

**TOWN OF COLLBRAN DEPARTMENT OF PUBLIC
WORKS**

Contract Documents

Including

Town of Collbran Proposal

For

*** * * * ***

Town of Collbran

Streets Overlay

2021

*** * * * ***

**CONTRACT DOCUMENTS
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ADVERTISEMENT FOR BIDS

The Town of Collbran, Colorado, will receive sealed bids for the Town of Collbran Overlay 2021. Bids will be received at the Collbran Town Hall, 1010 High Street, Collbran, Colorado until 2:00 P.M., July 22, 2021, at which time and place all bids will be publicly opened and read aloud.

The Project scope includes two main roads in the Town of Collbran. High Street from Main Street East to Glenarm Ave. and Pinion Street from Elm Ave. West to the cross drain West of Poplar Ct. This project will include edge milling, butt joint and bridge deck milling along with manhole lid and water valve structure resets. Asphalt will be overlaid 1.5 inches over the surface.

The contract documents and plans for overlaying roads in Collbran, Colorado with Hot Mix Asphalt may be picked up at the following location, on June 21, 2021 after 1:00 P.M.

Collbran Town Hall
1010 High Street
Collbran, Colorado 81524

The Town of Collbran, in an effort to expedite the bidding process, will be using the web page as a method of getting all pertinent information out on Transportation Capital Projects. All necessary documents including bids sets, specifications, addendum and any addition information will be placed on the web page. These documents will be under the specific project name. It shall be the responsibility of all firms and contractors to check the web page and download the appropriate documents including all addendums. No notice will be sent informing contractor's and firms that there is new information or addendums. This is the responsibility of the individual firms and/or contractor's. Any questions or problems with the web page should be directed to Melonie Matarozzo at 970-487-3751. Bidders are encouraged to do a site visit before the bid.

The Contract will be awarded to the lowest qualified bidder, as determined by the statement of qualifications and the bid, which is deemed to be in the best interest of the Town. The Town reserves the right to accept the bid or any portion of the bid by a competent bidder that will result in the lowest cost to the Town. The Town reserves the right to accept or reject any portion or all bids without disclosing the reason therefore.

BIDDER shall submit documentation of pre-qualification meeting the requirements included in the project specifications or as follows: For transportation projects, BIDDER shall submit documentation showing they are Colorado Department of Transportation (CDOT) pre-qualified in the Discipline of General Construction work (CDOT Work Code #01). Such pre-qualification shall be in a dollar amount equal to or exceeding the dollar value of the submitted bid. Documentation of pre-qualification will be required to be submitted with the bid. Bids from BIDDERS that do not meet the pre-qualifications requirements **MAY BE CONSIDERED A NON-RESPONSIVE BID.**

A Certified Check or Bank Draft on a responsible bank, or a satisfactory Bid Bond executed by the bidder and a recognized Colorado Licensed Surety Company payable to Town of Collbran, in an amount equal to five percent (5%) of the total bid, shall be submitted with each bid as security that the bidder to whom the contract may be awarded will enter into a contract in accordance with this notice, and give bond as hereinafter provided.

No bids may be withdrawn after the opening of bids, without consent of the Town of Collbran, for a period of sixty (60) days after the scheduled time of opening of bids. The successful bidder or bidders will be required to furnish satisfactory performance bonds equal to the full amount of each bid or bid.

All bids must be submitted in writing on the forms provided, and must be signed by the bidder or his duly authorized agent.

Published DATES June 20 & 23, 2021

INSTRUCTIONS TO BIDDERS

1. TERMINOLOGY

- 1.1 The TOWN is the Town of Collbran, Colorado; Mayor Keith Todd, Mayor Pro-Tem Kris Melnikoff, Trustee Terri Dalrymple, Trustee Shana Appelhanz and Trustee Lew Evans.
- 1.2 The TOWN'S DESIGNATED REPRESENTATIVE is Melonie Matarozzo, Town Administrator, 1010 High Street Collbran, CO 81624, 970-487-3751, admin@townofcollbran.us .
- 1.3 The CONTRACT ADMINISTRATOR is Matt Nichols, 971 Coffman Rd., Bldg. B, Whitewater, CO 81527, 970.244.1673, matt.nichols@mesacounty.us .
- 1.4 Terms used in the Instructions to BIDDERS shall have the meanings assigned to them in the Mesa County General Contract Conditions, used here forth by the Town of Collbran for the Town of Collbran 2021 Overlay Project.

2. BID PERIOD AND OPENING

- 2.1 BIDS will be received by the TOWN at the Town Hall Office 1010 High Street Collbran, CO 81524 until 2:00 P.M., 7/22/2021. BIDS will be opened and read publicly at 2:00P.M., 7/22/2021.

3. PROJECT EVALUATION

- 3.1 The TOWN is now making all bidding documents available on the following web page: townofcollbran.colorado.gov All necessary documents including bid sets, specifications, addendum and any additional information provided will be placed on the web page under the specific project name. It shall be the responsibility of all firms and contractors to check the web page and download the appropriate documents including all addendums. No notice will be sent informing contractor's and firms that there is new information or addendums. This is the responsibility of the individual firms and/or contractor's.
- 3.2 The TOWN assumes no responsibility for the accuracy of project information (Plans and Specifications) obtained from outside sources (Plan Rooms) other than the TOWN. Be aware, if the BIDDER chooses to pick plans and specification from a Plans Room rather than signing up with the TOWN, they may not be included in all Addenda, which could result in having a non-responsive BID.
- 3.3 BIDDERS must satisfy themselves as to the accuracy of the estimated quantities in the BID SCHEDULE by examination of the site and a review of the drawings and specifications including Addenda. After BIDS have been submitted, the BIDDER

shall not assert that there was a misunderstanding concerning the quantities of WORK or the nature of the WORK to be done.

- 3.4 The TOWN shall provide to BIDDERS, prior to bidding, all information pertinent to, or that delineates and describes the land owned and rights of way acquired or to be acquired.
- 3.5 The CONTRACT DOCUMENTS contain the provisions required for the performance of the Project. Information obtained from an officer, agent, or employee of TOWN or any other person shall not affect the risks or obligations assumed by the CONTRACTOR or relieve him from fulfilling any of the conditions of the CONTRACT.
- 3.6 All applicable laws, ordinances, and rules or regulations of all authorities having jurisdiction over performance of the project shall apply to the WORK described by the CONTRACT DOCUMENTS. The BIDDER shall be responsible for compliance with these statutes.
- 3.7 Each BIDDER is responsible for inspection of the site, the reading and being thoroughly familiar with the CONTRACT DOCUMENTS. The failure or omission of a BIDDER to do any of the foregoing shall in no way relieve a BIDDER of obligations with respect to the BID.
- 3.8 Command type sentences are used in the CONTRACT DOCUMENTS. These refer to and are directed to the CONTRACTOR.
- 3.9 Questions regarding documents, discrepancies, omissions, or intent of the specifications or drawings on a technical level shall be communicated in writing to CONTRACT ADMINISTRATOR, Matt Nichols, 970.244.1673, matt.nichols@mesacounty.us during business hours 8:00 a.m. to 5:00 p.m. Monday through Friday at least 7 days prior to the BID opening to provide time to issue an Addendum. Addenda will be issued, if in the opinion of the TOWN, it is necessary. TOWN will not be responsible for oral interpretations of the specifications and drawings. All other questions, especially as they pertain to the CONTRACT shall be communicated in writing to the CONTRACT ADMINISTRATOR, Matt Nichols, 970.244.1673, matt.nichols@mesacounty.us during business hours 8:00 a.m. to 5:00 p.m. Monday through Friday at least 7 days prior to the BID opening to provide time to issue an Addendum.
- 3.10 The BIDDER shall carefully examine the site of the WORK, the drawings, and the specifications. The submission of a BID will be conclusive evidence that the BIDDER has investigated and is satisfied as to the conditions to be encountered, with respect to character, quality, and quantity of WORK to be performed. Submission of a BID will also be seen as evidence of the BIDDER'S understanding of the materials required for completion of the WORK, completion time, and the authority that TOWN will exercise over the CONTRACT during its tenure.

3.11 If a bidder discovers an apparent error or omission in the proposal form, estimated quantities, plan, or specifications, the bidder shall immediately notify the CONTRACT ADMINISTRATOR to enable TOWN to make any necessary revisions. TOWN may consider it to be detrimental to the TOWN for a bidder to submit an obviously unbalanced unit bid price.

4. SUBSTITUTION OR APPROVAL OF ALTERNATIVE MATERIALS

4.1 To obtain approval during the BID period to use unspecified, “or equal”, or “as approved” materials, BIDDERS shall submit written requests at least 7 days prior to BID opening. Requests received later than this time will be considered at the discretion of the CONTRACT ADMINISTRATOR. Requests shall clearly describe the product for which approval is asked, including all necessary data to demonstrate its acceptability. The CONTRACT ADMINISTRATOR will make recommendations on acceptability and an Addendum will be issued if the product is acceptable.

5. BID FORMAT

5.1 Each BID must be submitted in a sealed envelope addressed to Mesa County Transportation Division, 971 Coffman Rd., Bldg. B, Whitewater, CO, Attn: Matt Nichols, Response to Town of Collbran Streets Overlay 2021 or to the Town of Collbran 1010 High Street/P.O. Box 387 Collbran Co 81624.

5.2 All BIDS must be made on the BID form included in the CONTRACT DOCUMENTS. All blank space for BID prices must be filled out in ink or typewritten, and the BID form must be completed in its entirety. Only one copy of the BID form is required.

5.3 The BIDDER shall supply the names and addresses of major material suppliers and SUBCONTRACTORS on the BID forms where requested.

5.4 The full name, business address, zip code and business telephone number with the area code of the individual, partnership, joint venture, or corporation submitting the bid shall be legibly printed on the BID forms. The BIDDER shall sign the form with his usual signature.

5.5 A partner shall sign for the partnership. The names of all partners with addresses shall be given.

5.6 An officer shall sign for a corporation, the corporate existence shall be attested by the corporate seal, and the names and titles of all officers of the corporation shall be given.

- 5.7 Any signature other than that of a corporate officer, partner, or the BIDDERS legally authorized agent or representative will be accepted only if an authenticated power of attorney is attached to the BID forms. All signatures shall be handwritten with the name printed or typewritten below the signature.
- 5.8 The BIDDER shall state for each item on the BID form the unit price and item total or lump sum in clearly legible figures. Prices shall be represented on the BID form with both numerals and words in the spaces provided for each. In case of conflict, words will take precedence.
- 5.9 The BID shall contain the Statement of Bidders Qualifications and Notification of Immigration Compliance Requirements and Certification by Contractor. No Notice of Award shall be given until these documents are completed and signed.
- 5.10 BIDDER shall submit documentation of Colorado Department of Transportation (CDOT) pre-qualified in the Discipline of General Construction work (CDOT Work Code #01). Such pre-qualification shall be in a dollar amount equal to or exceeding the dollar value of the submitted bid. Documentation of pre-qualification will be required to be submitted with the bid. Bids from BIDDERS that are not listed on the CDOT pre-qualified Contractor Listing above **MAY BE CONSIDERED A NON-RESPONSIVE BID.**
- 5.11 The BID shall contain acknowledgment of receipt of all Addenda in the space provided in the BID forms.

6. BONDS

- 6.1 Each BID must be accompanied by a BID BOND payable to the TOWN for five percent of the total amount of the BID. As soon as the BID prices have been evaluated and a CONTRACT has been approved, the TOWN will return the Bonds to the remaining unsuccessful BIDDERS. The BID BOND of the successful BIDDER will be returned after the PERFORMANCE, PAYMENT and MAINTENANCE BOND has been executed and approved. A certified check may be used in lieu of a BID BOND.
- 6.2 A PERFORMANCE BOND and a PAYMENT AND MAINTENANCE BOND, each in the amount as specified in the Contract, Article 7, with a corporate surety approved by the TOWN, will be required for the faithful performance of the CONTRACT.
- 6.3 Attorneys-in-fact who sign BID BONDS, or PERFORMANCE, PAYMENT and MAINTENANCE BOND must file with each BOND a certified and effective dated copy of their power of attorney.

7. EVALUATION OF BIDS

- 7.1 Any BID may be withdrawn prior to the BID opening. Any BID received after the time and date specified for the BID opening shall not be considered. No BIDDER may withdraw a BID within 90 days after the BID opening. Should there be reasons why the CONTRACT cannot be awarded within the specified period, the time within which the BID shall remain valid may be extended by mutual agreement between the TOWN and the BIDDER. The TOWN proposes to award a CONTRACT to a single successful BIDDER as soon as possible after BIDS have been opened.

The TOWN, or the TOWN's Representative, may make such investigations, as deemed necessary to determine the ability of the BIDDER to perform the WORK. The BIDDER shall furnish the TOWN with all such information and data for this purpose as the TOWN may request. The TOWN reserves the right to reject any portion of a BID or the entire BID if, based on submitted evidence or the TOWN's investigation, said BIDDER fails to satisfy the TOWN that he is properly qualified to carry out the obligations of the CONTRACT and to complete the WORK as presented by the CONTRACT DOCUMENTS. The TOWN reserves the right to reject any portion or the entire complete bids without disclosing the reason therefore.

The TOWN reserves the right to disqualify any BIDDER who is not in good standing with the Town of Collbran. Items that constitute "not in good standing" can include, but not limited to, lack of insurance, lack of performance on prior projects, or un-completed work.

- 7.2 BIDS will be considered irregular and may be rejected for any of the following reasons:

7.3.1 – If the BID is on a form other than that prescribed by the TOWN, or if the form is altered or any part thereof is detached, or if the form does not contain original signatures.

7.3.2 – If there are unauthorized additions, conditional or alternative proposals, or irregularities of any kind which may tend to make the proposal incomplete, indefinite, or ambiguous. A Conditional or Qualified BID will not be accepted.

7.3.3 – If the bidder fails to acknowledge in the proposal the receipt of all revisions current on the date of opening of proposals.

7.3.4 - In case of errors or uncertainty in pricing of any item, or if such pricing is omitted, then either unit prices or total price for the same item may be used, at the TOWN's discretion, to arrive at a total project BID cost. If the TOWN is unable to resolve ambiguities with respect to BID prices, the BID may be disregarded.

7.3.5 – If the TOWN determines that any unit bid prices are materially unbalanced to the potential detriment of the TOWN.

7.3.6 – If the Contractor submitting the bid is affiliated with another bidder that has submitted a bid on the same project.

The TOWN reserves the right to reject any or all bids, to waive technicalities or to advertise for new bids, if in the judgement of the COUNTY its best interests will be promoted therein.

8. NOTICE OF AWARD

8.1 The TOWN shall issue a Notice of Award along with the necessary CONTRACT and BOND forms to the lowest acceptable BIDDER that will result in completion of the WORK within the time allotted by the CONTRACT DOCUMENTS.

9. EXECUTION OF CONTRACT

9.1 The BIDDER, to whom the CONTRACT is awarded, will be required to execute the CONTRACT and obtain a PERFORMANCE, PAYMENT AND MAINTENANCE BOND and furnish INSURANCE CERTIFICATES within 10 calendar days from the date when the Notice of Award is delivered to the BIDDER. In case of failure of the BIDDER to execute the CONTRACT or provide the required bond and insurance certificates the TOWN may consider the BIDDER in default, and the BID BOND accompanying the bid shall become the property of the TOWN.

9.2 The TOWN, within 20 calendar days of receipt of acceptable PERFORMANCE, PAYMENT AND MAINTENANCE BOND, INSURANCE CERTIFICATES and CONTRACT signed by the BIDDER to whom the CONTRACT was awarded, shall sign the Contract and return to said BIDDER an executed duplicate of the CONTRACT. Should the TOWN not execute the CONTRACT within such period, the BIDDER may by written notice withdraw his signed CONTRACT. Such notice of withdrawal shall be effective upon receipt of the notice by the TOWN.

10. PRICES AND PAYMENTS

10.1 The quantities and portions of the WORK listed in the BIDDING SCHEDULE for which unit prices are asked, have been selected by the TOWN as the method of payment for the entire PROJECT as outlined in the drawings and described in the Specifications. Payments of these unit prices will be in full for the completed WORK and will cover materials, supplies, labor, tools, equipment and all other expenditures necessary to satisfactory compliance with the CONTRACT, unless specifically otherwise provided.

TOWN OF COLLBRAN, COLORADO

BID

Town of Collbran Overlay 2021

CONTRACTOR NAME: _____

ADDRESS: _____

PHONE: _____

To: Town of Collbran
1010 High Street
Collbran, Colorado 81624

The undersigned bidder, having examined the plans, specifications, and other Contract Documents as designated, and any addenda hereto, having investigated the location of, and conditions affecting the proposed work; and being acquainted with and fully understanding the extent and character of the work covered by this Bid and all factors and conditions affecting or which may be affected by the work;

HEREBY PROPOSES, pursuant to the Requirements for Bids as specified in the Bid Package entitled Town of Collbran Overlay 2021, to furnish all required materials, tools and equipment to perform all necessary labor and superintendence; and to undertake and complete the work required in Collbran, Colorado in full accordance with plans, specifications and Contract Documents hereto attached or by reference made a part thereof at, and for the following prices:

TOTAL BASE BID, Overlay Projects 1 and 2 (7,497 Sq. Yds.)

"Total Base Bids" are to be in both words and figures. In the case of discrepancy, the amount shown in words will govern.

TOTAL \$ _____

The BIDDER acknowledges receipt of the following ADDENDA:

The undersigned BIDDER proposes to sublet the following work:

1. Work Description: _____

Name of Proposed Sub-Contractor: _____

Address of Proposed Sub-Contractor: _____

2. Work Description: _____

Name of Proposed Sub-Contractor: _____

Address of Proposed Sub-Contractor: _____

3. Work Description: _____

Name of Proposed Sub-Contractor: _____

Address of Proposed Sub-Contractor: _____

4. Work Description: _____

Name of Proposed Sub-Contractor: _____

Address of Proposed Sub-Contractor: _____

5. Work Description: _____

Name of Proposed Sub-Contractor: _____

Address of Proposed Sub-Contractor: _____

The undersigned BIDDER acknowledges the right of the TOWN to reject any portion of the BIDDER'S bid or the entire complete bid submitted and to waive informalities therein.

By submission of the BID each BIDDER certifies, and in the case of a joint BID each party thereto certifies as to his own organization, that this BID has been arrived at independently, without consultation, communication, or agreement as to any matter relating to this BID with any other BIDDER or with any competitor.

The submission of a BID will constitute an incontrovertible representation by the BIDDER that he is familiar with conditions of the site together with the work required.

BIDDER agrees to perform all work described in the Contract Documents for unit prices or lump sum as shown on the Bid Schedule. The BIDDER further agrees that no bid may either be changed or withdrawn, without consent of the TOWN for a period of ninety (90) days after the scheduled time for opening the bids.

The undersigned BIDDER hereby agrees to be ready and to appear before the Town of Collbran Council to execute the attached Contract in conformity with this bid and also to have ready and furnish the required bond, executed by a Surety Company acceptable to the TOWN Attorney, and the insurance certificates at any time within ten (10) days from the date of a Notice of Award, mailed to the address hereinafter given.

The _____, a corporation of the State of _____, is hereby offered as Surety on said Bond. If such surety is not approved by the TOWN, another and satisfactory surety company will be furnished.

Enclosed herewith is Bid Security as defined in the attached Instructions to Bidders in the amount of _____ which Bid Security the undersigned BIDDER agrees is to be paid to and become the property of the TOWN, as liquidated damages and not as a penalty, for the delay and extra work caused hereby, should the BIDDER prevent an award as defined in the Instructions to Bidders, or should the Bid be accepted and contract awarded him and he fails to enter into Contract in the form prescribed and to furnish the required bond and insurance certificates within ten (10) days as stipulated.

All participating BIDDERS, by their signature hereunder, shall agree to comply with all conditions, requirements, and instructions of this IFB as stated or implied herein. Should TOWN omit anything from this IFB package, which is necessary to a clear understanding of the requirements, or should it appear that various instructions are in conflict, then the BIDDERS shall secure instructions from Matt Nichols, Contract Administrator, in the Mesa County Public Works Department, telephone number 970-244-1673 or email at matt.nichols@mesacounty.us prior to the date and time of the quote closing date shown in the IFB.

Dated at _____ this _____ day of _____, 20_____.

