



13 West 3rd Street Room 212 La Junta, Colorado 81050

REQUEST FOR PROPOSALS FOR AN INTEGRATED PROJECT DELIVERY METHOD UTILIZING DESIGN/BUILD

June 20, 2022

Project: Sheriff Detention Facility and Sheriff Administrative Facility

Location: Otero County Sheriff's Department

222 E 2nd Street La Junta, Colorado 81050

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GENERAL INFORMATION

INTRODUCTION/DESCRIPTION OF PROJECT

Otero County is seeking well qualified general contractors for a Phased Design-Build project to design and construct a new Sheriff Detention Facility and a new Sheriff Administrative Facility to meet the long-term needs of the sheriff's detention and administrative services. Our team intends to select a Design-Build Entity who will design, manage, and construct the project.

This project includes architectural and engineering services for Planning through Construction. Document preparation, review of operations and programming, and construction and commissioning of proposed facilities (Title I, II, and III services, and Construction).

The process to be used in the selection of the firm is comprised of three steps:

- STEP I is the Submittal of Prequalification.
- STEP II the Submittal of a Sealed Cost Proposal.
- STEP III is the Oral Interview.

A Selection Panel composed of individuals who will be involved in the project and/or understand the required services associated with Design/Build Contracting will evaluate responses to this RFP for all STEPS.

Upon completion of the evaluation of the Submittals of Prequalification, a limited number of teams will be invited to the oral interviews.

Sealed cost proposals will be required only from those teams who are interviewed and are to be submitted as indicated in this RFP. Both qualifications and cost will be considered in the final ranking of teams with qualifications given 70% of the value of the weighted criteria and costs in the sealed Cost Proposal given 30%.

All respondents accept the conditions of this RFP, including, but not limited to, the following:

- All submittals shall become the property of Otero County and will not be returned.
- Late submittals shall not be evaluated. Facsimile submittals shall not be accepted.
- Any restriction as to the use of submitted materials must be clearly indicated as proprietary.
- The requested limitation or prohibition of use or release shall be identified in writing on a cover sheet. Blanket claims of proprietary submittals will not be honored. Cost proposals will be considered proprietary.
- The County reserves the right to reject any or all proposals based on being unresponsive to this RFP or for failure to disclose requested information.
- The County shall not be liable for any costs incurred by respondents in the preparation of submittals and proposals nor in costs related to any element of the selection and contract negotiation process.
- Any agreements entered into between the parties shall be construed and interpreted in accordance with the laws of the State of Colorado. The parties shall submit to the jurisdiction of the Courts of Otero County, Colorado, and waive any right to object to any proceedings being brought in these courts.
- Respondent shall obtain any local and State permits required for the project and provide proof to the County. The Otero County building permit fees will be waived.
- This project will exceed \$150,000 and will be subject to the provision of CRS 24-91-103, et. seq.

MINIMUM QUALIFICATIONS

Notice is hereby given to all interested parties that all teams will be required to meet minimum requirements to be considered for these projects. To be considered as qualified, interested teams shall have, as a minimum:

- Demonstrated specific Design-Build or Construction Manager-General Contractor experience in projects of similar scope and complexity; and
- Respondent certifies they meet required insurance coverages. Refer to Form 3 and return the acknowledgment with proposal.

SCOPE OF SERVICES

Refer to Exhibit 2 - **SCOPE OF SERVICES - DESIGN CRITERIA PACKAGE**

SCHEDULE

The schedule of events for the RFP process and an outline of the schedule for the balance of the project is as follows:

Advertisement	6/20/22--7/12/22
RFP Document Release	6/20/22
Mandatory Pre-submittal Conference and Tour	7/13/22
Date Email Questions (Clarifications) Due	7/15/22
Date Email Responses Issued	7/19/22
Submittals (Prequalification: Step I) Due	8/5/22
Interview Short List Announced	8/8/22
Sealed Proposal (Evaluation and Award: Step II) Due	9/14/22
Oral Interviews	9/20/22-9/21/22
Selection Announced	9/26/22
Negotiation of D/B Contract	9/27/22-10/7/22
Contract Approval (projected)	10/10/22
Anticipated Design Start	10/11/22
Anticipated Construction Start (Phase 3) Construct Sheriff's Office	Spring 2023
Anticipated Construction Finish (All Phases)	Summer 2026

Prequalification submittals are due August 5, 2022 via email and shall be received no later than 5:00 PM (MST), at the following address: Amy White-Tanabe, County Administrator atanabe@oterogov.org

The above schedule is **tentative**. Responding teams shall be notified of revisions in a timely manner by email. Respondents may elect to verify times and dates by email, but no earlier than 36 hours before the scheduled date and time.

MANDATORY PRE-SUBMITTAL CONFERENCE

To ensure sufficient information is available to teams preparing submittals, a mandatory pre-submittal conference has been scheduled. The intent of this conference is to tour the site and to have Otero County staff able to discuss the project. Teams preparing submittals must attend and sign in to have their submittals accepted. The pre-submittal conference will be held at:

*July 13, 2022, 9:00 AM (MST)
13 W 3rd Street Room 107 La Junta, Colorado 81050*

CLARIFICATIONS

Owner-initiated changes to this RFP will be issued under a numerically sequenced email addendum.

Addenda consist of the following items:

- Clarifications
- Scope Changes
- Time and/or Date Changes

All addenda are a part of the RFP, and each respondent will be bound by such addenda. It is the responsibility of each respondent to obtain, read and comprehend all addenda issued. Failure of any Proposer to acknowledge an issued addendum in its Proposal will not relieve the respondent from any obligation contained therein.

QUESTION AND CLARIFICATION PERIOD

Each respondent shall examine all RFP documents and will judge all matters relating to the adequacy and accuracy of such documents. Any questions or requests concerning interpretation, clarification or additional information pertaining to this RFP shall be made in writing via email to the Otero County Administrator or to atanabe@otero.gov. All questions received and responses given will be provided to potential respondents via an addendum to this RFP.

Otero County will not be responsible for oral interpretations given by other sources including County staff, representatives, or others. The issuance of a written addendum by the Procurement Division is the only official method whereby interpretation, clarification, or additional information will be given.

Respondent-initiated requests for clarification will be received any time prior to July 15, 2022.

All County responses will be issued by email addenda on or before July 19, 2022.

Respondents must acknowledge all issued addenda in their submittal and proposal by completing **FORM 1 ACKNOWLEDGMENT OF ADDENDA** and returning a copy with their proposal.

PREQUALIFICATION SUBMITTALS (STEP I)

Respondent must comply with the following items, a through e. The County retains the right to waive any minor irregularity or requirement should it be judged to be in the best interest of the County. (Note that the primary focus of the Prequalification evaluation will be the firm's capabilities).

INFORMATION TO BE SUBMITTED

The contents of each Response will be organized and arranged with tabs in the same order as listed below and with the same TAB numbers. The Response should contain sufficient detail to permit the County to conduct a meaningful evaluation. However, overly elaborate responses are not requested or desired.

RESPONSE REQUIREMENTS

- Submit ten (10) complete copies of all material.
- Submittals shall be formatted as outlined below in this section.
- Submittals shall be evaluated in accordance with criteria as indicated in PREQUALIFICATION SUBMITTAL CRITERIA section of this document and ranked on the enclosed **FORM 6 - PREQUALIFICATION SUBMITTAL/EVALUATION**.
- Response to all items shall be complete.
- All references shall be current and relevant.

RESPONSE FORMAT

INTRODUCTION

1. A cover page that identifies Proposer and the RFP by title.
2. A two-sided single-page cover letter addressed to the Otero County Administrator, Amy White-Tanabe, outlining the team qualifications.

MINIMUM QUALIFICATION REQUIREMENTS

Submit the information and documentation requested that confirms Respondent meets the following minimum qualification requirement(s):

1. Joint Venture
 - a. If Respondent is submitting as a joint venture, it must have filed the required documents with the State of Colorado prior to the RFP Due Date and Time and provide a copy of Respondent's approved filing in this section.
 - b. If Proposer is not a joint venture, provide a statement to that effect.
2. FORM 1 - ACKNOWLEDGMENT OF ADDENDA
3. FORM 2 - PROPOSAL SIGNATURE FORM
4. FORM 3 – INSURANCE ACKNOWLEDGMENT
5. FORM 4 – CONTRACTOR'S CERTIFICATION OF COMPLIANCE

EVALUATION CRITERIA – PREQUALIFICATION SUBMITTAL DATA

Refer to the Evaluation Criteria below, and provide all information shown under the heading: “A. PREQUALIFICATION SUBMITTAL CRITERIA.” Include the following sub-headings:

1. QUALIFICATIONS OF THE FIRM(S)
2. QUALIFICATIONS OF THE MANAGEMENT TEAM MEMBERS
3. PROJECT MANAGEMENT APPROACH
4. PRIOR PROJECT EXPERIENCE/SUCCESS
5. MISCELLANEOUS CONSIDERATIONS

ORAL INTERVIEWS/COST PROPOSALS (STEP II and STEP III)

SHORTLIST

From the submittals received, a shortlist of qualified respondents shall be identified using the scoring indicated on the enclosed **FORM 6 - PREQUALIFICATION SUBMITTAL/EVALUATION**.

Teams failing to meet the minimum required qualifications will not receive further consideration.

Teams who make the shortlist will be notified and asked to prepare Step II Proposals. Step II Proposals will include a Sealed Cost Proposal to be submitted prior to the Oral Interviews on the date identified in this RFP, section A.1. Schedule.

COST PROPOSALS (STEP II)

1. Only those teams shortlisted for interviews are required to submit their sealed proposals. Cost Proposals are due on the scheduled submission date prior to the start of oral interviews. Only one sealed copy is required.
 - a. **Submit sealed cost proposal separately. Do not include cost proposal data in the qualification’s submittal or the oral interview presentation and handout.** Also, do not enclose qualification information in the sealed cost proposal.
2. Cost Proposals shall be submitted on **FORM 5 - COST PROPOSAL**, without modification. A Cost Proposal shall be accompanied by sufficient detail to clearly identify the cost for design and management services, construction fees, and general conditions. The percentage of the cost of work is not an acceptable value. The Cost Proposal should be prepared independently in accordance with the following:
 - a. Any specific services requested in the RFP and its appendices that are not included should be clearly identified. Exclusion of any required service may result in the proposal being found non-responsive.
 - b. The County reserves the right to reject any Cost Proposal not prepared in the above manner. Proposals that exceed the available funds may be rejected outright but the County reserves the right to negotiate a reasonable cost for service within the available funds. The D/B contract will be a bonded lump sum contract to encompass all design, management, and construction work; some allowances may be included.
3. This Cost Proposal is a binding offer to perform the services associated with the Scope of Services described in this RFP. The County, however, reserves the right to negotiate a cost adjustment based on scope clarification after selection and prior to contract execution.

ORAL INTERVIEW (STEP III)

Mandatory oral interviews shall be conducted for the short-listed teams only. Interview times and locations will be arranged by Otero County and all short-listed teams will be notified in advance. Refer to the enclosed **FORM 7 - ORAL INTERVIEWS/COST PROPOSALS EVALUATION** for details. In completing the Oral Interview evaluation form, evaluators may also rely on information submitted by Respondent as part of Step I.

Respondents are required to prepare and present schematic drawings that specifically address how the respondent plans to address the space allocation needs on the existing sites as outlined in EXHIBIT 2 – Scope of Services – Design Criteria. Respondent will prepare 10 number of copies of these drawings to be distributed and reviewed during the Oral Interviews. There is no specific format for this. However, respondents are encouraged to present enough information to make their concepts understandable to the selection panel. Please note, there will be a limit to the time set aside for each Respondent’s Oral Interview.

METHOD OF SELECTION AND AWARD

The Selection Panel shall complete a combined evaluation of qualifications, utilizing **FORM 7 - ORAL INTERVIEWS/COST PROPOSALS EVALUATION**.

Once all shortlisted firms are evaluated, sealed Cost Proposals will be opened and applied to the qualitative scoring in accordance with the criteria as indicated as ORAL INTERVIEWS/COST PROPOSALS/EVALUATION CRITERIA. The cost amount will then be considered (30 percent) in conjunction with the qualitative score from the response and interview (70 percent).

Finally, offers will be ranked by qualifications and cost with the highest-scoring firm selected.

The final cost amount and scope of services may be negotiated at the County’s discretion. Award and contract will be contingent on the deliverability of key proposed D/B Staff.

EVALUATION CRITERIA

PREQUALIFICATION SUBMITTAL CRITERIA

(Note that the primary focus of the Prequalification evaluation will be the Firm’s capabilities).

1) QUALIFICATIONS OF THE FIRM(S)

- Provide a description of the composition and management structure of your team. Identify the firm’s roles and responsibilities and relevant experience with projects of similar scope and complexity and similar fast track project delivery methods. Describe how the team’s experience will relate to the success of this project.
- Provide a description and separate graphic organizational chart complete with working titles identifying the lines of authority, responsibility, and coordination.
- Provide a detailed description of the process of how your team selects qualified sub- contractors and manages them effectively on complex multi-phased projects.
- Provide a detailed description of how your team will maximize the local construction work force on this project.
- Provide your team’s safety record over the last ten years and describe your teams’ efforts to retain and support employees.

2) QUALIFICATIONS OF THE MANAGEMENT TEAM MEMBERS

- Describe the qualifications and relevant experience of the lead design architect/engineer including demonstrated experience working on projects of similar scope and complexity and time commitment for this project.
- Describe the qualifications and relevant experience of the construction manager/general contractor including demonstrated experience working on projects of similar scope and complexity and time commitment for this project.
- Describe the qualifications and relevant experience of other key in-house staff and time commitments for this project.
- Identify all current office locations of the assigned staff and any other resident expertise intended to be provided under this RFP.

3) PROJECT MANAGEMENT APPROACH

- Provide a strategic project approach summary: Include discussion of your team's approach in providing successful Design/Build services based on prior experience in cost, schedule, and quality effectiveness. Include specific examples (1–2-page excerpts) of actual products (estimates, progress reports, schedules, constructability reviews, value engineering studies, forms, general conditions budgets, organizational structures, etc.).
- Provide a description of design and construction work the Project Management Team has the capability to self-perform, including qualifications to do such.

4) PRIOR PROJECT EXPERIENCE/SUCCESS

Select your three (3) most relevant projects and provide, at a minimum, the following:

- The project/contract name
- Description of services provided
- Overall design/construction cost of project, as applicable, including initial contract value and change orders including reasons for change orders
- Organizational structure of service delivery under the contract (include the owner's organization as it interfaced with the respondent's contract)
- Key assigned in-house staff (name and title)
- Subcontracts (service) used in the performance of the contract
- Schedule history
- Reference(s) for Owner of the project
- Continuing services if any

a. Timeliness

In general, Design/Build Contracting work is seen as successful if it is on time, on budget, and of acceptable quality. Timeliness is generally based on completion by the originally published date and is indicated by a Certificate of Occupancy. Please demonstrate for each of the above projects how timely delivery occurred.

b. Budget Considerations

Similar to timeliness, being on budget historically means the work was completed within the originally identified available budget. For purposes of this RFP, the County is interested not only in being within budget but also in the respondent's ability to address and implement the following issues as well:

- Conceptual estimating
- Value analysis
- Alternate solutions
- Scope reduction that maintains project function
- Cost/benefit analysis
- Demonstrate for the above projects examples of how you accomplished the above cost control services.

c. Quality

Design quality has traditional connotations (coherent, integrated, efficient, flexible, aesthetic, etc.). Construction quality has the obvious traditional connotations (workmanlike, in compliance with the specifications, normal standard of care, etc.). Demonstrate for the above project examples how a high quality of workmanship was achieved.

d. Services Disruption

Demonstrate how your services on the above project examples dealt with issues of disruption at existing facilities, etc.

e. Project Acceptability

Please discuss how your Design/Build or Construction Manager/General Contractor Contracting services helped achieve owner satisfaction regarding project quality and acceptability on your project examples.

f. Compliance

Provide information on how compliance with industry standards of care, building codes, etc., was achieved.

