CONSTRUCTION CONTRACT

CONTRACT NUMBER:

SUBJECT MATTER:

COUNTY DEPARTMENT:

CONTRACTOR NAME: Name:
Address:
City, State, Zip code
Email:

EFFECTIVE DATE: UPON BOCC APPROVAL

EXPIRATION DATE:

THIS CONTRACT, entered into on the date set forth below, is made by and between the **BOARD OF COUNTY COMMISSIONERS OF EL PASO COUNTY, COLORADO ("COUNTY")** and _____ **("CONTRACTOR").**

WHEREAS, a bid/proposal has been received by the **COUNTY** for the construction of the project, and it has been recommended that a contract for said project be made and entered into with the above-named **CONTRACTOR** under the above stated contract number; and

WHEREAS, the **CONTRACTOR** is willing, qualified and able to perform all of the contract work in accordance with the contract documents and its bid; and

WHEREAS, the **COUNTY** desires to purchase and receive from **CONTRACTOR** all materials, labor, equipment and supplies necessary or incidental to the project described in **APPENDICES A and B**; and

WHEREAS, **CONTRACTOR** is an individual or entity qualified and able to provide the type of labor and materials required for the project described in **APPENDICES A & B**; and

WHEREAS, the parties to this **CONTRACT** desire to reduce to written terms the manner and conditions under which labor and materials will be provided and compensated.

NOW, THEREFORE, in consideration of the above, in consideration of the compensation to be paid the **CONTRACTOR**, and in accordance with the mutual terms, conditions, requirements and obligations set forth in this **CONTRACT**, the **COUNTY** and **CONTRACTOR** agree as follows:

SECTION 1. SCOPE OF WORK

1.1 The **COUNTY** agrees to retain **CONTRACTOR** and **CONTRACTOR** agrees to furnish all labor, tools and materials necessary to complete the project described in **APPENDICES A & B**.

SECTION 2. CONTRACTOR'S RESPONSIBILITIES

2.1 **CONTRACTOR** shall adhere to all terms and conditions set forth in **APPENDIX E** attached to this **CONTRACT** and incorporated by reference.

2.2 All issues or questions of **CONTRACTOR** about this **CONTRACT** arising during the terms of this **CONTRACT** shall be addressed to the designated County Representative identified in Section 3 below.

2.3 **CONTRACTOR** shall attend meetings and submit reports, plans, drawings and specifications as required in **APPENDICES A & B** and shall be reasonably available to the County Representative to respond to any issues that may arise during the term of this **CONTRACT**.

2.4 All employees, agents, representatives and subcontractors of **CONTRACTOR** who will have significant responsibility for performance of this **CONTRACT** shall be identified to and be subject to approval by the County Representative prior to the commencement of any work by these individuals.

2.5 All governmental permits or licenses specified in **APPENDICES A & B** to be acquired by **CONTRACTOR** shall be obtained by **CONTRACTOR** in a prompt and legally sufficient manner and at **CONTRACTOR'S** own expense. Upon demand by the **COUNTY, CONTRACTOR** shall provide the **COUNTY** with evidence of the permits or licenses

2.6 **CONTRACTOR** shall perform all work under this **CONTRACT** in a good workman-like manner and in accordance with generally recognized practices and standards of the construction industry and to the reasonable satisfaction of the **COUNTY**.

2.7 **CONTRACTOR** represents, warrants and covenants that the prices, charges and/or fees set forth in this **CONTRACT** (on the whole) are at least as favorable as the prices, charges and/or fees **CONTRACTOR** charges (on the whole) to other of its customers or clients for the same or substantially similar products or services provided under the same or substantially similar circumstances, terms and conditions.

2.8 If **CONTRACTOR** agrees or contracts with other customers or clients similarly situated during the term of this **CONTRACT**, and offers or agrees to financial terms more favorable than those set forth herein (on the whole), **CONTRACTOR** hereby agrees that it will reduce the prices, charges and/or fees charged to the **COUNTY** with respect to the products or services hereunder to the most favorable rates received by those other customers or clients.

