REQUEST FOR PROPOSALS

Haldi Enhancement and Fish Passage Designs

DATE:
09/06/2024

ISSUED BY:
The Watershed Center
1225 Ken Pratt Boulevard Suite 232, Longmont, CO 80501 (office)
P.O. Box 1074, Niwot, CO 80544-0210 (mailing)

CO-LED BY:
St. Vrain and Left Hand Water Conservancy District

PROPOSAL DUE DATE:
9/27/2024 by 5:00 PM MT

REQUEST FOR PROPOSALS (RFP)

The Watershed Center (in partnership with out project co-leads, St. Vrain and Left Hand Water Conservancy District) is soliciting proposals for engineering designs and permitting for a ditch enhancement and fish passage project on Left Hand Creek titled, "Haldi Enhancement and Fish Passage Designs." The project is funded by US Bureau of Reclamation (USBR) WaterSMART Planning and Project Design grant and The St. Vrain and Left Hand Water Conservancy District Partner Funding Program. **Proposals are due electronically** on or before **5:00 PM MT on 9/27/2024 to Deb Hummel at dhummel@watershed.center**. Proposals may be submitted before this date/time, but any proposals received after this date and time may not be considered for award. Sole responsibility rests with the proposing team to see that their Proposal is received on time. The Watershed Center reserves the right to reject any and all proposals, in part or in whole, and to award the proposal(s) to the most responsive and responsible design firm as deemed in the best interest of The Watershed Center; further, the right is reserved to waive any formalities or informalities contained in said proposal(s).

NOTE: The contract will be subject to the grant requirements of federal regulations. Proposal documents are available via The Watershed Center's website at www.watershed.center or on Rocky Mountain E-bids.

Expected Award Amount: Anticipated between $350,000-$400,000

Mandatory Pre-Proposal Meeting & Site Visit:
DATE/TIME: 10:00 AM MT on 09/20/2024
LOCATION: Meet at Corral Trailhead at Heil Valley Ranch, 257 Geer Canyon Drive, Boulder, CO 80302

A mandatory pre-proposal meeting will be held during the date/time noted above. Reasonable accommodations can be made for persons with disabilities if 48 hours of advance notice is provided. The purpose of this meeting is to discuss this Request for Proposals (RFP), to provide assistance to contractors in the interpretation of this RFP, and discuss any project inquiries. This meeting will be a site visit. All questions and responses discussed at the site visit will be documented and posted on Rocky Mountain E-bids. Please RSVP to Deb Hummel (dhummel@watershed.center)

No written inquiries will be accepted. All questions and responses will discussed at the Pre-Proposal Meeting and documented and posted to Rocky Mountain E-Bids by **5:00 PM MST on 9/23/2024**.

ANTICIPATED SCHEDULE

Pre-proposal meeting	**10:00 AM MT on 09/20/2024**
Responses to inquiries are provided	**5:00 PM MST on 09/23/2024**
Deadline for submitting proposal	**5:00 PM MST on 9/27/2024**
Proposals reviewed by the selection committee	**Week of 9/30/2024**
Interviews, as needed	**Week of 10/7/2024**
Contractor Selection	**Week of 10/14/2024**
Execution of Agreement*	Shortly following award
Commence Work	Immediately following execution of agreement or at a mutually agreed upon date.
Site Walk/Kickoff Meeting with Design Team	Following contract execution
Contract Term	Through January 31, 2026

*All contractor must be registered and active on SAM.gov prior to contracting.

IDEAL PROJECT TIMELINE

Project Kick Off	**November 2024**
30% Designs and Review	**January 2025**
60% Designs and Review	**September 2025**
Construction Ready Designs and Review	**November 2025**
Design Outreach and Board Presentations	**By January 2026**

1.0 INTRODUCTION

The Watershed Center and St. Vrain and Left Hand Water Conservancy District are co-leading this project, with The Watershed Center serving as the Project Manager. The Watershed Center has been awarded grant funding from US Bureau of Reclamation (USBR) WaterSMART Planning and Project Design grant and the St. Vrain and Left Hand Water Conservancy District Partner Funding Program to develop construction ready designs for a ditch enhancement and fish passage project using a collaborative approach with the funding set forth and within the established time frames. The following RFP is for work to be completed entirely in the existing project budget.

1.1 About The Watershed Center

The Watershed Center is a 501(c) (3) nonprofit organization guided by a Board of Directors representing diverse interests in the watershed. The mission of The Watershed Center is to protect and restore watersheds for people and the environment using a collaborative and science-based approach. The Watershed Center is an Equal Opportunity Employer and no otherwise qualified individual shall be subject to discrimination on the basis of race, color, religion, creed, national origin, ancestry, sex, age, sexual orientation (incl. transgender status), physical or mental disability, marriage to a co-worker and retaliation for engaging in protected activity (opposing a discriminatory practice or participating in an employment discrimination proceeding) in any phase of employment for this project.

All work on this project will be managed by The Watershed Center. All communications and coordination will go through Watershed Center staff. Additionally, work will be guided by a stakeholder team and project co-lead, including Left Hand Ditch Company, Left Hand Water District, St. Vrain and Left Hand Water Conservancy District, adjacent property owners, and USBR representatives.

1.2 About St. Vrain and Left Hand Water Conservancy District

The St. Vrain and Left Hand Water Conservancy District (District) is a non-profit water conservancy district. The District was created in 1971 to develop, conserve, protect and educate on water resources in the St. Vrain and Left Hand valleys. The District is run by a small, dedicated team and governed by a locally appointed board of directors. The Mission of the District is to serve our basins by protecting water rights, encouraging improved water management and supporting the development of additional water storage. To accomplish this mission, the District partners with other individuals and groups in the area.

The District is a co-lead on this project and will be working alongside The Watershed Center on all project elements.

3.0 STATEMENT OF WORK

3.1 Background and Purpose

The Watershed Center seeks to contract with a design team that has the experience, know-how, ability and desire to develop construction-ready designs for a multiple benefit ditch enhancement and fish passage project at the Haldi Intake on Left Hand Creek. The designs will be based off existing and collaboratively developed 10% conceptual designs. These designs as well as project considerations and goals can be found in the Concept Alternatives document: https://watershed.center/wp-content/uploads/2022/05/2022-5-11-Final-Concept-Designs-for-Website.pdf . **Note: this document contains general design considerations and alternatives for two**

structures (Haldi and Left Hand Valley) on Left Hand Creek. There were two alternatives developed for the Haldi Intake but only Alternative 1: By-Pass Channel was the selected for design by project stakeholders. This means that only general design information and Haldi Alternative 1 will be relevant for this project.

3.2 Engineering Design Site Assessment

The design team will conduct a site assessment and prepare a report for The Watershed Center and stakeholder review. The following is a list of items that should be included in the site assessment report, at a minimum, but not limited to this list.

a. Project Goals Statement for Design
    i. Clear definition of project goals and objectives (developed in collaboration with The Watershed Center and landowners).
    ii. Proposed timeline through construction with key milestones, including identified steps to bring the project to permitting completion and final construction-ready design.
    iii. Key milestones should also include time for 2-3 stakeholder review of designs and design team response to comments at the 30%, 60%, and construction ready design stages.

b. Watershed and Site Assessment
    i. Review of hydrology, hydraulics, geomorphology, sediment transport, geology, soils, water quality conditions, ecology, riparian assessment, wetland delineation, aquatic habitat, water rights, utilities and infrastructure, recreation data, and other available sources regarding the project area.
    ii. Review Base map, including but not limited to:
        - Political/property boundaries;
        - Infrastructure and utility locations (complete and confirm utility locates prior to construction);
        - Topographic survey (1' contour development from LIDAR and traditional survey methods);
        - Supporting GIS/CAD layers

c. Sediment Transfer, Hydraulic Report, and Hydraulic Models for Design and Permitting
    i. Sediment Transfer and Hydraulic Report must be prepared for the sediment transport and hydraulic conditions along Left Hand Creek and adjacent to the project location.
        - The report must include calculations and sketches of the existing (survey) and proposed hydraulic structures, using best available data wherever possible, bank-full evaluation, and 10-year, 25-year, 100-year, and 500-year floodplains.
        - All physical features will be designed to handle the 100-year event. In addition, each structure so sized shall be evaluated with respect to how it handles the 10-year, 25-year, 100-year, and 500-year events.
        - It is expected that the extents of this model will extend from approximately 1000 feet upstream and 1000 feet downstream from each end of the project area.
    ii. Hydraulic models of the preferred alternative that fits these project funding criteria must be prepared to compare the pre-project and post-project condition floodplain models.
        - Develop an "Existing Conditions" model
        - Conduct a water rights impact analysis and determine if an Augmentation Plan is needed.

