

**Sandstone Irrigation Maintenance Project
SP 2024-018**

Construction Contract

1. **Parties.** This Contract made and entered into this ____ day of _____, 2023, between the Board of County Commissioners of the County of Douglas (hereinafter "County") and **53 CORPORATION, LLC**, a Colorado corporation (hereinafter "Contractor").

2. **Contract Documents.** The entire contract between the Parties shall consist of and include:

- A. Contract, which includes the Cover Page and Table of Contents;
- B. Approved Construction Plans (Exhibit A);
- C. Bid Schedule (Exhibit B);
- D. Douglas County Roadway Design and Construction Standards;
- E. Douglas County Grading, Erosion and Sediment Control Manual, (GESG);
- F. Douglas County Storm Drainage Design & Technical Criteria Manual
- G. CDOT, Standard Specifications for Road & Bridge Construction;
- H. CDOT, Standard Plans, M & S Standards;
- I. County's Payment Policies;
- J. Insurance Requirements, Revision of Section 107 of the Standard Special Provisions; and
- K. Payment and Performance Bonds

3. Except as otherwise provided in this Contract, the project shall be constructed in accordance with the Douglas County Roadway Design & Construction Standards, as amended May 2013, Douglas County Grading, Erosion and Sediment Control Manual, (GESG), dated 2004, as amended), the Douglas County Storm Drainage Design & Technical Criteria Manual, the CDOT Standard Specifications for Road and Bridge Construction, dated 2017, and the CDOT M&S Standard, dated 2012. If there is a conflict between these standards the Douglas County standards and manuals shall control.

4. **Scope of Work.** All services described in Exhibit A - (Construction Plans), attached hereto and incorporated herein, shall be performed by Contractor.

The County may, from time to time, request changes to the scope of services to be performed hereunder. Such changes, including any increase or decrease in the amount of the Contractor's compensation, which are mutually agreed upon between the County and Contractor, shall be in writing and shall become part of this Contract upon execution.

The Contractor agrees to diligently and professionally perform all the services described herein in a manner satisfactory to the Authorized Representative. It is also understood and agreed that the Contractor shall not, in performing services hereunder, undertake any action or activity prohibited by the terms of any lease, permit, license or other agreement in effect during the term hereof between the Contractor and the County for the use and occupancy by the Contractor of any County facilities or space.

5. **Term:** It is mutually agreed by the parties that the term of this Contract shall commence as of 12:01 a.m. on DECEMBER 1st, 2024 and terminate at 12:00 a.m. on DECEMBER 1st, 2025. This Contract and/or any extension of its original term shall be contingent upon annual funding being appropriated, budgeted and otherwise made available for such purposes and subject to the County's satisfaction with all products and services received during the preceding term.

6. **Compensation:** Subject to the maximum contract liability and all other provisions of this Contract, the County agrees to pay to the Contractor, and the Contractor agrees to accept payment as described in Exhibit B, attached hereto and incorporated herein, during the term hereof, in accordance with the terms set forth herein.

7. **Maximum Contract Expenditure:** Any other provision of this Contract notwithstanding and pursuant to Section 29-1-110, C.R.S., the amount of funds appropriated for this Contract is **ONE HUNDRED TWENTY FIVE THOUSAND FOUR HUNDRED THIRTY ONE DOLLARS (\$125,431.00)** for fiscal year 2024. In no event shall the County be liable for payment under this Contract for any amount in excess thereof. The County is not under obligation to make any future apportionment or allocation to this Contract nor is anything set forth herein a limitation of liability for Contractor. Any potential expenditure for this Contract outside the current fiscal year is subject to future annual appropriation of funds for any such proposed expenditure.

8. **Change Orders.** No change order, or other form of order or directive of the County requiring additional compensable work to be performed, which work is in excess of that specified in Paragraph 4 above, shall be issued unless the Contractor is given written assurance by the County that lawful appropriations to cover the costs of the additional work will be or have been made.

9. **Taxes.** The Contractor shall apply to the State Revenue Department for an exemption certificate in order to exempt it from having to pay sales and use tax.

10. **Indemnification and Insurance.** Contractor agrees to:

A. Indemnification. The Contractor shall defend, release, indemnify and save and hold harmless the County, its officers, agents and employees from and against (1) any and all damages, including but not limited to loss of use, to property, or injuries to or death of any person or persons, including property and officers, agents and employees of the County, and (2) any and all claims, demands, suits, actions, liabilities, costs, expenses (including but not limited to reasonable attorney fees, expert witness fees and all associated defense fees), causes of action, or other legal, equitable or administrative proceedings of any kind or nature whatsoever, of or by anyone whomsoever, regardless of the legal theory(ies) upon which premised, including but not limited to contract, tort, express and/or implied warranty, strict liability, and workers compensation, in any way resulting from, connected with, or arising out of, directly or indirectly, actions or omissions of the Contractor or those performing under it in connection with its operations or performance herewith or its use or occupancy of real or personal property hereunder, including actions or omissions of Subcontractors and Suppliers, and acts or omissions of officers, employees, agents, representatives, invitees or licensees of the Contractor or its

Subcontractors or Suppliers; provided however, that the Contractor need not indemnify the County or its officers, agents and employees from damages proximately caused by and apportioned to the negligence of the County's officers, agents and employees. This indemnification is for an amount represented by the degree or percentage of negligence or fault attributable to the indemnity obligor or the indemnity obligor's agents, representatives, subcontractors, or suppliers. Further, this indemnification is intended to comply with and be subject to § 13-50.5-102(8), C.R.S., as amended from time to time.

This indemnity clause shall also cover the County's defense costs, in the event that the County, in its sole discretion elects to provide its own defense. The County retains the right to disapprove counsel, if any, selected by Contractor to fulfill the forgoing defense indemnity obligation, which right of disapproval shall not be unreasonably exercised.

- B. Procure and maintain commercial general liability insurance including completed operations, contractual liability, products liability and automobile liability, affording coverage for all claims for bodily injury including death and all claims for destruction of or damage to property, arising out of or in connection with any operations under this Contract, whether such operations be by the Contractor, by subcontractors under it or anyone directly or indirectly employed by the Contractor or by subcontractor under it. Required coverage is outlined in **Revision of Section 107 of the Standard Special Provisions and made a part of this Contract.**
- C. Obtain and maintain during the term of this Contract worker's compensation insurance as required by law. This insurance shall cover all of its employees employed under the terms of this Contract. If any of the work on the Project is sublet, the Contractor shall require each of its subcontractors to provide similar coverage for all of the subcontractor's employees to be engaged in such work.
- D. Contractor is an independent contractor under this Contract. Notwithstanding any provision of this Contract, all personnel assigned by the Contractor to perform work under this Contract shall be and remain at all times, employees of the Contractor for all purposes, except as otherwise provided for subcontractors herein.

11. **No Waiver of Governmental Immunity Act.** The parties hereto understand and agree that the County, its commissioners, officials, officers, directors, agents and employees, are relying on, and do not waive or intend to waive by any provisions of this Contract, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, §§ 24-10-101 to 120, C.R.S., or otherwise available to the County.

12. **Assignment.** The Contractor covenants and agrees that it will not assign or transfer its rights hereunder, or subcontract any work hereunder, either in whole or in part without the prior written approval of the Project Engineer. Any attempt by the Contractor to assign or transfer its rights hereunder shall, at the option of the County, void the assignment or automatically terminate this Contract and all rights of the Contractor hereunder.

13. **Subletting of Contract.** The Contractor shall not sublet, sell, transfer, assign or otherwise dispose of the Contract, or its right, title or interest therein, without the written consent of the County. The Contractor may utilize the services of specialty contractors on those parts of the Project which, under normal contracting practices, are performed by specialty subcontractors. The Contractor shall be fully responsible to the County for the acts and omissions of the subcontractors and of persons directly employed by them, as it is for the acts and omissions of persons directly employed by it. The Contractor shall provide appropriate provisions to be inserted on all subcontracts relative to the Project to bind the subcontractors to the Contractor by the terms of the Contract Documents to give the Contractor the same power in regard to termination of any subcontractor that the County may exercise over the Contractor under any provision of the Contract Documents.

14. **Non-Discrimination and Federal Assurance in Connection with Performance of Work.** The Contractor agrees not to refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, creed, sex, color, national origin, or ancestry and further agrees to insert the foregoing provision in all subcontracts hereunder. Further, Contractor agrees to comply with the Standard Title VI Non-Discrimination Appendices A and E attached hereto and incorporated herein, and the foregoing shall be a provision in all subcontracts hereunder.

15. **Cancellation of Contract.** Failure of the Contractor to comply with any of the requirements of this Contract may be considered by the County as evidence of the inability on the part of the Contractor to maintain the quality and service standards necessary under this Contract and shall be sufficient cause for termination of the Contract and the County initiating legal action against the Performance Bond of the Contractor.

16. **Patented Devices, Materials and Processes.** If a Contractor is required or desires to use any design, device, invention, product, material or process covered by letters of patent or copyright, it shall provide for such use by suitable legal Contract with the patentee or copyright owner and the County and shall pay all license fees and royalties and assume all costs incident to such use and construction of the Project or incorporation in the Project. The Contractor agrees to defend, indemnify and save harmless the County from any and all claims for infringement by reason of the use of such patented design, device, invention, project, material, or process or any trademark or copyright in connection with the construction of the Project pursuant to the Contract Documents and shall defend and indemnify the County for any costs, expense, and damages, including attorney's fees, which the County may be obliged to pay for any such infringement at any time such claim is made or prosecuted, including, but not limited to, after the completion of the Project. If the County determines, in the reasonable exercise of its discretion, that a joint defense for the County and the Contractor creates a conflict of interest, the County shall be permitted to select its own counsel, and the Contractor shall pay all reasonable attorneys' fees, expenses (including expert fees and expenses), and costs of the County's defense. The County may, if it so desires, withhold any payment due the Contractor so long as it shall be reasonably necessary to indemnify the County on account of such injuries or damage.

17. **Compliance with Safety and Health.** Contractor agrees, in the performance of this Contract, to comply with all safety orders, rules and regulations imposed pursuant to the Colorado

Occupational Safety and Health Program, commonly referred to as COSHA and/or all other safety orders and regulations properly imposed by any other regulatory governmental agency of the State of Colorado or of the United States.

18. **Permits and Licenses.** Unless otherwise provided, the Contractor shall procure all permits and licenses, and, give all notices necessary and incidental to the due and lawful construction of the Project. County may assist Contractor, when necessary, in obtaining such permits and licenses. All County permits will be at no cost to the Contractors.

19. **Venue.** Any and all legal actions pertaining or related to this Contract shall be filed and tried in the District Court in and for the County of Douglas, State of Colorado.

