



**PROJECT DOCUMENTS**

**2018 CONCRETE REHAB - ADA IMPROVEMENTS  
PROJECT #S-PM-03-18  
ITB-18-03  
2018**

Prepared by:  
DEPARTMENT OF PUBLIC WORKS  
ENGINEERING DIVISION

CITY OF WHEAT RIDGE  
7500 W. 29TH AVENUE  
WHEAT RIDGE, CO 80033  
(303) 235-2861 Engineering  
(303) 235-2857 (FAX)

The engineering material and data contained in these Project Documents were prepared under the supervision and direction of Russell Higgins, PE, Field Services Supervisor.

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**CITY OF WHEAT RIDGE  
SOLICITATION # ITB-18-03**

**BID DUE DATE: TUESDAY, MARCH 6, 2018 BY 1:00 PM OUR CLOCK**

**2018 CONCRETE REHAB - ADA IMPROVEMENTS  
PROJECT #S-PM-03-18**

**SEALED BIDS MUST BE MAILED OR DELIVERED TO:**

City of Wheat Ridge Municipal Building  
Attention: Jennifer Nellis, CPPB  
7500 West 29<sup>th</sup> Avenue, Purchasing & Contracting Division  
Wheat Ridge, CO 80033  
303-235-2811

**IMPORTANT: PLEASE READ ENTIRE DOCUMENT**  
Per the attached specifications, terms and conditions.

FEIN/SSN (Required) \_\_\_\_\_  
Federal I.D. Number \_\_\_\_\_

COMPANY NAME \_\_\_\_\_

ADDRESS \_\_\_\_\_

CITY/STATE/ZIP \_\_\_\_\_

PHONE \_\_\_\_\_ EMAIL \_\_\_\_\_

TYPED/PRINTED NAME \_\_\_\_\_

AUTHORIZED SIGNATURE \_\_\_\_\_  
This is required. Must be in ink.

TITLE \_\_\_\_\_

ACKNOWLEDGE ADDENDAS, MUST INITIAL \_\_\_\_\_ NUMBER OF ADDENDA \_\_\_\_\_  
(Bidder is responsible for following up on all addendums)

DO YOU ACCEPT VISA FOR PAYMENT? IT IS THE PREFERRED METHOD \_\_\_\_\_

Do not contact the requesting department or members of the evaluation committee.

Signature acknowledges that Bidder: has read the bid documents thoroughly before submitting a bid, will fulfill the obligations in accordance to the scope of work or specifications, terms, and conditions, and is submitting without collusion with any other individual or firm. Do not submit more than one bid from your firm or both bids will be disqualified. Submit bid with authorized signature.

**Point of Contact:** Jennifer Nellis, Purchasing Agent, [jnellis@ci.wheatridge.co.us](mailto:jnellis@ci.wheatridge.co.us) or fax 303-234-5924

*Bidder must complete and SUBMIT this form with bid/proposal or will be considered Non-Responsive and/or Non-Responsible and therefore disqualified from bidding.*

**INVITATION TO BID**  
**ITB-18-03**  
**2018 CONCRETE REHAB - ADA IMPROVEMENTS**  
**CITY OF WHEAT RIDGE**

**Bid Due Date:** Tuesday, March 6, 2018 by 1:00 pm our clock. Public Opening: City Hall, 7500 W. 29<sup>th</sup> Avenue, Wheat Ridge, CO.

**Project Number:** Project # S-PM-03-18

**Scope of Work:** Provide all labor, equipment and materials for the 2018 ADA Facilities Improvements / Concrete Rehabilitation. Approximate quantities include: 670 SY 10" concrete, 500 LF 5'3" sidewalk, 360 SY 4" concrete sidewalk R&R, 50 SY 6" concrete sidewalk R&R, 42 ADA ramps, 1500 LF of curb and gutter, and 100 SY of HMA patching. Cost Range is \$275,000 to \$325,000. Anticipated start date is April 2018. Completion time is 45 working days. A pre-bid conference will not be held for this project.

**Deadline for Questions:** February 22, 2018 by noon. Submit questions by email to [jnellis@ci.wheatridge.co.us](mailto:jnellis@ci.wheatridge.co.us).

**Contractor Qualification:** Bidder must complete and submit the Contractor Qualification Form provided with the bid document. Failure to complete this form and submit with bid may result in the disqualification of the contractor. The City's acceptance of this bid shall be based on information provided by the contractor in this form. Bid amount and qualifications are evaluated subsequent to bid opening to determine the successful bidder. The City does not pre-qualify contractors. On federally funded projects, Contractor cannot be banned or debarred, per current sam.gov information at [www.sam.gov](http://www.sam.gov).

**Disadvantaged Businesses:** Disadvantaged business enterprises are afforded full opportunity to submit bids and will not be discriminated against on the grounds of race, color or national origin in consideration for an award.

**Illegal Alien Compliance:** Contractors shall comply with the amended provisions of CRS 8-17.5-101 regarding employment of illegal aliens to perform on public contracts.

**Bid Bond:** A 5% bid bond is required to be submitted with the bid. Payment and performance bonds for 100% of the contract price and insurance will be required for the successful bidder.

**Submit Sealed Bids to:** City of Wheat Ridge Municipal Building  
Attn: Jennifer Nellis, CPPB  
7500 W 29<sup>th</sup> Avenue, Purchasing Division  
Wheat Ridge, CO 80033

**Mark Sealed Envelopes:** ITB-18-03-03, 2018 CONCRETE REHAB - ADA IMPROVEMENTS

**Comments:** All bids will be validated. No bids will be accepted after the bid due time. Bids received after the bid opening time will be filed unopened. The City of Wheat Ridge reserves the right to reject any and all bids or any part and to waive any formalities or informalities to make an award in the best interest of the City.

**Bid Documents:** Available on the Rocky Mountain E-Purchasing System (a division of BidNet) at [www.rockymountainbidsystem.com](http://www.rockymountainbidsystem.com) (800-835-4603 option #2) and the City website at [www.ci.wheatridge.co.us](http://www.ci.wheatridge.co.us). Visit the City website for bid tab sheets and project updates.

**Point of Contact:** Jennifer Nellis, Purchasing Agent, [jnellis@ci.wheatridge.co.us](mailto:jnellis@ci.wheatridge.co.us) or fax 303-234-5924 or phone 303-235-2811. Do not contact the requesting department.

**Daily Journal:** February 12 and 20, 2018

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Jennifer Nellis, Purchasing Agent

**City and RMEPS Websites:** February 12, 2018

## INFORMATION FOR BIDDERS

### 1.0 BID SUBMISSION REQUIREMENTS

#### 1.1 Sealed Bids for **ITB-18-03, 2018 CONCRETE REHAB - ADA IMPROVEMENTS PROJECT #S-PM-03-18**

will be received by the City of Wheat Ridge, Office of the Purchasing Agent, 7500 W. 29th Avenue, Wheat Ridge, CO 80033, as stated in the Advertisement. Bid opening date is set for Tuesday, March 6, 2018 by 1:00 pm our clock at which time bids will be publicly opened and read aloud.

Questions about this bid shall be referred to Jennifer Nellis, Purchasing Agent, 303- 235-2811, or by fax 303-234-5924 or by email [jnellis@ci.wheatridge.co.us](mailto:jnellis@ci.wheatridge.co.us)

#### 1.2 Bid Documents: available on the Rocky Mountain E-Purchasing System (a division of BidNet) at [www.rockymountainbidsystem.com](http://www.rockymountainbidsystem.com) (800-835-4603 option #2) and the City website at [www.ci.wheatridge.co.us](http://www.ci.wheatridge.co.us). Limited hard copies are available in the Purchasing Office for a non-refundable and no returnable cost of \$25.00. Cash or check only.

The City does not assume any responsibility for errors or misinterpretations resulting from the use of incomplete sets of bidding documents.

The City in making copies of the bidding documents available on the terms in this Project Manual does so only for the purpose of obtaining bids on the Work and does not confer a license of grant for use.

#### 1.3 Two (2) copies of the Project Document/Proposal must be submitted and signed. Single copies of the original bid bond will be accepted. All blank spaces for prices must be filled in, in ink or typewritten, and the Proposal Form must be fully completed and executed when submitted. In the case of discrepancies, the unit price shall govern the extension and subsequent total. No alteration in bid prices by erasures, deletions or strike-outs, will be acceptable unless each alteration is signed or initialed by the Bidder. A conditional or qualified Bid will not be accepted.

The Project Documents contain an affidavit certifying that the Bidder has not participated in any collusion or taken any action in restraint of free competitive bidding. This form must be signed and submitted with the Bid.

Names of all subcontractors and the amounts of their subcontract work shall be provided on the List of Subcontractors, as provided in this bid. If none, state "none".

#### 1.4 Bids may be mailed or delivered in person, but must be in a sealed envelope. The envelope should bear on the outside the name of the project for which the Bid is submitted. No bids will be accepted after the date and time established above, except by written addendum.

#### 1.5 Each Bid must be accompanied by a Bid Bond payable to the City for five percent (5%) of the total amount of the Bid. A certified check or cashier's check payable to the City of Wheat Ridge may be used in lieu of a Bid Bond. Securities may not be substituted for Bid Bonds.

Attorneys-in-Fact who sign Bid Bonds must file with each Bond a certified and effective dated copy of their Power of Attorney.

Surety companies executing bid and performance bonds must appear on the Treasury Departments most current list (Circular 570 as amended) and be authorized to transact business in the State of Colorado.

#### 1.6 A bidder may withdraw or revise a proposal after it has been deposited with the City. Withdrawal of bids may be made either in writing or in person; however, any bid withdrawn for purpose of revision must be re-deposited with the City before the time set for opening of bids. Bids may not be withdrawn after the time set for opening of bids.

#### 1.7 The City assumes no responsibility for late deliveries of mail on behalf of the United States Post Office. Only sealed bids received by the Purchasing Department will be accepted. Bids submitted by telephone, facsimile machine, or by other electronic means are not acceptable.

In the event of a situation severe enough to cause the City Council to close its offices for any reason, the Purchasing Agent has the prerogative of rescheduling the bid opening time and date. No bidder will be considered above all other bidders by having met the bid opening time and date requirements to the exclusion of those who were unable to present their bid due to the closing of City offices.

#### 1.8 Issuance of this Request for Bid does not commit The City of Wheat Ridge to award any contract or to procure or contract for any equipment, materials, or services. The City further reserves the right to waive informalities or irregularities, and the right to accept or reject any and all bids, including but not limited to, any

bid which does not meet bonding requirements, or bids which do not furnish the quality, or offer the availability of materials, equipment or services as required by the specifications, description or scope of services, or bids from bidders who lack experience or financial responsibility, or bids which are not to form, or to award bids to the lowest and most responsive and responsible bidder, or to require new bids.

No award will be made to any person, firm, or corporation that is in arrears upon any obligation to the City.

1.9 The City of Wheat Ridge is exempt from City, County, State and Federal Sales/Excise Taxes. Certificates will be issued upon request.

## 2.0 BID DOCUMENTS

2.1 The Contract Documents consist of the Contract Bid Documents including construction specifications, if any. The Contract Bid Documents contain the provisions required for the bidding and construction of the Project. The Owner shall provide to Bidders, prior to Bidding, all information that is pertinent to, and delineates and describes, the Work. This may occur on the plans or on a separate document.

2.2 Each Bidder is responsible for inspecting the site and for reading and being thoroughly familiar with the Contract Documents, including Addenda. The failure or omission of any Bidder to do any of the foregoing shall in no way relieve any Bidder from any obligation in respect to his Bid. After Bids have been submitted, the Bidder shall not assert that there was a misunderstanding concerning the quantities of Work or of nature of the Work to be done or any materials specified for the Work.

2.3 If it should appear to a Bidder that the work to be done or matters relative thereto are not sufficiently described or explained in the Contract Documents or that the Contract Documents are not definite and clear, the Bidder may make written inquiry regarding same to the Purchasing Agent at least five (5) working days or a designated date set by the Purchasing Agent, before the scheduled closing time for filing Bids. Then, if in the judgment of the Purchasing Agent, additional, information or interpretation is necessary, such information will be supplied in the form of an Addendum, and will be delivered to all individuals, firms and corporations who have received the Contract Documents. Such Addendum shall have the same binding effect as though contained in the main body of the Contract Documents. Oral instructions or information concerning the contract documents or the project given out by officers, employees or agents of the owner to prospective bidders shall not bind the owner. If no request is made in the five working days or the designated time, Bidder waives right to any conflict in the Contract Documents.

2.4 All applicable laws, ordinances and the rules and regulations of all authorities having jurisdiction over construction of the Project shall apply to the Contract throughout. Further, the Bidder agrees to abide by the following federal requirements: Executive Order No. 11246 as amended, including specifically the provisions of the Equal Opportunity Clause, the Immigration Reform and Contract Act of 1986 and the Americans with Disabilities Act of 1991.

As a recipient of Federal funds, subject to United States Department of Transportation Title VI Regulations at 49 CFR Part 21 the Civil Rights Act of 1964, the City of Wheat Ridge, and its responsible agents, contractors and consultants assure that no person shall on the grounds of race, color, or national origin be excluded from participation in the opportunity to bid, or be discriminated against in consideration of award of this project. Disadvantaged business enterprises will be afforded full opportunity to submit bids in response to all invitations subject to the Regulations. The United States has a right to seek judicial enforcement with regard to any matter arising under Title VI, 49 CFR Part 21 and assurances.

2.5 Bidder must complete and submit the Contractor Qualification Form provided with the bid document. Failure to complete this form and submit with bid may result in the disqualification of the contractor. The City's acceptance of this bid shall be based on information provided by the contractor in this form. Bid amount and qualification shall be evaluated subsequent to bid opening to determine the successful bidder. The City does not pre-qualify contractors.

## 3.0 CONTRACT AWARD

3.1 The Owner may make such investigations as deemed necessary to determine the ability of the Bidder and Subcontractors to perform the Work, and the Bidder shall furnish to the Owner all such information and data for this purpose as the Owner may request. The Owner reserves the right to reject any Bid if the evidence submitted, or investigation fails to satisfy the Owner that such Bidder or any Subcontractor is properly qualified to carry out the obligations of the Agreement. If the owner rejects any Subcontractor as unqualified, the Bidder may substitute another Subcontractor for approval by the Owner but no change to the Bid Price will be allowed.

- 3.2 The Award of Contract, is anticipated, within 60 calendar days after the opening of bids to the lowest most responsive, responsible qualified bidder whose bid complies with all the requirements of this request for bids. Evaluation and award will only include the alternate if the base bid and the alternate price combined are within the advertised cost range. If more than one alternate, the order or the selection of the alternates for award is at the discretion of the City. Award is in the best interest of the City.
- 3.3 The successful bidder shall be notified of the recommendation for award and to provide two (2) signed agreements, insurance and bonds. A Performance Bond and Payment Bond, each in the amount of 100 percent (100%) of the Contract Price, with a corporate surety approved by the Owner, will be required for the faithful performance of the Contract. Securities may not be substituted for Payment or Performance Bonds. Attorneys-in-Fact who sign Payment and Performance Bonds must file with each Bond a certified and effective dated copy of their Power of Attorney.
- 3.4 The successful bidder shall return the two copies of the executed Agreement and one acceptable Performance and Payment Bonds by a designated date. In case the Bidder fails to comply by the designated date or if the Bidder fails to provide acceptable bonds, the Owner may, at its option, consider the Bidder in default, in which case the Bid Bond accompanying the Proposal (Bid) shall become the property of the Owner.
- 3.5 The Owner, within 14 calendar days of receipt of the requirement stated in 3.3 above, shall execute the Agreement and issue the Notice to Proceed at a pre-construction meeting with the Contractor. If the Owner cannot issue the Notice to Proceed within such time period, the time period will be extended by mutual agreement between the Owner and Contractor. If the Notice to Proceed has not been issued within the 14 calendar day period or within the period mutually agreed upon, the Contractor may terminate the Agreement, by Written Notice, without further liability on the part of either party.
- 3.6 Upon receiving notice of award, the Contractor may obtain from the City three sets of documents at no cost. Additional sets of drawings and specifications may be purchased on a cash sale basis from the City. The Contractor and the Owner will agree on the date that Work will commence which shall be within 14 calendar days of the date of the Notice to Proceed, unless a time extension is approved by the Owner.
- 3.7 Section 2-3 (a) – (e) of the City's Code of Laws is presented below:
- (a) *Fiscal year.* Fiscal year for the city shall commence on January 1 and end on December 31.
  - (b) *Budget contains appropriations.* The city council shall annually adopt a budget in a manner consistent with the provisions of Chapter X of the Home Rule Charter of the City of Wheat Ridge. Upon the annual adoption by the city council of each fiscal year's budget, levels of authorized expenditures from the funds indicated within the annual budget itself and/or the adopting resolution shall constitute the appropriation of the amounts specified therein for the purposes specified therein. During the course of each fiscal year, approval by the city council of contracts for goods or services, and/or approval of bids for the provision of specified goods or services, shall likewise constitute appropriations of the amounts specified therein for the purposes specified therein.
  - (c) *No contract to exceed appropriation.* During each and any fiscal year, no contract entered into by or on behalf of the city shall expend or contract to expend any money, or incur any liability, nor shall any contract be entered into nor any bid be awarded by or on behalf of the city which, by its terms, involves the expenditure of money for any of the purposes for which provision is made either in the adopted budget or adopting resolution, including any legally authorized amendments thereto, in excess of the amount appropriated in the budget or the approved contract or bid award. Any contract or bid award, either verbal or written, made in violation of the provisions of this section shall be void as to the city and no city monies from any source whatsoever shall be paid thereon.
  - (d) *Amendments and authorized expenditures.* Nothing contained herein shall preclude the city council from adopting a supplemental appropriation in a manner consistent with the provisions of Section 10.12 of the Home Rule Charter of the city. Further, nothing contained in this section shall prevent the making of contracts for governmental services or for capital outlay for a period exceeding one (1) year if such contracts are otherwise allowed by the Home Rule Charter of the city; provided, however, any contract so made shall be executory only for the amounts agreed to be paid for such services to be rendered in succeeding fiscal years.
  - (e) *Notice to parties contracting with the city.* All persons contracting with, or selling goods or services to, the city are hereby placed upon notice of the provisions of this section. The provisions of this section shall become a part of the Merit System Personnel Rules and Regulations of the City of Wheat Ridge; shall be referred to specifically in all public works bid documents and contracts; and shall be

incorporated into, and specially noted within, all other contracts entered into by or on behalf of the city wherein city funds are used to pay for said contract.

3.8 Section 2-4 of the City Code of Laws is presented below:

- (a) The city may, by contract, require the contractor awarded a public works contract to waive, release or extinguish its rights to recover costs or damages, or obtain an equitable adjustment, for delays in performing such contract if such delay is caused, in whole or in part, by acts or omissions of the city or its agents, if the contract provides that an extension of time for completion of the work is the contractor's remedy for such delay. Such a clause is valid and enforceable, any provision of state law to the contrary notwithstanding.
- (b) The city council, by this ordinance (Ordinance No. 812), declares its local contracting powers to be a matter of purely local concern, and further specifically intends to supersede, pursuant to its powers under Article XX of the Colorado Constitution, the provisions of Sections 24-91-101 and 24-91-103.5, C.R.S., insofar as they conflict with the provisions of this section of the Code of Laws of the City of Wheat Ridge, Colorado.

4.0 ANTICIPATED PROJECT SCHEDULE

ITB Issued	February 12, 2018
Deadline for Questions	Noon, February 22, 2018
Final Addendum Issued	February 26, 2018
Bid Due Date and Time	March 6, 2018 at 1:00 pm our clock
Council Action Form Due (Internal)	March 16, 2018
City Council Meeting to Approve Award	March 26, 2018
Project Start Date	By Mid-Late April, 2018
Completion Time	45 Working Days following Notice to Proceed



# CONTRACTOR'S QUALIFICATION FORM

Your Bid Will Not Be Processed If Incomplete

## SECTION I - IDENTIFICATION

### 1. Identification of Applicant Firm

A. \_\_\_\_\_  
Exact Legal Name of Applicant Firm DUNS #

B. \_\_\_\_\_  
Street Address City State Zip Code

C. \_\_\_\_\_  
(Mailing Address, if different from above)

D. Primary Company Telephone No. \_\_\_\_\_ Fax No. \_\_\_\_\_

E. Applicant Firm's Contact Person for Public Works Office follow-up:

\_\_\_\_\_

Print or Type Name	Position	Telephone Number
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F. Has the Applicant Firm changed its address or has the Firm or its Owner(s) operated under any other name(s) including other DBAs in the past five years? If yes, explain fully on a separate sheet of paper.  
 No  Yes

G. Type of business organization: \_\_\_\_\_

YEAR organization established: \_\_\_\_\_ NUMBER of current full time employees: \_\_\_\_\_

Sole Proprietor  Corporation – [Date and State of Incorporation \_\_\_\_\_

Limited Partnership  General Partnership

[Date and State of Partnership filing \_\_\_\_\_

Limited Liability Company  Limited Liability Partnership

[Date and State of filing \_\_\_\_\_

Other (describe) \_\_\_\_\_

Type of service(s) to be provided to the City of Wheat Ridge.

General Contractor

Concrete Flatwork

Storm Sewer

Concrete Structures

Traffic Signals

Slurry Seal

Grading

Fog Seal

Asphalt Paving

Crack Sealing

Concrete Paving

Landscaping

Signing

Striping

Traffic Control

Other (describe) \_\_\_\_\_

**SECTION II - OWNERSHIP/MANAGEMENT, PROJECT MANAGEMENT,  
SUPERVISORS, AND RELATED ENTITIES**

**1. Owners**

List Owners of Applicant Firm.

Full Legal Name	Title	Years of Related Experience	% Of Ownership

[Use additional sheets if necessary]

**2. Project Management Team, Supervisors and Employees Who Will Be Working Directly On the Project(s).**

List the full names of the primary employees of the proposed Project Team.

Full Legal Name	Present Position	Years of Related Experience	% of Time Devoted to Project	Professional Licenses

[Use additional sheets if necessary]

**3. Resume**

Attach resumes of the Project Management Team showing the last five years of employment in this field. Resumes must be comprehensive and include of Firms worked for and dates of employment. (RESUMES are not required from Materials Suppliers (Vendors).

**4. Contractor's License(s)**

The awarded Contractor must obtain or have a current City of Wheat Ridge Municipal Contractor's License within 7 days of Council approval of bid award.

**SECTION III - CONTRACTING HISTORY**

**1. Contracting History**

A. List the applicant Firm's six largest contracts in the last three years.

1. Company Name \_\_\_\_\_ Contact Name \_\_\_\_\_  
Street Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
Phone No: \_\_\_\_\_ Fax No: \_\_\_\_\_  
Contract Name & Number \_\_\_\_\_  
Contract Amount \_\_\_\_\_ Start/Completion Dates \_\_\_\_\_  
Description of Work \_\_\_\_\_  
\_\_\_\_\_  
Prime or Subcontractor \_\_\_\_\_
2. Company Name \_\_\_\_\_ Contact Name \_\_\_\_\_  
Street Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
Phone No: \_\_\_\_\_ Fax No: \_\_\_\_\_  
Contract Name & Number \_\_\_\_\_  
Contract Amount \_\_\_\_\_ Start/Completion Dates \_\_\_\_\_  
Description of Work \_\_\_\_\_  
\_\_\_\_\_  
Prime or Subcontractor \_\_\_\_\_
3. Company Name \_\_\_\_\_ Contact Name \_\_\_\_\_  
Street Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
Phone No: \_\_\_\_\_ Fax No: \_\_\_\_\_  
Contract Name & Number \_\_\_\_\_  
Contract Amount \_\_\_\_\_ Start/Completion Dates \_\_\_\_\_  
Description of Work \_\_\_\_\_  
\_\_\_\_\_  
Prime or Subcontractor \_\_\_\_\_

**SECTION III - CONTRACTING HISTORY – (Continued)**

4. Company Name \_\_\_\_\_ Contact Name \_\_\_\_\_  
Street Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
Phone No: \_\_\_\_\_ Fax No: \_\_\_\_\_  
Contract Name & Number \_\_\_\_\_  
Contract Amount \_\_\_\_\_ Start/Completion Dates \_\_\_\_\_  
Description of Work \_\_\_\_\_  
\_\_\_\_\_  
Prime or Subcontractor \_\_\_\_\_
5. Company Name \_\_\_\_\_ Contact Name \_\_\_\_\_  
Street Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
Phone No: \_\_\_\_\_ Fax No: \_\_\_\_\_  
Contract Name & Number \_\_\_\_\_  
Contract Amount \_\_\_\_\_ Start/Completion Dates \_\_\_\_\_  
Description of Work \_\_\_\_\_  
\_\_\_\_\_  
Prime or Subcontractor \_\_\_\_\_
6. Company Name \_\_\_\_\_ Contact Name \_\_\_\_\_  
Street Address \_\_\_\_\_  
City \_\_\_\_\_ State \_\_\_\_\_ Zip Code \_\_\_\_\_  
Phone No: \_\_\_\_\_ Fax No: \_\_\_\_\_  
Contract Name & Number \_\_\_\_\_  
Contract Amount \_\_\_\_\_ Start/Completion Dates \_\_\_\_\_  
Description of Work \_\_\_\_\_  
\_\_\_\_\_  
Prime or Subcontractor \_\_\_\_\_

### SECTION III - CONTRACTING HISTORY – (Continued)

In the past five years has the Applicant Firm or any Affiliate been the subject of any of the following actions?

- A. Been suspended, debarred, disqualified, or otherwise declared ineligible to bid?  
 No  Yes
- B. Failed to complete a contract for a commercial, private owner or Government agency?  
 No  Yes
- C. Been denied a low-bid contract in spite of being the low bidder?  
 No  Yes
- D. Had a contract terminated for any reason, including default?  
 No  Yes
- E. Had liquidated damages assessed against it during or after completion of a contract?  
 No  Yes

If "Yes" to Sections IV, V or VI, provide details including a brief summary of cause(s) of action, indicate if Applicant Firm, Owner or Affiliate Firms were plaintiffs (P) or defendants (D); define charges explicitly, by what authority, court or jurisdiction, etc. Complete details are required!

NOTE: For Sections IV and V below, the definition of an "investigation" includes: an appearance before a grand jury by representatives of the Firm; any oral or written inquiry or review of the Firm's documents by a governmental or law enforcement agency or investigative agency; or questioning of employees concerning the general operation or a specific project or activities of the Firm

### SECTION IV - CIVIL ACTIONS

#### 1. Violations Of Civil Law

In the past five years has Applicant Firm, any of its Owners, or any Affiliate been the subject of an investigation of any alleged violation of a civil antitrust law, or other federal, state or local civil law?

- No  Yes

#### 2. Lawsuits With Public Agencies

At the present time is, or during the past five years has the Applicant Firm, any of its Owners, or any Affiliate been a plaintiff or defendant in any lawsuit regarding services or goods provided to the City of Wheat Ridge or to a public agency?

- No  Yes

#### 3. Bankruptcy

During the past five years, has the Applicant Firm or any Affiliate filed for bankruptcy or reorganization under the bankruptcy laws?

- No  Yes

#### 4. Judgments, Liens And Claims

During the past five years, has the Applicant Firm been the subject of a judgment, lien or claim of \$10,000 or more by a subcontractor or supplier?

- No  Yes

#### 5. Tax Liens

During the past five years, has the Applicant Firm been the subject of a tax lien by federal, state or any other tax authority?

- No  Yes

### SECTION V - COMPLIANCE WITH LAWS AND OTHER REGULATIONS

#### 1. Criminal

In the past five years has the Applicant Firm, any of its Owners, or Affiliates:

- A. Been the subject of an investigation involving any alleged violation of criminal law?  
 No  Yes

- B. Been arrested, indicted or named as an unindicted co-conspirator in any indictment or other accusatory instrument?  
 No  Yes
- C. Been convicted, after trial or by plea, of any felony under state or federal law?  
 No  Yes
- D. Been convicted of any misdemeanor involving business-related crimes?  
 No  Yes
- E. Entered a plea of nolo contendere to a charge of embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or a violation of any antitrust laws?  
 No  Yes
- F. Entered into a consent decree?  
 No  Yes
- G. Been granted immunity from prosecution for any business-related conduct constituting a crime under state or federal law?  
 No  Yes
- H. Taken the Fifth Amendment in testimony on any business-related crime?  
 No  Yes
- I. Paid a fine or settlement to resolve any criminal or civil violations or allegations involving a business activity?  
 No  Yes
- J. Do any Owners in Applicant Firm have any felony charges pending against them that were filed either before, during, or after their employment with the Applicant Firm?  
 No  Yes

**1. Regulatory Compliance**

In the past five years, has Applicant Firm, any of its Owners, or Affiliates been cited for:

- A. A violation of any labor law or regulation, including prevailing wage rates and fair labor practices?  
 No  Yes
- B. An OSHA violation?  
 No  Yes
- C. A violation of federal, state or local environmental laws or regulations?  
 No  Yes
- D. Any other administrative, statutory or regulatory violations?  
 No  Yes

**SECTION VI - ETHICS**

**1. False Statements, Bribes, Collusion**

In the past five years has the Applicant Firm, any of its Owners, or Affiliates:

- A. Filed with a government body (including City of Wheat Ridge) or submitted to a government employee (including City of Wheat Ridge employee) any form of document known by the Applicant Firm, any of its Owners, or by the person submitting the document, to contain false information?  
 No  Yes
- B. Created or maintained false business records?  
 No  Yes
- C. Given, or offered to give, money or any other benefit to a public official or employee with intent to influence that person regarding any of their official acts, duties or decisions?  
 No  Yes
- D. Given, or offered to give, money or other benefit to an official or employee of a private business with intent to induce that official or employee to engage in unethical or illegal business activities (including but not limited to improper gratuities, and/or violations of lobbying regulations)?  
 No  Yes

- E. Agreed with another to bid below prevailing market rate?  
 No  Yes
- F. Agreed with another to submit identical or complimentary bids or otherwise not to bid competitively?  
 No  Yes
- G. Agreed with another not to submit competitive bids in another's territory established either by geography or customers?  
 No  Yes
- H. Agreed with another to take turns in obtaining contracts by pre-determining which Firm shall submit the lowest bid?  
 No  Yes

**2. Conflict Of Interest**

- A. Does the Applicant Firm, any of its Owners or Project Team Members have any existing relationships that could be construed as either personal or organizational conflicts of interest, or which would give rise to a conflict if Applicant Firm should be a recipient of a contract with the City of Wheat Ridge?  
 No  Yes
- B. Has any Owner or Project Team member of Applicant Firm ever (if yes explain fully):
  - 1. Been an employee of the City of Wheat Ridge, or served as a Member of Wheat Ridge City Council?  
 No  Yes
  - 2. Been related by blood or marriage to a City of Wheat Ridge employee or Council Member?  
 No  Yes

**SECTION VII - ADDITIONAL DOCUMENTATION REQUIRED**

**Additional document copies to be submitted with this application:**

Letter of Reference from your Firm's Surety, which states current available aggregate and single project bonding capacity (This Application will not be processed without this letter)

List of Major Equipment by number and type available for the Project(s).