iii. Ability to achieve a "No-Rise" must be included as part of the design.
    - The no-rise will be based on the pre-project and post-project conditions, current effective floodplain, and using best available hydrology.
    - Hydrology and hydraulic guidance developed by the Colorado Water Conservation Board must be used and referenced.

iv. If FLO-2D is used, the model must be on a non-proprietary platform readily available for distribution and use by others.

v. Where applicable, the work must incorporate hydrology developed by the Colorado Department of Transportation and the Colorado Water Conservation Board.
    - Reports providing this hydrology are available on the Colorado Water Conservation Board website.

d. Surveying needs must be identified.
    i. A professional land surveyor licensed in the State of Colorado shall prepare an updated land survey map focusing on the area of the project.
    ii. If deemed necessary, update the property ownership map based on tax records and determine if any additional right-of-way and/or easement is required to construct the proposed improvements.
        - This work must be conducted in an aggressive manner to allow adequate time for acquiring additional landowner access, and right of way permissions from CDOT or others if deemed necessary.
        - Plot existing and required right-of-way/easement, property lines, and ownership information in a comprehensive mapping update.

e. Review existing data on existing right-of-way, easements, utilities, property lines, ownership, channel, bankfull channel, cross-sections, topographic survey, and conduct further research as needed.

f. The contractor shall plot existing and required rights-of-way, easement, utilities, property lines, and ownership information based on tax records on to construction plan set.

3.3 Permitting and Environmental Compliance

a. Design phase includes researching and advancing all local, state, and federal permits required and for construction ready plans.
    i. Permitting research and advancement include but are not limited to permit investigation, biological assessments (species monitoring, baseline ecological conditions assessments, etc.), initial archeological evaluations, and initiating Boulder County's Limited Impact Special Use (LISU) process.

b. Develop an Environmental Compliance Plan that provides details on required permits for construction, recommended date of acquisition, duration, point of contact, and specific permit requirements or considerations that are needed for a future construction phase

c. Consult with The Watershed Center, Bureau of Reclamation, and other permitting entities on environmental compliance as needed and allowable by the WaterSMART grant.

3.4 Construction-Ready Plans

A Construction-Ready Plan that includes specific drawings including elevations and section detail as well as site preparation information including a sediment control plan, revegetation and warranty plan, grading areas, locations of drainage, utilities, and removal of hazardous materials as necessary. The Plan will include

specifications for materials and construction, considerations for Build America Buy America Act if applicable, and a detailed list of costs and schedule. The contractor will coordinate the review process with The Watershed and any other necessary entities.

a. Construction-ready plans should at a minimum include, but not be limited to:
    i. Cover Sheet
    ii. Standard Plans List
    iii. General Notes and Abbreviations
    iv. Property Ownership Maps
    v. Project Extents and Construction Limits
    vi. Plan and Profile Sheets
    vii. Typical Cross-Sections
    viii. Planting Plan (including species list and planting schedule)
    ix. Grading and Drainage Sheets
    x. Bank Stabilization, Grade Control, and Scour Sheets
    xi. Removal/Demolition Sheets
    xii. Detail Sheets
    xiii. Construction Timeline
    xiv. Construction Cost and Associated Details
    xv. Project Special Provisions
    xvi. The design team shall provide an Engineer's Opinion of Cost with the plans and electronic files.
b. Documentation of remaining plans and design elements to be completed during construction phase, including but not limited to: Erosion Control Plan, Storm Management Plan, Technical Construction Specifications, Construction Access Control/Phasing Plan, Quality Assurance Plan, Warranty Plan.

3.5 Stakeholder Engagement, Public Meetings, and Outreach

a. The design team will attend one project kick off and hold a weekly team meetings with The Watershed Center to update status and prepare meeting minutes.
b. The design team will submit design plans and construction ready plan to The Watershed Center and stakeholders for 2-3 review opportunities.
    i. The contractor will hold public meetings and one on one landowner meetings, as needed, during design development.
    ii. The contractor will attend a meeting with The Watershed Center Board of Directors, Left Hand Ditch Company Board of Directors, and Left Hand Water District Board of Directors to present plans and answer questions.
c. The contractor will provide exhibits, diagrams, and documents related to the design efforts for public meetings and hearings before boards and commissions as needed.
    i. The contractor will prepare meeting minutes for public meetings.
    ii. The contractor will collect, review, and respond to comments from stakeholders during community meetings and through other avenues, maintain a thorough record of question/response/action.
d. The contractor will attend and provide exhibits, diagrams, and documents related to the design efforts for individual meetings with landowners in the project area as needed.

i. Contractor will collect, review, and respond to comments from landowners, keeping a through record of question/response/action that will be shared with landowners.

5.0 CONDITIONS OF REQUEST FOR PROPOSALS

All proposals must comply with the following conditions:

1. A representative of your company who has contractual authority must sign the proposal. Only one proposal will be accepted from any one company serving as a prime contractor. Sub-contractors to the prime contractor may be included in the proposal of more than one contracting company.

2. All proposals must be comprehensive and professional. It is not necessary to include expensive displays or excess materials. All costs incurred in the preparation and presentation of the proposal will be entirely borne by the prospective contractor and any sub-contractors, and will not be reimbursable by The Watershed Center.

3. Prospective teams shall submit an electronic copy of the proposals. These must be received by Deb Hummel (dhummel@watershed.center) **on or before 5:00 PM MST on 9/27/2024.** Proposals may be submitted before this date/time, but any proposals received after this date and time may not be considered for award.

4. A selection committee will review the proposals received and select the design team it believes is the most qualified to furnish the desired professional services based on the criteria.

5. The selected design team will be required to execute a contractual agreement with The Watershed Center that adheres to grant requirements and federal regulations, including 2 CFR 200.317 through 200.32. The contract term will be through January 31, 2026. See sample contract in Attachment A.

6. The Watershed Center reserves the right to reject any or all proposals.

6.0 PROPOSAL ELEMENTS AND FORMAT

The response to this RFP is limited to a maximum of 10 double-sided pages in pdf format, excluding front and back covers, tabs, the cover letter, and all exhibits using no smaller than 11-point font and no less than 0.75" margins. Each response should be complete yet concise and contain only the elements shown below. Please avoid submittal of extraneous and unnecessary information.

a. Executive Summary (including DUNS number)
b. Project Team Experience and Capability to Perform Work
c. Relevant Project Experience and References
d. Project Implementation Approach (written as a Scope of Work we can include in contract)
e. Schedule and Workload Capacity
f. Cost

7.0 SELECTION PROCESS

The selection process is anticipated to follow the previously described schedule. Upon receipt of proposals, the selection committee will individually review and score each proposal. The scores will be compiled in order to rank the applicants from highest to lowest. The top ranking design team will be selected to enter into a contract agreement with The Watershed Center, subject to the approval of the designated selection committee of The Watershed Center. We may hold interviews with top-scoring consulting firms and further details about the interview format will be provided to selected firms.

The proposals will be evaluated for qualifications using the following criteria with a maximum of 100 points available. Each of the listed evaluation criteria will be scored as described above and weighted specifically as follows:

Evaluation Category	Score Range	Weighted Score Multiplier	Total Score Range
Project Team Experience and Capability to Perform Work	0-5	5	0-25
Relevant Project Experience and References	0-5	5	0-25
Project Implementation Approach	0-5	4	0-20
Schedule and Workload Capacity	0-5	3	0-15
Cost	0-5	3	0-15

8.0 CONTRACT

The design firm will enter into a contract with The Watershed Center for this work, adhering to federal regulations and provisions outlined in CFR 200.327. The contract will set forth the agreement and responsibilities as outlined in this RFP, terms of payment, and terms of contract termination. A copy of the sample contract is included in the Appendix A: Sample Contract for Design-Build Services. Note that this contract includes federal regulations, but will be modified for this project to remove construction-related elements and language.

