



REQUESTS FOR PROPOSALS

RFP 2023-0824-001 Facilities Infrastructure Replacement Project

The Board of County Commissioners will receive sealed proposals for the Facilities Infrastructure Replacement Project, until 12:00 p.m. MST, Wednesday, August 23, 2023 at the office of the County Commissioners, 218 West Kiowa Ave, Fort Morgan, Colorado. All responses will be publicly opened and read aloud 9:00 a.m. MST, Thursday, August 24, 2023 at 218 W. Kiowa Ave., Fort Morgan, Colorado, the Morgan County Commissioners Office. Vendors and/or public will be able to view RFP opening via a Zoom meeting. Details will be posted on the county website at: <https://morgancounty.colorado.gov/bids-and-proposals>.

Morgan County is inviting you to a scheduled Zoom meeting.

Topic: RFP 2023-0824-001 Facilities Infrastructure Replacement Project

Time: Aug 24, 2023 09:00 AM Mountain Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/81089597472?pwd=OGpSNnFSMGNDZnNaOHBoCljRFZ0UT09>

Meeting ID: 810 8959 7472

Passcode: 255989

One tap mobile

+17193594580,,81089597472#,,,,*255989# US

+16694449171,,81089597472#,,,,*255989# US

Dial by your location

- +1 719 359 4580 US
- +1 669 444 9171 US
- +1 669 900 9128 US (San Jose)
- +1 253 215 8782 US (Tacoma)
- +1 346 248 7799 US (Houston)

Meeting ID: 810 8959 7472

Passcode: 255989

Find your local number: <https://us02web.zoom.us/j/81089597472?pwd=OGpSNnFSMGNDZnNaOHBoCljRFZ0UT09>

A mandatory pre-bid meeting will be held at Morgan County Justice Center, with additional buildings to be toured thereafter, on *August 4, 2023 at 10:00 a.m.* Please be prepared to sign in or leave a business card at the meeting.

The RFP is on file in the office of Administrative Services Department at 218 West Kiowa Avenue, Fort Morgan, CO and also on the Morgan County Website at www.co.morgan.co.us.

All Proposals can be submitted as follows:

- Email – Proposals (10 pages or less) may be emailed to: bccadmin@co.morgan.co.us. Emailed proposals must include the following statement on the email: **“I hereby waive my right to a sealed proposal”**. An email confirmation will be sent when the County receives the proposal within 24 hours of normal business hours.
- Hand delivery - Two (2) copies of the proposal may be hand delivered to the Office of the Board of County Commissioners, 218 W. Kiowa Ave. Fort Morgan, CO 80701.
- Mail - All proposals must be clearly marked on the envelope **RFP 2023-0824-001**.

Please address as follows:

Morgan County
Attn: Karla Powell, Administrative Services Manager
218 W Kiowa Ave
Fort Morgan, CO 80701

Karla Powell

Karla Powell
Administrative Services Manager
Morgan County, Colorado

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GENERAL INSTRUCTIONS TO RESPONDERS

1. A “proposal” is a responsive, conforming, unconditional, complete, legible, and properly executed offer by a responder to provide the product/service specified in the Request for Proposal (RFP) for the compensation specified.
2. Responses shall be clearly marked with the **RFP 2023- 0824-001**, Company Name, contact person, mailing address, telephone number of the responder, and contact email address.
3. It shall be the responsibility of the responder to ensure that the response is in proper form and in the County’s possession by or before the time and date designated in the RFP. Responses will not be accepted after the designated time and date. Any response received late will be returned to the responder unopened, if possible.
4. If a mistake is made or discovered during or after the County’s review of responses, the County reserves the right to determine which party made the mistake and whether the mistake is material and, after these determinations, the County, in its sole reasonable discretion, shall decide whether to accept or reject the proposal. No advantage shall be taken by any party of manifest clerical errors or omissions in any proposal. Responders shall notify the County immediately of any errors or omissions that are encountered.
5. Any item which does not meet all of the terms, conditions, or specifications of this package must be clearly indicated on the exceptions section of the Proposal Reply Form or on a separate sheet of paper and returned with the proposal.
6. The County shall not reimburse any responder for any cost incurred in preparing a proposal or attending equipment demonstrations, inspections, pre-proposal conferences, or interviews.
7. Any amplification, clarification, explanation, interpretation, or correction of a response shall be made only by written addendum, and a copy of the addendum shall be mailed or delivered to each person receiving a RFP. The County is not responsible for any amplification, clarification, explanation, or interpretation or correction of a proposal not contained in written addenda.
8. The County reserves the right to determine, in its sole reasonable discretion, whether any proposal meets the needs or purposes intended and is within the approved budget. The County does not base its award on prices alone. Also to be considered are: quality of product; past experience with the responder or any subcontractors, consultants, products or suppliers; qualifications of the responder and/or subcontractors or suppliers; services offered; warranties; maintenance considerations; long-range costs; delivery; and similar conditions.
9. The final award shall be made by the Board of County Commissioners in the best interests of Morgan County. **Morgan County may grant a 5% preference to local businesses. A local business shall be a business which maintains a physical place of business in Morgan County.**

