



CITY OF GRAND JUNCTION, COLORADO

CONTRACT

This CONTRACT made and entered into this 1st day of November, 2023 by and between the City of Grand Junction, Colorado, a government entity in the County of Mesa, State of Colorado, hereinafter in the Contract Documents referred to as the "Owner" and Oldcastle SW Group, Inc. dba United Companies hereinafter in the Contract Documents referred to as the "Contractor."

WITNESSETH:

WHEREAS, the Owner advertised that sealed Responses would be received for furnishing all labor, tools, supplies, equipment, materials, and everything necessary and required for the Project described by the Contract Documents and known as Riverside Parkway Bridge Asphalt Repairs IFB-5317-23-DD.

WHEREAS, the Contract has been awarded to the above-named Contractor by the Owner, and said Contractor is now ready, willing, and able to perform the Work specified in the Notice of Award, in accordance with the Contract Documents.

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

ARTICLE 1

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

The order of contract document governance shall be as follows:

- The body of this Contract Agreement
- Solicitation Documents for the Project including Addendum; **Riverside Parkway Bridge Asphalt Repairs IFB-5317-23-DD**
- Notice of Award
- Contractor's Response to the Solicitation
- Work Change Requests (directing that changed work be performed);
- Field Orders;
- Change Orders.

ARTICLE 2

Definitions: The clauses provided in the Solicitation apply to the terms used in the Contract and all the Contract Documents.

ARTICLE 3

Contract Work: The Contractor agrees to furnish all labor, tools, supplies, equipment, materials, and all that is necessary and required to complete the tasks associated with the Work described, set forth, shown, and included in the Contract Documents as indicated in the Solicitation Document.

ARTICLE 4

Contract Time and Liquidated Damages: Time is of the essence with respect to this Contract. The Contractor hereby agrees to commence Work under the Contract on or before the date specified in the Solicitation from the Owner, and to achieve Substantial Completion and Final Completion of the Work within the time or times specified in the Solicitation. In the event the Work is not completed in the times set forth and as agreed upon, the Contractor further agrees to pay Liquidated Damages to the Owner as set forth in the Solicitation. The Contractor acknowledges and recognizes the delays, expenses and difficulties involved in proving in a legal proceeding the actual losses suffered by the Owner if the work is not completed on time. Accordingly, instead of requiring any such proof, the Owner and the Contractor agree that as Liquidated Damages for delay, but not as a penalty, the Contractor shall pay to the Owner the amounts specified in the Solicitation.

ARTICLE 5

Contract Price and Payment Procedures: The Contractor shall accept as full and complete compensation for the performance and completion of all of the Work specified in the Contract Documents, **the Lump Sum Amount of One Hundred, Twenty-Six Thousand, One Hundred, Seventy-Five and 00/100 Dollars (\$126,175.00)**. If this Contract contains unit price pay items, the Contract price shall be adjusted in accordance with the actual quantities of items completed and accepted by the Owner at the unit prices quoted in the Solicitation Response. The amount of the Contract Price is and has heretofore been appropriated by the Grand Junction City Council for the use and benefit of this Project. The Contract Price shall not be modified except by Change Order or other written directive of the Owner. The Owner shall not issue a Change Order or other written directive which requires additional work to be performed, which work causes the aggregate amount payable under this Contract to exceed the amount appropriated for this Project, unless and until the Owner provides Contractor written assurance that lawful appropriations to cover the costs of the additional work have been made.

Unless otherwise provided in the Solicitation, monthly partial payments shall be made as the Work progresses. Applications for partial and Final Payment shall be prepared by the Contractor and approved by the Owner in accordance with the Solicitation.

Upon Final Completion of the Work under the Contract and before the Contractor shall receive final payment, the Owner shall publish at least twice in a newspaper of general circulation published in the County a notice that: 1. the Owner has accepted such Work as completed according to the Contract Documents; 2. the Contractor is entitled to final

payment therefore; 3. Thirty (30) days after the first publication, specifying the exact date, the Owner shall pay the full balance due under the Contract; and 4. persons having claims for labor, materials, team hire, sustenance, provisions, provender, or other supplies used or consumed by the Contractor or a Sub-Contractor shall file a verified statement of the amount due and unpaid on account of such claim prior to the date specified for such payment. Nothing herein shall be construed as relieving the Contractor and the Sureties on the Contractor's Bonds from any claim or claims for work or labor done or materials or supplies furnished in the execution of the Contract.

ARTICLE 6

Bonds: The Contractor shall furnish currently herewith the Bonds required by the Contract Documents; such Bonds being attached hereto. The Performance Bond shall be in an amount not less than one hundred percent (100%) of the Contract Price set forth in Article 5. The Payment Bond shall be in an amount not less than one hundred percent (100%) of the Contract Price set forth in Article 5.

ARTICLE 7

Contract Binding: The Owner and the Contractor each bind itself, its partners, successors, assigns and legal representatives to the other party hereto in respect to all covenants, agreements and obligations contained in the Contract Documents. The Contract Documents constitute the entire agreement between the Owner and Contractor and may only be altered, amended, or repealed by a duly executed written instrument. Neither the Owner nor the Contractor shall, without the prior written consent of the other, assign or sublet in whole or in part its interest under any of the Contract Documents and specifically, the Contractor shall not assign any moneys due or to become due without the prior written consent of the Owner.

ARTICLE 8

Severability: If any part, portion, or provision of the Contract shall be found or declared null, void or unenforceable for any reason whatsoever by any court of competent jurisdiction or any governmental agency having the authority thereover, only such part, portion or provision shall be affected thereby and all other parts, portions and provisions of the Contract shall remain in full force and effect.

IN WITNESS WHEREOF, City of Grand Junction, Colorado, has caused this Contract to be subscribed and sealed and attested in its behalf; and the Contractor has signed this Contract the day and the year first mentioned herein.

The Contract is executed in two counterparts.

CITY OF GRAND JUNCTION, COLORADO

DocuSigned by:
By: Duane Hoff Jr. 11/2/2023
9F789E7D50F14BC. _____
Duane Hoff, Jr. Contracts Administrator Date

Oldcastle SW Group, Inc. dba United Companies

DocuSigned by:
By: Kyle Alpha 11/1/2023
B3732CF41F8A4F1. _____
Kyle Alpha, Vice President Date



NOTICE OF AWARD

Date: November 1, 2023
Company: Oldcastle SW Group, Inc. dba United Companies
Project: Riverside Parkway Bridge Asphalt Repairs IFB-5317-23-DD

You have been awarded the City of Grand Junction Contract for the Riverside Parkway Bridge Asphalt Repairs for a lump sum fee of **\$126,175.00**.

Please notify Eric Rink, Project Engineer at 970-244-1585 or ericr@gjcity.org for project scheduling and return to the City Purchasing Division an acknowledged copy of this Notice of Award, signed Contract and Insurance Certificate, as per the contract documents.

CITY OF GRAND JUNCTION, COLORADO

DocuSigned by:
Duane Hoff Jr.
9E789E7D50E44BC...
Duane Hoff, Jr. Contracts Administrator

SUPPLIER ACKNOWLEDGEMENT

Receipt of this Notice to Award is hereby acknowledged:

Company: Oldcastle SW Group, Inc. dba United Companies
By: DocuSigned by:
Kyle Alpha
B3752CF41F9A4F1...
Title: vice President/G.M.
Date: 11/1/2023



Purchasing Division

Invitation for Bid

IFB-5317-23-DD

Riverside Parkway Bridge Asphalt Repair

Responses Due:

October 25, 2023, Prior to 2:00 PM

Accepting Electronic Responses Only
Responses Only Submitted Through the Rocky Mountain E-Purchasing
System (RMEPS)

www.bidnetdirect.com/colorado

(Purchasing Representative does not have access or control of the vendor side of RMEPS. If website or other problems arise during response submission, vendor MUST contact RMEPS to resolve the issue prior to the response deadline. 800-835-4603)

NOTE: All City solicitation openings will continue to be held virtually.

Purchasing Representative:

Dolly Daniels, Senior Buyer

dollyd@gjcity.org

970-256-4048

Invitation for Bids

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1. Instructions to Bidders

NOTE: It is the Contractor's responsibility to read and review all solicitation documentation in its entirety, and to ensure that it has a clear and complete understanding of not only the scope, specifications, project requirements, etc., but also all other requirements, instructions, rules, regulations, laws, conditions, statements, procurement policies, etc. that are associated with the solicitation process and project/services being solicited.

- 1.1 Issuing Office:** This Invitation for Bid (IFB) is issued by the City of Grand Junction. All contact regarding this IFB is to be directed to:

Dolly Daniels; Senior Buyer
dollyd@gjcity.org

With the exception of Pre-Bid or Site Visit Meeting(s) all questions, inquiries, comments, or communication pertaining to this solicitation (whether process, specifications, scope, etc.) must be directed (in writing) to the Purchasing Agent. Other communication may result in disqualification.

- 1.2 Pre-Bid Meeting:** There will not be a pre-bid meeting for this Project.
- 1.3 Purpose:** The City of Grand Junction is soliciting competitive bids from qualified and interested Contractors for all labor, equipment, and materials required for asphalt leveling and patching the bridge approaches on the Riverside Parkway at Highway 50 Interchange. All dimensions and scope of work should be verified by Contractors prior to submission of bids.
- 1.4 The Owner:** The Owner is the City of Grand Junction, Colorado and is referred to throughout this Solicitation. The term Owner means the Owner or its authorized representative.
- 1.5 Compliance:** All Bidders, by submitting a bid, agree to comply with all conditions, requirements, and instruction of this IFB as stated or implied herein. Should the Owner omit anything which is necessary to clear understanding of the requirements, or should it appear that various instructions are in conflict, the Bidder(s) shall secure instructions from the Purchasing Agent prior to submittal deadline.
- 1.6 Procurement Process:** The most current version of the City of Grand Junction [Purchasing Policy and Procedure Manual](#) is contacting.
- 1.7 Submission:** **Each proposal shall be submitted in electronic format only, and only through the Rocky Mountain E-Purchasing website. (www.bidnetdirect.com/colorado).** **This site offers both "free" and "paying" registration options that allow for full access of the Owner's documents and for electronic submission of proposals.** (Note: "free" registration may take up to 24 hours to process. Please Plan accordingly.) Please view our "Electronic Vendor Registration Guide" at <https://co-grandjunction.civicplus.com/501/Purchasing-Bids> for details.

(Purchasing Representative does not have access or control of the vendor side of RMEPS. If the website or other problems arise during response submission, the vendor **MUST** contact RMEPS to resolve the issue prior to the response deadline **800-835-4603**).

Bid Opening Riverside Parkway Bridge Asphalt Repair IFB-5317-23-DD
Oct 25, 2023, 2:00 – 2:30 PM (America/Denver)

Please join my meeting from your computer, tablet or smartphone.

<https://meet.goto.com/852120917>

You can also dial in using your phone.

Access Code:

852-120-917

United States:

[+1 \(872\) 240-3412](tel:+18722403412)

Join from a video-conferencing room or system.

Meeting ID:

852-120-917

Dial in or type:

67.217.95.2 or inroomlink.goto.com

Or dial directly:

852120917@67.217.95.2 or 67.217.95.2##852120917

Get the app now and be ready when your first meeting starts:

<https://meet.goto.com/install>

- 1.8 Modification and Withdrawal of Bids Before Opening** Bids may be modified or withdrawn by an appropriate document stating such, duly executed and submitted to the place where Bids are to be submitted at any time prior to Bid Opening.
- 1.9 Form for Price Bid:** All Price Bids must be made upon the Price Bid Schedule attached and should give the amounts both in words and in figures and must be signed and acknowledged by the Bidder.

The Bidder shall specify a unit price in figures for each pay item for which a quantity is given and shall provide the products (in numbers) of the respective unit prices and quantities in the Extended Amount column. The total Bid price shall be equal to the sum of all extended amount prices. When an item in the Price Bid Schedule provides a choice to be made by the Bidder, Bidder's choice shall be indicated in accordance with the specifications for that particular item and thereafter no further choice shall be permitted.

Where the unit of a pay item is lump sum, the lump sum amount shall be shown in the "extended amount" column and included in the summation of the total Bid.

All blank spaces in the Price Bid Schedule must be properly filled out.

Bids by corporations must be executed in the corporate name by the president or vice president or other corporate office accompanied by evidence of authority to sign. The corporate address and state of incorporation shall be shown below the signature.

Bids by partnerships must be executed in the partnership name and signed by a partner whose title must appear under the signature and the official address of the partnership must be shown below the signature.

All names must be typed or printed below the signature.

The Bidder's Bid shall contain an acknowledgement of receipt of all Addenda, the numbers of which shall be filled in on the Contractor's Bid Form.

The contact information to which communications regarding the Bid are to be directed must be shown.

- 1.10 Exclusions:** No oral, telephonic, emailed, or facsimile bid will be considered.
- 1.11 Contract Documents:** The complete IFB and Bidder's response compose the Contract Documents. Copies of bid documents can be obtained from the City Purchasing website, <https://co-grandjunction.civicplus.com/501/Purchasing-Bids> .
- 1.12 Additional Documents:** The July 2010 edition of the "City Standard Contract Documents for Capital Improvements Construction", Plans, Specifications and other Bid Documents are available for review or download on the Purchasing Bids page at <https://co-grandjunction.civicplus.com/501/Purchasing-Bids>.
- 1.13 Definitions and Terms:** See Article I, Section 3 of the General Contract Conditions in the *Standard Contract Documents for Capital Improvements Construction*.
- 1.14 Examination of Specifications:** Bidders shall thoroughly examine and be familiar with the project Statement of Work. The failure or omission of any Bidder to receive or examine any form, addendum, or other document shall in no way relieve any Bidder from any obligation with respect to its bid. The submission of a bid shall be taken as evidence of compliance with this section. Prior to submitting a bid, each Bidder shall, at a minimum:
- a. Examine the *Contract Documents* thoroughly.
 - b. Visit the site to familiarize itself with local conditions that may in any manner affect cost, progress, or performance of the Work;
 - c. Study and carefully correlate Bidder's observations with the *Contract Documents*, and;
 - d. Notify the Purchasing Agent of all conflicts, errors, ambiguities, or discrepancies in or among the *Contract Documents* within the designated inquiry period.

