



**REGULAR CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS – CITY HALL
#1 CITY HALL PLACE**

**MONDAY, JANUARY 9, 2023
7:00 PM**

Individuals Requiring Special Accommodations Should Notify the City's ADA Coordinator at (719) 553-2295 by Noon on the Friday Preceding the Meeting.

A. CALL TO ORDER President Heather Graham

B. INVOCATION Member of City Council

C. PLEDGE OF ALLEGIANCE

D. ROLL CALL

E. ELECTION OF 2023 OFFICERS

Election of President - Elected council member assumes presidency - Election of Vice-President - President appoints Executive Committee Chairperson

F. SPECIAL RECOGNITIONS

G. PUBLIC FORUM

H. COUNCIL MEMBER AND MAYOR COMMENTARY

I. REVIEW AND APPROVAL OF AGENDA

Review Agenda page by page. Motion to Amend the Agenda or Motion to Approve the Agenda as distributed.

J. READING AND APPROVAL OF MINUTES

Motion to dispense with the reading and approve the Minutes of the Regular Meeting dated December 27, 2022, as distributed.

J1 City Council Minutes for December 27, 2022

K. CONSENT AGENDA

All items listed in this portion of the agenda are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Councilperson so requests; in which event, the item will be removed from the Consent Agenda and considered under the Regular Agenda. Unless otherwise indicated, titles are self-explanatory.

L. COMMUNICATIONS

M. RESOLUTIONS

- M1 A Resolution ratifying an emergency construction contract in the amount of \$3,964.40 with Parker Excavating, Inc. for Emergency Sanitary sewer point repair at 616 E D St, Project No. 20-059 (WWAN03) and approving the purchasing agent's execution of same
- M2 A Resolution ratifying an emergency construction contract in the amount of \$33,252.95 with Parker Excavating, Inc. for Emergency Sanitary sewer point repair at 125 Riverwalk Pl, Project No. 20-059 (WWAN03) and approving the purchasing agent's execution of same
- M3 A Resolution approving and accepting a Colorado Department of Law Peace Officer Standards and Training (POST) grant, July 1, 2022, through June 30, 2023, establishing project number PS2215, transferring funds not to exceed the amount of \$4000 from Projects-to-be-Determined in the Public Safety Leadership Development Grant Fund
- M4 A Resolution authorizing the issuance of a revocable permit to Fuel and Iron Residential, LLC for the use of the S. Main Street right-of-way within the City of Pueblo to construct, operate, and maintain a vehicle parking lot
- M5 A Resolution approving revisions to the Standard Construction Specifications and Standard Details for the City of Pueblo
- M6 A Resolution accepting an Easement for public sanitary sewer utilities from Clark Spring Water Company with respect to Parcel 1501142020
- M7 A Resolution fixing an alternate day for the Regular City Council Meeting currently scheduled for the second Monday in October 2023 and the fourth Monday in December 2023
- M8 A Resolution designating public places for the posting of notice of meetings for the Pueblo City Council for the year 2023
- M9 A Resolution designating a public place for the posting of notice of meetings for all boards, commissions, and committees of the City of Pueblo for the year 2023
- M10 A Resolution confirming the appointment by the Mayor of Justin Bowen to the Sangre de Cristo Arts & Conference Center Board of Trustees
- M11 A Resolution confirming the appointment by the Mayor of Tura Cowan to the Pueblo ADA Advisory Committee
- M12 A Resolution confirming the appointment by the Mayor of Benjamin Caldera to the Pueblo Human Relations Commission

N. ORDINANCES – FIRST PRESENTATION

- N1 An Ordinance establishing Project PL2203 for Colorado Smelter Revitalization Project Support, and budgeting and appropriating funds in the amount of \$22,000 to said project account.
- N2 An Ordinance establishing Project PL2101 for Safe Routes to School for Haaff Elementary School, approving an intergovernmental agreement between the City of Pueblo, a Colorado Municipal Corporation, and the State of Colorado, acting by and through the Colorado Department of Transportation, Project: SAR M086-094 (24468), budgeting and appropriating funds in the amount of \$279,180 and authorizing the Mayor to execute same
- N3 An Ordinance approving the fourth amendment to the Annexation Agreement for the area commonly known and described as north of Red Creek Springs Road and east of the Goodnight Arroyo, as approved by Ordinance No. 7241

O. APPROVAL OF CONSENT AGENDA

I move to approve all Resolutions Set Forth in the Consent Agenda; Pass the Ordinances of the Consent Agenda, Setting the Public Hearings for January 23, 2023, and Order the Ordinances to be published BY TITLE.

P. REGULAR AGENDA

Q. RESOLUTIONS

- Q1 A Resolution authorizing payment from Project CI2113 - American Rescue Plan Act for the purchase of 718 W. 4th Street, Pueblo CO 81003, for purposes of providing an outdoor shelter for homeless individuals who were disproportionately impacted by the Covid-19 pandemic, as authorized by Section 603 of the American Rescue Plan Act and U.S. Treasury Final Rule 31 CFR 35.6
- Q2 A Resolution authorizing payment of Two Hundred Ninety Thousand Four Hundred Dollars (\$290,400) from Project CI2113 - American Rescue Plan Act to 171 local small businesses located in qualified census tracts in the City of Pueblo which were thereby disproportionately impacted by the COVID-19 Pandemic, as authorized by Section 603 of the American Rescue Plan Act and U.S. Treasury Final Rule 31 CFR 35.6
- Q3 A Resolution authorizing payment from the council contingencies account in the 2023 general fund budget to the Latino Chamber Development Foundation in the amount of \$2,000 to sponsor the 44th Annual Dinner on Saturday, February 11, 2023 at the Pueblo Convention Center
- Q4 A Resolution authorizing payment from the council contingencies account in the 2023 general fund budget to Mt. Carmel Veterans Service Center in the amount of \$2,500 to sponsor the Salute to Heroes Reception on Thursday, January 19, 2023 at 4 pm

R. ORDINANCES – FINAL PRESENTATION

- R1 An Ordinance approving and authorizing the Mayor to sign a Subrecipient Agreement between the City of Pueblo, a Colorado Municipal corporation and Pueblo County, a political subdivision of the State of Colorado, as fiscal agent of the Pueblo County House Bill 04-1451 Collaborative Management Program, as authorized by Section 603 of the American Rescue Plan Act and U.S. Treasury Final Rule 31 CFR 35.6 and authorizing the payment of twenty-five thousand dollars (\$25,000) from Project No. CI2113 - American Rescue Plan Act, for purposes thereof - *Introduced December 27, 2022 by Dennis Flores*
- R2 An Ordinance establishing Project PL2201, Westside Trail (Wildhorse Trail) Project, and approving an Intergovernmental Agreement (IGA) between the City of Pueblo, a Colorado Municipal Corporation, and the State of Colorado, acting by and through the Colorado Department of Transportation (CDOT), Project: MTF M086-098 (25192) in the amount of \$850,000, budgeting and appropriating funds in the amount of \$850,000 and authorizing the Mayor to execute same - *Introduced December 27, 2022 by Dennis Flores*
- R3 An Ordinance establishing Project PL2202, Lake Avenue and Orman Avenue Roundabout Project, and approving an Intergovernmental Agreement (IGA) between the City of Pueblo, a Colorado Municipal Corporation, and the State of Colorado, acting by and through the Colorado Department of Transportation (CDOT), Project: SHO M086-097 (25101) in the amount of \$1,350,000, transferring \$150,000 from CI2204 to PL2202, budgeting and appropriating funds in the amount of \$1,500,000 and authorizing the Mayor to execute same - *Introduced December 27, 2022 by Dennis Flores*
- R4 An Ordinance approving an Intergovernmental Agreement between the City of Pueblo, a Municipal Corporation, and the Pueblo Department of Public Health and Environment,

related to the establishment of Pueblo History and Art Walk and the installation of Community Wayfinding and Gateway Signs, and authorizing the Mayor to execute said agreement - *Introduced December 27, 2022 by Dennis Flores*

R5 An Ordinance approving an airport use and lease agreement between the City of Pueblo, a Municipal Corporation, and Southern Airways Express, LLC, and authorizing the Mayor to execute same - *Introduced December 27, 2022 by Dennis Flores*

R6 An Ordinance approving an airport community hangar lease agreement between the City of Pueblo, a Municipal Corporation, and Southern Airways Express, LLC, and authorizing the Mayor to execute same - *Introduced December 27, 2022 by Dennis Flores*

S. EMERGENCY ORDINANCES

S1 An Emergency Ordinance accepting the assignment of a contract to buy and sell real estate from Pueblo Rescue Mission, A Colorado nonprofit corporation, for purposes of purchasing 718 W. 4th Street, Pueblo, CO 81003 and authorizing the Mayor to execute an acceptance of said assignment

T. COUNCIL MEMBER CONFLICT OF INTEREST

Councilor Maestri may ask to be excused from the meeting due to a potential conflict of interest with agenda item number T-1.

T1 A Resolution awarding a construction contract in the amount of \$103,582.50 to Baha Construction, Inc., for Project No. 22-088, Concrete Improvements - City Park Pool Parking Lot, setting forth \$16,417.50 for contingencies, and authorizing the Purchasing Agent to execute same

U. ADJOURN



**REGULAR CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS – CITY HALL
#1 CITY HALL PLACE
TUESDAY, DECEMBER 27, 2022 - 7:00 PM
MINUTES**

A. CALL TO ORDER

B. INVOCATION

C. PLEDGE OF ALLEGIANCE

D. ROLL CALL

E. SPECIAL RECOGNITIONS

E1 PROCLAMATION: "WASTEWATER UTILITY APPRECIATION DAY" - DECEMBER 27, 2022; ANDRA AHRENS, DIRECTOR OF WASTEWATER

F. PUBLIC FORUM

Elvis Martinez - Colorado Law
Steve Villegas - Pueblo

G. COUNCIL MEMBER AND MAYOR COMMENTARY

Council members expressed comments regarding community-related issues and events/functions they attended.

H. REVIEW OF AGENDA

Mayor Gradisar requested to move M2 from the Consent Agenda to before Conflict of Interest.

I. APPROVAL OF AGENDA

Councilor Martinez, seconded by Councilor Martinez Ortega, moved to approve the agenda as distributed.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None. Motion Passed 7-0.

J. READING AND APPROVAL OF MINUTES

Councilor Martinez, seconded by Councilor Martinez Ortega, moved to dispense with the reading and approve the Minutes of the Regular Meeting dated **December 12, 2022** as distributed.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None. Motion Passed 7-0.

J1 CITY COUNCIL MINUTES FOR DECEMBER 12, 2022

K. CONSENT AGENDA

Deputy City Clerk Vincent Petkosek read the Consent Agenda into the record.

L. COMMUNICATIONS

L1 MINUTES OF THE PLANNING AND ZONING COMMISSION REGULAR MEETING NOVEMBER 9, 2022

M. RESOLUTIONS

M1 A RESOLUTION AWARDED A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$99,875.67 TO MERRIMAN LAND WORKS DBA FLAT & FANCY FOR PROJECT NO. 22-094, PEAKVIEW CONCRETE REPAIRS, SETTING FORTH \$15,000 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

This Resolution was assigned as 15096.

M3 A RESOLUTION AWARDED AN AGREEMENT FOR PROFESSIONAL SERVICE IN THE AMOUNT OF \$13,200 TO ALLISON REA TO COMPLETE WORK AS THE COMMUNITY GARDEN SUSTAINABILITY PROGRAM COORDINATOR TO ALLISON REA TO COMPLETE WORK AS THE COMMUNITY GARDEN SUSTAINABILITY PROGRAM COORDINATOR

This Resolution was assigned as 15097.

M4 A RESOLUTION AWARDED A PROFESSIONAL SERVICE CONTRACT IN THE AMOUNT OF \$50,050 TO NORTHEAST BUCKS AND COMPANY, DOING BUSINESS AS M&L ASSOCIATES, INC., A PENNSYLVANIA CORPORATION, FOR PROJECT NO. 22-097, TECHNICAL AND PROFESSIONAL SERVICES FOR THE DEVELOPMENT AND SUBMITTAL OF THE HOME-ARP ALLOCATION PLAN TO THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT, SETTING FORTH \$24,000 IN CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

This Resolution was assigned as 15098.

M5 A RESOLUTION EXTENDING THE TERM OF THE AMERICAN RESCUE PLAN ACT PUEBLO COMMUNITY GARDENS PROJECT FROM DECEMBER 31, 2022 UNTIL DECEMBER 31, 2024

This Resolution was assigned as 15099.

M6 A RESOLUTION AMENDING RESOLUTION NO. 14854 TO AMEND THE LIST OF IDENTIFIED GOVERNMENTAL SERVICE PROJECTS AND FUNDING ALLOCATION BETWEEN SAID PROJECTS

This Resolution was assigned as 15100.

M7 A RESOLUTION TO AMEND RESOLUTION NO. 14931 TO CORRECT THE CONTRACT AWARD AMOUNT FOR PROJECT NO. 22-055E EMERGENCY REPAIR PROJECT FOR 522 AND 530 SKYWAY

This Resolution was assigned as 15101.

M8 A RESOLUTION APPROVING AND ACCEPTING THE CANVASS AND ABSTRACT OF VOTES CAST AT THE SPECIAL MUNICIPAL ELECTION HELD ON NOVEMBER 8, 2022 AS PART OF A COORDINATED ELECTION WITH PUEBLO COUNTY

This Resolution was assigned as 15102.

M9 A RESOLUTION RATIFYING PACOG'S JOINT APPOINTMENT OF ROYAL TRIVETT TO THE REGIONAL BUILDING COMMISSION'S ELECTRICAL BOARD OF APPEALS

This Resolution was assigned as 15103.

M10 A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF ALAN WARD TO THE PUEBLO ENERGY ADVISORY COMMISSION

This Resolution was assigned as 15104.

M11 A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF ROBYN MAESTAS, ANTHONY PERKO, AND JAN SCHRANER TO THE HISTORIC PRESERVATION COMMISSION

This Resolution was assigned as 15105.

M12 A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF JIMMY DUFFNER TO THE COMMUNITY COMMISSION ON HOUSING AND HOMELESSNESS

This Resolution was assigned as 15106.

M13 A RESOLUTION CONFIRMING THE APPOINTMENT OF BARBARA HUBER TO THE POSITION OF DEPUTY MAYOR

This Resolution was assigned as 15107.

N. ORDINANCES – FIRST PRESENTATION

N1 AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN A SUBRECIPIENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND PUEBLO COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF COLORADO, AS FISCAL AGENT OF THE PUEBLO COUNTY HOUSE BILL 04-1451 COLLABORATIVE MANAGEMENT PROGRAM, AS AUTHORIZED BY SECTION 603 OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6 AND AUTHORIZING THE PAYMENT OF TWENTY-FIVE THOUSAND DOLLARS (\$25,000) FROM PROJECT NO. CI2113 - AMERICAN RESCUE PLAN ACT, FOR PURPOSES THEREOF

- N2 AN ORDINANCE ESTABLISHING PROJECT PL2201, WESTSIDE TRAIL (WILDHORSE TRAIL) PROJECT, AND APPROVING AN INTERGOVERNMENTAL AGREEMENT (IGA) BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE STATE OF COLORADO, ACTING BY AND THROUGH THE COLORADO DEPARTMENT OF TRANSPORTATION (CDOT), PROJECT: MTF M086-098 (25192) IN THE AMOUNT OF \$850,000, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$850,000 AND AUTHORIZING THE MAYOR TO EXECUTE SAME**
- N3 AN ORDINANCE ESTABLISHING PROJECT PL2202, LAKE AVENUE AND ORMAN AVENUE ROUNDABOUT PROJECT, AND APPROVING AN INTERGOVERNMENTAL AGREEMENT (IGA) BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE STATE OF COLORADO, ACTING BY AND THROUGH THE COLORADO DEPARTMENT OF TRANSPORTATION (CDOT), PROJECT: SHO M086-097 (25101) IN THE AMOUNT OF \$1,350,000, TRANSFERRING \$150,000 FROM CI2204 TO PL2202, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$1,500,000 AND AUTHORIZING THE MAYOR TO EXECUTE SAME**
- N4 AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND THE PUEBLO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, RELATED TO THE ESTABLISHMENT OF PUEBLO HISTORY AND ART WALK AND THE INSTALLATION OF COMMUNITY WAYFINDING AND GATEWAY SIGNS, AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT**
- N5 AN ORDINANCE APPROVING AN AIRPORT USE AND LEASE AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND SOUTHERN AIRWAYS EXPRESS, LLC, AND AUTHORIZING THE MAYOR TO EXECUTE SAME**
- N6 AN ORDINANCE APPROVING AN AIRPORT COMMUNITY HANGAR LEASE AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND SOUTHERN AIRWAYS EXPRESS, LLC, AND AUTHORIZING THE MAYOR TO EXECUTE SAME**

O. APPROVAL OF CONSENT AGENDA

Councilor Flores, seconded by Councilor Martinez Ortega, moved to approve all Resolutions Set Forth in the Consent Agenda, Pass the Ordinances of the Consent Agenda, Setting the Public Hearings for January 9, 2022, and Order the Ordinances to be published BY TITLE.

Roll Call – **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None. Motion Passed 7-0.

P. REGULAR AGENDA

Q. RESOLUTIONS

Q1 A RESOLUTION APPROVING THE PUEBLO URBAN RENEWAL AUTHORITY VENDOR FEE BUDGET FOR THE PUEBLO CONVENTION CENTER AND THE MEMORIAL HALL CAPITAL PROJECTS AND MAINTENANCE FUND, FOR THE CALENDAR YEAR 2023, COMMENCING JANUARY 1, 2023 AND ENDING THE LAST DAY OF DECEMBER 2023

A staff report and detailed review of the Resolution was given by Jerry Pacheco, Pueblo Urban Renewal Authority Director, and Kevin Ortiz, Pueblo Convention Center.

Councilor Martinez Ortega, seconded by Councilor Flores, moved to approve the Resolution.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None. Motion Passed 7-0.

This Resolution was assigned as 15108.

R. ORDINANCES – FINAL PRESENTATION

R1 AN ORDINANCE APPROVING AN AMENDMENT TO THE PROFESSIONAL ENGINEERING SERVICES AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND DIBBLE AND ASSOCIATES CONSULTING ENGINEERS, INC., FOR THE REHABILITATION OF RUNWAY 8R/26L (PHASE 1 - DESIGN) AT THE PUEBLO MEMORIAL AIRPORT, BUDGETING AND APPROPRIATING \$49,807 TO PROJECT NO. AP2205 – REHAB RUNWAY 8R/26L DESIGN AND CONSTRUCTION, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

A staff report and detailed review of the Ordinance was given by Greg Pedroza, Director of Pueblo Airport.

PUBLIC HEARING:

Seeing no one wished to speak, President Graham declared the hearing closed.

Councilor Martinez Ortega, seconded by Councilor Flores, moved to approve the Ordinance on final presentation.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None. Motion Passed 7-0.

This Ordinance was assigned as 10353.

R2 AN ORDINANCE APPROVING THE TRANSFER OF FUNDS FROM PUBLIC WORKS DEPARTMENT OPERATING FUNDS TO PROJECT NO. CIAN20 - CITY BUILDING REPAIRS IN THE AMOUNT OF \$300,000

A staff report and detailed review of the Ordinance was given by Andrew Hayes, Director of Public Works.

PUBLIC HEARING:

Seeing no one wished to speak, President Graham declared the hearing closed.

Councilor Martinez Ortega, seconded by Councilor Flores, moved to approve the Ordinance on final presentation.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None. Motion Passed 7-0.

This Ordinance was assigned as 10354.

R3 AN ORDINANCE APPROVING AN AGREEMENT WITH COLORADO DEPARTMENT OF TRANSPORTATION AND CONTINUUM OF COLORADO FOR THE TRANSFER OF THREE PARATRANSIT BUSES TO BE USED IN PUBLIC TRANSIT OPERATIONS

A staff report and detailed review of the Ordinance was given by Ben Valdez, Director of Pueblo Transit.

PUBLIC HEARING:

Seeing no one wished to speak, President Graham declared the hearing closed.

Councilor Martinez Ortega, seconded by Councilor Martinez, moved to approve the Ordinance on final presentation.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None. Motion Passed 7-0.

This Ordinance was assigned as 10355.

R4 AN ORDINANCE AUTHORIZING AMENDMENT NO. 18 TO THE AGREEMENT FOR COMMUNITY SERVICES PLANNING, ADMINISTRATION, AND ACCOUNTABILITY SERVICES BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF PUEBLO

A staff report and detailed review of the Ordinance was given by Bryan Gallagher, Director of Housing.

PUBLIC HEARING:

Seeing no one wished to speak, President Graham declared the hearing closed.

Councilor Martinez Ortega, seconded by Councilor Flores, moved to approve the Ordinance on final presentation.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None. Motion Passed 7-0.

This Ordinance was assigned as 10356.

R5 AN ORDINANCE ESTABLISHING THE BEARCAT PROJECT NO. CI2220, TRANSFERRING \$300,000 FROM THE POLICE DEPARTMENT ACCOUNT 101-20502-51030 AND BUDGETING AND APPROPRIATING \$300,000 FOR SAID PROJECT

A staff report and detailed review of the Ordinance was given by Chris Noeller, Chief of Police.

PUBLIC HEARING:

Seeing no one wished to speak, President Graham declared the hearing closed.

Councilor Martinez Ortega, seconded by Councilor Flores, moved to approve the Ordinance on final presentation.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None. Motion Passed 7-0.

This Ordinance was assigned as 10357.

R6 AN ORDINANCE APPROVING AN INTERNSHIP BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, WESTERN ILLINOIS UNIVERSITY SCHOOL OF LAW ENFORCEMENT AND JUSTICE ADMINISTRATION, AND KATHERYN BLACK AND AUTHORIZING THE MAYOR TO EXECUTE SAME

A staff report and detailed review of the Ordinance was given by Chris Noeller, Chief of Police.

PUBLIC HEARING:

Seeing no one wished to speak, President Graham declared the hearing closed.

Councilor Martinez Ortega, seconded by Councilor Martinez, moved to approve the Ordinance on final presentation.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None. Motion Passed 7-0.

This Ordinance was assigned as 10358.

R7 AN ORDINANCE APPROVING AND ACCEPTING AN ADDENDUM TO THE DEPARTMENT OF DEFENSE LAW ENFORCEMENT SUPPORT OFFICE ("LESO") PROGRAM STATE PLAN OF OPERATION ("SPO") AND APPLICABLE CONDITIONS PERTAINING THERETO BETWEEN THE STATE OF COLORADO AND THE CITY OF PUEBLO ON BEHALF OF THE PUEBLO POLICE DEPARTMENT RELATING TO DEPARTMENT OF DEFENSE EXCESS PROPERTY CONDITIONALLY TRANSFERRED TO THE CITY

A staff report and detailed review of the Ordinance was given by Chris Noeller, Chief of Police.

PUBLIC HEARING:

Seeing no one wished to speak, President Graham declared the hearing closed.

Councilor Martinez Ortega, seconded by Councilor Flores, moved to approve the Ordinance on final presentation.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None. Motion Passed 7-0.

This Ordinance was assigned as 10359.

R8 AN ORDINANCE AMENDING CHAPTER 10 OF TITLE IX OF THE PUEBLO MUNICIPAL CODE, UPDATING BUSINESS LICENSING PROVISIONS RELATED TO EMPLOYMENT AGENCIES

A staff report and detailed review of the Ordinance was given by James Wagner, Assistant City Attorney.

PUBLIC HEARING:

Seeing no one wished to speak, President Graham declared the hearing closed.

Councilor Martinez Ortega, seconded by Councilor Martinez, moved to approve the Ordinance on final presentation.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None. Motion Passed 7-0.

This Ordinance was assigned as 10360.

R9 AN ORDINANCE AMENDING CHAPTER 3 OF TITLE VII OF THE PUEBLO MUNICIPAL CODE BY THE ADDITION OF A NEW ARTICLE IV RELATING TO THE CARRYOUT BAG FEES IMPOSED PURSUANT TO THE PLASTIC POLLUTION REDUCTION ACT, SECTION 25-17-501 ET SEQ., C.R.S., AND PROVIDING FOR THE ENFORCEMENT, COLLECTION, REMITTANCE, AND DISTRIBUTION OF SAID FEES

A staff report and detailed review of the Ordinance was given by Alexandria Romero, Director of Finance.

PUBLIC HEARING:

Seeing no one wished to speak, President Graham declared the hearing closed.

Councilor Martinez Ortega, seconded by Councilor Flores, moved to approve the Ordinance on final presentation.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** Councilor Maestri. Motion Passed 6-1.

This Ordinance was assigned as 10361.

R10 AN ORDINANCE AMENDING SECTION 14-4-21 OF TITLE XIV OF CHAPTER 4 OF THE PUEBLO MUNICIPAL CODE RELATING TO THE CITY'S SALES AND

USE TAX CODE AND EXCLUDING THE STATE CARRYOUT BAG FEE FROM THE DEFINITION OF PURCHASE PRICE

A staff report and detailed review of the Ordinance was given by Alexandria Romero, Director of Finance.

PUBLIC HEARING:

Seeing no one wished to speak, President Graham declared the hearing closed.

Councilor Martinez Ortega, seconded by Councilor Martinez, moved to approve the Ordinance on final presentation.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** Councilor Maestri. Motion Passed 6-1.

This Ordinance was assigned as 10362.

R11 AN ORDINANCE PROVIDING FOR THE CITY OF PUEBLO DEPARTMENTAL AUTHORIZED PERSONNEL POSITIONS FOR THE FISCAL YEAR 2023

A staff report and detailed review of the Ordinance was given by Marisa Pacheco, Director Human Resources.

PUBLIC HEARING:

Seeing no one wished to speak, President Graham declared the hearing closed.

Councilor Martinez Ortega, seconded by Councilor Martinez, moved to approve the Ordinance on final presentation.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega. **Nays:** Councilor Winner. Motion Passed 6-1.

This Ordinance was assigned as 10363.

S. EMERGENCY ORDINANCE

S1 AN EMERGENCY ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN AN AMENDMENT NO. 2 TO THE SUBRECIPIENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND THE CRAZY FAITH STREET MINISTRY, A COLORADO NONPROFIT CORPORATION, AS AUTHORIZED BY SECTION 603 OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6 AND AUTHORIZING THE PAYMENT OF AN ADDITIONAL FIFTY THOUSAND FOUR HUNDRED DOLLARS (\$50,400) FROM PROJECT NO. CI2113 - AMERICAN RESCUE PLAN ACT, FOR PURPOSES THEREOF

A staff report and detailed review of the Ordinance was given by Dan Kogovsek, City Attorney.

PUBLIC HEARING:

Seeing no one wished to speak, President Graham declared the hearing closed.

Councilor Martinez Ortega, seconded by Councilor Flores, moved to approve the Ordinance on final presentation.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None. Motion Passed 7-0.

This Ordinance was assigned as 10364.

T. COUNCIL MEMBER CONFLICT OF INTEREST

M2 A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$64,089 TO BAHAM CONSTRUCTION, INC., FOR PROJECT NO. 22-084, FIRE STATION #5 - CONCRETE REPAIRS AND IMPROVEMENTS, SETTING FORTH \$20,000 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

Councilor Maestri declared a conflict of interest and was excused from this resolution.

A staff report and detailed review of the Resolution was given by Andrew Hayes, Director of Public Works.

Councilor Martinez Ortega, seconded by Councilor Martinez, moved to approve the Resolution.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, President Graham, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None. Motion Passed 6-0.

This Resolution was assigned as 15109.

T1 AN ORDINANCE AMENDING SECTIONS 6-5-16 AND 6-5-18 OF CHAPTER 5, OF TITLE VI OF THE PUEBLO MUNICIPAL CODE RELATING TO THE CLASSIFICATION AND PAY PLAN FOR FISCAL YEAR 2023

President Graham, Councilor Martinez, and Councilor Martinez Ortega declared a conflict of interest and were excused from this ordinance.

A staff report and detailed review of the Resolution was given by Marisa Pacheco, Director of Human Resources.

Councilor Flores, seconded by Councilor Maestri, moved to approve the Resolution.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, Councilor Maestri, Councilor Winner. **Nays:** None. Motion Passed 4-0.

This resolution was assigned as 10365.

U. ADJOURN

Respectfully submitted,



Vincent Petkosek
Deputy City Clerk



Background Paper for Proposed Resolution

COUNCIL MEETING DATE: January 9, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andra Ahrens, Director Wastewater

SUBJECT: A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$3,964.40 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 616 E D ST, PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF SAME

SUMMARY:

This Resolution ratifies and approves the award of a construction contract to Parker Excavating, Inc. for emergency sanitary sewer point repairs at 616 E D St.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

During routine inspection of sewer mains, the Wastewater Department collection crew discovered a large joint offset in the alley near 616 E D Street and they could not make through the entire sewer main in either direction because the other end was an inspection pipe. This defect will further deteriorate the sewer pipe and increase the chance of an immediate backup in the main. An emergency repair was necessary to repair the defect, so a backup would not occur.

The repair work was performed under the Sanitary Sewer Point Repair multi-year contract under which three contractors were qualified via competitive bid. An estimate was prepared, and Parker Excavating was the lowest bidder and accepted the work.

The cost breakdown for the project is as follows:

Sanitary Sewer Replacement-related

<i>Total:</i>	\$	3,644.40	92%
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Surface Improvement Related

<i>Total:</i>	\$	320.00	8%
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<i>Grand Total:</i>	\$	3,964.40	100%
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FINANCIAL IMPLICATIONS:

Funding for this project came from the sanitary sewer rehabilitation budget funded by the Sewer User Fund. Funding was available and had been budgeted, appropriated, and allocated to Project No. 20-059 (WWAN03).

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Not approve the Resolution, but this would require a finding that there was not an emergency condition.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 616 E D St Emergency Point Repair

RESOLUTION NO. 15110

A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$3,964.40 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 616 E D ST, PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF SAME

WHEREAS, an emergency sanitary sewer repair was authorized by the Mayor in accordance with Section 1-10-5 of the Pueblo Municipal Code; and

WHEREAS, the point repair work was awarded to Parker Excavating, Inc., under the 2021-2023 multi-year point repair contract; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

City Council ratifies and approves the contract for repair of the sanitary sewers at 616 E D St. with Parker Excavating, Inc., Project No. 20-059 (WWAN03) awarded to said bidder in the amount of \$3,964.40.

SECTION 2.

Funds for Project 20-059 (WWAN03) shall be from the Sewer User Fund.

SECTION 3.

The Purchasing Agent was authorized to execute said contract on behalf of Pueblo, A Municipal Corporation, and the City Clerk properly affixed the seal of the City thereto and attested the same.

SECTION 4.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Resolution and the contract to implement the transactions described therein. Furthermore, all actions previously taken by officers and staff of the City consistent with the contract including any payments authorized under the contract are hereby ratified.

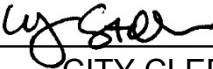
SECTION 5.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED January 9, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

2021-2023 Emergency Sanitary Sewer Point Repair					616 E D St Estimate		
Date: 9/14/2022					K.R. Swerdfeger Construction, Inc.	FRPHI ECS & Landscape, Inc.	Parker Excavating, Inc.
Project Number: 20-059 (WWAN03)							
Item	Description	Estimated					
1	Remove and Replace 8" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
2	Remove and Replace 8" PVC More than 10' Deep	1-20	LF	10	\$ 2,000.00	\$ 4,800.00	\$ 1,260.00
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
3	Remove and Replace 10" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
4	Remove and Replace 10" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
5	Remove and Replace 12" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
6	Remove and Replace 12" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
7	Remove and Replace 15" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
8	Remove and Replace 15" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
9	Remove and Replace 4" Service Tap Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
10	Remove and Replace 4" Service Tap More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
11	Asphalt Patch – 4" HMA on 4" Class 6 ABC For 8" and 10" Pipe	1-20	LF	20	\$ 1,900.00	\$ 1,360.00	\$ 1,900.00
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
12	Asphalt Patch – 5" HMA on 6" Class 6 ABC For 8" and 10" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
13	Asphalt Patch – 4" HMA on 4" Class 6 ABC For 12" and 15" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
14	Asphalt Patch – 5" HMA on 6" Class 6 ABC For 12" and 15" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
15	Remove and Replace 7" Reinforced Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
16	Remove and Replace 6" Reinforced Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
17	Remove and Replace 4" Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
18	Remove and Replace Standard Curb and Gutter	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
19	Install Extra Lean Concrete (FlowFill)	1-20	CY		\$ -	\$ -	\$ -
		21-100	CY		\$ -	\$ -	\$ -
		>100	CY		\$ -	\$ -	\$ -
20	Remove Camera/Cleaning Head/Tap Cutter	HR			\$ -	\$ -	\$ -
21	Remove and Replace 48" Diameter Manhole	EA	1		\$ 4,000.00	\$ 6,100.00	\$ 4,340.00
22	Remove and Replace 60" Diameter Manhole	EA			\$ -	\$ -	\$ -
23	Reinstate Services	EA	1		\$ 300.00	\$ 150.00	\$ 388.00
24	Mobilization	LS	1		\$ 1,500.00	\$ 1,750.00	\$ 1,650.00
				Total	\$ 9,700.00	\$ 14,160.00	\$ 9,538.00
With Contingency					\$ 11,640.00	\$ 16,992.00	\$ 11,445.60

CONTRACT CHANGE ORDER
CITY OF PUEBLO DEPARTMENT OF PUBLIC WORKS

Project Number : 20-059 (WWAN03) Change Order No. : ONE 12/9/2022 Page 1 of 1

Project Name : 2021, 2022 and 2023 Sanitary Sewer Point Repair
616 E D St

Contractor : PARKER EXCAVATING INC.
1428 Stockyard Rd., Pueblo, CO 81001

You are hereby requested to comply with the following changes from the plans & specifications:

Bid Item No.	Description of Changes	Decrease Contract By	Increase Contract By
1	REMOVE & REPLACE 8" PVC PIPE >10' DEEP (1-20LF)	(\$1,260.00)	
2	ASPHALT PATCH – 4" HMA ON 4" CLASS 6 ABC FOR 8" AND 10" PIPE	(\$1,900.00)	
4	REMOVE AND REPLACE 48" MANHOLE	(\$4,340.00)	
6	REMOVE & REPLACE 8" PVC PIPE <10' DEEP (1-20LF)		\$1,250.00
7	ROAD BASE MATERIAL, TRUCKING AND LABOR		\$320.00
8	TRAFFIC CONTROL		\$356.40
TOTAL (Decrease) / Increase		(\$7,500.00)	\$1,926.40

Net Adjustment This Change Order	\$	(5,573.60)
Amount of Previous Change Order(s)	\$	0.00
Original Contract Amount	\$	9,538.00
Total Adjusted Contract Amount To Date	\$	3,964.40

Reason For Change: Actual Field Quantities.

The time provided for completion of the contract is changed by 0 calendar days.
This document shall become an amendment to the contract and all provisions of the contract apply hereto.

Prepared by: _____ Date: _____
Associate Engineer II

Reviewed by: _____ Date: _____
Wastewater Engineering Manager

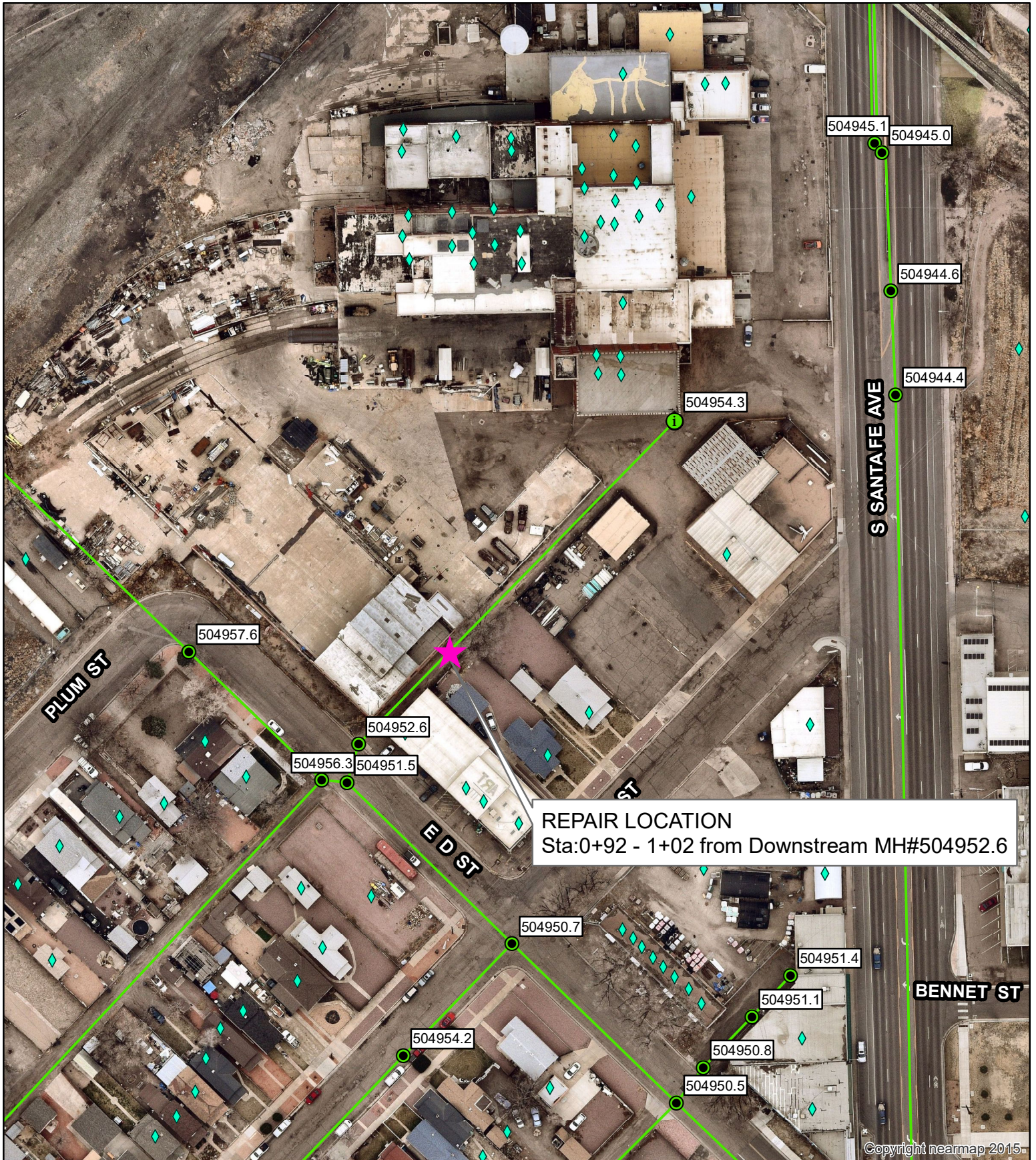
Accepted by: _____ Date: _____
Contractor's Representative

If this Change Order causes an increase from the original contract price, signed approval by the Director constitutes representation that lawful appropriations are sufficient to cover such increase.

Approved by: _____ Date: _____
Director of Wastewater



20-059 (WWAN03)
2021-2023 Emergency Sanitary Sewer Point Repair
616 E D St





**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: January 9, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andra Ahrens, Director Wastewater

SUBJECT: A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$33,252.95 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 125 RIVERWALK PL, PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF SAME

SUMMARY:

This Resolution ratifies and approves award of a construction contract to Parker Excavating, Inc. for emergency sanitary sewer point repairs at 125 Riverwalk Pl.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

While the Wastewater Department collection crew was performing routine maintenance near 125 Riverwalk Place, the cleaning head became stuck in an offset joint. After further investigation, two large voids and a collapse were discovered in the sewer main. An emergency repair was necessary to retrieve the cleaning head and repair the defects, so a backup would not occur..

The repair work was performed under the Sanitary Sewer Point Repair multi-year contract under which three contractors were qualified via competitive bid. An estimate was prepared, and Parker Excavating was the lowest bidder and accepted the work.

The cost breakdown for the project is as follows:

Sanitary Sewer Replacement-related

<i>Total:</i>	\$	18,035.95	54%
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Surface Improvement Related

<i>Total:</i>	\$	15,217.00	46%
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<i>Grand Total:</i>	\$	33,252.95	100%
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FINANCIAL IMPLICATIONS:

Funding for this project came from the sanitary sewer rehabilitation budget funded by the Sewer User Fund. Funding was available and had been budgeted, appropriated, and allocated to Project No. 20-059 (WWAN03).

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Not approve the Resolution, but this would require a finding that there was not an emergency condition.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 125 Riverwalk PI Emergency Point Repair

RESOLUTION NO. 15111

A RESOLUTION RATIFYING AN EMERGENCY CONSTRUCTION CONTRACT IN THE AMOUNT OF \$33,252.95 WITH PARKER EXCAVATING, INC. FOR EMERGENCY SANITARY SEWER POINT REPAIR AT 125 RIVERWALK PL, PROJECT NO. 20-059 (WWAN03) AND APPROVING THE PURCHASING AGENT'S EXECUTION OF SAME

WHEREAS, an emergency sanitary sewer repair was authorized by the Mayor in accordance with Section 1-10-5 of the Pueblo Municipal Code; and

WHEREAS, the point repair work was awarded to Parker Excavating, Inc., under the 2021-2023 multi-year point repair contract; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

City Council ratifies and approves the contract for repair of the sanitary sewers at 125 Riverwalk Pl with Parker Excavating, Inc., Project No. 20-059 (WWAN03) awarded to said bidder in the amount of \$33,252.95.

SECTION 2.

Funds for Project 20-059 (WWAN03) shall be from the Sewer User Fund.

SECTION 3.

The Purchasing Agent was authorized to execute said contract on behalf of Pueblo, A Municipal Corporation, and the City Clerk properly affixed the seal of the City thereto and attested the same.

SECTION 4.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Resolution and the contract to implement the transactions described therein. Furthermore, all actions previously taken by officers and staff of the City consistent with the contract including any payments authorized under the contract and the contract change order in the amount of \$6,120.95 are hereby ratified.

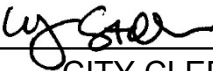
SECTION 5.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED January 9, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

2021-2023 Emergency Sanitary Sewer Point Repair					125 Riverwalk Place		
Date:					K.R. Swerdfeger Construction, Inc.	FRPHI ECS & Landscape, Inc.	Parker Excavating, Inc.
Project Number: 20-059 (WWAN03)							
Item	Description	Estimated					
1	Remove and Replace 8" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF	100	\$ 14,300.00	\$ 35,200.00	\$ 11,500.00
		>100	LF		\$ -	\$ -	\$ -
2	Remove and Replace 8" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
3	Remove and Replace 10" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
4	Remove and Replace 10" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
5	Remove and Replace 12" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
6	Remove and Replace 12" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
7	Remove and Replace 15" PVC Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
8	Remove and Replace 15" PVC More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
9	Remove and Replace 4" Service Tap Less than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
10	Remove and Replace 4" Service Tap More than 10' Deep	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
11	Asphalt Patch – 4" HMA on 4" Class 6 ABC For 8" and 10" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
12	Asphalt Patch – 5" HMA on 6" Class 6 ABC For 8" and 10" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF	100	\$ 7,700.00	\$ 6,900.00	\$ 7,500.00
		>100	LF		\$ -	\$ -	\$ -
13	Asphalt Patch – 4" HMA on 4" Class 6 ABC For 12" and 15" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
14	Asphalt Patch – 5" HMA on 6" Class 6 ABC For 12" and 15" Pipe	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
15	Remove and Replace 7" Reinforced Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF	352	\$ 5,280.00	\$ 11,264.00	\$ 5,984.00
16	Remove and Replace 6" Reinforced Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
17	Remove and Replace 4" Concrete	1-20	SF		\$ -	\$ -	\$ -
		21-100	SF		\$ -	\$ -	\$ -
		>100	SF		\$ -	\$ -	\$ -
18	Remove and Replace Standard Curb and Gutter	1-20	LF		\$ -	\$ -	\$ -
		21-100	LF		\$ -	\$ -	\$ -
		>100	LF		\$ -	\$ -	\$ -
19	Install Extra Lean Concrete (FlowFill)	1-20	CY		\$ -	\$ -	\$ -
		21-100	CY		\$ -	\$ -	\$ -
		>100	CY		\$ -	\$ -	\$ -
20	Remove Camera/Cleaning Head/Tap Cutter	HR		1	\$ 325.00	\$ 250.00	\$ 498.00
21	Remove and Replace 48" Diameter Manhole	EA			\$ -	\$ -	\$ -
22	Remove and Replace 60" Diameter Manhole	EA			\$ -	\$ -	\$ -
23	Reinstate Services	EA			\$ -	\$ -	\$ -
24	Mobilization	LS		1	\$ 1,500.00	\$ 1,750.00	\$ 1,650.00
				Total	\$ 29,105.00	\$ 55,364.00	\$ 27,132.00
				With Contingency	\$ 34,926.00	\$ 66,436.80	\$ 32,558.40

CONTRACT CHANGE ORDER
CITY OF PUEBLO DEPARTMENT OF PUBLIC WORKS

Project Number : 20-059 (WWAN03) Change Order No. : ONE 12/9/2022 Page 1 of 1

Project Name : 2021, 2022 and 2023 Sanitary Sewer Point Repair
125 Riverwalk Pi

Contractor : PARKER EXCAVATING INC.
1428 Stockyard Rd., Pueblo, CO 81001

You are hereby requested to comply with the following changes from the plans & specifications:

Bid Item No.	Description of Changes	Decrease Contract By	Increase Contract By
1	REMOVE & REPLACE 8" PVC PIPE <10' DEEP (1-20LF)	(\$11,500.00)	
2	ASPHALT PATCH – 4" HMA ON 4" CLASS 6 ABC FOR 8" AND 10" PIPE (21-100LF)	(\$7,500.00)	
3	REMOVE AND REPLACE 7" REINFORCED CONCRETE	(\$17.00)	
4	REMOVE CAMERA / CLEANING HEAD / TAP CUTTER		\$498.00
6	REMOVE & REPLACE 8" PVC PIPE <10' DEEP (>100LF)		\$11,466.00
7	ASPHALT PATCH – 4" HMA ON 4" CLASS 6 ABC FOR 8" AND 10" PIPE (>100LF)		\$9,250.00
8	REINSTATE SERVICES - 6"		\$776.00
9	REMOVE 48" MANHOLE		\$2,170.00
10	TRAFFIC CONTROL		\$977.95
TOTAL (Decrease) / Increase		(\$19,017.00)	\$25,137.95

Net Adjustment This Change Order	\$	6,120.95
Amount of Previous Change Order(s)	\$	0.00
Original Contract Amount	\$	27,132.00
Total Adjusted Contract Amount To Date	\$	33,252.95

Reason For Change: Actual Field Quantities.

The time provided for completion of the contract is changed by 0 calendar days.
This document shall become an amendment to the contract and all provisions of the contract apply hereto.

Prepared by: _____ Date: _____
Associate Engineer II

Reviewed by: _____ Date: _____
Wastewater Engineering Manager

Accepted by: _____ Date: _____
Contractor's Representative

If this Change Order causes an increase from the original contract price, signed approval by the Director constitutes representation that lawful appropriations are sufficient to cover such increase.

Approved by: _____ Date: _____
Director of Wastewater



20-059 (WWAN03)
2021-2023 Emergency Sanitary Sewer Point Repair
125 Riverwalk Place





**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: January 9, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Chris Noeller, Chief of Police

SUBJECT: A RESOLUTION APPROVING AND ACCEPTING A COLORADO DEPARTMENT OF LAW PEACE OFFICER STANDARDS AND TRAINING (POST) GRANT, JULY 1, 2022, THROUGH JUNE 30, 2023, ESTABLISHING PROJECT NUMBER PS2215, TRANSFERRING FUNDS NOT TO EXCEED THE AMOUNT OF \$4000 FROM PROJECTS-TO-BE-DETERMINED IN THE PUBLIC SAFETY LEADERSHIP DEVELOPMENT GRANT FUND

SUMMARY:

The Colorado Department of Law has informed the Pueblo Police Department that funds are available for a Peace Officer Standards and Training (POST) Grant. The term of this grant covers the period from July 1, 2022, through June 30, 2023.

PREVIOUS COUNCIL ACTION:

Previous grants of this nature have routinely been approved each year.

BACKGROUND:

The Colorado Department of Law has informed the Pueblo Police Department that funds are available for a Peace Officer Standards and Training (POST) Grant. These funds will be used to provide leadership training. The term of this grant covers the period from July 1, 2022, through June 30, 2023.

FINANCIAL IMPLICATIONS:

This grant will require staff time for project management and reporting.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

There is no stakeholder process required for this grant.

ALTERNATIVES:

If City Council does not approve this Resolution, the grant offer will not be accepted and the \$4000.00 will not be given to the Police Department for training needs.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. Pueblo PD FY23 SDGA Agreement_Signed
2. Signed POST Grant Application 102722

RESOLUTION NO. 15112

A RESOLUTION APPROVING AND ACCEPTING A COLORADO DEPARTMENT OF LAW PEACE OFFICER STANDARDS AND TRAINING (POST) GRANT, JULY 1, 2022, THROUGH JUNE 30, 2023, ESTABLISHING PROJECT NUMBER PS2215, TRANSFERRING FUNDS NOT TO EXCEED THE AMOUNT OF \$4000 FROM PROJECTS-TO-BE-DETERMINED IN THE PUBLIC SAFETY LEADERSHIP DEVELOPMENT GRANT FUND

WHEREAS, the City Council of Pueblo has the authority on behalf of the City of Pueblo, including its Police Department, to accept funding from the Colorado Department of Law, Peace Officer Standards and Training (POST); and

WHEREAS, the Colorado Department of Law, Peace Officer Standards and Training (POST) has tendered 2023 In-service Grant funding; and

WHEREAS, acceptance of the funding for the purposes for which it has been made is in the best interest of the City and will benefit the health, welfare, and safety of the citizens of the City; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The Award of the 2022 Colorado Department of Law, Peace Officer Standards and Training (POST) In-service Grant funding is hereby accepted and approved in the amount of \$4,000.00.

SECTION 2.

Project Number PS2215 is hereby established in the Public Safety Grants Fund.

SECTION 3.

The amount of \$4,000.00 is hereby authorized for transfer from the Projects To Be Determined Account in the Public Safety Grants Fund to Project Number PS2215. Said funds shall only be expended and used for this Project.

SECTION 4.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Resolution to implement the policies and procedures described herein.

SECTION 5.

This Resolution shall become effective on the date of final passage.

INTRODUCED January 9, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

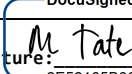
COLORADO DEPARTMENT OF LAW		IMPORTANT		Small Dollar Grant Award	
PEACE OFFICER STANDARDS AND TRAINING (POST)					
RALPH L. CARR COLORADO JUDICIAL CENTER		The SDGA # and LINE # must appear on all invoices, packing slips, cartons and correspondence.		DEPARTMENT OF LAW	
1300 BROADWAY, 9TH FLOOR				PEACE OFFICER STANDARDS AND TRAINING	
DENVER, CO 80203					
Grantee:	Pueblo Police Department	SDGA #:	POGG1 LAAA GT2023*012		
Contact:	Corporal Jeff Furney	Start Date:	7/1/2022	End Date:	6/30/2023
Contact's County:	Pueblo County				
Phone:	719-553-3245				
E-Mail:	jfurney@pueblo.us				
Ship To:		Invoice To:			
Name and Address:	Pueblo Police Department	Colorado Department of Law			
	200 S. Main Street	Peace officer Standards and Training (POST)			
	Pueblo, CO 81003	1300 Broadway, 9th Floor			
		Denver, CO. 80203			
		post.grants@coag.gov			
Instructions to Grantee					
Any questions regarding this Small Dollar Grant Award should be directed to kimberly.hernandez@coag.gov or 720-508-6882		1. If for any reason delivery is delayed beyond the delivery/installation date shown, please notify the agency contact named at the top left. (Right of cancellation is reserved in instances in which timely delivery is not made.)			
Special Instructions:					
1.	Order of precedence: 1) Small Dollar Grant Award Terms & Conditions; 2) Exhibit A Statement of Work (SOW)/Applicable Laws (Exhibit A).				
2.	Small Dollar Grant Award Terms and Conditions: https://www.colorado.gov/osc/purchase-order-terms-conditions				
3.	Description:				
•	This Small Dollar Grant Award is to provide funds to Grantee to assist with the payment of registration cost for two (2) peace officers at \$2000 each to attend the DU Public Safety Leadership Development Program Training. See Exhibit A Statement of Work .				
•	Payment will be made upon satisfactory delivery of goods and/or completion of training or services and receipt of a correct grantee invoice and documentation of training attendance.				
•	Grantee invoices must be received no later than sixty (60) calendar days from the completion of goods and/or the completion of services and/or training. It is the responsibility of the Grantee to ensure that invoices are received at the "Invoice To" location above within the time frame specified. ALL INVOICES FOR PAYMENT MUST BE SUBMITTED NO LATER THAN CLOSE OF BUSINESS JUNE 30, 2023.				
•	THIS SMALL DOLLAR GRANT AWARD IS NOT EFFECTIVE UNTIL SIGNED BY THE CONTRACTS AND PROCUREMENT DIRECTOR. UNDER NO CIRCUMSTANCES SHALL THE GOODS AND/OR SERVICES BE ORDERED OR PERFORMED PRIOR TO THE SDGA EFFECTIVE DATE, NOR EXCEED THE DOCUMENT TOTAL WITHOUT PRIOR WRITTEN AUTHORIZATION FROM THE DEPARTMENT OF LAW.				
		DOCUMENT TOTAL		\$4,000.00	
		THIS SDGA IS ISSUED IN ACCORDANCE WITH STATE AND FEDERAL REGULATIONS FOR THE STATE OF COLORADO			
		Name: Mitchell Tate			
		Title: Contracts and Procurement Director			
		Date: 12/19/2022			
		DocuSigned by:  State Purchasing Delegate Signature: _____ 2E52165B36A2433...			

EXHIBIT A**STATEMENT OF WORK**

1. **Parties:** This Small Dollar Grant Award (hereinafter called “SDGA”) is entered into by **Pueblo Police Department** (hereinafter called “Grantee”), and the **STATE OF COLORADO acting by and through the Department of Law, on behalf of the office of Peace Officer Standards and Training (POST)** (hereinafter called “State, or DOL-POST”).
2. **General Description:**
 - a) **Authority.** Authority to enter into this Small Dollar Grant Award exists in C.R.S.24-31-310 and funds have been budgeted, appropriated and otherwise made available pursuant to C.R.S. 42-3-304 (24) and a sufficient unencumbered balance thereof remains available for payment. Required approvals, clearance and coordination have been accomplished from and with appropriate agencies.
 - b) **Purpose.** The purpose of this Small Dollar Grant Award is to engage the services of the grantee to assist the Department of Law, on behalf of the Peace Officer Standards and Training (POST) office, with its statutory responsibility of providing law enforcement training and safety courses to certified Colorado peace officers.
3. **Program Year/Effective Date.** The program year (starting and ending date) is July 1, 2022 thru June 30, 2023. All small dollar grant awards will begin on their effective date (signature date of the State Purchasing Delegate) and end on June 30, 2023. DOL-POST shall not be liable to reimburse the grantee for any performance, hereunder, including, but not limited to costs or expenses incurred, or be bound by any provision hereof prior to the **Effective Date** or after the **End Date** set forth in the main body of this Small Dollar Grant Award.
4. **Project Description and Budget.** The maximum amount payable under this Small Dollar Grant Award to the grantee by the State is **\$4,000.00** for the following approved project activities:

Project Activity	Approved Budget		
Training Scholarship – Public Safety Leadership Development Program	Quantity	Cost	Subtotal
	2	\$2,000.00	\$4,000.00
TOTAL			\$4,000.00

5. **Equipment.** Equipment is defined as non-expendable personal property with a useful life of more than one year. The grantee is required to document its procurement procedures and maintain this documentation in the grant records. Receipts or invoices with order and delivery dates are required for all equipment items. Grantees are allowed to follow the procurement requirements of the state or unit of local government as long as the requirements meet or exceed the state requirements listed below. Procurement procedures are required and must be maintained in the records of the grantee.

6. **Inventory Procedures.** If the grantee is purchasing equipment as a part of this Award the grantee must have an effective system of property management and controls to safeguard against loss, damage, or theft of equipment.

Adequate maintenance procedures must be developed to keep the property in good condition. The grantee is required to maintain a POST inventory form for equipment purchased, in whole or in part, with grant funds which contain the following information:

- Description of item
- Serial number and property inventory number
- Date of purchase and delivery
- Check or voucher number
- Cost documentation, invoices, receipts
- Equipment location
- Present use
- Condition
- Disposition information

7. **Reporting.** Equipment purchased with state grant funds must be reported on annually. The ONLY equipment/property that does not need to be reported to POST is ammunition and simunitions. A POST equipment reporting form must be submitted to post.grants@coag.gov for each equipment item by June 30th annually. This form provides the necessary disposition and retention information. Equipment records must be maintained for seven (7) years from the date the first annual report is submitted to DOL-POST. If any litigation, claim, or audit is started before the expiration of the seven (7) year period, the records shall be retained beyond the seven-year period, until all litigation, claims, or audit findings involving records have been resolved.
8. **Disposition of Equipment.** Disposition includes the sale (for trade-up purposes only) or trade-in of equipment as well as the disposal of equipment and the end of its useful life. Documenting the disposition of equipment must be reported on a POST Equipment Disposition Form accompanied with the Equipment Inventory Report Form which is due to POST by June 30th. If disposition of equipment occurs prior to year-end, the Equipment Disposition Form must be submitted at that time. Disposition of equipment requires DOL-POST approval prior to the disposition. A copy of the form(s) must be retained in the grantee's file after the final disposition of the property. At the end of the grant award period, ownership/title to all equipment may vest to the grantee agency if they will use the property for the purposes of the legislation under which the grant was made. POST will require the agency to track the equipment on the Equipment Inventory Report Form. Equipment must be available for inspection by POST personnel. If the grantee agency no longer has a need for the equipment, and the equipment is in working order, the ownership/title to the property will vest to the state. The state will seek to have the property used for training purposes prior to disposing of it.

9. **Procurement Procedures.** Purchases of equipment and services shall be in a manner providing maximum open and free competition. Procurement shall be made by one of the following methods:
- **Small purchase procedures** are those relatively simple and informal procurement methods for securing services, and supplies, that does not exceed \$250,000 in the aggregate. If small purchase procedures are used for procurement under the grant, written quotes must be obtained and documented from at least three (3) qualified sources. These procedures are generally used for the acquisition of relatively small standardized items such as computers.
 - **Competitive negotiation** (request for proposal or other competitive process) is one method that can be used to procure goods or services that cost more than \$250,000. A request for proposal (RFP) is publicized, negotiations are conducted with more than one of the sources submitting offers, and either a fixed-price cost-reimbursable type contract is awarded, as appropriate. The following requirements apply to competitive negotiations:
 - RFP's must be publicized and identify all evaluation factors and their relative importance. Any response to publicized RFP's shall be honored to the maximum extent possible.
 - Proposals must be solicited from at least three (3) qualified sources.
 - Grantees must have a method for conducting technical evaluations of the proposals received and for selecting vendors.
 - Awards must be made to the responsible firm (individual) who proposal is most advantageous to the program, with price and other factors considered.
 - **Competitive sealed bids** (formal advertising) can also be used for procurement over \$250,000. Bids are publicly solicited and a firm, fixed-price contract (lump sum or unit price) is awarded to the responsible bidder, whose bid, conforming to all material terms and conditions of the invitation for bids, is the lowest price. Procurement by sealed bids under a grant will be accomplished through the use of state purchasing procedures or an equivalent local established procurement procedure.
 - **Non-competitive negotiation** (sole-source justification) is procurement through the solicitation of a proposal from only one source or after solicitation of a number of sources when competition is determined inadequate. Prior approval by DOL-POST is required for all non-competitive procurement.
10. **Payments.** Payments shall be made in accordance with the provisions set forth in the Small Dollar Grant Award and applicable State Controller Fiscal Rules and DOL-POST disbursement procedures. Payments to Grantee are limited to the unpaid obligated balance of the Small Dollar Grant Award. **Grantee shall submit a request for reimbursement within sixty (60) calendar days from the delivery of goods and/or the completion of services and/or training and no later than June 30, 2023.** Payment requests must be submitted with cost documentation (receipts, invoices, canceled checks) and proof of attendance (if attending training). Lodging (hotel) receipts must be dated and itemized.
11. **Grant Record Retention.** All grant records must be retained for three (3) years after the end of the state fiscal year that includes the end date of the grant. For example, if the grant ended June 30, 2019

the state fiscal year would be July 1, 2018 to June 30, 2019. The files could be destroyed after June 30, 2022. Grant records include all financial records, supporting documents, statistical records, and all other records pertinent to the grant. Source documents include copies of the grant award, any required reports, accounting transactions, the general ledger, personnel and payroll records (if applicable to the award) and any related documents and records.

12. **Applicable Laws.** At all times during the performance of this Small Dollar Grant Award, Grantee shall comply with all applicable State laws and their implementing regulations, currently in existence and as hereafter amended, including without limitation those set forth in this Exhibit. Laws, regulations, and authoritative guidance incorporated into this Small Dollar Grant Award include, without limitation:

- Department of Law, Peace Officer Standards and Training Continuing Education Grant Guidelines, available on the POST website.
- State of Colorado, State Controller Fiscal Rules, available on the Colorado.gov website.
- C.R.S. §24-31-310 Resources for the Training of Peace Officers.
- C.R.S. §24-31-303 (l) Duties, Powers of the POST Board.
- C.R.S. §24-31-315 Annual In-Service Training Requirements.

13. **Compliance:** The Grantee agrees to be responsible for ensuring compliance with this Small Dollar Grant Award Terms and Conditions and ensure that any equipment or ammunition purchased as a part of this Award will be used for training purposes only.



Peace Officer
Standards and Training

Public Safety Leadership Development Program Grant Application

Revised: 7/22

Total Funding Request

\$ 4000.00

The POST Public Safety Leadership Development (PSLD) Program is for the purpose of sending certified peace officers to attend one of the PSLD Programs hosted by the Daniels College of Business. Eligible applicants are Colorado law enforcement agencies. Priority will be given to small/rural law enforcement agencies. The allowable expense with the scholarship funds is for the cost of tuition only (\$2,000 per applicant).

Applications MUST be received by POST at least 30 days in advance of the class to be considered. If your application is approved, POST will provide you with a Scholarship Reimbursement Form with your executed Small Dollar Grant Award Agreement. The reimbursement form will need to be submitted once the class has been completed with the required documentation (certificate of completion and proof of payment).

Applicant Information

Agency Name: Pueblo Police Department Chief Executive Name: Mayor Nicholas Gradisar
Agency Mailing Address: 200 S. Main Street
Pueblo CO, 81003 Phone #: (719) 553 - 2655
Physical Address (if different): _____
Contact Person For This Grant: Jeff Furney Contact Phone #: (719) 553 - 3245
Contact Email: jfurney@pueblo.us
Scholarship Attendee Name: Greg Bowen PID#: 128496
Scholarship Attendee Name: Richard Burns PID#: 139934

This cover page including Chief Executive Signature below, must be completed and submitted via email to:

Kimberly Hernandez, Grant Manager
Email: kimberly.hernandez@coag.gov
(720) 508-6682

Incomplete applications will not be reviewed.

Signature of Chief Executive: *Nicholas Gradisar* Submission Date: 10-27-2022

POST USE ONLY

Approved By: _____ Date: _____
Total Amount Approved: _____ Date Applicant Contacted and How: _____



Background Paper for Proposed Resolution

COUNCIL MEETING DATE: January 9, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT TO FUEL AND IRON RESIDENTIAL, LLC FOR THE USE OF THE S. MAIN STREET RIGHT-OF-WAY WITHIN THE CITY OF PUEBLO TO CONSTRUCT, OPERATE, AND MAINTAIN A VEHICLE PARKING LOT

SUMMARY:

Attached is a resolution approving the issuance of a revocable permit to Fuel and Iron Residential, LLC for the use of the S. Main Street right-of-way within the City of Pueblo to construct, operate, and maintain a vehicle parking lot in the area underneath the Main Street Bridge adjacent to B Street.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

Fuel and Iron Residential, LLC has applied for a revocable permit to construct, operate, and maintain a parking lot in the area underneath the Main Street Bridge adjacent to B Street as part of the redevelopment of the Holmes Hardware Building. The permit authorizes Fuel and Iron to install an asphalt parking lot with concrete curbs and gutters, pavement markings, lighting, and other ancillary improvements.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

The Revocable Permit Review Committee recommends approval.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Denying the resolution will preclude Fuel and Iron from using the area below the bridge to provide off-street parking for residents and visitors to the Fuel and Iron building.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. Revocable Permit

RESOLUTION NO. 15113

A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT TO FUEL AND IRON RESIDENTIAL, LLC FOR THE USE OF THE S. MAIN STREET RIGHT-OF-WAY WITHIN THE CITY OF PUEBLO TO CONSTRUCT, OPERATE, AND MAINTAIN A VEHICLE PARKING LOT

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The attached Revocable Permit is authorized to be issued to Fuel and Iron Residential, LLC, a Colorado limited liability company, for the construction, operation, and maintenance of a parking lot and other related improvements in the S. Main Street right-of-way as specified in the Revocable Permit.

SECTION 2.

The use of the public right-of-way granted hereby is subject to all limitations, terms, and conditions set forth in the attached Revocable Permit.

SECTION 3.

The City Clerk is directed to cause said Revocable Permit and Exhibits to be recorded in the office of the Pueblo County Clerk and Recorder forthwith. The recording fees for same to be paid for by the Revocable Permit applicant.

SECTION 4.

The officers and staff of the City are authorized to perform any and all acts consistent with this Resolution to implement the policies and procedures described herein.

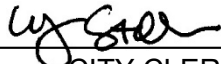
SECTION 5.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED January 9, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

REVOCABLE PERMIT

Pursuant to the authority granted by Section 16-9 of the Charter of Pueblo, a Municipal Corporation, (the "City"), the City Council of City hereby grants the following revocable permit to Permittee subject to and conditioned upon the provisions herein contained and the Permittee's compliance therewith:

1. Name, Address and Telephone Number of Permittee:

Fuel and Iron Residential, LLC
3273 S. Tulare Cir.
Denver, CO 80231
(720) 480-4592

2. Permitted Area:

See Exhibit A (Permitted Area)

3. Purpose of Revocable Permit:

Construction, operation, and maintenance of parking lot and ancillary improvements

4. Authorized Structures:

See Exhibit B (19 pages of Construction Drawings and specifications including all pavement, concrete, pavement markings, signs, landscaping, lighting, and other improvements shown on the drawings installed by Permittee within the Permitted Area)

5. Commencement Date:

Permit commences on the date of approval of the Resolution approving this Permit or upon the date of issuance of temporary or permanent certificate of occupancy for the property located at 400 S. Union, whichever occurs later.

6. Ending Date:

Indefinite

PERMITTEE IN CONSIDERATION OF THE ISSUANCE AND GRANTING OF THE ABOVE-DESCRIBED REVOCABLE PERMIT (THE "PERMIT") REPRESENTS, WARRANTS AND AGREES:

(a) The Permitted Area shall be used for the above-specified Purpose of Revocable Permit only. In no event shall the Authorized Structures be enlarged or otherwise expanded beyond its current size or location.

(b) The Authorized Structures shall be maintained by Permittee in compliance with all applicable codes, ordinances, rules and regulations of City and this Permit.

(c) Before the Time of the Ending Date, or immediately upon any other termination of this Permit, Permittee shall, at Permittee's expense, remove the Authorized Structures from the Permitted Area, repair any damage caused by such removal and restore the Permitted Area to a condition compliant with all existing laws. Failure to timely remove the Authorized Structures from the Permitted Area, repair any damage caused by such removal and restore the Permitted Area to a condition compliant with all existing laws shall constitute Permittee's abandonment of the Authorized Structures, and the City may, at Permittee's expense, remove the Authorized Structures from the Permitted Area, repair any damage caused by such removal and restore the Permitted Area to a condition compliant with all existing laws. Permittee agrees to pay all City's costs and expenses, including reasonable attorney fees, incurred in the enforcement of this Permit.

(d) Permittee shall keep the Authorized Structures and Permitted Area in good, clean, and safe condition and repair, free from litter, waste and debris.

(e) Permittee shall indemnify, defend and hold City, its officers, agents and employees harmless from and against any and all suits, claims, liabilities, loss, damages and expenses, including reasonable attorney fees and cost of defense, arising, directly or indirectly, from or caused by the issuance of this Permit or the conditions hereof, or the existence, repair or maintenance of the Authorized Structures in the Permitted Area, or the use of the Permitted Area or Authorized Structures by Permittee, its officers, agents, employees, invitees or general public.

(f) Neither this Permit nor any of the privileges granted to Permittee hereby, may be conveyed, assigned, transferred or sublet by Permittee without the prior written consent of the City Council of City. Any attempted conveyance, assignment, transfer or subletting of the Permit or Permitted Area without the written consent of the City Council of Pueblo shall be void and of no effect and shall cause this Permit to be automatically revoked.

(g) Permittee shall keep and maintain commercial general liability insurance covering the Permitted Area and the Authorized Structures with limits not less than One Million Dollars (\$1,000,000.00) per person and occurrence for personal injury, including but not limited to death and bodily injury, and One Million Dollars (\$1,000,000.00) per occurrence for property damage. Permittee shall also keep and maintain excess umbrella liability coverage of at least Ten Million and No/100 Dollars (\$10,000,000.00). Such insurance coverage shall include coverage for those hazards normally identified as X.C.U. during construction. The insurance coverage required herein constitutes a minimum requirement and such enumeration shall in no way be deemed to limit or lessen the liability of the Permittee under the terms of this Revocable Permit. All insurance coverage required herein shall be written in a form and by a company or companies approved by the City's Risk Manager and authorized to do business in the State of Colorado. A certified copy of all such insurance policies and any renewal thereof shall be filed with the Revocable Permit Review Committee. Each such policy shall contain a statement therein or endorsement thereon that it will not be cancelled or materially changed without written notice, by registered mail, to the Revocable Permit Review Committee at least thirty (30) days prior to the effective date of the cancellation or material change. All such insurance policies shall be specifically endorsed to include all liability assumed by the Permittee hereunder and shall name the City as an additional insured. Minimum insurance coverage requirements may be increased by the Director of Public Works with 90 days written notice to Permittee. Failure to maintain such insurance shall cause this Permit to be automatically revoked.

(h) Trees, landscaping, and shrubbery within or adjacent to the Permitted Area shall be protected from damage or injury by Permittee and shall not be removed except after receipt by the Permittee of the written consent of the City's Director of Parks and Recreation.

(i) Any notice or other document required or permitted herein shall be in writing and delivered personally or by first class mail, postage prepaid, as follows:

(i) If to permittee, at the address shown in paragraph 1 above.

(ii) If to City:

City of Pueblo
Attn: Revocable Permit Review Committee
1 City Hall Place
Pueblo, CO 81003

Each party reserves the right to change its address provided notice of such change is given in accordance with this paragraph (i).

(j) City reserves and is hereby granted by Permittee access to, under and through the Permitted Area for any and all purposes. City may injure, damage or remove Permittee's Authorized Structures in the Permitted Area in exercising the right of access hereby reserved and granted. Permittee assumes the risk of injury, loss and damage to Permittee's Authorized Structures within the Permitted area, and City shall have no responsibility or liability for any damage or injuries thereto, whatsoever the cause, including, but not limited to, the acts or omissions of City, its officers, employees, or agents.

(k) This Permit shall terminate upon the occurrence of any one of the following events:

(i) the Time of the Ending Date,

(ii) abandonment or non-use by Permittee for a period of three (3) consecutive months,

(iii) surrender or cancellation of the Permit in writing by Permittee,

(iv) automatic revocation as provided in paragraphs (g) and (h) above; or

(v) revocation or termination of this Permit by resolution of the City Council of City.

(l) Permittee acknowledges and agrees that this Permit is temporary and subject to revocation or termination by resolution of the City Council of City, in its sole discretion, for any reason or no reason, at anytime, without liability to City, and without notice to or hearing by Permittee. Permittee waives any and all right or claim to such notice, hearing, and liability of the City.

Signed in Pueblo, Colorado this _____ day of _____, 20_____.

	<u>PERMITTEE:</u>	
	Organization or Individual:	
	By:	
	Title:	

[illegible]

The foregoing instrument was acknowledged before me the _____ day of _____, 2022

by _____ as _____.

My commission expires: _____.

Notary Public

APPROVED this _____ day of _____, 2022.

PUEBLO, a Municipal Corporation

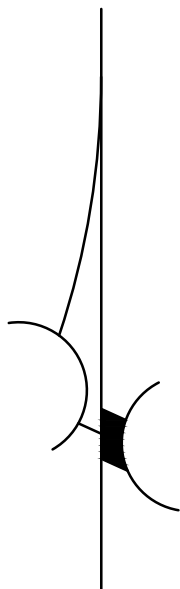
By _____
Nicholas A. Gradisar, Mayor

The map shows the 10000 block of South Union Avenue. A large area is outlined in black and labeled "PERMITTED AREA". Within this area, a section is hatched with diagonal lines and labeled "FUTURE DEVELOPMENT". To the left of the permitted area is a hatched area labeled "FUTURE COMMUNITY GARDEN". The map also shows existing buildings, parking lots, and streets. A north arrow is located in the top right corner, and a scale bar is in the bottom right corner. Various labels for existing and proposed features are scattered throughout the map.



VICINITY MAP

NOT TO SCALE



IMPERVIOUS CALCUATIONS

TOTAL SITE AREA:	111,668	SF
AREA UNDER BRIDGE (EXCLUDED)	20,601	SF
ADDITIONAL IMPERVIOUS AREA:	91,067	SF
ROOF AREA (90% IMPERVIOUS):	15,221	SF
PAVED STREET (100% IMPERVIOUS):	18,985	SF
DRIVE/WALK (96% IMPERVIOUS)	11,446	SF
GRAVEL (40% IMPERVIOUS)	15,222	SF
LANDSCAPE AREA (2% IMPERVIOUS):	30,193	SF
PERCENT IMPERVIOUS:	55.31% (50,365 SF)	

PARKING CALCULATIONS

PARKING PROVIDED:	
TOTAL REGULAR PARKING SPACES (9'-0" x 18'-0"):	64
HANDICAPPED PARKING SPACES:	3
BICYCLE PARKING:	6
PARKING REQUIRED:	
SPACES FROM HOUSING (28 UNITS)	42
SPACES FROM RESTAURANT (425 IBC RATED OCCUPANCY)	142
TOTAL SPACES REQUIRED	184
HANDICAP SPACES REQUIRED	6
BICYCLE PARKING:	10
PARKING POSSIBLE ON SITE:	
TOTAL REGULAR PARKING SPACES (9'-0" x 18'-0"):	64
HANDICAPPED PARKING SPACES:	3
BICYCLE PARKING:	6

SITE/CIVIL NOTES

- THE CONTRACTOR SHALL BE RESPONSIBLE FOR ALL PERMITS AND LICENSES REQUIRED FOR THE CONSTRUCTION AND COMPLETION OF THIS PROJECT.
- LOCATIONS AND DEPTHS OF ANY UTILITIES THAT MAY EXIST ON THE SITE ARE NOT SHOWN, OR ARE SHOWN IN AN APPROXIMATE WAY ONLY AND MAY NOT INCLUDE ALL UTILITIES. THE EXCAVATING CONTRACTOR SHALL DETERMINE THE EXACT LOCATION OF ANY AND ALL UTILITIES BEFORE COMMENCING WORK. HE AGREES TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES WHICH MIGHT BE OCCASIONED BY HIS FAILURE TO EXACTLY LOCATE AND PRESERVE ANY AND ALL UNDERGROUND UTILITIES.
- THE CONTRACTOR SHALL VERIFY LOCATION OF ALL EXISTING UNDERGROUND UTILITIES AND SHALL CONTACT THE RESPECTIVE UTILITY COMPANIES PRIOR TO COMMENCEMENT OF WORK. THE CONTRACTOR SHALL BE RESPONSIBLE FOR THE LOCATION AND PRESERVATION OF ALL SUCH FACILITIES IN THE AREA OF CONSTRUCTION, AND SHALL NOTIFY UTILITY COMPANIES 48 HOURS PRIOR TO EXCAVATION. (UTILITY NOTIFICATION CENTER OF COLORADO: 1-800-922-1987)
- PRIOR TO COMMENCEMENT OF ANY CONSTRUCTION ACTIVITIES CONTRACTOR SHALL FENCE OR ROPE CONSTRUCTION AREAS NOT CURRENTLY FENCED AND PLACE SANITARY FACILITIES AND TRASH DUMPSTERS ON-SITE. WORK AREA BARRIERS, SANITARY FACILITIES AND DUMPSTERS SHALL BE PROPERLY MAINTAINED THROUGHOUT THE COURSE OF CONSTRUCTION AND SHALL BE LEFT IN PLACE UNTIL ALL CONSTRUCTION ACTIVITIES ARE COMPLETED.
- THE CONTRACTOR SHALL NOTIFY THE INSPECTOR HAVING JURISDICTION OVER A PARTICULAR ITEM OF WORK A MINIMUM OF 48 HOURS BEFORE BEGINNING SUCH WORK.
- THE CONTRACTOR AGREES TO ASSUME SOLE AND COMPLETE RESPONSIBILITY FOR JOB SITE CONDITIONS DURING THE COURSE OF CONSTRUCTION, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY, THAT THIS REQUIREMENT SHALL APPLY CONTINUOUSLY AND NOT BE LIMITED TO NORMAL WORKING HOURS; AND THAT THE CONTRACTOR SHALL DEFEND, INDEMNIFY AND HOLD THE OWNER AND THE ENGINEER HARMLESS FOR ANY AND ALL LIABILITY, REAL OR ALLEGED, IN CONNECTION WITH PERFORMANCE OF WORK ON THIS PROJECT, EXCEPTING FOR LIABILITY ARISING FOR THE SOLE NEGLIGENCE OF THE OWNER OR THE ENGINEER.
- ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE LATEST ADOPTED VERSION OF THE UNIFORM BUILDING CODE (UBC), INTERNATIONAL BUILDING CODE (IBC) AND ANY OTHER CODES OF APPLICABLE REGULATORY AGENCIES. ALL WORK IN PUBLIC RIGHT-OF-WAY SHALL MEET THE STANDARD SPECIFICATIONS, DETAILS, AND REQUIREMENTS OF THE CITY OF PUEBLO DEPARTMENT OF PUBLIC WORKS.
- ALL EXCAVATION FOUR FEET OR MORE IN DEPTH SHALL BE DONE IN CONFORMANCE WITH APPROPRIATE SHORING SYSTEM STANDARDS.
- FOR LIGHTING AND SITE ELECTRICAL, REFER TO SITE UTILITY PLANS AND ELECTRICAL PLANS. ALL ELECTRICAL AND LIGHTING IMPROVEMENTS ARE BY OTHERS.
- WATER PIPE: WATER PIPE SIZE 4" OR LARGER SHALL BE AWWA C-900 POLYVINYL CHLORIDE (PVC) CLASS 150 MINIMUM. PIPE SIZE 3" AND SMALLER SHALL BE SCHEDULE 40 PVC. ON-SITE WATER MAINS AND LATERALS SHALL HAVE 42" COVER MINIMUM.
- SANITARY SEWER PIPE SHALL BE POLYVINYL CHLORIDE (PVC) PIPE CONFORMING TO ASTM D-3034 SDR 35.
- A COPPER TRACE WIRE (NO. 12 BARE COPPER) OR A METALLIC PLASTIC TAPE SHALL BE INSTALLED WITH ALL DOMESTIC WATER LINES.
- ALL SANITARY SEWER, STORM DRAINAGE AND WATER MAIN CONSTRUCTION SHALL CONFORM TO THE STATE OF COLORADO, DEPARTMENT OF PUBLIC HEALTH "CRITERIA FOR THE SEPARATION OF WATER MAINS AND SANITARY SEWERS".
- ALL MANHOLE RINGS AND COVERS, CLEAN-OUT COVERS AND WATER VALVE BOXES AND COVERS SHALL BE ADJUSTED TO GRADE BY THE CONTRACTOR AFTER SITE IMPROVEMENTS ARE COMPLETED.
- THE CONTRACTOR SHALL FIELD VERIFY ALL EXISTING FIELD CONDITIONS FOR CONFORMANCE WITH THE DRAWINGS BEFORE THE START OF CONSTRUCTION. ANY DISCREPANCIES SHALL BE BROUGHT TO THE ATTENTION OF THE ENGINEER FOR RESOLUTION BEFORE THE START OF CONSTRUCTION.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR PREVENTING AND REPAIRING ANY EROSION THAT MAY OCCUR AS A RESULT OF CONSTRUCTION AND SHALL BE RESPONSIBLE FOR ALL DUST CONTROL DURING CONSTRUCTION. REFER TO GRADING, DRAINAGE AND EROSION CONTROL PLANS AND NOTES FOR ADDITIONAL DETAILS. CONTRACTOR SHALL MEET ALL REQUIREMENTS OF THE "EROSION CONTROL PLAN" AND SHALL APPLY FOR AND MEET ALL REQUIREMENTS OF THE NPDES PERMIT AND CONTRACTOR PREPARED "STORM WATER MANAGEMENT PLAN".
- CONTRACTOR SHALL PROTECT ANY EXCAVATION FROM ENTRY OF SURFACE RUNOFF FROM ANY SOURCE. DIVERT SURFACE WATER OR OTHERWISE PREVENT IT FROM ENTERING EXCAVATED AREAS OR TRENCHES TO THE EXTENT PRACTICAL WITHOUT DAMAGING ADJACENT PROPERTY.
- KEEP EACH EXCAVATION DRY DURING SUBGRADE PREPARATION AND CONTINUALLY THEREAFTER UNTIL THE STRUCTURE TO BE BUILT OR THE PIPE TO BE INSTALLED IS COMPLETED TO THE EXTENT THAT NO DAMAGE FROM HYDROSTATIC PRESSURE, FLOTATION OR OTHER CAUSE WILL RESULT.
- REFER TO GEOTECHNICAL INVESTIGATION REFERENCED IN NOTE 51 FOR PAVEMENT SECTION REQUIREMENTS AND FOR EXCAVATION/BACKFILL/COMPACTION REQUIREMENTS, ETC.
- REMOVE ALL OBSTRUCTIONS INTERFERING WITH THE INSTALLATION OF NEW CONSTRUCTION AS PER OWNER. SALVAGE REUSABLE ITEMS SUCH AS IRRIGATION SYSTEM COMPONENTS, LIGHTING MATERIALS AND EQUIPMENT, ETC. FOR OWNER.
- SITE LAYOUT IS PER THESE DRAWINGS.
- ALL WORK SHALL BE GUARANTEED FOR A MINIMUM OF TWO YEARS UNLESS OTHERWISE NOTED.
- PAVING SHALL BE GUARANTEED FOR TWO YEARS AFTER FINAL COMPLETION OF CONSTRUCTION. GUARANTEE SHALL BE AGAINST SETTLEMENT, LOW SPOTS OR RAVELLING OUT OF SURFACE AND SHALL INCLUDE REPAIRS NECESSARY DURING GUARANTEE PERIOD TO MAINTAIN PAVING IN PERFECT CONDITION. REPAIRS SHALL INCLUDE BUT SHALL NOT BE LIMITED TO REMOVING DEFECTIVE PAVING AND REPLACING WITH NEW PAVEMENT.
- ALL FIRE HYDRANTS, GATE VALVES AND VALVE BOXES, ETC. SHALL BE FURNISHED AND INSTALLED IN ACCORDANCE WITH PUEBLO BOARD OF WATER WORKS STANDARD SPECIFICATIONS AND DETAILS.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR DAILY CLEANUP AND REMOVAL OF ALL DIRT, ROCK, DEBRIS OR SIMILAR MATERIALS TRACKED, SPILLED OR OTHERWISE DEPOSITED ON ALL PUBLIC RIGHT-OF-WAYS ADJOINING THE CONSTRUCTION SITE FROM VEHICLES OR EQUIPMENT ASSOCIATED WITH SITE CONSTRUCTION.
- ANY CONSTRUCTION DEBRIS OR MUD TRACKING ONTO THE PUBLIC RIGHT-OF-WAY, RESULTING FROM THE PROJECT, SHALL BE REMOVED IMMEDIATELY BY THE CONTRACTOR. THE CONTRACTOR SHALL IMMEDIATELY RETURN TO EXISTING CONDITIONS ANY EXCAVATION OR EXCESSIVE PAVEMENT FAILURE CAUSED BY PROJECT, AND SHALL PROPERLY BARRICADE THE SITE UNTIL CONSTRUCTION IS COMPLETE.
- ALL SPOT ELEVATIONS SHOWN ON CURB AND GUTTER ARE FLOWLINE ELEVATION EXCEPT AS NOTED OTHERWISE. ALL OTHER SPOT ELEVATIONS SHOWN ON THE PLANS ARE FINISHED GRADE ELEVATIONS UNLESS NOTED OTHERWISE.
- ALL ON-SITE CURB AND GUTTER SHALL BE TYPE 2 (6" CURB HEAD WITH 1' PAN) UNLESS NOTED OTHERWISE.
- REGULAR PARKING SPACES ARE 9'X18' EXCEPT AS NOTED OTHERWISE. HANDICAP PARKING SPACES ARE 9'X18' WITH ADDITIONAL LOADING AREA EXCEPT AS NOTED OTHERWISE.
- CONSTRUCTION JOINTS IN CONCRETE SHALL BE CUT TO A DEPTH OF 1/3 OF TOTAL SECTION THICKNESS. CONSTRUCTION JOINTS SHALL BE PLACED AS FOLLOWS:

SIDEWALKS	-	6' INTERVALS
CONCRETE PANS	-	10' INTERVALS
CURB AND GUTTER	-	10' INTERVALS
- SEAL ALL JOINT BETWEEN CONCRETE FLATWORK AND AT SAW CUTS IN CONCRETE WITH CONTINUOUS FLEXIBLE COMPOUND.
- EXPANSION JOINTS SHALL BE 1/2" NON-EXTRUDING PREMOLDED TYPE. EXPANSION JOINTS SHALL BE PLACED AS INDICATED ON THE PLAN OR AS REQUIRED. EXPANSION JOINTS IN PUBLIC SIDEWALKS SHALL NOT EXCEED 40' INTERVALS. EXPANSION JOINTS IN SITE CURB SHALL NOT EXCEED 30' INTERVALS. IN CURB, INSTALL AT LEAST TWO #6 SMOOTH REBAR DOWELS, 12" LONG WITH APPROVED METAL EXPANSION CAPS, TO INHIBIT VERTICAL DISPLACEMENT AT THE JOINT. REFER TO DETAIL ON THIS SHEET.
- SEAL CONCRETE EXPANSION JOINTS WITH CONTINUOUS FLEXIBLE COMPOUND.
- MATCH EXISTING SITE FINISHES WITH A SMOOTH AND CLEAN TRANSITION.
- CONCRETE FOR CURB, SLABS, FOUNDATIONS, RETAINING WALLS ETC., SHALL BE 4000 PSI AT 28 DAYS, 6 SACK MIX, TYPE II CEMENT, WITH 6% ± 1% AIR ENTRAINMENT, SLUMP 3"-5" MAX..
- SURFACES OF ALL EXPOSED CONCRETE OR ASPHALT SHALL CONFORM IN SLOPE, GRADE, COLOR, FINISH, ETC.. TO OTHER ADJACENT CONCRETE OR ASPHALT, UNLESS NOTED OTHERWISE. MATCH EXISTING CONCRETE AND ASPHALT WITH A SMOOTH AND CLEAN TRANSITION. SIDEWALKS SHALL NOT EXCEED A 2% CROSS SLOPE.
- PROVIDE "HANDICAP PARKING ONLY" SIGNS AT ALL HANDICAP PARKING STALLS. ALL SIGNS SHALL MEET ADA STANDARDS.
- CONTRACTOR IS RESPONSIBLE FOR POTHOLING EXISTING UTILITIES PRIOR TO COMMENCEMENT OF CONSTRUCTION ACTIVITIES. ANY DEVIATIONS FROM PLAN DOCUMENTATION SHALL BE REPORTED TO THE ENGINEER IMMEDIATELY.
- CONTRACTOR SHALL COORDINATE LOCATION OF SLEEVES ACROSS PAVED AREAS FOR INSTALLATION OF IRRIGATION SYSTEM, TELEPHONE, CATV, ELECTRIC AND GAS LINES PRIOR TO PAVING OPERATIONS.
- DETERMINATION FOR NEED, PLACEMENT, MAINTENANCE, ETC. OF EROSION CONTROL MEASURES SHALL BE MADE BY THE NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT HOLDER OR BY AN APPROPRIATE REGULATORY AGENCY. THE STORM WATER MANAGEMENT SYSTEMS AND PROCEDURES SHALL MEET THE INTENT OF LOCAL, STATE, AND FEDERAL LAWS, RULES, REQUIREMENTS, AND REGULATIONS.
- EROSION CONTROL FILTER BARRIERS, CHECK DAMS, ETC. SHALL BE CONSTRUCTED IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRINCIPALS. CONTACT THE ENGINEER FOR ADDITIONAL CLARIFICATION.
- EROSION CONTROL FILTER BARRIERS, CHECK DAMS, AND OTHER EROSION CONTROL MEASURES SHALL BE INSPECTED AFTER EVERY EVENT THAT CAUSES RUNOFF. CLEAN, ALTER, REPLACE, REPAIR, ETC. AS REQUIRED TO INSURE PROPER FUNCTION. CONTINUE INSPECTION/MAINTENANCE UNTIL SITE IS ADEQUATELY STABILIZED.
- FILLS SHALL BE PLACED AND COMPACTED IN ACCORDANCE WITH GEOTECHNICAL INVESTIGATION REFERENCED IN NOTE 51.
- CONTOURS SHOWN ON THIS PLAN REPRESENT FINISHED GRADE ELEVATIONS UNLESS NOTED OTHERWISE.
- GRADED SURFACES SHALL BE LEFT IN A SMOOTH, UNIFORM, CRUSTED CONDITION FREE OF RUTS, DEPRESSIONS, IRREGULARITIES, LOOSE UNCOMPACTED SOIL, ETC.
- PERIMETER CONTROL MEASURE: INSTALL EROSION CONTROL BARRIERS AS SHOWN ON PLAN. IF REMOVED FOR SITE ACCESS DURING THE DAY INSURE THAT IT IS REINSTALLED AT THE END OF THE WORK DAY OF DURING STORM EVENTS THAT CAUSE RUNOFF TO DISCHARGE OFF THE SITE.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR DAILY CLEANUP AND REMOVAL OF ALL DIRT, ROCK, DEBRIS OR SIMILAR MATERIALS TRACKED, SPILLED OR OTHERWISE DEPOSITED ON ALL PUBLIC RIGHT-OF-WAYS ADJOINING THE CONSTRUCTION SITE FROM VEHICLES OR EQUIPMENT ASSOCIATED WITH SITE CONSTRUCTION.
- IF DURING THE OVERLOT GRADING PROCESS CONDITIONS ARE ENCOUNTERED WHICH COULD INDICATE AN UNIDENTIFIED SITUATION IS PRESENT, THE ENGINEER SHALL BE CONTACTED FOR RECOMMENDATIONS.
- NO PROPOSED SLOPE SHALL EXCEED FOUR (4) HORIZONTAL TO ONE (1) VERTICAL.
- SPOT ELEVATIONS SHALL TAKE PRECEDENCE OVER CONTOURS AND SLOPES SHOWN. SPOT ELEVATIONS REPRESENT SUB-GRADE ELEVATIONS.
- ALL MATERIALS INCORPORATED INTO THE PROJECT SHALL BE NEW. SHOP DRAWINGS WILL BE REQUIRED FOR ALL MATERIALS AND EQUIPMENT FURNISHED FOR THE PROJECT.

CIVIL SHEET INDEX

C1.0	TITLE SHEET
C2.0	SITE PLAN
C3.0	UTILITY PLAN
C4.0	GRADING PLAN
C5.0	DRAINAGE PLAN
C5.1	DRAINAGE PLAN DETAILS
C6.0	EROSION CONTROL PLAN
C7.0	DETAIL SHEET
C7.1	DETAIL SHEET
C8.0	TRACER WIRE DETAIL SHEET

CITY OF PUEBLO STANDARD SPECIFICATIONS

ARTICLE 4	- CONCRETE
ARTICLE 5	- CONCRETE CURB & GUTTER
ARTICLE 6	- CONCRETE SIDEWALK AND DRIVEWAYS
ARTICLE 7	- CONCRETE PAVEMENT
ARTICLE 8	- AGGREGATE BASE CONSTRUCTION
ARTICLE 9	- EARTHWORK
ARTICLE 10	- HOT BITUMINOUS PAVEMENT
ARTICLE 11	- PLANT MIXED SEAL CDAT (ASPHALTIC OVERLAY)
ARTICLE 12	- SANITARY SEWERS
ARTICLE 13	- STORM SEWERS
ARTICLE 14	- EXCAVATION WITHIN PUBLIC RIGHT OF WAY

PAVEMENT SECTION

LOCATION	CITY OF PUEBLO DEFAULT COMPOSITE SECTION
PARKING STALLS	4.25" ASPHALT DN 6" BASE COURSE
DRIVE LANES	5.25" ASPHALT DN 6" BASE COURSE

BENCHMARK:

A NUMBER 4 REBAR WITH AN ORANGE PLASTIC CAP MARKED "CONTROL" LOCATED 500 FT. NORTH EASTERLY FROM THE INTERSECTION OF THE ARKANSAS RIVER TRAIL AND THE WILD HORSE TRAIL ON THE SOUTH EAST END OF THE PEDESTRIAN BRIDGE AND 10 FT. SOUTH OF THE ARKANSAS RIVER TRAIL.
NAVD 88 ELEVATION = 4680.98

NOTES:

THIS IS TO CONFIRM THAT WE HAVE PREPARED THE SITE IMPROVEMENTS TO THE BEST OF OUR KNOWLEDGE AND BELIEF TO BE IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT. THE ACCESSIBLE ROUTE FROM THE PARKING LOT TO THE BUILDING AND FROM THE SITE TO THE PUBLIC WAY IS COMPLIANT WITH THE ADA. WE HAVE DESIGNED THE PLAN AND IT WAS DRAWN BY ME OR UNDER MY SUPERVISION.

THIS CONSTRUCTION PLAN COMPLIES WITH ALL CITY OF PUEBLO DESIGN STANDARDS WITH THE MOST CURRENT STANDARD CONSTRUCTION SPECIFICATIONS AND STANDARD DETAILS.

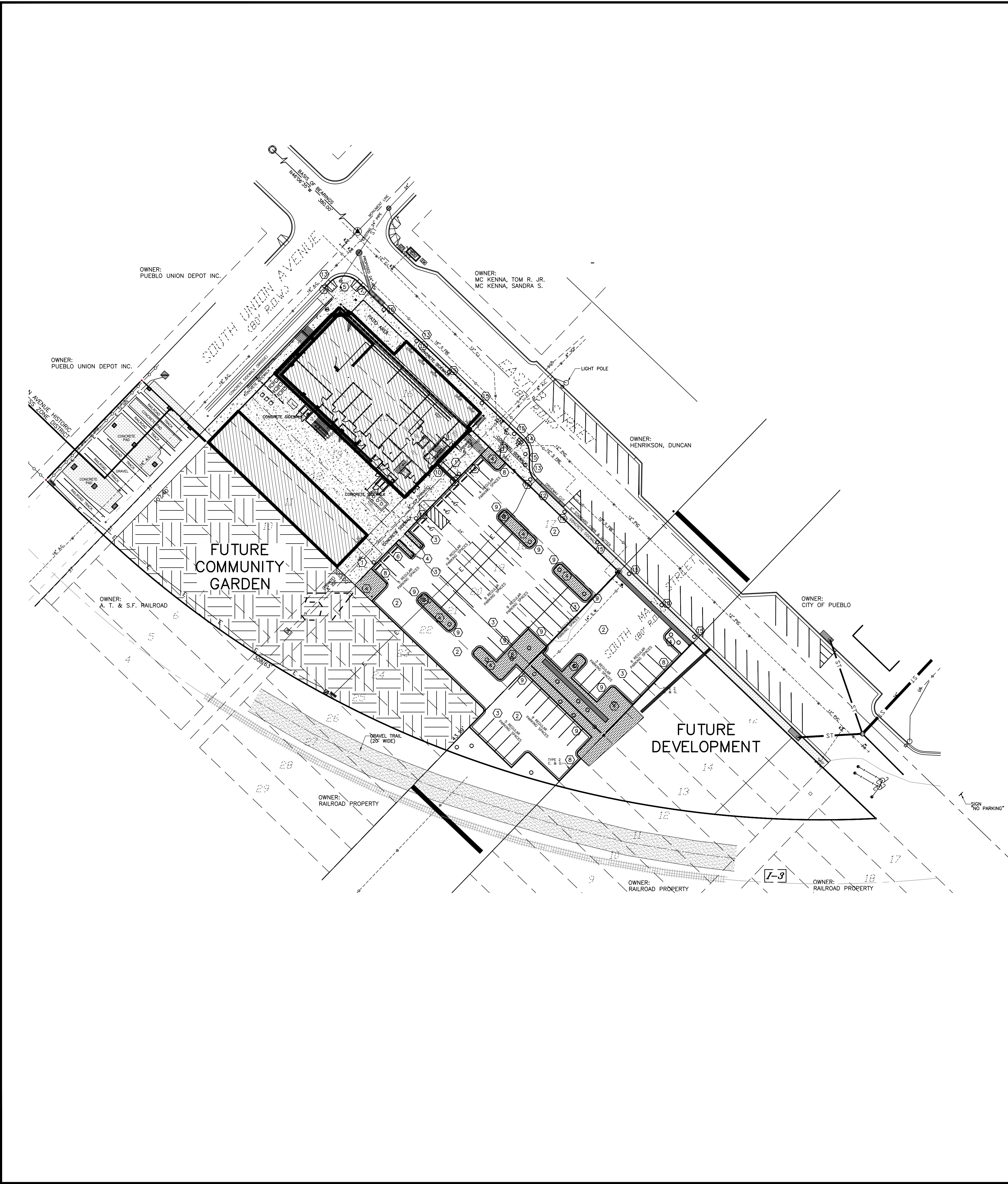
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CITY APPROVAL STAMP



DATE	REVIEWED BY	MARK	DATE	REVISION	REVISED BY
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HOLMES HARDWARE BLOCK					
400 S. UNION STREET					
PUEBLO, COLORADO 81003					
TITLE SHEET					
100% CD'S					
PROJECT NAME			SHEET TITLE		
PREPARED UNDER THE DIRECT SUPERVISION OF MICHAEL LELAND CUPPY, P.E., COLORADO REGISTRATION NO. 40201.					
SCALE: AS SHOWN					
DATE: 01-11-2021					
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SHEET 1 OF 10					

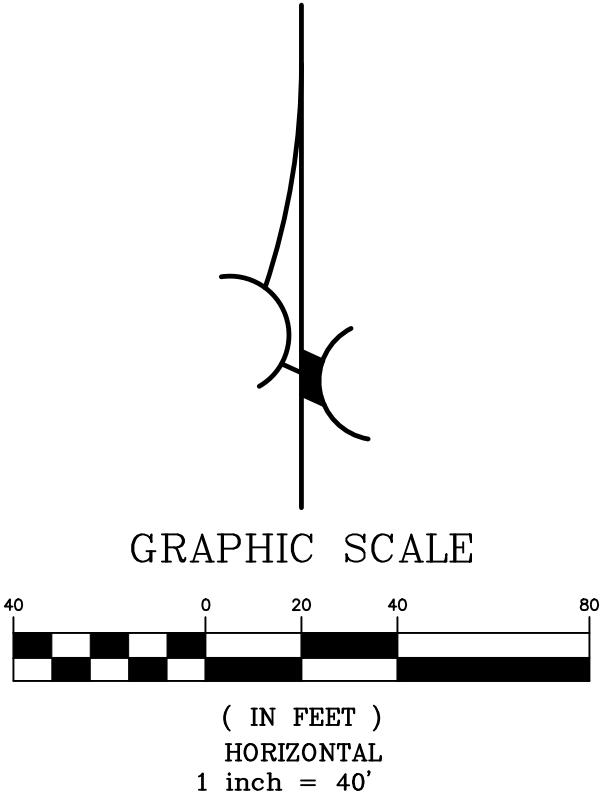


- CONSTRUCTION NOTES**
1. THE CONTRACTOR IS RESPONSIBLE FOR OBTAINING ALL PERMITS PRIOR TO COMMENCEMENT OF ANY WORK ON THE PROJECT.
 2. THE CONTRACTOR IS RESPONSIBLE TO NOTIFY THE OWNER AND ARCHITECT OF ANY PROBLEMS IN CONFORMING TO THE APPROVED PLANS FOR ANY ELEMENT OF THE PROPOSED IMPROVEMENTS PRIOR TO ITS' CONSTRUCTION.
 3. ANY SETTLEMENT OR SOIL ACCUMULATION, BEYOND THE PROPERTY LIMITS, DUE TO GRADING OR EROSION, SHALL BE RETURNED TO EXISTING CONDITIONS BY THE CONTRACTOR IMMEDIATELY.
 4. ANY CONSTRUCTION DEBRIS OR MUD TRACKING ONTO THE PUBLIC RIGHT-OF-WAY, RESULTING FROM THE PROJECT, SHALL BE REMOVED IMMEDIATELY BY THE CONTRACTOR. THE CONTRACTOR SHALL IMMEDIATELY RETURN TO EXISTING CONDITIONS ANY EXCAVATION OR EXCESSIVE PAVEMENT FAILURE CAUSED BY PROJECT, AND SHALL PROPERLY BARRICADE THE SITE UNTIL CONSTRUCTION IS COMPLETE.
 5. THE CONTRACTOR SHALL BE SOLELY AND COMPLETELY RESPONSIBLE FOR THE CONDITIONS AT, AND ADJACENT TO, THE JOB SITE, INCLUDING SAFETY OF ALL PERSONS AND PROPERTY, DURING THE PERFORMANCE OF THE WORK. THIS REQUIREMENT SHALL APPLY CONTINUOUSLY, AND SHALL NOT BE LIMITED TO NORMAL WORKING HOURS. THE DUTY OF THE OWNER, ARCHITECT OR ENGINEER TO CONDUCT CONSTRUCTION REVIEW OF THE CONTRACTORS PERFORMANCE IS NOT INTENDED TO INCLUDE REVIEW OF THE ADEQUACY OF THE CONTRACTOR'S SAFETY MEASURES IN, ON, OR NEAR THE CONSTRUCTION SITE.
 6. THE CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING UTILITY LOCATIONS AT LEAST 48 HOURS PRIOR TO COMMENCEMENT OF CONSTRUCTION.
 7. THE CONTRACTOR SHALL PROVIDE ALL LIGHTS, SIGNS, BARRICADES, FLAG PERSONS, OR OTHER DEVICES TO PROVIDE FOR PUBLIC SAFETY, IN ACCORDANCE WITH THE CURRENT MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES.
 8. CONTRACTOR SHALL FIELD VERIFY ALL EXISTING CONDITIONS PRIOR TO START OF ANY DEMOLITION OR NEW WORK.
 9. CONTRACTOR SHALL BE RESPONSIBLE FOR HAULING AWAY AND DISPOSAL OF ALL DEMO MATERIALS – SALVAGE TO CONTRACTOR UNLESS OTHERWISE NOTED.
 10. SEAL ALL JOINTS BETWEEN CONCRETE FLATWORK AND CONCRETE FLATWORK AND AT SAW CUTS IN
 11. PARKING LOT STRIPING SHALL BE 4" WIDE WHITE EXCEPT FOR THE HC PARKING CURBHEAD/WHEEL STOP/BOLLARD WHICH SHALL BE PAINTED HC BLUE (PARKING LOT STRIPING SHALL BE 4" WIDE WHITE PER MUTCD SECTION 3B.15 TRANSVERSE MARKINGS)
 12. ALL ADA PARKING SPOTS MUST HAVE A MAXIMUM SLOPE OF 2%
 13. MUST USE MUTCD SIGNAGE FOR HC PARKING, ONE SIGN PER SPACE (R7- B; R7-8P (VAN SUPPLEMENTAL AS REQUIRED)
 14. MOUNT SIGNS 7 FROM BOTTOM OF SIGN ON POLE, OR IF SIGN IS INSTALLED ON WALL MAY BE MOUNTED AT 5'.
 15. ALL PAVEMENT MARKINGS, AND/OR SIGNS SHALL CONFORM TO CURRENT EDITION OF THE MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES (MUTCD).
 15. IF USED, THE FOLLOWING INTERNATIONAL SYMBOL OF ACCESSIBILITY PROPORTIONS SHALL BE USED FOR HC PAVEMENT MARKINGS (PMC SEC. 17-4-43. – OFFSTREET PARKING NONRESIDENTIAL)

- SITE CONSTRUCTION NOTES**
1. CONSTRUCT ADA ACCESSIBLE COMPLIANT CONCRETE SIDEWALK. ALL NEW CONCRETE FLATWORK SHALL BE 4" THICK (UNLESS OTHERWISE NOTED), WITH CONTROL JOINTS AT 5.0' O.C. OVER UNIFORMLY GRADED AND COMPACTED OR UNDISTURBED AND COMPACTED SOIL. REFER TO GEOTECHNICAL SUBSURFACE REPORT. MINIMUM WIDTH OF 5'-0" UNLESS NOTED OTHERWISE. ALL SITE CONCRETE SHALL BE CONSTRUCTED IN ACCORDANCE WITH CDDT M AND S STANDARD CONSTRUCTION SPECIFICATIONS. ALL CONCRETE SIDEWALKS IN PUBLIC RIGHT-OF-WAY SHALL BE CONSTRUCTED IN ACCORDANCE WITH CITY OF PUEBLO STANDARD CONSTRUCTION SPECIFICATIONS WITH MINIMUM WIDTH OF 6'-0"
 2. PARKING LOT PAVING – SEE TITLE SHEET FOR THICKNESS OF ASPHALT AND BASE SECTIONS FOR 11TH STREET / PARKING
 3. PAINT 4" WIDE STRIPING (WHITE)
 4. LANDSCAPE AREA, REFER TO LANDSCAPE AND IRRIGATION PLANS
 5. ALL CURB RAMPS SHALL COMPLY WITH CITY OF PUEBLO STANDARD CONSTRUCTION SPECIFICATIONS
 6. INSTALL PARKING STOP PER DETAIL ON C6.0
 7. INSTALL NEW CITY OF PUEBLO "TYPE A" CURB RAMP
 8. CONSTRUCT NEW TYPE 2 CURB AND GUTTER PER CITY OF PUEBLO STANDARD DETAILS SD2.
 9. INSTALL 1-FOOT WIDE CURB CUT.
 10. INSTALL 24" WIDE SIDEWALK DRAIN PER CITY OF PUEBLO STANDARD DETAIL ON SHEET SDB.
 11. CONSTRUCT ADA COMPLIANT HANDICAP PARKING SPACES & SIGNAGE PER DETAILS ON SHEET C7.0. PAINT CURBHEAD FOR ADA SPACES BLUE. MAXIMUM 2.00% SLOPE IN ANY DIRECTION FOR ADA PARKING STALLS.
 12. ENSURE EXISTING SIDEWALK AND RAMPS ARE ADA ACCESSIBLE AND MEET CITY OF PUEBLO CONSTRUCTION SPECIFICATIONS.
 13. CONSTRUCT STANDARD CURB AND GUTTER PER CITY OF PUEBLO REQUIREMENTS.
 14. INSTALL SURFACE MOUNTED SIX SPACE INVERTED U BIKE RACK: SITESCAPES-MODEL # AP2-06-SM OR APPROVED EQUAL. SEE SHEET C7.0 FOR DETAILS.
 15. 3" DIAMETER SIDEWALK CUTOUT FOR PROPOSED TREE (SEE LANDSCAPE PLAN FOR MORE DETAILS).

LEGEND

	SEE LANDSCAPING PLANS		EXISTING CONCRETE SIDEWALK PER CITY OF PUEBLO STANDARDS
	PROPOSED CONCRETE SIDEWALK		EXISTING BUILDING



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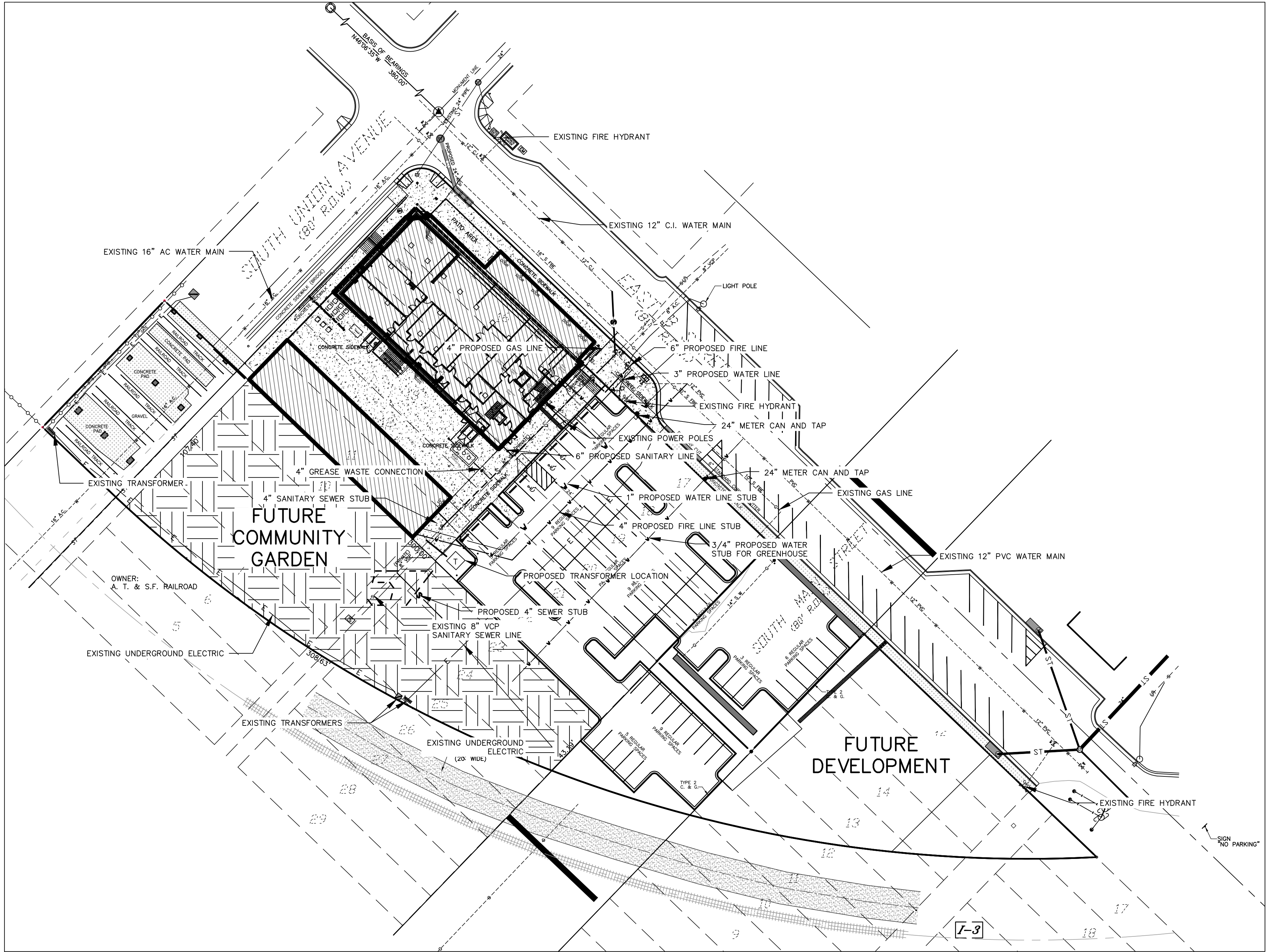
HOLMES HARDWARE BLOCK 400 S. UNION STREET PUEBLO, COLORADO 81003	SITE PLAN 100% CD'S
--	------------------------

PROJECT NAME	HOLMES HARDWARE BLOCK 400 S. UNION STREET PUEBLO, COLORADO 81003
SHEET TITLE	SITE PLAN 100% CD'S

NORTH STAR
ENGINEERING AND SURVEYING, INC.
111 E. 8TH ST. PUEBLO, CO. 81003
TEL: (719) 844-6825 FAX: (719) 844-6825

PREPARED UNDER THE DIRECT SUPERVISION OF
MICHAEL LELAND CUPPY,
P.E., COLORADO
REGISTRATION NO. 40201.

SCALE:	AS SHOWN
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C2.0	SHEET 2 OF 10



LEGEND

- EXISTING TELEPHONE PEDESTAL
- EXISTING SANITARY SEWER MANHOLE
- EXISTING SANITARY SEWER CLEAN-OUT
- EXISTING STORM SEWER INLET LID
- EXISTING IRRIGATION CONTROL VALVE
- EXISTING WATER VALVE
- EXISTING FIRE HYDRANT
- EXISTING POWER POLE
- EXISTING LIGHT POLE
- EXISTING GUY WIRE
- EXISTING ELECTRIC METER
- EXISTING GAS METER
- EXISTING SIGN

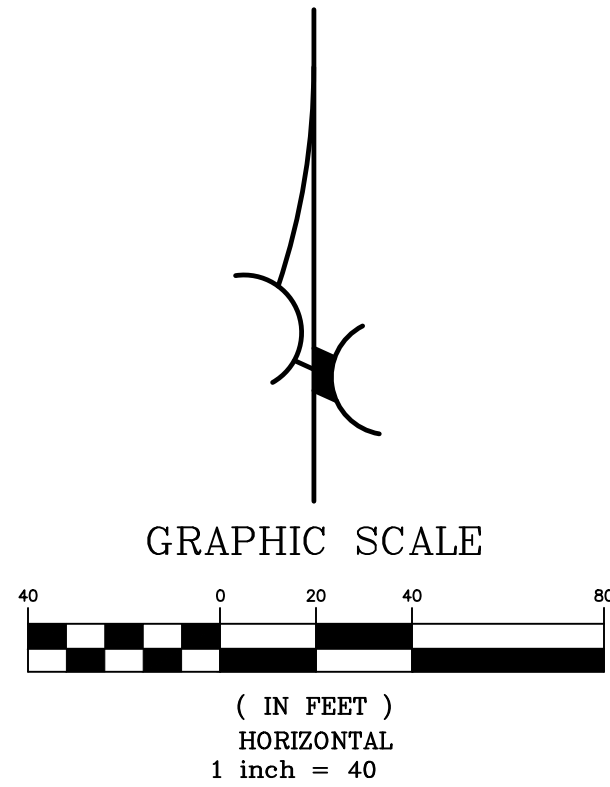
- EXISTING SANITARY SEWER
- EXISTING STORM SEWER
- EXISTING WATER LINE
- EXISTING GAS LINE
- EXISTING OVERHEAD WIRES

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- ALL NEW SITE CONCRETE FLATWORK SHALL BE 4" THICK CONCRETE, (UNLESS OTHERWISE NOTED), WITH ONE (1) LAYER 6 X 6 W/1.4/W1.4 WELDED WIRE MESH AND WITH CONTROL JOINTS AT 5.0' O.C. OVER UNIFORMLY GRADED AND COMPACTED OF UNDISTURBED AND COMPACTED SOIL BASE. REFER TO SPECIFICATIONS.
- ALL CONCRETE IN PUBLIC RIGHT-OF-WAY SHALL BE INSTALLED IN ACCORDANCE WITH CITY OF PUEBLO STANDARD CONSTRUCTION SPECIFICATIONS.
- NEW CONCRETE STOOPS AT ALL NEW ENTRIES SHALL BE 6" THICK CONCRETE (UNLESS OTHERWISE NOTED) WITH ONE (1) LAYER 6 X 6 W/1.4/W1.4 WELDED WIRE MESH AND WITH CONTROL JOINTS AT 5.0' O.C. OVER UNIFORMLY GRADED AND COMPACTED OF UNDISTURBED AND COMPACTED SOIL BASE. REFER TO SPECIFICATIONS.
- SEAL ALL JOINTS BETWEEN CONCRETE FLATWORK AND ASPHALT PAVING WITH CONTINUOUS FLEXIBLE COMPOUND.
- SEAL ALL JOINTS BETWEEN NEW AND EXISTING CONCRETE FLATWORK WITH CONTINUOUS FLEXIBLE COMPOUND.
- SEAL CONCRETE EXPANSION JOINTS WITH CONTINUOUS FLEXIBLE COMPOUND.

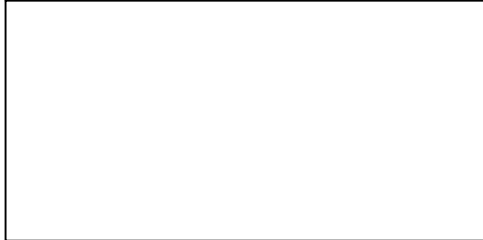
CAUTION -- NOTICE TO CONTRACTOR

LOCATIONS AND DEPTHS OF EXISTING UTILITIES ARE NOT SHOWN. THE EXCAVATING CONTRACTOR SHALL DETERMINE THE EXACT LOCATION OF ALL EXISTING UTILITIES BEFORE COMMENCING WORK. HE AGREES TO BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES WHICH MIGHT BE OCCASIONED BY HIS FAILURE TO EXACTLY LOCATE AND PRESERVE ANY AND ALL UNDERGROUND UTILITIES.

THIS CONSTRUCTION PLAN COMPLIES WITH ALL CITY OF PUEBLO DESIGN STANDARDS WITH THE MOST CURRENT STANDARD CONSTRUCTION SPECIFICATIONS AND STANDARD DETAILS.

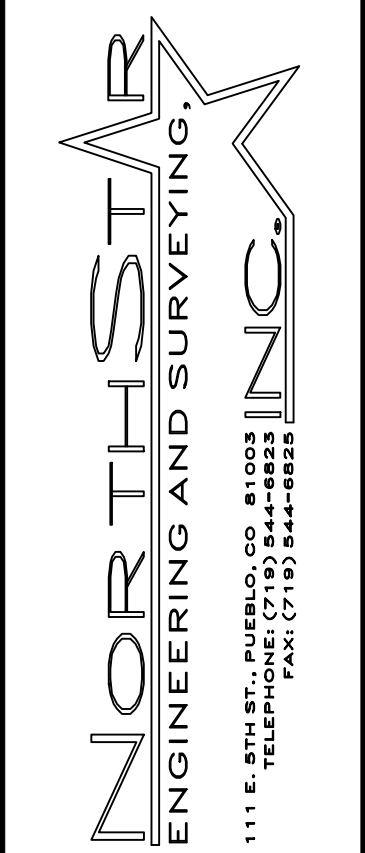


CITY APPROVAL STAMP



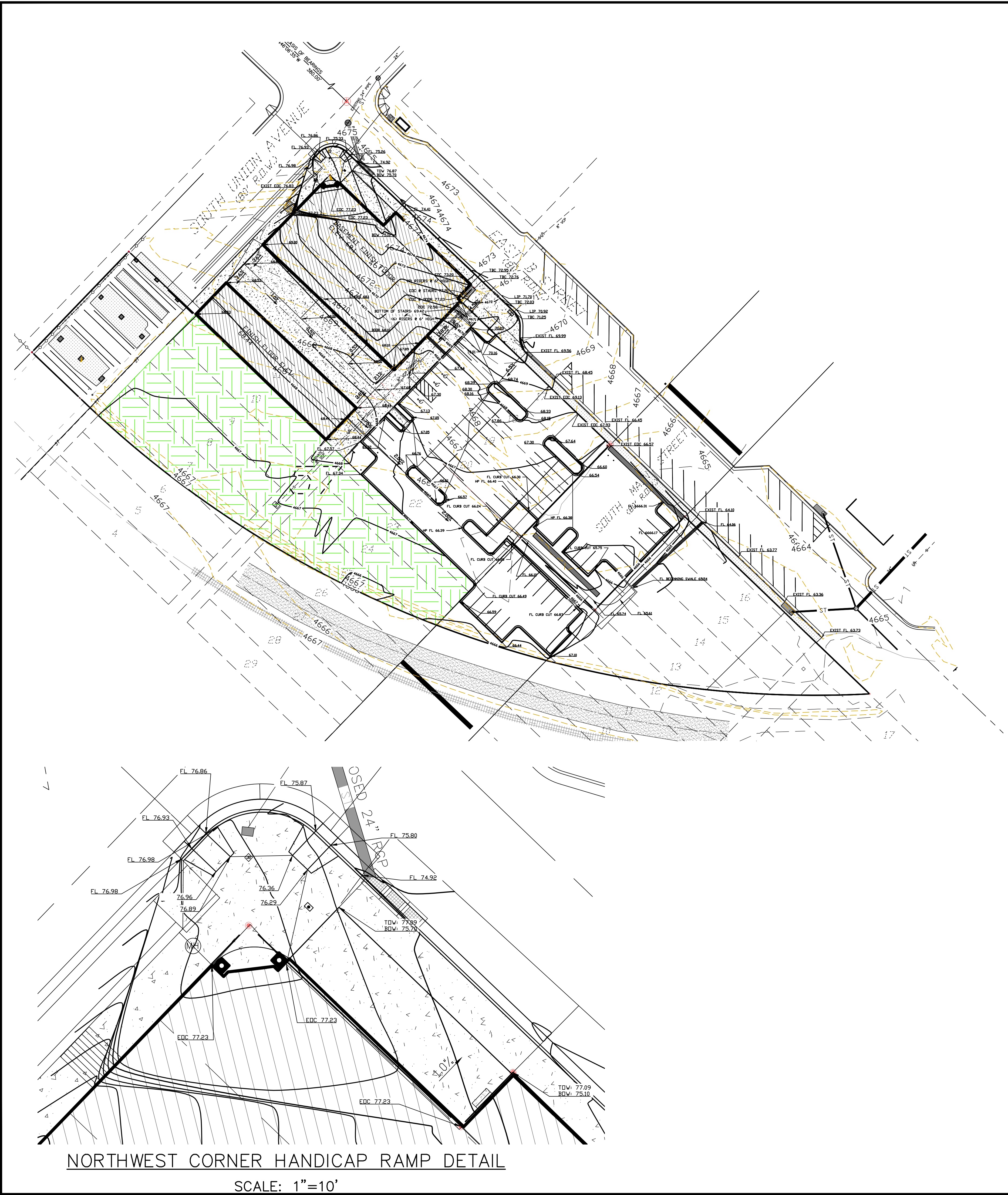
REVISION	DATE	MARK	REVIEWED BY	DATE

PROJECT NAME	SHEET TITLE
HOLMES HARDWARE BLOCK 400 S. UNION STREET PUEBLO, COLORADO 81003	UTILITY PLAN 100% CD'S



PREPARED UNDER THE DIRECT SUPERVISION OF MICHAEL LELAND CUPPY, P.E., COLORADO REGISTRATION NO. 40201.

SCALE:	AS SHOWN
DATE:	01-11-2021
DESIGN BY:	MLC
DRAWN BY:	DMB
CHECKED BY:	MLC
FILE:	2001500_C3.0.DWG
JOB NO.	2001500
C3.0	SHEET 3 OF 10



BENCHMARK:

A NUMBER 4 REBAR WITH AN ORANGE PLASTIC CAP MARKED "CONTROL" LOCATED 500 FT. NORTH EASTERLY FROM THE INTERSECTION OF THE ARKANSAS RIVER TRAIL AND THE WILD HORSE TRAIL ON THE SOUTH EAST END OF THE PEDESTRIAN BRIDGE AND 10 FT. SOUTH OF THE ARKANSAS RIVER TRAIL.
NAVD 88 ELEVATION = 4680.98

GRADING AND EROSION CONTROL NOTES

1. THIS GRADING PLAN IS ONLY ONE DOCUMENT OF MULTIPLE DESIGN DOCUMENTS FOR THIS PROJECT. THE GRADING PLAN HAS NOT BEEN DESIGNED AS A "STAND ALONE" PLAN BUT RATHER RELIES ON INFORMATION CONTAINED IN OTHER PLANS FOR A COMPLETE DESIGN. CONTRACTOR SHALL BE RESPONSIBLE FOR REVIEWING THE REQUIREMENTS OF ALL PLANS PRIOR TO THE COMMENCEMENT OF CONSTRUCTION ACTIVITIES AND NOTIFYING THE ENGINEER OF ANY DISCREPANCIES. FAILURE OF THE CONTRACTOR TO REPORT DISCREPANCIES TO THE ENGINEER IN A TIMELY MANNER OR CONSTRUCT THE PROJECT IN ACCORDANCE WITH THE REQUIREMENTS OF ALL DESIGN DOCUMENTS SHALL BE SOLELY AT THE CONTRACTOR'S RISK AND EXPENSE.
2. THE GEOTECHNICAL REPORT IF APPLICABLE FOR THIS PROJECT SHALL BE INCORPORATED HEREIN AS IF REPRODUCED IN FULL. CONFLICTS BETWEEN THE GEOTECHNICAL REPORT AND OTHER PROJECT PLANS AND DOCUMENTS SHALL BE RESOLVED AS IN NOTE 1 ABOVE.
3. PROPOSED CONTOURS SHOWN ON THIS PLAN REPRESENT FINISHED GRADES AND ARE FOR CONCEPTUAL PURPOSES ONLY. INFORMATION DEPICTED BY SPOT ELEVATION, DETAIL, TYPICAL SECTION AND PROFILE SHALL GOVERN.
4. OVERLOT FLOW ARROWS ON THIS SHEET REPRESENT OVERLOT GRADING TO BE EMPLOYED AT TIME OF LOT CONSTRUCTION.
5. AVOID DISTURBANCE OF AREAS NOT TO BE GRADED.
6. FILLS SHALL BE PLACED AND COMPACTED IN ACCORDANCE WITH THE PROJECT SPECIFICATIONS AND THE GEOTECHNICAL REPORT. IF APPLICABLE WHERE CONFLICTS OCCUR THE MOST STRINGENT REQUIREMENT SHALL APPLY, UNLESS DIRECTED OTHERWISE BY THE GEOTECHNICAL ENGINEER.
7. OVERLOT AREAS IN FILL SECTIONS SHALL BE LEFT 3" LOW. UPON COMPLETION OF GRADING, PLACE AND CONSOLIDATE STRIPPINGS TO BRING BACK TO FINISHED GRADE. CRUST SURFACES UNTIL UTILITY INSTALLATIONS ARE COMPLETE.
8. FINISH GRADE SHALL BE BROUGHT WITHIN A TOLERANCE OF 0.0' TO +0.1' OF PLAN GRADE.
9. GRADED SURFACES SHALL BE LEFT IN A SMOOTH, UNIFORM, CRUSTED CONDITION FREE OF RUTS, DEPRESSIONS, IRREGULARITIES, LOOSE UNCOMPACTED SOIL, ETC...
10. REVEGETATE ALL DISTURBED AREAS THAT ARE NOT TO BE DEVELOPED IMMEDIATELY. OBTAIN RECOMMENDATIONS FOR SEEDING, PLANTING TIMES, PLANTING TECHNIQUES, MULCHING, WATERING, ETC... FROM THE USDA SOIL CONSERVATION SERVICE.
11. LOCATION AND DEPTHS OF ANY EXISTING UTILITIES THAT MAY EXIST ON SITE ARE NOT SHOWN, OR ARE SHOWN IN AN APPROXIMATE WAY ONLY AND MAY NOT INCLUDE ALL UTILITIES. THE CONTRACTOR SHALL DETERMINE THE LOCATION OF ANY AND ALL UTILITIES BEFORE COMMENCING WORK. THE CONTRACTOR SHALL BE FULLY RESPONSIBLE FOR ANY AND ALL DAMAGES WHICH MIGHT BE OCCASIONED BY THEIR FAILURE TO HAVE EXISTING UTILITIES LOCATED.
12. ALL SPOT ELEVATIONS ARE WITHIN FLOWLINE, UNLESS OTHERWISE NOTED.

NOTES:
THIS IS TO CONFIRM THAT WE HAVE PREPARED THE SITE IMPROVEMENTS TO THE BEST OF OUR KNOWLEDGE AND BELIEF TO BE IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT. THE ACCESSIBLE ROUTE FROM THE PARKING LOT TO THE BUILDING AND FROM THE SITE TO THE PUBLIC WAY IS COMPLIANT WITH THE ADA. WE HAVE DESIGNED THE PLAN AND IT WAS DRAWN BY ME OR UNDER MY SUPERVISION.
THIS CONSTRUCTION PLAN COMPLIES WITH ALL CITY OF PUEBLO DESIGN STANDARDS WITH THE MOST CURRENT STANDARD CONSTRUCTION SPECIFICATIONS AND STANDARD DETAILS.

CAUTION – NOTICE TO CONTRACTOR

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LEGEND

- EXISTING 5' CONTOUR
- EXISTING 1' CONTOUR
- PROPOSED 5' CONTOUR
- PROPOSED 1' CONTOUR
- SPOT ELEVATION
- FINISHED GRADE SLOPE

DATE	REVIEWED BY	MARK	DATE	REVISION	REVISED BY

HOLMES HARDWARE BLOCK
400 S. UNION STREET
PUEBLO, COLORADO 81003

GRADING PLAN
100% CD'S

PROJECT NAME	SHEET TITLE

NORTHSTAR

ENGINEERING AND SURVEYING, INC.

1111 E. 8TH STREET, PUEBLO, CO 81003
TEL: (719) 844-6825 FAX: (719) 844-6825

PREPARED UNDER THE DIRECT SUPERVISION OF
MICHAEL LELAND CUPPY,
P.E., COLORADO
REGISTRATION NO. 40201.

