



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

**MONDAY, NOVEMBER 13, 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

Pastor Richie Perko, Pueblo Christian Center

C. PLEDGE OF ALLEGIANCE

D. ROLL CALL

E. SPECIAL RECOGNITIONS

E1 Proclamation Presentation: "International Survivors of Suicide Loss Day - November 17, 2023" - Nanci Gonzalez, President of the Suicide Prevention Coalition of Pueblo County

F. PUBLIC FORUM

G. COUNCIL MEMBER AND MAYOR COMMENTARY

H. REVIEW OF AGENDA

I. APPROVAL OF AGENDA

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 October 23, 2023, as distributed.

J1 City Council Minutes October 23, 2023

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 authorizing payment of three hundred fifty thousand dollars (\$350,000) from Project No. CI-2113 – American Rescue Plan Act, for the purposes of constructing broadband infrastructure, as authorized by section 603 (a) of the American Rescue Plan Act and U.S. Treasury Final Rule 31 CFR 35
- M2 A Resolution awarding a construction contract in the amount of \$300,290.30 to Russ Grading & Excavating LLC., for Project No. 23-128, Concrete Improvements - Denver Boulevard and West 31st Street, setting forth \$60,059.70 for contingencies, and authorizing the purchasing agent to execute same
- M3 A Resolution awarding a construction contract in the amount of \$186,130 to Cedar Ridge Landscape, Inc., for Project No. 23-127, Concrete Improvements - 1600 Block Orman Avenue (CDBG), setting forth \$13,870 for contingencies, and authorizing the purchasing agent to execute same
- M4 A Resolution awarding a construction contract in the amount of \$154,090.28 to Full Tilt Construction, Inc., for Project No. 23-069, ADA Curb Ramps - Phase 3 (CDBG), setting forth \$23,113.54 for contingencies, and authorizing the Purchasing Agent to execute same
- M5 A Resolution amending Resolution No. 15168 authorizing payment of an additional eighty thousand dollars (\$80,000) from Project No. CI-2113 – American Rescue Plan Act, for the purposes of constructing broadband infrastructure, as authorized by section 603 (a) of the American Rescue Plan Act and U.S. Treasury Final Rule 31 CFR 35
- M6 A Resolution awarding an Agreement for Professional Services in the maximum amount of \$65,000 to the Wellman Way LLC for implementation of the Pueblo Food Project's new governance structure and facilitation of organizational structure change, and authorizing the purchasing agent to execute the same
- M7 A Resolution awarding a construction contract in the amount of \$26,122.28 to Finsterwald Landscaping and Irrigation for Project No. 23-136, Concrete Improvements - Morris Avenue Alley, setting forth \$10,000 for contingencies, and authorizing the purchasing agent to execute same
- M8 A Resolution awarding Contract Amendment No. 1 in the amount of \$21,283.79 to Sunland Asphalt & Construction, LLC., a Limited Liability Company, for Project No. 23-064, Miscellaneous Concrete Improvements (CDBG), and authorizing the Purchasing Agent to execute same
- M9 A Resolution awarding an Agreement for Professional Services in the amount of \$14,900 to Jolene Collins for Pueblo Food Project Entrepreneur Development Program Instructor and Food Economy Support
- M10 A Resolution confirming the appointment by the Mayor of Sandra Morrison to complete a four-year term expiring January 1, 2025 on the Historic Preservation Commission
- M11 A Resolution confirming the appointment by the Mayor of Bill Adams and Jean Latka to serve a three-year term expiring November 1, 2026 on the Pueblo Streetscape Advisory Committee
- M12 A Resolution confirming the appointment by the Mayor of Ryan Frushour to complete a three-year term expiring September 30, 2026 on the Pueblo Memorial Airport Advisory Committee
- M13 A Resolution ratifying PACOG's appointment of Connie Brummet and Karen Callanan to the Community Services Advisory Commission (CSAC)

- M14 A Resolution to approve Amendment No. 1 to Revocable Permit No. REV-23-41, issued to E.T. Technologies, Inc. for the purpose of installing groundwater monitoring wells
- M15 A Resolution authorizing the issuance of a Revocable Permit (REV-23-45) to the YMCA of Pueblo for the use of the outer lanes of Spaulding Avenue in both directions between W. 31st Street and Pueblo Blvd., the outer lanes of Parker Boulevard in both directions between Spaulding Avenue and its North/Eastern terminus, and the full width of W. 31st Street between Bonaventure Court and Spaulding Avenue for a 5K Run/Walk Event
- M16 A Resolution authorizing the issuance of a Revocable Permit (REV-23-47) to HARP Authority, 125 Riverwalk Place, for the use of the right-of-way at Victoria Avenue from "D" Street to Grand Avenue, Greenwood Street from Victoria Avenue to 1st Street, and 1st Street from Greenwood Street to 2nd Street

N. ORDINANCES – FIRST PRESENTATION

- N1 An Ordinance levying and certifying the City of Pueblo property tax mill levy made in 2023 for the 2024 budget year
- N2 An Ordinance making appropriation for the general fund, special revenue funds, enterprise funds, internal service funds, debt service funds, and capital project funds for the fiscal year 2024 and adopting the budget for the year 2024
- N3 An Ordinance levying and certifying the Bandera Boulevard Special Improvement Maintenance District property tax mill levy made in 2023 for the 2024 budget year
- N4 An Ordinance levying and certifying the Southpointe Special Improvement Maintenance District property tax mill levy made in 2023 for the 2024 budget year
- N5 An Ordinance approving an amendment to the Cooperative Maintenance Agreement between the City of Pueblo, a Colorado Municipal Corporation, and Pueblo School District No. 60, relating to the maintenance of certain park properties, and authorizing the Mayor to execute the Same
- N6 An Ordinance amending Section 1-5-3 of Chapter 5 of Title I of the Pueblo Municipal Code relating to and updating departmental organization to reflect current departmental organization and directors.
- N7 An Ordinance amending section 1-5-3 of Chapter 5 of Title I of the Pueblo Municipal Code relating to departmental organization, abolishing the Department of Housing, establishing the Division of Housing under the Department of Planning and Community Development and amending Subsection 4-8-4(2) of Chapter 8 of Title IV and Section 8-1-8 of Chapter 1 of Title VIII of the Pueblo Municipal Code to make consistent therewith
- N8 An Ordinance amending the fiscal year 2023 Staffing Ordinance by adding one (1) full-time CDBG/Home & Housing Administrator position to the authorized staffing of the Planning & Community Development Department as a part of a reorganization.
- N9 An Ordinance amending Section 6-5-16 of Chapter 5, of Title VI of the Pueblo Municipal Code relating to the FY 2023 classification and pay plan by establishing the pay scale for CDBG/Home & Housing Administrator
- N10 An Ordinance accepting funds in the amount of \$25,075 from Housing Authority of the City of Pueblo, for costs associated with the asphalt overlay on Sprague Avenue, and budgeting and appropriating said funds to account Project CI2309 - Road & Street Repairs
- N11 An Ordinance approving a time extension for the recording of a vacation plat for the Bluffs Multifamily Housing Development Project and amending Ordinance Number 10322 to conform thereto

- N12 An Ordinance approving and ratifying a Supplemental Environmental Project Agreement and approving a modification to said Agreement between the City of Pueblo, a Colorado Municipal Corporation, and the Colorado Department of Public Health and Environment for the purpose of developing a Household Hazardous Waste program; authorizing the Mayor to execute the modification; accepting funds in the amount of \$378,880.00 from the Colorado Department of Public Health and Environment; and budgeting and appropriating said funds into Project Account No. PL2302 - Household Hazardous Waste Program
- N13 An Ordinance establishing account Project PL2306, 8th Street Bridge Rehabilitation 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: BRO M086-099 (25513) in the amount of \$105,000, transferring \$26,250 from account Project CI2204 to PL2306, budgeting and appropriating funds in the amount of \$131,250 and authorizing the Mayor to execute same
- N14 An Ordinance approving a Deferred Improvements Agreement between InhabX, LLC, a Colorado limited liability company, and the City of Pueblo, a Colorado Municipal Corporation, relating to the construction of public improvements incidental to a rearrangement of property boundaries and authorizing execution thereof by the Mayor
- N15 An Ordinance of the City Council of the City of Pueblo, Colorado, amended Title V of the Pueblo Municipal Code, regarding elections
- N16 An Ordinance of the City Council of the City of Pueblo, Colorado, Amending Chapter 2 Title V of the Pueblo Municipal Code, regarding campaign expenditures and disclosures
- N17 An Ordinance calling a Special Municipal Election to be held on Tuesday, January 23, 2024, and submitting to the registered electors of the City of Pueblo the candidates for the Mayoral Runoff
- N18 An Ordinance approving an Agreement of Purchase And Sale of Real Property Between Community Health Center Inc., and The City Of Pueblo for the purchase of 1302 East 5th Street Pueblo, Colorado 81001 in the amount of Four Hundred Thirty Eight Thousand Two Hundred Seventy One Dollars and no cents (\$438,271) to be paid from Project No. CI-2113, American Rescue Plan Act, as authorized by Section 603 (a) of the American Rescue Plan Act and U.S. Treasury Final Rule 31 CFR 35 and authorizing the Mayor to execute the same
- N19 An Ordinance rescinding Resolution 15406, approving and accepting a grant in the amount of \$120,000 from the Colorado Department of Human Services Local Food Purchase Assistance Program on behalf of the Pueblo Food Project, budgeting and appropriating \$120,000 to Project No. CI2328, and ratifying the Mayor's signature of the grant agreement
- N20 An Ordinance approving and accepting a 2022 Colorado Division of Criminal Justice, Office of Adult and Juvenile Assistance, Project Safe Neighborhood Grant in the amount of \$152,714 for the purchase of Shotspotter, authorizing Mayor Gradisar to execute the grant award letter and related documents, establishing project number PS2315, and budgeting and appropriating the grant funds of \$152,714 to said project
- N21 An Ordinance approving and accepting a U.S. Department of Justice 2023 Rural and Small Department Violent Crime Reduction Program Grant, Award Number 15PBJA-23-GG-05332-BSCI, and applicable conditions pertaining thereto, establishing project number PS2317, budgeting and appropriating funds not to exceed \$300,000.00 for the purchase of Shotspotter, authorizing Mayor Gradisar to execute same and ratifying his signature thereto

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 November 27, 2023, and Order the Ordinances to be published BY TITLE.

P. REGULAR AGENDA

Q. RESOLUTIONS

- Q1 A Resolution authorizing payment from the Council Contingencies account in the 2023 general fund budget to Pueblo Latino Chamber of Commerce in the amount of \$1,000 to sponsor the Festival of Trees event on Thursday, December 14, from 5:00 pm – 8:00 pm at the Union Depot

R. ORDINANCES – FINAL PRESENTATION

- R1 An Ordinance approving an agreement for Professional Engineering services in the amount of \$556,897.60 between the City of Pueblo, a Colorado Municipal Corporation, and Brown and Caldwell, Inc., for consulting engineering and project management services with respect to a pilot project to identify issues contributing to groundwater infiltration and inflow to the city's sewer sanitary system and authorizing the mayor to execute the same - *Introduced October 23, 2023 by Councilor Vicente Martinez Ortega*
- R2 An Ordinance accepting a small dollar grant from the Colorado Energy Office in the amount of \$45,000.00, establishing finance account Project No. CI2217 - Charge Ahead Colorado, budgeting and appropriating \$45,000.00 into said project account, and authorizing the Mayor to execute the purchase order on behalf of the City - *Introduced October 23, 2023 by Councilor Vicente Martinez Ortega*
- R3 An Ordinance accepting funds in the amount of \$16,742.00 from H.W. Houston, LLC, a Colorado Limited Liability Company, for costs associated with the repair of W. 20th Street, and budgeting and appropriating said funds to Account CI2309 - Road & Street Repairs - *Introduced October 23, 2023 by Councilor Vicente Martinez Ortega*
- R4 An Ordinance establishing the 2024-2025 Pueblo Urban Transportation Planning Project and budgeting and appropriating funds in the amount of \$932,107 in 2024 for said Project - *Introduced October 23, 2023 by Councilor Vicente Martinez Ortega*
- R5 An Ordinance establishing 2024 Pueblo Rural Transportation Planning Project, TP2401, and budgeting and appropriating funds in the amount of \$7,400 for said Project - *Introduced October 23, 2023 by Councilor Vicente Martinez Ortega*
- R6 An Ordinance approving a Delegation Agreement between the City of Pueblo, a Colorado Municipal Corporation, and the Pueblo Area Council of Governments for 2024 transportation planning services and authorizing the Mayor to execute same - *Introduced October 23, 2023 by Councilor Vicente Martinez Ortega*

S. ADJOURN



**REGULAR CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS – CITY HALL
#1 CITY HALL PLACE
MONDAY, OCTOBER 23, 2023 - 7:00 PM
MINUTES**

A. CALL TO ORDER

President Graham called the meeting to order at 7:05 p.m.

B. INVOCATION

C. PLEDGE OF ALLEGIANCE

D. ROLL CALL

Council Members Present: Larry Atencio, Dennis Flores, Heather Graham, Regina Maestri, Sarah Martinez, Vicente Martinez Ortega, Lori Winner.

Council Members Present via Zoom: None.

Council Members Absent: None.

Administrative Staff Members Present: Chief of Staff Laura Solano, City Attorney George Hypolite, City Clerk Marisa Stoller.

E. SPECIAL RECOGNITIONS

E1 PROCLAMATION PRESENTATION: "NATIONAL VETERANS SMALL BUSINESS WEEK: OCTOBER 30 - NOVEMBER 3, 2023" - AIKTA MARCOULIER, REGIONAL ADMINISTRATOR, U.S. SMALL BUSINESS ADMINISTRATION AND KIA PALMER, EXECUTIVE DIRECTOR, COLORADO VETERANS BUSINESS OUTREACH CENTER

F. PUBLIC FORUM

- Steve Villegas - Homeless
- Ted Freeman - Passing Laws & Enforcing them
- Elvis Martinez - Homeless and more
- Marty Harvey - Health Fair/thing re: younger people

G. COUNCIL MEMBER AND MAYOR COMMENTARY

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

H. REVIEW AND APPROVAL OF AGENDA

The agenda was reviewed page by page.

Councilor Martinez, seconded by Councilor Martinez Ortega, moved to remove items M5 and R12 from the agenda and to approve the agenda as amended.

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

I. READING AND APPROVAL OF MINUTES

I1 CITY COUNCIL MINUTES OCTOBER 10, 2023

Councilor Martinez Ortega, seconded by Councilor Flores, moved to dispense with the reading and approve the Minutes of the Regular Meeting dated **October 10, 2023** 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. COMMUNICATIONS

J1 A CITIZEN FILED AN ETHICS COMPLAINT AGAINST MAYOR NICHOLAS GRADISAR

Councilor Atencio, seconded by Councilor Martinez Ortega, moved to receive the communication.

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

City Attorney George Hypolite reviewed the ethics complaint for Council.

Councilor Winner, seconded by Councilor Martinez Ortega, moved to dismiss the complaint.

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

K. PUBLIC HEARINGS

K1 PROPOSED 2024 ANNUAL BUDGET

President Graham opened the public hearing.

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

L. CONSENT AGENDA

L1 MINUTES OF THE PLANNING AND ZONING COMMISSION REGULAR MEETING FOR 09/23/2023

M. RESOLUTIONS

- M1 A RESOLUTION AWARDED A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$195,602.85 TO ROCKY MECHANICAL, L.L.C., A COLORADO LIMITED LIABILITY COMPANY, FOR PROJECT NO. 23-125, MECHANICAL IMPROVEMENTS - MINERAL PALACE ATRIUM, SETTING FORTH \$29,340.15 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME**

This Resolution was assigned as 15402.

- M2 A RESOLUTION AWARDED CONTRACT AMENDMENT NO. 1 IN THE AMOUNT OF \$85,988.59 FOR PROJECT NO. 21-061 (WWAN01), 2021 SMALL MAIN REMOVE AND REPLACE PROJECT, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE THE SAME**

This Resolution was assigned as 15403.

- M3 A RESOLUTION REESTABLISHING THE PUEBLO MEMORIAL AIRPORT ADVISORY COMMITTEE ("COMMITTEE") AND REPEALING RESOLUTION NO. 14575.**

This Resolution was assigned as 15404.

- M4 A RESOLUTION RATIFYING PACOG'S JOINT APPOINTMENT OF STEVEN CONTRERAS TO THE PUEBLO REGIONAL BUILDING COMMISSION**

This Resolution was assigned as 15405.

- M5 A RESOLUTION RATIFYING PACOG'S JOINT APPOINTMENT OF DAKOTA LAMOUREAUX AND TANNA SCHUT TO THE COMMUNITY SERVICES ADVISORY COMMISSION (CSAC)**

This item was removed from the agenda.

- M6 A RESOLUTION ACCEPTING A GRANT AWARD OF \$120,000 FROM THE COLORADO DEPARTMENT OF AGRICULTURE, TO SUPPORT THE PUEBLO FOOD PROJECT STAFF COMMUNITY FOOD PANTRY NO. CI2328**

This Resolution was assigned as 15406.

N. ORDINANCES – FIRST PRESENTATION

- N1 AN ORDINANCE ESTABLISHING THE 2024-2025 PUEBLO URBAN TRANSPORTATION PLANNING PROJECT AND BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$932,107 IN 2024 FOR SAID PROJECT**

- N2 AN ORDINANCE APPROVING AN AGREEMENT FOR PROFESSIONAL**

ENGINEERING SERVICES IN THE AMOUNT OF \$556,897.60 BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND BROWN AND CALDWELL, INC., FOR CONSULTING ENGINEERING AND PROJECT MANAGEMENT SERVICES WITH RESPECT TO A PILOT PROJECT TO IDENTIFY ISSUES CONTRIBUTING TO GROUNDWATER INFILTRATION AND INFLOW TO THE CITY'S SEWER SANITARY SYSTEM AND AUTHORIZING THE MAYOR TO EXECUTE THE SAME

N3 AN ORDINANCE ACCEPTING A SMALL DOLLAR GRANT FROM THE COLORADO ENERGY OFFICE IN THE AMOUNT OF \$45,000.00, ESTABLISHING FINANCE ACCOUNT PROJECT NO. CI2217 - CHARGE AHEAD COLORADO, BUDGETING AND APPROPRIATING \$45,000.00 INTO SAID PROJECT ACCOUNT, AND AUTHORIZING THE MAYOR TO EXECUTE THE PURCHASE ORDER ON BEHALF OF THE CITY

N4 AN ORDINANCE ACCEPTING FUNDS IN THE AMOUNT OF \$16,742.00 FROM H.W. HOUSTON, LLC, A COLORADO LIMITED LIABILITY COMPANY, FOR COSTS ASSOCIATED WITH THE REPAIR OF W. 20TH STREET, AND BUDGETING AND APPROPRIATING SAID FUNDS TO ACCOUNT CI2309 - ROAD & STREET REPAIRS

N5 AN ORDINANCE ESTABLISHING 2024 PUEBLO RURAL TRANSPORTATION PLANNING PROJECT, TP2401, AND BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$7,400 FOR SAID PROJECT

N6 AN ORDINANCE APPROVING A DELEGATION AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE PUEBLO AREA COUNCIL OF GOVERNMENTS FOR 2024 TRANSPORTATION PLANNING SERVICES AND AUTHORIZING THE MAYOR TO EXECUTE SAME

O. APPROVAL OF CONSENT AGENDA

Councilor Martinez Ortega, seconded by Councilor Flores, moved to approve all Resolutions Set Forth in the Consent Agenda, Pass the Ordinances of the Consent Agenda, Setting the Public Hearings for November 13, 2023, 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 AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2023 GENERAL FUND BUDGET TO

**PUEBLO FRIENDS OF THE ARKANSAS RIVER IN THE AMOUNT OF \$1,000
TO SPONSOR THE YOU DON'T STAND ALONE SCULPTURE**

A staff report and detailed review of the Resolution was given by Chief of Staff Laura Solano.

Councilor Martinez Ortega, seconded by Councilor Martinez, 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 15407.

Q2 A RESOLUTION AUTHORIZING A TRANSFER OF FUNDS IN THE AMOUNT OF \$1,000 FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2023 GENERAL FUND BUDGET TO THE PUEBLO POLICE DEPARTMENT FOR SPONSORSHIP OF THE 7TH ANNUAL CHARITY ICE CUP HOCKEY GAME BETWEEN THE FIRE DEPARTMENT AND POLICE DEPARTMENT ON OCTOBER 21, 2023 AT 3 PM

A staff report and detailed review of the Resolution was given by Chief of Staff Laura Solano.

Councilor Martinez Ortega, seconded by Councilor Martinez, 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 15408.

R. ORDINANCES – FINAL PRESENTATION

R1 AN ORDINANCE AUTHORIZING A SITE LEASE AND LEASE PURCHASE AGREEMENT BETWEEN THE CITY, AND BOKF, N.A. (SOLELY IN ITS CAPACITY AS TRUSTEE) FOR THE PURPOSE OF FINANCING THE CONSTRUCTION, IMPROVEMENT AND EQUIPPING OF THREE FIRE STATIONS; APPROVING NOT TO EXCEED \$37,000,000 PRINCIPAL AMOUNT OF CERTIFICATES OF PARTICIPATION, SERIES 2023 IN CONNECTION THEREWITH; AUTHORIZING OFFICIALS OF THE CITY TO TAKE ALL ACTION NECESSARY TO CARRY OUT THE TRANSACTIONS CONTEMPLATED HEREBY; AND RELATED MATTERS

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 Maestri, Councilor Martinez, Councilor Martinez Ortega, Councilor Winner. **Nays:** None. Motion Passed 7-0.

This Ordinance was assigned as 10570.

R2 AN ORDINANCE TRANSFERRING FUNDS IN THE AMOUNT OF \$9,942.85 FROM PUEBLO TRANSIT ARPA AWARD NO. CO-2023-019-00, INTO PROJECT NUMBER PT2201 SHOP TRUCK REPLACEMENT PROJECT TO PURCHASE A NEW MAINTENANCE VEHICLE

A staff report and detailed review of the Ordinance was given by Ben Valdez, Director of 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 10571.

R3 AN ORDINANCE APPROVING A LICENSE FOR COMMUNICATION LINE, TELEVISION CABLE, AND/OR FIBER OPTIC LINE ACROSS OR ALONG RAILWAY PROPERTY BETWEEN THE CITY OF PUEBLO AND BNSF RAILWAY COMPANY, A DELAWARE CORPORATION, AND AUTHORIZING THE MAYOR TO EXECUTE SAME

A staff report and detailed review of the Ordinance was given by Lori Pinz, Director of Information Technology.

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 10572.

R4 AN ORDINANCE APPROVING AND AUTHORIZING THE MAYOR TO EXECUTE A HARDWARE RENTAL, SOFTWARE LICENSE AND SERVICES AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND DOMINION VOTING SYSTEMS, INC., AS REQUIRED FOR ANY POTENTIAL MAYORAL RUNOFF ELECTION

A staff report and detailed review of the Ordinance was given by Marisa Stoller, City Clerk.

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 **10573.**

R5 AN ORDINANCE ELECTING TO CERTIFY ABATEMENT ASSESSMENT ROLL NO. 2023-1 TO THE COUNTY TREASURER AND TO HAVE THE COUNTY TREASURER COLLECT IN THE SAME MANNER AS OTHER TAXES

A staff report and detailed review of the Ordinance was given by Lisa Macchietto, 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 **10574.**

R6 AN ORDINANCE APPROVING AMENDMENT OF TWO SOLAR PRODUCTION AGREEMENTS BETWEEN THE CITY OF PUEBLO AND CEC SOLAR #1117, LLC. AND CEC SOLAR #1118, LLC RELATING TO AND UPDATING THE POWER PURCHASE AGREEMENT RATE SCHEDULES FOR EACH AGREEMENT, AND AUTHORIZING EXECUTION THEREOF BY THE MAYOR

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 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 **10575.**

R7 AN ORDINANCE APPROVING AN AGREEMENT FOR THE PURCHASE AND SALE OF REAL PROPERTY KNOWN AS LOTS 8 & 9 BLK 70 MATTICE & GIBSON AD, AND LOT 19 BLK 71 MATTICE & GIBSON AD BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION AND MR. FRED F. JONES AND MRS. MELVA JEAN JONES AND AUTHORIZING THE MAYOR TO EXECUTE THE SAME

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

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 10576.

R8 AN ORDINANCE APPROVING AND ACCEPTING A U. S. DEPARTMENT OF JUSTICE 2023 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE (2023 JAG) GRANT, AWARD NO. 15PBJA-23-GG-03201-JAGX, AND APPLICABLE CONDITIONS PERTAINING THERETO, ESTABLISHING PROJECT NUMBER PS2314, BUDGETING AND APPROPRIATING FUNDS NOT TO EXCEED \$111,507, AUTHORIZING THE MAYOR TO EXECUTE SAME AND RELATED CERTIFICATIONS, ASSURANCES AND OTHER DOCUMENTS, APPROVING AND RATIFYING THE JULY 17, 2023 MEMORANDUM OF UNDERSTANDING CONCERNING RECEIPT AND DISBURSEMENT OF FUNDS, AND AUTHORIZING THE MAYOR TO EXECUTE SAME AND RATIFYING HIS SIGNATURE THERETO

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

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 10577.

R9 AN ORDINANCE APPROVING AN AMENDMENT TO THE RENTAL AGREEMENT FOR THE USE OF AN OFFICE SPACE AND THE FIRE FIGHTING RELOAD BASE AT THE PUEBLO MEMORIAL AIRPORT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE STATE

OF COLORADO DEPARTMENT OF PUBLIC SAFETY, DIVISION OF FIRE PREVENTION AND CONTROL, AND AUTHORIZING THE MAYOR TO EXECUTE THE SAME.

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

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 10578.

R10 AN ORDINANCE ACCEPTING A BARGAIN AND SALE DEED FROM PUEBLO HISTORICAL AIRCRAFT SOCIETY, A COLORADO NONPROFIT, FOR A HANGAR LOCATED AT 508 SKYWAY STREET AT THE PUEBLO MEMORIAL AIRPORT, AND AUTHORIZING THE MAYOR TO EXECUTE SAME.

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

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 10579.

R11 AN ORDINANCE APPROVING AN AMENDMENT TO THE COLLECTIVE BARGAINING AGREEMENT BETWEEN THE CITY OF PUEBLO AND THE PUEBLO ASSOCIATION OF GOVERNMENT EMPLOYEES RELATING TO SALARY CLASSIFICATION AND PAY RANGE ADJUSTMENTS AND INCREASES FOR EIGHT SPECIFIED AND ENUMERATED CLASSIFICATIONS

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

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 10580.

R12 AN ORDINANCE APPROVING AN AGREEMENT FOR RESEARCH AND ARTS STUDY SERVICES BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND ROXANNE PIGNANELLI AND AUTHORIZING THE MAYOR TO EXECUTE SAME

This item was removed from the agenda.

R13 AN ORDINANCE APPROVING A SUBRECIPIENT AGREEMENT AUTHORIZING PAYMENT IN AN AMOUNT OF UP TO \$400,000 OF COMMUNITY DEVELOPMENT BLOCK GRANT – COVID-19 FUNDS TO THE PUEBLO RESCUE MISSION THROUGH A SUBRECIPIENT AGREEMENT TO PURCHASE REAL PROPERTY LOCATED AT 710 WEST 4TH STREET, PUEBLO, CO AND MAKE CERTAIN IMPROVEMENTS TO THE PROPERTY TO PROVIDE A WARMING SHELTER FOR THE PUEBLO COMMUNITY DURING WEATHER EMERGENCIES DECLARED BY THE CITY AND AUTHORIZING THE MAYOR TO EXECUTE THE SAME

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

PUBLIC HEARING:

- David Tenell appeared in person to speak in favor of this ordinance
- Tyler Trujillo appeared in person to speak in favor of this ordinance
- Lynnay Trujillo appeared in person to speak in favor of this ordinance
- Lori Sole appeared in person to speak in favor of this ordinance
- Jennifer Strawmatt appeared in person to speak in favor of this ordinance
- Robert Riven appeared in person to speak in favor of this ordinance
- Patricia Joust appeared in person to speak in favor of this ordinance
- Amanda Montoya appeared in person to speak in favor of this ordinance
- Matt Goodwin appeared in person to speak in favor of this ordinance
- Lonny Kanz appeared in person to speak against this ordinance
- Joseph Luna appeared in person to speak against this ordinance
- Elvis Martinez appeared in person to speak against this ordinance

Seeing no one else 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, Councilor Martinez Ortega, Councilor Winner. **Nays:** President Graham, Councilor Maestri, Councilor Martinez. Motion Passed 4-3.

This Ordinance was assigned as 10581.

S. EMERGENCY ORDINANCES

S1 AN EMERGENCY ORDINANCE AMENDING ORDINANCE NO. 10058 TO AUTHORIZE THE MAYOR TO ENLARGE THE TIME FRAME WITHIN WHICH THE MAYOR MAY DECLARE TEMPORARY HOUSING AND SHELTER EMERGENCIES BEFORE NOVEMBER 1ST OF EACH YEAR SUBJECT TO COUNCIL RATIFICATION

A staff report and detailed review of the Ordinance was given by George Hypolite, 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 10582.

T. COUNCIL MEMBER CONFLICT OF INTEREST

U. COMMUNICATIONS

U1 A CITIZEN FILED AN ETHICS COMPLAINT AGAINST PRESIDENT HEATHER GRAHAM

President Graham recused herself from the meeting.

Councilor Maestri, seconded by Councilor Martinez Ortega, moved to accept the communication.

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

City Attorney George Hypolite reviewed the Complaint for Council.

Councilor Martinez Ortega, seconded by Councilor Flores, moved to dismiss the complaint.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega. **Nays:** Councilor Winner. Motion Passed 5-1.

U2 A CITIZEN FILED AN ETHICS COMPLAINT AGAINST PRESIDENT HEATHER GRAHAM

Councilor Martinez Ortega, seconded by Councilor Winner, moved to receive the communication.

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

City Attorney George Hypolite reviewed the Complaint for Council.

Councilor Martinez Ortega, seconded by Councilor Atencio, moved to dismiss the complaint.

Roll Call - **Ayes:** Councilor Atencio, Councilor Flores, Councilor Maestri, Councilor Martinez, Councilor Martinez Ortega. **Nays:** Councilor Winner. Motion Passed 5-1.

V. ADJOURN

Vice President Flores adjourned the meeting at 9:08 p.m.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Marisa Stoller", written in a cursive style.

Marisa Stoller
City Clerk



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: November 13, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: George Hypolite, City Attorney

SUBJECT: A RESOLUTION AUTHORIZING PAYMENT OF THREE HUNDRED FIFTY THOUSAND DOLLARS (\$350,000) FROM PROJECT NO. CI-2113 – AMERICAN RESCUE PLAN ACT, FOR THE PURPOSES OF CONSTRUCTING BROADBAND INFRASTRUCTURE, AS AUTHORIZED BY SECTION 603 (A) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35

SUMMARY:

This Resolution authorizes the payment of \$350,000 in American Rescue Plan Act ("ARPA") funds for the purpose of re-routing fiber-optic infrastructure from Fire Station #6, the Pueblo Municipal Airport, and other City facilities on the East Side.

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 City of Pueblo currently has fiber-optic aerial infrastructure servicing all the city departments on the east side of town. The path of the aerial fiber runs along Black Hill's pole line through citizen's backyards, is prone to damage, and is difficult to repair. The fiber resources servicing wastewater, recycle center, and code enforcement departments are at maximum capacity. More capacity is urgently needed. Further, the city's new fire station six will require a reroute of this section so that network connectivity can be provided for their day-to-day operations. The rerouting of this section will place some of this fiber-infrastructure in underground facilities, reducing the risk of damage, increasing our capacity, and allowing for further expansion of services

and needs for the east side departments and the Airport complex. The ARPA Broadband infrastructure Project guidelines provide "the construction and deployment of broadband infrastructure designed to deliver service that reliably meets or exceeds symmetrical speeds of 100Mbps so that communities have future proof infrastructure to serve their long-term needs." This Project clearly aligns with these guidelines by allowing funding to be utilized for the expansion of this infrastructure. Undergrounding this area will ensure availability and advancement of services as the city requires and will ensure public safety services to the Pueblo community for years to come.

FINANCIAL IMPLICATIONS:

\$350,000 in ARPA funds are being authorized for payment.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Resolution.

STAKEHOLDER PROCESS:

Not applicable to this Resolution.

ALTERNATIVES:

City Council could decide not to support or fund the re-route of broadband infrastructure for Fire Station #6, the Pueblo Municipal Airport, and other City facilities on the East Side.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

None

RESOLUTION NO. 15409

A RESOLUTION AUTHORIZING PAYMENT OF THREE HUNDRED FIFTY THOUSAND DOLLARS (\$350,000) FROM PROJECT NO. CI-2113 – AMERICAN RESCUE PLAN ACT, FOR THE PURPOSES OF CONSTRUCTING BROADBAND INFRASTRUCTURE, AS AUTHORIZED BY SECTION 603 (A) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35

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 (“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. CI-2113 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 CFR; and

WHEREAS, under the Final Rule, recipients may use Coronavirus State and Local Fiscal Recovery Funds (“SLFRF”) to respond to the COVID-19 public health emergency and the negative economic consequences resulting therefrom; and

WHEREAS, under the U.S. Treasury’s Final Rule pertaining to ARPA, recipients may use SLFRF funds to invest in communities to promote improved health outcomes and public safety such as parks, recreation facilities, and programs that increase access to healthy foods; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Funds in the amount of three hundred fifty thousand dollars (\$350,000) are hereby authorized for payment from Project No. CI-2113 – American Rescue Plan Act, for purposes of re-routing fiber-optics infrastructure to connect the City’s fire station #6, Municipal Airport, and East Side facilities.

SECTION 2.

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

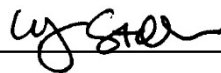
SECTION 3.

This Resolution shall become effective immediately upon final passage.

INTRODUCED: November 13, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: November 13, 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 \$300,290.30 TO RUSS GRADING & EXCAVATING LLC., FOR PROJECT NO. 23-128, CONCRETE IMPROVEMENTS - DENVER BOULEVARD AND WEST 31ST STREET, SETTING FORTH \$60,059.70 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

Attached is a resolution awarding a construction contract to Russ Grading & Excavating LLC, for Project No. 23-128, Concrete Improvements - Denver Boulevard and West 31st Street.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

This project will consist of the removal and replacement of sidewalk and curb and gutter along the West side of Denver Boulevard and the North side of West 31st Street from Mountview Drive to Skyview Avenue.

This Resolution awards the construction contract to Russ Grading & Excavating LLC.

FINANCIAL IMPLICATIONS:

Funding (including contingencies), in the amount of \$360,350, will be paid from account Project CI2204, Street Rehabilitation.

BOARD/COMMISSION RECOMMENDATION

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Denial of this resolution will cancel the project.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 23-128 Bid Summary

RESOLUTION NO. 15410

A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$300,290.30 TO RUSS GRADING & EXCAVATING LLC., FOR PROJECT NO. 23-128, CONCRETE IMPROVEMENTS - DENVER BOULEVARD AND WEST 31ST STREET, SETTING FORTH \$60,059.70 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, competitive bids for Project No. 23-128, Concrete Improvements - Denver Boulevard and West 31st Street have been received and examined; AND,

WHEREAS, the proposal of Russ Grading & Excavating LLC, was the lowest bid determined to be responsive, and the Committee of Awards recommends to the City Council that it authorize Project No. 23-128, Concrete Improvements - Denver Boulevard and West 31st Street to be performed; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The City Council authorizes Project No. 23-128, Concrete Improvements - Denver Boulevard and West 31st Street to be performed, and the contract for said project is hereby awarded to Russ Grading & Excavating LLC, in the amount of \$300,290.30.

SECTION 2.

The Purchasing Agent is hereby authorized to execute said contract on behalf of the City of Pueblo, a Colorado Municipal Corporation, and the City Clerk shall affix the seal of the City thereto and attest 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.....\$60,059.70

SECTION 4.

Funding, in the amount of \$360,350 shall be from account Project CI2204, Street Rehabilitation.

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.

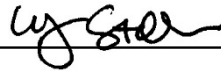
SECTION 6.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: November 13, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 



EVALUATION TABULATION
IFB No. 23-128 (CI2204)
Concrete Improvements - Denver Boulevard and West 31st Street
RESPONSE DEADLINE: October 12, 2023 at 2:30 pm
Report Generated: Thursday, October 12, 2023

SELECTED VENDOR TOTALS

Vendor	Total
Russ Grading & Excavating LLC	\$300,290.30
A 5 Construction	\$300,669.50
Baha Construction, Inc.	\$313,697.10
Cedar Ridge Landscape, Inc	\$328,321.50
American Dirt Contractors, LLC	\$330,384.55
Finsterwald Landscaping and Irrigation	\$423,159.36
Dream Builders Inc	\$436,796.00

EVALUATION TABULATION
IFB No. 23-128 (CI2204)
Concrete Improvements - Denver Boulevard and West 31st Street

BASE BID (Table 1 of 2)

BASE BID					A 5 Construction		American Dirt Contractors, LLC		Baha Construction, Inc.		Cedar Ridge Landscape, Inc		Dream Builders Inc	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
X	1	Remove Asphalt	3280	S.F.	\$5.00	\$16,400.00	\$5.25	\$17,220.00	\$4.00	\$13,120.00	\$4.25	\$13,940.00	\$5.00	\$16,400.00
X	2	Remove Curb and Gutter	1553	L.F.	\$10.00	\$15,530.00	\$22.75	\$35,330.75	\$6.50	\$10,094.50	\$12.00	\$18,636.00	\$14.00	\$21,742.00
X	3	Remove Concrete	5859	S.F.	\$3.50	\$20,506.50	\$5.85	\$34,275.15	\$4.00	\$23,436.00	\$4.50	\$26,365.50	\$3.00	\$17,577.00
X	4	Remove Reinforced Concrete	478	S.F.	\$5.00	\$2,390.00	\$8.50	\$4,063.00	\$8.20	\$3,919.60	\$5.00	\$2,390.00	\$6.00	\$2,868.00
X	5	Construct Curb Head	147	L.F.	\$21.00	\$3,087.00	\$26.50	\$3,895.50	\$25.00	\$3,675.00	\$22.00	\$3,234.00	\$85.00	\$12,495.00
X	6	Construct Modified Curb and Gutter	1552	L.F.	\$41.00	\$63,632.00	\$39.85	\$61,847.20	\$35.00	\$54,320.00	\$42.00	\$65,184.00	\$94.00	\$145,888.00
X	7	Construct 4" Concrete	6782	S.F.	\$9.00	\$61,038.00	\$8.65	\$58,664.30	\$10.00	\$67,820.00	\$10.00	\$67,820.00	\$13.00	\$88,166.00
X	8	Construct 6" Concrete	1769	S.F.	\$10.00	\$17,690.00	\$11.85	\$20,962.65	\$12.00	\$21,228.00	\$13.00	\$22,997.00	\$14.00	\$24,766.00
X	9	Construct Reinforced Concrete	478	S.F.	\$12.00	\$5,736.00	\$18.00	\$8,604.00	\$18.00	\$8,604.00	\$18.00	\$8,604.00	\$25.00	\$11,950.00
X	10	Construct 2" Asphalt Patch	43	S.F.	\$9.00	\$387.00	\$10.25	\$440.75	\$12.00	\$516.00	\$6.00	\$258.00	\$34.00	\$1,462.00

EVALUATION TABULATION

IFB No. 23-128 (CI2204)

Concrete Improvements - Denver Boulevard and West 31st Street

BASE BID					A 5 Construction		American Dirt Contractors, LLC		Baha Construction, Inc.		Cedar Ridge Landscape, Inc		Dream Builders Inc	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
X	11	Construct 6" Asphalt Patch	3237	S.F.	\$9.00	\$29,133.00	\$12.25	\$39,653.25	\$12.00	\$38,844.00	\$9.00	\$29,133.00	\$14.00	\$45,318.00
X	12	Install 24"X30" Tactile Bands	16	EACH	\$300.00	\$4,800.00	\$510.00	\$8,160.00	\$450.00	\$7,200.00	\$325.00	\$5,200.00	\$450.00	\$7,200.00
X	13	Install Class 6 Backfill	424	TON	\$35.00	\$14,840.00	\$32.00	\$13,568.00	\$80.00	\$33,920.00	\$65.00	\$27,560.00	\$36.00	\$15,264.00
X	14	Erosion and Sediment Control	1	EACH	\$6,500.00	\$6,500.00	\$950.00	\$950.00	\$1,000.00	\$1,000.00	\$1,200.00	\$1,200.00	\$1,200.00	\$1,200.00
X	15	Traffic Control	1	EACH	\$32,500.00	\$32,500.00	\$18,000.00	\$18,000.00	\$5,000.00	\$5,000.00	\$13,000.00	\$13,000.00	\$6,500.00	\$6,500.00
X	16	Mobilization	1	EACH	\$6,500.00	\$6,500.00	\$4,750.00	\$4,750.00	\$21,000.00	\$21,000.00	\$22,800.00	\$22,800.00	\$18,000.00	\$18,000.00
Total						\$300,669.50		\$330,384.55		\$313,697.10		\$328,321.50		\$436,796.00

BASE BID (Table 2 of 2)

BASE BID					Finsterwald Landscaping and Irrigation		Russ Grading & Excavating LLC	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total	Unit Cost	Total
X	1	Remove Asphalt	3280	S.F.	\$3.31	\$10,856.80	\$6.16	\$20,204.80
X	2	Remove Curb and Gutter	1553	L.F.	\$56.00	\$86,968.00	\$10.00	\$15,530.00
X	3	Remove Concrete	5859	S.F.	\$5.90	\$34,568.10	\$3.00	\$17,577.00

EVALUATION TABULATION

Public Improvement Invitation for Bid - Concrete Improvements - Denver Boulevard and West 31st Street

EVALUATION TABULATION

IFB No. 23-128 (CI2204)

Concrete Improvements - Denver Boulevard and West 31st Street

BASE BID					Finsterwald Landscaping and Irrigation		Russ Grading & Excavating LLC	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total	Unit Cost	Total
X	4	Remove Reinforced Concrete	478	S.F.	\$7.84	\$3,747.52	\$6.00	\$2,868.00
X	5	Construct Curb Head	147	L.F.	\$21.00	\$3,087.00	\$20.00	\$2,940.00
X	6	Construct Modified Curb and Gutter	1552	L.F.	\$56.00	\$86,912.00	\$32.00	\$49,664.00
X	7	Construct 4" Concrete	6782	S.F.	\$10.00	\$67,820.00	\$9.00	\$61,038.00
X	8	Construct 6" Concrete	1769	S.F.	\$11.50	\$20,343.50	\$11.50	\$20,343.50
X	9	Construct Reinforced Concrete	478	S.F.	\$14.56	\$6,959.68	\$18.00	\$8,604.00
X	10	Construct 2" Asphalt Patch	43	S.F.	\$9.00	\$387.00	\$7.00	\$301.00
X	11	Construct 6" Asphalt Patch	3237	S.F.	\$14.48	\$46,871.76	\$8.00	\$25,896.00
X	12	Install 24"X30" Tactile Bands	16	EACH	\$404.50	\$6,472.00	\$520.00	\$8,320.00
X	13	Install Class 6 Backfill	424	TON	\$84.00	\$35,616.00	\$46.00	\$19,504.00
X	14	Erosion and Sediment Control	1	EACH	\$50.00	\$50.00	\$2,500.00	\$2,500.00
X	15	Traffic Control	1	EACH	\$10,000.00	\$10,000.00	\$30,000.00	\$30,000.00
X	16	Mobilization	1	EACH	\$2,500.00	\$2,500.00	\$15,000.00	\$15,000.00
Total						\$423,159.36		\$300,290.30

EVALUATION TABULATION

Public Improvement Invitation for Bid - Concrete Improvements - Denver Boulevard and West 31st Street

Page 4

EVALUATION TABULATION
IFB No. 23-128 (CI2204)
Concrete Improvements - Denver Boulevard and West 31st Street

VENDOR QUESTIONNAIRE PASS/FAIL

Question Title	A 5 Construction	American Dirt Contractors, LLC	Baha Construction, Inc.	Cedar Ridge Landscape, Inc	Dream Builders Inc	Finsterwald Landscaping and Irrigation	Russ Grading & Excavating LLC
BID GUARANTEE	Pass	Pass	Pass	Pass	Pass	Pass	Pass
CONFIRMATION OF UNDERSTANDING AND OFFER	Pass	Pass	Pass	Pass	Pass	Pass	Pass
NAME, TITLE, AND CONTACT INFORMATION	Pass	Pass	Pass	Pass	Pass	Pass	Pass
ACKNOWLEDGEMENTS							
AFFIRMATIVE ACTION PLAN REQUIREMENT:	Pass	Pass	Pass	Pass	Pass	Pass	Pass
COLORADO LABOR REQUIREMENT:	Pass	Pass	Pass	Pass	Pass	Pass	Pass
SALES AND/OR USE TAX INFORMATION	Pass	Pass	Pass	Pass	Pass	Pass	Pass
Has/is this firm or any officer or partner of this firm:							
Convicted of a criminal offense	Pass	Pass	Pass	Pass	Pass	Pass	Pass
Convicted under state or federal statutes	Pass	Pass	Pass	Pass	Pass	Pass	Pass
Convicted under state or federal antitrust statutes	Pass	Pass	Pass	Pass	Pass	Pass	Pass
Failed to perform	Pass	Pass	Pass	Pass	Pass	Pass	Pass

EVALUATION TABULATION

IFB No. 23-128 (CI2204)

Concrete Improvements - Denver Boulevard and West 31st Street

Question Title	A 5 Construction	American Dirt Contractors, LLC	Baha Construction, Inc.	Cedar Ridge Landscape, Inc	Dream Builders Inc	Finsterwald Landscaping and Irrigation	Russ Grading & Excavating LLC
Suspension or Debarment	Pass	Pass	Pass	Pass	Pass	Pass	Pass
Unqualified	Pass	Pass	Pass	Pass	Pass	Pass	Pass
Unlicensed	Pass	Pass	Pass	Pass	Pass	Pass	Pass
Delinquent	Pass	Pass	Pass	Pass	Pass	Pass	Pass
Confirmation	Pass	Pass	Pass	Pass	Pass	Pass	Pass



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: November 13, 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 \$186,130 TO CEDAR RIDGE LANDSCAPE, INC., FOR PROJECT NO. 23-127, CONCRETE IMPROVEMENTS - 1600 BLOCK ORMAN AVENUE (CDBG), SETTING FORTH \$13,870 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

Attached is a resolution awarding a Construction Contract to Cedar Ridge Landscape Inc., for Project No. 23-127, Concrete Improvements - 1600 Block Orman Avenue (CDBG).

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

This project will consist of concrete improvements along the 1600 Block of Orman Avenue, Jones Avenue, Bay State Avenue and the construction of ADA curb ramps at the intersection of Orman Avenue and Jones Avenue.

This Resolution awards the construction contract to Cedar Ridge Landscape, Inc.

FINANCIAL IMPLICATIONS:

Funding (including contingencies), in the amount of \$200,000, will be paid from account Project CD2307, Orman Sidewalks - 1600 Block.

BOARD/COMMISSION RECOMMENDATION

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Denial of this resolution will cancel the project.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 23-127 Bid Summary

RESOLUTION NO. 15411

A RESOLUTION AWARDDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$186,130 TO CEDAR RIDGE LANDSCAPE, INC., FOR PROJECT NO. 23-127, CONCRETE IMPROVEMENTS - 1600 BLOCK ORMAN AVENUE (CDBG), SETTING FORTH \$13,870 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, competitive bids for Project No. 23-127, Concrete Improvements - 1600 Block Orman Avenue (CDBG) have been received and examined; AND,

WHEREAS, the proposal of Cedar Ridge Landscape, Inc., was the lowest bid determined to be responsive, and the Committee of Awards recommends to the City Council that it authorize Project No. 23-127, Concrete Improvements - 1600 Block Orman Avenue (CDBG) to be performed; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The City Council authorizes Project No. 23-127, Concrete Improvements - 1600 Block Orman Avenue (CDBG) to be performed, and the contract for said project is hereby awarded to Cedar Ridge Landscape, Inc., in the amount of \$186,130.

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 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.....\$13,870

SECTION 4.

Funding, in the amount of \$200,000 shall be from account Project CD2307 Orman Sidewalks - 1600 Block.

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.

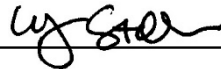
SECTION 6.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: November 13, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 



EVALUATION TABULATION
IFB No. 23-127 (CD2307)
Concrete Improvements - 1600 Block Orman Avenue (CDBG)
RESPONSE DEADLINE: October 12, 2023 at 2:00 pm
Report Generated: Thursday, October 12, 2023

SELECTED VENDOR TOTALS

Vendor	Total	Base Bid	Bid Alt No. 1	Bid Alt No. 2
Cedar Ridge Landscape, Inc	\$210,356.25	\$164,737.25	\$24,226.25	\$21,392.75
Baha Construction, Inc.	\$246,793.50	\$191,496.50	\$29,692.50	\$25,604.50

EVALUATION TABULATION
IFB No. 23-127 (CD2307)
Concrete Improvements - 1600 Block Orman Avenue (CDBG)

BASE BID

BASE BID					Baha Construction, Inc.		Cedar Ridge Landscape, Inc	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total	Unit Cost	Total
X	1	Remove Asphalt	660	SF	\$4.50	\$2,970.00	\$4.00	\$2,640.00
X	2	Remove Curb and Gutter	223	LF	\$12.00	\$2,676.00	\$12.00	\$2,676.00
X	3	Remove Concrete	3793	SF	\$5.50	\$20,861.50	\$4.25	\$16,120.25
X	4	Remove 7" Reinforced Concrete	1263	SF	\$7.00	\$8,841.00	\$5.00	\$6,315.00
X	5	Remove Crosswalk Striping	343	SF	\$15.00	\$5,145.00	\$10.00	\$3,430.00
X	6	Construct Curb Head	177	LF	\$27.00	\$4,779.00	\$22.00	\$3,894.00
X	7	Construct Curb and Gutter	223	LF	\$45.00	\$10,035.00	\$40.00	\$8,920.00
X	8	Construct 4" Concrete	2710	SF	\$12.00	\$32,520.00	\$10.00	\$27,100.00
X	9	Construct 6" Concrete	1137	SF	\$15.00	\$17,055.00	\$13.00	\$14,781.00
X	10	Construct 7" Reinforced Concrete	989	SF	\$18.00	\$17,802.00	\$18.00	\$17,802.00
X	11	Construct 6" Asphalt Patch	901	SF	\$18.00	\$16,218.00	\$9.00	\$8,109.00
X	12	Install Preformed Thermoplastic Crosswalk Striping	953	SF	\$18.00	\$17,154.00	\$30.00	\$28,590.00
X	13	Install Tactile Band 24"x24"	24	Each	\$350.00	\$8,400.00	\$250.00	\$6,000.00
X	14	Install Class 6 Base Material (Place and Compact)	6	Tons	\$90.00	\$540.00	\$60.00	\$360.00
X	15	Mobilization	1	LS	\$13,000.00	\$13,000.00	\$10,000.00	\$10,000.00
X	16	Traffic Control	1	LS	\$12,000.00	\$12,000.00	\$7,500.00	\$7,500.00

EVALUATION TABULATION

IFB No. 23-127 (CD2307)

Concrete Improvements - 1600 Block Orman Avenue (CDBG)

BASE BID					Baha Construction, Inc.		Cedar Ridge Landscape, Inc	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total	Unit Cost	Total
X	17	Erosion and Sediment Control	1	LS	\$1,500.00	\$1,500.00	\$500.00	\$500.00
Total						\$191,496.50		\$164,737.25

BID ALT NO. 1

BID ALT NO. 1					Baha Construction, Inc.		Cedar Ridge Landscape, Inc	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total	Unit Cost	Total
X	18	Remove Concrete	1505	SF	\$5.50	\$8,277.50	\$4.25	\$6,396.25
X	19	Construct 4" Concrete	1350	SF	\$12.00	\$16,200.00	\$10.00	\$13,500.00
X	20	Construct 6" Concrete	155	SF	\$15.00	\$2,325.00	\$13.00	\$2,015.00
X	21	Install Class 6 Base Material (Place and Compact)	1	Tons	\$90.00	\$90.00	\$65.00	\$65.00
X	22	Traffic Control	1	LS	\$2,000.00	\$2,000.00	\$2,100.00	\$2,100.00
X	23	Erosion and Sediment Control	1	LS	\$800.00	\$800.00	\$150.00	\$150.00
Total						\$29,692.50		\$24,226.25

EVALUATION TABULATION

Public Improvement Invitation for Bid - Concrete Improvements - 1600 Block Orman Avenue (CDBG)

BID ALT NO. 2

BID ALT NO. 2					Baha Construction, Inc.		Cedar Ridge Landscape, Inc	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total	Unit Cost	Total
X	24	Remove Concrete	1119	SF	\$5.50	\$6,154.50	\$4.25	\$4,755.75
X	25	Construct 4" Concrete	1059	SF	\$12.00	\$12,708.00	\$10.00	\$10,590.00
X	26	Construct 6" Concrete	60	SF	\$15.00	\$900.00	\$13.00	\$780.00
X	27	Construct 7" Reinforced Concrete	164	SF	\$18.00	\$2,952.00	\$18.00	\$2,952.00
X	28	Install Class 6 Base Material (Place and Compact)	1	Tons	\$90.00	\$90.00	\$65.00	\$65.00
X	29	Traffic Control	1	LS	\$2,000.00	\$2,000.00	\$2,100.00	\$2,100.00
X	30	Erosion and Sediment Control	1	LS	\$800.00	\$800.00	\$150.00	\$150.00
Total						\$25,604.50		\$21,392.75

VENDOR QUESTIONNAIRE PASS/FAIL

Question Title	Baha Construction, Inc.	Cedar Ridge Landscape, Inc
BID GUARANTEE	Pass	Pass
CONFIRMATION OF UNDERSTANDING AND OFFER	Pass	Pass
NAME, TITLE, AND CONTACT INFORMATION	Pass	Pass
AFFIRMATIVE ACTION PLAN REQUIREMENT:	Pass	Pass
PERFORMANCE OF WORK REQUIREMENT:	Pass	Pass
COLORADO LABOR REQUIREMENT:	Pass	Pass
ACKNOWLEDGEMENT OF PREVAILING WAGES & ADDITIONAL WAGE CLASSIFICATION RESPONSIBILITY	Pass	Pass
CERTIFICATION OF NONSEGREGATED FACILITIES	Pass	Pass
SAM.gov REGISTRATION	Pass	Pass
SALES AND/OR USE TAX INFORMATION	Pass	Pass
Has/is this firm or any officer or partner of this firm:		
Convicted of a criminal offense	Pass	Pass
Convicted under state or federal statutes	Pass	Pass
Convicted under state or federal antitrust statutes	Pass	Pass
Failed to perform	Pass	Pass
Suspension or Debarment	Pass	Pass
Unqualified	Pass	Pass
Unlicensed	Pass	Pass
Delinquent	Pass	Pass
Confirmation	Pass	Pass
Section 3 Forms		
Section 3 Form S3a Section 3 Compliance	Pass	Pass
Section 3 Form S3e Business Certification	Pass	Pass



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: November 13, 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 \$154,090.28 TO FULL TILT CONSTRUCTION, INC., FOR PROJECT NO. 23-069, ADA CURB RAMPS - PHASE 3 (CDBG), SETTING FORTH \$23,113.54 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

Attached is a resolution awarding a Construction Contract to Full Tilt Construction, Inc., for Project No. 23-069, ADA Curb Ramps - Phase 3 (CDBG).

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

This project will consist of concrete sidewalk and curb ramp improvements within the Belmont Area. This Resolution awards the construction contract to Full Tilt Construction, Inc.

FINANCIAL IMPLICATIONS:

Funds in the amount of \$177,203.82 (contract and contingencies) will be paid from account Project No. CD2309, ADA Curb Ramps - Belmont.

BOARD/COMMISSION RECOMMENDATION

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Denial of this resolution will cancel the project.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 23-069 Bid Summary

RESOLUTION NO. 15412

A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$154,090.28 TO FULL TILT CONSTRUCTION, INC., FOR PROJECT NO. 23-069, ADA CURB RAMPS - PHASE 3 (CDBG), SETTING FORTH \$23,113.54 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, competitive bids for Project No. 23-069, ADA Curb Ramps - Phase 3 (CDBG) have been received and examined; and,

WHEREAS, the proposal of Full Tilt Construction, Inc., was the lowest bid determined to be responsive, and the Committee of Awards recommends to the City Council that it authorize Project No. 23-069, ADA Curb Ramps - Phase 3 (CDBG) to be performed; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The City Council authorizes Project No. 23-069, ADA Curb Ramps - Phase 3 (CDBG) to be performed, and the contract for said project is hereby awarded to Full Tilt Construction, Inc., in the amount of \$154,090.28.

SECTION 2.

The Purchasing Agent is hereby authorized to execute said contract on behalf of the City of Pueblo, a Colorado Municipal Corporation, and the City Clerk shall affix the seal of the City thereto and attest 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.....\$23,113.54

SECTION 4.

Funds in the amount of \$177,203.82 for the contract and contingencies, shall be from account Project CD2309, ADA Curb Ramps - Belmont.

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.

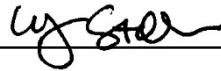
SECTION 6.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: November 13, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 



City of Pueblo
Purchasing

Naomi Hedden, Director
230 S. Mechanic St., Pueblo, CO 81003

EVALUATION TABULATION
IFB No. 23-069 (CD2309)
ADA Curb Ramps - Phase 3 (CDBG)
RESPONSE DEADLINE: October 27, 2023 at 10:00 am
Report Generated: Friday, October 27, 2023

SELECTED VENDOR TOTALS

Vendor	Total	Base Bid	Bid Alt. No. 1	Bid Alt. No. 2	Bid Alt. No. 3	Bid Alt. No. 4
Full Tilt Construction, Inc	\$254,598.70	\$122,786.55	\$29,938.87	\$31,303.73	\$35,850.08	\$34,719.47
Cedar Ridge Landscape, Inc	\$265,516.50	\$121,901.75	\$31,498.75	\$34,157.75	\$41,243.00	\$36,715.25
A 5 Construction	\$281,108.85	\$129,999.00	\$33,984.85	\$35,994.00	\$42,706.75	\$38,424.25
Baha Construction, Inc.	\$342,130.00	\$159,715.00	\$43,381.00	\$42,243.50	\$50,252.50	\$46,538.00
Flat and Fancy	\$450,053.52	\$180,356.90	\$53,771.26	\$56,918.74	\$79,767.40	\$79,239.22

EVALUATION TABULATION
IFB No. 23-069 (CD2309)
ADA Curb Ramps - Phase 3 (CDBG)

BASE BID

Base Bid					A 5 Construction		Baha Construction, Inc.		Cedar Ridge Landscape, Inc		Flat and Fancy		Full Tilt Construction, Inc	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
X	1	Remove Shrubs	94	SF	\$8.00	\$752.00	\$10.00	\$940.00	\$3.00	\$282.00	\$35.00	\$3,290.00	\$31.00	\$2,914.00
X	2	Remove and Reset Brick Pavers	31	SF	\$12.00	\$372.00	\$15.00	\$465.00	\$4.50	\$139.50	\$40.00	\$1,240.00	\$10.00	\$310.00
X	3	Remove Asphalt	1162	SF	\$4.00	\$4,648.00	\$4.50	\$5,229.00	\$3.00	\$3,486.00	\$3.80	\$4,415.60	\$2.94	\$3,416.28
X	4	Remove Curb & Gutter	502	LF	\$10.00	\$5,020.00	\$12.00	\$6,024.00	\$10.00	\$5,020.00	\$13.70	\$6,877.40	\$9.63	\$4,834.26
X	5	Remove Concrete	1870	SF	\$4.00	\$7,480.00	\$4.50	\$8,415.00	\$3.00	\$5,610.00	\$5.44	\$10,172.80	\$3.67	\$6,862.90
X	6	Remove 7" Reinforced Concrete	709	SF	\$6.50	\$4,608.50	\$7.00	\$4,963.00	\$4.00	\$2,836.00	\$9.00	\$6,381.00	\$6.72	\$4,764.48
X	7	Remove Curb Head	2	LF	\$19.00	\$38.00	\$12.00	\$24.00	\$10.00	\$20.00	\$13.70	\$27.40	\$3.60	\$7.20
X	8	Construct Curb Head	333	LF	\$21.00	\$6,993.00	\$25.00	\$8,325.00	\$21.00	\$6,993.00	\$30.00	\$9,990.00	\$18.07	\$6,017.31
X	9	Construct Curb & Gutter	502	LF	\$41.00	\$20,582.00	\$45.00	\$22,590.00	\$38.00	\$19,076.00	\$51.98	\$26,093.96	\$41.04	\$20,602.08
X	10	Construct 4" Concrete	1258	SF	\$8.00	\$10,064.00	\$12.00	\$15,096.00	\$9.50	\$11,951.00	\$14.90	\$18,744.20	\$9.45	\$11,888.10

EVALUATION TABULATION
IFB No. 23-069 (CD2309)
ADA Curb Ramps - Phase 3 (CDBG)

Base Bid					A 5 Construction		Baha Construction, Inc.		Cedar Ridge Landscape, Inc		Flat and Fancy		Full Tilt Construction, Inc	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
X	11	Construct 6" Concrete	1031	SF	\$13.00	\$13,403.00	\$14.00	\$14,434.00	\$12.75	\$13,145.25	\$18.54	\$19,114.74	\$9.79	\$10,093.49
X	12	Construct 7" Reinforced Concrete	709	SF	\$14.50	\$10,280.50	\$16.00	\$11,344.00	\$18.00	\$12,762.00	\$21.20	\$15,030.80	\$13.81	\$9,791.29
X	13	Construct 6" Asphalt Patch	1162	SF	\$9.00	\$10,458.00	\$18.00	\$20,916.00	\$8.00	\$9,296.00	\$20.00	\$23,240.00	\$11.49	\$13,351.38
X	14	Relocate Pedestrian Pole	1	EACH	\$300.00	\$300.00	\$1,000.00	\$1,000.00	\$2,500.00	\$2,500.00	\$500.00	\$500.00	\$305.33	\$305.33
X	15	Relocate Signs	11	EA	\$250.00	\$2,750.00	\$300.00	\$3,300.00	\$150.00	\$1,650.00	\$250.00	\$2,750.00		NaN
X	16	Install 24"x30" Tactile Band	36	EACH	\$300.00	\$10,800.00	\$425.00	\$15,300.00	\$310.00	\$11,160.00	\$200.00	\$7,200.00	\$385.00	\$13,860.00
X	17	Install Class 6 Backfill	15	TONS	\$80.00	\$1,200.00	\$90.00	\$1,350.00	\$55.00	\$825.00	\$152.60	\$2,289.00	\$143.23	\$2,148.45
X	18	Mobilization	1	LS	\$3,750.00	\$3,750.00	\$11,500.00	\$11,500.00	\$5,800.00	\$5,800.00	\$20,000.00	\$20,000.00	\$2,000.00	\$2,000.00
X	19	Traffic Control	1	LS	\$13,750.00	\$13,750.00	\$8,000.00	\$8,000.00	\$8,500.00	\$8,500.00	\$2,500.00	\$2,500.00	\$9,120.00	\$9,120.00
X	20	Erosion & Sediment Control	1	LS	\$2,750.00	\$2,750.00	\$500.00	\$500.00	\$850.00	\$850.00	\$500.00	\$500.00	\$500.00	\$500.00
Total						\$129,999.00		\$159,715.00		\$121,901.75		\$180,356.90		\$122,786.55

EVALUATION TABULATION
IFB No. 23-069 (CD2309)
ADA Curb Ramps - Phase 3 (CDBG)

BID ALTERNATE NO. 1

Bid Alternate No. 1					A 5 Construction		Baha Construction, Inc.		Cedar Ridge Landscape, Inc		Flat and Fancy		Full Tilt Construction, Inc	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
X	21	Remove Asphalt	324	SF	\$4.00	\$1,296.00	\$4.50	\$1,458.00	\$3.00	\$972.00	\$3.80	\$1,231.20	\$2.94	\$952.56
X	22	Remove Curb & Gutter	97	LF	\$10.00	\$970.00	\$12.00	\$1,164.00	\$10.00	\$970.00	\$13.70	\$1,328.90	\$9.63	\$934.11
X	23	Remove Concrete	454	SF	\$4.00	\$1,816.00	\$4.50	\$2,043.00	\$3.00	\$1,362.00	\$5.44	\$2,469.76	\$3.67	\$1,666.18
X	24	Remove 7" Reinforced Concrete	379	SF	\$6.15	\$2,330.85	\$7.00	\$2,653.00	\$4.00	\$1,516.00	\$9.00	\$3,411.00	\$6.72	\$2,546.88
X	25	Construct Curb Head	68	LF	\$21.00	\$1,428.00	\$25.00	\$1,700.00	\$21.00	\$1,428.00	\$30.00	\$2,040.00	\$18.07	\$1,228.76
X	26	Construct Curb & Gutter	97	LF	\$41.00	\$3,977.00	\$45.00	\$4,365.00	\$38.00	\$3,686.00	\$51.98	\$5,042.06	\$41.04	\$3,980.88
X	27	Construct 4" Concrete	374	SF	\$8.00	\$2,992.00	\$12.00	\$4,488.00	\$9.50	\$3,553.00	\$14.90	\$5,572.60	\$9.45	\$3,534.30
X	28	Construct 6" Concrete	181	SF	\$13.00	\$2,353.00	\$14.00	\$2,534.00	\$12.75	\$2,307.75	\$18.54	\$3,355.74	\$9.79	\$1,771.99
X	29	Construct 7" Reinforced Concrete	379	SF	\$14.00	\$5,306.00	\$16.00	\$6,064.00	\$18.00	\$6,822.00	\$21.20	\$8,034.80	\$13.81	\$5,233.99

EVALUATION TABULATION
IFB No. 23-069 (CD2309)
ADA Curb Ramps - Phase 3 (CDBG)

Bid Alternate No. 1					A 5 Construction		Baha Construction, Inc.		Cedar Ridge Landscape, Inc		Flat and Fancy		Full Tilt Construction, Inc	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
X	30	Construct 6" Asphalt Patch	324	SF	\$9.00	\$2,916.00	\$18.00	\$5,832.00	\$8.00	\$2,592.00	\$20.00	\$6,480.00	\$11.49	\$3,722.76
X	31	Install 24"x30" Tactile Band	8	EACH	\$300.00	\$2,400.00	\$425.00	\$3,400.00	\$310.00	\$2,480.00	\$200.00	\$1,600.00	\$385.00	\$3,080.00
X	32	Install Class 6 Backfill	2	TONS	\$100.00	\$200.00	\$90.00	\$180.00	\$55.00	\$110.00	\$152.60	\$305.20	\$143.23	\$286.46
X	33	Mobilization	1	LS	\$2,500.00	\$2,500.00	\$4,000.00	\$4,000.00	\$1,800.00	\$1,800.00	\$12,000.00	\$12,000.00	\$0.00	\$0.00
X	34	Traffic Control	1	LS	\$2,500.00	\$2,500.00	\$3,000.00	\$3,000.00	\$1,700.00	\$1,700.00	\$500.00	\$500.00	\$500.00	\$500.00
X	35	Erosion & Sediment Control	1	LS	\$1,000.00	\$1,000.00	\$500.00	\$500.00	\$200.00	\$200.00	\$400.00	\$400.00	\$500.00	\$500.00
Total						\$33,984.85		\$43,381.00		\$31,498.75		\$53,771.26		\$29,938.87

EVALUATION TABULATION
IFB No. 23-069 (CD2309)
ADA Curb Ramps - Phase 3 (CDBG)

BID ALTERNATE NO. 2

Bid Alternate No. 2					A 5 Construction		Baha Construction, Inc.		Cedar Ridge Landscape, Inc		Flat and Fancy		Full Tilt Construction, Inc	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
X	36	Remove Asphalt	302	SF	\$4.00	\$1,208.00	\$4.50	\$1,359.00	\$3.00	\$906.00	\$3.80	\$1,147.60	\$2.94	\$887.88
X	37	Remove Curb & Gutter	87	LF	\$10.00	\$870.00	\$12.00	\$1,044.00	\$10.00	\$870.00	\$13.70	\$1,191.90	\$9.63	\$837.81
X	38	Remove Concrete	461	SF	\$4.00	\$1,844.00	\$4.50	\$2,074.50	\$3.00	\$1,383.00	\$5.44	\$2,507.84	\$3.67	\$1,691.87
X	39	Remove 7" Reinforced Concrete	380	SF	\$6.15	\$2,337.00	\$7.00	\$2,660.00	\$4.00	\$1,520.00	\$9.00	\$3,420.00	\$6.72	\$2,553.60
X	40	Remove Crosswalk Striping	15	SF	\$15.00	\$225.00	\$15.00	\$225.00	\$10.00	\$150.00	\$80.00	\$1,200.00	\$4.00	\$60.00
X	41	Construct Curb Head	68	LF	\$21.00	\$1,428.00	\$25.00	\$1,700.00	\$21.00	\$1,428.00	\$30.00	\$2,040.00	\$18.07	\$1,228.76
X	42	Construct Curb & Gutter	87	LF	\$41.00	\$3,567.00	\$45.00	\$3,915.00	\$38.00	\$3,306.00	\$51.98	\$4,522.26	\$41.04	\$3,570.48
X	43	Construct 4" Concrete	378	SF	\$8.00	\$3,024.00	\$12.00	\$4,536.00	\$9.50	\$3,591.00	\$14.90	\$5,632.20	\$9.45	\$3,572.10
X	44	Construct 6" Concrete	181	SF	\$13.00	\$2,353.00	\$14.00	\$2,534.00	\$12.75	\$2,307.75	\$18.54	\$3,355.74	\$9.79	\$1,771.99
X	45	Construct 7" Reinforced Concrete	380	SF	\$14.00	\$5,320.00	\$16.00	\$6,080.00	\$18.00	\$6,840.00	\$21.20	\$8,056.00	\$13.81	\$5,247.80

EVALUATION TABULATION
IFB No. 23-069 (CD2309)
ADA Curb Ramps - Phase 3 (CDBG)

Bid Alternate No. 2					A 5 Construction		Baha Construction, Inc.		Cedar Ridge Landscape, Inc		Flat and Fancy		Full Tilt Construction, Inc	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
X	46	Construct 6" Asphalt Patch	302	SF	\$9.00	\$2,718.00	\$18.00	\$5,436.00	\$8.00	\$2,416.00	\$20.00	\$6,040.00	\$11.49	\$3,469.98
X	47	Install Preformed Thermoplastic Striping (Crosswalk)	100	SF	\$25.00	\$2,500.00	\$25.00	\$2,500.00	\$30.00	\$3,000.00	\$30.00	\$3,000.00	\$20.45	\$2,045.00
X	48	Install 24"x30" Tactile Band	8	EACH	\$300.00	\$2,400.00	\$425.00	\$3,400.00	\$310.00	\$2,480.00	\$200.00	\$1,600.00	\$385.00	\$3,080.00
X	49	Install Class 6 Backfill	2	TONS	\$100.00	\$200.00	\$90.00	\$180.00	\$55.00	\$110.00	\$152.60	\$305.20	\$143.23	\$286.46
X	50	Mobilization	1	LS	\$2,500.00	\$2,500.00	\$3,100.00	\$3,100.00	\$1,950.00	\$1,950.00	\$12,000.00	\$12,000.00	\$0.00	\$0.00
X	51	Traffic Control	1	LS	\$2,500.00	\$2,500.00	\$1,000.00	\$1,000.00	\$1,700.00	\$1,700.00	\$500.00	\$500.00	\$500.00	\$500.00
X	52	Erosion & Sediment Control	1	LS	\$1,000.00	\$1,000.00	\$500.00	\$500.00	\$200.00	\$200.00	\$400.00	\$400.00	\$500.00	\$500.00
Total						\$35,994.00		\$42,243.50		\$34,157.75		\$56,918.74		\$31,303.73

EVALUATION TABULATION
IFB No. 23-069 (CD2309)
ADA Curb Ramps - Phase 3 (CDBG)

BID ALTERNATE NO. 3

Bid Alternate No. 3					A 5 Construction		Baha Construction, Inc.		Cedar Ridge Landscape, Inc		Flat and Fancy		Full Tilt Construction, Inc	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
X	53	Remove Asphalt	301	SF	\$4.00	\$1,204.00	\$4.50	\$1,354.50	\$3.00	\$903.00	\$3.80	\$1,143.80	\$2.94	\$884.94
X	54	Remove Curb & Gutter	88	LF	\$10.00	\$880.00	\$12.00	\$1,056.00	\$10.00	\$880.00	\$13.70	\$1,205.60	\$9.63	\$847.44
X	55	Remove Concrete	414	SF	\$4.00	\$1,656.00	\$4.50	\$1,863.00	\$3.00	\$1,242.00	\$5.44	\$2,252.16	\$3.67	\$1,519.38
X	56	Remove 7" Reinforced Concrete	505	SF	\$6.15	\$3,105.75	\$7.00	\$3,535.00	\$4.00	\$2,020.00	\$9.00	\$4,545.00	\$6.72	\$3,393.60
X	57	Remove Crosswalk Striping	168	SF	\$15.00	\$2,520.00	\$15.00	\$2,520.00	\$10.00	\$1,680.00	\$80.00	\$13,440.00	\$4.00	\$672.00
X	58	Construct Curb Head	70	LF	\$21.00	\$1,470.00	\$25.00	\$1,750.00	\$21.00	\$1,470.00	\$30.00	\$2,100.00	\$18.07	\$1,264.90
X	59	Construct Curb & Gutter	88	LF	\$41.00	\$3,608.00	\$45.00	\$3,960.00	\$38.00	\$3,344.00	\$51.98	\$4,574.24	\$41.04	\$3,611.52
X	60	Construct 4" Concrete	318	SF	\$8.00	\$2,544.00	\$12.00	\$3,816.00	\$9.50	\$3,021.00	\$14.90	\$4,738.20	\$9.45	\$3,005.10
X	61	Construct 6" Concrete	180	SF	\$13.00	\$2,340.00	\$14.00	\$2,520.00	\$12.75	\$2,295.00	\$18.54	\$3,337.20	\$9.79	\$1,762.20
X	62	Construct 7" Reinforced Concrete	505	SF	\$14.00	\$7,070.00	\$16.00	\$8,080.00	\$18.00	\$9,090.00	\$21.20	\$10,706.00	\$13.81	\$6,974.05

EVALUATION TABULATION
IFB No. 23-069 (CD2309)
ADA Curb Ramps - Phase 3 (CDBG)

Bid Alternate No. 3					A 5 Construction		Baha Construction, Inc.		Cedar Ridge Landscape, Inc		Flat and Fancy		Full Tilt Construction, Inc	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
X	63	Construct 6" Asphalt Patch	301	SF	\$9.00	\$2,709.00	\$18.00	\$5,418.00	\$8.00	\$2,408.00	\$20.00	\$6,020.00	\$11.49	\$3,458.49
X	64	Install Preformed Thermoplastic Striping (Crosswalk)	200	SF	\$25.00	\$5,000.00	\$25.00	\$5,000.00	\$30.00	\$6,000.00	\$30.00	\$6,000.00	\$20.45	\$4,090.00
X	65	Install 24"x30" Tactile Band	8	EACH	\$300.00	\$2,400.00	\$425.00	\$3,400.00	\$310.00	\$2,480.00	\$200.00	\$1,600.00	\$385.00	\$3,080.00
X	66	Install Class 6 Backfill	2	TONS	\$100.00	\$200.00	\$90.00	\$180.00	\$55.00	\$110.00	\$152.60	\$305.20	\$143.23	\$286.46
X	67	Mobilization	1	LS	\$2,500.00	\$2,500.00	\$3,800.00	\$3,800.00	\$2,400.00	\$2,400.00	\$15,000.00	\$15,000.00	\$0.00	\$0.00
X	68	Traffic Control	1	LS	\$2,500.00	\$2,500.00	\$1,500.00	\$1,500.00	\$1,700.00	\$1,700.00	\$2,000.00	\$2,000.00	\$500.00	\$500.00
X	69	Erosion & Sediment Control	1	LS	\$1,000.00	\$1,000.00	\$500.00	\$500.00	\$200.00	\$200.00	\$800.00	\$800.00	\$500.00	\$500.00
Total						\$42,706.75		\$50,252.50		\$41,243.00		\$79,767.40		\$35,850.08

EVALUATION TABULATION
IFB No. 23-069 (CD2309)
ADA Curb Ramps - Phase 3 (CDBG)

BID ALTERNATE NO. 4

Bid Alternate No. 4					A 5 Construction		Baha Construction, Inc.		Cedar Ridge Landscape, Inc		Flat and Fancy		Full Tilt Construction, Inc	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
X	70	Remove Shrubs	60	SF	\$10.00	\$600.00	\$10.00	\$600.00	\$3.00	\$180.00	\$35.00	\$2,100.00	\$31.00	\$1,860.00
X	71	Remove and Reset Brick Pavers	45	SF	\$12.00	\$540.00	\$15.00	\$675.00	\$4.50	\$202.50	\$40.00	\$1,800.00	\$10.00	\$450.00
X	72	Remove Asphalt	311	SF	\$4.00	\$1,244.00	\$4.50	\$1,399.50	\$3.00	\$933.00	\$3.80	\$1,181.80	\$2.94	\$914.34
X	73	Remove Curb & Gutter	84	LF	\$10.00	\$840.00	\$12.00	\$1,008.00	\$10.00	\$840.00	\$13.70	\$1,150.80	\$9.63	\$808.92
X	74	Remove Concrete	359	SF	\$4.00	\$1,436.00	\$4.50	\$1,615.50	\$3.00	\$1,077.00	\$5.44	\$1,952.96	\$3.67	\$1,317.53
X	75	Remove 7" Reinforced Concrete	275	SF	\$6.15	\$1,691.25	\$7.00	\$1,925.00	\$4.00	\$1,100.00	\$9.00	\$2,475.00	\$6.72	\$1,848.00
X	76	Remove Curb Head	26	LF	\$4.00	\$104.00	\$12.00	\$312.00	\$10.00	\$260.00	\$13.70	\$356.20	\$3.60	\$93.60
X	77	Remove Crosswalk Striping	204	SF	\$15.00	\$3,060.00	\$15.00	\$3,060.00	\$10.00	\$2,040.00	\$80.00	\$16,320.00	\$4.00	\$816.00
X	78	Construct Curb Head	59	LF	\$21.00	\$1,239.00	\$25.00	\$1,475.00	\$21.00	\$1,239.00	\$30.00	\$1,770.00	\$18.07	\$1,066.13
X	79	Construct Curb & Gutter	84	LF	\$41.00	\$3,444.00	\$45.00	\$3,780.00	\$38.00	\$3,192.00	\$51.98	\$4,366.32	\$41.04	\$3,447.36

EVALUATION TABULATION
IFB No. 23-069 (CD2309)
ADA Curb Ramps - Phase 3 (CDBG)

Bid Alternate No. 4					A 5 Construction		Baha Construction, Inc.		Cedar Ridge Landscape, Inc		Flat and Fancy		Full Tilt Construction, Inc	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
X	80	Construct 4" Concrete	248	SF	\$8.00	\$1,984.00	\$12.00	\$2,976.00	\$9.50	\$2,356.00	\$14.90	\$3,695.20	\$9.45	\$2,343.60
X	81	Construct 6" Concrete	181	SF	\$13.00	\$2,353.00	\$14.00	\$2,534.00	\$12.75	\$2,307.75	\$18.54	\$3,355.74	\$9.79	\$1,771.99
X	82	Construct 7" Reinforced Concrete	275	SF	\$14.00	\$3,850.00	\$16.00	\$4,400.00	\$18.00	\$4,950.00	\$21.20	\$5,830.00	\$13.81	\$3,797.75
X	83	Construct 6" Asphalt Patch	311	SF	\$9.00	\$2,799.00	\$18.00	\$5,598.00	\$8.00	\$2,488.00	\$20.00	\$6,220.00	\$11.49	\$3,573.39
X	84	Install Preformed Thermoplastic Striping (Crosswalk)	232	SF	\$20.00	\$4,640.00	\$25.00	\$5,800.00	\$30.00	\$6,960.00	\$30.00	\$6,960.00	\$20.45	\$4,744.40
X	85	Install 24"x30" Tactile Band	8	EACH	\$300.00	\$2,400.00	\$425.00	\$3,400.00	\$310.00	\$2,480.00	\$200.00	\$1,600.00	\$385.00	\$3,080.00
X	86	Install Class 6 Backfill	2	TONS	\$100.00	\$200.00	\$90.00	\$180.00	\$55.00	\$110.00	\$152.60	\$305.20	\$143.23	\$286.46
X	87	Mobilization	1	LS	\$2,500.00	\$2,500.00	\$3,300.00	\$3,300.00	\$2,100.00	\$2,100.00	\$15,000.00	\$15,000.00	\$1,500.00	\$1,500.00
X	88	Traffic Control	1	LS	\$2,500.00	\$2,500.00	\$2,000.00	\$2,000.00	\$1,700.00	\$1,700.00	\$2,000.00	\$2,000.00	\$500.00	\$500.00
X	89	Erosion & Sediment Control	1	LS	\$1,000.00	\$1,000.00	\$500.00	\$500.00	\$200.00	\$200.00	\$800.00	\$800.00	\$500.00	\$500.00
Total						\$38,424.25		\$46,538.00		\$36,715.25		\$79,239.22		\$34,719.47

VENDOR QUESTIONNAIRE PASS/FAIL

Question Title	A 5 Construction	Baha Construction, Inc.	Cedar Ridge Landscape, Inc	Flat and Fancy	Full Tilt Construction, Inc
BID GUARANTEE	Pass	Pass	Pass	Pass	Pass
CONFIRMATION OF UNDERSTANDING AND OFFER	Pass	Pass	Pass	Pass	Pass
NAME, TITLE, AND CONTACT INFORMATION	Pass	Pass	Pass	Pass	Pass
AFFIRMATIVE ACTION PLAN REQUIREMENT:	Pass	Pass	Pass	Pass	Pass
PERFORMANCE OF WORK REQUIREMENT:	Pass	Pass	Pass	Pass	Pass
COLORADO LABOR REQUIREMENT:	Pass	Pass	Pass	Pass	Pass
ACKNOWLEDGEMENT OF PREVAILING WAGES & ADDITIONAL WAGE CLASSIFICATION RESPONSIBILITY	Pass	Pass	Pass	Pass	Pass
CERTIFICATION OF NONSEGREGATED FACILITIES	Pass	Pass	Pass	Pass	Pass
SALES AND/OR USE TAX INFORMATION	Pass	Pass	Pass	Pass	Pass
SAM.gov Registration	Pass	Pass	Pass	Pass	Pass

EVALUATION TABULATION
 IFB No. 23-069 (CD2309)
 ADA Curb Ramps - Phase 3 (CDBG)

Question Title	A 5 Construction	Baha Construction, Inc.	Cedar Ridge Landscape, Inc	Flat and Fancy	Full Tilt Construction, Inc
Has/is this firm or any officer or partner of this firm:					
Convicted of a criminal offense	Pass	Pass	Pass	Pass	Pass
Convicted under state or federal statutes	Pass	Pass	Pass	Pass	Pass
Convicted under state or federal antitrust statutes	Pass	Pass	Pass	Pass	Pass
Failed to perform	Pass	Pass	Pass	Fail	Pass
Suspension or Debarment	Pass	Pass	Pass	Pass	Pass
Unqualified	Pass	Pass	Pass	Pass	Pass
Unlicensed	Pass	Pass	Pass	Pass	Pass
Delinquent	Pass	Pass	Pass	Pass	Pass
Confirmation	Pass	Pass	Pass	Pass	Pass
Section 3 Forms					
Section 3 Form S3a Section 3 Compliance	Pass	Pass	Pass	Pass	Pass
Section 3 Form S3e Business Certification	Pass	Pass	Pass	Pass	Pass



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: November 13, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: George Hypolite, City Attorney

SUBJECT: A RESOLUTION AMENDING RESOLUTION NO. 15168 AUTHORIZING PAYMENT OF AN ADDITIONAL EIGHTY THOUSAND DOLLARS (\$80,000) FROM PROJECT NO. CI-2113 – AMERICAN RESCUE PLAN ACT, FOR THE PURPOSES OF CONSTRUCTING BROADBAND INFRASTRUCTURE, AS AUTHORIZED BY SECTION 603 (A) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35

SUMMARY:

This Resolution authorizes the payment of an additional \$80,000 in American Rescue Plan Act (“ARPA”) funds for a total of \$680,000 for the purpose of installing redundant fiber-optic infrastructure to connect the City’s new fire station near W. 24th Street on the east side of Pueblo Boulevard and Pueblo County’s new county jail near W. 24th Street on the west side of Pueblo Boulevard.

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). Additionally, by Resolution No. 15168, approved on March 13, 2023, the expenditure of \$600,000 in ARPA funds for the installing redundant fiber-optic infrastructure to connect the City’s new fire station near W. 24th Street on the east side of Pueblo Boulevard and Pueblo County’s new county jail near W. 24th Street on the west side of Pueblo Boulevard.

BACKGROUND:

The City is building a new fire station on the west side of Pueblo on W. 24h Street.

Pueblo County (County) is building a new county jail near W. 24th Street on the west side of Pueblo Blvd. The City and County desire to cooperate to install redundant fiber-optic infrastructure to both facilities to connect the technological resources necessary to support the operations required by each agency. The City and the County is working in joint cooperation on this project. The original engineering design for the redundant path must be altered due to policy change for the use of the Colorado Department of Transportation's conduit with local municipalities. This policy change forced a design change for the City and County. To keep costs down, we are switching to an aerial pathway. The cost for this change will be split 50/50 between the city and county which the city's portion being eighty thousand, \$80,000, dollars. The County has already approved and encumbered the funds for this change.

FINANCIAL IMPLICATIONS:

An additional \$80,000 in ARPA funds are being authorized for payment bringing the City's total cost for the project to \$677,275.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Resolution.

STAKEHOLDER PROCESS:

Not applicable to this Resolution.

ALTERNATIVES:

City Council could decide not to support or fund the additional resources needed to complete the broadband infrastructure project.

RECOMMENDATION:

Approval of the Resolution

ATTACHMENTS:

None

RESOLUTION NO. 15413

A RESOLUTION AMENDING RESOLUTION NO. 15168 AUTHORIZING PAYMENT OF AN ADDITIONAL EIGHTY THOUSAND DOLLARS (\$80,000) FROM PROJECT NO. CI-2113 AMERICAN RESCUE PLAN ACT, FOR THE PURPOSES OF CONSTRUCTING BROADBAND INFRASTRUCTURE, AS AUTHORIZED BY SECTION 603 (A) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35

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 ("ARPA"); and

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 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 CFR; and

WHEREAS, under the Final Rule, recipients may use Coronavirus State and Local Fiscal Recovery Funds ("SLFRF") to respond to the COVID-19 public health emergency and the negative economic consequences resulting therefrom; and

WHEREAS, under the U.S. Treasury's Final Rule pertaining to ARPA, recipients may use SLFRF funds to invest in communities to promote improved health outcomes and public safety such as parks, recreation facilities, and programs that increase access to healthy foods; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

(a) Additional funds in the amount of eighty thousand dollars (\$80,000) are hereby authorized for payment from Project No. CI-2113 – American Rescue Plan Act, for purposes of Act, for redundant fiber-optics infrastructure to connect the City's new fire station near W. 24th Street on the east side of Pueblo Boulevard and Pueblo County's new county jail near W. 24th Street on the west side of Pueblo Boulevard.

