



## **INVITATION TO BID**

### **Highway 9 Sidewalk Improvements Project No. 25946**

**Advertisement Date: March 29, 2024  
Bid Due Date: April 22, 2024**

**Town of Frisco  
PO Box 4100  
Frisco, CO 80443  
(970) 668-4579**

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### CONDITIONS OF THE CONTRACT

**CDOT PROJECT SPECIAL AND STANDARD PROVISIONS** (Separate Document)

**CDOT STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION**  
(Separate Document) 2023 Edition

**PLANS** (Separate Document)  
Highway 9 Sidewalk Improvements: Bid Plans  
Dated February 29, 2024  
Sheets 1 – 45

**CDOT STANDARD CONSTRUCTION DETAILS** (Separate Document)

### APPENDICES

**APPENDIX A:** Geotechnical Report  
**APPENDIX B:** Environmental Report  
**APPENDIX C:** CDOT Intergovernmental Agreement

### **INVITATION TO BID**

Notice is hereby given that the Town of Frisco (the "Town") will receive sealed bids for Highway 9 Sidewalk Improvements and until, April 22<sup>nd</sup>, 2024, at 10:00 am.

The specifications and full contract documents for the construction of Highway 9 Sidewalk Improvements are currently available from [www.bidnetdirect.com/townoffrisco](http://www.bidnetdirect.com/townoffrisco) or at the Town's Public Works Department offices at 102 School Road, Frisco CO 80443. Each bidder may obtain one set of specifications.

The Town reserves the right to reject any and all bids, and to make final determination in the event of duplications.

No bid may be withdrawn for a period of sixty (60) days after the date set for opening thereof.

There will be an optional pre-bid meeting on Monday April 8<sup>th</sup>, 2024 at 2:00 pm. The meeting will be conducted at Frisco Public Works, 102 School Road, Frisco, CO 80443.

Colorado labor shall be employed to perform the work for which bids are requested herein to the extent of not less than eighty percent (80%) of each type or class of labor in the several classifications of skilled and common labor employed on such work, pursuant to C.R.S. § 8-17-101.

**The Town requires that a certified or cashier's check be deposited or that a corporate surety bond in the amount of five percent (5%) of the total bid amount be provided before the Town can accept or consider any bid.** The bid and the deposit or bond shall be filed with the Town Clerk, securely sealed and endorsed on the outside with a brief statement as to the nature of the item or work for which the bid is provided. **Upon a bid award, such deposit or bond shall be returned to the unsuccessful bidder(s). In the case of the successful bidder, the deposit or bid bond will be returned upon receipt of the required payment and performance bonds, each in the full amount of the contract price.**

Bids shall be received by 10:00 am on April 22<sup>nd</sup>, 2024, at 1 Main Street, Frisco, CO 80443 (Frisco Town Hall), and shall be opened publicly and tabulated by the Town.

Any questions regarding the project should be directed to Chris McGinnis, Project Manager, by 5:00 pm on April 12, 2024 in writing at the following e-mail address: [chrism@townoffrisco.com](mailto:chrism@townoffrisco.com).

Bid results shall be available after bid opening by emailing [chrism@townoffrisco.com](mailto:chrism@townoffrisco.com)

/s/ Stacey Nell, CMC  
Town Clerk

DATE OF PUBLICATION: 3/29/2024

# **INSTRUCTIONS TO BIDDERS**

## **(EJCDC C-200)**

### **ARTICLE 1—DEFINED TERMS**

- 1.01 Terms used in these Instructions to Bidders have the meanings indicated in the General Conditions and Supplementary Conditions. Additional terms used in these Instructions to Bidders have the meanings indicated below:
- A. Issuing Office—the office from which the Bidding Documents are to be issued, and which registers plan holders.

### **ARTICLE 2—BIDDING DOCUMENTS**

- 2.01 Bidder shall obtain a complete set of Bidding Requirements and proposed Contract Documents (together, the Bidding Documents). See the Agreement for a List of the Contract Documents. It is Bidder's responsibility to determine that it is using a complete set of documents in the preparation of a Bid. Bidder assumes sole responsibility for errors or misinterpretations resulting from the use of incomplete documents, by Bidder itself or by its prospective Subcontractors and Suppliers.
- 2.02 Bidding Documents are made available for the sole purpose of obtaining Bids for completion of the Project and permission to download or distribution of the Bidding Documents does not confer a license or grant permission or authorization for any other use. Authorization to download documents, or other distribution, includes the right for plan holders to print documents solely for their use, and the use of their prospective Subcontractors and Suppliers, provided the plan holder pays all costs associated with printing or reproduction. Printed documents may not be re-sold under any circumstances.
- 2.03 Owner has established a Bidding Documents Website as indicated in the Advertisement or invitation to bid. Owner recommends that Bidder register as a plan holder with the Issuing Office at such website, and obtain a complete set of the Bidding Documents from such website. Bidders may rely that sets of Bidding Documents obtained from the Bidding Documents Website are complete, unless an omission is blatant. Registered plan holders will receive Addenda issued by Owner.
- 2.04 Electronic Documents
- A. When the Bidding Requirements indicate that electronic (digital) copies of the Bidding Documents are available, such documents will be made available to the Bidders as Electronic Documents in the manners specified.
1. Bidding Documents will be provided in Adobe PDF (Portable Document Format) (.pdf) that is readable by Adobe Acrobat Reader Version 9 or later. It is the intent of the Engineer and Owner that such Electronic Documents are to be exactly representative of the paper copies of the documents. However, because

the Owner and Engineer cannot totally control the transmission and receipt of Electronic Documents nor the Contractor's means of reproduction of such documents, the Owner and Engineer cannot and do not guarantee that Electronic Documents and reproductions prepared from those versions are identical in every manner to the paper copies.

- B. Unless otherwise stated in the Bidding Documents, the Bidder may use and rely upon complete sets of Electronic Documents of the Bidding Documents, described in Paragraph 2.06.A above. However, Bidder assumes all risks associated with differences arising from transmission/receipt of Electronic Documents versions of Bidding Documents and reproductions prepared from those versions and, further, assumes all risks, costs, and responsibility associated with use of the Electronic Documents versions to derive information that is not explicitly contained in printed paper versions of the documents, and for Bidder's reliance upon such derived information.

### **ARTICLE 3—QUALIFICATIONS OF BIDDERS**

- 3.01 To demonstrate Bidder's qualifications to perform the Work, after submitting its Bid and within ten days of Owner's request, Bidder must submit the following information:
  - A. Written evidence establishing its qualifications such as financial data, previous experience, and present commitments.
  - B. A written statement that Bidder is authorized to do business in the state where the Project is located, or a written certification that Bidder will obtain such authority prior to the Effective Date of the Contract.
  - C. Bidder's state or other contractor license number, if applicable.
  - D. Subcontractor and Supplier qualification information.
  - E. Other required information regarding qualifications.
- 3.02 A Bidder's failure to submit required qualification information within the times indicated may disqualify Bidder from receiving an award of the Contract.
- 3.03 No requirement in this Article 3 to submit information will prejudice the right of Owner to seek additional pertinent information regarding Bidder's qualifications.

### **ARTICLE 4—PRE-BID CONFERENCE**

- 4.01 An optional pre-bid conference will be held at the time and location indicated in the Advertisement or invitation to bid. Representatives of Owner and Engineer will be present to discuss the Project. It is each Bidder's responsibility to sign in at the pre-bid conference to verify its participation. Bidders must sign in using the name of the organization that will be submitting a Bid.
- 4.02 Information presented at the pre-Bid conference does not alter the Contract Documents. Owner will issue Addenda to make any changes to the Contract Documents that result from discussions at the pre-Bid conference. Information presented, and statements made

at the pre-bid conference will not be binding or legally effective unless incorporated in an Addendum.

## **ARTICLE 5—SITE AND OTHER AREAS; EXISTING SITE CONDITIONS; EXAMINATION OF SITE; OWNER'S SAFETY PROGRAM; OTHER WORK AT THE SITE**

### **5.01 Site and Other Areas**

- A. The Site is identified in the Bidding Documents. The Site includes rights-of-way, easements, and other lands furnished by Owner for the use of the Contractor. Any additional lands required for temporary construction facilities, construction equipment, or storage of materials and equipment, and any access needed for such additional lands, are to be obtained and paid for by Contractor.

### **5.02 Existing Site Conditions**

- A. Subsurface and Physical Conditions; Hazardous Environmental Conditions
  - 1. The Supplementary Conditions identify the following regarding existing conditions at or adjacent to the Site:
    - a. Those reports of explorations and tests of subsurface conditions at or adjacent to the Site that contain Technical Data.
    - b. Those drawings known to Owner of existing physical conditions at or adjacent to the Site, including those drawings depicting existing surface or subsurface structures at or adjacent to the Site (except Underground Facilities), that contain Technical Data.
    - c. Technical Data contained in such reports and drawings.
  - 2. Owner will make copies of reports and drawings referenced above available to any Bidder on request. These reports and drawings are not part of the Contract Documents, but the Technical Data contained therein upon whose accuracy Bidder is entitled to rely, as provided in the General Conditions, has been identified and established in the Supplementary Conditions. Bidder is responsible for any interpretation or conclusion Bidder draws from any Technical Data or any other data, interpretations, opinions, or information contained in such reports or shown or indicated in such drawings.
  - 3. If the Supplementary Conditions do not identify Technical Data, the default definition of Technical Data set forth in Article 1 of the General Conditions will apply.
- B. Underground Facilities: Underground Facilities are shown or indicated on the Drawings. Information and data regarding the presence or location of Underground Facilities are not intended to be categorized, identified, or defined as Technical Data.

### **5.03 Site Visit and Testing by Bidders**

- A. Bidder is encouraged to visit the Site and conduct a thorough visual examination of the Site and adjacent areas. During the visit, the Bidder must not disturb any ongoing operations at the Site.

- B. A Site visit is scheduled following the pre-bid conference. Maps to the Site will be available at the pre-Bid conference.
- C. Bidders visiting the Site are required to arrange their own transportation to the Site.
- D. Bidder is not required to conduct any subsurface testing, or exhaustive investigations of Site conditions.
- E. On request, and to the extent Owner has control over the Site, and schedule permitting, the Owner will provide Bidder general access to the Site to conduct such additional examinations, investigations, explorations, tests, and studies as Bidder deems necessary for preparing and submitting a successful Bid. Owner will not have any obligation to grant such access if doing so is not practical because of existing operations, security or safety concerns, or restraints on Owner's authority regarding the Site. Bidder is responsible for establishing access needed to reach specific selected test sites.
- F. Bidder must comply with all applicable Laws and Regulations regarding excavation and location of utilities, obtain all permits, and comply with all terms and conditions established by Owner or by property owners or other entities controlling the Site with respect to schedule, access, existing operations, security, liability insurance, and applicable safety programs.
- G. Bidder must fill all holes, clean up, and restore the Site to its former condition upon completion of such explorations, investigations, tests, and studies.

#### 5.04 Owner's Safety Program

- A. Site visits and work at the Site may be governed by an Owner safety program. If an Owner safety program exists, it will be noted in the Supplementary Conditions.

#### 5.05 Other Work at the Site

- A. Reference is made to Article 8 of the Supplementary Conditions for the identification of the general nature of other work of which Owner is aware (if any) that is to be performed at the Site by Owner or others (such as utilities and other prime contractors) and relates to the Work contemplated by these Bidding Documents. If Owner is party to a written contract for such other work, then on request, Owner will provide to each Bidder access to examine such contracts (other than portions thereof related to price and other confidential matters), if any.