Certification of all IMSA certified personnel, if applying for traffic signal project(s). A minimum of two full time employees must be certified at Level II or higher.

**PROPOSAL FORM**  
**ITB-18-03**  
**2018 CONCRETE REHAB - ADA IMPROVEMENTS**  
**PROJECT #S-PM-03-18**

This is the Proposal (Bid) of \_\_\_\_\_ (hereinafter called "BIDDER") or organized and existing under the laws of the State of \_\_\_\_\_ doing business as a \_\_\_\_\_ (Insert "a corporation", "a partnership", or "an individual" as applicable.)

To the CITY OF WHEAT RIDGE (hereinafter called "Owner").

The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Contract Bid Documents, to complete all Work as specified or indicated in the Contract Bid Documents for the Contract Sum and within the Contract time indicated in accordance with the Contract Bid Documents.

Bidder accepts all of the terms and conditions of the Instructions to Bidders. The Bid will remain open for sixty days after the day of Bid opening. Bidder will sign the Agreement and submit any documents required by the Contract documents within seven (7) calendar days after notification or the designated date.

By submission of this Bid, each Bidder certifies, and in the case of a joint Bid, each party thereto certifies as to his own organization, that this Bid has been arrived at independently without consultation, or communication with any competitor. Every bid submitted to the City shall contain a statement certifying that the Bidder has not participated in any collusion or taken any action in restraint of free competitive bidding. This statement shall be in the form of an affidavit provided by the City and included in the Bid Proposal. The Bidders proposal will be rejected if it does not contain the completed Non-collusion Affidavit.

Bidder agrees to abide by the following federal requirements:

Executive Order No. 11246 as amended, including specifically, the provisions of the Equal Opportunity Clause, the Immigration Reform and Contract Act of 1986, and the Americans with Disabilities Act of 1991.

United States Department of Transportation Title VI Regulations at 49 CFR Part 21 the Civil Rights Act of 1964, assuring that no person shall on the grounds of race, color, or national origin be excluded from participation in the opportunity to bid, or be discriminated against in consideration of award of this project.

Bidder hereby agrees to commence Work under this contract on or before a date to be specified in the Notice to Proceed and to fully complete the Project within 45 working days working days.

The Notice to Proceed shall be issued within fourteen (14) days of the execution of the Agreement by the Owner. Should there be reason why the Notice to Proceed cannot be issued within such period, the time may be extended by mutual agreement between the Owner and Contractor. If the Notice to Proceed has not been issued within the period mutually agreed upon, the Contractor may terminate the Agreement without further liability on the part of either party.

The Owner may make such investigations as he deems necessary to determine the ability of the Bidder to perform the Work, and the Bidder shall furnish to the Owner all such information and data for this purpose as the Owner may request. The Owner reserves the right to reject any Bid if the evidence submitted by, or investigation of, such Bidder fails to satisfy the Owner that such Bidder is properly qualified to carry out the obligations of the Agreement.

Bidder has examined the site and locality where the Work is to be performed, the legal requirements (federal, state and local laws, ordinances, rules and regulations) and the conditions affecting cost, progress, or performance of the Work and has made such independent investigation as Bidder deems necessary.

Bidder will complete the Work for all accepted bid items.



**PROPOSAL FORM, CONTINUED**  
**ITB-18-03**  
**PRICING SCHEDULE**

Provide all materials, labor, and equipment to complete the work as per the specifications. It is the Owner's intent to award a single contract to the lowest qualified bidder.

Project: 2018 Concrete Rehab-ADA Improvements, S-PM-03-18

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Company Name \_\_\_\_\_ Date \_\_\_\_\_

---

Authorized Signature \_\_\_\_\_ Title \_\_\_\_\_

---

Printed Name \_\_\_\_\_

---

Title \_\_\_\_\_

---

License No. \_\_\_\_\_ Type \_\_\_\_\_ Expiration Date \_\_\_\_\_

ATTEST:

---

Printed Name \_\_\_\_\_

---

Signature \_\_\_\_\_ Title \_\_\_\_\_

SEAL  
(If bid is by corporation)

ADDENDA

Bidder acknowledges receipt of the following Addenda:

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**BID SCHEDULE** COMPANY SUBMITTING BID \_\_\_\_\_  
**ITB-18-03 S-PM-03-18**

Bidder agrees to perform all the work described in the Contract Documents for the following unit prices or lump sums.

ITEM NO.	PAY ITEM	ESTIMATED QUANTITY	UNIT	UNIT PRICE	EXTENSION
210	Adjust Utility Box	4	EA	\$ _____	\$ _____
403A	HMA Patching CIP 4" SP-100 PG (64-22) SX	50	SY	\$ _____	\$ _____
403B	HMA Patching CIP 6" SP-100 PG (64-22) S	50	SY	\$ _____	\$ _____
412	Concrete Pavement (10")(Remove & Replace)	670	SY	\$ _____	\$ _____
604A	Reconstruct WR Curb Inlet (Single)	2	EA	\$ _____	\$ _____
604B	Reconstruct Valley Inlet	1	EA	\$ _____	\$ _____
608A	CDOT Curb Ramp (Type 1A) Remove & Replace	2	EA	\$ _____	\$ _____
608B	CDOT Curb Ramp (Type 1B) Remove & Replace	1	EA	\$ _____	\$ _____
608C	CDOT Curb Ramp (Type 2A) Remove & Replace	15	EA	\$ _____	\$ _____
608D	CDOT Curb Ramp (Type 2B) Remove & Replace	1	EA	\$ _____	\$ _____
608E	CDOT Curb Ramp (Type 2B mod) Remove & Replace	4	EA	\$ _____	\$ _____
608F	CDOT Curb Ramp (Type 3A) Remove & Replace	4	EA	\$ _____	\$ _____
608G	CDOT Curb Ramp (Type 4A) Remove & Replace	3	EA	\$ _____	\$ _____
608H	CDOT Curb Ramp (Type 5A) Remove & Replace	3	EA	\$ _____	\$ _____
608I	Detectable Warning 2' X 3' (STICK ON)	3	EA	\$ _____	\$ _____
SUBTOTAL THIS PAGE				\$ _____	

COMPANY SUBMITTING BID \_\_\_\_\_

<b>ITEM NO.</b>	<b>PAY ITEM</b>	<b>ESTIMATED QUANTITY</b>	<b>UNIT</b>	<b>UNIT PRICE</b>	<b>EXTENSION</b>
608J	Concrete Sidewalk (4") Remove & Replace	300	SY	\$ _____	\$ _____
608K	Concrete Sidewalk (6") Remove & Replace	50	SY	\$ _____	\$ _____
608L	Sidewalk Chase (3') Remove & Replace (reuse plate)	1	EA	\$ _____	\$ _____
609A	Mountable Curb, Gutter & Walk (5' 3") R&R	500	LF	\$ _____	\$ _____
609B	Vertical Curb & Gutter (6") Remove & Replace	700	LF	\$ _____	\$ _____
609C	Vertical Curb & Gutter (10") Remove & Replace	50	LF	\$ _____	\$ _____
620	Sanitary Facility	1	EA	\$ _____	\$ _____
622	Install Concrete Filled Bollard (6"x5' yellow)	1	EA	\$ _____	\$ _____
626	Mobilization	1	LS	\$ _____	\$ _____
630A	Traffic Control Management	1	LS	\$ _____	\$ _____
720	Material Sampling & Testing	1	LS	\$ _____	\$ _____
SUBTOTAL THIS PAGE				\$ _____	

TOTAL AMOUNT OF BID \$ \_\_\_\_\_

WRITTEN OUT AMOUNT OF BID \$ \_\_\_\_\_

COMPANY SUBMITTING BID \_\_\_\_\_

**BID ALTERNATE #1 ADA Specified Improvements**

<b>ITEM NO.</b>	<b>PAY ITEM</b>	<b>ESTIMATED QUANTITY</b>	<b>UNIT</b>	<b>UNIT PRICE</b>	<b>EXTENSION</b>
202	Remove Bollards and take to shops	2	EA	\$ _____	\$ _____
608A	CDOT Curb Ramp (Type 1A) Remove & Replace	8	EA	\$ _____	\$ _____
608C	CDOT Curb Ramp (Type 1B mod) Remove & Replace	2	EA	\$ _____	\$ _____
608G	CDOT Curb Ramp (Type 3A) Remove & Replace	1	EA	\$ _____	\$ _____
608I	CDOT Curb Ramp (Type 5A) Remove & Replace	1	EA	\$ _____	\$ _____
608J	Detectable Warning 2' X 3' (STICK ON)	4	EA	\$ _____	\$ _____
608K	Concrete Sidewalk (4") Remove & Replace	60	SY	\$ _____	\$ _____
609B	Vertical Curb & Gutter (6") Remove & Replace	540	LF	\$ _____	\$ _____
SUBTOTAL OF BID ALT #1				\$ _____	
TOTAL AMOUNT OF BID ALT #1 \$				_____	
WRITTEN OUT AMOUNT OF BID ALT #1 \$				_____	

COMPANY SUBMITTING BID \_\_\_\_\_

**BID ALTERNATE #2 3715-3735 Pierce St –new sidewalk and drive cuts in front of property**

<b>ITEM NO.</b>	<b>PAY ITEM</b>	<b>ESTIMATED QUANTITY</b>	<b>UNIT</b>	<b>UNIT PRICE</b>	<b>EXTENSION</b>
604B	Reconstruct Valley Inlet (*replace grate only)	1	EA	\$ _____	\$ _____
608F	Concrete Sidewalk (6") Remove & Replace	94	SY	\$ _____	\$ _____
609B	Vertical Curb & Gutter (6") Remove & Replace	170	LF	\$ _____	\$ _____

SUBTOTAL BID ALTERNATE #2 \$ \_\_\_\_\_

TOTAL AMOUNT OF BID ALT #2 \$ \_\_\_\_\_

WRITTEN OUT AMOUNT OF BID ALT #2 \_\_\_\_\_

\_\_\_\_\_

**LIST OF SUBCONTRACTORS AND AMOUNT**

**ITB-18-03  
PROJECT # S-PM-03-18**

Important: This form must be submitted and completed. If you are not using sub-contractors, state "None". Failure to submit a completed form will result in a non-responsive bid.

Contractor's organization shall perform work amounting to 50% or more of the total contract cost.

COMPANY SUBMITTING BID \_\_\_\_\_

<b>NAME</b>	<b>TYPE OF WORK</b>	<b>AMOUNT</b>	<b>% OF WORK</b>

**MUST BE COMPLETED AND SUBMITTED WITH YOUR BID**

**CITY OF WHEAT RIDGE, CO**  
**NON-DISCRIMINATION ASSURANCE FORM**  
**TITLE VI REGULATIONS AT 49 CFR PART 21**

Title VI of the Civil Rights Act of 1964 prohibits discrimination on the basis of race, color or national origin by any entity receiving federal financial assistance.

The City of Wheat Ridge is a recipient of Federal financial assistance and as such, it, as well as all of its responsible agents, contractors and consultants, is required by the United States Department of Transportation Title VI Regulations at 49 CFR Part 21 (the Regulations) to assure nondiscrimination. The City of Wheat Ridge assures that no person shall be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination on the grounds of race, color, or national origin under any program or activity conducted by the City.

All bidders are hereby notified that the City of Wheat Ridge will affirmatively ensure that disadvantaged business enterprises will be afforded full opportunity to submit bids in response to all invitations and will not be discriminated against on the grounds of race, color or national origin in consideration for an award. This applies to all solicitations for bids for work or material subject to the Regulations, and for all proposals for negotiated agreements.

The bidder, whose name and signature appear below, certifies and agrees as follows:

1. The bidder shall comply with the provisions of Title VI of the Civil Rights Act of 1964.
2. The bidder assures the City of Wheat Ridge that disadvantaged business enterprises are afforded full opportunity to submit bids as sub-contractors or sub-consultants and will not be discriminated against on the grounds of race, color or national origin in consideration for award.
3. The bidder shall comply with all reasonable requests made in the course of an investigation of Title VI, the Regulations and this assurance by the Colorado Department of Transportation, the US Department of Transportation or the City of Wheat Ridge, as a sub-recipient of Federal financial assistance.
4. The bidder agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under Title VI, the Regulations and this assurance.

FIRM: \_\_\_\_\_  
(Print full legal name of company)

AUTHORIZED SIGNATURE: \_\_\_\_\_

Printed Name and Title: \_\_\_\_\_

Date Certified and Agreed: \_\_\_\_\_

Attestation: (A corporate attestation is required)

Place corporate seal below:

BY: \_\_\_\_\_  
Corporate Secretary or Equivalent

*Bidder must complete and SUBMIT this form with bid/proposal or will be considered Non-Responsive and/or Non-Responsible and therefore disqualified from bidding.*

**CITY OF WHEAT RIDGE, CO**  
**CERTIFICATION STATEMENT FOR**  
**ILLEGAL ALIENS, COMPLIANCE TO HB 1343**

The Vendor, whose name and signature appear below, certifies and agrees as follows:

1. The Vendor shall comply with the provisions of CRS 8-17.5-101 et seq.
2. The Vendor shall not knowingly employ or contract with an illegal alien to perform work under this purchase order or enter into a contract with a subcontractor that knowingly employs or contracts with an illegal alien.
3. The Vendor represents, warrants, and agrees that it (i) has verified that it does not employ any illegal aliens, through participation in the Basic Pilot Employment Verification Program administered by the Social Security Administration and Department of Homeland Security, or (ii) otherwise shall comply with the requirements of CRS 8-17.5-102(2)(b)(I).
4. The Vendor shall comply with all reasonable requests made in the course of an investigation by the Colorado Department of Labor and Employment. If the Vendor fails to comply with any requirement of this provision or CRS 8-17.5-101 et seq., the City may terminate the above referenced purchase order for breach and the Vendor shall be liable for actual and consequential damages to the City of Wheat Ridge.

CERTIFIED and AGREED to this \_\_\_\_\_ day of \_\_\_\_\_, 2018

BID NUMBER: \_\_\_\_\_

FIRM: \_\_\_\_\_  
(Print Full Legal Name)

Authorized Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_ Date: \_\_\_\_\_

Attestation: (A corporate attestation is required.)

BY: \_\_\_\_\_  
Corporate Secretary or Equivalent Place corporate seal here, if applicable

Bidder must complete and SUBMIT this form with bid/proposal or will be considered  
Non-Responsive and/or Non-Responsible and therefore disqualified from bidding.



**NON-COLLUSION AFFIDAVIT**  
**ITB-03-18**  
**2018 CONCRETE REHAB - ADA IMPROVEMENTS**  
**PROJECT #S-PM-03-18**

COMPANY SUBMITTING BID: \_\_\_\_\_

STATE OF: \_\_\_\_\_

COUNTY OF: \_\_\_\_\_

\_\_\_\_\_ of lawful age, being duly sworn, on oath says that (s)he is the agent authorized by the Bidder to submit the attached bid. Affidavit further states that the Bidder has not been a party of any collusion among Bidders in restraint of freedom of competition by agreement to bid at a fixed price or to refrain from bidding; or any Federal, State or Municipal official or employees as to quantity, quality, or price in the prospective Contract, or any other items of said prospective Contract; or in any discussions between bidders and any Federal, State or Municipal official concerning exchange of money or other thing of value for special consideration in the letting of a Contract.

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 2018

\_\_\_\_\_  
NOTARY PUBLIC SIGNATURE

My Commission Expires:

Bidder must complete and SUBMIT this form with bid/proposal or will be considered  
Non-Responsive and/or Non-Responsible and therefore disqualified from bidding

**CITY OF WHEAT RIDGE, CO**  
**CERTIFICATION STATEMENT FOR**  
**KEEP JOBS IN COLORADO ACT (80% Colorado Labor),**  
**COMPLIANCE TO H.B. 13-1292**

Effective January 1, 2014, the Keep Jobs in Colorado Act requires that Colorado labor be employed to perform at least 80% of the work on a public works project, as defined in C.R.S. 8-19-102(2).

**References**

Keep Jobs in Colorado Act - 8-17-101, et.seq., C.R.S.

Definition of Public Projects - 8-19-102, C.R.S.

Construction Bidding for Public Projects – 24-92-102, C.R.S.

House Bill 13-1292, Keep Jobs in Colorado Act

The Vendor, whose name and signature appear below, certifies and agrees as follows:

1. The Vendor shall comply with the provisions of House Bill 13-1291 and CRS 8-17-101 et seq.
2. The Vendor represents, warrants, and agrees that it (i) Colorado labor will be employed to perform at least 80% of the work on a public works project, or (ii) otherwise, shall comply with the notification requirements and/or waiver request of CRS 8-17-101 et seq.
3. The Vendor shall comply with all reasonable requests made in the course of an investigation by the Colorado Department of Labor and Employment. If the Vendor fails to comply with any requirement of this Act or CRS 8-17-101 et seq., the City may terminate the above referenced purchase order for breach and the Vendor shall be liable for actual and consequential damages to the City of Wheat Ridge.

CERTIFIED and AGREED to this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

BID NUMBER: \_\_\_\_\_

FIRM: \_\_\_\_\_  
(Print Full Legal Name)

**AUTHORIZED SIGNATURE:** \_\_\_\_\_

Print Name: \_\_\_\_\_

Print Title: \_\_\_\_\_ Date: \_\_\_\_\_

Attestation: (A corporate attestation is required.)

BY: \_\_\_\_\_  
Corporate Secretary or Equivalent

Place corporate seal here, if applicable

***Bidder must complete and SUBMIT this form with bid/proposal or will be considered Non-Responsive and/or Non-Responsible and therefore disqualified from bidding.***

**BID BOND FORM**

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned,

\_\_\_\_\_  
(Name and address of Contractor)

as Principal, and

\_\_\_\_\_  
(Name and address of surety)

as Surety, are hereby held and firmly bound unto the City of Wheat Ridge as Owner in the penal sum of

\_\_\_\_\_ for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, successors, and assigns.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

The condition of the above obligation is such that whereas the Principal has submitted to the City of Wheat Ridge a certain BID, attached hereto and hereby made a part hereof, to enter a contract in writing for the Project titled **ITB-18-03, 2018 CONCRETE REHAB - ADA IMPROVEMENTS PROJECT #S-PM-03-18**

NOW, THEREFORE,

- 1. If said Bid shall be rejected or,
- 2. If said Bid shall be accepted and the Principal shall execute and deliver a contract in the Form of Contract attached hereto (properly completed in accordance with the said Bid) and shall furnish a Bond for his faithful performance of said Contract, and for the payment for all persons performing labor or furnishing materials in connection therewith, and shall in all other respects perform the agreement created by the acceptance of said Bid.

Then this obligation shall be void, otherwise the same shall remain in force and effect; it being expressly understood and agreed that the liability of the Surety for any and all claims hereunder shall, in no event, exceed the penal amount of this obligation as herein stated.

The Surety, for value received, hereby stipulates and agrees that the obligations of said Surety and its Bond shall be in no way impaired or affected by an extension of the time within which the Owner may accept such Bid; and said Surety does hereby waive notice of any such extension.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

\_\_\_\_\_  
(Principal/Contractor)

\_\_\_\_\_  
(Surety)

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

**IMPORTANT:** Surety companies executing Bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State where the project is located.

**CITY OF WHEAT RIDGE**  
**ITB-18-03**  
**2018 CONCRETE REHAB - ADA IMPROVEMENTS**  
**PROJECT #S-PM-03-18**  
**SAMPLE AGREEMENT**

THIS AGREEMENT, made this \_\_\_\_\_ day of \_\_\_\_\_ 2018 by and between the City of Wheat Ridge, Colorado, hereinafter called "Owner" and \_\_\_\_\_, doing business as an individual, whose business address is \_\_\_\_\_, hereinafter called "Contractor".

WITNESSETH: That for and in consideration of the payments and agreements hereinafter mentioned the parties agree as follows:

1. The Contractor agrees to furnish all materials, supplies, tools, equipment, labor and other services necessary to complete the construction of the Project titled, **ITB-18-03, 2018 CONCRETE REHAB - ADA IMPROVEMENTS PROJECT #S-PM-03-18**

in accordance with the Contract Bid Documents.

2. The Contractor agrees to perform all the Work described in the Contract Bid Documents and comply with the terms therein for the Total Contract amount of

\_\_\_\_\_ Dollars

(\$ \_\_\_\_\_) which includes any alternates.

3. The Contractor agrees to commence the Work required by the Contract Documents within **Fourteen (14)** calendar days after the date of the Notice to Proceed and to complete the same within 45 working days working days after the date of the Notice to Proceed unless the time for completion is extended otherwise by written changes to the Contract Bid Documents.

4. The term "CONTRACT BID DOCUMENTS" means and includes the following:

A	Signature Page	K	Bid Bond
B	Advertisement for Bids	L	Agreement
C	Information for Bidders	M	Payment Bond
D	Contractor Qualification	N	Performance Bond
E	Bid Form	O	Notice to Proceed
F	Bid Schedule	P	Final Receipt
G	List of Subcontractors	Q	Project Special Provisions
H	Non-Discrimination Assurance	R	General Provisions
I	Illegal Alien Certification	Q	Addenda
J	Non-Collusion Affidavit	S	Drawings/Exhibits

5. The Owner will pay to the Contractor in the manner and at such times as set forth in the General Conditions, such amounts as required by the Contract Documents.

6. Section 2-3 (a) – (e) of the City's Code of Laws is presented below:

(a) *Fiscal year.* Fiscal year for the city shall commence on January 1 and end on December 31.

(b) *Budget contains appropriations.* The city council shall annually adopt a budget in a manner consistent with the provisions of Chapter X of the Home Rule Charter of the City of Wheat Ridge. Upon the annual adoption by the city council of each fiscal year's budget, levels of authorized expenditures from the funds indicated within the annual budget itself and/or the adopting resolution shall constitute the appropriation of the amounts specified therein for the purposes specified therein. During the course of each fiscal year, approval by the city council of contracts for goods or services, and/or approval of bids for the provision of specified goods or services, shall likewise constitute appropriations of the amounts specified therein for the purposes specified therein.

(c) *No contract to exceed appropriation.* During each and any fiscal year, no contract entered into by or on behalf of the city shall expend or contract to expend any money, or incur any liability, nor shall any contract be entered into nor any bid be awarded by or on behalf of the city which, by its terms, involves the expenditure of money for any of the purposes for which provision is made either in the adopted budget or adopting resolution, including any legally authorized

amendments thereto, in excess of the amount appropriated in the budget or the approved contract or bid award. Any contract or bid award, either verbal or written, made in violation of the provisions of this section shall be void as to the city and no city monies from any source whatsoever shall be paid thereon.

- (d) *Amendments and authorized expenditures.* Nothing contained herein shall preclude the city council from adopting a supplemental appropriation in a manner consistent with the provisions of Section 10.12 of the Home Rule Charter of the city. Further, nothing contained in this section shall prevent the making of contracts for governmental services or for capital outlay for a period exceeding one (1) year if such contracts are otherwise allowed by the Home Rule Charter of the city; provided, however, any contract so made shall be executory only for the amounts agreed to be paid for such services to be rendered in succeeding fiscal years.
- (e) *Notice to parties contracting with the city.* All persons contracting with, or selling goods or services to, the city are hereby placed upon notice of the provisions of this section. The provisions of this section shall become a part of the Merit System Personnel Rules and Regulations of the City of Wheat Ridge; shall be referred to specifically in all public works bid documents and contracts; and shall be incorporated into, and specially noted within, all other contracts entered into by or on behalf of the city wherein city funds are used to pay for said contract.

7. Section 2-4 of the City Code of Laws is presented below:

- (a) The city may, by contract, require the contractor awarded a public works contract to waive, release or extinguish its rights to recover costs or damages, or obtain an equitable adjustment, for delays in performing such contract if such delay is caused, in whole or in part, by acts or omissions of the city or its agents, if the contract provides that an extension of time for completion of the work is the contractor's remedy for such delay. Such a clause is valid and enforceable, any provision of state law to the contrary notwithstanding.
- (b) The city council, by this ordinance (Ordinance No. 812), declares its local contracting powers to be a matter of purely local concern, and further specifically intends to supersede, pursuant to its powers under Article XX of the Colorado Constitution, the provisions of Sections 24-91-101 and 24-91-103.5, C.R.S., insofar as they conflict with the provisions of this section of the Code of Laws of the City of Wheat Ridge, Colorado.

8. Any notice or communication given pursuant to this Agreement to the City shall be made in writing:

<b>City Contact:</b>	<b>Contractor Contact:</b>
Name:	Name:
Address:	Address:
E-mail:	Fax:
Phone:	Phone:
Fax:	Fax:

- 9. The Contractor agrees to abide by the requirements under EXECUTIVE ORDER NO. 11246 as amended, including specifically the provisions governed by the Equal Opportunity Commission and also to abide by the requirements of the IMMIGRATION REFORM AND CONTRACT ACT OF 1986 and the requirements of the AMERICANS WITH DISABILITIES Act of 1991; and the United States Department of Transportation Title VI Regulations at 49 CFR Part 21 requirements under the Civil Rights Act of 1964, assuring that no person shall on the grounds of race, color, or national origin be excluded from participation in the opportunity to bid, or be discriminated against in consideration of award of this project.
- 10. In accordance with CRS Title 24, Article 91, Section 103.6, Paragraph 2, Subparagraph a, the City of Wheat Ridge hereby states that funds have been appropriated for this Project in an amount equal to or in excess of the Original Contract Amount.
- 11. Illegal Aliens – Public Contracts for Services. CRS 8-17.5-101 and Public Law 208, 104<sup>th</sup> Congress, as amended and expanded in Public Law 156, 108<sup>th</sup> Congress, as amended:

The Contactor certifies that he/she shall comply with the provisions of CRS 8-17.5-101et 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 knowingly employs or contracts with an illegal alien. The Contractor

represents, warrants, and agrees that it (i) has verified that it does not employ any illegal aliens, through participation in the Basic Pilot Employment Verification Program administered by the Social Security Administration and Department of Homeland Security, or (ii) otherwise will comply with the requirements of CRS 8-17.5-101 (2)(b)(I). The Contractor shall comply with all reasonable requests made in the course of an investigation by the CO Department of Labor and Employment. If the Contractor fails to comply with any requirement of this provision or CRS 8-17.5-101 et seq., the City may terminate this contract for breach and the Contractor shall be liable for actual and consequential damages to the City.

12. This Agreement shall be binding upon all parties hereto and their respective heirs, executors, administrators, successors, and assigns.

IN WITNESS WHEREOF, the parties hereto have executed, or caused to be executed by their duly authorized officials, this Agreement in two (2) copies, each of which shall be deemed an original on the date first above written.

**ATTEST:**

\_\_\_\_\_  
JANELLE SHAVER, CITY CLERK

\_\_\_\_\_  
DATE

(Seal)

**APPROVED AS TO FORM:**

\_\_\_\_\_  
GERALD DAHL, CITY ATTORNEY

\_\_\_\_\_  
NAME

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE

**OWNER**

**CITY OF WHEAT RIDGE  
7500 WEST 29TH AVENUE  
WHEAT RIDGE, CO 80033  
303-234-5900**

\_\_\_\_\_  
BUD STARKER, MAYOR

**CONTRACTOR**

\_\_\_\_\_  
COMPANY NAME

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
AUTHORIZED SIGNATURE

\_\_\_\_\_  
PRINT NAME

\_\_\_\_\_  
TITLE

\_\_\_\_\_  
DATE

**PAYMENT BOND**

KNOW ALL MEN BY THESE PRESENTS: that

\_\_\_\_\_  
(Name of Contractor)

\_\_\_\_\_  
(Address of Contractor)

A \_\_\_\_\_ hereinafter called "PRINCIPAL", and

\_\_\_\_\_  
(Name of Surety)

\_\_\_\_\_  
(Address of Surety)

Herein after called "Surety", are held and firmly bound unto the City of Wheat Ridge, 7500 West 29th Avenue, Wheat Ridge, Colorado 80033, hereinafter called "Owner", in the penal sum of

\_\_\_\_\_ Dollars

(\$ \_\_\_\_\_) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the Owner, dated the \_\_\_\_\_ day of \_\_\_\_\_, 2018, a copy of which is hereto attached and made a part hereof for the Project titled, **ITB-03-18 CONCRETE REHAB - ADA IMPROVEMENTS PROJECT #S-PM-03-18**

NOW, THEREFORE, if the Principal shall promptly make payment to all persons, firms, Subcontractors and corporations furnishing materials for or performing labor in the prosecution of the Work provided for in such contract, and any authorized extension or modification thereof, including all amounts due for materials, lubricants, oil, gasoline, coal and coke, repairs on machinery, equipment and tools, consumed or used in connection with the construction of such Work, and all insurance premiums on said WORK, and for all labor performed in such work whether by Subcontractor or otherwise, then this obligation shall be void; otherwise to remain in full force and effect.

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

\*Insert "a corporation", "a partnership", or "an individual" as applicable.

