

HWY89MNT

TYPE OF RECORD: ACTIVE - PERMANENT

CATEGORY OF RECORD: CONTRACT

NAME OF AGENCY OR CONTRACTOR: STATE DEPARTMENT OF HIGHWAYS, DIVISION OF HIGHWAYS

STREET ADDRESS/PARCEL NAME/SUBDIVISION/PROJECT: MAINTENANCE CONTRACT #DOH89-321 - MR 7400(17) - GRAND JUNCTION URBAN AREA, VARIOUS LOCATIONS - IMPROVEMENT OF CERTAIN ROUTES ON THE DESIGNATED URBAN SYSTEM WHICH ARE NOT ON ANY OTHER FEDERAL-AID SYSTEM

CITY DEPARTMENT: PUBLIC WORKS

YEAR: 1989

EXPIRATION DATE: NONE

DESTRUCTION DATE: NONE

# STATE OF COLORADO

## DEPARTMENT OF HIGHWAYS

222 South Sixth Street, P.O. Box 2107  
Grand Junction, Colorado 81502-2107  
(303) 248-7208



MR 7400(17)  
Grand Jct.  
Urban Area, 5  
Locations

April 3, 1989


John Kenney, Public Works Director  
City of Grand Junction  
250 N. Fifth Street  
Grand Junction, CO 81501

Dear Mr. Kenney:

Enclosed is your fully executed copy of the contract,  
dated March 29, 1989, in connection with the above project.

Very truly yours,

R. P. Moston  
District Engineer

by   
Tom H. Moore  
OS Project Coordinator

THM:kkw  
Enclosure  
cc: Moston/Perske  
Sabin (w/encl.)  
Jackson (w/encl.)  
file (w/encl.)



1289U

MR 7400(17)-GRAND JUNCTION  
URBAN AREA, VARIOUS LOCATIONS

## CONTRACT

THIS CONTRACT, made this 29 day of March, 1989, by and between the State of Colorado for the use and benefit of THE STATE DEPARTMENT OF HIGHWAYS, DIVISION OF HIGHWAYS, hereinafter referred to as the State, and CITY OF GRAND JUNCTION, STATE OF COLORADO, hereinafter referred to as the Local Agency or as the Contractor,

WHEREAS, authority exists in the Law and Funds have been budgeted, appropriated and otherwise made available and a sufficient unencumbered balance thereof remains available for payment in Fund Number 2001, G/L Account Number 52046, Contract Encumbrance Number 97157; and

WHEREAS, required approval, clearance and coordination has been accomplished from and with appropriate agencies; and

WHEREAS, pursuant to Title 23, United States Code and the regulations promulgated thereunder certain Federal funds have been and will in the future be, allocated for the improvement of certain routes on the designated urban system and which are not on any other Federal-Aid system, hereinafter referred to as the program; and

WHEREAS, pursuant to the aforesaid laws and regulations, routes on the urban system are eligible to be improved under the program at no cost to the State; and

WHEREAS, Federal-aid urban system funds have been made available for an urban system project, identified as MR 7400(17) for preliminary engineering and construction to resurface various locations in the

City of Grand Junction, Colorado, hereinafter referred to as the work;  
and

WHEREAS, the Local Agency has submitted initial design data (D.O.H. Form 463), dated February 6, 1989, to the State setting forth therein preliminary details, information and estimates of cost of this work, which data has been approved by the State; and

WHEREAS, the matching ratio for this Federal-aid urban system project is 78.00% Federal-aid funds to 22.00% Local Agency funds, it being understood that such ratio applies only to such costs as are eligible for Federal participation, it being further understood that all non-participating costs are borne by the Local Agency at 100%; and

WHEREAS, the Local Agency has estimated the total cost of the work and is prepared to provide its share of the cost as evidenced by an appropriate ordinance or resolution duly passed and adopted by the authorized representatives of the Local Agency, a copy of which is attached hereto and made a part hereof; and

WHEREAS, said ordinance or resolution also establishes the authority under which the Local Agency enters into this contract; and

WHEREAS, this contract is executed by the State under authority of Sections 24-92-101, et seq., 43-1-102, 43-1-106, 43-2-101(4)(c) and 43-2-144, C.R.S., as amended; and

WHEREAS, the parties hereto desire to agree upon the division of responsibilities with regard to this urban system project; and

WHEREAS, the Local Agency is adequately staffed and suitably equipped to undertake and satisfactorily complete portions of the work; and

WHEREAS, the State certifies that such work can be more advantageously performed by the Local Agency.

