



**INVITATION TO BID (ITB)
LARIMER COUNTY COLORADO
200 W. OAK ST., SUITE 4000
FORT COLLINS, COLORADO**

BID NUMBER: B17-15
PROJECT #: 20170100
DESCRIPTION: Hermit Park Trailhead Construction
CLOSING DATE: 6/2/2017

Please bid DELIVERED PRICES on the following Goods or Services. No bid is contingent on the purchase of all items listed. The right is reserved to reject any and all bids or parts thereof. Prices and terms shall remain in effect for 30 days from date of opening.

The Board of Larimer County Commissioners will be accepting sealed bids at the office of the Purchasing Director, 200 W. Oak Street, Suite 4000, Fort Collins, Colorado, 80521, up to 2:00 P.M. (our clock), on Friday, June 2, 2017 at which time they will be publicly opened and read aloud to consider entering into an agreement with one (1) General Contractor for the construction of the Saddle Area Trailhead in Hermit Park. This project is funded by a FEMA Grant - FEMA-DR-4145-CO: 14-D4145-014 (PW-00321).

Bid documents and specifications are available online at Rocky Mountain e-Purchasing at www.bidnetdirect.com/colorado, and on the Larimer County Purchasing site at www.larimer.org/bids.

PRE-BID MEETING

A pre-bid meeting is scheduled for 9:00, on May 25, 2017, 200 W. Oak Street, in the “Carter Lake Conference Room” located on the first floor, Fort Collins, CO 80521. Representatives of Larimer County and AVI Professional Services will be present to discuss the project and to answer questions

Vendors are requested (not required) to attend and participate in the meeting. Vendors should read the entire Invitation to Bid document prior to the meeting and bring clarifying questions.

**** NO OTHER MEETING WILL BE CONDUCTED ****

All questions regarding this bid must be in writing and should go to Les Brown, Purchasing Agent, at browxld@larimer.org. **Questions are due no later than 10:00 a.m. May 26, 2017.** Please call Les Brown at 970-498-5954 to verify receipt of your questions. **NOTE:** Unauthorized contact with any other County or AVI Professional Services employees regarding this bid may result in disqualification of your bid.

Each bid must be accompanied by a Bid Guaranty consisting of a properly Certified Check, Cashier’s Check, or Bid Bond, in the amount of five percent (5%) of the contractor’s Project Price, without conditions, payable to Larimer County, or the bid will be REJECTED. The Bid Bond included in this document must be used as the Bid Guaranty. This is the only acceptable format for a Bid Bond; no other format will be accepted. Bid Guaranties may be held until the contract is awarded; provided the time from ITB recording to contract award does not exceed thirty days.

The Contractor will be required to furnish 100% Payment and Performance Bonds (samples below) within 15 days after the Notice of Award.

GENERAL INSTRUCTIONS:

Bidder shall not stipulate in his bid any conditions not contained in the specifications, unless specifically requested in the special instructions. Any bids that fail to comply with the literal letter of these instructions and the specifications may be rejected forthwith.

Bids shall be typewritten or written in ink on the form prepared by the County. If the form is filled out using pencil, the bid may be considered non-responsive and may be rejected. The person signing the bid or an authorized representative of the company shall initial all corrections or erasures made on your bid.

Any charges for freight, delivery, containers, packaging, etc., will be included in the bid price.

In submitting the bid, the vendor agrees that acceptance of any or all bids by the County within a reasonable time period constitutes a contract. No delivery shall become due or be accepted until a purchase order has been issued by the Purchasing Director of Larimer County.

It is understood that the Board of Larimer County Commissioners reserves the right to reject any and/or all bids and to waive informalities in bids, and to accept the bid that, in the opinion of the Board, is in the best interest of Larimer County. The total cost of bid preparation and submission shall be borne by the bidder.

If, in the sole judgment of the Board of County Commissioners, the proposals are substantially equal, the Board may grant the contract to companies located in Larimer County, however this is not applicable in the case that Federal funds are used.

As of August 7, 2006, state and local government agencies are prohibited from purchasing services from any contractor that knowingly employs illegal immigrants to help carry out publicly funded work. Pursuant to the provisions of Colo. Rev. Stat. §8-17.5-101, contractors must certify that they are using the E-Verify Program or Department Program to verify the employment eligibility of new employees. If a contractor awarded a contract violates the provisions of Colo. Rev. Stat. §8-17.5-101(2), the state or local government agency may terminate the contract and the contractor will be liable for damages to such agency.

Vendor certifies, warrants, and agrees that (he) (she) (it) has knowledge of the "Keep Jobs in Colorado Act of 2017" codified at Sections 8-17-101, *et seq.* of the Colorado Revised Statutes and that Colorado labor shall be employed to perform at least eighty percent (80%) of the work. See <https://www.colorado.gov/pacific/cdle/kjica> for more information regarding this Act, which applies to Public Works projects.