Signatures of Bidders:

If an individual: _____ doing business as

If a partnership: _____ by

_____ member of firm.

If a corporation: _____ by

Corporate Seal:

ATTEST:

Title:

Business Address of Bidder _____

Bidder is required to submit

**NOTIFICATION OF IMMIGRATION COMPLIANCE REQUIREMENTS AND
CERTIFICATION BY CONTRACTOR**

_____, (“Contractor” herein) acknowledges that Contractor has been notified of the immigration compliance requirements of C.R.S. § 8-17.5-101, *et.seq.* (House Bill 06-1343), and hereby **CERTIFIES** that:

1. The Contractor shall not knowingly employ or contract with an illegal alien to perform work under the public contract for services; or

2. Enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under the public contract for services;

3. The Contractor has verified or attempted to verify through participation in the basic pilot program that the Contractor does not employ any illegal aliens and, if the Contractor is not accepted into the basic pilot program prior to entering into a public contract for services, that the Contractor shall apply to participate in the basic pilot program every three months until the Contractor is accepted or the public contract for services has been completed, whichever is earlier. This provision shall not be required or effective in a public contract for services if the basic pilot program is discontinued;

4. The Contractor acknowledges that the Contractor is prohibited from using basic pilot program procedures to undertake pre-employment screening of job applicants while the public contract for services is being performed;

5. If the Contractor obtains actual knowledge that a subcontractor performing work under the public contract for services knowingly employs or contracts with an illegal alien, the Contractor shall be required to:

(A) Notify the subcontractor and the contracting state agency or political subdivision within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

(B) Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to subparagraph (A) of this Section 5 the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

6. Contractor is required to comply with any reasonable request by the State Department of Labor and Employment (“Department” herein) made in the course of an

investigation that the Department is undertaking pursuant to the authority established in C.R.S. § 8-17.5-102(5).

7. If Contractor violates a provision of the public contract for services required herein may terminate the contract for a breach of the contract. If the contract is so terminated, the Contractor shall be liable for actual and consequential damages to the Town.

8. The Town is obligated to notify the office of the secretary of state if a contractor violates a provision of this Addendum and the Town terminates the contract for such breach. Based on this notification, the secretary of state shall maintain a list that includes the name of the Contractor, the state agency or political subdivision that terminated the public contract for services, and the date of the termination. A contractor shall be removed from the list if two years have passed since the date the contract was terminated, or if a court of competent jurisdiction determines that there has not been a violation of the provision of the public contract for services required pursuant to Section I. An agency or political subdivision shall notify the office of the secretary of state if a court has made such a determination. The list shall be available for public inspection at the office of the secretary of state and shall be published on the internet on the website maintained by the office of the secretary of state.

9. The Department may investigate whether a contractor is complying with the provisions of a public contract for services required pursuant to Section I. The Department may conduct on-site inspections where a public contract for services is being performed, request and review documentation that proves the citizenship of any person performing work on a public contract for services, or take any other reasonable steps that are necessary to determine whether a contractor is complying with the provisions of a public contract for services required pursuant to Section I. The Department shall receive complaints of suspected violations of a provision of a public contract for services (this Addendum) and shall have discretion to determine which complaints, if any, are to be investigated. The results of any investigation shall not constitute final agency action. The Contractor is hereby notified that the Department is authorized to promulgate rules in accordance with article 4 of title 24, C.R.S., to implement the provisions of C.R.S. § 8-17.5-101, *et. seq.*

Dated this _____ day of _____, _____.

[CONTRACTOR]

By _____ [Printed Name]

Bidder is required to submit

STATEMENT OF BIDDERS QUALIFICATIONS

All questions must be answered and the data given must be clear and comprehensive. This statement must be notarized. If necessary, questions may be answered on separate attached sheets. The Bidder may submit any additional information he desires.

1. Name of Bidder:

2. Permanent main office address, email and phone number:

3. When organized:

4. If a corporation, where incorporated:

5. How many years have you been engaged in contracting business under your present trade name?

6. Contracts on hand: (schedule these, showing amount of each contract and the appropriate anticipated dates of completion.)

7. Have you ever failed to complete any work awarded to you?
If so, where and why?

8. Have you ever defaulted on a contract?
If so, where and why?

9. List the more important similar projects recently completed by your company, stating the name and phone number of the Owner of the project, approximate cost for each, and the month and year completed:

10. List your major equipment available for this contract.

11. Show verification of meeting the pre-qualification requirements included in the project specifications or as follows: For transportation projects, BIDDER shall submit documentation showing they are pre-qualified with the Colorado Department of Transportation. BIDDER shall submit documentation of Colorado Department of Transportation (CDOT) pre-qualified in the Discipline stated in the IFB. Such pre-qualification shall be in a dollar amount equal to or exceeding the dollar value of the submitted bid. Documentation of pre-qualification will be required to be submitted with the bid. Bids from BIDDERS that do not meet the pre-qualifications requirements may be considered a non-responsive BID.

12. Describe your experience in construction work similar in importance to this project:

13. Can you provide personnel certified as work zone traffic control supervisors (A.T.S.S.A., or I.M.S.A.) for the performance of this contract?

14. Give bank references:

15. Will you, upon request, fill out a detailed financial statement and furnish any other information that may be required by the Town?

16. Quality personnel are a key component to the successful completion of a project. Provide a list of key personnel who will be assigned to this project indicating their function and experience.
17. List all previous experience on Mesa County Capital Improvement Projects. Previous experience on Mesa County Capital Improvement Projects will be considered a project reference and could positively or negatively impact the decision by the Town of Collbran to accept any particular bid.

The undersigned hereby authorizes and requests any person, firm or corporation to furnish any information requested by the Town in verification of the recitals comprising this Statement of Bidder's Qualifications:

Dated at:

This _____ day of _____, 20____.

Name of Bidder

By: _____

Title: _____

State of _____)

ss.

County of _____)

Being duly sworn deposes and says that he/she is _____ of _____ and that the answers to the foregoing questions and all statements therein contained are true and correct.

Subscribed and sworn to before me this _____ day of _____, 20____.

Notary Public

Address

(seal)

My Commission Expires: _____

PERFORMANCE, PAYMENT AND MAINTENANCE BOND

KNOW ALL MEN BY THESE PRESENT:

That we the undersigned, _____ as Principal, and _____ a Corporation, organized and existing under and by virtue of the laws of the State of Colorado and Surety, are held and firmly bound unto the Town of Collbran, Colorado in the penal sum of Dollars (\$ _____) lawful money of the United States of America, for the payment of which, will truly be made the said Principal and the said Surety do hereby bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these present, as follows:

The condition of the above obligation is such that; whereas, the said Principal has entered into a written Contract with the Town of Collbran, Colorado for the performance of the work designated _____, in Collbran, in the State of Colorado in conformity with the drawings, plans, and General Conditions, and specifications are hereby referred to and made a part hereof, the same to all intents and purposes as if written at length herein, in which Contract the said Principal has contracted to perform the work specified in said Contract in accordance with the terms thereof;

NOW, THEREFORE, THE CONDITIONS OF THIS OBLIGATION ARE SUCH THAT if the above bonded Principal shall well, truly and faithfully perform said contract and any alterations in and additions thereto and comply with all of the terms and provisions thereof, and satisfy all claims and demands incurred by the Principal in the performance of said Contract, and shall fully indemnify and save harmless the Town of Collbran, Colorado all costs, damages, and expenses which they may incur in making good any default by the Principal, including any default based upon the failure of the Principal to fulfill his obligation to furnish maintenance, repairs, or replacements for the full guarantee period provided in the specifications contained herein and in compliance with Title 38, Article 26, Section 101 (et seg) of the Colorado Revised Statutes of 1973 as a condition of this bond shall be that the Contractor shall at all times promptly make payments of all amounts lawfully due to all persons supplying or furnishing him or his subcontractors with labor and materials used or performed in the prosecution of work provided for in the above contract and that the undersigned will indemnify and save harmless the Town of the extent if any and all payments in connection with carrying out of such contract, then this obligation shall be null and void, otherwise, it shall remain in full force and effect.

PROVIDED, FURTHER, that Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or addition to the terms of the Contract or to the work to be performed thereunder, or the specifications accompanying the same shall in any wise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration, or addition to the terms of the Contract, or to the work or to the specifications.

IN WITNESS WHEREOF, said Principal and Surety have set their hands and seals at

_____, this _____ day of _____, 20_____.

Principal Contractor

(Seal)

By: _____

Attest: _____

Surety

(Seal)

By: _____

Attest: _____

INSURANCE CLARIFICATION

1. Contractor agrees to procure and maintain, at its own cost, a policy or policies of insurance/bonds sufficient to insure against all obligations assumed by Contractor pursuant to this Contract and shall not start work under this Contract until such insurance coverage has been obtained and approved in writing by the Town's Contract Administrator.
2. Contractor shall require all subcontractors and sub-subcontractors to maintain during the term of this Contract, Commercial General Liability insurance, Excess Liability, Professional Liability, Comprehensive Automobile Liability insurance, and Workers' Compensation and Employers' Liability insurance, in the same manner as specified for Contractor. Contractor shall furnish subcontractors' certificates of insurance to the Town, with a copy to the Town's Contract Administrator, immediately upon request.
3. All insurance policies required hereunder shall include a written thirty (30) day notification of cancellation. In that notice the Town and the Town's Contract Administrator will be notified of any material changes in the insurance policy(s) such as; cancellation, non-renewal, or reduction in coverage or alteration of coverage.
4. Nothing herein shall be deemed or construed as a waiver of any of the protections to which the County shall be entitled pursuant to the Colorado Government Immunity Act, sections 24-10-101, C.R.S., as amended.
5. All required insurance coverages must be acquired from insurers authorized to conduct business in the State of Colorado and acceptable to the Town. The insurers must also have policyholders' rating of "A-" or better, and financial class size of "Class VII" or better in the latest edition of Best's Insurance Reports, unless the Board grants specific approval for an exception.
6. Contractor shall procure and continuously maintain the minimum insurance coverage listed below, and additional coverage as may apply, with forms and insurers acceptable to the Town. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.
 - a. Workers' Compensation and Employer's Liability Including Occupations Disease Coverage in accordance with scope and limits as required by the State of Colorado of \$100,000 each accident; \$100,000 disease each employee; \$500,000 disease policy limit.
 - b. Commercial General Liability, "occurrence form," with minimum limits of ONE MILLION (\$1,000,000) combined single limit, per occurrence for bodily injury, personal injury and property damage. In addition Contractor must either:

1) Agree to provide certificates of insurance evidencing the above coverage for a period of two years after the final payment for the contract

OR

2)Purchase an extended (minimum two years) reporting period endorsement for the policy or policies in force during the term of this contract and evidence the purchase of this extended reporting period endorsement by means of a certificate of insurance or a copy of the endorsement itself.

- c. Comprehensive Automobile Liability insurance with minimum limits for bodily injury and property damage of not less than ONE MILLION (\$1,000,000) combined single limit per accident.
 - d. PROFESSIONAL LIABILITY INSURANCE with an endorsement for work under this Contract, and coverage of no less than ONE MILLION (\$1,000,000) per claim, and ONE MILLION (\$1,000,000) aggregate for all Design/Build, Survey, Professional Service and Design Contracts.
 - e. EXCESS LIABILITY/UMBRELLA INSURANCE with a limit no less than ONE MILLION (\$1,000,000) per occurrence/ONE MILLION (\$1,000,000) aggregate, and coverage at least as broad as the primary Commercial General Liability policy.
7. The policies required by paragraphs (B) and (C) above shall be endorsed to specify; "Town of Collbran, their officers, officials, employees and volunteers as INSUREDS, as respects liability, on behalf of Contractor, arising out of this Contract." All certificates of insurance are to be submitted on standard "ACCORD 25-S" form.

TOWN OF COLLBRAN, COLORADO

CONTRACT
CONTRACTOR'S NAME

This Contract made and entered into this 3rd day of August, by and between the TOWN OF COLLBRAN, COLORADO, a political subdivision of the State of Colorado, referred to as "TOWN" and < _____ >, a Colorado corporation (or limited liability company, etc., or if the contractor is not a Colorado entity, then it should read "a Texas, Delaware, etc., corporation authorized to do business in Colorado"), hereinafter referred in the Contract Documents as "Contractor.

WITNESSETH, that Town advertised that sealed bids would be received for furnishing all labor, tools, supplies, equipment, materials and everything necessary and required for the construction project.

WHEREAS, this Contract has been awarded to the above named Contractor by Town, and said Contractor is now willing and able to perform all of said Work in accordance with said advertisement and his bid.

NOW THEREFORE, in consideration of the compensation to be paid Contractor, the mutual covenants hereinafter set forth and subject to the terms hereinafter stated, it is mutually covenanted and agreed as follows:

ARTICLE I

Contract Documents: It is agreed by the parties hereto that the following list of installments, drawings, and documents which are attached hereto, bound herewith, or incorporated herein by reference constitute and shall be referred to either as the Contract Documents or the Contract, and all of said instruments, drawings, and Documents taken together as a whole constitute a contract between the parties hereto, and they are as fully a part of this Contract as if they were set out verbatim and in full herein.

- | | |
|--|---|
| Advertisement for Bids | Instruction to Bidders |
| Bid | Statement of Bidders Qualifications |
| Performance, Payment and Maintenance Bond | |
| Notification of Immigration Compliance | Insurance Clarification |
| Contract | Notice of Award |
| Notice to Proceed | Field Order |
| Change Order | Application for Payment |
| Certificate of Substantial Completion | Lien Waiver |
| Project Special Provisions | Mesa County General Contract Conditions |
| Plans and Drawings (Bearing the same Project name) | |
| Mesa County Standard Construction Specifications | |
| Addenda (If Any) | Additional Special Provisions (If Any) |

In case of any conflict, inconsistency or discrepancy among the Contract Documents, the requirement defining or describing the higher quality work or performance shall control. If the

conflict, inconsistency or discrepancy cannot be resolved by the application of that rule, the Contract Documents shall be given precedence in the following order:

- (a) Contract and Notice to Proceed,
- (b) General Contract Conditions,
- (c) Change Orders and Field Orders,
- (d) Addenda,
- (e) Project Plans,
- (f) Project Special Provisions,
- (g) Standard Plans,
- (h) Standard Specifications.

Figure dimensions on Drawings shall govern over scaled dimensions. Any work that may reasonably be inferred from the Specifications or Drawings as being required to product the intended result shall be supplied whether or not it is specifically called for.

ARTICLE 2

Definitions: The definitions provided in the Mesa County General Contract Conditions and the Mesa County Standard Construction Specifications apply to the terms used in the Contract and all Contract Documents, unless specifically modified by this Contract.

ARTICLE 3

Statement of Work: Contractor agrees to and shall furnish all labor, tools, supplies, equipment, materials, and everything necessary for and required to do, perform and complete all of the work described, drawn, set forth, shown, and included in said Contract Documents.

ARTICLE 4

Contract Time: Contractor agrees to undertake the performance of the Work under the Contract within ten (10) calendar days after the date of the Notice to Proceed and agrees to fully complete said Work within the stipulated working days noted hereinafter unless an extension of time is granted by Town. The Contract Time for Substantial Completion of all required Work shall be 90 Days or December 7, 2021.

ARTICLE 5

Liquidated Damages: It is understood and agreed by and between Town and Contractor that should the completion of the entire project be delayed beyond the stipulated day herein specified, the Town will suffer substantial damages, which damages it would be difficult to accurately determine. The Parties hereto have considered the possible limit of damages and have agreed that a delay in completion of this work will cost per Item **24. Failure to Complete Work on Time** of the Mesa County General Contract Conditions. If Contractor shall fail to pay such liquidated damages promptly upon demand, therefore, the Surety on the Performance Bond shall pay such damages. Also, Town may hold all or part of such liquidated damages from payments due Contractor.

ARTICLE 6

Terms of Payment: Contractor agrees to accept as his full and only compensation for the performance of all the work required under this price or prices set forth in Contractor's Bid, attached hereto and made a part hereof for Contract items numbered 1 through 2 for total estimated cost thereof to be SPELLED OUT,

(\$)_____.
Partial payments will be made for Work completed during the previous month and certified by the Engineer as well as for materials (invoice cost only) delivered to the Project site and suitably stored per items **55. Progress Payments** and Item **56. Payment for Materials on Hand (Stockpiled Material)** of the Mesa County General Contract Conditions.

All material and work covered by partial payments made shall thereupon become the sole property of Town, but this provision shall not be construed as relieving Contractor from the sole responsibility for all materials and work upon which payments have been made or the restoration of any damaged work, or as a waiver of the right of Town to require the fulfillment of all the terms of the Contract.

Town will retain, from partial payments, five percent (5%) of the total amount due the Contractor based on the Contractor's Application for Payment and the Engineer's recommendation of the work required by the Contract has been performed. Thereafter, Town may pay any of the remaining installments without retaining additional funds if, in the opinion of Town, satisfactory progress is being made in the work. Town may, at its sole discretion, at any time during the Contract Time, reduce the percentage of the total amount due which is retained when it appears that such retainage is not necessary to adequately protect Town.

Upon completion of the Work under the Contract, and prior to the payment, the Engineer and Town shall publish, in the newspaper published in the County the Notice of Contractor's Settlement, which shall state that they have accepted said Work as completed according to the Contract Documents and that Contractor is entitled to final settlement and that, upon thirty days notice following the date of first publication, specifying the exact date, Town will pay the full balance due under the Contract, and that persons having claims for labor or material furnished Contractor shall present the same to Town prior to said date specified for such payment. Nothing contained herein shall be construed as relieving the Contractor and the Sureties on the Contractor's Bond from any claim or claims for work or labor done or materials or supplies furnished in the execution of the Contract it is the intent of the Owner, to make payment for partial payments in a timely manner as follows:

- 1) Contractor shall submit his Application for Payment not later than the first day of the month.
- 2) The Engineer will, within 15 calendar days after receipt of an approved Application for Payment, submit the Application for Payment to Town for payment along with his Recommendation of Payment, noting any changes.

CHANGE OF CONTRACT PRICE

The Contract Price constitutes the total compensation (subject to authorized adjustments) payable to Contractor for performing Work. All duties, responsibilities and obligations assigned to or undertaken by Contractor shall be at his expense without change in the Contract Price.

The Contract Price may only be changed by a Change Order. The value of any Work covered by a Change Order or of any claim for an increase or decrease in the Contract Price shall be determined as defined in section **VII. Changes in Work or Contract Price** of the Mesa County General Contract Conditions contained and/or referenced herein.

CHANGE OF THE CONTRACT TIME

The Contract Time may only be changed by a Change Order. Any claim for an increase in Contract Time shall be determined as defined in item **24. Determination and Extension of Contract Time** of the Mesa County General Contract Conditions contained and/or referenced herein.

All time limits stated in the Contract Documents are of the essence of the Contract. The provisions of this Section shall not exclude recovery for damages (including compensation for additional professional services) for delay by either party.

ARTICLE 7

Bonds and Insurance: Contractor furnishes currently herewith the bonds and insurance required by the Contract Documents, said bonds and insurance having been approved by the Town and attached hereto. The Performance Bond will be in an amount not less than one-hundred percent (100%) of the estimated aggregate payments to be made under the Contract but, in any event, shall provide for the completion of the project in accordance with the Contract Documents, without additional cost to the Town. The Payment Bond will be in an amount not less than the aggregate total of all materials, labor and subcontracted work, exclusive of the Contractors overhead and profit, or one-hundred percent (100%) of the estimated aggregate payments to be made under the Contract, whichever is greater. The Maintenance Bond will be so conditioned as to provide for the correction of workmanship for a period of one year following final acceptance of the project, and shall cover not only the material but also costs of removal, correction, re-construction and any other costs incurred in the repair of defective portions of the Work.

If notice of any change affecting the general scope of the Work or change in the Contract Price is required by the provisions of any Bond to be given to the Surety, it will be Contractor's responsibility to so notify the Surety, and the amount of each applicable Bond shall be adjusted accordingly. Contractor shall furnish proof of such adjustment to Town.

Town shall not be responsible for purchasing and maintaining any property insurance to protect the interest of Contractor or Subcontractors in the Work to the extent of any deductible amounts that are provided below. If Contractor wishes property insurance coverage within the limits of such amount, Contractor may purchase and maintain it at his own expense.

Insurance is to be placed with insurers with a Best's rating of no less than A:VII, unless pre-approved in writing by Town.

If Town has any objection to the coverage afforded by other provisions of the insurance required to be purchased and maintained by Contractor in accordance with this section on the basis of its not complying with the Contract Documents, Town will notify Contractor in writing thereof within ten (10) days of the date of delivery of such certificates to Town.

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled, reduced in coverage or in limits except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to Town.