On request, the Owner will provide each Bidder access to the site to conduct such investigations and tests as each Bidder deems necessary for submission of a Bid. It shall be the Bidder's responsibility to make or obtain any additional examinations, investigations, explorations, tests and studies and obtain any additional information and data which pertain to the physical conditions (including without limitation, surface, subsurface and underground utilities) at or contiguous to the site or otherwise which may affect cost, progress or performance of the Work and which the Bidder deems necessary to determine its Bid for performing the Work in accordance with the time, price and other terms and conditions of the Contract Documents.

The lands upon which the Work is to be performed, rights of way, and access thereto, and other lands designated for use by Contractor in performing the Work, are identified on the Drawings.

Information and data reflected in the *Contract Documents* with respect to underground utilities at or contiguous to the site are based upon information and data furnished to the Owner and the Engineer by the owners of such underground utilities or others, and the Owner does not assume responsibility for the accuracy or completeness thereof, unless it is expressly provided otherwise in the *Contract Documents*.

By submission of a Bid, the Bidder shall be conclusively presumed to represent that the Bidder has complied with every requirement of these Instructions to Bidders, that the *Contract Documents* are not ambiguous and are sufficient in scope and detail to indicate and convey understanding of all terms and conditions for performance of the Work.

- 1.15 Questions Regarding Statement of Work:** Any information relative to interpretation of Scope of Work or specifications shall be requested of the Purchasing Agent, in writing, in ample time, prior to the inquiry deadline.
- 1.16 Addenda & Interpretations:** If it becomes necessary to revise any part of this solicitation, a written addendum will be posted electronically on the City's website at <https://co-grandjunction.civicplus.com/501/Purchasing-Bids>. The Owner is not bound by any oral representations, clarifications, or changes made in the written specifications by Owner, unless such clarification or change is provided in written addendum form from the City Purchasing Representative.
- 1.17 Taxes:** The Owner is exempt from State, County, and Municipal Sales Tax and Federal Excise Tax, therefore, all fees/bids should not include taxes.
- 1.18 Sales and Use Taxes:** The Contractor and all Subcontractors are required to obtain exemption certificates from the Colorado Department of Revenue for sales and use taxes in accordance with the provisions of the General Contract Conditions, Section XVI "Taxes". Bids shall reflect this method of accounting for sales and use taxes on materials, fixtures, and equipment.
- 1.19 Offers Binding 60 Days:** Unless additional time is required by the Owner, or otherwise specified, all formal offers submitted shall be binding for sixty (60) calendar days following opening date, unless the Bidder, upon request of the Purchasing Agent, agrees to an extension.
- 1.20 Exceptions and Substitutions:** All bids meeting the intent of this IFB shall be considered for award. A Bidder taking exception to the specifications does so at the Bidder's risk. The Owner reserves the right to accept or reject any or all substitutions or alternatives. When offering substitutions and/or alternatives, Bidder must state any exception(s) in the section to which the exception(s) pertain. Exception/substitution, if accepted, must meet, or exceed the stated intent and/or specifications. The absence of stated exception(s) indicates that the Bidder has not taken exception, and if awarded a Contract shall hold the Bidder responsible to perform in strict accordance with the specifications or scope of the bid and Contract Documents.

1.21 Collusion Clause: Each Bidder submitting a bid certifies that it is not party to any collusive action or any action that may be in violation of the Sherman Antitrust Act. Any and all bids shall be rejected if there is evidence or reason for believing that collusion exists among Bidders. The Owner may, or may not, accept future bids for the same Work or commodities from participants in such collusion.

1.22 Disqualification of Bidders: A Bid will not be accepted from, nor shall a Contract be awarded to, any person, Contractor, or corporation that is in arrears to the Owner, upon debt or Contract, or that has defaulted, as surety or otherwise, upon any obligation to the Owner, or that is deemed irresponsible or unreliable.

Bidders may be required to submit satisfactory evidence of responsibility, have a practical knowledge of the project bid upon and that has the necessary financial and other resources to complete the proposed Work.

Either of the following reasons, without limitation, shall be considered sufficient to disqualify a Bidder and Bid:

- a. More than one Bid is submitted for the same Work from an individual, Contractor, or corporation under the same or different name: and
- b. Evidence of collusion among Bidders. Any participant in such collusion shall not receive recognition as a Bidder for any future Work of the Owner until such participant has been reinstated as a qualified Bidder.

1.23 Public Disclosure Record: If the Bidder has knowledge of its employee(s) or sub-contractors having an immediate family relationship with an Owner employee or elected official, the Bidder must provide the Purchasing Agent with the name(s) of the individuals. The individuals are required to file a "Public Disclosure Record", a statement of financial interest, before conducting business with the Owner.

2. General Contract Conditions for Construction Projects

2.1 The Contract: This Invitation for Bid, submitted documents, and any negotiations, when properly accepted by the Owner, shall constitute an enforceable agreement equally binding between the Owner and Contractor. The Contract represents the entire and integrated agreement between the Owner and the Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral including the bid documents. The Contract may be amended or modified with Change Orders, Field Orders, or Addendums.

2.2. The Work: The term Work includes all labor necessary to produce the construction required by the Contract Documents, and all materials and equipment incorporated or to be incorporated in such construction.

2.3. Execution, Correlation, Intent, and Interpretations: The Contract Documents shall be signed by the Owner and Contractor. By executing the Contract, the Contractor represents that it has familiarized itself with the local conditions under which the Work is to be performed and correlated its observations with the requirements of the Contract

Documents. The Contract Documents are complementary, and what is required by anyone, shall be as binding as if required by all. The intention of the Contract Documents is to include all labor, materials, equipment, services, and other items necessary for the proper execution and completion of the Scope of Work as defined in the technical specifications and drawings contained herein. All drawings, specifications and copies furnished by the Owner are, and shall remain, Owner property. It is not to be used on any other project.

- 2.4. The Owner:** The Owner is the City of Grand Junction, Colorado and is referred to throughout the Contract Documents. The term Owner means the Owner or its authorized representative. The Owner shall, at all times, have access to the Work wherever it is in preparation and progress. The Contractor shall provide facilities for such access. The Owner will make periodic visits to the site to familiarize itself generally with the progress and quality of Work and to determine, in general, if the Work is proceeding in accordance with the Contract Documents. Based on such observations and the Contractor's Application for Payment, the Owner will determine the amounts owing to the Contractor and will issue Certificates for Payment in such amounts as provided in the Contract. The Owner will have authority to reject Work which does not conform to the Contract Documents. Whenever, in its reasonable opinion, it considers it necessary or advisable to ensure the proper implementation of the intent of the Contract Documents, it will have authority to require the Contractor to stop the Work or any portion, or to require special inspection or testing of the Work, whether or not such Work can be then be fabricated, installed, or completed. The Owner will not be responsible for the acts or omissions of the Contractor, and Sub-Contractor, or any of its agents or employees, or any other persons performing any of the Work.
- 2.5. Contractor:** The Contractor is the person or organization identified as such in the Agreement and is referred to throughout the Contract Documents. The term Contractor means the Contractor or its authorized representative. The Contractor shall carefully study and compare the General Contract Conditions of the Contract, Specification and Drawings, Scope of Work, Addenda and Modifications and shall at once report to the Owner any error, inconsistency, or omission it may discover. Contractor shall not be liable to the Owner for any damage resulting from such errors, inconsistencies, or omissions. The Contractor shall not commence Work without clarifying Drawings, Specifications, or Interpretations.
- 2.6. Sub-Contractors:** A Sub-Contractor is a person or organization who has a direct Contract with the Contractor to perform any of the Work at the site. The term Sub-Contractor is referred to throughout the Contract Documents and means a Sub-Contractor or its authorized representative.
- 2.7. Award of Sub-Contractors & Other Contracts for Portions of the Work:** Contractor shall submit with its bid response to the Owner, in writing for acceptance, a list of the names of the sub-contractors or other persons or organizations proposed for such portions of the Work as may be designated in the proposal requirements, or, if none is so designated, the names of the sub-contractors proposed for the principal portions of the Work. Prior to the award of the Contract, the Owner shall notify the successful Contractor in writing if, after due investigation, has reasonable objection to any person or organization on such list. If, prior to the award of the Contract, the Owner has a reasonable and

substantial objection to any person or organization on such list and refuses in writing to accept such person or organization, the successful Contractor may, prior to the award, withdraw its proposal without forfeiture of proposal security. If the successful Contractor submits an acceptable substitute with an increase in the proposed price to cover the difference in cost occasioned by the substitution, the Owner may, at its discretion, accept the increased proposal or may disqualify the Contractor. If, after the award, the Owner refuses to accept any person or organization on such list, the Contractor shall submit an acceptable substitute and the Contract sum shall be increased or decreased by the difference in cost occasioned by such substitution and an appropriate Change Order shall be issued. However, no increase in the Contract sum shall be allowed for any such substitution unless the Contractor has acted promptly and responsively in submitting a name with respect thereto prior to the award.

- 2.8. Quantities of Work and Unit Price:** Materials or quantities stated as unit price items in the Bid are supplied only to give an indication of the general scope of the Work, and are as such, estimates only. The Owner does not expressly or by implication agree that the actual amount of Work or material will correspond therewith and reserves the right after award to increase or decrease the quantity of any unit item of the Work without a change in the unit price except as set forth in Article VIII, Section 70 of the *General Contract Conditions*. The City also reserves the right to make changes in the Work (including the right to delete any bid item in its entirety or add additional bid items) as set forth in Article VIII, Sections 69 through 71 of the *General Contract Conditions*.
- 2.9. Substitutions:** The materials, products and equipment described in the *Solicitation Documents* shall be regarded as establishing a standard of required performance, function, dimension, appearance, or quality to be met by any proposed substitution. No substitution will be considered prior to receipt of Bids unless the Bidder submits a written request for approval to the Purchasing Agent at least ten (10) days prior to the date for receipt of Bids. Such requests for approval shall include the name of the material or equipment for which substitution is sought and a complete description of the proposed substitution including drawings, performance and test data, and other information necessary for evaluation, including samples if requested. The Bidder shall set forth changes in other materials, equipment, or other portions of the Work including changes of the Work of other Contracts, which incorporation of the proposed substitution would require to be included. The Owner's decision of approval or disapproval of a proposed substitution shall be final. If the Owner approves a proposed substitution before receipt of Bids, such approval will be set forth in an Addendum. Bidders shall not rely upon approvals made in any other manner.
- 2.10. Supervision and Construction Procedures:** The Contractor shall supervise and direct the Work, using its best skill and attention. It shall be solely responsible for all construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the Work under the Contract.
- 2.11. Warranty:** The Contractor warrants to the Owner that all materials and equipment furnished under this Contract will be new unless otherwise specified, and that all Work will be of good quality, free from faults and defects and in conformance with the Contract Documents. All Work not conforming to these standards may be considered defective. If required by Owner, the Contractor shall furnish satisfactory evidence as to the kind and

quality of materials and equipment. If within ten (10) days after written notice to the Contractor requesting such repairs or replacement, the Contractor should neglect to make or undertake with due diligence to the same, the City may make such repairs or replacements. All indirect and direct costs of such correction or removal or replacement shall be at the Contractor's expense. The Contractor will also bear the expenses of making good all Work of others destroyed or damaged by the correction, removal, or replacement of its defective Work.

- 2.12. Permits, Fees, & Notices:** The Contractor shall secure and pay for all permits, governmental fees, and licenses necessary for the proper execution and completion of the Work. The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations, and orders of any public authority, including the City, bearing on the performance of the Work. If the Contractor observes that any of the Contract Documents are at variance in any respect, it shall promptly notify the Purchasing Agent in writing, and any necessary changes shall be adjusted. If the Contractor performs any Work knowing it to be contrary to such laws, ordinances, rules, and regulations, and without such notice to the Owner, it shall assume full responsibility and shall bear all costs attributable to the non-conforming Work.
- 2.13. Responsibility for Those Performing the Work:** The Contractor shall be responsible to the Owner for the acts and omissions of all its employees and all sub-contractors, its agents and employees, and all other persons performing any of the Work under a Contract with the Contractor.
- 2.14. Use of the Site:** The Contractor shall confine operations at the site to areas permitted by law, ordinances, permits and the Contract Documents, and shall not unreasonably encumber the site with any materials or equipment.
- 2.15. Cleanup:** The Contractor at all times shall keep the premises free from accumulation of waste materials or rubbish caused by its operations. At the completion of Work, it shall remove all its waste materials and rubbish from and about the project, as well as all its tools, construction equipment, machinery, and surplus materials.
- 2.16. Insurance Requirements:** The selected Contractor agrees to procure and maintain, at its own cost, policy(s) of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by the Contractor pursuant to the Contract. Such insurance shall be in addition to any other insurance requirements imposed by this Contract or by law. The Contractor shall not be relieved of any liability, claims, demands, or other obligations assumed pursuant to the Contract by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types.

Contractor shall procure and maintain and, if applicable, shall cause any Sub-contractor of the Contractor to procure and maintain insurance coverage listed below. Such coverage shall be procured and maintained with forms and insurers acceptable to Owner. All coverage shall be continuously maintained to cover all liability, claims, demands, and other obligations assumed by the Contractor pursuant to the Contract. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage. Minimum coverage limits shall be as indicated below unless specified otherwise in the Special Conditions:

(a) Worker Compensation: Contractor shall comply with all State of Colorado Regulations concerning Workers' Compensation insurance coverage.

(b) General Liability insurance with minimum limits of:

FIVE HUNDRED THOUSAND DOLLARS (\$500,000) each occurrence and
FIVE HUNDRED THOUSAND DOLLARS (\$500,000) per job aggregate.

The policy shall be applicable to all premises, products, and completed operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, products, and completed operations. The policy shall include coverage for explosion, collapse, and underground (XCU) hazards. The policy shall contain a severability of interests' provision.