All information submitted in response to this bid is public after the bid opening. The bidder should not include as a part of the response to the invitation to bid any information which the bidder believes to be a trade secret or other privileged or confidential data. If the bidder wishes to include such material with a bid, then the material should be supplied under separate cover and identified as confidential. Statements that the entire bid is confidential will not be honored. Larimer County will endeavor to keep that information confidential, separate and apart from the bid subject to the provisions of the Colorado Open Records Act or order of court.

No work shall commence nor shall any invoices be paid until the contractor provides the requested proof of insurance as outlined in the "Insurance Requirements for Contractors" and until such proof is accepted by Larimer County. ***Additionally***, the contractor will provide an endorsement naming Larimer County as an additional insured to their policy. If you have any questions concerning the insurance requirements, please contact Risk Management at (970) 498-5963 at least one week prior to the bid opening date.

Payment for work performed or goods sold to Larimer County can be expected within 30 days after receipt of the invoice and satisfactory acceptance from the department receiving the service or goods. Any discount

allowed by the vendor for prompt payment, etc., must be reflected in the bid figure, and not entered as separate pricing on the bid.

No telephone, e-mail, or facsimile bids will be accepted. Bids must be clearly identified on the front of the envelope by bid number and title. Responsibility for timely submittal and routing of bids, prior to opening, lies solely with the bidder. Bids received after the opening time specified will not be considered.

Larimer County strongly encourages the use of small and minority firms, women's business enterprises, and labor surplus area firm services. In accordance with Federal and State laws, Larimer County does not discriminate.

Other governmental entities may piggyback on the award of this solicitation, and should contact Larimer County Purchasing for any necessary procurement documents. The entity shall deal directly with the award vendor concerning the placement of Purchase Orders, freight charges, contracting and disputes, invoicing, and payment. Larimer County shall not be held liable or responsible for any liability, claims, costs, damages, demands, actions, losses, judgments or expenses incurred by the vendor or any government entity relating to such use.

The Contractor certifies that by signing the contract, neither the contractor nor subcontractors, the organization nor its principals are suspended or debarred or otherwise excluded from procurement by the Federal government and do not appear on the Excluded Parties List System (EPLS) maintained by the General Services Administration (GSA).

No vendor awarded a solicitation shall be federally debarred. Such debarment shall be checked through the System for Award Management, at www.sam.gov.

Bids must be furnished exclusive of any Federal, State, or Local taxes.

PROJECT DESCRIPTION:

Project includes the construction of the Saddle Area Trailhead in Hermit Park (BASE BID A). Hermit Cabin Trailheads (Alternate Bid B), Kruger Rock (Alternate Bid C), Homestead Meadows Vault Toilet (Alternate Bid D) and Monument Signs (Alternate Bid E) are alternate bids and if funding permits, may be included in the overall project. Work entails clearing and grubbing, stockpiling topsoil, site grading, aggregate base course surfacing, parking blocks, single vault toilet, and miscellaneous items.

BIDDING INSTRUCTIONS:

The following items are part of the bid document for the above noted project.

- Bid Package
 - Proposal Form
 - Anti-Collusion Affidavit
 - Certificate of Intent to Sublet
 - Bid Bond
 - Sample Contract
 - Sample Payment Bond
 - Sample Performance Bond
- Bid Schedule (in Excel format)
- Special Provisions
- Construction Plans

It is not necessary to return the entire Bid Package for the Bid Opening. **Submittal of the following completed forms is required, or your bid will be rejected:**

1. **Proposal Form**
2. **Bid Schedule**
3. **Bid Bond**

Each bid must contain a unit bid price for each item shown in the Bid Schedule. Failure to include unit bid prices for each item shown may be cause for rejection of your bid.

AWARD:

This solicitation will be awarded to the vendor with the most responsive, responsible, reasonable, lowest BASE BID (A) TOTAL meeting all specifications, deemed the best fit and most advantageous to Larimer County.


NOTE: LARIMER COUNTY DOES NOT ACCEPT LIMITATIONS OF LIABILITY.

Each bid must be accompanied by a Bid Guaranty consisting of a properly Certified Check, Cashier's Check, or Bid Bond, in the amount of five percent (5%) of the contractor's Project Price, without conditions, payable to Larimer County, or the bid will be REJECTED. The Bid Bond included in this document must be used as the Bid Guaranty. This is the only acceptable format for a Bid Bond; no other format will be accepted. Bid Guaranties may be held until the contract is awarded; provided the time from ITB recording to contract award does not exceed thirty days.

The Contractor will be required to furnish 100% Payment and Performance Bonds (samples below) within 15 days after the Notice of Award.