10. The County reserves the right to conduct such investigations as it deems necessary to assist in the evaluation of any proposal to establish the experience, responsibility, reliability, references, reputation, qualifications, or financial ability of any responder, manufacturer or supplier. The purpose of such investigation is to satisfy the County that the responder has the ability to supply the specified product/service and to perform the necessary warranty and product support in accordance with the RFP in the prescribed manner and time.
11. The County reserves the right, if it deems such action to be in its best interests, to reject any and all responses or to waive any irregularities or informalities therein. Any incomplete, false, or misleading information provided by any responder shall be grounds for rejection of the proposal. If proposals are rejected, the County further reserves the right to investigate and accept the next best proposal in order of ranking, or to reject all proposals and re-solicit for additional proposals.
12. No proposal shall include federal excise taxes or state or local sales or use taxes.
13. Each proposal shall include a statement of standard warranty of the manufacturer if applicable.
14. Any response received as a result of this request is prepared at the responder's expense and becomes County property and is therefore a public record upon opening by the County.
15. If responder considers any of the information being submitted to be trade secrets, privileged information, or confidential commercial, financial, geological, or geophysical data, it is responder's responsibility to label the information as such. Otherwise, all information submitted shall be available as a public record for public inspection.
16. By submitting a proposal, the responder acknowledges that (a) the preparation of the proposal, and other quotations herein contained, does not obligate the County in any way; (b) the County assumes no obligation to enter into an agreement for the product; (c) all responsive documents are understood; and (d) the responder has the ability to deliver the product/equipment/service as specified herein in accordance with the RFP.
17. No proposal may be withdrawn for a period of sixty (60) days after the deadline for proposals.

Proposal Requirements

1. This RFP must be accompanied by a Bid Bond made payable to the owner in an amount of five percent (5%) of the responders total proposed price, and in the form of a certified check, bank check, or a bid bond issued by a surety contingent upon award before the County can accept and consider any proposal. Upon award, such bid bonds shall be returned to the unsuccessful Responder(s). For the successful Responder, the bid bond will be returned upon receipt of the required payment and performance bond, as required by the contract with the County
2. It is the responsibility of the successful responder to obtain all the necessary permits, accesses and permissions required to complete all projects outlined in this RFP packet. (Examples: access/permits required for railroad right of ways, access/permits and traffic control requirements for state highway right of ways, permissions of landowners for access/staging/storing equipment, materials and supplies, etc.
3. All contract work must be completed on or before November 30, 2024.
4. All proposals submitted must include **Two (2)** copies of the following documents: "Completed Reply Form, All Completed Project Schedule documents, References Forms", and be Accompanied by a Bid Security made payable to owner in an amount of five percent (5%) of the responders total proposed price, and in the form of a certified check, bank check, or a bid bond issued by a surety contingent upon award.
5. Any "Warranty" of work performed for the finished product must be outlined in the reply form.
6. Potential responders may submit questions to bccadmin@co.morgan.co.us. Questions and responses will be posted to <https://morgancounty.colorado.gov/bids-and-proposals>.

RFP 2023-0824-001

**REQUEST FOR PROPOSALS (RFP)
FOR
Turn-key Professional Services
To provide
Facilities Infrastructure Replacement
Project**

1. General Information

Morgan County, Colorado (herein “County”) seeks the services and contract with a qualified energy services, design-build contractor or other facilities planning company to identify, develop, design, implement and provide energy savings guarantee for energy and other facility improvement projects under an energy performance contract or other turn-key project delivery model.

The goals of the project are to: (1) improve buildings health and safety (2) achieve energy and water reduction, address comfort concerns. (3) address specific building components and major systems that are end of useful life, reduce maintenance costs and (4) ascertain utility cost savings under a performance guarantee.

Turn-key project implementation shall include all design, construction, implementation oversight, management and execution of any necessary system commissioning for the proposed improvements that meets or exceeds the County’s expectations.

1. Timeline

Activity	Timeline
Issue RFP	July 14, 2023
Mandatory pre-meeting	August 4, 2023
Deadline for questions	August 17, 2023
Deadline for answers to questions	August 21, 2023
Proposals Due	August 23, 2023
Review of proposals	August 24, 2023
Select Contractor	September 19, 2023

2. Minimum Qualifications

Contractor must provide proof of capabilities in engineering and management to provide a wide range of services. County has additional experience requirements of the selected Contractor. All contractors, subcontractors or any other employees must have satisfactory background checks before working in the Justice Center. The County desires the selected contractor have experience developing efficiency projects in the following areas/facility types:

- a. County Government Buildings/Facility Experience
 - i. Courthouses
 - ii. Law Enforcement Facilities/Jail
 - iii. Government Offices
- b. Construction/Implementation/Commissioning
 - i. Engineering design
 - ii. Equipment procurement and purchasing

