

SAMPLE CONTRACT – MAY NOT REFLECT ALL TERMS OR CONDITIONS OF FINAL CONTRACT

**MONTROSE COUNTY CONTRACT FOR
2020 GRAVEL CRUSHING SERVICES**

THIS CONTRACT is dated as of the ___ **day of** _____, ____, by and between Montrose County, Colorado, a body corporate and politic, acting by and through its Board of County Commissioners (hereinafter called "**County**") with administrative offices located at 161 South Townsend Avenue, Montrose, Colorado, and _____ (hereinafter called "**Contractor**") whose address is _____; collectively "**Parties**."

County and Contractor, in consideration of the mutual covenants set forth, agree as follows:

ARTICLE 1 – Scope of Services

Contractor shall complete all work in the manner and as specified in the, Bid Documents, Scope of Services and the Contract Documents ("Scope of Services"). All of which contract documents are identified in Article 7 of this Agreement, attached hereto and incorporated herein by reference.

ARTICLE 2 - COUNTY'S REPRESENTATIVE

The Project is under the authority of the Montrose County Public Works Department. The Public Works Director or Public Works Director's designee shall be County's liaison with Contractor with respect to the performance of the Work.

ARTICLE 3 - CONTRACT TERM AND COMPLETION OF WORK

- 3.1 Contractor shall complete all work on or before November 20, 2020.
- 3.2 County may terminate this Contract with written termination notice being given 30 days prior to the date of termination.

ARTICLE 4 - CONTRACT PRICE

- 4.1 Contractor shall be paid according to the approved bid schedule rates identified in the contract documents for quantities established by the Public Works Department with the total contract amount not to exceed \$_____.
- 4.2 Pursuant to the provisions §24-91-103.6, C.R.S., and notwithstanding anything to the contrary contained elsewhere in the Contract Documents, no change order or other form of order or directive by County, and no amendment to this Agreement, requiring additional compensable work to be performed which work causes the aggregate amount payable under the Agreement to exceed the amount appropriated for the original Agreement, shall be of any force or effect unless accompanied by a written approval from the County and a lawful appropriation to cover the cost of the additional work, unless such work is covered under a remedy-granting provision in this Contract. No change order or amendment to this contract shall be effective unless in writing and

no change resulting in an increase in total contract price shall be effective until approved by the Board of County Commissioners.

- 4.3 County is a political subdivision of the State of Colorado and a governmental entity, governed by its Board of County Commissioners. As such, it is tax exempt. All obligations beyond the current fiscal year are subject to funds being budgeted and appropriated.

ARTICLE 5 – BONDING AND PAYMENT PROCEDURES

Contractor shall submit Applications for Payment in accordance with the General Conditions. Applications for Payment will be processed as provided in the General Conditions.

- 5.1 **PAYMENT AND PERFORMANCE BOND:** Prior to commencing work Contractor shall execute and deliver to County a payment and performance bond, or other adequate surety acceptable to the County, for 100% of the bid amount.
- 5.2 **PROGRESS PAYMENTS:** County shall make periodic progress payments consist with the Contract Price on the basis of Contractor's Applications for Payments, as provided in paragraph 5.2.1 below. (Payment pursuant to this Contract shall be made as earned, in whole or in part, from available County funds in an amount not to exceed the contract amount.)
- 5.2.1 Prior to Contract Completion, unless terminated prior to Completion, progress payments shall occur in an amount equal to:
- 95%** of each approved invoice.
- 5.3 Contractor understands that the County's commitment of funds is subject to annual appropriation. Funds for the purpose of this contract have been duly budgeted and anticipated to be appropriated for the calendar year 2020. Any commitment of funds beyond the term of this Contract is subject to being budgeted and appropriated for each respective year.
- 5.4 If Contractor fails to complete the work requirements by the completion date as specified in this Contract, Contractor shall pay the County the amount of \$300.00 per calendar day for liquidated damages until such date as the work requirements are met. It is agreed by both parties hereto that said amount fairly and accurately represents the amount of damages that the County will incur by reason of Contractor's failure to complete the said work requirements by the completion date.