PLEASE SUBMIT YOUR BID WITH THE FOLLOWING AFFIXED TO THE FRONT OF THE ENVELOPE:

Bid Number: B17-15, Hermit Park Trailhead Construction
Bid Public Opening Date: _____
Vendor Name: _____
Return Your Bid to:
LARIMER COUNTY PURCHASING DIRECTOR
200 W. OAK STREET, SUITE 4000
FORT COLLINS, COLORADO 80521



NOTE: Use the label to the left on packages when returning your proposal response.

PROPOSAL FORM FOR PROJECT NO. 20170100, B17-15 Hermit Park Trailhead Construction

TO THE BOARD OF COUNTY COMMISSIONERS,
Larimer County, Colorado

I/We have examined the Plans and Specifications and the site of the proposed work and receipt of Addendum No(s). _____ is hereby acknowledged.

I/We certify that no illegal aliens will be employed or contracted with to perform work under this contract in compliance with the provisions of C.R.S. 8-17.5-101, et. seq.

I/We understand and accept the proposition that the Estimate of quantities is approximate only, that the quantities are subject to either increase or decrease and propose to perform any increased or decreased quantities of work at the unit price named in this Proposal, except for alterations provided for in the Specifications.

I/We agree that the Invitation for Bids, Proposal Requirements and Conditions, the Plans and Specifications, any Special Provisions, and this Proposal shall form and be part of the Contract to be signed by me/us if this Proposal is accepted, and that I/we will furnish a Contract Bond in a penal sum equal to the estimated contract price, with surety, or sureties, to guarantee the completion of the work and also to guarantee that all material and labor upon this work, or incidental to the completion of this work, shall be fully paid for.

I/We hereby propose to furnish all labor, machinery, equipment, materials and supplies, and to sustain all the expense incurred in doing the work hereinafter described for what is known as: Project No. 20170100, that may be awarded the undersigned in pursuance of a certain advertisement of the Board of County Commissioners, Larimer County, Colorado, and in accordance with the full details, Plans and Specifications as prescribed by said Board of County Commissioners and under the direction and according to the instructions of said Board or their authorized assistants, for the prices named in the Proposal.

I/We agree to protect my/our employees on this contract, if awarded to _____, by adequate compensation insurance.

I/We agree that any Extra Work or materials which the said Board may order in writing is to be paid for either at a lump sum or unit prices agreed upon prior to the work on the force account basis as specified in the Specifications, the force account bills to be checked and signed at the end of each day by the engineer or inspector in charge, and the Contractor's representative; provided that no class or item of work or material for which a unit bid price is provided in this Proposal is to be classified as Extra Work.

I/We hereby agree to execute a Contract and Bond and supply Insurance Endorsement forms provided by the said Board within **fifteen (15) days** (or such further time as may be allowed in writing by the Board) after receiving notification of the Award of Contract based on this proposal, and in case I/we do not, the Board may proceed to award the contract to another, re-advertise the work for bids, or proceed in any lawful manner they deem advisable, and the accompanying Guaranty shall become forfeited to Larimer County, Colorado as liquidated damages.

I/We hereby agree to commence the work within thirty (30) days following the date of award unless such time for beginning the work is changed by the Engineer in the "Notice to Proceed", and to complete the Base Bid by August 31st 2017 alternate bids (if selected) shall be completed by July 1st 2018 in accordance with the "Notice to Proceed".

LARIMER COUNTY	PROJECT NO. 20170100, B17-15 Hermit Park Trailhead Construction	
ANTI-COLLUSION AFFIDAVIT	LOCATION: HERMIT PARK, LARIMER COUNTY COLORADO	
<p>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.</p> <p>I further attest that:</p> <ol style="list-style-type: none"> 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 price(s) 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 or will be 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 noncompetitive 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, non-competitive 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 Larimer County, Colorado of the true facts relating to submission of bids for this contract. <p>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.</p>		
Contractor's Firm or Company Name:	By:	Date:
	Title:	
2 nd Contractor's Firm or Company Name:	By:	Date:
	Title:	
Sworn to before me this _____ day of _____, 20_____ .		
NOTARY PUBLIC		
My commission expires:		
NOTE: This document must be signed in ink.		

**CERTIFICATE OF INTENT TO SUBLET
PROJECT NO. 20170100
B17-15 Hermit Park Trailhead Construction**

In accordance with Section 108.01 of the Standard Specifications, the successful bidder may sublet a portion of the contract. The bidder hereby certifies that if awarded the contract, he (does)* (does not)* intend to sublet a portion of the work.

Following are the names and addresses of proposed subcontractors and the items and cost of the work each will subcontract. Any changes made to this list after award of contract must be approved in writing by the Engineer.