SECTION 2.

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

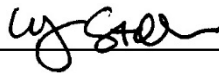
SECTION 3.

This Resolution shall become effective immediately upon final passage.

INTRODUCED: November 13, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: November 13, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Laura Solano, Chief of Staff

SUBJECT: A RESOLUTION AWARDING AN AGREEMENT FOR PROFESSIONAL SERVICES IN THE MAXIMUM AMOUNT OF \$65,000 TO THE WELLMAN WAY LLC FOR IMPLEMENTATION OF THE PUEBLO FOOD PROJECT'S NEW GOVERNANCE STRUCTURE AND FACILITATION OF ORGANIZATIONAL STRUCTURE CHANGE, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE THE SAME

SUMMARY:

Attached is a Resolution awarding an Agreement for Professional Services to The Wellman Way LLC for Implementation of Pueblo Food Project's New Governance Structure and facilitation of the organization change.

PREVIOUS COUNCIL ACTION:

Not applicable to this Resolution.

BACKGROUND:

The Pueblo Food Project (PFP) requested Proposals from qualified consultants to research and create a report to better understand the options for a governance structure change pertaining to fiscal sponsorship, nonprofit 501(c)(3) status, B-Corp, and other fiscal options.

In partnership with Civic Canopy, Pueblo Food Project has been investigating governance structure options for PFP to transition to. Over the past year, research has been conducted to evaluate the top priorities that PFP should focus on to create the most sustainable future for PFP. One of these priorities is evaluating and changing our governance structure to fit the needs of the coalition.

Requested proposals include two phases of work. Phase one work is the only project bid out at this time. Phase two work is not guaranteed. However, PFP would like to work with a firm that can offer services for both phase one and phase two, should the

coalition make a decision to move forward with an organizational change. This resolution approves the contract work for part 2 of the proposal to include the professional services to lead the implementation of the new governance structure.

FINANCIAL IMPLICATIONS:

Funding in the maximum amount of \$65,000, in \$5,000 monthly increments will be paid out of Project No. CI2216 for this service.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Resolution.

STAKEHOLDER PROCESS:

Not applicable to this Resolution.

ALTERNATIVES:

Not applicable to this Resolution.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 11-13-23 Wellman Way Proposal Project_Phase Two_ PFP (1)

RESOLUTION NO. 15414

A RESOLUTION AWARDING AN AGREEMENT FOR PROFESSIONAL SERVICES IN THE MAXIMUM AMOUNT OF \$65,000 TO THE WELLMAN WAY LLC FOR IMPLEMENTATION OF THE PUEBLO FOOD PROJECT'S NEW GOVERNANCE STRUCTURE AND FACILITATION OF ORGANIZATIONAL STRUCTURE CHANGE, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE THE SAME

WHEREAS, competitive bids for the Governance Structure Research for Pueblo Food Project's Future - Request for Proposal ("RFP") have been received and examined; and

WHEREAS, the proposal of The Wellman Way of Beulah, Colorado was the lowest of those bids determined to be responsive for the assessment, and the Committee of Awards recommends to the City Council that it authorize the Project Pueblo Food Project Governance Structure Research; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

City Council authorizes the implementation of Pueblo Food Projects facilitation of the organization and governance structure change, the agreement for said project is hereby awarded to The Wellman Way in the amount maximum of \$65,000.

SECTION 2.

The Agreement for Professional Services between the City of Pueblo, a Colorado Municipal Corporation, and The Wellman Way, which is attached hereto and incorporated herein, having been approved as to form by the City Attorney, is hereby approved.

SECTION 3.

Funds for the Governance Structure Research and facilitation of organizational change for Pueblo Food Project's Future shall be paid from Project No. CI2216.

SECTION 4.

The Purchasing Agent is hereby authorized to execute said contract on behalf of the City of Pueblo, A Colorado Municipal Corporation, and the City Clerk shall affix the seal of the City thereto and attest same.

SECTION 5.

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.

SECTION 6.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: November 13, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: _____
PRESIDENT OF CITY COUNCIL

ATTESTED BY: _____
CITY CLERK



SEPT 2023

PUEBLO

FOOD

PROJECT

PHASE TWO:
ORGANIZATION STRUCTURE PROPOSAL REVISION



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Attachment One: Resume	10

Statement of Purpose

I've always had a passion for supporting change making organizations. I have 20+ years of progressive experience in education administration, non-profit and educational capacity building, conflict resolution, policy development and advocacy, and community outreach. My educational and work experience include creating innovative systems and advocating for system changes that support the community. My extensive experience in nonprofit management has led me to working with people of all backgrounds, political positions, and socio-economic statuses to reach agreements that best serve our community and in particular the most at-risk populations of our communities.

It is my purpose to empower all people to use their voice in order to live a life of purpose and joy. I have spent decades cultivating a skill set based in organizational behavior analysis so that I can directly support organizations making big and needed changes in our world. We each bring a skill set to the table, and I have found the way I can positively impact our community is by lending my skill set in organizational systems and professional development to change making organizations.

Food is the way to the heart and it is at the heart of every community. In Pueblo, we have some of the best food in the Southwest from our farms to our restaurants to our food traditions that have spread beyond Pueblo. However, we also have large swaths of our community in food deserts and so much of our population lives with food insecurity. I am ready and excited to lend my organizational systems skills to help ensure that Puebloan has access to vibrant and nutritious food.

Qualifications and Relevant Experience

Heather Wellman, PhD is the owner and operator of The Wellman Way, LLC. The Wellman Way provides comprehensive conflict resolution, capacity building, and professional development services. I (Heather Wellman) have a PhD in Conflict Analysis and Resolution and a master's degree in Nonprofit Management. In 2004, I opened my consulting company, originally operating as the Wellman Group, and began providing capacity building services to organizations including fundraising support, systems development, program development, and training. During my time as a consultant, I have supported the expansion of dozens of nonprofit organizations including Habitat for Humanity International, the Alzheimer's Association, Mediators Beyond Borders, The Women's International League for Peace and Freedom and

countless other nonprofit organizations. My work has included conflict resolution and ombudsman services, fundraising plans, fundraising management, strategic planning, human resources management, budgeting, policy reviews, and systems creation.

I have been a school administrator for the past six years and have worked to build sustainable systems inside of schools including evaluating school performance for schools around the state and creating custom evaluation tools. In the past six years, I have evaluated and consulted with 12 schools across Colorado and the rest of the United States including the Colorado Department of Education.

I have taken graduate level courses on systems, organizational behavior, strategic planning, and facilitation. I have also taught graduate level courses on strategic planning, facilitation, nonprofit capacity building, and programmatic development. I have a deep understanding of governance structures for nonprofit organizations including community and membership organizations. This work has also included building programs with clear systems, volunteer management, and comprehensive training for staff, boards and governing bodies, and volunteers. I have created handbooks, check systems, and worked to support online platforms that track workflows. This year, I conducted a full policy review for a local educational organization, and have conducted full handbook and policy reviews for several organizations in our state this year.

I have experience in grants from the federal, state, and local government as well as from corporate and philanthropic granting organizations. I have secured grants from organizations such as Clear Channel, Whirlpool, and Alcon. I have experience securing funding sources, creating systems to support reporting, and building sustainable funding sources. I have managed the creation of budgets including determining the allocation and prioritization of federal, state, and local budgets including all reporting to funding agencies. I also oversaw staffing and program evaluation in order to defend budget allocations to various departments and project leads. I also have written and monitored grants and grant funds from both public and private sources. Over the course of my work, I have managed large budgets as small as hundreds of dollars and those in excess of \$10 million dollars. Part of my most recent work has also required the management of the budget to include sustainability, ensuring best practices are followed, and working to maintain financial systems.

Proposed Project Plan

Project Plan

Phase One

Phase one of the project was completed in August 2023 with the recommendation of the coalition to pursue fiscal sponsorship from the HadaNou Collective. Following the completion of phase one, phase two work has tentatively begun.

Phase Two

The original scope of work for phase two of the project focused on supporting the organization through the transition to a fiscal sponsorship agency and establishing policies for the newly formed board of directors and the newly established stand alone organization. However, through the process, it became clear that the phase two portion of the project needed to encompass a more comprehensive approach to supporting the transition, providing leadership, and help in shaping the operations of the new organization. To that end, this proposal is expanded to include more robust support. This support would include having Heather Wellman, the principal owner of The Wellman Way, LLC, operate as the Executive Director of the agency.

Phase two of this contract would cover services through October 2024 with the option to extend or re-negotiate the contract at that time. On the following page is a suggested job description for the role. The Executive Director will remain committed to the vision of the coalition by creating systems that support shared leadership and community driven initiatives. This work will include creating governance structure documentation, overseeing the creation of a communication plan, creating and overseeing operation and programmatic policies and procedures, providing training for staff and volunteers, creating a fundraising plan, supporting all program committee work, and supporting staff development.

Pueblo Food Project Founding Board Job Description



The Pueblo Food Project is a community-led coalition that helps create a more vibrant, equitable and nutritious food system for every eater in Pueblo County. The Executive Director is responsible for overseeing, supporting, and guiding organizational operations, programmatic offerings, and fundraising initiatives. The Executive Director reports to the Board of Directors and Coalition of the organization.

- Ensures the ongoing local programmatic excellence, rigorous program evaluation, and consistent quality of finance and administration, fundraising, communications, and systems, recommends timelines and resources needed to achieve the strategic goals.
- Actively engages and energizes volunteers, board members, event committees, partnering organizations, and funders.
- Develop, maintains, and supports a strong Board of Directors, serves as ex-officio of each committee, seeks and builds board involvement with strategic direction for both ongoing and local operations.
- Develops operational policies and procedures both for board operations and day-to-day operations.
- Creates the budget for board approval and monitors budget spending and ensures fiscal responsibility.
- Leads, coaches, and develops high performance staff.
- Ensures effective systems to track scaling progress, and regularly evaluate program components, so as to measure successes that can be effectively communicated to the board, funders, the coalition, and constituents.
- Develops robust fundraising plan to diversify funding.
- Supports the development of grant applications.
- Deepens and refines all aspects of communication.
- Builds partnerships with local food systems actors and agencies.
- Represents the organization in public events.
- Engages in learning opportunities to better understand the community and the food systems issues that are relevant locally and to the state.
- Support the creation and facilitation of a strategic plan.

Pricing

At The Wellman Way, LLC, we support our local nonprofit organizations. The normal hourly rate for capacity building is \$225/hour. For this bid, I have included a discount on the rate to \$67/hour. However, this price is not final and negotiations for discounts or additional work can be negotiated including a project based fee in lieu of an hourly fee.

However, given the scope of the work, for this project, a flat fee rate of \$5,000 per month for the term of October 1, 2023 through October 31, 2024 for a total of 13 payments. It is expected that the Executive Director will support the Pueblo Food Project for a minimum of 20 hours a week. However, given the scope of the work, there may be times when more hours are needed, so in an effort to provide easy, fair pricing, a flat rate will be charged. If the scope the work adjusts to be consistently more than 20 hours per week, The Wellman Way, LLC may request a renegotiation of the contract.

Resources Provided

The following are expected outcomes from Phase Two:

- Fundraising plan, risk analysis, and boiler templates.
- One year communication plan.
- Budget.
- Formation of a Board of Directors including
 - Governance documents and supporting documents including policies and procedures.
- Operational systems and checklists.
- Full professional development for staff and volunteers.
- Strategic Plan.
- Fundraising Plan.
- Program plan, procedures, systems, and replicable templates.
- Participation in state and local food systems initiatives.
- Support for large fundraising and programmatic initiatives.
- A completed transition to a fiscal sponsor including:
 - Establishing Payroll accounts
 - Establishing accounting procedures and policies
 - Establishing a strong relationship with fiscal sponsor

References

Julie Shue
Assistant Principal
Dutch Clark High School

julieashue@gmail.com
719-251-1712

Makenzie Smith
Teacher
Pueblo District 60

Missmakz0612@gmail.com
719-248-4416

Cade Resnick
Mental Health Professional
Organizational Business Consultant

cjresnick@gmail.com

Eliza Davis
Educational Consultant

Elizadavis2012@gmail.com
860-483-1974

Attachment One: Resume

Heather Wellman, PhD

Capacity Building Leader, Innovator, and Professional Developer

Heather.wellman.phd@gmail.com 904-545-1754

Forward thinking, innovative organizational leader with 20+ years of progressive experience both domestically and internationally in education administration, curriculum design, professional development creation and implementation, non-profit and educational capacity building, conflict resolution, and community outreach. A dynamic diplomat focused on developing advantageous results for all stakeholders with robust educational and business experiences that lend themselves well to multiple industries and roles.

Professional Skills

Leadership Experience:

- Conducting full policy and procedure reviews in coordination with legal teams; drafting and revising policies to be in line with legal and contractual obligations; creating standard operating procedures for policy implementation and standard procedures to ensure the longevity and sustainability of programs.
- Conducting mediation services as a Lead mediator and co-mediator.
- Designing and implementing innovative plans for programs and systems to build, repair, and maintain high performing institutions and developing improvement strategies for organizations.
- Leading capacity building initiatives including resource allocation and prioritization; human resource management; and training program development and implementation.
- Coordinating and leading Diversity, Equity, and Inclusion efforts for multiple organizations and community groups.

Capacity Building Experience:

- Conceptualizing, writing, and managing grants, fundraising, and membership plans.
- Project management of several complex projects simultaneously
- Managing various federal, state, local, and privately sourced budgets including managing the allocation, prioritization, reporting, and distribution of all budgets.
- Organizing, creating, and supervising programs for educational, corporate, and non-profit organizations.
- Evaluating, recommending changes, and designing systems to increase efficiency and effectiveness of programs and products.
- Extensive experience in data analysis of multiple data sources to evaluate performance metrics.

Systems Evaluation and Development Experience:

- Evaluating systems across multiple departments and locations to ensure effectiveness, efficiency, and equitability.
- Creating and managing emergency prevention and response systems to maintain a safe environment for all stakeholders.
- Consulting and collaborating with multiple partners to create synergy between partner organization systems
- Managing and evaluating risks to the organization.

Professional Development and Training Experience:

- Creating, delivering, and supporting the implementation of professional development programs including single course offerings, multi-day, week, and year programs offered synchronously and asynchronously.
- Developing a system and skills continuum to aid in building teacher and leadership capacity.
- Creating and supporting the implementation of training units (modules) and creating train the trainer model programs.

Education and Certifications

Principal Licensure	Teacher Certification	PhD	Master's	Bachelor's
University of Colorado, Colorado Springs	Southern Methodist University	Conflict Analysis and Resolution Nova Southeastern University	Nonprofit Management University of Central Florida	Double Major Public Relations and English Literature University of West Florida
Teacher: Grades 7-12 Social Studies and English Language Arts (Colorado); Grades 4-8 General (All Subjects) Administrator: K-12 Principal (Colorado)				
Additional Training: Certified Mediator, Guardian Ad Litem Training, RELAY Coaching Intensive, Art of Coaching Certified, CPI Certified (2023), Title IX Intensive Training				

Experience

Pueblo School for Arts and Sciences, Director of Accountability and Interventions, 2021 – present

Supervises the educational program and day to day operations of three schools including five educational programs on three campuses. Supervises, develops, and supports high quality instruction including tier I, II, and III instruction. Responsible for all professional development, overseeing professional learning communities, establishing and enforcing safety regulations, revising policies, allocating resources, and contributing to human resources recruitment efforts and daily management operations. Develops and implements robust coaching and professional development model that grows both new to the profession teachers and veterans. Leads employee evaluations for both certified and classified staff using a rubric-based evaluation system. Analyzes data related to achievement and creates data analysis reports and presentations for public consumption. Creates reports for Board of Directors and presents to other governmental organizations. Develops and supports implementation of the Education Services Plan which includes managing culture, developing and evaluating curriculum, reviewing and interpreting results from assessments, and supporting all special population services. Prioritizes budget items including federal budgets, monitors budget expenditures, and ensures compliance to local, state, and federal budgeting requirements.

Wellman Group, Senior Consultant, 2004 – present

Founded and currently operate a robust consulting service specializing in educational and nonprofit management both domestically and internationally. Leads mediation, negotiation, and facilitation meetings to ensure the best possible outcomes for all parties. Partners with organizations to support leadership development, improve culture, create and implement a variety of professional development services, and to support the development and implementation of improvement plans. Support all aspects of organizational capacity building from resource allocation to project management. Proven track record of contributing to the successful efforts of both schools and non-governmental and nonprofit organizations in capacity building through improved and focused fundraising efforts, coordinated conflict resolution efforts including mediation and conflict resolution training, program evaluation of educational and nongovernmental organizations, leadership development and mentorship, and through supporting other capacity building efforts. Successful history of social media, conference development, negotiations, and team development. Provides direct services for limited and temporary positions within organizations. Previous partner organizations include Alzheimer's Association, Habitat for Humanity, Humanists of Florida, CASA, Mediators Beyond Borders, Alvion Software, Women's Alliance for Peace and Freedom, and various educational organizations around the United States.

Pueblo District 60 Schools, Various Teaching and Leadership Positions, 2016 – 2021

Held various teaching and leadership positions in Colorado's Pueblo School District 60 including Science, English Language Arts, Social Studies, and Social Emotional Learning before becoming a Humanities department lead, an instructional coach, and an administrative leader for grades K-12 across several subject and grade levels. As part of a school leadership team, supported the writing and implementation of an innovation plan and developed a robust tiered restorative practices plan that substantially reduced office referrals and suspensions. Supported the integration of technology into the classroom and developed blended learning opportunities through curriculum creation on leadership, character, emotional regulation, social studies, ELA, and cross curricular projects. Contributed to the district by serving on curriculum evaluation committees, community partnership and academic partnership committees, and by providing original professional development on tier II and tier III behavior interventions including emotional regulation.

Dallas Independent School District, ACE Teacher, 2015 – 2016

Worked in both a predominately ELL school and a deep turnaround status school. Was part of a specialized team (ACE) that supported turnaround efforts in schools including data analysis, behavior management changes, curriculum development, testing support, PLC leadership, creating a co-teacher model, and working on intensive student interventions. Developed curriculum and behavior supports as well as implemented and trained staff in restorative practices district-wide. Conducted interventions for behavior including gang and drop out prevention and tier III emotional regulation classes.

Revolution Prep, Instructor, 2014 – 2016

Worked with both individual and school clients to support increased scores on SAT and ACT standardized testing. Instructed on test taking skills and specifically instructed students seeking to achieve a perfect or near perfect score on the SAT/ACT.

Nova Southeastern University, Graduate and Teaching Assistant, 2010 – 2015

Provided direct instruction and supported professors in teaching graduate level students on a variety of topics including research methods, conflict resolution, conflict analysis, region specific conflict, interpersonal conflict resolution methods, organizational systems, mediation, and negotiation. Also assisted in evaluating dissertation proposals and supporting the development of strong research proposals that contributed to the body of research in the field including supporting IRB proposals and evaluations.

Publications, Presentations, Professional Development, Memberships

Professional Development and Presentations

February 2023: Creating Responsive and Sustainable Induction Programs for CDE

October 2022: Developing Induction Programs for Charter and Private Schools for CDE

August 8, 2022: Restorative Practices. Pueblo School for Arts and Sciences.

August 6, 2022: Boundaries: Set them, mean them, honor them. Teach for America Pueblo

June 23, 2022: Paideia is Social Emotional Learning. National Paideia Center.

April 2021, October 2021: Tier II and Tier III Social Emotional Learning for Classroom Teachers. Pueblo District 60 & CAMLE

October 10, 2021: Engaging students in Digital Learning. CAMLE.

August 4, 2021: Restorative Practices: Pueblo School for Arts and Sciences

December 2020: Contributor: United Nations Office of Human Rights report on systemic racism and police brutality

August 13, 2019: Restorative Practices. Risley International Middle School.

October 06, 2018: Restorative Practices in the Classroom. CAMLE

August 14, 2018: Restorative Practices. Heroes K-8 Academy

April 2017: Restorative Practices in the Classroom. Pueblo, CO.

December 2016: How to use the lesson cycle to address classroom management. Pueblo, CO

June 2015: Recognizing and overcoming compassion fatigue in the education field. Teach for America.

September 2015: Diversity in Peacebuilding. Mediators Beyond Borders Training Institute.

September 2014: Fundraising for another 100 years. Women's International League for Peace and Freedom.

April 2014: Board Member Roles and Responsibilities. Women's Alliance for Leadership

March 2013: Women in peacebuilding. Mediators Beyond Borders Training Institute.

April 2013: The psychology of how terrorism works and continues to grow. Gonzaga University Pursuit of Justice conference.

June 2012: Grant writing for peacebuilding initiatives. Mediators Beyond Borders Training Institute.

February 2012: Facilitating forgiveness. Mediators Beyond Borders Training Institute.

January 2012: Ushering in a new era of oppression: American policy and its impact on women internationally. Southern Political Science Association.

October 2011: Peer Mediation to address bullying. Longview City Community Presentation.

February 2011: Islamic Women's Issues Panel Member. Nova Southeastern University.

October 2010: American Genocide: Past, Present, and Potential. University of Massachusetts Boston Conflict Resolution Conference.

October 2010: Southeast Asian Terrorism Panel Member. Nova Southeastern University.

April 2010: Homosexual conflict: Transitioning to genocide. Institute for Genocide Awareness and Applied Research.

2009: Lecture Series: Alzheimer's disease: America's silent crisis. Various locations in Florida.

2007-2008: Culture Wars: Religion and non-religion in the United States. Various locations.

Publications

Wellman, H. (in progress). Teaching and Learning Continuum for Teacher Development and Coaching.

Wellman, H., Resnick, R., Resnick, S., & Guimond, A. (2016). Why terrorist networks maintain viability within today's modern society. *Journal of Interdisciplinary Conflict Science*, June.

Wellman, H. (2015). Fear and loathing in the equal rights movement: The rise of male rights groups—A grounded theory exploring countermovements' identities and their relationships to mainstream social movements. Unpublished Dissertation. 2010

Wellman, H. (2012). Introduction. In A. Guimond, *Exploring prejudice: One woman's journey beneath the veil*. Boston, MA: Lulu. June 2011

2011-2013: Editor: Peace and Reconciliation Report: Quarterly newsletter produced by Mediators Beyond Borders focusing on issues of international mediation and the organization's activities.

2007-2008: Editor: Humanists of Florida Journal: Peer reviewed journal focusing on issues in Florida from a nonreligious, reason-based perspective. Responsible for soliciting submissions, directing content focus, and final editing.

2005-2006: Editor: ListServe: An industry glossy magazine detailing advancements in technology in the marketing and list development arena.

Honors, Awards, and Memberships

2021: Board member Colorado Association of Middle Level Educators (current)

2020: District 60 ELA curriculum adoption Taskforce Member

2019: Schools to Watch Evaluator (current)

2018: District 60 Innovation Zone Pilot Adoption Committee Member

2016: Most Improved Scores in Social Studies (Sarah Zumwalt Middle School)

Staples Teacher Appreciation Award Recipient

2014: Member Board of Directors—Women's Alliance for Leadership

Dallas County CASA case management volunteer

2013: Lead Female Science Fair Judge: Plano ISD

Board Member: Get Healthy Marshall (two-year term)

2012 Board Member: Be Lean Longview (one-year term)

2011 Intern of the Year: Mediators Beyond Borders

2010 Online Representative: NOVA SHSS Student Government

Co-President: Department of Conflict Analysis and Resolution Action Network

2008 Member of St. Mary's Earthkeepers Board of Directors (two-year term)

1998-2000 Dean's Honor List: University of West Florida

1998 CLOVE Outstanding Student Volunteer Leader

1996-2000 More than 75 Collegiate level public speaking and parliamentary debate awards

1996-2000 University of West Florida Academic Scholarship

1996-1998 University of West Florida Forensics Excellence Scholarship



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: November 13, 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 \$26,122.28 TO FINSTERWALD LANDSCAPING AND IRRIGATION FOR PROJECT NO. 23-136, CONCRETE IMPROVEMENTS - MORRIS AVENUE ALLEY, SETTING FORTH \$10,000 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

Attached is a resolution awarding a Construction Contract to Finsterwald Landscaping and Irrigation for Project No. 23-136, Concrete Improvements - Morris Avenue Alley.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

This project will consist of the installation of approximately 1300 linear feet of concrete double gutter, curb and gutter replacement and 7" reinforced sidewalk. This Resolution awards the construction contract to Finsterwald Landscaping and Irrigation.

FINANCIAL IMPLICATIONS:

Funds in the amount of \$36,122.28 (contract and contingencies) will be paid from account Project No. CI2204, Street Rehabilitation.

BOARD/COMMISSION RECOMMENDATION

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Denial of this resolution will cancel the project.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 23-136 Bid Summary

RESOLUTION NO. 15415

A RESOLUTION AWARDING A CONSTRUCTION CONTRACT IN THE AMOUNT OF \$26,122.28 TO FINSTERWALD LANDSCAPING AND IRRIGATION FOR PROJECT NO. 23-136, CONCRETE IMPROVEMENTS - MORRIS AVENUE ALLEY, SETTING FORTH \$10,000 FOR CONTINGENCIES, AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

WHEREAS, competitive bids for Project No. 23-136, Concrete Improvements - Morris Avenue Alley have been received and examined; AND,

WHEREAS, the proposal of Finsterwald Landscaping and Irrigation was the lowest bid determined to be responsive, and the Committee of Awards recommends to the City Council that it authorizes Project No. 23-136, Concrete Improvements - Morris Avenue Alley to be performed; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The City Council authorizes Project No. 23-136, Concrete Improvements - Morris Avenue Alley to be performed, and the contract for said project is hereby awarded to Finsterwald Landscaping and Irrigation in the amount of \$26,122.28.

SECTION 2.

The Purchasing Agent is hereby authorized to execute said contract on behalf of the City of Pueblo, a Colorado Municipal Corporation, and the City Clerk shall affix the seal of the City thereto and attest 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.....\$10,000.00

SECTION 4.

Funds in the amount of \$36,122.28, for the contract and contingencies, shall be from account Project CI2204, Street Rehabilitation.

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.

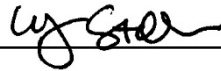
SECTION 6.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: November 13, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 



City of Pueblo
Purchasing

Naomi Hedden, Director
230 S. Mechanic St., Pueblo, CO 81003

EVALUATION TABULATION

IFB No. 23-136 (CI2204)

Concrete Improvements - Morris Avenue Alley

RESPONSE DEADLINE: October 27, 2023 at 11:00 am

Report Generated: Friday, October 27, 2023

SELECTED VENDOR TOTALS

Vendor	Total
Finsterwald Landscaping and Irrigation	\$26,122.28
Baha Construction, Inc.	\$34,619.00
Cedar Ridge Landscape, Inc	\$35,968.00
Flat and Fancy	\$39,864.24
A 5 Construction	\$53,647.75
Sunland Asphalt & Construction, LLC	\$67,974.1764

EVALUATION TABULATION
IFB No. 23-136 (CI2204)
Concrete Improvements - Morris Avenue Alley

BASE BID (Table 1 of 2)

BASE BID					A 5 Construction		Baha Construction, Inc.		Cedar Ridge Landscape, Inc		Finsterwald Landscaping and Irrigation		Flat and Fancy	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
X	1	Remove Asphalt	50	SF	\$4.25	\$212.50	\$5.00	\$250.00	\$3.00	\$150.00	\$3.00	\$150.00	\$3.00	\$150.00
X	2	Remove Curb and Gutter	25	LF	\$10.50	\$262.50	\$20.00	\$500.00	\$10.00	\$250.00	\$12.62	\$315.50	\$13.70	\$342.50
X	3	Remove Reinforced Concrete	56	SF	\$6.25	\$350.00	\$12.00	\$672.00	\$4.00	\$224.00	\$7.84	\$439.04	\$6.00	\$336.00
X	4	Remove Concrete	46	SF	\$4.25	\$195.50	\$6.00	\$276.00	\$3.00	\$138.00	\$5.68	\$261.28	\$5.44	\$250.24
X	5	Construct Modified Curb and Gutter	25	LF	\$41.25	\$1,031.25	\$25.00	\$625.00	\$38.00	\$950.00	\$43.32	\$1,083.00	\$51.98	\$1,299.50
X	6	Construct 6" Asphalt Patch	50	SF	\$13.00	\$650.00	\$18.00	\$900.00	\$8.00	\$400.00	\$17.61	\$880.50	\$20.00	\$1,000.00
X	7	Construct 7" Reinforced Concrete	100	SF	\$19.50	\$1,950.00	\$20.00	\$2,000.00	\$18.00	\$1,800.00	\$13.00	\$1,300.00	\$17.56	\$1,756.00
X	8	Construct 4' Double Gutter	1360	SF	\$21.25	\$28,900.00	\$16.50	\$22,440.00	\$19.15	\$26,044.00	\$13.00	\$17,680.00	\$18.00	\$24,480.00

EVALUATION TABULATION
IFB No. 23-136 (CI2204)
Concrete Improvements - Morris Avenue Alley

BASE BID					A 5 Construction		Baha Construction, Inc.		Cedar Ridge Landscape, Inc		Finsterwald Landscaping and Irrigation		Flat and Fancy	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total	Unit Cost	Total
X	9	Install 9" Rip Rap Type L With 12" Rip Rap Bedding	192	SF	\$25.50	\$4,896.00	\$18.00	\$3,456.00	\$11.00	\$2,112.00	\$14.13	\$2,712.96	\$25.00	\$4,800.00
X	10	Erosion and Sediment Control	1	LS	\$3,000.00	\$3,000.00	\$200.00	\$200.00	\$200.00	\$200.00	\$650.00	\$650.00	\$150.00	\$150.00
X	11	Traffic Control	1	LS	\$10,500.00	\$10,500.00	\$300.00	\$300.00	\$1,900.00	\$1,900.00	\$150.00	\$150.00	\$300.00	\$300.00
X	12	Mobilization	1	LS	\$1,700.00	\$1,700.00	\$3,000.00	\$3,000.00	\$1,800.00	\$1,800.00	\$500.00	\$500.00	\$5,000.00	\$5,000.00
Total						\$53,647.75		\$34,619.00		\$35,968.00		\$26,122.28		\$39,864.24

BASE BID (Table 2 of 2)

BASE BID					Sunland Asphalt & Construction, LLC	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total
X	1	Remove Asphalt	50	SF	\$11.92	\$596.00
X	2	Remove Curb and Gutter	25	LF	\$15.14	\$378.50
X	3	Remove Reinforced Concrete	56	SF	\$32.79	\$1,836.24

EVALUATION TABULATION
IFB No. 23-136 (CI2204)
Concrete Improvements - Morris Avenue Alley

BASE BID					Sunland Asphalt & Construction, LLC	
Selected	Line Item	Description	Quantity	Unit of Measure	Unit Cost	Total
X	4	Remove Concrete	46	SF	\$24.05	\$1,106.30
X	5	Construct Modified Curb and Gutter	25	LF	\$54.46	\$1,361.50
X	6	Construct 6" Asphalt Patch	50	SF	\$80.03	\$4,001.50
X	7	Construct 7" Reinforced Concrete	100	SF	\$20.50	\$2,050.00
X	8	Construct 4' Double Gutter	1360	SF	\$21.74	\$29,566.40
X	9	Install 9" Rip Rap Type L With 12" Rip Rap Bedding	192	SF	\$16.7292	\$3,212.0064
X	10	Erosion and Sediment Control	1	LS	\$4,000.00	\$4,000.00
X	11	Traffic Control	1	LS	\$4,000.00	\$4,000.00
X	12	Mobilization	1	LS	\$15,865.73	\$15,865.73
Total						\$67,974.1764

VENDOR QUESTIONNAIRE PASS/FAIL

Question Title	A 5 Construction	Baha Construction, Inc.	Cedar Ridge Landscape, Inc	Finsterwald Landscaping and Irrigation	Flat and Fancy	Sunland Asphalt & Construction, LLC
BID GUARANTEE	Pass	Pass	Pass	Pass	Pass	Pass
CONFIRMATION OF UNDERSTANDING AND OFFER	Pass	Pass	Pass	Pass	Pass	Pass
NAME, TITLE, AND CONTACT INFORMATION	Pass	Pass	Pass	Pass	Pass	Pass
ACKNOWLEDGEMENTS						
AFFIRMATIVE ACTION PLAN REQUIREMENT:	Pass	Pass	Pass	Pass	Pass	Pass
COLORADO LABOR REQUIREMENT:	Pass	Pass	Pass	Pass	Pass	Pass
SALES AND/OR USE TAX INFORMATION	Pass	Pass	Pass	Pass	Pass	Pass
Has/is this firm or any officer or partner of this firm:						
Convicted of a criminal offense	Pass	Pass	Pass	Pass	Pass	Pass
Convicted under state or federal statutes	Pass	Pass	Pass	Pass	Pass	Pass
Convicted under state or federal antitrust statutes	Pass	Pass	Pass	Pass	Pass	Pass

EVALUATION TABULATION
 IFB No. 23-136 (CI2204)
 Concrete Improvements - Morris Avenue Alley

Question Title	A 5 Construction	Baha Construction, Inc.	Cedar Ridge Landscape, Inc	Finsterwald Landscaping and Irrigation	Flat and Fancy	Sunland Asphalt & Construction, LLC
Failed to perform	Pass	Pass	Pass	Pass	Fail	Pass
Suspension or Debarment	Pass	Pass	Pass	Pass	Pass	Pass
Unqualified	Pass	Pass	Pass	Pass	Pass	Pass
Unlicensed	Pass	Pass	Pass	Pass	Pass	Pass
Delinquent	Pass	Pass	Pass	Pass	Pass	Pass
Confirmation	Pass	Pass	Pass	Pass	Pass	Pass



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: November 13, 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 CONTRACT AMENDMENT NO. 1 IN THE AMOUNT OF \$21,283.79 TO SUNLAND ASPHALT & CONSTRUCTION, LLC., A LIMITED LIABILITY COMPANY, FOR PROJECT NO. 23-064, MISCELLANEOUS CONCRETE IMPROVEMENTS (CDBG), AND AUTHORIZING THE PURCHASING AGENT TO EXECUTE SAME

SUMMARY:

This resolution awards Contract Amendment No. 1 in the amount of \$21,283.79 to Sunland Asphalt & Construction, LLC., a Limited Liability Company, for Project No. 23-064, Miscellaneous Concrete Improvements (CDBG).

PREVIOUS COUNCIL ACTION:

Resolution 15228, dated May 8, 2023, transferred funds in the amount of \$24,039.17 from account Project CD2217 to account Project CD2009.

Resolution 15242, dated May 22, 2023, awarded a construction contract to Sunland Asphalt & Construction, LLC., a Limited Liability Company in the amount of \$115,972.41, setting forth \$11,597.59 for contingencies.

Resolution 15274, dated June 12, 2023, amended Resolution 15242 to correct the finance project numbers from which funds were to be paid from.

Resolution 15319, dated July 24, 2023, amended Resolution 15274 to correct the amended finance project numbers from which funds were to be paid from.

BACKGROUND:

The original project, awarded to Sunland Asphalt & Construction, LLC., consisted of providing ADA concrete improvements at East 5th Street (base bid) and Union Avenue at Rawlings Library entrance (bid alternate 1). During construction, it was determined that additional work, beyond the budget, would be required to complete the work on

Union Avenue, but Bid Alternate No. 2 could be completed within the budget. This contract amendment removes from the contract Bid Alternate No. 1, concrete improvements on Union Avenue, near Rawlings Library, in the amount of \$31,606.30. This contract amendment also adds in Bid Alternate No. 2, concrete improvements on Fountain Avenue and East 6th Street, in the amount of \$52,890.09. The contract amendment includes the original contract amount of \$115,972.41 and the net amount of \$21,283.79 for the bid alternate.

This Resolution approves an amendment to increase the contract award amount previously awarded to Sunland Asphalt & Construction, LLC.

FINANCIAL IMPLICATIONS:

Funding in the amount of \$17,510.43 will be paid from account Project CD1809, ADA Improvements.

Funding in the amount of \$3,773.36 will be paid from account Project CD2009, ADA Ramps - Citywide.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Denial of this resolution would cancel the additional work.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 23-064 Amendment No 1 - Sunland Asphalt - Miscellaneous Concrete Improvements CDBG

RESOLUTION NO. 15416

A RESOLUTION AWARDED CONTRACT AMENDMENT NO. 1
IN THE AMOUNT OF \$21,283.79 TO SUNLAND ASPHALT &
CONSTRUCTION, LLC., A LIMITED LIABILITY COMPANY, FOR
PROJECT NO. 23-064, MISCELLANEOUS CONCRETE
IMPROVEMENTS (CDBG), AND AUTHORIZING THE
PURCHASING AGENT TO EXECUTE SAME

WHEREAS, a Construction Contract was awarded to Sunland Asphalt & Construction, LLC., a Limited Liability Company, under Contract Number 23-064; and,

WHEREAS, additional funds are necessary to complete Bid Alternate No. 2; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

This Contract Amendment No. 1 to the Construction Contract for Project 23-064 Miscellaneous Concrete Improvements (CDBG) with Sunland Asphalt & Construction, LLC., in the amount of \$21,283.79, is for the difference between Bid Alternate No. 1 and Bid Alternate No. 2.

SECTION 2.

The Purchasing Agent is hereby authorized to execute said contract on behalf of the City of Pueblo, a Colorado Municipal Corporation, and the City Clerk shall affix the seal of the City thereto and attest same

SECTION 3.

Funds, in the amount of \$17,510.43 shall be from account Project CD1809, ADA Improvements.

SECTION 4.

Funds in the amount of \$3,773.36 shall be from account Project CD2009, ADA Ramps - Citywide.

SECTION 5.

The officers and staff of the City of Pueblo are authorized to perform any and all acts consistent with this Resolution and the contract to implement the transactions described herein. 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 6.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: November 13, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 

**AMENDMENT NO. 1 TO
CONSTRUCTION CONTRACT**

This Amendment No. 1 to a construction contract ("Amendment") is executed to be effective as of November 7, 2023, by and between the City of Pueblo, a Municipal Corporation ("City") and Sunland Asphalt & Construction, LLC, a Delaware Limited Liability Company authorized to do business in the State of Colorado ("Contractor").

WHEREAS, City and Contractor entered into that certain construction contract dated June 6, 2023, for Bid 23-064 (CD2213) Miscellaneous Concrete Improvements (CDBG), (the "Construction Agreement"); and

WHEREAS, City and Contractor desire to amend the Construction Agreement subject to the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing and the mutual promises set forth herein and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, City and Contractor hereby agree to the following:

1. Bid Alternate No. 1 in the amount of \$31,606.30 is removed from the Construction Agreement.

2. Bid Alternate No. 2 in the amount of \$52,890.09 is added to the Construction Agreement. The Construction Agreement is amended to incorporate all additional work to be performed as contemplated by and at the prices set forth in the Contractor's original proposal. Contractor shall perform all such work subject to and consistent with all requirements and provisions of the Construction Agreement. Contractor shall perform all acts necessary or required as a result of this Amendment, including, but not limited to, furnishing Performance and Payment Bonds in compliance with Section 5.20 of the Invitation for Bid. The Performance and Payment Bonds shall be in the total amount of \$137,256.20, which amount includes the original contract amount of \$115,972.41 and the net amount of \$21,283.79 contemplated by the work to be performed under this Amendment. The time for completion of all work under the Construction Agreement shall not be extended.

3. Except as expressly modified by this Amendment, the Construction Agreement shall remain in full force and effect. Except as modified by this Amendment, any obligations to be performed under the Construction Agreement by either party are not waived nor excused in any manner but shall be performed in accordance with the terms and conditions of the Construction Agreement as it existed prior to this Amendment.

4. This Amendment 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.

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

PUEBLO, A MUNICIPAL CORPORATION

SUNLAND ASPHALT & CONSTRUCTION, LLC

By _____
Naomi Hedden, Director of Purchasing

By _____
Donald Mance, Managing Member

ATTEST:

Marisa Stoller, City Clerk

BALANCE OF APPROPRIATION EXISTS FOR
THIS CONTRACT AND FUNDS ARE AVAILABLE:

Alexandria Romero, Director of Finance

APPROVED AS TO FORM:

Robert P. Jagger, Deputy City Attorney



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: November 13, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Laura Solano, Chief of Staff

SUBJECT: A RESOLUTION AWARDING AN AGREEMENT FOR PROFESSIONAL SERVICES IN THE AMOUNT OF \$14,900 TO JOLENE COLLINS FOR PUEBLO FOOD PROJECT ENTREPRENEUR DEVELOPMENT PROGRAM INSTRUCTOR AND FOOD ECONOMY SUPPORT

SUMMARY:

Attached is a Resolution awarding an Agreement for Professional Services to Jolene Collins for the work of Pueblo Food Project Entrepreneur Development Program Instructor and PFP Food Economy Support

PREVIOUS COUNCIL ACTION:

Not applicable to this Resolution.

BACKGROUND:

The City of Pueblo, through the Pueblo Food Project, solicited requests for proposals to complete this work. The Colorado Health Foundation is supporting the continuation and improvement of Pueblo Food Project programs. 2024 will be the third year of the Pueblo Food Project Entrepreneur Development Program. Using the feedback taken from students and speakers from last year's class, the program will be responsive to the needs of the community and Pueblo Food Project's larger support of the local food economy.

Three proposals were received from community members and reviewed by the Pueblo Food Project.

FINANCIAL IMPLICATIONS:

Funding in the amount of \$14,900 will be paid out of Project No. CI2216 for this service.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Resolution.

STAKEHOLDER PROCESS:

Not applicable to this Resolution.

ALTERNATIVES:

Not applicable to this Resolution.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. 11-13-23 Jolene Collins Proposal
2. 11-13-23 23-131 Jolene Collins - PFP Entrepreneur Development Approved CA

RESOLUTION NO. 15417

A RESOLUTION AWARDING AN AGREEMENT FOR PROFESSIONAL SERVICES IN THE AMOUNT OF \$14,900 TO JOLENE COLLINS FOR PUEBLO FOOD PROJECT ENTREPRENEUR DEVELOPMENT PROGRAM INSTRUCTOR AND FOOD ECONOMY SUPPORT

WHEREAS, competitive bids for Pueblo Food Project Entrepreneur Development Program Curriculum Revision and Class Instructor have been received and examined; and

WHEREAS, the proposal of Jolene Collins of Pueblo, Colorado was the lowest of those bids determined to be responsive for the assessment, and the Committee of Awards recommends to the City Council that it authorize Project Pueblo Food Project Entrepreneur Development Program Instructor and Food Economy Support; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

City Council authorizes Pueblo Food Project Entrepreneur Development Program Instructor and Food Economy Support for said project is hereby awarded to Jolene Collins in the amount of \$14,900.

SECTION 2.

The Agreement for Professional Services between the City of Pueblo, a Municipal Corporation, and Jolene Collins, which is attached hereto and incorporated herein, having been approved as to form by the City Attorney, is hereby approved.

SECTION 3.

Funds for the Pueblo Food Project Entrepreneur Development Program Instructor and Food Economy Support shall be paid from Project No. CI2216.

SECTION 4.

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 same.

SECTION 5.

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.

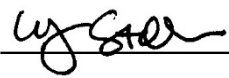
SECTION 6.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: November 13, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 

Jolene Collins

Proposal

Pueblo Food Project Entrepreneur Development Program Instructor and Food Economy Support



Statement of Purpose

Thank you for the opportunity to submit a response for the Request for Proposal: Pueblo Food Project Entrepreneur Development Program Instructor and Food Economy Support.

A resident of Pueblo, Jolene (aka Jojo) is CEO and Founder of Love Hard, Inc. and the creator of Jojo's Sriracha, an award-winning, small-batch, wild fermented sriracha produced in Pueblo. Jolene has been a member of Pueblo Food Project since its inception and spearheaded the need for food and beverage business education, incubation and mentorship in Pueblo. She is the creator of the curriculum for the Pueblo Food Project Entrepreneur Development Program and facilitator of the 2023 Pueblo Food Project Entrepreneur Development Program cohort.

Jolene is invested in Pueblo's food and beverage entrepreneurs and believes that education, mentorship and sharing resources help everyone grow. She is dedicated to the success of Pueblo Food Project's Entrepreneur Development Program and the Sun Soil Water Ag Summit Pitch Competition. Jolene believes that that these programs are an integral part of creating a healthy ecosystem of food businesses that benefit the community of Pueblo.

Qualifications and relevant experience

We hope you agree that Jolene's experience as an entrepreneur, food manufacturer, community organizer, community college instructor and curriculum developer make her uniquely qualified to fulfill the duties of the Pueblo Food Project Entrepreneur Development Program Instructor and Food Economy Support.

Entrepreneur

Jojo's Sriracha, a nationally recognized brand, covered by such outlets as The Denver Post, 5280, The Pueblo Chieftain, Sunset Magazine, and The New York Time, has for

the last six seasons, been produced at Excelsior Food and Farmers Exchange in Boone. Moving to Pueblo County realized a founding principle: to produce with local, seasonal ingredients. Her efforts were validated when the Pueblo OG Sriracha and Green Chile Sriracha received a *2020 and 2023 Good Food Award* (respectively), an annual award competition for outstanding American craft food producers and the farmers who provide their ingredients, awarded to her by American food icons Alice Waters and Michael Pollan.



Still smiling after 10 years of acidified food manufacturing.

Jolene has had the pleasure of working with numerous start-ups over the years, ranging from jewelry, to candles, to jams. Her favorite and most complex has been... Jojo's Sriracha. Begun with little capital, Jolene has used her smarts, friends, family, network, workshops, small business development centers, agriculture extensions, the internet and others to create a small business edge-to-edge, top- to-bottom. She is well-versed in every corner of her business including: branding, packaging, supply chain, distribution, accounting, food safety, and on.



Fort Mason Center, San Francisco, 2020 Good Food Awards Marketplace

An expert in her field and public speaking professional, Jolene is often tapped for industry panels; she has volunteered her time and access to her company numerous times in the academic setting. From sitting on a Denver Start-up Week markers panel discussing the Colorado makers movement, to teaching a Women In Design Education Committee Public Speaking “Bootcamp”, to sharing her start-up experience at the inaugural 2019 Pueblo Food & Ag Summit, Jolene demonstrated her ethos of connecting and strengthening with fellow start-ups. She has worked with Excelsior Farmers Exchange to recruit and nurture new food producers. She worked for several years to help bring a large, women-owned maker based in Denver to Pueblo in 2021.

Food Manufacturer

Jolene is dedicated to being a leader in her community, sharing her knowledge and resources and advocating for others. A graduate of Cornell University, College of Agriculture and Life Sciences FDA Better Process Control School as well as a *StateFoodSafety* Food Protection Manager, Jolene brings a high level of knowledge in food manufacturing and food safety. She understands first-hand what it takes for food entrepreneurs to be successful as well as the gaps or breaks in the existing systems and resources. She uses this knowledge to mentor other food startups.

Community Organizer

Jolene's corporation name, Love Hard, Inc., is indicative of her altruistic nature. Her company, Love Hard, Inc. is dedicated to helping families affected by ALS (Lou Gehrig's Disease), the disease her mother passed away from when she was a teenager. Her organizing and fundraising efforts were recognized in 2019 when she received the *Humanitarian of the Year* award from the Rocky Mountain Chapter ALS Association.



Jojo's Sriracha 2018 FCK ALS Block Party Fundraiser. Donation funded event included: motorcycle ride, pop-up makers market, yoga class, beer garden dunk tank and silent auction. ALS Rocky Mountain Chapter honored Jolene as "Humanitarian of the Year".

Community College Instructor

Jolene received her Master's in Human Communication Studies with a focus on Critical Race Studies from the University of Denver in 2008. She has maintained a career teaching communication courses at community colleges in New York and Colorado alongside the founding, incubation and development of her company, Jojo's Sriracha.

Curriculum Developer

Jolene spent years teaching Intercultural Communication for the Community College of Colorado Online. She has been twice contracted as the Subject Matter Expert in developing curriculum. Her outstanding contribution was rewarded with the *2018 Teacher of the Year* award in Language Arts and Communications from the Community College of Colorado Online in recognition specifically for the building of the open-source Course COM 220 – Intercultural Communication.



Guest lecturer for MKTG 4900: Bachelor of Innovation™ University of Colorado Colorado Springs. Jojo's Sriracha served as case study for capstone entrepreneurial curriculum.

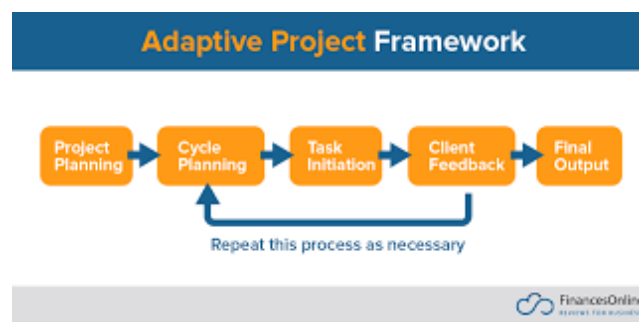
Proposed Project Plan

Jolene has a vast network of food industry peers whom she regularly uses for expertise, resources and mentorship. This community of resources are active participants in the Pueblo Food Project Entrepreneur Development course and include: Colorado Food Works, Naturally Boulder, CSU Institute for Entrepreneurship, Whole Foods, Solar Roast, Hart Media, CSU Spur, Food Business Success, Kat Fox Design, Sweet & Savory Design, Boyd's Bookkeeping, Fuel & Iron, Colorado Department of Public Health & Environment, Pueblo Department of Public Health and Environment, and Greater Colorado Venture Fund.

Even with this robust list of resources, there are some areas of the curriculum that could use additional resources including: legal advice on how to structure and file a new business, how to build out financial models (breakeven, cost of goods sold and profitability) and accounting.

Approach

This project will utilize an Adaptive Project Framework methodology. The project will be divided into “cycles” or milestones and each cycle end with a “final output” or deliverable. This process includes opportunities for feedback as well as the ability to repeat cycles if necessary.



"Efficient Project Management Approach: A Guide with Techniques, Examples & Templates."
Financesonline.com, FinancesOnline.com, 21 Aug. 2019, financesonline.com/efficient-project-management-approach/.

Create Schedules and Manage Projects

Jolene will utilize the adaptive project framework and project milestones to create a schedule for the stakeholders and manage the project.

The project will begin with a review of the existing curriculum, identifying areas that need improvement. Each section of the curriculum will pair with an expert on that topic and a calendar of guest speakers will be organized. Working in tandem with guest speakers, content for each class will be developed. Classes will act as a roadmap to sections of the business plan template so that each student graduates from the class with a completed business plan. This content is also what informs their pitch deck presentation.

Students' pitch deck will serve as the presentation for the pitch competition as the end of the course as well as prepare them to participate in the Sun, Soil, Water Ag Summit Pitch Competition. Further, champions will be invited to participate in the Colorado Collision Pitch Competition.

References

Monique Marez

Consultant, Eptimizo

Former Coordinator, Pueblo Food Project

mo@eptimizo.com

719.250.4565

Nathan Stern

Director of Development | Fuel & Iron Realty

Fuel & Iron Food Hall | Fuel Kitchens

Nathan@fuelandironrealty.com

720.480.4592

Dr. Michael A. Verderaime

Department Chair, Language Arts and Communications

Community College of Colorado Online

720.858.2237



**AGREEMENT FOR PROFESSIONAL SERVICES
BY AND BETWEEN CITY OF PUEBLO AND
JOLENE COLLINS**

23-131

PUEBLO FOOD PROJECT ENTREPRENEUR DEVELOPMENT
PROGRAM INSTRUCTOR AND FOOD ECONOMY SUPPORT

AGREEMENT FOR PROFESSIONAL SERVICES BY AND BETWEEN CITY OF PUEBLO AND JOLENE COLLINS

THIS AGREEMENT ("Agreement") made and entered this ____ day of _____, 2023 by and between the City of Pueblo, a Municipal Corporation (hereinafter referred to as "City") and Jolene Collins, (hereinafter referred to as "Consultant") a professional instructor, for Consultant to render certain professional analysis, program development, instructing, teaching, organizing, managing, and related services for City in connection with Bid 23-131 Pueblo Food Project Entrepreneur Development Program Instructor and Food Economy Support, hereinafter referred to as the "Project." In consideration of the mutual covenants hereinafter set forth, the parties agree as follows:

1. GENERAL AND SCOPE OF SERVICES

- A. Consultant shall satisfactorily perform the professional consulting services for the Project described in more detail in Schedule 1 attached hereto and incorporated herein by reference, including but not limited to providing the outlined Deliverables. Such services shall include all usual and customary professional consulting services in connection with Consultant's work on the Project. Consultant shall only perform the services as authorized by the City's Project Representative.
- B. Consultant shall maintain prudent and accurate records of all transactions. The Consultant shall track all project activities. Client will not reimburse or otherwise pay for any of Consultant's transactions, as such costs are part of Consultant's business.
- C. To the extent Consultant performs any of the Project work through subcontractors or subconsultants, Consultant shall be and remain as fully responsible for the full performance and quality of services performed by such subcontractors or subconsultants as it is for services performed directly by Consultant or Consultant's employees.
- D. To the extent Consultant requires access to private property to perform its services hereunder, Consultant shall be required to make arrangements to obtain such access. However, in the event Client has already secured access for Consultant to any such property through a right of entry agreement, access agreement, letter of consent or other instrument, Consultant shall fully comply with and be subject to the terms and conditions set forth therein. A copy of any such instrument will be provided to Consultant upon request.

2. CONSULTANT'S RESPONSIBILITIES

- A. Consultant shall be responsible for the professional quality, technical accuracy, and timely completion of Consultant's work, including that performed by Consultant's subconsultants and subcontractors, and including reports and other services, notwithstanding Client's initial acceptance of same.

- B. Consultant shall be responsible, in accordance with applicable law, to Client for all loss or damage to Client caused by Consultant's negligent act or omission; and Consultant hereby irrevocably waives and excuses Client and Client's attorneys from compliance with any requirement to obtain a certificate of review as a condition precedent to commencement of an action, including any such requirements set forth in Section 13-20-602, C.R.S. or similar statute, whether now existing or hereafter enacted.
- C. Consultant shall be completely responsible for the safety of Consultant's employees in the execution of work under this Agreement and shall provide all necessary safety and protective equipment for said employees, if any.
- D. Before undertaking any work or incurring any expense which Consultant considers beyond or in addition to the Statement of Work described in Schedule 1 or otherwise contemplated by the terms of this Agreement, Consultant shall advise Client in writing that (1) Consultant considers the work beyond the scope of this Agreement, (2) the reasons that Consultant believes the out of scope or additional work should be performed, and (3) a reasonable estimate of the cost of such work. Consultant shall not proceed with any out of scope or additional work until authorized in writing by Client. The compensation for such authorized work shall be negotiated. Unauthorized work shall not be compensated.

3. FEES FOR SERVICES; PAYMENT

- A. Client will pay to Consultant as full compensation for all services required to be performed by Consultant under this Agreement, except for services for additional work or work beyond the scope of this Agreement, the maximum sum of U.S. \$14,900.00. Consultant will invoice Client on a monthly basis for actual services performed at a maximum hourly rate shown in Schedule 2 listed by role for completed work. Consultant may invoice Client for up to the hours allocated, by hourly rate. Payments shall be made within forty-five (45) days of invoice by Consultant.
- B. Consultant shall submit periodically, but not more frequently than monthly, records of time worked and services rendered. Records shall contain appropriate documentation, if available, evidencing that such services have been performed. Consultant must submit a written request and obtain signed approval prior to completing any work beyond the scope of this agreement.
- C. No separate or additional payment shall be made for profit, overhead, telephone expenses, travel, lodging, routine photocopying, computer time, secretarial or clerical time, or similar expenses.
- D. No compensation shall be paid to Consultant for services required and expenditures incurred in correcting Consultant's mistakes or negligence.
- E. Compensation for authorized work beyond the scope of this Agreement shall be governed by the provisions of Section 2(D).

- F. In the event services under this Agreement are phased and to be performed in more than one fiscal year or are subject to annual appropriation, Consultant acknowledges that funds only in the amount of initial appropriation are available and it shall confirm availability of funds before proceeding with work exceeding initial and subsequent annual appropriations.

4. CLIENT'S RESPONSIBILITIES

- A. Client agrees to advise Consultant regarding Client's Project requirements and to provide all relevant information, data, and previous reports accessible to Client which Consultant may reasonably require.
- B. Client shall designate a Project Representative to whom all communications from Consultant shall be directed and who shall have limited administrative authority on behalf of Client to receive and transmit information and make decisions with respect to the Project. Said representative shall not, however, have authority to bind Client as to matters of governmental policy or fiscal policy.
- C. Client shall examine all documents presented by Consultant, and render decisions pertaining thereto within a reasonable time. The Client's approval of any reports, documents or other materials or product furnished hereunder shall not in any way relieve Consultant of responsibility for the professional adequacy of its work.
- D. Client shall perform its obligations and render decisions within a reasonable time under the circumstances presented. Based upon the nature of Client and its requirements, a period of fourteen (14) days shall be presumed reasonable for any decision not involving policy decision or significant financial impact, when all information reasonably necessary for Client to responsibly render a decision has been furnished. A period of forty-five (45) days shall be presumed reasonable for Client to act with respect to any matter involving policy or significant financial impact. The above periods of presumed reasonableness shall be extended where information reasonably required is not within the custody or control of Client but must be procured from others.

5. TERM AND TERMINATION

- A. Term. The term of this Agreement begins on the Effective Date and ends on October 31, 2024, unless the project is completed by Consultant and approved by Client prior to that date or the term is sooner terminated in accordance with this Agreement. Client reserves the right to extend the term of this Agreement in one-year increments by written acceptance of both parties.
- B. Fund Appropriation. This agreement 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 agreement, with respect to any financial obligation of Client which may arise under this agreement in any fiscal year after the current 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 agreement. The termination of this Agreement due to lack of funding shall be without penalty to the Client.

- C. Client reserves the right to terminate this Agreement and Consultant's performance hereunder, at any time upon written notice, either for cause or for convenience. Upon such termination, Consultant and its subcontractors shall cease all work and stop incurring expenses, and shall promptly deliver to Client all data, reports, plans, calculations, summaries and all other information, documents, work product and materials as Consultant may have accumulated in performing this Agreement, together with all finished work and work in progress.
- D. Upon termination of this Agreement for events or reasons not the fault of Consultant, Consultant shall be paid the monthly rate on a pro-rated basis for all services rendered and reasonable costs incurred to date of termination, together with any reasonable costs incurred within ten (10) days of termination provided such latter costs could not be avoided or were incurred in mitigating loss or expenses to Consultant or Client. In no event shall payment to Consultant upon termination exceed the maximum compensation provided for complete performance in Section 3(A).
- E. In the event termination of this Agreement or Consultant's services is for breach of this Agreement by Consultant, or for other fault of Consultant including but not limited to any failure to timely proceed with work, or to pay its employees and consultants, or to perform work according to the highest professional standards, or to perform work in a manner deemed satisfactory by Client's Project Representative, then in that event, Consultant's entire right to compensation shall be limited to the lesser of: (1) the reasonable value of completed work to Client, or (2) payment at the monthly rate on a pro-rated basis for services satisfactorily performed and reimbursable expenses reasonably incurred, prior to date of termination.
- F. Consultant's professional responsibility for its completed work and services shall survive any termination.

6. SITE ACCESS

In the event the Project requires access to property not under the control of Client, Consultant and Consultant's employees and consultants shall obtain all additional necessary approval and clearances required for access to such property. Client shall assist Consultant in obtaining access to such property at reasonable times but makes no warranty or representation whatsoever regarding access to such property. Notwithstanding the foregoing, Consultant understands and agrees that entry to some

property by Consultant may be subject to compliance by Consultant with the terms and conditions of an access agreement in accordance with section 1(D) of this Agreement.

7. EQUIPMENT AND SOFTWARE

Consultant will not be provided with Client owned equipment ("Equipment"), such as computers or software, for Consultant's work on the Project. All equipment must be provided by Consultant and Consultant shall make no claim to any Equipment or other Client property provided under this Agreement. Consultant shall cooperate in all instances with Client to ensure compliance with Client's policies, including its information technology policies, and the protection of Client's data and systems.

8. USE OF DOCUMENTS

Data, plans, reports, and all other documents prepared or provided by Consultant hereunder shall become the sole property of Client, and Client shall be vested with all rights therein of whatever kind or nature and however created, whether by common law, statute, or equity. Client shall have access at all reasonable times to inspect and make copies of all notes, plans, reports and all other data or other documents pertaining to the work to be performed under this Agreement. In no event shall Consultant publish work product developed pursuant to this Agreement except (1) with advance written consent of Client, which consent may be granted or withheld in Client's sole and absolute discretion, and (2) in full compliance with the requirements of this Agreement and applicable regulations.

9. INSURANCE AND INDEMNITY

- A. Consultant agrees that it shall procure and will maintain during the term of this Agreement, such insurance as will protect it from claims under workers' compensation acts, claims for damages because of personal injury including bodily injury, sickness or disease or death of any of its employees or of any person other than its employees, claims or damages because of injury to or destruction of property including loss of use resulting therefrom, and from claims for damages for professional liability.
- B. Consultant agrees to hold harmless, defend, and indemnify Client from and against any liability to third parties, arising out of negligent acts or omissions of Consultant, its employees, subcontractors, and consultants.

10. REQUIRED GRANT PROVISIONS

- A. Consultant understands that Client may be funding the Project in whole or part with funds provided through private, State, and Federal grants, including but not limited to a grant from the Colorado Health Foundation. Consultant agrees it is subject to and shall comply with all applicable provisions of said grants and applicable regulations.
- B. Consultant shall comply with all applicable Federal, State, and local laws applicable to its activities.

- C. All records with respect to any matters covered by this Agreement shall be available for inspection by Client and the grant providers at any time during normal business hours and as often as Client and the grant providers deem necessary, to audit, examine, and make excerpts or transcripts of relevant information, and otherwise to perform official functions or duties.

11. SUBCONTRACTS

- A. Client acknowledges that Consultant is the prime contractor and the only party with whom Client has a contractual relationship under this Agreement. To the extent Consultant performs any Project activities through subconsultants or subcontractors, Consultant shall contractually bind each of its subconsultants and subcontractors by subcontract agreement to all of the terms of this Agreement which are for the benefit of Client, and Client shall be a third-party beneficiary of those subcontract provisions.
- B. Consultant shall indemnify and defend Client from all claims and demands for payment for services provided by subcontractors of Consultant.
- C. Consultant acknowledges that, due to the nature of the services to be provided under this Agreement, the Client has a substantial interest in the personnel and consultants to whom Consultant assigns principal responsibility for services performed under this Agreement. Consequently, Consultant shall not assign or reassign Project work to any person to whom Client has reasonable objection

12. MISCELLANEOUS

12.1. Notices

Any and all notices or other communications required or permitted by this Agreement or by law to be served on or given to either Consultant or Client by the other party shall be in writing and shall be deemed duly served and given when personally delivered to the party to whom it is directed, or in lieu of such personal service, when deposited in the United States mail, first-class postage prepaid, addressed to the Client, City of Pueblo, Attn: Nicholas A. Gradisar, Mayor, 1 City Hall Place, Pueblo, CO, 81003; or to Consultant, Attn: Jolene Collins, 320 Michigan St., Pueblo, CO, 81004. Either party may change its address for the purpose of this paragraph by giving written notice of such change to the other party in the manner provided in this paragraph.

12.2. Entire Agreement

This instrument contains the entire agreement between Consultant and Client respecting the Project, and any other written or oral agreement or representation respecting the Project or the duties of either Client or Consultant in relation thereto not expressly set forth in this instrument and its attachments is null and void. In the case of any conflict between the terms of this Agreement for Professional Services and terms of Schedule 1 and Schedule 2, or any other attachment hereto, the terms of this Agreement shall govern.

12.3. Successors and Assigns

This Agreement shall be binding on the parties hereto and on their successors and assigns; provided, however, neither this Agreement, nor any part thereof, nor any moneys due or to become due hereunder to Consultant may be assigned by it without the written consent of Client, which consent may be withheld in Client's sole and absolute discretion. Any assignment or attempted assignment in violation of this subsection shall be void.

12.4. Amendments

No amendment to this Agreement shall be made nor be enforceable unless made by written amendment signed by an authorized representative of Consultant and by Client in accordance with the requirements of Section 4(B) of this Agreement or upon authorization of Client's governing board.

12.5. Choice of Law and Venue

This Agreement shall be governed and interpreted in accordance with the laws of the State of Colorado. Any unresolved dispute arising from or concerning any breach of this Agreement shall be decided in a state court of competent jurisdiction located in Pueblo, Colorado.

12.6. Equal Employment Opportunity

In connection with the performance of this Agreement, neither Consultant nor its consultants shall discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, disability, gender orientation or age. Consultant shall endeavor to ensure that its employees are treated during employment without regard to their race, color, religion, sex, national origin, disability, gender orientation or age.

12.7. Severability

If any provision of this Agreement, except for Section 2, is determined to be directly contrary to and prohibited by law, then such provision shall be deemed void and the remainder of the Agreement enforced. However, it is the intent of the parties that Section 2 of this Agreement not be severable, and that if any provision of said section be determined to be contrary to law, then this entire Agreement shall be void.

12.8. Electronic Signatures

This Agreement 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: (1) an original, and all of which taken together shall constitute one and the same agreement, (2) a valid and binding agreement and fully admissible under state and federal law, and (iii) enforceable in accordance with its terms.

13. PERA LIABILITY

Consultant shall reimburse the Client 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 contracted services for the Client under this Agreement.

This Agreement, together with all Project Documents incorporated by reference, constitutes the entire Agreement between City and Consultant with respect to their subject matter, and may not be amended a modified except by written document signed by both parties.

IN WITNESS WHEREOF the parties hereto have made and executed this Agreement as of the day and year first above written.

CITY OF PUEBLO, A MUNICIPAL CORPORATION

CONSULTANT

By _____
Naomi Hedden, Director of Purchasing

By _____
Jolene Collins

Attest _____
Marisa Stoller, City Clerk

[SEAL]

BALANCE OF APPROPRIATION EXISTS FOR THIS
AGREEMENT AND FUNDS ARE AVAILABLE.

Alexandria Romero, Finance Director

APPROVED AS TO FORM

George Hypolite, City Attorney

Attachments: Schedule 1 - Scope of Services
Schedule 2 - Fee Schedule
Additional Information for Agreement

Schedule 1

Scope of Services

Excerpt from Request for proposal dated September 18, 2023, Section 1.1 and Section 2 as indicated below.

1.1. Summary

The City of Pueblo, on behalf of the Pueblo Food Project (PFP), is requesting proposals for the PFP Entrepreneur Development Program instructor and Food Economy Support position. The chosen consultant will be serving as the Class Instructor for the Entrepreneur Development Program. The work will include planning, attending and facilitating all classes, holding office hours, and implementing changes to the program based on previous evaluation data (further duties are listed below). Selected consultant will also be asked to assist Pueblo Food Project with other Food Economy activities such as the Sun Soil Water Ag Summit Pitch Competition and Food Business related activities.

The consultant will acquire and utilize evaluations taken from previous cohorts, instructors, and speakers and will implement necessary changes as well as taking on the duties of instructing the Entrepreneur Development class, which will include assigning and grading homework, updating class tools, managing speakers and activities, and offering office hours. Consultant will also be responsible for assisting PFP in the evaluation and planning of the Sun Soil Water Ag Summit Pitch Competition.

All required work assignments must be completed from October 2023 through October 2024. Entrepreneur Development classes will be held once a week January - May 2024. The Sun Soil Water Ag Summit will be held in February 2024. Other activities will continue throughout the year. This position will be paid for through a Colorado Health Foundation Grant.

2.2. Program Performance Measures

Pueblo Food Project Entrepreneur Development Program

- a. Semester-long syllabus and schedule created and approved by PFP leadership, using feedback from previous students, instructors, and speakers
- b. All 'modules' and homework will be updated and corrected on Thinkific classroom tool
- c. Participant recruitment (with help from PFP)
- d. Speaker recruitment and scheduled for the semester
- e. Develop an evaluation plan to be completed after the class has concluded
- f. Student incentives list developed and distributed to students to utilize
- g. Work with CSU Entrepreneurship Program to create mentorship program and develop stipends for speakers
- h. Set up a panel of experts for students to pitch their business plan to and gain insights and advice from

Sun Soil Water Ag Summit Pitch Competition

- a. Submit a one-page plan for the pitch competition, approved by PFP Leadership
- b. Recruit participants from food related fields
- c. Recruit a panel of judges and experts to give critical feedback and technical advice for participants
- d. Act as host and main point of contact for participants, judges, and community members
- e. Solicit sponsorships and prizes for participants
- f. Execute event

2.3. Deliverables

- Produce and distribute a semester long syllabus and schedule
- Host 18 to 21 in-person class sessions, including homework, readings, etc.
- Host evaluations from both speakers and students
- Host at least one field trip for students to learn about other food businesses
- Compile all incentives and distribute to students
- Panel of experts list created for final presentations from students
- Creation of a report after the conclusion of the Entrepreneur Program
- One-page plan for Sun Soil Water Ag Summit Pitch Competition
- Execution of Sun Soil Water Ag Summit Pitch Competition

Schedule 2

Fees for Services

Excerpt from Request for proposal dated September 18, 2023, Section 2.5

The Pueblo Food Project will provide all necessary funds to support the cohort including incentives, field trips, classroom tools, a classroom space, and other spending directed toward this program.

Role	Action	Hourly Rate	Hours allocated	Total budget allowed
Curriculum Revision	Use previous evaluation to create syllabus, schedule, and other necessary materials for cohort	\$40.00	25	\$800.00
Class Instructor and Coordinator	Run class, assign and grade homework, distribute incentives, set up speakers, etc	\$40.00	300 Approx: 10-20hrs a week for 20 weeks	\$12,000.00
Sun Soil Water Ag Summit Pitch Competition Assistance	Recruit judges, recruit participants, perform all planning and execute event	\$35.00	60	\$2,100.00
Grand Total Not to Exceed Amount:				\$ 14,900.00

Additional Information for Agreement

Insurance Waiver

Requested 10/23/2023; to be added prior to signature of agreement



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: November 13, 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 SANDRA MORRISON TO COMPLETE A FOUR-YEAR TERM EXPIRING JANUARY 1, 2025 ON THE HISTORIC PRESERVATION COMMISSION

SUMMARY:

This Resolution confirms the appointment by the Mayor of Sandra Morrison to complete a four-year term expiring January 1, 2025 on the Historic Preservation Commission.

PREVIOUS COUNCIL ACTION:

The Mayor has made appointments to the Historic Preservation Commission selecting individuals to serve terms which expire during a particular calendar year and presented them to Council for approval.

BACKGROUND:

Due to the resignation of Suzanne Kuehn, there is one appointment available to complete a four-year term on the Historic Preservation Commission.

FINANCIAL IMPLICATIONS:

This is 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:

None

RESOLUTION NO. 15418

A RESOLUTION CONFIRMING THE APPOINTMENT BY THE
MAYOR OF SANDRA MORRISON TO COMPLETE A FOUR-
YEAR TERM EXPIRING JANUARY 1, 2025 ON THE HISTORIC
PRESERVATION COMMISSION

WHEREAS, Mayor Nicholas A. Gradisar has requested confirmation by the City Council of his appointment of Sandra Morrison to the Historic Preservation Commission; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The appointment by the Mayor of Sandra Morrison to the Historic Preservation Commission to complete a four-year term expiring January 1, 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: November 13, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: November 13, 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 BILL ADAMS AND JEAN LATKA TO SERVE A THREE-YEAR TERM EXPIRING NOVEMBER 1, 2026 ON THE PUEBLO STREETSCAPE ADVISORY COMMITTEE

SUMMARY:

This Resolution confirms the reappointment by the Mayor of Bill Adams and Jean Latka to serve a three-year term expiring November 1, 2026 on the Pueblo Streetscape Advisory Committee.

PREVIOUS COUNCIL ACTION:

The Mayor has made appointments to the Pueblo Streetscape Advisory Committee selecting individuals to serve terms which expire during a particular calendar year and presented them to Council for approval.

BACKGROUND:

Due to the term expirations of William (Bill) Adams, Michael Carlisle, Jean Latka, William (Bill) Zwick, there are four appointments available to serve a three-year term expiring November 1, 2026 on the Pueblo Streetscape Advisory Committee. Following an announcement in the Pueblo Chieftain and on the City's webpage and social media seeking volunteers to serve on this committee, two applications were received.

FINANCIAL IMPLICATIONS:

This is a volunteer committee and members serve without compensation.

BOARD/COMMISSION RECOMMENDATION:

Approval of the Resolution.

STAKEHOLDER PROCESS:

N/A

ALTERNATIVES:

Remove from agenda and re-advertise for additional applications.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

None

RESOLUTION NO. 15419

A RESOLUTION CONFIRMING THE APPOINTMENT BY THE
MAYOR OF BILL ADAMS AND JEAN LATKA TO SERVE A
THREE-YEAR TERM EXPIRING NOVEMBER 1, 2026 ON THE
PUEBLO STREETSCAPE ADVISORY COMMITTEE

WHEREAS, Mayor Nicholas A. Gradisar has requested confirmation by the City Council of his reappointment of Bill Adams and Jean Latka to the Pueblo Streetscape Advisory Committee; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The appointment by the Mayor of Bill Adams and Jean Latka to serve a three-year term expiring November 1, 2026 on the Pueblo Streetscape Advisory Committee 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: November 13, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: November 13, 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 RYAN FRUSHOUR TO COMPLETE A THREE-YEAR TERM EXPIRING SEPTEMBER 30, 2026 ON THE PUEBLO MEMORIAL AIRPORT ADVISORY COMMITTEE

SUMMARY:

This Resolution confirms the appointment by the Mayor of Ryan Frushour to complete a three-year term expiring September 30, 2026 on the Pueblo Memorial Airport Advisory Committee.

PREVIOUS COUNCIL ACTION:

The Mayor has made appointments to boards and commissions selecting individuals to serve terms which expire during a particular calendar year and presented them to Council for approval.

BACKGROUND:

Due to the term expiration of Terrence Terrell, there is one appointment available to complete a three-year term on the Pueblo Memorial Airport Advisory Committee.

FINANCIAL IMPLICATIONS:

This is 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:

None

RESOLUTION NO. 15420

A RESOLUTION CONFIRMING THE APPOINTMENT BY THE
MAYOR OF RYAN FRUSHOUR TO COMPLETE A THREE-YEAR
TERM EXPIRING SEPTEMBER 30, 2026 ON THE PUEBLO
MEMORIAL AIRPORT ADVISORY COMMITTEE

WHEREAS, Mayor Nicholas A. Gradisar has requested confirmation by the City Council of his appointment of Ryan Frushour to the Pueblo Memorial Airport Advisory Committee; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The appointment by the Mayor of Ryan Frushour to the Pueblo Memorial Airport Advisory Committee to complete a three-year term expiring September 30, 2026 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: November 13, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: November 13, 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 RATIFYING PACOG'S APPOINTMENT OF CONNIE BRUMMET AND KAREN CALLANAN TO THE COMMUNITY SERVICES ADVISORY COMMISSION (CSAC)

SUMMARY:

This resolution ratifies the joint City-County appointments of members to the Community Services Advisory Commission to complete vacant terms.

PREVIOUS COUNCIL ACTION:

Joint City-County appointments to the Community Services Advisory Commission are made on an annual basis, selecting individuals to serve staggered four-year terms expiring on April 30th of each year. Resolutions to ratify the joint appointments are passed by each entity.

BACKGROUND:

Currently there are several vacancies on the Community Services Advisory Commission due to term expirations and/or resignations. Pueblo County Commissioners and Pueblo City Council approved the appointment of these two applicants at the October 26, 2023, Pueblo Area Council of Governments meeting.

FINANCIAL IMPLICATIONS:

This is a volunteer committee and members serve without compensation.

BOARD/COMMISSION RECOMMENDATION:

N/A

STAKEHOLDER PROCESS:

N/A

ALTERNATIVES:

City Council in agreement with the County Commissioners could remove the Resolution from the Agenda, request that the recruitment process be extended in order to receive additional applications for consideration.

RECOMMENDATION:

Approval of the Resolution

ATTACHMENTS:

None

RESOLUTION NO. 15421

A RESOLUTION RATIFYING PACOG'S APPOINTMENT OF
CONNIE BRUMMET AND KAREN CALLANAN TO THE
COMMUNITY SERVICES ADVISORY COMMISSION (CSAC)

WHEREAS, this Resolution ratifies the joint appointment made at the PACOG meeting on October 26, 2023, by City-County Representatives who were present; NOW, THEREFORE;

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Connie Brummet and Karen Callanan are hereby appointed to the Community Services Advisory Commission to complete a four-year term expiring April 30, 2027.

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.

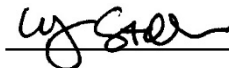
SECTION 3.

This Resolution shall become effective immediately upon final passage.

INTRODUCED: November 13, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: November 13, 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 TO APPROVE AMENDMENT NO. 1 TO REVOCABLE PERMIT NO. REV-23-41, ISSUED TO E.T. TECHNOLOGIES, INC. FOR THE PURPOSE OF INSTALLING GROUNDWATER MONITORING WELLS

SUMMARY:

This Resolution will amend the description of the permitted area described in Revocable Permit REV-23-41 to include the alley between Lamkin Street and S. Victoria Avenue extending from W. C Street to W. D Street.

PREVIOUS COUNCIL ACTION:

City Council passed Resolution No. 15365 on September 11, 2023, approving the issuance of Revocable Permit No. REV-23-41 to E.T. Technologies, Inc. for use of the public right-of-way on West "D" Street and Lamkin Street to install groundwater monitoring wells.

BACKGROUND:

Paragraph 2. of the revocable permit authorized the applicant to use portions of W. D Street and S. Victoria Avenue to install groundwater monitoring wells. The applicant has requested to expand the permitted area to include the alley between Lamkin Street and S. Victoria Avenue extending from W. C Street to W. D Street for the same purpose.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

The Revocable Permit Review Committee recommends approval.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Failure to approve the Resolution to Amend will prevent E.T. Technologies, Inc., from updating the permitted area to include the alley between Lamkin Street and S. Victoria Avenue from W. C Street to W. D Street.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. AMENDMENT NO. 1 TO REV-23-41

RESOLUTION NO. 15422

A RESOLUTION TO APPROVE AMENDMENT NO. 1 TO
REVOCABLE PERMIT NO. REV-23-41, ISSUED TO E.T.
TECHNOLOGIES, INC. FOR THE PURPOSE OF INSTALLING
GROUNDWATER MONITORING WELLS

WHEREAS, City Council passed Resolution No. 15365 on September 11, 2023, authorizing the issuance of Revocable Permit REV-23-41 to E.T. Technologies, Inc., for the use of the public right-of-way on West "D" Street and Lamkin Street to install groundwater monitoring wells; AND

WHEREAS, E.T. Technologies, Inc., has requested an amendment to the permitted area authorized under said Revocable Permit to include the use of a portion of the alley between S. Victoria Ave. and Lamkin Street for the same purpose; AND

WHEREAS, the Revocable Permit Committee recommends approval of the requested amendment; NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The attached Amendment No. 1 to Revocable Permit REV-23-41 is authorized to be issued to E.T. Technologies, Inc. to amend the designated permitted area for the purpose of installing groundwater monitoring wells.

SECTION 2.

The use of the public right-of-way granted hereby is subject to all limitations, terms, and conditions set forth in Revocable Permit (REV-23-41), as amended by the attached Amendment No. 1.

SECTION 3.

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

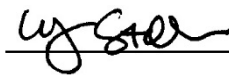
SECTION 4.

This Resolution shall become effective immediately upon passage and approval.

INTRODUCED: November 13, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 

AMENDMENT NO. 1 TO REVOCABLE PERMIT REV-23-41

This Amendment to Revocable Permit REV-23-41 dated September 18, 2023, is issued by the City of Pueblo ("City") to E.T. Technologies, Inc., ("Permittee") as

WHEREAS, Resolution No. 15365 approved by City Council on September 11, 2023, approved the issuance of Revocable Permit REV-23-41 (hereinafter referred to as the "Permit") the Permittee and the City issued said Permit on September 18, 2023;

WHEREAS, the Permittee has requested an amendment to the Permit to update the description of the permitted area; and

WHEREAS, the Revocable Permit Committee recommends approval of the requested amendment; NOW THEREFORE,

PERMITTEE IN CONSIDERATION OF THE ISSUANCE AND GRANTING OF THE ABOVE DESCRIBED AMENDMENT REPRESENTS, WARRANTS, AND AGREES:

1. Paragraph 2. of Revocable Permit REV-23-41 is hereby deleted in its entirety and amended to read as follows:

2. Permitted Area: W. D Steet, Lamkin Street, and the alley located between Lamkin Street and S. Victoria Avenue extending from W. D Street to W. C Street.

2. This Amendment shall become effective on the date of final signature by the Mayor.

3. This Amendment shall be recorded by the City in the records of the Pueblo County Clerk and Recorder. Permittee shall be responsible for payment of all fees associated with recording at its sole expense.

4. The Permit, as amended by this Amendment, shall remain in full force and effect, and Permittee shall be and remain subject to all terms and conditions of the Permit including expressly and not in any way by limitation subsection (n) which provides that, "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."

*****SIGNATURE PAGE FOLLOWS*****

PERMITTEE:

Signed in Pueblo, Colorado this 24 day of October, 2023.

E.T. Technologies, Inc., a Utah corporation

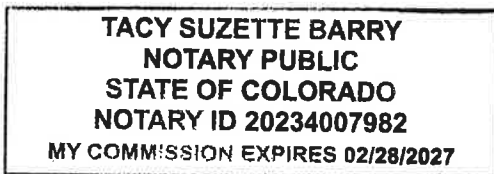
By: Cynthia L. Cason
Cynthia L. Cason, Asst. Corporate Secretary

STATE OF COLORADO)
) SS.
COUNTY OF PUEBLO)

The foregoing instrument was acknowledged before me the 24th day of October, 2023

by Cynthia L. Cason as Asst. Corporate Secretary

My commission expires: Asst Cor.



Tacy Suzette Barry
Notary Public

CITY:

APPROVED this _____ day of _____, 20____.

CITY OF PUEBLO, a Municipal Corporation

By _____
Nicholas A. Gradisar, Mayor



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: November 13, 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 (REV-23-45) TO THE YMCA OF PUEBLO FOR THE USE OF THE OUTER LANES OF SPAULDING AVENUE IN BOTH DIRECTIONS BETWEEN W. 31ST STREET AND PUEBLO BLVD., THE OUTER LANES OF PARKER BOULEVARD IN BOTH DIRECTIONS BETWEEN SPAULDING AVENUE AND ITS NORTH/EASTERN TERMINUS, AND THE FULL WIDTH OF W. 31ST STREET BETWEEN BONAVENTURE COURT AND SPAULDING AVENUE FOR A 5K RUN/WALK EVENT

SUMMARY:

Attached is a Revocable Permit (REV-23-45) submitted by the YMCA of Pueblo

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

YMCA of Pueblo for the use the outer lanes of Spaulding Avenue (both directions) between W. 31st Street and Pueblo Blvd., outer lanes of Parker Blvd. (both directions) between Spaulding Avenue and its north/eastern terminus; full width of W. 31st Street between Bonaventure Court and Spaulding Avenue on November 23, 2023, between 7:00 a.m. and 11:00 a.m., for a 5K run/walk event.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

The Revocable Permit Review Committee recommends approval.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Failure to approve Resolution will prevent the applicant from utilizing the right-of-way to host its event.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

1. NOTARIZED REVOCABLE PERMIT 23-45

RESOLUTION NO. 15423

A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT (REV-23-45) TO THE YMCA OF PUEBLO FOR THE USE OF THE OUTER LANES OF SPAULDING AVENUE IN BOTH DIRECTIONS BETWEEN W. 31ST STREET AND PUEBLO BLVD., THE OUTER LANES OF PARKER BOULEVARD IN BOTH DIRECTIONS BETWEEN SPAULDING AVENUE AND ITS NORTH/EASTERN TERMINUS, AND THE FULL WIDTH OF W. 31ST STREET BETWEEN BONAVENTURE COURT AND SPAULDING AVENUE FOR A 5K RUN/WALK EVENT

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The attached Revocable Permit (REV-23-45) is authorized to be issued to the YMCA of Pueblo for the use the outer lanes of Spaulding Avenue (both directions) between W. 31st Street and Pueblo Blvd., outer lanes of Parker Blvd. (both directions) between Spaulding Avenue and its north/eastern terminus; full width of W. 31st Street between Bonaventure Court and Spaulding Avenue for a 5K run/walk event.

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 (REV-23-45).

SECTION 3.

The officers 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 immediately upon passage and approval.

INTRODUCED: November 13, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 

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: **YMCA Of Pueblo 3200 E Spaulding Ave 7195435151 3200 E Spaulding Ave**
2. Permitted Area: **Outer lanes of Spaulding Avenue (both directions) between W. 31st St and Pueblo Blvd; Outer lanes of Parker Blvd (both directions) between Spaulding Ave. and its north/eastern terminus; Full width of W. 31st Street between Bonaventure Court and Spaulding Avenue.**
3. Purpose of Revocable Permit: **Closure of the permitted area to vehicular traffic to facilitate a 5K run/walk event.**
4. Commencement Date: **November 23, 2023** Time: **7:00 am**
5. Ending Date: **November 23, 2023** Time: **11:00 am**

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. No use of the Permitted Area shall be made before the time of the Commencement Date.

(b) All structures, fences, tables, chairs, equipment or other improvements authorized to be placed in the Permitted Area by Permittee (the "Improvements") shall be constructed, installed, and maintained by Permittee in compliance with all applicable codes, ordinances, rules and regulations of City and this Permit.

(c) If the Revocable Permit is issued for a sidewalk café, the Permittee and sidewalk café shall be subject to all the provisions, conditions and requirements contained in section 9-10-84 of the Pueblo Municipal Code, or as same may be amended, which are incorporated herein by reference. In addition, no Improvement shall be tied-down or chained to any tree within or adjacent to the Permitted Area nor shall any Improvement be installed or located in such a manner as to hinder or interfere with the opening of motor vehicle doors or passenger movement to and from motor vehicles parked adjacent to or near the Permitted Area.

(d) If this Permit is issued for the use of the public right-of-way for a special event, Permittee shall deposit with the City the sum of \$500.00 ("Deposit"). The Deposit will be forfeited to the City if Permittee does not remove all Permittee's equipment and property from, and clean and restore the Permitted Area to its original condition before the Time of the Ending Date. If so timely removed and cleaned, the Deposit will be returned to Permittee.

(e) Before the Time of the Ending Date, or immediately upon any other termination of this Permit, Permittee shall, at Permittee's expense, remove all of Permittee's Improvements from the Permitted Area and clean and restore the Permitted Area to its original condition. Failure to timely remove all of Permittee's Improvements from the Permitted Area and clean and restore the Permitted Area to its original condition shall constitute Permittee's abandonment of the Permittee's Improvements, and City may, at Permittee's expense, remove and dispose of Permittee's Improvements and clean and restore the Permitted Area to its original condition. Permittee agrees to pay all City's costs and expenses, including reasonable attorney fees, incurred in the enforcement of this Permit.

(f) Permittee shall keep all Improvements and Permitted Area in good, clean and safe condition and repair, free from litter, waste and debris.

(g) 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, construction, installation, repair or maintenance of the Improvements in the Permitted Area, or the use of the Permitted Area or Improvements by Permittee, its officers, agents, employees, invitees or general public.

(h) 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.