SECTION 3. COUNTY'S RESPONSIBILITIES

3.1 The **COUNTY** agrees to compensate **CONTRACTOR** as set forth in Section 5 below for labor and materials supplied in accordance with this **CONTRACT.**

3.2 The County Representative is **Name, Department, Phone Number.** The County Representative shall have authority to transmit instructions, receive information and documents and resolve any issues arising out of the performance of this **CONTRACT**. The County Representative shall provide **CONTRACTOR** with the identity of an alternate contact person in the event the County Representative is unavailable to respond to **CONTRACTOR'S** inquiries.

SECTION 4. TIME OF PERFORMANCE AND DELAY

Time is of the essence for this **CONTRACT**. **CONTRACTOR'S** time of performance shall commence as stated in **APPENDIX E** unless the time of performance is extended by mutual written agreement of the parties or the **CONTRACT** is otherwise terminated in accordance with Section 13 below, or until the expiration date specified on the first page of this **CONTRACT**, whichever comes first.

SECTION 5. COMPENSATION

5.1 The **COUNTY** agrees to pay the **CONTRACTOR** for the completion of all of the work as required by the contract documents, and the **CONTRACTOR** agrees to accept as its full and only compensation, subject to any additions and deletions pursuant to any change orders or other provisions of the contract documents satisfactory performance of services under this **CONTRACT** in the following amount:

TOTAL CONTRACT SUM NOT TO EXCEED:
(AMOUNT SPELLED OUT) AND…NO/100 DOLLARS

Retainage on work performed during the term of the Contract Progress Payments and the Final Payment to the **CONTRACTOR** are dealt with in Article VIII of **APPENDIX E**.

The amount and terms of compensation referenced above shall not be modified except in accordance with Section 18 below.

5.2 Unless otherwise agreed upon in writing by the **COUNTY, CONTRACTOR** shall be solely responsible for compensation of third parties, including subcontractors, consultants and suppliers, which are retained at the request of **CONTRACTOR** to perform this **CONTRACT**. Such third parties shall not be considered third-party beneficiaries to this **CONTRACT**.

5.3 No payment made under this **CONTRACT** shall be conclusive evidence of the performance of this **CONTRACT**, either in whole or in part, and no payment, including final payment, shall be construed to be a consent on the part of the **COUNTY** to accept unsatisfactory or deficient work.

SECTION 6. FUNDING AVAILABILITY

6.1 On or about December 8, 2020, the Board of County Commissioners of El Paso County, Colorado appropriated adequate funds to pay for labor and materials supplied in accordance with this **CONTRACT** for fiscal year 2021. This amount is equal to or in excess of the contract sum of this **CONTRACT**.

6.2 Financial obligations of the **COUNTY** payable after the current fiscal year are contingent on appropriation or budgeting of funds for those obligations. Should the performance of this **CONTRACT** continue past the current fiscal year, the **COUNTY** shall notify **CONTRACTOR** in writing that sufficient funds are available for continuance of **CONTRACTOR'S** performance under this **CONTRACT** into the new fiscal year. Unless **CONTRACTOR** is notified in writing of availability of funds prior to the end of the current fiscal year, **CONTRACTOR** shall not commence any work in the new fiscal year for which a new appropriation is required to make payment.

6.3 Any renewal of this **CONTRACT** is contingent upon available funding and satisfactory performance by the **CONTRACTOR**, as determined by the **COUNTY**. It shall be the **CONTRACTOR'S** responsibility to provide the **COUNTY** representative (with a copy to the Contracts & Procurement Division) all requested **CONTRACT** changes and/or price adjustments at least 90 days prior to the expiration of the **CONTRACT** or **CONTRACT** renewal date. After review by the **COUNTY** of the **CONTRACTOR'S** requested changes or price adjustments, the **COUNTY** will enter into negotiations with the **CONTRACTOR** to determine if the requested contract changes and/or price adjustments are acceptable to the **COUNTY**. Negotiations must be completed 60 days prior to expiration of the **CONTRACT** or **CONTRACT** renewal date. Failure of the **COUNTY** and the **CONTRACTOR** to agree upon the terms and conditions for the renewal may result in resolicitation of the goods or services covered by the original **CONTRACT**. Continued performance by the **CONTRACTOR** outside of the **CONTRACT** term will be at the **CONTRACTOR'S** risk.