Appendix A: Sample Contract for Design-Build Services

LEFTHAND WATERSHED OVERSIGHT GROUP
CONSTRUCTION CONTRACT

THIS CONTRACT is made this ____ day of _____, 2016 by and between Lefthand Watershed Oversight Group, a _____ (hereafter "LWOG " or "Grantee"), and _____,, (hereafter the "**Contractor**").

RECITALS

WHEREAS, LWOG, desires to have constructed the _____ as more fully described in a Request for Proposals dated _____ (hereafter the "**Project**"); and

WHEREAS, LWOG will manage the Project to accommodate the needs and concerns of stakeholders and more efficiently administer Project funds; and

WHEREAS, the Contractor provides professional construction services to the public and is fully qualified to perform the construction of the Project; and

WHEREAS, LWOG, as part of its Subrecipient Grant Agreement with the State of Colorado Department of Local Affairs (DOLA) under contract number CDBG-DR _____, has been awarded Community Development Block Grant Disaster Recovery Program funds (hereinafter referred to as CDBG-DR funds) for the purposes set forth herein (hereinafter referred to as the "**CDBG-DR Grant Agreement**"); and

WHEREAS, the Scope of Work (as hereinafter defined) included in this contract is authorized as part of the LWOG's CDBG-DR Grant Agreements; and

WHEREAS, it is beneficial to LWOG to utilize the Contractor as an independent entity to accomplish the Scope of Work as set forth herein and such endeavor would tend to best accomplish the objectives of the Grant Agreements.

NOW, THEREFORE, in consideration of the mutual promises, covenants and provisions contained herein, and the mutual benefits to be derived therefrom, the parties hereto agree as follows.

COVENANTS AND CONDITIONS

A. <u>GEOGRAPHIC SCOPE OF WORK UNDER THIS CONTRACT</u>

A. General.
The Project is to be constructed on property owned by third parties and not on property owned by the Grantee. The general geographic area involved within the scope of this contract can be described as:

[Project Area]

The foregoing may be referenced herein as the **"Project Area."** All of the Project Area is contained within Boulder County, Colorado.

B. Specific Affected Properties.
The specific parcels of real property directly involved or significantly affected by the Project as presently known are as set forth on Exhibit A, attached hereto and incorporated herein as if fully set forth. These parcels may be referred to herein as the **"Affected Properties."** The owners of the Affected Properties, as shown in the records of Boulder County, are as set forth on Exhibit A and may be referred to herein as the **"Affected Landowners."** The Grantee has obtained access and participation agreements from the Affected Landowners.

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C. Other Interested Properties.

Other parcels of property that either adjoin or neighbor the specifically affected properties as presently known, may also be set forth on Exhibit A, attached hereto and incorporated herein as if fully set forth. These parcels may be referred to herein as **"Interested Properties."** The owners of the Interested Properties, as shown in the records of Boulder County, are as set forth on Exhibit A and may be referred to herein as the **"Interested Landowners."** The Grantee will obtain authorization, consent, and access from the appropriate Interested Landowners as necessary.

II. SCOPE OF WORK UNDER THIS CONTRACT (the "Work")

A. General.

The Contractor shall complete all construction work necessary to complete the construction of the Project and furnish all equipment and materials needed for the completion of the Project in accordance with such plans, designs, drawings and specifications provided by the Grantee.

B. Consultation with the Grantee.

The Contractor shall communicate with the Grantee about the Project as necessary or appropriate in order to ensure that the Project is completed on time and in accordance with the goals, objectives and requirements of the Project as set forth in the Scope of Work, as hereinafter defined. Such communication shall occur primarily through LWOG's Executive Director, acting as Project Manager of this project.

C. Specific Duties and Responsibilities.

Additional specifics for the Project are set forth in **Exhibit B**, (the "Scope of Work") and **Exhibit C**, (the "Quality Assurance Plan"), attached hereto and made a part hereof by reference.

(i) Part 1 of the Scope of Work describes the preliminary plans and designs that have been heretofore prepared by or on behalf of the Grantee.
(ii) Part 2 of the Scope of Work sets for a breakdown of the Project into specific tasks to be accomplished by the Contractor.
(iii) Part 3 of the Scope of Work contains a more detailed statement of the goals, objectives and requirements of the Project.
(iv) The Quality Assurance Plan describes practices applicable to the Project pursuant to the Grant Agreements.

D. Cleanup and Remediation.

The Contractor shall remove all debris and excess material generated by its work and to remediate and mitigate any disturbance of vegetation and soil conditions on the Affected Properties caused by or resulting from, either directly or indirectly, the work performed by the Contractor. Such cleanup and remediation shall be to the satisfaction of the Grantee in its reasonable discretion.

E. Compliance with Applicable Laws and Grant Requirements.

The construction of the Project will comply with all applicable laws and requirements of the Grant Agreements including but not limited to the laws of the County of Boulder, Colorado, the State of Colorado and all federal laws including, without limitation, those set forth in the **General Provisions** attached hereto as **Exhibit D** which is incorporated herein by reference as if fully set forth.

F. Permitting

The Contractor shall comply with any and all permits necessary for the completion of the Project. The Contractor and any and all subcontractors or tradespersons providing services to the Contractor in the performance of the work under this Contract shall obtain and maintain during the term of their work under this Contract all permits and licenses that may be necessary under local, state or federal law.

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G. Subcontractors.

The Contractor may not assign this Contract but may subcontract any or all of the work to be performed under this Contract. However, notwithstanding any subcontract of work, the Contractor shall supervise all work performed by such subcontractor and shall be strictly liable for the performance of such work and the compliance by such subcontractors with the terms of this Contract including, without limitation, their compliance with Paragraph E of this Section II. The General Conditions set forth in Exhibit D will be incorporated into each and every subcontract for work performed under this Contract.

H. Change Orders and Extra Services.

Upon the written request of the Grantee, the Contractor shall, if requested, alter the design and construct additional improvements in addition to and/or instead of the design and improvements set forth in the Scope of Work. Notwithstanding the foregoing, services requested by the Grantee in writing shall only constitute a change order pursuant to this subsection if this Paragraph H of Section II is expressly referenced in that written request (a **"Change Order"**). The Contractor shall charge the Grantee for such extra services, if any, in accordance with the contract price adjustment, if any, set forth in the Change Order. If no contract price adjustment is referenced in the Change Order, the Contract Price as set forth in Section V shall remain unadjusted..

I. Warranty Administration

Warranty administration will be provided by the Contractor for the Project, including all planted areas, for a period of 12 months following the date of closeout of this Agreement. Warranty administration includes, but is not limited to: warranty request tracking, event documentation, and corrective response. Upon request of the Grantee the Contractor shall inspect the Project Area and perform response action as needed. Warranty response includes all necessary corrective activities, such as replanting areas, weed control, repairing in stream grade control structures and/or bank repair as needed. Geomorphic monitoring must conform to the CWCB Standard Operating Procedure for Topographic Survey of Stream Channels. The Contractor shall be responsible for obtaining all services, supplies, and subcontracts as needed to perform all warranty service needs and corrective activities. The Contractor shall provide any modification and/or updates to the project record drawings that may result from warranty activities

III. LANDOWNER RELATIONS

A. Access Agreement for Implementation and Construction.

The Grantee will obtain Access Agreement for Implementation and Construction from each of the Affected Landowners. Prior to the Contractor commencing work on the Affected Property, the Contractor must conduct a site walk and flag work areas with LWOG and property owners to confirm grading extents.

B. Contractor's Strict Compliance with terms of the Access Agreements.

The Contactor will not engage in any activities except as permitted under executed and effective Access Agreements entered into by the Grantee with Affected Landowners. The Contractor shall strictly comply with all terms, conditions and responsibilities of the Grantee and its Authorized Parties as provided under such agreements. Communication with affected landowners shall always go through LWOG's project manager.

