



**REQUEST FOR BID
LARIMER COUNTY COLORADO
2555 MIDPOINT DRIVE, SUITE B
FORT COLLINS, COLORADO**

BID NUMBER: 10-02
PROJECT NUMBER: 5021
DESCRIPTION: Horsetooth Reservoir 2010 South Bay Swim Beach Project Phase II
BID OPENING DATE: March 22, 2010

Please bid DELIVERED PRICES on the following Goods or Services. No bid is contingent on the purchase of all items listed. The right is reserved to reject any and all bids or parts thereof. Prices and terms shall remain in effect for 30 days from date of opening.

The Board of Larimer County Commissioners will be receiving sealed bids at the office of the Purchasing Director, 2555 Midpoint Drive, Suite B, Fort Collins, Colorado, up to 2:00 P.M. (our clock), March 22, 2010.

Bid documents, specifications and construction plans will be available on the Larimer County Web Site only at www.larimer.org/bids/ starting February 25, 2010.

All bidders shall be experienced General Contractors and shall have a minimum of 5 years experience constructing projects of similar size and scope.

The work consists of construction of a restroom building, changing room building, large group use shelter, sanitary sewer septic/lift station, and associated site work including but not limited to; curb and gutter, concrete flatwork, inlets, storm drainage pipe, parking lot, stone retaining wall and landscape features.

The restroom building is approximately 575 SF and will be constructed of CMU walls on a shallow spread footing foundation. The building will provide flush toilets and sinks. The changing rooms will be constructed of CMU walls on a shallow spread footing foundation with fabricated steel panels between the CMU walls. The roof structure for the changing rooms will be a steel structure. The large group use shelter will be a pre-engineered steel structure. The contractor will be responsible for final design of the group use shelter building and foundation system.

The project is located within the South Bay Swim Beach Area located at Horsetooth Reservoir off of CR 38E, west of the City of Fort Collins.

Construction Surveying and Geotechnical Testing will be performed by Larimer County.

It is estimated that the total cost of all items in the bid schedule will not exceed \$500,000.

A Prebid Conference will be held at 1:00 p.m., Monday, March 8, 2010, at the Larimer County Engineering Department, 200 West Oak Street, Fort Collins, Colorado. Representatives of Larimer County will be present to discuss the project and to answer questions. Bidders are requested (not required) to attend and participate in the conference. A site review will take place after the conference beginning approximately 2:30 P.M. at the north end parking area to the Horsetooth Reservoir South Bay Beach area.

All questions regarding this project should go to Kyle Arend, Project Manager, at 970-498-5734 or e-mail to karend@larimer.org.

GENERAL INSTRUCTIONS:

Bidder shall not stipulate in his bid any conditions not contained in the specifications, unless specifically requested in the special instructions. Any bids that fail to comply with the literal letter of these instructions and the specifications may be rejected forthwith.

Bids shall be typewritten or written in ink on the form prepared by the County. The person signing the bid shall initial all corrections or erasures made on your bid.

It is understood that the Board of Larimer County Commissioners reserves the right to reject any and/or all bids and to waive informalities in bids, and to accept the bid that, in the opinion of the Board, is in the best interest of Larimer County. The total cost of bid preparation and submission shall be borne by the bidder.

If, in the sole judgment of the Board of Larimer County Commissioners, the bids or proposals are substantially equal, the Board **may** grant the contract to companies located in Larimer County.

No telephone, e-mail, or facsimile bids will be accepted.

Bids must be clearly identified on the front of the envelope by bid number and title. Responsibility for timely submittal and routing of bids, prior to opening, lies solely with the bidder. Bids received after the opening time specified will not be considered.

Minority Business Enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on grounds of race, color or national origin.

Bids must be furnished exclusive of any Federal, State or Local taxes.

Illegal Aliens- Public Contracts For Services

1. The Contractor certifies that the Contractor shall comply with the provisions of C.R.S. 8-17.5-101, et. seq. The Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract or enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract.
2. The Contractor represents, warrants, and agrees that it (a) has verified that it does not employ any illegal aliens, through participation in a program approved under C.R.S. 8-17.5-102.
 - a. If the Contractor elects to participate in the State of Colorado Department program pursuant to C.R.S. 8-17.5-102, the Contractor must provide the County a copy of their completed Notice of Participation Form.
 - b. If the Contractor hires a new employee who performs work under this public contract, the Contractor must provide the County affirmation as required by C.R.S. 8-17.5-102(5)(c)(II).
3. The Contractor shall comply with all reasonable requests made in the course of an investigation by the Colorado Department of Labor and Employment. If the Contractor fails to comply with any requirement of this provision or C.R.S. 8-17.5-101, et. seq., the County may terminate this Contract for breach of contract, and the Contractor shall be liable for actual and consequential damages to the County.
4. The Contractor shall not use the programs approved under C.R.S. 8-17.5-102 to undertake pre-employment screening of job applicants while this Contract is being performed.
5. If the Contractor obtains actual knowledge that a subcontractor performing work under this contract knowingly employs or contracts with an illegal alien, the contractor shall:

- a. Notify the subcontractor and the County within three days that the Contract has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
- b. Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to sub-paragraph "a" above, the subcontractor does not stop employing or contracting with the illegal alien, unless the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

BIDDING INSTRUCTIONS:

The following items are part of the proposal for the above noted project. If any of these items are not included with your proposal forms, please contact the Larimer County Purchasing Department.

- Bid Package
 - General Instructions
 - Proposal Form
 - Anti-Collusion Affidavit
 - Certificate of Intent to Sublet
 - Bid Bond
 - Bid Schedule
- Project Manual (Special Provisions)
- Construction Plans (62 Pages)

It is not necessary to return the entire Proposal Package for the Bid Opening. **Submittal of the following completed forms is required:**

- Proposal Form
- Anti-Collusion Affidavit
- Certificate of Intent to Sublet
- Bid Bond
- Bid Schedule

Each Bid **must** be accompanied by a Bid Guaranty consisting of a properly Certified Check, Cashier's Check or Bid Bond, in the amount of five percent (5%) of the contractor's bid, without conditions, payable to Larimer County. The sample Bid Bond included in these bid documents may be used as Bid Guaranty. This is the only acceptable form for a Bid Bond, no other form will be accepted. Bid Guaranties may be held until the contract is awarded, provided the time from bid opening to contract award does not exceed thirty days. The successful Bidder will be required to furnish Performance and Payment Bonds.

Each bid must contain a unit bid price for each item shown in the Bid Schedule, and a completed Certificate of Intent to Sublet. Failure to include unit bid prices and Certificate may be cause for rejection.

The original of the signed Affidavit relative to collusion shall be submitted by the Contractor with the bid. The bid will be rejected if it does not contain the signed affidavit.

The Bid and Bid Guaranty must be placed in one envelope securely sealed there and labeled:

BID NO. 10-02
PROJECT NO. 5021

HORSETOOTH RESERVOIR 2010 SOUTH BAY SWIM BEACH PROJECT PHASE II

Larimer County will not be responsible for the premature opening of Bids not properly labeled.