ARTICLE 6 - CONTRACTOR'S REPRESENTATIONS

Contractor makes the following representations and affirms to County that:

- 6.1 Contractor is familiarized with the nature and extent of the Contract Documents, Work, locality, and with all local conditions, and federal, state, and local laws, ordinances, rules and regulations that in any manner may affect cost, progress, or performance of the Work. Contractor agrees that all services under this Contract shall be performed in full compliance with all local, state and federal laws.

- 6.2 Contractor has made, or caused to be made, examinations, investigations, and tests and studies of such reports and related data as Contractor deems necessary for the performance of the Work at the Contract Price, within the Contract Time, and in accordance with other terms and conditions of the Contract Documents; and no additional examinations, investigations, tests, reports, or similar data are, or will be required by Contractor for such purposes.
- 6.3 Contractor has correlated the results of all such observations, examinations, investigations, tests, reports, and data with the terms and conditions of the Contract Documents.
- 6.4 Contractor has given County written notice of all conflicts, errors, or discrepancies that Contractor has discovered in the Contract Documents and the written resolution thereof by County is acceptable to Contractor.
- 6.5 In performing the work under this Agreement, the Contractor acts as an independent contractor and is solely responsible for necessary and adequate worker's compensation insurance, personal injury and property damage insurance. The Contractor, as an independent contractor, is obligated to pay federal and state income tax on moneys earned. The personnel employed by the Contractor are not and shall not become employees, agents or servants of the County because of the performance of any work by this Agreement.

ARTICLE 7 - CONTRACT DOCUMENTS

The Contract Documents, which comprise the entire Agreement, are made a part hereof, and consist of the following:

- 7.1 This Contract.
- 7.1.1 Invitation to Bid "Bid Package" documents including: General Bid Information, Bidder Instructions, General Conditions, Awarding of Bid, Requirements of Successful Bidder, Additional Terms & Scope of Services and Bid Forms (Bidder Information, Bid Schedule Form, and Bid and Addenda Acknowledgment).
- 7.1.2 Schedule A - Gravel Crushing Sieve Specifications
- 7.1.3 Schedule B - Estimate of Gravel Crushing Quantities per Location
- 7.1.4 Project Specifications.
- 7.2 Notification of Immigration Compliance Requirements and Certification by Contractor per C.R.S. 8-17.5-101, et seq.
- 7.3 Certification of EEO Compliance.
- 7.4 Any modification, including Change Orders, duly delivered after execution of Agreement.
- 7.5 Payment and Performance Bond or other acceptable surety.

7.6 Certificate(s) of Insurance.

There are no Contract Documents other than those listed above in this Article 7. The Contract Documents may only be altered, amended, or repealed by an executed, written amendment to this Agreement signed by both Parties.

ARTICLE 8 – INDEMNIFICATION AND INSURANCE

The Contractor shall indemnify and hold harmless the County, its elected officials, officers, and employees from and against any and all claims, damages, losses, injuries and expenses, including attorney's fees, arising out of or resulting from the performance of the Work that is the subject of this Contract.

The Contractor shall procure and maintain, at Contractor's own expense, until completion of all work and acceptance thereof by the County, all of the insurance coverage stipulated below. The Contractor shall furnish the County with a certificate of such insurance acceptable to the County. Such certificate shall be issued to the County and shall provide for ten (10) days written notice of cancellation or material change in coverage. The certificate shall be filed prior to the start of any work.