NOW, THEREFORE, it is hereby agreed that:

PROJECT PROVISIONS

1. The State will provide liaison with the Local Agency through the State's District Engineer, District 3, located at 222 South Sixth Street, Grand Junction, CO 81502. Said District Engineer will also be responsible for coordinating the State's activities under this contract.
2. The Local Agency has estimated the total cost of the preliminary engineering and construction to resurface portions of 23rd Street, Orchard Avenue, Grand Avenue, D Road and 12th Street in the City of Grand Junction, Colorado, hereinafter referred to as the work to be, \$258,500 which is to be funded as follows:

a.	Federal participating funds		
	(78% of \$253,431)		\$197,676
b.	Local Agency share:		
	(1) Local Agency parti-		
	cipating funds		
	(22% of \$253,431)	\$55,755	
	(2) The Local Agency non-		
	participating funds for		
	indirect costs (approx.		
	2.0% of \$253,431)	\$ 5,069	
	Subtotal (Local Agency share)		\$ 60,824
	Total Funds		\$258,500

STANDARD

GENERAL PROVISIONS

- A. The Local Agency will provide:
  - 1. Preliminary engineering, design services, preparation of construction plans, special provisions and estimates in accordance with the State's Roadway and Bridge Design Manuals and Standard Specifications for Road and Bridge Construction.
  - 2. Design work sheets used in designing of the project.
- B. The Local Agency will comply with the following:
  - 1. The Local Agency will prepare construction plans in accordance with the requirements of Engineering Services Section 107, Preparation of Construction Plans by Local Agency, attached hereto and made a part hereof.
  - 2. The Local Agency will be responsible for the plans being accurate and complete.
  - 3. Notwithstanding any consents or approvals given by the State for said plans, the State will not be liable or responsible in any manner for the structural design, details or construction of any major structures that are designed within the work of this contract.
- C. The Local Agency will comply with the applicable provisions of the State's approved Action Plan, including all Federal directives contained therein by reference.

- D. The Local Agency may enter into a contract with a consultant to do all or any portion of the proposed preliminary engineering and preparation of construction plans. In the event that Federal-aid funds provided herein are to participate in the cost of work to be done by a consultant, the contract shall comply with the requirements of FHPM, Volume 1, Chapter 7, Section 2, Administration of Negotiated Contracts. The contract with the consultant shall be preceded by an acceptable proposal and may not be executed or awarded until the selection of the consultant and the terms of the contract shall have been approved by the State and the Federal Highway Administration (FHWA). All changes in the contract shall be by written supplemental agreement and must have prior approval of the State and FHWA. As soon as the contract with the consultant has been awarded, one copy of the executed contract shall be submitted to the State. Any supplemental agreements shall be similarly submitted.
- E. The State will review construction plans, special provisions and estimates and make those changes necessary to assure compliance with State and FHWA requirements. The State will afford the Local Agency ample opportunity to review the construction plans, special provisions and estimates, as changed and said plans shall be considered final when approved and accepted by the parties hereto. The State will provide final assembly of construction plans, special provisions, estimates and contract documents. In the event all or part of the construction work is to be contracted, the State will establish appropriate Minority Business Enterprise (MBE) goals for the construction contract(s) and the

State in conjunction with the Local Agency will advertise the call for bids, and upon concurrence by the Local Agency, award the construction contract(s) to the lowest responsible bidder(s).

- F. The Local Agency will be responsible for acquiring any additional rights of way required for the completion of the project, including any necessary construction easements. Prior to this project being advertised for bids, the Local Agency will certify in writing to the State that all right of way has been acquired in accordance with the applicable State and Federal regulations, or that no additional right of way is required.
- G. The State will be responsible for assuring that the Local Agency has obtained proper clearance or approval from any utility company which may become involved in this project, by separate agreement between the Local Agency and the Utility Owner, if necessary. Prior to this project being advertised for bids, the Local Agency will certify in writing to the State that all such clearances have been obtained.
- H. In the event the project involves modification of a railroad company's facilities at a railroad grade crossing whereby the work is to be accomplished by railroad company forces, the Local Agency shall make application to the Public Utilities Commission requesting its order providing for the installation of the proposed improvements. The Local Agency shall also establish contact with the railroad company involved for the purpose of:
  - 1. Executing an agreement setting out what work is to be accomplished and the location(s) thereof, and that the costs of the improvement shall be eligible for Federal participation.