Contractor shall procure and continuously maintain during the term of this Contract, and for a period of two years after completion of the Contractor's Work, insurance of the kinds and with the limits not less than the amounts shown below:

1. Workers' Compensation and Employer's Liability Coverage.
Workers' Compensation and Employer's Liability, including Occupations Disease Coverage in accordance with the scope and limits as required by the State of Colorado, a minimum of: \$100,000 each accident, \$100,000 disease each employee; \$500,000 disease policy.
2. Commercial General Liability ("Occurrence Form")
\$1,000,000 combined single limit, per occurrence for bodily injury, personal injury and property damage.
3. Comprehensive Automotive Liability.
\$1,000,000 per accident bodily injury and property damage combined.
4. Excess Liability ("Umbrella Form").
\$1,000,000 limit per occurrence; \$1,000,000 aggregate.
5. Professional liability insurance with minimum limits of liability of not less than \$1,000,000 each claim and \$1,000,000 aggregate for both the Contractor or any subcontractors when:
 - (1) Construction Surveying and/or Survey Monumentation are included in the Contract.
 - (2) Plans, specifications, and submittals are required to be signed and sealed by the Contractor's Professional Engineer, including but not limited to:
 - (i) Shop drawings and working drawings as required in the General Contract Conditions.
 - (ii) Mix Designs.
 - (iii) Contractor performed design work as required by the plans and specifications.
 - (iv) Change Orders
 - (v) Approved Value Engineering Change Proposals.

- (3) The Contractor and any included subcontractor shall renew and maintain Professional Liability Insurance as outlined above for a minimum of one year following final acceptance of work.

The Contractor's insurance policies shall be endorsed to include, for the benefit of Town, a 30-day advance written notice of cancellation, non-renewal, or reduction in policy limits of liability by endorsement. Additionally it shall specifically state on the Commercial General Liability and Auto Liability policies the following: "Town of Collbran, its officers, officials, employees and volunteers as INSUREDS, as respects liability, on behalf of Contractor, arising out of this Contract." All certificates of insurance are to be submitted on standard "ACCORD 25-S" form. A Certificate of such insurance coverage naming Town of Collbran, its officials, officers, employees and agents as insured, shall be supplied to Town upon signing of this Contract. Failure to obtain or maintain such insurance shall constitute a breach of the Contract.

Contractor shall require all subcontractors and sub-subcontractors to maintain during the term of this contract, Commercial General Liability insurance, Comprehensive Automobile Liability insurance, and Workers' Compensation and Employers' Liability insurance, in the same manner as specified for Contractor. Contractor shall furnish subcontractors' certificates of insurance to the Board, with a copy to the Board's Contract Administrator, immediately upon request.

ARTICLE 8

- 1) Any other work, materials, equipment or machinery not specifically described or expressly covered herein, but which is required or necessary to perform or complete the work, which is contemplated, shall be deemed to be, and is, covered by this Contract.
- 2) The Contractor shall perform its work hereunder in accordance with sound and acceptable industry or professional practices and standards and in accordance with all codes, standards, regulations, and laws applicable to the work; and prior to beginning work, shall secure, at Contractor's expense, all necessary permits required by any governmental agency with jurisdiction.
- 3) In the performance of work under this Contract, the Contractor shall be deemed to be, and is, an independent Contractor with the authority to control and direct the performance and details of its work; the Town being interested only in the results obtained. As an independent contractor, Contractor shall be responsible for payment of all taxes including federal, state and local taxes arising out of the activities under this Contract, including by way of illustration but not limitation, federal and state income tax, Social Security tax, unemployment insurance taxes, and any other taxes or license fees required.
- 4) Precautions shall be exercised at all times for the protection of all persons (including Town employees) and property. The safety provisions of all applicable laws, regulations, and codes shall be observed. Hazards arising from the use of vehicles, machinery, and equipment shall be guarded or eliminated in accordance with the highest accepted standards of safety practice. The Contractor and any subcontractors shall comply fully with all requirements of the Occupational Safety and Health Act, and any other pertinent Federal, State or Local Statutes, rules or regulations. The Contractor and any subcontractors shall bear full responsibility for

payment of any fines or other punishments resulting from violation of any such statutes, rules or regulations.

- 5) This Contract may not be assigned or subcontracted without the prior express written consent of the Town and specifically the Contractor shall not assign any money due or to become due without prior written consent of the Town. Any attempt to assign this Contract or any portion of this Contract without the prior express written consent of the Town shall render the Contract null and void with respect to the attempted assignee.
- 6) The Town reserves the right, without notice and at reasonable times, to inspect the work accomplished by the Contractor under this Contract. The right of inspection reserved in the Town is for the protection of Town in assuring that the work is proceeding in a timely and satisfactory manner and does not relieve the Contractor from responsibility for selecting appropriate means of fulfilling its obligations hereunder.
- 7) The Town, or its designee, may, at reasonable times, during the term of this Contract or for two years after its termination or expiration, audit the Contractor's books with regard to this Contract, and the Contractor shall retain its books and records for the required period.
- 8) This is not an exclusive Contract. The Town may, at its sole discretion, contract with other entities for work similar to that to be performed by the Contractor hereunder. Contractor may contract to perform similar work for others, and is not expected to work exclusively for Town.
- 9) This Contract is and shall be deemed to be performable in the Town of Collbran, Colorado, and venue for any dispute hereunder shall be in the District Court of the County of Mesa, Colorado. In the event of dispute concerning performance hereunder, the parties agree that the Court may enter judgment in favor of the prevailing party for costs and reasonable attorneys' fees.
- 10) Contractor agrees that any information received by Contractor during any furtherance of the Contractor's obligations hereunder will be treated by the Contractor as confidential and will not be revealed to other persons, firms or organizations unless required by state, federal or local law.
- 11) **(This paragraph applies if the work performed is a "public work"):** In discharge of this Contract, Contractor shall employ Colorado labor to perform not less than 80% of each type or class of labor in each of the several classifications of skilled and common labor employed on this project. A "public work" is any construction, alteration, repair, demolition, or improvement of any building, road, street, bridge, drain, park, or other structure suitable for and intended for use by the public.
- 12) This contract constitutes the entire contract between the parties, and no changes or modifications shall be effective unless reduced to writing and signed by the party to be charged.

- 13) Persons signing as or on behalf of Contractor represent by their signature that the person signing is fully authorized to so sign this Contract and that the Contractor has taken all steps necessary that the signature is binding upon the Contractor.
- 14) The provisions of this Contract shall be severable; and the invalidity of any provisions shall not invalidate the remaining provisions hereof.
- 15) Contractor shall indemnify, and hold harmless the Town, its agents, officials and employees, against all loss or damages, including penalties, charges, professional fees, interest, costs, expenses and liabilities of every kind and character arising out of, or relating to, any and all claims and causes of actions of every kind and character, in connection with, directly or indirectly, this Contract, whether or not it shall be alleged or determined that the harm was caused through or by the Contractor or the subcontractor, if any, or their respective employees and agents, or a party indemnified hereunder. Contractor further agrees that its obligations to the Town under this paragraph include claims against the Town by Contractor's employees whether or not such claim is covered by workers compensation. Contractor expressly understands and agrees that any insurance or bond protection required by this contract, or otherwise provided by Contractor, shall in no way limit the responsibility to indemnify, keep and save harmless and defend the Town as herein provided, and such obligation exists even if the claim is fraudulent or groundless.
- 16) In the event a damage claim arises from the Contractor's activities as part of the project, the Contractor shall conform to the following procedure:
 1. The Contractor's Representative shall be contacted as soon as possible by the Contractor's work crew. The Contractor's Representative shall immediately contact the Engineer.
 2. The Contractor's Representative shall recommend resolution of the matter in writing to the claimant with a copy to Engineer no more than 48 hours following the occurrence.

Should Town or Contractor suffer injury or damage to his employee(s) or property because of any error, omission or act of the other party or of any of the other party's employees or agents or others for whose acts the other party is legally liable, claim shall be made in writing to the other party within a reasonable time of the first observance of such injury or damage.

- 17) Survivability: The duties and obligations imposed by these Contract Documents and the rights and remedies available hereunder to the parties hereto, and, in particular but without limitation, the warranties, guarantees and obligations imposed upon Contractor by item **4. Laws to be Observed**, item **34. Removal of Unacceptable Work and Unauthorized Work**, and item **57. Acceptance** of the Mesa County General Conditions and item 21) Default of Contract below and all of the rights and remedies available to Town and Engineer thereunder, shall be in addition to, and shall not be construed in any way as a limitation of, any rights and remedies available to any or all of them which are otherwise imposed or available by law or contract, by special warranty or guarantee or by other provisions of the Contract Documents, and the

provisions of this paragraph shall be as effective as if repeated specifically in the Contract Documents in connection with each particular duty, obligation, right and remedy to which they apply. All representations, warranties and guarantees made in the Contract Documents shall survive final payment and termination or completion of this Contract.

- 18) Contractor assures that where activities supported by this Contract produce any discovery or invention, original computer programs, writing, sound recordings, pictorial reproductions, drawing or other graphical representation and works of any similar nature, the Town has the right to use, duplicate and disclose, in whole or in part in any manner for any purpose whatsoever and authorize others to do so. If the material or invention is copyrightable, the Contractor may copyright such, but the Town reserves the royalty-free non-exclusive and irreversible license to practice, reproduce, publish and use such materials in whole or in part, and authorize others to do so.
- 19) Conformance with Law: Contractor shall at all times during the performance period strictly conform/comply with all applicable federal, state and local laws and implement regulations as they currently exist and may hereafter be amended. Contractor shall also require compliance with all applicable federal, state and local laws and regulations in subcontract and sub-grant contracts, if any permitted under this Contract.
- 20) Non-discrimination: Contractor shall not discriminate against any person on the basis of race, color, national origin, age, sex, religion and disability, including Acquired Immune Deficiency Syndrome (AIDS) or AIDS related conditions, in performance of work and provision of services under this Contract.
- 21) Survival of Certain Contract Provision: Notwithstanding anything herein to the contrary, the parties understand and agree that all terms and conditions of this Contract, and the exhibits and attachments hereto, which may require continued performance or compliance beyond the termination date of this Contract shall survive such termination date and shall be enforceable as provided herein in the event of a failure to perform or comply by a party to this Contract. Examples of some provisions surviving termination include but are not limited to Contract Article 7 and 8, subparagraphs 2, 3, 4, 7, 9, 10, 12, 13, 14, 15, 16, 17, 18, 21 and 22 shall survive expiration or any termination of this Contract.
- 22) Termination: Town reserves the right, regardless of satisfactory or non-satisfactory performance hereunder, to terminate this Contract without liability by giving written notice of such termination to the Contractor. A written notice to terminate must be delivered to the Contractor ten (10) days prior to the date of final service delivery. In the event of such termination, the Contractor shall be paid for all satisfactory work accomplished pursuant to this Contract. Any final settlement of compensation shall take into full consideration all work which has been properly performed by the Contractor and all payments which have or have not been made.

Town may, after giving Contractor and his Surety seven (7) days' written notice, terminate the services of Contractor. Once the notice is served, the Town may immediately exclude Contractor from site and take possession of the Work. Following the seven (7) days, the Town may also take possession of all Contractor's tools, appliances, construction equipment and

machinery at the site and use the same to the full extent they could be used by Contractor (without liability to Contractor for trespass or conversion), incorporate in the Work all materials and equipment stored at the site or for which Town has paid Contractor but which are stored elsewhere, and finish the Work as Town may deem expedient. In such case, Contractor shall not be entitled to receive any further payment until the Work is finished. If the unpaid balance of the Contract Price exceeds the direct and indirect costs of completing the Work, including compensation for additional professional services, such excess shall be paid to Contractor. If such costs exceed such unpaid balance, Contractor shall pay the difference to Town. Such costs incurred by Town shall be verified by the Engineer and incorporated in a Change Order, but in finishing the Work, Town shall not be required to obtain the lowest figure for the Work performed.

Where Contractor's services have been so terminated by Town, the termination shall not affect any right of Town against Contractor then existing or which may thereafter accrue. Any retention of payment of monies due Contractor by Town will not release Contractor from liability.

- 23) Availability of Funds: Both parties agree that payments pursuant to this Contract are subject to and contingent upon the continuing availability and appropriation of funds for the purposes herein. If such funds become unavailable, Town may terminate this Contract immediately without further liability.
- 24) Contract Binding: Town and Contractor each binds himself, his partners, successors, assigns and legal representatives to the other party hereto in respect to all covenants, Contracts and obligations contained in the Contract Documents.
- 25) Third Party Beneficiary. It is specifically agreed between the parties executing this Contract that it is not intended by any provision of any part of the Contract to create in the public or any member thereof a third party beneficiary hereunder, or to authorize any one not a party to this Contract to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Contract. The duties, obligations and responsibilities of the parties to this Contract with respect to third parties shall remain as imposed by law.

IN WITNESS WHEREOF, The Town of Collbran, Colorado has caused this Contract to be subscribed by its Town Trustees and sealed and attested by its Town Clerk in its behalf; and the Contractor, second party, has signed this Contract the day and the year first mentioned herein.

This Contract is executed in three counterparts, each deemed to be an original.

THE TOWN OF COLLRAN, COLORADO

ATTEST

BY: _____
, Mayor
Town of Collbran Trustees

BY: _____
, Clerk to the Board

SECOND PARTY

BY: _____

WITNESS:

BY: _____

NOTICE OF AWARD

Project:

To:

The Town has considered the Bid submitted by you for the above-described work in response to its Advertisement for Bids dated June 20 and 23, 2021 and Instructions to Bidders.

You are hereby notified that your Bid has been accepted for items in the amount of \$_____ contingent upon an acceptable contract signed by the Contractor and final approval by the Town of Collbran Board of Trustees. You are required by the Instructions to Bidders to execute the Contract and furnish the required Contractor's Performance Bond, Payment and Maintenance Bond and Certificates of Insurance within ten (10) calendar days from the date of this Notice to you.

If you fail to execute said Contract and to furnish said Certificates of Insurance and Bonds within ten (10) calendar days from the date of this Notice, said Town will be entitled to consider all your rights arising out of the Town's acceptance of your Bid as entitled to such other rights as may be granted by law.

You are required to return an acknowledged copy of the NOTICE OF AWARD to the Town.

Dated this __ day of _____,20__

By: _____

Title: _____

Address: Town of Collbran Town Hall
1010 High Street
Collbran, Colorado 81524

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE OF AWARD is hereby acknowledged by:

_____. This _____ day of _____, 20____.

By: _____

Title: _____

Telephone _____

NOTICE TO PROCEED

To:

Date:

Project:

You are hereby notified to commence Work in accordance with the Contract dated _____, on or before _____, and you are to fully complete said Work on or before _____, and to complete other specified items of work in accordance with the dates specified in Article 4 of the Contract.

Please prepare and make available for the preconstruction meeting on _____ the Initial Project Schedule, the Project Traffic Control Plan, and a copy of any required Construction Storm Water Permits.

Town of Collbran Representative

By: _____

Title: _____

ACCEPTANCE OF NOTICE

Receipt of the above NOTICE TO PROCEED is hereby acknowledged

By _____

This the _____ day of _____, 20____.

By: _____

Title: _____

Telephone: _____

FIELD ORDER

FIELD ORDER NO: _____

DATED: _____

Project:

Contractor:

Attention:

You are directed to make the changes as defined below and on any attached pages.

Description of Required Changes:

Reason for changes:

Changes Ordered By: _____
Town of Collbran Contract Administrator

Dated: _____, 20__

Changes Accepted By: _____
Contractor or Authorized Representative

Dated: _____, 20__

CHANGE ORDER

CHANGE ORDER NO. ___

Date:
Project:
Contractor:
Contract Date:
Attn:

You are directed to make the changes noted below in the subject Contract:

NATURE OF CHANGES:

REASON FOR CHANGES:

These changes result in the following adjustment of Contract Price and Contract Time:

Contract Price (Decrease/Increase): \$

Contract Time (Decrease/Increase):

The Above Changes are Approved by Town of Collbran:

Name: _____

Title : _____

Date: _____

The foregoing Change Order No. __ is satisfactory and is hereby accepted. In accepting this Change Order No. __, the Contractor acknowledges that he has no unsatisfied claim against the Town arising out of or resulting from this Order, and the Contractor hereby releases and discharges the Town from any and all claims or demands whatsoever arising out of or resulting from this Order.

The Above Changes are Accepted:

Contractor: _____

By: _____ Title: _____

Date: _____

SUMMARY OF CHANGE ORDERS

These Change Orders to date have resulted in the following adjustment of Contract Price and Contract Time:

Original Contract Price: \$

Original Contract Time:

Change Order No.	Date	Amount (+ or-)	Time (+ or -)
Net Change of ALL Change Orders (+ or -)			
Net Change this Change Order (+ or -)			
New Contract Price and/or Time			

APPLICATION FOR PAYMENT

Number <x>

To: Town of Collbran

Project:

Contractor:

Contract Date:

For Work Accomplished Through:

FOR CONTRACTORS SCHEDULE OF WORK (See Attached Sheets)

Original Contract Amount:	\$
Net Change Orders:	\$
Contract Sum to Date:	\$
Pay Application #1:	\$
Pay Application #2:	\$
Pay Application #3:	\$
Total Completed & Stored to Date:	\$
Less 5% Retainage 1 st Pay App:	\$
Less 5% Retainage 2 nd Pay App:	\$
Less 5% Retainage 3 rd Pay App:	\$
Total Retainage to Date:	\$
Total Earned to Date Less Retainage:	\$
Less Previous Payments:	\$
Amount Due this Application:	\$

CONTRACTOR'S Certification:

The undersigned CONTRACTOR certifies that (1) all previous progress payments received from Town on account of Work done under the Contract referred to above have applied to discharge in full all obligations of CONTRACTOR incurred in connection with Work covered by prior Applications for Payment numbered 1 through _____ inclusive; and (2) title to all materials and equipment incorporated in said Work or otherwise listed in or covered by this application for Payment will pass to Town at time of payment free and clear of all liens, claims, security interests and encumbrances (except such as covered by Bond acceptable to Town).

Dated: _____, 20 ____

By: _____

Town of Collbran REPRESENTATIVE Recommendation:

This Application (with accompanying documentation) meets the requirements of the Contract Documents and payment of the above AMOUNT DUE THIS APPLICATION is recommended.

Dated: _____, 20 ____

Town of Collbran

By: _____

CERTIFICATE OF SUBSTANTIAL COMPLETION

Project:

Contractor: _____

Contract Date: _____

This Certificate of Substantial Completion applies to Work under the Contract Documents:

Between: Town of Collbran

And : _____
 Contractor

The Work to which the Certificate applies has been inspected by authorized representatives of Town and CONTRACTOR, and that Work is hereby declared to be substantially complete in accordance with the Contract Documents on:

Date of Substantial Completion

A tentative list of items to be completed or corrected is attached hereto. This list may not be all-inclusive, and the failure to include an item in it does not alter the responsibility of CONTRACTOR to complete all the Work in accordance with the Contract Documents. When this Certificate applies to a specified part of the Work the items in the tentative list shall be completed or corrected by CONTRACTOR within 30 days of the above date of Substantial Completion.

Per Mesa County General Contract Conditions, Item 57. Acceptance, the following are required prior to final payment:

- A letter signed by the contractor certifying that all material incorporated into the project met or exceeded project requirements/specifications.

- A letter signed and stamped by a professional engineer in the State of Colorado certifying that all the required materials testing was completed as per testing schedule and that all material incorporated into the project met minimum standards.

The Date of Substantial Completion is the date upon which all guarantees and warranties begin.

The responsibilities between Town and CONTRACTOR for security, operation, safety, maintenance, and insurance shall be in accordance with Contract Documents.

The following documents are attached to and made a part of this Certificate:

Executed by Town's REPRESENTATIVE on _____

By: _____

The CONTRACTOR accepts this Certificate of Substantial Completion on _____

By: _____

LIEN WAIVER

\$ _____, Colo., Date: _____

Received of _____
being the sum of _____ Dollars,
being (check one) partial payment full payment of all demands for labor, services,
machinery, tools, equipment, laborers or materials heretofore furnished to _____
_____ in connection with Town of Collbran
Project _____ located in the County of Mesa, State of Colorado, and in
consideration of the aforesaid payment the undersigned hereby waive, relinquish and absolutely
release forever, all right to claim a mechanic's lien against the above described property which
might accrue under the laws of the State of Colorado by virtue of the aforesaid work done,
laborers or material furnished prior to _____ (date).

The undersigned hereby swears and affirms that this instrument is signed under no
constraint as a free and voluntary act, and that the undersigned is authorized to release the above-
reference claim on behalf of sub-contractor _____.

Sub-Contractor

State of _____)

ss.

County of _____)

Being duly sworn states that he/she is _____ of

(Sub-Contractor) _____ and that the all statements herein contained are
true and correct.

Subscribed and sworn to before me this _____ day of _____, 20_____.