### **ARTICLE 6—BIDDER'S REPRESENTATIONS AND CERTIFICATIONS**

#### 6.01 Express Representations and Certifications in Bid Form, Agreement

- A. The Bid Form that each Bidder will submit contains express representations regarding the Bidder's examination of Project documentation, Site visit, and preparation of the Bid, and certifications regarding lack of collusion or fraud in connection with the Bid. Bidder should review these representations and certifications and assure that Bidder can make the representations and certifications in good faith, before executing and submitting its Bid.
- B. If Bidder is awarded the Contract, Bidder (as Contractor) will make similar express representations and certifications when it executes the Agreement.

## **ARTICLE 7—INTERPRETATIONS AND ADDENDA**

- 7.01 All questions about the meaning or intent of the Bidding Documents are to be submitted to Engineer in writing at [chrism@townoffrisco.com](mailto:chrism@townoffrisco.com) by 5:00 pm on April 12, 2024. Interpretations or clarifications considered necessary by Engineer in response to such questions will be issued by Addenda delivered to all registered plan holders.
- 7.02 Only responses set forth in an Addendum will be binding. Oral and other interpretations or clarifications will be without legal effect. Responses to questions are not part of the Contract Documents unless set forth in an Addendum that expressly modifies or supplements the Contract Documents.

## **ARTICLE 8—BID SECURITY**

- 8.01 A Bid must be accompanied by Bid security made payable to Owner in an amount of 5 percent of Bidder's maximum Bid price (determined by adding the base bid and all alternates) and in the form of a Bid bond issued by a surety meeting the requirements of the General Conditions. Such Bid bond will be issued in the form included in the Bidding Documents.
- 8.02 The Bid security of the apparent Successful Bidder will be retained until Owner awards the contract to such Bidder, and such Bidder has executed the Contract, furnished the required Contract security, and met the other conditions of the Notice of Award, whereupon the Bid security will be released. If the Successful Bidder fails to execute and deliver the Contract and furnish the required Contract security within 15 days after the Notice of Award, Owner may consider Bidder to be in default, annul the Notice of Award, and the Bid security of that Bidder will be forfeited, in whole in the case of a penal sum bid bond, and to the extent of Owner's damages in the case of a damages-form bond. Such forfeiture will be Owner's exclusive remedy if Bidder defaults.
- 8.03 The Bid security of other Bidders that Owner believes to have a reasonable chance of receiving the award may be retained by Owner until the earlier of 7 days after the Effective Date of the Contract or 61 days after the Bid opening, whereupon Bid security furnished by such Bidders will be released.
- 8.04 Bid security of other Bidders that Owner believes do not have a reasonable chance of receiving the award will be released within 7 days after the Bid opening.

## **ARTICLE 9—CONTRACT TIMES**

- 9.01 Bidder must set forth in the Bid the time by which Bidder must achieve Substantial Completion, subject to the restrictions established in Paragraph 13.07 of these Instructions. The Owner will take Bidder's time commitment regarding Substantial Completion into consideration during the evaluation of Bids, and it will be necessary for the apparent



Successful Bidder to satisfy Owner that it will be able to achieve Substantial Completion within the time such Bidder has designated in the Bid. Bidder must also set forth in the Bid its commitments regarding the achievement of Milestones and readiness for final payment. The Successful Bidder's time commitments will be entered into the Agreement or incorporated in the Agreement by reference to the specific terms of the Bid.

- 9.02 Provisions for liquidated damages, if any, for failure to timely attain a Milestone, Substantial Completion, or completion of the Work in readiness for final payment, are set forth in the Agreement.

## **ARTICLE 10—SUBSTITUTE AND “OR EQUAL” ITEMS**

- 10.01 The Contract for the Work, as awarded, will be based on materials and equipment specified or described in the Bidding Documents without consideration during the bidding and Contract award process of possible substitute or “or-equal” items. In cases in which the Contract allows the Contractor to request that Engineer authorize the use of a substitute or “or-equal” item of material or equipment, application for such acceptance may not be made to and will not be considered by Engineer until after the Effective Date of the Contract.
- 10.02 All prices that Bidder sets forth in its Bid will be based on the presumption that the Contractor will furnish the materials and equipment specified or described in the Bidding Documents, as supplemented by Addenda. Any assumptions regarding the possibility of post-Bid approvals of “or-equal” or substitution requests are made at Bidder's solerisk.

## **ARTICLE 11—SUBCONTRACTORS, SUPPLIERS, AND OTHERS**

- 11.01 A Bidder must be prepared to retain specific Subcontractors and Suppliers for the performance of the Work if required to do so by the Bidding Documents or in the Specifications. If a prospective Bidder objects to retaining any such Subcontractor or Supplier and the concern is not relieved by an Addendum, then the prospective Bidder should refrain from submitting a Bid.
- 11.02 The apparent Successful Bidder, and any other Bidder so requested, must submit to Owner a list of the Subcontractors or Suppliers proposed for the following portions of the Work within five days after Bid opening.
- 11.03 If requested by Owner, such list must be accompanied by an experience statement with pertinent information regarding similar projects and other evidence of qualification for each such Subcontractor or Supplier. If Owner or Engineer, after due investigation, has reasonable objection to any proposed Subcontractor or Supplier, Owner may, before the Notice of Award is given, request apparent Successful Bidder to submit an acceptable substitute, in which case apparent Successful Bidder will submit a substitute, Bidder's Bid price will be increased (or decreased) by the difference in cost occasioned by such substitution, and Owner may consider such price adjustment in evaluating Bids and making the Contract award.
- 11.04 If apparent Successful Bidder declines to make any such substitution, Owner may award the Contract to the next lowest Bidder that proposes to use acceptable Subcontractors and

Suppliers. Declining to make requested substitutions will constitute grounds for forfeiture of the Bid security of any Bidder. Any Subcontractor or Supplier, so listed and against which Owner or Engineer makes no written objection prior to the giving of the Notice of Award will be deemed acceptable to Owner and Engineer subject to subsequent revocation of such acceptance as provided in the General Conditions.

## **ARTICLE 12—PREPARATION OF BID**

- 12.01 The Bid Form is included with the Bidding Documents.
- A. All blanks on the Bid Form must be completed in ink and the Bid Form signed in ink. Erasures or alterations must be initialed in ink by the person signing the Bid Form. A Bid price must be indicated for each section, Bid item, alternate, adjustment unit price item, and unit price item listed therein.
  - B. If the Bid Form expressly indicates that submitting pricing on a specific alternate item is optional, and Bidder elects to not furnish pricing for such optional alternate item, then Bidder may enter the words “No Bid” or “Not Applicable.”
- 12.02 If Bidder has obtained the Bidding Documents as Electronic Documents, then Bidder shall prepare its Bid on a paper copy of the Bid Form printed from the Electronic Documents version of the Bidding Documents. The printed copy of the Bid Form must be clearly legible, printed on 8½ inch by 11-inch paper and as closely identical in appearance to the Electronic Document version of the Bid Form as may be practical. The Owner reserves the right to accept Bid Forms which nominally vary in appearance from the original paper version of the Bid Form, providing that all required information and submittals are included with the Bid.
- 12.03 A Bid by a corporation must be executed in the corporate name by a corporate officer (whose title must appear under the signature), accompanied by evidence of authority to sign. The corporate address and state of incorporation must be shown.
- 12.04 A Bid by a partnership must be executed in the partnership name and signed by a partner (whose title must appear under the signature), accompanied by evidence of authority to sign. The official address of the partnership must be shown.
- 12.05 A Bid by a limited liability company must be executed in the name of the firm by a member or other authorized person and accompanied by evidence of authority to sign. The state of formation of the firm and the official address of the firm must be shown.
- 12.06 A Bid by an individual must show the Bidder’s name and official address.
- 12.07 A Bid by a joint venture must be executed by an authorized representative of each joint venturer in the manner indicated on the Bid Form. The joint venture must have been formally established prior to submittal of a Bid, and the official address of the joint venture must be shown.
- 12.08 All names must be printed in ink below the signatures.
- 12.09 The Bid must contain an acknowledgment of receipt of all Addenda, the numbers of which must be filled in on the Bid Form.
- 12.10 Postal and e-mail addresses and telephone number for communications regarding the Bid must be shown.

- 12.11 The Bid must contain evidence of Bidder's authority to do business in the state where the Project is located, or Bidder must certify in writing that it will obtain such authority within the time for acceptance of Bids and attach such certification to the Bid.

## **ARTICLE 13—BASIS OF BID**

### **13.01 Unit Price**

- A. Bidders must submit a Bid on a unit price basis for each item of Work listed in the unit price section of the BidForm.
- B. The "Bid Price" (sometimes referred to as the extended price) for each unit price Bid item will be the product of the "Estimated Quantity," which Owner or its representative has set forth in the Bid Form, for the item and the corresponding "Bid Unit Price" offered by the Bidder. The total of all unit price Bid items will be the sum of these "Bid Prices;" such total will be used by Owner for Bid comparison purposes. The final quantities and Contract Price will be determined in accordance with the General Conditions.
- C. Discrepancies between the multiplication of units of Work and unit prices will be resolved in favor of the unit prices. Discrepancies between the indicated sum of any column of figures and the correct sum thereof will be resolved in favor of the correct sum.

## **ARTICLE 14—SUBMITTAL OF BID**

- 14.01 The Bidding Documents include one separate unbound copy of the Bid Form, and, if required, the Bid Bond Form. The unbound copy of the Bid Form is to be completed and submitted with the Bid security and the other documents required to be submitted under the terms of Article 2 of the Bid Form.
- 14.02 A Bid must be received no later than 10:00 am on April 22<sup>nd</sup>, 2024 and must be enclosed in a plainly marked package with the Project title, the name and address of Bidder, and must be accompanied by the Bid security and other required documents. If a Bid is sent by mail or other delivery system, the sealed envelope containing the Bid must be enclosed in a separate package plainly marked on the outside with the notation "BID ENCLOSED." A mailed Bid must be addressed to the location designated in the Advertisement.
- 14.03 Bids received after the date and time prescribed for the opening of bids, or not submitted at the correct location or in the designated manner, will not be accepted and will be returned to the Bidder unopened.

## **ARTICLE 15—MODIFICATION AND WITHDRAWAL OF BID**

- 15.01 An unopened Bid may be withdrawn by an appropriate document duly executed in the same manner that a Bid must be executed and delivered to the place where Bids are to be submitted prior to the date and time for the opening of Bids. Upon receipt of such notice,

the unopened Bid will be returned to the Bidder.

- 15.02 If a Bidder wishes to modify its Bid prior to Bid opening, Bidder must withdraw its initial Bid in the manner specified in Paragraph 15.01 and submit a new Bid prior to the date and time for the opening of Bids.
- 15.03 If within 24 hours after Bids are opened any Bidder files a duly signed written notice with Owner and promptly thereafter demonstrates to the reasonable satisfaction of Owner that there was a material and substantial mistake in the preparation of its Bid, the Bidder may withdraw its Bid,  
and the Bid security will be returned. Thereafter, if the Work is rebid, the Bidder will be disqualified from further bidding on the Work.