SCALE: AS SHOWN

DATE: 01-11-2021

DESIGN BY: MLC

DRAWN BY: DMB

CHECKED BY: MLC

FILE: 2001500-C4.0.DWG

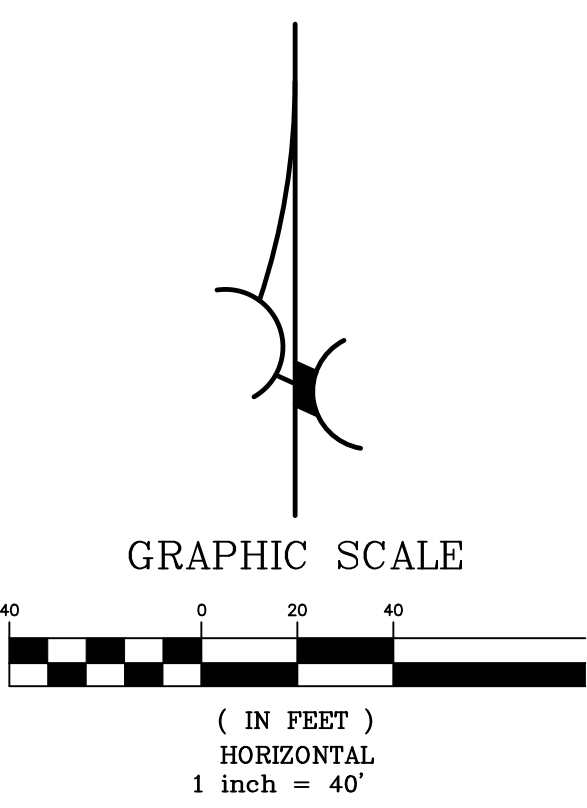
JOB NO. 2001500

C4.0

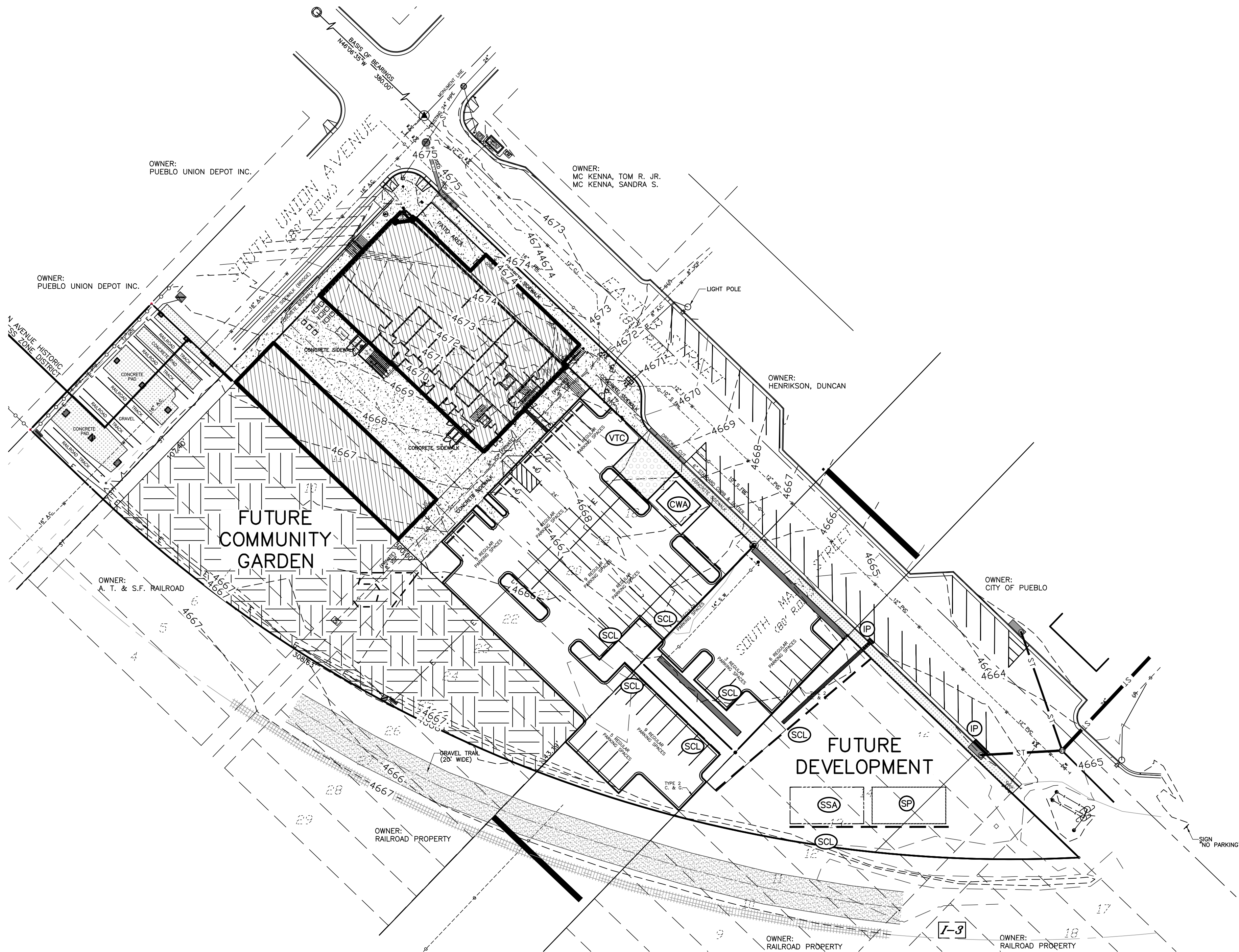
SHEET 4 OF 10

NORTHWEST CORNER HANDICAP RAMP DETAIL

SCALE: 1"=10'



CITY APPROVAL STAMP



LEGEND		
		VEHICLE TRACKING CONTROL
		INLET PROTECTION
		TEMPORARY STOCKPILE
		STABILIZED STAGING AREA
		CONCRETE WASHOUT AREA
		SEDIMENT CONTROL LOG

EROSION AND SEDIMENT CONTROL NOTES

- PAVEMENT ON ADJACENT STREETS WILL SERVE AS A WHEEL CLEANING AREA. ENSURE THAT MUD OR DIRT TRACKED ONTO THESE STREETS IS CLEANED UP AT THE END OF EACH WORK DAY.
- EROSION CONTROL MEASURES SHALL BE CONSTRUCTED IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRACTICES. CONTACT THE ENGINEER FOR ADDITIONAL CLARIFICATION.
- INSPECT ALL EROSION CONTROL MEASURES AFTER EVERY EVENT THAT CAUSES RUNOFF. CLEAN, ALTER, REPLACE, REPAIR, ETC... AS REQUIRED FOR PROPER FUNCTION. CONTINUE INSPECTIONS/MAINTENANCE UNTIL SITE IS ADEQUATELY STABILIZED.
- PERIMETER CONTROL: INSTALL MOVABLE EROSION CONTROL BARRIERS ALONG THE BOUNDARIES OF THE SITE WHICH CONVEY FLOWS OFF-SITE AND ACROSS ALL ROADWAY ACCESS POINTS AS SHOWN. IF REMOVED FOR SITE ACCESS DURING THE DAY ENSURE THAT IT IS REINSTALLED AT THE END OF THE WORK DAY OR DURING STORM EVENTS THAT CAUSE RUNOFF TO DISCHARGE OFF THE SITE.
- INSTALL EROSION CONTROL BARRIERS AROUND DETENTION BASIN OUTLET STRUCTURE. USE ROCK BERM, GRAVEL, OR ENVIRONMENTAL STYLE PRIOR TO REVEGETATION OF DETENTION BASIN.
- PRIOR TO ANY CONSTRUCTION, INCLUDING SITE GRADING AND EXCAVATION, AN APPROVED "EROSION AND SEDIMENT CONTROL PLAN" SHALL BE POSTED ON-SITE AND ALL REQUIRED EROSION CONTROL MEASURES INSTALLED.
- GENERAL CONTRACTOR SHALL MAINTAIN AND UPDATE THE "EROSION AND SEDIMENT CONTROL PLAN" AS CONSTRUCTION DICTATES. CURRENT AND CORRECT PLAN SHALL REMAIN ON-SITE AND BE READILY ACCESSIBLE TO THE CITY STORMWATER INSPECTOR AT ALL TIMES.
- GENERAL CONTRACTOR OR HIS REPRESENTATIVE SHALL INSPECT, AT A MINIMUM, THE SITE EVERY 2 WEEKS AND WITHIN 24 HOURS OF ANY PRECIPITATION OR SNOWMELT EVENT THAT CAUSES SURFACE EROSION. (I.E., THAT RESULTS IN STORMWATER RUNNING ACROSS THE GROUND).
- GENERAL CONTRACTOR/OWNER IS FULLY RESPONSIBLE TO MAINTAIN ALL REQUIRED EROSION CONTROL MEASURES TO PREVENT EROSION AND SEDIMENT FROM LEAVING THE CONSTRUCTION SITE.
- FAILURE TO COMPLY WITH MINIMUM REQUIREMENTS IS A VIOLATION OF CITY ORDINANCES.
- HYDRO SEEDING AND HYDRO MULCHING SHALL BE TWO SEPARATE APPLICATIONS.
- DETERMINATION FOR NEED, PLACEMENT, MAINTENANCE, ETC. OF EROSION CONTROL MEASURES SHALL BE MADE BY THE NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT HOLDER OR BY AN APPROPRIATE REGULATORY AGENCY. THE STORM WATER MANAGEMENT SYSTEMS AND PROCEDURES SHALL MEET THE INTENT OF LOCAL, STATE, AND FEDERAL LAWS, RULES, REQUIREMENTS, AND REGULATIONS.
- EROSION CONTROL FILTER BARRIERS, CHECK DAMS, ETC. SHALL BE CONSTRUCTED IN ACCORDANCE WITH GENERALLY ACCEPTED CONSTRUCTION PRINCIPALS. CONTACT THE ENGINEER FOR ADDITIONAL CLARIFICATION.
- EROSION CONTROL FILTER BARRIERS, CHECK DAMS, AND OTHER EROSION CONTROL MEASURES SHALL BE INSPECTED AFTER EVERY EVENT THAT CAUSES RUNOFF. CLEAN, ALTER, REPLACE, REPAIR, ETC. AS REQUIRED TO INSURE PROPER FUNCTION. CONTINUE INSPECTION/MAINTENANCE UNTIL SITE IS ADEQUATELY STABILIZED.
- GRADED SURFACES SHALL BE LEFT IN A SMOOTH, UNIFORM, CRUSTED CONDITION FREE OF RUTS, DEPRESSIONS, IRREGULARITIES, LOOSE UNCOMPACTED SOIL, ETC.
- PERIMETER CONTROL MEASURE: INSTALL EROSION CONTROL BARRIERS AS SHOWN ON PLAN. IF REMOVED FOR SITE ACCESS DURING THE DAY INSURE THAT IT IS REINSTALLED AT THE END OF THE WORK DAY OF DURING STORM EVENTS THAT CAUSE RUNOFF TO DISCHARGE OFF THE SITE.
- THE CONTRACTOR SHALL BE RESPONSIBLE FOR DAILY CLEANUP AND REMOVAL OF ALL DIRT, ROCK, DEBRIS OR SIMILAR MATERIALS TRACKED, SPILLED OR OTHERWISE DEPOSITED ON ALL PUBLIC RIGHT-OF-WAYS ADJOINING THE CONSTRUCTION SITE FROM VEHICLES OR EQUIPMENT ASSOCIATED WITH SITE CONSTRUCTION.
- PRIOR TO ANY CONSTRUCTION, INCLUDING SITE GRADING AND EXCAVATION, AN APPROVED "EROSION AND SEDIMENT CONTROL PLAN" SHALL BE POSTED ON-SITE AND ALL REQUIRED BMPs INSTALLED.
- GENERAL CONTRACTOR SHALL MAINTAIN AND UPDATE THE "EROSION AND SEDIMENT CONTROL PLAN" AS CONSTRUCTION DICTATES. CURRENT AND CORRECT PLAN SHALL REMAIN ON-SITE AND BE READILY ACCESSIBLE TO THE CITY STORMWATER INSPECTOR AT ALL TIMES.
- GENERAL CONTRACTOR OR HIS REPRESENTATIVE SHALL INSPECT, AT A MINIMUM, THE SITE EVERY 2 WEEKS AND WITHIN 24 HOURS OF ANY PRECIPITATION OR SNOWMELT EVENT THAT CAUSES SURFACE EROSION. (I.E., THAT RESULTS IN STORMWATER RUNNING ACROSS THE GROUND).
- GENERAL CONTRACTOR/OWNER IS FULLY RESPONSIBLE TO MAINTAIN ALL REQUIRED BMPs TO PREVENT EROSION AND SEDIMENT FROM LEAVING THE CONSTRUCTION SITE.
- FAILURE TO COMPLY WITH MINIMUM REQUIREMENTS IS A VIOLATION OF CITY ORDINANCES.

NOTES

RECEIVING WATER GENERALLY FLOWS TOWARDS THE ARKANSAS RIVER.
REFER TO THE USDCM CRITERIA MANUAL: VOLUME 3 STORMWATER QUALITY FOR BMP DETAILS.

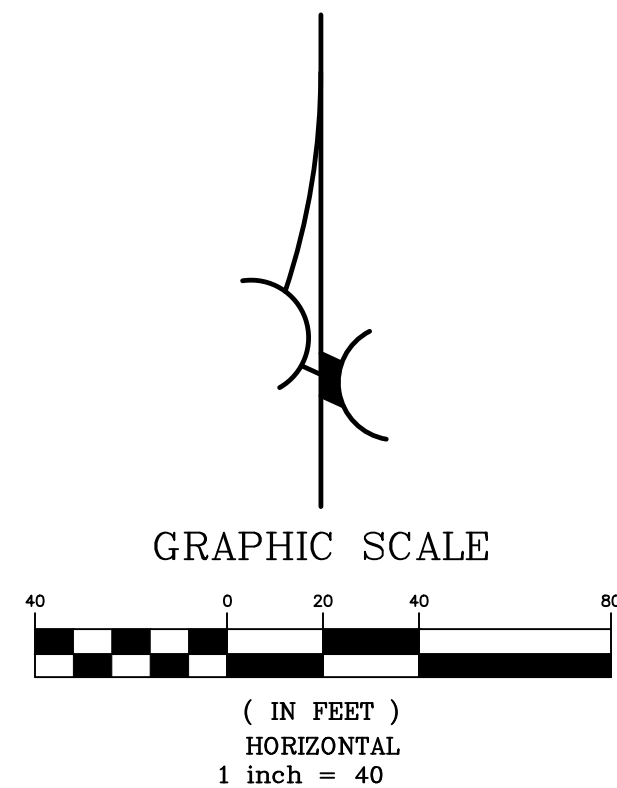
PERMANENT SEEDING SPECIFICATIONS

Seed Mix
10% AC Saltlander Wheatgrass
10% Garrison Creeping Foxtail
20% Tall Wheatgrass, Hercules
20% Forage Perennial Ryegrass
20% Forage Tall Fescue
20% Smooth Brome

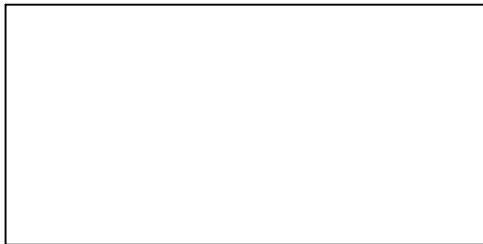
Seeding Rate
Broadcast: 50lbs/acre
Drilled: 25lbs/acre

Hydramulch
CONWED Fibers Hydro Mulch 1000 with Triflo or Engineer approved equivalent
Application rate: 2000lbs/acre

Tackifier
PLANTAGO binder/tackifier or Engineer approve equivalent
Application rate: 60lbs/acre

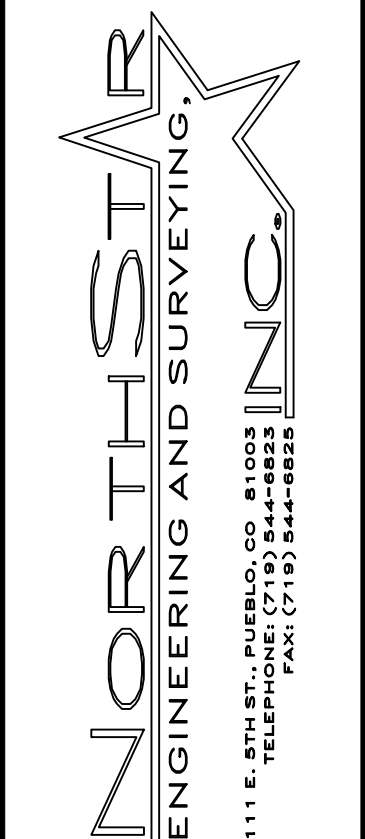


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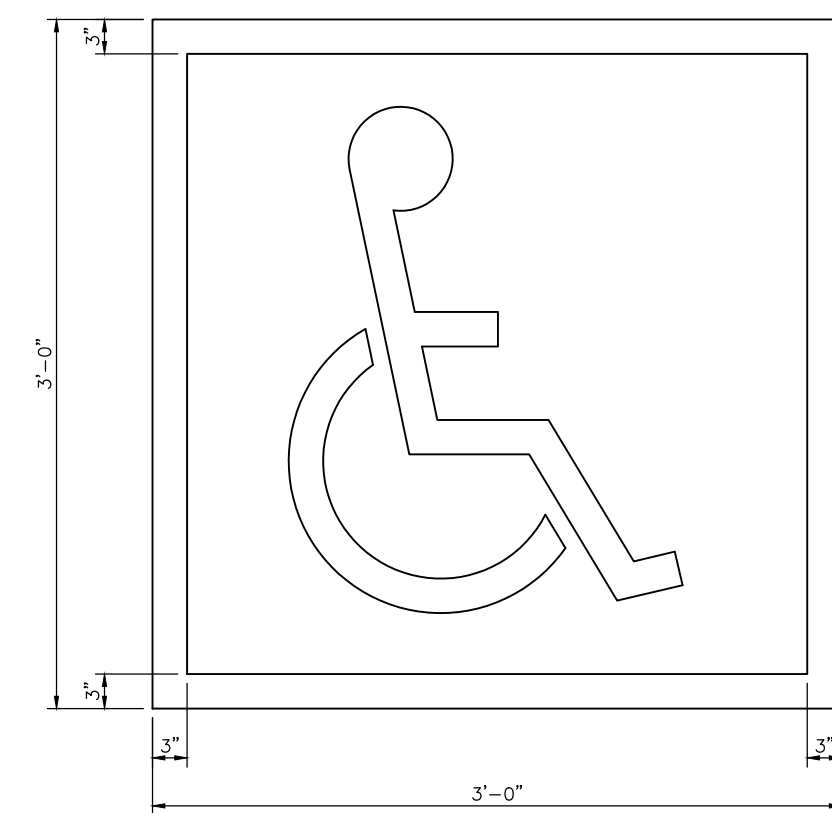
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HOLMES HARDWARE BLOCK 400 S. UNION STREET PUEBLO, COLORADO 81003	GRADING AND EROSION CONTROL PLAN 100% CD'S
PROJECT NAME	SHEET TITLE



PREPARED UNDER THE DIRECT SUPERVISION OF MICHAEL LELAND CUPPY, P.E., COLORADO REGISTRATION NO. 40201.

SCALE: AS SHOWN
DATE: 01-11-2021
DESIGN BY: MLC
DRAWN BY: DMB
CHECKED BY: DMB
FILE: 2001500-C6.0.DWG
JOB NO. 2001500
C6.0
SHEET 7 OF 10

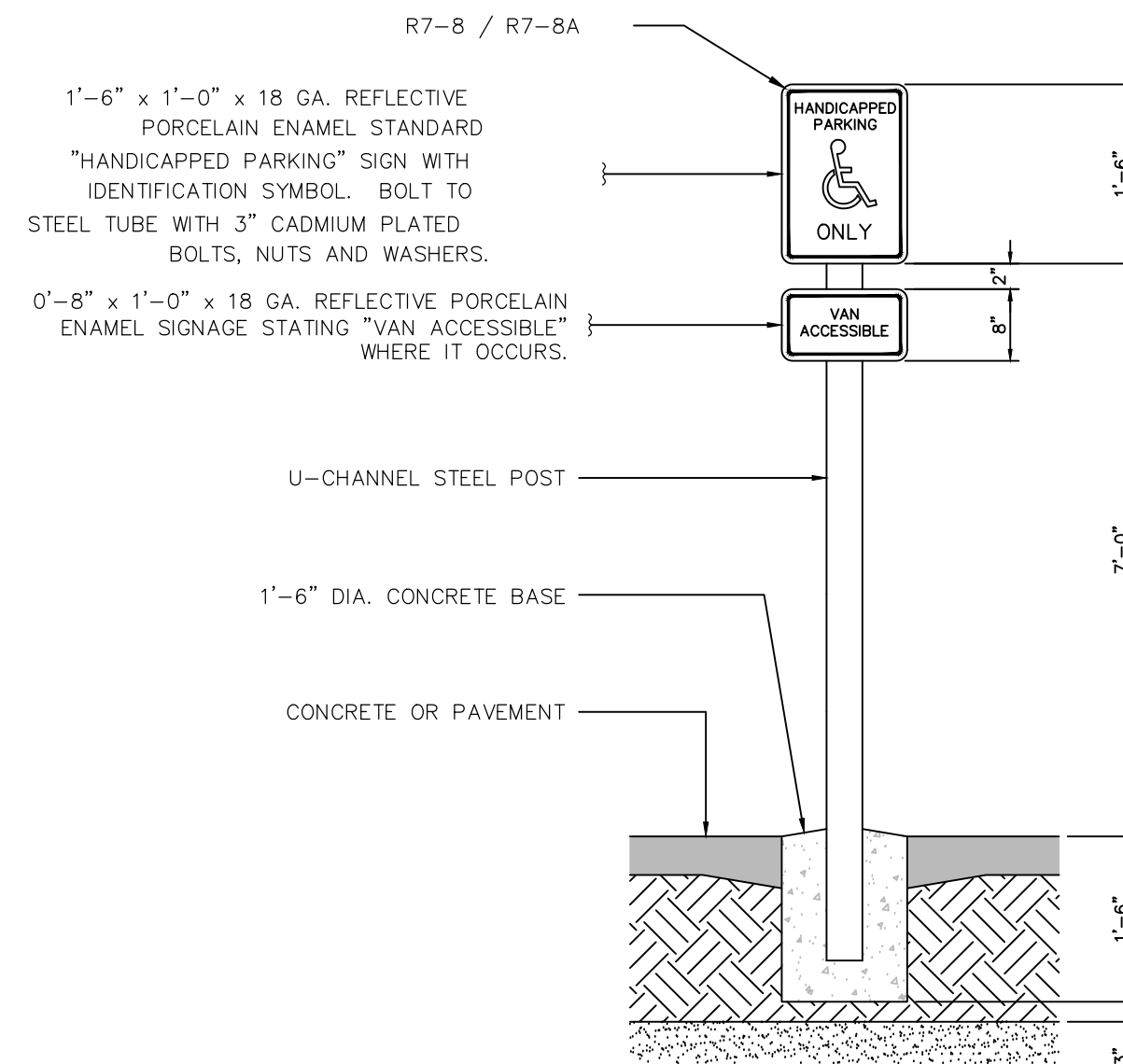


NOTE:

1. ALL STROKES TO BE 3" WIDE
2. PROVIDE TWO COATS OF PAINT
3. BLUE BACKGROUND WITH WHITE SYMBOL
4. LOCATE SYMBOL IN CENTER OF STALL
5. INSTALL ONE SYMBOL PER HANDICAP PARKING SPACE

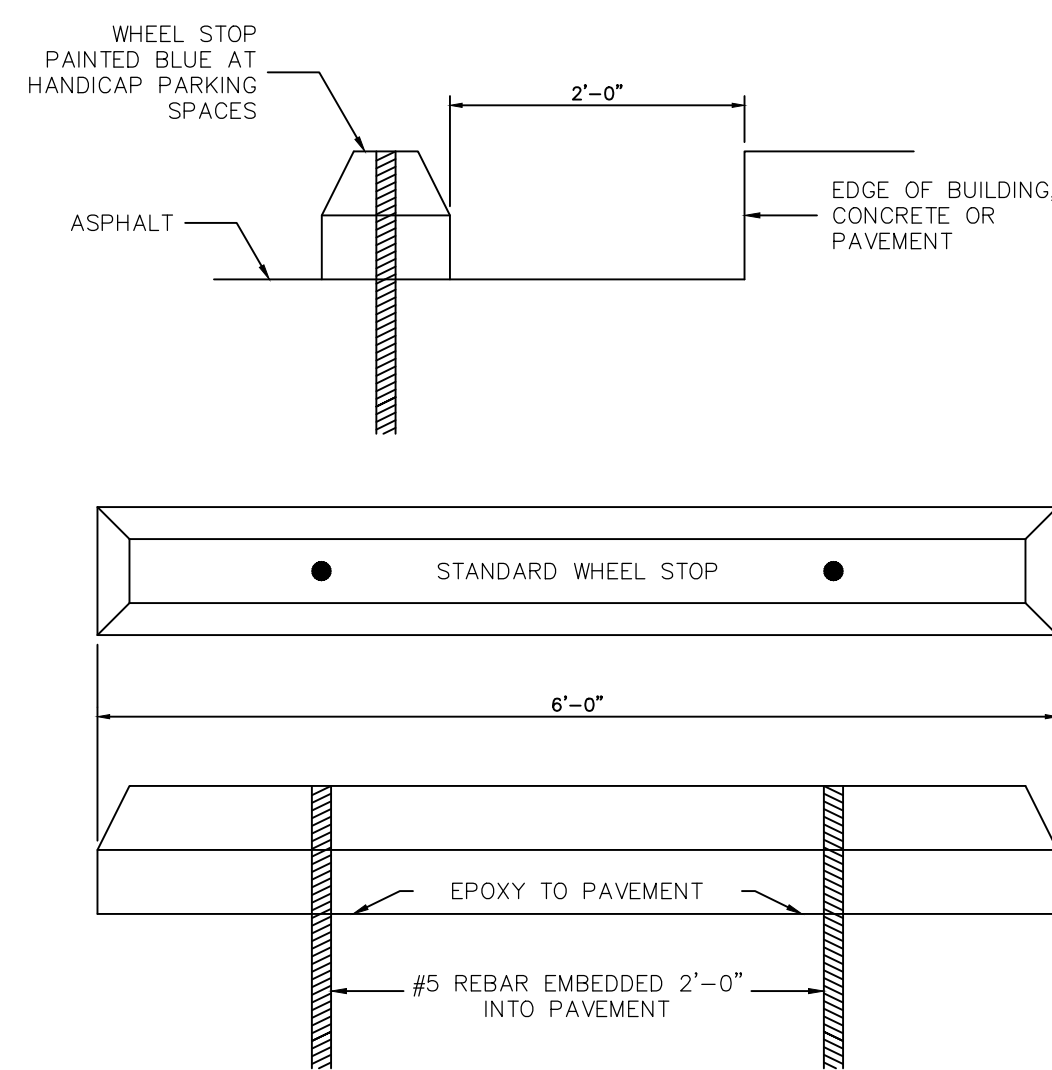
HANDICAP SYMBOL DETAIL

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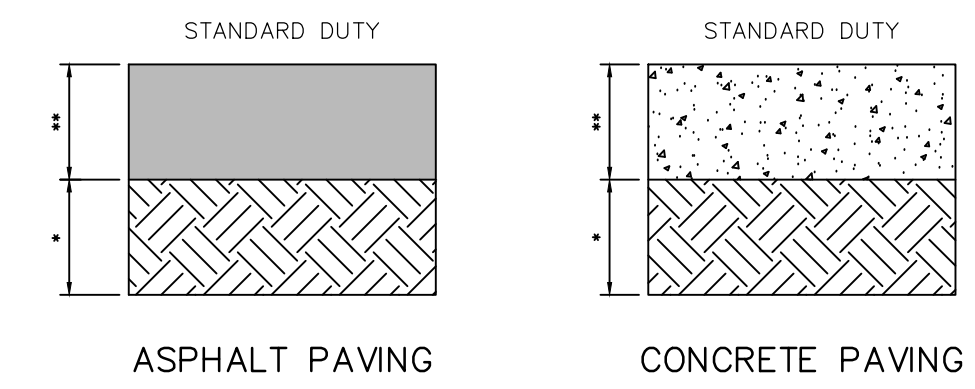


HANDICAP SIGN DETAIL

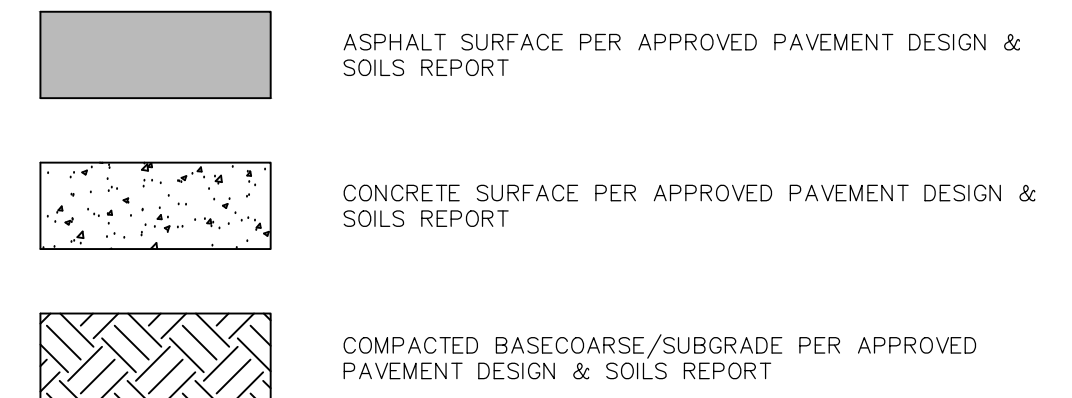
NOT TO SCALE



WHEEL STOP DETAIL
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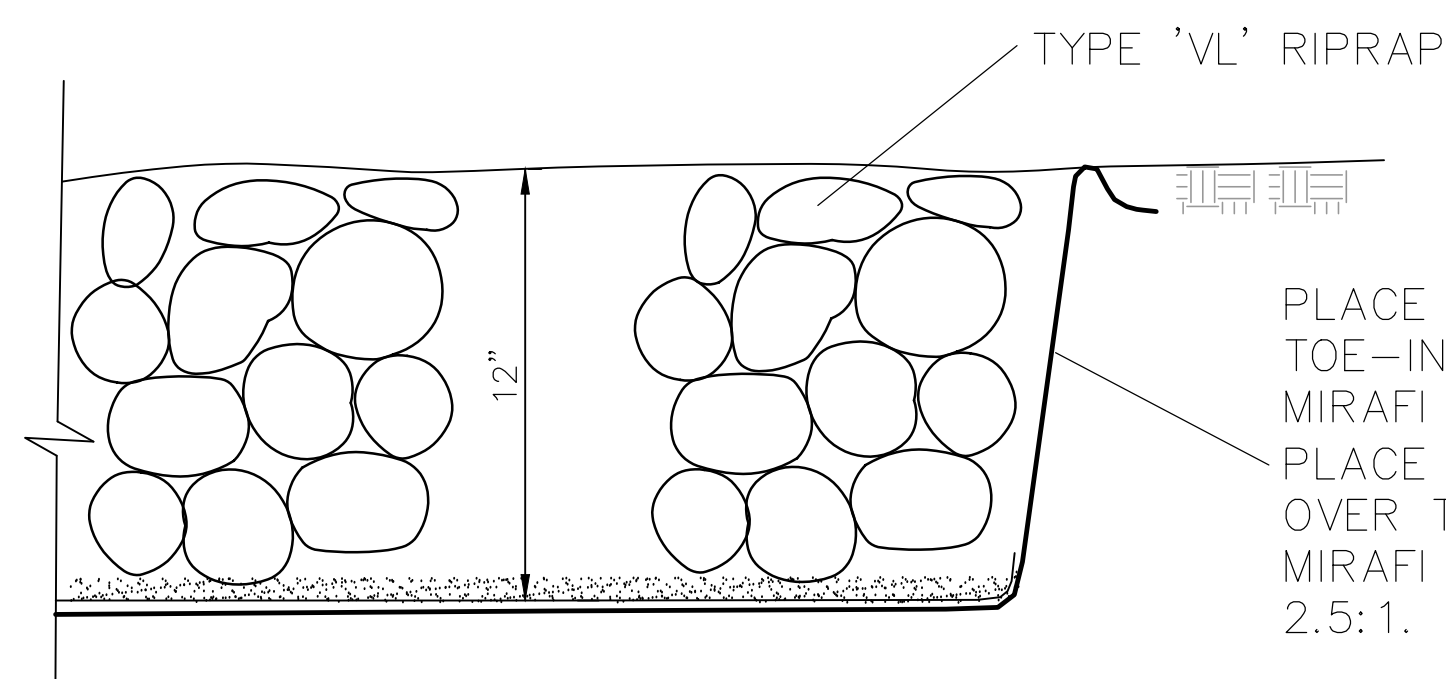


PAVEMENT DESIGN SUBJECT TO CHANGE UPON APPROVAL OF FINAL PAVEMENT DESIGN
BY THE CITY OF PUEBLO

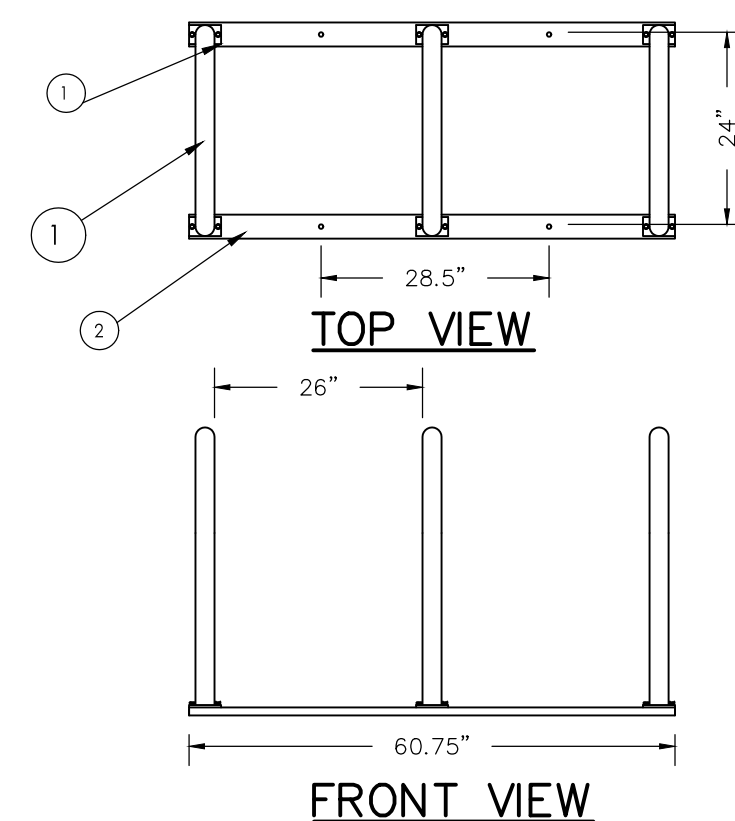


* = SEE SOIL & GEOTECHNICAL RECOMMENDATIONS
** = SEE SOIL & GEOTECHNICAL RECOMMENDATIONS

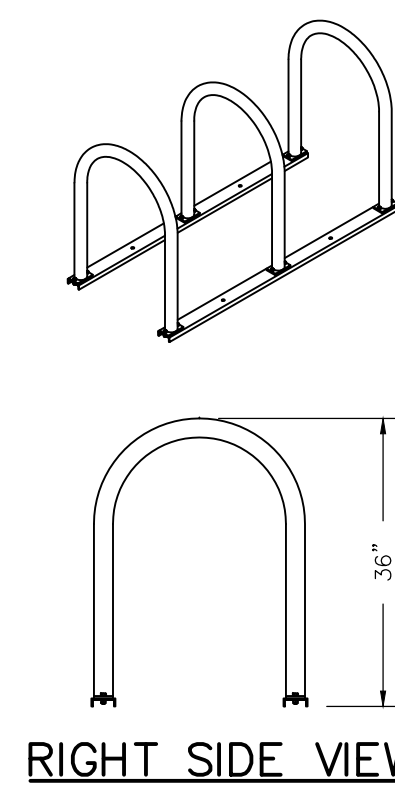
PAVING DETAIL
NOT TO SCALE



TYPICAL RIPRAP INSTALLATION
NOT TO SCALE

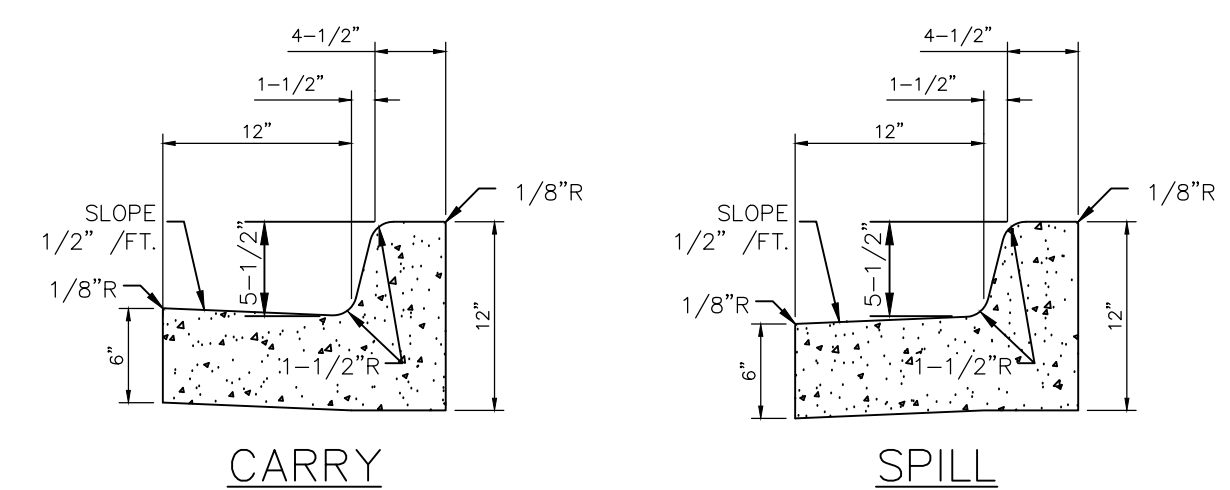


BIKE RACK DETAIL
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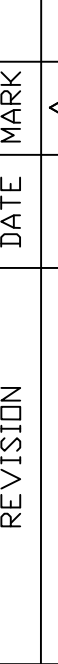
MATERIALS LIST:

- (1) TUBING - $\phi 2-3/8"$ X .154" WALL STEEL TUBING
- (2) SURFACE PLATE - $\phi 7\ 1/2"$ X $1/4"$ THICK STEEL PLATE WITH THREE $\phi 9/16"$ MOUNTING HOLES.
- (3) MOUNTED WITH SIX $\phi 1/2"$ X 4-5" STAINLESS STEEL ANCHOR BOLTS (CUSTOMER SUPPLIED)



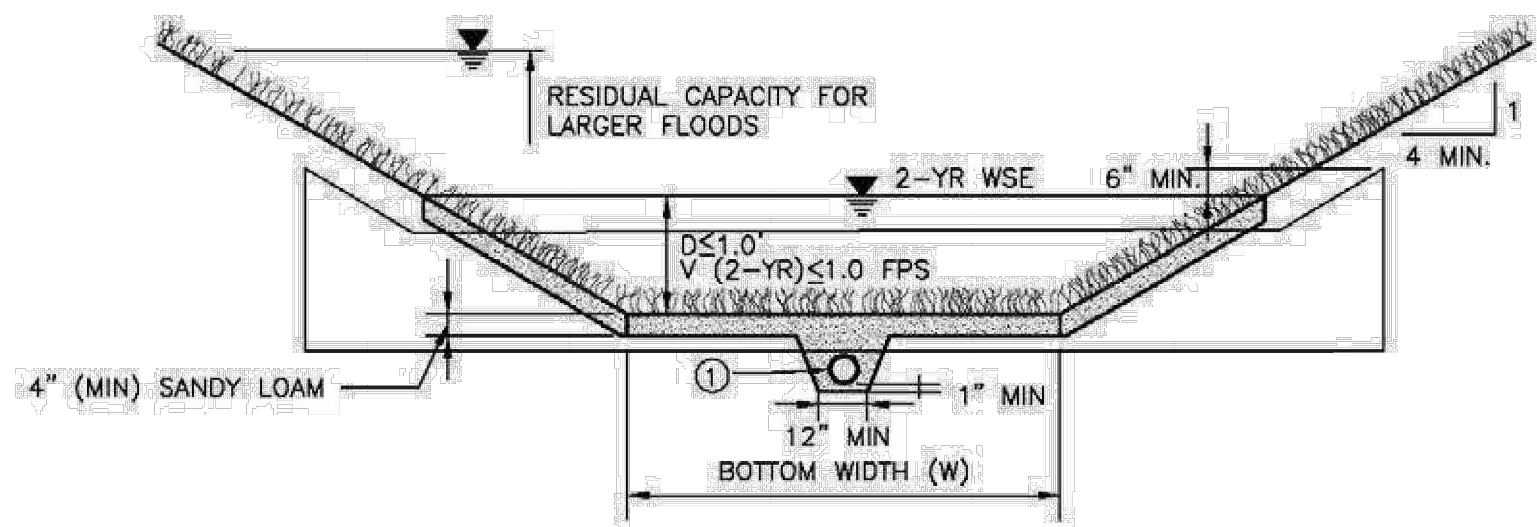
CURB AND GUTTER TYPE 2 DETAIL
NOT TO SCALE

CITY APPROVAL STAMP

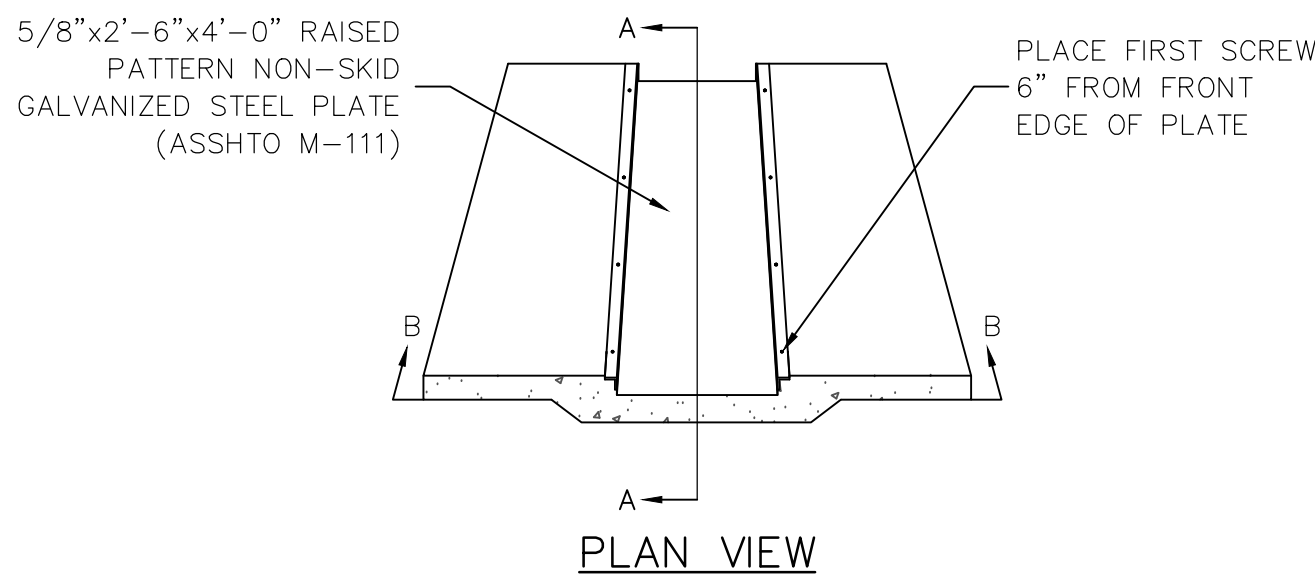
 111 E. 8TH ST., PUEBLO, CO. 81003 TELEPHONE: (719) 944-9828 FAX: (719) 944-9828	PROJECT NAME	HOLMES HARDWARE BLOCK 400 S. UNION STREET PUEBLO, COLORADO 81003	REVISION	DATE	MARK	REVIEWED BY	DATE
	SHEET TITLE	DETAIL SHEET 100% CD'S					
PREPARED UNDER THE DIRECT SUPERVISION OF MICHAEL LELAND CUPPY, P.E., COLORADO REGISTRATION NO. 40201.							
SCALE: AS SHOWN DATE: 01-11-2021 DESIGN BY: MLC DRAWN BY: DMB CHECKED BY: MLC FILE: 2001500_C7.0.DWG							
JOB NO. 2001500 C7.0 SHEET 8 OF 10							

T-2

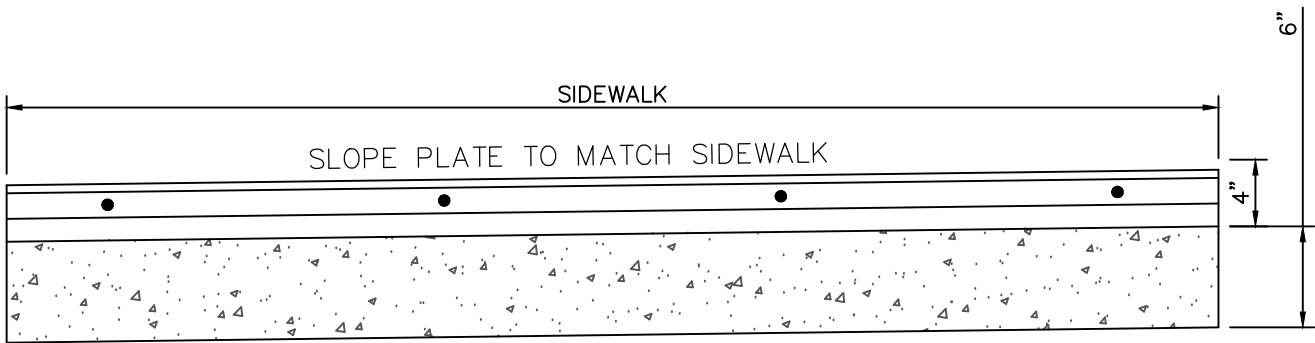
Grass Swale



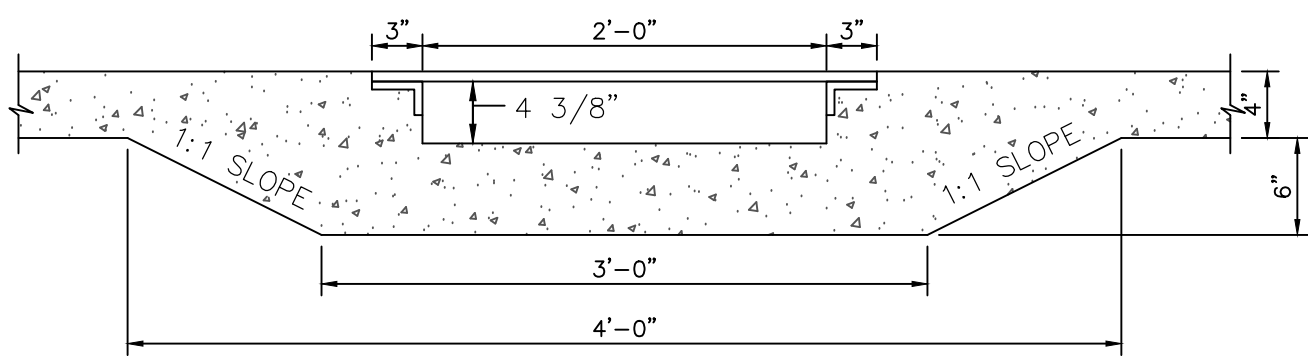
GRASS SWALE DETAIL
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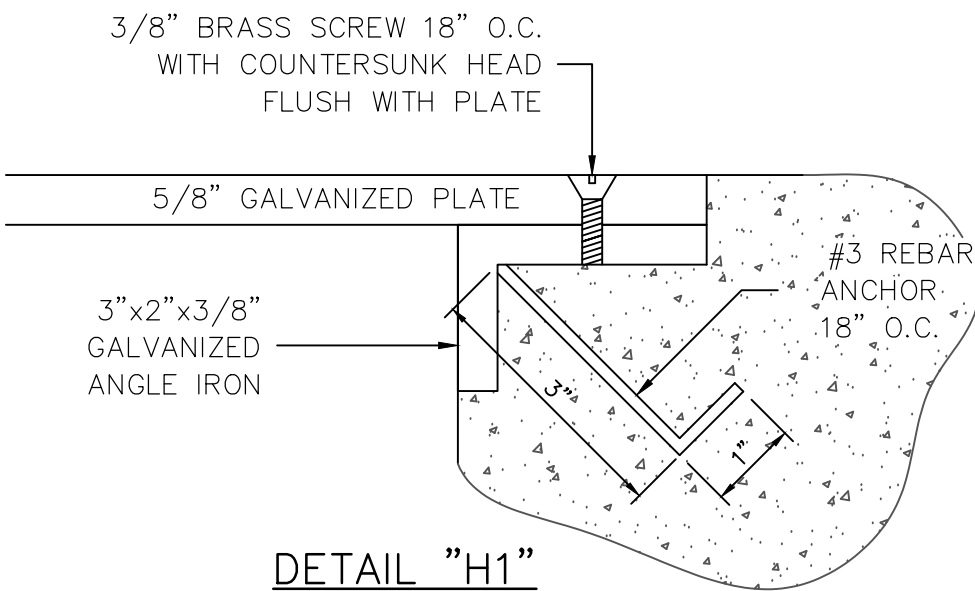
PLAN VIEW



SECTION A-A



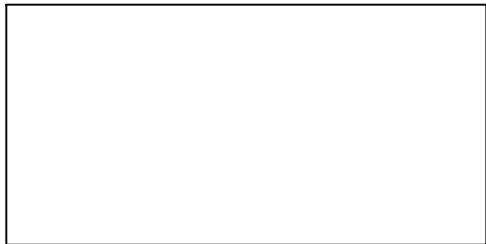
SECTION B-B



DETAIL "H1"

SIDEWALK CHASE DETAIL
NOT TO SCALE

CITY APPROVAL STAMP

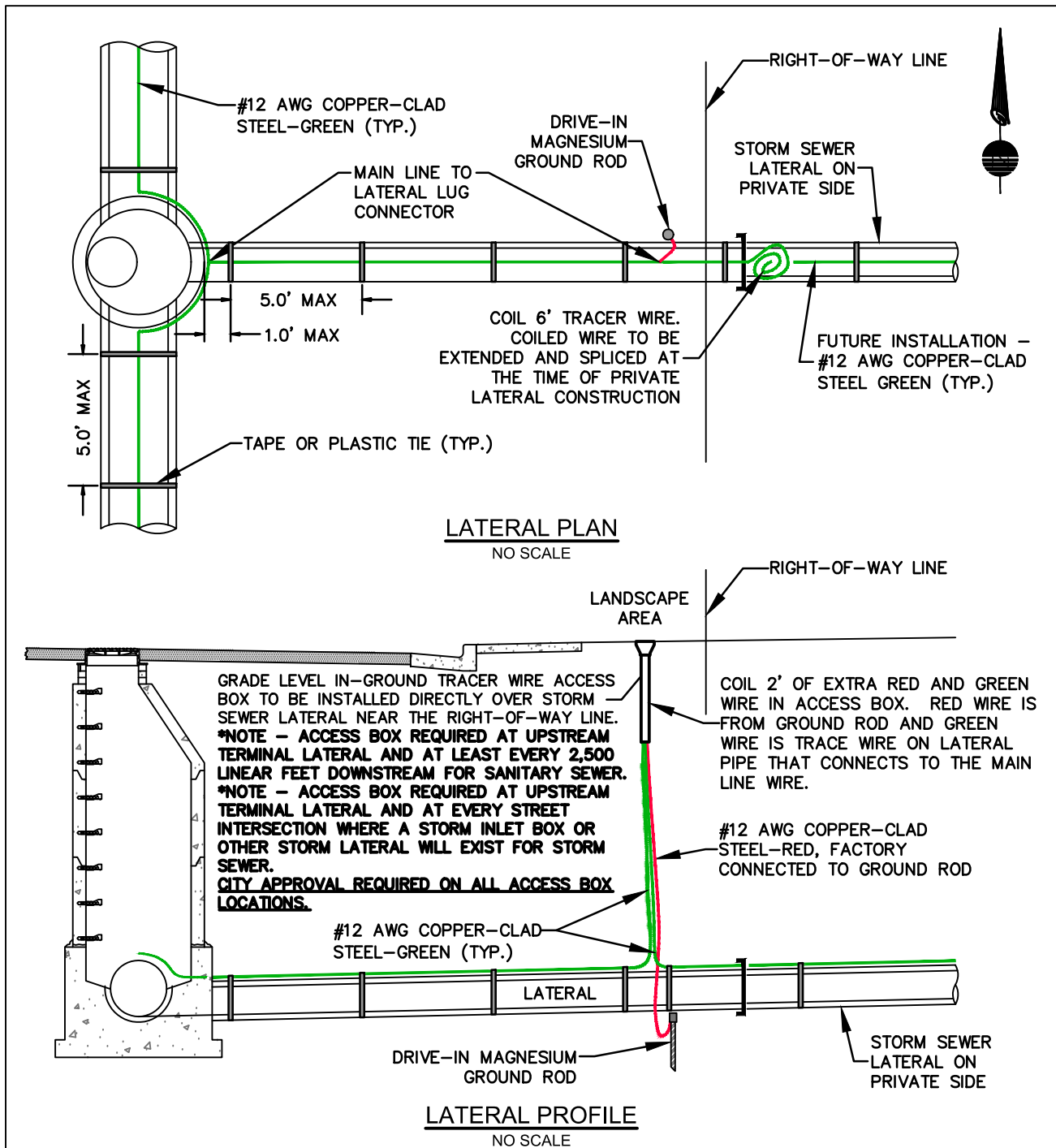


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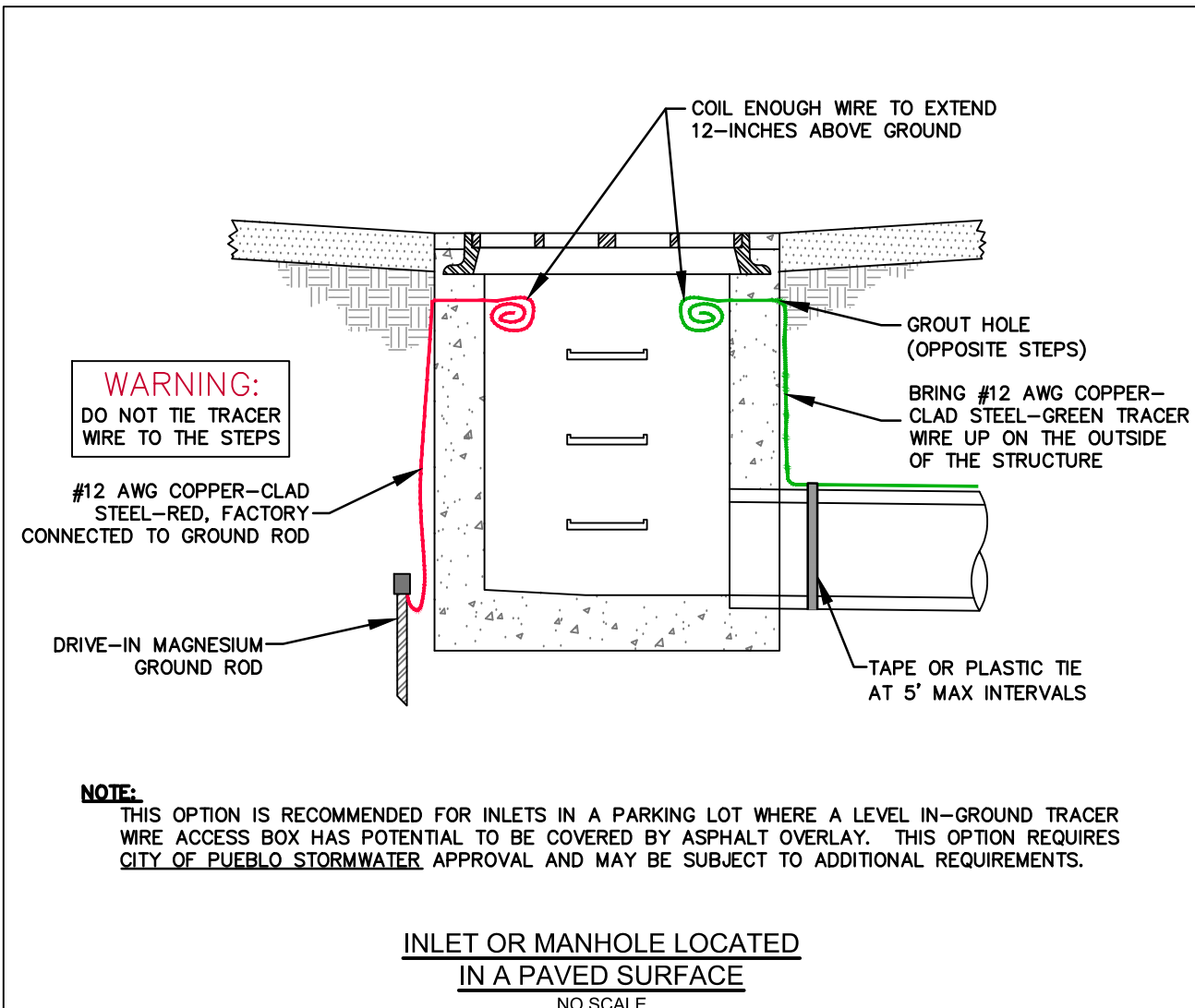
HOLMES HARDWARE BLOCK 400 S. UNION STREET PUEBLO, COLORADO 81003	DETAIL SHEET 100% CD'S
PROJECT NAME	SHEET TITLE

NORTHSTAR ENGINEERING AND SURVEYING, INC. 111 E. 8TH STREET, PUEBLO, CO. 81003 TELEPHONE: (719) 844-6825 FAX: (719) 844-6825
PREPARED UNDER THE DIRECT SUPERVISION OF MICHAEL LELAND CUPPY, P.E., COLORADO REGISTRATION NO. 40201.
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CHECKED BY: MLC
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JOB NO. 2001500
C7.1
SHEET 9 OF 10

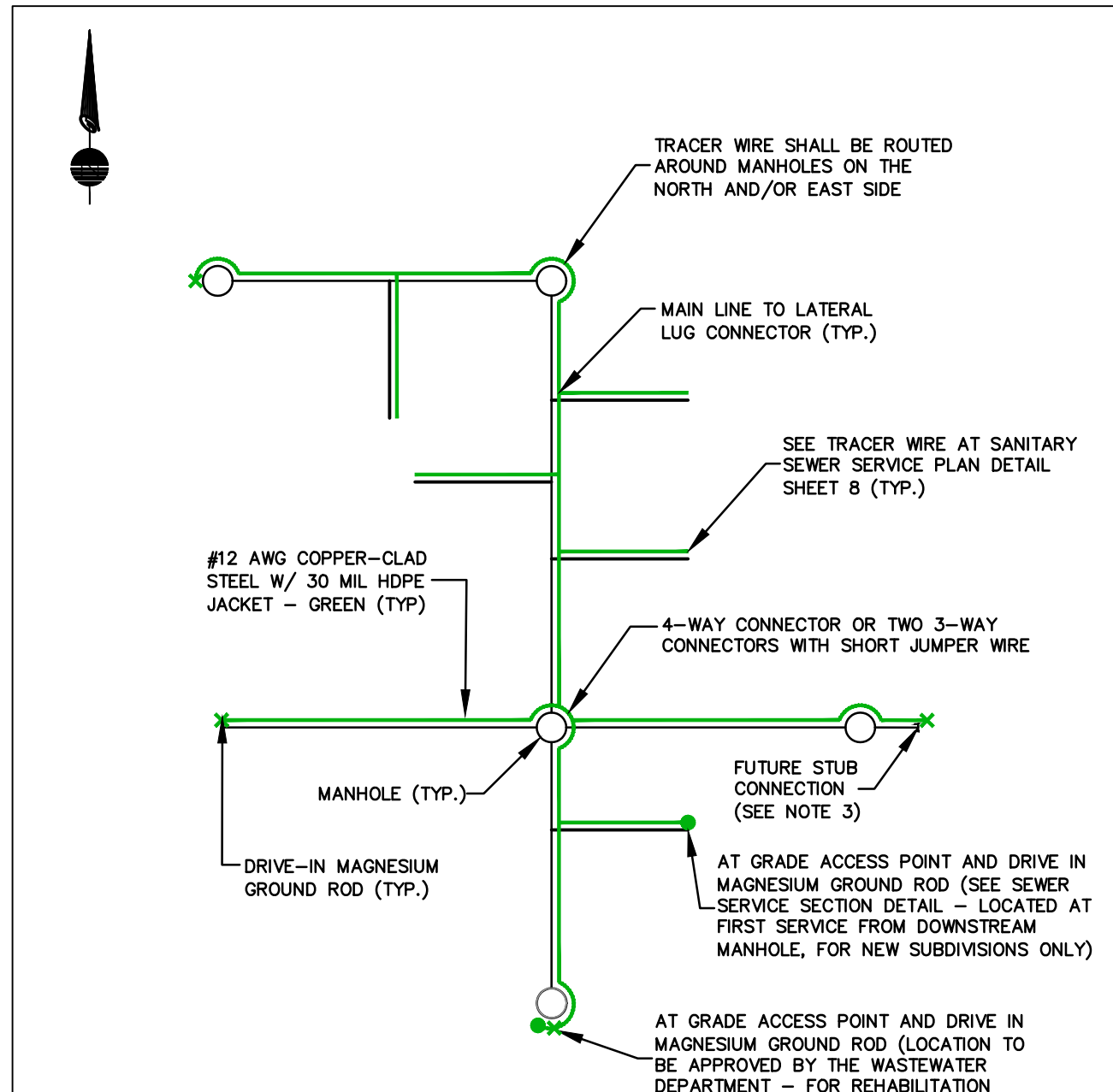
Materials General All tracer wire and tracer wire products shall be domestically manufactured in the U.S.A. All tracer wire shall have HDPE insulation intended for direct bury, color coated per APWA standard for the specific utility being marked. Tracer Wire Open Trench - Tracer wire shall be #12 AWG copper clad steel, high strength with minimum 450 lb. break load, with minimum 30 mil HDPE insulation thickness. Directional Drilling/Boring - Tracer wire shall be #12 AWG copper clad steel, extra high strength with minimum 1,150 lb. break load, with minimum 30 mil HDPE insulation thickness. Tracer wire - Pipe Bursting/Slip Lining - Tracer wire shall be 7 x 7 stranded copper clad steel, extreme strength with 4,700 lb. break load, with minimum 50 mil HDPE insulation thickness. Connectors - All mainline tracer wires must be interconnected in intersections, at mainline tees and mainline crosses. At tees, the three wires shall be joined using a single 3-way lockable connector (SnakeBite™ or approved equal). At crosses, the four wires shall be joined using a 4-way connector. Use of two 3-way connectors with a short jumper wire between them is an acceptable alternative. Direct bury wire connectors - Shall include SnakeBite™ 3-way lockable connectors (or approved equal) and mainline to lateral lug connectors specifically manufactured for use in underground tracer wire installation. Connectors shall be dielectric silicon filled to seal out moisture and corrosion and shall be installed in a manner so as to prevent any uninsulated wire exposure. - Non-locking friction fit, twist on or taped connectors are prohibited. Termination/Access - All tracer wire termination points must utilize an approved tracer wire access box (above ground access box or grade level/in-ground access box as applicable), specifically manufactured for this purpose. - All grade level/in-ground access boxes shall include a dual terminal switchable lid (SnakePi® LD14G2T-SW or approved equal), be appropriately identified with "sewer" cast into the cap, and color coded per APWA standard for the specific utility being marked. - A minimum of 2 ft. of excess/slack wire is required in all tracer wire access boxes after meeting final elevation. - All tracer wire access boxes must include a manually interruptible conductive/connective link between the terminal(s) for the tracer wire connection and the terminal for the ground rod wire connection. - Ground wire shall be connected to the identified (or bottom) terminal on all access boxes. Service Laterals on public property - Tracer wire must terminate with a coil of 6 feet of tracer wire for future extension to the building, located at the edge of the road right-of-way, and out of the roadway. Service Laterals on private property - Tracer wire must terminate at an approved above-ground tracer wire access box, affixed to the building exterior directly above where the utility enters the building, at an elevation not greater than 5 vertical feet above finished grade, or terminate at an approved grade level/in-ground tracer wire access box, located within 2 linear feet of the building, being served by the utility. Long-runs, in excess of 2,500 linear feet - Tracer wire access must be provided utilizing an approved grade level/in-ground tracer wire access box, located at the edge of the road right-of-way and out of the roadway. The grade level/in-ground tracer wire access box shall be delineated using a minimum 45° polyethylene marker post, color coded per APWA standard for the specific utility being marked or other approved marker by the City of Pueblo. Grounding - Tracer wire must be properly grounded at all dead ends/stubs. - Grounding of tracer wire shall be achieved by use of a drive-in magnesium ground rod with a minimum of 20ft of #12 red HDPE insulated copper clad steel wire connected to anode (minimum 1.5 lb.) specifically manufactured for this purpose and buried at the same elevation as the utility. - When grounding the tracer wire at dead ends/stubs, the ground rod shall be installed in a direction 180 degrees opposite of the tracer wire, at the maximum possible distance. - When grounding the tracer wire in areas where the tracer wire is continuous and neither the mainline tracer wire or the ground rod wire will be terminated at/above grade, install ground rod wire directly beneath and in-line with the tracer wire. Do not coil excess wire from ground rod wire. In this installation method, the ground rod wire shall be trimmed to an appropriate length before connecting to tracer wire with a mainline to lateral lug connector. - Where the ground rod wire will be connected to a tracer wire access box, a minimum of 2 ft. of excess/slack wire is required after meeting final elevation.	DEPARTMENT OF PUBLIC WORKS ENGINEERING DIVISION	TRACER WIRE SPECIFICATIONS (1)	1 OF 8 DATED 9/2019

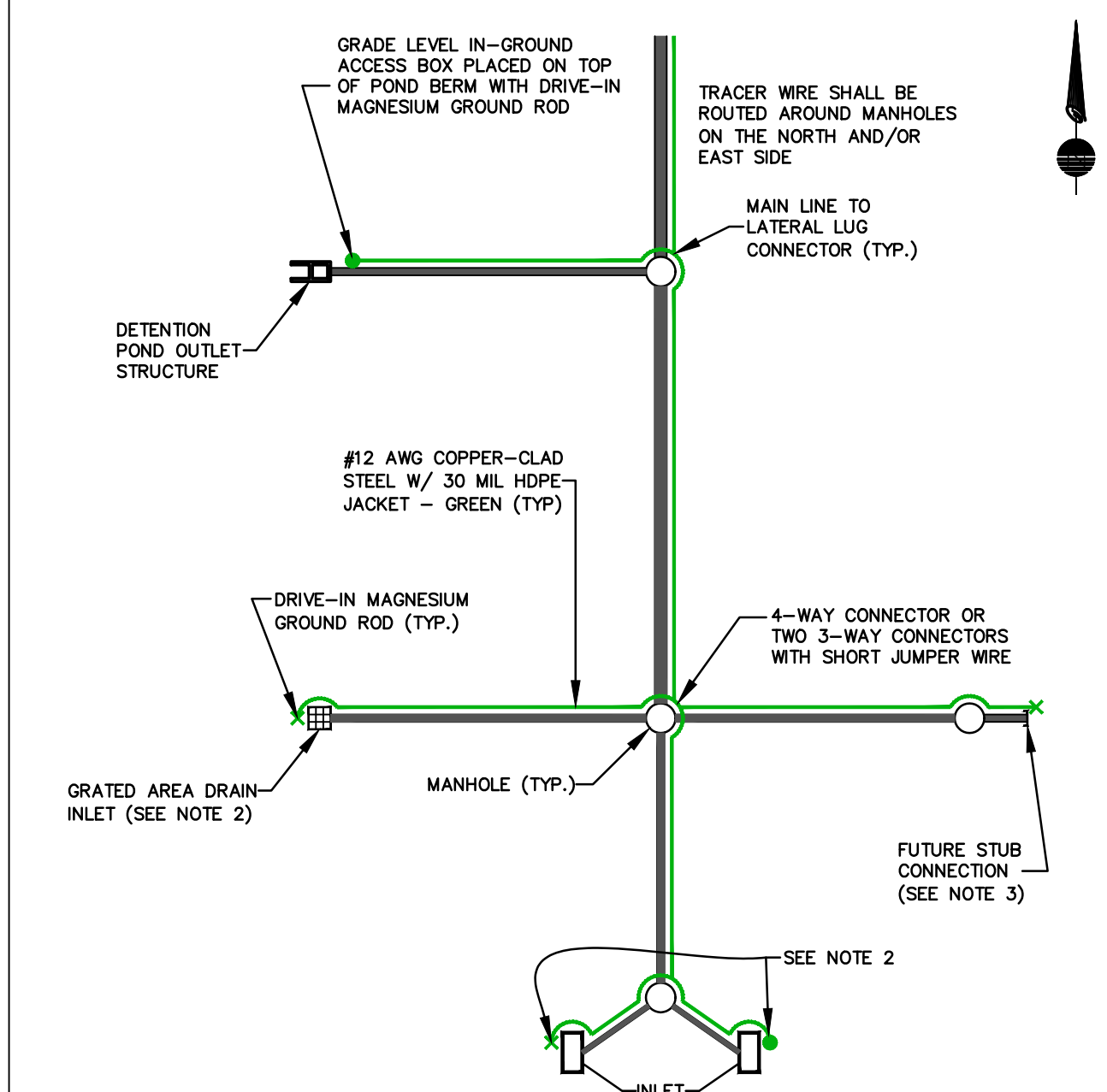
 NOTES: 1. WIRE SHOWN AWAY FROM PIPE FOR CLARITY. WIRE SHALL BE INSTALLED IMMEDIATELY ADJACENT TO THE SERVICE PIPE. THE WIRE SHALL BE FASTENED TO THE PIPE WITH TAPE OR PLASTIC TIES AT 5' INTERVALS. 2. TRACER WIRE NOT REQUIRED FOR REHABILITATION PROJECTS.	DEPARTMENT OF PUBLIC WORKS ENGINEERING DIVISION	TRACER WIRE AT STORM SEWER LATERAL DETAIL	5 OF 8 DATED 9/2019

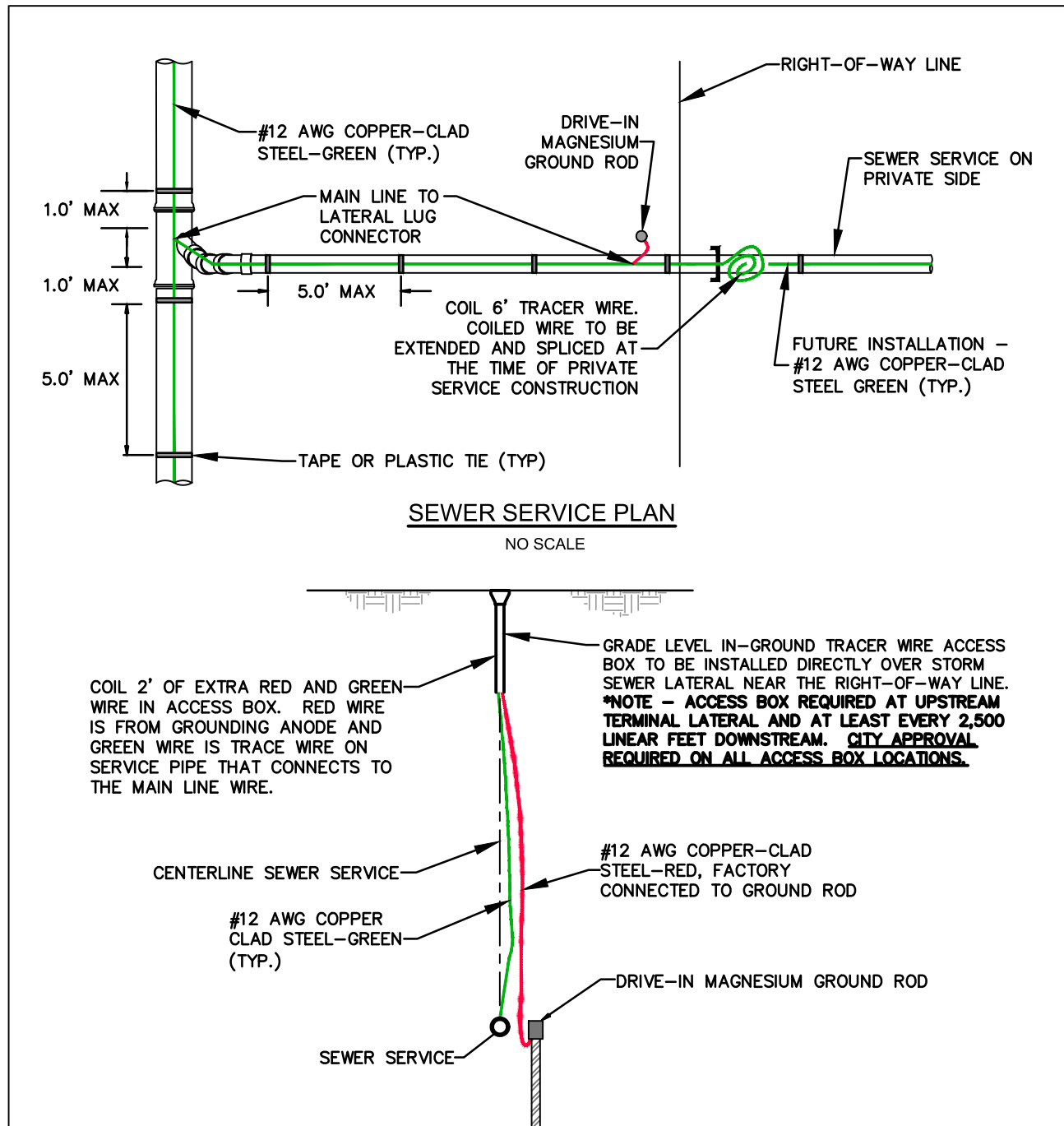
Installation General - Tracer wire installation shall be performed in such a manner that allows proper access for connection of line tracing equipment, proper locating of wire without loss or deterioration of low frequency (512Hz) signal for distances in excess of 1,000 linear feet, and without distortion of signal caused by multiple wires being installed in close proximity to one another. - Tracer wire systems must be installed as a single continuous wire, except where using approved connectors. No looping or coiling of wire is allowed. - Any damage occurring during installation of the tracer wire must be immediately repaired by removing the damaged wire and installing a new section of wire with approved connectors. Taping and/or spray coating shall not be allowed. - Tracer wire shall be installed at the top of the pipe and secured (taped/tied) at 5' intervals. - Tracer wire must be properly grounded as specified. - Tracer wire on all service laterals/stubs must terminate at an approved tracer wire access box located directly above the utility, at the edge of the road right-of-way but out of the roadway. (See Tracer wire Termination/Access) - At all mainline dead-ends, tracer wire shall go to ground using an approved connection to a drive-in magnesium ground rod, buried at the same depth as the tracer wire. (See Grounding) - Mainline tracer wire shall not be connected to existing conductive pipes. Treat as a mainline dead-end and ground using an approved waterproof connection to a ground rod buried at the same depth as the tracer wire. - All service lateral tracer wires shall be a single wire, connected to the mainline tracer wire using an approved mainline to lateral lug connector, installed without cuttings/placing the mainline tracer wire. - In occurrences where an existing tracer wire is encountered on an existing utility that is being extended or fed into, the new tracer wire and existing tracer wire shall be connected using approved splice connectors and shall be properly grounded at the splice location as specified. Storm & Sanitary Sewer Systems - All service lateral tracer wires must be properly connected to the mainline tracer wire to ensure full tracing/locating capabilities from a single connection point. - Lay mainline tracer wire continuously, by-passing around the outside of manholes/structures on the north or east side. - Tracer wire on all sewer laterals must terminate at the property line with a coil of 6 feet of tracer wire taped directly to the service lateral at the edge of the road right-of-way or at an approved location. - The City of Pueblo Stormwater Department or Wastewater Department must be contacted to inspect tracer wire installation prior to backfilling any infrastructure that connects to the City's storm sewer or sanitary sewer system. Prohibited Products and Methods The following products and methods shall not be allowed or acceptable: - Uninsulated tracer wire - Tracer wire insulations other than HDPE - Tracer wires not domestically manufactured - Non-locking, friction fit, twist on or taped connectors - Brass or copper ground rods - Wire connections utilizing taping or spray-on waterproofing - Looped wire or continuous wire installations, that has multiple wires laid side-by-side or in close proximity to one another - Tracer wire wrapped around the corresponding utility - Brass fittings with tracer wire connection lugs - Wire terminations within the roadway, i.e. in valve boxes, cleanouts, manholes, etc. - Connecting tracer wire to any conductive utilities Testing - All new tracer wire installations shall be located using typical low frequency (512Hz) line tracing equipment, witnessed by the contractor, engineer and facility owner as applicable, prior to acceptance of ownership. - This verification shall be performed upon completion of rough grading and again prior to final acceptance of the project. - Continuity testing in lieu of actual line tracing shall not be accepted.	DEPARTMENT OF PUBLIC WORKS ENGINEERING DIVISION	TRACER WIRE SPECIFICATIONS (2)	2 OF 8 DATED 9/2019

 NOTE: THIS OPTION IS RECOMMENDED FOR INLETS IN A PARKING LOT WHERE A LEVEL IN-GROUND TRACER WIRE ACCESS BOX HAS POTENTIAL TO BE COVERED BY ASPHALT OVERLAY. THIS OPTION REQUIRES CITY OF PUEBLO STORMWATER APPROVAL AND MAY BE SUBJECT TO ADDITIONAL REQUIREMENTS.	DEPARTMENT OF PUBLIC WORKS ENGINEERING DIVISION	TRACER WIRE MISCELLANEOUS DETAILS	6 OF 8 DATED 9/2019

Products The following products have been deemed acceptable and appropriate. These products are a guide only to help you choose the correct applications for your tracer wire project. Copper-Clad Steel (CCS) Tracer Wire Open Trench - Copperhead® #12 High Strength part # 1230G-HS or approved equal. Directional Drilling/Boring - Copperhead® Extra High Strength part # 1245G-EHS or approved equal. Pipe Bursting/Slip Lining - Copperhead® SoloShot Extreme Strength 7 x 7 Stranded part # GPBX- 50 or approved equal. Connectors - Copperhead® 3-way locking connector part # LSC1230C or approved equal. - DryConn 3-way Direct Bury Lug: Copperhead® Part # 3WB-01 or approved equal. Termination/Access Non-Roadway access boxes applications: Tracer wire access boxes grade level Copperhead® 3-way Direct Bury Lug adjustable lid duty Part # LD14G2T-SW or approved equal. Concrete / Driveway access box applications: Tracer wire access boxes grade level Copperhead® Part # CD14G2T-SW or approved equal. Grounding Drive in Magnesium Ground Rod: Copperhead® Part # ANO-12 (1.5 lb.) or approved equal. Manufacturer Product Options: Copperhead® products or approved equal.	DEPARTMENT OF PUBLIC WORKS ENGINEERING DIVISION	TRACER WIRE SPECIFICATIONS (3)	3 OF 8 DATED 9/2019

 NOTES: 1. WIRE SHOWN AWAY FROM PIPE FOR CLARITY. WIRE SHALL BE INSTALLED ON THE TOP OF THE PIPE. THE WIRE SHALL BE FASTENED TO THE PIPE WITH TAPE OR PLASTIC TIES AT 5' INTERVALS. 2. REHABILITATION PROJECTS SHALL HAVE A DRIVE-IN MAGNESIUM GROUND ROD INSTALLED ON THE UPSTREAM AND DOWNSTREAM MANHOLES AS WELL AS A GRADE LEVEL IN-GROUND ACCESS BOX INSTALLED AT THE DOWNSTREAM MANHOLE (ACCESS BOX TYPE AND LOCATION TO BE APPROVED BY WASTEWATER DEPARTMENT). 3. AT ALL FUTURE STUB CONNECTIONS, A MINIMUM OF 6 FEET OF TRACER WIRE SHALL BE EXTENDED BEYOND THE END OF THE PIPE, COILED AND SECURED FOR FUTURE CONNECTIONS. THE END OF THE TRACER WIRE SHALL BE SPLICED TO THE WIRE OF A DRIVE-IN MAGNESIUM GROUND ROD AND IS TO BE BURIED AT THE SAME ELEVATIONS AS THE SEWER MAIN.	DEPARTMENT OF PUBLIC WORKS ENGINEERING DIVISION	TRACER WIRE SAMPLE SANITARY SEWER PLAN	7 OF 8 DATED 9/2019

 NOTES: 1. WIRE SHOWN AWAY FROM PIPE FOR CLARITY. WIRE SHALL BE INSTALLED ON THE TOP OF THE PIPE. THE WIRE SHALL BE FASTENED TO THE PIPE WITH TAPE OR PLASTIC TIES AT 5' INTERVALS. 2. TRACER WIRE FOR INLETS MAY TERMINATE INSIDE OF INLET BOX BELOW THE ACCESS (SEE DETAIL SHEET 6 OF 8) OR A GRADE LEVEL IN-GROUND ACCESS BOX MUST BE USED (OPTION REQUIRES CITY APPROVAL IN PAVED AREAS). DRIVE-IN MAGNESIUM GROUND ROD MUST BE USED FOR EITHER OPTION. 3. AT ALL FUTURE STUB CONNECTIONS, A MINIMUM OF 6 FEET OF TRACER WIRE SHALL BE EXTENDED BEYOND THE END OF THE PIPE, COILED AND SECURED FOR FUTURE CONNECTIONS. THE END OF THE TRACER WIRE SHALL BE SPLICED TO THE WIRE OF A DRIVE-IN MAGNESIUM GROUND ROD AND IS TO BE BURIED AT THE SAME ELEVATIONS AS THE SEWER MAIN.	DEPARTMENT OF PUBLIC WORKS ENGINEERING DIVISION	TRACER WIRE SAMPLE STORM SEWER PLAN	4 OF 8 DATED 9/2019

 NOTES: 1. WIRE SHOWN AWAY FROM PIPE FOR CLARITY. WIRE SHALL BE INSTALLED IMMEDIATELY ADJACENT TO THE SERVICE PIPE. THE WIRE SHALL BE FASTENED TO THE PIPE WITH TAPE OR PLASTIC TIES AT 5' INTERVALS. 2. TRACER WIRE NOT REQUIRED FOR REHABILITATION PROJECTS.	DEPARTMENT OF PUBLIC WORKS ENGINEERING DIVISION	TRACER WIRE AT SANITARY SEWER SERVICE DETAIL	8 OF 8 DATED 9/2019

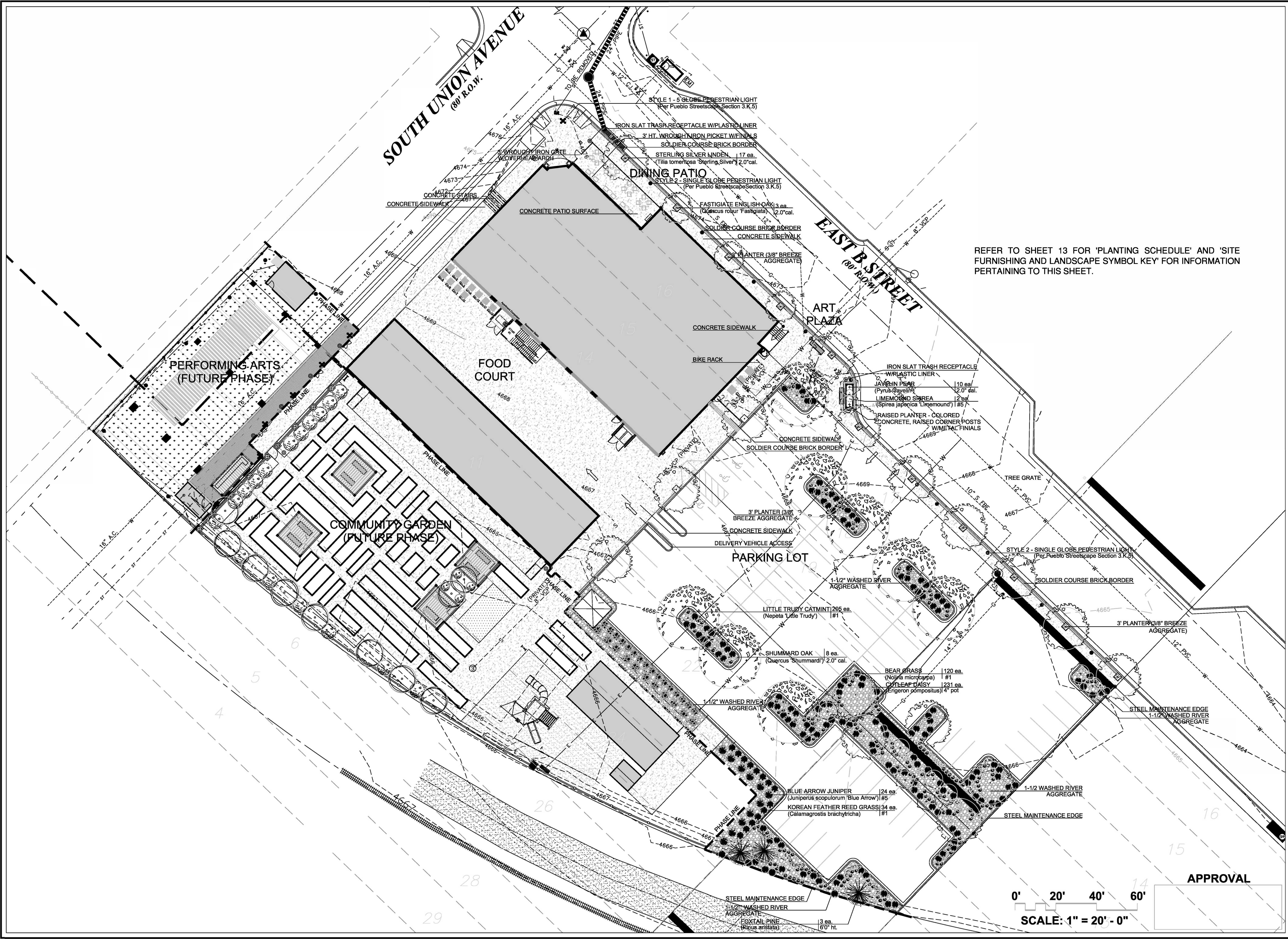
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CHECKED BY: DMB	REVISED BY	
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JOB NO. 2001500		
C8.0		
SHEET 10 OF 10		

HOLMES HARDWARE BLOCK
400 S. UNION STREET
PUEBLO, COLORADO 81003
TRACER WIRE DETAIL SHEET
100% CD'S

NORTHSTAR
ENGINEERING AND SURVEYING, INC.
111 E. 8TH STREET, SUITE 8100
PUEBLO, CO 81003
TEL: (719) 844-0828 FAX: (719) 844-0828

PREPARED UNDER THE
DIRECT SUPERVISION OF
MICHAEL LELAND CUPPY,
P.E., COLORADO
REGISTRATION NO. 40201.

CITY APPROVAL STAMP

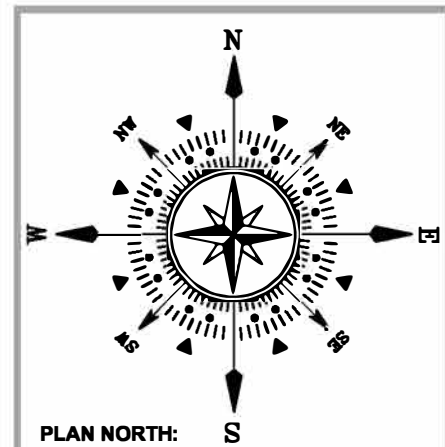


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 bill@guman.net

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FUEL & IRON
410 S. UNION AVE
PUEBLO, CO 81003

LANDSCAPE DEVELOPMENT PLAN

PROJECT NAME: FUEL & IRON
PROJECT ADDRESS: 410 S. UNION AVE, PUEBLO, CO 81003
PROJECT DESCRIPTION: LANDSCAPE DEVELOPMENT PLAN

DATE: 10/15/2020
DESIGNED BY: WFG
CHECKED BY: WFG

WILLIAM FREDERICK GUMAN
 LA-167
 STATE OF COLORADO
 LICENSED LANDSCAPE ARCHITECT

REVISIONS:	DATE:	BY:	DESCRIPTION:
	11/11/20	WFG	VE2
	01/04/21	WFG	VE3

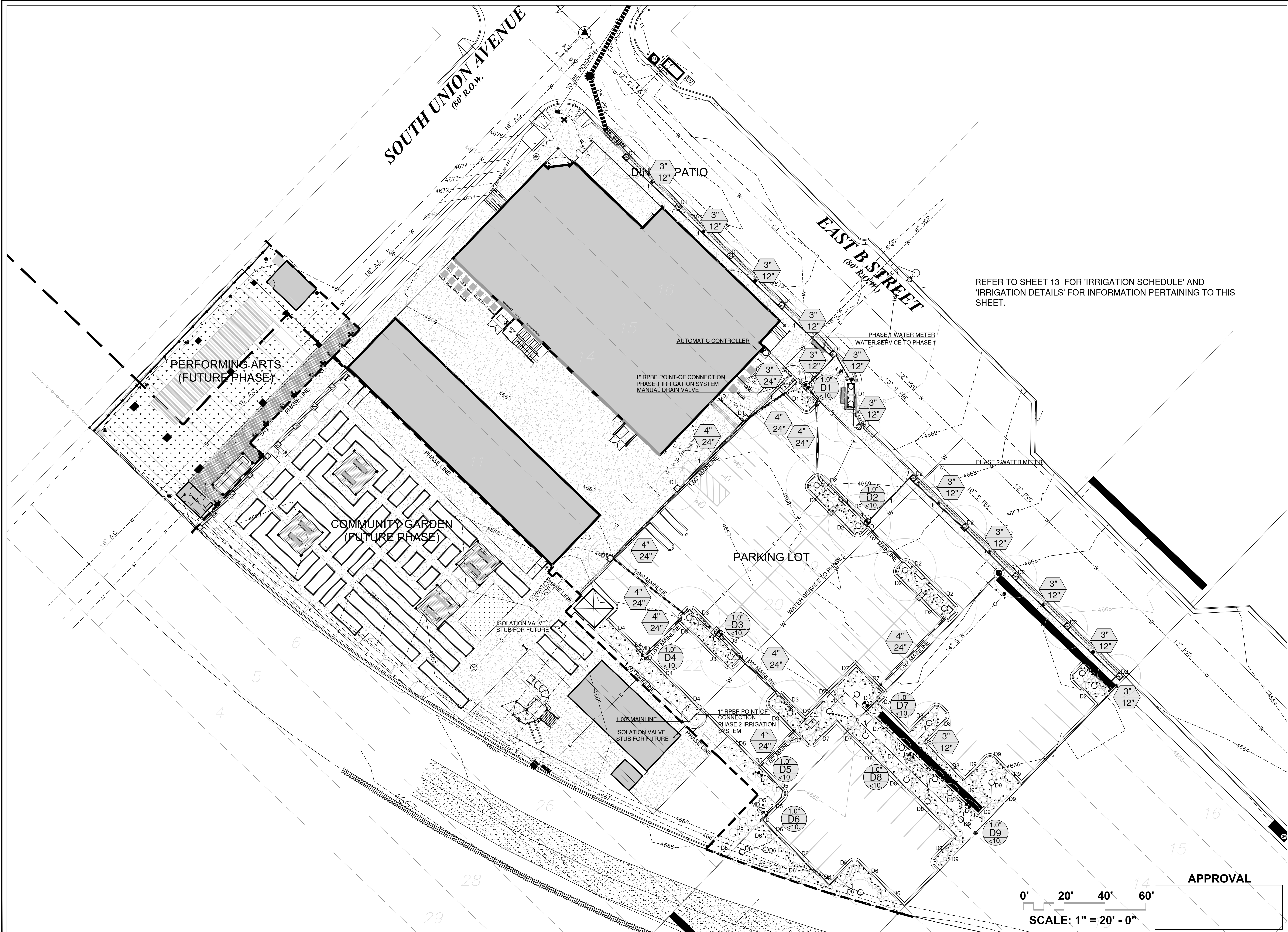
NOTES:

PLAN SCALE: 1" = 20' (OR AS NOTED ON PLAN)

SHEET TITLE: LANDSCAPE CONSTRUCTION

SHEET NO. L1

FILE NO.

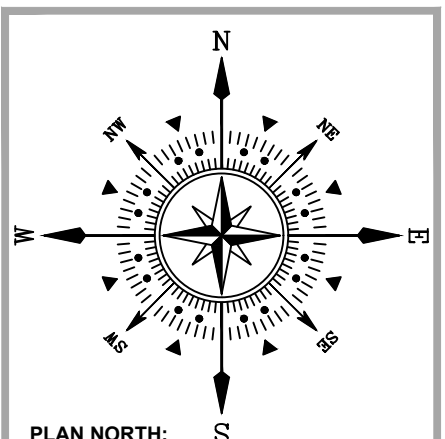


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bill@guman.net

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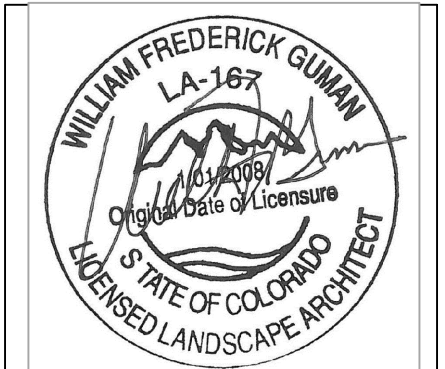
THIS DRAWING IS DIAGNOSTIC. IN THE EVENT OF A CONFLICT, ALL QUANTITIES THAT CAN BE DETERMINED GRAPHICALLY SHALL PREVAIL OVER ANY SCHEDULED QUANTITIES. UNLESS OTHERWISE SPECIFIED, ALL QUANTITIES SHALL BE IN FEET AND INCHES. UNLESS OTHERWISE SPECIFIED, ALL DIMENSIONS SHALL BE TO THE FACE OF THE OBJECT UNLESS NOTED OTHERWISE. THE DRAWING SHALL BE USED IN CONJUNCTION WITH THE SPECIFICATIONS AND ANY OTHER DOCUMENTS REFERENCED HEREIN. THE DRAWING SHALL BE USED IN CONJUNCTION WITH THE SPECIFICATIONS AND ANY OTHER DOCUMENTS REFERENCED HEREIN.

ONLY DRAWINGS BEARING THE OFFICIAL STAMP OF THE LICENSED LANDSCAPE ARCHITECT IN THE STATE OF COLORADO ARE VALID FOR CONSTRUCTION PURPOSES.



PROJECT NAME: FUEL & IRON
PROJECT ADDRESS: 410 S. UNION AVE
PROJECT DESCRIPTION: LANDSCAPE DEVELOPMENT PLAN
PUEBLO, CO 81003

DATE:	10/16/2023
DESIGNED:	WFG
CHECKED:	GEM



REVISIONS:	DATE:	BY:	DESCRIPTION:
	11/02/2023	WFG	
	01/04/2024	WFG	

NOTES:

PLAN SCALE: 1" = 20' (OR AS NOTED ON PLAN)

SHEET TITLE:
IRRIGATION SYSTEM

SHEET NO.
L2

FILE NO.

APPROVAL

0' 20' 40' 60'
SCALE: 1" = 20' - 0"

LANDSCAPE SCHEDULE (Outlying Areas):
Planting Schedule (Phase 1 Only):

SYMBOL	PHASE 1 QTY.	BOTANICAL/COMMON NAME	MATURE HT./WD.	PLANTING SIZE	NOTES
TREES					
	17	STERLING SILVER LINDEN (Tilia tomentosa 'Sterling Silver')	40-50' 20-35'	2.0' cal.	B&B Nursery Grown. Size to meet or exceed AAN. min. size
	3	FASTIGATE OAK (Quercus robur 'Fastigiate')	40-60' 15-20"	2.0' cal.	B&B Nursery Grown. Size to meet or exceed AAN. min. size
	3	FOXTAIL PINE (Pinus aristata)	20-40' 10-20"	60" ht.	B&B Nursery Grown. Size to meet or exceed AAN. min. size
	10	JAVELIN PEAR (Pyrus calleryana 'Javelin')	30-35' 8-10"	2.0' cal.	B&B Nursery Grown. Size to meet or exceed AAN. min. size
	8	SHUMARD OAK (Quercus shumardii)	40-50' 30-40"	2.0' cal.	B&B Nursery Grown. Size to meet or exceed AAN. min. size

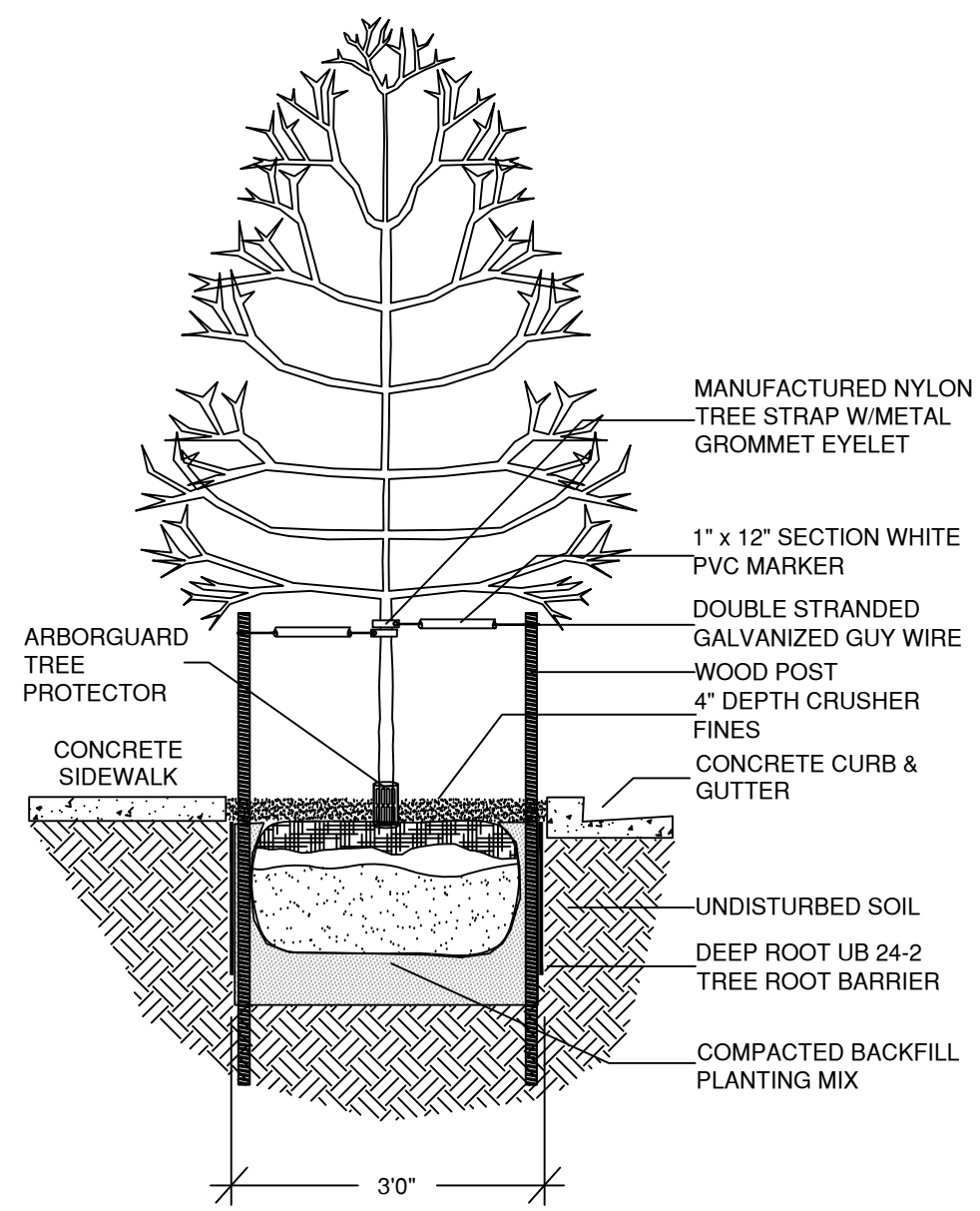
SHRUBS					
	22	BLUE ARROW JUNIPER (Juniperus scopulorum 'Blue Arrow')	12-15' 1-4"	#5	Nursery Container Grown. Size to meet or exceed AAN. min. size
	2	LIMEGOLD SPIREA (Spiraea japonica 'Limegold')	18-24' 2-3"	#5	Nursery Container Grown. Size to meet or exceed AAN. min. size
	31	KOREAN FEATHER REED GRASS (Calamagrostis brachytricha)	3-4' 2-3"	#1	Nursery Container Grown. Size to meet or exceed AAN. min. size
	206	CATMINT 'LITTLE TRUDY' (Nepeta 'Little Trudy')	8-12' 10-24"	#1	Nursery Container Grown. Size to meet or exceed AAN. min. size
	231	CUTLEAF DASY (Ergonon compositus)	4-6' 6-12"	4" pot	Nursery Flat Grown. Size to meet or exceed AAN. min. size
	120	BEAR GRASS (Nolina microcarpa)	4-6' 6-12"	#1	Nursery Container Grown. Size to meet or exceed AAN. min. size

SITE FURNISHING AND LANDSCAPE SYMBOL KEY (Phase 1 Only)

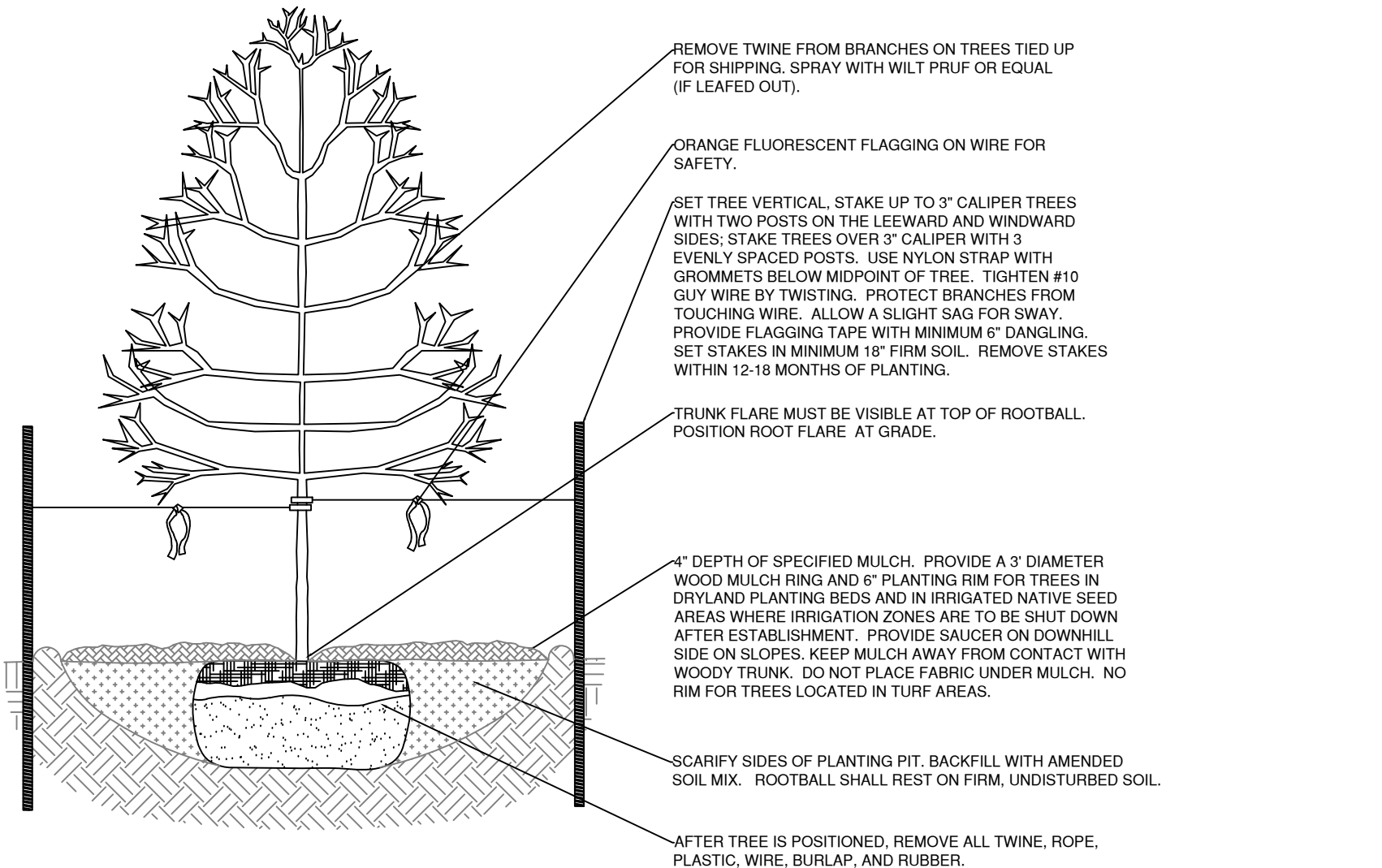
SYMBOL	DESCRIPTION/REMARKS
	AGGREGATE: 1-1/2" SIZE WHOLE WASHED WHITE RIVER COBBLES PLACED TO A UNIFORM DEPTH ON FABRIC UNDERLAYMENT. [Equal to that supplied by Pioneer Sand and Gravel, Colorado Springs, CO]
	STEEL MAINTENANCE EDGE: 4" Galvanized Steel Maintenance Edging pinned at intervals to maintain arcs/straight sections indicated on plan.
	DUCTILE IRON FRAME WITH WOOD SLAT BACKLESS BENCH: Equal to Victor Stanley Model Classic Series C-7 (Phase 1 quantity = 2 ea.) Per Pueblo City Center Streetscape Standards Section 8.C (pages 93-97)
	VINTAGE INVERTED U BICYCLE RACK: Equal to Highland Products Group LLC Model 279-1001 "The Pearl" 36" height, burgundy powder coat finish (Phase 1 quantity = 1 ea.) Per Pueblo City Center Streetscape Standards Section 8.C (pages 93-97)
	36 GALLON SIDE OPENING TRASH RECEPTACLE WITH STANDARD TAPERED FORMED LID AND LATCH: Equal to Sitescapes, Inc. CV2-2100-PF black powder coat finish, circular soldier course brick pattern around base. Provide black plastic liner (Phase 1 quantity = 2 ea.) Per Pueblo City Center Streetscape Standards Section 8.C. (pages 93-97)
	CONCRETE RAISED PLANTER: City of Pueblo Downtown Streetscape planter, colored concrete with raised corner posts and metal finials, minimum 4' width with length per plan. Planter height 16" (Phase 1 quantity = 1 ea., varying length) Per Pueblo City Center Streetscape Standards Section 8.B.3. (page 93)
	PEDESTRIAN LIGHTS: Style 1 - 5-globe pedestrian light, black standard. See Electrical Plans for complete quantity, model, and installation requirements.
	PEDESTRIAN LIGHTS: Style 2 - single globe light, black standard. See Electrical Plans for complete quantity, model, and installation requirements.
	BRICK SOLDIER COURSE BORDER: Match existing City of Pueblo Downtown Streetscape for brick type/size and installation method (Phase 1 quantity = 1,865 LF) Per Pueblo City Center Streetscape Standards Section 8.A.3. 4"x8" red brick paver (page 91) and Section 2.C. (page 108)
	3' HEIGHT WROUGHT IRON PICKET RAILING/FENCE WITH FINIALS: Black pickets with black wrought iron posts at 10' spacing or as indicated per plan. Match existing City of Pueblo Downtown Streetscape for installation method (Phase 1 quantity = 57 LF) Per City Center Streetscape Standards Section 3.R.2. (page 40)

LANDSCAPE NOTES:

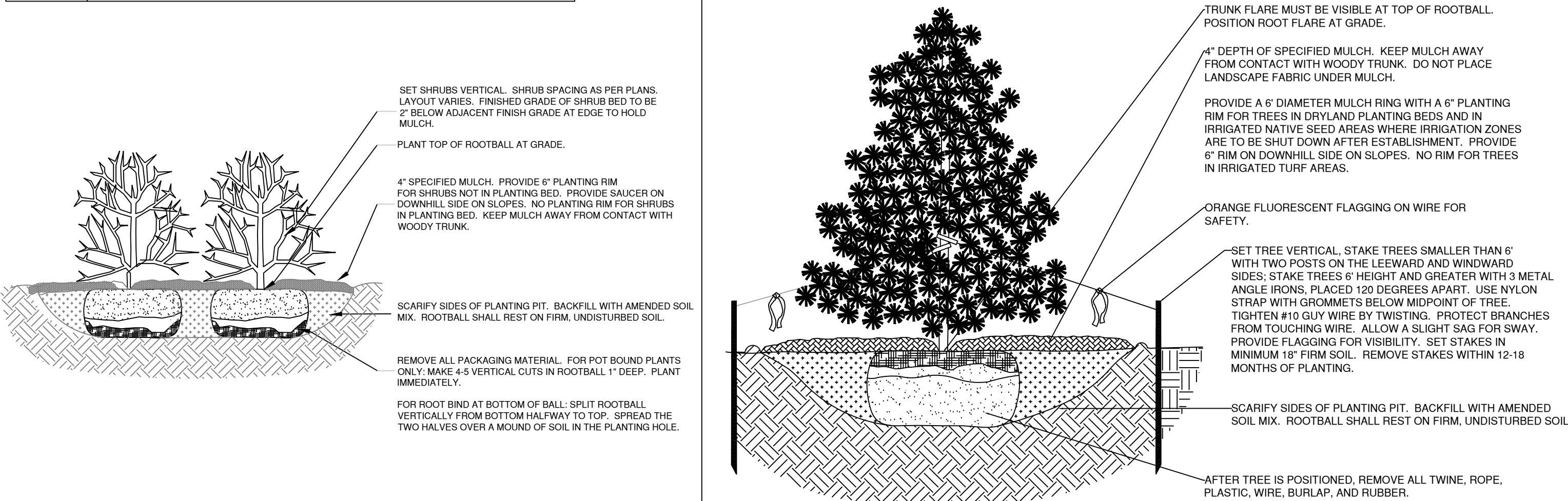
- REFER TO THE CITY OF PUEBLO'S 'CITY CENTER STREETSCAPE STANDARDS' FOR ADDITIONAL INFORMATION AND REQUIREMENTS PERTAINING TO THIS WORK, INCLUDING SPECIFIC SITE FURNISHINGS, INSTALLATION DETAILS, ETC.
- DRAWINGS ARE DIAGRAMMATIC; PRECISE PLACEMENT OF LANDSCAPE ACCESSORIES MAY NOT BE POSSIBLE AS INDICATED. CONSULT PROJECT LANDSCAPE ARCHITECT PRIOR TO MAKING RANDOM FIELD CHANGES WHICH MAY ALTER DESIGN INTENT.
- QUANTITIES ARE PROVIDED FOR REFERENCE ONLY. VERIFY ALL QUANTITIES PRIOR TO SUBMITTING COST PROPOSAL. IN THE EVENT OF A CONFLICT BETWEEN SCHEDULED, IMPLIED, OR EXPRESSED QUANTITIES, QUANTITIES WHICH CAN BE DETERMINED GRAPHICALLY FROM THE DRAWINGS WILL PREVAIL IN ANY CASE.
- THE CONTRACTOR IS RESPONSIBLE FOR INSPECTION AND VERIFICATION OF ALL FIELD CONDITIONS AND RESOLVING CONFLICTS PERTAINING TO DIMENSIONS, LAYOUT, ETC., WHICH MAY AFFECT THE LANDSCAPE INSTALLATION. MOBILIZING SHALL BE CONSTRUED AS ACCEPTANCE OF CONDITIONS.
- COORDINATE ALL WORK INDICATED ON THESE DRAWINGS WITH WORK OF OTHER TRADES.
- THE PROJECT LANDSCAPE ARCHITECT RESERVES THE RIGHT TO CONSIDER AND APPROVE ALTERNATE INSTALLATIONS AT ANY TIME WHICH IN THE LANDSCAPE ARCHITECT'S OPINION MAXIMIZES THE CONSTRUCTION BUDGET AND MAINTAINS DESIGN INTENT.
- AN AUTOMATIC UNDERGROUND IRRIGATION SYSTEM WILL BE REQUIRED TO EXTEND WATER SERVICE TO ALL NEWLY PLANTED LANDSCAPING. A PROFESSIONALLY PREPARED IRRIGATION SYSTEM PLAN WILL BE SUBMITTED TO THE CITY OF PUEBLO FOR APPROVAL PRIOR TO INSTALLATION.
- CONTRACTOR SHALL ENSURE THAT PROPER IRRIGATION VIA THE IRRIGATION SYSTEM IS CAPABLE OF EXTENDING AMOUNTS OF WATER REQUIRED TO ESTABLISH AND SUSTAIN PLANT GROWTH AT THE TIME OF INSTALLATION.
- IRRIGATION WILL BE REQUIRED IN THE FOLLOWING AREAS:
A. TREE GRATES AND RAISED PLANTERS IN B STREET LANDSCAPE SETBACKS.
B. TREE GRATES IN THE SIDEWALK AREA EAST OF THE HOLMES HARDWARE BUILDING.
C. ALL LANDSCAPE ISLANDS IN THE PARKING LOT.
D. TREE GRATES AND RAISED PLANTERS IN THE FOOD COURT PLAZA.
- PROVISIONS SHALL BE MADE TO ALLOW EXPANSION OF THE PHASE 1 IRRIGATION SYSTEM TO EXTEND WATER SERVICE TO FUTURE PHASES OF DEVELOPMENT, INCLUDING THE COMMUNITY GARDEN AND PERFORMING ARTS SPACES.
- PROVISIONS FOR EXPANSION INTO FUTURE PHASES SHALL INCLUDE:
A. PVC SLEEVES UNDER PHASE 1 PAVEMENTS TO ALLOW MAINLINE AND CONTROL WIRING TO FUTURE PHASES.
- PLANT QUANTITIES AND SIZES INDICATED ARE THE MINIMUM TO SATISFY LANDSCAPE CODE REQUIREMENTS; NO SUBSTITUTIONS ARE PERMITTED WITHOUT PRIOR APPROVAL OF THE MUNICIPAL REVIEWING AGENCY.
- ALL WORK PROVIDED AND INSTALLED UNDER THIS SECTION SHALL BE WARRANTED FOR A PERIOD OF ONE YEAR.



A SIDEWALK TREE PLANTING DETAIL
NOT TO SCALE



B DECIDUOUS TREE PLANTING DETAIL
NOT TO SCALE



C SHRUB PLANTING DETAIL
NOT TO SCALE

D EVERGREEN TREE PLANTING DETAIL
NOT TO SCALE

IRRIGATION SCHEDULE:
Equipment Schedule: [Purple / Non-Potable]

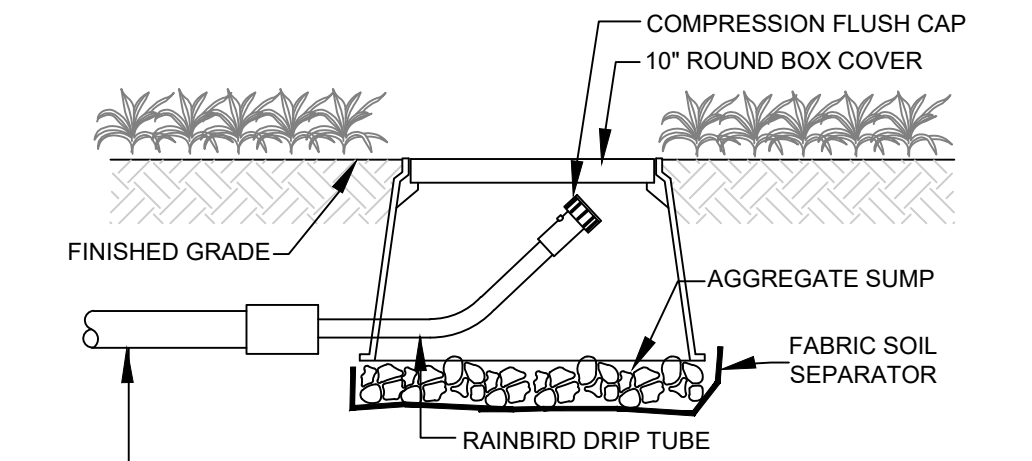
SYM.	SIZE	DESCRIPTION/REMARKS
	12 sta.	RAINBIRD ESP-12 SMTE Outdoor SMART 12 Station Automatic Controller. Exterior mount w/standard plastic housing w/RSD Series Rain Sensor. Hardwire controller w/120V power source. Install per manufacturer's instructions.
	1.00"	WATTS 009M2-QT Bronze Reduced Pressure Zone Backflow Assembly, qtr. turn shut-offs, tee handles. Provide and install in WattsBox Fiberglass unheated enclosure per manufacturer's instructions
	1.00"	RAINBIRD 150 EFB-CP Brass Control Valve (Master Valve)
	1.00"	RAINBIRD PEB Series Plastic Control Valve (Globe Configuration)
	1.00"	RAINBIRD XCZ-075-PRF Drip Control Zone Kit for drip zones 0 GPM-3 GPM. RAINBIRD XCZ-100-B COM Drip Control Zone Kit for drip zones 4 GPM-15 GPM. Refer to watering schedule below for proper valve application per drip zone.
	1 gph	RAINBIRD (XBT-10) 1/2" Emitters per details for all shrubs and grasses.
	.75"	RAINBIRD 33DRC Quick Coupling Valve w/RB Quick Coupling Valve Key.
	1.00"	APOLLO VALVES 2-piece Standard Port Brass Valve (manual drains)
	1.00"	NIBCO T-113 Brass Gate Valve, standard port threaded end (mainline isolation valves)
	.25"	RAINBIRD XB-10PC SINGLE OUTLET EMITTER on drip tubing emitter stake (per Detail 'N')

	VALVE SIZE VALVE NO. 03 EST. GPM 8.0		SLEEVE SIZE 3\"/>
--	--	--	----------------------

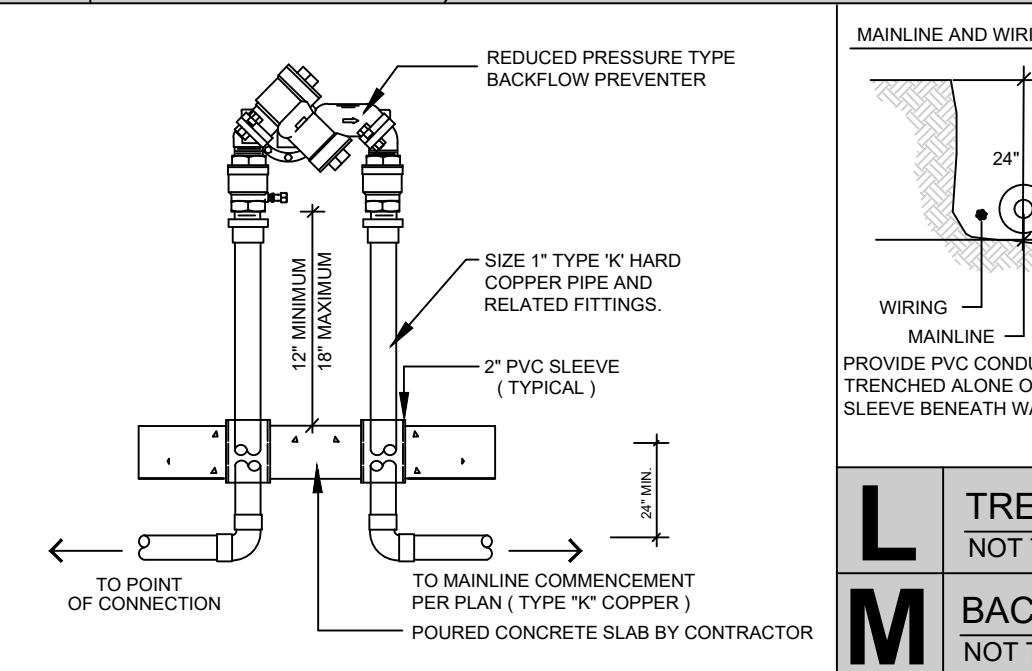
	1.00"	Class 200 PVC Mainline (BOE, NSF rated) solvent weld only
	1.00"	80 lb. Polyethylene Lateral Pipeline, NSF rated
	I.D. = 0.58"	RAINBIRD XT-700 Distribution Tubing
	I.D. = 0.53"	RAINBIRD XFD-06-12 In-Line Drip Tubing for Tree Rings. Dipline to have 0.61 GPH emitters at 12" Spacing (Detail 'J')
	1/4"	RAINBIRD 1/4" Distribution Tubing to be used for indicator emitter only with buried tree rings per details J and N.
	2.00\"-3.00"	Class 200 PVC Sleeve under parking area & driveway paving. Class 200 PVC Sleeve all others.

Irrigation Plan Notes:

- IRRIGATION SYSTEM PLAN IS DIAGRAMMATIC. PRECISE PLACEMENT OF PIPELINES, SLEEVES, EMITTERS, AND OTHER EQUIPMENT MAY NOT BE POSSIBLE AS INDICATED. INSTALLER MAY MAKE FIELD ADJUSTMENTS AT HIS DISCRETION THAT DO NOT ALTER DESIGN INTENT.
- DESIGN PRESSURE ASSUMES 60 PSI AT POINT OF CONNECTION AND ADJUSTED TO 5-7 PSI AT EMITTER/TREE RING. INSTALLER IS RESPONSIBLE FOR VERIFYING STATIC PRESSURE PRIOR TO COMMENCING WORK UNDER THIS SECTION AND FOR REPORTING INADEQUATE CONDITIONS TO PROJECT ARCHITECT THAT MAY EXIST. ADJUST PRESSURE REGULATOR VALVE AT ALL DRIP VALVE ASSEMBLIES TO PROVIDE PROPER APPLICATION.
- SCOPE OF WORK TO INCLUDE PROVIDING AND INSTALLING ALL MISCELLANEOUS AND INCIDENTAL EQUIPMENT THAT MAY BE REQUIRED - BUT WHICH MAY NOT BE INDICATED ON THE DRAWINGS - TO RESULT IN A COMPLETE AND OPERABLE SYSTEM.
- QUANTITIES WHICH CAN BE DETERMINED GRAPHICALLY FROM THE DRAWINGS PREVAIL OVER SCHEDULED QUANTITIES IN THE EVENT OF A CONFLICT.
- ALL EQUIPMENT TO BE INSTALLED PER DRAWING DETAILS, STATE AND LOCAL CODES, AND SPECIFICATIONS. IN THE EVENT OF A CONFLICT IN REQUIREMENTS, THE MOST STRINGENT INTERPRETATION SHALL APPLY.
- IRRIGATION SYSTEM MUST BE 100% OPERABLE AND DEMONSTRATED IN THE PRESENCE OF THE OWNER AND PROJECT ARCHITECT PRIOR TO ISSUANCE OF CERTIFICATE OF AFFIDAVIT FOR FINAL ACCEPTANCE OF ALL WORK.
- INSTALLER IS RESPONSIBLE FOR INITIAL PROGRAMMING OF THE AUTOMATIC CONTROLLER TO ENSURE ADEQUATE RUN TIME AND FREQUENCY TO APPLY ADEQUATE WATER TO SUSTAIN AND ESTABLISH ALL NEW PLANTINGS.
- ALL WORKMANSHIP AND MATERIALS PROVIDED AND INSTALLED UNDER THIS SECTION SHALL BE WARRANTED FOR A PERIOD OF ONE YEAR. EQUIPMENT WHICH FAILS TO OPERATE PROPERLY DURING THE WARRANTY PERIOD SHALL BE REPAIRED OR REPLACED BY THE INSTALLER AT NO EXPENSE TO THE OWNER.



I FLUSHING END CAP
NOT TO SCALE



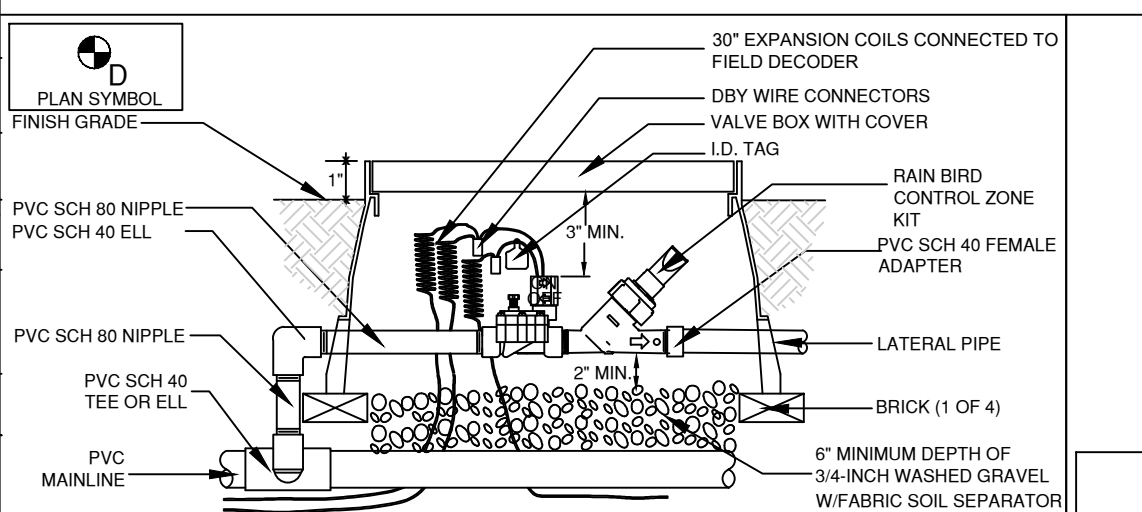
L TRENCHES
NOT TO SCALE
M BACKFLOW PREVENTER
NOT TO SCALE

12 Station Controller VALVE SCHEDULE

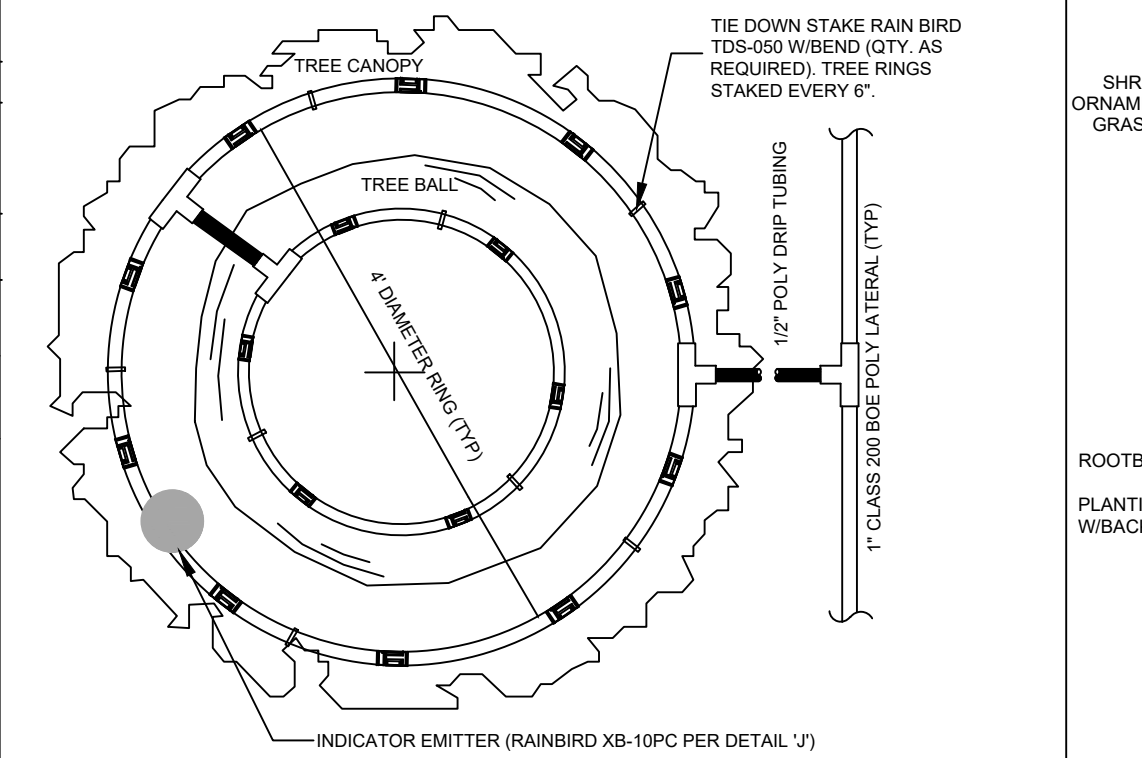
No.	Flow (GPM)	Zone	Size	Precip. (In./Hr.)	*Run Time	Square Feet	Zone Type
01	<10.00	01	1.00"		60 min x 3 days/week		Drip/Emitter
02	<10.00	02	1.00"		60 min x 3 days/week		Drip/Emitter
03	<10.00	03	1.00"		60 min x 3 days/week		Drip/Emitter
04	<10.00	04	1.00"		60 min x 3 days/week		Drip/Emitter
05	<10.00	05	1.00"		60 min x 3 days/week		Drip/Emitter
06	<10.00	06	1.00"		60 min x 3 days/week		Drip/Emitter
07	<10.00	07	1.00"		60 min x 3 days/week		Drip/Emitter
08	<10.00	08	1.00"		60 min x 3 days/week		Drip/Emitter
09	<10.00	09	1.00"		60 min x 3 days/week		Drip/Emitter
10	<10.00	10	1.00"		60 min x 3 days/week		Drip/Emitter

Drip Valve Schedule:

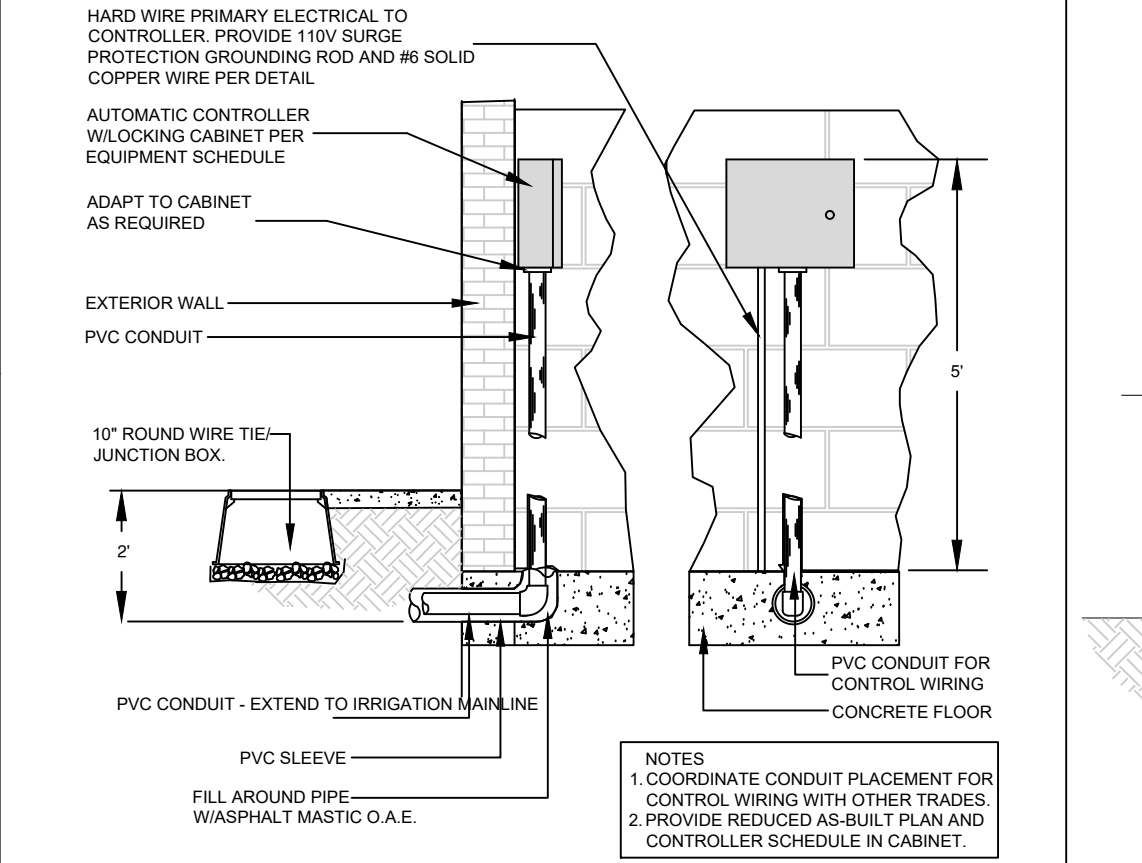
No.	Flow (GPM)	Zone	Size	Run Time	Zone Type
01	<10.00	01	1.00"	60 min x 3 days/week	Drip/Emitter
02	<10.00	02	1.00"	60 min x 3 days/week	Drip/Emitter
03	<10.00	03	1.00"	60 min x 3 days/week	Drip/Emitter
04	<10.00	04	1.00"	60 min x 3 days/week	Drip/Emitter
05	<10.00	05	1.00"	60 min x 3 days/week	Drip/Emitter
06	<10.00	06	1.00"	60 min x 3 days/week	Drip/Emitter
07	<10.00	07	1.00"	60 min x 3 days/week	Drip/Emitter
08	<10.00	08	1.00"	60 min x 3 days/week	Drip/Emitter
09	<10.00	09	1.00"	60 min x 3 days/week	Drip/Emitter
10	<10.00	10	1.00"	60 min x 3 days/week	Drip/Emitter



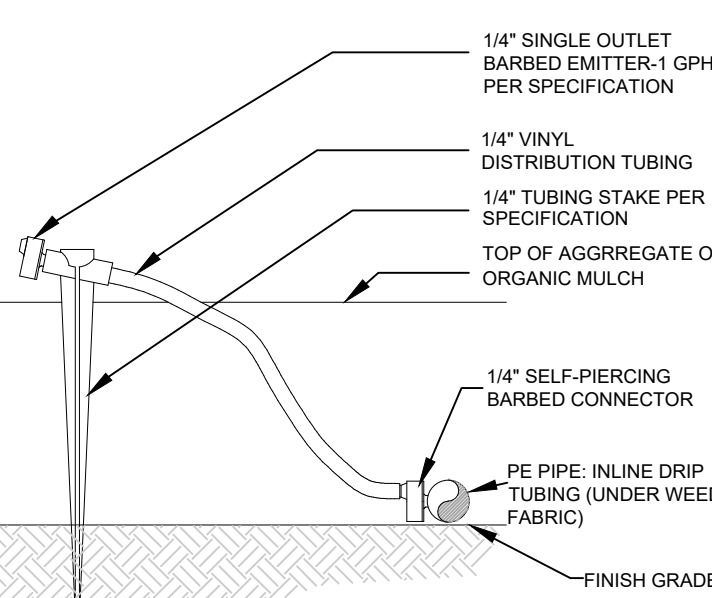
E DRIP CONTROL ZONE KIT
NOT TO SCALE



G DRIP TREE RING W / INDICATOR EMITTER
NOT TO SCALE



H DRIP EMITTERS
NOT TO SCALE

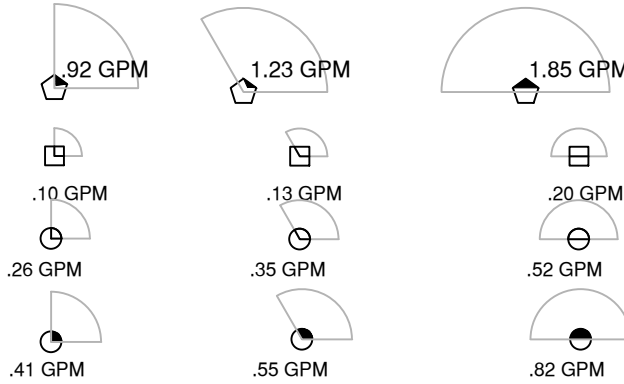


K INDICATOR EMITTERS
NOT TO SCALE

SPRINKLER KEY

* Run Time Note:

RAINBIRD 180X-SAM-R SERIES SPRAYS DESIGNED FOR 30 PSI 15R (13R @ 90%)

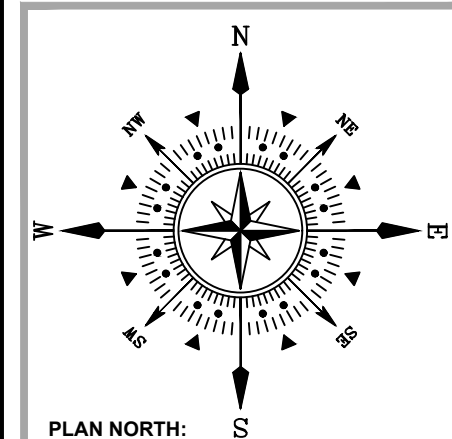


William Guman & Associates, Ltd.
LANDSCAPE ARCHITECTURE
731 North Weber Street
Colorado Springs, CO 80903
(719) 633-9700
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bill@guman.net

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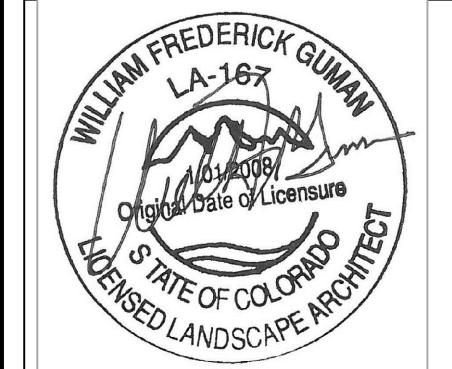
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ONLY DRAWINGS BEARING THE OFFICIAL STAMP OF THE LICENSED LANDSCAPE ARCHITECT IN THE STATE OF COLORADO ARE VALID FOR CONSTRUCTION PURPOSES.