Notary Public

(seal)

My Commission Expires _____

Contractor

State of _____)

ss.

County of _____)

Being duly sworn states that he/she is _____ of

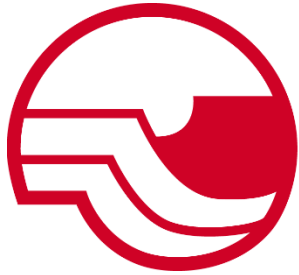
(Contractor)_____ and that all statements herein contained are true and correct.

Subscribed and sworn to before me this _____ day of _____, 20_____.

Notary Public

(seal)

My Commission Expires _____



MESA COUNTY

**GENERAL CONTRACT
CONDITIONS**

January 2021

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I. GENERAL

1. Scope

The following general contract conditions shall apply to contract Work awarded by Mesa County (“County”) for all construction within the public right-of-way and in all other areas of County jurisdiction or ownership. The following conditions are general in scope and may contain requirements covering conditions that may not be encountered in the performance of the Work under contract.

2. Titles and Subtitles.

Titles used in the Contract Documents having a masculine gender, such as “workmen” and the pronouns “he” or “his”, are for the sake of brevity and are intended to refer to persons of either sex.

The titles and headings of the sections and subsections herein are intended for convenience and shall not be taken or considered as having any bearing on their interpretation.

When the Contract indicates that Work is to be accepted, acceptable, subject to approval, approved, authorized, condemned, considered necessary, contemplated, deemed necessary, designated, determined, directed, disapproved, established, given, indicated, deemed insufficient, subject to interpretation, interpreted, ordered, permitted, rejected, required, reserved, satisfactory, specified, sufficient, suitable, suspended, unacceptable, or unsatisfactory, it shall be understood that these expressions are followed by the words “By the Engineer” or “To the Engineer.”

Then the Contract indicates something “shall” be done, the action is required and is not discretionary.

3. Definitions and Terms.

Additional definitions and terms are provided in Section 101 of Mesa County Standard Construction Specifications. Whenever the following abbreviations or terms are used in these specifications, plans, or other Contract Documents, the intent and meaning shall be interpreted as follows:

Addenda. Written or graphic instruments issued prior to the opening of Bids which clarify, correct or change the bidding documents of the Contract Documents.

Advertisement for Bids. A public announcement, inviting proposals for Work to be performed or materials to be furnished. The advertisement will indicate with reasonable accuracy the quantity and location of Work to be done or the character and quantity of material to be furnished and the time and place of the opening of proposals.

Application for Payment. The form accepted by County which is to be used by Contractor in requesting progress or final payment and which is to include such supporting documentation as is required by the Contract Documents.

Award. The acceptance by the County of a proposal.

Bid. The offer or proposal of the Bidder submitted on the prescribed form setting forth the process for the Work to be performed.

Bidder. An individual, firm, corporations, or other legal entity submitting a bid for the advertised Work.

Bid Documents. These shall consist of the following forms and documents: Construction Drawings, Addenda (if any), Advertisement to Bid, Instruction to Bidders, Bid Form, Bid Bond Form, Standard Specifications, Special Conditions, Special Provisions, Supplemental Specifications, and Standard Construction Drawings (not attached).

Bid Opening. The public opening and reading of all bids prepared and submitted in accordance with the Instructions to Bidders at the time and date set forth in the Advertisement to Bid.

Bid Guaranty. The security, as designated in the Instructions to Bidders and furnished with the Bid as a guaranty that the Bidder shall enter into the Contract and furnish the Bonds and Certificates of Insurance as required if awarded the Work.

Bid Schedule. A list of Bid Items in the Bid Form, which includes a description, approximate quantity and units (if any), unit price and extended amount or lump sum bid, for each item. The Bid Schedule also includes a line for the Total Bid based on the summation of the extended amounts of all bid items. The Bid Schedule may also include bid alternates.

Bonds. Bid, performance, payment, and maintenance bonds as well as other instruments of security.

Calendar Day. Each and every day shown on the calendar, beginning and ending at midnight. When day is used, it shall mean calendar day unless otherwise defined.

Certified Invoice. Any invoice or billing endorsed by Contractor, certifying that material, specialty work, subcontract work, rental, lease, services, etc., were acquired for the project and that the invoiced or billed amount represents the actual cost.

Change Order. A written order issued to Contractor by County covering contingencies, extra work, increase or decreases in contract quantities, and establishing the basis of payment and time adjustments for the work affected by the changes. The Change Order is the only method authorized for changing the Contract. Change Orders must be approved as established in the Contract.

Construction Drawings. (Drawings, Plan). The Drawings or Plans which show the character and scope of Work to be performed which have been prepared or approved by the County and are referred to in the Contract Documents (including Standard Details).

Contract. The written agreement between County and Contractor setting forth the obligations of the parties for the performance of Work and the basis of payment. Other Contract Documents are attached to the Contract and made a part thereof as provided therein.

Contract Documents. Includes Contract, the Advertisement for Bids, bid documents, Standard Specifications, project special provisions, general and detailed plans, Notice to Proceed, contract modification orders, and authorized extensions of contract times, all of which constitute one instrument.

Contract Price. The total of price or prices set forth in Contractor's Bid, which constitutes the total compensation (subject to authorized adjustments) payable to Contractor for performing the Work.

Contract Time. The number of working days or calendar days allowed for completion of the Contract, including authorized time extensions. Where a calendar date of completion is specified, the Contract shall be completed on or before that date.

Contractor. The individual, firm, corporation, or other legal entity contracting with County for performance of the prescribed Work.

County. Mesa County, a political subdivision of the State of Colorado.

County Representative. The authorized representative of County shall be the Mesa County Engineering Division or the applicable Division's designated representative(s), who are assigned to the project or any part thereof.

Defective Work. Work that is unsatisfactory, faulty, deficient, does not conform to the Contract Documents, or does not meet the requirements of a referenced standard, test, or approval referred to in the Contract Documents, or has been damaged prior to County's recommendation of Final Payment (unless responsibility for the protection thereof has been assumed by the County at Substantial Completion).

Department. Mesa County Public Works Department.

Drawings. Same meaning as Construction Drawings.

Effective Date. The date indicated in Contract or notice on which it becomes effective, but if no such date is indicated, the date on which the instrument is fully signed and delivered by the last of the parties involved.

Engineer. Mesa County Public Works Director of Engineering acting directly or through an authorized representative(s), who is responsible for the engineering, construction, and administrative supervision of the Project/Work. References to Engineer that related to engineering and design of the Project shall refer to the designated Design Project Manager for the Project. All other references to Engineer which relate to the administration of the construction of the Project shall refer to the Construction Group Manager.

Extra Work. Work not provided for in the Contract as awarded but found by the Engineer to be essential to the satisfactory completion of the Contract within its intended purpose.

Field Order. A written order issued by the Engineer which directs or allows minor changes in the Work, and which does not involve a change in the Contract price or Contract Time. Also known as Force Account Work.

Final Completion. The date upon which the Work, in County's opinion and based upon its inspection, is acceptable and fully performed in accordance with the Contract Documents, and all other requirements or conditions to County's advertisement of the Project for final payment have been fulfilled. Final Completion shall be evidenced by County's issuance of a Notice of Final Completion.

Force Account Work. Work paid for on the basis of actual costs plus approved additives.

Holidays. Holidays recognized by County are:

New Year's Day
Dr. Martin Luther King, Jr.'s Birthday (observed)
Washington-Lincoln Day
Memorial Day
Independence Day

Labor Day
Veteran's Day
Thanksgiving Day (and the Friday after)
Christmas Day

When a Holiday, as listed above, falls on a Sunday, the following Monday shall be considered a holiday. When one of these days falls on a Saturday, the preceding Friday shall be considered a holiday.

Inspector. An authorized representative of County, assigned to inspect and/or test materials furnished or Work performed by Contractor.

Modification. (a) A written amendment of the Contract Documents signed by both parties, (b) a Change Order, or (c) a Field Order. A modification may only be issued after the effective date of the Contract.

Notice of Award. The written notice by County to the apparent Successful Bidder stating that upon compliance with the conditions precedent enumerated therein, within the time specified, County shall sign and deliver the Contract.

Notice to Proceed. Written notice to Contractor to proceed with the contract Work including, when applicable, the date of beginning of contract time.

Original Contract Amount. The sum of the total dollar amounts bid for all the construction pay item quantities.

Plans. Same meaning as Construction Drawings.

Pre-construction Conference. A meeting of County Project personnel, Contractor Project personnel and other stakeholders held prior to the beginning of construction at which topics pertinent to the successful completion of the Work are discussed.

Project. The specific Work to be performed as described in the Contract Documents.

Shop Drawings. A general term that includes drawings, illustrations, samples, schedules, calculations, and other data which provide details of the construction of the Work and details to be used by the Engineer for inspection. Shop drawings include data which illustrates material, equipment, and items which are incorporated in and become part of the permanent Work in accordance with the Contract.

Special Provisions. Additions and revisions to the standard specifications covering conditions specific to an individual project.

Specifications. Those portion of the Contract Documents consisting of written technical descriptions of materials, equipment, standards and workmanship as applied to the Work. These may consist of Standard or Supplemental Specifications, Special Provisions, and/or notes on the Construction Drawings.

Standard Specifications. Mesa County Standard Construction Specifications which amend and supplement the Colorado Department of Transportation (CDOT) Standard Specifications for Road and Bridge Construction.

Subcontractor. An individual, firm, corporation, or other legal entity to whom Contractor sublets part of the Contract.

Substantial Completion. The Work (or a specified part thereof) that has progressed to the point where, in the opinion of the Engineer as evidenced by the issuance of a certificate of Substantial Completion, it is sufficiently complete, in accordance with the Contract Documents, so that the Work or specified part can be utilized for the purposes for which it was intended; or if there be no such certificate issued, when final payment is due in accordance with Item **57. Acceptance**. The terms “substantially complete” and “substantially completed” as applied to any Work refer to Substantial Completion thereof.

Superintendent. Contractor’s authorized employee in responsible charge of the Work.

Supplemental Specifications. Additional Specifications which may be necessary to cover Work peculiar to an individual project, which is not addressed by the Standard Specifications. Supplemental Specifications may be a section in the Bid Documents or may appear as notes on Construction Drawings.

Surety. The corporation, partnership, or individual, other than Contractor, executing a bond furnished by Contractor.

Value Engineering Proposal (VEP). A change to contract requirements proposed by Contractor which will accomplish the project’s functional requirements at less cost or improve value or service at no increase or at a minor increase in cost.

Work. The furnishing of all labor, materials, equipment, and incidentals necessary to successfully complete the project according to all duties and obligations imposed by the Contract. Also referred to as Project.

Working Day. Any day, exclusive of Saturdays, Sundays and holidays, on which weather and other conditions not under control of Contractor will permit construction operations to proceed with the normal working force engaged in performing those items controlling the completion of the Work.

II. LAWS, PERMITS AND LABOR EMPLOYMENT

4. Laws to be Observed.

Contractor shall keep fully informed and comply with all Federal, State, and local laws, ordinances, and regulations and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which may affect those engaged or employed on the Work. Contractor shall protect and indemnify County and its representatives against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order or decree, whether by Contractor, the subcontractors, suppliers of materials or services, or their employees.

When the United States Government participates in the cost of a project, the Federal laws and the rules and regulations made pursuant to such laws must be observed by Contractor, and the Work shall be subject to the inspection of the appropriate Federal agency.

Such inspection shall not make the United States Government a party to the Contract and shall not interfere with the rights of the parties to the Contract.

5. Permits, Licenses, and Taxes.

Contractor shall procure all permits and licenses, pay all charges, fees, and taxes, and give all notices necessary and incidental to the due and lawful prosecution of the Contract.

Prior to beginning Work, Contractor shall furnish the Engineer a written list of all permits required for the proper completion of the Contract. The list shall clearly identify the type of permit or permits that must be obtained before Work on any particular phase or phases of Work can be started. Copies of the fully executed permits shall be furnished to the Engineer upon request.

An exemption from all Sales Taxes (City, County and State) may be granted for all materials incorporated in the Work. Contractor shall be responsible for making application to Mesa County Finance Director and the Revenue Department, State of Colorado and completing the necessary forms for exemption.

6. Patented Devices, Materials and Processes.

If Contractor uses any design, device, material, or process covered by letters of patent or copyright, Contractor shall provide for their use by suitable legal agreement with the patentee or owner. Contractor and the Surety shall indemnify and save harmless County, any affected third party, or political sub-division from any and all claims for infringement resulting from the use of any patented design, device, material or process, or any trademark or copyright, and shall indemnify County for any costs, expenses, and damages which they may be obliged to pay by reason of any infringement, during or after completion of the Contract.

7. Safety, Health, and Sanitation Provisions.

Contractor is required to have a company Safety Management Plan meeting the requirements below. A copy of the plan shall be provided when requested by the Engineer. The Project Special Provisions may require a specific safety plan to be submitted for elements of the project.

- (a) *Contractor Responsibilities.* Contractor shall ensure compliance with applicable Federal, State, and local laws, rules, regulations, orders and guidelines governing safety, health and sanitation. Contractor shall provide all safeguards, safety devices, and protective equipment, and shall take all other actions necessary to protect the life, safety, and health of persons working at or visiting the project site, and of the public and property in connection with the performance of the Work covered by the Contract. In the case of conflicting requirements, the more stringent of the requirements shall apply. Contractor shall require that all operations and work practices by Contractor, subcontractor, supplier, and County

personnel and consultants shall comply with the provisions of the Plan. Contractor shall respond in writing to all safety issues raised by the Engineer.

- (b) *Competent Persons.* Prior to the start of construction, Contractor shall designate at least one competent person for each of the construction activities being completed. A competent person is an individual who, by way of training, experience, or combination thereof, is knowledgeable of applicable standards, is capable of identifying existing and predictable workplace hazards relating to a specific construction activity, is designated by the employer, and has authority to take prompt, appropriate actions. The appropriate competent persons shall be present on the project site at all times during the specific construction activities that require those competent persons.
- (c) *Project Safety & Health Requirements.* All personnel on the project site shall wear the required, appropriate personal protective equipment (PPE) at all time when on the project site, except when in their vehicles or in job trailers. All work vehicles and mobile equipment shall be equipped with one or more functioning flashing, oscillating, or rotating warning lights for warning workers and traffic.
- (d) *Safety Stand-Down.* The Engineer may immediately suspend all or part of any Work in the case of an accident (including property damage), or catastrophe (one or more persons hospitalized in a single incident), or other situation presenting an imminent danger to life or health, such as a near miss, violation of the Plan, or presence of a hazardous situation. In the case of a worksite fatality directly related to Contractor's or any subcontractor's work operations, the safety stand-down shall be mandatory.
- (e) *Regulatory Enforcement Actions.* Contractor shall provide written notifications of all Regulatory agency actions relating to safety to the Engineer.
- (f) *Failure to Comply.* Failure to comply with the requirements of this section shall be grounds for withholding of progress payments, project suspension, or both.
- (g) *Costs.* All costs associated with the preparation and implementation of the Plan and compliance with all safety, health, and sanitation provisions and requirements will not be measured and paid for separately, but shall be included in the Work.

8. Blasting and Other Hazardous Work.

Contractor and subcontractors shall do no blasting or other hazardous work without written permission issued by. Before issuance of such permission, County may require evidence of adequate liability insurance coverage secured at Contractor's expense for collapse, explosion, blasting, and damage to underground pipes, wiring, conduits and other structures.

When explosives are utilized in the performance of the Work, Contractor shall not endanger life, property, or new work. Contractor shall be responsible for all damage resulting from the use of explosives.

Contractor's explosives shall be stored in a secure manner in compliance with laws and ordinances, and storage places shall be clearly marked.

9. Maintaining Traffic.

Contractor shall conduct the Work to minimize obstruction to traffic. The safety and convenience of the general public and the residents along the roadway and the protection of persons and property shall be provided for by Contractor.

No street, alley, sidewalk, trail or other public way shall be closed, blocked or obstructed without first obtaining permission from County. In addition to other Project required notices, at least twenty-four (24) hours prior to closing any street or roadway, Contractor shall verbally notify Engineer, County, emergency services, mail delivery, school bus dispatch, and trash collection services of the planned closure and timeframe. Contractor shall also notify all adjacent property owners or residents of Work which will affect access to their property. This notification shall be made one full business day prior to when the Work is scheduled to take place. Notification may be either written or verbal, but should clearly indicate the work

schedule and anticipated traffic restrictions and should provide names and phone numbers where a Contractor's Representative and County Engineer will be readily available to answer questions.

Unless otherwise provided, Contractor shall keep the road open to all traffic in accordance with the Traffic Control Plan during the progress of the Work. Unless otherwise allowed by the Contract, Contractor shall schedule construction operations so that only one side of the existing roadbed is denied to traffic at any time. Contractor shall also provide and maintain in a safe condition temporary approaches or crossing and intersections with trails, roads, streets, businesses, parking lots, residences, garages, and farms. The road and the intersections of the access points shall be maintained in a manner that will safely and adequately accommodate traffic.

Contractor shall not store materials or equipment, nor park vehicles, on the roadway except in areas approved by the Engineer. Contractor shall not have materials or equipment in the traffic lanes open to traffic at any time unless directed.

Portions of the roadway that are not included in the contract Work will be maintained by County. Contractor shall be responsible for maintaining all Work that is included in the Contract, and maintaining approaches, crossings, intersections, and other features as may be necessary to accommodate traffic without direct compensation.

During any suspension ordered by the Engineer, Contractor shall open to traffic the portions of the project as directed. Prior to allowing traffic on the project, Contractor shall prepare the roadbed so that it will safely and adequately accommodate traffic. During the suspension period, the maintenance of the roadway will be the responsibility of County. However, when the suspension is the result of a failure by Contractor, all costs for maintenance of traffic during the suspension period shall be borne by Contractor. When the suspension is lifted, Contractor shall renew any work or replace materials lost or damaged on the project and shall remove, as directed, work or materials used during the suspension. Contractor shall complete the project as though the performance of the Work has been continuous and without interference.

If the Engineer directs special maintenance for the benefit of the traveling public, that is not included in the Contract, Contractor will be paid in accordance with item **48. Extra Work**.

10. Load Restrictions.

Contractor shall comply with all legal load restrictions in the hauling or equipment or materials on public roads beyond the limits of the project. A special permit will not relieve Contractor of liability for damage resulting from the moving of equipment or material.

The operation of equipment or hauling loads which cause damage to structures, the roadway or any other construction will not be permitted. Contractor shall be responsible for the repair of all damage and related expense resulting from hauling equipment and construction operation.

If a vehicle's gross weight exceeds the legal limit, and the material transported by the vehicle is delivered to the project, the material will not be accepted.

11. Opening Sections of Project to Traffic.

Opening sections of the Work for traffic or other use shall not constitute acceptance of the Work, or provide a waiver of any provision of the Contract. Contractor shall maintain the roadway in a condition equal to or better than the condition of the roadway when it was initially opened to traffic. When applicable, the Contract may specify the time or date on which certain portions of the Work shall be completed to provide for the accommodation of traffic.

The Engineer may order certain portions of the Work opened for traffic, other than specified in the Contract. If the Engineer has not ordered the roadway opened because of unnecessary delay by Contractor, and if no damages occurs other than that which can be attributed to traffic, Contractor will be relieved of all responsibility for maintenance of traffic control devices and damage due to traffic. Any expenses resulting from opening such sections shall be borne by County or Contractor will be compensated for the added expense in accordance with item **48. Extra Work**. If the opening causes changed working conditions, or delays the completion of other items or work on the project, compensation for the added expense and recommendations for additional time will be set forth by a Change Order.

If Contractor is dilatory in completing the Work, the Engineer may order all or a portion of the project to be opened to traffic. In such event, Contractor will not be relieved of the liability and responsibility during the period the Work is so opened prior to final acceptance. Contractor shall conduct the remainder of the construction operations to cause the least obstruction to or interference with traffic. Damage attributed to traffic shall be paid for at Contractor's expense.

Damages not attributable to traffic which might occur on sections opened to traffic shall be repaired at Contractor's expense.

12. Traffic Control, Street Closures and Detours

All road closures, lane closures, and other traffic controls shall be set up and maintained in accordance with an approved traffic control plan (TCP) per Mesa County Standard. Construction Specification Section 630. Contractor shall provide all traffic controls as needed for the safe movement of vehicular traffic, pedestrians, and bicyclists through or around the construction work zone and for the protection and safety of all persons and property in and around the work zone. All traffic control devices used shall be in accordance with the latest revision of the "Manual on Uniform Traffic Control Devices" (MUTCD) and the approved TCP.