#### **ARTICLE 16—OPENING OF BIDS**

- 16.01 Bids will be opened at the time and place indicated in the advertisement or invitation to bid and, unless obviously non-responsive, read aloud publicly. An abstract of the amounts of the base Bids and major alternates, if any, will be made available to Bidders after the opening of Bids.

#### **ARTICLE 17—BIDS TO REMAIN SUBJECT TO ACCEPTANCE**

- 17.01 All Bids will remain subject to acceptance for the period of time stated in the Bid Form, but Owner may, in its sole discretion, release any Bid and return the Bid security prior to the end of this period.

#### **ARTICLE 18—EVALUATION OF BIDS AND AWARD OF CONTRACT**

- 18.01 Owner reserves the right to reject any or all Bids, including without limitation, nonconforming, nonresponsive, unbalanced, or conditional Bids. Owner also reserves the right to waive all minor Bid informalities not involving price, time, or changes in the Work.
- 18.02 Owner will reject the Bid of any Bidder that Owner finds, after reasonable inquiry and evaluation, to not be responsible.
- 18.03 If Bidder purports to add terms or conditions to its Bid, takes exception to any provision of the Bidding Documents, or attempts to alter the contents of the Contract Documents for purposes of the Bid, whether in the Bid itself or in a separate communication to Owner or Engineer, then Owner will reject the Bid as nonresponsive.
- 18.04 If Owner awards the contract for the Work, such award will be to the responsible Bidder submitting the lowest responsive Bid.
- 18.05 Evaluation of Bids
- A. In evaluating Bids, Owner will consider whether the Bids comply with the prescribed requirements, and such alternates, unit prices, and other data, as may be requested in the Bid Form or prior to the Notice of Award.
  - B. For the determination of the apparent low Bidder when unit price bids are submitted, Bids will be compared on the basis of the total of the products of the estimated quantity of each item and unit price Bid for that item, together with any lump sum items.

- 18.06 In evaluating whether a Bidder is responsible, Owner will consider the qualifications of the Bidder and may consider the qualifications and experience of Subcontractors and Suppliers proposed for those portions of the Work for which the identity of Subcontractors and Suppliers must be submitted as provided in the Bidding Documents.
- 18.07 Owner may conduct such investigations as Owner deems necessary to establish the responsibility, qualifications, and financial ability of Bidders and any proposed Subcontractors or Suppliers.

## **ARTICLE 19—BONDS AND INSURANCE**

- 19.01 The General Conditions, as may be modified by the Supplementary Conditions, sets forth Owner's requirements as to performance and payment bonds, other required bonds (if any), and insurance. When the Successful Bidder delivers the executed Agreement to Owner, it must be accompanied by required bonds and insurance documentation.
- 19.02 Article 8, Bid Security, of these Instructions, addresses any requirements for providing bid bonds as part of the bidding process.

## **ARTICLE 20—SIGNING OF AGREEMENT**

- 20.01 When Owner issues a Notice of Award to the Successful Bidder, it will be accompanied by the unexecuted counterparts of the Agreement along with the other Contract Documents as identified in the Agreement. Within 15 days thereafter, Successful Bidder must execute and deliver the required number of counterparts of the Agreement and any bonds and insurance documentation required to be delivered by the Contract Documents to Owner. Within 15 days thereafter, Owner will deliver one fully executed counterpart of the Agreement to Successful Bidder, together with printed and electronic copies of the Contract Documents as stated in the General Conditions.

## **ARTICLE 21—SALES AND USE TAXES**

- 21.01 Owner is exempt from COLORADO state sales and use taxes on materials and equipment to be incorporated in the Work. (Exemption No. 98-03536). Said taxes must not be included in the Bid.

# **BID FORM FOR CONSTRUCTION CONTRACT**

## **(EJCDC C-410)**

The terms used in this Bid with initial capital letters have the meanings stated in the Instructions to Bidders, the General Conditions, and the Supplementary Conditions.

### **ARTICLE 1—OWNER AND BIDDER**

1.01 This Bid is submitted to:

**Town of Frisco**

**PO Box 4199**

**Frisco, CO 80443**

1.02 The undersigned Bidder proposes and agrees, if this Bid is accepted, to enter into an Agreement with Owner in the form included in the Bidding Documents to perform all Work as specified or indicated in the Bidding Documents for the prices and within the times indicated in this Bid and in accordance with the other terms and conditions of the Bidding Documents.

### **ARTICLE 2—ATTACHMENTS TO THIS BID**

2.01 The following documents are submitted with and made a condition of this Bid:

- A. Required Bid security (Colorado Bid Bond);
- B. CDOT Form 604;
- C. CDOT Form 606;
- D. CDOT Form 1413;
- E. CDOT Form 1414.

# ARTICLE 3—BASIS OF BID—UNIT PRICES

## 3.01 Unit Price Bids

A. Bidder will perform the following Work at the indicated unit prices:

ITEM CODE	DESCRIPTION	QTY	UNIT	UNIT COST	TOTAL COST
201-00000	CLEARING AND GRUBBING	1	LS	\$10,016.00	\$10,016.00
202-00090	REMOVE DELINEATOR	30	EACH	\$32.25	\$967.50
202-00150	REMOVAL OF WALL	1	LS	\$8,113.75	\$8,113.75
202-00200	REMOVAL OF SIDEWALK	520	SY	\$12.00	\$6,240.00
202-00203	REMOVAL OF CURB AND GUTTER	14	LF	\$30.00	\$420.00
202-00206	REMOVAL OF CONCRETE CURB RAMP	3	SY	\$117.25	\$351.75
202-01000	REMOVAL OF FENCE	50	LF	\$13.00	\$650.00
203-00000	UNCLASSIFIED EXCAVATION (COMPLETED IN PLACE)	390	CY	\$8.75	\$3,412.50
203-00060	EMBANKMENT MATERIAL (COMPLETE IN PLACE)	884	CY	\$63.75	\$56,355.00
203-01597	POTHOLES	15	HOUR	\$379.00	\$5,685.00
206-00100	STRUCTURE BACKFILL (CLASS 1)	1188	CY	\$43.00	\$51,084.00
207-00205	TOPSOIL	687	CY	\$100.50	\$69,043.50
208-00002	EROSION LOG TYPE 1 (12 INCH)	958	LF	\$8.50	\$8,143.00
208-00020	SILT FENCE	266	LF	\$2.25	\$598.50
208-00035	AGGREGATE BAG	72	LF	\$13.75	\$990.00
208-00046	PRE-FABRICATED CONCRETE WASHOUT STRUCTURE (TYPE 1)	2	EACH	\$1,074.25	\$2,148.50
208-00051	STORM DRAIN INLET PROTECTION (TYPE I)	30	LF	\$75.75	\$2,272.50
208-00052	STORM DRAIN INLET PROTECTION (TYPE II)	20	LF	\$94.75	\$1,895.00
208-00075	PRE-FABRICATED VEHICLE TRACKING PAD	4	EACH	\$4,424.00	\$17,696.00
208-00207	EROSION CONTROL MANAGEMENT	35	DAY	\$252.75	\$8,846.25
212-00006	SEEDING (NATIVE)	0.5	ACRE	\$3,539.00	\$1,769.50
213-00011	MULCHING (HYDRAULIC)	0.5	ACRE	\$3,792.00	\$1,896.00
240-00000	WILDLIFE BIOLOGIST	10	HOUR	\$189.50	\$1,895.00
240-00010	REMOVAL OF NESTS	10	HOUR	\$221.00	\$2,210.00
304-06007	AGGREGATE BASE COURSE (CLASS 6)	533	TON	\$49.75	\$26,516.75
504-03500	RETAINING WALL (GRAVITY)	4035	SF	\$118.25	\$477,138.75
514-00042	PEDESTRIAN RAILING (42 INCH)	300	LF	\$189.50	\$56,850.00
607-11450	FENCE SPLIT CEDAR	50	LF	\$31.50	\$1,575.00

607-11525	FENCE (PLASTIC)	1748	LF	\$4.75	\$8,303.00
608-00006	CONCRETE SIDEWALK (6 INCH)	1780	SY	\$99.00	\$176,220.00
608-00010	CONCRETE CURB RAMP	13	SY	\$202.25	\$2,629.25
612-00002	DELINEATOR (TYPE II)	17	EACH	\$107.25	\$1,823.25
613-00200	2 INCH ELECTRICAL CONDUIT	3142	LF	\$35.25	\$110,755.50
613-07001	TYPE ONE PULL BOX	4	EACH	\$1,769.50	\$7,078.00
625-00000	CONSTRUCTION SURVEYING	1	LS	\$12,640.25	\$12,640.25
626-00000	MOBILIZATION	1	LS	\$62,743.50	\$62,743.50
630-00000	FLAGGING	300	HR	\$86.25	\$25,875.00
630-00007	TRAFFIC CONTROL INSPECTION	12	DAY	\$530.75	\$6,369.00
630-00012	TRAFFIC CONTROL MANAGEMENT	35	DAY	\$1,858.00	\$65,030.00
630-00016	TRAFFIC CONTROL (SPECIAL)	1	LS	\$46,453.00	\$46,453.00
630-80355	PORTABLE MESSAGE SIGN PANEL	1	EA	\$5,688.00	\$5,688.00
700-70010	F/A MINOR CONTRACT REVISIONS	1	F/A	\$50,000.00	\$50,000.00

**TOTAL BID PRICE:** \$1,406,387.50

**B. Bidder acknowledges that:**

1. Each Bid Unit Price includes an amount considered by Bidder to be adequate to cover Contractor's overhead and profit for each separately identified item, and
2. Estimated quantities are not guaranteed, and are solely for the purpose of comparison of Bids, and final payment for all Unit Price Work will be based on actual quantities, determined as provided in the Contract Documents.
3. Work required in this section includes all expenses to complete the individual bid items per the plans and specifications. Unit bid prices, as quoted in the bid schedule, shall constitute full compensation for materials, labor, equipment, rentals, permits, overhead, profit, incidentals, risk, loss, damage, and all other items of work and expense required for the complete construction of each pay item per the plans and specifications. Any items or like item not specifically mentioned as a bid item is considered incidental to the project and all costs associated with these items must be included in the bid items listed.



**ARTICLE 4—BIDDER'S ACKNOWLEDGEMENTS: ACCEPTANCE PERIOD,  
INSTRUCTIONS, AND RECEIPT OF ADDENDA**

**4.01**    *Bid Acceptance Period*

- A. This Bid will remain subject to acceptance for 60 days after the Bid opening, or for such longer period of time that Bidder may agree to in writing upon request of Owner.

**4.02**    *Instructions to Bidders*

- A. Bidder accepts all of the terms and conditions of the Instructions to Bidders, including without limitation those dealing with the disposition of Bid security.

**4.03**    *Receipt of Addenda*

- A. Bidder hereby acknowledges receipt of the following Addenda:

Addendum Number	Addendum Date
Addendum #1	04/16/2024
Addendum #2	04/16/2024

**ARTICLE 5—BIDDER'S REPRESENTATIONS AND CERTIFICATIONS**

**5.01**    *Bidder's Representations*

- A. In submitting this Bid, Bidder represents the following:

1. Bidder has examined and carefully studied the Bidding Documents, including Addenda.
2. Bidder has visited the Site, conducted a thorough visual examination of the Site and adjacent areas, and become familiar with the general, local, and Site conditions that may affect cost, progress, and performance of the Work.
3. Bidder is familiar with all Laws and Regulations that may affect cost, progress, and performance of the Work.
4. Bidder has carefully studied the reports of explorations and tests of subsurface conditions at or adjacent to the Site and the drawings of physical conditions relating to existing surface or subsurface structures at the Site that have been identified in the Supplementary Conditions, with respect to the Technical Data in such reports and drawings.
5. Bidder has considered the information known to Bidder itself; information commonly known to contractors doing business in the locality of the Site; information and observations obtained from visits to the Site; the Bidding Documents; and the Technical Data identified in the Supplementary Conditions or by definition, with respect to the effect of such information, observations, and Technical Data on (a) the cost, progress, and performance of the Work; (b) the means, methods, techniques, sequences, and

procedures of construction to be employed by Bidder, if selected as Contractor; and (c) Bidder's (Contractor's) safety precautions and programs.

