such waivers, the owner of such policy will cause the policy to be so endorsed. Contractor shall provide certificates of insurance to Owner prior to commencing the Work. The certificates of insurance shall provide that there will be no cancellation or reduction of coverage unless thirty (30) days' prior written notice has been provided to Owner. Contractor shall not cancel any policies of insurance required hereunder either before or after completion of the Work without the written consent of Owner with respect to the insurance required under this paragraph, Contractor shall obtain an endorsement providing that such insurance as is afforded under the Commercial General Liability policy is primary insurance as respects Owner and that any other insurance maintained by Owner is excess and non-contributing with the insurance required by this paragraph. The failure of Owner to enforce in a timely manner any of the provisions of this paragraph shall not act as a waiver to enforcement of any of these provisions at a later date in the performance of this Agreement. The carrying of insurance shall not be deemed to release Contractor or in any way diminish its liability, by way of indemnity or otherwise, as assumed by it under this Agreement. Owner and Contractor waive all rights against each other

and against all other contractors for loss or damage to the extent reimbursed by Builder's Risk or any other property or equipment insured applicable to the Work, except such rights as they may have to the proceeds of such insurance.

10. Taxes. Contractor shall be responsible for and shall promptly make all payments of taxes, contributions and/or premiums payable on its employees or on its operations under workers' compensation laws, unemployment compensation laws, the Federal Social Security Act, health and welfare benefit plans, gross business taxes, sales and use taxes and any other taxes, contributions and/or premiums which may become payable by operation of law or contract, including contributions payable by the employees, and Contractor shall save Owner harmless from all liability, loss and expense resulting from Contractor's failure to comply with such requirements. Contractor shall comply with any rules and regulations at any time applicable hereto and shall, on demand, substantiate that all taxes and other charges are being properly paid.

11. Liens. If any subcontractor, laborer or materialman of the Contractor or any other person directly or indirectly acting for, through or under it or any of them, files or maintains a mechanic's lien or claims against the Project or premises or any part thereof or any interests therein or any improvements thereon or against any monies due or to become due from the Owner to the Contractor, or on account of any work, labor, services, materials, equipment or other items furnished for or in connection with the Work or under any change order or supplemental agreement for extra or additional work in connection with the Project or serves a stop notice or bonded stop notice on Owner or any construction lender pursuant to A.R.S. Section 33-1054 or 1055, the Contractor agrees to cause such lien claims, stop notices or bonded stop notices to be satisfied, removed or discharged at its own expense by bond, payment or otherwise within ten (10) days from the date of the filing of such lien or claim, or service of such stop notice or bonded stop notice; upon Contractor's failure to do so, Owner shall have the right, in addition to all other rights and remedies provided under this Contract and the Contract Documents by law, to cause such liens, claims or stop notices to be satisfied, removed, discharged or bonded around by whatever means Owner chooses, at the entire cost and expense of the Contractor (such cost and expense to include Owner's legal fees). Further, Contractor agrees to indemnify, protect and save harmless Owner from and against any and all such liens, claims, stop notices and actions brought or judgments rendered thereon, and from and against any and all loss, damages, liability, costs and expenses as set forth in paragraph 12(d) below.

12. Contractor's Indemnity. Contractor agrees to indemnify and hold harmless Owner and Owner's Representative, its officers, directors, agents, employees, parents and subsidiaries, from and against any and all claims, demands, causes of action, damages, costs, expenses, attorneys' fees, losses or liability in law or in equity, of every kind and nature whatsoever (collectively the "Claims") arising out of or in connection with the Work or operations to be performed under this Agreement for, but not limited to: (a) personal injury, including without limitation, bodily injury, emotional injury such as disease, or death to persons and/or damage to or destruction of property belonging to Owner or others caused or alleged to be caused by reason of any occurrence, act or omission of Contractor, anyone directly or indirectly employed by Contractor, including but not limited to, subcontractors, laborers and suppliers of materials and equipment, or anyone for whose acts Contractor may be liable regardless of whether such personal injury or damage is caused by a party indemnified hereunder; (b) penalties imposed or extra costs required on account of the violation of or failure to comply with any law, order, citation, rule, regulation, standard, ordinance or statute, caused by or contributed to as a result of the action or inaction of Contractor; (c) infringement of any patent rights which may be



brought against Owner arising out of Contractor's work; (d) claims, liens and stop notices for labor performed or materials used or furnished to be used on the job and all incidental or consequential damage resulting to Owner therefrom; (e) failure of Contractor to provide or maintain any insurance as required hereinabove; (f) any violation or infraction by Contractor of any law, order, citation, rule, regulating standard, ordinance or statute in any way relating to the occupational health or safety of employees, including, but not limited to, the use of Owner's or others equipment, tools, hoist, elevators or scaffolds; and (g) any breach by Contractor of any term or provision of this Agreement. The indemnification provision above shall extend to claims occurring after this Agreement is terminated as well as while it is in force. Such indemnity provisions apply regardless of any active and/or passive negligent act or omission of Owner or its agents or employees. Contractor, however, shall not be obligated under this Agreement to indemnify Owner for claims arising from the negligence or willful misconduct of Owner or projects subject to statutory provisions which would be violated by such indemnity. All obligations of Contractor to Owner arising out of this indemnification clause shall bear interest as set forth hereinafter.

13. Risk of Loss. Contractor shall assume the risk of loss occasioned by fire, theft or other damage to materials, machinery, apparatus, tools and equipment relating to the Work prior to actual installation in final place on the Project and acceptance by Owner. Contractor shall be responsible for damage to the materials, machinery, apparatus, tools, equipment and property of Owner and other contractors resulting from the acts or omissions of its subcontractors, employees, agents, representatives or sub-subcontractors, and to pay the full costs of repair or replacement of any said damage.

14. Contractor's Warranties. Contractor warrants to the Owner that all materials and equipment furnished shall be new unless otherwise specified and agreed by Owner and that all Work shall be of first class quality, free from faults and defects and in conformance with the Contract Documents. If at any time within one (1) year following the date of completion and acceptance of the entire Project (or such longer period as may be provided under warranties for equipment or materials): (a) any part of the materials furnished in connection with the Work shall be or become defective due to defects in either labor or materials, or both; or (b) Contractor's work or materials, or both, are or were not in conformance with original or amended plans and specifications, or supplementary or shop drawings, then the Contractor shall upon written notice from Owner immediately replace or repair such defective or non-conforming material or workmanship at no cost to Owner. Contractor further agrees to execute any special guarantees as provided by the Contract Documents or required by law. Contractor shall require similar guarantees from all vendors and from all its subcontractors. Contractor further agrees, upon written demand of Owner and during the course of construction, to immediately re-execute, repair or replace any work which fails to conform to the requirements of the Contract Documents, including this Agreement, whether caused by faulty materials or workmanship, or both. In the event Contractor shall fail or refuse to make such change upon Owner's written demand, Owner shall have the right to have such work re-executed, repaired or replaced, to withhold from or backcharge to Contractor all costs incurred thereby. The warranties and guarantees contained in this paragraph shall be in addition to all other guarantees, warranties and rights contained in the Contract Documents or provided by law.

15. Drawings, Samples and Substitution of Materials. Contractor shall furnish within three (3) business days following request therefor by Owner detailed drawings of the Work, samples of materials and other submittals required for the performance or coordination of the Work.

Substitutions shall be equal or superior to materials specified in the Contract Documents and shall be clearly identified on submittals as "proposed substitutions." Contractor shall be fully responsible for the adequacy, completeness and promptness of all such submittals. Materials shall not be furnished to the jobsite unless same is in strict compliance with the specifications or otherwise approved in writing by Owner. Approval by Owner shall not relieve Contractor of full responsibility for compliance with scope, intent and performance in accordance with the Contract Documents.

16. Temporary Site Facilities. Contractor shall furnish all temporary site facilities necessary for the performance of its obligations under this Agreement, including, but not limited to portable restrooms, storage sheds (when authorized by Owner), water, drinking water, heat, light, scaffolding, shoring, weather protection, barricades, safety rope/ribbon, security fences, excavation, trenching, fill, backfill, compaction, grading and adequate security for materials placed upon the jobsite.