At least two (2) working days before the Preconstruction meeting, Contractor shall submit to the Engineer a detailed TCP for review. During progress of the Work, if significant adjustments on the TCP are necessary or desirable, Contractor shall submit pertinent proposed revisions in writing to the Engineer for approval at least three (3) working days prior to proposed implementation of the changed plan.

No Work shall be done until all traffic control devices and barricades are in place. The Engineer or the Inspector shall have the authority to require Contractor to provide additional signs or barricades for those locations it deems to be inadequate.

At times, it may be necessary for Contractor to provide flaggers to direct traffic. All flaggers provided by Contractor shall be certified by the Colorado Department of Transportation or ATSSA and shall be wearing the proper safety attire and using the proper flagging equipment while performing their duties.

Public sidewalks which are under construction or otherwise obstructed shall be properly barricaded at all times. ADA accessible temporary walkways or pedestrian detours shall be provided around obstructed sections of sidewalk.

13. Protecting and Relocating Utilities.

Contractor shall comply with Article 1.5 of Title 9, CRS ("Excavation Requirements") when excavation or grading is planned in the area of underground utility facilities. Contractor shall notify all affected utilities at least two (2) business days, not including the day of notification, prior to commencing such operations.

Contractor shall contact the Utility Notification Center of Colorado (UNCC) at 811 (or 1-800-922-1987) to have locations of UNCC registered lines marked by member companies. All other underground facilities shall be located by contacting the respective company. Utility service laterals shall also be located prior to beginning excavating or grading.

County shall notify all utility companies, pipe line owners, or other parties affected, and have all necessary adjustments of the public or private utility fixtures, pipe lines, and other appurtenances within or adjacent to the limits of construction made as soon as practicable. If any part of Contractor's Work depends on the proper execution, or results upon the Work, done by the utility company, Contractor shall inspect and promptly report to the Engineer in writing any patent or apparent defects or deficiencies in such Work that render it unsuitable for such proper execution and results. Contractor's failure to so report shall constitute an acceptance of the other work as fit and proper for integration with Contractor's Work except for latent or non-apparent defects and deficiencies in the other work.

Water lines, gas lines, wire lines, service connections, meter and valve boxes, light standards, cableways, signals, and all other utility facilities within the limits of the proposed construction are to be relocated or adjusted at the utility owner's expense unless otherwise provided in the Contract. Contractor shall cooperate with the utility owners in their removal and relocation operations, so that progress is expedited, duplication of work is minimized and service interruptions are avoided.

The Contract will indicate those utility items which are to be relocated or adjusted by the utility owner or which are to be relocated or adjusted by Contractor. Contractor shall consider in their bid proposal all of the permanent and temporary utility facilities in their present or relocated positions as shown in the Contract and as revealed by site investigation. Utility delays due to changes which are the responsibility of Contractor will be considered non-excusable delays. Additional compensation will not be allowed for foreseeable coordination, inconvenience, or damage sustained due to interference from the utility facilities or the removal or relocation operations as indicated in the Contract.

Contractor shall be required to meet with each utility owner impacted by the Work in advance of any construction operations to coordinate required utility work with the construction activity. Coordination with utility owners includes, but is not limited to, providing and periodically updating an accurate construction schedule that includes all utility work elements. Surveying and/or staking of utility relocations to be performed by the utility owner shall be the responsibility of the utility owner.

If utility facilities or appurtenances are found that are neither identified in the Contract, nor revealed by site investigation, the Engineer will determine whether adjustment or relocation of the utility is necessary. The Engineer will make arrangements with either the utility owner or Contractor to accomplish necessary adjustments or relocations when not otherwise provide for in the Contract. Extra work will be considered for payment in accordance with item **48. Extra Work**. Consideration for delays shall be in accordance with item **23. Determination and Extension of Contract Time**.

Where Contractor's operations are adjacent to properties of railroad, telegraph, telephone, power, or other utility companies, to which damage might result in considerable expense, loss, or inconvenience, Work shall not commence until arrangements for protection of the utilities have been made by Contractor.

If water or utility services are interrupted, Contractor shall promptly notify the utility owner and shall cooperate in the restoration of the service. Repair work shall be continuous until the service is restored. Work shall be undertaken around fire hydrants until provisions for continued service have been approved by the local fire authority.

14. Interruption of Irrigation Water Flow.

Contractor shall arrange the Work to avoid interference with the flow of irrigation water. If it is impractical to install the structure during the time the ditches are not flowing, Contractor shall make arrangements with the ditch owners regarding temporary interruption of flow or temporary diversion of water. This will require construction of new ditches with appurtenant structures before old ditches or canals are diverted. Contractor shall provide any temporary ditches, canals, structures necessary for the uninterrupted flow of irrigation water. Temporary construction and removal shall be at the expense of Contractor.

15. Air Quality Control.

Contractor shall comply with the “Colorado Air Quality Control Act,” Title 25, Article 7, CRS and regulations promulgated thereunder.

16. Water Quality Control.

Contractor shall comply with the most current versions of the Colorado Water Quality Control Act, 25-8-101 *et seq.* CRS; Protection of Fishing Streams, 33-5-101 *et seq.* CRS; Clean Water Act, 33 CRS 12551 *et seq.*; regulations promulgated thereunder; certification or permits issued, and to the requirements listed below. In the event of conflicts between these requirements and water quality control laws, rules, or regulations of other Federal, or State agencies, the more restrictive laws, rules, or regulations shall apply.

If construction activities result in noncompliance of any permit requirement, the project will be suspended and the permitting agency notified, if required. The project will remain suspended until the Engineer received written approval by the permitting agency.

Contractor shall be responsible for submitting and obtaining the Colorado Discharge Permit System Stormwater Construction Permit (CDPS-SCP) from the Colorado Department of Public Health and Environment (CDPHE), per Section 208 of the Standard Specifications, prior to the start of any construction activities for projects that disturb a total of over one acre. A Colorado Discharge Permit System Stormwater Construction Permit (CDPS-SCP) is **not** required for projects with a total disturbed area under one acre. If the project is located within the MS4 urbanized boundary, Contractor shall also obtain a permit from the Mesa County Stormwater Division.

Contractor shall be legally required to also obtain all other permits associated with specific activities within or outside of the right of way, such as borrow pits, concrete or asphalt plant sites, waste disposal sites, staging areas, or other facilities.

Contractor shall obtain a Construction Dewatering (CDW) permit from CDPHE anytime uncontaminated groundwater, including groundwater that is commingled with stormwater or surface water, is encountered during construction activities and the groundwater or commingled water needs to be discharged to State waters. If contaminated groundwater is encountered, a Remediation permit may be needed from CDPHE.

17. Archaeological and Paleontological Discoveries.

When Contractor’s operations encounter plant or animal fossils, remains of prehistoric or historic structures, prehistoric or historic artifacts (bottle dumps, charcoal from subsurface hearths, old pottery, potsherds, stone tools, arrowheads, etc.), Contractor’s affected operations shall immediately cease. Contractor shall immediately notify the Engineer of the discovery of these materials. When ordered to proceed, Contractor shall conduct operations as directed. Additional work will be paid for by County as provided in item **45. Differing Site Conditions** when contract unit prices exist, or as extra work as provided in item **48. Extra Work** when no unit prices exist. Delays to Contractor because of materials encountered may be cause for extension of time in accordance with item **23. Determination and Extension of Contract Time**.

III. INTERPRETATION OF CONTRACT DOCUMENTS.

18. Intent of Contract.

The intent of the Contract is to provide for the construction and completion, in every detail, of the Work described in the Contract Documents. Contractor shall complete the Work described and furnish all labor, materials, equipment, tools, transportation, and supplies required to complete the Work in accordance with the Contract. Alterations of plans or the nature of the Work will not involve or require Work beyond the limits of the original project, until a change order has been executed.

Neither Contractor nor any Subcontractor, manufacturer, fabricator, supplier or distributor shall have or acquire any title to or ownership rights in any of the Drawings, Specifications, or other documents (or copies of any thereof) prepared by or bearing the seal of Engineer and they shall not reuse any of them on extensions of the Project or any other project without written consent of County and Engineer and specific written verification or adaptation by Engineer.

19. Subletting of Contract.

Contractor shall not sublet, sell, transfer, assign or dispose of the Contract or Contracts without the prior express written consent of County, and any attempt to sublet, sell, transfer, or assign the Contract without prior express written consent of County shall render the Contract null and void with respect to the attempted sublettee, purchaser, transferee or assignee. Any subcontract work shall not begin until Contractor has received County's written permission. Contractor shall make all project related written subcontracts, agreements, and purchase orders available to the Engineer for viewing, upon request and at a location convenient to the Engineer.

If Contractor is allowed to sublet a portion of the Contract, Contractor's organization shall perform Work amounting to 30 percent or more of the total original contract amount. Any items designated in the Contract as "specialty items" may be performed by subcontract. The cost of "specialty items" so performed by subcontract may be deducted from the total of the original contract amount before computing the amount of work required to be performed by Contractor's own organization. The original contract amount includes the cost of materials and manufactured products which are to be purchased or produced by Contractor and the actual agreement amounts between Contractor and subcontractor. Proportional value of a subcontracted partial contract item will be verified by the Engineer. When a firm both sells material to a prime contractor and performs the work of incorporating the materials into the project, these two phases shall be considered in combination and as constituting a single subcontract. The calculation of the percentage of subcontracted work shall be based on subcontract unit prices.

Subcontracts or transfer of Contract shall not release Contractor of liability under the Contract and Bond.

20. Conformity to the Contract.

All Work performed and all materials furnished shall conform to the lines, grades, cross sections, dimensions, and material requirements, including tolerances, shown in the Contract.

For those items of Work where working tolerances are not specified, Contractor shall perform the Work in a manner consistent with reasonable and customary manufacturing and construction practices. When the Engineer finds that the materials furnished, the Work performed, or the finished product does not conform with the Contract but that reasonably acceptable Work has been produced, the Engineer will determine the extent the Work will be accepted and remain in place. If accepted, the Engineer will (1) document the basis for acceptance by Change Order which will provide for an appropriate reduction in the Contract price for such work or materials not otherwise provided for in the subsection, or (2) in lieu of a price reduction, permit correction or replacement of the finished product provided the correction or replacement does not adversely affect the Work.

When the Engineer finds the materials furnished, Work performed, or the finished product are not in conformity with the Contract and has resulted in an inferior product, the Work or materials shall be removed and replace with specification material at the expense of Contractor.

21. Coordination of Contract Documents.

These general contract conditions, the specifications, the plans, special provisions, and all supplementary documents are essential parts of the Contract, and a requirement occurring in one is as binding as though occurring in all. They are intended to be complementary and to describe and provide for a complete Work. The project specifications and Construction Drawings are intended to supplement, but not necessarily duplicate each other, and together constitute one complete set of drawings and specifications, so that any Work exhibited in one and not in the other shall be executed as if it had been set forth in both, in order that the Work shall be completed according to the complete design as decided and determined by County. Should anything be omitted from the Construction Drawings and Specifications which is necessary for a clear understanding of the Work or should it appear that various instructions are in conflict, then Contractor shall secure written clarification or instructions from County before proceeding with the construction affected by such omission or discrepancies.

In case of any conflict, inconsistency or discrepancy among the Contract Documents, the requirement defining or describing the higher quality work or performance shall control. If the conflict, inconsistency or discrepancy cannot be resolved by the application of that rule, the Contract Documents shall be given precedence in the following order: Contract and Notice to Proceed, General Contract Conditions, Change Orders, Addenda, Project Plans, Project Special Provisions, Standard Plans, and Standard Specifications. Figure dimensions on Drawings shall govern over scaled dimensions. Any Work that may reasonably be inferred from the Specifications or Drawings as being required to product the intended result shall be supplied whether or not it is specifically called for.

22. Estimated Quantities in Bid Schedule.

The quantities noted in the Bid Schedule are estimates prepared for the comparison of bids. Payment to Contractor will be made only for the actual quantities of Work performed and accepted, unless the specifications do not require the quantities of Work performed to be measured.

The estimated quantities of Work to be performed and materials to be furnished may be increased, decreased, or omitted.

23. Determination and Extension of Contract Time.

The Contract time or Completion Date is stated in the Contract and Project Special Provisions.

Contractor shall not carry on construction operations of Saturdays, Sundays, or holidays unless previously arranged and approved. Contractor shall only make emergency repairs, and provide proper protection of the Work and traveling public on these days.

No work, other than preparation and clean-up, shall be done outside the hours of 7:00am and 4:00pm without the approval of County, unless otherwise required by the Project Special Provisions.

- (a) *Working Day Contract.* When the Work is on a working day basis, one whole day of contract time will be assessed for each working day on which the Work can be effectively prosecuted during six hours or more of the day. One-half day will be assessed for each working day on which the Work can be effectively prosecuted for at least two hours but less than six hours of the day. Contract time will not be assessed when the Work can be effectively prosecuted for less than two hours. Saturdays, Sundays, and holidays will not be assessed as work days when Contractor utilizes such days for performance of the Work. When substantial completion has been made by the Engineer as described in Item 57.

Acceptance, the daily time charges will cease.

- (b) *Completion Date Contract*. When the Contract specifies a completion date, all Work under the Contract shall be completed on or before the date. No extension of the completion date will be allowed for inclement weather, foreseeable causes, or conditions under the control of Contractor.
- (c) *Delay*. A delay is any event, action or factor that extends the performance period of Contract, as defined below:
 - 1. *Excusable Delay*. A delay beyond Contractor's control and was not due to Contractor's fault or negligence. County may grant a time extension for an excusable delay.
 - A. *Compensable Delay*. A delay that County, not Contractor, is responsible for entitling Contractor to a time extension and monetary compensation as stated below.
 - B. *Non-compensable Delay*. An excusable delay that neither Contractor nor County is responsible for that may entitle Contractor to a time extension but no additional monetary compensation. Contract time allowed for performance of the Work may be extended for delays due to force majeure (i.e. act of God, acts of the public enemy, pandemics, terrorist acts, fires, floods, area wide strikes, embargoes, or unusually severe weather).
 - 2. *Non-excusable Delay*. A delay that was reasonable foreseeable or within the control of Contractor for which County will not grant monetary compensation or contract time extension.
 - 3. *Concurrent Delay*. Independent delays to critical activities occurring at the same time.
 - A. County will not grant a time extension or additional compensation for the period of time that a non-excusable delay is concurrent with an excusable delay.
 - B. County may grant time but no compensation for the period of time that a non-compensable delay is concurrent with a compensable delay.

Delays in delivery of materials or fabrication scheduling resulting from late ordering, financial considerations, or other causes that could have been foreseen or prevented will be considered non-excusable delays. However, delays caused by fuel shortage or delay in delivery of materials to Contractor due to some unusual market condition caused by industry-wide strike, national disaster, area-wide shortage, or other reasons beyond the control of Contractor which prevent procurement of materials or fuel within the allowable contract time limits will be considered excusable delays.

Contractor's assertion that insufficient contract time was specified is not a valid reason for an extension of contract time.

When the Engineer grants a contract time extension, the revised Contract Completion date will be in effect as though it were the original contract date.

- (d) *Extension of Contract Time*. Contractor shall orally notify the Engineer as soon as Contractor recognizes a potential project delay. Contractor shall provide a written notice of delay within seven days of determining the need for additional contract time. The notice of delay shall describe the nature and specific cause of the delay. Failure to submit the written notice of delay within seven days constitutes a waiver of entitlement to additional time or compensation.

Contractor shall submit the time extension request and supporting analysis within 30 days of the written delay notice. The request shall include a schedule analysis with all information needed to support the time extension request. The analyses shall show a delay to the critical path in order to obtain a contract time extension. Contractor shall demonstrate that efforts were made to avoid the delay by resequencing

the Work or by using other reasonable alternatives. Failure to submit the documentation to support the time extension request within 30 days of Contractor’s written notice of delay constitutes a waiver of entitlement to additional time or compensation.

24. Failure to Complete Work on Time.

A daily charge will be made against Contractor for each calendar day, including free time, which any Work remains uncompleted after the elapse of contract time. This daily charge will be deducted from any money due Contractor. This deduction will not be considered a penalty, but as liquidated damages.

The schedule of liquidated damages set forth below is an amount, agreed to by Contractor and County, as reasonably representing additional construction engineering costs incurred by County if Contractor fails to complete the performance within the contract time.

The schedule of liquidated damages will be:

Original Contract Amount (\$)		Liquidated Damages per Calendar Day (\$)
From More Than	To And Including	
0	500,000	800
500,000	1,000,000	1,600
1,000,000	2,000,000	2,200
2,000,000	5,000,000	3,200
5,000,000	15,000,000	5,400
15,000,000	-----	9,800

Due account shall be taken of any adjustment of the contract time for completion of the Work granted under the provisions of Item **23. Determination and Extension of Contract Time.**

Permitting Contractor to continue and finish the Work or any part thereof after elapse of contract time will not operate as a waiver on the part of County of any its rights under the Contract.

Deductions assessed as liquidated damages under this subsection shall not relieve Contractor from liability for any damages or costs resulting from delays to other contractors on the Project or other projects caused by a failure of the assessed Contractor to complete the Work according to contract time.

IV. CONTRACTOR’S RESPONSIBILITY

25. Contractor’s Responsibility for Work.

Contractor shall be responsible for and protect the contract Work against injury or damage from all causes whether arising from the execution or non-execution of the Work, including but not limited to action of the elements, traffic, fire, theft, vandalism, or third party negligence, until final written acceptance of the project by the Engineer. Contractor shall rebuild, repair, restore, or replace all contract Work that is injured or damaged prior to final written acceptance at no cost to County.

The Engineer may, in writing, relieve Contractor of expenses for damage to certain portions of the contract work caused by traffic or the action of the elements. All Work on the portion of contract Work being considered must be complete under terms of the Contract except for seeding, mulching, landscape items, and final clean-up.

Loss, injury, or damage to the contract Work due to unforeseeable causes beyond the control of Contractor, including but not limited to acts of God, such as earthquake, flood, tornado, high winds, or other cataclysmic phenomenon of nature, or acts of public enemy or of governmental authorities, shall be restored by

Contractor under the provisions of item **48. Extra Work.**

During periods that Work is suspended, Contractor shall be responsible for the Work under the Contract and shall prevent damage to the project, provide for drainage, and shall erect necessary temporary structures, signs, or other facilities required to maintain the project. During the suspension period, Contractor shall maintain in a growing condition all newly established plantings, seedings, and soddings furnished under the Contract, and shall protect new tree growth and other vegetative growth against injury.

26. Cooperation of Contractor.

Contractor shall give the Work the constant attention necessary to facilitate progress and shall cooperate with the Engineers, inspectors, and other contractors.

Contractor shall have on the project, at all times that Work is being performed, a competent superintendent capable of reading and understanding the contract documents and experienced in the type of Work being performed. The superintendent will receive instructions from the Engineer and shall be authorized to act for Contractor on the project and to execute orders or directions of the Engineer without delay. The superintendent shall promptly supply, irrespective of the amount of work sublet, materials, equipment, tools, labor, and incidentals to complete the Contract.

In the event Contractor desires to change the Project Superintendent and/or Project Manager (key personnel) during the contract period, Contractor must submit for prior approval a written request demonstrating the extraordinary circumstances and providing: local availability of the substituted key personnel; professional qualifications; related project experience; and, current and future commitments. In addition, if for whatever reason, a key personnel is deemed unsuitable or a hindrance to the cooperative completion of the Project, at the written request by the Engineer, Contractor shall remove that person from Contractor's construction team.

27. Notice to Proceed.

Contractor shall not commence Work prior to the issuance of a Notice to Proceed. The "Notice to Proceed" will stipulate the date on which contract time commences. When Contractor proceeds with work prior to that date, contract time will commence on the date Work actually begins.

28. Schedules

At, or prior to, the Pre-construction Conference, Contractor shall submit to the Engineer for review, a tentative construction schedule. Contractor shall use Microsoft Project software, or other software approved by the Engineer, to develop and manage a critical path method project schedule to plan, schedule, and report progress of the Work. Contractor's schedule shall be an accurate plan to complete the Work so that County can use the schedule to evaluate progress, schedule County resources, inform the Project stakeholders, and evaluate the effect of changes to the schedule.

Contractor shall submit a monthly update as either a Project Schedule Update or Revised Schedule as determined by the Engineer. The Engineer may not issue a monthly progress payment if the Engineer has not received an update.

Contractor shall use activity descriptions that ensure the Work is easily identifiable. Contractor shall show the no-work days in the schedule calendar. The contract completion date shall be included as an activity. The critical path for the project shall be shown on the schedule.