20. **Colorado Labor Preference.** The provisions of Sections 8-17-101 and 102, C.R.S., are applicable to this Contract. Colorado labor must be employed to perform the work to the extent of not less than eighty percent of each type or class of labor in the several classifications of skilled and common labor employed on the Project. "Colorado labor" means any person who is a resident of the State of Colorado, at the time of employment, without discrimination as to race, color, creed, sex, age, or religion except when sex or age is a bona fide occupational qualification. The County may waive the 80% requirement if there is reasonable evidence to demonstrate insufficient Colorado labor to perform the work of the project and if compliance would create an undue burden that could substantially prevent the completion of the project

21. **Conflict of Interest.** The Contractor agrees that no official, officer or employee of the County shall have any personal or beneficial interest whatsoever in the services or property described herein, and the Contractor further agrees not to hire, pay, or contract for services of any official, officer or employee of the County. A conflict of interest shall include transactions, activities or conduct that would affect the judgment, actions or work of the Contractor by placing the Contractor's own interests, or the interest of any party with whom the Contractor has a contractual arrangement, in conflict with those of County.

22. **Compliance with All Laws and Regulations.** All of the work performed under this Contract by the Contractor shall comply with all applicable laws, rules, regulations and codes of the United States, State of Colorado and County of Douglas.

23. **No Third-Party Beneficiary.** The enforcement of the terms and conditions of this Contract and all rights of action relating to such enforcement, shall be strictly reserved by the County and the Contractor, and nothing contained in this Contract shall give or allow any such claim or right of action by any other or third person under such Contract.

24. **Force Majeure:** No party shall be liable for failure to perform hereunder if such failure is the result of force majeure. Any time limit shall be extended for the period of any delay resulting from any force majeure, or this Contract may be terminated if such delay makes performance of the Contract impossible or impracticable. Force majeure shall mean causes beyond the reasonable control of a party against which it would have been unreasonable for the affected party to take precautions and which the affected party cannot avoid even by using its best efforts, such as, but not limited to, natural disasters of overwhelming proportions, exceptional adverse weather

conditions, acts of God, acts of war, strikes, work stoppages, fire or other catastrophic casualty or action of non-party government authorities.

25. **Bond.** At the time of the execution of this Contract, the Contractor shall furnish a Contract Payment Bond and a Contract Performance Bond. Each bond shall be in the penal sum equal to the nearest integral one hundred dollars in excess of the Contract value or amount, plus all force account items, if any, specified in the project special conditions to be included in the payment and performance bonds. The bonds and the security shall be acceptable to the County.

26. **County Execution of Contract:** This Contract is expressly subject to and shall not be or become effective or binding on the County, until execution by all signatories of the County.

**REMAINDER OF PAGE
LEFT INTENTIONALLY BLANK**

STANDARD TITLE VI NON-DISCRIMINATION: APPENDIX A

During the performance of this contract, the Contractor, for itself, its assignees and successors in interest (hereinafter referred to as the "Contractor") agrees as follows:

1. **Compliance with Regulations:** The Contractor shall comply with the Regulation relative to nondiscrimination in federally-assisted programs of the Department of Transportation (hereinafter, "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
2. **Nondiscrimination:** The Contractor, with regard to the work performed by it during the Contract, shall not discriminate on the grounds of race, color, national origin, or sex in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the Contract covers a program set forth in Appendix B of the Regulations.
3. **Solicitations for Subcontractors, Including Procurements of Materials and Equipment:** In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, national origin, or sex.
4. **Information and Reports:** The Contractor shall provide all information and reports required by the Regulations or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the County, the Colorado Department of Transportation or the Federal Highway Administration be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of a Contractor is in the exclusive possession of another who fails or refuses to furnish this information the Contractor shall so certify to the County, the Colorado Department of Transportation or the Federal Highway Administration as appropriate and shall set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Contract, the County shall impose such contract sanctions as it, the Colorado Department of Transportation or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
 - a. withholding of payments to the Contractor under the Contract until the Contractor complies, and/or
 - b. cancellation, termination or suspension of the Contract, in whole or in part.
6. **Incorporation of Provisions:** The Contractor shall include the provisions of paragraphs (1) through (6) in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

The Contractor shall take such action with respect to any subcontract. or procurement as the County, the Colorado Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance: Provided, however, that, in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result

of such direction, the Contractor may request the County to enter into such litigation to protect the interests of the County, and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

STANDARD TITLE VI NON-DISCRIMINATION: APPENDIX E

During the performance of this contract, the Contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "Contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC§ 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

PROJECT MANAGER REQUIRED TO COMPLETE:

Name of Contact at Contractor's Place of Business: Chris Hoyt

Email Address of Contact: chris@53corporation.com

Phone # of Contact: 720-733-0192

Address of Contact: 5655 Peterson Road, Sedalia, CO 80135

COUNTY'S PAYMENT POLICIES

The following policies have been formulated to assure timely and accurate payments by Douglas County Government to its Contractors. Invoices submitted which are not in complete accordance with these policies will be returned (mailed) without payment to the Contractor for completion.

1. Each invoice for progress payment and/or final payment must list the description and location of the work being performed. Contractor's invoice for materials being billed must also be attached.
2. All invoices are to be submitted to Douglas County Department of Public Works - Engineering Division, Philip S. Miller Building, 100 Third Street, Suite 220, Castle Rock, CO 80104; Attention: ZACHARY HUMBLER, P.E..
3. Invoices must be submitted by the 25th of the month to be paid by the 25th of the following month. Under no circumstances will a Contractor be paid more than once a month. Errors will be corrected on the next pay cycle.
4. Checks will be mailed on or about the 25th of each month. When payment dates occur on Saturday or Sunday, payment will be made on the first working day following such date.

ACKNOWLEDGMENT

I have read the above procedures and understand that any deviation therefrom will cause delays in the payment of those invoices involved.

Contractor: _____

Signed by: _____

Print Name: _____

Title: _____

Date: _____

**REVISION OF SECTION 107
LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC**

Section 107 of the Standard Specifications is hereby revised as follows:

107.12 PROTECTION AND RESTORATION OF PROPERTY AND LANDSCAPE

In Subsection 107.12, delete the last paragraph and replace with the following:

Measures to minimize damage to existing trees have been incorporated into the design of this Project. Due to the value of existing trees located within the Project limits, removal of trees has been minimized through the extensive use of ditch adjustments, grade and alignment adjustments and other techniques.

The Contractor shall take all precautions necessary to protect all trees not designated for transplanting and/or removal on the Project. Failure of the Contractor to protect existing trees will result in assessment of liquidated damages as follows:

First occurrence of failure to protect trees - \$5,000

Second occurrence of failure to protect trees - \$10,000

Any Subsequent occurrence of failure to protect trees - Potential Removal of Contractor from Project plus \$10,000 per occurrence

If the Contractor knowingly harms any existing tree(s), he shall immediately notify the Engineer of the tree(s) location and damage. Damage to trees that have been identified in the plans to be protected (or not identified for removal) outside the Project limits (County ROW and / or easements), or on private property, shall be subject to the above liquidated damages, and, potentially, any additional fines pursued by the owner(s) of the private property.

107.15 RESPONSIBILITY FOR DAMAGE CLAIMS, INSURANCE TYPES AND COVERAGE LIMITS

Delete the first paragraph of Subsection 107.15, prior to subparagraph (a), in its entirety and replace with the following:

The Contractor shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damage to persons or property, either on or off the site, which occur as a result of his prosecution of the work.

The safety provisions of applicable laws and building and construction codes shall be observed, and the Contractor shall take or cause to be taken such additional safety and health measures as deemed necessary.

The Contractor shall maintain an accurate record of all cases of death, occupational disease, and injury requiring medical attention or causing loss of time from work arising out of, and in the course of, employment on the work under this Contract. The Contractor shall promptly furnish the Engineer with reports concerning these matters.

REVISION OF SECTION 107
LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC
- Continued -

The Contractor expressly binds himself to defend, indemnify and save harmless the County, its commissioners, officials, officers, directors and employees, against all third-party suits, actions, claims, costs, fees, and expenses, including but not limited to expert fees and attorneys' fees, of any kind and nature brought, or which may be brought against the County, for or on account of any injuries or damage received or sustained by any person, firm, partnership or corporation, or persons, firms, partnerships or corporations, or by any property, in connection with or on account of the operations of the Contractor; or failure to comply with the provisions of the Contract; or on account of or in consequence of neglect of the Contractor in safeguarding the work; or because of the performance of the work under this Contract or by or in consequence of any negligence in connection with the same; or on account of the use of any improper or defective materials or workmanship; or on account of any act or omission, neglect, or misconduct of the Contractor, or a subcontractor, agents, servants or employees; or because of any claims or amounts recovered from any infringements of patent, trademark, or copyright, unless the design, device, material or process involved is specifically required by the Contract; or from any claims or amounts arising or recovered under the Worker's Compensation Act, or other law, ordinance, order or decree; or for any cause arising out of the performance of any subcontractor, agents, servants or employees relating to this Contract. If the County determines, in the reasonable exercise of its discretion, that a joint defense for the County and the Contractor creates a conflict of interest, the County shall be permitted to select its own counsel, and the Contractor shall pay all reasonable attorneys' fees, expenses (including expert fees and expenses), and costs of the County's defense. The County may, if it so desires, withhold any payment due the Contractor so long as it shall be reasonably necessary to indemnify the County on account of such injuries or damage.

Subsection 107.15 (f) is hereby revised to include the following:

- (f) The certificates of insurance shall be provided to Douglas County by the Contractor's insurance agent or carrier as evidence that policies providing the required coverage, conditions, and minimum limits are in full force and effect. Insurance limits must be on each Certificate of Insurance. Each Certificate of Insurance shall be reviewed and approved by Douglas County prior to commencement of the Contract. No other form of certificate shall be used. The certificates shall identify this Contract.

Subsection 107.15 (g) is hereby revised to include the following:

- (g) Any completed certificates of insurance, including renewals and amendments or modifications, shall be sent to:

Douglas County Project Engineer	Megan Datwyler
Department of Public Works Engineering	Douglas County Risk Management
100 Third Street, Suite 220	100 Third Street, 3 rd Floor
Castle Rock, Colorado 80104	Castle Rock, Colorado 80104

Any notices of cancellation, termination, or material change shall be sent to the above addresses within **thirty (30) calendar days** prior to the date upon which the noticed action

REVISION OF SECTION 107
LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC
- Continued -

(i.e., cancellation, termination or material change) is to take effect.

Add the following new Subsection 107.15(i) :

- (i) Failure on the part of the Contractor to procure or maintain policies providing the required coverage, conditions and minimum limits shall constitute a material breach of contract upon which the County may immediately terminate this Contract, or, in the County's sole discretion, it may suspend the Contractor's performance and/or procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the County shall be repaid by the Contractor to the County upon demand, or the County may offset the cost of the premiums against any monies due to the Contractor from the County.

107.16 OPENING SECTIONS OF PROJECT TO TRAFFIC

Subsection 107.16 is hereby revised to include the following:

The County has the right, subject to reasonable advance notice to the Contractor, to take possession of and use any completed or partially completed portions of the work. The County has this right even though the entire work or any portions thereof may, or may not, have been completed. Such possession and use shall not be deemed an acceptance of any work until all work has been completed in accordance with the Contract. Possession taken by the County pursuant to this paragraph shall not change the period of warranty requirements pursuant to the Revision of Sections 105 and 107.