SECTION 7. INDEPENDENT CONTRACTOR

7.1 **CONTRACTOR IS RENDERING SERVICES AS AN INDEPENDENT CONTRACTOR, NOT AS AN EMPLOYEE, AND SHALL BE ACCOUNTABLE TO THE COUNTY FOR THE ULTIMATE RESULTS OF ITS ACTIONS, BUT SHALL NOT BE SUBJECT TO THE DIRECT SUPERVISION AND CONTROL OF THE COUNTY. NEITHER CONTRACTOR NOR ANY AGENT, EMPLOYEE, OR SERVANT OF CONTRACTOR SHALL BE OR SHALL BE DEEMED TO BE AN EMPLOYEE, AGENT OR SERVANT OF THE COUNTY.**

7.2 As specified in Colorado Revised Statutes §§'s 8-40-202(2)(a) and 8-70-115(1)(b), **CONTRACTOR** hereby represents and warrants to **COUNTY** that **CONTRACTOR** is customarily engaged in an independent trade, occupation, profession, or business related to the Services **CONTRACTOR** that will perform for **COUNTY**. **CONTRACTOR** hereby acknowledges and agrees that **CONTRACTOR** is free from control and direction in the performance of its service for **COUNTY**.

7.3 **CONTRACTOR** agrees, that as an independent **CONTRACTOR**, **CONTRACTOR** is not entitled to (i) unemployment insurance benefits, (ii) worker's compensation coverage, or (iii) health insurance coverage from **COUNTY**, and may only receive such coverages if provided by **CONTRACTOR** or an entity other than **COUNTY**. Subject to the foregoing, **CONTRACTOR** hereby waives and discharges any claim, demand or action against **COUNTY'S** worker's compensation insurance and/or health insurance and further agrees to indemnify **COUNTY** or any such claims related to **CONTRACTOR'S** operations or the performance of services by **CONTRACTOR** hereunder. Further, **CONTRACTOR** is obligated to pay federal and state income tax on any moneys earned or paid pursuant to this **CONTRACT**.

7.4 As recognized in Colorado Revised Statutes §§'s 8-40-202(2)(b)(II) and 8-70-115(1)(c), **CONTRACTOR** and **COUNTY** hereby acknowledge and agree that **COUNTY** will not:

(i) Require **CONTRACTOR** to work exclusively for **COUNTY**;
(ii) Establish a quality standard for **CONTRACTOR**; except that **COUNTY** may provide plans and specifications regarding the work but will not oversee the actual work or instruct **CONTRACTOR** as to how the work is to be performed;
(iii) Pay to **CONTRACTOR** a salary or hourly rate, but rather will pay to **CONTRACTOR** a fixed or contract rate;
(iv) Terminate the work during the contract period unless **CONTRACTOR** violates the terms of this **CONTRACT** or fails to produce a result that meets the specifications of this **CONTRACT**;
(v) Provide more than minimal training for **CONTRACTOR**
(vi) Provide tools or benefits to **CONTRACTOR**; except that materials and equipment may be supplied;
(vii) Dictate the time of **CONTRACTOR'S** performance;
(viii) Pay **CONTRACTOR** personally; instead, **COUNTY** will make all checks payable to the trade or business name under which **CONTRACTOR** does business; and
(ix) Combine its business operations in any way with **CONTRACTOR'S** business, but will instead maintain such operations as separate and distinct.

7.5 **CONTRACTOR** does not have the authority to act for the **COUNTY**, or to bind the **COUNTY** in any respect whatsoever, or to incur any debts or liabilities in the name of or on behalf of the **COUNTY**;

7.6 Unless given express written consent by **COUNTY**, **CONTRACTOR** agrees not to bring any other party (including but not limited to employees, agents, sub-Subcontractors, and vendors) onto the project site

7.7 If **CONTRACTOR** is given written permission to have other parties on the site, and **CONTRACTOR** engages any other party which may be deemed to be an employee of **CONTRACTOR**, **CONTRACTOR** will be required to provide the appropriate Workers' Compensation insurance coverage as required by the Standard Contract Agreement of **COUNTY.**

SECTION 8. INSURANCE

8.1 Cancellation: The insurance policies, as required per **APPENDIX C- INSURANCE CHECKLIST**, shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to **CONTRACTOR** and **CONTRACTOR** shall forward such notice to the **COUNTY** in accordance with Paragraph 8.2 within seven (7) days of **CONTRACTOR'S** receipt of such notice. If such provisions are not commercially available from carriers, then **CONTRACTOR** shall be responsible for providing the notice of Cancellation in a manner acceptable to **COUNTY**.