5) MISCELLANEOUS CONSIDERATIONS

a. Claims/Litigation History of Firm

Provide information on any past, current, or anticipated claims (i.e., knowledge of pending claims) on respondent contracts; explain the litigation, the issue, and its outcome or anticipated outcome.

ORAL INTERVIEW EVALUATION CRITERIA

(Note that the primary focus of the Oral Interview evaluation will be the proposed project Management Team Members' capabilities).

QUALIFICATIONS OF THE TEAM

- Explain the composition and structure of your project management team and how the firm will support their efforts in the field throughout this project.
- Are the lines of authority, responsibility and coordination clearly identified?
- Explain the prior experience with projects of similar scope and complexity and similar fast-track project delivery methods of the lead architect/engineer's project manager and other project team members. Explain their roles and responsibilities and authority and why they are the right team members for this project.
- Explain the prior experience with projects of similar scope and complexity and similar fast-track project delivery methods of the construction manager/general contractor's superintendent and other project team members.
- Explain the anticipated project management team staff's current and projected workload.

PROJECT MANAGEMENT APPROACH

- Explain the strategic project approach for this project in summary: Include a discussion of your team's approach in providing successful D/B services based on the needs of this specific project utilizing the team's prior experience including cost, schedule, and quality control.

PRIOR PROJECT EXPERIENCE/SUCCESS

- Explain the most relevant projects the lead architect/engineer, superintendent, and the team members have completed together and/or separately and what the role was for each person. Otero County may at its discretion contact references and/or conduct an independent performance analysis on projects on which the team member has worked).
- Provide descriptions of other related experiences of the lead design architect/engineer and superintendent and other project management team members.

LOCAL WORKFORCE

- Explain the design and construction work the project management team has the capability to self-perform including qualifications to do such work.
- Provide a detailed description of the process of how your team selects qualified subcontractors and manages them effectively on complex multi-phased projects.
- Provide a detailed description of how your team will maximize the local construction workforce on this project.
- Explain what your team's definition of 'local' is.

SCHEMATIC DRAWING PRESENTATION

- Explain how your plan would meet the functional needs of the project.
- Explain how your proposal would work on the existing site.

LIST OF EXHIBITS

Exhibit 1, Form Packet

Exhibit 2, Scope of Services, Design Criteria Package

Exhibit 3, Geotechnical Survey

Exhibit 4, Sample Agreement

EXHIBIT 1 – FORM PACKET

FORM 1 - ACKNOWLEDGMENT OF ADDENDA

The undersigned acknowledges receipt of the following addenda:

Addendum No.	Date Received:
Addendum No.	Date Received:
Addendum No.	Date Received:
Addendum No.	Date Received:
Addendum No.	Date Received:
Addendum No.	Date Received:
Addendum No.	Date Received:
Addendum No.	Date Received:
Addendum No.	Date Received:
Addendum No.	Date Received:

Print or type Proposer's information below:

Name of Proposer

Telephone Number

Street Address

City/State/Zip

Email Address

Website Address

Print Name & Title of Authorized Officer

Signature of Authorized Official Date

FORM 2 - PROPOSAL SIGNATURE FORM

The undersigned represents that by signing this Proposal Signature Form that:

- 1) He/she has the authority and approval of the legal entity purporting to submit the Proposal and any additional documentation which may be required such as the Joint Venture Agreement or Joint Venture Affidavit, if applicable; and
- 2) All facts and responses set forth in the Proposal are true and correct; and
- 3) If the Respondent is selected by County to negotiate an agreement, that Respondent's negotiators will negotiate in good faith to establish an agreement to provide the services described in this RFP; and
- 4) By submitting a Proposal and signing below, the Respondent agrees to the terms and conditions in this RFP, which incorporates all addenda, appendices, exhibits, and attachments, in its entirety, and is prepared to sign the Agreement, of which a sample is incorporated into this RFP as Exhibit 4. The Respondent understands that if it submits exceptions to the Sample Agreement in its Proposal, the Respondent may be determined non-responsive.

Print or type Proposer's information below:

Name of Proposer

Telephone Number

Street Address

City/State/Zip

Email Address

Web Address

Print Name & Title of Authorized Officer

Signature of Authorized Officer Date

FORM 3 – INSURANCE REQUIREMENTS

The Successful Proposer will not commence work under the resulting Agreement until all insurance coverages indicated by an “X” herein have been obtained. The Successful Proposer shall obtain and submit to the Procurement Division within ten (10) calendar days from the date of notice of intent to award, at its expense, the following minimum amounts of insurance (inclusive of any amounts provided by an umbrella or excess policy): Work under this Agreement cannot commence until all insurance coverages indicated herein have been obtained on a standard ACORD form (inclusive of any amounts provided by an umbrella or excess policy):

Commercial General Liability Insurance Required Limits (per Occurrence form only; claims-made form is not acceptable)

Coverage shall be afforded under a per occurrence policy form, policy shall be endorsed and name ‘Otero County, Colorado’ as an Additional Insured, and include limits not less than:

- \$387,000 Single Limit Per Occurrence
- \$1,093,000 Aggregate

Worker’s Compensation Insurance

Coverage limits of not less than:

- \$1,000,000 Each Accident
- 2,000,000 General Aggregate
- Provide proof of coverage for all design professionals on the project. Evidence of coverage shall be afforded under either an occurrence policy form or a claims-made policy form. If the coverage form is on a claims-made basis, then coverage must be maintained for a minimum of three years from termination of date of the contract.
- The Independent Contractor is not entitled to Worker’s Compensation Insurance Coverage through County and shall execute a Certification by Independent Contractor, attached hereto, (see CRS 8-40-202) or provide proof of Worker’s Compensation Insurance Coverage as required by the State of Colorado for all persons to be employed on the project.

Professional Liability and/or Errors and Omissions (E&O) Liability Insurances Coverage shall be afforded under either an occurrence policy form or a claims-made policy form. If the coverage form is on a claims-made basis, then coverage must be maintained for a minimum of three years from termination of date of the contract. Limits must not be less than:

- \$ 1,000,000 Bodily Injury and Property Damage Each Occurrence
- \$ 2,000,000 General Aggregate

Builder’s Risk Insurance

When the contract or agreement includes the construction of roadways and/or the addition of a permanent structure or building, including the installation of machinery and/or equipment, Builder’s Risk Insurance shall be afforded under a per occurrence policy form, policy shall be endorsed and name “Otero County, Colorado” as an Additional Insured, and include limits not less than:

- An amount equal to 100% of the completed value of the project, or the value of the equipment to be installed
- The policy shall not carry a self-insured retention/deductible greater than \$10,000

Coverage shall be for all risks and include, but not be limited to, storage and transport of materials, equipment, supplies of any kind whatsoever to be used on or incidental to the project, theft coverage, and Waiver of Occupancy Clause Endorsement, where applicable.

BOND REQUIREMENTS

Payment and Performance Bond

A Payment and Performance Bond shall be submitted by Successful Bidder for 100% of the award amount and shall be presented to Otero County within ten (10) calendar days of issuance of the notice of intent to award. NOTE: A construction project over \$200,000 requires a Payment and Performance Bond.

The address where such certificates and certified policies shall be sent or delivered is as follows:

Otero County, Colorado
Attn: Amy White-Tanabe, County Administrator
13 W 3rd St. Room 212
La Junta, CO 81050

The project's title shall be listed on each certificate.

- 1) Successful Respondent shall provide thirty (30) days written notice to the COUNTY of any cancellation, non-renewal, termination, material change, or reduction in coverage of any insurance policies to procurement representative including solicitation number and title with all notices.
- 2) Successful Respondent agrees that should at any time Successful Respondent fail to meet or maintain the required insurance coverage(s) as set forth herein, the COUNTY may terminate this contract.
- 3) The Successful Proposer has sole responsibility for all insurance premiums and policy deductibles.
- 4) It is the Successful Respondent's responsibility to ensure that his agents, representatives, and subcontractors comply with the insurance requirements set forth herein. All coverages for agents, representatives and subcontractors shall be subject to all of the requirements set forth by the COUNTY.
- 5) No award shall be made until the Procurement Division has received the Certificate of Insurance in accordance with this section.

BONDING REQUIREMENTS

Payment and Performance Bonds. Prior to commencing work, the Successful Respondent shall obtain, for the benefit of and directed to COUNTY, a Payment and Performance Bond, covering the faithful performance by the Successful Respondent of its obligation under the Contract Documents, including but not limited to the construction of the project on the project site and the payment and obligations arising thereunder, including all payments to Subcontractors, laborers, and materialmen. The surety selected by the Successful Respondent to provide the Payment and Performance Bond shall be approved by COUNTY prior to issuance of such Bond, which approval shall not be unreasonably withheld or delayed provided that surety is rated A- or better by Best's Key Guide, latest edition.

Bonds shall be in an amount equal to 100% of the contract price issued by a duly authorized and nationally recognized surety company, authorized to do business in the State of Colorado, satisfactory to COUNTY.

Furnishing Payment and Performance Bonds shall be requisite to execution of an Agreement with COUNTY. Said Payment and Performance Bonds will remain in force for the duration of this Agreement with the premiums paid by the Successful Respondent. Failure of the Successful Proposer to execute such Agreement and to supply the required bonds shall be just cause for cancellation of the award. COUNTY may then contract with the next lowest, responsive, and responsible Successful Respondent or re-advertise this RFP.

Failure of COUNTY at any time to require performance by the Successful Respondent of any provisions set out in the resulting Agreement will in no way affect the right of COUNTY, thereafter, to enforce those provisions.

FORM 3 – INSURANCE ACKNOWLEDGMENT

THE UNDERSIGNED has read and understands the insurance requirements applicable to any Agreement resulting from this solicitation and shall provide the insurances required in this RFP within ten (10) days from the date of Notice of Intent to Award.

Proposer Name: _____

Date: _____

Signature (Authorized Official): _____

Printed Name/Title: _____

Insurance Agency: _____

Agent Name: _____

Agent Phone: _____

Return this signed statement with your proposal.

FORM 4 – CONTRACTOR’S CERTIFICATION OF COMPLIANCE

Pursuant to Colorado Revised Statute, § 8-17.5-101, et seq., as amended, as a prerequisite to entering into a contract for services with Otero County, Colorado, the undersigned Contractor hereby certifies that at the time of this certification, Contractor does not knowingly employ or contract with an illegal alien who will perform work under the contract for services and that the Contractor will participate in the E-Verify Program or Department program, as those terms are defined in C.R.S. § 8-17.5-101, et seq., as amended, in order to confirm the employment eligibility of all employees who are newly hired for employment to perform work under the contract for services.

CONTRACTOR:

Company Name: _____

Date: _____

Signature (Authorized Official): _____

Printed Name/Title: _____

Note: Registration for the E-Verify Program can be completed at: <https://www.e-verify.gov/>.

Qualifications made by a respondent in executing this form may render a submittal non-responsive as determined by the County.

FORM 5 - COST PROPOSAL FORM INSTRUCTIONS

Only those teams short- listed will be required to submit cost proposals as directed by Otero County.

- This RFP document, its appendices, and any written addenda issued prior to the submittal of cost proposals, and written clarifications prior to the interview shall serve as the only basis for cost proposals.
- The respondent, by submitting this proposal, does hereby accept that minor changes by the County to the exhibited contract and its exhibits, which do not adversely affect the respondent, shall not be cause for withdrawal or modification of the amounts submitted herein. Exceptions to the RFP documents and/or modifications of the COST PROPOSAL FORM may render the proposal non- responsive.
- Upon due consideration and review of this document along with its appendices, written addenda, and written clarifications prior to the interview, the respondent does hereby submit the following proposal for Design/Build Contracting services, consistent with the schedules. Respondents are hereby advised that it is the County's desire to accelerate design and construction schedules, where reasonably possible, without adverse cost impact.
- Respondent should complete the Cost Proposal Form by filling in all blanks on the form that follows on page 22.

DESIGN/BUILD – PHASE 1 COSTS

Project Title: _____

Date: _____

Design-Build Entity’s Architect/Engineer Basic Services Fee

.1 Pre-Design Phase (If Applicable) \$ _____

Phase 1 – Design Sheriff’s Office

1.2 Schematic Design Phase \$ _____

1.3 Design Development Phase \$ _____

1.4 Construction Document Phase \$ _____

1.5 Construction Administration Phase (AE Scope) \$ _____

1.6 Post Construction Phase (If Applicable) \$ _____

1.7 Reimbursable Expenses (Not to Exceed) \$ _____

1.8 *Total* Design-Build Entity’s Architect/Engineer’s Phase 1 Fee \$ _____

***Phase 3-Design Detention Center**

3.2 Schematic Design Phase \$ _____

3.3 Design Development Phase \$ _____

3.4 Construction Document Phase \$ _____

3.5 Construction Administration Phase (AE Scope) \$ _____

3.6 Post Construction Phase (If Applicable) \$ _____

3.7 Reimbursable Expenses (Not to Exceed) \$ _____

3.8 *Total* Design-Build Entity’s Architect/Engineer’s Phase 3 Fee \$ _____

Totals

.1 Pre-Design Phase (If Applicable) \$ _____

1.8 Total Design-Build Entity’s Architect/Engineer’s Phase 1 Fee \$ _____

3.8 Total Design-Build Entity’s Architect/Engineer’s Phase 3 Fee \$ _____

Design-Build Entity Fee (sum of .1, 1.8, and 3.8) \$ _____

*Negotiation Phases (PHASE 2 AND PHASE 4) will be set-aside for negotiation of the cost to construct the facilities. In the event of failure to negotiate a cost to construct that is in the best interest of Otero County, Otero County reserves the right to terminate the contract upon completion of the design phase with no additional fee or cost payable to the Design-Build Entity for termination. In the event of such termination, all design documents will become the property of Otero County. Should Otero County decide to put the designed project out for bid, the Design-Build entity will aid Otero County in answering bid-time questions and addressing post-award engineering inquiries. Payment for these services is part of the costs above (Items 1.5, 1.6, 3.5, 3.6). The cost shall include pre-construction phase fees, construction phase fees (as delineated above), general conditions, profit, overhead, home office staff, home office expenses, accounting and/or legal fees, insurance, and any other costs or expenses.