IN WITNESS WHEREOF, this instrument is executed in one part, each of which shall be deemed an original, this the

\_\_\_\_\_ Day of \_\_\_\_\_, 2018

ATTEST:

**PRINCIPAL**

\_\_\_\_\_  
CORPORATE SECRETARY

\_\_\_\_\_  
PRINCIPAL

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
BY

\_\_\_\_\_  
ADDRESS

(SEAL)

**ATTEST:**

**SURETY**

\_\_\_\_\_  
SURETY

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
BY (ATTORNEY IN FACT)

\_\_\_\_\_  
ADDRESS

(SEAL)

**Note:** Date of Bond must not be prior to date of Contract. If Contractor is partnership, all partners should execute bond.

**IMPORTANT:** Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570, as amended) and be authorized to transact business in the State of Colorado.



**PERFORMANCE BOND**

KNOW ALL MEN BY THESE PRESENTS: that

\_\_\_\_\_

(Name of Contractor)

\_\_\_\_\_

(Address of Contractor)

A \_\_\_\_\_ hereinafter called "PRINCIPAL", and

\_\_\_\_\_

(Name of Surety)

\_\_\_\_\_

(Address of Surety)

Herein after called "Surety", are held and firmly bound unto the City of Wheat Ridge, 7500 West 29th Avenue, Wheat Ridge, Colorado 80033, hereinafter called "Owner", in the penal sum of

\_\_\_\_\_ Dollars

(\$ \_\_\_\_\_) in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION is such that whereas, the Principal entered into a certain contract with the Owner, dated the \_\_\_\_\_ day of \_\_\_\_\_, 2018, a copy of which is hereto attached and made a part hereof for the Project titled, **ITB-18-03, 2018 CONCRETE REHAB - ADA IMPROVEMENTS PROJECT #S-PM-03-18**

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions, and agreements of said Contract during the original term thereof, and any extensions thereof which may be granted by the Owner, with or without notice to the Surety and during the one year guarantee period, and if he shall satisfy all claims and demands incurred under such contract, and shall fully indemnify and save harmless the Owner from all costs and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the Owner all outlay and expense which the Owner may incur in making good any default, then this obligation shall be void; otherwise to remain in full force and effect.

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

PROVIDED, FURTHER, that no final settlement between the Owner and the Contractor shall abridge the right of any beneficiary hereunder, whose claim may be unsatisfied.

\*Insert "a corporation", "a partnership", or "an individual" as applicable.

IN WITNESS WHEREOF, this instrument is executed in one part, each of which shall be deemed an original, this the

\_\_\_\_\_ Day of \_\_\_\_\_, 2018

ATTEST:

**PRINCIPAL**

\_\_\_\_\_  
CORPORATE SECRETARY

\_\_\_\_\_  
PRINCIPAL

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
BY

\_\_\_\_\_  
ADDRESS

(SEAL)

**ATTEST:**

**SURETY**

\_\_\_\_\_  
SURETY

\_\_\_\_\_  
ADDRESS

\_\_\_\_\_  
BY (ATTORNEY IN FACT)

\_\_\_\_\_  
ADDRESS

(SEAL)

**Note:** Date of Bond must not be prior to date of Contract. If Contractor is partnership, all partners should execute bond.

**IMPORTANT:** Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570, as amended) and be authorized to transact business in the State of Colorado.

**NOTICE TO PROCEED**

TO: \_\_\_\_\_

FROM: **CITY OF WHEAT RIDGE, CO**

RE: **ITB-18-03, 2018 CONCRETE REHAB - ADA IMPROVEMENTS  
PROJECT #S-PM-03-18**

You are hereby notified to commence Work in accordance with the Agreement dated \_\_\_\_\_, 2018, on or before \_\_\_\_\_, 2018, and you are to complete the work within 45 working days. The date of completion of all work is \_\_\_\_\_, 2018

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 2018.

By: \_\_\_\_\_  
Title: **Engineering Manager**

\*\*\*\*\*

**RECEIPT OF NOTICE**

Receipt of the above Notice to Proceed is hereby acknowledged by

\_\_\_\_\_ On this \_\_\_\_\_ of \_\_\_\_\_, 2018.

Printed Name \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

**FINAL RECEIPT**

DATE: \_\_\_\_\_

TO: \_\_\_\_\_  
(Contractor)

\_\_\_\_\_  
(Address)

FROM: **CITY OF WHEAT RIDGE, CO**

RE: **ITB-18-03, 2018 CONCRETE REHAB - ADA IMPROVEMENTS  
PROJECT #S-PM-03-18**

Received this date, of the Owner, as full and final payment of the cost of the improvements provided for in the Project Contract Documents, the amount of \$ \_\_\_\_\_ in cash, being the remainder of the full amount accruing to the undersigned by virtue of said contract.

Said cash also covers and includes full payment for the cost of all extra work and material furnished by the undersigned in the construction of said improvements, and all incidentals thereto.

The undersigned hereby releases said Owner from all claims whatsoever which may develop from said contract.

These presents are to certify that all persons doing work upon or furnishing materials for said improvements under the foregoing contract have been paid in full.

Printed Name \_\_\_\_\_

Signature \_\_\_\_\_

Title \_\_\_\_\_

Date \_\_\_\_\_

**CITY OF WHEAT RIDGE  
GENERAL PROVISIONS**

**1. DEFINITIONS:**

"City" (also sometimes referred to as "Owner") means the City of Wheat Ridge, Colorado. The City is represented by employees who will assume Project administration, oversight, and inspection responsibilities as further defined in the Contract, the General and Special provisions, and the current edition of CDOT Standard Specifications for Road and Bridge Construction. At the time of the preconstruction meeting, or when requested by the Contractor, the City shall provide an official list of City representatives and their titles as applies to the Project.

"Contractor" means the person, partnership, firm or corporation responsible for the physical accomplishment of the project.

"Subcontractor" means only those having a direct contract with the Contractor and includes one who furnished materials worked to a special design according to the plans or specifications for the work under the Contract, but does not include one who merely furnishes material not so worked.

"Notice" means written demand, instruction or order duly served. Written notice shall be deemed to have been duly served if delivered in person to the Contractor, or if delivered in person or sent by registered mail to the address given in the Contract and shall have been duly served upon the City if delivered to the City Clerk of the City of Wheat Ridge, Municipal Building, Wheat Ridge, Colorado, either in person or by registered mail.

"Work" means performance of the Contractor or Subcontractor including labor and materials and all services incidental thereto.

"Cost" means all charges and expenditures of every kind applicable to the accomplishment of the work.

"Final Completion" means when all items are one hundred percent (100%) complete and when all known defective work has been corrected as certified by the City Representative.

"Substantial Completion Date" is the date on which the City Representative certifies the readiness of the work for beneficial occupancy or use, and is the date for terminating liability for liquidated damages and for determining incentive payments due for early completion.

**2. MATERIALS, SERVICES, AND FACILITIES:**

The Contractor shall and will, in good workmanlike manner, do and perform all work and furnish and pay for all labor, superintendence, material, utilities, machinery, equipment, tools, transportation, facilities, temporary construction of every nature and all other services and facilities of every nature, except as herein otherwise expressly specified, necessary or proper to perform and complete all the work, within the time stated, in accordance with the plans, drawings and specifications covered by the Contract, and any and all supplemental plans, drawings and specifications. He shall furnish, erect, maintain and remove such construction plant and such temporary works as may be required. It will be the responsibility of the Contractor to locate/negotiate a staging area. The City will not provide a staging area on City owned property. Any work necessary to be performed after regular working hours, on Saturdays, Sundays, or Legal Holidays, shall be performed without additional expense to the City.

**3. CONTRACTOR'S TITLE TO MATERIALS:**

No materials or supplies for the work shall be purchased by the Contractor or by any Subcontractor subject to any chattel mortgage or under a conditional sale contract or other agreement by which an interest is retained by the seller. The Contractor warrants that he has good title to all materials and supplies used by him in the work, free from all liens, claims or encumbrances.

**4. OBSERVATION AND TESTING:**

All work performed and all workmanship, equipment and materials used in the construction shall be subject to Observation, examination and test, at any and all times during construction.

**5. WEATHER CONDITIONS:**

In the event of temporary suspension of work, or during inclement weather or whenever the City shall direct, the Contractor will, and will cause his Subcontractors to, protect carefully his and their work and materials against damage or injury from weather. If, in the opinion of the City, any work or materials shall have been damaged or injured by reason of failure on the part of the Contractor or any of his Subcontractors to so protect his work, such materials shall be removed and replaced at the expense of the Contractor.

6. EMERGENCY - PROTECTION OF LIFE AND PROPERTY:

In case of an emergency which threatens loss of injury or property, and/or safety of life, the Contractor is hereby permitted to act at his own discretion and in a diligent manner without prior instructions from the City to prevent the threatened loss or injury. He shall notify the City immediately thereafter. Any claim for compensation by the Contractor due to such extra work shall be promptly submitted in writing to the City for approval. The amount of any reimbursement claimed by the Contractor shall be determined in the manner provided in Article 9 of this Contract.

7. REPORTS, RECORDS, AND DATA:

The Contractor shall submit to the City such schedule of quantities and costs, progress schedules, payrolls, reports, estimates, records and other data as may be requested concerning work performed or to be performed under this Contract.

8. SUPERINTENDENCE BY CONTRACTOR:

At the site of the work, the Contractor shall employ a construction superintendent or foreman who shall have full authority to act for the Contractor. It is understood that such Representative shall be acceptable to the City and shall be one who can be continued in that capacity for the particular job involved unless he ceases to be on the Contractor's payroll. All directions given to such Representative in the Contractor's absence shall be as binding as if given to the Contractor.

9. CHANGES IN THE WORK:

The City may, at any time, by written order and without notice to the sureties, require the performance of extra work or make changes by altering, adding to, or deducting from the work. The amount of compensation to be paid to the Contractor shall be adjusted accordingly without invalidating the Contract and in accordance with whichever of the following plans the City elects: (1) a price agreed upon, (2) a price based on unit prices of the Contract; or (3) a price determined by adding fifteen percent (15%) to the reasonable cost of the extra work, addition, alteration, or deduction; provided however, that no additions to the Contract Price shall be agreed upon by, or shall be binding upon the City if the effect of said price increase is to increase the Contract amount beyond the amount of money appropriated by the City Council, as specified in Section 2-3 of the Code of Laws of the City of Wheat Ridge.

In giving instructions, the City may authorize minor changes in the work, not involving extra cost and not inconsistent with the purpose of the project. Otherwise, except in an emergency endangering life or property, no extra work or change shall be made unless in pursuance of a written approved Change Order or RFI response by the City.

10. TIME EXTENSIONS:

The Contractor shall, within seven (7) days from the beginning of any delay, notify the City, in writing, of the causes thereof and the City shall ascertain the facts, the extent of the delay and notify the Contractor of the decision in the matter.

The completion time shall be extended when delay in completion of the work by the Contractor is due to unforeseeable causes beyond his control and without his fault or negligence, including, but not restricted to, acts of God or the public enemy, acts or neglect of the City, acts of neglect of any other contractor, fires, floods, epidemics, quarantine restrictions, strikes, riots, civil commotions or freight embargoes. The time of completion of his work shall be extended by such time as shall be fixed by the City.

No such extension of time shall be deemed a waiver by the City of its right to terminate the Contract for abandonment or delay by the Contractor as herein provided or relieve the Contractor from full responsibility for performance of his obligations hereunder. The City's liability for delay shall be limited pursuant to the provisions of Section 2-4 of the Code of Laws of the City of Wheat Ridge and shall be limited to granting a time extension to the Contractor.

11. DEFECTIVE WORK:

The observation of the work by the City shall not relieve the Contractor of any of his obligations to fulfill his Contract as herein prescribed, and defective work shall be made good, and unsuitable materials may be rejected, notwithstanding that such work and material have been previously overlooked by City representative(s) and accepted or estimated for payment or paid for. If the work or any part thereof shall be found defective or at any time before the final acceptance of the whole work, or the final payment therefore, the Contractor shall forthwith make good such defect in a manner satisfactory to the City and if any material brought upon the ground for use in the work, or selected for the same, shall be condemned by the City as unsuitable, the Contractor shall forthwith remove such materials from the vicinity of the work and shall replace, at his own expense, damaged or unsuitable materials with the new materials of satisfactory quality.

Neither the foregoing nor any provision of these Contract Documents, nor any special guarantee time limit, shall be held to limit the Contractor's liability for defects to less than the legal limit of liability in accordance with the law of the place of the construction.

The Contractor shall pay the City all expenses, losses, and damages as determined by the City incurred in consequence of any defect, omission, or mistake of the Contractor or his employees or the making good thereof.

#### 12. UNEXPECTED UNDERGROUND STRUCTURES; CHANGE OF CONDITIONS:

Should the Contractor encounter underground structures at the site materially differing from those shown on the Plans or indicated in the Specifications, he shall immediately give notice to the City of such conditions before they are disturbed. The City will thereupon promptly investigate the conditions, and if it is determined that they materially differ from those shown on the Plans, may authorize changes to be made to the Plan and/or Specifications as may be necessary.

It is understood and agreed that the Contractor has considered in his bid all of the permanent and temporary utility appurtenances in their present or relocated position as shown on the plans and that additional compensation will not be allowed except for any unreasonable delays, or damage sustained by him due to any interference from the said utility appurtenances. Unreasonable delays shall constitute delays caused by a complete shutdown of all operations. It is understood that utilities are not owned, operated or controlled or subject to control by the City of Wheat Ridge. Relocations of facilities owned by said utilities are not a matter over which the City has control. The Contractor shall adjust his schedule in anticipation of such delays so that work in other areas may be completed away from the area of utility conflict.

The locations of all utilities shown on the Project plans should be considered approximate. It is therefore the responsibility of the Contractor to notify the appropriate utility and obtain more precise locations. No compensation will be made to the Contractor for any damage, delay or additional cost incurred as a result of failure to obtain utility locations.

Information on the Plans in the Contract Documents referring to the existence of utilities or other underground structures is not guaranteed to be correct or to be a complete representation of all existing data. Every effort has been made, however, to make this information complete and accurate on the basis of all data and information which could be procured by the City. The Contractor shall make his own examination and shall draw his own conclusions as to the underground facilities which will be encountered, and he shall have no claim for damages of any kind on account of any errors, inaccuracies or omission that may be found.

There shall be no adjustment in Contract Price based on changed site conditions. The Contractor is required hereby to make an on-site inspection and investigation, which includes determination of location of utilities and said and other natural conditions. Representations regarding site and soil conditions and utility locations are based on the best information available to the Owner and final determination as to both site and soil conditions and utility locations is left to the Contractor, without recourse to the City. The City shall allow reasonable and necessary access to the site to Contractor and his representatives to make such determination and site review.

#### 13. CLAIMS FOR EXTRA COSTS:

No claim for extra work or cost shall be allowed unless the same was done in pursuance of written order of the City, as provided for in Article 9, and the claim was presented prior to the issuance of the final payment. When work is performed under the "reasonable cost" method as outlined in Article 9 of the General Conditions, the Contractor shall furnish satisfactory bills, payrolls and vouchers covering all items of cost, and when requested by the City, give the City access to accounts relating thereto.

NO adjustments will be allowed for fuel cost of asphalt cement.

#### 14. RIGHT OF CITY TO TERMINATE CONTRACT:

If (1) the Contractor or any of his Subcontractors shall be adjudged bankrupt or (2) if he shall make a general assignment for the benefit of his creditors or (3) if a receiver shall be appointed of his property, or (4) if the work to be done under this Contract shall be abandoned, or (5) if this Contract or any part hereof shall be sublet, without the previous written consent of the City, or (6) if the Contract or any claim thereunder shall be assigned by the Contractor otherwise than as herein specified, or (7) at any time the City shall certify in writing that the rate of progress of the work or any part thereof is unsatisfactory or (8) that the work or any part thereof is unnecessarily or unreasonably delayed, or (9) that the Contractor, his subcontractors, agents or employees have violated any of the provisions of this Contract, or of the plans and specifications, or construction schedule, the City shall notify Contractor and the Surety, and shall be entitled immediately to terminate the Contract. The Surety shall have the right to take over and perform the Contract, provided, however, that if the Surety does not commence performance thereof within ten (10) days from the date of the mailing to such Surety of notice of termination, the City may take over the work and prosecute the

same to completion by contract or by force account for the account and at the expense of the Contractor, and the Contractor and his Surety shall be liable to the City for any excess cost occasioned the City thereby, and in such event the City may take possession of and utilize in completing the work, such materials, machinery, appliances and plant as may be on the site of the work and necessary therefore. The Contractor, by signing this Contract, gives to the City in the event of default, right to use such aforesaid articles to the full extent which they could be used by the Contractor. The City shall not be liable to the Contractor for trespass or conversion.

All expenses charged under this article shall be deducted and paid for by the City out of money then due to become due the Contractor under this Contract or any part thereof, and in such account the City shall not be held to obtain the lowest figures for the work of completing the Contract or any part thereof or for insuring its proper completion, but all sums actually paid hereafter shall be charged to the Contractor and his Surety. In case the expenses so charged are less than the sum which would have been payable under this Contract if the same had been completed by the Contractor, the City shall be entitled to retain the difference and in case such expenses shall exceed the said sum, the Contractor and his Surety shall pay the amount of the excess to the City upon completion of the work without further demand being made therefore.

15. CONSTRUCTION SCHEDULE:

Before any work is begun, the Contractor shall provide to the City a written schedule detailing the order and manner of doing the work. Before the first partial payment is made, the Contractor shall deliver to the City an estimated construction progress schedule in form satisfactory to the City, showing the proposed dates of commencement and completion of each of the various subdivisions of work required under the Contract. The Contractor shall provide an updated schedule every two weeks.

16. PAYMENTS TO THE CONTRACTOR:

During the course of construction, the Contractor shall request payment of work actually performed during the preceding month. The City will once each month make a progress payment to the Contractor on the basis of an evaluation of the claim by the City as to amount of work done and that the City has received full value thereof. In accordance with House Bill 11-1115, the City shall retain five percent (5%) of the value of the completed work. Retainage shall be held until final completion and acceptance of all work, as part security for the fulfillment of the Contract by the Contractor. The amount of the progress payments shall be the balance not retained as aforesaid, after deducting all previous payments and all other sums to be kept or retained under the provisions of this Contract. The Contractor shall have no right to either terminate the Contract or to claim damages if he considers partial payments inadequate.

17. CERTIFICATE OF COMPLETION:

Upon completion of all work whatsoever required including completion of all known defective work, the City shall file a written certificate with the Contractor as to the entire amount of work performed and compensation earned by the Contractor including Extra Work and compensation therefore, and including the date of completion.

18. FINAL PAYMENT:

After the filing of the Certificate of Completion, the City shall pay to the Contractor in accordance with applicable Colorado laws (Article 38, Chapter 26, Section 101, Et. Seq. Colorado Revised Statutes) and upon authorization of funds disbursement by the City Council the amount therein stated, less all prior payments and advances whatsoever, to or for the Account of the Contractor. All prior estimates and payments including those relating to extra work shall be subject to correction by this payment.

19. PAYMENT WITHHELD:

The City, as a result of subsequent discovered evidence, may withhold or nullify the whole or a part of any payment to such extent as may be necessary to protect the City from loss on account of:

- (a) Defective work not remedied.
- (b) Claims filed or reasonable evidence indicating probable filing of claim.
- (c) Failure of the Contractor to make payments properly to Subcontractor or for material or labor, or to comply with laws relative thereto.
- (d) A reasonable doubt that the Contract can be completed for the balance then unpaid.
- (e) Damage to another Contractor.
- (f) Damage to the real or personal property of another and failure to repair or replace the same.

When the grounds for withholding payment have been corrected to the satisfaction of the City, the City shall proceed to process any amounts due.



20. FINAL PAYMENT TO TERMINATE LIABILITY OF CITY:

The acceptance by the Contractor of the last payment made as aforesaid under the provisions of Article 19 shall operate as and shall be a release to the City, its officers, or agents from all claims and liability to the Contractor, his vendors, laborers or Subcontractors for anything done or furnished for, relating to, or for any act or neglect of the City or of any persons relating to, or affecting the work, except the claim against the City for the remainder, if any there be, of the amounts kept or retained as provided in Article 17, 19 and 20 of these . Said acceptance shall also operate as a general release of the City by the Contractor.

21. EFFECT OF CERTIFICATION AND PAYMENT:

Neither the certification nor payment; made to the Contractor, not partial or entire use or occupancy of the work by the City shall be an acceptance of any work or materials not in accordance with the Contract. The making and acceptance of the final payment shall constitute a bar of all claims by the Contractor, except those previously made in writing and still unsettled.

22. GENERAL WARRANTY:

The Contractor shall guarantee the work against defective materials or workmanship for a period of one (1) year from the final completion date. Upon discovery of any defects including any damage to other work resulting, repair and replacement that is required, in the opinion of the City, shall be done immediately by the Contractor at the Contractor's expense. Should the Contractor fail to repair such defective material and/or workmanship, or to make replacement within five (5) days after written notice by the City, it is agreed that the City shall make such repairs and replacements and the actual cost of the required labor and materials shall be chargeable to and payable by the Contractor.

23. INSURANCE:

The Contractor shall maintain general liability and property damage insurance (the "Liability Policy") to protect the Contractor and the City from any and all claims for damages including but not limited to claims for property damage and bodily injury, including death, which may arise from operations under this Contract, including the operations of subcontractors. The Liability Policy shall state that it is the primary insurance for such claims and shall not contain any "excess" or "other insurance" clauses which limit its application as the primary coverage for those claims. The Contractor shall be individually liable for any and all defects in the Liability Policy. The Liability Policy shall not be terminated or cancelled prior to the completion of this Contract without at least 45 days prior written notice to the City.

For bodily injury	\$500,000 each person/ \$500,000 each accident/ \$500,000 each disease
For property damage	\$1,000,000 for each occurrence
For automobile liability	\$1,000,000 combined single limit

In lieu of the foregoing, a single limit public liability policy for personal injury, property and/or vehicle damage will be accepted in the amount of \$2,000,000.00.

Such insurance shall be without prejudice to coverage otherwise existing, and shall name as additional insured, the City of Wheat Ridge, its officers and employees.

Notwithstanding the naming of additional insured, the said policy shall protect each insured in the same manner as though a separate policy had been issued to each, but nothing herein shall operate to increase the insurer's liability as set forth elsewhere in the policy beyond the amount or amounts for which the insurer would have been liable if only one person or interest had been named as insured. A certificate evidencing such insurance, together with the proper endorsement, shall be filed, subject to approval as to the adequacy of protection.

Fire and Standard Extended Coverage Insurance -- The Contractor shall insure the work for 100 percent (100%) of the replacement value thereof for the life of the Contract against all loss or damage covered by the Standard Extended Coverage Insurance endorsement, including theft, vandalism, and malicious mischief, with an insurance company or companies acceptable to the City. The amount of the insurance may vary with the extent of the work completed but shall at all times be at least equal to the replaceable value of the amount paid for the work and materials installed and delivered plus the replaceable value of the work or materials furnished or delivered, but not yet paid for by the City. The insurance policy or policies shall be held jointly in the name of the City and Contractor as their respective interest may appear.

The issue, if any, shall be made adjustable with and payable to the City as a trustee for whom it may concern. Any payments made under such policy shall insure to the benefit of the City to the extent of balance for replacement of the loss suffered. The policy of insurance shall provide that it shall not be terminated or be canceled prior to the completion of this Contract. The Contractor shall be responsible for all damage to the work under construction, whether from fire, water, high winds or other cause during construction and until final completion and acceptance, even though partial payments or progress payments have been made under the Contract.

Workers' Compensation Insurance -- The Contractor shall provide workers' compensation insurance coverage for all persons employed on the work to be done under the Contract and assure that all workers will receive the compensation for compensable injuries.

Certificates of Insurance shall be attached to the executed Contract Documents and shall become a part of the Contract. These Certificates shall include a provision that thirty (30) days prior to insurance cancellation, written notice shall be given to the City of Wheat Ridge.

Indemnification of City -- Contractor hereby indemnifies and agrees to hold the City and its representatives and agents harmless for and on account of any act or omission in the completion and execution of the project specified herein, which indemnification shall extend to and include any damage of whatever sort or description, suffered by any person or entity, and shall include compensatory, punitive or special damages; and Contractor agrees to defend City hereunder, at Contractor's sole expense and if he fails to do so, to thereafter indemnify City, in addition to the above indemnification, for all court costs and attorney fees incurred in any defense required to be undertaken by the City.

Notwithstanding the foregoing, nothing contained herein shall be deemed a waiver by the City of any of the protections afforded the City by virtue of the provisions of the Colorado Governmental Immunity Act (Colo. Rev. Stat. 24-10-101).

#### 24. RESPONSIBILITY FOR WORK; PRIORITY OF DOCUMENTS:

- a) Debts and claims: The Contractor shall pay all debts for labor and materials contracted for by him on account of the work herein contemplated. The Contractor shall assume the defense of, and indemnify and save harmless, the City and its officers and agents, from all claims relating to labor and materials furnished for the work; to infringement or alleged infringement of invention patents and patent rights used in, or in connection with the work or however originating from any of the work under this Contractor from conditions created thereby; to injuries to any persons or corporation caused by the acts or negligence of the Contractor or any of his agents or employees, or of any Subcontractor or any agents or employees of any Subcontractors, in doing the work or in consequence of any improper materials, implements or labor used therein; and shall fully reimburse and repay to the City all outlay and expense which the City may incur by reason of his failure to do so. The Contractor shall satisfy all suits and claims against the City arising from the violation of any law, ordinance, regulation, order, or decree on the part of the Contractor or any of his agents or employees, or any Subcontractor, or agent or employees of any Subcontractor; shall fully indemnify and save harmless the City against and from all cost, loss, and damage which the City may suffer by reason of his failure to do so; and shall fully reimburse and repay to the City all outlay and expense which the City may incur in making good any such default. The Contractor shall fully complete the work required to be done under this Contract, free from all liens and claims of any kind whatsoever.
- b) Plans and Specifications: It shall be the duty of the Contractor to carefully study and compare all drawings, specifications and instructions, visit the project site and acquaint himself with all conditions, and call to the attention of the City any discrepancy, error, omission or inconsistency that may exist in the plans or specifications, or between the plans and specifications, or any conflict between existing conditions and requirements of the plans and specifications. The execution or work in accordance with the plans, specifications or other instructions will be considered as evidence that the Contractor is thoroughly familiar with the true intent of the plans, specifications or other instructions. Change orders will not be issued to cover any cost, loss, or expense for additional labor or material required to rectify any discrepancies discovered or reported to the City after the execution of the work, unless the discrepancies are errors in structural, mechanical or electrical design as determined by the City.
- c) Priority of Documents: In case of discrepancy or inconsistency in the terms or conditions of any documents, the Contract Documents shall have the following order of priority such that a statement appearing in the document with the higher priority shall control any inconsistent statement in a document of lower priority. (The following are listed from the highest priority to the lowest priority):
  1. The Agreement
  2. Drawings and any notes appearing on the drawings
  3. Project Special Provisions
  4. Current edition of CDOT Standard Specifications for Road and Bridge Construction and all supplements thereto (English Version).
  5. General Provisions of the Contract for construction.

25. CARE AND PROTECTION OF PROPERTY:

The Contractor expressly undertakes at his own expense:

To assume full responsibility for the preservation of all public and private property, and use every precaution necessary to prevent damage thereto. If any direct or indirect damage is done to public or private property or on account of any act, omission, neglect or misconduct in the execution of the work on the part of the Contractor, such property shall be restored by the Contractor, at his expense, to a condition similar or equal to that existing before the damage was done, or he shall make good the damage in another manner acceptable to the City. No representations are made by or on behalf of the City concerning the conditions, locations or state of repair or existing sewers, drains, water mains and other underground structures;

To store his apparatus, materials, supplies, and equipment in such orderly fashion at the site of the work as will not unduly interfere with the progress of his work or the work on any other Contractor;

To provide suitable storage facilities for all materials which are liable to injury or exposure to weather, theft, breakage, or otherwise;

To place upon the work or any part thereof only such loads as are consistent with the safety of that portion of the work;

To clean up frequently all refuse, rubbish, scrap materials, and debris caused by his operations, to the end that at all times the site of the work shall present a neat, orderly and workmanlike appearance;

To fully and completely remove all utility markings generated by or as a result of the project from public rights-of-way utilizing a method that is least destructive to the existing improvements, and which method has been approved by the City. Should the contractor propose to remove the markings with pressure washing, all pressure washing runoff and residue shall be contained and collected in accordance with Best Management Practices and Wheat Ridge Ordinance Chapter 20, Stormwater Quality and Control. Removal of all markings shall occur no later than twenty (20) days after completion of work.

To remove all surplus material, false-work, temporary structures, including foundations thereof, plant of any description and debris of every nature resulting from his operations, and to put the site in a neat, orderly condition before final payment;

To affect all cutting, fitting or patching of his work required to make the same to conform to the Plans and Specifications and, except with the consent of the City, not to cut or otherwise alter the work of any other Contractor. The Contractor shall not, except after written consent from proper parties enter or occupy with men, tools, materials or equipment, any privately owned land except on easements provided herein.

26. LANDS FOR WORK AND RIGHT-OF-WAY:

The City will provide land, right-of-way and easements for all work specified in the Contract.

27. NO DAMAGES FOR CERTAIN DELAYS:

The City may delay the commencement of the work, or any part thereof, if the City shall deem it for the best interest of the City to do so. The Contractor shall have no claim for damages on account of such delay, but he shall be entitled to so much additional time in which to complete the whole or any portion of the work required under this Contract as the City shall certify in writing to be just. The Contractor shall have no claim for damages on account of any delay on the part of another Contractor. Contractor expressly acknowledges and accepts the provisions of Section 2-4 of the Code of Laws of the City of Wheat Ridge as controlling this Project.

28. REQUIRED PROVISIONS DEEMED INSERTED:

Each and every provision of law and clause required by law to be inserted in this Contract shall be deemed to be inserted herein, and the Contract shall be read and enforced as though it were included herein, and if through mistake or otherwise, any such provision is not inserted, or if not correctly inserted, then upon the applications of either party, the Contract shall forthwith be physically amended to make such insertion.