2. Obtaining the railroad's detailed estimate of the cost of the work.
  3. Establishing future maintenance responsibilities for the proposed installation.
  4. Prescribing future use or dispositions of the proposed improvements in the event of abandonment or elimination of the grade crossing.
  5. Establishing future repair and/or replacement responsibilities in the event of accidental destruction or damage to the installation.
- I. The State or the Local Agency with approval from the State will be responsible for the supervision of the construction of the project. The supervised work will consist of but not be limited to field and office engineering, inspection and material testing, and traffic control. The project will be subject to periodic inspection by the FHWA. In the event the Local Agency has engaged a consultant for the design of a major structure, the Local Agency/consultant contract shall contain the following:
1. Upon advertisement for the project for construction, the consultant shall make available services as requested by the State to assist the State in the evaluation of construction and the resolution of construction problems that may arise during the construction of the project.
  2. The consultant shall review the construction contractor's shop drawings for conformance with the contract documents and compliance with the provisions of the State Department of Highways publication, "Standard Specifications for Road and Bridge Construction", in connection with this work.

- J. The Local Agency shall provide and mark detours around the construction area to prevent any interference of the construction work and to protect the traveling public.
- K. In the event that all or part of the work is to be accomplished by force account rather than contract as specified in paragraph E hereinabove, the Local Agency will insure that all work is accomplished in accordance with the pertinent State specifications as well as FHPM, Volume 6, Chapter 4, Section 1, Subsection 14, Contract and Force Account. Work will normally be based upon estimated quantities and firm unit prices agreed to between the Local Agency, the State and the FHWA in advance of the work, as provided for in FHPM, Volume 6, Chapter 4, Section 1, Subsection 6, paragraph 12b. Such agreed unit prices shall constitute a commitment as to the value of the work to be performed. It may be agreed to participate in the work based on actual costs of labor, equipment rental, materials supplies and supervision necessary to complete the work. Where actual costs are used, eligibility of cost items shall be evaluated for compliance with Federal Procurement Regulations Part 1-15. Rental rates for publicly owned equipment will be the second shift rental rate per hour as established in the State's Construction Equipment Rental Rate Schedule dated May 1, 1986 or subsequent revisions thereof. All force account work shall have prior approval of the FHWA and shall not be initiated until the State has issued a written notice to proceed. The Local Agency shall, during all phases of the work, permit duly authorized agents and employees of the State and the FHWA to inspect the project and to inspect, review and audit the project records.

- L. The Local Agency shall maintain all books, documents, papers, accounting records and other evidence pertaining to costs incurred and to make such materials available for inspection at all reasonable times during the contract period and for 3 years from the date of final payment to the Local Agency. Copies of such records shall be furnished by the Local Agency if requested.
- M. The Local Agency will maintain and operate the improvements constructed under this contract, at its own cost and expense during their useful life, in a manner satisfactory to the State and FHWA, and will make ample provision for such maintenance each year. Such maintenance and operations shall be in accordance with all applicable statutes and ordinances, and regulations promulgated thereunder, which define the Local Agency's obligation to maintain such improvements. The State and FHWA will make periodic inspections of the project to verify that such improvements are being adequately maintained.
- N. The State will administer the Local Agency and Federal-aid funds for this project in accordance with the following provisions:
1. Costs incurred by the Local Agency  
The Local Agency will prepare and submit monthly charges for costs incurred relative to the project. The Local Agency will prepare project charges in accordance with the State's standard policies and procedures. The State will reimburse the Local Agency for the Federal-aid share of the project charges following the State's review and approval of such charges. Charges incurred by the Local Agency prior to the date of FHWA authorization for the project will not be charged to the project.

