

REHABILITATION CONSTRUCTION CONTRACT

THIS CONTRACT entered into _____ . Between the:
Owner: _____ and _____
The Contractor: _____
Property Address: _____ , _____ , CO

ARTICLE I -- Purpose and Definitions.

1. Purpose. The purpose of this Contract is to detail the duties and responsibilities of the parties regarding the rehabilitation of the property located at: _____ , _____ , CO .

2. Definitions

A. *Change Order*: A form, order, directive or request issued by _____ to the Contractor to request changes in the work consisting of additions, deletions or modifications; the Contract Sum and Contract Time being adjusted accordingly. All such changes in the work shall be authorized by written Change Order by the Owner, the Contractor, and the Redevelopment Specialist prior to any such changes being initiated.

B. *Contract Documents*: The Contract Documents include the following:

- a. Rehabilitation Construction Contract
- b. General Specifications dated: February, 2003
- c. Work Description (2 pages) dated _____
- d. Drawings (_____ sheets)
- e. Addenda number(s) _____
- f. Written change orders

Acts required by any Contract Document shall be binding upon the parties as if required by all Contract Documents. The Contract Documents are intended to include all items necessary for Contractor to complete the Contract Work, to include any additional Work which may be necessary to provide the specified results and to detail the terms and conditions of payment for the Work. The Contract Documents shall be signed by all parties.

C. *Redevelopment Specialist*: The City's representative, who will provide general administration of the Contract and will coordinate Contractor's applications for payment.

D. *Subcontractor:* Unless otherwise noted in the Contract Documents, "Subcontractor" means a person or entity with whom the Contractor has a verbal or written contract to perform any Work at the Work site or to supply any materials for the Work.

E. *Work:* All activity necessary to complete the rehabilitation construction described in the Contract Documents, including all labor, materials and equipment required for completion of the rehabilitation project.

ARTICLE 2 -- Time and Payment.

1. *Contract Duration.* The Work to be performed under this Contract shall be commenced on and completed on or before .

A. Time is of the essence in this Contract.

B. If the Contractor is delayed in Work progress due to Change Orders, labor disputes, fire, unusual delay in transportation, unavoidable casualties, events beyond the Contractor's control or other reasons justifying delay, the Contract duration may be extended by Change Order. All requests for extending Contract duration must be in writing and given to the Owner within five (5) days after the need for extension arises.

2. *Contract Amount.* The Owner shall authorize payment to the Contractor for the performance of the Work, subject to additions or deductions within reason by Change Order, in current funds. The Contract amount is Dollars (\$)).

3. *Method of Payment.* Based upon Application and Certificate for Payment submitted to the Owner by the Contractor and certified by the Redevelopment Specialist the Owner shall authorize payments in the following manner:

A. Contractor's first payment must represent at least thirty percent (30%) of the Contract Amount.

B. Any progress payments requested by Contractor must be based upon the percentage of Work completed less 10%.

C. At the time of each payment, the Contractor must warrant and represent that all Subcontractors have been paid in full, or in proportion to the Work performed to date.

D. The Owner shall authorize final payment within twenty (20) working days after completion of the Work, provided the Contract be then fully performed.

- E. Payment or portions of payments may be withheld due to
 - (1) Unrepaired or unremedied Work
 - (2) Claims filed
 - (3) Contractor's failure to properly pay for labor materials, equipment or Subcontractors' Work.

4. *Final Payment.*

- A. The Owner shall authorize final payment in accordance with C.R.S. § 38-26-107.
- B. Final payment shall not be made until the Contractor has complied with the terms of Art. 2, § C, and the Contractor has supplied further warranties for all appliances and mechanical equipment; certification of insulation "R" values; and a final inspection (as required by the scope of the job) from the Regional Building Department.

ARTICLE 3 -- Owner Responsibilities.