(i) Permittee shall keep and maintain commercial general liability insurance covering the Permitted Area and Improvements in amounts not less than \$1,000,000.00 combined single limits per occurrence and aggregate, naming the City as an additional insured and contain a waiver of rights of subrogation against City. A certificate for such insurance and each renewal thereof shall be delivered to the City. Failure to maintain such insurance shall cause this Permit to be automatically revoked.

(j) 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. Covid-19

(k) 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, 1 City Hall Place, Pueblo, Colorado, 81003, Attention: Revocable Permit Review Committee. Each party reserves the right to change its address provided notice of such change is given in accordance with this paragraph (k).

(l) 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 any and all Permittee's Improvements 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 Improvements 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.

(m) This Permit shall terminate upon the occurrence of any one of the following events: (i) the Time of the Ending Date, (ii) abandonment or nonuse 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 (h) and (i) above; (v) revocation or termination of this Permit by resolution of the City Council of City; or (vi) revocation by the Mayor as provided in paragraph (p). The termination of this Permit shall not relieve Permittee from Permittee's obligations under paragraph (f) until the Authorized Improvements have been removed by Permittee in compliance with paragraph (e).

(n) 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.

(o) Permittee acknowledges and agree that use of the Permitted Area shall be conducted in compliance with applicable laws and regulations including but not limited orders, regulations and directives issued by the Governor, Colorado Department of Public Health and Environment and the Pueblo County Department of Public Health and Environment with respect to COVID-19 ("COVID-19 Regulations"). Seven days prior to Commencement Date, Permittee shall submit in writing to the Revocable Permit Review Committee those actions Permittee shall take to assure protection of the public health and compliance with COVID-19 Regulations.

(p) Permittee further acknowledges and agrees that this Permit is temporary and subject to revocation or termination if the purpose of the permit or any potential activities to be conducted under the Permit is determined by the Mayor of City, in his sole and absolute discretion, to not be in furtherance of and/or contrary to the public health or welfare due to COVID-19 or related issues. Such determination and termination may be issued at any time, 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.

(q) Nothing in this Permit shall be interpreted to limit or prevent the protections afforded to City under the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, et seq.

Signed in Pueblo, Colorado this 18th day of October, 2023.

PERMITTEE:

Organization or
Individual:

By:

Title:

YMCA of Pueblo

Dirk Hodge

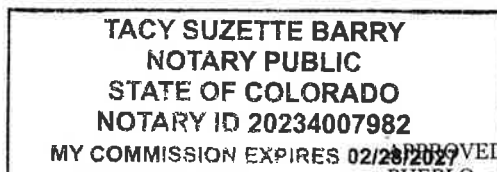
community program Director

STATE OF COLORADO)

COUNTY OF PUEBLO) SS..

The foregoing instrument was acknowledged before me the 18th day of October, 2023 by Dirk Hodge as Community Program Director.

My commission expires: _____.



Tacy Suzette Barry
Notary Public

APPROVED this _____ day of _____, 20____.
PUEBLO, a Municipal Corporation

By _____

Nicholas A. Gradisar, Mayor



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: November 13, 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 (REV-23-47) TO HARP AUTHORITY, 125 RIVERWALK PLACE, FOR THE USE OF THE RIGHT-OF-WAY AT VICTORIA AVENUE FROM "D" STREET TO GRAND AVENUE, GREENWOOD STREET FROM VICTORIA AVENUE TO 1ST STREET, AND 1ST STREET FROM GREENWOOD STREET TO 2ND STREET

SUMMARY:

Attached is a draft Revocable Permit (REV-23-47) submitted by HARP Authority.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The HARP Authority has submitted a Revocable Permit (REV-23-47) for the use of the right-of-way at Victoria Avenue from "D" Street to Grand Avenue, Greenwood Street from Victoria Avenue to 1st Street, and 1st Street from Greenwood Street to 2nd Street on November 24, 2023, between 12:00 p.m. and 10:00 p.m., for the annual Holiday Lighting Extravaganza.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

The Revocable Permit Review Committee recommends approval.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Failure to approve Resolution will prevent the applicant from utilizing the right-of-way to host its event.

RECOMMENDATION:

Approval of the Resolution.

ATTACHMENTS:

None

RESOLUTION NO. 15424

A RESOLUTION AUTHORIZING THE ISSUANCE OF A REVOCABLE PERMIT (REV-23-47) TO HARP AUTHORITY, 125 RIVERWALK PLACE, FOR THE USE OF THE RIGHT-OF-WAY AT VICTORIA AVENUE FROM "D" STREET TO GRAND AVENUE, GREENWOOD STREET FROM VICTORIA AVENUE TO 1ST STREET, AND 1ST STREET FROM GREENWOOD STREET TO 2ND STREET

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The attached Revocable Permit (REV-23-47) is authorized to be issued to HARP Authority, 125 Riverwalk Place, for the use of the right-of-way at Victoria Avenue from "D" Street to Grand Avenue, Greenwood Street from Victoria Avenue to 1st Street, and 1st Street from Greenwood Street to 2nd Street for the annual Holiday Lighting Extravaganza.

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 (REV-23-47).

SECTION 3.

The officers 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 immediately upon passage and approval.

INTRODUCED: November 13, 2023

BY: Vicente Martinez Ortega
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 13, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Alexandria Romero, Director of Finance
Nicholas Gradisar, Mayor

SUBJECT: AN ORDINANCE LEVYING AND CERTIFYING THE CITY OF PUEBLO PROPERTY TAX MILL LEVY MADE IN 2023 FOR THE 2024 BUDGET YEAR

SUMMARY:

The attached Ordinance sets the mill levy for the property tax to be assessed and collected for use in the 2024 budget.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

For the purpose of meeting the general operating expenses of the City of Pueblo during the 2024 Fiscal Year this Ordinance will impose a mill levy upon real property located within the City of Pueblo.

FINANCIAL IMPLICATIONS:

The levy is set at 15.633 mills, which is the same as 2023. It is estimated to generate \$21,046,922 in property tax, this amount is net of estimated uncollectible taxes. The assessed value, as provided by the Pueblo County Assessor, is \$1,365,503,868.

BOARD/COMMISSION RECOMMENDATION:

Not applicable

STAKEHOLDER PROCESS:

Not applicable.

ALTERNATIVES:

Not applicable.

RECOMMENDATION:

Approval of this Ordinance.

ATTACHMENTS:

None

ORDINANCE NO.

AN ORDINANCE LEVYING AND CERTIFYING THE CITY OF
PUEBLO PROPERTY TAX MILL LEVY MADE IN 2023 FOR THE
2024 BUDGET YEAR

WHEREAS, the City of Pueblo's budget for fiscal year 2024 has been prepared and approved, and

WHEREAS, the 2023 net assessed valuation of all taxable property in the City of Pueblo as certified by the Pueblo County Assessor is \$1,365,503,868, and

WHEREAS, the property tax revenue for the fiscal year 2024 is estimated to be \$21,046,922; NOW, THEREFORE,

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

SECTION 1.

For the purpose of meeting the general operating expenses of the City of Pueblo during the 2024 Fiscal Year, there is hereby made, set and levied a tax of 15.633 mills upon each dollar of the total assessed valuation of all taxable property located within the City of Pueblo on the assessment date.

SECTION 2.

The City Council of the City of Pueblo does hereby certify to the County Commissioners of Pueblo County, Colorado the following mill levy imposed by this Ordinance upon each dollar of the total valuation for assessment of all taxable property located within the City of Pueblo on the assessment date:

Gross Mill Levy

15.633 mills

SECTION 3.

The City Clerk is hereby directed to deliver a certified copy of this Ordinance, together with a Certificate of Tax Levies, form DLG 70, properly completed by the Director of Finance, to the County of Commissioners of Pueblo County, Colorado, and the Division of Local Government immediately after passage of this Ordinance.

SECTION 4.

All increases to the City of Pueblo's net fund balance shall constitute and be considered "reserve increases" and therefore a part of the City of Pueblo's 2024 fiscal year spending. All 2024 year-end balances shall constitute and be considered "reserves" and all subsequent expenditures and transfers from such reserves shall be excluded from the City of Pueblo's fiscal year spending within the meaning of Article X, Section 20 (2)(e) of the Colorado Constitution.

SECTION 5.

The officers and the staff of the City are authorized to perform any and all acts consistent with the intent of this Ordinance 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



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 13, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Alexandria Romero, Director of Finance
Nicholas Gradisar, Mayor

SUBJECT: AN ORDINANCE MAKING APPROPRIATION FOR THE GENERAL FUND, SPECIAL REVENUE FUNDS, ENTERPRISE FUNDS, INTERNAL SERVICE FUNDS, DEBT SERVICE FUNDS, AND CAPITAL PROJECT FUNDS FOR THE FISCAL YEAR 2024 AND ADOPTING THE BUDGET FOR THE YEAR 2024

SUMMARY:

The City charter requires that the City Council, through the adoption of the budget, approve all City expenditures. The annual budget sets forth a plan for the 2024 expenditures. Provided in the Ordinance is the Mayor's recommended budget.

PREVIOUS COUNCIL ACTION:

None

BACKGROUND:

This budget as originally presented to the City Council and the citizens of Pueblo on October 10, 2023, set forth a plan whereby the City will expend all anticipated general fund revenues and an additional \$10,263,023 of funds from reserves. Based on Council recommendations, changes were made, and the budget now includes the use of \$10,742,023 of additional funds from reserves, for the operations of the City for the year 2024. The Council designated minimum reserve will be equal to 10% of the annual General Fund expenditures and transfers out for the fiscal year 2024. The budget document includes total spending from the General Fund in the amount of \$133,177,652, requiring \$10,742,023 from reserves in order to provide safe and reliable services for the benefit of the citizens of the City of Pueblo.

FINANCIAL IMPLICATIONS:

See background.

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

The recommended budget has been available on the City's web site, as well as at the Rawlings library location since October 12, 2023. In addition, per the requirements of Section 7-9 of the Charter for the City of Pueblo, a public hearing was held in the Council Chambers during the regular meeting of the City Council on October 23, 2023.

ALTERNATIVES:

Not applicable.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO.

AN ORDINANCE MAKING APPROPRIATION FOR THE GENERAL FUND, SPECIAL REVENUE FUNDS, ENTERPRISE FUNDS, INTERNAL SERVICE FUNDS, DEBT SERVICE FUNDS, AND CAPITAL PROJECT FUNDS FOR THE FISCAL YEAR 2024 AND ADOPTING THE BUDGET FOR THE YEAR 2024

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

SECTION 1.

The budget for the fiscal year 2024, as proposed by the Mayor and as amended by the City Council, the original of which is on file with the Director of Finance, is incorporated herein in full, and hereby approved and adopted.

SECTION 2.

The General Fund Revenue for Fiscal Year 2024 is hereby estimated, and the General Fund Appropriation by Department for Fiscal Year 2024 is hereby made as follows:

REVENUE BY SOURCE	AMOUNT	APPROPRIATION DEPARTMENT	BYAMOUNT
Taxes	105,296,753	General Government	19,161,803
Licenses & Permits	1,075,900	Police	38,226,969
Intergovernmental	3,261,500	Fire	25,336,721
Charges for Service	4,980,481	Public Works	10,246,462
Fines & Forfeits	1,536,350	Parks	8,301,987
Other Revenue	2,354,500	Non-Departmental	9,026,574
Transfers In	3,930,145	Transfers Out	22,877,136
Fund Balance Reserves	10,742,023		
General Fund Total	133,177,652	General Fund Total	133,177,652

SECTION 3.

Revenue is hereby estimated, and appropriations hereby made for the Fiscal Year 2024 for all other Funds of the City of Pueblo as follows:

OTHER FUNDS	REVENUE	APPROPRIATION
INTERGOVERNMENTAL	6,723,469	6,723,469
SPECIAL CHARGES	6,006,856	6,006,856
SPECIAL DISTRICT	715,746	715,746
OTHER SPECIAL REVENUE	507,756	507,756
HUD GRANTS	2,730,000	2,730,000
STIMULUS GRANTS	79,614	79,614

PUBLIC IMPROVEMENTS	13,038,459	13,038,459
DEBT SERVICE FUND	3,069,555	3,069,555
ECONOMIC DEVELOPMENT TAX	15,212,333	15,212,333
POLICE SAFETY TAX	5,055,733	5,055,733
ELMWOOD GOLF COURSE	1,820,161	1,820,161
WALKINGSTICK GOLF COURSE	1,476,300	1,476,300
HONOR FARM PROPERTIES	132,898	132,898
MEMORIAL HALL	2,249,278	2,249,278
MEMORIAL AIRPORT	2,367,207	2,367,207
PUEBLO TRANSIT	6,740,134	6,740,134
PARKING FACILITIES	800,214	800,214
WASTEWATER ENTERPRISE	31,935,264	31,935,264
STORMWATER UTILITY	6,988,382	,6,988,382
INTERNAL SERVICE FUNDS	20,901,225	20,901,225

SECTION 4.

On November 3, 2020, the electors of the City of Pueblo, Colorado enacted Ordinance No. 9764, providing for a one-half cent sale and use tax rate increase for a five-year period ending on December 31, 2026, and pledging the revenue therefrom for job creating capital improvement projects. The anticipated revenue from this tax rate increase and the investment income thereon, for the Fiscal Year 2024 is \$15,212,333 and the full amount thereof, plus any amount available in the fund balance, is hereby appropriated for projects to be determined by the Mayor and City Council.

SECTION 5.

It is the policy of the City Council to accumulate and maintain a General Fund reserve. Effective with the adoption of the FY 2024 budget, this reserve amount will be equal to 10% of the annual General Fund expenditures and transfers out.

SECTION 6.

Authorized staff positions within all departments of the City, as well as the salaries, therefore, are approved and adopted by separate Ordinances. All information pertaining to staffing and salary included in the budget document incorporated herein is solely for the purpose of providing additional information to the user of the document.

SECTION 7.

Pursuant to Section 7-12 and 7-13 of the Charter of the City of Pueblo, the Mayor is hereby authorized to maintain budgetary control over approved allotments within each department by classification of expenditure category, rather than line item.

SECTION 8.

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

SECTION 9.

No expenditures shall be made, or warrants issued against any monies appropriated, except in strict conformity with the Charter of the City of Pueblo and in accordance with the provisions of this Ordinance.

SECTION 10.

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: November 13, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Alexandria Romero, Director of Finance
Nicholas Gradisar, Mayor

SUBJECT: AN ORDINANCE LEVYING AND CERTIFYING THE BANDERA BOULEVARD SPECIAL IMPROVEMENT MAINTENANCE DISTRICT PROPERTY TAX MILL LEVY MADE IN 2023 FOR THE 2024 BUDGET YEAR

SUMMARY:

The attached Ordinance sets the mill levy for the property tax within the Bandera Boulevard Special Improvement Maintenance District to be assessed and collected for use in the 2024 budget.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The City Council as the governing body of the Bandera Boulevard Special Improvement Maintenance District, for the purpose of meeting maintenance and reserve expenses of the District, through this Ordinance sets and levies a tax of 5.000 mills upon taxable real property located within the Bandera Boulevard Special Improvement Maintenance District.

FINANCIAL IMPLICATIONS:

By approval of the voters within the District, the levy is fixed at 5.000 mills. The mill levy of 5.000 mills is estimated to generate \$50,266 in property taxes on an assessed valuation of \$10,053,161.

BOARD/COMMISSION RECOMMENDATION:

Approval of this Ordinance.

STAKEHOLDER PROCESS:

The Bandera Boulevard Special Improvement Maintenance District Advisory Committee met in October of 2023 to discuss the 2024 operations and budget of the District. The Advisory Committee recommended the mill levy remain at 5.000 mills with no temporary credit for 2023 to be collected in 2024.

ALTERNATIVES:

Not applicable.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO.

AN ORDINANCE LEVYING AND CERTIFYING THE BANDERA
BOULEVARD SPECIAL IMPROVEMENT MAINTENANCE
DISTRICT PROPERTY TAX MILL LEVY MADE IN 2023 FOR THE
2024 BUDGET YEAR

WHEREAS, the Bandera Boulevard Special Improvement Maintenance District's budget for fiscal year 2024 has been prepared and approved, and

WHEREAS, the 2023 net assessed valuation of all taxable property in the Bandera Boulevard Special Improvements Maintenance District as certified by the Pueblo County Assessor is \$10,053,161 and

WHEREAS, the tax revenue for the fiscal year 2024 is estimated to be \$50,266; NOW, THEREFORE,

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

SECTION 1.

The City Council as the governing body of the Bandera Boulevard Special Improvement Maintenance District, for the purpose of meeting maintenance expenses of the District, does hereby make, set and levy a tax of 5.000 mills upon each dollar of the total assessed valuation of all taxable real property located within the Bandera Boulevard Special Improvement Maintenance District on the assessment date to meet the cost of maintenance and reserve requirements for fiscal year 2024.

SECTION 2.

The City Council of the City of Pueblo does hereby fix and certify to the County Commissioners of Pueblo County, Colorado the following mill levy imposed by this Ordinance upon each dollar of the total valuation for assessment of all taxable real property located within the Bandera Boulevard Special Improvement Maintenance District on the assessment date:

Gross Mill Levy

5.000 mills

SECTION 3.

The City Clerk is hereby directed to deliver a certified copy of this Ordinance, together with a Certificate of Tax Levies, from DLG 70, properly completed by the Director of Finance, to the County Commissioners of Pueblo County, Colorado, and the Division of Local Government immediately after passage of this Ordinance.

SECTION 4.

All increases to the District's net fund balance shall constitute and be considered "reserve increases" and therefore a part of the District's 2024 fiscal year spending. All 2024 year-end balance shall constitute and be considered "reserves" and all subsequent expenditures and transfers from such reserves shall be excluded from the District's fiscal year spending within the meaning of Article X, Section 20 (20)(e) of the Colorado Constitution.

SECTION 5.

The officers and the staff of the City are authorized to perform any and all acts

consistent with the intent of this Ordinance to implement the policies and procedures described herein.

SECTION 6.

The 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: November 13, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Alexandria Romero, Director of Finance
Nicholas Gradisar, Mayor

SUBJECT: AN ORDINANCE LEVYING AND CERTIFYING THE SOUTHPOINTE SPECIAL IMPROVEMENT MAINTENANCE DISTRICT PROPERTY TAX MILL LEVY MADE IN 2023 FOR THE 2024 BUDGET YEAR

SUMMARY:

The attached Ordinance sets the mill levy for property tax within the SouthPointe Special Improvement Maintenance District to be assessed and collected for use in the 2024 budget.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The City Council as the governing body of the SouthPointe Special Improvement Maintenance District, for the purpose of meeting maintenance expenses of the District, through this Ordinance sets and levies a tax of 5.000 mills upon taxable real property located within the SouthPointe Special Improvement Maintenance District.

FINANCIAL IMPLICATIONS:

By approval of the voters within the District, the levy is fixed at 5.000 mills. It is estimated to generate \$41,408 in property taxes on an assessed valuation of \$8,281,511.

BOARD/COMMISSION RECOMMENDATION:

Approval of this Ordinance.

STAKEHOLDER PROCESS:

The Southpointe Special Improvement Maintenance District Advisory Committee met in October of 2023 to discuss the 2024 operations and budget of the District. The Advisory Committee recommended the mill levy remain at 5.000 mills for 2023 to be collected in 2024.

ALTERNATIVES:

Not applicable.

RECOMMENDATION:

Approval of this Ordinance.

ATTACHMENTS:

None

ORDINANCE NO.

AN ORDINANCE LEVYING AND CERTIFYING THE
SOUTHPOINTE SPECIAL IMPROVEMENT MAINTENANCE
DISTRICT PROPERTY TAX MILL LEVY MADE IN 2023 FOR THE
2024 BUDGET YEAR

WHEREAS, the SouthPointe Special Improvement Maintenance District's budget for fiscal year 2024 has been prepared and approved, and

WHEREAS, the 2023 net assessed valuation of all taxable property in the SouthPointe Special Improvement Maintenance District as certified by the Pueblo County Assessor is \$8,281,511, and

WHEREAS, the property tax revenue for the fiscal year 2024 is estimated to be \$41,408;
NOW, THEREFORE,

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

SECTION 1.

The City Council as the governing body of the SouthPointe Special Improvement Maintenance District, for the purpose of meeting maintenance expenses of the District, does hereby make, set and levy a tax of 5.000 mills upon each dollar of the total assessed valuation of all taxable real property located within the SouthPointe Special Improvement Maintenance District on the assessment date.

SECTION 2.

The City Council of the City of Pueblo does hereby fix and certify to the County Commissioners of Pueblo County, Colorado the following mill levy imposed by this Ordinance upon each dollar of the total valuation for assessment of all taxable real property located within the SouthPointe Special Improvement Maintenance District on the assessment date:

Gross Mill Levy

5.000 mills

SECTION 3.

The City Clerk is hereby directed to deliver a certified copy of this Ordinance, together with a Certificate of Tax Levies, form DLG 70, properly completed by the Director of Finance, to the County Commissioners of Pueblo County, Colorado, and the Division of Local Government immediately after passage of this Ordinance.

SECTION 4.

All increases to the District's net fund balance shall constitute and be considered "reserve increases" and therefore a part of the district's 2024 fiscal year spending. All 2024 year-end balances shall constitute and be considered "reserves" and all subsequent expenditures and transfers from such reserves shall be excluded from the District's fiscal year spending within the meaning of Article X, Section 20 (2)(e) of the Colorado Constitution.

SECTION 5.

The officers and the staff of the City are directed and authorized to perform any and all

acts consistent with the intent of this Ordinance to effectuate 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



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 13, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Steven Meier, Director of Parks and Recreation

SUBJECT: AN ORDINANCE APPROVING AN AMENDMENT TO THE COOPERATIVE MAINTENANCE AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND PUEBLO SCHOOL DISTRICT NO. 60, RELATING TO THE MAINTENANCE OF CERTAIN PARK PROPERTIES, AND AUTHORIZING THE MAYOR TO EXECUTE THE SAME

SUMMARY:

This Ordinance would approve an Amendment to the Cooperative Maintenance Agreement with Pueblo School District No. 60 to allow City to continue to maintain certain District 60 properties as City neighborhood parks.

PREVIOUS COUNCIL ACTION:

On March 25, 2019, City Council approved Ordinance 9438 which approved a Cooperation Maintenance Agreement between the City of Pueblo and Pueblo School District No. 60, relating to park maintenance of District 60 land for neighborhood park purposes by the City.

BACKGROUND:

Through a Cooperative Maintenance Agreement with Pueblo School District No. 60 from 2008 through 2018, the City maintained approximately 53.2 acres of District property as City Parks in exchange for 2.6 acres of District owned land where the City built Fire Station No. 9. On January 1, 2019, the entire 53.2 acres reverted back to the District for responsibility of maintenance of that property.

Certain City parks are located on land owned by Pueblo School District No. 60. The three District park sites described in the Amendment total 21.9 acres, and is essential the City continue to maintain these properties due to their immediate proximity to existing City owned parks. In return, Pueblo School District No. 60 will continue to maintain 5.9 acres of City land, which consists of Little Heaton Park, which is located

adjacent to Heaton Middle School.

FINANCIAL IMPLICATIONS:

The costs associated with the maintenance of the 21.9 acres of Pueblo School District No. 60 property will be accounted for through the Parks Department's annual maintenance and operating budget for the next ten (10) years. The 5.9 acre park known as Little Heaton Park will be maintained at the expense of Pueblo School District No. 60 during the same time frame.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Pueblo School District No. 60 supports this Ordinance.

ALTERNATIVES:

If this Ordinance is not approved, the maintenance of these neighborhood parks will be responsibility of Pueblo School District No. 60.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. Amendment to the Cooperation Maintenance Agreement - Pueblo School District No 60 through 12.31.2033

ORDINANCE NO.

AN ORDINANCE APPROVING AN AMENDMENT TO THE COOPERATIVE MAINTENANCE AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND PUEBLO SCHOOL DISTRICT NO. 60, RELATING TO THE MAINTENANCE OF CERTAIN PARK PROPERTIES, AND AUTHORIZING THE MAYOR TO EXECUTE THE SAME

WHEREAS, City and Pueblo School District No. 60 ("District") entered into the Cooperative Maintenance Agreement dated March 25, 2019 ("Agreement"), wherein the City agreed to maintain certain District property in exchange for District agreeing to maintain certain City property; and

WHEREAS, upon mutual desire, the parties now wish to extend the term of the agreement for an additional ten years; NOW THEREFORE,

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

SECTION 1.

Amendment to the Cooperative Maintenance Agreement between the City of Pueblo, a Municipal Corporation, and Pueblo School District No. 60, relating to park maintenance of District property for neighborhood park purposes by the City.

SECTION 2.

The Mayor is hereby authorized to execute and deliver said Amendment on behalf of the City, and the City Clerk shall affix the Seal of the City thereto and attest the same.

SECTION 3.

The officers and staff of the City are authorized and directed to perform any and all acts consistent with this Ordinance and the attached Amendment to the Cooperative Maintenance Agreement to implement the transactions, 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

**AMENDMENT TO THE
COOPERATION MAINTENANCE AGREEMENT**

THIS AMENDMENT (“Amendment”) to the Cooperation Maintenance Agreement is made and entered into this _____ day of _____, 2023 (“Effective Date”) by and between the City of Pueblo, a Municipal Corporation, (“City”) and Pueblo School District No. 60, aka Pueblo City Schools, a school district organized and existing under the laws of the State of Colorado (“District”).

WHEREAS, City and District entered into the Cooperation Maintenance Agreement dated March 25, 2019 (“Agreement”), wherein the City agreed to maintain certain District property in exchange for District agreeing to maintain certain City property; and

WHEREAS, upon mutual desire, the parties now wish to extend the term of the Agreement for an additional ten years.

NOW, THEREFORE, in consideration of the foregoing and the terms and conditions set forth herein, the parties agree as follows:

1. The Agreement shall be extended to December 31, 2033.
2. Section 1 of the Agreement shall be deleted in its entirety and replaced with the following:

During the period from date hereof to December 31, 2033, District authorizes City to and City, at its expense, but subject to and contingent upon funds for such purpose being appropriated, budgeted, and otherwise made available, shall use, occupy, and maintain in the same or better condition as existed on date hereof for School and Park Purposes, the following District land and all improvements located thereon, including, without limitation, recreational equipment and irrigation systems, subject, however, to City's rules and regulations relating to the use thereof:

- | | | |
|-----|-----------------------------|------------|
| (a) | Northridge School Park Site | 7.81 acres |
| (b) | Leidigh School Park Site | 7.69 acres |
| (c) | University School Park Site | 6.40 acres |

3. Section 2 of the Agreement shall be deleted in its entirety and replaced with the following:

During the period from date hereof to December 31, 2033, City authorizes District to and District, at its expense, but subject to and contingent upon funds for such purpose being appropriated, budgeted, and otherwise made available, shall use, occupy, and maintain in the same or better condition as existed on date hereof for School and Park Purposes, the following City land and all improvements located thereon, including, without limitation, recreational equipment and irrigation systems, subject, however, to District's rules and regulations relating to the use thereof:

(a) Little Heaton Park 5.9 acres

4. Except as expressly modified by this Amendment, the Agreement shall remain in full force and effect. Except as modified by this Amendment, any obligations to be performed under the Agreement by either party are not waived nor excused in any manner but shall be performed in accordance with the terms and conditions of the Agreement as it existed prior to this Amendment.

IN WITNESS WHEREOF, City and District have executed this Amendment as of the Effective Date first written above.

ATTEST:

CITY OF PUEBLO,
a Municipal Corporation

City Clerk

By _____
Nicholas A. Gradisar, Mayor

APPROVED AS TO FORM:

PUEBLO SCHOOL DISTRICT NO. 60,
a Colorado school district

City Attorney

By _____
Thomas Farrell, Board President

ATTEST:

Geri Patrone, Board Secretary

Approved as to form:



Caplan and Earnest LLC
Attorneys for Pueblo School District No. 60



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 13, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Marisa Pacheco, Director Human Resources

SUBJECT: AN ORDINANCE AMENDING SECTION 1-5-3 OF CHAPTER 5 OF TITLE I OF THE PUEBLO MUNICIPAL CODE RELATING TO AND UPDATING DEPARTMENTAL ORGANIZATION TO REFLECT CURRENT DEPARTMENTAL ORGANIZATION AND DIRECTORS.

SUMMARY:

Attached for consideration are amendments to Section 1-5-3 of Chapter 5 of Title I which updates the departmental organization to include major departments and divisions and identifying directors.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

A recent review connected to an upcoming reorganization identified outdated organizational references in the municipal code with respect to departments, divisions, and directors of such functional areas. This ordinance corrects those discrepancies.

FINANCIAL IMPLICATIONS:

There is no cost to implementing these administrative changes.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

A no action alternative would be to retain the current incorrect department, division and director references contained within the code.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. ORDINANCE_PMC Changes Clean Up PMC1-5-3 only

ORDINANCE NO.

AN ORDINANCE AMENDING SECTION 1-5-3 OF CHAPTER 5 OF TITLE I OF THE PUEBLO MUNICIPAL CODE RELATING TO AND UPDATING DEPARTMENTAL ORGANIZATION TO REFLECT CURRENT DEPARTMENTAL ORGANIZATION AND DIRECTORS.

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

SECTION 1.

Section 1-5-3 of Chapter 5 of Title I of the Pueblo Municipal Code is amended to read as follows:

Sec. 1-5-3. Departmental organization; divisions.

(a) The administrative service of the City shall be divided under the Mayor into the following departments and heads thereof, and may be divided into the following divisions:

Department	Head
(1) Finance	Director of Finance
(2) City Clerk and Records	City Clerk
(3) Police	Chief of Police
a. Records Division Operations Bureau	
b. Patrol Division Support Services Bureau	
c. Investigation Division	
d. Crime Prevention Division	
e. Traffic Division	
f. Detention Division	
g. Animal Control Division f. Code Enforcement Division	
(4) Fire	Fire Chief
a. Fire-fighting Division	
b. Fire Prevention Division	
c. Communications Division	
d. Training Division	
(5) Public Works	Director of Public Works
a. Engineering Division	
b. Streets and Shop Division Streets Maintenance Division	
c. Building Inspection Division Stormwater Utility Division	
d. Sewage Disposal Plant Traffic Maintenance Division	
e. Public Building Maintenance Division	
f. Transportation Division	
g. Solid Waste Division	
(6) Parks and Recreation	Director of Parks and Recreation
a. Park Maintenance	

b. Recreation Division	
c. Swimming Pools Division	
d. Golf Course Division	
e. Cemeteries Division	
(7) Aviation	Director of Aviation
a. Airport Operation	
b. Property Management	
(8) Purchasing	Director of Purchasing [Agent]
(9) Law	City Attorney
(10) [Personnel] Human Resources	[Personnel] Director of Human Resources
(11) [Transportation]	Director of Transportation
a. Traffic Engineering	
b. Public Parking	
c. Transit and Transportation	
d. Radio, Telephone and Other Communications	
(12) Zoning Administration [Planning and Community Development] a. Planning & Development Division b. Transportation Planning Division	Director of [the Department of Zoning Administration] Planning and Community Development
[(13) Department of] (12) Information Technology	[Information Specialist] Director of Information Technology
[(14)] (13) Department of Housing	Director of Housing

(b) The designation of divisions and the description of division functions as set forth in this Chapter shall not be deemed to limit a department head from reorganizing his or her department from time to time as circumstances may require. Any such reorganization shall be reported to the Mayor without unnecessary delay and shall become effective immediately upon regulation issued by the Mayor.

(c) Reference to a department or department head in this Code by any title other than as set forth in this Section shall be construed to refer to the department or department head as set forth herein.

SECTION 2.

The officers and staff of the City are authorized to perform all acts consistent with the intent of this Ordinance to effectuate the policies and procedures within.

SECTION 3.

This Ordinance shall become effective immediately upon 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: November 13, 2023

TO: President Heather Graham and Members of City Council
CC: Nicholas A. Gradisar, Mayor
VIA: Marisa Stoller, City Clerk
FROM: Marisa Pacheco, Director Human Resources
SUBJECT: AN ORDINANCE AMENDING SECTION 1-5-3 OF CHAPTER 5 OF TITLE I OF THE PUEBLO MUNICIPAL CODE RELATING TO AND UPDATING DEPARTMENTAL ORGANIZATION AND DIRECTORS.

SUMMARY:

Attached for consideration are amendments to Section 1-5-3 of Chapter 5 of Title I which updates the departmental organization to include major departments and divisions and identifying directors.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

A recent review connected to an upcoming reorganization identified outdated organizational references in the municipal code with respect to departments, divisions, and directors of such functional areas. This ordinance corrects those discrepancies.

FINANCIAL IMPLICATIONS:

There is no cost to implementing these administrative changes.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

A no action alternative would be to retain the current incorrect department, division and director references contained within the code.

RECOMMENDATION:

Approval of the Ordinance.

Attachments:

Proposed Ordinance

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ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 1-5-3 OF CHAPTER 5 OF
TITLE I OF THE PUEBLO MUNICIPAL CODE RELATING TO AND
UPDATING DEPARTMENTAL ORGANIZATION TO REFLECT
CURRENT DEPARTMENTAL ORGANIZATION AND DIRECTORS

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that: (brackets indicate matter being deleted, underscoring indicates new matter being added)

SECTION 1.

Section 1-5-3 of Chapter 5 of Title I of the Pueblo Municipal Code is amended to read as follows:

Sec. 1-5-3. Departmental organization; divisions.

(a) The administrative service of the City shall be divided under the Mayor into the following departments and heads thereof, and may be divided into the following divisions:

Department	Head
(1) Finance	Director of Finance
(2) <u>City Clerk</u>	City Clerk
(3) Police	Chief of Police
a. <u>[Records Division] Operations Bureau</u>	
b. <u>[Patrol Division] Support Services Bureau</u>	
c. Investigation Division	
d. Crime Prevention Division	
e. Traffic Division	
<u>[f. Detention Division]</u>	
g. Animal Control Division <u>f. Code Enforcement Division</u>	
(4) Fire	Fire Chief
a. Fire-fighting Division	
b. Fire Prevention Division	
c. Communications Division	
d. Training Division	
(5) Public Works	Director of Public Works
a. Engineering Division	
b. <u>[Streets and Shop Division] Streets Maintenance Division</u>	
c. <u>[Building Inspection Division] Stormwater Utility Division</u>	
d. <u>[Sewage Disposal Plant] Traffic Maintenance Division</u>	
e. <u>Public Building Maintenance Division</u>	
<u>f. Transportation Division</u>	
<u>g. Solid Waste Division</u>	
(6) Parks and Recreation	Director of Parks and Recreation
a. Park Maintenance	

b. Recreation Division	
c. Swimming Pools Division	
d. Golf Course Division	
e. Cemeteries Division	
(7) Aviation	Director of Aviation
a. Airport Operation	
b. Property Management	
(8) Purchasing	<u>Director of Purchasing [Agent]</u>
(9) Law	City Attorney
(10) [Personnel] <u>Human Resources</u>	[Personnel] Director <u>of Human Resources</u>
(11) [Transportation]	Director of Transportation
a. Traffic Engineering	
b. Public Parking	
c. Transit and Transportation	
d. Radio, Telephone and Other Communications	
(12) [Zoning Administration] <u>Planning and Community Development</u> a. <u>Planning & Development Division</u> b. <u>Transportation Planning Division</u>	Director of [the Department of Zoning Administration] <u>Planning and Community Development</u>
[(13) <u>Information Technology</u>]	[Information Specialist] <u>Director of Information Technology</u>
[(14)] Department of Housing	Director of Housing

(b) The designation of divisions and the description of division functions as set forth in this Chapter shall not be deemed to limit a department head from reorganizing his or her department from time to time as circumstances may require. Any such reorganization shall be reported to the Mayor without unnecessary delay and shall become effective immediately upon regulation issued by the Mayor.

(c) Reference to a department or department head in this Code by any title other than as set forth in this Section shall be construed to refer to the department or department head as set forth herein.

SECTION 2.

The officers and staff of the City are authorized to perform and all acts consistent with the intent of this Ordinance to effectuate the policies and procedures within.

SECTION 3.

This Ordinance shall become effective immediately upon 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: November 13, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Nicholas Gradisar, Mayor
Scott Hobson, Acting Director Planning and Community Development
Bob Jagger, Acting City Attorney

SUBJECT: AN ORDINANCE AMENDING SECTION 1-5-3 OF CHAPTER 5 OF TITLE I OF THE PUEBLO MUNICIPAL CODE RELATING TO DEPARTMENTAL ORGANIZATION, ABOLISHING THE DEPARTMENT OF HOUSING, ESTABLISHING THE DIVISION OF HOUSING UNDER THE DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT AND AMENDING SUBSECTION 4-8-4(2) OF CHAPTER 8 OF TITLE IV AND SECTION 8-1-8 OF CHAPTER 1 OF TITLE VIII OF THE PUEBLO MUNICIPAL CODE TO MAKE CONSISTENT THEREWITH

SUMMARY:

Attached for consideration are amendments to Section 1-5-3 of Chapter 5 of Title I, Section 4-8-4 of Chapter 8 of Title IV and Section 8-1-8 of Chapter 1 of Title VIII of the Pueblo Municipal Code relating to the reorganization of the Housing & Citizen Services Department with a change in department status to division status within the Planning & Community Development Department.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

This ordinance would enact several changes to Pueblo Municipal Code for the purpose of abolishing the Housing & Citizen Services Department and establishing a new CDBG/HOME & Housing Division within the Planning & Community Development Department as part of a reorganization. By moving the Housing & Citizen Services Department under the Planning and Community Development Department as a division, the City and the citizens of the community will benefit from enhanced coordination in identifying potential infill multi-family residential development properties

and determining the obstacles and costs of making these properties “housing development ready”. In many cases, potential housing sites require rezoning, subdivision, public infrastructure such as domestic water, wastewater, and stormwater improvements, along with roadway, sidewalk, ADA, and fire access improvements. These factors affect the timing and overall cost of constructing new housing units within the city. The integration of the departments will provide better coordination in implementing steps to make affordable and workforce housing project sites more competitive projects that can be chosen for CHAFA, CHAFA Multi-family Private Activity Bond financing, DOLA, Proposition 123 funding programs.

The staff assigned to Housing & Citizen Services provide critical services for the coordination and implementation of CDBG and HOME funds that fund selective demolitions, mold remediation, roof replacement, accessibility modifications, and home repairs and retrofits. This important work will not change when this new division is created, but rather, will benefit from closer coordination on housing issues, which are a critical priority for the community. Additionally, the newly established CDBG/HOME/Housing Division will continue to coordinate with Pueblo County with the Community Services Advisory Commission (CSAC) and Citizens Advisory Commission, in recommending projects and program funding for non-profit agencies and service providers. Another key function that will continue within the division is the management of grant service contracts providing affordable housing financing, infrastructure improvements, and homeless prevention, substance abuse programs, victim’s assistance, youth recreation, daycare, and senior services. These will be a vital part of the integrated departments’ functions.

Many of the Colorado Department of Local Affairs (DOLA) “Best Practices in Affordable Housing Development” identified in HB 21-1271 passed by the Colorado General Assembly in 2021 are interrelated between the Planning & Community Development and Housing & Citizen Services Departments. By integrating both departments, the coordinated implementation of best practices will be achieved. Working cooperatively, the planning and housing staff will be able to identify priority properties to be acquired by the City and placed in a land bank to move the properties into “housing development ready” status for multi-family housing development more efficiently and effectively.

With the abolishment of the Housing & Citizen Services Department, all staff currently assigned to the department will move under the Planning & Community Development Department into the newly established CDBG/HOME & Housing Division. The only staffing change which will occur with this reorganization, beyond the general reassignment of positions will be the abolishment of the Director of Housing & Citizen Services position in the 2024 Staffing Ordinance, which will be preceded by the creation of a manager level position entitled CDBG/HOME & Housing Administrator which is being concurrently presented with these necessary code changes via separate ordinance.

The changes to the sections of Pueblo Municipal Code listed in the title of this ordinance accomplish the abolishment of Housing & Citizen Services Department and the establishment of the CDBG/HOME & Housing Division under the Planning & Community Development Department. Specifically, the following sections of code require changes:

Section 1-5-3

Abolishes the Housing & Citizen Services Department and creates the CDBG/HOME & Housing Division under the Planning & Community Development Department.

Section 4-8-4

Provides certain authorities with respect to the International Property and Maintenance Code to the current director position in Housing. This authority will be transferred to the Director of Planning & Community Development or designee with the proposed changes.

Section 8-1-8

Outlines rules and regulations governing the Emergency Housing Rehabilitation Program. The process for funding, and application, qualifications for the program and all authorities of approval and criteria for assistance which will be transferred by the code changes to the Planning & Community Development Director with such processes housed in the Planning & Community Development Department.

FINANCIAL IMPLICATIONS:

There is no cost associated with the reorganization as described herein or the code changes proposed.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

City Council could deny the Pueblo Municipal Code changes which would complicate the proposed reorganization to improve housing program management and would confuse the authorities related to delivering these important services for the community.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. ORDINANCE_PMC Changes and Housing Reorg_112023

ORDINANCE NO.

AN ORDINANCE AMENDING SECTION 1-5-3 OF CHAPTER 5 OF TITLE I OF THE PUEBLO MUNICIPAL CODE RELATING TO DEPARTMENTAL ORGANIZATION, ABOLISHING THE DEPARTMENT OF HOUSING, ESTABLISHING THE DIVISION OF HOUSING UNDER THE DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT AND AMENDING SUBSECTION 4-8-4(2) OF CHAPTER 8 OF TITLE IV AND SECTION 8-1-8 OF CHAPTER 1 OF TITLE VIII OF THE PUEBLO MUNICIPAL CODE TO MAKE CONSISTENT THEREWITH

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

SECTION 1.

Section 1-5-3 of Chapter 5 of Title I of the Pueblo Municipal Code is amended to read as follows:

Sec. 1-5-3. Departmental organization; divisions.

(a) The administrative service of the City shall be divided under the Mayor into the following departments and heads thereof, and may be divided into the following divisions:

Department	Head
(1) Finance	Director of Finance
(2) City Clerk	City Clerk
(3) Police	Chief of Police
a. Operations Bureau	
b. Support Services Bureau	
c. Investigation Division	
d. Crime Prevention Division	
e. Traffic Division	
f. Code Enforcement Division	
(4) Fire	Fire Chief
a. Fire-fighting Division	
b. Fire Prevention Division	
c. Communications Division	
d. Training Division	
(5) Public Works	Director of Public Works
a. Engineering Division	
b. Streets Maintenance Division	
c. Stormwater Utility Division	
d. Traffic Maintenance Division	
e. Public Building Maintenance Division	
f. Transportation Division	
g. Solid Waste Division	
(6) Parks and Recreation	Director of Parks and Recreation
a. Park Maintenance	
b. Recreation Division	
c. Swimming Pools Division	

d. Golf Course Division	
e. Cemeteries Division	
(7) Aviation	Director of Aviation
a. Airport Operation	
b. Property Management	
(8) Purchasing	Director of Purchasing
(9) Law	City Attorney
(10) Human Resources	Director of Human Resources
(11) Planning and Community Development a. Planning and Development Division b. Transportation Planning Division c. CDBG/HOME/Housing Division	Director of Planning and Community Development
(12) Information Technology	Director of Information Technology
[(13) Department of Housing	Director of Housing]

(b) The designation of divisions and the description of division functions as set forth in this Chapter shall not be deemed to limit a department head from reorganizing his or her department from time to time as circumstances may require. Any such reorganization shall be reported to the Mayor without unnecessary delay and shall become effective immediately upon regulation issued by the Mayor.

(c) Reference to a department or department head in this Code by any title other than as set forth in this Section shall be construed to refer to the department or department head as set forth herein.

SECTION 2.

Subsection 4-8-4(2) of Chapter 8 of Title IV of the Pueblo Municipal Code is amended to read as follows:

Sec. 4-8-4. Amendments to the I.P.M.C.

The following Subsections of the I.P.M.C. are hereby amended to read as follows: . . .

(2) Subsection 103.2 Appointment.

The Mayor, Department of Planning and **Community** Development, the Building Official (as defined in Chapter 1 of this Title), Code Enforcement Officers designated under Chapter 5 of Title XVII, Pueblo Municipal Code as amended, the Fire Chief, the Police Chief and the Police Department's Police Support Technicians, the Health Officer, [Director of Housing,] and any of their designees shall each be deemed Code Officials for purposes of the I.P.M.C.

The following Code Officials shall have responsibility for enforcement of the following Sections of the I.P.M.C., but the Mayor may, from time to time, delegate or reassign responsibility to enforce any section of the I.P.M.C to any Code Official:

1. **Director of Planning and Community Development or designee thereof** [and its Code Enforcement Officers]: Subsection 301.3, Section 303, Section 306, Section 308, and Section 302, except Subsection 302.5;
2. Police Department and its Police Support Technicians Code Enforcement Officers: Section 301.3, Subsection 302.8, Section 303, Section 307.1, Section 308, and Section 302, except Subsection 302.5;
3. Building Official: Section 304 and Section 606; and the following Sections, but only as to

commercial buildings: Subsection 301.3, Subsection 307.1, Section 504, Section 505, Section 506, Section 507, Section 603, Section 604, Section 605, and Section 607.

4. Fire Chief: Subsection 307.1; Section 701, Section 702, Section 703, and Section 704;

5. Health Official: Subsection 301.3, Subsection 302.5, Section 308, Section 309; and

f. **[Director of Housing]****Director of Planning and Community Development or designee thereof**: the following Sections, but only as to residential buildings: Subsection 301.3, Section 305, Section 306, Subsection 307.1, Section 401, Section 402, Section 403, Section 404, Section 501, Section 502, Section 503, Section 504, Section 505, Section 506, Section 507, Section 601, Section 602, Section 603, Section 604, Section 605, and Section 607.

SECTION 3.

Section 8-1-8 of Chapter 1 of Title VIII of the Pueblo Municipal Code is amended to read as follows:

Sec. 8-1-8. Emergency Housing Rehabilitation Program.

(a) A special housing rehabilitation revolving fund to be designated Emergency Housing Rehabilitation Fund is hereby established. Appropriations to said Fund may be made by the City Council by resolution. Payments out of said Fund shall be made by the Director of Finance upon the written request of the Director of the Department of **[Housing and Citizen Services]** **Planning and Community Development or designee thereof** based upon applications for assistance submitted and approved in accordance with the provisions of this Section.

(b) The owner of any owner-occupied residential building who qualifies under Subsection (c) of this Section shall be entitled to make application for emergency housing rehabilitation assistance within thirty (30) days after the occurrence of a qualifying event. Applications shall be timely made to the Department of **Planning and Community Development** **[Housing and Citizen Services]** upon forms prepared by said Department.

(c) The owner of an owner-occupied residential building may qualify and be eligible for emergency housing assistance if such owner either receives a Notice and Order under the International Property Maintenance Code, as adopted and amended by the Pueblo Municipal Code, as amended, ("I.P.M.C.") or, if the I.P.M.C. is not applicable, receives notice from a code official that the residential building fails to meet requirements of any other building codes or ordinances of the City. In such case, the owner may apply for housing rehabilitation assistance if the income and assets, excluding the value of the building in question, of such owner, or of a family the head of which or whose spouse is the owner, are within the limits prescribed for persons or families occupying public housing in the City financed pursuant to Chapter 8, Title 42 United States Code. The Department of **[Housing and Citizen Services]** **Planning and Community Development** shall certify all owner-applicants meet such qualifications. The department will prepare an estimate of the costs of repairs required to rehabilitate said building to meet the standards of the Housing Code.

(d) The Director of the Department of **[Housing and Citizen Services]** **Planning and Community Development or designee thereof** shall consider all applications for emergency housing rehabilitation assistance and, subject to available appropriations, may approve any application meeting the program requirements. All grants of assistance shall be used only for repairs and rehabilitation of an owner-occupied residential building which will abate the conditions which make the building noncompliant with the I.P.M.C. or other building codes or ordinances.

(e) The Department of [Housing and Citizen Services] **Planning and Community Development** shall not approve any application for assistance until after the Director of Finance shall certify in writing to the Director of the Department of [Housing and Citizen Services] **Planning and Community Development** that there are sufficient monies in the Emergency Housing Rehabilitation Fund for such grant of assistance and until after the Department of [Housing and Citizen Services] **Planning and Community Development** receives proof that the applicant-owner is the fee owner of said land and building.

(f) The owner of any owner-occupied residential building who receives housing rehabilitation assistance shall enter into an agreement with the City, on forms to be approved by the City Attorney, to repay to the City such financial assistance based on existing loan formulas and criteria used within the Department of [Housing and Citizen Services] **Planning and Community Development**. Such repayment agreement shall be placed of record and shall become and remain a lien and encumbrance on the building and land upon which the building is located until paid in full. Said grant of assistance shall become due and payable immediately upon the transfer of title to said land and building by the owner, or, upon the death of the owner, unless title to said land and building shall pass to the spouse of or an issue of such owner who meets the qualification of Subsection (c) hereof, and the Department of [Housing and Citizen Services] **Planning and Community Development** shall certify the same in writing to the Director of Finance within sixty (60) days after the death of such owner. Failure of the surviving spouse or issue of the deceased owner to request and obtain such certification from the Director of the Department of [Housing and Citizen Services] **Planning and Community Development or designee thereof** within said sixty-day period shall conclusively constitute a waiver of all rights of such surviving spouse or issue to further defer repayment of the grant of assistance.

(g) All repayments of rehabilitation grants of assistance shall be credited to the Emergency Housing Rehabilitation Fund.

(h) Nothing contained in this Section shall obligate the City Council to appropriate funds to the Emergency Housing Rehabilitation Fund.

SECTION 4.

The officers and staff of the City are authorized to perform all acts consistent with the intent of this Ordinance to effectuate the policies and procedures within.

SECTION 5.

This Ordinance is subject to and conditioned upon City Council passage and approval of an ordinance submitted contemporaneously herewith and captioned "AN ORDINANCE AMENDING SECTION 1-5-3 OF CHAPTER 5 OF TITLE I OF THE PUEBLO MUNICIPAL CODE RELATING TO AND UPDATING DEPARTMENTAL ORGANIZATION TO REFLECT CURRENT DEPARTMENTAL ORGANIZATION AND DIRECTORS".

This Ordinance is further subject to and conditioned upon City Council passage and approval of an ordinance submitted contemporaneously herewith and captioned "AN ORDINANCE AMENDING THE FISCAL YEAR 2023 STAFFING ORDINANCE BY ADDING ONE (1) FULL-TIME CDBG/HOME & HOUSING ADMINISTRATOR POSITION TO THE AUTHORIZED STAFFING OF THE PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT AS PART OF A REORGANIZATION" (the "Staffing Ordinance").

Subject to such conditions, this Ordinance shall become effective on the date the

CDBG/HOME & Housing Administrator position is filled as set forth in the Staffing Ordinance, but not later than December 31, 2023.

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: November 13, 2023

TO: President Heather Graham and Members of City Council
VIA: Marisa Stoller, City Clerk
FROM: Nicholas A. Gradisar, Mayor
Scott Hobson, Asst. Mayor of Community Investment and Acting Director/ Planning & Community Development
Bob Jagger, Deputy City Attorney
SUBJECT: AN ORDINANCE AMENDING SECTION 1-5-3 OF CHAPTER 5 OF TITLE I OF THE PUEBLO MUNICIPAL CODE RELATING TO DEPARTMENTAL ORGANIZATION, ABOLISHING THE DEPARTMENT OF HOUSING, ESTABLISHING THE DIVISION OF HOUSING UNDER THE DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT AND AMENDING SUBSECTION 4-8-4(2) OF CHAPTER 8 OF TITLE IV AND SECTION 8-1-8 OF CHAPTER 1 OF TITLE VIII OF THE PUEBLO MUNICIPAL CODE TO MAKE CONSISTENT THEREWITH

SUMMARY:

Attached for consideration are amendments to Section 1-5-3 of Chapter 5 of Title I, Section 4-8-4 of Chapter 8 of Title IV and Section 8-1-8 of Chapter 1 of Title VIII of the Pueblo Municipal Code relating to the reorganization of the Housing & Citizen Services Department with a change in department status to division status within the Planning & Community Development Department.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

This ordinance would enact several changes to Pueblo Municipal Code for the purpose of abolishing the Housing & Citizen Services Department and establishing a new CDBG/HOME & Housing Division within the Planning & Community Development Department as part of a reorganization. By moving the Housing & Citizen Services Department under the Planning and Community Development Department as a division, the City and the citizens of the community will benefit from enhanced coordination in identifying potential infill multi-family residential development properties and determining the obstacles and costs of making these properties "housing development ready". In many cases, potential housing sites require rezoning, subdivision, public infrastructure such as domestic water, wastewater, and stormwater improvements, along with roadway, sidewalk, ADA, and fire access improvements. These factors

affect the timing and overall cost of constructing new housing units within the city. The integration of the departments will provide better coordination in implementing steps to make affordable and workforce housing project sites more competitive projects that can be chosen for CHAFA, CHAFA Multi-family Private Activity Bond financing, DOLA, Proposition 123 funding programs.

The staff assigned to Housing & Citizen Services provide critical services for the coordination and implementation of CDBG and HOME funds that fund selective demolitions, mold remediation, roof replacement, accessibility modifications, and home repairs and retrofits. This important work will not change when this new division is created, but rather, will benefit from closer coordination on housing issues which are a critical priority for the community. Additionally, the newly established CDBG/HOME/Housing Division will continue to coordinate with Pueblo County with the Community Services Advisory Commission (CSAC) and Citizens Advisory Commission in recommending projects and program funding for non-profit agencies and service providers. Another key function that will continue within the division is the management of grant service contracts providing affordable housing financing, infrastructure improvements, and homeless prevention, substance abuse programs, victim's assistance, youth recreation, daycare, and senior services. These will be a vital part of the integrated departments' functions.

Many of the Colorado Department of Local Affairs (DOLA) "Best Practices in Affordable Housing Development" identified in HB 21-1271 passed by the Colorado General Assembly in 2021 are interrelated between the Planning & Community Development and Housing & Citizen Services Departments. By integrating both departments, the coordinated implementation of best practices will be achieved. Working cooperatively, the planning and housing staff will be able to identify priority properties to be acquired by the City and placed in a land bank to move the properties into "housing development ready" status for multi-family housing development more efficiently and effectively.

With the abolishment of the Housing & Citizen Services Department, all staff currently assigned to the department will move under the Planning & Community Development Department in the newly established CDBG/HOME & Housing Division. The only staffing change which will occur with this reorganization, beyond the general reassignment of positions will be the abolishment of the Director of Housing & Citizen Services position in the 2024 Staffing Ordinance which will be preceded by the creation of a manager level position entitled CDBG/HOME & Housing Administrator which is being concurrently presented with these necessary code changes via separate ordinance.

The changes to the sections of Pueblo Municipal Code listed in the title of this ordinance accomplish the abolishment of Housing & Citizen Services Department and the establishment of the CDBG/HOME & Housing Division under the Planning & Community Development Department. Specifically, the following sections of code require changes:

Section 1-5-3

Abolishes the Housing & Citizen Services Department and creates the CDBG/HOME & Housing Division under the Planning & Community Development Department.

Section 4-8-4

Provides certain authorities with respect to the International Property and Maintenance Code to the current director position in Housing. This authority will be transferred to the Director of Planning & Community Development or designee with the proposed changes.

Section 8-1-8

Outlines rules and regulations governing the Emergency Housing Rehabilitation Program. The process for funding, and application, qualifications for the program and all authorities of approval and criteria for assistance which will be transferred by the code changes to the Planning & Community Development Director with such processes housed in the Planning & Community Development Department.

FINANCIAL IMPLICATIONS:

There is no cost associated with the reorganization as described herein or the code changes proposed.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None

ALTERNATIVES:

City Council could deny the Pueblo Municipal Code changes which would complicate the proposed reorganization to improve housing program management and would confuse the authorities related to delivering these important services for the community.

RECOMMENDATION:

Approval of the Ordinance.

Attachments:

Proposed Ordinance

ORDINANCE NO. _____

AN ORDINANCE AMENDING SECTION 1-5-3 OF CHAPTER 5 OF TITLE I OF THE PUEBLO MUNICIPAL CODE RELATING TO DEPARTMENTAL ORGANIZATION, ABOLISHING THE DEPARTMENT OF HOUSING, ESTABLISHING THE DIVISION OF HOUSING UNDER THE DEPARTMENT OF PLANNING AND COMMUNITY DEVELOPMENT AND AMENDING SUBSECTION 4-8-4(2) OF CHAPTER 8 OF TITLE IV AND SECTION 8-1-8 OF CHAPTER 1 OF TITLE VIII OF THE PUEBLO MUNICIPAL CODE TO MAKE CONSISTENT THEREWITH

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that: (brackets indicate matter being deleted, underscoring indicates new matter being added)

SECTION 1.

Section 1-5-3 of Chapter 5 of Title I of the Pueblo Municipal Code is amended to read as follows:

Sec. 1-5-3. Departmental organization; divisions.

- (a) The administrative service of the City shall be divided under the Mayor into the following departments and heads thereof, and may be divided into the following divisions:

Department	Head
(1) Finance	Director of Finance
(2) City Clerk and Records	City Clerk
(3) Police	Chief of Police
a. Operations Bureau	
b. Support Services Bureau	
c. Investigation Division	
d. Crime Prevention Division	
e. Traffic Division	
f. Code Enforcement Division	
(4) Fire	Fire Chief
a. Fire-fighting Division	
b. Fire Prevention Division	
c. Communications Division	
d. Training Division	
(5) Public Works	Director of Public Works
a. Engineering Division	
b. Streets Maintenance Division	
c. Stormwater Utility Division	
d. Traffic Maintenance Division	
e. Public Building Maintenance Division	
f. Transportation Division	
g. Solid Waste Division	
(6) Parks and Recreation	Director of Parks and Recreation
a. Park Maintenance	
b. Recreation Division	
c. Swimming Pools Division	

d. Golf Course Division	
e. Cemeteries Division	
(7) Aviation	Director of Aviation
a. Airport Operation	
b. Property Management	
(8) Purchasing	Director of Purchasing
(9) Law	City Attorney
(10) Human Resources	Director of Human Resources
(11) Planning and Community Development a. Land Use Division b. Transportation Planning Division c. CDBG/HOME/Housing Division	Director of Planning and Community Development
(12) Information Technology	Director of Information Technology
[(13) Department of Housing	Director of Housing]

(b) The designation of divisions and the description of division functions as set forth in this Chapter shall not be deemed to limit a department head from reorganizing his or her department from time to time as circumstances may require. Any such reorganization shall be reported to the Mayor without unnecessary delay and shall become effective immediately upon regulation issued by the Mayor.

(c) Reference to a department or department head in this Code by any title other than as set forth in this Section shall be construed to refer to the department or department head as set forth herein.

SECTION 2.

Subsection 4-8-4(2) of Chapter 8 of Title IV of the Pueblo Municipal Code is amended to read as follows:

Sec. 4-8-4. Amendments to the I.P.M.C.

The following Subsections of the I.P.M.C. are hereby amended to read as follows: . . .

(2) Subsection 103.2 Appointment.

The Mayor, Department of Planning and **Community** Development, the Building Official (as defined in Chapter 1 of this Title), Code Enforcement Officers designated under Chapter 5 of Title XVII, Pueblo Municipal Code as amended, the Fire Chief, the Police Chief and the Police Department's Police Support Technicians, the Health Officer, **[Director of Housing,]** and any of their designees shall each be deemed Code Officials for purposes of the I.P.M.C.

The following Code Officials shall have responsibility for enforcement of the following Sections of the I.P.M.C., but the Mayor may, from time to time, delegate or reassign responsibility to enforce any section of the I.P.M.C to any Code Official:

- a. **Director of Planning and Community Development or designee thereof [and its Code Enforcement Officers]:** Subsection 301.3, Section 303, Section 306, Section 308, and Section 302, except Subsection 302.5;
- b. Police Department and its Police Support Technicians Code Enforcement Officers:

Section 301.3, Subsection 302.8, Section 303, Section 307.1, Section 308, and Section 302, except Subsection 302.5;

- c. Building Official: Section 304 and Section 606; and the following Sections, but only as to commercial buildings: Subsection 301.3, Subsection 307.1, Section 504, Section 505, Section 506, Section 507, Section 603, Section 604, Section 605, and Section 607.
- d. Fire Chief: Subsection 307.1; Section 701, Section 702, Section 703, and Section 704;
- e. Health Official: Subsection 301.3, Subsection 302.5, Section 308, Section 309; and
- f. **[Director of Housing]****Director of Planning and Community Development or designee thereof**: the following Sections, but only as to residential buildings: Subsection 301.3, Section 305, Section 306, Subsection 307.1, Section 401, Section 402, Section 403, Section 404, Section 501, Section 502, Section 503, Section 504, Section 505, Section 506, Section 507, Section 601, Section 602, Section 603, Section 604, Section 605, and Section 607.

SECTION 3.

Section 8-1-8 of Chapter 1 of Title VIII of the Pueblo Municipal Code is amended to read as follows:

Sec. 8-1-8. Emergency Housing Rehabilitation Program.

(a) A special housing rehabilitation revolving fund to be designated Emergency Housing Rehabilitation Fund is hereby established. Appropriations to said Fund may be made by the City Council by resolution. Payments out of said Fund shall be made by the Director of Finance upon the written request of the Director of the Department of **[Housing and Citizen Services]** **Planning and Community Development or designee thereof** based upon applications for assistance submitted and approved in accordance with the provisions of this Section.

(b) The owner of any owner-occupied residential building who qualifies under Subsection (c) of this Section shall be entitled to make application for emergency housing rehabilitation assistance within thirty (30) days after occurrence of a qualifying event. Applications shall be timely made to the Department of **Planning and Community Development** **[Housing and Citizen Services]** upon forms prepared by said Department.

(c) The owner of an owner-occupied residential building may qualify and be eligible for emergency housing assistance if such owner either receives a Notice and Order under the International Property Maintenance Code, as adopted and amended by the Pueblo Municipal Code, as amended, ("I.P.M.C.") or, if the I.P.M.C. is not applicable, receives notice from a code official that the residential building fails to meet requirements of any other building codes or ordinances of the City. In such case, the owner may apply for housing rehabilitation assistance if the income and assets, excluding the value of the building in question, of such owner, or of a family the head of which or whose spouse is the owner, are within the limits prescribed for persons or families occupying public housing in the City financed pursuant to Chapter 8, Title 42 United States Code. The Department of **[Housing and Citizen Services]** **Planning and Community Development** shall certify all owner-applicants meet such qualifications. The department will

prepare an estimate of the costs of repairs required to rehabilitate said building to meet the standards of the Housing Code.

(d) The Director of the Department of **[Housing and Citizen Services]** **Planning and Community Development or designee thereof** shall consider all applications for emergency housing rehabilitation assistance and, subject to available appropriations, may approve any application meeting the program requirements. All grants of assistance shall be used only for repairs and rehabilitation of an owner-occupied residential building which will abate the conditions which make the building noncompliant with the I.P.M.C. or other building codes or ordinances.

(e) The Department of **[Housing and Citizen Services]** **Planning and Community Development** shall not approve any application for assistance until after the Director of Finance shall certify in writing to the Director of the Department of **[Housing and Citizen Services]** **Planning and Community Development** that there are sufficient monies in the Emergency Housing Rehabilitation Fund for such grant of assistance and until after the Department of **[Housing and Citizen Services]** **Planning and Community Development** receives proof that the applicant-owner is the fee owner of said land and building.

(f) The owner of any owner-occupied residential building who receives housing rehabilitation assistance shall enter into an agreement with the City, on forms to be approved by the City Attorney, to repay to the City such financial assistance based on existing loan formulas and criteria used within the Department of **[Housing and Citizen Services]** **Planning and Community Development**. Such repayment agreement shall be placed of record and shall become and remain a lien and encumbrance on the building and land upon which the building is located until paid in full. Said grant of assistance shall become due and payable immediately upon the transfer of title to said land and building by the owner, or, upon the death of the owner, unless title to said land and building shall pass to the spouse of or an issue of such owner who meets the qualification of Subsection (c) hereof, and the Department of **[Housing and Citizen Services]** **Planning and Community Development** shall certify the same in writing to the Director of Finance within sixty (60) days after the death of such owner. Failure of the surviving spouse or issue of the deceased owner to request and obtain such certification from the Director of the Department of **[Housing and Citizen Services]** **Planning and Community Development or designee thereof** within said sixty-day period shall conclusively constitute a waiver of all rights of such surviving spouse or issue to further defer repayment of the grant of assistance.

(g) All repayments of rehabilitation grants of assistance shall be credited to the Emergency Housing Rehabilitation Fund.

(h) Nothing contained in this Section shall obligate the City Council to appropriate funds to the Emergency Housing Rehabilitation Fund.

SECTION 4.

The officers and staff of the City are authorized to perform and all acts consistent with the intent of this Ordinance to effectuate the policies and procedures within.

SECTION 5.

This Ordinance is subject to and conditioned upon City Council passage and approval of an ordinance submitted contemporaneously herewith and captioned "AN ORDINANCE

AMENDING SECTION 1-5-3 OF CHAPTER 5 OF TITLE I OF THE PUEBLO MUNICIPAL CODE
RELATING TO AND UPDATING DEPARTMENTAL ORGANIZATION TO REFLECT CURRENT
DEPARTMENTAL ORGANIZATION AND DIRECTORS”.

This Ordinance is further subject to and conditioned upon City Council passage and approval of an ordinance submitted contemporaneously herewith and captioned “AN ORDINANCE AMENDING THE FISCAL YEAR 2023 STAFFING ORDINANCE BY ADDING ONE (1) FULL-TIME CDBG/HOME & HOUSING ADMINISTRATOR POSITION TO THE AUTHORIZED STAFFING OF THE PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT AS PART OF A REORGANIZATION” (the “Staffing Ordinance”).

Subject to such conditions, this Ordinance shall become effective on the date the CDBG/HOME & Housing Administrator position is filled as set forth in the Staffing Ordinance but not later than December 31, 2023.

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: November 13, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Nicholas Gradisar, Mayor
Scott Hobson, Acting Director Planning and Community Development
Marisa Pacheco, Director Human Resources

SUBJECT: AN ORDINANCE AMENDING THE FISCAL YEAR 2023 STAFFING ORDINANCE BY ADDING ONE (1) FULL-TIME CDBG/HOME & HOUSING ADMINISTRATOR POSITION TO THE AUTHORIZED STAFFING OF THE PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT AS A PART OF A REORGANIZATION.

SUMMARY:

A review of ways to enhance operational efficiency related to development and housing activities has been underway within the Housing & Citizen Services and Planning & Community Development Departments.

There are unique opportunities to improve communication and coordination of programs and maximize resources in support of both housing and community development missions. Consequently, a reorganization plan has been developed to implement several changes. This reorganization will include changes in reporting structure for all staff currently assigned to the Housing & Citizen Services Department to a new division focused on housing program activities within the Planning & Community Development Department.

This ordinance is designed to accomplish the desired staffing changes associated with the reorganization which includes the addition of a new position – CDBG/HOME & Housing Administrator.

PREVIOUS COUNCIL ACTION:

On December 27, 2022, Ordinance No. 10363 was approved by City Council. This Ordinance provided authorized staffing for Fiscal Year 2023.

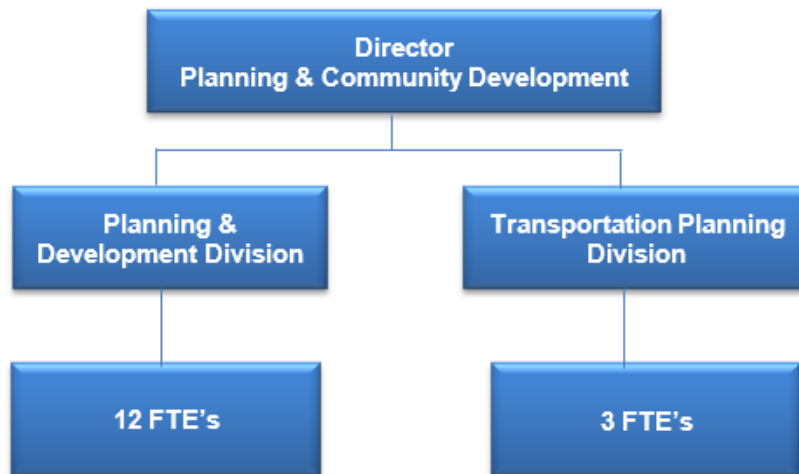
BACKGROUND:

An operational review revealed that there are complimentary responsibilities that intersect in both the Housing & Citizen Services and Planning & Community Development Departments. It has become apparent that there is an opportunity to reorganize both departments in order to streamline and enhance both the efficiency and efficacy of services. With the passage of recent legislation which will greatly broaden available funding to address critical housing issues in the community, the time is right to make these changes.

Current Organizational/Functional Chart – Housing & Citizen Services Department



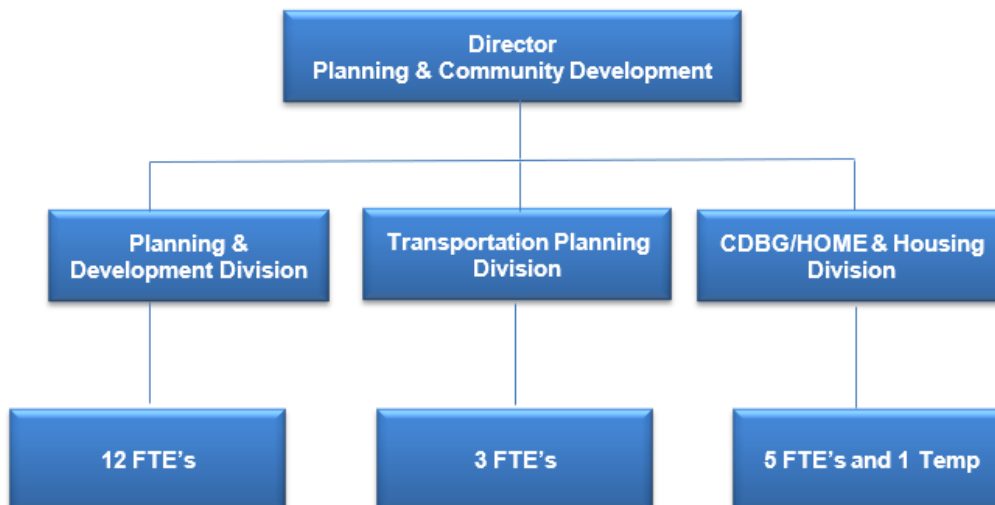
Current Organizational/Functional Chart – Planning & Community Development



Reorganization and Reporting Changes

The reorganization will include movement of all Housing & Citizen Services staff to the new division of CDBG/HOME & Housing within the Planning & Community Development Department.

Below is the organization/functional chart following the implementation of the reorganization plan:



City Administration, Housing and Planning & Community Development leadership are confident that this reorganization will improve service delivery and enhance coordination efforts between both functional areas.

Staffing Changes

With changes accomplished through a related ordinance which amends various provisions of the Pueblo Municipal Code, some of the duties and director level authorities currently associated with the Housing & Citizen Services Director will be transferred and performed by the Planning & Community Development Director. This change will streamline coordination on major initiatives and projects and will centralize oversight. As the Housing & Citizen Services Department will no longer be a department, but rather a division, there is no need for two directors.

Therefore, a CDBG/HOME & Housing Administrator is the proposed new position within this staffing ordinance. This position will provide management of the housing program staff and will serve as the administrator of Community Development Block Grant (CDBG), HOME, CDBG-CV and ARPA HOME grant activities. The funding associated with the Housing & Citizen Services Director position will be reallocated to fund this position with the director level position abolished once the new position is filled.

In summary, this ordinance creates one new position, the CDBG/HOME & Housing Administrator.

FINANCIAL IMPLICATIONS:

The staffing change results in an estimated annual savings of \$4,209.

Classification	Funding	Annual Cost
Housing & Citizen Services Director	Grant	(\$153,811)
CDBG/HOME & Housing Administrator	Grant	\$149,602
<u>Annual Difference</u>		<u>(\$4,209)</u>

BOARD/COMMISSION RECOMMENDATION:

Not Applicable.

STAKEHOLDER PROCESS:

Not Applicable.

ALTERNATIVES:

The no action alternative would be to retain current staffing levels and classifications. The suggested change represents a more efficient and effective way to accomplish the objectives of the City's housing program and will facilitate the reorganization of the two departments.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. ADD CDBG_HOME_Housing Administrator_0112023

ORDINANCE NO.

AN ORDINANCE AMENDING THE FISCAL YEAR 2023 STAFFING ORDINANCE BY ADDING ONE (1) FULL-TIME CDBG/HOME & HOUSING ADMINISTRATOR POSITION TO THE AUTHORIZED STAFFING OF THE PLANNING & COMMUNITY DEVELOPMENT DEPARTMENT AS A PART OF A REORGANIZATION.

WHEREAS, it is necessary to revise the positions for the ultimate efficiency and functionality for delivering public works and stormwater services to the community; NOW THEREFORE,

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

SECTION 1.

The following sections captioned "Housing & Citizen Services", and "Planning & Community Development" of Ordinance No. 10363, the 2023 Staffing Ordinance, shall be amended as follows:

Housing and Citizen Services

Director of Housing and Citizen Services	1
Housing/Community Development Coordinator II	1
Community Development Specialist	1
Program Coordinator – Housing	1
Administrative Technician	1
Total	5]

Planning & Community Development

Director of Planning & Community Development	1
<u>Director of Housing & Citizen Services</u>	<u>1</u>
Assistant Mayor/Community Investment	1
Administrative Technician	<u>2</u>
<u>CDBG/HOME & Housing Administrator</u>	<u>1</u>
<u>Community Development Specialist</u>	<u>1</u>
<u>Housing/Community Development Coordinator II</u>	<u>1</u>
Land Use Technician	2
MPO Manager	1
Office Assistant	1
Planner	3
Principal Planner	1
<u>Program Coordinator/Housing</u>	<u>1</u>
Senior Planner	3
Transportation Planning Technician	1
Total	21

SECTION 2.

Effective on the date the CDBG/HOME & Housing Administrator position is filled but not later than December 31, 2023, the position of Director Housing & Citizen Services will be abolished, and the 2023 Staffing Ordinance shall be amended as follows:

Planning & Community Development

Director of Planning & Community Development	1
[Director of Housing & Citizen Services	1]
Assistant Mayor/Community Investment	1
Administrative Technician	2
CDBG/HOME & Housing Administrator	1
Community Development Specialist	1
Housing/Community Development Coordinator II	1
Land Use Technician	2
MPO Manager	1
Office Assistant	1
Planner	3
Principal Planner	1
Program Coordinator/Housing	1
Senior Planner	3
Transportation Planning Technician	1
Total	<u>20</u>

SECTION 3.

The officers and staff of the City are directed and authorized to perform any and all acts consistent with the intent of this Ordinance to effectuate and transactions described therein.

SECTION 4.

This Ordinance shall be deemed to amend the Fiscal Year 2022 Budget and staffing with respect to the number and allocation of positions within the Stormwater Department and 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: November 13, 2023

TO: President Heather M. Graham and Members of City Council
CC: Mayor Nicholas A. Gradisar
VIA: Marisa Stoller, City Clerk
FROM: Mayor Nicholas A. Gradisar
Scott Hobson, Assistant Mayor Community Investment and Acting Director Planning
& Community Development
Marisa Pacheco, Human Resources Director
SUBJECT: AN ORDINANCE AMENDING THE FISCAL YEAR 2023 STAFFING ORDINANCE
BY ADDING ONE (1) FULL-TIME CDBG/HOME & HOUSING ADMINISTRATOR
POSITION TO THE AUTHORIZED STAFFING OF THE PLANNING &
COMMUNITY DEVELOPMENT DEPARTMENT AS PART OF A
REORGANIZATION

SUMMARY:

A review of ways to enhance operational efficiency related to development and housing activities has been underway within the Housing & Citizen Services and Planning & Community Development Departments.

There are unique opportunities to improve communication and coordination of programs and maximize resources in support of both housing and community development missions. Consequently, a reorganization plan has been developed to implement several changes. This reorganization will include changes in reporting structure for all staff currently assigned to the Housing & Citizen Services Department to a new division focused on housing program activities within the Planning & Community Development Department.

This ordinance is designed to accomplish the desired staffing changes associated with the reorganization which includes the addition of a new position – CDBG/HOME & Housing Administrator.

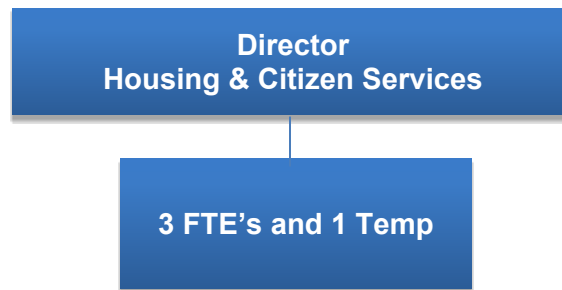
PREVIOUS COUNCIL ACTION:

On December 27, 2022, Ordinance No. 10363 was approved by City Council. This Ordinance provided authorized staffing for Fiscal Year 2023.

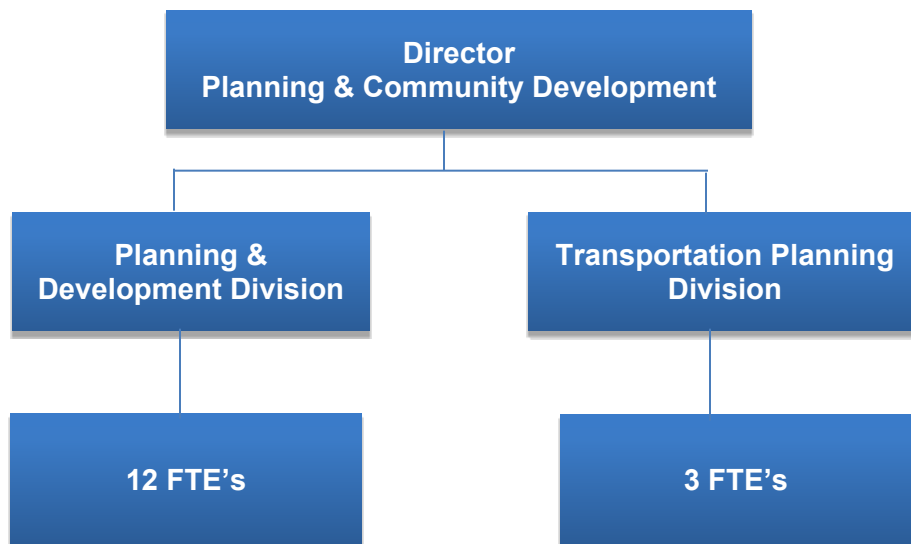
BACKGROUND:

An operational review revealed that there are complimentary responsibilities that intersect in both the Housing & Citizen Services and Planning & Community Development Departments. It has become apparent that there is an opportunity to reorganize both departments in order to streamline and enhance both the efficiency and efficacy of services. With the passage of recent legislation which will greatly broaden available funding to address critical housing issues in the community, the time is right to make these changes.

Current Organizational/Functional Chart – Housing & Citizen Services Department

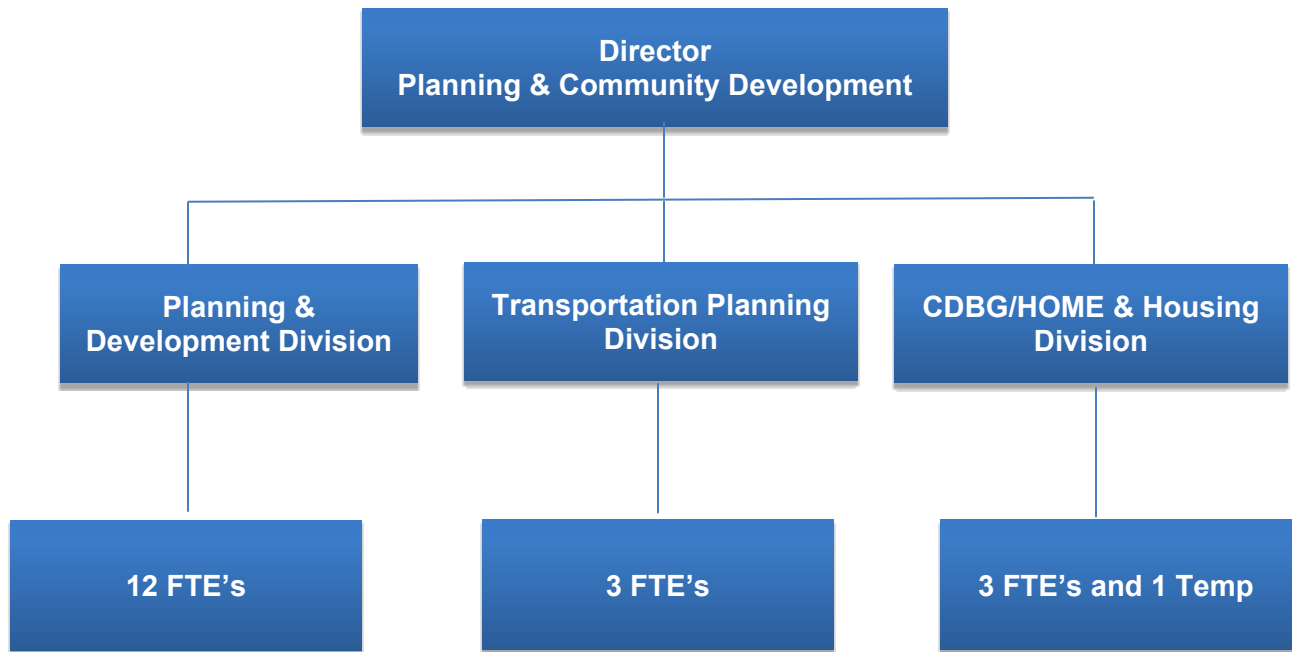


Current Organizational/Functional Chart – Planning & Community Development



Reorganization and Reporting Changes

The reorganization will include movement of all Housing & Citizen Services staff to the new division of CDBG/HOME & Housing within the Planning & Community Development Department. Below is the organization/functional chart following the implementation of the reorganization plan:



City Administration, Housing and Planning & Community Development leadership are confident that this reorganization will improve service delivery and enhance coordination efforts between both functional areas.

Staffing Changes

With changes accomplished through a related ordinance which amends various provisions of the Pueblo Municipal Code, some of the duties and director level authorities currently associated with the Housing & Citizen Services Director will be transferred and performed by the Planning & Community Development Director. This change will streamline coordination on major initiatives and projects and will centralize oversight. As the Housing & Citizen Services Department will no longer be a department, but rather a division, there is no need for two directors.

Therefore, a CDBG/HOME & Housing Administrator is the proposed new position within this staffing ordinance. This position will provide management of the housing program staff and will serve as the administrator of Community Development Block Grant (CDBG), HOME, CDBG-CV and ARPA HOME grant activities. The funding associated with the Housing & Citizen Services Director position will be reallocated to fund this position with the director level position abolished once the new position is filled.

In summary, this ordinance creates one new position, the CDBG/HOME & Housing Administrator.

FINANCIAL IMPLICATIONS:

The staffing change results in an estimated annual savings of \$4,209.

Classification	Funding	Annual Cost
Housing & Citizen Services Director	Grant	(\$153,811)
CDBG/HOME & Housing Administrator	Grant	\$149,602
<u>Annual Difference</u>		<u>(\$4,209)</u>

BOARD/COMMISSION RECOMMENDATION:

Not Applicable.

STAKEHOLDER PROCESS:

Not Applicable.

ALTERNATIVES:

The no action alternative would be to retain current staffing levels and classifications. The suggested change represents a more efficient and effective way to accomplish the objectives of the City's housing program and will facilitate the reorganization of the two departments.

RECOMMENDATION:

Approval of the Ordinance.

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ORDINANCE NO. _____

AN ORDINANCE AMENDING THE FISCAL YEAR 2022
STAFFING ORDINANCE BY ADDING ONE (1) FULL-TIME
CDBG/HOME & HOUSING ADMININSTRATOR POSITION
TO AUTHORIZED STAFFING OF THE PLANNING &
COMMUNITY DEVELOPMENT DEPARTMENT AS PART
OF A REORGANIZATION

WHEREAS, it is necessary to revise the positions for the ultimate efficiency and
functionality for delivering public works and stormwater services to the community; NOW
THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that: (brackets indicate matter
being deleted, underscore indicates matter being added)

SECTION 1.

The following sections captioned “Housing & Citizen Services”, and “Planning &
Community Development” of Ordinance No. 10363, the 2023 Staffing Ordinance, shall be
amended as follows:

Housing and Citizen Services

Director of Housing and Citizen Services	1
Housing/Community Development Coordinator II	1
Community Development Specialist	1
Program Coordinator – Housing	1
Administrative Technician	1
Total	5]

Planning & Community Development

Director of Planning & Community Development	1
<u>Director of Housing & Citizen Services</u>	<u>1</u>
Assistant Mayor/Community Investment	1
Administrative Technician	[1]2
<u>CDBG/HOME & Housing Administrator</u>	<u>1</u>
<u>Community Development Specialist</u>	<u>1</u>
<u>Housing/Community Development Coordinator II</u>	<u>1</u>
Land Use Technician	2
MPO Manager	1
Office Assistant	1
Planner	3
Principal Planner	1
<u>Program Coordinator/Housing</u>	<u>1</u>
Senior Planner	3
Transportation Planning Technician	1

Total	[15] 21
--------------	----------------

SECTION 2.

Effective on the date the CDBG/HOME & Housing Administrator position is filled but not later than December 31, 2023, the position of Director Housing & Citizen Services will be abolished, and the 2023 Staffing Ordinance shall be amended as follows:

<u>Planning & Community Development</u>	
Director of Planning & Community Development	1
[Director of Housing & Citizen Services	1]
Assistant Mayor/Community Investment	1
Administrative Technician	2
CDBG/HOME & Housing Administrator	1
Community Development Specialist	1
Housing/Community Development Coordinator II	1
Land Use Technician	2
MPO Manager	1
Office Assistant	1
Planner	3
Principal Planner	1
Program Coordinator/Housing	1
Senior Planner	3
Transportation Planning Technician	1
Total	[21] 20

SECTION 3.

The officers and staff of the City are directed and authorized to perform any and all acts consistent with the intent of this Ordinance to effectuate and transactions described therein.

SECTION 4.

This Ordinance shall be deemed to amend the Fiscal Year 2022 Budget and staffing with respect to the number and allocation of positions within the Stormwater Department and 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 November 13, 2023

Final adoption of Ordinance by City Council on November 27, 2023.

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: November 13, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Marisa Pacheco, Director Human Resources
Scott Hobson, Acting Director Planning and Community Development

SUBJECT: AN ORDINANCE AMENDING SECTION 6-5-16 OF CHAPTER 5, OF TITLE VI OF THE PUEBLO MUNICIPAL CODE RELATING TO THE FY 2023 CLASSIFICATION AND PAY PLAN BY ESTABLISHING THE PAY SCALE FOR CDBG/HOME & HOUSING ADMINISTRATOR

SUMMARY:

Attached for consideration is an amended Pay Plan Ordinance that reflects the addition of the pay rate and salary schedule for the classification of CDBG/HOME & Housing Administrator. The position will be funded through federal housing program grants, specifically CDBG/HOME/CDBG-CV and ARPA HOME.

PREVIOUS COUNCIL ACTION:

On December 27, 2022, Ordinance No.10365 was approved by City Council. This Ordinance provided the classification and pay plan for fiscal year 2023.