Name/Address	Subcontract Item	Project Cost

Company

Signature

Date

Name (Please Print)

Title

*circle appropriate word(s)

BID BOND

KNOW ALL MEN by these presents that the undersigned _____
_____ of _____
as Principal, and _____
as Surety, are held firmly bound unto Larimer County, Colorado (the Owner) in the penal sum of _____

Dollars (\$_____) for the payment of which said Principal and Surety each separately,
severally, and jointly hereby bind themselves, their heirs, executors, administrators, successors, and assigns
firmly by these presents.

Dated, signed, sealed and executed this _____ day of _____, 2017.

The conditions of this bond are such that whereas the said Principal is about to submit a bid or proposal
to Larimer County, Colorado (the Owner) to furnish all services, labor, materials and equipment necessary for
the improvement of a project known as Bid No. B17-15 Hermit Park Trailhead Construction, Project No.
2017100.

NOW THEREFORE, if the above bound Principal, if he be awarded the contract for the materials and
work upon which he bid, shall within the fifteen (15) days of such award enter into a written contract with
Larimer County, Colorado (the Owner) in form set out in the Contract Documents for said project and shall
furnish bond to be executed by an acceptable surety company, then this bond shall be null and void, otherwise
to remain in full force and effect.

IN WITNESS WHEREOF, the parties have caused this bond to be executed.

PRINCIPAL

SURETY

STATE OF COLORADO,)
)ss.
COUNTY OF LARIMER)

Before me, a Notary Public in and for said State, came _____
as Principal, and _____ of _____
_____, Attorney in Fact for said _____,
as Surety, with both of whom I am personally acquainted, and acknowledged that they subscribed their
signatures to the above and foregoing bond.

Subscribed to before me a Notary Public this _____ day of _____, 20____.

(S E A L)

NOTARY PUBLIC

My Commission Expires: _____.

BOARD OF COUNTY COMMISSIONERS
LARIMER COUNTY, COLORADO
ENGINEERING DEPARTMENT
CONTRACT

(To be executed in triplicate, one copy for the Engineering Department, one for the County Attorney, each of the County of Larimer, State of Colorado, and one for the Contractor).

THIS CONTRACT, made and entered into this ____ day of _____, 2017, by and between the Board of County Commissioners, Larimer County, State of Colorado ("County"), and _____, in the County of _____, State of Colorado, ("Contractor"), WITNESSETH:

In consideration of their mutual promises, the parties agree as follows:

Contractor will, in a good and workmanlike manner, at his own cost and expense, and strictly in accordance with this contract and the other contract documents described below, furnish all materials and do all work, not otherwise specifically excepted, necessary or incidental to the complete construction of: Bid No. B17-15 HERMIT PARK TRAILHEAD CONSTRUCTION, Project No. 20170100 -.

This contract shall not take effect until Contractor has furnished and delivered to the County payment and performance surety bonds acceptable to the County, in penal sums equal to the estimated contract price as per the "Schedule" hereto attached, duly executed by a corporate surety, qualified and licensed to do business and maintaining a general agent in Colorado.

The other contract documents which are part of this contract include: the Invitation for Bids, the Contractor's Proposal, the Plans, Colorado Department of Transportation Standard Specifications for Road and Bridge Construction, Special Provisions, and together with all alterations and modifications thereto, all being applicable to the project and on file in the Office of the Engineering Department, Larimer County, Fort Collins, Colorado.

This Contract, together with the other contract documents, constitute the entire Bid between the parties, and no oral representation, promise or consideration different from the terms contained in this Contract or different from the other contract documents shall be binding on either party.

The County agrees to pay to the Contractor, according to the requirements of the specifications, the amounts required for the completed work at the unit prices stated in the Contractor's Proposal, and such further amounts as may be required for extra work or materials, all according to the provisions and subject to the conditions as stated in the specifications. The County represents that sufficient appropriations exist to pay its obligations under this contract and that no change orders will issue unless appropriations exist to cover any increased costs. With each request for payment, Contractor shall warrant that all subcontractors and material suppliers have been timely paid in accordance with Section 24-91-103 C. R. S. as now exists or as hereafter may be amended.

The Contract Administrator shall have the authority to make decisions to change the scope of work/specifications to allow the construction project to proceed without delay. Any additional costs (change orders) related to construction under this contract as deemed necessary and authorized by Larimer County

Engineer up to 15% of the original contract amount will be allowed. If the cost of the contract exceeds 15% of the original contract, the County Manager will have to approve additional project costs. Adding or deleting work items that are part of the bid schedule do not fall under this 15% rule.