IV. TIME OF PERFORMANCE

The Contractor hereby agrees to commence Work under this Contract on or before a date to be specified in a written "Notice to Contractor to Proceed" issued by the Grantee and to fully complete all Work except any necessary irrigation and maintenance activities under this Contract within _____[220 days or less, determined by date of entering contract] thereafter. Any necessary irrigation and maintenance activities under this Contract shall continue for an additional _____ days, as needed. The Contractor agrees to pay, as liquidated damages the sum of $250 for each calendar day or portion thereof between the end of such period and the actual completion of the Work under this Contract as further provided in Paragraph 49 of the General Conditions.

V. AMOUNT OF PAYMENTS TO CONTRACTOR AND TIME OF PAYMENTS

A. Total Amount of Payments.

The total amounts to be paid by the Grantee to the Contractor for completion of the Project and the performance by the Contractor of its obligations under this Contract shall not exceed the sum of _____ Dollars (the **"Contract Price"**). Any changes, whether additions or deductions, shall be ade in writing and agreed upon by a change order pursuant to Section II, Paragraph H, and expressly authorized by the Project Manager.

B. Invoices for Partial Completion.

The Contractor may bill the Grantee from time to time but at least on a quarterly basis. Billings shall be made by invoice delivered electronically to the Project Manager. Each invoice shall refer to the _____*(Project Number)* and specify the task or tasks as set forth in Part 2 of the Scope of Work that have been completed since the last invoice together with the estimated cost of such completed task. Each invoice shall include a certification from the Contractor that all wages, bills and amounts due under any subcontract have been paid in full. In accordance with Section 24-91-103, C.R.S., five percent (5%) will be withheld from payment of each invoice for the calculated value of work until the Project is satisfactorily completed and finally accepted by Grantee.

C. Invoice for Final Payment upon Completion.

In accordance with Section 38-26-107, C.R.S., upon completion of the Project and acceptance of the work in accordance with this Contract, the Contractor may invoice the Grantee for the balance of the full Contract Price (as such may have been adjusted by any change orders) including the retainage amount which will be paid in accordance with Section 24-91-103, C.R.S.

D. Dispute of any Invoice.

If the Grantee or the Grantee disputes any invoice for any reason, it shall notify the Contractor as soon as reasonably practicable. The Contractor understands that an invoice may be disputed after it has been submitted for payment pursuant to the terms of the Grant Agreements and a delay notice of a dispute of an invoice arising from a delay in DOLA accepting an invoice for payment or a delay in the Project Manager in communicating such a dispute to the Contractor shall not preclude or prevent the Grantee from disputing the payment of any invoice. No verbal or email communication from the Grantee shall constitute a waiver of the right to dispute any invoice.

E. Payment of Invoices.

Once an invoice from the Contractor has been accepted for payment, payment of each invoice shall be due and payable within three (3) business days after the Grantee receives reimbursement from DOLA. Contractors must deposit checks, once received, within three business days. Payment of the final invoice shall be subject to the additional provisions contained in the applicable paragraphs of the General Conditions attached hereto as Exhibit D.

F. Qualifications on Obligations to Pay.

Notwithstanding any other terms of this Contract, the Grantee may withhold any payment (whether a progress payment or final payment) to the Contractor if any one or more of the following conditions exists:

(i) The Contractor is in default of any of its obligations under this Contract.

(ii) Any part of such payment is attributable to services which are not performed according to this Contract. (The Grantee will pay for only the part thereof attributable to services performed according to this Contract.)

(iii) The Contractor fails to make payments promptly to any third parties used in the services for which the Grantee has made payment to the Contractor.

(iv) The Grantee, in its good faith judgment, determines that the portion of the compensation then remaining unpaid will not be sufficient to complete the Project or any task according to this Contract. In such case, no additional payments will be due to the Contractor until the Contractor,

at its sole cost, performs a sufficient portion of the Project or task so that the Grantee determines that the compensation then remaining unpaid is sufficient to complete the Project or task.

(v) No partial payment shall be final acceptance or approval of that part of the Project or task paid for, or shall relieve the Contractor of any of its obligations under this Contract.

G. Recapture of Funds

In the event that the Contractor fails to perform this Contract in accordance with state laws, federal laws, and/or the provisions of this Contract, Grantee reserves the right to recapture funds in an amount to compensate Grantee for the noncompliance in addition to any other remedies available at law or in equity. Repayment by the Contractor of funds under this recapture provision shall occur within the time period specified by Grantee. In the alternative, Grantee may recapture such funds from payments due under this Contract.

VI. PAYMENT, PERFORMANCE AND WARRANTY BOND

The Contractor shall, within seven (7) calendar days after the execution of this Contract furnish the Project Manager with a Performance Bond, Payment Bond and Warranty Bond each in the penal amount of one-hundred percent (100%) of the Contract Price. Such bonds shall be obtained from a surety licensed to transact such business in the state of Colorado and acceptable to both the Grantee and DOLA. The expense of such bonds shall be borne by the Contractor. Such bonds shall be maintained until such time as the final payment is made by the Grantee to the Contractor in accordance with this Contract.

VII. SUSPENSION OF THE CONTRACT

A. If the Contractor fails to comply with the terms and conditions of this contract, or whenever the Contractor is unable to substantiate full compliance with provisions of this contract, the Grantee may suspend the contract pending corrective actions or investigation, effective not less than seven (7) days following written notification to the Contractor or its authorized representative. The suspension will remain in full force and effect until the Contractor has taken corrective action to the satisfaction of the Grantee and is able to substantiate its full compliance with the terms and conditions of this contract. No obligations incurred by the Contractor or its authorized representative during the period of suspension will be allowable under the contract except: Reasonable, proper and otherwise allowable costs which the Contractor could not avoid during the period of suspension;

B. If upon investigation, the Contractor is able to substantiate complete compliance with the terms and conditions of this contract, otherwise allowable costs incurred during the period of suspension will be allowed; and

C. In the event all or any portion of the work prepared or partially prepared by the Contractor is suspended, abandoned or otherwise terminated, the Grantee shall pay the Contractor for work performed to the satisfaction of the Grantee, in accordance with the percentage of the work completed.

VIII. TERMINATION OF THE CONTRACT

A. This Contract may be terminated by either party for a material breach of this Contract by the other party not caused by any action or omission of either the terminating party by giving the other party written notice at least three (3) days in advance of the termination date. The termination notice shall specify in reasonable detail each such material breach. In the event of such termination by either party, the Contractor shall promptly deliver to the Grantee all drawings, computer programs, computer input and output, analysis, plans, photographic images, tests, maps, surveys, and written materials of any kind generated in the performance of services under this Contract up to and including the date of termination. If this Contract is so terminated by the Contractor, it will be paid for all services rendered up to the date of termination, except as set forth in Section VI above. If this Contract is so terminated by the Grantee, the Contractor will be paid for all services rendered to the date of termination, except those services which, in the Grantee's judgment, constituted the grounds, in whole or in part, of the notice of termination, and except as set forth in Section VII, above. Upon such payment, all obligations of the Grantee to the Contractor under this Contract shall cease.

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B. In addition to the foregoing, this Contract may be terminated by the Grantee for its convenience and without cause of any nature by giving the Contractor written notice at least seven days in advance of the termination date. In the event of such termination, the Contractor will be paid for all services rendered to the date of termination, except as set forth in Section VII, above, and upon such payment, all obligations of the Grantee to the Contractor under this Contract shall cease. Furthermore, in the event of such termination, the Contractor shall promptly deliver to the Grantee all drawings, computer programs, computer input and output, plans, photographic images, analyses, test, maps, surveys, and written materials of any kind generated in the performance of its services under this Contract up to and including the date of termination.

IX. CONTRACT DOCUMENTS

The documents that together comprise the entire agreement between the Grantee and the Contractor concerning the Project (the **"Contract Documents"**) consist of the following:

A. The terms and conditions of the Grant Agreements;
B. This Contract;
C. The Exhibits to this Contract;
D. The Grantee's Request for Proposals dated_____;
E. The Proposal submitted by the Contractor dated _____;
F. The Notice of Award dated _____;
G. The Existing Plans, Designs and Specifications referenced in Part 1 of Exhibit A;
H. Access Agreements obtained by the Grantee from Affected Landowners in accordance with Paragraphs A and B of Section III of this Contract;
I. The Notice to Contractor to Proceed issued by the Grantee pursuant to Section IV of this Contract.
J. Any Change Orders prepared and authorized pursuant to Section II, Paragraph H of this Contract;
K. Any amendments to this Contract provided that any such amendment is in writing, specifically references that it amends this Contract and is executed by the Contractor, in its sole discretion, and by the Grantee, in its sole discretion.