8.2 **CONTRACTOR** shall furnish certificates of such insurance to the County Contracts and Procurement Manager **("MANAGER")** prior to the performance of this **CONTRACT**. The **COUNTY,** and its' employees and agents, shall be named as an additional insured on all policies of liability insurance, except professional liability, workers' compensation, and commercial crime when applicable. Unless otherwise noted in Section 8 to the contrary, insurance coverage shall be maintained for the duration of the **CONTRACT**.

8.3 **COUNTY** reserves the right to review, approve or reject any and all certificates of insurance and required endorsements. Certificate Holder should be listed as follows:

El Paso County, Board of County Commissioners
County Address: 200 South Cascade Avenue, Suite 150, Colorado Springs, CO 80903

8.4 All policies are to be written through companies duly entered and authorized to transact that class of insurance in the state in which the job is located. The insurance companies must have an A.M. Best rating of A-, VIII or better in the most recent Best's Key Rating Guide.

8.5 Approval, disapproval, or failure to act by **COUNTY** regarding any insurance supplied by the **CONTRACTOR** shall not relieve the **CONTRACTOR** of full responsibility or liability for damages and accidents. Neither shall the bankruptcy, insolvency or denial of liability by the insurance company exonerate the **CONTRACTOR** from liability.

8.6 No Special payments shall be made for any insurance that the **CONTRACTOR** may be required to carry; all are included in the **CONTRACT** price.

SECTION 9. DEFENSE AND INDEMNIFICATION

9.1 To the extent authorized by law, the **CONTRACTOR** shall defend, indemnify and hold the **COUNTY** free and harmless from and against any and all liabilities, demands, claims, damages, suits, judgments and decrees, and Court awards including costs, expenses and attorneys' fees, on account of injuries to or death of any person or persons or damage to any property arising out of or related to the **CONTRACTOR'S** intentional or negligent acts, errors or omissions or that of its agents, officers, servants and employees, subcontractors or assignees, whether contractual or otherwise, during the performance of this **CONTRACT** and pursuant to its terms. Nothing in this section shall be deemed to waive or otherwise limit the defenses available to the **COUNTY** pursuant to the Colorado Governmental Immunity Act or otherwise provided by law.

9.2 The **CONTRACTOR** hereby agrees to defend, indemnify, and hold harmless the **COUNTY**, its appointed and elected officials, agents and employees against all liabilities, claims, judgments, suits or demands for damages to persons or property arising out of, resulting from, or relating to the services performed under this **CONTRACT** and any actions, activities, or other conduct by **CONTRACTOR** or the **CONTRACTOR'S** employees upon **COUNTY** property ("Claims") unless and until such Claims have been specifically determined by the trier of fact to be due to the sole negligence or willful misconduct of the **COUNTY**. This indemnity shall be interpreted in the broadest possible manner to indemnify **COUNTY** for any acts or omissions of the **CONTRACTOR** or the **CONTRACTOR'S** employees, either passive or active, irrespective of fault, including the **COUNTY'S** concurrent negligence whether active or passive, except for the sole negligence or willful misconduct of the **COUNTY**.

9.3 The **CONTRACTOR'S** duty to defend and indemnify the **COUNTY** shall arise at the time written notice of the Claim is first provided to the **COUNTY** regardless of whether an action has been filed in court on the Claim. The

CONTRACTOR'S duty to defend and indemnify the **COUNTY** shall arise even if the **COUNTY** is the only party sued and/or it is alleged that the **COUNTY'S** negligence or willful misconduct was the sole cause of the alleged damages.

9.4 The **CONTRACTOR** will defend any and all Claims which may be brought or threatened against the **COUNTY** and will pay on behalf of the **COUNTY** any expenses incurred by reason of such Claims including, but not limited to, court costs and attorney fees incurred in defending and investigating such Claims or seeking to enforce this indemnity obligation.

Such payments on behalf of the **COUNTY** shall be in addition to any other legal remedies available to **COUNTY** and shall not be considered the **COUNTY'S** exclusive remedy.

9.5 Insurance coverage requirements specified in this **CONTRACT** shall in no way lessen or limit the liability of the **CONTRACTOR** under the terms of this indemnification obligation. The **CONTRACTOR** shall obtain, at its own expense, any additional insurance that it deems necessary for the **COUNTY'S** protection.