17. Site Clean up. Contractor shall at all times, but not less than daily unless otherwise agreed by Owner, keep the premises on which the Work is being performed clean and free from accumulation of any waste materials, trash, debris and excess dirt, and at all times shall remove Contractor's implements, machinery, tools, apparatus and equipment from the jobsite when not needed on the jobsite. Should Owner find it necessary in its opinion to employ help to clean up, remove or store any of the foregoing or failure of Contractor to do so, the expense thereof shall be charged to Contractor. Verbal notice from a representative of Owner on clean-up or removal is considered adequate notice hereunder, and failure to conform with his/her request within twenty-four (24) hours thereof will be construed by Owner as authorization from Contractor to perform such work at the discretion of Owner and such charges will be made against Contractor's account as are necessary to accomplish the clean-up or removal. The cost of clean up, removal or storage by the Owner, if not deducted by Owner from monies due Contractor, shall be paid by Contractor within five (5) business days of written demand by the Owner.

18. Use of the Site. Contractor shall at all times comply fully with all laws, orders, citations, rules, regulations, standards and statutes with respect to occupational health and safety, the handling and storage of hazardous materials, accident prevention, safety equipment and practices, including any accident prevention and safety program of Owner; provided, however, that Owner shall not be required to impose any safety requirements or administer any such programs and the review or requirement of any safety plan by Owner shall not be deemed to release Contractor or in any way diminish its liability, by way of indemnity or otherwise, as assumed by it under this Agreement. Contractor shall conduct inspections regularly to determine that safe working conditions and equipment exist and accepts sole responsibility for providing a safe place to work for its employees and employees of its subcontractors, laborers and suppliers of material and equipment, for adequacy of and required use of all safety equipment and for compliance with the aforesaid laws, orders, etc. When so ordered, Contractor shall stop any part of the Work, which Owner deems unsafe until corrective measures satisfactory to Owner have been taken. Should Contractor neglect to adopt such corrective measures, Owner may do so and deduct the cost from payments due Contractor. Contractor shall timely submit copies of all accident or injury reports to Owner.

19. Surety Bonds. Contractor shall at any time, if required by Owner, furnish a bond covering faithful and complete performance of this Agreement and a separate bond guaranteeing payment in full of all sums to persons supplying labor, equipment and materials for the Work, inform satisfactory to owner. Any performance or payment bond provided by Contractor shall be issued by

one or more surety companies holding a certificate of authority to transact surety business in the State of Utah. If executed by an attorney-in-fact, the surety shall also provide Owner with a Power of Attorney, properly reflecting the attorney-in-fact's authority to bind such surety to the bonds. Owner shall be named as the Obligee on said Payment and Performance Bonds. All other entities, if any, which have a material interest in the performance of the Work may, at Owner's option, be added as "Dual-Obligees" to the Payment and Performance Bonds through a Dual-Obligee Rider in such form as the Owner shall approve. Such addition of Dual-Obligee shall be made within five (5) days following Owner's request.

19. Surety Bonds. Contractor agrees to furnish to Owner, prior to the commencement of any of the Work, corporate surety bonds from a bonding company approved by Owner, guaranteeing the faithful and complete performance of the Work and all obligations under this Agreement, and guaranteeing the payment of all labor, material and equipment utilized in connection with the Work. The Owner-approved surety shall execute a Performance Bond and a Labor and Material Payment Bond on forms satisfactory to Owner. If executed by an attorney-in-fact, the surety shall also provide Owner with a Power of Attorney, properly reflecting the attorney-in-fact's authority to bind such surety to the bonds. Owner shall be named as the Obligee on said Payment and Performance Bonds. All other entities, if any, which have a material interest in the performance of the Work shall be added as "Dual-Obligees" to the Payment and Performance Bonds through a Dual-Obligee Rider in such form of as the Owner shall approve. Such addition of Dual-Obligee shall be made within five (5) days following Owner's request.

20. Payment of Bills and Obligations. Contractor shall pay all bills when due for all labor, equipment, material and all other charges in connection with the Work, and failure to do so shall constitute failure of performance under this Agreement. Notwithstanding anything herein to the contrary, in order to protect Owner from all claims and liens of whatever nature, it is agreed that the final payment hereunder shall not become due or payable until all labor, materials, tools, equipment, facilities, rentals of equipment, transportation, fees and permits, taxes and all other charges, without limitation by the foregoing enumeration, in connection with the Work, have been fully paid and any liens claimed or potentially claimed therefor have been waived and released. In the event Contractor fails to furnish Owner with the above described corporate surety bonds or fails to provide the bond and any power of attorney in recordable form, then Owner may, in its sole discretion, terminate this Agreement or nullify the whole or part of any payment due Contractor to the extent necessary to protect Owner from any loss, including costs and attorneys' fees, on account of the failure to provide said surety bonds or recordable powers of attorney.

21. Termination of Contract. Should Contractor fail to pay its creditors, fail to supply a sufficient number of properly skilled workers or sufficient materials and equipment of the proper quality, fail in any respect to prosecute the Work with promptness and diligence, fail to immediately correct defective Work, fail to procure required insurance or otherwise fail in the performance of any requirements of Contractor as provided in this Agreement, Owner may, at its option, terminate the employment of Contractor and provide such labor, materials, equipment, work, payment or otherwise perform itself or contract with others to perform such requirements of Contractor, and deduct the cost thereof, together with all loss occasioned thereby (including without limitation, attorneys' fees and costs, overhead and profit) and interest thereon at the rate of eighteen percent (18%) per annum, from any money then due or thereafter to become due to Contractor. Owner shall have the right to withhold payment of any monies due Contractor pending completion of such corrective action to the

extent required by Owner and to the satisfaction of Owner. Owner shall provide twenty-four (24) hours prior notice to Contractor except in case of emergency. Owner shall further have the right to terminate this Agreement, by written notice, at any time and without Contractor being at fault, for any or no reason, at Owner's convenience. In such event, and subject to the applicable provisions of Article 6, Contractor shall be entitled to recover only the actual cost of work completed to the date of termination plus fifteen percent (15%) of the actual cost of the work for overhead and profit. Contractor waives any claim or lien against Owner for any additional compensation or damages in the event of such termination.

22. Adjustment of Payments to Contractor. Owner may withhold, or on account of subsequently discovered evidence, nullify the whole or part of any payment due Contractor to the extent necessary to protect Owner from loss, including costs and attorneys' fees, on account of: (1) defective work not remedied; (2) claims filed or reasonable evidence indicating the probable filing of a claim; (3) failure of Contractor to make payments properly to his subcontractors or for material, labor or fringe benefits; (4) a reasonable doubt that this Agreement can be completed for the balance then unpaid; (5) damage to another contractor; (6) penalties assessed against Owner or Contractor for failure of Contractor to comply with State, Federal or local laws and regulations; or (7) any other ground for withholding payment allowed by State or Federal law, or as otherwise provided in this Agreement. When the above matters are rectified, such amounts as are then due and owing after any offset or charge hereunder shall be paid or credited to Contractor.

23. Coordination of the Work. Contractor shall be solely responsible for the performance of the work covered by this Agreement and for the coordination of the Work with all other trades all in accordance with the Contract Documents. In the event of any conflict in the plans or specifications or any other Contract Documents or any conflict with any other trades, the Contractor shall notify the Owner in writing of any such conflict prior to that portion of the Work affected by such conflict being started. Owner shall resolve such conflicts in consultation with architect or engineer or such parties as Owner shall deem necessary, if any and render a decision to all affected trades, and its decision shall be final. Should Contractor's failure to notify Owner as provided herein of any such conflicts result in any delays in the Work or any additional costs to remove, re-execute, revise or otherwise adjust the Work or that of any other affected trades, Owner shall have the right to charge Contractor for all such delays and additional costs and Contractor agrees to pay for all such costs.

24. Royalties, Patents and Licenses. Contractor agrees to pay all royalties and license fees and to indemnify and hold harmless Owner from any and all loss, damage or expense to which it may be put from claims or litigation for the use or misuse of any patented or unpatented invention or process, used or furnished by Contractor, unless required by the Contract Documents and not originated or prepared by Contractor.

25. Interest on Sums Due to Owner. All sums due and payable to Owner by Contractor for any reason and all offsets to which Owner is entitled against sums due Contractor as set forth in this Agreement shall bear interest at the rate of eighteen percent (18%) per annum, commencing as of the date any such obligation becomes due or the date Owner is entitled to any such offset.