2. Costs incurred by the State

- a. The State will prepare monthly estimates of incurred costs for all construction engineering relative to the project. The State's monthly billings for the Local Agency share will be based on actual construction engineering costs. As funds are expended during the course of the work, the State will bill the Local Agency monthly for the Local Agency share of such expenditures. Upon completion of the work to be performed under this contract and acceptance thereof by the State, FHWA and the Local Agency; the State will submit a final recapitulation of the project costs to the Local Agency and a final billing for the balance due of its share of participating costs plus all non-participating costs. Upon receipt of each bill from the State, the Local Agency will remit to the State that amount billed. Should the Local Agency fail to pay monies due the State within 30 days of demand or within such other period as may be agreed between the parties hereto, the Local Agency agrees that at the request of the State, the State Treasurer may withhold an equal amount from future apportionments due the Local Agency from the Highway Users Tax Fund and to pay such funds directly to the State. Interim funds, until the State is reimbursed, shall be payable from State Highway Supplementary Fund (2001). All funds expended by the

State for the performance of any work under this contract or relative to the administration of this contract shall be charged to this project.

- b. Upon execution of this contract the State is authorized, in its discretion, to perform any necessary administrative support services pursuant to this contract. These services may be performed prior to and in preparation for any conditions or requirements of this contract, including prior FHWA approval of project work. Contractor understands and agrees that the State may perform such services, and that payment for such services shall be at no cost to the State but shall be as provided herein. At the request of contractor, the State shall also provide other assistance pursuant to this contract as may be agreed in writing. In the event that federal aid project funds remain available for payment, contractor understands and agrees the costs of any such services and assistance shall be paid to the State from project funds at the applicable rate. However, in the event that such funding is not made available or is withdrawn for this contract, or if the contractor terminates this contract prior to project approval or completion for any reason, then all actual incurred costs of such services and assistance provided by the State shall be the sole expense of the contractor. Contractor shall pay the State for all such costs within 30 days of receipt of written notice from the State requesting same.

- O. It is understood and agreed by the parties hereto that the total cost of the work stated hereinbefore is the best estimate available based on the design data as approved at the time of execution of this contract, and that such cost is subject to revisions agreeable to the parties prior to bid and award. The Local Agency has the option to accept or reject the proposal of the low bidder for work on which competitive bids have been received. The Local Agency must declare the acceptance or rejection at the award conference or within 3 working days after said bids are publicly opened, whichever occurs later. If the bid is rejected, costs incurred by the State in project development will not be eligible for participation by the FHWA and must be reimbursed to the State by the Local Agency. Following award of the construction contract(s) under paragraph E above, no further revisions in design data or cost estimate shall be made except by agreement in writing between the parties. By indicating its concurrence in such award at the award conference, the Local Agency acting by or through its duly authorized representatives, agrees to provide additional funds if required to complete the work under this project if no additional Federal-aid funds will be made available for the project. The total amount of such additional required funds will be determined at the time of final billing as provided in paragraph N above.
- P. The parties hereto agree that this contract is contingent upon all funds designated for the project herein being made available from Federal and Local Agency sources. Should these sources, either Federal or Local Agency, fail to provide necessary funds as agreed

upon herein, the contract may be terminated by either party. Any party terminating its interest and obligations herein shall not be relieved of any financial obligations which existed prior to the effective date of such termination or which may occur as a result of such termination.

- Q. The term of this contract, except for the provisions regarding maintenance, shall continue through the completion and final acceptance of this project by the State, FHWA and Local Agency. The covenants with regard to maintenance of the improvements constructed under this contract shall remain in effect in perpetuity or until such time as the Local Agency is, by law or otherwise, relieved of such responsibility.
- R. During the performance of all work under this contract, the parties hereto agree to comply with Title VI, of the Civil Rights Act of 1964, the salient points of which are shown in the Non-discrimination Provisions attached hereto and made a part hereof.
- S. The Special Provisions and Appendix B attached hereto are hereby made a part of this contract.
- T. This contract shall inure to the benefit of and be binding upon the parties, their successors, and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this contract  
the day and year first above written.