**PROPOSAL FOR PROJECT NO. 5021
HORSETOOTH RESERVOIR 2010 SOUTH BAY SWIM BEACH PROJECT PHASE II**

TO THE BOARD OF COUNTY COMMISSIONERS,
Larimer County, Colorado

I/We have examined the Plans and Specifications and the site of the proposed work and receipt of Addendum No(s). _____ is hereby acknowledged.

I/We certify that no illegal aliens will be employed or contracted with to perform work under this contract in compliance with the provisions of C.R.S. 8-17.5-101, et. seq.

I/We understand and accept the proposition that the Estimate of quantities is approximate only, that the quantities are subject to either increase or decrease and propose to perform any increased or decreased quantities of work at the unit price named in this Proposal, except for alterations provided for in the Specifications.

I/We agree that the Invitation for Bids, Proposal Requirements and Conditions, the Plans and Specifications, any Special Provisions, and this Proposal shall form and be part of the Contract to be signed by me/us if this Proposal is accepted, and that I/we will furnish a Contract Bond in a penal sum equal to the estimated contract price, with surety, or sureties, to guarantee the completion of the work and also to guarantee that all material and labor upon this work, or incidental to the completion of this work, shall be fully paid for.

I/We hereby propose to furnish all labor, machinery, equipment, materials and supplies, and to sustain all the expense incurred in doing the work hereinafter described for what is known as: Project No. 5021 - Horsetooth Reservoir 2010 South Bay Swim Beach Project Phase II, that may be awarded the undersigned in pursuance of a certain advertisement of the Board of County Commissioners, Larimer County, Colorado, dated February 25, 2010 a copy of which advertisement is attached and made a part hereof, and in accordance with the full details, Plans and Specifications as prescribed by said Board of County Commissioners and under the direction and according to the instructions of said Board or their authorized assistants, for the prices named in the Proposal.

I/We agree to protect my/our employees on this contract, if awarded to _____, by adequate compensation insurance.

I/We agree that any Extra Work or materials which the said Board may order in writing is to be paid for either at a lump sum or unit prices agreed upon prior to the work on the force account basis as specified in the Specifications, the force account bills to be checked and signed at the end of each day by the engineer or inspector in charge, and the Contractor's representative; provided that no class or item of work or material for which a unit bid price is provided in this Proposal is to be classified as Extra Work.

I/We hereby agree to execute a Contract and Bond and supply Insurance Endorsement forms provided by the said Board within fifteen (15) days (or such further time as may be allowed in writing by the Board) after receiving notification of the Award of Contract based on this proposal, and in case I/we do not, the Board may proceed to award the contract to another, re-advertise the work for bids, or proceed in any lawful manner they deem advisable, and the accompanying Guaranty shall become forfeited to Larimer County, Colorado as liquidated damages.

I/We hereby agree to commence the work within thirty (30) days following the date of award unless such time for beginning the work is changed by the Engineer in the "Notice to Proceed", and to complete the same within 120 calendar days in accordance with the "Notice to Proceed". I/We understand that in the event that substantial completion is not achieved within 120 calendar days, liquidated damages in the amount of \$300.00 per day will be assessed until such date that substantial completion is achieved.

LARIMER COUNTY	PROJECT NO.: 5021	
ANTI-COLLUSION AFFIDAVIT	LOCATION: Horsetooth Reservoir 2010 South Bay SwimBeach Project Phase II	
<p>I hereby attest that I am the person responsible within my firm for the final decision as to the price(s) and amount of this bid or, if not, that I have written authorization, enclosed herewith, from that person to make the statements set out below on his or her behalf and on behalf of my firm.</p> <p>I further attest that:</p> <ol style="list-style-type: none"> 1. The price(s) and amount of this bid have been arrived at independently, without consultation, communication, or agreement for the purpose or with the effect of restricting competition with any other firm or person who is a bidder or potential prime bidder. 2A. Neither the price(s) nor the amount of this bid have been disclosed to any other firm or person who is a bidder or potential prime bidder on this project, and will not be so disclosed prior to bid opening. 2B. Neither the price(s) nor the amount of the bid of any other firm or person who is a bidder or potential prime bidder on this project have been disclosed to me or my firm. 3A. No attempt has been made or will be made to solicit, cause or induce any firm or person who is a bidder or potential prime bidder to refrain from bidding on this project, or to submit a bid higher than the bid of this firm, or any intentionally high or noncompetitive bid or other form of complementary bid. 3B. No agreement has been promised or solicited for any other firm or person who is a bidder or potential prime bidder on this project to submit an intentionally high, noncompetitive or other form of complementary bid on this project. 4. The bid of my firm is made in good faith and not pursuant to any consultation, communication, agreement or discussion with, or inducement or solicitation by or from any firm or person to submit any intentionally high, noncompetitive or other form of complementary bid. 5. My firm has not offered or entered into a subcontract or agreement regarding the purchase or sale of materials or services from any firm or person, or offered, promised or paid cash or anything of value to any firm or person, whether in connection with this or any other project, in consideration for an agreement or promise by any firm or person to refrain from bidding or to submit any intentionally high, non-competitive or other form of complementary bid or agreeing or promising to do so on this project. 6. My firm has not accepted or been promised any subcontract or agreement regarding the sale of materials or services to any firm or person, and has not been promised or paid cash or anything of value by any firm or person, whether in connection with this or any other project, in consideration for my firm's submitting any intentionally high, noncompetitive or other form of complementary bid, or agreeing or promising to do so, on this project. 7. I have made a diligent inquiry of all members, officers, employees, and agents of my firm with responsibilities relating to the preparation, approval or submission of my firm's bid on this project and have been advised by each of them that he or she has not participated in any communication, consultation, discussion, agreement, collusion, or other conduct inconsistent with any of the statements and representations made in this affidavit. 8. I understand and my firm understands that any misstatement in this affidavit is and shall be treated as a fraudulent concealment from Larimer County, Colorado of the true facts relating to submission of bids for this contract. <p>I DECLARE UNDER PENALTY OF PERJURY IN THE SECOND DEGREE, AND ANY OTHER APPLICABLE STATE OR FEDERAL LAWS, THAT THE STATEMENTS MADE ON THIS DOCUMENT ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.</p>		
Contractor's Firm or Company Name:	By:	Date:
	Title:	
2 nd Contractor's Firm or Company Name:	By:	Date:
	Title:	
Sworn to before me this ____ day of _____, 20__ .		
NOTARY PUBLIC		
My commission expires:		
NOTE: This document must be signed in ink.		

Document 105 Standard Form of Agreement Between Owner and Contractor for a Small Project where the basis for payment is STIPULATED SUM

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This AGREEMENT is made on the _____ day of _____, 2010.