26. Strikes and Labor Disputes. No strike, picketing or labor dispute of any kind involving Owner, Contractor, other contractors or suppliers shall excuse the non-performance of any duty of Contractor set forth herein. In the event of a strike, picketing or labor dispute of any kind which, in

Owner's judgment, has resulted from Contractor's presence on the Project, said actions shall constitute a default if not cured immediately upon notice thereof and Owner thereafter shall be entitled to exercise any remedies as provided herein or otherwise. If any of the Work to be performed by Contractor is regulated by jurisdictional agreement, it is understood that this Agreement includes that Contractor will perform at the Contract Sum all Work required to be performed by the trade(s) whose jurisdictional agreements regulate Contractor's Work unless otherwise specifically stated herein.

27. Assignment. Contractor shall not transfer, assign or subcontract this Agreement, or any part thereof or interest therein, nor any of the payments to become due hereunder, except upon the written permission of Owner prior to execution hereof.

28. Accounting Records. Owner's duly authorized representatives shall have, during the term of this Contract and for three years thereafter, access at all reasonable times to all of Contractor's and its subcontractors' accounts and records of all description, including but not limited to computer files, pertaining to the Contract to verify or review the quantity, quality, and progress of the Work, reimbursable costs, amounts claimed by the Contractor, compliance with regulations, and estimates of cost for fixed rates, including those applicable to proposed changes. Where time and materials work (unit price, hourly or fixed rates, etc) is performed, Owner's above-described accounting records access shall extend to all of Contractor's records pertaining to all contracts for assurance that the Work is properly charged and billed by Contractor. Contractor's and its subcontractors' accounts shall be kept in accordance with generally accepted accounting principles. Contractor shall include the necessary provisions in its subcontracts to ensure that its subcontractors comply with this provision.

29. Subcontractors and Materialmen. Owner may require Contractor to identify all subcontractors and materialmen to be employed in the performance of this Contract. Owner may reject the Contractor's use of any subcontractor or materialmen hereunder, in Owner's sole and absolute discretion.

30. Miscellaneous Provisions.

30.1 Non-Waiver. If Owner does not insist, in any instance, upon strict compliance with any of the provisions of this Agreement, or to exercise any options provided, this shall not be construed as a waiver of its right to thereafter require such compliance or to exercise such option.

30.2 Entire Agreement. This Agreement comprises the entire agreement between the parties relating to the Work covered hereby and no other agreement, representation or understanding concerning the same has been made and no oral statement, understandings or agreement shall affect the terms hereof. This Agreement shall supersede and replace any previous agreements, understandings, discussions or proposals between the parties hereto whether written or oral. All representations and warranties, if any, made by any agent or representative of Owner which are material to this Agreement, or which have acted as an inducement to Contractor to enter into this Agreement are fully set forth herein. Contractor agrees that any such representation or warranty not fully set forth in this Agreement is not binding on Owner.

30.3 Conflicting Terms. In the event of a conflict between the terms and conditions of this Agreement and the provisions of any of the Contract Documents other than this Agreement, the terms and conditions of this Agreement shall prevail and shall control the rights, obligations and duties of the parties hereto.

30.4 Conflict with Law. To the best knowledge and belief of the parties, this Agreement contains no provision that is contrary to federal or state law, ruling or regulation. However, if any provision of this Agreement shall conflict with any such law, ruling or regulation, then such provision shall continue in effect only to the extent permissible. In the event any provision is thus inoperative, the remaining provisions shall, nevertheless, remain in full force and effect.

30.5 Governing Law. This Agreement shall be construed and governed by the laws of Utah.

30.6 Paragraph Headings. The headings contained in this Agreement are for reference purposes only and shall not in any way affect the meaning or interpretation hereof.

30.7 Calendar Days. The term "day" as used in this Agreement or the Contract Documents shall mean calendar day unless otherwise specifically defined.

31. Non-Disclosure. The Contractor specifically agrees not to disclose either any original or Change Order unit or total price to any person, except with the written approval of the Owner. The Contractor shall not negotiate for extra or additional work with any party other than Owner, either before or after completion of this Contract with respect to any other work on the jobsite, it being understood that any negotiation for extra or additional work, whether or not part of this Agreement, shall only take place through the Owner. The Contractor shall not execute any modifications, changes or alterations at the request of any person, unless such modification change or alteration shall be authorized in writing by the Owner.

32. Authority, Successors and Assigns. The person signing this Agreement on behalf of the Contractor hereby represents to the Owner that he or she has the power and authority to execute this Agreement on behalf of the Contractor. This Agreement shall inure to the benefit of and be binding upon all of the heirs, executors and administrators, successors, and assigns of each of the parties hereto.

33. Attorneys' Fees and Payment or Advancement or Costs. In addition to any other remedies provided by law or equity or in this Agreement, should Contractor fail to pay any obligations hereunder, Owner shall have the right to pay and discharge such charges or obligations and recover the cost thereof from Contractor with interest at the rate of eighteen percent (18%) from date of advance until repaid. Any such advances made by Owner hereunder shall be due and payable on demand together with any costs of collection and including reasonable attorneys' fees. In the event of an arbitration pursuant to this Agreement, or if either party to this Agreement brings a legal action or proceeding against the other party to enforce the provisions of the Agreement, or on account of a claim or dispute arising out of this Agreement, then the prevailing party in such arbitration or legal action or proceeding shall be entitled to reimbursement by the other party for the legal fees and costs, including reasonable attorneys' fee, incurred by the prevailing party in connection with the arbitration or legal action or proceeding.



34. Arbitration. All claims, disputes and other matters in question between the Contractor and the Owner arising out of or relating to this Agreement, the Contract Documents or the breach thereof shall be decided by binding arbitration in Phoenix, Arizona in accordance with the Construction Industry Rules of the American Arbitration Association then obtaining. The foregoing agreement of the Owner and Contractor to arbitrate shall be specifically enforceable under the Utah Arbitration Act. U.C.A. §§ 78-31a-1 et seq.; the award rendered by the arbitrators shall be subject to review only as provided in said Act, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. The Contractor shall carry on the Work and maintain its progress during any dispute or arbitration or litigation proceedings.

35. Relationship of Parties. For all purposes relating to this Agreement and the Work Contractor is an independent contractor, and not an employee or otherwise associated with Owner.

36. Legal Consequences; Integration. THIS DOCUMENT HAS IMPORTANT LEGAL CONSEQUENCES. CONSULTATION WITH AN ATTORNEY PRIOR TO EXECUTION IS ENCOURAGED. CONTRACTOR IN SIGNING THIS AGREEMENT SPECIFICALLY AGREES THAT HE HAS READ AND UNDERSTANDS THIS AGREEMENT IN ITS ENTIRETY, INCLUDING ALL ITEMIZED ATTACHMENTS AND ALL CONTRACT DOCUMENTS REFERRED TO HEREIN, AND THAT THIS REPRESENTS THE FULL, COMPLETE AND SOLE AGREEMENT BETWEEN OWNER AND CONTRACTOR, AND THAT THIS AGREEMENT REPLACES AND SUPERSEDES ALL PRIOR AGREEMENTS, REPRESENTATIONS OR UNDERSTANDINGS, WHETHER WRITTEN OR ORAL. NO MODIFICATION OF THIS AGREEMENT IS VALID UNLESS IN WRITING AND SIGNED BY THE PARTIES. AS TO THE OWNER, NO MODIFICATION IS VALID OR ENFORCEABLE UNLESS SIGNED BY AN OFFICER OF OWNER.

CONTRACTOR: PROGRESSIVE CONTRACTING, INC.

By *Ronald L. Smith* Date: 4/26/99  
Its *President*

This Agreement shall not be valid until accepted by SunCor Development Company and signed as provided below.

OWNER:

SUNCOR DEVELOPMENT COMPANY

By *[Signature]* Date: 4/30/99  
Its V.P.  
\\master\master.own

STATE OF ARIZONA

) ss.

County of Maricopa

00646579 Ek 1333 Ps-0217

The foregoing document was acknowledged before me this 30<sup>th</sup> day of April, 1999, by Duane S. Black, the Vice President of **SUNCOR DEVELOPMENT COMPANY**, an Arizona corporation, on behalf of said corporation.