Applicant or Corporate Officer Signature and Title : _____

Date: _____

FORM 6 - PREQUALIFICATION SUBMITTAL/EVALUATION FORM (FOR INFORMATION ONLY)

DESIGN/BUILD SERVICES

Name of Team: _____

Evaluator No: _____ Date: _____

MINIMUM REQUIREMENTS Y _____ N _____

If the minimum requirements have not been met, specify the reason(s):

SCORE Weight Rating = Score

QUALIFICATIONS OF THE FIRM(S)¹

Qualifications of the team	<u>1</u> _____ x _____ = _____
Organizational structure/lines of authority	<u>1</u> _____ x _____ = _____
Subcontractor selection and management	<u>1</u> _____ x _____ = _____
Safety/Employee support	<u>1</u> _____ x _____ = _____

QUALIFICATIONS OF THE MANAGEMENT TEAM MEMBERS

Qualifications and relevant experience of the architect/engineer	<u>1</u> _____ x _____ = _____
Qualifications and relevant experience of the construction manager/general contractor	<u>1</u> _____ x _____ = _____
Qualifications and relevant experience of in-house staff	<u>1</u> _____ x _____ = _____

PROJECT MANAGEMENT APPROACH¹

Approach to successful D/B or CM/GC Services

a. Cost effectiveness	<u>3</u> _____ x _____ = _____
b. Schedule effectiveness	<u>3</u> _____ x _____ = _____
c. Quality effectiveness	<u>3</u> _____ x _____ = _____
Competitively Bid/Self Performed Work	<u>1</u> _____ x _____ = _____

PRIOR PROJECT EXPERIENCE/SUCCESS

Project #1

1 _____ x _____ = _____

- | | |
|--------------------------|------------------|
| a. Timeliness | d. Disruption |
| b. Budget Considerations | e. Acceptability |
| c. Quality | f. Compliance |

Project #2

1 _____ x _____ = _____

- | | |
|--------------------------|------------------|
| a. Timeliness | d. Disruption |
| b. Budget Considerations | e. Acceptability |
| c. Quality | f. Compliance |

Project #3

1 _____ x _____ = _____

- | | |
|--------------------------|------------------|
| a. Timeliness | d. Disruption |
| b. Budget Considerations | e. Acceptability |

MISCELLANEOUS

Claims/Litigation History

3 _____ x _____ = _____

TOTAL SCORE: _____

NOTES:

Ratings: Evaluator to assess the strength of each firm’s qualifications and assign a numerical rating of 1 to 5 with 5 being the highest rating. (Use whole numbers)

Total Score: Includes the sum of all criteria. Note: a passing score (as a percentage of the total points available) is optional and should be assigned by the agency/institution prior to evaluation.

FORM 7 - ORAL INTERVIEWS EVALUATION FORM (FOR INFORMATION ONLY)

DESIGN/BUILD SERVICES

Name of Team: _____

Evaluator No: _____ Date: _____

SCORE	Weight	x	Rating	= Score
1. QUALIFICATIONS OF THE TEAM	<u> 1 </u>	x	<u> </u>	= <u> </u>
2. PROJECT MANAGEMENT APPROACH	<u> 1 </u>	x	<u> </u>	= <u> </u>
3. PRIOR PROJECT EXPERIENCE/SUCCESSFUL	<u> 1 </u>	x	<u> </u>	= <u> </u>
4. LOCAL WORKFORCE	<u> 4 </u>	x	<u> </u>	= <u> </u>
5. DESIGN IDEA – REVIEW OF SCHEMATIC DRAWINGS	<u> 3 </u>	x	<u> </u>	= <u> </u>
TOTAL				<u> </u>

NOTES:

- Ratings: Evaluator to assess the strength of each firm’s qualifications and assign a numerical rating of 1 to 5 with 5 being the highest rating. (Use whole numbers)
- Total Score: Includes the sum of all criteria. Note: a passing score (as a percentage of the total points available) is optional and should be assigned by the agency/institution prior to evaluation.

RANKING MATRIX NOTES:

1. Insert total score from each evaluator's ORAL INTERVIEW/ COST PROPOSALS/EVALUATION FORMS. (Note that the use of the Matrix for the PREQUALIFICATION SUBMITTAL EVALUATION does not consider cost proposals-only qualifications). DO NOT combine the scores of the two evaluation forms.
2. Add all evaluators' total scores and divide by the number of evaluators to determine the average score for each team's qualifications.

The highest score for qualifications on the evaluation form is to receive 70 points and the other team scores are to be determined as a percentage of the 70 points. To score each average qualification score, use the example formula.

Assume the highest score is

700. Scoring of Qualifications

$$\text{Firm B: } \frac{700}{700} \times 70 \text{ points} = 70 \text{ points}$$

$$\text{Firm C: } \frac{600}{700} \times 70 \text{ points} = 60 \text{ points}$$

$$\text{Firm A: } \frac{500}{700} \times 70 \text{ points} = 50 \text{ points}$$

3. Determine score for each team's sealed cost proposal with the lowest cost being equivalent to a score of 30 points. To score each cost, use the example formula.

Assume the lowest cost was \$100,000.

Scoring of Costs

$$\text{Firm A: } \frac{\$100,000}{\$100,000} \times 30 \text{ points} = 30 \text{ points}$$

$$\text{Firm B: } \frac{\$100,000}{\$125,000} \times 30 \text{ points} = 24 \text{ points}$$

$$\text{Firm C: } \frac{\$100,000}{\$150,000} \times 30 \text{ points} = 20 \text{ points}$$

4. Add the average qualification score to the cost score to determine cumulative qualifications and cost score.
5. Numerically rank all teams with the highest-scoring team being the most qualified.

EXHIBIT 2 – SCOPE OF SERVICES - DESIGN CRITERIA PACKAGE

GENERAL INFORMATION AND BACKGROUND

It is the County's expectation to contract with a qualified firm to provide the County with the design, engineering, construction management, and construction services for the proposed Design-Build Project which will be constructed at the following location:

Otero County Sheriff's Office
222 E Second St, La Junta, CO 81050

This project is for site work, architectural, engineering design, and construction under a single prime contract for the cost of the work plus the design-builder's fee with a Guaranteed Maximum Price (GMP).

The name of the project is: Otero County Sheriff's Office and Detention Facility

BACKGROUND INFORMATION

The County desires to construct a new Sheriff's Office and Detention Facility on the site where the current Sheriff's Office and Detention Facility are presently located in addition to the utilization of the vacant parcel directly west across the alleyway from the current facilities.

The existing facilities will need to be abated for any hazardous materials and subsequently demolished to accommodate the construction of new facilities.

Construction phasing will be required to accommodate ongoing operations. See section B.01 Phased Deliverables for Details.

SCOPE (MAJOR OBJECTIVES)

Professional services for design-build should include, but may not be limited to, site survey and soil testing as required; necessary permits and fees; civil and service utilities site work; construction of the building's substructure, superstructure, shell (exterior enclosure), and interior construction; special inspections; mechanical, plumbing, electrical and security systems; lightning protections and redundant infrastructure systems to include uninterruptible power supply, potable water, and wastewater system.

The Design-Build team shall provide the following, which are further described in the sections below:

1. Design and construct a single-story Sheriff's Office of 4,000 square feet.
2. Design and construct a single-story detention facility that will house a minimum of 64 beds.
3. To include at a minimum:
4. Intake/Release Area: 3,014 sq ft total
5. Detention Area: 6,981 sq ft
6. Detention Support: 2,340 sq ft
7. Design and installation of utility extensions to new buildings.
8. Design and installation of site work to address site-specific grading and drainage constraints.
9. Develop an ongoing list of FFE (Furniture Fixture and Equipment) with County staff, which may or may not include procurement and installation.
10. Orchestrate a cooperative project planning and delivery method to design and deliver the new facilities.

CONTRACT INFORMATION

The contract will be broken down into distinct and severable phases.

Phase 1: Design Services for Sheriff's Office.

Sheriff's Office Design Deliverables

Design-build team shall deliver for County review and approval:

30% Design

60% Design Development with Outline Specifications

90% Construction Documents with a full set of Specifications

100% permit set

Each deliverable shall include estimated pricing until the Final Firm Price Contract (FFP).

Phase 2: Design-Build Team shall deliver for County review and approval a firm-fixed-price for the construction of the Sheriff's Office.

Once received, County and Design-Builder will negotiate a Price and Scope (to include Design-Build Entities overhead and profit for the construction phase) for Construction Sheriff's Office. Upon completion of negotiations, Otero County will issue a modification, and upon execution construction of the Sheriff's Office will commence.

Phase 3: Construct Sheriff's Office & Design Detention Facility.

During the construction of the Sheriff's Office, design services for Sheriff's Detention Facility will commence and be completed.

Detention Facility Design Deliverables

Design-build team shall deliver for County review and approval:

30% Design

60% Design Development with Outline Specifications

90% Construction Documents with a full set of Specifications

100% permit set

Each deliverable shall include estimated pricing until the final FFP.

Phase 4: Negotiate Cost to Construct Detention Facility.

Design-Build Team shall deliver for County review and approval a firm-fixed-price for the construction of the Sheriff's Office.

Once received, County and Design-Builder will negotiate a Price and Scope for Construction Sheriff's Detention Facility. Upon completion of negotiations, Otero County will issue a modification.

Phase 5: Construct Detention Facility.

Upon beneficial occupancy of the Sheriff's Office and execution of the modification under Phase 4, demolition of the existing facilities and construction of the new Sheriff Detention Facility will begin within 30-working days to allow adequate time for the Sheriff's staff to relocate and necessary demolition permits to be obtained.

PROGRAM AND BASIS OF DESIGN

The new facilities will house the necessary building support rooms for building systems in addition to following programs and services, but not limited to, which are further described in the Basis of Design Report included as Exhibit 3:

Sheriff's Office

- Public Waiting / Foyer
- Staff Restrooms / Showers / Lockers
- Civil Process / Receptionist Workstations (open area) and Public Window
- Conference Room
- Misc. Storage
- Office Manager Private Office
- Armory
- Evidence Storage
- Evidence Temporary Drop Lockers
- Interview Room
- Patrol Deputy Room (4 Workstations)
- Investigator Office
- Patrol Sergeant (Shared Office, 2 workstations)
- Undersheriff Private Office
- Sheriff Private Office

Sheriff's Detention Facility

Intake and Release Area

- Vestibule with Cuff Ring
- Soft Seating for 4 Arrestees/Inmates
- Elevated Booking Counter (2 Stations + AFIS Machine)
- Bondsmen | Public Window with Counter
- Inmate Property Storage (80 hanging bags)
- Uni-Sex Dress-in / Dress-out shower with toilet
- County-issued inmate clothing storage area
- Interview room viewed from booking counter
- Detention Administrator Private Office (2 visitor chairs)
- Transport Office with Restraint Storage
- Juvenile Holding
- Adult Holding Cells (seating at least 2 with toilet)
- Safety Padded Cell
- Jail Records Room to accommodate ten 42" Lateral Filing Cabinets
- Medical Exam with ADA Toilet

Detention Support Spaces

- Kitchen
- Laundry
- General Storage
- Housing Master Control Room
- Security Electronics Equipment Room
- Male and Female Staff Toilets

Housing Spaces

- Housing Units
- Day Rooms
- Video Visitation Stations
- Showers
- Single and Double-bunked Cells
- Minimum Security Sleeping Rooms
- Recreational Exercise
- Multipurpose | Advisement
- Video Court Equipment Accessed from Multipurpose

DESIGN CRITERIA, SITE CONDITIONS AND CODES

All work shall be done in accordance with all applicable local, state, and federal codes.

<https://oteroconomy.colorado.gov/departments/building-department>

Otero County has adopted:

- The International Building Code (IBC), 2006 Edition
- The International Residential Code (IRC), 2006 Edition
- The International Mechanical Code (IMC), 2006 Edition
- The International Fuel and Gas Code, 2006 Edition
- Then International Energy Conservation Code, 2006 Edition
- The Uniform Code for Abatement of Dangerous Building, 1997 Edition

SNOW LOAD	25 LBS./LIVELOAD COMBINATION 35 LBS. LIVE & DEAD LOAD
FROST LEVEL	26 INCHES
WINDLOAD	95 MPH

The Design-build team shall refer to the Geotechnical Survey (see Exhibit 3) for geotechnical information about the proposed construction site.

PROJECT MANAGEMENT AND SCHEDULE

Professional services for design-build should include, but may not be limited to, meeting minutes for Design and Construction activities, providing paperwork for direct material purchases, preconstruction services for pricing, creating a master project schedule for design, cost estimating, permitting, construction, and startup services to include process optimization and operator training where applicable.

ESTIMATED PROJECT COMPLETION DATE

The estimated project completion of all phases schedule is 46 months from the project design kick-off meeting.

ESTIMATED PROJECT COST

The County has budgeted the project design and construction at approximately \$10 million, which includes design, construction (including Sitework), and soft costs. The County is aware that this is a tight budget for the work and expects Respondents to approach the project with innovative and cost-effective solutions. Meanwhile, the County will continue seeking funds to increase the budget available for the project.

End of Exhibit 2.

Exhibit 3 – Geotechnical Report.



A GEOTECHNICAL INVESTIGATION
for
"Otero County Sheriff's Office Jail"

Project Number: 22-35

Prepared For:
Otero County Road and Bridge Department
111 N Swink Dr
Swink, CO 81077

May 27, 2022



May 27, 2022

Otero County Road and Bridge Department
111 N Swink Dr
Swink, CO 81077

Attention: Mr. Darren Garcia

Subject: Geotechnical Investigation for
Otero County Sheriff's Office Jail Facility
Project Number: 22-35
La Junta, CO

Dear Sir,

As requested, a representative of our office visited the site for the proposed "Otero County Sheriff's Office Jail Facility" located in La Junta, CO on May 4 ,2022. The purpose of our Investigation was to evaluate subsurface soil conditions and based on those findings provide recommendations pertaining to the foundation design. The conclusions and recommendations found herein are based on the field data and samples recovered at the time of the Investigation as well as a laboratory analysis of said samples.

Thank you for the opportunity to provide you with this information. Please feel free to contact this office at your convenience if you require any additional information.

Sincerely,



Erik J. Forster, P.E.
Vice President
North American Testing, Inc.



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1.0 INTRODUCTION

1.1 SCOPE OF INVESTIGATION

This report presents the results of a Geotechnical Investigation conducted for the proposed “Otero County Sheriff’s Office Jail Facility” located at 222 E 2nd Street and 201 Cimmaron Street in La Junta, CO. The purpose of this investigation was to determine and document the existing subsurface soil conditions across the site. With the information provided from the investigation, we were to analyze the existing conditions and develop geotechnical criteria for design of the foundation systems. With this report, we have summarized the results of a field investigation and the laboratory analysis of samples obtained from the field investigation. Included in this report are the preliminary design criteria for foundation systems, floor slabs and building grading.

The conclusions and recommendations found herein are based on the field data and samples recovered at the time of the investigation, engineering analysis and our experience with numerous projects in the area. The design criteria presented were developed with our understanding of the proposed construction. If revisions in the proposed construction are made, we will need to be contacted to review the changes and determine if the design criteria are applicable to the new configurations.

1.2 PROPOSED CONSTRUCTION

Proposed construction for this site is a new Jail Facility, which will replace the existing facility at the site. While the current facility resides on the lot at 222 E 2nd Street, the new facility is planned to also extend onto the adjacent lot at 201 Cimmaron St. We understand the new structure will possibly consist of a prefabricated metal building, however, this has not been fully decided at this time. The exact dimensions are not known at this time, but it is anticipated the structure will be generally rectangular in shape. We understand the proposed structure is likely planned to be one-story, with a structural steel frame. However, there is a possibility the structure could extend to two (2) stories. The use of masonry construction either structural or architectural has not been determined at this time.

The existing structure will be demolished to allow for construction of the new structure. We understand the existing structure has experienced issues associated with movement for many years. This should be considered when evaluating foundation systems for the new structure.

2.0 INVESTIGATION

2.1 SITE CONDITIONS

This site is located at 222 E 2nd Street and 201 Cimmaron Street La Junta, Otero County, Colorado. Specifically, the new construction will span the area of each address. Each site has varying conditions at the time of our investigation.

Currently undeveloped, the site at 201 Cimarron Street appears to be in its generally native condition. However, some utilities may be present on the site; therefore, some of the subsurface materials may have been disturbed in those specific locations. At the time of drilling the site was covered with heavy weeds and prairie grasses. Some cactus and yucca plants were also noted. The amount of weeds and grasses should be anticipated during stripping operations. Some trees are present, however, only a few small trees were present near the boring areas or within areas of likely construction on the site. Any root systems that are encountered in completed excavations should be removed.