BETWEEN the Owner:

**Board of County Commissioners
Larimer County Colorado
200 West Oak Street, 2nd Floor
Fort Collins, Colorado 80522
(970) 498-7010**

and the Contractor:

for the following Project:

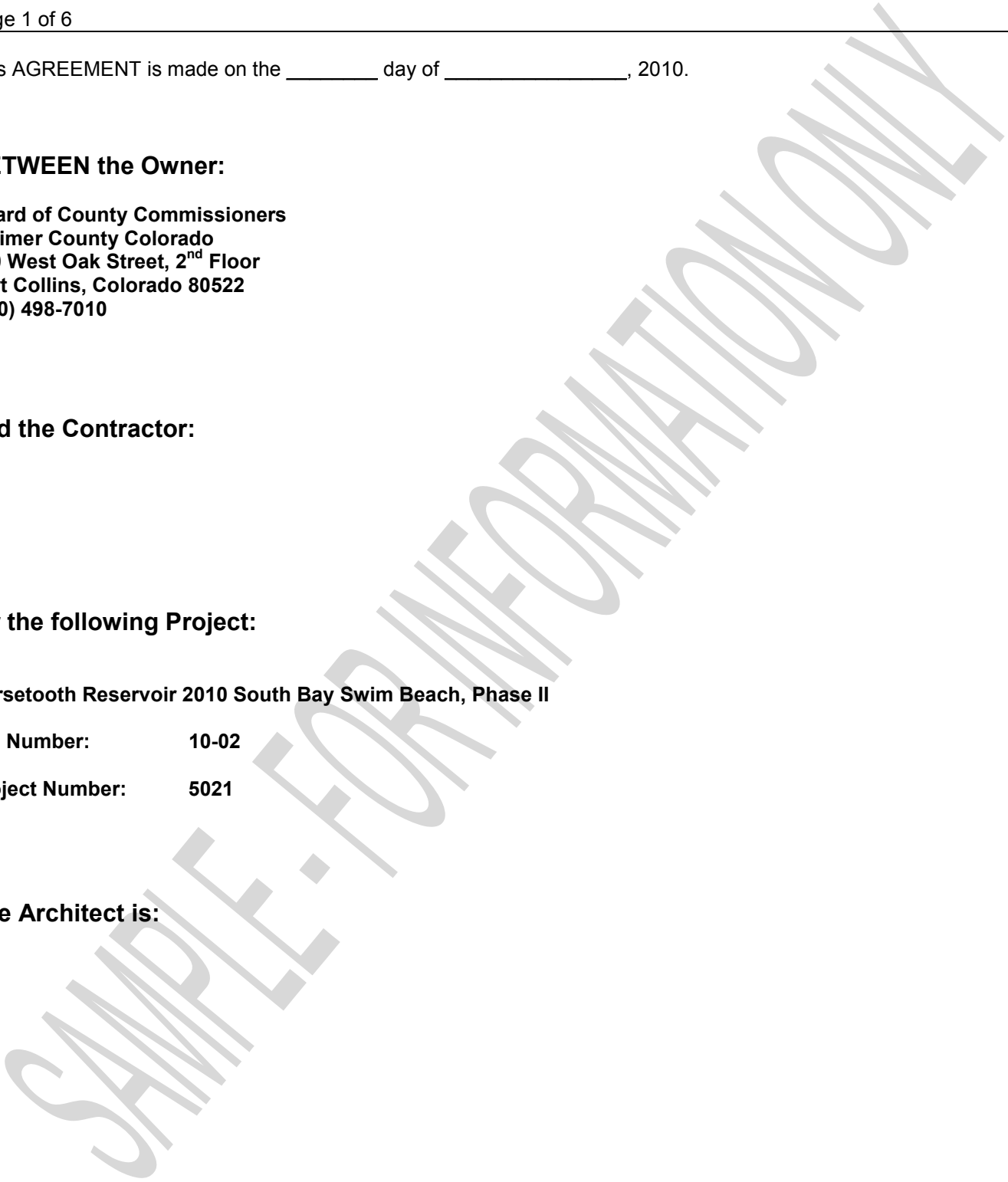
Horsetooth Reservoir 2010 South Bay Swim Beach, Phase II

Bid Number: 10-02

Project Number: 5021

The Architect is:

The Owner and Contractor agree as follows.



ARTICLE 1

THE CONTRACT DOCUMENTS

The Contractor shall complete the Work described in the Contract Documents for the project. The Contract Documents consist of:

- 1) This Agreement signed by the Owner and Contractor;
- 2) Document 205 Document, General Conditions of the Contract for Construction of a Small Project, current edition;
- 3) The Drawings and Specifications prepared by the Architect, dated and enumerated as follows:

Drawings:

LIST OF ALL DRAWINGS AND DRAWING DATE

Specifications:

Titled; _____ "Project Manual", dated; _____

- 4) Addenda prepared by the Architect as follows:
Enter Addenda if Appropriate
- 5) Written change orders or orders for minor changes in the Work issued after execution of this Agreement;
- 6) Other documents, if any, identified as follows:
 - **Payment Bond**
 - **Performance Bond**
 - **Notice to Proceed**
 - **Geotechnical Engineering Report, (TITLED: _____, Dated _____)**

ARTICLE 2

DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION DATE

The date of commencement shall be the date of this Agreement unless otherwise indicated below. The Contractor shall achieve substantial completion of the Work not later than **120 calendar days** from the date of this agreement subject to adjustment by Change Order.

In the event that substantial completion is not achieved within **120 calendar days** from the date of this agreement, liquidated damages in the amount of **\$300 per calendar day** will be assessed until such date that substantial completion is achieved.

Document 105 Standard Form of Agreement Between Owner and Contractor for a Small Project where the basis for payment is a STIPULATED SUM

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ARTICLE 3

PAYMENT

4.1 Based on Contractor's Applications for Payment certified by the Owner's Representative, the Owner shall pay the Contractor as follows:

(Here insert payment procedures and provisions for retainage, if any)

The period covered by each Application for Payment shall be one calendar month ending on the last day of the month. Provided that an Application for Payment is received by the Owners Representative not later than the 10th day of the month, the owner shall make payment to the contractor not later than the 10th day of the following month. If an Application for Payment is received by the Owners Representative after the application date fixed above, payment shall be made by the owner not later than thirty (30) days after the owner receives the Application for Payment.

Each Application for Payment shall be based on the most recent schedule of values submitted by the contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. This schedule unless objected to by the owner, shall be used as a basis for reviewing the Applications for Payment. Applications for Payment shall indicate the percentage of completion of each portion of the work as of the end of the period covered by the Application for Payment.

Retainage shall be held on the amount earned of each Application for Payment as follows:

Retainage will be withheld in the amount of ten percent (10%) of each Application for Payment up to a maximum of five percent (5%) of the original contract amount.

The owner retains the authority to withhold payment for defective or incomplete work.

4.2 Payments due and unpaid under the Contract Documents shall bear interest from the date payment is due at the rate of **Legal Rate** , or in the absence thereof, at the legal rate prevailing at the place of the Project.

(Usury and requirements under the Federal Truth in Lending Act, similar state and local consumer credit laws and other regulations at the Owner's and Contractor's principal places of business, the location of the Project and elsewhere may affect the validity of this provision.)

ARTICLE 5 INSURANCE

5.1 The Contractor shall provide Contractor's Liability and other Insurance as follows:
(Insert specific insurance required by the Owner.)

See Supplemental Conditions

5.2 The Owner shall provide Owner's Liability and Owner's Property insurance as follows:
(Insert specific insurance furnished by the Owner.)

None

Document 105 Standard Form of Agreement Between Owner and Contractor for a Small Project where the basis for payment is a STIPULATED SUM

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5.3 The Contractor shall obtain an endorsement to its general liability insurance policy to cover the Contractor's obligations under Paragraph 3.12 of Document 205, General Conditions of the Contract for Construction of Small Projects.