The Contractor certifies that the Contractor shall comply with the provisions of C.R.S. 8-17.5-101, et. Seq. as follows:

The Contractor certifies that the Contractor shall comply with the provisions of C.R.S. 8-17.5-101, et. seq. The Contractor shall not knowingly employ or contract with an illegal alien to perform work under this contract or enter into a contract with a subcontractor that fails to certify to the Contractor that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract. The Contractor represents, warrants, and agrees that it (a) has verified that it does not employ any illegal aliens, through participation in either the E-Verify Program or in the State of Colorado Verification Program ("Department Program"). If the Contractor elects to participate in the Department Program pursuant to C.R.S. 8-17.5-102, the Contractor must provide the County a copy of Contractor's completed Notice of Participation Form. If the Contractor hires a new employee who performs work under this public contract, the Contractor must provide the County affirmation as required by C.R.S. 8-17.5-102(5)(c)(II). The Contractor shall comply with all reasonable requests made in the course of an investigation by the Colorado Department of Labor and Employment. If the Contractor fails to comply with any requirement of this provision or C.R.S. 8-17.5-101, et. seq., the County may terminate this Contract for breach of contract, and the Contractor shall be liable for actual and consequential damages to the County. The Contractor shall not use the E-Verify Program or the Department Program to undertake pre-employment screening of job applicants while this Contract is being performed. If the Contractor obtains actual knowledge that a subcontractor performing work under this contract knowingly employs or contracts with an illegal alien, the contractor shall: Notify the subcontractor and the County within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to sub-paragraph "a" above, the subcontractor does not stop employing or contracting with the illegal alien, unless the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

Time is of essence of this contract. Work shall begin under this contract no later than the ____ day of _____, 2017, (or such other date as may be authorized in writing by the Engineer in the "Notice to Proceed"), and all work must be completed by August 31st, 2017 for base bid and July 1st, 2018 for the alternate bids (if selected) in accordance with the "Notice to Proceed." Liquidated damages at the rate of \$ 950 per calendar day will be withheld from the Final Estimate for each calendar day that any work shall remain uncompleted after elapse of the contract time.

Contractor shall fully defend and indemnify Larimer County, its officers, agents and employees, from and against all loss or liability that may arise as a result of Contractor's performance of its services hereunder or otherwise as a result of this Contract.

Upon breach of this Contract, the aggrieved party shall be entitled to recover its reasonable attorney fees and costs incurred in any suit brought by reason of such breach. In addition to all other remedies at law and in equity, the County may seek specific performance hereof.

This Bid shall inure to the benefit of, and be binding upon, the successors to the respective parties.

IN WITNESS WHEREOF, the parties hereto have executed this contract on the day and year first-above written.

(SEAL)

Board of County Commissioners
of The County of Larimer

ATTEST:

By: _____

Deputy Clerk of the Board

Chair

(SEAL)

Company: _____ *

ATTEST:

By: _____

Title: _____

Title: _____

Address: _____

City State Zip

*(If the signature is for a corporation, the corporate name must be shown, and subscribed to by some authorized agent, showing the title, and the seal of the corporation affixed; if no corporation, all parties interested must sign.)

SAMPLE-FOR-INFO-RMATION ONLY

ATTACHMENT A

FEMA PUBLIC ASSISTANCE GRANT FUNDED CONSTRUCTION PROJECTS

This attachment is expressly incorporated into the foregoing Contract between Larimer County and the Contractor (collectively the "Contract"). The parties acknowledge that the Contract is subject to the provisions of 44 C.F.R. § 13.36 and the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.). Nothing in the Contract shall be construed as making it contingent upon a Presidential disaster declaration or FEMA's approval or obligation of funds.

The following provisions are incorporated into the Contract:

1. Default and Remedies.

- a. Contractor's failure to fulfill in a timely and proper manner its obligations under this Contract, or Contractor's violation of any of the covenants, agreements, or stipulations of the Contract, shall constitute an Event of Default under this Contract. The following shall also constitute an Event of Default:
 - i. Contractor (a) is generally not paying its debts as they become due; (b) files or consents by answer or otherwise to the filing against it of a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction; (c) makes an assignment for the benefit of its creditors; (d) consents to the appointment of a custodian, receiver, trustee or other officer with similar powers of Contractor or of any substantial part of Contractor's property; or (e) takes action for the purpose of any of the foregoing.
 - ii. A court or government authority enters an order (a) appointing a custodian, receiver, trustee or other officer with similar powers with respect to Contractor or with respect to any substantial part of Contractor's property; (b) constituting an order for relief or approving a petition for relief or reorganization or arrangement or any other petition in bankruptcy or for liquidation or to take advantage of any bankruptcy, insolvency or other debtors' relief law of any jurisdiction; or (c) ordering the dissolution, winding-up or liquidation of Contractor.
- b. On or after any Event of Default, County shall have the right to exercise its legal and equitable remedies, including without limitation, the right to terminate the Contract or seek specific performance of all or any part of the Contract. In addition, County shall have the right, but no obligation, to cure or cause to be cured any Event of Default on behalf of the Contractor; and in such event Contractor shall pay to County on demand all costs and expenses incurred by County in effecting such cure. County shall have the right to offset from any amounts due to Contractor under the Contract or any other agreement between County and Contractor all damages, losses, costs and expenses incurred by County as a result of such Event of Default, including reasonable attorney fees and costs.
- c. In the event County terminates the Contract on or after any Event of Default, all finished or unfinished work, documents, data, studies, and reports by Contractor under the Contract shall, at the option of County become its property. Subject to offset as set forth above, Contractor shall be entitled to receive just and equitable compensation for any satisfactory work completed prior to the effective date of termination.
- d. If, after termination for any Event of Default, it is determined that Contractor was not in default, the rights and obligations of the parties shall be the same as if termination had been issued for convenience of County as set forth below.

