



April 26, 2021

Martin Lind
VIMA Partners, LLC
1625 Pelican Lakes Point, Suite 201
Windsor, CO 80550

Re: VIMA Partners, LLC; Raindance Reservoir #2; File No. M-2021-020; Second Incomplete Submittal of Special 111 Construction Materials Reclamation Permit Application Package

Mr. Lind:

On April 20, 2021, the Division of Reclamation, Mining and Safety (Division/DRMS) received the 111 Special Operations Reclamation Permit Application package incompleteness response for the Raindance Reservoir #2, File No. M-2021-020. Review of the information received determined the following items must be received before the Division can consider the application as being submitted and technical review can begin:

6.3.9 Exhibit I - Proof of Filing with County Clerk

1. Please provide an affidavit or receipt indicating the date on which the revised application documents were placed with the Weld County Clerk in response to this letter.

Revised documents have been recorded with the County. Please see attached receipt.

6.3.11 Exhibit K - Terms of Governmental Contract

2. An operator of a construction material extraction operation may apply for a Special 111 Construction Materials Reclamation Permit if such operation is conducted solely to obtain materials for highway, road, utility, or similar construction purposed under a federal, state, county, city, town or special district contract that requires work to commence within a specified short period of time and will affect no more than thirty acres of land.

In response to Item #16 of the Division's incompleteness letter dated March 29, 2021, the Applicant provided a signed contract between VIMA Partners, LLC and Kraemer North America.

The Applicant must provide a copy of a signed governmental contract or other documentation verifying the necessity of this Special 111 Operation Permit. Please provide documentation Kraemer North America is a contractor or subcontractor for the approved CDOT project where the borrow material from the Raindance Reservoir #2 site will be utilized for road construction.

The application will not be considered filed until the information listed above is received and found sufficient to begin our review. A decision date will be established 15 days from the date of receipt of all of the requested information.

Please see attached contract between Kraemer and CDOT and SEMA and CDOT.



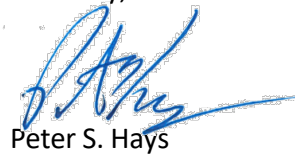
You have sixty (60) days from the date of the first incompleteness letter to submit all necessary documents the Office needs for an application to be considered filed. If, at the end of the sixty day period, the application has not been determined to be filed with the Office, the Office shall deny the application and terminate the application file.

The response due date is May 28, 2021.

This letter shall not be construed to mean there are no other technical deficiencies in the application. The Division will review your application to determine whether it is adequate to meet the requirements of the Act after submittal of all required items.

If you have any questions, please contact me at peter.hays@state.co.us or (303) 866-3567 ext. 8124.

Sincerely,



Peter S. Hays
Environmental Protection Specialist

Ec: Jared Ebert, DRMS



EXPRESS Lanes | NORTH I-25

Johnstown to Fort Collins

Colorado Department of Transportation
&
Kraemer/IHC Joint Venture

CONTRACT

*North I-25: Johnstown to Fort Collins
Design-Build Project*

CONTRACT # 18-HA4-ZG-00082

PO: 461001049

February 13, 2018

PROJECT NO.: IM 0253-255
SUBACCOUNT NO.: 21506

THIS Design/Build Contract is entered into this 8 day of March, 2018, by and between the State of Colorado for the use and benefit of the COLORADO DEPARTMENT OF TRANSPORTATION hereinafter referred to as the “State” or CDOT, and CORPORATION, ADDRESS, a STATE Corporation Licensed to do business in Colorado (“Contractor”), with reference to the definitions contained in Exhibit A hereto and the following facts:

RECITALS

1. The Project generally consists of adding tolled express lanes northbound and southbound from SH 402 to SH 14 Full reconstruction and/or rehabilitation of the pavement.
2. Widening existing structures throughout the corridor; replacing the bridges over the Cache la Poudre River and the Union Pacific Railroad (UPRR). New at-grade Transit Center (Park n Ride) north of US-34 at Kendall Parkway with the addition of bus slip ramps (northbound and southbound) for access.
3. Installing tolling/Intelligent Transportation Systems (ITS) elements.
4. Drainage and water quality treatment features.
5. Environmental mitigation as required in the NEPA Approval Documents (April 2017)

NOW, THEREFORE, in consideration of the sums to be paid to the Contractor by CDOT, the foregoing premises and the covenants and agreements set forth herein, the parties hereto agree as follows.