107.17 CONTRACTOR'S RESPONSIBILITY FOR WORK

Subsection 107.17 is hereby revised to include the following:

Should an excavation become flooded, by any cause, the Contractor shall remove excess water, excavate the unsuitable material to a depth satisfactory to the Engineer and replace it with other suitable material as approved by the Engineer, at the Contractor's expense.

Until final written acceptance of the Project by the County, the Contractor shall have the charge and care thereof and shall take every precaution against injury or damage to any part thereof by the action of the elements, groundwater, surface runoff, floods or from any other cause, whether arising from the execution or from the non-execution of the work. The Contractor shall rebuild, repair, restore, and make good all injuries or damages to any portion of the work occasioned by any of the above causes before final acceptance and shall bear the expense thereof.

REVISION OF SECTION 107
LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC
- Continued -

The Contractor shall be responsible for the Project and shall take such precautions as may be necessary to construct the Project in a dry condition, provide for drainage, groundwater, underground water, surface runoff; and shall erect any necessary temporary structures or other facilities (including pumping and all other dewatering costs) at the Contractor's expense that are needed to complete the requirements for this Project.

No separate measurement and payment will be made of the work, equipment and materials, including, but not limited to, any additional shoring, rock stabilization, diversions, cofferdams, sheeting, pumping and well points required to control the surface and subsurface water in the work area throughout the duration of the Project (until the Project is completed and accepted by the Engineer). This work shall be a subsidiary obligation of the Contractor for this Project.

In an emergency affecting the safety of life or property, on or adjoining the Project site, the Contractor shall act, either at his own discretion, or as instructed by the Engineer, to prevent such threatened loss or injury. Any compensation claimed by the Contractor on account of such emergency work will be determined by the Engineer as provided in Subsections 104.03 and 109.04.

107.19 FURNISHING RIGHT OF WAY

Subsection 107.19 is hereby revised to include the following:

The Contractor shall construct this Project within the right-of-way, permanent slope easements, permanent drainage easements, permanent utility easements and temporary construction easements, or as otherwise provided in writing and as shown on the plans. The Contractor, at his expense, shall obtain any additional temporary construction easements that the Contractor wants. The Contractor shall provide the County with a written copy of all third-party agreements pertaining to this contract. Upon written approval by the Engineer, the County may agree to incorporate the adjacent additional temporary construction easements into the Project limits. The Contractor will be responsible for obtaining all applicable Federal, State and Local permits associated with the work outside the Project limits. No time extensions will be granted by the County for the Contractor to obtain these additional easements. When required, temporary fence will be constructed within the limits of the temporary construction easements.

107.25 WATER QUALITY CONTROL

Subsection 107.25 is hereby revised as follows:

Subsection 107.25(a) Definitions 1 through 4 are hereby deleted.

Subsection 107.25(b) Items 2 and 6 are hereby deleted.

Subsection 107.25(c) is hereby deleted.

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned _____, a corporation organized under the laws of the State of _____, hereinafter referred to as the "Contractor", and _____, a corporation organized under the laws of the State of _____, and authorized to transact business in the State of Colorado, hereinafter referred to as the "Surety", are held and firmly bound unto the COUNTY OF DOUGLAS, a political subdivision of the State of Colorado, hereinafter referred to as the "COUNTY", in the penal sum of ONE HUNDRED TWENTY FIVE THOUSAND FOUR HUNDRED THIRTY ONE DOLLARS (\$125,431.00), lawful money of the United States of America, for the payment of which sum the Contractor and Surety bind themselves and their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the above Contractor has on the ____ day of _____, _____, entered into a written contract with the County for furnishing all labor, materials, tools, superintendence, and other facilities and accessories for the construction of **SANDSTONE RANCH IRRIGATION MAINTENANCE PROJECT, SP 2024-018**, in accordance with all Contract Documents therefore which are incorporated herein by reference and made a part hereof, and are herein referred to as the Contract.

NOW, THEREFORE, the condition of this payment bond obligation is such that if the Contractor shall at all times promptly make payments of all amounts lawfully due to all persons supplying or furnishing it or its subcontractors with labor and materials, rental machinery, tools, or equipment, used or performed in the prosecution of work provided for in the above Contract and shall indemnify and save harmless the County to the extent of any and all payments in connection with the carrying out of such Contract which the County may be required to make under the law, then this obligation shall be null and void, otherwise, it shall remain in full force and effect;

PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that any and all changes in the Contract, or compliance or noncompliance with the formalities in the Contract for making such changes shall not affect the Surety's obligations under this bond and the Surety hereby waives notice of any such changes.

IN WITNESS WHEREOF, said Contractor and said Surety have executed these presents as of this ____ day of _____, _____.

(Contractor)

BY: _____
(President)

(Surety Company)

BY: _____
(Attorney-in-Fact)

(Accompany this bond with Attorney-in-Fact's authority from the Surety to execute bond, certified to include the date of the bond.)

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned _____, a corporation organized under the laws of the State of Colorado, hereinafter referred to as the "Contractor", and _____, a corporation organized under the laws of the State of _____, and authorized to transact business in the State of Colorado, hereinafter referred to as the "Surety", are held and firmly bound unto the COUNTY OF DOUGLAS, a political subdivision of the State of Colorado, hereinafter referred to as the "COUNTY", in the penal sum of ONE HUNDRED TWENTY FIVE THOUSAND FOUR HUNDRED THIRTY ONE DOLLARS (\$125,431.00), lawful money of the United States of America, for the payment of which sum the Contractor and Surety bind themselves and their heirs, executors, administrators, successors and assigns, jointly and severally by these presents.

WHEREAS, the above Contractor has on the ____ day of _____, _____, entered into a written contract with the County for furnishing all labor, materials, equipment, tools, superintendence, and other facilities and accessories for the construction of **SANDSTONE RANCH IRRIGATION MAINTENANCE PROJECT, SP 2024-018**, in accordance with all Contract Documents therefore which are incorporated herein by reference and made a part hereof, and are herein referred to as the Contract.

NOW, THEREFORE, the condition of this performance bond is such that if the Contractor:

1. Promptly and faithfully observes, abides by and performs each and every covenant, condition and part of said Contract, including, but not limited to, its warranty provisions, in the time and manner prescribed in the Contract, and
2. Pays the County all losses, damages (liquidated or actual, including, but not limited to, damages caused by delays in the performance of the Contract), expenses, costs and attorneys' fees that the County sustains resulting from any breach or default by the Contractor under the Contract, then this bond is void; otherwise, it shall remain in full force and effect.

IN ADDITION, if said Contractor fails to duly pay for any labor, materials, team hire, sustenance, provisions, provender, or any other supplies used or consumed by said Contractor or its subcontractors in its performance of the work contracted to be done or fails to pay any person who supplies rental machinery, tools, or equipment, all amounts due as the result of the use of such machinery, tools, or equipment in the prosecution of the work, the Surety shall pay the same in an amount not exceeding the amount of this obligation, together with interest as provided by law.

PROVIDED FURTHER, that the said Surety, for value received, hereby stipulates and agrees that any and all changes in the Contract or compliance or noncompliance with the formalities in the Contract for making such changes shall not affect the Surety's obligations under this bond and the Surety hereby waives notice of any such changes.

IN WITNESS WHEREOF, said Contractor and said Surety have executed these presents as of this ____ day of _____, _____.

**PERFORMANCE BOND
(CONTINUED)**

(Contractor)

BY: _____
(President)

(Surety Company)

BY: _____
(Attorney-in-Fact)

(Accompany this bond with Attorney-in-Fact's authority from the Surety to execute bond, certified to include the date of the bond.)



**STANDARD SPECIAL PROVISIONS
FOR DOUGLAS COUNTY
CONSTRUCTION PROJECTS**

XXXX PROJECT NAME XXXX

**DOUGLAS COUNTY PROJECT NUMBER
CI XXXX-XXX**

-insert date here-

(Enter project name here)
DOUGLAS COUNTY PROJECT NUMBER CI 20XX-XXX

TABLE OF CONTENTS

<u>DOUGLAS COUNTY STANDARD SPECIAL PROVISIONS:</u>	<u>Page</u>
Revision of Section 101 – Definitions and Terms.....(November 26, 2018) ...	SSP-3
Revision of Section 102—Bidding Requirements.....(November 26, 2018)	SSP-5
Revision of Section 103 – Award and Execution of Contract.....(November 26, 2018).....	SSP-6
Revision of Section 104 – Scope of Work.....(November 26, 2018)	SSP-8
Revision of Section 105 – Control of Work(November 26, 2018).....	SSP-12
Revision of Section 106 – Control of Material..... (November 26, 2018).....	SSP-22
Revision of Section 107 – Legal Relations and Responsibility to Public(November 26, 2018).....	SSP-23
Revision of Section 108 – Prosecution and Progress.....(November 26, 2018).....	SSP-27
Revision of Section 109 – Measurement and Payment(November 26, 2018).....	SSP-30

**REVISION OF SECTION 101
DEFINITIONS AND TERMS**

Section 101 of the Standard Specifications is hereby revised as follows:

Wherever in the Standard Specifications, Standard Plans, Plans or Special Provisions the following definitions and terms are used; the intent and meaning shall be interpreted as follows:

- (a) **ADDENDUM or ADDENDA** - Any change(s), revisions(s) or clarification(s) of the Contract Plans or Special Provisions which have been duly issued by Douglas County to prospective Bidders prior to the time of receiving bids.
- (b) **CHIEF ENGINEER** - The County Representative of Douglas County, Colorado, acting either directly or through properly authorized agents, such agents acting within the scope of the particular duties delegated to them.
- (c) **COUNTY** – Douglas County, Colorado; Douglas County Government; Douglas County Board of County Commissioners (BOCC).
- (d) **DEPARTMENT** - Department of Public Works Engineering, Engineering Division, Douglas County, Colorado.
- (e) **COLORADO DEPARTMENT of TRANSPORTATION (CDOT), RESIDENT ENGINEER, DISTRICT ENGINEER, ENGINEER, PROJECT ENGINEER or REGION TRANSPORTATION DIRECTOR** -- County Project Engineer or the equivalent authorized County Representative(s) of Douglas County Colorado, acting either directly or through properly authorized agents, such agents acting within the scope of the particular duties delegated to them.
- (f) **EROSION CONTROL SUPERVISOR** – The Grading, Erosion and Sediment Control Manager as identified in Douglas County’s Grading, Erosion and Sediment Control Manual (GESC Manual), hereinafter referred to as the Contractor’s Erosion Control Supervisor (ECS).
- (g) **GRADING, EROSION AND SEDIMENT CONTROL (GESC) PLAN /STORMWATER MANAGEMENT PLAN (SWMP)** – The GESC Plan/SWMP comprises those contract documents designed in accordance with the Douglas County GESC Manual and the Colorado Department of Public Health and Environment (CDPHE) General Permit requirements and contain the requirements to implement effective erosion and sediment control Best Management Practices (BMPs) as a standard for all land disturbance activities to reduce increases in erosion and sedimentation over pre-construction conditions.
- (h) **HOLIDAYS.** Holidays recognized by Douglas County are:
 - New Year’s Day
 - Dr. Martin Luther King, Jr. Birthday (observed)
 - President’s Day
 - Memorial Day
 - Independence Day
 - Labor Day
 - Veteran’s Day
 - Thanksgiving Day
 - Friday after Thanksgiving Day
 - Christmas Day

**REVISION OF SECTION 101
DEFINITIONS AND TERMS**

- Continued -

When one of these holidays fall on a Sunday, the following Monday shall be considered a holiday. When one of these holidays fall on a Saturday, the preceding Friday shall be considered a holiday.