(c) Comprehensive Automobile Liability insurance with minimum limits for bodily injury and property damage of not less than:

FIVE HUNDRED THOUSAND DOLLARS (\$500,000) each occurrence and
FIVE HUNDRED THOUSAND DOLLARS (\$500,000) aggregate

(d) Professional Liability & Errors and Omissions Insurance policy with a minimum of:

FIVE HUNDRED THOUSAND DOLLARS (\$500,000) per claim

This policy shall provide coverage to protect the City against liability incurred as a result of the professional Services performed as a result of responding to this Solicitation.

With respect to each of Contractors owned, hired, or non-owned vehicles assigned to be used in performance of the Work. The policy shall contain a severability of interest provision.

2.16.1 Additional Insured Endorsement: The policies required by paragraphs (b), and (c) above shall be endorsed to include Grand Junction, its Elected and Appointed Officials, Employees and Volunteers as Additional Insured. Every required policy above shall be primary insurance, and any insurance carried by the Owner, its officers, or its employees, or carried by or provided through any insurance pool of the Owner, shall be excess and not contributory insurance to that provided by the Contractor. The Contractor shall be solely responsible for any deductible losses under any policy required above.

2.17. Indemnification: The Contractor shall defend, indemnify and save harmless the Owner, and all its officers, employees, insurers, and self-insurance pool, from and against all liability, suits, actions, or other claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any person, persons, or property on account of any negligent act or fault of the Contractor, or of any Contractor's agent, employee, Sub-Contractor or supplier in the execution of, or performance under, any Contract which may result from proposal award. Contractor shall pay any judgment

with cost which may be obtained by and/or against the Owner growing out of or under the performance.

- 2.18. Miscellaneous Conditions: Material Availability:** Contractors must accept responsibility for verification of material availability, production schedules, and other pertinent data prior to submission of bid. It is the responsibility of the Bidder to notify the Owner immediately if materials specified are discontinued, replaced, or not available for an extended period of time.
- 2.19. Time:** Time is of the essence with respect to the time of completion of the Project and any other milestones or deadline which are part of the Contract. It will be necessary for each Bidder to satisfy the City of its ability to complete the Work within the Contract time set forth in the Contract Documents. The Contract time is the period of time allotted in the Contract Documents for completion of the Work. The date of commencement of the Work is the date established in a Notice to Proceed. If there is no Notice to Proceed, it shall be the date of the Contract, or such other date as may be established therein, or as established as entered on the Bid Form. The Date of Final Completion of the Work is the date certified by the Owner when all construction, and all other Work associated to include, but not be limited to: testing, QA/QC, receipt of required reports and/or forms, grant requirements (if applicable), punch list items, clean-up, receipt of drawings and/or as-builts, etc., is fully complete, and in accordance with the Contract Documents.
- 2.20. Progress & Completion:** The Contractor shall begin the Work on the Commencement Date as noted on the Notice to Proceed and perform the Work expeditiously with adequate forces to complete the Work within the Contract time/by the Completion date.
- 2.21. Payment & Completion:** The Contract Sum is stated in the Contract and is the total amount payable by the Owner to the Contractor for the performance of the Work under the Contract Documents. Upon receipt of written notice that the Work is ready for final inspection and acceptance and upon receipt of application for payment, the Owner's Project Manager will promptly make such inspection and, when it finds the Work acceptable under the Contract Documents and the Contract fully performed, the Owner shall make payment in the manner provided in the Contract Documents.
- 2.22. Bid Bond:** Each Bid shall as a guaranty of good faith on the part of the Bidder be accompanied by a Bid Guaranty consisting of a certified or cashier's check drawn on an approved national bank or trust company in the state of Colorado and made payable without condition to the City; or a **Bid Bond** written by an approved corporate surety in favor of the City. The amount of the Bid Guaranty shall not be less than 5% of the total Bid amount. Once a Bid is accepted and a Contract is awarded, the apparent successful Bidder has ten calendar days to enter into a Contract in the form prescribed and to furnish the bonds with a legally responsible and approved surety. Failure to do so will result in forfeiture of the Bid Guaranty to the City as Liquidated Damages. Each Bidder shall guarantee its total bid price for a period of sixty (60) Calendar Days from the date of the bid opening.
- 2.23. Performance & Payment Bonds:** Contractor shall furnish a Performance and a Payment Bond, each in an amount at least equal to that specified for the Contract amount as security for the faithful performance and payment of all Contractor's obligations under

the Contract Documents. The bonds shall remain in effect for the duration of the Warranty Period (as specified in the Special Conditions). Contractor shall also furnish other bonds as required by the Special Conditions. All bonds shall be in the forms prescribed by the Contract Documents and be executed by such sureties as (1) are licensed to conduct business in the State of Colorado and (2) are named in the current list of "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsuring Companies" as published in Circular 570 (amended) by the Audit Staff, Bureau of Accounts, U.S. Treasury Department. All bonds signed by an agent must be accompanied by a certified copy of the Authority Act. If the surety on any bond furnished by the Contractor is declared bankrupt, or becomes insolvent, or its rights to do business in Colorado are terminated, or it ceases to meet the requirements of clauses (1) and (2) of this section, Contractor shall within five (5) days thereafter substitute another bond and surety, both of which shall be acceptable to the City.

- 2.24. Retention:** The Owner will deduct money from the partial payments in amounts considered necessary to protect the interest of the Owner and will retain this money until after completion of the entire Contract. The amount to be retained from partial payments will be five (5) percent of the value of the completed Work, and not greater than five (5) percent of the amount of the Contract. When the retainage has reached five (5) percent of the amount of the Contract no further retainage will be made and this amount will be retained until such time as final payment is made.
- 2.25. Liquidated Damages for Failure to Enter Into Contract:** Should the Successful Bidder fail or refuse to enter into the Contract within ten Calendar Days from the issuance of the Notice of Award, the City shall be entitled to collect the amount of such Bidder's Bid Guaranty as Liquidated Damages, not as a penalty but in consideration of the mutual release by the City and the Successful Bidder of all claims arising from the City's issuance of the Notice of Award and the Successful Bidder's failure to enter into the Contract and the costs to award the Contract to any other Bidder, to readvertise, or otherwise dispose of the Work as the City may determine best serves its interest.
- 2.26. Liquidated Damages for Failure to Meet Project Completion Schedule:** If the Contractor does not achieve Final Completion by the required date, whether by neglect, refusal or any other reason, the parties agree and stipulate that the Contractor shall pay liquidated damages to the City for each such day that final completion is late. As provided elsewhere, this provision does not apply for delays caused by the City. The date for Final Completion may be extended in writing by the Owner.

The Contractor agrees that as a part of the consideration for the City's awarding of this Contract liquidated damages in the daily amount of **\$350.00** is reasonable and necessary to pay for the actual damages resulting from such delay. The parties agree that the real costs and injury to the City for such delay include hard to quantify items such as: additional engineering, inspection and oversight by the City and its agents; additional Contract administration; inability to apply the efforts of those employees to the other Work of the City; perceived inefficiency of the City; citizens having to deal with the construction and the Work, rather than having the benefit of a completed Work, on time; inconvenience to the public; loss of reputation and community standing for the City during times when such things are very important and very difficult to maintain.

The Contractor must complete the Work and achieve final completion included under the Bid Schedule in the number of consecutive calendar days after the City gives is written Notice to Proceed. When the Contractor considers the entire Work ready for its intended use, Contractor shall certify in writing that the Work is fully complete. Final Completion date is the date by which the Contractor shall have fully completed all clean-up, and all items that were identified by the City in the inspection for final completion. Unless otherwise stated in the Special Conditions, for purposes of this liquidated damages clause, the Work shall not be finished, and the Contract time shall continue to accrue until the City gives its written Final Acceptance.

If the Contractor shall fail to pay said liquidated damages promptly upon demand thereof after having failed to achieve Final Completion on time, the City shall first look to any retainage or other funds from which to pay said liquidated damages; if retainage or other liquid funds are not available to pay said liquidated damages amounts, the Surety on the Contractor's Performance Bond and Payment Bond shall pay such liquidated damages. In addition, the City may withhold all, or any part of, such liquidated damages from any payment otherwise due to the Contractor.

Liquidated damages as provided do not include any sums to reimburse the City for extra costs which the City may become obligated to pay on other Contracts which were delayed or extended because of the Contractor's failure to complete the Work within the Contract Time. Should the City incur additional costs because of delays or extensions to other Contracts resulting from the Contractor's failure of timely performance, the Contractor agrees to pay these costs that the City incurs because of the Contractor's delay, and these payments are separate from and in addition to any liquidated damages.

The Contractor agrees that the City may use its own forces or hire other parties to obtain Final Completion of the Work if the time of completion has elapsed and the Contractor is not diligently pursuing completion. In addition to the Liquidated Damages provided for, the Contractor agrees to reimburse the City for all expenses thus incurred.

2.27. Contingency/Force Account/Minor Contract Revisions: Contingency/Force Account/Minor Contract Revisions Work will be authorized by the Owner's Project Manager and is defined as minor expenses to cover miscellaneous or unforeseen expenses related to the project. The expenses are not included in the Drawings, Specifications, or Scope of Work and are necessary to accomplish the scope of this Contract. Contingency/Force Account/Minor Contract Revisions Authorization will be directed by the Owner through an approved form. Contingency/Force Account/Minor Contract Revisions funds are the property of the Owner and any Contingency/Force Account/Minor Contract Revisions funds, not required for project completion, shall remain the property of the Owner. Contractor is not entitled to any Contingency/Force Account/Minor Contract Revisions funds, that are not authorized by Owner or Owner's Project Manager.

2.28. Protection of Persons & Property: The Contractor shall comply with all applicable laws, ordinances, rules, regulations, and orders of any public authority having jurisdiction for the safety of persons or property or to protect it from damage, injury, or loss. Contractor shall erect and maintain, as required by existing safeguards for safety and protection, and all reasonable precautions, including posting danger signs or other warnings against

hazards promulgating safety regulations and notifying owners and users of adjacent utilities. When or where any direct or indirect damage or injury is done to public or private property by or on account of any act, omission, neglect, or misconduct by the Contractor in the execution of the Work, or in consequence of the non-execution thereof by the Contractor, it shall restore, at its own expense, such property to a condition similar or equal to that existing before such damage or injury was done, by repairing, rebuilding, or otherwise restoring as may be directed, or it shall make good such damage or injury in an acceptable manner.

- 2.29. Changes in the Work:** The Owner, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, the Contract sum and the Contract time being adjusted accordingly. All such changes in the Work shall be authorized by Change Order and shall be executed under the applicable conditions of the contract documents. A Change Order is a written order to the Contractor signed by the Owner issued after the execution of the Contract, authorizing a change in the Work or an adjustment in the contract sum or the Contract time. The Contract sum and the Contract time may be changed only by Change Order.
- 2.30. Claims for Additional Cost or Time:** If the Contractor wishes to make a claim for an increase in the Contract sum or an extension in the Contract time, it shall give the Owner written notice thereof within a reasonable time after the occurrence of the event giving rise to such claim. This notice shall be given by the Contractor before proceeding to execute the Work, except in an emergency endangering life or property in which case the Contractor shall proceed in accordance with the regulations on safety. No such claim shall be valid unless so made. Any change in the Contract sum or Contract time resulting from such claim shall be authorized by Change Order.
- 2.31. Minor Changes in the Work:** The Owner shall have authority to order minor changes in the Work not involving an adjustment in the Contract sum or an extension of the Contract time and not inconsistent with the intent of the Contract Documents.
- 2.32. Field Orders:** The Owner may issue written Field Orders which interpret the Contract Documents in accordance with the specifications, or which order minor changes in the Work in accordance with the agreement, without change in the Contract sum or time. The Contractor shall carry out such Field Orders promptly.
- 2.33. Uncovering & Correction of Work:** The Contractor shall promptly correct all Work rejected by the Owner as defective or as failing to conform to the Contract Documents whether observed before or after substantial completion and whether or not fabricated installed or competed. The Contractor shall bear all costs of correcting such rejected Work, including the cost of the Owner's additional services thereby made necessary. If within one (1) year after the date of completion or within such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents, any of the Work found to be defective or not in accordance with the Contract documents, the Contractor shall correct it promptly after receipt of a written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of condition. All such defective or non-conforming Work under the above paragraphs shall be removed from the site where necessary and the Work shall

be corrected to comply with the Contract Documents without cost to the Owner. The Contractor shall bear the cost of making good all Work of separate Contractors destroyed or damaged by such removal or correction. If the Owner prefers to accept defective or non-conforming Work, it may do so instead of requiring its removal and correction, in which case a Change Order will be issued to reflect an appropriate reduction in the payment or Contract sum, or, if the amount is determined after final payment, it shall be paid by the Contractor.

- 2.34 Amendment:** No oral statement of any person shall modify or otherwise change, or affect the terms, conditions or specifications stated in the resulting Contract. All amendments to the Contract shall be made in writing by the Owner.
- 2.35 Assignment:** The Contractor shall not sell, assign, transfer or convey any Contract resulting from this IFB, in whole or in part, without the prior written approval from the Owner.
- 2.36 Compliance with Laws:** Bids must comply with all Federal, State, County, and local laws governing the Work and the fulfillment of the Work for and on behalf of the public. Contractor hereby warrants that it is qualified to assume the responsibilities and render the Work described herein and has all requisite corporate authority and professional licenses in good standing required by law.
- 2.37 Confidentiality:** All information disclosed by the Owner to the Contractor for the purpose of the Work to be done or information that comes to the attention of the Contractor during the course of performing such Work is to be kept strictly confidential.
- 2.38 Conflict of Interest:** No public official and/or City/County employee shall have interest in any Contract resulting from this Invitation for Bid.
- 2.39 Contract Termination:** This Contract shall remain in effect until any of the following occurs: (1) Contract expires; (2) completion of Work; (3) final acceptance of Work or, (4) for convenience terminated by either party with a written *Notice of Cancellation* stating therein the reasons for such cancellation and the effective date of cancellation at least thirty (30) days past notification.
- 2.40 Employment Discrimination:** During the performance of any work per agreement with the Owner, the Contractor, by submitting a Bid, agrees to the following conditions:
- 2.40.1** The Contractor shall not discriminate against any employee or applicant for employment because of race, religion, color, sex, age, handicap, or national origin except when such condition is a legitimate occupational qualification reasonably necessary for the normal operations of the Contractor. The Contractor agrees to post in conspicuous places, visible to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- 2.40.2** The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, shall state that such Contractor is an Equal Opportunity Employer.