Due to the topography, we anticipate some overlot grading would be required to provide a level building pad. Preliminary grading plans are not available at this time. The site has a general slope to the north on the order of approximately 2-4 percent. Currently, access to the site is by an alley which separates the two addresses.

The site at 222 E 2nd street currently serves as the Otero County Sheriffs Office. A one-story structure is present, which we understand will be demolished to allow for the new construction. Additionally, the remainder of the site is covered with various surfacing such as concrete and asphalt pavement. The immediate site is generally level while the surrounding grade to include Smithland Ave slopes to the north. To the south the grade rises significantly to meet an adjacent site where a motel structure resides. We do not anticipate the adjacent site will interfere with the new construction. Chain link fences are present along the south and west perimeters of the site.

2.2 FIELD INVESTIGATION

At the time of our investigation, the site layout for structure had been completed based on layout provided by Otero County Road and Bridge Department representatives. Five (5) borings were completed within the area that would be most likely to serve as the building locations. A layout plan is attached with specific locations. Some adjustment may be necessary to the recommendations after the final excavations have been completed.

Borings were drilled with a 4-inch diameter continuous flight auger. Samples of the subsurface soils were obtained by use of a 2 inch I.D. California liner sampler. In addition to obtaining samples, Standard Penetration Tests (ASTM D 1586) were performed. This is accomplished by dropping a 140 pound hammer from a height of 30 inches and recording the amount of drops required to advance the sampling tube a measured distance. Attached Boring Profiles indicate the depths of the samples and the Number of Blows (SPT) required to drive the sampler. The boring stratigraphy indicated is intended to be a representation of soil strata only. Transition between soil layers can be very gradual or abrupt. The layers indicated are based on visual observations of sample cuttings as well as observation of rig performance. Therefore, the soil strata elevations indicated should be considered estimates. A representative of North American Testing, Inc. was present during the drilling operations to record boring information.

2.3 LABORATORY ANALYSIS

Soil samples obtained during the Field Investigation were brought to the laboratory for analysis. Samples were carefully examined by visual and mechanical methods. Primarily the soils were subjected to:

- ASTM C 117 (Material Finer than No 200 Sieve in Mineral Aggregates by Washing)
- ASTM D 422 (Particle Size Analysis of Soils)
- ASTM D 4318 (Liquid Limit, Plastic Limit and Plasticity Index of Soils)
- ASTM D 2216 (Laboratory Determination of Water Content of Soil and Rock)
- ASTM D 2487 (Classification of Soils for Engineering Purposes)

The results of the laboratory testing were placed in tabular form to aid in the evaluation of the subsurface soils.

3.0 SUBSURFACE FINDINGS

3.1 GEOLOGY

The site is located in an area identified as a part of the Ogallala Formation. Materials in the formation are identified as predominantly sandy gravel composed of granitic rock and sedimentary rock and generally lacks volcanic rock. May contain thin hard algal limestone at the top. Firmly cemented by caliche. May contain Pleistocene age gravels of Mead Group at the top of the unit.

Bedrock underlying the area consists of the Purgatoire Formation. Unit is a fossiliferous marine dark grey claystone, siltstone, and sandstone of Glencairn Shale Member.

¹Geologic and Structure Contour Map of the La Junta Quadrangle, Colorado and Kansas. Glenn R Scott, 1968

3.2 SUBSURFACE CONDITIONS

As mentioned earlier, the subsurface soil conditions were determined by drilling five (5) borings across the site. Samples obtained were taken to the laboratory and evaluated. The results of the investigation are as follows:

- The extent of the site at 201 Cimmaron St. is covered with moderate weeds, prairie grasses, cactus and yucca plants overlying approximately six (6) inches of variable sandy clayey topsoil. The root systems of some prairie grasses and weeds have been found to extend to depths of nearly three (3) feet in isolated cases. All of this material should be removed during the overlot grading operations. In addition to the vegetation, several trees are present across the site. All root systems encountered within building excavations should be removed.
- Significant surfacing to include concrete and asphalt covers the 222 E 2nd St site. Imported materials such as basecourse may be present below the surfacing. Variability should be anticipated during the demolition phase.
- Also of note, was the presence of existing utilities that were noted in the general area. Therefore, it is likely some of the subsurface materials have been disturbed in the past. Significant variations in materials and conditions should be anticipated due to the previous installation of utility systems.
- All of the borings found variable overburden materials present below the surfacing. The materials generally consist of silty sands to sandy clays (SM, SC, CH-sandy). The materials are generally consistent with the native soils encountered across the region. Visual observations included yellowish to medium brown colors. The upper materials are generally non-plastic, with some plastic layers interbedded. Several borings noted the overburden transitions to a plastic sandy clay layer. Clay materials had Plasticity Index's varying from twenty-four (24) to thirty-six (36). Visual observations included medium brown colors with variable sand content. The soils generally exhibited a moderate to high potential for swell. Significant moisture variation should be anticipated across the site during excavation and backfilling operations. Natural moisture contents for these soils varied widely from 5.5% to 26.5%. Adjustment of the materials to near optimum moisture will likely require some effort. This could include drying for over optimum soils.

3.2 SUBSURFACE CONDITIONS (CONT)

- Below the overburden materials, variably weathered claystone was encountered in all of the borings at depths of approximately two (2) to fourteen (14) feet below existing grade. The materials are also typical for the region. Visual observations included dark olive to mottled medium brown to slightly grayish colors and little to some sand content. These materials are formational and were found to be stiff to hard. Primarily, the materials are moist to very moist with moisture contents varying from 23.6% to 27.8%. The claystone materials had Plasticity Index's varying from eight (8) to thirty-nine (39) and exhibited a moderate to high potential for swell. Generally, the amount of weathering of the formation decreases with depth. **A significant feature of the claystone was the amount of iron (Fe) staining and sulfate crystallization noted which indicates groundwater has likely been present within this formation in the past.**
- Below weathered claystones, very hard Purgatoire Shale Bedrock was encountered. Visual observations included dark brown to dark grayish colors and little to no sand content. This shale was very hard with a representative moisture content of 21.2%. Due to relatively high Plasticity Index's this material would exhibit a high potential for swell. The Bedrock was encountered at depths varying from approximately fourteen (14) to nineteen (19) feet below existing grade.
- Groundwater was encountered in three (3) of the borings at the time of drilling. In addition, a majority of the borings had experienced some amount of collapse. This fact will be significant when considering the methods of installing the drilled pier foundations. Please be aware groundwater conditions can be subject to change at any time. Dry conditions at the time of drilling should not be construed to conclude the site will remain dry at the time of pier drilling operations.

4.0 RECOMMENATIONS

4.1 FOUNDATION RECOMMENDATIONS

On the basis of the results of the investigation, combined with previous experience with other buildings in the area, we recommend the foundation systems for these structures consist of the following alternatives:

A Drilled Pier Foundation System

This system would consist of straight shaft piers drilled through the overburden and weathered claystone and into the relatively un-weathered Purgatoire Shale bedrock.

At the current elevation, piers would likely only need to meet the minimum length due to the relatively shallow Shale bedrock but will ultimately vary with the exact location of the Bedrock for each structure. These lengths are based on the current elevations of the site. Considering a preliminary grading plan is Not available for the site, the lengths of the piers will ultimately change based on the final building elevations.

This will place the bottoms of the piers in a zone of relatively stable moisture content and make it possible to load the piers sufficiently to help resist uplift movements. If shallow bedrock is encountered, a minimum pier length of twenty-five (25) feet should be utilized to maintain adequate overburden pressures.

Using the drilled pier type foundation, the cap would be supported by a single pier, with a grade beam or cap on the piers. The load, which would be applied to the piers, would be transmitted to the bedrock material partially through peripheral shear stresses on the sides of the pier and partially through end bearing pressures. Piers should be designed considering the following allowable end bearing pressures and minimum embedment into the Pierre Shale Bedrock.

Allowable end bearing pressure

Minimum embedment

25 ksf

6 feet

A compressive side shear of 2500 psf may be used for the portion of the pier in bedrock.

Piers should be designed for a minimum dead load pressure of 10,000 psf times the piers cross sectional area. If the minimum dead load cannot be achieved, the required bedrock penetration and pier length should be increased using 75 percent of the compressive side shear for the tension shear.

4.1 FOUNDATION RECOMMENDATIONS (CONT)

A minimum pier size of eighteen (18) inches should be utilized unless otherwise determined by structural loading conditions. In order to achieve full design pressures, piers should be spaced at least three diameters apart. The allowable design pressures would be a linear relationship from 100 percent at three diameters apart down to 75 percent for end bearing and 67 percent for side shear at no distance apart.

A six-inch (6) void should be utilized under the pads to prevent uplift pressure from any swelling soils. A void should also be utilized under any structural floors or anticipated depressions where slabs will come in contact with the claystones.

L-Pile Criteria:

Clay w/ free water	Overburden	Weathered claystone	Bedrock
k value	100	500	1000
e50	0.01	0.007	0.004
Density (pci)	0.075	0.078	0.081
Cohesion (psi)	6.94	13.89	27.8

Depth to fixity may be determined by utilizing the following relationship:

$$L_f = 6 * d \text{ (diameter of pier, ft)}$$

Weathering resulting in increase in volume and decrease in density occurs as soon as the material is exposed to air. If not otherwise specified, a maximum time of 3 hours should not be exceeded for exposure of the bedrock penetration. Where this maximum time is exceeded, extending into freshly penetrated bedrock will be required.

We must caution against extending eighteen (18) inch piers below approximately thirty-five (35) feet. Beyond these depths our experience has shown the long slender piers can become difficult to construct when casing and concrete pumping is required. Consideration should be given to possibly increasing the pier diameter. If this is done the constructability of the piers will likely improve dramatically.

4.1 FOUNDATION RECOMMENDATIONS (CONT)

Due to the presence of soluble sulfates in the clay and claystone materials, which is common in the area, a Sulfate Resistant concrete should be utilized for concrete placed below grade. The sulfate results indicated an exposure class two (2) as defined by ACI 201.2R Table 6.3. This may consist of Type V portland cement, however, we understand this material is generally unavailable in the local market. A common and acceptable practice could be the use of an equivalent Type I/II portland cement (as defined by 201.2R) included in a concrete mixture containing a minimum of 20% Class F flyash and typical air-entrainment values of 4.5-7.5%. This option has been found to be readily available and used frequently at Ft Carson without issue.

Grade-beams should bear a minimum distance of twenty-four (24) inches below finished grade to prevent movement due to frost penetration.

In order to prevent damage and upward movement from swelling soils the upper portion of the pier shafts should be maintained with a smooth surface and proper cross-section. This can be aided by the use of sonotube forming or other methods which maintain the proper shaft characteristics, particularly at the ground surface.

At the time of our investigation, groundwater was encountered in three (3) of the borings. We do anticipate temporary casing could be necessary at this site, however, please be aware groundwater conditions can change rapidly. Our experience in the area has found highly variable groundwater conditions. With this in mind, we believe it to be prudent to have proper casing on-site in the event groundwater is encountered at the actual time of drilling. The need for casing will be dependent on the conditions found at the actual time of drilling. It is possible temporary casing may not be necessary where individual shafts do not immediately slough or collect water. This can be aided by precise coordination of the reinforcement and concrete placements. As soon as the shafts are drilled the reinforcing cage should be installed and the concrete placed. Any delays in these operations will increase the chance of water accumulating in the shaft. Where water does accumulate at the bottom of the shaft, and no caving / sloughing has occurred, a concrete pump may be used to tremie the concrete from the bottom of the shaft, which will displace the water to the surface.

Beyond the variable groundwater conditions, typical drilling and installation practices should be acceptable for this site. Installation of the drilled piers should be in accordance with the project specifications and ACI 336.1 (latest ed.). A representative of this office will need to verify the final bearing conditions of each pier during drilling operations.

4.2 FOUNDATION RECOMMENDATIONS (ALTERNATE)

We understand the owner (Otero County) wishes to pursue the possibility of an overexcavation and Post-Tensioned Slab-on-ground scenario to support the structure foundation and first floor slab-on-grade. As outlined in the subsurface section for this site, this option does not appear to be viable. There are several indicators which, in combination, lead to the conclusion the overexcavation / PT system should not be considered for this site. They are as follows:

- Presence of expansive materials
 - The entire site is underlain by lean and heavy clay overburden and claystones. This is consistent with the geology of the surrounding area. Swelling materials are well documented. Where not properly accounted for in design and construction, damage has occurred.
- Presence of groundwater
 - At the time of drilling three (3) boring found free water. In addition, the weathered claystone contains iron (Fe) staining and interbedded sands which indicates historical groundwater. This translates to variable groundwater elevations through this area. In addition, the in-place moisture contents of the soils are very high. Excavations extended to these elevations would likely show unstable conditions.
- Design considerations
 - With the presence of expansive materials, mitigation would be required. This can include the use of overexcavations, which have been done successfully in the region. This is generally the case where shallow formational claystone and groundwater are NOT present. A relatively deep overexcavation on the order of eight (8) to ten (10) feet may mitigate the expansive materials present provided groundwater was not present.
 - We understand the current structure has not performed well. Movement has been noted as evidenced by on-going cracks, doors binding, etc. This is understandable when considering the subsurface conditions encountered.
 - In order to mitigate the groundwater, a perimeter drain system would be required at sufficient depth to maintain the water level below the overexcavation zone. This would add significant cost to the overexcavation alternative.

4.2 FOUNDATION RECOMMENDATIONS (ALTERNATE) (CONT)

- We understand the type of construction is not fully determined at this time. There is a possibility some of the structure will include masonry. Masonry construction is generally the most susceptible to damage due to foundation movements.
- Construction considerations
 - An option for the overexcavation would likely include the reuse of some of the on-site materials at the bottom of the excavation. The clay materials would act, at least somewhat, as an impermeable layer to reduce the risk of groundwater migrating below the structure zone. Utilizing the clay soils, particularly formational claystone is very difficult to process and compact and would need to be considered as additional cost as compared to more suitable materials.
 - The presence of groundwater would likely risk the bottom of an excavation to be potentially soft or unstable. This subsequently would then necessitate a stabilization scenario at the bottom of the excavation prior to replacement of the overexcavation materials. Stabilization of the excavation bottom cannot be determined until the actual conditions are exposed and the excavation can be evaluated. This situation would likely add additional cost to the overexcavation scenario.
 - The groundwater may also require the excavation to be temporarily dewatered during construction. This would potentially be in addition to the permanent drain system required above depending on the ultimate phasing of the work by the contractor. Therefore, this potential additional cost should also be considered.
 - A relatively deep excavation near the toe of the existing slope may also create challenges for slope stability. The final grading plan and elevations will ultimately determine the extent of this issue. Based on the current configuration we believe it prudent to consider this possibility.

When taken in combination, the numerous obstacles to the overexcavation scenario leads to the general conclusion, the option should not be considered for this site. Deep foundations and structural floors are typically utilized for similar subsurface issues. When properly designed and constructed, structures utilizing these systems have not shown any long-term detrimental effects. If the Owner understands the inherent risks with other alternatives, we may be contacted to provide specific design criteria for other alternatives.

4.3 FLOOR SLABS

Considering the presence of expansive materials, including the shallow claystone and presence of groundwater, the most reliable alternative for the at-grade floors at this site would be a structurally supported system. We do not believe a slab-on-grade or a Post-Tensioned system bearing on an overexcavation would be a viable alternative for this site. Therefore, we have not included specific recommendations for this type of system. If the Owner understands the inherent risks with these alternatives, we may be contacted to provide specific design criteria for other alternatives.

