



National Association of Surety Bond Producers
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BY ELECTRONIC TRANSMISSION (george.latour@ditescoservices.com)

George Latour, Project Manager
City of Evans
1100 37th Street
Evans, CO 80620

Re: 115 Percent Performance Bond for Riverside Park Flood Restoration Project

Dear Mr. Latour:

I am contacting you on behalf of the National Association of Surety Bond Producers (NASBP), a national trade association of agencies employing surety bond producers, including licensed resident and nonresident producers placing bid, performance, and payment bonds on both public and private projects in the State of Colorado and all other jurisdictions. NASBP was recently forwarded and has reviewed a copy of the Project Manual for the City of Evans' Riverside Park Flood Restoration Project (Project).

We note that the Project Manual includes in the Contracting Procedures at section 1.2.6, Bid Security, a requirement for a performance bond (Bond) in the amount of 115 percent of the contract price. NASBP congratulates the owner for recognizing and designating performance and payment bonds, which are the very best risk management method to ensure prequalified contractors who are capable of performing the contract and paying their subcontractors and suppliers.

NASBP, however, has significant concerns over the requirement for a 115 percent performance bond. It is customary and standard in the construction and surety industries for performance bonds to be 100 percent of the contract amount, not 115 percent. The performance bond guarantees 100 percent of the performance of the contractor performing the obligation under the contract. The owner is guaranteed and the contract is covered for 100 percent of the contract performance. Accordingly, a 115 percent bond obligation exceeds the obligation of the contractor. Because the surety's obligation is co-extensive with that of the contractor, any surety that issued bonds for this Project would have liability at 115 percent of the contract amount. The performance bond is not for the purpose of acting as excess insurance; it guarantees the contractor's performance of the contract. It is thus logical for the bond amount to be 100 percent of the contract amount.

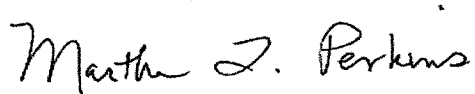
A 115 percent bond alternative will likely restrict the availability for bonds on the Project. It is highly unlikely that any surety will be comfortable issuing a performance bond at 115

percent of the contract amount, even for qualified and capable contractors. Significantly, this excessive bond amount will eliminate from the bidder pool many contractors, since most sureties will be highly reticent to write an obligation that exceeds the scope of the contractor's obligation. With less competition and likely a smaller pool of potential bidders, the owner of the Project, the City of Evans, may have to shoulder unnecessary additional costs.

NASBP commends the owner for its insight into recognizing and implementing performance and payment bonds as security on the Project. NASBP respectfully requests that the owner consider changing the percentage of the performance bond to 100%, in the interest of robust competitive bidding and lower project cost.

Please let me know if you would like to discuss this matter. Thank you for your prompt consideration of and attention to NASBP's concerns.

Yours sincerely,

A handwritten signature in cursive script that reads "Martha L. Perkins".

Martha L. Perkins
General Counsel