

**COLORADO DEPARTMENT OF TRANSPORTATION
DISPUTE REVIEW BOARD THREE PARTY AGREEMENT**

Project No.:

Project Code (SA #):

Date:

Location:

THIS THREE PARTY AGREEMENT, made as of the date signed by the Chief Engineer below, by and between The Colorado Department of Transportation, hereinafter called the "Department"; and

_____ [Contractor Name]
hereinafter called "the Contractor"; and

_____ [Board Member Name]

_____ [Board Member Name]

_____ [Board Member Name]

hereinafter called the "Dispute Review Board" or "Board".

WHEREAS, the Department is now engaged in the construction of the _____ [Project Name]

and

WHEREAS, the Contract provides for the establishment of a Board in accordance with subsections 105.22 and 105.23 of the specifications.

NOW, THEREFORE, it is hereby agreed:

**ARTICLE I
DESCRIPTION OF WORK AND SERVICES**

The Department and the Contractor shall form a Board in accordance with this agreement and the provisions of subsection 105.23.

**ARTICLE II
COMMITMENT ON PART OF THE PARTIES HERETO**

The parties hereto shall faithfully fulfill the requirements of subsection 105.23 and the requirements of this agreement.

**ARTICLE III
COMPENSATION**

The parties shall share equally in the cost of the Board, including general administrative costs (meeting space and facilities, secretarial services, telephone, mail, reproduction, filing) and the members' individual fees. Reimbursement of the Contractor's share of the Board expenses for any reason is prohibited.

The Contractor shall make all payments in full to Board members. The Contractor will submit to the Department an itemized statement for all such payments, and the Department will split the cost by including 50 percent payment on the next progress payment. The Contractor and the Department will agree to accept invoiced costs prior to payment by the Contractor.

Board members shall keep all fee records pertaining to this agreement available for inspection by representatives of the Department and the Contractor for a period of three years after the termination of the Board members' services.

Payment to each Board member shall be at the fee rates established in subsection 105.23 and agreed to by each Board member, the Contractor, and the Department. In addition, reimbursement will be made for applicable expenses.

ARTICLE III
COMPENSATION (con't.)

Each Board member shall submit an invoice to the Contractor for fees incurred each month following a month in which the members participated in Board functions. Such invoices shall be in the format established by the Contractor and the Department.

Payments shall be made to each Board member within 60 days after the Contractor and Department have received all the applicable billing data and verified the data submitted by that member. The Contractor shall make payment to the Board member within seven calendar days of receipt of payment from the Department.

ARTICLE IV
ASSIGNMENT

Board members shall not assign any of the work to be performed by them under this agreement. Board members shall disclose any conflicts of interest including but not limited to any dealings with either party in the previous five years other than serving as a Board member under other contracts.

ARTICLE V
COMMENCEMENT AND TERMINATION OF SERVICES

The commencement of the services of the Board shall be in accordance with subsection 105.23 of the specifications and shall continue until all assigned disputes under the Contract which may require the Board's services have been heard and a Recommendation has been issued by the Board as specified in subsection 105.23. If a Board member is unable to fulfill his responsibilities for reasons specified in subsection 105.23(b)7, he shall be replaced as provided therein, and the Board shall fulfill its responsibilities as though there had been no change.

ARTICLE VI
LEGAL RELATIONS

The parties hereto mutually agree that each Board member in performance of his duties on the Board is acting as an independent contractor and not as an employee of either the Department or the Contractor. Board members will guard their independence and avoid any communication about the substance of the dispute without both parties being present.

The Board members are absolved of any personal liability arising from the Recommendations of the Board. The parties agree that members of the Dispute Review Board panel are acting as mediators for purposes of C.R.S. § 13-22-302(4) and, as such, the liability of any Dispute Review Board member shall be limited to willful and wanton misconduct as provided for in C.R.S. § 13-22-305(6).

IN WITNESS HEREOF, the parties hereto have caused this agreement to be executed the day and year first written above.

BOARD MEMBER: [Name] _____

BY: [Signature] _____

BOARD MEMBER: [Name] _____

BY: [Signature] _____

BOARD MEMBER: [Name] _____

BY: [Signature] _____

CONTRACTOR: [Name] _____

BY: [Signature] _____ TITLE: _____

COLORADO DEPARTMENT OF TRANSPORTATION

BY: [Signature] _____ DATE: _____

TITLE: CHIEF ENGINEER