1.0 CONTRACT COMPONENTS; INTERPRETATION OF CONTRACT DOCUMENTS

1.1 Certain Definitions

Exhibit A hereto contains the meaning of various terms used in the Contract Documents.

1.2 Contract Documents

The term "Contract Documents" shall mean the documents listed in Section 1.3, including all exhibits thereto.

1.3 Order of Precedence

Each of the Contract Documents is an essential part of the Contract, and a requirement occurring in one is as binding as though occurring in all. The Contract Documents are intended to be complementary and to describe and provide for a complete Contract. In the event of any conflict among the Contract Documents, the order of precedence shall be as set forth below:

1. Book 1, as executed by CDOT and the Contractor, including all exhibits (Design/Build Contract).
2. Book 2, Section 1, including Exhibits A,B,C, D, E, and F (Technical Requirements).
3. Book 2, remaining sections, including all Appendices, Exhibits (Technical Requirements), and Approved ATCs (including any Conditions for Acceptance as noted in the ATC approval letter from CDOT) that were included in the Proposal Documents
4. Book 3 (Applicable Standards, Data and Reports)
5. Book 4 (Contract Drawings)
6. The Proposal Documents, to the extent that they meet or exceed the requirements of the other Contract Documents. In other words, if the Proposal Documents include statements that can reasonably be interpreted as offers to provide higher quality items than otherwise required by the Contract Documents, or to perform services in addition to those otherwise required or otherwise contain terms which are more advantageous to CDOT than the requirements of the other Contract Documents, the Contractor's obligations hereunder shall include compliance with all such statements, offers, and terms. In the event that a Best and Final Offer (BAFO) process (as defined in the Instructions to Proposers and Notice to Bidders) is utilized by CDOT as part of the Project procurement, the BAFO Proposal Documents shall hold precedence over the Contractor's originally submitted Proposal Documents, unless otherwise determined by CDOT. The Contractor's obligations shall include all commitments from the original Proposal except as expressly modified by the BAFO Proposal Documents.

Notwithstanding the foregoing, in the event of conflicting requirements involving any requirement within a Book or a reference contained within a Book of the Contract Documents, CDOT shall have the right to determine, in its sole discretion, which requirement(s) apply. The Contractor shall request CDOT's determination respecting the order of precedence among conflicting provisions promptly upon becoming aware of any such conflict.

1.4 Reference Documents

The documents included in the Reference Documents are for information only and are not Contract Documents to be relied upon by the Contractor except to the extent specifically provided by the Contract Documents (excluding the Proposal Documents). **Cross-references in the Contract Documents to the Reference Documents do not incorporate the Reference Documents or portions of the Reference Documents as Contract Documents or requirements, except to the extent that specific Reference Documents have been specifically incorporated into the Contract Documents (excluding the Proposal Documents).**

1.5 Interpretations

In the Contract Documents, where appropriate:

- The singular includes the plural and vice versa;
- References to statutes or regulations include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation referred to;
- Words such as “herein,” “hereof,” and “hereunder” refer to the entire document in which they are contained and not to any particular provision or section;
- Words not otherwise defined that have well-known technical or construction industry meanings are used in accordance with such recognized meanings;
- References to Persons include their respective permitted successors and assigns and, in the case of Governmental Persons, Persons succeeding to their respective functions and capacities; and
- Words of any gender used herein include each other gender where appropriate.