ATTEST:

STATE OF COLORADO  
ROY ROMER, GOVERNOR

Timothy J. Hines  
Chief Clerk

By Robert L. Cwenger  
for the Executive Director  
DEPARTMENT OF HIGHWAYS

APPROVED:

JAMES STROUP  
State Controller

DUANE WOODARD  
Attorney General

By James Stroup

By Barry B. Ryan  
BARRY B. RYAN  
Assistant Attorney General  
Natural Resources Section

ATTEST:

CITY OF GRAND JUNCTION, COLORADO

By Neresa E. Mastin  
Title Deputy City Clerk

By Shirley K. Clinton  
Title City Manager



RESOLUTION NO. 11-89

AUTHORIZING EXECUTION OF CONTRACT BETWEEN  
THE CITY OF GRAND JUNCTION AND THE  
STATE HIGHWAY DEPARTMENT FOR THE  
1989 FEDERAL AID URBAN SYSTEMS OVERLAY PROJECT

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION:

That the contract with the State of Colorado Department of Highways for the 1989 Federal Aid Urban Systems Overlay Project is hereby approved, and the City Manager is hereby authorized to execute the Contract on behalf of the City.

PASSED and ADOPTED this 15th day of March, 1989

Attest:

Neva S. Lockhart, CMC  
City Clerk

John W. Bennett  
President of the Council

STATE OF COLORADO )  
 )  
COUNTY OF MESA )  
 )  
CITY OF GRAND JUNCTION )

C E R T I F I C A T I O N

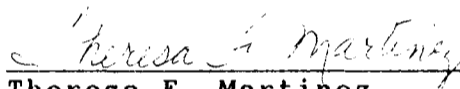
I, Theresa F. Martinez, Deputy City Clerk of the City of Grand Junction, County of Mesa, Colorado, do hereby certify that the foregoing Resolution No. 11-89 is a true and correct copy of the Resolution introduced and read at the legally convened City Council meeting March 15, 1989.

I do further state that upon motion to pass and adopt the Resolution as read, roll was called upon the motion with the following result:

Council Members voting AYE:  
RAGSDALE, MANTLO, NELSON, THEOBOLD  
MC CURRY, KIRKHART, BENNETT

Council Members voting NO: NONE

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of said City of Grand Junction this 20th day of March, 1989.

  
\_\_\_\_\_  
Theresa F. Martinez  
Deputy City Clerk

DEPARTMENT OF HIGHWAYS  
 DIVISION OF HIGHWAYS  
 STATE OF COLORADO

ENGINEERING SERVICES  
 SECTION 107

PREPARATION OF CONSTRUCTION PLANS BY LOCAL AGENCY

- 107.1 All plans shall be in accordance with the Department of Highways Drafting Manual. (Copies available through Department of Highways, Staff Design Branch).
- 107.2 The State will prepare permanent type polyester reproductions of original drawings at a nominal charge when requested by the Local Agency.
- 107.3 The Local Agency may, at its option, purchase approved standard size sheets from the State. The purchase price of such materials shall be the actual cost as incurred by the State.

The following approved standard size sheets measuring 22 inches by 34 inches with a rectangular border of 20 inches by 31-1/2 inches for the working drawing/s, are normally available from current State inventories.

DOH  
 FORM

NO.	TITLE	COMPOSITION
113	Summary of Approximate Quantities	* Mylar
125	Structure Quantities	Mylar
126	Blank Sheet	Mylar
134	Plan and Profile	Mylar
146	Cross Section	Vellum

\* Accepted trade name for polyester film

- 107.4 The State will prepare the title sheet for the final construction plans. The title sheet will be made available for Local Agency use upon request of the Local Agency. The cost incurred by the State for preparation of the title sheet will be charged to the project.

MINORITY BUSINESS ENTERPRISE (MBE)

SECTION 1. Policy. It is the policy of the Department of Transportation that minority business enterprises as defined in 49 CFR Part 23 shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement. Consequently the MBE requirements of 49 CFR Part 23 apply to this agreement.

SECTION 2. MBE Obligation. The recipient or its contractor agrees to ensure that minority business enterprises as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard all recipients or contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that minority business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted contracts.

SECTION 3. MBE Program. The contractor (subrecipient) shall be responsible for obtaining the Minority Business Enterprise Program of the Colorado Department of Highways dated January 29, 1982, as amended, and shall comply with the applicable provisions of this program.

A copy of the MBE program will be available from:

Staff Construction Engineer  
4201 E. Arkansas  
Denver, CO 80222  
Phone: (303) 757-9231

and will by request be mailed to said contractor.