2. **Termination for Convenience.** *(applicable if the Contract is in excess of \$10,000; 44 C.F.R. 13.36(i)(2))*
- a. The County may terminate this Contract in its sole discretion at any time and for convenience and without cause. Any such termination will be made by giving Contractor notice in writing and specifying the specific date on which termination is effective. Upon receipt of written notice of termination, Contractor shall take all actions necessary to effect the termination of this Agreement on the date specified in the termination notice and to minimize the liability of Contractor and County to third parties. All such actions shall be subject to prior approval of the County and shall include, without limitation, the following:
 - i. Halting the performance of all services and other work under the Contract on the date(s) and in the manner specified by County;
 - ii. Not placing any further orders or subcontracts for materials, services, equipment, or other items;
 - iii. Terminating all existing orders and subcontracts;
 - iv. At County's direction, assigning to County any or all of Contractor's right, title, and interest under the orders and subcontracts terminated. Upon such assignment, County shall have the right, in its sole discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts;
 - v. Subject to County's approval, settling all outstanding liabilities and all claims arising out of the termination of orders and subcontracts;
 - vi. Completing performance of any services or work that County designates to be completed prior to the date of termination specified by County;
 - vii. Taking such action as may be necessary, or as the County may direct, for the protection and preservation of any property related to this Agreement which is in the possession of Contractor and in which the County has or may acquire an interest.
 - b. In the event of termination for convenience, Contractor will be paid for work completed pursuant to the Contract prior to such termination. The amount of such compensation shall be the proportion of work completed and unpaid prior to the effective date of termination in relation to the total compensation provided for in the Contract. Contractor shall also, within 30 days after the termination date, submit to County an invoice for reasonable actual expenses incurred by Contractor for its actions taken, with prior approval from County, pursuant to section 2(a) above.
3. **Equal Opportunity.** *(applicable if the Contract is in excess of \$10,000; 44 C.F.R. 13.36(i)(3))*
- a. The Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
 - b. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
 - c. The Contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- d. The Contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- e. The Contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- f. In the event of the Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- g. The Contractor will include the portion of the sentence immediately preceding paragraph (a) and the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, that in the event a Contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the Contractor may request the United States to enter into such litigation to protect the interests of the United States.
4. **Copeland Anti-Kickback Act.** (44 C.F.R. 13.36(i)(4)) Contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this Contract. The Contractor shall insert in any subcontracts this same provision, along with any other such clauses as FEMA may, by appropriate instructions, require, and a provision requiring subcontractors to include these clauses in any lower-tier subcontracts. Contractor shall be responsible for compliance by any subcontractor or lower-tier subcontractor with these provisions. Breach of this provision, in addition to any other remedies, may be grounds for termination of this Contract and for debarment as a contractor and subcontractor as provided in 29 C.F.R. §5.12.
5. **Contract Work Hours and Safety Standards Act.** (applicable if the Contract is in excess of \$2000; 44 C.F.R. 13.36(i)(6)) The Contractor shall comply with the following:
- Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
 - Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (a) of this section the contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (a) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the

standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (a) of this section.

- c. Withholding for unpaid wages and liquidated damages. The County shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (b) of this section.
- d. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (a) through (d) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (a) through (d) of this section.”