The foregoing constitutes the entire agreement between the Grantee and the Contractor and incorporates all prior verbal and written communications between the parties concerning the subject matter included herein.

In the event of conflicting provisions, requirements or discrepancies among the provisions of the Contract Documents, their provisions shall apply in the following order of priority:

(i) The DOLA Grant Agreements, unless an exception has been granted by DOLA in writing and in its sole discretion;
(ii) Amendments to this Contract;
(iii) Change Orders for clarification of drawings, design or work to be performed;
(iv) This Contract;
(v) Exhibits to this Contract;
(vi) Any applicable Access Agreement;
(vii) Final Design Plan Drawings and Specifications;
(viii) The Request for Proposals;
(ix) The Existing Preliminary Plans and Designs; and then
(x) Other documents in a reverse order of chronology (latest documents given priority over older documents).

X. NO MULTIPLE FISCAL YEAR OBLIGATION

Nothing herein shall constitute a multiple fiscal year obligation pursuant to Colorado Constitution, Article X, Section 20. Notwithstanding any other provision of this Contract, the Grantee's obligations under this contract are subject to annual appropriation by the Board of Directors of the Grantee. Any failure of the Board of Directors annually to appropriate adequate monies to finance the Grantee's obligations under this contract shall terminate this

Agreement at such time as such then-existing appropriations are to be depleted. Notice shall be given promptly to the Contractor of any failure to appropriate such adequate monies.

XI. FINANCIAL OBLIGATIONS OF THE GRANTEE

All financial obligations of the Grantee under this contract are contingent upon appropriation, budgeting, and availability of specific funds through the Grant Agreements to discharge such obligations. Nothing in this Agreement shall be deemed a pledge of the Grantee's credit, or a payment guarantee by the Grantee to the Contractor. Any failure of the State of Colorado or federal government annually to appropriate adequate monies to finance the Grantee's obligations under this contract shall terminate this contract at such time as such then-existing appropriations are to be depleted.

XII. NON-WAIVER

Nothing herein is intended or shall be interpreted to waive any of the rights, immunities, and protections provided by the Colorado Governmental Immunity Act, CRS §24-10-101, *et seq*., as from time to time amended.

XIII. MISCELLANEOUS

A. Captions.
Each paragraph of this contract has been supplied with a caption to serve only as a guide to the contents. The caption does not control the meaning of any paragraph or in any way determine its interpretation or application.

B. Amendments in Writing.
No amendment or modification shall be made to this Contract unless it is in writing and signed by both parties.

C. Governing Law and Venue.
This Contract is governed by the laws of the State of Colorado. Any suit between the parties arising under this Contract shall be brought only in a court of competent jurisdiction in Boulder County, Colorado.

D. No Third-Party Beneficiaries.
The parties intend no third-party beneficiaries under this Contract. Any person other than the Grantee, the Grantee or the Contractor receiving services or benefits under this Contract is an incidental beneficiary only.

E. No Waiver.
No waiver of any breach or default under this Contract shall be a waiver of any other or later breach of default.

F. Addresses for Notices and Communications.
All notices required or permitted to be given under this Contract shall be in writing, sent by regular mail or by electronic delivery (email), addressed as follows:

LWOG: CONTRACTOR:

Either party may, by notice in writing to the other party, change the address to which notices to that party are to be given.

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G. Authority.

Each party executing this Contract warrants that the individual executing this Contract is properly authorized to bind such party to this Contract.

IN WITNESS WHEREOF, the parties hereto have signed this Contract effective as of the day and year first above written.

CONTRACTOR

By: _____

Title: _____

LWOG

_____

_____, President

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Exhibit A
Geographic Scope

Affected Properties and Affected Landowners

Street Number	Street *	Boulder Co. Assessor parcel no.	Landowner of Record

❖ ***All street addresses are listed as Boulder County***

Interested Properties and Interested Landowners

Street Number	Street *	Boulder Co. Tax parcel no.	Landowner of Record

❖ ***All street addresses are listed as Boulder County***

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Exhibit B
Scope of Work

Part 1—Existing Preliminary Plans and Designs

Each of the foregoing is incorporated by this reference as if fully set forth herein.

Part 2—Breakdown of the Scope of Work into Tasks

Part 3—More Detailed Statement of the Goals, Objectives and Requirements of the Project

Project Goals and Objectives:

Deliverables:

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Exhibit D
General Conditions

INDEPENDENT CONTRACTOR

1) The relationship between the Contractor and the Grantee is that of an independent contractor. The Contractor shall supply all personnel, equipment, materials and supplies at its own expense, except as specifically set forth herein. The Contractor shall not be deemed to be, nor shall it represent itself as, an employee, partner, or joint venturer of the Grantee or the Grantee. No employee or officer of the Grantee shall supervise the Contractor. **The Contractor is not entitled to workers' compensation benefits and is obligated to directly pay federal and state income tax on money earned under this Contract.**

PERSONNEL

2) The Contractor represents that it has, or will secure at its own expense, all personnel required in order to perform under this contract. Such personnel shall not be employees of, or have any contractual relationship to, the Grantee or Grantee. All services required hereunder will be performed by the Contractor or under its supervision and all personnel engaged in the work shall be fully qualified and shall be authorized or permitted under federal, state and local law to perform such services. None of the work or services covered by this contract shall be subcontracted without prior written approval of the Grantee. Any work or services subcontracted hereunder shall be specified in written contract or agreement and shall be subject to each provision of this contract. The Contractor shall provide to Grantee a copy of each written subcontractor contract or agreement prior to any work being started by such subcontractor.

INTELLECTUAL PROPERTY RIGHTS

3) The Contractor shall hold and save harmless the Grantee and Grantee from any and all claims for infringement, by reason of the use of any patented design, device, material, process, or trademark or copyright, and shall indemnify the Grantee or Grantee for any costs, expenses, and damages, including court costs and attorney fees, which it might be obligated to pay by reason of infringement at any time during the prosecution or after completion of its work under this Contract.

4) All work notes, reports, documents, computer programs (non-proprietary), computer input and output, analyses, tests, maps, surveys, or any other materials developed specifically for the Project are and shall remain the sole and exclusive property of the Grantee. The Contractor, upon request by the Grantee, agrees to provide documents or any other materials developed specifically for the Project in an electronically editable format (for example, Word or Excel). The Contractor shall not, without the prior written consent of the Grantee, provide copies of any material prepared under this Contract to any other party.

CONFLICT OF INTEREST PROVISIONS

5) The Contractor represents, warrants and covenants that it presently has no interest and shall not acquire interest, direct or indirect, in any of the Affected Properties or any other real property or financial interest which would conflict in any manner or degree with the performance of its services hereunder. The Contractor further covenants that in the performance of this contract, no person having such interest shall be employed.

6) The Contractor represents, warrants and covenants that no member of the governing body of the Grantee or Grantee, and no other officer, employee, or agent of the Grantee who exercises any functions or responsibilities in connection with the planning and carrying out of the Project has any interest, direct or indirect, in the Contractor or this Contract; and the Contractor shall take appropriate steps to assure compliance with this provision for the term of the Contract.

CONTRACTOR'S DUTIES

7) Notwithstanding anything to the contrary contained in this Contract, the Grantee and the Contractor agree and acknowledge that the Grantee enters into this Contract relying on the special and unique abilities of the Contractor to accomplish the Project. The Contractor accepts the relationship of trust and confidence established between it and the Grantee by this Contract. The Contractor covenants with the Grantee to use its best efforts. The Contractor shall further the interests of the Grantee according to the Grantee's requirements and procedures, according to the highest professional standards and in compliance with all applicable national, federal, state, municipal laws, regulations, codes, ordinances, and orders and with those of any other body having jurisdiction.