FUEL & IRON
410 E. B ST., S. UNION AVE
PUEBLO, CO 81003
PROJECT NAME:
PROJECT ADDRESS:
PROJECT DESCRIPTION:

DATE: 09/16/2020
DESIGNED: WFG
CHECKED: GJM



REVISIONS:	DATE:	BY:	DESCRIPTION:
	11/03/2020	VE	
	01/04/2021	VE	

NOTES:

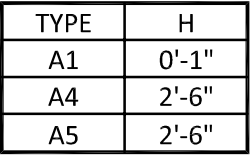
PLAN SCALE: 1" = 30' (OR AS NOTED ON PLAN)

SHEET TITLE:
LANDSCAPE DETAILS

SHEET NO.

L3

FILE NO.



(THIS SHEET)

- ## Holmes Hardware Block



303.523.3030
dan@horvatarch.com

[illegible]

ELECTRICAL SITE PLAN



E4.0



SCALE: 1"=25'

TYPE	DESCRIPTION	MANUFACTURER OR APPROVED EQUIVALENT	CATALOG SERIES NUMBER OR APPROVED EQUIVALENT	LAMPS (QTY) TYPE	INPUT VA	LUMENS	VOLTAGE	AREA SERVED	NOTES
A1	10' POLE MOUNTED COMMON ARE LED LUMINAIRE TYPE 5 DISTRIBUTION	SUN VALLEY	SIG2-VLED-VSQ-48LED-JWW-120-PT-BLACK	52W LED 3000K	52	1100	120	COMMON AREA	
A4	16' POLE MOUNTED PAKRKING LOT LED LUMINAIRE TYPE 4 DISTRIBUTION	KING LUMINAIRE	K829-P4FL-IV-100-SSL-8060-120V-PR-3K-BK	93W LED 3000K	93	11613	120	PARKING LOT	
A5	16' POLE MOUNTED PAKRKING LOT LED LUMINAIRE TYPE 5 DISTRIBUTION	KING LUMINAIRE	K829-P4FL-IV-150-SSL-8060-120V-PR-3K-BK	156W LED 3000K	156	17123	120	PARKING LOT	
S2	19" DIAMETER LED PARKING AREA LIGHT TYPE 5 DISTRIBUTION MOUNTED ON UNDERSIDE OF BRIDGE	LITHONIA LIGHTING	VCPG-V8-P4-30K-70CRI-T5R-MVOLT	56W LED 3000K	56	7149	120	PARKING LOT	
W1	EXTERIOR RATED GENERAL ILLUMINATION WALL SCNCE	LITHONIA LIGHTING	WPX1 LED P2-30K-MVOLT-DBLXD	23W LED 3000K	23	3000	120	PARKING LOT	
W2	EXTERIOR ARCHITECTURAL WALL WASH LED SCNCE	WAC LIGHTING	WS-W36610-3000K-11W-745-560-BK	11W LED 3000K	11	560	120	BUILDING EXTERIOR	

1. PROVIDE WITH 90 MINUTE BATTERY BACKUP, INTEGRAL SELF DIAGNOSTICS, ARROWS AS SHOWN ON PLANS AND MOUNTING TYPE AS SHOWN ON PLAN.



VCPG LED Parking Garage



Catalog
Number

Notes

Type

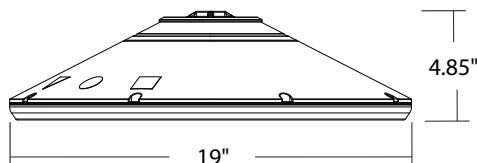
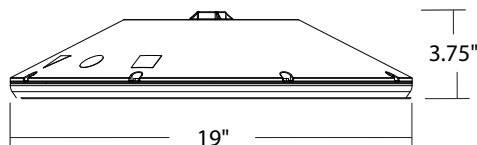
Hit the Tab key or mouse over the page to see all interactive elements.

Specifications

Diameter: 19"

Height: 3.75"
(4.85" with Up-Light)

Weight 18 lbs
(max, with
no options):



A+ Capable options indicated
by this color background.

Introduction

The all new VCPG LED (Visually Comfortable Parking Garage) luminaire is designed to bring glare control, optical performance and energy savings into one package. The recessed lens design of VCPG LED minimizes high angle glare, while its precision molded acrylic lens eliminates LED pixilation and delivers the required minimums, verticals and uniformity. The dedicated up-light module option reduces the contrast between the luminaire and the ceiling creating a more visually comfortable environment.

The VCPG LED delivers up to 87% in energy savings when replacing 175W metal halide luminaires. With over 100,000 hour life expectancy (12+ years of 24/7 continuous operation), the VCPG LED luminaire provides significant maintenance savings over traditional luminaires.

Ordering Information

EXAMPLE: VCPG LED V4 P4 40K 70CRI T5M MVOLT SRM DNAXD

VCPG LED							
Series	LED Light Engines	Package	Color temperature	Color Rendering Index	Distribution	Voltage	Mounting
VCPG LED	V4 ¹ 4 Light Engines	P1 ¹	30K 3000 K	70CRI	T5M Type V, medium	MVOLT	Shipped included PM Pendant mount standard (24-inch length supply leads) SRM Surface mount (24-inch length supply leads) ARM Arm mount (use RSXWBA accessory to mount to a wall) Shipped separately YK Yoke/trunnion mount ³
	V8 ¹ 8 Light Engines	P2 ¹	35K 3500 K	80CRI	T5R ² Type V, rectangular	347 120	
		P3 ¹	40K 4000 K		T5W Type V, wide	480 208	
		P4 ¹	50K 5000 K		T5E Type V entry	240 277	
		P5 ¹			LANE ² Drive lane	347 480	
		P6 ¹					
		P7 ¹					

Options		Finish <i>(required)</i>	
Shipped installed UPL1Up-Light: 500 lumens UPL2Up-Light: 700 lumens E8WCEmergency battery backup, Certified in CA Title 20 MAEDBS (8W, -20°C min)^{4,5,6} E10WHEmergency battery backup, Certified in CA Title 20 MAEDBS (10W, 5°C min)^{4,5,6} HAHigh ambient (50°C, only P1-P4) SFSingle fuse (120V, 277V, 347V) DFDouble fuse (208V, 240V, 480V) SPD10KV10KV Surge Pack LDS3636in (3ft) lead length LDS7272in (6ft) lead length LDS108108in (9ft) lead length DMGExternal 0-10V leads (no controls)⁷ TPTamper proof screws Shipped Separately WGWire Guard BDSBird Shroud HSHouse Side Shield BSWBird Spikes		Standalone Sensors/Controls² PIRMotion/ambient sensor for 8-15' mounting heights PIRHMotion/ambient sensor for 15-30' mounting heights PIR3FC3VMotion/ambient sensor for 8-15' mounting heights, pre programmed to 3fc and 35% light output PIRH3FC3VMotion/ambient sensor for 15-30' mounting heights, pre programmed to 3fc and 35% light output Networked Sensors/Controls² NLTAIR2 PIRnLIGHT AIR Wireless enabled motion/ambient sensor for 8-15' mounting heights NLTAIR2 PIRHnLIGHT AIR Wireless enabled motion/ambient sensor for 15'-30' mounting heights NLTAIR2 PIR924nLIGHT AIR Wireless enabled, UL924 Listed motion/ambient sensor for 8-15' mounting heights⁸ NLTAIR2 PIRH924nLIGHT AIR Wireless enabled, UL924 Listed motion/ambient sensor for 15'-30' mounting heights⁸	DWHXDWhite DNAXDNatural aluminum DDBXDDark bronze DBLXDBlack Note: Product will be shipped in job packs of 18pcs per box. The remaining units will be shipped in unit packs.



Ordering Information Cont.

Accessories

Ordered and shipped separately.

VCPGBDS DWHXD U	Bird shroud for PM (specify finish)	VCPGWG U	Wire guard
VCPGBDS YK DWHXD U	Bird shroud for YK (specify finish)	SLVSQ	Quick mount pendant swivel kit, square
VCPGUBDS DWHXD U	Bird shroud for PM with Up-Light (specify finish)	SLVRD	Quick mount pendant swivel kit, round
VCPGUBDS YK DWHXD U	Bird shroud for YK with Up-Light (specify finish)	VCPG YK DWHXD U	Yoke mount kit (specify finish)
VCPGSRM U	Surface mount kit, with no Up-Light	RSXWBA DWHXD U	RSX WBA wall bracket (specify finish)
VCPGUSRM U	Surface mount kit, with Up-Light	VCPGHS DWHXD U	House side shield (specify finish)

NOTES

- 1 P1-P6 not available with V8. P7 not available with V4.
- 2 Not available with P7.
- 3 Only vertical height adjustment. No angle adjustment. Use PM and SLVSQ or SLVRD for mounting to angled ceiling or canopies.
- 4 Not available with 347V or 480V.
- 5 E8WC and E10WH only rated up to 35°C ambient.
- 6 E8WC & E10WH only available with P1-P4 packages.
- 7 DMG option not available with standalone or networked sensors/controls.
- 8 Needs an nLight Air Normal Power Sensing (NPS) device in the group. VCPG NLTAIR2 PIR and PIRH devices cannot act as NPS devices.

Performance Data

Lumen Output

Lumen values are from photometric tests performed in accordance with IESNA LM-79-08. Data is considered to be representative of the configurations shown, within the tolerances allowed by Lighting Facts. Contact factory for performance data on any configurations not shown here.

Performance Package	Watts	Distribution Type	30K (3000K, 70 CRI)		35K (3500K, 70 CRI)		40K (4000K, 70 CRI)		50K (5000K, 70 CRI)	
			Lumens	LPW	Lumens	LPW	Lumens	LPW	Lumens	LPW
P1	27W	TSE	3,581	135	3,670	138	3,815	144	3,876	146
		TSM	3,620	136	3,710	140	3,856	145	3,917	147
		TSW	3,592	135	3,681	139	3,827	144	3,888	146
		TSR	3,464	130	3,550	134	3,690	139	3,749	141
		LANE	3,507	132	3,594	135	3,736	141	3,796	143
P2	34W	TSE	4,577	135	4,691	138	4,876	144	4,954	146
		TSM	4,626	136	4,741	140	4,928	145	5,007	147
		TSW	4,591	135	4,705	139	4,891	144	4,968	146
		TSR	4,427	130	4,537	134	4,716	139	4,791	141
		LANE	4,482	132	4,594	135	4,775	141	4,851	143
P3	43W	TSE	5,808	134	5,952	137	6,187	143	6,286	145
		TSM	5,870	135	6,015	139	6,253	144	6,353	146
		TSW	5,825	134	5,970	138	6,205	143	6,304	145
		TSR	5,617	130	5,757	133	5,984	138	6,079	140
		LANE	5,688	131	5,829	134	6,059	140	6,155	142
P4	56W	TSE	7,391	131	7,575	135	7,874	140	7,999	142
		TSM	7,470	133	7,656	136	7,958	141	8,085	144
		TSW	7,414	132	7,597	135	7,898	140	8,023	143
		TSR	7,149	127	7,326	130	7,615	135	7,737	137
		LANE	7,238	129	7,418	132	7,711	137	7,834	139
P5	82W	TSE	10,189	124	10,442	127	10,854	132	11,027	134
		TSM	10,298	125	10,553	128	10,970	134	11,145	136
		TSW	10,220	124	10,473	128	10,887	133	11,060	135
		TSR	9,855	120	10,099	123	10,498	128	10,665	130
		LANE	9,978	121	10,226	124	10,629	129	10,799	131
P6	108W	TSE	12,878	120	13,197	123	13,719	127	13,937	129
		TSM	13,015	121	13,338	124	13,865	129	14,086	131
		TSW	12,917	120	13,237	123	13,760	128	13,979	130
		TSR	12,455	116	12,764	119	13,268	123	13,480	125
		LANE	12,611	117	12,924	120	13,435	125	13,649	127
P7	122W	TSE	15,503	125	15,887	128	16,515	133	16,778	135
		TSM	15,668	126	16,057	129	16,691	135	16,957	137
		TSW	15,549	125	15,935	129	16,564	134	16,828	136

Up-light Lumen Output

Up-light Option	Watts	Lumens
UPL1	6.5W	519
UPL2	8.5W	715

Lumen Multiplier for 80CRI

CCT	Multiplier
30K	0.926
35K	0.945
40K	0.967
50K	0.965

Lumen Ambient Temperature (LAT) Multipliers

Use these factors to determine relative lumen output for average ambient temperatures from 0-40°C (32-104°F).

Ambient	Lumen Multiplier
0°C 32°F	1.03
10°C 50°F	1.02
20°C 68°F	1.01
25°C 77°F	1
30°C 86°F	0.99
40°C 104°F	0.98

Projected LED Lumen Maintenance

Data references the extrapolated performance projections for the platforms noted in a 25°C ambient, based on 10,000 hours of LED testing (tested per IESNA LM-80-08 and projected per IESNA TM-21-11).

To calculate LLF, use the lumen maintenance factor that corresponds to the desired number of operating hours below. For other lumen maintenance values, contact factory.

Operating Hours	0	25,000	50,000	100,000
Lumen Maintenance Factor	1.0	0.97	0.94	0.89

Electrical Load

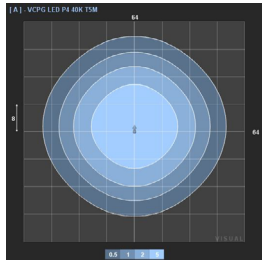
Power Package	System Watts	Current (A)					
		120V	208V	240V	277V	347V	480V
P1	27W	0.22	0.13	0.12	0.10	0.08	0.06
P2	34W	0.28	0.16	0.14	0.13	0.10	0.08
P3	43W	0.37	0.21	0.18	0.16	0.13	0.09
P4	56W	0.48	0.28	0.24	0.21	0.16	0.12
P5	82W	0.68	0.40	0.35	0.30	0.24	0.18
P6	108W	0.91	0.52	0.45	0.39	0.32	0.23
P7	124W	1.03	0.59	0.51	0.44	0.37	0.27



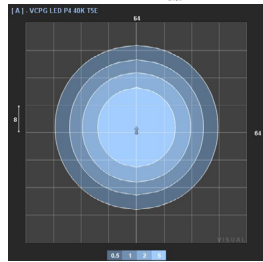
Photometric Diagrams

To see complete photometric reports or download .ies files for this product, visit the [Lithonia Lighting VCPG LED homepage](#).
Tested in accordance with IESNA LM-79 and LM-80 standards

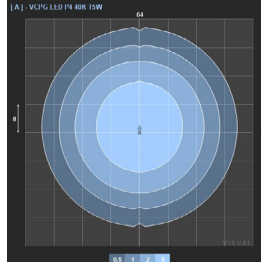
VCPG LED P4 T5M 40K



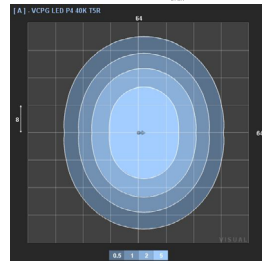
VCPG LED P4 T5E 40K



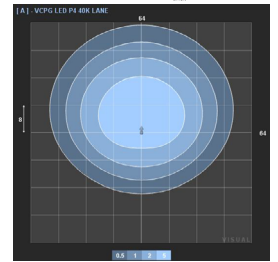
VCPG LED P4 T5W 40K



VCPG LED P4 T5R 40K



VCPG LED P4 LANE 40K



Control/Sensor Options

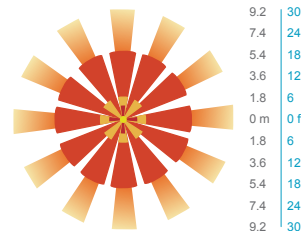
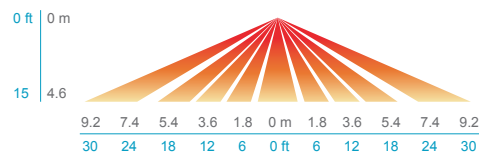
Motion/Ambient Sensor (PIR_, PIRH)

Motion/Ambient sensor (Sensor Switch MSOD) is integrated into the luminaire. The sensor provides both Motion and Daylight based dimming of the luminaire. For motion detection, the sensor utilizes 100% Digital Passive Infrared (PIR) technology that is tuned for walking size motion while preventing false tripping from the environment. The integrated photocell enables additional energy savings during daytime periods when there is sufficient daylight. Optimize sensor coverage by either selecting PIR or PIRH option. PIR option comes with a sensor lens that is optimized to provide maximum coverage for mounting heights between 8-15ft, while PIRH is optimized for 15-40ft mounting height.

Networked Control (NLTAIR2)

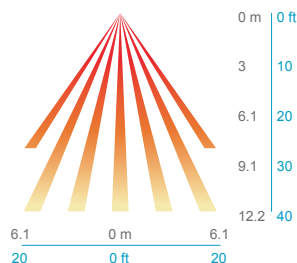
nLight® AIR is a wireless lighting controls platform that allows for seamless integration of both indoor and outdoor luminaires. Five-tier security architecture, 900 MHz wireless communication and app (CLAIRITY™ Pro) based configurability combined together make nLight® AIR a secure, reliable and easy to use platform.

PIR HIGH VIEW

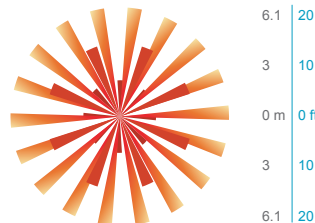


PIRH

SIDE VIEW



TOP VIEW



Motion/Ambient Sensor Default Settings

Option	Dim Level	High Level (when triggered)	Photocell Operation	Motion Time Delay	Ramp-down Time	Ramp-up Time
PIR or PIRH	Motion - 3V (37% of full output) Photocell - 0V (turned off)	10V (100% output)	Enabled @ 5fc	5 min	5 min	Motion - 3 sec Photocell - 45 sec
PIR3FC3V or PIRH3FC3V	Motion - 3V (37% of full output) Photocell - 0V (turned off)	10V (100% output)	Enabled @ 3fc	5 min	5 min	Motion - 3 sec Photocell - 45 sec



PM – Pendant Mount
(compatible with ¾ NPT,
pendant stem provided by
others)
D = 19"
H = 4.1"



SRM – Surface Mount
D = 19"
H = 4.1"



**SRM – Surface Mount
with Up-Light**
D = 19"
H = 5.3"



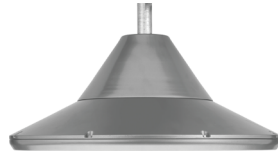
YK – Yoke/Trunnion Mount
D = 19"
H (Yoke) = 10"-18"



ARM – Arm Mount
L = 28"
W = 19"
H = 8"



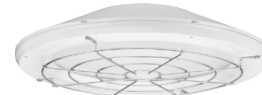
**PIR & PIRH – Motion/
Ambient sensor**
D = 19"
H = 4.6" (no up-light)
or 5.6" (with up-light)



**BDS – Bird shroud for
pendant mount**
D = 19"
H = 8"



**BDS – Bird shroud for
yoke mount**
D = 19"
H (Yoke) = 10"-18"



WG – Wire guard
D = 19"
H = 4.9" (no uplight)
or 5.9" (with up-light)



HS – House side shield
D = 19"
H = 7.1" (no up-light) or
8.1" (with up-light)

FEATURES & SPECIFICATIONS

INTENDED USE

The visually comfortable optics, energy savings, and long life of the VCPG LED Parking Garage luminaire make it an ideal choice for new commercial installations and retrofit parking garage opportunities. It is designed to meet or exceed recommended illuminance criteria when installed as a direct replacement of most HID parking garage luminaires. Its modern dayform and aesthetics also make it appealing for indoor low-bay applications.

CONSTRUCTION

Two-piece die-cast aluminum housing has integral heat sink fins to optimize thermal management through conductive and convective cooling. The LED driver is separated from the heat generating light engines and mounted in direct contact with the casting to promote low operating temperatures, higher lumen maintenance and long life. The housing is completely sealed against moisture and environmental contaminants (IP66) and is suitable for hose-down application.

FINISH

Exterior painted parts are protected by a zinc-infused Super Durable TGIC thermoset powder coat finish that provides superior resistance to corrosion and weathering. A tightly controlled multi-stage process ensures a 3 mils thickness for a finish that can withstand extreme climate changes without cracking or peeling.

OPTICS

Light guide technology provides a diffused light source, reducing glare from direct view of the LEDs. The light source is recessed into the luminaire, further reducing the high angle glare from the luminaire. A combination of precision molded micro prismatic acrylic lenses and back reflectors provide five different photometric distributions tailored specifically to parking garage applications. Up-light option comes with a dedicated light engine and custom optic designed to efficiently spread light on to the ceiling, thus reducing the cave effect.

ELECTRICAL

Light engine consists of high-efficacy LEDs mounted to metal-core circuit boards to maximize heat dissipation and promote long life (up to L89/100,000 hours at 25°C). The electronic driver has a power factor of >90%, THD <20%, and a minimum 6.0 KV surge rating. When ordering the SPD10KV option, a separate 10kV (5kA) surge protection device is installed within the luminaire which meets a minimum Category C low operation (per ANSI/IEEE C62.41.2). Luminaire is 0-10V dimmable down to 10% or lower.

INSTALLATION

Standard configuration accepts a rigid or free-swinging ¾" NPT stem for pendant mounting. The surface mount option attaches to a 4x4" recessed or surface mount outlet box using a quick-mount kit (included); kit contains galvanized steel luminaire and outlet box plates and a full pad gasket. Kit has an integral mounting support that allows the luminaire to hinge down for easy electrical connections. Luminaire and plates are secured with set screws. Also, available with a yoke/trunnion mount option with ¾" NPT provision for flexible conduit entry (conduit by others); height can be adjusted from 10-18". Supply leads are 24" in length as standard. Longer supply leads are available as additional options. Design can withstand up to a 3.0 G vibration load rating per ANSI C136.31.

LISTINGS

CSA certified to U.S. and Canadian standards. IP66 rated for outdoor applications. PIR options are rated for wet location. Rated for -40°C minimum ambient. DesignLights Consortium® (DLC) Premium qualified product and DLC qualified product. Not all versions of this product may be DLC Premium qualified or DLC qualified. Please check the DLC Qualified Products List at www.designlights.org/QPL to confirm which versions are qualified.

BUY AMERICAN

This product is assembled in the USA and meets the Buy America(n) government procurement requirements under FARS, DFARS and DOT. Please refer to www.acuitybrands.com/resources/buy-american for additional information.

WARRANTY

5-year limited warranty. This is the only warranty provided and no other statements in this specification sheet create any warranty of any kind. All other express and implied warranties are disclaimed. Complete warranty terms located at: www.acuitybrands.com/support/warranty/terms-and-conditions

Note: Actual performance may differ as a result of end-user environment and application.

All values are design or typical values, measured under laboratory conditions at 25 °C. Specifications subject to change without notice.



Background Paper for Proposed Resolution

COUNCIL MEETING DATE: January 9, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: A RESOLUTION APPROVING REVISIONS TO THE STANDARD CONSTRUCTION SPECIFICATIONS AND STANDARD DETAILS FOR THE CITY OF PUEBLO

SUMMARY:

This Resolution approves revisions to the Standard Construction Specifications and Standard Details for the City of Pueblo, Colorado dated April 11, 2022, and was amended on December 12, 2022.

PREVIOUS COUNCIL ACTION:

Resolution 14853, dated April 11, 2022, adopted the Standard Construction Specifications and Standard Details.

Resolution, Item M6, approved December 12, 2022, amended the adopted Standard Construction Specifications and Standard Details.

BACKGROUND:

The Public Works Department – in coordination with other departments responsible for managing the City of Pueblo Public Infrastructure Systems – develops construction standards and specifications that apply to all City of Pueblo projects. The Standards also apply to construction work performed by developers and builders responsible for constructing public improvements in residential, commercial, and industrial developments within the City of Pueblo.

These standards ensure the public infrastructure can safely meet the needs and demands of the public; and that the City of Pueblo remains in compliance with State and Federal law; and that the City of Pueblo responsibly approaches the management of the *Total Life-Cycle cost* of constructing, operating, and maintaining its infrastructure systems. The Standards generally do not specify *what types* of improvements must be constructed for a given project, but they do address the required quality, materials,

dimensions, capacities, and other physical and functional characteristics for our public infrastructure systems.

The Standard Construction Specifications and Standard Details were adopted by the City Council in April 2022. Since their adoption, certain administrative corrections are necessary to provide Clarification of Intent.

Attached to the Resolution are those sheets from the Standard Specifications that have been changed. Those changes that are deletions are stricken through and are in brackets. Those changes that are additions are underlined. All changes (either additions or deletions) are in red.

FINANCIAL IMPLICATIONS:

Not applicable.

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

Since implementation of the Standard Construction Specifications and Standard Details in April 2022, the City of Pueblo has continued to engage with the Committee of Community Development (made up of local engineers, designers, builders, developers, representatives from PEDCO, and City Council members) to review and provide feedback on the Standards.

The Public Works Department desires to continue working with the Committee and other stakeholders on an annual basis to discuss specific areas of concern and any issues that may arise over time with respect to the Standard Construction Specifications and Standard Details.

ALTERNATIVES:

The existing Standard Construction Specifications and Standard Details will remain in effect if the Resolution is not approved.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. Standard Construction Specifications - Text Revisions (010923)

RESOLUTION NO. 15114

A RESOLUTION APPROVING REVISIONS TO THE
STANDARD CONSTRUCTION SPECIFICATIONS AND
STANDARD DETAILS FOR THE CITY OF PUEBLO

WHEREAS, Resolution 14853, dated April 11, 2022, adopted the Standard Construction Specifications and Standard Details; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Pursuant to and in furtherance of sections 4-2-2 (8), 12-3-1, 12-4-7 (J)(2), 12-4-7(J)(5)(b), 12-4-7 (J)(5)(c), 12-4-7 (J)(8), 12-6-5 (f), and 12-6-9 of the 1971 Code of Ordinances of the City of Pueblo, as amended, and upon recommendation by the City Engineer, City Council does approve the revisions to the Standard Construction Specifications and Standard Details for the City of Pueblo, Colorado, published April 11, 2022, by the Department of Public Works, a true copy of which is attached hereto and made a part hereof by reference (hereinafter referred to as the "Standard Specifications").

SECTION 2.

After adoption of this Resolution, a true copy of the Standard Specifications, as revised, shall be maintained on file in the office of the City Clerk for public inspection. Copies of the Standard Specifications, as revised, shall be made available through the City's Department of Public Works and on the City of Pueblo Website.

SECTION 3.

The officers of the City are authorized to perform any and all acts consistent with the intent of the Resolution to implement the policies and procedures described herein.

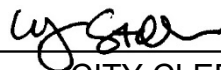
SECTION 4.

This Resolution shall become effective immediately upon final approval.

INTRODUCED January 9, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

cost to the City.

- (d) Excavation for Appurtenances. Provide excavation for manholes, catch-basins, inlets, or similar structures sufficient to leave at least 12" clear between the outer structure surfaces and the face of the excavation or support members. Clear rock or loose debris and cut to a firm surface either level, stepped, or serrated, as directed by the Engineer. Remove loose disintegrated rock and thin strata. When concrete or masonry is to be placed in the excavated area, take special care not to disturb the bottom of the excavation. Do not excavate to the final grade level until just before the concrete or masonry is to be placed.
- (e) Jacking, Boring, and Tunneling. Unless otherwise indicated, provide excavation by open cut except that sections of a trench may be jacked, bored, or tunneled if, in the opinion of the Engineer, the pipe, cable, or duct can be safely and properly installed and backfill can be properly compacted in such sections. The utility shall be at a cover depth of not less than 48" unless approved by City Engineer. Equipment to be used and method of installation shall be presented to the City Engineer for approval prior to any installation.
- (f) Underground Utilities. The contractor is responsible for movement of construction machinery and equipment over pipes and utilities during construction. Work performed adjacent to non-City utilities shall be in accordance with procedures outlined by the utility owner. For work immediately adjacent to or for excavations exposing a utility or other buried obstruction, excavate by hand. Start hand excavation on each side of the indicated obstruction and continue until the obstruction is uncovered or until clearance for the new grade is assured. Support uncovered lines or other existing work affected by the excavation until approval for backfill is granted by the Engineer. Report damage to utility lines or subsurface construction to Engineer immediately.
- (g) Asphalt Patch. If the distance from the lip line of the curb & gutter to the trench is less than 4', all asphalt shall be removed from lip to the trench line. Asphalt shall have a sawcut edge 12" on either side of the trench.

7.3.2.6 Potholing Backfill Requirements

It is the responsibility of the contractor working within the public right-of-way to locate all utilities and telecommunication infrastructure prior to beginning any work. The locating of these utility infrastructures shall be performed by a licensed contractor and shall conform to the following requirements:

- (a) Utility locate potholes shall not be placed in the wheel path of a travel lane or within 10-feet of a crosswalk. Potholes shall not be placed within the concrete accessible walking surfaces or curb ramps, if a pothole must be made in these surfaces, the contractor shall replace the entire concrete section or curb ramp.
- (b) All utility locate potholes in the pavement section, sidewalk, or curb and gutter shall be cored with a circular coring saw with a maximum diameter of 12-inches.

The plug shall be carefully removed, without causing damage to the plug. The plug shall be marked and removed from the site until such time as it is returned in the core hole.

(c) Excavations for potholes shall be backfilled with CLSM in accordance with Article 4.2.3. Native material removed shall not be used to backfill the pothole.

(d) All plugs will be placed back in the corresponding hole in the original orientation at the time of restoration. The sides of the plugs shall be coated and the top sealed with permanent bonding agent.

(e) In the event the core plugs are damaged or cannot be used to fill the core hole, the asphalt shall be repaired using hot mix asphalt paving material from the City approved list. For concrete plugs, repairs shall be made using a 4,000-psi concrete mix.

(f) Core holes shall be cleaned and tacked prior to placing hot mix asphalt paving materials as follows:

a. Residential – 6-inches of hot mix asphalt paving materials.

b. Collector/Arterial – 12-inches of hot mix asphalt paving materials.

(g) Variances to this policy must be approved in writing by the City Engineer.

(h) Initial locate potholes may be temporarily repaired, meeting all applicable safety requirements, for no more than 30 days unless additional time is authorized by the City in writing.

7.3.3 STRIPPING OF TOPSOIL

Where indicated or as directed, strip topsoil to a depth as prescribed in the construction plans or to a depth of 4". Spread topsoil on areas already graded and prepared for topsoil, or transported and deposited in stockpiles convenient to the areas that are to receive application of the topsoil later, or at locations indicated or specified by the Engineer. Keep topsoil separate from other excavated materials, brush, litter, objectionable weeds, roots, stones larger than 2" in diameter, and other materials that would interfere with planting and maintenance operations.

7.3.4 CLEARING AND GRUBBING

Keep roads and walks free of dirt and debris at all times.

7.3.4.1 Clearing

new material direction over the old line of compatible material. Such new material shall bond itself to the old line in such a manner that no splitting or separation takes place.”

8.4.5 MEASUREMENT AND PAYMENT

The accepted quantities will be paid for at the contract price per unit of measurement for each the pay items listed below that appear in the bid schedule. Payment will be made under:

Table 8.6. Payment Units

Pay Item	Pay Unit
Pavement Marking Paint	Gallon
Modified Epoxy Pavement Marking	Gallon
Pavement Marking Tape	LF
Pavement Marking Paint (Word-Symbol)	SF
Pavement Marking Paint (Xwalk-Stop Line)	SF
Thermoplastic Pavement Marking	SF
Thermoplastic Pavement Marking (Word-Symbol)	SF
Thermoplastic Pavement Marking (Xwalk-Stop Line)	SF
Preformed Thermoplastic Pavement Marking	SF
Preformed Thermoplastic Pavement Marking (Word-Symbol)	SF
Preformed Thermoplastic Pavement Marking (Xwalk-Stop Line)	SF

Waterblasting will not be measured or paid for separately but shall be included in the work. Glass beads and cleaning with high pressure water blast or air blast shall be included in the cost of the work. Each authorized application of temporary pavement marking will be measured and paid for at the contract unit price for each type of material used. Control points and Contractor pavement marking plans will not be measured and paid for separately but shall be included in the work. All costs associated with having the Preformed Plastic Pavement Marking manufacturer-trained installer on-site and providing documentation will not be measured and paid separately but shall be included in the work.

8.5 CRACK SEALING

8.5.1 DESCRIPTION

This item shall consist of furnishing all materials, equipment, labor, cleaning and clean up, traffic control and incidental items necessary for sealing or filling cracks of asphalt pavements. The purpose of crack sealing and crack filling is to prevent the intrusion of water and other materials. Crack sealing shall be applicable for cracks 1/4” to 3/4” wide or as recommended by manufacturer. Crack filler is recommended for cracks that are 1” or wider and/or exhibit edge deterioration.

Crack **Sealer** is used for working cracks, cracks that have more than 1/4” seasonal movement. Both hot and cold materials are currently available for crack sealing; however, this specification is meant to only apply to hot applied materials.

Crack **Filler** should be used for nonworking cracks. Non-working cracks are cracks that have annual movement less than 1/4”. Non working crack types may include wide transverse

cracks. If a crack exhibits edge deterioration it should be filled not sealed.

8.5.2 MATERIALS

Materials used for crack sealing shall meet or exceed requirements of ASTM D 6690 for Type II Material as specified. Crack sealers are typically viscous at high temperatures and applied with a wand and excess material is spread with a squeegee. The Contractor/Developer shall provide material certifications and manufacturer's instructions for heating and application.

Materials used for crack filling shall be a premixed blend of polymer modified asphalt binder and wear resistant aggregates heated and mixed in a specialized melter. They are usually applied using a specialized device and smoothed with a heated float. The Contractor/Developer shall provide material certifications and manufacturer's instructions for heating and application. Material shall be approved by Engineer prior to application.

8.5.3 EQUIPMENT

Equipment shall be as specified by the sealant manufacturer and approved by the Engineer. All equipment and machinery shall be kept in good working order, free of leaks and properly muffled. All taxes, licenses and fees shall have been paid and proper licenses and permits shall be posted as required by law.

An oil jacketed type melting unit equipped with both agitation and recirculation systems shall be used to heat the sealant. Direct Fire Melters will not be allowed. The unit shall be equipped with separate thermometers for both the oil bath and the crack sealing material. Thermometers shall be calibrated on a weekly basis to ensure the proper heating of the material.

Materials shall be heated according to the manufacturer's specifications. Fresh material shall not be added to material that was overheated in an attempt to make it acceptable. Material that has been overheated shall be removed and discarded.

8.5.4 CONSTRUCTION REQUIREMENTS

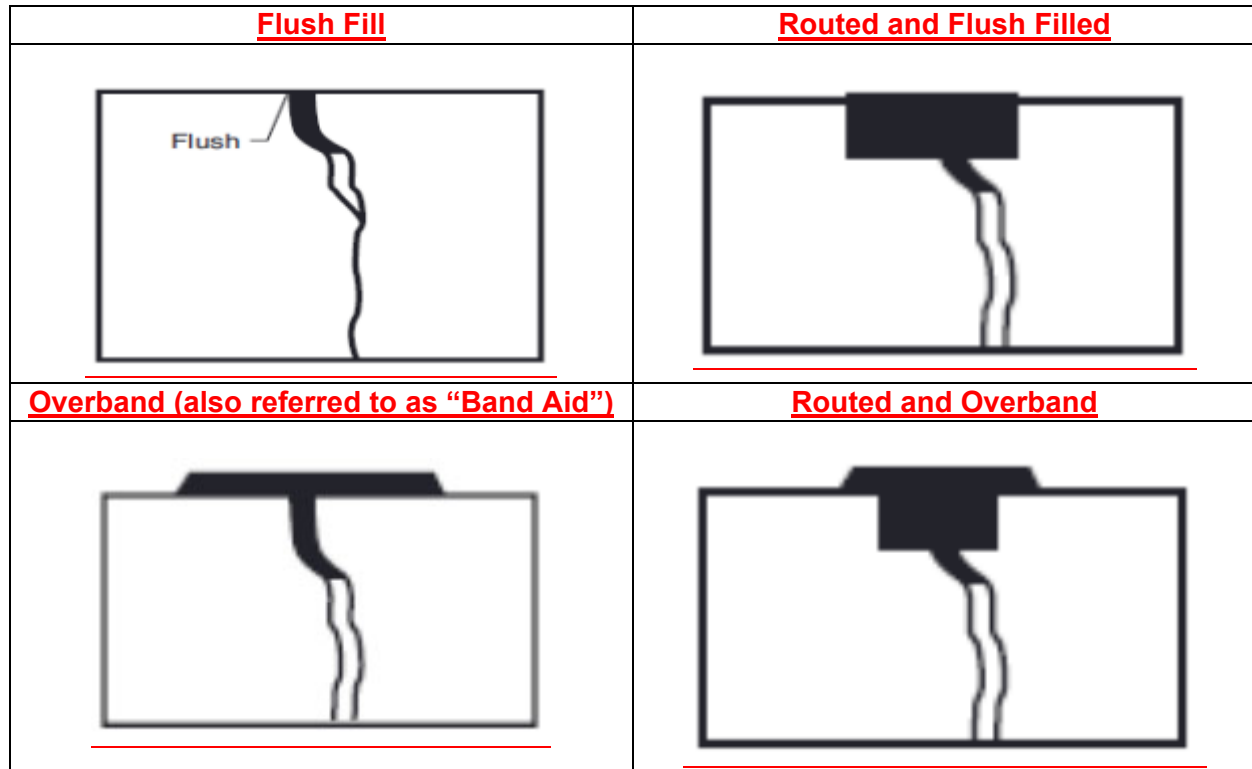
Prior to sealing, all loose material shall be blown out of cracks using a heat lance. Care shall be taken not to burn or scorch the pavement. Torches shall not be used. The Contractor/Developer shall ensure that blown debris shall not strike pedestrians, workers, or cause damage to vehicles and/or private property during cleaning and sealing operations. The Contractor/Developer shall clean debris from streets and sidewalks as soon as sealant has hardened sufficiently.

Cracks shall be free of moisture, residue from deicing chemicals, vegetation and loose matter prior to sealing. If sealant boils when applied additional drying is required before sealing resumes.

Cracks shall be sealed to a minimum depth equal to two times the crack width or the full thickness of the pavement. Overband, if used, shall not exceed 3" in width and 1/8" in height above the pavement surface. Overband width is critical when sealing longitudinal cracks or in stopping zones to avoid creating hazards for cyclists or reducing the tire friction.

When the Engineer specifies routing of cracks, routing shall precede blowing out cracks.

Engineer shall specify if routing is required prior to placement of Crack Seal and the type of sealant or filler application to be installed:



The finished level of Crack Seal or Crack Filler shall be flush to 1/8" above the asphalt surface. Excess material shall be removed by the Contractor/Developer at the Contractor's/Developer's expense.

The Contractor/Developer shall apply the sealant material according to manufacturer's recommendations with approval by the Engineer. The Contractor/Developer shall be solely responsible for safety during all operations and making sure material is placed only in cracks with or without overband as shown above. Costs of damage, cleanup and/or material placed incorrectly shall be borne by the Contractor/Developer.

Traffic shall be kept off sealant until sufficiently hard to not be picked up by traffic. Cooling of sealant can be accelerated using a commercial solution or water. Blotting with sand or paper is not acceptable.

QUALITY CONTROL REQUIREMENT CHECKLIST

Climatic Conditions:

- Surface temperature is at least 45°F and rising or per manufacturer's recommendations.
- No moisture, fog or dew is present.
- Early morning operations should be performed in direct sunlight.

Routing

- Cutting tips are sufficiently sharp to minimize spalling and cracking.
- Proper safety garments are worn (hard hat, reflective vest, long-sleeved shirt, pants, steel toed boots, safety goggles, and hearing protection).
- Guards and safety mechanisms on equipment work properly.
- Router follows cracks without difficulty.
- Routed cracks do not exhibit spalling.

Material Preparation

- Proper safety garments are worn (hard hat, reflective vest, long-sleeved shirt, pants, steel toed boots, safety goggles, and hearing protection).
- Heating oil in melter jacket is not fuming and level is adequate.
- Temperature gauge on the melter has been calibrated to the satisfaction of the AGENCY.
- If the temperature gauge has not been calibrated:
- Measure sealant temperature with a thermometer.
- Ensure that the reading on the thermometer is the same as the reading on the melter temperature gauge.
- Sealant is never reheated above the manufacturer's recommended pouring temperature.
- Material safety data sheet (MSDS) is available on-site.

Cleaning of Cracks and Routs

- Proper safety garments are worn (hard hat, reflective vest, long-sleeved shirt, pants, steel toed boots, safety goggles, and hearing protection).
- A power sweeper or vacuum cleaner is being used to remove dirt and debris from the pavement surface.
- Compressor for high-pressure air provides at least 100 psi.
- Oil and moisture filters on compressor work properly.
- Temperature of the hot-air lance is below 930°F and the tip is 2 to 4 inches from the crack or rout.
- The cleanliness of the crack or rout is being checked every 30 minutes.
- The crack or rout is dry.
- No deicing chemical residue is present.

Sealant Application

- Hot-pour sealant is poured at the manufacturer's recommended temperature.
- The material is applied to the inside of the cracks.
- Insure that sealant is placed up to the asphalt surface.
- There is sufficient sealant to allow for overband (if applicable).
- There are no bubbles due to moisture present.

Overbanding of Sealant (if applicable)

- Over band is not more than 3 inches wide.
- Over band is not more than 1/8 inch above the pavement surface.
- Over band is formed during, or immediately after, sealant application.
- Excess sealant is removed before hardening.

Sealant Protection

- Traffic is rerouted until sealant is set.

8.5.5 MEASUREMENT

Crack sealant shall be measured and paid by the ton complete in place and accepted. If routing is specified it will not be measured and paid separately but shall be included in the cost of material.

The Contractor/Developer shall measure and the inspector verify the following:

Before work starts each day:

- Amount of material in melter
- Number and weight of containers of material on site
- All containers are clearly marked with manufacturer's information.

At the end of work each day:

- Amount of material in melter.
- Number of containers of material not used.

The Contractor/Developer shall certify that material in the melter is per the specifications and has not been overheated.

Measurement will not begin before inspector arrives.

Inspector shall be given adequate notice if material is to be delivered during the workday and have the opportunity to verify quantity.

Counting or delivering boxes or lids shall not be an acceptable method of verifying quantity of material.

8.5.6 TESTING AND INSPECTION - GUIDANCE

When pulled vertically using a flattened sharp tipped ¼" rod bent at 90° the bond between the sealant and asphalt should be stronger than the sealant or the asphalt. Sealant or existing asphalt pavement should fail before the bond is broken.



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: January 9, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andra Ahrens, Director Wastewater

SUBJECT: A RESOLUTION ACCEPTING AN EASEMENT FOR PUBLIC SANITARY
SEWER UTILITIES FROM CLARK SPRING WATER COMPANY WITH
RESPECT TO PARCEL 1501142020

SUMMARY:

Attached is a Resolution accepting an easement for public utilities from Clark Spring Water Company.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

A public sanitary main was constructed in 1930 through private property without an easement. The sanitary sewer main is required in order to serve building upstream.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Denying the Resolution will deprive the right the Wastewater Department would have to maintain and repair the existing sanitary sewer main prescribed by the easement.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. Easement with Clark Water

RESOLUTION NO. 15115

A RESOLUTION ACCEPTING AN EASEMENT FOR
PUBLIC SANITARY SEWER UTILITIES FROM CLARK
SPRING WATER COMPANY WITH RESPECT TO PARCEL
1501142020

WHEREAS, the owners of real property, Parcel 1501142020, have granted an Easement for public sanitary sewer utilities; and,

WHEREAS, such easement is necessary for the development of the subdivision;
NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The Easement and Right of Way, copy which is attached hereto, having been approved as to form by the City Attorney, is hereby approved and accepted.

SECTION 2.

The City Clerk is further directed to cause same to be recorded in the Office of the Pueblo County Clerk and Recorder forthwith.

SECTION 3.

The officers and staff of the City are authorized to perform any and all acts consistent with this Resolution to implement the policies and procedures described herein.

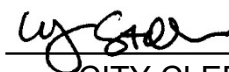
SECTION 4.

This Resolution shall become effective immediately upon final passage and approval.

INTRODUCED January 9, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

EASEMENT AND RIGHT OF WAY

THIS EASEMENT, granted this 19th day of DECEMBER, 2022, by Clark Spring Water Company, Grantor, to PUEBLO, a Municipal Corporation, Grantee:

WITNESSETH:

THAT IN CONSIDERATION of the sum of One Dollar (\$1.00) and other good and valuable consideration paid by the Grantee, receipt of which is hereby acknowledged, Grantor hereby grants to Grantee, its successors and assigns, an easement and right of way for the purpose of a public Sanitary Sewer, in, through, over, under and across Grantor's property situated in Pueblo County, Colorado, commonly known as Parcel No. 1501142020 and described as follows: (the "Property")

See attached Exhibit "A" and "B"

TOGETHER WITH the right to enter upon the Property for the purposes of construction, replacement, maintenance, control, and repair, and the right to use so much of the adjoining property of Grantor for said purposes. Grantee shall have the right, without the necessity at any time of procuring the consent or permission of anyone, to remove any building, fence, tree, pavement or other improvement or growth located upon such easement that may in any way endanger or interfere with the construction, reconstruction, maintenance, inspection or removal of all or any parts of said public Sanitary Sewer; provided, however, Grantee shall restore any fence so removed to substantially the same condition as at time of removal.

Grantor warrants to Grantee that Grantor has good and sufficient right and title in and to the Property and full power to grant this easement and right-of-way.

"Grantee" shall include the plural and the feminine. This Easement And Right Of Way shall be binding upon, and shall inure to the benefit of the heirs, personal representatives, successors, and assigns of the Grantor and Grantee.

SIGNED this 19th day of DECEMBER, 2022.

GRANTOR

By: [Signature]
Eric Clark
President

STATE OF Colorado)
) ss.
COUNTY OF Pueblo)

The foregoing instrument was acknowledged before me this 12/19/2022 (date) by Eric Clark as President of the Clark Spring Water Company, a Colorado corporation.

Witness my hand and official seal.

My commission expires:

11/18/25



[SEAL]

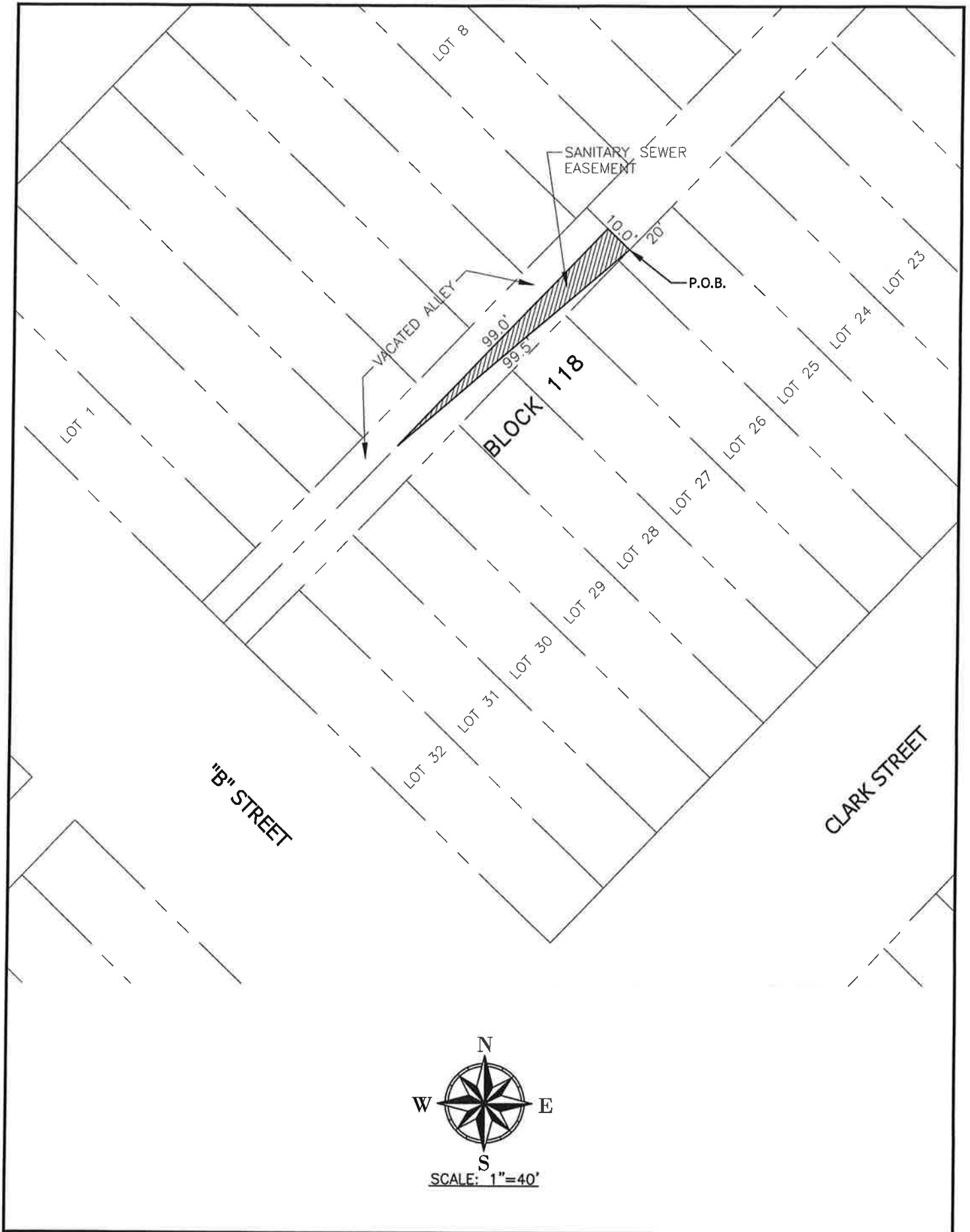
[Signature]
Notary Public (or official title)

Exhibit "A"

Beginning at a point along the southeasterly line of the vacated alley in Block 118, South Pueblo, said point being 20.0' southwesterly of the northwest corner of Lot 25, Block 188, South Pueblo; thence northwesterly and perpendicular to the southeasterly line of said vacated alley a distance of 10.0' to the centerline of said vacated alley; thence southwesterly along the centerline of said vacated alley a distance of 99.0'; thence northeasterly a distance of 99.5' more or less to the point of beginning.

Said easement contains a calculated area of 495.0 square feet.

EXHIBIT "B"





**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: January 9, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Marisa Stoller, City Clerk

SUBJECT: A RESOLUTION FIXING AN ALTERNATE DAY FOR THE REGULAR CITY COUNCIL MEETING CURRENTLY SCHEDULED FOR THE SECOND MONDAY IN OCTOBER 2023 AND THE FOURTH MONDAY IN DECEMBER 2023

SUMMARY:

This Resolution changes the date of two 2023 Regular City Council meetings currently scheduled for the second Monday in October and the fourth Monday in December in order to accommodate the 2023 City Holiday Schedule.

PREVIOUS COUNCIL ACTION:

A Resolution changing the dates for any Regular City Council Meeting that falls on a City Holiday during the year is prepared for the first meeting in January of each year.

BACKGROUND:

Per Section 3-15 of the City Charter, *"If a regular meeting shall fall on or the evening before a City holiday, the City Council may by Resolution fix another day for such regular meeting."*

Monday, October 9, 2023 is observed as a City Holiday. The Regular Meeting scheduled for Monday, October 9, 2023 will be moved to Tuesday, October 10, 2023. Monday, December 25, 2023 is observed as Christmas Day and observed as a City Holiday. The Regular Meeting scheduled for Monday, December 25, 2023 will be moved to Tuesday, December 26, 2023.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable for this Resolution.

STAKEHOLDER PROCESS:

Not Applicable for this Resolution.

ALTERNATIVES:

If the aforementioned meetings are not rescheduled by Resolution, the Regular Meetings shall be held on the date of the recognized City holiday.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

None

RESOLUTION NO. 15116

A RESOLUTION FIXING AN ALTERNATE DAY FOR THE
REGULAR CITY COUNCIL MEETING CURRENTLY
SCHEDULED FOR THE SECOND MONDAY IN OCTOBER
2023 AND THE FOURTH MONDAY IN DECEMBER 2023

WHEREAS, the Regular City Council Meetings scheduled for the Second Monday in October falls on October 9, 2023, which is observed as a City Holiday, and the Fourth Monday in December falls on December 25, 2023, which is observed as a City Holiday; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Tuesday, October 10, 2023 is hereby fixed as the day for the Regular Meeting of the Pueblo City Council, originally scheduled for *Monday, October 9, 2023*. *Tuesday, December 26, 2023* is hereby fixed as the day for the Regular Meeting of the Pueblo City Council, originally scheduled for *Monday, December 25, 2023*.

SECTION 2.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Resolution to implement the policies and procedures described herein.

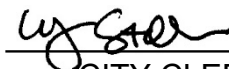
SECTION 3.

This Resolution shall become effective upon passage and approval.

INTRODUCED January 9, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK



Background Paper for Proposed Resolution

COUNCIL MEETING DATE: January 9, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Marisa Stoller, City Clerk

SUBJECT: A RESOLUTION DESIGNATING PUBLIC PLACES FOR THE POSTING OF NOTICE OF MEETINGS FOR THE PUEBLO CITY COUNCIL FOR THE YEAR 2023

SUMMARY:

This Resolution designates the public places for the posting of notices of all meetings of the City Council at which the adoption of a proposed policy, position, resolution, rule, regulation or formal action occurs, or at which a majority or quorum of the body is in attendance or is expected to be in attendance.

PREVIOUS COUNCIL ACTION:

The public place for posting official notice for such public meetings is designated annually at the first regular meeting of each calendar year.

BACKGROUND:

Pursuant to 24-6-402(2)(c) C.R.S., any meetings at which the adoption of a proposed policy, position, resolution, rule, regulation or formal action occurs, or at which a majority or quorum of the body is in attendance, or is expected to be in attendance, shall be held only after full and timely notice is given to the public. The public place for posting such notice shall be designated annually at the local public body's first regular meeting of each calendar year.

Traditionally City Hall has been the designated public place for the posting of notice of meetings, specifically the bulletin board on the first floor under the supervision of the City Clerk. In 2014, the City's Webpage was added as an additional designated public place for the posting of notice of meetings.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable for this Resolution.

STAKEHOLDER PROCESS:

Not Applicable for this Resolution.

ALTERNATIVES:

Designate a different location as the official bulletin board.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

None

RESOLUTION NO. 15117

A RESOLUTION DESIGNATING PUBLIC PLACES FOR THE
POSTING OF NOTICE OF MEETINGS FOR THE PUEBLO CITY
COUNCIL FOR THE YEAR 2023

WHEREAS, pursuant to Section 24-6-402(2)(c) C.R.S., any meetings at which the adoption of a proposed policy, position, resolution, rule, regulation or formal action occurs, or at which a majority or quorum of the body is in attendance, or is expected to be in attendance, shall be held only after full and timely notice is given to the public; and

WHEREAS, the public places for posting such notices shall be designated annually at the local public body's first regular meeting of each calendar year; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The bulletin board located outside the Office of the City Clerk on the first floor of City Hall, #1 City Hall Place, Pueblo, Colorado, and the City of Pueblo's Webpage (www.pueblo.us), are hereby designated as the two public places for posting of notice of meetings for the Pueblo City Council. The posting shall include specific agenda information when possible.

SECTION 2.

The notice of meetings shall be posted no less than twenty-four hours prior to the holding of the meeting.

SECTION 3.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Resolution to implement the policies and procedures described herein.

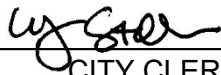
SECTION 4.

This Resolution shall become effective upon passage and approval.

INTRODUCED January 9, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: January 9, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Marisa Stoller, City Clerk

SUBJECT: A RESOLUTION DESIGNATING A PUBLIC PLACE FOR THE POSTING
OF NOTICE OF MEETINGS FOR ALL BOARDS, COMMISSIONS, AND
COMMITTEES OF THE CITY OF PUEBLO FOR THE YEAR 2023

SUMMARY:

This Resolution designates the public place for the posting of notices of meetings for all Boards, Commissions, and Committees appointed by the City of Pueblo for the Year 2023.

PREVIOUS COUNCIL ACTION:

The public place for posting notices for such public meetings is designated annually at the first City Council meeting of each calendar year.

BACKGROUND:

Pursuant to 24-6-402(2)(c) C.R.S., any meetings at which the adoption of a proposed policy, position, resolution, rule, regulation or formal action occurs, or at which a majority or quorum of the body is in attendance, or is expected to be in attendance, shall be held only after full and timely notice is given to the public.

Traditionally City Hall has been the designated public place for the posting of notices of meetings, specifically the bulletin board on the first floor of City Hall under the supervision of the City Clerk.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable for this Resolution.

STAKEHOLDER PROCESS:

Not Applicable for this Resolution.

ALTERNATIVES:

Designate a different location as the official bulletin board.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

None

RESOLUTION NO. 15118

A RESOLUTION DESIGNATING A PUBLIC PLACE FOR THE
POSTING OF NOTICE OF MEETINGS FOR ALL BOARDS,
COMMISSIONS, AND COMMITTEES OF THE CITY OF PUEBLO
FOR THE YEAR 2023

WHEREAS, pursuant to Section 24-6-402(2)(c), C.R.S., any meetings at which the adoption of a proposed policy, position, resolution, rule, regulation or formal action occurs, or at which a majority or quorum of the body is in attendance, or is expected to be in attendance, shall be held only after full and timely notice is given to the public; and

WHEREAS, the public place for posting such notice shall be designated annually at the local public body's first regular meeting of each calendar year; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The bulletin board located outside the Office of the City Clerk on the first floor of City Hall, #1 City Hall Place, Pueblo, Colorado is hereby designated as the official bulletin board for the posting of meetings for all Boards, Commissions, and Committees of the City of Pueblo. The posting shall include specific agenda information when possible.

SECTION 2.

The notice of meetings shall be posted no less than twenty-four hours prior to the holding of the meeting.

SECTION 3.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Resolution to implement the policies and procedures described herein.

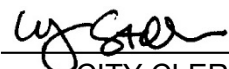
SECTION 4.

This Resolution shall become effective upon passage and approval.

INTRODUCED January 9, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK



Background Paper for Proposed Resolution

COUNCIL MEETING DATE: January 9, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Alyssa Parga, Secretary to the Mayor

SUBJECT: A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF JUSTIN BOWEN TO THE SANGRE DE CRISTO ARTS & CONFERENCE CENTER BOARD OF TRUSTEES

SUMMARY:

This Resolution appoints a member to the Sangre de Cristo Arts and Conference Center Board of Trustees to serve a three-year term expiring December 31, 2025.

PREVIOUS COUNCIL ACTION:

City Council has made appointments to the Sangre de Cristo Arts and Conference Center Board of Trustees selecting individuals to serve terms which expire at the end of a particular calendar year. Amended City Charter Section 4-4 (i) now requires that such appointments be made by the Mayor, subject to confirmation by City Council.

BACKGROUND:

There is one appointment available to serve a three-year term expiring December 31, 2025 on the Sangre de Cristo Arts & Conference Center Board of Trustees.

FINANCIAL IMPLICATIONS:

This a volunteer committee and members serve without compensation.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Remove from agenda and re-advertise for additional applications.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. Bowen Application

RESOLUTION NO. 15119

A RESOLUTION CONFIRMING THE APPOINTMENT BY
THE MAYOR OF JUSTIN BOWEN TO THE SANGRE DE
CRISTO ARTS & CONFERENCE CENTER BOARD OF
TRUSTEES

WHEREAS, Mayor Nicholas A. Gradisar has requested confirmation by the City Council of his appointment of Justin Bowen to the Sangre de Cristo Arts and Conference Center Board of Trustees to serve a three-year term expiring December 31, 2025; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Justin Bowen is hereby appointed to the Sangre de Cristo Arts and Conference Center Board of Trustees to serve a three-year term expiring December 31, 2025.

SECTION 2.

The officers and staff of the City are authorized to perform any and all acts consistent with this Resolution to implement the appointments described herein.

SECTION 3.

This Resolution shall become effective on the date of final action by the Mayor and City Council.

INTRODUCED January 9, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

From: noreply@civicplus.com
To: [CityAdmin](#)
Subject: [External] Online Form Submittal: BOARDS & COMMISSIONS Application
Date: Wednesday, December 21, 2022 9:57:33 PM

External email. Please use caution.

BOARDS & COMMISSIONS Application

BOARDS & COMMISSIONS Application for Appointment

(Section Break)

DATE	12/21/2022
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BOARD OR COMMISSION	Sangre De Cristo Arts & Conference Ctr. Board
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Contact Information

FIRST NAME	Justin
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LAST NAME	Bowen
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HOME ADDRESS	2525 E Routt Ave
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CITY	Pueblo
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STATE	Co
-------	----

ZIP	81004
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OFFICE ADDRESS	2525 E Routt ave
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CITY	Pueblo
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STATE	CO
-------	----

ZIP	81004
-----	-------

DAYTIME PHONE	719-251-4378
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E-MAIL ADDRESS	juzz03@live.com
----------------	-----------------

ARE YOU CURRENTLY EMPLOYED WITH	NO
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THE CITY OF
PUEBLO?

ARE YOU A
RESIDENT OF THE
CITY OF PUEBLO?

YES

OCCUPATION (or if
RETIRED, your
previous occupation)

Advisor (AdaptHealth)

Questionnaire

Please complete the following general information.

1. Please list your
areas of
accomplishments that
you feel could assist
the mission of this
Board or Commission.

I am a native Puebloan. Graduated from Pueblo County High School and CSU Pueblo formerly the University of Southern Colorado. I am currently the organizer/participant for Pueblo Social Shuffle and Pueblo Cruisers Bike club. I have been a volunteer for the SCEA Pride week for the past two years. I also try to participate within the community with (Corporate Cup, various 5k races, and multiple fundraisers for local families). Helping within the community has been something ingrained in my character. I have been a part of several personal fundraisers for families in need. I feel it is very important for the pueblo community to help others in need. I am a big believer in the small business community and support local restaurants and shops throughout the pueblo area. I would definitely like to bring more attention to and have the art center promote more local business events.

2. Why are you
interested in being
appointed to this Board
or Commission?

I believe I will be able to bring a pueblo native aspect to the board. Being part of the Pueblo Community for over 40 years, I have enjoyed participating in many events and programs through the Sangre De Cristo art center. I have been participating in galas, concerts, and fundraisers for the past few years. I would not only like to continue the great tradition pueblo has with these events, but also add more events for locals and tourists to enjoy. Being in other groups within the community gives me an opportunity to get ideas of what the community would like. I am someone who is not afraid to think outside of the box and am always listening and watching for more growth and opportunity.

3. What Goals would
you like to see this
Board or Commission
accomplish?

I enjoy the exhibits and concerts that the arts center brings in. I would like to have other well-known artists display their art and have more diverse shows brought to the art center. I would like to have local artists have a chance to get their name in the community by providing local art shows and concerts for the public to enjoy. I also would like to encourage the public to provide ideas and be more involved with what the art center can provide. I would like all people from all backgrounds to be able to have access to and be part of all the art center has to offer. I

come from a multicultural and diverse family and have many different interests (music, architecture, arts), and would like to see more diverse and inclusive offerings to our community.

4. List any other items that might be useful in consideration for your appointment to this Board or Commission.

With being part of the Pueblo community for so long, I definitely have first-hand knowledge of what our community has been wanting. Family movie nights, family dance events, and more local concerts for starters. I have seen the incredible talent pueblo has to offer. From tattoo artists to local shop owners who create their own jewelry. To say the least, I have seen firsthand all the wonderful artists this great town of Pueblo has produced. I definitely want that tradition to continue and bring aspiring musicians, painters, creative arts, and film enthusiasts to the open and have speakers to inspire the youth in the city.

(Section Break)

Upload résumé, references and/or other pertinent information

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Email not displaying correctly? [View it in your browser.](#)



Background Paper for Proposed Resolution

COUNCIL MEETING DATE: January 9, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Alyssa Parga, Secretary to the Mayor

SUBJECT: A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF TURA COWAN TO THE PUEBLO ADA ADVISORY COMMITTEE

SUMMARY:

This Resolution confirms the appointment by the Mayor of a member to serve a four-year term expiring August 30, 2026.

PREVIOUS COUNCIL ACTION:

The Mayor has made appointments to the ADA Advisory Committee selecting individuals to serve terms which expire during a calendar year. Amended City Charter Section 4-4 (i) requires that such appointments be made by the Mayor and are subject to confirmation by City Council.

BACKGROUND:

The Americans with Disabilities Act (ADA) was signed into law on July 26, 1990 and was amended most recently in January 2009. The ADA is a wide-ranging civil rights law that prohibits discrimination based on disability. Disability is defined as "a physical or mental impairment that substantially limits a major life activity," such as walking, seeing, hearing, breathing, thinking, socializing, and working, for example. The ADA includes a list of impairments to major life activities. For more information about what the ADA says, go to the ADA website.

Appointments for this committee are now being processed through the Mayor's Office. Following an announcement in the Chieftain and on the City's website and social media seeking volunteers to serve on this committee, an application was received.

FINANCIAL IMPLICATIONS:

This a volunteer committee and members serve without compensation.

BOARD/COMMISSION RECOMMENDATION:

The Committee recommends approval of this applicant.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Remove from agenda and re-advertise for additional applications.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. Cowan Application

RESOLUTION NO. 15120

A RESOLUTION CONFIRMING THE APPOINTMENT BY
THE MAYOR OF TURA COWAN TO THE PUEBLO ADA
ADVISORY COMMITTEE

WHEREAS, Mayor Nicholas A. Gradisar has requested confirmation by the City Council of his appointment of Tura Cowan to ADA Advisory Committee to serve a four-year term expiring August 30, 2026; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Tura Cowan is hereby appointed to the ADA Advisory Committee to serve a four-year term expiring August 30, 2026.

SECTION 2.

The officers and staff of the City are authorized to perform any and all acts consistent with this Resolution to implement the appointment described herein.

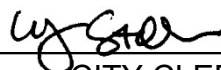
SECTION 3.

This Resolution shall become effective immediately upon final passage.

INTRODUCED January 9, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

From: noreply@civicplus.com
To: [CityAdmin](#)
Subject: [External] Online Form Submittal: BOARDS & COMMISSIONS Application
Date: Wednesday, December 7, 2022 4:22:25 PM

External email. Please use caution.

BOARDS & COMMISSIONS Application

BOARDS & COMMISSIONS Application for Appointment

(Section Break)

DATE	12/7/2022
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BOARD OR COMMISSION	ADA Advisory Committee
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Contact Information

FIRST NAME	Tura
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LAST NAME	Cowan
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HOME ADDRESS	1031 West 14th Street
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CITY	PUEBLO
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STATE	CO
-------	----

ZIP	81003
-----	-------

OFFICE ADDRESS	1031 West 14th Street
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CITY	PUEBLO
------	--------

STATE	CO
-------	----

ZIP	81003
-----	-------

DAYTIME PHONE	7192505995
---------------	------------

E-MAIL ADDRESS	gimpykindamom@gmail.com
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ARE YOU CURRENTLY EMPLOYED WITH	NO
---------------------------------------	----

THE CITY OF
PUEBLO?

ARE YOU A
RESIDENT OF THE
CITY OF PUEBLO?

YES

OCCUPATION (or if
RETIRED, your
previous occupation)

Volunteer/homemaker

Questionnaire

Please complete the following general information.

1. Please list your
areas of
accomplishments that
you feel could assist
the mission of this
Board or Commission.

I have been utilizing services that the CFSR offers for a very long time and I want to help others in our community realize that they too can use these. It is an awesome resource, I also would love to discuss the issues that affect me and other disabled people in our community.

2. Why are you
interested in being
appointed to this Board
or Commission?

Yes.

3. What Goals would
you like to see this
Board or Commission
accomplish?

I want to be able to address the ADA guidelines and make our community easier to use for everyone.

4. List any other items
that might be useful in
consideration for your
appointment to this
Board or Commission.

I have been disabled all of my life and I grew up in this community.

(Section Break)

Upload résumé,
references and/or other
pertinent information

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Email not displaying correctly? [View it in your browser.](#)



Background Paper for Proposed Resolution

COUNCIL MEETING DATE: January 9, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Alyssa Parga, Secretary to the Mayor

SUBJECT: A RESOLUTION CONFIRMING THE APPOINTMENT BY THE MAYOR OF BENJAMIN CALDERA TO THE PUEBLO HUMAN RELATIONS COMMISSION

SUMMARY:

This Resolution confirms the appointment by the Mayor of a member to the Pueblo Human Relations Commission.

PREVIOUS COUNCIL ACTION:

City Council has made appointments to the Pueblo Human Relations Commission selecting individuals to serve terms which expire during a particular calendar year. Amended City Charter Section 4-4 (i) now requires that such appointments be made by the Mayor, subject to confirmation by City Council.

BACKGROUND:

Due to the term expiration of Benjamin Caldara, there is one City appointment available on the Pueblo Human Relations Committee.

FINANCIAL IMPLICATIONS:

This a volunteer committee and members serve without compensation.

BOARD/COMMISSION RECOMMENDATION:

N/A

STAKEHOLDER PROCESS:

N/A

ALTERNATIVES:

Remove from agenda and re-advertise for additional applications.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. Caldera Application

RESOLUTION NO. 15121

A RESOLUTION CONFIRMING THE APPOINTMENT BY
THE MAYOR OF BENJAMIN CALDERA TO THE PUEBLO
HUMAN RELATIONS COMMISSION

WHEREAS, Mayor Nicholas A. Gradisar has requested confirmation by the City Council of his reappointment of Benjamin Caldera to serve on the Pueblo Human Relations Commission; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The appointment by the Mayor of Benjamin Caldera to the Pueblo Human Relations Commission to serve a three-year term expiring December 31, 2025 shall be and is hereby confirmed by the City Council.

SECTION 2.

The officers and staff of the City are authorized to perform any and all acts consistent with this Resolution to implement the appointments described herein.

SECTION 3.

This Resolution shall become effective on the date of final action by the Mayor and City Council.

INTRODUCED January 9, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

From: noreply@civicplus.com
To: [CityAdmin](#)
Subject: [External] Online Form Submittal: PUEBLO HUMAN RELATIONS COMMISSION
Date: Monday, December 12, 2022 8:35:31 AM

External email. Please use caution.

PUEBLO HUMAN RELATIONS COMMISSION

PUEBLO HUMAN RELATIONS COMMISSION Application for Appointment

The Pueblo Human Relations Commission is committed to promoting mutual understanding and respect for all citizens and promoting open dialogue for all to participate.

Contact Information

DATE	12/12/2022
FIRST NAME	Benjamin
Middle Initial	Field not completed.
LAST NAME	Caldera
HOME ADDRESS	177 e Idaho Springs Dr
CITY	Pueblo
STATE	CO
ZIP	81007
HOME PHONE	7193340826
WORK PHONE	Field not completed.
CELL PHONE	Field not completed.
E-MAIL ADDRESS	bencaldera@gmail.com
ARE YOU CURRENTLY EMPLOYED WITH THE CITY OF	No

PUEBLO?

ARE YOU A RESIDENT OF THE CITY OF PUEBLO?	YES
OCCUPATION (or if RETIRED, your previous occupation)	Withdrawal Management Clinical Supervisor
EDUCATION	Bachelors of Arts in Psychology and Major in World Languages Arts in Spanish
Group Representation	
Please check the category or categories that best describes your qualifications or interest:	Racial, Ethic, Generational
Questionnaire <i>Please complete the following general information.</i>	
Please elaborate on your qualifications for or interest in the category or categories you selected above.	1st Generation American to parents who emigrated from Mexico. Wanting to improve resources for the Hispanic speaking population through options in behavioral health and mental health. I am also interested in maintaining ethical standards throughout all of pueblo for the resources provided and the organizations here. I am currently pursuing a Master's in Social Work and would like to gain experience in different areas of social work.
Why do you want to serve on the Human Relations Commission?	Currently, I am serving a City Position on the Human Relations Commission that expires on 12/31/2022. I would like to continue serving on the Human Relations Commission through a county position to help serve Pueblo.
How much time are you willing to devote to fulfill the obligations as a Human Relations Commission Member?	20 hrs per month
What special accommodations, if any, will you need as a Commission Member? (Translator, Signer, Transportation, etc.)	None

What abilities and skills do you have which can be used as a resource to the Human Relations Commission? Bi-lingual? Signing? Other?	Intermediate Spanish Speaker
What are the three most important issues that you feel this Commission can play a role in addressing?	Improving relations between organizations in the city, ensuring special populations and demographics have better access to resources, and helping ensure ethical standards within Pueblo are upheld.
What do you feel are Pueblo's strengths?	Persistence, Innovation, and Growth.
What do you feel are Pueblo's greatest challenges?	Resources, funding, and community relations
(Section Break)	
Upload resume, references and/or other pertinent information	Benjamin_Caldera_Resume.pdf

Email not displaying correctly? [View it in your browser.](#)

bencaldera@gmail.com

719.334.0826

177 E Idaho Springs Dr.

Pueblo, CO 81007

Skills

- Developed operational plans
- Employee supervision
- Employee performance and evaluations
- Employee training program
- Staff development
- Multidisciplinary team collaboration
- Critical thinking
- Employee work scheduling
- Verbal and Written communication
- Unit supervision
- Improving clinical quality outcomes
- Clinical skills

Education And Training

05/2022

Bachelor of Arts:

Psychology, Spanish

Colorado State University - Pueblo

Pueblo, CO

- 3.825 GPA
- Magna cum laude graduate
- BA in Psychology and Spanish

Certifications

- Certified Addiction Specialist
ACC.0021144 4/13/2021 - 8/31/2023

Languages

Spanish:

Professional

Benjamin Caldera

Summary

Proficient Clinical Supervisor bringing over 3 years of behavioral health experience to a rapidly growing non-profit organization. Talented in improving staff competencies, managing staff schedules, building relationships with the community and overseeing the delivery of care to patients afflicted with substance use disorders.

Experience

Crossroads Turning Points - Clinical Supervisor of Withdrawal Management

Pueblo, CO

12/2021 - Current

- Managed 12-person team of clinical personnel. Increased Medicaid compliance throughout unit documentation resulting in a \$300,000+ surplus of funds.
- Interviewed applicants and collaborated on new hire decisions.
- Improve policies and procedures through the development, implementation, revision and evaluation of new protocols to ensure better clinical outcomes and appropriate documentation.
- Created and implemented improvement plans to resolve issues and drive improvements in deficient areas with staff and care for patients.
- Delegated tasks to each member of staff and oversaw task completion aiding promote success.
- Interacted with patients, asked appropriate questions and assessed for a referral to an appropriate level of care.

Crossroads Turning Points - Clinical Assistant of Withdrawal Management

Pueblo, CO

04/2021 - 12/2022

- Operated under supervision of Chief Innovation Officer to implement change and structure to a disorganized program.
- Drove attainment of optimal outcomes through case management focused on appropriate treatment, clinical quality assurance and service utilization.
- Restructured referral process and criteria for Withdrawal Management Services.

Crossroads Turning Points - Complex Case Manager

Pueblo, CO

09/2019 - 04/2021

- Implemented and collected documentation using various programs to track patient resources and identify high-risk patients.
- Secured over 30+ business partnerships in the community to provide individualized care and resources to patients.
- Studied treatment plans to understand and implement interventions.
- Collaborated with legal services providers, social services agencies and local judicial systems regarding cases.
- Performed psychosocial assessments and evaluations of current needs.



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: January 9, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: AN ORDINANCE ESTABLISHING PROJECT PL2203 FOR COLORADO SMELTER REVITALIZATION PROJECT SUPPORT, AND BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$22,000 TO SAID PROJECT ACCOUNT.

SUMMARY:

This Ordinance establishes PL2203 - Colorado Smelter Revitalization Project Support and budgets and appropriates total funds in the amount of \$22,000 for various work items supporting the establishment of the Pueblo Art and History Walk as well as the installation of community gateway and neighborhood wayfinding signs in the Bessemer, Bojon Town, and Grove neighborhoods.

PREVIOUS COUNCIL ACTION:

On January 9, 2022, City Council is scheduled to hold a public hearing and vote on a proposed Ordinance to approve an Intergovernmental Agreement with the Pueblo Department of Public Health and Environment which outlines terms and conditions related to the City of Pueblo support of several work items in support of certain projects identified in the Colorado Smelter Revitalization Plan.

On October 26, 2020, City Council passed Resolution No. 14496, adopting the Colorado Smelter Revitalization Plan, which approved a slate of improvement projects in the Bessemer, Bojon Town, and Grove neighborhoods that could be completed as funding became available.

BACKGROUND:

This Ordinance creates the project account PL2203 - Colorado Smelter Revitalization Project Support and budgets and appropriates funds in the amount of \$22,000.00 for completion of certain work tasks by the City of Pueblo in accordance with the Intergovernmental Agreement.

FINANCIAL IMPLICATIONS:

Funds in the amount of \$22,000.00 shall be budgeted and appropriated for this Project,

PL2203.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

Not approving the Ordinance would preclude the City of Pueblo from performing work as specified in the Intergovernmental Agreement with the Pueblo Department of Public Health and Environment.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO.

AN ORDINANCE ESTABLISHING PROJECT PL2203 FOR COLORADO SMELTER REVITALIZATION PROJECT SUPPORT, AND BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$22,000 TO SAID PROJECT ACCOUNT.

WHEREAS, City Council passed Resolution No. 14496 on October 26, 2020, adopting the Colorado Smelter Revitalization Plan; and

WHEREAS, City Council is scheduled to vote upon final passage of a proposed ordinance that would approve an Intergovernmental Agreement between the City of Pueblo and the Pueblo Department of Public Health and Environment, outlining the City of Pueblo's role in completing specified work associated with projects identified in the Colorado Smelter Revitalization Plan; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

Project No. PL2203 - Colorado Smelter Revitalization Project Support, is hereby established.

SECTION 2.

Contingent upon the final passage of a pending Ordinance to approve a related Intergovernmental Agreement between the City of Pueblo and the Pueblo Department of Public Health and Environment which specifies a scope of work to be performed by the City in support of the Colorado Smelter Revitalization Project, funds in the amount of \$22,000.00 are hereby budgeted and appropriated into Project No. PL2203 - Colorado Smelter Revitalization Project Support.

SECTION 3.

The officers of the City are authorized to perform any and all acts consistent with this Ordinance to implement the policies and procedures described herein.

SECTION 4.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: January 9, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: AN ORDINANCE ESTABLISHING PROJECT PL2101 FOR SAFE ROUTES TO SCHOOL FOR HAAFF ELEMENTARY SCHOOL, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE STATE OF COLORADO, ACTING BY AND THROUGH THE COLORADO DEPARTMENT OF TRANSPORTATION, PROJECT: SAR M086-094 (24468), BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$279,180 AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

This Ordinance creates Project No. PL2101 for Safe Routes to School for Haaff Elementary School, approves an Intergovernmental Agreement ("IGA") between Pueblo, a Colorado Municipal Corporation ("City") and the State of Colorado, Colorado Department of Transportation ("CDOT") relating to Haaff Elementary Safe Routes to School and budgets and appropriates funds totaling \$279,180.00 for the Project.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

This Ordinance establishes the Safe Routes to School, PL2101 for Haaff Elementary School and approves the grant agreement between the City and CDOT.

The City submitted a Safe Routes to Schools grant for improvements at Haaff Elementary School in 2021. This project provides safe and accessible routes to school by;

- 1) constructing multi-use sidewalks and connections to give students a direct route to the school entrance;
- 2) installation of high visibility crosswalks to alert motorists of pedestrian activity;

3) installation of ADA curb ramps to improve accommodation for all users. The project also includes consulting services for Phase 2 of the project: reconstruction of the intersection of Jerry Murphy Road and Chinook Lane.

FINANCIAL IMPLICATIONS:

Match funds are not required as this project is eligible for no match through COVID response.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Currently, there are no alternatives for completing the improvements without the funding from the CDOT Safe Routes to Schools Grant funds.

RECOMMENDATION:

Approve the Ordinance.

ATTACHMENTS:

1. Intergovernmental Agreement
2. Department Certification

ORDINANCE NO.

AN ORDINANCE ESTABLISHING PROJECT PL2101 FOR SAFE ROUTES TO SCHOOL FOR HAAFF ELEMENTARY SCHOOL, APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE STATE OF COLORADO, ACTING BY AND THROUGH THE COLORADO DEPARTMENT OF TRANSPORTATION, PROJECT: SAR M086-094 (24468), BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$279,180 AND AUTHORIZING THE MAYOR TO EXECUTE SAME

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The PL2101, Safe Routes to School for Haaff Elementary School, is hereby established.

SECTION 2.

The Intergovernmental Agreement ("IGA") between the City of Pueblo ("City"), a Colorado Municipal Corporation, and the State of Colorado, acting with and through the Colorado Department of Transportation ("CDOT"), Project: SAR M086-094 (24468), Haaff Elementary Safe Routes to School, a copy of which is attached, having been approved as to form by the City Attorney, is hereby approved.

SECTION 3.

Subject to encumbrances by the Colorado State Department of Transportation, funds from the Haaff Elementary Safe Routes to School (24468) in the amount of \$279,180.00 are hereby budgeted and appropriated for the Safe Routes to School, No. PL2101 for Haaff Elementary School.

SECTION 4.

The Mayor is authorized to execute and deliver the IGA in the name of the City of Pueblo and the City Clerk is directed to affix the seal of the City thereto and attest same.

SECTION 5.

The officers of the City are authorized to perform any and all acts consistent with this Ordinance and IGA to implement the policies and procedures described herein.

SECTION 6.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk

STATE OF COLORADO INTERGOVERNMENTAL AGREEMENT

Signature and Cover Page

State Agency Department of Transportation			Agreement Routing Number 22-HA2-XC-00204
Local Agency CITY OF PUEBLO			Agreement Effective Date The later of the effective date or June 10, 2022
Agreement Description HAAFF ELEMENTARY SRTS			Agreement Expiration Date June 09, 2032
Project # SAR M086- 094 (24468)	Region # 2	Contract Writer GMD	Agreement Maximum Amount \$348,975.00

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

Each person signing this Agreement represents and warrants that he or she is duly authorized to execute this Agreement and to bind the Party authorizing his or her signature.

LOCAL AGENCY CITY OF PUEBLO _____ Signature _____ By: (Print Name and Title) Date: _____	STATE OF COLORADO Jared S. Polis, Governor Department of Transportation Shoshana M. Lew, Executive Director _____ Stephen Harelson, P.E., Chief Engineer Date: _____
2nd State or Local Agency Signature if Needed _____ Signature _____ By: (Print Name and Title) Date: _____	LEGAL REVIEW Philip J. Weiser, Attorney General _____ Assistant Attorney General _____ By: (Print Name and Title) Date: _____
In accordance with §24-30-202 C.R.S., this Agreement is not valid until signed and dated below by the State Controller or an authorized delegate. STATE CONTROLLER Robert Jaros, CPA, MBA, JD By: _____ Department of Transportation Effective Date: _____	

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EXHIBIT T, CHECKLIST OF REQUIRED EXHIBITS DEPENDENT ON FUNDING SOURCE

1. PARTIES

This Agreement is entered into by and between Local Agency named on the Signature and Cover Page for this Agreement (“Local Agency”), and the STATE OF COLORADO acting by and through the State agency named on the Signature and Cover Page for this Agreement (the “State” or “CDOT”). Local Agency and the State agree to the terms and conditions in this Agreement.

2. TERM AND EFFECTIVE DATE

A. Effective Date

This Agreement shall not be valid or enforceable until the Effective Date, and Agreement Funds shall be expended within the dates shown in **Exhibit C** for each respective phase (“Phase Performance Period(s)”). The State shall not be bound by any provision of this Agreement before the Effective Date, and shall have no obligation to pay Local Agency for any Work performed or expense incurred before 1) the Effective Date of this original Agreement; except as described in **§7.D**; 2) before the encumbering document for the respective phase *and* the official Notice to Proceed for the respective phase; or 3) after the Final Phase Performance End Date, as shown in **Exhibit C**. Additionally, the State shall have no obligation to pay Local Agency for any Work performed or expense incurred after the Agreement Expiration Date or after required billing deadline specified in **§7.B.i.e.**, or the expiration of “Special Funding” if applicable, whichever is sooner. The State’s obligation to pay Agreement Funds exclusive of Special Funding will continue until the Agreement Expiration Date. If Agreement Funds expire before the Agreement Expiration Date, then no payments will be made after expiration of Agreement Funds.

B. Initial Term and Extension

The Parties’ respective performances under this Agreement shall commence on the Agreement Effective Date shown on the Signature and Cover Page for this Agreement and shall terminate on as shown on the Signature and Cover Page for this Agreement, unless sooner terminated or further extended in accordance with the terms of this Agreement. Upon request of Local Agency, the State may, in its sole discretion, extend the term of this Agreement by Option Letter pursuant **§7.E.iv**. If the Work will be performed in multiple phases, the period of performance start and end date of each phase is detailed under the Project Schedule in **Exhibit C**.

C. Early Termination in the Public Interest

The State is entering into this Agreement to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Agreement ceases to further the public interest of the State, and this ARPA Award is not appropriated, or otherwise become unavailable to fund this ARPA Award the State, in its discretion, may terminate this Agreement in whole or in part. This subsection shall not apply to a termination of this Agreement by the State for breach by Local Agency, which shall be governed by **§14.A.i**.

i. Method and Content

The State shall notify Local Agency by providing written notice to Local Agency of the termination and be in accordance with **§16**. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Agreement.

ii. Obligations and Rights

Upon receipt of a termination notice for termination in the public interest, Local Agency shall be subject to **§14.A.i.a**

iii. Payments

If the State terminates this Agreement in the public interest, the State shall pay Local Agency an amount equal to the percentage of the total reimbursement payable under this Agreement that corresponds to the percentage of Work satisfactorily completed and accepted, as determined by the State, less payments previously made. Additionally, if this Agreement is less than 60% completed, as determined by the State, the State may reimburse Local Agency for a portion of actual out-of-pocket expenses, not otherwise reimbursed under this Agreement, incurred by Local Agency which are directly attributable to the uncompleted portion of Local Agency’s obligations, provided that the sum of any and all reimbursement shall not exceed the maximum amount payable to Local Agency hereunder. This subsection shall not apply to a termination of this ARPA Award by the State for breach by Local Agency.

D. Local Agency Termination Under Federal Requirements

Local Agency may request termination of the ARPA Award by sending notice to the State, which includes the effective date of the termination. If this ARPA Award is terminated in this manner, then Local Agency shall return any advanced payments made for work that will not be performed prior to the effective date of the termination.

3. AUTHORITY

Authority to enter into this Agreement exists in the law as follows:

A. Federal Authority

Pursuant to Title I, Subtitle A, of the “Fixing America’s Surface Transportation Act” (FAST Act) of 2015, and to applicable provisions of Title 23 of the United States Code and implementing regulations at Title 23 of the Code of Federal Regulations, as may be amended, (collectively referred to hereinafter as the “Federal Provisions”), certain federal funds have been and are expected to continue to be allocated for transportation projects requested by Local Agency and eligible under the Surface Transportation Improvement Program that has been proposed by the State and approved by the Federal Highway Administration (“FHWA”).

Pursuant to Title VI of the Social Security Act, Section 602 of the “Coronavirus State and Local Fiscal Recovery Funds”, a part of the American Rescue Plan, provides state, local and Tribal governments with the resources needed to respond to the pandemic and its economic effects and to build a stronger, more equitable economy during the recovery.

B. State Authority

Pursuant to CRS §43-1-223 and to applicable portions of the Federal Provisions, the State is responsible for the general administration and supervision of performance of projects in the Program, including the administration of federal funds for a Program project performed by a Local Agency under a contract with the State. This Agreement is executed under the authority of CRS §§29-1-203, 43-1-110; 43-1-116, 43-2-101(4)(c) and 43-2-104.5.

4. PURPOSE

The purpose of this Agreement is to disburse Federal funds to the Local Agency pursuant to CDOT’s Stewardship Agreement with the FHWA and/or USDT as shown in **Exhibit C**.

5. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. “**Agreement**” means this agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.
- B. “**Agreement Funds**” means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Agreement.
- C. “**ARPA**” means American Rescue Plan Act, funded by the US Department of the Treasury (“USDT”). See “SLFRF” below.
- D. “**Award**” means an award by a Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Award unless the terms and conditions of the Federal Award specifically indicate otherwise.
- E. “**Budget**” means the budget for the Work described in **Exhibit C**.
- F. “**Business Day**” means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in §24-11-101(1) C.R.S..
- G. “**Chief Procurement Officer**” means the individual to whom the Executive Director has delegated his or her authority pursuant to §24-102-202 to procure or supervise the procurement of all supplies and services needed by the State.
- H. “**CJI**” means criminal justice information collected by criminal justice agencies needed for the performance of their authorized functions, including, without limitation, all information defined as criminal justice information by the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy, as amended and all Criminal Justice Records as defined under §24-72-302, C.R.S.
- I. “**Consultant**” means a professional engineer or designer hired by Local Agency to design the Work Product.
- J. “**Contractor**” means the general construction contractor hired by Local Agency to construct the Work.

- K. **“CORA”** means the Colorado Open Records Act, §§24-72-200.1 *et. seq.*, C.R.S.
- L. **“Effective Date”** means the date on which this Agreement is approved and signed by the Colorado State Controller or designee, as shown on the Signature and Cover Page for this Agreement.
- M. **“Evaluation”** means the process of examining Local Agency’s Work and rating it based on criteria established in §6, **Exhibit A** and **Exhibit E**.
- N. **“Exhibits”** means the following exhibits attached to this Agreement:
- i. **Exhibit A**, Scope of Work.
 - ii. **Exhibit B**, Sample Option Letter.
 - iii. **Exhibit C**, Funding Provisions
 - iv. **Exhibit D**, Local Agency Resolution
 - v. **Exhibit E**, Local Agency Contract Administration Checklist
 - vi. **Exhibit F**, Certification for Federal-Aid Contracts
 - vii. **Exhibit G**, Disadvantaged Business Enterprise
 - viii. **Exhibit H**, Local Agency Procedures for Consultant Services
 - ix. **Exhibit I**, Federal-Aid Contract Provisions for Construction Contracts
 - x. **Exhibit J**, Additional Federal Requirements
 - xi. **Exhibit K**, The Federal Funding Accountability and Transparency Act of 2006 (FFATA) Supplemental Federal Provisions
 - xii. **Exhibit L**, Sample Sub-Recipient Monitoring and Risk Assessment Form
 - xiii. **Exhibit M**, Supplemental Provisions for Federal Awards Subject to The Office of Management and Budget Uniform Administrative Requirements, Cost principles, and Audit Requirements for Federal Awards (the “Uniform Guidance”)
 - xiv. **Exhibit N**, Federal Treasury Provisions
 - xv. **Exhibit O**, Agreement with Subrecipient of Federal Recovery Funds
 - xvi. **Exhibit P**, SLFRF Subrecipient Quarterly Report
 - xvii. **Exhibit Q**, SLFRF Reporting Modification Form
 - xviii. **Exhibit R**, Applicable Federal Awards
 - xix. **Exhibit S**, PII Certification
 - xx. **Exhibit T**, Checklist of Required Exhibits Dependent on Funding Source
- O. **“Expiration Date”** means the date on which this Agreement expires, as shown on the Signature and Cover Page for this Agreement.
- P. **“Extension Term”** means the period of time by which the ARPA Expiration Date is extended by the State through delivery of an updated ARPA Letter.
- Q. **“Federal Award”** means an award of Federal financial assistance or a cost-reimbursement contract under the Federal Acquisition Requirements by a Federal Awarding Agency to a Recipient. “Federal Award” also means an agreement setting forth the terms and conditions of the Federal Award. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.
- R. **“Federal Awarding Agency”** means a Federal agency providing a Federal Award to a Recipient. The US Department of the Treasury is the Federal Awarding Agency for the Federal Award, which may be the subject of this Agreement.
- S. **“FHWA”** means the Federal Highway Administration, which is one of the twelve administrations under the Office of the Secretary of Transportation at the U.S. Department of Transportation. FHWA provides stewardship over the construction, maintenance and preservation of the Nation’s highways and tunnels. FHWA is the Federal Awarding Agency for the Federal Award which is the subject of this Agreement.
- T. **“Goods”** means any movable material acquired, produced, or delivered by Local Agency as set forth in this Agreement and shall include any movable material acquired, produced, or delivered by Local Agency in connection with the Services.

- U. **“Incident”** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access or disclosure of State Confidential Information or of the unauthorized modification, disruption, or destruction of any State Records.
- V. **“Initial Term”** means the time period defined in §2.B.
- W. **“Local Funds”** means the funds provided by the Local Agency as their obligated contribution to the federal and/or State Awards to receive the federal and/or State funding.
- X. **“Notice to Proceed”** means the letter issued by the State to the Local Agency stating the date the Local Agency can begin work subject to the conditions of this Agreement.
- Y. **“OMB”** means the Executive Office of the President, Office of Management and Budget.
- Z. **“Oversight”** means the term as it is defined in the Stewardship Agreement between CDOT and the FHWA.
- AA. **“Party”** means the State or Local Agency, and **“Parties”** means both the State and Local Agency.
- BB. **“PCI”** means payment card information including any data related to credit card holders’ names, credit card numbers, or the other credit card information as may be protected by state or federal law.
- CC. **“PHI”** means any protected health information, including, without limitation any information whether oral or recorded in any form or medium: (i) that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and (ii) that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. PHI includes, but is not limited to, any information defined as Individually Identifiable Health Information by the federal Health Insurance Portability and Accountability Act.
- DD. **“PII”** means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally identifiable information in §24-72-501 C.R.S. “PII” shall also mean “personal identifying information” as set forth at § 24-74-102, et. seq., C.R.S.
- EE. **“Recipient”** means the Colorado Department of Transportation (CDOT) for this Federal Award.
- FF. **“Services”** means the services to be performed by Local Agency as set forth in this Agreement and shall include any services to be rendered by Local Agency in connection with the Goods.
- GG. **“SLFRF”** means State and Local Fiscal Recovery Funds, provided by ARPA, funded by the US Treasury Department.
- HH. **“Special Funding”** means an award by Federal agency or the State which may include but is not limited to one or a combination of Multimodal Transportation & Mitigation Options Funding, Revitalizing Main Streets, Safer Main Streets, Stimulus Funds, Coronavirus Response and Relief Supplemental Funds, ARPA, SLFRF, or COVID Relief.
- II. **“State Confidential Information”** means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII and State personnel records not subject to disclosure under CORA.
- JJ. **“State Fiscal Rules”** means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a).
- KK. **“State Fiscal Year”** means a 12-month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- LL. **“State Purchasing Director”** means the position described in the Colorado Procurement Code and its implementing regulations.

- MM. “**State Records**” means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.
- NN. “**Sub-Award**” means this Award by the State to Local Agency funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to this Sub-Award unless the terms and conditions of the Federal Award specifically indicate otherwise.
- OO. “**Subcontractor**” means third parties, if any, engaged by Local Agency to aid in performance of the Work.
- PP. “**Subrecipient**” means a non-Federal entity that receives a sub-award from a Recipient to carry out part of a Federal program but does not include an individual that is a beneficiary of such program. A Subrecipient may also be a recipient of other Federal Awards directly from a Federal Awarding Agency.
- QQ. “**Tax Information**” means Federal and State of Colorado tax information including, without limitation, Federal and State tax returns, return information, and such other tax-related information as may be protected by Federal and State law and regulation. Tax Information includes but is not limited to all information defined as Federal tax Information in Internal Revenue Service Publication 1075.
- RR. “**Uniform Guidance**” means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which supersedes requirements from OMB Circulars A-21, A-87, A-110, A-122, A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up.
- SS. “**USDT**” The United States Department of the Treasury (**USDT**) is the national treasury and finance department of the federal government of the United States where it serves as an executive department. The USDT funds ARPA.
- TT. “**Work**” means the delivery of the Goods and performance of the Services in compliance with CDOT’s Local Agency Manual described in this Agreement.
- UU. “**Work Product**” means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

Any other term used in this Agreement that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

6. STATEMENT OF WORK

Local Agency shall complete the Work as described in this Agreement and in accordance with the provisions of **Exhibit A**, and the Local Agency Manual. The State shall have no liability to compensate Local Agency for the delivery of any Goods or the performance of any Services that are not specifically set forth in this Agreement. Work may be divided into multiple phases that have separate periods of performance. The State may not compensate for Work that Local Agency performs outside of its designated phase performance period. The performance period of phases, including, but not limited to Design, Construction, Right of Way, Utilities, or Environment phases, are identified in **Exhibit C**. The State may unilaterally modify **Exhibit C** from time to time, at its sole discretion, to extend the Agreement Expiration Date and/or to extend the period of performance for a phase of Work authorized under this Agreement. To exercise these options to extend the Agreement Expiration Date and/or to update the phase performance period extension option, the State will provide written notice to Local Agency in a form substantially equivalent to **Exhibit B**. The State’s unilateral extension of the Agreement Expiration Date and/or the phase performance periods will not amend or alter in any way the funding provisions or any other terms specified in this Agreement, notwithstanding the options listed under **§7.E**

A. Local Agency Commitments

i. Design

If the Work includes preliminary design, final design, design work sheets, or special provisions and estimates (collectively referred to as the “Plans”), Local Agency shall ensure that it and its Contractors comply with and are responsible for satisfying the following requirements:

- a. Perform or provide the Plans to the extent required by the nature of the Work.
 - b. Prepare final design in accordance with the requirements of the latest edition of the American Association of State Highway Transportation Officials (AASHTO) manual or other standard, such as the Uniform Building Code, as approved by the State.
 - c. Prepare provisions and estimates in accordance with the most current version of the State's Roadway and Bridge Design Manuals and Standard Specifications for Road and Bridge Construction or Local Agency specifications if approved by the State.
 - d. Include details of any required detours in the Plans in order to prevent any interference of the construction Work and to protect the traveling public.
 - e. Stamp the Plans as produced by a Colorado registered professional engineer.
 - f. Provide final assembly of Plans and all other necessary documents.
 - g. Ensure the Plans are accurate and complete.
 - h. Make no further changes in the Plans following the award of the construction contract to Contractor unless agreed to in writing by the Parties. The Plans shall be considered final when approved in writing by CDOT, and when final, they will be deemed incorporated herein.
- ii. Local Agency Work
- a. Local Agency shall comply with the requirements of the Americans With Disabilities Act (ADA) 42 U.S.C. § 12101, et. seq., and applicable federal regulations and standards as contained in the document "ADA Accessibility Requirements in CDOT Transportation Projects".
 - b. Local Agency shall afford the State ample opportunity to review the Plans and shall make any changes in the Plans that are directed by the State to comply with FHWA requirements.
 - c. Local Agency may enter into a contract with a Consultant to perform all or any portion of the Plans and/or construction administration. Provided, however, if federal-aid funds are involved in the cost of such Work to be done by such Consultant, such Consultant contract (and the performance provision of the Plans under the contract) must comply with all applicable requirements of 23 C.F.R. Part 172 and with any procedures implementing those requirements as provided by the State, including those in **Exhibit H**. If Local Agency enters into a contract with a Consultant for the Work:
 - 1) Local Agency shall submit a certification that procurement of any Consultant contract complies with the requirements of 23 C.F.R. 172.5(1) prior to entering into such Consultant contract, subject to the State's approval. If not approved by the State, Local Agency shall not enter into such Consultant contract.
 - 2) Local Agency shall ensure that all changes in the Consultant contract have prior approval by the State and FHWA and that they are in writing. Immediately after the Consultant contract has been awarded, one copy of the executed Consultant contract and any amendments shall be submitted to the State.
 - 3) Local Agency shall require that all billings under the Consultant contract comply with the State's standardized billing format. Examples of the billing formats are available from the CDOT Agreements Office.
 - 4) Local Agency (and any Consultant) shall comply with 23 C.F.R. 172.5(b) and (d) and use the CDOT procedures described in **Exhibit H** to administer the Consultant contract.
 - 5) Local Agency may expedite any CDOT approval of its procurement process and/or Consultant contract by submitting a letter to CDOT from Local Agency's attorney/authorized representative certifying compliance with **Exhibit H** and 23 C.F.R. 172.5(b) and (d).
 - 6) Local Agency shall ensure that the Consultant contract complies with the requirements of 49 CFR 18.36(i) and contains the following language verbatim:
 - (a) The design work under this Agreement shall be compatible with the requirements of the contract between Local Agency and the State (which is incorporated herein by this

reference) for the design/construction of the project. The State is an intended third-party beneficiary of this agreement for that purpose.

- (b) Upon advertisement of the project work for construction, the consultant shall make available services as requested by the State to assist the State in the evaluation of construction and the resolution of construction problems that may arise during the construction of the project.
- (c) The consultant shall review the construction Contractor's shop drawings for conformance with the contract documents and compliance with the provisions of the State's publication, Standard Specifications for Road and Bridge Construction, in connection with this work.
- (d) The State, in its sole discretion, may review construction plans, special provisions and estimates and may require Local Agency to make such changes therein as the State determines necessary to comply with State and FHWA requirements.

iii. Construction

If the Work includes construction, Local Agency shall perform the construction in accordance with the approved design plans and/or administer the construction in accordance with **Exhibit E**. Such administration shall include Work inspection and testing; approving sources of materials; performing required plant and shop inspections; documentation of contract payments, testing and inspection activities; preparing and approving pay estimates; preparing, approving and securing the funding for contract modification orders and minor contract revisions; processing construction Contractor claims; construction supervision; and meeting the quality control requirements of the FHWA/CDOT Stewardship Agreement, as described in **Exhibit E**.

- a. The State may, after providing written notice of the reason for the suspension to Local Agency, suspend the Work, wholly or in part, due to the failure of Local Agency or its Contractor to correct conditions which are unsafe for workers or for such periods as the State may deem necessary due to unsuitable weather, or for conditions considered unsuitable for the prosecution of the Work, or for any other condition or reason deemed by the State to be in the public interest.
- b. Local Agency shall be responsible for the following:
 - 1) Appointing a qualified professional engineer, licensed in the State of Colorado, as Local Agency Project Engineer (LAPE), to perform engineering administration. The LAPE shall administer the Work in accordance with this Agreement, the requirements of the construction contract and applicable State procedures, as defined in the CDOT Local Agency Manual (https://www.codot.gov/business/designsupport/bulletins_manuals/2006-local-agency-manual).
 - 2) For the construction Services, advertising the call for bids, following its approval by the State, and awarding the construction contract(s) to the lowest responsible bidder(s).
 - (a) All Local Agency's advertising and bid awards pursuant to this Agreement shall comply with applicable requirements of 23 U.S.C. §112 and 23 C.F.R. Parts 633 and 635 and C.R.S. § 24-92-101 et seq. Those requirements include, without limitation, that Local Agency and its Contractor(s) incorporate Form 1273 (Exhibit I) in its entirety, verbatim, into any subcontract(s) for Services as terms and conditions thereof, as required by 23 C.F.R. 633.102(e).
 - (b) Local Agency may accept or reject the proposal of the apparent low bidder for Work on which competitive bids have been received. Local Agency must accept or reject such bids within three (3) working days after they are publicly opened.
 - (c) If Local Agency accepts bids and makes awards that exceed the amount of available Agreement Funds, Local Agency shall provide the additional funds necessary to complete the Work or not award such bids.
 - (d) The requirements of **§6.A.iii.b.2** also apply to any advertising and bid awards made by the State.

- (e) The State (and in some cases FHWA) must approve in advance all Force Account Construction, and Local Agency shall not initiate any such Services until the State issues a written Notice to Proceed.

iv. Right of Way (ROW) and Acquisition/Relocation

- a. If Local Agency purchases a ROW for a State highway, including areas of influence, Local Agency shall convey the ROW to CDOT promptly upon the completion of the project/construction.
- b. Any acquisition/relocation activities shall comply with all applicable federal and State statutes and regulations, including but not limited to, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, the Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs, as amended (49 C.F.R. Part 24), CDOT's Right of Way Manual, and CDOT's Policy and Procedural Directives.
- c. The Parties' respective responsibilities for ensuring compliance with acquisition, relocation and incidentals depend on the level of federal participation as detailed in CDOT's Right of Way Manual (located at <http://www.codot.gov/business/manuals/right-of-way>); however, the State always retains oversight responsibilities.
- d. The Parties' respective responsibilities at each level of federal participation in CDOT's Right of Way Manual, and the State's reimbursement of Local Agency costs will be determined pursuant the following categories:
 - 1) Right of way acquisition (3111) for federal participation and non-participation;
 - 2) Relocation activities, if applicable (3109);
 - 3) Right of way incidentals, if applicable (expenses incidental to acquisition/relocation of right of way – 3114).

v. Utilities

If necessary, Local Agency shall be responsible for obtaining the proper clearance or approval from any utility company that may become involved in the Work. Prior to the Work being advertised for bids, Local Agency shall certify in writing to the State that all such clearances have been obtained.

vi. Railroads

If the Work involves modification of a railroad company's facilities and such modification will be accomplished by the railroad company, Local Agency shall make timely application to the Public Utilities Commission ("PUC") requesting its order providing for the installation of the proposed improvements. Local Agency shall not proceed with that part of the Work before obtaining the PUC's order. Local Agency shall also establish contact with the railroad company involved for the purpose of complying with applicable provisions of 23 C.F.R. 646, subpart B, concerning federal-aid projects involving railroad facilities, and:

- a. Execute an agreement with the railroad company setting out what work is to be accomplished and the location(s) thereof, and which costs shall be eligible for federal participation.
- b. Obtain the railroad's detailed estimate of the cost of the Work.
- c. Establish future maintenance responsibilities for the proposed installation.
- d. Proscribe in the agreement the future use or dispositions of the proposed improvements in the event of abandonment or elimination of a grade crossing.
- e. Establish future repair and/or replacement responsibilities, as between the railroad company and the Local Agency, in the event of accidental destruction or damage to the installation.

vii. Environmental Obligations

Local Agency shall perform all Work in accordance with the requirements of current federal and State environmental regulations, including the National Environmental Policy Act of 1969 (NEPA) as applicable.

viii. Maintenance Obligations

Local Agency shall maintain and operate the Work constructed under this Agreement at its own cost and expense during their useful life, in a manner satisfactory to the State and FHWA. Local Agency shall conduct such maintenance and operations in accordance with all applicable statutes, ordinances, and regulations pertaining to maintaining such improvements. The State and FHWA may make periodic inspections to verify that such improvements are being adequately maintained.

ix. Monitoring Obligations

Local Agency shall respond in a timely manner to and participate fully with the monitoring activities described in §7.F.vi.

B. State's Commitments

- i. The State will perform a final project inspection of the Work as a quality control/assurance activity. When all Work has been satisfactorily completed, the State will sign the FHWA Form 1212.
- ii. Notwithstanding any consents or approvals given by the State for the Plans, the State shall not be liable or responsible in any manner for the structural design, details or construction of any Work constituting major structures designed by, or that are the responsibility of, Local Agency, as identified in **Exhibit E**.

7. PAYMENTS

A. Maximum Amount

Payments to Local Agency are limited to the unpaid, obligated balance of the Agreement Funds set forth in **Exhibit C**. The State shall not pay Local Agency any amount under this Agreement that exceeds the Agreement Maximum set forth in **Exhibit C**.

B. Payment Procedures

i. Invoices and Payment

- a. The State shall pay Local Agency in the amounts and in accordance with conditions set forth in **Exhibit C**.
- b. Local Agency shall initiate payment requests by invoice to the State, in a form and manner approved by the State.
- c. The State shall pay each invoice within 45 days following the State's receipt of that invoice, so long as the amount invoiced correctly represents Work completed by Local Agency and previously accepted by the State during the term that the invoice covers. If the State determines that the amount of any invoice is not correct, then Local Agency shall make all changes necessary to correct that invoice.
- d. The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under the Agreement.
- e. If a project is funded in part with Federal or State special funding there may be an expiration date for the funds. The expiration date applies to grants and local funds used to match grants. To receive payment or credit for the match, Work must be completed or substantially completed, as outlined in the terms of the grant, prior to the expiration date of the special funding and invoiced in compliance with the rules outlined in the award of the funding. The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under the Agreement.

ii. Interest

Amounts not paid by the State within 45 days after the State's acceptance of the invoice shall bear interest on the unpaid balance beginning on the 46th day at the rate of 1% per month, as required by §24-30-202(24)(a), C.R.S., until paid in full; provided, however, that interest shall not accrue on unpaid amounts that the State disputes in writing. Local Agency shall invoice the State separately for accrued interest on delinquent amounts, and the invoice shall reference the delinquent payment, the number of days interest to be paid and the interest rate.

iii. Payment Disputes

If Local Agency disputes any calculation, determination, or amount of any payment, Local Agency shall notify the State in writing of its dispute within 30 days following the earlier to occur of Local Agency's receipt of the payment or notification of the determination or calculation of the payment by the State. The State will review the information presented by Local Agency and may make changes to its determination based on this review. The calculation, determination, or payment amount that results from the State's review shall not be subject to additional dispute under this subsection. No payment subject to a dispute under this subsection shall be due until after the State has concluded its review, and the State shall not pay any interest on any amount during the period it is subject to dispute under this subsection.

iv. Available Funds-Contingency-Termination

- a. The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Payment to Local Agency beyond the current State Fiscal Year is contingent on the appropriation and continuing availability of Agreement Funds in any subsequent year (as provided in the Colorado Special Provisions). If federal funds or funds from any other non-State funds constitute all or some of the Agreement Funds, the State's obligation to pay Local Agency shall be contingent upon such non-State funding continuing to be made available for payment. Payments to be made pursuant to this Agreement shall be made only from Agreement Funds, and the State's liability for such payments shall be limited to the amount remaining of such Agreement Funds. If State, federal or other funds are not appropriated, or otherwise become unavailable to fund this Agreement, the State may, upon written notice, terminate this Agreement, in whole or in part, without incurring further liability. The State shall, however, remain obligated to pay for Services and Goods that are delivered and accepted prior to the effective date of notice of termination, and this termination shall otherwise be treated as if this Agreement were terminated in the public interest as described in **§2.C**.
- b. If the agreement funds are terminated, the State can terminate the contract early. Payment due for work done to the date of termination will be processed in a manner consistent with **§2.C**.

v. Erroneous Payments

The State may recover, at the State's discretion, payments made to Local Agency in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Local Agency. The State may recover such payments by deduction from subsequent payments under this Agreement, deduction from any payment due under any other contracts, grants or agreements between the State and Local Agency, or by any other appropriate method for collecting debts owed to the State. The close out of a Federal Award does not affect the right of FHWA or the State to disallow costs and recover funds on the basis of a later audit or other review. Any cost disallowance recovery is to be made within the Record Retention Period (as defined below in **§9.A.**).

vi. Federal Recovery

The close-out of a Federal Award does not affect the right of the Federal Awarding Agency or the State to disallow costs and recover funds on the basis of a later audit or other review. Any cost disallowance recovery is to be made within the Record Retention Period, as defined below.

C. Local Agency Funds

Local Agency shall provide their obligated contribution funds as outlined in **§7.A.** and **Exhibit C**. Local Agency shall have raised the full amount of their funds prior to the Effective Date and shall report to the State regarding the status of such funds upon request. Local Agency's obligation to pay all or any part of any matching funds, whether direct or contingent, only extend to funds duly and lawfully appropriated for the purposes of this Agreement by the authorized representatives of Local Agency and paid into Local Agency's treasury. Local Agency represents to the State that the amount designated "Local Agency Funds" in **Exhibit C** has been legally appropriated for the purpose of this Agreement by its authorized representatives and paid into its treasury. Local Agency may evidence such obligation by an appropriate ordinance/resolution or other authority letter expressly authorizing Local Agency to enter into this Agreement and to expend its match share of the Work. A copy of any such ordinance/resolution or authority letter is attached hereto as **Exhibit D** if applicable. Local Agency does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and this Agreement is not intended to create a multiple-fiscal year debt of

Local Agency. Local Agency shall not pay or be liable for any claimed interest, late charges, fees, taxes, or penalties of any nature, except as required by Local Agency's laws or policies.

D. Reimbursement of Local Agency Costs

The State shall reimburse Local Agency's allowable costs, not exceeding the maximum total amount described in **Exhibit C** and §7. However, any costs incurred by Local Agency prior to the Effective Date shall not be reimbursed absent specific allowance of pre-award costs and indication that the Federal Award funding is retroactive. The State shall pay Local Agency for costs or expenses incurred or performance by the Local Agency prior to the Effective Date, only if (1) the Grant Funds involve federal funding and (2) federal laws, rules, and regulations applicable to the Work provide for such retroactive payments to the Local Agency. Any such retroactive payments shall comply with State Fiscal Rules and be made in accordance with the provisions of this Agreement. The applicable principles described in 2 C.F.R. Part 200 shall govern the State's obligation to reimburse all costs incurred by Local Agency and submitted to the State for reimbursement hereunder, and Local Agency shall comply with all such principles. The State shall reimburse Local Agency for the federal-aid share of properly documented costs related to the Work after review and approval thereof, subject to the provisions of this Agreement and **Exhibit C**. Local Agency costs for Work performed prior to the Effective Date shall not be reimbursed absent specific allowance of pre-award costs and indication that the Federal Award funding is retroactive. Local Agency costs for Work performed after any Performance Period End Date for a respective phase of the Work, is not reimbursable. Allowable costs shall be:

- i. Reasonable and necessary to accomplish the Work and for the Goods and Services provided.
- ii. Actual net cost to Local Agency (i.e. the price paid minus any items of value received by Local Agency that reduce the cost actually incurred).

E. Unilateral Modification of Agreement Funds Budget by State Option Letter

The State may, at its discretion, issue an "Option Letter" to Local Agency to add or modify Work phases in the Work schedule in **Exhibit C** if such modifications do not increase total budgeted Agreement Funds. Such Option Letters shall amend and update **Exhibit C**, Sections 2 or 4 of the Table, and sub-sections B and C of the **Exhibit C**. Option Letters shall not be deemed valid until signed by the State Controller or an authorized delegate. **This is NOT a Notice to Proceed.** Modification of **Exhibit C** by unilateral Option Letter is permitted only in the specific scenarios listed below. The State will exercise such options by providing Local Agency a fully executed Option Letter, in a form substantially equivalent to **Exhibit B**. Such Option Letters will be incorporated into this Agreement. This applies to the entire Scope of Work.

- i. Option to Begin a Phase and/or Increase or Decrease the Encumbrance Amount

The State may require by Option Letter that Local Agency begin a new Work phase that may include Design, Construction, Environmental, Utilities, ROW Incidentals or Miscellaneous Work (but may not include Right of Way Acquisition/Relocation or Railroads) as detailed in **Exhibit A**. Such Option Letters may not modify the other terms and conditions stated in this Agreement and must decrease the amount budgeted and encumbered for one or more other Work phases so that the total amount of budgeted Agreement Funds remains the same. The State may also change the funding sources so long as the amount budgeted remains the same and the Local Agency contribution does not increase. The State may also issue a unilateral Option Letter to increase and/or decrease the total encumbrance amount of two or more existing Work phases, as long as the total amount of budgeted Agreement Funds remains the same, replacing the original Agreement Funding exhibit (**Exhibit C**) with an updated **Exhibit C-1** (with subsequent exhibits labeled **C-2**, **C-3**, etc.).

- ii. Option to Transfer Funds from One Phase to Another Phase.

The State may require or permit Local Agency to transfer Agreement Funds from one Work phase (Design, Construction, Environmental, Utilities, ROW Incidentals or Miscellaneous) to another phase as a result of changes to State, federal, and local match funding. In such case, the original funding exhibit (**Exhibit C**) will be replaced with an updated **Exhibit C-1** (with subsequent exhibits labeled **C-2**, **C-3**, etc.) attached to the Option Letter. The Agreement Funds transferred from one Work phase to another are subject to the same terms and conditions stated in the original Agreement with the total budgeted Agreement Funds remaining the same. The State may unilaterally exercise this option by providing a

fully executed Option Letter to Local Agency within thirty (30) days before the initial targeted start date of the Work phase, in a form substantially equivalent to **Exhibit B**.

iii. Option to Exercise Options i and ii.

The State may require Local Agency to add a Work phase as detailed in **Exhibit A**, and encumber and transfer Agreement Funds from one Work phase to another. The original funding exhibit (**Exhibit C**) in the original Agreement will be replaced with an updated **Exhibit C-1** (with subsequent exhibits labeled **C-2**, **C-3**, etc.) attached to the Option Letter. The addition of a Work phase and encumbrance and transfer of Agreement Funds are subject to the same terms and conditions stated in the original Agreement with the total budgeted Agreement Funds remaining the same. The State may unilaterally exercise this option by providing a fully executed Option Letter to Local Agency within 30 days before the initial targeted start date of the Work phase, in a form substantially equivalent to **Exhibit B**.

iv. Option to Extend Agreement/Phase Term and/or modify the OMB Uniform Guidance. The State, at its discretion, shall have the option to extend the term of this Agreement and/or update a Work Phase Performance Period and/or modify information required under the OMB Uniform Guidance, as outlined in **Exhibit C**. Any updated version of **Exhibit C** shall be attached to any executed Option Letter as **Exhibit C-1** (with subsequent exhibits labeled **C-2**, **C-3**, etc.). In order to exercise this option, the State shall provide written notice to the Local Agency in a form substantially equivalent to **Exhibit B**.

F. Accounting

Local Agency shall establish and maintain accounting systems in accordance with generally accepted accounting standards (a separate set of accounts, or as a separate and integral part of its current accounting scheme). Such accounting systems shall, at a minimum, provide as follows:

i. Local Agency Performing the Work

If Local Agency is performing the Work, it shall document all allowable costs, including any approved Services contributed by Local Agency or subcontractors, using payrolls, time records, invoices, contracts, vouchers, and other applicable records.

ii. Local Agency-Checks or Draws

Checks issued or draws made by Local Agency shall be made or drawn against properly signed vouchers detailing the purpose thereof. Local Agency shall keep on file all checks, payrolls, invoices, contracts, vouchers, orders, and other accounting documents in the office of Local Agency, clearly identified, readily accessible, and to the extent feasible, separate and apart from all other Work documents.

iii. State-Administrative Services

The State may perform any necessary administrative support services required hereunder. Local Agency shall reimburse the State for the costs of any such services from the budgeted Agreement Funds as provided for in **Exhibit C**. If FHWA Agreement Funds are or become unavailable, or if Local Agency terminates this Agreement prior to the Work being approved by the State or otherwise completed, then all actual incurred costs of such services and assistance provided by the State shall be reimbursed to the State by Local Agency at its sole expense.

iv. Local Agency-Invoices

Local Agency's invoices shall describe in detail the reimbursable costs incurred by Local Agency for which it seeks reimbursement, the dates such costs were incurred and the amounts thereof, and Local Agency shall not submit more than one invoice per month.

v. Invoicing Within 60 Days

The State shall not be liable to reimburse Local Agency for any costs invoiced more than 60 days after the date on which the costs were incurred, including costs included in Local Agency's final invoice. The State may withhold final payment to Local Agency at the State's sole discretion until completion of final audit. Any costs incurred by Local Agency that are not allowable under 2 C.F.R. Part 200 shall be Local Agency's responsibility, and the State will deduct such disallowed costs from any payments due to Local Agency. The State will not reimburse costs for Work performed after the Performance Period End Date for a respective Work phase. The State will not reimburse costs for Work performed prior to Performance

Period End Date, but for which an invoice is received more than 60 days after the Performance Period End Date.

vi. Risk Assessment & Monitoring

Pursuant to 2 C.F.R. 200.331(b), – CDOT will evaluate Local Agency's risk of noncompliance with federal statutes, regulations, and terms and conditions of this Agreement. Local Agency shall complete a Risk Assessment Form (**Exhibit L**) when that may be requested by CDOT. The risk assessment is a quantitative and/or qualitative determination of the potential for Local Agency's non-compliance with the requirements of the Federal Award. The risk assessment will evaluate some or all of the following factors:

- Experience: Factors associated with the experience and history of the Subrecipient with the same or similar Federal Awards or grants.
- Monitoring/Audit: Factors associated with the results of the Subrecipient's previous audits or monitoring visits, including those performed by the Federal Awarding Agency, when the Subrecipient also receives direct federal funding. Include audit results if Subrecipient receives single audit, where the specific award being assessed was selected as a major program.
- Operation: Factors associated with the significant aspects of the Subrecipient's operations, in which failure could impact the Subrecipient's ability to perform and account for the contracted goods or services.
- Financial: Factors associated with the Subrecipient's financial stability and ability to comply with financial requirements of the Federal Award.
- Internal Controls: Factors associated with safeguarding assets and resources, deterring and detecting errors, fraud and theft, ensuring accuracy and completeness of accounting data, producing reliable and timely financial and management information, and ensuring adherence to its policies and plans.
- Impact: Factors associated with the potential impact of a Subrecipient's non-compliance to the overall success of the program objectives.
- Program Management: Factors associated with processes to manage critical personnel, approved written procedures, and knowledge of rules and regulations regarding federal-aid projects.

Following Local Agency's completion of the Risk Assessment Tool (**Exhibit L**), CDOT will determine the level of monitoring it will apply to Local Agency's performance of the Work. This risk assessment may be re-evaluated after CDOT begins performing monitoring activities.

G. Close Out

Local Agency shall close out this Award within 90 days after the Final Phase Performance End Date. If SLFRF Funds are used the Local Agency shall close out that portion of the Award within 45 days after the ARPA Award Expiration Date. Close out requires Local Agency's submission to the State of all deliverables defined in this Agreement, and Local Agency's final reimbursement request or invoice. The State will withhold 5% of allowable costs until all final documentation has been submitted and accepted by the State as substantially complete. If FHWA or US Treasury has not closed this Federal Award within one (1) year and 90 days after the Final Phase Performance End Date due to Local Agency's failure to submit required documentation, then Local Agency may be prohibited from applying for new Federal Awards through the State until such documentation is submitted and accepted.

8. REPORTING - NOTIFICATION

A. Quarterly Reports

In addition to any reports required pursuant to §19 or pursuant to any exhibit, for any contract having a term longer than 3 months, Local Agency shall submit, on a quarterly basis, a written report specifying progress made for each specified performance measure and standard in this Agreement. Such progress report shall be in accordance with the procedures developed and prescribed by the State. Progress reports shall be submitted to the State not later than ten (10) Business Days following the end of each calendar quarter or at such time as otherwise specified by the State. If SLFRF Funds are used the report must be in the format of **Exhibit P**.

B. Litigation Reporting

If Local Agency is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Agreement or may affect Local Agency's ability to perform its obligations under this Agreement, Local Agency shall, within 10 days after being served, notify the State of such action and deliver copies of such pleading or document to the State's principal representative identified in §16.

C. Performance and Final Status

Local Agency shall submit all financial, performance and other reports to the State no later than 60 calendar days after the Final Phase Performance End Date or sooner termination of this Agreement, containing an Evaluation of Subrecipient's performance and the final status of Subrecipient's obligations hereunder.

D. Violations Reporting

Local Agency must disclose, in a timely manner, in writing to the State and FHWA, all violations of federal or State criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal Award. Penalties for noncompliance may include suspension or debarment (2 CFR Part 180 and 31 U.S.C. 3321).

9. LOCAL AGENCY RECORDS

A. Maintenance

Local Agency shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work or the delivery of Services (including, but not limited to the operation of programs) or Goods hereunder. Local Agency shall maintain such records for a period (the "Record Retention Period") pursuant to the requirements of the funding source and for a minimum of three (3) years following the date of submission to the State of the final expenditure report, whichever is longer, or if this Award is renewed quarterly or annually, from the date of the submission of each quarterly or annual report, respectively. If any litigation, claim, or audit related to this Award starts before expiration of the Record Retention Period, the Record Retention Period shall extend until all litigation, claims, or audit findings have been resolved and final action taken by the State or Federal Awarding Agency. The Federal Awarding Agency, a cognizant agency for audit, oversight or indirect costs, and the State, may notify Local Agency in writing that the Record Retention Period shall be extended. For records for real property and equipment, the Record Retention Period shall extend three (3) years following final disposition of such property.