BACKGROUND:

Planning & Community Development Department desires to add a full-time position to perform the compliance, coordination and administrative activities associated with the Community Development Block Grant, HOME Grant, and other housing activities within a newly established division within the department. The new classification title will be CDBG/HOME & Housing Administrator. The creation of this position is part of a reorganization in which the Housing & Citizen Services Department will be dissolved and reestablished as a division within the Planning & Community Development Department.

This position will be a classified, non-bargaining position within the City and subject to all Civil Service rules with respect to hiring.

FINANCIAL IMPLICATIONS:

There is no required additional funding for 2023 as costs associated with the position with anticipated salary savings in the amount of approximately \$4,209 on an annual basis.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

Not Applicable.

ALTERNATIVES:

The suggested change establishes the 2023 salary range for the classification of CDBG/HOME & Housing Administrator. If this ordinance is not approved, and assuming the establishment of the CDBG/HOME & Housing Administrator position is approved, no salary range will be associated with the classification and the position cannot be filled.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO.

AN ORDINANCE AMENDING SECTION 6-5-16 OF CHAPTER 5, OF TITLE VI OF THE PUEBLO MUNICIPAL CODE RELATING TO THE FY 2023 CLASSIFICATION AND PAY PLAN BY ESTABLISHING THE PAY SCALE FOR CDBG/HOME & HOUSING ADMINISTRATOR

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:
SECTION 1.

Section 6-5-16 (A) of Chapter 5, of Title VI, of the Pueblo Municipal Code referencing the Fiscal Year 2023 pay scale for the classification of CDBG/HOME & Housing Administrator is established and enacted as follows:

6-5-16. Schedule, classification, work week and monthly salary.

The following shall constitute:

B. The monthly pay range for the classification of CDBG/HOME & Housing Administrator in 2023

<i>CLASS TITLE</i>	<i>BASE SALARY</i>	<i>MERIT PAY RANGES GRANTED UNDER SECTION 6-5-1(B)</i>					
(B) ADMINISTRATIVE							
CDBG/HOME &; Housing Administrator	7173.83	7416.44	7698.97	7960.79	8220.99	8489.13	8766.87

SECTION 2.

The officers and staff of the City are directed and authorized to perform any and all acts consistent with the intent of this Ordinance to effectuate and transactions described therein.

SECTION 3.

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: November 13, 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 ACCEPTING FUNDS IN THE AMOUNT OF \$25,075 FROM HOUSING AUTHORITY OF THE CITY OF PUEBLO, FOR COSTS ASSOCIATED WITH THE ASPHALT OVERLAY ON SPRAGUE AVENUE, AND BUDGETING AND APPROPRIATING SAID FUNDS TO ACCOUNT PROJECT CI2309 - ROAD & STREET REPAIRS

SUMMARY:

The attached Ordinance will accept funds in the amount of \$25,075.00 from Housing Authority of the City of Pueblo to cover its share of the cost associated with asphalt overlay work on Sprague Avenue between Prairie Avenue and Alma Street. The Ordinance also budgets and appropriates those funds into account Project CI2309 - Road & Street Repairs.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

As part of its current townhome construction project, Housing Authority of the City of Pueblo performed utility upgrade work on Sprague Avenue and was obligated to perform pavement repairs on the northern half of Sprague Avenue between Alma Street and Prairie Avenue. With the recent paving project on Prairie Avenue being performed by the City's Public Works Department, the City of Pueblo was able to perform additional pavement work on this short segment of Sprague Avenue by adding it to the Prairie Avenue project scope. To avoid having to pay for unnecessary traffic control, contractor mobilization, and other project costs, Housing Authority of the City of Pueblo agreed to contribute its share of the cost in exchange for the City of Pueblo performing the additional work.

FINANCIAL IMPLICATIONS:

Funds in the amount of \$25,075.00 will be budgeted and appropriated into project account Project CI2309 - Road & Street Repairs.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Failure to approve this Ordinance will prevent the City from receiving the funds from Housing Authority of the City of Pueblo.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO.

AN ORDINANCE ACCEPTING FUNDS IN THE AMOUNT OF \$25,075 FROM HOUSING AUTHORITY OF THE CITY OF PUEBLO, FOR COSTS ASSOCIATED WITH THE ASPHALT OVERLAY ON SPRAGUE AVENUE, AND BUDGETING AND APPROPRIATING SAID FUNDS TO ACCOUNT PROJECT CI2309 - ROAD & STREET REPAIRS

WHEREAS, as part of its current townhome construction project, Housing Authority of the City of Pueblo performed excavation work on Sprague Avenue between Alma Avenue and Prairie Avenue within the City of Pueblo and was obligated to perform pavement repairs to a portion of Sprague Avenue that was damaged by the excavation work; and,

WHEREAS, the City of Pueblo was performing paving work on Prairie Avenue, adjacent to Housing Authority's of the City of Pueblo project site, and was able to add the Housing Authority's of the City of Pueblo work to the City's project scope; and,

WHEREAS, Housing Authority of the City of Pueblo agreed to reimburse the City of Pueblo for its proportional share of the cost to repair the pavement on that segment of Sprague Avenue; NOW, THEREFORE,

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

SECTION 1.

Funds in the amount of \$25,075.00 are hereby accepted from Housing Authority of the City of Pueblo.

SECTION 2.

Accepted funds in the amount of \$25,075.00 shall be budgeted and appropriated to account Project CI2309 - Road & Street Repairs.

SECTION 3.

The officers and staff 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: November 13, 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 A TIME EXTENSION FOR THE RECORDING OF A VACATION PLAT FOR THE BLUFFS MULTIFAMILY HOUSING DEVELOPMENT PROJECT AND AMENDING ORDINANCE NUMBER 10322 TO CONFORM THERETO

SUMMARY:

This Ordinance will extend the period allowed for recording the vacation plat approved under Ordinance No. 10322 related to the Bluffs Multifamily Housing Development project through December 31, 2024.

PREVIOUS COUNCIL ACTION:

Ordinance No. 10322, approved on November 17, 2022, approved a vacation plat related to the development of the Bluffs Multifamily Housing Development and provided a period of one year from the date that ordinance was approved to record the associated vacation plat.

BACKGROUND:

The period granted for recording the vacation plat approved by Ordinance No. 10322 will be extended through December 31, 2024.

FINANCIAL IMPLICATIONS:

None.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

Failure to approve this Ordinance will preclude the City from being able to record the vacation plat that was approved under Ordinance No. 10322.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO.

AN ORDINANCE APPROVING A TIME EXTENSION FOR THE
RECORDING OF A VACATION PLAT FOR THE BLUFFS
MULTIFAMILY HOUSING DEVELOPMENT PROJECT AND
AMENDING ORDINANCE NUMBER 10322 TO CONFORM
THERE TO

WHEREAS, Ordinance No. 10322 approved the vacation of portions of Pearl Street, Burdette Avenue, and Sumner Avenue with the condition that the vacation plat must be recorded within one year of the date of approval of said Ordinance unless a time extension is granted by an Ordinance of City Council; and

WHEREAS, the developer has requested a time extension for the period allowed to record the vacation plat through December 31, 2024; and

WHEREAS, City staff have reviewed the developer's request and do not object to the request; NOW THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:
SECTION 1.

Section 3 of Ordinance No. 10322 is amended to read as follows:

This Ordinance shall be approved but shall not become effective until the final vacation plat is recorded in the office of the Pueblo County Clerk and Recorder. If the vacation plat is not recorded on or before December 31, 2024, or within any extended period granted by Ordinance of the City Council, this Ordinance shall automatically be rescinded and repealed thirty (30) days after written notice of such rescission and repeal is given to the applicant. No vested rights shall accrue to the subdivision or be acquired until this Ordinance becomes effective.

SECTION 2.

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

SECTION 3.

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: November 13, 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 AND RATIFYING A SUPPLEMENTAL ENVIRONMENTAL PROJECT AGREEMENT AND APPROVING A MODIFICATION TO SAID AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FOR THE PURPOSE OF DEVELOPING A HOUSEHOLD HAZARDOUS WASTE PROGRAM; AUTHORIZING THE MAYOR TO EXECUTE THE MODIFICATION; ACCEPTING FUNDS IN THE AMOUNT OF \$378,880.00 FROM THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT; AND BUDGETING AND APPROPRIATING SAID FUNDS INTO PROJECT ACCOUNT NO. PL2302 - HOUSEHOLD HAZARDOUS WASTE PROGRAM

SUMMARY:

This proposed ordinance approves and ratifies a Supplemental Environmental Project (SEP) Agreement between the City of Pueblo and the Colorado Department of Public Health and Environment (CDPHE), approves a modification to said Agreement, and authorizes the Mayor to execute the modification. The Supplemental Environmental Project Agreement provides \$378,880 for the establishment of a Household Hazardous Waste collection program, which will be accepted and budgeted and appropriated into Project Account No. PL2302 - Household Hazardous Waste Program.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The City has entered into a SEP Agreement which will provide funding for the establishment of a Household Hazardous Waste program. This project will provide Pueblo residents with a public facility to safely and cost-effectively dispose of items

such as household cleaners, pesticides, fertilizers, automotive fluids, fluorescent light bulbs, paints, batteries, and other common household waste items. The program would divert these hazardous wastes from local landfills and offer an easy alternative to illegal dumping that has become pervasive in this area. Funds provided under the program will be used to procure and install a prefabricated household hazardous waste storage building at the Pueblo RecycleWorks facility on Stockyard Road; fund the disposal of collected Household Hazardous Waste items; procure materials, supplies, and equipment necessary to operate the program; and provide necessary safety training for employees.

FINANCIAL IMPLICATIONS:

The City will accept funds from CDPHE in the amount of \$388,870.00 and budget and appropriate said funds into Project Account No. PL2302 - Household Hazardous Waste Program.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

Failing to approve this Ordinance will preclude the City of Pueblo from accepting the funds from CDPHE and prevent the establishment of the Household Hazardous Waste program.

RECOMMENDATION:

Recommend approval of this Ordinance.

ATTACHMENTS:

1. Pueblo_Bechtell_HHW_SEPAgreement
2. DRAFT MOD - Pueblo_Bechtell_HHW_SEPMod#1 (v2)

ORDINANCE NO.

AN ORDINANCE APPROVING AND RATIFYING A SUPPLEMENTAL ENVIRONMENTAL PROJECT AGREEMENT AND APPROVING A MODIFICATION TO SAID AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT FOR THE PURPOSE OF DEVELOPING A HOUSEHOLD HAZARDOUS WASTE PROGRAM; AUTHORIZING THE MAYOR TO EXECUTE THE MODIFICATION; ACCEPTING FUNDS IN THE AMOUNT OF \$378,880.00 FROM THE COLORADO DEPARTMENT OF PUBLIC HEALTH AND ENVIRONMENT; AND BUDGETING AND APPROPRIATING SAID FUNDS INTO PROJECT ACCOUNT NO. PL2302 - HOUSEHOLD HAZARDOUS WASTE PROGRAM

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

SECTION 1.

The Supplemental Environmental Project (SEP) Agreement between the City of Pueblo, a Municipal Corporation, and the Colorado Department of Public Health and Environment, relating to the provision of funds for the establishment of a Household Hazardous Waste collection program, a copy of which is attached hereto, is hereby ratified and approved subject to approval of the Modification to the SEP Agreement as set forth in Section 2 of this Ordinance.

SECTION 2.

The Modification to the SEP Agreement between the City of Pueblo, a Colorado Municipal Corporation, and the Colorado Department of Public Health and Environment, relating to the provision of funds for the establishment of a Household Hazardous Waste collection program, a copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved.

SECTION 3.

The Mayor is authorized to execute and deliver the modification to the SEP Agreement in the name of the City.

SECTION 4.

Project No. PL2302 - Household Hazardous Waste Program is hereby established and funds received from the Colorado Department of Public Health and Environment in the amount of \$378,880.00 are hereby accepted and budgeted and appropriated into said project account.

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. Furthermore, all actions previously taken by officers and staff of the City consistent with the agreement are hereby ratified.

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



Third Party Supplemental Environmental Project (SEP) Agreement

Third Party Liable (Revised 9/21/2022)

Document is completed by the third party SEP administrator.

The third party SEP administrator, identified below, submits the following SEP agreement proposal to the Colorado Department of Public Health and Environment (the department) for consideration. If the application is approved, it shall be signed by appropriate representatives of the department. If the approved document is then signed by the applicant, it shall serve as the SEP agreement for the project(s) at issue.

Enforcement action information

Regulated entity name: The Pueblo Chemical Agent Destruction Pilot Plant (PCAPP)
Enforcement case no.: 22-05-10-01 & 22-05-10-02

Third party SEP administrator

Andrew Hayes, PE
City of Pueblo
Director of Public Works
211 E D St.
Pueblo, CO 81003
719-553-2295/2267
ahayes@pueblo.us

Type of organization

Government

Department SEP coordinator

Elizabeth Scherer
720-515-0236
Elizabeth.scherer@state.co.us

Geographic area served

City of Pueblo; Pueblo County

SEP category

Pollution Prevention

Project title

Pueblo Household Hazardous Waste Year-Round Collection Facility

Project summary

This SEP will help develop a Household Hazardous Waste (HHW) program to include storage, training, equipment and safe transport services for all of Pueblo County. The facility would operate year-round for the benefit of residents throughout the County, allowing Pueblo to expand its waste diversion services to citizens. The HHW collection center will be located at the existing RecycleWorks facility at 1595 Stockyard Road, Pueblo, CO.

Project description

Problem Statement: Residents within Pueblo County have no options for disposing of household hazardous waste items. When “improperly” disposed of, these items end up in local landfills. When improperly disposed of these wastes present serious risks to the environment and negatively impact the health and safety of residents.

Project goals and objectives: This project will provide Pueblo residents with a public facility to safely and cost-effectively dispose of items such as household cleaners, pesticides, fertilizers, automotive fluids, fluorescent light bulbs, paints, batteries, and other common household waste items. The program would divert these hazardous wastes from local landfills and offer an easy alternative to illegal dumping that has become pervasive in this area.

Project tasks and activities and construction scope: RecycleWorks is an already established recycling center that will provide expanded services to include acceptance of household hazardous waste with this funding. The proposed facility would be a prefabricated 10 x 40 building specifically built to hold household hazardous materials that would be equipped with fire detection/alarm/suppression systems. Within the existing footprint of RecycleWorks the plans would need to be redrawn to accommodate a new layout to support a permanent Concrete slab that could house the prefabricated building. Minimal exterior site improvements would be required as the RecycleWorks site is already surrounded by an 8-foot chain-link fence with two vehicle access gates and a paved parking area. The city currently has one full-time and two part-time staff members that operate and maintain the RecycleWorks operation. This SEP will fund and train one other part-time position to operate the HHW work. It is envisioned that the City would contract with a hazardous waste disposal company to collect, transport, and dispose of all waste streams collected under the HHW program in a way that ensures the facility continues to operate in compliance with state laws and regulations related to municipal household hazardous waste collection operations. Required changes to the full- and part-time staffing of the entire operation (RecycleWorks and HHW collection) would be evaluated to ensure sufficient resources are allocated and personnel assigned to facilitate sustained operation of the facility.

Need for the project in the community: There is no current option for residents seeking to dispose of household hazardous waste items other than through normal residential solid waste collections. There are also limited recycling options available within the city and the combined benefit of having both services available at one location is a critical step forward in improving and protecting the environment in Pueblo. The city has long sought opportunities to be able to expand its waste diversion programs to include the establishment of a HHW collection program. This project would allow that vision to become a reality and Pueblo citizens will reap the benefits for generations to come.

The Pueblo Department of Public Health and Environment (PDPHE) would assist with the integration of solid waste diversion programs for both the City of Pueblo and Pueblo County, provide education and outreach support for the expanded service offerings, and work with the city during the permitting, design, and implementation phase of the HHW project. PDPHE will also be a partner in sustaining the continued operation of the HHW program. The City of Pueblo will provide the property and daily labor to run the HHW collection.

The nearest household hazardous waste disposal/collection facility is in El Paso County, approximately 45 minutes north of the City of Pueblo, but the facility is only open to El Paso County residents. There are a few commercial hazardous waste disposal facilities in the area, but many do not accept residential waste streams and those that do are not generally cost-effective options for residents.

Since the SEP would be used to fund the permanent setting for HHW by using a prefabricated building, the construction effort would be limited because demolition and construction cost will not be required.

Project work plan

Please specify project activities or deliverables below, as well as completion dates associated with project milestones and reports. Status reports are required biannually for projects 1 year in duration or longer. For projects under one year, a status report is required approximately half way through the project. Add rows as needed.

Activities / Deliverables	Staff responsible	Due date
SEP Payment from Regulated Entity to Third Party SEP Administrator	Todd Ailes - Project Manager Bechtel National, Inc.	Within 30 days of the effective date of the Consent Order
Proposed implementation start date	City of Pueblo	March 1, 2023
Hire and train 0.5 FTE staff	City of Pueblo	Ongoing through 12/31/2025
Start bid process for HHW transportation vendor	City of Pueblo	March 1, 2023
Biannual status report due	City of Pueblo	May 1, 2023

Construct concrete slab (provide photos)	City of Pueblo	June 30, 2023
Procure Safety PPE, storage totes, etc.	City of Pueblo	June 30, 2023
Procure and install HHW Storage Building (Provide photos)	City of Pueblo	July 31,2023
Award Vendor for HHW transportation	City of Pueblo	July 31,2023
HHW Collection Start	City of Pueblo	August 31, 2023
Biannual status report due	City of Pueblo	November 1, 2023
Biannual status report due	City of Pueblo	May 1, 2024
Biannual status report due	City of Pueblo	November 1, 2024
Biannual status report due	City of Pueblo	May 1, 2025
Project completion date	City of Pueblo	December 31, 2025
SEP completion report due	City of Pueblo	December 31, 2025

Expected environmental and/or public health measures/results

When completed the updated RecycleWorks facility will integrate HHW collections services for County residents as well as City residents. This new addition will allow for items such as household cleaners, pesticides, fertilizers, automotive fluids, fluorescent light bulbs, paints,

batteries, and other common household waste items to be disposed of safely. When these items are improperly disposed of, they present serious risks to the environment and negatively impact the health and safety of residents. City and County residents currently have no reasonable options for disposing of these items other than through residential waste disposal methods which ultimately end up in the local landfill. PDPHE will track and report all HHW that is diverted by this new program.

Project budget

Complete the summary table below and itemize expenses according to the budget categories provided. Add lines as necessary. Documentation of all expenditures is required as part of the completion report.

Category	Description	SEP funds	Matching funds (if applicable)	Total cost
Personnel - salaries, wages (including rates and # of hrs.)	.5 FTE Staffing for HHW collection for normal operating hours. 1040 hours x 3yrs @ \$17 per hr.	\$53,040.00		\$53,040.00
	40 HAZWOPER training	\$500.00		\$500.00
Materials and supplies	PPE Gloves, Boots, Eye Protection, P-100 Face mask, Chemical Spill Kit,	\$1,000.00		\$1,000.00
	Tote boxes for chemical separation	\$1,000.00		\$1,000.00
Equipment	Prefabricated 10x40 Chemical storage building (See Attachments B.1 and B.2)	\$88,400.00		\$88,400.00
Contractors / subcontractors	HHW vendor for pick up and disposal x 3yr contract	\$205,000.00		\$205,000.00
	Construction of 10x40 concrete pad for prefabricated building.	\$11,500.00		\$11,500.00
	Fire Alarm Panel Installation and System Commissioning	\$9,000.00		\$9,000.00
Other Direct Costs	Transportation of prefabricated building from California	\$7,680.00		\$7,680.00
	Large forklift rental to placement of prefabricated building	\$1,760.00		\$1,760.00
Totals:		\$378,880.00		\$378,880.00

Please note: Any categorical changes exceeding 10% of the total budget require prior written approval from CDPHE through a SEP Modification.

Budget discussion

The estimated project budget of \$378,880 would provide set up and implementation for the first three years with the SEP. The City of Pueblo will provide additional funding and support required to continue program after the 3-year contract with the transportation hauler and staffing. PDPHE will continue to promote and educate all citizens of Pueblo County about proper HHW disposal.

Other relevant information

If the SEP is awarded to the City of Pueblo, The Pueblo Department of Public Health and Environment will transfer all funds to the City of Pueblo for the administration of the proposed project (Attachment C). SEP funds will be used to obtain the program resources and operate the household hazardous waste collection program as specified in the “Project Budget” section above. See Attachment A (City Letter) for additional information.

Photos or maps related to the project:



Reporting requirements

Biannual status reports

The SEP administrator will submit a biannual project status report to the department’s SEP coordinator. Status reports will include, at a minimum, the following information and be submitted using the department’s status report form:

- A description of activities completed to date;
- A budget summary table listing funds expended to date by budget category; and
- A discussion of any anticipated changes to the project scope or timeline.

SEP completion report

The SEP administrator will submit a SEP completion report to the department's SEP coordinator within 30 days of project completion and contain at a minimum:

- A detailed description of the project as implemented;
- A summary table identifying project deliverables and tasks along with the associated completion date;
- A description of any operating problems encountered and the solutions thereto;
- A full expense accounting including itemized costs, documented by copies of purchase orders, contracts, receipts or canceled checks;
- Certification and demonstration that the SEP has been fully implemented pursuant to the provisions of the settlement agreement and this SEP agreement;
- A description of the environmental and public health benefits resulting from implementation of the SEP along with **quantification** of the outcomes and benefits;

Additional information will include:

- Examples of brochures, educational or outreach materials developed or produced as part of the SEP; and
- Photographs documenting the project.

Third party SEP administrator conditions and requirements

Only qualified tax-exempt 501(c)(3) nonprofits or governmental organizations are eligible to serve as the SEP administrator. The SEP administrator agrees to the following SEP conditions and requirements:

- I. Maintain the SEP funds paid by the regulated entity in an independent SEP account and draw funds from the account as-needed for the purposes outlined in this SEP agreement.
- II. Communicate issues and concerns related to the SEP promptly to the department SEP coordinator.
- III. If the SEP administrator elects to publicize the name of a violator in connection with the SEP either orally or in writing, the SEP administrator must also include the following statement: *"This project was undertaken in connection with the settlement of an enforcement action taken by the Colorado Department of Public Health and Environment for violations of environmental laws and regulations"*.
- IV. Complete the SEP as described in this SEP agreement
 - a. Any changes to the approved project scope or timeline must receive prior written approval from the department.
 - b. Budget reallocations of up to 10% of the total SEP payment amount may be made without prior authorization. Budget reallocations of over 10% must first receive written prior authorization from the department.
- V. Complete the SEP within the time frame(s) indicated in this SEP agreement. If the SEP administrator is unable to meet the SEP agreement time frame(s) for the completion

of the SEP, the SEP administrator may request a deadline extension in writing from the department no later than 30 days prior to the deadline.

VI. In any of the following situations, all funds remaining in the SEP account shall be released to the department within 30 days of the department's written request:

- a. The SEP administrator fails to complete the project or submit the SEP completion report;
- b. The project has been fully implemented and there are still funds remaining in the SEP account; or
- c. The department terminates the SEP for failure of the third party SEP administrator to adhere to this SEP agreement.

VII. Make available, at the department's request, all records pertaining to the SEP.

- a. The SEP administrator shall maintain a complete file of all records, documents, communications, and other materials that pertain to the operation of the SEP or the delivery of services under the SEP agreement. Such files shall be sufficient to properly reflect all direct and indirect costs of labor, materials, equipment, supplies and services.
- b. The SEP administrator authorizes the department to perform audits and/or inspections of its SEP records, at any reasonable time during the implementation of the project and for a period of one (1) year following the completion of the project.

Failure to adhere to any of the above conditions and requirements may result in the termination of the SEP and/or no further SEP referrals.

This section to be completed in the event of a SEP agreement only

Certification statement

I, Andrew E. Hayes, P.E., Director of Public Works, certify on behalf of City of Pueblo, that City of Pueblo is not required or has not previously committed to perform this project and agrees to the SEP conditions and requirements detailed in this document.



2023.01.30 07:29:10 -07'00'

Signed and dated

Andrew E. Hayes, P.E., Director of Public Works, City of Pueblo

Department use only

This SEP has been reviewed and approved by the Colorado Department of Public Health and Environment.

Kevin Mackey

Digitally signed by Kevin Mackey
Date: 2023.01.27 12:02:13 -07'00'

Signed and dated

Kevin Mackey, Hazardous Waste Permitting Unit Leader
Hazardous Materials and Waste Management Division
Colorado Department of Public Health and Environment

Elizabeth A. Scherer

Digitally signed by Elizabeth A. Scherer
Date: 2023.01.27 08:57:01 -07'00'

Signed and dated

Elizabeth Scherer, Supplemental Environmental Projects Coordinator
Division of Environmental Health & Sustainability
Colorado Department of Public Health and Environment



Third-Party Liable Supplemental Environmental Project (SEP) Modification Request

Third Party Liable (Revised 6/16/2023)

Document is completed by the third-party SEP administrator.

The third-party SEP administrator submits the following SEP modification request to the Colorado Department of Public Health and Environment (the department) for consideration. If the modification is approved, it shall be signed by appropriate representatives of both the SEP administrator and the department and shall serve to modify the existing SEP agreement for the project at issue. All terms of the existing SEP agreement, not directly addressed through the amendment(s) below, remain in full force and effect.

Enforcement action information

Regulated entity name: The Pueblo Chemical Agent Destruction Pilot Plant (PCAPP)

Enforcement case no.: 22-05-10-01 & 22-05-10-02

Third party SEP administrator

Andrew Hayes, Director of Public Works

City of Pueblo

211 E. D Street

Pueblo, CO 81003

719-553-2295

ahayes@pueblo.us

Project title

Pueblo Household Hazardous Waste Year-Round Collection Facility

Basis for modification request

The City of Pueblo requests to modify the “Budget Discussion” section of the current SEP Agreement dated January 30, 2023 as indicated below. The modification is requested to add clarifying language such that the City cannot commit to a debt or multi-fiscal year obligation of future appropriations, and that this will not constitute a default or breach of the agreement. The modification also adjusts the due dates for project benchmarks, but does not extend the overall project completion date beyond the original deadline of 12/31/2025.

SEP agreement sections as modified

Project work plan

Please specify project activities or deliverables below, as well as completion dates associated with project milestones and reports. Status reports are required biannually for projects 1 year

in duration or longer. For projects under one year, a status report is required approximately half way through the project. Add rows as needed.

Activities / Deliverables	Staff responsible	Due date
SEP Payment from Regulated Entity to Third Party SEP Administrator	Todd Ailes - Project Manager Bechtel National, Inc.	Within 30 days of the effective date of the Consent Order
Proposed implementation start date	City of Pueblo	March 1, 2023
Hire and train 0.5 FTE staff	City of Pueblo	Ongoing through 12/31/2025
Start bid process for HHW transportation vendor	City of Pueblo	March 1, 2023 February 1, 2024
Biannual status report due	City of Pueblo	May 1, 2023 May 1, 2024
Construct concrete slab (provide photos)	City of Pueblo	June 30, 2023 March 1, 2024
Award Vendor for HHW transportation	City of Pueblo	April 1, 2024
Procure Safety PPE, storage totes, etc.	City of Pueblo	June 30, 2023 May 1, 2024
Procure and install HHW Storage Building (Provide photos)	City of Pueblo	July 31, 2023 May 1, 2024
Award Vendor for HHW transportation	City of Pueblo	July 31, 2023
HHW Collection Start	City of Pueblo	August 31, 2023 June 1, 2024

Biannual status report due	City of Pueblo	November 1, 2023 November 1, 2024
Biannual status report due	City of Pueblo	May 1, 2024 May 1, 2025
Biannual status report due	City of Pueblo	November 1, 2024 November 1, 2025
Biannual status report due	City of Pueblo	May 1, 2025
Project completion date	City of Pueblo	December 31, 2025
SEP completion report due	City of Pueblo	December 31, 2025

Budget Discussion

The estimated project budget of \$378,880 would provide set up and implementation for the first three years with the SEP. PDPHE will continue to promote and educate all citizens of Pueblo County about proper HHW disposal. **The City of Pueblo will provide additional funding and support required to continue program after the 3-year contract with the transportation hauler and staffing; provided, however, it is expressly recognized that any such additional funding shall not constitute, nor 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 Colorado Constitution or any other constitutional, statutory or charter debt limitation. In the event the budget or other means of appropriations for any such year fails to provide any such additional funding, such failure shall not constitute a default or breach of this Agreement by the City.**

This section to be completed in the event of an approved SEP modification only.

I, Andrew Hayes, Director of Public Works, certify on the behalf of the City of Pueblo that the City of Pueblo approved the above modifications to the SEP Agreement.

Signed and dated
Nicholas A. Gradisar, Mayor
City of Pueblo

Department use only

This SEP modification has been reviewed and approved by the Colorado Department of Public Health and Environment.

Signed and dated

Amy Williams, Hazardous Waste Permitting Unit Leader
Hazardous Materials and Waste Management Division
Colorado Department of Public Health and Environment

Elizabeth Scherer, Supplemental Environmental Projects Coordinator,
Division of Environmental Health & Sustainability
Colorado Department of Public Health and Environment



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 13, 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 ACCOUNT PROJECT PL2306, 8TH STREET BRIDGE REHABILITATION 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: BRO M086-099 (25513) IN THE AMOUNT OF \$105,000, TRANSFERRING \$26,250 FROM ACCOUNT PROJECT CI2204 TO PL2306, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$131,250 AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

This Ordinance creates account Project PL2306 for the 8th Street Bridge Rehab 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 Off-System Bridge Program Grant in the amount of \$105,000.00, transfers funds in the amount of \$26,250.00 for the required 20% match, and budgets and appropriates funds totaling \$131,250.00 for the Project.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

This Ordinance establishes the 8th Street Bridge Rehab account Project PL2306 and approves the grant agreement between the City and CDOT.

The City submitted an Off-System Bridge Program Grant for bridge repairs over Dry Creek. This bridge is a three-span structure that crosses the East Dry Creek and it was

built in 1955 with wooden piles and currently has a sufficiency rating of 67.3. The average daily traffic is 1,341. The substructure rating is 5.

This bridge is one of the City's highest priorities and has been planning its repair/rehabilitation for several years.

The repairs that will be provided include, but are not limited to:

- Cracking and settlement of asphalt
- Potholes and wide D-cracks
- Damage to approach rails
- Exposure of piles at abutment
- Cracks, spalls, and delamination of concrete pier caps
- Exposed, corroded steel reinforcement
- Erosion of embankment
- Charred timber piles
- Wide, deep checking and core rot in piles

FINANCIAL IMPLICATIONS:

The matching funds in the amount of \$26,250.00 are being transferred from account Project CI2204 to PL2306. Funds in the amount of \$131,250.00 shall be budgeted and appropriated for account Project PL2306.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Currently, there are no alternatives for completing the improvements without the funding from the Off-System Bridge Program Grant funds.

RECOMMENDATION:

Approve the Ordinance.

ATTACHMENTS:

1. GRANT CERTIFICATION
2. Complete Draft OLA City of Pueblo (25513) 331003091 Oct 27 2023

ORDINANCE NO.

AN ORDINANCE ESTABLISHING ACCOUNT PROJECT PL2306, 8TH STREET BRIDGE REHABILITATION 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: BRO M086-099 (25513) IN THE AMOUNT OF \$105,000, TRANSFERRING \$26,250 FROM ACCOUNT PROJECT CI2204 TO PL2306, BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$131,250 AND AUTHORIZING THE MAYOR TO EXECUTE SAME

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

SECTION 1.

The 8th Street Bridge Rehab Project PL2306, 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: BRO M086-099 (25513), 8th Street Bridge Rehab 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 \$26,250.00 are hereby transferred from the account Project CI2204 to account Project PL2306, 8th Street Bridge Rehab Project and budgeted and appropriated for the 8th Street Bridge Rehab account Project PL2306.

SECTION 4.

Subject to encumbrances by the Colorado State Department of Transportation (CDOT), and funds from the Off-System Bridge Program Grant BRO M086-099 (25513) in the amount of \$131,250.00 are hereby budgeted and appropriated for the 8th Street Bridge Rehab Project PL2306.

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 _____.

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

GRANT CERTIFICATION

To: Heather Graham, President of the City Council
Nicholas Gradisar, Mayor

Re: Off-System Bridge Program Grant

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

06/13/2023

Date

Title: PW Project Coordinator

STATE OF COLORADO INTERGOVERNMENTAL AGREEMENT

Signature and Cover Page

State Agency Department of Transportation			Agreement Routing Number 23-HA2-XC-00137
Local Agency CITY OF PUEBLO			Agreement Effective Date The later of the effective date or June 01, 2023
Agreement Description Structural repairs to the existing East 8th Street Bridge over Dry Creek.			Agreement Expiration Date May 31, 2033
Project # BRO M086- 099 (25513)	Region # 2	Contract Writer CM	Agreement Maximum Amount \$131,250.00

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: (Nick Gradisar, Mayor) Date: _____	STATE OF COLORADO Jared S. Polis, Governor Department of Transportation Shoshana M. Lew, Executive Director _____ Keith Stefanik, P.E., Chief Engineer Date: _____
2nd State or Local Agency Signature if Needed _____ ATTESTED BY _____ 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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EXHIBIT R, APPLICABLE FEDERAL AWARDS
EXHIBIT S, PII CERTIFICATION
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

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 May 31, 2033, 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 (this insurance requirement only applies if the Subcontractor has or will have access to State Confidential 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 (this insurance requirement only applies if the Subcontractor is providing professional services including but not limited to engineering, architectural, landscape architectural, professional surveying, industrial hygiene services, or any other commonly understood professional service)

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 protected 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, Senior Planner
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: Pueblo 8th Street Bridge Rehab
Project Number: BRO M086-099
SubAccount #: 25513

The local agency shall be responsible for structural repairs to the existing East 8th Street Bridge over Dry Creek (PUE8TH-0.2-UTIC).

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.

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.**

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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: _____
Keith Stefanik, 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: BRO M086-099 (25513)****A. Cost of Work Estimate**

The Local Agency has estimated the total cost the Work to be \$131,250.00, which is to be funded as follows:

1. FUNDING**BRO M086-099 (25513)**

a. Federal Funds (80% of BRO Award)	\$105,000.00
b. Local Agency Funds (20% of Award)	\$26,250.00

TOTAL FUNDS ALL SOURCES	\$131,250.00
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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	\$105,000.00
b. Less Estimated Federal Share of CDOT-Incurred Costs	\$0.00

TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY	80%	\$105,000.00
TOTAL ESTIMATED FUNDING BY LOCAL AGENCY	20%	\$26,250.00

TOTAL PROJECT ESTIMATED FUNDING	100.00%	\$105,000.00
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4. FOR CDOT ENCUMBRANCE PURPOSES

a. Total Encumbrance Amount (Federal funds + Local Agency funds)	\$131,250.00
b. Less ROW Acquisition 3111 and/or ROW Relocation 3109	\$0.00

NET TO BE ENCUMBERED BY CDOT IS AS FOLLOWS	\$131,250.00
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WBS Element 25513.10.30	Performance Period Start*/End Date TBD-TBD	Design 3020	\$0.00
WBS Element 25513.20.10	Performance Period Start*/End Date TBD-TBD	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. Funding Ratios

The funding ratio for the federal funds for this Work is 80% federal funds to 20% Local Agency funds, and this ratio applies only to the \$131,250.00 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 \$131,250.00, and additional federal funds are available for the Work, the Local Agency shall pay 20% 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 \$131,250.00, then the amounts of Local Agency and federal funds will be decreased in accordance with the funding ratio described in **A1. 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 \$105,000.00. For CDOT accounting purposes, the federal funds of \$105,000.00 and the Local Agency funds of \$26,250.00 will be encumbered for a total encumbrance of \$131,250.00, 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. BRO M086-099	STIP No. SR27001.033	Project Code 25513	Region 2
Project Location Pueblo 8th Street Bridge Rehab			Date 5/3/2023
Project Description Pueblo 8th Street Bridge Rehab			
Local Agency Pueblo 8th Street Bridge Rehab	Local Agency Project Manager Kelly Grisham		
CDOT Resident Engineer Lachelle Davis	CDOT Project Manager Don Scanga		
INSTRUCTIONS: This checklist shall be used to establish the contractual administrative responsibilities of the individual parties to this agreement. The checklist becomes an attachment to the Local Agency Agreement. Section numbers (NO.) correspond to the applicable chapters of the <i>CDOT Local Agency Desk Reference (Local Agency Manual)</i>. LAWR numbers correspond to the applicable flowchart in the Local Agency Web Resource. 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, # will denote that CDOT must concur or approve. Tasks that will be performed by Headquarters staff are indicated with an X in the CDOT column under Responsible Party. 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.			

LA WR	NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
			LA	CDOT
		TIP / STIP AND LONG-RANGE PLANS		
	2.1	Review Project to ensure it is consistent with Statewide Plan and amendments thereto		x
		FEDERAL FUNDING OBLIGATION AND AUTHORIZATION		
	4.1	Authorize funding by phases (Requires FHWA concurrence/involvement if Federal-aid Highway funded project.). <i>Please write in "NA", if Not Applicable.</i>		x
		PROJECT DEVELOPMENT		
1	5.1	Prepare Design Data - CDOT Form 463	x	x
	5.2	Determine Delivery Method	x	
	5.3	Prepare Local Agency/CDOT Inter-Governmental Agreement (see also Chapter 3)		x
2	5.4	Conduct Consultant Selection/Execute Consultant Agreement - Project Development - Construction Contract Administration (including Fabrication Inspection Services)	x x	#
3,3A	5.5	Conduct Design Scoping Review Meeting	x	
3,6	5.6	Conduct Public Involvement	x	

LA WR	NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
			LA	CDOT
3	5.7	Conduct Field Inspection Review (FIR)	X	
4	5.8	Conduct Environmental Processes (may require FHWA concurrence/involvement)	X	#
5	5.9	Acquire Right-of-Way (may require FHWA concurrence/involvement)	X	#
3	5.10	Obtain Utility and Railroad Agreements	X	#
3	5.11	Conduct Final Office Review (FOR)	X	
3A	5.12	Justify Force Account Work by the Local Agency	X	#
3B	5.13	Justify Proprietary, Sole Source, or Local Agency Furnished Items	X	#
3	5.14	Document Design Exceptions - CDOT Form 464	X	#
	5.15	Seek Permission for use of Guaranty and Warranty Clauses	X	
3	5.18	Prepare Plans, Specifications, Construction Cost Estimates and Submittals	X	
	5.19	Comply with Requirements for Off-and On-System Bridges & Other Structural Work	X	
	5.20	Update Approvals on PS&E Package if Project Schedule Delayed	X	
	5.21	Ensure Authorization of Funds for Construction		X
	5.22	Use Electronic Signatures	X	X
	5.23	File Project Development Records/Documentation in ProjectWise		X
PROJECT DEVELOPMENT CIVIL RIGHTS AND LABOR COMPLIANCE				
3	6.1	Set Disadvantaged Business Enterprise (DBE) Goals for Consultant and Construction Contracts (CDOT Region Civil Rights Office).		X
	6.2	Determine Applicability of Davis-Bacon Act This project ☐ is ☐ 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 5/30/2023 _____ CDOT Resident Engineer Date		X
	6.3	Set On-the-Job Training Goals (CDOT Region Civil Rights Office) "NA", if Not Applicable		X
	6.4	Enforce Prompt Payment Requirements	X	#
	6.5	Use Electronic Tracking and Submission Systems – B2GNow ☒ LCPtracker ☒	X	#
3	6.6	Prepare/submit Title VI Plan and Incorporate Title VI Assurances	X	#
6,7		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 of CONSTRUCTION PROJECTS				
Federal Project (use 7.1 series in Chapter 7) ☒ Non-Federal Project (Use 7.2 series in Chapter 7) ☐				
6,7		Obtain Approval for Advertisement Period of Less Than Three Weeks;	X	
7		Advertise for Bids	X	
7		Concurrence to Advertise		X
7		Distribute "Advertisement Set" of Plans and Specifications	X	
7		Review Worksite & Plan Details w/ Prospective Bidders While Project Is Under Ad	X	
7		Open Bids	X	
7		Process Bids for Compliance		
		Check CDOT Form 1415 – Commitment Confirmation when the low bidder meets DBE goals. (Please write in "NA", if Not Applicable)		X
		Evaluate CDOT Form 1416 - Good Faith Effort Report and determine if the Contractor has made a good faith effort when the low bidder does not meet DBE goals. "NA", if Not Applicable.		X
		Submit required documentation for CDOT award concurrence	X	#
		Concurrence from CDOT to Award		X
		Approve Rejection of Low Bidder		X
7,8		Award Contract (federal)	X	#

LA WR	NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
			LA	CDOT
8		Provide "Award" and "Record" Sets of Plans and Specifications (federal)	x	
		CONSTRUCTION MANAGEMENT		
8	Intro	File Project Construction Records/Documentation in ProjectWise or as directed	x	
8	8.1	Issue Notice to Proceed to the Contractor	x	
8	8.2	Project Safety	x	
8	8.3	Conduct Conferences:		
		Pre-construction Conference (Appendix B) • Fabrication Inspection Notifications	x	
		Pre-survey • Construction staking • Monumentation	x x	
		Partnering (Optional)	x	#
		Structural Concrete Pre-Pour (Agenda is in <i>CDOT Construction Manual</i>)	x	
		Concrete Pavement Pre-Paving (Agenda is in <i>CDOT Construction Manual</i>)	x	
		HMA Pre-Paving (Agenda is in <i>CDOT Construction Manual</i>)	x	
8	8.4	Develop and distribute Public Notice of Planned Construction to media and local residents	x	
9	8.5	Supervise Construction		
		A Professional Engineer (PE) registered in Colorado, who will be "in responsible charge of construction supervision." Charles Roy <u>719-553-2771</u> Local Agency Professional Engineer or CDOT Resident Engineer Phone number	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 (including projects with structures)	x	
		Fabrication inspection and documentation	x	
9	8.6	Review and Approve Shop Drawings	x	#
9	8.7	Perform Traffic Control Inspections	x	
9	8.8	Perform Construction Surveying	x	
9	8.9	Monument Right-of-Way	x	
9,9A	8.10	Prepare and Approve Interim and Final Contractor Pay Estimates. Collect and review CDOT Form 1418 (or equivalent) or use compliance software system. Provide the name and phone number of the person authorized for this task. Kelly Grisham <u>719-553-2254</u> Local Agency Representative Phone number	x	
9	8.11	Prepare and Approve Interim and Final Utility and Railroad Billings	x	
9B	8.12	Prepare and Authorize Change Orders	x	#
9B	8.13	Submit Change Order Package to CDOT	x	
9A	8.14	Prepare Local Agency Reimbursement Requests	x	
9	8.15	Monitor Project Financial Status	x	#
9	8.16	Prepare and Submit Monthly Progress Reports	x	
9	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 <u>719-553-5434</u> CDOT Resident Engineer Phone number		x
9	8.19	Ongoing Oversight of DBE Participation	x	

LA WR	NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
			LA	CDOT
		MATERIALS		
9,9C	9.1	Discuss Materials at Pre-Construction Meeting • Buy America documentation required prior to installation of steel	x	
9,9C	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
9C	9.3	Perform Project Acceptance Samples and Tests	x	
9C	9.4	Perform Laboratory Acceptance Tests	x	
9C	9.6	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	# #
9C	9.6	Approve Sources of Materials	x	
9C	9.7	Independent Assurance Testing (IAT) Local Agency Procedures ☐ CDOT Procedures ☒ • Generate IAT schedule • Schedule and provide notification • Conduct IAT	x x	x
9C	9.8	Approve mix designs • Concrete • Hot mix asphalt	x x	# #
9C	9.9	Check Final Materials Documentation	x	#
9C	9.10	Complete and Distribute Final Materials Documentation	x	#
		CONSTRUCTION CIVIL RIGHTS AND LABOR COMPLIANCE		
9	10.1	Fulfill Project Bulletin Board and Pre-Construction Packet Requirements	x	
8,9	10.2	Process CDOT Form 205 - Sublet Permit Application and CDOT Form 1425 - Supplier Application Approval Request. Review & sign completed forms, or review/approve in compliance software system, as applicable, & submit to Region Civil Rights Office.	x	#
9	10.3	Conduct Equal Employment Opportunity and Labor Compliance Verification Employee Interviews. Complete CDOT Form 280	x	
9	10.4	Monitor Disadvantaged Business Enterprise Participation to Ensure Compliance with the "Commercially Useful Function" Requirements	x	
9	10.5	Conduct Interviews When Project Utilizes On-the-Job Trainees. • Complete CDOT Form 1337 - Contractor Commitment to Meet OJT Requirements. • Complete CDOT Form 838 - OJT Trainee / Apprentice Record. • Complete CDOT Form 200 - OJT Training Questionnaire	x x x	
9	10.6	Check Certified Payrolls (Contact the Region Civil Rights Office for training reqmts.)	x	#
9	10.7	Submit FHWA Form 1391 - Highway Construction Contractor's Annual EEO Report	x	
	10.8	Contract Compliance and Project Site Reviews		x
		FINALS		
	11.1	Conduct Final Project Inspection & Final Inspection of Structures, if applicable		x
10	11.2	Write Final Project Acceptance Letter	x	
10	11.3	Advertise for Final Settlement	x	
11	11.4	Prepare and Distribute Final As-Constructed Plans	x	
11	11.5	Prepare EEO Certification and Collect EEO Forms	x	#
11	11.6	Check Final Quantities, Plans, and Pay Estimate; Check Project Documentation; and submit Final Certifications	x	#

LA WK	NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
			LA	CDOT
11	11.7	Check Material Documentation and Accept Final Material Certification (See Chapter 9)	x	#
	11.8	Review CDOT Form 1419		x
	11.9	Submit CDOT Professional Services Closeout Report Form	x	
	11.10	Complete and Submit CDOT Form 1212 LA – Final Acceptance Report (by CDOT)		x
11	11.11	Process Final Payment		x
	11.12	Close out Local Project	x	
	11.13	Complete and Submit CDOT Form 950 - Project Closure		x
11	11.14	Retain Project Records	x	x
11	11.15	Retain Final Version of Local Agency Contract Administration Checklist	x	

cc: CDOT Resident Engineer/Project Manager
CDOT Region Program Engineer
CDOT Region Civil Rights Office

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. Non-segregated 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. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
- XI. Certification Regarding Use of Contract Funds for Lobbying
- XII. Use of United States-Flag Vessels:

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, United States Code, as required in 23 CFR 633.102(b) (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). 23 CFR 633.102(e).

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. 23 CFR 633.102(e).

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) in accordance with 23 CFR 633.102. 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 solicitation-for-bids or request-for-proposals 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). 23 CFR 633.102(b).

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. 23 CFR 633.102(d).

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. 23 U.S.C. 114(b). The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A 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 Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), 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 Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), 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 Part 230, Subpart A, 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 (see 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 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 Part 35 and 29 CFR Part 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. 23 CFR 230.409 (g)(4) & (5).

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, sexual orientation, gender identity, 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 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 or other knowledgeable company official.

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, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to ensure 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:

a. 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.

b. 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).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. 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. 23 CFR 230.409. 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, sexual orientation, gender identity, 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, sexual orientation, gender identity, 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 thereunder. 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, sexual orientation, gender identity, 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, 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. Assurances Required:

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

b. The contractor, subrecipient 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 recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

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 more than \$10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, 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, sexual orientation, gender identity, 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), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway

Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

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 (29 CFR 5.5)

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, 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 Administrator for determination. The 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 (29 CFR 5.5)

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 (29 CFR 5.5)

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. 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 29 CFR 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), 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 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 18 U.S.C. 1001 and 31 U.S.C. 231.

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 (29 CFR 5.5)

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. 23 CFR 230.111(e)(2). 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 as provided in 29 CFR 5.5.

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 as provided in 29 CFR 5.5.

9. Disputes concerning labor standards. As provided in 29 CFR 5.5, 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 (29 CFR 5.5)

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

Pursuant to 29 CFR 5.5(b), 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. 29 CFR 5.5.

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 currently provided in 29 CFR 5.5(b)(2)* 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. 29 CFR 5.5.

* \$27 as of January 23, 2019 (See 84 FR 213-01, 218) as may be adjusted annually by the Department of Labor; pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990).

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. 29 CFR 5.5.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 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. 29 CFR 5.5.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

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" in paragraph 1 of Section VI 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: (based on longstanding interpretation)

- (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. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), 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. Pursuant to 23 CFR 635.116(c), 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. (based on long-standing interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

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 Part 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. 23 CFR 635.108.

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 Part 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). 29 CFR 1926.10.

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 Part 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"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 11, 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 (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)

This provision is applicable to all Federal-aid construction contracts in excess of \$150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.326.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees 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 Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.326.

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. 2 CFR 180.220 and 1200.220.

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. 2 CFR 180.320.

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. 2 CFR 180.325.

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. 2 CFR 180.345 and 180.350.

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, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient 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 recipient or subrecipient 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. 2 CFR 180.330.

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. 2 CFR 180.220 and 180.300.

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. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. 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 System for Award Management website (<https://www.sam.gov/>). 2 CFR 180.300, 180.320, and 180.325.

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 CFR 180.325.

* * * * *

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 CFR 180.335;.

(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, 2 CFR 180.800;

(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, 2 CFR 180.700 and 180.800; 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. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

3. 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). 2 CFR 180.220 and 1200.220.

a. By signing and submitting this proposal, the prospective lower tier participant 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. 2 CFR 180.365.

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, Subpart I, 180.900 – 180.1020, 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 recipient or subrecipient of Federal funds and a participant (such as the prime or general contractor). "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 recipient or subrecipient 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. 2 CFR 1200.220 and 1200.332.

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. 2 CFR 180.220 and 1200.220.

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 System for Award Management website (<https://www.sam.gov/>), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

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.

i. 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. 2 CFR 180.325.

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:

(a) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(b) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(c) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant should 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 Part 20, App. A.

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.

XII. USE OF UNITED STATES-FLAG VESSELS:

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.
2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS (23 CFR 633, Subpart B, Appendix B)**
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.				
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? *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. "Entity" means:
 - 2.1.2.1. a Non-Federal Entity;
 - 2.1.2.2. a foreign public entity;
 - 2.1.2.3. a foreign organization;
 - 2.1.2.4. a non-profit organization;
 - 2.1.2.5. a domestic for-profit organization (for 2 CFR parts 25 and 170 only);
 - 2.1.2.6. a foreign non-profit organization (only for 2 CFR part 170) only);
 - 2.1.2.7. a Federal agency, but only as a Subrecipient under an Award or Subaward to a non-Federal entity (or 2 CFR 200.1); or
 - 2.1.2.8. a foreign for-profit organization (for 2 CFR part 170 only).
 - 2.1.3. "Executive" means an officer, managing partner or any other employee in a management position.
 - 2.1.4. "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.

- 2.1.5. “Federal Awarding Agency” means a Federal agency providing a Federal Award to a Recipient as described in 2 CFR 200.1
- 2.1.6. “Grant” means the Grant to which these Federal Provisions are attached.
- 2.1.7. “Grantee” means the party or parties identified as such in the Grant to which these Federal Provisions are attached.
- 2.1.8. “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.
- 2.1.9. “Nonprofit Organization” means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:
 - 2.1.9.1. Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
 - 2.1.9.2. Is not organized primarily for profit; and
 - 2.1.9.3. Uses net proceeds to maintain, improve, or expand the operations of the organization.
- 2.1.10. “OMB” means the Executive Office of the President, Office of Management and Budget.
- 2.1.11. “Pass-through Entity” means a non-Federal Entity that provides a Subaward to a Subrecipient to carry out part of a Federal program.
- 2.1.12. “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.
- 2.1.13. “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.
- 2.1.14. “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.
- 2.1.15. “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:
 - 2.1.15.1. Salary and bonus;
 - 2.1.15.2. 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;

- 2.1.15.3. 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;
 - 2.1.15.4. Change in present value of defined benefit and actuarial pension plans;
 - 2.1.15.5. Above-market earnings on deferred compensation which is not tax-qualified;
 - 2.1.15.6. 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.
- 2.1.16. “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.
- 2.1.17. “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.
- 2.1.18. “Unique Entity ID” means the Unique Entity ID established by the federal government for a Grantee at <https://sam.gov/content/home>.

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 UNIQUE ENTITY ID (UEI) 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.
- 4.2. UEI. Grantee shall provide its Unique Entity ID to its Prime Recipient, and shall update Grantee’s information in Sam.gov at least annually.

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 Unique Entity ID;
 - 8.1.2.2. Subrecipient Unique Entity ID if more than one electronic funds transfer (EFT) account;
 - 8.1.2.3. Subrecipient parent's organization Unique Entity ID;
 - 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 Unique Entity ID 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 Contract with the Enemy (2 CFR 200.215). Federal awarding agencies and recipients are subject to the regulations implementing “Never Contract 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 E 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
- 15.2.5. 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	✓	✓	✓



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 13, 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 A DEFERRED IMPROVEMENTS AGREEMENT BETWEEN INHABX, LLC, A COLORADO LIMITED LIABILITY COMPANY, AND THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, RELATING TO THE CONSTRUCTION OF PUBLIC IMPROVEMENTS INCIDENTAL TO A REARRANGEMENT OF PROPERTY BOUNDARIES AND AUTHORIZING EXECUTION THEREOF BY THE MAYOR

SUMMARY:

Attached is an Ordinance approving a Deferred Improvements Agreement between InhabX, LLC and the City of Pueblo related to the construction of required public improvements along Pearl Street incident to submission of an application for a rearrangement of property boundaries.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

InhabX, LLC is the owner of properties in the Delavan Place Subdivision and has filed an application for the rearrangement of the property boundaries to combine the existing parcels into one single parcel. In order to ensure the required public improvements for the newly-created lot are installed in a timely manner, the Director of Public Works has conditioned the approval of the rearrangement plat upon InhabX, LLC entering into a Deferred Improvements Agreement with the City which requires the construction of all required public improvements within 180 days of the issuance of a Building Permit or prior to the issuance of a Certificate of Occupancy, whichever occurs first.

FINANCIAL IMPLICATIONS

If InhabX, LLC (or a subsequent property owner) performs its obligations under the

proposed Agreement, there will be no financial implication to the City. Should InhabX fail to comply with the terms and conditions of the Agreement, the City of Pueblo may construct the required public improvements at its expense and recover the construction costs through the assessment of a lien against the property.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

Failing to approve this Ordinance will prevent the City from being able to enter into the Deferred Improvements Agreement with InhabX.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. Bluffs Deferred Improvements Agreement (231108)

ORDINANCE NO.

AN ORDINANCE APPROVING A DEFERRED IMPROVEMENTS AGREEMENT BETWEEN INHABX, LLC, A COLORADO LIMITED LIABILITY COMPANY, AND THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, RELATING TO THE CONSTRUCTION OF PUBLIC IMPROVEMENTS INCIDENTAL TO A REARRANGEMENT OF PROPERTY BOUNDARIES AND AUTHORIZING EXECUTION THEREOF BY THE MAYOR

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

SECTION 1.

The Deferred Improvements Agreement ("Agreement") by and between InhabX, LLC, a Colorado limited liability company, and the City of Pueblo, a Colorado Municipal Corporation, a copy of which is attached hereto and made a part hereof by reference, after having been approved as to form by the Pueblo City Attorney, is hereby approved. The Mayor is hereby authorized to execute an Agreement for and on behalf of the City Pueblo and the City Clerk is authorized to affix the seal of the City thereto and attest same.

SECTION 2.

The officers 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 3.

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

DEFERRED IMPROVEMENTS AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of _____, 2023 by and between the CITY OF PUEBLO, a Municipal Corporation, hereinafter referred to as “City” and InhabX, LLC, a Colorado limited liability company, and Bluffs Opportunity Zone Business, LLC, a Colorado limited liability company, hereinafter referred to collectively as “Property Owners.” Hereinafter, City and Property Owners may be referred to individually as “Party” or collectively as “Parties”.

WHEREAS, Property Owners are the owners of certain properties situated in the City of Pueblo, County of Pueblo, Colorado, which upon recording of the plat of Rearrangement of Property Boundaries RPB-22-08 will have the legal description as listed in Exhibit “A”, which is attached and incorporated herein (hereinafter referred to as the “Property”); and

WHEREAS, pursuant to the provisions of Chapter 4 of Title XII of the Pueblo Municipal Code, Property Owners have requested and City has authorized approval of Property Owners’ application RPB-22-08 rearrangement of property boundaries (“Rearrangement Plat”) subject to Property Owners entering into a deferred improvement agreement for the construction of required public improvements as herein set forth;

NOW, THEREFORE, in consideration of the foregoing and the following mutual covenants and agreements, the City and Property Owners agree as follows:

1. City and Property Owners have attempted by the attached Exhibit B and approved construction plans and documents on file in the office of the City’s Director of Public Works to describe all Required Public Improvements to be constructed and installed by Property Owners as a condition of approval of the Rearrangement Plat (herein the “Required Public Improvements”).

2. The following shall be applicable with respect to all Required Public Improvements:

a. If the Required Public Improvements are constructed and installed within ten (10) years from the date hereof, or within a five year extension if granted in writing by the Director of Public Works (“Director”), then Chapter 4, Title XII of the Pueblo Municipal Code and the standards and specifications approved by the City Council and interpreted as of the date hereof shall control, unless adherence to a more recent standard does not require significant engineering modifications or major revisions to the plans and documents. For the purposes of this subsection, a major revision is defined as, but not necessarily limited to the relocation or re-alignment of any curb and gutter, sanitary sewer, storm sewer, manholes or storm inlets, or the change of size or type of sewer mains, inlets, curb and gutter or sidewalk.

b. If the Required Public Improvements are constructed and installed after ten (10) years from the date hereof, or after a five-year extension if granted in writing by the Director, then Chapter 4, Title XII of the Pueblo Municipal Code and the standards and specifications approved by the City Council and interpreted as of the date the Required Public Improvements are constructed and installed shall control.

c. If Chapter 4 of Title XII and/or the standards and specifications approved by the City Council are modified or amended to conform with the requirements of federal or state law, rules or regulations prior to the construction and installation of the Required Improvements, they shall control as so modified and amended unless contracts have been issued for this work prior to the regulations changing.

3. Property Owners shall construct and install, at its sole cost and expense, the Required Public Improvements prior to issuance of a Certificate of Occupancy for any structure on the Property, (“Deferral Period”).

4. All improvements installed shall be subject to inspection and acceptance by the City. Any installed work that does not meet the applicable standards will not be accepted. All work shall be performed by a contractor (or contractors) properly licensed to perform such work within the City of Pueblo.

5. Unless otherwise approved by the Director, all Required Public Improvements shall be installed within the public right-of-way. If any permanent or temporary easement is necessary to accommodate the construction, operation, or maintenance of Required Public Improvements upon property owned by the Property Owner, Property Owners agree to grant an easement of sufficient size and configuration for such purposes to the City.

6. Upon failure, refusal, or neglect of the Property Owners or subsequent owners of the Property to construct or install such Required Public Improvements within the Deferral Period and after 60 days written notification, the Director may cause the same to be constructed by a third-party contractor. In such case, the Director shall prepare a statement showing the whole cost of such construction, including an amount not to exceed fifteen percent (15%) additional for costs of inspection, administration, and other incidentals, and shall initiate proceedings to cause the same to be assessed against the Property including all collection remedies under 12-3-30(c), P.M.C., which the parties stipulate, acknowledge and agree shall be applicable to collection of such costs.

7. During any period of time after the Deferral Period in which any Required Public Improvements are not constructed and installed or, if constructed by City under above Paragraph 6, during any period of time the amounts owed the City under Paragraph 6 above remain unpaid, no building permit or certificate of occupancy may be issued or approved with respect to any building or structure upon or within the Property.

8. This Agreement shall extend to and be binding upon the heirs, personal representatives, administrators, successors, and permitted assigns of the respective Parties. This Agreement shall be recorded in the office of the County Clerk and Recorder of Pueblo County, Colorado, and shall constitute an agreement running with the land and may be specifically enforced by City. All recording fees for this Agreement and related documents will be paid by the Property Owners.

****SIGNATURE PAGES FOLLOW****

IN WITNESS WHEREOF, the parties hereto set their hands and seal the day and year first written above.

CITY OF PUEBLO,
A MUNICIPAL CORPORATION

By _____
Nicholas A. Gradisar, Mayor

ATTEST:

City Clerk

STATE OF COLORADO)
) ss.
COUNTY OF PUEBLO)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023

by _____.

Witness my hand and official seal. My commission expires: _____.

[S E A L]

Notary Public

INHABX, LLC

By _____
[Name, Title]

STATE OF COLORADO)
) ss.
COUNTY OF PUEBLO)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023

by _____.

Witness my hand and official seal. My commission expires: _____.

[S E A L]

Notary Public

BLUFFS OPPORTUNITY ZONE BUSINESS, LLC

By _____
[Name, Title]

STATE OF COLORADO)
) ss.
COUNTY OF PUEBLO)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023

by _____.

Witness my hand and official seal. My commission expires: _____.

[S E A L]

Notary Public

EXHIBIT A – LEGAL DESCRIPTION

Parcel A of Delavan Place Rearrangement of Property Boundaries (RPB-22-08).

THE BLUFFS IMPROVEMENTS AGREEMENT EXHIBIT "B"

ENGINEER'S ESTIMATE OF COST - RAPTOR CIVIL ENGINEERING						
PROJECT NAME:		The Bluffs - Exhibit B				
DATE	8/10/2023		BY	ERIC BURTZLAFF, PE		
PUBLIC IMPROVEMENTS						
ITEM			QUANTITY	TYPE	UNIT COST	COST
IMPROVEMENTS						
30" Curb Gutter			1120	LF	\$75	\$84,000
Sidewalk			470	SY	\$100	\$47,000
Handicap Ramp (includes banding)			7	EA	\$5,000	\$35,000
Concrete V Pans			80	SY	\$60	\$4,800
Signage (Stop Signs)			5	EA	\$300	\$1,500
Street Lights			2	EA	\$1,500	\$3,000
Asphalt Paving (per Geotechnical report)			2125	SY	\$60	\$127,500
SANITARY SEWER						
Sanitary Sewer Main			0	LF	\$50	\$0
Services			1	EA	\$1,000	\$1,000
48" Diameter Sanitary Sewer Manhole			1	EA	\$5,000	\$5,000
WATER						
Water Main 8"			360	LF	\$50	\$18,000
General Utility Street Cuts/Taps			2	EA	\$5,000	\$10,000
Fire Hydrant			2	EA	\$3,500	\$7,000
Fire Hydrant Lateral (Ductile Iron)			50	LF	\$50	\$2,500
Fire Hydrant Valve			2	EA	\$300	\$600
STORM/DRAINAGE						
24" HP Storm Pipe			270	LF	\$100	\$27,000
60" Diameter Manhole			2	EA	\$7,500	\$15,000
10' Type R Inlet			2	EA	\$7,500	\$15,000
				TOTAL COST		\$403,900

NOTE: All costs shown hereon shall be reviewed by a licensed contractor for formal bid. This estimate is for informational purposes only and not intended to be a bid

THE BLUFFS IMPROVEMENTS AGREEMENT EXHIBIT "B"

PROJECT NAME: THE BLUFFS

DEVELOPER: OREAMNOS DEVELOPMENT

ENGINEER: RAPTOR CIVIL ENGINEERING

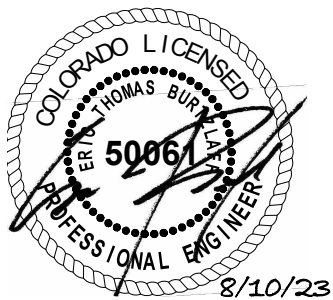
TOTAL PROJECT: \$403,900

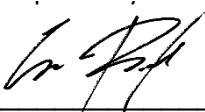
This is an estimate only.
Actual construction costs
may vary.

PREPARED BY: E. BURTZLAFF

FIRM: RAPTOR CIVIL ENGINEERING

The undersigned hereby certifies that (i) the Required Public Improvements shown hereon and on the Plans and Specifications therefore constitute all of the public improvements required to be installed and constructed for the Subdivision by Chapter 4, Title XII of the Pueblo Municipal Code and the standards and specifications approved by City Council, (ii) the quantities necessary to construct the Required Public Improvements and (iii) the unit prices shown hereon are the most current unit prices provided by the City of Pueblo.




Professional Engineer

8/10/2023
Date

REVIEWED BY: _____
City of Pueblo Date



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 13, 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: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PUEBLO, COLORADO, AMENDED TITLE V OF THE PUEBLO MUNICIPAL CODE, REGARDING ELECTIONS

SUMMARY:

The following ordinance updates and amends the election code to bring it up to date and in line with state standards.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

The election of the position of Mayor requires that a candidate receive over 50% of the vote in the initial November election or face a run off of the top two candidates in January. Previously, this run off election and other elections have been coordinated and held by Pueblo County, but the County has stated they are unable to hold an upcoming run off election, should it be necessary, requiring that the City to host its own election. This prompted a review of the City's election code, which was found to be fairly out of date in a variety of ways, necessitating this update.

FINANCIAL IMPLICATIONS:

There are some increases to the cost of payment of election judges that bring them up to modern day standards as required by federal law.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

The City Council can choose not to approve the ordinance, which would leave contradictions with the state law and possibly open the City up to potential voter disenfranchisement lawsuits.

RECOMMENDATION:

Passage of the Ordinance.

ATTACHMENTS:

1. Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
PUEBLO, COLORADO, AMENDING TITLE V OF THE PUEBLO
MUNICIPAL CODE, REGARDING ELECTIONS

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that: (brackets indicate matter being deleted, underscoring indicates new matter being added)

SECTION 1.

Section 2 of Chapter 1 of Title V of the Pueblo Municipal Code is amended to read as follows:

Sec. 5-1-1. – Definitions.

* * *

(17) *Mail ballot election* means an election for which [eligible registered electors] **active voters** may cast ballots by mail and, in accordance with this Title, in a regular or special municipal election.

* * *

(20) *Secrecy envelope* means the envelope used for a mail ballot election that contains the eligible elector's ballot for the election **and instructions for voting** and that is designed to conceal and maintain the confidentiality of the elector's vote until the counting of votes for that particular election.

SECTION 2.

Section 9 of Chapter 1 of Title V of the Pueblo Municipal Code is amended to read as follows:

Sec. 5-1-9. – Special elections.

Special elections may be held on any Tuesday designated by the City Council, except within ninety (90) days next preceding a regular election; provided that [where voting machines are used,] no special election shall be held within the period of time beginning on the sixtieth **(60th)** day preceding a primary election and ending on the sixtieth **(60th)** day after a general election unless such special election shall be held in conjunction with and on the day of a primary or general election. No special election shall be called within [thirty (30)] **thirty-two (32)** days before the date of a primary or general election. Special elections shall be conducted as nearly as practicable in the same manner as regular elections.

SECTION 3.

Section 12 of Chapter 1 of Title V of the Pueblo Municipal Code is amended to read as follows:

Sec. 5-1-12. – [Reserved.] Colorado municipal election laws enacted.

City elections shall be governed by the Colorado municipal election laws as now existing or hereafter amended or modified, except as otherwise provided herein, or by ordinance hereafter enacted.

SECTION 4.

Section 13 of Chapter 1 of Title V of the Pueblo Municipal Code is amended to read as follows:

Sec. 5-1-13. – Qualifications of municipal electors.

(a) Qualifications.

* * *

(3) He or she shall have resided in the City and in the municipal election precinct for not less than [twenty-nine (29)] **twenty-two (22)** days immediately preceding the election at which he or she offers to vote. [An otherwise qualified and registered elector who moves from the municipal election precinct where registered to another precinct within the City within the twenty-nine (29) days prior to any regular or special municipal election shall be permitted to cast his or her ballot for such election at the polling place in the precinct where registered.]

(b) Exceptions.

[(1)] No person [confined in any public prison shall be entitled to register or to vote at any regular or special municipal election] **serving a sentence of incarceration or detention for a felony conviction may register to vote or cast a vote.** Every person who was a qualified elector prior to such imprisonment, and who was released **on parole**, by pardon or by having served his or her full term of imprisonment, shall be vested with all the rights of citizenship except as otherwise provided in the Constitution.

[(2)] No person who is under guardianship, non-compos mentis, or insane shall be entitled to register or to vote at any regular or special municipal election.]

SECTION 5.

Section 16 of Chapter 1 of Title V of the Pueblo Municipal Code is amended to read as follows:

Sec. 5-1-16. – City Clerk as deputy county clerk.

The City Clerk, or any deputy or assistant clerk employed in the office of the City Clerk, may serve as a deputy county clerk for purposes of registration only. The City Clerk [shall] **may** register any qualified elector residing in any precinct in the County who shall appear in person at his or her office at any time during which registration is permitted in the office of the County Clerk[, up to and including twenty-nine (29) days preceding any municipal election]. The City Clerk shall deliver the new registration sheets to the office of the County Clerk either in person or by certified mail on or before the fifteenth day of each month, and in person on the day following the last day for registration preceding any election for which registration is required.

SECTION 6.

Section 17 of Chapter 1 of Title V of the Pueblo Municipal Code is amended to read as follows:

Sec. 5-1-17. – Registration list.

Not later than the **fifth** day preceding any municipal election, the City Clerk shall obtain from the County Clerk a complete copy of the list of the registered electors of each municipal election precinct which is involved in such municipal election. The registration list for each municipal election precinct shall contain, in alphabetical order, the names and addresses of all electors residing within the municipal election precinct whose names appeared on the county registration books at the close of business on the [twenty-ninth] **twenty-second** day preceding the municipal election.

SECTION 7.

Section 30 of Chapter 1 of Title V of the Pueblo Municipal Code is amended to read as follows:

Sec. 5-1-30. – Judges of election.

Judges of election shall be appointed by the [Board of Elections] **City Clerk and ratified by the Board of Elections** and shall serve for such terms as is deemed expedient within the discretion of the board, which may terminate any such term at its pleasure. Each judge shall be a registered elector of the [precinct in which he or she is appointed to serve unless it is deemed a hardship within the discretion of the Board of Elections for this requirement to be met in the] **State of Colorado**. A judge shall be at least eighteen (18) years of age, and for purposes of this Chapter, any judge who is eighteen (18) years of age or older shall have the power to administer oaths. The Clerk shall make and file in his or her office a list of all persons so appointed, giving their names, addresses and precincts. Such list shall be a public record and shall be subject to inspection and examination by any qualified elector with the right to make copies thereof.

SECTION 8.

Section 31 of Chapter 1 of Title V of the Pueblo Municipal Code is amended to read as follows:

Sec. 5-1-31. – Number of judges.

[In each precinct the] **The** Board of Elections shall appoint [not less than] **a minimum of three (3) judges of election, and any additional judges as necessary.** [provided that in each precinct where more than (1) voting machine is used, the Board of Elections may appoint one (1) additional judge for each additional voting machine used in the precinct.]

SECTION 9.

Section 36 of Chapter 1 of Title V of the Pueblo Municipal Code is amended to read as follows:

Sec. 5-1-36. – Oath of judges and clerks.

(a) Before any votes are taken at any municipal election, the judges of the election shall severally take an oath or affirmation in the following form:

"I, _____, do solemnly swear (or affirm) that I am a citizen of the United States and the State of Colorado; that I am a registered elector in [Municipal Precinct No. _____ in the City of Pueblo,] Colorado, that I will perform the duties of judge according to law and the best of my ability; that I will studiously endeavor to prevent fraud, deceit and abuse in conducting the same; that I will not try to ascertain how any elector voted if, in the discharge of my duties as judge such knowledge shall come to me, unless called upon to disclose the same before some court; and that I will not disclose the result of the votes until the polls have closed."

(b) The judges of the election may administer the oaths or affirmations to each other. Each judge shall record and sign any such oaths or affirmations administered by him or her and shall attach the record to the poll book.

SECTION 10.

Section 37 of Chapter 1 of Title V of the Pueblo Municipal Code is amended to read as follows:

Sec. 5-1-37. – Compensation of judges and board of elections.

[(a) The judges of election shall each receive sixty dollars (\$60.00) in full compensation for their services as judges at such election, except that election judges at the Absent Voters' Precinct shall receive fifty dollars (\$50.00) per day in full compensation for their services prior to the day of election and sixty dollars (\$60.00) in full compensation for their services on election day.]

[(b)] The members of the Board of Elections, except for the City Clerk, shall each receive **compensation determined by Ordinance** [fifteen dollars (\$15.00) in compensation] for attending each meeting of the Board of Elections[; provided, however, that on any municipal election day, members of the Board of Elections, except for the City Clerk, shall receive sixty dollars (\$60.00) each in full compensation for their services at such election]. The City Clerk shall not receive any additional compensation beyond that provided for in Title VI of this Code for service as a member of the Board of Elections.

SECTION 11.

Section 38 of Chapter 1 of Title V of the Pueblo Municipal Code is deleted in its entirety and reserved.

SECTION 12.

Section 45 of Chapter 1 of Title V of the Pueblo Municipal Code is deleted in its entirety and reserved.

SECTION 13.

Section 47 of Chapter 1 of Title V of the Pueblo Municipal Code is deleted in its entirety and reserved.

SECTION 14.

Section 48 of Chapter 1 of Title V of the Pueblo Municipal Code is deleted in its entirety and reserved.

SECTION 15.

Section 55 of Chapter 1 of Title V of the Pueblo Municipal Code is amended to read as follows:

Sec. 5-1-55. – Cards of instruction.

The Clerk shall furnish to the judges of election [of each precinct] a sufficient number of instruction cards for the guidance of voters in preparing their ballots. The election judges shall post at least one (1) card in each polling place upon the day of election. Such card shall be printed in large, clear type, and shall contain full instructions to the voter as to what should be done[:

- (1) To obtain admission to the voting machine for voting;
- (2) To operate the voting machine; and
- (3) To obtain assistance in operating the voting machine].

SECTION 16.

Section 90 of Chapter 1 of Title V of the Pueblo Municipal Code is repealed in its entirety, reserved, and reenacted as Section 25 of Chapter 1 of Title V of the Pueblo Municipal Code to read as follows:

Sec. 5-1-25. – Write-in candidate affidavits.

No write-in vote for any municipal office shall be counted unless an affidavit of intent has been filed with the City Clerk by the person whose name is written in not less than [thirty (30)] **sixty-four (64)** days prior to the day of the election. The affidavit of intent shall indicate that such person desires the office and is qualified to assume the duties of that office if elected.

SECTION 17.

Section 115 of Chapter 1 of Title V of the Pueblo Municipal Code is amended to read as follows:

Sec. 5-1-115. – Returns; canvass.

* * *

(b) The Board of Elections shall meet as a canvassing board, no later than the [seventh] **tenth (10th)** day after each City election, and canvass the result thereof.

SECTION 18. Section 1 of Chapter 3 of Title V of the Pueblo Municipal Code is amended to read as follows:

Sec. 5-3-1. – Option to hold mail ballot elections.

[Upon recommendation of] **Excluding coordinated elections conducted by the County, and unless otherwise recommended by** the Board of Elections, [the City Council may authorize and direct by resolution or ordinance that any] **all City of Pueblo** regular or special municipal elections **shall** be conducted as [a] mail ballot elections.

SECTION 19. Section 3 of Chapter 3 of Title V of the Pueblo Municipal Code is amended to read as follows:

Sec. 5-3-3. – Mayoral runoff elections.

* * *

(g) In the event of the death, disqualification or withdrawal of either of the two (2) runoff Mayoral candidates prior to the [mailing] **printing** of ballots for the runoff election, the name of the candidate who received the third greatest number of votes for the Office of Mayor in the municipal election shall be substituted and shall appear on the runoff election ballot. In such event, notice of any substitution of a runoff Mayoral candidate shall be publicly noticed.

SECTION 20.

The officers and staff of the City are authorized and directed to take all action necessary, appropriate or required to implement the provisions of this Ordinance.

SECTION 21.

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: November 13, 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: AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PUEBLO, COLORADO, AMENDING CHAPTER 2 TITLE V OF THE PUEBLO MUNICIPAL CODE, REGARDING CAMPAIGN EXPENDITURES AND DISCLOSURES

SUMMARY:

The following ordinance updates and amends the campaign finance code to keep the current regulations laid out by the state.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

In the 2023 legislative session, the state made significant changes to the Campaign Finance Code. These changes were lobbied against by CML and CMCA, but successfully passed and are expected to go into effect on January 1, 2024. Homerule municipalities are able to opt out of the updates by incorporating the current rules into their code, and this ordinance codifies the current rules.

FINANCIAL IMPLICATIONS:

Not applicable to this Ordinance.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

The City Council can choose not to approve the ordinance, which would allow the state changes to go into effect in Pueblo.

RECOMMENDATION:

Passage of the Ordinance.

ATTACHMENTS:

1. Ordinance

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
PUEBLO, COLORADO, AMENDING CHAPTER 2 TITLE V OF
THE PUEBLO MUNICIPAL CODE, REGARDING CAMPAIGN
EXPENDITURES AND DISCLOSURES

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that: (brackets indicate matter being deleted, underscoring indicates new matter being added)

SECTION 1. Section 1 of Chapter 2 of Title V of the Pueblo Municipal Code is hereby deleted and replaced as follows:

Sec. 5-2-1. [Compliance with fair campaign practices act required.] **Adoption**

- (a) [Every candidate for any city office in the City, and every candidate committee, issue committee and political committee supporting or opposing any candidate for any city office of the City or supporting or opposing any City initiative, referendum or other ballot issue, shall comply with the requirements of the Fair Campaign Practices Act. Section 1-45-101, et seq., C.R.S., as currently enacted and subsequently amended.
- (b) Every such candidate, candidate committee, issue committee and political committee shall timely file with the City Clerk the registration statements, disclosures and reports required by the Fair Campaign Practices Act on forms approved for such use by the Colorado Secretary of State.
- (c) It shall be unlawful and a Class 1 municipal offense for any person to violate any provision of this Section or the Fair Campaign Practices Act with respect to any election for any City office of the City, or with respect to any City initiative, referendum or other ballot issue.
- (d) The City Clerk shall impose an additional late charge of ten dollars (\$10.00) per day for each day that a statement, report or other information required to be filed by this Section or the Fair Campaign Practices Act is not filed. For purposes of this Subsection (d), the date of filing shall be the date of the postmark if the statement, report or other information is mailed.]

Except as explicitly modified herein, or modified hereafter by ordinance, City elections shall be governed by the Colorado Fair Campaign Practices Act, 1-45-101, et seq., C.R.S. as now existing or hereafter amended or modified.

Sec. 5-2-2. Applicability

(a) Every candidate for any city office in the City, and every candidate committee, issue committee and political committee supporting or opposing any candidate for any city office of the City or supporting or opposing any City initiative, referendum or other ballot issue, shall comply with the requirements of this Section as currently enacted and subsequently amended.

(b) Every such candidate, candidate committee, issue committee and political committee shall timely file with the City Clerk the registration statements,

disclosures, and reports required by this Chapter on forms approved for such use by the City Clerk.

(c) It shall be unlawful and a Class 1 municipal offense for any person to violate any provision of this Section with respect to any election for any City office of the City, or with respect to any City initiative, referendum or other ballot issue.

(d) The City Clerk shall impose an additional late charge of ten dollars (\$10.00) per day for each day that a statement, report, or other information required to be filed by this Section is not filed. For purposes of this Subsection (d), the date of filing shall be the date of the postmark if the statement, report or other information is mailed.

Sec. 5-2-3. Contribution Limits

(a) Nothing herein in shall be construed to prohibit a corporation or labor organization from making a contribution to a political committee.

(b) There shall be no maximum amount of aggregate contributions that any person, including a political party, small donor committee, corporation, or labor organization, may make to a candidate committee of a candidate for a municipal office, and that a candidate committee for such candidate may accept for any one such person per election.

(c) Notwithstanding any other provision of this subsection, no limited liability company shall make any contribution to a candidate committee or political party if either the limited liability company has elected to be treated as a corporation by the internal revenue service pursuant to 26 C.F.R. § 301.7701-3 or any successor provision or the shares of the limited liability company are publicly traded. A contribution by a limited liability company with a single natural person member that does not elect to be treated as a corporation by the internal revenue service pursuant to 26 C.F.R. § 301.7701-3 shall be attributed only to the single natural person member.

(d)(1) Any limited liability company that is authorized to make a contribution shall, in writing, affirm to the candidate committee, political committee, or political party to which it has made a contribution, as applicable, that it is authorized to make a contribution, which affirmation shall also state the names and addresses of all of the individual members of the limited liability company. No candidate committee, political committee, or political party shall accept a contribution from a limited liability company unless the written affirmation satisfying the requirements of this paragraph (d) is provided before the contribution is deposited by the candidate committee, political committee, or political party. The candidate committee, political committee, or political party receiving the contribution shall retain the written affirmation for not less than one year following the date of the end of the election cycle during which the contribution is received.

(2) Any contribution by a limited liability company, and the aggregate amount of contributions from multiple limited liability companies attributed to a single member of any such company under this subsection 2, shall be subject to the limits governing such contributions under this Chapter of Title V of this Code. A limited liability company that makes any contribution to a candidate committee, political committee, or political party shall, at the time it makes the contribution, provide information to the recipient committee or

political party as to the amount of the total contribution attributed to each member of the limited liability company. The attribution shall reflect the capital each member of the limited liability company has invested in the company relative to the total amount of capital invested in the company as of the date the company makes the campaign contribution, and for a single member limited liability company, the contribution shall be attributed to that single member. The limited liability company shall then deduct the amount of the contribution attributed to each of its members from the aggregate contribution limit applicable to multiple limited liability companies under this subparagraph (2) for purposes of ensuring that the aggregate amount of contributions from multiple limited liability companies attributed to a single member does not exceed the contribution limits under this Chapter of Title V of this Code. Nothing in this subparagraph (2) shall be construed to restrict a natural person from making a contribution in his or her own name to any committee or political party to the extent authorized by law.

(e) As used in this section, “limited liability company” has the same meaning as “domestic limited liability company” as defined in section 7-90-102(15) C.R.S. or “foreign limited liability company” as defined in section 7-90-102(24) C.R.S. as amended.

Sec. 5-2-4. Disclosures

(a) All candidate committees, political committees, issue committees, small donor committees, and political parties shall report to the City Clerk their contributions received, including the name and address of each person who has contributed twenty dollars or more, expenditures made, and obligations entered into by the committee or party.

(1) In the case of contributions made to a candidate committee, political committee, issue committee, and political party, the disclosure required by this section shall also include the occupation and employer of each person who has made a contribution of one hundred dollars or more to such committee or party.

(2) Any person who expends one thousand dollars or more per calendar year on electioneering communications shall report to the City Clerk, in accordance with the disclosure required by this section, the amount expended on the communications and the name and address of any person that contributes more than two hundred fifty dollars per year to the person expending one thousand dollars or more on the communications. If the person making a contribution of more than two hundred fifty dollars is a natural person, the disclosure required by this section must also include the person’s occupation and employer. Electioneering communication reports must include the name of the candidate or candidates unambiguously referred to in the electioneering communication or regular biennial school electioneering communication. In accordance with section 1-45-103 (9) C.R.S., an electioneering communication includes any communication that satisfies all other requirements set forth in section 2 (7) of article XXVIII of the state constitution but that is broadcast, printed, mailed, delivered, or distributed between the primary election and the general election.

(3) In the case of a limited liability company, the disclosure required by this section shall include, in addition to any other information required to be disclosed, each contribution from the limited liability company regardless of the dollar amount of the contribution.

(4) Any disbursement not otherwise defined as an expenditure may be reported to the City Clerk.

(b) A candidate's candidate committee may reimburse the candidate for expenditures the candidate has made on behalf of the candidate committee. Any such expenditures may be reimbursed at any time. Notwithstanding any other provision of law, any expenditure reimbursed to the candidate by the candidate's candidate committee within the election cycle during which the expenditure is made shall be treated only as an expenditure and not as a contribution to and an expenditure by the candidate's candidate committee. Notwithstanding the date on which any such expenditure is reimbursed, the expenditure shall be reported at the time it is made in accordance with the requirements of this section.

Sec. 5-2-5. Reports.

(a) Reports that are required to be filed with the City Clerk must be filed:

(1) On the twenty-first day and on the Friday before and thirty days after the primary election, where applicable, and the major election in election years, and annually in off-election years on the first day of the month in which the anniversary of the major election occurs; except that, for a runoff election reports must be filed no later than fifteen days before and fifteen days after the runoff election.

(2) For purposes of this section, "election year" means every odd-numbered year for political parties and political committees and each year in which the particular candidate committee's candidate, or issue committee's issue, appears on the ballot; and "major election" means the election that decides an issue committee's issue, or the election that elects a person to the public office sought by the candidate or committee's candidate.

(b) The City Clerk shall keep a copy of any report or statement required by this chapter for a period of one year from the date of filing. In the case of candidates who were elected, those candidate's reports and filing shall be kept for one year after the candidate leaves office.

(c) If the reporting day falls on a weekend or legal holiday, the report shall be filed by the close of the next business day.

(c) The reports required by this section shall also include the balance of funds at the beginning of the reporting period, the total of contributions received, the total of expenditures made during the reporting period, and the name and address of the financial institution used by the committee or party.

(d) The reporting period for all reports required to be filed with the City Clerk shall close five calendar days prior to the effective date of filing.

(f) Except as provided in subsection (1) of this section, and in addition to any report required to be filed with the City Clerk under this section, all candidate committees, issue committees, and political parties must file a report with the City Clerk of any contribution of one thousand dollars or more at any time within thirty days preceding the date of the primary election, general election, or run off election. This report shall be filed with the City Clerk no later than seventy-two hours after receipt of said contribution.

(1) Notwithstanding the provisions of subsection (f) of this section, the following committees need not file the reports described in subsection (f) of this section in the following instances:

(i) An issue committee need not report a contribution of one thousand dollars or more preceding a primary election; and

(ii) A committee for a candidate not on the ballot need not report a contribution of one thousand dollars or more during the off-election year.

Sec. 5-2-6. Enforcement.

(a) Any person who believes that a violation of this Chapter has occurred may file a written complaint with the City Clerk in accordance with section 5-2-6.1 of this Code.

(b) For those complaints that concern a criminal violation pursuant to section 5-2-2 of this code, if the City Attorney determines that no probable cause exists, that the complaint fails to allege an enforceable violation, or that the requirements of section 5-2-6-1 were not met by the complainant, the City Attorney shall so notify the City Clerk, who will, in turn, notify the complainant and respondent in writing.

(c) If the City Attorney determines probable cause exists, the City Attorney may notify the Pueblo Police Department, who, in consultation with the City Attorney, may file and serve a summons and complaint to the respondent.

(d) The City Attorney retains prosecutorial discretion on whether to ultimately file criminal charges. If the City Attorney determines filing a summons and complaint is inappropriate, he or she shall so notify the City Clerk, who will, in turn, notify the complainant and respondent in writing.

(e) Notwithstanding the above, nothing in this section shall be read to preclude the City Attorney from declaring a conflict of interest, and taking appropriate action in accordance with this Code and general practices of the City, including, but not limited to, hiring special counsel, if deemed necessary and advisable under the circumstances.

(f) Nothing in this section shall preclude the City from pursuing an action, civil or criminal, against any person, candidate, candidate committee, issue committee,

small-scale issue committee or political committee for any violation of this Chapter, regardless of whether a complaint had been filed pursuant to this section.

(g) The Mayor in consultation with the City Attorney is hereby authorized to adopt administrative regulations consistent with the provisions of this Chapter.

Sec. 5-2-6.1 Allegation of Campaign Violation.

(a) Any candidate or registered elector of the City ("complainant") who has reason to believe a violation of Title V, of this Code, has occurred by any person, candidate, candidate committee, issue committee, small-scale issue committee or political committee may file a written complaint with the City Clerk, no later than thirty days after the alleged violation has occurred.