8) The Contractor represents, covenants, and agrees that it has and will undertake no obligations, commitments, or impediments of any kind that will limit or prevent it from the timely completion of the Project, loyally and strictly according to the best interests of the Grantee. In case of any conflict between interests of the Grantee and any other entity, the Contractor shall fully and immediately disclose the issue to the Grantee and shall take no action contrary to the Grantee's interests.

9) The Contractor has familiarized itself with the nature and extent of the Contract Documents, the geographic area of the Project and its physical characteristics, including without limitation the existing improvements, soil conditions, drainage, topography and all other features of the terrain and the local conditions and federal, state and local laws, ordinances, rules and regulations that in any manner may affect the cost, progress or performance of the work to be performed under this Contract.

10) The Contractor understands that it shall not be allowed any extra compensation by reason of any condition as described in Paragraph 9 above concerning which it might have fully informed itself prior to signing this Contract.

11) The Contractor is retained to perform work for the Grantee that includes confidential data, work product, and other privileged or confidential information that is protected under pertinent laws and Grantee policies. In order to maintain the fact and appearance of absolute objectivity, loyalty, and professionalism, the Contractor shall not, without the prior written consent of the Grantee, do any of the following:

a. Disclose at any time information obtained as a result of this contractual relationship to any third party;
b. Make any public statements or appear at any time to give testimony at any public meeting on the subject matters with regard to which the Contractor is or was retained by the Grantee. To the extent that the Grantee provides written consent for the disclosure of information or authorizes the making of public statements, the Grantee may impose such conditions upon such disclosure or communications as it thinks appropriate, and the Contractor agrees to comply with those conditions. This provision shall not preclude the Contractor from providing information to law enforcement officials in connection with any criminal justice investigation.

12) The Contractor represents, covenants, and agrees that all of the services furnished, work performed and materials used by the Contractor under this Contract shall be of at least the standard and quality prevailing among highly competent professionals who perform work of a similar nature to the work described in this Contract and shall be of good quality, free from faults or defects and in conformance with the Contract Documents to the reasonable satisfaction of the Grantee.

13) The Contractor represents, covenants, and agrees that its work will be accurate and free from any material errors. The Contractor additionally represents, covenants, and agrees that the planning for the Project will conform to all foreseeable uses thereof. Grantee approval shall not diminish or release the Contractor's duties since the Grantee is ultimately relying upon the Contractor's skill and knowledge.

14) The Contractor agrees to call to the Grantee's attention errors in any drawings, plans, sketches, instructions, information, requirements, procedures, and other data supplied to the Contractor (by the Grantee, Grantee or any other party) that it becomes aware of and believes may be unsuitable, improper, or inaccurate in a material way. However, the Contractor shall not independently verify the validity, completeness, or accuracy of such information unless otherwise expressly engaged to do so by the Grantee. Nothing shall detract from this obligation unless the

Contractor advises the Grantee in writing that such data may be unsuitable, improper, or inaccurate and the Grantee nevertheless confirms in writing that it wishes the Contractor to proceed according to the data as originally given.

15) The Contractor represents, covenants, and agrees to furnish efficient business administration and superintendence and perform the services required by this Contract in the best, most expeditious and most economical manner consistent with the interests of the Grantee.

16) The Contractor represents, covenants and agrees that it holds all required licenses or certifications to perform the services under this Contract and shall maintain them in full force through the duration of the Project.

17) The Contractor shall promptly pay all bills for labor and material performed and furnished by others in performance of the Project.

18) The Contractor is solely responsible for its own review and understanding of the terms and requirements under the Grant Agreements and shall fully comply with such requirements in performing the services required by this Contract.

19) The Contractor shall comply with the Watershed Best Management Practices, as referenced at http://www.coloradoewp.com/guideline-and-resources, so as to prevent harm from arising to the Affected Properties as a result of the Contractor's performance of work under this Contract.

20) The Contractor shall comply with all requirements of OSHA regulations, NRCS Supplement to OSHA Parts 1910 and 1926, attached as **Exhibit E**, and the Contract Work Hours and Safety Standards Act as supplemented by Department of Labor Regulations. The Contractor shall report to Grantee periodically regarding its compliance with safety requirements.

COMPLIANCE WITH LAWS

21) This Contract is funded in whole or in part with federal funds through the Grantee's Grant Agreements to fund projects approved under the NRCS Emergency Watershed Protection Program and DOLA's Community Development Block Grants. Contractors are responsible for complying with those regulations and restrictions normally associated with federally-funded programs and any other requirements that the state may prescribe. The Contractor shall comply with all applicable laws, ordinances and codes of the state and local government and the Contractor shall save the Grantee harmless with respect to any damages arising from any tort done in performing any of the work embraced by this Contract.

22) The Contractor will comply with all federal statutes relating to nondiscrimination and environmental protection, including but not limited to those listed herein, including the Clean Water Act and the Clean Air Act.

23) Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, creed, religion, sex or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance including funds received under the Grant Agreements.

24) Under Section 109 of the Housing and Community Development Act of 1974, no person in the United States shall, on the grounds of race, color, creed, religion, sex or national origin, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title including funds received under the Grant Agreements.

25) Under the Age Discrimination Act of 1975, as amended, (42 U.S.C. 610 et. seq.), no person shall be excluded from participation, denied program benefits, or subjected to discrimination on the basis of age under any program or activity receiving federal funding assistance including funds received under the Grant Agreements.

26) Under Section 504 of the Rehabilitation Act of 1973, as amended, (29 U.S.C. 794), no otherwise qualified individual shall, solely by reason or his or her disability, be excluded from participation (including employment),

denied program benefits, or subjected to discrimination under any program or activity receiving federal funds including funds received under the Grant Agreements.

27) Under Public Law 101-336, Americans with Disabilities Act of 1990, no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

28) The Contractor shall comply with Equal Opportunity provisions. 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, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; 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 setting forth the provisions of this Equal Opportunity (Federally Assisted Construction) 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, color, religion, sex, or national origin.

3. The Contractor will send to each labor union or representative of workers, with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representative of the Contractor's commitments under
this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

4. The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

5. The Contractor will furnish all information and reports required by Executive Order No. 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

6. In the event of the Contractor's noncompliance with the Equal Opportunity (Federally Assisted Construction) clause of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended, in whole or in part, and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order No. 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order No. 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as provided by law.

7. The Contractor will include this Equal Opportunity (Federally Assisted Construction) clause in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the

29) The Contractor certifies that it shall comply with the provisions of section 8-17.5-101 *et seq*., C.R.S. The Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract or enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract.

30) Under the Contract Work Hours and Safety Standards Act, as amended, (40 U.S.C. 327-332), workers must be compensated for overtime and be provided safe and healthy working conditions when working on federally assisted (including funds received under the Grant Agreements) construction projects.

31) The Contractor represents, warrants, and agrees (i) that it has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under this Contract through participation in either the E-Verify or the Department Program; (ii) that the Contractor is prohibited from using either the E-Verify Program or the Department Program procedures to undertake pre-employment screening of job applicants while the public contract for services is being performed; and (iii) if the Contractor obtains actual knowledge that a subcontractor performing work under the public contract for services knowingly employs or contracts with an illegal alien, the Contractor shall be required to:

a. Notify the subcontractor and the contracting state agency or political subdivision within three (3) days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

b. Terminate the subcontract with the subcontractor if within three (3) days of receiving the notice required pursuant to 8-17.5-102(2)(b)(III)(A) the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

32) The Contractor further agrees that it shall comply with all reasonable requests made in the course of an investigation under section 8-17.5-102(5), C.R.S. by the Colorado Department of Labor and Employment. If the Contractor fails to comply with any requirement of this provision or section 8-17.5-101 *et seq.,* C.R.S., the Grantee may terminate this contract for breach and the Contractor shall be liable for actual and consequential damages to the Grantee.

33) The Contractor will comply with the provisions of the Federal Fair Labor Standards Act.