B. Inspection

Records during the Record Retention Period. Local Agency shall make Local Agency Records available during normal business hours at Local Agency's office or place of business, or at other mutually agreed upon times or locations, upon no fewer than two (2) Business Days' notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State.

C. Monitoring

The State will monitor Local Agency's performance of its obligations under this Agreement using procedures as determined by the State. The State shall monitor Local Agency's performance in a manner that does not unduly interfere with Local Agency's performance of the Work. Local Agency shall allow the State to perform all monitoring required by the Uniform Guidance, based on the State's risk analysis of Local Agency. The State shall have the right, in its sole discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. The State shall monitor Local Agency's performance in a manner that does not unduly interfere with Local Agency's performance of the Work. If Local Agency enters into a subcontract with an entity that would also be considered a Subrecipient, then the subcontract entered into by Local Agency shall contain provisions permitting both Local Agency and the State to perform all monitoring of that Subcontractor in accordance with the Uniform Guidance.

D. Final Audit Report

Local Agency shall promptly submit to the State a copy of any final audit report of an audit performed on Local Agency's records that relates to or affects this Agreement or the Work, whether the audit is conducted

by Local Agency or a third party. Additionally, if Local Agency is required to perform a single audit under 2 CFR 200.501, *et seq.*, then Local Agency shall submit a copy of the results of that audit to the State within the same timelines as the submission to the federal government.

10. CONFIDENTIAL INFORMATION-STATE RECORDS

A. Confidentiality

Local Agency shall hold and maintain, and cause all Subcontractors to hold and maintain, any and all State Records that the State provides or makes available to Local Agency for the sole and exclusive benefit of the State, unless those State Records are otherwise publicly available at the time of disclosure or are subject to disclosure by Local Agency under CORA. Local Agency shall not, without prior written approval of the State, use for Local Agency's own benefit, publish, copy, or otherwise disclose to any third party, or permit the use by any third party for its benefit or to the detriment of the State, any State Records, except as otherwise stated in this Agreement. Local Agency shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines. Local Agency shall immediately forward any request or demand for State Records to the State's principal representative. If Local Agency or any of its Subcontractors will or may receive the following types of data, Local Agency or its Subcontractors shall provide for the security of such data according to the following: **(i)** the most recently promulgated IRS Publication 1075 for all Tax Information and in accordance with the Safeguarding Requirements for Federal Tax Information attached to this Award as an Exhibit, if applicable, **(ii)** the most recently updated PCI Data Security Standard from the PCI Security Standards Council for all PCI, **(iii)** the most recently issued version of the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy for all CJI, and **(iv)** the federal Health Insurance Portability and Accountability Act for all PHI and the HIPAA Business Associate Agreement attached to this Award, if applicable. Local Agency shall immediately forward any request or demand for State Records to the State's principal representative.

B. Other Entity Access and Nondisclosure Agreements

Local Agency may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Agreement. Local Agency shall ensure all such agents, employees, assigns, and Subcontractors sign nondisclosure agreements with provisions at least as protective as those in this Agreement, and that the nondisclosure agreements are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Local Agency shall provide copies of those signed nondisclosure agreements to the State upon request.

C. Use, Security, and Retention

Local Agency shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information wherever located. Local Agency shall provide the State with access, subject to Local Agency's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Agreement, Local Agency shall return State Records provided to Local Agency or destroy such State Records and certify to the State that it has done so, as directed by the State. If Local Agency is prevented by law or regulation from returning or destroying State Confidential Information, Local Agency warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Local Agency becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. Unless Local Agency can establish that none of Local Agency or any of its agents, employees, assigns, or Subcontractors are the cause or source of the Incident, Local Agency shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Local Agency shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which

may include, but is not limited to, developing, and implementing a remediation plan that is approved by the State at no additional cost to the State.

E. Safeguarding Personally Identifying Information "PII"

If Local Agency or any of its Subcontracts will or may receive PII under this agreement, Local Agency shall provide for the security for such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Local Agency shall be a "Third Party Service Provider" as defined in §24-73-103(1)(i), C.R.S. and shall maintain security procedures and practices consistent with §§24-73-101 et seq., C.R.S. In addition, as set forth in § 24-74-102, et. seq., C.R.S., Contractor, including, but not limited to, Contractor's employees, agents and Subcontractors, agrees not to share any PII with any third parties for the purpose of investigating for, participating in, cooperating with, or assisting with Federal immigration enforcement. If Contractor is given direct access to any State databases containing PII, Contractor shall execute, on behalf of itself and its employees, the certification attached hereto as **Exhibit S** on an annual basis Contractor's duty and obligation to certify as set forth in **Exhibit S** shall continue as long as Contractor has direct access to any State databases containing PII. If Contractor uses any Subcontractors to perform services requiring direct access to State databases containing PII, the Contractor shall require such Subcontractors to execute and deliver the certification to the State on an annual basis, so long as the Subcontractor has access to State databases containing PII.

11. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

Local Agency shall not engage in any business or activities or maintain any relationships that conflict in any way with the full performance of the obligations of Local Agency under this Agreement. Such a conflict of interest would arise when a Local Agency or Subcontractor's employee, officer or agent were to offer or provide any tangible personal benefit to an employee of the State, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of this Agreement. Officers, employees, and agents of Local Agency may neither solicit nor accept gratuities, favors or anything of monetary value from contractors or parties to subcontracts.

B. Apparent Conflicts of Interest

Local Agency acknowledges that, with respect to this Agreement, even the appearance of a conflict of interest shall be harmful to the State's interests. Absent the State's prior written approval, Local Agency shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Local Agency's obligations under this Agreement.

C. Disclosure to the State

If a conflict or the appearance of a conflict arises, or if Local Agency is uncertain whether a conflict or the appearance of a conflict has arisen, Local Agency shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the actual or apparent conflict constitutes a breach of this Agreement.

12. INSURANCE

Local Agency shall obtain and maintain, and ensure that each Subcontractor shall obtain and maintain, insurance as specified in this section at all times during the term of this Agreement. All insurance policies required by this Agreement that are not provided through self-insurance shall be issued by insurance companies with an AM Best rating of A-VIII or better.

A. Local Agency Insurance

Local Agency is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the "GIA") and shall maintain at all times during the term of this Agreement such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA.

B. Subcontractor Requirements

Local Agency shall ensure that each Subcontractor that is a public entity within the meaning of the GIA, maintains at all times during the terms of this Agreement, such liability insurance, by commercial policy or self-insurance, as is necessary to meet the Subcontractor's obligations under the GIA. Local Agency shall ensure that each Subcontractor that is not a public entity within the meaning of the GIA, maintains at all times during the terms of this Agreement all of the following insurance policies:

i. Workers' Compensation

Workers' compensation insurance as required by state statute, and employers' liability insurance covering all Local Agency or Subcontractor employees acting within the course and scope of their employment.

ii. General Liability

Commercial general liability insurance written on an Insurance Services Office occurrence form, covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

- a. \$1,000,000 each occurrence;
- b. \$1,000,000 general aggregate;
- c. \$1,000,000 products and completed operations aggregate; and
- d. \$50,000 any 1 fire.

iii. Automobile Liability

Automobile liability insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.

iv. Protected Information

Liability insurance covering all loss of State Confidential Information, such as PII, PHI, PCI, Tax Information, and CJI, and claims based on alleged violations of privacy rights through improper use or disclosure of protected information with minimum limits as follows:

- a. \$1,000,000 each occurrence; and
- b. \$2,000,000 general aggregate.

v. Professional Liability Insurance

Professional liability insurance covering any damages caused by an error, omission or any negligent act with minimum limits as follows:

- a. \$1,000,000 each occurrence; and
- b. \$1,000,000 general aggregate.

vi. Crime Insurance

Crime insurance including employee dishonesty coverage with minimum limits as follows:

- a. \$1,000,000 each occurrence; and
- b. \$1,000,000 general aggregate.

vii. Cyber/Network Security and Privacy Liability

Liability insurance covering all civil, regulatory and statutory damages, contractual damages, data breach management exposure, and any loss of State Confidential Information, such as PII, PHI, PCI, Tax Information, and CJI, and claims based on alleged violations of breach, violation or infringement of right to privacy rights through improper use or disclosure of protect consumer data protection law, confidentiality or other legal protection for personal information, as well as State Confidential Information with minimum limits as follows:

- a. \$1,000,000 each occurrence; and

- b. \$2,000,000 general aggregate.
- C. Additional Insured

The State shall be named as additional insured on all commercial general liability policies (leases and construction contracts require additional insured coverage for completed operations) required of Local Agency and Subcontractors. In the event of cancellation of any commercial general liability policy, the carrier shall provide at least 10 days prior written notice to CDOT.
- D. Primacy of Coverage

Coverage required of Local Agency and each Subcontractor shall be primary over any insurance or self-insurance program carried by Local Agency or the State.
- E. Cancellation

All commercial insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to Local Agency and Local Agency shall forward such notice to the State in accordance with §16 within 7 days of Local Agency's receipt of such notice.
- F. Subrogation Waiver

All commercial insurance policies secured or maintained by Local Agency or its Subcontractors in relation to this Agreement shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against Local Agency or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.
- G. Certificates

For each commercial insurance plan provided by Local Agency under this Agreement, Local Agency shall provide to the State certificates evidencing Local Agency's insurance coverage required in this Agreement within seven (7) Business Days following the Effective Date. Local Agency shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Agreement within seven (7) Business Days following the Effective Date, except that, if Local Agency's subcontract is not in effect as of the Effective Date, Local Agency shall provide to the State certificates showing Subcontractor insurance coverage required under this Agreement within seven (7) Business Days following Local Agency's execution of the subcontract. No later than 15 days before the expiration date of Local Agency's or any Subcontractor's coverage, Local Agency shall deliver to the State certificates of insurance evidencing renewals of coverage. At any other time during the term of this Agreement, upon request by the State, Local Agency shall, within seven (7) Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this §12.

13. BREACH

- A. Defined

The failure of a Party to perform any of its obligations in accordance with this Agreement, in whole or in part or in a timely or satisfactory manner, shall be a breach. The institution of proceedings under any bankruptcy, insolvency, reorganization, or similar law, by or against Local Agency, or the appointment of a receiver or similar officer for Local Agency or any of its property, which is not vacated or fully stayed within 30 days after the institution of such proceeding, shall also constitute a breach.
- B. Notice and Cure Period

In the event of a breach, the aggrieved Party shall give written notice of breach to the other Party. If the notified Party does not cure the breach, at its sole expense, within 30 days after the delivery of written notice, the Party may exercise any of the remedies as described in §14 for that Party. Notwithstanding any provision of this Agreement to the contrary, the State, in its discretion, need not provide notice or a cure period and may immediately terminate this Agreement in whole or in part or institute any other remedy in the Agreement in order to protect the public interest of the State.

14. REMEDIES

- A. State's Remedies

If Local Agency is in breach under any provision of this Agreement and fails to cure such breach, the State, following the notice and cure period set forth in **§13.B**, shall have all of the remedies listed in this **§14.A**, in addition to all other remedies set forth in this Agreement or at law. The State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

i. Termination for Breach

In the event of Local Agency's uncured breach, the State may terminate this entire Agreement or any part of this Agreement. Local Agency shall continue performance of this Agreement to the extent not terminated, if any.

a. Obligations and Rights

To the extent specified in any termination notice, Local Agency shall not incur further obligations or render further performance past the effective date of such notice and shall terminate outstanding orders and subcontracts with third parties. However, Local Agency shall complete and deliver to the State all Work not canceled by the termination notice and may incur obligations as necessary to do so within this Agreement's terms. At the request of the State, Local Agency shall assign to the State all of Local Agency's rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, Local Agency shall take timely, reasonable, and necessary action to protect and preserve property in the possession of Local Agency but in which the State has an interest. At the State's request, Local Agency shall return materials owned by the State in Local Agency's possession at the time of any termination. Local Agency shall deliver all completed Work Product and all Work Product that was in the process of completion to the State at the State's request.

b. Payments

Notwithstanding anything to the contrary, the State shall only pay Local Agency for accepted Work received as of the date of termination. If, after termination by the State, the State agrees that Local Agency was not in breach or that Local Agency's action or inaction was excusable, such termination shall be treated as a termination in the public interest, and the rights and obligations of the Parties shall be as if this Agreement had been terminated in the public interest under **§2.C**.

c. Damages and Withholding

Notwithstanding any other remedial action by the State, Local Agency shall remain liable to the State for any damages sustained by the State in connection with any breach by Local Agency, and the State may withhold payment to Local Agency for the purpose of mitigating the State's damages until such time as the exact amount of damages due to the State from Local Agency is determined. The State may withhold any amount that may be due Local Agency as the State deems necessary to protect the State against loss including, without limitation, loss as a result of outstanding liens and excess costs incurred by the State in procuring from third parties replacement Work as cover.

ii. Remedies Not Involving Termination

The State, in its discretion, may exercise one or more of the following additional remedies:

a. Suspend Performance

Suspend Local Agency's performance with respect to all or any portion of the Work pending corrective action as specified by the State without entitling Local Agency to an adjustment in price or cost or an adjustment in the performance schedule. Local Agency shall promptly cease performing Work and incurring costs in accordance with the State's directive, and the State shall not be liable for costs incurred by Local Agency after the suspension of performance.

b. Withhold Payment

Withhold payment to Local Agency until Local Agency corrects its Work.

c. Deny Payment

Deny payment for Work not performed, or that due to Local Agency's actions or inactions, cannot be performed or if they were performed are reasonably of no value to the state; provided, that any denial of payment shall be equal to the value of the obligations not performed.

d. Removal

Demand immediate removal from the Work of any of Local Agency's employees, agents, or Subcontractors from the Work whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable or whose continued relation to this Agreement is deemed by the State to be contrary to the public interest or the State's best interest.

e. Intellectual Property

If any Work infringes a patent, copyright, trademark, trade secret, or other intellectual property right, Local Agency shall, as approved by the State (a) secure that right to use such Work for the State or Local Agency; (b) replace the Work with non infringing Work or modify the Work so that it becomes non infringing; or, (c) remove any infringing Work and refund the amount paid for such Work to the State.

B. Local Agency's Remedies

If the State is in breach of any provision of this Agreement and does not cure such breach, Local Agency, following the notice and cure period in §13.B and the dispute resolution process in §15 shall have all remedies available at law and equity.

15. DISPUTE RESOLUTION

A. Initial Resolution

Except as herein specifically provided otherwise, disputes concerning the performance of this Agreement which cannot be resolved by the designated Agreement representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager designated by Local Agency for resolution.

B. Resolution of Controversies

If the initial resolution described in §15.A fails to resolve the dispute within 10 Business Days, Contractor shall submit any alleged breach of this Contract by the State to the Procurement Official of CDOT as described in §24-101-301(30), C.R.S. for resolution in accordance with the provisions of §§24-106-109, 24-109-101.1, 24-109-101.5, 24-109-106, 24-109-107, 24-109-201 through 24-109-206, and 24-109-501 through 24-109-505, C.R.S., (the "Resolution Statutes"), except that if Contractor wishes to challenge any decision rendered by the Procurement Official, Contractor's challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, under the Resolution Statutes before Contractor pursues any further action as permitted by such statutes. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations.

C. Questions of Fact

Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under this Agreement which is not disposed of by agreement shall be decided by the Chief Engineer of the Department of Transportation. The decision of the Chief Engineer will be final and conclusive unless, within 30 calendar days after the date of receipt of a copy of such written decision, Local Agency mails or otherwise furnishes to the State a written appeal addressed to the Executive Director of CDOT. In connection with any appeal proceeding under this clause, Local Agency shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, Local Agency shall proceed diligently with the performance of this Agreement in accordance with the Chief Engineer's decision. The decision of the Executive Director or his duly authorized representative for the determination of such appeals shall be final and conclusive and serve as final agency action. This dispute clause does not preclude consideration of questions of law in connection with decisions provided for herein. Nothing in this Agreement, however, shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

16. NOTICES AND REPRESENTATIVES

Each individual identified below shall be the principal representative of the designating Party. All notices required or permitted to be given under this Agreement shall be in writing and shall be delivered (i) by hand with receipt required, (ii) by certified or registered mail to such Party's principal representative at the address set forth below

or (iii) as an email with read receipt requested to the principal representative at the email address, if any, set forth below. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party's principal representative at the address set forth below. Either Party may change its principal representative or principal representative contact information by notice submitted in accordance with this §16 without a formal amendment to this Agreement. Unless otherwise provided in this Agreement, notices shall be effective upon delivery of the written notice.

For the State

Colorado Department of Transportation (CDOT)
Don Scanga, Local Agency Coordinator
CDOT Region 2
5615 Wills Blvd.
Pueblo, CO 81008
719-621-8340
donald.scanga@state.co.us

For the Local Agency

CITY OF PUEBLO
Kelly Grisham, Project Coordinator
211 East D Street
PUEBLO, CO 81003
719-553-2254
kgrisham@pueblo.us

17. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

Local Agency hereby grants to the State a perpetual, irrevocable, non-exclusive, royalty free license, with the right to sublicense, to make, use, reproduce, distribute, perform, display, create derivatives of and otherwise exploit all intellectual property created by Local Agency or any Subcontractors. Local Agency assigns to the State and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product. Whether or not Local Agency is under contract with the State at the time, Local Agency shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the State, to enable the State to secure patents, copyrights, licenses and other intellectual property rights related to the Work Product. The Parties intend the Work Product to be works made for hire.

i. Copyrights

To the extent that the Work Product (or any portion of the Work Product) would not be considered works made for hire under applicable law, Local Agency hereby assigns to the State, the entire right, title, and interest in and to copyrights in all Work Product and all works based upon, derived from, or incorporating the Work Product; all copyright applications, registrations, extensions, or renewals relating to all Work Product and all works based upon, derived from, or incorporating the Work Product; and all moral rights or similar rights with respect to the Work Product throughout the world. To the extent that Local Agency cannot make any of the assignments required by this section, Local Agency hereby grants to the State a perpetual, irrevocable, royalty-free license to use, modify, copy, publish, display, perform, transfer, distribute, sell, and create derivative works of the Work Product and all works based upon, derived from, or incorporating the Work Product by all means and methods and in any format now known or invented in the future. The State may assign and license its rights under this license.

ii. Patents

In addition, Local Agency grants to the State (and to recipients of Work Product distributed by or on behalf of the State) a perpetual, worldwide, no-charge, royalty-free, irrevocable patent license to make, have made, use, distribute, sell, offer for sale, import, transfer, and otherwise utilize, operate, modify and propagate the contents of the Work Product. Such license applies only to those patent claims licensable by Local Agency that are necessarily infringed by the Work Product alone, or by the combination of the Work Product with anything else used by the State.

iii. Assignments and Assistance

Whether or not the Local Agency is under Agreement with the State at the time, Local Agency shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the State, to enable the State to secure patents, copyrights, licenses and other intellectual property rights related to the Work Product. The Parties intend the Work Product to be works made for hire. Local Agency assigns to the State and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product.

B. Exclusive Property of the State

Except to the extent specifically provided elsewhere in this Agreement, any pre-existing State Records, State software, research, reports, studies, photographs, negatives, or other documents, drawings, models, materials, data, and information shall be the exclusive property of the State (collectively, "State Materials"). Local Agency shall not use, willingly allow, cause or permit Work Product or State Materials to be used for any purpose other than the performance of Local Agency's obligations in this Agreement without the prior written consent of the State. Upon termination of this Agreement for any reason, Local Agency shall provide all Work Product and State Materials to the State in a form and manner as directed by the State.

C. Exclusive Property of Local Agency

Local Agency retains the exclusive rights, title, and ownership to any and all pre-existing materials owned or licensed to Local Agency including, but not limited to, all pre-existing software, licensed products, associated source code, machine code, text images, audio and/or video, and third-party materials, delivered by Local Agency under this Agreement, whether incorporated in a Deliverable or necessary to use a Deliverable (collectively, "Local Agency Property"). Local Agency Property shall be licensed to the State as set forth in this Agreement or a State approved license agreement: (i) entered into as exhibits to this Agreement, (ii) obtained by the State from the applicable third-party vendor, or (iii) in the case of open source software, the license terms set forth in the applicable open source license agreement.

18. GOVERNMENTAL IMMUNITY

Liability for claims for injuries to persons or property arising from the negligence of the Parties, their departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the GIA; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, *et seq.* C.R.S. The following applies through June 30, 2022: no term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

19. STATEWIDE CONTRACT MANAGEMENT SYSTEM

If the maximum amount payable to Local Agency under this Agreement is \$100,000 or greater, either on the Effective Date or at any time thereafter, this §19 shall apply. Local Agency agrees to be governed by and comply with the provisions of §24-106-103, §24-102-206, §24-106-106, §24-106-107 C.R.S. regarding the monitoring of vendor performance and the reporting of contract performance information in the State's contract management system ("Contract Management System" or "CMS"). Local Agency's performance shall be subject to evaluation and review in accordance with the terms and conditions of this Agreement, Colorado statutes governing CMS, and State Fiscal Rules and State Controller policies.

20. GENERAL PROVISIONS

A. Assignment

Local Agency's rights and obligations under this Agreement are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Local Agency's rights and obligations approved by the State shall be subject to the provisions of this Agreement

B. Subcontracts

Local Agency shall not enter into any subcontract in connection with its obligations under this Agreement without the prior, written approval of the State. Local Agency shall submit to the State a copy of each such subcontract upon request by the State. All subcontracts entered into by Local Agency in connection with this Agreement shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Agreement.

C. Binding Effect

Except as otherwise provided in **§20.A.** all provisions of this Agreement, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

D. Authority

Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations have been duly authorized.

E. Captions and References

The captions and headings in this Agreement are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

F. Counterparts

This Agreement may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

G. Digital Signatures

If any signatory signs this agreement using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Contract by reference.

H. Entire Understanding

This Agreement represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Agreement. Prior or contemporaneous additions, deletions, or other changes to this Agreement shall not have any force or effect whatsoever, unless embodied herein.

I. Jurisdiction and Venue

All suits or actions related to this Agreement shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

J. Modification

Except as otherwise provided in this Agreement, any modification to this Agreement shall only be effective if agreed to in a formal amendment to this Agreement, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules. Modifications permitted under this Agreement, other than contract amendments, shall conform to the policies promulgated by the Colorado State Controller.

K. Statutes, Regulations, Fiscal Rules, and Other Authority.

Any reference in this Agreement to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Effective Date of this Agreement.

L. Order of Precedence

In the event of a conflict or inconsistency between this Agreement and any exhibits or attachment such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:

- i. The provisions of the other sections of the main body of this Agreement.
- ii. **Exhibit N**, Federal Treasury Provisions.
- iii. **Exhibit F**, Certification for Federal-Aid Contracts.
- iv. **Exhibit G**, Disadvantaged Business Enterprise.
- v. **Exhibit I**, Federal-Aid Contract Provisions for Construction Contracts.
- vi. **Exhibit J**, Additional Federal Requirements.
- vii. **Exhibit K**, Federal Funding Accountability and Transparency Act of 2006 (FFATA) Supplemental Federal Provisions.
- viii. **Exhibit L**, Sample Sub-Recipient Monitoring and Risk Assessment Form.
- ix. **Exhibit M**, Supplemental Provisions for Federal Awards Subject to The Office of Management and Budget Uniform Administrative Requirements, Cost principles, and Audit Requirements for Federal Awards (the "Uniform Guidance").
- x. **Exhibit O**, Agreement with Subrecipient of Federal Recovery Funds.
- xi. **Exhibit R**, Applicable Federal Awards.
- xii. Colorado Special Provisions in the main body of this Agreement.
- xiii. **Exhibit A**, Scope of Work.
- xiv. **Exhibit H**, Local Agency Procedures for Consultant Services.
- xv. **Exhibit B**, Sample Option Letter.
- xvi. **Exhibit C**, Funding Provisions.
- xvii. **Exhibit P**, SLFRF Subrecipient Quarterly Report.
- xviii. **Exhibit Q**, SLFRF Reporting Modification Form.
- xix. **Exhibit D**, Local Agency Resolution.
- xx. **Exhibit E**, Local Agency Contract Administration Checklist.
- xxi. **Exhibit S**, PII Certification.
- xxii. **Exhibit T**, Checklist of Required Exhibits Dependent on Funding Source.
- xxiii. Other exhibits in descending order of their attachment.

M. Severability

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Agreement in accordance with the intent of the Agreement.

N. Survival of Certain Agreement Terms

Any provision of this Agreement that imposes an obligation on a Party after termination or expiration of the Agreement shall survive the termination or expiration of the Agreement and shall be enforceable by the other Party.

O. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described in **§20.C**, this Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Agreement are incidental to the Agreement, and do not create any rights for such third parties.

P. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

Q. CORA Disclosure

To the extent not prohibited by federal law, this Agreement and the performance measures and standards required under §24-106-107 C.R.S., if any, are subject to public release through the CORA.

R. Standard and Manner of Performance

Local Agency shall perform its obligations under this Agreement in accordance with the highest standards of care, skill and diligence in Local Agency's industry, trade, or profession.

S. Licenses, Permits, and Other Authorizations.

Local Agency shall secure, prior to the Effective Date, and maintain at all times during the term of this Agreement, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Agreement, and shall ensure that all employees, agents and Subcontractors secure and maintain at all times during the term of their employment, agency or subcontract, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Agreement.

T. Compliance with State and Federal Law, Regulations, and Executive Orders

Local Agency shall comply with all State and Federal law, regulations, executive orders, State and Federal Awarding Agency policies, procedures, directives, and reporting requirements at all times during the term of this Agreement.

U. Accessibility

- i. Local Agency shall comply with and the Work Product provided under this Agreement shall be in compliance with all applicable provisions of §§24-85-101, et seq., C.R.S., and the Accessibility Standards for Individuals with a Disability, as established by the Governor's Office of Information Technology (OIT), pursuant to Section §24-85-103 (2.5), C.R.S. Local Agency shall also comply with all State of Colorado technology standards related to technology accessibility and with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards.
- ii. Each Party agrees to be responsible for its own liability incurred as a result of its participation in and performance under this Agreement. In the event any claim is litigated, each Party will be responsible for its own attorneys' fees, expenses of litigation, or other costs. No provision of this Agreement shall be deemed or construed to be a relinquishment or waiver of any kind of the applicable limitations of liability provided to either the Local Agency or the State by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq. and Article XI of the Colorado Constitution. Nothing in the Agreement shall be construed as a waiver of any provision of the State Fiscal Rules.
- iii. The State may require Local Agency's compliance to the State's Accessibility Standards to be determined by a third party selected by the State to attest to Local Agency's Work Product and software is in compliance with §§24-85-101, et seq., C.R.S., and the Accessibility Standards for Individuals with a Disability as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S.

V. Taxes

The State is exempt from federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) (Federal Excise Tax Exemption Certificate of Registry No. 84-730123K) and from State and local government sales and use taxes under §§39-26-704(1), et seq., C.R.S. (Colorado Sales Tax Exemption Identification Number 98-02565). The State shall not be liable for the payment of any excise, sales, or use taxes, regardless of whether any political subdivision of the state imposes such taxes on Local Agency. Local Agency shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Local Agency may wish to have in place in connection with this Agreement.

21. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)

These Special Provisions apply to all contracts. Contractor refers to Local Agency.

A. STATUTORY APPROVAL. §24-30-202(1), C.R.S.

This Contract shall not be valid until it has been approved by the Colorado State Controller or designee. If this Contract is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), then this Contract shall not be valid until it has been approved by the State's Chief Information Officer or designee.

B. FUND AVAILABILITY. §24-30-202(5.5), C.R.S.

Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

C. GOVERNMENTAL IMMUNITY.

Liability for claims for injuries to persons or property arising from the negligence of the Parties, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

D. INDEPENDENT CONTRACTOR

Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. **Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. Contractor shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.**

E. COMPLIANCE WITH LAW.

Contractor shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. CHOICE OF LAW, JURISDICTION, AND VENUE.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Contract shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

G. PROHIBITED TERMS.

Any term included in this Contract that requires the State to indemnify or hold Contractor harmless; requires the State to agree to binding arbitration; limits Contractor's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Contract shall be construed as a waiver of any provision of §24-106-109 C.R.S. Any term included in this Contract that limits Contractor's liability that is not void under this section shall apply only in excess of any insurance to be maintained under this Contract, and no insurance policy shall be interpreted as being subject to any limitations of liability of this Contract.

H. SOFTWARE PIRACY PROHIBITION.

State or other public funds payable under this Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this Contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Contract, including, without limitation, immediate termination of this Contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

22. FEDERAL REQUIREMENTS

Local Agency and/or their contractors, subcontractors, and consultants shall at all times during the execution of this Agreement strictly adhere to, and comply with, all applicable federal and State laws, and their implementing regulations, as they currently exist and may hereafter be amended. A summary of applicable federal provisions are attached hereto as **Exhibit F**, **Exhibit I**, **Exhibit J**, **Exhibit K**, **Exhibit M**, **Exhibit N** and **Exhibit O** are hereby incorporated by this reference.

23. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

Local Agency will comply with all requirements of **Exhibit G** and **Exhibit E**, Local Agency Contract Administration Checklist, regarding DBE requirements for the Work, except that if Local Agency desires to use its own DBE program to implement and administer the DBE provisions of 49 C.F.R. Part 26 under this Agreement, it must submit a copy of its program's requirements to the State for review and approval before the execution of this Agreement. If Local Agency uses any State- approved DBE program for this Agreement, Local Agency shall be solely responsible to defend that DBE program and its use of that program against all legal and other challenges or complaints, at its sole cost and expense. Such responsibility includes, without limitation, determinations concerning DBE eligibility requirements and certification, adequate legal and factual bases for DBE goals and good faith efforts. State approval (if provided) of Local Agency's DBE program does not waive or modify the sole responsibility of Local Agency for use of its program.

EXHIBIT A
SCOPE OF WORK

Name of Project: Haaff Elementary SRTS
Project Number: SAR M086-094
SubAccount #: 24468

The local agency shall be responsible for design and construction of safe and accessible routes to school by 1) constructing multi-use sidewalks and connections to give students a direct route to the school entrance; 2) installation of high visibility crosswalks to alert motorists of pedestrian activity; and 3) installation of ADA curb ramps to improve accommodations for all users. The project also includes consulting services for Phase 2 of the project: reconstruction of the intersection of Jerry Murphy and Chinook.

If ARPA funds are used all ARPA funds must be encumbered by December 31, 2024. All work funded by ARPA must be completed by December 31, 2026 and all bills must be submitted to CDOT for payment by January 31, 2027. These bills must be paid by CDOT by March 31, 2027.

If this project is funded with Multimodal Transportation & Mitigation Options Funding (MMOF) these funding expenditures must be invoiced by June 1st of the year they expire.

EXHIBIT B

SAMPLE IGA OPTION LETTER

Date	State Fiscal Year	Option Letter No.
Project Code	Original Agreement #	

Vendor Name:

Option to unilaterally add phasing to include Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous and to update encumbrance amount(s).

Option to unilaterally transfer funds from one phase to another phase.

Option to unilaterally add phasing to include Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous, to update encumbrance amount(s), and to unilaterally transfer funds from one phase to another phase.

Option to unilaterally extend the term of this Agreement and/or update a Work Phase Performance Period and/or modify OMB Guidance.

Option A

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option to authorize the Local Agency to add a phase and to encumber funds for the phase based on changes in funding availability and authorization. The total encumbrance is (or increased) by \$0.00. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

Option B

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option to transfer funds based on variance in actual phase costs and original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

Option C

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option to 1) release the Local Agency to begin a phase; 2) to encumber funds for the phase based upon changes in funding availability and authorization; and 3) to transfer funds from phases based on variance in actual phase costs and

original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

Option D

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option extend the term of this Agreement and/or update a Work Phase Performance Period and/or modify information required under the OMB Uniform Guidance, as outlined in **Exhibit C**. This is made part of the original Agreement and replaces the Expiration Date shown on the Signature and Cover Page. Any updated version of **Exhibit C** shall be attached to any executed Option Letter as **Exhibit C-1** (with subsequent exhibits labeled **C-2**, **C-3**, etc.).

The effective date of this option letter is upon approval of the State Controller or delegate.

STATE OF COLORADO
Jared S. Polis
Department of Transportation

By: _____
Stephen Harelson, P.E., Chief Engineer
(For) Shoshana M. Lew, Executive Director

Date: _____

ALL AGREEMENTS MUST BE APPROVED BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Agreements. This Agreement 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 the Local Agency begins performing prior thereto, the State of Colorado is not obligated to pay the Local Agency for such performance or for any goods and/or services provided hereunder.

STATE OF COLORADO
STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By: _____
Colorado Department of Transportation

Date: _____

EXHIBIT C- FUNDING PROVISIONS**Pueblo SAR M086-094 (24468)****A. Cost of Work Estimate**

The Local Agency has estimated the total cost the Work to be \$279,180.00, which is to be funded as follows:

1. BUDGETED FUNDS			
a.	Federal Funds (100% of SAR Award)		\$279,180.00
TOTAL BUDGETED FUNDS			\$279,180.00
2. OMB UNIFORM GUIDANCE			
a.	Federal Award Identification Number (FAIN):		TBD
b.	Name of Federal Awarding Agency:		FHWA
c.	Local Agency Unique Entity Identifier		NJK3BNUDRHJ7
d.	Assistance Listing # Highway Planning and Construction		ALN 20.205
e.	Is the Award for R&D?		No
f.	Indirect Cost Rate (if applicable)		N/A
g.	Amount of Federal Funds Obligated by this Action:		\$0.00
h.	Amount of Federal Funds Obligated to Date (including this Action):		\$0.00
3. ESTIMATED PAYMENT TO LOCAL AGENCY			
a.	Federal Funds Budgeted		\$279,180.00
b.	Less Estimated Federal Share of CDOT-Incurred Costs		\$0.00
TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY			\$279,180.00
4. FOR CDOT ENCUMBRANCE PURPOSES			
a.	Total Encumbrance Amount		\$279,180.00
b.	Less ROW Acquisition 3111 and/or ROW Relocation 3109		\$0.00
NET TO BE ENCUMBERED BY CDOT IS AS FOLLOWS			\$279,180.00

Note: No funds are currently available. Design and Construction funds will become available after execution of an Option letter (Exhibit B) or formal Amendment.

WBS Element 24468.10.30	Performance Period Start*/End Date MM/DD/YYYY- MM/DD/YYYY	Design 3020	\$0.00
WBS Element 24468.20.10	Performance Period Start*/End Date MM/DD/YYYY- MM/DD/YYYY	Const. 3301	\$0.00

*The Local Agency should not begin work until all three (3) of the following are in place: 1) Phase Performance Period Start Date; 2) the execution of the document encumbering funds for the respective phase; and 3) Local Agency receipt of the official Notice to Proceed. Any work performed before these three (3) milestones are achieved will not be reimbursable.

B. Matching Funds

The matching ratio for the federal funds for this Work is 100% federal funds to 0% Local Agency funds, and this ratio applies only to the \$279,180.00 that is eligible for federal funding. All other costs are borne by the Local Agency at 100%. If the total cost of performance of the Work exceeds \$279,180.00, and additional federal funds are available for the Work, the Local Agency shall pay 0% of all such costs eligible for federal funding and 100% of all other costs. If additional federal funds are not available, the Local Agency shall pay all such excess costs. If the total cost of performance of the Work is less than \$279,180.00, then the amounts of Local Agency and federal funds will be decreased in accordance with the funding ratio described herein. **This applies to the entire scope of Work.**

C. Maximum Amount Payable

The maximum amount payable to the Local Agency under this Agreement shall be \$279,180.00. For CDOT accounting purposes, the federal funds of \$279,180.00 and the Local Agency funds of \$0.00 will be encumbered for a total encumbrance of \$279,180.00, unless this amount is increased by an executed amendment before any increased cost is incurred. The total cost of the Work is the best estimate available, based on the design data as approved at the time of execution of this Agreement, and any cost is subject to revisions agreed to by the parties prior to bid and award. The maximum amount payable will be reduced without amendment when the actual amount of the Local Agency's awarded Agreement is less than the budgeted total of the federal funds and the Local Agency matching funds. The maximum amount payable will be reduced through the execution of an Option Letter as described in Section 7. E. of this contract. **This applies to the entire scope of Work.**

D. Single Audit Act Amendment

All state and local government and non-profit organizations receiving \$750,000 or more from all funding sources defined as federal financial assistance for Single Audit Act Amendment purposes shall comply with the audit requirements of 2 CFR part 200, subpart F (Audit Requirements) see also, 49 CFR 18.20 through 18.26. The Single Audit Act Amendment requirements applicable to the Local Agency receiving federal funds are as follows:

i. Expenditure less than \$750,000

If the Local Agency expends less than \$750,000 in Federal funds (all federal sources, not just Highway funds) in its fiscal year then this requirement does not apply.

ii. Expenditure of \$750,000 or more-Highway Funds Only

If the Local Agency expends \$750,000 or more, in Federal funds, but only received federal Highway funds (Catalog of Federal Domestic Assistance, CFDA 20.205) then a program specific audit shall be performed. This audit will examine the "financial" procedures and processes for this program area.

iii. Expenditure of \$750,000 or more-Multiple Funding Sources

If the Local Agency expends \$750,000 or more in Federal funds, and the Federal funds are from multiple sources (FTA, HUD, NPS, etc.) then the Single Audit Act applies, which is an audit on the entire organization/entity.

iv. Independent CPA

Single Audit shall only be conducted by an independent CPA, not by an auditor on staff. An audit is an allowable direct or indirect cost.

EXHIBIT D

LOCAL AGENCY RESOLUTION (IF APPLICABLE)

COLORADO DEPARTMENT OF TRANSPORTATION LOCAL AGENCY CONTRACT ADMINISTRATION CHECKLIST			
Project No. M086-094	STIP No.	Project Code 24468	Region 2
Project Location Intersection of Jerry Murphy Rd and Chinook Lane			Date 6/3/2021
Project Description Haalf Elementary SRTS			
Local Agency City of Pueblo	Local Agency Project Manager Kelly Grisham		
CDOT Resident Engineer Lachelle Davis	CDOT Project Manager Don Scanga		
INSTRUCTIONS: This checklist shall be utilized to establish the contract administration responsibilities of the individual parties to this agreement. The checklist becomes an attachment to the Local Agency agreement. Section numbers correspond to the applicable chapters of the <i>CDOT Local Agency Manual</i>. The checklist shall be prepared by placing an "X" under the responsible party, opposite each of the tasks. The "X" denotes the party responsible for initiating and executing the task. Only one responsible party should be selected. When neither CDOT nor the Local Agency is responsible for a task, not applicable (NA) shall be noted. In addition, a "#" will denote that CDOT must concur or approve. Tasks that will be performed by Headquarters staff will be indicated. The Regions, in accordance with established policies and procedures, will determine who will perform all other tasks that are the responsibility of CDOT. The checklist shall be prepared by the CDOT Resident Engineer or the CDOT Project Manager, in cooperation with the Local Agency Project Manager, and submitted to the Region Program Engineer. If contract administration responsibilities change, the CDOT Resident Engineer, in cooperation with the Local Agency Project Manager, will prepare and distribute a revised checklist. Note: Failure to comply with applicable Federal and State requirements may result in the loss of Federal or State participation in funding.			

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
TIP / STIP AND LONG-RANGE PLANS			
2.1	Review Project to ensure it is consist with STIP and amendments thereto		X
FEDERAL FUNDING OBLIGATION AND AUTHORIZATION			
4.1	Authorize funding by phases (CDOT Form 418 - Federal-aid Program Data. Requires FHWA concurrence/involvement)		X
PROJECT DEVELOPMENT			
5.1	Prepare Design Data - CDOT Form 463	X	X
5.2	Prepare Local Agency/CDOT Inter-Governmental Agreement (see also Chapter 3)		X
5.3	Conduct Consultant Selection/Execute Consultant Agreement	X	
5.4	Conduct Design Scoping Review Meeting	X	
5.5	Conduct Public Involvement	X	
5.6	Conduct Field Inspection Review (FIR)	X	
5.7	Conduct Environmental Processes (may require FHWA concurrence/involvement)	X	
5.8	Acquire Right-of-Way (may require FHWA concurrence/involvement)	X	
5.9	Obtain Utility and Railroad Agreements	X	
5.10	Conduct Final Office Review (FOR)	X	
5.11	Justify Force Account Work by the Local Agency	X	
5.12	Justify Proprietary, Sole Source, or Local Agency Furnished Items	X	

EXHIBIT E - LOCAL AGENCY AGREEMENT ADMINISTRATION CHECKLIST

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
5.13	Document Design Exceptions - CDOT Form 464	X	
5.14	Prepare Plans, Specifications and Construction Cost Estimates	X	
5.15	Ensure Authorization of Funds for Construction		X
PROJECT DEVELOPMENT CIVIL RIGHTS AND LABOR COMPLIANCE			
6.1	Set Underutilized Disadvantaged Business Enterprise (UBDE) Goals for Consultant and Construction Contracts (CDOT Region EEO/Civil Rights Specialist)		X
6.2	Determine Applicability of Davis-Bacon Act This project ☐ is X is not exempt from Davis-Bacon requirements as determined by the functional classification of the project location (Projects located on local roads and rural minor collectors may be exempt.) Lachelle Davis CDOT Resident Engineer (Signature on File) 6/3/2021 Date		X
6.3	Set On-the-Job Training Goals. Goal is zero if total construction is less than \$1 million (CDOT Region EEO/Civil Rights Specialist)		X
6.4	Title VI Assurances	X	
	Ensure the correct Federal Wage Decision, all required Disadvantaged Business Enterprise/On-the-Job Training special provisions and FHWA Form 1273 are included in the Contract (CDOT Resident Engineer)		X
ADVERTISE, BID AND AWARD			
7.1	Obtain Approval for Advertisement Period of Less Than Three Weeks	X	
7.2	Advertise for Bids	X	
7.3	Distribute "Advertisement Set" of Plans and Specifications	X	
7.4	Review Worksite and Plan Details with Prospective Bidders While Project Is Under Advertisement	X	
7.5	Open Bids	X	
7.6	Process Bids for Compliance		
	Check CDOT Form 715 - Certificate of Proposed Underutilized DBE Participation when the low bidder meets UDBE goals		X
	Evaluate CDOT Form 718 - Underutilized DBE Good Faith Effort Documentation and determine if the Contractor has made a good faith effort when the low bidder does not meet DBE goals		X
	Submit required documentation for CDOT award concurrence	X	
7.7	Concurrence from CDOT to Award		X
7.8	Approve Rejection of Low Bidder		X
7.9	Award Contract	X	
7.10	Provide "Award" and "Record" Sets of Plans and Specifications	X	
CONSTRUCTION MANAGEMENT			
8.1	Issue Notice to Proceed to the Contractor	X	
8.2	Project Safety	X	X
8.3	Conduct Conferences:		
	Pre-Construction Conference (Appendix B)	X	
	Pre-survey		
	• Construction staking	X	
	• Monumentation	X	
	Partnering (Optional)	X	
	Structural Concrete Pre-Pour (Agenda is in CDOT Construction Manual)	X	
	Concrete Pavement Pre-Paving (Agenda is in CDOT Construction Manual)	X	
	HMA Pre-Paving (Agenda is in CDOT Construction Manual)	X	
8.4	Develop and distribute Public Notice of Planned Construction to media and local residents	X	
8.5	Supervise Construction		

EXHIBIT E - LOCAL AGENCY AGREEMENT ADMINISTRATION CHECKLIST

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
	A Professional Engineer (PE) registered in Colorado, who will be "in responsible charge of construction supervision." <u>Charles Roy, P.E.</u> 719-553-2271. Local Agency Professional Engineer or Phone number CDOT Resident Engineer	X	
	Provide competent, experienced staff who will ensure the Contract work is constructed in accordance with the plans and specifications	X	
	Construction inspection and documentation	X	
8.6	Approve Shop Drawings	X	
8.7	Perform Traffic Control Inspections	X	
8.8	Perform Construction Surveying	X	
8.9	Monument Right-of-Way	X	
8.10	Prepare and Approve Interim and Final Contractor Pay Estimates Provide the name and phone number of the person authorized for this task. <u>Charles Roy, P.E.</u> 719-553-2271 Local Agency Representative Phone number	X	
8.11	Prepare and Approve Interim and Final Utility and Railroad Billings	X	
8.12	Prepare and Authorize Change Orders	X	
8.13	Submit Change Order Package to CDOT	X	
8.14	Prepare Local Agency Reimbursement Requests	X	
8.15	Monitor Project Financial Status	X	
8.16	Prepare and Submit Monthly Progress Reports	X	
8.17	Resolve Contractor Claims and Disputes	X	
8.18	Conduct Routine and Random Project Reviews Provide the name and phone number of the person responsible for this task. <u>Don Scanga</u> 719-546-5434 CDOT Resident Engineer Phone number		X
MATERIALS			
9.1	Discuss Materials at Pre-Construction Meeting • Buy America documentation required prior to installation of steel	X	
9.2	Complete CDOT Form 250 - Materials Documentation Record • Generate form, which includes determining the minimum number of required tests and applicable material submittals for all materials placed on the project • Update the form as work progresses • Complete and distribute form after work is completed	X X	X
9.3	Perform Project Acceptance Samples and Tests	X	
9.4	Perform Laboratory Verification Tests	X	
9.5	Accept Manufactured Products Inspection of structural components: • Fabrication of structural steel and pre-stressed concrete structural components • Bridge modular expansion devices (0" to 6" or greater) • Fabrication of bearing devices	X X X X	
9.6	Approve Sources of Materials	X	
9.7	Independent Assurance Testing (IAT), Local Agency Procedures ☐ CDOT Procedures X • Generate IAT schedule • Schedule and provide notification • Conduct IAT	X X X	
9.8	Approve mix designs • Concrete • Hot mix asphalt	X X	
9.9	Check Final Materials Documentation	X	
9.10	Complete and Distribute Final Materials Documentation	X	

EXHIBIT E - LOCAL AGENCY AGREEMENT ADMINISTRATION CHECKLIST

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
CONSTRUCTION CIVIL RIGHTS AND LABOR COMPLIANCE			
10.1	Fulfill Project Bulletin Board and Pre-Construction Packet Requirements	X	
10.2	Process CDOT Form 205 - Sublet Permit Application Review and sign completed CDOT Form 205 for each subcontractor, and submit to EEO/Civil Rights Specialist	X	
10.3	Conduct Equal Employment Opportunity and Labor Compliance Verification Employee Interviews. Complete CDOT Form 280	X	
10.4	Monitor Disadvantaged Business Enterprise Participation to Ensure Compliance with the "Commercially Useful Function" Requirements	X	
10.5	Conduct Interviews When Project Utilizes On-the-Job Trainees. Complete CDOT Form 200 - OJT Training Questionnaire	X	
10.6	Check Certified Payrolls (Contact the Region EEO/Civil Rights Specialists for training requirements.)	X	
10.7	Submit FHWA Form 1391 - Highway Construction Contractor's Annual EEO Report	X	
FINALS			
11.1	Conduct Final Project Inspection. Complete and submit CDOT Form 1212 - Final Acceptance Report (Resident Engineer with mandatory Local Agency participation.)		X
11.2	Write Final Project Acceptance Letter	X	
11.3	Advertise for Final Settlement	X	
11.4	Prepare and Distribute Final As-Constructed Plans	X	
11.5	Prepare EEO Certification	X	
11.6	Check Final Quantities, Plans, and Pay Estimate; Check Project Documentation; and submit Final Certifications	X	
11.7	Check Material Documentation and Accept Final Material Certification (See Chapter 9)	X	
11.8	Obtain CDOT Form 17 from the Contractor and Submit to the Resident Engineer	X	
11.9	Obtain FHWA Form 47 - Statement of Materials and Labor Used ... from the Contractor	X	
11.10	Complete and Submit CDOT Form 1212 – Final Acceptance Report (by CDOT)		X
11.11	Process Final Payment		X
11.12	Complete and Submit CDOT Form 950 - Project Closure		X
11.13	Retain Project Records for Six Years from Date of Project Closure		X
11.14	Retain Final Version of Local Agency Contract Administration Checklist	X	

cc: CDOT Resident Engineer/Project Manager
CDOT Region Program Engineer
CDOT Region EEO/Civil Rights Specialist
CDOT Region Materials Engineer
CDOT Contracts and Market Analysis Branch
Local Agency Project Manager

EXHIBIT F
CERTIFICATION FOR FEDERAL-AID CONTRACTS

The Local Agency certifies, by signing this Agreement, to the best of its knowledge and belief, that:

No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, Agreement, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer of Congress, or an employee of a Member of Congress in connection with this Federal contract, Agreement, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

EXHIBIT G

DISADVANTAGED BUSINESS ENTERPRISE

SECTION 1. Policy.

It is the policy of the Colorado Department of Transportation (CDOT) that disadvantaged business enterprises shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement, pursuant to 49 CFR Part 26. Consequently, the 49 CFR Part IE DBE requirements the Colorado Department of Transportation DBE Program (or a Local Agency DBE Program approved in advance by the State) apply to this agreement.

SECTION 2. DBE Obligation.

The recipient or the Local Agency agrees to ensure that disadvantaged business enterprises as determined by the Office of Certification at the Colorado Department of Regulatory Agencies have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, all participants or contractors shall take all necessary and reasonable steps in accordance with the CDOT DBE program (or a Local Agency DBE Program approved in advance by the State) to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of CDOT assisted contracts.

SECTION 3 DBE Program.

The Local Agency (sub-recipient) shall be responsible for obtaining the Disadvantaged Business Enterprise Program of the Colorado Department of Transportation, 1988, as amended, and shall comply with the applicable provisions of the program. (If applicable).

A copy of the DBE Program is available from and will be mailed to the Local Agency

upon request: Business Programs Office

Colorado Department of Transportation

2829 West Howard Place Denver,

Colorado 80204

Phone: (303) 757-9007

REQUIRED BY 49 CFR
PART 26

EXHIBIT H

LOCAL AGENCY PROCEDURES FOR CONSULTANT SERVICES

Title 23 Code of Federal Regulations (CFR) 172 applies to a federally funded Local Agency project agreement administered by CDOT that involves professional consultant services. 23 CFR 172.1 states “The policies and procedures involve federally funded contracts for engineering and design related services for projects subject to the provisions of 23 U.S.C. 112(a) and are issued to ensure that a qualified consultant is obtained through an equitable selection process, that prescribed work is properly accomplished in a timely manner, and at fair and reasonable cost” and according to 23 CFR 172.5 “Price shall not be used as a factor in the analysis and selection phase.” Therefore, local agencies must comply with these CFR requirements when obtaining professional consultant services under a federally funded consultant contract administered by CDOT.

CDOT has formulated its procedures in Procedural Directive (P.D.) 400.1 and the related operations guidebook titled "Obtaining Professional Consultant Services". This directive and guidebook incorporate requirements from both Federal and State regulations, i.e., 23 CFR 172 and CRS §24-30-1401 et seq. Copies of the directive and the guidebook may be obtained upon request from CDOT's Agreements and Consultant Management Unit. [Local agencies should have their own written procedures on file for each method of procurement that addresses the items in 23 CFR 172].

Because the procedures and laws described in the Procedural Directive and the guidebook are quite lengthy, the subsequent steps serve as a short-hand guide to CDOT procedures that a Local Agency must follow in obtaining professional consultant services. This guidance follows the format of 23 CFR 172. The steps are:

1. The contracting Local Agency shall document the need for obtaining professional services.
2. Prior to solicitation for consultant services, the contracting Local Agency shall develop a detailed scope of work and a list of evaluation factors and their relative importance. The evaluation factors are those identified in C.R.S. 24-30-1403. Also, a detailed cost estimate should be prepared for use during negotiations.
3. The contracting agency must advertise for contracts in conformity with the requirements of C.R.S. 24-30-1405. The public notice period, when such notice is required, is a minimum of 15 days prior to the selection of the three most qualified firms and the advertising should be done in one or more daily newspapers of general circulation.
4. The Local Agency shall not advertise any federal aid contract without prior review by the CDOT Regional Civil Rights Office (RCRO) to determine whether the contract shall be subject to a DBE contract goal. If the RCRO determines a goal is necessary, then the Local Agency shall include the goal and the applicable provisions within the advertisement. The Local Agency shall not award a contract to any Contractor or Consultant without the confirmation by the CDOT Civil Rights and Business Resource Center that the Contractor or Consultant has demonstrated good faith efforts. The Local Agency shall work with the CDOT RCRO to ensure compliance with the established terms during the performance of the contract.
5. The Local Agency shall require that all contractors pay subcontractors for satisfactory performance of work no later than 30 days after the receipt of payment for that work from the contractor. For construction projects, this time period shall be reduced to seven days in accordance with Colorado Revised Statute 24-91-103(2). If the Local Agency withholds retainage from contractors and/or allows contractors to withhold retainage from subcontractors, such retainage provisions must comply with 49 CFR 26.29.
6. Payments to all Subconsultants shall be made within thirty days of receipt of payment from [the Local Agency] or no later than ninety days from the date of the submission of a complete invoice from the Subconsultant, whichever occurs first. If the Consultant has good cause to dispute an amount invoiced by a Subconsultant, the Consultant shall notify [the Local Agency] no later than the required date for payment. Such notification shall include the amount disputed and justification for the withholding. The Consultant shall maintain records of payment that show amounts paid to all Subconsultants. Good cause does not include the Consultant's failure to submit an invoice to the Local Agency or to deposit payments made.
7. The analysis and selection of the consultants shall be done in accordance with CRS §24-30-1403. This section of the regulation identifies the criteria to be used in the evaluation of CDOT pre-qualified prime consultants and their team. It also shows which criteria are used to short-list and to make a final selection.

The short-list is based on the following evaluation factors:

- a. Qualifications,

- b. Approach to the Work,
- c. Ability to furnish professional services.
- d. Anticipated design concepts, and
- e. Alternative methods of approach for furnishing the professional services. Evaluation factors for final selection are the consultant's:

- a. Abilities of their personnel,
 - b. Past performance,
 - c. Willingness to meet the time and budget requirement,
 - d. Location,
 - e. Current and projected work load,
 - f. Volume of previously awarded contracts, and
 - g. Involvement of minority consultants.
8. Once a consultant is selected, the Local Agency enters into negotiations with the consultant to obtain a fair and reasonable price for the anticipated work. Pre-negotiation audits are prepared for contracts expected to be greater than \$50,000. Federal reimbursements for costs are limited to those costs allowable under the cost principles of 48 CFR 31. Fixed fees (profit) are determined with consideration given to size, complexity, duration, and degree of risk involved in the work. Profit is in the range of six to 15 percent of the total direct and indirect costs.
9. A qualified Local Agency employee shall be responsible and in charge of the Work to ensure that the work being pursued is complete, accurate, and consistent with the terms, conditions, and specifications of the contract. At the end of Work, the Local Agency prepares a performance evaluation (a CDOT form is available) on the consultant.

CRS §§24-30-1401 THROUGH 24-30-1408, 23 CFR PART 172, AND P.D. 400.1, PROVIDE ADDITIONAL DETAILS FOR COMPLYING WITH THE PRECEEDING EIGHT (8) STEPS.

EXHIBIT I

FEDERAL-AID CONTRACT PROVISIONS FOR CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Government wide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design- build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension/debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60- 1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. **Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the- job training."

2. **EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. **Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. **Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. **Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. **Training and Promotion:** The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

a. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

b. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

c. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract.

The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA- 1273 format and FHWA program requirements.

1. Minimum wages:

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account, assets for the meeting of obligations under the plan or program.

2. Withholding:

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records:

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements.

It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

- (i) That the payroll for the payroll period contains the information required to be provided under §5.5(a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;
- (ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
- (iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices.

Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity.

The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S.DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and

7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility:

- a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification– First Tier Participants:

- a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below.

The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph(a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL
ACCESSROAD CONTRACTS**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

EXHIBIT J

ADDITIONAL FEDERAL REQUIREMENTS

Federal laws and regulations that may be applicable to the Work include:

Executive Order 11246

Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967 and as supplemented in Department of Labor regulations (41 CFR Chapter 60) (All construction contracts awarded in excess of \$10,000 by the Local Agencies and their contractors or the Local Agencies).

Copeland "Anti-Kickback" Act

The Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3) (All contracts and sub-Agreements for construction or repair).

Davis-Bacon Act

The Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor regulations (29 CFR Part 5) (Construction contracts in excess of \$2,000 awarded by the Local Agencies and the Local Agencies when required by Federal Agreement program legislation. This act requires that all laborers and mechanics employed by contractors or sub-contractors to work on construction projects financed by federal assistance must be paid wages not less than those established for the locality of the project by the Secretary of Labor).

Contract Work Hours and Safety Standards Act

Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts awarded by the Local Agency's in excess of \$2,000, and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers).

Clean Air Act

Standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h), section 508 of the Clean Water Act (33 U.S.C. 1368). Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15) (contracts, subcontracts, and sub-Agreements of amounts more than \$100,000).

Energy Policy and Conservation Act

Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).

OMB Circulars

Office of Management and Budget Circulars A-87, A-21 or A-122, and A-102 or A-110, whichever is applicable.

Hatch Act

The Hatch Act (5 USC 1501-1508) and Public Law 95-454 Section 4728. These statutes state that federal funds cannot be used for partisan political purposes of any kind by any person or organization involved in the administration of federally assisted programs.

Nondiscrimination

The Local Agency shall not exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States on the ground of race, color national origin, sex, age or disability. Prior to the receipt of any Federal financial assistance from CDOT, the Local Agency shall execute the attached Standard DOT Title VI assurance. As appropriate, the Local Agency shall include Appendix A, B, or C to the Standard DOT Title VI assurance in any contract utilizing federal funds, land, or other aid. The Local Agency shall also include the following in all contract advertisements:

The [Local Agency], in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (79 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, DBEs will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for any award.

ADA

In any contract utilizing federal funds, land, or other federal aid, the Local Agency shall require the federal-aid recipient or contractor to provide a statement of written assurance that they will comply with Section 504 and not discriminate on the basis of disability.

Uniform Relocation Assistance and Real Property Acquisition Policies Act

The Uniform Relocation Assistance and Real Property Acquisition Policies Act, as amended (Public Law 91-646, as amended and Public Law 100-17, 101 Stat. 246-256). (If the contractor is acquiring real property and displacing households or businesses in the performance of the Agreement).

Drug-Free Workplace Act

The Drug-Free Workplace Act (Public Law 100-690 Title V, subtitle D, 41 USC 701 et seq.).

Age Discrimination Act of 1975

The Age Discrimination Act of 1975, 42 U.S.C. Sections 6101 et. seq. and its implementing regulation, 45 C.F.R. Part 91; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, as amended, and implementing regulation 45 C.F.R. Part 84.

23 C.F.R. Part 172

23 C.F.R. Part 172, concerning "Administration of Engineering and Design Related Contracts".

23 C.F.R Part 633

23 C.F.R Part 633, concerning "Required Contract Provisions for Federal-Aid Construction Contracts".

23 C.F.R. Part 635

23 C.F.R. Part 635, concerning "Construction and Maintenance Provisions".

Title VI of the Civil Rights Act of 1964 and 162(a) of the Federal Aid Highway Act of 1973

Title VI of the Civil Rights Act of 1964 and 162(a) of the Federal Aid Highway Act of 1973. The requirements for which are shown in the Nondiscrimination Provisions, which are attached hereto and made a part hereof.

Nondiscrimination Provisions:

In compliance with Title VI of the Civil Rights Act of 1964 and with Section 162(a) of the Federal Aid Highway Act of 1973, the Contractor, for itself, its assignees, and successors in interest, agree as follows:

i. Compliance with Regulations

The Contractor will comply with the Regulations of the Department of Transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this Agreement.

ii. Nondiscrimination

The Contractor, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the ground of race, color, sex, mental or physical handicap or national origin in the selection and retention of Subcontractors, including procurement of materials and leases of equipment. The Contractor will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix C of the Regulations.

iii. Solicitations for Subcontracts, Including Procurement of Materials and Equipment

In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurement of materials or equipment, each potential Subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Agreement and the Regulations relative to nondiscrimination on the ground of race, color, sex, mental or physical handicap or national origin.

iv. Information and Reports

The Contractor will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto and will permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of the Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the State, or the FHWA as appropriate and shall set forth what efforts have been made to obtain the information.

v. Sanctions for Noncompliance

In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Agreement, the State shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to: **a.** Withholding of payments to the Contractor under the contract until the Contractor complies, and/or **b.** Cancellation, termination or suspension of the contract, in whole or in part.

Incorporation of Provisions §22

The Contractor will include the provisions of this Exhibit J in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, orders, or instructions issued pursuant thereto. The Contractor will take such action with respect to any subcontract or procurement as the State or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event the Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or supplier as a result of such direction, the Contractor may request the State to enter into such litigation to protect the interest of the State and in addition, the Contractor may request the FHWA to enter into such litigation to protect the interests of the United States.

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SAMPLE

The United States Department of Transportation (USDOT) Standard Title VI/Non-Discrimination

Assurances for Local Agencies

DOT Order No. 1050.2A

The [Local Agency] (herein referred to as the "Recipient"), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the Colorado Department of Transportation and the Federal Highway Administration (FHWA), Federal Transit Administration (FTA), and Federal Aviation Administration (FAA), is subject to and will comply with the following:

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation-Effectuation Of Title VI Of The Civil Rights Act Of 1964);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity, for which the Recipient receives Federal financial assistance from DOT, including the FHWA, FTA, or FAA.

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non- discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted FHWA, FTA, and FAA assisted programs:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23(b) and 21.23(e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated or will be (with regard to a "facility") operated or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests for Proposals for work, or material subject to the Acts and the Regulations made in connection with all FHWA, FTA and FAA programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:
3. "The [Local Agency] in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity

4. to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."
5. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
6. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
7. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
8. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
9. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
10. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
 - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
11. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
12. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the [Local Agency] also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FHWA, FTA, and FAA's access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by CDOT, FHWA, FTA, or FAA. You must keep records, reports, and submit the material for review

upon request to CDOT, FHWA, FTA, or FAA, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

[Local Agency] gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the FHWA, FTA, and FAA. This ASSURANCE is binding on [Local Agency], other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the FHWA, FTA, and FAA funded programs. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

(Name of Recipient)

by _____
(Signature of Authorized Official)

DATED _____

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, FHWA, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the [Local Agency], CDOT or FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the [Local Agency], CDOT or FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the non-discrimination provisions of this contract, the [Local Agency] will impose such contract sanctions as it, CDOT or FHWA may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the [Local Agency], CDOT or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the [Local Agency] will accept title to the lands and maintain the project constructed thereon in accordance with (*Name of Appropriate Legislative Authority*), the Regulations for the Administration of (*Name of Appropriate Program*), and the policies and procedures prescribed by the FHWA of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the [Local Agency] all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto [Local Agency] and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the [Local Agency] its successors and assigns.

The [Local Agency], in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the [Local Agency] will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX C

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the [Local Agency] pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
 - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, [Local Agency] will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued. *
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the [Local Agency] will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the [Local Agency] and its assigns. *

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX D

CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by [Local Agency] pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non- discrimination covenants, [Local Agency] will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued. *
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, [Local Agency] will there upon revert to and vest in and become the absolute property of [Local Agency] of Transportation and its assigns. *

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

EXHIBIT K

FFATA SUPPLEMENTAL FEDERAL PROVISIONS

**State of Colorado
Supplemental Provisions for
Federally Funded Contracts, Grants, and Purchase Orders
Subject to
The Federal Funding Accountability and Transparency Act of 2006 (FFATA), As Amended
Revised as of 3-20-13**

The contract, grant, or purchase order to which these Supplemental Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Supplemental Provisions, the Special Provisions, the contract or any attachments or exhibits incorporated into and made a part of the contract, the provisions of these Supplemental Provisions shall control.

1. Definitions. For the purposes of these Supplemental Provisions, the following terms shall have the meanings ascribed to them below.

1.1. “Award” means an award of Federal financial assistance that a non-Federal Entity receives or administers in the form of:

- 1.1.1.** Grants;
- 1.1.2.** Contracts;
- 1.1.3.** Cooperative agreements, which do not include cooperative research and development agreements (CRDA) pursuant to the Federal Technology Transfer Act of 1986, as amended (15 U.S.C. 3710);
- 1.1.4.** Loans;
- 1.1.5.** Loan Guarantees;
- 1.1.6.** Subsidies;
- 1.1.7.** Insurance;
- 1.1.8.** Food commodities;
- 1.1.9.** Direct appropriations;
- 1.1.10.** Assessed and voluntary contributions; and
- 1.1.11.** Other financial assistance transactions that authorize the expenditure of Federal funds by non-Federal Entities.

Award *does not* include:

- 1.1.12.** Technical assistance, which provides services in lieu of money;
- 1.1.13.** A transfer of title to Federally-owned property provided in lieu of money; even if the award is called a grant;
- 1.1.14.** Any award classified for security purposes; or
- 1.1.15.** Any award funded in whole or in part with Recovery funds, as defined in section 1512 of the American Recovery and Reinvestment Act (ARRA) of 2009 (Public Law 111-5).

1.2. “Contract” means the contract to which these Supplemental Provisions are attached and includes all Award types in §1.1.1 through 1.1.11 above.

1.3. “Contractor” means the party or parties to a Contract funded, in whole or in part, with Federal financial assistance, other than the Prime Recipient, and includes grantees, subgrantees, Subrecipients, and borrowers. For purposes of Transparency Act reporting, Contractor does not include Vendors.

1.4. “Data Universal Numbering System (DUNS) Number” means the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify a business entity. Dun and Bradstreet’s website may be found at: <http://fedgov.dnb.com/webform>.

1.5. “Entity” means all of the following as defined at 2 CFR part 25, subpartC;

- 1.5.1.** A governmental organization, which is a State, local government, or Indian Tribe;
- 1.5.2.** A foreign public entity;
- 1.5.3.** A domestic or foreign non-profit organization;

- 1.5.4. A domestic or foreign for-profit organization; and
- 1.5.5. A Federal agency, but only a Subrecipient under an Award or Subaward to a non-Federal entity.
- 1.6. **“Executive”** means an officer, managing partner or any other employee in a management position.
- 1.7. **“Federal Award Identification Number (FAIN)”** means an Award number assigned by a Federal agency to a Prime Recipient.
- 1.8. **“FFATA”** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109- 282), as amended by §6202 of Public Law 110-252. FFATA, as amended, also is referred to as the “Transparency Act.”
- 1.9. **“Prime Recipient”** means a Colorado State agency or institution of higher education that receives an Award.
- 1.10. **“Subaward”** means a legal instrument pursuant to which a Prime Recipient of Award funds awards all or a portion of such funds to a Subrecipient, in exchange for the Subrecipient’s support in the performance of all or any portion of the substantive project or program for which the Award was granted.
- 1.11. **“Subrecipient”** means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term “Subrecipient” includes and may be referred to as Subgrantee.
- 1.12. **“Subrecipient Parent DUNS Number”** means the subrecipient parent organization’s 9-digit Data Universal Numbering System (DUNS) number that appears in the subrecipient’s System for Award Management (SAM) profile, if applicable.
- 1.13. **“Supplemental Provisions”** means these Supplemental Provisions for Federally Funded Contracts, Grants, and Purchase Orders subject to the Federal Funding Accountability and Transparency Act of 2006, As Amended, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institution of higher education.
- 1.14. **“System for Award Management (SAM)”** means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>.
- 1.15. **“Total Compensation”** means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year and includes the following:
- 1.15.1. Salary and bonus;
 - 1.15.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;
 - 1.15.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;
 - 1.15.4. Change in present value of defined benefit and actuarial pension plans;
 - 1.15.5. Above-market earnings on deferred compensation which is not tax-qualified;
 - 1.15.6. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.
- 1.16. **“Transparency Act”** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. The Transparency Act also is referred to as FFATA.
- 1.17 **“Vendor”** means a dealer, distributor, merchant or other seller providing property or services required for a project or program funded by an Award. A Vendor is not a Prime Recipient or a Subrecipient and is not subject to the terms and conditions of the Federal award. Program compliance requirements do not pass through to a Vendor.

2. **Compliance.** Contractor shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, including but not limited to these Supplemental Provisions. Any revisions to such provisions or regulations shall automatically become a part of these Supplemental Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Contractor of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.
3. **System for Award Management (SAM) and Data Universal Numbering System (DUNS) Requirements.**
 - 3.1. **SAM.** Contractor shall maintain the currency of its information in SAM until the Contractor submits the final financial report required under the Award or receives final payment, whichever is later. Contractor shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.
 - 3.2. **DUNS.** Contractor shall provide its DUNS number to its Prime Recipient, and shall update Contractor's information in Dun & Bradstreet, Inc. at least annually after the initial registration, and more frequently if required by changes in Contractor's information.
4. **Total Compensation.** Contractor shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:
 - 4.1. The total Federal funding authorized to date under the Award is \$25,000 or more; and
 - 4.2. In the preceding fiscal year, Contractor received:
 - 4.2.1. 80% or more of its annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 4.2.2. \$25,000,000 or more in annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 4.3. The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.
5. **Reporting.** Contractor shall report data elements to SAM and to the Prime Recipient as required in §7 below if Contractor is a Subrecipient for the Award pursuant to the Transparency Act. No direct payment shall be made to Contractor for providing any reports required under these Supplemental Provisions and the cost of producing such reports shall be included in the Contract price. The reporting requirements in §7 below are based on guidance from the US Office of Management and Budget (OMB), and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Contract and shall become part of Contractor's obligations under this Contract, as provided in §2 above. The Colorado Office of the State Controller will provide summaries of revised OMB reporting requirements at <http://www.colorado.gov/dpa/dfp/sco/FFATA.htm>.
6. **Effective Date and Dollar Threshold for Reporting.** The effective date of these Supplemental Provisions apply to new Awards as of October 1, 2010. Reporting requirements in §7 below apply to new Awards as of October 1, 2010, if the initial award is \$25,000 or more. If the initial Award is below \$25,000 but subsequent Award modifications result in a total Award of \$25,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$25,000. If the initial Award is \$25,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$25,000, the Award shall continue to be subject to the reporting requirements.
7. **Subrecipient Reporting Requirements.** If Contractor is a Subrecipient, Contractor shall report as set forth below.

7.1 To SAM. A Subrecipient shall register in SAM and report the following data elements in SAM *for each* Federal Award Identification Number no later than the end of the month following the month in which the Subaward was made:

7.1.1 Subrecipient DUNS Number;

7.1.2 Subrecipient DUNS Number + 4 if more than one electronic funds transfer (EFT) account;

7.1.3 Subrecipient Parent DUNS Number;

7.1.4 Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;

7.1.5 Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and

7.1.6 Subrecipient's Total Compensation of top 5 most highly compensated Executives if criteria in §4 above met.

7.2 To Prime Recipient. A Subrecipient shall report to its Prime Recipient, upon the effective date of the Contract, the following data elements:

7.2.1 Subrecipient's DUNS Number as registered in SAM.

7.2.2 Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.

8. Exemptions.

8.1. These Supplemental Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.

8.2 A Contractor with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.

8.3 Effective October 1, 2010, "Award" currently means a grant, cooperative agreement, or other arrangement as defined in Section 1.1 of these Special Provisions. On future dates "Award" may include other items to be specified by OMB in policy memoranda available at the OMB Web site; Award also will include other types of Awards subject to the Transparency Act.

8.4 There are no Transparency Act reporting requirements for Vendors.

Event of Default. Failure to comply with these Supplemental Provisions shall constitute an event of default under the Contract and the State of Colorado may terminate the Contract upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30 day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Contract, at law or in equity.

EXHIBIT L

SAMPLE SUBRECIPIENT MONITORING AND RISK ASSESSMENT

 CDOT SUBRECIPIENT RISK ASSESSMENT		Date:	
Name of Entity (Subrecipient):			
Name of Project / Program:			
Estimated Award Period:			
Entity Executive Director or VP:			
Entity Chief Financial Officer:			
Entity Representative for this Self Assessment:			
Instructions: (See "Instructions" tab for more information) 1. Check only one box for each question. All questions are required to be answered. 2. Utilize the "Comment" section below the last question for additional responses. 3. When complete, check the box at the bottom of the form to authorize.		Yes	No
		N/A	
EXPERIENCE ASSESSMENT		Yes	No
		N/A	
1	Is your entity new to operating or managing federal funds (has not done so within the past three years)?	☐	☐
2	Is this funding program new for your entity (managed for less than three years)? <i>Examples of funding programs include CMAQ, TAP, STP-M, etc.</i>	☐	☐
3	Does your staff assigned to the program have at least three full years of experience with this federal program?	☐	☐
MONITORING/AUDIT ASSESSMENT		Yes	No
		N/A	
4	Has your entity had an on-site project or grant review from an external entity (e.g., CDOT, FHWA) within the last three years?	☐	☐
5 a)	Were there non-compliance issues in this prior review?	☐	☐
5 b)	What were the number and extent of issues in prior review?	☐ 1 to 2	☐ >3
OPERATION ASSESSMENT		Yes	No
		N/A	
6	Does your entity have a time and effort reporting system in place to account for 100% of all employees' time, that can provide a breakdown of the actual time spent on each funded project? <i>If No, in the comment section please explain how you intend to document 100% of hours worked by employees and breakdown of time spent on each funding project.</i>	☐	☐
FINANCIAL ASSESSMENT		Yes	No
		N/A	
7 a)	Does your entity have an indirect cost rate that is approved and current?	☐	☐
7 b)	If Yes, who approved the rate, and what date was it approved?		
8	Is this grant/award 10% or more of your entity's overall funding?	☐ >10%	☐ <10%
9	Has your entity returned lapsed* funds? *Funds "lapse" when they are no longer available for obligation.	☐	☐
10	Has your entity had difficulty meeting local match requirements in the last three years?	☐	☐
11	What is the total federal funding your entity has been awarded for the last federal fiscal year, and what is your entity's fiscal year end?		

INTERNAL CONTROLS ASSESSMENT		Yes	No	N/A
12	Has your entity had any significant changes in key personnel or accounting system(s) in the last year? (e.g., Controller, Exec Director, Program Mgr, Accounting Mgr, etc.) If Yes, in the comment section, please identify the accounting system(s), and / or list personnel positions and identify any that are vacant.	☐	☐	☐
13	Does your entity have financial procedures and controls in place to accommodate a federal-aid project?	☐	☐	
14	Does your accounting system identify the receipts and expenditures of program funds separately for each award?	☐	☐	
15	Will your accounting system provide for the recording of expenditures for each award by the budget cost categories shown in the approved budget?	☐	☐	
16	Does your agency have a review process for all expenditures that will ensure that all costs are reasonable, allowable and allocated correctly to each funding source? If Yes, in the comment section, please explain your current process for reviewing costs.	☐	☐	☐
17	How many total FTE perform accounting functions within your organization?	☐ ≥ 6	☐ 2 to 5	☐ < 2
IMPACT ASSESSMENT		Yes	No	N/A
18	For this upcoming federal award or in the immediate future, does your entity have any potential conflicts of interest* in accordance with applicable Federal awarding agency policy? If Yes, please disclose these conflicts in writing, along with supporting information, and submit with this form. (*Any practices, activities or relationships that reasonably appear to be in conflict with the full performance of the Subrecipient's obligations to the State.)	☐	☐	
19	For this award, has your entity disclosed to CDOT, in writing, violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the award? Response options: YES = Check if have one or more violation(s) and have either disclosed previously to CDOT or as part of this form. In the comment section, list all violations with names of supporting documentation and submit with this form. NO = Check if have one or more violation(s) and have not disclosed previously or will not disclose as part of this form. Explain in the comment section. N/A = Check if have no violations.	☐	☐	☐
PROGRAM MANAGEMENT ASSESSMENT		Yes	No	N/A
20	Does your entity have a written process/procedure or certification statement approved by your governing board ensuring critical project personnel are capable of effectively managing Federal-aid projects? If Yes, please submit with this form.	☐	☐	☐
21	Does your entity have written procurement policies or certification statement for consultant selection approved by your governing board in compliance with 23 CFR 172*? If Yes, please submit with this form. (*The Brooks Act requires agencies to promote open competition by advertising, ranking, selecting, and negotiating contracts based on demonstrated competence and qualifications, at a fair and reasonable price.)	☐	☐	☐
22	a) Is your staff familiar with the relevant CDOT manuals and federal program requirements?	☐	☐	☐
	b) Does your entity have a written policy or a certification statement approved by your governing board assuring federal-aid projects will receive adequate inspections? If Yes, please submit with this form.	☐	☐	☐
	c) Does your entity have a written process or a certification statement approved by your governing board assuring a contractor's work will be completed in conformance with approved plans and specifications? If Yes, please submit with this form.	☐	☐	☐

d) Does your entity have a written policy or certification statement approved by your governing board assuring that materials installed on the projects are sampled and tested per approved processes. <i>If Yes, please submit with this form.</i>	☐	☐	☐
e) Does your entity have a written policy or certification statement approved by your governing board assuring that only US manufactured steel will be incorporated into the project (<i>Buy America requirements</i>)? <i>If Yes, please submit with this form.</i>	☐	☐	☐
Comments - As needed, include the question number and provide comments related to the above questions. Insert additional rows as needed.			
☐ By checking this box, the Executive Director, VP or Chief Financial Officer of this entity certifies that all information provided on this form is true and correct.  Tool Version: v2.0 (081816)			

EXHIBIT M

OMB UNIFORM GUIDANCE FOR FEDERAL AWARDS

**Subject to
The Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and
Audit Requirements for Federal Awards (“Uniform Guidance”),
Federal Register, Vol. 78, No. 248, 78590**

The agreement to which these Uniform Guidance Supplemental Provisions are attached has been funded, in whole or in part, with an award of Federal funds. In the event of a conflict between the provisions of these Supplemental Provisions, the Special Provisions, the agreement or any attachments or exhibits incorporated into and made a part of the agreement, the provisions of these Uniform Guidance Supplemental Provisions shall control. In the event of a conflict between the provisions of these Supplemental Provisions and the FFATA Supplemental Provisions, the FFATA Supplemental Provisions shall control.

1. Definitions. For the purposes of these Supplemental Provisions, the following terms shall have the meanings ascribed to them below.

- 1.1. “Award”** means an award by a Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Award unless the terms and conditions of the Federal Award specifically indicate otherwise. 2 CFR §200.38
- 1.2. “Federal Award”** means an award of Federal financial assistance or a cost-reimbursement contract under the Federal Acquisition Requirements by a Federal Awarding Agency to a Recipient. “Federal Award” also means an agreement setting forth the terms and conditions of the Federal Award. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.
- 1.3. “Federal Awarding Agency”** means a Federal agency providing a Federal Award to a Recipient. 2 CFR §200.37
- 1.4. “FFATA”** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252.
- 1.5. “Grant” or “Grant Agreement”** means an agreement setting forth the terms and conditions of an Award. The term does not include an agreement that provides only direct Federal cash assistance to an individual, a subsidy, a loan, a loan guarantee, insurance, or acquires property or services for the direct benefit of use of the Federal Awarding Agency or Recipient. 2 CFR §200.51.
- 1.6. “OMB”** means the Executive Office of the President, Office of Management and Budget.
- 1.7. “Recipient”** means a Colorado State department, agency or institution of higher education that receives a Federal Award from a Federal Awarding Agency to carry out an activity under a Federal program. The term does not include Subrecipients. 2 CFR §200.86
- 1.8. “State”** means the State of Colorado, acting by and through its departments, agencies and institutions of higher education.
- 1.9. “Subrecipient”** means a non-Federal entity receiving an Award from a Recipient to carry out part of a Federal program. The term does not include an individual who is a beneficiary of such program.
- 1.10. “Uniform Guidance”** means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which supersedes requirements from OMB Circulars A-21, A-87, A-110, and A-122, OMB Circulars A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.

- 1.11. “Uniform Guidance Supplemental Provisions”** means these Supplemental Provisions for Federal Awards subject to the OMB Uniform Guidance, as may be revised pursuant to ongoing guidance from relevant Federal agencies or the Colorado State Controller.
- 2. Compliance.** Subrecipient shall comply with all applicable provisions of the Uniform Guidance, including but not limited to these Uniform Guidance Supplemental Provisions. Any revisions to such provisions automatically shall become a part of these Supplemental Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Subrecipient of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.
- 3. Procurement Standards.**
- 3.1 Procurement Procedures.** Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation,
§§200.318 through 200.326 thereof.
- 3.2 Procurement of Recovered Materials.** If Subrecipient is a State Agency or an agency of a political subdivision of a state, its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- 4. Access to Records.** Subrecipient shall permit Recipient and auditors to have access to Subrecipient’s records and financial statements as necessary for Recipient to meet the requirements of §200.331 (Requirements for pass through entities), §§200.300 (Statutory and national policy requirements) through 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance. 2 CFR §200.331(a)(5).
- 5. Single Audit Requirements.** If Subrecipient expends \$750,000 or more in Federal Awards during Subrecipient’s fiscal year, Subrecipient shall procure or arrange for a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F-Audit Requirements of the Uniform Guidance, issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). 2 CFR §200.501.
- 5.1 Election.** Subrecipient shall have a single audit conducted in accordance with Uniform Guidance §200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with §200.507 (Program-specific audits). Subrecipient may elect to have a program-specific audit if Subrecipient expends Federal Awards under only one Federal program (excluding research and development) and the Federal program’s statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.
- 5.2 Exemption.** If Subrecipient expends less than \$750,000 in Federal Awards during its fiscal year, Subrecipient shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR §200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the State, and the Government

Accountability Office.

- 5.3 Subrecipient Compliance Responsibility.** Subrecipient shall procure or otherwise arrange for the audit required by Part F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. Subrecipient shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with Uniform Guidance §200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Part F-Audit Requirements.

- 6. Contract Provisions for Subrecipient Contracts.** Subrecipient shall comply with and shall include all of the following applicable provisions in all subcontracts entered into by it pursuant to this Grant Agreement.

- 6.1 Equal Employment Opportunity.** Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 shall include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

“During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments

under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled,

terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontractor purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however*, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.”

6.2 Davis-Bacon Act. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40

U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or Subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

6.3 Rights to Inventions Made Under a Contract or Agreement. If the Federal Award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and Subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” Subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

6.4 Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251- 1387), as amended. Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection

Agency (EPA).

6.5 Debarment and Suspension (Executive Orders 12549 and 12689). A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAMExclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

6.6 Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

7. Certifications. Unless prohibited by Federal statutes or regulations, Recipient may require Subrecipient to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR §200.208. Submission may be required more frequently if Subrecipient fails to meet a requirement of the Federal award. Subrecipient shall certify in writing to the State at the end of the Award that the project or activity was completed or the level of effort was expended. 2 CFR §200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.

7.1 Event of Default. Failure to comply with these Uniform Guidance Supplemental Provisions shall constitute an event of default under the Grant Agreement (2 CFR §200.339) and the State may terminate the Grant upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30 day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Grant, at law or in equity.

8. Effective Date. The effective date of the Uniform Guidance is December 26, 2013. 2 CFR §200.110. The procurement standards set forth in Uniform Guidance §§200.317-200.326 are applicable to new Awards made by Recipient as of December 26, 2015. The standards set forth in Uniform Guidance Subpart F-Audit Requirements are applicable to audits of fiscal years beginning on or after December 26, 2014.

9. Performance Measurement. The Uniform Guidance requires completion of OMB-approved standard information collection forms (the PPR). The form focuses on outcomes, as related to the Federal Award Performance Goals that awarding Federal agencies are required to detail in the Awards.

Section 200.301 provides guidance to Federal agencies to measure performance in a way that will help the Federal awarding agency and other non-Federal entities to improve program outcomes.

The Federal awarding agency is required to provide recipients with clear performance goals, indicators, and milestones (200.210). Also, must require the recipient to relate financial data to performance accomplishments of the Federal award.

Exhibit N

Federal Treasury Provisions

1. APPLICABILITY OF PROVISIONS.

- 1.1. The Grant to which these Federal Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Federal Provisions, the Special Provisions, the body of the Grant, or any attachments or exhibits incorporated into and made a part of the Grant, the provisions of these Federal Provisions shall control.
- 1.2. The State of Colorado is accountable to Treasury for oversight of their subrecipients, including ensuring their subrecipients comply with the SLFRF statute, SLFRF Award Terms and Conditions, Treasury's Final Rule, and reporting requirements, as applicable.
- 1.3. Additionally, any subrecipient that issues a subaward to another entity (2nd tier subrecipient), must hold the 2nd tier subrecipient accountable to these provisions and adhere to reporting requirements.
- 1.4. These Federal Provisions are subject to the Award as defined in §2 of these Federal Provisions, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institutions of higher education.

2. DEFINITIONS.

- 2.1. For the purposes of these Federal Provisions, the following terms shall have the meanings ascribed to them below.
 - 2.1.1. "Award" means an award of Federal financial assistance, and the Grant setting forth the terms and conditions of that financial assistance, that a non-Federal Entity receives or administers.
 - 2.1.2. "Data Universal Numbering System (DUNS) Number" means the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify a business entity. Dun and Bradstreet's website may be found at: <http://fedgov.dnb.com/webform>.
 - 2.1.3. "Entity" means:
 - 2.1.3.1. a Non-Federal Entity;
 - 2.1.3.2. a foreign public entity;
 - 2.1.3.3. a foreign organization;
 - 2.1.3.4. a non-profit organization;
 - 2.1.3.5. a domestic for-profit organization (for 2 CFR parts 25 and 170 only);
 - 2.1.3.6. a foreign non-profit organization (only for 2 CFR part 170) only;

- 2.1.3.7. a Federal agency, but only as a Subrecipient under an Award or Subaward to a non-Federal entity (or 2 CFR 200.1); or
- 2.1.3.8. a foreign for-profit organization (for 2 CFR part 170 only).
- 2.1.4. “Executive” means an officer, managing partner or any other employee in a management position.
- 2.1.5. “Expenditure Category (EC)” means the category of eligible uses as defined by the US Department of Treasury in “Appendix 1 of the Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds” report available at www.treasury.gov.
- 2.1.6. “Federal Awarding Agency” means a Federal agency providing a Federal Award to a Recipient as described in 2 CFR 200.1
- 2.1.7. “Grant” means the Grant to which these Federal Provisions are attached.
- 2.1.8. “Grantee” means the party or parties identified as such in the Grant to which these Federal Provisions are attached.
- 2.1.9. “Non-Federal Entity means a State, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a Federal Award as a Recipient or a Subrecipient.
- 2.1.10. “Nonprofit Organization” means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:
 - 2.1.10.1. Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
 - 2.1.10.2. Is not organized primarily for profit; and
 - 2.1.10.3. Uses net proceeds to maintain, improve, or expand the operations of the organization.
- 2.1.11. “OMB” means the Executive Office of the President, Office of Management and Budget.
- 2.1.12. “Pass-through Entity” means a non-Federal Entity that provides a Subaward to a Subrecipient to carry out part of a Federal program.
- 2.1.13. “Prime Recipient” means the Colorado State agency or institution of higher education identified as the Grantor in the Grant to which these Federal Provisions are attached.
- 2.1.14. “Subaward” means an award by a Prime Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Subaward unless the terms and conditions of the Federal Award specifically indicate otherwise in accordance with 2 CFR 200.101. The term does not include payments to a Contractor or payments to an individual that is a beneficiary of a Federal program.

- 2.1.15. “Subrecipient” or “Subgrantee” means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term does not include an individual who is a beneficiary of a federal program.
- 2.1.16. “System for Award Management (SAM)” means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>. “Total Compensation” means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year (see 48 CFR 52.204-10, as prescribed in 48 CFR 4.1403(a)) and includes the following:
- 2.1.16.1. Salary and bonus;
 - 2.1.16.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;
 - 2.1.16.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;
 - 2.1.16.4. Change in present value of defined benefit and actuarial pension plans;
 - 2.1.16.5. Above-market earnings on deferred compensation which is not tax-qualified;
 - 2.1.16.6. Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.
- 2.1.17. “Transparency Act” means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252.
- 2.1.18. “Uniform Guidance” means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.

3. COMPLIANCE.

- 3.1. Grantee shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, all applicable provisions of the Uniform Guidance, and all applicable Federal Laws and regulations required by this Federal Award. Any revisions to such provisions or regulations shall automatically become a part of these Federal Provisions, without the necessity of either party executing any further instrument. The State of Colorado, at its discretion, may provide written notification to Grantee of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.
- 3.2. Per US Treasury Final Award requirements, grantee programs or services must not include a term or conditions that undermines efforts to stop COVID-19 or discourages compliance with recommendations and CDC guidelines.

4. SYSTEM FOR AWARD MANAGEMENT (SAM) AND DATA UNIVERSAL NUMBERING SYSTEM (DUNS) REQUIREMENTS.

- 4.1. SAM. Grantee shall maintain the currency of its information in SAM until the Grantee submits the final financial report required under the Award or receives final payment, whichever is later. Grantee shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.
- 4.2. DUNS. Grantee shall provide its DUNS number to its Prime Recipient, and shall update Grantee's information in Dun & Bradstreet, Inc. at least annually after the initial registration, and more frequently if required by changes in Grantee's information.

5. TOTAL COMPENSATION.

- 5.1. Grantee shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:
 - 5.1.1. The total Federal funding authorized to date under the Award is \$30,000 or more; and
 - 5.1.2. In the preceding fiscal year, Grantee received:
 - 5.1.2.1. 80% or more of its annual gross revenues from Federal procurement Agreements and Subcontractors and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 5.1.2.2. \$30,000,000 or more in annual gross revenues from Federal procurement Agreements and Subcontractors and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 5.1.2.3. 5.1.2.3 The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.

6. REPORTING.

- 6.1. If Grantee is a Subrecipient of the Award pursuant to the Transparency Act, Grantee shall report data elements to SAM and to the Prime Recipient as required in this Exhibit. No direct payment shall be made to Grantee for providing any reports required under these Federal Provisions and the cost of producing such reports shall be included in the Grant price. The reporting requirements in this Exhibit are based on guidance from the OMB, and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Grant and shall become part of Grantee's obligations under this Grant.

7. EFFECTIVE DATE AND DOLLAR THRESHOLD FOR FEDERAL REPORTING.

- 7.1. Reporting requirements in §8 below apply to new Awards as of October 1, 2010, if the initial award is \$30,000 or more. If the initial Award is below \$30,000 but subsequent Award modifications result in a total Award of \$30,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$30,000. If the initial Award is \$30,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$30,000, the Award shall continue to be subject to the reporting requirements. If the total award is below \$30,000 no reporting required; if more than \$30,000 and less than \$50,000 then FFATA reporting is required; and, \$50,000 and above SLFRF reporting is required.
- 7.2. The procurement standards in §9 below are applicable to new Awards made by Prime Recipient as of December 26, 2015. The standards set forth in §11 below are applicable to audits of fiscal years beginning on or after December 26, 2014.

8. SUBRECIPIENT REPORTING REQUIREMENTS.

- 8.1. Grantee shall report as set forth below.
 - 8.1.1. Grantee shall use the SLFRF Subrecipient Quarterly Report Workbook as referenced in Exhibit P to report to the State Agency within ten (10) days following each quarter ended September, December, March and June. Additional information on specific requirements are detailed in the SLFRF Subrecipient Quarterly Report Workbooks and "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov.

EC 1 – Public Health

All Public Health Projects

- a) Description of structure and objectives
- b) Description of relation to COVID-19
- c) Identification of impacted and/or disproportionately impacted communities
- d) Capital Expenditures
 - i. Presence of capital expenditure in project
 - ii. Total projected capital expenditure
 - iii. Type of capital expenditure
 - iv. Written justification

- v. Labor reporting

COVID-19 Interventions and Mental Health (1.4, 1.11, 1.12, 1.13)

- a) Amount of total project used for evidence-based programs
- b) Evaluation plan description

COVID-19 Small Business Economic Assistance (1.8)

- a) Number of small businesses served

COVID-19 Assistance to Non-Profits (1.9)

- a) Number of non-profits served

COVID-19 Aid to Travel, Tourism, and Hospitality or Other Impacted Industries (1.10)

- a) Sector of employer
- b) Purpose of funds

EC 2 – Negative Economic Impacts

All Negative Economic Impacts Projects

- a) Description of project structure and objectives
- b) Description of project's response to COVID-19
- c) Identification of impacted and/or disproportionately impacted communities
- d) Amount of total project used for evidence-based programs and description of evaluation plan (*not required for 2.5, 2.8, 2.21-2.24, 2.27-2.29, 2.31, 2.34-2.36*)
- e) Number of workers enrolled in sectoral job training programs
- f) Number of workers completing sectoral job training programs
- g) Number of people participating in summer youth employment programs
- h) Capital Expenditures
 - i. Presence of capital expenditure in project
 - ii. Total projected capital expenditure
 - iii. Type of capital expenditure
 - iv. Written justification
 - v. Labor reporting

Household Assistance (2.1-2.8)

- a) Number of households served
- b) Number of people or households receiving eviction prevention services (2.2 & 2.5 only) (*Federal guidance may change this requirement in July 2022*)
- c) Number of affordable housing units preserved or developed (2.2 & 2.5 only) (*Federal guidance may change this requirement in July 2022*)

Healthy Childhood Environments (2.11-2.13)

- a) Number of children served by childcare and early learning (*Federal guidance may change this requirement in July 2022*)
- b) Number of families served by home visiting (*Federal guidance may change this requirement in July 2022*)

Education Assistance (2.14, 2.24-2.27)

- a) National Center for Education Statistics (“NCES”) School ID or NCES District ID
- b) Number of students participating in evidence-based programs (*Federal guidance may change this requirement in July 2022*)

Housing Support (2.15, 2.16, 2.18)

- a) Number of people or households receiving eviction prevention services (*Federal guidance may change this requirement in July 2022*)
- b) Number of affordable housing units preserved or developed (*Federal guidance may change this requirement in July 2022*)

Small Business Economic Assistance (2.29-2.33)

- a) Number of small businesses served

Assistance to Non-Profits (2.34)

- a) Number of non-profits served

Aid to Travel, Tourism, and Hospitality or Other Impacted Industries (2.35-2.36)

- a) Sector of employer
- b) Purpose of funds
- c) If other than travel, tourism and hospitality (2.36) – description of hardship

EC 3 – Public Health – Negative Economic Impact: Public Sector Capacity

Payroll for Public Health and Safety Employees (EC 3.1)

- a) Number of government FTEs responding to COVID-19

Rehiring Public Sector Staff (EC 3.2)

- a) Number of FTEs rehired by governments

EC 4 – Premium Pay

All Premium Pay Projects

- a) List of sectors designated as critical by the chief executive of the jurisdiction, if beyond those listed in the final rule
- b) Numbers of workers served
- c) Employer sector for all subawards to third-party employers
- d) Written narrative justification of how premium pay is responsive to essential work during the public health emergency for non-exempt workers or those making over 150 percent of the state/county’s average annual wage
- e) Number of workers to be served with premium pay in K-12 schools

EC 5 – Infrastructure Projects

All Infrastructure Projects

- a) Projected/actual construction start date (month/year)
- b) Projected/actual initiation of operations date (month/year)
- c) Location (for broadband, geospatial data of locations to be served)
- d) Projects over \$10 million
 - i. Prevailing wage certification or detailed project employment and local impact report

- ii. Project labor agreement certification or project workforce continuity plan
- iii. Prioritization of local hires
- iv. Community benefit agreement description, if applicable

Water and sewer projects (EC 5.1-5.18)

- a) National Pollutant Discharge Elimination System (NPDES) Permit Number (if applicable; for projects aligned with the Clean Water State Revolving Fund)
- b) Public Water System (PWS) ID number (if applicable; for projects aligned with the Drinking Water State Revolving Fund)
- c) Median Household Income of service area
- d) Lowest Quintile Income of the service area

Broadband projects (EC 5.19-5.21)

- a) Confirm that the project is designed to, upon completion, reliably meet or exceed symmetrical 100 Mbps download and upload speeds.
 - i. If the project is not designed to reliably meet or exceed symmetrical 100 Mbps download and upload speeds, explain why not, and
 - ii. Confirm that the project is designed to, upon completion, meet or exceed 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed, and be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed.
- b) Additional programmatic data will be required for broadband projects and will be defined in a subsequent version of the US Treasury Reporting Guidance, including, but not limited to (*Federal guidance may change this requirement in July 2022*):
 - i. Number of households (broken out by households on Tribal lands and those not on Tribal lands) that have gained increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, with the number of households with access to minimum speed standard of reliable 100 Mbps symmetrical upload and download and number of households with access to minimum speed standard of reliable 100 Mbps download and 20 Mbps upload
 - ii. Number of institutions and businesses (broken out by institutions on Tribal lands and those not on Tribal lands) that have projected increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, in each of the following categories: business, small business, elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization, with the number of each type of institution with access to the minimum

- speed standard of reliable 100 Mbps symmetrical upload and download; and number of each type of institution with access to the minimum speed standard of reliable 100 Mbps download and 20 Mbps upload.
- iii. Narrative identifying speeds/pricing tiers to be offered, including the speed/pricing of its affordability offering, technology to be deployed, miles of fiber, cost per mile, cost per passing, number of households (broken out by households on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, number of households with access to minimum speed standard of reliable 100 Mbps symmetrical upload and download, number of households with access to minimum speed standard of reliable 100 Mbps download and 20 Mbps upload, and number of institutions and businesses (broken out by institutions on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, in each of the following categories: business, small business, elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization. Specify the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps symmetrical upload and download; and the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps download and 20 Mbps upload.

All Expenditure Categories

- a) Program income earned and expended to cover eligible project costs

8.1.2. A Subrecipient shall report the following data elements to Prime Recipient no later than five days after the end of the month following the month in which the Subaward was made.

- 8.1.2.1. Subrecipient DUNS Number;
- 8.1.2.2. Subrecipient DUNS Number if more than one electronic funds transfer (EFT) account;
- 8.1.2.3. Subrecipient parent's organization DUNS Number;
- 8.1.2.4. Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;
- 8.1.2.5. Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and

- 8.1.2.6. Subrecipient's Total Compensation of top 5 most highly compensated Executives if the criteria in §4 above met.
- 8.1.3. To Prime Recipient. A Subrecipient shall report to its Prime Recipient, the following data elements:
- 8.1.3.1. Subrecipient's DUNS Number as registered in SAM.
 - 8.1.3.2. Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.
 - 8.1.3.3. Narrative identifying methodology for serving disadvantaged communities. See the "Project Demographic Distribution" section in the "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov. This requirement is applicable to all projects in Expenditure Categories 1 and 2.
 - 8.1.3.4. Narrative identifying funds allocated towards evidenced-based interventions and the evidence base. See the "Use of Evidence" section in the "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov. See section 8.1.1 for relevant Expenditure Categories.
 - 8.1.3.5. Narrative describing the structure and objectives of the assistance program and in what manner the aid responds to the public health and negative economic impacts of COVID-19. This requirement is applicable to Expenditure Categories 1 and 2. For aid to travel, tourism, and hospitality or other impacted industries (EC 2.11-2.12), also provide the sector of employer, purpose of funds, and if not travel, tourism and hospitality a description of the pandemic impact on the industry.
 - 8.1.3.6. Narrative identifying the sector served and designated as critical to the health and well-being of residents by the chief executive of the jurisdiction and the number of workers expected to be served. For groups of workers (e.g., an operating unit, a classification of worker, etc.) or, to the extent applicable, individual workers, other than those where the eligible worker receiving premium pay is earning (with the premium pay included) below 150 percent of their residing state or county's average annual wage for all occupations, as defined by the Bureau of Labor Statistics Occupational Employment and Wage Statistics, whichever is higher, OR the eligible worker receiving premium pay is not exempt from the Fair Labor Standards Act overtime provisions, include justification of how the premium pay or grant is responsive to workers performing essential work during the public health emergency. This could include a description of the essential workers' duties, health or financial risks faced due to COVID-19 but should not include personally identifiable information. This requirement applies to EC 4.1, and 4.2.
 - 8.1.3.7. For infrastructure projects (EC 5), or capital expenditures in any expenditure category, narrative identifying the projected construction start date (month/year), projected initiation of operations date (month/year), and

location (for broadband, geospatial location data). For projects over \$10 million:

- 8.1.3.8. Certification that all laborers and mechanics employed by Contractors and Subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act"), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the Agreement work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate State entity pursuant to a corollary State prevailing-wage-in-construction law (commonly known as "baby Davis-Bacon Acts"). If such certification is not provided, a recipient must provide a project employment and local impact report detailing (1) the number of employees of Contractors and sub-contractors working on the project; (2) the number of employees on the project hired directly and hired through a third party; (3) the wages and benefits of workers on the project by classification; and (4) whether those wages are at rates less than those prevailing. Recipients must maintain sufficient records to substantiate this information upon request.
- 8.1.3.8.1. A Subrecipient may provide a certification that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)). If the recipient does not provide such certification, the recipient must provide a project workforce continuity plan, detailing: (1) how the Subrecipient will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project; (2) how the Subrecipient will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project; and (3) how the Subrecipient will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities; (4) whether workers on the project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market; and (5) whether the project has completed a project labor agreement.
- 8.1.3.8.2. Whether the project prioritizes local hires.
- 8.1.3.8.3. Whether the project has a Community Benefit Agreement, with a description of any such agreement.
- 8.1.4. Subrecipient also agrees to comply with any reporting requirements established by the US Treasury, Governor's Office and Office of the State Controller. The State of Colorado may need additional reporting requirements after this agreement is executed. If there are additional reporting requirements, the State will provide notice of such additional reporting requirements via Exhibit Q – SLFRF Reporting Modification Form.

9. PROCUREMENT STANDARDS.

- 9.1. Procurement Procedures. A Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and applicable regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, 2 CFR 200.318 through 200.327 thereof.
- 9.2. Domestic preference for procurements (2 CFR 200.322). As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all Agreements and purchase orders for work or products under this award.
- 9.3. Procurement of Recovered Materials. If a Subrecipient is a State Agency or an agency of a political subdivision of the State, its Contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247, that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

10. ACCESS TO RECORDS.

- 10.1. A Subrecipient shall permit Prime Recipient and its auditors to have access to Subrecipient's records and financial statements as necessary for Recipient to meet the requirements of 2 CFR 200.332 (Requirements for pass-through entities), 2 CFR 200.300 (Statutory and national policy requirements) through 2 CFR 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance.

11. SINGLE AUDIT REQUIREMENTS.

- 11.1. If a Subrecipient expends \$750,000 or more in Federal Awards during the Subrecipient's fiscal year, the Subrecipient shall procure or arrange for a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F-Audit Requirements of the Uniform Guidance, issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). 2 CFR 200.501.

- 11.1.1. Election. A Subrecipient shall have a single audit conducted in accordance with Uniform Guidance 2 CFR 200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with 2 CFR 200.507 (Program-specific audits). The Subrecipient may elect to have a program-specific audit if Subrecipient expends Federal Awards under only one Federal program (excluding research and development) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Prime Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.
- 11.1.2. Exemption. If a Subrecipient expends less than \$750,000 in Federal Awards during its fiscal year, the Subrecipient shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR 200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the State, and the Government Accountability Office.
- 11.1.3. Subrecipient Compliance Responsibility. A Subrecipient shall procure or otherwise arrange for the audit required by Subpart F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. Subrecipient shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with 2 CFR 200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Subpart F-Audit Requirements.

12. GRANT PROVISIONS FOR SUBRECIPIENT AGREEMENTS.

- 12.1. In addition to other provisions required by the Federal Awarding Agency or the Prime Recipient, Grantees that are Subrecipients shall comply with the following provisions. Subrecipients shall include all of the following applicable provisions in all Subcontractors entered into by it pursuant to this Grant.
 - 12.1.1. [Applicable to federally assisted construction Agreements.] Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all Agreements that meet the definition of "federally assisted construction Agreement" in 41 CFR Part 60-1.3 shall include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, Office of Federal Agreement Compliance Programs, Equal Employment Opportunity, Department of Labor.
 - 12.1.2. [Applicable to on-site employees working on government-funded construction, alteration and repair projects.] Davis-Bacon Act. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).

- 12.1.3. Rights to Inventions Made Under a grant or agreement. If the Federal Award meets the definition of “funding agreement” under 37 CFR 401.2 (a) and the Prime Recipient or Subrecipient wishes to enter into an Agreement with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the Prime Recipient or Subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Agreements and Cooperative Agreements,” and any implementing regulations issued by the Federal Awarding Agency.
- 12.1.4. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended. Agreements and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal awardees to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Awarding Agency and the Regional Office of the Environmental Protection Agency (EPA).
- 12.1.5. Debarment and Suspension (Executive Orders 12549 and 12689). A Agreement award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in SAM, in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- 12.1.6. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal Agreement, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- 12.1.7. Never Agreement with the enemy (2 CFR 200.215). Federal awarding agencies and recipients are subject to the regulations implementing “Never Agreement with the enemy” in 2 CFR part 183. The regulations in 2 CFR part 183 affect covered Agreements, grants and cooperative agreements that are expected to exceed \$50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

12.1.8. Prohibition on certain telecommunications and video surveillance services or equipment (2 CFR 200.216). Grantee is prohibited from obligating or expending loan or grant funds on certain telecommunications and video surveillance services or equipment pursuant to 2 CFR 200.216.

12.1.9. Title VI of the Civil Rights Act. The Subgrantee, Contractor, Subcontractor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S. C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CRF Part 22, and herein incorporated by reference and made part of this Agreement or agreement.

13. CERTIFICATIONS.

13.1. Subrecipient Certification. Subrecipient shall sign a "State of Colorado Agreement with Recipient of Federal Recovery Funds" Certification Form in Exhibit O and submit to State Agency with signed grant agreement.

13.2. Unless prohibited by Federal statutes or regulations, Prime Recipient may require Subrecipient to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR 200.208. Submission may be required more frequently if Subrecipient fails to meet a requirement of the Federal award. Subrecipient shall certify in writing to the State at the end of the Award that the project or activity was completed or the level of effort was expended. 2 CFR 200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.

14. EXEMPTIONS.

14.1. These Federal Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.

14.2. A Grantee with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.

15. EVENT OF DEFAULT AND TERMINATION.

15.1. Failure to comply with these Federal Provisions shall constitute an event of default under the Grant and the State of Colorado may terminate the Grant upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30-day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Grant, at law or in equity.

15.2. Termination (2 CFR 200.340). The Federal Award may be terminated in whole or in part as follows:

- 15.2.1. By the Federal Awarding Agency or Pass-through Entity, if a Non-Federal Entity fails to comply with the terms and conditions of a Federal Award;
- 15.2.2. By the Federal awarding agency or Pass-through Entity, to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities;
- 15.2.3. By the Federal awarding agency or Pass-through Entity with the consent of the Non-Federal Entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;
- 15.2.4. By the Non-Federal Entity upon sending to the Federal Awarding Agency or Pass-through Entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal Awarding Agency or Pass-through Entity determines in the case of partial termination that the reduced or modified portion of the Federal Award or Subaward will not accomplish the purposes for which the Federal Award was made, the Federal Awarding Agency or Pass-through Entity may terminate the Federal Award in its entirety; or

By the Federal Awarding Agency or Pass-through Entity pursuant to termination provisions included in the Federal Award.

EXHIBIT O

AGREEMENT WITH SUBSUBRECIPIENT OF FEDERAL RECOVERY FUNDS

Section 602(b) of the Social Security Act (the Act), as added by section 9901 of the American Rescue Plan Act (ARPA), Pub. L. No. 117-2 (March 11, 2021), authorizes the Department of the Treasury (Treasury) to make payments to certain Subrecipients from the Coronavirus State Fiscal Recovery Fund. The State of Colorado has signed and certified a separate agreement with Treasury as a condition of receiving such payments from the Treasury. This agreement is between your organization and the State and your organization is signing and certifying the same terms and conditions included in the State's separate agreement with Treasury. Your organization is referred to as a Subrecipient.

As a condition of your organization receiving federal recovery funds from the State, the authorized representative below hereby (i) certifies that your organization will carry out the activities listed in section 602(c) of the Act and (ii) agrees to the terms attached hereto. Your organization also agrees to use the federal recovery funds as specified in bills passed by the General Assembly and signed by the Governor.

Under penalty of perjury, the undersigned official certifies that the authorized representative has read and understood the organization's obligations in the Assurances of Compliance and Civil Rights Requirements, that any information submitted in conjunction with this assurances document is accurate and complete, and that the organization is in compliance with the nondiscrimination requirements.

Subrecipient Name _____

Authorized Representative: _____

Title: _____

Signature: _____

AGREEMENT WITH SUBRECIPIENT OF FEDERAL RECOVERY FUNDS
TERMS AND CONDITIONS

1. Use of Funds.
 - a. Subrecipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 602(c) of the Social Security Act (the Act) and Treasury's regulations implementing that section and guidance.
 - b. Subrecipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.
2. Period of Performance. The period of performance for this award begins on the date hereof and ends on December 31, 2026. As set forth in Treasury's implementing regulations, Subrecipient may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021, and ends on December 31, 2024.
3. Reporting. Subrecipient agrees to comply with any reporting obligations established by Treasury as they relate to this award. Subrecipient also agrees to comply with any reporting requirements established by the Governor's Office and Office of the State Controller.
4. Maintenance of and Access to Records
 - a. Subrecipient shall maintain records and financial documents sufficient to evidence compliance with section 602(c), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Subrecipient in order to conduct audits or other investigations.
 - c. Records shall be maintained by Subrecipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.
5. Pre-award Costs. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.
6. Administrative Costs. Subrecipient may use funds provided under this award to cover both direct and indirect costs. Subrecipient shall follow guidance on administrative costs issued by the Governor's Office and Office of the State Controller.
7. Cost Sharing. Cost sharing or matching funds are not required to be provided by Subrecipient.
8. Conflicts of Interest. The State of Colorado understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy

is applicable to each activity funded under this award. Subrecipient and Contractors must disclose in writing to the Office of the State Controller or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112. The Office of the State Controller shall disclose such conflict to Treasury.

9. Compliance with Applicable Law and Regulations.

a. Subrecipient agrees to comply with the requirements of section 602 of the Act, regulations adopted by Treasury pursuant to section 602(f) of the Act, and guidance issued by Treasury regarding the foregoing. Subrecipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Subrecipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.

b. Federal regulations applicable to this award include, without limitation, the following:

- i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
- ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
- iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
- iv. OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (Agreements and Subcontractors described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
 - i. Subrecipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - ii. Government wide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
 - iii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
 - iv. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.

- v. Generally applicable federal environmental laws and regulations.
- c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:
- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
 - ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
10. Remedial Actions. In the event of Subrecipient's noncompliance with section 602 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 602(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 602(e) of the Act and any additional payments may be subject to withholding as provided in sections 602(b)(6)(A)(ii)(III) of the Act, as applicable.
11. Hatch Act. Subrecipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
12. False Statements. Subrecipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or Agreements, and/or any other remedy available by law.

13. Publications. Any publications produced with funds from this award must display the following language: “This project [is being] [was] supported, in whole or in part, by federal award number SLFRF0126 awarded to the State of Colorado by the U.S. Department of the Treasury.”

14. Debts Owed the Federal Government.

- a. Any funds paid to the Subrecipient (1) in excess of the amount to which the Subrecipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to sections 602(e) and 603(b)(2)(D) of the Act and have not been repaid by the Subrecipient shall constitute a debt to the federal government.
- b. Any debts determined to be owed to the federal government must be paid promptly by Subrecipient. A debt is delinquent if it has not been paid by the date specified in Treasury’s initial written demand for payment, unless other satisfactory arrangements have been made or if the Subrecipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.

15. Disclaimer.

- a. The United States expressly disclaims any and all responsibility or liability to Subrecipient or third persons for the actions of Subrecipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any Agreement, or Subcontractor under this award.
- b. The acceptance of this award by Subrecipient does not in any way establish an agency relationship between the United States and Subrecipient.

16. Protections for Whistleblowers.

- a. In accordance with 41 U.S.C. § 4712, Subrecipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal Agreement or grant, a gross waste of federal funds, an abuse of authority relating to a federal Agreement or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal Agreement (including the competition for or negotiation of an Agreement) or grant.
- b. The list of persons and entities referenced in the paragraph above includes the following:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;

- iii. The Government Accountability Office;
- iv. A Treasury employee responsible for Agreement or grant oversight or management;
- v. An authorized official of the Department of Justice or other law enforcement agency;
- vi. A court or grand jury; or
- vii. A management official or other employee of Subrecipient, Contractor, or Subcontractor who has the responsibility to investigate, discover, or address misconduct.

c. Subrecipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

17. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Subrecipient should encourage its Contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

1. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Subrecipient should encourage its employees, Subrecipients, and Contractorsto adopt and enforce policies that ban text messaging while driving, and Subrecipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

ASSURANCES OF COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS

ASSURANCES OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

As a condition of receipt of federal financial assistance from the Department of the Treasury, the Subrecipient provides the assurances stated herein. The federal financial assistance may include federal grants, loans and Agreements to provide assistance to the Subrecipient's beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass Agreements of guarantee or insurance, regulated programs, licenses, procurement Agreements by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Subrecipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Subrecipient's program(s) and activity(ies), so long as any portion of the Subrecipient's program(s) or activity(ies) is federally assisted in the manner prescribed above.

1. Subrecipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d *et seq.*), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
2. Subrecipient acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Subrecipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Subrecipient shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Subrecipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Subrecipient's programs, services, and activities.
3. Subrecipient agrees to consider the need for language services for LEP persons when Subrecipient develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.

4. Subrecipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Subrecipient and Subrecipient's successors, transferees, and assignees for the period in which such assistance is provided.
5. Subrecipient acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every Agreement or agreement subject to Title VI and its regulations between the Subrecipient and the Subrecipient's sub-grantees, Contractors, Subcontractors, successors, transferees, and assignees:

The sub-grantee, Contractor, Subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits Subrecipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this Agreement or agreement.

6. Subrecipient understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Subrecipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Subrecipient for the period during which it retains ownership or possession of the property.
7. Subrecipient shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Subrecipient shall comply with information requests, on-site compliance reviews and reporting requirements.
8. Subrecipient shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Subrecipient also must inform the Department of the Treasury if Subrecipient has received no complaints under Title VI.
9. Subrecipient must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other agreements between the Subrecipient and the administrative agency that made the finding. If the Subrecipient settles a case or matter alleging such discrimination, the Subrecipient must provide documentation of the settlement. If Subrecipient has not been the subject of any court or administrative agency finding of

discrimination, please so state.

10. If the Subrecipient makes sub-awards to other agencies or other entities, the Subrecipient is responsible for ensuring that sub-Subrecipients also comply with Title VI and other applicable authorities covered in this document State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that that they are effectively monitoring the civil rights compliance of sub- Subrecipients.

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

EXHIBIT P

SLFRF SUBRECIPIENT QUARTERLY REPORT

1. SLFRF SUBRECIPIENT QUARTERLY REPORT WORKBOOK

- 1.1 The SLFRF Subrecipient Quarterly Report Workbook must be submitted to the State Agency within ten (10) days following each quarter ended September, December, March and June. The SLFRF Subrecipient Quarterly Report Workbook can be found at:

<https://osc.colorado.gov/american-rescue-plan-act> (see SLFRF Grant Agreement Templates tab)

EXHIBIT Q

SAMPLE SLFRF REPORTING MODIFICATION FORM

Local Agency:			Agreement No:	
Project Title:			Project No:	
Project Duration:	To:		From:	
State Agency:	CDOT			

This form serves as notification that there has been a change to the reporting requirements set forth in the original SLFRF Grant Agreement.

The following reporting requirements have been (add/ remove additional rows as necessary):

Updated Reporting Requirement (Add/Delete/Modify)	Project Number	Reporting Requirement

By signing this form, the Local Agency agrees to and acknowledges the changes to the reporting requirements set forth in the original SLFRF Grant Agreement. All other terms and conditions of the original SLFRF Grant Agreement, with any approved modifications, remain in full force and effect. Grantee shall submit this form to the State Agency within 10 business days of the date sent by that Agency.

Local Agency

Date

CDOT Program Manager

Date

EXHIBIT R
APPLICABLE FEDERAL AWARDS

FEDERAL AWARD(S) APPLICABLE TO THIS GRANT AWARD

Federal Awarding Office	US Department of the Treasury
Grant Program	Coronavirus State and Local Fiscal Recovery Funds
Assistance Listing Number	21.027
Federal Award Number	SLFRP0126
Federal Award Date *	May 18, 2021
Federal Award End Date	December 31, 2024
Federal Statutory Authority	Title VI of the Social Security Act, Section 602
Total Amount of Federal Award (this is <u>not</u> the amount of this grant agreement)	\$3,828,761,790

* Funds may not be available through the Federal Award End Date subject to the provisions in §2 and §5 below.

EXHIBIT S

PII Certification

STATE OF COLORADO

LOCAL AGENCY CERTIFICATION FOR ACCESS TO PII THROUGH A DATABASE OR AUTOMATED NETWORK

Pursuant to § 24-74-105, C.R.S., I, _____, on behalf of _____ (legal name of Local Agency) (the “Local Agency”), hereby certify under the penalty of perjury that the Local Agency has not and will not use or disclose any Personal Identifying Information, as defined by § 24-74-102(1), C.R.S., for the purpose of investigating for, participating in, cooperating with, or assisting Federal Immigration Enforcement, including the enforcement of civil immigration laws, and the Illegal Immigration and Immigrant Responsibility Act, which is codified at 8 U.S.C. §§ 1325 and 1326, unless required to do so to comply with Federal or State law, or to comply with a court-issued subpoena, warrant or order.

I hereby represent and certify that I have full legal authority to execute this certification on behalf of the Local Agency.

Signature: _____

Printed Name: _____

Title: _____

Date: _____

EXHIBIT T

CHECKLIST OF REQUIRED EXHIBITS DEPENDENT ON FUNDING SOURCE

Checklist for required exhibits due to funding sources. Required Exhibits are dependent on the source of funding. This is a guide to assist in the incorporation and completion of Exhibits in relation to funding sources.

Exhibit	Funding only from FHWA	Funding only from ARPA	FHWA and ARPA Funding
EXHIBIT A, SCOPE OF WORK	✓	✓	✓
EXHIBIT B, SAMPLE OPTION LETTER	✓	✓	✓
EXHIBIT C, FUNDING PROVISIONS	✓	✓	✓
EXHIBIT D, LOCAL AGENCY RESOLUTION (IF APPLICABLE)	✓	✓	✓
EXHIBIT E, LOCAL AGENCY AGREEMENT ADMINISTRATION CHECKLIST	✓	✓	✓
EXHIBIT F, CERTIFICATION FOR FEDERAL-AID AGREEMENTS	✓		✓
EXHIBIT G, DISADVANTAGED BUSINESS ENTERPRISE	✓		✓
EXHIBIT H, LOCAL AGENCY PROCEDURES FOR CONSULTANT SERVICES	✓		✓
EXHIBIT I, FEDERAL-AID AGREEMENT PROVISIONS FOR CONSTRUCTION AGREEMENTS	✓		✓
EXHIBIT J, ADDITIONAL FEDERAL REQUIREMENTS	✓		✓
EXHIBIT K, FFATA SUPPLEMENTAL FEDERAL PROVISIONS	✓	✓	✓
EXHIBIT L, SAMPLE SUBRECIPIENT MONITORING AND RISK ASSESSMENT FORM	✓	✓	✓
EXHIBIT M, OMB UNIFORM GUIDANCE FOR FEDERAL AWARDS	✓		✓

EXHIBIT N, FEDERAL TREASURY PROVISIONS		✓	✓
EXHIBIT O, AGREEMENT WITH SUBRECIPIENT OF FEDERAL RECOVERY FUNDS		✓	✓
EXHIBIT P, SLFRF SUBRECIPIENT QUARTERLY REPORT		✓	✓
EXHIBIT Q, SLFRF REPORTING MODIFICATION FORM		✓	✓
EXHIBIT R, APPLICABLE FEDERAL AWARDS		✓	✓
EXHIBIT S, PII CERTIFICATAION	✓	✓	✓
EXHIBIT T, CHECKLIST OF REQUIRED EXHIBITS DEPENDENT ON FUNDING SOURCE	✓	✓	✓

GRANT CERTIFICATION

To: Heather Graham, President of the City Council
Nicholas Gradisar, Mayor

Re: Safe Routes to School FY 2021, Grant for Haaff Elementary School_____

I hereby certify that I have reviewed and am familiar with the attached documents, and to the best of my knowledge and belief, the City has the present ability to comply with all special conditions, certifications and assurances therein contained.

Name (print) Kelly Grisham

12/27/22

Date

Title: Senior Planner



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: January 9, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Scott Hobson, Acting Director Planning and Community Development

SUBJECT: AN ORDINANCE APPROVING THE FOURTH AMENDMENT TO THE ANNEXATION AGREEMENT FOR THE AREA COMMONLY KNOWN AND DESCRIBED AS NORTH OF RED CREEK SPRINGS ROAD AND EAST OF THE GOODNIGHT ARROYO, AS APPROVED BY ORDINANCE NO. 7241

SUMMARY:

This Ordinance approves the fourth amendment to the Regency Crest West Agreement that was adopted by Ordinance No. 7241 on December 13, 2004. The proposed amendment modifies the phasing of the public improvements to Red Creek Springs Road pertaining to the construction of a drainage culvert for the Goodnight Arroyo that passes under Red Creek Springs Road and the timing of the final improvements of Red Creek Springs Road to the western boundary of the property.

PREVIOUS COUNCIL ACTION:

On December 13, 2004, by Ordinance No. 7241, City Council approved an Annexation Agreement for the Regency Crest West area containing 122.75 acres.

On May 23, 2005, by Ordinance No. 7308, City Council approved the first amendment to the Annexation Agreement for Regency Crest West.

On August 27, 2007, by Ordinance No. 7638, City Council approved the second amendment to the Annexation Agreement for Regency Crest West.

On April 28, 2014, by Ordinance No. 8730, City Council approved the third amendment to the Annexation Agreement for Regency Crest West.

BACKGROUND:

This Ordinance approves the fourth amendment to the Annexation Agreement ("Agreement") between the City of Pueblo, a municipal corporation, and The Proctor Family Partnership No. 2 LLLP and Domega Homes of Colorado, Inc., a Colorado Corporation (collectively the "Petitioners") related to the Regency Crest West

Annexation. The amended Agreement provides for the following changes:

1. Subparagraphs (ii) and (iii) of Paragraph 3. of Exhibit C of the Third Amendment To Annexation Agreement dated April 28, 2014 at Reception No. 1974868 are amended in their entirety as follows:

(ii) Within 180 days after the issuance of any building permit within the Regency Crest Neighborhoods G4 or H1, Petitioners shall construct the Red Creek Springs Road arroyo drainage improvements and reconstruct the roadway to the current roadway width and layout in the location shown on Exhibit C-1. The re-alignment and installation of the 12" water main around the new culverts will also be included with this work. The installation of the 10" sanitary sewer main from the existing main east of the proposed culverts to the first manhole west of the culverts shall also be completed at this time. All required public improvements to be constructed under this subparagraph shall be designed and constructed in accordance with the City's Standard Construction Specifications and Standard Details (published April 11, 2022 or as same may be later amended), the City's Storm Drainage Design Criteria and Drainage Policies for the City of Pueblo (published June 9, 1997 or as same may be later amended), other standards and criteria adopted by City Council; as well as all relevant federal, state, and local laws and ordinances. All design documents shall be signed and stamped by a licensed professional engineer in the State of Colorado who is competent to perform such work. All project design documents are subject to approval of the Director of Public Works. Petitioner shall obtain a floodplain development permit from the City prior to constructing any drainage improvements in the 100-year floodway. A No-rise Certification, supported by technical data and stamped and signed by a licensed professional engineer in the State of Colorado who is competent to perform such work, must be submitted for review and approval by the Director of Stormwater. Supporting technical data shall be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the most recent Flood Insurance Rate Map (FIRM).

(iii) Within 180 days after the issuance of any building permit within Regency Crest Neighborhoods H2, H3 or I3, Petitioners shall have constructed the full width street improvements (44-feet, including curb and gutter) of Red Creek Springs Road between the western boundary of Regency Crest Filing No. 2 and the western boundary of the Property as shown on Exhibit C-1. Sidewalks and curb ramps shall also be constructed on the north side of Red Creek Springs Road from Hillcrest Drive west to the western boundary of the Property. The full width street improvements shall be located 22-feet on each side of the proposed centerline of Red Creek Springs Road as shown on Exhibit C-1. The centerline of the proposed improvements of Red Creek Springs Road must align with the centerline of Red Creek Springs Road as it is presently designed at the eastern boundary of the Property. Red Creek Springs Road shall be paved at full width to the western boundary of the Property. A transition shifting the alignment of traffic lanes to accommodate the change in roadway width shall be constructed on the Property unless the City acquires the right-of-way necessary to facilitate construction of the transition to the west of the Property in accordance with subsection A.3.a of the Annexation Agreement, in which case, Petitioner shall construct the transition as an off-site improvement. The installation of the remaining 10" sanitary sewer main from the manhole built in Phase 1 west of the culverts to the west property line shall also be completed at this time. All required public improvements to be constructed under this subparagraph shall be designed and constructed in accordance

with the City's Standard Construction Specifications and Standard Details (published April 11, 2022 or as same may be later amended), the City's Storm Drainage Design Criteria and Drainage Policies for the City of Pueblo (published June 9, 1997 or as same may be later amended), other standards and criteria adopted by City Council; as well as all relevant federal, state, and local laws and ordinances. All design documents shall be signed and stamped by a licensed professional engineer in the State of Colorado who is competent to perform such work. All project design documents are subject to approval of the Director of Public Works. Except as modified by this Fourth Amendment, the Annexation Agreement, remains in full force and effect.

2. Exhibit C-1 issued 9/23/04 recorded under reception no. 1603123 (page 29 of 39) is hereby deleted in its entirety and replaced by the attached hereto Exhibit C-1 dated 10/21/22.

None.

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

Not applicable.

ALTERNATIVES:

If City Council does not approve this Ordinance, the current Annexation Agreement will remain in effect. City Council could refer the proposed Annexation Agreement amendment back to City staff to address City Council's concerns with the applicants.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. 4th Amendment to Annexation Agreement
2. Regency Crest West Annexation ORD 7241

ORDINANCE NO.

AN ORDINANCE APPROVING THE FOURTH AMENDMENT TO THE ANNEXATION AGREEMENT FOR THE AREA COMMONLY KNOWN AND DESCRIBED AS NORTH OF RED CREEK SPRINGS ROAD AND EAST OF THE GOODNIGHT ARROYO, AS APPROVED BY ORDINANCE NO. 7241

WHEREAS, The Proctor Family Partnership No. 2, LLLP and Domega Homes of Colorado, Inc., a Colorado Corporation (herein collectively referred to as "Petitioners") are the owners of the property in fee simple (other than for platted lots sold to third party purchasers) and are the successors in interest of The Proctor Family Partnership, LLP, Floyd E. Orr, Jr., The Orr Trust, Margaret L. Orr (formerly Margaret L. Diodosio), William R. Ferrier and Jeannine L. Bledsoe (formerly Jeannine L. Krueger) that was annexed into the City of Pueblo commonly known as the Regency Crest West Annexation, Case No. A-03-04, and described as North of Red Creek Springs Road and East of the Goodnight Arroyo; and,

WHEREAS, Petitioners desire to amend the Annexation Agreement that was previously approved pursuant to Ordinance No. 7241 of the Pueblo City Council dated December 13, 2004, and recorded with the Pueblo County Clerk and Recorder on January 19, 2005, at Reception No. 1603123, and amended pursuant to Ordinance No. 7308 of the Pueblo City Council the First Amendment to the Annexation Agreement dated May 23, 2005, and recorded with the Pueblo County Clerk and Recorder on October 14, 2005, at Reception No. 1643623, and pursuant to Ordinance No. 7638 of the Pueblo City Council the Second Amendment to the Annexation Agreement dated August 27, 2007 and recorded with the Pueblo County Clerk and Recorder on September 7, 2007, at Reception No. 1740938, and pursuant to Ordinance No. 8730 of the Pueblo City Council the Third Amendment to the Annexation Agreement dated April 28, 2014, and recorded with the Pueblo County Clerk and Recorder on May 15, 2014, at Reception No. 1974868; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Fourth Amendment to the Annexation Agreement approved by Ordinance No. 7241, dated December 13, 2004, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The Mayor is hereby authorized to execute said Fourth Amendment to the Regency Crest West Annexation Agreement on behalf of Pueblo, a Municipal Corporation, and the City Clerk shall affix the seal of the City thereto and attest to the same.

SECTION 3.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of the Ordinance to implement the policies and procedures described herein.

SECTION 4.

This Ordinance shall become effective immediately upon final action by the Mayor and City Council and upon Petitioner executing an Agreement approving the Fourth Amendment to the Annexation Agreement set forth in Section 1 and ratifying and confirming the Fourth Amendment to the Annexation Agreement which will thereafter be recorded by the City Clerk in the records of the Pueblo County Clerk and Recorder.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on _____.

Final adoption of Ordinance by City Council on _____.

President of City Council

Action by the Mayor:

☐ Approved on _____.