- iii. Construction Management
 - iv. Hazardous waste disposal or recycling
 - v. Commissioning
- c. Guarantee/Monitoring
 - i. Continuing operations and maintenance for all improvements
 - ii. Staff training on routine maintenance and operation systems
 - iii. Training occupants
 - iv. Guarantee of performance and cost savings for the entire project
 - v. Monitoring and verification for measurement and reporting of the performance and savings
 - vi. Maintain long-term, high-efficiency performance of buildings
 - vii. Continuing operations and maintenance for all improvements
- d. Contractor must have technical capabilities to address a broad range of systems including but not limited to:
 - i. Mechanical Systems: Heating, ventilating and air conditioning (HVAC), Energy management, control systems, domestic hot water systems, distribution systems, etc.
 - ii. Lighting Systems: Indoor and outdoor lighting systems, lighting controls, day-light strategies
 - iii. Building Envelope Systems: Windows, Insulation, weatherization, roofing, etc.
 - iv. Specialty Systems: Renewable energy systems
 - v. Water and Sewage Systems: Automatic controls, low-flow faucet aerators, low-flow toilets, low-flow showers

3. Scope of Work

The primary focus of the County is to upgrade aging and failing systems, equipment, and infrastructure. A potential reduction in electric, gas and water usage in all facilities listed in Attachment A. The County has currently been awarded a DOLA Grant for HVAC – Electrical Renovation. In addition, the County would like to see drastic improvements in building comfort, health and indoor environment quality, system reliability, ease of operation and maintenance. See Attachment B.

- a. Buildings/Facilities
See Attachment A.
- b. Equipment Compatibility and Selection
County reserves the right for final approval and selection of equipment prior to installation.
- c. Project Pricing
Contractor will provide a soft cost table.

Attachment A.

The following table provides the building that will be included.

Name	Address
Department of Human Services	800 E. Beaver Ave. Fort Morgan CO, 80701
Fairground – Multi propose Building	750 Ellsworth St. Brush CO, 80723
Justice Center	801 E. Beaver Ave. Fort Morgan CO, 80701
Administrative Building	231 Ensign St. Fort Morgan CO, 80701

Attachment B.

Building	Project
Justice Center	VFR System
Justice Center	HVAC Controls & Integration
Justice Center	Roof Repair, Ceilings & Finishes as needed
Justice Center	LEDS
Justice Center Jail	Flush Controls (22)
Justice Center Jail	Low flow showers (22)
Justice Center	Back Up Heat on Air Handling Units (4)
Administrative Building	HVAC Controls
Human Services	HVAC Controls
Fairgrounds – Multi Purpose Building	60kw Renewable Energy



REQUEST FOR PROPOSAL
“2023-0824-001 Facilities Infrastructure Replacement Project”
Reply Form

Name and Address of Responder:

Name of Company_____

Address of Company_____

Phone Number_____ Fax Number_____

Representative_____ Title_____

Signature_____

Office Number_____ Cell Number _____

Email_____

Summary of Project Schedules:

Area

Area Total

Justice Center VFR	\$ _____
Justice Center HVAC	\$ _____
Justice Center Roof/Ceiling/Finishes	\$ _____
Justice Center LEDS	\$ _____
Justice Center Flush Controls	\$ _____
Justice Center Low Flow Showers	\$ _____
Justice Center Back up Heat on Air Handling Units	\$ _____
Administrative Buildings HVAC Controls	\$ _____
Human Services HVAC Controls	\$ _____
Fairgrounds MP Building 60kw Renewable Energy	\$ _____

Total All Areas

\$ _____

*Attach a separate sheet outlining any exceptions to this bid. *If Any*

**Attach a separate sheet outlining any “Warranty” for the work completed. *If Any*

References

Please provide a list of at least three references for work completed by your company over the last three years.

1. Contact Information

Company or Entity _____
Contact Person _____
Contact Address _____
Contact City/State/Zip _____
Contact Phone Number _____
Contact E-Mail Address _____

Year Work was performed _____

Type of Work Completed _____

Location of Completed Work _____

Size & Scope of Work:

Up to \$100,000	_____
\$100,000-\$250,000	_____
\$250,000-\$500,000	_____
\$500,000-\$1,000,000	_____
Over \$1,000,000	_____

2. Contact Information

Company or Entity _____
Contact Person _____
Contact Address _____
Contact City/State/Zip _____
Contact Phone Number _____
Contact E-Mail Address _____

Year Work was performed _____

Type of Work Completed _____

Location of Completed Work _____

Size & Scope of Work:

Up to \$100,000 _____
\$100,000-\$250,000 _____
\$250,000-\$500,000 _____
\$500,000-\$1,000,000 _____
Over \$1,000,000 _____