6. Based on the information and observations referred to in the preceding paragraph, Bidder agrees that no further examinations, investigations, explorations, tests, studies, or data are necessary for the performance of the Work at the Contract Price, within the Contract Times, and in accordance with the other terms and conditions of the Contract.
7. Bidder is aware of the general nature of work to be performed by Owner and others at the Site that relates to the Work as indicated in the Bidding Documents.
8. Bidder has given Engineer written notice of all conflicts, errors, ambiguities, or discrepancies that Bidder has discovered in the Bidding Documents, and of discrepancies between Site conditions and the Contract Documents, and the written resolution thereof by Engineer is acceptable to Contractor.
9. The Bidding Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.
10. The submission of this Bid constitutes an incontrovertible representation by Bidder that without exception the Bid and all prices in the Bid are premised upon performing and furnishing the Work required by the Bidding Documents.

#### 5.02 *Bidder's Certifications*

##### A. The Bidder certifies the following:

1. This Bid is genuine and not made in the interest of or on behalf of any undisclosed individual or entity and is not submitted in conformity with any collusive agreement or rules of any group, association, organization, or corporation.
2. Bidder has not directly or indirectly induced or solicited any other Bidder to submit a false or sham Bid.
3. Bidder has not solicited or induced any individual or entity to refrain from bidding.
4. Bidder has not engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the Contract. For the purposes of this Paragraph 8.02.A:
  - a. Corrupt practice means the offering, giving, receiving, or soliciting of anything of value likely to influence the action of a public official in the bidding process.
  - b. Fraudulent practice means an intentional misrepresentation of facts made (a) to influence the bidding process to the detriment of Owner, (b) to establish bid prices at artificial non-competitive levels, or (c) to deprive Owner of the benefits of free and open competition.
  - c. Collusive practice means a scheme or arrangement between two or more Bidders, with or without the knowledge of Owner, a purpose of which is to establish bid prices at artificial, non-competitive levels.

- d. Coercive practice means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in the bidding process or affect the execution of the Contract.

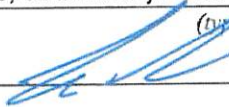
BIDDER hereby submits this Bid as set forth above:

Bidder:

H&L Concrete, Inc, dba Naranjo Civil Constructors, Inc.

(typed or printed name of organization)

By:



(individual's signature)

Name: John Leone

(typed or printed)

Title: President

(typed or printed)

Date: 4/22/24

(typed or printed)

If Bidder is a corporation, a partnership, or a joint venture, attach evidence of authority to sign.

Attest:



(individual's signature)

Name: Nelly Morales

(typed or printed)

Title: Vice President

(typed or printed)

Date: 4/22/24

(typed or printed)

Address for giving notices:

627 27th Street, Garden City, Colorado 80631

Bidder's Contact:

Name: Troy Ferguson

(typed or printed)

Title: Senior Estimator

(typed or printed)

Phone: (719) 568-1074

Email: ferguson@naranjocivil.com

Address:

627 27th Street, Garden City, Colorado 80631

Bidder's Contractor License No.: (if applicable) N/A

## **CONSTRUCTION AGREEMENT**

THIS CONSTRUCTION AGREEMENT is made and entered into this \_\_\_\_ day of April, 2024, by and between the TOWN OF FRISCO, a Colorado home rule municipal corporation with an address of 1 Main Street, Frisco, CO 80443 (the "Town"), and Naranjo Civil Constructors, Inc., a Colorado Corporation ("Contractor") (collectively the "Parties").

For the consideration described herein, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

Scope of Work. Contractor shall perform the following described work (the "Project"), in accordance with this Agreement and the Contract Documents, which Contract Documents are as defined in the General Conditions attached hereto and incorporated herein by this reference as Exhibit "A". The Project is generally described as follows:

The project is located in Frisco, Colorado and includes removal of concrete, trees, boulder retaining walls, and excavation. New construction work includes concrete sidewalks, modular block retaining walls, pedestrian railings, curb ramps, pvc conduit, erosion control, traffic control, and surveying.

1. Bonds. Within ten (10) days of the date of this Agreement, Contractor shall provide the performance and payment bonds and certificate of insurance required by the Contract Documents.

2. Commencement and Completion of Work. Contractor shall commence the Project beginning August 5<sup>th</sup>, 2024 and no later than August 16<sup>th</sup>. Substantial Completion of the Project shall be accomplished by September 23<sup>rd</sup>, 2024 unless the period for completion is extended otherwise in accordance with the Contract Documents. Final Completion of the Project shall be accomplished by September 30<sup>th</sup>, 2024.

3. Compensation/Contract Price. The Town agrees to pay Contractor, subject to all of the terms and conditions of the Contract Documents, for the Project, in accordance with the bid unit prices listed on form C410 of the contract documents. The Town shall pay Contractor in the manner and at such times as set forth in the General Conditions such amounts as required by the Contract Documents. The Town has appropriated funds equal to or in excess of the Contract Price.

4. Governing Law and Venue. This Agreement shall be governed by the laws of the State of Colorado, and any legal action concerning the provisions hereof shall be brought in Summit County, Colorado.

5. No Waiver. Delays in enforcement or the waiver of any one or more defaults or breaches of this Agreement by the Town shall not constitute a waiver of any of the other terms or obligation of this Agreement.

6. Integration. This Agreement and any attached exhibits constitute the entire Agreement between Contractor and the Town, superseding all prior oral or written communications.

7. Third Parties. There are no intended third-party beneficiaries to this Agreement.

8. Notice. Any notice under this Agreement shall be in writing, and shall be deemed sufficient when directly presented or sent pre-paid, first class United States Mail, addressed to:

The Town: Chris McGinnis  
Project Manager  
P.O. Box 4100  
Frisco, CO 80443

Contractor: Naranjo Civil Constructors, Inc.  
John Leone, President  
627 7th Street  
Garden City, Colorado 80631

9. Severability. If any provision of this Agreement is found by a court of competent jurisdiction to be unlawful or unenforceable for any reason, the remaining provisions hereof shall remain in full force and effect.

10. Modification. This Agreement may only be modified upon written agreement of the Parties.

11. Assignment. Neither this Agreement nor any of the rights or obligations of the Parties hereto, shall be assigned by either party without the written consent of the other.

12. Governmental Immunity. The Town, its officers, and its employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations (presently three hundred eighty-seven thousand dollars (\$387,000) per person and one million ninety-three thousand dollars (\$1,093,000) per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the Town and its officers or employees.

13. Rights and Remedies. The rights and remedies of the Town under this Agreement are in addition to any other rights and remedies provided by law. The expiration of this Agreement shall in no way limit the Town's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

IN WITNESS WHEREOF, this Construction Agreement has been executed by the Parties as of the date first above written, whether or not the date of signing is some other date.

**TOWN OF FRISCO, COLORADO**

\_\_\_\_\_  
\_\_\_\_\_, Mayor

ATTEST:

\_\_\_\_\_  
\_\_\_\_\_,  
Town Clerk

**CONTRACTOR – NARANJO CIVIL CONSTRUCTORS**

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

STATE OF COLORADO                    )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was subscribed, sworn to and acknowledged before me this \_\_\_\_  
day of \_\_\_\_\_, 2024, by \_\_\_\_\_, as \_\_\_\_\_ of  
\_\_\_\_\_.

My commission expires:

(S E A L)

\_\_\_\_\_  
Notary Public

## **EXHIBIT A TO CONSTRUCTION AGREEMENT**

### **GENERAL CONDITIONS**

#### **PART 1. DEFINITIONS**

##### **1.01 CONTRACT DOCUMENTS:**

- A. Invitation to Bid;
- B. Bid Form (Form C410)
- C. Bid Schedule (Form C410)
- D. Construction Agreement;
- E. General Conditions;
- F. Project Special Provisions;
- G. Standard Special Provisions;
- H. CDOT Standard Specifications for Road and Bridge Construction;
- I. Notice of Award;
- J. Notice to Proceed;
- K. Payment Bond;
- L. Performance Bond;
- M. Construction Drawings;
- N. CDOT Standard Construction Details;
- N. Documentation submitted by Contractor prior to Notice of Award; and
- O. Addenda \_\_\_\_ through \_\_\_\_.

##### **1.02 CHANGE ORDER:**

A written order issued by the Town after execution of the Construction Agreement authorizing an addition, deletion or revision in the Work, or an adjustment in the Contract Price or the Contract Time.

##### **1.03 CONTRACT:**

The entire written agreement covering the performance of the Work described in the Contract Documents including all supplemental agreements thereto and all general and special provisions pertaining to the Work and materials therefor.

##### **1.04 CONTRACT PRICE:**

The amount set forth in document C410 of the contract documents.

##### **1.05 CONTRACT TIME:**

The time for completion of the Project as set forth in Paragraph 2 of the Construction Agreement.

##### **1.06 DAY:**

Calendar day, unless otherwise specified. When the last day for the occurrence of an event falls on a Saturday, Sunday or legal holiday as recognized by the Town, the time for performance shall be automatically extended to the next business day.



**1.07 FINAL COMPLETION:**

The date as certified by the Project Manager when all of the Work on the Project is completed and final payment may be made.

**1.08 PROJECT:**

The construction task or tasks more fully described in the “Scope of Work” provisions (Exhibit B) of the Construction Agreement.

**1.09 PROJECT MANAGER:**

The Town's duly authorized representative in connection with the Project.

**1.10 SUBCONTRACTOR:**

Any person, firm or corporation with a direct contract with Contractor who acts for or in behalf of Contractor in executing any part of the Contract, excluding one who merely furnishes material.

**1.11 SUBSTANTIAL COMPLETION:**

The date as certified by the Project Manager when the Town occupies or takes possession of all or substantially all of the Project, or when the Town may occupy or take possession of all or substantially all of the Project and put it to beneficial use for its intended purposes.

**1.12 TOWN**

The Town of Frisco, Colorado, a Colorado municipal corporation.

**1.13 WORK:**

All the work specified, indicated, shown or contemplated in the Contract Documents to construct the Project, including all alterations, amendments or extensions thereto made by supplemental agreements or written orders of the Project Manager.

**PART 2. TIME****2.01 TIME OF THE ESSENCE:**

All times stated in the Contract Documents are of the essence.

**2.02 FINAL ACCEPTANCE:**

Upon Final Completion, the Project Manager will issue final acceptance.