(b) The complaint must contain:

(1) The name of the alleged violator;

(2) The Code provision allegedly violated;

(3) A brief statement or description of the offense allegedly committed and the basis for the allegation;

(4) Identification of any relevant documents or other evidence;

(5) Identification of any witnesses or persons with relevant knowledge; and

(6) The name, address and telephone number of the complainant.

(c) For complaints that allege a criminal violation as set forth in section 5-2-2, the City Clerk will forward the complaint to the respondent and to the City Attorney, who will evaluate the complaint for probable cause as provided for in section 5-2-6.

(d) For complaints that do not allege a criminal violation, the complaints shall be subject to a civil infraction process as provided herein:

(1) The City Clerk will forward the complaint to the respondent by electronic mail, notifying the respondent that the alleged violation may be subject to a civil infraction.

(2) The City Clerk will forward the complaint to the City Attorney, who shall review the complaint to determine whether the complaint:

(A) Was timely filed under hereunder;

(B) Contains the information required hereunder; and

(C) Alleges sufficient facts to support a factual and legal basis for the violations alleged.

(3) If the City Attorney determines that the complaint fails to satisfy any of the three (3) elements in the immediately preceding Subsection (2), the City Attorney shall so notify the City Clerk who will, in turn, notify the complainant and respondent in writing.

(4) If the City Attorney determines that the complaint satisfies the three (3) elements in the immediately preceding Subsection (2), the City Attorney shall notify the City Clerk who will, in turn, notify the respondent in writing of the presumptive penalty in accordance with section 5-2-2 and that the respondent shall have seven days from the date of the notice to submit written evidence of its cure or diligent efforts to cure the violation, including any amendments to any applicable report containing one or more deficiencies, modified campaign materials, or other proof that the violation has been corrected. The respondent's written response shall be due to the City Clerk no later than 5:00 p.m. on the tenth day. In the event the tenth day is a weekend or City holiday, the response shall be due no later than 5:00 p.m. the next business day.

(5) On receipt of the respondent's written response, the City Attorney may, through the City Clerk, ask the respondent to provide more information and may grant the respondent an extension of time of up to seven additional days to file an amended response regarding cure in order to respond to any such request.

(6) After the period for cure has expired, the City Attorney shall determine whether the respondent has cured any violation alleged in the complaint and, if so, whether respondent has substantially complied with its legal obligations under Title V, Chapter 2, of this Code. In determining whether the respondent has substantially complied with its legal obligations, the City Attorney shall consider:

(A) The extent of the respondent's noncompliance;

(B) The purpose of the provision violated and whether that purpose was substantially achieved despite the noncompliance; and

(C) Whether the noncompliance may properly be viewed as a knowing attempt to mislead the electorate or election officials.

If the City Attorney determines the respondent has cured any violation or otherwise substantially complied with its legal obligations under Chapter 7, Article 5, the City Attorney shall so notify the City Clerk who, in turn, shall notify the complainant and the respondent and no penalty shall apply for the corresponding alleged violation or violations, as applicable.

(7) If the City Attorney determines the respondent has not cured the alleged violation or otherwise substantially complied with its legal obligations, the City Attorney may conduct additional review or investigation of the allegations of the complaint to determine whether to file a complaint with the Municipal Court.

(8) If the City Attorney files a complaint with the Municipal Court, the matter shall be governed by Title 1, Chapter 6 of this Code.

(9) A complainant or any other nonrespondent shall not be a party to the City Attorney's initial review, cure proceedings, investigation, or any proceeding in the Municipal Court. A complainant may request permission from the Municipal Judge or their designee to file an amicus curiae brief.

(10) Any person that commits a violation of this Title shall be personally liable for the penalties imposed. Any candidate shall be personally liable for penalties imposed upon the candidate or the candidate's committee and may use campaign contributions to pay penalties.

SECTION 2.

The officers and staff of the City are authorized and directed to take all action necessary, appropriate or required to implement the provisions of this Ordinance.

SECTION 3.

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: November 13, 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: AN ORDINANCE CALLING A SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, JANUARY 23, 2024, AND SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY OF PUEBLO THE CANDIDATES FOR THE MAYORAL RUNOFF

SUMMARY:

This Ordinance calls for a Special Municipal Election to be held on Tuesday, January 23, 2024 to consider the candidates for the Mayoral Runoff.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

In accordance with P.M.C. 17-2, a qualified candidate for Mayor must receive a majority of the votes cast for the office in the November 7, 2023 General Election. If no candidate receives a majority of the votes cast, a special run-off election must be held, with the two persons with the highest number of votes cast for the office appearing on the ballot as candidates.

P.M.C. 5-3-3 declares that the Mayoral runoff election shall be conducted as a mail ballot election.

FINANCIAL IMPLICATIONS:

The City's estimated costs are projected at \$300,000. Funding for the costs associated with conducting this Special Municipal Election is allocated in the City Clerk's 2024 Budget.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

Not applicable.

ALTERNATIVES:

None.

RECOMMENDATION:

Passage of the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO.

AN ORDINANCE CALLING A SPECIAL MUNICIPAL ELECTION
TO BE HELD ON TUESDAY, JANUARY 23, 2024, AND
SUBMITTING TO THE REGISTERED ELECTORS OF THE CITY
OF PUEBLO THE CANDIDATES FOR THE MAYORAL RUNOFF

WHEREAS, in accordance with P.M.C. 17-2, should no Mayoral candidate receive a majority of the votes cast, a special election is required to be called pursuant to Section 17-2 of the Charter to allow the registered electors to select between the two top Mayoral candidates; NOW, THEREFORE,

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

SECTION 1.

At said Special Election, should it be required, there shall be submitted to a vote of the registered electors two candidates for Mayor who received the highest number of votes for the office at the November 7, 2023 General Election.

SECTION 2.

The City Council does hereby adopt the optional registration plan provided for in Section 17-9 of the Charter of the City of Pueblo and hereby determines and declares that voting machines are not available.

SECTION 3.

All public notices that are required to be published with respect to the Special Municipal Election shall be published in The Pueblo Chieftain.

SECTION 4.

The City Clerk, the Board of Elections, and all officers and staff of the City are authorized to take all action necessary, appropriate or required to hold and conduct the special municipal election, and officers and staff of the City are authorized to perform any and all acts consistent with the intent of the Ordinance to effectuate the policies and procedures described herein.

SECTION 5.

If any section, clause or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or enforceability of such section, clause or provision shall not affect any of the remaining sections, clauses or provisions of this Ordinance.

SECTION 6.

This Ordinance shall become effective immediately upon final passage.

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: November 13, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: George Hypolite, City Attorney

SUBJECT: AN ORDINANCE APPROVING AN AGREEMENT OF PURCHASE AND SALE OF REAL PROPERTY BETWEEN COMMUNITY HEALTH CENTER INC., AND THE CITY OF PUEBLO FOR THE PURCHASE OF 1302 EAST 5TH STREET PUEBLO, COLORADO 81001 IN THE AMOUNT OF FOUR HUNDRED THIRTY EIGHT THOUSAND TWO HUNDRED SEVENTY ONE DOLLARS AND NO CENTS (\$438,271) TO BE PAID FROM PROJECT NO. CI-2113, AMERICAN RESCUE PLAN ACT, AS AUTHORIZED BY SECTION 603 (A) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35 AND AUTHORIZING THE MAYOR TO EXECUTE THE SAME

SUMMARY:

This Ordinance approves an agreement for the purchase and sale of 1302 East 5th Street, Pueblo, Colorado 81001 from Community Health Center Inc., to the City of Pueblo, a Colorado Municipal Corporation and authorizes the payment of \$438,271.00 in American Rescue Plan Act ("ARPA") funds to complete the acquisition.

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:

Under the U.S. Treasury's Final Rule pertaining to ARPA, recipients of may use Coronavirus State and Local Fiscal Recovery Funds ("SLFRF") for a program, service, capital expenditure, or other assistance that mitigates the negative economic impacts of

the COVID-19 pandemic to include assistance to households such as job training, rent, mortgage, or utility aid, affordable housing development, childcare; assistance to small businesses or nonprofits such as through loans or grants to mitigate financial hardship; assistance to impacted industries like travel, tourism, and hospitality that faced substantial pandemic impacts; or assistance to address impacts to the public sector.

FINANCIAL IMPLICATIONS:

\$438,271 in ARPA funds are being authorized for payment.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

City Council could decide not to support or fund the acquisition of the 1302 East 5th Street Property for availability of affordable housing within the City.

RECOMMENDATION:

Approval of the Ordinance

ATTACHMENTS:

1. 11-13-23 Agreement to Purchase and Sell Real Property (1302 E 5th Street - Updated)

ORDINANCE NO.

AN ORDINANCE APPROVING AN AGREEMENT OF PURCHASE AND SALE OF REAL PROPERTY BETWEEN COMMUNITY HEALTH CENTER INC., AND THE CITY OF PUEBLO FOR THE PURCHASE OF 1302 EAST 5TH STREET PUEBLO, COLORADO 81001 IN THE AMOUNT OF FOUR HUNDRED THIRTY EIGHT THOUSAND TWO HUNDRED SEVENTY ONE DOLLARS AND NO CENTS (\$438,271) TO BE PAID FROM PROJECT NO. CI-2113, AMERICAN RESCUE PLAN ACT, AS AUTHORIZED BY SECTION 603 (A) OF THE AMERICAN RESCUE PLAN ACT AND U.S. TREASURY FINAL RULE 31 CFR 35 AND AUTHORIZING THE MAYOR TO EXECUTE THE SAME

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

SECTION 1.

The Agreement of Purchase and Sale of Real Property ("Agreement") between Pueblo, a Colorado Municipal Corporation and Community Health Center Inc., attached hereto, is hereby approved.

SECTION 2.

Funds in the amount of Four Hundred Thirty-Eight Thousand Two Hundred Seventy One Dollars (\$438,271) are hereby authorized for payment from Project No. CI-2113 – American Rescue Plan Act, for purposes of purchasing 1302 East 5th Street, Pueblo, Colorado 81001.

SECTION 3.

After the Agreement is approved as to form by the Department of Law, 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 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 therein.

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 _____.

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

AGREEMENT OF PURCHASE AND SALE OF REAL PROPERTY

[City Purchase of 1302 East 5th Street, Pueblo, CO 81001]

THIS AGREEMENT is made and entered into this [] day of [], 2023 (“Effective Date”), by and between Community Health Center Inc., a Colorado corporation (“Seller”), and **THE CITY OF PUEBLO, COLORADO, a municipal corporation** (“Purchaser”).

For good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Seller and Purchaser agree to be legally bound whereby Seller agrees to convey to Purchaser, and Purchaser agrees to acquire from Seller, the Property as defined below on the terms and conditions outlined in this Agreement.

1. Description of Property. The real property which is the subject matter of this Agreement is that certain parcel of real property located in Pueblo County, Colorado, which is legally described on **Exhibit A**, consisting of one (1) page, attached hereto and incorporated herein by reference (“Property”). Unless reserved by the Seller as described below, the Property includes all improvements located thereon and all of Seller’s rights, title and interest in and to all appurtenances thereto, including but not limited to the following:

- A. Appurtenances Generally. The Property is vacant land and shall have no improvements thereon, including any fences, buildings, landscaping, other improvements, or permanent fixtures. In addition, the Property shall include all Seller’s rights, title, and interest in and to easements, future interests and rights to the same belonging and inuring to the benefit of the Property, and in and to all strips and gores of land lying between the Property and adjoining property or streets, roads or highways, open or proposed.
- B. Water Rights. All water, water rights, corporate stock relating to the use of water, springs, spring rights, wells, well rights, ditches, ditch rights, reservoir rights, tributary, non-tributary, and not non-tributary water, appurtenant to, customarily used with or upon, or relating to the use of water on the Property, and any other water or water rights, located on or appurtenant to the Property, whether or not the same have been adjudicated.
- C. Taps. All water taps, gas taps, and sewer taps belonging or in any way appertaining to the Property.
- D. Mineral Rights. All interests in all minerals, ores, and metals of any kind and character, and all coal, asphaltum, oil, gas, or other like substances, including sand and gravel, and all geothermal resources in, on, or under the Property and all other mineral rights as are owned by Seller at the time of this Agreement.

2. Method of Conveyance.

- A. Form of Deed. Seller will convey the real property portion of the Property to Purchaser at the time of closing by special warranty deed in the form attached as **Exhibit B**. The personal property portion of the Property, if any, shall be transferred to Purchaser by Seller at the time of closing by bill of sale or other appropriate transfer document, free and clear of all liens and encumbrances.

3. Purchase Price. The total purchase price of the Property will be four hundred thirty-eight thousand two hundred seventy-one dollars and no cents (\$438,271) ("Purchase Price").

- A. The sum of the Purchase Price shall be payable in U.S. dollars by the Purchaser at closing, plus agreed closing costs, in funds which comply with all applicable Colorado laws, which include cash, electronic transfer funds, certified checks, savings and loan teller's check, and cashier's check ("Good Funds").

4. Title Insurance.

- A. Within ten (10) calendar days following the Effective Date, Seller will provide to Purchaser a Title Insurance Commitment ("Title Commitment") from **LAND TITLE GUARANTEE COMPANY** ("Title Company"). The Title Commitment must show title to the Property in Seller, subject only to those exceptions set forth on Schedule B-2 to the Title Commitment that are acceptable to Purchaser. Seller is responsible for the cost of the Title Commitment and Title Insurance.
- B. If the Title Commitment discloses title defects unsatisfactory to Purchaser and subject to which Purchaser need not take the title, Purchaser may give Seller written notice of such defects by the date ten (10) calendar days after the Effective Date or the date ten (10) calendar days after Purchaser's receipt of the Title Commitment, whichever is later, and no later than ten (10) calendar days after notice of any title change or discovery of any title defect not disclosed by the Title Commitment. Seller must attempt in good faith to cure such defects before the date of closing, at its expense, without in any other manner affecting the terms of this Agreement.
- C. If any instrument or deposit is necessary to correct a defect in or objection to the title, the following apply:
- (1) Any instrument will be in a form and contain terms and conditions Title Company may reasonably require to be sufficiently satisfied and omit such defects or objection.
 - (2) Any deposit will be made with the Title Company.
 - (3) Seller agrees to execute, acknowledge and deliver any required instrument and to make any required deposit.

- D. If the Title Company refuses to omit any title defect or objection before closing, then Purchaser, at its election, has the right to:
 - (1) accept such title as Seller can convey, without any reduction of the purchase price; or
 - (2) rescind this Agreement and, upon such rescission according to this paragraph, Purchaser will be entitled to the return of the amount of money theretofore paid to Seller or its agent. Upon such payment, this Agreement will be null and void and of no further effect, and all parties to this Agreement will be released from all obligations hereunder.
- E. If Seller cannot convey title as provided in this paragraph 4 to Purchaser due to an act or omission of Seller that is within the authority of Seller's City Manager, Seller is in default and continues to be liable under this Agreement.
- F. Notwithstanding the foregoing,
 - (1) any title condition consisting of monetary liens, Seller must remove deeds of trust or other financial encumbrances against the Property at or before closing, and Seller's failure to cause the removal of the same will constitute a default by Seller under this Agreement; and
 - (2) If Seller fails to cause the removal of a financial encumbrance against the Property before closing, Purchaser has the right to pay amounts required to do so at closing and to receive a credit for such payment against the Purchase Price.

5. Survey/Legal Description. The parties each acknowledge that a legal description of the Property is attached to and incorporated by reference into this Agreement, and each acknowledges having received a copy of any such description. The parties agree that it is their intent that the referenced legal description describes the Property except as otherwise expressly provided and agree to work in good faith and cooperatively to correct technical errors that any such legal description is determined to contain.

6. Special Taxing Districts. Special taxing districts may be subject to general obligation indebtedness paid by revenues produced from annual tax levies on the taxable property within such districts. Property owners in such districts may be placed at risk for increased mill levies and excessive tax burdens to support the servicing of such debt where circumstances arise, resulting in the inability of such a district to discharge such indebtedness without such an increase in mill levies. Purchaser should investigate the debt financing requirements of the authorized general obligation indebtedness of such districts, existing mill levies of such district servicing such indebtedness, and the potential for an increase in such mill levies.

7. Maintenance of the Property/Title. Seller must keep, or cause to be kept, the

Property in its condition as of the Effective Date until the closing of this transaction, subject to normal wear-and-tear and seasonal changes, and agrees not to commit or permit waste thereon. Seller must not cause or permit new liens, easements or other encumbrances on the title to the Property, except as expressly agreed by Purchaser in writing.

8. Representations of Seller. Based on a reasonable inquiry within Seller's organization, Seller represents and warrants to the best of Seller's knowledge, as of the Effective Date and as of the closing, as follows:

- A. There is no litigation proceeding, including but not limited to any eminent domain proceeding, pending (or to Seller's knowledge threatened) against or relating to any part of the Property, nor does Seller know of or have reasonable grounds to know of any basis for any such action.
- B. Seller has not received notice of, and to the best of Seller's knowledge, there are no violations of any laws, orders, regulations or requirements of any governmental authority affecting the Property or any part thereof.
- C. Seller has the unconditional right and power to execute and deliver this Agreement and to consummate the transaction(s) contemplated by this Agreement.
- D. Seller has not received notice of default or breach by Seller of any of the covenants, conditions, restrictions, rights-of-way, or easements affecting the Property or any portion thereof; no default or breach now exists or will exist on the date of closing; and no event or condition has occurred and is continuing that, with or without notice and/or the passage of time, will constitute such a default or breach.
- E. Seller represents that it has provided to Purchaser all environmental reports and, to the extent permitted by law, any other documentation in Seller's possession related to Seller's ownership of the Property.
- F. **THE SURFACE ESTATE OF THE PROPERTY MAY BE OWNED SEPARATELY FROM THE UNDERLYING MINERAL ESTATE, AND TRANSFER OF THE SURFACE ESTATE MAY NOT INCLUDE TRANSFER OF THE MINERAL ESTATE. THIRD PARTIES MAY OWN OR LEASE INTERESTS IN OIL, GAS, OR OTHER MINERALS UNDER THE SURFACE, AND THEY MAY ENTER AND USE THE SURFACE ESTATE TO ACCESS THE MINERAL ESTATE.**

THE USE OF THE SURFACE ESTATE TO ACCESS THE MINERALS MAY BE GOVERNED BY A SURFACE USE AGREEMENT, A MEMORANDUM OR OTHER NOTICE OF WHICH MAY BE RECORDED WITH THE COUNTY CLERK AND RECORDER.

THE OIL AND GAS ACTIVITY THAT MAY OCCUR ON OR ADJACENT TO THIS PROPERTY MAY INCLUDE, BUT IS NOT LIMITED TO, SURVEYING, DRILLING, WELL COMPLETION OPERATIONS, STORAGE, OIL AND GAS, OR PRODUCTION FACILITIES, PRODUCING WELLS, REWORKING OF CURRENT WELLS, AND GAS

GATHERING AND PROCESSING FACILITIES.

THE BUYER IS ENCOURAGED TO SEEK ADDITIONAL INFORMATION REGARDING OIL AND GAS ACTIVITY ON OR ADJACENT TO THIS PROPERTY, INCLUDING DRILLING PERMIT APPLICATIONS. THIS INFORMATION MAY BE AVAILABLE FROM THE COLORADO OIL AND GAS CONSERVATION COMMISSION.

9. Condition of the Property.

- A. Purchaser acknowledges and agrees that except as specifically set forth elsewhere in this Agreement, Seller has not made, and does not make, any representations, warranties, promises, covenants, or agreements of any kind or nature, whether express or implied, oral or written, concerning or concerning:
- (1) the value, nature, quality or condition of the Property;
 - (2) suitability of the Property for any uses contemplated by Purchaser;
or
 - (3) compliance of or by the Property or its operation with any laws, rules, ordinances, or regulations of any applicable governmental authority, including, without limitation, any such laws, rules, ordinances, or regulations concerning environmental protection, pollution, or land use.
- B. By closing, Purchaser will be acknowledging that Purchaser has had the opportunity to inspect the Property and that except for any representations or warranties specifically outlined in this Agreement, Purchaser is relying solely on its investigation of the Property. Purchaser furthermore acknowledges that its acquisition of the Property shall be on an "AS IS basis" without further improvement or remediation by Seller, and any claims against Seller in connection with any representations or warranties (except those specifically set forth elsewhere in this Agreement and except any warranties of title contained in the deed to be delivered at closing) are hereby released and waived by Purchaser.

10. Inspection. Purchaser or any designee of Purchaser has the right to make inspections of the physical condition of the Property and the improvements located thereon at Purchaser's expense. These inspections may include, but are not limited to, environmental assessments and inspections regarding compliance with any building or fire code, environmental protection, pollution, or land use or zoning laws, rules, or regulations, including, but not limited to, any laws relating to the disposal or existence of any hazardous substance or other regulated substance in or on the Property. If Purchaser does not provide to Seller written notice of any unsatisfactory condition, as determined at Purchaser's sole discretion, signed by an authorized representative of Purchaser, on or before seventy-two hours (72hrs) before Closing, Purchaser waives any objection to the physical condition of the Property and the improvements located thereon as of that date. If Purchaser provides written notice of any unsatisfactory condition, signed by an authorized representative of Purchaser, to Seller on or before seventy-two hours (72hrs) before Closing, and Seller does not provide written notice to Purchaser by forty-eight hours (48hrs) before Closing, that Seller will cure such conditions before closing, Purchaser may

terminate this Agreement. Upon such termination, all payments and things of value received hereunder by Seller must be returned to Purchaser. Purchaser is responsible and will pay for any damage that occurs to the Property and the improvements located thereon as a result of these inspections. If Purchaser does not provide written notice to Seller at least twenty-four hours (24hrs) before Closing that Purchaser has opted to terminate this agreement, then Purchaser accepts all physical conditions of the Property and is obligated to perform under the remainder of this Agreement.

11. Closing. The parties agree to close this transaction by [], at 3:00 p.m. at [INSERT CLOSING ADDRESS] or at such other reasonable time, date or location as the parties may mutually agree.

12. Possession. Seller will deliver possession of the Property to Purchaser at closing.

13. Proration. Following local practice, real property taxes and assessments and similar expenses will be prorated as of the date of closing, to the extent such taxes, assessments and expenses apply to Seller.

14. Remedies on Default. If any note or check received as earnest money hereunder or any other payment due hereunder is not paid, honored or tendered when due, or if any other obligation hereunder is not performed as herein provided, the remedies are:

- A. If Seller is in default, then the earnest money deposit, if any, is forfeited by Seller and must be returned to Purchaser, and both parties will be released from all obligations under this Agreement. Purchaser may recover direct damages as may be proper, and Purchaser expressly waives the remedies of specific performance and additional damages.
- B. If Purchaser is in default, Seller may elect to treat this Agreement as terminated, in which case all payments and things of value received hereunder will be returned to Purchaser, and Seller may recover such damages as may be proper, or Seller may elect to treat this Agreement as being in full force and effect, and Seller will have the right to an action for specific performance or damages, or both.

15. Notices. Any notice or other communication given by either party to the other relating to this Agreement must be in writing and shall be deemed given (i) when delivered personally or (ii) on the first (1st) business day, which is three (3) days following mailing by certified mail, return receipt requested and postage prepaid, or (iii) the next business day after sending by a nationally recognized overnight delivery service, and addressed to the party at its respective address as follows:

If to Purchaser:
Mayor's Office
City of Pueblo
1 City Hall Place, 2nd Floor
Pueblo, Co 81003

With a copy to:
City Attorney's Office
City of Pueblo
1 City Hall Place, 3rd Floor
Pueblo, Co 81003

If to Seller:
Donald Moore, CEO
Pueblo Community Health Center
110 East Routt Avenue
Pueblo, CO 81004

16. Assignment. This Agreement must not be assigned by either of the parties hereto without the prior written consent of the other party.

17. Risk of Loss. Seller shall bear all risk of loss concerning the Property up to the date title is transferred per this Agreement. In the event of damage to any portion of the Property by fire or other casualty before the closing, which damage either affects 5% of the usable facilities on the Property or reduces the value of the Property by 5%, then this Agreement may be terminated at the option of Purchaser. This option shall be exercised, if at all, by Purchaser's written notice thereof to Seller within thirty (30) calendar days after receipt of written notice of such fire or other casualty. Upon the exercise of such option to terminate, this Agreement shall become null and void, and neither party shall have any further liability or obligations hereunder, except as otherwise provided in this Agreement. Closing may be delayed for up to thirty (30) calendar days for Purchaser to decide whether to exercise this option.

18. Lead-Based Paint. Unless exempt, if the improvements, if any, on the Property include one or more residential dwellings for which a building permit was issued before January 1, 1978, this Agreement shall be void unless Seller signs a completed Lead-Based Paint Disclosure (Sales) form and the required real estate professionals, if any, which shall have occurred before the parties signing this Agreement.

19. Recommendation of Legal and Tax Counsel. By signing this document, the parties acknowledge they have been advised that this Agreement has important legal consequences and have received the recommendation to consider the examination of title and consultation with legal and tax or other counsel before signing this Agreement.

20. Entire Agreement, Modification. This Agreement constitutes the entire contract between the parties relating to the conveyance of the Property, and any prior agreements pertaining thereto, whether oral or written, have been merged and integrated into this Agreement. No subsequent modification of any of the terms of this Agreement will be valid, binding upon the parties, or enforceable unless made in writing and signed by the parties.

21. Headings. Paragraph headings are used for convenience of reference and in no way define, limit or prescribe the scope or intent of any provision under this Agreement.

22. Construction. Words of the masculine gender include the feminine and neuter gender; when the sentence indicates, words of the neuter gender refer to any gender. Words in the singular include the plural and vice versa. Definitions of defined terms are intended to apply throughout this Agreement. This Agreement is to be construed according to its fair meaning and

as if prepared by all parties and is deemed to be and contain the entire understanding and agreement between the parties.

23. Time is of the Essence. It is agreed that time is of the essence of this Agreement and every provision.

24. Binding Effect / Joint and Several Liability. This Agreement is binding upon and inures to the benefit of the parties and their respective heirs, administrators, successors and assigns. If Seller consists of more than one individual or entity, each such individual or entity is jointly and severally liable for all Seller obligations.

25. Litigation Expenses. In the event any party defaults in any of its covenants or obligations and a party not in default commences and prevails in any legal or equitable action against the defaulting party, the defaulting party expressly agrees to pay all reasonable expenses of the litigation, including a reasonable sum for attorneys' fees or similar costs of legal representation.

26. Brokers. The Parties each represent and warrant to the other that such party has not employed, retained, or consulted any broker, agent, or other real estate professional concerning the Property.

27. Contingencies. This Agreement is hereby made expressly contingent upon the City Council of the City of Pueblo ("Council") approving the purchase of the Property by its final adoption of a related ordinance, in its discretion. If the Council does not pass such an ordinance on second reading, then this Agreement shall be automatically terminated, all parties shall be released from all obligations hereunder, and any monies paid to Seller by Purchaser under this Agreement shall be refunded in full.

28. Authority. Each person executing this Agreement represents and warrants that he or she is duly authorized to execute this Agreement in his or her individual or representative capacity as indicated.

29. Counterpart and Electronic Signatures. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute the same Agreement. Signatures may be delivered by electronic copy. Electronic signatures are binding on the parties as if they were originals.

30. Recording. Purchaser may record this Agreement in the real property records of the Larimer County Clerk and Recorder.

31. Governing Law/Venue. The parties intend and agree that this Agreement is to be construed and enforced according to the laws of Colorado and that the venue in any proceeding related to the subject matter of this Agreement will be in Pueblo County, Colorado.

[SIGNATURE PAGE AND EXHIBITS FOLLOW]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement effective as of the date and year first above written.

SELLER: PUEBLO COMMUNITY HEALTH CENTER INC
A Colorado Non-Profit Corporation

By: Donald Moore/ Chief Executive Officer

STATE OF COLORADO)
)ss
COUNTY OF PUEBLO)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023 by Donald Moore, Chief Executive Officer of the Pueblo Community Health Center Inc., a Colorado Non-Profit Corporation.
Witness my hand and official seal.
My Commission expires:

Notary Public

PURCHASER:

THE PUEBLO, COLORADO
a Municipal Corporation

Date: _____

By: _____
Nick Gradisar, Mayor

ATTEST:

City Clerk

APPROVED AS TO FORM:
City Attorney's Office

City Attorney

STATE OF COLORADO)
)
COUNTY OF PUEBLO)

The foregoing instrument was acknowledged before me this _____ day of _____, 2023 by Nick Gradisar as Mayor of the City of Pueblo.

Witness my hand and official seal.

My Commission expires:

Notary Public

EXHIBIT A

DESCRIPTION OF PROPERTY

Real Property situated in the County of Pueblo, State of Colorado:

PARCEL A: Lots 1 to 10 Inclusive, Block 151, Fletcher Hill Subdivision

**PARCEL B: Lots 49,50,51,52,53 and Fractional Lot 54, Fletcher Hill Subdivision
County of Pueblo, State of Colorado**

Also known as 1302 East 5th Street Pueblo, Colorado 81001-3702

Also known as Pueblo County Assessor Parcel No. 1103122

EXHIBIT B
SPECIAL WARRANTY DEED FORM

SPECIAL WARRANTY DEED

THIS DEED, made this _ day of _____, 2023 by and between PUEBLO COMMUNITY HEALTH CENTER INC., a Colorado corporation, Grantor, and in consideration of the sum of FOUR HUNDRED THIRTY EIGHT THOUSAND TWO HUNDRED SEVENTY ONE DOLLARS (\$438,271.00) in hand paid by the THE CITY OF PUEBLO, a Municipal Corporation, whose address is 1 City Hall Place, Pueblo, CO 81003, the following real property situate in the County of Pueblo, State of Colorado, to-wit:

PARCEL A: Lots 1 to 10 Inclusive, Block 151, Fletcher Hill Subdivision
PARCEL B: Lots 49,50,51,52,53 and Fractional Lot 54, Fletcher Hill Subdivision
County of Pueblo, State of Colorado

Also known as 1302 East 5th Street Pueblo, Colorado 81001-3702
also known as Pueblo County Assessor Parcel No. 1103122

TOGETHER with all and singular the hereditaments and appurtenances thereto, belonging, or in any otherwise appertaining, and the reversion and reversions, remainder and remainders, rents, issues and profits thereof, and all of the estate, right, title, interest, claim, and demand whatsoever of the Grantor, either in law or in equity, of, in, and to the above bargained premises with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the said premises above bargained and described with the appurtenances, unto the Grantee, its successors and assigns forever. Grantor for itself and its successors and/or assigns do covenant and agree that it shall and will warrant and forever defend the above bargained premises in the quiet and peaceful possession of the Grantee, its successors and assigns, against all and every person or persons claiming the whole or any part thereof, by, through or under the Grantor. The singular number shall include the plural and the plural the singular and the use of any gender shall be applicable to all genders. Said warranty is subject to rights-of-way, easements, covenants, plats, agreements and other restrictions of record as of the date of this Deed and any other exceptions or exclusions or rights of third parties not shown by the public records of which Grantee has actual knowledge, and subject to the inclusions of the property within any special taxing district.

IN WITNESS WHEREOF, the Grantor has executed this Deed on the date set forth above.

PUEBLO COMMUNITY HEALTH CENTER, INC., A COLORADO CORPORATION

Donald More
Chief Executive Officer

STATE OF COLORADO)
) ss
COUNTY OF PUEBLO)

Subscribed and sworn to before me this _____ day of _____, 2023 by Donald Moore, Chief Executive Officer of the Pueblo Community Health Center, Inc., a Colorado Corporation.

Witness my hand and official seal.
My commission expires:

Notary Public



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 13, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Laura Solano, Chief of Staff

SUBJECT: AN ORDINANCE RESCINDING RESOLUTION 15406, APPROVING AND ACCEPTING A GRANT IN THE AMOUNT OF \$120,000 FROM THE COLORADO DEPARTMENT OF HUMAN SERVICES LOCAL FOOD PURCHASE ASSISTANCE PROGRAM ON BEHALF OF THE PUEBLO FOOD PROJECT, BUDGETING AND APPROPRIATING \$120,000 TO PROJECT NO. CI2328, AND RATIFYING THE MAYOR'S SIGNATURE OF THE GRANT AGREEMENT

SUMMARY:

Attached is an Ordinance rescinding Resolution 15406 and approving and accepting a grant in the amount of \$120,000.00 from Colorado Department of Human Services Local Food Purchase Assistance Program to provide funds to continue pantry assistance work by the Pueblo Food Project. This Ordinance budgets and appropriates the grant funds to Project No. CI2328 thereto and ratifies the Mayor's signature of the Grant Agreement.

PREVIOUS COUNCIL ACTION:

On October 23, 2023, City Council by Resolution 15406 approved the acceptance of the \$120,000 grant from the Colorado Department of Human Services Local Food Purchase Assistance Program.

BACKGROUND:

The Pueblo Food Project Community Pantry has been in use since 2020 resulting in over one million dollars has been spent on locally procured and produced food items. Pueblo Food Project has received more than 10 grants to support the work of the Community Pantry. After passage of Resolution 15406, the City determined the award and grant agreement needed to be adopted by ordinance rather than resolution.

FINANCIAL IMPLICATIONS:

This \$120,000.00 will be received for the stated purpose without any in-kind match on the part of the City.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

Not applicable to this Ordinance.

ALTERNATIVES:

Not accept the donation and return the funds.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. 11-13-23 Dept of Human Services PFP Food Pantry Grant

ORDINANCE NO.

AN ORDINANCE RESCINDING RESOLUTION 15406, APPROVING AND ACCEPTING A GRANT IN THE AMOUNT OF \$120,000 FROM THE COLORADO DEPARTMENT OF HUMAN SERVICES LOCAL FOOD PURCHASE ASSISTANCE PROGRAM ON BEHALF OF THE PUEBLO FOOD PROJECT, BUDGETING AND APPROPRIATING \$120,000 TO PROJECT NO. CI2328, AND RATIFYING THE MAYOR'S SIGNATURE OF THE GRANT AGREEMENT

WHEREAS, a grant award was given by The Colorado Department of Human Services in the amount of \$120,000.00, intended to support the Pueblo Food Project Community Pantry.

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

SECTION 1.

City Council authorizes the acceptance of \$120,000.00 from The Colorado Department of Agriculture to the City of Pueblo - Pueblo Food Project. The Grant Agreement Local Food Purchasing Assistance ("Agreement") between the Pueblo Food Project and Colorado Department of Human Services, a copy of which is attached hereto, is hereby approved, and the Mayor's signature thereon is ratified.

SECTION 2.

Project No. CI2328 is hereby created. The funds in the amount of \$120,000 shall be accepted pursuant to the Agreement and are hereby budgeted and appropriated into Project No. CI2328.

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 effectuate the transactions 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



STATE OF COLORADO
Department of Human Services

Page 1 of 1

ORDER		*****IMPORTANT*****				
Number:	POGG1,IHGA,202400002362	The order number and line number must appear on all invoices, packing slips, cartons, and correspondence.				
Date:	9/19/23	BILL TO				
Description:	City of Pueblo LFPA	ACCOUNTING 1575 SHERMAN STREET, 6TH FLOOR DENVER, CO 80203-1714				
Effective Date:	10/01/23					
Expiration Date:	03/31/25					
BUYER		SHIP TO				
Buyer:	JIAMIR MIRABAL	FOOD DISTRIBUTION PROGRAM				
Email:	jiamir.mirabal@state.co.us	1575 SHERMAN STREET 3RD FLOOR				
VENDOR		DENVER, CO 80203-1714				
CITY OF PUEBLO Pueblo Food Project 1 City Hall Place Pueblo, CO 81003		SHIPPING INSTRUCTIONS				
Contact:	Luann Martinez	Delivery/Install Date: -				
Phone:	719-568-7728	FOB:				
VENDOR INSTRUCTIONS						
EXTENDED DESCRIPTION						
City of Pueblo with The Local Food Purchase Assistance (LFPA) to purchase and distribute food to underserved communities per attached documents.						
Reference RFA IHGA 2023*368.						
Line Item	Commodity/Item Code	UOM	QTY	Unit Cost	Total Cost	MSDS Req.
1	96240		0	0.00	\$120,000.00	☐
Description: LFPA Plus Contract						
Service From: 10/01/23		Service To: 03/31/25				
TERMS AND CONDITIONS						
https://www.colorado.gov/osc/purchase-order-terms-conditions						
DOCUMENT TOTAL = \$120,000.00						



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 13, 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: AN ORDINANCE APPROVING AND ACCEPTING A 2022 COLORADO DIVISION OF CRIMINAL JUSTICE, OFFICE OF ADULT AND JUVENILE ASSISTANCE, PROJECT SAFE NEIGHBORHOOD GRANT IN THE AMOUNT OF \$152,714 FOR THE PURCHASE OF SHOTSPOTTER, AUTHORIZING MAYOR GRADISAR TO EXECUTE THE GRANT AWARD LETTER AND RELATED DOCUMENTS, ESTABLISHING PROJECT NUMBER PS2315, AND BUDGETING AND APPROPRIATING THE GRANT FUNDS OF \$152,714 TO SAID PROJECT

SUMMARY:

Attached is a 2023 Project Safe Neighborhoods Grant, the related Grant Award Letter, and accompanying documents for the Colorado Division of Criminal Justice, Office of Adult and Juvenile Assistance #; 2022-GP-23-04, known as the Project Safe Neighborhoods Grant Program.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

Project Safe Neighborhoods (PSN) is a Program funded by the U.S. Department of Justice, Office of Justice Programs, Bureau of Justice Assistance. PSN is designed to create and foster safer neighborhoods through a sustained reduction in violent crime, including, but not limited to, addressing criminal gangs and the felonious possession and use of firearms. The program's effectiveness depends upon the ongoing coordination, cooperation, and partnerships of local, state, tribal, and federal law enforcement agencies--and the communities they serve--engaged in a unified approach led by the U.S. Attorney in all 94 districts.

Shot Spotter® will enhance enhance the Real Time Crime Center capability to identify

and prosecute individuals perpetrating the most violent acts. The proposed ShotSpotter® solution is designed to identify, locate, and track active gunfire, and will support the Pueblo Police Department's efforts to more effectively respond to and investigate gunfire incidents. This strategy deployed across the country and serves agencies of all sizes that are committed to leveraging real-time gunfire intelligence to reduce gun violence and build community trust.

The proposed solution is aligned with the goals of Colorado's PSN program as it fosters collaboration with the Office of Gun Violence Prevention, and other state and federal entities to crack down on gun crime; provides a significant tactical advantage in support of Patrol when responding to gunfire; creates an opportunity for officers to respond quickly to gun-related incidents; and supports community engagement efforts.

Acceptance of the award and scheduling of and budgeting for the purchase of ShotSpotter will be based upon adoption of this Ordinance, establishing Project No. PS2315, and budgeting and appropriating funds in the amount of \$152,714.00 into project PS2315. This project will fund the purchase of ShotSpotter technology for implementation in the Real Time Crime Center.

FINANCIAL IMPLICATIONS:

If approved, grant funds in the amount of \$152,714.00 will be budgeted and appropriated into Project No. PS2315 to fund the purchases. Reimbursement of the \$152,714.00 will be made to the City of Pueblo through the Colorado Division of Criminal Justice, Office of Adult and Juvenile Assistance, Project Safe Neighborhood Grant. There is no City match required.

BOARD/COMMISSION RECOMMENDATION:

Not applicable to this Ordinance.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

City Council could choose to decline acceptance of the grant award.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. 2022-GP-23-04__Pueblo_PD_ShotSpotter-AppID442205
2. DCJ_Grant_2022-GP-23-04__PSN_Grant_Pueblo_PD

ORDINANCE NO.

AN ORDINANCE APPROVING AND ACCEPTING A 2022 COLORADO DIVISION OF CRIMINAL JUSTICE, OFFICE OF ADULT AND JUVENILE ASSISTANCE, PROJECT SAFE NEIGHBORHOOD GRANT IN THE AMOUNT OF \$152,714 FOR THE PURCHASE OF SHOTSPOTTER, AUTHORIZING MAYOR GRADISAR TO EXECUTE THE GRANT AWARD LETTER AND RELATED DOCUMENTS, ESTABLISHING PROJECT NUMBER PS2315, AND BUDGETING AND APPROPRIATING THE GRANT FUNDS OF \$152,714 TO SAID PROJECT

WHEREAS, the City Council of Pueblo has the authority on behalf of the City of Pueblo, including its Police Department, to accept grants for public and municipal purposes and to enter into agreements relating thereto; and

WHEREAS, the Colorado Division of Criminal Justice, Office of Adult and Juvenile Assistance, Project Safe Neighborhood Grant program has tendered an award ("Award") for Project No. 2022-GP-23-04 / Project Safe Neighborhood Grant Program (Pueblo) in the amount of \$152,714.00 upon conditions recited therein or incorporated therein by reference; and

WHEREAS, acceptance of the Award 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 ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The Grant Award Letter (Intergovernmental Grant Agreement), PSN Grant #: 2022-GP-23-04, ("Agreement") between the State of Colorado Division of Criminal Justice, Office of Adult and Juvenile Assistance, and the City of Pueblo, a Municipal Corporation, for Project Safe Neighborhood Grant Program, a true copy of which is attached hereto, having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The signature of the Mayor to the Grant Award Letter is hereby approved and ratified, the City Clerk is directed to affix the seal of the City thereto, and the City Clerk is furthermore directed to attest same.

SECTION 3.

Project No. PS2315 is hereby established.

SECTION 4.

Grant funds in the amount of \$152,714.00 shall be accepted pursuant to the Agreement and budgeted and appropriated to Project No. PS2315.

SECTION 5.

Pursuant to the Agreement, the State of Colorado, Colorado Division of Criminal Justice, Office of Adult and Juvenile Assistance, ("State") may unilaterally amend the terms of the Agreement or the amount of grant funds pursuant to an updated Grant Award Letter or other

change letter. In the event the State increases the grant award via such a letter, the additional funds may be accepted pursuant to this Ordinance and budgeted and appropriated into Project No. PS2315, where said funds shall only be expended and used for this project.

SECTION 6.

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

SECTION 7.

This Ordinance shall become effective upon 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

Colorado Division of Criminal Justice
Office of Adult and Juvenile Justice Assistance
Project Safe Neighborhood (PSN)
Deadline: 5/22/2023

City of Pueblo 2022-GP-23-04 // Pueblo PD ShotSpotter

Jump to: [Organizational Details](#) [Questions / Statement of Work](#) [Budget Summary](#) [Tables \(Goals & Objectives and Budget\)](#) [Documents](#)
[Grant Agreement](#)

\$ 152,714.00 Requested

Submitted: 5/18/2023 11:17:30 AM (Pacific)

Project Contact

Luann Martinez
lmartinez@pueblo.us
Tel: 719-568-7726

Additional Contacts

none entered

City of Pueblo

1 City Hall Place
Pueblo, CO 810034201
United States

Mayor

Nicholas Gradisar
ngradisar@pueblo.us

Telephone 719-568-7726
Fax
Web www.pueblo.us
EIN 84-6000615
UEI NJK3BNUDRHJ7
SAM Expires

Organizational Details [top](#)

1. Applicant "Doing Business As" (DBA) under a parent company/unit of Government:

- ☒ No
☐ Yes

2. Legal Entity Name:

Enter the Legal Entity Name here. If your agency is a DBA, the Legal name will be different than the Applicant Name. If your agency is NOT a DBA, then the Applicant Name and Legal Entity Name will be the same.

City of Pueblo

3. Legal Entity Physical Address:

Enter the Legal Entity Street Address, City, State, Zip + 4 (e.g. 700 Kipling Street, Suite 1000, Lakewood, CO 80215-8957)
1 City Hall Place, Pueblo, CO, 81003-4201

4. Applicant Type:

- ☐ State-level, quasi-governmental and pre-approved not-forprofit
☒ Public/ Government

5. Are you a Colorado State Agency?

(e.g. Colorado Department of Revenue, Colorado Department of Corrections, Colorado Department of Public Safety, etc.)

- ☒ No
☐ Yes

6. Legal Entity County:

Enter the County of your legal entity address
Pueblo

7. Entity's Fiscal Year End

12/31/23

8. Total Federal Expenditures during entity's last fiscal year.

13,549,165

Questions / Statement of Work [top](#)

Project Duration

1. Project Start Date

10/01/2023

10/01/23

2. Project End Date

09/30/2025 or earlier

09/30/2024

Application Type

3. Please select the second option below, "2022 Project Safe Neighborhoods (PSN)".

☒ 2021 Project Safe Neighborhoods (PSN)

☐ 2022 Project Safe Neighborhoods (PSN)

Project Officials

4. Project Director: Name

Enter salutation, first, last, title, agency (e.g. Mrs. Sally Smith, Program Coordinator, ABC Company)

James Martin, Deputy Chief, Pueblo Police Department

5. Project Director: Mailing Address

Street Address, City, State, Zip + 4 (e.g. 700 Kipling Street, Suite 1000, Lakewood, CO 80215-8957)

200 S. Main St., Pueblo, CO 81003

6. Project Director: Email Address

jmartin@pueblo.us

7. Project Director: Phone Number

719-553-2410

8. Financial Officer: Name

Enter salutation, first, last, title, Agency (e.g. Mr. John Doe, Senior Accountant, ABC Accounting Services)

Kayleigh McKenzie, Grant Compliance Manager, City of Pueblo

9. Financial Officer: Mailing Address

Street Address, City, State, Zip + 4 (e.g. 700 Kipling Street, Suite 1000, Lakewood, CO 80215-8957)

1 City Hall Place, Pueblo, CO 81003-4201

10. Financial Officer: Email Address

kmckenzie@pueblo.us

11. Financial Officer: Phone Number

719-553-2667

12. Signature Authority: Name

Enter salutation, first, last, title, agency (e.g. Ms. Jane Austen, County Commissioner Chair, ABC Company).

Nick Gradisar, Mayor, City of Pueblo

13. Signature Authority: Mailing Address

Street Address, City, State, Zip + 4 (e.g. 700 Kipling Street, Suite 1000, Lakewood, CO 80215-8957)

1 City Hall Place, Pueblo, CO 81003-4201

14. Signature Authority: Email Address

ngradisar@pueblp.us

15. Signature Authority: Phone Number

719-553-2655

Statement of Work

16. Project Summary:

Include a brief description of how your project will address the 2022 PSN Goals.

Pueblo Police Department seeks funding to purchase a Shot Spotter® to enhance its capability to identify and prosecute individuals perpetrating the most violent acts. The proposed ShotSpotter® solution is designed to identify, locate, and track active gunfire, and will support the Pueblo Police Department's efforts to more effectively respond to and investigate gunfire incidents. This strategy deployed across the country and serves agencies of all sizes that are committed to leveraging real-time gunfire intelligence to reduce gun violence and build community trust.

The proposed solution is aligned with the goals of Colorado's PSN program as it fosters collaboration with the Office of Gun Violence Prevention, and other state and federal entities to crack down on gun crime; provides a significant tactical advantage in support of Patrol when responding to gunfire; creates an opportunity for officers to respond quickly to gun-related incidents; and supports community engagement efforts.

17. Problem Statement:

Provide a description of the problem to be addressed using local data/statistics/information related to the 2022 PSN Board's goals.

Safety is vital to the development of Pueblo, Colorado. Effective delivery of police services affects the City's economic development, population growth, and its fiscal well-being, including its business owners and residents. However, Pueblo's crime rate – 49 per one thousand residents – is one of the highest in the nation. Its violent crime rate (6.49 per 1,000 residents) is 70 percent higher than the Colorado rate (3.81 per 1,000 residents) and 62 percent higher than the national median rate (4.00 per 1,000 residents). Pueblo is the only Colorado metropolitan area -- and one of only 10 in the Western U.S. -- to rank among the 50 most dangerous cities in the country.

Aggravated assaults have steadily increased over the past few years from 564 in 2019 to 761 in 2021. These include menacing with a weapon (about 39%), discharge of a firearm (about 24%), first and second degree assault, child abuse with SBI, and first and second degree attempted murder. Pueblo's Part I crime rate increased climbed by 22% last year, driven by a rise in sexual assaults, aggravated assault, robberies, burglary, theft/larceny, auto theft, and arson. A notable increase in gang activity gave rise to a historic 107% increase in homicides; of the suspects in homicide cases, 13 are known gang members. There were over 200 shootings in the city -- including 161 drive-by shootings and four gang-related homicides. The uniform crime statistics gathered by Pueblo Police Department (PPD) indicate an alarming increase in gunshot related incidents and calls for service in our community. Between 1 January 2022 and 30 April 2023, inclusive, PPD received 4,222 calls for service involving drive by shootings (10%), shots fired (83%), and shootings (6%). 1,024 incident reports were filed. Calls originated from Pueblo's Eastside and Bessemer neighborhoods more than others.

This spike in crime is a huge threat to the health and safety of residents and an urgent need exists to implement safety and security measures to address and combat gun related violence problem. It is also a threat to the city's economic growth: Nationwide, fear of crime is cited as a primary factor in the quality of life within communities, as well as a contributing factor in business and family relocation decisions.

Nationwide, on average, less than 20% of gunfire incidents are reported to 9-1-1, which perpetuates a perception that law enforcement "does not respond" when guns are fired. Citizens who feel law enforcement doesn't care about them and refuses to meet their needs for safety and security may understandably be more likely to refuse to assist the police when their help is needed. When a citizen does report a gunfire incident, the 9-1-1 call typically comes several minutes after the event occurred, and based on analysis, the location provided is usually mislocated by 750 feet (on average). As a result, valuable time and resources are wasted trying to locate the incident, diminishing the opportunity to identify suspects and witnesses, recover evidence, and most importantly, render life-saving aid to victims.

As the crime rate in the city rises, the staffing required to handle responses also increases. However, Pueblo Police Department's has 47 vacancies of its authorized strength of 231. 40+ positions have been vacant for 16 months. As PPD faces increasing challenges such as staffing shortages, aging technologies, and growth in crime, the department requires a solutions that will address increase in crime and reduced resources through a combination of data-driven policing, technology, and community involvement.

18. Project Plan:

In this section, applicants will address their proposed PSN violence reduction strategy and their plan for implementation of their strategy.

PPD seeks funding to install a security measure known as the ShotSpotter Gunfire Location, Alert and Analysis Service to help fight our war on crime. This is one component of PPD's overall anti-violence strategy to reduce crime in the city: adding technology in conjunction with best practices to provide PPD with an effective force-multiplier while increasing efficiency in deploying resources and increasing situational awareness. Specifically, it will compliment the city's plan to implement a Real Time Crime Center (RTCC) that includes License Plate Readers (LPR) and cameras, RTCC and ShotSpotter are technologies

designed to help law enforcement agencies collect, analyze, and disseminate critical information to allow officers to respond to crimes more efficiently with operational intelligence. Ultimately, they will help PPD protect the community by ensuring the right resources are provided when and where they are needed most.

The ShotSpotter® technology has gained national attention in its multiple applications including identifying, locating and tracking active gunfire. The make and model of this proposed solution were thoroughly vetted by Pueblo Police Department (PPD) and endorsed by other law enforcement agencies. More about Gunshot Detection/Location and statistics can be found at <https://www.soundthinking.com/law-enforcement/gunshot-detection-technology/>

Based on crime analysis, PPD will be targeting a coverage area where there has been a significant spike in crime and shots fired incidents in the City of Pueblo. Networked sensors will be placed throughout targeted areas at specific coordinates on buildings and telephone poles within the neighborhoods to accurately detect and locate the origin of gunshots and weapons-events. Once a gunshot is detected, ShotSpotter calculates the position where the gun was fired and sends the data to a central server accessible by PPD. Because ShotSpotter uses computer software to analyze sounds, ShotSpotter is precise enough to ignore fireworks, backfiring cars, and other noises that could be mistaken for gunfire.

With this new technology, dispatchers will be equipped with the exact location, number of rounds fired, number of shooters involved, and type of explosion. With greater knowledge of the situation's severity and scope, first responders can arrive at the scene faster and will be better prepared to protect their personal safety, attend to victims, and more efficiently manage the crime scene. The result is preemptive intelligence for better safety and appropriate dispatch of resources and improved preservation and collection of physical evidence. Specifically, it will increase the number of arrests, decrease police response time, increase officer safety, identify key forensic evidence, ultimately saving numerous lives.

ShotSpotter combines wide-area acoustic surveillance with centralized, cloud-based analysis to provide a gunfire alert and analysis service in under 60 seconds from trigger pull. The service uses multiple collaborative, acoustic sensors that activate when gunfire occurs, providing comprehensive outdoor coverage over complex urban geographies. When there is a shooting outdoors, ShotSpotter sensors and software triangulate and pinpoint the precise location of each round fired within seconds. Detailed incident data is immediately sent to the SST Incident Review Center. Immediately, an SST gunfire and acoustics expert analyzes the data and qualifies the incident. Once validated an alert is sent to dispatch centers, Public Safety Answer Points (PSAP) and directly to field personnel through any computer or mobile device with access to the Internet, all in under a minute.

The deployment of this technology will allow for intelligence gathering, prosecution, and information sharing of would-be and identified criminal and terrorist individuals or organizations that use guns or explosives as a tool to do harm. This information may then be shared with Pueblo County Sheriff's Office and other applicable law enforcement and intelligence communities.

Currently there are no agencies in Pueblo County that have deployed a permanent gunshot location system as expansive as this intended deployment. The purchase of this system will have immediate impact for the community with its internal use in the city's police department.

Geographic Area where Grant Funds will be Utilized

19. Colorado US Congressional District (01-07)

Enter district information that corresponds to the Service Area of this project. If Statewide, enter Statewide in the box provided. All other responses designating district should be separated by a comma.

03

20. State Senate District (01-35)

Enter district information that corresponds to the Service Area of this project. If Statewide, enter Statewide in the box provided. All other responses designating district should be separated by a comma.

03

21. State House District (01-65)

Enter district information that corresponds to the Service Area of this project. If Statewide, enter Statewide in the box provided. All other responses designating district should be separated by a comma.

46

22. Colorado Judicial District (01-22)

Enter district information that corresponds to the Service Area of this project. If Statewide, enter Statewide in the box provided. All other responses designating district should be separated by a comma.

10

23. Counties

Enter district information that corresponds to the Service Area of this project. If Statewide, enter Statewide in the box provided. All other responses designating counties served should be separated by a comma.

Pueblo County

24. Cities

Enter district information that corresponds to the Service Area of this project. If Statewide, enter Statewide in the box provided. All other responses designating counties served should be separated by a comma.

City of Pueblo

Implementing Agency

25. Implementing Agency Name:

Enter the Implementing Agency Name. If not applicable, enter NA.

City of Pueblo Police Department

26. Implementing Agency Entity Function:

- ☐ This Project will not utilize a separate Implementing Agency. The Applicant and Implementing Agency are the same.
- ☒ Law Enforcement
- ☐ Public Defense
- ☐ Education

- ☐ Treatment/Substance Abuse
- ☐ Courts
- ☐ Youth Services
- ☐ Treatment/Mental Health
- ☐ Prosecution
- ☐ Probation
- ☐ Social Services

Budget Summary [top](#)

Budget Summary Requested/Awarded	Grant Funds
Personnel	
Supplies and Operating	
Travel	
Equipment	\$ 152,714.00
Consultants / Contracts	
Indirect	
Total	\$ 152,714.00

Budget Summary Narrative

The City of Pueblo Police Department humbly requests \$152,714 for this project. Pueblo is majority-minority community composed of a broad diversity of residents with many linguistic, racial, ethnic, and cultural backgrounds. The U.S. Census Bureau 2020 reported the local Hispanic/Latinx residency to be 52.2%, the highest in all census places in CO with a population over 100,000. It is largely this same population that makes up much of the rate of Puebloans living in poverty - an alarming 24.4% despite expanded federal aid in response to the COVID-19-induced recession. Of the 54 census tracts in Pueblo County, 28 are Areas of Persistent Poverty. The City of Pueblo, Colorado has eight designated Opportunity Zones. Consistent with OMB's Interim Guidance for the Justice Initiative, Pueblo meets the definition of a Historically Disadvantaged Community. Local data demonstrates that the highest volume of gang activity is centralized in neighborhoods with visible differences from other parts of the city – palpable poverty, disrepair, and neglect. Pueblo's leadership has reckoned with the truth about a century of underinvestment and is ready to revitalize and redress the neighborhoods. This is a poor community and the tax base does not generate adequate funding to fund these projects.

The FY2021-2022 Project Safe Neighborhood award will be restricted to the purchase of an all-inclusive subscription-based SpotShotter® gunshot detection, location, and forensic analysis service from SoundThinking, Inc., a California USA company, for one year. A oneyear subscription can be obtained with (an undiscounted) rate of \$220,000. The anticipated remainder of need, \$67,286, will be covered by the city's general funds. Concurrent with the sensor design and deployment activities (hardware from Smart Policing RTCC funding), SoundThinking will provide a series of onboarding services to prepare the Police Department to maximize the value of the ShotSpotter service.

A Customer Success Director will be assigned to PPD to ensure that we deliver consistent, quality best practices training based on the Department's needs to maximize the value of our service. The Customer Success Director will work also with PPD Chief of Police and Command staff to review, define, and adopt a set of agency metrics, or Key Performance Indicators (KPIs), to establish and monitor the efficacy of the ShotSpotter service and related agency Best Practices.

On the day of ShotSpotter service activation to a live production status, the Customer Success Director will be on site to ensure that the transition is smooth, that the established best practices are being implemented as planned, and that user questions are answered quickly.

Payment for the service initiation, onboarding, subscription and interface license for three years will be:

50% of fees due upon execution of agreement \$110,000

50% of fees due upon ShotSpotter service activation (live) status \$110,000

Subtotal for one-year project \$220,000.

The city's contribution of local funds will be 31%; PSN contribution will be 69%

Tables (Goals & Objectives and Budget) [top](#)

Goals & Objectives

GOAL 1

Goal 1 Law enforcement will have tools necessary to respond to shots fired

Objective 1.1

Objective Officers can more quickly and accurately go directly to the scene of shots fired

Outcome	Increased gun crime arrests
Measurement	Number of arrests
Timeframe	Immediate and continual
Objective 1.2	
Objective	Officers have the intelligence they need
Outcome	Increased situational awareness over what is available when relying solely on the 9-1-1 system
Measurement	officers' anecdotal information
Timeframe	immediate and continual
Objective 1.3	
Objective	Decreased response time
Outcome	Increased incidents of officers arriving before the shooter has left the scene
Measurement	recorded response times
Timeframe	immediate and continual
GOAL 2	
Goal 2	Improved community relations & collaboration.
Objective 2.1	
Objective	Public trust is improved
Outcome	Increased number of witnesses who may have information that can aid in the investigation
Measurement	number of witnesses
Timeframe	six months after deployment and continually thereafter
Objective 2.2	
Objective	Collaborations with the community are improved
Outcome	Increased information from the community (e.g., tip lines, field interviews, etc.)
Measurement	number of tips reported, interviews made, etc.
Timeframe	six months after deployment and continually thereafter
Objective 2.3	
Objective	
Outcome	
Measurement	
Timeframe	
GOAL 3	
Goal 3	Data is available that can be analyzed to move law enforcement agencies from a reactive to a proactive position.
Objective 3.1	
Objective	Provide valuable investigative leads
Outcome	Increased evidence collection programs
Measurement	delta between baseline and new data
Timeframe	immediate and continual
Objective 3.2	
Objective	Build an extensive casings database
Outcome	"hot addresses" are identified
Measurement	veracity of database
Timeframe	immediate and continual, with incremental growth
Objective 3.3	
Objective	Inform deployment of resources
Outcome	investigations are targeted
Measurement	anecdotal data from command staff
Timeframe	three months after deployment and continually thereafter

Personnel: Budget & Budget Narrative Details

Personnel	Position Title and Name	Annual Base Salary	Annual Base Salary To Be Paid By Grant Funds	% To Be Paid By Grant Funds	Annual Fringe To Be Paid By Grant Funds	% To Be Paid By Grant Funds	Total Annual Base Salary + Fringe	Total Base Salary + Fringe To Be Paid By Grant Funds	OT - Annual Base Salary To Be Paid By Grant Funds	OT - Annual Fringe To Be Paid By Grant Funds	Total To Be Paid By Grant Funds (including overtime)	Budget Narrative and Justification
1		\$	\$		\$	\$	\$ 0	\$ 0	\$	\$	\$ 0	
2		\$	\$		\$	\$	\$ 0	\$ 0	\$	\$	\$ 0	
3		\$	\$		\$	\$	\$ 0	\$ 0	\$	\$	\$ 0	
4		\$	\$		\$	\$	\$ 0	\$ 0	\$	\$	\$ 0	
5		\$	\$		\$	\$	\$ 0	\$ 0	\$	\$	\$ 0	
6		\$	\$		\$	\$	\$ 0	\$ 0	\$	\$	\$ 0	
7		\$	\$		\$	\$	\$ 0	\$ 0	\$	\$	\$ 0	
8		\$	\$		\$	\$	\$ 0	\$ 0	\$	\$	\$ 0	
9		\$	\$		\$	\$	\$ 0	\$ 0	\$	\$	\$ 0	
10		\$	\$		\$	\$	\$ 0	\$ 0	\$	\$	\$ 0	
Total		\$ 0	\$ 0		\$ 0	\$ 0	\$0	\$0	\$ 0	\$ 0	\$0	

Non-Personnel: Budget & Budget Narrative Details

Budget Item	Item	Amount To Be Paid By Grant Funds	Budget Narrative and Justification
SUPPLIES & OPERATING			
S&O 1		\$	
S&O 2		\$	
S&O 3		\$	
S&O 4		\$	
S&O 5		\$	
S&O 6		\$	
S&O 7		\$	
S&O 8		\$	
S&O 9		\$	
S&O 10		\$	
Supplies & Operating Total		\$ 0	
TRAVEL			
T 1		\$	
T 2		\$	
T 3		\$	
T 4		\$	
T 5		\$	
T 6		\$	
T 7		\$	
T 8		\$	
T 9		\$	
T 10		\$	
Travel Total		\$ 0	
EQUIPMENT			
E 1	ShotSpotter, 1 year	\$ 152,714	The FY2021-2022 Project Safe Neighborhood award will be restricted to the purchase of an all-inclusive subscription-based SpotShotter® gunshot detection, location, and forensic analysis service from SoundThinking, Inc., a California USA company, for one year. A one year subscription can be obtained with (an

undiscounted) rate of \$220,000. The anticipated remainder of need, \$67,286, will be covered by the city's general funds. Concurrent with the sensor design and deployment activities (hardware from Smart Policing RTCC funding), SoundThinking will provide a series of onboarding services to prepare the Police Department to maximize the value of the ShotSpotter service.

A Customer Success Director will be assigned to PPD to ensure that we deliver consistent, quality best practices training based on the Department's needs to maximize the value of our service. The Customer Success Director will work also with PPD Chief of Police and Command staff to review, define, and adopt a set of agency metrics, or Key Performance Indicators (KPIs), to establish and monitor the efficacy of the ShotSpotter service and related agency Best Practices. On the day of ShotSpotter service activation to a live production status, the Customer Success Director will be on site to ensure that the transition is smooth, that the established best practices are being implemented as planned, and that user questions are answered quickly.

Prorated payment for one year of the service initiation, onboarding, subscription and interface license for a three year contract will be:

50% of fees due upon execution of agreement \$110,000

50% of fees due upon ShotSpotter service activation (live) status \$110,000

Subtotal for prorated one-year PSN project subscription = \$220,000.

The city's contribution of local funds will be 31%; PSN contribution will be 69%.

E 2	\$
E 3	\$
E 4	\$
E 5	\$
E 6	\$
E 7	\$
E 8	\$
E 9	\$
E 10	\$
Equipment Total	\$ 152,714

CONSULTANTS/CONTRACTS (PROFESSIONAL SERVICES)

CC 1	\$
CC 2	\$
CC 3	\$
CC 4	\$
CC 5	\$
CC 6	\$
CC 7	\$
CC 8	\$
CC 9	\$
CC 10	\$
Consultants/Contracts Total	\$ 0

INDIRECT

I 1	\$
Indirect Total	\$ 0
Total	\$ 152,714

Additional Project Funding

Amount Awarded	Description	Duration
Additional Sources of Project Funding		

Federal	\$ 190,990.00	1 lump sum reimbursement at time of purchase	BJA-2023-00065-PROD Smart Policing Category 3 (Technology), pending
State	\$		
County Government	\$		
Municipal Government	\$ 67,286.00	1 lump sum payment at time of purchase	from city general funds
Private	\$		
Other (Specify)	\$		
Total	\$ 258,276.00		

Documents [top](#)

Documents Requested *

Required? Attached Documents *

Organizational Chart [Required if grant funds personnel]

Financial Management Questionnaire (FMQ)



[FMQ](#)

[download template](#)

Certificate Regarding Lobbying; Debarment, Suspension; and Drug-Free Workplace [Awards greater than \$100,000 only]

[OJP 4061-6 Certificate](#)

[download template](#)

Certification of Compliance with 1373 - NO LONGER APPLICABLE

[download template](#)

DHS and ICE Certification - NO LONGER APPLICABLE

[download template](#)

Acceptance/Appeal of Preliminary Award Decision

[download template](#)

Certification of Compliance with Regulations - Office of Civil Rights, Department of Justice (DCJ Form 30)

[download template](#)

Budget Revision (DCJ Form 4-A)

[download template](#)

Change in Project Officials (DCJ Form 4-B)

[download template](#)

Change in Grant Award Period (DCJ Form 4-C)

[download template](#)

Equipment Inventory/Retention Certification (DCJ Form 5)

[download template](#)

Equipment Procurement Certification (DCJ Form 13)

[download template](#)

Contract Debarment Verification (DCJ Form 17)

[download template](#)

Consultants/Contracts (DCJ Form 16)

[download template](#)

Administrative Documents *

[Application](#)

[Email thread - 8.16 - 8.21.2023 - Prelim. Accept. & App. Changes](#)

Grant Agreement [top](#)

City of Pueblo

2022-GP-23-04 // Pueblo PD ShotSpotter

152,714.00

Project Safe Neighborhoods Grant FY 2021-2022:

By signing this form, I, the Project Director, certify that:

- 1) I have added all necessary collaborators to my project(s);
- 2) I have added all necessary additional contacts to my project(s);
- 3) I will not delete or add a DCJ staff member as a collaborator unless instructed to do so by DCJ; and
- 4) I acknowledge that the Report Schedule, once posted to this tab, will be followed and that I will:

a. Submit Payment Requests electronically via the Payment Request tab in ZoomGrants.

b. Submit Quarterly Financial Reports electronically via the odd-numbered reports in the Report tab. See attached Reporting Schedule to determine which "Reporting tab #" is associated with which quarterly financial report.

c. Submit Quarterly Statistical and Narrative Reports via the even-numbered reports in the Report tab. See attached Reporting Schedule to determine which "Reporting tab #" is associated with which quarterly narrative report.

d. Submit Quarterly Federal Bureau of Justice Assistance (BJA) Report via Performance Management Tool (PMT) www.bjapmt.ojp.gov.

e. Follow additional reporting requirements as provided by your DCJ Grant Managers.

This grant is funded out of the following award Funds:

Federal Grant Number: 15PBJA-21-GG-02991-GUNP & 15PBJA-22-GG-00848-GUNP

Federal CFDA Number:16.609

Grant Agreement Documents

City of Pueblo

Colorado Division of Criminal Justice Office of Adult and Juvenile Justice Assistance

Grant Agreement

James V Martin
10/19/2023 7:02:50 AM
jmartin@pueblo.us 208.82.107.130

Amy Miller
10/19/2023 9:15:54 AM
Amy.l.miller@state.co.us 165.127.87.1

Project Safe Neighborhoods FY 2021 & 2022 Reporting Schedule - 10/1/2023 - 9/30/2024

Signatures

City of Pueblo

Colorado Division of Criminal Justice Office of Adult and Juvenile Justice Assistance

James V Martin
10/19/2023 7:02:57 AM
jmartin@pueblo.us 208.82.107.130

Amy Miller
10/19/2023 9:16:01 AM
Amy.l.miller@state.co.us 165.127.87.1

Report 1 due 1/15/2020 (not submitted) [top](#)

Some answers will not be presented because they are not part of the selected group of questions based on the answer to #1.

1. What type of Report is this? (DO NOT CHANGE THIS RESPONSE)

DCJ staff have selected the appropriate response below based on your Reporting Schedule. Do not change this response.

- ☒ Financial Report (DCJ Form 1-A) - Quarterly 1 total to date
- ☐ Financial Report (DCJ Form 1-A) - Final
- ☐ Statistical and Narrative Report (DCJ Form 2) - Quarterly
- ☐ Statistical and Narrative Report (DCJ Form 2) - Final
- ☐ Program Income Report (DCJ Form 1-B) - Quarterly
- ☐ Program Income Report (DCJ Form 1-B) - Final

2. Prepared By:

Enter name of individual completing this report.

-no answer-

3. Prepared By Phone Number:

-no answer-

4. Reporting Period (DO NOT CHANGE THIS RESPONSE)

DCJ staff have selected the appropriate response below based on your Reporting Schedule. Do not change this response.

☐	07-01-2019 to 09-30-2019	
☐	10-01-2019 to 12-31-2019	
☐	01-01-2020 to 03-31-2020	
☐	04-01-2020 to 06-30-2020	
☐	07-01-2020 to 09-30-2020	
☐	10-01-2020 to 12-31-2020	
☐	01-01-2021 to 03-31-2021	
☐	04-01-2021 to 06-30-2021	
☐	07-01-2021 to 09-30-2021	
☐	10-01-2021 to 12-31-2021	
☐	01-01-2022 to 03-31-2022	
☐	04-01-2022 to 06-30-2022	
☐	07-01-2022 to 09-30-2022	
☐	10-01-2022 to 12-31-2022	
☐	01-01-2023 to 03-31-2023	
☐	04-01-2023 to 06-30-2023	
☐	07-01-2023 to 09-30-2023	
☒	10-01-2023 to 12-31-2023	1 total to date
☐	01-01-2024 to 03-31-2024	
☐	04-01-2024 to 06-30-2024	

5. Is this report a Quarterly AND Final Report

☐ No

☐ Yes

6. Expenditures This Quarter - Award

	(B) Personnel Expenditures
	(B) Supplies & Operating Expenditures
	(B) Travel Expenditures
	(B) Equipment
	(B) Consultants/Contracts Expenditures
	(B) Indirect Expenditures
0.00	TOTAL

7. Financial Officer: I certify that, to the best of my knowledge and belief, this report is correct and complete, and that all expenditures and unpaid obligations are for the purposes set forth in the grant award documents.

-no answer-

8. Project Director: I certify that, to the best of my knowledge and belief, this report is correct and complete, and that all expenditures and unpaid obligations are for the purposes set forth in the grant award documents.

I also certify that the appropriate backup documentation is available onsite, if requested and will be retained for the required time as specified in the grant agreement. (Enter name below to act as a signature)

-no answer-

9. PROJECT INCOME RECEIPT AND EXPENDITURE

-answer not presented because of the answer to #1-

10. Financial Officer: I certify that, to the best of my knowledge and belief, this report is correct and complete, all the expenditures were made within the guidelines of the funding source.

-answer not presented because of the answer to #1-

11. Project Director: I certify that, to the best of my knowledge and belief, this report is correct and complete, all the expenditures were made within the guidelines of the funding source.

-answer not presented because of the answer to #1-

12. GOAL 1 - ACTIVITIES:

-answer not presented because of the answer to #1-

13. GOAL 2 - ACTIVITIES:

-answer not presented because of the answer to #1-

14. GOAL 3 - ACTIVITIES:

-answer not presented because of the answer to #1-

15. OUTCOMES THIS QUARTER: Provide indicators that show progress toward attaining each listed outcome/indicator.

-answer not presented because of the answer to #1-

16. PROBLEMS ENCOUNTERED:

-answer not presented because of the answer to #1-

17. PROJECT/PROPOSED CHANGES:

-answer not presented because of the answer to #1-

18. TIMELINES: Are they being met?

-answer not presented because of the answer to #1-

19. Highlights: Please describe any highlights of this program/project you feel are relevant to the program/project outcome. These can be intentional/unintentional outcomes of the work that you are doing. Please be specific in your description.

-answer not presented because of the answer to #1-

Report 2 due 1/15/2020 (not submitted) [top](#)

Some answers will not be presented because they are not part of the selected group of questions based on the answer to #1.

1. What type of Report is this? (DO NOT CHANGE THIS RESPONSE)

DCJ staff have selected the appropriate response below based on your Reporting Schedule. Do not change this response.

- | | |
|--|-----------------|
| ☐ Financial Report (DCJ Form 1-A) - Quarterly | 1 total to date |
| ☐ Financial Report (DCJ Form 1-A) - Final | |
| ☐ Statistical and Narrative Report (DCJ Form 2) - Quarterly | |
| ☐ Statistical and Narrative Report (DCJ Form 2) - Final | |
| ☒ Program Income Report (DCJ Form 1-B) - Quarterly | 1 total to date |
| ☐ Program Income Report (DCJ Form 1-B) - Final | |

2. Prepared By:

Enter name of individual completing this report.

-no answer-

3. Prepared By Phone Number:

-no answer-

4. Reporting Period (DO NOT CHANGE THIS RESPONSE)

DCJ staff have selected the appropriate response below based on your Reporting Schedule. Do not change this response.

- | | |
|--|-----------------|
| ☐ 07-01-2019 to 09-30-2019 | |
| ☐ 10-01-2019 to 12-31-2019 | |
| ☐ 01-01-2020 to 03-31-2020 | |
| ☐ 04-01-2020 to 06-30-2020 | |
| ☐ 07-01-2020 to 09-30-2020 | |
| ☐ 10-01-2020 to 12-31-2020 | |
| ☐ 01-01-2021 to 03-31-2021 | |
| ☐ 04-01-2021 to 06-30-2021 | |
| ☐ 07-01-2021 to 09-30-2021 | |
| ☐ 10-01-2021 to 12-31-2021 | |
| ☐ 01-01-2022 to 03-31-2022 | |
| ☐ 04-01-2022 to 06-30-2022 | |
| ☐ 07-01-2022 to 09-30-2022 | |
| ☐ 10-01-2022 to 12-31-2022 | |
| ☐ 01-01-2023 to 03-31-2023 | |
| ☐ 04-01-2023 to 06-30-2023 | |
| ☐ 07-01-2023 to 09-30-2023 | |
| ☒ 10-01-2023 to 12-31-2023 | 2 total to date |
| ☐ 01-01-2024 to 03-31-2024 | |
| ☐ 04-01-2024 to 06-30-2024 | |

5. Is this report a Quarterly AND Final Report

-answer not presented because of the answer to #1-

6. Expenditures This Quarter - Award

-answer not presented because of the answer to #1-

7. Financial Officer: I certify that, to the best of my knowledge and belief, this report is correct and complete, and that all expenditures and unpaid obligations are for the purposes set forth in the grant award documents.

-answer not presented because of the answer to #1-

8. Project Director: I certify that, to the best of my knowledge and belief, this report is correct and complete, and that all expenditures and unpaid obligations are for the purposes set forth in the grant award documents.

-answer not presented because of the answer to #1-

9. PROJECT INCOME RECEIPT AND EXPENDITURE

	1. PROJECT INCOME BALANCE at Beginning of Quarter(Line 4 from previous report)
	2_a1. RECEIPTS/INCOME THIS QUARTER, BY SOURCE (Client Fees)
	2_a2. RECEIPTS/INCOME THIS QUARTER, BY SOURCE (Registration Fees)
	2_b. RECEIPTS/INCOME THIS QUARTER, BY SOURCE (Other)
	2_Total_ RECEIPTS/INCOME THIS QUARTER
	3. TOTAL EXPENDITURES OF PROJECT INCOME THIS QUARTER
	4. BALANCE END OF QUARTER [(1+2) - 3 = 4]
0.00	TOTAL

10. Financial Officer: I certify that, to the best of my knowledge and belief, this report is correct and complete, all the expenditures were made within the guidelines of the funding source.

Enter name below to act as a signature:

-no answer-

11. Project Director: I certify that, to the best of my knowledge and belief, this report is correct and complete, all the expenditures were made within the guidelines of the funding source.

Enter name below to act as a signature:

-no answer-

12. GOAL 1 - ACTIVITIES:

-answer not presented because of the answer to #1-

13. GOAL 2 - ACTIVITIES:

-answer not presented because of the answer to #1-

14. GOAL 3 - ACTIVITIES:

-answer not presented because of the answer to #1-

15. OUTCOMES THIS QUARTER: Provide indicators that show progress toward attaining each listed outcome/indicator.

-answer not presented because of the answer to #1-

16. PROBLEMS ENCOUNTERED:

-answer not presented because of the answer to #1-

17. PROJECT/PROPOSED CHANGES:

-answer not presented because of the answer to #1-

18. TIMELINES: Are they being met?

-answer not presented because of the answer to #1-

19. Highlights: Please describe any highlights of this program/project you feel are relevant to the program/project outcome. These can be intentional/unintentional outcomes of the work that you are doing. Please be specific in your description.

-answer not presented because of the answer to #1-

Report 3 due 4/15/2020 (not submitted) [top](#)

Some answers will not be presented because they are not part of the selected group of questions based on the answer to #1.

1. What type of Report is this? (DO NOT CHANGE THIS RESPONSE)

DCJ staff have selected the appropriate response below based on your Reporting Schedule. Do not change this response.

- | | |
|--|-----------------|
| ☒ Financial Report (DCJ Form 1-A) - Quarterly | 2 total to date |
| ☐ Financial Report (DCJ Form 1-A) - Final | |
| ☐ Statistical and Narrative Report (DCJ Form 2) - Quarterly | |
| ☐ Statistical and Narrative Report (DCJ Form 2) - Final | |
| ☐ Program Income Report (DCJ Form 1-B) - Quarterly | 1 total to date |
| ☐ Program Income Report (DCJ Form 1-B) - Final | |

2. Prepared By:

Enter name of individual completing this report.

-no answer-

3. Prepared By Phone Number:

-no answer-

4. Reporting Period (DO NOT CHANGE THIS RESPONSE)

DCJ staff have selected the appropriate response below based on your Reporting Schedule. Do not change this response.

- | | |
|--|-----------------|
| ☐ 07-01-2019 to 09-30-2019 | |
| ☐ 10-01-2019 to 12-31-2019 | |
| ☐ 01-01-2020 to 03-31-2020 | |
| ☐ 04-01-2020 to 06-30-2020 | |
| ☐ 07-01-2020 to 09-30-2020 | |
| ☐ 10-01-2020 to 12-31-2020 | |
| ☐ 01-01-2021 to 03-31-2021 | |
| ☐ 04-01-2021 to 06-30-2021 | |
| ☐ 07-01-2021 to 09-30-2021 | |
| ☐ 10-01-2021 to 12-31-2021 | |
| ☐ 01-01-2022 to 03-31-2022 | |
| ☐ 04-01-2022 to 06-30-2022 | |
| ☐ 07-01-2022 to 09-30-2022 | |
| ☐ 10-01-2022 to 12-31-2022 | |
| ☐ 01-01-2023 to 03-31-2023 | |
| ☐ 04-01-2023 to 06-30-2023 | |
| ☐ 07-01-2023 to 09-30-2023 | |
| ☐ 10-01-2023 to 12-31-2023 | 2 total to date |
| ☒ 01-01-2024 to 03-31-2024 | 1 total to date |
| ☐ 04-01-2024 to 06-30-2024 | |

5. Is this report a Quarterly AND Final Report

- ☐ No
- ☐ Yes

6. Expenditures This Quarter - Award

- | | |
|-----------------------------------|--|
| <input type="text"/> | (B) Personnel Expenditures |
| <input type="text"/> | (B) Supplies & Operating Expenditures |
| <input type="text"/> | (B) Travel Expenditures |
| <input type="text"/> | (B) Equipment |
| <input type="text"/> | (B) Consultants/Contracts Expenditures |
| <input type="text"/> | (B) Indirect Expenditures |
| <input type="text" value="0.00"/> | TOTAL |

7. Financial Officer: I certify that, to the best of my knowledge and belief, this report is correct and complete, and that all expenditures and unpaid obligations are for the purposes set forth in the grant award documents.

-no answer-

8. Project Director: I certify that, to the best of my knowledge and belief, this report is correct and complete, and that all expenditures and unpaid obligations are for the purposes set forth in the grant award documents.

I also certify that the appropriate backup documentation is available onsite, if requested and will be retained for the required time as specified in the grant agreement. (Enter name below to act as a signature)

-no answer-

9. PROJECT INCOME RECEIPT AND EXPENDITURE

-answer not presented because of the answer to #1-

10. Financial Officer: I certify that, to the best of my knowledge and belief, this report is correct and complete, all the expenditures were made within the guidelines of the funding source.

-answer not presented because of the answer to #1-

11. Project Director: I certify that, to the best of my knowledge and belief, this report is correct and complete, all the expenditures were made within the guidelines of the funding source.

-answer not presented because of the answer to #1-

12. GOAL 1 - ACTIVITIES:

-answer not presented because of the answer to #1-

13. GOAL 2 - ACTIVITIES:

-answer not presented because of the answer to #1-

14. GOAL 3 - ACTIVITIES:

-answer not presented because of the answer to #1-

15. OUTCOMES THIS QUARTER: Provide indicators that show progress toward attaining each listed outcome/indicator.

-answer not presented because of the answer to #1-

16. PROBLEMS ENCOUNTERED:

-answer not presented because of the answer to #1-

17. PROJECT/PROPOSED CHANGES:

-answer not presented because of the answer to #1-

18. TIMELINES: Are they being met?

-answer not presented because of the answer to #1-

19. Highlights: Please describe any highlights of this program/project you feel are relevant to the program/project outcome. These can be intentional/unintentional outcomes of the work that you are doing. Please be specific in your description.

-answer not presented because of the answer to #1-

Report 4 due 4/15/2020 (not submitted) [top](#)

Some answers will not be presented because they are not part of the selected group of questions based on the answer to #1.

1. What type of Report is this? (DO NOT CHANGE THIS RESPONSE)

DCJ staff have selected the appropriate response below based on your Reporting Schedule. Do not change this response.

- | | |
|--|-----------------|
| ☐ Financial Report (DCJ Form 1-A) - Quarterly | 2 total to date |
| ☐ Financial Report (DCJ Form 1-A) - Final | |
| ☐ Statistical and Narrative Report (DCJ Form 2) - Quarterly | |
| ☐ Statistical and Narrative Report (DCJ Form 2) - Final | |
| ☒ Program Income Report (DCJ Form 1-B) - Quarterly | 2 total to date |
| ☐ Program Income Report (DCJ Form 1-B) - Final | |

2. Prepared By:

Enter name of individual completing this report.

-no answer-

3. Prepared By Phone Number:

-no answer-

4. Reporting Period (DO NOT CHANGE THIS RESPONSE)

DCJ staff have selected the appropriate response below based on your Reporting Schedule. Do not change this response.

- ☐ 07-01-2019 to 09-30-2019
- ☐ 10-01-2019 to 12-31-2019
- ☐ 01-01-2020 to 03-31-2020
- ☐ 04-01-2020 to 06-30-2020
- ☐ 07-01-2020 to 09-30-2020
- ☐ 10-01-2020 to 12-31-2020
- ☐ 01-01-2021 to 03-31-2021

☐	04-01-2021 to 06-30-2021	
☐	07-01-2021 to 09-30-2021	
☐	10-01-2021 to 12-31-2021	
☐	01-01-2022 to 03-31-2022	
☐	04-01-2022 to 06-30-2022	
☐	07-01-2022 to 09-30-2022	
☐	10-01-2022 to 12-31-2022	
☐	01-01-2023 to 03-31-2023	
☐	04-01-2023 to 06-30-2023	
☐	07-01-2023 to 09-30-2023	
☐	10-01-2023 to 12-31-2023	2 total to date
☒	01-01-2024 to 03-31-2024	2 total to date
☐	04-01-2024 to 06-30-2024	

5. Is this report a Quarterly AND Final Report

-answer not presented because of the answer to #1-

6. Expenditures This Quarter - Award

-answer not presented because of the answer to #1-

7. Financial Officer: I certify that, to the best of my knowledge and belief, this report is correct and complete, and that all expenditures and unpaid obligations are for the purposes set forth in the grant award documents.

-answer not presented because of the answer to #1-

8. Project Director: I certify that, to the best of my knowledge and belief, this report is correct and complete, and that all expenditures and unpaid obligations are for the purposes set forth in the grant award documents.

-answer not presented because of the answer to #1-

9. PROJECT INCOME RECEIPT AND EXPENDITURE

	1. PROJECT INCOME BALANCE at Beginning of Quarter(Line 4 from previous report)
	2_a1. RECEIPTS/INCOME THIS QUARTER, BY SOURCE (Client Fees)
	2_a2. RECEIPTS/INCOME THIS QUARTER, BY SOURCE (Registration Fees)
	2_b. RECEIPTS/INCOME THIS QUARTER, BY SOURCE (Other)
	2_Total_ RECEIPTS/INCOME THIS QUARTER
	3. TOTAL EXPENDITURES OF PROJECT INCOME THIS QUARTER
	4. BALANCE END OF QUARTER [(1+2) - 3 = 4]
0.00	TOTAL

10. Financial Officer: I certify that, to the best of my knowledge and belief, this report is correct and complete, all the expenditures were made within the guidelines of the funding source.

Enter name below to act as a signature:

-no answer-

11. Project Director: I certify that, to the best of my knowledge and belief, this report is correct and complete, all the expenditures were made within the guidelines of the funding source.

Enter name below to act as a signature:

-no answer-

12. GOAL 1 - ACTIVITIES:

-answer not presented because of the answer to #1-

13. GOAL 2 - ACTIVITIES:

-answer not presented because of the answer to #1-

14. GOAL 3 - ACTIVITIES:

-answer not presented because of the answer to #1-

15. OUTCOMES THIS QUARTER: Provide indicators that show progress toward attaining each listed outcome/indicator.

-answer not presented because of the answer to #1-

16. PROBLEMS ENCOUNTERED:

-answer not presented because of the answer to #1-

17. PROJECT/PROPOSED CHANGES:

-answer not presented because of the answer to #1-

18. TIMELINES: Are they being met?

-answer not presented because of the answer to #1-

19. Highlights: Please describe any highlights of this program/project you feel are relevant to the program/project outcome. These can be intentional/unintentional outcomes of the work that you are doing. Please be specific in your description.

-answer not presented because of the answer to #1-

Report 5 due 7/15/2020 (not submitted) [top](#)

Some answers will not be presented because they are not part of the selected group of questions based on the answer to #1.

1. What type of Report is this? (DO NOT CHANGE THIS RESPONSE)

DCJ staff have selected the appropriate response below based on your Reporting Schedule. Do not change this response.

- | | |
|--|-----------------|
| ☒ Financial Report (DCJ Form 1-A) - Quarterly | 3 total to date |
| ☐ Financial Report (DCJ Form 1-A) - Final | |
| ☐ Statistical and Narrative Report (DCJ Form 2) - Quarterly | |
| ☐ Statistical and Narrative Report (DCJ Form 2) - Final | |
| ☐ Program Income Report (DCJ Form 1-B) - Quarterly | 2 total to date |
| ☐ Program Income Report (DCJ Form 1-B) - Final | |

2. Prepared By:

Enter name of individual completing this report.

-no answer-

3. Prepared By Phone Number:

-no answer-

4. Reporting Period (DO NOT CHANGE THIS RESPONSE)

DCJ staff have selected the appropriate response below based on your Reporting Schedule. Do not change this response.