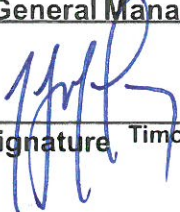
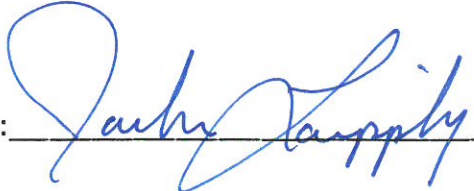
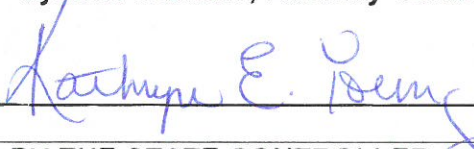
Unless otherwise specified, lists contained in the Contract Documents defining the Project or the Work shall not be deemed all-inclusive. The Contractor acknowledges and agrees that it had the opportunity and obligation, prior to submission of its Proposal, to review the Contract Documents and to bring to CDOT’s attention any conflicts or ambiguities contained therein. The Contractor further acknowledges and agrees that it has independently reviewed the Contract Documents with legal counsel, and that it has the requisite experience and sophistication to understand, interpret and agree to the particular language of the Contract Documents. Accordingly, in the event of an ambiguity in or dispute regarding the interpretation of the Contract Documents, the Contract Documents shall not be construed against the Person that prepared them. CDOT’s final answers to the questions posed during the proposal process for the Contract shall in no event be deemed part of the Contract Documents and shall not be relevant in interpreting the Contract Documents except as they may clarify provisions otherwise considered ambiguous.

1.6 Referenced Standards, Codes, or Criteria

Except as otherwise specified in the Contract Documents, or otherwise directed by CDOT, references to standards, codes, or criteria, or to the latest version of standards, codes, or criteria, shall mean the latest version in effect on the Proposal Due Date.

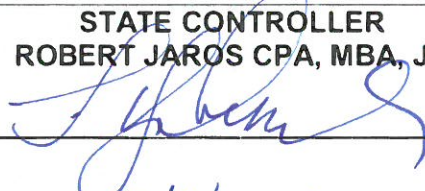
THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

* Persons signing for Contractor hereby swear and affirm that they are authorized to act on Contractor's behalf and acknowledge that the State is relying on their representations to that effect and accept personal responsibility for any and all damages the State may incur for any errors in such representation.

CONTRACTOR: Name: <u>Kraemer/IHC Joint Venture</u> CDOT Vendor # <u>1687</u> Title: <u>General Manager</u>  *Signature <u>Timothy J. Maloney</u> CORPORATIONS (A Corporate Seal or Attestation is Required) Attest (Seal) By: _____ _____ (Corporate Secretary or Equivalent)	STATE OF COLORADO John Hickenlooper, GOVERNOR By:  For The Executive Director Colorado Department of Transportation LEGAL REVIEW: Cynthia Coffman, Attorney General By: 
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ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State contracts. This contract is not valid until signed and dated below by the State Controller or delegate. Contractor is not authorized to begin performance until such time. If Contractor begins performing prior thereto, the State of Colorado is not obligated to pay Contractor for such performance or for any goods and/or services provided hereunder.

STATE CONTROLLER ROBERT JAROS CPA, MBA, JD By:  Date: <u>3/8/2018</u>



FOSTER GRAHAM MILSTEIN & CALISHER, LLP
ATTORNEYS AT LAW

360 South Garfield Street
6th Floor Denver, CO 80209
T 303-333-9810 F 303-333-9786

DENVER – BOULDER
fostergraham.com

February 21, 2018

Via First Class Mail and E-mail to Colorado Department of Transportation

Scott Rees, Project Director
Colorado Department of Transportation - Region 4
10601 West 10th Street
Greeley, Colorado 80634

Re: Request for Proposals (“RFP”) for the I-25 North Express Lanes, Johnstown to Fort Collins, Design/Build Project (the “Project”), Contract No. 18 HA4-ZG_00082 (“Contract”); Kraemer-IHC Joint Venture (the “Proposer”)

Dear Mr. Rees,

Foster Graham Milstein & Calisher (“FGMC” or “the Firm”) represents the Kraemer-IHC Joint Venture (the “Proposer”) regarding the subject Contract. This legal opinion letter is provided to you pursuant to Section 7.0 of the Instructions to Proposers contained in the RFP for the Contract.