Gail Sanchez  
Notary Public

My commission expires:



STATE OF UTAH

)  
) ss.

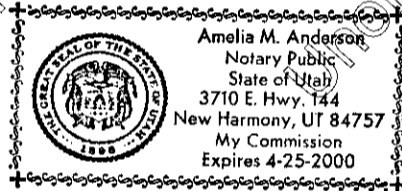
County of Washington

The foregoing document was acknowledged before me this 20<sup>th</sup> day of April, 1999, by Russell Limb, the President of **CITY OF WASHINGTON**, a Utah municipal corporation, on behalf of said City. Progressive Contracting, Inc.

Amelia M. Anderson  
Notary Public

My commission expires:

4/25/00



00646579 BK 1333 Pg 0218

**CORAL CANYON  
PRESSURE SEWER OUTFALL  
WATERLINE EXTENSION AND FIRE HYDRANTS**

**LEGAL DESCRIPTION**

Pressure Sewer Description:

All of the area contained within the highway 91 realignment Right-of-Way in Section 13, Township 42 South, Range 15 West, and Sections 18 and 7, Township 42 South, Range 14 West in the Salt Lake Base and Meridian.

Waterline Extension Description:

All of the area contained within the SR-9 Highway Right-of-Way in the North 1/2 of the Southwest 1/4 of Section 4, Township 42 South, Range 14 West in the Salt Lake Base and Meridian between the center line of realigned Highway 91 Right-of-Way and the West section line of said Section 4; also the area contained within the West 1/2 of the West 1/2 of the Northwest 1/4 of the Southeast 1/4 of said Section 4, also the area contained in the North 1/2 and the Southeast 1/4 of the Northeast 1/4 of the Southeast 1/4 of Section 5, Township 42 South, Range 14 West, of the Salt Lake Base and Meridian; also the area contained within the Northeast 1/4 of the Southwest 1/4 of the Southeast 1/4 of the Southeast 1/4 of the Northwest 1/4 in Section 8, Township 42 South, Range 14 West of the Salt Lake Base and Meridian; also the area contained within the North 1/2 of the Northwest 1/4 of the Northwest 1/4 of the Southeast 1/4 of the Southeast 1/4 of Section 7, Township 42 South, Range 14 West, in the Salt Lake Base and Meridian; also the area contained within the East 1/2 of the Northwest 1/4 of the Northeast 1/4 of the Northeast 1/4 of said Section 7.

**EXHIBIT A**

00646579 Ek 1333 Ps 0219

**CORAL CANYON**

**PRESSURE SEWER OUTFALL LINE  
WATERLINE EXTENSION AND FIRE HYDRANTS**

**CONTRACT DOCUMENTS**

**PLANS AND SPECIFICATIONS**

<b><u>Drawing No./Date</u></b>	<b><u>Description</u></b>	<b><u>Plan Date Revision</u></b>
2403PRSCVR	Pressure Sewer Outfall Line	3-17-99
2403CVR-OS	Offsite Waterline Extension	3-1-99

**OTHER CONTRACT DOCUMENTS**

- Bid Proposal Form
- Supplemental Bid Information
- Blasting Considerations
- Certificate of Insurance
- Additional Insured Endorsement
- National Pollutant Discharge Elimination System Contractor's Certification
- Storm Water Pollution Prevention Plan (SWPPP)
- Year 2000 Compliance Warranty and Certificate

**Lien Waiver Forms**

- Conditional Waiver And Release On Progress Payment
- Conditional Waiver And Release On Final Payment
- Unconditional Waiver And Release On Progress Payment
- Unconditional Waiver And Release On Final Payment

**Bond Forms**

- Labor And Material Payment Bond
- Performance Bond

**CORAL CANYON  
PRESSURE SEWER OUTFALL LINE - Offsite on Telegraph Street  
WATERLINE EXTENSION AND FIRE HYDRANTS  
Bid Tabulation**

SEWER	DESCRIPTION	QTY	UNIT	Progressive	
				UNIT PRICE	TOTAL PRICE
	10" C-900 Class 150-PSI	9,755	LN.FT.	11.35	110,719.25
	6" Ductile Iron Pipe	50	LN.FT.	22.60	1,130.00
	6" C-900 Class 150-PSI, DR 18	108	LN.FT.	8.40	907.20
	10" 45-deg. Bend	3	EACH	347.00	1,041.00
	10" X 6" Reducer	2	EACH	347.00	694.00
	Air Release Valve & 48" Vault	1	EACH	1,385.00	1,385.00
	Air/Vacuum Release Valve & 48" Vault	1	EACH	1,385.00	1,385.00
	Tracer Wire and Location Tape	1	Lump Sum	1,617.00	1,617.00
	10" End Cap and T-bar Marker	1	EACH	205.00	205.00
	6" End Cap and T-bar Marker	1	EACH	118.00	118.00
	Existing Manhole Connection	1	Lump Sum	1,000.00	1,000.00
	6" MJXFL Gate Valve & Valve Box	1	EACH	425.00	425.00
	6" MJXMJXFL 10"X10"X6" Tee	1	EACH	436.00	436.00
	Road Crossing for 6" Line	1	Lump Sum	1,000.00	1,000.00
	Concrete Encasement at Grapevine Wash	1	Lump Sum	500.00	500.00
	Sawcut, Remove & Replace Asphalt	15,500	S.F.	1.50	23,250.00
	Traffic Control Plan, Barricades & Safety	1	Lump Sum	5,000.00	5,000.00
<b>Subtotal Sewer</b>					<b>150,812.45</b>

WATER	DESCRIPTION	QTY	UNIT	UNIT PRICE		TOTAL PRICE	
				UNIT PRICE	TOTAL PRICE		
	Traffic & Safety Items	1	Lump Sum	200.00		200.00	
	12" C-900 PVC Pipe	2,630	LN.FT.	14.00		36,820.00	
	12" Butterfly Valve	8	EACH	1,492.00		11,936.00	
	12" X 12" X 12" Tee	1	EACH	720.00		720.00	
	12" X 12" X 8" Tee	1	EACH	710.00		710.00	
	12" 45-deg. Bend	5	EACH	600.00		3,000.00	
	12" 22.5-deg. Bend	2	EACH	365.00		730.00	
	12" 11.25-deg. Bend	-	EACH	370.00		-	
	12" Sleeve	2	EACH	390.00		780.00	
	12" End Cap	2	EACH	820.00		1,640.00	
	8" C-900 PVC Pipe	120	LN.FT.	10.85		1,302.00	
	8" Butterfly Valve	1	EACH	950.00		950.00	
	8" End Cap	1	EACH	400.00		400.00	
	Air Release Valves	2	EACH	1,150.00		2,300.00	
	Fire Hydrant Assemblies	3	EACH	2,480.00		7,440.00	
	Road Crossing	1	Lump Sum	800.00		800.00	
	Wash Crossing & Rip Rap	1	Lump Sum	3,000.00		3,000.00	
	Fence Repairs	1	Lump Sum	300.00		300.00	
	Connect to Existing Lines	1	Lump Sum	500.00		500.00	
<b>Subtotal Water</b>						<b>73,528.00</b>	

Subtotal Sewer	150,812.45
Subtotal Water	73,528.00
Sales Tax (Enter Exact Amount)	-
Bond (if over \$50,000)	3,133.39
<b>GRAND TOTAL</b>	<b>227,473.84</b>

**CORAL CANYON**

1. PRESSURE SEWER OUTFALL LINE – Offsite on Telegraph Street
2. WATERLINE EXTENSION AND FIRE HYDRANTS

**SUPPLEMENTAL BID INFORMATION**

1. Bids are due back on April 19, 1999 at 12:00 p.m. Work will commence on or about May 3, 1999.

2. Contractor Work Days and Time Schedule:

- a) Washington City has approved the closure of Telegraph Street during the hours of 3:00PM to 12:00PM on Monday through Saturday for the installation of the pressure sewer line. Contractor must coordinate with Washington City, City of Hurricane and UDOT on traffic plan for closure. Contractor may coordinate with SubCor/Municipalities on other work schedules, but not road closures.
- b) The waterline work may proceed according to contractors approved schedule and traffic/safety plan.