4.4 LATERAL EARTH PRESSURES

	Ka	Active P	Kp	Passive P	Ko	At Rest
Undisturbed Subsoil (silty sands)	0.36	45 psf/ft	2.77	346 psf/ft	0.53	66 psf/ft
Undisturbed Subsoils (claystone)	0.53	66 psf/ft	1.89	237 psf/ft	0.69	86 psf/ft
Purgatoire Shale Bedrock	Do not use					

4.5 SEISMIC CONSIDERATIONS

Considering the subsurface conditions encountered within the actual building limits a site classification of “D” is recommended. This classification is based on actual N-values encountered in the overburden and shale.

Spectral Response Acceleration values were determined from the U S Geological Survey design program “Seismic Hazard Curves and Uniform Hazard Response Spectra”, which is based on the 2009 NEHRP Seismic Design Provisions. Based on Latitude and Longitude values (38.9868, -103.5401) near to the approximate center of the site, the expected 0.2 second Spectral Response Acceleration (5% Critical Damping) would be $S_s = 0.187$, while the 1.0 second Spectral Response Acceleration (5% Critical Damping) would be $S_1 = 0.065$. For a Site Class D the site coefficient values would be $F_a = 1.6$ and $F_v = 2.4$. From this the maximum short period (0.2 second) spectral response (S_{ms}) would be .300, while the maximum 1 second spectral response (S_{m1}) would be 0.155.

4.6 EARTHWORK

When overburden clays and claystones are placed without proper conditioning their expansion potential increases dramatically, therefore, any overburden or claystones placed as fill should be properly “broken-up”, pulverized and **disked** to provide materials with a maximum particle size of one-half (1/2) inch. **These processes should continue in order to provide a relatively homogeneous mixture.** Sufficient moisture-conditioning should be anticipated to provide uniform moisture contents prior to placement and compaction. Based on in-situ moisture contents some of the materials may require a significant quantity of water to bring the soils to meet the required optimum moisture content range, while others, however, may likely require significant aerating and drying to meet the required optimum moisture content range.

We anticipate some Overlot grading will be required at this site. Materials placed during Overlot grading operations should be placed to a minimum of 92% of ASTM D 1557 and at +2% to +4% of Optimum Moisture Content for building or paving areas. For landscaped areas material should be placed to a minimum of 88% of ASTM D 1557 and at 1% to +4% of Optimum Moisture Content.

Where granular materials are not required, the materials placed against the exterior of foundations should consist of the on-site clayey materials and should be compacted to a minimum of 90% of ASTM D 1557 and at +2% to +4% of Optimum Moisture Content. Utility trenches within the building footprint should be compacted to a minimum of 90% of ASTM D 1557 and at +2% to +4% of Optimum Moisture Content. Utility trenches within landscaped areas should be compacted to a minimum of 85% of ASTM D 1557 and at +2% to +4% of Optimum Moisture Content, while utility trenches beneath paved areas should be compacted to a minimum of 92% of ASTM D 1557 and at +2% to +4% of Optimum Moisture Content.

Prior to placing fill on the site, the top eight (8) inches of existing subgrade should be fully scarified, moisture-conditioned and compacted to the requirements mentioned above. Where deeper fills are required to be placed on sloping ground (in excess of 4%) the existing grade should be scarified as mentioned above and benches should be created at intervals not exceeding fifteen (15) feet. Benches should extend an additional twelve (12) inches below the existing grade to assist incorporating the new fill into the existing slope. Where subgrades are formed within areas of cut the top twelve (12) inches should be scarified, moisture-conditioned and compacted to a minimum of 92% of ASTM D 1557 and at +2% to +4% of Optimum Moisture Content.

4.6 EARTHWORK (CONT)

Place and compact fill in horizontal lifts not to exceed eight (8) inches for heavy equipment and six (6) inches for hand operated equipment. Heavy equipment will not be allowed within one (1) foot for every foot in height for foundation walls. Material in this area will need to be compacted with hand operated equipment, unless otherwise approved by the Architect / Engineer.

In order to prevent damage from long-term movement, all utility services penetrating through the structures should be fitted with flexible connections or have alternate means of allowing for a minimum of two (2) inches vertical movement.

Local, state, and federal guidelines or regulations should govern excavations made at this site, including those for foundations and utilities. All personnel at this site should be familiar with these regulations and take whatever action deemed necessary by the applicable industry requirements. Our office will need to be contacted to perform an excavation inspection to ensure that any unexpected conditions encountered during excavation be evaluated and the design modified as necessary. If an excavation inspection is not performed and the recommendations in this report are not followed, we will not be responsible in anyway for the performance of this structure; all liability will be voided.

After the excavation has been completed, the exposed ground surface and any imported material should be compacted in accordance with the requirements in this report. If pockets of soft, loose or otherwise unsuitable materials are encountered in the excavation, the unsuitable materials should be removed and replaced with a suitable structural fill material.

Where moisture sensitive soils (clays) are required to be conditioned within a specific range that range shall be maintained until the area is considered completed with subsequent lifts, concrete, asphalt, etc. Backfill of the foundation should begin as soon as possible after the walls have been placed.

When work will be completed during periods of cold temperatures, provisions must be made to mitigate frozen soils. Fill should not be placed on any material that currently is frozen or contains frost. In addition, all fill should be free of frost during placement. Protection from cold temperatures should continue until an area is completed. If necessary, we will be able to assist with developing economically viable plans for mitigating frost issues during periods of cold weather.

6.0 SURFACE DRAINAGE

It is imperative that grading around the perimeter of the structure and paving areas be maintained during and after construction. Do not allow water to pond or enter your excavations at any time. Provide positive drainage within ten (10) feet of the building outline. A positive slope of at least five (5) percent is recommended within this ten (10) feet zone. Beyond the building zone, a minimum slope of at least two (2) percent is recommended in landscaped areas, or as required to maintain proper surface drainage on the site. Irrigation lines should be maintained a minimum of five (5) feet from structures. All roof downspouts should be carried across backfill zones and discharged well away from the structure. Vegetation should not be installed within five (5) feet of the structure. Surface drainage is considered important and the recommendations must be closely followed at all times during and after construction. Improper construction practices may void all recommendations contained in this report.

7.0 LIMITATIONS

Before the start of any work, we recommend that a meeting be held with North American Testing, Inc., the contractor and the owner. The purpose of this meeting is to discuss site preparation, foundation recommendations, grading for drainage, scheduling the open-hole inspection and the compaction testing of the recompacted material under the foundation. In addition, we would appreciate a formal site plan with the location of the proposed structure. This report is intended to be for preliminary planning purposes only. A final geotechnical investigation will be required for this site after the site layout and grading plans have been developed.

The recommendations presented were developed considering conditions exposed in the completed foundation excavation and the type of structure planned. Revisions in the excavation or structure could influence our recommendations. If changes are made, we should be contacted to review the new configurations. In addition, this report does NOT include a formal Geological Hazard Investigation. If a formal study is required we should be contacted as soon as possible.

Our professional services were performed within acceptable industry standards. No warranty expressed or implied is made. The exclusive purpose of this report does not include any environmental assessment of the site or any identification of contaminated or hazardous materials.



LEGEND OF GEOTECHNICAL BORINGS

Descriptions based on physical property testing of samples and visual observations

Lithology	Symbol	Description
Surficial Material		Up to 6" concrete pavement surfacing (4-6") -topsoil, weeds, grasses, slightly moist, medium brown
Sands - silty to clayey		Sand, silty, yellowish to brown colors, moist to very moist, loose to med dense
Clay-sandy		Clay, sandy, medium brown, moist to very moist, med stiff to very stiff
CH-sandy Sandy clays		Claystone: very weathered to weathered, stiff to hard, mottled olive color with Fe-stains, sulfate crystal development, occ cobbles possible moist to very moist
CH-sandy Sandy clays		"Pergatorie Shale": Dark grey to black color, very hard, to moist

Other Key Symbols

SS = Split Spoon For example, a blow count of 20/30/50-3" (50 blows for final 3" 'of depth) has an N-Value of 80/9.

H2O = Natural groundwater observed

N-Value = Number of blows to drive sampler noted distance (ASTM D 1586):

Example: 11/11/14 = Number of blows to drive sampler 18" in 6" increments.

The number of blows for the initial 6" are disregarded,
and the final 12" are added and placed over 12, symbollically.
ie, 11+14=25, therefore N-value is 25/12.

When an N-Value is not placed over 12, it is an indication that the maximum number of blows was met before reaching the full depth of the sampler.