3. Contact Information

Company or Entity _____
Contact Person _____
Contact Address _____
Contact City/State/Zip _____
Contact Phone Number _____
Contact E-Mail Address _____

Year Work was performed _____

Type of Work Completed _____

Location of Completed Work _____

Size & Scope of Work:

Up to \$100,000 _____
\$100,000-\$250,000 _____
\$250,000-\$500,000 _____
\$500,000-\$1,000,000 _____
Over \$1,000,000 _____

4. Contact Information

Company or Entity _____
Contact Person _____
Contact Address _____
Contact City/State/Zip _____
Contact Phone Number _____
Contact E-Mail Address _____

Year Work was performed _____

Type of Work Completed _____

Location of Completed Work _____

Size & Scope of Work:

Up to \$100,000 _____
\$100,000-\$250,000 _____
\$250,000-\$500,000 _____
\$500,000-\$1,000,000 _____
Over \$1,000,000 _____

EXAMPLE

CONSTRUCTION CONTRACT

THIS CONSTRUCTION CONTRACT (the "Contract") is made and entered into this day of , 20 , by and between Morgan County, Colorado, a Colorado county acting by and through its Board of County Commissioners with a principal place of business at 218 West Kiowa Avenue, Fort Morgan 80701 (the "County"), and , an independent contractor with a principal place of business at , Colorado ("Contractor") (each individually a "Party" and collectively the "Parties").

For the consideration hereinafter set forth, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. Scope of Work. Contractor shall perform the following described work (the "Work"), in accordance with this Contract and the Contract Documents, attached hereto and incorporated herein by this reference:

If there is any conflict between the Invitation to Bid and the Bid, the language of the Invitation to Bid shall control, unless expressly agreed to by the County in this Contract.

2. Bonds. Within ten days of the date of this Contract, Contractor shall provide the payment and performance bond and certificate of insurance required by the Contract Documents.

3. Commencement and Completion of Work. Contractor shall commence the Work within days of date of the Notice to Proceed. Substantial Completion of the Work shall be accomplished by the day of , 20 , unless the period for completion is extended otherwise in accordance with the Contract Documents. Final Completion of the Work shall be accomplished within days of the date of Substantial Completion.

4. Compensation/Contract Price. The County agrees to pay Contractor, subject to all of the terms and conditions of the Contract Documents, for the Work, an amount not to exceed \$. The County shall pay Contractor in the manner and at such times as set forth in the General Provisions such amounts as required by the Contract Documents.

5. Keep Jobs In Colorado Act. Pursuant to the Keep Jobs in Colorado Act, C.R.S. 8-17-101 *et seq.* (the "Act") and the rules adopted by the Division of Labor of the Colorado Department of Labor and Employment implementing the Act (the "Rules"), the Contractor shall employ Colorado labor to perform at least eighty percent (80%) of the work and shall obtain and maintain the records required by the Act and the Rules. For purposes of this Section "Colorado labor" means any person who is a resident of the state of Colorado at the time of this Project, without discrimination as to race, color, creed, sex, sexual orientation, marital status, national origin, ancestry, age, or religion except when sex or age is a bona fide qualification. A resident of the state is a person who can provide a valid Colorado driver's license, a valid Colorado state-issued photo identification, or documentation that he or she has resided in Colorado for the last thirty (30) days. Contractor represents that it is familiar with the requirements of the Act and the Rules and will fully comply with same. This Section shall not apply to any project for which appropriation or expenditure of moneys may be reasonably expected not to exceed five hundred thousand dollars (\$500,000) in the aggregate for any fiscal year.

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

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

8. Integration. This Contract and any attached exhibits constitute the entire Contract between Contractor and the County, superseding all prior oral or written communications.

9. Third Parties. There are no intended third-party beneficiaries to this Contract.

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

The County: Project Manager
Morgan County
218 West Kiowa Avenue, P.O. Box 596
Fort Morgan, Colorado 80701

Contractor:

11. Severability. If any provision of this Contract 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.

12. Modification. This Contract may only be modified upon written agreement of the Parties.

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

14. Governmental Immunity. The County and its officers, attorneys and employees are relying on, and do not waive or intend to waive by any provision of this Contract, the monetary limitations 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 County and its officers or employees.

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

16. Subject to Annual Appropriation. Consistent with Article X, § 20 of the Colorado Constitution, any financial obligation of the County not performed during the current fiscal year is subject to annual appropriation, shall extend only to monies currently appropriated, and shall not constitute a mandatory charge, requirement or liability beyond the current fiscal year.

IN WITNESS WHEREOF, this Construction Contract has been executed by the Parties as of the date first above written.

MORGAN COUNTY, COLORADO

Chair Date

Commissioner Date

Commissioner Date

ATTEST:

Clerk to the Board

CONTRACTOR

By: _____
Date

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing instrument was subscribed, sworn to and acknowledged before me this ____ day of _____, 20____, by _____ as _____ of _____.