3. Contractor shall install:

- a) Tracer wire shall be installed directly along the top of all low pressure lines for their entire length.
- b) Clearly labeled location tape shall also be installed a minimum of 2-ft above the top of all low pressure sewer lines for their entire length.
- c) Manhole lids and valve boxes shall be clearly labeled "SEWER".

4. Safety is our highest priority. Contractor will provide any and all traffic plans, barricades, steel plates, flagging, flagman, signage, barriers, and security as needed.

5. Contractor will provide sufficient men, material and equipment to install 480ft of pressure sewer pipe per day. Contractor should plan on working multiple crews in separate locations to expedite the construction completion, which will reduce the number of days that traffic flow is restricted or diverted from Telegraph Street. Water component of contract will proceed simultaneously with pressure sewer.

6. Streets and concrete will be washed clean or broomed at the completion of each portion of work, at the end of each day, and/or as needed for cleanliness and dust control.

7. Absolutely no personnel or equipment will go into the Natural Area Open Space (N.A.O.S.) as lined out. Complete restoration is required if equipment or crews damage existing terrain outside of approved work site.

**EXHIBIT B**  
**PAGE 3 OF 15**



- 8. Contractor will pay for any restaking fees that are needed by their own company.
- 9. Contractor will supply lien waivers from his suppliers prior to payment or accept two-party checks.
- 10. If needed, when permits are pulled from the Washington City, there must be a separate permit for each phase. **Do not pull a permit that displays more than one phase of construction on one (1) permit.**
- 11. Overtime permits required by the Washington City will not be reimbursed to Contractor by SunCor. Contractor is solely responsible to maintain schedule. (See attached Construction Agreement Contract paragraph 2, Contract Time)
- 12. Contractor will have a foreman who is capable of controlling the job site and coordinating with SunCor representatives on site full time. There is a \$100.00 per day penalty if SunCor is unable to coordinate on site with foreman.
- 13. SunCor reserves the right to have Contractor replace foreman on site if needed.
- 14. Contractor will pull Washington City permits and give City Inspectors appropriate notification of the intent to start work.
- 15. Contractor will provide sufficient Porta-John facilities.
- 16. There will be no time extensions except for weather or unless directed by SunCor.
- 17. Contractor must sign the attached "BLASTING CONSIDERATIONS" form as part of the contract.
- 18. All construction and lunch trash must be contained and removed from site. There will be a \$50.00 fine per occurrence, per day, assessed to Contractor for any trash found on site.

**Subcontractors, Rental Equipment, or Major Suppliers:**

<u>Name of Firm</u>	<u>Contact Person</u>	<u>Phone Number</u>
<i>Plummers Supply</i>	<i>Dave</i>	<i>673-6896</i>

BLASTING CONSIDERATIONS

GRADING AND/OR UTILITY TRENCH

- 1. Blasting pattern is to be designed so that 85% of the material produced is 8" or minus in size.
- 2. All building areas are to be blasted to a depth of 2' below the footing elevation.
- 3. All trenches are to be blasted to the depth of 1' below the cut elevation.
- 4. All efforts will be made to sort and remove all materials not suitable for backfilling trenches. Remaining rock material will be stockpiled on site designated by SunCor.
- 5. Blasted materials may be used in fill areas according to the following specifications as long as there are no nesting of granular materials. (All voids filled with fines.) All fill procedures are subject to the approval of Geotechnical Engineer.

Depth Below Finish Grade	5' Plus	2' to 4'	0' to 2'
Max. Particle Size	18"	12"	6"

- 6. Material to be blasted will be determined as material that cannot be ripped by a Cat D9 Tractor (current model size) or excavated by a Cat 235 Track Hoe (current model size) unless equipment size is determined by site conditions per SunCor's needs and specified within the bid specification documents.
- 7. Rocks too large to place within work scope shall be set aside for landscape use.

Unit Price to Shoot Rock for Grading. \$ 18<sup>00</sup> / Yd.

Unit Price to Shoot Utility Trench. \$ 10<sup>00</sup> /L.F.

Progressive Contracting, Inc.  
COMPANY NAME:

[Signature]  
BY:

President  
ITS:

**CERTIFICATE OF INSURANCE**

00646579 Bk 1333 Pg 0224

Issue Date

Name and address of Insurance Agency:

\_\_\_\_\_

Name and address of Insured:

\_\_\_\_\_

Company

Letter A

Company

Letter B

Company

Letter C

Company

Letter D

Company

Letter E

THIS IS TO CERTIFY THAT POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE AND ARE IN FORCE AT THIS TIME.

Co.	Type of Insurance Ltr.	Policy Number	Policy Expiration	Limits of Liability Minimum Each Occurrence
	<b>Commercial General Liability</b> Mandatory Coverages: Premises/Operations Personal Injury Products/Completed Operations Contractual Liability Broad Form Property Damage Required if checked: Underground Hazard Explosion and Collapse Hazard			I. \$1,000,000 combined single limit
	<b>Business Automobile Liability</b> Owned, Hired, Non-Owned, Assigned, Used			II. \$1,000,000 combined single limit bodily injury and property damage
	<b>Worker's Compensation / Employers' Liability</b>			III. Statutory Employers Liability \$1,000,000
	<b>Professional Liability</b> Required of Surveyor/Engineer/Architect			IV. \$1,000,000 Each Occurrence
	<b>Builder's Risk/Course of Construction</b> Required if checked			V. _____ *
	<b>Excess Liability</b> Umbrella Form			VI. _____ **

**SPECIAL ITEMS**

SunCor Development Company shall be added as an additional insured for work done on all of their respective projects by the named insured. The insurance referenced on this certificate is primary in respect to the additional insured and any insurance carried by the additional insured is excess and non-contributing. Any insurance maintained by SunCor Development shall only apply in excess of the coverages and limits of insurance available from other sources. None of the above described policies shall be cancelled or materially changed without thirty (30) days' prior written notice to SunCor Development Company. Ten (10) days' notice for non-payment of premium.

Name and Address of Certificate Holder:

SunCor Development Company  
3838 North Central Ave., Suite 1500  
Phoenix, Arizona 85012

Authorized Representative:

\_\_\_\_\_

COMPANY: \_\_\_\_\_  
POLICY NO.: \_\_\_\_\_

**ADDITIONAL INSURED ENDORSEMENT**

**THIS ENDORSEMENT CHANGES THE POLICY.  
PLEASE READ IT CAREFULLY.  
AMENDATORY ENDORSEMENT - ADDITIONAL INSURED**

This endorsement modified insurance provided under the following:

Commercial General Liability Coverage Part

It is agreed that the insurance afforded to the Additional insured designated below is primary insurance.

If the Additional insured has other insurance that is applicable to the loss, the said other insurance is excess over any other valid and collectible insurance providing coverage.

The Company's limits of liability under this policy shall not be reduced by the existence of such other insurance.

Designated Additional Insured: SunCor Development Company

**YEAR 2000 COMPLIANCE WARRANTY AND CERTIFICATE**

Contractor hereby warrants on behalf of itself and all subcontractors, materialmen, laborers, and suppliers that all of the Work and all materials, systems and equipment supplied or installed in connection with the Work shall be Year 2000 compliant in all respects.

Contractor agrees, as an additional condition to Owner's obligation for payment of retention, to (i) supply Contractor's certificate of Year 2000 compliance in conformance with the foregoing Year 2000 warranty, and (ii) to deliver similar Year 2000 compliance certificates from all subcontractors, lower-tier subcontractors, suppliers, and materialmen who provided any labor or materials to the Project.

CONTRACTOR:

\_\_\_\_\_

BY:

ITS:

DATE:

\_\_\_\_\_

**CONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT**

Project: \_\_\_\_\_

Job No.: \_\_\_\_\_

On receipt by the undersigned of a check from \_\_\_\_\_ in the sum of \$\_\_\_\_\_

(Maker of Check)

(Amount)

payable to \_\_\_\_\_, and when the check has been properly endorsed and has been paid

(Payee of Check)

by the bank on which it is drawn, this document becomes effective to release any mechanic's lien, any stop notice rights, any state or federal statutory bond right, any private bond right, any claim for payment and any rights under any similar ordinance, rule, or statute related to claim or payment rights for persons in the undersigned's position that the undersigned has on the job of \_\_\_\_\_, located at \_\_\_\_\_

(Owner)

\_\_\_\_\_ to the following extent. This release covers a progress payment for all labor, services,

(Job Description)

equipment or materials furnished to the jobsite or to \_\_\_\_\_, through \_\_\_\_\_

(Person With Whom Undersigned Contracted)

(Date)

only and does not cover any retention, pending modifications and changes or items furnished after that date.