- (i) **NOTICE OF INTENT TO AWARD** – Notification given by the County Representative to the successful bidder of the County Staff’s intent to recommend award of the Project to the successful bidder.
- (j) **PROJECT** – The specific location of work as described within the contract documents, on which construction is to be performed.
- (k) **STATE, STATE OF COLORADO or COLORADO DEPARTMENT OF TRANSPORTATION (CDOT)** - Douglas County, Colorado.
- (l) **WRITTEN NOTICE** – Written Notice shall be defined as all communication given by either party to the Contract through the following means:
 - 1. Delivered to the office of the Contractor, the office being located at the physical address stated by the Contractor on the signature page of the Contract (or at such other office as the Contractor may, from time to time, designate in writing).
 - 2. Delivered to the County at the physical address of: Douglas County Department of Public Works Engineering, Engineering Division located in the Philip S. Miller Building, Second Floor, 100 Third Street, Suite 220, Castle Rock, CO 80104.
 - 3. Written communication deposited and delivered through the United States Postal Service in a sealed, postage-prepaid envelope to such address as directed within the Contract.
 - 4. Delivery by facsimile (fax) to the facsimile address (telephone number) directed within the Contract.
 - 5. Delivery through electronic mail (e-mail) to the e-mail address directed within the Contract.

**REVISION OF SECTION 102
BIDDING REQUIREMENTS AND CONDITIONS**

Section 102 of the Standard Specifications is hereby revised as follows:

Subsection 102.02 is hereby replaced with the following:

102.02 Contents of Proposal Forms. The Contractor's bid shall be submitted as described in the Notice to Bidders for the project.

**REVISION OF SECTION 103
AWARD AND EXECUTION OF CONTRACT**

Section 103 of the Standard Specifications is hereby revised as follows:

103.01 CONSIDERATION OF PROPOSALS

Delete Subsection 103.01 in its entirety and replace with the following:

After the proposals (bids) are opened and read, they will be evaluated, and the Contract awarded or rejected in accordance with the "Rules" referenced in Subsection 102.01.

103.02 AWARD OF CONTRACT

Delete Subsection 103.02 in its entirety and replace with the following:

The Contract, if awarded, shall be executed within ninety (90) calendar days after the opening of Bid Proposals unless both the successful bidder and the County agree in writing to allow additional time. The Contract will be awarded to the lowest responsive, responsible bidder who will serve the best interests of the County; and the County reserves the right to make this determination. **The County, however, reserves the right to reject any and all bids, to waive informality or technicality in any bid, and to disregard all non-conforming, non-responsive conditional or alternate bids whenever such rejection or waiver is in the County's best interest.**

The successful bidder will be notified at the earliest possible date, by telephone, fax or letter mailed to the address shown on their Proposal that their bid has been reviewed and Douglas County Engineering will be recommending to the Board of County Commissioners award of the Contract to that bidder.

In determining whether the low bid is from a "responsive and responsible bidder," the following criteria will be considered:

- (a) Whether the Bidder has received CDOT prequalification status (active status) for bidding on contracts of a similar size and type;
- (b) The Bidder's financial responsibility and financial capability to complete the work;
- (c) The Bidder's previous performance (both satisfactory and unsatisfactory) on completing prior Douglas County contracts, including performance of any required warranty repair work;
- (d) The Bidder's quality of work previously performed for developers, CDOT and other governmental agencies.

103.04 EXECUTION AND APPROVAL OF CONTRACT

Delete Subsection 103.04 in its entirety and replace with the following:

The Contract shall be signed by the successful bidder and returned with acceptable contract Payment and Performance Bonds, Certificate of Insurance, Warranty, and all other formal contract documents within ten (10) days after the date of Notice of Intent to Award. If the Contract is not executed by Douglas County within sixty (60) days from the date of receipt of this Contract,

**REVISION OF SECTION 103
AWARD AND EXECUTION OF CONTRACT
-Continued-**

Payment and Performance Bonds, Certificate of Insurance, Warranty and other formal contract documents, the Bidder shall have the right to withdraw the Bid Proposal without penalty.

**REVISION OF SECTION 104
SCOPE OF WORK**

Section 104 of the Standard Specifications is hereby revised as follows:

104.01 INTENT OF CONTRACT

Subsection 104.01 is hereby revised to include the following:

All communications between the Contractor and the County shall conform to the following: All notices, demands, requests, instructions, approvals, proposals, and claims must be in the form of Written Notice as defined in Section 101. **The County will not recognize “Constructive Notice” in lieu of Written Notice.**

Add the following new Subsection 104.015:

104.015 Notice of Disputes. All disputes arising under this Contract or its interpretation, whether involving law, fact, or both, or extra work within **seven (7) calendar days** of commencement of the disputes, be presented by the Contractor to the Engineer in writing for decision. All papers pertaining to disputes shall be filed in duplicate. Such notice need not detail the dollar amount of the dispute but shall state the facts surrounding the dispute in sufficient detail to identify the dispute together with its character and scope. In the meantime, the Contractor shall proceed with the work as directed. Any dispute not presented within the time limit specified within this paragraph shall be deemed to have been waived, except that if the dispute is of a continuing character, the dispute will be considered only for a period commencing **seven (7) calendar days** prior to the receipt by Douglas County of written notice thereof. **Constructive Notice will not be recognized.**

104.02 DIFFERING SITE CONDITIONS, SUSPENSIONS OF WORK, AND SIGNIFICANT CHANGES IN THE CHARACTER OF WORK

Subsection 104.02(a) is hereby revised to include the following:

Claims for additional compensation for extra work due to alleged errors in ground elevations, contour lines or bench marks will not be recognized unless accompanied by certified survey data made prior to the time the original ground was disturbed, and clearly showing that errors existed which resulted or would result in handling more material or performing more work than would be reasonably estimated from the plans issued by Douglas County. Any discrepancies, which may be discovered between actual conditions and those represented by the plans, shall at once, but no later than within twelve hours of discovery, be reported by the Contractor to the Engineer; and work shall not proceed, except at the Contractor’s risk or unless the Engineer has directed in writing the Contractor to continue working.

Delete Subsection 104.02(c) in its entirety and replace with the following:

(c) Significant Changes in the Character of the 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

**REVISION OF SECTION 104
SCOPE OF WORK**

- Continued -

not invalidate the Contract nor release the surety, and the Contractor agrees to perform the work as altered.

Unless such alterations and increases or decreases materially change the character of the work to be performed or the cost thereof, the altered work shall be paid for at the same unit prices as other parts of the work. If, however, the character of the work or the unit cost thereof is materially changed, an allowance shall be made on such basis as may have been agreed to in advance of the performance of the work. In case no such basis has been previously agreed upon, then an allowance shall be made, either for or against the Contractor, in an amount as the Engineer may determine to be fair and equitable. Material change of the character of the work to be performed or the cost thereof as used herein means an increase or decrease in quantities over or under the plan quantities amounting to an aggregate increase or decrease to the **original Total Contract Amount of twenty-five percent (25%)** or more.

The Unit Price for each of the listed items in the Bid Proposal shall include its prorated share of overhead, so that the sum of the products obtained by multiplying the quantity shown for each item by the unit price bid represents the total Bid. The special attention of all bidders is called to this provision, for should conditions make it necessary to revise the quantities, no limit will be fixed for such increased or decreased quantities.

No adjustment to unit prices will be allowed, provided the net monetary value of all such additive and subtractive changes in quantities of such items of work (i.e., difference in cost) does not increase or decrease the **original Total Contract Amount by more than twenty-five percent (25%)**.

The County may make changes in the scope of the work required to be performed by the Contractor under this Contract by making additions thereto, or by omitting work therefrom, without invalidating the Contract, and without relieving or releasing the Contractor from any obligations under the Contract or any guarantee given by the Contractor pursuant to the Contract provisions, and without affecting the validity of the bonds, provided that the total net amount of the changes does not change the **original Total Contract Amount by more than twenty-five percent (25%)**. All such work shall be executed under the terms of the original Contract unless it is expressly provided otherwise in writing.

If applicable unit prices are contained in the Contract (established as a result of a unit price bid), the County may order the Contractor to proceed with desired changes in the work, the value of such changes to be determined by the measured quantities involved and the applicable unit prices specified in the Contract.

If applicable unit prices are not contained in the Contract, or if the total net change increases or decreases the **original Total Contract Amount more than twenty-five percent (25%)**, the County shall, before ordering the Contractor to proceed with desired changes, request an itemized proposal from the Contractor covering the work involved in the change, after which the procedure shall be as follows:

**REVISION OF SECTION 104
SCOPE OF WORK**

- Continued -

If the proposal is acceptable, the County will prepare a change order in accordance therewith for acceptance by the Contractor. Each change order shall include in its final form:

1. A detailed description of the change in the work,
2. The Contractor's proposal (if any) or a confirmed copy thereof,
3. A definite statement as to the resulting change in the Contract Price and/or Time,
4. The statement that all work involved in the change shall be performed in accordance with Contract Requirements except as modified by the change order.

104.04 MAINTAINING TRAFFIC

Subsection 104.04 is hereby revised to include the following:

Before proceeding with construction, the Contractor will submit to the County/Engineer a detailed proposal in writing of his method of handling traffic during construction for review and approval. The County/Engineer shall require no more than **ten (10) calendar days** to review and approve the Contractor's submittal; and the Contractor shall take this into consideration when planning his schedule for these submittals. It is the Contractor's responsibility to adequately plan the submittal of all necessary Traffic Control Plans (TCP) in order for approval to be granted at least **three (3) calendar days** prior to construction or at least **three (3) calendar days** prior to a change in condition.

During the course of construction, the Contractor shall provide a detailed TCP, which shows how the Contractor will handle traffic for the various phase(s) of the scheduled construction work. Details in the TCP will include, but not be limited to, hours of work in compliance with the Project Special Provisions (PSPs), placement of signs and barricades, use of traffic control devices such as cones, barriers, and barricades, stationing of flagging personnel, access control, temporary striping, maintenance of detours, dust abatement, and length of lane closure tapers.