5.4 Certificates of insurance shall be provided by each party showing their respective coverages prior to commencement of the Work.

ARTICLE 6

OTHER TERMS AND CONDITIONS

(Insert any other terms or conditions below.)

6.1 The Owner's Representative is:

Todd Juergens
Larimer County Engineering Department
Senior Construction Manager
200 West Oak Street, Suite 3000
Fort Collins, Colorado 80522

6.2 The Contractor's Representative is:

This Agreement entered into as of the day and year first written above.
(If required by law, insert cancellation period, disclosures or other warning statements above the signatures.)

OWNER:

Larimer County

Board of County Commissioners
of the County of Larimer

By: _____
Chair

CONTRACTOR:

Contractor name

By: _____
(Please Print Name)

(Signature)

Date: _____

Date: _____

ATTEST:

Deputy County Clerk

ATTEST:

Title

ARTICLE 1 - GENERAL PROVISIONS

1.1 THE CONTRACT

The Contract represents the entire and integrated agreement between the parties and supersedes prior negotiations, representations or agreements, either written or oral. The Contract may be amended or modified only by a written modification.

1.2 THE WORK

The term "Work" means the construction and services required by the Contract Documents, and includes all other labor, materials, equipment and services provided to the Contractor to fulfill the Contractor's obligations.

1.3 INTENT

The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all.

1.4 OWNERSHIP AND USE OF ARCHITECT'S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS

Documents prepared by the Architect are instruments of the Architect's service for use solely with respect to this project. The Architect shall retain all common law, statutory and other reserved rights, including the copyright. They are not to be used by the Contractor or any Subcontractor, Sub-subcontractor or material or equipment supplier for other projects or for additions to this project outside the scope of the work without the specific written consent of the Owner and architect.

ARTICLE 2 – OWNER

2.1 INFORMATION AND SERVICES REQUIRED OF THE OWNER

2.1.1 If requested by the Contractor, the Owner shall furnish and pay for a survey and a legal description of the site.

2.1.2 Except for permits and fees which are the responsibility of the Contractor under the Contract Documents, the Owner shall obtain and pay for other necessary approvals, easements, assessments and charges.

2.2 OWNER'S RIGHT TO STOP THE WORK

If the Contractor fails to correct Work which is not in accordance with the Contract Documents, the Owner may direct the Contractor in writing to stop the Work until the correction is made.

2.3 OWNER'S RIGHT TO CARRY OUT THE WORK

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a seven day period after receipt of written notice from the Owner to correct such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies, correct such deficiencies. In such case, a Change Order shall be issued deducting the cost of correction from payments due the Contractor.

2.4 OWNER'S RIGHT TO PERFORM CONSTRUCTION AND TO AWARD SEPARATE CONTRACTS

2.4.1 The Owner reserves the right to perform construction or operations related to the project with the Owner's own forces, and to award separate contracts in connection with other portions of the project.

2.4.2 The Contractor shall coordinate and cooperate with separate contractors employed by the Owner.

2.4.3 Costs caused by delays or by improperly timed activities or defective construction shall be borne by the party responsible therefore.

ARTICLE 3 – CONTRACTOR

3.1 EXECUTION OF THE CONTRACT

Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become familiar with local conditions under which the Work is to be performed and correlated personal observations with requirements of the Contract Documents.

3.2 REVIEW OF CONTRACT DOCUMENTS AND FIELD CONDITIONS BY CONTRACTOR

The Contractor shall carefully study and compare the Contract Documents with each other and with information furnished by the Owner. Before commencing activities, the Contractor shall: (1) take field measurements and verify field conditions; (2) carefully compare this and other information known to the Contractor with the Contract Documents; and (3) promptly report errors, inconsistencies or omissions discovered to the Architect.

3.3 SUPERVISION AND CONSTRUCTION PROCEDURES

3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work.

3.3.2 The Contractor, as soon as practicable after award of the Contract, shall furnish in writing to the Owner through the Architect the names of subcontractors or suppliers for each portion of the Work. The Architect will promptly reply to the Contractor in writing if the Owner or the Architect, after due investigation, has reasonable objection to the sub-contractors or suppliers listed.

3.4 LABOR AND MATERIALS

3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work.

3.4.2 The Contractor shall deliver, handle, store and install materials in accordance with manufacturers' instructions.

3.5 WARRANTY

The Contractor warrants to the Owner and Architect that: (1) materials and equipment furnished under the Contract will be new and of good quality unless otherwise required or permitted by the Contract Documents; (2) the Work will be free from defects not inherent in the quality required or permitted; and (3) the Work will conform to the requirements of the Contract Documents.

3.6 TAXES

The Contractor shall pay sales, consumer, use and similar taxes that are legally required when the Contract is executed.

3.7 PERMITS, FEES AND NOTICES

3.7.1 The Contractor shall obtain and pay for the building permit and other permits and governmental fees, licenses and inspections necessary for proper execution and completion of the Work.

3.7.2 The Contractor shall comply with and give notices required by agencies having jurisdiction over the Work. If the Contractor performs Work knowing it to be contrary to laws, statutes, ordinances, building codes, and rules and regulations without notice to the Architect and Owner, the Contractor shall assume full responsibility for such Work and shall bear the attributable costs. The Contractor shall promptly notify the Architect in writing of any known inconsistencies in the Contract Documents with such governmental laws, rules and regulations.

3.8 SUBMITTALS

The Contractor shall promptly review, approve in writing and submit to the Architect Shop Drawings, Product Data, Samples and similar submittals required by the Contract Documents. Shop Drawings, Product Data, Samples and similar submittals are not Contract Documents.

3.9 USE OF SITE

The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits, the Contract Documents and the Owner.

3.10 CUTTING AND PATCHING

The Contractor shall be responsible for cutting, fitting or patching required to complete the Work or to make its parts fit together properly.

3.11 CLEANING UP

The Contractor shall keep the premises and surrounding area free from accumulation of debris and trash related to the Work.

3.12 INDEMNIFICATION

To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the Owner, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) including loss of use resulting there from, but only to the extent caused in whole or in part by negligent acts or omissions of the Contractor, a Subcontractor, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, regardless of whether or not such claim, damage, loss or expense is caused in part by a party indemnified hereunder.

ARTICLE 4 - ARCHITECT'S ADMINISTRATION OF THE CONTRACT

4.1 The Architect will provide administration of the Contract as described in the Contract Documents. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

4.2 The Architect will visit the site at intervals appropriate to the stage of construction to become generally familiar with the progress and quality of the Work.

4.3 The Architect will not have control over or charge of and will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the Contractor's responsibility. The Architect will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents.

4.4 Based on the Architect's observations and evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor.

4.5 The Architect will have authority to reject Work that does not conform to the Contract Documents.

4.6 The Architect will promptly review and approve or take appropriate action upon Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

4.7 The Architect will promptly interpret and decide matters concerning performance under and requirements of the Contract Documents on written request of either the Owner or Contractor.

4.8 Interpretations and decisions of the Architect will be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either and will not be liable for results of interpretations or decisions so rendered in good faith.

4.9 The Architect's duties, responsibilities and limits of authority as described in the Contract Documents will not be changed without written consent of the Owner, Contractor and Architect. Consent shall not be unreasonably withheld.