- 1. *The Owner* agrees to furnish the following additional documents to the Contractor:
 - A. The Owner shall secure and pay for easements for permanent structures or permanent changes in existing facilities, or zoning variances.
 - B. Any other documents reasonably necessary for Contractor's performance of the Work required by this Contract.
 - C. The Owner forfeits all right to articles of salvage removed by Contractor from the Work site unless otherwise provided by the Contract documents.
 - D. Unless otherwise specifically noted, the Owner shall pay for water, heat and utilities necessary for the proper execution and completion of the Work.
 - E. The Owner shall furnish access to Contractor and his Subcontractors during normal working hours for so long as this Contract is in effect.

ARTICLE 4 – Redevelopment Specialist Responsibilities

- 1. *The Redevelopment Specialist* shall be responsible for the following:
 - A. Conducting on-site inspections to determine the progress and quality of the Work, and requesting correction of Work when necessary
 - B. Certifying the Contractor's Applications for Payment and initiate the payment process
 - C. Interpreting the requirements of the Contract Documents. The Redevelopment Specialist will make decisions on all claims and disputes between the Owner and the Contractor.

- D. Rejecting any Work which does not conform to the requirements of the Contract Documents.
- E. Determining the validity of requests for extending the Contract duration and making determination regarding extension.

ARTICLE 5 -- Contractor Responsibilities, Representations and Warranties

1. *The Contractor* will supervise and direct the work using its best skill and attention. The Contractor is solely responsible for all means, methods, techniques and construction procedures and for coordinating all portions of the Work.
2. *The Contractor* will provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, transportation and other services or facilities necessary to execute and complete the Work unless otherwise noted in the Contract Documents.
3. *The Contractor* understands the importance of maintaining a professional public appearance when conducting the Work under this contract.
 - A. At the Work site, the Contractor will enforce strict discipline and good order among its employees and will not employ any unfit person or anyone not skilled in the task assigned.
 - B. The Contractor will keep the Work site free from any accumulation of waste materials or rubbish. At the completion of the Work, the Contractor must:
 - a. Remove all waste materials and rubbish from the Work site.
 - b. Remove all of Contractor's tools, construction equipment, machinery and surplus materials.
 - c. Leave the Work site "broom clean" or its equivalent, unless otherwise noted in the Contract Documents.
4. *The Contractor* warrants that all materials and equipment incorporated in the Work will be new, unless otherwise noted in the Contract Documents. The Contractor further warrants that all Work will be of good quality, free from faults and defects and in conformance with the Contract Documents. Any Work not meeting these standards will be deemed defective.
5. *The Contractor* will give all notices and comply with all laws, ordinances, rules, regulations and orders regarding the Work issued by any public authority including, but not limited to, the following:

- A. All sales, consumer, use or other similar taxes required by law.
 - B. All permits, fees and licenses necessary to complete the Work.
6. *The Contractor* will be responsible for the acts and omissions of its employees, agents or Subcontractors, their agents or employees, and for any other person performing any Work or supplying any materials to the Contractor for the Work.
 7. *The Contractor* will not discriminate against any employee or applicant for employment due to race, creed, color, sex or national origin. The Contractor will take affirmative action to insure that applicants are hired, and employees are treated in a non-discriminatory manner without regard to their race, creed, color, sex or national origin. Affirmative action includes, but is not limited to the following: employment, position 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 employment applicants, notices procured from the City, detailing the provisions of this non-discrimination clause.
 8. *The Contractor* agrees that the Contractor shall indemnify, defend and hold harmless the City, its officers, employees and agents, from and against any and all loss, damage, injuries, claims, cause or causes of action, or any liability whatsoever resulting from, or arising out of, or in connection with the Contractors obligations or actions under this Contract.
 9. In the performance of the Contractor's Work obligations, it is understood, acknowledged and agreed that the Contractor is at all times acting and performing as an Independent Contractor. The City shall neither have nor exercise any control or direction over the manner and means by which the Contractor performs the Work obligations under this Contract, except as otherwise stated within the Contract Documents. The Contractor and its employees, agents, servants, or other personnel understand and agree that they are not City employees. The Contractor is solely responsible for payment of salaries, wages, payroll taxes, unemployment benefits or any other form of compensation or benefit to the Contractor or any of its employees, agents, servants or other personnel who directly or indirectly perform services or Work under this Contract. It is expressly understood and agreed that neither the Contractor nor the Contractor's employees, agents, servants or other personnel are entitled to any City payroll, insurance, unemployment, worker's compensation, retirement or any other benefits.
 10. *The Contractor* represents that the Contractor, the Contractor's agent or representative, has visited the Work site and is familiar with the conditions under which the Work will be performed.