The Contractor will not be permitted to have construction equipment or materials in the lanes open to traffic at any time unless so directed in writing by the Engineer. The Contractor shall remove and reset all construction signs prior to the commencement of any adjacent construction. If the Engineer determines that construction signs, channelizing devices or materials being used are damaged, worn, faded, or are incapable of conveying the intended message or serving the intended purpose, the Contractor shall replace or repair such signs, devices or materials as directed by the Engineer. The cost of any repair or replacement shall be included in the work. The Contractor is cautioned that parking of all vehicles and construction equipment parking is prohibited when it or its location conflicts with safety access or the flow of traffic.

The Contractor will be required to notify the County **three (3) calendar days** prior to the date the Contractor intends to start construction.

**REVISION OF SECTION 104
SCOPE OF WORK**

- Continued -

During the various phase(s) of construction of this Project, traffic will need to use the current existing traveled roadways, unless noted otherwise in the plans or contract documents. Temporary detours shall be submitted to the Engineer for review and approval.

Measurement or payment will not be made for the costs associated with temporary detours unless specified otherwise in the plans or PSPs. If the Contractor determines that additional temporary detours across private property are advantageous, then the Contractor is responsible for all costs associated with constructing and maintaining the detours and any additional costs to obtain the additional easements. The Contractor shall provide written proof of permission from private property owner(s) and insurance and indemnification for the County to the Engineer prior to scheduling work to commence on said private property.

The Contractor shall be responsible for furnishing and maintaining all traffic control devices in accordance with the Manual on Uniform Traffic Control Devices (MUTCD). The Contractor shall be responsible for providing and maintaining all temporary pavement markings in accordance with the MUTCD, until the final striping is completed, and the Project is accepted by the County.

The Traffic Control Supervisor (TCS) and all flagging personnel shall be certified by the Colorado Department of Transportation before working on this Project and shall maintain such certification throughout the Project duration.

The Contractor shall not place emulsion or tack coat on any surface where traffic will be required to travel upon the fresh emulsion or tack coat.

The Contractor shall inspect, maintain and keep all traffic control devices clean throughout the Project duration, including during periods when **other work required for** the Project has been suspended due to inclement weather, unless approved otherwise in writing by the Engineer.

**REVISION OF SECTION 105
CONTROL OF WORK**

Section 105 of the Standard Specifications is hereby revised as follows:

DESCRIPTION

Control of Work shall conform with Douglas County Roadway Design and Construction Standards, Chapter 5 Pavement Design and Technical Criteria, Section 5.5, and Chapter 8, Roadway Inspection and Testing Procedures, included herein.

Should discrepancies arise between the Colorado Department of Transportation Standard Specification for Road and Bridge Construction and the Douglas County Roadway Design and Construction Standards, the Douglas County Roadway Design and Construction Standards shall take precedence.

Incentive Payments will not be paid on Douglas County projects unless otherwise specified in the contract.

105.05 CONFORMITY TO THE CONTRACT OF HOT MIX ASPHALT

Subsection 105.05 is hereby revised to include the following:

No Incentive Payment shall be made for this project.

**105.06 CONFORMITY TO THE CONTRACT OF PORTLAND CEMENT
CONCRETE PAVEMENT**

Subsection 105.06 is hereby revised to include the following:

No Incentive Payment shall be made for this project.

105.07 CONFORMITY TO ROADWAY SMOOTHNESS CRITERIA OF HMA

Subsection 105.07 is hereby revised to include the following:

No Incentive Payment shall be made for this project.

**105.08 CONFORMITY TO ROADWAY SMOOTHNESS CRITERIA OF
PORTLAND CEMENT CONCRETE PAVEMENT**

Subsection 105.08 is hereby revised to include the following:

No Incentive Payment shall be made for this project.

**REVISION OF SECTION 105
CONTROL OF WORK**

-Continued-

**105.09 COORDINATION OF PLANS, SPECIFICATIONS, SUPPLEMENTAL
SPECIFICATIONS AND SPECIAL PROVISIONS**

Delete Subsection 105.09 in its entirety and replace with the following:

Any work shown on the plans and not covered in the special provisions or included in the special provisions and not shown on the plans, shall be executed by the Contractor as though shown both on the plans and included in the special provisions. The plans, special provisions, Standard Specifications, Standard Plans, and all supplementary documents are intended to be complete and complementary. If any omissions are made which are necessary to carry out the full intent and meaning of the Contract, the Contractor shall supply such omissions, at no additional cost to the County, as though they have been fully set forth in the plans, special provisions, or the Contract.

All work to be performed under this Contract shall be governed by said plans and special provisions, including all Addenda thereto, unless modified by any technical specifications, which are included in the Contract Documents.

In case of discrepancy, the order of precedence is as follows:

- (a) Change Orders
- (b) Agreement
- (c) Addenda
- (d) Notice to Bidders
- (e) Special Provisions
 - 1. Project Special Provisions
 - 2. Standard Special Provisions
 - 3. CDOT Standard Specifications for Road and Bridge Construction, Dated 2017
- (f) Plans
 - 1. Detailed Plans
 - 2. CDOT Standard Plans - M&S Standards, Dated July, 2012 and most recent revisions where calculated and specified dimensions will govern over scaled dimensions
- (g) Douglas County Roadway Design and Construction Standards, as revised at time of Bid
- (h) Douglas County Grading, Erosion and Sediment Control Manual (GESC Manual), as amended at time of Bid
- (i) CDOT Supplemental Specifications
- (j) CDOT Construction Manual
- (k) CDOT Field Materials Manual

**REVISION OF SECTION 105
CONTROL OF WORK
- Continued -**

105.10 COOPERATION BY CONTRACTOR

Delete Subsection 105.10 in its entirety and replace with the following:

The Contractor for the work required will be supplied, without charge, two (2) complete sets of the Contract Documents (plans and specifications) that are stamped "For Construction." At least one set of the Contract Documents shall be available at the Project site at all times. (Douglas County's Roadway Design and Construction Standards are available on the Douglas County website or at the County Engineer's office.)

It shall be the responsibility of the Contractor to make timely requests of the County for any additional information (RFI) not already in his possession which the Contractor believes should be furnished by the County under the terms of this Contract, and which will be required in the planning and execution of the work. Such requests shall be submitted in writing as the need is identified, but each request shall be filed in ample time to permit appropriate action to be taken by all parties involved, so as to avoid delay. The Contractor shall, if requested, promptly furnish any assistance and information the County Project Engineer may be required to respond to these requests by the contractor. The Contractor shall be fully responsible for any delay in his work or delay to others arising from his failure to comply fully with the provision(s) of this paragraph.

The Contractor shall give the work the constant attention necessary to facilitate progress and shall cooperate with the Engineer, inspectors, and other contractors.

The 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 the 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.

105.16 INSPECTION AND TESTING OF WORK

Subsection 105.16 is hereby revised to include the following:

Approval of any material shall be general only and shall not constitute a waiver of the County's right to demand full compliance with Contract requirements. After actual deliveries, the Engineer may have quality assurance tests made as he deems necessary and may reject materials, equipment, and accessories for cause, even though such materials and articles have been given general approval. If materials, equipment or accessories fail to meet quality assurance tests, the Engineer will have the right to cause their removal and replacement by proper materials, equipment or accessories, or to demand and secure such reparation by the Contractor as is equitable.

**REVISION OF SECTION 105
CONTROL OF WORK**

- Continued -

Except as otherwise specifically stated in the Contract, costs of testing will be divided as follows:

- (a) The Contractor shall assume all costs of re-testing materials which fail to meet Contract requirements;
- (b) The Contractor shall assume all costs of testing materials offered in substitution for those found deficient;
- (c) The Contractor shall furnish, without extra cost, all samples required for testing purposes;
- (d) The Contractor shall pay for materials testing necessary to test materials for conformity to the specifications prior to construction. This includes, but is not limited to, aggregate materials and gradation, emulsified oils, hot bituminous mix and concrete mix.

The Contractor shall notify the Engineer sufficiently in advance of backfilling or concealing any facilities to permit proper time for inspection and testing. If any facilities are concealed without approval or consent of the Engineer, the Contractor shall uncover those facilities for inspection and recover all such facilities at the Contractor's sole expense, when so requested and deemed necessary by the Engineer.

Materials and appurtenances to be incorporated in the work are subject to inspection at the place of production, manufacture or shipment. Such inspections and acceptance shall, unless otherwise stated in the Standard Specifications or these special provisions, be final, except as regards (1) latent defects, (2) departures from specific requirements of the Contract, (3) damage or loss in transit, or (4) fraud or such gross mistakes as amount to fraud. Notwithstanding the requirements contained in the preceding sentence, inspection of materials, as a whole or in part, will be made at the Project site.

105.21 ACCEPTANCE

Delete Subsection 105.21(a) in its entirety and replace with the following:

- (a) ***Partial Acceptance.* There will be no partial acceptance of any unit or portion of the Project, unless authorized in writing by the Engineer.**

105.22 DISPUTE RESOLUTION

Delete Subsection 105.22 in its entirety and replace with the following:

Subsections 105.22, 105.23 and 105.24, as revised, detail the process through which the parties (Douglas County and the Contractor) agree to resolve any issues 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. Specified time frames may be extended by mutual agreement of the Project Engineer and the Contractor, as agreed to and stipulated in writing.

A dispute is a disagreement concerning contract price, time and interpretation of the Contract, or any combination of the three between the parties at the project level regarding or relating to the Contract. Disputes include, but are not limited to, any disagreement resulting from a delay, a

**REVISION OF SECTION 105
CONTROL OF WORK**

- Continued -

change order, another written order or an oral order from the Project Engineer, including any direction, instruction, interpretation or determination by the Project Engineer, interpretation of the Contract provisions, plans, specifications or the existence of alleged differing site conditions.

When an issue arises on the Project that cannot be resolved between the parties, either party may consider it a dispute and initiate the dispute resolution process as described in Revision of Subsection 105.22 by written notice, in conformity with supplemental Standard Special Provision 104.015, to the other party.

If the Project Engineer does not respond within the specified timelines, the Contractor may advance the dispute to the next level.

The dispute resolution process set forth in this Subsection shall be exhausted in its entirety prior to initiation of the Administrative Hearing Process defined in Subsection 105.23, as revised. Failure to comply with the requirements set forth in this Subsection shall bar the Contractor from any further administrative, equitable or legal remedy. If a deadline is missed that does not prejudice either party, further relief shall be allowed.

All disputes and any potential claims shall be submitted within thirty (30) days of the date of the certified letter submitting the Final Application for Payment to the Contractor. Notwithstanding the preceding paragraph, failure to submit a dispute or claim within this time period shall constitute prejudice to the County and releases the County from all disputes and claims for which notice has not already been submitted in accordance with the Contract.

All disputes and claims seeking damages calculated on a Total Cost or Modified Total Cost basis will not be considered unless the party asserting such damages establishes all the legal requirements therefore.