- | | |
|--|-----------------|
| ☐ 07-01-2019 to 09-30-2019 | |
| ☐ 10-01-2019 to 12-31-2019 | |
| ☐ 01-01-2020 to 03-31-2020 | |
| ☐ 04-01-2020 to 06-30-2020 | |
| ☐ 07-01-2020 to 09-30-2020 | |
| ☐ 10-01-2020 to 12-31-2020 | |
| ☐ 01-01-2021 to 03-31-2021 | |
| ☐ 04-01-2021 to 06-30-2021 | |
| ☐ 07-01-2021 to 09-30-2021 | |
| ☐ 10-01-2021 to 12-31-2021 | |
| ☐ 01-01-2022 to 03-31-2022 | |
| ☐ 04-01-2022 to 06-30-2022 | |
| ☐ 07-01-2022 to 09-30-2022 | |
| ☐ 10-01-2022 to 12-31-2022 | |
| ☐ 01-01-2023 to 03-31-2023 | |
| ☐ 04-01-2023 to 06-30-2023 | |
| ☐ 07-01-2023 to 09-30-2023 | |
| ☐ 10-01-2023 to 12-31-2023 | 2 total to date |
| ☐ 01-01-2024 to 03-31-2024 | 2 total to date |
| ☒ 04-01-2024 to 06-30-2024 | 1 total to date |

5. Is this report a Quarterly AND Final Report

- ☐ No
- ☐ Yes

6. Expenditures This Quarter - Award

- | | |
|----------------------|---------------------------------------|
| <input type="text"/> | (B) Personnel Expenditures |
| <input type="text"/> | (B) Supplies & Operating Expenditures |
| <input type="text"/> | (B) Travel Expenditures |

	(B) Equipment
	(B) Consultants/Contracts Expenditures
	(B) Indirect Expenditures
0.00	TOTAL

7. Financial Officer: I certify that, to the best of my knowledge and belief, this report is correct and complete, and that all expenditures and unpaid obligations are for the purposes set forth in the grant award documents.

-no answer-

8. Project Director: I certify that, to the best of my knowledge and belief, this report is correct and complete, and that all expenditures and unpaid obligations are for the purposes set forth in the grant award documents.

I also certify that the appropriate backup documentation is available onsite, if requested and will be retained for the required time as specified in the grant agreement. (Enter name below to act as a signature)

-no answer-

9. PROJECT INCOME RECEIPT AND EXPENDITURE

-answer not presented because of the answer to #1-

10. Financial Officer: I certify that, to the best of my knowledge and belief, this report is correct and complete, all the expenditures were made within the guidelines of the funding source.

-answer not presented because of the answer to #1-

11. Project Director: I certify that, to the best of my knowledge and belief, this report is correct and complete, all the expenditures were made within the guidelines of the funding source.

-answer not presented because of the answer to #1-

12. GOAL 1 - ACTIVITIES:

-answer not presented because of the answer to #1-

13. GOAL 2 - ACTIVITIES:

-answer not presented because of the answer to #1-

14. GOAL 3 - ACTIVITIES:

-answer not presented because of the answer to #1-

15. OUTCOMES THIS QUARTER: Provide indicators that show progress toward attaining each listed outcome/indicator.

-answer not presented because of the answer to #1-

16. PROBLEMS ENCOUNTERED:

-answer not presented because of the answer to #1-

17. PROJECT/PROPOSED CHANGES:

-answer not presented because of the answer to #1-

18. TIMELINES: Are they being met?

-answer not presented because of the answer to #1-

19. Highlights: Please describe any highlights of this program/project you feel are relevant to the program/project outcome. These can be intentional/unintentional outcomes of the work that you are doing. Please be specific in your description.

-answer not presented because of the answer to #1-

Report 6 due 7/15/2020 (not submitted) [top](#)

Some answers will not be presented because they are not part of the selected group of questions based on the answer to #1.

1. What type of Report is this? (DO NOT CHANGE THIS RESPONSE)

DCJ staff have selected the appropriate response below based on your Reporting Schedule. Do not change this response.

☐ Financial Report (DCJ Form 1-A) - Quarterly	3 total to date
☐ Financial Report (DCJ Form 1-A) - Final	
☐ Statistical and Narrative Report (DCJ Form 2) - Quarterly	
☐ Statistical and Narrative Report (DCJ Form 2) - Final	
☒ Program Income Report (DCJ Form 1-B) - Quarterly	3 total to date
☐ Program Income Report (DCJ Form 1-B) - Final	

2. Prepared By:

Enter name of individual completing this report.

-no answer-

3. Prepared By Phone Number:

-no answer-

4. Reporting Period (DO NOT CHANGE THIS RESPONSE)

DCJ staff have selected the appropriate response below based on your Reporting Schedule. Do not change this response.

☐	07-01-2019 to 09-30-2019	
☐	10-01-2019 to 12-31-2019	
☐	01-01-2020 to 03-31-2020	
☐	04-01-2020 to 06-30-2020	
☐	07-01-2020 to 09-30-2020	
☐	10-01-2020 to 12-31-2020	
☐	01-01-2021 to 03-31-2021	
☐	04-01-2021 to 06-30-2021	
☐	07-01-2021 to 09-30-2021	
☐	10-01-2021 to 12-31-2021	
☐	01-01-2022 to 03-31-2022	
☐	04-01-2022 to 06-30-2022	
☐	07-01-2022 to 09-30-2022	
☐	10-01-2022 to 12-31-2022	
☐	01-01-2023 to 03-31-2023	
☐	04-01-2023 to 06-30-2023	
☐	07-01-2023 to 09-30-2023	
☐	10-01-2023 to 12-31-2023	2 total to date
☐	01-01-2024 to 03-31-2024	2 total to date
☒	04-01-2024 to 06-30-2024	2 total to date

5. Is this report a Quarterly AND Final Report

-answer not presented because of the answer to #1-

6. Expenditures This Quarter - Award

-answer not presented because of the answer to #1-

7. Financial Officer: I certify that, to the best of my knowledge and belief, this report is correct and complete, and that all expenditures and unpaid obligations are for the purposes set forth in the grant award documents.

-answer not presented because of the answer to #1-

8. Project Director: I certify that, to the best of my knowledge and belief, this report is correct and complete, and that all expenditures and unpaid obligations are for the purposes set forth in the grant award documents.

-answer not presented because of the answer to #1-

9. PROJECT INCOME RECEIPT AND EXPENDITURE

	1. PROJECT INCOME BALANCE at Beginning of Quarter(Line 4 from previous report)
	2_a1. RECEIPTS/INCOME THIS QUARTER, BY SOURCE (Client Fees)
	2_a2. RECEIPTS/INCOME THIS QUARTER, BY SOURCE (Registration Fees)
	2_b. RECEIPTS/INCOME THIS QUARTER, BY SOURCE (Other)
	2_Total_ RECEIPTS/INCOME THIS QUARTER
	3. TOTAL EXPENDITURES OF PROJECT INCOME THIS QUARTER
	4. BALANCE END OF QUARTER [(1+2) - 3 = 4]
0.00	TOTAL

10. Financial Officer: I certify that, to the best of my knowledge and belief, this report is correct and complete, all the expenditures were made within the guidelines of the funding source.

Enter name below to act as a signature:

-no answer-

11. Project Director: I certify that, to the best of my knowledge and belief, this report is correct and complete, all the expenditures were made within the guidelines of the funding source.

Enter name below to act as a signature:

-no answer-

12. GOAL 1 - ACTIVITIES:

-answer not presented because of the answer to #1-

13. GOAL 2 - ACTIVITIES:

-answer not presented because of the answer to #1-

14. GOAL 3 - ACTIVITIES:

-answer not presented because of the answer to #1-

15. OUTCOMES THIS QUARTER: Provide indicators that show progress toward attaining each listed outcome/indicator.

-answer not presented because of the answer to #1-

16. PROBLEMS ENCOUNTERED:

-answer not presented because of the answer to #1-

17. PROJECT/PROPOSED CHANGES:

-answer not presented because of the answer to #1-

18. TIMELINES: Are they being met?

-answer not presented because of the answer to #1-

19. Highlights: Please describe any highlights of this program/project you feel are relevant to the program/project outcome. These can be intentional/unintentional outcomes of the work that you are doing. Please be specific in your description.

-answer not presented because of the answer to #1-

Report 7 due 10/15/2020 (not submitted) [top](#)

Some answers will not be presented because they are not part of the selected group of questions based on the answer to #1.

1. What type of Report is this? (DO NOT CHANGE THIS RESPONSE)

-answer not presented because of the answer to #1-

2. Prepared By:

-answer not presented because of the answer to #1-

3. Prepared By Phone Number:

-answer not presented because of the answer to #1-

4. Reporting Period (DO NOT CHANGE THIS RESPONSE)

-answer not presented because of the answer to #1-

5. Is this report a Quarterly AND Final Report

-answer not presented because of the answer to #1-

6. Expenditures This Quarter - Award

-answer not presented because of the answer to #1-

7. Financial Officer: I certify that, to the best of my knowledge and belief, this report is correct and complete, and that all expenditures and unpaid obligations are for the purposes set forth in the grant award documents.

-answer not presented because of the answer to #1-

8. Project Director: I certify that, to the best of my knowledge and belief, this report is correct and complete, and that all expenditures and unpaid obligations are for the purposes set forth in the grant award documents.

-answer not presented because of the answer to #1-

9. PROJECT INCOME RECEIPT AND EXPENDITURE

-answer not presented because of the answer to #1-

10. Financial Officer: I certify that, to the best of my knowledge and belief, this report is correct and complete, all the expenditures were made within the guidelines of the funding source.

-answer not presented because of the answer to #1-

11. Project Director: I certify that, to the best of my knowledge and belief, this report is correct and complete, all the expenditures were made within the guidelines of the funding source.

-answer not presented because of the answer to #1-

12. GOAL 1 - ACTIVITIES:

-answer not presented because of the answer to #1-

13. GOAL 2 - ACTIVITIES:

-answer not presented because of the answer to #1-

14. GOAL 3 - ACTIVITIES:

-answer not presented because of the answer to #1-

15. OUTCOMES THIS QUARTER: Provide indicators that show progress toward attaining each listed outcome/indicator.

-answer not presented because of the answer to #1-

16. PROBLEMS ENCOUNTERED:

-answer not presented because of the answer to #1-

17. PROJECT/PROPOSED CHANGES:

-answer not presented because of the answer to #1-

18. TIMELINES: Are they being met?

-answer not presented because of the answer to #1-

19. Highlights: Please describe any highlights of this program/project you feel are relevant to the program/project outcome. These can be intentional/unintentional outcomes of the work that you are doing. Please be specific in your description.

-answer not presented because of the answer to #1-

Report 8 due 10/15/2020 (not submitted) [top](#)

Some answers will not be presented because they are not part of the selected group of questions based on the answer to #1.

1. What type of Report is this? (DO NOT CHANGE THIS RESPONSE)

-answer not presented because of the answer to #1-

2. Prepared By:

-answer not presented because of the answer to #1-

3. Prepared By Phone Number:

-answer not presented because of the answer to #1-

4. Reporting Period (DO NOT CHANGE THIS RESPONSE)

-answer not presented because of the answer to #1-

5. Is this report a Quarterly AND Final Report

-answer not presented because of the answer to #1-

6. Expenditures This Quarter - Award

-answer not presented because of the answer to #1-

7. Financial Officer: I certify that, to the best of my knowledge and belief, this report is correct and complete, and that all expenditures and unpaid obligations are for the purposes set forth in the grant award documents.

-answer not presented because of the answer to #1-

8. Project Director: I certify that, to the best of my knowledge and belief, this report is correct and complete, and that all expenditures and unpaid obligations are for the purposes set forth in the grant award documents.

-answer not presented because of the answer to #1-

9. PROJECT INCOME RECEIPT AND EXPENDITURE

-answer not presented because of the answer to #1-

10. Financial Officer: I certify that, to the best of my knowledge and belief, this report is correct and complete, all the expenditures were made within the guidelines of the funding source.

-answer not presented because of the answer to #1-

11. Project Director: I certify that, to the best of my knowledge and belief, this report is correct and complete, all the expenditures were made within the guidelines of the funding source.

-answer not presented because of the answer to #1-

12. GOAL 1 - ACTIVITIES:

-answer not presented because of the answer to #1-

13. GOAL 2 - ACTIVITIES:

-answer not presented because of the answer to #1-

14. GOAL 3 - ACTIVITIES:

-answer not presented because of the answer to #1-

15. OUTCOMES THIS QUARTER: Provide indicators that show progress toward attaining each listed outcome/indicator.

-answer not presented because of the answer to #1-

16. PROBLEMS ENCOUNTERED:

-answer not presented because of the answer to #1-

17. PROJECT/PROPOSED CHANGES:

-answer not presented because of the answer to #1-

18. TIMELINES: Are they being met?

-answer not presented because of the answer to #1-

19. Highlights: Please describe any highlights of this program/project you feel are relevant to the program/project outcome. These can be intentional/unintentional outcomes of the work that you are doing. Please be specific in your description.

-answer not presented because of the answer to #1-

Report 10 due 1/15/2021 (not submitted) [top](#)

Some answers will not be presented because they are not part of the selected group of questions based on the answer to #1.

1. What type of Report is this? (DO NOT CHANGE THIS RESPONSE)

-answer not presented because of the answer to #1-

2. Prepared By:

-answer not presented because of the answer to #1-

3. Prepared By Phone Number:

-answer not presented because of the answer to #1-

4. Reporting Period (DO NOT CHANGE THIS RESPONSE)

-answer not presented because of the answer to #1-

5. Is this report a Quarterly AND Final Report

-answer not presented because of the answer to #1-

6. Expenditures This Quarter - Award

-answer not presented because of the answer to #1-

7. Financial Officer: I certify that, to the best of my knowledge and belief, this report is correct and complete, and that all expenditures and unpaid obligations are for the purposes set forth in the grant award documents.

-answer not presented because of the answer to #1-

8. Project Director: I certify that, to the best of my knowledge and belief, this report is correct and complete, and that all expenditures and unpaid obligations are for the purposes set forth in the grant award documents.

-answer not presented because of the answer to #1-

9. PROJECT INCOME RECEIPT AND EXPENDITURE

-answer not presented because of the answer to #1-

10. Financial Officer: I certify that, to the best of my knowledge and belief, this report is correct and complete, all the expenditures were made within the guidelines of the funding source.

-answer not presented because of the answer to #1-

11. Project Director: I certify that, to the best of my knowledge and belief, this report is correct and complete, all the expenditures were made within the guidelines of the funding source.

-answer not presented because of the answer to #1-

12. GOAL 1 - ACTIVITIES:

-answer not presented because of the answer to #1-

13. GOAL 2 - ACTIVITIES:

-answer not presented because of the answer to #1-

14. GOAL 3 - ACTIVITIES:

-answer not presented because of the answer to #1-

15. OUTCOMES THIS QUARTER: Provide indicators that show progress toward attaining each listed outcome/indicator.

-answer not presented because of the answer to #1-

16. PROBLEMS ENCOUNTERED:

-answer not presented because of the answer to #1-

17. PROJECT/PROPOSED CHANGES:

-answer not presented because of the answer to #1-

18. TIMELINES: Are they being met?

-answer not presented because of the answer to #1-

19. Highlights: Please describe any highlights of this program/project you feel are relevant to the program/project outcome. These can be intentional/unintentional outcomes of the work that you are doing. Please be specific in your description.

-answer not presented because of the answer to #1-

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Grantee: City of Pueblo
Project: Pueblo PD ShotSpotter

DCJ Grant #: 2022-GP-23-04

GRANT AWARD LETTER
(Intergovernmental Grant Agreement)
SUMMARY OF GRANT AWARD TERMS AND CONDITIONS

COVER PAGE

State Agency Department of Public Safety, Division of Criminal Justice	DCJ Grant Number 2022-GP-23-04
Grantee City of Pueblo	Federal Unique Entity Identifier (UEI) NJK3BNUDRHJ7
	Is this Award for Research and Development (R&D)? No
Grant Issuance Date (Start Date) October 1, 2023	Grant Expiration Date (End Date) September 30, 2024
Grant Amount Federal Award #15PBJA-21-GG-02991-GUNP: \$93,739 Federal Award #15PBJA-22-GG-00848-GUNP: \$58,975 Total Grant Funds Awarded: \$152,714	Total Grantee Match Required: 0%
Agreement Authority (State Authority) The Division of Criminal Justice is authorized to disburse these funds by Colorado Revised Statute 24-33.503 and 507.	Grant Description Pueblo Police Department seeks funding to purchase a Shot Spotter® to enhance its capability to identify and prosecute individuals perpetrating the most violent acts. The proposed ShotSpotter® solution is designed to identify, locate, and track active gunfire, and will support the Pueblo Police Department's efforts to more effectively respond to and investigate gunfire incidents. This strategy deployed across the country and serves agencies of all sizes that are committed to leveraging real-time gunfire intelligence to reduce gun violence and build community trust.
Grant Purpose The Department of Justice Project Safe Neighborhoods (PSN) Program is a nationwide initiative that brings together federal, state, local, tribal, and territorial law enforcement officials, prosecutors, community-based partners, and other stakeholders to identify the most pressing violent crime problems in a community and develop comprehensive solutions to address them. PSN is coordinated by the U.S. Attorneys' Offices (USAOs) in the 94 federal judicial districts throughout the 50 states and U.S. territories. The Colorado PSN Board, coordinated by the USAO for the District of Colorado, intends to allocate funds within the four specified Targeted Enforcement Areas that represent the regions where violence is of greatest concern and which also represent discrete law enforcement areas with unique challenges. Funds will be awarded to support focused and strategic enforcement to address violent crime, for violent crime prevention resources, and for community engagement efforts, which are in alignment with the Colorado PSN Program strategy. Reviews were conducted by the PSN Board, members of which were not eligible to apply for funding. Criteria for scoring used by the PSN Board was based upon Colorado's PSN strategic plan and upon the proposal's adherence to the four PSN design features (Community Engagement, Prevention and Intervention, Focused and Strategic Enforcement, and Accountability).	
Exhibits and Order of Precedence The following Exhibits and attachments are included with this Grant: 1. Exhibit A1, Sample Option Letter. 2. Exhibit A2, Sample Grant Funding Change Letter 3. Exhibit B, Grant Requirements. 4. Exhibit C, Special Conditions. 5. Exhibit D, Statement of Work. 6. Exhibit E, Budget. 7. Exhibit F, Federal Requirements.	

Grantee: City of Pueblo
 Project: Pueblo PD ShotSpotter

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

1. Exhibit F, Federal Requirements.
2. Exhibit C, Special Conditions.
3. The provisions of the other sections of the main body of this Agreement.
4. Exhibit B, Grant Requirements.
5. Exhibit D, Statement of Work.
6. Exhibit E, Budget.

FEDERAL AWARD(S) APPLICABLE TO THIS GRANT AWARD

Federal Award Office	U.S. Department of Justice (US DOJ), Office of Justice Programs (OJP), Bureau of Justice Assistance (BJA)	
Grant Program	Project Safe Neighborhoods – Formula (PSN)	
CFDA	16.609	
Federal Award Number(s)	15PBJA-21-GG-02991-GUNP	15PBJA-22-GG-00848-GUNP
Federal Award Date	12/08/2021	09/28/2022
Federal Award End Date *	09/30/2024	09/30/2025
Federal Statutory Authority	This project is supported under FY 21 (BJA – Project Safe Neighborhoods - Formula) 34 U.S.C. §§60701-60705	This project is supported under FY 22 (BJA – Project Safe Neighborhoods - Formula) 34 U.S.C. §§60701-60705
Total Amount of Federal Award (this is not the amount of this grant agreement)	\$284,549	\$288,791

* The Federal Award End Date is current at the time of this award. All federal funds are subject to availability as described in §2 and §5 below.

Grantee: City of Pueblo
Project: Pueblo PD ShotSpotter

DCJ Grant #: 2022-GP-23-04

SIGNATURE PAGE**THE SIGNATORIES LISTED BELOW AUTHORIZE THIS GRANT**

Each person signing this Agreement represents and warrants that the signer is duly authorized to execute this Agreement and to bind the Party authorizing such signature.

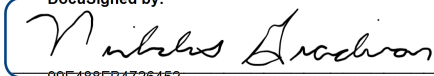
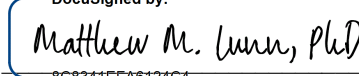
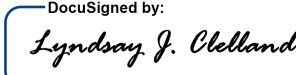
GRANTEE City of Pueblo DocuSigned by:  99E488FB4726452... By: Nick Gradisar, Mayor Date: 10/17/2023 2:19:22 PM PDT	STATE OF COLORADO Jared S. Polis, Governor Department of Public Safety Stan Hilkey, Executive Director DocuSigned by:  8C8341EFA6124C4... By: Division of Criminal Justice Matthew M. Lunn, PhD, Director Date: 10/18/2023 9:44:07 AM PDT
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 DocuSigned by:  363D680603F0405... By: Lyndsay J. Clelland, Contract and Grant Coordinator, Division of Criminal Justice Effective Date: 10/18/2023 10:44:57 AM MDT	

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1. GRANT

As of the Grant Issuance Date, the State Agency shown on the first page of this Grant Award Letter (the “State”) hereby obligates and awards to Grantee shown on the first page of this Grant Award Letter (the “Grantee”) an award of Grant Funds in the amounts shown on the first page of this Grant Award Letter. By accepting the Grant Funds provided under this Grant Award Letter, Grantee agrees to comply with the terms and conditions of this Grant Award Letter and requirements and provisions of all Exhibits to this Grant Award Letter.

2. TERM

A. Initial Grant Term and Extension

The Parties’ respective performances under this Grant Award Letter shall commence on the Grant Issuance Date and shall terminate on the Grant Expiration Date unless sooner terminated or further extended in accordance with the terms of this Grant Award Letter. Upon request of Grantee, the State may, in its sole discretion, extend the term of this Grant Award Letter in accordance with **§16.D**.

B. Early Termination in the Public Interest

The State is entering into this Grant Award Letter to serve the public interest of the State of Colorado as determined by its Governor, General Assembly, or Courts. If this Grant Award Letter ceases to further the public interest of the State or if State, Federal or other funds used for this Grant Award Letter are not appropriated, or otherwise become unavailable to fund this Grant Award Letter, the State, in its discretion, may terminate this Grant Award Letter in whole or in part by providing written notice to Grantee that includes, to the extent practicable, the public interest justification for the termination. If the State terminates this Grant Award Letter in the public interest, the State shall pay Grantee an amount equal to the total reimbursement payable under this Grant Award Letter that corresponds to the Work satisfactorily completed, as determined by the State, less payments previously made. This subsection shall not apply to a termination of this Grant Award Letter by the State for breach by Grantee.

C. Grantee's Termination Under Federal Requirements

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

3. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. **"Budget"** means the budget for the Work described in **Exhibit E, Budget**.
- B. **"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.
- C. **"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.
- D. **"CORA"** means the Colorado Open Records Act, §§24-72-200.1, *et seq.*, C.R.S.
- E. **"Grant Award Letter"** means this letter which offers Grant Funds to Grantee, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future updates thereto.
- F. **"Grant Funds"** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Grant Award Letter.
- G. **"Grant Expiration Date"** means the Grant Expiration Date shown on the first page of this Grant Award Letter.
- H. **"Grant Issuance Date"** means the Grant Issuance Date shown on the first page of this Grant Award Letter.

Grantee: City of Pueblo
Project: Pueblo PD ShotSpotter

DCJ Grant #: 2022-GP-23-04

- I. **“Exhibits”** exhibits and attachments included with this Grant as shown on the first page of this Grant
- J. **“Extension Term”** means the period of time by which the Grant Expiration Date is extended by the State through delivery of an updated Grant Award Letter
- K. **“Federal Award”** means an award of Federal financial assistance or a cost-reimbursement contract under the Federal Acquisition Regulations by a Federal Awarding Agency to the 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.
- L. **“Federal Awarding Agency”** means a Federal agency providing a Federal Award to a Recipient. See Federal Award(s) Applicable to this Grant.
- M. **“Goods”** means any movable material acquired, produced, or delivered by Grantee as set forth in this Grant Award Letter and shall include any movable material acquired, produced, or delivered by Grantee in connection with the Services.
- N. **“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.
- O. **“Initial Term”** means the time period between the Grant Issuance Date and the Grant Expiration Date.
- P. **“Matching Funds”** means the funds provided Grantee as a match required to receive the Grant Funds.
- Q. **“Party”** means the State or Grantee, and **“Parties”** means both the State and Grantee.
- R. **“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.
- S. **“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 and 24-73-101, C.R.S.
- T. **“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.

Grantee: City of Pueblo
 Project: Pueblo PD ShotSpotter

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- U. **“Recipient”** means the State Agency shown on the first page of this Grant Award Letter, for the purposes of the Federal Award.
- V. **“Services”** means the services to be performed by Grantee as set forth in this Grant Award Letter, and shall include any services to be rendered by Grantee in connection with the Goods.
- W. **“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, PHI, PCI, Tax Information, CJI, and State personnel records not subject to disclosure under CORA. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Contractor which (i) is subject to disclosure pursuant to CORA; (ii) is already known to Contractor without restrictions at the time of its disclosure to Contractor; (iii) is or subsequently becomes publicly available without breach of any obligation owed by Contractor to the State; (iv) is disclosed to Contractor, without confidentiality obligations, by a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.
- X. **“State Fiscal Rules”** means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a), C.R.S.
- Y. **“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.
- Z. **“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.
- AA. **“Sub-Award”** means this grant by the State (a Recipient) to Grantee (a Subrecipient) 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.
- BB. **“Subcontractor”** means third-parties, if any, engaged by Grantee to aid in performance of the Work. This establishes a **procurement** relationship. The subcontractor provides goods or services for the benefit of the purchaser.
- CC. **“Subgrantee”** means third-parties, if any, engaged by Grantee or Subgrantee to aid in performance of the Work. This establishes a **grant** relationship. The beneficiary, not the purchaser, receives benefit from the work. There may be multiple tiers of subgrantees/subrecipients that do not include procurement transactions.
- DD. **“Subrecipient”** means a state, local government, Indian tribe, institution of higher education (IHE), or nonprofit organization 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. For the purposes of this Grant, Grantee is a Subrecipient.
- EE. **“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

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includes, but is not limited to all information defined as Federal tax information in Internal Revenue Service Publication 1075.

- FF. **“Uniform Guidance”** means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200, commonly known as the “Super Circular, 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.
- GG. **“Work”** means the delivery of the Goods and performance of the Services described in this Grant Award Letter.
- HH. **“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 Grant Issuance Date that is used, without modification, in the performance of the Work.

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

4. STATEMENT OF WORK

Grantee shall complete the Work as described in this Grant Award Letter and in accordance with the provisions of **Exhibit E** and **Exhibit F**. The State shall have no liability to compensate or reimburse Grantee for the delivery of any goods or the performance of any services that are not specifically set forth in this Grant Award Letter.

5. PAYMENTS TO GRANTEE

A. Maximum Amount

Payments to Grantee are limited to the unpaid, obligated balance of the Grant Funds. The State shall not pay Grantee any amount under this Grant that exceeds the Grant Amount shown on the first page of this Grant Award Letter. 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. The State shall not be liable to pay or reimburse Grantee for any Work performed or expense incurred before the Grant Issuance Date or after the Grant Expiration Date; provided, however, that Work performed and expenses incurred by Grantee before the Grant Issuance Date that are chargeable to an active Federal Award may be submitted for reimbursement as permitted by the terms of the Federal Award.

B. 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. Matching Funds

Grantee: City of Pueblo
 Project: Pueblo PD ShotSpotter

DCJ Grant #: 2022-GP-23-04

Grantee shall provide the Local Match Amount shown on the first page of this Grant Award Letter and described in **Exhibit F**. Grantee shall appropriate and allocate all Local Match Amounts to the purpose of this Grant Award Letter. Grantee does not by accepting this Grant Award Letter irrevocably pledge present cash reserves for payments in future fiscal years, and this Grant Award Letter is not intended to create a multiple-fiscal year debt of Grantee. Grantee shall not pay or be liable for any claimed interest, late charges, fees, taxes or penalties of any nature, except as required by Grantee's laws or policies.

D. Reimbursement of Grantee Costs

The State shall reimburse Grantee's allowable costs, not exceeding the maximum total amount described in this Grant Award Letter for all allowable costs described in this Grant Award Letter and shown in the Budget, except that Grantee may adjust the amounts between each line item of the Budget without formal modification to this Agreement as long as the Grantee provides notice to and receives written approval from the State of the change, the change does not modify the total maximum amount of this Grant Award Letter or the maximum amount for any state fiscal year, and the change does not modify any requirements of the Work. The State shall reimburse Grantee for the Federal share of properly documented allowable costs related to the Work after the State's review and approval thereof, subject to the provisions of this Grant. The State shall only reimburse allowable costs if those costs are: **(i)** reasonable and necessary to accomplish the Work and for the Goods and Services provided; and **(ii)** equal to the actual net cost to Grantee (i.e. the price paid minus any items of value received by Grantee that reduce the cost actually incurred).

E. Close-Out

Grantee shall close out this Grant within **45** days after the Grant Expiration Date. To complete close out, Grantee shall submit to the State all deliverables (including documentation) as defined in this Grant Award Letter and Grantee'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 the Federal Awarding Agency has not closed this Federal Award within 1 year and 90 days after the Grant Expiration Date due to Grantee's failure to submit required documentation, then Grantee may be prohibited from applying for new Federal Awards through the State until such documentation is submitted and accepted.

6. REPORTING - NOTIFICATION

A. Performance and Final Status

Grantee shall submit all financial, performance and other reports to the State no later than the end of the close out described in **§5.E**, containing an evaluation and review of Grantee's performance and the final status of Grantee's obligations hereunder.

B. Violations Reporting

Grantee shall disclose, in a timely manner, in writing to the State all violations of federal or State criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal Award. The State or the Federal Awarding Agency may impose any penalties for noncompliance allowed under 2 CFR Part 180 and 31 U.S.C. 3321, which may include, without limitation, suspension or debarment.

Grantee: City of Pueblo
 Project: Pueblo PD ShotSpotter

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7. GRANTEE RECORDS

A. Maintenance and Inspection

Grantee shall make, keep, and maintain, all records, documents, communications, notes and other written materials, electronic media files, and communications, pertaining in any manner to this Grant for a period of three years following the completion of the close out of this Grant. Grantee shall permit the State to audit, inspect, examine, excerpt, copy and transcribe all such records during normal business hours at Grantee's office or place of business, unless the State determines that an audit or inspection is required without notice at a different time to protect the interests of the State.

B. Monitoring

The State will monitor Grantee's performance of its obligations under this Grant Award Letter using procedures as determined by the State. Grantee shall allow the State to perform all monitoring required by the Uniform Guidance, based on the State's risk analysis of Grantee. 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 Grantee's performance in a manner that does not unduly interfere with Grantee's performance of the Work. If Grantee enters into a subcontract or subgrant then the subcontract or subgrant entered into by Grantee shall contain provisions permitting both Grantee and the State to perform all monitoring of that subcontractor or subgrantee in accordance with the Uniform Guidance, and other State procedure.

C. Final Audit Report

Grantee shall promptly submit to the State a copy of any final audit report of an audit performed on Grantee's records that relates to or affects this Grant or the Work, whether the audit is conducted by Grantee or a third party. Additionally, if Grantee is required to perform a single audit under 2 CFR 200.501, *et seq.*, then Grantee shall submit a copy of the results of that audit to the State within the same timelines as the submission to the federal government.

8. CONFIDENTIAL INFORMATION-STATE RECORDS

A. Confidentiality

Grantee shall hold and maintain, and cause all Subgrantee and Subcontractors to hold and maintain, any and all State Records that the State provides or makes available to Grantee for the sole and exclusive benefit of the State, unless those State Records are otherwise publically available at the time of disclosure or are subject to disclosure by Grantee under CORA. Grantee shall not, without prior written approval of the State, use for Grantee'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 Grant Award Letter. Grantee 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. If Grantee or any of its Subgrantees or Subcontractors will or may receive the following types of data, Grantee or its Subgrantees and 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

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Information attached to this Grant 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 Grant, if applicable. Grantee shall immediately forward any request or demand for State Records to the State's principal representative.

B. Other Entity Access and Nondisclosure Agreements

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

C. Use, Security, and Retention

Grantee 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. Grantee shall provide the State with access, subject to Grantee'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 Grant, Grantee shall return State Records provided to Grantee or destroy such State Records and certify to the State that it has done so, as directed by the State. If Grantee is prevented by law or regulation from returning or destroying State Confidential Information, Grantee warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Grantee 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. After an Incident, Grantee 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 PII

If Grantee or any of its Subgrantees or Subcontractors will or may receive PII under this Agreement, Grantee shall provide for the security of 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,

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data storage encryption, data transmission encryption, security inspections, and audits. Grantee 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.

9. CONFLICTS OF INTEREST

Grantee 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 Grantee under this Grant. Grantee acknowledges that, with respect to this Grant, even the appearance of a conflict of interest shall be harmful to the State’s interests and absent the State’s prior written approval, Grantee shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Grantee’s obligations under this Grant. If a conflict or the appearance of a conflict arises, or if Grantee is uncertain whether a conflict or the appearance of a conflict has arisen, Grantee shall submit to the State a disclosure statement setting forth the relevant details for the State’s consideration.

10. INSURANCE

Grantee shall maintain at all times during the term of this Grant such liability insurance, by commercial policy or self-insurance, as is necessary to meet its liabilities under the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the “GIA”). Grantee shall ensure that any Subgrantees and Subcontractors maintain all insurance customary for the completion of the Work done by that Subgrantee or Subcontractor and as required by the State or the GIA.

11. REMEDIES

In addition to any remedies available under any exhibit to this Grant Award Letter, if Grantee fails to comply with any term or condition of this Grant or any terms of the Federal Award, the State may terminate some or all of this Grant and require Grantee to repay any or all Grant funds to the State in the State’s sole discretion. The State may also terminate this Grant Award Letter at any time if the State has determined, in its sole discretion, that Grantee has ceased performing the Work without intent to resume performance, prior to the completion of the Work.

12. DISPUTE RESOLUTION

Except as herein specifically provided otherwise or as required or permitted by federal regulations related to any Federal Award that provided any of the Grant Funds, disputes concerning the performance of this Grant that cannot be resolved by the designated Party representatives shall be referred in writing to a senior departmental management staff member designated by the State and a senior manager or official designated by Grantee for resolution.

13. NOTICES AND REPRESENTATIVES

Each Party shall identify an individual to be the principal representative of the designating Party and shall provide this information to the other Party. All notices required or permitted to be given under this Grant Award Letter shall be in writing, and shall be delivered either in hard copy or by email to the representative of the other Party. Either Party may change its principal representative or principal representative contact information by notice submitted in accordance with this §13.

14. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

Grantee 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 Grantee or any Subgrantees or Subcontractors or Subgrantees and paid for with Grant Funds provided by the State pursuant to this Grant.

15. 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 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.

16. GENERAL PROVISIONS

A. Assignment

Grantee's rights and obligations under this Grant 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 Grantee's rights and obligations approved by the State shall be subject to the provisions of this Grant Award Letter.

B. Captions and References

The captions and headings in this Grant Award Letter are for convenience of reference only, and shall not be used to interpret, define, or limit its provisions. All references in this Grant Award Letter 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.

C. Entire Understanding

This Grant Award Letter 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 Grant Award Letter.

D. Modification

The State may modify the terms and conditions of this Grant by issuance of an updated Grant Award Letter, which shall be effective if Grantee accepts Grant Funds following receipt of the updated letter. The Parties may also agree to modification of the terms and conditions of the Grant in a formal amendment to this Grant, properly executed and approved in accordance with applicable Colorado State law and State Fiscal Rules.

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

Any reference in this Grant Award Letter 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 Grant Issuance Date. Grantee shall strictly 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.

Grantee: City of Pueblo
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F. 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.

G. Severability

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

H. Survival of Certain Grant Award Letter Terms

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

I. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described above, this Grant Award Letter does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Any services or benefits which third parties receive as a result of this Grant are incidental to the Grant, and do not create any rights for such third parties.

J. Waiver

A Party's failure or delay in exercising any right, power, or privilege under this Grant Award Letter, 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.

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

Grantee 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 Grant.

L. Accessibility

Grantee shall comply with and adhere to Section 508 of the U.S. Rehabilitation Act of 1973, as amended, and §§24-85-101, *et seq.*, C.R.S. Grantee shall 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 and available at <https://www.w3.org/TR/WCAG21/>.

Grantee: City of Pueblo
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EXHIBIT A1, SAMPLE OPTION LETTER

State Agency Insert Department's or IHE's Full Legal Name	Option Letter Number Insert the Option Number (e.g. "1" for the first option)
Grantee Insert Grantee's Full Legal Name, including "Inc.", "LLC", etc...	Original Agreement Number Insert CMS number or Other Agreement Number of the Original Contract
Current Agreement Maximum Amount Initial Term State Fiscal Year 20xx \$0.00	Option Agreement Number Insert CMS number or Other Agreement Number of this Option
Extension Terms State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00 Total for All State Fiscal Years \$0.00	Agreement Performance Beginning Date Month Day, Year
	Current Agreement Expiration Date Month Day, Year

1. OPTIONS:

- A. Option to extend for an Extension Term
- B. Option to change the quantity of Goods under the Agreement
- C. Option to change the quantity of Services under the Agreement
- D. Option to modify Agreement rates
- E. Option to initiate next phase of the Agreement

2. REQUIRED PROVISIONS:

- A. **For use with Option 1(A):** In accordance with Section(s) Number of the Original Agreement referenced above, the State hereby exercises its option for an additional term, beginning Insert start date and ending on the current Agreement expiration date shown above, at the rates stated in the Original Agreement, as amended.
- B. **For use with Options 1(B and C):** In accordance with Section(s) Number of the Original Agreement referenced above, the State hereby exercises its option to Increase/Decrease the quantity of the Goods/Services or both at the rates stated in the Original Agreement, as amended.
- C. **For use with Option 1(D):** In accordance with Section(s) Number of the Original Agreement referenced above, the State hereby exercises its option to modify the Agreement rates specified in Exhibit/Section Number/Letter. The Agreement rates attached to this Option Letter replace the rates in the Original Agreement as of the Option Effective Date of this Option Letter.
- D. **For use with Option 1(E):** In accordance with Section(s) Number of the Original Agreement referenced above, the State hereby exercises its option to initiate Phase indicate which Phase: 2, 3, 4, etc, which shall begin on Insert start date and end on Insert ending date at the cost/price specified in Section Number.
- E. **For use with all Options that modify the Agreement Maximum Amount:** The Agreement Maximum Amount table on the Agreement's Signature and Cover Page is hereby deleted and replaced with the Current Agreement Maximum Amount table shown above.

3. OPTION EFFECTIVE DATE:

- F. The effective date of this Option Letter is upon approval of the State Controller or _____, whichever is later.

STATE OF COLORADO Jared S. Polis, Governor INSERT-Name of Agency or IHE INSERT-Name & Title of Head of Agency or IHE By: Name & Title of Person Signing for Agency or IHE Date: _____	In accordance with §24-30-202, C.R.S., this Option is not valid until signed and dated below by the State Controller or an authorized delegate. STATE CONTROLLER Robert Jaros, CPA, MBA, JD By: _____ Name of Agency or IHE Delegate-Please delete if agreement will be routed to OSC for approval Option Effective Date:
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Grantee: City of Pueblo
Project: Pueblo PD ShotSpotter

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EXHIBIT A2, GRANT FUNDING CHANGE LETTER

State Agency Insert Department's or IHE's Full Legal Name	Grant Funding Change Letter Number Insert the Option Number (e.g. "1" for the first option)
Contractor Insert Contractor's Full Legal Name, including "Inc.", "LLC", etc...	Original Grant Number Insert CMS number or Other Contract Number of the Original Contract
Current Contract Maximum Amount Initial Term State Fiscal Year 20xx \$0.00 Extension Terms State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00 State Fiscal Year 20xx \$0.00 Total for All State Fiscal Years \$0.00	Grant Funding Change Letter Contract Number Insert CMS number or Other Contract Number of this Option Contract Performance Beginning Date Month Day, Year Current Contract Expiration Date Month Day, Year

1. GRANT FUNDING CHANGE

In accordance with §**Insert Section Number** of the Original Grant referenced above, the State Agency listed above commits the following funds to the grant:

- A. The funding available for State Fiscal Year 20xx is Increased/Decreased by \$Amount of Change, because Insert Reason For Change.
- B. The total funding avail for all State Fiscal Years as of the effective date of this Grant Funding Change Letter is shown as the current contract maximum above.

2. TERMINOLOGY

All terminology used in this Grant Funding Change Letter shall be interpreted in accordance with the Original Grant referenced above.

3. NO ORDER FOR WORK

This Grant Funding Change Letter modifies the available funding only and does not constitute an order or authorization for any specific services or goods under the Grant.

4. GRANT FUNDING CHANGE LETTER EFFECTIVE DATE:

The effective date of this Grant Funding Change Letter is upon approval of the State Controller or _____, whichever is later.

STATE OF COLORADO Jared S. Polis, Governor INSERT-Name of Agency or IHE INSERT-Name & Title of Head of Agency or IHE By: _____ Date: _____
In accordance with §24-30-202 C.R.S., this Option is not valid until signed and dated below by the State Controller or an authorized delegate. STATE CONTROLLER Robert Jaros, CPA, MBA, JD By: _____ Name of Agency or IHE Delegate-Please delete if contract will be routed to OSC for approval Grant Funding Change Letter Effective Date: _____

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EXHIBIT B, GRANT REQUIREMENTS

The following terms as used herein shall be construed and interpreted as follows:

1. AUDIT REQUIREMENTS

A. DUE DATE:

I. PROJECT START:

The Grantee must submit the most recent audit or financial review, including the corresponding governance letter, to DCJ within thirty (30) days of request; and, if the most recent audit/financial review has not already been submitted to DCJ, it must be submitted within thirty (30) days of the start of this project.

II. PROJECT DURATION AND END:

The Grantee assures that it will procure an audit or financial review, incorporating this grant award, by an independent Certified Public Accountant (CPA), licensed to practice in Colorado. The audit or financial review incorporating this grant award must be completed and received by DCJ within nine (9) months of the end of the fiscal years that includes the end date of the grant, or within thirty (30) days of the completion of such audit or review, whichever is earlier. Failure to do

B. REPORT/AUDIT TYPE:

I. If your entity expended \$750,000 or more in Federal funds (from all sources including pass-through subawards) in your organization's fiscal year (12-month turnaround reporting period), your organization is required to arrange for a single organization-wide audit conducted in accordance with the provisions of Title 2 C.F.R. Subpart F (§ 200.500 et seq.)

II. [NOT APPLICABLE TO SUBGRANTEES AS DEFINED IN §3.DD. "SUBGRANTEE"] If your entity expends less than \$750,000 in Federal funds (from all sources including pass-through subawards) in your organization's fiscal year (12-month turnaround reporting period), your organization is required to arrange for either an audit or financial review as follows:

- 1.** Grantees that have revenue greater than \$300,000 from all sources during the entity's fiscal year are required by DCJ to obtain a financial audit.
- 2.** Grantees that have revenue less than \$300,000 from all sources during the entity's fiscal year are required by DCJ to obtain a financial audit or financial review. A compilation is not sufficient to satisfy this requirement.

C. REPORT/AUDIT COSTS:

The Grantee accepts responsibility for the costs of a financial program audit to be performed by the Department of Public Safety in the event that the audit report or financial review:

- I.** does not meet the applicable federal audit or DCJ standards;

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II. is not submitted in a timely manner; or,

III. does not provide an audit response plan with corresponding corrections made sufficient to satisfy any audit findings.

D. FAILURE TO COMPLY:

The grantee understands and agrees that DCJ or the federal awarding office (DOJ) may withhold award funds, or may impose other related requirements, if the grantee does not satisfactorily and promptly address outstanding issues from audits required by Part 200 Uniform Requirements, by the terms of this award, by the current addition of the DOJ Grants Financial Guide, or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

2. ADDITIONAL REPORTING REQUIREMENTS

In addition to quarterly report requirements these grant funds may have additional report requirements. The additional reports may include, but is not limited to, reporting progress and statistics directly into a federal Performance Management Tool (PMT).

3. FINANCIAL AND ADMINISTRATIVE MANAGEMENT

- A. The Grantee assures that fund accounting, auditing, monitoring, evaluation procedures and such records as necessary will be maintained to assure adequate internal fiscal controls, proper financial management, efficient disbursement of funds received, and maintenance of required source documentation for all costs incurred. These principles must be applied for all costs incurred whether charged on a direct or indirect basis.
- B. All expenditures must be supported by appropriate source documentation. Only actual, approved, allowable expenditures will be permitted.
- C. The Grantee assures that it will comply with the applicable Administrative Guide of the Division of Criminal Justice (Guide), located at the Division of Criminal Justice Grants website. However, such a guide cannot cover every foreseeable contingency, and the Grantee is ultimately responsible for compliance with applicable state and federal laws, rules and regulations. In the event of conflicts or inconsistencies between the Guide and any applicable state and federal laws, rules and regulations, such conflicts or inconsistencies shall be resolved by applicable state and federal laws, rules and regulations.

4. PROCUREMENT AND CONTRACTS

- A. Grantee assures that open, competitive procurement procedures will be followed for all purchases under the grant. All contracts for professional services, of any amount, and equipment purchases over five thousand dollars (per item, with a useful life of at least one year) must receive prior approval by the DCJ. Grantee shall submit Form 16 – Professional Services/Consultant Certification and/or Form 13 – Equipment Procurement Certification Form.
- B. Grantee may not assign its rights or duties under this grant without the prior written consent of the DCJ.

Grantee: City of Pueblo
Project: Pueblo PD ShotSpotter

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5. AWARD CHANGE REQUESTS

- A. Grantee may request budget modifications by submitting a request to DCJ. DCJ reserves the right to make and authorize modifications, adjustments, and/or revisions to the Contract for the purpose of making changes in budget categories, extensions of grant award dates, changes in goals and objectives, and other modifications as described in the body of the Contract.

Grantee: City of Pueblo
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EXHIBIT C, SPECIAL CONDITIONS

The following program specific requirements are imposed by the Federal sponsoring agency concerning special requirements of law, program requirements, and other administrative requirements. These requirements apply to this Agreement and must be passed on to subgrant award recipients.

The following Special Conditions documents, if checked, are incorporated herein.

- ☒ 2021 – Project Safe Neighborhoods (PSN) Special Conditions
- ☒ 2022 – Project Safe Neighborhoods (PSN) Special Conditions

Grantee: City of Pueblo
Project: Pueblo PD ShotSpotter

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EXHIBIT D, STATEMENT OF WORK

The Statement of Work contained within the DocuSign Envelope is incorporated herein.

Grantee: City of Pueblo
Project: Pueblo PD ShotSpotter

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EXHIBIT E, BUDGET

The Budget and Budget Narrative contained within the DocuSign Envelope is incorporated herein.

Grantee: City of Pueblo
Project: Pueblo PD ShotSpotter

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EXHIBIT F, FEDERAL REQUIREMENTS

The following federal requirements are imposed by the Federal sponsoring agency concerning special requirements of law. These requirements apply to this Agreement and must be passed on to subgrants and subcontractors.

The following federal requirements documents, if checked, are incorporated herein.

- ☒ 2022 Federal Requirements
- ☒ 2021 Federal Requirements

2022 – Project Safe Neighborhoods (PSN) Special Conditions

2022 – Project Safe Neighborhoods (PSN) Special Conditions

The following program specific requirements are imposed by the Federal sponsoring agency concerning special requirements of law, program requirements, and other administrative requirements. These requirements apply to Grantees and must be passed on to subgrant award recipients.

1. The FY22 Project Safe Neighborhoods Initiative, represents a strategic approach that brings more “science” into criminal justice operations by leveraging innovative applications of analysis, technology, and evidence-based practices with the goal of improving performance and effectiveness while containing costs while addressing crime associated with gun crime and gang violence. Awards under this program will implement the five core elements of PSN— partnerships, strategic planning and research integration, training and technical assistance outreach, and accountability, data analysis, and data-informed efforts —to address specific gun crime and gang violence problems in that district.

None of the following activities will be conducted either under the OJP federal action or a related third party action:

- 1) New construction;
 - 2) Any renovation or remodeling of a property either (a) listed on or eligible for listing on the National Register of Historic Places or (b) located within a 100-year flood plain;
 - 3) A renovation which will change the basic prior use of a facility or significantly change its size;
 - 4) Research and technology whose anticipated and future application could be expected to have an effect on the environment; or
 - 5) Implementation of a program involving the use of chemicals.
2. The grantee agrees that no funds under this grant award (including via subcontract or subaward, at any tier) may be used for unmanned aircraft systems (UAS), which includes unmanned aircraft vehicles (UAV), or for any accompanying accessories to support UAS.
 3. The award grantee (and any subrecipient at any tier) agrees to participate in a data collection process measuring program outputs and outcomes. The data elements for this process will be outlined by the DCJ and the Office of Justice Programs.
 4. The grantee (and any subrecipient at any tier) agrees to cooperate with any assessments, national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this project.
 5. Protection of human research subjects

The grantee (and any subgrantee at any tier) must comply with the requirements of 28 C.F.R. Part 46 and all OJP policies and procedures regarding the protection of human research subjects, including obtainment of Institutional Review Board approval, if appropriate, and subject informed consent.

6. Confidentiality of data
The grantee (and any subrecipient at any tier) must comply with all confidentiality requirements of 34 U.S.C. 10231 and 28 C.F.R. Part 22 that are applicable to collection, use, and revelation of data or information. The grantee further agrees, as a condition of award approval, to submit a Privacy Certificate that is in accord with requirements of 28 C.F.R. Part 22 and, in particular, 28 C.F.R. 22.23.

2022 – Project Safe Neighborhoods (PSN) Special Conditions

7. The grantee agrees to submit to DCJ for review and approval any curricula, training materials, proposed publications, reports, or any other written materials that will be published, including web-based materials and web site content, through funds from this grant at least thirty (30) working days prior to the targeted dissemination date. Any written, visual, or audio publications, with the exception of press releases, whether published at the grantee's or government's expense, shall contain the following statements: "This project was supported by Grant No.

15PBJA-22-GG-00848-GUNP awarded by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Department of Justice's Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the SMART Office. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice." The current edition of the DOJ Grants Financial Guide provides guidance on allowable printing and publication activities.

8. Required attendance at BJA-sponsored events

The grantee (and its subrecipients at any tier) must participate in BJA-sponsored training events, technical assistance events, or conferences held by BJA or its designees, upon BJA's request.

9. Cooperating with DCJ and OJP Monitoring

The grantee agrees to comply with DCJ and OJP grant monitoring guidelines, protocols, and procedures, and to cooperate with BJA and OCFO on all grant monitoring requests, including requests related to desk reviews, enhanced programmatic desk reviews, and/or site visits. The grantee agrees to provide to BJA and OCFO all documentation necessary to complete monitoring tasks, including documentation related to any subawards made under this award. Further, the grantee agrees to abide by reasonable deadlines set by BJA and OCFO for providing the requested documents. Failure to cooperate with BJA's/OCFO's grant monitoring activities may result in sanctions affecting the grantee's DOJ awards, including, but not limited to: withholdings and/or other restrictions on the grantee's access to grant funds; referral to the Office of the Inspector General for audit review; designation of the grantee as a DOJ High Risk grantee; or termination of an award(s).

10. Copyright; Data rights

The grantee acknowledges that OJP reserves a royalty-free, non-exclusive, and irrevocable license to reproduce, publish, or otherwise use, and authorize others to use (in whole or in part, including in connection with derivative works), for Federal purposes: (1) any work subject to copyright developed under an award or subaward (at any tier); and (2) any rights of copyright to which a grantee or subrecipient (at any tier) purchases ownership with Federal support.

The grantee acknowledges that OJP has the right to (1) obtain, reproduce, publish, or otherwise use the data first produced under any such award or subaward; and (2) authorize others to receive, reproduce, publish, or otherwise use such data for Federal purposes. "Data" includes data as defined in Federal Acquisition Regulation (FAR) provision 52.227-14 (Rights in Data - General).

It is the responsibility of the grantee (and of each subrecipient (at any tier), if applicable) to ensure that the provisions of this condition are included in any subaward (at any tier) under this award.

The grantee has the responsibility to obtain from subrecipients, contractors, and subcontractors (if any) all rights and data necessary to fulfill the grantee's obligations to the Government under this award. If a proposed subrecipient, contractor, or subcontractor refuses to accept terms affording the

2022 – Project Safe Neighborhoods (PSN) Special Conditions

Government such rights, the grantee shall promptly bring such refusal to the attention of the DCJ for the award and not proceed with the agreement in question without further authorization from DCJ.

11. Any Web site that is funded in whole or in part under this award must include the following statement on the home page, on all major entry pages (i.e., pages (exclusive of documents) whose primary purpose is to navigate the user to interior content), and on any pages from which a visitor may access or use a Web-based service, including any pages that provide results or outputs from the service: "This Web site is funded in whole or in part through a grant from the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice. Neither the U.S. Department of Justice nor any of its components operate, control, are responsible for, or necessarily endorse, this Web site (including, without limitation, its content, technical infrastructure, and policies, and any services or tools provided)." The full text of the foregoing statement must be clearly visible on the home page. On other pages, the statement may be included through a link, entitled "Notice of Federal Funding and Federal Disclaimer," to the full text of the statement.
12. Applicants must certify that Limited English Proficiency persons have meaningful access to the services under this program(s). National origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with Title VI and the Safe Streets Act, grantees are required to take reasonable steps to ensure that LEP persons have meaningful access to their programs. Meaningful access may entail providing language assistance services, including oral and written translation when necessary. The U.S. Department of Justice has issued guidance for grantees to help them comply with Title VI requirements. The guidance document can be accessed on the Internet at www.lep.gov.
13. Body armor - compliance with NIJ standards and other requirements
Ballistic-resistant and stab-resistant body armor purchased with award funds may be purchased at any threat level, make or model, from any distributor or manufacturer, as long as the body armor has been tested and found to comply with applicable National Institute of Justice ballistic or stab standards, and is listed on the NIJ Compliant Body Armor Model List. In addition, ballistic-resistant and stab-resistant body armor purchased must be made in the United States and must be uniquely fitted, as set forth in 34 U.S.C. 10202(c)(1)(A). The latest NIJ standard information and the NIJ Compliant Body Armor List may be found by following the links located on the NIJ Body Armor page: <https://nij.ojp.gov/topics/equipment-and-technology/body-armor>
14. The grantee agrees to secure and maintain on file signed statements by each member of the selection committee appointed by the United States Attorney or the PSN Task Force indicating that in making recommendations or decisions regarding contracts or subgrants paid for by this grant, the member had no conflict of interest. Such statements must include all of the language included in the PSN Conflict of Interest Certification, however, the grantee may use a different format or may add other related certifications of their own.
15. The grantee agrees to submit to DCJ for review and approval, any proposal or plan for Project Safe Neighborhoods media-related outreach. DCJ approval must be received prior to any obligation or expenditure of grant funds related to the development of media-related outreach projects.
16. If award funds are used for DNA testing of evidentiary materials, any resulting eligible DNA profiles must be uploaded to the Combined DNA Index System ("CODIS," the DNA database operated by the FBI) by a government DNA laboratory with access to CODIS. No profiles generated under this award may be entered or uploaded into any nongovernmental DNA database without prior express written approval from BJA. Award funds may not be used for the purchase of DNA equipment and supplies unless the resulting DNA profiles may be accepted for entry into CODIS. Booking agencies should

2022 – Project Safe Neighborhoods (PSN) Special Conditions

work with their state CODIS agency to ensure all requirements are met for participation in Rapid DNA (see National Rapid DNA Booking Operational Procedures Manual).

17. In accepting this award, the grantee agrees that grant funds cannot be used for Facial Recognition Technology (FRT) unless the grantee has policies and procedures in place to ensure that the FRT will be utilized in an appropriate and responsible manner that promotes public safety, and protects privacy, civil rights, and civil liberties and complies with all applicable provisions of the U.S. Constitution, including the Fourth Amendment's protection against unreasonable searches and seizures and the First Amendment's freedom of association and speech, as well as other laws and regulations. Grantees utilizing funds for FRT must make such policies and procedures available to DCJ and/or DOJ upon request.

EXHIBIT D, STATEMENT OF WORK

Project Summary

Pueblo Police Department seeks funding to purchase a Shot Spotter® to enhance its capability to identify and prosecute individuals perpetrating the most violent acts. The proposed ShotSpotter® solution is designed to identify, locate, and track active gunfire, and will support the Pueblo Police Department's efforts to more effectively respond to and investigate gunfire incidents. This strategy deployed across the country and serves agencies of all sizes that are committed to leveraging real-time gunfire intelligence to reduce gun violence and build community trust.

Project Plan

PPD seeks funding to install a security measure known as the ShotSpotter Gunfire Location, Alert and Analysis Service to help fight our war on crime. This is one component of PPD's overall anti-violence strategy to reduce crime in the city: adding technology in conjunction with best practices to provide PPD with an effective force-multiplier while increasing efficiency in deploying resources and increasing situational awareness. Specifically, it will compliment the city's plan to implement a Real Time Crime Center (RTCC) that includes License Plate Readers (LPR) and cameras, RTCC and ShotSpotter are technologies

designed to help law enforcement agencies collect, analyze, and disseminate critical information to allow officers to respond to crimes more efficiently with operational intelligence. Ultimately, they will help PPD protect the community by ensuring the right resources are provided when and where they are needed most.

The ShotSpotter® technology has gained national attention in its multiple applications including identifying, locating and tracking active gunfire. The make and model of this proposed solution were thoroughly vetted by Pueblo Police Department (PPD) and endorsed by other law enforcement agencies. More about Gunshot Detection/Location and statistics can be found at <https://www.soundthinking.com/law-enforcement/gunshot-detection-technology/>

Based on crime analysis, PPD will be targeting a coverage area where there has been a significant spike in crime and shots fired incidents in the City of Pueblo. Networked sensors will be placed throughout targeted areas at specific coordinates on buildings and telephone poles within the neighborhoods to accurately detect and locate the origin of gunshots and weapons-events. Once a gunshot is detected, ShotSpotter calculates the position where the gun was fired and sends the data to a central server accessible by PPD. Because ShotSpotter uses computer software to analyze sounds, ShotSpotter is precise enough to ignore fireworks, backfiring cars, and other noises that could be mistaken for gunfire.

With this new technology, dispatchers will be equipped with the exact location, number of rounds fired, number of shooters involved, and type of explosion. With greater knowledge of the situation's severity and scope, first responders can arrive at the scene faster and will be better prepared to protect their personal safety, attend to victims, and more efficiently manage the crime scene. The result is preemptive intelligence for better safety and appropriate dispatch of resources and improved preservation and collection of physical evidence. Specifically, it will increase the number of arrests, decrease police response time, increase officer safety, identify key forensic evidence, ultimately saving numerous lives.

Grantee: Pueblo Police Department
Project: Pueblo PD ShotSpotter

DCJ Grant #: 2022-GP-23-04

ShotSpotter combines wide-area acoustic surveillance with centralized, cloud-based analysis to provide a gunfire alert and analysis service in under 60 seconds from trigger pull. The service uses multiple collaborative, acoustic sensors that activate when gunfire occurs, providing comprehensive outdoor coverage over complex urban geographies. When there is a shooting outdoors, ShotSpotter sensors and software triangulate and pinpoint the precise location of each round fired within seconds. Detailed incident data is immediately sent to the SST Incident Review Center. Immediately, an SST gunfire and acoustics expert analyzes the data and qualifies the incident. Once validated an alert is sent to dispatch centers, Public Safety Answer Points (PSAP) and directly to field personnel through any computer or mobile device with access to the Internet, all in under a minute.

The deployment of this technology will allow for intelligence gathering, prosecution, and information sharing of would-be and identified criminal and terrorist individuals or organizations that use guns or explosives as a tool to do harm. This information may then be shared with Pueblo County Sheriff's Office and other applicable law enforcement and intelligence communities.

Currently there are no agencies in Pueblo County that have deployed a permanent gunshot location system as expansive as this intended deployment. The purchase of this system will have immediate impact for the community with its internal use in the city's police department.

Goals & Objectives

GOAL 1	
Goal	Law enforcement will have tools necessary to respond to shots fired.
Objective 1.1	Officers can more quickly and accurately go directly to the scene of shots fired.
Outcome	Increased gun crime arrests.
Measurement	Number of arrests.
Timeframe	Immediate and continual.
Objective 1.2	Officers have the intelligence they need.
Outcome	Increased situational awareness over what is available when relying solely on the 9-1-1 system.
Measurement	Officers' anecdotal information.
Timeframe	Immediate and continual.
Objective 1.3	Decreased response time.
Outcome	Increased incidents of officers arriving before the shooter has left the scene.
Measurement	Recorded response times.
Timeframe	Immediate and continual.

Grantee: Pueblo Police Department
 Project: Pueblo PD ShotSpotter

DCJ Grant #: 2022-GP-23-04

GOAL 2

Goal Improved community relations & collaboration.

Objective 2.1 Public trust is improved.

Outcome Increased number of witnesses who may have information that can aid in the investigation.

Measurement Number of witnesses.

Timeframe Six months after deployment and continually thereafter.

Objective 2.2 Collaborations with the community are improved.

Outcome Increased information from the community (e.g., tip lines, field interviews, etc.).

Measurement Number of witnesses.

Timeframe Six months after deployment and continually thereafter.

GOAL 3

Goal Data is available that can be analyzed to move law enforcement agencies from a reactive to a proactive position.

Objective 3.1 Provide valuable investigative leads.

Outcome Increased evidence collection programs.

Measurement Delta between baseline and new data.

Timeframe Immediate and continual.

Objective 3.2 Build an extensive casings database.

Outcome "Hot addresses" are identified.

Measurement Veracity of database.

Timeframe Immediate and continual, with incremental growth.

Objective 3.3 Inform deployment of resources.

Outcome Investigations are targeted.

Measurement Anecdotal data from command staff.

Timeframe Three months after deployment and continually thereafter.

Grantee: City of Pueblo
Project: Pueblo PD ShotSpotter

DCJ Grant #: 2022-GP-23-04

Exhibit E – Budget

Budget Summary Requested/Awarded					
	Grant Funds	Cash Match	In-Kind Match	Match Total	Project Total
Personnel	\$0	\$0	\$0	\$0	\$0
Supplies & Operating	\$0	\$0	\$0	\$0	\$0
Travel	\$0	\$0	\$0	\$0	\$0
Equipment	\$152,714	\$0	\$0	\$0	\$152,714
Consultants / Contracts	\$0	\$0	\$0	\$0	\$0
Indirect	\$0	\$0	\$0	\$0	\$0
Total	\$152,714	\$0	\$0	\$0	\$152,714

Personnel: Budget & Budget Narrative Details

Position Title	Annual Base Salary	Annual Base Salary To Be Paid By Grant Funds	% To Be Paid By Grant Funds	Annual Fringe	Annual Fringe To Be Paid By Grant Funds	% To Be Paid By Grant Funds	Total Annual Base Salary + Fringe	Total Base Salary + Fringe To Be Paid By Grant Funds	OT- Annual Base Salary To be paid by Grant funds	OT – Annual Fringe	Total to be Paid for by Grant Funds
NA	\$0	\$0	0%	\$0	\$0	0%	\$0	\$0	\$0	\$0	\$0
Budget Narrative and Justification:											
Personnel Total:	\$0	\$0	0%	\$0	\$0	0%	\$0	\$0	\$0	\$0	\$0

Non-Personnel: Budget & Budget Narrative Details

Budget Item	Amount to be Paid by Grant Funds	Budget Narrative and Justification
SUPPLIES & OPERATING:		
N/A	\$0	
Supplies & Operating Total	\$0	
TRAVEL		
N/A	\$0	
Travel Total	\$0	
EQUIPMENT		
ShotSpotter, 1 year	\$152,714	The FY2021-2022 Project Safe Neighborhood award will be restricted to the purchase of an all-inclusive subscription-based SpotShotter® gunshot detection, location, and forensic analysis service from SoundThinking, Inc., a California USA company, for one year. A one-year subscription can be obtained with (an undiscounted) rate of \$220,000. The anticipated remainder of need, \$67,286, will be covered by the city's general funds. Concurrent with the sensor design and

Grantee: City of Pueblo
Project: Pueblo PD ShotSpotter

DCJ Grant #: 2022-GP-23-04

	deployment activities (hardware from Smart Policing RTCC funding), SoundThinking will provide a series of onboarding services to prepare the Police Department to maximize the value of the ShotSpotter service. A Customer Success Director will be assigned to PPD to ensure that we deliver consistent, quality best practices training based on the Department’s needs to maximize the value of our service. The Customer Success Director will work also with PPD Chief of Police and Command staff to review, define, and adopt a set of agency metrics, or Key Performance Indicators (KPIs), to establish and monitor the efficacy of the ShotSpotter service and related agency Best Practices. On the day of ShotSpotter service activation to a live production status, the Customer Success Director will be on site to ensure that the transition is smooth, that the established best practices are being implemented as planned, and that user questions are answered quickly. Prorated payment for one year of the service initiation, onboarding, subscription and interface license for a three-year contract will be: 50% of fees due upon execution of agreement \$110,000 50% of fees due upon ShotSpotter service activation (live) status \$110,000 Subtotal for prorated one-year PSN project subscription = \$220,000. The city's contribution of local funds will be 31%; PSN contribution will be 69%.
Equipment Total	\$152,714

CONSULTANTS/CONTRACTS (PROFESSIONAL SERVICES)	
N/A	
Consultants/Contracts Total	\$0
INDIRECT	
NA	\$0
Indirect Total	\$0
Total Non-Personnel	\$152,714

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Federal Awards issued from 2022 Federal Grant Funds

1. APPLICABILITY

The Division of Criminal Justice (DCJ) issues federal grants from two Department of Justice (DOJ) offices: the Office of Justice Programs (OJP) and the Office on Violence Against Women (OVW). All awards conditions set out below apply to both OJP and OVW funded grants, with the exception of the conditions labelled as: "Recipients of OVW grant dollars only" which only apply to OVW funded awards.

References to the DOJ apply to both OJP and OVW funded grants.

Individual awards will also include special conditions. Those additional conditions may relate to the particular statute, program, or solicitation under which the award is made; to the substance of the funded application; to the subrecipient's performance under other federal awards; to the subrecipient's legal status (e.g., as a for-profit entity); or to other pertinent considerations.

2. RECIPIENT

For the purposes of this document, the term "recipient" refers to the Legal Entity Name listed on the Division of Criminal Justice (DCJ) Grant Award Document issued to a grantee receiving federal grants funds from DCJ. The term Recipient and Grantee are used interchangeable within this Exhibit.

3. ENSURING COMPLIANCE OF SUBGRANTEES (SUBRECIPIENTS)

Grantee is responsible for notifying any subgrantee (subrecipient), issued under this grant, of all provisions herein. Grantee is responsible for monitoring any subgrantee (subrecipient) for compliance all the provisions herein.

4. GENERAL CONDITIONS

A. Requirements of the award; remedies for non-compliance or for materially false statements

The conditions of this award are material requirements of the award. Compliance with any certifications or assurances submitted by or on behalf of the recipient that relate to conduct during the period of performance also is a material requirement of this award.

OJP Awards Only: Limited Exceptions. In certain special circumstances, the U.S. Department of Justice ("DOJ") may determine that it will not enforce, or enforce only in part, one or more requirements otherwise applicable to the award. Any such exceptions regarding enforcement, including any such exceptions made during the period of performance, are (or will be during the period of performance) set out through the Office of Justice Programs ("OJP") webpage entitled "Legal Notices: Special circumstances as to particular award conditions" (ojp.gov/funding/Explore/LegalNotices-AwardReqs.htm), and incorporated by reference into the award.

By signing and accepting this award on behalf of the recipient, the authorized recipient official accepts all material requirements of the award, and specifically adopts, as if personally executed by the authorized recipient official, all assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance.

Federal Awards issued from 2022 Federal Grant Funds

Failure to comply with any one or more of these award requirements -- whether a condition set out in full below, a condition incorporated by reference below, or a certification or assurance related to conduct during the award period -- may result in the Division of Criminal Justice (DCJ), Office of Justice Programs ("OJP") or Office on Violence Against Women ("OVW") taking appropriate action with respect to the recipient and the award. Among other things, the Department of Justice "DOJ" may withhold award funds, disallow costs, or suspend or terminate the award. DOJ, including OJP, and DCJ also may take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this award (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C. 1001 and/or 1621, and/or 34 U.S.C. 10271-10273), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. 3729-3730 and 3801-3812).

Should any provision of a requirement of this award be held to be invalid or unenforceable by its terms, that provision shall first be applied with a limited construction so as to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or -unenforceable, such provision shall be deemed severable from this award.

B. Applicability of Part 200 Uniform Requirements

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this FY 2022 award from OJP.

The Part 200 Uniform Requirements were first adopted by DOJ on December 26, 2014. If this FY 2022 award supplements funds previously awarded by OJP under the same award number (e.g., funds awarded during or before December 2014), the Part 200 Uniform Requirements apply with respect to all funds under that award number (regardless of the award date, and regardless of whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of this FY 2022 award.

For more information and resources on the Part 200 Uniform Requirements as they relate to OJP awards and subawards ("subgrants"), see the OJP website at <https://ojp.gov/funding/Part200UniformRequirements.htm>.

Record retention and access: Records pertinent to the award that the recipient (and any subrecipient ("subgrantee") at any tier) must retain -- typically for a period of 3 years from the date of submission of the final expenditure report (SF 425), unless a different retention period applies -- and to which the recipient (and any subrecipient ("subgrantee") at any tier) must provide access, include performance measurement information, in addition to the financial records, supporting documents, statistical records, and other pertinent records indicated at 2 C.F.R. 200.334.

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the recipient is to contact DCJ promptly for clarification.

Federal Awards issued from 2022 Federal Grant Funds**C. Compliance with DOJ Grants Financial Guide**

The recipient agrees to comply with the current edition of the DOJ Grants Financial Guide as posted on the OVW website, including any updated version that may be posted during the period of performance. References to the DOJ Grants Financial Guide are to the DOJ Grants Financial Guide as posted on the OJP website (currently, the "DOJ Grants Financial Guide" available at <https://ojp.gov/financialguide/DOJ/index.htm>), including any updated version that may be posted during the period of performance.

D. Reclassification of various statutory provisions to a new Title 34 of the United States Code

On September 1, 2017, various statutory provisions previously codified elsewhere in the U.S. Code were editorially reclassified (that is, moved and renumbered) to a new Title 34, entitled "Crime Control and Law Enforcement." The reclassification encompassed a number of statutory provisions pertinent to DOJ awards (that is, DOJ grants and cooperative agreements), including many provisions previously codified in Title 42 of the U.S. Code.

Effective as of September 1, 2017, any reference in this award document to a statutory provision that has been reclassified to the new Title 34 of the U.S. Code is to be read as a reference to that statutory provision as reclassified to Title 34. This rule of construction specifically includes references set out in award conditions, references set out in material incorporated by reference through award conditions, and references set out in other award requirements.

E. Requirements related to "de minimis" indirect cost rate

A recipient that is eligible under the Part 200 Uniform Requirements and other applicable law to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC) as defined by the Part 200 Uniform Requirements

F. Requirement to report potentially duplicative funding

If the recipient currently has other active awards of federal funds, or if the recipient receives any other award of federal funds during the period of performance for this award, the recipient promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the recipient must promptly notify DCJ in writing of the potential duplication, and, if so requested by DCJ, must seek a budget-modification and change-of-project to eliminate any inappropriate duplication of funding.

G. Requirements related to System for Award Management and Universal Identifier Requirements/Unique Entity Identifiers

The recipient must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at <https://www.sam.gov/SAM/>. This includes

Federal Awards issued from 2022 Federal Grant Funds

applicable requirements regarding registration with SAM, as well as maintaining the currency of information in SAM.

DCJ must comply with applicable restrictions on subawards Grantees, including restrictions on subawards to entities that do not acquire and provide (to the recipient) the unique entity identifier required for SAM registration.

The details of DCJ's obligations related to SAM and to unique entity identifiers are posted on the OJP web site at <https://ojp.gov/funding/Explore/SAM.htm> (Award condition: System for Award Management (SAM) and Universal Identifier Requirements), and are incorporated by reference here.

This condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

H. Employment eligibility verification for hiring under the award

1. The recipient (and any subrecipient at any tier) must—
 - a. Ensure that, as part of the hiring process for any position within the United States that is or will be funded (in whole or in part) with award funds, the recipient (or any subrecipient) properly verifies the employment eligibility of the individual who is being hired, consistent with the provisions of 8 U.S.C. 1324a(a)(1).
 - b. Notify all persons associated with the recipient (or any subrecipient) who are or will be involved in activities under this award of both —
 - (1) this award requirement for verification of employment eligibility, and
 - (2) the associated provisions in 8 U.S.C. 1324a(a)(1) that, generally speaking, make it unlawful, in the United States, to hire (or recruit for employment) certain aliens.
 - c. Provide training (to the extent necessary) to those persons required by this condition to be notified of the award requirement for employment eligibility verification and of the associated provisions of 8 U.S.C. 1324a(a)(1).
 - d. As part of the recordkeeping for the award (including pursuant to the Part 200 Uniform Requirements), maintain records of all employment eligibility verifications pertinent to compliance with this award condition in accordance with Form I-9 record retention requirements, as well as records of all pertinent notifications and trainings.
2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.
3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions designed to ensure compliance with this condition.

Federal Awards issued from 2022 Federal Grant Funds**4. Rules of construction****a. Staff involved in the hiring process**

For purposes of this condition, persons "who are or will be involved in activities under this award" specifically includes (without limitation) any and all recipient (or any subrecipient) officials or other staff who are or will be involved in the hiring process with respect to a position that is or will be funded (in whole or in part) with award funds.

b. Employment eligibility confirmation with E-Verify

For purposes of satisfying the requirement of this condition regarding verification of employment eligibility, the recipient (or any subrecipient) may choose to participate in, and use, E-Verify (www.e-verify.gov), provided an appropriate person authorized to act on behalf of the recipient (or subrecipient) uses E-Verify (and follows the proper E-Verify procedures, including in the event of a "Tentative Nonconfirmation" or a "Final Nonconfirmation") to confirm employment eligibility for each hiring for a position in the United States that is or will be funded (in whole or in part) with award funds.

c. "United States" specifically includes the District of Columbia, Puerto Rico, Guam, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.**d. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, or any person or other entity, to violate any federal law, including any applicable civil rights or nondiscrimination law.****e. Nothing in this condition, including in paragraph 4.b., shall be understood to relieve any recipient, any subrecipient at any tier, or any person or other entity, of any obligation otherwise imposed by law, including 8 U.S.C. 1324a(a)(1).**

Questions about E-Verify should be directed to DHS. For more information about E-Verify visit the E-Verify website (<https://www.e-verify.gov/>) or email E-Verify at E-Verify@dhs.gov. E-Verify employer agents can email E-Verify at E-VerifyEmployerAgent@dhs.gov.

Questions about the meaning or scope of this condition should be directed to DCJ, before award acceptance.

I. Requirement to report actual or imminent breach of personally identifiable information (PII)

The recipient (and any "subrecipient" at any tier) must have written procedures in place to respond in the event of an actual or imminent "breach" (OMB M-17-12) if it (or a subrecipient) -- (1) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of "Personally Identifiable Information (PII)" (2 CFR 200.79) within the scope of an DOJ grant-funded program or activity, or (2) uses or operates a "Federal information system" (OMB Circular A-130). The recipient's breach procedures must include a requirement to report actual or imminent breach of PII to an DOJ Program Manager no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach.

Federal Awards issued from 2022 Federal Grant Funds**J. All subawards ("subgrants") and contracts must have DCJ authorization**

The recipient, and any subrecipient ("subgrantee") at any tier, must receive approval from DCJ prior to issuing a subaward or a procurement contract under this award.

K. Specific post-award approval required to use a noncompetitive approach in any procurement contract

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements to obtain specific advance approval to use a noncompetitive approach in any procurement contract. This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP or OVW considers a procurement "contract" (and therefore does not consider a subaward).

L. Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and DOJ or DCJ authority to terminate award)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, subrecipients ("subgrantees"), or individuals defined (for purposes of this condition) as "employees" of the recipient or of any subrecipient.

The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at <https://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm> and the OVW web site at <https://www.justice.gov/ovw/award-conditions> (Award condition: Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and DOJ authority to terminate award)), and are incorporated by reference here.

M. Determination of suitability to interact with participating minors

SCOPE. This condition applies to this award if it is indicated -- in the application for the award (as approved by DOJ) (or in the application for any subaward at any tier), the DOJ funding announcement (solicitation), or an associated federal statute -- that a purpose of some or all of the activities to be carried out under the award (whether by the recipient, or a subrecipient at any tier) is to benefit a set of individuals under 18 years of age.

The recipient, and any subrecipient at any tier, must make determinations of suitability before certain individuals may interact with participating minors. This requirement applies regardless of an individual's employment status.

The details of this requirement are posted on the OJP web site at <https://ojp.gov/funding/Explore/Interact-Minors.htm> and OVW web site at <https://www.justice.gov/ovw/award-conditions> (Award condition: Determination of suitability required, in advance, for certain individuals who may interact with participating minors), and are incorporated by reference here.

Federal Awards issued from 2022 Federal Grant Funds**N. Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events**

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable laws, regulations, policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences.

Information on the pertinent DOJ definition of conferences and the rules applicable to this award appears in the DOJ Grants Financial Guide (currently, as section 3.10 of "Postaward Requirements" in the "DOJ Grants Financial Guide").

Recipients of OVW grant dollars only: Additional information on the pertinent to this award appears on the OVW website at <https://www.justice.gov/ovw/conference-planning>.

O. Requirement for data on performance and effectiveness under the award

The recipient must collect and maintain data that measure the performance and effectiveness of work under this award. The data must be provided to DCJ and/or DOJ in the manner (including within the timeframes) specified by DCJ in the program solicitation or other applicable written guidance. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, and other applicable laws.

P. Training Guiding Principles

Any training or training materials that the recipient -- or any subrecipient ("subgrantee") at any tier -- develops or delivers with DOJ award funds must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at <https://ojp.gov/funding/Implement/TrainingPrinciplesForGrantees-Subgrantees.htm>, or the OVW Training Guiding Principles for Grantees and Subgrantees, available at <https://www.justice.gov/ovw/resources-and-faqs-grantees#Discretionary>.

Q. Effect of failure to address audit issues

The recipient understands and agrees that the DCJ or the DOJ awarding agency (OJP or OVW, as appropriate) may withhold award funds, or may impose other related requirements, if (as determined by the DCJ or DOJ awarding agency) the recipient does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

R. Potential imposition of additional requirements

The recipient agrees to comply with any additional requirements that may be imposed by the DCJ during the period of performance for this award, if the recipient is designated as "high-risk" for purposes of the DCJ high-risk grantee list.

Federal Awards issued from 2022 Federal Grant Funds**S. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 42**

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

T. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 54

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 54, which relates to nondiscrimination on the basis of sex in certain "education programs."

U. Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 38

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 38 (as may be applicable from time to time), specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries.

Currently, among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38, currently, also sets out rules and requirements that pertain to recipient and subrecipient ("subgrantee") organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to recipients and subrecipients that are faith-based or religious organizations.

The text of 28 C.F.R. Part 38 is available via the Electronic Code of Federal Regulations (currently accessible at <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.

V. Restrictions on "lobbying" and policy development

In general, as a matter of federal law, federal funds awarded by DOJ may not be used by the grantee, or any subrecipient ("subgrantee") at any tier, either directly or indirectly, to support or oppose the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government. See 18 U.S.C. 1913. (There may be exceptions if an applicable federal statute specifically authorizes certain activities that otherwise would be barred by law.)

Recipients of OVW grant dollars only:

The recipient, or any subrecipient ("subgrantee") may, however, use federal funds to collaborate with and provide information to federal, state, local, tribal and territorial public officials and agencies to develop and implement policies and develop and promote state, local, or tribal legislation or model codes designed to reduce or eliminate domestic violence, dating violence, sexual assault, and stalking (as those terms are defined in 34 U.S.C. § 12291(a)) when such collaboration and provision of

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information is consistent with the activities otherwise authorized under this grant program.

Another federal law generally prohibits federal funds awarded by DOJ from being used by the recipient, or any subrecipient at any tier, to pay any person to influence (or attempt to influence) a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the awarding of a federal grant or cooperative agreement, subgrant, contract, subcontract, or loan, or with respect to actions such as renewing, extending, or modifying any such award. See 31 U.S.C. 1352. Certain exceptions to this law apply, including an exception that applies to Indian tribes and tribal organizations.

Should any question arise as to whether a particular use of federal funds by a recipient (or subrecipient) would or might fall within the scope of these prohibitions, the recipient is to contact DCJ for guidance, and may not proceed without the express prior written approval of DCJ and the DOJ awarding agency (OJP or OVW, as appropriate).

W. Compliance with general appropriations-law restrictions on the use of federal funds (FY 2022)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions, including from various "general provisions" in the Consolidated Appropriations Act, 2022, are set out at <https://ojp.gov/funding/Explore/FY22AppropriationsRestrictions.htm>, <https://www.justice.gov/ovw/award-conditions>, and are incorporated by reference here.

Should a question arise as to whether a particular use of federal funds by a recipient (or a subrecipient) would or might fall within the scope of an appropriations-law restriction, the recipient is to contact DCJ for guidance, and may not proceed without the express prior written approval of DCJ.

X. Reporting potential fraud, waste, and abuse, and similar misconduct

The recipient and any subrecipients ("subgrantees") must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award -- (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by--(1) online submission accessible via the OIG webpage at <https://oig.justice.gov/hotline/contact-grants.htm> (select "Submit Report Online"); (2) mail directed to: U.S. Department of Justice, Office of the Inspector General, Investigations Division, ATTN: Grantee Reporting, 950 Pennsylvania Ave., NW,

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Washington, DC 20530; and/or (3) by facsimile directed to the DOJ OIG Investigations Division (Attn: Grantee Reporting) at (202) 616-9881 (fax).

Additional information is available from the DOJ OIG website at <http://www.usdoj.gov/oig>.

Y. Restrictions and certifications regarding non-disclosure agreements and related matters

No recipient or subrecipient ("subgrantee") under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the recipient —
 - a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and
 - b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.
2. If the recipient does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both --
 - a. it represents that--
 - (1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to

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prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

(2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

- b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

Z. Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees)

The recipient (and any subrecipient at any tier) must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

The recipient also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712.

Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the grantee is to contact the DCJ for guidance.

AA. Encouragement of policies to ban text messaging while driving

Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ encourages recipients and subrecipients ("subgrantees") to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this award, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

BB. Requirement to disclose whether recipient is designated "high risk" by a federal grant-making agency

If the recipient is designated "high risk" by a federal grant-making agency, currently or at any time during the course of the period of performance under this award, the recipient must disclose that fact and certain related information to DCJ. For purposes of this disclosure, high risk includes any status under which a federal awarding agency provides additional oversight due to the recipient's past performance, or other programmatic or financial concerns with the recipient. The recipient's disclosure must include the following: 1. The federal awarding agency that currently designates the recipient high risk, 2. The date the recipient was designated high risk, 3. The high-risk point of contact at that federal

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awarding agency (name, phone number, and email address), and 4. The reasons for the high-risk status, as set out by the federal awarding agency

CC. Right to examine documents

The grantee, and any subrecipient ("subgrantee") at any tier, must authorize the DCJ or DOJ awarding agency (OJP or OVW, as appropriate) and/or the Office of the Chief Financial Officer (OCFO), and its representatives, access to and the right to examine all records, books, paper, or documents related to this grant.

DD. Maintaining contact information

The grantee acknowledges that it is responsible for maintaining updated contact information in the Grants Management System (GMS). To update information in GMS for either the point of contact and/or the authorized representative, the grantee must submit a Change in Project Officials (DCJ Form 4-B).

EE. Recipient integrity and performance matters: Requirement to report information on certain civil, criminal, and administrative proceedings to SAM and FAPIIS

The recipient must comply with any and all applicable requirements regarding reporting of information on civil, criminal, and administrative proceedings connected with (or connected to the performance of) either this DOJ award or any other grant, cooperative agreement, or procurement contract from the federal government. Under certain circumstances, recipients of DOJ awards are required to report information about such proceedings, through the federal System for Award Management (known as "SAM"), to the designated federal integrity and performance system (currently, "FAPIIS").

The details of recipient obligations regarding the required reporting (and updating) of information on certain civil, criminal, and administrative proceedings to the federal designated integrity and performance system (currently, "FAPIIS") within SAM are posted on the OJP web site at <https://ojp.gov/funding/FAPIIS.htm> and OVW web site at: <https://www.justice.gov/ovw/award-conditions> (Award Condition: Recipient Integrity and Performance Matters, including Recipient Reporting to FAPIIS), and are incorporated by reference here.

FF. Cooperating with DOJ Monitoring

The recipient agrees to cooperate with DCJ and DOJ monitoring of this award pursuant to DCJ and DOJ's guidelines, protocols, and procedures, and to cooperate with DCJ and DOJ (including the grant manager for this award and the Office of Chief Financial Officer (OCFO)) requests related to such monitoring, including requests related to desk reviews and/or site visits. The recipient agrees to provide to DCJ and DOJ all documentation necessary for DCJ and/or DOJ to complete its monitoring tasks, including documentation related to any subawards made under this award. Further, the recipient agrees to abide by reasonable deadlines set by DCJ and/or DOJ for providing the requested documents. Failure to cooperate with DCJ and/or DOJ's monitoring activities may result in actions that affect the recipient's DOJ awards, including, but not limited to: withholdings and/or other restrictions on the recipient's access to award funds; referral to the DOJ OIG for audit review; designation of the recipient as a DOJ High Risk grantee; or termination of an award(s).

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GG. Required monitoring of subawards

The recipient must monitor subawards under this award in accordance with all applicable statutes, regulations, award conditions, and the DOJ Grants Financial Guide, and must include the applicable conditions of this award in any subaward. Among other things, the recipient is responsible for oversight of subrecipient spending and monitoring of specific outcomes and benefits attributable to use of award funds by subrecipients. The recipient agrees to submit, upon request, documentation of its policies and procedures for monitoring of subawards under this award.

HH. Safe policing and law enforcement subrecipients

If this award is a discretionary award, the recipient agrees that it will not make any subawards to State, local, college, or university law enforcement agencies unless such agencies have been certified by an approved independent credentialing body or have started the certification process. To become certified, law enforcement agencies must meet two mandatory conditions: (1) the agency's use of force policies adhere to all applicable federal, state, and local laws; and (2) the agency's use of force policies prohibit chokeholds except in situations where use of deadly force is allowed by law. For detailed information on this certification requirement, see <https://cops.usdoj.gov/SafePolicingEO>.

II. OJP Grants Only - Subawards and Procurement Contracts under OJP Awards

The Office of Justice Programs (OJP) has developed the following guidance documents to help clarify the differences between subawards and procurement contracts under an OJP award and outline the compliance and reporting requirements for each.

[Subawards under OJP Awards and Procurement Contracts under Awards: A Toolkit for OJP Recipients](#). PDF Size: 221.25 KB

[Checklist to Determine Subrecipient or Contractor Classification](#). PDF Size: 128.16 KB

[Sole Source Justification Fact Sheet and Sole Source Review Checklist](#). PDF Size: 382.40 KB

Please contact your grant manager if you have any questions regarding subawards and procurement contracts under this award.