ARTICLE 6 -- Subcontracts.

1. As applicable, contracts between the Contractor and any Subcontractors must be in accordance with the terms of these Contract Documents.
 - A. The Contractor must immediately inform the Redevelopment Specialist whenever the Contractor becomes aware of a dispute with any Subcontractor.
 - B. The Contractor must inform the Redevelopment Specialist of his intention to change or substitute any Subcontractor or supplier as documented on the Application and Certification for Payment page two.

ARTICLE 7 -- Insurance.

1. *The Contractor* must, at the Contractor's own expense, obtain and maintain for the duration of this Contract insurance policies to protect the Contractor, the Contractor's employees and Subcontractor's, if any. Unless otherwise noted in the Contract Documents, the Contractor's insurance shall also protect the Owner from claims for bodily injuries, death or property damage which may arise from the Work and acts required by the Contract Documents, whether the Work or acts be directly or indirectly performed by the Contractor or any Subcontractor.
2. Unless otherwise noted in the Contract Documents, the Contractor shall obtain and maintain the following required insurance policies in the minimum amounts stated:
 - A. Workers' Compensation and Employers Liability as required by statute. Employers Liability coverage must have a minimum limit of \$100,000.
 - B. Commercial General Liability including completed operations coverage for limits not less than \$1,000,000 Combined Single Limit for bodily injury and property damage for each occurrence.
 - C. Automobile Liability for limits not less than \$500,000 Combined Single Limit for bodily injury and property damage for each occurrence. Coverage shall include owned, non-owned and hired automobiles.
3. A certificate of insurance or copy of the policy for each type of insurance required under this Agreement must be provided to the City by the Contractor **prior to the effective date of this Contract**. If at any time any of the Contractor's insurance policies become null, void, canceled, or otherwise rendered ineffective, the Owner or Redevelopment Specialist, may suspend this Contract until the Contractor obtains a new policy.
4. If any Work is sublet by the Contractor, it must require the Subcontractor to provide coverage for the Subcontractor's employees.

5. *The Contractor* understands and agrees that the insurance coverage enumerated in this Contract constitutes the minimum requirements and in no way lessens or limits the liability of the Contractor under this Contract. The Contractor may, at the Contractors' expense, obtain and maintain any additional types or amounts of insurance that the Contractor believes is necessary for its protection.

ARTICLE 8 -- Change Orders.

1. The funds appropriated for this Contract are equal to or exceed the awarded Contract amount.
2. *The Owner* may request changes in the Work including, but not limited to, additions, deletions and modifications. The Contract amount or duration may only be adjusted by Change Order.
3. No Change Order may be issued by the Owner or City which requires additional compensable Work to be performed and which causes the aggregate amount payable under the Contract to exceed the amount appropriated for this Contract, unless the Contractor has been given a written assurance by the City that lawful appropriations to cover the costs of the additional Work have been made or unless the additional Work is covered under a remedy-granting provision of this Contract.
4. Regardless of any remedy-granting provision in this Contract, the Contractor will not be entitled to, and expressly waives any right to, additional compensation for any additional compensable Work performed under this Contract, unless the Contractor has been given a written Change Order prior to performing the additional Work.
5. Change Orders must contain the following elements:
 - A. Information regarding the Work modification, Work deletion or additional compensable Work requested.
 - B. Explanation of any resulting adjustment to the Contract amount or duration.
 - C. Signatures of the Contractor, the Owner, and the City.
6. It is the Contractor's responsibility to know, determine, and ascertain the authority of the Owners and City representative signing any Change Order under this Contract.

ARTICLE 9 -- General Provisions.