LOG OF GEOTECHNICAL BORINGS

B1

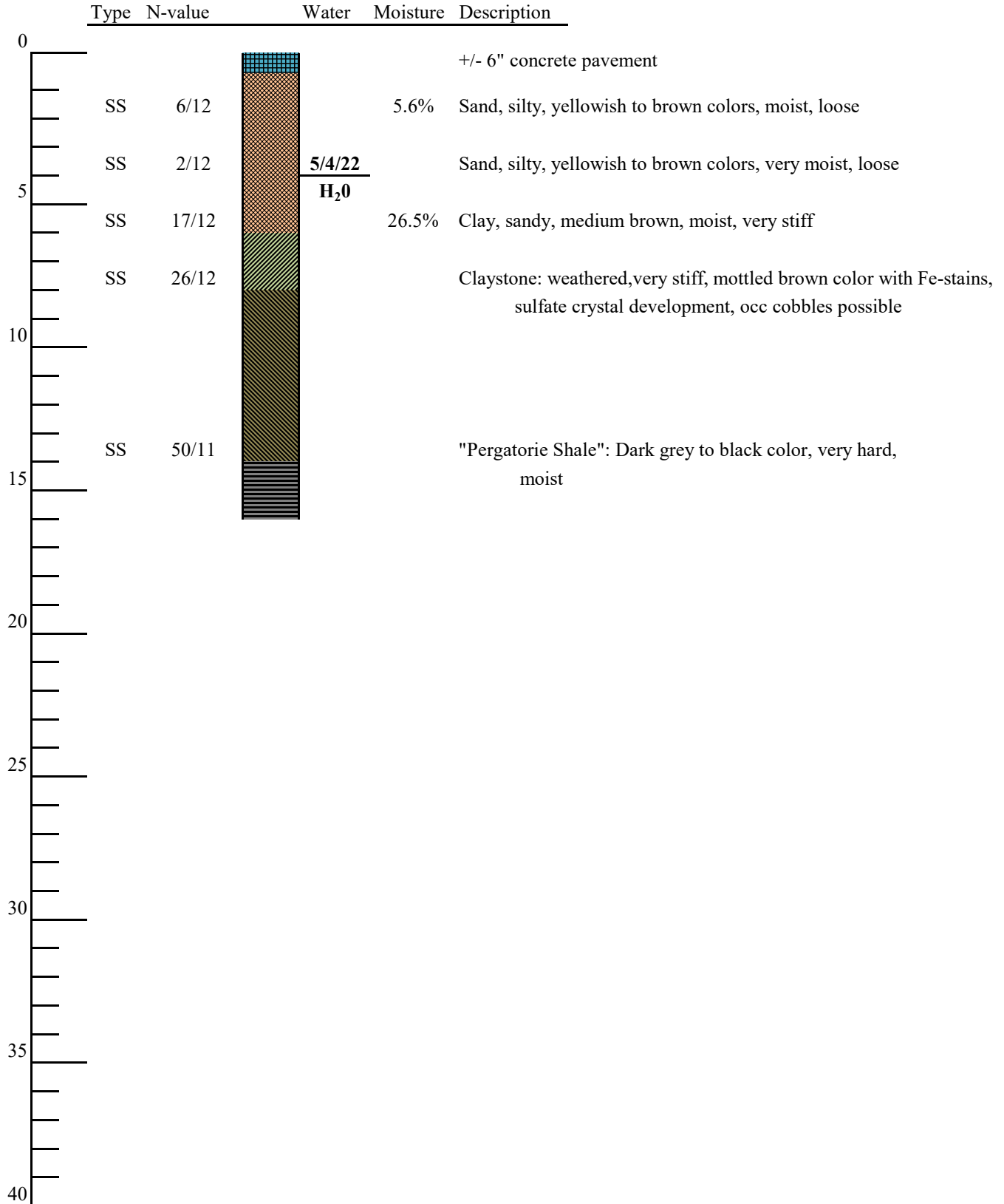


Fig. 2



LOG OF GEOTECHNICAL BORINGS

B2

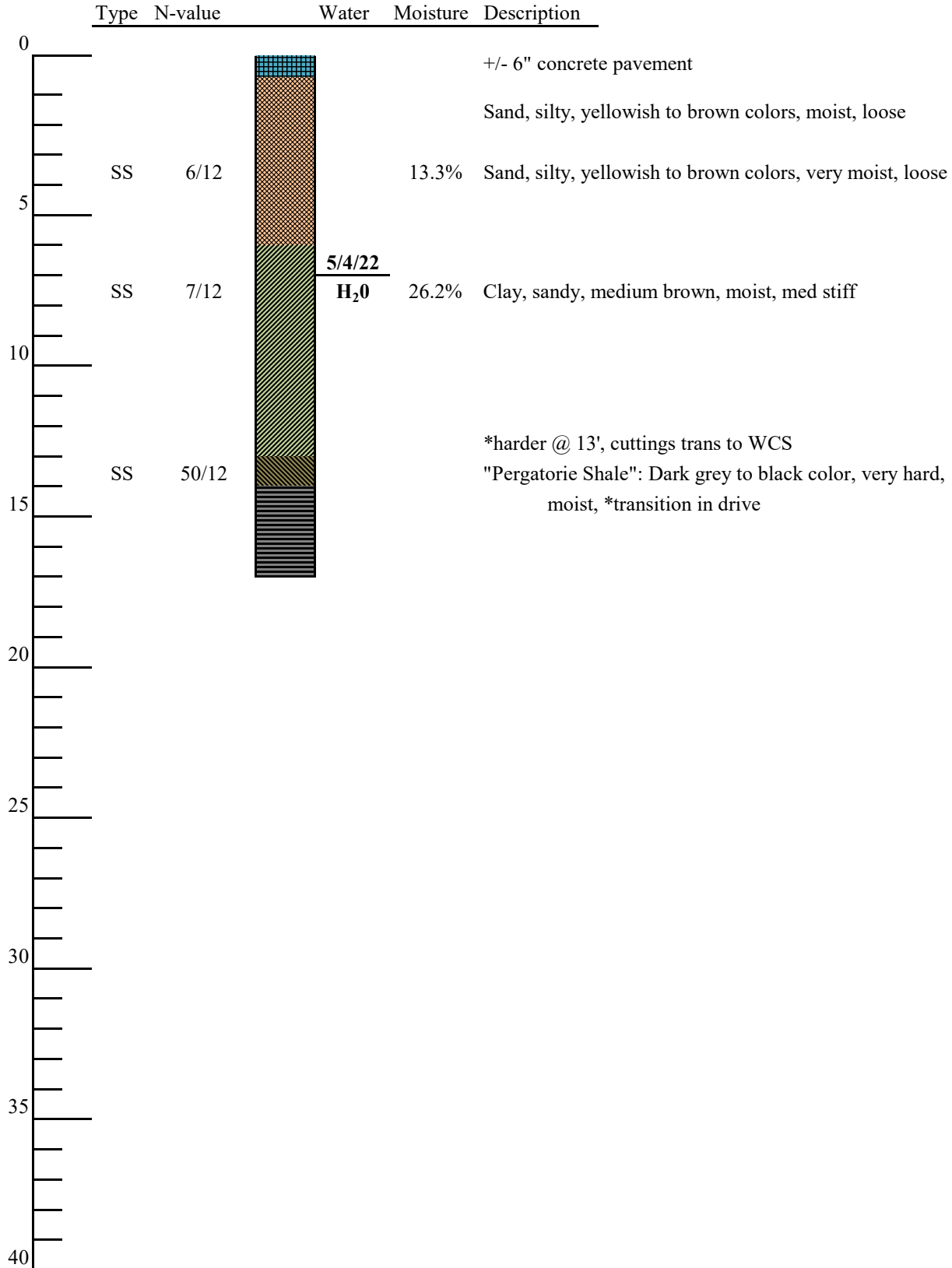


Fig. 3

LOG OF GEOTECHNICAL BORINGS

B3

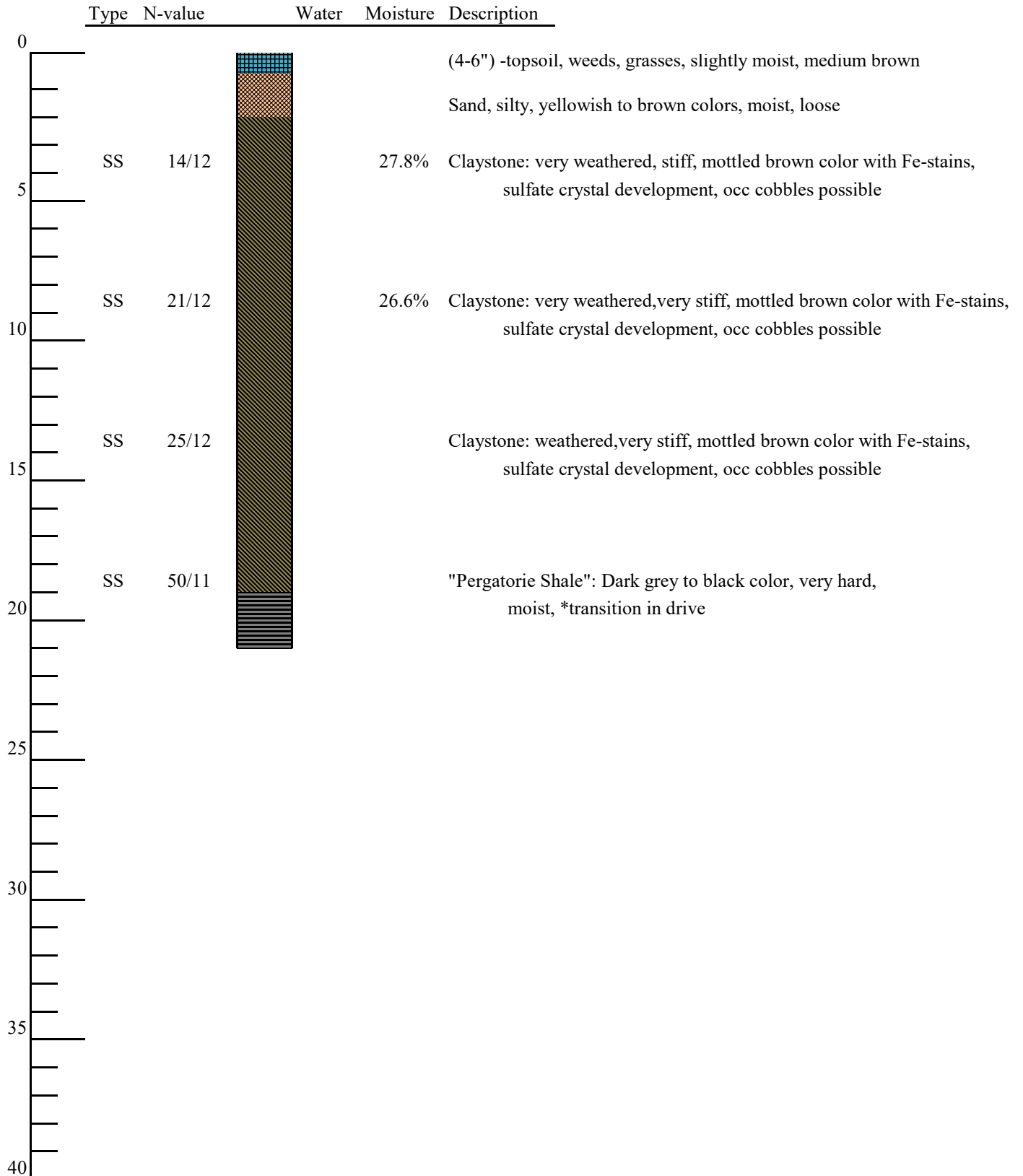


Fig. 4

LOG OF GEOTECHNICAL BORINGS

B4

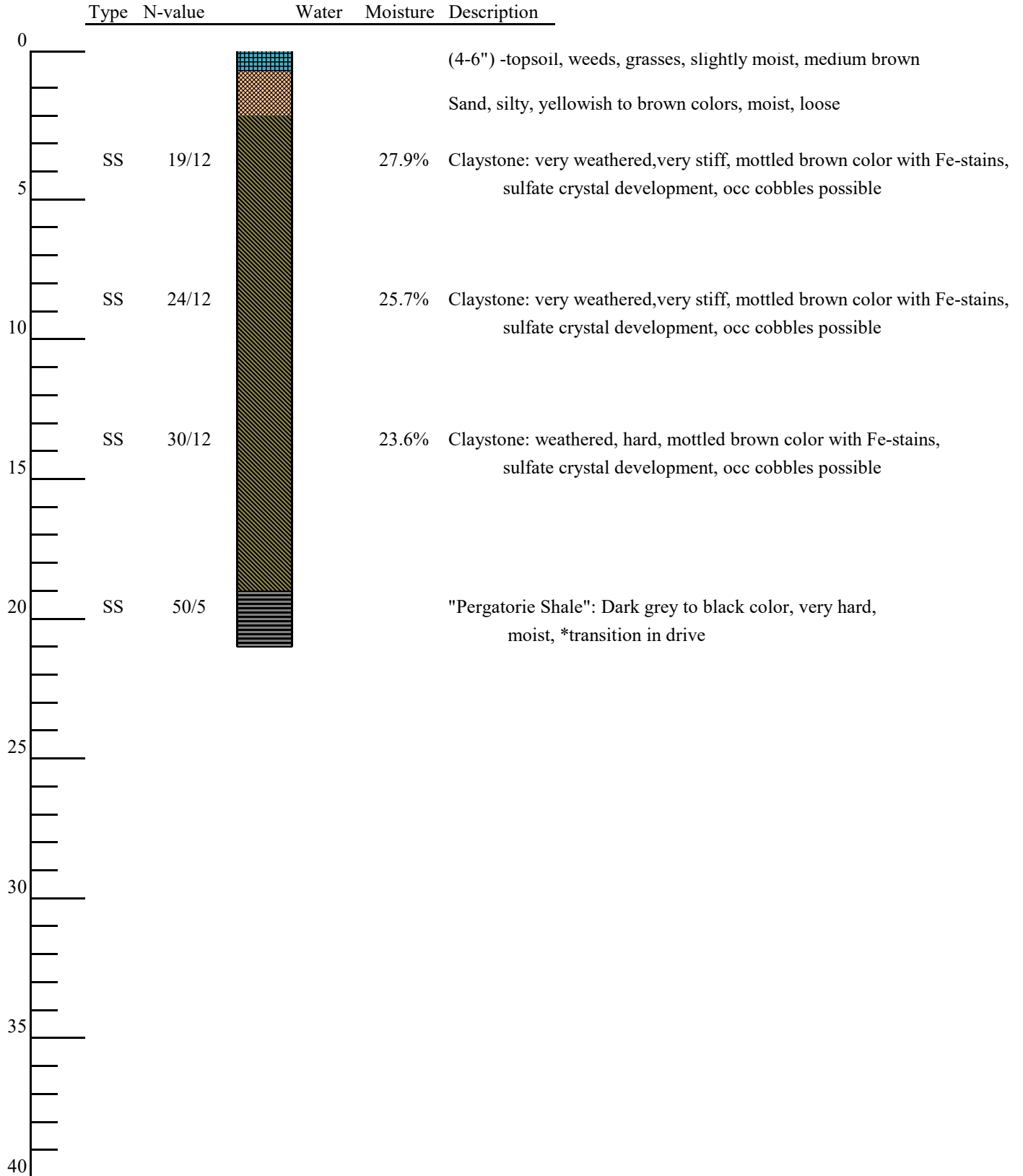


Fig. 5



LOG OF GEOTECHNICAL BORINGS

B5

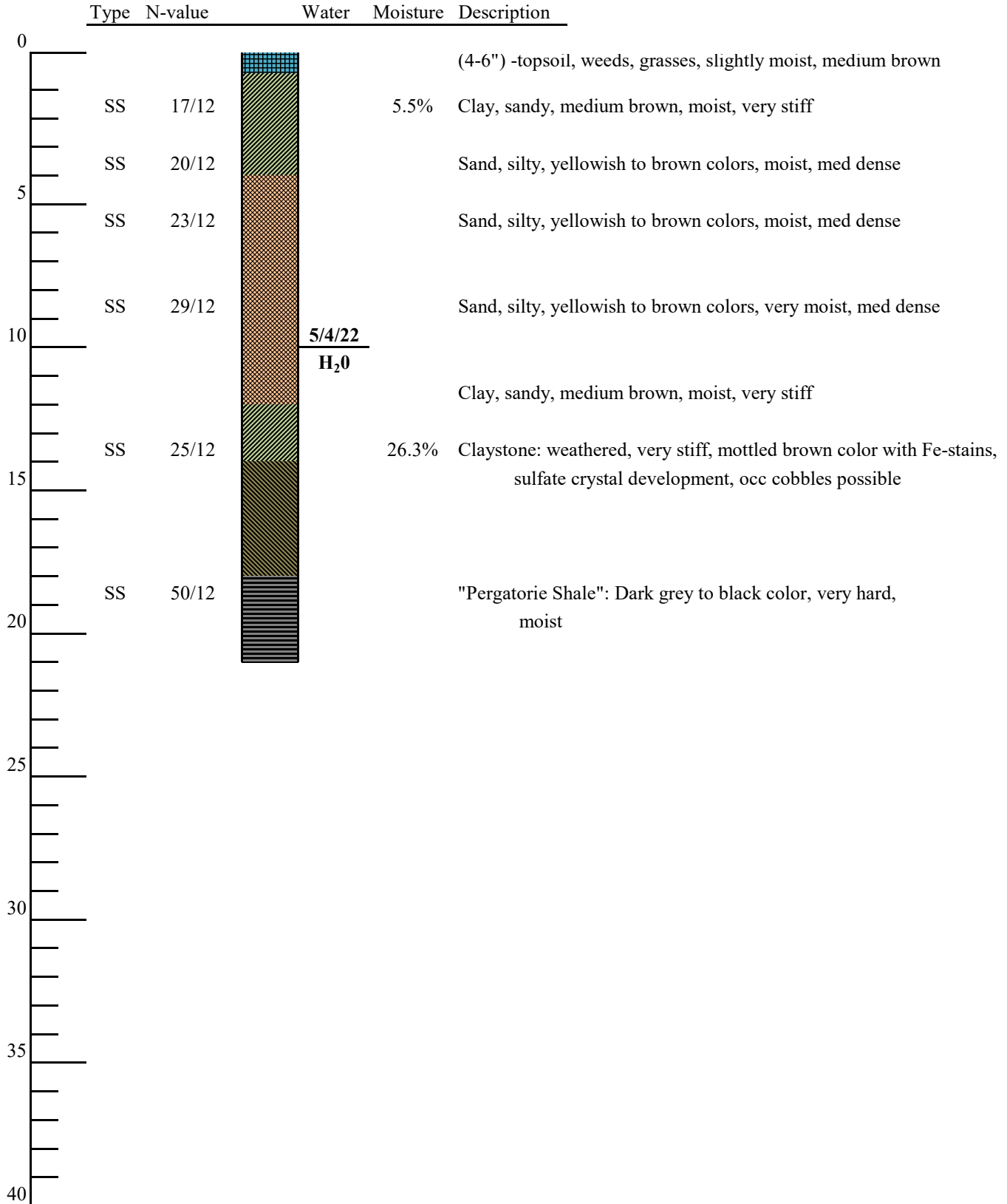




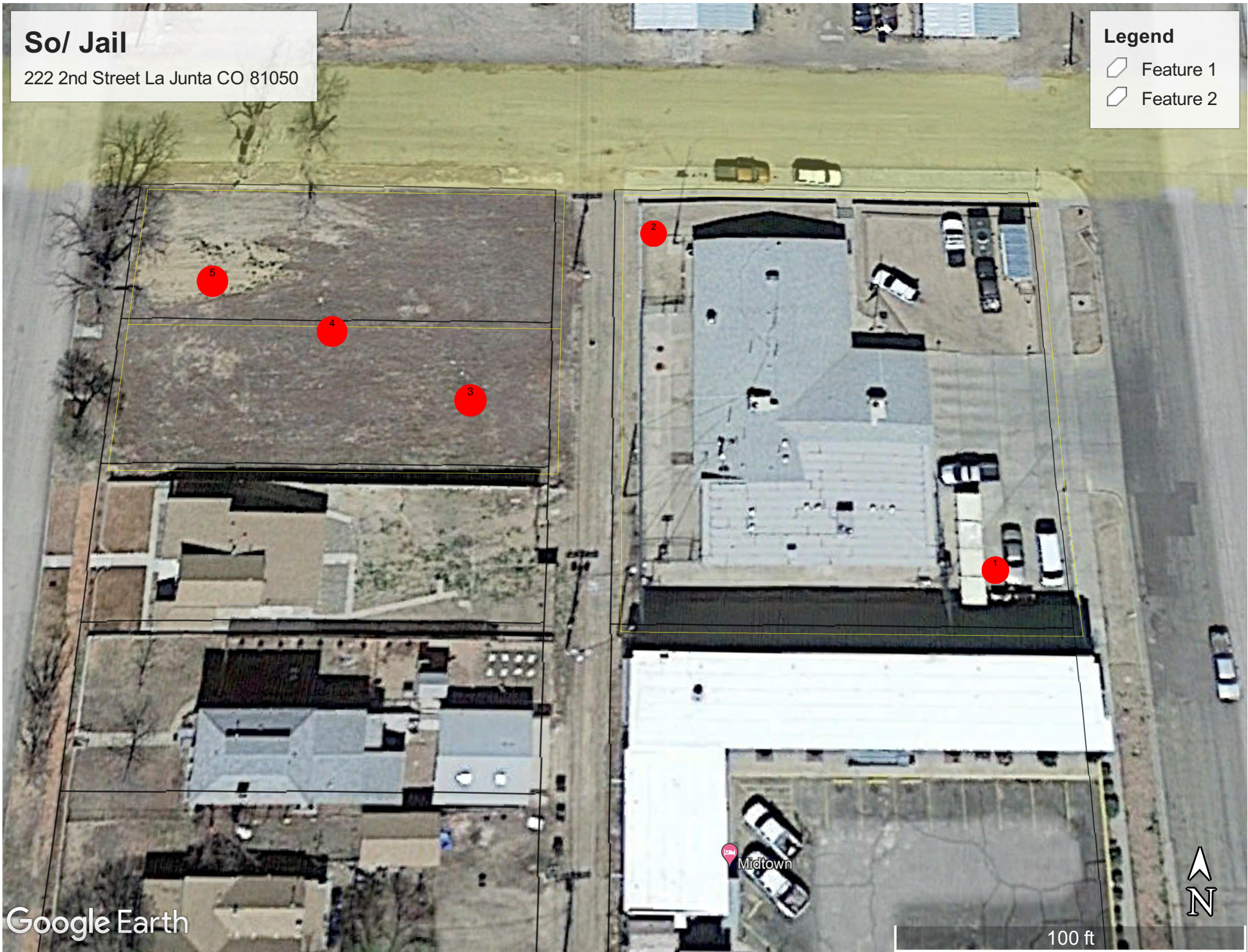
Fig. 6

So/ Jail

222 2nd Street La Junta CO 81050

Legend

-  Feature 1
-  Feature 2



PHYSICAL PROPERTIES OF SOIL SAMPLES

Client: Otero Cnty Sheriff
 Project: Otero Cnty Jail

Job No. 22-35
 Date: 5/23/2022

Boring No	Depth Ft	Classification Unified	Particle Size Distribution						Atterberg Limits		Dry Dens pcf	Moisture %	Swell / Consol	Comments
			3"	1"	1/2"	No 4	No 50	No 200	LL	PI				
1	2	SM w/ gravel		100	90	77	24	13	NV	NP		5.6		
1	6	CH-sandy						50	50	24		26.5		
2	4											13.3		
2	8	CL w/ sand						80	27	8		26.2		
3	4	CH						94	66	39		27.8		
3	9											26.6		
4	4	CH w/ sand						82	67	36		27.9		
4	9											25.7		
4	14											23.6		
5	2	CH-sandy						58	67	36		5.5		
5	14											26.3		

Remarks: _____

Exhibit 4 – Sample Agreement.