This detailed guidance is designed to help grantees better understand how OJP will categorize an agreement by an OJP award recipient with an outside entity for purposes of the federal grants administrative requirements. It is important that each OJP grantee have a full understanding which (if any) of its actions (for purposes of OJP and other federal grants administrative requirements) are "subawards", and which are "procurement contracts under an award." **The substance of the relationship should be given greater consideration than the form of agreement between the recipient and the outside entity.**

Whether an action – for federal grants administrative purposes – is a subaward or procurement contract is a critical distinction as significantly different rules apply to subawards and procurement contracts. If a grantee enters into an agreement that is a subaward of an OJP award, specific rules apply – many of which are set by federal statutes and DOJ regulations; others by award conditions. These rules place particular responsibilities on an OJP recipient for any subawards the OJP recipient may make. The

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rules determine much of what the written subaward agreement itself must require or provide. The rules also determine much of what an OJP recipient must do both before and after it makes a subaward. If a grantee enters into an agreement that is a procurement contract under an OJP award, a substantially different set of federal rules applies.

For grant recipients with subawards, key compliance requirements include the following:

- Having specific federal authorization prior to entering into any subaward under the award.
- Requiring subawardee compliance with 2 C.F.R. Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- Requiring progress and financial reporting.
- Collection of performance data from the subawardee
- Monitoring subawardees
- Reporting subawards (over \$30,000) as required by the Federal Funding Accountability and Transparency Act (FFATA).

Post-Award Requests for Subaward Authorization

- For grantees with procurement contracts, key compliance requirements include the following:
- The grantee must comply with the Procurement Standards of 2 C.F.R. Part 200 and provide for full and open competition.
- A procurement contract must include all applicable contract provisions set out in Appendix II of 2 C.F.R. Part 200.
- All noncompetitive (sole source) procurements must comply with the requirements outlined in 2 C.F.R. 200.
 - Sole source procurements that do not exceed the Simplified Acquisition Threshold (currently \$250,000) must have written justification for the noncompetitive procurement action maintained in the procurement file. If a procurement file does not have the documentation that meets the criteria outlined in 2 C.F.R. 200, the procurement expenditures may not be allowable.

All Sole source procurement must be approved by DCJ.

JJ. Authorized Official

The grantee understands that, in accepting this award, the Authorized Representative declares and certifies, among other things, that he or she possesses the requisite legal authority to accept the award on behalf of the recipient entity and, in so doing, accepts (or adopts) all material requirements that relate to conduct throughout the period of performance under this award. The recipient further understands, and agrees, that it will not assign anyone to the role of Authorized Representative during the period of

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performance under the award without first ensuring that the individual has the requisite legal authority.

5. FINANCIAL REQUIREMENTS**A. Non-supplantation**

The recipient agrees that grant funds will be used to supplement, not supplant, non-federal funds that would otherwise be available for the activities under this grant.

Supplanting arises when a Recipient reduces non-federal funds for an activity specifically because federal funds are available (or are expected to be available) to fund that same activity. Federal funds must be used to supplement existing State or local funds for program activities, and may not replace (that is, may not "supplant") State or local funds that have been appropriated or allocated for the same purpose. Additionally, federal funding may not replace State or local funding that is required by law.

When supplanting is prohibited, potential supplanting will be the subject of DCJ monitoring and audit. Should a question of supplanting arise, the grantee will be required to substantiate that any reduction in non-federal resources occurred for reasons other than the receipt or expected receipt of federal funds.

B. Misuse of award funds

The recipient understands and agrees that misuse of award funds may result in a range of penalties, including suspension of current and future funds, suspension or debarment from federal grants, recoupment of monies provided under an award, and civil and/or criminal penalties.

C. Limitation on use of funds to approved activities

The recipient agrees that grant funds will be used only for the purposes described in this award. The grantee must not undertake any work or activities that are not described in this award, and must not use staff, equipment, or other goods or services paid for with grant funds for such work or activities, without prior written approval from DCJ.

D. Consultant compensation rates

The recipient acknowledges that consultants paid with award funds generally may not be paid at a rate in excess of \$81.25 per hour, not to exceed \$650 per day. To exceed this specified maximum rate, recipients must submit to DCJ a detailed justification and have such justification approved by DCJ, prior to obligation or expenditure of such funds. Issuance of this award or approval of the award budget alone does not indicate approval of any consultant rate in excess of \$81.25 per hour, not to exceed \$650 per day. Although prior approval is not required for consultant rates below this specified maximum rate, recipients are required to maintain documentation to support all daily or hourly consultant rates.

E. Limit on use of grant funds for grantees' employees' salaries

With respect to this award, federal funds may not be used to pay cash compensation (salary plus bonuses) to any employee of the award recipient at a rate that exceeds 110% of the maximum annual salary payable to a member of the federal government's Senior Executive

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Service (SES) at an agency with a Certified SES Performance Appraisal System for that year. (An award recipient may compensate an employee at a higher rate, provided the amount in excess of this compensation limitation is paid with non-federal funds.)

This limitation on compensation rates allowable under this award may be waived on an individual basis at the discretion the DCJ via DOJ.

6. CIVIL RIGHTS REQUIREMENTS ASSOCIATED WITH DOJ AWARDS

The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) has been delegated the responsibility for ensuring that recipients of federal financial assistance from the OJP, the Office of Community Oriented Policing Services (COPS), and the Office on Violence Against Women (OVW) are not engaged in discrimination prohibited by law. Several federal civil rights laws, such as Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973, require recipients of federal financial assistance to give assurances that they will comply with those laws. Taken together, these civil rights laws prohibit recipients of federal financial assistance from DOJ from discriminating in services and employment because of race, color, national origin, religion, disability, sex, and, for grants authorized under the Violence Against Women Act, sexual orientation and gender identity. Recipients are also prohibited from discriminating in services because of age. For a complete review of these civil rights laws and nondiscrimination requirements, in connection with DOJ awards, see <https://ojp.gov/funding/Explore/LegalOverview/CivilRightsRequirements.htm>.

If you are a recipient of grant awards under the Omnibus Crime Control and Safe Streets Act or the Juvenile Justice and Delinquency Prevention Act and your agency is part of a criminal justice system, there are two additional obligations that may apply in connection with the awards: (1) complying with the regulation relating to Equal Employment Opportunity Programs (EEOs); and (2) submitting findings of discrimination to OCR. For additional information regarding the EEO requirement, see 28 CFR Part 42, subpart E, and for additional information regarding requirements when there is an adverse finding, see 28C.F.R. §§ 42.204(c), .205(c)(5).

The OCR is available to help you and your organization meet the civil rights requirements that are associated with DOJ grant funding. If you would like the OCR to assist you in fulfilling your organization's civil rights or nondiscrimination responsibilities as a recipient of federal financial assistance, please do not hesitate to contact the OCR at askOCR@ojp.usdoj.gov.

The Grantee hereby agrees that it will comply, and all of its subrecipients (“subgrantees”) will comply, with the applicable provisions of:

A. Civil rights laws and nondiscrimination provisions

States and units of local government, public and nonprofit institutions of higher education, nonprofit organizations, for-profit businesses, and other recipients of DOJ grants may be subject to various federal civil rights laws for reasons *other than* their receipt of DOJ funds. Some examples include federal civil rights laws related to discrimination on the basis of race, color, national origin, sex, religion, or disability.

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Because a DOJ award is a form of "federal financial assistance," the recipients of a DOJ award (and any "subrecipient" at any tier) must comply with additional civil-rights-related requirements above and beyond those that otherwise would apply.

In general, these additional requirements fall into one of two categories:

1. Civil rights laws (sometimes referred to as "cross-cutting" federal civil rights statutes). These apply to essentially any entity that receives an award of federal financial assistance -- regardless of which federal agency awards the grant or cooperative agreement -- and encompass the "program or activity" funded in whole or in part with the federal financial assistance.
2. Nondiscrimination provisions. These are requirements or restrictions that apply to certain OJP or OVW awards -- in addition to the civil rights laws -- because they are set out in a statute that applies specifically to one or more particular OJP or OVW grant programs, or to OJP or OVW awards made under a particular legal authority. Much like the civil rights laws, these provisions apply variously to the programs, activity, or undertaking funded in whole or in part by OJP or OVW, and are described herein.
 - a. Such nondiscrimination provisions apply to some, but not all, OJP or OVW grant programs.
 - b. The nondiscrimination provisions that apply to an OJP or OVW award (above and beyond the requirements in "cross-cutting" civil rights laws) may vary from award to award, even for awards made during the same fiscal year.
 - c. Typically, no more than one of these nondiscrimination provisions will apply to any particular OJP or OVW award.

General information on the civil rights laws that apply to every OJP or OVW award, and on the nondiscrimination provisions that apply to some OJP or OVW awards, is available at <https://ojp.gov/about/ocr/statutes-regulations>.

NOTE: As discussed in more detail below, if a civil rights law or nondiscrimination provision prohibits discrimination in employment on the basis of religion, the prohibition is read together with the provisions of the Religious Freedom Restoration Act of 1993.

B. Civil rights compliance: Access to services and benefits by individuals with limited English proficiency

Compliance with the civil rights laws entails, among other things, taking reasonable steps to ensure that individuals with limited English proficiency (LEP) have meaningful access to DOJ-funded programs or services. An individual with limited English proficiency is one whose first language is not English and who has a limited ability to read, write, speak, or understand English. To assist recipients of DOJ awards in meeting their obligations with respect to such individuals, DOJ has published a guidance document, available on the LEP.gov website.

Federal Awards issued from 2022 Federal Grant Funds**C. Certification**

Each grantee by accepting this award, certifies that it will comply (and it will require any subrecipient at any tier to comply) with applicable civil rights laws and nondiscrimination provisions. An additional DCJ Form 30, will be required prior to the disbursement of any funds.

D. Nondiscrimination provisions and the Religious Freedom Restoration Act

As noted earlier, a nondiscrimination provision that deals with discrimination in employment on the basis of religion is read together with the pertinent provisions of the Religious Freedom Restoration Act of 1993. As a result, even if an otherwise-applicable nondiscrimination provision states that a grantee or subrecipient may not discriminate in employment based on religion, a DOJ recipient or subrecipient that is a faith-based organization may consider religion in hiring, provided it satisfies particular requirements.

An DOJ recipient that is a faith-based organization and that seeks to consider religion in hiring despite an applicable nondiscrimination provision must properly execute and submit to DCJ a specific formal certification to DCJ to the effect that--

1. The grantee is a religious organization that sincerely believes that providing the programs or services funded by the DOJ award is an expression of its religious beliefs, that employing individuals of particular religious belief is important to its religious exercise, and that having to abandon its religious hiring practice to receive federal funding would substantially burden its religious exercise.
2. The grantee will not discriminate against beneficiaries (or prospective beneficiaries) of the programs or services funded by the DOJ award on the basis of religion, a religious belief, a refusal to hold a religious belief, or a refusal to attend or participate in a religious practice.
3. The grantee will keep any explicitly religious activities separate in time or location from programs or services funded by the DOJ award.
4. The grantee will not require beneficiaries (or prospective beneficiaries) of programs or services funded by the DOJ award to attend or participate in any explicitly religious activities. Any such participation will be purely voluntary.

To make the required certification, an appropriate, authorized official of the grantee organization must execute the [Certification Regarding Hiring Practices on the Basis of Religion](#) on behalf of the grantee. A copy of the executed certification must be submitted to DCJ. The grantee must retain the signed original on file as part of its records for the DOJ award.

An DOJ recipient that executes and submits a certification that satisfies these requirements ordinarily may consider religion in hiring. Different rules may apply, however, if there is good reason to question the truthfulness of the certification, or if DCJ determines that it is necessary to restrict the recipient from considering religion in hiring to further a compelling government interest. (If DCJ makes such a determination, the

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DCJ may impose limitations that represent the least restrictive means of furthering the compelling government interest.)

The rules that apply to subrecipients of DOJ awards that are faith-based organizations are similar, except that the subrecipient is to submit the required certification to the grantee.

E. Overview of "Civil Rights Laws"

Important "civil rights laws" that apply to all federal financial assistance -- and to all recipients and subrecipients of DOJ awards made in FY 2017 (and in FY 2018), are these:

- **Section 601 of Title VI of the Civil Rights Act of 1964** (codified at 42 U.S.C. 2000d)
 - Statutory provision:

No person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.
 - DOJ implementing regulation: Subparts C and D of 28 C.F.R. Part 42.
- **Section 504 of the Rehabilitation Act of 1973** (codified at 29 U.S.C. 794)
 - Statutory provision:

No otherwise qualified individual with a disability in the United States, as defined in [29 U.S.C. 705(20)], shall, solely by reason of her or his disability, be excluded from the participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance[.]
 - DOJ implementing regulation: Subpart G of 28 C.F.R. Part 42.
- **Section 901 of Title IX of the Education Amendments of 1972** (codified at 20 U.S.C. 1681)
 - Statutory provision:

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance[.]
 - DOJ implementing regulations: Subpart D of 28 C.F.R. Part 42; 28 C.F.R. Part 54.
- **Section 303 of the Age Discrimination Act of 1975** (codified at 42 U.S.C. 6102)
 - Statutory provision:

[N]o person in the United States shall, on the basis of age, be excluded from participation in, be denied the benefits of, or be subjected to

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discrimination under, any program or activity receiving Federal financial assistance.

DOJ implementing regulation: Subpart I of 28 C.F.R. Part 42.

7. RECIPIENTS OF OVW GRANT DOLLARS ONLY**A. Availability of general terms and conditions on OVW website**

The recipient agrees to follow the applicable set of general terms and conditions that are available at <https://www.justice.gov/ovw/award-conditions>. These do not supersede any specific conditions in this award document.

B. Compliance with statutory and regulatory requirements

The grantee agrees to comply with all relevant statutory and regulatory requirements, which may include, among other relevant authorities, the Violence Against Women Act of 1994, P.L. 103-322, the Violence Against Women Act of 2000, P.L. 106-386, the Violence Against Women and Department of Justice Reauthorization Act of 2005, P.L. 109-162, the Violence Against Women Reauthorization Act of 2013, P.L. 113-4, the Omnibus Crime Control and Safe Streets Act of 1968, 34 U.S.C. §§ 10101 et seq., and OVW's implementing regulations at 28 C.F.R. Part 90.

C. VAWA 2013 nondiscrimination condition

The recipient acknowledges that 34 U.S.C. § 12291(b)(13) prohibits recipients of OVW awards from excluding, denying benefits to, or discriminating against any person on the basis of actual or perceived race, color, religion, national origin, sex, gender identity, sexual orientation, or disability in any program or activity funded in whole or in part by OVW. The recipient agrees that it will comply with this provision. The recipient also agrees to ensure that any subrecipients ("subgrantees") at any tier will comply with this provision.

D. Confidentiality and information sharing

The grantee agrees to comply with the provisions of 34 U.S.C. § 12291(b)(2), nondisclosure of confidential or private information, which includes creating and maintaining documentation of compliance, such as policies and procedures for release of victim information. The recipient also agrees to comply with the regulations implementing this provision at 28 CFR 90.4(b) and "Frequently Asked Questions (FAQs) on the VAWA Confidentiality Provision (34 U.S.C. § 12291(b)(2))" on the OVW website at <https://www.justice.gov/ovw/resources-and-faqs-grantees>. The grantee also agrees to ensure that all subrecipients ("subgrantees") at any tier meet these requirements.

E. Activities that compromise victim safety and recovery and undermine offender accountability

The recipient agrees that grant funds will not support activities that compromise victim safety and recovery or undermine offender accountability, such as: procedures or policies that exclude victims from receiving safe shelter, advocacy services, counseling, and other assistance based on their actual or perceived sex, age, immigration status, race, religion, sexual orientation, gender identity, mental health condition, physical health condition, criminal record, work in the sex industry, or the age and/or sex of their children;

Federal Awards issued from 2022 Federal Grant Funds

procedures or policies that compromise the confidentiality of information and privacy of persons receiving OVW-funded services; procedures or policies that impose requirements on victims in order to receive services (e.g., seek an order of protection, receive counseling, participate in couples' counseling or mediation, report to law enforcement, seek civil or criminal remedies, etc.); procedures or policies that fail to ensure service providers conduct safety planning with victims; project design and budgets that fail to account for the access needs of participants with disabilities and participants who have limited English proficiency or are Deaf or hard of hearing; or any other activities outlined in the solicitation under which the approved application was submitted..

F. Policy for response to workplace-related incidents of sexual misconduct, domestic violence, and dating violence

The recipient, and any subrecipient at any tier, must have a policy, or issue a policy within 270 days of the award date, to address workplace-related incidents of sexual misconduct, domestic violence, and dating violence involving an employee, volunteer, consultant, or contractor. The details of this requirement are posted on the OVW web site at <https://www.justice.gov/ovw/award-conditions> (Award Condition: Policy for response to workplace-related sexual misconduct, domestic violence, and dating violence), and are incorporated by reference here.

G. Termination or suspension for cause

DCJ or the Director of OVW, upon a finding that there has been substantial failure by the recipient to comply with applicable laws, regulations, and/or the terms and conditions of the award or relevant solicitation, will terminate or suspend until DCJ or the Director is satisfied that there is no longer such failure, all or part of the award, in accordance with the provisions of 28 C.F.R. Part 18, as applicable mutatis mutandis.

H. Compliance with solicitation requirements

The recipient agrees that it must be in compliance with requirements outlined in the solicitation under which the approved application was submitted, the applicable Solicitation Companion Guide, and any program-specific frequently asked questions (FAQs) on the OVW website (<https://www.justice.gov/ovw/resources-and-faqs-grantees>). The program solicitation, Companion Guide, and any program specific FAQs are hereby incorporated by reference into this award.

I. Subrecipient program income

The recipient understands and agrees that it has responsibility for approval of program income earned by subrecipients. Program income, as defined by 2 C.F.R. 200.1, means gross income earned by a non-federal entity that is directly generated by a supported activity or earned as a result of the federal award during the period of performance.

Without prior approval, program income must be deducted from total allowable costs to determine the net allowable costs. In order to add program income to a subaward, subrecipients must seek approval from the recipient prior to generating any program income. Any program income added to a subaward must be used to support activities that were approved in the budget and follow the conditions of the subaward agreement. Any program income approved by the recipient must be reported by the subrecipient to the recipient so that it is reported on the quarterly Program Income Financial Report (DCJ

Federal Awards issued from 2022 Federal Grant Funds

Form 1-B) in accordance with the addition alternative. If the program income amount changes (increases or decreases) during the project period, the recipient must provide approval by the end of the project period. Failure to comply with these requirements may result in audit findings for both the recipient and the subrecipient.

J. Subrecipient product monitoring

The recipient agrees to monitor subrecipients to ensure that materials and products (written, visual, or sound) developed with OVW formula grant program funding fall within the scope of the grant program and do not compromise victim safety.

**COLORADO DIVISION OF CRIMINAL JUSTICE
CERTIFICATION OF COMPLIANCE WITH REGULATIONS
OFFICE FOR CIVIL RIGHTS, DEPARTMENT OF JUSTICE (DCJ FORM 30)**

INSTRUCTIONS: Complete the table below with information found in the Grant Agreement. Read the form completely, identify the person responsible for reporting civil rights findings, certify that the required Civil Rights training has been completed by the Project Director; and check only one certification under "II" that applies to your agency. Have your Signature Authority sign at the bottom of page 2, forward a copy to the person identified as being responsible for reporting civil rights findings and return the original to the Colorado Division of Criminal Justice, 700 Kipling, Ste. 1000, Denver, CO 80215, within 45 days of the grant award beginning date.

PROJECT DIRECTOR: James Martin

PHONE: 719-320-6001

Person responsible for reporting civil rights findings of discrimination: (Name, address, phone & email)

Captain Zack Ballas
200 S. Main St
Pueblo, CO 81003
zballas@pueblo.us

I acknowledge that I viewed all of the trainings on Civil Rights available on DCJ's website at <https://www.colorado.gov/pacific/dcj/civil-rights-requirements>. I accept responsibility for ensuring that project staff understands their responsibilities as outlined in the presentations. I understand that if I have any questions about the material presented and my responsibilities as a grantee that I will contact my grant manager.

DocuSigned by:

James Martin

10/17/2023 | 12:10:01 PM MDT

PROJECT DIRECTOR SIGNATURE

DATE

SIGNATURE AUTHORITY'S CERTIFICATION: As the Signature Authority for the above Grantee, I certify, by my signature on page two (2), that I have read and am fully cognizant of our duties and responsibilities under this Certification.

I. REQUIREMENTS OF GRANT RECIPIENTS: All grant recipients (regardless of the type of entity or the amount awarded) are subject to prohibitions against discrimination in any program or activity, and must take reasonable steps to provide meaningful access for persons with limited English proficiency.

◆ I certify that this agency will maintain data (and submit when required) to ensure that: our services are delivered in an equitable manner to all segments of the service population; our employment practices comply with Equal Opportunity Requirements, 28 CFR 42.207 and 42.301 *et seq.*; our projects and activities provide meaningful access for people with limited English proficiency as required by Title VI of the Civil Rights Act, (*See also*, 2000 Executive Order #13166).

◆ I also certify that the person in this agency or unit of government who is responsible for reporting civil rights findings of discrimination will submit these findings, if any, to the Division of Criminal Justice within 45 days of the finding, and/or if the finding occurred prior to the grant award beginning date, within 45 days of the grant award beginning date.

DCJ FORM 30:
CERTIFICATION OF COMPLIANCE WITH REGULATIONS,
OFFICE FOR CIVIL RIGHTS, DEPARTMENT OF JUSTICE (Continued)

II. **EQUAL EMPLOYMENT OPPORTUNITY PLAN (EEOP) CERTIFICATIONS:** Check the box before **ONLY ONE APPROPRIATE CERTIFICATION** (A, or B below) that applies to this grantee agency during the period of the grant duration noted above.

- ☐ **CERTIFICATION "A"** [Applicable, if (1), (2) or (3), below, apply.] This is the Certification that most non-profits and small agencies will use. Check all that apply to your entity.

This funded entity:

- ☐ (1) is an educational, medical or non-profit organization or an Indian Tribe;
☐ (2) has less than 50 employees;
☐ (3) was awarded through this single grant award from the Colorado Division of Criminal Justice less than \$25,000 in federal U.S. Department of Justice funds.

Therefore, I hereby certify that this funded entity is not required to maintain an EEOP, pursuant to 28 CFR §42.302, but is **required to submit a Certification** (<https://ojp.gov/about/ocr/eeop.htm>).

- ☒ **CERTIFICATION "B"** (Applicable to all entities that do not qualify for Certification "A" above)

This funded entity, as a for-profit entity or a state or local government having 50 or more employees (counting both full- and part-time employees but excluding political appointees) and is receiving, through this single grant award from the Colorado Division of Criminal Justice, more than \$25,000, in federal U.S. Department of Justice funds.

Therefore, I hereby certify that the funded entity will prepare and submit an EEOP and Certification at <https://ojp.gov/about/ocr/eeop.htm>, within 60 days of the award. The EEOP shall be submitted in accordance with 28 CFR §42, subpart E, to Office for Civil Rights, Office of Justice Programs, U.S. Department of Justice that will include a section specifically analyzing the grantee (implementing) agency. (If you have already submitted an EEOP applicable to this time period, send a copy of the letter received from the Office for Civil Rights showing that your EEOP is acceptable.)

As the Signature Authority for the above grantee, I certify, by my signature below, that I have read and am fully cognizant of our duties and responsibilities under this Certification. I, hereby, also certify that the content of this form, other than the data entry required, has not been altered.

DocuSigned by:



99E488FB4726452
 SIGNATURE AUTHORITY SIGNATURE

10/17/2023 | 2:19:22 PM PDT

DATE

Nick Gradisar

TYPED NAME

Mayor

TITLE

* * * * *

This signed form must be returned to the Colorado Division of Criminal Justice, 700 Kipling, Ste. 1000, Denver, CO 80215, within 45 days of the grant award beginning date. You must also forward a signed copy to the person identified in the box above.



U.S. DEPARTMENT OF JUSTICE
OFFICE OF JUSTICE PROGRAMS
OFFICE OF THE COMPTROLLER

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 28 CFR Part 69, "New Restrictions on Lobbying" and 28 CFR Part 67, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Justice determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 28 CFR Part 69, for persons entering into a grant or cooperative agreement over \$100,000, as defined at 28 CFR Part 69, the applicant certifies 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 agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant 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 grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure of Lobbying Activities," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all sub-recipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS (DIRECT RECIPIENT)

As required by Executive Order 12549, Debarment and Suspension, and implemented at 28 CFR Part 67, for prospective participants in primary covered transactions, as defined at 28 CFR Part 67, Section 67.510—

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, sentenced to a denial of Federal benefits by a State or Federal court, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application 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;

(c) 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 (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67 Sections 67.615 and 67.620—

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about—

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will—

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 633 Indiana Avenue, N.W., Washington, D.C. 20531. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted—

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

Check ☐ if there are workplaces on file that are not identified here.

Section 67, 630 of the regulations provides that a grantee that is a State may elect to make one certification in each Federal fiscal year. A copy of which should be included with each application for Department of Justice funding. States and State agencies may elect to use OJP Form 4061/7.

Check ☐ if the State has elected to complete OJP Form 4061/7.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 28 CFR Part 67, Subpart F, for grantees, as defined at 28 CFR Part 67; Sections 67.615 and 67.620—

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Department of Justice, Office of Justice Programs, ATTN: Control Desk, 633 Indiana Avenue, N.W., Washington, D.C. 20531.

Required only for awards greater than \$100,000. This form must be signed by the Signature Authority/ Authorized Official for the Grantee Agency. The Project Director should NOT sign this form.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

1. Grantee Name and Address:

2. Application Number and/or Project Name

3. Grantee IRS/Vendor Number

Nick Gradisar

Mayor

4. Typed Name and Title of Authorized Representative

DocuSigned by:

Nick Gradisar

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5. Signature

6. Date

Certificate Of Completion

Envelope Id: 9413F4EA43F54F399D152792805B1EF8

Status: Completed

Subject: DCJ Grant_2022-GP-23-04_ PSN Grant_Pueblo PD

Source Envelope:

Document Pages: 60

Signatures: 6

Envelope Originator:

Certificate Pages: 5

Initials: 0

OAJJA Grants

AutoNav: Enabled

700 Kipling St

Enveloped Stamping: Enabled

Lakewood, CO 80215

Time Zone: (UTC-07:00) Mountain Time (US & Canada)

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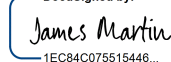
Signer Events

James Martin

jmartin@pueblo.us

Security Level: Email, Account Authentication
(None)**Signature**

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Nick Gradisar

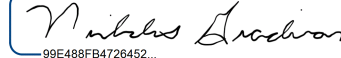
ngradisar@pueblo.us

Mayor

City of Pueblo

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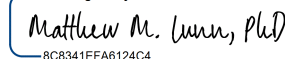
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Matthew M. Lunn, PhD

matthew.lunn@state.co.us

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Lyndsay J. Clelland

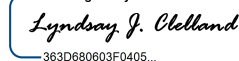
Lyndsay.Clelland@state.co.us

Contract, Grant and Compliance Coordinator

Division of Criminal Justice

Security Level: Email, Account Authentication
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Signature Adoption: Pre-selected Style

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Completed	Security Checked	10/18/2023 10:45:00 AM
Payment Events	Status	Timestamps
Electronic Record and Signature Disclosure		

ELECTRONIC RECORD AND SIGNATURE DISCLOSURE

From time to time, CDPS Contracts and Grants (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

Getting paper copies

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

Withdrawing your consent

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

Consequences of changing your mind

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

All notices and disclosures will be sent to you electronically

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

How to contact CDPS Contracts and Grants:

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: sarah.white@state.co.us

To advise CDPS Contracts and Grants of your new email address

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at sarah.white@state.co.us and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

To request paper copies from CDPS Contracts and Grants

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to sarah.white@state.co.us and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

To withdraw your consent with CDPS Contracts and Grants

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to sarah.white@state.co.us and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

Required hardware and software

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

Acknowledging your access and consent to receive and sign documents electronically

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to ‘I agree to use electronic records and signatures’ before clicking ‘CONTINUE’ within the DocuSign system.

By selecting the check-box next to ‘I agree to use electronic records and signatures’, you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify CDPS Contracts and Grants as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by CDPS Contracts and Grants during the course of your relationship with CDPS Contracts and Grants.



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 13, 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: AN ORDINANCE APPROVING AND ACCEPTING A U.S. DEPARTMENT OF JUSTICE 2023 RURAL AND SMALL DEPARTMENT VIOLENT CRIME REDUCTION PROGRAM GRANT, AWARD NUMBER 15PBJA-23-GG-05332-BSCI, AND APPLICABLE CONDITIONS PERTAINING THERETO, ESTABLISHING PROJECT NUMBER PS2317, BUDGETING AND APPROPRIATING FUNDS NOT TO EXCEED \$300,000.00 FOR THE PURCHASE OF SHOTSPOTTER, AUTHORIZING MAYOR GRADISAR TO EXECUTE SAME AND RATIFYING HIS SIGNATURE THERETO

SUMMARY:

This Ordinance provides for the acceptance of a \$300,000.00 grant from the United States Department of Justice for the purchase of a gunshot locator system.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

Rural and Small Department Violent Crime Reduction Program seeks to support small and rural agencies in their efforts to combat violent crime.

Pueblo Police Department seeks funding to purchase a ShotSpotter® to enhance its capability to identify and prosecute individuals perpetrating the most violent acts. The proposed solution is designed to identify, locate, and track active gunfire, and it will support efforts to respond to and investigate gunfire incidents more effectively. This strategy is deployed across the country and serves agencies of all sizes that are committed to leveraging real-time gunfire intelligence to reduce gun violence and build community trust. The ShotSpotter will provide a significant tactical advantage in support of patrol when responding to gunfire, create an opportunity for officers to respond

quickly to gun-related incidents, and support community engagement efforts.

FINANCIAL IMPLICATIONS:

This grant funding represents \$300,000.00 to the City of Pueblo with no required match.

BOARD/COMMISSION RECOMMENDATION:

Not applicable.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

The Council may disapprove the agreement and thereby decline the award.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. Award Package RURAL AND SMALL DEPARTMENT VIOLENT CRIME REDUCTION PROGRAM GRANT

ORDINANCE NO.

AN ORDINANCE APPROVING AND ACCEPTING A U.S. DEPARTMENT OF JUSTICE 2023 RURAL AND SMALL DEPARTMENT VIOLENT CRIME REDUCTION PROGRAM GRANT, AWARD NUMBER 15PBJA-23-GG-05332-BSCI, AND APPLICABLE CONDITIONS PERTAINING THERETO, ESTABLISHING PROJECT NUMBER PS2317, BUDGETING AND APPROPRIATING FUNDS NOT TO EXCEED \$300,000.00 FOR THE PURCHASE OF SHOTSPOTTER, AUTHORIZING MAYOR GRADISAR TO EXECUTE SAME AND RATIFYING HIS SIGNATURE THERETO

WHEREAS, the City Council of Pueblo has the authority on behalf of the City of Pueblo, including its Police Department, to accept grants for public and municipal purposes and to enter into agreements relating thereto; and

WHEREAS, the United States Department of Justice, Rural and Small Department Violent Crime Reduction Program has tendered an award for purchase of ShotSpotter® in the amount of \$300,000.00; and

WHEREAS, acceptance of the award 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 ORDAINED BY THE CITY COUNCIL OF PUEBLO, that:

SECTION 1.

The award of a United States Department of Justice, Rural and Small Department Violent Crime Reduction Program Grant to the City of Pueblo, a copy of which is attached hereto, is hereby approved and accepted.

SECTION 2.

Should it be necessary, the Mayor of the City is authorized to execute a grant award acceptance in the name of and on behalf of the City, and the Mayor is further authorized to execute any and all other certifications, assurances, and other documents associated therewith.

SECTION 3.

Project Number PS2317 is hereby established, and the amount of \$300,000 is budgeted and appropriated thereto.

SECTION 4.

The officer and staff of the City are authorized to perform any and all acts consistent with the intent of this Ordinance and the attached award 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 _____.

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



Department of Justice (DOJ)

Office of Justice Programs

Bureau of Justice Assistance

Washington, D.C. 20531

Name and Address of Recipient:		CITY OF PUEBLO 1 CITY HALL PL	
City, State and Zip:		PUEBLO, CO 81003	
Recipient UEI:		NJK3BNUDRHJ7	
Project Title: PPD ShotSpotter		Award Number: 15PBJA-23-GG-05332-BSCI	
Solicitation Title: BJA FY 23 Rural and Small Department Violent Crime Reduction Program			
Federal Award Amount: \$300,000.00		Federal Award Date: 9/27/23	
Awarding Agency:		Office of Justice Programs Bureau of Justice Assistance	
Funding Instrument Type:		Grant	
Opportunity Category: D			
Assistance Listing: 16.738 - Edward Byrne Memorial Justice Assistance Grant Program			
Project Period Start Date: 10/1/23		Project Period End Date: 9/30/26	
Budget Period Start Date: 10/1/23		Budget Period End Date: 9/30/26	
Project Description:			
Pueblo Police Department seeks funding to purchase a ShotSpotter to enhance its capability to identify and prosecute individuals p most violent acts. The proposed solution is designed to identify, locate, and track active gunfire, and it will support efforts to respo investigate gunfire incidents more effectively. This strategy is deployed across the country and serves agencies of all sizes that are leveraging real-time gunfire intelligence to reduce gun violence and build community trust. The ShotSpotter will provide a signific advantage in support of patrol when responding to gunfire, create an opportunity for officers to respond quickly to gun-related inc community engagement efforts.			

Award Letter

September 27, 2023

Dear Nicholas Gradisar,

On behalf of Attorney General Merrick B. Garland, it is my pleasure to inform you the Office of Justice Programs (OJP) has approved the application submitted by CITY OF PUEBLO for an award under the funding opportunity entitled 2023 BJA FY 23 Rural and Small Department Violent Crime Reduction Program. The approved award amount is \$300,000.

Review the Award Instrument below carefully and familiarize yourself with all conditions and requirements before accepting your award. The Award Instrument includes the Award Offer (Award Information, Project Information, Financial Information, and Award Conditions) and Award Acceptance. For COPS Office and OVW funding the Award Offer also includes any Other Award Documents.

Please note that award requirements include not only the conditions and limitations set forth in the Award Offer, but also compliance with assurances and certifications that relate to conduct during the period of performance for the award. These requirements encompass financial, administrative, and programmatic matters, as well as other important matters (e.g., specific restrictions on use of funds). Therefore, all key staff should receive the award conditions, the assurances and certifications, and the application as approved by OJP, so that they understand the award requirements. Information on all pertinent award requirements also must be provided to any subrecipient of the award.

Should you accept the award and then fail to comply with an award requirement, DOJ will pursue appropriate remedies for non-compliance, which may include termination of the award and/or a requirement to repay award funds.

Prior to accepting the award, your Entity Administrator must assign a Financial Manager, Grant Award Administrator, and Authorized Representative(s) in the Justice Grants System (JustGrants). The Entity Administrator will need to ensure the assigned Authorized Representative(s) is current and has the legal authority to accept awards and bind the entity to the award terms and conditions. To accept the award, the Authorized Representative(s) must accept all parts of the Award Offer in the Justice Grants System (JustGrants), including by executing the required declaration and certification, within 45 days from the award date.

To access your funds, you will need to enroll in the Automated Standard Application for Payments (ASAP) system, if you haven't already completed the enrollment process in ASAP. The Entity Administrator should have already received an email from ASAP to initiate this process.

Congratulations, and we look forward to working with you.

Amy Solomon

Assistant Attorney General

Office for Civil Rights Notice for All Recipients

The Office for Civil Rights (OCR), Office of Justice Programs (OJP), U.S. Department of Justice (DOJ) has been delegated the responsibility for ensuring that recipients of federal financial assistance from the OJP, the Office of Community Oriented Policing Services (COPS), and the Office on Violence Against Women (OVW) are not engaged in discrimination prohibited by law. Several federal civil rights laws, such as Title VI of the Civil Rights Act of 1964 and Section 504 of the Rehabilitation Act of 1973, require recipients of federal financial assistance to give assurances that they will comply with those laws. Taken together, these civil rights laws prohibit recipients of federal financial assistance from DOJ from discriminating in services and employment because of race, color, national origin, religion, disability, sex, and, for grants authorized under the Violence Against Women Act, sexual orientation and gender identity. Recipients are also prohibited from discriminating in services because of age. For a complete review of these civil rights laws and nondiscrimination requirements, in connection with DOJ awards, see <https://ojp.gov/funding/Explore/LegalOverview/CivilRightsRequirements.htm>.

Under the delegation of authority, the OCR investigates allegations of discrimination against recipients from individuals, entities, or groups. In addition, the OCR conducts limited compliance reviews and audits based on regulatory criteria.

These reviews and audits permit the OCR to evaluate whether recipients of financial assistance from the Department are providing services in a nondiscriminatory manner to their service population or have employment practices that meet equal-opportunity standards.

If you are a recipient of grant awards under the Omnibus Crime Control and Safe Streets Act or the Juvenile Justice and Delinquency Prevention Act and your agency is part of a criminal justice system, there are two additional obligations that may apply in connection with the awards: (1) complying with the regulation relating to Equal Employment Opportunity Programs (EEOPs); and (2) submitting findings of discrimination to OCR. For additional information regarding the EEOP requirement, see 28 CFR Part 42, subpart E, and for additional information regarding requirements when there is an adverse finding, see 28 C.F.R. §§ 42.204(c), .205(c)(5).

The OCR is available to help you and your organization meet the civil rights requirements that are associated with DOJ grant funding. If you would like the OCR to assist you in fulfilling your organization's civil rights or nondiscrimination responsibilities as a recipient of federal financial assistance, please do not hesitate to contact the OCR at askOCR@ojp.usdoj.gov.

Memorandum Regarding NEPA

NEPA Letter Type
OJP - Categorical Exclusion

NEPA Letter

None of the following activities will be conducted either under the OJP federal action or a related third-party action:

- 1) New construction;
- 2) Any renovation or remodeling of a property either (a) listed on or eligible for listing on the National Register of Historic Places or (b) located within a 100-year flood plain;
- 3) A renovation which will change the basic prior use of a facility or significantly change its size;
- 4) Research and technology whose anticipated and future application could be expected to have an effect on the environment; or
- 5) Implementation of a program involving the use of chemicals.

Consequently, the subject federal action meets OJP's criteria for a categorical exclusion as contained in paragraph 4 (b) of Appendix D to Part 61 of the Code of Federal Regulations. Additionally, the proposed action is neither a phase nor a segment or a project which when viewed in its entirety would not meet the criteria for a categorical exclusion.

Orbin Terry, NEPA Coordinator

NEPA Coordinator		
First Name	Middle Name	Last Name
Orbin		Terry

Award Information

This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.

Recipient Information

Recipient Name

CITY OF PUEBLO

UEI

NJK3BNUDRHJ7

Street 1

1 CITY HALL PL

Street 2

City

PUEBLO

State/U.S. Territory

Colorado

Zip/Postal Code

81003

Country

United States

County/Parish

Province

Award Details

Federal Award Date

9/27/23

Award Type

Initial

Award Number

15PBJA-23-GG-05332-BSCI

Supplement Number

00

Federal Award Amount

\$300,000.00

Funding Instrument Type

Grant

Assistance Listing Number	Assistance Listings Program Title
16.738	Edward Byrne Memorial Justice Assistance Grant Program

Statutory Authority

Bipartisan Safer Communities Supplemental Appropriations Act, 2022 (Pub. L. No. 117-159, 136 Stat. 1313, 1339); 28 U.S.C. 530C

[]
I have read and understand the information presented in this section of the Federal Award Instrument.

Project Information

This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.

Solicitation Title

2023 BJA FY 23 Rural and Small Department Violent Crime Reduction Program

Application Number
GRANT13908975

Awarding Agency
OJP

Program Office
BJA

Grant Manager Name
Ivette Ruiz

Phone Number
[202-353-5423](tel:202-353-5423)

E-mail Address
Ivette.M.Ruiz@usdoj.gov

Project Title
PPD ShotSpotter

Performance Period Start Date
10/01/2023

Performance Period End Date
09/30/2026

Budget Period Start Date
10/01/2023

Budget Period End Date
09/30/2026

Project Description

Pueblo Police Department seeks funding to purchase a ShotSpotter to enhance its capability to identify and prosecute individuals p most violent acts. The proposed solution is designed to identify, locate, and track active gunfire, and it will support efforts to respo investigate gunfire incidents more effectively. This strategy is deployed across the country and serves agencies of all sizes that are leveraging real-time gunfire intelligence to reduce gun violence and build community trust. The ShotSpotter will provide a signific advantage in support of patrol when responding to gunfire, create an opportunity for officers to respond quickly to gun-related inc community engagement efforts.

[]
I have read and understand the information presented in this section of the Federal Award Instrument.

Financial Information

This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.

The recipient budget is currently under review.

[]

I have read and understand the information presented in this section of the Federal Award Instrument.

Award Conditions

This award is offered subject to the conditions or limitations set forth in the Award Information, Project Information, Financial Information, and Award Conditions.

1

Compliance with restrictions on the use of federal funds--prohibited and controlled equipment under OJP awards

Consistent with Executive Order 14074, "Advancing Effective, Accountable Policing and Criminal Justice Practices To Enhance Public Trust and Public Safety," OJP has prohibited the use of federal funds under this award for purchases or transfers of specified equipment by law enforcement agencies. In addition, OJP requires the recipient, and any subrecipient ("subgrantee") at any tier, to put in place specified controls prior to using federal funds under this award to acquire or transfer any property identified on the "controlled equipment" list. The details of the requirement are posted on the OJP web site at <https://www.ojp.gov/funding/explore/prohibited-and-controlled-equipment> (Award condition: Compliance with restrictions on the use of federal funds--prohibited and controlled equipment under OJP awards), and are incorporated by reference here.

2

Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 54

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 54, which relates to nondiscrimination on the basis of sex in certain "education programs."

3

Compliance with 41 U.S.C. 4712 (including prohibitions on reprisal; notice to employees)

The recipient (and any subrecipient at any tier) must comply with, and is subject to, all applicable provisions of 41 U.S.C. 4712, including all applicable provisions that prohibit, under specified circumstances, discrimination against an employee as reprisal for the employee's disclosure of information related to gross mismanagement of a federal grant, a gross waste of federal funds, an abuse of authority relating to a federal grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal grant.

The recipient also must inform its employees, in writing (and in the predominant native language of the workforce), of employee rights and remedies under 41 U.S.C. 4712.

Should a question arise as to the applicability of the provisions of 41 U.S.C. 4712 to this award, the recipient is to contact the DOJ awarding agency (OJP or OVW, as appropriate) for guidance.

4

Applicability of Part 200 Uniform Requirements

The Uniform Administrative Requirements, Cost Principles, and Audit Requirements in 2 C.F.R. Part 200, as adopted and supplemented by DOJ in 2 C.F.R. Part 2800 (together, the "Part 200 Uniform Requirements") apply to this FY 2022 award from OJP.

The Part 200 Uniform Requirements were first adopted by DOJ on December 26, 2014. If this FY 2022 award supplements funds previously awarded by OJP under the same award number (e.g., funds awarded during or before December 2014), the Part 200 Uniform Requirements apply with respect to all funds under that award number (regardless of the award date, and regardless of whether derived from the initial award or a supplemental award) that are obligated on or after the acceptance date of this FY 2022 award.

For more information and resources on the Part 200 Uniform Requirements as they relate to OJP awards and

subawards ("subgrants"), see the OJP website at <https://ojp.gov/funding/Part200UniformRequirements.htm>.

Record retention and access: Records pertinent to the award that the recipient (and any subrecipient ("subgrantee") at any tier) must retain -- typically for a period of 3 years from the date of submission of the final expenditure report (SF 425), unless a different retention period applies -- and to which the recipient (and any subrecipient ("subgrantee") at any tier) must provide access, include performance measurement information, in addition to the financial records, supporting documents, statistical records, and other pertinent records indicated at 2 C.F.R. 200.334.

In the event that an award-related question arises from documents or other materials prepared or distributed by OJP that may appear to conflict with, or differ in some way from, the provisions of the Part 200 Uniform Requirements, the recipient is to contact OJP promptly for clarification.

5

Compliance with applicable rules regarding approval, planning, and reporting of conferences, meetings, trainings, and other events

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable laws, regulations, policies, and official DOJ guidance (including specific cost limits, prior approval and reporting requirements, where applicable) governing the use of federal funds for expenses related to conferences (as that term is defined by DOJ), including the provision of food and/or beverages at such conferences, and costs of attendance at such conferences.

Information on the pertinent DOJ definition of conferences and the rules applicable to this award appears in the DOJ Grants Financial Guide (currently, as section 3.10 of "Postaward Requirements" in the "DOJ Grants Financial Guide").

6

Requirement for data on performance and effectiveness under the award

The recipient must collect and maintain data that measure the performance and effectiveness of work under this award. The data must be provided to OJP in the manner (including within the timeframes) specified by OJP in the program solicitation or other applicable written guidance. Data collection supports compliance with the Government Performance and Results Act (GPRA) and the GPRA Modernization Act of 2010, and other applicable laws.

7

Compliance with DOJ Grants Financial Guide

References to the DOJ Grants Financial Guide are to the DOJ Grants Financial Guide as posted on the OJP website (currently, the "DOJ Grants Financial Guide" available at <https://ojp.gov/financialguide/DOJ/index.htm>), including any updated version that may be posted during the period of performance. The recipient agrees to comply with the DOJ Grants Financial Guide.

8

Compliance with general appropriations-law restrictions on the use of federal funds (FY 2022)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable restrictions on the use of federal funds set out in federal appropriations statutes. Pertinent restrictions, including from various "general provisions" in the Consolidated Appropriations Act, 2022, are set out at <https://www.ojp.gov/funding/Explore/FY22AppropriationsRestrictions.htm>, and are incorporated by reference here.

Should a question arise as to whether a particular use of federal funds by a recipient (or a subrecipient) would or might fall within the scope of an appropriations-law restriction, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

9

Compliance with DOJ regulations pertaining to civil rights and nondiscrimination - 28 C.F.R. Part 38

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28

C.F.R. Part 38 (as may be applicable from time to time), specifically including any applicable requirements regarding written notice to program beneficiaries and prospective program beneficiaries.

Currently, among other things, 28 C.F.R. Part 38 includes rules that prohibit specific forms of discrimination on the basis of religion, a religious belief, a refusal to hold a religious belief, or refusal to attend or participate in a religious practice. Part 38, currently, also sets out rules and requirements that pertain to recipient and subrecipient ("subgrantee") organizations that engage in or conduct explicitly religious activities, as well as rules and requirements that pertain to recipients and subrecipients that are faith-based or religious organizations.

The text of 28 C.F.R. Part 38 is available via the Electronic Code of Federal Regulations (currently accessible at <https://www.ecfr.gov/cgi-bin/ECFR?page=browse>), by browsing to Title 28-Judicial Administration, Chapter 1, Part 38, under e-CFR "current" data.

10

Effect of failure to address audit issues

The recipient understands and agrees that the DOJ awarding agency (OJP or OVW, as appropriate) may withhold award funds, or may impose other related requirements, if (as determined by the DOJ awarding agency) the recipient does not satisfactorily and promptly address outstanding issues from audits required by the Part 200 Uniform Requirements (or by the terms of this award), or other outstanding issues that arise in connection with audits, investigations, or reviews of DOJ awards.

11

Requirements of the award; remedies for non-compliance or for materially false statements

The conditions of this award are material requirements of the award. Compliance with any assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance also is a material requirement of this award.

Limited Exceptions. In certain special circumstances, the U.S. Department of Justice ("DOJ") may determine that it will not enforce, or enforce only in part, one or more requirements otherwise applicable to the award. Any such exceptions regarding enforcement, including any such exceptions made during the period of performance, are (or will be during the period of performance) set out through the Office of Justice Programs ("OJP") webpage entitled "Legal Notices: Special circumstances as to particular award conditions" (ojp.gov/funding/Explore/LegalNotices-AwardReqs.htm), and incorporated by reference into the award.

By signing and accepting this award on behalf of the recipient, the authorized recipient official accepts all material requirements of the award, and specifically adopts, as if personally executed by the authorized recipient official, all assurances or certifications submitted by or on behalf of the recipient that relate to conduct during the period of performance.

Failure to comply with one or more award requirements -- whether a condition set out in full below, a condition incorporated by reference below, or an assurance or certification related to conduct during the award period -- may result in OJP taking appropriate action with respect to the recipient and the award. Among other things, the OJP may withhold award funds, disallow costs, or suspend or terminate the award. DOJ, including OJP, also may take other legal action as appropriate.

Any materially false, fictitious, or fraudulent statement to the federal government related to this award (or concealment or omission of a material fact) may be the subject of criminal prosecution (including under 18 U.S.C. 1001 and/or 1621, and/or 34 U.S.C. 10271-10273), and also may lead to imposition of civil penalties and administrative remedies for false claims or otherwise (including under 31 U.S.C. 3729-3730 and 3801-3812).

Should any provision of a requirement of this award be held to be invalid or unenforceable by its terms, that provision shall first be applied with a limited construction so as to give it the maximum effect permitted by law. Should it be held, instead, that the provision is utterly invalid or -unenforceable, such provision shall be deemed severable from this award.

12

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements of 28 C.F.R. Part 42, specifically including any applicable requirements in Subpart E of 28 C.F.R. Part 42 that relate to an equal employment opportunity program.

13

Requirements related to "de minimis" indirect cost rate

A recipient that is eligible under the Part 200 Uniform Requirements and other applicable law to use the "de minimis" indirect cost rate described in 2 C.F.R. 200.414(f), and that elects to use the "de minimis" indirect cost rate, must advise OJP in writing of both its eligibility and its election, and must comply with all associated requirements in the Part 200 Uniform Requirements. The "de minimis" rate may be applied only to modified total direct costs (MTDC) as defined by the Part 200 Uniform Requirements.

14

Employment eligibility verification for hiring under the award

1. The recipient (and any subrecipient at any tier) must--

A. Ensure that, as part of the hiring process for any position within the United States that is or will be funded (in whole or in part) with award funds, the recipient (or any subrecipient) properly verifies the employment eligibility of the individual who is being hired, consistent with the provisions of 8 U.S.C. 1324a(a)(1).

B. Notify all persons associated with the recipient (or any subrecipient) who are or will be involved in activities under this award of both--

(1) this award requirement for verification of employment eligibility, and

(2) the associated provisions in 8 U.S.C. 1324a(a)(1) that, generally speaking, make it unlawful, in the United States, to hire (or recruit for employment) certain aliens.

C. Provide training (to the extent necessary) to those persons required by this condition to be notified of the award requirement for employment eligibility verification and of the associated provisions of 8 U.S.C. 1324a(a)(1).

D. As part of the recordkeeping for the award (including pursuant to the Part 200 Uniform Requirements), maintain records of all employment eligibility verifications pertinent to compliance with this award condition in accordance with Form I-9 record retention requirements, as well as records of all pertinent notifications and trainings.

2. Monitoring

The recipient's monitoring responsibilities include monitoring of subrecipient compliance with this condition.

3. Allowable costs

To the extent that such costs are not reimbursed under any other federal program, award funds may be obligated for the reasonable, necessary, and allocable costs (if any) of actions designed to ensure compliance with this condition.

4. Rules of construction

A. Staff involved in the hiring process

For purposes of this condition, persons "who are or will be involved in activities under this award" specifically includes (without limitation) any and all recipient (or any subrecipient) officials or other staff who are or will be involved in the hiring process with respect to a position that is or will be funded (in whole or in part) with award funds.

B. Employment eligibility confirmation with E-Verify

For purposes of satisfying the requirement of this condition regarding verification of employment eligibility, the recipient (or any subrecipient) may choose to participate in, and use, E-Verify (www.e-verify.gov), provided an appropriate person authorized to act on behalf of the recipient (or subrecipient) uses E-Verify (and follows the proper E-Verify procedures, including in the event of a "Tentative Nonconfirmation" or a "Final Nonconfirmation") to confirm employment eligibility for each hiring for a position in the United States that is or will be funded (in whole or in part) with award funds.

C. "United States" specifically includes the District of Columbia, Puerto Rico, Guam, the Virgin Islands of the United States, and the Commonwealth of the Northern Mariana Islands.

D. Nothing in this condition shall be understood to authorize or require any recipient, any subrecipient at any tier, or any person or other entity, to violate any federal law, including any applicable civil rights or nondiscrimination law.

E. Nothing in this condition, including in paragraph 4.B., shall be understood to relieve any recipient, any subrecipient at any tier, or any person or other entity, of any obligation otherwise imposed by law, including 8 U.S.C. 1324a(a)(1).

Questions about E-Verify should be directed to DHS. For more information about E-Verify visit the E-Verify website (<https://www.e-verify.gov/>) or email E-Verify at E-Verify@dhs.gov. E-Verify employer agents can email E-Verify at E-VerifyEmployerAgent@dhs.gov.

Questions about the meaning or scope of this condition should be directed to OJP, before award acceptance.

15

OJP Training Guiding Principles

Any training or training materials that the recipient -- or any subrecipient ("subgrantee") at any tier -- develops or delivers with OJP award funds must adhere to the OJP Training Guiding Principles for Grantees and Subgrantees, available at <https://www.ojp.gov/funding/implement/training-guiding-principles-grantees-and-subgrantees>.

16

Determination of suitability to interact with participating minors

SCOPE. This condition applies to this award if it is indicated -- in the application for the award (as approved by DOJ)(or in the application for any subaward, at any tier), the DOJ funding announcement (solicitation), or an associated federal statute -- that a purpose of some or all of the activities to be carried out under the award (whether by the recipient, or a subrecipient at any tier) is to benefit a set of individuals under 18 years of age.

The recipient, and any subrecipient at any tier, must make determinations of suitability before certain individuals may interact with participating minors. This requirement applies regardless of an individual's employment status.

The details of this requirement are posted on the OJP web site at <https://ojp.gov/funding/Explore/Interact-Minors.htm> (Award condition: Determination of suitability required, in advance, for certain individuals who may interact with participating minors), and are incorporated by reference here.

17

Potential imposition of additional requirements

The recipient agrees to comply with any additional requirements that may be imposed by the DOJ awarding agency (OJP or OVW, as appropriate) during the period of performance for this award, if the recipient is designated as "high-risk" for purposes of the DOJ high-risk grantee list.

18

Required training for Grant Award Administrator and Financial Manager

The Grant Award Administrator and all Financial Managers for this award must have successfully completed an "OJP financial management and grant administration training" by 120 days after the date of the recipient's acceptance of the award. Successful completion of such a training on or after October 15, 2020, will satisfy this condition.

In the event that either the Grant Award Administrator or a Financial Manager for this award changes during the period of performance, the new Grant Award Administrator or Financial Manager must have successfully completed an "OJP financial management and grant administration training" by 120 calendar days after the date the Entity Administrator enters updated Grant Award Administrator or Financial Manager information in JustGrants. Successful completion of such a training on or after October 15, 2020, will satisfy this condition.

A list of OJP trainings that OJP will consider "OJP financial management and grant administration training" for purposes of this condition is available at <https://onlinegfmt.training.ojp.gov/>. All trainings that satisfy this condition include a session on grant fraud prevention and detection.

The recipient should anticipate that OJP will immediately withhold ("freeze") award funds if the recipient fails to comply with this condition. The recipient's failure to comply also may lead OJP to impose additional appropriate conditions on this award.

19

Restrictions and certifications regarding non-disclosure agreements and related matters

No recipient or subrecipient ("subgrantee") under this award, or entity that receives a procurement contract or subcontract with any funds under this award, may require any employee or contractor to sign an internal confidentiality agreement or statement that prohibits or otherwise restricts, or purports to prohibit or restrict, the reporting (in accordance with law) of waste, fraud, or abuse to an investigative or law enforcement representative of a federal department or agency authorized to receive such information.

The foregoing is not intended, and shall not be understood by the agency making this award, to contravene requirements applicable to Standard Form 312 (which relates to classified information), Form 4414 (which relates to sensitive compartmented information), or any other form issued by a federal department or agency governing the nondisclosure of classified information.

1. In accepting this award, the recipient--

a. represents that it neither requires nor has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

b. certifies that, if it learns or is notified that it is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly authorized to do so by that agency.

2. If the recipient does or is authorized under this award to make subawards ("subgrants"), procurement contracts, or both--

a. it represents that--

(1) it has determined that no other entity that the recipient's application proposes may or will receive award funds (whether through a subaward ("subgrant"), procurement contract, or subcontract under a procurement contract) either requires or has required internal confidentiality agreements or statements from employees or contractors that currently prohibit or otherwise currently restrict (or purport to prohibit or restrict) employees or contractors from reporting waste, fraud, or abuse as described above; and

(2) it has made appropriate inquiry, or otherwise has an adequate factual basis, to support this representation; and

b. it certifies that, if it learns or is notified that any subrecipient, contractor, or subcontractor entity that receives funds under this award is or has been requiring its employees or contractors to execute agreements or statements that prohibit or otherwise restrict (or purport to prohibit or restrict), reporting of waste, fraud, or abuse as described above, it will immediately stop any further obligations of award funds to or by that entity, will provide prompt written notification to the federal agency making this award, and will resume (or permit resumption of) such obligations only if expressly

authorized to do so by that agency.

20

Reclassification of various statutory provisions to a new Title 34 of the United States Code

On September 1, 2017, various statutory provisions previously codified elsewhere in the U.S. Code were editorially reclassified (that is, moved and renumbered) to a new Title 34, entitled "Crime Control and Law Enforcement." The reclassification encompassed a number of statutory provisions pertinent to OJP awards (that is, OJP grants and cooperative agreements), including many provisions previously codified in Title 42 of the U.S. Code.

Effective as of September 1, 2017, any reference in this award document to a statutory provision that has been reclassified to the new Title 34 of the U.S. Code is to be read as a reference to that statutory provision as reclassified to Title 34. This rule of construction specifically includes references set out in award conditions, references set out in material incorporated by reference through award conditions, and references set out in other award requirements.

21

Requirement to report actual or imminent breach of personally identifiable information (PII)

The recipient (and any "subrecipient" at any tier) must have written procedures in place to respond in the event of an actual or imminent "breach" (OMB M-17-12) if it (or a subrecipient) -- (1) creates, collects, uses, processes, stores, maintains, disseminates, discloses, or disposes of "Personally Identifiable Information (PII)" (2 CFR 200.1) within the scope of an OJP grant-funded program or activity, or (2) uses or operates a "Federal information system" (OMB Circular A-130). The recipient's breach procedures must include a requirement to report actual or imminent breach of PII to an OJP Program Manager no later than 24 hours after an occurrence of an actual breach, or the detection of an imminent breach.

22

Requirement to disclose whether recipient is designated "high risk" by a federal grant-making agency outside of DOJ

If the recipient is designated "high risk" by a federal grant-making agency outside of DOJ, currently or at any time during the course of the period of performance under this award, the recipient must disclose that fact and certain related information to OJP by email at OJP.ComplianceReporting@ojp.usdoj.gov. For purposes of this disclosure, high risk includes any status under which a federal awarding agency provides additional oversight due to the recipient's past performance, or other programmatic or financial concerns with the recipient. The recipient's disclosure must include the following: 1. The federal awarding agency that currently designates the recipient high risk, 2. The date the recipient was designated high risk, 3. The high-risk point of contact at that federal awarding agency (name, phone number, and email address), and 4. The reasons for the high-risk status, as set out by the federal awarding agency.

23

Encouragement of policies to ban text messaging while driving

Pursuant to Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving," 74 Fed. Reg. 51225 (October 1, 2009), DOJ encourages recipients and subrecipients ("subgrantees") to adopt and enforce policies banning employees from text messaging while driving any vehicle during the course of performing work funded by this award, and to establish workplace safety policies and conduct education, awareness, and other outreach to decrease crashes caused by distracted drivers.

24

All subawards ("subgrants") must have specific federal authorization

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements for authorization of any subaward. This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a "subaward" (and therefore does not consider a procurement "contract").

The details of the requirement for authorization of any subaward are posted on the OJP web site at <https://ojp.gov/>

funding/Explore/SubawardAuthorization.htm (Award condition: All subawards ("subgrants") must have specific federal authorization), and are incorporated by reference here.

25

Specific post-award approval required to use a noncompetitive approach in any procurement contract that would exceed \$250,000

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements to obtain specific advance approval to use a noncompetitive approach in any procurement contract that would exceed the Simplified Acquisition Threshold (currently, \$250,000). This condition applies to agreements that -- for purposes of federal grants administrative requirements -- OJP considers a procurement "contract" (and therefore does not consider a subaward).

The details of the requirement for advance approval to use a noncompetitive approach in a procurement contract under an OJP award are posted on the OJP web site at <https://ojp.gov/funding/Explore/NoncompetitiveProcurement.htm> (Award condition: Specific post-award approval required to use a noncompetitive approach in a procurement contract (if contract would exceed \$250,000)), and are incorporated by reference here.

26

Requirements pertaining to prohibited conduct related to trafficking in persons (including reporting requirements and OJP authority to terminate award)

The recipient, and any subrecipient ("subgrantee") at any tier, must comply with all applicable requirements (including requirements to report allegations) pertaining to prohibited conduct related to the trafficking of persons, whether on the part of recipients, subrecipients ("subgrantees"), or individuals defined (for purposes of this condition) as "employees" of the recipient or of any subrecipient.

The details of the recipient's obligations related to prohibited conduct related to trafficking in persons are posted on the OJP web site at <https://ojp.gov/funding/Explore/ProhibitedConduct-Trafficking.htm> (Award condition: Prohibited conduct by recipients and subrecipients related to trafficking in persons (including reporting requirements and OJP authority to terminate award)), and are incorporated by reference here.

27

Requirement to report potentially duplicative funding

If the recipient currently has other active awards of federal funds, or if the recipient receives any other award of federal funds during the period of performance for this award, the recipient promptly must determine whether funds from any of those other federal awards have been, are being, or are to be used (in whole or in part) for one or more of the identical cost items for which funds are provided under this award. If so, the recipient must promptly notify the DOJ awarding agency (OJP or OVW, as appropriate) in writing of the potential duplication, and, if so requested by the DOJ awarding agency, must seek a budget-modification or change-of-project-scope Grant Award Modification (GAM) to eliminate any inappropriate duplication of funding.

28

Reporting potential fraud, waste, and abuse, and similar misconduct

The recipient, and any subrecipients ("subgrantees") at any tier, must promptly refer to the DOJ Office of the Inspector General (OIG) any credible evidence that a principal, employee, agent, subrecipient, contractor, subcontractor, or other person has, in connection with funds under this award-- (1) submitted a claim that violates the False Claims Act; or (2) committed a criminal or civil violation of laws pertaining to fraud, conflict of interest, bribery, gratuity, or similar misconduct.

Potential fraud, waste, abuse, or misconduct involving or relating to funds under this award should be reported to the OIG by--(1) online submission accessible via the OIG webpage at <https://oig.justice.gov/hotline/contact-grants.htm> (select "Submit Report Online"); (2) mail directed to: U.S. Department of Justice, Office of the Inspector General, Investigations Division, ATTN: Grantee Reporting, 950 Pennsylvania Ave., NW, Washington, DC 20530; and/or (3) by facsimile directed to the DOJ OIG Investigations Division (Attn: Grantee Reporting) at (202) 616-9881 (fax).

Additional information is available from the DOJ OIG website at <https://oig.justice.gov/hotline>.

29

Requirements related to System for Award Management and Universal Identifier Requirements

The recipient must comply with applicable requirements regarding the System for Award Management (SAM), currently accessible at <https://www.sam.gov/>. This includes applicable requirements regarding registration with SAM, as well as maintaining the currency of information in SAM.

The recipient also must comply with applicable restrictions on subawards ("subgrants") to first-tier subrecipients (first-tier "subgrantees"), including restrictions on subawards to entities that do not acquire and provide (to the recipient) the unique entity identifier required for SAM registration.

The details of the recipient's obligations related to SAM and to unique entity identifiers are posted on the OJP web site at <https://ojp.gov/funding/Explore/SAM.htm> (Award condition: System for Award Management (SAM) and Universal Identifier Requirements), and are incorporated by reference here.

This condition does not apply to an award to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

30

Restrictions on "lobbying"

In general, as a matter of federal law, federal funds awarded by OJP may not be used by the recipient, or any subrecipient ("subgrantee") at any tier, either directly or indirectly, to support or oppose the enactment, repeal, modification, or adoption of any law, regulation, or policy, at any level of government. See 18 U.S.C. 1913. (There may be exceptions if an applicable federal statute specifically authorizes certain activities that otherwise would be barred by law.)

Another federal law generally prohibits federal funds awarded by OJP from being used by the recipient, or any subrecipient at any tier, to pay any person to influence (or attempt to influence) a federal agency, a Member of Congress, or Congress (or an official or employee of any of them) with respect to the awarding of a federal grant or cooperative agreement, subgrant, contract, subcontract, or loan, or with respect to actions such as renewing, extending, or modifying any such award. See 31 U.S.C. 1352. Certain exceptions to this law apply, including an exception that applies to Indian tribes and tribal organizations.

Should any question arise as to whether a particular use of federal funds by a recipient (or subrecipient) would or might fall within the scope of these prohibitions, the recipient is to contact OJP for guidance, and may not proceed without the express prior written approval of OJP.

31

The recipient understands that, in accepting this award, the Authorized Representative declares and certifies, among other things, that he or she possesses the requisite legal authority to accept the award on behalf of the recipient entity and, in so doing, accepts (or adopts) all material requirements that relate to conduct throughout the period of performance under this award. The recipient further understands, and agrees, that it will not assign anyone to the role of Authorized Representative during the period of performance under the award without first ensuring that the individual has the requisite legal authority.

32

The recipient agrees that no funds under this grant award (including via subcontract or subaward, at any tier) may be used for unmanned aircraft systems (UAS), which includes unmanned aircraft vehicles (UAV), or for any accompanying accessories to support UAS.

33

Any Web site that is funded in whole or in part under this award must include the following statement on the home

page, on all major entry pages (i.e., pages (exclusive of documents) whose primary purpose is to navigate the user to interior content), and on any pages from which a visitor may access or use a Web-based service, including any pages that provide results or outputs from the service: "This Web site is funded in whole or in part through a grant from the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice. Neither the U.S. Department of Justice nor any of its components operate, control, are responsible for, or necessarily endorse, this Web site (including, without limitation, its content, technical infrastructure, and policies, and any services or tools provided)." The full text of the foregoing statement must be clearly visible on the home page. On other pages, the statement may be included through a link, entitled "Notice of Federal Funding and Federal Disclaimer," to the full text of the statement.

34

Verification and updating of recipient contact information

The recipient must verify its Grant Award Administrator, Financial Manager, and Authorized Representative contact information in JustGrants, including telephone number and e-mail address. If any information is incorrect or has changed, the award recipient's Entity Administrator must make changes to contact information through DIAMD. Instructions on how to update contact information in JustGrants can be found at <https://justicegrants.usdoj.gov/training/training-entity-management>.

35

The recipient agrees to comply with OJP grant monitoring guidelines, protocols, and procedures, and to cooperate with BJA and OCFO on all grant monitoring requests, including requests related to desk reviews, enhanced programmatic desk reviews, and/or site visits. The recipient agrees to provide to BJA and OCFO all documentation necessary to complete monitoring tasks, including documentation related to any subawards made under this award. Further, the recipient agrees to abide by reasonable deadlines set by BJA and OCFO for providing the requested documents. Failure to cooperate with BJA's/OCFO's grant monitoring activities may result in sanctions affecting the recipient's DOJ awards, including, but not limited to: withholdings and/or other restrictions on the recipient's access to grant funds; referral to the Office of the Inspector General for audit review; designation of the recipient as a DOJ High Risk grantee; or termination of an award(s).

36

Justice Information Sharing

Information sharing projects funded under this award must comply with DOJ's Global Justice Information Sharing Initiative (Global) guidelines. The recipient (and any subrecipient at any tier) must conform to the Global Standards Package (GSP) and all constituent elements, where applicable, as described at: https://it.ojp.gov/gsp_grantcondition. The recipient (and any subrecipient at any tier) must document planned approaches to information sharing and describe compliance with the GSP and appropriate privacy policy that protects shared information, or provide detailed justification for why an alternative approach is recommended.

37

The recipient agrees to submit to BJA for review and approval any product (e.g., curricula, training materials, publications, reports, videos, or any other written, web-based, or audio-visual, or other materials) that will be developed and published under this award at least thirty (30) working days prior to the targeted dissemination date. The current edition of the DOJ Grants Financial Guide provides guidance on allowable printing and publication activities. Any products developed under this award, (with the exception of press releases, web sites, and mobile applications), shall contain the following statements: "This project was supported by Grant No. <Award_Number> awarded by the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice. Points of view or opinions in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice." (Note: A separate disclaimer has been developed and is required for web sites and mobile applications. No disclaimer is required for press releases.)

38

Protection of human research subjects

The recipient (and any subrecipient at any tier) must comply with the requirements of 28 C.F.R. Part 46 and all OJP policies and procedures regarding the protection of human research subjects, including obtainment of Institutional

Review Board approval, if appropriate, and subject informed consent.

39

Applicants must ensure that Limited English Proficiency persons have meaningful access to the services under this program(s). National origin discrimination includes discrimination on the basis of limited English proficiency (LEP). To ensure compliance with Title VI and the Safe Streets Act, recipients are required to take reasonable steps to ensure that LEP persons have meaningful access to their programs. Meaningful access may entail providing language assistance services, including oral and written translation when necessary. The U.S. Department of Justice has issued guidance for grantees to help them comply with Title VI requirements. The guidance document can be accessed on the Internet at www.lep.gov.

40

The recipient agrees to cooperate with any assessments, national evaluation efforts, or information or data collection requests, including, but not limited to, the provision of any information required for the assessment or evaluation of any activities within this project.

41

FFATA reporting: Subawards and executive compensation

The recipient must comply with applicable requirements to report first-tier subawards ("subgrants") of \$30,000 or more and, in certain circumstances, to report the names and total compensation of the five most highly compensated executives of the recipient and first-tier subrecipients (first-tier "subgrantees") of award funds. The details of recipient obligations, which derive from the Federal Funding Accountability and Transparency Act of 2006 (FFATA), are posted on the OJP web site at <https://ojp.gov/funding/Explore/FFATA.htm> (Award condition: Reporting Subawards and Executive Compensation), and are incorporated by reference here.

This condition, including its reporting requirement, does not apply to-- (1) an award of less than \$30,000, or (2) an award made to an individual who received the award as a natural person (i.e., unrelated to any business or non-profit organization that he or she may own or operate in his or her name).

42

Limit on use of grant funds for grantees' employees' salaries

With respect to this award, federal funds may not be used to pay cash compensation (salary plus bonuses) to any employee of the award recipient at a rate that exceeds 110% of the maximum annual salary payable to a member of the federal government's Senior Executive Service (SES) at an agency with a Certified SES Performance Appraisal System for that year. (An award recipient may compensate an employee at a higher rate, provided the amount in excess of this compensation limitation is paid with non-federal funds.)

This limitation on compensation rates allowable under this award may be waived on an individual basis at the discretion of the OJP official indicated in the program announcement under which this award is made.

43

Confidentiality of data

The recipient (and any subrecipient at any tier) must comply with all confidentiality requirements of 34 U.S.C. 10231 and 28 C.F.R. Part 22 that are applicable to collection, use, and revelation of data or information. The recipient further agrees, as a condition of award approval, to submit a Privacy Certificate that is in accord with requirements of 28 C.F.R. Part 22 and, in particular, 28 C.F.R. 22.23.

44

Withholding of funds – Financial Capability Questionnaire Submission. The recipient may not obligate, expend, or draw down any award funds until-- (1) it has submitted a Financial Capability Questionnaire (FCQ) and, if required by OJP, written policies and procedures to address FCQ issues identified; and (2) OJP has issued an Award Condition Modification (ACM) to modify or remove this condition.

The recipient's budget (and budget narrative) is pending clearance by OJP.

Prior to budget clearance (and unless there is a more restrictive condition on this award, in which case the terms of that more restrictive condition apply): The recipient may not drawdown more than 10% of the award. Pre-clearance obligations, expenditures, and drawdowns may be disallowed if not in compliance with program requirements.

The recipient should be judicious in using award funds prior to budget clearance. Generally, OJP expects that recipients (depending on the specific project scope) may need to advertise for award-funded positions, pay personnel and fringe benefits for positions budgeted under the award, plan for project activities, attend training and pay training-related travel needed to begin the project, and engage in other limited activities conducted by recipient staff (i.e., generally not requiring a subaward or procurement contract under an award).

OJP will issue an Award Condition Modification upon budget clearance.

Withholding of Funds - Applicant Disclosure of Duplication in Cost Items

The recipient may not obligate, expend, or draw down any award funds until: (1) it has provided to the grant manager for this OJP award either an "Applicant Disclosure of Duplication in Cost Items" for federal funding or a specific affirmative statement that no such pending applications (whether direct or indirect) exist, in accordance with the detailed instructions in the program solicitation, (2) OJP has completed its review of the information provided and of any supplemental information it may request, (3) the recipient has made any adjustments to the award that OJP may require to prevent or eliminate any inappropriate duplication of funding (e.g., budget modification, project scope adjustment), (4) if appropriate adjustments to a discretionary award cannot be made, the recipient has agreed in writing to any necessary reduction of the award amount in any amount sufficient to prevent duplication (as determined by OJP), and (5) an Award Condition Modification (ACM) has been issued to remove this condition.

[]

I have read and understand the information presented in this section of the Federal Award Instrument.

Award Acceptance

Declaration and Certification to the U.S. Department of Justice as to Acceptance

By checking the declaration and certification box below, I--

A. Declare to the U.S. Department of Justice (DOJ), under penalty of perjury, that I have authority to make this declaration and certification on behalf of the applicant.

B. Certify to DOJ, under penalty of perjury, on behalf of myself and the applicant, to the best of my knowledge and belief, that the following are true as of the date of this award acceptance: (1) I have conducted or there was conducted (including by applicant's legal counsel as appropriate and made available to me) a diligent review of all terms and conditions of, and all supporting materials submitted in connection with, this award, including any assurances and certifications (including anything submitted in connection therewith by a person on behalf of the applicant before, after, or at the time of the application submission and any materials that accompany this acceptance and certification); and (2) I have the legal authority to accept this award on behalf of the applicant.

C. Accept this award on behalf of the applicant.

D. Declare the following to DOJ, under penalty of perjury, on behalf of myself and the applicant: (1) I understand that, in taking (or not taking) any action pursuant to this declaration and certification, DOJ will rely upon this declaration and certification as a material representation; and (2) I understand that any materially false, fictitious, or fraudulent information or statement in this declaration and certification (or concealment or omission of a material fact as to either)

may be the subject of criminal prosecution (including under 18 U.S.C. §§ 1001 and/or 1621, and/or 34 U.S.C. §§ 10271-10273), and also may subject me and the applicant to civil penalties and administrative remedies under the federal False Claims Act (including under 31 U.S.C. §§ 3729-3730 and/or §§ 3801-3812) or otherwise.

Agency Approval

Title of Approving Official	Name of Approving Official	Signed Date And Time
Assistant Attorney General	Amy Solomon	9/25/23 4:47 PM

Authorized Representative

Entity Acceptance

Title of Authorized Entity Official
Mayor

Signed Date And Time



**Background Paper for Proposed
Resolution**

COUNCIL MEETING DATE: November 13, 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 PUEBLO LATINO CHAMBER OF COMMERCE IN THE AMOUNT OF \$1,000 TO SPONSOR THE FESTIVAL OF TREES EVENT ON THURSDAY, DECEMBER 14, FROM 5:00 PM – 8:00 PM AT THE UNION DEPOT

SUMMARY:

Attached for consideration is a request for support of the Latino Chamber of Commerce in the amount of \$1,000 to sponsor the Festival of Trees event on Thursday, December 14, from 5:00 pm – 8:00 pm at the Union Depot.

PREVIOUS COUNCIL ACTION:

Council supported this event in 2022 for \$1,025.

BACKGROUND:

City Council Member Dennis Flores is requesting \$1,000 to sponsor the 12th Annual "Festival of Trees" event. This Holiday Happy Hour is an excellent opportunity to educate and inform the Pueblo business community and it's also a great event to mix and mingle in a relaxed, social environment. A portion of the night's proceeds will benefit United Way of Pueblo County.

FINANCIAL IMPLICATIONS:

Funds in the amount of \$1,000 would be paid from the Council Contingencies Account in the 2023 General Fund Budget to Pueblo Latino Chamber of Commerce.

BOARD/COMMISSION RECOMMENDATION:

N/A

STAKEHOLDER PROCESS:

N/A

ALTERNATIVES:

City Council could choose not to authorize funding for this purpose.

RECOMMENDATION:

This Resolution is at the request of Council Member Dennis Flores.

ATTACHMENTS:

1. 2023 Annual Festival of Trees Sponsor Sheet
2. 2023 Contingencies (Council) Festival of Trees Latino Chamber

RESOLUTION NO. 15425

A RESOLUTION AUTHORIZING PAYMENT FROM THE COUNCIL CONTINGENCIES ACCOUNT IN THE 2023 GENERAL FUND BUDGET TO PUEBLO LATINO CHAMBER OF COMMERCE IN THE AMOUNT OF \$1,000 TO SPONSOR THE FESTIVAL OF TREES EVENT ON THURSDAY, DECEMBER 14, FROM 5:00 PM – 8:00 PM AT THE UNION DEPOT

BE IT RESOLVED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

Payment in the amount of \$1,000 from the Council Contingencies Account in the 2023 General Fund Budget is authorized to be paid to the Pueblo Latino Chamber of Commerce to sponsor the Festival of Trees event.

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.

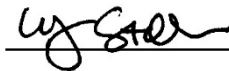
SECTION 3.

This Resolution shall become effective upon passage and approval.

INTRODUCED: November 13, 2023

BY: Dennis Flores
MEMBER OF CITY COUNCIL

APPROVED: 
PRESIDENT OF CITY COUNCIL

ATTESTED BY: 

ANNUAL FESTIVAL OF TREES



United Way
of Pueblo County

Festival of Trees *Decorating Competition and Auction*

For more than a decade the Latino Chamber of Commerce and United Way of Pueblo County have partnered together during the magical holiday season to bring you the **Annual Festival of Trees**! This event is not only a holiday themed After Hours Professional Mixer, but is also an event you can celebrate Christmas early and give back to non-profit organizations through the decorated Christmas trees silent auction. The Annual Festival of Trees is held on the second Thursday in December from 5:00pm - 8:00pm. This is one of the most festive and unique events of the year!

NORTH POLE | \$1,500

- 10 Complimentary Entry Tickets
- Welcome remarks during the event
- Sponsor signage/banner/pop up displayed during the event
- Up to a one-minute video played during the event (provided by sponsor)
- Sponsor's promotional items placed on tables during the event
- 1 Christmas tree for silent auction
- Exclusive social media post highlighting the sponsor
- Sponsor name/logo on Chamber's website, social media, email reminders, & event presentation

SANTA | \$1,000

- 8 Complimentary Entry Tickets
- Sponsor signage/banner/pop up displayed during the event
- Sponsor's promotional items placed on tables during the event
- Exclusive social media post highlighting the sponsor
- Sponsor name/logo on Chamber's website, social media, email reminders, & event presentation

CANDY CANE | \$500

- 6 Complimentary Entry Tickets
- Sponsor signage/banner/pop up displayed during the event
- Sponsor name/logo on Chamber's website, social media, email reminders, & event presentation

STOCKING | \$250

- 4 Complimentary Entry Tickets
- Sponsor name/logo on Chamber's website, social media, email reminders, & event presentation

SILENT AUCTION CHRISTMAS TREE/WREATH

- \$15.00 entry fee (self-supplied tree, wreath, basket)
- \$25.00 entry fee (LCC supplied tree)
- All trees/wreaths will have a table tent, bid sheet, and attendees will vote for the best decorated tree/wreath
- All trees will be between 3ft - 4.5ft
- Multiple tree colors/types depending on availability

INDIVIDUAL TICKETS | \$12

DATE	BALANCE IN 2023 CONTINGENCIES ACCOUNT	DEBIT	CREDIT	BALANCE
	Beginning Balance			\$ 100,000.00
1/9/23	Latino Chamber 44th Annual Dinner	\$ 2,000.00		\$ 98,000.00
1/9/23	Mount Carmel Veterans Service Center Salute to Heroes	\$ 2,500.00		\$ 95,500.00
1/23/23	Steelworks Center for the West - CF&I Faces of Steel Event	\$ 1,000.00		\$ 94,500.00
1/23/23	PCC Foundation Hall of Fame Award Event	\$ 1,000.00		\$ 93,500.00
1/23/23	Catholic Charities Espiritu Dinner	\$ 1,500.00		\$ 92,000.00
2/13/23	Boys & Girls Club Champions of Youth Dinner	\$ 1,600.00		\$ 90,400.00
2/13/23	Pueblo Police Department Awards Dinner	\$ 650.00		\$ 89,750.00
2/27/23	Southern Colorado Equality Alliance Spring Fling Banquet	\$ 560.00		\$ 89,190.00
2/27/23	Pueblo Friends of the Arkansas Trout on the Route	\$ 300.00		\$ 88,890.00
2/27/23	Pueblo Food Project Sun Soil Water Ag Summit	\$ 2,000.00		\$ 86,890.00
2/27/23	The Place Community Block Party	\$ 1,000.00		\$ 85,890.00
3/13/23	Hip Hop Festival - Mad Fresh Productions	\$ 1,500.00		\$ 84,390.00
3/13/23	HARP Rollin' on the Riverwalk Event	\$ 9,000.00		\$ 75,390.00
3/13/23	Press Club Sheepdip Awards Dinner	\$ 1,000.00		\$ 74,390.00
4/10/23	County Courthouse Lighting Ceremony	\$ 500.00		\$ 73,890.00
4/10/23	Latino Chamber Tostada Event	\$ 2,000.00		\$ 71,890.00
4/10/23	Child Advocacy Center April Campaign	\$ 1,000.00		\$ 70,890.00
4/10/23	Soco Harm Reduction/GAPP for Gun Buyback Program	\$ -		\$ 70,890.00
4/10/23	Downtown Association Levee Walk	\$ 700.00		\$ 70,190.00
4/24/23	SocoYogo/United Way Carnival	\$ 1,000.00		\$ 69,190.00
4/24/23	Pueblo Heritage Museum Slovenian Exhibit	\$ 1,000.00		\$ 68,190.00
4/24/23	Southern Colorado Equality Alliance Pueblo Pride Event	\$ 750.00		\$ 67,440.00
4/24/23	Bessemer Historical Society DBA Steelworks Center for the West - Contribution to EPA's Environmental Justice Collaborative Problem-Solving (EJCPS) Grant	\$ 8,000.00		\$ 59,440.00
4/24/23	El Movimiento Sigue Cinco de Mayo	\$ 2,000.00		\$ 57,440.00
5/8/23	Caring for Colorado - Youth Action Council	\$ 1,000.00		\$ 56,440.00
5/8/23	Pueblo Memorial Hall - Pueblo Has Talent 2023	\$ 5,189.00		\$ 51,251.00
5/22/23	Ultimate Performance Sports Training & Rehab Youth Scholarships	\$ 2,000.00		\$ 49,251.00
5/22/23	Goodnight Barn Preservation, Inc. - Chuckwagon Rendezvous	\$ 5,000.00		\$ 44,251.00
5/22/23	Mariachi Juvenil Diamante workshop	\$ 1,500.00		\$ 42,751.00
6/12/23	Sangre de Cristo Arts Center Anniversary Gala	\$ 1,500.00		\$ 41,251.00
6/12/23	Colorado State Fair Fiesta Committee - Noche de Fiesta	\$ 300.00		\$ 40,951.00
6/12/23	Desiree Tamlich - Mural Levee Project	\$ 2,500.00		\$ 38,451.00
6/26/23	Pueblo Friends of the Arkansas Summer Solstice	\$ 250.00		\$ 38,201.00
7/10/23	Latino Veterans Profiles in Courage Awards	\$ 1,500.00		\$ 36,701.00
7/10/23	PDI Dancing with the Pueblo Stars	\$ 1,000.00		\$ 35,701.00
7/10/23	Southeastern Colorado Heritage Center Indigenous People's Exhibit	\$ 6,000.00		\$ 29,701.00
7/24/23	Global Medical Response - Safety Jam	\$ 1,000.00		\$ 28,701.00
8/14/23	Pueblo Memorial Hall - The Time is Now Benefit by Mad Fresh	\$ -		\$ 28,701.00
8/14/23	Colorado State Fair Fiesta Committee - Fiesta Day Parade	\$ 2,000.00		\$ 26,701.00
8/14/23	Pueblo Chile Hot Air Balloon Fest	\$ 2,500.00		\$ 24,201.00
8/14/23	Pueblo Police Activities League (PPAL) Roncalli Football Equip	\$ 1,000.00		\$ 23,201.00
8/28/23	Mad Fresh Productions Multicultural Festival	\$ 1,500.00		\$ 21,701.00
8/28/23	Assistance League of Pueblo Holiday Fashion Preview	\$ 1,000.00		\$ 20,701.00
9/11/23	Historic Pueblo, Inc Damon Days Event	\$ 1,000.00		\$ 19,701.00
9/11/23	Pueblo Choral Society Old Fashioned Christmas Concert	\$ 6,000.00		\$ 13,701.00
9/11/23	Pueblo Film Fest Ltd	\$ 1,000.00		\$ 12,701.00
9/25/23	Spark the Change Suicide Memory Walk	\$ 2,000.00		\$ 10,701.00
10/10/23	Pueblo Downtown Association Parade of Lights	\$ 1,250.00		\$ 9,451.00
10/10/23	Pueblo Area Agency on Aging Senior of the year Event	\$ 2,000.00		\$ 7,451.00
10/10/23	Latino Chamber Lifetime Achievement Award	\$ 1,000.00		\$ 6,451.00
10/23/23	You Don't Stand Alone Sculpture - Pueblo Friends of Arkansas	\$ 1,000.00		\$ 5,451.00
10/23/23	Police vs. Fire Hockey Game - 7th Annual Ice Cup	\$ 1,000.00		\$ 4,451.00
11/13/23	Latino Chamber Festival of Trees	\$ 1,000.00		\$ 3,451.00



**Background Paper for Proposed
Ordinance**

COUNCIL MEETING DATE: November 13, 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: AN ORDINANCE APPROVING AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES IN THE AMOUNT OF \$556,897.60 BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND BROWN AND CALDWELL, INC., FOR CONSULTING ENGINEERING AND PROJECT MANAGEMENT SERVICES WITH RESPECT TO A PILOT PROJECT TO IDENTIFY ISSUES CONTRIBUTING TO GROUNDWATER INFILTRATION AND INFLOW TO THE CITY'S SEWER SANITARY SYSTEM AND AUTHORIZING THE MAYOR TO EXECUTE THE SAME

SUMMARY:

This Ordinance accepts an agreement between the City of Pueblo and Brown and Caldwell, Inc. for consulting engineering services relating to a pilot project to identify issues contributing to groundwater infiltration and inflow to the city's sewer sanitary system and authorizing the mayor to execute the same.

PREVIOUS COUNCIL ACTION:

On November 12, 2018, the City Council Approved Resolution No. 14081, selecting Brown and Caldwell, Inc as the Engineer of Record for the Wastewater Treatment Department.

BACKGROUND:

The Wastewater Department has been addressing selenium and sulfate issues in the Arkansas River Basin for more than 25 years. Naturally occurring selenium and sulfate are known to enter the city sewer collection system through the infiltration and inflow of groundwater. The sanitary sewer collection system conveys sewage and the groundwater to the James R. Dilorio Water Reclamation Facility. Approximately 50 percent of the selenium and very little sulfate is removed during the treatment process.