**2.03 CHANGES IN THE WORK:**

The Town reserves the right to order changes in the Work, in the nature of additions, deletions or modifications, without invalidating the Contract, and to make corresponding adjustments in the Contract Price and the Contract Time. All changes shall be authorized by a written Change Order signed by the Project Manager. The Change Order shall include appropriate changes in the Contract Documents and the Contract Time. The Work shall be changed and the Contract Price and Contract Time modified only as set forth in the written Change Order. Any adjustment in the Contract Price resulting in a credit or a charge to the Town shall be determined by mutual agreement of the parties before the work set forth in the Change Order is commenced. If a Change Order results in an increase in the Contract Price, approval of the Frisco Town Council may be required.

The Town shall provide Contractor with written assurance of additional appropriations should any change in the Work result in an increase in the Contract Price exceeding the amount originally appropriated for the Work.

## **2.07 DELAYS:**

A. If Contractor is delayed in the progress of the Work by fire, unusual delay in transportation, adverse weather conditions not reasonably to be anticipated, or other unavoidable casualties beyond Contractor's control, the Contract Time shall be extended for a reasonable period of time.

B. Any request for extension of the Contract Time shall be made in writing to the Project Manager not more than seven (7) days after commencement of the delay; otherwise it shall be waived. Any such request shall contain an estimate of the probable effect of such delay on the progress of the Work.

C. Contractor shall not be entitled to any increase in the Contract Price, or to damages, or to additional compensation as a consequence of any such delays.

## **2.08 NO DAMAGES FOR DELAY:**

The Town shall not amend the Contract Price nor shall Contractor be entitled to additional compensation of any sort for costs or damages incurred as a result of any delays in performance unless such delay is the direct result of the acts or omissions of the Town or persons acting on behalf of the Town, in accordance with C.R.S. § 24-91-103.5.

## **PART 3. CONTRACTOR'S RESPONSIBILITIES**

### **3.01 COMPLETION/SUPERVISION OF WORK:**

Contractor shall be responsible for completion of all Work in a timely and workmanlike manner in accordance with the terms and specifications of the Contract Documents, including the techniques, sequences, procedures and means. Contractor shall be responsible for the coordination of all Work. Contractor shall supervise and direct the Work and give it all attention necessary for proper supervision and direction. Contractor shall maintain a supervisor on site at all times when Contractor or any subcontractor is performing Work.

### **3.02 DUTY TO INSPECT AND CONTRACTOR'S REPRESENTATIONS:**

Contractor shall inspect all Contract Documents, tests and reports, including soil tests and engineering tests, if applicable, and shall conduct a site or field review prior to executing the Contract. Contractor assumes the risk of all conditions which are disclosed, or which are reasonably suggested by any such tests or reports, or which would be disclosed by a field or site review. Contractor shall have the affirmative duty to advise the Town of any concerns which Contractor may have regarding construction conditions prior to executing the Contract.

In order to induce Town to enter into the Contract, Contractor makes the following representations:

- a. Contractor has examined and carefully studied the Contract Documents and the other related data identified in or related to the Contract Documents;

- b. Contractor has visited the site(s) and become familiar with and is satisfied as to the general, local and site conditions that may affect cost, progress, performance or furnishing of the Work;
- c. Contractor is familiar with and is satisfied as to all federal, state and local laws and regulations that may affect cost, progress, performance and furnishing of the Work; and
- d. Contractor has correlated the information known to Contractor, information and observations obtained from visits to the site(s), reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.

### **3.03 FURNISHING OF LABOR AND MATERIALS:**

- A. Contractor shall provide and pay for all labor, materials and equipment, including: tools; construction equipment and machinery; utilities, including water; transportation; and all other facilities and services necessary for the proper completion of the Work.
- B. While engaged in the performance of the Work, Contractor shall maintain employment practices that do not violate the provisions of the Colorado Antidiscrimination Act of 1957, C.R.S. § 24-34-301, *et seq.*, as amended.

### **3.04 EMPLOYEES AND SAFETY:**

- A. Contractor shall maintain at all times strict discipline of its employees, and Contractor shall not employ on the Project any person unfit or without sufficient knowledge, skill, and experience to perform properly the job for which the employee was hired.
- B. Contractor shall be fully responsible to the Town for the acts, negligence and omissions of all direct and indirect employees and subcontractors. The Contract Documents shall not be construed as creating any contractual relation between any subcontractor and the Town.
- C. Contractor shall provide for and oversee all safety orders and precautions necessary for the safe performance of the Work. Contractor shall take reasonable precautions for the safety of all employees and others whom the Work might affect, all work and materials incorporated into the Work, and all property and improvements on the Project site(s) and adjacent property.

### **3.05 CLEANUP:**

- A. Contractor shall keep the Project site(s) and adjoining ways free of waste material and rubbish caused by its employees or subcontractors. Contractor shall remove all such waste material and rubbish daily during construction, together with all tools, equipment, machinery and surplus materials. Contractor shall, upon termination of its Work, conduct general cleanup operations on the Project site(s), including the cleaning of all surfaces, paved streets and walks, and steps. Contractor shall also conduct such general cleanup operations on adjacent properties which were disturbed by the Work.
- B. If Contractor fails to perform the cleanup required by this Section, after written notice, the Town may cause the cleanup to be performed at Contractor's expense. Upon receipt of a statement for such cleanup, Contractor shall pay to the Town the costs incurred by the Town for such cleanup, or the Town shall have the right to withhold said amount from any final payment due to Contractor.

### **3.06 PAYMENT OF ROYALTIES AND LICENSE FEES:**

Contractor agrees to pay all royalties and license fees necessary for the Project, and to defend against all actions for infringement of copyright or patent rights, and to save and hold the Town harmless from such actions.

### **3.07 TAXES, LICENSES AND PERMITS:**

Contractor shall pay all taxes imposed by law in connection with the Project and shall procure all permits and licenses necessary for the prosecution of the Work.

### **3.08 SAMPLES AND SHOP DRAWINGS:**

Contractor shall furnish, upon the request of the Project Manager, samples and shop drawings to the Project Manager, who shall review them for conformance with the Contract Documents. All Work shall comply with approved samples and drawings.

### **3.09 COMPLIANCE WITH LAWS AND REGULATIONS:**

Contractor shall comply with all federal, state and local laws, ordinances, rules, regulations and orders in any manner relating to the Project. If any provision of the Contract Documents is at variance therewith, Contractor shall notify the Project Manager promptly.

### **3.10 SUBCONTRACTORS:**

A. Contractor shall furnish to the Project Manager at the time the Construction Agreement is executed, a list of names of subcontractors to whom Contractor proposes to award the portions of the Work to be subcontracted by Contractor.

B. Contractor shall not employ a subcontractor to whose employment the Project Manager reasonably objects, nor shall Contractor be required to hire a subcontractor to whose employment Contractor reasonably objects.

C. All contracts between Contractor and subcontractor shall conform to the provisions of the Contract Documents, and shall incorporate the relevant provisions of the Contract Documents.

### **3.11 CORRECTIVE WORK:**

When any Work does not conform to the Contract Documents, Contractor shall make the necessary corrections so that the Work will so conform. Such corrections shall be accomplished within the time period approved by the Project Manager. Failure to complete such required corrections within the time period required shall constitute a breach of the Contract.

### **3.12 OTHER CONTRACTS:**

The Town reserves the right to let other contracts in connection with the Project. Contractor shall cooperate with all other contractors so that their work is not impeded by the Work, and Contractor shall give other contractors access to the Project site(s) necessary to perform their contracts.

### **3.13 COMMUNICATION:**

Contractor shall direct all communications to the Town regarding the Project to the attention of the Project Manager.

## **PART 4. TERMINATION**

### **4.01 LABOR DISPUTES:**

Notwithstanding any other provision contained in this Contract, in the event of any picket or other form of labor dispute at the construction site(s), Contractor shall continue to perform the Work without interruption or delay. If Contractor ceases performance of the Work because of such picket or other form of labor dispute, the Town may terminate the services of Contractor after giving forty-eight (48) hours' written notice of its intent to do so.

### **4.02 DEFAULT:**

The Town may terminate this Contract upon seven (7) days' written notice to Contractor if Contractor defaults in the timely performance of any provision of the Contract Documents, or otherwise fails to perform the Work, or any part thereof, in accordance with the Contract Documents. Termination of the Contract by the Town shall not be the Town's exclusive remedy, and the Town may pursue such other remedies and actions lawfully available to the Town including, but not limited to, an action at law for damages against Contractor or any bonding agency issuing a bond hereunder, or an action in equity for injunctive relief.

## **PART 5. WARRANTIES:**

### **5.01 WARRANTY OR FITNESS OF EQUIPMENT AND MATERIALS:**

Contractor represents and warrants to the Town that all equipment and materials used in the Project, and made a part of the Project, or placed permanently in the Project, shall be new unless otherwise specified in the Contract Documents. All equipment and materials used shall be of good quality, free of defects and in conformity with the Contract Documents. All equipment and materials not in conformity with the Contract Documents shall be considered defective.

## **PART 6. BONDS, INSURANCE AND INDEMNIFICATION**

### **6.01 INDEMNIFICATION:**

Contractor agrees to indemnify and hold harmless the Town and its officers, insurers, volunteers, representative, agents, employees, heirs and assigns from and against all claims, liability, damages, losses, expenses and demands, including attorney fees, on account of injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, which arise out of or are in any manner connected with this Agreement or the Scope of Services if such injury, loss, or damage is caused in whole or in part by, the act, omission, error, professional error, mistake, negligence, or other fault of Contractor, any subcontractor of Contractor, or any officer, employee, representative, or agent of Contractor or of any subcontractor of Contractor, or which arise out of any worker's compensation claim of any employee of Contractor or of any employee of any subcontractor of Contractor.

### **6.02 NOTICE OF CLAIM:**

If Contractor receives any claim arising from the performance of the Work, Contractor shall notify the Town in writing of the nature of the claim within twenty-four (24) hours of receipt of the claim by Contractor. In this notice, Contractor shall provide evidence that Contractor has notified Contractor's insurer of the claim. Contractor shall keep the Town apprised of the disposition of the claim, and Contractor shall take all necessary action to resolve the claim and

make restitution, if required, as quickly as possible.

### **6.03 INSURANCE:**

A. Contractor agrees to procure and maintain, at its own cost, a policy or policies of insurance sufficient to insure against all liability, claims, demands, and other obligations assumed by Contractor pursuant to this Agreement. Such insurance shall be in addition to any other insurance requirements imposed by law.

B. Without limiting the generality of the foregoing, Contractor shall procure and maintain, and shall cause any subcontractor of Contractor to procure and maintain, the minimum insurance coverages listed below. Such coverages shall be procured and maintained with forms and insurers with a current Best's Insurance Guide Rating of A- or better and authorized to do business in the State of Colorado. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

1. Worker's compensation insurance to cover obligations imposed by applicable law for any employee engaged in the performance of Work under the Contract, and Employer's Liability insurance with minimum limits of five hundred thousand dollars (\$500,000) each accident, one million dollars (\$1,000,000) disease – policy limit, and one million dollars (\$1,000,000) disease – each employee. Evidence of qualified self-insured status may be substituted for the worker's compensation requirements of this paragraph.

2. Commercial general liability insurance with minimum combined single limits of at least one million dollars (\$1,000,000) each occurrence and two million dollars (\$2,000,000) general aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including completed operations), personal injury (including coverage for contractual and employee acts), blanket contractual, products, and completed operations. The policy shall contain a severability of interests provision, and shall be endorsed to include the Town and the Town's officers, employees, and consultants as additional insureds. No additional insured endorsement shall contain any exclusion for bodily injury or property damage arising from completed operations.