☐ Disapproved on _____ based on the following objections:

Mayor

Action by City Council After Disapproval by the Mayor:

☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST

City Clerk

FOURTH AMENDMENT TO ANNEXATION AGREEMENT
Case No. A-03-04

This Fourth Amendment To Annexation Agreement, Case No. A-03-04 (the “Fourth Amendment”) entered into as of October 24, 2022 by and between the City of Pueblo, a Municipal Corporation (the “City”) and The Proctor Family Partnership No. 2, LLLP, a Colorado limited liability limited partnership and Domega Homes of Colorado, Inc., a Colorado corporation (collectively the “Petitioners”), WITNESSETH

WHEREAS, the term “Property” as used herein means and includes the real property described in Exhibit A to the Annexation Agreement, Case No. A-03-04, dated December 13, 2004 and recorded January 19, 2005 at Reception No. 1603123, records of Pueblo County, as amended by an Amendment to Annexation Agreement dated May 9, 2005 and recorded October 14, 2005 at Reception No. 1643623, the Second Amendment To Annexation Agreement dated July 23, 2007 and recorded September 7, 2007 at Reception No. 1740938, and the Third Amendment To Annexation Agreement dated April 28, 2014 at Reception No. 1974868 (herein collectively the “Annexation Agreement”);

WHEREAS, Petitioners represent and warrant that they are the owners of the Property in fee simple (other than for platted lots sold to third party purchasers) and are the successors in interest of The Proctor Family Partnership, LLLP, Floyd E. Orr, Jr., The Orr Trust, Margaret L. Orr (formerly Margaret L. Diodosio), William R. Ferrier and Jeannine L. Bledsoe (formerly Jeannine L. Krueger) as owners of the Property;

WHEREAS, Petitioners have requested certain amendments be made to the Annexation Agreement in order to assist Petitioners in proceeding with their development of the annexed property, and City is willing to amend the Annexation Agreement for such purposes upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing and mutual covenants contained herein, City and Petitioners agree as follows:

1. Subparagraphs (ii) and (iii) of Paragraph 3. of Exhibit C of the Third Amendment To Annexation Agreement dated April 28, 2014 at Reception No. 1974868 are amended in their entirety as follows:

(ii) Within 180 days after the issuance of any building permit within the Regency Crest Neighborhoods G4 or H1, Petitioners shall construct the Red Creek Springs Road arroyo drainage improvements and reconstruct the roadway to the current roadway width and layout in the location shown on Exhibit C-1. The re-alignment and installation of the 12” water main around the new culverts will also be included with this work. The installation of the 10” sanitary sewer main from the existing main east of the proposed culverts to the first manhole west of the culverts shall also be completed at this time. All required public improvements to be constructed under this subparagraph shall be designed and constructed in accordance with the City’s Standard

Construction Specifications and Standard Details (published April 11, 2022 or as same may be later amended), the City's Storm Drainage Design Criteria and Drainage Policies for the City of Pueblo (published June 9, 1997 or as same may be later amended), other standards and criteria adopted by City Council; as well as all relevant federal, state, and local laws and ordinances. All design documents shall be signed and stamped by a licensed professional engineer in the State of Colorado who is competent to perform such work. All project design documents are subject to approval of the Director of Public Works. Petitioner shall obtain a floodplain development permit from the City prior to constructing any drainage improvements in the 100-year floodway. A No-rise Certification, supported by technical data and stamped and signed by a licensed professional engineer in the State of Colorado who is competent to perform such work, must be submitted for review and approval by the Director of Stormwater. Supporting technical data shall be based on the standard step-backwater computer model used to develop the 100-year floodway shown on the most recent Flood Insurance Rate Map (FIRM).

(iii) Within 180 days after the issuance of any building permit within Regency Crest Neighborhoods H2, H3 or I3, Petitioners shall have constructed the full width street improvements (44 feet, including curb and gutter) of Red Creek Springs Road between the western boundary of Regency Crest Filing No. 2 and the western boundary of the Property as shown on Exhibit C-1. Sidewalks and curb ramps shall also be constructed on the north side of Red Creek Springs Road from Hillcrest Drive west to the western boundary of the Property. The full width street improvements shall be located 22 feet on each side of the proposed centerline of Red Creek Springs Road as shown on Exhibit C-1. The centerline of the proposed improvements of Red Creek Springs Road must align with the centerline of Red Creek Springs Road as it is presently designed at the eastern boundary of the Property. Red Creek Springs Road shall be paved at full width to the western boundary of the Property. A transition shifting the alignment of traffic lanes to accommodate the change in roadway width shall be constructed on the Property unless the City acquires the right-of-way necessary to facilitate construction of the transition to the west of the Property in accordance with subsection A.3.a of the Annexation Agreement, in which case, Petitioner shall construct the transition as an off-site improvement. The installation of the remaining 10" sanitary sewer main from the manhole built in Phase 1 west of the culverts to the west property line shall also be completed at this time. All required public improvements to be constructed under this subparagraph shall be designed and constructed in accordance with the City's Standard Construction Specifications and Standard Details (published April 11, 2022 or as same may be later amended), the City's Storm Drainage Design Criteria and Drainage Policies for the City of Pueblo (published June 9, 1997 or as same may be later amended), other standards and criteria adopted by City Council; as well as all relevant federal, state, and local laws and ordinances. All design documents shall be signed and stamped by a licensed professional engineer in the State of Colorado who is competent to perform such work. All project design documents are subject to approval of the Director of Public Works.

2. Exhibit C-1 issued 9/23/04 recorded under reception no. 1603123 (page 29 of 39) is hereby deleted in its entirety and replaced by the attached hereto Exhibit C-1 dated 10/21/22.

3. **No Other Amendments.** Except as modified by this Fourth Amendment, the Annexation Agreement, remains in full force and effect.

4. **Effective Date.** This Amendment will become effective upon execution of both parties and recording with the Pueblo County Clerk and Recorder.

5. The Annexation Agreement as amended by this Fourth Amendment shall continue in full force and effect, binding upon Petitioners and the City, and their respective successors and assigns.

Executed at Pueblo, Colorado as of the day and year first above written.

THE CITY OF PUEBLO,
a municipal corporation

By: _____
Nicholas A. Gradisar, Mayor

Date: _____

Attest: _____
Marisa Stoller, City Clerk

APPROVED AS TO FORM:

City Attorney

State of Colorado)
) ss:
County of _____)

I attest that the foregoing instrument was acknowledged before me this _____ day of _____, 2022, by _____ as _____ for the City of Pueblo.

Witness my hand and official seal.

Notary Public

My commission expires _____.
The Proctor Family Partnership No. 2, LLLP,
a Colorado limited liability limited partnership

By: _____

Date: _____

Title: General Partner

State of Colorado)
) ss.
County of _____)

The foregoing instrument was acknowledged before me this ____ day of _____,
2022, by C.T. Proctor, General Partner of The Proctor Family Partnership No. 2, LLLP,
a Colorado limited liability limited partnership.

Witness my hand and official seal.

Notary Public

My commission expires _____.

Domega Homes of Colorado, Inc., a Colorado corporation

By: _____

Date: _____

Title: President

State of Colorado)
) ss.
County of _____)

The foregoing instrument was acknowledged before me this ____ day of _____,
2022, by C.T. Proctor, President of Domega Homes of Colorado, Inc., a Colorado corporation.

Witness my hand and official seal.

Notary Public
My commission expires _____.





Ord. # 7241

**Background Paper for Proposed
ORDINANCE**

AGENDA ITEM #

33
~~23~~

DATE: NOVEMBER 22, 2004

**DEPARTMENT: COMMUNITY DEVELOPMENT/JIM MUNCH
PLANNING DEPARTMENT/JIM MUNCH**

TITLE

AN ORDINANCE ANNEXING THE AREA COMMONLY KNOWN AS REGENCY CREST WEST ANNEXATION AND DESCRIBED AS APPROXIMATELY 122.7533 ACRES LOCATED NORTH OF RED CREEK SPRINGS ROAD AND EAST OF THE GOODNIGHT ARROYO

ISSUE

Shall the City Council approve the proposed annexation of property that is located north of Red Creek Springs Road and east of the Goodnight Arroyo?

RECOMMENDATION

The Planning and Zoning Commission recommends approval by a vote of 6-0-0.

BACKGROUND

The Regency Crest West Annexation submitted by The Proctor Family Partnership, LLC and Floyd E. Orr, Jr., The Orr Trust, Margaret L. Orr, William R. Ferrier and Jeannine L. Bledsoe comprises 122.7533 acres located north of Red Creek Springs Road and east of the Goodnight Arroyo. The property is currently zoned in an (A-4) Agricultural Zone District within Pueblo County. The applicant has agreed to have the property zoned Agricultural (A-1) for a period not to exceed 120 months from the date of the approval of the annexation. However, no building or occupancy permit shall be approved by the City or issued by the Pueblo Regional Building Department for any portion of the property until after the property is zoned in the land use classification most nearly corresponding to the land use classification under the City's comprehensive plan. The Pueblo Regional Development Plan identifies the future land use as "Suburban Residential".

FINANCIAL IMPACT

The Petitioners acknowledge and agree that upon the annexation, the area shall become subject to the Charter, ordinances, resolutions, rules and regulations of the City. Provided the petitioners comply with the terms, covenants and conditions of the

annexation agreement, the City will provide municipal services (but not infrastructure) to the property on the same general terms and conditions as the rest of the City receives.

This includes the provision of police and fire protection services to the property, in addition the public roads and sanitary sewer main extensions will be maintained by the City of Pueblo once they have been constructed and accepted by the City.

ORDINANCE NO. 7241

AN ORDINANCE ANNEXING THE AREA COMMONLY KNOWN AS REGENCY CREST WEST ANNEXATION AND DESCRIBED AS APPROXIMATELY 122.7533 ACRES LOCATED NORTH OF RED CREEK SPRINGS ROAD AND EAST OF THE GOODNIGHT ARROYO

WHEREAS, the City Planning and Zoning Commission has recommended that the area described in Section 1 hereof be annexed to the City of Pueblo; and

WHEREAS, the City Council has heretofore found and determined by Resolution that the Petition for Annexation and the area described in Section 1 hereof to be in compliance with the notice and other applicable provisions of the Municipal Annexation Act of 1965 and C.R.S. §31-12-104, 105 and 107(1); and

WHEREAS, the City Council has by Resolution found and determined that an election is not required under C.R.S. §31-12-107 (2) and no additional terms and conditions are to be imposed upon the area described in Section 1 other than those set forth in the Petition for Annexation and the Annexation Agreement;

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The following described area situated in Pueblo County, Colorado, is hereby annexed to Pueblo, a Municipal Corporation, subject to the terms and conditions set forth in the Petition For Annexation, and the Annexation Agreement which is hereby approved, and the official map of the City shall be amended to show such annexation:

A portion of the West Half (W/2) of Section Four (4), Township Twenty-one (21) South, Range Sixty-five (65) West of the Sixth Principal Meridian, County of Pueblo, State of Colorado, being described as follows:

Basis of Bearings: The west line of Regency Crest Subdivision, A Special Area Plan, according to the recorded plat thereof, being monumented on both ends by a No. 6 rebar with a 2-1/2" aluminum cap marked "M2 Surveying PLS 34587" is assumed to bear North 03 degrees 18 minutes 38 seconds East a distance of 1641.38 feet.



ChrisC.Munoz PuebloCtyClk&Rec ORD

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COMMENCING at the southeast corner (SE/COR) of the Northeast Quarter of the Southwest Quarter (NE/4 SW/4) of said Section Four (4); THENCE, North 88 degrees 07 minutes 38 seconds West, along the south line of said Northeast Quarter of the Southwest Quarter (NE/4 SW/4), a distance of 160.40 feet to the POINT OF BEGINNING; THENCE,

Continuing North 88 degrees 07 minutes 38 seconds West, along said south line, a distance of 1153.23 feet to the southeast corner (SE/COR) of the Northwest Quarter of the Southwest Quarter (NW/4 SW/4) of said Section Four (4); THENCE, North 88 degrees 35 minutes 53 seconds West, along the south line of said Northwest Quarter of the Southwest Quarter (NW/4 SW/4), a distance of 1163.64 feet; THENCE, North 04 degrees 01 minutes 08 seconds East a distance of 610.83 feet; THENCE, North 88 degrees 35 minutes 53 seconds West a distance of 150.00 feet to the west line of the Southwest Quarter (SW/4) of said Section Four (4); THENCE, North 04 degrees 01 minutes 08 seconds East, along said west line, a distance of 779.56 feet to the southwest corner (SW/COR) of the Northwest Quarter (NW/4) of said Section Four (4); THENCE, North 04 degrees 05 minutes 55 seconds East, along the west line of said Northwest Quarter (NW/4), a distance of 433.21 feet; THENCE, South 60 degrees 11 minutes 44 seconds East a distance of 162.85 feet; THENCE, South 84 degrees 38 minutes 44 seconds East a distance of 300.00 feet; THENCE, South 51 degrees 57 minutes 44 seconds East a distance of 169.00 feet; THENCE, South 21 degrees 02 minutes 44 seconds East a distance of 172.00 feet; THENCE, North 07 degrees 28 minutes 16 seconds East a distance of 115.00 feet; THENCE, North 34 degrees 25 minutes 44 seconds West a distance of 213.00 feet; THENCE, North 61 degrees 38 minutes 44 seconds West a distance of 370.00 feet; THENCE, North 03 degrees 50 minutes 16 seconds East a distance of 96.00 feet; THENCE, North 63 degrees 25 minutes 16 seconds East a distance of 233.00 feet; THENCE, North 15 degrees 12 minutes 16 seconds East a distance of 185.00 feet; THENCE, North 26 degrees 57 minutes 44 seconds West a distance of 243.00 feet; THENCE, North 06 degrees 01 minutes 16 seconds East a distance of 144.65 feet to the north line of the Southwest Quarter of the Northwest Quarter (SW/4 NW/4) of said Section Four (4); THENCE, South 88 degrees 12 minutes 59 seconds East, along said north line, a distance of 1372.58 feet to the northwest corner (NW/COR) of Regency Crest Subdivision, Filing No. 3, A Special Area Plan; THENCE, southerly along the boundary of said Regency Crest Subdivision, Filing No. 3 the following fourteen (14) courses:

- 1) South 01 degrees 43 minutes 57 seconds West a distance of 100.40 feet; THENCE,
- 2) South 01 degrees 44 minutes 19 seconds East a distance of 60.52 feet; THENCE,
- 3) South 01 degrees 43 minutes 57 seconds West a distance of 91.05 feet; THENCE,
- 4) South 19 degrees 21 minutes 51 seconds West a distance of 97.56 feet; THENCE,
- 5) South 40 degrees 41 minutes 00 seconds West a distance of 58.41 feet; THENCE,



ChrisC.Munoz PuebloCtyClk&Rec ORD

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6) South 38 degrees 16 minutes 06 seconds West a distance of 64.46 feet;
THENCE,
7) South 35 degrees 55 minutes 05 seconds West a distance of 55.11 feet;
THENCE,
8) South 33 degrees 45 minutes 13 seconds West a distance of 55.05 feet;
THENCE,
9) South 45 degrees 51 minutes 53 seconds West a distance of 56.17 feet;
THENCE,
10) South 43 degrees 08 minutes 43 seconds West a distance of 46.07 feet;
THENCE,
11) South 14 degrees 19 minutes 22 seconds West a distance of 108.34 feet;
THENCE,
12) South 07 degrees 36 minutes 53 seconds West a distance of 60.83 feet;
THENCE,
13) South 02 degrees 26 minutes 20 seconds West a distance of 184.37 feet;
THENCE,
14) South 87 degrees 23 minutes 29 seconds East a distance of 1018.94 feet;
THENCE,

South 02 degrees 33 minutes 59 seconds West a distance of 111.22 feet;
THENCE, South 87 degrees 26 minutes 01 seconds East a distance of 18.51 to
the westerly boundary of Regency Crest Subdivision, Filing No. 2, A Special Area
Plan; THENCE, South 03 degrees 18 minutes 38 seconds West, along said
westerly boundary, a distance of 1541.72 feet to the northerly right-of-way line of
Red Creek Springs Road; THENCE, North 88 degrees 07 minutes 38 seconds
West, along said northerly right-of-way line, a distance of 56.16 feet; THENCE,
South 02 degrees 01 minutes 19 seconds West a distance of 30.00 feet to the
POINT OF BEGINNING.

Containing a calculated 122.7533 acres.

SECTION 2.

Within thirty (30) days after the effective date of the Ordinance, the City Clerk
shall:

- (a) File one copy of the annexation map with the original of this ordinance in the
office of the City Clerk;
- (b) File for recording three certified copies of this Ordinance and annexation map
with the Pueblo County Clerk and Recorder;
- (c) File one certified copy of the annexation map and this Ordinance with the
Southeastern Colorado Water Conservancy District.



ChrisC.Munoz PuebloCtyClerk&Rec ORD

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SECTION 3.



1603121

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ChrisC.Munoz PuebloCityClk&Rec ORD

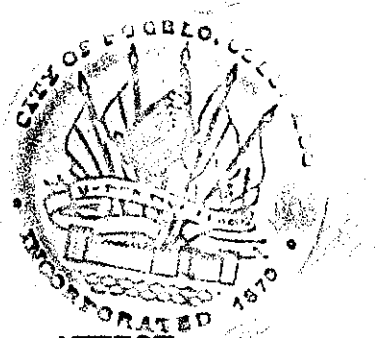
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The City Council hereby consents to the inclusion of the annexed area in the Southeastern Water Conservancy District pursuant to C.R.S. § 37-45-136 (3.6).

SECTION 4.

This ordinance shall become effective immediately upon final passage and the annexation shall be effective for ad valorem tax purposes on and after January 1, 2005.



INTRODUCED November 22, 2004

BY Michael Occhiato
COUNCIL PERSON

APPROVED [Signature]
PRESIDENT OF CITY COUNCIL

ATTEST:

[Signature]
CITY CLERK

PASSED AND APPROVED: December 13, 2004

ANNEXATION AGREEMENTCASE NO. A-03-04

This Annexation Agreement entered into as of December 13, 2004, by and between the City of Pueblo, a Municipal Corporation, (the "City") and The Proctor Family Partnership, LLLP, Floyd E. Orr, Jr., The Orr Trust, Margaret L. Orr (formerly Margaret L. Diodosio), William R. Ferrier and Jeannine L. Bledsoe (formerly Jeannine L. Krueger) (herein collectively the "Petitioner"), WITNESSETH

WHEREAS, the Petitioner is the owner of the real property located in Pueblo County, Colorado, and described in Exhibit "A" attached hereto and incorporated herein (the "Property");

WHEREAS, the Petitioner has submitted a petition for the annexation of the Property to the City; and

WHEREAS, as a condition precedent to the annexation of the Property, Petitioner has agreed to enter into an annexation agreement with the City setting forth certain terms and conditions with respect to such annexation.

NOW THEREFORE, in consideration of the foregoing, and the covenants and conditions set forth herein, the City and Petitioner agree as follows:

I. REPRESENTATION AND WARRANTIES OF PETITIONER

Petitioner hereby represents and warrants to, and covenants with, the City as follows:

(1) The Proctor Family Partnership, LLLP and the Orr Trust are duly organized and validly existing under the laws of Colorado. All other persons who constitute the Petitioner are individuals.

(2) Petitioner has good and marketable fee simple title to the Property subject only to Permitted Encumbrances attached hereto as Exhibit "B."

(3) Petitioner is authorized to, and has taken all action required by it (a) to annex the Property to the City and (b) to execute, deliver and perform its obligations under this Annexation Agreement, and (c) to carry out and consummate all of its transactions contemplated by this Annexation Agreement.

(4) This Annexation Agreement when executed and delivered, constitutes a valid and legally binding obligation of the Petitioner and except as provided in Article XV enforceable against Petitioner according to its terms.

(5) Neither the execution and delivery of this Annexation Agreement nor the fulfillment of or compliance with its terms and conditions, nor the consummation of the transactions contemplated hereby, conflicts with or results in a breach of the terms, conditions or provisions or any restriction or any agreement or instrument to which the Petitioner is bound, or constitutes a default under any of the foregoing.



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(6) There is no litigation pending, or to the knowledge of Petitioner threatened, against the Petitioner or any person affecting the right of the Petitioner to execute this Annexation Agreement or to comply with the provisions hereof.

(7) The representations and warranties of Petitioner contained herein will be true and correct in all material respects as of the date of recording the annexation plat and Ordinance of the City Council approving the annexation of the Property, as if made on the date of such recording.

II. MASTER DEVELOPMENT PLAN

Petitioner will prepare and submit or cause to be prepared and submitted to the Planning and Zoning Commission for approval a Master Development Plan for the Property. The Master Development Plan shall be prepared in consultation with the City's Subdivision Review Committee and Department of Planning and Development and submitted in its entirety to the Planning and Zoning Commission. The Master Development Plan will comply with the policies of the Pueblo Regional Comprehensive Development Plan existing as of the date the Master Development Plan is approved, and will be designed to address, identify and resolve all development, drainage, utilities, traffic and other infrastructure needs and requirements and the wide range of planning and development issues involved in and with respect to the development of the Property. The Master Development Plan as submitted and approved by the Planning and Zoning Commission will have the flexibility to adapt to changing conditions over the estimated time period for the development of the Property and shall consist of the following: (a) Development Plan, (b) Drainage Plan, (c) Sanitary Sewer Plan, (d) Transportation Plan, and (e) Environmental Study:

(1) Development Plan. The Development Plan shall be prepared in accordance with the requirements of Sections 12-4-5(a)(2) and 12-4-6(a) of the Pueblo Municipal Code. A development plan establishing the anticipated phasing of the development of the Property shall be prepared as part of the Development Plan.

(2) Drainage Plan. The Drainage Plan shall be prepared in accordance with the Storm Drainage Design Criteria and Drainage Policies for the City of Pueblo, Colorado, published June 9, 1997, or as same may hereafter be amended (MANUAL) and be certified by a Professional Engineer competent in the field of surface water drainage engineering and registered in the State of Colorado. The Drainage Plan shall address surface water drainage within the Property and onto the Property from other areas, as well as the effects of the development of the Property upon downstream properties and drainage facilities. Water quality management and erosion control measures will be incorporated in the Drainage Plan to meet current and future NPDES requirements. Associated impacts on City's existing and proposed surface water drainage system shall be identified in the Drainage Plan, and those impacts which are reasonably attributable to the development of the Property as determined by the City, in its sole discretion, shall be mitigated through surface water drainage improvements installed by and at the expense of the Petitioner. The Drainage Plan shall include a phasing plan or schedule for such improvements. Storm water detention facilities, designed and constructed in accordance with the MANUAL, may be used to mitigate the increased runoff due to development of the Property.

(3) Sanitary Sewer Plan. The Sanitary Sewer Plan shall be prepared in accordance with the Sanitary Sewer Design Criteria and Policies for City of Pueblo published May 12, 1999, or as same may hereafter be amended, and be certified by Professional Engineers competent in the field of sanitary



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sewer engineering and registered in the State of Colorado. The Sanitary Sewer Plan shall address the needs of the entire gravity-fed sanitary sewer drainage basin of which the Property is a part. The sewer drainage basin shall be approved by the Director of Public Works. Associated impacts on City's existing non-backbone system (less than 15-inch diameter) and proposed sanitary sewer system shall be identified in the Sanitary Sewer Plan, and those impacts which are reasonably attributable to the development of the Property as determined by the City, in its sole discretion, shall be mitigated through the installation of sanitary sewer improvements installed by and at the expense of the Petitioner. The Sanitary Sewer Plan shall include a phasing plan or schedule for such sanitary sewer improvements.

If sanitary sewers within the Property are oversized to serve future development outside the Property but within the sewer drainage basin, an Agreement to partially recover cost of constructing oversized or off-site sewer collection system improvements ("Agreement") will be entered into between the Petitioner and the City in accordance with Chapter 5, Title XVI of the Pueblo Municipal Code or as same may hereafter be amended.

If sanitary sewers are constructed downstream from the Property which will serve future development outside the Property but within the sewer drainage basin, the Agreement may include provisions allowing the Petitioner to be reimbursed in accordance with said Chapter 5 of the City's ordinances.

The Agreement will comply with the City's then existing applicable ordinances but shall not require any cost recovery from the City except to the extent that funds therefore are made available by Resolution of the City Council pursuant to Section 16-11-4 of the Pueblo Municipal Code or as same may hereafter be amended for upgrading the existing off-site sanitary sewer system serving the Property.

(4) Transportation Plan. The Transportation Plan shall be prepared in accordance with the criteria and general outline specified by the City Traffic Engineer and shall be supported by studies and reports prepared by Professional Engineers competent in the field of transportation and registered in the State of Colorado. Associated impacts on City's existing and proposed traffic and roadway systems shall be identified in the Transportation Plan and studies, and those impacts which are reasonably attributable to the development of the Property as determined by the City, in its sole discretion, shall be mitigated through traffic improvements constructed and installed by and at the expense of the Petitioner (such as, but not limited to, traffic signals, signal interconnect, conduit and wire, deceleration/acceleration lanes, and median islands). The Transportation Plan shall include a phasing plan or schedule of such traffic improvements. If street improvements through or adjacent to property outside the Property are required to be constructed, the Petitioner will pay the entire cost of such improvements and thereafter be eligible for such cost recovery as may be provided under Section 12-4-12 of the Pueblo Municipal Code or as same may hereafter be amended, but shall not be eligible for any cost recovery from the City.

(5) Environmental Studies. In addition to the requirements of Section 12-4-6(b)(3) of the Pueblo Municipal Code, if the Property includes any land that is adjacent to or has previously been used for solid waste disposal by land filling, the Petitioner at its expense, shall provide the City with a Phase I Environmental Study of the Property and a further in-depth study of any potential methane gas presence on, or migration from or to the Property. Such studies shall be performed by Professional Engineers competent in environmental engineering. The boundaries of the landfill area shall be identified on the Master Development Plan and shall be tested for the presence of methane



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gas in accordance with procedures approved by the appropriate State Agencies and the results summarized as a comparison to State and Federal regulatory limits of the landfill area and at the exterior boundary of the landfill area.

Petitioner may submit the Master Development Plan to the Planning and Zoning Commission for approval any time after the City Council has found the petition for annexation of the Property to be valid in accordance with the provisions of section 31-12-107, C.R.S.; provided however, that the proposed Master Development Plan shall not be approved prior to the time the ordinance annexing the Property is approved on final presentation. The City may refuse to approve any building or occupancy permit for any portion or all of the Property until after a Master Development Plan is approved.

III. ZONING AND SUBDIVISION

(1) No application for subdivision of all or any part of the Property shall be submitted to or considered by the City until after the Master Development Plan has been approved by the Planning and Zoning Commission; provided, however, that if the Property is intended to be included in a single subdivision, the application for such subdivision may be submitted at the time the Master Development Plan is submitted to the Planning and Zoning Commission. No subdivision of the Property shall be approved prior to the time the ordinance annexing the Property is approved on final presentation.

(2) Petitioner must approve and initial one of the following:

_____ The Property shall be zoned _____, the land use classification most nearly corresponding to the land use classification into which Property has been classified under the City's comprehensive plan.

CP
Initial
210
Initial
X The property shall be zoned Agricultural One (A-1) for a period not to exceed one hundred and twenty months from the date of this Annexation Agreement. However, no building or occupancy permit shall be approved by the City or issued by the Pueblo Regional Building Department for any building or structure within any portion of the Property classified as Agricultural One (A-1) zone district until after that portion of the Property is zoned in the land use classification most nearly corresponding to the land use classification into which such land has been classified under the City's comprehensive plan.

_____ Petitioner will file an application to rezone the Property to a _____ District (_____) no later than ninety (90) days after the time of approval of the annexation ordinance. If the Property is not so zoned, no building or occupancy permit shall be approved by the City or issued by the Pueblo Regional Building Department for any part of the Property.

(3) A petition to zone the Property may be filed at any time after the petition for annexation has been found to be valid in accordance with the provisions of Section 31-12-107, C.R.S. The Planning and Zoning Commission may hear the petition for rezoning and make its recommendations thereon prior to annexing the Property, but the proposed zoning ordinance shall not be passed on final presentation prior to the date the ordinance annexing the Property is approved on final presentation.



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IV. PUBLIC FACILITIES

The Petitioner shall dedicate land and right-of-way for public uses and facilities necessary and required to serve the Property or required as a result of the development of the Property as determined by the City, in its sole discretion, including, but not limited to, sanitary and storm sewers, drainage ways and facilities, utilities, streets, roadways, trail systems and parks and open space. The Petitioner at its expense shall construct and install all on-site and off-site improvements necessary and required to serve the Property or required as a result of the development of the Property as determined by the City, in its sole discretion, including, but not limited to, trail systems, parks, streets, street lights, curbs and gutters, sidewalks, bridges, traffic control devices, sanitary sewers, storm sewers, drainage and channel improvements and facilities, but excluding public buildings such as fire stations. All such improvements shall meet and comply with applicable City Ordinances in effect at the time of installation of such improvements. The parties agree that, with respect to the Property, Petitioner's obligation to acquire and dedicate land and rights-of-way and to construct facilities, with regard to Red Creek Springs Road, the Red Creek Springs Road arroyo crossing, Bandera Parkway, the Bandera Parkway arroyo crossing and St. Clair Avenue are set forth in Exhibit C attached hereto and made a part hereof, and shall not be changed without the mutual consent of the parties. The parties further agree that, with respect to the Property, Petitioner's obligation to pay impact fees and/or construct improvements in lieu of paying impact fees in support of costs associated with the Bandera Corridor Improvements described in Exhibit C-3, is as set forth in Exhibit C, and shall not be changed without mutual consent of the parties.

V. UTILITIES

The Petitioner shall comply with all applicable City of Pueblo (sanitary and storm sewers), Public Service Company (natural gas), Aquila (electric), TCI Cablevision (cablevision), Pueblo Board of Water Works (water), and Qwest (telephone/data transmission) requirements for the installation of mains, lines, stations, and any other appurtenant utility facilities in effect at the time of such installation. All existing and new power lines less than 30,000 volts and all overhead utilities (1) within the Property, (2) within the public rights-of-way adjoining the Property, and (3) within the areas adjacent to the Property which serve the Property shall be placed underground.

VI. COMPLIANCE WITH ORDINANCES

The development, subdivision and zoning of the Property shall meet and comply with all applicable ordinances, resolutions, regulations, and standards of the City now existing or hereinafter enacted or amended.

VII. BINDING EFFECT

The covenants, restrictions, and agreements herein set forth are covenants running with the Property, shall run with and bind the Property, and shall extend to and be binding upon the Petitioner and Petitioner's heirs, legal representatives, successors, assigns and transferees. The Petitioner expressly accepts and agrees to the covenants, restrictions, and agreements set forth herein by execution of this Annexation Agreement and by the filing of its petition for annexation. If Petitioner defaults in any of its obligations under this Annexation Agreement, including, without limitation, land dedication obligations, City, upon notice given to Petitioner specifying the default, may withhold all subdivision, special area plan, and other development approvals as well as building and occupancy permits for any building or structure within the Property until such default has been corrected to the



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satisfaction of the City.

VIII. AMENDMENTS



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Amendments to this Annexation Agreement may only be made through formal petition to and approval by Resolution of the City Council after such amendment has been submitted to and reviewed by the appropriate City Departments and such Departments have submitted their findings and recommendations to the City Council. All amendments to the Master Development Plan must be approved by the Planning and Zoning Commission after review and recommendation by the appropriate City Departments.

IX. SEVERABILITY

If any section, clause, or other provision of this Annexation Agreement is for any reason determined to be invalid or unenforceable by any court of competent jurisdiction, such determination shall not affect any of the remaining provisions of this Annexation Agreement.

X. VESTED RIGHTS

As a condition of and in consideration of the City annexing the Property, the Petitioner, for itself, its heirs, personal representatives, successors and assigns waives and releases all previously acquired or existing vested property rights attached to or established with respect to the Property.

The Petitioner acknowledges and agrees that neither this Annexation Agreement nor any provision hereof, nor the annexation of the Property to the City, nor the approval of the Master Development Plan, either separately or jointly (a) creates or establishes a vested property right in or for the benefit of the Petitioner or its heirs, personal representatives, successors or assigns, or with respect to the Property; or (b) constitutes a site-specific development plan. The terms "vested property right" and "site-specific development plan" shall have the same meaning as set forth in Section 17-12-2 of the Pueblo Municipal Code and §24-68-101, et seq., C.R.S.

XI. BUILDING PERMITS

No building or occupancy permit shall be approved by the City or issued by the Pueblo Regional Building Department to occupy, construct or install any building, structure or other improvement on the Property except within a subdivision approved by the City after adoption of the ordinance annexing the Property which meets and complies with this Annexation Agreement and City's ordinances, standards, and regulations.

XII. DISCONNECTION

(1) Disconnection by Petitioner. Petitioner acknowledges and agrees that upon annexation of the Property, the Property shall become subject to this Annexation Agreement, the Charter, ordinances and rules and regulations of the City. Provided Petitioner complies with the terms, covenants and conditions of this Annexation Agreement, the City shall provide municipal services (but not infrastructure) to the Property on the same general terms and conditions as the rest of the City receives.

(2) Disconnection by City. If, for any reason, the Master Development Plan is not approved and adopted by the Planning and Zoning Commission within three (3) years from date of

this Annexation Agreement, proceedings may be instituted by the City to disconnect the Property from the City, and for such purpose, the Petitioner irrevocably consents to such disconnection proceedings and waives any and all rights to contest such disconnection.

XIII. CONTRACTUAL NATURE OF ANNEXATION AGREEMENT

The terms, conditions and obligations of this Annexation Agreement are and shall be construed to be purely contractual in nature, as terms, conditions and obligations voluntarily agreed to by City and Petitioner prior to annexation of the Property to the City. The terms, conditions and obligations imposed on Petitioner and the Property by this Annexation Agreement are not nor shall they individually or cumulatively be construed to be conditions upon granting land-use approvals within the meaning of sections 29-20-201 to 29-20-204, C.R.S.

XIV. SPECIAL IMPROVEMENTS, DEDICATIONS AND IMPACT FEES

In addition to the on-site and off-site improvements and land dedications required to be made by the provisions of this Annexation Agreement, Petitioner will construct and install the improvements, dedicate the land, and pay or cause to be paid the impact fees described in Exhibit C attached hereto and incorporated herein. The improvements, dedication, and impact fees described in said Exhibit C are in addition to and not in substitution for any improvements or dedications otherwise required by this Annexation Agreement.

XV. LIMITED RESTRICTION ON PERSONAL LIABILITY

Petitioner, Floyd E. Orr, Jr., the Orr Trust, Margaret L. Orr (formerly Margaret L. Diodosio), William R. Ferrier and Jeannine L. Bledsoe (formerly Jeannine L. Krueger) (herein collectively the "Orrs") have represented to the City that they are the owners of a large portion of the Property, that the Property they own is under contract or option to sell to The Proctor Family Partnership, LLLP, and that they will not and do not intend to develop the Property, or become the developers of the Property.

Therefore, so long as the Orrs do not individually or jointly develop or become the developers of the Property and notwithstanding any contrary provision in this Annexation Agreement, the Orrs shall not be personally liable to perform the financial obligations of Petitioner set forth in the Annexation Agreement.

Neither this Article XV nor any provisions hereof shall be or be deemed to be a release or impairment of any of the covenants, restrictions, obligations and agreements set forth in this Annexation Agreement with respect to the Property, The Proctor Family Partnership, LLLP, and, except as provided in the preceding paragraph, the Orrs, or preclude, or in any manner hinder the City from enforcing any and all rights, covenants, restrictions, obligations and agreements under this Annexation Agreement against the Property, The Proctor Family Partnership, LLLP, and, except as provided in the preceding paragraph, the Orrs.

XVI. MISCELLANEOUS

(1) **Notice.** All notices or other communications hereunder shall be sufficiently given and shall be deemed given when personally delivered, or mailed by registered or certified mail, postage prepaid, addressed as follows:



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(a) if to the City: Department of Public Works - City of Pueblo
211 East "D" Street, Pueblo, Colorado
Attention: Director of Public Works

(b) if to the Petitioner: The Proctor Family Partnership, LLLP
Attention: C.T. Proctor
Drawer 3430
Pueblo, CO 81005-0430

or to such other address as either party by written notice given hereunder may designate.

(2) Governing Law. This Annexation Agreement shall be governed and construed in accordance with the laws of the State of Colorado, without regard to conflict of law principles. Venue for any action arising out of this Annexation Agreement shall be Pueblo County, Colorado.

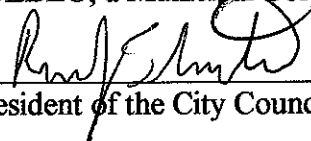
(3) No Third Party Beneficiaries. Nothing in this Annexation Agreement expressed or implied is intended to or shall be construed to confer upon, or to give to, any person other than the City and the Petitioner any right, remedy or claim under or by reason of this Annexation Agreement or any covenant, condition or stipulation hereof; and all the covenants, agreements and stipulations in this Annexation Agreement contained by and on behalf of the City or the Petitioner shall be for the exclusive benefit of the City and the Petitioner.

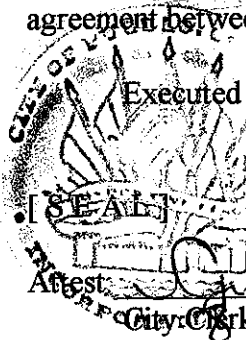
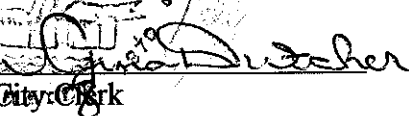
(4) Singular, Plural. Unless the context requires otherwise, words denoting the singular may be construed as denoting the plural. Words of the plural may be construed as denoting the singular. Words of one gender may be construed as denoting the other gender, if applicable.

(5) Entire Agreement. All prior discussions, representations, understandings and agreements, whether oral or written, between the parties with respect to the subject matter of this Annexation Agreement are merged in this Annexation Agreement, which constitutes the entire agreement between the parties.

Executed at Pueblo, Colorado as of the day and year first above written.

PUEBLO, a Municipal Corporation

By 
President of the City Council


Attest: 
City Clerk

APPROVED AS TO FORM:


City Attorney



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PETITIONER:

THE PROCTOR FAMILY PARTNERSHIP,
LLLP

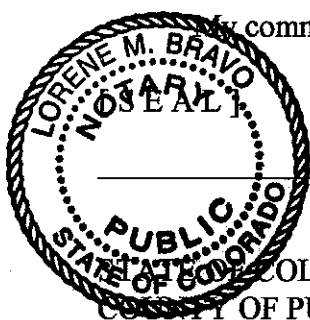
By C.T. Proctor
Title: C.T. Proctor, General Partner

Floyd E. Orr, Jr.
Floyd E. Orr, Jr., individually; as trustee of the
Orr Trust; and as agent and attorney in fact for
Margaret L. Orr (formerly Margaret L.
Diodosio), William R. Ferrier and Jeannine L.
Bledsoe (formerly Jeannine L. Krueger)

STATE OF COLORADO)
COUNTY OF PUEBLO) ss.

The foregoing instrument was acknowledged before me this 15th day of December
2004, by Randy Thurston as President of City Council and Gina Dutcher as City Clerk of Pueblo, a
Municipal Corporation.

Witness my hand and official seal.



My commission expires: 8-21-2007

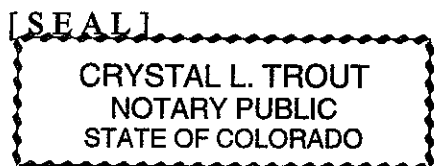
Lorene M. Bravo
Notary Public

STATE OF COLORADO)
COUNTY OF PUEBLO) ss.

The foregoing instrument was acknowledged before me this 10 day of November
2004, by C.T. Proctor as general partner of The Proctor Family Partnership, LLLP.

Witness my hand and official seal

My commission expires: 5-13-08



My Commission Expires 05/13/2008

Crystal L. Trout
Notary Public



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STATE OF COLORADO)
COUNTY OF PUEBLO) ss.



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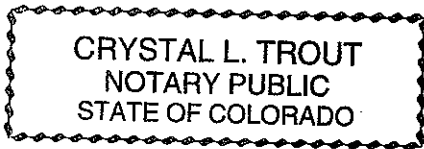
The foregoing instrument was acknowledged before me this 10 day of November, 2004, by Floyd E. Orr, Jr., who executed this instrument individually; as Trustee of the Orr Trust; and as agent and attorney in fact for Margaret L. Orr (formerly Margaret L. Diodosio), William R. Ferrier and Jeannine L. Bledsoe (formerly Jeannine L. Krueger).

Witness my hand and official seal

My commission expires: 5-13-08

[SEAL]

Crystal L. Trout
Notary Public



My Commission Expires 05/13/2008

EXHIBIT "A"

Regency Crest Subdivision Annexation Boundary Description

A portion of the West Half (W/2) of Section Four (4), Township Twenty-one (21) South, Range Sixty-five (65) West of the Sixth Principal Meridian, County of Pueblo, State of Colorado, being described as follows:

Basis of Bearings: The west line of Regency Crest Subdivision, A Special Area Plan, according to the recorded plat thereof, being monumented on both ends by a No. 6 rebar with a 2-1/2" aluminum cap marked "M2 Surveying PLS 34587" is assumed to bear North 03 degrees 18 minutes 38 seconds East a distance of 1641.38 feet.

COMMENCING at the southeast corner (SE/COR) of the Northeast Quarter of the Southwest Quarter (NE/4 SW/4) of said Section Four (4); **THENCE**, North 88 degrees 07 minutes 38 seconds West, along the south line of said Northeast Quarter of the Southwest Quarter (NE/4 SW/4), a distance of 160.40 feet to the **POINT OF BEGINNING**; **THENCE**,

Continuing North 88 degrees 07 minutes 38 seconds West, along said south line, a distance of 1153.23 feet to the southeast corner (SE/COR) of the Northwest Quarter of the Southwest Quarter (NW/4 SW/4) of said Section Four (4); **THENCE**, North 88 degrees 35 minutes 53 seconds West, along the south line of said Northwest Quarter of the Southwest Quarter (NW/4 SW/4), a distance of 1163.64 feet; **THENCE**, North 04 degrees 01 minutes 08 seconds East a distance of 610.83 feet; **THENCE**, North 88 degrees 35 minutes 53 seconds West a distance of 150.00 feet to the west line of the Southwest Quarter (SW/4) of said Section Four (4); **THENCE**, North 04 degrees 01 minutes 08 seconds East, along said west line, a distance of 779.56 feet to the southwest corner (SW/COR) of the Northwest Quarter (NW/4) of said Section Four (4); **THENCE**, North 04 degrees 05 minutes 55 seconds East, along the west line of said Northwest Quarter (NW/4), a distance of 433.21 feet; **THENCE**,

South 60 degrees 11 minutes 44 seconds East a distance of 162.85 feet; **THENCE**, South 84 degrees 38 minutes 44 seconds East a distance of 300.00 feet; **THENCE**, South 51 degrees 57 minutes 44 seconds East a distance of 169.00 feet; **THENCE**, South 21 degrees 02 minutes 44 seconds East a distance of 172.00 feet; **THENCE**, North 07 degrees 28 minutes 16 seconds East a distance of 115.00 feet; **THENCE**, North 34 degrees 25 minutes 44 seconds West a distance of 213.00 feet; **THENCE**, North 61 degrees 38 minutes 44 seconds West a distance of 370.00 feet; **THENCE**, North 03 degrees 50 minutes 16 seconds East a distance of 96.00 feet; **THENCE**, North 63 degrees 25 minutes 16 seconds East a distance of 233.00 feet; **THENCE**, North 15 degrees 12 minutes 16 seconds East a distance of 185.00 feet; **THENCE**, North 26 degrees 57 minutes 44 seconds West a distance of 243.00 feet; **THENCE**, North 06 degrees 01 minutes 16 seconds East a distance of 144.65 feet to the north line

M² Surveying, LP
1200 S. Calle Arroyito Dr.
Pueblo West, CO 81007
(719)647-9463

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EXHIBIT "A"

Regency Crest Subdivision Annexation Boundary Description

of the Southwest Quarter of the Northwest Quarter (SW/4 NW/4) of said Section Four (4); THENCE, South 88 degrees 12 minutes 59 seconds East, along said north line, a distance of 1372.58 feet to the northwest corner (NW/COR) of Regency Crest Subdivision, Filing No. 3, A Special Area Plan; THENCE, southerly along the boundary of said Regency Crest Subdivision, Filing No. 3 the following fourteen (14) courses:

- 1) South 01 degrees 43 minutes 57 seconds West a distance of 100.40 feet; THENCE,
- 2) South 01 degrees 44 minutes 19 seconds East a distance of 60.52 feet; THENCE,
- 3) South 01 degrees 43 minutes 57 seconds West a distance of 91.05 feet; THENCE,
- 4) South 19 degrees 21 minutes 51 seconds West a distance of 97.56 feet; THENCE,
- 5) South 40 degrees 41 minutes 00 seconds West a distance of 58.41 feet; THENCE,
- 6) South 38 degrees 16 minutes 06 seconds West a distance of 64.46 feet; THENCE,
- 7) South 35 degrees 55 minutes 05 seconds West a distance of 55.11 feet; THENCE,
- 8) South 33 degrees 45 minutes 13 seconds West a distance of 55.05 feet; THENCE,
- 9) South 45 degrees 51 minutes 53 seconds West a distance of 56.17 feet; THENCE,
- 10) South 43 degrees 08 minutes 43 seconds West a distance of 46.07 feet; THENCE,
- 11) South 14 degrees 19 minutes 22 seconds West a distance of 108.34 feet; THENCE,
- 12) South 07 degrees 36 minutes 53 seconds West a distance of 60.83 feet; THENCE,
- 13) South 02 degrees 26 minutes 20 seconds West a distance of 184.37 feet; THENCE,
- 14) South 87 degrees 23 minutes 29 seconds East a distance of 1018.94 feet; THENCE,

South 02 degrees 33 minutes 59 seconds West a distance of 111.22 feet; THENCE, South 87 degrees 26 minutes 01 seconds East a distance of 18.51 to the westerly boundary of Regency Crest Subdivision, Filing No. 2, A Special Area Plan; THENCE, South 03 degrees 18 minutes 38 seconds West, along said westerly boundary, a distance of 1541.72 feet to the northerly right-of-way line of Red Creek Springs Road; THENCE, North 88 degrees 07 minutes 38 seconds West, along said northerly right-of-way line, a distance of 56.16 feet; THENCE, South 02 degrees 01 minutes 19 seconds West a distance of 30.00 feet to the POINT OF BEGINNING.

Containing a calculated 122.7533 acres.



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(719)647-9463

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**EXHIBIT B TO
ANNEXATION AGREEMENT
CASE NO. A-03-04**

The Property to which this Annexation Agreement applies and that is described on Exhibit A hereto is currently free and clear of encumbrances and other liens, except the lien now accruing, but not yet due, for 2004 ad valorem taxes.

Petitioner may in the future place one or more deeds of trust on the Property to secure acquisition and construction financing. Any such deed of trust will be subordinate to this Annexation Agreement.

EXHIBIT "C"

SPECIAL IMPROVEMENTS, DEDICATIONS AND IMPACT FEES

REGENCY CREST MASTER PLAN (A-03-04) ANNEXATION AGREEMENT

A. Roadways

1. Off-Site Roadways

In compliance with the Pueblo Area Transportation System Plan, the City of Pueblo has identified for the Petitioner the alignment of off-site freeways, arterials and collectors, which provide connectivity to the Property. Petitioner will cause all local roadways within the Property to connect with all adjoining local roadways. Petitioner agrees to the centerline alignment and the right of way width of Red Creek Springs Road, St. Clair Avenue, and Bandera Parkway as shown on the Regency Crest Master Plan and included on Exhibit "C-1." "Identify" does not mean or include surveying or engineering services.

2. Construction of Minor Arterial Roadways

a. Petitioner shall, at its expense, construct Red Creek Springs, Bandera Parkway, the Red Creek Springs Road arroyo crossing and St. Clair Avenue (the "Road Improvements") as described herein and as shown on attached Exhibit C-1. The Road Improvements will be constructed in conjunction with the development of each Neighborhood as shown on attached Exhibit C-2 and as otherwise provided in the Annexation Agreement.

b. Petitioner acknowledges and agrees that, if Petitioner fails to construct the Roadway Improvements as herein agreed or defaults on any other provision of this Exhibit "C" or the Annexation Agreement, the City shall have all legal remedies



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available at law or in equity to enforce Petitioner's construction obligation and any other obligations including but not limited to a legal action against Petitioner for breach of contract and/or default on an indebtedness. In addition, and as set forth elsewhere in the Annexation Agreement, the City may withhold building permits, occupancy permits, subdivision approvals, zoning approvals and all other governmental grants of authority until such time as Petitioner shall have cured any default in performance under the Exhibit C or the Annexation Agreement.

As further security to the City for Petitioner's timely performance of its obligations hereunder, the parties have agreed that Petitioner will establish an interest bearing non-transactional account (the "Account") with Legacy Bank, a federally insured depository institution having an office at 1201 Paseo Del Norte, Pueblo, Colorado ("Bank"). City shall be granted and have a first position perfected security interest in the Account and all funds on deposit in the Account including interest earned thereon under Article 9 of the Colorado Uniform Commercial Code (C.R.S. §4-9-101 *et seq.*). In connection with the Account, the parties further agree as follows:

i. Until such time as all of the Roadway Improvements have been completed and accepted by the City in writing, each time a building permit is applied for by Petitioner or any other party for the construction of a dwelling unit within the boundaries of the Property, and as a condition precedent to the issuance of a building permit, Petitioner shall deposit into the Account the sum of \$2,200. (Petitioner may make advance deposits if it so elects and apply such advanced deposits against the obligation to make deposits in connection with future applications for building permits.)



ii. At such time as certain portions of the Road Improvements as set forth in the following schedule have been completed and accepted by the City, Petitioner may, upon written application to Bank (with a copy to the City) signed under oath and containing written confirmation from the City of the City's acceptance of the subject portion of the Road Improvements, withdraw funds including earned interest from the Account in accordance with the following schedule (which schedule has been derived from the City's estimate of roadway and arroyo costs within the Bandera Corridor Project Area, as shown of Exhibit C-3 hereto):

(a) Red Creek Springs Road from Property's easterly boundary to west right of way of Suncrest Lane: \$237,750 (1,585 linear feet at \$150/foot)

(b) Red Creek Springs Road from west right of way of Suncrest Lane to westerly boundary of Property, excluding Red Creek Springs arroyo crossing: \$117,750 (785 linear feet at \$150/foot)

(c) Red Creek Springs Road arroyo crossing: \$450,000

(d) East half of Bandera Parkway plus median: \$95,940 (50% of 780 feet at \$186/foot , plus \$30/foot for 780 feet of median)

(e) West half of Bandera Parkway: \$72,540 (50% of 780 feet at \$186/foot)

If, at the time of any authorized withdrawal described above, the funds in the Account are not sufficient to fully satisfy the withdrawal request, Petitioner shall be allowed to withdraw the shortfall amount in connection with Petitioner's next authorized withdrawal hereunder.

iii. In the event Petitioner should default in Petitioner's obligation to construct the Roadway Improvements in accordance with this Annexation



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Agreement, the City may, upon 75 days prior written notice of default to Petitioner (during which 75 days Petitioner shall have a right to cure its default) withdraw funds from the Account in an amount sufficient, in the reasonable opinion of the City's Director of Public Works, to cure Petitioner's default. A request for payment by the City to Bank hereunder shall be in writing, shall affirm that Petitioner is in default and has failed to cure its default in the time allowed, and shall be signed under oath by the City's Director of Public Works. A copy of such payment request shall be submitted to Petitioner at the same time it is submitted to Bank.

iv. At such time as all of the Roadway Improvements have been completed and accepted by the City, and Petitioner shall have made all withdrawals from the Account authorized above, any and all funds including earned interest remaining in the Account shall be paid to the City and the Account shall be closed. Funds paid to the City from the Account shall be deposited by the City into the Bandera Corridor Improvements Account and shall be used by the City in accordance with the guidelines and restrictions applicable to that account.

v. The City's security interest in the Account shall be evidenced by a security agreement in the form attached hereto as Exhibit C-4 and the security interest shall be perfected by a control agreement, to which Bank is a party and by which Bank subordinates its interest in the Account to the City's security interest in the Account, in the form attached hereto as Exhibit C-5. The city may perfect its security interest in any other manner authorized by Article 9 of the Colorado Uniform Commercial Code and Petitioner and Bank shall execute all documents reasonably required therefor.



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vi. All fees imposed by Bank for the set up of the Account and its maintenance thereafter shall be paid by Petitioner and the City shall have no obligation therefore.

c. If the total number of dwelling units within the Property should ever exceed the 439 dwelling units identified in Exhibit C-2, Petitioner shall, as a condition precedent to the issuance of a building permit for each dwelling unit in excess of such 439 units, pay a development fee of \$2,200.00 ("Fee"). The Fee shall be paid to the City at the time a building permit is issued and shall be deposited in the Bandera Corridor Improvement Account. Monies on deposit in the Bandera Corridor Improvements Account shall be used only for the improvements described and shown on the attached Exhibit "C-3" ("Bandera Corridor Improvements"), and shall not fund infrastructure or utility improvements located within the rights-of-way of Bandera Parkway, Red Creek Springs Road, or St. Clair Avenue. .

d. Petitioner, for itself and its successors and assigns, including all subsequent owners of land within the Property, stipulate and agree that there is an essential nexus between the costs imposed on Petitioner hereunder for the construction of the Road improvements, together with the Fee, and the City's legitimate interest in providing for the construction and development of the Bandera Corridor Improvements, and that the cost of the Road Improvements and the Fee are roughly proportional both in nature and extent to the impact of the proposed development of the Property.



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3. Acquisition of Right-of-Way

a. Red Creek Springs Road

The Petitioner at its sole cost and expense shall acquire and dedicate forty (40') feet of right of way north of the proposed centerline of Red Creek Springs Road and additional property necessary to complete the 44' roadway improvements (22 feet on each side of the centerline) to insure that the full 44' in width improvements of Red Creek Springs Road adjacent to the Property can be constructed in an alignment as shown on Exhibit "C-1". (Petitioner shall not, however, be responsible for acquiring and dedicating any additional land on the south side of Red Creek Springs Road that may be necessary to achieve an 80' right-of-way for this road.) In addition, the Petitioner, shall at its sole cost and expense acquire and dedicate any additional property that may be required to construct the transition of Red Creek Springs Road as shown on Exhibit "C-1" from the western boundary of the Property to the centerline of the roadway as it presently exists. If Petitioner, after reasonable good faith efforts, is not able to acquire from property owners the right-of-way for Red Creek Springs Road specifically described above in this subparagraph 3.a. from the eastern to the western boundary of the Property and the property necessary for the construction of the transition of the roadway from the western boundary of the Property to the centerline of the roadway as it presently exists in an alignment as shown on Exhibit "C-1", the City will, to the extent legally authorized, exercise its power of eminent domain to acquire the right-of-way.

Petitioner shall, in that event, be responsible for all compensation for the land taken, damages, if any, to the residue of the owner's property, cost and expense of condemnation, including reasonable appraisal, expert witness, and



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attorney fees (Condemnation Costs). Petitioner will deposit an estimate of Condemnation Costs as determined by the City Attorney before the City will commence condemnation proceedings. Petitioner shall have the right to accept or reject any proposed settlement arising out of a condemnation action hereunder, provided that such acceptance or rejection shall not be unreasonably withheld or delayed.

b. Bandera Parkway

If not already dedicated to the public or deeded to the City, Petitioner shall at the time of the first subdivision within Neighborhoods H or J and at its cost and expense, acquire and dedicate additional right of way for the Bandera Parkway arroyo crossing in an alignment as shown on Exhibit C-1. In addition, Petitioner shall, at its cost and expense, acquire and dedicate any additional property that may be required to construct the transition of Bandera Parkway as shown on Exhibit C-1 from the northern boundary of the Property to the centerline of the roadway as it presently exists. Bandera Parkway is identified as a minor arterial roadway on the Pueblo Area Transportation System Map. The width of the right of way shall be 104' wide in compliance with the General Provisions for Roadway Classification Design Standards and Policies.

If the Petitioner, after reasonable good faith efforts, is not able to acquire from the intervening property owners the above described two rights of way as shown on Exhibit C-1, the City will, to the extent legally authorized, exercise its power of eminent domain to acquire the right of way.

Petitioner shall, in that event, be responsible for all compensation for the land taken, damages, if any, to the residue of the owner's property, cost and



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expense of condemnation, including reasonable appraisal, expert witness, and attorney fees (Condemnation Costs). Petitioner will deposit an estimate of Condemnation Costs, as determined by the City Attorney, before the City will commence condemnation proceedings. Petitioner shall have the right to accept or reject any proposed settlement arising out of a condemnation action hereunder, provided such acceptance or rejection shall not be unreasonably withheld or delayed.

c. **Acquire and Dedicate**

The term acquire and dedicate as used herein means to acquire marketable fee simple title to the property free of liens and encumbrances and dedicate the property to the public in perpetuity for roadway purposes.

d. If any portion of Red Creek Springs Road, Bandera Parkway, the Red Creek Springs Road arroyo crossing, Bandera Parkway arroyo crossing, or St. Clair Avenue is located within the Property, Petitioner shall dedicate marketable fee simple title thereto to the public for roadway purposes.

4. **Roadway Construction**

a. **Red Creek Springs Road**

Red Creek Springs Road is one of the primary access roads to the Property. Red Creek Springs Road is a minor arterial with an eighty (80) foot right-of-way and will be designed and constructed according to the most current adopted roadway standards at the time of subdivision. Petitioner shall in accord with Exhibit C-2, the schedule of improvements for Neighborhoods A through J, be solely responsible at its costs for the following:



i. Within 180 days after the issuance of the first building permit in Neighborhood D and prior to approval of any subdivision of any portion of Neighborhoods G, H & I, Petitioner shall construct the full width street improvements (44 feet, including curb and gutter) of Red Creek Springs Road between the western boundary of Regency Crest Filing No. 2 and the western right of way of Suncrest Lane as shown on Exhibit C-1. The full width street improvements shall be located 22 feet on each side of the proposed centerline of Red Creek Springs Road as shown on Exhibit C-1. The centerline of the proposed improvements of Red Creek Springs Road must align with the centerline of Red Creek Springs Road as it is presently designed at the eastern boundary of the Property. At the western right-of-way of Suncrest Lane, Red Creek Springs Road must transition, as approved by the Director of Public Works, from the full width improvements to the existing roadway width west of Suncrest Lane.

ii. Within 180 days after the issuance of the first building permit in Neighborhood H Petitioner shall construct the full width street improvements (44 feet, including curb and gutter) of Red Creek Springs Road between the western right-of-way of Suncrest Lane and the western boundary of the Property as shown on Exhibit C-1, excluding the Red Creek Springs Road arroyo crossing. The full width street improvements shall be located 22 feet on each side of the proposed centerline of Red Creek Springs Road as shown on Exhibit C-1. The centerline of the proposed improvements of Red Creek Springs Road must align with the centerline of Red Creek Springs Road as it is presently designed at the eastern boundary of the Property. At the western boundary of the property, Red Creek Springs Road must transition, as approved by the Director of Public Works, from the full width improvements to the existing roadway width. If Petitioner is unable



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after reasonable good faith efforts to acquire the right of way for the transition and Petitioner has deposited the Condemnation Costs therefor, Petitioner's obligation to construct the transition at the west end of the Property shall be contingent on the City's acquisition of the necessary right of way for this transition, as stated above in subsection A.3.a.

iii. Within 180 days after the issuance of the first building permit in Neighborhood I, Petitioner shall construct the Red Creek Springs Road arroyo crossing as shown on Exhibit C-1, which will be designed and constructed according to the most current adopted roadway standards at the time of subdivision.

Because Petitioner will be reimbursed out of the Account for costs of construction for Red Creek Springs Road, Petitioner assigns and transfers to the City all Cost Recovery Petitioner may be entitled to receive from adjoining property owners for off-site improvements to Red Creek Springs Road made by Petitioner, as provided in Section 12-4-12 of the Pueblo Municipal Code. Petitioner shall prepare and file with the City all documents and information required to effect such Cost Recovery and cooperate with the City in obtaining same. All such Cost Recovery collected by the City shall be deposited into the Bandera Corridor Improvements Account.

b. Bandera Parkway

Bandera Parkway is one of the primary access roads to the Property. Bandera Parkway is a minor arterial with a one hundred four (104) foot right-of-way shown on Exhibit C-1 and will be designed and constructed according to the most current adopted roadway standards at the time of subdivision.



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Petitioner shall in accord with Exhibit C-2, the schedule of improvements for Neighborhoods A through J, be solely responsible within 180 days after the issuance of the first building permit in Neighborhood F for construction of the east half of Bandera Parkway (29 feet, including curb and gutter along the east side of the roadway and a 16-foot wide median along the west side of the roadway) from the north boundary of the Property to the south right-of-way of St. Clair Avenue as shown on Exhibit C-1. At the northern boundary of the Property, Bandera Parkway must transition, as approved by the Director of Public Works, to the existing roadway width north of the Property.

Petitioner shall in accord with Exhibit C-2, the schedule of improvements for Neighborhoods A through J, be solely responsible within 180 days after the issuance of the first building permit in Neighborhood J for construction of the west half of Bandera Parkway (29 feet, including curb and gutter along the west side of the roadway) from the north boundary of the Property to the south right-of-way of St. Clair Avenue as shown on Exhibit C-1. At the northern boundary of the Property, Bandera Parkway must transition, as approved by the Director of Public Works, to the existing roadway width north of the Property. If Petitioner is unable after reasonable good faith efforts to acquire the right of way for the transition and Petitioner has deposited the Condemnation Costs therefor, Petitioner's obligation to construct such transition shall be contingent on the City's acquisition of the necessary right of way for this transition, as stated above in subsection A.3.b.

c. St. Clair Avenue

St. Clair Avenue is one of the primary access roads to the Property. St. Clair Avenue is a minor arterial with an eighty (80) foot right-of-way shown on



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Exhibit C-1 and will be designed and constructed according to the most current adopted roadway standards at the time of subdivision.

Within 180 days after the issuance of the first building permit in Neighborhood E, F or G, as applicable, Petitioner shall dedicate all land required for and construct St. Clair Avenue from the eastern boundary of the Property to the centerline of the Bandera Parkway right-of-way as shown on Exhibit "C-1".

5. Bandera Boulevard Special Improvement Maintenance District

Petitioner shall, at the request of the City, sign a petition pursuant to Chapter 9, Title XII, of the Pueblo Municipal Code to include the Property within a special district for the purpose of providing for the maintenance of all landscaping within the right-of-way along Bandera Parkway as presently established and as located and constructed in the future. In order to implement this covenant, Petitioner shall place restrictions of record sufficient to bind all the land within the Property and subsequent owners thereof to this covenant.

6. Stormwater System

Petitioner agrees to divert storm water flows from the Property to the Goodnight Arroyo in accordance with the "Master Development Drainage Report for Regency Crest West Annexation" dated July, 2003. Petitioner will prepare plans and specifications to be approved by the Director of Public Works in accordance with the design contained in the Master Development Drainage Report for the Property. The Petitioner shall be responsible to acquire and dedicate at its sole expense all easements for such purposes.

The Petitioner also shall construct at its sole expense, according to the schedule of improvements for Neighborhood A, a stormwater drainage system and



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detention facility in compliance with the City's Drainage Criteria Manual (June 9, 1997) and the City's Standard Construction Specifications and Standard Details (February 26, 2001) or as same may be hereafter amended and as shown on construction plans approved by the Director of Public Works.

7. Park Dedication and Construction

a. Orr Park

The Petitioner has previously deeded to the City by warranty deed land within the Property for Orr Park to serve the residents of Regency Crest Subdivisions No. 2, No. 3, and the Property. Prior to the issuance of the first building permit within the first subdivision in the Property, the Petitioner shall submit a Detention Pond/Orr Park Phasing Plan for Neighborhood A to be approved by the Director of Parks and the Director of Public Works. Prior to the approval of any subdivision of any portion of Neighborhoods D-J, the Petitioner shall construct, at its sole expense, Orr Park as shown on construction plans prepared by the Petitioner and approved by the Director of Parks and the Director of Public Works.

Any funds previously deposited by Petitioner into the City's Park Escrow account for the construction of a park within the developed Regency Crest subdivisions shall be used to develop Orr Park.

The dedication of the property for Orr Park, construction of the park as shown on construction plans prepared by the Petitioner and approved by the Director of Parks and the Director of Public Works, and the acceptance of the park by the Director of Parks shall fulfill the requirements of Section 12-4-7(e) of the



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Pueblo Municipal Code for Regency Crest Subdivisions No. 2, No. 3, and the Property.

b. Sidewalks Bordering Park

In addition to any other sidewalks required to be constructed within the Property, Petitioner, as part of the improvements listed on the schedule of improvements for Neighborhood A, shall, within 180 days after the issuance of the first building permit in Neighborhood A, construct at its sole expense a 5' wide concrete sidewalk along the north side of Orr Park adjacent to St. Clair Avenue in compliance with the City's Standard Construction Specifications and Standard Details (February 26, 2001) or as same may be hereafter amended.

The Director of Public Works shall approve the design and specifications of the sidewalk, prepared by the Petitioner, prior to the construction of the sidewalk.

D. Incorporation.

This Exhibit C and all provisions and covenants hereof are incorporated in the Annexation Agreement as if set out therein in full and shall be enforceable as provided in the Annexation Agreement. The provisions and requirements of this Exhibit C are in addition to the provisions and requirements of City's subdivision ordinances, rules, regulations and standards and not in substitution thereof.



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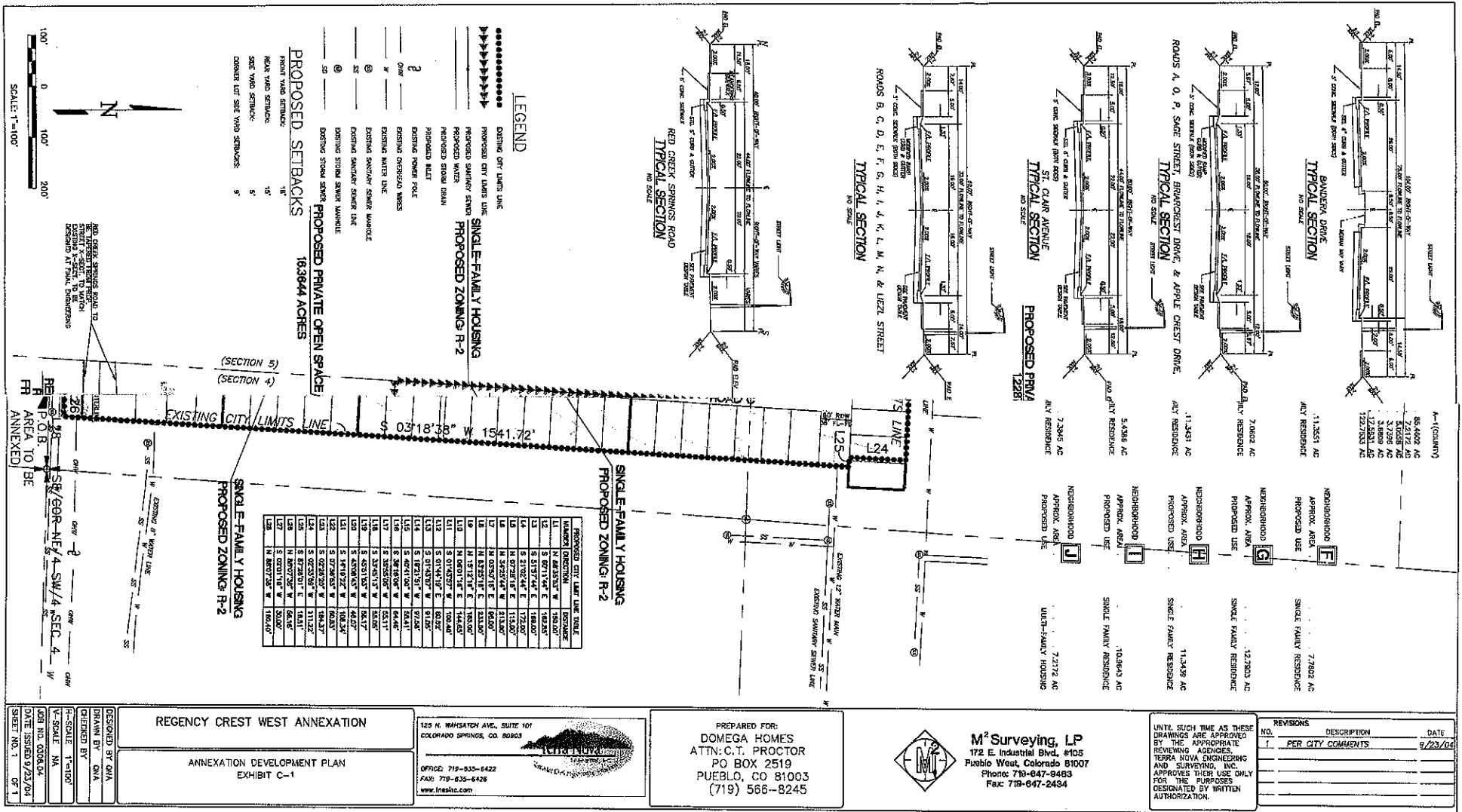
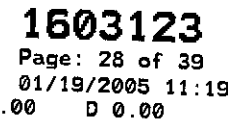


EXHIBIT C-1



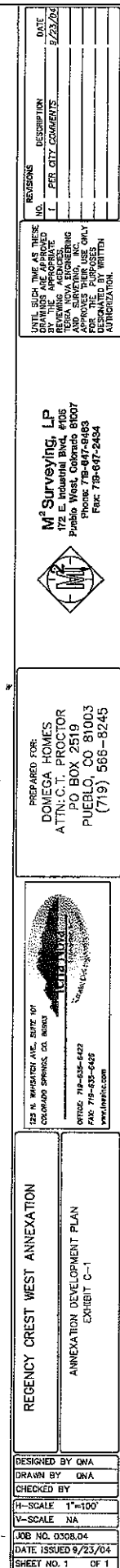


Exhibit C-2
September 27, 2004
Regency Crest West Master Plan Development Schedule

NEIGHBORHOOD A	
Area	11.3551 AC
# of Dwelling Units	51
Proposed Use	Single-Family Residence
Schedule of Improvements:	
1. Storm water outfall from Filing 3 to Goodnight Arroyo	
2. Grade Drainage Facility/Orr Park site	
3. Construct detached sidewalk along north side of Orr Park adjacent to St. Clair Avenue	
NEIGHBORHOOD B	
Area	7.0602 AC
# of Dwelling Units	29
Proposed Use	Single-Family Residence
Schedule of Improvements:	
1. Commence construction of Orr Park according to park plan approved by Parks Department and begin draw down of funds in park escrow fund for the construction of Orr Park.	
NEIGHBORHOOD C	
Area	11.3431 AC
# of Dwelling Units	60
Proposed Use	Single-Family Residence
Schedule of Improvements:	
1. Complete construction of Orr Park according to park plan approved by Parks Department and draw balance of funds in the park escrow fund for the construction of Orr Park.	
NEIGHBORHOOD D	
Area	5.4386 AC
# of Dwelling Units	31
Proposed Use	Single-Family Residence
Schedule of Improvements:	
1. Construct Red Creek Springs Road from eastern boundary of property to the west right-of-way of Suncrest Lane.	
NEIGHBORHOOD E	
Area	7.3845 AC
# of Dwelling Units	38
Proposed Use	Single-Family Residence
Schedule of Improvements:	
1. If not already constructed as a requirement of Neighborhoods F and G, construct St. Clair Avenue from eastern boundary of property to the west boundary of Neighborhood E.	

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NEIGHBORHOOD F	
Area	7.7802 AC
# of Dwelling Units	37
Proposed Use	Single-Family Residence
Schedule of Improvements:	
1. Construct St. Clair Avenue from eastern boundary of the Property and connect with Bandera Parkway. 2. Construct east half of Bandera Parkway and median with a transition at north end of roadway to align with existing pavement. The road shall be constructed from north boundary of property to the south right-of-way of St. Clair Avenue.	
NEIGHBORHOOD G	
Area	12.7903 AC
# of Dwelling Units	63
Proposed Use	Single-Family Residence
Schedule of Improvements:	
1. If Neighborhood G is built prior to Neighborhoods E & F, then St. Clair Avenue will be constructed from the eastern boundary of the Property and connect with Bandera Parkway.	
NEIGHBORHOOD H	
Area	11.3439 AC
# of Dwelling Units	37
Proposed Use	Single-Family Residence
Schedule of Improvements:	
1. Construct Red Creek Springs Road from west boundary of Suncrest Lane to western boundary of property, excluding the Red Creek Springs Road Arroyo Crossing.	
NEIGHBORHOOD I	
Area	10.9643 AC
# of Dwelling Units	46
Proposed Use	Single-Family Residence
Schedule of Improvements:	
1. Construct Red Creek Springs Road Arroyo Crossing	
NEIGHBORHOOD J	
Area	7.2172 AC
# of Dwelling Units	47
Proposed Use	Multi-Family Housing
Schedule of Improvements:	
1. Construct west half of Bandera Parkway and, if not already constructed as part of Neighborhood F, a median with a transition at north end of roadway to align with existing pavement. The road shall be constructed from north boundary of property to the south right-of-way of St. Clair Avenue.	

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EXHIBIT C-3

Bandera Corridor Project Area Cost Estimate Roadway and Arroyo Crossings

Roadway Improvement Costs

Bandera Parkway (48' of asphalt with landscaped median) \$2,164,500

Curb & Gutter	\$40 per ft	10000 ft	\$400,000
48' wide Asphalt	\$100 per ft	10000 ft	\$1,000,000
Median	\$30 per ft	10000 ft	\$300,000
Cut & Fill	\$25 per ft	10000 ft	\$250,000
Design/Engineering (11%)			\$214,500

Total \$216.00/ft. \$2,164,500

Red Creek Springs/Lehigh Ave. (East of Bandera Parkway) \$896,103

Curb & Gutter	\$20 per ft	5980 ft	\$119,600
44' wide Asphalt	\$90 per ft	5980 ft	\$538,200
Cut & Fill	\$25 per ft	5980 ft	\$149,500
Design/Engineering (11%)			\$88,803

Total \$150.00/ft. \$896,103

Red Creek Springs/Lehigh Ave. (West of Bandera Parkway) \$741,591

Curb & Gutter	\$20 per ft	3930 ft	\$78,600
60' wide Asphalt	\$125 per ft	3930 ft	\$491,250
Cut & Fill	\$25 per ft	3930 ft	\$98,250
Design/Engineering (11%)			\$73,491

Total \$189.00/ft. \$741,591



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Bardera Corridor Project Area

Cost Estimate

Roadways and Arroyo Crossings

Roadway Crossings Costs

Bandera Parkway (north)		\$1,100,000
Red Creek Springs Road		\$450,000
Lehigh Avenue		\$450,000
Bandera Parkway (south)		\$500,000
Estimated Total Cost for Roadway Crossings		\$2,500,000
TOTAL COST FOR ROADWAYS AND CROSSINGS		\$6,302,194
Cost Per Lot (714 acres x 4 lots/acre)	2856 lots	\$2,200

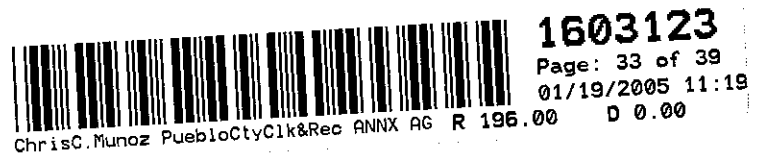


Exhibit C-4

SECURITY AGREEMENT

1. **Debtor:** The Proctor Family Partnership, LLLP
Attention: CT Proctor
Drawer 3430
Pueblo, CO 81005-0430
2. **Secured Party:** City of Pueblo, Colorado
Attention: Director of Public Works
211 East D Street
Pueblo, CO 81003
3. **Collateral:** All funds on deposit including interest earned thereon
at any time in non-transactional Account No. _____
at Legacy Bank ("Bank")
4. **Collateral Location:** Legacy Bank
1201 Paseo Del Norte
Pueblo, CO 81008
5. **Primary Use of Collateral:** Business purposes/collateral security
6. **Obligations.** All obligations of Debtor to Secured Party under that certain Annexation Agreement ("Annexation Agreement") bearing Case No. A-03-04 and dated 12/13, 2004, between Debtor as Petitioner and Secured Party as the annexing City, together with all other obligations of Debtor to Secured Party arising under the terms of this Security Agreement.
7. **Security Interest.** To secure payment and performance of the Obligations, Debtor hereby grants to Secured Party a security interest in the Collateral and in its proceeds. Debtor warrants and represents that Debtor has title to the Collateral free and clear of all liens, security interests and encumbrances, other than interests Bank may have in the Collateral that are wholly subordinate to the security interest herein granted to Secured Party, and Debtor has the right to grant this security interest.
8. **Covenants of Debtor.** Unless Secured Party consents in writing to another course of action, Debtor agrees: (a) Debtor will keep the Collateral free of liens, security interests and encumbrances (other than the security interest created by this Agreement); (b) At its option, Secured Party may discharge taxes, liens, security interests and any encumbrances against the Collateral. Any sums so advanced, together with interest at the statutory rate of 8% per annum, compounded annually, will become a part of the Obligations, due and owing at time of advance; (c) Debtor will from time to time execute financing statements, control agreements and other documents (and pay costs of filing and recording) and perform such other acts as Secured Party



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may reasonably request to perfect and maintain a valid first position security interest in the Collateral; (d) Upon reasonable prior notice and at reasonable times, Secured Party may inspect Debtor's books and records pertaining to the Collateral, wherever located.

9. Events of Default. The occurrence of any of the following events shall constitute an event of default under this Agreement: (a) failure to pay or perform any of the Obligations when due; (b) failure to perform or observe any other covenant contained in this Agreement or any other agreement given by Debtor to Secured Party in connection with the Obligations.

10. Remedies. Upon the occurrence of any event of default and at any time thereafter Secured Party shall have, in addition to all other rights and remedies, the right to withdraw funds from the Account in accordance with the provisions of the Annexation Agreement and the Control Agreement in effect among and between Secured Party, Debtor and Bank, and the remedies of a secured party under the Uniform Commercial Code as then in effect in Colorado ("UCC"). Debtor shall pay Secured Party all expenses incurred in realizing on the Collateral, including reasonable attorneys' fees.

11. General. (a) No default shall be waived by Secured Party except in writing and no waiver of any payment or other right under this Agreement shall operate as a waiver of any other payment or right; (b) This Agreement shall be construed under and governed by the laws of Colorado; (c) All of the rights of Secured Party under this Agreement shall be cumulative and shall inure to the benefit of Secured Party's successors and assigns. All obligations of Debtor hereunder shall be binding upon the successors and assigns of Debtor.

Dated: December 13, 2004

Debtor:

The Proctor Family Partnership, LLLP

by 
C.T. Proctor, General Partner



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ChrisC.Munoz PuebloCtyClk&Rec ANNEX AG R 196.00 D 0.00

Exhibit C-5

**CONTROL AGREEMENT UNDER ARTICLE 9
OF THE COLORADO UNIFORM
COMMERCIAL CODE**

This Agreement is dated December 13, 2004 and is between the City of Pueblo, Colorado, a municipal corporation ("city"); The Proctor Family Partnership, LLLP ("PFP"); and Legacy Bank ("Bank").

1. **Background and purpose of Agreement.** PFP and City are parties to an Annexation Agreement dated _____, 2004, a copy of which is attached hereto as Exhibit 1. Under the terms of the Annexation Agreement, PFP is to construct certain public facilities, as therein described (the "Road Improvements"). As collateral security for PFP's obligation to construct the Road Improvements, PFP and City have agreed that PFP will establish a deposit account at Bank (the "Account") into which payments in the nature of impact fees will be deposited as building permits are issued for lots within the property being annexed into City pursuant to the Annexation Agreement (the "Property"). Under the terms of the Annexation Agreement, City is to have a first position perfected security interest in the Account. A copy of the Security Agreement establishing City's security interest in the Account is attached as Exhibit 2. Under the terms of the Annexation Agreement, and provided PFP is not in default thereunder, PFP may withdraw funds from the Account as phases of the Road Improvements are completed and accepted by City. If PFP defaults in its obligations under the Annexation Agreement, City may withdraw funds from the Account to perform the obligations PFP has failed to perform. The purpose of this Agreement is to set forth the understandings of the parties with regard to these matters; to perfect City's security interest in the Account by "control" as described in Sections 104, 312, 314 and 327 of Article 9 of the Colorado Uniform Commercial Code (C.R.S. §4-9-104, 312, 314 a327); and to confirm that Bank's interest in the Account is wholly subordinate to City's interest in the Account.

2. **Deposits into the Account.** Until such time as all of the Roadway Improvements have been completed and accepted by City in writing, each time a building permit is applied for by PFP or any other party for the construction of a dwelling unit within the boundaries of the Property, PFP shall deposit into the Account the sum of \$2,200.00. (PFP may make advanced deposits if it so elects and apply such advanced deposits against the obligation to make deposits in connection with future applications for building permits.)

3. **Withdrawals from the Account.**

(i) At such time as certain portions of the Road Improvements as set forth in the following schedule have been completed and accepted by City, and provided PFP is not in default under the Annexation Agreement, PFP may, upon written application to Bank (with a copy to City) signed under oath and containing written confirmation from City of City's acceptance of the subject portion of the Road Improvements, withdraw funds from the Account in accordance with the following schedule:

(a) Red Creek Springs Road from Property's easterly boundary to west right of way of Suncrest Lane: **\$237,750** (1,585 linear feet at \$150/foot)



ChrisC.Munoz PuebloCtyClk&Rec ANNX AG R 196.00 D 0.00

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(b) Red Creek Springs Road from west right of way of Suncrest Lane to westerly boundary of Property, excluding Red Creek Springs arroyo crossing: **\$117,750** (785 linear feet at \$150/foot)

(c) Red Creek Springs Road arroyo crossing: **\$450,000**

(d) East half of Bandera Parkway plus median: **\$95,940** (50% of 780 feet at \$186/foot, plus \$30/foot for 780 feet of median)

(e) West half of Bandera Parkway: **\$72,540** (50% of 780 feet at \$186/foot)

(If, at the time of any authorized withdrawal described above, the funds in the account are not sufficient to fully satisfy the withdrawal request, PFP shall be allowed to withdraw the shortfall amount in connection with PFP's next authorized withdrawal hereunder.)

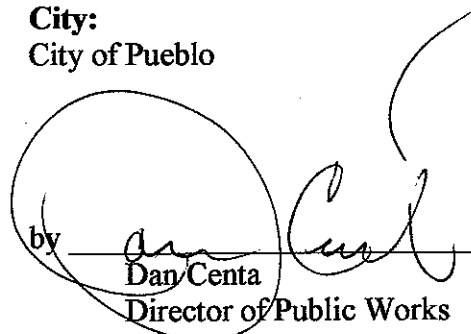
(ii) In the event PFP should default in PFP's obligation to construct the Roadway Improvements in accordance with the Annexation Agreement, City may, upon 75 days prior written notice of default to PFP (during which 75 days PFP shall have a right to cure its default) withdraw funds from the Account in an amount sufficient, in the reasonable opinion of City's Director of Public Works, to cure PFP's default. A request for payment by City to Bank hereunder shall be in writing, shall affirm that PFP is in default and has failed to cure its default in the time allowed, and shall be signed under oath by City's Director of Public Works. A copy of such payment request shall be submitted to PFP at the same time it is submitted to Bank. PFP's consent to a withdrawal by City in the circumstance described in this subparagraph (ii) is **not** required.

(iii) At such time as all of the Roadway Improvements have been completed and accepted by City, and PFP shall have made all withdrawals from the Account authorized above, any and all funds remaining in the Account shall be paid to City and the Account shall be closed.

(iv) Except as hereinabove stated, or the order of a court having jurisdiction over the matter, funds shall not be withdrawn from the Account.

4. Subordination of Bank's interest in Account. By joining in this Agreement, Bank confirms that withdrawals from the Account are subject to the conditions herein set forth and that, under C.R.S. §4-9-327, Bank's interest in the Account, including its right of setoff, is subordinate to City's interest in the Account as a party holding a first position security interest in the Account perfected by control.

City:
City of Pueblo

by 
Dan Centa
Director of Public Works



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ChrisC.Munoz PuebloCtyCik&Rec ANNX AG R 196.00 D 0.00

PFP:

The Proctor Family Partnership, LLLP

by CT Proctor
C.T. Proctor
General Partner

Bank:

Legacy Bank

by Andrew Trainor
Andrew Trainor
Exel Vice-President

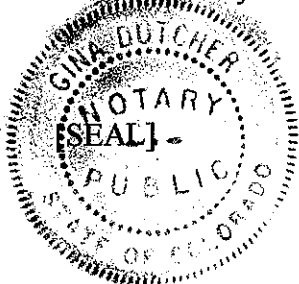
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ChrisC.Munoz PuebloCtyCik&Rec ANNEX AG R 196.00 D 0.00

Acknowledgements

STATE OF COLORADO)
)ss.
COUNTY OF PUEBLO)

Acknowledged before me this 13th day of DECEMBER, 2004 by Dan Centa,
Director of Public Works, City of Pueblo.

Witness my hand and official seal:



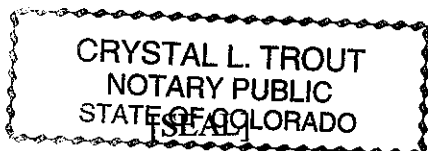
Gina Dutcher
Notary Public

My commission expires: August 18, 2007

STATE OF COLORADO)
)ss.
COUNTY OF PUEBLO)

Acknowledged before me this 10 day of November, 2004 by C.T. Proctor,
General partner, The Proctor Family Partnership, LLLP.

Witness my hand and official seal:



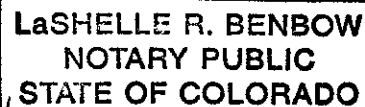
Crystal L. Trout
Notary Public

My commission expires: 5-13-08

STATE OF COLORADO)
)ss.
COUNTY OF PUEBLO)

Acknowledged before me this 10TH day of November, 2004 by
Andrew Trainor ~~EXC~~-vice-president, Legacy Bank.

Witness my hand and official seal:



LaShelle R. Benbow
Notary Public

[SEAL]

My Commission Expires April 12, 2005

My commission expires: _____



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Background Paper for Proposed Resolution

COUNCIL MEETING DATE: January 9, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Daniel C. Kogovsek, City Attorney

SUBJECT: A RESOLUTION AUTHORIZING PAYMENT FROM PROJECT CI2113 - AMERICAN RESCUE PLAN ACT FOR THE PURCHASE OF 718 W. 4TH STREET, PUEBLO CO 81003, FOR PURPOSES OF PROVIDING AN OUTDOOR SHELTER FOR HOMELESS INDIVIDUALS WHO WERE DISPROPORTIONATELY IMPACTED BY THE COVID-19 PANDEMIC, AS AUTHORIZED BY SECTION 603 OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6

SUMMARY:

This Resolution authorizes payment in the amount of \$65,000 plus applicable title insurance and closing costs from Project CI2113 American Rescue Plan Act ("ARPA") for the purchase of 718 W. 4th Street near downtown Pueblo to be used as an outdoor shelter for unhoused individuals who were disproportionately impacted by the COVID-19 pandemic. This payment is authorized by section 603 of the American Rescue Plan Act and U.S. Treasury Final Rule 31 CFR 35.6

PREVIOUS COUNCIL ACTION:

By Ordinance No. 9931, approved on May 17, 2021, the City Council established Project No. CI-2113 and budgeted and appropriated up to \$36.7 million in funds which were expected to be distributed to the City from the American Recovery Plan Act ("ARPA") for covered costs and eligible expenses to be incurred during the period which began on March 3, 2021 until December 31, 2024 (to be expended by December 31, 2026).

BACKGROUND:

The Mayor and City staff are recommending that the City purchase 718 W. 4th Street near downtown Pueblo. The property is adjacent to the Pueblo Rescue Mission and current plans are to demolish the existing building to enable the property to be used as an outdoor homeless warming shelter when temperatures are below 20 degrees and as a shaded cooling location when temperatures exceed 100 degrees. Contemporaneous

with this Resolution, City Council is being asked to approve an emergency ordinance accepting and approving the assignment of a contract to buy 718 W. 4th Street.

FINANCIAL IMPLICATIONS:

Funding for this purchase will be paid out of Project CI2113 – American Rescue Plan.

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

Not applicable.

ALTERNATIVES:

City Council could decide not to authorize payment for the purchase of 718 W. 4th Street to be used as an outdoor shelter for the City's homeless residents.

RECOMMENDATION:

Approval of this Resolution.

ATTACHMENTS:

None

RESOLUTION NO. 15122

A RESOLUTION AUTHORIZING PAYMENT FROM PROJECT CI2113 - AMERICAN RESCUE PLAN ACT FOR THE PURCHASE OF 718 W. 4TH STREET, PUEBLO CO 81003, FOR PURPOSES OF PROVIDING AN OUTDOOR SHELTER FOR HOMELESS INDIVIDUALS WHO WERE DISPROPORTIONATELY IMPACTED BY THE COVID-19 PANDEMIC, AS AUTHORIZED BY SECTION 603 OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6

RECITALS

The following recitals are incorporated in and made a part of this Resolution.

WHEREAS, 718 W. 4th Street, Pueblo, CO 81003 (the "Premises") is located in a Qualified Census Tract; and

WHEREAS, the building located on the Premises is currently vacant and abandoned and requires demolition; and

WHEREAS, pursuant to U.S. Treasury ARPA Final Rule p. 134, ARPA funds may be spent to pay "costs associated with acquiring and securing legal title of vacant or abandoned properties and other costs to position the property for current or future productive use;" and

WHEREAS, 718 W. 4th Street near downtown Pueblo is adjacent to the Pueblo Rescue Mission and current plans are to demolish the existing building to enable the property to be used as an outdoor homeless warming shelter when temperatures are below 20 degrees and as a shaded cooling location when temperatures exceed 100 degrees; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Funds in the amount of Sixty-Five Thousand Dollars (\$65,000) plus applicable title insurance and closing costs are hereby authorized to be paid from Project CI2113 American Rescue Plan Act, for the purchase of 718 W. 4th Street near downtown Pueblo to be used as an outdoor shelter for unhoused individuals who were disproportionately impacted by the COVID-19 pandemic.

SECTION 2.

The officers and staff of the City are authorized to perform any and all acts consistent with this Resolution which are necessary or desirable to implement the transactions described herein.

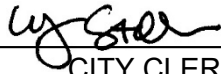
SECTION 3.

Funds in the amount of Sixty-Five Thousand Dollars (\$65,000) plus applicable title insurance and closing costs are hereby authorized to be paid from Project CI2113 American Rescue Plan Act, for the purchase of 718 W. 4th Street near downtown Pueblo to be used as an outdoor shelter for unhoused individuals who were disproportionately impacted by the COVID-19 pandemic.

INTRODUCED January 9, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK



Background Paper for Proposed Resolution

COUNCIL MEETING DATE: January 9, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Daniel C. Kogovsek, City Attorney

SUBJECT: A RESOLUTION AUTHORIZING PAYMENT OF TWO HUNDRED NINETY THOUSAND FOUR HUNDRED DOLLARS (\$290,400) FROM PROJECT CI2113 - AMERICAN RESCUE PLAN ACT TO 171 LOCAL SMALL BUSINESSES LOCATED IN QUALIFIED CENSUS TRACTS IN THE CITY OF PUEBLO WHICH WERE THEREBY DISPROPORTIONATELY IMPACTED BY THE COVID-19 PANDEMIC, AS AUTHORIZED BY SECTION 603 OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6

SUMMARY:

This Resolution authorizes payment of \$290,400 from Project CI2113 American Rescue Plan Act ("ARPA") to 171 local small businesses located in Qualified Census Tracts in the City which were thereby disproportionately impacted by the COVID-19 pandemic. These payments are authorized by section 603 of the American Rescue Plan Act and U.S. Treasury Final Rule 31 CFR 35.6

PREVIOUS COUNCIL ACTION:

By Ordinance No. 9931, approved on May 17, 2021, the City Council established Project No. CI-2113 and budgeted and appropriated up to \$36.7 million in funds which were expected to be distributed to the City from the American Recovery Plan Act ("ARPA") for covered costs and eligible expenses to be incurred during the period which began on March 3, 2021 until December 31, 2024 (to be expended by December 31, 2026).

BACKGROUND:

The COVID-19 pandemic and the State of Colorado's subsequent stay-at-home public health orders were catastrophic for many local businesses, particularly those deemed by the State of Colorado to be non-critical or non-essential. The failure of those at-risk local business and the resulting loss of jobs would have caused the City and its residents irreparable harm. Due to perseverance and the hard work of their owners and

employees, most of Pueblo's small businesses survived the COVID-19 pandemic, but could still benefit from financial assistance in order to remain operational.

After receiving ARPA funds, the City organized a task force made up of the Mayor, his Chief of Staff and various Department Directors and staff, with the goal of using ARPA funds, as restricted by ARPA's exacting guidelines, to assist the City's small businesses which prevailed over the pandemic, but could still use financial assistance to remain in business. The U.S. Treasury's ARPA Final Rule, found at 31 CFR 35.6, limits the payment of ARPA funds to those businesses which "were disproportionately impacted by the pandemic" which is defined as "small businesses operating in Qualified Census Tracts ("QCT's")." See U.S. Treasury ARPA Final Rule p. 148.

After extensive research, the task force identified 171 small businesses located in the City's QCT's which also met the following criteria:

- Each business must have generated gross sales of less than \$200,000 during the three-quarter reporting period of: 4th quarter sales in 2021 and the 1st and 2nd quarter of 2022.
- Each business must have timely filed quarterly Sales Tax Returns to the City of Pueblo for all three quarters.
- Each business must have timely paid Sales Tax due to the City of Pueblo for all quarters.

Unfortunately, U.S. Treasury regulations require that before receiving ARPA funds, each business must obtain a Unique Entity Identification Number (UEID) acquired through [SAM.gov](https://sam.gov)

FINANCIAL IMPLICATIONS:

Funding for these beneficiary grants will be paid out of Project CI2113 – American Rescue Plan.

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

Not applicable.

ALTERNATIVES:

City Council could decide not to authorize payment of the beneficiary grants to the 171 small businesses identified in the attached Resolution.

RECOMMENDATION:

Approval of this Resolution.

ATTACHMENTS:

1. ARPA 13 - Grant Beneficiaries_Retail Repair
2. ARPA 13 - Grant Beneficiaries_Retail Sales
3. ARPA 13 - Grant Beneficiaries_Retail Service
4. ARPA 13 - Grant Beneficiaries_Taverns
5. ARPA 13 - Grant Beneficiaries_Food Trucks
6. ARPA 13 - Grant Beneficiaries_Restaurant

RESOLUTION NO. 15123

A RESOLUTION AUTHORIZING PAYMENT OF TWO HUNDRED NINETY THOUSAND FOUR HUNDRED DOLLARS (\$290,400) FROM PROJECT CI2113 - AMERICAN RESCUE PLAN ACT TO 171 LOCAL SMALL BUSINESSES LOCATED IN QUALIFIED CENSUS TRACTS IN THE CITY OF PUEBLO WHICH WERE THEREBY DISPROPORTIONATELY IMPACTED BY THE COVID-19 PANDEMIC, AS AUTHORIZED BY SECTION 603 OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6

RECITALS

The following recitals are incorporated in and made part of this Resolution.

WHEREAS, by Ordinance No. 9931, approved on May 17, 2021, the City Council established Project No. CI-2113 and budgeted and appropriated up to \$36.7 million in funds which were expected to be distributed to the City from the American Recovery Plan Act ("ARPA") for covered costs and eligible expenses to be incurred during the period which began on March 3, 2021 until December 31, 2024 (to be expended by December 31, 2026); and

WHEREAS, the COVID-19 pandemic and the State of Colorado's subsequent stay-at-home public health orders were catastrophic for many local businesses, particularly those deemed by the State of Colorado to be non-critical or non-essential. The failure of those at-risk local business and the resulting loss of jobs would have caused the City and its residents irreparable harm. Due to perseverance and the hard work of their owners and employees, most of Pueblo's small businesses survived the COVID-19 pandemic but could still benefit from financial assistance in order to remain operational; and

WHEREAS, after receiving ARPA funds, the City organized a task force made up of the Mayor, his Chief of Staff and various Department Directors and staff, with the goal of using ARPA funds, as restricted by ARPA's exacting guidelines, to assist the City's small businesses which prevailed over the pandemic but could still use financial assistance to remain in business; and

WHEREAS, the U.S. Treasury's ARPA Final Rule, found at 31 CFR 35.6, limits the payment of ARPA funds to those businesses which "were disproportionately impacted by the pandemic" which is defined as "small businesses operating in Qualified Census Tracts ("QCT's")." See U.S. Treasury ARPA Final Rule p. 148; and

WHEREAS, after extensive research, the task force identified 171 small businesses located in the City's QCT's which also met the following criteria:

- Each business must have generated gross sales of less than \$200,000 during the three-quarter reporting period of: 4th quarter sales in 2021 and the 1st and 2nd quarter of 2022.
- Each business must have timely filed quarterly Sales Tax Returns to the City of Pueblo for all three quarters.
- Each business must have timely paid Sales Tax due to the City of Pueblo for all quarters; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Funds in the amount of \$290,400.00 are hereby authorized to be paid from Project CI2113 American Rescue Plan Act ("ARPA") to the 171 local small businesses identified in the attached spreadsheet, which were located in Qualified Census Tracts in the City and thereby were disproportionately impacted by the COVID-19 pandemic.

SECTION 2.

Prior to receiving ARPA funds under this Resolution, each business must obtain and present the City's Director of Finance with a Unique Entity Identification Number (UEID) acquired through [SAM.gov](https://sam.gov).

SECTION 3.

The officers and staff of the City are authorized to perform any and all acts consistent with this Resolution which are necessary or desirable to effectuate the transactions described herein.

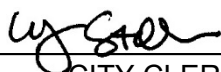
SECTION 4.

This Resolution shall become effective immediately upon final passage.

INTRODUCED January 9, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

	GRANT	RETAIL REPAIR				
\$1,291.36	\$1,300.00	00093	A REAL MUFFLER AND BRAKE	1144 S SANTA FE AVE	PUEBLO	81006
\$345.38	400.00	10162	ANYTHING AUTOMOTIVE LLC	2206 E 4TH ST	PUEBLO	81001
\$326.06	400.00	00624	AUTOMASTER	725 E 8TH ST	PUEBLO	81001
\$422.19	500.00	00853	BF AUTO REPAIR	1538 E EVANS AVE	PUEBLO	81004
\$202.99	300.00	01054	BURKES TV SALES INC	110 W 12TH ST	PUEBLO	81003
\$1,825.43	1900.00	01939	DOMENIC AND SON P AND B INC	1011 S SANTA FE AVE	PUEBLO	81006
\$209.10	300.00	02582	GENES AUTO REPAIR	1027 BEECH ST	PUEBLO	81001
\$6,549.79	6600.00	20753	GOOD GUYS TIRES & WHEELS 2	601 E 4TH ST	PUEBLO	81001
\$688.07	700.00	22416	MOWERS & MORE	1840 E 4TH ST	PUEBLO	81001
\$452.00	500.00	16758	MR. T'S AUTO SERVICE CENTER LLC	116 E 6TH ST	PUEBLO	81003
\$1,309.80	1400.00	04981	PUEBLO AUTO SHINE	1107 N HUDSON AVE	PUEBLO	81001
\$119.97	200.00	15934	PUEBLO RADIATOR REPAIR	2127 E 4TH ST	PUEBLO	81001
\$411.01	500.00	05379	RJS MOBILE LOCK AND KEY SVC	1415 E 8TH ST	PUEBLO	81001
	<u>\$15,000.00</u>					

GRANT		RETAIL SALES				
68.73	\$	100.00	24354	A&K MOTORCYCLE SERVICE	117 W 13TH ST	PUEBLO 81003
127.67		200.00	22273	ALL CLAY LLC	103 S GRAND AVE	PUEBLO 81003
158.91		200.00	17201	AMBER DRAGONFLY BOUTIQUE	105 W B STREET	PUEBLO 81003
1914.09		2,000.00	11082	ANGELS OF HOPE INC	1000 W 6TH ST	PUEBLO 81003
3616.2		4,000.00	00464	ANIMAL KINGDOM AND PONDS BY JEFF	339 S SANTA FE AVE	PUEBLO 81003
20.21		100.00	22688	BABY ZONE AND MORE	322 W NORTHERN AVE	PUEBLO 81004
3136.21		3,200.00	00722	BARGAIN BOX	331 E 4TH ST	PUEBLO 81003
4082.9		4,100.00	22446	BELLA SPOSA BRIDAL BTQ	109 W B ST	PUEBLO 81003
2215.51		2,300.00	12584	BILLIARDS EMPORIUM DIV OF CABIN FEVER SPORTS	250 S SANTA FE AVE	PUEBLO UNIT 8 81003
1034.11		1,100.00	23062	BLO BACK GALLERY	131 SPRING ST	PUEBLO 81003
238.35		300.00	24021	BROOKE STIMAC	301 N SANTA FE AVE	PUEBLO SUITE 10 81003
69.36		100.00	26156	BUMPERS +PLUS	1321 E ABRIENDO AVE	PUEBLO 81004
610.87		700.00	23731	BURNS PERSONALIZED GIFTS AND BALLOONS	106 W 2ND ST	PUEBLO 81003
872.3		900.00	25601	CHILDRESS BRAZILIAN JIU-JITSU ACADEMY LLC	1216 S PRAIRIE AVE	PUEBLO 81005
338.75		400.00	19063	CLOUD 9 HOOKAH	419 N SANTA FE AVE	PUEBLO 81003
401.46		500.00	17820	COLORADO CUSTOM TS	503 W NORTHERN AVE	PUEBLO 81004
2542.55		2,600.00	15402	CONSTRUCTION BID NETWORK INC	600 E 11TH ST	PUEBLO 81001
7979.79		8,000.00	20524	COTTONS ANTIQUE MALL	214 S UNION AVE	PUEBLO 81003
55.5		100.00	24511	CULLEN REGENERATIVE MEDICINE	112 W D ST	PUEBLO STE 210C 81003
60.34		100.00	26813	CUSTESIX	675 S UNION AVE	PUEBLO 81004
74.4		100.00	26989	DANIELLE ANITA STUDIOS LLC	919 E ABRIENDO AVE	PUEBLO 81004
871.7		900.00	14085	DISCOUNT CYCLE WORKS LLC	1405 W 4TH ST	PUEBLO 81004
2033.95		2,100.00	26850	DRIP COMPANY LLC	517 W 5TH ST	PUEBLO STE 110 81003
784.9		800.00	22024	ELLEDGE MUSIC	518 W NORTHERN AVE	PUEBLO 81004
1376.74		1,400.00	18245	FACE TO FACE	333 COURT STREET	PUEBLO 81003
78.28		100.00	24532	FULL BODY WELLNESS ON 5TH	517 W 5TH ST	PUEBLO STE 109 81003
6025.47		6,100.00	02529	GAME FORCE	1523 MOORE AVE	PUEBLO 81005
10.18		100.00	25447	GENERATION JEWELRY BY CRYSTAL	2310 PINE ST	PUEBLO 81004
34.25		100.00	25805	GLISTEN & GLOW	120 S UNION AVE	PUEBLO 81003
1384.88		1,400.00	02662	GOLDEN M	103 W B ST	PUEBLO 81003
244.99		300.00	24234	HERBAL GARDEN EXTRACT, LLC	302 LAMKIN ST	PUEBLO 81003
4228.91		4,300.00	25560	HOPSCOTCH BAKERY	333 S UNION AVE	PUEBLO 81003
1323.87		1,400.00	23173	JEAN GRASTON PHOTOGRAPHY	421 N SANTA FE AVE	PUEBLO 81003

3138.82	3,200.00	24485	JEFF LOPEZ PHOTOGRAPHY	103 W ABRIENDO AVE	PUEBLO	81004
4269	4,300.00	03390	JJ FASHION WEAR	728 E 4TH ST	PUEBLO	81001
436.05	500.00	20065	JOPLIN TIRES	409 S JOPLIN AVE	PUEBLO	81001
353.2	400.00	24640	LADY FAIR LAUNDRY	1234 CYPRESS ST	PUEBLO	81004
2775.83	2,800.00	25363	LAND OF OZZ	131 S UNION AVE	PUEBLO	81003
1872.2	1,900.00	19305	LLANTERA EL CHAPO LLC	301 E 4TH ST	PUEBLO	81003
1458.31	1,500.00	04024	MENCO JEWELRY/LOAN/COIN	614 W 4TH ST	PUEBLO	81003
48.14	100.00	21069	MICHAEL R BOYD STUDIO LLC	625 S UNION AVE	PUEBLO	81004
1.3	100.00	23907	MULTI-DESIGNS, LLC	421 N MAIN ST	PUEBLO STE 406	81003
1930.88	2,000.00	26897	NEIGHBORHOOD PAWN & SALES LLC	623 W NORTHERN AVE	PUEBLO	81004
356.42	400.00	25454	NOCTAMBULO	311 1/2 S UNION AVE	PUEBLO	81003
324.26	400.00	19386	ONCE AGAIN	307 W NORTHERN AVE	PUEBLO	81004
928.58	1,000.00	15301	ORANGE SKYE SPA	117 W 6TH ST	PUEBLO	81003
511.09	600.00	21566	PAINT N BUBBLY ART STUDIO	223 N SANTA FE AVE	PUEBLO	81003
123.2	200.00	26296	PATHFINDER VENTURES	303 E NORTHERN AVE	PUEBLO STE 2	81006
1567.49	1,600.00	20047	POCKET CHANGE	124 S UNION AVE	PUEBLO	81003
90.26	100.00	26802	PRELOVED PROMENADE LTD	689 S UNION AVE	PUEBLO	81004
4956.25	5,000.00	17979	PRINT PROS	2117 E EVANS AVE	PUEBLO	81004
542.3	600.00	25365	PROJECT: INSPIRE COOPERATIVE	129 S UNION AVE	PUEBLO	81003
4588.53	4,600.00	24752	PUEBLO BULLS HOCKEY CLUB INC.	100 W GRAND AVE	PUEBLO	81003
263.58	300.00	26415	PUEBLO DRIP	416 N SANTA FE AVE	PUEBLO	81003
159	200.00	08709	PUEBLO HERITAGE MUSEUM	201 WEST B STREET	PUEBLO	81003
35.04	100.00	12148	PUEBLO RAILWAY MUSEUM AND YARD	301 WEST B ST STE 100	PUEBLO	81003
763.01	800.00	23912	PUEBLO TUXEDO AND SUITS LLC	321 S UNION AVE	PUEBLO	81003
57.89	100.00	05234	RAPID ELECTRONICS	518 W NORTHERN AVE	PUEBLO	81004
5511.14	5,600.00	05378	RJC FIREARMS LLC	114 W 12TH ST	PUEBLO	81003
1760.1	1,800.00	05489	ROSEMOUNT MUSEUM	419 W 14TH ST	PUEBLO	81003
17.02	100.00	26210	SANITIZING AIR SOLUTIONS	415 N GREENWOOD	PUEBLO STE D	81003
963.98	1,000.00	13198	SMOKE SHOP LLC	1723 S PRAIRIE AVE	PUEBLO	81005
2177.39	2,200.00	26438	SO CO DRIPCO	517 W 5TH ST	PUEBLO STE 110	81003
87.55	100.00	27040	SOAPYCATPRODUCTIONS LLC	1907 E ABRIENDO AVE	PUEBLO	81004
50.92	100.00	16950	SOUTHERN COLORADO KENNEL CLUB, INC	715 N GRAND AVE	PUEBLO	81003
1626.57	1,700.00	14439	STEEL CITY ART WORKS	216 S UNION AVE	PUEBLO	81003
2496.68	2,500.00	20557	STITCHER'S GARDEN II, LLC	308 S UNION AVE	PUEBLO	81003

4408.61	4,500.00	24240	TAILORED WEST, PUEBLO LLC	327 S UNION AVE	PUEBLO		81003
912.27	1,000.00	20082	THE ANTIQUE HOUSE	311 S UNION AVE	PUEBLO		81003
1205.94	1,300.00	21430	THE COMPRESSION CENTER, LLC	115 E RIVERWALK	PUEBLO	STE 200	81003
2745.32	2,800.00	23763	THE OUTER LIMITS COMIC BOOKS AND COLLECTABLES	427 S SANTA FE AVE	PUEBLO		81003
1526.76	1,600.00	25754	THRIFTY GENTS	1000 W 6TH ST	PUEBLO	STE A	81003
880.71	900.00	22111	UNIQUE TREASURES	1909 E 4TH ST	PUEBLO		81001
2673.14	2,700.00	06804	VANCES BICYCLE WORLD	2200 S PRAIRIE AVE	PUEBLO		81004
2901.72	3,000.00	22583	WRIGHT LEGACY INC	414 N SANTA FE AVE	PUEBLO		81003
	<u>\$ 115,800.00</u>						

	GRANT		RETAIL SERVICE			
15	\$	100.00	22958	AARATRELLA SKIN CARE	333 COURT ST	PUEBLO 81003
219.23		300.00	02583	AGUILAR BARBER STYLING INC	3078 W NORTHERN AVE	PUEBLO 81005
44.42		100.00	00265	AKKA KARATE USA	226 S UNION AVE	PUEBLO 81003
1169.32		1,200.00	00395	AMERICAN GI FORUM	125 HECTOR GARCIA PL	PUEBLO 81003
2902.67		3,000.00	00407	AMERICAN LEGION POST 2	701 W 9TH ST	PUEBLO 81003
33		100.00	02797	CAROLE FULTON	2222 S PRAIRIE AVE	PUEBLO 81004
199.25		200.00	17352	CENTER FOR AMERICAN VALUES, INC	101 S MAIN ST	PUEBLO SUITE 100 81003
222.85		300.00	22556	CUT	329 S UNION AVE	PUEBLO 81003
1295.06		1,300.00	06374	DESIGN SOURCE THE	120 WEST B STREET	PUEBLO 81003
226		300.00	11705	DRAGON DOJO, THE	930 S SANTA FE AVE	PUEBLO 81006
2316.8		2,400.00	02158	ELKS CLUB NUMBER 90	426 N SANTA FE AVE	PUEBLO 81003
231.14		300.00	02152	EUPHORIA SALON INC	401 N GREENWOOD	PUEBLO STE "E" 81003
101.15		200.00	22885	EVOLUTION STYLE STUDIO, LLC	301 N SANTA FE AVE	PUEBLO STE 10 81003
1587.62		1,600.00	02243	EXPRESS BLUEPRINT/GRAPHIC	514 W 6TH ST	PUEBLO 81003
170.2		200.00	24831	GALLERY SAN ISABEL	1610 N SALEM AVE	PUEBLO 81001
136.07		200.00	27691	HI-SCORE ARCADE	1527 MOORE AVE	PUEBLO 81005
177.61		200.00	26921	JR'S TIRE SHOP	1640 E 2ND ST	PUEBLO 81001
0.69		100.00	22235	KYLE LAWS STUDIO-GALLERY	107 S GRAND AVE	PUEBLO SUITE A 81003
299.69		300.00	24638	LADY FAIR LAUNDRY	700 W 4TH ST	PUEBLO 81003
306.14		400.00	24642	LADY FAIR LAUNDRY	515 N ERIE AVE	PUEBLO 81001
1042.66		1,100.00	04265	MTN. VIEW CEMETERY/PUEBLO	1315 ACERO AVE	PUEBLO 81004
1038.45		1,100.00	04414	NOGARES GYMNASICS ACADEMY	1106 ACERO AVE	PUEBLO 81004
2011.58		2,100.00	12830	OLDE TOWNE CARRIAGE HOUSE	102 S VICTORIA AVE	PUEBLO 81003
543.47		600.00	23124	PARKVIEW OUTPATIENT CENTER- COFFEE SHOP	330 W 14TH STREET	PUEBLO 81003
114.58		200.00	05073	PUEBLO POLICE BENEVOLANT	2618 LAKEVIEW AVE	PUEBLO 81004
5.02		100.00	05211	RAES HAIR SALON	405 W 6TH ST	PUEBLO 81003
173.17		200.00	23331	REMINISCE SALON & SPA LLC	607 N MAIN ST	PUEBLO 81003
377.17		400.00	13958	RIVERS EDGE BANQUET HALL	102 S ONEIDA ST	PUEBLO 81003
1164.98		1,200.00	20053	ROOT REPUBLIC LLC	914 S SANTA FE AVE	PUEBLO 81006
45.1		100.00	19495	ROUTT ALTERATION	1312 E ROUTT AVE	PUEBLO 81004
1381.96		1,400.00	05594	SANGRE DE CRISTO ARTS AND CONFERENCE CTR	210 N SANTA FE AVE	PUEBLO 81003
316.49		400.00	05543	SENIOR RESOURCE DEVELOPMENT AGENCY PUEBLO INC	1414 N SANTA FE AVE	PUEBLO 81003
388.34		400.00	03164	SHEAR RESULTS	421 N MAIN STREET	PUEBLO SUITE 100 81003

233.6	300.00	18788	SKIN REJUVE BY CYNTHIA
3842.04	3,900.00	23545	SOUTHERN COLORADO FLIGHT PROFESSIONALS
260.09	300.00	25083	SUPERCUTS
2501.3	2,600.00	18813	THE FIRE PLAYCE LLC
10.74	100.00	23304	THE GENTLEMEN'S BARBERSHOP LLC
228.11	300.00	27619	THE SELF LOVE SPA
63.7	100.00	06817	VEGES SHOE REPAIR
81.07	100.00	09782	ZARAGOZA HALL INC
	<u>29,800.00</u>		

517 W 5TH ST	PUEBLO	STE 107	81003
511 SKYWAY ST	PUEBLO		81001
1529 MOORE AVENUE	PUEBLO		81005
517 W 5TH ST	PUEBLO	STE 108	81003
132 W B ST	PUEBLO		81003
517 W 5TH ST	PUEBLO	STE 110	81003
412 W NORTHERN AVE	PUEBLO		81004
1339 E ROUTT AVE	PUEBLO		81004

	GRANT	TAVERNS				
6355.42	\$ 6,400.00	20514	7TH ST STATION LLC	112 W 7TH ST	PUEBLO	81003
3877.96	3,900.00	01348	CIRCLE TAVERN	405 E NORTHERN AVE	PUEBLO	81006
6190.58	6,200.00	13404	DOWNTOWN BAR, THE	103 CENTRAL PLAZA	PUEBLO	81003
6941.36	7,000.00	02123	EILERS PLACE	326 E MESA	PUEBLO	81006
3943.95	4,000.00	18191	IRON HORSE BAR AND GRILL INC	717 N MAIN ST	PUEBLO	81003
6450.11	6,500.00	02308	LA FAVORITA	119 WEST B ST	PUEBLO	81003
3010.45	3,100.00	04462	NUNEZ LOUNGE	313 W NORTHERN AVE	PUEBLO	81004
272.89	300.00	01844	RUSS'S DELUXE TAVERN	407 N SANTA FE AVE	PUEBLO	81003
3137.73	3,200.00	25780	THE OASIS	1501 E EVANS AVE	PUEBLO	81004
391.17	400.00	19816	THE SPOTLIGHT	211 W NORTHERN AVE	PUEBLO	81004
5415.03	5,500.00	18653	VETERANS TAVERN	315 E NORTHERN AVE	PUEBLO	81006
	\$ 46,500.00					

	GRANT	FOOD TRUCKS				
52.41	\$ 100.00	24542	ARCTIC SNOW	1610 N OGDEN AVE	PUEBLO	81001
47.69	100.00	24710	BIG LOU'S AMAZING SANDWICH AND TACOS	1429 E 18TH ST	PUEBLO	81001
989.55	1,000.00	24930	HIPPY HOVET BAKING CO	849 E EVANS AVE	PUEBLO	81004
539.66	600.00	21603	LA MICHOACANA	1004 E EVANS AVE	PUEBLO	81004
407.82	500.00	24588	MANNYS MEX FOOD	718 E RIVER ST	PUEBLO	81001
741.85	800.00	25938	PAPA MARIO'S	1701 CRESTMOOR DR	PUEBLO	81001
2836.08	2,900.00	26214	TACOS EL PANTERA LLC	915 W 16TH ST	PUEBLO	81003
1198.3	1,200.00	21082	TACOS Y GORDITAS JUANITAS	815 E 5TH ST	PUEBLO	81001
	<u>\$ 7,200.00</u>					

ARPA Small Business Grant list - See tabs for each business category

GRANT		RESTAURANTS					
3845.99	\$	3,900.00	23319	BITE ME CAKE COMPANY	223 S UNION AVE	PUEBLO	81003
6530.96		6,600.00	00903	BLACK SWAN CAFÉ	209 W 7TH ST	PUEBLO	81003
134.32		200.00	11180	CAFÉ DE LA ESQUINA	100 E ABRIENDO AVE	PUEBLO	81004
1197.48		1,200.00	11638	CASA DE BURRITOS LLC	1729 S PRAIRIE AVE	PUEBLO	81005
5347.62		5,400.00	05562	CHONGS KITCHEN INC	1301 N MAIN ST	PUEBLO	81003
1257.63		1,300.00	01688	CUCAS RESTAURANT	1227 E ROUTT AVE	PUEBLO	81004
4994.47		5,000.00	02133	EL NOPAL RESTAURANT	1435 E EVANS AVE	PUEBLO	81004
301.7		300.00	23990	GRAMPS MEXICAN KITCHEN & CATERING	1549 E EVANS AVE	PUEBLO	81004
296.74		300.00	06422	LITTLE BITE OF HEAVEN	138 WEST B STREET	PUEBLO	81003
2675.1		2,700.00	19471	LIZ'S TAMALES HOUSE	1243 EILERS AVE	PUEBLO	81006
4383.43		4,400.00	03859	MAGPIES RESTAURANT	229 S UNION AVE	PUEBLO	81003
4772.84		4,800.00	26841	POKE N RAMEN	103 S UNION AVE	PUEBLO	81003
5022.27		5,100.00	05105	PUEBLO UNION DEPOT INC	132 WEST B STREET	PUEBLO	81003
5904.36		6,000.00	19860	SCHLEP'S SANDWICHES	612 N MAIN ST	PUEBLO	81003
1633.17		1,700.00	05902	SOUTHERN CLASSIC CUISINE	1123 W 13TH ST	PUEBLO	81003
4454.82		4,500.00	24851	STAR BAR	300 SPRING ST	PUEBLO	81003
2416.32		2,500.00	27488	STEEL CITY NUTRITION LLC	330 S UNION AVE	PUEBLO	81003
1652.83		1,700.00	19766	STEEL CITY THEATRE COMPANY	241 S SANTA FE AVE	PUEBLO	81003
866.13		900.00	16684	THE FIFTH AND MAIN ESPRESSO BAR	421 N MAIN ST	PUEBLO STE 101	81003
7011.48		7,100.00	25149	TIAN JIN ORIENTAL CUISINE INC	3400 W NORTHERN AVE	PUEBLO	81005
4538.53		4,600.00	23361	TOLER BROTHERS LLC	1001 BEULAH AVE	PUEBLO	81004
5560.23		5,600.00	13249	VASQUEZ TACO SHOP	602 E 4TH ST	PUEBLO	81001
274.84		300.00	24216	YOGURT ON UNION LLC	101 N UNION AVE	PUEBLO SUITE 100	81003
	\$	76,100.00					



Background Paper for Proposed Resolution

COUNCIL MEETING DATE: January 9, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Dennis Flores, Councilor

SUBJECT: A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2023 GENERAL FUND BUDGET TO THE LATINO CHAMBER DEVELOPMENT FOUNDATION IN THE AMOUNT OF \$2,000 TO SPONSOR THE 44TH ANNUAL DINNER ON SATURDAY, FEBRUARY 11, 2023 AT THE PUEBLO CONVENTION CENTER

SUMMARY:

Attached for consideration is a request for support of the Latino Chamber Development Foundation in the amount of \$2,000 to sponsor the 44th Annual Dinner on Saturday, February 11, 2023 at the Pueblo Convention Center.

PREVIOUS COUNCIL ACTION:

City Council contributed to this event in 2005, 2008, 2015, 2018, 2019, 2020, and 2022.

BACKGROUND:

City Council Member Dennis Flores is requesting \$2,000 to support the Latino Chamber Development Foundation in the amount of \$2,000 to sponsor the 44th Annual Dinner on Saturday, February 11, 2023 at the Pueblo Convention Center. This year's celebration, "Noche del Corazón: YOU are the heartbeat of our Community," will honor 44 years of history, heritage, and humanity. The Latino Chamber's mission is to keep our community connected, promote opportunity, growth, and small business development.

FINANCIAL IMPLICATIONS:

Funds in the amount of \$2,000 would be paid from the Council Contingencies Account in the 2023 General Fund Budget to the Pueblo Latino Chamber Development Foundation.

BOARD/COMMISSION RECOMMENDATION:

Not Applicable.

STAKEHOLDER PROCESS:

Not Applicable.

ALTERNATIVES:

City Council could choose not to authorize funding for this association.

RECOMMENDATION:

This Resolution is at the request of Council Member Dennis Flores.

ATTACHMENTS:

1. 2023 Council Contingencies
2. Sponsorship Request

RESOLUTION NO. 15124

A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2023 GENERAL FUND BUDGET TO THE LATINO CHAMBER DEVELOPMENT FOUNDATION IN THE AMOUNT OF \$2,000 TO SPONSOR THE 44TH ANNUAL DINNER ON SATURDAY, FEBRUARY 11, 2023 AT THE PUEBLO CONVENTION CENTER

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Payment in the amount of \$2,000 from the Council Contingencies Account in the 2023 General Fund Budget is authorized to be paid to Latino Chamber Development Foundation to sponsor the 44th Annual Dinner on Saturday, February 11, 2023 at the Pueblo Convention Center.

SECTION 2.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Resolution to implement the policies and procedures described herein.

SECTION 3.

This Resolution shall become effective upon passage and approval.

INTRODUCED January 9, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

ANNUAL DINNER DANCE CELEBRATION



The Latino Chamber of Commerce is excited to host the **Annual Dinner Dance Celebration** on Saturday, February 11th in beautiful Pueblo, Colorado. The evening celebration recognizes outstanding community leaders, business organizations, and individuals, while providing a unique and elegant experience highlighting the Latino culture. This is the Latino Chamber's biggest event of the year and we invite you to be a part of it! The 44th Annual Dinner Celebration will include a night of networking, celebration, games, giveaways, dancing, and a silent auction.

PLATINUM | \$5,000

- (1) Reserved corporate table – 10 seats
- Up to a one-minute video played during the event (provided by sponsor)
- Company representative will have the option to provide welcome remarks before dinner
- Full-page advertisement in the event program (provided by sponsor)
- Sponsor signage/banner/pop up displayed during the event
- Media recognition on all Annual Dinner Celebration advertising as a Platinum Sponsor
- Sponsor's promotional items placed on tables during the event
- Sponsor name/logo featured in the presentation & on table signs
- Dedicated display table of resources and materials during the event
- One month banner advertisement on Latino Chamber website (redeemable in 2023)

GOLD | \$4,000

- (1) Reserved corporate table – 10 seats
- Up to a one-minute video played during the event (provided by sponsor)
- Full-page advertisement in the event program (provided by sponsor)
- Sponsor signage/banner/pop up displayed during the event
- Media recognition on all Annual Dinner Celebration advertising as a Gold Sponsor
- Sponsor name/logo featured in the presentation & on table signs
- One month banner advertisement on Latino Chamber website (redeemable in 2023)

SILVER | \$3,000

- (1) Reserved corporate table - 10 seats
- Up to a 30-second video played during the event (provided by sponsor)
- Half-page advertisement in the event program (provided by sponsor)
- Sponsor signage/banner/pop up displayed during the event
- Media recognition on all Annual Dinner Celebration advertising as a Silver Sponsor
- Sponsor name/logo featured in the presentation & on table signs

BRONZE | \$2,000

- 8 Reserved seats for the event
- Half-page advertisement in the event program (provided by sponsor)
- Media recognition on all Annual Dinner Celebration advertising as a Bronze Sponsor
- Sponsor name/logo featured in the presentation & on table signs

COPPER | \$1,000

- 6 Reserved seats for the event
- Quarter-page advertisement in the event program (provided by sponsor)
- Media recognition on all Annual Dinner Celebration advertising as a Copper Sponsor
- Sponsor name/logo featured in the presentation & on table signs

CONTRIBUTING | \$500

- Media recognition on all Annual Dinner Celebration advertising as a Contributing Sponsor
- Sponsor name featured in the presentation & event program

TABLES | \$1,000

- Table of 10 seats with customized table sign for your company/family and listed in the event program and presentation

INDIVIDUAL TICKETS | \$100

SILENT AUCTION DONATION

- To donate contact our office at 719-542-5513 or office@pueblolatinochamber.com

SPONSOR NAME/LOGO MEDIA RECOGNITION INCLUDES

- Customized printed/mailed invitations
- Customized email invitations
- Latino Chamber of Commerce electronic newsletter – El Gritón
- Social media postings on Facebook, Twitter, LinkedIn, and Instagram
- Listing in the Latino Chamber of Commerce calendar of events & the City of Pueblo's community events calendar
- General press release – local/state media distribution

*If your company does not have a video or commercial the Latino Chamber or a member may be able to help. Contact our office at (719) 542-5513





**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: January 9, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Regina Maestri, Councilor

SUBJECT: A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2023 GENERAL FUND BUDGET TO MT. CARMEL VETERANS SERVICE CENTER IN THE AMOUNT OF \$2,500 TO SPONSOR THE SALUTE TO HEROES RECEPTION ON THURSDAY, JANUARY 19, 2023 AT 4 PM

SUMMARY:

Attached for consideration is a request for support of Mt. Carmel Veterans Service Center to Heroes Reception in the amount of \$2,500 to sponsor the Salute to Heroes Reception at Pueblo Community College.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

This free Salute-themed event will feature guest speakers Medal of Honor Recipient Mr. Drew Dix, Pueblo Community College President Mrs. Patty Erjavec, Ph.D., and Master of Ceremonies Mr. Nick Donovan from KPHT 95.5 iHeart Radio, and heavy hors d'oeuvre, cocktails, silent auction, and entertaining country music.

FINANCIAL IMPLICATIONS:

Funds in the amount of \$2,500 would be paid from the Council Contingencies Account in the 2023 General Fund Budget to Mt. Carmel Veterans Service Center.

BOARD/COMMISSION RECOMMENDATION:

N/A

STAKEHOLDER PROCESS:

N/A

ALTERNATIVES:

City Council could choose not to authorize funding for this association.

RECOMMENDATION:

This Resolution is at the request of Council Member Regina Maestri.

ATTACHMENTS:

1. 2023 Council Contingencies
2. Sponsorship Request

RESOLUTION NO. 15125

A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2023 GENERAL FUND BUDGET TO MT. CARMEL VETERANS SERVICE CENTER IN THE AMOUNT OF \$2,500 TO SPONSOR THE SALUTE TO HEROES RECEPTION ON THURSDAY, JANUARY 19, 2023 AT 4 PM

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Payment in the amount of \$2,500 from the Council Contingencies Account in the 2023 General Fund Budget is authorized to be paid to Mt. Carmel Veterans Service Center to sponsor the Salute to Heroes Reception on Thursday, January 19, 2023 at 4 pm.

SECTION 2.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Resolution to implement the policies and procedures described herein.

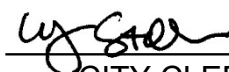
SECTION 3.

This Resolution shall become effective upon passage and approval.

INTRODUCED January 9, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK

[illegible]

MT. CARMEL VETERANS SERVICE CENTER

★ P R E S E N T S ★

SALUTE HEROES

A FUNDRAISING EVENT TO BENEFIT MILITARY, VETERANS AND THEIR FAMILIES

YOU'RE INVITED

Thursday, January 19, 2023 ★ 4:00 – 7:30pm
Pueblo Community College ★ Fortino Ballroom
900 W. Orman Ave Ste. ★ Pueblo, CO 81004

SPECIAL GUEST:

Medal of Honor Recipient Mr. Drew Dix

MASTER OF CEREMONIES:

Mr. Nick Donovan

RESERVE YOUR TICKETS:

VeteransCenter.org/SaluteToHeroes



FOR INFORMATION OR SPONSORSHIP INQUIRIES:

Contact Sal Katz at 719-309-4719

or skatz@mtcarmelcenter.org



WELLNESS • TRANSITION • RESOURCES
VETERANS • MILITARY • FAMILY

Salute To Heroes



Dear Community Partner,

My team and I are excited to host our inaugural Veteran fundraising reception! In honor of all Veteran's, **Salute to Heroes** will take place on **Thursday, January 19th, 2023**, at Pueblo Community College in Pueblo, Colorado. This Salute-themed event will feature guest speakers Medal of Honor Recipient Mr. Drew Dix, Pueblo Community College President Mrs. Patty Erjavec, Ph.D., and our Master of Ceremonies Mr. Nick Donovan from KPHT 95.5 iHeart Radio, and our heavy hors d'oeuvre, cocktails, **silent auction**, and entertaining country music.

This event is near and dear to my heart, as 100% of the proceeds will support comprehensive services and resources for military, veterans, and their families across the Pueblo region, provided through the Mt. Carmel Veterans Service Center | Pueblo. **Will you help us with sponsoring a table or a donation from your business / organization for our silent auction?** All contributions are greatly appreciated and may be tax deductible. Your donation can be something as simple as a gift certificate, or merchandise or services from your business. In exchange for your support, you will receive community exposure and advertising, while supporting military and veteran families in the Pueblo region. We hope to have over 250 attendees, offering great visibility for all our supporters and sponsors. It would be a privilege to recognize you and/or your organization as a Mt. Carmel supporter at the **Salute to Heroes** reception.

Did you know that over 10% of our local population is comprised of military members, veterans, and families? Mt. Carmel exists to provide a safety net of resources, including behavioral health and wellness, supportive services, and employment support, so that they can successfully transition into the community and establish stable and fulfilling lives beyond the military. We rely on the support of organizations and individuals, such as yours, to assure that we can continue to provide these services to all clients, without restrictions.

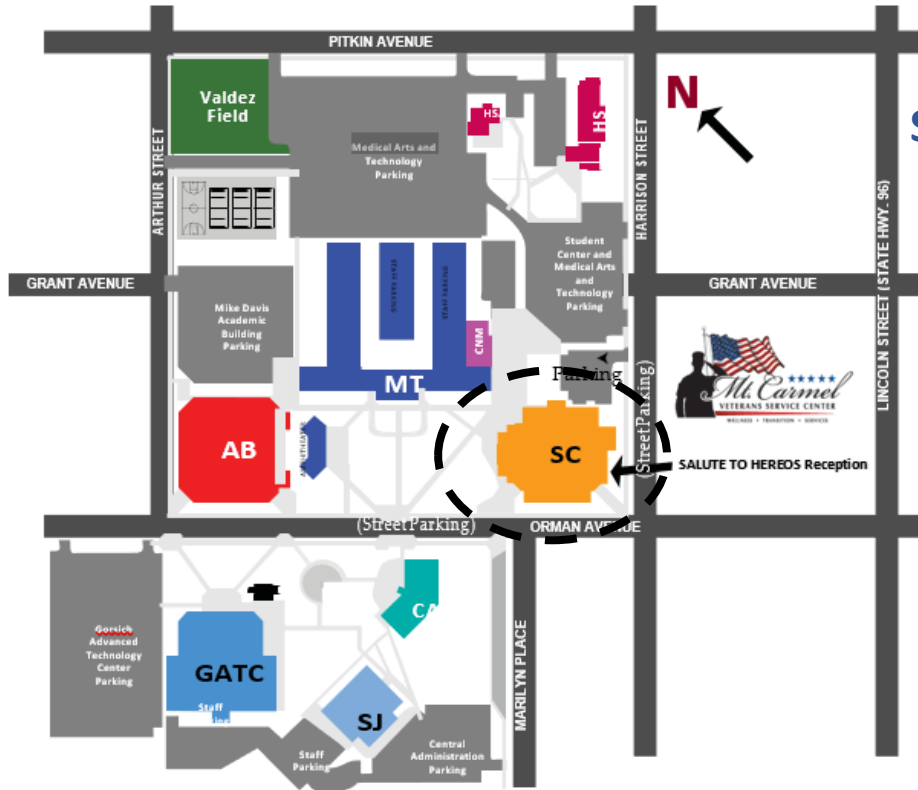
Our goal is to raise \$30,000.00 from the **Salute to Heroes** fundraising event. You can help make this evening a success and support our veteran and military community with a contribution to our silent auction!