ARTICLE 5 - CHANGES IN THE WORK

5.1 After execution of the Contract, changes in the Work may be accomplished by Change Order or by order for a minor change in the Work. The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

5.2 A Change Order shall be a written order to the Contractor signed by the Owner and Architect to change the Work, Contract Sum or Contract Time.

5.3 The Architect will have authority to order minor changes in the Work not involving changes in the Contract Sum or the Contract Time and not inconsistent with the intent of the Contract Documents. Such changes shall be written orders and shall be binding on the Owner and Contractor. The Contractor shall carry out such written orders promptly.

5.4 If concealed or unknown physical conditions are encountered at the site that differ materially from those indicated in the Contract Documents or from those conditions ordinarily found to exist, the Contract Sum and Contract Time shall be subject to equitable adjustment.

ARTICLE 6 - TIME

6.1 Time limits stated in the Contract Documents are of the essence of the Contract.

6.2 If the Contractor is delayed at any time in progress of the Work by changes ordered in the Work, or by labor disputes, fire, unusual delay in deliveries, unavoidable casualties or other causes beyond the Contractor's control, the Contract Time shall be extended by Change Order for such reasonable time as the Architect may determine.

ARTICLE 7 - PAYMENTS AND COMPLETION

7.1 CONTRACT SUM

The Contract Sum stated in the Agreement, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

7.2 APPLICATIONS FOR PAYMENT

7.2.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment for operations completed in accordance with the values stated in the Agreement. Such application shall be supported by such data substantiating the Contractor's right to payment as the Owner or Architect may reasonably require and reflecting retainage if provided for elsewhere in the Contract Documents.

7.2.2 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information and belief, be free and clear of liens, claims, security interests or other encumbrances adverse to the Owner's interests.

7.3 CERTIFICATES FOR PAYMENT

The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect determines is properly due, or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part.

7.4 PROGRESS PAYMENTS

7.4.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner provided in the Contract Documents.

7.4.2 The Contractor shall promptly pay each Subcontractor and material supplier, upon receipt of payment from the Owner, out of the amount paid to the Contractor on account of such entities' portion of the Work.

7.4.3 Neither the Owner nor the Architect shall have responsibility for the payment of money to a Subcontractor or material supplier.

7.4.4 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the project by the Owner shall not constitute acceptance of Work not in accordance with the requirements of the Contract Documents.

7.5 SUBSTANTIAL COMPLETION

7.5.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

7.5.2 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion which shall establish the date of Substantial Completion, shall establish the responsibilities of the Owner and Contractor, and shall fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents

shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

7.6 FINAL COMPLETION AND FINAL PAYMENT

7.6.1 Upon receipt of a final Application for Payment, the Architect will inspect the Work. When the Architect finds the Work acceptable and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment.

7.6.2 Final payment shall not become due until the Contractor submits to the Architect releases and waivers of liens, and data establishing payment or satisfaction of obligations, such as receipts, claims, security interests or encumbrances arising out of the Contract.

7.6.3 Acceptance of final payment by the Contractor, a Subcontractor or material supplier shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 8 - PROTECTION OF PERSONS AND PROPERTY

8.1 SAFETY PRECAUTIONS AND PROGRAMS

The Contractor shall be responsible for initiating, maintaining and supervising all safety precautions and programs, including all those required by law in connection with performance of the Contract. The Contractor shall promptly remedy damage and loss to property caused in whole or in part by the Contractor, or by anyone for whose acts the Contractor may be liable.

ARTICLE 9 - CORRECTION OF WORK

9.1 The Contractor shall promptly correct Work rejected by the Architect as failing to conform to the requirements of the Contract Documents. The Contractor shall bear the cost of correcting such rejected Work.

9.2 In addition to the Contractor's other obligations including warranties under the Contract, the Contractor shall, for a period of one year after Substantial Completion, correct work not con-forming to the requirements of the Contract Documents.

9.3 If the Contractor fails to correct nonconforming Work within a reasonable time, the Owner may correct it and the Contractor shall reimburse the Owner for the cost of correction.

ARTICLE 10 - MISCELLANEOUS PROVISIONS

10.1 ASSIGNMENT OF CONTRACT

Neither party to the Contract shall assign the Contract as a whole without written consent of the other.

10.2 TESTS AND INSPECTIONS

10.2.1 Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having jurisdiction shall be made at an appropriate time.

10.2.2 If the Architect requires additional testing, the Contractor shall perform these tests.

10.2.3 The Owner shall pay for tests except for testing Work found to be defective for which the Contractor shall pay.

10.3 GOVERNING LAW

The Contract shall be governed by the law of the place where the project is located.

ARTICLE 11 - TERMINATION OF THE CONTRACT

11.1 TERMINATION BY THE CONTRACTOR

If the Owner fails to make payment when due or substantially breaches any other obligation of this Contract, following seven days' written notice to the Owner, the Contractor may terminate the Contract and recover from the Owner payment for Work executed and for proven loss with respect to materials, equipment, tools, construction equipment and machinery, including reasonable overhead, profit and damages.

11.2 TERMINATION BY THE OWNER

11.2.1 The Owner may terminate the Contract if the Contractor:

- .1 persistently or repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors for materials or labor in accordance with the respective agreements between the Contractor and the Subcontractors;
- .3 persistently disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction; or
- .4 is otherwise guilty of substantial breach of a provision of the Contract Documents.

11.2.2 When any of the above reasons exist, the Owner, after consultation with the Architect, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days, written notice, terminate employment of the Contractor and may.

- .1 take possession of the site and of all materials thereon owned by the Contractor;
- .2 finish the Work by whatever reasonable method the Owner may deem expedient.

11.2.3 When the Owner terminates the Contract for one of the reasons stated in Subparagraph 11.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

11.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance, the Contractor shall pay the difference to the Owner. This obligation for payment shall survive termination of the Contract.

**SUPPLEMENT TO GENERAL CONDITIONS OF THE CONTRACT
FOR CONSTRUCTION LARIMER COUNTY COLORADO**

Article 2.5 is added as follows:

2.5.1. The Owner is Larimer County Colorado, identified as such in the Contract and is referred to throughout the Contract Documents as "Owner" or as the "County" as if singular in number and masculine in gender. The terms "Owner", "Owners Representative" or "County" shall include the Owner's Project Manager who shall have the authority to act for the Owner on the Project.

2.5.2. Owner represents that the amount of money appropriated for this project is equal to or in excess of the contract amount. No change order shall be executed which increases the amount payable under the Contract without funds being appropriated therefore, or the Contractor has otherwise been given written assurances that lawful appropriations to cover the extra costs have been made.

3.5 Article 3.5 is deleted in its entirety and replaced with the following:

CONTRACTOR'S WARRANTIES AND CORRECTION OF WORK

3.5.1 The Contractor warrants that all parts, materials, components, equipment and other items used to perform the Work shall be new (unless otherwise specified) and suitable for the purpose used and will be of good quality, free from faults and defects and all Work will be free from defects and in conformance with the Contract Documents. The Contractor also warrants that its workers will be sufficiently skilled to produce the highest quality of work, which is free from faults and defects. Work not so conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor shall, when requested, furnish the Owner with satisfactory evidence as to the kind and quality of materials and equipment. The Contractor further warrants that the construction processes and methods employed to perform the work shall be suitable for the results required and expected. If the Contractor proposes to use an unproved and untried method, process or product, the Architect must be advised of the proposal in writing for purposes of discussion with the Owner. The Owner may permit experimentation, but may require special guarantees of the Contractor to cover the work produced by any new and untried process, method or product.