- 2.40.3** Notices, advertisements, and solicitations placed in accordance with federal law, rule, or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.
- 2.41 Affirmative Action:** In executing a Contract with the City, the Contractor agrees to comply with Affirmative Action and Equal Employment Opportunity regulations presented in the General Contract Conditions Section 9 "Affirmative Action/EEO.
- 2.42. Immigration Reform and Control Act of 1986 and Immigration Compliance:** The Contractor certifies that it does not and will not during the performance of the Contract employ workers without authorization or otherwise violate the provisions of the Federal Immigration Reform and Control Act of 1986 and/or laws regulating immigration compliance.
- 2.43. Ethics:** The Contractor shall not accept or offer gifts or anything of value nor enter into any business arrangement with any employee, official, or agent of the Owner.
- 2.44. Failure to Deliver:** In the event of failure of the Contractor to perform in accordance with the Contract Documents, the Owner, after due oral or written notice, may procure the Work from other sources and hold the Contractor responsible for any costs resulting in additional Work, materials and/or administration services necessary to perform the Work. This remedy shall be in addition to any other remedies that the Owner may have.
- 2.45. Failure to Enforce:** Failure by the Owner at any time to enforce the provisions of the Contract shall not be construed as a waiver of any such provisions. Such failure to enforce shall not affect the validity of the Contract or any part thereof or the right of the Owner to enforce any provision of the Contract Documents at any time in accordance with the terms thereof.
- 2.46. Force Majeure:** The Contractor shall not be held responsible for failure to perform the duties and responsibilities imposed by the Contract due to legal strikes, fires, riots, rebellions, and acts of God beyond the control of the Contractor, unless otherwise specified in the Contract.
- 2.47. Independent Contractor:** The Contractor shall be legally considered an Independent Contractor and neither the Contractor nor its employees shall, under any circumstances, be considered servants or agents of the Owner. The Owner shall be at no time legally responsible for any negligence or other wrongdoing by the Contractor, its servants, or agents. The Owner shall not withhold from the Contract payments to the Contractor any federal or state unemployment taxes, federal or state income taxes, Social Security, or any other amounts for benefits to the Contractor. Further, the Owner shall not provide the Contractor with any insurance coverage or other benefits, including Workers' Compensation, normally provided by the Owner for its employees.
- 2.48. Nonconforming Terms and Conditions:** A bid that includes terms and conditions that do not conform to the terms and conditions of this Invitation for Bid is subject to rejection as non-responsive. The Owner reserves the right to permit the Contractor to withdraw nonconforming terms and conditions from its bid prior to a determination by the Owner of non-responsiveness based on the submission of nonconforming terms and conditions.

Items for non-responsiveness may include, but not be limited to:

- a. Submission of the Bid on forms other than those supplied by the City;
- b. Alteration, interlineation, erasure, or partial detachment of any part of the forms which are supplied herein;
- c. Inclusion of unauthorized additions conditional or alternate Bids or irregularities of any kind which may tend to make the Bid incomplete, indefinite, or ambiguous as to its meaning;
- d. Failure to acknowledge receipt of any or all issued Addenda;
- e. Failure to provide a unit price or a lump sum price, as appropriate, for each pay item listed except in the case of authorized alternative pay items;
- f. Failure to list the names of Subcontractors used in the Bid preparation as may be required in the Solicitation Documents;
- g. Submission of a Bid that, in the opinion of the Owner, is unbalanced so that each item does not reasonably carry its own proportion of cost or which contains inadequate or unreasonable prices for any item;
- h. Tying of the Bid with any other bid or Contract; and
- i. Failure to calculate Bid prices as described herein.

2.49. Evaluation of Bids and Bidders: The Owner reserves the right to:

- reject any and all Bids,
- waive any and all informalities,
- take into account any prompt payment discounts offered by Bidder,
- negotiate final terms with the Successful Bidder,
- take into consideration past performance of previous awards/Contracts with the Owner of any Contractor, Vendor, Contractor, Supplier, or Service Provider in determining final award. and
- disregard any and all nonconforming, nonresponsive, or conditional Bids.

Discrepancies between words and figures will be resolved in favor of words. Discrepancies between Unit Prices and Extended Prices will be resolved in favor of the Unit Prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum. The corrected extensions and totals will be shown in the tabulation of Bids.

The Owner may consider the qualifications and experience of Subcontractors and other persons and organizations (including those who are to furnish the principal items of material or equipment) proposed for those portions of the Work as to which the identity of Subcontractors and other persons and organizations must be submitted. Operating costs, maintenance considerations, performance data, and guarantees of materials and equipment may also be considered by the Owner.

The Owner will conduct such investigations as deemed necessary to assist in the evaluation of any Bid and to establish the responsibility, qualifications, and financial ability of the Bidder, proposed Subcontractors and other persons and organizations to do the Work in accordance with the *Contract Documents* to the City's satisfaction within the Contract Time.

The Bidder shall furnish the Owner with all information and data requested by the Owner to determine the ability of the Bidder to perform the Work. The Owner reserves the right to reject the 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 Contract and to complete the Work contemplated therein.

By submitting a Bid, each Bidder authorizes the Owner to perform such investigation of the Bidder as the Owner deems necessary to establish the responsibility, qualifications, and financial ability of the Bidder and, by its signature thereon, authorizes the Owner to obtain reference information concerning the Bidder and releases the party providing such information and the Owner from any and all liability to the Bidder as a result of such reference information so provided.

The Owner reserves the right to reject the Bid of any Bidder who does not pass any evaluation to the Owner's satisfaction.

If the Contract is to be awarded, it will be awarded to the Bidder who, by evaluation, the Owner determines will best meet the Owner's interests.

The Owner reserves the right to accept or reject the Work contained in any of the Price Bid Schedules or alternates, either in whole or in part.

2.50. Award of Contract: Unless otherwise indicated, a single award will be made for all the bid items in an individual bid schedule. In the event that the Work is contained in more than one Bid Schedule, the City may award Schedules individually or in combination. In the case of two Bid Schedules which are alternative to each other, only one of such alternative Schedules will be awarded. Within forty-five (45) Calendar Days of Bid Opening, the City will issue a Notice of Award to the Successful Bidder which will be accompanied by a Contract electronically submitted via DocuSign for digital signature. Within ten (10) Calendar Days thereafter, the Successful Bidder shall sign and deliver the digitally executed Contract via DocuSign. Performance Bond, Payment Bond, and Certificate of Insurance shall be submitted to the City within ten (10) days of Contract execution. No Contract shall exist between the Successful Bidder and the City and the Successful Bidder shall have no rights at law or in equity until the Contract has been duly executed by the City.

The Successful Bidder's failure to sign and submit a Contract and other documents set forth in this Paragraph within the prescribed time shall be just cause of annulment of the award, and forfeiture of the Bid Guaranty. The award of Contract may then be made to the next qualified Bidder in the same manner as previously prescribed.

2.51. Ownership: All plans, prints, designs, concepts, etc., shall become the property of the Owner.

- 2.52. Oral Statements:** No oral statement of any person shall modify or otherwise affect the terms, conditions, or specifications stated in this document and/or resulting agreement. All modifications to this request and any agreement must be made in writing by the Owner.
- 2.53. Patents/Copyrights:** The Contractor agrees to protect the Owner from any claims involving infringements of patents and/or copyrights. In no event shall the Owner be liable to the Contractor for any claims, damages, awards and/or costs of defense arising on the grounds of patent(s)/copyright(s) infringement. Patent/copyright infringement shall null and void any agreement resulting from response to this Invitation for Bid.
- 2.54. Remedies:** The Contractor and Owner agree that both parties have all rights, duties, and remedies available as stated in the Uniform Commercial Code.
- 2.55. Venue:** Any agreement as a result of responding to this Invitation for Bid shall be deemed to have been made in, and shall be construed and interpreted in accordance with, the laws of the City of Grand Junction, Mesa County, Colorado.
- 2.56. Expenses:** Expenses incurred in preparation, submission, and presentation of a response to this Invitation for Bid are the responsibility of the Bidder and cannot be charged to the Owner.
- 2.57. Sovereign Immunity:** The Owner specifically reserves its right to sovereign immunity pursuant to Colorado law as a defense to any action arising out of this Contract.
- 2.58. Public Funds/Non-Appropriation of Funds:** Funds for payment have been provided through the Owner's budget approved by the City Council/Board of County Commissioners for the stated fiscal year only. The State of Colorado prohibits the obligation and expenditure of public funds beyond the fiscal year for which a budget has been approved. Therefore, anticipated orders or other obligations that may arise past the end of the stated Owner's fiscal year shall be subject to budget approval. The Contract, if any, will be subject to and must contain a non-appropriation of funds clause/limitation on multi-year fiscal obligations as required by Art X, Section 20 of the Colorado Constitution, and other applicable law(s).
- 2.59. Cooperative Purchasing:** Purchases as a result of this solicitation are primarily for the City/County. Other governmental entities may be extended the opportunity to utilize the resultant Contract award with the agreement of the successful provider and the participating agencies. All participating entities will be required to abide by the specifications, terms, conditions, and pricing established in this Bid. The quantities furnished in this bid document are only for the City/County. It does not include quantities for any other jurisdiction. The City or County will be responsible only for the award for its jurisdiction. Other participating entities will place its own awards on its respective Purchase Orders through its purchasing office or use its purchasing card for purchase/payment as authorized or agreed upon between the provider and the individual entity. The Owner accepts no liability for payment of orders placed by other participating jurisdictions that choose to "piggy-back" on Owner's solicitation. Orders placed by participating jurisdictions under the terms of this solicitation will indicate its specific delivery and invoicing instructions.

2.60. Keep Jobs in Colorado Act: Contractor shall be responsible for ensuring compliance with Article 17 of Title 8, Colorado Revised Statutes (C.R.S.) requiring 80% Colorado labor to be employed on public works. Contractor shall, upon reasonable notice provided by the Owner, permit the Owner to inspect documentation of identification and residency required by C.R.S. §8-17-101(2)(a). If Contractor claims it is entitled to a waiver pursuant to C.R.S. §8-17-101(1), Contractor shall state that there is insufficient Colorado labor to perform the Work such that compliance with Article 17 would create an undue burden that would substantially prevent a project from proceeding to completion and shall include evidence demonstrating the insufficiency and undue burden in its response.

Unless expressly granted a waiver by the Owner pursuant to C.R.S. §8-17-101(1), Contractor shall be responsible for ensuring compliance with Article 17 of Title 8, C.R.S. requiring 80% Colorado labor to be employed on public works. Contractor shall, upon reasonable notice provided by the Owner, permit the Owner to inspect documentation of identification and residency required by C.R.S. §8-17-101(2)(a).

2.60.1. "Public project" is defined as:

- (a) any construction, alteration, repair, demolition, or improvement of any land, building, structure, facility, road, highway, bridge, or other public improvement suitable for and intended for use in the promotion of the public health, welfare, or safety and any maintenance programs for the upkeep of such projects.
- (b) for which appropriate or expenditure of moneys may be reasonably expected to be \$500,000.00 or more in the aggregate for any fiscal year
- (c) except any project that receives federal moneys.

3. Statement of Work

3.1 GENERAL: The City of Grand Junction is soliciting competitive bids from qualified and interested Contractors for all labor, equipment, and materials required for asphalt leveling and patching the bridge approaches on the Riverside Parkway at Highway 50 Interchange.

3.2 PROJECT DESCRIPTION: The Riverside Parkway Interchange was constructed 15 years ago with bridge structures on deep foundations and used tall mechanically stabilized earth (MSE) walls to support the approaching roadway fills up to the abutments. The MSE walls have shifted, and the earthen subgrade has settled most notably at the bridge approaches causing dips in the road surface.

While the MSE walls are still currently safe, the City of Grand Junction capital budget does include plans to install geotechnical soil nails in 2024 in ensuring long-term stability and then in 2025 plans to reconstruct much of the curb, gutter, medians, and road surface. The City of Grand Junction is currently seeking to partner with a qualified Contractor to perform milling and patching of the surface to reduce the dips in the road as an interim repair measure until the full reconstruction is completed.

The scope of the work will include variable depth milling and paving at the bridge approaches. No detailed design has been completed for the profile of the roadway. The City intends to work with the Contractor to provide as smooth of a transition as

possible in the field given constraints present. Estimated quantities of materials to complete the work are included in the bid schedule.

The City desires that the work be completed by the end of 2023 if possible but also wants to ensure that the quality of the work performed is sufficient for the expected life span of the improvements. The City understands that Contractor availability and suitable paving weather remaining in the year is limited. For this reason, the milestone completion date of the contract will be May 1, 2024, with the City offering an early completion incentive of \$5,000 if the work is completed by the end of 2023.

All work shall be completed in accordance with the City of Grand Junction Standard Contract Documents dated July 10, 2010.

3.3. SPECIAL CONDITIONS & PROVISIONS:

3.3.1 Pre-Bid Meeting: There will not be a pre-bid meeting for this Project.

3.3.2 QUESTIONS REGARDING SOLICIATION PROCESS/SCOPE OF WORK:

Dolly Daniels; Senior Buyer
City of Grand Junction
dollyd@gjcity.org

3.3.3 Project Manager: The Project Manager for the Project is Eric Rink, who can be reached at (970) 244-1585. During Construction, all notices, letters, submittals, and other communications directed to the City shall be addressed and emailed or delivered to:

City of Grand Junction
Attn: Eric Rink, Project Engineer
244 N. 7th Ave.
Grand Junction, CO 81501
ericr@gjcity.org

3.3.4 Contract Administrator: The Contract Administrator for the Project is Duane Hoff Jr., Contract Administrator, who can be reached at (970)244-1545. During Construction, Contract related inquiries, issues, and other communications shall be directed to:

Duane Hoff Jr., Contract Administrator
duaneh@gjcity.org

3.3.5 Affirmative Action: The Contractor is not required to submit a written Affirmative Action Program for this Project.