3. "All Risk" Builder's Risk insurance in a form acceptable to the TOWN upon the entire Project for the full cost of replacement at the time of any loss. This insurance shall include, as named insureds, the Town, Contractor, and any Subcontractors. This insurance shall include "all risk" insurance for physical loss or damage including without duplication of coverage, at least theft, vandalism, malicious mischief, transit, materials stored off site, collapse, falsework, temporary buildings, debris removal, flood, earthquake, testing, and damage resulting from defective design, workmanship or materials. The Contractor shall increase limits of coverage, if necessary, to reflect estimated replacement cost. The insurance shall be written without a co-insurance clause.

C. Any insurance carried by the Town, its officers, its employees, or its consultants shall be excess and not contributory insurance to that provided by Contractor. Contractor shall be solely responsible for any deductible losses under any policy of insurance required by this Section 6.03.

D. Contractor shall provide to the Town a certificate of insurance as evidence that policies providing the required coverages, conditions, and minimum limits are in full force and effect.

The certificate shall identify this Contract and shall provide that the coverages afforded under the policies shall not be cancelled, terminated or materially changed until at least thirty (30) days prior written notice has been given to the Town. The Town reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

#### **6.04 PERFORMANCE AND PAYMENT BONDS:**

Contractor shall furnish a Performance Bond and a Payment Bond, each in the full amount of the Contract Price, as security for the faithful performance and payment of all Contractor's obligations under the Contract Documents.

### **PART 7. PAYMENT**

#### **7.01 PROGRESS PAYMENTS:**

A. The Town shall make periodic progress payments to Contractor within fifteen (15) days following the Project Manager's approval of the Work completed. A progress payment shall be made only after Contractor has submitted an application for a progress payment on a form approved by the Project Manager, and if requested by the Project Manager, Contractor shall submit copies of invoices from subcontractors or supplies and partial waivers executed by each.

B. Progress payments shall be in an amount equal to ninety-five percent (95%) of the Work actually completed, as determined by the Project Manager.

C. If Contractor fails to complete any required Work within the time period agreed between Contractor and the Project Manager, or within any time period set forth in the Contract Documents, as modified or extended, the Town is expressly authorized to withhold any progress payment for such Work until such Work is completed.

D. Whenever Contractor receives payment pursuant to this Contract, Contractor shall make payments to each of its Subcontractors of any amounts actually received that were included in Contractor's request for payment to Town for such subcontracts. Contractor shall make such payments within fifteen (15) days of receipt of payment from Town in the same manner as Town is required to pay Contractor pursuant to the Contract Documents if the Subcontractor is satisfactorily performing under its contract with Contractor. Nothing in this paragraph shall be construed to affect the retention provisions of the Contract Documents.

#### **7.02 FINAL PAYMENT:**

Upon final acceptance of the Project, the Town shall pay the Contractor the remainder of the Contract Price theretofore unpaid. Notwithstanding any other part of this Section, the Contractor agrees that the Town shall, when required by C.R.S. § 38-26-107(1), publish a "notice of final payment" in a legal Summit County newspaper prior to making final payment to the Contractor. This notice of final payment advertises the date, time, and place when final payment will be made and is intended to alert subcontractors so they can present any claims for unpaid amounts to the Town. The final payment procedure typically delays the final payment made to the Contractor of the retainage amount.

Regardless of whether "notice of final payment" is required by state statute, final payment shall not be made to the Contractor until the Town has complied with all applicable requirements of C.R.S. § 38-26-107 and all claims, if any, have been resolved to the satisfaction of the Town.

### **7.03 LIQUIDATED DAMAGES:**

A. Because time is of the essence and delayed performance constitutes a compensable inconvenience to the Town and its residents, the liquidated damages established in this Section shall be enforced. Such damages are not a penalty. For each day Final Completion is delayed after the Final Completion date stated in the Construction Agreement, as modified through approved change orders, Contractor shall be assessed amounts per section 108.09 of CDOT Standard Specifications.

B. Allowing Contractor to continue and finish the Work or any part thereof after the Final Completion date shall not operate as a waiver on the part of the Town of any of its rights under the Contract Documents. Any liquidated damages assessed shall not relieve Contractor from liability for any damages or costs of other contractors caused by a failure of Contractor to complete the Work in the Contract Time. Liquidated damages may be deducted from any payment due Contractor or the retainage. If the liquidated damages exceed the amount owed to Contractor, Contractor shall reimburse the Town.

### **7.04 ORAL AGREEMENTS PROHIBITED:**

This Contract is expressly subject to the provisions of C.R.S. § 29-1-110(1), and Contractor acknowledges that neither the Town nor any employee or agent thereof is authorized to expend or contract for the expenditure of any monies in excess of those appropriated by the Frisco Town Council. The Town acknowledges and agrees that sufficient funds have been appropriated to pay the Contract Price, but Contractor shall not rely upon the appropriation of any monies or other funds in addition to those already appropriated unless and until the same are lawfully appropriated by the Frisco Town Council.

### **7.05 ITEMS NOT INCLUDED IN BID:**

No additional compensation shall be paid for any costs or services listed in the Contract Documents but not specifically listed in the Bid as a Bid item.

### **7.06 CHANGES IN QUANTITY:**

A. Except as provided in Section 7.07, the unit Bid price shown in the Bid Schedule shall be used to determine the payment owed Contractor for any changes in quantity.

B. The actual quantity placed, as determined by the Project Manager, shall be used to calculate the payment due to Contractor.

C. Prior to any Work being performed in excess of any of the Bid Schedule quantities, Contractor shall notify the Town, in writing, of every quantity that will exceed one hundred five percent (105%) of the quantity listed on the Bid Schedule.

D. Except as provided in Section 7.08, Contractor shall not be entitled to compensation for any increased expense, loss of expected reimbursement or loss of anticipated profits, directly or indirectly caused by any changes in quantity.

### **7.07 BID PRICE ADJUSTMENTS:**

A. When a major item is increased to more than one hundred twenty five percent (125%) or decreased below seventy five percent (75%) of the original quantity stated on the Bid Schedule, the unit Bid price shall be modified by written change order. Payment for major items shall be calculated by multiplying the actual quantity placed by the modified Bid price.



B. For purposes of this Section, a major item is any item having a Bid value, determined by multiplying the Bid quantity by the unit Bid price, that exceeds ten percent (10%) of the original Contract Price.

#### **7.08 ELIMINATED ITEMS:**

Should any items contained in the Bid Schedule be found unnecessary for completion of the Work, the items shall be eliminated. The Contract Price shall be modified through written change order, and the amount of the change order shall be the eliminated quantity multiplied by the unit Bid price stated in the Bid Schedule, minus any reasonable costs incurred by Contractor for the eliminated items. Reasonable costs shall be determined by the Project Manager based on information provided by Contractor, and may include mobilization of eliminated materials and equipment mobilization costs, if the sole purpose of the equipment was to place the eliminated material. In no case shall the costs exceed the amount of the eliminated items.

#### **7.09 MATERIALS STORED BUT NOT INCORPORATED:**

Payments may be made to Contractor for materials stored on the Project site(s) but not incorporated into the Work as evidenced by invoices or cost analyses of material produced, if the material has been fabricated or processed and is ready for installation into the Project and conforms with the Contract Documents. Payments shall not exceed eighty-five percent (85%) of the price shown in the Bid Schedule or one hundred percent (100%) of the certified invoice cost of the stockpiled material, whichever is less. Payment for stockpiled materials shall not relieve Contractor of responsibility for loss or damage to the material. Payment for living plant materials or perishable materials shall not be made until the living or perishable material is made an integral part of the finished Work.

#### **7.10 COST RECORDS:**

Contractor shall make cost records available to the Town if the Town deems it necessary to determine the validity and amount of any item claimed.

### **PART 8. MISCELLANEOUS**

#### **8.01 PUBLICATIONS:**

Any and all publications relating to the Project and authored by Contractor or any of its subcontractors shall be submitted to the Town for its prior written approval of the content of the publication. If the Town disapproves of the content of the publication, the author shall withdraw it from publication. The term "publication" as used herein shall include articles or letters to be published in any newspaper, magazine, trade journal or other periodical.

#### **8.02 CONFIDENTIALITY:**

Any and all reports, information, data, statistics, forms, designs, plans, procedures, systems, studies and any other communication form of knowledge given to or prepared or assembled by Contractor under this Contract shall, to the extent authorized and permitted by law, be kept as confidential and not be made available by Contractor to any individual, company or organization without the prior written consent of the Town. Notwithstanding the foregoing, Contractor shall not be restricted from releasing information in response to a subpoena, court order, or legal process, but Contractor shall notify the Town in writing before responding.

### **8.03 INDEPENDENT CONTRACTOR:**

Contractor, for all purposes arising out of this Contract, is an independent contractor and not an employee of the Town. It is expressly understood and agreed that Contractor shall not be entitled to any benefits to which the Town's employees are entitled, such as overtime, retirement benefits, worker's compensation, injury leave or other leave benefits.

### **8.04 CONFLICTS:**

Should any conflict arise in the Contract Documents, the order of precedence is as follows:

1. Construction Agreement.
2. Special Conditions.
3. General Conditions.
4. Supplemental Specifications.
5. Detailed Plans (Calculated dimensions will govern over scaled dimensions).
6. Standard Plans (Calculated dimensions will govern over scaled dimensions).

## **PERFORMANCE BOND**

Bond No. \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS: that

(Firm)\_\_\_\_\_

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

(an Individual), (a Partnership), (a Corporation), hereinafter referred to as "the Principal", and

(Firm)\_\_\_\_\_

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

hereinafter referred to as "the Surety", are held and firmly bond unto the Town of Frisco, Colorado, a municipal corporation hereinafter referred to as "the Owner", in the amount of \_\_\_\_\_ Dollars in lawful money of the United States, for the payment of which sum well and truly to be made, we bind ourselves, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITIONS OF THIS OBLIGATION are such that whereas the Principal entered into a certain Construction Agreement with the Owner, dated the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, for the performance of certain Work (the "Construction Contract"), which is by reference made a part hereof,

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions and agreements of said Agreement during the original term thereof, and any extensions thereof which may be granted by the Owner, with or without Notice to the Surety and during the life of the guaranty period, and if shall satisfy all claims and demands incurred under such Agreement, and shall fully indemnify and save harmless the Owner from all cost and damages which it may suffer by reason of failure to do so, and shall reimburse and repay the Owner all outlay and expense which the Owner may incur in making good any default, and then this obligation shall be void;

Otherwise the Principal and Surety shall have the following obligations:

1. If Owner is not in Default under the Construction Contract, Surety's obligation under this Bond shall arise after:

1.1 Owner has notified Principal and Surety at its address listed herein that Owner by seven days' written notice intends to terminate the services of Principal or otherwise declare Principal to be in default of its obligations under the Construction Contract; and

1.2 Owner has declared Principal to be in Default and formally terminated Principal's right to complete the Construction Contract; and

1.3 Owner has agreed to pay the Unpaid Balance of the Contract Price to Surety in accordance with the terms of the Construction Contract or to a Principal selected to perform the Construction Contract in accordance with the terms of the Construction Contract with Owner.