In giving this legal opinion, the Firm has examined (1) the Proposer’s Joint Venture Agreement, dated January 22, 2018 (the “JV Agreement”); (2) the Kraemer-IHC Joint Venture Statement of Trade Name of a Non-Reporting Entity, dated June 1, 2017; (3) the Kraemer North America, LLC Amended and Restated Limited Liability Company Agreement, dated November 12, 2014; (4) the Kraemer North America, LLC Statement of Foreign Entity Authority, dated October 14, 2014; (5) the Interstate Highway Construction, Inc. Certificate of Incorporation, issued by the State of Michigan on April 11, 1956; (6) the Interstate Highway Construction, Inc. Application for Certificate of Authority of a Foreign Corporation, dated April 10, 1986; (7) the Kraemer-IHC Joint Venture Certificate of Fact of Trade Name, dated February 20, 2018; (8) the Kraemer North America, LLC Certificate of Good Standing, dated February 20, 2018; (9) the Interstate Highway Construction, Inc. Certificate of Good Standing, dated February 20, 2018; (10) the Proposer’s Statement of Qualifications for the Project, dated December 19, 2016; and (11) the Proposer’s Form E – Debarment and Suspension Certification, dated July 28, 2017. We have also considered such questions of law and we have examined such documents and instruments and certificates of public officials and individuals who participated in the procurement process as we have deemed necessary or advisable.

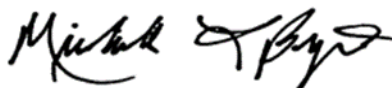
In providing this opinion we have assumed that all items submitted to us or reviewed by us are genuine, accurate and complete, and if not originals, are true and correct copies of originals, and that all signatures on such items are genuine.

Subject to the foregoing, we are of the opinion that:

1. the Proposer is a Joint Venture, which was formed on January 22, 2018, consisting of the following Joint Venture Members: Kraemer North America, LLC, a Foreign Limited Liability Company formed in the State of Delaware on October 6, 2014; and Interstate Highway Construction, Inc., a Foreign Corporation formed in the State of Michigan on February 8, 1956, and that pursuant to the terms of the JV Agreement, the Proposer has the power to own its properties and assets, to carry on its business, to enter into the Contract and to perform its obligations under the Contract.
2. the Proposer has complied with all applicable requirements of, and is in good standing with the Colorado Secretary of State's offices; and therefore is qualified to do business in the State of Colorado as a General Partnership.
3. the Contract has been duly authorized by all necessary action on the part of the Proposer and the Contract has been duly executed and delivered by the Proposer.
4. the Contract constitutes a legal, valid and binding obligation of the Proposer enforceable against the Proposer and the Joint Venture Members in accordance with its terms.
5. all required approvals have been obtained by the Proposer with respect to execution, delivery and performance of the Contract; and that the Contract does not conflict with any agreements to which the Proposer or its Joint Venture Members are a party or with any orders, judgments or decrees by which the Proposer or its Joint Venture Members are bound.
6. execution, delivery and performance of all obligations by the Proposer under the Contract does not conflict with, and is authorized by, the JV Agreement.
7. execution and delivery by the Proposer of the Contract do not, and the Proposer's performance of its obligations under the Contract will not, violate any current statute, rule or regulation applicable to the Proposer or to transactions of the type contemplated by the Contract.

If you have any questions regarding this letter or the legal opinions expressed herein, please contact the undersigned at 303-333-9810.

Sincerely,



Michelle L. Berger
Partner
Foster Graham Milstein & Calisher
Colorado Attorney Registration No. 21099

As requested here is our portion of contract that states we are working for CDOT. The material we will be getting from you will come to the project listed in Item #3. This information is for you to provide to the state to acquire a 111 permit. Let me know if you need anything else.