- (a) *Document Retention.* The Contractor shall keep full and complete records of the costs and additional time incurred for each dispute for a period of at least three years after the date of final payment or until the dispute is resolved, whichever is more. The Contractor, subcontractors and lower tier subcontractors shall provide adequate facilities, acceptable to the Project Engineer, for an audit during normal business hours. The Contractor shall permit the Project Engineer or County auditor (and staff) to examine and copy those records and all other records required by the Project Engineer to determine the facts or contentions involved in the dispute. The Contractor shall identify and segregate any documents or information that the Contractor considers particularly sensitive, such as confidential or proprietary information.

Throughout the dispute, the Contractor and the Project Engineer shall keep complete daily records of extra costs and time incurred, in accordance with the following procedures:

**REVISION OF SECTION 105
CONTROL OF WORK**

- Continued -

1. Daily records shall identify each operation affected, the specific locations where work is affected, and the potential effect to the project's schedule. Such records shall also reflect all labor, material and equipment applicable to the affected operations.
 2. On the first work day of each week following the date of the written notice of dispute, the Contractor shall provide the Project Engineer with the daily records for the proceeding week. If the Contractor's records indicate costs greater than those kept by the County, the Project Engineer will meet with the Contractor and present his records to the Contractor at the meeting. The Contractor shall notify the Project Engineer in writing within three work days of any inaccuracies noted in, or disagreements with the County's records.
- (b) *Initial Dispute Resolution Process.* To initiate the dispute resolution process, the Contractor shall provide a written notice of dispute to the other party upon the failure of the Parties to resolve the issue through negotiation. Disputes will not be considered unless the Contractor has first complied with specified issue resolution processes such as those specified in Subsections 104.015, 104.02, 106.05, 108.08(a), and 108.08(d).

The Contractor shall supplement the written notice of dispute within fifteen (15) days with a written Request for Equitable Adjustment (REA) providing the following:

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 quantum, calculated in accordance with methods set forth in Subsection 105.24(b) 12, of the dispute with supporting documentation;
5. An analysis of the progress schedule showing the schedule change or disruption if the Contractor is asserting a schedule change or disruption.

The Contractor shall submit as much information on estimated quantum and any impacts to the Contract time as is reasonably available with the REA, and then supplement the REA as additional information becomes available.

- (c) *Project Engineer Review.* Within fifteen (15) days after receipt of the REA, the Project Engineer will meet with the Contractor to discuss the merits of the dispute. Within seven (7) days after this meeting, the Project Engineer will issue a written decision on the merits of the dispute.

The Project Engineer will either deny the merits of the dispute or notify the 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.

**REVISION OF SECTION 105
CONTROL OF WORK**

- Continued -

If the dispute is determined to have merit, the Contractor and the Project Engineer will determine the adjustment in payment, schedule or both within thirty (30) days. When a satisfactory adjustment is determined, it shall be implemented in accordance with Subsections 106.05, 108.08, 109.04, 109.05 or 109.10 and the dispute is resolved, and no further action will be taken.

If the dispute is determined not to have merit and the Contractor accepts the Project Engineer's denial of the merits of the dispute, the dispute is resolved, and no further action will be taken. If the Contractor does not respond in seven (7) days, it will be assumed he has accepted the denial. If the Contractor rejects the Project Engineer's denial of the merits of the dispute or a satisfactory adjustment of payment or schedule cannot be agreed upon within thirty (30) days, the Contractor may further pursue resolution of the dispute by providing written notice to the Authorized County Representative within seven (7) days, according to Subsection 105.22(d).

- (d) *Authorized County Representative Review.* Within seven (7) calendar days after receipt of the Contractor's written notice to the Authorized County Representative of unsatisfactory resolution of the dispute, the Project Engineer and Authorized County Representative will meet with the Contractor to discuss the dispute. Meetings shall continue weekly for a period of up to thirty (30) days and 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 Subsections 108.08, 109.04, 109.05 or 109.10 and the dispute is resolved.

If these meetings do not result in resolution or the participants mutually agree that they have reached an impasse, the dispute shall be presented to the Dispute Review Board (DRB) in accordance with Subsection 105.23, as revised.

If the dispute escalates to the DRB process, the DRB shall not hear any issue or consider any information that was not contained in the Request for Equitable Adjustment and fully submitted to the Project Engineer during the process described in this Revision of Subsection 105.22.

105.23 DISPUTE REVIEW BOARD

In Subsection 105.23(d), delete item 1 in its entirety and replace with the following:

1. Contact the Contractor and the DRB to coordinate an acceptable hearing date and time. The hearing shall be held at the County's office unless an alternative location is agreed to by both parties. Unless otherwise agreed to by both parties, the DRB hearing will be held within thirty (30) days after the DRB Agreement is signed by all members of the DRB.

**REVISION OF SECTION 105
CONTROL OF WORK
- Continued -**

Delete the first paragraph of Subsection 105.23(e) in its entirety and replace with the following:

- (e) *Pre-Hearing Submittal:* At least twenty days prior to the hearing, the County and the Contractor shall exchange lists of all supporting documents each party intends to use at the hearing for purposes of compiling a common set of documents to be used at the hearing, as discussed in number 2, below. At least fifteen (15) days prior to the hearing, the County and the Contractor shall submit by e-mail to the DRB Chairperson and any other DRB members, if any, and to the opposing party their pre-hearing position paper. At the same time, the County shall submit copies of the common set of documents to be used by both parties, and each party shall separately submit a copy of any additional supporting documents it intends to use at the hearing in the manner as submission of the pre-hearing position paper unless otherwise agreed by the parties and the DRB.

105.24 CLAIMS FOR UNRESOLVED DISPUTES

In Subsection 105.24, delete the first seven paragraphs, prior to Subsection (a), in their entirety and replace with the following:

The Contractor may file a claim only if the dispute resolution process described in Subsections 105.22 and 105.23, as revised in these SSPs, has been exhausted. This Subsection applies to any unresolved dispute or set of disputes between the County and the Contractor with an aggregate of more than \$15,000. The venue for all unresolved disputes with an aggregate of \$15,000 or less shall be the County Court of Douglas County.

All claims of any nature whatsoever regarding the Contract, including, without limitation, Contractor claims for additional compensation or extensions of Contract Time, and claims involving claimed breach of or default under the Contract, shall be resolved by an Administrative Hearing. Such Administrative Hearing shall be conducted pursuant to the procedures set forth in this section.

If either party raises a question concerning whether any issue or claim raised in such administrative proceeding is within the scope of the Contract's dispute or claim resolution provisions, including this Section, such question shall be decided by the Hearing Officer assigned to hear the matter.

The Contractor expressly agrees that the provisions of Subsection 105.24 and this Revision of Subsection 105.24 provide the only claim resolution mechanism for claims asserted by the Contractor, regardless of any claimed theory of entitlement by the Contractor or its subcontractors or suppliers.

**REVISION OF SECTION 105
CONTROL OF WORK**

- Continued -

Delete Subsection 105.24(c) in its entirety and replace with the following:

- (c) *Audit.* An audit may be performed by the County for any claim, including claims with amounts greater than \$250,000. All audits will be completed within sixty (60) days following receipt of the complete claim package, provided the Contractor allows the auditors reasonable and timely access to the Contractor's books and records.

Delete Subsections 105.24 (d), (e), and (f) in its entirety and replace with the following:

- (f) *Administrative Review and Court Proceedings.*

1. Any party who disputes any determination made pursuant to Subsection 105.23 and this Revision of Subsection 105.23, which determination adversely affects such Contractor, may petition the County Manager for a hearing concerning such determination no later than thirty (30) days after having been notified of any such determination. Compliance with the provisions of this Subsection shall be a jurisdictional prerequisite to any action brought under the provisions of this section and failure of compliance shall forever bar any such action.
2. The County Manager may hold such hearing himself or at his sole discretion may designate a consultant or employee of the Douglas County Engineering Division as a hearing officer with authority to hold such hearing or such hearings. The County Manager may also designate an independent hearing officer retained for that purpose by contract.
3. Such petition shall be in writing, and the facts and figures submitted shall be submitted under oath or affirmation either in writing or orally at a hearing scheduled by the County Manager or the hearing officer. The hearing, if any, shall take place in the County, and notice thereof and the proceedings shall otherwise be in accordance with rules and regulations issued by the County Manager. The petitioner shall bear the burden of proof, and the standard of proof shall conform with that in civil, nonjury cases in the State of Colorado District Court.
4. Thereupon, the County Manager or his designee shall make a final determination. Such final determination shall be considered a final agency action and may be reviewed under Colorado Revised Statutes § 24-4-106 and Rule 106(a)(4) of the Colorado Rules of Civil Procedure by the petitioner or by the County unless a reconsideration is requested by any party. A request for reconsideration of the determination may be made if filed with the County Manager within fifteen (15) days of the date of determination, in which case the County Manager shall review the record if the proceedings were conducted by a designated hearing officer, and issue a written determination that shall be considered a

**REVISION OF SECTION 105
CONTROL OF WORK**

- Continued -

final order of the County Manager upon the date it is signed, which shall then be considered a final agency action and may be reviewed under Colorado Revised Statutes § 24-4-106 and Rule 106(a)(4) of the Colorado Rules of Civil Procedure by the petitioner or by the County.

5. The District Court of Douglas County, State of Colorado shall have original jurisdiction in proceedings to review any final agency action by the County Manager pursuant to subparagraph 4, above, by order or writ under Colorado Revised Statutes § 24-4-106 and Rule 106(a)(4) of the Colorado Rules of Civil Procedure.

**REVISION OF SECTION 106
CONTROL OF MATERIAL**

Section 106 of the Standard Specifications is hereby revised to include the following:

DESCRIPTION

Control of Material shall conform with Douglas County Roadway Design and Construction Standards, Chapter 5 Pavement Design and Technical Criteria, Section 5.5, and Chapter 8, Roadway Inspection and Testing Procedures included herein.

Should discrepancies arise between the Colorado Department of Transportation Standard Specification for Road and Bridge Construction and the Douglas County Roadway Design and Construction Standards, the Douglas County Roadway Design and Construction Standards shall take precedence.

**REVISION OF SECTION 107
LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC**

Section 107 of the Standard Specifications is hereby revised as follows:

107.12 PROTECTION AND RESTORATION OF PROPERTY AND LANDSCAPE

In Subsection 107.12, delete the last paragraph and replace with the following:

Measures to minimize damage to existing trees have been incorporated into the design of this Project. Due to the value of existing trees located within the Project limits, removal of trees has been minimized through the extensive use of ditch adjustments, grade and alignment adjustments and other techniques.

The Contractor shall take all precautions necessary to protect all trees not designated for transplanting and/or removal on the Project. Failure of the Contractor to protect existing trees will result in assessment of liquidated damages as follows:

First occurrence of failure to protect trees - \$5,000

Second occurrence of failure to protect trees - \$10,000

Any Subsequent occurrence of failure to protect trees - Potential Removal of Contractor from Project plus \$10,000 per occurrence

If the Contractor knowingly harms any existing tree(s), he shall immediately notify the Engineer of the tree(s) location and damage. Damage to trees that have been identified in the plans to be protected (or not identified for removal) outside the Project limits (County ROW and / or easements), or on private property, shall be subject to the above liquidated damages, and, potentially, any additional fines pursued by the owner(s) of the private property.