Contractor shall use durations for individual construction activities that do not exceed 15 days of Work unless approved by the Engineer. Contractor may group a series of activities with an aggregate duration of

five work days or less into a single activity. Non-construction activities may have durations exceeding 15 days of Work, as approved by the Engineer.

Contractor shall not use the following unless approved by the Engineer:

- (1) Negative lags.
- (2) Lags in excess of 10 working days.
- (3) Start-to-finish relationships.
- (4) Open-ended activities.
- (5) Constraints.

The Project Schedule shall show all activities required by all parties to complete the Work. Contractors, its subcontractors, suppliers, and engineers, shall perform the Work according to the approved Project Schedule.

Approval of the Project Schedule shall not relieve Contractor of any contract requirements including the requirement to complete all Work within the Contract Time. Contractual requirements shall not change by submission or approval of a schedule, unless specifically amended by a Change Order.

At the weekly project meeting, Contractor shall submit, in writing, a Weekly Planning Schedule that shows Contractor's and all Subcontractor's planned activities for a minimum of two weeks immediately following the date of submittal. The Weekly Planning Schedule shall be based on the Project Schedule.

All costs relating to the requirements of this section will not be paid for separately, but shall be included in the Work.

29. Shop Drawings.

All Work shall be performed in accordance with the plans, reviewed shop drawings, and other submittals. Specific requirements for the required shop drawings and other submittals for this project are contained in the specifications.

Contractor shall be responsible for the accuracy of all dimensions and quantities shown on the shop drawings, working drawings, and other submittals. Contractor shall correlate all information in the Contract, in the submittals, and in all revisions at the project site to insure that there are no conflicts and that the Work can be constructed as shown. Contractor shall be responsible for all information that pertains to the fabrication processes and methods of construction.

Contractor shall provide shop drawings to adequately control the Work or supplement the plans with working drawings to detail the construction or to provide the Engineer with information on the proposed methods of construction. Contractor shall submit shop drawings to the Engineer for review sufficiently in advance of construction to allow ample time for reviewing, correcting, resubmitting and rechecking to avoid any delay in progress to the Work. Contractor shall notify the Engineer, in writing, at the time of submittal of shop drawings, working drawings, and other submittals, of any information submitted that deviates from the requirements of the plans and specifications. In addition, specific notation of the deviations or changes from the plans and specifications shall be placed on the submittal.

The Engineer will review the shop drawings to evaluate that general conformance with the design concept and that general compliance with the information given in the plans and specifications has been achieved. The review does not extend to accuracy of dimensions, means, methods, techniques, sequences, procedures of construction, or to safety precautions. The review by the Engineer is not a complete check. Review of

the shop drawings does not relieve Contractor of responsibility for the correctness of the shop drawings. All Work done prior to the Engineer's review of shop drawings shall be at Contractor's sole risk.

The Engineer may request additional details and require Contractor to make changes in the shop drawings which are necessary to conform to the provisions and intent of the plans and specifications without additional cost to County.

30. Record Drawings.

In accordance with Mesa County Std. Construction Specification Section 625, Contractor shall keep one set of plans, reviewed shop drawings, and other submittals available on the project site at all times. This set shall be defined as the "construction drawings." Contractor shall note on these construction drawings all changes and deviations from the Work shown on the plans, shop drawings, and other submittals. The construction drawings shall be kept current as the Work progresses. Upon completion of the Work and prior to final payment, the construction drawings shall be stamped "As-Built" or "As-Constructed", signed by Contractor, and submitted to the Engineer.

31. Character of Workers; Methods and Equipment.

Contractor shall employ resources for completing Work to full completion in the manner and time required by the Contract.

All workers shall have skill and experience to perform the Work assigned them.

Any person employed by Contractor or by any subcontractor who does not perform the work in a proper and skillful manner shall, at the written request of the Engineer, be removed by Contractor or subcontractor and shall not be employed on the project without the approval of the Engineer.

Should Contractor fail to remove this person or persons or fail to furnish skilled and experienced personnel for the proper prosecution of the Work, the Engineer may suspend the Work by written notice until compliance is achieved.

All equipment used on the project shall be of size and mechanical condition to meet requirements of the Work and to produce a satisfactory quality of Work. Equipment used shall not cause injury to the project site, roadway, or adjacent property.

When the methods and equipment to be used are not prescribed in the Contract, Contractor shall use methods or equipment that will accomplish the contract Work in conformity with the contract requirements.

When the methods and equipment to be used are specified in the Contract, other methods and equipment shall not be used in the performance of the Work unless Contractor received written authorization from the Engineer.

If Contractor desires to use a method or equipment other than specified in the Contract, Contractor may request approval from the Engineer. The request shall include a full description of the methods and equipment proposed to be used and Contractor's explanation for the proposed change. Contractor will be fully responsible for producing Work in conformity with contract requirements. If the substituted methods or equipment do not produce results conforming to contract requirements, Contractor shall complete the remaining construction with the originally specified methods and equipment. Deficient Work shall be removed, repaired, or replaced to conform to the specified quality by and at Contractor's expense. No increase will be made in the basis of payment for the construction items involved nor in contract time when a change in methods or equipment is authorized.

32. Workplace Violence.

If a representative or employee of Contractor, or a subcontractor, commits an act of workplace violence on the project, he shall be sanctioned as provided by Contractor's employment policies and, where appropriate, shall be reported to law enforcement authorities. At the request of either Contractor or the Engineer, the Engineer and Contractor shall meet to discuss appropriate actions to be taken against the representative or employee. Appropriate action may include removing the representative or employee from the project. If removal is warranted and Contractor fails to remove the representative or employee, the Engineer may suspend the Work by written notice until compliance is achieved.

33. Maintenance During Construction.

Contractor shall maintain all Work that is included in the Contract during construction and until final written acceptance, except as otherwise specified in item **25. Contractor's Responsibility for Work**. This maintenance shall constitute continuous and effective Work performed with adequate equipment and forces so the roadway or structures are kept in satisfactory conditions at all times.

If the Contract involved the placement of material on or utilization of, a previously constructed subgrade, pavement structure or structure, Contractor shall maintain the previously constructed Work during all construction operations.

All cost of maintaining the contract Work during construction and before final written acceptance will not be paid for separately, but shall be included in the Work.

If Contractor fails to maintain the Work, the Engineer will immediately notify Contractor of such noncompliance. Except in the case of traffic signal maintenance, Contractor shall respond and remedy the unsatisfactory maintenance within 24 hours after receipt of such notice. If Contractor fails to remedy unsatisfactory maintenance in the allotted time, the Engineer may immediately proceed to maintain the project, and the entire cost of this maintenance will be deducted from the monies due or to become due to Contractor on the Contract.

In the case of traffic signal maintenance, Contractor shall respond and remedy unsatisfactory maintenance within one hour of receipt of notice on urban roadways, and within four hours of receipt of notice on rural roadways.

Traffic signal maintenance shall include all approved traffic control items and Work that are required to maintain traffic through the affected area while the traffic signal is being repaired or replaced. If County performs traffic signal maintenance, County shall be held harmless for all subsequent occurrences of maintenance to the signals that County maintained.

34. Removal of Unacceptable Work and Unauthorized Work.

Unacceptable Work is Work that does not conform to the requirements of the Contract. Unacceptable Work, resulting for any cause, found to exist prior to the final acceptance of the Work, shall be removed and replaced in an acceptable manner at Contractor's expense. The fact that the Engineer or an inspector may have overlooked the unacceptable Work shall not constitute an acceptance of any part of the Work.

Unauthorized Work is Work that was done without adequate lines and grades having been established by the Engineer or by Contractor, Work done contrary to the instructions of the Engineer, Work done beyond the lines shown on the plans, or extra Work done without the Engineer's authorization. Unauthorized Work will not be paid for under the provisions of the Contract, and may be ordered removed or replaced at Contractor's expense.

If Contractor fails within a reasonable time after written notice of Engineer to comply with any order of

the Engineer made under the provision of this item, the Engineer may, after seven (7) days' written notice to Contractor, cause unacceptable Work to be remedied or removed and replaced, and unauthorized Work to be removed. To the extent necessary to complete corrective and remedial action, County may exclude Contractor from all or part of the site, take possession of all or part of the Work and suspend Contractor's services related thereto, take possession of Contractor's tools, appliances, construction equipment and machinery at the site and incorporate in the Work all materials and equipment stored at the site or for which County has paid Contractor but which are stored elsewhere. Contractor shall allow County, Engineer, agents and employees such access to the site as may be necessary to enable County to exercise their rights under this paragraph. All direct and indirect costs of County in exercising such rights shall be charged against Contractor under an amount verified by Engineer, and a Change Order shall be issued incorporating the necessary revisions in the Contract Documents and a reduction in the Contract Price. Such direct and indirect costs shall include, in particular but without limitations, compensation for additional professional services required and all costs for repair and replacement of Work of others destroyed or damaged by correction, removal or replacement of Contractor's defective Work. Contractor shall not be allowed an extension of the Contract Time because of any delay in performance of the Work attributable to the exercise by County of County's rights hereunder.

35. Work by Others.

County reserves the right to contract for and perform other or additional work on or near the Work covered by the Contract.

When separate contracts are let within the project limits of any one project, each Contractor shall conduct the Work without interfering or hindering the progress or completion of Work being performed by other Contractors. Contractors working on the same project shall cooperate with each other as directed.

Each Contractor involved shall assume liability, financial or otherwise, in connection with the Contract and shall protect and save harmless County from any and all damages or claims that may arise because of inconvenience, delay, or loss because of the presence and operations of Contractors working within the limits of the same or adjacent project.

An individual, firm, or corporation may be issued a permit to construct or reconstruct a utility service. Contractor shall allow permit holders to perform permitted Work. Contractor shall make necessary repairs resulting from this Work, as directed. The repairs will be paid for as extra work in accordance with item **48. Extra Work.**

If any part of Contractor's Work depends on the proper execution or results upon the Work of any such other contractor or utility service company, Contractor shall inspect and promptly report to the Engineer in writing any patent or apparent defects or deficiencies in such Work that render it unsuitable for such proper execution and results. Contractor's failure to so report shall constitute an acceptance of the other Work as fit and proper for integration with Contractor's Work except for latent or non-apparent defects and deficiencies in the other Work.

36. Protection and Restoration of Property and Landscape.

Contractor shall preserve private and public property and protect it from damage. Land monuments and property marks shall not be disturbed or moved until their location has been witnessed or referenced in accordance with required survey practices and their removal approved.

Contractor shall be responsible for damage or injury to property resulting from:

- (1) Contractor's neglect, misconduct, or omission in the manner or method of execution or non-execution of the Work, or

(2) Contractor's defective Work or the use of unacceptable materials.

Contractor's responsibility shall not be released until the Work has been completed and accepted in compliance with the Contract. Contractor shall restore damaged or injured property, at Contractor's expense, to a condition similar or equal to that existing before the damage or injury occurred, by repairing, rebuilding, or restoring the property.

Existing trees, shrubs, bushes, grasses, outside the designated Work areas but inside the project limits that are damaged due to Contractor's operations shall be replaced in kind at Contractor's expense.

37. Cleaning Up.

During the progress of the Work, Contractor shall keep the premises free from accumulations of waste materials, rubbish and debris from and about the premises, as well as all tools, appliances, construction equipment and machinery, and surplus materials, and shall leave the site clean and ready for occupancy by County. Before final acceptance, Contractor shall restore to their original condition those portions of the site not designated for alteration by the Contract Documents and all ground occupied by Contractor in connection with the project. The cost of cleanup will not be paid for separately but shall be included in the Work.

Contractor shall conduct his operations so as not to have equipment tracking excessive amounts of mud and earth onto the adjacent streets. Upon notification by the Engineer, Contractor shall clean up from public streets, earth tracked by his equipment or that of subcontractors and material suppliers to the project.

38. Construction Stakes, Lines and Grades.

The Engineer will provide the initial survey control data. All construction surveying, as well as field verification of the survey monuments and control points, will be the responsibility of Contractor. All Work done under this Contract shall be done to the lines, grades and elevations shown on the plans or established by the Engineer. Any Work done without being properly located by reference to established monuments, benchmarks, or other basis reference points which have been located, established or checked by County may be ordered removed and replaced at Contractor's expense

Contractor shall furnish and set construction stakes establishing lines and grades in accordance with the project specifications. Contractor shall report to Engineer whenever any reference point is lost or destroyed or requires relocation because of necessary changes in grade, location or construction operations, and shall be responsible for replacement or relocation of reference points by professionally qualified personnel.

VI. COUNTY'S RESPONSIBILITIES

39. Availability of Lands.

County will be responsible for securing all necessary land and rights of way in advance of construction. Any exceptions will be indicated in the Contract.

Contractor shall be responsible for obtaining in writing, permission to use private property (not provided by County) for storage of materials and equipment. Copies of these agreements shall be submitted to the Construction Manager.

Nothing herein contained and nothing marked on the drawings shall be interpreted as giving Contractor exclusive occupancy of the land and rights of way, provided by County. County and its employees for any purpose, and other contractors of County for any purpose required by their respective contracts, may enter

upon or occupy portions of the land furnished by County. No such joint occupancy or use of the land shall be made the basis of any claim for delays or damages.

40. Authority of the Engineer.

The Public Works Director will designate a representative during the construction period. The Engineer or authorized representatives are acting solely as agents and representatives of County when carrying out and exercising the power or authority granted to them under the Contract. There shall not be any liability on them either personally or as employees of County.

The duties, responsibilities, limitations and authority of the Engineer during the construction period are set forth in the following and shall not be extended without written consent of County.

The Engineer will decide all questions regarding the quality and acceptability of materials furnished, Work performed, and the rate of progress of the Work; all interpretation of the plans and specifications; and the acceptable fulfillment of the Contract.

The Engineer will issue with reasonable promptness such written clarifications or interpretations of the Contract Documents (in the form of Drawings or otherwise) as the Engineer may determine necessary, which shall be consistent with or reasonably inferable from the overall intent of the Contract Documents.

The Engineer will make visits to the site at intervals appropriate to the various stages of construction to observe the progress and quality of the executed Work and to determine, in general, if the Work is proceeding in accordance with the Contract Documents. The Engineer will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of such visits and on-site observations, the Engineer will endeavor to guard County against defects and deficiencies in the Work, however, such visits shall not relieve Contractor from liability to fulfill this Contract and to perform Work in an appropriate workman like manner conforming with industry standards.

The Engineer will have authority to disapprove or reject Work which is defective, and will also have authority to require special inspection or testing of the Work as provided in item **46. Inspection and Testing of Work**, whether or not the Work is fabricated, installed or completed.

The Engineer will not be responsible for Contractor's means, methods, techniques, sequences or procedures of construction, or the safety precautions and programs incident thereto, and the Engineer will not be responsible for Contractor's failure to perform the Work in accordance with the Contract Documents.

The Engineer will not be responsible for the acts or omissions of Contractor or of any Subcontractors, or of the agents or employees of any Contractor or Subcontractors, or of any other persons at the site or otherwise performing any of the Work.

The Engineer will, in writing, suspend the Work, wholly or in part:

- (1) For failure of Contractor to correct conditions unsafe for the workmen or the general public.
- (2) For failure to carry out Contract provisions.
- (3) For failure to carry out orders.
- (4) For periods of unsuitable weather.
- (5) For conditions unsuitable for the performance of the Work.
- (6) For any other conditions or reason determined to be in the public interest.

41. Notification. Whenever any provision of the Contract Documents requires County to give written notice to Contractor, it shall be deemed to have been validly given if delivered in person to the individual

or to a member of the firm or to an officer of the corporation for Contractor, or if delivered or sent by registered or certified mail, postage prepaid, to the addresses as shown on Bid or to the last business address known to Contractor, or if delivered electronically to the individual or to a member of the firm. Whenever any provision of the Contract Document requires Contractor to give written notice to County it shall be deemed to have been validly given if delivered in person or electronically to the Engineer, as stated in the Instructions to Bidders, or if delivered at or sent electronically, or by registered or certified mail, postage prepaid, to Mesa County. Contractor or County may change its address for the purpose of this paragraph by giving written notice of such change to the other party in the manner provided in this paragraph.

42. Authority and Duties of Inspectors.

Inspectors employed by County, or the Engineer, are authorized to inspect all Work done and materials furnished. This inspection may extend to all or any part of the Work and to the preparation, fabrication, or manufacture of materials to be used. The Inspector is not authorized to alter or waive the provisions of the Contract, unless authorized by the Engineer. The Inspector is not authorized to issue instructions contrary to the provisions of the Contract or to act as foreman for Contractor.

43. Inspection and Testing of Work.

All materials and each part or detail of the Work shall be subject to inspection by the Engineer and/or Inspector. The Engineer and Inspector shall be allowed access to all parts of the Work and shall be furnished with information and assistance by Contractor as required to make a complete and detailed inspection.

Before final acceptance of the Work, Contractor shall remove or uncover such portions of the finished Work, as directed. After examination, by the Engineer, Contractor shall restore the Work to the standard required by the Contract. If the Work thus exposed or examined proves acceptable, the uncovering, removing, or restoring the Work will be paid for as extra work. If the Work exposed or examined proved unacceptable, the uncovering, removing, or restoring the Work shall be at Contractor's expense.

Any Work done or materials used without inspection by an authorized County representative may be ordered uncovered, removed, or restored at Contractor's expense.

All inspections and all tests conducted by County are for the convenience and benefit of County. These inspections and tests do not constitute acceptance of the materials or Work tested or inspected, and County may reject or accept any Work or materials at any time prior to item **61. Acceptance** whether or not previous inspections or tests were conducted by the Engineer or authorized representative.

44. Preconstruction Meeting.

Before Contractor begins the Work, County will schedule and conduct a pre-construction meeting. At the Preconstruction Meeting, Contractor shall name its Project Manager and Superintendent, be prepared to discuss the project construction schedule, traffic control plan and other project related issues, coordination of Work activities and schedules to accommodate any utility relocations that may be required, establish procedures for the request of partial payments and for preparing/reviewing shop drawings and other submittal. Key subcontractors may be required to attend the meeting also.

VII. CHANGES IN WORK OR CONTRACT PRICE

45. Differing Site Conditions.

During progress of Work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the Contract or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the Work provided for in the Contract, are encountered at the site, the party discovering such conditions shall

promptly notify the other party in writing of the specific differing conditions before the site is disturbed and before the affected Work is performed.

Upon written notification, the Engineer will investigate the conditions, and if the Engineer determines that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of the Work under the Contract, an adjustment, excluding anticipated profits, will be made and the Contract modified in writing accordingly. The Engineer will notify Contractor of the determination whether or not an adjustment of the Contract is warranted. No Contract adjustment which results in a benefit to Contractor will be allowed unless Contractor has provided the required written notice.

46. Suspensions of Work Ordered by the Engineer.

If the performance of all or any portion of the Work is suspended or delayed by the Engineer in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and Contractor believes that additional compensation, contract time, or both are due as a result of such suspension or delay, Contractor shall submit to the Engineer in writing a request for adjustment within fifteen calendar days of receipt of the notice to resume Work. The request shall set forth the reasons and support for such adjustment.

Upon receipt, the Engineer will evaluate Contractor's request. If the Engineer agrees that the cost, time required, or both for the performance of the Contract has increased as a result of the suspension and the suspension was caused by conditions beyond the control of and not the fault of Contractor, its suppliers, or subcontractors, and not caused by weather, the Engineer will make an adjustment (excluding profit) and modify the Contract in writing accordingly. The Engineer will notify Contractor of the determination whether or not an adjustment of the Contract is warranted. No Contract adjustment will be allowed unless Contractor has submitted the request for adjustment within the time prescribed.

No Contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided for or excluded under any other term or condition of this Contract.

47. Significant Changes in the Character of Work.

The Engineer reserves the right to make, in writing, at any time during the Work, such changes in quantities and such alterations in the Work as are necessary to satisfactorily complete the project. Such changes in quantities and alterations shall not invalidate the Contract or release the surety, and Contractor agrees to perform the Work as altered. These changes may be accomplished by a Field Order and shall be binding on County and Contractor who shall perform the change promptly.

If the alterations or changes in quantities significantly change the character of the Work under the Contract, whether such alterations or changes are in themselves significant changes to the character of the Work, or by affecting other Work to cause such other Work to become significantly different in character, an adjustment, excluding loss of anticipated profit, will be made to the Contract. The basis for the adjustment shall be agreed upon prior to the performance of the Work. If a basis cannot be agreed upon, then an adjustment will be made either for or against Contractor in such amount as the Engineer may determine to be fair and equitable.