If you would like to donate or participate in our event, please contact Sal Katz at (719) 309-4719 or via email at skatz@mtcarmelcenter.org with any questions. Thank you for your support.

Warmest regards,

Robert F. McLaughlin
COL, U.S. Army (Ret.)
Executive Director

P.S. Included is our In-Kind donation form to be completed and returned with your donated item. We will be happy to pick up your donation. Just let us know!

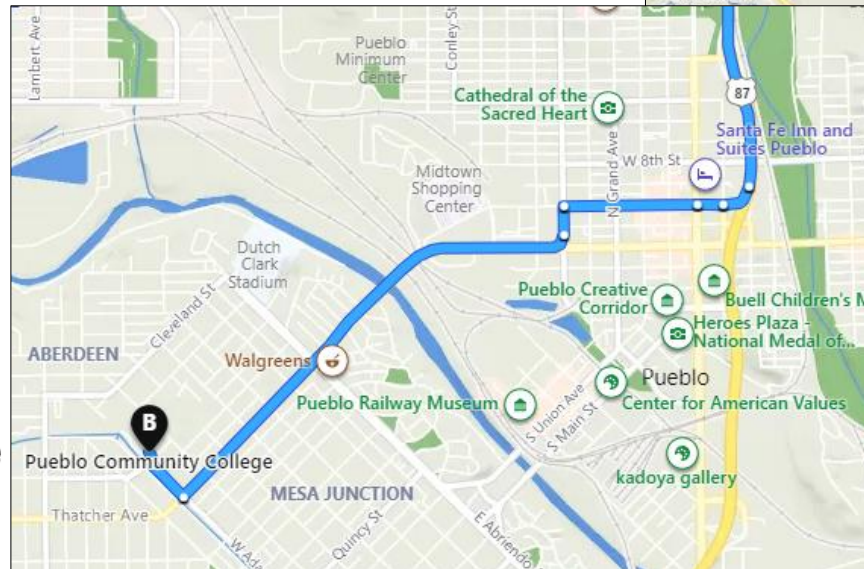
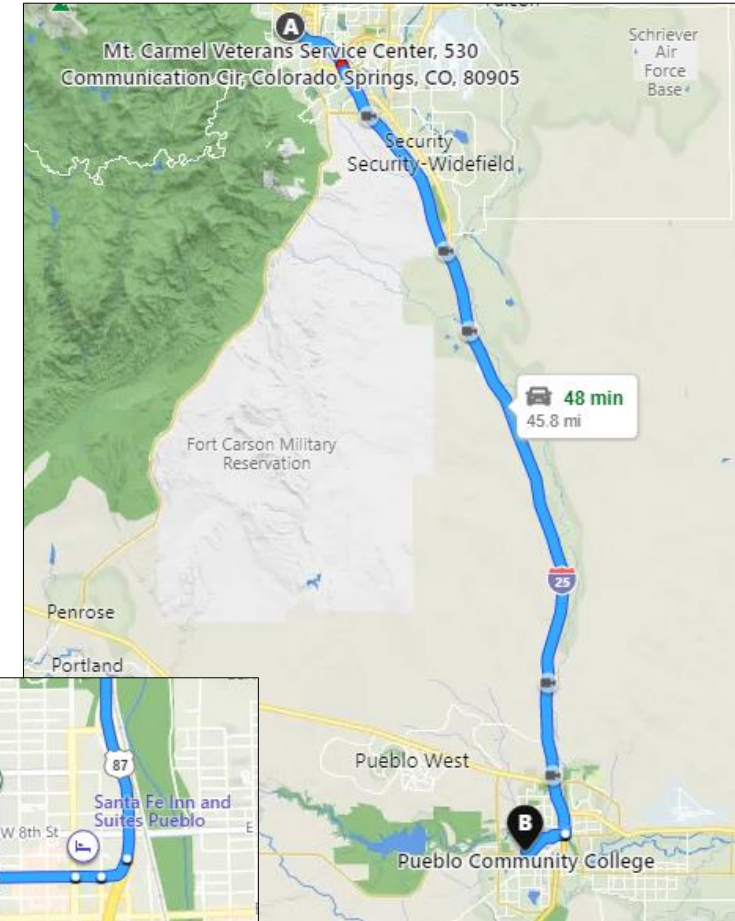


- Health Science (HS)
- Health Science Annex (HSA)
- Medical Arts and Technology Building (MT)
- Dr. Mike Davis Academic Building (AB)
- Student Center (SC)
- Gorsch Advanced Technology Center (GATC)
- San Juan Building & Physical Plant (SJ/PP)

Pueblo 
Community College
 900 West Orman Avenue
 Pueblo, Colorado 81004
 719.549.3200
www.pueblocc.edu

SALUTE TO HEROES RECEPTION

900 West Orman Avenue
 Pueblo, Colorado 81004





Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: January 9, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Daniel C. Kogovsek, City Attorney

SUBJECT: AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN A SUBRECIPIENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND PUEBLO COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF COLORADO, AS FISCAL AGENT OF THE PUEBLO COUNTY HOUSE BILL 04-1451 COLLABORATIVE MANAGEMENT PROGRAM, AS AUTHORIZED BY SECTION 603 OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6 AND AUTHORIZING THE PAYMENT OF TWENTY-FIVE THOUSAND DOLLARS (\$25,000) FROM PROJECT NO. CI2113 - AMERICAN RESCUE PLAN ACT, FOR PURPOSES THEREOF

SUMMARY:

This Ordinance approves and authorizes the Mayor to sign a Subrecipient Agreement with Pueblo County, as fiscal agent of the County House Bill 04-1451 Collaborative Management Program ("CMP") (hereinafter "Project") as authorized by Section 603 of the American Rescue Plan Act and U.S. Treasury Final Rule 31 CFR 35.6. Funds for the project, in the amount of \$25,000 will be paid out of Project No. CI2113, the American Rescue Plan Act.

PREVIOUS COUNCIL ACTION:

By Ordinance No. 9931, approved on May 17, 2021, the City Council established Project No. CI2113 and budgeted and appropriated up to \$36.7 million in funds which were expected to be distributed to the City from the American Recovery Plan Act ("ARPA") for covered costs and eligible expenses to be incurred during the period which began on March 3, 2021 until December 31, 2024 (to be expended by December 31, 2026).

BACKGROUND:

The Pueblo County House Bill 04-1451 / Collaborative Management Program (CMP) is part of a statewide program under the umbrella of the Colorado Department of Human Services (CDHS) that serves at-risk, multi-system involved youth between ages 0-21 and their families. The four focus areas of the program are: Child Welfare, Juvenile Justice, Behavioral Health and Education. In Pueblo County, the focus of the CMP is on education (truancy/school attendance issues, behavioral/disciplinary problems, academic issues, and other educational “disengagement” problems), although since the families are multi-system involved they often touch all of the emphasis areas. The Pueblo Interagency Oversight Group (PIOG) board oversees the programmatic and financial functions of the program, and is comprised of statutorily-mandated collaborative partners, including: Pueblo County Department of Human Services, the Tenth Judicial District Courts and Probation, Pueblo Department of Public Health & Environment, School District 60, Health Solutions, Health Colorado, Division of Youth Services, Signal Behavioral Health, YWCA of Pueblo, Crossroads’ Turning Points, and Catholic Charities of Southern Colorado. The PIOG board has budgeted a small amount of flex-funds every fiscal year to assist CMP families with simple economic barriers to school and system success, primarily housing assistance (rent, deposit, hotels, etc.), utility-bill assistance, car-repair help, and other related expenses. The board has traditionally budgeted approximately \$50,000 per year in flex funds for financial assistance, but the COVID pandemic has greatly increased the level of need the CMP is seeing with their client families, with clients losing employment or seeing their work hours greatly reduced as a result of the economic damage caused by the global pandemic. For example, in the first quarter (July-September) of the state fiscal year in FY 2021-22 the CMP served 13 new families, while in the first quarter of FY 2022-23 we worked with 34 families, almost triple the amount from the year before. The City is seeing increasing levels of homelessness and housing instability among our client families.

In an effort to combat and mitigate the negative economic impact of the COVID-19 pandemic, the Collaborative Management Program partnered with School District 60 in July 2021 on their American Rescue Plan – Homeless Children and Youth I (ARP-HCY I) grant. This partnership enabled the CMP to access increased funds for helping homeless students and families to access stable housing, spending over \$55,751.39 in FY 2021-22 to help 39 families (with 73 youth) access either temporary (hotels) or more permanent housing (rent, deposit). In August 2022, District 60 was notified by the grantor that the ARP-HCY I funding could no longer be used for the “permanent” housing category (for helping clients with rental deposits and first month’s rent). The grant is now being limited to “temporary” housing – primarily two weeks at a hotel. This change is severely affecting the assistance the Subrecipient can provide to families. The initial move-in costs on a house or apartment can be very daunting (with the deposit and first month’s rent being out of reach for a lot of families, especially with the economic changes caused by the pandemic) and this type of help is more effective than merely helping a family with 2 weeks at a hotel. Subrecipient is proposing that its program be assisted with \$25,000 from the City of Pueblo’s allocation of ARPA funds in order to devote this funding to assist homeless students and their families with rent and rental deposit help on permanent housing (to either private landlords, apartment complexes, property management companies, mobile home parks, and other entities

that provide permanent housing). If approved, this ARPA funding would help to replace the loss of available funding through the District 60 ARP-HCY I grant which is no longer accessible for permanent-housing assistance. The financial assistance would be case-by-case, but once per family, with an approximate cost (based on our historical data) of \$800-\$2,500 per family, meaning we could assist between 10-30 families with move-in costs between now and the end of the current fiscal year on June 30, 2023.

Access to this \$25,000 of Pueblo ARPA funding would enable the Collaborative Management Program to help economically-impacted homeless students and families access permanent housing, which is a current “gap” in service caused by the change to the D60 ARP-HCY I grant. The CMP has seen an almost tripled increase in referred families looking for help over the past several years, coinciding with the economic impact caused by the COVID pandemic. Stable housing leads to better outcomes, including increased school attendance, increased academic achievement, better management of mental health symptoms, fewer entries into the child-welfare system, and lower criminal-justice involvement. Additionally, while the ARP-HCY I grant was limited to students and families enrolled in a District 60 school, the Pueblo ARPA funding would be open to all students and families who reside in Pueblo County, regardless of school district.

FINANCIAL IMPLICATIONS:

Pueblo County, as fiscal agent, will receive \$25,000 in ARPA funds from Project No.CI2113.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

City Council could decide not to support the County House Bill 04-1451 Collaborative Management Program.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. ARPA Subrecipient Agreement

ORDINANCE NO. 10366

AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO SIGN A SUBRECIPIENT AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND PUEBLO COUNTY, A POLITICAL SUBDIVISION OF THE STATE OF COLORADO, AS FISCAL AGENT OF THE PUEBLO COUNTY HOUSE BILL 04-1451 COLLABORATIVE MANAGEMENT PROGRAM, AS AUTHORIZED BY SECTION 603 OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35.6 AND AUTHORIZING THE PAYMENT OF TWENTY-FIVE THOUSAND DOLLARS (\$25,000) FROM PROJECT NO. CI2113 - AMERICAN RESCUE PLAN ACT, FOR PURPOSES THEREOF

WHEREAS, on March 11, 2021, President Biden signed the U.S. Senate-amended H.R. 1319 (P.L. 117-2) known as the American Rescue Plan Act (hereinafter "ARPA"); and

WHEREAS, on May 10, 2021, the U.S. Treasury issued the Interim Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, on January 6, 2022, the U.S. Treasury issued, with an effective date of April 1, 2022, the Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations ("CFR"); and

WHEREAS, under the Final Rule, recipients may use Coronavirus Local Fiscal Recovery Funds ("CLFRF") to respond to the COVID-19 public health emergency and the negative economic consequences resulting therefrom; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Subrecipient Agreement ("Agreement") dated January 9, 2023, between the City of Pueblo, a Colorado municipal corporation and Pueblo County, a political subdivision of the State of Colorado, as fiscal agent of the County House Bill 04-1451 Collaborative Management Program ("CMP") a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The Mayor is hereby authorized to execute said Agreement for and on behalf of the City and the City Clerk is authorized to affix the seal of the City thereto and attest same.

SECTION 3.

Funds in the amount of \$25,000 are hereby authorized to be paid from Project No. CI2113 – American Rescue Plan Act, for purposes of providing financial support to the Pueblo County House Bill 04-1451 Collaborative Management Program.

SECTION 4.

The officers and staff of the City are authorized to perform any and all acts consistent with this Ordinance and the attached Agreement to implement the policies and procedures described herein.

SECTION 5.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on December 27, 2022.

Final adoption of Ordinance by City Council on January 9, 2023.

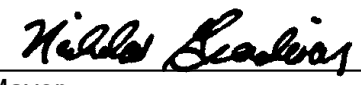


President of City Council

Action by the Mayor:

☒ Approved on January 11, 2023.

☐ Disapproved on _____ based on the following objections:



Mayor

Action by City Council After Disapproval by the Mayor:

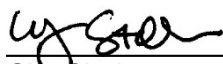
☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST



City Clerk

SUBRECIPIENT AGREEMENT

THIS SUBRECIPIENT AGREEMENT (“Agreement”) is made and entered into this 9th day of January, 2023 (hereinafter “Effective Date”) by and between the City of Pueblo, a Colorado municipal corporation, hereinafter referred to as the “City” and Pueblo County, a political subdivision of the State of Colorado, as fiscal agent of the County House Bill 04-1451 Collaborative Management Program, hereinafter referred to as the “Subrecipient” or “County.” City and Subrecipient/County are sometimes each referred to as a “Party” and collectively “Parties.”

RECITALS

The following recitals are incorporated in and made a part of this Agreement.

WHEREAS, on March 11, 2021, President Biden signed the U.S. Senate-amended H.R. 1319 (P.L. 117-2) known as the American Rescue Plan Act (hereinafter “ARPA”); and

WHEREAS, on May 10, 2021, the U.S. Treasury issued the Interim Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations (“CFR”); and

WHEREAS, by Ordinance No. 9931, approved on May 17, 2021, the City Council established Project No. CI2113 and budgeted and appropriated up to \$36.7 million in funds which were expected to be distributed to the City from ARPA for covered costs and eligible expenses to be incurred during the period which began on March 3, 2021 until December 31, 2024 (to be expended by December 31, 2026); and

WHEREAS, on January 6, 2022, the U.S. Treasury issued, with an effective date of April 1, 2022, the Final Rule to implement ARPA in Title 31, Part 35 of the Code of Federal Regulations (“CFR”); and

WHEREAS, under the Final Rule, recipients may use Coronavirus Local Fiscal Recovery Funds (“CLFRF”) to respond to the COVID-19 public health emergency and the negative economic consequences resulting therefrom; and

WHEREAS, Subrecipient has requested that the City use CLRF Funds to support its County House Bill 04-1451 Collaborative Management Program (hereinafter “Project”); and

WHEREAS, the City desires to disburse funds from Project No. CI2113 to the Subrecipient to administer the Project and perform certain services in connection therewith as set forth in this Agreement and in the Scope of Services attached hereto; and

WHEREAS, Subrecipient has represented to the City that is duly qualified, eligible and willing to undertake the Project and provide the services identified herein and in the Scope of Services attached hereto.

NOW, THEREFORE, in consideration of the foregoing recitals and the terms and conditions set forth herein and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, the Parties hereto mutually agree as follows:

1. FACTUAL BASIS FOR THE GRANT AWARD

- (a) The Pueblo County House Bill 04-1451 / Collaborative Management Program (CMP) is part of a statewide program under the umbrella of the Colorado Department of Human Services (CDHS) that serves at-risk, multi-system involved youth between ages 0-21 and their families. The four focus areas of the program are: Child Welfare, Juvenile Justice, Behavioral Health and Education. In Pueblo County, the focus of the CMP is on education (truancy / school attendance issues, behavioral / disciplinary problems, academic issues, and other educational “disengagement” problems), although since the families are multi-system involved they often touch all of the emphasis areas. The Pueblo Interagency Oversight Group (PIOG) board oversees the programmatic and financial functions of the program, and is comprised of statutorily-mandated collaborative partners, including: Pueblo County Department of Human Services, the Tenth Judicial District Courts and Probation, Pueblo Department of Public Health & Environment, School District 60, Health Solutions, Health Colorado, Division of Youth Services, Signal Behavioral Health, YWCA of Pueblo, Crossroads’ Turning Points, and Catholic Charities of Southern Colorado. The PIOG board has budgeted a small amount of flex-funds every fiscal year to assist CMP families with simple economic barriers to school and system success, primarily housing assistance (rent, deposit, hotels, etc.), utility-bill assistance, car-repair help, and other related expenses. The board has traditionally budgeted approximately \$50,000 per year in flex funds for financial assistance, but the COVID pandemic has greatly increased the level of need the CMP is seeing with their client families, with clients losing employment or seeing their work hours greatly reduced as a result of the economic damage caused by the global pandemic. For example, in the first quarter (July-September) of the state fiscal year in FY 2021-22 the CMP served 13 new families, while in the first quarter of FY 2022-23 we worked with 34 families, almost triple the amount from the year before. The City is seeing increasing levels of homelessness and housing instability among our client families.
- (b) In an effort to combat and mitigate the negative economic impact of the COVID-19 pandemic, the Collaborative Management Program partnered with School District 60 in July 2021 on their American Rescue Plan –

Homeless Children and Youth I (ARP-HCY I) grant. This partnership enabled the CMP to access increased funds for helping homeless students and families to access stable housing, spending over \$55,751.39 in FY 2021-22 to help 39 families (with 73 youth) access either temporary (hotels) or more permanent housing (rent, deposit). In August 2022, District 60 was notified by the grantor that the ARP-HCY I funding could no longer be used for the “permanent” housing category (for helping clients with rental deposits and first month’s rent). The grant is now being limited to “temporary” housing – primarily two weeks at a hotel. This change is severely affecting the assistance the Subrecipient can provide to families. The initial move-in costs on a house or apartment can be very daunting (with the deposit and first month’s rent being out of reach for a lot of families, especially with the economic changes caused by the pandemic) and this type of help is more effective than merely helping a family with 2 weeks at a hotel. Subrecipient is proposing that its program be assisted with \$25,000.00 from the City of *Pueblo’s allocation of ARPA* funds in order to devote this funding to assist homeless students and their families with rent and rental deposit help on permanent housing (to either private landlords, apartment complexes, property management companies, mobile home parks, and other entities that provide permanent housing). If approved, this ARPA funding would help to replace the loss of available funding through the District 60 ARP-HCY I grant which is no longer accessible for permanent-housing assistance. The financial assistance would be case-by-case, but once per family, with an approximate cost (based on our historical data) of \$800-\$2,500 per family, meaning we could assist between 10-30 families with move-in costs between now and the end of the current fiscal year on June 30, 2023.

- (c) Access to this \$25,000.00 of Pueblo ARPA funding would enable the Collaborative Management Program to help economically-impacted homeless students and families access permanent housing, which is a current “gap” in service caused by the change to the D60 ARP-HCY I grant. The CMP has seen an almost tripled increase in referred families looking for help over the past several years, coinciding with the economic impact caused by the COVID pandemic. Stable housing leads to better outcomes, including increased school attendance, increased academic achievement, better management of mental health symptoms, fewer entries into the child-welfare system, and lower criminal-justice involvement. Additionally, while the ARP-HCY I grant was limited to students and families enrolled in a District 60 school, the Pueblo ARPA funding would be open to all students and families who reside in Pueblo County, regardless of school district.

2. SERVICES; RESPONSIBILITIES OF SUBRECIPIENT

- (a) Prior to receiving ARPA funds under this Agreement, Subrecipient is required to provide the City with a federal SAM Unique Entity ID.

- (b) Subrecipient agrees to satisfactorily perform and complete all services and items of work, and furnish all labor and materials encompassed within or reasonably necessary to accomplish the tasks and functions described in the Scope of Services attached hereto as Exhibit "A" and incorporated herein by reference, in full compliance with all provisions of this Agreement.
- (c) Subrecipient warrants and represents that it: (i) has the requisite authority and capacity to perform all terms and conditions on Subrecipient's part to be performed hereunder; (ii) that it is fully aware of and understands its duty to perform all functions and services in accordance with the regulatory requirements of 31 CFR Part 35 and those identified in Exhibit "C" hereto; and (iii) that it is accepting federal financial assistance hereunder subject to certain mandatory repayment provisions.
- (d) This Agreement is a covered transaction for purposes of 2 CFR, Part 180 and 2 CFR, Part 3000. As such the Subrecipient is required to verify that none of the Subrecipient, its principals (defined at 2 CFR Section 180.995) or its affiliates (defined at 2 CFR Section 180.905) are excluded (defined at 2 CFR Section 180.940) or disqualified (defined at 2 CFR Section 180.935).
- (e) The Subrecipient must comply with 2 CFR Part 180, subpart C and 2 CFR Part 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (f) This certification is a material representation of fact relied upon by City. If it is later determined that the Subrecipient did not comply with 2 CFR Part 180, subpart C and 2 CFR Part 3000, subpart C, in addition to remedies available to City, the federal government may pursue available remedies, including but not limited to suspension and/or debarment.
- (g) The Subrecipient agrees to comply with the requirements of 2 CFR Part 180, subpart C and 2 CFR Part 3000, subpart C during the term of this Agreement. The Subrecipient further agrees to include a provision requiring such compliance in its lower tier covered transactions.

3. RESPONSIBILITIES OF THE CITY

The City shall designate a representative of the City who will be authorized to make all necessary decisions required of the City on behalf of the City in connection with the performance of this Agreement and the disbursement of funds in connection with the Project. In the absence of such a designation, the City Mayor shall be deemed as City's authorized representative.

4. SUBRECIPIENT'S COMPENSATION AND METHOD OF PAYMENT

- (a) The City will pay to Subrecipient an amount up to that specified in subparagraph (c) of this paragraph as full compensation for all services and work to be performed or undertaken by Subrecipient under this Agreement. Payment of funds to Subrecipient is subject to all of the following requirements, which shall be conditions precedent to payment: (i) that Subrecipient has expended funds for eligible approved expenditures, (ii) that Subrecipient is not in default of any material provision of this Agreement nor applicable law or regulation, (iii) that Subrecipient has timely submitted requests for payment or reimbursement detailing the eligible payment or reimbursement items in a format approved by City, (iv) that Subrecipient has certified with each payment or reimbursement request compliance with the requirements identified in Exhibit "C" and that all expenditures for which reimbursement is sought were made for and in furtherance of the approved Project and are an eligible use of federal assistance under ARPA and federal regulations.
- (b) Payment hereunder is also subject to and may only be disbursed in accordance with applicable Federal regulations including but not limited to those at 31 CFR Part 35, as presently promulgated and as same may be revised from time to time in the future, all other terms of this Agreement, and any special provisions in the Scope of Services. All payments received by Subrecipient hereunder are subject to repayment by Subrecipient as provided in 31 CFR Part 35.
- (c) The aggregate of all payments made hereunder shall not exceed Twenty-Five Thousand Dollars (U.S. \$25,000.00). City shall make full payment to Subrecipient within thirty (30) days following approval of this Agreement by the City Council of the City of Pueblo and execution of this Agreement by the Subrecipient.
- (d) Notice pursuant to 2 CFR 25.300 – Requirement for recipients to ensure subrecipients have a unique entity identifier:
- A recipient of ARPA funds, such as the City of Pueblo, may not make a subaward to a subrecipient unless the subrecipient has obtained and provided to the recipient a unique entity identifier. Subrecipients are not required to complete full SAM registration to obtain a unique entity identifier.
 - A recipient must notify any potential subrecipients that the recipient cannot make a subaward unless the subrecipient has obtained a unique entity identifier.

- (e) Upon expiration of the term of this Agreement or upon any prior termination, Subrecipient shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination.

5. TERM OF PROJECT AND AGREEMENT

- (a) The term of the Project shall be from Effective Date set forth above to December 31, 2024 unless sooner terminated as herein provided.
- (b) The term of this Agreement shall be from the Effective Date set forth above to December 31, 2024 unless sooner terminated as herein provided.

6. TERMINATION OF AGREEMENT

- (a) For Cause: This Agreement may be terminated by City for cause, including any nonperformance by the Subrecipient, upon ten (10) days written notice to Subrecipient including a statement of the reasons therefore, and after an opportunity for a hearing has been afforded. If a hearing is requested, it shall be held before the City's Mayor whose decision shall be final. The determination of the City as to the cause of termination and the appropriateness thereof shall be final and binding upon both City and Subrecipient. Cause for termination shall include any material failure by Subrecipient to comply with any term of this Agreement.
- (b) For Convenience: This Agreement may be terminated by either Party for convenience upon ten (10) days written notice to the non-terminating Party, which decision shall not be subject to appeal.
- (c) Post Expiration and Termination Procedures: Upon expiration or in the event of a prior termination, all remaining and unspent grant funds, shall immediately become the sole and separate property of the City and the Subrecipient shall perform all acts and execute all instruments necessary to transfer and assign such funds to the City. All finished or unfinished documents, data, studies, reports, and work product prepared by the Subrecipient under this Agreement or with grant funds shall, at the option of the City, become City's property.

7. ASSIGNABILITY

This Agreement shall not be assigned or transferred by the Subrecipient without the prior written consent of the City. Any assignment or attempted assignment made in violation of this provision shall, at City's election, be deemed void and of no effect whatsoever.

8. CONFLICT OF INTEREST

The Subrecipient certifies and warrants that neither it nor any members of its Board of Directors, officers or employees has or will derive any personal or financial interest or benefit from the activity or activities assisted pursuant to this Agreement, nor has an interest in any contract, subcontract or agreement with respect thereunto, nor the proceeds thereunder, either for themselves or for those with whom they have family or business ties, during their tenure and for one year thereafter. Subrecipient shall avoid all conflicts of interest which are prohibited by applicable federal regulations including but not limited to those set forth in 31 CFR Part 35 as presently promulgated and as same may be revised from time to time in the future.

9. SUBRECIPIENT RECORDS

Subrecipient shall maintain records as to all services provided, reimbursable expenses incurred in performing the Scope of Services and complete accounting records. Accounting records shall be kept on a generally recognized accounting basis and as requested by the City's auditor. The Subrecipient agrees to comply with all applicable uniform administrative requirements described or referenced in 31 CFR 35. The Compliance Provisions attached as Exhibit "B" hereto are made a part of this Agreement and Subrecipient agrees to perform and comply with same. The City, Comptroller General of the United States, the Inspector General of the U.S. Treasury and any of their authorized representatives, shall have the right to inspect and copy, during reasonable business hours, all books, documents, papers and records of the Subrecipient which relate to this Agreement for making an audit or examination. Upon completion of the work and end of the term of this Agreement, the City may require copies of all Subrecipient's financial records relating to this Agreement to be turned over to City.

10. MONITORING AND EVALUATION

The City shall have the right to monitor and evaluate the progress and performance of the Subrecipient to assure that the terms of this Agreement are being satisfactorily fulfilled in accordance with City's and other applicable monitoring and evaluation criteria and standards. The City shall at least quarterly review the Subrecipient's performance using on-site visits, progress reports required to be submitted by the Subrecipient, audit findings, disbursements transactions and contact with the Subrecipient as necessary. Upon request, the Subrecipient shall furnish to the City quarterly program and financial reports of its activities in such form and manner as may be requested by the City. Subrecipient shall fully cooperate with City in relation to such monitoring and evaluation.

11. SUBRECIPIENT FILES AND INFORMATION REPORTS

The Subrecipient shall maintain files containing information which shall clearly document all activities performed in conjunction with this Agreement, including, but not limited to, financial transactions, conformance with assurances and activity reports. These records shall be retained by the Subrecipient for a period of three years after the completion of

the Project. Financial and activity reports shall be submitted quarterly no later than the ninth day of the month following the end of the quarter for which the report is submitted.

12. INDEPENDENCE OF SUBRECIPIENT

Nothing herein contained nor the relationship of Subrecipient to City, which relationship is expressly declared to be that of an independent Agreement or, shall make or be construed to make Subrecipient or any of Subrecipient's agents or employees the agents or employees of the City. Subrecipient shall be solely and entirely responsible for its acts and the acts of its agents, employees and subcontractors.

13. LIABILITY AND INSURANCE

- (a) As to the City, Subrecipient agrees to assume the risk of all personal injury, including death and bodily injury, and damage to and destruction of property, including loss of use therefrom, caused by or sustained, in whole or in part, in conjunction with or arising out of the performance or nonperformance of this Agreement by Subrecipient or by the conditions created thereby.
- (b) During the term of the Project, Subrecipient shall maintain Workers' Compensation Insurance complying with statutory requirements in Colorado.

14. CERTIFICATIONS

The Subrecipient agrees to execute and abide by the certifications contained in Exhibit "C" hereto, and Subrecipient's application for ARPA funds, both of which are hereby made a part of this Agreement. In the event of any conflict between the terms of this Agreement and Subrecipient's Application, this Agreement shall control.

15. REVERSION OF ASSETS

- (a) Upon expiration of the term of this Agreement, or upon any prior termination, Subrecipient shall transfer to City any funds provided hereunder which are on hand at the time of expiration or termination.
- (b) In the event City incurs any costs or expenses in enforcing the requirements of this paragraph 15 or in bringing any action to recover the property or amount of any repayment obligation, City shall be entitled to recover its costs and expenses, including reasonable attorney's fees.

16. PERA LIABILITY

The Subrecipient shall reimburse the City for the full amount of any employer contribution required to be paid by the City of Pueblo to the Public Employees' Retirement Association

("PERA") for salary or other compensation paid to a PERA retiree performing Agreement ed services for the City under this Agreement. The Subrecipient shall fill out the questionnaire attached as Exhibit D and submit the completed form to City's Finance Office as part of the signed Agreement.

17. ENTIRE AGREEMENT; AMENDMENTS

The provisions set forth in this Agreement, and all Exhibits and attachments to this Agreement, constitute the entire and complete agreement of the parties hereto and supersede all prior written and oral agreements, understandings or representations related thereto. No amendment or modification of this Agreement, and no waiver of any provisions of this Agreement shall be binding unless made in writing and executed by the duly authorized officers of both the Subrecipient and City.

18. GOVERNMENT IMMUNITY. Neither Party hereto waives or intends to waive, by any provisions of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act § 24-10-101 to 120, C.R.S., or otherwise available under applicable law.

19. NO THIRD-PARTY BENEFICIARIES. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the Parties and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party. It is the express intention of the Parties that any person other than the Parties receiving services or benefits under the Agreement shall be deemed an incidental beneficiary only.

20. LITIGATION, VENUE AND WAIVER OF TRIAL BY JURY. In the event of any litigation arising under this Agreement, the court shall award to the prevailing Party its costs and reasonable attorney fees. Exclusive venue for any such litigation shall be Pueblo County, Colorado. All such litigation shall be filed in the District Court, County of Pueblo, State of Colorado, and each Party submits to the personal and subject matter jurisdiction of such District Court. To the fullest extent permitted by law, the Parties hereby waive their right to a trial by jury.

21. SEVERABILITY. If any provision of this Agreement is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Agreement shall nonetheless remain in full force and effect.

22. RULES OF CONSTRUCTION. The Parties acknowledge that the Parties and their counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting Party shall not be employed in the interpretation of this Agreement or any exhibits or amendments hereto.

23. WAIVER. The waiver or failure to enforce any provision of this Agreement shall not operate as a waiver of any future breach of any such provision or any other provision

hereof.

24. NO MONETARY DAMAGES. In consideration of City entering into the Agreement, Subrecipient waives and discharges City, its officers, agents and employees from any and all claims for any monetary damages whether such claims arise under tort, contract, statutory or any other law. The City waives and discharges County, its officers, agents and employees from any and all claims for any monetary damages whether such claims arise under tort, contract, statutory or any other law.

25. COUNTERPARTS. This Agreement may be executed in two (2) or more counterparts and each such counterpart shall be deemed for all purposes to be an original and all such counterparts shall together constitute but one and the same original.

26. SIGNATURES. The persons signing this Agreement on behalf of Subrecipient represent and warrant that such persons and Subrecipient have the requisite power and authority to enter, execute and deliver this Agreement and that this Agreement is a valid and legally binding obligation of Subrecipient enforceable against Subrecipient in accordance with its terms.

IN WITNESS, WHEREOF, the Subrecipient and the City have executed this Agreement as of the date first above written and under the laws of the State of Colorado.

ATTEST:

CITY OF PUEBLO
A COLORADO MUNICIPAL
CORPORATION

City Clerk

By: _____
Nicholas A Gradisar, Mayor

[S E A L]

Subrecipient:

PUEBLO COUNTY, COLORADO as
fiscal agent of the County House Bill 04-
1451 Collaborative Management
Program

By: _____
Sabina Genesio, County Manager

EXHIBIT A SCOPE OF SERVICES

Changes in the scope of services, budget, or method of compensation contained in this Agreement, unless otherwise noted, may only be made through a written amendment to this Agreement, executed by the Subrecipient and the City.

A. Performance Monitoring:

The City will monitor the performance of the Subrecipient according to the Principal Tasks and Budget set forth herein. Substandard performance shall mean non-compliance with this Agreement. If actions to correct such substandard performance are not taken by the Subrecipient within a reasonable period of time after being so notified by the City, contract suspension or termination procedures may be initiated, in the sole discretion of the City.

SUBRECIPIENT'S SCOPE OF SERVICES

B. Principal Tasks

The Subrecipient will be responsible for administering the Project. The Subrecipient will administer all tasks encompassed in the aforesaid Project in compliance with all applicable federal, state and local rules and regulations governing the Project, in a manner satisfactory to the City. The components of the Subrecipient's work plan under this Agreement shall be as follows:

The Pueblo County Department of Human Services shall be the fiscal agent for the Collaborative Management Program (CMP) and handle all of the assistance check requests. The CMP staff shall receive referrals from the schools (or other collaborative partners), then speak with the family to get the required information (landlord name / contact number, property management company, etc.). CMP shall then obtain a signed W-9 form from the landlord and cross-check the property address with the Pueblo County Assessor website to verify that the landlord is the legal owner of the property. CMP shall then submit a check request for the rental deposit and / or first month's rent, which Pueblo County DHS shall then process within 2-3 business days. The check shall then be submitted to the landlord based on their preference (in-person, via mail, given to the client / tenant for them to submit, etc.).

The CMP shall measure school-attendance and academic-achievement outcomes, measured from the date of the initial contact through case-closure (which typically shall occur at one calendar year). Additionally, for youth and families who are also involved with the Department of Human Services through an active child-welfare case, CMP shall collect data regarding the percentage of families with no further substantiated abuse or neglect and also collect such data (via a cross-check of CMP client lists with DHS Child Welfare lists) at one-year post-services. These outcome measurements shall be submitted to the Colorado Department of Human Services (CDHS) annually in July via an Annual Report. These measurements shall be used as part of calculating Pueblo

County's payout from the *Earned Incentive Fund*, which CDHS maintains with funds collected through Colorado civil court fees and additional allocations (if any) from the Colorado State Legislature. Payouts shall be deposited with Pueblo County's human services department in October of each year.

C. Budget \$25,000.

EXHIBIT B
COMPLIANCE PROVISIONS INCORPORATED
IN THE SUBRECIPIENT AGREEMENT

1. An accounting system using the accrual basis of generally accepted accounting principles which accurately reflects all costs chargeable (paid and unpaid) to the Project is mandatory. A receipts and disbursements ledger must be maintained. A general ledger with an income and expense account for each budgeted line item is necessary. Paid invoices revealing check number, date paid and item is necessary. Similarly, cash receipts for the payment of wages is mandatory. Paid invoices revealing check number, date paid and evidence of goods or services received are to be filed per the expense account they were charged.

2. There is no flexibility on budgets. Line items may be changed only by the City's written concurrence of a budget amendment.

3. Eligible expenses are those considered reasonable and necessary costs for the efficient operation of the Project as determined by the City. All costs must be budgeted items. Request for advance or reimbursements of expenses must be accompanied by:

1. Original invoice marked with funding source
2. Detailed listing of each expense showing:
 - a) recipient
 - b) brief description of purchase
 - c) amount with method of computation detailed

Cost Summary must be submitted quarterly to reflect entries through the closing date for the books (indicate Closing Date on Cost Summary).

4. The City shall not be obligated to any third party Agreement contractors of the Subrecipient. The subrecipient is further cautioned against obligating funds beyond the Agreement date of the agreement between the City and the Subrecipient.

5. The Subrecipient will furnish the City such statements, records, data and information, and permit such interviews with personnel as the City may request to effectively monitor and evaluate the project.

6. City auditors will periodically make interim audits and may, upon completion of the Project, make a final audit.

7. All records must be retained by the Subrecipient for a period of three years following the last day of the Agreement. (Cost summary reports must reflect actual general ledger balances.)

EXHIBIT C CERTIFICATIONS

Subrecipient hereby certifies that the grant will be conducted and administered in compliance with all applicable municipal, state and federal statutes and regulations, including but not limited to the following:

Municipal and State

(1) The Charter, Municipal Code and the Rules and Regulations of the City of Pueblo, including but not limited to, the legal obligation to obtain all required licenses and permits from the City of Pueblo.

(2) The Constitution, Colorado Revised Statutes and the Rules and Regulations of the State of Colorado, including, but not limited to, the legal obligation to obtain all required licenses and permits from the State of Colorado.

Federal

(1) Title VII of the Civil Rights Act of 1964 (Pub. L. 88-352; 42 U.S.C. 2000d, et seq.) and implementing regulations issued at 24 CFR Part 1;

(2) Title VIII of the Civil Rights Act of 1968 (Pub. L. 90-284; 42 U.S.C. 3601, et seq.), as amended; and that the grantee will administer all programs and activities related to housing and community development in a manner to affirmatively further fair housing;

(3) Section 109 of the Housing and Community Development Act of 1974, as amended; and the regulations issued pursuant thereto;

(4) Section 3 of the Housing and Urban Development Act of 1968, as amended;

(5) Executive Order 11246, as amended by Executive Orders 11375 and 12086, and implementing regulations issued at 41 CFR Chapter 60;

(6) Executive Order 11063, as amended by Executive Orders 12259, and implementing regulations at 24 CFR Part 107;

(7) Section 504 of the Rehabilitation Act of 1973 (Pub. L. 93-112), as amended, and implementing regulations when published for effect;

(8) The Age Discrimination in Employment Act of 1975 (Pub. L. 94-135), as amended, and implementing regulations when published for effect;

(9) The relocation requirements of Title II and the acquisition requirements of Title III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, and the HUD implementing regulations set forth in 24 CFR Part 42;

(10) Executive Order 11988 relating to the evaluation of flood hazards and Executive Order 11288 relating to the prevention, control and abatement of water pollution;

(11) The flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234);

(12) The applicable regulations, policies, guidelines and requirements of OMB Circular Nos. A-102, Revised, 24 CFR 85 and Subpart J of 24 CFR 570, A-87, A-110, A-122, A-128 and A-133 as they relate to the acceptance and use of federal funds under this federally-assisted program;

(13) The Clean Air Act (42 U.S.C. 7401 et seq.) as amended (particularly section 176 (c) and (d) [42 U.S.C. 7506 (c) and (d)]) and the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), as amended. Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA);

(14) The Safe Drinking Water Act of 1974 (42 U.S.C. 201, 300 (f) et seq., and 21 U.S.C. 349) as amended; particularly section 1424 (e) (42 U.S.C. 300 (h)-303 (e));

(15) The Endangered Species Act of 1973 (16 U.S.C. 1531 et. Seq.) as amended; including but not limited to section 7 (16 U.S.C. 1536) thereof;

(16) The Reservoir Salvage Act of 1960 916 U.S.C. 469 et seq.); particularly section 3 (16 U.S.C. 469a-1); as amended by the Archeological and Historical Preservation Act of 1974;

(17) Flood Disaster Protection Act of 1973 (42 U.S.C. 4001 et seq.) as amended; particularly sections 102(a) and 202(a) [42 U.S.C. 4012a(a) and 4106(a)];

(18) Executive order 11990, Protection of Wetlands, May 24, 1977 (42 FR 26961 et. Seq.); particularly sections 2 and 5;

(19) Lead-Based Paint Poisoning Prevention requirements of 25 CFR Part 35 issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821 et seq.);

(20) The National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.) as amended; particularly section 106 (16 U.S.C. 470f); and

(21) Executive Order 11593, Protection and Enhancement of the Cultural Environment, May 13, 1971 (36 FR 8921 et seq.); particularly section 2(c).

(22) Construction work financed in whole or in part with federal funds is subject to the prevailing wage requirements of the Davis-Bacon Act (29 CFR, Parts 3 and 5), the Copeland Act

(29 CFR Part 3), and the Contract Work Hours and Safety Standards Act (Public Law 91-54, 83 Stat. 96). When a project meets this applicability requirement, the labor standards provision of the HUD 4010 and the Davis-Bacon Wage Decision issued for the project will be incorporated into this Agreement document and shall be incorporated into all construction contracts and subcontracts of any tier thereunder.

(23) No ARPA funds may be expended for lobbying purposes and payments from other sources for lobbying must be disclosed pursuant to the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).

(a) No federally appropriated funds have been or will be paid, by or on behalf of subrecipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal Agreement , the making of any federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.

(b) If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal Agreement, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

(24) Where asbestos is present in property undergoing rehabilitation, Federal requirements apply regarding worker exposure, abatement procedures and disposal. (CPD-90-44 EPA/OSHA).

(25) The Subrecipient also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act.

(26) The Subrecipient and all of its subcontractors acknowledge and will comply with the requirements of 2 C.F.R. § 200.216, including the prohibition on spending federal loan or grant funds to procure or obtain the prohibited equipment, services, or systems covered by the provision.

(27) To the extent consistent with law and in accordance with 2 C.F.R. § 200.322, Subrecipient and all of its subcontractors will to the greatest extent practicable under the Agreement, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). This requirement must be included in all contracts and purchase orders which Subrecipient may enter into.

EXHIBIT D

COLORADO PUBLIC EMPLOYEES RETIREMENT ASSOCIATION SUPPLEMENTAL QUESTIONNAIRE TO BE ANSWERED BY ANY BUSINESS PERFORMING SERVICES FOR THE CITY OF PUEBLO

Pursuant to section 24-51-1101(2), C.R.S., salary or other compensation from the employment, engagement, retention or other use of a person receiving retirement benefits (Retiree) through the Colorado Public Employees Retirement Association (PERA) in an individual capacity or of any entity owned or operated by a PERA Retiree or an affiliated party by the City of Pueblo to perform any service as an employee, Agreement employee, consultant, independent Agreement or, or through other arrangements, is subject to employer contributions to PERA by the City of Pueblo. Therefore, as a condition of Agreement ing for services with the City of Pueblo, this document must be completed, signed and returned to the City of Pueblo:

- a) Are you, or do you employ or engage in any capacity, including an independent Agreement or, a PERA Retiree who will perform any services for the City of Pueblo? Yes ____, No ____.
- b) If you answered “yes” to (a) above, please answer the following question: Are you an individual, sole proprietor or partnership, or a business or company owned or operated by a PERA Retiree or an affiliated party? Yes ____, No ____.
If you answered “yes” please state which of the above entities best describes your business:

- c) If you answered “yes” to both (a) and (b), please provide the name, address and social security number of each such PERA Retiree.

Name

Address

Social Security Number

Name

Address

Social Security Number

(If more than two, please attach a supplemental list)

Failure to accurately complete, sign and return this document to the City of Pueblo may result in your being denied the privilege or doing business with the City of Pueblo.

If you answered “yes” to both (a) and (b), you agree to reimburse the City of Pueblo for any employer contribution required to be paid by the City of Pueblo to PERA for salary or other compensation paid to you as a PERA Retiree or paid to any employee or independent Agreement or of yours who is a PERA Retiree performing services for the City of Pueblo. You further authorize the City of Pueblo to deduct and withhold all such contributions from any moneys due or payable to you by the City of Pueblo under any current or future Agreement or other arrangement for services between you and the City of Pueblo.

Signed _____, 20_____.

By: _____

Name: _____

Title: _____

For purposes of responding to question (b) above, an “affiliated party” includes (1) any person who is the named beneficiary or co-beneficiary on the PERA account of the PERA Retiree; (2) any person who is a relative of the PERA Retiree by blood or adoption to and including parents, siblings, half-siblings, children, and grandchildren; (3) any person who is a relative of the PERA Retiree by marriage to and including spouse, spouse’s parents, stepparents, stepchildren, stepsiblings, and spouse’s siblings; and (4) any person or entity with whom the PERA Retiree has an agreement to share or otherwise profit from the performance of services for the City of Pueblo by the PERA Retiree other than the PERA Retiree’s regular salary or compensation.



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: January 9, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: AN ORDINANCE ESTABLISHING PROJECT PL2201, WESTSIDE TRAIL (WILDHORSE TRAIL) PROJECT, AND APPROVING AN INTERGOVERNMENTAL AGREEMENT (IGA) BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE STATE OF COLORADO, ACTING BY AND THROUGH THE COLORADO DEPARTMENT OF TRANSPORTATION (CDOT), PROJECT: MTF M086-098 (25192) IN THE AMOUNT OF \$850,000, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$850,000 AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

This Ordinance creates Project PL2201 for the Westside Trail (Wildhorse Trail) Project, and approves an Intergovernmental Agreement ("IGA") between Pueblo, a Colorado Municipal Corporation ("City") and the State of Colorado, Colorado Department of Transportation ("CDOT") relating to the Multimodal Transportation & Mitigation Options Funding Grant in the amount of \$850,000.00, and budgets and appropriates funds totaling \$850,000.00 for the Project

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

This Ordinance establishes the Westside Trail (Wildhorse Trail) Project PL2201 and approves the grant agreement between the City and CDOT.

The City submitted a Multimodal Transportation & Mitigation Options Funding grant for the construction of an off-street trail connection from West 18th Street to West 31st Street along the Wildhorse Creek Arroyo in 2022. The initial grant request was for a total funding of \$1,463,269; however, only a portion of the grant was awarded. The portion awarded was for a total of \$850,000 and will construct the trail from West 18th Street to West 24th Street.

The project will include the planning, surveying and design and construction of a 10' wide concrete multi-use trail. On street sidewalks and curb ramp improvements are anticipated on 18th Street and 24th Street. The project will also include lighting, grading and signage.

FINANCIAL IMPLICATIONS:

There is no match required for this grant. Funds in the amount of \$850,000.00 shall be budgeted and appropriated for Project PL2201.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Currently, there are no alternatives for completing the improvements without the funding from the Multimodal Transportation & Mitigation Options Funding.

RECOMMENDATION:

Approve the Ordinance.

ATTACHMENTS:

1. Westside Trail IGA
2. Department Certification

ORDINANCE NO. 10367

AN ORDINANCE ESTABLISHING PROJECT PL2201, WESTSIDE TRAIL (WILDHORSE TRAIL) PROJECT, AND APPROVING AN INTERGOVERNMENTAL AGREEMENT (IGA) BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE STATE OF COLORADO, ACTING BY AND THROUGH THE COLORADO DEPARTMENT OF TRANSPORTATION (CDOT), PROJECT: MTF M086-098 (25192) IN THE AMOUNT OF \$850,000, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$850,000 AND AUTHORIZING THE MAYOR TO EXECUTE SAME

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Westside Trail (Wildhorse Trail) Project PL2201, is hereby established.

SECTION 2.

The Intergovernmental Agreement ("IGA") between the City of Pueblo, a Colorado Municipal Corporation, and the State of Colorado, acting with and through the Colorado Department of Transportation (CDOT), Project: MTF M086-098 (25192), Westside Trail (Wildhorse Trail) Project, a copy of which is attached, having been approved as to form by the City Attorney, is hereby approved.

SECTION 3.

Subject to encumbrances by the Colorado State Department of Transportation (CDOT), and funds from the Highway Safety Improvement Program MTF M086-098 (25192) in the amount of \$850,000.00 are hereby budgeted and appropriated for the Westside Trail (Wildhorse Trail) Project PL2201.

SECTION 4.

The Mayor is authorized to execute and deliver the IGA in the name of the City of Pueblo and the City Clerk is directed to affix the seal of the City thereto and attest same.

SECTION 5.

The officers of the City are authorized to perform any and all acts consistent with this Ordinance and IGA to implement the policies and procedures described herein.

SECTION 6.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on December 27, 2022.

Final adoption of Ordinance by City Council on January 9, 2023.



President of City Council

Action by the Mayor:

☒ Approved on January 11, 2023.

☐ Disapproved on _____ based on the following objections:



Mayor

Action by City Council After Disapproval by the Mayor:

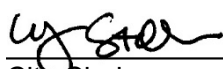
☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST



City Clerk

State SLAWRK
PROJECT: MTF M086-098, (25192) Pueblo
Westside Trail (Wildhorse Trail)

REGION: 2
TLJ

CONTRACT

THIS CONTRACT made this ____ day of _____, 20____, by and between the State of Colorado for the use and benefit of the Colorado Department of Transportation hereinafter referred to as the State and CITY OF PUEBLO hereinafter referred to as the "Contractor" or the "Local Agency."

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 payment of project and Local Agency costs. Total Contract Amount: \$850,000.00.
2. Required approval, clearance and coordination have been accomplished from and with appropriate agencies.
3. Pursuant to 43-2-104.5 C.R.S. as amended, the State may contract with Local Agencies to provide maintenance and construction of highways that are part of the state (or local agency) highway system.
4. Local Agency anticipates a project for Design and Construction of off-street trail connection from West 18th St to West 24th St and by the date of execution of this contract, the Local Agency and/or the State has completed and submitted a preliminary version of CDOT form #463 describing the general nature of the Work. The Local Agency understands that before the Work begins, the Local Agency must receive an official written "Notice to Proceed" prior to commencing any part of the Work. The Local Agency further understands, before the Work begins, the form #463 may be revised as a result of design changes made by CDOT, in coordination with the Local Agency, in its internal review process. The Local Agency desires to perform the Work described in form #463, as it may be revised.
5. The Local Agency has requested that State funds be made available for project MTF M086-098,(25192) Pueblo Westside Trail (Wildhorse Trail) referred to as the "Project" or the "Work." Such Work will be performed in Pueblo, Colorado, specifically described in **Exhibit A**.
6. The State has funds available and desires to provide 100% of the funding for the work. Local Agency will provide the other 0%. State funds may be awarded with "Special Funding". Special Funding may include but is not limited to one or a combination of Multimodal Transportation & Mitigation Options Funding, Revitalizing Main Streets, Safer Main Streets, Stimulus Funds or COVID Relief. If Special Funding is used there may be an expiration date for the funds. The expiration date applies to grants and local funds used to match grants. To receive payment or credit for the match, Work must be completed or substantially completed, as outlined in the terms of the grant, prior to the expiration date of the Special Funding and invoiced in compliance with the rules outlined in the award of the funding.
7. The Local Agency desires to comply with all state and other applicable requirements, including the State's general administration of the project through this contract, in order to obtain state funds for the project.
8. The Local Agency has estimated the total cost of the work and is prepared to accept the state funding for the work, as evidenced by an appropriate ordinance or resolution duly passed and adopted by the authorized representatives of the Local Agency, which expressly authorizes the Local Agency to enter into this contract and to complete the work under the project. A copy of this ordinance or resolution is attached hereto and incorporated herein as **Exhibit B**.
9. This contract is executed under the authority of §§ 29-1-203, 43-1-110; 43-1-116, 43-2-101(4)(c) and 43-2-144, C.R.S. and **Exhibit B**.
10. The Local Agency is adequately staffed and suitably equipped to undertake and satisfactorily complete some or all of the Work.
11. The Local Agency can more advantageously perform the Work.

THE PARTIES NOW AGREE THAT:

Section 1. Scope of Work

The Project or the Work under this contract shall consist of Design and Construction of off-street trail connection from West 18th St to West 24th St, in Pueblo, Colorado, as more specifically described in **Exhibit A**.

Section 2. Order of Precedence

In the event of conflicts or inconsistencies between this contract and its exhibits, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

1. Special Provisions contained in **Section 27** of this contract
2. This contract
3. **Exhibit A** (Scope of Work)
4. **Exhibit B** (Local Agency Resolution)
5. **Exhibit C** (Funding Provisions)
6. **Exhibit D** (Option Letter)

Section 3. Term

This contract shall be effective upon approval of the State Controller or designee, or on the date made, whichever is later. It shall terminate on November 16, 2032, or sooner if any of the State's funding expires, or is sooner terminated or unless performance is extended in accordance with this Contract.

Section 4. Project Funding Provisions

- A. The Local Agency has estimated the total cost of the work and is prepared to accept the state funding for the work, as evidenced by an appropriate ordinance or resolution duly passed and adopted by the authorized representatives of the Local Agency, which expressly authorizes the Local Agency to enter into this contract and to complete the work under the project. A copy of this ordinance or resolution is attached hereto and incorporated herein as **Exhibit B**.
- B. The parties hereto agree that this contract is contingent upon all funds designated for the project herein being made available from state sources, as applicable. Should these sources fail to provide necessary funds as agreed upon herein, the contract may be terminated by either party, provided that any party terminating its interest and obligations herein shall not be relieved of any obligations which existed prior to the effective date of such termination or which may occur as a result of such termination.
- C. Funding will be detailed in **Exhibit C** of the funding provisions.

Section 5. Project Payment Provisions

- A. The State will reimburse the Local Agency for incurred costs relative to the project following the State's review and approval of such charges, subject to the terms and conditions of this Contract. Provided however, that charges incurred by the Local Agency prior to the date this contract is executed by the State Controller will not be charged by the Local Agency to the project, and will not be reimbursed by the State.
- B. The State will reimburse the Local Agency's reasonable, allocable, allowable costs of Performance of the Work, not exceeding the maximum total amount described in **Exhibit C**. The applicable principles described in 49 C.F.R. 18 Subpart C and 49 C.F.R. 18.22 shall govern the allowability and allocability of costs under this contract. The Local Agency shall comply with all such principles. To be eligible for reimbursement, costs by the Local Agency shall be:
 1. In accordance with the provisions of **Section 5** and with the terms and conditions of this contract;
 2. Necessary for the accomplishment of the Work;
 3. Reasonable in the amount for the goods and services provided;
 4. Actual net cost to the Local Agency (i.e. the price paid minus any refunds, rebates, or other items of value received by the Local Agency that have the effect of reducing the cost actually incurred);
 5. Incurred for Work performed after the effective date of this contract;
 6. Satisfactorily documented.
- C. The Local Agency shall establish and maintain a proper accounting system in accordance with generally accepted accounting standards (a separate set of accounts, or as a separate and integral part of its current accounting scheme) to assure that project funds are expended and costs accounted for in a manner consistent with this contract and project objectives.
 1. All allowable costs charged to the project, including any approved services contributed by the Local Agency or others, shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in detail the nature of the charges.
 2. Any check or order drawn up by the Local Agency, including any item which is or will be chargeable against the project account shall be drawn up only in accordance with a properly signed voucher then on file in the office of the Local Agency, which will detail the purpose for which said check or order is drawn. All checks,

- payrolls, invoices, contracts, vouchers, orders or other accounting documents shall be clearly identified, readily accessible, and to the extent feasible, kept separate and apart from all other such documents.
- D. If the Local Agency is to be billed for CDOT incurred costs, the billing procedure shall be as follows:
1. Upon receipt of each bill from the State, the Local Agency will remit to the State the amount billed no later than 60 days after receipt of each bill. Should the Local Agency fail to pay moneys due the State within 60 days of demand or within such other period as may be agreed between the parties hereto, the Local Agency agrees that, at the request of the State, the State Treasurer may withhold an equal amount from future apportionment due the Local Agency from the Highway Users Tax Fund and to pay such funds directly to the State. Interim funds, until the State is reimbursed, shall be payable from the State Highway Supplementary Fund (400).
 2. If the Local Agency fails to make timely payment to the State as required by this section (within 60 days after the date of each bill), the Local Agency shall pay interest to the State at a rate of one percent per month on the amount of the payment which was not made in a timely manner, until the billing is paid in full. The interest shall accrue for the period from the required payment date to the date on which payment is made.
- E. The Local Agency will prepare and submit to the State, no more than monthly, charges for costs incurred relative to the project. The Local Agency's invoices shall include a description of the amounts of services performed, the dates of performance and the amounts and description of reimbursable expenses. The invoices will be prepared in accordance with the State's standard policies, procedures and standardized billing format to be supplied by the State. Additionally, the State shall have no obligation to pay Local Agency for any Work performed or expense incurred after the Agreement Expiration Date or after required billing deadline as specified in the award letter if applicable, whichever is sooner. The State's obligation to pay Agreement Funds will continue until the Agreement Expiration Date. If Agreement Funds expire before the Agreement Expiration Date, then no payments will be made after expiration of Agreement Funds. If the Work will be performed in multiple phases, the period of performance start and end date of each phase is detailed under the Funding Provisions & Performance Period in **Exhibit C**.
- F. To be eligible for payment, billings must be received within 60 days after the period for which payment is being requested and final billings on this contract must be received by the State within 60 days after the end of the contract term.
1. Payments pursuant to this contract shall be made as earned, in whole or in part, from available funds, encumbered for the purchase of the described services. The liability of the State, at any time, for such payments shall be limited to the amount remaining of such encumbered funds.
 2. In the event this contract is terminated, final payment to the Local Agency may be withheld at the discretion of the State until completion of final audit.
 3. Incorrect payments to the Local Agency due to omission, error, fraud or defalcation shall be recovered from the Local Agency by deduction from subsequent payment under this contract or other contracts between the State and Local Agency, or by the State as a debt due to the State.
 4. Any costs incurred by the Local Agency that are not allowable under 49 C.F.R. 18 shall be reimbursed by the Local Agency, or offset against current obligations due by the State to the Local Agency, at the State's election.

Section 6. Option Letter Modification

An option letter may be used to authorize the Local Agency to begin a phase without increasing total budgeted funds, increase or decrease the encumbrance amount as shown on **Exhibit C**, and/or transfer funds from one phase to another. Option letter modification is limited to the specific scenarios listed below. The option letter shall not be deemed valid until signed by the State Controller or an authorized delegate.

- A. Option to begin a phase and/or increase or decrease the encumbrance amount.
- The State may authorize the Local Agency to begin a phase that may include Design, Construction, Environmental, Utilities, ROW Incidentals or Miscellaneous (this does not apply to Acquisition/Relocation or Railroads) as detailed in **Exhibit A** and at the same terms and conditions stated in the original Agreement, with the total budgeted funds as shown on **Exhibit C** remaining the same. The State may increase or decrease the encumbrance amount for a particular phase by replacing the original funding exhibit (**Exhibit C**) in the original Agreement with an updated **Exhibit C-1** (subsequent exhibits to Exhibit C-1 shall be labeled C-2, C-3, etc.). The State may exercise this option by providing a fully executed option to the Local Agency within thirty (30) days before the initial targeted start date of the phase, in a form substantially equivalent to **Exhibit D**. If the State exercises this option, the Agreement will be considered to include this option provision.

- B. Option to transfer funds from one phase to another phase.
The State may permit the Local Agency to transfer funds from one phase (Design, Construction, Environmental, Utilities, ROW Incidentals or Miscellaneous) to another as a result of changes to state, federal, and local match. The original funding exhibit (**Exhibit C**) in the original Agreement will be replaced with an updated **Exhibit C-1** (subsequent exhibits to **Exhibit C-1** shall be labeled **C-2**, **C-3**, etc.) and attached to the option letter. The funds transferred from one phase to another are subject to the same terms and conditions stated in the original Agreement with the total budgeted funds remaining the same. The State may unilaterally exercise this option by providing a fully executed option to the Local Agency within thirty (30) days before the initial targeted start date of the phase, in a form substantially equivalent to **Exhibit D**.
- C. Option to do both Options A and B.
The State may authorize the Local Agency to begin a phase as detailed in **Exhibit A**, and encumber and transfer funds from one phase to another. The original funding exhibit (**Exhibit C**) in the original Agreement will be replaced with an updated **Exhibit C-1** (subsequent exhibits to **Exhibit C-1** shall be labeled **C-2**, **C-3**, etc.) and attached to the option letter. The addition of a phase and encumbrance and transfer of funds are subject to the same terms and conditions stated in the original Agreement with the total budgeted funds remaining the same. The State may unilaterally exercise this option by providing a fully executed option to the Local Agency within thirty (30) days before the initial targeted start date of the phase, in a form substantially equivalent to **Exhibit D**.

Section 7. State and Local Agency Commitments

The Scope of Work in **Exhibit A** describes the Work to be performed and assigns responsibility of that Work to either the Local Agency or the State. The “Responsible Party” referred to in this contract means the Responsible Party as identified in the Scope of Work in **Exhibit A**.

A. Design [if applicable]

1. If the Work includes preliminary design or final design (the “Construction Plans”), or design work sheets, or special provisions and estimates (collectively referred to as the “Plans”), the responsible party shall comply with the following requirements, as applicable:
 - a. perform or provide the Plans, to the extent required by the nature of the Work.
 - b. prepare final design (Construction Plans) in accord with the requirements of the latest edition of the American Association of State Highway Transportation Officials (AASHTO) manual or other standard, such as the Uniform Building Code, as approved by CDOT.
 - c. prepare special provisions and estimates in accord with the State’s Roadway and Bridge Design Manuals and Standard Specifications for Road and Bridge Construction or Local Agency specifications if approved by CDOT.
 - d. include details of any required detours in the Plans, in order to prevent any interference of the construction work and to protect the traveling public.
 - e. stamp the Plans produced by a Colorado Registered Professional Engineer.
 - f. provide final assembly of Plans and contract documents.
 - g. be responsible for the Plans being accurate and complete.
 - h. make no further changes in the Plans following the award of the construction contract except by agreement in writing between the parties. The Plans shall be considered final when approved and accepted by the parties hereto, and when final they shall be deemed incorporated herein.
2. If the Local Agency is the responsible party:
 - a. The local agency shall comply with the requirements of the Americans With Disabilities Act (ADA), and applicable federal regulations and standards as contained in the document “ADA Accessibility Requirements in CDOT Transportation Projects”.
 - b. It shall afford the State ample opportunity to review the Plans and make any changes in the Plans that are directed by the State to comply with State requirements.
 - c. It may enter into a contract with a consultant to do all or any portion of the Plans and/or of construction administration. Provided, however, that if federal-aid funds are involved in the cost of such work to be done by a consultant, that consultant contract (and the performance/provision of the Plans under the contract) must comply with all applicable requirements of 23 CFR Part 172 and with any procedures implementing those requirements as provided by the State. If the Local Agency does enter into a contract with a consultant for the Work:

- (1) it shall submit a certification that procurement of any design consultant contract complied with the requirements of 23 CFR 172.5(1) prior to entering into contract. The State shall either approve or deny such procurement. If denied, the Local Agency may not enter into the contract.
 - (2) it shall ensure that all changes in the consultant contract have prior approval by the State. Such changes in the contract shall be by written supplement agreement. As soon as the contract with the consultant has been awarded by the Local Agency, one copy of the executed contract shall be submitted to the State. Any amendments to such contract shall also be submitted.
 - (3) it shall require that all consultant billings under that contract shall comply with the State's standardized billing format. Examples of the billing formats are available from the CDOT Agreements Office.
 - (4) it (or its consultant) shall use the CDOT procedures described in **Exhibit A** to administer that design consultant subcontract, to comply with 23 CFR 172.5(b).
 - (5) it may expedite any CDOT approval of its procurement process and/or consultant contract by submitting a letter to CDOT from the certifying Local Agency's attorney/authorized representative certifying compliance with 23 CFR 172.5(b).
 - (6) it shall ensure that its consultant contract complies with the requirements of 49 CFR 18.36(i) and contains the following language verbatim:
 - (a) "The design work under this contract shall be compatible with the requirements of the contract between the Local Agency and the State (which is incorporated herein by this reference) for the design/construction of the project. The State is an intended third party beneficiary of this contract for that purpose."
 - (b) "Upon advertisement of the project work for construction, the consultant shall make available services as requested by the State to assist the State in the evaluation of construction and the resolution of construction problems that may arise during the construction of the project."
 - (c) "The consultant shall review the construction contractor's shop drawings for conformance with the contract documents and compliance with the provisions of the State's publication, Standard Specifications for Road and Bridge Construction, in connection with this work."
 - (d) The State, in its discretion, will review construction plans, special provisions and estimates and will cause the Local Agency to make changes therein that the State determines are necessary to assure compliance with State requirements.
- B. Construction [if applicable]
1. If the Work includes construction, the responsible party shall perform the construction in accordance with the approved design plans and/or administer the construction all in accord with the Scope of Work in **Exhibit A**. Such administration shall include project inspection and testing; approving sources of materials; performing required plant and shop inspections; documentation of contract payments, testing and inspection activities; preparing and approving pay estimates; preparing, approving and securing the funding for contract modification orders and minor contract revisions; processing contractor claims; construction supervision; and meeting the Quality Control requirements as described in the Scope of Work in **Exhibit A**.
 2. The State shall have the authority to suspend the Work, wholly or in part, by giving written notice thereof to the Local Agency, due to the failure of the Local Agency or its contractor to correct project conditions which are unsafe for workers or for such periods as the State may deem necessary due to unsuitable weather, or for conditions considered unsuitable for the prosecution of the Work, or for any other condition or reason deemed by the State to be in the public interest.
 3. If the Local Agency is the responsible party:
 - a. it shall appoint a qualified professional engineer, licensed in the State of Colorado, as the Local Agency Project Engineer (LAPE), to perform that administration. The LAPE shall administer the project in accordance with this contract, the requirements of the construction contract and applicable State procedures.
 - b. if bids are to be let for the construction of the project, it shall advertise the call for bids upon approval by the State and award the construction contract(s) to the low responsible bidder(s) upon approval by the State.
 - (1) The Local Agency has the option to accept or reject the proposal of the apparent low bidder for work on which competitive bids have been received. The Local Agency must declare the acceptance or rejection within 3 working days after said bids are publicly opened.
 - (2) By indicating its concurrence in such award, the Local Agency, acting by or through its duly authorized representatives, agrees to provide additional funds, subject to their availability and appropriation for that purpose, if required to complete the Work under this project if no additional

federal-aid funds will be made available for the project. This paragraph also applies to projects advertised and awarded by the State.

- c. If all or part of the construction work is to be accomplished by Local Agency personnel (i.e. by force account), rather than by a competitive bidding process, the Local Agency will ensure that all such force account work is accomplished in accordance with the pertinent State specifications and requirements with 23 CFR 635, Subpart B, Force Account Construction.
 - (1) Such work will normally be based upon estimated quantities and firm unit prices agreed to between the Local Agency and the State in advance of the Work, as provided for in 23 CFR 635.204(c). Such agreed unit prices shall constitute a commitment as to the value of the Work to be performed.
 - (2) An alternative to the above is that the Local Agency may agree to participate in the Work based on actual costs of labor, equipment rental, materials supplies and supervision necessary to complete the Work. Where actual costs are used, eligibility of cost items shall be evaluated for compliance with 48 CFR Part 31.
 - (3) Rental rates for publicly owned equipment will be determined in accordance with the State's Standard Specifications for Road and Bridge Construction § 109.04.
 - (4) All force account work shall have prior approval of the State and shall not be initiated until the State has issued a written notice to proceed.

C. State's obligations

1. The State will perform a final project inspection prior to project acceptance as a Quality Control/Assurance activity. When all Work has been satisfactorily completed, the State will sign a final acceptance form.
2. Notwithstanding any consents or approvals given by the State for the Plans, the State will not be liable or responsible in any manner for the structural design, details or construction of any major structures that are designed by or are the responsibility of the Local Agency as identified in the Scope of Work in **Exhibit A**, within the Work of this contract.

Section 8. ROW Acquisition and Relocation

If the Project includes right of way, prior to this project being advertised for bids, the Responsible Party will certify in writing to the State that all right of way has been acquired in accordance with the applicable state and federal regulations, or that no additional right of way is required.

Any acquisition/relocation activities must comply with: all applicable federal and state statutes and regulations, including but not limited to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 as amended (P.L. 91-646) and the Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs as amended (49 CFR Part 24); CDOT's Right of Way Manual; and CDOT's Policy and Procedural Directives.

Allocation of Responsibilities are as follows:

- Federal participation in right of way acquisition (3111 charges), relocation (3109 charges) activities, if any, and right of way incidentals (expenses incidental to acquisition/relocation of right of way – 3114 charges);
- Federal participation in right of way acquisition (3111 charges), relocation (3109 charges) but no participation in incidental expenses (3114 charges); or
- No federal participation in right of way acquisition (3111 charges) and relocation activities (3109 expenses).

Regardless of the option selected above, the State retains oversight responsibilities. The Local Agency's and the State's responsibilities for each option is specifically set forth in CDOT's Right of Way Manual. The manual is located at http://www.dot.state.co.us/ROW_Manual/.

If right of way is purchased for a state highway, including areas of influence of the state highway, the local agency shall immediately convey title to such right of way to CDOT after the local agency obtains title.

Section 9. Utilities

If necessary, the Responsible Party will be responsible for obtaining the proper clearance or approval from any utility company, which may become involved in this Project. Prior to this Project being advertised for bids, the Responsible Party will certify in writing to the State that all such clearances have been obtained.

Section 10. Railroads

In the event the Project involves modification of a railroad company's facilities whereby the Work is to be accomplished by railroad company forces, the Responsible Party shall make timely application to the Public Utilities Commission requesting its order providing for the installation of the proposed improvements and not proceed with that part of the Work without compliance. The Responsible Party shall also establish contact with the railroad

company involved for the purpose of complying with applicable provisions of 23 CFR 646, subpart B, concerning federal-aid projects involving railroad facilities, including:

- A. Executing an agreement setting out what work is to be accomplished and the location(s) thereof, and that the costs of the improvement shall be eligible for federal participation.
- B. Obtaining the railroad's detailed estimate of the cost of the Work.
- C. Establishing future maintenance responsibilities for the proposed installation.
- D. Proscribing future use or dispositions of the proposed improvements in the event of abandonment or elimination of a grade crossing.
- E. Establishing future repair and/or replacement responsibilities in the event of accidental destruction or damage to the installation.

Section 11. Environmental Obligations

The Local Agency shall perform all Work in accordance with the requirements of the current federal and state environmental regulations including the National Environmental Policy Act of 1969 (NEPA) as applicable.

Section 12. Maintenance Obligations

The Local Agency will maintain and operate the improvements constructed under this contract at its own cost and expense during their useful life, in a manner satisfactory to the State. The Local Agency will make proper provisions for such maintenance obligations each year. Such maintenance and operations shall be conducted in accordance with all applicable statutes, ordinances and regulations which define the Local Agency's obligations to maintain such improvements. The State will make periodic inspections of the project to verify that such improvements are being adequately maintained.

Section 13. Record Keeping

The Local Agency shall maintain a complete file of all records, documents, communications, and other written materials, which pertain to the costs incurred under this contract. The Local Agency shall maintain such records for a period of three (3) years after the date of termination of this contract or final payment hereunder, whichever is later, or for such further period as may be necessary to resolve any matters which may be pending. The Local Agency shall make such materials available for inspection at all reasonable times and shall permit duly authorized agents and employees of the State to inspect the project and to inspect, review and audit the project records.

Section 14. Termination Provisions

This contract may be terminated as follows:

- A. Termination for Convenience. The State may terminate this contract at any time the State determines that the purposes of the distribution of moneys under the contract would no longer be served by completion of the project. The State shall effect such termination by giving written notice of termination to the Local Agency and specifying the effective date thereof, at least twenty (20) days before the effective date of such termination.
- B. Termination for Cause. If, through any cause, the Local Agency shall fail to fulfill, in a timely and proper manner, its obligations under this contract, or if the Local Agency shall violate any of the covenants, agreements, or stipulations of this contract, the State shall thereupon have the right to terminate this contract for cause by giving written notice to the Local Agency of its intent to terminate and at least ten (10) days opportunity to cure the default or show cause why termination is otherwise not appropriate. In the event of termination, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports or other material prepared by the Local Agency under this contract shall, at the option of the State, become its property, and the Local Agency shall be entitled to receive just and equitable compensation for any services and supplies delivered and accepted. The Local Agency shall be obligated to return any payments advanced under the provisions of this contract.

Notwithstanding the above, the Local Agency shall not be relieved of liability to the State for any damages sustained by the State by virtue of any breach of the contract by the Local Agency, and the State may withhold payment to the Local Agency for the purposes of mitigating its damages until such time as the exact amount of damages due to the State from the Local Agency is determined.

If after such termination it is determined, for any reason, that the Local Agency was not in default or that the Local Agency's action/inaction was excusable, such termination shall be treated as a termination for convenience, and the rights and obligations of the parties shall be the same as if the contract had been terminated for convenience, as described herein.

C. **Termination Due to Loss of Funding.** The parties hereto expressly recognize that the Local Agency is to be paid, reimbursed, or otherwise compensated with federal and/or State funds which are available to the State for the purposes of contracting for the Project provided for herein, and therefore, the Local Agency expressly understands and agrees that all its rights, demands and claims to compensation arising under this contract are contingent upon availability of such funds to the State. In the event that such funds or any part thereof are not available to the State, the State may immediately terminate or amend this contract.

Section 15. Legal Authority

The Local Agency warrants that it possesses the legal authority to enter into this contract and that it has taken all actions required by its procedures, by-laws, and/or applicable law to exercise that authority, and to lawfully authorize its undersigned signatory to execute this contract and to bind the Local Agency to its terms. The person(s) executing this contract on behalf of the Local Agency warrants that such person(s) has full authorization to execute this contract.

Section 16. Representatives and Notice

Each individual identified below is the principal representative of the designating Party. All notices required to be given hereunder shall be hand delivered with receipt required or sent by certified or registered mail to such Party's principal representative at the address set forth below. In addition to but not in lieu of a hard-copy notice, notice also may be sent by e-mail to the e-mail addresses, if any, set forth below. Either Party may from time to time designate by written notice substitute addresses or persons to whom such notices shall be sent. Unless otherwise provided herein, all notices shall be effective upon receipt.

If to State

If to the Local Agency

CDOT Region: 2	City of Pueblo
Don Scanga	Kelly Grisham
Project Manager	Project Coordinator
5615 Wills Blvd	211 East D Street
Pueblo, CO 81008	Pueblo, CO 81003
719-621-8340	719-553-2254

Section 17. Successors

Except as herein otherwise provided, this contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns.

Section 18. Third Party Beneficiaries

It is expressly understood and agreed that the enforcement of the terms and conditions of this contract and all rights of action relating to such enforcement, shall be strictly reserved to the State and the Local Agency. Nothing contained in this contract shall give or allow any claim or right of action whatsoever by any other third person. It is the express intention of the State and the Local Agency that any such person or entity, other than the State or the Local Agency receiving services or benefits under this contract shall be deemed an incidental beneficiary only.

Section 19. Governmental Immunity

Notwithstanding any other provision of this contract to the contrary, no term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the Colorado Governmental Immunity Act, § 24-10-101, et seq., C.R.S., as now or hereafter amended. The parties understand and agree that liability for claims for injuries to persons or property arising out of negligence of the State of Colorado, its departments, institutions, agencies, boards, officials and employees is controlled and limited by the provisions of § 24-10-101, et seq., C.R.S., as now or hereafter amended and the risk management statutes, §§ 24-30-1501, et seq., C.R.S., as now or hereafter amended.

Section 20. Severability

To the extent that this contract may be executed and performance of the obligations of the parties may be accomplished within the intent of the contract, the terms of this contract are severable, and should any term or provision hereof be declared invalid or become inoperative for any reason, such invalidity or failure shall not affect the validity of any other term or provision hereof.

Section 21. Waiver

The waiver of any breach of a term, provision, or requirement of this contract shall not be construed or deemed as a waiver of any subsequent breach of such term, provision, or requirement, or of any other term, provision or requirement.

Section 22. Entire Understanding

This contract is intended as the complete integration of all understandings between the parties. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever, unless embodied herein by writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a writing executed and approved pursuant to the State Fiscal Rules.

Section 23. Survival of Contract Terms

Notwithstanding anything herein to the contrary, the parties understand and agree that all terms and conditions of this contract and the exhibits and attachments hereto which may require continued performance, compliance or effect beyond the termination date of the contract shall survive such termination date and shall be enforceable by the State as provided herein in the event of such failure to perform or comply by the Local Agency.

Section 24. Modification and Amendment

This contract is subject to such modifications as may be required by changes in federal or State law, or their implementing regulations. Any such required modification shall automatically be incorporated into and be part of this contract on the effective date of such change as if fully set forth herein. Except as provided above, no modification of this contract shall be effective unless agreed to in writing by both parties in an amendment to this contract that is properly executed and approved in accordance with applicable law.

Section 25. Disputes

Except as otherwise provided in this contract, any dispute concerning a question of fact arising under this contract which is not disposed of by agreement will be decided by the Chief Engineer of the Department of Transportation. The decision of the Chief Engineer will be final and conclusive unless, within 30 calendar days after the date of receipt of a copy of such written decision, the Local Agency mails or otherwise furnishes to the State a written appeal addressed to the Executive Director of the Department of Transportation. In connection with any appeal proceeding under this clause, the Local Agency shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, the Local Agency shall proceed diligently with the performance of the contract in accordance with the Chief Engineer's decision. The decision of the Executive Director or his duly authorized representative for the determination of such appeals will be final and conclusive and serve as final agency action. This dispute clause does not preclude consideration of questions of law in connection with decisions provided for herein. Nothing in this contract, however, shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

Section 26. Statewide Contract Management System

If the maximum amount payable to Contractor under this Contract is \$100,000 or greater, either on the Effective Date or at any time thereafter, this **§Statewide Contract Management System** applies. Contractor agrees to be governed, and to abide, by the provisions of CRS §24-102-205, §24-102-206, §24-103-601, §24-103.5-101 and §24-105-102 concerning the monitoring of vendor performance on state contracts and inclusion of contract performance information in a statewide contract management system.

Contractor's performance shall be subject to Evaluation and Review in accordance with the terms and conditions of this Contract, State law, including CRS §24-103.5-101, and State Fiscal Rules, Policies and Guidance. Evaluation and Review of Contractor's performance shall be part of the normal contract administration process and Contractor's performance will be systematically recorded in the statewide Contract Management System. Areas of Evaluation and Review shall include, but shall not be limited to quality, cost and timeliness. Collection of information relevant to the performance of Contractor's obligations under this Contract shall be determined by the specific requirements of such obligations and shall include factors tailored to match the requirements of Contractor's obligations. Such performance information shall be entered into the statewide Contract Management System at intervals established herein and a final Evaluation, Review and Rating shall be rendered within 30 days of the end of the Contract term. Contractor shall be notified following each performance Evaluation and Review, and shall address or correct any identified problem in a timely manner and maintain work progress.

Should the final performance Evaluation and Review determine that Contractor demonstrated a gross failure to meet the performance measures established hereunder, the Executive Director of the Colorado Department of Personnel and Administration (Executive Director), upon request by the Department of Transportation and showing of good

cause, may debar Contractor and prohibit Contractor from bidding on future contracts. Contractor may contest the final Evaluation, Review and Rating by: **(a)** filing rebuttal statements, which may result in either removal or correction of the evaluation (CRS §24-105-102(6)), or **(b)** under CRS §24-105-102(6), exercising the debarment protest and appeal rights provided in CRS §§24-109-106, 107, 201 or 202, which may result in the reversal of the debarment and reinstatement of Contractor, by the Executive Director, upon showing of good cause.

Section 27. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3).

These Special Provisions apply to all contracts except where noted in italics.

A. STATUTORY APPROVAL. §24-30-202(1), C.R.S.

This Contract shall not be valid until it has been approved by the Colorado State Controller or designee. If this Contract is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), then this Contract shall not be valid until it has been approved by the State's Chief Information Officer or designee.

B. FUND AVAILABILITY. §24-30-202(5.5), C.R.S.

Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

C. GOVERNMENTAL IMMUNITY.

Liability for claims for injuries to persons or property arising from the negligence of the State, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

D. INDEPENDENT CONTRACTOR

Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. **Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. Contractor shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.**

E. COMPLIANCE WITH LAW.

Contractor shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. CHOICE OF LAW, JURISDICTION, AND VENUE.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Contract shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

G. PROHIBITED TERMS.

Any term included in this Contract that requires the State to indemnify or hold Contractor harmless; requires the State to agree to binding arbitration; limits Contractor's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Contract shall be construed as a waiver of any provision of §24-106-109 C.R.S. Any term included in this Contract that limits Contractor's liability that is not void under this section shall apply only in excess of any insurance to be maintained under this Contract, and no insurance policy shall be interpreted as being subject to any limitations of liability of this Contract.

H. SOFTWARE PIRACY PROHIBITION.

State or other public funds payable under this Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this Contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Contract, including, without limitation, immediate termination of this Contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK

Section 28. SIGNATURE PAGE

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

*** Persons signing for the Local Agency hereby swear and affirm that they are authorized to act on the Local Agency's behalf and acknowledge that the State is relying on their representations to that effect.**

THE LOCAL AGENCY CITY OF PUEBLO Name: _____ (print name) Title: _____ (print title) _____ *Signature Date: _____	STATE OF COLORADO Jared S. Polis Department of Transportation By _____ Stephen Harelson, P.E., Chief Engineer (For) Shoshana M. Lew, Executive Director Date: _____
2nd Local Agency Signature if needed Name: _____ (print name) Title: _____ (print title) _____ *Signature Date: _____	STATE OF COLORADO LEGAL REVIEW Philip J. Weiser, Attorney General By _____ Signature – Assistant Attorney General Date: _____

ALL AGREEMENTS REQUIRE APPROVAL BY THE STATE CONTROLLER

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

STATE OF COLORADO STATE CONTROLLER Robert Jaros, CPA, MBA, JD By: _____ Colorado Department of Transportation Date: _____

EXHIBIT A
SCOPE OF WORK

Name of Project: Pueblo Westside Trail (Wildhorse)
Project Number: MTF M086-098
SubAccount #: 25192

1. General Description

The local agency shall be responsible for design and construction of an off-street trail connection from West 18th Street to West 24th Street along the Wildhorse Creek Arroyo, Project M086-089, (25192). The project will include the planning, surveying and design and construction of a 10' wide concrete multi-use trail. At grade sidewalk and curb ramp improvements are anticipated on 18th Street and 24th Street. The project will also include lighting, grading and signage.

The majority of the trail will be constructed within existing unimproved public rights-of-way; however, a portion of the trail will be constructed within private property. Where the trail will encroach onto private property, permanent easement acquisition will be necessary.

2. Definitions

3. Personnel

3.1. Responsible Administrator.

The Local Agency's performance hereunder shall be under the direct supervision of the project manager identified in §16 of the Agreement.

3.2. Replacement

The Local Agency shall immediately notify the State if any key personnel cease to serve and seek its approval. Such notice shall specify why the change is necessary, who the proposed replacement is, what their qualifications are, and when the change would take effect. Anytime key personnel cease to serve, the State, in its sole discretion, may direct the Local Agency to suspend performance on the Work until such time as their replacements are approved. All notices sent under this subsection shall be sent in accordance with §16 of the Agreement.

4. Administrative Requirements

At all times from the effective date of this Agreement until completion of the Work, the Local Agency shall maintain properly segregated books of State Agreement funds, matching funds, and other funds associated with the Work. All receipts and expenditures associated with said Work shall be documented in a detailed and specific manner, and shall accord with the Work Budget set forth herein.

5. Monitoring

The State shall monitor this Work on an as-needed basis. The State may choose to audit the business activities performed under this Agreement. The Local Agency shall maintain a complete file of all records, documents, communications, notes and other written materials or electronic media, files or communications, which pertain in any manner to the operation of activities undertaken pursuant to an executed Agreement. Such books and records shall contain documentation of the participant's pertinent activity under this Agreement in a form consistent with good accounting practice.

By accepting funds for this Scope of Work, Local Agency acknowledges, understands, and accepts the continuing responsibility for the safety of the traveling public after initial acceptance of the project. **Local Agency is responsible for maintaining and operating the scope of work described in this Exhibit A constructed under this Agreement at its own cost and expense during its useful life.**

THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK

EXHIBIT B
LOCAL AGENCY RESOLUTION (IF APPLICABLE)

EXHIBIT C- FUNDING PROVISIONS

Pueblo MTF 086-098 (25192)

A. Cost of Work Estimate

The Local Agency has estimated the total cost the Work to be \$850,000.00, which is to be funded as follows:

1. FUNDING			
MTF M086-098 (25192)			
a.	State Funds		
	(100% MMOF Award)		\$850,000.00
b.	Local Agency Funds		
	(0.00% MMOF Award)		\$0.00
TOTAL FUNDS ALL SOURCES			\$850,000.00
2. ESTIMATED PAYMENT TO LOCAL AGENCY			
a.	State Funds Budgeted		\$850,000.00
b.	Less Estimated State Share of CDOT-Incurred Costs		\$0.00
TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY		100.00%	\$850,000.00
TOTAL ESTIMATED FUNDING BY LOCAL AGENCY		0.00%	\$0.00
TOTAL PROJECT ESTIMATED FUNDING		100.00%	\$850,000.00
3. FOR CDOT ENCUMBRANCE PURPOSES			
MTF M086-098 (25192)			
a.	Total Encumbrance Amount (Only State funds are encumbered)		\$850,000.00
b.	Less ROW Acquisition 3111 and/or ROW Relocation 3109		\$0.00
NET TO BE ENCUMBERED BY CDOT IS AS FOLLOWS			\$850,000.00

Note: No funds are currently available. Design and Construction funds will become available after execution of an Option letter (Exhibit D) or formal Amendment.

WBS Element 25192.10.30	Performance Period Start*/End Date	Design 3020	\$0.00
	N/A		
WBS Element 25192.20.10	Performance Period Start*/End Date	Const. 3301	\$0.00
	N/A		

*For MTF M086-098 (25192) *The Local Agency should not begin work until both of the following are in place: 1) the execution of the document encumbering funds for the respective phase; and 2) Local Agency receipt of the official Notice to Proceed. Any work performed before these two (2) milestones are achieved will not be reimbursable.

B. Funding Ratios

Project MTF M086-098 (25192)

The funding ratio for the State funds for this Work is 100% State funds to 0% Local Agency funds, and this ratio applies only to the \$850,000.00 that is eligible for State funding. All other costs are borne by the Local Agency at 100%. If the total cost of performance of the Work exceeds \$850,000.00, and additional State funds are available for the Work, the Local Agency shall pay 0% of all such costs eligible for State funding and 100% of all other costs. If additional State funds are not available, the Local Agency shall pay all such excess costs. If the total cost of performance of the Work is less than \$850,000.00, then the amounts of Local Agency and State funds will be decreased in accordance with the funding ratio described herein. **This applies to the entire scope of Work.**

C. Maximum Amount Payable

Project MTF M086-098 (25192)

The maximum amount payable to the Local Agency under this Agreement shall be \$850,000.00. For CDOT

accounting purposes, the State funds of \$850,000.00 will be encumbered, but the Local Agency funds of \$0.00 will NOT be encumbered. The total budget of this project is \$850,000.00, unless this amount is increased by an executed amendment before any increased cost is incurred. The total cost of the Work is the best estimate available, based on the design data as approved at the time of execution of this Agreement, and any cost is subject to revisions agreed to by the parties prior to bid and award. The maximum amount payable will be reduced without amendment when the actual amount of the Local Agency's awarded Agreement is less than the budgeted total of the State funds and the Local Agency funds. The maximum amount payable will be reduced through the execution of an Option Letter as described in Section 6 of this contract. **This applies to the entire scope of Work.**

Exhibit D

SAMPLE OPTION LETTER

(This option has been created by the Office of the State Controller for CDOT use only)

NOTE: This option is limited to the specific contract scenarios listed below AND may be used in place of exercising a formal amendment.

Date:	State Fiscal Year:	Option Letter No.	Option Letter CMS Routing # Option Letter OLA #
Original Contract CMS #		Original Contract #	

Vendor name:

SUBJECT:

Option to unilaterally authorize the Local Agency to begin a phase which may include Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous ONLY (*does not apply to Acquisition/Relocation or Railroads*) and to update encumbrance amounts (*a new Exhibit C must be attached with the option letter and shall be labeled C-1, future changes for this option shall be labeled as follows: C-2, C-3, C-4, etc.*).

Option to unilaterally transfer funds from one phase to another phase (a new Exhibit C must be attached with the option letter and shall be labeled C-1, future changes for this option shall be labeled as follows: C-2, C-3, C-4, etc.).

Option to unilaterally do both A and B (a new Exhibit C must be attached with the option letter and shall be labeled C-1, future changes for this option shall be labeled as follows: C-2, C-3, C-4, etc.).

Option to extend the term of this Agreement.

REQUIRED PROVISIONS:

Option A (*Insert the following language for use with the Option A*):

In accordance with the terms of the original Agreement (*insert CMS routing # of the original Agreement*) between the State of Colorado, Department of Transportation and (*insert the Local Agency's name here*), the State hereby exercises the option to authorize the Local Agency to begin a phase that will include (*describe which phase will be added and include all that apply – Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous*) and to encumber previously budgeted funds for the phase based upon changes in funding availability and authorization. The encumbrance for (*Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous*) is (*insert dollars here*). A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**. (*The following is a NOTE only, please delete when using this option. Future changes for this option for Exhibit C shall be labeled as follows: C-2, C-3, C-4, etc.*).

Option B (*Insert the following language for use with Option B*):

In accordance with the terms of the original Agreement (*insert CMS # of the original Agreement*) between the State of Colorado, Department of Transportation and (*insert the Local Agency's name here*), the State hereby exercises the option to transfer funds from (*describe phase from which funds will be moved*) to (*describe phase to which funds will be moved*) based on variance in actual phase costs and original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**. (*The following is a NOTE only so please delete when using this option: future changes for this option for Exhibit C shall be labeled as follows: C*

2, C-3, C-4, etc.).

Option C (*Insert the following language for use with Option C*):

In accordance with the terms of the original Agreement (*insert CMS routing # of original Agreement*) between the State of Colorado, Department of Transportation and (*insert the Local Agency's name here*), the State hereby exercises the option to 1) release the Local Agency to begin a phase that will include (*describe which phase will be added and include all that apply – Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous*); 2) to encumber funds for the phase based upon changes in funding availability and authorization; and 3) to transfer funds from (*describe phase from which funds will be moved*) to (*describe phase to which funds will be moved*) based on variance in actual phase costs and original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**. (*The following is a NOTE only so please delete when using this option: future changes for this option for **Exhibit C** shall be labeled as follows: C-2, C-3, C- 4, etc.*).

(*The following language must be included on options A, B and C*):

The total encumbrance as a result of this option and all previous options and/or amendments is now (*insert total encumbrance amount*), as referenced in **Exhibit (C-1, C-2, etc., as appropriate)**. The total budgeted funds to satisfy services/goods ordered under the Agreement remains the same: (*indicate total budgeted funds*) as referenced in **Exhibit (C-1, C-2, etc., as appropriate)** of the original Agreement.

The effective date of this option letter is upon approval of the State Controller or delegate.

APPROVALS:

State of Colorado:

Jared S. Polis, Governor

By: Date:

Executive Director, Colorado Department of Transportation

ALL CONTRACTS MUST BE APPROVED BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Contracts. This Agreement 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 the Local Agency begins performing prior thereto, the State of Colorado is not obligated to pay the Local Agency for such performance or for any goods and/or services provided hereunder.

State Controller Robert Jaros, CPA, MBA, JD

By: Date:

EXHIBIT E

PII Certification

STATE OF COLORADO

LOCAL AGENCY CERTIFICATION FOR ACCESS TO PII THROUGH A DATABASE OR AUTOMATED NETWORK

Pursuant to § 24-74-105, C.R.S., I, _____, on behalf of _____ (legal name of Local Agency) (the “Local Agency”), hereby certify under the penalty of perjury that the Local Agency has not and will not use or disclose any Personal Identifying Information, as defined by § 24-74-102(1), C.R.S., for the purpose of investigating for, participating in, cooperating with, or assisting Federal Immigration Enforcement, including the enforcement of civil immigration laws, and the Illegal Immigration and Immigrant Responsibility Act, which is codified at 8 U.S.C. §§ 1325 and 1326, unless required to do so to comply with Federal or State law, or to comply with a court-issued subpoena, warrant or order.

I hereby represent and certify that I have full legal authority to execute this certification on behalf of the Local Agency.

Signature: _____

Printed Name: _____

Title: _____

Date: _____

GRANT CERTIFICATION

To: Heather Graham, President of the City Council
Nicholas Gradisar, Mayor

Re: Multimodal Transportation & Mitigation Options Funding

I hereby certify that I have reviewed and am familiar with the attached documents, and to the best of my knowledge and belief, the City has the present ability to comply with all special conditions, certifications and assurances therein contained.

Name (print) Kelly Grisham

12/14/22

Date

Title: Senior Planner



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: January 9, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: AN ORDINANCE ESTABLISHING PROJECT PL2202, LAKE AVENUE AND ORMAN AVENUE ROUNDABOUT PROJECT, AND APPROVING AN INTERGOVERNMENTAL AGREEMENT (IGA) BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE STATE OF COLORADO, ACTING BY AND THROUGH THE COLORADO DEPARTMENT OF TRANSPORTATION (CDOT), PROJECT: SHO M086-097 (25101) IN THE AMOUNT OF \$1,350,000, TRANSFERRING \$150,000 FROM CI2204 TO PL2202, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$1,500,000 AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

This Ordinance creates Project PL2202 for Lake Avenue and Orman Avenue Roundabout Project, and approves an Intergovernmental Agreement ("IGA") between Pueblo, a Colorado Municipal Corporation ("City") and the State of Colorado, Colorado Department of Transportation ("CDOT") relating to the Highway Safety Improvement Program Grant in the amount of \$1,350,000.00, transfers funds in the amount of \$150,000.00 for the required 10% match, and budgets and appropriates funds totaling \$1,500,000.00 for the Project.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

This Ordinance establishes the Lake Avenue and Orman Avenue Roundabout Project PL2202 and approves the grant agreement between the City and CDOT.

The City submitted a Highway Safety Improvement Program grant for improvements at the intersection of Lake Avenue and Orman Avenue in 2022. Despite the fact this is a signalized intersection, 77% of the crashes were broadsides (front to side). Because of

the high percentage of broadsides at this intersection, it is a good candidate for a roundabout. The Federal Highway Administration has identified the roundabout construction as one of the most significant accident countermeasure concepts and current speed studies of existing Pueblo roundabouts have shown average speeds in the low 20 miles per hour (MPH) range.

The intersection of Lake Avenue and Orman Avenue is in close proximity to Pueblo Central High School. This improvement will enhance the safety of drivers, bicyclists, and pedestrians of all ages and abilities.

Each approach to this intersection has 100 feet of Right-of-Way (ROW), which should be sufficient room to construct an urban single-lane roundabout without encroaching on existing sidewalks, structures, or private property.

FINANCIAL IMPLICATIONS:

The matching funds in the amount of \$150,000.00 are being transferred from Project CI2204 to PL2202. Funds in the amount of \$1,500,000.00 shall be budgeted and appropriated for Project PL2202.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Currently, there are no alternatives for completing the improvements without the funding from the Highway Safety Improvements Program funds.

RECOMMENDATION:

Approve the Ordinance.

ATTACHMENTS:

1. Lake and Orman Roundabout IGA
2. Department Certification

ORDINANCE NO. 10368

AN ORDINANCE ESTABLISHING PROJECT PL2202, LAKE AVENUE AND ORMAN AVENUE ROUNDABOUT PROJECT, AND APPROVING AN INTERGOVERNMENTAL AGREEMENT (IGA) BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE STATE OF COLORADO, ACTING BY AND THROUGH THE COLORADO DEPARTMENT OF TRANSPORTATION (CDOT), PROJECT: SHO M086-097 (25101) IN THE AMOUNT OF \$1,350,000, TRANSFERRING \$150,000 FROM CI2204 TO PL2202, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$1,500,000 AND AUTHORIZING THE MAYOR TO EXECUTE SAME

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Lake Avenue and Orman Avenue Roundabout Project PL2202, is hereby established.

SECTION 2.

The Intergovernmental Agreement ("IGA") between the City of Pueblo, a Colorado Municipal Corporation, and the State of Colorado, acting with and through the Colorado Department of Transportation (CDOT), Project: SHO M086-097 (25101), Lake Avenue and Orman Avenue Roundabout Project, a copy of which is attached, having been approved as to form by the City Attorney, is hereby approved.

SECTION 3.

Funds in the amount of \$150,000.00 are hereby transferred from Project CI2204 to Project PL2202, Lake Avenue and Orman Avenue Roundabout Project and budgeted and appropriated for the Lake Avenue and Orman Avenue Roundabout Project PL2202.

SECTION 4.

Subject to encumbrances by the Colorado State Department of Transportation (CDOT), and funds from the Highway Safety Improvement Program SHO M086-097 (25101) in the amount of \$1,350,000.00 are hereby budgeted and appropriated for the Lake Avenue and Orman Avenue Roundabout Project PL2202.

SECTION 5.

The Mayor is authorized to execute and deliver the IGA in the name of the City of Pueblo and the City Clerk is directed to affix the seal of the City thereto and attest same.

SECTION 6.

The officers of the City are authorized to perform any and all acts consistent with this Ordinance and IGA to implement the policies and procedures described herein.

SECTION 7.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on December 27, 2022.

Final adoption of Ordinance by City Council on January 9, 2023.



President of City Council

Action by the Mayor:

☒ Approved on January 11, 2023.

☐ Disapproved on _____ based on the following objections:



Mayor

Action by City Council After Disapproval by the Mayor:

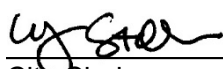
☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST



City Clerk

STATE OF COLORADO INTERGOVERNMENTAL AGREEMENT

Signature and Cover Page

State Agency Department of Transportation			Agreement Routing Number 23-HA2-XC-00138
Local Agency CITY OF PUEBLO			Agreement Effective Date The later of the effective date or October 10, 2022
Agreement Description LAKE AVENUE AND ORMAN AVENUE ROUNDAABOUT			Agreement Expiration Date October 09, 2032
Project # SHO M086- 097 (25101)	Region # 2	Contract Writer VJM	Agreement Maximum Amount \$1,500,000.00

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

Each person signing this Agreement represents and warrants that he or she is duly authorized to execute this Agreement and to bind the Party authorizing his or her signature.

LOCAL AGENCY CITY OF PUEBLO Signature By: Nicholas A. Gradisar, Mayor Date: _____	STATE OF COLORADO Jared S. Polis, Governor Department of Transportation Shoshana M. Lew, Executive Director Stephen Harelson, P.E., Chief Engineer Date: _____
2nd State or Local Agency Signature if Needed Attested By: _____ Signature By: Marisa Stoller, City Clerk Date: _____	LEGAL REVIEW Philip J. Weiser, Attorney General Assistant Attorney General By: (Print Name and Title) Date: _____
In accordance with §24-30-202 C.R.S., this Agreement is not valid until signed and dated below by the State Controller or an authorized delegate. STATE CONTROLLER Robert Jaros, CPA, MBA, JD By: _____ Department of Transportation Effective Date: _____	

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1. PARTIES

This Agreement is entered into by and between Local Agency named on the Signature and Cover Page for this Agreement (“Local Agency”), and the STATE OF COLORADO acting by and through the State agency named on the Signature and Cover Page for this Agreement (the “State” or “CDOT”). Local Agency and the State agree to the terms and conditions in this Agreement.

2. TERM AND EFFECTIVE DATE

A. Effective Date

This Agreement shall not be valid or enforceable until the Effective Date, and Agreement Funds shall be expended within the dates shown in **Exhibit C** for each respective phase (“Phase Performance Period(s)”). The State shall not be bound by any provision of this Agreement before the Effective Date, and shall have no obligation to pay Local Agency for any Work performed or expense incurred before 1) the Effective Date of this original Agreement; except as described in **§7.D**; 2) before the encumbering document for the respective phase *and* the official Notice to Proceed for the respective phase; or 3) after the Final Phase Performance End Date, as shown in **Exhibit C**. Additionally, the State shall have no obligation to pay Local Agency for any Work performed or expense incurred after the Agreement Expiration Date or after required billing deadline specified in **§7.B.i.e.**, or the expiration of “Special Funding” if applicable, whichever is sooner. The State’s obligation to pay Agreement Funds exclusive of Special Funding will continue until the Agreement Expiration Date. If Agreement Funds expire before the Agreement Expiration Date, then no payments will be made after expiration of Agreement Funds.

B. Initial Term and Extension

The Parties’ respective performances under this Agreement shall commence on the Agreement Effective Date shown on the Signature and Cover Page for this Agreement and shall terminate on as shown on the Signature and Cover Page for this Agreement, unless sooner terminated or further extended in accordance with the terms of this Agreement. Upon request of Local Agency, the State may, in its sole discretion, extend the term of this Agreement by Option Letter pursuant **§7.E.iv**. If the Work will be performed in multiple phases, the period of performance start and end date of each phase is detailed under the Project Schedule in **Exhibit C**.

C. Early Termination in the Public Interest

The State is entering into this Agreement to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Agreement ceases to further the public interest of the State, and this ARPA Award is not appropriated, or otherwise become unavailable to fund this ARPA Award the State, in its discretion, may terminate this Agreement in whole or in part. This subsection shall not apply to a termination of this Agreement by the State for breach by Local Agency, which shall be governed by **§14.A.i**.

i. Method and Content

The State shall notify Local Agency by providing written notice to Local Agency of the termination and be in accordance with **§16**. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Agreement.

ii. Obligations and Rights

Upon receipt of a termination notice for termination in the public interest, Local Agency shall be subject to **§14.A.i.a**

iii. Payments

If the State terminates this Agreement in the public interest, the State shall pay Local Agency an amount equal to the percentage of the total reimbursement payable under this Agreement that corresponds to the percentage of Work satisfactorily completed and accepted, as determined by the State, less payments previously made. Additionally, if this Agreement is less than 60% completed, as determined by the State, the State may reimburse Local Agency for a portion of actual out-of-pocket expenses, not otherwise reimbursed under this Agreement, incurred by Local Agency which are directly attributable to the uncompleted portion of Local Agency’s obligations, provided that the sum of any and all reimbursement shall not exceed the maximum amount payable to Local Agency hereunder. This subsection shall not apply to a termination of this ARPA Award by the State for breach by Local Agency.

D. Local Agency Termination Under Federal Requirements

Local Agency may request termination of the ARPA Award by sending notice to the State, which includes the effective date of the termination. If this ARPA Award is terminated in this manner, then Local Agency shall return any advanced payments made for work that will not be performed prior to the effective date of the termination.

3. AUTHORITY

Authority to enter into this Agreement exists in the law as follows:

A. Federal Authority

Pursuant to Title I, Subtitle A, of the “Fixing America’s Surface Transportation Act” (FAST Act) of 2015, and to applicable provisions of Title 23 of the United States Code and implementing regulations at Title 23 of the Code of Federal Regulations, as may be amended, (collectively referred to hereinafter as the “Federal Provisions”), certain federal funds have been and are expected to continue to be allocated for transportation projects requested by Local Agency and eligible under the Surface Transportation Improvement Program that has been proposed by the State and approved by the Federal Highway Administration (“FHWA”).

Pursuant to Title VI of the Social Security Act, Section 602 of the “Coronavirus State and Local Fiscal Recovery Funds”, a part of the American Rescue Plan, provides state, local and Tribal governments with the resources needed to respond to the pandemic and its economic effects and to build a stronger, more equitable economy during the recovery.

B. State Authority

Pursuant to CRS §43-1-223 and to applicable portions of the Federal Provisions, the State is responsible for the general administration and supervision of performance of projects in the Program, including the administration of federal funds for a Program project performed by a Local Agency under a contract with the State. This Agreement is executed under the authority of CRS §§29-1-203, 43-1-110; 43-1-116, 43-2-101(4)(c) and 43-2-104.5.

4. PURPOSE

The purpose of this Agreement is to disburse Federal funds to the Local Agency pursuant to CDOT’s Stewardship Agreement with the FHWA and/or USDT as shown in **Exhibit C**.

5. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. “**Agreement**” means this agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.
- B. “**Agreement Funds**” means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Agreement.
- C. “**ARPA**” means American Rescue Plan Act, funded by the US Department of the Treasury (“USDT”). See “SLFRF” below.
- D. “**Award**” means an award by a Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Award unless the terms and conditions of the Federal Award specifically indicate otherwise.
- E. “**Budget**” means the budget for the Work described in **Exhibit C**.
- F. “**Business Day**” means any day in which the State is open and conducting business, but shall not include Saturday, Sunday or any day on which the State observes one of the holidays listed in §24-11-101(1) C.R.S..
- G. “**Chief Procurement Officer**” means the individual to whom the Executive Director has delegated his or her authority pursuant to §24-102-202 to procure or supervise the procurement of all supplies and services needed by the State.
- H. “**CJI**” means criminal justice information collected by criminal justice agencies needed for the performance of their authorized functions, including, without limitation, all information defined as criminal justice information by the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy, as amended and all Criminal Justice Records as defined under §24-72-302, C.R.S.
- I. “**Consultant**” means a professional engineer or designer hired by Local Agency to design the Work Product.
- J. “**Contractor**” means the general construction contractor hired by Local Agency to construct the Work.

- K. **“CORA”** means the Colorado Open Records Act, §§24-72-200.1 *et. seq.*, C.R.S.
- L. **“Effective Date”** means the date on which this Agreement is approved and signed by the Colorado State Controller or designee, as shown on the Signature and Cover Page for this Agreement.
- M. **“Evaluation”** means the process of examining Local Agency’s Work and rating it based on criteria established in **§6, Exhibit A** and **Exhibit E**.
- N. **“Exhibits”** means the following exhibits attached to this Agreement:
- i. **Exhibit A**, Scope of Work.
 - ii. **Exhibit B**, Sample Option Letter.
 - iii. **Exhibit C**, Funding Provisions
 - iv. **Exhibit D**, Local Agency Resolution
 - v. **Exhibit E**, Local Agency Contract Administration Checklist
 - vi. **Exhibit F**, Certification for Federal-Aid Contracts
 - vii. **Exhibit G**, Disadvantaged Business Enterprise
 - viii. **Exhibit H**, Local Agency Procedures for Consultant Services
 - ix. **Exhibit I**, Federal-Aid Contract Provisions for Construction Contracts
 - x. **Exhibit J**, Additional Federal Requirements
 - xi. **Exhibit K**, The Federal Funding Accountability and Transparency Act of 2006 (FFATA) Supplemental Federal Provisions
 - xii. **Exhibit L**, Sample Sub-Recipient Monitoring and Risk Assessment Form
 - xiii. **Exhibit M**, Supplemental Provisions for Federal Awards Subject to The Office of Management and Budget Uniform Administrative Requirements, Cost principles, and Audit Requirements for Federal Awards (the “Uniform Guidance”)
 - xiv. **Exhibit N**, Federal Treasury Provisions
 - xv. **Exhibit O**, Agreement with Subrecipient of Federal Recovery Funds
 - xvi. **Exhibit P**, SLFRF Subrecipient Quarterly Report
 - xvii. **Exhibit Q**, SLFRF Reporting Modification Form
 - xviii. **Exhibit R**, Applicable Federal Awards
 - xix. **Exhibit S**, PII Certification
 - xx. **Exhibit T**, Checklist of Required Exhibits Dependent on Funding Source
- O. **“Expiration Date”** means the date on which this Agreement expires, as shown on the Signature and Cover Page for this Agreement.
- P. **“Extension Term”** means the period of time by which the ARPA Expiration Date is extended by the State through delivery of an updated ARPA Letter.
- Q. **“Federal Award”** means an award of Federal financial assistance or a cost-reimbursement contract under the Federal Acquisition Requirements by a Federal Awarding Agency to a Recipient. “Federal Award” also means an agreement setting forth the terms and conditions of the Federal Award. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.
- R. **“Federal Awarding Agency”** means a Federal agency providing a Federal Award to a Recipient. The US Department of the Treasury is the Federal Awarding Agency for the Federal Award, which may be the subject of this Agreement.
- S. **“FHWA”** means the Federal Highway Administration, which is one of the twelve administrations under the Office of the Secretary of Transportation at the U.S. Department of Transportation. FHWA provides stewardship over the construction, maintenance and preservation of the Nation’s highways and tunnels. FHWA is the Federal Awarding Agency for the Federal Award which is the subject of this Agreement.
- T. **“Goods”** means any movable material acquired, produced, or delivered by Local Agency as set forth in this Agreement and shall include any movable material acquired, produced, or delivered by Local Agency in connection with the Services.

- U. **“Incident”** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access or disclosure of State Confidential Information or of the unauthorized modification, disruption, or destruction of any State Records.
- V. **“Initial Term”** means the time period defined in **§2.B**.
- W. **“Local Funds”** means the funds provided by the Local Agency as their obligated contribution to the federal and/or State Awards to receive the federal and/or State funding.
- X. **“Notice to Proceed”** means the letter issued by the State to the Local Agency stating the date the Local Agency can begin work subject to the conditions of this Agreement.
- Y. **“OMB”** means the Executive Office of the President, Office of Management and Budget.
- Z. **“Oversight”** means the term as it is defined in the Stewardship Agreement between CDOT and the FHWA.
- AA. **“Party”** means the State or Local Agency, and **“Parties”** means both the State and Local Agency.
- BB. **“PCI”** means payment card information including any data related to credit card holders’ names, credit card numbers, or the other credit card information as may be protected by state or federal law.
- CC. **“PHI”** means any protected health information, including, without limitation any information whether oral or recorded in any form or medium: **(i)** that relates to the past, present or future physical or mental condition of an individual; the provision of health care to an individual; or the past, present or future payment for the provision of health care to an individual; and **(ii)** that identifies the individual or with respect to which there is a reasonable basis to believe the information can be used to identify the individual. PHI includes, but is not limited to, any information defined as Individually Identifiable Health Information by the federal Health Insurance Portability and Accountability Act.
- DD. **“PII”** means personally identifiable information including, without limitation, any information maintained by the State about an individual that can be used to distinguish or trace an individual’s identity, such as name, social security number, date and place of birth, mother’s maiden name, or biometric records; and any other information that is linked or linkable to an individual, such as medical, educational, financial, and employment information. PII includes, but is not limited to, all information defined as personally identifiable information in §24-72-501 C.R.S. “PII” shall also mean “personal identifying information” as set forth at § 24-74-102, et. seq., C.R.S.
- EE. **“Recipient”** means the Colorado Department of Transportation (CDOT) for this Federal Award.
- FF. **“Services”** means the services to be performed by Local Agency as set forth in this Agreement and shall include any services to be rendered by Local Agency in connection with the Goods.
- GG. **“SLFRF”** means State and Local Fiscal Recovery Funds, provided by ARPA, funded by the US Treasury Department.
- HH. **“Special Funding”** means an award by Federal agency or the State which may include but is not limited to one or a combination of Multimodal Transportation & Mitigation Options Funding, Revitalizing Main Streets, Safer Main Streets, Stimulus Funds, Coronavirus Response and Relief Supplemental Funds, ARPA, SLFRF, or COVID Relief.
- II. **“State Confidential Information”** means any and all State Records not subject to disclosure under CORA. State Confidential Information shall include, but is not limited to, PII and State personnel records not subject to disclosure under CORA.
- JJ. **“State Fiscal Rules”** means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a).
- KK. **“State Fiscal Year”** means a 12-month period beginning on July 1 of each calendar year and ending on June 30 of the following calendar year. If a single calendar year follows the term, then it means the State Fiscal Year ending in that calendar year.
- LL. **“State Purchasing Director”** means the position described in the Colorado Procurement Code and its implementing regulations.

- MM. “**State Records**” means any and all State data, information, and records, regardless of physical form, including, but not limited to, information subject to disclosure under CORA.
- NN. “**Sub-Award**” means this Award by the State to Local Agency funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to this Sub-Award unless the terms and conditions of the Federal Award specifically indicate otherwise.
- OO. “**Subcontractor**” means third parties, if any, engaged by Local Agency to aid in performance of the Work.
- PP. “**Subrecipient**” means a non-Federal entity that receives a sub-award from a Recipient to carry out part of a Federal program but does not include an individual that is a beneficiary of such program. A Subrecipient may also be a recipient of other Federal Awards directly from a Federal Awarding Agency.
- QQ. “**Tax Information**” means Federal and State of Colorado tax information including, without limitation, Federal and State tax returns, return information, and such other tax-related information as may be protected by Federal and State law and regulation. Tax Information includes but is not limited to all information defined as Federal tax Information in Internal Revenue Service Publication 1075.
- RR. “**Uniform Guidance**” means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which supersedes requirements from OMB Circulars A-21, A-87, A-110, A-122, A-89, A-102, and A-133, and the guidance in Circular A-50 on Single Audit Act follow-up.
- SS. “**USDT**” The United States Department of the Treasury (**USDT**) is the national treasury and finance department of the federal government of the United States where it serves as an executive department. The USDT funds ARPA.
- TT. “**Work**” means the delivery of the Goods and performance of the Services in compliance with CDOT’s Local Agency Manual described in this Agreement.
- UU. “**Work Product**” means the tangible and intangible results of the Work, whether finished or unfinished, including drafts. Work Product includes, but is not limited to, documents, text, software (including source code), research, reports, proposals, specifications, plans, notes, studies, data, images, photographs, negatives, pictures, drawings, designs, models, surveys, maps, materials, ideas, concepts, know-how, and any other results of the Work. “Work Product” does not include any material that was developed prior to the Effective Date that is used, without modification, in the performance of the Work.

Any other term used in this Agreement that is defined in an Exhibit shall be construed and interpreted as defined in that Exhibit.

6. SCOPE OF WORK

Local Agency shall complete the Work as described in this Agreement and in accordance with the provisions of **Exhibit A**, and the Local Agency Manual. The State shall have no liability to compensate Local Agency for the delivery of any Goods or the performance of any Services that are not specifically set forth in this Agreement. Work may be divided into multiple phases that have separate periods of performance. The State may not compensate for Work that Local Agency performs outside of its designated phase performance period. The performance period of phases, including, but not limited to Design, Construction, Right of Way, Utilities, or Environment phases, are identified in **Exhibit C**. The State may unilaterally modify **Exhibit C** from time to time, at its sole discretion, to extend the Agreement Expiration Date and/or to extend the period of performance for a phase of Work authorized under this Agreement. To exercise these options to extend the Agreement Expiration Date and/or to update the phase performance period extension option, the State will provide written notice to Local Agency in a form substantially equivalent to **Exhibit B**. The State’s unilateral extension of the Agreement Expiration Date and/or the phase performance periods will not amend or alter in any way the funding provisions or any other terms specified in this Agreement, notwithstanding the options listed under **\$7.E**

A. Local Agency Commitments

i. Design

If the Work includes preliminary design, final design, design work sheets, or special provisions and estimates (collectively referred to as the “Plans”), Local Agency shall ensure that it and its Contractors comply with and are responsible for satisfying the following requirements:

- a. Perform or provide the Plans to the extent required by the nature of the Work.
 - b. Prepare final design in accordance with the requirements of the latest edition of the American Association of State Highway Transportation Officials (AASHTO) manual or other standard, such as the Uniform Building Code, as approved by the State.
 - c. Prepare provisions and estimates in accordance with the most current version of the State's Roadway and Bridge Design Manuals and Standard Specifications for Road and Bridge Construction or Local Agency specifications if approved by the State.
 - d. Include details of any required detours in the Plans in order to prevent any interference of the construction Work and to protect the traveling public.
 - e. Stamp the Plans as produced by a Colorado registered professional engineer.
 - f. Provide final assembly of Plans and all other necessary documents.
 - g. Ensure the Plans are accurate and complete.
 - h. Make no further changes in the Plans following the award of the construction contract to Contractor unless agreed to in writing by the Parties. The Plans shall be considered final when approved in writing by CDOT, and when final, they will be deemed incorporated herein.
- ii. Local Agency Work
- a. Local Agency shall comply with the requirements of the Americans With Disabilities Act (ADA) 42 U.S.C. § 12101, et. seq., and applicable federal regulations and standards as contained in the document "ADA Accessibility Requirements in CDOT Transportation Projects".
 - b. Local Agency shall afford the State ample opportunity to review the Plans and shall make any changes in the Plans that are directed by the State to comply with FHWA requirements.
 - c. Local Agency may enter into a contract with a Consultant to perform all or any portion of the Plans and/or construction administration. Provided, however, if federal-aid funds are involved in the cost of such Work to be done by such Consultant, such Consultant contract (and the performance provision of the Plans under the contract) must comply with all applicable requirements of 23 C.F.R. Part 172 and with any procedures implementing those requirements as provided by the State, including those in **Exhibit H**. If Local Agency enters into a contract with a Consultant for the Work:
 - 1) Local Agency shall submit a certification that procurement of any Consultant contract complies with the requirements of 23 C.F.R. 172.5(1) prior to entering into such Consultant contract, subject to the State's approval. If not approved by the State, Local Agency shall not enter into such Consultant contract.
 - 2) Local Agency shall ensure that all changes in the Consultant contract have prior approval by the State and FHWA and that they are in writing. Immediately after the Consultant contract has been awarded, one copy of the executed Consultant contract and any amendments shall be submitted to the State.
 - 3) Local Agency shall require that all billings under the Consultant contract comply with the State's standardized billing format. Examples of the billing formats are available from the CDOT Agreements Office.
 - 4) Local Agency (and any Consultant) shall comply with 23 C.F.R. 172.5(b) and (d) and use the CDOT procedures described in **Exhibit H** to administer the Consultant contract.
 - 5) Local Agency may expedite any CDOT approval of its procurement process and/or Consultant contract by submitting a letter to CDOT from Local Agency's attorney/authorized representative certifying compliance with **Exhibit H** and 23 C.F.R. 172.5(b) and (d).
 - 6) Local Agency shall ensure that the Consultant contract complies with the requirements of 49 CFR 18.36(i) and contains the following language verbatim:
 - (a) The design work under this Agreement shall be compatible with the requirements of the contract between Local Agency and the State (which is incorporated herein by this

reference) for the design/construction of the project. The State is an intended third-party beneficiary of this agreement for that purpose.

- (b) Upon advertisement of the project work for construction, the consultant shall make available services as requested by the State to assist the State in the evaluation of construction and the resolution of construction problems that may arise during the construction of the project.
- (c) The consultant shall review the construction Contractor's shop drawings for conformance with the contract documents and compliance with the provisions of the State's publication, Standard Specifications for Road and Bridge Construction, in connection with this work.
- (d) The State, in its sole discretion, may review construction plans, special provisions and estimates and may require Local Agency to make such changes therein as the State determines necessary to comply with State and FHWA requirements.

iii. Construction

If the Work includes construction, Local Agency shall perform the construction in accordance with the approved design plans and/or administer the construction in accordance with **Exhibit E**. Such administration shall include Work inspection and testing; approving sources of materials; performing required plant and shop inspections; documentation of contract payments, testing and inspection activities; preparing and approving pay estimates; preparing, approving and securing the funding for contract modification orders and minor contract revisions; processing construction Contractor claims; construction supervision; and meeting the quality control requirements of the FHWA/CDOT Stewardship Agreement, as described in **Exhibit E**.

- a. The State may, after providing written notice of the reason for the suspension to Local Agency, suspend the Work, wholly or in part, due to the failure of Local Agency or its Contractor to correct conditions which are unsafe for workers or for such periods as the State may deem necessary due to unsuitable weather, or for conditions considered unsuitable for the prosecution of the Work, or for any other condition or reason deemed by the State to be in the public interest.
- b. Local Agency shall be responsible for the following:
 - 1) Appointing a qualified professional engineer, licensed in the State of Colorado, as Local Agency Project Engineer (LAPE), to perform engineering administration. The LAPE shall administer the Work in accordance with this Agreement, the requirements of the construction contract and applicable State procedures, as defined in the CDOT Local Agency Manual (https://www.codot.gov/business/designsupport/bulletins_manuals/2006-local-agency-manual).
 - 2) For the construction Services, advertising the call for bids, following its approval by the State, and awarding the construction contract(s) to the lowest responsible bidder(s).
 - (a) All Local Agency's advertising and bid awards pursuant to this Agreement shall comply with applicable requirements of 23 U.S.C. §112 and 23 C.F.R. Parts 633 and 635 and C.R.S. § 24-92-101 et seq. Those requirements include, without limitation, that Local Agency and its Contractor(s) incorporate Form 1273 (Exhibit I) in its entirety, verbatim, into any subcontract(s) for Services as terms and conditions thereof, as required by 23 C.F.R. 633.102(e).
 - (b) Local Agency may accept or reject the proposal of the apparent low bidder for Work on which competitive bids have been received. Local Agency must accept or reject such bids within three (3) working days after they are publicly opened.
 - (c) If Local Agency accepts bids and makes awards that exceed the amount of available Agreement Funds, Local Agency shall provide the additional funds necessary to complete the Work or not award such bids.
 - (d) The requirements of **§6.A.iii.b.2** also apply to any advertising and bid awards made by the State.

- (e) The State (and in some cases FHWA) must approve in advance all Force Account Construction, and Local Agency shall not initiate any such Services until the State issues a written Notice to Proceed.

iv. Right of Way (ROW) and Acquisition/Relocation

- a. If Local Agency purchases a ROW for a State highway, including areas of influence, Local Agency shall convey the ROW to CDOT promptly upon the completion of the project/construction.
- b. Any acquisition/relocation activities shall comply with all applicable federal and State statutes and regulations, including but not limited to, the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, the Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs, as amended (49 C.F.R. Part 24), CDOT's Right of Way Manual, and CDOT's Policy and Procedural Directives.
- c. The Parties' respective responsibilities for ensuring compliance with acquisition, relocation and incidentals depend on the level of federal participation as detailed in CDOT's Right of Way Manual (located at <http://www.codot.gov/business/manuals/right-of-way>); however, the State always retains oversight responsibilities.
- d. The Parties' respective responsibilities at each level of federal participation in CDOT's Right of Way Manual, and the State's reimbursement of Local Agency costs will be determined pursuant the following categories:
 - 1) Right of way acquisition (3111) for federal participation and non-participation;
 - 2) Relocation activities, if applicable (3109);
 - 3) Right of way incidentals, if applicable (expenses incidental to acquisition/relocation of right of way – 3114).

v. Utilities

If necessary, Local Agency shall be responsible for obtaining the proper clearance or approval from any utility company that may become involved in the Work. Prior to the Work being advertised for bids, Local Agency shall certify in writing to the State that all such clearances have been obtained.

vi. Railroads

If the Work involves modification of a railroad company's facilities and such modification will be accomplished by the railroad company, Local Agency shall make timely application to the Public Utilities Commission ("PUC") requesting its order providing for the installation of the proposed improvements. Local Agency shall not proceed with that part of the Work before obtaining the PUC's order. Local Agency shall also establish contact with the railroad company involved for the purpose of complying with applicable provisions of 23 C.F.R. 646, subpart B, concerning federal-aid projects involving railroad facilities, and:

- a. Execute an agreement with the railroad company setting out what work is to be accomplished and the location(s) thereof, and which costs shall be eligible for federal participation.
- b. Obtain the railroad's detailed estimate of the cost of the Work.
- c. Establish future maintenance responsibilities for the proposed installation.
- d. Proscribe in the agreement the future use or dispositions of the proposed improvements in the event of abandonment or elimination of a grade crossing.
- e. Establish future repair and/or replacement responsibilities, as between the railroad company and the Local Agency, in the event of accidental destruction or damage to the installation.

vii. Environmental Obligations

Local Agency shall perform all Work in accordance with the requirements of current federal and State environmental regulations, including the National Environmental Policy Act of 1969 (NEPA) as applicable.

viii. Maintenance Obligations

Local Agency shall maintain and operate the Work constructed under this Agreement at its own cost and expense during their useful life, in a manner satisfactory to the State and FHWA. Local Agency shall conduct such maintenance and operations in accordance with all applicable statutes, ordinances, and regulations pertaining to maintaining such improvements. The State and FHWA may make periodic inspections to verify that such improvements are being adequately maintained.

ix. Monitoring Obligations

Local Agency shall respond in a timely manner to and participate fully with the monitoring activities described in **§7.F.vi.**

B. State's Commitments

- i. The State will perform a final project inspection of the Work as a quality control/assurance activity. When all Work has been satisfactorily completed, the State will sign the FHWA Form 1212.
- ii. Notwithstanding any consents or approvals given by the State for the Plans, the State shall not be liable or responsible in any manner for the structural design, details or construction of any Work constituting major structures designed by, or that are the responsibility of, Local Agency, as identified in **Exhibit E.**

7. PAYMENTS

A. Maximum Amount

Payments to Local Agency are limited to the unpaid, obligated balance of the Agreement Funds set forth in **Exhibit C.** The State shall not pay Local Agency any amount under this Agreement that exceeds the Agreement Maximum set forth in **Exhibit C.**

B. Payment Procedures

i. Invoices and Payment

- a. The State shall pay Local Agency in the amounts and in accordance with conditions set forth in **Exhibit C.**
- b. Local Agency shall initiate payment requests by invoice to the State, in a form and manner approved by the State.
- c. The State shall pay each invoice within 45 days following the State's receipt of that invoice, so long as the amount invoiced correctly represents Work completed by Local Agency and previously accepted by the State during the term that the invoice covers. If the State determines that the amount of any invoice is not correct, then Local Agency shall make all changes necessary to correct that invoice.
- d. The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under the Agreement.
- e. If a project is funded in part with Federal or State special funding there may be an expiration date for the funds. The expiration date applies to grants and local funds used to match grants. To receive payment or credit for the match, Work must be completed or substantially completed, as outlined in the terms of the grant, prior to the expiration date of the special funding and invoiced in compliance with the rules outlined in the award of the funding. The acceptance of an invoice shall not constitute acceptance of any Work performed or deliverables provided under the Agreement.

ii. Interest

Amounts not paid by the State within 45 days after the State's acceptance of the invoice shall bear interest on the unpaid balance beginning on the 46th day at the rate of 1% per month, as required by §24-30-202(24)(a), C.R.S., until paid in full; provided, however, that interest shall not accrue on unpaid amounts that the State disputes in writing. Local Agency shall invoice the State separately for accrued interest on delinquent amounts, and the invoice shall reference the delinquent payment, the number of days interest to be paid and the interest rate.

iii. Payment Disputes

If Local Agency disputes any calculation, determination, or amount of any payment, Local Agency shall notify the State in writing of its dispute within 30 days following the earlier to occur of Local Agency's receipt of the payment or notification of the determination or calculation of the payment by the State. The State will review the information presented by Local Agency and may make changes to its determination based on this review. The calculation, determination, or payment amount that results from the State's review shall not be subject to additional dispute under this subsection. No payment subject to a dispute under this subsection shall be due until after the State has concluded its review, and the State shall not pay any interest on any amount during the period it is subject to dispute under this subsection.

iv. Available Funds-Contingency-Termination

- a. The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Payment to Local Agency beyond the current State Fiscal Year is contingent on the appropriation and continuing availability of Agreement Funds in any subsequent year (as provided in the Colorado Special Provisions). If federal funds or funds from any other non-State funds constitute all or some of the Agreement Funds, the State's obligation to pay Local Agency shall be contingent upon such non-State funding continuing to be made available for payment. Payments to be made pursuant to this Agreement shall be made only from Agreement Funds, and the State's liability for such payments shall be limited to the amount remaining of such Agreement Funds. If State, federal or other funds are not appropriated, or otherwise become unavailable to fund this Agreement, the State may, upon written notice, terminate this Agreement, in whole or in part, without incurring further liability. The State shall, however, remain obligated to pay for Services and Goods that are delivered and accepted prior to the effective date of notice of termination, and this termination shall otherwise be treated as if this Agreement were terminated in the public interest as described in **§2.C**.
- b. If the agreement funds are terminated, the State can terminate the contract early. Payment due for work done to the date of termination will be processed in a manner consistent with **§2.C**.

v. Erroneous Payments

The State may recover, at the State's discretion, payments made to Local Agency in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Local Agency. The State may recover such payments by deduction from subsequent payments under this Agreement, deduction from any payment due under any other contracts, grants or agreements between the State and Local Agency, or by any other appropriate method for collecting debts owed to the State. The close out of a Federal Award does not affect the right of FHWA or the State to disallow costs and recover funds on the basis of a later audit or other review. Any cost disallowance recovery is to be made within the Record Retention Period (as defined below in **§9.A.**).

vi. Federal Recovery

The close-out of a Federal Award does not affect the right of the Federal Awarding Agency or the State to disallow costs and recover funds on the basis of a later audit or other review. Any cost disallowance recovery is to be made within the Record Retention Period, as defined below.

C. Local Agency Funds

Local Agency shall provide their obligated contribution funds as outlined in **§7.A.** and **Exhibit C**. Local Agency shall have raised the full amount of their funds prior to the Effective Date and shall report to the State regarding the status of such funds upon request. Local Agency's obligation to pay all or any part of any matching funds, whether direct or contingent, only extend to funds duly and lawfully appropriated for the purposes of this Agreement by the authorized representatives of Local Agency and paid into Local Agency's treasury. Local Agency represents to the State that the amount designated "Local Agency Funds" in **Exhibit C** has been legally appropriated for the purpose of this Agreement by its authorized representatives and paid into its treasury. Local Agency may evidence such obligation by an appropriate ordinance/resolution or other authority letter expressly authorizing Local Agency to enter into this Agreement and to expend its match share of the Work. A copy of any such ordinance/resolution or authority letter is attached hereto as **Exhibit D** if applicable. Local Agency does not by this Agreement irrevocably pledge present cash reserves for payments in future fiscal years, and this Agreement is not intended to create a multiple-fiscal year debt of

Local Agency. Local Agency shall not pay or be liable for any claimed interest, late charges, fees, taxes, or penalties of any nature, except as required by Local Agency's laws or policies.