Before any recipient of this document relies on it, that person should verify evidence of payment to the undersigned.

The undersigned warrants that he either has already paid or will use the monies he receives from this progress payment to promptly pay in full all of his laborers, subcontractors, materialmen and suppliers for all work, materials, equipment or services provided for or to the above-referenced project up to the date of this

Waiver.

Date: \_\_\_\_\_

\_\_\_\_\_  
(Company Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)



**CONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT**

Project: \_\_\_\_\_

Job No.: \_\_\_\_\_

On receipt by the undersigned of a check from \_\_\_\_\_ in the sum of \$ \_\_\_\_\_  
(Maker of Check) (Amount)  
payable \_\_\_\_\_, and when the check has been properly endorsed and has been paid by the  
(Payee of Check)  
bank on which it is drawn, this document becomes effective to release any mechanic's lien, any stop notice  
rights, any state or federal statutory bond right, any private bond right, any claim for payment and any rights  
under any similar ordinance, rule or statute related to claim or payment rights for persons in the  
undersigned's position that the undersigned has on the job of \_\_\_\_\_ located at  
(Owner)

\_\_\_\_\_. This Release covers the final payment to the undersigned for all labor, services,  
(Job Description)  
equipment or materials furnished to the jobsite or to \_\_\_\_\_,  
(Person With Whom Undersigned Contracted)  
except for disputed claims in the amount of \$ \_\_\_\_\_. Before any recipient of this document  
(Amt. of Disputed Claims)  
relies on it, that person should verify evidence of payment to the undersigned.

The undersigned warrants that he either has already paid or will use the monies he receives from this  
final payment to promptly pay in full all of his laborers, subcontractors, materialmen and suppliers for all  
work, materials, equipment or services provided for or to the above-referenced project up to the date of this  
Waiver.

Date: \_\_\_\_\_

\_\_\_\_\_  
(Company Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

**UNCONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT**

Project: \_\_\_\_\_

Job No.: \_\_\_\_\_

The undersigned has been paid and has received a progress payment in the sum of \$ \_\_\_\_\_ (Amount)  
 for all labor, services, equipment or material furnished to the jobsite or to \_\_\_\_\_ (Person With Whom Undersigned Contracted)  
 on the job of \_\_\_\_\_ located at \_\_\_\_\_ and does hereby release any  
 (Owner) (Job Description)  
 mechanic's lien, any stop notice rights, any state or federal statutory bond right, any private bond right, any  
 claim for payment and any rights under any similar ordinance, rule or statute related to claim or payment  
 rights for persons in the undersigned's position that the undersigned has on the above-referenced project to  
 the following extent. This Release covers a progress payment for all labor, services, equipment or materials  
 furnished to the jobsite or to \_\_\_\_\_ through \_\_\_\_\_ only and does not cover any  
 (Person With Whom Undersigned Contracted) (Date)

retention, pending (modifications and changes or items furnished after that date. The undersigned warrants  
 that he either has already paid or will use the monies he receives from this progress payment to promptly  
 pay in full all of his laborers, subcontractors, materialmen and suppliers for all work, materials, equipment  
 or services provided for or to the above-referenced project up to the date of this Waiver.

Date: \_\_\_\_\_  
\_\_\_\_\_  
(Company Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

**NOTICE: THIS DOCUMENT WAIVES RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL RELEASE FORM.**

**UNCONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT**

Project: \_\_\_\_\_

Job No.: \_\_\_\_\_

The undersigned has been paid in full for all labor, services, equipment or material furnished to the jobsite

or to \_\_\_\_\_ on the job of \_\_\_\_\_ located at \_\_\_\_\_  
(Person with Whom Undersigned Contracted) (Owner) (Job Description)

does hereby waive and release any right to mechanic's lien, any stop notice rights, any state or federal statutory bond right, any private bond right, any claim for payment and any rights under any similar ordinance, rule or statute related to claim or payment rights for persons in the undersigned's position, except for disputed claims for extra work in the amount of \$ \_\_\_\_\_.

(Amount of Disputed Claim)

The undersigned warrants that he either has already paid or will use the monies he receives from this final payment to promptly pay in full all of his laborers, subcontractors, materialmen and suppliers for all work, materials, equipment or services provided for or to the above-referenced project.

Date: \_\_\_\_\_

\_\_\_\_\_  
(Company Name)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Title)

**NOTICE: THIS DOCUMENT WAIVES RIGHTS UNCONDITIONALLY AND STATES THAT YOU HAVE BEEN PAID FOR GIVING UP THOSE RIGHTS. THIS DOCUMENT IS ENFORCEABLE AGAINST YOU IF YOU SIGN IT, EVEN IF YOU HAVE NOT BEEN PAID. IF YOU HAVE NOT BEEN PAID, USE A CONDITIONAL RELEASE FORM.**

LABOR AND MATERIAL PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS THAT \_\_\_\_\_ (hereinafter "Principal"), as Principal, and \_\_\_\_\_ (hereinafter "Surety"), a corporation organized and existing under the laws of the State of \_\_\_\_\_ holding a certificate of authority to transact surety business in Arizona issued by the Director of the Department of Insurance pursuant to Title 20, Chapter 2, Article 1, as Surety, are held and firmly bound unto \_\_\_\_\_ (hereinafter "Obligee") in the amount of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_), for the payment whereof, Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written Contract with the Obligee, dated the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, to \_\_\_\_\_ which Contract is hereby referred to and made a part hereof.

WHEREAS, Obligee desires to avoid the lien provisions of Arizona Revised Statutes Section 33-981 pertaining to agents by requiring Principal to furnish this bond.

NOW, THEREFORE, THE CONDITION OF THE OBLIGATION IS SUCH that if the Principal promptly pays all monies due to all persons performing labor or professional services or furnishing materials to the Principal or the Principal's subcontractors in the prosecution of the work provided for in the Contract, this obligation is void. Otherwise it remains in full force and effect.

PROVIDED, HOWEVER, that this bond having been required of Principal in order to comply with the provision of Arizona Revised Statutes Section 33-1003, all right and remedies on this bond shall inure solely to such persons named in said statute and shall be determined in accordance with the provisions, conditions and limitations of said statute and any other statute referred to therein to the same extent as if the statute or statutes were copied at length therein.

Witness our hands this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
PRINCIPAL  
By: \_\_\_\_\_

\_\_\_\_\_  
SURETY  
By: \_\_\_\_\_  
(Power of Attorney must be attached)

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS THAT \_\_\_\_\_

(hereinafter "Principal"), as Principal, and \_\_\_\_\_  
(hereinafter "Surety"), a corporation organized and existing under the laws of the State of \_\_\_\_\_  
holding a certificate of authority to transact surety business in Arizona issued by  
the Director of the Department of Insurance pursuant to Title 20, Chapter 2, Article 1, as Surety,  
are held and firmly bound unto \_\_\_\_\_ (hereinafter "Obligee")  
in the amount of \_\_\_\_\_ Dollars (\$\_\_\_\_\_  
), for the payment whereof, Principal and Surety bind themselves, and their heirs,  
administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written Contract with the Obligee, dated  
the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, to \_\_\_\_\_  
\_\_\_\_\_ which Contract is hereby referred to and made a part hereof.

NOW, THEREFORE, THE CONDITION OF THE OBLIGATION IS SUCH that, if Principal shall  
promptly and faithfully perform said Contract, then this obligation shall be null and void.  
Otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the Obligee.

