

SAGUACHE COUNTY GENERAL CONDITION'S

The following general conditions are acknowledged by the County and the Contractor as being incorporated into the attached Contract as if set out in full therein.

I. Definitions:

Architect/Engineer – The Principal architect or engineer under contract with or in employ of Saguache County who prepare the working drawings and/or specifications of the work and who, depending on the terms of this engagement, might or might not be responsible for the supervision of the Contractor's performance of the work.

Contract – The written agreement between the County and the Contractor to perform the work specified in the attached contract.

Contractor – The sole proprietorship, partnership, or corporation to which the purchase order is addressed.

County – Saguache County, acting by and through the chairperson of the Board of County Commissioners or his/her designee.

Inspector – An employee of Saguache County assigned to inspect the Contractor's performance of the work.

Subcontractor – A sole proprietorship, partnership, or corporation which has a contract with the Contractor of the performance of labor at the site for the work regardless of whether supplying of material is a part of such contract, but without contractual relationship to the purchaser.

Supplier – A sole proprietorship, partnership, or corporation which over-the-counter or under contract furnishes the Contractor material or equipment incorporated in the work or otherwise incident to the Contractor's performance, but which performs no labor at the work site.

Work – The material and/or labor the Contractor is to furnish individually or through subcontractors or suppliers to the County by the completion of the contract.

II. Royalties and Patents:

The Contractor shall pay all royalties and license fees. He shall defend all suits or claims for infringement of any patent rights and shall save Saguache County harmless from loss on account thereof.

III. Permits, Licenses and Regulations:

Permits and licenses require for prosecution of the work shall be procured and paid for by the Contractor.

IV. **Protection of Work and Property:**

The Contractor shall continuously maintain, at his expense, adequate protection of the work and the County's or public property and shall take all practicable precautions in the interest of safety.

V. **Inspection of the Work:**

The inspector assigned to the work and any other authorized representative of the County shall at all times have access to the site of the work for purpose of inspection. The Contractor shall provide safe, convenient and proper facilities for such access and inspection.

VI. **Superintendent of the Work:**

The Contractor shall keep a competent and reliable superintendent on the job at all times that work is being performed. The superintendent in the Contractor's absence from the site, shall stand in the stead of the Contractor and any authoritative directions given to the superintendent shall be as binding as if given to the Contractor.

VII. **Changes in the Work:**

The County, without invalidating the purchase order contract, may order extra work, or make any other reasonably related change by altering, adding to or deducting from the work. The Contractor price and time for completing of the work may then be adjusted accordingly by mutual agreement with a change order issued by Saguache County.

VIII. **Deduction for Uncorrected Work:**

If the County finds that work was not performed in accordance with the contract, equitable reduction of the contract price shall be made therefore.

IX. **Insurance:**

Contractor shall, at its sole cost and expense, procure and maintain during the entire period of its performance hereunder the following coverage and limits of insurance with companies acceptable to the County.

- A. Worker's Compensation (including occupational disease), and Employer's Liability Insurance in accordance with any applicable Worker's Compensation laws on all employees, servants and/or agents connected with or engaged in the performance of Contractor's obligations hereunder.
- B. Commercial general liability insurance with personal injury and property damage limits at a combined single limit of not less than \$600,000.00 per occurrence, and \$1,200,000.00 general aggregate. Said policy(ies) shall include Completed Operations and /or Product Liability coverage and Contractual Liability coverage for any liability assumed under the terms of this Agreement.

Coverage enumerated in this insurance provision represent only the minimum insurance required by the County, and Contractor should rely on its expertise to obtain any additional insurance coverages needed for the County and the Contractor in its performance hereunder.

If requested by the County, Contractor shall provide its County with certificates of insurance indicating the Contractor and its subcontractors are covered by insurance as set forth above. Where requested and furnished, such certificates must be approved by the County prior to the commencement of any work hereunder. Each such certificate shall provide that the County shall receive thirty (30) days prior written notice of cancellation of such insurance coverage.

X. **Performance Bond and Labor and Materials . Payment Bond:**

If required in the invitation to Bid or if the amount of the contract price is in excess of fifty thousand dollars (\$50,000.00), for the construction, erection, repair, maintenance, or improvement of any building, road, bridge, viaduct, tunnel, excavation, or other such work included in said contract, the Contractor shall duly execute, deliver to and file with the County Attorney a good and sufficient bond, or other acceptable surety, approved by the County Attorney, in the penal sum not less than 100% of the total amount payable by the terms of the Contract.