D. Reimbursement of Local Agency Costs

The State shall reimburse Local Agency's allowable costs, not exceeding the maximum total amount described in **Exhibit C** and §7. However, any costs incurred by Local Agency prior to the Effective Date shall not be reimbursed absent specific allowance of pre-award costs and indication that the Federal Award funding is retroactive. The State shall pay Local Agency for costs or expenses incurred or performance by the Local Agency prior to the Effective Date, only if (1) the Grant Funds involve federal funding and (2) federal laws, rules, and regulations applicable to the Work provide for such retroactive payments to the Local Agency. Any such retroactive payments shall comply with State Fiscal Rules and be made in accordance with the provisions of this Agreement. The applicable principles described in 2 C.F.R. Part 200 shall govern the State's obligation to reimburse all costs incurred by Local Agency and submitted to the State for reimbursement hereunder, and Local Agency shall comply with all such principles. The State shall reimburse Local Agency for the federal-aid share of properly documented costs related to the Work after review and approval thereof, subject to the provisions of this Agreement and **Exhibit C**. Local Agency costs for Work performed prior to the Effective Date shall not be reimbursed absent specific allowance of pre-award costs and indication that the Federal Award funding is retroactive. Local Agency costs for Work performed after any Performance Period End Date for a respective phase of the Work, is not reimbursable. Allowable costs shall be:

- i. Reasonable and necessary to accomplish the Work and for the Goods and Services provided.
- ii. Actual net cost to Local Agency (i.e. the price paid minus any items of value received by Local Agency that reduce the cost actually incurred).

E. Unilateral Modification of Agreement Funds Budget by State Option Letter

The State may, at its discretion, issue an "Option Letter" to Local Agency to add or modify Work phases in the Work schedule in **Exhibit C** if such modifications do not increase total budgeted Agreement Funds. Such Option Letters shall amend and update **Exhibit C**, Sections 2 or 4 of the Table, and sub-sections B and C of the **Exhibit C**. Option Letters shall not be deemed valid until signed by the State Controller or an authorized delegate. **This is NOT a Notice to Proceed.** Modification of **Exhibit C** by unilateral Option Letter is permitted only in the specific scenarios listed below. The State will exercise such options by providing Local Agency a fully executed Option Letter, in a form substantially equivalent to **Exhibit B**. Such Option Letters will be incorporated into this Agreement. This applies to the entire Scope of Work.

i. Option to Begin a Phase and/or Increase or Decrease the Encumbrance Amount

The State may require by Option Letter that Local Agency begin a new Work phase that may include Design, Construction, Environmental, Utilities, ROW Incidentals or Miscellaneous Work (but may not include Right of Way Acquisition/Relocation or Railroads) as detailed in **Exhibit A**. Such Option Letters may not modify the other terms and conditions stated in this Agreement and must decrease the amount budgeted and encumbered for one or more other Work phases so that the total amount of budgeted Agreement Funds remains the same. The State may also change the funding sources so long as the amount budgeted remains the same and the Local Agency contribution does not increase. The State may also issue a unilateral Option Letter to increase and/or decrease the total encumbrance amount of two or more existing Work phases, as long as the total amount of budgeted Agreement Funds remains the same, replacing the original Agreement Funding exhibit (**Exhibit C**) with an updated **Exhibit C-1** (with subsequent exhibits labeled **C-2**, **C-3**, etc.).

ii. Option to Transfer Funds from One Phase to Another Phase.

The State may require or permit Local Agency to transfer Agreement Funds from one Work phase (Design, Construction, Environmental, Utilities, ROW Incidentals or Miscellaneous) to another phase as a result of changes to State, federal, and local match funding. In such case, the original funding exhibit (**Exhibit C**) will be replaced with an updated **Exhibit C-1** (with subsequent exhibits labeled **C-2**, **C-3**, etc.) attached to the Option Letter. The Agreement Funds transferred from one Work phase to another are subject to the same terms and conditions stated in the original Agreement with the total budgeted Agreement Funds remaining the same. The State may unilaterally exercise this option by providing a

fully executed Option Letter to Local Agency within thirty (30) days before the initial targeted start date of the Work phase, in a form substantially equivalent to **Exhibit B**.

iii. Option to Exercise Options i and ii.

The State may require Local Agency to add a Work phase as detailed in **Exhibit A**, and encumber and transfer Agreement Funds from one Work phase to another. The original funding exhibit (**Exhibit C**) in the original Agreement will be replaced with an updated **Exhibit C-1** (with subsequent exhibits labeled **C-2, C-3**, etc.) attached to the Option Letter. The addition of a Work phase and encumbrance and transfer of Agreement Funds are subject to the same terms and conditions stated in the original Agreement with the total budgeted Agreement Funds remaining the same. The State may unilaterally exercise this option by providing a fully executed Option Letter to Local Agency within 30 days before the initial targeted start date of the Work phase, in a form substantially equivalent to **Exhibit B**.

iv. Option to Extend Agreement/Phase Term and/or modify the OMB Uniform Guidance. The State, at its discretion, shall have the option to extend the term of this Agreement and/or update a Work Phase Performance Period and/or modify information required under the OMB Uniform Guidance, as outlined in **Exhibit C**. Any updated version of **Exhibit C** shall be attached to any executed Option Letter as **Exhibit C-1** (with subsequent exhibits labeled **C-2, C-3**, etc.). In order to exercise this option, the State shall provide written notice to the Local Agency in a form substantially equivalent to **Exhibit B**.

F. Accounting

Local Agency shall establish and maintain accounting systems in accordance with generally accepted accounting standards (a separate set of accounts, or as a separate and integral part of its current accounting scheme). Such accounting systems shall, at a minimum, provide as follows:

i. Local Agency Performing the Work

If Local Agency is performing the Work, it shall document all allowable costs, including any approved Services contributed by Local Agency or subcontractors, using payrolls, time records, invoices, contracts, vouchers, and other applicable records.

ii. Local Agency-Checks or Draws

Checks issued or draws made by Local Agency shall be made or drawn against properly signed vouchers detailing the purpose thereof. Local Agency shall keep on file all checks, payrolls, invoices, contracts, vouchers, orders, and other accounting documents in the office of Local Agency, clearly identified, readily accessible, and to the extent feasible, separate and apart from all other Work documents.

iii. State-Administrative Services

The State may perform any necessary administrative support services required hereunder. Local Agency shall reimburse the State for the costs of any such services from the budgeted Agreement Funds as provided for in **Exhibit C**. If FHWA Agreement Funds are or become unavailable, or if Local Agency terminates this Agreement prior to the Work being approved by the State or otherwise completed, then all actual incurred costs of such services and assistance provided by the State shall be reimbursed to the State by Local Agency at its sole expense.

iv. Local Agency-Invoices

Local Agency's invoices shall describe in detail the reimbursable costs incurred by Local Agency for which it seeks reimbursement, the dates such costs were incurred and the amounts thereof, and Local Agency shall not submit more than one invoice per month.

v. Invoicing Within 60 Days

The State shall not be liable to reimburse Local Agency for any costs invoiced more than 60 days after the date on which the costs were incurred, including costs included in Local Agency's final invoice. The State may withhold final payment to Local Agency at the State's sole discretion until completion of final audit. Any costs incurred by Local Agency that are not allowable under 2 C.F.R. Part 200 shall be Local Agency's responsibility, and the State will deduct such disallowed costs from any payments due to Local Agency. The State will not reimburse costs for Work performed after the Performance Period End Date for a respective Work phase. The State will not reimburse costs for Work performed prior to Performance

Period End Date, but for which an invoice is received more than 60 days after the Performance Period End Date.

vi. Risk Assessment & Monitoring

Pursuant to 2 C.F.R. 200.331(b), – CDOT will evaluate Local Agency's risk of noncompliance with federal statutes, regulations, and terms and conditions of this Agreement. Local Agency shall complete a Risk Assessment Form (**Exhibit L**) when that may be requested by CDOT. The risk assessment is a quantitative and/or qualitative determination of the potential for Local Agency's non-compliance with the requirements of the Federal Award. The risk assessment will evaluate some or all of the following factors:

- Experience: Factors associated with the experience and history of the Subrecipient with the same or similar Federal Awards or grants.
- Monitoring/Audit: Factors associated with the results of the Subrecipient's previous audits or monitoring visits, including those performed by the Federal Awarding Agency, when the Subrecipient also receives direct federal funding. Include audit results if Subrecipient receives single audit, where the specific award being assessed was selected as a major program.
- Operation: Factors associated with the significant aspects of the Subrecipient's operations, in which failure could impact the Subrecipient's ability to perform and account for the contracted goods or services.
- Financial: Factors associated with the Subrecipient's financial stability and ability to comply with financial requirements of the Federal Award.
- Internal Controls: Factors associated with safeguarding assets and resources, deterring and detecting errors, fraud and theft, ensuring accuracy and completeness of accounting data, producing reliable and timely financial and management information, and ensuring adherence to its policies and plans.
- Impact: Factors associated with the potential impact of a Subrecipient's non-compliance to the overall success of the program objectives.
- Program Management: Factors associated with processes to manage critical personnel, approved written procedures, and knowledge of rules and regulations regarding federal-aid projects.

Following Local Agency's completion of the Risk Assessment Tool (**Exhibit L**), CDOT will determine the level of monitoring it will apply to Local Agency's performance of the Work. This risk assessment may be re-evaluated after CDOT begins performing monitoring activities.

G. Close Out

Local Agency shall close out this Award within 90 days after the Final Phase Performance End Date. If SLFRF Funds are used the Local Agency shall close out that portion of the Award within 45 days after the ARPA Award Expiration Date. Close out requires Local Agency's submission to the State of all deliverables defined in this Agreement, and Local Agency's final reimbursement request or invoice. The State will withhold 5% of allowable costs until all final documentation has been submitted and accepted by the State as substantially complete. If FHWA or US Treasury has not closed this Federal Award within one (1) year and 90 days after the Final Phase Performance End Date due to Local Agency's failure to submit required documentation, then Local Agency may be prohibited from applying for new Federal Awards through the State until such documentation is submitted and accepted.

8. REPORTING - NOTIFICATION

A. Quarterly Reports

In addition to any reports required pursuant to §19 or pursuant to any exhibit, for any contract having a term longer than 3 months, Local Agency shall submit, on a quarterly basis, a written report specifying progress made for each specified performance measure and standard in this Agreement. Such progress report shall be in accordance with the procedures developed and prescribed by the State. Progress reports shall be submitted to the State not later than ten (10) Business Days following the end of each calendar quarter or at such time as otherwise specified by the State. If SLFRF Funds are used the report must be in the format of **Exhibit P**.

B. Litigation Reporting

If Local Agency is served with a pleading or other document in connection with an action before a court or other administrative decision making body, and such pleading or document relates to this Agreement or may affect Local Agency's ability to perform its obligations under this Agreement, Local Agency shall, within 10 days after being served, notify the State of such action and deliver copies of such pleading or document to the State's principal representative identified in **§16**.

C. Performance and Final Status

Local Agency shall submit all financial, performance and other reports to the State no later than 60 calendar days after the Final Phase Performance End Date or sooner termination of this Agreement, containing an Evaluation of Subrecipient's performance and the final status of Subrecipient's obligations hereunder.

D. Violations Reporting

Local Agency must disclose, in a timely manner, in writing to the State and FHWA, all violations of federal or State criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal Award. Penalties for noncompliance may include suspension or debarment (2 CFR Part 180 and 31 U.S.C. 3321).

9. LOCAL AGENCY RECORDS

A. Maintenance

Local Agency shall make, keep, maintain, and allow inspection and monitoring by the State of a complete file of all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to the Work or the delivery of Services (including, but not limited to the operation of programs) or Goods hereunder. Local Agency shall maintain such records for a period (the "Record Retention Period") pursuant to the requirements of the funding source and for a minimum of three (3) years following the date of submission to the State of the final expenditure report, whichever is longer, or if this Award is renewed quarterly or annually, from the date of the submission of each quarterly or annual report, respectively. If any litigation, claim, or audit related to this Award starts before expiration of the Record Retention Period, the Record Retention Period shall extend until all litigation, claims, or audit findings have been resolved and final action taken by the State or Federal Awarding Agency. The Federal Awarding Agency, a cognizant agency for audit, oversight or indirect costs, and the State, may notify Local Agency in writing that the Record Retention Period shall be extended. For records for real property and equipment, the Record Retention Period shall extend three (3) years following final disposition of such property.

B. Inspection

Records during the Record Retention Period. Local Agency shall make Local Agency Records available during normal business hours at Local Agency's office or place of business, or at other mutually agreed upon times or locations, upon no fewer than two (2) Business Days' notice from the State, unless the State determines that a shorter period of notice, or no notice, is necessary to protect the interests of the State.

C. Monitoring

The State will monitor Local Agency's performance of its obligations under this Agreement using procedures as determined by the State. The State shall monitor Local Agency's performance in a manner that does not unduly interfere with Local Agency's performance of the Work. Local Agency shall allow the State to perform all monitoring required by the Uniform Guidance, based on the State's risk analysis of Local Agency. The State shall have the right, in its sole discretion, to change its monitoring procedures and requirements at any time during the term of this Agreement. The State shall monitor Local Agency's performance in a manner that does not unduly interfere with Local Agency's performance of the Work. If Local Agency enters into a subcontract with an entity that would also be considered a Subrecipient, then the subcontract entered into by Local Agency shall contain provisions permitting both Local Agency and the State to perform all monitoring of that Subcontractor in accordance with the Uniform Guidance.

D. Final Audit Report

Local Agency shall promptly submit to the State a copy of any final audit report of an audit performed on Local Agency's records that relates to or affects this Agreement or the Work, whether the audit is conducted

by Local Agency or a third party. Additionally, if Local Agency is required to perform a single audit under 2 CFR 200.501, *et seq.*, then Local Agency shall submit a copy of the results of that audit to the State within the same timelines as the submission to the federal government.

10. CONFIDENTIAL INFORMATION-STATE RECORDS

A. Confidentiality

Local Agency shall hold and maintain, and cause all Subcontractors to hold and maintain, any and all State Records that the State provides or makes available to Local Agency for the sole and exclusive benefit of the State, unless those State Records are otherwise publicly available at the time of disclosure or are subject to disclosure by Local Agency under CORA. Local Agency shall not, without prior written approval of the State, use for Local Agency's own benefit, publish, copy, or otherwise disclose to any third party, or permit the use by any third party for its benefit or to the detriment of the State, any State Records, except as otherwise stated in this Agreement. Local Agency shall provide for the security of all State Confidential Information in accordance with all policies promulgated by the Colorado Office of Information Security and all applicable laws, rules, policies, publications, and guidelines. Local Agency shall immediately forward any request or demand for State Records to the State's principal representative. If Local Agency or any of its Subcontractors will or may receive the following types of data, Local Agency or its Subcontractors shall provide for the security of such data according to the following: **(i)** the most recently promulgated IRS Publication 1075 for all Tax Information and in accordance with the Safeguarding Requirements for Federal Tax Information attached to this Award as an Exhibit, if applicable, **(ii)** the most recently updated PCI Data Security Standard from the PCI Security Standards Council for all PCI, **(iii)** the most recently issued version of the U.S. Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Security Policy for all CJI, and **(iv)** the federal Health Insurance Portability and Accountability Act for all PHI and the HIPAA Business Associate Agreement attached to this Award, if applicable. Local Agency shall immediately forward any request or demand for State Records to the State's principal representative.

B. Other Entity Access and Nondisclosure Agreements

Local Agency may provide State Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to State Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Agreement. Local Agency shall ensure all such agents, employees, assigns, and Subcontractors sign nondisclosure agreements with provisions at least as protective as those in this Agreement, and that the nondisclosure agreements are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Local Agency shall provide copies of those signed nondisclosure agreements to the State upon request.

C. Use, Security, and Retention

Local Agency shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information wherever located. Local Agency shall provide the State with access, subject to Local Agency's reasonable security requirements, for purposes of inspecting and monitoring access and use of State Confidential Information and evaluating security control effectiveness. Upon the expiration or termination of this Agreement, Local Agency shall return State Records provided to Local Agency or destroy such State Records and certify to the State that it has done so, as directed by the State. If Local Agency is prevented by law or regulation from returning or destroying State Confidential Information, Local Agency warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Local Agency becomes aware of any Incident, it shall notify the State immediately and cooperate with the State regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the State. Unless Local Agency can establish that none of Local Agency or any of its agents, employees, assigns, or Subcontractors are the cause or source of the Incident, Local Agency shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Local Agency shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the State, which

may include, but is not limited to, developing, and implementing a remediation plan that is approved by the State at no additional cost to the State.

E. Safeguarding Personally Identifying Information "PII"

If Local Agency or any of its Subcontracts will or may receive PII under this agreement, Local Agency shall provide for the security for such PII, in a manner and form acceptable to the State, including, without limitation, State non-disclosure requirements, use of appropriate technology, security practices, computer access security, data access security, data storage encryption, data transmission encryption, security inspections, and audits. Local Agency shall be a "Third Party Service Provider" as defined in §24-73-103(1)(i), C.R.S. and shall maintain security procedures and practices consistent with §§24-73-101 et seq., C.R.S. In addition, as set forth in § 24-74-102, et. seq., C.R.S., Contractor, including, but not limited to, Contractor's employees, agents and Subcontractors, agrees not to share any PII with any third parties for the purpose of investigating for, participating in, cooperating with, or assisting with Federal immigration enforcement. If Contractor is given direct access to any State databases containing PII, Contractor shall execute, on behalf of itself and its employees, the certification attached hereto as **Exhibit S** on an annual basis Contractor's duty and obligation to certify as set forth in **Exhibit S** shall continue as long as Contractor has direct access to any State databases containing PII. If Contractor uses any Subcontractors to perform services requiring direct access to State databases containing PII, the Contractor shall require such Subcontractors to execute and deliver the certification to the State on an annual basis, so long as the Subcontractor has access to State databases containing PII.

11. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

Local Agency shall not engage in any business or activities or maintain any relationships that conflict in any way with the full performance of the obligations of Local Agency under this Agreement. Such a conflict of interest would arise when a Local Agency or Subcontractor's employee, officer or agent were to offer or provide any tangible personal benefit to an employee of the State, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of this Agreement. Officers, employees, and agents of Local Agency may neither solicit nor accept gratuities, favors or anything of monetary value from contractors or parties to subcontracts.

B. Apparent Conflicts of Interest

Local Agency acknowledges that, with respect to this Agreement, even the appearance of a conflict of interest shall be harmful to the State's interests. Absent the State's prior written approval, Local Agency shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Local Agency's obligations under this Agreement.

C. Disclosure to the State

If a conflict or the appearance of a conflict arises, or if Local Agency is uncertain whether a conflict or the appearance of a conflict has arisen, Local Agency shall submit to the State a disclosure statement setting forth the relevant details for the State's consideration. Failure to promptly submit a disclosure statement or to follow the State's direction in regard to the actual or apparent conflict constitutes a breach of this Agreement.

12. INSURANCE

Local Agency shall obtain and maintain, and ensure that each Subcontractor shall obtain and maintain, insurance as specified in this section at all times during the term of this Agreement. All insurance policies required by this Agreement that are not provided through self-insurance shall be issued by insurance companies with an AM Best rating of A-VIII or better.

A. Local Agency Insurance

Local Agency is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the "GIA") and shall maintain at all times during the term of this Agreement such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA.

B. Subcontractor Requirements

Local Agency shall ensure that each Subcontractor that is a public entity within the meaning of the GIA, maintains at all times during the terms of this Agreement, such liability insurance, by commercial policy or self-insurance, as is necessary to meet the Subcontractor's obligations under the GIA. Local Agency shall ensure that each Subcontractor that is not a public entity within the meaning of the GIA, maintains at all times during the terms of this Agreement all of the following insurance policies:

i. Workers' Compensation

Workers' compensation insurance as required by state statute, and employers' liability insurance covering all Local Agency or Subcontractor employees acting within the course and scope of their employment.

ii. General Liability

Commercial general liability insurance written on an Insurance Services Office occurrence form, covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

- a. \$1,000,000 each occurrence;
- b. \$1,000,000 general aggregate;
- c. \$1,000,000 products and completed operations aggregate; and
- d. \$50,000 any 1 fire.

iii. Automobile Liability

Automobile liability insurance covering any auto (including owned, hired and non-owned autos) with a minimum limit of \$1,000,000 each accident combined single limit.

iv. Protected Information

Liability insurance covering all loss of State Confidential Information, such as PII, PHI, PCI, Tax Information, and CJI, and claims based on alleged violations of privacy rights through improper use or disclosure of protected information with minimum limits as follows:

- a. \$1,000,000 each occurrence; and
- b. \$2,000,000 general aggregate.

v. Professional Liability Insurance

Professional liability insurance covering any damages caused by an error, omission or any negligent act with minimum limits as follows:

- a. \$1,000,000 each occurrence; and
- b. \$1,000,000 general aggregate.

vi. Crime Insurance

Crime insurance including employee dishonesty coverage with minimum limits as follows:

- a. \$1,000,000 each occurrence; and
- b. \$1,000,000 general aggregate.

vii. Cyber/Network Security and Privacy Liability

Liability insurance covering all civil, regulatory and statutory damages, contractual damages, data breach management exposure, and any loss of State Confidential Information, such as PII, PHI, PCI, Tax Information, and CJI, and claims based on alleged violations of breach, violation or infringement of right to privacy rights through improper use or disclosure of protect consumer data protection law, confidentiality or other legal protection for personal information, as well as State Confidential Information with minimum limits as follows:

- a. \$1,000,000 each occurrence; and

- b. \$2,000,000 general aggregate.
- C. Additional Insured

The State shall be named as additional insured on all commercial general liability policies (leases and construction contracts require additional insured coverage for completed operations) required of Local Agency and Subcontractors. In the event of cancellation of any commercial general liability policy, the carrier shall provide at least 10 days prior written notice to CDOT.
- D. Primacy of Coverage

Coverage required of Local Agency and each Subcontractor shall be primary over any insurance or self-insurance program carried by Local Agency or the State.
- E. Cancellation

All commercial insurance policies shall include provisions preventing cancellation or non-renewal, except for cancellation based on non-payment of premiums, without at least 30 days prior notice to Local Agency and Local Agency shall forward such notice to the State in accordance with **§16** within 7 days of Local Agency's receipt of such notice.
- F. Subrogation Waiver

All commercial insurance policies secured or maintained by Local Agency or its Subcontractors in relation to this Agreement shall include clauses stating that each carrier shall waive all rights of recovery under subrogation or otherwise against Local Agency or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.
- G. Certificates

For each commercial insurance plan provided by Local Agency under this Agreement, Local Agency shall provide to the State certificates evidencing Local Agency's insurance coverage required in this Agreement within seven (7) Business Days following the Effective Date. Local Agency shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Agreement within seven (7) Business Days following the Effective Date, except that, if Local Agency's subcontract is not in effect as of the Effective Date, Local Agency shall provide to the State certificates showing Subcontractor insurance coverage required under this Agreement within seven (7) Business Days following Local Agency's execution of the subcontract. No later than 15 days before the expiration date of Local Agency's or any Subcontractor's coverage, Local Agency shall deliver to the State certificates of insurance evidencing renewals of coverage. At any other time during the term of this Agreement, upon request by the State, Local Agency shall, within seven (7) Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this **§12**.

13. BREACH

- A. Defined

The failure of a Party to perform any of its obligations in accordance with this Agreement, in whole or in part or in a timely or satisfactory manner, shall be a breach. The institution of proceedings under any bankruptcy, insolvency, reorganization, or similar law, by or against Local Agency, or the appointment of a receiver or similar officer for Local Agency or any of its property, which is not vacated or fully stayed within 30 days after the institution of such proceeding, shall also constitute a breach.
- B. Notice and Cure Period

In the event of a breach, the aggrieved Party shall give written notice of breach to the other Party. If the notified Party does not cure the breach, at its sole expense, within 30 days after the delivery of written notice, the Party may exercise any of the remedies as described in **§14** for that Party. Notwithstanding any provision of this Agreement to the contrary, the State, in its discretion, need not provide notice or a cure period and may immediately terminate this Agreement in whole or in part or institute any other remedy in the Agreement in order to protect the public interest of the State.

14. REMEDIES

- A. State's Remedies

If Local Agency is in breach under any provision of this Agreement and fails to cure such breach, the State, following the notice and cure period set forth in **§13.B**, shall have all of the remedies listed in this **§14.A**, in addition to all other remedies set forth in this Agreement or at law. The State may exercise any or all of the remedies available to it, in its discretion, concurrently or consecutively.

i. Termination for Breach

In the event of Local Agency's uncured breach, the State may terminate this entire Agreement or any part of this Agreement. Local Agency shall continue performance of this Agreement to the extent not terminated, if any.

a. Obligations and Rights

To the extent specified in any termination notice, Local Agency shall not incur further obligations or render further performance past the effective date of such notice and shall terminate outstanding orders and subcontracts with third parties. However, Local Agency shall complete and deliver to the State all Work not canceled by the termination notice and may incur obligations as necessary to do so within this Agreement's terms. At the request of the State, Local Agency shall assign to the State all of Local Agency's rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, Local Agency shall take timely, reasonable, and necessary action to protect and preserve property in the possession of Local Agency but in which the State has an interest. At the State's request, Local Agency shall return materials owned by the State in Local Agency's possession at the time of any termination. Local Agency shall deliver all completed Work Product and all Work Product that was in the process of completion to the State at the State's request.

b. Payments

Notwithstanding anything to the contrary, the State shall only pay Local Agency for accepted Work received as of the date of termination. If, after termination by the State, the State agrees that Local Agency was not in breach or that Local Agency's action or inaction was excusable, such termination shall be treated as a termination in the public interest, and the rights and obligations of the Parties shall be as if this Agreement had been terminated in the public interest under **§2.C**.

c. Damages and Withholding

Notwithstanding any other remedial action by the State, Local Agency shall remain liable to the State for any damages sustained by the State in connection with any breach by Local Agency, and the State may withhold payment to Local Agency for the purpose of mitigating the State's damages until such time as the exact amount of damages due to the State from Local Agency is determined. The State may withhold any amount that may be due Local Agency as the State deems necessary to protect the State against loss including, without limitation, loss as a result of outstanding liens and excess costs incurred by the State in procuring from third parties replacement Work as cover.

ii. Remedies Not Involving Termination

The State, in its discretion, may exercise one or more of the following additional remedies:

a. Suspend Performance

Suspend Local Agency's performance with respect to all or any portion of the Work pending corrective action as specified by the State without entitling Local Agency to an adjustment in price or cost or an adjustment in the performance schedule. Local Agency shall promptly cease performing Work and incurring costs in accordance with the State's directive, and the State shall not be liable for costs incurred by Local Agency after the suspension of performance.

b. Withhold Payment

Withhold payment to Local Agency until Local Agency corrects its Work.

c. Deny Payment

Deny payment for Work not performed, or that due to Local Agency's actions or inactions, cannot be performed or if they were performed are reasonably of no value to the state; provided, that any denial of payment shall be equal to the value of the obligations not performed.

d. Removal

Demand immediate removal from the Work of any of Local Agency's employees, agents, or Subcontractors from the Work whom the State deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable or whose continued relation to this Agreement is deemed by the State to be contrary to the public interest or the State's best interest.

e. Intellectual Property

If any Work infringes a patent, copyright, trademark, trade secret, or other intellectual property right, Local Agency shall, as approved by the State (a) secure that right to use such Work for the State or Local Agency; (b) replace the Work with non infringing Work or modify the Work so that it becomes non infringing; or, (c) remove any infringing Work and refund the amount paid for such Work to the State.

B. Local Agency's Remedies

If the State is in breach of any provision of this Agreement and does not cure such breach, Local Agency, following the notice and cure period in **§13.B** and the dispute resolution process in **§15** shall have all remedies available at law and equity.

15. DISPUTE RESOLUTION

A. Initial Resolution

Except as herein specifically provided otherwise, disputes concerning the performance of this Agreement which cannot be resolved by the designated Agreement representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager designated by Local Agency for resolution.

B. Resolution of Controversies

If the initial resolution described in §15.A fails to resolve the dispute within 10 Business Days, Contractor shall submit any alleged breach of this Contract by the State to the Procurement Official of CDOT as described in §24-101-301(30), C.R.S. for resolution in accordance with the provisions of §§24-106-109, 24-109-101.1, 24-109-101.5, 24-109-106, 24-109-107, 24-109-201 through 24-109-206, and 24-109-501 through 24-109-505, C.R.S., (the "Resolution Statutes"), except that if Contractor wishes to challenge any decision rendered by the Procurement Official, Contractor's challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, under the Resolution Statutes before Contractor pursues any further action as permitted by such statutes. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations.

C. Questions of Fact

Except as otherwise provided in this Agreement, any dispute concerning a question of fact arising under this Agreement which is not disposed of by agreement shall be decided by the Chief Engineer of the Department of Transportation. The decision of the Chief Engineer will be final and conclusive unless, within 30 calendar days after the date of receipt of a copy of such written decision, Local Agency mails or otherwise furnishes to the State a written appeal addressed to the Executive Director of CDOT. In connection with any appeal proceeding under this clause, Local Agency shall be afforded an opportunity to be heard and to offer evidence in support of its appeal. Pending final decision of a dispute hereunder, Local Agency shall proceed diligently with the performance of this Agreement in accordance with the Chief Engineer's decision. The decision of the Executive Director or his duly authorized representative for the determination of such appeals shall be final and conclusive and serve as final agency action. This dispute clause does not preclude consideration of questions of law in connection with decisions provided for herein. Nothing in this Agreement, however, shall be construed as making final the decision of any administrative official, representative, or board on a question of law.

16. NOTICES AND REPRESENTATIVES

Each individual identified below shall be the principal representative of the designating Party. All notices required or permitted to be given under this Agreement shall be in writing and shall be delivered **(i)** by hand with receipt required, **(ii)** by certified or registered mail to such Party's principal representative at the address set forth below

or (iii) as an email with read receipt requested to the principal representative at the email address, if any, set forth below. If a Party delivers a notice to another through email and the email is undeliverable, then, unless the Party has been provided with an alternate email contact, the Party delivering the notice shall deliver the notice by hand with receipt required or by certified or registered mail to such Party's principal representative at the address set forth below. Either Party may change its principal representative or principal representative contact information by notice submitted in accordance with this §16 without a formal amendment to this Agreement. Unless otherwise provided in this Agreement, notices shall be effective upon delivery of the written notice.

For the State

Colorado Department of Transportation (CDOT)
Don Scanga, Local Agency Coordinator
CDOT Region 2
5615 Wills Boulevard
Pueblo, CO 81008
719-621-8340
donald.scanga@state.co.us

For the Local Agency

CITY OF PUEBLO
Kelly Grisham, Project Coordinator
211 East D Street
PUEBLO, CO 81003
719-553-2254
kgrisham@pueblo.us

17. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

Local Agency hereby grants to the State a perpetual, irrevocable, non-exclusive, royalty free license, with the right to sublicense, to make, use, reproduce, distribute, perform, display, create derivatives of and otherwise exploit all intellectual property created by Local Agency or any Subcontractors. Local Agency assigns to the State and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product. Whether or not Local Agency is under contract with the State at the time, Local Agency shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the State, to enable the State to secure patents, copyrights, licenses and other intellectual property rights related to the Work Product. The Parties intend the Work Product to be works made for hire.

i. Copyrights

To the extent that the Work Product (or any portion of the Work Product) would not be considered works made for hire under applicable law, Local Agency hereby assigns to the State, the entire right, title, and interest in and to copyrights in all Work Product and all works based upon, derived from, or incorporating the Work Product; all copyright applications, registrations, extensions, or renewals relating to all Work Product and all works based upon, derived from, or incorporating the Work Product; and all moral rights or similar rights with respect to the Work Product throughout the world. To the extent that Local Agency cannot make any of the assignments required by this section, Local Agency hereby grants to the State a perpetual, irrevocable, royalty-free license to use, modify, copy, publish, display, perform, transfer, distribute, sell, and create derivative works of the Work Product and all works based upon, derived from, or incorporating the Work Product by all means and methods and in any format now known or invented in the future. The State may assign and license its rights under this license.

ii. Patents

In addition, Local Agency grants to the State (and to recipients of Work Product distributed by or on behalf of the State) a perpetual, worldwide, no-charge, royalty-free, irrevocable patent license to make, have made, use, distribute, sell, offer for sale, import, transfer, and otherwise utilize, operate, modify and propagate the contents of the Work Product. Such license applies only to those patent claims licensable by Local Agency that are necessarily infringed by the Work Product alone, or by the combination of the Work Product with anything else used by the State.

iii. Assignments and Assistance

Whether or not the Local Agency is under Agreement with the State at the time, Local Agency shall execute applications, assignments, and other documents, and shall render all other reasonable assistance requested by the State, to enable the State to secure patents, copyrights, licenses and other intellectual property rights related to the Work Product. The Parties intend the Work Product to be works made for hire. Local Agency assigns to the State and its successors and assigns, the entire right, title, and interest in and to all causes of action, either in law or in equity, for past, present, or future infringement of intellectual property rights related to the Work Product and all works based on, derived from, or incorporating the Work Product.

B. Exclusive Property of the State

Except to the extent specifically provided elsewhere in this Agreement, any pre-existing State Records, State software, research, reports, studies, photographs, negatives, or other documents, drawings, models, materials, data, and information shall be the exclusive property of the State (collectively, "State Materials"). Local Agency shall not use, willingly allow, cause or permit Work Product or State Materials to be used for any purpose other than the performance of Local Agency's obligations in this Agreement without the prior written consent of the State. Upon termination of this Agreement for any reason, Local Agency shall provide all Work Product and State Materials to the State in a form and manner as directed by the State.

C. Exclusive Property of Local Agency

Local Agency retains the exclusive rights, title, and ownership to any and all pre-existing materials owned or licensed to Local Agency including, but not limited to, all pre-existing software, licensed products, associated source code, machine code, text images, audio and/or video, and third-party materials, delivered by Local Agency under this Agreement, whether incorporated in a Deliverable or necessary to use a Deliverable (collectively, "Local Agency Property"). Local Agency Property shall be licensed to the State as set forth in this Agreement or a State approved license agreement: (i) entered into as exhibits to this Agreement, (ii) obtained by the State from the applicable third-party vendor, or (iii) in the case of open source software, the license terms set forth in the applicable open source license agreement.

18. GOVERNMENTAL IMMUNITY

Liability for claims for injuries to persons or property arising from the negligence of the Parties, their departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the GIA; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, *et seq.* C.R.S. The following applies through June 30, 2022: no term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

19. STATEWIDE CONTRACT MANAGEMENT SYSTEM

If the maximum amount payable to Local Agency under this Agreement is \$100,000 or greater, either on the Effective Date or at any time thereafter, this §19 shall apply. Local Agency agrees to be governed by and comply with the provisions of §24-106-103, §24-102-206, §24-106-106, §24-106-107 C.R.S. regarding the monitoring of vendor performance and the reporting of contract performance information in the State's contract management system ("Contract Management System" or "CMS"). Local Agency's performance shall be subject to evaluation and review in accordance with the terms and conditions of this Agreement, Colorado statutes governing CMS, and State Fiscal Rules and State Controller policies.

20. GENERAL PROVISIONS

A. Assignment

Local Agency's rights and obligations under this Agreement are personal and may not be transferred or assigned without the prior, written consent of the State. Any attempt at assignment or transfer without such consent shall be void. Any assignment or transfer of Local Agency's rights and obligations approved by the State shall be subject to the provisions of this Agreement

B. Subcontracts

Local Agency shall not enter into any subcontract in connection with its obligations under this Agreement without the prior, written approval of the State. Local Agency shall submit to the State a copy of each such subcontract upon request by the State. All subcontracts entered into by Local Agency in connection with this Agreement shall comply with all applicable federal and state laws and regulations, shall provide that they are governed by the laws of the State of Colorado, and shall be subject to all provisions of this Agreement.

C. Binding Effect

Except as otherwise provided in **§20.A**, all provisions of this Agreement, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors and assigns.

D. Authority

Each Party represents and warrants to the other that the execution and delivery of this Agreement and the performance of such Party's obligations have been duly authorized.

E. Captions and References

The captions and headings in this Agreement are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Agreement to sections (whether spelled out or using the § symbol), subsections, exhibits or other attachments, are references to sections, subsections, exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

F. Counterparts

This Agreement may be executed in multiple, identical, original counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

G. Digital Signatures

If any signatory signs this agreement using a digital signature in accordance with the Colorado State Controller Contract, Grant and Purchase Order Policies regarding the use of digital signatures issued under the State Fiscal Rules, then any agreement or consent to use digital signatures within the electronic system through which that signatory signed shall be incorporated into this Contract by reference.

H. Entire Understanding

This Agreement represents the complete integration of all understandings between the Parties related to the Work, and all prior representations and understandings related to the Work, oral or written, are merged into this Agreement. Prior or contemporaneous additions, deletions, or other changes to this Agreement shall not have any force or effect whatsoever, unless embodied herein.

I. Jurisdiction and Venue

All suits or actions related to this Agreement shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

J. Modification

Except as otherwise provided in this Agreement, any modification to this Agreement shall only be effective if agreed to in a formal amendment to this Agreement, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules. Modifications permitted under this Agreement, other than contract amendments, shall conform to the policies promulgated by the Colorado State Controller.

K. Statutes, Regulations, Fiscal Rules, and Other Authority.

Any reference in this Agreement to a statute, regulation, State Fiscal Rule, fiscal policy or other authority shall be interpreted to refer to such authority then current, as may have been changed or amended since the Effective Date of this Agreement.

L. Order of Precedence

In the event of a conflict or inconsistency between this Agreement and any exhibits or attachment such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority:

- i. The provisions of the other sections of the main body of this Agreement.
- ii. **Exhibit N**, Federal Treasury Provisions.
- iii. **Exhibit F**, Certification for Federal-Aid Contracts.
- iv. **Exhibit G**, Disadvantaged Business Enterprise.
- v. **Exhibit I**, Federal-Aid Contract Provisions for Construction Contracts.
- vi. **Exhibit J**, Additional Federal Requirements.
- vii. **Exhibit K**, Federal Funding Accountability and Transparency Act of 2006 (FFATA) Supplemental Federal Provisions.
- viii. **Exhibit L**, Sample Sub-Recipient Monitoring and Risk Assessment Form.
- ix. **Exhibit M**, Supplemental Provisions for Federal Awards Subject to The Office of Management and Budget Uniform Administrative Requirements, Cost principles, and Audit Requirements for Federal Awards (the “Uniform Guidance”).
- x. **Exhibit O**, Agreement with Subrecipient of Federal Recovery Funds.
- xi. **Exhibit R**, Applicable Federal Awards.
- xii. Colorado Special Provisions in the main body of this Agreement.
- xiii. **Exhibit A**, Scope of Work.
- xiv. **Exhibit H**, Local Agency Procedures for Consultant Services.
- xv. **Exhibit B**, Sample Option Letter.
- xvi. **Exhibit C**, Funding Provisions.
- xvii. **Exhibit P**, SLFRF Subrecipient Quarterly Report.
- xviii. **Exhibit Q**, SLFRF Reporting Modification Form.
- xix. **Exhibit D**, Local Agency Resolution.
- xx. **Exhibit E**, Local Agency Contract Administration Checklist.
- xxi. **Exhibit S**, PII Certification.
- xxii. **Exhibit T**, Checklist of Required Exhibits Dependent on Funding Source.
- xxiii. Other exhibits in descending order of their attachment.

M. Severability

The invalidity or unenforceability of any provision of this Agreement shall not affect the validity or enforceability of any other provision of this Agreement, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Agreement in accordance with the intent of the Agreement.

N. Survival of Certain Agreement Terms

Any provision of this Agreement that imposes an obligation on a Party after termination or expiration of the Agreement shall survive the termination or expiration of the Agreement and shall be enforceable by the other Party.

O. Third Party Beneficiaries

Except for the Parties’ respective successors and assigns described in **§20.C**, this Agreement does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Agreement and all rights and obligations hereunder are reserved solely to the Parties. Any services or benefits which third parties receive as a result of this Agreement are incidental to the Agreement, and do not create any rights for such third parties.

P. Waiver

A Party’s failure or delay in exercising any right, power, or privilege under this Agreement, whether explicit or by lack of enforcement, shall not operate as a waiver, nor shall any single or partial exercise of any right, power, or privilege preclude any other or further exercise of such right, power, or privilege.

Q. CORA Disclosure

To the extent not prohibited by federal law, this Agreement and the performance measures and standards required under §24-106-107 C.R.S., if any, are subject to public release through the CORA.

R. Standard and Manner of Performance

Local Agency shall perform its obligations under this Agreement in accordance with the highest standards of care, skill and diligence in Local Agency's industry, trade, or profession.

S. Licenses, Permits, and Other Authorizations.

Local Agency shall secure, prior to the Effective Date, and maintain at all times during the term of this Agreement, at its sole expense, all licenses, certifications, permits, and other authorizations required to perform its obligations under this Agreement, and shall ensure that all employees, agents and Subcontractors secure and maintain at all times during the term of their employment, agency or subcontract, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Agreement.

T. Compliance with State and Federal Law, Regulations, and Executive Orders

Local Agency shall comply with all State and Federal law, regulations, executive orders, State and Federal Awarding Agency policies, procedures, directives, and reporting requirements at all times during the term of this Agreement.

U. Accessibility

- i. Local Agency shall comply with and the Work Product provided under this Agreement shall be in compliance with all applicable provisions of §§24-85-101, et seq., C.R.S., and the Accessibility Standards for Individuals with a Disability, as established by the Governor's Office of Information Technology (OIT), pursuant to Section §24-85-103 (2.5), C.R.S. Local Agency shall also comply with all State of Colorado technology standards related to technology accessibility and with Level AA of the most current version of the Web Content Accessibility Guidelines (WCAG), incorporated in the State of Colorado technology standards.
- ii. Each Party agrees to be responsible for its own liability incurred as a result of its participation in and performance under this Agreement. In the event any claim is litigated, each Party will be responsible for its own attorneys' fees, expenses of litigation, or other costs. No provision of this Agreement shall be deemed or construed to be a relinquishment or waiver of any kind of the applicable limitations of liability provided to either the Local Agency or the State by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq. and Article XI of the Colorado Constitution. Nothing in the Agreement shall be construed as a waiver of any provision of the State Fiscal Rules.
- iii. The State may require Local Agency's compliance to the State's Accessibility Standards to be determined by a third party selected by the State to attest to Local Agency's Work Product and software is in compliance with §§24-85-101, et seq., C.R.S., and the Accessibility Standards for Individuals with a Disability as established by OIT pursuant to Section §24-85-103 (2.5), C.R.S.

V. Taxes

The State is exempt from federal excise taxes under I.R.C. Chapter 32 (26 U.S.C., Subtitle D, Ch. 32) (Federal Excise Tax Exemption Certificate of Registry No. 84-730123K) and from State and local government sales and use taxes under §§39-26-704(1), et seq., C.R.S. (Colorado Sales Tax Exemption Identification Number 98-02565). The State shall not be liable for the payment of any excise, sales, or use taxes, regardless of whether any political subdivision of the state imposes such taxes on Local Agency. Local Agency shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Local Agency may wish to have in place in connection with this Agreement.

21. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-3)

These Special Provisions apply to all contracts. Contractor refers to Local Agency.

A. STATUTORY APPROVAL. §24-30-202(1), C.R.S.

This Contract shall not be valid until it has been approved by the Colorado State Controller or designee. If this Contract is for a Major Information Technology Project, as defined in §24-37.5-102(2.6), then this Contract shall not be valid until it has been approved by the State's Chief Information Officer or designee.

B. FUND AVAILABILITY. §24-30-202(5.5), C.R.S.

Financial obligations of the State payable after the current State Fiscal Year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available.

C. GOVERNMENTAL IMMUNITY.

Liability for claims for injuries to persons or property arising from the negligence of the Parties, its departments, boards, commissions committees, bureaus, offices, employees and officials shall be controlled and limited by the provisions of the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S.; the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b), and the State's risk management statutes, §§24-30-1501, et seq. C.R.S. No term or condition of this Contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections, or other provisions, contained in these statutes.

D. INDEPENDENT CONTRACTOR

Contractor shall perform its duties hereunder as an independent contractor and not as an employee. Neither Contractor nor any agent or employee of Contractor shall be deemed to be an agent or employee of the State. Contractor shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. **Contractor and its employees and agents are not entitled to unemployment insurance or workers compensation benefits through the State and the State shall not pay for or otherwise provide such coverage for Contractor or any of its agents or employees. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. Contractor shall (i) provide and keep in force workers' compensation and unemployment compensation insurance in the amounts required by law, (ii) provide proof thereof when requested by the State, and (iii) be solely responsible for its acts and those of its employees and agents.**

E. COMPLIANCE WITH LAW.

Contractor shall comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.

F. CHOICE OF LAW, JURISDICTION, AND VENUE.

Colorado law, and rules and regulations issued pursuant thereto, shall be applied in the interpretation, execution, and enforcement of this Contract. Any provision included or incorporated herein by reference which conflicts with said laws, rules, and regulations shall be null and void. All suits or actions related to this Contract shall be filed and proceedings held in the State of Colorado and exclusive venue shall be in the City and County of Denver.

G. PROHIBITED TERMS.

Any term included in this Contract that requires the State to indemnify or hold Contractor harmless; requires the State to agree to binding arbitration; limits Contractor's liability for damages resulting from death, bodily injury, or damage to tangible property; or that conflicts with this provision in any way shall be void ab initio. Nothing in this Contract shall be construed as a waiver of any provision of §24-106-109 C.R.S. Any term included in this Contract that limits Contractor's liability that is not void under this section shall apply only in excess of any insurance to be maintained under this Contract, and no insurance policy shall be interpreted as being subject to any limitations of liability of this Contract.

H. SOFTWARE PIRACY PROHIBITION.

State or other public funds payable under this Contract shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Contractor hereby certifies and warrants that, during the term of this Contract and any extensions, Contractor has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Contractor is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Contract, including, without limitation, immediate termination of this Contract and any remedy consistent with federal copyright laws or applicable licensing restrictions.

I. EMPLOYEE FINANCIAL INTEREST/CONFLICT OF INTEREST. §§24-18-201 and 24-50-507, C.R.S.

The signatories aver that to their knowledge, no employee of the State has any personal or beneficial interest whatsoever in the service or property described in this Contract. Contractor has no interest and shall not acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Contractor's services and Contractor shall not employ any person having such known interests.

22. FEDERAL REQUIREMENTS

Local Agency and/or their contractors, subcontractors, and consultants shall at all times during the execution of this Agreement strictly adhere to, and comply with, all applicable federal and State laws, and their implementing regulations, as they currently exist and may hereafter be amended. A summary of applicable federal provisions are attached hereto as **Exhibit F, Exhibit I, Exhibit J, Exhibit K, Exhibit M, Exhibit N** and **Exhibit O** are hereby incorporated by this reference.

23. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

Local Agency will comply with all requirements of **Exhibit G** and **Exhibit E**, Local Agency Contract Administration Checklist, regarding DBE requirements for the Work, except that if Local Agency desires to use its own DBE program to implement and administer the DBE provisions of 49 C.F.R. Part 26 under this Agreement, it must submit a copy of its program's requirements to the State for review and approval before the execution of this Agreement. If Local Agency uses any State- approved DBE program for this Agreement, Local Agency shall be solely responsible to defend that DBE program and its use of that program against all legal and other challenges or complaints, at its sole cost and expense. Such responsibility includes, without limitation, determinations concerning DBE eligibility requirements and certification, adequate legal and factual bases for DBE goals and good faith efforts. State approval (if provided) of Local Agency's DBE program does not waive or modify the sole responsibility of Local Agency for use of its program.

EXHIBIT A
SCOPE OF WORK

City of Pueblo
Lake Ave and Orman Ave Roundabout
SHO M086-097
25101

The Local Agency shall be responsible for design and construction of a traffic roundabout at the intersection of Lake Avenue and Orman Ave in the City of Pueblo. The roundabout shall provide a free flow condition for all turning movements and will eliminate the existing traffic signal.

The general scope of work includes, but is not limited to:

- Design of roundabout
- Removal of existing traffic signal
- Installation of curb and gutter, sidewalk, medians, curb ramps, pavement markings, signage, landscaping, etc.
- Asphalt pavement patching
- Any utility work that might be necessary
- Erosion and sediment control
- Traffic control
- Any other items pertinent to roundabout construction

Easements and/or right of way acquisition may be necessary. In addition, the pre-purchase of proprietary items, such as the detectable warning strips may assist with reducing lead times.

If ARPA funds are used all ARPA funds must be encumbered by December 31, 2024. All work funded by ARPA must be completed by December 31, 2026 and all bills must be submitted to CDOT for payment by January 31, 2027. These bills must be paid by CDOT by March 31, 2027.

If this project is funded with Multimodal Transportation & Mitigation Options Funding (MMOF) these funding expenditures must be invoiced by June 1st of the year they expire.

By accepting funds for this Scope of Work, Local Agency acknowledges, understands, and accepts the continuing responsibility for the safety of the traveling public after initial acceptance of the project. **Local Agency is responsible for maintaining and operating the scope of work described in this Exhibit A constructed under this Agreement at its own cost and expense during its useful life.**

EXHIBIT B

SAMPLE IGA OPTION LETTER

Date	State Fiscal Year	Option Letter No.
Project Code	Original Agreement #	

Vendor Name: _____

Option to unilaterally add phasing to include Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous and to update encumbrance amount(s).

Option to unilaterally transfer funds from one phase to another phase.

Option to unilaterally add phasing to include Design, Construction, Environmental, Utilities, ROW incidentals or Miscellaneous, to update encumbrance amount(s), and to unilaterally transfer funds from one phase to another phase.

Option to unilaterally extend the performance of this Agreement and/or update a Work Phase Performance Period.

Option A

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency), the State hereby exercises the option to authorize the Local Agency to add a phase and to encumber funds for the phase based on changes in funding availability and authorization. The total encumbrance is (or increased) by \$0.00. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

Option B

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option to transfer funds based on variance in actual phase costs and original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

Option C

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option to 1) release the Local Agency to begin a phase; 2) to encumber funds for the phase based upon changes in funding availability and authorization; and 3) to transfer funds from phases based on variance in actual phase costs and original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

Option D

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option extend the performance of this Agreement and/or update a Work Phase Performance Period.

The total encumbrance as a result of this option and all previous options and/or amendments is now \$0.00, as referenced in **Exhibit C-1**. The total budgeted funds to satisfy services/goods ordered under the Agreement remains the same: as referenced in **Exhibit C-1**.

The effective date of this option letter is upon approval of the State Controller or delegate.

STATE OF COLORADO
Jared S. Polis
Department of Transportation

By: _____
Stephen Harelson, P.E., Chief Engineer
(For) Shoshana M. Lew, Executive Director

Date: _____

ALL AGREEMENTS MUST BE APPROVED BY THE STATE CONTROLLER

CRS §24-30-202 requires the State Controller to approve all State Agreements. This Agreement 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 the Local Agency begins performing prior thereto, the State of Colorado is not obligated to pay the Local Agency for such performance or for any goods and/or services provided hereunder.

STATE OF COLORADO
STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By: _____
Colorado Department of Transportation

Date: _____

EXHIBIT C- FUNDING PROVISIONS**City of Pueblo SHO M086-097 (25101)****A. Cost of Work Estimate**

The Local Agency has estimated the total cost the Work to be \$1,500,000.00, which is to be funded as follows:

1. FUNDING		
SHO M086-097 (25101)		
a. Federal Funds (90% of HSIP Award)		\$1,350,000.00
b. Local Agency Funds (10% of HSIP Award)		\$150,000.00
TOTAL FUNDS ALL SOURCES		\$1,500,000.00
2. OMB UNIFORM GUIDANCE		
a. Federal Award Identification Number (FAIN):		TBD
b. Name of Federal Awarding Agency:		FHWA
c. Local Agency Unique Entity Identifier		NJK3BNUDRHJ7
d. Assistance Listing # Highway Planning and Construction		ALN 20.205
e. Is the Award for R&D?		No
f. Indirect Cost Rate (if applicable)		N/A
g. Amount of Federal Funds Obligated by this Action:		\$0.00
h. Amount of Federal Funds Obligated to Date (including this Action):		\$0.00
3. ESTIMATED PAYMENT TO LOCAL AGENCY		
a. Federal Funds Budgeted		\$1,350,000.00
b. Less Estimated Federal Share of CDOT-Incurred Costs		\$0.00
TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY	90%	\$1,350,000.00
TOTAL ESTIMATED FUNDING BY LOCAL AGENCY	10%	\$150,000.00
TOTAL PROJECT ESTIMATED FUNDING	100.00%	\$1,500,000.00
4. FOR CDOT ENCUMBRANCE PURPOSES		
SHO M086-097 (25101)		
a. Total Encumbrance Amount (Federal funds + Local Agency funds)		\$1,500,000.00
b. Less ROW Acquisition 3111 and/or ROW Relocation 3109		\$0.00
NET TO BE ENCUMBERED BY CDOT IS AS FOLLOWS		\$1,500,000.00

Note: No funds are currently available. Funds will become available after execution of an Option Letter (Exhibit B) or formal Amendment.

SHO M086-097 (25101)			
WBS Element 25101.10.30	Performance Period Start*/End Date TBD - TBD	Design 3020	\$0.00
WBS Element 25101.20.10	Performance Period Start*/End Date TBD - TBD	Const. 3301	\$0.00

* For SHO M086-097 (25101) the Local Agency should not begin work until all three (3) of the following are in place: 1) Phase Performance Period Start Date; 2) the execution of the document encumbering funds for the respective phase; and 3) Local Agency receipt of the official Notice to Proceed. Any work performed before these three (3) milestones are achieved will not be reimbursable.

B. Funding Ratios

SHO M086-097 (25101)

The funding ratio for the federal funds for this Work is 90% federal funds to 10% Local Agency funds, and this ratio applies only to the \$1,500,000.00 that is eligible for federal funding. All other costs are borne by the Local Agency at 100%. If the total cost of performance of the Work exceeds \$1,500,000.00, and additional federal funds are available for the Work, the Local Agency shall pay 10% of all such costs eligible for federal funding and 100% of all other costs. If additional federal funds are not available, the Local Agency shall pay all such excess costs. If the total cost of performance of the Work is less than \$1,500,000.00, then the amounts of Local Agency and federal funds will be decreased in accordance with the funding ratio described herein. **This applies to the entire scope of Work.**

C. Maximum Amount Payable

SHO M086-097 (25101)

The maximum amount payable to the Local Agency under this Agreement shall be \$1,350,000.00. For CDOT accounting purposes, the federal funds of \$1,350,000.00 and the Local Agency funds of \$150,000.00 will be encumbered for a total encumbrance of \$1,500,000.00, unless this amount is increased by an executed amendment before any increased cost is incurred. The total cost of the Work is the best estimate available, based on the design data as approved at the time of execution of this Agreement, and that any cost is subject to revisions agreed to by the parties prior to bid and award. The maximum amount payable will be reduced without amendment when the actual amount of the Local Agency's awarded Agreement is less than the budgeted total of the federal funds and the Local Agency funds. The maximum amount payable will be reduced through the execution of an Option Letter as described in Section 7. E. of this contract. **This applies to the entire scope of Work.**

D. Single Audit Act Amendment

All state and local government and non-profit organizations receiving \$750,000 or more from all funding sources defined as federal financial assistance for Single Audit Act Amendment purposes shall comply with the audit requirements of 2 CFR part 200, subpart F (Audit Requirements) see also, 49 CFR 18.20 through 18.26. The Single Audit Act Amendment requirements applicable to the Local Agency receiving federal funds are as follows:

i. Expenditure less than \$750,000

If the Local Agency expends less than \$750,000 in Federal funds (all federal sources, not just Highway funds) in its fiscal year then this requirement does not apply.

ii. Expenditure of \$750,000 or more-Highway Funds Only

If the Local Agency expends \$750,000 or more, in Federal funds, but only received federal Highway funds (Catalog of Federal Domestic Assistance, CFDA 20.205) then a program specific audit shall be performed. This audit will examine the "financial" procedures and processes for this program area.

iii. Expenditure of \$750,000 or more-Multiple Funding Sources

If the Local Agency expends \$750,000 or more in Federal funds, and the Federal funds are from multiple sources (FTA, HUD, NPS, etc.) then the Single Audit Act applies, which is an audit on the entire organization/entity.

iv. Independent CPA

Single Audit shall only be conducted by an independent CPA, not by an auditor on staff. An audit is an allowable direct or indirect cost.

EXHIBIT D

LOCAL AGENCY RESOLUTION (IF APPLICABLE)

EXHIBIT E – LOCAL AGENCY CONTRACT ADMINISTRATION CHECKLIST

COLORADO DEPARTMENT OF TRANSPORTATION LOCAL AGENCY CONTRACT ADMINISTRATION CHECKLIST			
Project No. M086-097	STIP No.	Project Code 25101	Region 2
Project Location Lake Avenue and Orman Avenue			Date 6/3/2022
Project Description Lake Ave and Orman Ave. Roundabout			
Local Agency The City of Pueblo	Local Agency Project Manager Kelly Grisham		
CDOT Resident Engineer Lachelle Davis	CDOT Project Manager Don Scanga		
INSTRUCTIONS: This checklist shall be utilized to establish the contract administration responsibilities of the individual parties to this agreement. The checklist becomes an attachment to the Local Agency agreement. Section numbers correspond to the applicable chapters of the <i>CDOT Local Agency Manual</i>. The checklist shall be prepared by placing an "X" under the responsible party, opposite each of the tasks. The "X" denotes the party responsible for initiating and executing the task. Only one responsible party should be selected. When neither CDOT nor the Local Agency is responsible for a task, not applicable (NA) shall be noted. In addition, a "#" will denote that CDOT must concur or approve. Tasks that will be performed by Headquarters staff will be indicated. The Regions, in accordance with established policies and procedures, will determine who will perform all other tasks that are the responsibility of CDOT. The checklist shall be prepared by the CDOT Resident Engineer or the CDOT Project Manager, in cooperation with the Local Agency Project Manager, and submitted to the Region Program Engineer. If contract administration responsibilities change, the CDOT Resident Engineer, in cooperation with the Local Agency Project Manager, will prepare and distribute a revised checklist. Note: Failure to comply with applicable Federal and State requirements may result in the loss of Federal or State participation in funding.			

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
TIP / STIP AND LONG-RANGE PLANS			
2.1	Review Project to ensure it is consist with STIP and amendments thereto		X
FEDERAL FUNDING OBLIGATION AND AUTHORIZATION			
4.1	Authorize funding by phases (CDOT Form 418 - Federal-aid Program Data. Requires FHWA concurrence/involvement)		X
PROJECT DEVELOPMENT			
5.1	Prepare Design Data - CDOT Form 463	X	X
5.2	Prepare Local Agency/CDOT Inter-Governmental Agreement (see also Chapter 3)		X
5.3	Conduct Consultant Selection/Execute Consultant Agreement	X	
5.4	Conduct Design Scoping Review Meeting	X	
5.5	Conduct Public Involvement	X	
5.6	Conduct Field Inspection Review (FIR)	X	
5.7	Conduct Environmental Processes (may require FHWA concurrence/involvement)	X	
5.8	Acquire Right-of-Way (may require FHWA concurrence/involvement)	X	
5.9	Obtain Utility and Railroad Agreements	X	
5.10	Conduct Final Office Review (FOR)	X	
5.11	Justify Force Account Work by the Local Agency	X	
5.12	Justify Proprietary, Sole Source, or Local Agency Furnished Items	X	

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
5.13	Document Design Exceptions - CDOT Form 464	X	
5.14	Prepare Plans, Specifications and Construction Cost Estimates	X	
5.15	Ensure Authorization of Funds for Construction		X
PROJECT DEVELOPMENT CIVIL RIGHTS AND LABOR COMPLIANCE			
6.1	Set Underutilized Disadvantaged Business Enterprise (UBDE) Goals for Consultant and Construction Contracts (CDOT Region EEO/Civil Rights Specialist)		X
6.2	Determine Applicability of Davis-Bacon Act This project ☐ is X is not exempt from Davis-Bacon requirements as determined by the functional classification of the project location (Projects located on local roads and rural minor collectors may be exempt.) Lachelle Davis CDOT Resident Engineer (Signature on File) 6/3/2022 Date		X
6.3	Set On-the-Job Training Goals. Goal is zero if total construction is less than \$1 million (CDOT Region EEO/Civil Rights Specialist)		X
6.4	Title VI Assurances	X	
	Ensure the correct Federal Wage Decision, all required Disadvantaged Business Enterprise/On-the-Job Training special provisions and FHWA Form 1273 are included in the Contract (CDOT Resident Engineer)		X
ADVERTISE, BID AND AWARD			
7.1	Obtain Approval for Advertisement Period of Less Than Three Weeks	X	
7.2	Advertise for Bids	X	
7.3	Distribute "Advertisement Set" of Plans and Specifications	X	
7.4	Review Worksite and Plan Details with Prospective Bidders While Project Is Under Advertisement	X	
7.5	Open Bids	X	
7.6	Process Bids for Compliance		
	Check CDOT Form 715 - Certificate of Proposed Underutilized DBE Participation when the low bidder meets UDBE goals		X
	Evaluate CDOT Form 718 - Underutilized DBE Good Faith Effort Documentation and determine if the Contractor has made a good faith effort when the low bidder does not meet DBE goals		X
	Submit required documentation for CDOT award concurrence	X	
7.7	Concurrence from CDOT to Award		X
7.8	Approve Rejection of Low Bidder		X
7.9	Award Contract	X	
7.10	Provide "Award" and "Record" Sets of Plans and Specifications	X	
CONSTRUCTION MANAGEMENT			
8.1	Issue Notice to Proceed to the Contractor	X	
8.2	Project Safety	X	X
8.3	Conduct Conferences:		
	Pre-Construction Conference (Appendix B)	X	
	Pre-survey		
	• Construction staking	X	
	• Monumentation	X	
	Partnering (Optional)	X	
	Structural Concrete Pre-Pour (Agenda is in CDOT Construction Manual)	X	
	Concrete Pavement Pre-Paving (Agenda is in CDOT Construction Manual)	X	
	HMA Pre-Paving (Agenda is in CDOT Construction Manual)	X	
8.4	Develop and distribute Public Notice of Planned Construction to media and local residents	X	
8.5	Supervise Construction		
	A Professional Engineer (PE) registered in Colorado, who will be "in responsible charge of construction supervision." Charles Roy Local Agency Professional Engineer or CDOT Resident Engineer 719-553-2771 Phone number	X	

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
	Provide competent, experienced staff who will ensure the Contract work is constructed in accordance with the plans and specifications	X	
	Construction inspection and documentation	X	
8.6	Approve Shop Drawings	X	
8.7	Perform Traffic Control Inspections	X	
8.8	Perform Construction Surveying	X	
8.9	Monument Right-of-Way	X	
8.10	Prepare and Approve Interim and Final Contractor Pay Estimates	X	
	Provide the name and phone number of the person authorized for this task. Kelly Grisham 719-553-2254 Local Agency Representative Phone number		
8.11	Prepare and Approve Interim and Final Utility and Railroad Billings	X	
8.12	Prepare and Authorize Change Orders	X	
8.13	Submit Change Order Package to CDOT	X	
8.14	Prepare Local Agency Reimbursement Requests	X	
8.15	Monitor Project Financial Status	X	
8.16	Prepare and Submit Monthly Progress Reports	X	
8.17	Resolve Contractor Claims and Disputes	X	
8.18	Conduct Routine and Random Project Reviews		
	Provide the name and phone number of the person responsible for this task. Don Scanga 719-546-5434 CDOT Resident Engineer Phone number		X
MATERIALS			
9.1	Discuss Materials at Pre-Construction Meeting • Buy America documentation required prior to installation of steel	X	
9.2	Complete CDOT Form 250 - Materials Documentation Record • Generate form, which includes determining the minimum number of required tests and applicable material submittals for all materials placed on the project • Update the form as work progresses • Complete and distribute form after work is completed	X X	X
9.3	Perform Project Acceptance Samples and Tests	X	
9.4	Perform Laboratory Verification Tests	X	
9.5	Accept Manufactured Products Inspection of structural components: • Fabrication of structural steel and pre-stressed concrete structural components • Bridge modular expansion devices (0" to 6" or greater) • Fabrication of bearing devices	X X X	
9.6	Approve Sources of Materials	X	
9.7	Independent Assurance Testing (IAT), Local Agency Procedures ☐ CDOT Procedures X • Generate IAT schedule • Schedule and provide notification • Conduct IAT	X X X	
9.8	Approve mix designs • Concrete • Hot mix asphalt	X X	
9.9	Check Final Materials Documentation	X	
9.10	Complete and Distribute Final Materials Documentation	X	
CONSTRUCTION CIVIL RIGHTS AND LABOR COMPLIANCE			
10.1	Fulfill Project Bulletin Board and Pre-Construction Packet Requirements	X	
10.2	Process CDOT Form 205 - Sublet Permit Application		

NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
		LA	CDOT
	Review and sign completed CDOT Form 205 for each subcontractor, and submit to EEO/Civil Rights Specialist	X	
10.3	Conduct Equal Employment Opportunity and Labor Compliance Verification Employee Interviews. Complete CDOT Form 280	X	
10.4	Monitor Disadvantaged Business Enterprise Participation to Ensure Compliance with the "Commercially Useful Function" Requirements	X	
10.5	Conduct Interviews When Project Utilizes On-the-Job Trainees. Complete CDOT Form 200 - OJT Training Questionnaire	X	
10.6	Check Certified Payrolls (Contact the Region EEO/Civil Rights Specialists for training requirements.)	X	
10.7	Submit FHWA Form 1391 - Highway Construction Contractor's Annual EEO Report	X	
FINALS			
11.1	Conduct Final Project Inspection. Complete and submit CDOT Form 1212 - Final Acceptance Report (Resident Engineer with mandatory Local Agency participation.)		X
11.2	Write Final Project Acceptance Letter	X	
11.3	Advertise for Final Settlement	X	
11.4	Prepare and Distribute Final As-Constructed Plans	X	
11.5	Prepare EEO Certification	X	
11.6	Check Final Quantities, Plans, and Pay Estimate; Check Project Documentation; and submit Final Certifications	X	
11.7	Check Material Documentation and Accept Final Material Certification (See Chapter 9)	X	
11.8	Obtain CDOT Form 17 from the Contractor and Submit to the Resident Engineer	X	
11.9	Obtain FHWA Form 47 - Statement of Materials and Labor Used ... from the Contractor	X	
11.10	Complete and Submit CDOT Form 1212 – Final Acceptance Report (by CDOT)		X
11.11	Process Final Payment	X	
11.12	Complete and Submit CDOT Form 950 - Project Closure		X
11.13	Retain Project Records for Six Years from Date of Project Closure		X
11.14	Retain Final Version of Local Agency Contract Administration Checklist	X	

cc: CDOT Resident Engineer/Project Manager
CDOT Region Program Engineer
CDOT Region EEO/Civil Rights Specialist
CDOT Region Materials Engineer
CDOT Contracts and Market Analysis Branch
Local Agency Project Manager

EXHIBIT F
CERTIFICATION FOR FEDERAL-AID CONTRACTS

The Local Agency certifies, by signing this Agreement, to the best of its knowledge and belief, that:

No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, Agreement, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer of Congress, or an employee of a Member of Congress in connection with this Federal contract, Agreement, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

EXHIBIT G
DISADVANTAGED BUSINESS ENTERPRISE

SECTION 1. Policy.

It is the policy of the Colorado Department of Transportation (CDOT) that disadvantaged business enterprises shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement, pursuant to 49 CFR Part 26. Consequently, the 49 CFR Part IE DBE requirements the Colorado Department of Transportation DBE Program (or a Local Agency DBE Program approved in advance by the State) apply to this agreement.

SECTION 2. DBE Obligation.

The recipient or its the Local Agency agrees to ensure that disadvantaged business enterprises as determined by the Office of Certification at the Colorado Department of Regulatory Agencies have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, all participants or contractors shall take all necessary and reasonable steps in accordance with the CDOT DBE program (or a Local Agency DBE Program approved in advance by the State) to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of CDOT assisted contracts.

SECTION 3 DBE Program.

The Local Agency (sub-recipient) shall be responsible for obtaining the Disadvantaged Business Enterprise Program of the Colorado Department of Transportation, 1988, as amended, and shall comply with the applicable provisions of the program. (If applicable).

A copy of the DBE Program is available from and will be mailed to the Local Agency upon request: Business Programs Office

Colorado Department of Transportation 2829 West Howard Place

Denver, Colorado 80204

Phone: (303) 757-9007

REVISED 1/22/98

REQUIRED BY 49 CFR PART 26

EXHIBIT H

LOCAL AGENCY PROCEDURES FOR CONSULTANT SERVICES

Title 23 Code of Federal Regulations (CFR) 172 applies to a federally funded Local Agency project agreement administered by CDOT that involves professional consultant services. 23 CFR 172.1 states “The policies and procedures involve federally funded contracts for engineering and design related services for projects subject to the provisions of 23 U.S.C. 112(a) and are issued to ensure that a qualified consultant is obtained through an equitable selection process, that prescribed work is properly accomplished in a timely manner, and at fair and reasonable cost” and according to 23 CFR 172.5 “Price shall not be used as a factor in the analysis and selection phase.” Therefore, local agencies must comply with these CFR requirements when obtaining professional consultant services under a federally funded consultant contract administered by CDOT.

CDOT has formulated its procedures in Procedural Directive (P.D.) 400.1 and the related operations guidebook titled "Obtaining Professional Consultant Services". This directive and guidebook incorporate requirements from both Federal and State regulations, i.e., 23 CFR 172 and CRS §24-30-1401 et seq. Copies of the directive and the guidebook may be obtained upon request from CDOT's Agreements and Consultant Management Unit. [Local agencies should have their own written procedures on file for each method of procurement that addresses the items in 23 CFR 172].

Because the procedures and laws described in the Procedural Directive and the guidebook are quite lengthy, the subsequent steps serve as a short-hand guide to CDOT procedures that a Local Agency must follow in obtaining professional consultant services. This guidance follows the format of 23 CFR 172. The steps are:

1. The contracting Local Agency shall document the need for obtaining professional services.
2. Prior to solicitation for consultant services, the contracting Local Agency shall develop a detailed scope of work and a list of evaluation factors and their relative importance. The evaluation factors are those identified in C.R.S. 24-30-1403. Also, a detailed cost estimate should be prepared for use during negotiations.
3. The contracting agency must advertise for contracts in conformity with the requirements of C.R.S. 24-30-1405. The public notice period, when such notice is required, is a minimum of 15 days prior to the selection of the three most qualified firms and the advertising should be done in one or more daily newspapers of general circulation.
4. The Local Agency shall not advertise any federal aid contract without prior review by the CDOT Regional Civil Rights Office (RCRO) to determine whether the contract shall be subject to a DBE contract goal. If the RCRO determines a goal is necessary, then the Local Agency shall include the goal and the applicable provisions within the advertisement. The Local Agency shall not award a contract to any Contractor or Consultant without the confirmation by the CDOT Civil Rights and Business Resource Center that the Contractor or Consultant has demonstrated good faith efforts. The Local Agency shall work with the CDOT RCRO to ensure compliance with the established terms during the performance of the contract.
5. The Local Agency shall require that all contractors pay subcontractors for satisfactory performance of work no later than 30 days after the receipt of payment for that work from the contractor. For construction projects, this time period shall be reduced to seven days in accordance with Colorado Revised Statute 24-91-103(2). If the Local Agency withholds retainage from contractors and/or allows contractors to withhold retainage from subcontractors, such retainage provisions must comply with 49 CFR 26.29.
6. Payments to all Subconsultants shall be made within thirty days of receipt of payment from [the Local Agency] or no later than ninety days from the date of the submission of a complete invoice from the Subconsultant, whichever occurs first. If the Consultant has good cause to dispute an amount invoiced by a Subconsultant, the Consultant shall notify [the Local Agency] no later than the required date for payment. Such notification shall include the amount disputed and justification for the withholding. The Consultant shall maintain records of payment that show amounts paid to all Subconsultants. Good cause does not include the Consultant's failure to submit an invoice to the Local Agency or to deposit payments made.
7. The analysis and selection of the consultants shall be done in accordance with CRS §24-30-1403. This section of the regulation identifies the criteria to be used in the evaluation of CDOT pre-qualified prime consultants and their team. It also shows which criteria are used to short-list and to make a final selection.

The short-list is based on the following evaluation factors:

- a. Qualifications,

- b. Approach to the Work,
- c. Ability to furnish professional services.
- d. Anticipated design concepts, and
- e. Alternative methods of approach for furnishing the professional services. Evaluation factors for final selection are the consultant's:

- a. Abilities of their personnel,
 - b. Past performance,
 - c. Willingness to meet the time and budget requirement,
 - d. Location,
 - e. Current and projected work load,
 - f. Volume of previously awarded contracts, and
 - g. Involvement of minority consultants.
8. Once a consultant is selected, the Local Agency enters into negotiations with the consultant to obtain a fair and reasonable price for the anticipated work. Pre-negotiation audits are prepared for contracts expected to be greater than \$50,000. Federal reimbursements for costs are limited to those costs allowable under the cost principles of 48 CFR 31. Fixed fees (profit) are determined with consideration given to size, complexity, duration, and degree of risk involved in the work. Profit is in the range of six to 15 percent of the total direct and indirect costs.
9. A qualified Local Agency employee shall be responsible and in charge of the Work to ensure that the work being pursued is complete, accurate, and consistent with the terms, conditions, and specifications of the contract. At the end of Work, the Local Agency prepares a performance evaluation (a CDOT form is available) on the consultant.

CRS §§24-30-1401 THROUGH 24-30-1408, 23 CFR PART 172, AND P.D. 400.1, PROVIDE ADDITIONAL DETAILS FOR COMPLYING WITH THE PRECEEDING EIGHT (8) STEPS.

EXHIBIT I

FEDERAL-AID CONTRACT PROVISIONS FOR CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety; Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Government wide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design- build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension/debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60- 1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. **EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. **Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. **Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. **Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. **Training and Promotion:**

The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

a. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

b. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

c. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. **Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher-paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. **Reasonable Accommodation for Applicants / Employees with Disabilities:** The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. **Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract.

The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. **Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt.

Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA- 1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein; Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account, assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements.

It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

- (i) That the payroll for the payroll period contains the information required to be provided under §5.5(a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5(a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;
- (ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
- (iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices.

Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity.

The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S.DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and

7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

- a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

- a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below.

The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

- c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.
- d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).
- f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
- g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.
- h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

- i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

- j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

- a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

- (1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

- (2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

- (3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph(a)(2) of this certification; and

- (4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

- b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

- a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

EXHIBIT J

ADDITIONAL FEDERAL REQUIREMENTS

Federal laws and regulations that may be applicable to the Work include:

Executive Order 11246

Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967 and as supplemented in Department of Labor regulations (41 CFR Chapter 60) (All construction contracts awarded in excess of \$10,000 by the Local Agencies and their contractors or the Local Agencies).

Copeland "Anti-Kickback" Act

The Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3) (All contracts and sub-Agreements for construction or repair).

Davis-Bacon Act

The Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor regulations (29 CFR Part 5) (Construction contracts in excess of \$2,000 awarded by the Local Agencies and the Local Agencies when required by Federal Agreement program legislation. This act requires that all laborers and mechanics employed by contractors or sub-contractors to work on construction projects financed by federal assistance must be paid wages not less than those established for the locality of the project by the Secretary of Labor).

Contract Work Hours and Safety Standards Act

Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts awarded by the Local Agency's in excess of \$2,000, and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers).

Clear Air Act

Standards, orders, or requirements issued under section 306 of the Clear Air Act (42 U.S.C. 1857(h), section 508 of the Clean Water Act (33 U.S.C. 1368). Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15) (contracts, subcontracts, and sub-Agreements of amounts in excess of \$100,000).

Energy Policy and Conservation Act

Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).

OMB Circulars

Office of Management and Budget Circulars A-87, A-21 or A-122, and A-102 or A-110, whichever is applicable.

Hatch Act

The Hatch Act (5 USC 1501-1508) and Public Law 95-454 Section 4728. These statutes state that federal funds cannot be used for partisan political purposes of any kind by any person or organization involved in the administration of federally-assisted programs.

Nondiscrimination

The Local Agency shall not exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States on the ground of race, color national origin, sex, age or disability. Prior to the receipt of any Federal financial assistance from CDOT, the Local Agency shall execute the attached Standard DOT Title VI assurance. As appropriate, the Local Agency shall include Appendix A, B, or C to the Standard DOT Title VI assurance in any contract utilizing federal funds, land or other aid. The Local Agency shall also include the following in all contract advertisements:

The [Local Agency], in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (79 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, DBEs will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for any award.

ADA

In any contract utilizing federal funds, land, or other federal aid, the Local Agency shall require the federal-aid recipient or contractor to provide a statement of written assurance that they will comply with Section 504 and not discriminate on the basis of disability.

Uniform Relocation Assistance and Real Property Acquisition Policies Act

The Uniform Relocation Assistance and Real Property Acquisition Policies Act, as amended (Public Law 91-646, as amended and Public Law 100-17, 101 Stat. 246-256). (If the contractor is acquiring real property and displacing households or businesses in the performance of the Agreement).

Drug-Free Workplace Act

The Drug-Free Workplace Act (Public Law 100-690 Title V, subtitle D, 41 USC 701 et seq.).

Age Discrimination Act of 1975

The Age Discrimination Act of 1975, 42 U.S.C. Sections 6101 et. seq. and its implementing regulation, 45 C.F.R. Part 91; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, as amended, and implementing regulation 45 C.F.R. Part 84.

23 C.F.R. Part 172

23 C.F.R. Part 172, concerning "Administration of Engineering and Design Related Contracts".

23 C.F.R Part 633

23 C.F.R Part 633, concerning "Required Contract Provisions for Federal-Aid Construction Contracts".

23 C.F.R. Part 635

23 C.F.R. Part 635, concerning "Construction and Maintenance Provisions".

Title VI of the Civil Rights Act of 1964 and 162(a) of the Federal Aid Highway Act of 1973

Title VI of the Civil Rights Act of 1964 and 162(a) of the Federal Aid Highway Act of 1973. The requirements for which are shown in the Nondiscrimination Provisions, which are attached hereto and made a part hereof.

Nondiscrimination Provisions:

In compliance with Title VI of the Civil Rights Act of 1964 and with Section 162(a) of the Federal Aid Highway Act of 1973, the Contractor, for itself, its assignees and successors in interest, agree as follows:

i. Compliance with Regulations

The Contractor will comply with the Regulations of the Department of Transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this Agreement.

ii. Nondiscrimination

The Contractor, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the ground of race, color, sex, mental or physical handicap or national origin in the selection and retention of Subcontractors, including procurement of materials and leases of equipment. The Contractor will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix C of the Regulations.

iii. Solicitations for Subcontracts, Including Procurement of Materials and Equipment

In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurement of materials or equipment, each potential Subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Agreement and the Regulations relative to nondiscrimination on the ground of race, color, sex, mental or physical handicap or national origin.

iv. Information and Reports

The Contractor will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto and will permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Regulations, orders and instructions. Where any information required of the Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the State, or the FHWA as appropriate and shall set forth what efforts have been made to obtain the information.

v. Sanctions for Noncompliance

In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Agreement, the State shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to: **a.** Withholding of payments to the Contractor under the contract until the Contractor complies, and/or **b.** Cancellation, termination or suspension of the contract, in whole or in part.

Incorporation of Provisions §22

The Contractor will include the provisions of this Exhibit J in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, orders, or instructions issued pursuant thereto. The Contractor will take such action with respect to any subcontract or procurement as the State or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event the Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or supplier as a result of such direction, the Contractor may request the State to enter into such litigation to protect the interest of the State and in addition, the Contractor may request the FHWA to enter into such litigation to protect the interests of the United States.

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SAMPLE

The United States Department of Transportation (USDOT) Standard Title VI/Non-Discrimination

Assurances for Local Agencies

DOT Order No. 1050.2A

The [Local Agency] (herein referred to as the "Recipient"), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the Colorado Department of Transportation and the Federal Highway Administration (FHWA), Federal Transit Administration (FTA), and Federal Aviation Administration (FAA), is subject to and will comply with the following:

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation-Effectuation Of Title VI Of The Civil Rights Act Of 1964);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity, "for which the Recipient receives Federal financial assistance from DOT, including the FHWA, FTA, or FAA.

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non- discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted FHWA, FTA, and FAA assisted programs:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23(b) and 21.23(e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated, or will be (with regard to a "facility") operated, or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests For Proposals for work, or material subject to the Acts and the Regulations made in connection with all FHWA, FTA and FAA programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:
3. "The [Local Agency] in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity

4. to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."
5. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
6. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
7. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
8. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
9. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
10. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
 - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
11. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
12. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the [Local Agency] also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FHWA, FTA, and FAA's access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by CDOT, FHWA, FTA, or FAA. You must keep records, reports, and submit the material for review

upon request to CDOT, FHWA, FTA, or FAA, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

[Local Agency] gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the FHWA, FTA, and FAA. This ASSURANCE is binding on [Local Agency], other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the FHWA, FTA, and FAA funded programs. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

(Name of Recipient)

by _____
(Signature of Authorized Official)

DATED _____

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, FHWA, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the [Local Agency], CDOT or FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the [Local Agency], CDOT or FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the Non-discrimination provisions of this contract, the [Local Agency] will impose such contract sanctions as it, CDOT or FHWA may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the [Local Agency], CDOT or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the [Local Agency] will accept title to the lands and maintain the project constructed thereon in accordance with (*Name of Appropriate Legislative Authority*), the Regulations for the Administration of (*Name of Appropriate Program*), and the policies and procedures prescribed by the FHWA of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the [Local Agency] all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto [Local Agency] and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the [Local Agency] its successors and assigns.

The [Local Agency], in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the [Local Agency] will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX C

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the [Local Agency] pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
 - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, [Local Agency] will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued. *
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the [Local Agency] will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the [Local Agency] and its assigns. *

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX D

CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by [Local Agency] pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non- discrimination covenants, [Local Agency] will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued. *
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, [Local Agency] will there upon revert to and vest in and become the absolute property of [Local Agency] of Transportation and its assigns. *

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

EXHIBIT K
FFATA SUPPLEMENTAL FEDERAL PROVISIONS

State of Colorado
Supplemental Provisions for
Federally Funded Contracts, Grants, and Purchase Orders
Subject to
The Federal Funding Accountability and Transparency Act of 2006 (FFATA), As Amended
Revised as of 3-20-13

The contract, grant, or purchase order to which these Supplemental Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Supplemental Provisions, the Special Provisions, the contract or any attachments or exhibits incorporated into and made a part of the contract, the provisions of these Supplemental Provisions shall control.

1. Definitions. For the purposes of these Supplemental Provisions, the following terms shall have the meanings ascribed to them below.

1.1. “Award” means an award of Federal financial assistance that a non-Federal Entity receives or administers in the form of:

- 1.1.1.** Grants;
- 1.1.2.** Contracts;
- 1.1.3.** Cooperative agreements, which do not include cooperative research and development agreements (CRDA) pursuant to the Federal Technology Transfer Act of 1986, as amended (15 U.S.C. 3710);
- 1.1.4.** Loans;
- 1.1.5.** Loan Guarantees;
- 1.1.6.** Subsidies;
- 1.1.7.** Insurance;
- 1.1.8.** Food commodities;
- 1.1.9.** Direct appropriations;
- 1.1.10.** Assessed and voluntary contributions; and
- 1.1.11.** Other financial assistance transactions that authorize the expenditure of Federal funds by non-Federal Entities.

Award **does not** include:

- 1.1.12.** Technical assistance, which provides services in lieu of money;
- 1.1.13.** A transfer of title to Federally-owned property provided in lieu of money; even if the award is called a grant;
- 1.1.14.** Any award classified for security purposes; or
- 1.1.15.** Any award funded in whole or in part with Recovery funds, as defined in section 1512 of the American Recovery and Reinvestment Act (ARRA) of 2009 (Public Law 111-5).

1.2. “Contract” means the contract to which these Supplemental Provisions are attached and includes all Award types in §1.1.1 through 1.1.11 above.

1.3. “Contractor” means the party or parties to a Contract funded, in whole or in part, with Federal financial assistance, other than the Prime Recipient, and includes grantees, subgrantees, Subrecipients, and borrowers. For purposes of Transparency Act reporting, Contractor does not include Vendors.

1.4. “Data Universal Numbering System (DUNS) Number” means the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify a business entity. Dun and Bradstreet’s website may be found at: <http://fedgov.dnb.com/webform>.

1.5. “Entity” means all of the following as defined at 2 CFR part 25, subpart C;

- 1.5.1.** A governmental organization, which is a State, local government, or Indian Tribe;
- 1.5.2.** A foreign public entity;
- 1.5.3.** A domestic or foreign non-profit organization;

- 1.5.4. A domestic or foreign for-profit organization; and
- 1.5.5. A Federal agency, but only a Subrecipient under an Award or Subaward to a non-Federal entity.
- 1.6. **“Executive”** means an officer, managing partner or any other employee in a management position.
- 1.7. **“Federal Award Identification Number (FAIN)”** means an Award number assigned by a Federal agency to a Prime Recipient.
- 1.8. **“FFATA”** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109- 282), as amended by §6202 of Public Law 110-252. FFATA, as amended, also is referred to as the “Transparency Act.”
- 1.9. **“Prime Recipient”** means a Colorado State agency or institution of higher education that receives an Award.
- 1.10. **“Subaward”** means a legal instrument pursuant to which a Prime Recipient of Award funds awards all or a portion of such funds to a Subrecipient, in exchange for the Subrecipient’s support in the performance of all or any portion of the substantive project or program for which the Award was granted.
- 1.11. **“Subrecipient”** means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term “Subrecipient” includes and may be referred to as Subgrantee.
- 1.12. **“Subrecipient Parent DUNS Number”** means the subrecipient parent organization’s 9-digit Data Universal Numbering System (DUNS) number that appears in the subrecipient’s System for Award Management (SAM) profile, if applicable.
- 1.13. **“Supplemental Provisions”** means these Supplemental Provisions for Federally Funded Contracts, Grants, and Purchase Orders subject to the Federal Funding Accountability and Transparency Act of 2006, As Amended, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institution of higher education.
- 1.14. **“System for Award Management (SAM)”** means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>.
- 1.15. **“Total Compensation”** means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year and includes the following:
- 1.15.1. Salary and bonus;
 - 1.15.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;
 - 1.15.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;
 - 1.15.4. Change in present value of defined benefit and actuarial pension plans;
 - 1.15.5. Above-market earnings on deferred compensation which is not tax-qualified;
 - 1.15.6. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.
- 1.16. **“Transparency Act”** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. The Transparency Act also is referred to as FFATA.
- 1.17 **“Vendor”** means a dealer, distributor, merchant or other seller providing property or services required for a project or program funded by an Award. A Vendor is not a Prime Recipient or a Subrecipient and is not subject to the terms and conditions of the Federal award. Program compliance requirements do not pass through to a Vendor.

2. **Compliance.** Contractor shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, including but not limited to these Supplemental Provisions. Any revisions to such provisions or regulations shall automatically become a part of these Supplemental Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Contractor of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.
3. **System for Award Management (SAM) and Data Universal Numbering System (DUNS) Requirements.**
 - 3.1. **SAM.** Contractor shall maintain the currency of its information in SAM until the Contractor submits the final financial report required under the Award or receives final payment, whichever is later. Contractor shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.
 - 3.2. **DUNS.** Contractor shall provide its DUNS number to its Prime Recipient, and shall update Contractor's information in Dun & Bradstreet, Inc. at least annually after the initial registration, and more frequently if required by changes in Contractor's information.
4. **Total Compensation.** Contractor shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:
 - 4.1. The total Federal funding authorized to date under the Award is \$25,000 or more; and
 - 4.2. In the preceding fiscal year, Contractor received:
 - 4.2.1. 80% or more of its annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 4.2.2. \$25,000,000 or more in annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 4.3. The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.
5. **Reporting.** Contractor shall report data elements to SAM and to the Prime Recipient as required in §7 below if Contractor is a Subrecipient for the Award pursuant to the Transparency Act. No direct payment shall be made to Contractor for providing any reports required under these Supplemental Provisions and the cost of producing such reports shall be included in the Contract price. The reporting requirements in §7 below are based on guidance from the US Office of Management and Budget (OMB), and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Contract and shall become part of Contractor's obligations under this Contract, as provided in §2 above. The Colorado Office of the State Controller will provide summaries of revised OMB reporting requirements at <http://www.colorado.gov/dpa/dfp/sco/FFATA.htm>.
6. **Effective Date and Dollar Threshold for Reporting.** The effective date of these Supplemental Provisions apply to new Awards as of October 1, 2010. Reporting requirements in §7 below apply to new Awards as of October 1, 2010, if the initial award is \$25,000 or more. If the initial Award is below \$25,000 but subsequent Award modifications result in a total Award of \$25,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$25,000. If the initial Award is \$25,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$25,000, the Award shall continue to be subject to the reporting requirements.
7. **Subrecipient Reporting Requirements.** If Contractor is a Subrecipient, Contractor shall report as set forth below.

7.1 To SAM. A Subrecipient shall register in SAM and report the following data elements in SAM *for each* Federal Award Identification Number no later than the end of the month following the month in which the Subaward was made:

7.1.1 Subrecipient DUNS Number;

7.1.2 Subrecipient DUNS Number + 4 if more than one electronic funds transfer (EFT) account;

7.1.3 Subrecipient Parent DUNS Number;

7.1.4 Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;

7.1.5 Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and

7.1.6 Subrecipient's Total Compensation of top 5 most highly compensated Executives if criteria in §4 above met.

7.2 To Prime Recipient. A Subrecipient shall report to its Prime Recipient, upon the effective date of the Contract, the following data elements:

7.2.1 Subrecipient's DUNS Number as registered in **SAM**.

7.2.2 Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.

8. Exemptions.

8.1. These Supplemental Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.

8.2 A Contractor with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.

8.3 Effective October 1, 2010, "Award" currently means a grant, cooperative agreement, or other arrangement as defined in Section 1.1 of these Special Provisions. On future dates "Award" may include other items to be specified by OMB in policy memoranda available at the OMB Web site; Award also will include other types of Awards subject to the Transparency Act.

8.4 There are no Transparency Act reporting requirements for Vendors.

Event of Default. Failure to comply with these Supplemental Provisions shall constitute an event of default under the Contract and the State of Colorado may terminate the Contract upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30 day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Contract, at law or in equity.

EXHIBIT L

SAMPLE SUBRECIPIENT MONITORING AND RISK ASSESSMENT

	CDOT SUBRECIPIENT RISK ASSESSMENT	Date:		
Name of Entity (Subrecipient):				
Name of Project / Program:				
Estimated Award Period:				
Entity Executive Director or VP:				
Entity Chief Financial Officer:				
Entity Representative for this Self Assessment:				
Instructions: (See "Instructions" tab for more information) 1. Check only one box for each question. All questions are required to be answered. 2. Utilize the "Comment" section below the last question for additional responses. 3. When complete, check the box at the bottom of the form to authorize.				
		Yes	No	N/A
EXPERIENCE ASSESSMENT				
		Yes	No	N/A
1 Is your entity new to operating or managing federal funds (has not done so within the past three years)?		☐	☐	
2 Is this funding program new for your entity (managed for less than three years)? <i>Examples of funding programs include CMAQ, TAP, STP-M, etc.</i>		☐	☐	
3 Does your staff assigned to the program have at least three full years of experience with this federal program?		☐	☐	
MONITORING/AUDIT ASSESSMENT				
		Yes	No	N/A
4 Has your entity had an on-site project or grant review from an external entity (e.g., CDOT, FHWA) within the last three years?		☐	☐	☐
5 a) Were there non-compliance issues in this prior review?		☐	☐	☐
b) What were the number and extent of issues in prior review?		☐ 1 to 2	☐ >3	☐
OPERATION ASSESSMENT				
		Yes	No	N/A
6 Does your entity have a time and effort reporting system in place to account for 100% of all employees' time, that can provide a breakdown of the actual time spent on each funded project? <i>If No, in the comment section please explain how you intend to document 100% of hours worked by employees and breakdown of time spent on each funding project.</i>		☐	☐	
FINANCIAL ASSESSMENT				
		Yes	No	N/A
7 a) Does your entity have an indirect cost rate that is approved and current?		☐	☐	
b) If Yes, who approved the rate, and what date was it approved?				
8 Is this grant/award 10% or more of your entity's overall funding?		☐ >10%	☐ <10%	
9 Has your entity returned lapsed* funds? <i>*Funds "lapse" when they are no longer available for obligation.</i>		☐	☐	☐
10 Has your entity had difficulty meeting local match requirements in the last three years?		☐	☐	☐
11 What is the total federal funding your entity has been awarded for the last federal fiscal year, and what is your entity's fiscal year end?				

INTERNAL CONTROLS ASSESSMENT		Yes	No	N/A
12	Has your entity had any significant changes in key personnel or accounting system(s) in the last year? (e.g., Controller, Exec Director, Program Mgr, Accounting Mgr, etc.) If Yes, in the comment section, please identify the accounting system(s), and / or list personnel positions and identify any that are vacant.	☐	☐	☐
13	Does your entity have financial procedures and controls in place to accommodate a federal-aid project?	☐	☐	
14	Does your accounting system identify the receipts and expenditures of program funds separately for each award?	☐	☐	
15	Will your accounting system provide for the recording of expenditures for each award by the budget cost categories shown in the approved budget?	☐	☐	
16	Does your agency have a review process for all expenditures that will ensure that all costs are reasonable, allowable and allocated correctly to each funding source? If Yes, in the comment section, please explain your current process for reviewing costs.	☐	☐	☐
17	How many total FTE perform accounting functions within your organization?	☐ ≥ 6	☐ 2 to 5	☐ < 2
IMPACT ASSESSMENT		Yes	No	N/A
18	For this upcoming federal award or in the immediate future, does your entity have any potential conflicts of interest* in accordance with applicable Federal awarding agency policy? If Yes, please disclose these conflicts in writing, along with supporting information, and submit with this form. (*Any practices, activities or relationships that reasonably appear to be in conflict with the full performance of the Subrecipient's obligations to the State.)	☐	☐	
19	For this award, has your entity disclosed to CDOT, in writing, violations of Federal criminal law involving fraud, bribery, or gratuity violations potentially affecting the award? Response options: YES = Check if have one or more violation(s) and have either disclosed previously to CDOT or as part of this form. In the comment section, list all violations with names of supporting documentation and submit with this form. NO = Check if have one or more violation(s) and have not disclosed previously or will not disclose as part of this form. Explain in the comment section. N/A = Check if have no violations.	☐	☐	☐
PROGRAM MANAGEMENT ASSESSMENT		Yes	No	N/A
20	Does your entity have a written process/procedure or certification statement approved by your governing board ensuring critical project personnel are capable of effectively managing Federal-aid projects? If Yes, please submit with this form.	☐	☐	☐
21	Does your entity have written procurement policies or certification statement for consultant selection approved by your governing board in compliance with 23 CFR 172*? If Yes, please submit with this form. (*The Brooks Act requires agencies to promote open competition by advertising, ranking, selecting, and negotiating contracts based on demonstrated competence and qualifications, at a fair and reasonable price.)	☐	☐	☐
22	a) Is your staff familiar with the relevant CDOT manuals and federal program requirements?	☐	☐	☐
	b) Does your entity have a written policy or a certification statement approved by your governing board assuring federal-aid projects will receive adequate inspections? If Yes, please submit with this form.	☐	☐	☐
	c) Does your entity have a written process or a certification statement approved by your governing board assuring a contractor's work will be completed in conformance with approved plans and specifications? If Yes, please submit with this form.	☐	☐	☐

d) Does your entity have a written policy or certification statement approved by your governing board assuring that materials installed on the projects are sampled and tested per approved processes. <i>If Yes, please submit with this form.</i>	☐	☐	☐
e) Does your entity have a written policy or certification statement approved by your governing board assuring that only US manufactured steel will be incorporated into the project (<i>Buy America requirements</i>)? <i>If Yes, please submit with this form.</i>	☐	☐	☐
Comments - As needed, include the question number and provide comments related to the above questions. Insert additional rows as needed.			
☐ By checking this box, the Executive Director, VP or Chief Financial Officer of this entity certifies that all information provided on this form is true and correct.  Tool Version: v2.0 (081816)			

**EXHIBIT M - OMB Uniform Guidance for Federal
Awards Subject to
The Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit
Requirements for Federal Awards (“Uniform Guidance”),
Federal Register, Vol. 78, No. 248, 78590**

The agreement to which these Uniform Guidance Supplemental Provisions are attached has been funded, in whole or in part, with an award of Federal funds. In the event of a conflict between the provisions of these Supplemental Provisions, the Special Provisions, the agreement or any attachments or exhibits incorporated into and made a part of the agreement, the provisions of these Uniform Guidance Supplemental Provisions shall control. In the event of a conflict between the provisions of these Supplemental Provisions and the FFATA Supplemental Provisions, the FFATA Supplemental Provisions shall control.

- 9. Definitions.** For the purposes of these Supplemental Provisions, the following terms shall have the meanings ascribed to them below.
- 9.1. “Award”** means an award by a Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Award unless the terms and conditions of the Federal Award specifically indicate otherwise. 2 CFR §200.38
 - 9.2. “Federal Award”** means an award of Federal financial assistance or a cost-reimbursement contract under the Federal Acquisition Requirements by a Federal Awarding Agency to a Recipient. “Federal Award” also means an agreement setting forth the terms and conditions of the Federal Award. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.
 - 9.3. “Federal Awarding Agency”** means a Federal agency providing a Federal Award to a Recipient. 2CFR §200.37
 - 9.4. “FFATA”** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252.
 - 9.5. “Grant” or “Grant Agreement”** means an agreement setting forth the terms and conditions of an Award. The term does not include an agreement that provides only direct Federal cash assistance to an individual, a subsidy, a loan, a loan guarantee, insurance, or acquires property or services for the direct benefit of use of the Federal Awarding Agency or Recipient. 2 CFR §200.51.
 - 9.6. “OMB”** means the Executive Office of the President, Office of Management and Budget.
 - 9.7. “Recipient”** means a Colorado State department, agency or institution of higher education that receives a Federal Award from a Federal Awarding Agency to carry out an activity under a Federal program. The term does not include Subrecipients. 2 CFR §200.86
 - 9.8. “State”** means the State of Colorado, acting by and through its departments, agencies and institutions of higher education.
 - 9.9. “Subrecipient”** means a non-Federal entity receiving an Award from a Recipient to carry out part of a Federal program. The term does not include an individual who is a beneficiary of such program.
 - 9.10. “Uniform Guidance”** means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, which supersedes requirements from OMB Circulars A-21, A-87, A-110, and A-122, OMB Circulars A-89, A-102, and A- 133, and the guidance in Circular A-50 on Single Audit Act follow-up. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.
 - 9.11. “Uniform Guidance Supplemental Provisions”** means these Supplemental Provisions for Federal Awards subject to the OMB Uniform Guidance, as may be revised pursuant to ongoing guidance from relevant Federal agencies or the Colorado State Controller.
- 10. Compliance.** Subrecipient shall comply with all applicable provisions of the Uniform Guidance, including but not limited to these Uniform Guidance Supplemental Provisions. Any revisions to such provisions

automatically shall become a part of these Supplemental Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Subrecipient of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.

11. Procurement Standards.

- 3.1 Procurement Procedures.** Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, §§200.318 through 200.326 thereof.
- 3.2 Procurement of Recovered Materials.** If Subrecipient is a State Agency or an agency of a political subdivision of a state, its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.
- 4. Access to Records.** Subrecipient shall permit Recipient and auditors to have access to Subrecipient's records and financial statements as necessary for Recipient to meet the requirements of §200.331 (Requirements for pass-through entities), §§200.300 (Statutory and national policy requirements) through 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance. 2 CFR §200.331(a)(5).
- 5. Single Audit Requirements.** If Subrecipient expends \$750,000 or more in Federal Awards during Subrecipient's fiscal year, Subrecipient shall procure or arrange for a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F-Audit Requirements of the Uniform Guidance, issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). 2 CFR §200.501.
 - 5.1 Election.** Subrecipient shall have a single audit conducted in accordance with Uniform Guidance §200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with §200.507 (Program-specific audits). Subrecipient may elect to have a program-specific audit if Subrecipient expends Federal Awards under only one Federal program (excluding research and development) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.
 - 5.2 Exemption.** If Subrecipient expends less than \$750,000 in Federal Awards during its fiscal year, Subrecipient shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR §200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the State, and the Government Accountability Office.
 - 5.3 Subrecipient Compliance Responsibility.** Subrecipient shall procure or otherwise arrange for the audit required by Part F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. Subrecipient shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with Uniform Guidance §200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Part F-Audit Requirements.
- 6. Contract Provisions for Subrecipient Contracts.** Subrecipient shall comply with and shall include all of the following applicable provisions in all subcontracts entered into by it pursuant to this Grant Agreement.

- 6.1 Equal Employment Opportunity.** Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 shall include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

“During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided by the agency contracting officer, advising the labor union or workers' representative of the contractor's commitments under section 202 of Executive Order 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the contracting agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's non-compliance with the nondiscrimination clauses of this contract or with any of such rules, regulations, or orders, this contract may be canceled, terminated or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as may be directed by the Secretary of Labor as a means of enforcing such provisions including sanctions for noncompliance: *Provided, however*, that in the event the contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction, the contractor may request the United States to enter into such litigation to protect the interests of the United States.”

- 4.2 Davis-Bacon Act.** Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-

3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or Subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled.

The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

- 4.3 Rights to Inventions Made Under a Contract or Agreement.** If the Federal Award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and Subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” Subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.
 - 4.4 Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended.** Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
 - 4.5 Debarment and Suspension (Executive Orders 12549 and 12689).** A contract award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
 - 4.6 Byrd Anti-Lobbying Amendment (31 U.S.C. 1352).** Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- 7. Certifications.** Unless prohibited by Federal statutes or regulations, Recipient may require Subrecipient to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR §200.208. Submission may be required more frequently if Subrecipient fails to meet a requirement of the Federal award. Subrecipient shall certify in writing to the State at the end of the Award that the project or activity was completed or the level of effort was expended. 2 CFR §200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.
- 1. 8.Event of Default.** Failure to comply with these Uniform Guidance Supplemental Provisions shall constitute an event of default under the Grant Agreement (2 CFR §200.339) and the State may terminate the Grant upon 30

days prior written notice if the default remains uncured five calendar days following the termination of the 30 day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Grant, at law or in equity.

9. **Effective Date.** The effective date of the Uniform Guidance is December 26, 2013. 2 CFR §200.110. The procurement standards set forth in Uniform Guidance §§200.317-200.326 are applicable to new Awards made by Recipient as of December 26, 2015. The standards set forth in Uniform Guidance Subpart F-Audit Requirements are applicable to audits of fiscal years beginning on or after December 26, 2014.

10. **Performance Measurement**

The Uniform Guidance requires completion of OMB-approved standard information collection forms (the PPR). The form focuses on outcomes, as related to the Federal Award Performance Goals that awarding Federal agencies are required to detail in the Awards.

Section 200.301 provides guidance to Federal agencies to measure performance in a way that will help the Federal awarding agency and other non-Federal entities to improve program outcomes.

The Federal awarding agency is required to provide recipients with clear performance goals, indicators, and milestones (200.210). Also, must require the recipient to relate financial data to performance accomplishments of the Federal award.

Exhibit N

Federal Treasury Provisions

1. APPLICABILITY OF PROVISIONS.

- 1.1. The Grant to which these Federal Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Federal Provisions, the Special Provisions, the body of the Grant, or any attachments or exhibits incorporated into and made a part of the Grant, the provisions of these Federal Provisions shall control.
- 1.2. The State of Colorado is accountable to Treasury for oversight of their subrecipients, including ensuring their subrecipients comply with the SLFRF statute, SLFRF Award Terms and Conditions, Treasury's Final Rule, and reporting requirements, as applicable.
- 1.3. Additionally, any subrecipient that issues a subaward to another entity (2nd tier subrecipient), must hold the 2nd tier subrecipient accountable to these provisions and adhere to reporting requirements.
- 1.4. These Federal Provisions are subject to the Award as defined in §2 of these Federal Provisions, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institutions of higher education.

2. DEFINITIONS.

- 2.1. For the purposes of these Federal Provisions, the following terms shall have the meanings ascribed to them below.
 - 2.1.1. "Award" means an award of Federal financial assistance, and the Grant setting forth the terms and conditions of that financial assistance, that a non-Federal Entity receives or administers.
 - 2.1.2. "Data Universal Numbering System (DUNS) Number" means the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify a business entity. Dun and Bradstreet's website may be found at: <http://fedgov.dnb.com/webform>.
 - 2.1.3. "Entity" means:
 - 2.1.3.1. a Non-Federal Entity;
 - 2.1.3.2. a foreign public entity;
 - 2.1.3.3. a foreign organization;
 - 2.1.3.4. a non-profit organization;
 - 2.1.3.5. a domestic for-profit organization (for 2 CFR parts 25 and 170 only);
 - 2.1.3.6. a foreign non-profit organization (only for 2 CFR part 170) only;

- 2.1.3.7. a Federal agency, but only as a Subrecipient under an Award or Subaward to a non-Federal entity (or 2 CFR 200.1); or
- 2.1.3.8. a foreign for-profit organization (for 2 CFR part 170 only).
- 2.1.4. “Executive” means an officer, managing partner or any other employee in a management position.
- 2.1.5. “Expenditure Category (EC)” means the category of eligible uses as defined by the US Department of Treasury in “Appendix 1 of the Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds” report available at www.treasury.gov.
- 2.1.6. “Federal Awarding Agency” means a Federal agency providing a Federal Award to a Recipient as described in 2 CFR 200.1
- 2.1.7. “Grant” means the Grant to which these Federal Provisions are attached.
- 2.1.8. “Grantee” means the party or parties identified as such in the Grant to which these Federal Provisions are attached.
- 2.1.9. “Non-Federal Entity means a State, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a Federal Award as a Recipient or a Subrecipient.
- 2.1.10. “Nonprofit Organization” means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:
 - 2.1.10.1. Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
 - 2.1.10.2. Is not organized primarily for profit; and
 - 2.1.10.3. Uses net proceeds to maintain, improve, or expand the operations of the organization.
- 2.1.11. “OMB” means the Executive Office of the President, Office of Management and Budget.
- 2.1.12. “Pass-through Entity” means a non-Federal Entity that provides a Subaward to a Subrecipient to carry out part of a Federal program.
- 2.1.13. “Prime Recipient” means the Colorado State agency or institution of higher education identified as the Grantor in the Grant to which these Federal Provisions are attached.
- 2.1.14. “Subaward” means an award by a Prime Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Subaward unless the terms and conditions of the Federal Award specifically indicate otherwise in accordance with 2 CFR 200.101. The term does not include payments to a Contractor or payments to an individual that is a beneficiary of a Federal program.

- 2.1.15. “Subrecipient” or “Subgrantee” means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term does not include an individual who is a beneficiary of a federal program.
- 2.1.16. “System for Award Management (SAM)” means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>. “Total Compensation” means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year (see 48 CFR 52.204-10, as prescribed in 48 CFR 4.1403(a)) and includes the following:
- 2.1.16.1. Salary and bonus;
 - 2.1.16.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;
 - 2.1.16.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;
 - 2.1.16.4. Change in present value of defined benefit and actuarial pension plans;
 - 2.1.16.5. Above-market earnings on deferred compensation which is not tax-qualified;
 - 2.1.16.6. Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.
- 2.1.17. “Transparency Act” means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252.
- 2.1.18. “Uniform Guidance” means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.

3. COMPLIANCE.

- 3.1. Grantee shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, all applicable provisions of the Uniform Guidance, and all applicable Federal Laws and regulations required by this Federal Award. Any revisions to such provisions or regulations shall automatically become a part of these Federal Provisions, without the necessity of either party executing any further instrument. The State of Colorado, at its discretion, may provide written notification to Grantee of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.
- 3.2. Per US Treasury Final Award requirements, grantee programs or services must not include a term or conditions that undermines efforts to stop COVID-19 or discourages compliance with recommendations and CDC guidelines.

4. SYSTEM FOR AWARD MANAGEMENT (SAM) AND DATA UNIVERSAL NUMBERING SYSTEM (DUNS) REQUIREMENTS.

- 4.1. SAM. Grantee shall maintain the currency of its information in SAM until the Grantee submits the final financial report required under the Award or receives final payment, whichever is later. Grantee shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.
- 4.2. DUNS. Grantee shall provide its DUNS number to its Prime Recipient, and shall update Grantee's information in Dun & Bradstreet, Inc. at least annually after the initial registration, and more frequently if required by changes in Grantee's information.

5. TOTAL COMPENSATION.

- 5.1. Grantee shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:
 - 5.1.1. The total Federal funding authorized to date under the Award is \$30,000 or more; and
 - 5.1.2. In the preceding fiscal year, Grantee received:
 - 5.1.2.1. 80% or more of its annual gross revenues from Federal procurement Agreements and Subcontractors and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 5.1.2.2. \$30,000,000 or more in annual gross revenues from Federal procurement Agreements and Subcontractors and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 5.1.2.3. 5.1.2.3 The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.

6. REPORTING.

- 6.1. If Grantee is a Subrecipient of the Award pursuant to the Transparency Act, Grantee shall report data elements to SAM and to the Prime Recipient as required in this Exhibit. No direct payment shall be made to Grantee for providing any reports required under these Federal Provisions and the cost of producing such reports shall be included in the Grant price. The reporting requirements in this Exhibit are based on guidance from the OMB, and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Grant and shall become part of Grantee's obligations under this Grant.

7. EFFECTIVE DATE AND DOLLAR THRESHOLD FOR FEDERAL REPORTING.

- 7.1. Reporting requirements in §8 below apply to new Awards as of October 1, 2010, if the initial award is \$30,000 or more. If the initial Award is below \$30,000 but subsequent Award modifications result in a total Award of \$30,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$30,000. If the initial Award is \$30,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$30,000, the Award shall continue to be subject to the reporting requirements. If the total award is below \$30,000 no reporting required; if more than \$30,000 and less than \$50,000 then FFATA reporting is required; and, \$50,000 and above SLFRF reporting is required.
- 7.2. The procurement standards in §9 below are applicable to new Awards made by Prime Recipient as of December 26, 2015. The standards set forth in §11 below are applicable to audits of fiscal years beginning on or after December 26, 2014.

8. SUBRECIPIENT REPORTING REQUIREMENTS.

- 8.1. Grantee shall report as set forth below.
- 8.1.1. Grantee shall use the SLFRF Subrecipient Quarterly Report Workbook as referenced in Exhibit P to report to the State Agency within ten (10) days following each quarter ended September, December, March and June. Additional information on specific requirements are detailed in the SLFRF Subrecipient Quarterly Report Workbooks and "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov.

EC 1 – Public Health

All Public Health Projects

- a) Description of structure and objectives
- b) Description of relation to COVID-19
- c) Identification of impacted and/or disproportionately impacted communities
- d) Capital Expenditures
 - i. Presence of capital expenditure in project
 - ii. Total projected capital expenditure
 - iii. Type of capital expenditure
 - iv. Written justification

- v. Labor reporting

COVID-19 Interventions and Mental Health (1.4, 1.11, 1.12, 1.13)

- a) Amount of total project used for evidence-based programs
- b) Evaluation plan description

COVID-19 Small Business Economic Assistance (1.8)

- a) Number of small businesses served

COVID-19 Assistance to Non-Profits (1.9)

- a) Number of non-profits served

COVID-19 Aid to Travel, Tourism, and Hospitality or Other Impacted Industries (1.10)

- a) Sector of employer
- b) Purpose of funds

EC 2 – Negative Economic Impacts

All Negative Economic Impacts Projects

- a) Description of project structure and objectives
- b) Description of project's response to COVID-19
- c) Identification of impacted and/or disproportionately impacted communities
- d) Amount of total project used for evidence-based programs and description of evaluation plan (*not required for 2.5, 2.8, 2.21-2.24, 2.27-2.29, 2.31, 2.34-2.36*)
- e) Number of workers enrolled in sectoral job training programs
- f) Number of workers completing sectoral job training programs
- g) Number of people participating in summer youth employment programs
- h) Capital Expenditures
 - i. Presence of capital expenditure in project
 - ii. Total projected capital expenditure
 - iii. Type of capital expenditure
 - iv. Written justification
 - v. Labor reporting

Household Assistance (2.1-2.8)

- a) Number of households served
- b) Number of people or households receiving eviction prevention services (2.2 & 2.5 only) (*Federal guidance may change this requirement in July 2022*)
- c) Number of affordable housing units preserved or developed (2.2 & 2.5 only) (*Federal guidance may change this requirement in July 2022*)

Healthy Childhood Environments (2.11-2.13)

- a) Number of children served by childcare and early learning (*Federal guidance may change this requirement in July 2022*)
- b) Number of families served by home visiting (*Federal guidance may change this requirement in July 2022*)

Education Assistance (2.14, 2.24-2.27)

- a) National Center for Education Statistics (“NCES”) School ID or NCES District ID
- b) Number of students participating in evidence-based programs (*Federal guidance may change this requirement in July 2022*)

Housing Support (2.15, 2.16, 2.18)

- a) Number of people or households receiving eviction prevention services (*Federal guidance may change this requirement in July 2022*)
- b) Number of affordable housing units preserved or developed (*Federal guidance may change this requirement in July 2022*)

Small Business Economic Assistance (2.29-2.33)

- a) Number of small businesses served

Assistance to Non-Profits (2.34)

- a) Number of non-profits served

Aid to Travel, Tourism, and Hospitality or Other Impacted Industries (2.35-2.36)

- a) Sector of employer
- b) Purpose of funds
- c) If other than travel, tourism and hospitality (2.36) – description of hardship

EC 3 – Public Health – Negative Economic Impact: Public Sector Capacity

Payroll for Public Health and Safety Employees (EC 3.1)

- a) Number of government FTEs responding to COVID-19

Rehiring Public Sector Staff (EC 3.2)

- a) Number of FTEs rehired by governments

EC 4 – Premium Pay

All Premium Pay Projects

- a) List of sectors designated as critical by the chief executive of the jurisdiction, if beyond those listed in the final rule
- b) Numbers of workers served
- c) Employer sector for all subawards to third-party employers
- d) Written narrative justification of how premium pay is responsive to essential work during the public health emergency for non-exempt workers or those making over 150 percent of the state/county’s average annual wage
- e) Number of workers to be served with premium pay in K-12 schools

EC 5 – Infrastructure Projects

All Infrastructure Projects

- a) Projected/actual construction start date (month/year)
- b) Projected/actual initiation of operations date (month/year)
- c) Location (for broadband, geospatial data of locations to be served)
- d) Projects over \$10 million
 - i. Prevailing wage certification or detailed project employment and local impact report

- ii. Project labor agreement certification or project workforce continuity plan
- iii. Prioritization of local hires
- iv. Community benefit agreement description, if applicable

Water and sewer projects (EC 5.1-5.18)

- a) National Pollutant Discharge Elimination System (NPDES) Permit Number (if applicable; for projects aligned with the Clean Water State Revolving Fund)
- b) Public Water System (PWS) ID number (if applicable; for projects aligned with the Drinking Water State Revolving Fund)
- c) Median Household Income of service area
- d) Lowest Quintile Income of the service area

Broadband projects (EC 5.19-5.21)

- a) Confirm that the project is designed to, upon completion, reliably meet or exceed symmetrical 100 Mbps download and upload speeds.
 - i. If the project is not designed to reliably meet or exceed symmetrical 100 Mbps download and upload speeds, explain why not, and
 - ii. Confirm that the project is designed to, upon completion, meet or exceed 100 Mbps download speed and between at least 20 Mbps and 100 Mbps upload speed, and be scalable to a minimum of 100 Mbps download speed and 100 Mbps upload speed.
- b) Additional programmatic data will be required for broadband projects and will be defined in a subsequent version of the US Treasury Reporting Guidance, including, but not limited to (*Federal guidance may change this requirement in July 2022*):
 - i. Number of households (broken out by households on Tribal lands and those not on Tribal lands) that have gained increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, with the number of households with access to minimum speed standard of reliable 100 Mbps symmetrical upload and download and number of households with access to minimum speed standard of reliable 100 Mbps download and 20 Mbps upload
 - ii. Number of institutions and businesses (broken out by institutions on Tribal lands and those not on Tribal lands) that have projected increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, in each of the following categories: business, small business, elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization, with the number of each type of institution with access to the minimum

- speed standard of reliable 100 Mbps symmetrical upload and download; and number of each type of institution with access to the minimum speed standard of reliable 100 Mbps download and 20 Mbps upload.
- iii. Narrative identifying speeds/pricing tiers to be offered, including the speed/pricing of its affordability offering, technology to be deployed, miles of fiber, cost per mile, cost per passing, number of households (broken out by households on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, number of households with access to minimum speed standard of reliable 100 Mbps symmetrical upload and download, number of households with access to minimum speed standard of reliable 100 Mbps download and 20 Mbps upload, and number of institutions and businesses (broken out by institutions on Tribal lands and those not on Tribal lands) projected to have increased access to broadband meeting the minimum speed standards in areas that previously lacked access to service of at least 25 Mbps download and 3 Mbps upload, in each of the following categories: business, small business, elementary school, secondary school, higher education institution, library, healthcare facility, and public safety organization. Specify the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps symmetrical upload and download; and the number of each type of institution with access to the minimum speed standard of reliable 100 Mbps download and 20 Mbps upload.

All Expenditure Categories

- a) Program income earned and expended to cover eligible project costs

8.1.2. A Subrecipient shall report the following data elements to Prime Recipient no later than five days after the end of the month following the month in which the Subaward was made.

- 8.1.2.1. Subrecipient DUNS Number;
- 8.1.2.2. Subrecipient DUNS Number if more than one electronic funds transfer (EFT) account;
- 8.1.2.3. Subrecipient parent's organization DUNS Number;
- 8.1.2.4. Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;
- 8.1.2.5. Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and

- 8.1.2.6. Subrecipient's Total Compensation of top 5 most highly compensated Executives if the criteria in §4 above met.
- 8.1.3. To Prime Recipient. A Subrecipient shall report to its Prime Recipient, the following data elements:
 - 8.1.3.1. Subrecipient's DUNS Number as registered in SAM.
 - 8.1.3.2. Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.
 - 8.1.3.3. Narrative identifying methodology for serving disadvantaged communities. See the "Project Demographic Distribution" section in the "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov. This requirement is applicable to all projects in Expenditure Categories 1 and 2.
 - 8.1.3.4. Narrative identifying funds allocated towards evidenced-based interventions and the evidence base. See the "Use of Evidence" section in the "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov. See section 8.1.1 for relevant Expenditure Categories.
 - 8.1.3.5. Narrative describing the structure and objectives of the assistance program and in what manner the aid responds to the public health and negative economic impacts of COVID-19. This requirement is applicable to Expenditure Categories 1 and 2. For aid to travel, tourism, and hospitality or other impacted industries (EC 2.11-2.12), also provide the sector of employer, purpose of funds, and if not travel, tourism and hospitality a description of the pandemic impact on the industry.
 - 8.1.3.6. Narrative identifying the sector served and designated as critical to the health and well-being of residents by the chief executive of the jurisdiction and the number of workers expected to be served. For groups of workers (e.g., an operating unit, a classification of worker, etc.) or, to the extent applicable, individual workers, other than those where the eligible worker receiving premium pay is earning (with the premium pay included) below 150 percent of their residing state or county's average annual wage for all occupations, as defined by the Bureau of Labor Statistics Occupational Employment and Wage Statistics, whichever is higher, OR the eligible worker receiving premium pay is not exempt from the Fair Labor Standards Act overtime provisions, include justification of how the premium pay or grant is responsive to workers performing essential work during the public health emergency. This could include a description of the essential workers' duties, health or financial risks faced due to COVID-19 but should not include personally identifiable information. This requirement applies to EC 4.1, and 4.2.
 - 8.1.3.7. For infrastructure projects (EC 5), or capital expenditures in any expenditure category, narrative identifying the projected construction start date (month/year), projected initiation of operations date (month/year), and

location (for broadband, geospatial location data). For projects over \$10 million:

- 8.1.3.8. Certification that all laborers and mechanics employed by Contractors and Subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act"), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the Agreement work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate State entity pursuant to a corollary State prevailing-wage-in-construction law (commonly known as "baby Davis-Bacon Acts"). If such certification is not provided, a recipient must provide a project employment and local impact report detailing (1) the number of employees of Contractors and sub-contractors working on the project; (2) the number of employees on the project hired directly and hired through a third party; (3) the wages and benefits of workers on the project by classification; and (4) whether those wages are at rates less than those prevailing. Recipients must maintain sufficient records to substantiate this information upon request.
- 8.1.3.8.1. A Subrecipient may provide a certification that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)). If the recipient does not provide such certification, the recipient must provide a project workforce continuity plan, detailing: (1) how the Subrecipient will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project; (2) how the Subrecipient will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project; and (3) how the Subrecipient will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities; (4) whether workers on the project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market; and (5) whether the project has completed a project labor agreement.
- 8.1.3.8.2. Whether the project prioritizes local hires.
- 8.1.3.8.3. Whether the project has a Community Benefit Agreement, with a description of any such agreement.
- 8.1.4. Subrecipient also agrees to comply with any reporting requirements established by the US Treasury, Governor's Office and Office of the State Controller. The State of Colorado may need additional reporting requirements after this agreement is executed. If there are additional reporting requirements, the State will provide notice of such additional reporting requirements via Exhibit Q – SLFRF Reporting Modification Form.

9. PROCUREMENT STANDARDS.

- 9.1. Procurement Procedures. A Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and applicable regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, 2 CFR 200.318 through 200.327 thereof.
- 9.2. Domestic preference for procurements (2 CFR 200.322). As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all Agreements and purchase orders for work or products under this award.
- 9.3. Procurement of Recovered Materials. If a Subrecipient is a State Agency or an agency of a political subdivision of the State, its Contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247, that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

10. ACCESS TO RECORDS.

- 10.1. A Subrecipient shall permit Prime Recipient and its auditors to have access to Subrecipient's records and financial statements as necessary for Recipient to meet the requirements of 2 CFR 200.332 (Requirements for pass-through entities), 2 CFR 200.300 (Statutory and national policy requirements) through 2 CFR 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance.

11. SINGLE AUDIT REQUIREMENTS.

- 11.1. If a Subrecipient expends \$750,000 or more in Federal Awards during the Subrecipient's fiscal year, the Subrecipient shall procure or arrange for a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F-Audit Requirements of the Uniform Guidance, issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). 2 CFR 200.501.

- 11.1.1. Election. A Subrecipient shall have a single audit conducted in accordance with Uniform Guidance 2 CFR 200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with 2 CFR 200.507 (Program-specific audits). The Subrecipient may elect to have a program-specific audit if Subrecipient expends Federal Awards under only one Federal program (excluding research and development) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Prime Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.
- 11.1.2. Exemption. If a Subrecipient expends less than \$750,000 in Federal Awards during its fiscal year, the Subrecipient shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR 200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the State, and the Government Accountability Office.
- 11.1.3. Subrecipient Compliance Responsibility. A Subrecipient shall procure or otherwise arrange for the audit required by Subpart F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. Subrecipient shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with 2 CFR 200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Subpart F-Audit Requirements.

12. GRANT PROVISIONS FOR SUBRECIPIENT AGREEMENTS.

- 12.1. In addition to other provisions required by the Federal Awarding Agency or the Prime Recipient, Grantees that are Subrecipients shall comply with the following provisions. Subrecipients shall include all of the following applicable provisions in all Subcontractors entered into by it pursuant to this Grant.
 - 12.1.1. [Applicable to federally assisted construction Agreements.] Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all Agreements that meet the definition of "federally assisted construction Agreement" in 41 CFR Part 60-1.3 shall include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, Office of Federal Agreement Compliance Programs, Equal Employment Opportunity, Department of Labor.
 - 12.1.2. [Applicable to on-site employees working on government-funded construction, alteration and repair projects.] Davis-Bacon Act. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).

- 12.1.3. Rights to Inventions Made Under a grant or agreement. If the Federal Award meets the definition of “funding agreement” under 37 CFR 401.2 (a) and the Prime Recipient or Subrecipient wishes to enter into an Agreement with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the Prime Recipient or Subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Agreements and Cooperative Agreements,” and any implementing regulations issued by the Federal Awarding Agency.
- 12.1.4. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended. Agreements and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal awardees to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Awarding Agency and the Regional Office of the Environmental Protection Agency (EPA).
- 12.1.5. Debarment and Suspension (Executive Orders 12549 and 12689). A Agreement award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in SAM, in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- 12.1.6. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal Agreement, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- 12.1.7. Never Agreement with the enemy (2 CFR 200.215). Federal awarding agencies and recipients are subject to the regulations implementing “Never Agreement with the enemy” in 2 CFR part 183. The regulations in 2 CFR part 183 affect covered Agreements, grants and cooperative agreements that are expected to exceed \$50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

12.1.8. Prohibition on certain telecommunications and video surveillance services or equipment (2 CFR 200.216). Grantee is prohibited from obligating or expending loan or grant funds on certain telecommunications and video surveillance services or equipment pursuant to 2 CFR 200.216.

12.1.9. Title VI of the Civil Rights Act. The Subgrantee, Contractor, Subcontractor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S. C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CRF Part 22, and herein incorporated by reference and made part of this Agreement or agreement.

13. CERTIFICATIONS.

13.1. Subrecipient Certification. Subrecipient shall sign a "State of Colorado Agreement with Recipient of Federal Recovery Funds" Certification Form in Exhibit O and submit to State Agency with signed grant agreement.

13.2. Unless prohibited by Federal statutes or regulations, Prime Recipient may require Subrecipient to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR 200.208. Submission may be required more frequently if Subrecipient fails to meet a requirement of the Federal award. Subrecipient shall certify in writing to the State at the end of the Award that the project or activity was completed or the level of effort was expended. 2 CFR 200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.

14. EXEMPTIONS.

14.1. These Federal Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.

14.2. A Grantee with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.

15. EVENT OF DEFAULT AND TERMINATION.

15.1. Failure to comply with these Federal Provisions shall constitute an event of default under the Grant and the State of Colorado may terminate the Grant upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30-day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Grant, at law or in equity.

15.2. Termination (2 CFR 200.340). The Federal Award may be terminated in whole or in part as follows:

- 15.2.1. By the Federal Awarding Agency or Pass-through Entity, if a Non-Federal Entity fails to comply with the terms and conditions of a Federal Award;
- 15.2.2. By the Federal awarding agency or Pass-through Entity, to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities;
- 15.2.3. By the Federal awarding agency or Pass-through Entity with the consent of the Non-Federal Entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;
- 15.2.4. By the Non-Federal Entity upon sending to the Federal Awarding Agency or Pass-through Entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal Awarding Agency or Pass-through Entity determines in the case of partial termination that the reduced or modified portion of the Federal Award or Subaward will not accomplish the purposes for which the Federal Award was made, the Federal Awarding Agency or Pass-through Entity may terminate the Federal Award in its entirety; or

By the Federal Awarding Agency or Pass-through Entity pursuant to termination provisions included in the Federal Award.

EXHIBIT O

AGREEMENT WITH SUBSUBRECIPIENT OF FEDERAL RECOVERY FUNDS

Section 602(b) of the Social Security Act (the Act), as added by section 9901 of the American Rescue Plan Act (ARPA), Pub. L. No. 117-2 (March 11, 2021), authorizes the Department of the Treasury (Treasury) to make payments to certain Subrecipients from the Coronavirus State Fiscal Recovery Fund. The State of Colorado has signed and certified a separate agreement with Treasury as a condition of receiving such payments from the Treasury. This agreement is between your organization and the State and your organization is signing and certifying the same terms and conditions included in the State's separate agreement with Treasury. Your organization is referred to as a Subrecipient.

As a condition of your organization receiving federal recovery funds from the State, the authorized representative below hereby (i) certifies that your organization will carry out the activities listed in section 602(c) of the Act and (ii) agrees to the terms attached hereto. Your organization also agrees to use the federal recovery funds as specified in bills passed by the General Assembly and signed by the Governor.

Under penalty of perjury, the undersigned official certifies that the authorized representative has read and understood the organization's obligations in the Assurances of Compliance and Civil Rights Requirements, that any information submitted in conjunction with this assurances document is accurate and complete, and that the organization is in compliance with the nondiscrimination requirements.

Subrecipient Name _____

Authorized Representative: _____

Title: _____

Signature: _____

AGREEMENT WITH SUBRECIPIENT OF FEDERAL RECOVERY FUNDS
TERMS AND CONDITIONS

1. Use of Funds.
 - a. Subrecipient understands and agrees that the funds disbursed under this award may only be used in compliance with section 602(c) of the Social Security Act (the Act) and Treasury's regulations implementing that section and guidance.
 - b. Subrecipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.
2. Period of Performance. The period of performance for this award begins on the date hereof and ends on December 31, 2026. As set forth in Treasury's implementing regulations, Subrecipient may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021, and ends on December 31, 2024.
3. Reporting. Subrecipient agrees to comply with any reporting obligations established by Treasury as they relate to this award. Subrecipient also agrees to comply with any reporting requirements established by the Governor's Office and Office of the State Controller.
4. Maintenance of and Access to Records
 - a. Subrecipient shall maintain records and financial documents sufficient to evidence compliance with section 602(c), Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing.
 - b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Subrecipient in order to conduct audits or other investigations.
 - c. Records shall be maintained by Subrecipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.
5. Pre-award Costs. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.
6. Administrative Costs. Subrecipient may use funds provided under this award to cover both direct and indirect costs. Subrecipient shall follow guidance on administrative costs issued by the Governor's Office and Office of the State Controller.
7. Cost Sharing. Cost sharing or matching funds are not required to be provided by Subrecipient.
8. Conflicts of Interest. The State of Colorado understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy

is applicable to each activity funded under this award. Subrecipient and Contractors must disclose in writing to the Office of the State Controller or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.112. The Office of the State Controller shall disclose such conflict to Treasury.