3.5.2 The Contractor further warrants that it has full title to all equipment, components and other items conveyed to the Owner under the terms of this Contract, that its transfer of such title to the Owner is rightful and that all such equipment, components and other items shall be transferred free and clear from all security interest, liens or encumbrances whatsoever. The Contractor agrees to warrant and defend such title against all persons claiming the whole or any part thereof at no cost to the Owner.

3.5.3 The Contractor shall promptly repair, replace or otherwise correct any of its workmanship and any parts, materials, components, equipment or other items in the work which contain faults or defects, whether such failures are observed by the Owner, Architect or Contractor before or after Final Completion. The Contractor shall bear all costs of correcting such work covered by the warranties.

3.5.4 The Contractor shall further warrant, and the Subcontractors and Sub-subcontractors shall and hereby warrant that all Work executed under this contract shall be free from defects of materials and workmanship for a period of one (1) year from the date of Final Completion, except items of Work completed after date of Final Completion shall run from the date of final payment to the Contractor for their guarantee period. This warranty is a remedy available to the Owner in addition to claims the Owner may have arising out of Work or materials found to be non-complying, out of specification or otherwise in breach of this Contract no matter when discovered. The above parties further agree they will, at their own expense, repair and replace all such defective work and all other work damaged thereby which become defective during the term of the Guarantee Warranty. Whenever guarantees or warranties are required by the Specifications for a longer period than one (1) year, such period shall govern. Owner shall have the full benefit of longer warranties provided by particular Subcontractors or other suppliers.

Upon discovery of any warranty defect or defects under Article 3.5.4, the Owner shall give written notice thereof to the Contractor. If, within ten (10) days after the mailing of such written notice by the Owner to the Contractor or its agent, requesting such repairs or replacement, the Contractor shall neglect to make, or undertake with due diligence to make the same, the Owner may make such repairs at the Contractor's expense; provided, however, that in the case of emergency and within the judgment of the Owner, delay would cause certain loss or damage, repairs or replacement may be made without notice being given to the Contractor, and the Contractor shall pay the cost thereof.

The checking or cracking of walls, floors or ceilings, except hairline cracks from concrete shrinking which are cosmetic only, and the chipping or flaking of paint shall, during the first year after acceptance of the building, be deemed to be a defect covered by this guarantee without proof of use of inferior materials, equipment or workmanship. Such defects shall not, in and if themselves, cause a duty to investigate for structural defects.

- 3.5.5** Nothing herein shall be construed to establish a period of limitation with respect to any other obligation, which the Contractor might have under the Contract Documents. The establishment of the warranty periods set forth in Article 3.5.4 relates only to the specific obligations of the Contractor to correct known defects in the work, and has no relationship to the time within which its obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to its obligations and resulting damages other than specifically to correct known defects in the work which are discovered and called to the Contractor's attention during the warranty period.
- 3.5.6** The Contractor at its own expense shall also repair or replace any damages to any equipment, facilities or other personal or real property owned or leased by the Owner which is damaged as a result of any such fault or defect, at no cost to the Owner.
- 3.5.7** All subcontractors', manufacturers' and suppliers' warranties and guarantees, expressed or implied, for any part of the work and any materials used therein, shall be obtained and enforced by the Contractor for the benefit of the Owner whether or not these warranties have been assigned or otherwise transferred to the Owner. The Contractor shall assign or transfer such warranties and guarantees to the Owner if the Owner requests the Contractor to do so, but such transfer shall not affect the Contractor's obligation to enforce such warranties and guarantees.
- 3.5.8** Remedies for breach of warranty are cumulative and in addition to any other remedy Owner may have for defective Work or Work not in compliance with the contract documents.

Article 3.6. is deleted in its entirety and replaced with the following:

All Contractors and Subcontractors performing work on the Project shall apply to the State of Colorado Department of Revenue for a Tax Exemption Certificate. All Contractors are to have their own tax exemption number to cover the purchase of materials provided to this job. Contractors and Subcontractors shall apply for the Tax Exemption Certificate using Form DR172 (Rev. 6/79). This form may be obtained from the State of Colorado Department of Revenue. Contractors and Subcontractors shall submit their Tax Exemption Certificate numbers to the Owner prior to beginning any work. The Contract shall be exclusive of state, county and municipal sales and use taxes.

Article 4.0 is added as follows:

For the purposes of Article 4 the term "Architect" shall mean "Owner"

Article 5.5 is added as follows:

The written Contractor's Notice of Intent to Claim for additional compensation shall be clearly titled as such and all Notices shall be numbered sequentially. The Notice shall contain the following:

- a. Date of the event giving rise to the claim.
- b. A description of the claim.
- c. The reasons why the Contractor believes additional compensation or time is due or charges were wrongly assessed.
- d. An estimate of any additional costs associated with the claim.

- e. Contractor's plan for mitigating costs or delays associated with the claim.
- f. Such other information as the Architect or Owner may deem necessary to resolve the claim.
- g. The Contractor's certification that:
 - (1) The claim is made in good faith;
 - (2) All supporting data are accurate and complete to the best of the Contractor's knowledge and belief;
 - (3) The amount requested is not overstated or inflated and fairly and accurately reflects that Contract adjustment for which the Contractor believes the Owner is liable; and
 - (4) The prices stated for material and equipment are the lowest reasonably available to the Contractor and include all available discounts.

The Notice of Intent to Claim described above shall be given ten (10) days after (1) denial of any request for a change in the Contract Amount or Contract Time contained in a Contractor Change Request, (2) issuance of a Change Directive with which the Contractor disagrees, (3) receipt of written notice from the Owner that the Owner intends to assess liquidated damages or other charges against the Contractor, or (4) the occurrence of any other event or events giving rise to the claim.

Article 7.0 is added as follows:

For the purposes of Article 7 the term "Architect" shall mean "Owner"

Article 7.4.5. is added as follows:

Before the first Application for Payment, the Contractor shall submit to the Architect and the Owner a schedule of values allocated to various portions of the Work, prepared in such form and supported by such data to substantiate its accuracy as the Architect and Owner require. This schedule must be realistic, and unless objected to by the Architect or the Owner shall be used as a basis for reviewing the Contractor's applications for payment. No payments will be made under this Contract until the Owner and Architect agree to the schedule of values.

Article 7.4.6 is added as follows:

From each progress payment, Owner shall withhold ten per-cent of the amount of the payment until fifty-percent of the Work has been completed, thereafter there shall be no retainage. Nothing shall prevent the Owner from withholding all or a portion of any progress payment for defective or non-complying work or if additionally satisfactory progress is not made toward completing the Work.