My commission expires: _____
(S E A L) Notary Public

Construction Contract (over 50K) Agreement # _____

CERTIFICATE OF INSURANCE

STATE OF _____)
) ss.
COUNTY OF _____)

I, _____, being first duly sworn, state and affirm, under penalty of law, that I am familiar with the insurance coverages maintained by the Insured, _____, and the coverage requirements set forth in the foregoing Certificate of Insurance, that I have completed or caused to be completed and subsequently reviewed the foregoing Certificate of Insurance and that the information contained therein is true and correct to the best of my knowledge. I further understand that Morgan County shall rely on the information provided.

This information is provided for Morgan County, Project: _____.

By: _____

Title: _____

Agency: _____

STATE OF COLORADO _____)
) ss.
COUNTY OF _____)

The foregoing instrument was subscribed, sworn to and acknowledged before me this ____ day of _____, 20____, by _____, as _____ of _____.

My commission expires:

(S E A L)

Notary Public

NOTICE OF AWARD

Date: _____

Contractor Name

Address

RE: _____

Dear _____:

Thank you for submitting a Bid for the _____.

Your firm submitted the most qualified and responsible Bid and you have been selected as the successful Contractor. Accordingly, this is your Notice of Award for the _____.

Enclosed please find an original and duplicate original Construction Contract. Please review and sign both, then, within ten days of receipt of this letter, return both to me along with your certification of insurance, payment and performance bond, each in the full amount of the Contract Price, and appropriate powers of attorney. When dating the above documents, please make sure that all dates, on all documents, are the same and that the insurance policy reflects the requirements of the Contract Documents. Please return all of the documents at the same time, in the same envelope.

Upon receipt of the signed Contracts, the County will execute both and return one fully executed original to you.

Should you have any questions, please call me at _____.

Sincerely,

Project Manager Signature

Date

NOTICE TO PROCEED

Date: _____

Contractor Name

Address

RE: _____

Dear _____:

This letter is your Notice to Proceed, effective as of the date cited below. This notice is in reference to the Construction Contract between you and Morgan County concerning the _____.

Please note that in accordance with the Construction Contract, Work must commence within ten days of the date of this Notice, and all Work must be substantially completed within _____ (_____) days of the date of this Notice, which shall be the ____ day of _____, 20____, and finally completed within _____ days of the date of this Notice, which shall be the ____ day of _____, 20_____.

If you have any questions, please call me at _____.

Sincerely,

Project Manager-Signature

Date

BID BOND

KNOW ALL MEN BY THESE PRESENTS

THAT _____, (hereinafter called "Principal") as PRINCIPAL, and _____, (hereinafter called the "Surety") as SURETY, are held and firmly bound unto Morgan County, Colorado, hereinafter called OWNER, as Obligee, in the penal sum of _____ Dollars (\$_____), for the payment of which sum in lawful money of the United States, well and truly to be made, said PRINCIPAL and SURETY bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the PRINCIPAL has submitted a Bid to OWNER for certain Work or services generally described as follows: _____

NOW, THEREFORE, (a) if said Bid shall be rejected, or (b) if said Bid shall be accepted and the PRINCIPAL is awarded the Contract and, within the time and manner specified in the Contract Documents, enters into a written Contract in the prescribed form and shall give such bond or bonds as may be specified in the Contract Documents to guarantee faithful performance of such Contract and to guarantee prompt payment of labor and materials furnished in the prosecution thereof, and shall provide to OWNER a Certificate of Insurance as required by the Contract Documents, and shall in all other respects perform the Contract created by the acceptance of said Bid, or (c) in the event of the failure of the PRINCIPAL to enter such Contract and to give such bond or bonds, and Certificate of Insurance, if the PRINCIPAL shall pay to OWNER the difference not to exceed the penalty hereof between the amount specified in said Bid and such larger amount for which the OWNER may in good faith contract with another party to perform the Work covered by said Bid, then this obligation shall be null and void, otherwise it shall be and remain in full force and effect.

The SURETY, for value received, hereby stipulates and agrees that the obligations of said SURETY hereunder shall be in no way impaired or affected by any alteration or irregularities in the bid or in the bidding procedure or by any extension of time within which OWNER may accept such Bid, and does hereby waive notice of same.

Dated this _____ day of _____, 20_____.

(SURETY)

By: _____

Title: _____

(PRINCIPAL)

By: _____

Title: _____

(ACKNOWLEDGMENTS AND POWER OF ATTORNEY TO BE ATTACHED)
CORPORATE SEAL MUST BE AFFIXED IF PRINCIPAL IS A CORPORATION.

PAYMENT AND 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 bound unto Morgan County, Colorado, a Colorado county, hereinafter referred to as "the Owner", in the penal sum 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 Contract with the Owner, dated the ____ day of _____, 20____, a copy of which is hereto attached and made a part hereof for the performance of the Work, _____.