3.3.6 Pricing: Pricing shall be all inclusive to include but not be limited to: all labor, equipment, supplies, materials, freight (F.O.B. Destination – Freight Pre-paid and Allowed to each site), travel, mobilization costs, fuel, set-up and take down costs, and full-time inspection costs, and all other costs related to the successful completion of the project.

The Owner shall not pay nor be liable for any other additional costs including but not limited to taxes, shipping charges, insurance, interest, penalties, termination

payments, attorney fees, liquidated damages, etc.

3.3.7 Freight/Shipping: All freight/shipping shall be F.O.B. Destination – Freight Pre-Paid and Allowed to the project site(s), Grand Junction, CO. Contractor must meet all federal, state, and local rules, regulations, and requirements for providing such services.

3.3.8 Contract: A binding Contract shall consist of: (1) the IFB and any amendments thereto, (2) Additional Documents as stated in Section 1.10, (3) the Bidder's response (bid) to the IFB, (4) clarification of the bid, if any, and (5) the City's Purchasing Department's acceptance of the bid by "Notice of Award" or by "Purchase Order". All Exhibits and Attachments included In the IFB shall be incorporated into the Contract by reference.

A. The Contract expresses the complete agreement of the parties and, performance shall be governed solely by the specifications and requirements contained therein.

B. Any change to the Contract, whether by modification and/or supplementation, must be accomplished by a formal Contract amendment signed and approved by and between the duly authorized representative of the Bidder and the City Purchasing Division or by a modified Purchase Order prior to the effective date of such modification. The Bidder expressly and explicitly understands and agrees that no other method and/or no other document, including acts and oral communications by or from any person, shall be used or construed as an amendment or modification to the Contract.

3.3.9 Time of Completion: The scheduled time of Completion for the Project is preferably by December 31, 2023. The City understands that Contractor availability and suitable paving weather remaining in the year is limited. For this reason, milestone completion date of the contract will be May 1, 2024, with the City offering an early completion incentive of \$5,000 if the work is completed by the end of 2023.

Completion is achieved when site cleanup and all punch list items (resulting from the final inspection) have been completed. Completion shall have the meaning set forth in Article I, Section 3 (Definitions and Terms) of the General Contract Conditions.

3.3.10 Working Days and Hours: The working days and hours shall be as stated in the General Contract Conditions or as mutually agreed upon in the preconstruction Meeting.

3.3.11 Licenses and Permits: Contractor is responsible for obtaining all necessary licenses and permits required for Construction, at Contractors expense. See Section 2.12. Contractor shall supply to Owner all copies of finalized permits.

3.3.12 Permits: The following permits are required for the Project and will be obtained by the City at no cost to the Contractor:

NONE

The following permits are required for the Project and shall be obtained and paid for by the Contractor with the costs included in the total bid price for the Project:

NONE

3.3.13 City Furnished Materials: The City will furnish the following materials for the Project:
NONE

3.3.14 Traffic Control: The Contractor shall provide and maintain traffic control in accordance with an approved Traffic Control Plan and the Manual on Uniform Traffic Control Devices. A Traffic Control Plan shall be prepared by the Contractor and reviewed by the City at least 10 days prior to the start of work such that adequate notices can be provided to the traveling public.

Road closures will only be allowed on Riverside Parkway in one direction at a time during nighttime hours (7:00 PM to 6:00 AM). Daytime closures will only be considered if nighttime temperatures do not allow for proper placement of hot-mix asphalt.

3.3.15 Authorized Representatives of the City: Those authorized to represent the City shall include Purchasing Agent, Engineers, and Inspectors employed by the City, only.

3.3.16 Stockpiling Materials and Equipment: All stockpiling/storage shall be in accordance with General Contract Condition Section 51.

3.3.17 Clean-Up: The Contractor is responsible for cleaning up all loose materials that have been deposited or swept into gutters, and onto sidewalks and driveways as a result of sidewalk operations. The costs for all clean-up work shall be considered incidental and will not be paid for separately.

3.3.18 Schedule of Submittals: Contractor shall deliver these submittals at least two days prior to the pre-construction meeting:

- Project Schedule
- Traffic Control Plan
- All materials

3.3.19 Excess Material: All excess materials shall be disposed of in accordance with General Contract Condition Section 50.

3.3.20 Incidental Items: Any item of Work not specifically identified or paid for directly which is necessary for the completion of any paid items of Work, will be considered as incidental to those items, and will be included in the cost of those items.

3.3.21 Work to be Performed by the City (Prior to Construction):

- None

3.4 Contractor Bid Documents: For Contractor's convenience, the following is a list of forms/items to be submitted with the Contractor's bid response. However, should a form/item not be listed in this section, but required in the solicitation documents, it is the Contractor's responsibility to ensure all forms/items are submitted.

- Contractor's Bid Form
- Price Bid Schedule

3.5 IFB TENTATIVE TIME SCHEDULE:

Invitation For Bids available on	October 11, 2023
Inquiry deadline, no questions after this date	October 17, 2023
Addendum Posted	October 18, 2023
Submittal deadline for proposals	October 25, 2023, 2:00 PM
Notice of Award & Contract execution	October 26, 2023
Bonding & Insurance Cert due	October 31, 2023
Preconstruction meeting	November 1, 2023
Work begins no later than	November 3, 2023
Early Incentive Completion	December 31, 2023
Final Completion	May 1, 2024
Holidays:	
Veterans Day	November 10, 2023
Thanksgiving	November 23 & 24, 2023
Christmas	December 25, 2023

4. Contractor's Bid Form

Bid Date: _____

Project: IFB-5317-23-DD "Riverside Parkway Bridge Asphalt Repairs"

Bidding Company: _____

Name of Authorized Agent: _____

Email _____

Telephone _____ **Address** _____

City _____ **State** _____ **Zip** _____

The undersigned Bidder, in compliance with the Invitation for Bids, having examined the Instruction to Bidders, General Contract Conditions, Statement of Work, Specifications, and any and all Addenda thereto, having investigated the location of, and conditions affecting the proposed Work, hereby proposes to furnish all labor, materials and supplies, and to perform all Work for the Project in accordance with Contract Documents, within the time set forth and at the prices stated below. These prices are to cover all expenses incurred in performing the Work required under the Contract Documents, of which this Contractor's Bid Form is a part.

The undersigned Contractor does hereby declare and stipulate that this offer is made in good faith without collusion or connection to any person(s) providing an offer for the same Work, and that it is made in pursuance of, and subject to, all terms and conditions of the Instructions to Bidders, the Specifications, and all other Solicitation Documents, all of which have been examined by the undersigned.

The Contractor also agrees that if awarded the Contract, to provide insurance certificates within ten (10) working days of the date of Notification of Award. Submittal of this offer will be taken by the Owner as a binding covenant that the Contractor will be prepared to complete the project in its entirety.

The Owner reserves the right to make the award on the basis of the offer deemed most favorable, to waive any formalities or technicalities and to reject any or all offers. It is further agreed that this offer may not be withdrawn for a period of sixty (60) calendar days after closing time. Submission of clarifications and revised offers automatically establish a new thirty day (30) period.

Prices in the bid proposal have not knowingly been disclosed with another provider and will not be prior to award.

- Prices in this bid proposal have been arrived at independently, without consultation, communication or agreement for the purpose of restricting competition.
- No attempt has been made nor will be to induce any other person or Contractor to submit a bid proposal for the purpose of restricting competition.
- The individual signing this bid proposal certifies they are a legal agent of the Bidder, authorized to represent the Bidder and is legally responsible for the offer with regard to supporting documentation and prices provided.
- Direct purchases by the City of Grand Junction are tax exempt from Colorado Sales or Use Tax. Tax exempt No. 98-03544. The undersigned certifies that no Federal, State, County or Municipal tax will be added to the above quoted prices.
- City of Grand Junction payment terms shall be Net 30 days.
- Prompt payment discount of _____ percent of the net dollar will be offered to the Owner if the invoice is paid within _____ days after the receipt of the invoice. The Owner reserves the right to take into account any such discounts when determining the bid award that are no less than Net 10 days.

RECEIPT OF ADDENDA: the undersigned Contractor acknowledges receipt of Addenda to the Solicitation, Specifications, and other Contract Documents.

State number of Addenda received: _____.

It is the responsibility of the Bidder to ensure all Addenda have been received and acknowledged.

By signing below, the Undersigned agree to comply with all terms and conditions contained herein.

Company: _____

Authorized Signature: _____

Title: _____

The undersigned Bidder proposes to subcontract the following portion of Work:

<u>Name & address of Sub-Contractor</u>	<u>Description of Work to be performed</u>	<u>% of Contract</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

The undersigned Bidder acknowledges the right of the City to reject any and all Bids submitted and to waive informalities and irregularities therein in the City's sole discretion.

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

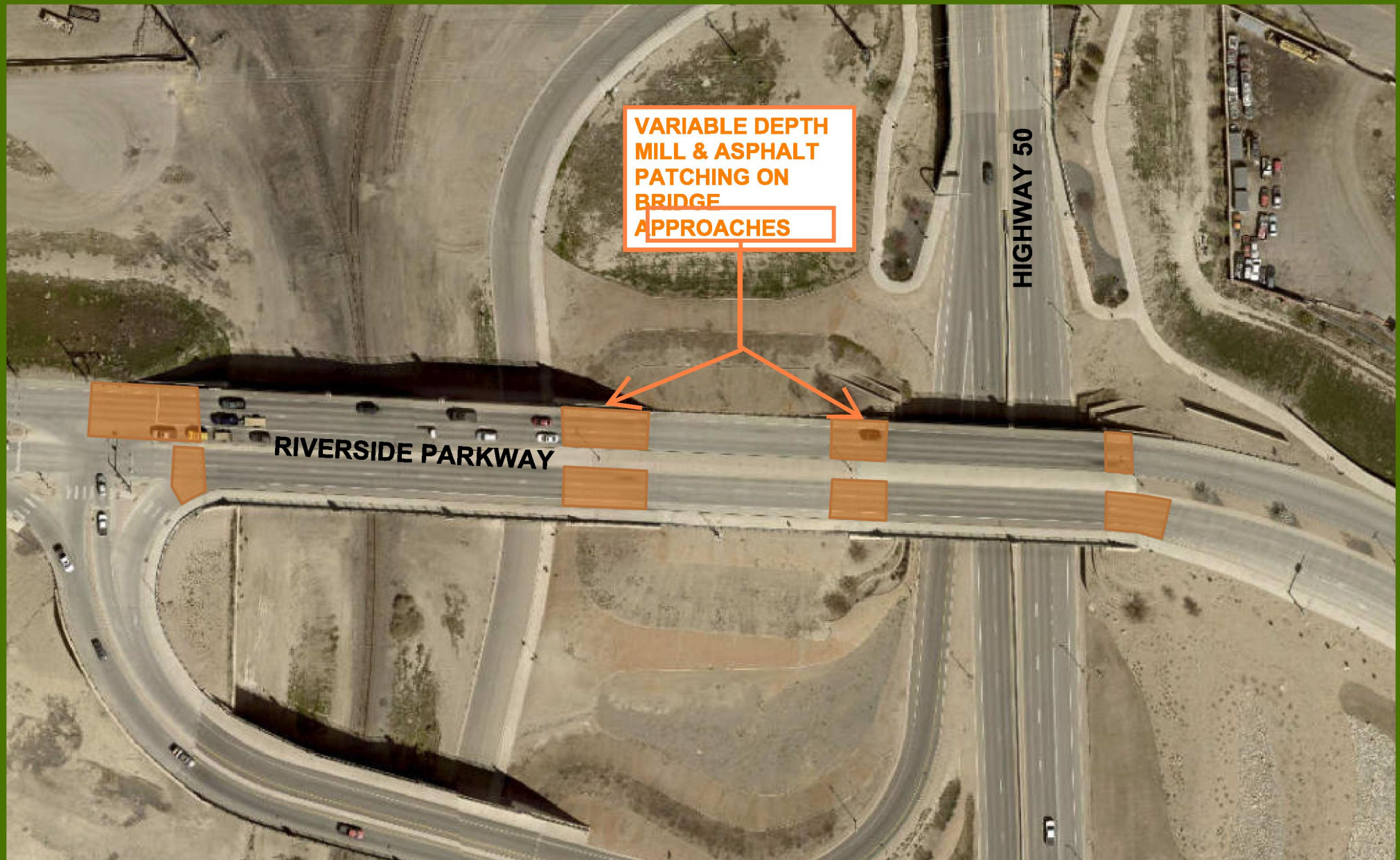
Bid Schedule: Riverside Parkway Bridge Asphalt Repairs IFB-5317-23-DD

Item No.	CDOT, City Ref.	Description	Quantity	Units	Unit Price	Total Price
1	202	Asphalt Removal (Planing)(Thickness Varies)	1,400.	SY	\$ _____	\$ _____
2	401	Hot Mix Asphalt (Patching - Up to 5" thick)(Grading SX, Binder Grade 64-22)	275.	TON	\$ _____	\$ _____
3	626	Mobilization	1.	LS	\$ _____	\$ _____
4	630	Traffic Control (Complete in Place)	4.	DAY	\$ _____	\$ _____
ECI		Early Completion Incentive		LS		\$ <u>5,000.00</u>
MCR		Minor Contract Revisions		---	---	\$ <u>10,000.00</u>
Bid Amount:						\$ _____

Bid Amount:

dollars

Riverside Parkway Interchange - Asphalt Repairs



Printed: 10/10/2023
1 inch equals 100 feet
Scale: 1:1,200

4. Contractor's Bid Form

Bid Date: October 25, 2023

Project: **IFB-5317-23-DD "Riverside Parkway Bridge Asphalt Repairs"**

Bidding Company: Oldcastle SW Group, Inc. dba United Companies

Name of Authorized Agent: Kyle Alpha, Vice President

Email rod.watson@unitedco.com

Telephone 970-243-4900 Address 2273 River Road

City Grand Junction State CO Zip 81505

The undersigned Bidder, in compliance with the Invitation for Bids, having examined the Instruction to Bidders, General Contract Conditions, Statement of Work, Specifications, and any and all Addenda thereto, having investigated the location of, and conditions affecting the proposed Work, hereby proposes to furnish all labor, materials and supplies, and to perform all Work for the Project in accordance with Contract Documents, within the time set forth and at the prices stated below. These prices are to cover all expenses incurred in performing the Work required under the Contract Documents, of which this Contractor's Bid Form is a part.