9.6 These defense and indemnification obligations of the **CONTRACTOR** shall survive the expiration or termination of this **CONTRACT**.

9.7 Nothing in this section shall be deemed to waive or otherwise limit the defenses available to the **COUNTY** pursuant to the Colorado Governmental Immunity Act, § 24-10-101, *et seq.,* C.R.S. or otherwise provided by law.

SECTION 10. AUDIT AND INSPECTION

10.1 **CONTRACTOR** shall at all times during the term of this **CONTRACT** maintain such books and records as shall sufficiently and properly reflect all direct costs of any nature in the performance of this **CONTRACT**, and shall utilize such bookkeeping procedures and practices as will reflect these costs. Books and records shall be subject, at any reasonable time, to inspection, audit or copying by Federal, State or County personnel, or such independent auditors or accountants as are designated by the **COUNTY**.

10.2 **CONTRACTOR** shall permit the County Representative or other authorized Federal, State or County personnel, at any reasonable time, to inspect, transcribe or copy any and all data, notes, records, documents and files of the work **CONTRACTOR** is performing in relation to this **CONTRACT**.

SECTION 11. OWNERSHIP

11.1 All data, plans, reports, notes and documents provided to or prepared by **CONTRACTOR** in performance of this **CONTRACT** shall become the property of the **COUNTY** upon payment under this **CONTRACT**, and shall be delivered to the County Representative.

11.2 Except as provided in Section 10 above, all such documents shall remain confidential and shall not be made available by **CONTRACTOR** to any individual or entity without the consent of the County Representative.

11.3 If the **CONTRACTOR** deems any documents submitted by **CONTRACTOR** to the **COUNTY** under this **CONTRACT** confidential business data, trade secrets, or data not otherwise subject to public disclosure, **CONTRACTOR** shall clearly mark the documents as “Confidential” prior to delivering or making them available to the **COUNTY**. If the **COUNTY** receives a request for the production or disclosure of documents so marked, it will decline disclosure and notify the **CONTRACTOR** of such request; provided, however, that if any action is commenced against the **COUNTY** under the Colorado Public (Open) Records Act or otherwise seeking to compel production or disclosure of the documents, **CONTRACTOR** or any other person asserting the confidentiality privilege of such documents shall immediately intervene in such action, and whether or not such intervention is permitted, shall defend, indemnify and hold **COUNTY** harmless from any costs, damages, penalties or other consequences of **COUNTY’S** refusal to disclose or produce such documents.

SECTION 12. DISPUTES

Any dispute concerning the performance of this **CONTRACT** that is not resolved by mutual agreement of the parties shall be resolved in the manner described in hereinafter:

12.1 If a dispute arises out of or relating to this **CONTRACT** or its breach, the parties shall endeavor to settle the dispute first through direct discussions. The parties may, upon mutual agreement, voluntarily conduct mediation of the dispute through Colorado’s 4th Judicial District Office of Dispute Resolution or other mutually agreeable mediator.

12.2 In the event the parties choose to mediate a dispute, each party shall bear all of its own costs, which cost shall not be recoverable as part of a change order or in any subsequent Litigation.

12.3 Any litigation whatsoever regarding this **CONTRACT**, including but not limited to claims and disputes concerning payment or breach or default of this **CONTRACT**, shall be tried by the District Court in and for the County of El Paso, State of Colorado.

12.4 In the event any dispute or litigation arises under this **CONTRACT** and during the time such dispute or litigation is being resolved, the **CONTRACTOR** hereby agrees that it shall continue performance under this **CONTRACT** in accordance with the terms and conditions hereof since time is of the essence. The failure of the **CONTRACTOR** to continue expeditious performance due to a dispute or litigation arising under this **CONTRACT**, at the option of the **COUNTY**,

shall be construed as a material breach of this **CONTRACT** justifying termination or such other action as the **COUNTY** deems appropriate

12.5 During the term of any dispute resolution, the **COUNTY** may withhold payment of **CONTRACTOR'S** invoice or statement to the extent such payment is in dispute and is part of the dispute resolution process.

SECTION 13. SUSPENSION AND TERMINATION

Suspension and termination of the **CONTRACT** shall be dealt with as described in Articles VII and XV respectively of **APPENDIX E**.