Whenever Principal shall be, and declared by Obligee to be in default under the Contract  
the Obligee having performed Obligees obligations thereunder, the Surety may promptly remedy  
the default or shall promptly (1) complete the Contract in accordance with its terms and  
conditions, or (2) obtain a bid or bids for completing the Contract in accordance with its terms and  
conditions, and upon determination by Surety of the lowest responsible bidder, or, if the Obligee  
elects, upon determination by the Obligee and the Surety jointly of the lowest responsible bidder,  
arrange for a contract between such bidder and Obligee, and make available as work progresses  
(even though there should be a default or a succession of defaults under the Contract or Contracts  
of completion arranged under this paragraph) sufficient funds to pay the cost of completion less  
the balance of the contract price; but not exceeding, including other costs and damages for which  
the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term  
"balance of the contract price," as used in this paragraph, shall mean the total amount payable by  
Obligee to Principal under the Contract and any amendments thereto, less the amount properly  
paid by Obligee to Principal..

Any suit under this bond must be instituted before the expiration of two (2) years from the  
date on which final payment under the Contract falls due.

No right of action shall accrue on this bond to or for the use of any person or corporation other than the Oblige named herein or the heirs, executors, administrators or successors of the Oblige.

Witness our hands this \_\_\_\_ day of \_\_\_\_\_, 19\_\_.

\_\_\_\_\_  
PRINCIPAL

By: \_\_\_\_\_

\_\_\_\_\_  
SURETY

By: \_\_\_\_\_

BOND #101160868

## PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS THAT PROGRESSIVE CONTRACTING, INC. (hereinafter "Principal"), as Principal, and TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA (hereinafter "Surety"), a corporation organized and existing under the laws of the State of CONNECTICUT holding a certificate of authority to transact surety business in Arizona issued by the Director of the Department of Insurance pursuant to Title 20, Chapter 2, Article 1, as Surety, are held and firmly bound unto SUNCOR DEVELOPMENT COMPANY (hereinafter "Obligee") in the amount of TWO HUNDRED TWENTY SEVEN THOUSAND FOUR HUNDRED SEVENTY FOUR AND 00/100 Dollars (\$ 227,474.00), for the payment whereof, Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written Contract with the Obligee, dated the 16TH day of APRIL, 1999 to INSTALL PRESSURE SEWER OUTFALL LINE AND WATERLINE EXTENSION AND FIRE HYDRANTS - CORAL CANYON PROJECT which Contract is hereby referred to and made a part hereof.

NOW, THEREFORE, THE CONDITION OF THE OBLIGATION IS SUCH that, if Principal shall promptly and faithfully perform said Contract, then this obligation shall be null and void. Otherwise it shall remain in full force and effect.

The Surety hereby waives notice of any alteration or extension of time made by the Obligee.

Whenever Principal shall be, and declared by Obligee to be in default under the Contract, the Obligee having performed Obligee's obligations thereunder, the Surety may promptly remedy the default or shall promptly (1) complete the Contract in accordance with its terms and conditions, or (2) obtain a bid or bids for completing the Contract in accordance with its terms and conditions, and upon determination by Surety of the lowest responsible bidder, or, if the Obligee elects, upon determination by the Obligee and the Surety jointly of the lowest responsible bidder, arrange for a contract between such bidder and Obligee, and make available as work progresses (even though there should be a default or a succession of defaults under the Contract or Contracts of completion arranged under this paragraph) sufficient funds to pay the cost of completion less the balance of the contract price; but not exceeding, including other costs and damages for which the Surety may be liable hereunder, the amount set forth in the first paragraph hereof. The term "balance of the contract price," as used in this paragraph, shall mean the total amount payable by Obligee to Principal under the Contract and any amendments thereto, less the amount properly paid by Obligee to Principal.

Any suit under this bond must be instituted before the expiration of two (2) years from the date on which final payment under the Contract falls due.



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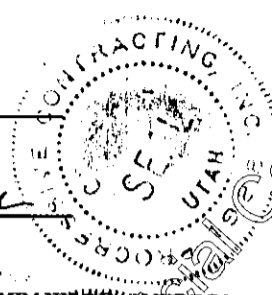
No right of action shall accrue on this bond to or for the use of any person or corporation other than the Oblige named herein or the heirs, executors, administrators or successors of the Oblige.

Witness our hands this 27TH day of APRIL, 1999.

**PROGRESSIVE CONTRACTING, INC.**

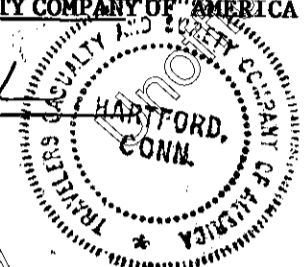
PRINCIPAL

By: [Signature]



**TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA**  
SURETY

By: [Signature]  
**KEVIN W. ANDREWS**  
ATTORNEY-IN-FACT



BOND #101160868

LABOR AND MATERIAL PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS THAT PROGRESSIVE CONTRACTING, INC. (hereinafter "Principal"), as Principal, and TRAVELERS CASUALTY AND SURETY CO. OF AMERICA (hereinafter "Surety"), a corporation organized and existing under the laws of the State of CONNECTICUT holding a certificate of authority to transact surety business in Arizona issued by the Director of the Department of Insurance pursuant to Title 20, Chapter 2, Article 1, as Surety, are held and firmly bound unto SUNCOR DEVELOPMENT COMPANY (hereinafter "Obligee") in the amount of TWO HUNDRED TWENTY SEVENTHOUSAND FOUR HUNDRED SEVENTY FOUR AND 00/100 Dollars (\$ 227,474.00), for the payment whereof, Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has entered into a certain written Contract with the Obligee, dated the 16TH day of APRIL, 19 99 to INSTALL PRESSURE SEWER OUTFALL LINE AND WATERLINE EXTENSION AND FIRE HYDRANTS - CORAL CANYON PROJECT which Contract is hereby referred to and made a part hereof.

WHEREAS, Obligee desires to avoid the lien provisions of Arizona Revised Statutes Section 33-981 pertaining to agents by requiring Principal to furnish this bond.

NOW, THEREFORE, THE CONDITION OF THE OBLIGATION IS SUCH that if the Principal promptly pays all monies due to all persons performing labor or professional services or furnishing materials to the Principal or the Principal's subcontractors in the prosecution of the work provided for in the Contract, this obligation is void. Otherwise it remains in full force and effect.

PROVIDED, HOWEVER, that this bond having been required of Principal in order to comply with the provision of Arizona Revised Statutes Section 33-1003, all right and remedies on this bond shall inure solely to such persons named in said statute and shall be determined in accordance with the provisions, conditions and limitations of said statute and any other statute referred to therein to the same extent as if the statute or statutes were copied at length therein.

Witness our hands this 27TH day of APRIL, 1999.

PROGRESSIVE CONTRACTING, INC.

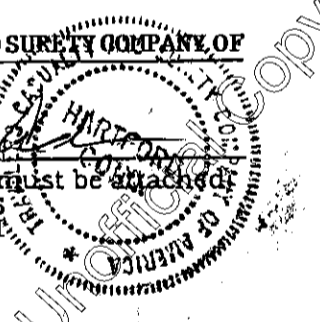
PRINCIPAL

By: [Signature]



TRAVELERS CASUALTY AND SURETY COMPANY OF SURETY AMERICA

By: [Signature]  
(Power of Attorney must be attached)  
KEVIN W. ANDREWS  
ATTORNEY-IN-FACT



# ACORD CERTIFICATE OF LIABILITY INSURANCE

OP ID 53  
PROCO5

DATE (MM/DD/YY)  
04/27/99

**PRODUCER**  
**First Security Insurance, Inc.**  
 Formerly Commercial West/Provo  
 40 North 200 East  
 American Fork UT 84003  
 Phone: 801-756-3521 Fax: 801-342-2166

**INSURED**  
**Progressive Contracting, Inc.**  
 P.O. Box 1930  
 297 West Hilton Drive, #3  
 St. George UT 84770

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

(INSURERS AFFORDING COVERAGE)

INSURER A: **United States Fidelity &**  
 INSURER B:  
 INSURER C:  
 INSURER D:  
 INSURER E:

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**COVERAGES**

THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS
A	<input checked="" type="checkbox"/> GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR	KK07800011	01/01/99	01/01/00	EACH OCCURRENCE \$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER: POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC <input type="checkbox"/>				FIRE DAMAGE (Any one fire) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/OP AGG \$ 2,000,000
A	<input checked="" type="checkbox"/> ANY AUTO <input checked="" type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	KK07800011	01/01/99	01/01/00	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000
					BODILY INJURY (Per person) \$
					BODILY INJURY (Per accident) \$
					PROPERTY DAMAGE (Per accident) \$
	<input type="checkbox"/> GARAGE LIABILITY <input type="checkbox"/> ANY AUTO				AUTO ONLY - EA ACCIDENT \$
					OTHER THAN AUTO ONLY: EA ACC \$
	<input type="checkbox"/> EXCESS LIABILITY <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE DEDUCTIBLE RETENTION \$				EACH OCCURRENCE \$
					AGGREGATE \$
	<input type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY				WC STATUTORY LIMITS OTHER
					E.L. EACH ACCIDENT \$
					E.L. DISEASE - EA EMPLOYEE \$
					E.L. DISEASE - POLICY LIMIT \$
A	<input checked="" type="checkbox"/> OTHER <b>Equipment Floater</b>	KK07800011	01/01/99	01/01/00	SCHEDULED DED 3,910,247 250

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS  
**RE: INSTALL PRESSURE SEWER OUTFALL LINE AND WATERLINE EXTENSION AND FIRE HYDRANTS - CORAL CANYON PROJECT**  
**CERTIFICATE HOLDER IS LISTED AS AN ADDITIONAL INSURED.**

CERTIFICATE HOLDER	N	ADDITIONAL INSURED, INSURER LETTER	CANCELLATION
SUNCOR DEVELOPMENT COMPANY 321 NORTH MALL DR., #H ST. GEORGE UT 84790		ZZZZZZZZ	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO DO SO SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.  Kevin Andrews <i>Kevin Andrews</i>

DUAL OBLIGEE RIDER TO PERFORMANCE BOND

Bond 101160868

WHEREAS, Heretofore, on or about the 16TH day of APRIL, 19 99, PROGRESSIVE CONTRACTING, INC. hereinafter referred to as Principal, entered into a written agreement with SUNCOR DEVELOPMENT COMPANY, hereinafter referred to as Original Oblige, for the construction of INSTALL PRESSURE SEWER OUTFALL LINE AND WATERLINE EXTENSION AND FIRE HYDRANTS - CORAL CANYON PROJECT, and

WHEREAS, the Principal and the [blank], a [blank] Corporation, as Surety, executed and delivered to the Original Oblige their joint and several Performance Bond, and

WHEREAS, WASHINGTON CITY, hereinafter referred to as Additional Oblige, has requested the Principal and Surety to join with the Original Oblige in the execution and delivery of this Rider, and the Principal and Surety have agreed so to do upon the conditions herein stated.

NOW THEREFORE, in consideration of one dollar and other good and valuable consideration, receipt of which is acknowledged, the undersigned agree that the said Performance Bond shall be, and is, amended as follows:

1. The name of WASHINGTON CITY, as Additional Oblige, shall be added to said bond as a named Oblige.
2. The rights of Additional Oblige as a named Oblige shall be subject to the condition precedent that the Original Oblige's obligations under the contract be performed.
3. The aggregate liability of the Surety under said bond to the Original Oblige and Additional Oblige, as their interests may appear, is limited to the penal sum of the said bond.
4. The Surety, as its option, may make any payment under said bond by check issued jointly to the Original Oblige and Additional Oblige.
5. The purpose of this Rider is to add an Additional Oblige only and is not intended to affect or alter the terms and conditions of this bond.

Signed, sealed and dated this 16TH day of APRIL, 19 99.

(Seal if corporation) Attest \_\_\_\_\_

\_\_\_\_\_  
Original Oblige  
By \_\_\_\_\_

(Seal if corporation) Attest \_\_\_\_\_

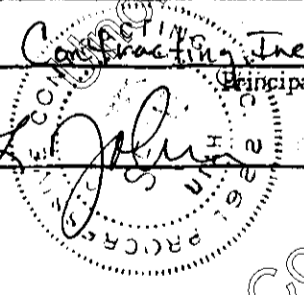
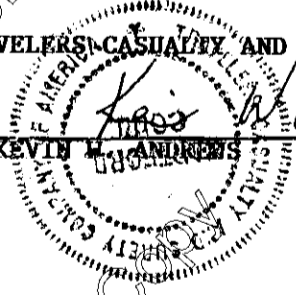
\_\_\_\_\_  
Additional Oblige  
By \_\_\_\_\_

TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA

By KEVIN H. ANDREWS Attorney-in-Fact

By Progressive Contracting, Inc. Principal

By [Signature]



**POWER OF ATTORNEY AND CERTIFICATE OF AUTHORITY OF ATTORNEY(S)-IN-FACT**

**I. I, TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA**, a corporation duly organized under the laws of the State of Connecticut, and having its principal office in the City of Hartford, County of Hartford, State of Connecticut, hath made, constituted and appointed, and does by these presents make, constitute and appoint Kevin W. Andrews, James Brown, Georgia Torres, Michael H. Gale, Randy C. Emery, Jayne R. Andrews, Vikki Pesci, Joyce Olson or Eileen Murdock \*\*

of, Provo, Utah, its true and lawful Attorney(s)-in-Fact, with full power and authority hereby conferred to sign, execute and acknowledge, at any place within the United States, or, if the following line be filled in, within the area there designated

the following instrument(s):

by his/her sole signature and act, any and all bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking and any and all consents incident thereto

and to bind TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, thereby as fully and to the same extent as if the same were signed by the duly authorized officers of TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, and all the acts of said Attorney(s)-in-Fact, pursuant to the authority herein given, are hereby ratified and confirmed.

This appointment is made under and by authority of the following Standing Resolutions of said Company, which Resolutions are now in full force and effect:

**VOTED:** That each of the following officers: Chairman, Vice Chairman, President, Any Executive Vice President, Any Group Executive, Any Senior Vice President, Any Vice President, Any Assistant Vice President, Any Secretary, Any Assistant Secretary, may from time to time appoint Resident Vice Presidents, Resident Assistant Secretaries, Attorneys-in-Fact, and Agents to act for and on behalf of the Company and may give any such appointee such authority as his certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors may at any time remove any such appointee and revoke the power and authority given him or her.

**VOTED:** That any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the Chairman, the Vice Chairman, the President, an Executive Vice President, a Group Executive, a Senior Vice President, a Vice President, an Assistant Vice President or by a Resident Vice President, pursuant to the power prescribed in the certificate of authority of such Resident Vice President, and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary or by a Resident Assistant Secretary, pursuant to the power prescribed in the certificate of authority of such Resident Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact pursuant to the power prescribed in his or their certificate or certificates of authority.

**This Power of Attorney and Certificate of Authority is signed and sealed by facsimile under and by authority of the following Standing Resolution voted by the Board of Directors of TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, which Resolution is now in full force and effect:**

**VOTED:** That the signature of each of the following officers: Chairman, Vice Chairman, President, Any Executive Vice President, Any Group Executive, Any Senior Vice President, Any Vice President, Any Assistant Vice President, Any Secretary, Any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such power of attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

(over)

IN WITNESS WHEREOF, TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA has caused this instrument to be signed by its Senior Vice President, and its corporate seal to be hereto affixed this 1st day of July, 1997.

STATE OF CONNECTICUT  
COUNTY OF HARTFORD

} SS. Hartford



TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA

By *George W. Thompson*

George W. Thompson  
Senior Vice President

On this 1st day of July, 1997, before me personally came GEORGE W. THOMPSON to me known, who, being by me duly sworn, did depose and say: that he/she is Senior Vice President of TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, the corporation described in and which executed the above instrument; that he/she knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; and that he/she executed the said instrument on behalf of the corporation by authority of his/her office under the Standing Resolutions thereof.



Marie C Tetreault

My commission expires June 30, 2001 Notary Public  
Marie C. Tetreault

CERTIFICATE

I, the undersigned, Assistant Secretary of TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA, a stock corporation of the State of Connecticut, DO HEREBY CERTIFY that the foregoing and attached Power of Attorney and Certificate of Authority remains in full force and has not been revoked, and furthermore, that the Standing Resolutions of the Board of Directors, as set forth in the Certificate of Authority, are now in force.

Signed and Sealed at the Home Office of the Company, in the City of Hartford, State of Connecticut. Dated this 27TH day of APRIL, 1999.



By \_\_\_\_\_

Rose Gonsoulin  
Assistant Secretary