34) Section 3 of the Housing and Community Development Act of 1968 Compliance in the Provision of Training, Employment, and Business Opportunities: The work to be performed under this Agreement is on a project assisted under a program providing direct federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given lower-income residents of the project area; and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part, by persons residing in the area of the project. The Contractor will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of HUD set forth in 24 CFR 135, and all applicable rules and orders of HUD and CTED issued thereunder prior to the execution of this contract. The Contractor certifies and agrees that it is under no contractual or other disability that would prevent it from complying with these provisions.

35) No funds under this Contract shall be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions.

36) The Contractor shall not subcontract with parties excluded from in the federal System for Award Management, which includes all parties debarred, suspended, or otherwise excluded by agencies or declared ineligible to receive federal funds.

COMPLIANCE WITH DAVIS-BACON ACT PROVISIONS

37) The Project to which the construction work covered by this Contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. 1. **(i) Minimum Wages.** All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor as determined between three (3) and ten (10) days prior to the bid opening which determination is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the Contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section l(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; provided, that the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the Contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) **(a)** Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the Contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the Contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will

notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this Contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the Contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the Contractor does not make payments to a trustee or other third person, the Contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the Contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the Contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the Contractor under this Contract or any other Federal contract with the same prime Contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime Contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the Contractor or any subcontractor the full amount of wages required by the contract In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the Contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the Contractor, disburse such amounts withheld for and on account of the Contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. **(i) Payrolls and basic records.** Payrolls and basic records relating thereto shall be maintained by the Contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section l(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section l(b)(2)(B) of the Davis-Bacon Act, the Contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) **(a)** The Contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the

contract, but if the agency is not such a party, the Contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The Contractor shall also submit payrolls for those weeks after work begins and where no work is performed for whatever reason with hours and payments marked with zeroes (0) until the final walk through is completed. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at *http://www.dol.gov/esa/whd/forms/wh347instr.htm* or its successor site. The prime Contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the Contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the Contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime Contractor to require a subcontractor to provide addresses and social security numbers to the prime Contractor for its own records, without weekly submission to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 1215-0149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the Contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A.3.(ii)(b).

(d) The falsification of any of the above certifications may subject the Contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The Contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job and shall not require notice of planned interviews. If the Contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the Contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) Apprentices. Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the Contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a Contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the Contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the Contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees. Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant ',to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the Contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

38) **Compliance with Copeland Act requirements.** The Contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this Contract.

39) **Limitation on Public Statements and Lobbying Activity.**

Contractor are retained to provide information and advice to the Grantee that includes confidential data, work product, and other privileged or confidential information that is protected under pertinent laws and Grantee policies and described in Grantee's sub- agreement with the State. In order to maintain the fact and appearance of absolute objectivity, loyalty, and professionalism, Contractor shall not, without the prior written consent of the Grantee, do any of the following:

a) Disclose at any time information obtained as a result of this contractual relationship to any third party.

b) Lobby any Grantee agency on any pending matter while they are under Agreement to the Grantee.

c) Make any public statements or appear at any time to give testimony at any public meeting on the subject matters with regard to which Contractor is or was retained by the Grantee. To the extent that the Grantee provides written consent for the disclosure of information or authorizes the making of public statements, the Grantee may impose such conditions upon such disclosure or communications as it thinks appropriate, and Contractor agree to comply with those conditions. This provision shall not preclude Contractor from providing information to law enforcement officials in connection with any criminal justice investigation.

40) Byrd Anti-Lobbying Amendment.

The Contractor shall supply a certification that it has not used federal funds to pay any person or organization for influencing or attempting to influence an officer or employee or any agency, a member of Congress, officer or employee of Congress in connection with obtaining any federal contract or grant.

INDEMNIFICATION

41) The Contractor shall comply with the requirements of all applicable laws, rules, and regulations in connection with the services of the Contractor, and shall exonerate, indemnify, and hold harmless the Grantee, its officers, directors, agents, and all employees from and against it, and local taxes or contributions imposed or required under the Social Security, Workers' Compensation, and Income Tax Laws. Further, the Contractor shall exonerate, indemnify, and hold harmless the Grantee, Interested Landowners, Affected Landowners, The State of Colorado and Grantee with respect to any damages, expenses, or claims arising from or in connection with any of the work performed or to be performed under this contract by the Contractor. This shall not be construed as a limitation of the Contractor's liability under this Contract or as otherwise provided by law. Nothing herein shall be construed as a waiver express or implied of any of the immunities, rights, benefits, protections, or other provisions, of the Colorado Governmental Immunity Act, CRS § 24-10-101, *et seq*.

INSURANCE

42) The Contractor agrees to procure and maintain in force during the terms of this Contract, at its own cost, the following minimum coverages:

a.	Workers' Compensation and Employers' Liability	Statutory
b.	Commercial General Liability	
	Bodily Injury & Property Damage General Aggregate Limit	$1,000,000
	Personal & Advertising Injury Limit	$1,000,000
	Each Occurrence Limit	$1,000,000

The policy shall be on an Occurrence Form and include the following coverages: Premises Operations; Personal and Advertising Injury; Medical Payments; Liability Assumed under an Insured Contract; Independent Contractors; and Broad Form Property Damage. Coverage provided should be at least as broad as found in Insurance Services Office (ISO) form CG0001.

c. Professional Liability (errors and omissions)

Each Claim/Loss:	$1,000,000
Aggregate:	$1,000,000
Products and Completed Operations Aggregate	$1,000,000
Any one Fire	$ 50,000

This coverage shall remain in place for at least two years after the project is complete.

d. Commercial Automobile Liability Limits

Bodily Injury & Property Damage Combined Single Limit	$1,000,000
Medical Payments per person	$ 5,000
Uninsured/Underinsured Motorist	$ 100,000

e. Waiver of subrogation

Coverage is to be provided on Business Auto, Garage, or Truckers form. Coverage provided should be at least as broad as found in ISO form CA0001 (BAP), CA0005 (Garage) or CA0012 (Trucker) including coverage for owned, non-owned, & hired autos.

43) Insurance required by this Contract shall be primary coverage, unless otherwise specified, and shall specify that in the event of payment for any loss under the coverage provided, the insurance company shall have no right of recovery against the Grantee and Grantee or its insurers. All policies of insurance under this Contract shall be provided by a reputable insurance company or companies qualified to conduct business in Colorado. The Grantee reserves the right, but shall not have the duty, to reject any insurer which it finds to be unsatisfactory and insist that the Contractor substitute another insurer that is reasonably satisfactory to the Grantee. Property and Liability Insurance Companies shall be licensed to do business in Colorado and shall have an AM Best rating of not less than A- VI. This insurance shall be maintained in full force and effect during the term of this Contract and for the additional periods set forth herein and shall protect the Contractor, its agents, employees and representatives from claims for damages for personal injury and wrongful death and for damages to property arising in any manner from negligent or wrongful acts or omissions of the Contractor, its agents, employees, and representatives in the performance of the services covered herein.

44) All Insurance policies (except Workers' Compensation and Professional Liability) shall include the Grantee, Interested Landowners, Affected Landowners, Grantee, the State of Colorado and its officers, directors, agents and employees as additional insureds as their interests may appear. The additional insured endorsement should be at least as broad as ISO form CG2010 for General Liability coverage and similar forms for Commercial Auto and Umbrella Liability.

45) Automobile insurance shall, without limitation, cover all automobiles used in performing any services under this Contract.

46) In the case of any claims-made insurance policies, the Contractor shall procure necessary retroactive dates, tail coverage and extended reporting periods to cover a period at least two (2) years beyond the expiration date of this Contract. This obligation shall survive the termination or expiration of this Contract.

47) The Contractor shall not cancel, materially change, or fail to renew required insurance coverages. The Contractor shall notify the Project Manager of any material reduction or exhaustion of aggregate limits. Should the Contractor fail to immediately procure other insurance, as specified, to substitute for any policy canceled before final payment to the Contractor, the Grantee may procure such insurance and deduct its cost from any sum due to the Contractor under this Contract.

48) Certificates showing that the Contractor is carrying the above-described insurance, and the status of the additional insureds, shall be furnished to the Project Manager prior to the execution of this Contract by the Grantee. Certificates of insurance on all policies shall give the Grantee written notice of not less than forty-five (45) days prior to cancellation or change in coverage. The Contractor shall forthwith obtain and submit proof of substitute insurance in the event of expiration or cancellation of coverage.