SECTION 14. NON-DISCRIMINATION

CONTRACTOR shall not hire, discharge, transfer, promote or demote, or in any manner discriminate against any person otherwise qualified and capable because of race, color, sex, marital status, age, religion, disability or national

origin. **CONTRACTOR** agrees to comply with all applicable Federal and State statutes and regulations concerning non-discrimination.

SECTION 15. APPLICABLE LAW

The laws rules and regulations of the State of Colorado and El Paso County shall be applicable in the enforcement, interpretation and execution of this contract. The parties to this contract understand and agree that, in the event of any litigation that may arise under this contract, jurisdiction and venue shall lie in the Fourth Judicial District of El Paso County, Colorado.

SECTION 16. RIGHTS OF THIRD PARTIES

This **CONTRACT** does not and shall not be deemed to confer on any third party the right to the performance of or proceeds under this **CONTRACT**, to claim any damages or to bring any legal action or other proceeding against the **COUNTY** or **CONTRACTOR** for any breach or other failure to perform this **CONTRACT**.

SECTION 17. ASSIGNMENT/SUBCONTRACTS

CONTRACTOR shall not assign its interest in this **CONTRACT** or subcontract any of the work to be performed under this **CONTRACT** without the prior written consent of the **COUNTY**.

SECTION 18. CHANGES OR MODIFICATIONS

No modification, amendment, notation, change or other alteration of this **CONTRACT** shall be valid unless mutually agreed by the parties in writing and executed as an addendum to this **CONTRACT**.

SECTION 19. JOINT VENTURE

If the **CONTRACTOR** is a Joint Venture, the partners to the Joint Venture shall be jointly and severally liable to the **COUNTY** for the performance of all duties and obligations of the **CONTRACTOR** that are set forth in the **CONTRACT**.

SECTION 20. SEVERABILITY

If any section, subsection, clause or phrase of this **CONTRACT** is, for any reason, held to be invalid, such holding shall not affect the validity of the remaining portions of this **CONTRACT.**

SECTION 21. COMPLIANCE WITH LAWS

21.1 At all times during the performance of this **CONTRACT, CONTRACTOR** shall strictly observe and conform to all applicable federal, state and local laws, rules, regulations and orders that have been or may hereafter be established.

21.2 **Federal Immigration Law Compliance**: The **CONTRACTOR** certifies that the **CONTRACTOR** has complied with the United States Immigration and Control Act of 1986. All persons employed by the **CONTRACTOR** for performance of this **CONTRACT** have completed and signed Form I-9 verifying their identities and authorization for employment. "Worker without authorization" means an individual who is unable to provide evidence that the individual is authorized by the federal government to work in the United States.

21.3 **Workers Without Authorization: Public Contracts for Services. C.R.S. § 8-17.5-101 and 102, and Public Law 208, 104th Congress, as amended and expanded in Public Law 156, 108th Congress, as amended.**

CONTRACTOR certifies that the **CONTRACTOR** shall comply with the provisions of C.R.S. § 8-17.5-101 et seq. **CONTRACTOR** shall not knowingly employ or contract with a worker without authorization 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 a worker without authorization to perform work under this **CONTRACT**. **CONTRACTOR** represents, warrants, and agrees that it (i) has confirmed or attempted to confirm the employment eligibility of all employees who are newly hired for employment in the United States through participation in the basic pilot program administered by the Social Security Administration and Department of Homeland Security, and (ii) otherwise will comply with the requirements of C.R.S. § 8-17.5-102(2)(b). The **CONTRACTOR** is prohibited from using either the e-verify program or the Colorado Department of Labor and Employment program procedures to undertake pre-employment screening of job applications while the services are being performed under this **CONTRACT**. If the **CONTRACTOR** obtains actual knowledge that a subcontractor performing work under this **CONTRACT** knowingly employs or contracts with a worker without authorization, the contractor shall notify the subcontractor and the **COUNTY** within three (3) days that the **CONTRACTOR** has actual knowledge that the subcontractor is employing or contracting with a worker without authorization and shall terminate the subcontract with the subcontractor if within three (3) days of receiving this notice the subcontractor does not stop employing or contracting with the worker without authorization; except that the **CONTRACTOR** shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with a worker without authorization. The **CONTRACTOR** shall comply with all reasonable requests made in the course of an investigation under C.R.S. § 8-17.5-102 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 and the **CONTRACTOR** shall be liable for actual and consequential damages to the **COUNTY**.