Article 7.6 is deleted and replaced as follows:

7.6 FINAL COMPLETION AND FINAL PAYMENT

7.6.1 "Final Completion" of the work occurs following Substantial Completion and when the Architect confirms, in writing, that the Contractor has completed the work in accordance with the Contract, including completion of all punch lists and cleanup work. Upon receipt of written notice that the work is ready for final review and acceptance, and upon receipt of a final Application for Payment, the Owner and the Architect will promptly review the completed work and, if they find the work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of his knowledge, information and belief, and on the basis of his observations, the work has been completed in accordance with the terms and conditions of the Contract Documents and that the entire balance found to be due the Contractor, and noted in said final Certificate of Payment, is due and payable. The Architect's final certificate for Payment will constitute a further representation that the conditions precedent to the Contractor's being entitled to final payment as set forth in Paragraph 7.6.8 have been fulfilled.

7.6.2 The work shall be advertised in accordance with C.R.S. § 38-26-107, by two (2) publications of notice, the last publication appearing at least ten (10) days prior to the time of final settlement. On the date of final settlement thus advertised, and after the Contractor has completed the foregoing requirements, and the Owner is satisfied that no claims have been filed, final payment and settlement shall be made.

7.6.3 If any unpaid claim for labor, materials, rental, machinery, tools, supplies or equipment is filed prior to the date set for final settlement, the Owner shall withhold from the Contractor sufficient funds to ensure the payment of such claim,

until the same shall have been paid or withdrawn, such payment or withdrawal to be evidenced by filing a receipt in full or an order for withdrawal signed by the claimant or its duly authorized agent or assignee. If it is further understood by the Contractor that the Owner will withhold from payment any funds it may be required by law to withhold or that it may, in the determination of the Owner, be entitled to withhold for any reason including incomplete, unperformed or noncompliant work, and final payment will not be made until, in the sole determination of the Owner, all conditions of law have been met.

- 7.6.4** In the event there are, at the time set for final settlement, outstanding claims against the Contractor or its subcontractors, or for any other reason the Contractor is not able to give a proper affidavit that liens or other obligations have been properly paid and settled, the Owner may, at its sole discretion, waive the requirement of the said affidavit, provided the surety on the Performance and Payment Bonds will agree to the Owner making final settlement without in any way lessening or modifying the surety's liability under such Performance and Payment Bonds.
- 7.6.5** Neither the final payment nor the remaining retained percentage shall become due until the Contractor submits to the Owner and the Architect (1) an affidavit that all payrolls, bills for materials and equipment, and other indebtedness connected with the work for which the Owner or his property might in any way be responsible, have been paid or otherwise satisfied, (2) Consent of Surety to final payment, and (3) if required by the Owner, other data establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of liens or verified claims arising out of the Contract, to the extent and in such form as may be designated by the Owner. If any such lien or claim remains unsatisfied after all payments to Contractor are made, the Contractor shall refund to the Owner all monies that the Owner may be compelled to pay in discharging such lien or claim, including all costs and reasonable attorney fees.
- 7.6.6** If, after Substantial Completion of the work, final completion thereof is materially delayed through no fault of the Contractor or by the issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner may, upon application by the Contractor and certification by the Architect, subject to applicable statutory provisions and such other terms as it deems reasonable and necessary, and without terminating the Contract, make payment of the balance due for that portion of the work fully completed and accepted. Such payment shall be made under the terms and conditions governing final payment, except that it shall not constitute a waiver of claims under Paragraph 7.6.7.
- 7.6.7** The making of final payment shall constitute a waiver of all claims by the Owner except those arising from:
- (a) Unsettled liens or verified claims;
 - (b) Faulty or defective work;
 - (c) Failure of the work to comply with the requirements of the Contract Documents, including the terms of any general or special warranties required by, or included in, the Contract Documents; or
 - (d) Incomplete work appearing or discovered after Substantial Completion.
- 7.6.8** The acceptance of final payment shall constitute a waiver of all claims by the Contractor except those previously made in writing and identified by the contractor as unsettled at the time of the final Application for Payment.

Article 12 added as follows:

- 12.1** As a condition precedent to and as an additional consideration for the award of any Contract or Subcontract pursuant to these Contract Documents, the Contractor, all Subcontractors and Sub-subcontractors, suppliers and other parties to the performance of the work required by these Contract Documents do agree that in event any party institutes a suit against any other party because of any alleged failure to perform properly hereunder, or any alleged error, omission, breach of warranty, negligence or malpractice hereunder; and if such suit is not successfully prosecuted to a judgment in favor of the party plaintiff, or if it is dismissed, or if judgment is rendered for any defendant or defendants, the party instituting the suit hereby agrees to pay in full all actual costs of defense, including but not limited to, attorney fees, expert witness fees, costs of investigations in preparation for trial, and professional time expended by principals and employees of the prevailing party, and that the same shall be taxed as costs in said action and judgment entered thereon. This section does not apply to suits by or against the owner.
- 12.2** Unless otherwise agreed in writing, the Contractor shall carry on the Work and maintain its progress during any litigation. The Owner shall continue to make payments to the Contractor in accordance with the Contract

Documents, unless the Owner, in good faith, believes the monies are not owing or are subject to set off or adjustments.

- 12.3 In the event of material breach by the Contractor of any provisions of the Contract Documents, the Owner may, in addition to all other legal and equitable remedies available to it, recover from the Contractor all costs and reasonable attorney fees which the Owner may incur as a result of such breach or in the enforcement of the Contract Documents.
- 12.4 In like manner, in the event the Contractor sues the Owner for nonpayment, the Contractor may, in addition to all other legal and equitable remedies available to it, recover from the Owner all costs and reasonable attorney fees which the Contractor may incur as a result of such nonpayment. This clause shall not apply to Owner's nonpayment resulting from a reasonable belief of Contractor breach.
- 12.5 All actions shall be tried in the County courts in Larimer County, Colorado.
- 12.6 Nothing shall prohibit the parties from mutually agreeing to arbitration.

Article 13 is added as follows:

ARTICLE 13
INSURANCE AND BONDS

Prior to commencement of any work, contractor shall forward Certificates of Insurance to Larimer County, c/o Purchasing, 2555 Midpoint Dr. #B, Fort Collins, Colorado 80525. The insurance required shall be procured and maintained in full force and effect for the duration of the Contract and shall be written for not less than the following amounts, or greater if required by law, with insurance companies acceptable to the County. Contractor shall not permit Subcontractors to commence work until insurance has been obtained and accepted. Certificate Holder should be Larimer County at the above address.

ANY DEVIATIONS FROM THE STANDARDS GIVEN BELOW MUST BE APPROVED BY THE OWNER

13.1 Insurance

I. Workers' Compensation and Employers' Liability

- | | | |
|----|-----------------------|--|
| A. | State of Colorado: | Statutory |
| B. | Applicable Federal: | Statutory |
| C. | Employer's Liability: | \$100,000 Each Accident
\$500,000 Disease-Policy Limit
\$100,000 Disease-Each Employee |

D. **Waiver of Subrogation**

II. Commercial General Liability on an Occurrence Form including the following coverages: Premises Operations; Products and Completed Operations; Personal and Advertising Injury; Medical Payments; Contractual Liability; Independent Contractors; and Broad Form Property Damage. Coverage provided should be at least as broad as found in Insurance Services Office (ISO) form CG0001. Minimum limits to be as follows:

- | | | |
|----|---|-------------|
| A. | Bodily Injury & Property Damage General Aggregate Limit | \$1,000,000 |
| B. | Products & Completed Operations Aggregate Limit | \$1,000,000 |
| C. | Personal & Advertising Injury Limit | \$1,000,000 |
| D. | Each Occurrence Limit | \$1,000,000 |

Other General Liability Conditions:

1. Products and Completed Operations to be maintained for one year after final payment. Contractor shall continue to provide evidence of such coverage to the County on an annual basis during the aforementioned period (as appropriate).
2. **Contractor agrees that the insurance afforded the County is primary.**
3. If coverage is to be provided on Claims Made forms, contractor must refer policy to Risk Management Department for approval and additional requirements.