- 8.1 Liability Insurance. The Contractor shall procure and maintain Comprehensive General Liability, including completed operations, contractual liability and Automobile Liability Insurance affording coverage for all claims for bodily injury including death, and all claims for destruction of or damage to property, arising out of or in connection with any operations under this contract, whether such operations be by the Contractor or by subcontractors or anyone directly or indirectly employed by the Contractor or by a subcontractor. Such insurance shall provide limits of liability of not less than One Million Dollars (\$1,000,000) single limit, Two Million Dollars (\$2,000,000) aggregate. The Contractor shall furnish current certificates of insurance, which shall include a provision that the insurance will not be cancelled without ten (10) days prior notice to the County. All such insurance shall be written on a Comprehensive Form of Policy. All such shall name as insured Montrose County and the Contractor and any and all subcontractors.
- 8.2 Workman's Compensation Insurance. The Contractor shall procure and maintain Workman's Compensation Insurance at its own expense during the life of this contract, including occupational disease provisions for all of Contractor's employees. The Contractor shall also require each subcontractor to furnish Workman's Compensation Insurance, including occupational disease provisions for all of the latter's employees; otherwise, it accepts full liability and responsibility for subcontractor's employees. In cases where any class of employee is engaged in hazardous work under this Contract, and is not protected under the Workman's Compensation statute, the Contractor shall provide, and shall cause each subcontractor to provide, adequate and suitable insurance for the protection of its employees not otherwise protected.

ARTICLE 9 - MISCELLANEOUS

- 9.1 No assignment by a party hereto of any rights under, or interests in the Contract Documents will be binding on another party hereto without the written consent of the party sought to be bound; and specifically, but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction

may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

- 9.2 County and Contractor each binds itself, its partners, successors, assigns and legal representatives, as applicable and permitted by law, to the other party hereto, in respect to all covenants, agreements, and obligations contained in the Contract Documents.
- 9.3 **ATTORNEY'S FEES:** In the event of litigation between the parties hereto regarding the interpretation of this Agreement, or the obligations, duties or rights of the parties hereunder, or if suit otherwise is brought to recover damages for breach of this Contract, or an action be brought for injunction or specific performance, then and in such events, the prevailing party shall recover all reasonable costs incurred with regard to such litigation, including reasonable attorney's fees.
- 9.4 **APPLICABLE LAW:** This Contract shall be governed by the laws of the State of Colorado. Jurisdiction and venue of any suit, right, or cause of action arising under, or in connection with this Agreement shall be exclusive in Montrose County, Colorado.
- 9.5 **INTEGRATION:** This Contract supersedes all previous communications, negotiations and/or contracts between the respective parties hereto, either verbal or written, and the same not expressly contained herein are hereby withdrawn and annulled. This is an integrated agreement and there are no representations about any of the subject matter hereof except as expressly set forth in the Contract Documents.
- 9.6 **NOTICE:** Any notice and all written communications required under this Contract shall be (i) personally delivered, (ii) mailed in the United States mails, first class postage prepaid, or (iii) sent by electronic mail together with a hard copy conveyed by delivery or mail, to the appropriate party at the following addresses:

To Contractor: *contractor name*
 contractor address
Telephone:
Email:

To County: Keith Laube, P.E., Public Works Director
 Montrose County
 63160 LaSalle Rd
 Montrose, CO 81401
 Telephone: 970-252-7001
 Email: klaube@montrosecounty.net

Mailed notices will be deemed given three business days after the date of deposit in a regular depository of the United States Postal Service, and e-mail notices will be deemed given upon transmission, if during business hours, or the next business day. Either party can change its address for notice by notice to the other in accordance with this paragraph.

- 9.7 **ILLEGAL ALIENS.** Contractor shall comply with the requirements of Colorado Revised

Statutes 8-17.5-101 et. seq. and the **NOTIFICATION OF IMMIGRATION COMPLIANCE REQUIREMENTS AND CERTIFICATION BY CONTRACTOR**, which shall be signed by the Contractor and is incorporated herein by reference and made a part of this contract.

IN WITNESS WHEREOF, the Parties hereto have executed this Contract effective on the date first above written.

**BOARD OF COUNTY COMMISSIONERS
COUNTY OF MONTROSE, COLORADO**

By: _____
Sue Hansen, Chair

Attest: _____
Deputy Clerk and Recorder

CONTRACTOR:

By: _____

Printed name

Title: _____