29. PROTECTION OF LIVES AND HEALTH:

The Contractor shall take all necessary precautions for the safety of employees of the work, and shall comply with all applicable provisions of Federal, State, and Municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to the premises where the work is being performed. He shall erect and properly maintain at all times, as required by the conditions and progress of the work, all necessary safeguards for the protection of workmen and the public and shall post danger signs warning against the hazards created by the construction such as protruding nails, hod hoists, well holes, elevator hatchways, scaffolding, window openings, stairways, and failing materials.

The Contractor shall comply with the Department of Labor Safety and Health Regulations for construction promulgated under the Occupational Safety and Health Act of 1970 (PL-91-596) and under Section 107 of the Contract Work Hours and Safety Standards Act (PL-19-54).

**30. WAGE RATES:**

The attention of the bidder is called to the requirements and provisions of all applicable laws and any amendments thereof or additions thereto as to the employment of labor, and to the schedule of any minimum wage rates established in compliance with such laws. If, after the award of the Contract, it becomes necessary to employ any person in a trade or occupation not classified in the wage determinations, such person shall be paid at not less than such rate as shall be determined by the officials administering the laws mentioned above.

The Contract is subject to the applicable provisions of the Contract Work Hours Standards Act. Public Law 87-581, 87th Congress. No Contractor or Subcontractor contracting for any part of the contract work shall require or permit any laborer or mechanic to be employed on such work in excess of eight (8) hours in any calendar day or in excess of forty (40) hours in any work week unless such laborer or mechanic received compensation at a rate not less than one and one-half times his basic rate of pay for all hours worked in excess of eight (8) hours in any calendar day or in excess of forty (40) hours in such work week, as the case may be.

**31. EMPLOYMENT OF LABOR:**

The Contractor and each of his Subcontractors shall hire qualified workers for the project who are citizens of the United States or legal resident aliens with first preference being given, insofar as practicable, to those having served in the armed forces of the United States and having been honorably discharged or released from active duty therein.

The Contractor shall employ only competent persons to do the work, and whenever requested in writing by the City Representative, the Contractor shall discharge any person who commits trespass or is, in the opinion of the City Representative, disorderly, dangerous, unfaithful, insubordinate, incompetent or otherwise unsatisfactory.

**32. SANITARY PRECAUTIONS:**

Sanitary conveniences for the use of all persons employed on the work, properly screened from public observation, shall be provided in sufficient numbers in such manner and at such points as shall be approved. The contents shall be removed and disposed of in a satisfactory manner as the occasion requires. The Contractor shall rigorously prohibit the committal of nuisances within, on, or about the work. Any employees found violating these provisions shall be discharged and not again employed on the work without the written consent of the City Representative.

The Contractor shall supply sufficient drinking water from approved sources to all of his employees.

The sanitary convenience specified above shall be the obligation and responsibility of the General Contractor until the completion of the work. The facilities shall be made available to all other Contractors and Subcontractors.

**33. SALES AND USE TAXES:**

Do not include sales or use taxes in your bid. House Bill 1451 provides that Contractors shall make application with the Colorado State Department of Revenue for a tax exempt number which will be issued for the duration of the project. This tax exempt number is for State taxes only. The City of Wheat Ridge will issue its own tax exempt number for local sales tax purposes. An affidavit must be signed by the General Contractor for such project before the City tax exempt number can be issued. Please be advised that a supplier is allowed by Colorado law (C.R.S. 39-26-703 (1) to disallow any exemption because the seller is ultimately responsible for the tax. When a supplier exercises this right, please seek a refund of sales taxes paid from the appropriate jurisdiction (city or state).

**35. BUSINESS LICENSE:**

A business license is required for all Contractors performing work in the City prior to beginning work. Please contact the City Sales Tax Division to obtain a license.

## **CDOT STANDARD SPECIFICATIONS**

All work required for the project shall be in accordance with the latest edition of the COLORADO DEPARTMENT OF TRANSPORTATION (CDOT), Standard Specifications for Road and Bridge Construction, 2017 Edition, unless modified by these Specifications.

### **CDOT STANDARD SPECIAL PROVISIONS**

The CDOT Standard Specifications are modified with the following CDOT Standard Special Provisions.

July 3, 2017

#### **REVISION OF SECTION 103 COLORADO RESIDENT BID PREFERENCE**

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

Subsection 103.01 shall include the following:

- (a) *Colorado Resident Bid Preference.* A resident bidder shall be allowed a preference against a nonresident bidder from a state or foreign country equal to the preference given or required by the state or foreign country in which the nonresident bidder is a resident.

Resident bidder means:

- (1) A person, partnership, corporation, or joint venture which is authorized to transact business in Colorado and which maintains its principal place of business in Colorado: or,
- (2) A person, partnership, corporation, or joint venture which is authorized to transact business in Colorado, which maintains a place of business in Colorado, and which has paid Colorado unemployment compensation taxes in at least seventy-five percent of the eight quarters immediately prior to bidding on a construction contract for a public project.

To determine the resident bid preference status of a bidder, the bidder shall submit a completed Form 604 with the proposal. Failure to submit the residency Form with the proposal will be justification for and may result in the rejection of the proposal and forfeiture of the proposal guaranty.

The proposals will be treated as follows:

- (1) All proposals will be checked for accuracy by the Department.
- (2) The dollar amount of the checked proposal from nonresident bidders will be adjusted by a percentage equal to the percentage preference given or required by the state or foreign country of the bidder's residency. If the state or foreign country does not give or require a residency preference, no adjustment in the proposal dollar amount will be made.
- (3) Adjusted proposals from nonresident bidders will then be compared to proposals from resident bidders, and the bidder with the lowest total will be considered the apparent low bidder.
- (4) Should a nonresident bidder be the apparent low bidder, in accordance with paragraph (3) above, an award will be made on the basis of the original proposal, not the adjusted proposal.
- (5) The Department will proceed with its normal award procedure.

July 3, 2017

#### **REVISION OF SECTION 105 CONFORMITY TO THE CONTRACT OF PORTLAND CEMENT CONCRETE PAVEMENT**

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

In subsection 105.06(a) delete the third paragraph and replace it with the following:

When compressive strength criteria is indicated, then the QL will be calculated for the elements of compressive strength and pavement thickness on a process basis. When flexural strength criteria is indicated, then the QL will be calculated for the elements of flexural strength and pavement thickness on a process basis. A process will consist of the test results from a series of random samples. Test results determined to have sampling or testing errors will not be used. All materials produced will be assigned to a process. Changes in mix design, design pavement thickness, or a

break of more than 120 working days between placements will create a new process. The following is provided to clarify changes in processes for each element:

1. Construction of mainline pavement, including the shoulders if placed with the mainline, is a single process for the compressive or flexural strength element, when the mix design does not change and there is not a break of more than 120 days between placements.
2. Construction of mainline pavement, including the shoulders if placed with the mainline, is a single process for the thickness element, when the planned thickness does not change and there is not a break of more than 120 days between placements.
3. Construction of ramps, acceleration and deceleration lanes and shoulders placed separately are considered separate processes.
4. Changes in paving equipment, changes in placement method, changes in hauling equipment, adjustments to mix designs that do not require a new mix design, changes in weather conditions, and changes in production rate shall not create a new process in the strength or thickness elements.

The Contractor and Engineer will determine element processes and what distinguishes them as processes during the pre-pave meetings prior to any concrete placement.

December 7, 2017

### **REVISION OF SECTION 105 DISPUTES AND CLAIMS FOR CONTRACT ADJUSTMENTS**

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

Delete subsections 105.22, 105.23 and 105.24 and replace with the following:

105.22 Dispute Resolution. Subsections 105.22, 105.23, and 105.24 detail the process through which the parties (CDOT and the Contractor) agree to resolve any issue that may result in a dispute. The intent of the process is to resolve issues early, efficiently, and as close to the project level as possible. Figure 105-1 in the standard special provisions outlines the process. Specified time frames may be extended by mutual agreement of the Engineer and the Contractor. In these subsections, when a time frame ends on a Saturday, Sunday or holiday, the time frame shall be extended to the next scheduled work day.

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

The Contractor shall be barred from any administrative, equitable, or legal remedy for any issue which meets either of the following criteria;

1. The Contractor did not bring the issue to the Project Engineer's attention in writing within 20 days of the Contractor being aware of the issue.
2. The Contractor fails to continually (weekly or otherwise approved by both parties) work with CDOT towards a resolution.

A dispute is an issue in which the Contractor and CDOT have not been able to resolve and of which the Contractor submits a written formal notice of dispute per section (b) below.

A claim is a dispute not resolved at the Resident Engineer level or resolved after a DRB recommendation.

The term "merit" refers to the right of a party to recover on a claim or dispute, irrespective of quantum, based on the substance, elements, and grounds of that claim or dispute. The term "quantum" refers to the quantity or amount of compensation or time deserved when a claim or dispute is found to have merit.

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

An audit may be performed by the Department for any dispute. Refer to subsection 105.24 for audit requirements.

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

When the Project Engineer is a Consultant Project Engineer, actions, decisions, and determinations specified herein as made by the Project Engineer shall be made by the Resident Engineer.

The dispute resolution process set forth in this subsection shall be exhausted in its entirety prior to initiation of litigation or arbitration. Failure to comply with the requirements set forth in this subsection shall bar either party 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 written notices of dispute shall be submitted within 30 days of date of the Project Engineer's Final Acceptance letter; see subsection 105.21(b).

When a project has a landscape maintenance period, the Project Engineer will grant partial acceptance in accordance with subsection 105.21(a). This partial acceptance will be project acceptance of all the construction work performed prior to this partial acceptance.

All disputes and claims related to the work in which this partial acceptance is granted shall be submitted within 30 days of the Project Engineer's partial acceptance.

Should the Contractor's dispute use the Total Cost approach for calculating damages, damages will be determined by subtracting the contract amount from the total cost of performance. Should the Contractor's dispute use the Modified Total Cost approach for calculating damages, if the Contractor's bid was unrealistic in part, and/or some of its costs were unreasonable and/or some of its damages were caused by its own errors, those costs and damages will be deducted from the total cost of performance to arrive at the Modified Total Cost. The Total Cost or Modified Total Cost basis for calculating damages shall not be available for any disputes or claims seeking damages where the Contractor could have kept separate cost records at the time the dispute arose as described in subsection 105.22(a).

(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 dispute is resolved, whichever is more. The Contractor, subcontractors, and lower tier subcontractors shall provide adequate facilities, acceptable to the Engineer, for an audit during normal business hours. The Contractor shall permit the Engineer or Department auditor to examine and copy those records and all other records required by the 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:

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 preceding week. If the Contractor's records indicate costs greater than those kept by the Department, the Project Engineer will meet with the Contractor and present his records to the Contractor at the meeting. The Contractor shall notify the Engineer in writing within three work days of any inaccuracies noted in, or disagreements with, the Department's records.

(b) *Initial Dispute Resolution Process.* To initiate the dispute resolution process the Contractor shall provide a written notice of dispute to the Project Engineer 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 104.02, 106.05, 108.08(a), and 108.08(d).

The Contractor shall supplement the written notice of dispute within 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 detailed explanation of the dispute citing 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., 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. This analysis shall meet the requirements of subsection 08.08(d).

The Contractor shall submit as much information on the quantum and impacts to the Contract time as is reasonably available with the REA and then supplement the REA as additional information becomes available. If the dispute escalates to the DRB process, neither party shall provide or present to the DRB any issue or any information that was not contained in the Request for Equitable Adjustment and fully submitted in writing to the Project Engineer and Resident Engineer during the 105.22 process.

- (c) *Project Engineer Review.* Within 15 days after receipt of the REA, the Project Engineer will meet with the Contractor to discuss the merits of the dispute. Within seven 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.

If the dispute is determined to have merit, the Contractor and the Project Engineer will determine the adjustment in payment, schedule, or both within 30 days. When a satisfactory adjustment is determined, it shall be implemented in accordance with subsections 106.05, 108.08, 109.04, 109.05 or 109.10 and the dispute is resolved.

If 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 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 30 days, the Contractor may further pursue resolution of the dispute by providing written notice to the Resident Engineer within seven days, according to subsection 105.22(d).

- (d) *Resident Engineer Review.* Within seven days after receipt of the Contractor's written notice to the Resident Engineer of unsatisfactory resolution of the dispute, the Project Engineer and Resident Engineer will meet with the Contractor to discuss the dispute. Meetings shall continue weekly for a period of up to 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 a resolution or the participants mutually agree that they have reached an impasse, the dispute shall be presented to the Dispute Review Board in accordance with subsection 105.23.

**105.23 Dispute Review Board.** A Dispute Review Board (DRB) is an independent third party that will provide specialized expertise in technical areas and administration of construction contracts. The DRB will assist in and facilitate the timely and equitable resolution of disputes between CDOT and the Contractor in an effort to avoid animosity and construction delays, and to resolve disputes as close to the project level as possible. The DRB shall be established and operate as provided herein and shall serve as an independent and impartial board. A DRB member shall not be called as witness for future litigation.

There are two types of DRBs: the "On Demand DRB" and the "Standing DRB". The DRB shall be an "On Demand DRB" unless a "Standing DRB" is specified in the Contract. An On Demand DRB shall be established only when the Project Engineer initiates a DRB review in accordance with subsection 105.23(a). A Standing DRB, when specified in the Contract, shall be established at the beginning of the project.

- (a) *Initiation of Dispute Review Board Review.* When a dispute has not been resolved in accordance with subsection 105.22, the Project Engineer will initiate the DRB review process within 5 days after the period described in subsection 105.22(d).
- (b) *Formation of Dispute Review Board.* DRBs will be established in accordance with the following procedures:
1. CDOT, in conjunction with the Colorado Contractors Association, will maintain a statewide list of pre-approved DRB candidates experienced in construction processes and the interpretation of contract documents and the resolution of construction disputes. Only individuals who have completed training (currently titled DRB Administration & Practice Training) through the Dispute Resolution Board Foundation or otherwise approved by CDOT can be a DRB member. DRB nominees shall be selected from the list of Pre-Approved candidates. When a DRB is formed, the parties shall execute the agreement set forth in subsection 105.23(l).
  2. If the dispute has a value of \$250,000 or less, the On Demand DRB shall have one member. The Contractor and CDOT shall select the DRB member and execute the Three Party Agreement within 30 days of initiating the DRB process. If the parties do not agree on the DRB member, each shall select five candidates. Each party shall numerically rank their list using a scale of one to five with one being their first choice and five being their last choice. If common candidates are listed, but the parties cannot agree, that common candidate with the lowest combined numerical ranking shall be selected. If there is no common candidate, the lists shall be combined and each party shall eliminate three candidates from the list. Each party shall then numerically rank the remaining candidates, with No. 1 being the first choice. The candidate with the lowest combined numerical ranking shall be the DRB member. The CDOT Project Engineer will be responsible for having all parties execute the agreement.



3. If the dispute has a value over \$250,000, the On Demand DRB shall have three members. The Contractor and CDOT shall each select a member and those two members shall select a third. Once the third member is approved the three members will nominate one of them to be the Chair and execute the Three Party Agreement within 45 days of initiating the DRB process.
4. The Standing DRB shall always have three members. The Contractor and CDOT shall each select a member and those two members shall select a third member. Once the third member is approved the three members will nominate one of them to be the Chair. The Contractor and CDOT shall submit their proposed Standing DRB members within 5 days of execution of the Contract. The third member shall be approved before the Pre-Construction Conference. The third member shall be selected within 15 days of execution of the Contract. Prior to construction starting the parties shall execute the Three Party Agreement. The CDOT Project Engineer will be responsible for having all parties execute the agreement. The Project Engineer will invite the Standing DRB members to the Preconstruction and any Partnering conferences.
5. DRB members shall not have been involved in the administration of the project under consideration. CDOT and the Contractor shall inform its selected DRB member who the major firms/people are on the project and request its selected DRB member to review the CDOT disclosure requirements and Canon of Ethics and then submit a disclosure statement which shall also be submitted to the other party. DRB candidates shall complete the DRB Disclosure Requirements & DRB Nominee Disclosure Form and disclose to the parties the following relationships:
  - (1) Prior employment with either party
  - (2) Prior or current financial interests or ties to either party
  - (3) Prior or current professional relationships with either party
  - (4) Anything else that might bring into question the impartiality or independence of the DRB member
  - (5) Prior to agreeing to serve on a DRB, members shall notify all parties of any other CDOT DRB's they are serving or that they will be participating in another DRB.

If either party objects to the selection of the chair or other DRB members based on the disclosures, or based on information not disclosed, which might bring into question the impartiality, independence, or performance of the potential member, that potential member shall not be placed on the Board.

6. There shall be no ex parte communications with the DRB at any time.
  7. The service of a Board member may be terminated only by written agreement of both parties.
- (c) If a Board member resigns, is unable to serve, or is terminated, a new Board member shall be selected within four weeks in the same manner as the Board member who was removed was originally selected.
- (d) *Additional Responsibilities of the Standing Disputes Review Board*
1. General. No later than 10 days after the Three Party Agreement has been signed by the Chief Engineer, the DRB will coordinate with the parties on the date and location of the initial DRB meeting.
    - (1) Obtain copies of the Contract documents and Contractor's schedules for each of the Board members.
    - (2) Agree on the location of future meetings, which shall be reasonably close to the project site.
    - (3) Establish an address and telephone number for each Board member for the purposes of Board business.
  2. Regular meetings. Regular meetings of the Board shall be held approximately every 120 to 180 days throughout the life of the Contract, except that this schedule may be modified to suit developments on the job as the work progresses. Regular meetings shall be attended by representatives of the Contractor and the Department.
  3. The Board shall establish an agenda for each meeting which will cover all items that the Board considers necessary to keep it abreast of the project such as construction status, schedule, potential problems and solutions, status of past claims and disputes, and potential claims and disputes. Copies of each agenda shall be submitted to the Contractor and the Department at least seven days before the meeting date. Oral or written presentations or both shall be made by the Contractor and the Department as necessary to give the Board all the data the Board requires to perform its functions. The Board will prepare minutes of each meeting, circulate them to all participants for comments and approval, and issue revised minutes before the next meeting. As a part of each regular meeting, a field inspection trip of all active segments of the work at the project site may be made by the Board, the Contractor, and the Department.
  4. Advisory Opinions
    - (1) Advisory opinions are typically used soon after the parties find they have a potential dispute and have conducted preliminary negotiations but before expenditure of additional resources and hardening their

positions. Advisory opinions provide quick insight into the DRB's likely assessment of the dispute. This process is quick and may be entirely oral and does not prejudice the opportunity for a DRB hearing.

- (2) Both parties must agree to seek an advisory opinion and so notify the chairperson. The procedure for requesting and issuing advisory opinions should be discussed with the DRB at the first meeting with the parties.
- (3) The DRB shall issue a one page written opinion within 5 days of the hearing.
- (4) The opinion is only advisory and does not require an acceptance or rejection by either party. If the dispute is not resolved and a hearing is held, the oral presentations and advisory opinion are completely disregarded and the DRB hearing procedure is followed.
- (5) Advisory opinions should be limited to merit issues only.

(e) *Arranging a Dispute Review Board Hearing.* When the Project Engineer initiates the DRB review process, the Project Engineer will:

1. Contact the Contractor and the DRB to coordinate an acceptable hearing date and time. The hearing shall be held at the Resident Engineer's office unless an alternative location is agreed to by both parties. Unless otherwise agreed to by both parties an On Demand DRB hearing will be held within 30 days after the Three Party Agreement is signed by the CDOT Chief Engineer. Unless otherwise agreed to by both parties, a Standing DRB hearing will be held within 30 days after the DRB has been requested per subsection 105.23(a).
2. Ensure DRB members have copies of all documents previously prepared by the Contractor and CDOT pertaining to the dispute, the DRB request, the Contract documents, and the special provisions at least two weeks before the hearing.

(f) *Pre-Hearing Submittal:* All Pre-Hearing Submittals shall include only arguments, supporting documentation, quantum, and other information as previously submitted in writing and as previously disputed in the formal dispute process covered in subsection 105.22 (b), (c), and (d). All Pre-Hearing Submittals planned to be used at the hearing, shall be submitted to the other party 35 days prior to the hearing for review for compliance with this requirement. If either party contends there are new arguments, supporting documents, new quantum, or any new information in a pre-Hearing Submittal, and the other party objects to this information being presented to the DRB, the objecting party shall submit its objections in writing to the other party within 10 days. The parties shall meet within 5 days to reconcile the objection before the submittal is submitted to the DRB. If the parties cannot reconcile the objection, but the new argument, supporting documentation, new quantum, or new information does not change either party's position on merit or quantum, the information shall be allowed in the Pre-Hearing submittal and presented to the DRB. If the parties cannot reconcile the objections within the 5 days allowed, each party shall submit a one page brief on their objections, but not the actual information objected to, to the DRB for a decision on the use of the documents. The DRB shall not approve any information simply because it is relevant to the dispute or referenced during the dispute. Neither party shall attempt to present anything to the DRB which they did not present to the other party during the dispute process. The dispute process shall be delayed while this determination is being made and a new hearing date set, if necessary. Pre-Hearing Submittals to the DRB are as follows:

1. **Joint Statement:** At least 20 days prior to the hearing the Joint Statement(s) shall be submitted to the DRB. The parties shall make every attempt to agree upon a Joint Statement of the dispute. If the parties cannot agree on the Joint Statement, each party's independent statement shall be submitted to the DRB. The Joint Statement shall summarize, in a few sentences, the nature of the dispute(s) and the scope of the desired decision.
2. **Position Paper:** At least 15 days prior to the hearing, CDOT and the Contractor shall submit by email to the DRB Chairperson their party's Position Paper. The DRB Chairperson shall simultaneously distribute by email the Position Papers to all parties and other DRB members, if any. The position paper shall contain the following:
  - (1) The basis and justification for the party's position, with reference to specific contract language and the supporting documents of each element of the disputes.
  - (2) A list of proposed attendees for the hearing. In the event of any objection by a party, the DRB shall make a final determination as to who attends the hearing.
  - (3) When the scope of the hearing includes quantum, full cost details, calculated in accordance with methods set forth in subsection 105.24(b)12. The Scope of the hearing will not include quantum if CDOT has ordered an audit and that audit has not be completed.
3. **Supporting Documents;** At least 15 days prior to the hearing, each party shall submit a copy of all its supporting documents to the DRB and the other party. Supporting documents include any presentations, visuals, or handouts planned to be used at the hearing. To minimize duplication and

repetitiveness, the parties are encouraged to identify a common set of documents that will be referred to by both parties and submit them in a separate package to the DRB at least 20 days prior to the hearing. Common documents are communications between parties, speed memos, change orders, schedules, request for equitable adjustment, and correspondence, and any document used in the Subsection 105.22 process. CDOT shall submit the common set of documents to the Board and Contractor.

4. If relevant to the dispute and requested by the Board, the Engineer shall provide to the DRB either website links, electronic pdf's, or hard copies of pertinent contract documents such as plans, specifications, and M&S Standards.

(g) *Pre-Hearing Phone Conference:* A pre-hearing phone conference with all Board members and the parties shall be conducted as soon as a hearing date is established, but no later than 10 days prior to the hearing. The DRB Chairperson shall explain the specifics of how the hearing will be conducted including how the two parties will present their information. (Ex. Each party makes a full presentation of their positions or presentations will be made on a "point by point" basis with each party making a presentation only on the individual dispute issue before moving onto the next issue.)

If the pre-hearing position papers and documents have been received by the DRB prior to the conference call, the Chairperson shall discuss the estimated hours of review and activities for the disputes (such as time spent evaluating and preparing recommendation on specific issues presented to the DRB). If the pre-hearing position papers and documents have not been received by the Board prior to the conference call, another conference call will be scheduled during the initial conference call to discuss the estimated hours of review. The Engineer shall coordinate the conference call.

(h) *Dispute Review Board Hearing.* The DRB shall preside over a hearing. The chairperson shall control the hearing and conduct it as follows:

1. An employee of CDOT presents a brief description of the project and the status of construction on the project.
2. The party that requested the DRB presents the dispute in detail as supported by previously submitted information and documentation in the pre-hearing position paper. No new information or disputes will be heard or addressed by the DRB. Rebuttals of the other party's arguments shall not be presented at this time.
3. The other party presents its position in detail as supported by previously submitted information and documentation.
4. The party that requested the DRB presents their rebuttals followed by the other party's rebuttals.
5. Upon completion of their presentations and rebuttals, both parties and the DRB will be provided the opportunity to exchange questions and answers. Questions from the parties shall be directed to the Chairperson. Attendees may respond only when board members request a response.
6. Employees of each party are responsible for leading presentations at the DRB hearing.
7. Attorneys shall not participate in the hearing unless the DRB specifically addresses an issue to them or unless agreed to by both parties. Should the parties disagree on attorney participation, the DRB shall decide on what, if any, participation will be permitted. Attorneys representing the parties are permitted to attend the hearing, provided their presence has been noted in the pre-hearing submittal.
8. Either party may use experts only if the expert has previously presented to the other party before the DRB process. A party intending to offer an outside expert's analysis at the hearing shall disclose such intention in the pre-hearing position paper. The expert's name and a general statement of the area of the dispute that will be covered by his presentation shall be included in the disclosure. The other party may present an outside expert to address or respond to those issues that may be raised by the disclosing party's outside expert.
9. If both parties approve, the DRB may retain an outside expert. The DRB chairperson shall include the cost of the outside expert in the DRB's regular invoice. CDOT and the Contractor shall equally bear the cost of the services of the outside expert employed by the DRB.
10. If either party attempts to present an argument, documentation, quantum, or new information which the other party feels was not in the Pre-Hearing submittals, the chairperson shall require the party to demonstrate where in the Pre-Hearing submittal the information in question resides.
11. If either party fails to timely deliver a position paper, the DRB may reschedule the hearing one time. On the final date and time established for the hearing, the DRB shall proceed with the hearing using the information that has been submitted.

12. If a party fails to appear at the hearing, the DRB shall proceed as if all parties were in attendance.

(i) *Dispute Review Board Recommendation.* The DRB shall issue a Recommendation in accordance with the following procedures:

1. The DRB shall not make a recommendation on the dispute at the meeting. Prior to the closure of the hearing, the DRB members and the Contractor and CDOT together will discuss the time needed for analysis and review of the dispute and the issuance of the DRB's recommendation. The maximum time shall be 30 days unless otherwise agreed to by both parties. At a minimum, the recommendation shall contain all the elements listed in Rule 35, Form of Award, of the Arbitration Regular Track Provisions listed at the end of subsection 105.24.
2. After the meeting has been closed, the DRB shall prepare a written Recommendation signed by each member of the DRB. In the case of a three member DRB, where one member dissents that member shall prepare a written dissent and sign it.
3. The chairperson shall transmit the signed Recommendation and any supporting documents to both parties.

(j) *Clarification and Reconsideration of Recommendation.* Either party may request in writing a clarification or reconsideration of a decision within ten days following receipt of the Recommendation. Within ten days after receiving the request, the DRB shall provide written clarification or reconsideration to both parties.

Requests for clarification or reconsideration shall be submitted in writing simultaneously to the DRB and to the other party.

The Board shall not accept requests for reconsideration that amount to a renewal of a prior argument or additional argument based on facts available at the time of the hearing. The Board shall not consider any documents or arguments which have not been made a part of the pre-hearing submittal other than clarification and data supporting previously submitted documentation.

Only one request for clarification or reconsideration per dispute from each party will be allowed.

(k) *Acceptance or Rejection of Recommendation.* CDOT and the Contractor shall submit their written acceptance or rejection of the Recommendation, in whole or in part, concurrently to the other party and to the DRB within 14 days after receipt of the Recommendation or following receipt of responses to requests for clarification or reconsideration.

If the parties accept the Recommendation or a discreet part thereof, it will be implemented in accordance with subsections 108.08, 109.04, 109.05, or 109.10 and the dispute is resolved.

If either party rejects the Recommendation in whole or in part, it shall give written explanation to the other party and the DRB within 14 days after receiving the Recommendation. When the Recommendation is rejected in whole or in part by either party, the other party may either abandon the dispute or pursue a formal claim in accordance with subsection 105.24.

If either party fails to submit its written acceptance or rejection of the Dispute Board's recommendation, according to these specifications, such failure shall constitute that party's acceptance of the Board's recommendation.

(l) *Admissibility of Recommendation.* Recommendations of a DRB issued in accordance with subsection 105.23 are admissible in subsequent proceedings but shall be prefaced with the following paragraph:

This Recommendation may be taken under consideration with the understanding that:

1. The DRB Recommendation was a proceeding based on presentations by the parties.
2. No fact or expert witnesses presented sworn testimony or were subject to cross-examination.
3. The parties to the DRB were not provided with the right to any discovery, such as production of documents or depositions.
4. There is no record of the DRB hearing other than the Recommendation.

(m) *Cost and Payments.*

1. General Administrative Costs. The Contractor and the Department shall equally share the entire cost of the following to support the Board's operation:

- (1) Copies of Contract and other relevant documentation
- (2) Meeting space and facilities
- (3) Secretarial Services

- (4) Telephone
- (5) Mail
- (6) Reproduction
- (7) Filing

2. The Department and the Contractor shall bear the costs and expenses of the DRB equally. Each DRB board member shall be compensated at an agreed rate of \$1,200 per day if time spent on-site per meeting is greater than four hours. Each DRB board member shall be compensated at an agreed rate of \$800 per day if time spent on-site per meeting is less than or equal to four hours. The time spent traveling to and from each meeting shall be reimbursed at \$50 per hour if the travel distance is more than 50 miles. The agreed daily and travel time rates shall be considered full compensation for on-site time, travel expenses, transportation, lodging, time for travel of more than 50 miles and incidentals for each day, or portion thereof that the DRB member is at an authorized DRB meeting. No additional compensation will be made for time spent by DRB members in review and research activities outside the official DRB meetings unless that time, (such as time spent evaluating and preparing recommendations on specific issues presented to the DRB), has been specifically agreed to in advance by the Department and Contractor. Time away from the project that has been specifically agreed to in advance by the parties will be compensated at an agreed rate of \$125 per hour. The agreed amount of \$125 per hour shall include all incidentals. Members serving on more than one DRB, regardless of the number of meetings per day, shall not be paid more than the all-inclusive rate per day or rate per hour for an individual project.
3. Payments to Board Members and General Administrative Costs. Each Board member shall submit an invoice to the Contractor for fees and applicable expenses incurred each month following a month in which the Board members participated in Board functions. Such invoices shall be in the format established by the Contractor and the Department. The Contractor shall submit to the Department copies of all invoices. No markups by the Contractor will be allowed on any DRB costs. The Department will split the cost by authorizing 50 percent payment on the next progress payment. The Contractor shall make all payments in full to Board members within seven calendar days after receiving payment from the Department for this work.