SECTION 22. CONFLICT OF TERMS IN THE CONTRACT DOCUMENTS

22.1 In the event there is found any conflict in any of the terms between the **COUNTY'S** contract documents and the **CONTRACTOR'S** contract documents, the parties understand and agree that the terms contained in the **COUNTY'S** contract documents shall be controlling and shall take precedence over any conflicting terms found in the contract documents.

22.2 Further, if there are any conflicting terms as between the **COUNTY'S** contract and the **COUNTY'S** Purchase Order or any other **COUNTY** documents, which are included as a part of the contract documents, those terms, which the **COUNTY** deems most favorable toward the protection of the **COUNTY**, and the goals of the **CONTRACT** shall be deemed to control and take precedence over any conflicting contract terms. The conflicting contract terms may be deleted at the **COUNTY'S** sole discretion.

22.3 In the event that one of the **COUNTY'S** contract documents contains a word, statement, or clause which is not contained in any other of the **COUNTY'S** contract documents nor in those of the **CONTRACTOR'S** contract documents, the parties understand and agree that such word, statement or clause shall be included as a part of the contract terms at the sole discretion of the **COUNTY**.

22.4 Finally, in the event that there is found in the **CONTRACTOR'S** contract documents a word, statement or clause not contained in the **COUNTY'S** contract documents and which the **COUNTY**, in its sole discretion, wishes to delete from the contract terms, the parties understand and agree that the **COUNTY** shall have the discretion to include or delete such word, statement or clause from the contract terms.

SECTION 23. PERSONALLY IDENTIFIABLE INFORMATION (PII)

If **CONTRACTOR** or any of its Subcontractors will or may receive PII under this **CONTRACT**, **CONTRACTOR** shall provide for the security of such PII, in a manner and form acceptable to the **COUNTY**, including, without limitation, non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections and audits. **CONTRACTOR** shall be a "Third-Party Service Provider" as defined in C.R.S. § 24-73-101(1) (i) and shall maintain security procedures and practices consistent with C.R.S. § 24-73-102 and C.R.S. § 24-73-103. In the event **CONTRACTOR** incurs a data breach

whereby it is reasonably believed that any of **COUNTY'S** PII either could have been, or was compromised, then **CONTRACTOR** shall immediately notify the **COUNTY** in writing and shall follow abide by C.R.S. §24-73-101 *et seq*.

SECTION 24. ENTIRE CONTRACT

This **CONTRACT,** including attached **APPENDICES**, constitutes the entire understanding of the parties. At the time of execution of this **CONTRACT**, there are no other terms, conditions, requirements or obligations affecting this **CONTRACT** that are not specifically set forth herein.

SECTION 25. DELETIONS

The following sections are intentionally deleted from this **CONTRACT: NA or list the sections being deleted (SECTIONS 4, 5, and 7.1), CROSS OUT THE SECTIONS REFRENCED HERE, and initial left of the section number.**

SECTION 26. APPENDICES

The following **APPENDICES** are attached to and made a part of this **CONTRACT**:

Appendix A:	**IFB NO.: XX-XXX**
Appendix B	**CONTRACTOR'S RESPONSE**
Appendix C:	**INSURANCE CHECKLIST and INSURANCE CERTIFICATE**
Appendix D**:**	**PURCHASE ORDER**
Appendix E:	**GENERAL CONDITIONS OF CONTRACT**

IN WITNESS WHEREOF, the parties hereto have executed this **CONTRACT** on the _____ day of _____, 2021.

FOR BOARD OF COUNTY COMMISSIONERS
EL PASO COUNTY, COLORADO

BY: _____
TRACI GORMAN, CPPO, CPPB
CONTRACTS & PROCUREMENT DIVISION MANAGER

APPROVED AS TO FORM

BY: _____
OFFICE OF THE COUNTY ATTORNEY

CONTRACTOR NAME

BY: _____
AUTHORIZED REPRESENTATIVE (PRINT)

BY: _____
AUTHORIZED REPRESENTATIVE (SIGN)

NOTARY PUBLIC
STATE OF _____, COUNTY
OF _____
SWORN TO ME BEFORE THIS _____
DAY OF 2021

MY COMMISSION EXPIRES:
_____

ONLY CONTRACTOR REQUIRED TO SIGN BEFORE A NOTARY