107.15 RESPONSIBILITY FOR DAMAGE CLAIMS, INSURANCE TYPES AND COVERAGE LIMITS

Delete the first paragraph of Subsection 107.15, prior to subparagraph (a), in its entirety and replace with the following:

The Contractor shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damage to persons or property, either on or off the site, which occur as a result of his prosecution of the work.

The safety provisions of applicable laws and building and construction codes shall be observed, and the Contractor shall take or cause to be taken such additional safety and health measures as deemed necessary.

The Contractor shall maintain an accurate record of all cases of death, occupational disease, and injury requiring medical attention or causing loss of time from work arising out of, and in the course of, employment on the work under this Contract. The Contractor shall promptly furnish the Engineer with reports concerning these matters.

**REVISION OF SECTION 107
LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC
- Continued -**

The Contractor expressly binds himself to defend, indemnify and save harmless the County, its commissioners, officials, officers, directors and employees, against all third-party suits, actions, claims, costs, fees, and expenses, including but not limited to expert fees and attorneys' fees, of any kind and nature brought, or which may be brought against the County, for or on account of any injuries or damage received or sustained by any person, firm, partnership or corporation, or persons, firms, partnerships or corporations, or by any property, in connection with or on account of the operations of the Contractor; or failure to comply with the provisions of the Contract; or on account of or in consequence of neglect of the Contractor in safeguarding the work; or because of the performance of the work under this Contract or by or in consequence of any negligence in connection with the same; or on account of the use of any improper or defective materials or workmanship; or on account of any act or omission, neglect, or misconduct of the Contractor, or a subcontractor, agents, servants or employees; or because of any claims or amounts recovered from any infringements of patent, trademark, or copyright, unless the design, device, material or process involved is specifically required by the Contract; or from any claims or amounts arising or recovered under the Worker's Compensation Act, or other law, ordinance, order or decree; or for any cause arising out of the performance of any subcontractor, agents, servants or employees relating to this Contract. If the County determines, in the reasonable exercise of its discretion, that a joint defense for the County and the Contractor creates a conflict of interest, the County shall be permitted to select its own counsel, and the Contractor shall pay all reasonable attorneys' fees, expenses (including expert fees and expenses), and costs of the County's defense. The County may, if it so desires, withhold any payment due the Contractor so long as it shall be reasonably necessary to indemnify the County on account of such injuries or damage.

Subsection 107.15(f) is hereby revised to include the following:

- (f) The certificates of insurance shall be provided to Douglas County by the Contractor's insurance agent or carrier as evidence that policies providing the required coverage, conditions, and minimum limits are in full force and effect. Insurance limits must be on each Certificate of Insurance. Each Certificate of Insurance shall be reviewed and approved by Douglas County prior to commencement of the Contract. No other form of certificate shall be used. The certificates shall identify this Contract.

Subsection 107.15(g) is hereby revised to include the following:

- (g) Any completed certificates of insurance, including renewals and amendments or modifications, shall be sent to:

Douglas County Project Engineer
Department of Public Works Engineering
100 Third Street, Suite 220
Castle Rock, Colorado 80104

Megan Datwyler
Douglas County Risk Management
100 Third Street, 3rd Floor
Castle Rock, Colorado 80104

**REVISION OF SECTION 107
LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC
- Continued -**

Any notices of cancellation, termination, or material change shall be sent to the above addresses within **thirty (30) calendar days** prior to the date upon which the noticed action (i.e., cancellation, termination or material change) is to take effect.

Add the following new Subsection 107.15(i):

- (i) Failure on the part of the Contractor to procure or maintain policies providing the required coverage, conditions and minimum limits shall constitute a material breach of contract upon which the County may immediately terminate this Contract, or, in the County's sole discretion, it may suspend the Contractor's performance and/or procure or renew any such policy or any extended reporting period thereto and may pay any and all premiums in connection therewith, and all monies so paid by the County shall be repaid by the Contractor to the County upon demand, or the County may offset the cost of the premiums against any monies due to the Contractor from the County.

107.16 OPENING SECTIONS OF PROJECT TO TRAFFIC

Subsection 107.16 is hereby revised to include the following:

The County has the right, subject to reasonable advance notice to the Contractor, to take possession of and use any completed or partially completed portions of the work. The County has this right even though the entire work or any portions thereof may, or may not, have been completed. Such possession and use shall not be deemed an acceptance of any work until all work has been completed in accordance with the Contract. Possession taken by the County pursuant to this paragraph shall not change the period of warranty requirements pursuant to the Revision of Sections 105 and 107.

107.17 CONTRACTOR'S RESPONSIBILITY FOR WORK

Subsection 107.17 is hereby revised to include the following:

Should an excavation become flooded, by any cause, the Contractor shall remove excess water, excavate the unsuitable material to a depth satisfactory to the Engineer and replace it with other suitable material as approved by the Engineer, at the Contractor's expense.

Until final written acceptance of the Project by the County, the Contractor shall have the charge and care thereof and shall take every precaution against injury or damage to any part thereof by the action of the elements, groundwater, surface runoff, floods or from any other cause, whether arising from the execution or from the non-execution of the work. The Contractor shall rebuild, repair, restore, and make good all injuries or damages to any portion of the work occasioned by any of the above causes before final acceptance and shall bear the expense thereof.

**REVISION OF SECTION 107
LEGAL RELATIONS AND RESPONSIBILITY TO PUBLIC
- Continued -**

The Contractor shall be responsible for the Project and shall take such precautions as may be necessary to construct the Project in a dry condition, provide for drainage, groundwater, underground water, surface runoff; and shall erect any necessary temporary structures or other facilities (including pumping and all other dewatering costs) at the Contractor's expense that are needed to complete the requirements for this Project.

No separate measurement and payment will be made of the work, equipment and materials, including, but not limited to, any additional shoring, rock stabilization, diversions, cofferdams, sheeting, pumping and well points required to control the surface and subsurface water in the work area throughout the duration of the Project (until the Project is completed and accepted by the Engineer). This work shall be a subsidiary obligation of the Contractor for this Project.

In an emergency affecting the safety of life or property, on or adjoining the Project site, the Contractor shall act, either at his own discretion, or as instructed by the Engineer, to prevent such threatened loss or injury. Any compensation claimed by the Contractor on account of such emergency work will be determined by the Engineer as provided in Subsections 104.03 and 109.04.

107.19 FURNISHING RIGHT OF WAY

Subsection 107.19 is hereby revised to include the following:

The Contractor shall construct this Project within the right-of-way, permanent slope easements, permanent drainage easements, permanent utility easements and temporary construction easements, or as otherwise provided in writing and as shown on the plans. The Contractor, at his expense, shall obtain any additional temporary construction easements that the Contractor wants. The Contractor shall provide the County with a written copy of all third-party agreements pertaining to this contract. Upon written approval by the Engineer, the County may agree to incorporate the adjacent additional temporary construction easements into the Project limits. The Contractor will be responsible for obtaining all applicable Federal, State and Local permits associated with the work outside the Project limits. No time extensions will be granted by the County for the Contractor to obtain these additional easements. When required, temporary fence will be constructed within the limits of the temporary construction easements.

107.25 WATER QUALITY CONTROL

Subsection 107.25 is hereby revised as follows:

Subsection 107.25(a) Definitions 1 through 4 are hereby deleted in their entirety.

Subsection 107.25(b) Items 2 and 6 are hereby deleted in their entirety.

Subsection 107.25(c) is hereby deleted in its entirety.

**REVISION OF SECTION 108
PROSECUTION AND PROGRESS**

Section 108 of the Standard Specifications is hereby revised as follows:

108.02 NOTICE TO PROCEED

Delete Subsection 108.02 in its entirety and replace with the following:

Notice to Proceed. The 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. The County will issue a Notice to Proceed upon execution of this Contract unless otherwise amended or directed by the Project Engineer. The Contractor shall commence work under the Contract on or prior to the **tenth (10th) calendar day** following the Notice to Proceed date.

108.06 CHARACTER OF WORKERS; METHODS AND EQUIPMENT

Subsection 108.06 is hereby revised to include the following:

The Contractor shall be responsible for the scheduling of all work and proper coordination of the operations of all trades, subcontractors, or material men engaged upon this Contract.

108.08 DETERMINATION AND EXTENSION OF CONTRACT TIME

Delete the first paragraph of Subsection 108.08 in its entirety and replace with the following:

The contract time is stated in the Contract Documents. The contract time will be used to determine the Contract Completion Date.

Add the following new Subsection 108.08(e):

(e) *Contractor's Right to Proceed.* The right of the Contractor to proceed shall not be terminated nor shall the Contractor be charged with liquidated damages for any delays in the completion of the work due to:

1. Any acts of Government, including controls or restrictions upon or requisitioning of materials, equipment, tools, or labor by reason of war, national defense, or any other national emergency; or
2. Any acts of the County; or
3. Causes not reasonably foreseeable by the parties to this Contract at the time of the execution of the Contract which are beyond the control and without the fault or negligence of the Contractor, and against which it would have been unreasonable for the Contractor to take precautions and which the Contractor cannot avoid even by using its best efforts, including, but not restricted to, acts of God or of the public enemy, acts of another contractor in the performance of some other contract with the County, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and weather of unusual severity such as hurricanes, tornadoes, cyclones, and other extreme weather conditions; or

**REVISION OF SECTION 108
PROSECUTION AND PROGRESS**

- Continued -

4. Any delay of any subcontractor occasioned by any of the causes specified in subparagraphs (e), (f) or (g) of this paragraph.

Provided, however, that the Contractor shall, **within seven (7) calendar days** of the first occurrence of any event or condition constituting a circumstance set forth in number 1 through 4 above, notify the Engineer, in writing, of the cause of the delay. The Engineer shall then ascertain the facts concerning the cause of the delay and the extent to which completion of the Project as a whole has been delayed. If the facts show the delay to be properly excusable under the terms of this Contract, the Engineer will extend the Completion Date by a period commensurate with the period of excusable delay.

108.10 DEFAULT OF CONTRACT

Delete Subsection 108.10 in its entirety and replace with the following:

- (a) The Engineer may send a written notice of intent to find the Contractor in default if the Contractor refuses or fails to prosecute the work with such diligence as will ensure its completion within the time specified, or if the Contractor fails to perform the work to Contract requirements, or neglects or refuses to correct or remove and replace rejected materials or unacceptable work. The written notice of intent to find the Contractor in default will include a stop work order which will require the Contractor to cease work on the Contract Items that are unacceptable. The notice will describe the conditions causing the impending default, advise the Contractor of the actions required for remedy and state that if the conditions have not been corrected within ten days of receipt of the notice, the County will find the Contractor in default.
- (b) The Contractor shall not resume work on the acceptable Contract Items until the following conditions have been met:
 1. The Contractor shall submit a written proposal to the Engineer outlining the procedure which will be followed by the Contractor to correct the unacceptable conditions; and
 2. The Engineer and the Contractor shall meet to discuss the written proposal; and
 3. The Engineer will issue written permission for the Contractor to commence work.