NOW, THEREFORE, if the Principal shall well, truly and faithfully perform its duties, all the undertakings, covenants, terms, conditions and agreements of said Contract 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 or warranty period, and shall satisfy all claims and demands incurred under such Contract, and shall fully indemnify and save harmless the Owner from all cost and damages which it may suffer by the Principal's 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 make payment to all persons, firms, subcontractors and corporations furnishing materials for or performing labor in the prosecution of the work provided for in such 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 it shall remain in full force and effect.

PROVIDED, FURTHER, that the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Contract or to the Work to be performed thereunder or the specifications accompanying the same shall in any way affect its obligation on this Bond; and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Contract or to the Work or to the Specifications.

PROVIDED, FURTHER, that no final settlement between the Owner and the Principal shall abridge the right of any beneficiary hereunder whose claim may be unsatisfied.

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

ATTEST:

PRINCIPAL

By: _____

By: _____

Title: _____

Title: _____

Address: _____

(Corporate Seal)

ATTEST:

By: _____

Attorney-in-Fact: _____

SURETY

Surety: _____

By: _____

Title: _____

Address: _____

(Surety Seal)

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

CERTIFICATE OF FINAL PAYMENT

With reference to Contract Number _____ dated _____, 20____, between the undersigned Contractor and Morgan County (the "Owner"), for: _____ at _____, Morgan County, Colorado _____.

The undersigned hereby certifies that all costs, charges and expenses incurred by it on its behalf for work, labor, services, materials and equipment supplied to the foregoing premises, and/or used in connection with its Work under the Contract have been duly paid.

The undersigned further certifies that to its best knowledge and belief (based upon reasonable investigation) each of its subcontractors and material men have duly paid all costs, charges and expenses incurred by them or on their behalf for work, labor, services, materials and equipment supplied to the foregoing premises and/or used by them in connection with the Undersigned's Work under the Contract.

In consideration of _____ dollars (\$_____) representing final payment under the Contract, the undersigned hereby releases and discharges the Owner and Owner's property from all claims, liens and obligations of every nature arising out of or in connection with the performance of the Work.

As additional consideration for the final payment, and to the fullest extent permitted by law, the undersigned agrees to indemnify and hold harmless Owner from and against all costs, losses, damages, claims, causes of action, judgments and expenses arising out of or in connection with claims against Owner which may be asserted by the undersigned or any suppliers, subcontractors of any tier or any of their representatives, officers, agents and employees for the costs, losses, damages, claims, causes of action, judgments and expenses and expenses that are attributable to the act, omission, error, professional error, mistake, negligence or other fault of the undersigned.

The foregoing shall not relieve the Undersigned of its obligations under the provisions of the Contract as amended, which by their nature survive completion of the Work including, without limitation, warranties, guarantees and indemnities.

Executed this _____ day of _____, 20____.

Contractor Signature

CERTIFICATE OF FINAL ACCEPTANCE

TO: _____ Date: _____
Project No.: _____
Project Title: _____

This is to advise you that a final inspection of the referenced Work has been made and all work and material was found to be satisfactory. Therefore, the Work is considered to be complete in accordance with the approved plans, specifications and contract documents.

In accordance with the Contract, all Warranty periods shall begin as of the date of this letter.

MORGAN COUNTY

By: _____
Title: _____

GENERAL PROVISIONS

PART 1. DEFINITIONS

1.01 CONTRACT DOCUMENTS:

- A. Bid Form (Including Bid Summary);
- B. Bid Schedule;
- C. Bidder's Qualification Statement;
- D. Construction Contract;
- E. Certificate of Insurance Verification;
- F. Notice of Award;
- G. Notice to Proceed;
- H. Bid Bond;
- I. Payment and Performance Bond;
- J. Certificate of Final Payment;
- K. Final Acceptance Form;
- L. General Provisions;
- M. Technical Specifications;
- N. Construction Drawings;
- O. Documentation submitted by Contractor prior to Notice of Award; and
- P. Addenda ____ through ____.

1.02 CHANGE ORDER:

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

1.03 COUNTY:

Morgan County, Colorado.

1.04 CONTRACT:

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

1.05 CONTRACT PRICE:

The amount set forth in Paragraph 4 of the Construction Contract.

1.06 CONTRACT TIME:

The time for completion of the Work as set forth in Paragraph 3 of the Construction Contract.

1.07 DAY:

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

1.08 FINAL COMPLETION:

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

1.09 PROJECT MANAGER:

The County's duly authorized representative in connection with the Work.

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 County occupies or takes possession of all or substantially all of the Work, or when the County may occupy or take possession of all or substantially all of the Work and put it to beneficial use for its intended purposes.

1.12 WORK:

All the work specified, indicated, shown or contemplated in the Contract Documents, 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 County 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 County 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 Morgan County Board of County Commissioners shall be required, and if such approval is not obtained, the County shall have no payment obligation regardless of whether the Work pursuant to the Change Order has been performed.