6. FEMA Reporting Requirements and Regulations. (44 C.F.R. 13.36(i)(8))

- a. General. The County is using Public Assistance grant funding awarded by FEMA to the State of Colorado to pay, in whole or in part, for the costs incurred under this Contract. As a condition of Public Assistance funding under major disaster declaration FEMA-4145-DR, FEMA requires the State of Colorado to provide various financial and performance reporting. It is important that the Contractor is aware of these reporting requirements, as the County may require the Contractor to provide certain information, documentation, and other reporting in order to satisfy reporting requirements to the State of Colorado which, in turn, will enable the State of Colorado to satisfy reporting requirements to FEMA. Failure of the State of Colorado to satisfy reporting requirements to FEMA is a material breach of the FEMA-State Agreement, and could result in loss of federal financial assistance awarded to fund this contract. Contractor agrees to provide County with any information and documentation the County deems necessary to satisfy the reporting requirements herein. Further, Contractor agrees to include this FEMA Reporting Requirements and Regulations provision, in its entirety, in each third-party subcontract financed in whole or in part with federal assistance provided by FEMA.
- b. Applicable Regulations and Policy. The applicable regulations, FEMA policy, and other sources setting forth these reporting requirements are as follows:
 - i. 44 C.F.R. § 13.40 (Monitoring and Reporting Program Performance)
 - ii. 44 C.F.R. § 13.41 (Financial Reporting)
 - iii. 44 C.F.R. § 13.50(b) (Reports)
 - iv. 44 C.F.R. § 206.204(f) (Progress Reports)
 - v. FEMA Standard Operating Procedure No. 9570.14, Public Assistance Program Management and Grant Closeout Standard Operating Procedure (Dec. 2013)
 - vi. FEMA-State (or Tribal) Agreement
- c. Financial Reporting. The State of Colorado is required to submit to the following financial reports to FEMA:
 - i. Initial Report. An initial Federal Financial Report (SF 425) no later than 30 days after FEMA has approved the first Public Assistance project under FEMA-4145-DR.
 - ii. Quarterly Reports. Following submission of the initial report, quarterly Federal Financial Reports until submission of the final report described in the following subparagraph. Reports are due on January 30, April 30, July 30, and October 30.
 - iii. Final Report. A final Federal Financial Report within 90 days of the end of the period of performance for the Public Assistance grant.

- d. **Performance Reporting.** The State of Colorado is required to submit to the following financial reports to FEMA:
- i. Initial Report. An initial performance report no later than 30 days after FEMA has approved the first Public Assistance project under FEMA-4145-DR.
 - ii. Quarterly Reports. Following submission of the initial report, quarterly performance reports until submission of the final report described in the following subparagraph. Reports are due on January 30, April 30, July 30, and October 30.
 - iii. Final Report. A final performance report within 90 days of the end of the period of performance for the Public Assistance grant.
7. **Access to Records.** (44 C.F.R. 13.36(i)(10)) Contractor shall provide access to the County, State of Colorado, Federal Emergency Management Agency, Comptroller General of the United States, or any of their authorized representatives, access to any books, documents, papers, and records of Contractor which are pertinent to this Contract for the purposes of making audits, examinations, excerpts, and transcriptions. Contractor shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed. Contractor agrees to provide the FEMA Administrator or his/her authorized representative(s) access to construction or other work sites pertaining to the work being completed under this Contract.
8. **Retention of Records.** (44 C.F.R. 13.36(i)(11)) Contractor agrees to maintain all books, records, accounts and reports required under this Contract for a period of not less than three years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case contractor agrees to maintain same until the County, State of Colorado, the FEMA Administrator, the Comptroller General of the United States, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related to the litigation or settlement of claims.
9. **Clean Air Act and Clean Water Act.** (applicable if the Contract is in excess of \$100,000; 44 C.F.R. 13.36(i)(12)) The Contractor shall comply with the following:
- a. **Clean Air Act**
 - i. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.;
 - ii. The Contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the State of Colorado, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
 - iii. The Contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with federal assistance provided by FEMA.
 - b. **Federal Water Pollution Control Act**
 - i. The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.;
 - ii. The Contractor agrees to report each violation to the County and understands and agrees that the County will, in turn, report each violation as required to assure notification to the State of Colorado, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office;
 - iii. The contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with federal assistance provided by FEMA.
10. **Energy Efficiency.** (44 C.F.R. 13.36(i)(13)) The Contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act. The Contractor agrees to include this clause in each third-party subcontract financed in whole or in part with federal assistance provided by FEMA.

11. **Debarment.** Contractor affirms that neither it nor its principals are suspended or debarred or otherwise excluded from procurement by the Federal Government and do not appear on the Excluded Parties List System (EPLS) maintained by the General Services Administration (GSA). In addition, contractor will not use suspended or disbarred subcontractors on the EPLS.
12. **Public Assistance Grant Funds and Other Public Monies.** Contractor acknowledges that funding for the Contract includes federal, state, and local money, and Contractor agrees to comply with any law, rule, or regulation that is applicable to the administration or performance of the Contract.

Revised by William Ressue Deputy County Attorney, 12/9/14

P:/Pubdata/Purchasing/Attachment A – FEMA provisions for Public Works Contract

SAMPLE-FOR INFORMATION ONLY

PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS, that _____,
_____, of the County of _____,
State of _____, as principal, and _____
_____ of _____,
State of _____, as surety, are held and firmly bound unto the County of Larimer, in the
penal sum of _____
_____ (\$_____),

with interest thereon at the rate of eight percent (8%) per annum until paid, in good and lawful money of the United States of America, for the payment of which sum well and truly to be made, principal and surety bind ourselves, our heirs, administrators, executors, successors, and assigns, jointly and severally, firmly by these presents.