The undersigned Contractor does hereby declare and stipulate that this offer is made in good faith without collusion or connection to any person(s) providing an offer for the same Work, and that it is made in pursuance of, and subject to, all terms and conditions of the Instructions to Bidders, the Specifications, and all other Solicitation Documents, all of which have been examined by the undersigned.

The Contractor also agrees that if awarded the Contract, to provide insurance certificates within ten (10) working days of the date of Notification of Award. Submittal of this offer will be taken by the Owner as a binding covenant that the Contractor will be prepared to complete the project in its entirety.

The Owner reserves the right to make the award on the basis of the offer deemed most favorable, to waive any formalities or technicalities and to reject any or all offers. It is further agreed that this offer may not be withdrawn for a period of sixty (60) calendar days after closing time. Submission of clarifications and revised offers automatically establish a new thirty day (30) period.

Prices in the bid proposal have not knowingly been disclosed with another provider and will not be prior to award.

- Prices in this bid proposal have been arrived at independently, without consultation, communication or agreement for the purpose of restricting competition.
- No attempt has been made nor will be to induce any other person or Contractor to submit a bid proposal for the purpose of restricting competition.
- The individual signing this bid proposal certifies they are a legal agent of the Bidder, authorized to represent the Bidder and is legally responsible for the offer with regard to supporting documentation and prices provided.
- Direct purchases by the City of Grand Junction are tax exempt from Colorado Sales or Use Tax. Tax exempt No. 98-03544. The undersigned certifies that no Federal, State, County or Municipal tax will be added to the above quoted prices.
- City of Grand Junction payment terms shall be Net 30 days.
- Prompt payment discount of _____ percent of the net dollar will be offered to the Owner if the invoice is paid within _____ days after the receipt of the invoice. The Owner reserves the right to take into account any such discounts when determining the bid award that are no less than Net 10 days.

RECEIPT OF ADDENDA: the undersigned Contractor acknowledges receipt of Addenda to the Solicitation, Specifications, and other Contract Documents.

State number of Addenda received: 0

It is the responsibility of the Bidder to ensure all Addenda have been received and acknowledged.

By signing below, the Undersigned agree to comply with all terms and conditions contained herein.

Company: Oldcastle SW Group, Inc. dba United Companies

Authorized Signature: [Signature]

Title: Kyle Alpha, Vice President
2273 River Road, Grand Junction, CO 81505 State of Incorporation: Colorado



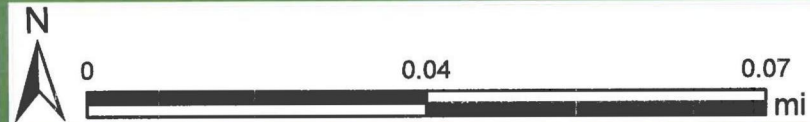
The undersigned Bidder proposes to subcontract the following portion of Work:

<u>Name & address of Sub-Contractor</u>	<u>Description of Work to be performed</u>	<u>% of Contract</u>
Mountain Valley Contracting	Asphalt Planing	12%
CC Enterprises	Traffic Control	7%

The undersigned Bidder acknowledges the right of the City to reject any and all Bids submitted and to waive informalities and irregularities therein in the City’s sole discretion.

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

Riverside Parkway Interchange - Asphalt Repairs



Printed: 10/10/2023
1 inch equals 100 feet
Scale: 1:1,200



Fidelity and Deposit Company of Maryland

BID BOND

KNOW ALL MEN BY THESE PRESENTS:

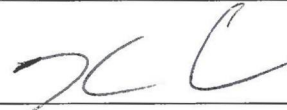
That we, **Oldcastle SW Group, Inc., dba United Companies of Mesa County**, as Principal, (hereinafter called the "Principal"), and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, a corporation duly organized under the laws of the State of Illinois, as Surety, (hereinafter called the "Surety"), are held and firmly bound unto **City of Grand Junction, Colorado** as Obligee, (hereinafter called the "Obligee"), in the sum of **FIVE PERCENT OF TOTAL AMOUNT BID** Dollars (**5%**), for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for **IFB-5317-23-DD Riverside Parkway Bridge Asphalt Repair** .

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a contract with the Obligee in accordance with the terms of such bid and give such bond or bonds as may be specified in the bidding or contract documents with good and sufficient surety for the faithful performance of such contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the principal to enter into such contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect.

Signed and sealed this **25th** day of **October** A.D. ,**2023**.

Oldcastle SW Group, Inc., dba United Companies
of Mesa County


By 
Kyle Alpha, Vice President




SonaVanHorn *Witness*


Debbie Elliott *Witness*

FIDELITY AND DEPOSIT COMPANY OF MARYLAND

By  (SEAL)
Greg White, Attorney in Fact

C325-150M,
Approved by The American Institute of Architects,
A.I.A. Document No. A-310 February 1970 Edition.

**ZURICH AMERICAN INSURANCE COMPANY
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY
FIDELITY AND DEPOSIT COMPANY OF MARYLAND
POWER OF ATTORNEY**

KNOW ALL MEN BY THESE PRESENTS: That the ZURICH AMERICAN INSURANCE COMPANY, a corporation of the State of New York, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, a corporation of the State of Illinois, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND a corporation of the State of Illinois (herein collectively called the "Companies"), by Robert D. Murray, Vice President, in pursuance of authority granted by Article V, Section 8, of the By-Laws of said Companies, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, do hereby nominate, constitute, and appoint, **Kyle ALPHA, Dorothy FEIL, Debbie ELLIOTT, Janel TANNER, Jeffrey KELLER and Greg WHITE, all of Grand Junction, Colorado**, EACH, its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: any and all bid bonds issued on behalf of **Oldcastle SW Group, Inc., Oldcastle SW Group, Inc. dba United Companies, Oldcastle SW Group, Inc. dba Telluride Gravel and Oldcastle SW Group, Inc. dba APC Construction Co., each with a penalty not to exceed the sum of \$1,000,000**, and the execution of such bid bonds in pursuance of these presents, shall be as binding upon said Companies, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the ZURICH AMERICAN INSURANCE COMPANY at its office in New York, New York., the regularly elected officers of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at its office in Owings Mills, Maryland, and the regularly elected officers of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at its office in Owings Mills, Maryland, in their own proper persons.

The said Vice President does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article V, Section 8, of the By-Laws of said Companies, and is now in force.

IN WITNESS WHEREOF, the said Vice-President has hereunto subscribed his/her names and affixed the Corporate Seals of the said **ZURICH AMERICAN INSURANCE COMPANY, COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and FIDELITY AND DEPOSIT COMPANY OF MARYLAND**, this 10th day of March A.D. 2022.



ATTEST:

**ZURICH AMERICAN INSURANCE COMPANY
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY
FIDELITY AND DEPOSIT COMPANY OF MARYLAND**

By: *Robert D. Murray*
Vice President

By: *Dawn E. Brown*
Secretary

**State of Maryland
County of Baltimore**

On this 10th day of March, A.D. 2022, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, **Robert D. Murray, Vice President and Dawn E. Brown, Secretary** of the Companies, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and acknowledged the execution of same, and being by me duly sworn, depose and saith, that he/she is the said officer of the Company aforesaid, and that the seals affixed to the preceding instrument are the Corporate Seals of said Companies, and that the said Corporate Seals and the signature as such officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporations.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.

Constance A. Dunn, Notary Public
My Commission Expires: July 9, 2023



EXTRACT FROM BY-LAWS OF THE COMPANIES

"Article V, Section 8, Attorneys-in-Fact. The Chief Executive Officer, the President, or any Executive Vice President or Vice President may, by written instrument under the attested corporate seal, appoint attorneys-in-fact with authority to execute bonds, policies, recognizances, stipulations, undertakings, or other like instruments on behalf of the Company, and may authorize any officer or any such attorney-in-fact to affix the corporate seal thereto; and may with or without cause modify or revoke any such appointment or authority at any time."

CERTIFICATE

I, the undersigned, Vice President of the ZURICH AMERICAN INSURANCE COMPANY, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the foregoing Power of Attorney is still in full force and effect on the date of this certificate; and I do further certify that Article V, Section 8, of the By-Laws of the Companies is still in force.

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the ZURICH AMERICAN INSURANCE COMPANY at a meeting duly called and held on the 15th day of December 1998.

RESOLVED: "That the signature of the President or a Vice President and the attesting signature of a Secretary or an Assistant Secretary and the Seal of the Company may be affixed by facsimile on any Power of Attorney...Any such Power or any certificate thereof bearing such facsimile signature and seal shall be valid and binding on the Company."

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at a meeting duly called and held on the 5th day of May, 1994, and the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 10th day of May, 1990.

RESOLVED: "That the facsimile or mechanically reproduced seal of the company and facsimile or mechanically reproduced signature of any Vice-President, Secretary, or Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seals of the said Companies, this 25th day of October, 2023.



MJ Pethick

Mary Jean Pethick, Vice President

TO REPORT A CLAIM WITH REGARD TO A SURETY BOND, PLEASE SUBMIT A COMPLETE DESCRIPTION OF THE CLAIM INCLUDING THE PRINCIPAL ON THE BOND, THE BOND NUMBER, AND YOUR CONTACT INFORMATION TO:

Zurich Surety Claims
1299 Zurich Way
Schaumburg, IL 60196-1056
reportsfclaims@zurichna.com

ACTION BY WRITTEN CONSENT
IN LIEU OF AN ANNUAL MEETING OF
THE BOARD OF DIRECTORS
OF
OLDCASTLE SW GROUP, INC.

The undersigned, being all of the members of the Board of Directors of Oldcastle SW Group, Inc., a Colorado corporation (the "**Corporation**"), do hereby, pursuant to §7-108-202 of the Colorado Business Corporation Act, give this written consent (a) to the dispensation of an annual meeting of the Board of Directors of the Corporation and (b) to the taking of the following actions, such actions to have the same force and effect had a meeting been duly called and held:

I. ELECTION OF OFFICERS

RESOLVED, that effective March 3, 2022, all previous elections of officers are terminated, and the following persons be, and hereby are, elected to serve as officers of the Corporation (each individually, an "**Officer**" and collectively, the "**Officers**") in the capacities set forth opposite their respective names until such time as their successors shall be elected and qualified:

Richard Umbel	President
Kyle Alpha	Vice President
Martin Merx	Chief Financial Officer
Dorothy Feil	Secretary, Treasurer, Controller

FURTHER RESOLVED, that the Officers be, and each of them hereby is, authorized to execute and deliver agreements, contracts, documents, certificates, and other instruments, under the seal of the Corporation if required, for the purpose of conducting the Corporation's business, including without limitation, selling products and securing construction work, and to take such other action, as they may deem necessary, advisable, convenient, or appropriate to carry out and fully perform duties incident to the office or offices so appointed, and such other duties as may be prescribed by the Board of Directors from time to time;

FURTHER RESOLVED, that the following persons are hereby designated officers solely for the purpose of attesting signatures of other officers on behalf of the Corporation, and for executing and attesting various corporate documents, tax returns, affidavits, and similar such instruments as may be necessary from time to time:

Tim George	Assistant Secretary	Xavier Balderas	Assistant Secretary
William P Jones	Assistant Secretary	David C. Lewis	Assistant Secretary
David M. Toolan	Assistant Secretary	Michael F. Deaton	Assistant Secretary

FURTHER RESOLVED, that the President of the Corporation may, from time to time, without further action by the Board of Directors, appoint other persons to serve as authorized employees, or remove any individuals from this capacity, and to direct those appointed to take such action, as he may deem necessary, advisable, convenient or appropriate to carry out and fully perform the duties incident to the office of President.

II. REMOVALS

RESOLVED, that any current officers of the Corporation not elected in the foregoing resolution are hereby removed.

III. AUTHORIZATION OF TRADE AND DIVISIONAL NAMES

RESOLVED, that the activities and operations of the Corporation may be carried on in any of the following manners or styles as may from time-to-time be deemed necessary or appropriate:

**Asphalt Paving Company
Alpine Rock Company
APC Construction Company
APC Southern Construction Company
B&B Excavating
Delta Sand & Gravel Co.
Four Corners Materials
Telluride Gravel
United Companies of Mesa County
United Paving, Incorporated
United Redi-Mix, Inc.
United Sand and Gravel Company, Inc.
United Companies**

FURTHER RESOLVED, that the President of the Corporation may, from time to time, without further action by the Board of Directors, authorize the use of additional trade names, and to deem unauthorized any trade name previously authorized, as he may deem necessary, advisable, convenient or appropriate.

IV. MISCELLANEOUS

RESOLVED, that all actions previously taken by any Officer of the Corporation appointed hereunder in his/her capacity as such Officer be, and each of them hereby is, adopted, ratified, confirmed and approved in all respects as the authorized acts and deeds of the Corporation;

FURTHER RESOLVED, that each undersigned agrees that electronic signatures, whether digital or encrypted, of the Board of Directors are intended to authenticate this consent and to have the same force and effect as manual signatures. As used in the previous sentence, the term "electronic signatures" means any electronic sound, symbol or process attached to or logically associated with this consent and executed and adopted by a member of the Board of Directors with the intent to sign such consent, including, but not limited to, e-mail electronic signatures executed through DocuSign; and

FURTHER RESOLVED, that this Consent, following execution by all of the members of the Board of Directors, be filed in appropriate order in the minute book of the Corporation.