2.04 DELAYS:

A. If Contractor is delayed in the progress of the Work by fire, unusual delay in transportation, unanticipated adverse weather conditions, or other unavoidable casualties beyond Contractor's control other than unanticipated adverse weather conditions, the Contract Time shall be extended for a reasonable period of time. "Weather" means precipitation, temperature, or wind, and an "adverse weather condition" means weather that on any calendar day varies from the average weather conditions for that day by more than 100% as measured by the National Oceanic and Atmospheric Administration. The term "unanticipated adverse weather conditions" means the number of days in excess of the anticipated adverse weather days per month as set forth below:

MONTHLY ANTICIPATED ADVERSE WEATHER DAYS

<u>JAN</u>	<u>FEB</u>	<u>MAR</u>	<u>APR</u>	<u>MAY</u>	<u>JUN</u>	<u>JUL</u>	<u>AUG</u>	<u>SEP</u>	<u>OCT</u>	<u>NOV</u>	<u>DEC</u>
7	4	4	4	6	3	4	2	3	3	2	5

By reason of example only, if in March there are two days when the snowfall exceeds the average snowfall for that day by 100%, those two days will have experienced an adverse weather condition. However, there will have been no unanticipated adverse weather condition in March, because there are four anticipated adverse weather days in March, which should be accounted for in the schedule. If, however, there are five days in which the snowfall exceeds the average snowfall by 100%, an unanticipated adverse weather condition will have occurred, and Contractor shall be entitled to request an extension of time.

B. Any request for extension of the Contract Time shall be made in writing to the Project Manager not more than seven 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.

2.05 NO DAMAGES FOR DELAY:

In strict accordance with C.R.S. § 24-91-103.5, the County shall not amend the Contract Price to provide for additional compensation for any delays in performance which are not the result of acts or omissions of the County or persons acting on behalf of the County.

PART 3. CONTRACTOR'S RESPONSIBILITIES

3.01 COMPLETION/SUPERVISION OF WORK:

Contractor hereby warrants that it is qualified to assume the responsibilities and render the services described herein and has all requisite corporate authority and licenses in good standing. The services performed by Contractor shall be in accordance with generally accepted professional practices and the level of competency presently maintained by others in the same or similar type of work, and in compliance with applicable laws, ordinances, rules and regulations. 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:

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 County of any concerns which Contractor may have regarding construction conditions prior to executing the Contract.

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. In all purchases of supplies, materials and provisions to be incorporated or otherwise used by Contractor in the Work, Contractor shall use supplies, materials and provisions produced, manufactured or grown in Colorado if such supplies, materials and provisions are not of inferior quality to those offered by competitors outside of Colorado.
- C. 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 Work 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 responsible to the County 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 County.
- 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 work site and adjacent property.

3.05 CLEANUP:

- A. Contractor shall keep the work site 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 work site, 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 County may cause the cleanup to be performed at Contractor's expense. Upon receipt of a statement for such cleanup, Contractor shall pay to the County the costs incurred by the County for such cleanup, or the County 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 Work, and to defend against all actions for infringement of copyright or patent rights, and to save and hold the County harmless from such actions.

3.07 TAXES, LICENSES AND PERMITS:

Contractor shall pay all taxes imposed by law in connection with the Work 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 Work. 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 Contract 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 County 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. The County's review, approval or acceptance of, or payment for any work shall not be construed as a waiver of any rights under this Contract or any cause of action arising out of the performance of this Contract.

3.12 OTHER CONTRACTS:

The County reserves the right to let other contracts in connection with the Work. 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 work site necessary to perform their contracts.

3.13 COMMUNICATION:

Contractor shall direct all communications to the County regarding the Work 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, 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 County may terminate the services of Contractor after giving forty-eight (48) hours' written notice of its intent to do so.

4.02 DEFAULT:

The County may terminate this Contract upon seven 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 County shall not be the County's exclusive remedy, and the County may pursue such other remedies and actions lawfully available to the County 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 OF FITNESS OF EQUIPMENT AND MATERIALS:

Contractor represents and warrants to the County that all equipment and materials used in the Work, and made a part of the Work, or placed permanently in the Work, 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.

5.02 GENERAL WARRANTY:

Contractor shall warrant and guarantee all material furnished and work performed by Contractor for a period of two years from the date of final acceptance of the Work by the Project Manager. Under this warranty, Contractor agrees to repair or replace, at its own expense and under the direction of the Project Manager, any portion of the Work which fails or is defective, unsound, unsatisfactory because of materials or workmanship, or which is not in conformity with the provisions of the Contract. Should Contractor fail to perform any such work within the warranty period after a request by the County, the County may withdraw from the Payment and Performance Bond any and all amounts necessary to complete the required work. The expiration of the warranty period shall in no way limit the County's legal or equitable remedies, or the period in which such remedies may be asserted, for work negligently or defectively performed.