1. *Correction of Work.*
 - A. The Contractor must correct any Work which fails to conform to the requirements and specification of the Contract Documents.
 - B. Upon notice from the Redevelopment Specialist while Work is progressing, the Contractor must remedy defects due to faulty materials, equipment or workmanship within a reasonable time.
 - C. The Contractor must remedy any defects due to faulty materials, equipment or workmanship which appear within one (1) year after the Work under this Contract has been completed, or within a longer period of time as permitted by law or by the terms of any special guarantee required by the Contract Documents.
 - D. The provisions of this Art. 9, apply to work performed by the Contractor, its employees or any Subcontractor.
2. *The Contractor shall not assign this Contract or any of the payments that become due hereunder without prior written permission of the City and Owner.*
3. *Law.* This contract is subject to and shall be interpreted under the law of the State of Colorado, and the Charter, City Code, Ordinances, Rules and Regulations of the City of Colorado Springs, Colorado, a Colorado Home Rule City. Court Jurisdiction shall exclusively be in the District Court for the Fourth Judicial District of Colorado. The Contractor shall insure that the Contractor and its employees, agents, officers and Subcontractors are familiar with, and comply with, applicable Federal, State, and Local laws and regulations as now written or as amended. Further, the Contractor agrees to honor the provisions of the following attachments, if applicable:
 - A. Equal Opportunity clause.
 - B. Lead-based paint.
 - C. Federal Labor Standards Provisions
4. *Third Parties.* The parties specifically agree that this Contract is not intended by any of its terms, provisions or conditions to create in the public or any individual member of the public a third party beneficiary relationship, or to authorize any person not a party to this contract to maintain suit for personal injuries or property damage pursuant to the terms, provisions or conditions of this Contract. Insurance coverage required by this Contract is not intended to waive and does not waive any protection, immunity or other provision of the Colorado Governmental Immunity Act, Sections 24.10-101 to 120, C.R.S., as amended.

ARTICLE 10 -- Termination.

1. TERMINATION BY THE CONTRACTOR

- A. If, through no fault of the Contractor, the Work is stopped for a period of thirty (30) days or if the Owner fails to make payment due for a period of thirty (30) days, the Contractor may, upon seven (7) days written notice to the Owner and the Redevelopment Specialist terminate the Contract. Upon termination of the Contract, the Contractor shall have such remedies as are provided by law. In that event, the Owner shall defend, indemnify and hold harmless the City for any damages and expenses incurred as a result of the Owner's negligence.
- B. In the event this Contract is terminated, Contractor shall, within ten (10) days of termination, submit a request for payment. This request for payment must detail all work completed prior to termination for which the City has not rendered payment, and must further comply with the requirements of Article 2, above.

2. TERMINATION BY THE OWNER

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents or fails to perform any provisions of the Contract, the Owner may, after seven (7) days written notice to the Contractor and without prejudice to any other remedy he may have, make good such deficiencies and may deduct the cost thereof from the payment then or thereafter due the Contractor. If in addition the Contractor makes a general assignment for the benefit of his creditors, or if he repeatedly fails to supply enough properly skilled workmen or proper materials, or if he fails to has committed a substantial violation of a provision of the Contract documents, then the Owner may, without prejudice to any right or remedy and after giving the Contractor seven (7) days written notice, terminate the Contract and take possession of the site and of all materials, equipment, tools, construction equipment and machinery thereon owned by the Contractor and may finish the Work by whatever method he may deem expedient. In such case the Contractor shall not be entitled to receive any further payment until the Work is finished. All actions by the Owner under the provisions of this Article must have prior written approval by the City and be documented by Change Order. In the event that the Contract is terminated due to the default of the Contractor, the Contractor shall not be entitled to any refunds or further payments due under the Contract until the City and Owner have completed the unfinished work, satisfied any liens or paid any damages due to fault of the Contractor, if any. At that point the City shall determine if any funds remain in the Redevelopment Contract account. If so, the balance shall be paid to the Contractor.

THE PARTIES are authorized to executed this Agreement on the dates written underneath

FOR THE Owner:

FOR CONTRACTOR:

BY: _____

BY: _____

BY: _____

Company:

Date: _____

Date: _____