CONSTRUCTION CONTRACT

THIS CONSTRUCTION CONTRACT is made and entered into this ____ day of _____, 2022, by and between the **BOARD OF COUNTY COMMISSIONERS OF OTERO COUNTY, COLORADO**, hereinafter referred to as "County", and **XXXXXXXXXX** hereinafter referred to as "Contractor".

WHEREAS, the County advertised a "Request for Proposals" for work to be done in **XXXXXXXXXXXXX** La Junta, Colorado, described as "design/build of a "XXXXXXX", and

WHEREAS, the Contractor was the successful bidder; and

WHEREAS, the parties wish to enter into an agreement to set forth the terms and conditions of this project.

NOW, THEREFORE, in consideration of the mutual covenants, conditions and agreements contained herein, the parties hereby agree as follows:

ARTICLE 1. RELATIONSHIP: The parties to this Agreement intend that the relationship between them created by this Agreement is that of owner and independent contractor. No agent, employee or servant of Contractor shall be or shall be deemed to be the agent, employee or servant of the County. The manner and means of conducting the work are under the sole control of Contractor. Contractor shall be solely and entirely responsible for its acts and for the acts of Contractor's agents, employees, and servants during the performance of this contract.

INDEPENDENT CONTRACTOR. IT IS EXPRESSLY ACKNOWLEDGED BY INDEPENDENT CONTRACTOR THAT IT IS AN INDEPENDENT CONTRACTOR UNDER THE TERMS OF THIS AGREEMENT. NOTHING IN THIS AGREEMENT IS INTENDED NOR SHALL IT BE CONSTRUED TO CREATE AN EMPLOYER/EMPLOYEE RELATIONSHIP OR A JOINT VENTURE RELATIONSHIP OR ALLOW EITHER PARTY TO EXERCISE CONTROL OR DIRECTION OVER THE MANNER OR METHOD BY WHICH THE PARTIES EXERCISE THEIR RESPECTIVE PROFESSIONAL JUDGMENT. INDEPENDENT CONTRACTOR UNDERSTANDS AND AGREES THAT COUNTY WILL NOT PAY OR WITHHOLD ON BEHALF OF INDEPENDENT CONTRACTOR ANY SUMS FOR INCOME TAX, UNEMPLOYMENT INSURANCE, SOCIAL SECURITY, WORKMEN'S COMPENSATION INSURANCE, OR ANY OTHER WITHHOLDING TAX OR INSURANCE PURSUANT TO ANY LAW OR REQUIREMENT OF ANY GOVERNMENTAL BODY. INDEPENDENT CONTRACTOR AGREES THAT ALL SUCH PAYMENTS AND WITHHOLDINGS, IF ANY, ARE THE SOLE RESPONSIBILITY OF INDEPENDENT CONTRACTOR, AND INDEPENDENT CONTRACTOR HEREBY WARRANTS AND REPRESENTS THAT INDEPENDENT

CONTRACTOR WILL MAKE ALL SUCH PAYMENTS AND WITHHOLDINGS. INDEPENDENT CONTRACTOR AGREES TO HOLD COUNTY HARMLESS AS CONCERNS ANY CLAIM ARISING OUT OF COUNTY'S FAILURE TO WITHHOLD ANY AMOUNT FROM INDEPENDENT CONTRACTOR'S COMPENSATION.

ARTICLE 2. REPRESENTATIVES:

2.1 The Otero County Administrator shall be the initial point of contact:

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

and shall sometimes hereinafter be referred to as "OCA".

2.2 The County's Representative for oversight of this project shall be:

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

and shall sometimes hereinafter be referred to as "OCR".

2.3 The Contractor's Representative for this project shall be:

XXXXXXXXXXXXXXXXXXXXXXXXXXXX

and shall sometimes hereinafter be referred to as "CR".

ARTICLE 3. CONTRACT DOCUMENTS:

3.1 The contract documents for this project shall include:

- This Construction Contract;
- The "Request for Proposals for an Integrated Project Delivery Method Utilizing Design/Build" to design/build a single-entry to the Courthouse and to remodel judicial space;
- The Contractor's bid documents;
- Blueprints, if applicable;
- Addenda, if applicable;
- Otero County's response to pre-bid questions if applicable
- Change orders, if applicable;
- Modifications, if applicable;
- Written Interpretations of the Contract Documents, if applicable;
- Performance Bond, as provided in Article 14 hereinbelow;
- Payment Bond, as provided in Article 14 hereinbelow;

Notice to Proceed;
Notice of Award
Certification of EEO Compliance
ETC XXXXXX

All of the documents are incorporated by reference herein, and shall herein be referred to as the "Contract Documents".

3.2 The aforementioned documents form the Contract and what is required by any one shall be as binding as if required by all. The intention of the Contract Documents is to include all labor, materials, equipment and tools necessary for the proper execution and completion of the Work and the terms and conditions of payment therefore, and also to include all Work which may be reasonably inferable from the Contract Documents as being necessary to produce the intended results.

3.3 Two copies of this Construction Contract shall be signed by the County and the Contractor. Each party shall retain an originally-signed copy for its records. By executing the Contract, the Contractor represents that its Representative has visited the site and familiarized himself with the local conditions under which the Work is to be performed.

3.4 The term Work as used in the Contract Documents includes all labor necessary to produce the construction required by the Contract Documents, and all materials and equipment incorporated or to be incorporated in such construction.

3.5 In the event that any of the covenants or provisions of this Contract shall conflict with any of the provisions of the Request for Proposals or the Contractor's proposal, then this Contract shall control and shall be the governing document. In the event that the Request for Proposals conflicts with the Contractor's proposal then the Request for Proposals shall control, it being the intent that the Work under the project is defined in this Contract and the Request for Proposals.

ARTICLE 4. LABOR/WORK:

4.1 Contractor shall provide and furnish at Contractor's expense all labor, materials, equipment, tools and other items necessary to carry out the Work to be performed under the Contract Documents.

4.2 All Work to be performed under the Contract Documents shall be done in a good and workmanlike manner.

4.3 Contractor shall coordinate its Work so as to not interfere with the activities of the Otero County Courthouse.

4.4 Contractor agrees to comply with the standards of the Otero County Land Use Code and the 2006 International Building Code.

ARTICLE 5. RATE OF PROGRESS: The Contractor is to maintain a rate of progress in the Work which will result in the “design/build XXXXXX” project completion by XXXX X, XXXX, unless extended by written mutual agreement of the parties.

ARTICLE 6. CONSIDERATION: County shall pay Contractor up to the sum of \$XXXXX for the performance of the Work described in the Contract Documents as the “design/build a XXXXXX” project, subject to additions and deductions by Change Order as provided for hereinafter.

County shall pay Contractor for its services as follows:

- (a) The Contractor may submit a request for payment on a monthly basis for the work Contractor has completed. Payment will be made within thirty (30) days of receipt of invoice, subject to Article 11 below;
- (b) The County will withhold 5% of each request for payment and will release the withheld 5% upon the County’s approval of the successful completion of the project as determined by the County at its sole discretion. (C.R.S. 24-91-103).
- (c) After completion of the project, provided the Contract be then fully performed, subject to the provisions of Article 12 herein, the County shall publish a Notice of Final Settlement twice at least 10 days prior to the date of Final Settlement. The County shall withhold from final payment any amounts as required pursuant to C.R.S. 38-26-107.

The parties agree that if there is a drastic escalation in the cost of materials, Contractor shall notify County of the need to meet to discuss the increase in costs. Contractor agrees to provide a spreadsheet showing the cost of materials at the time of bidding and the cost of materials at the time of requesting the meeting.

ARTICLE 7. REQUIRED CONSTRUCTION CONTRACT/PUBLIC ENTITY PROVISIONS: The parties further agree that the following provisions of the Colorado Revised Statutes are hereby incorporated into this Agreement, and the provisions set forth below in said Statute shall be material provisions of this contract as required by law:

C.R.S. 24-91-103.6. Public entity – contracts – appropriations – contract modifications – severability – definition.

- (1) No public entity shall contract with a designer, a contractor, or a designer and

contractor for the construction, the design, or both the construction and design of a public works project unless a full and lawful appropriation when required by statute, charter, ordinance, resolution, or rule or regulation has been made for such project.

(2) Every public works contract, as defined in Section 24-9-103.5 (1)(b) shall contain the following:

- (a) A statement that the amount of money appropriated is equal to or in excess of the contract amount;
- (b) A clause that prohibits the issuance of any contract modification, as defined in Section 24-101-301(10), or other form of modification or directive by the public entity requiring additional compensable work to be performed, which work causes the aggregate amount payable under the contract to exceed the amount appropriated for the original contract, unless the contractor is given written assurance by the public entity that lawful appropriations to cover the costs of the additional work have been made and the appropriations are available prior to performance of the additional work or unless such work is covered under a remedy-granting provision in the contract; and
- (c) For any form of modification or directive by the public entity requiring additional compensable work to be performed, a clause that requires the public entity to reimburse the contractor for the contractor's costs on a periodic basis, as those terms are defined in the contract, for all additional directed work performed until a contract modification is finalized. In no instance shall the periodic reimbursement be required before the contractor has submitted an estimate of cost to the public entity for the additional compensable work to be performed. Notwithstanding the provisions of this subsection (2)(c), state public works contracts shall be subject to the provisions of Section 24-30-202.

ARTICLE 8. COUNTY'S REPRESENTATIVES:

8.1 The Otero County Administrator, XXXXXXXXXXXX, (hereinafter "OCA") shall be the initial point of contact by the Contractor.

8.2 The Otero County Representative (hereinafter "OCR") will provide general administration of the Contract and will be the County's representative during construction and until issuance of the final payment.

8.3 The OCR shall at all times have access to the project site throughout the Work.

8.4 The OCR will make periodic visits to the site to determine in general if the Work is proceeding in accordance with the Contract Documents. On the basis of on-site observations, the OCR will keep the County informed of the progress of the Work, and will endeavor to guard the County against defects and deficiencies in the Work of the Contractor. The OCR will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The OCR will not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, and will not be responsible should the Contractor's fail to carry out the Work in accordance with the Contract Documents.

ARTICLE 9. COUNTY RESPONSIBILITIES:

9.1 The County shall provide water and electricity for the project, as necessary.

9.2 The County shall issue instructions to the Contractor through its OCA and/or OCR.

9.3 The County will make payment to Contractor as set forth in this Agreement.

ARTICLE 10. CONTRACTOR RESPONSIBILITIES:

10.1 The Contractor shall perform the Work as an Independent Contractor pursuant to this Agreement.

10.2 The Contractor shall supervise and direct the Work and shall be solely responsible for all construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract Documents.

10.3 Unless otherwise specifically noted, the Contractor shall provide and pay for all labor, expertise, materials, freight/delivery, equipment, tools, construction equipment and machinery, transportation, and other facilities and services necessary for the proper execution and completion of the Work.

10.4 The Contractor shall obtain any local, State and Federal permits required for this project and provide proof to County. The Otero County building permit fees are waived.

10.5 The Contractor shall at all times enforce strict discipline and good order among its employees, and shall not employ on the Work any unfit person or anyone not skilled in the task assigned to him.

10.6 Contractor shall comply with all OSHA and all applicable trade-related rules and regulations.

10.7 The Contractor warrants to the County that all materials and equipment incorporated in the Work will be new unless otherwise specified, and that all Work will be of good quality, free from faults and defects and in conformance with the Contract Documents.

10.8 The County is exempt from state and local sales and use taxes. Contractor shall take steps to obtain such exemption from the Colorado Department of Revenue. The Contractor shall pay sales, consumer, use and similar taxes that are legally required when the Contract is executed.

10.9 The Contractor shall give all notices and comply with all laws, ordinances, rules, regulations, and orders of any public authority bearing on the performance of the Work, and shall notify the OCA if the drawings, specifications and/or contract provisions are at variance therewith.

10.10 The Contractor shall be responsible for the acts and omissions of all Contractor's employees and all subcontractors, their agents and employees, and all other persons performing any of the Work under a contract with the Contractor.

10.11 Contractor at all times shall keep the premises free from accumulation of waste materials and debris caused by Contractor's operations. This provision is imperative. At the completion of the Work, Contractor shall leave the Project site in a neat and orderly condition.

ARTICLE 11. PAYMENTS:

11.1 Payments shall be made as provided in Article 6 of this Contract, except that:

Payments may be withheld on account of (1) defective Work not remedied, (2) claims asserted or evidence which indicates probable assertion of claims, (3) failure of the Contractor to make payments properly to subcontractors or for labor, materials, or equipment, (4) damage to another Contractor or County, or (5) unsatisfactory prosecution of the Work by the Contractor. If withheld, the County shall notify the Contractor in writing of the reasons for withholding payment in whole or in part.

11.2 As payment is received from County, the Contractor shall promptly pay each subcontractor and supplier an amount determined in accordance with the terms of the applicable subcontracts and purchase orders. C.R.S. 38-26-105. The County shall not be responsible for payment to a subcontractor or supplier.

11.3 A certificate for payment, a progress payment or partial or entire use or occupancy of the project by the County shall not constitute acceptance of Work not in accordance with the requirement of the Contract Documents.

11.4 Final payment shall not be due until (1) the Contractor has delivered to the County a bond, a clean irrevocable letter of credit, cash or other security satisfactory to the County indemnifying County against any claim which has been asserted by anyone for labor, materials, equipment or otherwise arising out of the contract or on account of any claim which either County or Contractor believes may be asserted, (2) the County has inspected and approved the Work as complying with the contract, (3) written consent of surety, if any is given, (4) any manufacturers' or suppliers' warranties and equipment literature, and any as-built plans required are delivered to County, and (5) the County and Contractor have complied with all requirements for Final Settlement imposed by applicable law.

11.5 It is understood and agreed that this Agreement is dependent upon the continuing availability of funds beyond the term of the County's current fiscal period ending December 31, 2021, as financial obligations of the County payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available.

ARTICLE 12. PROTECTION OF PERSONS AND PROPERTY AND RISK OF LOSS: The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. It shall take all reasonable precautions for the safety of, and shall provide all reasonable protection to prevent damage, injury or loss to (1) all employees performing the Work and other persons who may be affected thereby, (2) all the Work and all materials and equipment to be incorporated therein, and (3) other property at the site or elsewhere. Contractor shall bear all risk of loss to the Work, or materials or equipment for the Work due to fire, theft, vandalism, or other casualty or cause, until the Work is fully completed and accepted by the County. Contractor shall comply with all applicable laws, ordinances, rules, regulations and orders of any public authority having jurisdiction for the safety of persons or property or to protect them from damage, injury or loss. All damage or loss to any property caused in whole or in part by the Contractor or any subcontractor or anyone directly or indirectly employed by any of them, or by anyone for whose acts any of them may be liable, shall be remedied by the Contractor.