2. When Owner has satisfied the conditions of paragraph 1, Surety shall promptly and at Surety's expense take one of the following actions:

2.1 Arrange for Principal, with consent of the Owner, to perform and complete the Construction Contract; or

2.2 Undertake to perform and complete the Construction Contract itself, through its agents or through independent Principals; or

2.3 Obtain bids or negotiated proposals from qualified Principals acceptable to Owner for a contract for performance and completion of the Construction Contract, arrange for a contract to be prepared for execution by Owner and the Principal selected with Owner's concurrence, to be secured with the performance and payment bonds executed by a qualified Surety equivalent to the Bonds issued on the Construction Contract, and pay to Owner the amount of damages as described in paragraph 4 in excess of the Unpaid Balance of the Contract Price incurred by Owner resulting from the Principal's Default; or

2.4 Waive its right to perform and complete, arrange for completion, or obtain a new Principal and with reasonable promptness under the circumstances, after investigation, determine the amount for which it is liable to Owner and, as soon as practicable after the amount is determined and approved by Owner, tender payment therefor to Owner.

3. If Surety does not proceed as provided in paragraph 2 with reasonable promptness, Surety shall be deemed to be in default on this Bond 15 days after receipt of an additional written notice from Owner to Surety demanding that Surety perform its obligations under this Bond, and Owner shall be entitled to enforce any remedy available to Owner. If Surety proceeds as provided in subparagraph 2.4 and Owner refuses the payment tendered or Surety has denied liability, in whole or in part, without further notice, Owner shall be entitled to enforce any remedy available to Owner.

4. After Owner has terminated Principal's right to complete the Construction Contract, and if Surety elects to act under subparagraph 2.1, 2.2, or 2.3 above, then the responsibilities of Surety to Owner shall not be greater than those of Principal under the Construction Contract, and the responsibilities of Owner to Surety shall not be greater than those of Owner under the Construction Contract. To the limit of the amount of this Bond, but subject to commitment by Owner of the unpaid balance of the Contract Price and to mitigation of costs and damages on the Construction Contract, Surety is obligated without duplication for:

4.1 The responsibilities of Principal for correction of defective work and completion of the Construction Contract; and

4.2 Additional legal, design professional and delay costs resulting from

Principal's Default, and resulting from the actions or failure to act of Surety under paragraph 2; and

4.3 Liquidated damages, or if no liquidated damages are specified in the Construction Contract, actual damages caused by delayed performance or non-performance of Principal.

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

6. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the Work or part of the Work is located and shall be instituted within two years after Owner declares Principal to be in default or within two years after Principal ceased working or within two years after Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to Sureties in the State of Colorado shall be applicable.

7. Any notice to the parties required under this Bond shall be in writing, delivered to the person designated below for the parties at the indicated address unless otherwise designated in writing. Only mailing by United States mail or hand-delivery shall be utilized. Facsimile and e-mail addresses may be provided for convenience only.

OWNER:     The Town of Frisco  
              Project Manager:  
              P.O. Box 4100  
              Frisco, CO 80443

PRINCIPAL: \_\_\_\_\_  
              \_\_\_\_\_  
              \_\_\_\_\_  
              \_\_\_\_\_

SURETY:    \_\_\_\_\_  
              \_\_\_\_\_  
              \_\_\_\_\_  
              \_\_\_\_\_

8. This Bond is to be governed by the laws of the State of Colorado.

9. Definitions.

9.1 Unpaid Balance of the Contract Price: The total amount payable by Owner to Principal under the Construction Contract after all proper adjustments have been made, including allowance to Principal of any amounts received or to be received by Owner in settlement of insurance or other claims for damages to which Principal is entitled, reduced by all valid and

proper payments made to or on behalf of Principal under the Construction Contract.

9.2 Default: Failure of the Principal or Owner, as the case may be, that has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Construction Contract.

IN WITNESS WHEREOF, this instrument is executed in five (5) counterparts, each one of which shall be deemed an original, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

PRINCIPAL

ATTEST:

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

(Corporate Seal)

SURETY

ATTEST:

Surety: \_\_\_\_\_

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

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

Attorney-in-Fact: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

(Surety Seal)

NOTE: Date of Bond must not be prior to date of Construction Contract and Surety must be authorized to transact business in the State of Colorado and be acceptable to the Owner.

## **PAYMENT BOND**

Bond No. \_\_\_\_\_

KNOW ALL MEN BY THESE PRESENTS: that

(Firm) \_\_\_\_\_

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

(an Individual), (a Partnership), (a Corporation), hereinafter referred to as "the Principal", and

(Firm) \_\_\_\_\_

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

hereinafter referred to as "the Surety", are held and firmly bond unto the Town of Frisco, Colorado, a municipal corporation, hereinafter referred to as "the Owner", in the amount of \_\_\_\_\_ Dollars in lawful money of the United States, whereof Principal and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, to the Owner to pay for labor, materials and equipment furnished for use in the performance of that Construction Agreement with the Owner, dated the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, for the performance of certain Work (the "Construction Contract"), which is by reference made a part hereof,

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

PROVIDED, FURTHER,

1. That Surety shall have no obligation to Claimants under this Bond until:

1.1 Claimants who are employed by or have a direct contract with Contractor have given notice to Surety and sent a copy, or notice thereof, to the Owner, stating that a claim is being made under this Bond and, with substantial accuracy, the amount of the claim.

1.2 Claimants who do not have a direct contract with Contractor:

1.2.1 Have furnished written notice to Contractor and sent a copy, or notice thereof to Owner, up to and including the date of final settlement under the Construction Contract, stating with substantial accuracy the amount of the claim and the name of the party to whom materials were furnished or supplied or for whom labor was done or performed; and

1.2.2 Have either received a rejection in whole or in part from Contractor, or not

received within 30 days of furnishing the above notice any communication from Contractor by which Contractor has indicated the claim will be paid directly or indirectly; and

1.2.3 Not having been paid within the above 30 days, have sent a written notice to Surety and sent a copy, or notice thereof, to Owner, stating that a claim is being made under this Bond and enclosing a copy of the previous written notice furnished to Contractor.

2. If a notice required by Section 1 is given by Owner to Contractor or to Surety, that is sufficient compliance.

3. When a Claimant has satisfied the conditions of paragraph 1, Surety shall promptly and at Surety's expense take the following actions:

3.1 Send an answer to the Claimant, with a copy to Owner, within 45 days after receipt of the claim, stating the amounts that are undisputed and the basis for challenging any amounts that are disputed; and

3.2 Pay or arrange for payment of any undisputed amounts.

4. Surety's total obligation shall not exceed the amount of this Bond, and the amount of this Bond shall be credited for any payments made in good faith by Surety.

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

6. Owner shall not be liable for payment of any costs or expenses of any Claimant under this Bond, and shall have under this Bond no obligation to make payments to, give notices on behalf of, or otherwise have obligations to Claimants under this Bond.

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

8. Any proceeding, legal or equitable, under this Bond may be instituted in any court of competent jurisdiction in the location in which the Work or part of the Work is located and shall be instituted within two years after Owner declares Contractor to be in default or within two years after Contractor ceased working or within two years after Surety refuses or fails to perform its obligations under this Bond, whichever occurs first. If the provisions of this paragraph are void or prohibited by law, the minimum period of limitation available to Sureties in the State of Colorado shall be applicable.

9. Any notice to the parties required under this Bond shall be in writing, delivered to the person designated below for the parties at the indicated address unless otherwise designated in writing. Only mailing by United States mail or hand-delivery shall be utilized. Facsimile and e-mail addresses may be provided for convenience only.



OWNER:     The Town of Frisco  
              Project Manager:  
              P.O. Box 4100  
              Frisco, CO 80443

PRINCIPAL: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SURETY: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

10. This Bond is to be governed by the laws of the State of Colorado.

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

12. Definitions.

12.1 Claimant: Any person, partnership, or corporation, or other entity that has furnished labor, materials, team hire, sustenance, provisions, provender, or other supplies used or consumed by Contractor or its Subcontractor in or about the performance of the Work under the Construction Contract, or that supplies laborers, rental machinery, tools, or equipment to the extent used in the prosecution of the Work, or architectural and engineering services required for performance of the Work of the Contractor and the Contractor's Subcontractors.

12.2 Default: Failure of the Contractor or Owner, as the case may be, that has neither been remedied nor waived, to perform or otherwise to comply with the terms of the Construction Contract.

IN WITNESS WHEREOF, this instrument is executed in five (5) counterparts, each one of which shall be deemed an original, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

PRINCIPAL

ATTEST:

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

(Corporate Seal)

SURETY

ATTEST:

Surety: \_\_\_\_\_

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

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

Attorney-in-Fact: \_\_\_\_\_

Title: \_\_\_\_\_

Address: \_\_\_\_\_

(Surety Seal)

NOTE:      Date of Bond must not be prior to date of the Construction Contract and Surety must be authorized to transact business in the State of Colorado and be acceptable to the Owner.

## **NOTICE OF AWARD**

Date: April 22, 2024

John Leone, President  
Naranjo Civil Constructors, Inc.  
627 27<sup>th</sup> Street  
Garden City, CO 80631

Re: Highway 9 Sidewalk Improvements, Project No. 25946

Dear Mr. Leone:

Thank you for submitting a bid for the Town of Frisco's Highway 9 Sidewalk Improvements, Project No, 25946.

Your firm has been selected as the successful Bidder, and accordingly, this letter is your Notice of Award for the contract amount of \$1,406,387.50 for the above mentioned project.

Enclosed please find the final Construction Agreement. Please review and sign the agreement, then within ten (10) days return one copy to me along with your Payment Bond and Performance Bonds, each in the full amount of the Contract Price, as well as your Certificate of Insurance in the amounts required by the Agreement. When dating these documents, make sure all dates on all documents are the same.

Upon receipt of the fully executed copy of the Construction Agreement, as well as all bonding and insurance documents the Town will send you a Notice to Proceed.

Should you have any questions, please call me at (970) 668-4579.

Sincerely,

A handwritten signature in purple ink that reads "Christopher McGinnis".

Christopher McGinnis  
Public Works Director/Town Engineer

## COLORADO BID BOND

BOND NO. Bid Bond

AMOUNT OF BOND: \$ Five Percent (5%) of the Total Amount Bid

KNOW ALL MEN BY THESE PRESENTS, that Naranjo Civil Constructors, Inc., hereinafter called the PRINCIPAL, and Trisura Insurance Company, a corporation duly organized under the laws of the State of Oklahoma, having its principal place of business at 2 Stamford Plaza, Suite 1504, 281 Tresser Blvd., Stamford in the State of Connecticut, and authorized to do business in the State of Colorado, as SURETY, are held and firmly bound unto the Town of Frisco, hereinafter called the OBLIGEE, in the sum of Five Percent of the Total Amount Bid DOLLARS (\$ 5%), for the payment of which we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents as follows:

THE CONDITION OF THIS BOND IS SUCH THAT:

WHEREAS, the PRINCIPAL is herewith submitting his Bid for:

Highway 9 Sidewalk Improvements, Frisco, CO

(Describe project)

said Bid, by this reference thereto being hereby made a part hereof; and

WHEREAS, the OBLIGEE has required as a condition for receiving said Bid that the PRINCIPAL furnish the OBLIGEE with security as provided herein;

NOW, THEREFORE, if the PRINCIPAL shall, within sixty (60) days after Bid Opening:

(A) On the prescribed forms presented to him for signature, enter into a written Formal Contract with the OBLIGEE in accordance with his Bid as accepted, give Performance and Payment Bonds with good and sufficient Surety or Sureties as is required upon the forms prescribed in the Contract Documents, and deliver the certificates of insurance required by the Contract Documents, or

(B) Pay to the OBLIGEE the said sum of this bond as liquidated damages, and not as a penalty,

THEN, this obligation shall be void and of no effect; otherwise to remain in full force and effect.