(o) *Dispute Review Board Three Party Agreement.*

DISPUTE REVIEW BOARD

THREE PARTY AGREEMENT  
COLORADO PROJECT NO.

THIS THREE PARTY AGREEMENT, made as of the date signed by the Chief Engineer below, by and between: the Colorado Department of Transportation, hereinafter called the "Department"; and

\_\_\_\_\_,  
Herein after called the "Contractor"; and

\_\_\_\_\_,  
\_\_\_\_\_,  
\_\_\_\_\_,  
and

\_\_\_\_\_,  
Herein after called the "Dispute Review Board" or "Board".

WHEREAS, the Department is now engaged in the construction of the

**[Project Name]**

and

WHEREAS, the Contract provides for the establishment of a Board in accordance with subsections 105.22 and 105.23 of the specifications.

NOW, THEREFORE, it is hereby agreed:

ARTICLE I  
DESCRIPTION OF WORK AND SERVICES

The Department and the Contractor shall form a Board in accordance with this agreement and the provisions of subsection 105.23.

ARTICLE II  
COMMITMENT ON PART OF THE PARTIES HERETO

The parties hereto shall faithfully fulfill the requirements of subsection 105.23 and the requirements of this agreement.

ARTICLE III  
COMPENSATION

The parties shall share equally in the cost of the Board, including general administrative costs (meeting space and facilities, secretarial services, telephone, mail, reproduction, filing) and the member's individual fees. Reimbursement of the Contractor's share of the Board expenses for any reason is prohibited.

The Contractor shall make all payments in full to Board members. The Contractor will submit to the Department an itemized statement for all such payments, and the Department will split the cost by including 50 percent payment on the next progress payment. The Contractor and the Department will agree to accept invoiced costs prior to payment by the Contractor.

Board members shall keep all fee records pertaining to this agreement available for inspection by representatives of the Department and the Contractor for a period of three years after the termination of the Board members' services.

Payment to each Board member shall be at the fee rates established in subsection 105.23 and agreed to by each Board member, the Contractor, and the Department. In addition, reimbursement will be made for applicable expenses.

Each Board member shall submit an invoice to the Contractor for fees incurred each month following a month in which the members participated in Board functions. Such invoices shall be in the format established by the Contractor and the Department.

Payments shall be made to each Board member within 60 days after the Contractor and Department have received all the applicable billing data and verified the data submitted by that member. The Contractor shall make payment to the Board member within seven calendar days of receipt of payment from the Department.

ARTICLE IV  
ASSIGNMENT

Board members shall not assign any of the work to be performed by them under this agreement. Board members shall disclose any conflicts of interest including but not limited to any dealings with the either party in the previous five years other than serving as a Board member under other contracts.

ARTICLE V

COMMENCEMENT AND TERMINATION OF SERVICES

The commencement of the services of the Board shall be in accordance with subsection 105.23 of the specifications and shall continue until all assigned disputes under the Contract which may require the Board's services have been heard and a Recommendation has been issued by the Board as specified in subsection 105.23. If a Board member is unable to fulfill his responsibilities for reasons specified in subsection 105.23(b)7, he shall be replaced as provided therein, and the Board shall fulfill its responsibilities as though there had been no change.

ARTICLE VI  
LEGAL RELATIONS

The parties hereto mutually agree that each Board member in performance of his duties on the Board is acting as an independent contractor and not as an employee of either the Department or the Contractor. Board members will guard their independence and avoid any communication about the substance of the dispute without both parties being present.

The Board members are absolved of any personal liability arising from the Recommendations of the Board. The parties agree that members of the dispute review board panel are acting as mediators for purposes of C.R.S. § 13-22-302(4) and, as such, the liability of any dispute review board member shall be limited to willful and wanton misconduct as provided for in C.R.S. § 13-22-305(6)

DRB members shall not be called as witness for future litigation.XX

IN WITNESS HEREOF, the parties hereto have caused this agreement to be executed the day and year first written above.

BOARD MEMBER: \_\_\_\_\_

BY: \_\_\_\_\_

BOARD MEMBER: \_\_\_\_\_

BY: \_\_\_\_\_

BOARD MEMBER: \_\_\_\_\_

BY: \_\_\_\_\_

CONTRACTOR:

BY: \_\_\_\_\_

TITLE:

COLORADO DEPARTMENT OF TRANSPORTATION

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

TITLE: CHIEF ENGINEER

**105.24 Claims for Unresolved Disputes.** The Contractor may file a claim only if the disputes resolution process described in subsections 105.22 and 105.23 has been exhausted without resolution of the dispute. Other methods of nonbinding dispute resolution, exclusive of arbitration and litigation, can be used if agreed to by both parties.

This subsection applies to any unresolved dispute or set of disputes between CDOT and the Contractor with an aggregate value of more than \$15,000. Unresolved disputes with an aggregate value of more than \$15,000 from subcontractors, materials suppliers or any other entity not a party to the Contract shall be submitted through the

Contractor in accordance with this subsection as a pass-through claim. Review of a pass-through claim does not create privity of Contract between CDOT and any other entity.

Subsections 105.22, 105.23 and 105.24 provide both contractual alternative dispute resolution processes and constitute remedy-granting provisions pursuant to Colorado Revised Statutes which must be exhausted in their entirety.

Merit-binding arbitration or litigation proceedings must commence within 180-calendar days of the Chief Engineer's decision, absent written agreement otherwise by both parties.

The venue for all unresolved disputes with an aggregate value \$15,000 or less shall be the County Court for the City and County of Denver.

Non-binding Forms of alternative dispute resolution such as Mediation are available upon mutual agreement of the parties for all claims submitted in accordance with this subsection.

The cost of the non-binding ADR process shall be shared equally by both parties with each party bearing its own preparation costs. The type of nonbinding ADR process shall be agreed upon by the parties and shall be conducted within the State of Colorado at a mutually acceptable location. Participation in a nonbinding ADR process does not in any way waive the requirement that merit-binding arbitration or litigation proceedings must commence within 180-calendar days of the Chief Engineer's decision, absent written agreement otherwise by both parties.

(a) *Notice of Intent to File a Claim.*

Within 30 days after rejection of the Dispute Resolution Board's Recommendation issued in accordance with subsection 105.23, the Contractor shall provide the Region Transportation Director with a written notice of intent to file a claim. The Contractor shall also send a copy of this notice to the Resident Engineer. For the purpose of this subsection Region Transportation Director shall mean the Region Transportation Director or the Region Transportation Director's designated representative. CDOT will acknowledge in writing receipt of Notice of Intent within 7 days.

(b) *Claim Package Submission.* Within 60 days after submitting the notice of intent to file a claim, the Contractor shall submit five copies of a complete claim package representing the final position the Contractor wishes to have considered. All claims shall be in writing and in sufficient detail to enable the RTD to ascertain the basis and amount of claim. The claim package shall include all documents supporting the claim, regardless of whether such documents were provided previously to CDOT.

If requested by the Contractor the 60 day period may be extended by the RTD in writing prior to final acceptance. As a minimum, the following information shall accompany each claim.

1. A claim certification containing the following language, as appropriate:
  - A. For a direct claim by the Contractor:

<b>CONTRACTOR'S CLAIM CERTIFICATION</b>
Under penalty of law for perjury or falsification, the undersigned, _____ (name), (title) _____, of _____ (company), hereby certifies that the claim of \$ _____ for extra compensation and ____ Days additional time, made herein for work on this contract is true to the best of my knowledge and belief and supported under the Contract between the parties. This claim package contains all available documents that support the claims made herein and I understand that no additional information, other than for clarification and data supporting previously submitted documentation, may be presented by me. Dated _____ /s/ _____ Subscribed and sworn before me this ____ day of _____. _____ NOTARY PUBLIC My Commission Expires: _____



B. For a pass-through claim:

PASS-THROUGH CLAIM CERTIFICATION

Under penalty of law for perjury or falsification, the undersigned, \_\_\_\_\_ (name),  
(title) \_\_\_\_\_, of \_\_\_\_\_ (company) \_\_\_\_\_, hereby certifies that the claim of  
\$ \_\_\_\_\_ for extra compensation and \_\_\_\_\_ Days additional time, made herein for work on this  
Project is true to the best of my knowledge and belief and supported under the contract between the parties.

This claim package contains all available documents that support the claims made herein and I understand that no  
additional information, other than for clarification and data supporting previously submitted documentation, may be  
presented by me.

Dated \_\_\_\_\_ /s/ \_\_\_\_\_

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

Dated \_\_\_\_\_ /s/ \_\_\_\_\_

The Contractor certifies that the claim being passed through to CDOT is passed through in good faith and is accurate  
and complete to the best of my knowledge and belief.

Dated \_\_\_\_\_ /s/ \_\_\_\_\_

Subscribed and sworn before me this \_\_\_\_\_ day of \_\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

My Commission Expires: \_\_\_\_\_

2. A detailed factual statement of the claim for additional compensation, time, or both, providing all necessary dates, locations, and items of work affected by the claim. The Contractor's detailed factual statement shall expressly describe the basis of the claim and factual evidence supporting the claim. This requirement is not satisfied by simply incorporating into the claim package other documents that describe the basis of the claim and supporting factual evidence.
3. The date on which facts were discovered which gave rise to the claim.
4. The name, title, and activity of all known CDOT, Consultant, and other individuals who may be knowledgeable about facts giving rise to such claim.
5. The name, title, and activity of all known Contractor, subcontractor, supplier and other individuals who may be knowledgeable about facts giving rise to such claim.
6. The specific provisions of the Contract, which support the claim and a statement of the reasons why such provisions support the claim.
7. If the claim relates to a decision of the Project Engineer, which the Contract leaves to the Project Engineer's discretion, the Contractor shall set out in detail all facts supporting its position relating to the decision of the Project Engineer.
8. The identification of any documents and the substance of all oral communications that support the claim.
9. Copies of all known documents that support the claim.
10. The Dispute Review Board Recommendation.
11. If an extension of contract time is sought, the documents required by subsection 108.08(d).
12. If additional compensation is sought, the exact amount sought and a breakdown of that amount into the following categories:
  - A. These categories represent the only costs that, if applicable, are recoverable by the Contractor. All other costs or categories of costs are not recoverable:
    - (1) Actual wages and benefits, including FICA, paid for additional labor
    - (2) Costs for additional bond, insurance and tax
    - (3) Increased costs for materials

- (4) Equipment costs calculated in accordance with subsection 109.04(c) for Contractor owned equipment and based on certified invoice costs for rented equipment
- (5) Costs of extended job site overhead ( only applies if the dispute also includes a time extension)
- (6) Salaried employees assigned to the project (only applies if the dispute includes a time extension or if the dispute required salaried employee(s) to be added to the Project.)
- (7) Claims from subcontractors and suppliers at any level (the same level of detail as specified herein is required for all such claims)
- (8) An additional 16 percent will be added to the total of items (1) through (7) as compensation for items for which no specific allowance is provided, including profit and home office overhead.
- (9) Interest shall be paid in accordance with CRS 5-12-102 beginning from the date of the Notice of Intent to File Claim

B. In adjustment for the costs as allowed above, the Department will have no liability for the following items of damages or expense:

- (1) Profit in excess of that provided in 12.A.(8) above
- (2) Loss of Profit
- (3) Additional cost of labor inefficiencies in excess of that provided in A. above
- (4) Home office overhead in excess of that provided in A. above
- (5) Consequential damages, including but not limited to loss of bonding capacity, loss of bidding opportunities, and insolvency
- (6) Indirect costs or expenses of any nature in excess of that provided in A. above
- (7) Attorney's fees, claim preparation fees, and expert fees

(c) *Audit.* An audit may be performed by the Department for any dispute or claim, and is mandatory for all disputes and claims with amounts greater than \$250,000. All audits will be complete within 60 days of receipt of the complete claim package, provided the Contractor allows the auditors reasonable and timely access to the Contractor's books and records. For all claims with amounts greater than \$250,000 the Contractor shall submit a copy of certified claim package directly to the CDOT Audit Unit at the following address:

Division of Audit  
4201 E. Arkansas Ave  
Denver, Co. 80222

(d) *Region Transportation Director Decision.* When the Contractor properly files a claim, the RTD will review the claim and render a written decision to the Contractor to either affirm or deny the claim, in whole or in part, in accordance with the following procedure.

The RTD may consolidate all related claims on a project and issue one decision, provided that consolidation does not extend the time period within which the RTD is to render a decision. Consolidation of unrelated claims will not be made.

The RTD will render a written decision to the Contractor within 60 days after the receipt of the claim package or receipt of the audit whichever is later. In rendering the decision, the RTD: (1) will review the information in the Contractor's claim; (2) will conduct a hearing if requested by either party; and (3) may consider any other information available in rendering a decision.

The RTD will assemble and maintain a claim record comprised of all information physically submitted by the Contractor in support of the claim and all other discoverable information considered by the RTD in reaching a decision. Once the RTD assembles the claim record, the submission and consideration of additional information, other than for clarification and data supporting previously submitted documentation, at any subsequent level of review by anyone, will not be permitted.

The RTD will provide a copy of the claim record and the written decision to the Contractor describing the information considered by the RTD in reaching a decision and the basis for that decision. If the RTD fails to render a written decision within the 60 day period, or within any extended time period as agreed to by both parties, the Contractor shall either: (1) accept this as a denial of the claim, or (2) appeal the claim to the Chief Engineer, as described in this subsection.

If the Contractor accepts the RTD decision, the provisions of the decision shall be implemented in accordance with subsections 108.08, 109.04, 109.05, or 109.10 and the claim is resolved.

If the Contractor disagrees with the RTD decision, the Contractor shall either: (1) accept the RTD decision as final, or (2) file a written appeal to the Chief Engineer within 30 days from the receipt of the RTD decision. The Contractor hereby agrees that if a written appeal is not properly filed, the RTD decision is final.

- (e) *Chief Engineer Decision.* When a claim is appealed, the RTD will provide the claim record to the Chief Engineer. Within 15 days of the appeal either party may submit a written request for a hearing with the Chief Engineer or duly authorized Headquarters delegates. The Chief Engineer or a duly authorized Headquarters delegate will review the claim and render a decision to affirm, overrule, or modify the RTD decision in accordance with the following.

The Contractor's written appeal to the Chief Engineer will be made a part of the claim record.

The Chief Engineer will render a written decision within 60 days after receiving the written appeal. The Chief Engineer will not consider any information that was not previously made a part of the claim record, other than clarification and data supporting previously submitted documentation.

The Contractor shall have 30 days to accept or reject the Chief Engineer's decision. The Contractor shall notify the Chief Engineer of its acceptance or rejection in writing.

If the Contractor accepts the Chief Engineer's decision, the provisions of the decision will be implemented in accordance with subsections 108.08, 109.04, 109.05, or 109.10 and the claim is resolved.

If the Contractor disagrees with the Chief Engineer's decision, the Contractor shall either (1) pursue an alternative dispute resolution process in accordance with this specification or (2) initiate litigation or merit binding arbitration in accordance with subsection 105.24(f).

If the Chief Engineer does not issue a decision as required, the Contractor may immediately initiate either litigation or merit binding arbitration in accordance with subsection 105.24(f).

For the convenience of the parties to the Contract it is mutually agreed by the parties that any merit binding arbitration or De Novo litigation shall be brought within 180-calendar days from the date of the Chief Engineer's decision. The parties understand and agree that the Contractor's failure to bring suit within the time period provided, shall be a complete bar to any such claims or causes of action.

- (f) *De Novo Litigation or Merit Binding Arbitration.* If the Contractor disagrees with the Chief Engineer's decision, the Contractor may initiate de novo litigation or merit binding arbitration to finally resolve the claim that the Contractor submitted to CDOT, depending on which option was selected by the Contractor on Form 1378 which shall be submitted at the preconstruction conference. Such litigation or arbitration shall be strictly limited to those claims that were previously submitted and decided in the contractual dispute and claims processes outlined herein. This does not preclude the joining in one litigation or arbitration of multiple claims from the same project provided that each claim has gone through the dispute and claim process specified in subsections 105.22 through 105.24. The parties may agree, in writing, at any time, to pursue some other form of alternative dispute resolution.

Any offer made by the Contractor or the Department at any stage of the claims process, as set forth in this subsection, shall be deemed an offer of settlement pursuant to Colorado Rule of Evidence 408 and therefore inadmissible in any litigation or arbitration.

If the Contractor selected litigation, then de novo litigation shall proceed in accordance with the Colorado Rules of Civil Procedure and the proper venue is the Colorado State District Court in and for the City and County of Denver, unless both parties agree to the use of arbitration.

If the Contractor selected merit binding arbitration, or if both parties subsequently agreed to merit binding arbitration, arbitration shall be governed by the modified version of ARBITRATION PROVIDER's Construction Industry Arbitration Rules which follow. Pursuant to the modified arbitration rules (R35 through R39), the arbitrators shall issue a binding decision with regard to entitlement and a non-binding decision with regard to quantum. If either party disagrees with the decision on quantum, the disagreeing party may seek a trial de novo in Denver District Court with regard to quantum only.

**AMERICAN ARBITRATION ASSOCIATION CONSTRUCTION INDUSTRY ARBITRATION  
RULES MODIFIED FOR USE WITH CDOT SPECIFICATION SUBSECTION 105.24**

**REGULAR TRACK PROCEDURES**

**R-1. Agreement of Parties**

- (a) The parties shall be deemed to have made these rules a part of their Contract. These rules and any amendments shall apply in the form in effect at the time the administrative requirements are met for a demand

for arbitration. The parties, by written agreement, may vary the procedures set forth in these rules. After appointment of the arbitrator, such modifications may be made only with the consent of the arbitrator.

- (b) Unless the parties determine otherwise, the Fast Track Procedures shall apply in any case in which aggregate claims do not exceed \$100,000, exclusive of interest and arbitration fees and costs. Parties may also agree to use these procedures in larger cases. Unless the parties agree otherwise, these procedures will not apply in cases involving more than two parties except for pass-through claims. The Fast Track Procedures shall be applied as described in Sections F-1 through F-13 of these rules, in addition to any other portion of these rules that is not in conflict with the Fast Track Procedures.
- (c) Unless the parties agree otherwise, the Procedures for Large, Complex Construction Disputes shall apply to all cases in which the disclosed aggregate claims of any party is at least \$1,000,000, exclusive of claimed interest, arbitration fees and costs. Parties may also agree to use these procedures in cases involving claims under \$1,000,000, or in nonmonetary cases. The Procedures for Large, Complex Construction Disputes shall be applied as described in Sections L-1 through L-4 of these rules, in addition to any other portion of these rules that is not in conflict with the Procedures for Large, Complex Construction Disputes.
- (d) All other cases shall be administered in accordance with Sections R-1 through R-45 of these rules.

## **R-2. Independent Arbitration Provider and Delegation of Duties**

When parties agree to arbitrate under these rules, or when they provide for arbitration by an independent third-party (Arbitration Provider) and arbitration is initiated under these rules, they thereby authorize the Arbitration Provider to administer the arbitration. The authority and duties of the Arbitration Provider are prescribed in the parties' Contract and in these rules, and may be carried out through such of the Arbitration Provider's representatives as it may direct. The Arbitration Provider will assign the administration of an arbitration to its Denver office.

## **R-3. Initiation of Arbitration**

Arbitration shall be initiated in the following manner.

- (a) The Contractor shall, within 30 days after the Chief Engineer issues a decision, submit to the Chief Engineer written notice of its intention to arbitrate (the "demand"). The demand shall indicate the appropriate qualifications for the arbitrator(s) to be appointed to hear the arbitration.
- (b) CDOT may file an answering statement with the Contractor within 15 days after receiving the demand. If a counterclaim is asserted, it shall contain a statement setting forth the nature of the counterclaim, the amount involved, if any, and the remedy sought.
- (c) The Chief Engineer shall retain an Arbitration Provider, such as the American Arbitration Association, which will administer an arbitration pursuant to these Rules, except to the extent that such rules conflict with the specifications, in which case the specifications shall control.
- (d) The Arbitration Provider shall confirm its retention to the parties.

## **R-4. Consolidation or Joinder**

If the parties' agreement or the law provides for consolidation or joinder of related arbitrations, all involved parties will endeavor to agree on a process to effectuate the consolidation or joinder.

If they are unable to agree, the Arbitration Provider shall directly appoint a single arbitrator for the limited purpose of deciding whether related arbitrations should be consolidated or joined and, if so, establishing a fair and appropriate process for consolidation or joinder. All requests for consolidation or joinder must be submitted to the Arbitration Provider prior to the appointment of an arbitrator or within 90 days of the date the Arbitration Provider determined that all administrative filing requirements were satisfied, whichever is later. The Arbitration Provider may take reasonable administrative action to accomplish the consolidation or joinder as directed by the arbitrator. Requests for consolidation or joinder submitted beyond these timeframes shall not be permitted absent a determination by the Merits Arbitrator that good cause was shown for the late request.

To request consolidation of arbitrations, the requesting party must have filed a demand for arbitration, including the applicable arbitration provision(s) from the parties' contract(s) and must provide a written request for consolidation which provides the supporting reasons for such request.

To request joinder of parties, the requesting party must file with the AAA a written request to join parties to an existing arbitration which provides the names and contact information for such parties, names and contact information for the parties' representatives, if known, and supporting reasons for such request.

## **R-5. Appointment of Arbitrator**

An arbitrator shall be appointed in the following manner:

- (a) Immediately after the Arbitration Provider is retained, the Arbitration Provider shall send simultaneously to each party to the dispute an identical list of 10 names of potential arbitrators. The parties are encouraged to agree to an arbitrator from the submitted list and to advise the ARBITRATION PROVIDER of their agreement. Absent agreement of the parties, the arbitrator shall not have served as the mediator in the mediation phase of the instant proceeding.
- (b) If the parties cannot agree to arbitrator(s), each party to the dispute shall have 15 calendar days from the transmittal date in which to strike names objected to, number the remaining names in order of preference, and return the list to the Arbitration Provider. If a party does not return the list within the time specified, all persons named therein shall be deemed acceptable. From among the persons who have been approved on both lists, and in accordance with the designated order of mutual preference, the Arbitration Provider shall invite an arbitrator to serve.
- (c) Unless both parties agree otherwise one arbitrator shall be used for claims less than \$250,000 and three arbitrators shall be used for claims \$250,000 and greater. Within 15 calendar days from the date of the appointment of the last arbitrator, the Arbitration Provider shall appoint a chairperson.
- (d) The entire claim record will be made available to the arbitrators by the Chief Engineer within 15 calendar days from the date of the appointment of the last arbitrator.

## **R-6. Changes of Claim**

The arbitrator(s) will not consider any information that was not previously made a part of the claim record as transmitted by the Chief Engineer, other than clarification and data supporting previously submitted documentation.

## **R-7. Disclosure**

- (a) Any person appointed or to be appointed as an arbitrator shall disclose to the Arbitration Provider any circumstance likely to give rise to justifiable doubt as to the arbitrator's impartiality or independence, including any bias or any interest in the result of the arbitration or any relationship with the parties or their representatives. Such obligation shall remain in effect throughout the arbitration.
- (b) Upon receipt of such information from the arbitrator or another source, the Arbitration Provider shall communicate the information to the parties and, if it deems it appropriate to do so, to the arbitrator and others.
- (c) In order to encourage disclosure by arbitrators, disclosure of information pursuant to this Section R-6 is not to be construed as an indication that the arbitrator considers that the disclosed circumstances are likely to affect impartiality or independence.
- (d) In no case shall an arbitrator be employed by, affiliated with, or have consultive or business connection with the claimant Contractor or CDOT. An arbitrator shall not have assisted either in the evaluation, preparation, or presentation of the claim case either for the Contractor or the Department or have rendered an opinion on the merits of the claim for either party, and shall not do so during the proceedings of arbitration.

## **R-8. Disqualification of Arbitrator**

- (a) Any arbitrator shall be impartial and independent and shall perform his or her duties with diligence and in good faith, and shall be subject to disqualification for: (i) partiality or lack of independence, (ii) inability or refusal to perform his or her duties with diligence and in good faith; and/or (iii) any grounds for disqualification provided by applicable law.
- (b) Upon objection of a party to the continued service of an arbitrator, or on its own initiative, the Arbitration Provider shall determine whether the arbitrator should be disqualified under the grounds set out above, and shall inform the parties of its decision, which decision shall be conclusive.

## **R-9. Communication with Arbitrator**

No party and no one acting on behalf of any party shall communicate *ex parte* with an arbitrator or a candidate for arbitrator concerning the arbitration.

## **R-10. Vacancies**

- (a) If for any reason an arbitrator is unable to perform the duties of the office, the Arbitration Provider may, on proof satisfactory to it, declare the office vacant. Vacancies shall be filled in accordance with the applicable provisions of these rules.

- (b) In the event of a vacancy in a panel of neutral arbitrators after the hearings have commenced, the remaining arbitrator or arbitrators may continue with the hearing and determination of the controversy, unless the parties agree otherwise.
- (c) In the event of the appointment of a substitute arbitrator, the panel of arbitrators shall determine in its sole discretion whether it is necessary to repeat all or part of any prior hearings.

#### **R-11. Jurisdiction**

- (a) The arbitrator shall have the power to rule on his or her own jurisdiction, including any objections with respect to the existence, scope or validity of the arbitration agreement.
- (b) The arbitrator shall have the power to determine the existence or validity of a contract of which an arbitration clause forms a part. Such an arbitration clause shall be treated as an agreement independent of the other terms of the contract. A decision by the arbitrator that the contract is null and void shall not for that reason alone render invalid the arbitration clause.
- (c) A party must object to the jurisdiction of the arbitrator or to the arbitrability of a claim or counterclaim no later than 15 days after the Arbitration Provider confirms its retention to the parties. The arbitrator may rule on such objections as a preliminary matter or as part of the final award.

#### **R-12. Administrative Conference**

At the request of any party or upon the Arbitration Provider's own initiative, the Arbitration Provider may conduct an administrative conference, in person or by telephone, with the parties and/or their representatives. The conference may address such issues as arbitrator selection, potential exchange of information, a timetable for hearings and any other administrative matters.

#### **R-13. Preliminary Hearing**

- (a) At the request of any party or at the discretion of the arbitrator or the Arbitration Provider, the arbitrator may schedule as soon as practicable a preliminary hearing with the parties and/or their representatives. The preliminary hearing may be conducted by telephone at the arbitrator's discretion.
- (b) During the preliminary hearing, the parties and the arbitrator should discuss the future conduct of the case, including clarification of the issues and claims, a schedule for the hearings and any other preliminary matters.

#### **R-14. Pre-Hearing Exchange and Production of Information**

(a) *Authority of arbitrator.* The arbitrator shall manage any necessary exchange of information among the parties with a view to achieving an efficient and economical resolution of the dispute, while at the same time promoting equality of treatment and safeguarding each party's opportunity to fairly present its claims and defenses.

(b) *Documents.* The arbitrator may, on application of a party or on the arbitrator's own initiative:

- i. require the parties to exchange documents in their possession or custody on which they intend to rely;
- ii. require the parties to update their exchanges of the documents on which they intend to rely as such documents become known to them;
- iii. require the parties, in response to reasonable document requests, to make available to the other party documents, in the responding party's possession or custody, not otherwise readily available to the party seeking the documents, reasonably believed by the party seeking the documents to exist and to be relevant and material to the outcome of disputed issues; and
- iv. require the parties, when documents to be exchanged or produced are maintained in electronic form, to make such documents available in the form most convenient and economical for the party in possession of such documents, unless the arbitrator determines that there is good cause for requiring the documents to be produced in a different form. The parties should attempt to agree in advance upon, and the arbitrator may determine, reasonable search parameters to balance the need for production of electronically stored documents relevant and material to the outcome of disputed issues against the cost of locating and producing them.

(a) At the request of any party or at the discretion of the arbitrator, consistent with the expedited nature of arbitration, the arbitrator may direct:

- i. the production of documents and other information;
- ii. require the parties to update their exchanges of the documents on which they intend to rely as such documents become known to them;  
and/or
- iii. the identification of any witnesses to be called.

- (b) At least five business days prior to the hearing, the parties shall exchange copies of all exhibits they intend to submit at the hearing.
- (c) The arbitrator is authorized to resolve any disputes concerning the exchange of information.
- (d) Additional discovery may be ordered by the arbitrator in extraordinary cases when the demands of justice require it.

#### **R-15. Date, Time, and Place of Hearing**

- (a) The arbitrator shall set the date, time, and place for each hearing and/or conference. The parties shall respond to requests for hearing dates in a timely manner, be cooperative in scheduling the earliest practicable date, and adhere to the established hearing schedule.
- (b) The parties may mutually agree on the locale where the arbitration is to be held. Absent such agreement, the arbitration shall be held in the City and County of Denver.
- (c) The Arbitration Provider shall send a notice of hearing to the parties at least ten calendar days in advance of the hearing date, unless otherwise agreed by the parties.

#### **R-16. Attendance at Hearings**

The arbitrator and the Arbitration Provider shall maintain the privacy of the hearings unless the law provides to the contrary. Any person having a direct interest in the arbitration is entitled to attend hearings. The arbitrator shall otherwise have the power to require the exclusion of any witness, other than a party or other essential person, during the testimony of any other witness. It shall be discretionary with the arbitrator to determine the propriety of the attendance of any person other than a party and its representative.