If the Contractor fails to meet these three conditions within ten calendar days of receipt of the notice of intent to find Contractor in default, or if any time after the Contractor resumes work, the Contractor does not meet the work requirements, or the Contractor again neglects or refuses to correct or remove and replace rejected materials or unacceptable work, the Engineer may serve the Contractor with an immediate notice of default and take prosecution of the work from the Contractor. Copies of the default notice will also be sent, by certified mail, to the Contractor and the Surety. Upon receiving such notice, the Contractor shall peaceably relinquish possession of said work or of the parts thereof specified in the notice.

**REVISION OF SECTION 108
PROSECUTION AND PROGRESS
- Continued -**

The County may, at its option, and at a rental which it considers reasonable, take possession of, and utilize in completing the work, such materials, equipment, tools, and plants as may be on the Project Site until the work is complete.

Neither the County nor its officers, agents or employees shall in any way be liable or accountable to the Contractor or the Surety for the method by which the completion of said work, or any portion thereof, may be accomplished or for the price paid therefore. Should the cost of completing the work be in excess of the original contract price, the Contractor and the Surety shall be held obligated for such excess cost. Should the cost of such completion, including all proper charges, be less than the original contract price, the amount so saved shall be paid to the Contractor. Neither by taking over the work nor by declaring the Contract in default shall the County forfeit the right to recover damages from the Contractor or the Surety for failure to complete the entire Contract. Maintenance of the work shall continue to be the Contractor's Surety's responsibility as provided for by the bond and Warranty of the Contractor.

**REVISION OF SECTION 109
MEASUREMENT AND PAYMENT**

Section 109 of the Standard Specifications is hereby revised as follows:

109.06 PARTIAL PAYMENTS

Delete the first paragraph of Subsection 109.06, prior to subparagraph (a), in its entirety and replace with the following:

Partial Payments will be made once within each 30-day period as the work progresses, when the Contractor is performing satisfactorily under the Contract. The Contractor shall prepare each partial payment statement by the 25th day of each month and submit such partial payment statement to the Project Engineer for review and approval. The statement shall consist of the total value of all construction work completed to such date, including the value of work performed, materials placed in accordance with the Contract, and, if applicable, the value of the materials on hand in accordance with Subsection 109.07, as estimated.

Monthly or partial payments made by the County to the Contractor are monies advanced for the purpose of assisting the Contractor to expedite the work and construction. All material and completed work covered by such monthly or partial payments shall remain the property of the Contractor, and he shall be responsible for the care and protection of all materials and work upon which payments have been made. Such payments shall not constitute a waiver of the right of the County to require the fulfillment of all terms of the Contract and the delivery of all improvements embraced in this Contract complete and satisfactory to the County in all details.

The amount of the progress estimate paid to the Contractor will be subject to the following:

Delete Subsection 109.06(a) in its entirety and replace with the following:

- (a) *Standard Amount Retained.* The amount to be retained from partial payments will be five percent (5%) of the calculated value of the completed work (including retainage for mobilization). No further amount will be retained if the Contractor is satisfactorily performing the Contract work. The amount retained will be in effect until such time as the Contract is completed satisfactorily and finally accepted by the County; *provided, however,* that where the Contract requires performance of severable and distinct work, set forth in separate schedules, the County may, in its sole discretion and upon written request of the Contractor and written consent of the Surety, upon completion and acceptance of a schedule of work constituting the substantial portion of the Project,, publish a notice of Final Settlement pursuant to Section 38-26-107, C.R.S., at which time the amount retained may be reduced to two percent (2%) of the calculated value of completed work until satisfactory completion and final acceptance of all remaining Contract work. This Subsection is intended to comply with Section 24-91-103, C.R.S.

The County, before making any payment, may require the Contractor to furnish releases or receipts from any or all persons performing work and supplying material or services to the Contractor, or any subcontractor, if this is deemed necessary to protect the County's interest.

**REVISION OF SECTION 109
MEASUREMENT AND PAYMENT
- Continued -**

The County, however, may make payment in part or in full to the Contractor without requiring the furnishing of such releases or receipts, and any payments so made shall in no way impair the obligations of any Surety or Sureties or any bond or bonds furnished under this Contract.

The County may withhold from any payment otherwise due the Contractor so much as may be necessary to protect the County, and if it so elects, may also withhold any amount due from the Contractor to subcontractors or material dealers for work performed or material furnished by them. The foregoing provisions shall be construed solely for the benefit of the County and will not require the County to determine or adjust any claims or disputes between the Contractor and his subcontractors or materials dealers, or to withhold any monies for their protection unless the County elects to do so. The failure or refusal of the County to withhold any monies from the Contractor shall in no way impair the obligations of any Surety or sureties under any bond or bonds furnished under this Contract.

Delete Subsection 109.06(b), (h), (i), and (j) in its entirety and replace with the following:

- (b) *Securities in Lieu of Standard Amount Retained.* **The County will not accept securities in lieu of retainage.**

109.07 PAYMENT FOR MATERIAL ON HAND (STOCKPILED MATERIAL)

Delete the first sentence of Subsection 109.07, prior to subpart (1), in its entirety and replace with the following:

Payments shall not be made to the Contractor for Material on Hand (Stockpiled Material) to be incorporated into the work except as provided in this Revision to Subsection 109.07. Absent express authorization, all payments are for the finished product, complete and in-place. Partial payments to the Contractor for materials on hand shall not be allowed unless a specific exception is granted in writing by the Engineer or unless it is otherwise specified in the County's Project Special Provisions. If and to the extent partial payments to the Contractor for materials on hand are expressly authorized in writing by the Engineer or specified in the County's Project Special Provisions, such payments shall be evidenced by invoices or cost analyses of material produced on the project subject to the following:

109.09 ACCEPTANCE AND FINAL PAYMENT

Subsection 109.09 is hereby revised to include the following:

Final payment to the Contractor shall be subject to the Contractor furnishing the County with a release in satisfactory form of all claims against the County arising under and by virtue of this Contract, other than such claims, if any, as may be specifically excepted by the Contractor from the operation of the release as provided under Section 105, as revised.

EXHIBIT B - TABULATION OF QUANTITIES

Project Number : SP2024-018


Project Name: Sandstone Irrigation Maintenance

10/10/2024

Item No.	Item Description	Unit	Quantity	Unit Cost	Cost	General Comments
201	CLEARING AND GRUBBING	LS	1.0	\$4,000.00	\$4,000.00	
202	REMOVE EXISTING MATERIALS	LS	1.0	\$4,000.00	\$4,000.00	Remove waterman gates, unservicable pipe
202	REMOVE & REPLACE DOCK, OR ALT CHANNEL GATE ACCESS	LS	1.0	\$6,700.00	\$6,700.00	Remove & replace dock, or install alt. gate access
203	EMBANKMENT, EXCAVATION (PIPE OVERBURDEN)	CY	100.0	\$45.00	\$4,500.00	Estimated quantity for pipe excavation
207	TOPSOIL (STOCKPILE & REDISTRIBUTE)	CY	20.0	\$40.00	\$800.00	8" OF TOPSOIL ESTIMATED
207	EROSION CONTROL BLANKET	SY	40.0	\$10.00	\$400.00	
208	EROSION CONTROL MANAGEMENT	LS	1.0	\$1,600.00	\$1,600.00	REF DC GESC Standard
212	SEEDING, DC REGIONAL MIX	ACRE	1.00	\$1,600.00	\$1,600.00	Ref. DC regional mix
212	SOIL AMMENDMENT (RICHLAWN 3-6-3 FERTILIZER)	LB	25.0	\$10.00	\$250.00	
213	MULCHING (WEED FREE STRAW), CRIMPED	ACRE	1.00	\$2,000.00	\$2,000.00	
603	IRRIGATION PIPE, 18" DIA, HDPE, CIP Onsite DG Bedding	LF	280.0	\$69.00	\$19,320.00	712.13
603	PRIMARY SPILLWAY PIPE, 18" DIA, HDPE, CIP Onsite DG Bedding	LF	166.0	\$84.00	\$13,944.00	712.13, Inc. Pipe Bedding and cover to 6" over crown
604	PRIMARY SPILLWAY INLET, TYPE C BOX WITH RCP RISER	LS	1.0	\$7,800.00	\$7,800.00	Or approved alternate
619	CHANNEL GATE, 18", WATERMAN, COMPLETE IN PLACE	EA	2.0	\$3,100.00	\$6,200.00	Inc. all related hardware, frame, and gasket(s)
607	CONSTRUCTION FENCE	LF	100.0	\$5.00	\$500.00	
620	SANITARY FACILITY	EA	1.0	\$850.00	\$850.00	
625	CONSTRUCTION SURVEYING	LS	1.0	\$2,500.00	\$2,500.00	
626	MOBILIZATION	LS	1.0	\$10,500.00	\$10,500.00	
212	F/A MINOR CONTRACT REVISIONS	LS	1.0		\$0.00	TBD - ASSIGNED BY DC PWE
BASE PROJECT COST					\$87,464.00	

(Actual work completed shall be invoiced monthly)

SCHEDULE B - OPTIONAL ITEMS						
203	BACKHOE, JD310 OR APPROVED, WITH OPERATOR	HR	16.0	\$150.00	\$2,400.00	
203	GRADER, 10' BLADE OR APPROVED, WITH OPERATOR	HR	16.0	\$165.00	\$2,640.00	
203	EXCVATOR, CAT 3** OR APPROVED, WITH OPERATOR	HR	16.0	\$170.00	\$2,720.00	
203	BULLDOZER, D6 OR APPROVED, WITH OPERATOR	HR	16.0	\$170.00	\$2,720.00	
207	TOPSOIL (IMPORT & DISTRIBUTE)	CY	30.0	\$75.00	\$2,250.00	8" COVER
207	RIP RAP, 12" ANGULAR CLEAN	CY	10.0	\$130.00	\$1,300.00	
207	VEHICLE TRACKING CONTROL	EA	1.0	\$3,200.00	\$3,200.00	
207	SOIL RIP RAP, 12" ANGULAR	CY	10.0	\$130.00	\$1,300.00	
208	SEDIMENT CONTROL LOG	LF	25.0	\$11.00	\$275.00	
212	SEEDING, WILDFLOWER MIX	ACRE	1.00	\$2,000.00	\$2,000.00	See sheet detail
304	AGGREGATE BASE COURSE, CDOT CLASS 6	CY	12.0	\$105.00	\$1,260.00	
601	HEADWALL, WITH TRASH RACK Clay Headwall	EA	1.0	\$4,500.00	\$4,500.00	See sheet detail, M-601-10
OPTIONAL ITEM TOTAL					\$26,565.00	
TOTAL PROJECT COST					\$114,029.00	

53 Corporation

 10/25/24