Signed and sealed this 18th day of April, 2024.

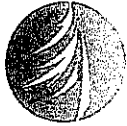
PRINCIPAL Naranjo Civil Constructors, Inc.

By:  John Leone, President

SURETY Trisura Insurance Company

By:   
Attorney-In-Fact Mary Ashley Allen





TRISURA

2 Stamford Plaza  
Suite 1504, 281 Tresser Boulevard  
Stamford, Connecticut 06901  
[us.surety@trisura.com](mailto:us.surety@trisura.com)

## POWER OF ATTORNEY

Bond Number: Bid Bond  
Bond issuance date: April 18, 2024

**KNOW ALL MEN BY THESE PRESENTS:** That **TRISURA INSURANCE COMPANY**, a corporation organized and existing under the laws of the State of Oklahoma, authorized to conduct a surety business, and having its principal place of business at 2 Stamford Plaza, Suite 1504, Tresser Boulevard, Stamford, Connecticut 06901, does hereby constitute and appoint:

**Donald E. Appleby, Mark Sweigart, Todd D. Bengford, Sarah C. Brown, Jessica Jean Rini, Mary Ashley Allen, Megan A. Brown**

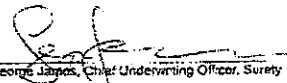
their true and lawful attorney(s)-in-fact to execute, seal and deliver for and on its behalf as surety, any and all bonds and undertakings, contracts of indemnity and other writings obligatory in the nature thereof, which are or may be allowed, required or permitted by law, statute, rule, regulation, contract or otherwise, and the execution of such instrument(s) in pursuance of these presents, shall be as binding upon the said **TRISURA INSURANCE COMPANY**, as fully and amply, to all intents and purposes, as if the same had been duly executed and acknowledged by their regularly elected officers at their principal offices.

This Power of Attorney is executed, and may be revoked, pursuant to and by authority of the By-Laws of **TRISURA INSURANCE COMPANY** and is granted under and by authority of the following resolution adopted by the Board of Directors of **TRISURA INSURANCE COMPANY** at a meeting duly held on the 11<sup>th</sup> day of December, 2020.

"RESOLVED, that (1) the Chief Executive Officer, President, Executive Vice President, Senior Vice President, Vice President, or Secretary of the Corporation shall have the power to appoint, and to revoke the appointments of, Attorneys-in-Fact or agents with power and authority as defined or limited in their respective powers of attorney, and to execute on behalf of the Corporation and affix the Corporation's seal thereto, bonds, undertakings, recognizances, contracts of indemnity and other written obligations in the nature thereof or related thereto; and (2) any such Officers of the Corporation may appoint and revoke the appointments of joint-control custodians, agents for acceptance of process, and Attorneys-in-fact with authority to execute waivers and consents on behalf of the Corporation; and (3) the signature of any such Officer of the Corporation and the Corporation's seal may be affixed by facsimile to any power of attorney or certification given for the execution of any bond, undertaking, recognizance, contract of indemnity or other written obligation in the nature thereof or related thereto, such signature and seals when so used whether heretofore or hereafter, being hereby adopted by the Corporation as the original signature of such officer and the original seal of the Corporation, to be valid and binding upon the Corporation with the same force and effect as though manually affixed."

IN WITNESS WHEREOF, **TRISURA INSURANCE COMPANY** have each executed and attested these presents  
on this 25<sup>th</sup> day of February, 2022.


STATE OF Connecticut  
County of Fairfield

  
George J. Jones, Chief Underwriting Officer, Surety



On this 25<sup>th</sup> day of February, 2022, before me came the individual who executed the preceding instrument, to me personally known, and, being by me duly sworn, said he is the therein described and authorized officer of **TRISURA INSURANCE COMPANY**; that the seals affixed to said instrument are the Corporate Seals of said Companies; that the said Corporate Seals and his signature were duly affixed by order of the Boards of Directors of said Companies.

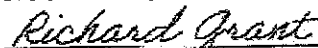
IN TESTIMONY WHEREOF, I have hereunto set my hand affixed my Official Seal, at  
Fairfield, Connecticut the day and year first above written.

**SERENA I. SZEKELY**  seal  
Notary Public, State of Connecticut  
My Commission Expires 10/31/2026  
\_\_\_\_\_, a Notary Public of Connecticut  
My Commission Expires: 10/31/2026

### CERTIFICATION

I, the undersigned officer of **TRISURA INSURANCE COMPANY** do hereby certify that I have compared the foregoing copy of the Power of Attorney and affidavit, and the copy of the Sections of the By-Laws of said Companies as set forth in said Power of Attorney, with the originals on file in the home office of said companies, and that the same are correct transcripts thereof, and of the whole of the said originals, and that the said Power of Attorney has not been revoked and is now in full force and effect.

IN TESTIMONY WHEREOF, I have hereunto set my hand on this day,

  
Richard Grant, Vice President, U.S. Surety

TO CONFIRM AUTHENTICITY OF THIS BOND OR DOCUMENT EMAIL: [us.surety@trisura.com](mailto:us.surety@trisura.com)

COLORADO DEPARTMENT OF TRANSPORTATION  
**STATEMENT OF RESIDENCY FOR BID PREFERENCE**

Project # Town of Frisco  
Project #25946

As a precondition to the award of a contract by the Colorado Department of Transportation for the construction of the above listed project, I do here certify that the firm named below is a:

Check one:

☒ Resident Bidder

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


☐ Nonresident Bidder

1. Name the state or foreign country of residency: \_\_\_\_\_
2. Does this state or foreign country have a bidding preference for resident bidders on public projects?  
☐ Yes ☐ No If yes, state the percentage preference: \_\_\_\_\_%.

I declare under penalty of perjury in the second degree, and any other applicable state or federal laws, that the statements made on this document are true and complete to the best of my knowledge.

Firm name:  
H&L Concrete Inc., dba Naranjo Civil Constructors, Inc.

Check one: ☐ individual owner ☐ partner ☒ officer  
☐ person delegated to sign this form

Signature:  


Title:  
President

2nd firm name if joint venture:

Check one: ☐ individual owner ☐ partner ☐ officer  
☐ person delegated to sign this form

Signature:

Title:



**COLORADO DEPARTMENT OF TRANSPORTATION  
ANTI-COLLUSION AFFIDAVIT**

PROJECT NO.

Town of Frisco Project #25946

LOCATION

West side of Hwy 9 between 10 Mile Rd and  
School Rd

I hereby attest that I am the person responsible within my firm for the final decision as to the price(s) and amount of this bid or, if not, that I have written authorization, enclosed herewith, from that person to make the statements set out below on his or her behalf and on behalf of my firm.

I further attest that:

1. The price(s) and amount of this bid have been arrived at independently, without consultation, communication or agreement for the purpose or with the effect of restricting competition with any other firm or person who is a bidder or potential prime bidder.
- 2A. Neither the price(s) nor the amount of this bid have been disclosed to any other firm or person who is a bidder or potential prime bidder on this project, and will not be so disclosed prior to bid opening.
- 2B. Neither the prices nor the amount of the bid of any other firm or person who is a bidder or potential prime bidder on this project have been disclosed to me or my firm.
- 3A. No attempt has been made to solicit, cause or induce any firm or person who is a bidder or potential prime bidder to refrain from bidding on this project, or to submit a bid higher than the bid of this firm, or any intentionally high or non-competitive bid or other form of complementary bid.
- 3B. No agreement has been promised or solicited for any other firm or person who is a bidder or potential prime bidder on this project to submit an intentionally high, noncompetitive or other form of complementary bid on this project.
4. The bid of my firm is made in good faith and not pursuant to any consultation, communication, agreement or discussion with, or inducement or solicitation by or from any firm or person to submit any intentionally high, noncompetitive or other form of complementary bid.
5. My firm has not offered or entered into a subcontract or agreement regarding the purchase or sale of materials or services from any firm or person, or offered, promised or paid cash or anything of value to any firm or person, whether in connection with this or any other project, in consideration for an agreement or promise by any firm or person to refrain from bidding or to submit any intentionally high, noncompetitive or other form of complementary bid or agreeing or promising to do so on this project.
6. My firm has not accepted or been promised any subcontract or agreement regarding the sale of materials or services to any firm or person, and has not been promised or paid cash or anything of value by any firm or person, whether in connection with this or any other project, in consideration for my firm's submitting any intentionally high, noncompetitive or other form of complementary bid, or agreeing or promising to do so, on this project.
7. I have made a diligent inquiry of all members, officers, employees, and agents of my firm with responsibilities relating to the preparation, approval or submission of my firm's bid on this project and have been advised by each of them that he or she has not participated in any communication, consultation, discussion, agreement, collusion, or other conduct inconsistent with any of the statements and representations made in this affidavit.
8. I understand and my firm understands that any misstatement in this affidavit is and shall be treated as a fraudulent concealment from the Colorado Department of Transportation, of the true facts relating to submission of bids for this contract.

I DECLARE UNDER PENALTY OF PERJURY IN THE SECOND DEGREE, AND ANY OTHER APPLICABLE STATE OR FEDERAL LAWS, THAT THE STATEMENTS MADE ON THIS DOCUMENT ARE TRUE AND COMPLETE TO THE BEST OF MY KNOWLEDGE.

Contractor's firm or company name

H&L Concrete Inc., dba Naranjo Civil Constructors, Inc.

By

Title

President

Date

4/22/24

2nd contractor's firm or company name. (If joint venture.)

By

Title

Date

Sworn to before me this

22<sup>nd</sup>

day of,

April

20 24

Notary Public

My commission expires

11.5.24



**NOTE: This document must be signed in ink.**



## BIDDERS LIST

**Subcontractors/Suppliers/Vendors:** The bidder must list all firms seeking to participate on the contract. This information is used by the Colorado Department of Transportation (CDOT) to determine overall goals for the Disadvantaged Business Enterprise Program. Failure to submit this form may result in the proposal being rejected.

I certify that the information provided herein is true and correct to the best of my knowledge.

**Work Proposed Categories:**

1. Materials and Supplies
2. Flagging and Traffic Control
3. Trucking and Hauling
4. Precast Concrete, Foundations, and Footings
5. Concrete Paving, Flatwork and Repair
6. Lighting and Electrical
7. Signs, Signal Installation, and Guardrail
8. Fencing
9. Buildings and Vertical Structures
10. Utility, Water and Sewer Lines

11. Structural Steel and Steel Reinforcement
12. Riprap and Anchored Retaining Walls
13. Landscape and Erosion Control
14. Bridge and Bridge Deck Construction
15. Asphalt Paving
16. Road and Parking Lot Marking
17. Chip Seal. Crack Seal. Joint Seal and Crack Fill
18. Bridge Painting and Coating
19. Stainway and Ornamental Metal
20. Parking Lots and Commercial Sidewalks

21. *Cleaning, Demolition, Excavation and Earthwork*
22. *Engineering and Surveying Services*
23. *Public Relations and Involvement*
24. *Piles and Deep Foundations*
25. *Waste Management and Recycling*
26. *Site Clean Up*
27. *Mechanical and HVAC*
28. *Tunnel Construction*
29. *Profiling and Grinding*
30. *Environmental Health and Safety*

CDOT Form #1413 12/16