WITNESS our hands and seals this _____ day of _____, A.D. 2017.

The conditions of the foregoing obligation are such that whereas, on the date hereof, the said principal entered into a written contract with the County of Larimer for the construction of Bid No. B17-15, Project No. 20170100 - HERMIT PARK TRAILHEAD CONSTRUCTION in the State of Colorado; said construction work to be done according to the requirements of said contract.

NOW THEREFORE, if the said principal shall at all times duly and faithfully promptly make payments in all amounts lawfully due to all persons supplying or furnishing him or his subcontractors with labor or materials used or performed in the prosecution of the work provided for in such contract, then this bond will be null and void, otherwise the principal and surety will indemnify and save harmless the County to the extent of any payments in connection with the carrying out of any such contracts which the County may be required to make under the law.

Larimer County shall be under no obligation, except as expressly provided by statute, to withhold any sums due the said principal under the terms of this bond, or to protect in any other way the surety or sureties, claimants or others.

No representation or statement of the principal made to the surety or sureties in application for this bond, or otherwise, shall be read into or be a part of this bond or binding in any way on the obligee herein.

No assignment by principal to surety of the proceeds of such contract shall be binding, except as to any net surplus after paying all claims chargeable by law or by said contract, against the proceeds thereof.

No extension of time of performance of said contract or delay in the completion of the work thereunder shall invalidate this bond or release the liability of the surety thereunder.

This Bond shall not be deemed valid until it shall have been accepted by the Chair, Larimer County Board of Commissioners, or such assistant as he or she may designate.

IN WITNESS WHEREOF, we have hereunto set our hands and seals at _____
_____, Colorado, the day and date written above.

_____(SEAL)
Signature of Principal

_____(SEAL)
Signature of Principal

_____(SEAL)
Signature of Surety

_____(SEAL)
Signature of Surety

SAMPLE-FOR INFORMATION ONLY

PERFORMANCE BOND

KNOW ALL MEN BY THESE PRESENTS, that we _____,
_____, of the County of _____, State of _____,
as principal, and _____
of _____,
State of _____, as surety, are held and firmly bound unto the County of Larimer, in the
penal sum of _____
_____ (\$ _____)
with interest thereon at the rate of eight percent (8%) per annum until paid, in good and lawful money of the
United States of America, for the payment of which sum well and truly to be made, principal and surety bind
ourselves, our heirs, administrators, executors, successors, and assigns, jointly and severally, firmly by these
presents.

WITNESS our hands and seals this _____ day of _____, A.D. 2017.

The conditions of the foregoing obligation are such that whereas, on the date hereof, the said principal
entered into a written contract with the County of Larimer for the construction Bid No. B17-15, Project No.
20170100 - HERMIT PARK TRAILHEAD CONSTRUCTION In the State of Colorado; said construction work
to be done according to the requirements of said contract.

NOW, THEREFORE, if the said principal shall at all times duly and faithfully discharge its, his or their
duties under said contract, and shall duly and faithfully perform all the obligations thereof, and shall and will
indemnify and save harmless the County of Larimer, and all persons as provided by the Statutes of the State of
Colorado, from any and all damages or loss which the County of Larimer or any persons as provided by the
Statutes of the State of Colorado may or shall suffer by reason of the default of the principal or anyone acting
for it as subcontractor or otherwise in the performance of this contract, or by reason of any failure on the part of
said principal, its agents, servants, or employees, subcontractor or subcontractors, or any of them, in the
performance of said contract or any portion thereof, and if the said principal, its subcontractor or
subcontractors, and each and all of them, shall duly pay for all labor, materials, and other supplies used or
consumed in the performance of the work contracted to be done or any part thereof, then this obligation shall
be void; otherwise it shall remain in full force and effect.

Larimer County shall be under no obligation, except as expressly provided by statute, to withhold any
sums due the principal under the terms of this bond, or to protect in any other way the surety or sureties,
claimants or others.

No representation or statement of the principal made to the surety or sureties in application for this
bond, or otherwise, shall be read into or be a part of this bond or binding in any way on the obligee herein.

No assignment by principal to surety of the proceeds of such contract shall be binding, except as to any
net surplus after paying all claims chargeable by law or by said contract, against the proceeds thereof.

No extension of time of performance of said contract or delay in the completion of the work thereunder shall invalidate this bond or release the liability of the surety thereunder.

This Bond shall not be deemed valid until it shall have been approved by the Chair, Larimer County Board of Commissioners, or such assistant as he or she may designate.

IN WITNESS WHEREOF, we have hereunto set our hands and seals at _____, Colorado, the day and date written above.

_____(SEAL)
Signature of Principal

_____(SEAL)
Signature of Principal

_____(SEAL)
Signature of Surety

_____(SEAL)
Signature of Surety

SAMPLE-FOR-INFO RMATION ONLY