Nondiscrimination Provisions:

In compliance with Title VI of the Civil Rights Act of 1964 and with Section 162(a) of the Federal Aid Highway Act of 1973, the Contractor, for itself, its assignees and successors in interest, agree as follows:

- A. Compliance with Regulations. The Contractor will comply with the Regulations of the Department of Transportation relative to nondiscrimination in Federally-assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this contract.
- B. Nondiscrimination. The Contractor, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the ground of race, color, sex, mental or physical handicap or national origin in the selection and retention of Subcontractors, including procurements of materials and leases of equipment. The Contractor will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix C of the Regulations.
- C. Solicitations for Subcontracts, Including Procurements of Materials and Equipment. In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or equipment, each potential Subcontractor or supplier shall be notified by the Contractor of the Contractors' obligations under this contract and the Regulations relative to nondiscrimination on the ground of race, color, sex, mental or physical handicap or national origin.
- D. Information and Reports. The Contractor will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the State, or the FHWA as appropriate, and shall set forth what efforts have been made to obtain the information.
- E. Sanctions for Noncompliance. In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, the State shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:

- (1) Withholding of payments to the Contractor under the contract until the Contractor complies, and/or;
- (2) Cancellation, termination or suspension of the contract, in whole or in part.

F. Incorporation of Provisions. The Contractor will include the provisions of Paragraphs A through F in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, orders, or instructions issued pursuant thereto. The Contractor will take such action with respect to any subcontract or procurement as the State or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event the Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or supplier as a result of such direction, the Contractor may request the State to enter into such litigation to protect the interests of the State and, in addition, the Contractor may request the FHWA to enter into such litigation to protect the interests of the United States.

**SPECIAL PROVISIONS****CONTROLLER'S APPROVAL**

1. This contract shall not be deemed valid until it shall have been approved by the Controller of the State of Colorado or such assistant as he may designate. This provision is applicable to any contract involving the payment of money by the State.

**FUND AVAILABILITY**

2. Financial obligations of the State payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available.

**BOND REQUIREMENT**

3. If this contract involves the payment of more than fifty thousand dollars for the construction, erection, repair, maintenance, or improvement of any building, road, bridge, viaduct, tunnel, excavation or other public works for this State, the contractor shall, before entering the performance of any such work included in this contract, duly execute and deliver to and file with the official whose signature appears below for the State, a good and sufficient bond or other acceptable surety to be approved by said official in a penal sum not less than one-half of the total amount payable by the terms of this contract. Such bond shall be duly executed by a qualified corporate surety, conditioned for the due and faithful performance of the contract, and in addition, shall provide that if the contractor or his subcontractors fail to duly pay for any labor, materials, team hire, sustenance, provisions, provender or other supplies used or consumed by such contractor or his subcontractor in performance of the work contracted to be done, the surety will pay the same in an amount not exceeding the sum specified in the bond, together with interest at the rate of eight per cent per annum. Unless such bond, when so required, is executed, delivered and filed, no claim in favor of the contractor arising under this contract shall be audited, allowed or paid. A certified or cashier's check or a bank money order payable to the Treasurer of the State of Colorado may be accepted in lieu of a bond. This provision is in compliance with 38-26-106 CRS, as amended.

**INDEMNIFICATION**

4. To the extent authorized by law, the contractor shall indemnify, save and hold harmless the State, its employees and agents, against any and all claims, damages, liability and court awards including costs, expenses, and attorney fees incurred as a result of any act or omission by the contractor, or its employees, agents, subcontractors, or assignees pursuant to the terms of this contract.

**DISCRIMINATION AND AFFIRMATIVE ACTION**

5. The contractor agrees to comply with the letter and spirit of the Colorado Antidiscrimination Act of 1957, as amended, and other applicable law respecting discrimination and unfair employment practices (24-34-402, CRS 1982 Replacement Vol.), and as required by Executive Order, Equal Opportunity and Affirmative Action, dated April 16, 1975. Pursuant thereto, the following provisions shall be contained in all State contracts or sub-contracts.