DocuSigned by:



C914F8E5159A404...
Scott Parson

Document A312™ – 2010

Conforms with The American Institute of Architects AIA Document 312

Performance Bond

Bond Number: 9437690

CONTRACTOR:

(Name, legal status and address)

Oldcastle SW Group, Inc. dba United Companies
2273 River Rd
Grand Junction, CO 81502

SURETY:

(Name, legal status and principal place of business)

Fidelity and Deposit Company of Maryland
1299 Zurich Way, 5th Floor
Schaumburg, IL 60196-1056
State of Inc: Illinois

OWNER:

(Name, legal status and address)

City of Grand Junction
250 North 5th Street
Grand Junction, CO 81501

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONSTRUCTION CONTRACT

Date:

Amount: \$126,175.00

Description: (Name and location)

Riverside Parkway Bridges Asphalt Repair IFB-5317-23-DD

BOND

Date:

(Not earlier than Construction Contract Date)

Amount: \$126,175.00

Modifications to this Bond: None See Section 16

CONTRACTOR AS PRINCIPAL

Company: (Corporate Seal)

Oldcastle SW Group, Inc. dba United Companies

Signature: 

Name Kyle Alpha
And Title: Vice President

(Any additional signatures appear on the last page of this Performance Bond)

(FOR INFORMATION ONLY - Name, address and telephone)

AGENT or BROKER:

Marsh

Marsh USA LLC
500 Dallas Street, STE 1500
Houston, TX 77002

SURETY

Company: (Corporate Seal)

Fidelity and Deposit Company of Maryland

Signature: 

Name
And Title:

Stephanie Gross, Attorney-in-Fact

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)



§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner for the performance of the Construction Contract, which is incorporated herein by reference.

§ 2 If the Contractor performs the Construction Contract, the Surety and the Contractor shall have no obligation under this Bond, except when applicable to participate in a conference as provided in Section 3.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation under this Bond shall arise after

- .1 the Owner first provides notice to the Contractor and the Surety that the Owner is considering declaring a Contractor Default. Such notice shall indicate whether the Owner is requesting a conference among the Owner, Contractor and Surety to discuss the Contractor's performance. If the Owner does not request a conference, the Surety may, within five (5) business days after receipt of the Owner's notice, request such a conference. If the Surety timely requests a conference, the Owner shall attend. Unless the Owner agrees otherwise, any conference requested under this Section 3.1 shall be held within ten (10) business days of the Surety's receipt of the Owner's notice. If the Owner, the Contractor and the Surety agree, the Contractor shall be allowed a reasonable time to perform the Construction Contract, but such an agreement shall not waive the Owner's right, if any, subsequently to declare a Contractor Default;
- .2 the Owner declares a Contractor Default, terminates the Construction Contract and notifies the Surety; and
- .3 the Owner has agreed to pay the Balance of the Contract Price in accordance with the terms of the Construction Contract to the Surety or to a contractor selected to perform the Construction Contract.

§ 4 Failure on the part of the Owner to comply with the notice requirement in Section 3.1 shall not constitute a failure to comply with a condition precedent to the Surety's obligations, or release the Surety from its obligations, except to the extent the Surety demonstrates actual prejudice.

§ 5 When the Owner has satisfied the conditions of Section 3, the Surety shall promptly and at the Surety's expense take one of the following actions:

§ 5.1 Arrange for the Contractor, with the consent of the Owner, to perform and complete the Construction Contract;

§ 5.2 Undertake to perform and complete the Construction Contract itself, through its agents or independent contractors;

§ 5.3 Obtain bids or negotiated proposals from qualified contractors acceptable to the Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by the Owner and a contractor selected with the Owner's concurrence, to be secured with performance and payment bonds executed by a qualified surety equivalent to the bonds issued on the Construction Contract, and pay to the Owner the amount of damages as described in Section 7 in excess of the Balance of the Contract Price incurred by the Owner as a result of the Contractor Default; or

§ 5.4 Waive its right to perform and complete, arrange for completion, or obtain a new contractor and with reasonable promptness under the circumstances:

- .1 After investigation, determine the amount for which it may be liable to the Owner and, as soon as practicable after the amount is determined, make payment to the Owner; or
- .2 Deny liability in whole or in part and notify the Owner, citing the reasons for denial.

§ 6 If the Surety does not proceed as provided in Section 5 with reasonable promptness, the Surety shall be deemed to be in default on this Bond seven days after receipt of an additional written notice from the Owner to the Surety demanding that the Surety perform its obligations under this Bond, and the Owner shall be entitled to enforce any remedy available to the Owner. If the Surety proceeds as provided in Section 5.4, and the Owner refuses the payment or the Surety has denied liability, in whole or in part, without further notice the Owner shall be entitled to enforce any remedy available to the Owner.

§ 7 If the Surety elects to act under Section 5.1, 5.2 or 5.3, then the responsibilities of the Surety to the Owner shall not be greater than those of the Contractor under the Construction Contract, and the responsibilities of the Owner to the Surety shall not be greater than those of the Owner under the Construction Contract. Subject to the commitment by the Owner to pay the Balance of the Contract Price, the Surety is obligated, without duplication, for

- .1 the responsibilities of the Contractor for correction of defective work and completion of the Construction Contract;
- .2 additional legal, design professional and delay costs resulting from the Contractor's Default, and resulting from the actions or failure to act of the Surety under Section 5; and
- .3 liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of the Contractor.

§ 8 If the Surety elects to act under Section 5.1, 5.3 or 5.4, the Surety's liability is limited to the amount of this Bond.

§ 9 The Surety shall not be liable to the Owner or others for obligations of the Contractor that are unrelated to the Construction Contract, and the Balance of the Contract Price shall not be reduced or set off on account of any such unrelated obligations. No right of action shall accrue on this Bond to any person or entity other than the Owner or its heirs, executors, administrators, successors and assigns.

§ 10 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 11 Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the work or part of the work is located and shall be instituted within two years after a declaration of Contractor Default or within two years after the Contractor ceased working or within two years after the Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 12 Notice to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears.

§ 13 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 14 Definitions

§ 14.1 **Balance of the Contract Price.** The total amount payable by the Owner to the Contractor under the Construction Contract after all proper adjustments have been made, including allowance to the Contractor of any amounts received or to be received by the Owner in settlement of insurance or other claims for damages to which the Contractor is entitled, reduced by all valid and proper payments made to or on behalf of the Contractor under the Construction Contract.

§ 14.2 **Construction Contract.** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and changes made to the agreement and the Contract Documents.

§ 14.3 **Contractor Default.** Failure of the Contractor, which has not been remedied or waived, to perform or otherwise to comply with a material term of the Construction Contract.

§ 14.4 **Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ 14.5 **Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

§ 15 If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ 16 Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

SURETY

Company: _____
(Corporate Seal)

Company: _____
(Corporate Seal)

Signature: _____
Name and Title:
Address

Signature: _____
Name and Title:
Address

Document A312™ – 2010

Conforms with The American Institute of Architects AIA Document 312

Payment Bond

Bond Number: 9437690

CONTRACTOR:

(Name, legal status and address)

Oldcastle SW Group, Inc. dba United Companies
2273 River Rd
Grand Junction, CO 81502

SURETY:

(Name, legal status and principal place of business)

Fidelity and Deposit Company of Maryland
1299 Zurich Way, 5th Floor
Schaumburg, IL 60196-1056
State of Inc: Illinois

OWNER:

(Name, legal status and address)

City of Grand Junction
250 North 5th Street
Grand Junction, CO 81501

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

Any singular reference to Contractor, Surety, Owner or other party shall be considered plural where applicable.

CONSTRUCTION CONTRACT

Date:

Amount: \$126,175.00

Description: (Name and location)

Riverside Parkway Bridges Asphalt Repair IFB-5317-23-DD

BOND

Date:

(Not earlier than Construction Contract Date)

Amount: \$126,175.00

Modifications to this Bond: None See Section 18

CONTRACTOR AS PRINCIPAL

Company: (Corporate Seal)

Oldcastle SW Group, Inc. dba United Companies

SURETY

Company: (Corporate Seal)

Fidelity and Deposit Company of Maryland

Signature: 

Name Kyle Alpha
And Title: Vice President

(Any additional signatures appear on the last page of this Payment Bond)

Signature: 

Name Stephanie Gross, Attorney-in-Fact

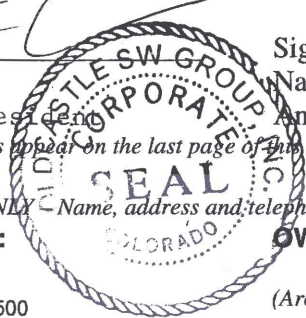
(FOR INFORMATION ONLY - Name, address and telephone)

AGENT or BROKER:

Marsh USA LLC
500 Dallas Street, STE 1500
Houston, TX 77002

OWNER'S REPRESENTATIVE:

(Architect, Engineer or other party:)



§ 1 The Contractor and Surety, jointly and severally, bind themselves, their heirs, executors, administrators, successors and assigns to the Owner to pay for labor, materials and equipment furnished for use in the performance of the Construction Contract, which is incorporated herein by reference, subject to the following terms.

§ 2 If the Contractor promptly makes payment of all sums due to Claimants, and defends, indemnifies and holds harmless the Owner from claims, demands, liens or suits by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract, then the Surety and the Contractor shall have no obligation under this Bond.

§ 3 If there is no Owner Default under the Construction Contract, the Surety's obligation to the Owner under this Bond shall arise after the Owner has promptly notified the Contractor and the Surety (at the address described in Section 13) of claims, demands, liens or suits against the Owner or the Owner's property by any person or entity seeking payment for labor, materials or equipment furnished for use in the performance of the Construction Contract and tendered defense of such claims, demands, liens or suits to the Contractor and the Surety.

§ 4 When the Owner has satisfied the conditions in Section 3, the Surety shall promptly and at the Surety's expense defend, indemnify and hold harmless the Owner against a duly tendered claim, demand, lien or suit.

§ 5 The Surety's obligations to a Claimant under this Bond shall arise after the following:

§ 5.1 Claimants, who do not have a direct contract with the Contractor,

- .1 have furnished a written notice of non-payment to the Contractor, stating with substantial accuracy the amount claimed and the name of the party to whom the materials were, or equipment was, furnished or supplied or for whom the labor was done or performed, within ninety (90) days after having last performed labor or last furnished materials or equipment included in the Claim; and
- .2 have sent a Claim to the Surety (at the address described in Section 13).

§ 5.2 Claimants, who are employed by or have a direct contract with the Contractor, have sent a Claim to the Surety (at the address described in Section 13).

§ 6 If a notice of non-payment required by Section 5.1.1 is given by the Owner to the Contractor, that is sufficient to satisfy a Claimant's obligation to furnish a written notice of non-payment under Section 5.1.1.

§ 7 When a Claimant has satisfied the conditions of Sections 5.1 or 5.2, whichever is applicable, the Surety shall promptly and at the Surety's expense take the following actions:

§ 7.1 Send an answer to the Claimant, with a copy to the Owner, within sixty (60) days after receipt of the Claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

§ 7.2 Pay or arrange for payment of any undisputed amounts.

§ 7.3 The Surety's failure to discharge its obligations under Section 7.1 or Section 7.2 shall not be deemed to constitute a waiver of defenses the Surety or Contractor may have or acquire as to a Claim, except as to undisputed amounts for which the Surety and Claimant have reached agreement. If, however, the Surety fails to discharge its obligations under Section 7.1 or Section 7.2, the Surety shall indemnify the Claimant for the reasonable attorney's fees the Claimant incurs thereafter to recover any sums found to be due and owing to the Claimant.

§ 8 The Surety's total obligation shall not exceed the amount of this Bond, plus the amount of reasonable attorney's fees provided under Section 7.3, and the amount of this Bond shall be credited for any payments made in good faith by the Surety.

§ 9 Amounts owed by the Owner to the Contractor under the Construction Contract shall be used for the performance of the Construction Contract and to satisfy claims, if any, under any construction performance bond. By the Contractor furnishing and the Owner accepting this Bond, they agree that all funds earned by the Contractor in the performance of the Construction Contract are dedicated to satisfy obligations of the Contractor and Surety under this bond, subject to the Owner's priority to use the funds for the completion of the work.

§ 10 The Surety shall not be liable to the Owner, Claimants or others for obligations of the Contractor that are unrelated to the Construction Contract. The Owner shall not be liable for the payment of any costs or expenses of any

Claimant under this Bond, and shall have under this Bond no obligation to make payments to, or give notice on behalf of, Claimants or otherwise have any obligations to Claimants under this Bond.

§ 11 The Surety hereby waives notice of any change, including changes of time, to the Construction Contract or to related subcontracts, purchase orders and other obligations.

§ 12 No suit or action shall be commenced by a Claimant under this Bond other than in a court of competent jurisdiction in the state in which the project that is the subject of the Construction Contract is located or after the expiration of one year from the date (1) on which the Claimant sent a Claim to the Surety pursuant to Section 5.1.2 or 5.2, or (2) on which the last labor or service was performed by anyone or the last materials or equipment were furnished by anyone under the Construction Contract, whichever of (1) or (2) first occurs. If the provisions of this Paragraph are void or prohibited by law, the minimum period of limitation available to sureties as a defense in the jurisdiction of the suit shall be applicable.

§ 13 Notice and Claims to the Surety, the Owner or the Contractor shall be mailed or delivered to the address shown on the page on which their signature appears. Actual receipt of notice or Claims, however accomplished, shall be sufficient compliance as of the date received.

§ 14 When this Bond has been furnished to comply with a statutory or other legal requirement in the location where the construction was to be performed, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

§ 15 Upon request by any person or entity appearing to be a potential beneficiary of this Bond, the Contractor and Owner shall promptly furnish a copy of this Bond or shall permit a copy to be made.

§ 16 Definitions

§ 16.1 **Claim.** A written statement by the Claimant including at a minimum:

- .1 the name of the Claimant;
- .2 the name of the person for whom the labor was done, or materials or equipment furnished;
- .3 a copy of the agreement or purchase order pursuant to which labor, materials or equipment was furnished for use in the performance of the Construction Contract;
- .4 a brief description of the labor, materials or equipment furnished;
- .5 the date on which the Claimant last performed labor or last furnished materials or equipment for use in the performance of the Construction Contract;
- .6 the total amount earned by the Claimant for labor, materials or equipment furnished as of the date of the Claim;
- .7 the total amount of previous payments received by the Claimant; and
- .8 the total amount due and unpaid to the Claimant for labor, materials or equipment furnished as of the date of the Claim.