PO #: 461001565
Routing #: 21-HA4-ZG-00065

Agency or Department Name: Department of Transportation Department or Agency Number: HA4 Contract Routing Number: 21-HA4-ZG-00065
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CM/GC CONSTRUCTION PROJECT CONTRACT

THIS CONTRACT, made this day of 28 day of January, 2021, by and between the State of Colorado for the use and benefit of the Department of Transportation, hereinafter referred to as “the State” or “the Department” and RLW/SEMA, A Joint Venture, L.P., hereinafter referred to as “the Contractor”.

RECITALS

- 1. Authority exists in the Law and Funds have been budgeted, appropriated and otherwise made available and a sufficient uncommitted balance thereof remains available for encumbering and subsequent payment of this Contract under Encumbrance Number 461001565 in Fund Number 400, Funds Center R4220-010, Functional Area 3300, GL Account 4231100011.
- 2. Required approval, clearance and coordination have been accomplished from and with appropriate agencies.
- 3. Pursuant to section 24-93-106, CRS, the State issued a Request for Proposals for a public project and the Contractor and the State have negotiated the terms for construction costs in accordance with State law for Project Number NHPP 0253-074 (23018).

Tyson L. Geist | Project Manager
O 303.627.2600 | C 303.549.0430
tgeist@semaconstruction.com
7353 S. Eagle St., Centennial, CO 80112



NOTICE OF FILING APPLICATION
FOR COLORADO MINED LAND RECLAMATION PERMIT
FOR SPECIAL 111 OPERATION

NOTICE TO THE BOARD OF COUNTY COMMISSIONERS
Weld COUNTY

VIMA Partners, LLC (the “Applicant/Operator”) has applied for a Special 111 reclamation permit from the Colorado Mined Land Reclamation Board (the “Board”) to conduct the extraction of construction materials in Weld County. The attached information is being provided to notify you of the location and nature of the proposed operation. The entire application is on file with the Division of Reclamation, Mining, and Safety (the “Division”) and the local county clerk or recorder.

The Applicant/Operator proposes to reclaim the affected land to Reservoir use. Pursuant to Section 34-32.5-116(4)(m), C.R.S., the Board may confer with the local Board of County Commissioners before approving of the post-mining land use. Accordingly, the Board would appreciate your comments on the proposed operation. Please note that, in order to preserve your right to a hearing before the Board on this application, you must submit written comments on the application within five (5) working days after the application was filed with the Division.

If you would like to discuss the proposed post-mining land use, or any other issue regarding this application, please contact the Division of Reclamation, Mining, and Safety, 1313 Sherman St., Room 215, Denver, Colorado 80203, (303) 866-3567.

NOTE TO APPLICANT/OPERATOR: You **must** attach a copy of the application form to this notice. If this is a notice of a change to a previously filed application you must either attach a copy of the changes, or attach a complete and accurate description of the changes.

STATE OF
COLORADO

Hays - DNR, Peter <peter.hays@state.co.us>

Raindance Reservoir #2 111 Application Incompleteness Letter

Derek Patterson <dpatterson@tstinc.com>

Thu, Apr 29, 2021 at 3:35 PM

To: "Hays - DNR, Peter" <peter.hays@state.co.us>

Cc: Cody Wooldridge <cwooldridge@watervalley.com>, "mlind@watervalley.com" <mlind@watervalley.com>, John Meyers <jmeyers@tstinc.com>, Garrett Scallon <gscallon@watervalley.com>, "Ebert - DNR, Jared" <jared.ebert@state.co.us>

Peter,

Please see attached. Please let us know if you need anything else.

Thank you,

Derek Patterson, P.E.**TST, Inc. Consulting Engineers**

748 Whalers Way, Suite 200

Fort Collins, CO 80525

Phone: (970) 226-0557 Ext. 160

Direct: (970) 488-2160

Fax: (970) 226-0204

Cell: (970) 690-5392

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**Raindance #2 111 Second Incompleteness Letter 20210426 RESPONSES.pdf**

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