ARTICLE 13. ROYALTIES AND PATENTS: The Contractor shall pay all royalties and license fees. The Contractor shall defend all suits or claims for infringement of any patent rights and shall save the County harmless from loss on account thereof.

ARTICLE 14. BONDS: A Performance Bond and Payment Bond, each in the amount of one hundred percent (100%) of the contract price, with a corporate surety approved by the County, will be required for the faithful performance of the contract. Each bond shall comply with the requirements of C.R.S. 38-26-105 and 106.

ARTICLE 15. INSURANCE: The Contractor shall secure and maintain during the life of

the project such insurance from an insurance company authorized to write casualty insurance in the State of Colorado as will protect Contractor and the County from claims for bodily injury, death, or property damage which may arise from operations under this Agreement. The Contractor shall not commence work under this Agreement until it has obtained all insurance required under this section and shall have filed the certificate of insurance or the certified copy of insurance policy with the County. Each insurance policy shall contain a clause providing that it will not be canceled by the insurance company without a minimum of ten (10) days written notice to the County of intention to cancel. The types/amounts of such insurance shall be not less than the following:

(a) **Liability Insurance Coverage.** Contractor shall maintain business liability insurance in the minimum coverage amount of Three Hundred Eighty-seven Thousand Dollars (\$387,000.00) per person or One Million Ninety-three Thousand Dollars (\$1,093,000.00) per incident and shall be applicable to all premises and operations of this project. Contractor shall provide proof thereof to County prior to commencing work on the project.

(b) Contractor will secure and maintain during the term of this Agreement Worker's Compensation Insurance Coverage as required by the State of Colorado for all persons employed on this project and shall provide proof thereof to County prior to commencing work on the project.

The policy required by paragraph (a) above shall be endorsed to include County and the OCR and officers and employees thereof, as additional insureds. Every policy required above shall be primary insurance, and any insurance carried by County, its officers, or its employees, or carried by or provided through any insurance pool of County, shall be excess and not contributory insurance to that provided by Contractor. No additional insured endorsement to any policy shall contain any exclusion for bodily injury or property damage arising from completed operations. The Contractor shall be solely responsible for any deductible losses under any policy required above.

ARTICLE 16. INDEMNITY:

16.1 To the fullest extent permitted by law, the Contractor shall indemnify and hold harmless the OCR, the County and its respective officers, agents and employees, insurers, and self-insurance pool from and against any and all liability, loss, damage, expense, fine or penalty, including, but not limited to, attorney's fees, in connection with the performance of this Agreement or by conditions created thereby. Contractor shall further indemnify and hold harmless County against any and all claims or actions based upon or arising out of damage, injury or death to persons or property caused by or sustained in connection with the performance of this Agreement or by conditions created thereby or based upon any violation of any State or Federal statute, ordinance or regulation and the defense of any such claims or actions, including, but not limited to, reasonable attorney's fees, expenses, damages, fines or penalties.

16.2 Contractor agrees to investigate, handle, respond to, and to provide defense for and defend against, any such liability, claims or demands at the sole expense of the Contractor, or at the option of the County, agrees to pay the County or reimburse the County for defense costs incurred by the County in connection with, any such liability, claims or demands. In carrying out any of the provisions of this Contract or in exercising any power or authority thereby, there shall be no personal liability of the OCR or the County or officials, attorneys, employees and agents thereof.

16.3 Contractor also agrees to bear all other costs and expenses related thereto, including court costs and attorney fees, whether any such liability, claims or demands alleged are groundless, false or fraudulent. The obligation of these provisions shall not extend to any injury, loss or damage which is caused by the act, omission or other fault of the County.

16.4 Contractor also indemnifies County against all liability and loss in connection with and shall assume full responsibility for payment of all Federal, State or local taxes or contributions imposed or required under unemployment insurance, Social Security and income tax laws or Workmen's Compensation with respect to Contractor's employees engaged in the performance of this Agreement.

ARTICLE 17. ACCEPTANCE OF THE WORK:

17.1 The Contractor shall correct any Work that fails to conform to the requirements of the Contract Documents where such failure to conform appears during the progress of the Work, and shall remedy any defects due to faulty materials, equipment or workmanship which appear within a period of one year from the date of final settlement of the Contract or within such longer period of time as may be prescribed by law or by the terms of any applicable special guarantee required by the Contract Documents. The provisions of this paragraph apply to Work done by Subcontractors as well as to Work done by direct employees of the Contractor, and are in addition to any other remedies or warranties provided by law.

17.2 No act of the County or the OCR, either in superintending or directing the Work, or any extension of time for the completion of the Work, shall be regarded as an acceptance of such Work or any part thereof, or of materials used therein, either wholly or in part. Acceptance shall be evidenced only by the final certificate of the County. Before any final certificate shall issue, Contractor shall execute an affidavit on the certificate that it accepts the same in full payment and settlement of all claims on account of Work done and materials furnished under this Contract, and that all claims for materials provided or labor performed have been paid or set aside in full. No waiver of any breach of this Contract by the County or anyone acting on County's behalf shall be held as a waiver of any other subsequent breach thereof.

17.3 Contractor agrees to guarantee all Work under this Contract for a period of one year from the date of final settlement by the County. If any unsatisfactory condition or damage develops within the time of this guaranty due to materials or workmanship that are defective, inferior, or not in accordance with the Contract, as reasonably determined by the County or the OCR, then the Contractor shall, when notified by the County or OCR, immediately place such guaranteed Work in a condition satisfactory to the County or OCR. Should Contractor fail to proceed promptly (i.e., within 7 business days) in accordance with this paragraph, County may have such work performed at the expense of Contractor. This one-year guarantee does not apply to special warranties given by the manufacturers for materials provided for the project.

ARTICLE 18. VALID FEES AND CHARGES: No charges or fees will be considered as an obligation of County which are not specifically included in the Contract Documents.

ARTICLE 19. NONDISCRIMINATION: In connection with the performance of work under this Agreement, Contractor agrees not to refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, creed, sex, color, national origin, or ancestry, and further agrees to insert the foregoing provision in all contracts hereunder.

ARTICLE 20. CHANGES IN WORK: County may, as the need arises, order changes in the Work through additions, deletions, or modifications without invalidating the contract. Compensation and time of completion affected by the change will be adjusted at the time of ordering such change and reduced to writing and signed by the parties and shall become a part of the Contract Documents, subject to Article 6 above.

ARTICLE 21. ADDITIONAL INSTRUCTIONS: Additional drawings or instructions may be issued by County during the progress of the Work to clarify work to be done.

ARTICLE 22. DISCREPANCIES: Any discrepancies in the Contract Documents shall be called to the attention of the OCA by Contractor before proceeding with the Work.

ARTICLE 23. RECORDS. Contractor agrees and promises to keep and maintain reasonable records of activities performed under this contract for a period of seven years from the date of final settlement. Contractor agrees to permit access to Contractor's records as may be necessary for analysis purposes in determining compliance with the terms of this Agreement.

ARTICLE 24. TERMINATION BY THE CONTRACTOR: If the County fails to issue a payment for a period of thirty days after receipt of a request for payment from the Contractor, the Contractor may, upon fourteen days' written notice to the County (via the OCA), terminate the Contract, provided however, that County shall first have an opportunity to remit such payment within the fourteen-day period following written notice, subject to Article 11 above.

In the event County does not make payment within the fourteen-day period stated above, such cancellation will be treated in accordance with Article 26 below.

ARTICLE 25. DEFAULT AND TERMINATION: If Contractor fails to perform in accordance with the terms of this Agreement, County shall give Contractor notice of such default, including a description of the default. If Contractor fails to cure the default within 72 hours after the notice (time being of the essence), County, without terminating this Agreement or Contractor's obligation, may remove Contractor from the job and perform the contract work itself or have it performed by others. If the unpaid balance of the Contract sum set forth in Article 6 above exceeds the costs of finishing the Work, such excess shall be paid to the Contractor. If such costs exceed the unpaid balance of the Contract sum set forth in Article 6 above, the Contractor shall pay the difference to the County. This obligation for payment shall survive termination of the Contract.

ARTICLE 26: TERMINATION FOR CONVENIENCE: Notwithstanding any other provision of this Agreement to the contrary, County may, upon written notice to Contractor, terminate this Agreement for County's convenience, in which event County shall be liable for only the reasonable costs of Contractor's work completed to the date of termination in conformity with this Agreement plus 15% of such costs for overhead and profit. There shall be deducted from such sum the amount of any payments made to Contractor prior to the date of termination. Contractor acknowledges and agrees that it shall not be entitled to any claim for additional compensation and/or damages in the event of such termination and payment.

ARTICLE 27. SUBCONTRACTS:

27.1 A Subcontractor is a person or entity who has a contract with the Contractor to perform any of the Work at the project site.

27.2 Unless otherwise specified in the Contract Documents, at the time when requested by County, Contractor shall submit in writing to County, for approval by County, the names of the subcontractors proposed for the work. Subcontractors may not be changed except at the request or with the approval of County. Contractor is responsible to County for acts and omissions of its subcontractors, as it is responsible for the acts and omissions of its employees. The Contract Documents shall not be construed as creating any contractual relation between any subcontractors and County. Contractor shall bind every subcontractor by the terms of the Contract Documents. In the event Contractor uses subcontractors, Contractor shall provide proof of liability insurance coverage for said subcontractors to County prior to commencing work on this project.

27.3 If Contractor has any employees or subcontractors, Contractor shall comply with the provisions of Section 8-17.5-101, C.R.S., *et seq.*, and this contract.

The Contractor shall not:

- A. Knowingly employ or contract with an illegal alien to perform work under the public contract for services; or
- B. 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 the public contract for services.

The Contractor has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services through participation in either the E-Verify Program or the Colorado Department of Labor and Employment Program.

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 applicants while the public contract for services is being performed.

If the Contractor obtains actual knowledge that a subcontractor performing work under the public contract for services knowingly employs or contracts with an illegal alien, the Contractor shall be required to:

- A. Notify the subcontractor and the contracting state agency or political subdivision within three days that the Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien;
- B. Terminate the subcontract with the subcontractor if within three days of receiving the required notice the subcontractor does not stop employing or contracting with the illegal alien; except that the Contractor shall not terminate the contract with the subcontractor if the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

The Contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to Section 8-17.5-102 (5), C.R.S.

If a Contractor violates a provision of the public contract for services required pursuant to Section 8-17.5-102 (2), the County may terminate the contract for a breach of the contract, and if terminated, the Contractor shall be liable for actual and consequential damages to the County.

The County will notify the Office of the Secretary of State if the Contractor violates a provision of a public contract for services required pursuant to Section 8-17.5-102 (2) and the County terminates the contract for such breach. (See Section 8-17.5-102 (4), C.R.S.)

27.4 In the event Contractor opts to use a subcontractor or subcontractors, the Contractor agrees to provide proof of insurance for the subcontractor or subcontractors prior to said subcontractor or subcontractors beginning Work on this project, and said coverage shall be in the minimum amounts listed in Article 15 above.

27.5 The Contractor shall comply with the provisions of C.R.S. 24-91-103 as concerns payment to any and all subcontractors, suppliers, sub-subcontractors, laborers and any other persons who provide goods, material, labor or equipment for the project.

ARTICLE 28. ASSIGNMENT: This Agreement shall be non-assignable by the Contractor without having received the prior written consent of the County.

ARTICLE 29. GOVERNING LAW: This Agreement shall be construed and interpreted in accordance with the laws of the State of Colorado. The parties hereto submit to jurisdiction of the Courts of Otero County, Colorado, and waive any right to object to any proceedings being brought in those courts.

ARTICLE 30. ENTIRE AGREEMENT: This Agreement contains the final and entire agreement between the parties and is intended to be an integration of all prior understandings. The parties shall not be bound by terms, conditions, statements or representations not contained herein.

ARTICLE 31. MODIFICATION: No change or modification of this Agreement shall be valid unless the same is in writing and signed by the parties hereto.

ARTICLE 32. REMEDIES AND ATTORNEY'S FEES: In addition to any remedies provided in this Agreement, should either party breach this Agreement or fail to properly perform under the terms of this Agreement, the non-breaching party shall have available to it any and all available legal or equitable remedies as may be allowed by law. In the event the non-breaching party is obligated to incur attorney's fees as a result of the enforcement of this Agreement or any provision herein, the breaching party shall be obligated to reimburse the non-breaching party those attorney's fees and other costs incurred as a result of the enforcement of this Agreement.

ARTICLE 33. SPECIAL/MISCELLANEOUS PROVISIONS:

33.1 Each party hereto agrees to cooperate in all reasonable respects necessary to consummate the transactions contemplated by this Contract, and from time to time to do such acts and things and execute and deliver such documents and instruments as may reasonably be required in order to implement the transactions contemplated hereby. Each party hereto agrees to cooperate in the execution of subsequent Addenda, or to re-execute an amended version of this Agreement, in the event that a party discovers: 1) a clerical

error; or 2) a misinterpretation of the law; or 3) an error as to form when such error(s) obviate or hinder the consideration, performance, or enforcement of this Agreement.

33.2 The rights and remedies available under this contract shall be in addition to any rights and remedies allowed by law.

33.3 No failure to enforce any provision of the contract on account of any breach thereof, shall be considered as a waiver of any right to enforce provisions of this contract concerning any subsequent or continuing breach.

33.4 If any provision of this Agreement is declared by any court of competent jurisdiction to be invalid for any reason, such invalidity shall not affect the remaining provisions. On the contrary, such remaining provisions shall be fully severable, and this Agreement shall be construed and enforced as if such invalid provisions never had been inserted in this Agreement.

33.5 The section headings contained in this Contract are for reference purposes only and shall not affect the meaning or interpretation of this Contract.

33.6 The Contractor shall not refer to this Contract or the County of Otero in any advertising or promotions in such a manner as to state or imply that the services provided are endorsed or preferred by the County of Otero, its Departments or employees. Any use of the name or logo of the County of Otero in advertising or promotions must be approved in writing by the County of Otero prior to such use.

33.7 The terms of this Agreement shall remain in full force and effect following final payment.

33.8 The parties hereto understand and agree that County is relying on, and does not waive or intend to waive, by any provision of this contract, any rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to County, its officers, or its employees.

33.9 Contractor shall notify XXXXXXXX, Otero County Administrator, (719-383-3000) of its startup date as soon as practical, but startup must occur no later than ten calendar days after receipt of the Notice to Proceed.

33.10 This Agreement shall be effective upon signature of both parties' authorized officials, and by so signing those officials represent that they do have the authority to legally bind their respective entities.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year first above written.

ATTEST:

BOARD OF COUNTY COMMISSIONERS
OF OTERO COUNTY, STATE OF
COLORADO

By _____
County Clerk

By _____
Chairman

CONTRACTOR

By: _____
XXXXXXXXXXXXXX

STATE OF COLORADO)
) ss.
County of Otero)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by XXXXXXXXXXXX, Chairman of the Board of County Commissioners of Otero County, State of Colorado, and XXXXXXXXXXXX, County Clerk.

WITNESS my hand and official seal.

My commission expires: _____

Notary Public

STATE OF COLORADO)
) ss.
County of)

The foregoing instrument was acknowledged before me this ____ day of _____, 2022, by XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

WITNESS my hand and official seal.

My commission expires: _____

Notary Public

SAMPLE