9. Compliance with Applicable Law and Regulations.

a. Subrecipient agrees to comply with the requirements of section 602 of the Act, regulations adopted by Treasury pursuant to section 602(f) of the Act, and guidance issued by Treasury regarding the foregoing. Subrecipient also agrees to comply with all other applicable federal statutes, regulations, and executive orders, and Subrecipient shall provide for such compliance by other parties in any agreements it enters into with other parties relating to this award.

b. Federal regulations applicable to this award include, without limitation, the following:

- i. Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 C.F.R. Part 200, other than such provisions as Treasury may determine are inapplicable to this Award and subject to such exceptions as may be otherwise provided by Treasury. Subpart F – Audit Requirements of the Uniform Guidance, implementing the Single Audit Act, shall apply to this award.
- ii. Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.
- iii. Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.
- iv. OMB Guidelines to Agencies on Government wide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (Agreements and Subcontractors described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.
 - i. Subrecipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.
 - ii. Government wide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.
 - iii. New Restrictions on Lobbying, 31 C.F.R. Part 21.
 - iv. Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.

- v. Generally applicable federal environmental laws and regulations.
- c. Statutes and regulations prohibiting discrimination applicable to this award include, without limitation, the following:
- i. Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance;
 - ii. The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability;
 - iii. Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance;
 - iv. The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance; and
 - v. Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.
10. Remedial Actions. In the event of Subrecipient's noncompliance with section 602 of the Act, other applicable laws, Treasury's implementing regulations, guidance, or any reporting or other program requirements, Treasury may impose additional conditions on the receipt of a subsequent tranche of future award funds, if any, or take other available remedies as set forth in 2 C.F.R. § 200.339. In the case of a violation of section 602(c) of the Act regarding the use of funds, previous payments shall be subject to recoupment as provided in section 602(e) of the Act and any additional payments may be subject to withholding as provided in sections 602(b)(6)(A)(ii)(III) of the Act, as applicable.
11. Hatch Act. Subrecipient agrees to comply, as applicable, with requirements of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328), which limit certain political activities of State or local government employees whose principal employment is in connection with an activity financed in whole or in part by this federal assistance.
12. False Statements. Subrecipient understands that making false statements or claims in connection with this award is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or Agreements, and/or any other remedy available by law.

13. Publications. Any publications produced with funds from this award must display the following language: “This project [is being] [was] supported, in whole or in part, by federal award number SLFRF0126 awarded to the State of Colorado by the U.S. Department of the Treasury.”

14. Debts Owed the Federal Government.

- a. Any funds paid to the Subrecipient (1) in excess of the amount to which the Subrecipient is finally determined to be authorized to retain under the terms of this award; (2) that are determined by the Treasury Office of Inspector General to have been misused; or (3) that are determined by Treasury to be subject to a repayment obligation pursuant to sections 602(e) and 603(b)(2)(D) of the Act and have not been repaid by the Subrecipient shall constitute a debt to the federal government.
- b. Any debts determined to be owed to the federal government must be paid promptly by Subrecipient. A debt is delinquent if it has not been paid by the date specified in Treasury’s initial written demand for payment, unless other satisfactory arrangements have been made or if the Subrecipient knowingly or improperly retains funds that are a debt as defined in paragraph 14(a). Treasury will take any actions available to it to collect such a debt.

15. Disclaimer.

- a. The United States expressly disclaims any and all responsibility or liability to Subrecipient or third persons for the actions of Subrecipient or third persons resulting in death, bodily injury, property damages, or any other losses resulting in any way from the performance of this award or any other losses resulting in any way from the performance of this award or any Agreement, or Subcontractor under this award.
- b. The acceptance of this award by Subrecipient does not in any way establish an agency relationship between the United States and Subrecipient.

16. Protections for Whistleblowers.

- a. In accordance with 41 U.S.C. § 4712, Subrecipient may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal Agreement or grant, a gross waste of federal funds, an abuse of authority relating to a federal Agreement or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal Agreement (including the competition for or negotiation of an Agreement) or grant.
- b. The list of persons and entities referenced in the paragraph above includes the following:
 - i. A member of Congress or a representative of a committee of Congress;
 - ii. An Inspector General;

- iii. The Government Accountability Office;
- iv. A Treasury employee responsible for Agreement or grant oversight or management;
- v. An authorized official of the Department of Justice or other law enforcement agency;
- vi. A court or grand jury; or
- vii. A management official or other employee of Subrecipient, Contractor, or Subcontractor who has the responsibility to investigate, discover, or address misconduct.

c. Subrecipient shall inform its employees in writing of the rights and remedies provided under this section, in the predominant native language of the workforce.

17. Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Subrecipient should encourage its Contractors to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles.

1. Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Subrecipient should encourage its employees, Subrecipients, and Contractorsto adopt and enforce policies that ban text messaging while driving, and Subrecipient should establish workplace safety policies to decrease accidents caused by distracted drivers.

ASSURANCES OF COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS

ASSURANCES OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

As a condition of receipt of federal financial assistance from the Department of the Treasury, the Subrecipient provides the assurances stated herein. The federal financial assistance may include federal grants, loans and Agreements to provide assistance to the Subrecipient's beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass Agreements of guarantee or insurance, regulated programs, licenses, procurement Agreements by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Subrecipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Subrecipient's program(s) and activity(ies), so long as any portion of the Subrecipient's program(s) or activity(ies) is federally assisted in the manner prescribed above.

1. Subrecipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d *et seq.*), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
2. Subrecipient acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Subrecipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Subrecipient shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Subrecipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Subrecipient's programs, services, and activities.
3. Subrecipient agrees to consider the need for language services for LEP persons when Subrecipient develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.

4. Subrecipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Subrecipient and Subrecipient's successors, transferees, and assignees for the period in which such assistance is provided.
5. Subrecipient acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every Agreement or agreement subject to Title VI and its regulations between the Subrecipient and the Subrecipient's sub-grantees, Contractors, Subcontractors, successors, transferees, and assignees:

The sub-grantee, Contractor, Subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits Subrecipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this Agreement or agreement.

6. Subrecipient understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Subrecipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Subrecipient for the period during which it retains ownership or possession of the property.
7. Subrecipient shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Subrecipient shall comply with information requests, on-site compliance reviews and reporting requirements.
8. Subrecipient shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Subrecipient also must inform the Department of the Treasury if Subrecipient has received no complaints under Title VI.
9. Subrecipient must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other agreements between the Subrecipient and the administrative agency that made the finding. If the Subrecipient settles a case or matter alleging such discrimination, the Subrecipient must provide documentation of the settlement. If Subrecipient has not been the subject of any court or administrative agency finding of

discrimination, please so state.

10. If the Subrecipient makes sub-awards to other agencies or other entities, the Subrecipient is responsible for ensuring that sub-Subrecipients also comply with Title VI and other applicable authorities covered in this document. State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that they are effectively monitoring the civil rights compliance of sub- Subrecipients.

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

EXHIBIT P

SLFRF SUBRECIPIENT QUARTERLY REPORT

1. SLFRF SUBRECIPIENT QUARTERLY REPORT WORKBOOK

- 1.1 The SLFRF Subrecipient Quarterly Report Workbook must be submitted to the State Agency within ten (10) days following each quarter ended September, December, March and June. The SLFRF Subrecipient Quarterly Report Workbook can be found at:

<https://osc.colorado.gov/american-rescue-plan-act> (see SLFRF Grant Agreement Templates tab)

EXHIBIT Q

SAMPLE SLFRF REPORTING MODIFICATION FORM

Local Agency:			Agreement No:	
Project Title:			Project No:	
Project Duration:	To:		From:	
State Agency:	CDOT			

This form serves as notification that there has been a change to the reporting requirements set forth in the original SLFRF Grant Agreement.

The following reporting requirements have been (add/ remove additional rows as necessary):

Updated Reporting Requirement (Add/Delete/Modify)	Project Number	Reporting Requirement

By signing this form, the Local Agency agrees to and acknowledges the changes to the reporting requirements set forth in the original SLFRF Grant Agreement. All other terms and conditions of the original SLFRF Grant Agreement, with any approved modifications, remain in full force and effect. Grantee shall submit this form to the State Agency within 10 business days of the date sent by that Agency.

Local Agency

Date

CDOT Program Manager

Date

EXHIBIT R
APPLICABLE FEDERAL AWARDS

FEDERAL AWARD(S) APPLICABLE TO THIS GRANT AWARD

Federal Awarding Office	US Department of the Treasury
Grant Program	Coronavirus State and Local Fiscal Recovery Funds
Assistance Listing Number	21.027
Federal Award Number	SLFRP0126
Federal Award Date *	May 18, 2021
Federal Award End Date	December 31, 2024
Federal Statutory Authority	Title VI of the Social Security Act, Section 602
Total Amount of Federal Award (this is <u>not</u> the amount of this grant agreement)	\$3,828,761,790

* Funds may not be available through the Federal Award End Date subject to the provisions in §2 and §5 below.

EXHIBIT S

PII Certification

STATE OF COLORADO

LOCAL AGENCY CERTIFICATION FOR ACCESS TO PII THROUGH A DATABASE OR AUTOMATED NETWORK

Pursuant to § 24-74-105, C.R.S., I, _____, on behalf of _____ (legal name of Local Agency) (the “Local Agency”), hereby certify under the penalty of perjury that the Local Agency has not and will not use or disclose any Personal Identifying Information, as defined by § 24-74-102(1), C.R.S., for the purpose of investigating for, participating in, cooperating with, or assisting Federal Immigration Enforcement, including the enforcement of civil immigration laws, and the Illegal Immigration and Immigrant Responsibility Act, which is codified at 8 U.S.C. §§ 1325 and 1326, unless required to do so to comply with Federal or State law, or to comply with a court-issued subpoena, warrant or order.

I hereby represent and certify that I have full legal authority to execute this certification on behalf of the Local Agency.

Signature: _____

Printed Name: _____

Title: _____

Date: _____

EXHIBIT T

CHECKLIST OF REQUIRED EXHIBITS DEPENDENT ON FUNDING SOURCE

Checklist for required exhibits due to funding sources. Required Exhibits are dependent on the source of funding. This is a guide to assist in the incorporation and completion of Exhibits in relation to funding sources.

Exhibit	Funding only from FHWA	Funding only from ARPA	FHWA and ARPA Funding
EXHIBIT A, SCOPE OF WORK	✓	✓	✓
EXHIBIT B, SAMPLE OPTION LETTER	✓	✓	✓
EXHIBIT C, FUNDING PROVISIONS	✓	✓	✓
EXHIBIT D, LOCAL AGENCY RESOLUTION (IF APPLICABLE)	✓	✓	✓
EXHIBIT E, LOCAL AGENCY AGREEMENT ADMINISTRATION CHECKLIST	✓	✓	✓
EXHIBIT F, CERTIFICATION FOR FEDERAL-AID AGREEMENTS	✓		✓
EXHIBIT G, DISADVANTAGED BUSINESS ENTERPRISE	✓		✓
EXHIBIT H, LOCAL AGENCY PROCEDURES FOR CONSULTANT SERVICES	✓		✓
EXHIBIT I, FEDERAL-AID AGREEMENT PROVISIONS FOR CONSTRUCTION AGREEMENTS	✓		✓
EXHIBIT J, ADDITIONAL FEDERAL REQUIREMENTS	✓		✓
EXHIBIT K, FFATA SUPPLEMENTAL FEDERAL PROVISIONS	✓	✓	✓
EXHIBIT L, SAMPLE SUBRECIPIENT MONITORING AND RISK ASSESSMENT FORM	✓	✓	✓
EXHIBIT M, OMB UNIFORM GUIDANCE FOR FEDERAL AWARDS	✓		✓

EXHIBIT N, FEDERAL TREASURY PROVISIONS		✓	✓
EXHIBIT O, AGREEMENT WITH SUBRECIPIENT OF FEDERAL RECOVERY FUNDS		✓	✓
EXHIBIT P, SLFRF SUBRECIPIENT QUARTERLY REPORT		✓	✓
EXHIBIT Q, SLFRF REPORTING MODIFICATION FORM		✓	✓
EXHIBIT R, APPLICABLE FEDERAL AWARDS		✓	✓
EXHIBIT S, PII CERTIFICATAION	✓	✓	✓
EXHIBIT T, CHECKLIST OF REQUIRED EXHIBITS DEPENDENT ON FUNDING SOURCE	✓	✓	✓

GRANT CERTIFICATION

To: Heather Graham, President of the City Council
Nicholas Gradisar, Mayor

Re: Highway Safety Improvement Program

I hereby certify that I have reviewed and am familiar with the attached documents, and to the best of my knowledge and belief, the City has the present ability to comply with all special conditions, certifications and assurances therein contained.

Name (print) Kelly Grisham

12/14/22

Date

Title: Senior Planner



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: January 9, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND THE PUEBLO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, RELATED TO THE ESTABLISHMENT OF PUEBLO HISTORY AND ART WALK AND THE INSTALLATION OF COMMUNITY WAYFINDING AND GATEWAY SIGNS, AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT

SUMMARY:

The Ordinance will approve an Intergovernmental Agreement with the Pueblo Department of Public Health and Environment (PDPHE). The agreement allows the City of Pueblo to provide support to PDPHE in providing project support related to the establishment of Pueblo History and Art Walk as well as the installation of community gateway signs and neighborhood wayfinding signs in the Bessemer, Bojon Town, and Grove neighborhoods.

PREVIOUS COUNCIL ACTION:

On October 26, 2020, City Council approved the Colorado Smelter Revitalization Plan under Resolution No. 14496. The adopted plan identified a slate of projects related to community improvements in the Bessemer, Bojon Town, and Eilers neighborhoods of Pueblo.

BACKGROUND:

The Colorado Smelter Revitalization Plan included a number of projects that could be implemented within the Bessemer, Bojon Town, and Grove neighborhoods as funding became available. Because many of the proposed improvements are on public property or in the public right-of-way, and because the City of Pueblo, through its Public Works Department, has the ability to provide engineering and construction support for the project, PDPHE has engaged the City of Pueblo to assist with the implementation of these projects.

FINANCIAL IMPLICATIONS:

PDPHE will pay the City of Pueblo up to \$22,000 to reimburse the costs incurred for work performed under this agreement.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Projects identified for implementation have been vetted within the local community and supported by the Bessemer, Bojon Town, and Grove Improvement Network ("BEGIN") Governing Committee.

ALTERNATIVES:

Failure to approve this agreement will preclude the City of Pueblo from being able to partner with PDPHE in providing support to these projects.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. PDPHE InterGovernmental Agreement

ORDINANCE NO. 10369

AN ORDINANCE APPROVING AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND THE PUEBLO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT, RELATED TO THE ESTABLISHMENT OF PUEBLO HISTORY AND ART WALK AND THE INSTALLATION OF COMMUNITY WAYFINDING AND GATEWAY SIGNS, AND AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Intergovernmental Agreement between the City of Pueblo, a Municipal Corporation and the Pueblo Department of Public Health and Environment, a copy of which is attached hereto, having been approved as to form by the City of Pueblo Attorney, is hereby approved.

SECTION 2.

The Mayor is authorized to execute and deliver the Intergovernmental Agreement in the name of the City of Pueblo, and the City Clerk is directed to affix the seal of the City thereto and attest same.

SECTION 3.

The officers of the City of Pueblo are authorized to perform any and all acts consistent with this Ordinance to implement the policies and procedures described herein.

SECTION 4.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on December 27, 2022.

Final adoption of Ordinance by City Council on January 9, 2023 .



President of City Council

Action by the Mayor:

- ☒ Approved on January 11, 2023.
- ☐ Disapproved on _____ based on the following objections:



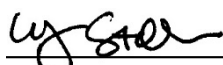
Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST



City Clerk

INTERGOVERNMENTAL AGREEMENT

THIS INTERGOVERNMENTAL AGREEMENT (“Agreement”) is made and entered into as of January ____, 2023, by and between the Pueblo Department of Public Health and Environment (“Department”) and Pueblo, and the City of Pueblo, a municipal corporation (“City”).

WHEREAS, the Department and the City are political subdivisions as defined in C.R.S. §29-1-201 *et seq.*, which expressly authorizes and encourages political subdivisions to cooperate and contract with another to provide goods and services as permitted by law; and

WHEREAS, Department desires to engage and City desire to perform the work and services for the Community Organizing Neighborhood Improvement (CONI) described in Exhibit A (“Projects”) attached hereto; and

WHEREAS, the City’s Public Works Department is qualified by training, education, and experience to perform said Services.

NOW, THEREFORE, FOR AND IN CONSIDERATION, of the foregoing and the mutual promises, covenants, terms, and conditions contained herein, Department and the City agree as follows:

1. **Services.** City agrees to provide all services described in the attached Exhibit A, which is incorporated herein by this reference for the Community Organizing Neighborhood Improvement (CONI) Program. City shall provide said Services as per the established completion schedule for the Services.
2. **Payment.** In consideration for Services performed herein by City, Department will pay the sum of no more than \$22,000 as described in Exhibit A, which is incorporated herein by this reference. City shall submit an invoice to receive funds as outlined in Exhibit A.
3. **Independent Contractor.** The parties understand and agree that City shall, at all times during the term of this Agreement, be deemed an independent contractor and not an employee of the Department, and shall be responsible for, and obligated to pay, all withholding taxes, social security, unemployment, worker's compensation, and/or other taxes and shall indemnify and hold the Department harmless from and against any and all claims for the same period. City acknowledges and agrees that all its personnel are its employees only, and not employees or agents of the Department for any purpose whatsoever, including for purposes of Worker’s Compensation.
4. **Term/Termination.** The term of this Agreement shall commence on the effective date, all projects must be completed by April 15, 2022, and shall remain in effect for a term of two years, unless terminated sooner as provided herein. The parties may terminate this agreement at any time and for any reason by giving thirty (30) days prior written notice to the other party. In addition, Department may terminate this Agreement immediately if (i) Department funding for the Services is terminated, (ii) City fails to timely and satisfactorily perform the Services, (iii) or City is in default under any provision of this Agreement.
5. **Insurance.** The City is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the “GIA”) and shall maintain at all times during the term of this Agreement such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the GIA.

6. **Liability Exposure.** Notwithstanding any other provision of this Agreement, no term or condition of this Agreement shall be construed or interpreted as a waiver of any provision of the Colorado Governmental Immunity Act, C.R.S. §24-10-101, *et seq.*
7. **Complete Agreement.** This Agreement constitutes the complete Agreement on the subject hereof and supersedes and replaces all prior oral and written understandings and/or agreements of the parties on the subject hereof.
8. **Governing Law.** This Agreement and the rights and duties of the parties shall be construed and interpreted and enforced in accordance with the laws of the State of Colorado.
9. **Modifications.** This Agreement may not be modified or amended in any manner by either or both of the parties unless the same is set forth in a written agreement making reference to this Agreement and signed by the parties hereto. No waiver of any of this Agreement's provisions or conditions shall be binding unless made in writing and signed by both parties to this Agreement.
10. **Binding Agreement.** When executed by the parties, this Agreement shall constitute a binding Agreement and shall be binding upon and inure to the benefit of the parties and their respective legal representatives, successors and permitted assigns. Any delegation or assignment of this Agreement or any of the obligations set forth herein by either party without the prior written consent of the other party shall be void and of no force and effect.
11. **Severable.** If any provision of this Agreement shall be determined to be invalid, illegal or without force by a Court of Law or rendered so by legislative act, the remaining provisions shall remain in full force and effect.
12. **Waiver.** Failure to exercise any remedy which either party may have under this Agreement or any other acquiescence by one party, shall not constitute a waiver of any obligation of the defaulting party hereunder.
13. **Notices.** All notices required under this Agreement shall be sent in writing by certified or registered mail, return receipt requested, to the following address:

City of Pueblo Public Works Department
Attn: Director
211 E. D Street
Pueblo, CO 81003

and

Pueblo Department of Public Health & Environment
Attn: Public Health Director
101 W. 9th Street
Pueblo, CO 81003

*** **SIGNATURE PAGES FOLLOW** ***

IN WITNESS WHEREOF, the parties have executed this Agreement effective the date first above written.

Pueblo Department of Public Health and Environment

By: _____
Randy Evetts, Pueblo Health Director

STATE OF COLORADO)
) ss.
COUNTY OF PUEBLO)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023, as Public Health Director, Pueblo Department of Public Health and Environment.

Witness my hand and official seal.

[S E A L]

My commission expires _____.

Notary Public

Approved as to form:

Department Attorney

City of Pueblo, Colorado, a Municipal Corporation

By: _____
Nicholas A. Gradisar, Mayor

STATE OF COLORADO)
) ss.
COUNTY OF PUEBLO)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023, as Mayor of the City of Pueblo, a Colorado Municipal Corporation.

Witness my hand and official seal. [S E A L]

My commission expires _____.

Notary Public

Approved as to form:

City Attorney

SCOPE OF SERVICES

Exhibit A

Project Overview: The Colorado Smelter Revitalization Project (CSRP), adopted by Pueblo City Council in October 2020, identified a slate of projects for community improvements in the Bessemer, Bojontown, and Grove neighborhoods within the City of Pueblo. Some of the projects identified within the plan included the establishment of a Pueblo History and Art Walk which includes the creation of unique art pieces from local artists for installation along a designated pathway. The Department received grant funding through the Colorado Health Foundation via the Community Organizing Neighborhood Improvement (CONI) grant program to install certain improvements including public art exhibits, pathway signs and markers, neighborhood wayfinding signs, and community gateway signs in support of the larger approved project plan. The Department has expressed its desire to engage the City of Pueblo via the City's Public Works Department to perform certain elements of work. This agreement between the City and the Department is intended to codify roles and responsibilities of both parties and clarify the scope of services to be provided by the City in support of the project.

The Department and the City have designated the following staff members within each organization as project points of contact, which may be updated from time to time as agreed to by the parties:

- PDPHE Contact: Darena Herschler, herschlerd@pueblocounty.us
- PDPHE Financial Contact: Georgia Alfonso, georgia.alfonso@pueblocounty.us
- City of Pueblo Public Works Contact: Andrew Hayes, ahayes@pueblo.us

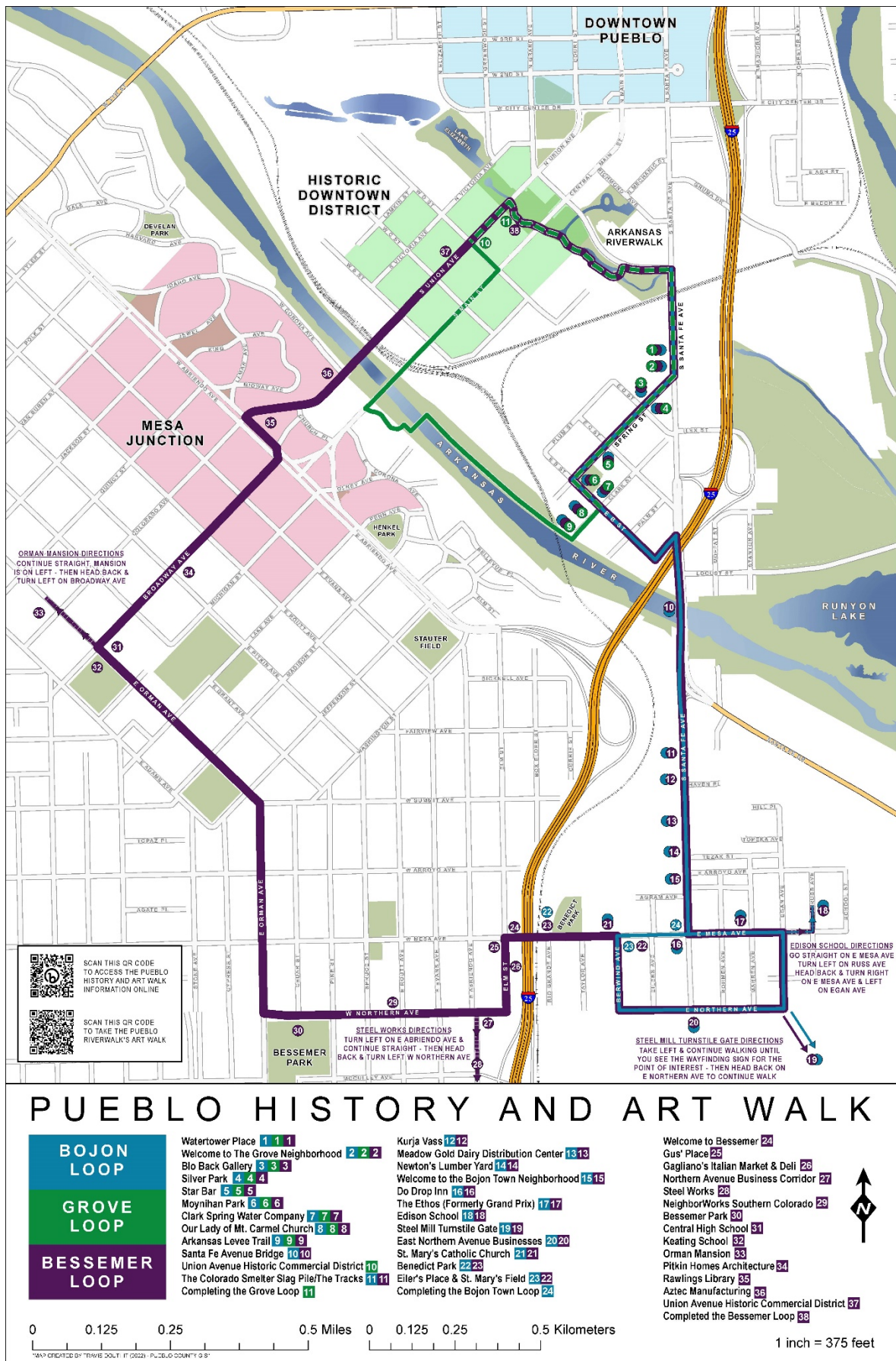
A map of the Pueblo History and Art Walk pathway is included as Attachment 1.

Project Scope:

1. City authorizes Pueblo Department of Public Health and Environment (PDPHE) staff to place path markers in the Bessemer, Bojon Town, and Grove neighborhoods along the Pueblo History and Art Walk as described in Attachment 2. Path markers that become loose, damaged, dislodged, or otherwise present a nuisance or hazard may be removed by the City without notice. City will endeavor to replace such markers if replacements are available.
2. City grants permission for PDPHE third party contractor(s) to install printed wraps on pre-approved City-owned utility boxes throughout the Bessemer, Bojon Town, and Grove neighborhoods. The City may remove any wraps that become loose, damaged, or otherwise present a nuisance or hazard without notice. While City will endeavor to protect installed wraps, equipment failures or damage may require that the utility box be replaced. A map showing the approved wrap installation locations is included as Attachment 3.
3. City will provide installation materials and labor to install wayfinding signage in the Bessemer, Bojon Town, and Grove neighborhoods in approved locations along the Pueblo History and Art Walk as shown in Attachment 4. Up to three map signs (approximately two feet wide by two feet high) will be installed by a separate Department contractor on City wayfinding sign poles. Department agrees to coordinate installation and acceptance of map signs with City.
4. City will install pre-approved anchoring platforms in approved locations along the Pueblo History and Art Walk to safely secure public art pieces located at parcel 1501142017, parcel 1406324014, parcel 1501304008, parcel 1501139009 and parcel 536307017.
5. With respect to the two (2) art pieces and three (3) bench art pieces to be installed in approved locations along the Pueblo History and Art Walk as shown in Attachment 5, such installation shall be subject to and conditioned upon donation to and acceptance by the City of such art pieces.

6. City will provide material handling equipment and transportation support to assist in the installation of designated art pieces and benches at approved locations along the Pueblo History and Art Walk as listed in Attachment 5.
7. City will provide the necessary equipment, and operator to install the “Pueblo Sails” art piece on an approved location at the southerly end of the Clark Street right-of-way along the Pueblo History and Art Walk pathway.
8. As owners of the public art exhibits, City will provide liability insurance coverage for the art pieces and sites for the Pueblo Sail and bench art pieces after installation and subject to and conditioned upon donation to and acceptance by the City of such art pieces.
9. City will display three (3) bench art pieces at approved locations on parcel 1501142017 in Moynihan Park, parcel 1406324014, and in city right of way at the intersection of Summit Avenue and Orman Avenue. Where benches are proposed to be installed within a City Park, the location shall be subject to the approval of the City’s Director of Parks and Recreation. Where benches are proposed to be installed within the public right-of-way, the location shall be subject to the approval of the City’s Director of Public Works. The City retains the right, at its sole discretion, to relocate the benches to other locations for public enjoyment within the City at its expense. The City also retains the right to remove and dispose of any bench if it is determined to be a nuisance or if they are damaged beyond repair. Disposal of the benches shall be subject to the terms and conditions of any existing agreements with the Artist.
10. City will install landscape improvements around the art piece “Pueblo Sails” located on the Pueblo Levee across from parcel 1501139009 and one (1) bench art piece in approved city right of way at the intersection of Summit Avenue and Orman Avenue along the Pueblo History and Art Walk pathway. The landscaping plan shall be mutually agreed upon by the Department and the City.
11. City will seek community input for the design of the community gateway sign to be installed over Northern Avenue near Bessemer and Bojon Town through engagement with the Bessemer Bojontown and Grove Improvement Network Governing Committee (“BEGIN”).
12. City will fabricate and install three (3) neighborhood wayfinding signs in Bessemer, and update the existing wayfinding sign in Bojon Town in a style similar to other wayfinding signs in the City, as shown in Attachment 6.
13. City will accept and install one (1) community gateway sign in the Grove neighborhood.
14. City shall endeavor to complete all projects by April 15, 2022. City shall submit a final invoice to the Department for work completed as of April 15, 2022. The City may be reimbursed the value of such work up to \$22,000.00 for tasks performed in accordance with this scope of services. Department agrees to process payment of submitted invoice within 30 days of receipt by Department.

Attachment 1 – Pueblo History and Art Walk Pathway Map



Attachment 2 – Pathway Markers



Location of Placement

The path markers used for the Pueblo History and Art Walk will be placed in the public right of way on concrete curb if possible, in areas where;

1. A change of direction is required to stay on the Pueblo History and Art Walk paths **OR**
2. Every 1/8 mile along the Pueblo History and Art Walk

The path markers will be placed in the top left corner of the cement curb as close to the final cement sidewalk block located at each designated area facing the direction where pedestrians are approaching from.

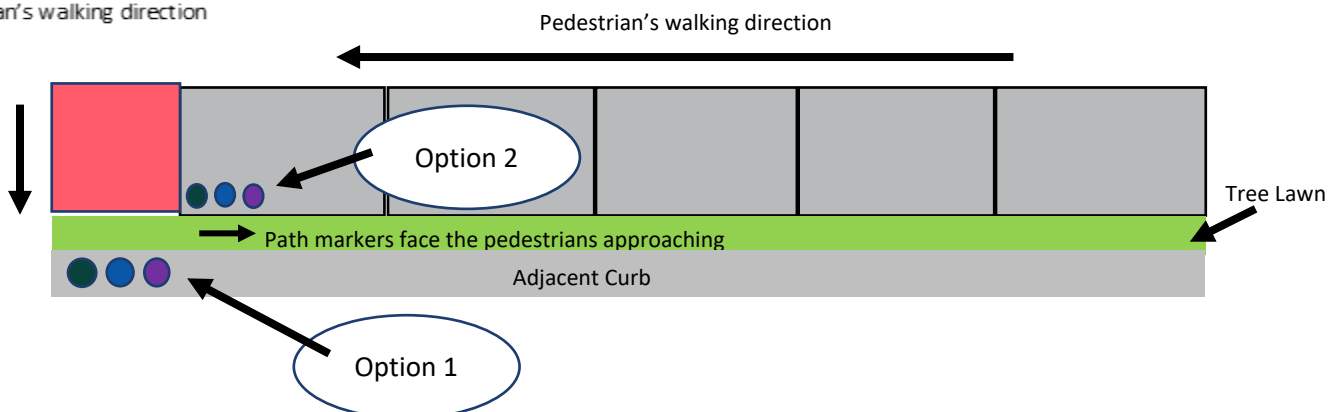
If the path markers cannot be placed in the location specified, the individual, group, or entity altering or adding path markers are expected to work with the City of Pueblo's Public Works Director to determine the second-best location for the markers.

The individual, group, or entity will need verbal or written approval from the Public Works Director prior to installing the path markers in a different location than specified above.

An example of placement is shown below.

Pedestrian must turn left and cross the street to complete the walk

Pedestrian's walking direction



Order of Placement

For continuity purposes, the path markers will be stacked vertically on top of each other and face the direction where pedestrians are approaching.

The path markers will be placed in the descending order as described below.

- Green first, Blue second, Purple third.

If a path marker is not needed at a specific location, it will not be placed in the order and all remaining path markers will shift up vertically, if necessary, keeping their order.

An example of Order of Placement is shown below.

Example: When all three loops align (Not to Scale Scale)

Example: When only two loops align (Not to Scale)



Attachment 3 – Utility Box Wrap Locations

Utility box at the corner of S Santa Fe and E Mesa Ave. Right next to Jeannie's Dance Studio located at 1143 S Santa Fe Ave.



Two utility boxes off B street and Clark. It is in the parking lot across from Our Lady of Mt. Carmel Church. The church is located at 421 Clark St, Pueblo CO 81003.



Benedict Park



Utility box on the Northeast corner of Northern Ave and Pine St. Located on the pedestrian light pole. It is right next to the Pawn Shop located at 623 West Northern Ave, Pueblo CO, 81004.



Side
obstacle



Utility box at the Northeast corner of Northern Ave and Evans Ave. Located on the pedestrian light pole. It is across the street from Boost Mobile located at 322 West Northern Ave, Pueblo, CO, 81004.



Side
obstacle



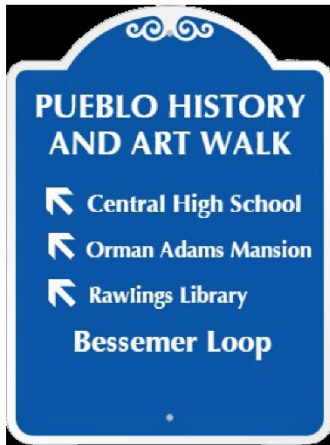
Utility box at the Northeast corner of Northern Ave and Abriendo Ave. located on the pedestrian light pole. It is in front of the abandoned building next to Myxed Up Creations located at 217 W Northern Ave, Pueblo CO, 81004.



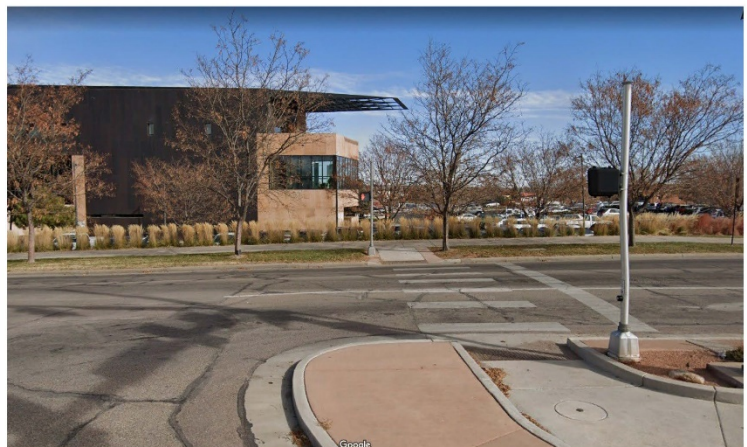
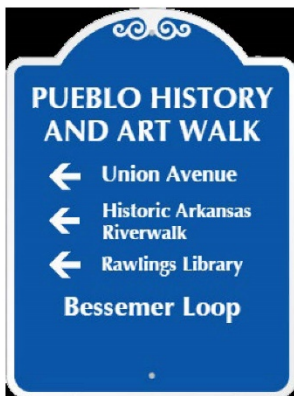
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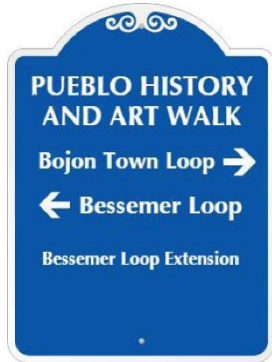
Summit and E Orman Avenue



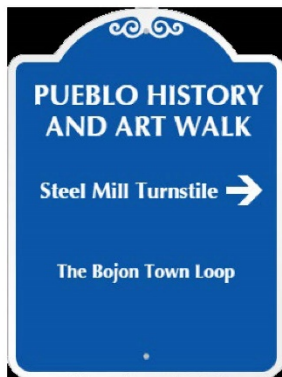
Rawlings Library Location



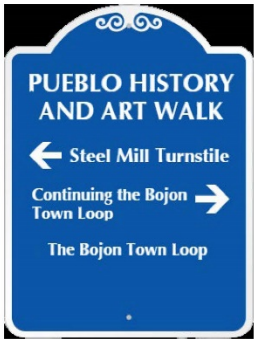
E Mesa and Berwind Avenue



Turnstile Gate Location



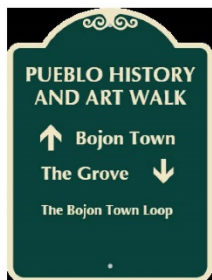
Egan Avenue and E Northern Avenue



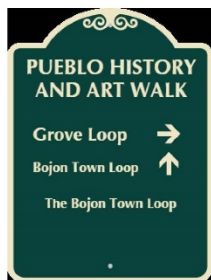
Egan Avenue and E Mesa Avenue



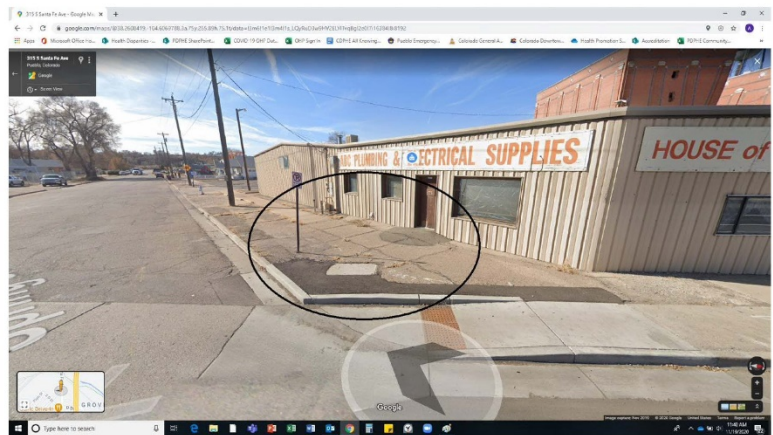
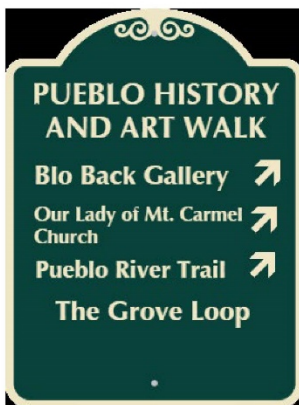
Santa Fe Avenue



Clark Street and E B Street



Santa Fe Avenue and E Spring Street



Attachment 5 – Artwork Location Photos

Bench Art – Summit Ave. and Orman Ave.



Rawlings Library (Photo Blast)



Pueblo Levee (Pueblo Sails)



Bench Art – Moynihan Park





Attachment 6 – Typical Community Wayfinding Sign Example





Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: January 9, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Greg Pedroza, Director Aviation

SUBJECT: AN ORDINANCE APPROVING AN AIRPORT USE AND LEASE AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND SOUTHERN AIRWAYS EXPRESS, LLC, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

An Airport Use and Lease Agreement between the City of Pueblo and Southern Airways Express, LLC (Southern Airways), is attached for consideration. This agreement covers the use of certain areas in the Airport Terminal building for providing passenger airline service at Pueblo Memorial Airport.

PREVIOUS COUNCIL ACTION:

City Council approved this same type of agreement with SkyWest Airlines on November 13, 2017, to cover the previous U.S. Department of Transportation (USDOT) agreement term. This Agreement with Southern Airways Express, LLC, will cover the new USDOT agreement term.

BACKGROUND:

Air service at the Pueblo Memorial Airport is under the Federal Essential Air Service (EAS) program, which is managed by the USDOT. On July 5, 2022, the USDOT issued a request for proposals from airlines to provide air service at Pueblo, CO for the term beginning January 1, 2023 and ending January 31, 2024. Only Southern Airways submitted a proposal. Based on the sole submittal and with agreement from the community, the USDOT awarded the contract for 2 years. SkyWest has been ordered to hold in place until January 8, 2023. The Agreement between the City and Southern Airways is for the use of Airport facilities.

FINANCIAL IMPLICATIONS:

The revenue from this agreement will to be about \$19,560.00 annually, as determined by the following:

- Southern Airways will pay the City \$19,560.00 annually for exclusive use of counter space, office space, and outbound baggage area. This is an increase from SkyWest's annual rent of \$19,515.00.

- The aircraft operated under the EAS contract will not generate landing fees because they do not meet the maximum gross landing weight threshold set by Pueblo Municipal Code.
- Partial rent forgiveness is offered for the 2024 contract term if Southern Airways enplanes more than 10,000 passengers through either regularly scheduled flights or charter flights. The FAA considers airports that have less than 10,000 passengers annually as a Nonprimary Commercial Service Airport rather than a Primary Service Airport. Airports with more than 8,000 enplanements but fewer than 10,000 are eligible for the \$600,000 apportionment each fiscal year, whereas airports with over 10,000 enplanements qualify for \$1,000,000 in funds. The rent forgiveness is incentivization to reach the number of passengers which will qualify the Airport for the higher apportionment of funds.

BOARD/COMMISSION RECOMMENDATION:

The Airport Advisory Committee is aware of the award from the USDOT and is in support of the air carrier's proposal as the only submittal.

STAKEHOLDER PROCESS:

There is no stakeholder process required.

ALTERNATIVES:

If this Resolution is not approved, Southern Airways would not be able to meet its obligation to the USDOT and the City would have a commercial service provider.

RECOMMENDATION:

The Department of Aviation recommends the passage of this resolution.

ATTACHMENTS:

1. Southern Airways Express Lease - Final

ORDINANCE NO. 10370

AN ORDINANCE APPROVING AN AIRPORT USE AND LEASE AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND SOUTHERN AIRWAYS EXPRESS, LLC, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

WHEREAS, the City of Pueblo is the owner and operator of the Pueblo Memorial Airport together with the land on which said Airport is situated; and

WHEREAS, Southern Airways Express, LLC, is desirous of leasing certain property for the purpose of a commercial service airline operation, where said property is owned by the City of Pueblo; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

A certain Airport Use and Lease Agreement ("Lease"), by and between the City of Pueblo, a Municipal Corporation, and Southern Airways Express, LLC, a Limited Liability Company, to lease space for a commercial service airline operation at the Pueblo Memorial Airport, a copy of which is attached hereto and made a part hereof by reference, after having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The Mayor is hereby authorized to execute the Lease on behalf of the City of Pueblo, and the City Clerk shall affix the Seal of the City thereto and attest same.

SECTION 3.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Ordinance and the attached Lease to implement the terms and conditions described therein.

SECTION 4.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on December 27, 2022.

Final adoption of Ordinance by City Council on January 9, 2023.



President of City Council

Action by the Mayor:

- ☒ Approved on January 11, 2023.
- ☐ Disapproved on _____ based on the following objections:



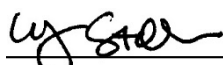
Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST



City Clerk

**PUEBLO MEMORIAL AIRPORT
AIRPORT USE AND LEASE AGREEMENT**

THIS AIRPORT USE AND LEASE AGREEMENT ("Lease"), is made and entered into this 9th day of January, 2023, by and between the City of Pueblo, a Municipal Corporation, with an address of One City Hall Place, Pueblo, Colorado 81003, ("Lessor") and Southern Airways Express, LLC, with an address of 2875 South Ocean Boulevard, Suite 201, Palm Beach, Florida 33480 ("Lessee").

WHEREAS, Lessor owns certain real property in the County of Pueblo, State of Colorado, known as the Pueblo Memorial Airport ("Airport"), together with the land on which said Airport is situated, and Lessee is engaged in the business of transporting persons, property, cargo, and mail by air; and

WHEREAS, Lessor desires to grant the use of, and Lessee desires to use, certain premises and facilities at the Airport, together with certain rights, licenses, and privileges thereon.

NOW, THEREFORE, Lessor does hereby grant unto Lessee for the purpose of conducting its air transportation service business, and Lessee does take and accept from Lessor, for such purpose, the use of certain premises and facilities, rights, licenses, services, and privileges in connection with and on the Airport as follows.

I. AIRPORT USE AND LEASE.

A. Airport.

Lessor grants to Lessee the non-exclusive use of the common areas of the Airport and its appurtenances including, if available and functioning, but not limited to, landing field, runways, aprons, taxiways, roadways, sewer and water facilities, flood lights, landing lights, and all conveniences for flying, landing, and take-offs of aircraft of Lessee, which use shall include the operation of a transportation system by Lessee's aircraft for the carriage of persons, property, cargo, and mail, including without limitation, loading and unloading of its aircraft, the right to load and unload persons, property, cargo, and mail at the Airport by such automobiles, buses, trucks or other means of conveyances as Lessee may require in the conduct of its business, and the right to install, maintain, use and operate such radio, communications, meteorological and aerial navigation equipment and facilities in, on, or about the Airport as may be deemed necessary by Lessee for its operations provided same shall not interfere with Lessor's, or Federal Aviation Administration's ("FAA"), existing or expanded equipment and facilities, as well as the right, subject to Lessor's approval, to install advertising signs, and any other operation or activity reasonably necessary to the conduct by Lessee of its air transportation service business or training of its personnel, provided such other operation or activities will not interfere with the use of the Airport by Lessor or its employees, agents, or other tenants and such other operation or activities are used on the Airport. All worn, faded, damaged, or outdated signs will be repaired or corrected by Lessee upon notice from the Director of Aviation

B. Terminal Building.

1. Lessee shall be entitled to the use of the following leased premises in the

terminal building:

- a. Counter Space – 178.5 square feet
 - b. Office Space – 290.5 square feet
 - c. Outbound Baggage Space – 660 square feet
 - d. Inbound Baggage Carousel (non-exclusive use)
2. The Lessor shall designate the specific areas to be used by Lessee. Lessee's designated spaces are shown in Exhibit "A," attached hereto and incorporated herein.
 3. Indoor operation of gasoline-powered equipment is prohibited in the terminal building, including the baggage and freight handling areas.
 4. Areas will be designated for parking and storage of equipment, machinery, and vehicles between flight times.
 5. Employees of the Lessee shall park in designated parking areas while working with the understanding that public parking is meant for the use of passengers, guests, and patrons.
 6. Lessee, its employees, passengers, guests, patrons, and invitees shall have the use, in common with others, of any public space now available, or which may hereafter become available, in the terminal building, including, but not limited to, waiting rooms, restrooms, baggage collection areas, and security.

C. Other.

1. Lessee shall have the non-exclusive right of ingress and egress, without charge, to and from the premises outlined in Paragraph I.B above.

2. Lessee may purchase or otherwise obtain property, facilities, or services deemed by Lessee to be required by, or incident to, its operations from any persons or organizations it may choose, provided that such suppliers of materials and furnishers of service have complied with the requirements of federal law and Section 3-1-2(c) of the Pueblo Municipal Code to the extent applicable; and further provided, persons or organizations furnishing charter aircraft services to Lessee in substitution of Lessee's scheduled flights shall be exempt from the requirements of said Section 3-1-2(c).

3. The leased premises will be used for the regular business of a full service air carrier. Any aircraft stored at the Airport must be continually registered with the FAA throughout the life of this Lease and the tail numbers for same must be reported to Lessor. Lessee agrees to report any changes in aircraft tail numbers to Lessor within fourteen (14) days, in order for Lessor to comply with FAA reporting requirements.

4. This Lease and Lessee's use of the Airport are subject to the easements, rights of way, covenants, conditions, restrictions, reservations, and limitations appearing of record, and all applicable zoning and land use laws, ordinances, codes, and regulations, including but not limited to all conditions, regulations, restrictions, and requirements imposed by the FAA, governing and regulating the Airport and its uses.

5. Lessee, its officers, agents, and employees shall faithfully observe and comply with all minimum standards and rules regulating operations and activities from and upon the Airport adopted from time to time by Lessor. Such minimum standards and rules

shall not be applied arbitrarily, discriminatorily, or unreasonably. If any provision of this Lease shall conflict with any provision of the minimum standards or rules adopted or amended by Lessor after commencement date, the conflicting provision of this Lease shall control.

II. TERM.

- A. The term of this Lease shall be for the period commencing January 15, 2023, and ending January 31, 2025. Unless terminated earlier as provided herein, this Lease shall expire and terminate at the end of the term and Lessee shall have no further right or interest in the leased premises, except that upon early termination of this Lease for any reason, Lessee shall have the right for a period of ten days after the date of termination, to remove any or all of its personal property from the Airport, provided, however, that Lessee shall not be in default in its payments to the Lessor hereunder and Lessee shall repair all damage to the Airport caused by such removal.
- B. Should Lessee holdover the use of or continue to occupy the leased premises after the expiration or termination of this Lease, such holding over shall be deemed merely a tenancy for successive monthly terms upon the same terms and conditions as provided in this Lease, subject to termination upon thirty (30) days prior written notice. Lessee shall continue to pay rent without an express written agreement as to such holding over, except that, the monthly rent will become equal to one hundred twenty-five percent (125%) of the rent for the last month payable hereunder.
- C. Notwithstanding the foregoing, should the Federal Department of Transportation ("DOT") mandate a hold and that Lessee continue to provide services at the Airport past the Lease termination date, the term of this Lease will be automatically extended to the end of the federally mandated hold period upon the same terms and conditions of this Lease and without an increase in rent for said period.

III. RENTALS AND FEES.

- A. Lessee shall pay to Lessor monthly as rent for the leased premises and use of the Airport covered by this Lease, \$1,630.00 per month. The total yearly rent for the leased premises and use of the Airport is \$19,560.00.
- B. The rents shall be increased biennially based upon the consumer price index for all urban consumers, CPI-U (all items 1982-1984=100) or comparable index if the Department of Labor changes or modifies the CPI-U or no longer publishes the CPI-U. The rents shall be increased by a percentage equal to the percentage increase in the CPI-U during each preceding two-year period over the comparable CPI-U for the first month of each 2-year period. If there is no percentage increase in the CPI-U for any preceding 2-year period, the rents will remain the same as the preceding 2-year period for the next 2-year period. In no event, shall the percentage increase for the rents be greater than five percent (5%) for any 2-year period.
- C. The Lessee hereby agrees to pay when due all rent, fees, and charges imposed by the Lessor for the use and operation of the Airport. The fees and charges

include, but are not limited to, landing fees, permit fees, security charges, and administrative or service fees.

- D. Rents shall be paid monthly without notice, offset, or deduction on or before the tenth (10th) of the month, and fees shall be paid monthly without notice, offset, or deduction on or before the tenth (10th) of the following month, at the City of Pueblo Director of Aviation's office and shall be accompanied with such reporting forms as the Director of Finance shall determine. Rent not paid by the tenth (10th) of the month shall accrue a late fee of eight percent (8%) per month. Lessor shall have the right to examine and audit Lessee's and its subtenant's books and records to determine the accuracy of the numbers of gallons sold and the revenues derived by Lessee, fees, and their calculation.
- E. Should Lessee reach 10,000 enplanements at the Airport through regularly scheduled services and charter flights within the federal fiscal year, and such enplanements qualify the Lessor as a Primary Service Airport with the FAA and Lessor receives at least \$1,000,000.00 from the FAA as its federal apportionment because of such status, Lessee shall not have to pay the rent set forth in Section III.A from January 1, 2024 through October 31, 2024. Rent shall only be waived for the stated months and said rent waiver is conditioned on Lessee providing evidence that it spent at least \$20,000.00 on marketing per Section IV.
- F. Lessee agrees to pay the standard rate for all flights of the Lessee that land at the Airport, to include any flight that is diverted to the Airport by the Lessee, provided, however, that no fee shall be due and payable in the event an aircraft departs from the Airport to return and land at the Airport because of meteorological conditions, mechanical or operating causes, or for any similar emergency or precautionary reason. The standard rate is currently set at \$1.00 per maximum landing weight ("MLW") over 25,000 pounds for non-signatory landing fees. The standard rate may be updated by Lessor periodically in accordance with FAA regulations and municipal ordinance.
- G. Within five (5) days following the end of each calendar month, the Lessee shall transmit to the Director of Aviation a true and accurate report, giving data necessary to calculate the amount of standard rate fees. Data for training flights at Pueblo is to be included. Lessee agrees to pay standard rate fees monthly within thirty (30) days of date of statements from Lessor.

IV. USE OF AIRPORT AND LEASED PREMISES.

- A. The Airport and leased premises shall be used and occupied by Lessee as a full service air carrier. The terminal areas shall be used for Lessee's business, flight preparation, and other incidental office work. The leased premises shall not be used for the storage of non-aeronautical personal property, living accommodations, or in any other way inconsistent with this Lease. Failure to abide by this provision shall constitute a material breach of this Lease.
- B. Lessee shall not park or leave, or allow to be parked or left, aircraft on the taxiways or on pavement in a manner which interferes with or obstructs access to adjacent hangars or public areas. Parking of automobiles will be permitted only in designated spaces outside of the airport fence. Nothing in this agreement provides

exclusive access to the entrance and exit gates into and out of the Airport to Lessee.

- C. Lessee, its employees, and invitees shall have the right of ingress and egress between designated Airport access points and areas of use over, upon, and through such streets and not others as from time to time shall be designated by the Director of Aviation. Driveways from existing streets into the areas of use shall be located as designated by the Lessor through the Director of Aviation.
- D. On the Effective Date, as later defined, and annually thereafter, Lessee shall provide Lessor with a list of the Airport areas and any Airport tenants it intends to access when providing services. Lessee shall keep this list current and report any changes to the Lessor upon such change being made.
- E. Lessee shall not have exclusive use of any area of the Airport or of any Lessor equipment, unless Lessee contracts with Lessor for such use, and all such uses shall be as determined by the Director of Aviation in his or her sole discretion. All areas of the Airport and all Airport equipment will be inspected by Airport staff prior to use by Lessee, and Lessee shall be required to sign-off on Airport staff's inspection prior to said use.
- F. Lessee shall use the common ramp area in compliance with Lessor's ground traffic and aircraft parking plans and regulations, which will reasonably accommodate Lessee's current and future use for the purposes set forth in this Lease.

V. MAINTENANCE OF AIRPORT.

- A. Lessor shall provide all maintenance services required to keep in good repair the Airport terminal building and all appurtenances, facilities, and services now or thereafter connected with the foregoing, and shall operate the Airport in a manner at least equal to the standards or ratings of Airports of similar size and character issued by the FAA. Lessor shall maintain the premises leased hereunder for Lessee's use in a good condition and shall provide maintenance necessary to accomplish that end. Lessor reserves the right, but shall not be obligated to Lessee, to maintain and keep in repair the landing area of the Airport and all publicly owned facilities of the Airport, together with the right to direct and control all activities of Lessee in this regard. Notwithstanding the foregoing, Lessee shall be responsible for repairing any damage to the Airport or its facilities caused by it or its agents, employees, or invitees other than that due to normal wear and tear. If Lessor fails to make such repairs or if Lessor shall be in default in the performance of any provision of this Lease, such failures or default shall not give rise to any action or claim by Lessee or its agents, employees, or invitees against Lessor. Lessee's only remedy for such failure or breach is to terminate this Lease.
- B. Lessee shall, at its own expense, keep the leased premises neat, clean, safe, and orderly at all times, free of waste, rubbish, and debris, and shall provide a complete and proper arrangement for the sanitary handling and disposal of all trash, garbage, and other refuse resulting from Lessee's activities at the Airport. No outside storage of parts, materials, equipment, inventory, or other materials shall be permitted.

- C. All maintenance associated with Lessee's services and its enplanements and deplanements shall be the responsibility of Lessee. Lessee shall be responsible for snow and ice removal from the doors of its airplanes to the airport terminal building. Lessor will not provide ice melt, shovels, or other equipment, but Lessee may store such equipment in the outbound baggage space.

VI. UTILITY COSTS.

Lessor shall be responsible for all utilities supplied to the leased premises and Airport. Additions, deletions, or adjustments to utilities extended to the areas used by Lessee shall not be made without prior written approval from the Director of Aviation. Costs for utilities shall be incorporated within stated rent amounts.

VII. RIGHT OF INSPECTION.

The Lessor reserves and retains for its officers, employees, and authorized representatives the right to enter the leased premises and any other area of the Airport during reasonable business hours, and after prior notice, for the purpose of inspecting and protecting the leased premises and Airport and for doing any and all things which the Lessor may deem necessary for the proper general conduct and operation of the Airport and in the exercise of the Lessor's police power.

VIII. IMPROVEMENTS BY LESSEE.

- A. Lessee, at its own expense, may construct, install, alter, modify, repair, and maintain in or on any space which is or may be leased by Lessee hereunder and described in Paragraph I.B, any improvements that it shall determine to be necessary for use in connection with its business. No restrictions shall be placed upon Lessee as to the architects, contractors, or materialmen who may be employed by it in connection therewith, who shall have free ingress and egress from said premises. Notwithstanding the foregoing, no improvement to or modification of the leased premises shall be made by Lessee until plans and specifications therefore have been first approved by Lessor, which approval shall not be unreasonably withheld, and provided the construction and installation of such improvement to or modifications of the leased premises shall be in compliance with all applicable laws and codes and shall not unreasonably interfere with Lessor's operation of the Airport or terminal building or other lessees' use thereof. Lessee shall ensure no liens are placed on Lessor's property for such work and shall defend and indemnify Lessor from the same.
- B. All structures and improvements constructed or erected hereunder by Lessee, excluding movable trade fixtures, shall constitute a part of the leased premises and Airport and therefore such structures and improvements cannot be removed from the land. Fee simple title to the structures and improvements shall vest with Lessor immediately upon completion of construction of same, free of all liens and encumbrances. Notwithstanding that title is in or vests in Lessor, Lessor shall not be responsible for any defects in the structures and improvements and shall have no obligation or responsibility to maintain, repair, or restore the same; all such obligation and responsibility shall be that of Lessee.

IX. TAXES, LICENSES, AND LIENS.

- A. Lessee covenants and agrees to pay promptly when due all taxes, fees, licenses, and other governmental charges of whatever nature assessed against or applicable to Lessee and the leased premises, or to Lessee's property and operations thereon. Possessory interest tax is assessed by the County of Pueblo and is the responsibility of the Lessee. The Lessor is a tax-exempt entity and shall not be liable for any tax of the Lessee. All applicable taxes and costs shall be paid by Lessee, even if Lessee was unaware of such taxes and costs.
- B. At all times during the term of this Lease, and of any renewal or extension hereof, Lessee shall, at its own cost and expense, provide and keep in good standing business licenses with the City of Pueblo and the State of Colorado. Lessee shall obtain and maintain any other licenses or certifications required by law, including those required by the FAA. Upon request, Lessee will provide Lessor with certificates of good standing evidencing that all licenses or certifications are current and not subject to discipline.
- C. Lessee covenants and agrees not to permit any mechanic's or material man's lien to be filed against the leased premises, Airport, or any part or parcel thereof by reason of any work or labor performed or materials furnished by any contractor, subcontractor, mechanic, or material man. Lessee further covenants and agrees to pay promptly when due all bills, debts and obligations incurred by it in connection with its operations on the Airport, and not to permit the same to become delinquent and to suffer no lien, mortgage, judgment, or execution to be filed against the leased premises and Airport without the Lessor's prior consent which will not be unreasonably withheld, except that in no instance will the lien, mortgage, judgment, or execution be in any way an impairment of the rights of Lessor.
- D. Lessees performing services using Airport Operations Areas ("AOA") must annually undergo American Association of Airport Executives ("AAAE") Airport News Training Network ("ANTN") Digicast Signatory Training and hold a current signatory certificate that must be filed yearly with Airport Administration. Such Lessees shall keep a record of all documentation related to badging and produce it upon request.

X. LIABILITY AND INSURANCE.

- A. Lessee agrees to indemnify, defend, and save and keep Lessor, its officers, agents and employees, harmless from any and all loss, expense, including reasonable attorney fees, claims, demands, or liability, resulting from the use of the Airport, terminal building, Lessee's designated space, and all other Airport facilities, by Lessee or any of its employees, agents, licensees, or invitees in their use and occupancy thereof. Lessee assumes all risk of loss, damage, injury, and liability for the same that may occur to Lessee, Lessee's guests, Lessee's aircraft and Lessee's improvements and property in or upon the leased premises, terminal building, and other facilities and Lessor shall not be liable or responsible for any such loss, damage, or injury, regardless of the cause thereof.
- B. Lessee shall obtain and maintain in effect, at Lessee's expense, during the term of this Lease, Aircraft Liability Insurance covering both owned and non-owned aircraft with coverage for both aircraft passengers and non-passengers. The Aircraft

Liability Insurance shall be written with a combined single limit for bodily injury and property damage of \$5,000,000.00 per occurrence and \$10,000,000.00 aggregate.

- C. Lessee shall also obtain and maintain in effect at Lessee's expense, during the term of this Lease, Airport Liability Insurance, covering the premises operations of Lessee, including operation of mobile equipment, with a combined single limit of not less than \$25,000,000.00 for bodily injury and property damage, and such insurance shall include Products & Completed Operations, Contractual Legal Liability, and Personal Injury Legal Liability. The policy shall apply to liability assumed by the Lessee under this Lease, and this Lease shall be deemed to be an "Airport Contract" required by Lessor as a governmental authority as a prerequisite for the use of the Airport, the terminal building, and Lessee's designated space.
- D. At all times during the term of this Lease, and any renewal or extension hereof, Lessee shall, at its own cost and expense, provide, and keep in force commercial automobile liability insurance with a combined single limit for all owned, hired, and non-owned autos of not less than one million dollars (\$1,000,000.00).
- E. Lessee shall obtain and maintain in force, at Lessee's expense, during the term of this Lease, Pollution Liability Insurance covering its liability for bodily injury, property damage, and environmental damage resulting from sudden and accidental releases of pollution, and covering related or resultant characterization, cleanup and/or remediation costs arising from the occupancy and use of the Airport, terminal building, and designated space. Combined single limit bodily injury, property damage, environmental liability and cleanup/remediation shall not be less than \$1,000,000.00 in the annual aggregate.
- F. Lessee shall obtain and maintain Workers' Compensation and Employer's Liability coverage protecting Lessee against all claims under applicable State Workers Compensation laws. This coverage shall include all of Lessee's employees, including the owner(s), and shall contain an endorsement waiving subrogation against the City of Pueblo.
- G. Prior to the effective date of this Lease, Lessee shall furnish Lessor with a certificate of insurance executed by a duly authorized representative of each insurer, showing compliance with the insurance requirements shown above.
- H. Coverage and limits enumerated in this lease insurance provision represent only the minimum insurance required by the City of Pueblo, and Lessee should rely on its own expertise to obtain any additional insurance coverage needed to protect the City of Pueblo and the Lessee under this lease agreement and meet or exceed industry standards.
- I. In the event the premises covered by this Lease are wholly or partially destroyed or damaged so as to render the whole or a substantial part thereof unfit for occupancy, and the same cannot be repaired with reasonable diligence within one hundred twenty (120) days after the happening of such destruction or damage, or if Lessor, in its sole judgment determines that it is not economically feasible to repair same, then this Lease, at the option of the Lessor, shall cease and terminate as of the date of such damage or destruction. Upon such termination, Lessor shall

repay to Lessee any rents theretofore paid by Lessee with respect to any period after the date of such termination. Lessee shall surrender possession of the premises to the Lessor upon such termination. If, in the sole opinion of Lessor, such destruction or damage can be repaired within one hundred twenty (120) days, Lessor shall forthwith repair the same with all reasonable diligence, and this Lease shall continue in force and effect. During the period of such repair, the rent shall be abated in the same ratio as that portion of the premises which is rendered unfit for occupancy bears to the whole.

XI. CANCELLATION BY LESSOR.

Lessor, in addition to other rights of termination or cancellation given herein or by law, may cancel this Lease and terminate all or any of its obligations hereunder by giving Lessee thirty (30) days advanced written notice, upon or after the happening of any one of the following events:

- A. The filing of Lessee of a voluntary petition in bankruptcy.
- B. The adjudication of Lessee as bankrupt pursuant to such proceeding.
- C. The appointment of a receiver of Lessee's assets or the divestiture of Lessee's estate herein by operation of law.
- D. The abandonment by Lessee of its conduct of air transportation service at the Airport.
- E. The default by Lessee in the performance of any covenant or agreement herein required to be performed by Lessee and the failure by Lessee to remedy such default for a period of thirty (30) days after receipt from Lessor of written notice to remedy the same; provided, however, that no notice of cancellation, as above provided, shall be of any force or effect if Lessee shall have remedied the default prior to receipt of Lessor's notice of cancellation.
- F. Recapture of the Airport by the federal government and assumption of control over aviation activities at the Airport by the federal government for a period of more than thirty (30) days.
- G. Issuance by any court of competent jurisdiction of any injunction in any way preventing or restraining the use of the Airport or any part thereof for airport purposes, and such injunction remaining in force for a period of at least thirty (30) days.

XII. CANCELLATION BY LESSEE.

Lessee, in addition to any other rights of termination or cancellation given herein or by law, may cancel this Lease and terminate all or any of its obligations hereunder at any time that Lessee is not in default in its payments to Lessor by giving Lessor thirty (30) days advance written notice upon or after the happening of any one of the following events:

- A. The order or the action of the Federal Department of Transportation or other governmental authority terminating, suspending, or relieving Lessee's right or

obligation to operate.

- B. Issuance by any court of competent jurisdiction of any injunction in any way preventing or restraining the use of the Airport or any part thereof for airport purposes, and such injunction remaining in force for a period of at least thirty (30) days.
- C. Any action by the federal government or its agencies refusing to permit Lessee to operate into, from, or through the Airport such aircraft as Lessee may reasonably desire to operate thereon, if such action prevents Lessee from providing essential air services to Pueblo.
- D. The inability of Lessee to use leased premises and facilities continuously for a period of longer than thirty (30) days due to any deficiency of the Airport or unsafe condition for operating at the Airport of the type of aircraft then being flown by Lessee or any law, order, rule, or regulation of any appropriate governmental authority having jurisdiction over the operations of Lessee, or due to war or other casualty.
- E. The assumption by the United States Government or any authorized agency thereof of control of said Airport and facilities or any substantial parts thereof.
- F. The erection of any obstacle on or near the Airport which would occasion a modification of Lessee's air carrier operating certificate or similar authorization establishing minimum safety standards for the operation of Lessee.
- G. Unless the Federal Department of Transportation mandates a hold and that Lessee must continue to provide services at the Airport, at the expiration or termination of any Essential Air Service Contract ("EAS Contract") between Lessee and the United States Department of Transportation ("DOT") or any governmental agency succeeding to the jurisdiction of the DOT, under which EAS Contract Lessee has or had agreed to provide Essential Air Services to The City of Pueblo, Colorado.

XIII. ASSIGNMENT.

Lessee may not assign or sublease the premises leased hereunder without the prior written consent of Lessor, which may be granted or denied in its sole and absolute discretion, except an assignment to a successor corporation which has merged with, or acquired substantially all the assets of the Lessee, if such successor corporation provides sufficient financial statements and records to Lessor demonstrating its financial ability to perform this Lease and specifically agrees in writing to perform this Lease. Any assignment made hereunder may be conditioned upon the payment of an assignment fee to be determined by the Lessor and/or an increase in rent.

XIV. APPLICATION OF PUEBLO MUNICIPAL CODE.

All terms and conditions of this Lease are hereby made subject to the provisions of the Pueblo Municipal Code, including but not limited to Title III, Chapter 1 thereof, and in event of conflict between said Pueblo Municipal Code and any provision herein, said Pueblo Municipal Code shall control.

XV. REGULATION.

- A. Lessee agrees to observe and obey all reasonable regulations imposed by Lessor during the term hereof, provided the same are consistent with safety and do not conflict with the regulations and procedures prescribed by the FAA for operation of Lessee's aircraft at the Airport.
- B. This Lease is subject to prior FAA approval.

XVI. NOTICES.

Notices to Lessor provided for herein shall be sufficient if served personally or sent by certified mail, return receipt requested, addressed to: Director of Aviation, Pueblo Memorial Airport, 31201 Bryan Circle, Suite 200, Pueblo, Colorado 81001; and notices to Lessee, if sent by certified mail, return receipt requested, addressed to: Southern Airways Express, LLC, 2875 South Ocean Boulevard, Suite 201, Palm Beach, Florida 33480; or to such other respective addresses as the parties may designate to each other in writing from time to time.

XVII. INVALID PROVISION; SEVERABILITY.

It is further expressly understood and agreed by and between the parties hereto that in the event that any covenant, condition, or provision herein contained is held to be invalid by any court of competent jurisdiction, the invalidity of any such covenant, condition, or provision shall in no way affect any other covenant, condition, or provision herein contained, provided, however, that the invalidity of any such covenant, condition or provision does not materially prejudice either the Lessee or the Lessor in their respective rights and obligations contained in the valid covenants, conditions, or provisions in this Lease.

XVIII. SECURITY.

Lessee shall comply with and be responsible for all applicable: (1) FAA Regulations; (2) Transportation Security Administration ("TSA") Regulations; (3) City Ordinances; and (4) Airport Rules and Regulations; involving all of their leased area and use of the Airport and terminal building, including TSAR Part 1540, Lessor's FAA approved Airport Security Program, and all other Department of Transportation and FAA directives pertaining to airport security.

- A. The Airport participates in the Record of Arrest and Prosecutions Back ("RAP Back") program for Sterile Area and Restricted Area badged individuals. RAP Back provides an additional element to the background checks required of anyone who is authorized to have unescorted access to secured areas of the Airport. Upon notification to the Lessee, the airline will notify the Airport Security Coordinator ("ASC") within twenty four (24) hours of a disqualifying conviction as outlined in the Sterile Area and Restricted Area Badge applications. Any badge suspension or revocation will follow TSA regulations regarding disqualifiers outlined in the Code of Federal Regulations ("CFR"). In cases where a person's access is suspended while a disposition is being determined, the badge holder cannot be allowed or escorted into a secured or Air Operations Areas ("AOA").

- B. Lost or stolen badges or Airport issued keys must be reported to the ASC within two (2) hours of being discovered as missing or stolen.
- C. Firing or suspension of a Lessee's employee will require a notification to the ASC within two (2) hours and a subsequent return of any issued access media to the Lessor.
- D. Employees on leave for over fourteen (14) days must return issued access media to the Lessor.
- E. In the event that keys issued by the Lessor are lost, stolen, or otherwise compromised, the Lessee will assume financial responsibility of the fees associated with rekeying or re-coring.

XIX. CONDUCT OF BUSINESS.

Lessee agrees to operate for the use and benefit of the public and that in the operation of its business upon the leased premises, Lessee agrees to furnish good, prompt, and efficient services adequate to meet all the demands for its services at the Airport, including: (i) a phone number available to customers; (ii) providing staff to provide local in-person customer service; and (iii) providing a baggage pick up policy consistent with US DOT, TSA, and contracts of carriage that does not include utilizing City of Pueblo employees to achieve such means.

XX. NON-DISCRIMINATION; AFFIRMATIVE ACTION.

- A. The Lessee will not discriminate or permit discrimination against any persons or class of persons by reason of race, color, religion, sex, sexual orientation, disability, or national origin in any manner prohibited by 49 CFR Part 21 of the Regulations of the Office of the Secretary of Transportation, or any amendments thereto. The Lessor reserves the right to take such action as the United States Government may direct to enforce this covenant.
- B. Lessee agrees to operate and provide services for the use and benefit of the public and to furnish good, prompt, and efficient services adequate to meet all the demands for its services at the Airport, to furnish service on a fair, equal, and not unjustly discriminatory basis to all users thereof, and to charge fair, reasonable, and not unjustly discriminatory prices for each unit of service, provided that Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or other similar types of price reductions to volume purchasers.
- C. The Lessee assures that it will undertake an Affirmative Action Plan as required by 14 CFR Part 152, Subpart E, as amended, to ensure that no person shall, on the grounds of race, creed, color, sex, sexual orientation, disability, or national origin, be excluded from participating in any employment activities covered in 14 CFR Part 152, Subpart E. The Lessee assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by such Subpart. The Lessee assures that it will require that its covered sub-organizations provide assurances to the Lessor that they similarly will undertake an Affirmative Action Plan and that they will require

assurances from the suborganizations as required by 14 CFR Part 152, Subpart E, as amended, to the same effect.

XXI. ENVIRONMENTAL PROVISIONS.

- A. For the purpose of this Lease, "Hazardous Materials" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local government authority, the State of Colorado, or the United States government and shall include, but not be limited to: (i) substances defined as "hazardous waste," "restricted hazardous waste," "hazardous substance" or "hazardous material" under any applicable federal, state, or local law or regulation (Environmental Regulations); (ii) asbestos-containing materials; (iii) PCBs; (iv) petroleum or petroleum based products; and (v) lead.
- B. Lessee will comply with Environmental Regulations that are applicable to Lessee and its use of the leased premises and Airport. No activity shall be undertaken by Lessee, its guests, employees, agents, contractors, or subcontractors, on all or any portion of the leased premises and Airport which would cause or permit: (i) the presence, use, generation, release, discharge, storage or disposal of any Hazardous Material in, on, under, about, or from the leased premises and Airport or any part thereof in violation of any Environmental Regulations; (ii) any portion of the leased premises and Airport to become a hazardous waste treatment, storage or disposal facility without receiving proper governmental authorization, and in compliance with all Environmental Regulations; or (iii) the discharge of pollutants or effluents into any water source or system, or the discharge into the air of any emissions without receiving proper governmental authorization, and in compliance with all Environmental Regulations, including, without limitation, the Federal Water Pollution Control Act, U.S.C. Section 1251 et seq. and the Clean Air Act, 42 U.S.C. Section 7401 et seq.
- C. Except to the extent Lessor is covered by an insurance policy, Lessee agrees to defend, indemnify, and forever hold harmless Lessor, and its officers, employees, agents, successors, and assigns, from all claims, losses, damages, penalties, expenses and costs, including, but not limited to, attorneys' fees, characterization, remediation and cleanup costs, incurred by reason of the use, storage, generation, release, discharge, maintenance, disposal, or removal of Hazardous Materials in, on, under, about, or from the leased premises and Airport, or any part thereof, by Lessee, its employees, agents, guests, contractors and subcontractors.

XXII. NON-EXCLUSIVE RIGHT.

All rights not herein granted to the Lessee are reserved to Lessor and nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958 as amended. It is clearly understood by the Lessee that no right or privilege has been granted which would prevent any person, firm, or corporation operating aircraft on the Airport from performing any services, including but not limited to maintenance and repair, that it may choose to perform.

XXIII. DEVELOPMENT OF AIRPORT.

Lessee recognizes that from time to time it will be necessary for the Lessor to initiate and carry forward programs of construction, reconstruction, expansion, relocation, maintenance, and repair at and to the Airport in order that the Airport and its facilities may be suitable for the volume and character of air traffic and flight activity which will require accommodation, and that such construction, reconstruction, expansion, relocation, maintenance, and repair may inconvenience or interrupt Lessee's operations at the Airport. Lessee agrees that no liability shall attach to Lessor, its officers, agents, employees, contractors, subcontractors, and representatives by reason of such inconvenience or interruption, and for and in further consideration of the premises, Lessee waives any right to claim damages or other consideration therefore, provided, however, that this waiver shall not extend to, or be construed to be a waiver of, any claim for physical damage to property resulting from willful misconduct of the Lessor, its officers, agents, employees, contractors, subcontractors, and representatives. The Lessee shall be obligated to be pay all rent and fulfill all obligations of this Lease at all times, including, but not limited to, when access to the Airport is temporarily restricted due to routine construction, reconstruction, expansion, or other potential alteration of the airfield.

XXIV. FORCE MAJEURE; NATIONAL EMERGENCIES.

- A. Any delays in or failure of performance by any party of its obligations under this Lease shall be excused if such delays or failure are a result of acts of God, fires, floods, storms, lightning strikes, labor strikes, labor disputes, accidents, pandemics, regulations or orders of civil or military authorities, shortages of labor or materials, or other causes, similar or dissimilar, which are beyond the control of such party.
- B. During a time of war or national emergency, Lessor shall have the right to lease the landing area or any part thereof to the United States Government for military use, and if such lease is executed, the provisions of this Lease insofar as they are inconsistent with the provisions of the lease to the Government, shall be suspended.

XXV. AERIAL APPROACHES.

By accepting this Lease, Lessee expressly agrees for itself, its successors, and assigns that it will not erect nor permit the erection of any structure, building, or object nor permit the growth of any tree on the Airport to a height not to exceed twenty-five (25) feet above ground level. In the event the aforesaid covenant is breached, the Lessor reserves the right to enter upon the property and to remove the offending structure or object and cut the offending tree, all of which shall be at the expense of the Lessee. Lessor reserves the right to take any action it considers necessary to protect the aerial approaches of the Airport against obstruction, together with the right to prevent Lessee from erecting, or permitting to be erected, any building or any other structure on or adjacent to the Airport which, in the opinion of the Lessor, would limit the usefulness of the Airport or constitute a hazard to aircraft.

XXVI. UNITED STATES.

This Lease is subject and subordinate to the terms, reservations, restrictions, provisions, and conditions of the deed of conveyance from the United States Government to the

Lessor and to any other existing or future agreement between the Lessor and the United States, relative to the use, operation, or maintenance of the Pueblo Memorial Airport and its appurtenant facilities, the execution of which has been or may be required as a condition precedent to the participation by any federal agency in the extension, expansions, or development of said Airport and its facilities.

XXVII. EFFECTIVE DATE.

Regardless of the date of execution, the effective date of this Lease is January 15, 2023 ("Effective Date").

XXVIII. FAA LEASE REQUIREMENTS.

- A. The Lessor reserves the right, without any obligation on its part to do so, to develop, modify, change, improve, or abandon the Pueblo Memorial Airport or any part thereof, as it may determine in its sole discretion, at any time, regardless of the desires or view of Lessee, and without interference or hindrance from Lessee or liability to Lessee.
- B. The Lessor reserves the right, without any obligation on its part to do so, to maintain and keep in repair the landing area of the Airport and all publicly owned facilities of the Airport, together with the right to direct and control all activities of Lessee in this regard.
- C. Lessor shall have full and unrestricted right to enter upon those portions of the Airport occupied and leased herein by the Lessee, and Lessor, its agents, or representatives shall be permitted to inspect same during any regular business hours or upon twenty-four (24) hours' notice to Lessee.
- D. Lessee shall comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations with respect to the construction of any structure or building on the Airport, or in the event of any planned modification or alteration of any present or future building or structure on the Airport.
- E. Lessor reserves for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the leased premises and Airport, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft now known or hereafter used for navigation or flight in said airspace, and for use of said airspace for landing on, taking off from, or operations on or over the Airport.
- F. Lessee shall not make use of the Airport in any manner which might interfere with the landing and taking off of aircraft at Airport or otherwise constitute a hazard to aviation. In the event the aforesaid covenant is breached, the Lessor reserves the right to enter upon any area and cause the abatement of such interference at the expense of the Lessee.
- G. Lessor reserves the right to grant and to take easements or rights of way in, under, over, and across the Airport, in which event, Lessee shall only be entitled to compensation for damages to improvements of the Lessee destroyed or damaged thereby, but not to damages for loss of use of the leased premises and Airport.

Lessor will attempt to ensure such easements or rights of way will not impede, prohibit, or infringe upon Lessee's ability to carry out its authorized use of the Airport, but makes no guarantees as to such.

- H. Lessee agrees to annually complete and submit a Department of Transportation - Federal Aviation Administration Airport Activity Survey (FAA Form 1800-31), as may be amended, that documents Lessee's air taxi-commercial passenger enplanements for each calendar year.

XXIX. MISCELLANEOUS.

- A. This Lease expresses the entire understanding and agreement between the Lessor and Lessee with respect to the subject matter hereof and shall be binding and inure to the benefit of Lessor and Lessee and their respective successors and approved assigns. No amendment or modification hereof shall be effective unless in writing signed by Lessor or Lessee.
- B. This Lease shall be governed by and construed in accordance with the laws of the State of Colorado. Venue for any action arising out of this Lease shall be Pueblo County, Colorado. Lessor and Lessee, to the extent permitted by law, waive trial by jury in any action brought on or with respect to this Lease.
- C. Lessee is leasing the leased premises and using the Airport "AS IS, WHERE IS, WITH ALL FAULTS" in their present condition. Lessor makes no representation or warranties of any kind or character, express or implied, with respect to the leased premises and Airport, including but not limited to, any warranty or representation as to suitability or fitness for a particular purpose, title, zoning, physical or environment conditions, utilities, governmental approvals, the compliance of the leased premises and Airport with governmental and environment laws and regulations, the truth, accuracy or completeness of any document or other information provided to Lessee by Lessor or any other person, or any other matter or thing regarding the leased premises and Airport. Lessor shall be under no obligation to maintain the leased premises and Airport or any part thereof in a particular location or condition. If the Airport shall permanently close or relocate, the use restrictions herein shall not apply, and the Lessee may use the leased premises and Airport for any lawful use or purpose allowed by the then existing Pueblo Municipal Code, or in the alternative, Lessee may terminate this Lease upon thirty (30) days prior written notice given to Lessor.
- D. The Lessee represents that it has inspected the Airport and facilities and accepts the conditions of same and fully assumes the risk incident to the use thereof. The Lessor shall not be liable to the Lessee for any damages or injuries to the property or personnel of the Lessee which result from hidden, latent, or other dangerous conditions on the Airport or leased premises. Lessee taking possession of the leased premises and use of the Airport shall be conclusive evidence that Lessee accepts the same in their present condition and that the leased premises and Airport are in good and satisfactory condition at the time such possession was taken.
- E. The acts and omissions of Lessee's employees, agents, contractors, and guests shall be imputed to Lessee for purposes of this Lease.

- F. No provision of this Lease may be waived except by an agreement signed by the waiving party. A waiver of any term or provision shall not be construed as a waiver of any other term or provision.
- G. This Lease is expressly made subject to the limitations of the Colorado Constitution. Nothing herein shall constitute, nor be deemed to constitute, the creation of a debt or multi-year fiscal obligation or an obligation of future appropriations by the City Council of Pueblo, contrary to Article X, §20 of the Colorado Constitution or any other constitutional, statutory or charter debt limitation. Notwithstanding any other provision of this Lease, with respect to any financial obligation of Lessor which may arise under this Lease in any fiscal year, in the event the budget or other means of appropriations for any such year fails to provide funds in sufficient amounts to discharge such obligation, such failure shall not constitute a default by or breach of this Lessor, including any sub-agreement, attachment, schedule, or exhibit thereto, by the Lessor.
- H. Nothing in this Lease is intended, nor should it be construed, to create or extend any rights, claims or benefits or assume any liability for or on behalf of any third party, or to waive any immunities or limitations otherwise conferred upon the City of Pueblo, a Municipal Corporation under or by virtue of federal or state law, including but not limited to the Colorado Governmental Immunity Act, C.R.S. §24-10-101, et seq.
- I. Each person signing this Lease on behalf of a party represents and warrants that he or she has the requisite power and authority to enter into, execute, and deliver this Lease on behalf of such party and that this Lease is a valid and legally binding obligation of such party enforceable against it in accordance with its terms.
- J. This Lease and all other documents contemplated hereunder may be executed using electronic signatures with delivery via facsimile transmission, by scanning and transmission of electronic files in Portable Document Format (PDF) or other readily available file format, or by copy transmitted via email, or by other electronic means and in one or more counterparts, each of which shall be: (i) an original, and all of which taken together shall constitute one and the same agreement, (ii) a valid and binding agreement and fully admissible under state and federal law, and (iii) enforceable in accordance with its terms.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties have caused this Lease to be executed as of the day and year first above written.

[S E A L]

CITY OF PUEBLO, A MUNICIPAL CORPORATION

ATTEST: _____
City Clerk

By _____
Nicholas A. Gradisar, Mayor

SOUTHERN AIRWAYS EXPRESS, LLC

ATTEST: _____

By _____
Name _____
Title _____

EXHIBIT A



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: January 9, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Greg Pedroza, Director Aviation

SUBJECT: AN ORDINANCE APPROVING AN AIRPORT COMMUNITY HANGAR LEASE AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND SOUTHERN AIRWAYS EXPRESS, LLC, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

A Community Hangar Lease Agreement between the City of Pueblo and Southern Airways Express, LLC (Southern Airways) for community hangar space in 31751 Walt Bassett Avenue, is attached for consideration.

PREVIOUS COUNCIL ACTION:

Not applicable to this Ordinance.

BACKGROUND:

The City owns a community hangar at 31751 Walt Bassett Avenue, otherwise known as Hangar D, at the Pueblo Memorial Airport, which can be leased out on a month-to-month basis to pilots for the storage of their aircraft. There is currently space in the hangar that can be leased to Southern Airways.

FINANCIAL IMPLICATIONS:

The hangar will be leased for \$1,000.00 per month for non-exclusive use of the hangar.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

If this Ordinance is not approved, the hangar space will remain vacant.

RECOMMENDATION:

It is the recommendation of the Department of Aviation that this Ordinance be approved.

ATTACHMENTS:

1. Southern Airways Hangar Lease

ORDINANCE NO. 10371

AN ORDINANCE APPROVING AN AIRPORT COMMUNITY HANGAR LEASE AGREEMENT BETWEEN THE CITY OF PUEBLO, A MUNICIPAL CORPORATION, AND SOUTHERN AIRWAYS EXPRESS, LLC, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

WHEREAS, the City of Pueblo is the owner and operator of the Pueblo Memorial Airport together with the land on which said Airport is situated; and

WHEREAS, Southern Airways Express, LLC, is desirous of leasing space in the hangar at 31751 Walt Bassett, which is owned by the City of Pueblo; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

A certain Pueblo Memorial Airport Community Hangar Lease Agreement ("Lease") by and between the City of Pueblo, a Municipal Corporation, and the Southern Airways Express, LLC, to lease space in the community hangar at Pueblo Memorial Airport, a copy of which is attached hereto and made a part hereof by reference, after having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The Mayor is hereby authorized to execute the Lease in the name and on behalf of the City of Pueblo, where the Mayor may execute the Lease by electronic signature and such electronic signature shall be attributable to the Mayor and the City of Pueblo.

SECTION 3.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Ordinance and the attached Lease to implement the terms and conditions described therein.

SECTION 4.

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on December 27, 2022.

Final adoption of Ordinance by City Council on January 9, 2023.



President of City Council

Action by the Mayor:

- ☒ Approved on January 11, 2023.
- ☐ Disapproved on _____ based on the following objections:



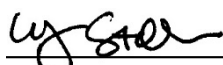
Mayor

Action by City Council After Disapproval by the Mayor:

- ☐ Council did not act to override the Mayor's veto.
- ☐ Ordinance re-adopted on a vote of _____, on _____
- ☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST



City Clerk

City of Pueblo
Department of Aviation
Community Hangar Lease Agreement

This Community Hangar Lease Agreement ("Lease") is entered into this 9th day of January 2023, ("Effective Date") between the City of Pueblo, a Municipal Corporation, with an address of One City Hall Place, Pueblo, Colorado 81003 ("Lessor" or "City"), and Southern Airways Express, LLC, with an address of 2875 South Ocean Boulevard, Suite 201, Palm Beach, Florida 33480 ("Lessee").

WHEREAS, Lessor owns and operates the Pueblo Memorial Airport ("Airport"); and

WHEREAS, Lessee is desirous of leasing a hangar at the Airport upon the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing and mutual promises, covenants and conditions contained herein, Lessor and Lessee hereby agree as follows:

1. LEASED PREMISES

- a. Lessor hereby leases to Lessee the area generally known as a portion of 31751 Walt Bassett, the portion of the hangar shown on Exhibit "A", attached hereto and made a part hereof, located at Airport for the use of storing aircraft, which shall be continually registered with the Federal Aviation Administration ("FAA") throughout the life of this Lease. Lessee shall provide the tail number(s) for Lessee's aircraft to Lessor. Lessee agrees to report any changes in aircraft or tail number(s) fourteen (14) days prior to the change, in order for Lessor to comply with FAA reporting requirements.
- b. This Lease and Lessee's use of the leased premises are subject to the easements, rights of way, covenants, conditions, restrictions, reservations and limitations appearing of record, and all applicable zoning and land use laws, ordinances, codes and regulations, including but not limited to all conditions, regulations, restrictions, and requirements imposed by the FAA, governing and regulating the leased premises and its use.

2. TERM

- a. The term of this Lease shall be for one calendar month, which shall automatically renew for successive one month terms unless earlier terminated by a party.
- b. Either party may terminate this Lease by providing at least fourteen (14) days prior written notice to the other party stating that the Lease shall terminate on a certain date.

3. RENT

- a. In consideration of the rights and privileges contained herein, Lessee agrees to pay a monthly fee, payable in advance without notice by the first day of each month, of \$1,000.00 for use of the leased premises. Rent not paid by the tenth (10th) of each month shall accrue a late fee of eight percent (8%) per month. Rent shall include the combined service fee and utility costs for electricity. No other utilities shall be provided or allowed at the leased premises.
- b. Rent shall increase annually on the anniversary date of the Effective Date by two and one-half percent (2.5%) over the previous monthly rent beginning with the second

anniversary date and continuing every year thereafter. The second anniversary date shall be January 9, 2025.

4. DEPOSIT

- a. Lessee also agrees to pay a security deposit to the airport equal to one month's rent. The security deposit and first month's rent shall be paid upon execution of this agreement. Deposits shall be refunded following termination of this agreement, less any rent due or damages to the leased premises.
- b. In the event that Lessee fails, neglects or refuses to pay any rent, fee, or other sum due, or fails to perform any obligation under this Lease, then Lessor may, in its sole and absolute discretion, draw from the security deposit to remedy Lessee's default. Nothing contained in this Lease shall require Lessor to remedy Lessee's default in this manner, and Lessor may instead, in its sole and absolute discretion, refuse to remedy Lessee's default by drawing on the security deposit, and instead pursue the remedies for default provided in this Lease or by law.
- c. In the event that Lessor draws from this security deposit to remedy Lessee's default, Lessor shall notify Lessee in writing and require Lessee to replenish the deposit to its original level. Failure of Lessee to comply with this section shall constitute a material breach of this Lease.

5. TAXES

- a. Lessee shall promptly pay when due all taxes, fees, licenses, and other governmental charges assessed against or applicable to the leased premises. Possessory interest tax is assessed by the County of Pueblo and is the responsibility of the Lessee. The Lessor is a tax-exempt entity and shall not be liable for any tax of the Lessee. Lessee should be aware that there are multiple taxes and costs associated with owning and operating an aircraft, including the leasing of hangar space. All applicable taxes and costs shall be paid by Lessee, even if Lessee was unaware of such taxes and costs.

6. RELEASE; INSURANCE

- a. Lessee assumes all risk of loss, damage, injury and liability for the same that may occur to Lessee, Lessee's guests, Lessee's aircraft and Lessee's improvements and property in or upon the leased premises and Lessor shall not be liable or responsible for any such loss, damage or injury, regardless of the cause thereof, including, without limitation, the negligence of Lessor, its officers, agents or employees.
- b. Lessee, at its sole cost and expense, shall, during the life of this agreement, procure, pay for and keep in full force and effect a comprehensive policy of commercial general liability insurance. The policy shall have limits in an amount of not less than One Million Dollars (\$1,000,000.00) per occurrence and Three Million Dollars (\$3,000,000.00) in the aggregate. Such coverage shall include, without limitation, legal liability of the insured for property damage, bodily injuries and deaths of persons in connection with the operation, maintenance or use of the leased premises (including acts or omissions of the Lessee). This policy shall name the City of Pueblo as additional insured and loss payee for the policy. The policy shall contain a provision that the policy cannot be canceled or materially altered either by the insured or the insurance company unless thirty (30) days prior written notice thereof is given to the Lessee and

- City. Upon issuance or renewal of any such insurance policy, the Lessee shall furnish to the City a certificate of insurance evidencing coverage required under this contract.
- c. A current and valid certificate of insurance for the above described policies shall be submitted to the City at the time of signing of this agreement, and Lessee shall notify the Director of Aviation of any changes, expiration or renewal of said policies within two (2) weeks of such change.

7. RIGHTS AND PRIVILEGES OF THE LESSEE

- a. Lessee shall have the exclusive use of the designated areas of the leased premises as indicated by Exhibit A for the purpose of storing Lessee's aircraft and aeronautical property, except as specifically set forth hereinafter. Lessee shall not assign nor sublet the leased premises or any part thereof. Lessee hereby understands and accepts that the hangar is used as a community hangar and Lessee shall be sharing the hangar with other persons.
- b. Except as may be specifically authorized herein to the contrary, Lessee shall not, without the prior written approval of the Director of Aviation, make improvements, modifications, revisions, installation of signs or other alterations to the leased premises. Costs of improvements, revisions, signs and alterations shall be borne solely by Lessee and all such improvements, modifications, revisions or alterations shall upon expiration or termination of this agreement be removed without cost to the Lessor. Lessor may, on a case by case basis, allow the improvements to remain, in which case Lessor shall not be liable for the cost of the improvements. All improvements must be done by trade professionals licensed, insured and permitted to conduct business within the City.
- c. Lessee, its employees and invitees shall have the right of ingress and egress between designated airport access points and the leased premises over, upon, and through such streets and not others as from time to time shall be designated by the Director of Aviation. Driveways from existing streets into the leased premises shall be located as designated by the City of Pueblo through the Director of Aviation.
- d. Lessee shall only use the leased premises for the storage of aircraft and minor incidental materials. The leased premises shall not be used for the storage of non-aeronautical personal property, living accommodations, or in any other way inconsistent with this Lease or federal regulations. Failure to abide by this provision shall constitute a material breach of this Lease.

8. RIGHTS AND PRIVILEGES OF THE LESSOR

- a. All rights not herein granted to the Lessee are reserved to Lessor and nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 of the Federal Aviation Act of 1958 as amended.
- b. Lessor shall have full and unrestricted right to enter upon those portions of the Airport occupied and leased herein by the Lessee, and Lessor, its agents or representatives shall be permitted to inspect same during any regular business hours or upon twenty-four (24) hours' notice to Lessee.
- c. Lessor reserves the right to maintain and keep in repair the landing areas of the airport and all publicly owned facilities of the airport but shall not be obligated to the Lessee for any failure to so maintain or keep in repair.

- d. Lessee recognizes that from time to time it will be necessary for Lessor to initiate and carry forward programs of construction, reconstruction, expansion, relocation, maintenance and repair at and to the Airport in order that the Airport and its facilities may be suitable for the volume and character of air traffic and flight activity which will require accommodation, and that such construction, reconstruction, expansion, relocation, maintenance, and repair may inconvenience or interrupt Lessee's operations at the Airport. Lessee agrees that no liability shall attach to Lessor, its officers, agents, employees, contractors, subcontractors and representatives by reason of such inconvenience or interruption, and for and in further consideration of the premises, Lessee waives any right to claim damages or other consideration therefore. The Lessee shall be obligated to pay all rent and fulfill all obligations of this Lease at all times, including, but not limited to, when access to the Airport is temporarily restricted due to routine construction, reconstruction, expansion, or other potential alteration of the airfield.
- e. There is hereby reserved to the Lessor, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the premises hereby leased, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft, now known or hereafter used for navigation of or flight in the air, using such airspace or landing at, taking off from, or operating at Pueblo Memorial Airport.
- f. Lessor reserves the right, without any obligation on its part to do so, to develop, modify, change, improve or abandon the Airport or any part thereof, as it may determine in its sole discretion, at any time, regardless of the desires or view of Lessee, and without interference or hindrance from Lessee or liability to Lessee.

9. OBLIGATIONS OF THE LESSEE

- a. Lessee shall, at its own expense, keep the premises neat, clean, safe and orderly at all times, free of waste, rubbish and debris, and shall provide a complete and proper arrangement for the sanitary handling and disposal of all trash, garbage and other refuse resulting from Lessee's activities at the Airport. No outside storage of parts, materials, equipment, inventory, or other material shall be permitted. Lessee understands that snow removal within five (5) feet of the hangar door is the responsibility of Lessee.
- b. Lessee agrees to indemnify, defend, and save the Lessor, its agents, officer's representatives and employees, harmless from and against any and all penalties, liability or loss including costs and attorney fees resulting from claims or court action, whether civil, criminal or in equity, and arising directly or indirectly out of: (i) acts of the Lessee, his agents, employees, or servants; (ii) occurring in on or about the leased premises; (iii) arising out of or resulting from the leased premises, or any condition thereon, or from Lessee's use and occupancy of the leased premises, or any equipment thereon or appurtenances thereto, or any activity conducted therein; or (iv) through any injury or damage that may be caused or occasioned.
- c. Lessee understands that the leased premises are a shared area and that cooperation among tenants is of utmost importance. All disputes shall be brought to the Director of Aviation who shall have sole and absolute discretion in deciding said disputes. Lessee agrees to indemnify, defend, and save the Lessor, its agents, officer's representatives and employees, harmless from and against any and all penalties, liability or loss

including costs and attorney fees resulting from claims or court action, whether civil, criminal or in equity, and arising directly or indirectly out of Lessee's disputes or actions towards other tenants.

- d. Only Lessee shall park, move, and/or relocate its aircraft. Lessor shall not park, move, or relocate said aircraft for any reason unless required to do so by law or as otherwise provided for in this Lease.
- e. Lessee shall not hold or attempt to hold Lessor liable for any injury, including loss of life, to any person, or for damage to any property while on the leased premises or the airport, irrespective of how such injury or damage may be caused or occasioned.

10. OBLIGATIONS OF THE LESSOR

- a. Lessor shall maintain the floor, walls, roof and doors of said premises, except that the cost of repair for any damages to same caused by Lessee, his employees, agents, or invitees shall be borne solely by Lessee.
- b. All risk of loss or damage to Lessee's aircraft and other personal property in or upon the leased premises is assumed by Lessee, and Lessor shall not be liable or responsible for any loss or damage to such aircraft and other personal property regardless of the cause thereof, including, without limitation, the negligence of Lessor, its officers, agents or employees.
- c. Where its aircraft or other property is not moved in a timely fashion by Lessee, Lessor may move Lessee's aircraft or other property if the aircraft or property obstruct Lessor's or another tenant's use of the hangar or access ways. Should Lessor be required to move said aircraft or property for any reason, Lessor shall not be liable or in any way responsible for damage to the aircraft or property.
- d. Locks shall be provided by the Lessor and shall be the only locks placed on the hangar. Locks shall be removed and replaced solely by the Lessor. Lessee shall have no right to alter, change or replace the Lessor's locks.

11. GENERAL CONDITIONS

- a. The Airport and the terms and conditions of this Lease and Lessee's rights hereunder are hereby made subject to the provisions of the Code of Ordinances of the City of Pueblo, as same may be subsequently amended. In the event of conflict between said Code and this Lease, said Code shall control. Title III of said Code specifically relates to the Department of Aviation.
- b. The Lessee, as a part of the consideration hereof, does hereby covenant and agree, as a covenant running with the land, that in the event facilities are constructed, maintained or otherwise operating on the property described in the Lease for the purpose of which a United States Department of Transportation program or activity is extended or for another purpose involving the provision of similar services or benefits, the Lessee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally-assisted programs of the Department of Transportation Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations may be amended.
- c. The Lessee, for itself, its successors and assigns, as a part of the consideration hereof, does hereby covenant and agree as a covenant running with the land that (i) no person

on the grounds of race, color, religion, sex, sexual orientation, ancestry, disability, age, or national origin shall be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the leased premises or ramp; (ii) that in construction of any improvements on, over or under such land and the furnishing of services thereon, no person on the grounds of race, color, religion, sex, disability, or national origin shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination; and (iii) that the Lessee shall use the leased premises and ramp in compliance with all other requirements imposed by or pursuant to 49 CFR, Part 21, Non-discrimination in Federally Assisted Programs of the Department of Transportation, and as the regulations may be amended.

- d. The Lessee, by accepting this Lease expressly agrees for itself, its successors and assigns that it will not make use of the leased premises in any manner which might interfere with the landing and taking-off of aircraft from Pueblo Memorial Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, the Lessor reserves the right to enter upon the premises hereby leased at any time and cause the abatement of such interference at the expense of the Lessee.
- e. This Lease and all the provisions hereof are subject to all rights the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation, re-entry upon and taking over of the Airport including the leased premises.
- f. The Lessee shall observe faithfully all rules and regulations affecting use of the Airport, whether established by the Director of Aviation, the City or other political subdivision having jurisdiction, the State of Colorado or the United States, or agencies thereof, including but not limited to rules affecting the operation of motor vehicles upon, to and from the Airport.
- g. The Lessee, and all officers, agents and employees of Lessee, hereby agree to be bound by and subject to all Police Ordinances of the City of Pueblo at all times while on the Airport, whether acting in the course of Lessee's business or otherwise.
- h. The leased premises is leased "As Is, Where Is, With All Its Faults" and Lessor has not at any time made any warranty or representation of any kind or character, express or implied, with respect to the leased premises, including but not limited to, any warranty or representation as to suitability or fitness for a particular purpose, title, zoning, physical or environment conditions, utilities, governmental approvals, the compliance of the leased premises with governmental and environment laws and regulations, the truth, accuracy or completeness of any document or other information provided to Lessee by Lessor or any other person, or any other matter or thing regarding the leased premises.
- i. The Lessee represents that it has inspected the Airport, leased premises, and facilities and accepts the conditions of same and fully assumes the risk incident to the use thereof. The Lessor shall not be liable to the Lessee for any damages or injuries to the property or personnel of the Lessee which result from hidden, latent, or other dangerous conditions on the airport or leased premises. Lessee's taking of possession of the leased premises shall be conclusive evidence that Lessee accepts the leased premises in its present condition and that the leased premises is in good and satisfactory condition at the time such possession was taken.

- j. The acts and omissions of Lessee's employees, agents, contractors, and guests shall be imputed to Lessee for purposes of this Lease.

12. DEFAULT, HOLDOVER, AND NON-PERFORMANCE CONDITIONS

- a. If after the expiration of the term of this Lease, Lessee shall remain in possession of the leased premises and continue to pay rent without any express written agreement as to such holding over, then Lessee agrees that all terms and covenants of the Lease shall remain in effect, except that Lessee shall be a tenant from month-to-month at the then current monthly rent and subject to the same annual adjustments as previously existed. During the term of any month-to-month tenancy, Lessor or Lessee may terminate this Lease upon fourteen (14) days prior written notice to the other party.
- b. If the Lessee shall be declared insolvent or bankrupt, or if any assignment of the Lessee's property shall be made for the benefit of creditors or otherwise, or if Lessee's leasehold interest herein shall be levied upon under execution, or seized by virtue of any writ of any Court of Law, or a Trustee in Bankruptcy or a Receiver appointed for the property of the Lessee, whether under the operation of the State or the Federal statutes, then and in any such case, the Lessor may, at his option, immediately with or without notice, notice being expressly waived, terminate this Lease and immediately retake possession of said premises without the same working any forfeiture of any accrued obligations of the Lessee hereunder.
- c. If the rent or any part thereof shall be in default, or in case of any breach by the Lessee of any of the covenants or agreements herein, Lessor may declare this Lease terminated, and after the expiration of fourteen (14) days from the date of the service of a written notice to that effect, be entitled to the possession of said premises. After the expiration of this Lease or any violation of any term or provision as herein provided for, if Lessee shall refuse to surrender and deliver possession of the leased premises after notice of termination, then in that event Lessor may, without further notice or demand, enter into and upon said premises, or any part thereof, and take possession thereof and repossess them, and expel, remove and put out of possession the Lessee, using such help, assistance and force in so doing as may be needful and proper, without prejudice to any remedy allowed by law, available in such cases.
- d. That in case said premises are left vacant and any part of the rent herein reserved be due and unpaid, then the Lessor may, without in anyway being obligated to do so, and without terminating this Lease, retake possession of said premises and rent the same for such rent, and upon such conditions as the Lessor may think best, making such changes and repairs as may be required, giving credit for the amount of rent so received less all expenses of such changes and repairs, and said Lessee shall be liable for the balance of the rent herein reserved until the expiration of this Lease.
- e. In the event the Lease be terminated, as herein provided, Lessor should have and is hereby given a lien upon Lessee's aircraft and property, including equipment, fixtures, furniture and inventory, in or upon the leased premises for all rent, expenses, attorney fees and costs then due or to become payable by Lessee hereunder, and such lien may be enforced by the taking and sale of such property in the same manner and as provided for the disposition of collateral under the Colorado Uniform Commercial Code.

- f. Lessee agrees to pay the Lessor all costs, including reasonable attorney fees, incurred by Lessor in recovering any rent or other money due and unpaid under the terms of this Lease or to recover possession of the leased premises after termination hereof.
- g. Without affecting any other rights granted to Lessor under this Lease, Lessee shall remove its airplane and any personal property from the leased premises within seven (7) days after termination of this Lease. Should Lessee fail to remove its property within that seven (7) day period, Lessor shall have the right to enter and remove the property, where Lessee shall be liable for all costs of removal. Unclaimed property shall be considered abandoned and may be disposed of in any manner Lessor deems appropriate. Should Lessor choose to sell the abandoned property, any money so derived shall first go to pay costs due to the Lessor, while any left-over amounts shall be forwarded to the Lessee.

13. SPECIAL CONDITIONS

- a. Lessee agree that no flammable liquids or hazardous materials shall be used or stored on the premises, excepting the fuel in the aircraft fuel tanks or in the tank of a stored automobile, properly parked.
- b. It is expressly understood that no person other than the Lessee or his regular employee may perform services on any aircraft on the leased premises in such a manner as not to exceed the definition of preventative maintenance in 14 CFR Part 43 - Appendix A and in accordance with local ordinance.
- c. Lessee agrees not to use the leased premises for non-aeronautical commercial or residential uses and that all uses shall be substantially aeronautical.
- d. Lessee agrees to provide drip pans of a non-flammable material under the aircraft to prevent damage to the floor, should said aircraft leak any fluids.
- e. It is expressly understood by Lessee that security within the air operations area of the Airport is vital. The drive through gate entering the air operations area shall be kept closed and locked at all times except for ingress and egress. Only automobiles belonging to owners of aircraft hangered therein will be permitted on the air operations area. Any automobile brought by Lessee shall be the sole responsibility of the Lessee.
- f. Violation of airport security rules as now, or in the future may, exist shall be grounds for immediate termination of this Lease.
- g. No person or automobile shall go beyond the immediate vicinity of the leased premises without the express written consent of the Director of Aviation.
- h. Automobiles must be parked in designated parking spaces or within the hangar, except that the hangar cannot be used solely for storage of automobiles.
- i. Mounting, hanging, suspending, or otherwise installing any item from the ceiling, support beams, or roofing structure is expressly forbidden.
- j. Hangar doors shall remain closed and locked except during periods when the hangar is attended by Lessee. This is to prevent damage from sudden storms and the creation of foreign object debris.

14. ENVIRONMENTAL PROVISIONS

- a. For the purpose of this Lease, "Hazardous Materials" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local government authority, the State of Colorado or the United States government and shall include, but

- not be limited to: (i) substances defined as “hazardous waste,” “restricted hazardous waste,” “hazardous substance” or “hazardous material” under any applicable federal, state or local law or regulation (Environmental Regulations); (ii) asbestos-containing materials; (iii) PCBs; (iv) petroleum or petroleum based products; and (v) lead.
- b. Lessee will comply with Environmental Regulations that are applicable to Lessee and its use of the leased premises. No activity shall be undertaken by Lessee, its guests, employees, agents, contractors or subcontractors, on all or any portion of the Leased Premises which would cause or permit: (i) the presence, use, generation, release, discharge, storage or disposal of any Hazardous Material in, on, under, about, or from the leased premises or any part thereof in violation of any Environmental Regulations; (ii) any portion of the leased premises to become a hazardous waste treatment, storage or disposal facility without receiving proper governmental authorization, and in compliance with all Environmental Regulations; or (iii) the discharge of pollutants or effluents into any water source or system, or the discharge into the air of any emissions without receiving proper governmental authorization, and in compliance with all Environmental Regulations, including, without limitation, the Federal Water Pollution Control Act, U.S.C. Section 1251 et seq. and the Clean Air Act, 42 U.S.C. Section 7401 et seq.
 - c. Lessee agrees to defend, indemnify and forever hold harmless Lessor, and its officers, employees, agents, successors, and assigns, from all claims, losses, damages, penalties, expenses and costs, including, but not limited to, attorneys’ fees, characterization, remediation and cleanup costs, incurred by reason of the use, storage, generation, release, discharge, maintenance, disposal, or removal of Hazardous Materials in, on, under, about, or from the leased premises, or any part thereof, by Lessee, its employees, agents, guests, contractors and subcontractors.

15. MISCELLANEOUS PROVISIONS

- a. No assent, express or implied, to any breach of any one or more of the covenants and agreements hereof, shall be deemed or taken to be a waiver of any succeeding or other breach.
- b. All covenants and agreements in this Lease shall be binding upon and inure to the benefit of the heirs, successors, assigns and legal representatives of Lessor and Lessee.
- c. Any notice, demand or request provided in this Lease shall be in writing and sent by certified mail, return receipt requested to the other party at the addresses listed above or at such other address as each party may provide the other by written notice. Such notice shall be deemed given on the day it is properly mailed.
- d. Nothing in this Lease is intended, nor should it be construed, to create any rights, claims, or benefits or assume any liability for or on behalf of any third party, or to waive any immunities or limitations conferred under federal or state law, including but not limited to the Colorado Governmental Immunity Act, § 24-10-101 et seq., C.R.S.
- e. This Lease shall be governed by the laws of the State of Colorado. Venue for any action arising under this Lease or for the enforcement of this Lease shall be in a state court with jurisdiction located in Pueblo County, Colorado.
- f. This Lease shall not be assigned by Lessee for any reason.
- g. Nothing in this Lease is intended to nor shall be deemed to constitute a partnership or joint venture between the parties, or to create any agency or partner relationship

between the parties. Neither party shall hold itself out as a partner, joint venture, agent, or representative of the other under this Lease.

Executed at Pueblo, Colorado as of the day and year first above written.

LESSEE:
Southern Airways Express, LLC

LESSOR:
City of Pueblo, A Municipal Corporation

By: _____
Name: _____
Title: _____

By: _____
Nicholas A. Gradisar, Mayor

ATTEST:

By: _____
City Clerk

Exhibit A





Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: January 9, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Daniel C. Kogovsek, City Attorney

SUBJECT: An Emergency Ordinance accepting the assignment of a contract to buy and sell real estate from Pueblo Rescue Mission, A Colorado nonprofit corporation, for purposes of purchasing 718 W. 4th Street, Pueblo, CO 81003 and authorizing the Mayor to execute an acceptance of said assignment

SUMMARY:

Attached is an Emergency Ordinance accepting and approving the Assignment of a Contract to Buy and Sell Real Estate from Pueblo Rescue Mission, a Colorado nonprofit corporation. The Ordinance also authorizes the Mayor to sign an Acceptance of Assignment document evidencing the City's acceptance of the assignment.

PREVIOUS COUNCIL ACTION:

Not applicable to this Ordinance.

BACKGROUND:

The Mayor and City staff are recommending that the City acquire 718 W. 4th Street near downtown Pueblo. The property is adjacent to the Pueblo Rescue Mission and current plans are to demolish the existing building to enable the property to be used as an outdoor homeless warming shelter when temperatures are below 20 degrees and as a shaded cooling location when temperatures exceed 100 degrees.

FINANCIAL IMPLICATIONS:

This Ordinance accepts the assignment of a contract to purchase 718 W. 4th Street ("Property"). The purchase price for the Property is \$65,000. Pueblo Rescue Mission ("PRM") has paid a refundable Earnest Money deposit of \$500 which will be refunded to PRM.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

City Council could choose not to purchase the parcel located at 718 W. 4th Street.

RECOMMENDATION:

The Mayor and City staff recommend approval of this Ordinance.

ATTACHMENTS:

1. Assignment and Acceptance
2. Real Estate Contract

ORDINANCE NO. 10372

AN EMERGENCY ORDINANCE ACCEPTING THE
ASSIGNMENT OF A CONTRACT TO BUY AND SELL REAL
ESTATE FROM PUEBLO RESCUE MISSION, A COLORADO
NONPROFIT CORPORATION, FOR PURPOSES OF
PURCHASING 718 W. 4TH STREET, PUEBLO, CO 81003 AND
AUTHORIZING THE MAYOR TO EXECUTE AN ACCEPTANCE
OF SAID ASSIGNMENT

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Acceptance of Assignment between Pueblo Rescue Mission, a Colorado nonprofit corporation and the City of Pueblo, a Colorado municipal corporation, a copy of which is attached hereto ("Acceptance") having been approved as to form by the City Attorney, is hereby approved. The Mayor is authorized to execute and deliver the Acceptance in the name of the City and the City Clerk is authorized to affix the seal of the City thereto and attest same.

SECTION 2.

The Contract to Buy and Sell Real Estate, executed on December 22, 2022, between Richard C. Tanner, as Seller, and Pueblo Rescue Mission, a Colorado nonprofit corporation, as Buyer, a copy of which is attached hereto ("Contract") having been approved as to form by the City Attorney, is hereby approved and ratified.

SECTION 3.

The City Council hereby approves the purchase of the following real property from Richard C. Tanner, for Sixty-Five Thousand Dollars (\$65,000) plus applicable title insurance, closing and other costs as identified in the Contract:

Lot 25, Block 3, Thatcher + Gast Subdivision, County of Pueblo, State of Colorado also known as 718 W. 4th Street, Pueblo, CO 81003.

The Mayor is authorized to execute and deliver at closing all customary and necessary documents to effectuate this purchase transaction as required by the Contract.

SECTION 4.

The officers and staff of the City are authorized to perform all acts consistent with this Ordinance and the attached Acceptance and Contract to implement the policies and procedures described herein.

SECTION 5.

Savings Clause: If the City Council decides to accept the assignment of the contract to purchase 718 W. 4th Street, Pueblo, CO 81003, pursuant to the Contract executed on December 22, 2022, the closing of that purchase transaction must occur on or before January 21, 2023. The immediate enactment of this Ordinance is necessary in order to preserve and protect the health, safety and welfare of the residents of the City. Pursuant to Sec. 3-20 of the City Charter, this Ordinance shall become effective on the date of final action by the Mayor and City Council.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on January 9, 2023.

Final adoption of Ordinance by City Council on January 9, 2023.



President of City Council

Action by the Mayor:

☒ Approved on January 11, 2023.

☐ Disapproved on _____ based on the following objections:



Mayor

Action by City Council After Disapproval by the Mayor:

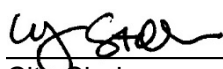
☐ Council did not act to override the Mayor's veto.

☐ Ordinance re-adopted on a vote of _____, on _____

☐ Council action on _____ failed to override the Mayor's veto.

President of City Council

ATTEST



City Clerk

ASSIGNMENT OF CONTRACT TO BUY AND SELL REAL ESTATE

For and in consideration of the sum of TEN DOLLARS (\$10.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, the undersigned, Pueblo Rescue Mission, a Colorado nonprofit corporation ("Assignor"), hereby assigns and transfers all of its right, title, interest, duties and obligations in, to, and under that certain Contract to Buy and Sell Real Estate ("Contract") executed December 22, 2022 by and between Assignor as Buyer and Richard C. Tanner, as Seller, to the City of Pueblo, a Colorado municipal corporation and a home-rule municipality, (collectively "Assignee"), its successors and assigns, forever, subject to all of the terms, conditions, and stipulations set forth in the Contract. A true and accurate copy of the fully executed Contract is attached hereto and incorporated herein by this reference as though fully set forth, labeled Exhibit A.

Assignor represents to Assignee that the attached Exhibit A is the complete agreement for the sale and purchase of the real property and improvements identified therein and that the Agreement authorizes this assignment by Assignor. This Assignment is conditioned, and shall be fully effective, upon the execution by the Assignee of the Acceptance of Assignment set forth below.

ASSIGNOR:

Pueblo Rescue Mission, Inc.
a Colorado nonprofit corporation

By: _____
Melanie Rapier, Executive Director Date

ACCEPTANCE OF ASSIGNMENT

The City of Pueblo, Colorado ("Assignee") acting by and through its undersigned Mayor, Nicholas A. Gradisar, of 1 City Hall Pl., 2nd floor, Pueblo, CO 81003 hereby accepts the foregoing Assignment of Contract to Buy and Sell Real Estate upon the terms set forth and, further, agrees to assume and be bound by all of the obligations of Buyer under the Contract and all provisions of the Contract and ratifies and confirms the Contract as if an original party to the same.

ASSIGNEE:

ATTEST:

Nicholas A. Gradisar, Mayor
City of Pueblo, Colorado

Date

Marisa Stoller
City Clerk

Date

CONTRACT TO BUY AND SELL REAL ESTATE

THIS CONTRACT ("Agreement") is made the ____ day of _____, 202__, between Richard C. Tanner (hereinafter called the "Seller"), and the Pueblo Rescue Mission, a Colorado nonprofit corporation (hereinafter called the "Purchaser").

1. Property Defined. The Seller agrees to sell and convey to the Purchaser, and the Purchaser agrees to purchase from the Seller, all that certain plat, piece, and improved parcel of land having the following legal description ("Property"):

Lot 25, Block 3, Thatcher + Gast Subdivision, County of Pueblo, State of Colorado also known as 718 W. 4th Street, Pueblo, CO 81003.

The Property shall be conveyed by Special Warranty Deed ("Deed") and shall be conveyed subject to and subordinate to all easements, reservations, restrictions, covenants, limitations, rights-of-way and conditions of record and zoning and subdivision regulations and resolutions of the City of Pueblo.

2. Purchase Price. Seller and Purchaser agree that the total purchase price shall be Sixty-Five Thousand Dollars (U.S.\$65,000.00) to be paid as provided in, and subject to, Paragraph 3 below (the "Purchase Price").

3. Payment of Purchase Price. The Purchase Price for the Property shall be payable as follows:

- Earnest Money: Purchaser's check in the amount of \$500.00 made payable to Seller to be delivered upon execution of this Agreement;
- The balance of the purchase price, after the prorations agreed to in Paragraph 4 below, to be paid by Purchaser to Seller, at Closing in cash or certified funds.

4. Real Property Taxes. Seller shall be responsible for the payment of general real property taxes and assessments for tax year 2022 and prior years. General real property taxes and assessments for tax year 2023 shall be prorated and paid at Closing to the Purchaser on the basis of the 2022 tax year.

5. Title Commitment and Policy. Purchaser may order and obtain, at Purchaser's sole expense, a current commitment for extended coverage title insurance in the amount of the Purchase Price, and a current certificate of taxes due with respect to the Property, from a title company selected by Purchaser. Purchaser shall have the right to review the Title Commitment and the title documents and notify Seller in writing of any title objections to the title exceptions set forth in the Title Commitment. In the event that Seller is unable or unwilling to eliminate or modify (or agree in writing to so eliminate or modify) such unacceptable exceptions to the reasonable satisfaction of Purchaser, Purchaser shall, prior to the Closing Date either (i) waive such objections and accept title to the Property subject to title exceptions set forth in the Title Commitment, or (ii) terminate this Agreement by written notice to Seller, whereupon this

Agreement shall automatically be terminated and of no further force and effect, and the earnest money deposit of \$500.00 provided for in Paragraph 3 above, shall be returned to the Purchaser. as Purchaser desires, at the expense of Purchaser.

6. Closing Time and Place. Closing of the transaction contemplated hereby ("Closing") shall take place within thirty (30) days from the date of this Agreement and be held at the offices of the Title Company selected by the Purchaser.

7. Closing Costs. All Closing costs and expenses of this transaction shall be paid by the Purchaser.

8. Broker. Purchaser and Seller represent and warrant to the other that no broker or finder has been engaged by such Party in connection with this transaction. Seller agrees to indemnify, defend and hold Purchaser harmless from and against any and all claims, loss, liability, costs and expenses (including reasonable attorneys' fees), resulting from any claims that may be made against Purchaser by any broker or other person claiming a commission, fee or other compensation by reason of the transaction contemplated hereby if the same shall arise by, through or on account of Seller. Purchaser agrees to indemnify, defend and hold Seller harmless from and against any and all claims, loss, liability, costs and expenses (including reasonable attorneys' fees), resulting from any claims that may be made against Seller by any broker or other person claiming a commission, fee or other compensation by reason of the transaction contemplated hereby if the same shall arise by, through or on account of Purchaser.

9. Disclaimers. EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT, IT IS UNDERSTOOD AND AGREED THAT SELLER IS NOT MAKING AND HAS NOT AT ANY TIME MADE ANY WARRANTIES OR REPRESENTATIONS OF ANY KIND OR CHARACTER, EXPRESS OR IMPLIED, WITH RESPECT TO THE PROPERTY, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTIES OR REPRESENTATIONS AS TO HABITABILITY, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE (OTHER THAN SELLER'S SPECIAL WARRANTY OF TITLE TO BE SET FORTH IN THE SPECIAL WARRANTY DEED), ZONING, TAX CONSEQUENCES, PHYSICAL OR ENVIRONMENTAL CONDITION (INCLUDING, BUT NOT LIMITED TO, HAZARDOUS MATERIALS CONTAMINATION), UTILITIES, OPERATING HISTORY OR PROJECTIONS, VALUATION, GOVERNMENTAL APPROVALS, THE COMPLIANCE OF THE PROPERTY WITH GOVERNMENTAL LAWS, OR ANY OTHER MATTER OR THING REGARDING THE PROPERTY. PURCHASER ACKNOWLEDGES AND AGREES THAT, EXCEPT AS EXPRESSLY SET FORTH IN THIS AGREEMENT AND THE SPECIAL WARRANTY OF TITLE TO BE SET FORTH IN THE SPECIAL WARRANTY DEED, UPON CLOSING SELLER SHALL SELL AND CONVEY TO PURCHASER AND PURCHASER SHALL ACCEPT THE PROPERTY "AS IS, WHERE IS, WITH ALL FAULTS." PURCHASER AND SELLER AGREE THAT THE PROVISIONS OF THIS PARAGRAPH 9 SHALL SURVIVE THE CLOSING OF THE TRANSACTION CONTEMPLATED BY THIS AGREEMENT AND THE RECORDING OF THE SPECIAL WARRANTY DEED HEREUNDER.

10. The provisions in this Agreement are to apply to and bind, and inure to the benefit of, the heirs, executors, administrators, successors, and assigns of the respective parties.

11. Counterparts. This Agreement may be executed in any number of counterparts, and each such counterpart shall be deemed for all purposes to be an original, and all such counterparts shall together constitute but one and the same original.

Executed at Pueblo, Colorado, the day and year first above written.

SELLER:

Richard C. Tanner 12-22-22

Richard C. Tanner

PURCHASER:

Pueblo Rescue Mission, Inc.
a Colorado nonprofit corporation

By: Melanie Rapier
Melanie Rapier, Executive Director



Background Paper for Proposed Resolution

COUNCIL MEETING DATE: January 9, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Andrew Hayes, Public Works Director

SUBJECT: A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$103,582.50 TO BAHAM CONSTRUCTION, INC., FOR PROJECT NO. 22-088, CONCRETE IMPROVEMENTS - CITY PARK POOL PARKING LOT, SETTING FORTH \$16,417.50 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

Attached is a resolution awarding a construction contract to Baha Construction, Inc., for 22-088, Concrete Improvements - City Park Pool Parking Lot.

PREVIOUS COUNCIL ACTION:

None

BACKGROUND:

The Project is the first phase of the renovation of the City Park Pool Parking Lot. This part of the project will remove the existing curb, gutter and asphalt around the future landscape islands, add conduits for lighting and add concrete pans for drainage. The proposed future phases of this project will add asphalt improvements and likely landscaping and lighting. The Resolution awards the construction contract to Baha Construction, Inc.

FINANCIAL IMPLICATIONS:

Funding (including contingencies) in the amount of \$120,000 will be paid from account LT1501 City Park Renovations.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Denial of this resolution will cancel the project.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 22-088 Bid Summary Concrete Improvements - City Park Pool Parking Lot

RESOLUTION NO. 15126

A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$103,582.50 TO BAHAM CONSTRUCTION, INC., FOR PROJECT NO. 22-088, CONCRETE IMPROVEMENTS - CITY PARK POOL PARKING LOT, SETTING FORTH \$16,417.50 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, competitive bids for Project No. 22-088, Concrete Improvements - City Park Pool Parking Lot have been received and examined; and

WHEREAS, the proposal of Baha Construction, Inc., was the lowest of those bids determined to be responsive, and the Committee of Awards recommends to the City Council that it authorize Project No. 22-088, Concrete Improvements - City Park Pool Parking Lot to be performed; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

City Council authorizes Project No. 22-088, Concrete Improvements - City Park Pool Parking Lot to be performed, and the contract for said project is hereby awarded to Baha Construction, Inc., in the amount of \$103,582.50.

SECTION 2.

The Purchasing Agent is hereby authorized to execute said contract on behalf of the City of Pueblo, a Municipal Corporation, and the City Clerk shall affix the seal of the City thereto and attest the same.

SECTION 3.

In addition to the amount of the bid set forth, as aforementioned, an additional amount as stipulated in this section is hereby established for contingencies and additional work.

Contingencies and Additional Work.....\$16,417.50

SECTION 4.

Funds for Project 22-088 (including contingencies and additional work) shall be from Project No. LT1501, City Park Renovations.

SECTION 5.

The officers of the City of Pueblo are authorized to perform any and all acts consistent with this Resolution to implement the policies and procedures described herein.

SECTION 6.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: January 9, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 
CITY CLERK



City of Pueblo
Purchasing

Naomi Hedden, Director
230 S. Mechanic St., Pueblo, CO 81003

EVALUATION TABULATION

IFB No. 22-088 (LT1501)

Concrete Improvements - City Park Pool Parking Lot

RESPONSE DEADLINE: December 21, 2022 at 10:00 am

Report Generated: Wednesday, December 21, 2022

SELECTED VENDOR TOTALS

Vendor	Total
Baha Construction, Inc.	\$103,582.50
Sunland Asphalt & Construction, LLC	\$117,973.21
JARCCO Construction LLC	\$119,245.00

BASE BID

					Baha Construction, Inc.		JARCCO Construction LLC		Sunland Asphalt & Construction, LLC	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
X	1	Remove Curb and Gutter	91	LF	\$10.00	\$910.00	\$19.00	\$1,729.00	\$38.84	\$3,534.44
X	2	Remove Asphalt	5784	SF	\$4.75	\$27,474.00	\$5.00	\$28,920.00	\$3.14	\$18,161.76
X	3	Construct Type 2 Curb and Gutter	617	LF	\$42.00	\$25,914.00	\$43.00	\$26,531.00	\$49.31	\$30,424.27
X	4	Construct 6" Standard Curb and Gutter	145	LF	\$40.00	\$5,800.00	\$45.00	\$6,525.00	\$39.91	\$5,786.95

EVALUATION TABULATION

IFB No. 22-088 (LT1501)

Concrete Improvements - City Park Pool Parking Lot

					Baha Construction, Inc.		JARCCO Construction LLC		Sunland Asphalt & Construction, LLC	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
X	5	Construct 7" Reinforced Concrete	788	SF	\$11.00	\$8,668.00	\$17.00	\$13,396.00	\$16.23	\$12,789.24
X	6	Install A.B.C	10	TON	\$45.00	\$450.00	\$115.00	\$1,150.00	\$140.56	\$1,405.60
X	7	Install 1.5" Irrigation Sleeving	467	LF	\$17.00	\$7,939.00	\$5.00	\$2,335.00	\$35.14	\$16,410.38
X	8	Erosion and Sediment Control	1	LS	\$1,950.00	\$1,950.00	\$3,500.00	\$3,500.00	\$2,260.53	\$2,260.53
X	9	Construction Traffic Control	1	LS	\$800.00	\$800.00	\$7,500.00	\$7,500.00	\$920.27	\$920.27
X	10	Mobilization	1	LS	\$6,500.00	\$6,500.00	\$9,000.00	\$9,000.00	\$3,600.00	\$3,600.00
Total						\$86,405.00		\$100,586.00		\$95,293.44

BID ALTERNATE 1

					Baha Construction, Inc.		JARCCO Construction LLC		Sunland Asphalt & Construction, LLC	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
X	11	Remove Curb and Gutter	100	LF	\$10.00	\$1,000.00	\$19.00	\$1,900.00	\$36.13	\$3,613.00
X	12	Remove Asphalt	1434	SF	\$4.75	\$6,811.50	\$5.00	\$7,170.00	\$5.09	\$7,299.06

EVALUATION TABULATION

Invitation for Bids - Concrete Improvements - City Park Pool Parking Lot

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EVALUATION TABULATION

IFB No. 22-088 (LT1501)

Concrete Improvements - City Park Pool Parking Lot

					Baha Construction, Inc.		JARCCO Construction LLC		Sunland Asphalt & Construction, LLC	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
X	13	Construct Type 2 Curb and Gutter	223	LF	\$42.00	\$9,366.00	\$43.00	\$9,589.00	\$52.77	\$11,767.71
Total						\$17,177.50		\$18,659.00		\$22,679.77

VENDOR QUESTIONNAIRE PASS/FAIL

Question Title	Baha Construction, Inc.	JARCCO Construction LLC	Sunland Asphalt & Construction, LLC
BID GUARANTEE	Pass	Pass	Pass
CONFIRMATION OF UNDERSTANDING AND OFFER	Pass	Pass	Pass
NAME, TITLE, AND CONTACT INFORMATION	Pass	Pass	Pass
ACKNOWLEDGEMENTS	No Response	No Response	No Response
AFFIRMATIVE ACTION PLAN REQUIREMENT:	Pass	Pass	Pass
COLORADO LABOR REQUIREMENT:	Pass	Pass	Pass
SALES AND/OR USE TAX INFORMATION	Pass	Pass	Pass
Has/is this firm or any officer or partner of this firm:	No Response	No Response	No Response
Convicted of a criminal offense	Pass	Pass	Pass
Convicted under state or federal statutes	Pass	Pass	Pass

EVALUATION TABULATION

Invitation for Bids - Concrete Improvements - City Park Pool Parking Lot

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EVALUATION TABULATION

IFB No. 22-088 (LT1501)

Concrete Improvements - City Park Pool Parking Lot

Question Title	Baha Construction, Inc.	JARCCO Construction LLC	Sunland Asphalt & Construction, LLC
Convicted under state or federal antitrust statutes	Pass	Pass	Pass
Failed to perform	Pass	Pass	Pass
Suspension or Debarment	Pass	Pass	Pass
Unqualified	Pass	Pass	Pass
Unlicensed	Pass	Pass	Pass
Delinquent	Pass	Pass	Pass
Confirmation	Pass	Pass	Pass

EVALUATION TABULATION

Invitation for Bids - Concrete Improvements - City Park Pool Parking Lot

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