Such bond shall be duly executed by a qualified corporate surety, conditioned on the faithful performance of the contract, and in addition, shall provide that if the Contractor or his subcontractor fails to duly pay for any labor, materials, or other supplies used or consumed by such Contractor or subcontractor in performance of the work contracted to be done , the surety will pay the same in an amount not exceeding the sum specified in the bond together with interest at the rate of eight (8) percent (%) per annum. Unless said bond is executed, delivered and filed, no claims in favor of the Contractor arising under such contract shall be audited, allowed or paid.

XI. **Use of Premises**

The Contractor shall confine his apparatus, storage of materials and operations of his workmen to such places and within much limits as to cause later inconvenience to the users of the site.

XII. **Cleaning Up:**

The Contractor shall at all times observe good housekeeping practices and on completion of the work remove all tools, scaffolding and surplus materials from the premises and leave the area of his operations "broom clean."

XIII. **Civil Rights, EEO and Anti-Discrimination Provisions:**

The Contractor agrees to comply with the letter and spirit of the Colorado Anti-Discrimination Act of 1957 as amended and other applicable law respecting discrimination and unfair employment practices. (Section 24-24 402, C.R.S) The contractor will not discriminate against any employee or applicant for employment because of race, creed, color, national origin, sex, marital status, religion, ancestry, age or mental or physical handicap, but with regard to a handicap, it is not a discriminatory practice to deny participation in any program if there is not reasonable accommodation that can be made for the handicap or the handicap has a significant impact upon participation in the program.

XIV. General:

- A. The laws of the State of Colorado and rules and regulations issued pursuant thereto shall be applied in the interpretation of this contract whether or not incorporated herein by reference which provides for arbitration by any extra-judicial body or person. Any provision herein or which is otherwise in conflict with said laws, rules and regulations shall be considered null and void. Nothing contained in any provisions incorporated herein by reference which purports to negate this or any other special provision in whole or in part shall be valid or enforceable or available in any action at law whether by way of complaint, defense or otherwise. Any provision rendered null and void by the operation of this provision or found to be unenforceable for any reason will not invalidate the remainder of this contract to the extent that the contract is capable of execution.
- B. The signatories to the attached contract state that they are familiar with Section 18-8-301, et seq., C.R.S., (Bribery and Corrupt Influence) and Section 18-8-401, et seq., C.R.S., (Abuse of Public Office), and that no violation of such provisions is present or has occurred.
- C. The signatories state that to their knowledge, no County employee has any personal or beneficial interest whatsoever in the service of the property described herein.

XV. Maximum Eight Hour Work Day:

The maximum hours worked on projects involving work on federal, state, or county highways shall be governed by federal regulations. Additionally, all labor employed on projects involving the construction or repair of federal, state or county highways shall be bonfire residents of the County wherein the contract is being performed, Section 43-2-208., C.R.S.

XVI. Sales Tax Exemption:

It is understood by the Contractor that this project is exempt from any requirements for the collection of State and County sales or use tax, since this is a public project, and Contractor affirmatively states that provisions for such taxes are not included in its bid for this project.

XVII. Colorado Labor Preference:

The Contractor understands and agrees that the provisions of Sections 9-17-101 and 102, C.R.S., pertaining to the preference of Colorado labor are applicable to this agreement if works within the County are undertaken hereunder and are financed in whole or in part by state or county funds. Additionally, all labor employed on projects involving construction or repair of federal, state, or county highways shall be bona fide residents of the State of Colorado, with preference to be given to residents of the State of Colorado, with preference to be given to resides of the county wherein the Contract is being performed, as required under Section 43-2-208, C.R.S.

XVIII. Compliance With Law:

- A. During the term of this Agreement, Contractor agrees to comply with all applicable federal, state, and local laws, ordinances, rules and/or regulations. Included within the foregoing obligation shall be Contractor's obligation to pay all Colorado real and personal property tax in a timely fashion. The failure to pay such taxes in a timely fashion shall be considered an automatic breech of this agreement by Contractor, and

County shall have the sole and exclusive option to immediately terminate this agreement, without liability to the County, should it so desire.