PART 6. BONDS, INSURANCE AND INDEMNIFICATION

6.01 INDEMNIFICATION:

A. Contractor agrees to indemnify and hold harmless the County and its officers, insurers, volunteers, representatives, 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 Contract or the Contract Documents, to the extent that such injury, loss or damage is attributable to 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.

B. Contractor, to the fullest extent permitted by law, shall defend, investigate, handle, respond and provide defense for and defend against any such liability, claims, damages, losses, expenses or demands at the sole expense of Contractor, or at the option of the County, Contractor agrees to pay the County or reimburse the County for defense costs incurred by the County in connection with any such liability, claims, damages, losses, expenses or demands. Contractor, to the fullest extent permitted by law, shall defend and bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not such liability, claims or demands alleged are groundless, false or fraudulent.

C. This indemnification provision is intended to comply with C.R.S. § 13-21-111.5(6), as amended, and shall be read as broadly as permitted to satisfy that intent.

6.02 NOTICE OF CLAIM:

If Contractor receives any claim arising from the performance of the Work, Contractor shall notify the County in writing of the nature of the claim within 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 County 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 Contract. At a minimum, Contractor shall procure and maintain, and shall cause any subcontractor to procure and maintain, the insurance coverages listed below, with forms and insurers acceptable to the County.

1. Worker's Compensation insurance to cover obligations imposed by applicable law for any employee engaged in the performance of work under this Agreement, 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 requirements of this Section.

2. Commercial General Liability insurance with minimum combined single limits of one million dollars (\$1,000,000) each occurrence and one million dollars (\$1,000,000) general aggregate. The policy shall be applicable to all premises and operations, and shall include coverage for bodily injury, broad form property damage, 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 include the County and the County's officers, employees, and contractors as additional insureds. No additional insured endorsement shall contain any exclusion for bodily injury or property damage arising from completed operations.

B. Such insurance shall be in addition to any other insurance requirements imposed by law. The coverages afforded under the policies shall not be canceled, terminated or materially changed without at least thirty (30) days prior written notice to the County. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage. Any insurance carried by the County, its officers, its employees, or its contractors shall be excess and not contributory insurance to that provided by Contractor. Contractor shall be solely responsible for any deductible losses under any policy.

C. Contractor shall provide to the County a certificate of insurance as evidence that the required policies are in full force and effect. The certificate shall identify this Contract.

6.04 PERFORMANCE AND PAYMENT BOND:

Contractor shall furnish a Payment and Performance Bond in the full amount of the Contract Price, as security for the faithful performance and payment of all Contractors' obligations under the Contract Documents, including the warranty. This bond shall remain in effect at least until two years after the date of Final Completion.

PART 7. PAYMENT

7.01 PROGRESS PAYMENTS:

A. The County shall make periodic progress payments to Contractor within thirty (30) 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 90% of the Work actually completed until 50% of the total Work, as determined by the Project Manager, is completed. Such determination shall include materials and equipment not incorporated in the Work but delivered to the work site and suitably stored. After 50% of the total Work is completed, no additional retainage shall be held.

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 County is expressly authorized to withhold any progress payment for such Work until such Work is completed.

7.02 FINAL PAYMENT:

Upon final acceptance of the Work, the County shall make final payment to Contractor pursuant to C.R.S. § 38-26-107.

7.03 LIQUIDATED DAMAGES:

A. Because time is of the essence and delayed performance constitutes a compensable inconvenience to the County 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 Contract, as modified through approved change orders, Contractor shall be assessed the following amounts:

Contract Price	Amount per day
\$0-\$50,000	\$350
\$50,000-\$100,000	\$380
\$100,000-\$250,000	\$440
\$250,000-\$500,000	\$520
\$500,000-\$1,000,000	\$640
\$1,000,000-\$2,000,000	\$820
\$2,000,000-\$4,000,000	\$1,080
\$4,000,000-\$8,000,000	\$1,450
\$8,000,000-\$12,000,000	\$1,820
\$12,000,000 or greater	\$2,250

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 County 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 County.

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 County 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 Morgan County Board of County Commissioners. The County acknowledges that sufficient funds have been appropriated to pay the Contract Price, but Contractor shall not rely upon the appropriation of any funds in addition to those already appropriated unless and until the same are lawfully appropriated by the Morgan County Board of County Commissioners.

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 County, in writing, of every quantity that will exceed 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 125% or decreased below 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 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 work site but not incorporated into the Work as evidenced by invoices or a cost analysis of material produced, if the material has been fabricated or processed and is ready for installation into the Work and conforms to the Contract Documents. Payments shall not exceed 85% of the price shown in the Bid Schedule or 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 County if the County 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 Work and authored by Contractor or any of its subcontractors shall be submitted to the County for its prior written approval of the content of the publication. If the County 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 County. 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 County 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 County. It is expressly understood and agreed that Contractor shall not be entitled to any benefits to which the County'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 Contract.
2. General Provisions.
3. Supplemental Specifications.
4. Detailed Plans (Calculated dimensions will govern over scaled dimensions).