BOOKS AND RECORDS OF THE CONTRACTOR

49) The Contractor agrees to maintain such records and follow such procedures as may be required under the Grant Agreements and any such procedures as the Grantee or Grantee may prescribe. In general, such records will include information pertaining to the contract, obligations and unobligated balances, assets and liabilities, outlays, equal opportunity, labor standards (as appropriate), and performance.

50) All such records and all other records pertinent to this contract and work undertaken under this contract shall be retained by the Contractor for a period of five years after final payment is made by the Grantee to the Contractor under this Contract project, unless a longer period is required to resolve audit findings or litigation. In such cases, the Grantee shall request a longer period of record retention.

51) The Grantee, Grantee and other authorized representatives of the state and federal government shall have access to any books, documents, papers and records of the Contractor which are directly pertinent to the contract for the purpose of making audit, examination, excerpts, and transcriptions.

52) The Grantee, the Project Manager and duly authorized officials of the state and federal government shall have full access to and the right to examine any pertinent documents, papers, records and books of the Contractor involving transactions related to the Grant Agreements or this contract.

TIME FOR COMPLETION AND LIQUIDATED DAMAGES

53) Time is of the essence of each and every portion of this Contract. It is hereby understood and mutually agreed, by and between the Contractor and the Grantee, that the date of beginning and the time for completion as specified in Section IV of this Contract of the work to be done hereunder are essential conditions of this Contract; and it is further mutually understood and agreed that the work embraced in this Contract shall be commenced on a date to be specified in the "Notice to Proceed." The Contractor agrees that the Work shall be prosecuted regularly, diligently, and uninterruptedly at such rate of progress as will insure full completion thereof within the time specified. It is expressly understood and agreed that the time for the completion of the Work set forth in this Contract is a reasonable time for the completion of the same, taking into consideration the average climatic range and usual industrial conditions prevailing in this locality. Upon becoming aware of any reason why there may be a delay in the completion of any portion of the Work under this Contract, the Contractor shall notify the Project Manager of the nature and cause of the delay.

If the Contractor refuses, neglects or fails for any reason to complete the work within the time specified, or any proper extension thereof granted by the Grantee in its sole discretion, then the Contractor shall pay the Grantee the amount specified in this Contract, not as a penalty but as liquidated damages for such breach of contract. Such amount is fixed and agreed upon by and between the Contractor and the Grantee because of the impracticability and extreme difficulty of fixing and ascertaining the actual damages the Grantee would in such event sustain.

PROJECT COMPLETION AND FINAL PAYMENT

54) Upon completion of work on the Project, the Contractor shall, within ten (10) calendar days send the Grantee notice that the Project has been completed (the "**Contractor's Notice of Completion**"). This Notice of Completion shall be accompanied by an invoice from the Contactor for the balance of the Contract Price increased or decreased by any adjustment of such Contract Price made by any Change Order. It shall also be accompanied by an affidavit from the Contractor stating that all subcontractors, vendors, persons or firms who have supplied labor or

materials for the work on the Project have been fully paid or satisfactorily secured and that all taxes, if any, have been paid. The Contractor's Notice of Completion shall also be accompanied by a statement from the surety company that provided the Contractor's payment and performance bonds, as required under Section VI of this Contract, consenting to final payment by the Grantee under this Contract.

55) Upon receipt of a Contractor's Notice of Completion, the Grantee shall:

a) Be entitled to publish a Notice of Final Settlement in accordance with the provisions of Colorado Revised Statutes Section 38-26-107;

b) Be entitled to inspect the Affected Properties and provide written notice to the Contractor of either (i) any observed deficiencies in the work to have been performed under this Contract or (ii) the acceptance by the Grantee of the work performed under this Contract; provided, however, that such written notice shall not waive any claims the Grantee may otherwise have against the Contractor under this Contract.

56) Upon the expiration of the time allowed for claims to be made under the provisions of Colorado Revised Statutes Section 38-26-107 or within three (3) calendar days after receipt by the Grantee of reimbursement of the Contractor's final invoice pursuant to the Grant Agreements, whichever comes later, the Grantee shall pay the Contractor the balance of the Contract Price increased or decreased by any adjustment of such Contract Price made by any Change Order less the amount of any claims received by the Grantee in accordance with the provisions of Colorado Revised Statutes Section 38-26-107.

57) By submitting a Contractor's Notice of Completion to the Grantee, the Contractor, by such act, agrees to indemnify and save the Grantee, the Grantee, the Affected Landowners, the Interested Landowners, The State of Colorado and their respective agents harmless from any and all claims growing out of any demand (whether with merit or not) from any subcontractor, laborers, workmen, mechanics, material men and furnishers of machinery, equipment, tools, supplies or materials incurred by the Contractor in the performance of the work under this Contract.

58) The acceptance by the Contractor of final payment shall be and shall operate as a release of the Grantee of all claims and all liability to the Contractor for all claims for all work performed and materials provided in connection with this Contract.

AUDITS AND INSPECTIONS

59) The Grantee, its independent certified public accounts, the State Auditor of the State of Colorado, DOLA or their delegates shall have the right to review and monitor the financial records, payroll records, records of personnel, invoice of materials and other components of the work and services provided and undertaken as part of the project and this Contract, by whatever legal and reasonable means are deemed expedient by such persons. Such persons shall also be permitted to inspect all work and worksites at any time deemed appropriate by such persons.

SUSPENSION OF THE CONTRACT

60) If the Contractor fails to comply with the terms and conditions of this contract, or whenever the Contractor is unable to substantiate full compliance with provisions of this contract, the Grantee may suspend the contract pending corrective actions or investigation, effective not less than seven (7) days following written notification to the Contractor or its authorized representative. The suspension will remain in full force and effect until the Contractor has taken corrective action to the satisfaction of the Grantee and is able to substantiate its full compliance with the terms and conditions of this contract. No obligations incurred by the Contractor or its authorized representative during the period of suspension will be allowable under the contract except:

a. Reasonable, proper and otherwise allowable costs which the Contractor could not avoid during the period of suspension;

D. If upon investigation, the Contractor is able to substantiate complete compliance with the terms and conditions of this contract, otherwise allowable costs incurred during the period of suspension will be allowed; and

E. In the event all or any portion of the work prepared or partially prepared by the Contractor is suspended, abandoned or otherwise terminated, the Grantee shall pay the Contractor for work performed to the satisfaction of the Grantee, in accordance with the percentage of the work completed.

TERMINATION OF THE CONTRACT

61) This Contract may be terminated by either party for a material breach of this Contract by the other party not caused by any action or omission of either the terminating party or DOLA by giving the other party written notice at least three (3) days in advance of the termination date. The termination notice shall specify in reasonable detail each such material breach. In the event of such termination by either party, the Contractor shall promptly deliver to the Grantee all drawings, computer programs, computer input and output, analysis, plans, photographic images, tests, maps, surveys, and written materials of any kind generated in the performance of services under this Contract up to and including the date of termination. If this Contract is so terminated by the Contractor, it will be paid for all services rendered up to the date of termination, except as set forth in Section V above. If this Contract is so terminated by the Grantee, the Contractor will be paid for all services rendered to the date of termination, except those services which, in the Grantee's judgment, constituted the grounds, in whole or in part, of the notice of termination, and except as set forth in Section V above. Upon such payment, all obligations of the Grantee to the Contractor under this Contract shall cease.

62) In addition to the foregoing, this Contract may be terminated by the Grantee for its convenience and without cause of any nature by giving the Contractor written notice at least seven days in advance of the termination date. In the event of such termination, the Contractor will be paid for all services rendered to the date of termination, except as set forth in Section V above and upon such payment, all obligations of the Grantee to the Contractor under this Contract shall cease. Furthermore, in the event of such termination, the Contractor shall promptly deliver to the Grantee all drawings, computer programs, computer input and output, plans, photographic images, analyses, test, maps, surveys, and written materials of any kind generated in the performance of its services under this Contract up to and including the date of termination.

Exhibit F

Subcontractor Signatures

Exhibit G
Resolution