#### **R-17. Representation**

Any party may be represented by counsel or other authorized representative. A party intending to be so represented shall notify the other party and the Arbitration Provider of the name and address of the representative at least three calendar days prior to the date set for the hearing at which that person is first to appear.

#### **R-18. Oaths**

Before proceeding with the first hearing, each arbitrator may take an oath of office and, if required by law, shall do so. The arbitrator may require witnesses to testify under oath administered by any duly qualified person and, if it is required by law or requested by any party, shall do so.

#### **R-19. Stenographic Record**

Any party desiring a stenographic record shall make arrangements directly with a stenographer and shall notify the other parties of these arrangements at least three days in advance of the hearing. The requesting party or parties shall pay the cost of the record. If the transcript is agreed by the parties, or determined by the arbitrator to be the official record of the proceeding, it must be provided to the arbitrator and made available to the other parties for inspection, at a date, time, and place determined by the arbitrator.

#### **R-20. Interpreters**

Any party wishing an interpreter shall make all arrangements directly with the interpreter and shall assume the costs of the service.

#### **R-21. Postponements**

The arbitrator for good cause shown may postpone any hearing upon agreement of the parties, upon request of a party, or upon the arbitrator's own initiative.

#### **R-22. Arbitration in the Absence of a Party or Representative**

Unless the law provides to the contrary, the arbitration may proceed in the absence of any party or representative who, after due notice, fails to be present or fails to obtain a postponement. An award shall not be made solely on the default of a party. The arbitrator shall require the party who is present to submit such evidence as the arbitrator may require for the making of an award.

#### **R-23. Conduct of Proceedings**

- (a) The Contractor shall present evidence to support its claim. CDOT shall then present evidence supporting its defense. Witnesses for each party shall also submit to questions from the arbitrator and the adverse party. The arbitrator has the discretion to vary this procedure; provided that the parties are treated with equality and that each party has the right to be heard and is given a fair opportunity to present its case.

(b) The arbitrator, exercising his or her discretion, shall conduct the proceedings with a view to expediting the resolution of the dispute and may direct the order of proof, bifurcate proceedings, and direct the parties to focus their presentations on issues the decision of which could dispose of all or part of the case. The arbitrator shall entertain motions, including motions that dispose of all or part of a claim or that may expedite the proceedings, and may also make preliminary rulings and enter interlocutory orders.

(c) The parties may agree to waive oral hearings in any case.

#### **R-24. Evidence**

(a) The arbitrators shall consider all written information available in the claim record and all oral presentations in support of that record by the Contractor and CDOT. Conformity to legal rules of evidence shall not be necessary.

(b) The arbitrators shall not consider any written documents or arguments which have not previously been made a part of the claim record, other than clarification and data supporting previously submitted documentation. The arbitrators shall not consider an increase in the amount of the claim, or any new claims.

(c) The arbitrator shall determine the admissibility, relevance, and materiality of any evidence offered. The arbitrator may request offers of proof and may reject evidence deemed by the arbitrator to be cumulative, unreliable, unnecessary, or of slight value compared to the time and expense involved. All evidence shall be taken in the presence of all of the arbitrators and all of the parties, except where: (i) any of the parties is absent, in default, or has waived the right to be present, or (ii) the parties and the arbitrators agree otherwise.

(d) The arbitrator shall take into account applicable principles of legal privilege, such as those involving the confidentiality of communications between a lawyer and client.

(e) An arbitrator or other person authorized by law to subpoena witnesses or documents may do so upon the request of any party or independently.

#### **R-25. Evidence by Affidavit and Post-hearing Filing of Documents or Other Evidence**

(a) The arbitrator may receive and consider the evidence of witnesses by declaration or affidavit, but shall give it only such weight as the arbitrator deems it entitled to after consideration of any objection made to its admission.

(b) If the parties agree or the arbitrator directs that documents or other evidence be submitted to the arbitrator after the hearing, the documents or other evidence, unless otherwise agreed by the parties and the arbitrator, shall be filed with the Arbitration Provider for transmission to the arbitrator. All parties shall be afforded an opportunity to examine and respond to such documents or other evidence.

#### **R-26. Inspection or Investigation**

An arbitrator finding it necessary to make an inspection or investigation in connection with the arbitration shall direct the Arbitration Provider to so advise the parties. The arbitrator shall set the date and time and the Arbitration Provider shall notify the parties. Any party who so desires may be present at such an inspection or investigation. In the event that one or all parties are not present at the inspection or investigation, the arbitrator shall make an oral or written report to the parties and afford them an opportunity to comment.

#### **R-27. Interim Measures**

(a) The arbitrator may take whatever interim measures he or she deems necessary, including injunctive relief and measures for the protection or conservation of property and disposition of perishable goods.

(b) A request for interim measures addressed by a party to a judicial authority shall not be deemed incompatible with the agreement to arbitrate or a waiver of the right to arbitrate.

#### **R-28. Closing of Hearing**

When satisfied that the presentation of the parties is complete, the arbitrator shall declare the hearing closed.

If documents or responses are to be filed as provided in Section R-24, or if briefs are to be filed, the hearing shall be declared closed as of the final date set by the arbitrator for the receipt of documents, responses, or briefs. The time limit within which the arbitrator is required to make the award shall commence to run, in the absence of other agreements by the parties and the arbitrator, upon the closing of the hearing.

#### **R-29. Reopening of Hearing**

The hearing may be reopened on the arbitrator's initiative, or by direction of the arbitrator upon application of a party, at any time before the award is made. If reopening the hearing would prevent the making of the award within the specific time agreed to by the parties in the arbitration agreement, the matter may not be reopened unless the parties



agree to an extension of time. When no specific date is fixed by agreement of the parties, the arbitrator shall have 15 calendar days from the closing of the reopened hearing within which to make an award.

### **R-30. Waiver of Rules**

Any party who proceeds with the arbitration after knowledge that any provision or requirement of these rules has not been complied with and who fails to state an objection in writing shall be deemed to have waived the right to object.

### **R-31. Extensions of Time**

The parties may modify any period of time by mutual agreement. The Arbitration Provider or the arbitrator may for good cause extend any period of time established by these rules, except the time for making the award. The Arbitration Provider shall notify the parties of any extension.

### **R-32. Serving of Notice**

- (a) Any papers, notices, or process necessary or proper for the initiation or continuation of an arbitration under these rules; for any court action in connection therewith, or for the entry of judgment on any award made under these rules, may be served on a party by mail addressed to the party or its representative at the last known address or by personal service, in or outside the state where the arbitration is to be held, provided that reasonable opportunity to be heard with regard thereto has been granted to the party.
- (b) The Arbitration Provider, the arbitrator and the parties may also use overnight delivery, electronic facsimile transmission (fax), or electronic mail (email) to give the notices required by these rules.
- (c) Unless otherwise instructed by the Arbitration Provider or by the arbitrator, any documents submitted by any party to the Arbitration Provider or to the arbitrator shall simultaneously be provided to the other party or parties to the arbitration.

### **R-33. Majority Decision**

When the panel consists of more than one arbitrator, unless required by law or by the arbitration agreement, a majority of the arbitrators must make all decisions; however, in a multi-arbitrator case, if all parties and all arbitrators agree, the chair of the panel may make procedural decisions

Where there is a panel of three arbitrators, absent an objection of a party or another member of the panel, the chairperson of the panel is authorized to resolve or delegate to another member of the panel to resolve any disputes related to the exchange of information or procedural matters without the need to consult the full panel.

### **R-34. Time of Award**

The award shall be made promptly by the arbitrator and, unless otherwise agreed by the parties or specified by law, no later than 30 calendar days from the date of closing the hearing, or, if oral hearings have been waived, from the date of the Arbitration Provider's transmittal of the final statements and proofs to the arbitrator.

### **R-35. Form of Award**

After complete review of the facts associated with the claim, the arbitrators shall render a written explanation of their decision. When three arbitrators are used, and only two arbitrators agree then the award shall be signed by the two arbitrators. The arbitrator's decision shall include:

- (a) A summary of the issues and factual evidence presented by the Contractor and the Department concerning the claim;
- (b) Decisions concerning the validity of the claim;
- (c) Decisions concerning the value of the claim as to cost impacts if the claim is determined to be valid;
- (d) The contractual and factual bases supporting the decisions made including an explanation as to why each and every position was accepted or rejected;
- (e) Detailed and supportable calculations which support any decisions.

### **R-36. Scope of Award**

- (a) The arbitrator may grant any remedy or relief that the arbitrator deems just and equitable and within the scope of the agreement of the parties, including, but not limited to, equitable relief and specific performance of a contract.
- (b) In addition to the final award, the arbitrator may make other decisions, including interim, interlocutory, or partial rulings, orders, and awards. (c) The award of the arbitrator may include interest at the statutory rate and from such date as the arbitrator may deem appropriate.

### **R-37. Delivery of Award to Parties**

Parties shall accept as notice and delivery of the award the placing of the award or a true copy thereof in the mail addressed to the parties or their representatives at the last known address, personal or electronic service of the award, or the filing of the award in any other manner that is permitted by law.

### **R-38. Modification of Award**

Within 10 calendar days after the transmittal of an award, the arbitrator on his or her initiative, or any party, upon notice to the other parties, may request that the arbitrator correct any clerical, typographical, technical or computational errors in the award. The arbitrator is not empowered to re-determine the merits of any claim already decided.

If the modification request is made by a party, the other parties shall be given 10 calendar days to respond to the request. The arbitrator shall dispose of the request within 25 calendar days after transmittal by the Arbitration Provider to the arbitrator of the request.

If applicable law provides a different procedural time frame, that procedure shall be followed.

### **R-39. Appeal of Award**

Appeal of the arbitrators' decision concerning the merit of the claim is governed by the Colorado Uniform Arbitration Act, C.R.S. §§ 13-22-202 to -230. Either party may appeal the arbitrator's decision on the value of the claim to the Colorado State District Court in and for the City and County of Denver for trial de novo.

### **R-40. Release of Documents for Judicial Proceedings**

The Arbitration Provider shall, upon the written request of a party, furnish to the party, at its expense, certified copies of any papers in the Arbitration Provider's possession that may be required in judicial proceedings relating to the arbitration.

### **R-41. Applications to Court and Exclusion of Liability**

- (a) No judicial proceeding by a party relating to the subject matter of the arbitration shall be deemed a waiver of the party's right to arbitrate.
- (b) Neither the Arbitration Provider nor any arbitrator in a proceeding under these rules is a necessary or proper party in judicial proceedings relating to the arbitration.
- (c) Parties to these rules shall be deemed to have consented that judgment upon the arbitration award may be entered in any federal or state court having jurisdiction thereof.
- (d) Parties to an arbitration under these rules shall be deemed to have consented that neither the Arbitration Provider nor any arbitrator shall be liable to any party in any action for damages or injunctive relief for any act or omission in connection with any arbitration under these rules.

### **R-42. Administrative Fees**

The Arbitration Provider shall prescribe filing and other administrative fees and service charges to compensate it for the cost of providing administrative services. The fees in effect when the fee or charge is incurred shall be applicable. Such fees and charges shall be borne equally by the parties

The Arbitration Provider may, in the event of extreme hardship on the part of any party, defer or reduce the administrative fees.

### **R-43. Expenses**

The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the arbitration, including required travel and other expenses of the arbitrator, Arbitration Provider representatives, and any witness and the cost of any proof produced at the direct request of the arbitrator, shall be borne equally by the parties.

### **R-44. Neutral Arbitrator's Compensation**

Arbitrators shall be compensated a rate consistent with the arbitrator's stated rate of compensation.

If there is disagreement concerning the terms of compensation, an appropriate rate shall be established with the arbitrator by the Arbitration Provider and confirmed to the parties.

Such compensation shall be borne equally by the parties.

#### **R-45. Deposits**

The Arbitration Provider may require the parties to deposit in advance of any hearings such sums of money as it deems necessary to cover the expense of the arbitration, including the arbitrator's fee, if any, and shall render an accounting to the parties and return any unexpended balance at the conclusion of the case.

#### **R-46. Interpretation and Application of Rules**

The arbitrator shall interpret and apply these rules insofar as they relate to the arbitrator's powers and duties by a majority vote. If that is not possible, either an arbitrator or a party may refer the question to the Arbitration Provider for final decision. All other rules shall be interpreted and applied by the Arbitration Provider.

#### **R-45. Suspension for Nonpayment**

If arbitrator compensation or administrative charges have not been paid in full, the Arbitration Provider may so inform the parties in order that the parties may advance the required payment. If such payments are not made, the arbitrator may order the suspension or termination of the proceedings. If no arbitrator has yet been appointed, the Arbitration Provider may suspend the proceedings.

### **FAST TRACK PROCEDURES**

#### **F-1. Limitations on Extensions**

In the absence of extraordinary circumstances, the Arbitration Provider or the arbitrator may grant a party no more than one seven-day extension of the time in which to respond to the demand for arbitration or counterclaim as provided in Section R-3.

#### **F-2. Changes of Claim**

The arbitrator will not consider any information that was not previously made a part of the claim record as transmitted by the Chief Engineer, other than clarification and data supporting previously submitted documentation

#### **F-3. Serving of Notice**

In addition to notice provided above, the parties shall also accept notice by telephone. Telephonic notices by the Arbitration Provider shall subsequently be confirmed in writing to the parties. Should there be a failure to confirm in writing any such oral notice, the proceeding shall nevertheless be valid if notice has, in fact, been given by telephone.

#### **F-4. Appointment and Qualification of Arbitrator**

Immediately after the retention of the Arbitration Provider, the Arbitration Provider will simultaneously submit to each party a listing and biographical information from its panel of arbitrators knowledgeable in construction who are available for service in Fast Track cases. The parties are encouraged to agree to an arbitrator from this list, and to advise the Arbitration Provider of their agreement, or any factual objections to any of the listed arbitrators, within 7 calendar days of the transmission of the list. The Arbitration Provider will appoint the agreed-upon arbitrator, or in the event the parties cannot agree on an arbitrator, will designate the arbitrator from among those names not stricken for factual objections.

The parties will be given notice by the Arbitration Provider of the appointment of the arbitrator, who shall be subject to disqualification for the reasons specified above. Within the time period established by the Arbitration Provider, the parties shall notify the Arbitration Provider of any objection to the arbitrator appointed. Any objection by a party to the arbitrator shall be for cause and shall be confirmed in writing to the Arbitration Provider with a copy to the other party or parties.

#### **F-5. Preliminary Telephone Conference**

Unless otherwise agreed by the parties and the arbitrator, as promptly as practicable after the appointment of the arbitrator, a preliminary telephone conference shall be held among the parties or their attorneys or representatives, and the arbitrator.

#### **F-6. Exchange of Exhibits**

At least 2 business days prior to the hearing, the parties shall exchange copies of all exhibits they intend to submit at the hearing. The arbitrator is authorized to resolve any disputes concerning the exchange of exhibits.

#### **F-7. Discovery**

There shall be no discovery, except as provided in Section F-4 or as ordered by the arbitrator in extraordinary cases when the demands of justice require it.

#### **F-8. Date, Time, and Place of Hearing**

The arbitrator shall set the date and time, and place of the hearing, to be scheduled to take place within 30 calendar days of confirmation of the arbitrator's appointment. The Arbitration Provider will notify the parties in advance of the hearing date. All hearings shall be held within the City and County of Denver.

#### **F-9. The Hearing**

- (a) Generally, the hearing shall not exceed 1 day. Each party shall have equal opportunity to submit its proofs and complete its case. The arbitrator shall determine the order of the hearing, and may require further submission of documents within two business days after the hearing. For good cause shown, the arbitrator may schedule 1 additional hearing day within 7 business days after the initial day of hearing.
- (b) Generally, there will be no stenographic record. Any party desiring a stenographic record may arrange for one pursuant to the provisions above.

#### **F-10. Time of Award**

Unless otherwise agreed by the parties, the award shall be rendered not later than 14 calendar days from the date of the closing of the hearing or, if oral hearings have been waived, from the date of the Arbitration Provider's transmittal of the final statements and proofs to the arbitrator.

#### **F-11. Time Standards**

The arbitration shall be completed by settlement or award within 45 calendar days of confirmation of the arbitrator's appointment, unless all parties and the arbitrator agree otherwise or the arbitrator extends this time in extraordinary cases when the demands of justice require it and such agreement is memorialized by the arbitrator prior to the expiration of the initial 45-day period.

#### **F-12. Arbitrator's Compensation**

Arbitrators will receive compensation at a rate to be suggested by the Arbitration Provider regional office.

### **PROCEDURES FOR LARGE, COMPLEX CONSTRUCTION DISPUTES**

#### **L-1. Large, Complex Construction Disputes**

The procedures for large, complex construction disputes shall apply to any claim with a value exceeding \$500,000 or as agreed to by the parties.

#### **L-2. Administrative Conference**

Prior to the dissemination of a list of potential arbitrators, the Arbitration Provider shall, unless the parties agree otherwise, conduct an administrative conference with the parties and/or their attorneys or other representatives by conference call. The conference call will take place within 14 days after the retention of the Arbitration Provider. In the event the parties are unable to agree on a mutually acceptable time for the conference, the Arbitration Provider may contact the parties individually to discuss the issues contemplated herein. Such administrative conference shall be conducted for the following purposes and for such additional purposes as the parties or the Arbitration Provider may deem appropriate:

- (a) To obtain additional information about the nature and magnitude of the dispute and the anticipated length of hearing and scheduling;
- (b) To discuss the views of the parties about the technical and other qualifications of the arbitrators;
- (c) To obtain conflicts statements from the parties; and
- (d) To consider, with the parties, whether mediation or other non-adjudicative methods of dispute resolution might be appropriate.

#### **L-3. Arbitrators**

- (a) Large, Complex Construction Cases shall be heard and determined by three arbitrators.
- (b) The Arbitration Provider shall appoint arbitrator(s) in the manner provided in the Regular Construction Industry Arbitration Rules.

#### **L-4. Preliminary Hearing**

As promptly as practicable after the selection of the arbitrator(s), a preliminary hearing shall be held among the parties and/or their attorneys or other representatives and the arbitrator(s). Unless the parties agree otherwise, the preliminary hearing will be conducted by telephone conference call rather than in person.

At the preliminary hearing the matters to be considered shall include, without limitation:

- (a) Service of a detailed statement of claims, damages and defenses, a statement of the issues asserted by each party and positions with respect thereto, and any legal authorities the parties may wish to bring to the attention of the arbitrator(s);
- (b) Stipulations to uncontested facts;
- (c) The extent to which discovery shall be conducted;
- (d) Exchange and premarking of those documents which each party believes may be offered at the hearing;
- (e) The identification and availability of witnesses, including experts, and such matters with respect to witnesses including their biographies and expected testimony as may be appropriate;
- (f) Whether, and the extent to which, any sworn statements and/or depositions may be introduced;
- (g) The extent to which hearings will proceed on consecutive days;
- (h) Whether a stenographic or other official record of the proceedings shall be maintained;
- (i) The possibility of utilizing mediation or other non-adjudicative methods of dispute resolution; and
- (j) The procedure for the issuance of subpoenas.

By agreement of the parties and/or order of the arbitrator(s), the pre-hearing activities and the hearing procedures that will govern the arbitration will be memorialized in a Scheduling and Procedure Order.

#### **L-5. Management of Proceedings**

- (a) Arbitrator(s) shall take such steps as they may deem necessary or desirable to avoid delay and to achieve a just, speedy and cost-effective resolution of Large, Complex Construction Cases.
- (b) Parties shall cooperate in the exchange of documents, exhibits and information within such party's control if the arbitrator(s) consider such production to be consistent with the goal of achieving a just, speedy and cost effective resolution of a Large, Complex Construction Case.
- (c) The parties may conduct such discovery as may be agreed to by all the parties provided, however, that the arbitrator(s) may place such limitations on the conduct of such discovery as the arbitrator(s) shall deem appropriate. If the parties cannot agree on production of document and other information, the arbitrator(s), consistent with the expedited nature of arbitration, may establish the extent of the discovery.
- (d) At the discretion of the arbitrator(s), upon good cause shown and consistent with the expedited nature of arbitration, the arbitrator(s) may order depositions of, or the propounding of interrogatories to such persons who may possess information determined by the arbitrator(s) to be necessary to a determination of the matter.
- (e) The parties shall exchange copies of all exhibits they intend to submit at the hearing 10 business days prior to the hearing unless the arbitrator(s) determine otherwise.
- (f) The exchange of information pursuant to this rule, as agreed by the parties and/or directed by the arbitrator(s), shall be included within the Scheduling and Procedure Order.
- (g) The arbitrator is authorized to resolve any disputes concerning the exchange of information.
- (h) Generally hearings will be scheduled on consecutive days or in blocks of consecutive days in order to maximize efficiency and minimize costs.

The following flow chart provides a summary of the disputes and claims process described in subsections 105.22, 105.23, and 105.24

**Figure 105-1  
DISPUTES AND CLAIMS FLOW CHART**

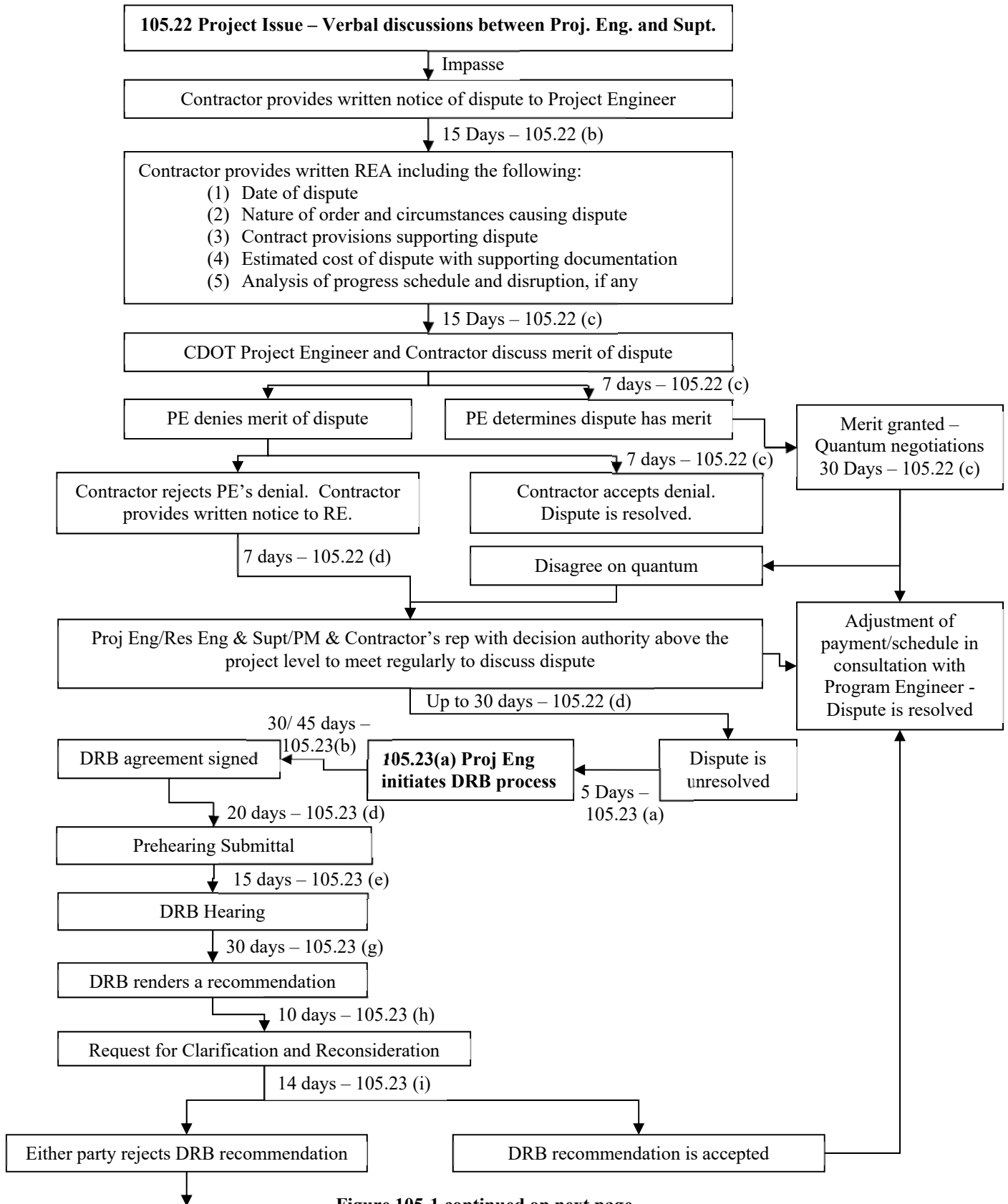
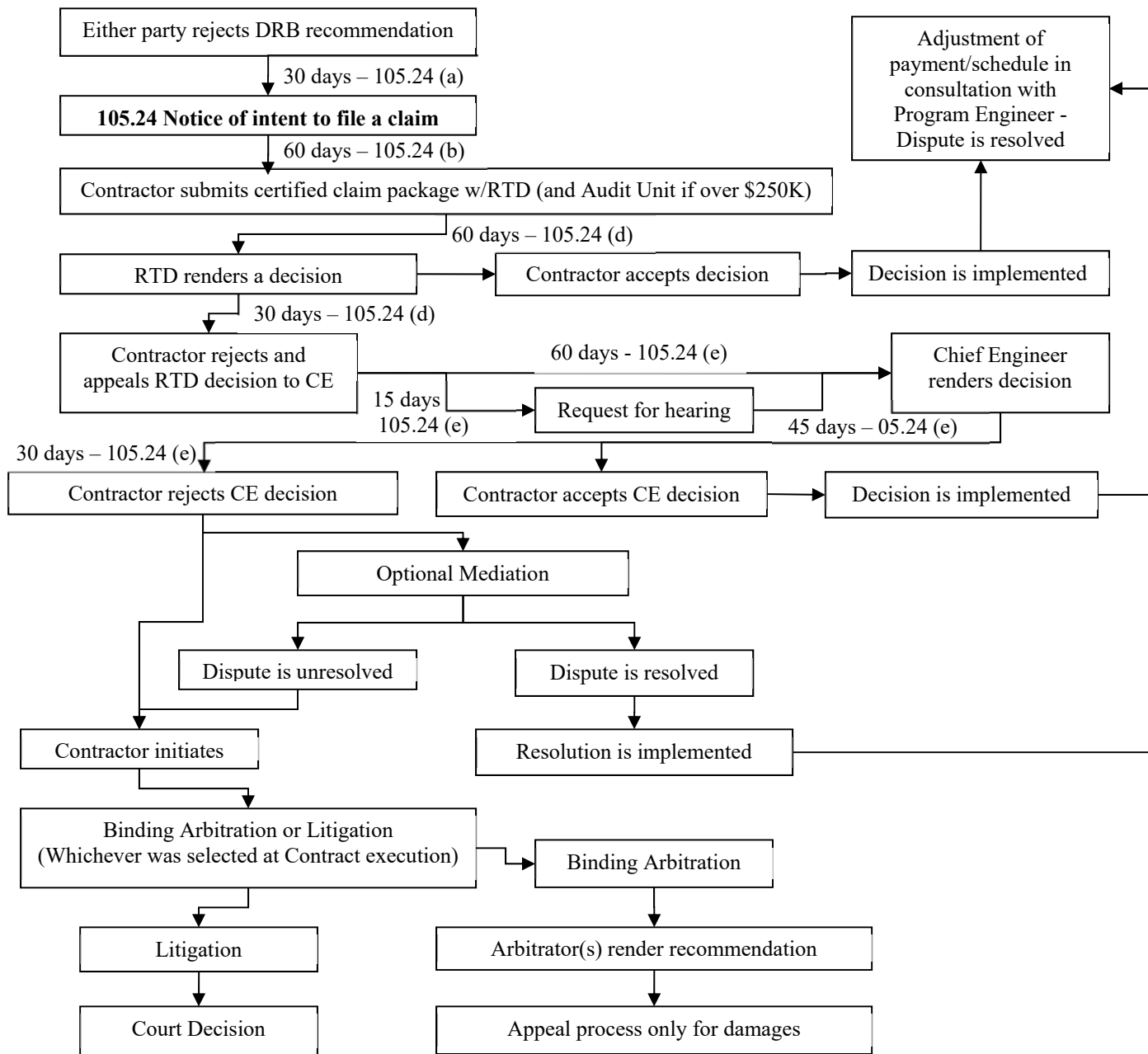


Figure 105-1 continued on next page

Figure 105-1 (continued)



**REVISION OF SECTION 106  
BUY AMERICA REQUIREMENTS  
NON-FEDERAL AID**

Section 106 of the Standard Specifications is hereby revised for this project as follows:

Delete subsection 106.11(a) and replace it with the following:

- (a) Federal *Buy America* requirements for iron and steel do not apply to this project.

July 3, 2017

**REVISION OF SECTION 106  
CONFORMITY TO THE CONTRACT OF HOT MIX ASPHALT  
(LESS THAN 5000 TONS)**

Section 106 of the Standard Specifications is hereby revised for this project as follows:

Delete subsection 106.05 and replace with the following:

**106.05 Sampling and Testing of Hot Mix Asphalt.** All hot mix asphalt, Item 403, except Hot Mix Asphalt (Patching) and temporary pavement shall be tested in accordance with the following program of process control testing and acceptance testing:

The Contract will specify whether process control testing by the Contractor is mandatory or voluntary.

- (a) *Process Control Testing.*

1. **Mandatory Process Control.** When process control testing is mandatory the Contractor shall be responsible for process control testing on all elements and at the frequency listed in Table 106-1. Process control testing shall be performed at the expense of the Contractor.

After completion of compaction, in-place density tests for process control shall be taken at the frequency shown in Table 106-1. The results shall be reported in writing to the Engineer on a daily basis. Daily plots of the test results with tonnage represented shall be made on a chart convenient for viewing by the Engineer. All of the testing equipment used for in-place density testing shall conform to the requirements of acceptance testing standards, except nuclear testing devices need not be calibrated on the Department's calibration blocks.

