

**FIRST AMENDMENT TO LYNN R. MORGAN WATER TREATMENT FACILITY
EXPANSION CMAR CONTRACT**

This First Amendment to Lynn R. Morgan Water Treatment Facility Expansion CMAR Contract (the "First Amendment") is made and entered into this ____ day of February, 2019 (the "Effective Date") by and between the Town of Erie, a Colorado municipal corporation with an address of 645 Holbrook Street, P.O. Box 750, Erie, Colorado 80516 (the "Town"), and Garney Companies, Inc., an independent contractor with a principal place of business at _____, Colorado _____ ("Contractor") (each a "Party" and collectively the "Parties")

WHEREAS, on December 26, 2018, the Parties entered into the Lynn R. Morgan Water Treatment Facility Expansion CMAR Contract (the "Contract"); and

WHEREAS, the Parties wish to amend the Contract as provided herein.

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

1. Section 5.01 of the Contract is hereby amended to read as follows:

5.01. For pre-construction phase and early procurement services:

A. In consideration of Contractor's Services during the Pre-Construction Phase of this Contract, Owner will pay to Contractor the Pre-Construction Phase Fee, based on proposed time and materials, which is a stipulated maximum not to exceed the sum of \$24,210, inclusive of all expenses and disbursements payable proportionately on a monthly basis based on the amount of effort expended by Contractor. The Pre-Construction Phase Fee is not included in the GMP and is payable in addition to the GMP.

B. In full consideration for an early procurement of membranes from Evoqua Water Technologies, Owner will pay to Contractor \$2,011,057, which amount is based on the proposal from Evoqua Water Technologies dated February 1, 2019, which includes a cost of \$1,837,975, bonds and insurance of \$27,570 and Contractor's mark-up of 7.8%, or \$145,512.

2. Section 9.01 of the Contract is hereby amended by the addition of a new subsection 8, to read as follows:

8. Proposal #19q1330csd, Evoqua, Memcor Cs Membrane Filtration System, Erie Co Expansion Proposal, February 1, 2019.

3. Except as expressly modified herein, the Contract shall remain in full force and effect.