B. Contractor shall indemnify and hold harmless the County, its officers, directors, agents, and employees from and against any and all arising under any applicable Worker's Compensation laws or other public liability, as a result of any careless, negligent or intentional act or failure to act on the part of the Contractor, its employees or agents including but not limited to, defects in any items purchased herewith and any component parts thereof for which claims, demands or suits may be brought against the County, its officers, directors, agents, and employees or cost incurred by them in defending any action arising from any such claim including, but not limited to, reasonable attorney's fees, except to the extent that such liability is attributable to the negligent or intentional actions of the County, its officers, directors, agents and employees. Notwithstanding, anything contained in this Agreement to the contrary, any and all liability of the County arising out of or in connection with this agreement shall be subject to C. Contractor shall include the provisions in Sections I through XVIII. In every subcontract and subcontractor purchase order, so that such provisions will be binding upon each subcontractor or vendor employed by Contractor.

XIX. Measurement and Payment:

Payment to Contractor will be made in accordance with item # 14, page 4, of the Terms, Conditions, and Specifications.

XX. County's Right To Take Over The Work:

If the Contractor should be adjudged bankrupt; or if he should make a general assignment for the benefit of his creditors or if a receiver should be appointed on account of his insolvency; or if he should persistently or repeatedly refuse or should fail, except in case for which extension of time is provided, to supply enough properly skilled workmen or proper materials; or if he should fail to make prompt payments to the subcontractors or for materials or labor; or persistently disregard laws, ordinances, or the instructions of the Engineer, or otherwise be guilty of a substantial violation of any provision of the contract, then the County, upon certification by the Engineer that sufficient cause exists to justify such action, may, without prejudice to any other right or remedy, after giving the Contractor ten (10) days' written notice, terminate the employment of the Contractor and take possession of the premises and all materials, tools, and appliances thereon and finish the Work by whatever method he may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment until the Work is finished.

If the unpaid balance of the Contract price shall exceed the expense of finishing the Work, including compensation for additional material, administrative services, and engineering fees, such excess shall be paid to the Contractor. If the expense of completing the Work exceeds the unpaid balance, the Contractor shall pay the difference to the County. The expense incurred by the County as herein provided, and the damage incurred through the Contractor's default, shall be certified by the Engineer.

XXI. County's Right To Suspend Contractor's Performance Of The Work:

For good and sufficient cause; such as: (a) unsuitable weather, (b) faulty workmanship, (c) Contractor's failure to carry out any reasonable order or to perform any provision of the purchase order and collateral documents, or (d) any other circumstance unfavorable for prosecution of the work, the County shall have the right to suspend the Contractor's performance of the work. Notice of such suspension shall be in writing. The Contractor shall resume performance of the work promptly when notified in writing.

XXII. Liens

Pursuant to Colorado law, no mechanics lien lies against a publicly owned building in the State of Colorado. However, as will appear in the next following article, unsatisfied creditors for labor and/or material of the construction Contractors of such a building are by law provided certain security.

The Contractor shall complete the County's form "Release of Rights by Mechanics Lien" after execution by all subcontractors and suppliers and by the Contractor and submit the same to the County with the request for final payment.

XXIII. Acceptance And Final Payment:

Within ten (10) days after the Contractor's declaration of completion of the work, the County shall make a final inspection thereof to determine whether the work has been completed in accordance with the contract and collateral documents.

If any punch-list results of such final inspection, the Contractor shall promptly correct all items appearing thereon.

When the County notifies the Contractor of acceptance of the work, the Contractor may requisition final payment, including retainage, on account of the purchase order contract price.

Before such final payment may be made the County must comply with Section 38-26-107, C.R.S., which requires that the publication of a notice of final settlement with the Contractor be made twice in a newspaper of general circulation in Saguache County wherein the purchase order contract was made. The date fixed in such notice before which final payment to the Contractor may be made must be not less than ten (10) days after the second publication of such notice. Any Claims will be handled according to CRS 38-26-107.

XXIV. Post-Completion:

Final payment made to the Contractor on account of the work shall not operate to relieve the Contractor of responsibility for the faulty material or workmanship, and, unless otherwise provided, the Contractor shall remedy any defect due thereto and pay for any damages resultant there from which shall appear within one (1) year from the date of final acceptance of the work, which date will be that of the Notice of Acceptance of the work.

XXV. Contract Appropriations:

The County hereby states and affirms that the amount of money appropriated for this Contract is equal to or in excess of the contract amount. No change order to this Contract, or other form of order or directive by the County requiring additional compensable work to be performed, which work causes the aggregate amount payable under the Contract to

exceed the amount appropriated for the original Contract shall be issued by the County unless the County assures the Contractor, in writing, that lawful appropriations to cover the costs of the additional work have been made or unless such work is covered under a remedy-granting provision contained in the Contract.