During the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, marital status, religion, ancestry, mental or physical handicap, or age. The contractor will take affirmative action to insure that applicants are employed, and that employees are treated during employment, without regard to the above mentioned characteristics. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; lay-offs or terminations; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth provisions of this non-discrimination clause.
- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, creed, color, national origin, sex, marital status, religion, ancestry, mental or physical handicap, or age.
- (3) The contractor will send to each labor union or representative of workers with which he has collective bargaining agreement or other contract or understanding, notice to be provided by the contracting officer, advising the labor union or workers' representative of the contractor's commitment under the Executive Order, Equal Opportunity and Affirmative Action, dated April 16, 1975, and of the rules, regulations, and relevant Orders of the Governor.
- (4) The contractor and labor unions will furnish all information and reports required by Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975, and by the rules, regulations and Orders of the Governor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the office of the Governor or his designee for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- (5) A labor organization will not exclude any individual otherwise qualified from full membership rights in such labor organization, or expel any such individual from membership in such labor organization or discriminate against any of its members in the full enjoyment of work opportunity, because of race, creed, color, sex, national origin, or ancestry.
- (6) A labor organization, or the employees or members thereof will not aid, abet, incite, compel or coerce the doing of any act defined in this contract to be discriminatory or obstruct or prevent any person from complying with the provisions of this contract or any order issued thereunder; or attempt, either directly or indirectly, to commit any act defined in this contract to be discriminatory.

(7) In the event of the contractor's non-compliance with the non-discrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be cancelled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further State contracts in accordance with procedures, authorized in Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975 and the rules, regulations, or orders promulgated in accordance therewith, and such other sanctions as may be imposed and remedies as may be invoked as provided in Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975, or by rules, regulations, or orders promulgated in accordance therewith, or as otherwise provided by law.

(8) The contractor will include the provisions of paragraph (1) through (8) in every sub-contract and subcontractor purchase order unless exempted by rules, regulations, or orders issued pursuant to Executive Order, Equal Opportunity and Affirmative Action of April 16, 1975, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any sub-contracting or purchase order as the contracting agency may direct, as a means of enforcing such provisions, including sanctions for non-compliance; provided, however, that in the event the contractor becomes involved in, or is threatened with, litigation with the subcontractor or vendor as a result of such direction by the contracting agency, the contractor may request the State of Colorado to enter into such litigation to protect the interest of the State of Colorado.

**COLORADO LABOR PREFERENCE**

6 a.

b. When a construction contract for a public project is to be awarded to a bidder, a resident bidder shall be allowed a preference against a non-resident bidder from a state or foreign country equal to the preference given or required by the state or foreign country in which the non-resident bidder is a resident. If it is determined by the officer responsible for awarding the bid that compliance with this subsection .06 may cause denial of federal funds which would otherwise be available or would otherwise be inconsistent with requirements of federal law, this subsection shall be suspended, but only to the extent necessary to prevent denial of the moneys or to eliminate the inconsistency with federal requirements (section 8-19-101 and 102, CRS).

**GENERAL**

7. The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation, execution and enforcement of this contract. Any provision of this contract whether or not incorporated herein by reference which provides for arbitration by any extra-judicial body or person or which is otherwise in conflict with said laws, rules and regulations shall be considered null and void. Nothing contained in any provision incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall be valid or enforceable or available in any action at law whether by way of complaint, defense or otherwise. Any provision rendered null and void by the operation of this provision will not invalidate the remainder of this contract to the extent that the contract is capable of execution.

8. At all times during the performance of this Contract, the Contractor shall strictly adhere to all applicable federal and state laws, rules and regulations that have been or may hereafter be established.

9. The signatories hereto aver that they are familiar with 18-8-301, et. seq., (Bribery and Corrupt Influences) and 18-8-401, et. seq., (Abuse of Public Office), CRS 1978 Replacement Vol., and that no violation of such provisions is present.

10. The signatories aver that to their knowledge, no state employee has a personal or beneficial interest whatsoever in the service or property described herein:

IN WITNESS WHEREOF, the parties hereto have executed this Contract on the day first above written.

Contractor  
(Full Legal Name) \_\_\_\_\_

Position (Title) \_\_\_\_\_

Social Security Number or Federal ID Number \_\_\_\_\_

(If Corporation):  
Attest (Seal)  
By \_\_\_\_\_  
Corporate Secretary, or Equivalent, or City/County Clerk

STATE OF COLORADO  
RICHARD D. LAMM, GOVERNOR

By \_\_\_\_\_  
EXECUTIVE DIRECTOR

DEPARTMENT OF \_\_\_\_\_

APPROVALS

ATTORNEY GENERAL  
By \_\_\_\_\_

CONTROLLER  
By \_\_\_\_\_