Article 14 is added as follows

- 14.1** The Statute of Limitation period shall commence upon such time as the cause of action accrues under Colorado law or upon the date of Final Completion, whichever is later. In the event of termination of the Contract prior to Final Completion, the Commencement date shall be as of the time the cause of action accrues under Colorado Law or the date of termination of the Contract, whichever is later.
- 14.2** Nothing in this contract shall be deemed a waiver of the provisions of the Colorado Governmental Immunity Act.
- 14.3** In the event the surety on the Contractor's bond becomes irresponsible or insolvent or ceases to be qualified to do business within the State of Colorado, then the Contractor shall promptly submit a new performance and payment bond by competent and qualified corporate surety in the same amount and form as that theretofore given.
- 14.4** Inspection by the Owner or any other person acting in the Owner's behalf; any order by the Owner for the payment of monies; any payment for or acceptance of any work, any extension of time, or any possession taken by Owner, shall not operate as a waiver of any provision of the Contract or any power therein reserved to the Owner or any right to damages herein provided. No waiver of any breach of the Contract shall be held to constitute a waiver of any other or subsequent breach thereof.
- 14.5** Contractor shall indemnify and hold Owner harmless from any claim, whether covered by insurance or not, resulting from any activity of the Contractor in performing the Work, unless a contrary agreement is specifically stated herein.
- 14.6** Owner and Architect, at all reasonable times shall have access to Contractor's project records, including, bid estimates, payment records, payroll records, job meeting minutes, daily reports, logs and diaries.

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS, that _____
_____, of the County of _____, State of _____,
as principal, and _____
of _____, State of _____, as surety, are
held and firmly bound unto the County of Larimer, in the penal sum of _____
_____, (\$ _____),
with interest thereon at the rate of eight percent (8%) per annum until paid, in good and lawful money of the
United States of America, for the payment of which sum well and truly to be made, principal and surety bind
ourselves, our heirs, administrators, executors, successors, and assigns, jointly and severally, firmly by these
presents.

WITNESS our hands and seals this _____ day of _____, A.D. 2010.

The conditions of the foregoing obligation are such that whereas, on the date hereof, the
said principal entered into a written contract with the County of Larimer for the construction of Bid No. 10-02,
Project No. 5021 consisting of Horsetooth Reservoir 2010 South Bay Swim Beach Project Phase II
, in the State of Colorado; said construction work to be done according to the requirements of said contract.

NOW THEREFORE, if the said principal shall at all times duly and faithfully promptly make payments in
all amounts lawfully due to all persons supplying or furnishing him or his subcontractors with labor or materials
used or performed in the prosecution of the work provided for in such contract, then this bond will be null and
void, otherwise the principal and surety will indemnify and save harmless the County to the extent of any
payments in connection with the carrying out of any such contracts which the County may be required to make
under the law.

Larimer County shall be under no obligation, except as expressly provided by statute, to withhold any
sums due the said principal under the terms of this contract, or to protect in any other way the surety or
sureties, claimants or others.

No representation or statement of the principal made to the surety or sureties in application for this
bond, or otherwise, shall be read into or be a part of this bond or binding in any way on the obligee herein.

No assignment by principal to surety of the proceeds of such contract shall be binding, except as to any
net surplus after paying all claims chargeable by law or by said contract, against the proceeds thereof.

No extension of time of performance of said contract or delay in the completion of the work thereunder
shall invalidate this bond or release the liability of the surety thereunder.

This agreement shall not be deemed valid until it shall have been accepted by the Chair, Larimer
County Board of Commissioners, or such assistant as he or she may designate.

IN WITNESS WHEREOF, we have hereunto set our hands and seals at _____
_____, Colorado, the day and date written above.

_____(SEAL)
Signature of Principal

_____(SEAL)
Signature of Principal

_____(SEAL)
Signature of Surety

_____(SEAL)
Signature of Surety

SAMPLE-FOR-INFORMATION-ONLY

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that we _____, of the County of _____ State of _____, as principal, and _____ of _____ State of _____, as surety, are held and firmly bound unto the County of Larimer, in the penal sum of _____ (\$_____) with interest thereon at the rate of eight percent (8%) per annum until paid, in good and lawful money of the United States of America, for the payment of which sum well and truly to be made, principal and surety bind ourselves, our heirs, administrators, executors, successors, and assigns, jointly and severally, firmly by these presents.

WITNESS our hands and seals this _____ day of _____, A.D. 2010.

The conditions of the foregoing obligation are such that whereas, on the date hereof, the said principal entered into a written contract with the County of Larimer for the construction of Bid No. 10-02, Project No. 5021, consisting of Horsetooth Reservoir 2010 South Bay Swim Beach Project Phase II. In the State of Colorado; said construction work to be done according to the requirements of said contract.

NOW, THEREFORE, if the said principal shall at all times duly and faithfully discharge its, his or their duties under said contract, and shall duly and faithfully perform all the obligations thereof, and shall and will indemnify and save harmless the County of Larimer, and all persons as provided by the Statutes of the State of Colorado, from any and all damages or loss which the County of Larimer or any persons as provided by the Statutes of the State of Colorado may or shall suffer by reason of the default of the principal or anyone acting for it as subcontractor or otherwise in the performance of this contract, or by reason of any failure on the part of said principal, its agents, servants, or employees, subcontractor or subcontractors, or any of them, in the performance of said contract or any portion thereof, and if the said principal, its subcontractor or subcontractors, and each and all of them, shall duly pay for all labor, materials, and other supplies used or consumed in the performance of the work contracted to be done or any part thereof, then this obligation shall be void; otherwise it shall remain in full force and effect.

Larimer County shall be under no obligation, except as expressly provided by statute, to withhold any sums due the principal under the terms of this contract, or to protect in any other way the surety or sureties, claimants or others.

No representation or statement of the principal made to the surety or sureties in application for this bond, or otherwise, shall be read into or be a part of this bond or binding in any way on the obligee herein.

No assignment by principal to surety of the proceeds of such contract shall be binding, except as to any net surplus after paying all claims chargeable by law or by said contract, against the proceeds thereof.

No extension of time of performance of said contract or delay in the completion of the work thereunder shall invalidate this bond or release the liability of the surety thereunder.

This agreement shall not be deemed valid until it shall have been approved by the Chair, Larimer County Board of Commissioners, or such assistant as he or she may designate.

IN WITNESS WHEREOF, we have hereunto set our hands and seals at _____,
Colorado, the day and date written above.

Signature of Principal (SEAL)

Signature of Principal (SEAL)

Signature of Surety (SEAL)

Signature of Surety (SEAL)

SAMPLE-FOR-INFORMATION-ONLY