For elements other than in-place density, results from process control tests need not be plotted, or routinely reported to the Engineer. This does not relieve the Contractor from the responsibility of performing such testing along with appropriate plant monitoring as necessary to assure that produced material conforms to the applicable specifications. Process control test data shall be made available to the Engineer upon request.

2. **Voluntary Process Control.** The Contractor may conduct process control testing. Process control testing is not required, but is recommended on the elements and at the frequency listed in Table 106-1.

All of the testing equipment used for in-place density testing shall conform to the requirements of acceptance testing standards, except nuclear testing devices need not be calibrated on the Department's calibration blocks.

- (b) *Acceptance Testing.* Acceptance testing is the responsibility of the Department. For acceptance testing the Department will determine the locations where samples or measurements are to be taken and as designated in Section 403. The maximum quantity of material represented by each test result, the elements, the frequency of testing and the minimum number of test results will be in accordance with Table 106-1. The location or time of sampling will be based on the stratified random procedure as described in CP 75. Acceptance sampling and testing procedures will be in accordance with the Schedule for Minimum Materials Sampling, Testing and Inspection in the Department's Field Materials Manual. Samples for project acceptance testing shall be taken by the Contractor in accordance with the designated method. The samples shall be taken in the presence of the Engineer. Where appropriate, the Contractor shall reduce each sample to the size designated by the Engineer. The Contractor may retain a split of each sample which cannot be included as part of the Contractor's process control testing. Dispute of the acceptance test results in accordance with CP-17 will not be allowed unless a provision for check testing has been included in the Contract and it has been successfully completed. All materials being used are subject to inspection and testing at any time prior to or during incorporation into the work.



**Table 106-1  
SCHEDULE FOR MINIMUM SAMPLING AND TESTING FOR HMA**

<b>Element</b>	<b>Process Control</b>	<b>Acceptance <sup>(1)</sup></b>
Asphalt Content	1/500 tons	1/1000 tons
Theoretical Maximum Specific Gravity	1/1000 tons, minimum 1/day	1/1000 tons, minimum 1/day
Gradation <sup>(2)</sup>	1/Day	1/2000 tons
In-Place Density	1/500 tons	1/500 tons
Joint Density	1 core/2500 linear feet of joint	1 core /5000 linear feet of joint
Aggregate Percent Moisture <sup>(3)</sup>	1/2000 tons or 1/Day if less than 2000 tons	1/2000 tons
Percent Lime <sup>(3) (4)</sup>	1/Day	Not applicable
<b>Notes:</b> (1) The minimum number of in-place density tests for acceptance will be 5. (2) Process control tests for gradation are not required if less than 250 tons are placed in a day. The minimum number of process control tests for gradation shall be one test for each 1000 tons or fraction thereof. (3) Not to be used for incentive/disincentive pay. Test according to CP 60B and report results from Form 106 or Form 565 on Form 6. (4) Verified per Contractor's PC Plan.		

(c) *Reference Conditions.* Three reference conditions can exist determined by the Moving Quality Level (MQL). The MQL will be calculated in accordance with the procedure in CP 71 for Determining Quality Level (QL). The MQL will be calculated using only acceptance tests. The MQL will be calculated on tests 1 through 3, then tests 1 through 4, then tests 1 through 5, then thereafter on the last five consecutive test results. The MQL will not be used to determine pay factors. The three reference conditions and actions that will be taken are described as follows:

1. Condition green will exist for an element when an MQL of 90 or greater is reached, or maintained, and the past five consecutive test results are within the specification limits.
2. Condition yellow will exist for all elements at the beginning of production or when a new process is established because of changes in materials or the job-mix formula, following an extended suspension of work, or when the MQL is less than 90 and equal to or greater than 65. Once an element is at condition green, if the MQL falls below 90 or a test result falls outside the specification limits, the condition will revert to yellow or red as appropriate.
3. Condition red will exist for any element when the MQL is less than 65. The Contractor shall be notified immediately in writing and the process control sampling and testing frequency increased to a minimum rate of 1/250 tons for that element. The process control sampling and testing frequency shall remain at 1/250 tons until the process control QL reaches or exceeds 78. If the QL for the next five process control tests is below 65, production will be suspended.

If gradation is the element with MQL less than 65, the Department will test one randomly selected sample in the first 1250 tons produced in condition red. If this test result is outside the tolerance limits, production will be suspended. (This test result will not be included as an acceptance test.)

After condition red exists, a new MQL will be started. Acceptance testing will stay at the frequency shown in Table 106-1. After three acceptance tests, if the MQL is less than 65, production will be suspended.

Production will remain suspended until the source of the problem is identified and corrected. Each time production is suspended, corrective actions shall be proposed in writing by the Contractor and approved in writing by the Engineer before production may resume.

Upon resuming production, the process control sampling and testing frequency for the elements causing the condition red shall remain at 1/250 tons. If the QL for the next five process control tests is below 65, production will be suspended again. If gradation is the element with MQL less than 65, the Department will test one randomly selected sample in the first 1250 tons produced in condition red. If this test result is outside October 12, 2017

### **REVISION OF SECTION 107 LAWS TO BE OBSERVED**

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

Subsection 107.01 shall include the following after the first paragraph:

Failure to comply with all contractual obligations may lead to the suspension, debarment or both of the Contractor as stipulated in the "Rules".

the tolerance limits, production will be suspended.

### **CITY SPECIAL PROVISIONS**

The CDOT Standard Specifications, Standard Special Provisions, Project Special Provisions are modified with the following City Special Provisions.

Revised 09/2017

### **REVISION OF SECTION 101 DEFINITIONS AND TERMS**

Section 101 of the CDOT Standard Specifications is hereby revised for this project as follows:

Delete subsection 101.10 and replace with the following:

**101.10 Director of Public Works.** The Director of Public Works for the City, or his duly authorized representative, who is responsible for public works activities within the City. The Director of Public Works is responsible for final decisions relating to Contractor claims for contract modification orders, additional compensation, or extensions of contract time. All references to "CDOT Resident Engineer" shall be replaced by "Director of Public Works".

In subsection 101.17 delete the first paragraph and replace with the following:

The written agreement between the City and the Contractor setting forth the obligations of the parties for the performance of the work and the basis of payment.

Delete subsection 101.23 and replace with the following:

**101.23 Contractor.** The individual, firm, or corporation contracting with the City for performance of prescribed work.

Delete subsection 101.28 and replace with the following:

**101.28 Department.** Department of Public Works. A department with the City.

Delete subsection 101.29 and replace with the following:

**101.29 Engineer.** The Engineering Manager of the Department acting directly or through an authorized representative, who is responsible for engineering and administrative supervision of the project. For the purpose of these specifications, the Engineer is responsible for initial decisions relating to Contractor claims for additional compensation or additional time. The Engineer or Director are the City representative who may approve modifications to Contract documents or drawings.

Delete subsection 101.36 and replace with the following:

**101.36 Holidays.** Holidays recognized by the City are:

- New Year's Day
- Martin Luther King, Jr. Day
- Presidents' Day
- Memorial Day
- Independence Day
- Labor Day
- Veterans' Day
- Thanksgiving Day
- Day after Thanksgiving Day
- Christmas Day

When New Year's Day, Independence Day, or Christmas Day falls on Sunday, the following Monday shall be considered a holiday. When one of these days falls on Saturday, the previous Friday shall be considered a holiday.

Additional legal holidays, when designated by the Governor or the President of the United States, may also be recognized by the City.

Delete subsection 101.48 and replace with the following:

**101.48 Preconstruction Conference.** A meeting of City project personnel, Contractor project personnel, and other stake holders held prior to the beginning of construction at which topics pertinent to the successful prosecution of the work are discussed.

Delete subsection 101.51 and replace with the following:

**101.51 Project Engineer.** The Engineer's duly authorized representative who may be a City employee or an employee of a consulting engineer (consultant) under contract to the City as defined below:

- (a) *City Project Engineer.* The City employee who is the Engineer's duly authorized representative. The City Project Engineer is in direct charge of the work and is responsible for the administration and satisfactory completion of the project under contract.
- (b) *Consultant Project Engineer.* The consultant employee under the responsible charge of the consultant's Professional Engineer who is in direct charge of the work and is responsible for the administration and satisfactory completion of the project. The Consultant Project Engineer's duties are delegated by the Engineer in accordance with the scope of work in the consultant's contract with the City. The Consultant Project Engineer is not authorized to sign or approve Contract Modification Orders.

Delete subsection 101.58 and replace with the following:

**101.58 Region Transportation Director.** All references to "Region Transportation Director" shall be replaced by "Director of Public Works".

Delete subsection 101.59 and replace with the following:

**101.59 Right of Way.** A general term denoting land, property, or interest therein, usually in a strip, acquired for or devoted to a highway, street, alley, or other access.

In subsection 101.72, delete the 2<sup>nd</sup> sentence and replace with the following:

Special provisions fall within one of the three following categories and take precedence as specified in subsection 105.09:

In subsection 101.72, add the following paragraph:

- (c) **City Special Provisions.** Additions and revisions to the Standard and Supplemental Specifications specific to the City project.

In subsection 101.95, replace all references to CDOT with the City.

Add subsections 101.96 – 101.104 as follows:

**101.96 Approved Equal.** A product, component or process whose use in or on a particular project is specified as a standard for comparison purposes only. The "equal" product, component or process shall be the same or better than that named in function, performance, reliability, quality, and general configuration. Determination of equality in reference to the project design requirements will be made by the Engineer. It is the responsibility of the supplier to provide all necessary information for determining equality.

**101.97 Bid Bond.** The security required to be submitted with each proposal as described in Section 101.52 as a Proposal Guaranty.

**101.98 City Special Provisions.** See definition for City Special Provisions, subsection 101.72..

**101.99 Easement.** The right to use a defined area of property for a specific purpose or purposes as set forth in a document which has been made a part of the Contract Documents.

**101.100 Lump Sum.** A method of payment providing for one all-inclusive cost for the work or for a particular portion of the work; including any incidental costs necessary to perform that item of work.

**101.101 Notification of Award.** A written notification of acceptance of the bid from the City to the successful bidder.

**101.102 Payment Bond.** Same as Contract Payment Bond, subsection 101.20.

**101.103 Performance Bond.** Same as Contract Performance Bond, subsection 101.21

**101.104 Utility.** Tracks, overhead or underground wires, pipelines, conduits, pipes, ducts or structures, owned, operated or maintained in or across a public right-of-way or easement.

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

Subsection 102 of the CDOT Standard Specifications is hereby revised for this project as follows:

Delete subsection 102.01 and replace with the following:

**102.01 Prequalification of Bidders.** The City does not prequalify bidders. Each Contractor is required to complete the Contractors Qualification Form included in the Bid Package.

In subsection 102.02, delete the first sentence and replace with the following:

The City will publish bidding opportunities to prospective bidders on the City's website at [www.ci.wheatridge.co.us](http://www.ci.wheatridge.co.us) and on RMEPS/BidNet website at [www.rockymountainbidsystem.com](http://www.rockymountainbidsystem.com).

In subsection 102.02, delete the second paragraph.

Delete subsection 102.04 and replace with the following:

**102.04 Interpretation of Plans and Specifications.** If it should appear to a Bidder that the work to be done or matters relative thereto are not sufficiently described or explained in the Contract Documents or that the Contract Documents are not definite and clear, the Bidder may make written inquiry regarding same to the City Purchasing Agent before the Deadline for Questions specified in the advertisement for bids.

Then, if in the judgment of the City, additional information or interpretation is necessary, such information will be supplied in the form of an addendum. Each addendum will be delivered where possible by posting to the City website, RMEPS, or electronic mail (email) to all individuals, firms and corporations who have acknowledged receipt of Bid Document Sets. Such addendum shall have the same binding effect as though contained in the main body of the Contract Documents. Oral instructions or information concerning the contract documents or the project given out by officers, employees, or agents of the City to prospective bidders shall not bind the City. If no request is made before the Deadline for Questions, Bidder waives right to any conflict in the Contract Documents.

Delete subsection 102.06 and replace with the following:

**102.06 Preparation of Proposal.** The bidder shall submit his proposal upon the forms supplied by the City. The bidder shall specify a unit price in words or figures, or both if required, for each pay item for which a quantity is given and shall also show the products to the respective unit prices and quantities written in figures in the column provided for that purpose and the total amount of the proposal obtained by adding the amounts of the separate items. All the words and figures shall be in ink or type. In case of a mathematical error, the unit price shall govern.

When an item in the proposal contains a choice to be made by the bidder, the bidder shall indicate his choice in accordance with the specifications for that particular item, and thereafter no further choice will be permitted.

The bidder's proposal must be signed in ink by the individual, by one or more members of the partnership, by one or more officers of a corporation, or by an agent of the contractor legally qualified and acceptable to the City.

If the proposal is made by an individual, his name and address must be shown, by a partnership, the name and address of each partner must be shown, by a corporation, the name of the corporation and the business address of its corporate office must be shown.

In subsection 102.07 delete paragraphs (7) and (9)

In subsection 102.09, delete the last two sentences and replace with the following:

**The Bidder's Proposal will be rejected if it does not contain the completed Non-collusion Affidavit.**

Add subsections 102.11 – 102.14 as follows:

**102.11 Disqualification of Bidders.** Any of the following reasons may be considered as being sufficient for the disqualification of a bidder and the rejection of his proposal or proposals:

- (1) More than one proposal for the same work from an individual, firm, or corporation under the same or different name.
- (2) Evidence of collusion among Bidders. Participants in such collusion will not receive recognition as Bidders for any future work of the City until any such participant shall have been reinstated as a qualified Bidder.
- (3) If, during a Contract with the City, a Contractor or Subcontractor incurs liquidated damages as described in subsection 108.09, he shall be disqualified for a period of one (1) year from the date of final acceptance of that Contract.
- (4) Missing required documentation, certifications, license, or experience as required elsewhere in the project solicitation documents.

**102.12 Bid Prices.** Bidders must include, in their bid prices, the entire cost of each item of the work set forth in the proposal, and it is understood and agreed that there is included, in each lump sum or unit price bid, the entire cost of materials and labor incidental or necessary to the completion of that portion of the work covered, unless such work is expressly included in other lump sum or unit price bids in the proposal. Since the bid information cannot be guaranteed, the Contractor shall have assumed the risks attendant to successful performance of the work at the amount of the bid.

**102.13 City Contract Laws.** Section 2-3 (a) – (e) of the City's Code of Laws is presented below:

- (a) *Fiscal year.* Fiscal year for the city shall commence on January 1 and end on December 31.
- (b) *Budget contains appropriations.* The city council shall annually adopt a budget in a manner consistent with the provisions of Chapter X of the Home Rule Charter of the City of Wheat Ridge. Upon the annual adoption by the city council of each fiscal year's budget, levels of authorized expenditures from the funds indicated within the annual budget itself and/or the adopting resolution shall constitute the appropriation of the amounts specified therein for the purposes specified therein. During the course of each fiscal year, approval by the city council of contracts for goods or services, and/or approval of bids for the provision of specified goods or services, shall likewise constitute appropriations of the amounts specified therein for the purposes specified therein.
- (c) *No contract to exceed appropriation.* During each and any fiscal year, no contract entered into by or on behalf of the city shall expend or contract to expend any money, or incur any liability, nor shall any contract be entered into nor any bid be awarded by or on behalf of the city which, by its terms, involves the expenditure of money for any of the purposes for which provision is made either in the adopted budget or adopting resolution, including any legally authorized amendments thereto, in excess of the amount appropriated in the budget or the approved contract or bid award. Any contract or bid award, either verbal or written, made in violation of the provisions of this section shall be void as to the city and no city monies from any source whatsoever shall be paid thereon.
- (d) *Amendments and authorized expenditures.* Nothing contained herein shall preclude the city council from adopting a supplemental appropriation in a manner consistent with the provisions of Section 10.12 of the Home Rule Charter of the city. Further, nothing contained in this section shall prevent the making of contracts for governmental services or for capital outlay for a period exceeding one (1) year if such contracts are otherwise allowed by the Home Rule Charter of the city; provided, however, any contract so made shall be executory only for the amounts agreed to be paid for such services to be rendered in succeeding fiscal years.
- (e) *Notice to parties contracting with the city.* All persons contracting with, or selling goods or services to, the city are hereby placed upon notice of the provisions of this section. The provisions of this section shall become a part of the Merit System Personnel Rules and Regulations of the City of Wheat Ridge; shall be referred to specifically in all public works bid documents and contracts; and shall be incorporated into, and specially noted within, all other contracts entered into by or on behalf of the city wherein city funds are used to pay for said contract.

Section 2-4 of the City Code of Laws is presented below:

- (a) The city may, by contract, require the contractor awarded a public works contract to waive, release or extinguish its rights to recover costs or damages, or obtain an equitable adjustment, for delays in performing such contract if such delay is caused, in whole or in part, by acts or omissions of the city or its agents, if the contract provides that an extension of time for completion of the work is the contractor's remedy for such delay. Such a clause is valid and enforceable, any provision of state law to the contrary notwithstanding.
- (b) The city council, by this ordinance (Ordinance No. 812), declares its local contracting powers to be a matter of purely local concern, and further specifically intends to supersede, pursuant to its powers under Article XX of the Colorado Constitution, the provisions of Sections 24-91-101 and 24-91-103.5, C.R.S., insofar as they conflict with the provisions of this section of the Code of Laws of the City of Wheat Ridge, Colorado.

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

Section 103 of the CDOT Standard Specifications is hereby revised for this project as follows:

Delete subsection 103.01 and replace with the following:

**103.01 Consideration of Proposals.** After the proposals are opened and read, they will be compared on the basis of the summation of the products of the approximate quantities shown in the bid schedule by the unit prices.

The City reserves the right to settle bid discrepancies that occur in the low Bidder's proposal at the time the Contract is awarded. Bid discrepancies will be settled with the understanding that the low Bidder waives any claims against the City because of Bidder's mistakes in the Bid Proposal.

In subsection 103.02 change the time of award from 30 calendar days to 60 calendar days.

Subsection 103.04 shall include the following:

Failure to execute the Contract and file acceptable bonds within 15 days after the date of award shall be just cause for the cancellation of the award and the forfeiture of the proposal guaranty which shall become the property of the City.

The City may elect to waive forfeiture of the proposal guaranty only if it is determined that the bidder has made a good faith remedial error and that no damages were sustained by the City as a result of the failure by the successful bidder to execute the Contract and file acceptable bonds within the time prescribed. Award may then be made to the next lowest responsible bidder, or the work may be re-advertised and constructed under Contract or otherwise as the City may decide.

Add subsections 103.05 – 103.06 as follows:

**103.05 Cancellation of Award.** The City reserves the right to cancel the award of any Contract at any time before the execution of said Contract by all parties without liability against the City.

**103.06 Return of Proposal Guaranty.** All proposal guaranties consisting of bid bonds will be retained by the City. All proposal guaranties in the form of certified checks or cashier checks will be treated as follows:

For the three lowest Bidders, the proposal guarantee will be held until the Contract is awarded to the successful bidder. Proposal guaranty will then be returned to the other Bidders. The proposal guaranty of the successful Bidder will be returned upon receipt of executed Contract and approved payment and performance bonds.

### **REVISION OF SECTION 104 SCOPE OF WORK**

Section 104 of the CDOT Standard Specifications is hereby revised for this project as follows:

Subsection 104.04 shall include the following:

The Contractor shall be responsible for maintaining access to all residences and businesses along the Project areas during construction. Lane widths during construction shall not be less than 10 ft and a minimum clearance of two feet shall be maintained between traffic and the construction work zone.

The Contractor will not be permitted to have construction equipment or materials in the lane(s) open to traffic at any time unless permitted by the Engineer.

The Contractor is cautioned that all personal vehicle and construction equipment parking will be prohibited where it conflicts with safety, access, or the flow of traffic.

**REVISION OF SECTION 105  
CONTROL OF WORK**

Section 105 of the CDOT Standard Specifications is hereby revised for this project as follows:

In subsections 105.02 (b) 4 and 5. add the following:

Electronic submittals of the drawings are acceptable in lieu of the paper copies. The format of the electronic submittals must be printable in the format outlined in 1 – 3 above.

Subsection 105.02 (f) shall include the following:

1. All Contractors who construct public storm drainage systems, bike paths, sidewalks, streets, or other items within Public property to be maintained by the City must submit an "As Constructed" set of construction drawings for approval as a part of the City's acceptance process. The initial submittal shall be one set of "red-lined" marked up prints, which should be delivered to the Inspector. Written City acceptance of the final As Constructed plan is a condition for final acceptance and release of retainage.

As Constructed plans for construction of irrigation systems within public property to be maintained by the City shall be submitted per subsection 623.25.

2. All As Constructed information shall be red-lined and shown on the original construction drawings. The As Constructed drawings shall clearly show any changes or variations from the approved design. Horizontal variations greater than 1.0 foot should be shown dimensionally or through plus stations. Horizontal variations greater than 10.0 feet should also show the graphic relocation of the object. For construction of public storm drainage systems, vertical elevation variations greater than 0.1 feet shall be provided for all shown design elevations. For construction of all remaining project features, vertical elevation variations greater than 0.25 feet shall be provided for all shown design elevations.
3. The As Constructed Certificate (shown below) shall be signed and sealed by a Colorado professional engineer or professional land surveyor and shall appear on the cover sheet of the As Constructed plan set. All sheets included in the Contract Drawings set must be submitted in the final As Constructed plan set.

AS CONSTRUCTED CERTIFICATE

I hereby certify that the information shown on this as constructed drawing is an accurate and complete representation of data established from field information obtained under the direction of a Professional Engineer or Professional Land Surveyor, and that the physical dimensions or elevations shown are as-built information and the facility was constructed according to the approved plans, except as otherwise noted hereon.

_____	_____
Name	License #
_____	_____
Title	Date

In subsection 105.03 change the first sentence of the seventh paragraph as follows:

Materials may be sampled and tested by the Department in accordance with the City's Permit Testing and Inspection Requirements and CDOT's Field Materials Manual.

Delete subsection 105.09 (a) and replace with the following:

- (a) Special Provisions
  1. City General Provisions
  2. City Special Provisions
  3. Project Special Provisions
  4. Standard Special Provisions

Subsection 105.09 shall include the following:

Any discrepancy or error discovered in the Drawings, Specifications, or during field construction shall be immediately called to the attention of the Engineer through submission of a "Request for Information" (RFI) document. Only the Engineer may authorize a modification to the contract documents via written response to an RFI. Neither the Inspector nor Project Engineer may authorize alterations, in-field changes, or modifications to the project, whether orally or written, unless said change is so minor in nature that grades, horizontal geometry, detail, or the original purpose and intent of the drawings are not altered. Concurrence by the Inspector, Project Engineer, or any other City

representative in the field or on the daily inspection report does not constitute approval of any element of the project. The Contractor is solely responsible for constructing the project according to the contract documents.

Subsection 105.10 shall include the following:

Not furnishing a competent superintendence will be grounds for suspension of the Project until such superintendence is furnished by the Contractor. Contract time will continue in the event of a work suspension caused by lack of furnishing a project superintendence satisfactory to the City.

Subsection 105.11 shall include the following:

The locations of all utilities shown on the project plans should be considered approximate. It is therefore the responsibility of the Contractor to notify the appropriate utility and/or utility locating service to obtain more precise locations. No compensation will be made to the Contractor for any damage, delay or additional cost incurred as a result of failure to obtain utility locations.

Utilities which are adjusted, removed, or reset for the construction convenience of the Contractor and which would not conflict with the line or grade of the proposed project works, shall be done at the Contractor's expense. This shall include, but not be limited to, sanitary sewer service lines, water service lines, telephone, gas and electrical lines.

The Contractor shall coordinate with all affected utility owners for work to be performed on said utility as defined in the Contract documents. Coordination shall include application for permits, licensing, payment of fees, scheduling inspections with each owner, as required. All such costs and/ or time spent for coordination with utility owners shall be paid by the Contractor, and shall not be compensated with a Pay Item or Change Order.

Subsection 105.16 shall include the following:

The Department will provide all inspection during construction. The Inspector will oversee the materials testing.

The Contractor shall keep the Inspector informed of future construction operations to facilitate scheduling of required inspections. The Contractor shall notify the Inspector 24 hours in advance of starting any construction operation that will require inspection. Failure of the Contractor to provide such notice shall relieve the City from any responsibility for extra costs or delays caused by such failure.

Inspection of the work or materials by the City or conversations made between the Contractor and the Inspector shall not relieve the Contractor of the obligation to fulfill the requirements of the Contract. Work and materials not meeting such requirements shall be made good and unsuitable work or materials may be rejected, notwithstanding that such work or materials have been previously inspected by the City or that payment thereof has been included in a progress estimate.

Inspection and acceptance of work pertaining to utilities not owned by the City shall be made by a representative of the owning utility. The Contractor shall obtain required permits and/ or licenses and notify & schedule an inspection by the owning utility prior to commencing any work so that a representative may be made available to approve the work to be performed.

Subsection 105.21 (a) shall include the following:

The one year guarantee period for the portion or unit of the project partially accepted will not begin until completion of the entire project unless otherwise agreed to by the Engineer.

In subsections 105.22 and 105.24 change all references to "CDOT" to the "City" and remove all references to subsection 105.23.

Subsection 105.22 shall include the following:

In accordance with Section 2-4 of the City Code, as provided in subsection 102.13 of the City Special Provisions, the Contractor shall waive, release or extinguish its rights to recover costs or damages, or equitable adjustment, for delays in performing this contract if such delay is caused, in whole or in part, by acts or omissions of the City or its agents unless the Department accepts responsibility. An extension of time for completion of the work shall be the Contractor's remedy for such delay.

The Contractor shall not be entitled to additional monetary compensation for delays caused by the failure of a utility company or special district to relocate its facilities in timely manner. An extension of time for completion of the work shall be the Contractor's remedy for such delay. Relief from failure of utility companies to fulfill their responsibilities is discussed in subsection 105.11 of the Standard Specifications.

In subsection 105.22 (d) delete the last paragraph and replace with the following:

If these meetings do not result in a resolution or the participants mutually agree that they have reached an impasse, the Contractor may file a claim in accordance with subsection 105.24.



Delete subsection 105.23.

In subsection 105.24 change the reference to "City and County of Denver" and replace with "Jefferson County":

In subsection 105.24 (c) delete the reference and address to "CDOT Audit Unit" and replace with "Department":

Add subsections 105.25 and 105.26 as follows:

**105.25 Protection of Survey Markers.** Survey markers shall be protected as follows:

- (a) *Permanent Survey Markers.* Should the Contractor believe that a survey monument, control point, or benchmark will be disturbed by construction activities, the Contractor shall notify the Engineer not less than seven days prior to starting work in order that the Engineer may take necessary measures to insure the preservation of survey monuments, stakes and bench marks. The Contractor shall notify the Engineer and bear the expense of replacing any that may be disturbed without permission. Replacement shall be done by a Registered Land Surveyor at no expense to the City.

When a change is made in the finished elevation of the pavement of any roadway in which a permanent survey monument is located, the monument cover or box shall be adjusted to the new grade.

- (b) *Lot Stakes.* Unless otherwise directed by the Engineer or shown in the plans, the Contractor shall preserve existing survey stakes that mark property lines and corners. Any stakes that become lost or disturbed by his operations shall be replaced at the Contractor's expense by a registered land surveyor. Any lot corners marked on sidewalks that are designated for removal by the Contract Documents or the Engineer are not the responsibility of the Contractor for replacement.

**105.26 Maintenance During Free Time.** Maintenance during free time, shall meet the requirements of Sec. 105.19 and shall be considered incidental to the work.

## **REVISION OF SECTION 106 CONTROL OF MATERIAL**

Section 106 of the CDOT Standard Specifications is hereby revised for this project as follows:

Delete subsection 106.03 and replace with the following:

**106.03 Samples, Test, Cited Specifications.** Materials sampling and testing shall be performed at the expense of the Contractor. The Contractor shall employ an independent materials testing company to sample and test the materials or the finished product in accordance with the City Materials Testing Requirements, and the Frequency Guide Schedule of the CDOT Field Services Manual, per Section 720 of the City Special Provisions. All materials sampling, testing and inspection shall be performed by certified field technicians who work under the supervision of a registered professional engineer in the State of Colorado practicing in this field.

Field technicians shall furnish copies of failed test results to the Engineer within two working days of completion and prior to the next phase of construction. On a weekly basis, the Contractor shall furnish the Engineer with copies of all test results taken that week and a cover letter, signed by the supervising registered professional engineer, which summarizes the results and addresses any failed tests or inconsistencies.

Unless otherwise designated, all specifications, standards or policies referenced in Section 720 shall be the latest edition as revised or updated by approved supplements published and issued prior to the date of the advertisement for bids.

Subsection 106.08 shall include the following:

The Contractor will not receive compensation for storage of topsoil or other materials generated on site that are stored either onsite or offsite for later disposal or inclusion into the Work.

Add subsection 106.14 as follows:

**106.14 Trade Names, Approved Equals, or Substitutes.** In order to establish a basis of quality, certain processes, types of machinery and equipment, or kinds of materials may be specified either by description or process or by designating a manufacturer by name and referring to that brand or product designation, or by specifying a kind of material. It is not the intent of the specifications to exclude other processes, equipment or materials of equal value, utility or merit.

Whenever a process is designated, or a manufacturer's name, brand or item designation is given, or whenever a process or material covered by patent is designated or described, it shall be understood that the words "or approved equal" follow such name, designation, or description, whether in fact they do so or not.

If it is desirable to furnish items of equipment by manufacturers other than those specified, as a substitute after the contract is executed, the Contractor shall secure approval prior to placing a purchase order or furnishing the same.

If the proposal includes a list of equipment, materials, or articles for which the Contractor must name the manufacturer at the time of submission of the bid, no substitutions therefore will be permitted after a proposal has been accepted without the express consent of the Owner.