If the alterations or changes in quantities do not significantly change the character of the Work to be performed under the Contract, the altered Work will be paid for as provided elsewhere in the Contract. The term "significant change" shall be construed to apply only to the following circumstances:

- (1) When the character of the Work as altered differs materially in kind or nature from that involved or included in the original proposed constructions, or

- (2) When a major item of Work is increased in excess of 125 percent or decreased below 75 percent of the original quantity. Any allowance for an increase in quantity shall apply only to that portion in excess of 125 percent of original contract item quantity, or in case of a decrease below 75 percent, to the actual amount of Work performed. A major item is defined to be any item having an original contract value in excess of 10 percent of the original contract amount.

48. Extra Work.

Contractor shall perform unforeseen Work, for which there is no price included in the Contract, whenever the extra Work is necessary or desirable for contract completion. This Work shall be performed in accordance with the Contract and as directed, and will be paid for as provided under item **50. Compensation for Changes and Time & Material Work.**

Additional Work performed without authorization of a Change Order will not entitle Contractor to an increase in the Contract Price or an extension of the Contract Time, except in the case of an emergency as provided in item **25. Contractor's Responsibility for Work.**

49. Compensation for Altered Quantities.

When the accepted quantities of Work vary from the quantities in the Contract, Contractor shall accept as payment in full payment at the original contract unit prices for the accepted quantities of Work done. Allowance will not be made except as provided in item **47. Significant Changes in the Character of Work**, for any increase expense, loss of expected reimbursement, or loss of anticipated profits suffered or claimed by Contractor resulting either directly from such alterations or indirectly from unbalanced allocation of overhead expense among the contract items or from any other cause.

If any such alteration directly causes the loss of any Work or materials already furnished by Contractor under the terms of the original contract, reimbursement for such Work or of salvaging such materials will be at actual cost. Any such materials may, at the option of County, be purchased at the actual cost to Contractor, as evidenced by certified invoices.

Should any items contained in the Contract be found unnecessary for the proper completion of the Work, the item may be eliminated. Such action will not invalidate the Contract. Contractor will be reimbursed for actual Work done and all costs incurred, including mobilization of materials and equipment prior to the elimination of the items.

50. Compensation for Changes and Time & Material Work.

Differing site conditions, changes, and extra Work performed under Section VII will be paid for as stipulated in the order authorizing the Work. Compensation will be at unit prices or lump sum, or County may require Contractor to do the Work on a time and material (T&M) basis to be compensated in the following manner:

- (a) *Labor.* For all labor and foremen in direct charge of the specific operations, Contractor will receive the actual rate of wage normally paid for each and every hour that the labor and foremen are actually engage in the Work, as documented by certified payrolls.

Contractor will receive the actual costs paid to, or in behalf of, workers because of subsistence and travel allowances, health and welfare benefits, pension fund benefits, or other benefits, when the amounts are required by a collective bargaining agreement or other employment contract or generally applicable to the classes of labor employed on the Work.

An amount equal to 67 percent of the actual wages and fringe benefits paid directly to the employees will also be paid to Contractor. This 67 percent will not be applied to subsistence, travel allowance, or to fringe benefits paid to a third party or a trustee.

(b) *Materials.* For materials accepted by the Engineer and incorporated in the Work, Contractor shall receive the actual cost of such materials, including transportation charges paid (exclusive of equipment rentals as hereinafter set forth), to which 15 percent will be added.

(c) *Owned or Leased Equipment.* For the use of any machinery or equipment, approved by the Engineer, which is owned or leased directly by Contractor or subcontractors, or by entities that are divisions, affiliates, subsidiaries or in any other way related to Contractor or subcontractors or their parent companies, Contractor will be paid in the manner hereinafter specified. Rental rates will be from the current edition of the Rental Rate Blue Book for Construction Equipment and will be used as follows:

1. Determination of the rental rate to be used will be as follow:

Hourly rate: $RR = (ADJ\ BB/176)(RF)+EOC$

Standby rate: $SR = (ADJ\ BB/176)(RF)(0.5)$

Where: RR = Hourly rental rate

SR = Standby rate

ADJ BB = Blue Book Monthly Rate adjusted for year of manufacture

RF = Regional Factor of 1.06

EOC = Estimated Hourly Operating Costs from Blue Book

Contractor is to provide the Engineer with documentation from the Blue Book of the ADJ BB and EOC for each piece of equipment being used on the T&M Work. If a piece of equipment that is not in the Blue Book is needed, rates shall be agreed to in writing before the equipment is used.

2. The number of hours to be paid for will be the number of hours that the equipment is actually used on a specific T&M activity.
3. Overtime shall be compensated at the same rate as indicated above.
4. The EOC will be used for each hour that the equipment is in operation for the T&M Work. Such costs do not apply to idle time regardless of the cause.
5. Idle time for equipment will not be paid for, except where the equipment has been held on the Project site on a standby basis at the direction of the Engineer. Such payment will be made at the standby rate established above. The Engineer must approve the payment of standby rates for equipment before the costs are incurred. Payment for standby time will not be made on any day the equipment operates for eight or more hours. For equipment accumulating less than eight hours operating time on any normal work day, standby payment will be limited to only that number of hours that, when added to the operating time for that day, equals eight hours. Additionally, payment for standby time will not be made in any consecutive 30 day period that the equipment operates for 176 or more hours. Standby payment will not be made in any case on days not normally a work day.
6. The rates established above include the cost of fuel, oil, lubrication, supplies, necessary attachments, repairs, overhaul and maintenance of any kind, depreciation, storage, overhead, profit, insurance, all costs (including labor and equipment) of moving equipment onto and away from site, and all incidentals, except as follows below.
7. Transportation charges for each piece of equipment to and from the site of the Work will be paid provided:
 - (1) The equipment is obtained from the nearest source,
 - (2) Charges are restricted to those units of equipment not already available or required on the project, and
 - (3) The equipment is used solely for the T&M Work.
8. Rental rates for small tools valued at less than \$2,000, if purchased new, will not be paid for

but are considered incidental.

9. Fast use expendable parts not included in the Rental Rate Blue Book will not be paid for but are considered incidental.
10. Payable time periods will not include:
 - (1) Time elapsed while equipment is broken down;
 - (2) Time spent repairing equipment; or
 - (3) Time elapsed after the equipment is no longer needed.

(d) *Rental Equipment.* Use of rental equipment not owned or leased by Contractor or subcontractors will be paid for by certified invoice cost. The EOC will also be paid if not included in the rental rate. The use of and rates for rental equipment shall be approved by the Engineer prior to use. Proration of rental rates to an hourly rate for equipment not used solely for the force account shall be based on 176 hours per month, 40 hours per week or 8 hours per day as applicable. The cost of moving the rental equipment onto and away from the job will also be paid when the equipment is used solely for the T&M Work. An amount equal to 10 percent of the total due to Contractor for rental equipment cost is added to compensate Contractor for related overhead costs.

(e) *Administrative Compensation.* Administrative compensation will be paid to Contractor for Work performed on a T&M basis by a subcontractor, utility, railroad, waste disposal company, or specialty firm. The compensation will be percentage of the value of the T&M Work performed in accordance with the following:

To \$1,000	10%
Over \$1,000 to \$10,000.....	\$100 plus 5% of excess over \$1,000
Over \$10,000.....	\$550 plus 3% of excess over \$10,000

The percentages will be calculated after certified invoices are furnish by Contractor.

- (f) *Records.* Contractor's representative and the Engineer shall, on a daily basis agree in writing on the quantities of labor, equipment and materials used for Work completed on a T&M basis.
- (g) The additional percentages stated in (a) through (e) above constitute full compensation for all items of expense not specifically designated, including general superintendence, use of incidental tools, field and office overhead and profit. The total payment made as provided above shall constitute full compensation for such Work.

51. Compensation for Compensable Delays.

If the Engineer determines that a delay is compensable in accordance with either item **53. Dispute Resolution** or item **23. Determination and Extension of Contract Time**, monetary compensation will be determined in accordance with this item.

- (a) These categories represent the only costs that are recoverable by Contractor. All other costs or categories are not recoverable:
 - (1) Actual wages and benefits, including FICA, paid for additional labor not otherwise included in (5) below;
 - (2) Costs for additional bond, insurance and tax;
 - (3) Increased costs for materials;
 - (4) Equipment costs calculated in accordance with Item **50.(c)** for Contractor owned equipment and based on invoice costs for rented equipment;
 - (5) Costs of extended job site overhead;

- (6) Costs of salaried employees not otherwise included in (1) or (5) above incurred as a direct result of the delay;
- (7) Claims from subcontractors and suppliers at any level;
- (8) Compensation for which no specific allowance is provided, including profit and home office overhead will be provided as follows. The compensation will be percentage of the total of items (1) through (7) in accordance with the following:

To \$1,000	10%
Over \$1,000 to \$10,000.....	\$100 plus 5% of excess over \$1,000
Over \$10,000.....	\$550 plus 3% of excess over \$10,000

- (b) In adjustment for costs as allowed above, County will have no liability for the following items of damages or expense:
 - (1) Profit in excess of that provided in (a) above;
 - (2) Loss of profit;
 - (3) Additional cost of labor inefficiencies in excess of that provided in (a) above;
 - (4) Home office overhead in excess of that provided in (a) above;
 - (5) Consequential damages, including but not limited to loss of bonding capacity, loss of bidding opportunities, and insolvency;
 - (6) Indirect costs or expenses of any nature in excess of that provided in (a) above;
 - (7) Attorney fees, claim preparation fees, and expert fees.

All costs claimed must be documented.

52. Value Engineering Change Proposals by Contractor. Contractor may develop a proposal for value engineering changes that improve construction techniques, alternative materials, and other innovations. Depending on funding sources and type of contracts, proposals may not be accepted on all projects. Proposals must provide a project comparable to Engineer of Record’s original design either at lower cost, improved quality, or both. Proposals that lower the quality of the intended project will be rejected, if any part of the proposal is rejected the entire proposal will be rejected. Bid prices shall not be based on the anticipated approval of a Value Engineering Change Proposal (VECP). Proposals shall be submitted only by the successful bidder after contract award. If a VECP is rejected, the Work shall be completed in accordance with the Contract at contract bid prices. Any delay to the project due to a VECP submittal and review shall be considered within Contractor’s control and will be non-excusable with the exception of those delays that are approved as part of the VECP.

Proposals shall be categorized as VECP (Category A) or VECP (Category B). VECPs (Category A) will be all proposals that involve the design and construction of a structure including but not limited to a bridge, retaining wall, concrete box culvert, or building. A VECP (Category A) will also include any proposal that would result in a change of original bid items that totals over \$250,000. Alternatives investigated and not selected in the project Structural Selection Reports may be presented in a VECP if significant benefits can be demonstrated to County or Engineer. In addition, design criteria and constraints listed in the Structural Selection Report cannot be modified or relaxed as part of a VECP unless significant and previously unknown benefits can be proven to the Engineer. Experimental or demonstration-type design concepts, products, structures, or elements that have not been pre-approved by County, in writing, for general use will be considered a VECP (Category A). Category A proposals will also result in a realized and shared cost savings to County. Cost savings generated to the Contract as a result of VECP offered by Contractor and accepted by County shall be shared between Contractor and County, with a split of the savings 40% to Contractor and 60% to County.

All other VECPs that do not meet the previous requirements will be classified as a VECP (Category B).

Net cost savings shall be split 40% to Contractor and 60% to County as defined in the Basis of Payment section of this specification.

Both VECP (Category A) and VECP (Category B) will produce savings to County or provide improved project quality without impairing essential functions and characteristics of the facility. Essential functions include but are not limited to: service life, requirements for planned future development, prior commitments to governmental agencies or the public, corridor requirements, economy of operation, ease of maintenance, desired appearance, safety, and impacts to the traveling public or to the environment during and after construction.

Contractor must submit a full VECP proposal. These proposals are subject to rejection at any time if they do not meet the criteria outlined in this subsection.

(a) Submittal of Full Value Engineering Change Proposal. The following materials and information shall be submitted for both Category A and Category B VECPs:

- (1) A statement that the proposal is submitted as a VECP.
- (2) A description of the difference between the existing Contract and the proposed change, and the advantages and disadvantages of each, including effects on service life, requirements for planned future development, prior commitments to governmental agencies or the public, corridor requirements, economy of operation, ease of maintenance, desired appearance, safety, and impacts to the traveling public or to the environment during and after construction. Contractor shall request in writing the necessary information from the Project Manager.
- (3) A complete set of plans and specifications showing the proposed revisions relative to the original Contract. This portion of the submittal shall include design notes and construction details. The proposed plans and specifications shall be signed and sealed by Contractor's Engineer.
- (4) A cost comparison, summarizing all of the items that the proposed VECP replaces, reduces, eliminate, adds, or otherwise changes from the original Contract Work, including all impacts to traffic control, detours and all other changes. The cost comparison shall not include cost savings resulting from purportedly decreased inspection or testing requirements, or County overhead. All costs and proposed unit prices shall be documented by Contractor.
- (5) A Statement specifying the date by which a Change Order must be executed to obtain the maximum cost reduction during the remainder of the Contract and the date when a response from the Engineer is required to avoid delays to the prosecution of the Contract.
- (6) A statement detailing the effect the Proposal will have on the time for completing the contract.
- (7) A description of any previous use or testing of the proposed changes and the conditions and results. If the Proposal was previously submitted on another County project, the proposal shall indicate the date, Contract number, and the action taken by County.
- (8) An estimate of any effects of the VECP will have on other costs to County.
- (9) A statement of life cycle costs, when appropriate. Life cycle costs will not be considered as part of cost savings but shall be calculated for additional support of the Proposal. A discount rate of four percent shall be used for life cycle calculations.

(b) Evaluation. VECP will be evaluated by the as shown below. Additional information needed to evaluate Proposals shall be provided in a timely manner. Untimely submittal of additional information will result in rejection of the Proposal. Where design changes are proposed, the additional information shall include results of field investigations and surveys, design and computations, and changed plan sheets required to develop the design changes.

1. The Engineer will determine if a Proposal qualifies for consideration and evaluation. The Engineer may reject any Proposal that requires excessive time or costs for review, evaluation, or investigation. The Engineer may reject proposals that are not consistent with County's design criteria for the project.
2. VECPs, whether or not approved by County, apply only to the ongoing Contracts referenced in the Proposal and become the property of County. Proposals shall contain no restrictions imposed by Contractor on their use or disclosure. County has the right to use, duplicate and disclose in whole or in part any data necessary for the utilization of the Proposal. County retains the right to utilize any accepted Proposal or part thereof on other projects without obligation to Contractor. This provision is subject to rights provided by law with respect to patented materials or processes.
3. If County is already considering revisions to the Contract or has approved changes in the Contract that are subsequently proposed in a VECP, the Engineer will reject the Proposal and may proceed to implement these changes without obligation to Contractor.
4. Contractor shall have no claim against County for additional costs or delays resulting from the rejection or untimely acceptance of a VECP. These costs include but are not limited to: development costs, loss of anticipated profits, increased material or labor costs, or untimely response.
5. Proposals will be rejected if equivalent options are already provided in the Contract.
6. Proposals that only reduce or eliminate contract pay items will be rejected.
7. The cost savings and other benefits generated by the Proposal must be sufficient to warrant review and processing, as determined by the Engineer.
8. A proposal changing the type or thickness of the pavement structure will be rejected.
9. No VECP proposal can be used to alter incentive and disincentive rates and maximums on Cost plus Time bid (A+B) projects.
10. Right of Way cannot be bought as part of a VECP to eliminate phasing on a project.
11. A VECP changing the design of a structure may be considered by County, if the design meets the following conditions:
 - (1) The design shall not involve detouring of traffic onto local roads or streets to an extent greater than the original plans, unless previously approved by the affected local agencies.
 - (2) The design has the same roadway typical section as the original plans.
 - (3) The design meets or exceeds the benefits of the construction handling or traffic phasing scheme shown in the original plans.
 - (4) The design meets or exceeds all environmental commitments and permit requirements of the original Contract.
 - (5) The design shall not increase environmental impacts beyond those of the original Contract.
 - (6) The design meets or exceeds the vertical and horizontal clearances and hydraulic requirements shown on the original plans.
 - (7) The design has the same or greater flexibility as the original design to accommodate future widening.
 - (8) The design shall not change the location of the centerline of the substructure elements, without demonstrating substantial benefits over the original plans.
 - (9) The design shall not change the grade or elevation of the final riding surface, without

demonstrating substantial benefits over the original plans.

(10) The design shall match corridor future development plans and architectural, aesthetic and pavement requirements, if applicable.

(11) The design shall not adversely impact County's bridge inspection maintenance, or other long-term costs or operations.

(12) The design shall meet all County design standards and policies.

(13) The design shall include all additional costs and coordination necessary to relocate utilities.

(14) Major structure designs provided by Contractor shall include an independent plan review and design check by a Professional Engineer licensed in the State of Colorado and employed by a firm other than the engineer-of-record. This design review will be performed at Contractor's expense and shall be included in Contractor's engineering costs.

(15) Contractor shall provide County with all design calculations, independent design check calculations, a rating package for each bridge prepared in accordance with the current CDOT Bridge Rating Manual, and a record set of quantity calculations for each structure.

12. The Engineer will reject all or any portion of the design or construction Work performed under an approved VECP if unsatisfactory results are obtained. The Engineer will direct the removal of such rejected Work and require construction to proceed under the original Contract requirements without reimbursement for Work performed under the proposal, or for its removal.

If a design VECP meets these and all other requirements, County may, at its sole option, accept or reject the proposal.

(c) Basis of Payment. If the VECP is accepted, a Change Order will authorize the changes and payment (any Work associated with the proposal can only be done once a Change order is issued). Reimbursement will be made as follows:

1. The changes will be incorporated into the Contract by changes in quantities of unit bid items, new agreed unit price items, lump sum or any combination, as appropriate, under the Contract. Unless there is a differing site condition as described in item **42. Differing Site Conditions**, Contractor shall not receive additional compensation for quantity overruns, design errors, supplemental surveys, geotechnical investigations, additional items, or other increases in cost that were not foreseen in the accepted VECP unless otherwise approved by the Engineer.

2. For all VECPs, the incentive payment shall be calculated as follows:

$(\text{gross cost of deleted Work}) - (\text{gross cost of added Work}) = (\text{gross savings})$

$(\text{gross savings}) - (\text{Contractor's engineering costs}) - (\text{County's engineering costs}) = (\text{net savings})$

Contractor's total incentive = 40% net savings

Contractor's engineering costs will be reimbursable only for outside consultant costs that are verified by certified billings. County's engineering costs shall be actual consultant costs billed to County and extraordinary in-house personnel labor costs. These labor costs will be calculated at the fixed amount of \$50.00 per hour per employee. Project personnel assigned to the field office or who Work on the project on a regular basis shall not be included in County's portion of the cost.

3. At the completion of the VECP design Work, Contractor shall furnish the Engineer any additional documentation such as surveys, geotechnical reports, documentation, or calculations

and shop drawings required to complete the Work.

At the completion of the project, Contractor shall furnish the Engineer with PE-stamped Record sets, and As-Constructed plans showing the VECP Work.

(d) Contractor Appeal Process. Appeals can be made only on VECPs (Category A). The Prime Contractor submitting the VECP may file a one-time appeal to the Mesa County Public Works Director on the denial of any VECP (Category A). Contractor must have a valid reason for the appeal and the decision of the Mesa County Public Works Director will be final.

53. Dispute Resolution.

This subsection details the process through which the parties (County and Contractor) agree to resolve any issue that may result in a dispute. The intent of the process is to resolve issues early, efficiently, and as close to the project level as possible.

A dispute is a disagreement concerning contract price, time, interpretation of the Contract, or all three between the parties at the project level regarding or relating to the Contract. Issues include, but are not limited to, any disagreement resulting from a delay, a change order, another written order, or an oral order from the Engineer, including any direction, instruction, interpretation, or determination by the Engineer, interpretations of the Contract provisions, plans, or specifications or the existence of alleged differing site conditions.

Disputes and claims will not be considered unless Contractor has first complied with specified issue resolution processes such as those included in items **45. Differing Site Conditions** and **23. Determination and Extension of Contract Time**.

Disputes from subcontractors, material suppliers, or any other entity not party to the Contract shall be submitted through Contractor. Review of a pass-through dispute does not create privity of Contract between County and the subcontractor.

The Engineer will be the initial interpreter of the requirements of the Contract Documents and judge of the acceptability of the Work thereunder. Claims, disputes and other matters relating to the Work shall be referred initially to the Engineer in writing with a request for a formal decision in accordance with this paragraph, which Engineer will render in writing within a reasonable time.