§ 16.2 **Claimant.** An individual or entity having a direct contract with the Contractor or with a subcontractor of the Contractor to furnish labor, materials or equipment for use in the performance of the Construction Contract. The term Claimant also includes any individual or entity that has rightfully asserted a claim under an applicable mechanic's lien or similar statute against the real property upon which the Project is located. The intent of the Bond shall be to include without limitation in the terms "labor, materials or equipment" that part of water, gas, power, light, heat, oil, gasoline, telephone service or rental equipment used in the Construction Contract, architectural and engineering services required for performance of the work of the Contractor and the Contractor's subcontractors, and all other items for which a mechanic's lien may be asserted in the jurisdiction where the labor, materials or equipment were furnished.

§ 16.3 **Construction Contract.** The agreement between the Owner and Contractor identified on the cover page, including all Contract Documents and all changes made to the agreement and the Contract Documents.

§ 16.4 **Owner Default.** Failure of the Owner, which has not been remedied or waived, to pay the Contractor as required under the Construction Contract or to perform and complete or comply with the other material terms of the Construction Contract.

§ **16.5 Contract Documents.** All the documents that comprise the agreement between the Owner and Contractor.

§ **17** If this Bond is issued for an agreement between a Contractor and subcontractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed to be Contractor.

§ **18** Modifications to this bond are as follows:

(Space is provided below for additional signatures of added parties, other than those appearing on the cover page.)

CONTRACTOR AS PRINCIPAL

SURETY

Company:

(Corporate Seal)

Company:

(Corporate Seal)

Signature: _____

Signature: _____

Name and Title:

Name and Title:

Address

Address

**ZURICH AMERICAN INSURANCE COMPANY
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY
FIDELITY AND DEPOSIT COMPANY OF MARYLAND
POWER OF ATTORNEY**

KNOW ALL MEN BY THESE PRESENTS: That the ZURICH AMERICAN INSURANCE COMPANY, a corporation of the State of New York, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, a corporation of the State of Illinois, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND a corporation of the State of Illinois (herein collectively called the "Companies"), by **Robert D. Murray, Vice President**, in pursuance of authority granted by Article V, Section 8, of the By-Laws of said Companies, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, do hereby nominate, constitute, and appoint Stephanie Gross, its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: **any and all bonds and undertakings**, and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Companies, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the ZURICH AMERICAN INSURANCE COMPANY at its office in New York, New York., the regularly elected officers of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at its office in Owings Mills, Maryland., and the regularly elected officers of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at its office in Owings Mills, Maryland., in their own proper persons.

The said Vice President does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article V, Section 8, of the By-Laws of said Companies, and is now in force.

IN WITNESS WHEREOF, the said Vice-President has hereunto subscribed his/her names and affixed the Corporate Seals of the said **ZURICH AMERICAN INSURANCE COMPANY, COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and FIDELITY AND DEPOSIT COMPANY OF MARYLAND**, this 27th day of September, A.D. 2023.

**ATTEST:
ZURICH AMERICAN INSURANCE COMPANY
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY
FIDELITY AND DEPOSIT COMPANY OF MARYLAND**



By: *Robert D. Murray*
Vice President



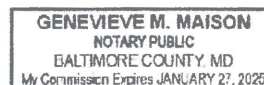
By: *Dawn E. Brown*
Secretary

**State of Maryland
County of Baltimore**

On this 27th day of September, A.D. 2023, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, **Robert D. Murray, Vice President and Dawn E. Brown, Secretary** of the Companies, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and acknowledged the execution of same, and being by me duly sworn, depose and saith, that he/she is the said officer of the Company aforesaid, and that the seals affixed to the preceding instrument are the Corporate Seals of said Companies, and that the said Corporate Seals and the signature as such officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporations.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.

Genevieve M. Maison



EXTRACT FROM BY-LAWS OF THE COMPANIES

"Article V, Section 8, Attorneys-in-Fact. The Chief Executive Officer, the President, or any Executive Vice President or Vice President may, by written instrument under the attested corporate seal, appoint attorneys-in-fact with authority to execute bonds, policies, recognizances, stipulations, undertakings, or other like instruments on behalf of the Company, and may authorize any officer or any such attorney-in-fact to affix the corporate seal thereto; and may with or without cause modify or revoke any such appointment or authority at any time."

CERTIFICATE

I, the undersigned, Vice President of the ZURICH AMERICAN INSURANCE COMPANY, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the foregoing Power of Attorney is still in full force and effect on the date of this certificate; and I do further certify that Article V, Section 8, of the By-Laws of the Companies is still in force.

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the ZURICH AMERICAN INSURANCE COMPANY at a meeting duly called and held on the 15th day of December 1998.

RESOLVED: "That the signature of the President or a Vice President and the attesting signature of a Secretary or an Assistant Secretary and the Seal of the Company may be affixed by facsimile on any Power of Attorney...Any such Power or any certificate thereof bearing such facsimile signature and seal shall be valid and binding on the Company."

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at a meeting duly called and held on the 5th day of May, 1994, and the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 10th day of May, 1990.

RESOLVED: "That the facsimile or mechanically reproduced seal of the company and facsimile or mechanically reproduced signature of any Vice-President, Secretary, or Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seals of the said Companies, this _____ day of _____, _____.



Thomas O. McClellan
Vice President

TO REPORT A CLAIM WITH REGARD TO A SURETY BOND, PLEASE SUBMIT A COMPLETE DESCRIPTION OF THE CLAIM INCLUDING THE PRINCIPAL ON THE BOND, THE BOND NUMBER, AND YOUR CONTACT INFORMATION TO:

Zurich Surety Claims
1299 Zurich Way
Schaumburg, IL 60196-1056
www.reportsfclaims@zurichna.com
800-626-4577

THE FIDELITY AND DEPOSIT COMPANY

OF MARYLAND
1299 Zurich Way Schaumburg, IL 60196

Statement of Financial Condition As Of December 31, 2022

ASSETS

Bonds.....	\$ 219,365,765
Stocks	17,619,752
Cash and Short-Term Investments	2,767,685
Reinsurance Recoverable	12,309,422
Federal Income Tax Recoverable.....	0
Other Accounts Receivable	32,200,768
TOTAL ADMITTED ASSETS.....	<u>\$ 284,263,392</u>

LIABILITIES, SURPLUS AND OTHER FUNDS

Reserve for Taxes and Expenses	\$ 545,031
Ceded Reinsurance Premiums Payable	42,850,834
Remittances and Items Unallocated	0
Payable to parents, subs and affiliates	0
Securities Lending Collateral Liability.....	0
TOTAL LIABILITIES	<u>\$ 43,395,865</u>
Capital Stock, Paid Up	\$ 5,000,000
Surplus.....	<u>240,867,527</u>
Surplus as regards Policyholders.....	240,867,527
TOTAL	<u>\$ 284,263,392</u>

Securities carried at \$78,455,274 in the above statement are deposited with various states as required by law.

Securities carried on the basis prescribed by the National Association of Insurance Commissioners. On the basis of market quotations for all bonds and stocks owned, the Company's total admitted assets at December 31, 2022 would be \$266,908,407 and surplus as regards policyholders \$223,512,542.

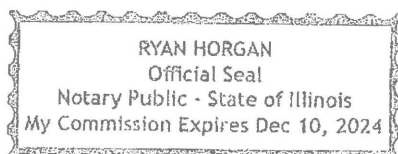
I, LAURA J. LAZARCZYK, Corporate Secretary of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the foregoing statement is a correct exhibit of the assets and liabilities of the said Company on the 31st day of December, 2022.

Digitized by
Laura J. Lazarczyk
03/10/2023

Corporate Secretary

State of Illinois }
City of Schaumburg } SS:

Subscribed and sworn to, before me, a Notary Public of the State of Illinois, in the City of Schaumburg, this 15th day of March, 2023.



Notary Public



Stephanie Gross
Assistant Vice President - Surety

Marsh USA, LLC
500 Dallas Street, STE 1500
Houston, TX 77002

stephanie.gross@marsh.com
www.marsh.com

November 3, 2023

City of Grand Junction

Subject: Riverside Parkway Bridges Asphalt Repair IFB-5317-23-DD
Bond No.: 9437690

TO WHOM IT MAY CONCERN:

We hereby give our authorization to date the above referenced Performance and Payment bonds for the City of Grand Junction, Riverside Parkway Bridges Asphalt Repair IFB-5317-23-DD, and attached Power of Attorney to correspond with the date of the contract.

Sincerely,

A handwritten signature in blue ink, appearing to read "S. Gross", with a stylized flourish extending to the right.

Stephanie Gross
Attorney-In-Fact for Fidelity and Deposit Company of Maryland

**ZURICH AMERICAN INSURANCE COMPANY
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY
FIDELITY AND DEPOSIT COMPANY OF MARYLAND
POWER OF ATTORNEY**

KNOW ALL MEN BY THESE PRESENTS: That the ZURICH AMERICAN INSURANCE COMPANY, a corporation of the State of New York, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, a corporation of the State of Illinois, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND a corporation of the State of Illinois (herein collectively called the "Companies"), by Robert D. Murray, Vice President, in pursuance of authority granted by Article V, Section 8, of the By-Laws of said Companies, which are set forth on the reverse side hereof and are hereby certified to be in full force and effect on the date hereof, do hereby nominate, constitute, and appoint **Cristina NINO, Stephanie GROSS, Jennie GOONIE, Amanda R. TURMAN-AVINA, Misty WITT, Barbara NORTON Madison DIAZ, Katie CANALES, Jessica RICHMOND and Mary Ann GARCIA, all of Houston, Texas**, Each its true and lawful agent and Attorney-in-Fact, to make, execute, seal and deliver, for, and on its behalf as surety, and as its act and deed: any and all bonds and undertakings, and the execution of such bonds or undertakings in pursuance of these presents, shall be as binding upon said Companies, as fully and amply, to all intents and purposes, as if they had been duly executed and acknowledged by the regularly elected officers of the ZURICH AMERICAN INSURANCE COMPANY at its office in New York, New York., the regularly elected officers of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at its office in Owings Mills, Maryland., and the regularly elected officers of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at its office in Owings Mills, Maryland., in their own proper persons.

The said Vice President does hereby certify that the extract set forth on the reverse side hereof is a true copy of Article V, Section 8, of the By-Laws of said Companies, and is now in force.

IN WITNESS WHEREOF, the said Vice-President has hereunto subscribed his/her names and affixed the Corporate Seals of the said **ZURICH AMERICAN INSURANCE COMPANY, COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and FIDELITY AND DEPOSIT COMPANY OF MARYLAND**, this 11th day of September, A.D. 2023.



ATTEST:
**ZURICH AMERICAN INSURANCE COMPANY
COLONIAL AMERICAN CASUALTY AND SURETY COMPANY
FIDELITY AND DEPOSIT COMPANY OF MARYLAND**

By: *Robert D. Murray*
Vice President

By: *Dawn E. Brown*
Secretary

**State of Maryland
County of Baltimore**

On this 11th day of September, A.D. 2023, before the subscriber, a Notary Public of the State of Maryland, duly commissioned and qualified, **Robert D. Murray, Vice President and Dawn E. Brown, Secretary** of the Companies, to me personally known to be the individuals and officers described in and who executed the preceding instrument, and acknowledged the execution of same, and being by me duly sworn, deposeth and saith, that he/she is the said officer of the Company aforesaid, and that the seals affixed to the preceding instrument are the Corporate Seals of said Companies, and that the said Corporate Seals and the signature as such officer were duly affixed and subscribed to the said instrument by the authority and direction of the said Corporations.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my Official Seal the day and year first above written.

Genevieve M. Maison

**GENEVIEVE M. MAISON
NOTARY PUBLIC
BALTIMORE COUNTY, MD
My Commission Expires JANUARY 27, 2025**



Authenticity of this bond can be confirmed at bondvalidator.zurichna.com or 410-559-8790

EXTRACT FROM BY-LAWS OF THE COMPANIES

"Article V, Section 8, Attorneys-in-Fact. The Chief Executive Officer, the President, or any Executive Vice President or Vice President may, by written instrument under the attested corporate seal, appoint attorneys-in-fact with authority to execute bonds, policies, recognizances, stipulations, undertakings, or other like instruments on behalf of the Company, and may authorize any officer or any such attorney-in-fact to affix the corporate seal thereto; and may with or without cause modify or revoke any such appointment or authority at any time."

CERTIFICATE

I, the undersigned, Vice President of the ZURICH AMERICAN INSURANCE COMPANY, the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY, and the FIDELITY AND DEPOSIT COMPANY OF MARYLAND, do hereby certify that the foregoing Power of Attorney is still in full force and effect on the date of this certificate; and I do further certify that Article V, Section 8, of the By-Laws of the Companies is still in force.

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the ZURICH AMERICAN INSURANCE COMPANY at a meeting duly called and held on the 15th day of December 1998.

RESOLVED: "That the signature of the President or a Vice President and the attesting signature of a Secretary or an Assistant Secretary and the Seal of the Company may be affixed by facsimile on any Power of Attorney...Any such Power or any certificate thereof bearing such facsimile signature and seal shall be valid and binding on the Company."

This Power of Attorney and Certificate may be signed by facsimile under and by authority of the following resolution of the Board of Directors of the COLONIAL AMERICAN CASUALTY AND SURETY COMPANY at a meeting duly called and held on the 5th day of May, 1994, and the following resolution of the Board of Directors of the FIDELITY AND DEPOSIT COMPANY OF MARYLAND at a meeting duly called and held on the 10th day of May, 1990.

RESOLVED: "That the facsimile or mechanically reproduced seal of the company and facsimile or mechanically reproduced signature of any Vice-President, Secretary, or Assistant Secretary of the Company, whether made heretofore or hereafter, wherever appearing upon a certified copy of any power of attorney issued by the Company, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seals of the said Companies, this 3rd day of November, 2013



MJ Pethick

Mary Jean Pethick
Vice President

TO REPORT A CLAIM WITH REGARD TO A SURETY BOND, PLEASE SUBMIT A COMPLETE DESCRIPTION OF THE CLAIM INCLUDING THE PRINCIPAL ON THE BOND, THE BOND NUMBER, AND YOUR CONTACT INFORMATION TO:

Zurich Surety Claims
1299 Zurich Way
Schaumburg, IL 60196-1056
reportsfclaims@zurichna.com
800-626-4577

Authenticity of this bond can be confirmed at bondvalidator.zurichna.com or 410-559-8790