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

Section 107 of the CDOT Standard Specifications is hereby revised for this project as follows:

Subsection 107.12 shall include the following:

Property pins, right-of-way markers and other survey corners shall remain undisturbed until a method of preserving or perpetuating such markers is approved by City. Should any such markers be disturbed, destroyed or removed without obtaining said approval, the Contractor shall be assessed for any costs incurred in resurveying, resetting, and registering said markers.

In subsection 107.15 change all references to "CDOT" to the "City".

Subsection 107.15 shall include the following:

Certificates of Insurance shall be attached to the executed Contract Documents and shall become a part of the contract. These certificates shall include a provision that thirty days prior to insurance cancellation, written notice shall be given to the City.

Indemnification of City - Contractor hereby indemnifies and agrees to hold the City harmless for and on account of any act or omission in the completion and execution of the project specified herein, which indemnification shall extend to and include any damage of whatever sort or description, suffered by any person or entity, and shall include compensatory, punitive or special damages; and Contractor agrees to defend City hereunder, at Contractor's sole expense and if he fails to do so, to thereafter indemnify City, in addition to the above indemnification, for all court costs and attorney fees incurred in any defense required to be undertaken by the City.

Add subsection 107.18 as follows:

**107.18 Contractor's Responsibility During Warranty.** The Contractor shall, at his sole expense and cost, remedy any defects in the work, and pay for any damage to other work resulting therefrom, which shall appear within a period of one year from the date of final acceptance of work unless a longer period is specified. The City will give notice of defects with reasonable promptness upon their discovery.

In subsection 107.25 delete all references to Region Water Pollution Control Manager (RWPCM) and Landscape Architect.

In subsection 107.25, change all references to "CDOT Maintenance" to "Inspector".

### **REVISION OF SECTION 108 PROSECUTION AND PROGRESS**

Section 108 of the CDOT Standard Specifications is hereby revised for this project as follows:

In subsection 108.01 delete the second sentence and replace with the following:

Prior to beginning any work by subcontractor, the Contractor shall request permission from the Engineer.

In subsection 108.02 delete the last sentence and replace with the following:

The Contractor shall commence work under the Contract within 14 calendar days of the date of the Notice to Proceed.

In subsection 108.03 (b) delete the first sentence and replace with the following:

The Contractor shall use Microsoft Project software to develop and manage a CPM Project Schedule to plan, schedule, and report the progress of the work.

In subsection 108.04 delete the first sentence and replace with the following:

The Contractor shall prepare a payment schedule which shall show the dollar amount of work the Contractor expects to be completed.

Delete subsection 108.04 (a) and replace with the following:

- (a) *Initial Payment Schedule.* At the time of the Preconstruction meeting, the Contractor shall submit to the City a schedule of partial progress payments. This schedule will show the percentage of Work completed and the date and dollar amount of each anticipated progress payment.

Subsection 108.05 shall include the following:

Working hours under this Contract shall be between 7:00 am and 5:00 pm. The Contractor shall not operate equipment before 7:00 am and shall schedule all work operations to be completed before 5:00 pm. Work after 5:00 pm will not be allowed except when required for circumstances beyond the Contractor's control and when approved by the Engineer. Work between 5:00 pm and 6:00 pm on more than two consecutive working days will be charged as one-half working day. Work after 6:00 pm on any day will be charged as one-half working day.

Contractor operations in lanes open to traffic are not allowed between the hours of 6:30 am to 8:30 am and 3:30 pm to 6:30 pm, unless otherwise approved by the Engineer. These restrictions apply to temporary delays including ingress and egress of materials, etc.

Subsection 108.08 shall include the following:

An extension of time for completion of the work shall be the Contractor's sole remedy for delays in performing this contract if such delay is caused, in whole or in part, by acts or omissions of the City or its agents unless the Department accepts responsibility.

An extension of time for completion of the work shall be the Contractor's remedy for delays in performing this contract caused by the failure of a utility company or special district to relocate its facilities in timely manner. Relief from failure of utility companies to fulfill their responsibilities is discussed in subsection 105.11 of the Standard Specifications and the City Special Provisions.

In subsection 108.09, change all references for "calendar days" to "working days"

#### **REVISION OF SECTION 109 MEASUREMENT AND PAYMENT**

In subsection 109.01 change all references to CDOT to the City.

Delete subsection 109.04 (f) and replace with the following:

- (f) The Contractor's representative and the Inspector shall, on a daily basis, agree in writing on the quantities of labor, equipment and materials used for work, extra work, and/ or force account work.

Subsection 109.04 (h) shall include the following:

Time extension for force account work shall be allowed only if a controlling operation or critical path item of the project is interrupted. Time extension requests shall meet the requirements of subsection 108.08. Force account items shall be completed in a workmanlike manner so as not to cause undue delays.

In subsection 109.06 (a) delete the second sentence and replace with the following:

The amount to be retained will be 5 percent of the value of the completed work including change orders and contingency.

Delete subsection 109.06 (b) and replace with the following:

- (b) Securities are not acceptable to the City in lieu of standard amount retained.

Add subsection 109.08 as follows:

**109.08 Final Guarantee.** All work shall be and is guaranteed by the Contractor for a specified period of one year from and after the date of written final acceptance of all work by the City, unless a longer period is specified. All other current applicable State statutes shall apply.

If within the guarantee period, non-emergency repairs, changes, or replacements are required in connection with guaranteed work which, as determined by the City, is rendered necessary as the result of the use of materials, equipment or workmanship which are inferior, defective or not in accordance with the terms of the contract, the Contractor shall, within 14 calendar days from receipt of notice from the City, and without expense to the City:

- (a) place in satisfactory condition, in every particular, all of such guaranteed work, correct all defects therein, or proceed with replacement of defective or unsatisfactory work where deemed necessary by the Engineer; and
- (b) make good all damage to the building site, equipment or contents thereof which, in the opinion of the Engineer, is the result of the use of materials, equipment or workmanship which are inferior, defective, or not in accordance with the terms of the contract; and

(c) make good any work or material disturbed, or the equipment and contents of any building or structure on the site, in fulfilling any such guarantee.

In the case of emergency repairs, changes or replacements, the Contractor shall promptly upon receipt of notice from the city and without expense to the City, perform the necessary actions to remediate the situation.

Revised 09/2017

## **REVISION OF SECTION 210 RESET STRUCTURES**

Section 210 of the CDOT Standard Specifications is hereby revised for this project as follows:

Subsection 210.02 shall include the following:

Any work performed by the Contractor on a utility facility is subject to inspection and approval by the owning utility company. The Contractor is responsible for coordinating inspection with the owning utility.

The contractor must give written notice to all customers affected by water service outages at least 24 hours before the water is turned off for this work. The Contractor shall give a minimum of 24 hours notice to the owning utility company before any work which will affect their facilities. The Contractor shall not operate any water valves without permission of the owning utility company.

Subsection 210.10 shall include the following:

Any existing manholes, water valves, range boxes, traffic control boxes, etc., which are required to be adjusted shall be adjusted to 1/4 inch below finished grade prior to or immediately following placement of the final lift of asphalt. The intent of this specification is that the freshly placed HMA be compacted around the structure after the structure is adjusted to finish grade. When adjusting valve boxes, the box shall be cleaned of all foreign debris such that the operating nut of the valve is fully accessible to operate. The work shall be subject to inspection by and approval of the owning utility and is incidental to the pay item for adjusting water valves.

Subsection 210.12 shall include the following:

The pay item for resetting, modifying or adjusting meter pits shall include all additional material required to modify, adjust and/or reset the meter pits and curb stops.

Tapping tee, valves, pipe, pipe fittings and other materials required to reset, relocate or extend a fire hydrant assembly will be included in the pay item for Reset Fire Hydrant.

Subsection 210.13 shall include the following:

Pay items shall include, unless otherwise specified, all new hardware and material.

Add subsections 210.14 – 210.16 as follows:

**210.14 Fire Hydrants.** If required on the drawings, before resetting, relocating or extending fire hydrants, the Contractor shall contact the owning utility for inspection of the removed hydrant. The Contractor may be required to excavate the existing tee and remove any pipe or valves at the tee and place a plug at the tee if required by the owning utility company. The new hydrant lead is to be constructed of all new pipe and other material.

**210.15 Water or Sewer Service Line.** This work shall be performed where necessary to remove, relocate, or replace a utility service line caused by a grade and/or line conflict with new construction. Adjustment work may entail complete relocation and replacement of the affected service line. Payment under this item shall include all costs associated with service line relocation. For reset work, the approximate limits of replacement would be the width of the trench. Payment under this item shall include all costs associated with service line restoration within the limits of the excavation.

**210.16 Water Meter Pit.** Adjustment work shall be performed on existing water meter pits. The Contractor will adjust existing water meter pit structures to grade. Adjustment of associated curb stops shall be included under this pay item. For reset work, the contractor shall remove the existing water meter pit and replace the existing structure with new meter pit structure material. Unless otherwise specified, required material will be supplied by the contractor. The new meter pit will be relocated along the existing water lateral. This pay item also includes all work and additional material required to complete installation of the new meter pit structure to finish grade. Resetting the curb stop shall be included under this pay item. Modification work shall entail the conversion of the existing water meter pit cover to a heavy duty lid and frame adjusted to grade. This pay item shall also include related work on the associated curb stop. Unless otherwise specified, the heavy duty frame and lid will be furnished by the Contractor.

**REVISION OF SECTION 304  
AGGREGATE BASE COURSE**

Section 304 of the CDOT Standard Specifications is hereby revised for this project as follows:

Subsection 304.01 shall include the following:

This work includes the placement of recycled (reclaimed) asphalt produced from milling an existing asphalt street pavement as directed by the Engineer.

Subsection 304.02 shall include the following:

The source of aggregate for Aggregate Base Course is not designated. Approval of the aggregate as a source for the Class(es) of aggregate specified will be contingent on material meeting the appropriate gradation requirements and having a resistance value of at least 72 when tested the Hveem Stabilometer Method.

In general, the use of recycled materials is supported by the City and preference will be given to recycled materials as much as possible.

Recycled asphalt material shall be produced from milling an existing asphalt street or from crushing asphaltic pavement removed from a roadway. The material shall generally meet the gradation requirements of Class 4 or 6 Aggregate Base Course. The maximum size aggregate (material) will be determined by the Engineer in the field.

Recycled Portland cement concrete or asphaltic concrete may be used in lieu of natural or processed natural aggregate if it meets the general size, gradation and resistance requirements of the class of ABC specified and the substitution is approved by the Engineer.

Aggregate material for Stabilization Material (Granular) shall generally meet the requirements of Aggregate Base Course Classes 4, 5 or 6. Stabilization material may be crusher waste, reclaimed asphalt, reclaimed concrete, pit run gravels or other Contractor supplied material (minus 4 inch) acceptable to the Engineer. This material shall be readily compactable with minimal effort and shall be clean and free from contaminating materials such as clay or clay lumps and organic matter. The material shall not be cross mixed with other types of materials such as milled asphalt, non specific gravel materials, rock, etc. Presence of contaminating materials, clay or clay lumps or organic matter will be grounds for rejection by the Engineer.

Aggregate Base Course (Crusher Fines) shall be stabilized, in accordance with the manufacturer's recommendations, with a non-toxic, organic binder that is a colorless and odorless concentrated powder that binds the aggregate. The aggregate shall meet the following requirements:

**CRUSHER FINES (1/4" minus Aggregate Gradation)**

Sieve Size	Percentage passing by Weight
3/8"	100
#4	90 – 100
#8	75 – 80
#16	55 – 65
#30	40 – 50
#50	25 – 35
#100	15 – 20
#200	10 – 15

Subsection 304.04 shall include the following:

Recycled asphalt pavement material, in general, is intended for use in maintaining driveways and other accesses and to improve the subgrade characteristics during construction of the project. The material may be incorporated into the subgrade after the need for it in a particular location expires. Material shall be free of organic materials, clay and clay lumps and shall not be mixed with other materials prior to placement. The presence of contaminating or foreign material will be grounds for rejection by the Engineer.

Aggregate material for Stabilization Material (Granular) shall be placed on a geogrid material in the bottom of the excavation. The geogrid material shall be placed accordance with manufacturer's recommendation in the bottom of

the over excavated area in the roadway to be stabilized. After placement of the geogrid material, the granular roadway stabilization material will be placed full depth. The Contractor shall minimize the amount of rubber tired equipment allowed on the stabilization material and shall preferentially use a small tracked dozer or loader to spread the granular material. After placement and rough shaping of the granular material, the surface may be shaped to final cross section with a maintainer. Water for compaction shall be sparingly applied as required. The use of vibratory equipment may be used as long as the subgrade does not show evidence of failure as evidenced by deflection of the aggregate surface.

Aggregate Base Course (Crusher Fines) shall be placed in a compacted lift of 4 inch depth.

Subsection 304.07 shall include the following:

Recycled Asphalt Pavement will be measured by the ton of material placed as directed by the Engineer.

Stabilization Material (Granular) will be measured by the ton compacted in place and accepted by the Engineer.

Subsection 304.08 shall include the following:

The accepted quantities of Stabilization Material (Granular) will be paid for at the contract price bid per ton of material, as shown in the bid schedule.

The accepted quantities of recycled asphaltic concrete and recycled Portland cement concrete will be paid for at the contract bid price per ton of material as shown in the bid schedule. If no separate bid price is provided, the recycled material will be paid for as Aggregate Base Course or extra work.

<b>Pay Item</b>	<b>Pay Unit</b>
Stabilization Material (Granular)	Ton
Recycled Concrete Pavement	Ton
Recycled Asphaltic Pavement	Ton

Revised 09/2017

### **REVISION OF SECTION 403 HOT MIX ASPHALT**

Subsection 403.03 shall include the following:

Areas to be patched back shall be saw cut, unless alternative methods of cutting which produce straight lines and vertical cuts are approved by the Engineer. Limits of cutting shall be as specified on the plans or as directed by the Engineer. Jagged edges are unacceptable and shall be replaced at the Contractors expense. Prior to placement of the patch, all exposed sides of the existing pavement shall be thoroughly coated with tack.

All materials excavated from the patch area shall become the property of the Contractor and hauled from the site.

Revised 09/2017

### **REVISION OF SECTION 412 PORTLAND CEMENT CONCRETE PAVEMENT**

Section 412 of the CDOT Standard Specifications is hereby revised for this project as follows:

Subsection 412.03 shall include the following:

Concrete for cross pan and fillet pavement shall be Class "B" or "D".

Class E, High Early Concrete shall reach a compressive strength of 3000 psi in 3 days to allow the new concrete pavement to be opened to traffic. Admixtures to decrease curing time shall be non-reactive to steel reinforcement and shall not include calcium chloride unless approved by the Engineer. All other requirements for the class of concrete specified shall be met.

When not specified or required at the direction of the Engineer, High Early Concrete may be used at the option and expense of the Contractor.

Delete subsection 412.17 and replace with the following:

**412.17 Surface Smoothness.** The roadway surface smoothness shall be tested with a 10 foot straight edge as described in the Ten- Foot Straight Edge Method.

Subsection 412.23 shall include the following:

Concrete Pavement (High Early) will be paid at the same price as Concrete Pavement unless it is required by the Contract Documents or its use is directed by the Engineer.

Subsection 412.24 shall include the following:

<b>Pay Item</b>	<b>Pay Unit</b>
Concrete Pavement (High Early ____ Inch)	Square Yard

Revised 09/2017

**REVISION OF SECTION 604  
MANHOLES, INLETS AND METER VAULTS**

Section 604 of the CDOT Standard Specifications is hereby revised for this project as follows:

Subsection 604.01 shall include the following:

This work also consists of installing inlet filter baskets as permanent water quality facilities.

Subsection 604.02 shall include the following:

Manholes, inlets and base sections shall be cast-in-place unless otherwise approved by the City in writing. Joints and bases shall be watertight.

*Mortar.* Mortar shall conform to the requirements of ASTM C378, or be proportioned 1 part Portland Cement to 2 parts clean, well graded sand which will pass a 1/8 inch screen. Admixtures may be used not exceeding the following percentages of weight of cement: hydrated lime, 10 percent, diatomaceous earth or other inert materials, 5 percent. Consistency of mortar shall be such that it will readily adhere to the precast concrete if using the standard tongue and groove type joint. If the keylock type joint is used, the consistency shall be such that the excess mortar will be forced out of the groove and support is not provided for the next manhole section to be placed. Mortar mixed for longer than 30 minutes shall not be used.

*Preformed Plastic gaskets.* When approved, preformed plastic gaskets may be used in lieu of mortar type joints and shall meet all the requirements of Federal Specification SS-S-00210.

*Inlet Filter Basket.* Inlet filter baskets shall consist of a fiberglass shelf and mounting system that directs the runoff from the inlet into the basket and positions the basket under the access manhole. The basket shall be made of stainless steel and consist of a three level screen that captures coarse, medium and fine materials. The basket shall also contain a boom that collects hydrocarbons. The system must also allow the runoff to bypass the system if it is full. The inlet basket shall be High Capacity Curb Inlet Basket as manufactured by Suntree Technologies Inc. or approved equal.

In Subsection 604.04 (b) delete the second paragraph and replace as follows:

When a manhole is located in the pavement area, the ring and lid casting shall be adjusted to 1/4" below finished grade prior to or during placement of the final lift of asphalt. The intent of this specification is to compact the freshly placed pavement material during rolling of the remainder of the roadway. Rim elevations shown on the plan are approximate. Final elevations will be determined in the field. The final ring and lid shall be flush to 1/4" below finished grade.

In Subsections 604.06 delete all references to payment for manholes and inlets based on depth.

Subsection 604.07 shall include the following:

<b>Pay Item</b>	<b>Pay Unit</b>
Inlet, WR Curb Inlet (_____)	Each
Inlet, WR Valley Inlet (_____)	Each
Inlet Filter Basket	Each

**REVISION OF SECTION 608  
SIDEWALKS AND BIKEWAYS**

Subsection 608.01 shall also include the following:

This work also consists of the construction of sidewalk chases, raised crosswalks, and patterned concrete in accordance with the Contract Documents. This work includes the installation of detectable warnings on concrete curb ramps at the locations shown in the plans and in accordance with the plans.

Subsection 608.02 shall include the following:

Frame for sidewalk chase shall meet the requirements of ASTM A36 for Carbon Steel, or ASTM B209, B211, B221, or B241 for Aluminum Alloy 6061-T6 or 6063-T6. Top shall be hot dipped galvanized steel.

Pattern concrete shall be Class B, full depth Davis Color "Brick Red", imprinted "Windsor Cobble" pattern by Brickform (or approved equal). Imprinting forms shall be released with Brickform RA-600 Light Gray Antique Release Agent (or approved equal) in accordance with the Brickform Antique Release Agent Technical Information sheet. All antiqued surfaces shall be broom cleaned, pressure washed, and sealed with 2 coats of Brickform Masterseal Sealer (or approved equal), after a curing period of 28 days. Use and application of all products shall be per manufacturer:

Brickform by Rafco Products  
11061 Jersey Blvd  
Rancho Cucamonga, CA 91730  
800-483-9628  
www.brickform.com

Surface applied and cast in place detectable warnings tiles for the ramps shall be red in color and comply with all Americans with Disabilities Act (ADA) requirements. The detectable warnings nominal tile size shall be determined by the location. In general, the minimum size shall be 24" x 36" surface applied for retrofits and 24" x 60" cast in place for new construction. At locations where a ramp is being constructed or reconstructed and a 24" x 60" tile cannot be installed then a 24" x 36" cast in place shall be allowed. The City has the sole determination as to where and what size tile shall be placed.

The detectable warning tiles shall be constructed per CDOT Standard Plan M-608-1 specifications. The tiles shall be manufactured by Armor-Tile® or a approved equal, "Brick Red" in color. Unless otherwise stated, all manufactures' recommendations and specifications shall be strictly adhered to.

In subsection 608.03 (b) delete the last sentence.

Subsection 608.03 (f) shall include the following:

Only clear VOC compliant curing compound shall be used to cure colored concrete. Only white VOC compliant curing compound shall be used to cure grey concrete.

Add subsections 608.03 (g) and (h) as follows:

- (g) *Structures.* Meter pits and manholes shall be installed or adjusted such that the frame and cover rest flush with the sidewalk. Cover shall not move within the frame and shall be reinforced as necessary to prevent deflection under light vehicle wheel loads (pickup truck).
- (h) *Cleanup of residual colored concrete or Release Agent.* Release Agent powder or residual colored concrete shall be removed from job site in accordance with the approved SWMP.

Delete subsection 608.05 and replace with the following:

**608.05.** Concrete curb ramps will be measured by the unit. The colored concrete portion (if any) of concrete curb ramps and raised crosswalks will not be measured for payment but shall be included in the price for ramps and crosswalks.

Pattern concrete will be measured by the square yard of finished surface complete in place and accepted.

Sidewalk chase will be measured by each chase installed.



Delete subsection 608.06 and replace with the following:

<b>Pay Item</b>	<b>Pay Unit</b>
Concrete Curb Ramp (Type ___)	Each
Pattern Concrete (___" thick)	Square Yard
Raised Crosswalk	Linear Feet
Sidewalk Chase	Each

Add subsection 608.07 as follows:

**608.07 Pattern Concrete.** The following specifications are intended to be general specifications. The actual construction work shall be performed in accordance with the appropriate manufacturer's recommendations as modified by these specifications. The Contractor shall:

- (a) Provide product data and installation instructions for imprinting tools, release agent, sealing agent, and joint sealants to the Engineer at the Preconstruction Conference.
- (b) Perform all pattern concrete work per manufacturer specifications and supply a foreman or supervisor who has completed at least three previous pattern concrete installations.
- (c) Supply a finished jobsite sample of at least 4' by 4' of the pattern and coloring specified for approval by the Engineer prior to start of construction. The sample may, if approved by the Engineer, be incorporated into the work.
- (d) Concrete shall be wooden float finished prior to applications of coloring agents and pattern imprinting.

The subgrade in areas to receive pattern concrete shall be prepared in the same manner as sidewalk. Concrete shall be placed in the same manner as sidewalk concrete and shall be a minimum of 6 inches thick prior to application of the patterning devices.

Revised 09/2017

### **REVISION OF SECTION 609 CURB AND GUTTER**

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

Subsection 609.03 (b) shall include the following:

All curb and gutter faces shall be formed. The terminal ends of all work shall be formed to maintain a true vertical edge. The Engineer reserves the right to order forms which he deems unsatisfactory removed from use in the Work. The top of the curb head shall be finished to slope to the street side of the curb unless otherwise noted.

Subsection 609.03 (d) shall include the following:

All upper edges of each section shall be tooled. Sidewalk joints shall line up with curb and gutter joints when contiguous. Tooled contraction joints shall be placed where form joint templates are placed. In the event the tooled joint and the form joint template do not coincide and a random crack appears outside the tooled joint, the Contractor will be required to remove the improperly cracked joint. Removal limits will be 1/3 the distance to the next joint on either side of the unsatisfactory joint. In the event contiguous joints are unsatisfactory, the entire stone between the joints will be removed to the outside of the unsatisfactory joint. Concrete sawing will be required to provide a clean joint.

Subsection 609.03 (e) shall include the following:

Expansion material or approved bond breaker material shall be installed between curb and gutter and abutting sidewalk for the full depth and length if the pour is not monolithic.

Revised 09/2017

### **REVISION OF SECTION 630 CONSTRUCTION ZONE TRAFFIC CONTROL**

Section 630 of the CDOT Standard Specifications is hereby revised for this project as follows:

Subsection 630.10 shall include the following:

If the Contract Documents do not include a Traffic Control Plan (TCP), the Contractor shall submit a method for handling traffic (MHT). The MHT must utilize the Manual on Uniform Traffic Control Devices (MUTCD) or Standard

Plans S-630-1 and S-630-2 for devices that are proposed. Approval of the MHT does not relieve the Contractor of traffic control liability specifically assigned to him under this Contract. A copy of the approved MHT shall be available at the project site at all times in order that Division personnel may verify compliance with the specified traffic control requirements.

The Contractor's MHT shall also include the following:

- (1) The number of flag persons to be used.
- (2) The number of authorized 24-hour days a traffic control supervisor will be required.

The Contractor shall erect and maintain warning lights, signs, barricades and sufficient safeguards around all excavations, embankments and obstructions.

Subsection 630.13 shall include the following:

The Contractor shall provide an inventory of all existing pavement marking to be disturbed to the Engineer prior to beginning work.

All warning and construction zone traffic control devices shall bear the name, address and phone number of the barricade company that owns them. The phone number shall be a 24 hour a day dispatched hot line in the event an emergency situation occurs where additional devices are needed or existing devices must be removed.

The Contractor shall install construction zone traffic control devices in locations where they do not block or impede sidewalks for pedestrians, disabled persons, bicyclists or other existing traffic control devices. A minimum four foot wide, unobstructed sidewalk area is to be maintained where possible. In the event that a minimum four foot wide sidewalk area with a minimum overhead clearance of 7 feet 6 inches cannot be maintained, a pedestrian/bicycle detour plan shall be submitted in conjunction with the traffic control plan.

All existing traffic control devices including traffic signals, signs, and pavement markings that are compatible with the construction zone traffic control shall remain visible and fully operational. If these devices are incompatible with the temporary construction, they shall be covered, relocated or removed.

Whenever the Contractor removes, obliterates or covers in any way, any pavement markings including lane lines and crosswalks, he shall replace them on a daily basis. Prior to opening affected areas to traffic, all pavement marking shall be placed in accordance with the Plans and Specifications or as directed by the Engineer.

The Contractor shall equip all vehicles operating within the moving lanes with flashing amber lights visible from all directions.

Subsection 630.17 shall include the following:

Signs, barricades, traffic channelizing devices, flashing beacons (portable), method of handling traffic, traffic control supervisor, flagging, and all other requirements of Subsection 630 are included in the pay item for Traffic Control Management unless they are identified in the Bid Schedule as separate pay items.

Subsection 630.18 shall include the following:

No payment will be made under Section 630 until the method of handling traffic (MHT) has been submitted and accepted.

<b>Pay Item</b>	<b>Pay Unit</b>
Traffic Control Management	Lump Sum

Revised 09/2017

## **SECTION 720 MATERIALS SAMPLING AND TESTING**

Section 720 is hereby added for this project as follows:

### **DESCRIPTION**

**720.01** Materials sampling and testing shall be performed under the Contract by an independent materials testing company. This work shall include all necessary labor, equipment and material required for sampling and testing materials or finished products in accordance with the specifications of this section. Unless otherwise designated, all referenced specifications, standards or policies shall be the latest edition as revised or updated by approved supplements published and issued prior to the date of the advertisement for bids

## CONSTRUCTION REQUIREMENTS

**720.02** All materials sampling and testing shall be performed by certified, experienced and qualified materials testing technicians who work under the supervision of a registered professional engineer in the State of Colorado, practicing in this field. At the request of the Engineer, the Contractor shall require the materials testing company to replace any technician who cannot satisfactorily perform the testing duties.

**720.03** All materials sampling and testing equipment shall be serviceable and have been currently calibrated. At the request of the Engineer, the Contractor shall require the materials testing company to replace any testing equipment that is not satisfactory.

**720.04** Retesting the density of subgrade and base course materials shall be required at the Contractor's expense, if they are reworked or weather causes the materials to become wet, dry or frozen.

**720.05** Materials testing technicians shall furnish copies of failed test results to the Engineer within two working days of completion of testing and prior to the next construction phase. On a weekly basis, the Contractor shall furnish the Engineer with copies of all test results taken during that week and a cover letter, signed by the supervising registered professional engineer, which summarizes the results and discusses any failed tests or inconsistencies.

**720.06** The City materials testing requirements are provided in Table 720-1. All testing procedures, point of verification and central lab requirements shall be as specified in the Frequency Guide Schedule of the Colorado Department of Transportation Field Materials Manual. Without increasing the total number of tests or samples required, the Engineer or Inspector may change the test locations from the frequency spacing shown in Table 720-1. One test is required for any fraction of the specified frequency.

**Table 720-1  
City of Wheat Ridge Materials Testing Requirements**

<b>Type of Test</b>	<b>Frequency</b>	<b>Remarks</b>
Soil Survey (Classification), AASHTO M 145	1 per 500 feet of roadway or pipe trench	Surveys for roadway and trench may be combined
Moisture-Density Curve, AASHTO T 99	1 per on-site soil type 1 per import material source	AASHTO method determined by soil or materials type
Embankment in-place density, Colorado Procedures	1 per 250 feet per lane per 6 inch loose lift	Minimum density per soil classification, Section 203.07
Roadway subgrade in-place density, Colorado Procedures	1 per 250 feet per lane	Minimum density per soil classification, Section 203.07
Sidewalk subgrade in-place density, Colorado Procedures	1 per 250 feet of sidewalk	Minimum density per soil classification, Section 203.07
Pipe trench in-place density, Colorado Procedures	1 per 200 feet of trench per 18 inch vertical interval	Minimum density per soil classification, Section 203.07
Aggregate base course in-place density, Colorado Procedures	1 per 250 feet per lane	Minimum 95% of maximum density, T 180
Lime treated subgrade in-place density, Colorado Procedures	1 per 250 feet per lane	No less than 95% of standard dry density and optimum moisture, T99
Cement treated base in place density, Colorado Procedures	1 per 250 feet per lane	Density in accordance with contract documents, T 134
Hot Bituminous Pavement asphalt content and gradation	1 per 1000 tons	Within specifications of approved mix design: Binder PG 64-22
Hot Bituminous Pavement in-place density, Colorado Procedures	1 per 100 tons	92 - 96% of maximum density, T 209
Concrete compressive strength, AASHTO Procedures	1 set per 50 cubic yards	PCC pavement, structural concrete, sidewalks, and curbing
Concrete air content and slump, AASHTO Procedures	1 per 25 cubic yards	PCC pavement, structural concrete, sidewalks, and curbing

**BASIS OF PAYMENT**

**720.07** Payments for materials sampling and testing will be lump sum.

**Note to Spec Writer:** After reviewing the list of City SP for applicability, insert the latest versions of the appropriate City SP sections at this location. The City SP should be reviewed and modified as necessary for the project and to incorporate any updates to the CDOT SSP or inclusion of any CDOT PSP.