No change in Contract Price or Contract Time shall be considered or authorized unless a written notice of each such claim, dispute and other matter shall be delivered by Contractor to the Engineer within fifteen (15) days of the occurrence of the event giving rise thereto. Contractor is also required to supplement the written notice of dispute with the following supporting data within forty-five (45) days of the occurrence of the event, unless the Engineer allows an additional period of time to ascertain more accurate data:

- (1) The date of the dispute.
- (2) The nature of the circumstances which caused the dispute.
- (3) A statement explaining in detail the specific provisions of the Contract and any basis, legal or factual, which support the dispute.
- (4) If any, the estimated quantity or amount, of the dispute with supporting documentation.

- (5) An analysis of the progress schedule showing the schedule change or disruption if Contractor is asserting a schedule change or disruption.
- (6) Any other additional information or data which the Engineer determines is needed to aid in resolving the claim through negotiation or which is required to complete an evaluation of the claim.

Failure to submit the claim in writing within the time and in the manner described above, or within such extended time granted by the Engineer, shall constitute a waiver by Contractor of any right equitable or otherwise to make such a claim.

The dispute resolution process set forth in this subsection shall be exhausted in its entirety prior to initiation of litigation by either party. Failure to comply with the requirements set forth in this subsection shall bar either party from any further administrative, equitable, or legal remedy. The Engineer and Contractor's Superintendent or field level manager will first attempt to negotiate resolution of the issue. If the Parties fail to resolve the issue through negotiation, the dispute will be escalated to the Engineering Division Director and Contractor's next manager level.

The Engineering Division Manager will either deny the merits of the dispute or notify Contractor that the dispute has merit. This determination will include a summary of the relevant facts, Contract provisions supporting the determination, and an evaluation of all scheduling issues that may be involved.

If the dispute is determined to have merit, Contractor and the Engineering Division Manager will determine the adjustment in payment, schedule, or both within 30 days. When a satisfactory adjustment is determined, it shall be implemented in accordance with items **23. Determination and Extension of Contract Time, 48. Extra Work, 49. Compensation for Altered Quantities, or 51. Compensation for Compensable Delays** and the dispute is resolved.

If Contractor accepts the Engineering Division Director's denial of the merits of the dispute, the dispute is resolved and no further action will be taken. If Contractor does not respond in seven days, it will be assumed he has accepted the denial. If Contractor rejects the Engineering Division Director's denial of the merits of the dispute or a satisfactory adjustment of payment or schedule cannot be agreed upon within 30 days, Contractor may further pursue resolution of the dispute by providing written notice to the Public Works Director within seven days.

After receipt of Contractor's written notice to the Public Works Director of unsatisfactory resolution of the dispute, all parties involved in the dispute will meet with the Public Works Director, who will act as a mediator during discussions of the dispute. These meetings shall include a Contractor's representative with decision authority above the project level.

If these meetings result in resolution of the dispute, the resolution will be implemented in accordance with items **23. Determination and Extension of Contract Time, 48. Extra Work, 59. Compensation for Altered Quantities, or 51. Compensation for Compensable Delays** and the dispute is resolved.

If these meetings do not result in a resolution or the participants mutually agree that they have reached an impasse, either party may initiate litigation in accordance with the signed Contract.

Contractor shall proceed diligently with performance of this Contract, pending final resolution of any claim made under this subsection, and shall comply with any decision of County pending final resolution of the claim. Failure to proceed with the Work shall be grounds for suspension or termination of Contractor.

The rendering of a decision by any authorized County Representative with respect to any such claim, dispute or other matter (except any which have been waived by the making or acceptance of final payment as provided in item **57. Acceptance**) will be a condition precedent to any exercise by Contractor of such

rights or remedies as either may otherwise have under the Contract Documents or at law in respect of any such claim, dispute or other matter.

Neither the County Representative's authority to act under this subsection or elsewhere in the Contract Documents nor any decision made by the County Representative in good faith either to exercise or not exercise such authority shall give rise to any duty or responsibility of the County Representative to Contractor, any Subcontractor, or manufacturer, fabricator, supplier or distributor, or any of their agents or employees or any other person performing any of the Work.

Whenever in the Contract Documents the terms "as ordered", "as directed", "as required", "as allowed", or terms of the like effect or import are used, or the adjectives of like effect or import are used to describe requirement, direction, review or judgment will be solely to evaluate the Work for compliance with Contract Documents (unless there is a specific statement indicating otherwise). The use of any such term or adjective never indicates that the County Representative shall have authority to undertake responsibility contrary to the provisions of the preceding two paragraphs.

VII. MEASUREMENT, PAYMENT, ACCEPTANCE AND WARRANTY

54. Scope of Payment.

The Contract Price constitutes the total compensation (subject to authorized adjustments) payable to Contractor for performing the Work. All duties, responsibilities and obligations assigned to or undertaken by Contractor shall be at his expense without change in the Contract Price.

Contractor shall receive and accept compensation provided for in the contract as full payment for furnishing all materials and for performing all Work under the Contract in a complete and acceptable manner and for all risk, loss, damage, or expense of whatever character arising out of the nature of the Work or the prosecution thereof, subject to the provisions of item **59. No Waiver of Legal Rights.**

Work or materials for which there are pay items and which are to be paid for separately will be included in the appropriate pay item in the Bid Schedule. Work or materials that are essential to the project but for which there are no pay items, will not be measured and paid for separately but shall be included in the project.

55. Progress Payments.

Partial payments will be made once each month as the Work progresses when Contractor is performing satisfactorily under the Contract. At least ten (10) days before each progress payment falls due, Contractor shall submit to the Engineer for review, an Application for Payment filled out and signed by Contractor covering the Work completed as of the date indicated on the Application and accompanied by such supporting documentation as is required by the Contract Documents and also as the Engineer may require. Each subsequent Application for Payment shall include an affidavit of Contractor stating that all previous progress payments received on account of the Work have been applied to discharge in full all of Contractor's obligations reflected in prior Application for Payment.

Contractor shall pay subcontractors and suppliers for all Work which has been satisfactorily completed within seven calendar days after receiving payment for that Work from County. Contractor shall ensure that all subcontractors and suppliers at every tier are promptly paid. If Contractor or its subcontractors fail to comply with this provision, the Engineer will not authorize further progress payment for Work performed directly by Contractor or the noncompliant subcontractor until the required payments have been made.

Contractor warrants and guarantees that title to all Work, materials and equipment covered by any Application for Payment, whether incorporated in the Project or not, will pass to County at the time of payment free and clear of all liens, claims, security interests, and encumbrances (hereafter in these General Contract Conditions referred to as “Liens”).

The Engineer will, within fifteen (15) days after receipt of each Application of Payment, either indicate in writing a recommendation of payment and submit the Application for payment, or return the Application to Contractor indicating Engineer’s reasons for refusing to recommend payment. In the latter case, Contractor may make the necessary corrections and resubmit the Application. County shall, within fifteen (15) days of presentation of the Application for Payment with Engineer’s recommendation of payment, pay Contractor the amount recommend.

The Engineer may refuse to recommend the whole or any part of the payment if, in his opinion, it would be incorrect to make such representations to County. He may also refuse to recommend any such payment or, because of subsequently discovered evidence or the results of subsequent inspections or tests, nullify any such payment previously recommended to such extent as may be necessary in the Engineer’s opinion to protect County from loss because:

- (1) The Work is defective or completed Work has been damaged requiring correction or replacement;
- (2) Written claims have been made against County or liens have been filed in connection with the Work;
- (3) The Contract Price has been reduced because of Modifications;
- (4) County has been required to correct defective Work or to complete the Work in accordance with item **36. Removal of Unacceptable Work and Unauthorized Work**;
- (5) Contractor has unsatisfactory performed the Work in accordance with the Contract Documents;
- (6) Contractor’s failure to make payment to Subcontractors, or for labor, material or equipment; or
- (7) Any other statutory reason.

56. Payment for Material on Hand (Stockpiled Material).

Payments may be made to Contractor for materials to be incorporated into the Work as evidenced by invoices or cost analyses of material produced on the project subject to the following:

- (1) The material has been fabricated or processed and is ready for installation in the project and conforms to the requirements of the Contract. Contractor shall provide the Engineer with a monthly accounting of all materials stockpiled on the project for which stockpiled payment is being requested and certification of compliance that materials conform to the requirements of the Contract. This monthly accounting shall include the specific location of materials, the amounts of materials stockpiled, the amount of materials incorporated into the Work, and the net amounts of materials for which stockpile material payment is being requested.
- (2) The material is stored on the project or County-owned property. The material shall be clearly identified for County project.
- (3) Contractor provides the Engineer with a written cost analysis which confirms that the balance of funds in the corresponding items is sufficient to complete the installation. Partial payments will not exceed

85 percent of the contract unit price for the item or 100 percent of the certified invoice cost of the stockpiled material, whichever is less.

(4) Contractor shall provide the Engineer with a certified invoice.

Payment for stockpiled materials will not relieve Contractor of responsibility for loss or damage to the material. Payment for living plant materials, perishable materials, or materials which will not become an integral part of the finished project will not be made under this subsection.

57. Acceptance.

(a) *Partial Acceptance.* If, during the performance of the project, Contractor satisfactorily completes a unit or portion of the project, such as a structure, or a section of road or pavement that can be used advantageously by County, the Engineer may make final inspection of that unit. If the Engineer finds that the unit has been satisfactorily completed in compliance with the Contract, Contractor may be relieved of further responsibility for the unit except as otherwise provided in item **11. Opening Sections of Project to Traffic**. Partial acceptance shall not void or alter any of the terms of the Contract.

When Contractor considers the entire Work ready for its intended use, Contractor shall request that Engineer issue a Certificate of Substantial Completion for the entire project. Within a reasonable time thereafter, the Engineer shall make an inspection of the Work to determine the status of completion. If Engineer does not consider the Work substantially complete, Engineer will notify Contractor of items remaining to be completed before issuance of Substantial Completion. If Engineer considers the Work substantially complete, Engineer will prepare a Certificate of Substantial Completion which shall fix the date of Substantial Completion. There shall be attached to the Certificate a list of items to be completed or corrected within 30 days of the date of Substantial Completion and before final payment.

County shall have the right to exclude Contractor from the Work after the date of Substantial Completion, but shall allow Contractor reasonable access to complete or correct items on the tentative list.

Upon notice from Contractor that the Work is complete, Engineer will make a final observation with Contractor and will notify Contractor of all Work that is incomplete or defective. Contractor shall immediately take such measures as are necessary to remedy such deficiencies. All such deficiencies shall be remedied within seven (7) days of notification to Contractor by Engineer, or County may act to remedy deficiencies in accordance with the provisions of item **34. Removal of Unacceptable Work and Unauthorized Work**. Final acceptance under this subsection does not waive any legal rights contained in item **59. No Waiver of Legal Rights**

(c) *Final Payment.* After Contractor has completed all corrections on the list of items attached to the Substantial Completion certificate as stated in item (b) above to the satisfaction of the Engineer, and delivered all maintenance and operating instructions, schedules, guarantees, Bonds, certificates of inspection, marked-up record documents and other documents, all as required by the Contract Documents, and after the Engineer has indicated that the Work is acceptable (subject to the provisions of the waiver of claims), Contractor may make application for final payment following the procedure for progress payments. The final Application for Payment shall be accompanied by all documentation called for in the Contract Documents and such other data and schedules as County may reasonably require, together with complete and legally effective releases or waivers (satisfactory to County) of all Liens arising out of or filed in connection with the Work. In lieu thereof and as approved by County, Contractor may furnish receipts or a release in full; an affidavit of Contractor that the releases and receipts include all labor, services, material and equipment for which a Lien could be filed, and that all payrolls, material and equipment bills, and other indebtedness connected with the Work for which County might in any way be responsible, have been paid or otherwise satisfied; and consent of the Surety, if any, to final payment.

The making and acceptance of final payment shall constitute a waiver of all claims by County against Contractor, except claims from defective Work appearing after final inspection or from failure to comply with the Contract Documents or the terms of any special guarantees specified therein. However, it shall not constitute a waiver by County of any rights in respect to Contractor's continuing obligations under the Contract Documents or those claims by Contractor against County other than those previously made in writing and still unsettled.

Within 30 calendar days after substantial completion of the project, Contractor shall submit to County:

1. A letter signed by Contractor certifying that all material incorporated into the project met or exceeded project requirements/specifications.
2. A letter signed and stamped by a professional engineer in the State of Colorado certifying that all the required materials testing was completed as per testing schedule and that all material incorporated into the project met minimum standards.
3. The as built markup plan set submitted and stamped by a PLS licensed in the State of Colorado.

Final Payment and Retainage will not be released until these documents have been submitted and approved by Engineer.

All costs incidental to the foregoing requirements will not be paid for separately, but shall be included in the Work.

58. Warranty.

Contractor warrants and guarantees County that all Work will be in accordance with the Contract Documents, will not be defective and will conform to industry standards. Prompt notice of all defects shall be given to Contractor. All defective Work, whether or not in place, may be rejected, corrected or accepted as provided in this section.

If within one year after the date of Substantial Completion or such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents or by any specific provision of the Contract Documents, any Work is found to be defective, Contractor shall promptly, without cost to County and in accordance with Engineer's written instructions, either correct such defective Work, or if it has been rejected by Engineer, remove it from the site and replace it with non-defective Work. If Contractor does not promptly comply with the terms of such instructions, or in an emergency where delay would cause serious risk of loss or damage, County may have the defective Work corrected or the rejected Work removed and replaced, and all direct and indirect costs of such removal and replacement, including compensation for additional professional services, shall be paid by Contractor. The one-year correction period shall be extended to allow time for response and/or correction by Contractor.

59. No Waiver of Legal Rights.

Final acceptance shall not preclude County from correcting any measurement, estimate, or certificate made before or after completion of the Contract, nor from recovering from Contractor or surety, or both, overpayments sustained because Contractor failed to fulfill obligations under the Contract. A waiver on the part of County of any breach of any part of the Contract shall not be held to be a waiver of any other of subsequent breach.

Contractor without prejudice to the terms of the Contract, shall be liable to County, for latent defects, fraud, or such gross mistakes as may amount to fraud, or as regards County's rights under any warranty or guaranty.

PROJECT SPECIAL PROVISIONS
Town of Collbran 2021 OVERLAY PROJECT

The most recent edition of the Mesa County Standard Construction Specifications, which supplement and modify the 2019 Colorado Department of Transportation Standard Specifications for Road and Bridge Construction, controls construction of this project. The following Project Special Provisions supplement or modify the Standard Construction Specifications and take precedence over the Standard Construction Specifications and plans. If a bid item is not included in the quantities, then work is considered incidental overall to the project.

Mesa County Standard Specifications have not been printed but are available online at:
<https://www.mesacounty.us/publicworks/engineering/>

CDOT Standard Specifications have not been printed but are available on line
<https://www.codot.gov/business/designsupport/cdot-construction-specifications/2019-construction-specifications>

Project Special Provisions Section

Special Conditions

1. Project Description
2. Commencement and Completion
3. Scheduling/Sequencing Requirements
4. Project Management
5. Permits
6. Public Information Services
7. Force Account

Revision of Section 202 – Removal of Structures and Obstructions

Revision of Section 608 – Sidewalks and Bikeways

Revision of Section 609 – Curbs and Gutters

SPECIAL CONDITIONS

1. **PROJECT DESCRIPTION** - The project includes of the replacement of Hot Mix Asphalt on two separate streets in Collbran, Colorado. Overlay Projects 1 through 2 (7,497 Sq. Yds.) as shown on the Overlay Schedule spreadsheet.
2. **COMMENCEMENT AND COMPLETION** – The Contractor shall commence work under the Contract on or before the 10th day following the issuance of the “Notice to Proceed”, unless such time for beginning the work is changed by the Construction Manager. The Contractor shall complete all work with 90 working days in accordance with the “Notice to Proceed.”
3. **SCHEDULING/SEQUENCING REQUIREMENTS** – The Contractor shall phase all work to minimize impacts to traffic and neighboring properties. The Contractor shall complete all work which affects any mode of traffic in a timely manner, and maintain access to the adjacent residences and the maintenance roads to all canal systems. The Contractor shall work diligently from the time an existing area is first disturbed to completion.

Milling is to be done no more than two weeks before the road is paved. This time may be extended an additional week, for a total of three weeks, upon prior written permission from the Project Manager. The damages to the County for not paving within two weeks of milling, or three weeks with permission, shall be the amount shown on the lowest amount from the Calendar Day column in the schedule of liquidated damages in item **24. Failure to Complete Work on Time** of the General Contract Conditions. This amount will be assessed each day that any designated project is not paved, until the day that paving is completed.

Shoulder gravel is to be placed as specified in the spreadsheet Overlay Schedule 2021 and Project Information Sheets for each designated project no sooner than 72 hours after paving has been completed. However, shoulder gravel should be completed on each designated project no more than 2 weeks from the date the paving was completed for the designated project. This time frame may be extended by the prior written permission of the Project Manager. The damages to the County for not placing the gravel within two weeks from the date paving is completed, or three weeks with permission, shall be the amount on the lowest amount from the Calendar Day column in the schedule of liquidated damages in item **24. Failure to Complete Work on Time** of the General Contract Conditions. This amount will be assessed each day that any designated project is not shouldered, until the day that shouldering is completed.

4. **PROJECT MANAGEMENT** - The Construction Manager responsible for the administration of the construction for the Project is Matt Nichols, who can be reached at (970)244-1673. After award of the contract, all project notices, letters, submittals, and other communications directed to the Project Manager shall be emailed to matthew.nichols@mesacounty.us or addressed and mailed or delivered to:

Matthew Nichols
Mesa County Division of Transportation
P.O. Box 20,000-5025
Grand Junction, CO 81502-5025

5. **PERMITS** – It is the responsibility of the contractor to abide by all applicable Federal, State and Local permits and codes in accordance with subsection **Permits, Licenses, and Taxes** of the General Contract Conditions.. The contractor shall thoroughly acquaint himself with the details of each before

beginning work. The following permits may be necessary depending upon construction means and methods and shall be secured by the contractor prior to construction, if necessary:

6. **PUBLIC INFORMATION SERVICES.** It is the responsibility of the Contractor to notify all solid waste companies of the Contractor's schedule. This is intended to accommodate trash pickup and removal by the companies who provide a service to Town residents. No solid waste vehicles will be allowed on freshly overlain roads for a period of no less than 24 hrs.

It is the responsibility of the Contractor notify residents who live along the affected roads, with door hangers approved by the Project Manager. Door hangers will be placed on the front door of the home a minimum of 48 hours and no more than 96 hour before work begins. Door hangers will not be placed in any mail box or on any mail receptacle. The flier shall provide the name of the Contractor's contact person and the telephone number and office hours of the Public Information Office. Fliers, and media releases, shall be provided to the contract administrator as well as the Town Designated Representative for review 7 calendar days prior to distribution.

7. **FORCE ACCOUNT** – Town's estimate for Force Account items shall be included in the Contract and in the Proposal. Force Account work shall be performed as directed by the Project Manager. Force Account work may only be performed after a Field Order has been signed and executed.

Payment will be made in accordance with Section **VII. CHANGES IN WORK OR CONTRACT PRICE** of the General Contract Conditions. Payment will constitute full compensation for all work necessary to complete the item.

Payment will be made under the following pay item:

Pay Item	Unit	Estimated Amount
Force Account	Lump Sum	5% of bid amount

**REVISION OF SECTION 202
REMOVAL OF STRUCTURES AND OBSTRUCTIONS**

Section 202 of the Standard Construction Specifications is hereby revised for this project as follows:

202.09 Removal of Asphalt Mat (Planing).

Add the following:

The Town will retain all Reclaimed Asphalt Pavement (RAP) millings removed from the existing asphalt mat on this project. For this project, the RAP millings shall be delivered and stockpiled at the following location:

Town of Collbran Rodeo Grounds

202.11 Method of Measurement.

Add the following:

The disposal and hauling of the RAP millings to other locations, or its use on the project or at other locations, will not be measured and paid for separately, but shall be included in the work.

**REVISION OF SECTION 608
SIDEWALKS AND BIKEWAYS**

Section 608 of the Standard Construction Specifications is hereby revised for this project as follows:

608.06 Basis of Payment

Add the following:

The removal and disposal of designated concrete, disposal of waste materials, compaction, testing, replacement of concrete, and patching of asphalt as specified shall be considered incidental to the applicable concrete pay item.

**REVISION OF SECTION 609
CURB AND GUTTERS**

Section 609 of the Standard Construction Specifications is hereby revised for this project as follows:

608.09 Basis of Payment

Add the following:

The removal and disposal of designated concrete, disposal of waste materials, compaction, testing, replacement of concrete, and patching of asphalt as specified shall be considered incidental to the applicable concrete pay item.

Concrete in cross drains will be paid for under Concrete Pavement and shall include Class D concrete, 8" thick, with #5 reinforcing.