The purpose of this project is to pilot multiple technologies in geographical locations

with groundwater high in selenium and sulfate. These technologies, not previously used by the Wastewater Department, are capable of identifying and locating sources of groundwater infiltration and inflow entering the sanitary sewer collection system.

FINANCIAL IMPLICATIONS:

The cost of the agreement with Brown and Caldwell to provide design services for the rehabilitation project will not exceed \$556,897.60. Funds are available from the Sewer User Fund and have been appropriated to Project No. WW1503.

BOARD/COMMISSION RECOMMENDATION:

Not applicable

STAKEHOLDER PROCESS:

None

ALTERNATIVES:

The no-action alternative will eliminate the opportunity to collect data that identifies where infiltration and inflow occur in the sanitary sewer collection system. Without this data, it is unknown how best to rehabilitate the sanitary sewer mains to stop infiltration and inflow containing selenium and sulfate.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. 10-23-23 Selenium Infiltration Pilot Project - Proposal
2. 10-31-23 Selenium Infiltration Pilot Project Agreement 18-087 Brown and Caldwell Groundwater Infiltration and Inflow Approved

ORDINANCE NO. 10583

AN ORDINANCE APPROVING AN AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES IN THE AMOUNT OF \$556,897.60 BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND BROWN AND CALDWELL, INC., FOR CONSULTING ENGINEERING AND PROJECT MANAGEMENT SERVICES WITH RESPECT TO A PILOT PROJECT TO IDENTIFY ISSUES CONTRIBUTING TO GROUNDWATER INFILTRATION AND INFLOW TO THE CITY'S SEWER SANITARY SYSTEM AND AUTHORIZING THE MAYOR TO EXECUTE THE SAME

WHEREAS, the Pueblo Wastewater Department operates a Water Reclamation Facility and collection system providing municipal wastewater treatment;

WHEREAS, consulting engineering services with respect to the design required for consulting engineering services relating to a pilot project to identify issues contributing to groundwater infiltration and inflow to the city's sewer sanitary system and authorizing the mayor to execute the same; and

WHEREAS, Brown and Caldwell is the consulting Engineer of Record and is the most qualified to serve the Pueblo Wastewater Department for such project; NOW, THEREFORE,

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

SECTION 1.

An agreement by and between the City of Pueblo, a Colorado Municipal Corporation, and Brown and Caldwell, Inc., a copy of which is attached hereto and made part hereof by reference ("Agreement"), after having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

Work Performed under the Agreement may include, but not limited to, the following items:

1. Project management and administration;
2. Field investigation, data analysis, condition assessment, and reporting services; Field service preparation for a pilot project.

SECTION 3.

The Mayor is hereby authorized to execute said Agreement on behalf of Pueblo, a Colorado Municipal Corporation, and the City Clerk shall affix the seal of the City thereto and attest the same.

SECTION 4.

Funds for work performed under this agreement shall be from the Sewer User Fund Project No. WW1503.

SECTION 5.

The officers and staff of the City are authorized to perform any and all acts consistent with the intent of this Ordinance and the Agreement approved to implement the transactions described therein.

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 October 23, 2023.

Final adoption of Ordinance by City Council on November 13, 2023.



President of City Council

Action by the Mayor:

☒ Approved on November 15, 2023.

☐ Disapproved on _____ based on the following objections:



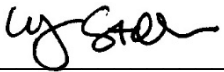
Mayor

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

Brown and Caldwell Proposal: Pilot Project to Identify Issues Contributing Groundwater Infiltration and Inflow to the City's Sewer System

Prepared for
City of Pueblo
SEPTEMBER 12, 2023



Project Overview

The City of Pueblo (COP) has been addressing selenium and sulfate issues in the Arkansas River Basin for more than 25 years. Naturally occurring selenium and sulfate are known to enter the COP sewer collections system through the infiltration and inflow of groundwater. The COP sewer collections system conveys sewage and the groundwater to the James R. Dilorio Water Reclamation Facility (WRF). Approximately 50 percent of the selenium and very little sulfate is removed during the treatment process. Treated effluent from the WRF is discharged to the Arkansas River.

The concentrations of selenium and sulfate in the effluent discharged to the Arkansas River during wet weather conditions are higher than site-specific standards in the Arkansas River set and allowed by the State of Colorado, Department of Health, Water Quality Commission (WQC). Since 2018, the COP has operated under a WQC adopted Discharger Specific Variance (DSV) for selenium and sulfate that represents the highest degree of protection for aquatic life that was determined feasible for the Pueblo WRF.

COP estimates an approximate \$200 million investment in capital and operating costs would be required at the WRF for additional treatment processes to further reduce the concentrations of selenium and sulfate in the treated effluent discharge without a certain substantial environmental benefit associated to the investment.

The 2018 WQC approved DSV included COP implementation of a \$10 million management program to reduce selenium and sulfate concentrations to the extent feasible. COP has made investments under the management program that include:

- Rehabilitating (by cured-in-place-pipe (CIPP) lining) and replacing sewer pipes.
- Sealing manholes.
- Establishing a homeowners sump pump removal program.
- Examining added treatment processes.

To date, the \$10 million management program investments have led to minor measurable reductions in sources of selenium entering the sewer collections system. Nevertheless, the investments and efforts expended have not reduced the selenium and sulfate concentrations sufficiently to meet state water quality standards without consideration of the 2018 WQC approved DSV.

Project Purpose

The purpose of this project is to pilot multiple technologies not previously used by City of Pueblo (COP) that are capable of identifying and locating sources of groundwater infiltration and inflow entering the COP sewer collections system.

The Electro Scan Focused Electrode Leak Location (FELL) technology described in this proposal and proposed for use during the project is not reliant on high groundwater level conditions with active infiltration into COP sewers occurring during performance of the testing in order to identify and locate pipe defects that provide a means for groundwater to infiltrate into sewer pipes. Additionally, the FELL technology can identify and locate cured-in-place-lining (CIPP) defects that cannot be seen via CCTV inspections that provide a means for groundwater to infiltrate into sewer pipes.



The unique CCTV inspection system described in this proposal and proposed for use during the project includes a combination mainline camera system and self-propelled service line camera system. This combination allows for the visual inspection of mainlines and laterals during single inspection runs.

The distributed temperature sensing (DTS) system technology described in this proposal and proposed for use during the project provides the means and methods to identify and detect groundwater inflow and infiltration into sewers at discrete 3-foot intervals along the length of pipes. Importantly, the DTS technology can detect intermittent groundwater discharges from sump pumps and perimeter drains that contribute extraneous groundwater to the sewer system.

The results of this project are intended to provide the COP with a better understanding of how to move beyond CCTV inspections to more effectively identify and locate the sources of extraneous groundwater entering the COP sewer collections system. The results will additionally yield benefit by exposing COP to a means and methods to perform quality control inspections of CIPP lining installations that are intended to reduce the volume of groundwater containing selenium and sulfate from entering the sewer system.

The introduction of advanced technologies during this project may ultimately assist COP to reduce the amount of selenium and sulfate reaching the James R. Dilorio Water Reclamation Facility for treatment and discharge.

Scope of Services

Brown and Caldwell (BC) will provide field investigation and engineering services to the City of Pueblo (COP) to identify sources contributing. Work will include planning and conducting field investigations, data analysis, condition assessment, and reporting.

The proposed Scope of Services includes the following tasks:

Task 100 - Project Management and Administration

Task 200 - Field Investigation, Data Analysis, Condition Assessment, and Reporting Services

Task 300 - Additional Services

Attachments included with this Scope of Services include:

Attachment 1 – Project Area Map

Attachment 2 – Project Fee Schedule

Attachment 3 – Project Schedule

Project Assumptions

The following assumptions were made in the development of this Scope of Services:

- The pipes and manholes of the project area are in suitable condition to allow for the inspections described in this proposal to be performed without undue risk to BC personnel, BC subcontractor personnel, and equipment provided and used to deliver services under this contract.
- COP shall not impede or restrict BC access to project area sewers.
- No excavations are required to expose project area sewer manholes.
- No sewer construction by COP or third parties will occur during BC field inspection operations.
- COP will grant access to use water from fire hydrants within the project area for the purposes of sewer cleaning and inspection operations. Water usage and/or permit fees have been excluded from the proposed fee. We understand that Pueblo Water is the potable water provider, and that



- COP may have to coordinate all efforts to provide access.
- BC may shift budget between work phases or tasks as necessary to complete the Work.
- COP shall provide a local disposal site for materials removed by BC from COP sewers. Disposal fees have been excluded from the proposed fee.

Task 100 – Project Management and Administration

Objectives

Project Management and Administration includes the following activities:

- Project Management Planning.
- Project Control and Reporting.
- Project Meetings and Workshops.
- Project Closeout.

1.1 Project Management Planning

The Project Management Plan will document the key project information required by all project team members to assist them in executing the project to meet the required objectives: on time, on budget, with high quality. The key elements of the project plan are described below:

- Scope of Services with work breakdown structure
- Project resources and budgets.
- Baseline Project schedule.
- Communications Plan.
- Risk Management Plan.
- QA/QC Plan.
- Project documentation plan and file structure.
- Preparation of the project specific Field Work Safety Plan (FWSP).

1.2 Project Control and Reporting

Monthly invoices and progress reports will be prepared and submitted.

This task also includes periodic project review by BC management to assure the project is meeting critical success factors, is on schedule, and is within budget. Updates to the project schedule will be included in the progress reports.

1.3 Progress Meetings

BC will provide a regular forum for the receipt, exchange, response, and documentation of project planning, design, and management related issues and decisions during the project.



This task includes:

- Project Kickoff Meeting. Assume this meeting to be in person at a COP facility. A project area site visit by BC project team members and COP personnel will be conducted following the meeting.
- Monthly Update Meetings–BC PM will meet with COP to review project status, schedule, contract issues, and other project management related issues. Assume meetings to be virtual (1 hour each).

Report deliverable workshops and pre-inspection workshops are included in tasks below.

1.4 Project Close-Out

During project close-out, BC will submit all final invoices to COP and consolidate and archive all project files.

Deliverables

The following deliverables will be provided as part of this phase:

- Project Management Plan.
- Monthly invoices, with progress summaries.
- Kickoff Meeting agenda, presentation materials, and minutes.
- Progress Meeting summary notes.

Assumptions

- Project duration is up to 12-months.
- The BC prepared Communications Plan is for internal use by the BC project team and COP.
- External communication support/direct engagement with stakeholders will be performed by COP.

Task 200 – Field Investigation Services

The project area sewers are defined in Attachment 1-Project Area Map. The project area sewer pipes are labeled as 8- and 10-inches in diameter. The pipe materials are currently unknown to BC but are suspected to be vitrified clay pipe (VCP). We are under the impression that some pipes within the project area have been rehabilitated by installation of cured-in-place lining. BC understands that the total length of pipes within the project area have been described by the COP to be approximately 8,400 lineal feet (lf). The flows in the project area sewers are largely attributable to flows from the north with a minor contribution from the east.

The sewer pipes in the project area will be investigated by BC to determine:

- Pipe issues
 - Structural condition of pipelines (e.g., cracks, fractures, missing wall, offset joints, etc.)
 - Watertightness of individual pipes (from joint to joint), joints connecting pipes, service line (lateral) connections, and pipe connections at structures associated to the pipelines (e.g., pipe to MH connections)
- Cured-in-place-pipe (CIPP) lining issues.
 - Installation issues
 - CIPP tube tears, fins, wrinkles, folds, inclusions, or other defects.



- Issues related to CIPP liner watertightness potentially caused by:
 - Uncured resins.
 - Tubes not saturated with resins at completion of curing.
 - Contaminated resins.
 - Improper service line connection reinstatements - missed cuts, oversized cuts, etc., not repaired.
 - Constructed features:
 - Type of mainline to service line connections (e.g., top hat or other fitting extending into service line piping).
 - Resin seals or hydrophilic rubber seals at terminations at structures (leakage may be visible at CIPP liner to host pipe interface).
- Other issues:
 - Damages caused during cleaning.
 - Damages caused by excessive external loads.
 - Damages caused by third party strikes.
 - Illicit connections, such as perimeter drains or other non-sewer connections from private property to sewer pipes or manholes.
 - The potential presence of sump pumps discharging groundwater to the sewer pipes.

2.1 Review of Available Information

COP will provide BC available and relevant information and data to aid BC in the performance of the project. This may include, but is not limited to information such as:

- Record documents such as plan and profile drawings, as-built drawings, and specifications.
- Record documents related to prior sewer pipe and manhole repair, rehabilitation, and replacement.
- GIS data for all project area sewer pipes, structures, connections, and other assets.
- CCTV inspection records, video, photos, and data.
- Manhole inspection records, video, photos, and data,
- Operations and maintenance records for the project area sewers.
- Address/location of known sump pump installations.
- Project area sewer collections system flow data:
 - Flow meter data acquired within the project area boundary.
 - Flow meter data acquired within the same sewer basin upstream of the project area.
 - Flow meter data acquired within the same sewer basin downstream of the project area.
 - Identification of the location of manholes where flow meters were installed.
 - Any available data including:
 - Flow rate (Q), depth of flow (d), velocity of flow (V), and if reported, temperature (°F) of flow.
 - Discrete, non-totalized, date and time stamped flow meter measurements (anticipated measurement intervals at either 15-minutes or 5-minutes).



- James R. Dilorio Water Reclamation Facility average daily influent flow data and average temperature data for a minimum period of three years.
- Selenium and sulphate water quality sampling data from the project area sewer basin and the influent to the James R. Dilorio Water Reclamation Facility.
- Groundwater level and temperature monitoring data.
- Access to COP staff knowledgeable about project area sewer operational and maintenance issues, prior inspections, previous rehabilitation, identification of sump pump locations, selenium sampling, flow metering, hydraulic modeling, and other COP and third-party work in the project area.
- Potable water temperature data (request to be refined during project execution).

City of Pueblo Responsibilities

- COP will provide BC with available information for use by BC to plan and perform the project inspections.

Deliverables

The following deliverables will be provided:

- BC will review available information provided by COP.
- BC will ask COP for clarification of available information, as needed.
- BC will compile a log of documents reviewed by BC.

2.2 Inspection Planning

BC will perform inspection planning services that includes preparing materials describing the inspection means and methods for each Task of the inspections to be performed during the course of the project. BC will additionally prepare a schedule for when each Task of the inspections is to be performed.

BC will organize and lead an in-person workshop at COP facilities. BC Project Management and Technical staff will attend and present at the workshop. The workshop is to be attended by COP designated sewer collections system operations and maintenance staff, plus COP engineering and management staff.

The purpose of the workshop will be to inform COP staff of planned BC work efforts, anticipated results, schedule, clarify roles and responsibilities, and to coordinate COP and BC communication requirements. During the workshop, BC will engage with COP staff to provide comments, ask questions about the inspection means and methods to be used for this project, and provide guidance to BC as COP sees necessary.

City of Pueblo Responsibilities

- Attend and participate in a BC organized and facilitated in person workshop.

Deliverables

The following deliverables will be provided by BC:

- Inspection planning services.
- BC will organize and lead an in-person workshop at COP facilities. The duration of the workshop is anticipated to be up to two hours.



2.3 Permitting

Permitting is anticipated to be minimal for this project. It is assumed the only permit required will be a permit for work within temporary traffic control work zones. BC shall submit a Traffic Control Plan (TCP) in drawing form for the review and approval by the COP Traffic Engineering Division. All traffic control procedures, signing, lighting, and barricades shall conform to the latest edition of the Manual on Uniform Traffic Control Devices, and shall be set up and maintained by a Certified Traffic Control Supervisor (TCS). It is assumed that neither flaggers nor off-duty police officers will be required during the field inspections.

Traffic control permitting and services are included for all aspects of the scoping items included herein.

City of Pueblo Responsibilities

- This scope assumes that permits will be provided by COP to BC and its subcontractors at no cost to BC.

Deliverables

The following deliverables will be provided by BC:

- Preparing a traffic control plan, submitting the plan to COP for approval, and obtaining a permit.

2.4 Inspection using Electro Scan Focused Electrode Leak Locating (FELL) Technology

ASTM F2550-06 describes the standard practice for Locating Leaks in Sewer Pipes Using Electro Scan—the Variation of Electric Current Flow Through the Pipe Wall. A copy of the complete standard may be obtained from ASTM International, <http://www.astm.org>.

Non-conductive (non-metallic) materials naturally prevent electricity from passing through, or along, the wall of a pipe. Electrical current should never be able to “leak” from inside a non-conductive piping system unless there is an opening in the pipe wall or liner materials in a rehabilitated pipeline. The larger the defect opening, the greater the electric current flow, and greater leak potential, as described in ASTM F2550.

Electro Scan Focused Electrode Leak Location (FELL) is conducted by applying a 9 to 11-volt electrical potential between a sonde (also referred to as a probe) that is placed in a non-conducting, water-filled sewer pipe and an electrode located at ground surface. By filling the pipe with water during the test, an electrical circuit can be completed with a metallic probe at ground surface.

The non-conducting nature of the sewer pipe material (such as concrete, plastic, and vitrified clay) and liner materials (such as cured in place pipe (CIPP) and plastic based slip liners) prevents electrical current from passing through the pipe wall to any great extent. If a defect is present, the extent of electrical current passing through the pipe wall is proportional to the significance of the defect. If groundwater is present at any time near these conducting defects, the presumption is that water will also infiltrate through the defects.

A schematic of the FELL testing method is provided in the Figure 1 below.



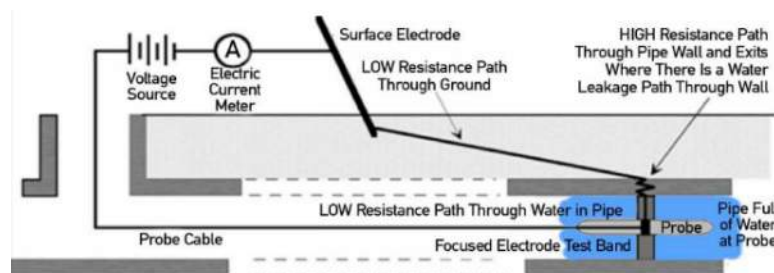


Figure 1. FELL testing method schematic.

A graphic of a typical FELL inspection equipment setup and operation is provided in the Figure 2 below.



Figure 2. FELL inspection equipment setup and operation.

Inspection using Electro Scan Focused Electrode Leak Locating (FELL) Technology will be performed prior to subsequent inspection methods. Results of FELL inspection will be used to inform subsequent CCTV video inspections (see Section 2.4) and distributed temperature sensing (DTS) inspections (see Section 2.5).

BC will provide sewer cleaning services prior to the FELL and CCTV inspections, additional traffic control services for any additional sewer cleaning services for the FELL and CCTV inspections, and a combination (hydro-jetter and vacuum) sewer cleaner system and services during BC provided FELL inspections.

Limitations

FELL inspection is intended to identify and locate potential leak sources in the mainline pipes and at service line connections to the mainline pipes. FELL leakage detection inspection of private property service lines is possible but is not proposed as part of this scope of services. Quantification of extraneous flows from FELL identified defects is not proposed as part of this scope of services. FELL inspections cannot detect extraneous flows entering the sewer system from sump pumps or other intermittent discharges.

Deliverables

The following deliverables will be provided by BC:

- Inspections using Electro Scan Focused Electrode Leak Locating (FELL) technology.
- Data analysis and reporting.
- Data will be delivered entirely in electronic format.

2.5 Visual Inspections by CCTV

Project area sewers will be visually inspected using a robotic CCTV camera system. The objective of the CCTV inspections will be to closely examine the locations of features and defects identified as potential groundwater leak sources by the prior Electro Scan Focused Electrode Leak Locating (FELL) inspections. CCTV inspections will therefore be performed after completion of FELL inspections.

Project area sewer mainlines will be CCTV inspected. Project area sewer service line pipes connecting to the mainlines will additionally be inspected by deploying a mini-CCTV camera from the from the mainline to the estimated public right-of-way to private property boundary line. If a cleanout is observed at the estimated public right-of-way to private property boundary line, the inspection will stop. If service line connections are collapsed, blocked by mainline lining materials or obstructions such as roots or obstacles, the affected service lines will be documented from the mainline, but not CCTV inspected. Service lines pipes on private property will not be inspected as part of this scope of services.

The Figure 3 below provide graphic representation of a robotic transporter equipped with a mainline CCTV camera and a service line mini-CCTV camera inspection system.



Figure 3. Robotic transporter equipped with mainline CCTV camera system.

CCTV inspections will be performed in accordance with current NASSCO Pipeline Assessment and Certification Program (PACP™) and Lateral Assessment and Certification Program (LACP™) performance specification guidelines and industry standards. Visually observed features and defects will be documented and described using PACP and LACP condition assessment coding standards.

In the event that “red flag” type observations of collapsed pipe, holes in pipes, detached linings, or other structural conditions are made, or significant sized obstacles, obstructions, or other operations and maintenance conditions that are judged to impede flow are made, or if suspected gas line cross bores are observed, the BC inspection team will immediately notify the COP Project Manager or their designee.

Limitations

While CCTV inspection can provide visual evidence of groundwater leakage into sewers, CCTV inspection cannot identify extraneous flows entering the sewer system from sump pumps or other intermittent discharges unless the discharges are occurring where the camera is positioned and focused while the discharge is active. Nevertheless, CCTV does not provide the means for observers to positively discern whether discharge waters are sewage or groundwater. Observations made during CCTV inspections may

provide some indicators of temperature variations, e.g., steam from hot water discharges into lower temperature sewage, or possibly cold-water groundwater discharges into higher temperature sewage.

City of Pueblo Responsibilities

- Identification of COP staff and provision of contact information for persons to be notified in the event “red flag” type observations are made during CCTV inspections.
- Attend a BC organized and facilitated remote workshop where BC presents FELL inspection and CCTV inspection findings, and BC describes next steps and schedule.

Deliverables

The following deliverables will be provided by BC:

- CCTV inspections of mainlines and service lines (laterals) within the public right of way right.
- NASSCO PACP and LACP coding of structural conditions, operations and maintenance conditions, construction features, and miscellaneous features.
- Data analysis and reporting.
- CCTV data and video will be delivered entirely in electronic format.
- BC will organize and lead a remote workshop to present FELL inspection and CCTV inspection findings.
- BC will modify and update the project schedule, as needed, and deliver a revised schedule to COP if adjustments by BC are recommended.

2.6 Manhole Inspections – To Be Performed Concurrently During Distributed Temperature Sensing Inspections (See Section 2.7)

Manholes are constructed for the primary purpose of providing access to sewer pipes for performing maintenance such as cleaning of pipes that connect to each manhole. Manholes are generally constructed to be watertight so that they do not allow groundwater infiltration or surface water inflow into the sewer system. Similar to pipes, manholes are subject to deterioration and develop structural defects or operation and maintenance defects during their service life and can become a source of extraneous groundwater infiltration and inflow into the sewer system.

During the performance of distributed temperature sensing (DTS) inspections, manholes associated with the project area sewers will be visually inspected from street/ground surface using a pole-mounted camera. The camera will be lowered into each manhole and photos of structural defects, constructed features, plus operations and maintenance conditions will be photographed and documented. Confined space entry will not be performed as a part of the manhole inspection process.

Manhole inspections will be performed in accordance with current NASSCO Manhole Assessment and Certification Program (MACP™) performance specification guidelines and industry standards. Visually observed features and defects will be documented and described using MACP condition assessment coding standards.

City of Pueblo Responsibilities

- Identification of COP staff and provision of contact information for persons to be notified in the event “red flag” type observations are made during manhole inspections.



Deliverables

The following deliverables will be provided by BC:

- Inspection of manholes within the public right of way.
- NASSCO MACP coding of structural conditions, operations and maintenance conditions, construction features, and miscellaneous features.
- Data analysis and reporting.
- Manhole inspection data and video will be delivered entirely in electronic format.

2.7 Distributed Temperature Sensing (DTS) Inspections

Overview

Distributed temperature sensing (DTS) systems measure the temperature of wastewater within sewer pipes and manhole channel inverts. Temperature measurements are taken at approximate 3-foot (1-meter) intervals in the sewer pipes and continuously over time. The measurements are analyzed to identify temperature measurements that indicate locations where extraneous groundwater infiltration and inflow (I/I) may be entering the sewer system.

The DTS system consists of the following primary components:

- **Fiber optic cable:** The cable serves as the temperature sensor. Approximately 8,400 lineal feet (lf) of sewer temperature will be monitored by the DTS cables laid in the invert of the project area sewer pipes. The fiber optic cable is left in place for the duration of each DTS measurement period which is currently anticipated to consist of two independent 14-day periods.
- **DTS data acquisition unit:** The DTS unit connects to one end of the fiber optic cable, emits pulses of laser light through the fiber optic cable, and processes the returned signals to determine temperature at discrete intervals along the cable. These intervals are approximately 3-feet (1-meter) in size along the length of the entire cable. The measurements are repeated every few minutes. The DTS data acquisition unit is installed in a manhole and is left in place for the duration of the DTS measurement period.
- **Batteries:** Rechargeable batteries power the DTS unit for a limited period of time. Removing discharged batteries and installing charged batteries periodically is required to allow for near-continuous operation of the DTS data acquisition unit during the DTS measurement period.

Installation and Deployment

The DTS system is optimally installed and deployed during periods when there is a significant temperature difference between sewage and extraneous water entering the sewer system from groundwater infiltration via pipe or manhole defects, groundwater inflow sources such as sump pumps, and direct inflow from wet-weather events.

DTS deployment is preferred during the highest precipitation timeframes as that would be the time when the groundwater table is likely at its highest elevation and sump pumps are most likely to be operating. For the COP, the highest precipitation timeframes have historically been the months of July and August followed by April and May (see Figure 4). Provisions have been included in the scope and fee based on anticipated timing of this project that allow for DTS deployment to occur directly following the FELL and CCTV activities listed in Tasks 2.4 and 2.5. The baseline schedule, provided with this scope of services,



reflects a gap between Tasks 2.4/2.5 and Tasks 2.6/2.7 such that DTS deployment occurs during the highest potential precipitation months. An alternative schedule can also be provided the reflects Tasks 2.4 through 2.8 occurring in succession, which would reduce the overall project duration by 2 months. DTS deployment would then occur in the April to May timeframe.

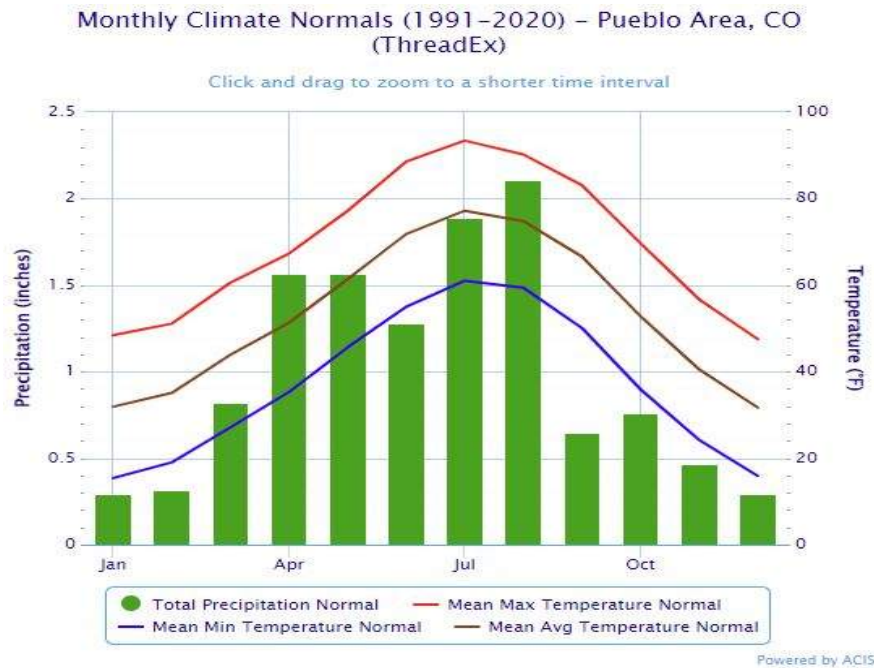


Figure 4. Historical Monthly Precipitation 1991-2020 for the City of Pueblo (Source - https://en.m.wikipedia.org/wiki/File:Monthly_Climate_Normals_%281991-2020%29_-_Pueblo_Area,_CO%28ThreadEx%29.svg).

BC will install the fiber optic cable and DTS data acquisition unit as detailed below:

- DTS pre-installation tasks
 - Project area manholes will be opened and examined during the cleaning, FELL inspection, and CCTV inspection field work. Information pertaining to the manholes and pipes obtained during the FELL and CCTV inspection field work will be used by BC to select one or more manholes where the DTS data acquisition unit will be installed and identify what conditions or issues in the pipes might be problematic for installation of the DTS fiber optic cable.
 - To document DTS pre-installation conditions, photos of the interior of manholes and street/ground surfaces at/adjacent to the manholes will be taken at:
 - a) the farthest upstream manholes where DTS cables are installed, and
 - b) the downstream manhole(s) where the DTS unit is installed.
 - Objects such as flow meters, flow meter sensors, or water quality sampling equipment not related to this project must be removed from the project sewers prior to DTS system installation.
 - Cleaning of the project area sewers to allow for the DTS cable to be placed on the invert (bottom) of sewer pipes is required. Cleaning must remove all accumulated sediment

- and debris from the sewer pipes. Cleaning activities must be performed no more than one week prior to DTS deployment.
 - Tag line ropes to be used by BC during the installation of the fiber optic cable must be installed in all sewer pipes after the completion of cleaning. The tag line ropes are to be continuous, to the extent possible, from upstream manholes to the location of the DTS data acquisition unit. It is currently anticipated that the installation of four to six tag line ropes will be required.
 - Prepare the necessary fiber optic cables for installation and package for shipping to the project site. Once on-site, but before installation, a series of checks are performed to ensure the equipment was not damaged during transit.
- DTS installation tasks
 - BC will attach the fiber optic cables to the tag line ropes and pull the cables into place within the project area sewer pipes.
 - BC will install the cables on the invert of the project area sewer pipes.
 - At select manholes, BC will secure fiber optic cables to the invert of pipes with BC supplied compression rings.
 - BC will secure excess cable lengths within manholes with BC supplied materials attached to sound ladder rungs, anchor bolts, or other features.
 - BC will install the DTS unit within a manhole toward the downstream end of the project area—currently anticipated to be in manhole 445720.8 at/near the intersection of Atlanta Avenue and W 23rd Street. BC will connect one end (downstream, typical) of each fiber optic cable to the DTS unit.
 - BC will install a “dead zone” box within a manhole at toward the upstream ends of the project area housing excess fiber optic cable and an independent temperature logger. These manholes are currently anticipated to be MHs 435839.0, 445848.1, 445854.3, 445845.4, and 445625.5.
 - After system installation, BC will use the DTS unit to test the integrity of each fiber optic cable.
 - BC will troubleshoot and resolve issues identified during the cable integrity testing.
 - BC will complete installation and testing of all equipment within two to three days.

The photos in Figure 5 below show (from left to right):

- Street view of DTS cable reel at manhole during installation while cable is being pulled into the sewer pipe by a tag line rope.
- Interior pipe view during DTS cable during installation while cable is being pulled by tag line rope into the sewer pipe; after the cable is pulled in and in final position on the invert of the pipe the cable will be secured in the pipe by compression rings.





Figure 5. Street View of manhole and interior pipe view.

The photos in Figure 6 below show (from left to right):

- DTS cable secured within upstream manhole with remaining cable length coiled and secured within the upstream manhole inside a “dead zone” box.
- DTS unit and cables installed within manhole.



Figure 6. DTS cable secured and installed within manhole.

- Deployment
 - The DTS measurement deployment period will begin after the DTS system is installed, operational and acquiring temperature data.
 - BC will monitor temperature in the sewers for a maximum of 14-days.
 - BC will regularly visit the DTS system installation during the temperature measurement period to perform DTS and independent temperature logger data downloads and exchange discharged batteries with recharged batteries.
 - During the regularly scheduled visits, BC will use a pole-mounted camera to perform integrity checks to examine the operation of the fiber cable installations. The camera will be lowered to a position near the invert of the manhole at each location where each



cable compression ring is installed. We currently anticipate performing battery exchanges and integrity checks using the pole-mounted camera every Monday, Wednesday, and Friday of the DTS measurement period.

- Additional site visits by BC may be performed to address issues discovered during the inspection.
- End of deployment period
 - The DTS measurement period(s) will end after 14-days of operation.
 - Events or conditions may occur during the 14-day measurement period that are beyond the control of BC. Damage from vandalism or damage from debris strikes or debris accumulation may cause a significant reduction in the functionality of the DTS system. BC will alert the City as soon as we become aware of issues. To address this possibility, BC recommends that an allowance/contingency be established in the contract that enables the City to issue BC a notice to proceed to return the DTS system to a fully functional state. If the City declines to establish an allowance/contingency or if established, declines to issue an NTP, then the measurement period will prematurely end, even if the period is not complete.
 - After the end of the 14-day monitoring period, BC will remove compression rings, fiber optic cables, and the DTS unit.
 - To document DTS post-installation conditions, photos of the interior of manholes and street/ground surfaces at manholes will be taken at:
 - a) the farthest upstream manholes where DTS “dead boxes” and cables are installed, and
 - b) the downstream manhole(s) where the DTS unit is installed.

City of Pueblo Responsibilities

- Notification of BC if COP becomes aware of any issues related to the DTS temperature measurement system installation and operations. Issues might include vandalism, need for COP to perform maintenance cleaning of sewers in the project area, high volume or high flow rate flows due to wet-weather events or upstream discharges, flooding, reports of sewer backups, etc.

Deliverables

The following deliverables will be provided by BC:

- Cleaning of sewer lines and installation of tag line ropes in advance of DTS cable installation.
- Pre-installation and post-installation photos of the interior of manholes and street/ground surfaces at/adjacent to the manholes at a) the farthest upstream manholes where DTS cables are installed, and b) the downstream manhole where the DTS unit is installed.
- DTS temperature measurement system installation, operation, maintenance, and removal.
- Data analysis and reporting.
- DTS data will be delivered entirely in electronic format.

2.8 Draft Report, In-Person Workshop, and Final Report

BC will develop and deliver a Draft Report for COP review and comment. Efficacy of the inspections to identify and locate groundwater infiltration and inflow flow sources will be described. Corroboration of results from the independent inspection means and methods will be described.



BC will organize and lead an in-person workshop at COP facilities. The purpose of the workshop will be to jointly review the Draft Report and discuss BC findings. During the workshop, BC will engage with COP staff to provide comments, ask questions about the inspection findings, and give guidance to BC as COP sees necessary.

BC Project Management and Technical staff will attend and present at the workshop. The workshop is to be attended by COP designated sewer collections system operations and maintenance staff, plus COP engineering and management staff.

BC will compile COP Draft Report review comments, incorporate input, then develop and deliver a Final Report.

City of Pueblo Responsibilities

- Receive and review Draft Report, provide comments.
- Attend and participate in a BC organized and facilitated in-person workshop, provide comments.
- Receive and accept Final Report.

Deliverables

The following deliverables will be provided by BC:

- BC will prepare and submit a Draft Report describing results of the inspections for COP review and comment.
- BC will organize and lead an in-person workshop at COP facilities to jointly review the Draft Report and discuss BC findings. The duration of the workshop is anticipated to be up to two hours.
- BC will prepare and submit a Final Report describing results of the project inspection efforts.

Task 300 – Additional Services

Upon written authorization by COP and mutual agreement on scope and fee, BC shall provide additional services as required by the project. Additional services may be required due to unavoidable schedule delays, resolving DTS system functionality or operational issues, testing additional technologies, strategizing approaches for accessing and investigating service lines on private property, investigating private property service lines, performing additional services as requested by COP, or other currently undefined services. The following are items that have been identified as potential Additional Services at the time of scope development:

3.1 Sewer Cleaning and Traffic Control in Advance of DTS

Due to the preferred seasonal timing (wet-weather) for the DTS activities, an additional round of sewer cleaning and traffic control is anticipated to execute this aspect of the scope. Should timing of the preceding work activities (FELL and CCTV) occur in succession with the DTS activities, then this additional effort is not expected.

Included in this task is additional project management fee that would result from an extended schedule to allow DTS activities to occur during wet-weather months and not in succession with the FELL activities.



3.2 Stand-by Subcontractor Cost

To cover potential work delays of on-site subcontractors related to unforeseen or uncontrollable circumstances, additional fee is included. Stand-by costs incurred by subcontractors as a result of foreseen or controllable circumstances shall be borne by the subcontractor. Any stand-by costs incurred under this task shall only be paid with approval from the City.

3.3 Adjacent Project Site

BC has identified two adjacent sewer lines to the project area where there is value in obtaining additional data. This task includes fee to provide cleaning, FELL, CCTV, DTS and associated activities for data collection of approximately 1,600 linear feet of sewer (see Figure 7). Activities for this project task must be approved by COP and take place in conjunction with Phase 200 scope of services.

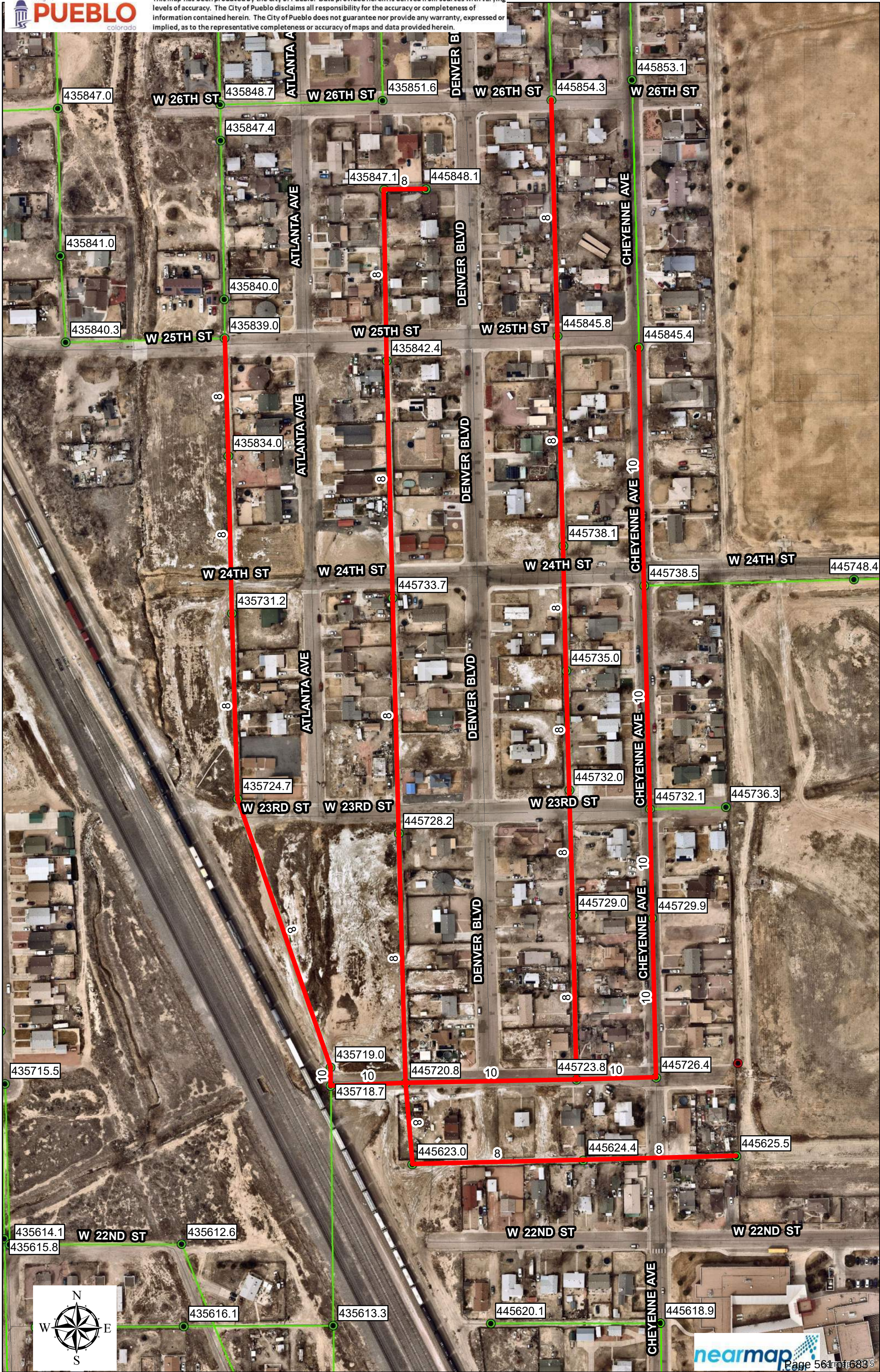


Figure 7. Adjacent Project Site (blue dashed area).

3.4 Owner's Contingency

Upon written authorization by COP and mutual agreement on scope and fee, BC shall provide additional services as required by the project. Contingency services may be required due to unavoidable schedule delays, unforeseeable issues, or other items as authorized by COP.

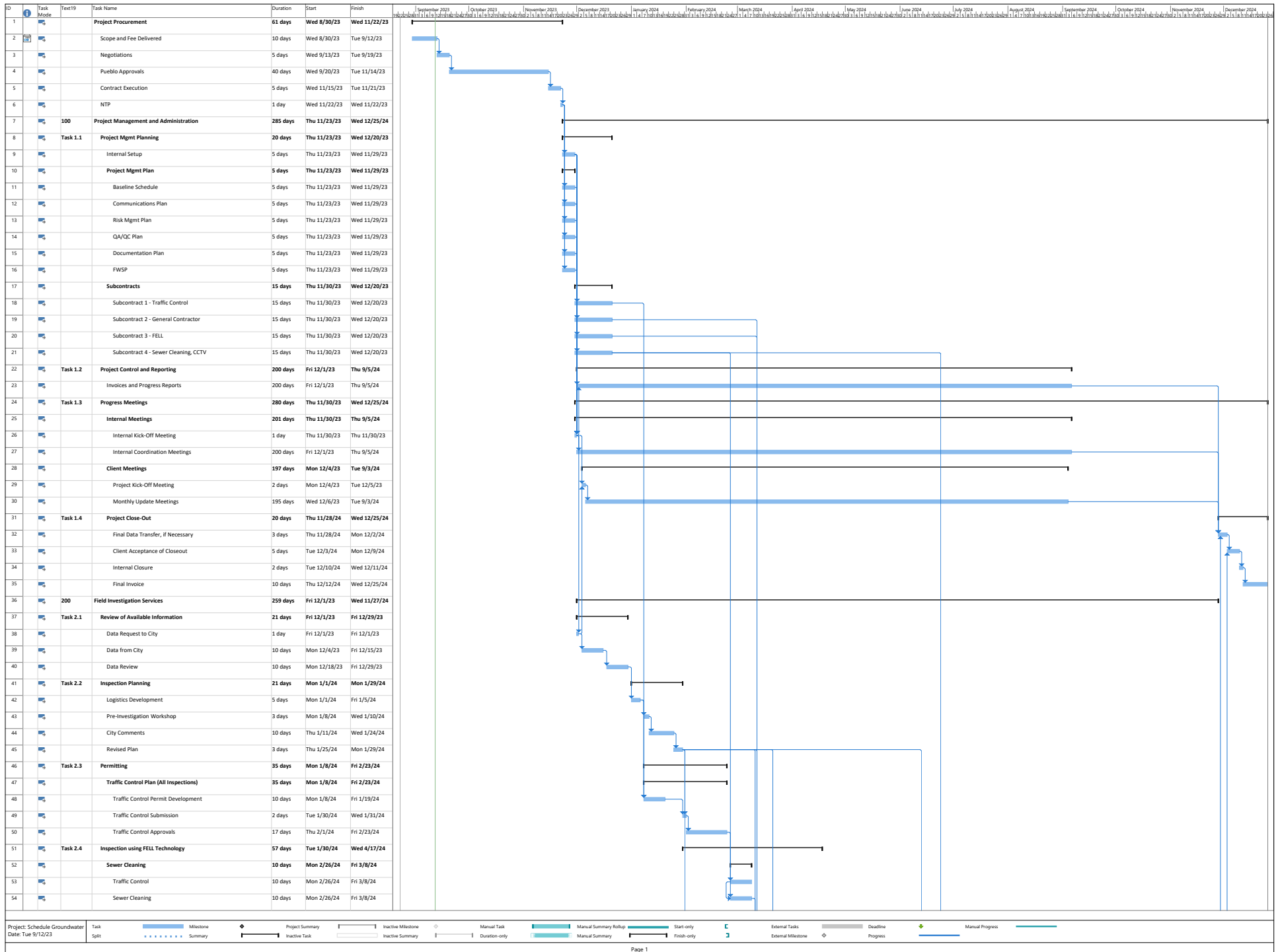
Attachment 1: Project Area Map



Attachment 2: Project Fee Schedule

			Chandler Wilson	Keli Lambert	Mike Thorlenson	Sara Everman	Gary Skipper	Mike Metcalf	Mark Poppe	David Hill	Andy Lukas	Matt Davis	Rhys McDonald	Drew Skipper	Jr. Engineer	Admin Asst.			Equipment - Supplies & Shipping	Travel Costs		Propipe - Cleaning and CCTV	M.E. Simpson - FELL Provider	Traffic Control Provider	Wildcat - Confined Space Entry	Contingency		Subcontractor and ODC Markup	
Phase	Task	Phase / Task Description	Project Manager	Project Analyst	Principal	H&S	SME	SME	Sr. Eng	Jr. Eng	SME	Sr. Eng	Sr. Eng	Field Tech / Support	Jr. Engineer	Word Processing	Total Labor Hours	Labor Effort			Subtotal ODCs						Subtotal Subs	Subtotal Markup	Total Effort
		Rate =	\$220.00	\$120.00	\$265.00	\$235.00	\$280.00	\$265.00	\$235.00	\$190.00	\$280.00	\$265.00	\$265.00	\$165.00	\$165.00	\$110.00													
100		Project Management	97.00	64.00	3.00	4.00	12.00	0.00	4.00	0.00	0.00	0.00	0.00	4.00	0.00	0.00	188.00	\$35,715.00	\$0.00	\$1,700.00	\$1,700.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$170.00	\$37,585.00
	1.1	Project Mgmt Planning	48.00	32.00	2.00	4.00	8.00							4.00			98.00	\$18,770.00			\$0.00						\$0.00	\$0.00	\$18,770.00
	1.2	Project Controls & Reporting	24.00	30.00	1.00												55.00	\$9,145.00			\$0.00						\$0.00	\$0.00	\$9,145.00
	1.3	Progress Meetings	24.00				4.00		4.00								32.00	\$7,340.00	\$1,700.00		\$1,700.00					\$0.00	\$170.00	\$9,210.00	
	1.4	Project Close-Out	1.00	2.00													3.00	\$460.00			\$0.00					\$0.00	\$0.00	\$460.00	
200		Installation and Data Acquisition	28.00	0.00	0.00	0.00	64.00	62.00	144.00	44.00	12.00	32.00	28.00	202.00	128.00	8.00	752.00	\$157,300.00	\$8,000.00	\$9,010.00	\$17,010.00	\$66,583.00	\$53,480.00	\$14,850.00	\$50,000.00	\$0.00	\$184,913.00	\$20,192.30	\$379,415.30
	2.1	Review of Available Information	2.00				8.00	2.00	16.00					8.00			36.00	\$8,290.00			\$0.00						\$0.00	\$0.00	\$8,290.00
	2.2	Inspection Planning	8.00				24.00	8.00	40.00								80.00	\$20,000.00	\$1,700.00		\$1,700.00					\$0.00	\$170.00	\$21,870.00	
	2.3	Permitting	2.00						2.00					2.00			6.00	\$1,240.00			\$0.00			\$2,100.00		\$2,100.00	\$210.00	\$3,550.00	
	2.4	Inspection using FELL Technology																											
	2.4.1	Cleaning in advance of FELL												24.00	8.00		32.00	\$5,280.00	\$1,600.00		\$1,600.00	\$31,100.00		\$3,750.00		\$34,850.00	\$3,645.00	\$45,375.00	
	2.4.2	Inspection using FELL Technology	2.00				4.00	16.00	8.00					24.00	8.00		62.00	\$12,960.00	\$500.00	\$1,600.00	\$2,100.00		\$53,480.00	\$2,625.00		\$56,105.00	\$5,820.50	\$76,985.50	
	2.5	Visual Inspections by CCTV																											
	2.5.1	CCTV Inspections	2.00				6.00	2.00	14.00	20.00				40.00	8.00		92.00	\$17,660.00	\$250.00	\$1,950.00	\$2,200.00	\$14,843.00		\$3,750.00		\$18,593.00	\$2,079.30	\$40,532.30	
	2.5.2	CCTV Inspections - Laterals															0.00	\$0.00				\$20,640.00				\$20,640.00	\$2,064.00	\$22,704.00	
	2.6	Manhole Inspections	2.00						8.00	24.00				48.00	48.00		130.00	\$22,720.00	\$250.00		\$250.00					\$0.00	\$25.00	\$22,995.00	
	2.7	DTS Inspections	2.00				2.00	2.00	8.00		10.00	32.00	24.00	56.00	56.00		192.00	\$39,530.00	\$7,000.00	\$2,160.00	\$9,160.00			\$2,625.00	\$50,000.00	\$52,625.00	\$6,178.50	\$107,493.50	
	2.8	Report and Workshop	8.00				20.00	32.00	48.00		2.00		4.00			8.00	122.00	\$29,620.00			\$0.00					\$0.00	\$0.00	\$29,620.00	
300		Additional Services	10.00	0.00	2.00	0.00	2.00	0.00	2.00	16.00	0.00	0.00	0.00	0.00	16.00	0.00	110.00	\$19,670.00	\$0.00	\$2,950.00	\$2,950.00	\$31,848.00	\$13,895.00	\$5,150.00	\$10,000.00	\$50,000.00	\$110,893.00	\$6,384.30	\$139,897.30
	3.1	Sewer Cleaning / Traffic Control in Advance of DTS Activities	4.00		2.00									28.00	10.00		44.00	\$7,680.00		\$1,600.00	\$1,600.00	\$21,048.00		\$3,750.00		\$24,798.00	\$2,639.80	\$36,717.80	
	3.2	Stand-by Subcontractor Cost	2.00											8.00			10.00	\$1,760.00			\$0.00	\$5,600.00	\$5,900.00	\$1,000.00	\$5,000.00	\$17,500.00	\$1,750.00	\$21,010.00	
	3.3	Adjacent Project Site	4.00				2.00		2.00	16.00				32.00			56.00	\$10,230.00	\$1,350.00		\$1,350.00	\$5,200.00	\$7,995.00	\$400.00	\$5,000.00	\$18,595.00	\$1,994.50	\$32,169.50	
	3.4	Owner's Contingency															0.00	\$0.00			\$0.00				\$50,000.00	\$50,000.00	\$0.00	\$50,000.00	
		GRAND TOTAL	135	64	5	4	78	62	150	60	12	32	28	206	144	8	1,050	\$212,685.00	\$8,000.00	\$13,660.00	\$21,660.00	\$98,431.00	\$67,375.00	\$20,000.00	\$60,000.00	\$50,000.00	\$295,806.00	\$26,746.60	\$556,897.60

Attachment 3: Project Schedule



**AGREEMENT FOR PROFESSIONAL SERVICES
BY AND BETWEEN
CITY OF PUEBLO
AND
(LEGAL NAME OF CONSULTANT)**

THIS AGREEMENT is made and entered this ____ day of _____, 2023, by and between Pueblo, a Municipal Corporation ("Client") and Brown and Caldwell, Inc., a California Corporation authorized to do business in the State of Colorado (hereinafter referred to as "Consultant") for Consultant to render professional management and administration, field investigation, data analysis, condition assessment, and reporting services for Client with respect to Bid 18-087 Wastewater Department Engineer of Record – Pilot Project to Identify Contributing Groundwater Infiltration and Inflow and related ancillary services, hereinafter referred to as the "Project." In consideration of the mutual covenants hereinafter set forth, the parties agree as follows:

SECTION 1. GENERAL AND SCOPE OF SERVICES

(a) Consultant shall satisfactorily perform the professional planning and consulting services for the Project described in more detail in Schedule 1 attached hereto and incorporated herein by reference (the "Basic Services"). Such services shall include all usual and customary professional consulting and related services incident to its work on the Project as set forth in Schedule 1. In the event this Agreement follows the selection of Consultant by Client pursuant to a Request for Proposals (RFP), all of the requirements of that RFP are incorporated herein by reference, unless any requirement is expressly excluded in Schedule 1.

(b) To the extent Consultant performs any of the Project work through subcontractors or subconsultants, Consultant shall be and remain as fully responsible for the full performance and quality of services performed by such subcontractors or subconsultants as it is for services performed directly by Consultant or Consultant's employees.

SECTION 2. CONSULTANT'S RESPONSIBILITIES

(a) Consultant shall be responsible for the professional quality, technical accuracy and timely completion of Consultant's work, including that performed by Consultant's subconsultants and subcontractors, and including drawings, reports and other services, irrespective of Client's approval of or acquiescence in same. Consultant shall perform its services in accordance with generally accepted standards and practices customarily utilized by competent engineering firms in effect at the time Consultant's services are rendered.

(b) Consultant shall be responsible, in accordance with applicable law, to Client for all loss or damage to Client caused by Consultant's negligent act or omission.

(c) Consultant shall be completely responsible for the safety of Consultant's employees in the execution of work under this Agreement and shall provide all necessary safety and protective equipment for said employees.

(d) Consultant represents that Schedule 3 attached hereto is the schedule by which Consultant proposes to accomplish its work, with time periods for which it will commence and complete each major work item. Except to the extent the parties agree to time extensions for delays beyond the control of Consultant, Consultant shall adhere to this schedule and perform its work in a timely manner so as not to delay Client's timetable for achievement of interim tasks and final completion of Project work. Consultant further acknowledges that its schedule has accounted for all reasonably anticipated delays, including those inherent in the availability of tools, supplies, labor and utilities required for the work, the availability of information which must be obtained from any third parties, and all conditions to access to public and private facilities.

(e) Before undertaking any work or incurring any expense which Consultant considers beyond or in addition to the Scope of Work described in Schedule 1 or otherwise contemplated by the terms of this Agreement, Consultant shall advise Client in writing that (i) Consultant considers the work beyond the scope of this Agreement, (ii) the reasons that Consultant believes the out of scope or additional work should be performed, and (iii) a reasonable

estimate of the cost of such work. Consultant shall not proceed with any out of scope or additional work until authorized in writing by Client. The compensation for such authorized work shall be negotiated, but in the event the parties fail to negotiate or are unable to agree as to compensation, then Consultant shall be compensated for its direct costs and professional time.

SECTION 3. FEES FOR SERVICES; PAYMENT

(a) Client will pay to Consultant as full compensation for all services required to be performed by Consultant under this Agreement, except for services for additional work or work beyond the scope of this Agreement, the maximum sum of U.S. \$556,897.60, computed as set forth in Schedule 2.

(b) Consultant shall submit periodic, but not more frequently than monthly, applications for payment, aggregating to not more than the maximum amount set forth above, for actual professional services rendered and for reimbursable expenses incurred. Applications for payment shall be submitted based upon the work completed as shown in Schedule 2 attached hereto and shall contain appropriate documentation that such services have been performed. Thereafter, Client shall pay Consultant for the amount of the application within 30 days of the date such application is received.

(c) No separate or additional payment shall be made for profit, overhead, local telephone expenses, lodging, routine photocopying, computer time, or similar expenses unless otherwise provided and listed in Schedule 2.

(d) No compensation shall be paid to Consultant for services required and expenditures incurred in correcting Consultant's negligent errors or omissions.

(e) Compensation for authorized work beyond the scope of this Agreement shall be governed by the provisions of Section 2(e).

(f) In the event services under this Agreement are phased and to be performed in more than one fiscal year or are subject to annual appropriation, Consultant acknowledges that funds only in the amount of initial appropriation are available and it shall confirm availability of funds before proceeding with work exceeding initial and subsequent annual appropriations.

SECTION 4. CLIENT'S RESPONSIBILITIES

(a) Client agrees to advise Consultant regarding Client's Project requirements and to provide all relevant information, surveys, data and previous reports accessible to Client which Consultant may reasonably require. Consultant shall rely on information provided without verification unless otherwise agreed in the specific Scope of Work.

(b) Client shall designate a Project Representative to whom all communications from Consultant shall be directed and who shall have limited administrative authority on behalf of Client to receive and transmit information and make decisions with respect to the Project. Said representative shall not, however, have authority to bind Client as to matters of governmental policy or fiscal policy, nor to contract for additions or obligations exceeding a value which is the lesser of \$5000 or 5% of the maximum contract price.

(c) Client shall examine all documents presented by Consultant and render decisions pertaining thereto within a reasonable time. The Client's approval of any drawings, specifications, reports, documents or other materials or product furnished hereunder shall not in any way relieve Consultant of responsibility for the professional adequacy of its work.

(d) Client shall perform its obligations and render decisions within a reasonable time under the circumstances presented. Based upon the nature of Client and its requirements, a period of 14 days shall be presumed reasonable for any decision not involving policy decision or significant financial impact, when all information reasonably necessary for Client to responsibly render a decision has been furnished. A period of 46 days shall be presumed reasonable for Client to act with respect to any matter involving policy or significant financial impact. The above periods of presumed reasonableness shall be extended where information reasonably required is not within the custody or control of Client but must be procured from others.

SECTION 5. TERMINATION

(a) Client reserves the right to terminate this Agreement and Consultant's performance hereunder, at any time upon 10 days written notice, either for cause or for convenience. Upon such termination, Consultant and its subcontractors shall cease all work and stop incurring expenses, and shall promptly deliver to Client all data, drawings, specifications, reports, plans, calculations, summaries and all other information, documents, work product and materials as Consultant may have accumulated in performing this Agreement, together with all finished work and work in progress.

(b) Upon termination of this Agreement for events or reasons not the fault of Consultant, Consultant shall be paid at the rates specified in Schedule 2 for all services rendered and reasonable costs incurred to date of termination; together with any reasonable costs incurred within 10 days of termination provided such latter costs could not be avoided or were incurred in mitigating loss or expenses to Consultant or Client. In no event shall payment to Consultant upon termination exceed the maximum compensation provided for complete performance in Section 3(a).

(c) In the event termination of this Agreement or Consultant's services is for breach of this Agreement by Consultant, or for other fault of Consultant including but not limited to any failure to timely proceed with work, or to pay its employees and consultants, or to perform work with that level of care and skill ordinarily exercised by consultants performing similar services at the time such services are performed, or to perform work in a manner deemed satisfactory by Client's Project Representative, then in that event, Consultant's entire right to compensation shall be limited to payment at the rates specified in Schedule 2 for services satisfactorily performed and reimbursable expenses reasonably incurred, prior to date of termination.

(d) Consultant's professional responsibility for its completed work and services shall survive any termination.

SECTION 6. USE OF DOCUMENTS

(a) Plans, drawings, designs, specifications, reports and all other documents prepared or provided by Consultant hereunder shall become the sole property of Client upon payment to Consultant for work completed, subject to applicable federal grant requirements, and Client shall be vested with all rights therein of whatever kind and however created, whether by common law, statute or equity. Client shall have access at all reasonable times to inspect and make copies of all notes, designs, drawings, specifications, and all other technical data or other documents pertaining to the work to be performed under this Agreement. In no event shall Consultant publish work product developed pursuant to this Agreement except (i) with advance written consent of Client, which consent may be granted or withheld in Client's sole and absolute discretion and (ii) in full compliance with the requirements of this Agreement and applicable federal regulations.

SECTION 7. INSURANCE AND INDEMNITY

(a) Consultant agrees that it shall procure and will maintain during the term of this Agreement, such insurance as will protect it from claims under workers' compensation acts, claims for damages because of personal injury including bodily injury, sickness or disease or death of any of its employees or of any person other than its employees, and from claims or damages because of injury to or destruction of property including loss of use resulting therefrom; and such insurance will provide for coverage in such amounts as set forth in subparagraph (b).

(b) The minimum insurance coverage which Consultant shall obtain and keep in force is as follows:

(i) Workers' Compensation Insurance complying with statutory requirements in Colorado and in any other state or states where the work is performed. The Workers' Compensation Insurance policy shall contain an endorsement waiving subrogation against the Client.

(ii) Commercial General Liability Insurance. The Consultant shall secure and maintain during the period of this agreement/contract and for such additional time as work on the project is being performed, Commercial General Liability Insurance issued to and covering the liability of the Consultant with respect to all work performed by him and all his subcontractors under the Agreement, to be written on a comprehensive

policy form. This insurance shall be written in amounts not less than \$1,000,000 for each occurrence and aggregate for personal injury including death and bodily injury and \$1,000,000 for each occurrence and aggregate for property damage. This policy of insurance shall name the City of Pueblo, its agents, officers and employees as additional insureds. This policy shall have all necessary endorsements to provide coverage without exclusion for explosion and collapse hazards, underground property damage hazard, blanket contractual coverage, as well as Owner's and Contractor's Protective Liability (OCP) coverage. The policy shall also provide coverage for contractual liability assumed by Consultant under the provisions of the Agreement/Contract, and "Completed Operations and Projects Liability" coverage.

(iii) Professional Liability Insurance with coverage of not less than \$1,000,000 in a form and with a deductible acceptable to Client covering claims arising from the negligent acts, errors, or omissions in the services performed by Consultant for Client under this Agreement.

(iv) Comprehensive Automobile Liability Insurance. The Consultant shall procure and maintain during the period of the agreement/contract and for such additional time as work on the project is being performed, Comprehensive Automobile Liability Insurance. This insurance shall be written with limits of liability for and injury to one person in any single occurrence of not less than \$350,000 and for any injury to two or more persons in any single occurrence of not less than \$1,000,000. This insurance shall include uninsured/underinsured motorist coverage and shall protect the Consultant from any and all claims arising from the use both on and off the site of the project of automobiles, trucks, tractors, backhoes and similar equipment whether owned, leased, hired or used by Consultant.

(c) Consultant agrees to hold harmless, defend and indemnify Client from and against any liability to third parties, to the extent caused by the negligent acts or omissions of Consultant, its employees, subcontractors and consultants.

SECTION 8. SUBCONTRACTS

(a) Client acknowledges that Consultant is the prime contractor and the only party with whom Client has a contractual relationship under this Agreement. To the extent Consultant performs any Project activities through subconsultants or subcontractors, Consultant shall contractually bind each of its subconsultants and subcontractors by subcontract agreement to all of the terms of this Agreement which are for the benefit of Client, and Client shall be a third-party beneficiary of those subcontract provisions.

(b) Consultant shall indemnify and defend Client from all claims and demands for payment for services provided by subcontractors of Consultant to the extent Client has paid Consultant for services performed by Consultant's subcontractors.

(c) Consultant acknowledges that, due to the nature of the services to be provided under this Agreement, the Client has a substantial interest in the personnel and consultants to whom Consultant assigns principal responsibility for services performed under this Agreement. Consequently, Consultant represents that it has selected and intends to employ or assign the key personnel and consultants identified in its proposal submitted to Client prior to execution of this Agreement to induce Client to enter this Agreement. Consultant shall not change such consultants or key personnel except after giving notice of a proposed change to Client and receiving Client's consent thereto. Consultant shall not assign or reassign Project work to any person to whom Client has reasonable objection.

SECTION 9. MISCELLANEOUS

(a) Notices. Any and all notices or other communications required or permitted by this Agreement or by law to be served on or given to either Consultant or Client by the other party shall be in writing and shall be deemed duly served and given when personally delivered to the party to whom it is directed, or in lieu of such personal service, when deposited in the United States mail, first-class postage prepaid, addressed to the Client, City of Pueblo, Department of Wastewater, Attn: Andra Ahrens, Director, 1300 S. Queens Avenue, Pueblo, Colorado, 81001, or to Consultant, Brown and Caldwell, Inc., Attn: Michael Thorstenson, 1697 Cole Boulevard, Golden, Colorado, 80401. Either party may change his address for the purpose of this paragraph by giving written notice of such change to the other party in the manner provided in this paragraph.

(b) Entire Agreement. This instrument contains the entire agreement between Consultant and Client respecting the Project, and any other written or oral agreement or representation respecting the Project or the duties of either Client or Consultant in relation thereto not expressly set forth in this instrument and its attachments is null and void. In the case of any conflict between the terms of this Agreement for Professional Services and terms of Schedule 1 or any other attachment hereto, the terms of this Agreement shall govern.

(c) Successors and Assigns. This Agreement shall be binding on the parties hereto and on their successors and assigns; provided, however, neither this Agreement, nor any part thereof, nor any moneys due or to become due hereunder to Consultant may be assigned by it without the written consent of Client, which consent may be withheld in Client's sole and absolute discretion. Any assignment or attempted assignment in violation of this subsection shall be void.

(d) Amendments. No amendment to this Agreement shall be made nor be enforceable unless made by written amendment signed by an authorized representative of Consultant and by Client in accordance with the requirements of Section 4(b) of this Agreement or upon authorization of Client's governing board.

(e) Choice of Law. This Agreement shall be governed and interpreted in accordance with the laws of the State of Colorado. Any unresolved dispute arising from or concerning any breach of this Agreement shall be decided in a state court of competent jurisdiction located in Pueblo, Colorado.

(f) Equal Employment Opportunity. In connection with the performance of this Agreement, neither Consultant nor its consultants shall discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, disability or age. Consultant shall endeavor to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, national origin, disability or age.

(g) Severability. If any provision of this Agreement, except for Section 2, is determined to be directly contrary to and prohibited by law or the requirements of any federal grant or other Project funding source, then such provision shall be deemed void, and the remainder of the Agreement enforced. However, it is the intent of the parties that Section 2 of this Agreement not be severable, and that if any provision of said section be determined to be contrary to law or the terms of any federal grant, then as of the time of any such determination, this entire Agreement shall be void and terminated pursuant to the provisions of Section 5 without waiving any claims or defenses.

SECTION 10. COMPLIANCE WITH IMMIGRATION REFORM AND CONTROL ACT OF 1986

Consultant certifies that it has complied with the United States Immigration Reform and Control Act of 1986. Consultant represents and warrants that to the extent required by said Act, all persons employed by Consultant for performance of this Agreement have completed and signed Form I-9 verifying their identities and authorization for employment.

SECTION 11. PERA LIABILITY

Consultant 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 contracted services for the City under this Agreement. The Consultant has submitted a completed Colorado PERA Questionnaire and submitted to Client as reference for this Agreement.

SECTION 12. ELECTRONIC SIGNATURE

This Agreement 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.

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

CITY OF PUEBLO, A MUNICIPAL CORPORATION BROWN AND CALDWELL, INC.

By _____
Naomi Hedden, Director of Purchasing

By _____
Michael J. Thorstenson, P.E., Principal-In-Charge

Attest _____
Marisa Stoller, City Clerk

[S E A L]

BALANCE OF APPROPRIATION EXISTS FOR THIS CONTRACT AND FUNDS ARE AVAILABLE.

Alexandria Romero, Finance Director

APPROVED AS TO FORM:

Robert P. Jagger, City Attorney

Attachments: Schedule 1: Scope of Services
 Schedule 2: Fee Schedule
 Schedule 3: Work Schedule
 Additional Information for Agreement

Project Overview

The City of Pueblo (COP) has been addressing selenium and sulfate issues in the Arkansas River Basin for more than 25 years. Naturally occurring selenium and sulfate are known to enter the COP sewer collections system through the infiltration and inflow of groundwater. The COP sewer collections system conveys sewage and the groundwater to the James R. Dilorio Water Reclamation Facility (WRF). Approximately 50 percent of the selenium and very little sulfate is removed during the treatment process. Treated effluent from the WRF is discharged to the Arkansas River.

The concentrations of selenium and sulfate in the effluent discharged to the Arkansas River during wet weather conditions are higher than site-specific standards in the Arkansas River set and allowed by the State of Colorado, Department of Health, Water Quality Commission (WQC). Since 2018, the COP has operated under a WQC adopted Discharger Specific Variance (DSV) for selenium and sulfate that represents the highest degree of protection for aquatic life that was determined feasible for the Pueblo WRF.

COP estimates an approximate \$200 million investment in capital and operating costs would be required at the WRF for additional treatment processes to further reduce the concentrations of selenium and sulfate in the treated effluent discharge without a certain substantial environmental benefit associated to the investment.

The 2018 WQC approved DSV included COP implementation of a \$10 million management program to reduce selenium and sulfate concentrations to the extent feasible. COP has made investments under the management program that include:

- Rehabilitating (by cured-in-place-pipe (CIPP) lining) and replacing sewer pipes.
- Sealing manholes.
- Establishing a homeowners sump pump removal program.
- Examining added treatment processes.

To date, the \$10 million management program investments have led to minor measurable reductions in sources of selenium entering the sewer collections system. Nevertheless, the investments and efforts expended have not reduced the selenium and sulfate concentrations sufficiently to meet state water quality standards without consideration of the 2018 WQC approved DSV.

Project Purpose

The purpose of this project is to pilot multiple technologies not previously used by City of Pueblo (COP) that are capable of identifying and locating sources of groundwater infiltration and inflow entering the COP sewer collections system.

The Electro Scan Focused Electrode Leak Location (FELL) technology described in this proposal and proposed for use during the project is not reliant on high groundwater level conditions with active infiltration into COP sewers occurring during performance of the testing in order to identify and locate pipe defects that provide a means for groundwater to infiltrate into sewer pipes. Additionally, the FELL technology can identify and locate cured-in-place-lining (CIPP) defects that cannot be seen via CCTV inspections that provide a means for groundwater to infiltrate into sewer pipes.

The unique CCTV inspection system described in this proposal and proposed for use during the project includes a combination mainline camera system and self-propelled service line camera system. This combination allows for the visual inspection of mainlines and laterals during single inspection runs.

The distributed temperature sensing (DTS) system technology described in this proposal and proposed for use during the project provides the means and methods to identify and detect groundwater inflow and infiltration into sewers at discrete 3-foot intervals along the length of pipes. Importantly, the DTS technology can detect intermittent groundwater discharges from sump pumps and perimeter drains that contribute extraneous groundwater to the sewer system.

The results of this project are intended to provide the COP with a better understanding of how to move beyond CCTV inspections to more effectively identify and locate the sources of extraneous groundwater entering the COP sewer collections system. The results will additionally yield benefit by exposing COP to a means and methods to perform quality control inspections of CIPP lining installations that are intended to reduce the volume of groundwater containing selenium and sulfate from entering the sewer system.

The introduction of advanced technologies during this project may ultimately assist COP to reduce the amount of selenium and sulfate reaching the James R. Dilorio Water Reclamation Facility for treatment and discharge.

Scope of Services

Brown and Caldwell (BC) will provide field investigation and engineering services to the City of Pueblo (COP) to identify sources contributing. Work will include planning and conducting field investigations, data analysis, condition assessment, and reporting.

The proposed Scope of Services includes the following tasks:

Task 100 - Project Management and Administration

Task 200 - Field Investigation, Data Analysis, Condition Assessment, and Reporting Services

Task 300 - Additional Services

Attachments included with this Scope of Services include:

Attachment 1 – Project Area Map

Attachment 2 – Project Fee Schedule

Attachment 3 – Project Schedule

Project Assumptions

The following assumptions were made in the development of this Scope of Services:

- The pipes and manholes of the project area are in suitable condition to allow for the inspections described in this proposal to be performed without undue risk to BC personnel, BC subcontractor personnel, and equipment provided and used to deliver services under this contract.
- COP shall not impede or restrict BC access to project area sewers.
- No excavations are required to expose project area sewer manholes.
- No sewer construction by COP or third parties will occur during BC field inspection operations.
- COP will grant access to use water from fire hydrants within the project area for the purposes of sewer cleaning and inspection operations. Water usage and/or permit fees have been excluded from the proposed fee. We understand that Pueblo Water is the potable water provider, and that

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- COP may have to coordinate all efforts to provide access.
 - BC may shift budget between work phases or tasks as necessary to complete the Work.
 - COP shall provide a local disposal site for materials removed by BC from COP sewers. Disposal fees have been excluded from the proposed fee.

Task 100 – Project Management and Administration

Objectives

Project Management and Administration includes the following activities:

- Project Management Planning.
- Project Control and Reporting.
- Project Meetings and Workshops.
- Project Closeout.

1.1 Project Management Planning

The Project Management Plan will document the key project information required by all project team members to assist them in executing the project to meet the required objectives: on time, on budget, with high quality. The key elements of the project plan are described below:

- Scope of Services with work breakdown structure
- Project resources and budgets.
- Baseline Project schedule.
- Communications Plan.
- Risk Management Plan.
- QA/QC Plan.
- Project documentation plan and file structure.
- Preparation of the project specific Field Work Safety Plan (FWSP).

1.2 Project Control and Reporting

Monthly invoices and progress reports will be prepared and submitted.

This task also includes periodic project review by BC management to assure the project is meeting critical success factors, is on schedule, and is within budget. Updates to the project schedule will be included in the progress reports.

1.3 Progress Meetings

BC will provide a regular forum for the receipt, exchange, response, and documentation of project planning, design, and management related issues and decisions during the project.

This task includes:

- Project Kickoff Meeting. Assume this meeting to be in person at a COP facility. A project area site visit by BC project team members and COP personnel will be conducted following the meeting.
- Monthly Update Meetings–BC PM will meet with COP to review project status, schedule, contract issues, and other project management related issues. Assume meetings to be virtual (1 hour each).

Report deliverable workshops and pre-inspection workshops are included in tasks below.

1.4 Project Close-Out

During project close-out, BC will submit all final invoices to COP and consolidate and archive all project files.

Deliverables

The following deliverables will be provided as part of this phase:

- Project Management Plan.
- Monthly invoices, with progress summaries.
- Kickoff Meeting agenda, presentation materials, and minutes.
- Progress Meeting summary notes.

Assumptions

- Project duration is up to 12-months.
- The BC prepared Communications Plan is for internal use by the BC project team and COP.
- External communication support/direct engagement with stakeholders will be performed by COP.

Task 200 – Field Investigation Services

The project area sewers are defined in Attachment 1-Project Area Map. The project area sewer pipes are labeled as 8- and 10-inches in diameter. The pipe materials are currently unknown to BC but are suspected to be vitrified clay pipe (VCP). We are under the impression that some pipes within the project area have been rehabilitated by installation of cured-in-place lining. BC understands that the total length of pipes within the project area have been described by the COP to be approximately 8,400 lineal feet (lf). The flows in the project area sewers are largely attributable to flows from the north with a minor contribution from the east.

The sewer pipes in the project area will be investigated by BC to determine:

- Pipe issues
 - Structural condition of pipelines (e.g., cracks, fractures, missing wall, offset joints, etc.)
 - Watertightness of individual pipes (from joint to joint), joints connecting pipes, service line (lateral) connections, and pipe connections at structures associated to the pipelines (e.g., pipe to MH connections)
- Cured-in-place-pipe (CIPP) lining issues.
 - Installation issues
 - CIPP tube tears, fins, wrinkles, folds, inclusions, or other defects.

-
- Issues related to CIPP liner watertightness potentially caused by:
 - Uncured resins.
 - Tubes not saturated with resins at completion of curing.
 - Contaminated resins.
 - Improper service line connection reinstatements - missed cuts, oversized cuts, etc., not repaired.
 - Constructed features:
 - Type of mainline to service line connections (e.g., top hat or other fitting extending into service line piping).
 - Resin seals or hydrophilic rubber seals at terminations at structures (leakage may be visible at CIPP liner to host pipe interface).
 - Other issues:
 - Damages caused during cleaning.
 - Damages caused by excessive external loads.
 - Damages caused by third party strikes.
 - Illicit connections, such as perimeter drains or other non-sewer connections from private property to sewer pipes or manholes.
 - The potential presence of sump pumps discharging groundwater to the sewer pipes.

2.1 Review of Available Information

COP will provide BC available and relevant information and data to aid BC in the performance of the project. This may include, but is not limited to information such as:

- Record documents such as plan and profile drawings, as-built drawings, and specifications.
- Record documents related to prior sewer pipe and manhole repair, rehabilitation, and replacement.
- GIS data for all project area sewer pipes, structures, connections, and other assets.
- CCTV inspection records, video, photos, and data.
- Manhole inspection records, video, photos, and data,
- Operations and maintenance records for the project area sewers.
- Address/location of known sump pump installations.
- Project area sewer collections system flow data:
 - Flow meter data acquired within the project area boundary.
 - Flow meter data acquired within the same sewer basin upstream of the project area.
 - Flow meter data acquired within the same sewer basin downstream of the project area.
 - Identification of the location of manholes where flow meters were installed.
 - Any available data including:
 - Flow rate (Q), depth of flow (d), velocity of flow (V), and if reported, temperature (°F) of flow.
 - Discrete, non-totalized, date and time stamped flow meter measurements (anticipated measurement intervals at either 15-minutes or 5-minutes).

- James R. Dilorio Water Reclamation Facility average daily influent flow data and average temperature data for a minimum period of three years.
- Selenium and sulphate water quality sampling data from the project area sewer basin and the influent to the James R. Dilorio Water Reclamation Facility.
- Groundwater level and temperature monitoring data.
- Access to COP staff knowledgeable about project area sewer operational and maintenance issues, prior inspections, previous rehabilitation, identification of sump pump locations, selenium sampling, flow metering, hydraulic modeling, and other COP and third-party work in the project area.
- Potable water temperature data (request to be refined during project execution).

City of Pueblo Responsibilities

- COP will provide BC with available information for use by BC to plan and perform the project inspections.

Deliverables

The following deliverables will be provided:

- BC will review available information provided by COP.
- BC will ask COP for clarification of available information, as needed.
- BC will compile a log of documents reviewed by BC.

2.2 Inspection Planning

BC will perform inspection planning services that includes preparing materials describing the inspection means and methods for each Task of the inspections to be performed during the course of the project. BC will additionally prepare a schedule for when each Task of the inspections is to be performed.

BC will organize and lead an in-person workshop at COP facilities. BC Project Management and Technical staff will attend and present at the workshop. The workshop is to be attended by COP designated sewer collections system operations and maintenance staff, plus COP engineering and management staff.

The purpose of the workshop will be to inform COP staff of planned BC work efforts, anticipated results, schedule, clarify roles and responsibilities, and to coordinate COP and BC communication requirements. During the workshop, BC will engage with COP staff to provide comments, ask questions about the inspection means and methods to be used for this project, and provide guidance to BC as COP sees necessary.

City of Pueblo Responsibilities

- Attend and participate in a BC organized and facilitated in person workshop.

Deliverables

The following deliverables will be provided by BC:

- Inspection planning services.
- BC will organize and lead an in-person workshop at COP facilities. The duration of the workshop is anticipated to be up to two hours.

2.3 Permitting

Permitting is anticipated to be minimal for this project. It is assumed the only permit required will be a permit for work within temporary traffic control work zones. BC shall submit a Traffic Control Plan (TCP) in drawing form for the review and approval by the COP Traffic Engineering Division. All traffic control procedures, signing, lighting, and barricades shall conform to the latest edition of the Manual on Uniform Traffic Control Devices, and shall be set up and maintained by a Certified Traffic Control Supervisor (TCS). It is assumed that neither flaggers nor off-duty police officers will be required during the field inspections.

Traffic control permitting and services are included for all aspects of the scoping items included herein.

City of Pueblo Responsibilities

- This scope assumes that permits will be provided by COP to BC and its subcontractors at no cost to BC.

Deliverables

The following deliverables will be provided by BC:

- Preparing a traffic control plan, submitting the plan to COP for approval, and obtaining a permit.

2.4 Inspection using Electro Scan Focused Electrode Leak Locating (FELL) Technology

ASTM F2550-06 describes the standard practice for Locating Leaks in Sewer Pipes Using Electro Scan—the Variation of Electric Current Flow Through the Pipe Wall. A copy of the complete standard may be obtained from ASTM International, <http://www.astm.org>.

Non-conductive (non-metallic) materials naturally prevent electricity from passing through, or along, the wall of a pipe. Electrical current should never be able to “leak” from inside a non-conductive piping system unless there is an opening in the pipe wall or liner materials in a rehabilitated pipeline. The larger the defect opening, the greater the electric current flow, and greater leak potential, as described in ASTM F2550.

Electro Scan Focused Electrode Leak Location (FELL) is conducted by applying a 9 to 11-volt electrical potential between a sonde (also referred to as a probe) that is placed in a non-conducting, water-filled sewer pipe and an electrode located at ground surface. By filling the pipe with water during the test, an electrical circuit can be completed with a metallic probe at ground surface.

The non-conducting nature of the sewer pipe material (such as concrete, plastic, and vitrified clay) and liner materials (such as cured in place pipe (CIPP) and plastic based slip liners) prevents electrical current from passing through the pipe wall to any great extent. If a defect is present, the extent of electrical current passing through the pipe wall is proportional to the significance of the defect. If groundwater is present at any time near these conducting defects, the presumption is that water will also infiltrate through the defects.

A schematic of the FELL testing method is provided in the Figure 1 below.

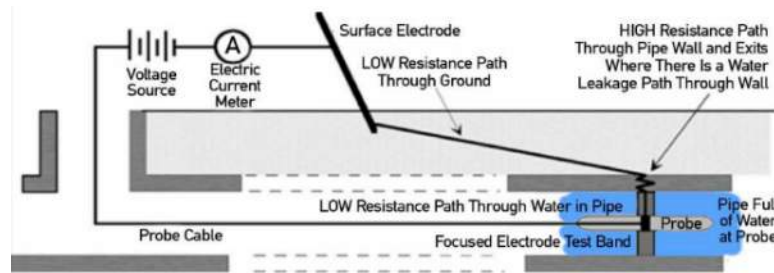


Figure 1. FELL testing method schematic.

A graphic of a typical FELL inspection equipment setup and operation is provided in the Figure 2 below.



Figure 2. FELL inspection equipment setup and operation.

Inspection using Electro Scan Focused Electrode Leak Locating (FELL) Technology will be performed prior to subsequent inspection methods. Results of FELL inspection will be used to inform subsequent CCTV video inspections (see Section 2.4) and distributed temperature sensing (DTS) inspections (see Section 2.5).

BC will provide sewer cleaning services prior to the FELL and CCTV inspections, additional traffic control services for any additional sewer cleaning services for the FELL and CCTV inspections, and a combination (hydro-jetter and vacuum) sewer cleaner system and services during BC provided FELL inspections.

Limitations

FELL inspection is intended to identify and locate potential leak sources in the mainline pipes and at service line connections to the mainline pipes. FELL leakage detection inspection of private property service lines is possible but is not proposed as part of this scope of services. Quantification of extraneous flows from FELL identified defects is not proposed as part of this scope of services. FELL inspections cannot detect extraneous flows entering the sewer system from sump pumps or other intermittent discharges.

Deliverables

The following deliverables will be provided by BC:

- Inspections using Electro Scan Focused Electrode Leak Locating (FELL) technology.
- Data analysis and reporting.
- Data will be delivered entirely in electronic format.

2.5 Visual Inspections by CCTV

Project area sewers will be visually inspected using a robotic CCTV camera system. The objective of the CCTV inspections will be to closely examine the locations of features and defects identified as potential groundwater leak sources by the prior Electro Scan Focused Electrode Leak Locating (FELL) inspections. CCTV inspections will therefore be performed after completion of FELL inspections.

Project area sewer mainlines will be CCTV inspected. Project area sewer service line pipes connecting to the mainlines will additionally be inspected by deploying a mini-CCTV camera from the from the mainline to the estimated public right-of-way to private property boundary line. If a cleanout is observed at the estimated public right-of-way to private property boundary line, the inspection will stop. If service line connections are collapsed, blocked by mainline lining materials or obstructions such as roots or obstacles, the affected service lines will be documented from the mainline, but not CCTV inspected. Service lines pipes on private property will not be inspected as part of this scope of services.

The Figure 3 below provide graphic representation of a robotic transporter equipped with a mainline CCTV camera and a service line mini-CCTV camera inspection system.



Figure 3. Robotic transporter equipped with mainline CCTV camera system.

CCTV inspections will be performed in accordance with current NASSCO Pipeline Assessment and Certification Program (PACP™) and Lateral Assessment and Certification Program (LACP™) performance specification guidelines and industry standards. Visually observed features and defects will be documented and described using PACP and LACP condition assessment coding standards.

In the event that “red flag” type observations of collapsed pipe, holes in pipes, detached linings, or other structural conditions are made, or significant sized obstacles, obstructions, or other operations and maintenance conditions that are judged to impede flow are made, or if suspected gas line cross bores are observed, the BC inspection team will immediately notify the COP Project Manager or their designee.

Limitations

While CCTV inspection can provide visual evidence of groundwater leakage into sewers, CCTV inspection cannot identify extraneous flows entering the sewer system from sump pumps or other intermittent discharges unless the discharges are occurring where the camera is positioned and focused while the discharge is active. Nevertheless, CCTV does not provide the means for observers to positively discern whether discharge waters are sewage or groundwater. Observations made during CCTV inspections may

provide some indicators of temperature variations, e.g., steam from hot water discharges into lower temperature sewage, or possibly cold-water groundwater discharges into higher temperature sewage.

City of Pueblo Responsibilities

- Identification of COP staff and provision of contact information for persons to be notified in the event “red flag” type observations are made during CCTV inspections.
- Attend a BC organized and facilitated remote workshop where BC presents FELL inspection and CCTV inspection findings, and BC describes next steps and schedule.

Deliverables

The following deliverables will be provided by BC:

- CCTV inspections of mainlines and service lines (laterals) within the public right of way right.
- NASSCO PACP and LACP coding of structural conditions, operations and maintenance conditions, construction features, and miscellaneous features.
- Data analysis and reporting.
- CCTV data and video will be delivered entirely in electronic format.
- BC will organize and lead a remote workshop to present FELL inspection and CCTV inspection findings.
- BC will modify and update the project schedule, as needed, and deliver a revised schedule to COP if adjustments by BC are recommended.

2.6 Manhole Inspections – To Be Performed Concurrently During Distributed Temperature Sensing Inspections (See Section 2.7)

Manholes are constructed for the primary purpose of providing access to sewer pipes for performing maintenance such as cleaning of pipes that connect to each manhole. Manholes are generally constructed to be watertight so that they do not allow groundwater infiltration or surface water inflow into the sewer system. Similar to pipes, manholes are subject to deterioration and develop structural defects or operation and maintenance defects during their service life and can become a source of extraneous groundwater infiltration and inflow into the sewer system.

During the performance of distributed temperature sensing (DTS) inspections, manholes associated with the project area sewers will be visually inspected from street/ground surface using a pole-mounted camera. The camera will be lowered into each manhole and photos of structural defects, constructed features, plus operations and maintenance conditions will be photographed and documented. Confined space entry will not be performed as a part of the manhole inspection process.

Manhole inspections will be performed in accordance with current NASSCO Manhole Assessment and Certification Program (MACP™) performance specification guidelines and industry standards. Visually observed features and defects will be documented and described using MACP condition assessment coding standards.

City of Pueblo Responsibilities

- Identification of COP staff and provision of contact information for persons to be notified in the event “red flag” type observations are made during manhole inspections.

Deliverables

The following deliverables will be provided by BC:

- Inspection of manholes within the public right of way.
- NASSCO MACP coding of structural conditions, operations and maintenance conditions, construction features, and miscellaneous features.
- Data analysis and reporting.
- Manhole inspection data and video will be delivered entirely in electronic format.

2.7 Distributed Temperature Sensing (DTS) Inspections

Overview

Distributed temperature sensing (DTS) systems measure the temperature of wastewater within sewer pipes and manhole channel inverts. Temperature measurements are taken at approximate 3-foot (1-meter) intervals in the sewer pipes and continuously over time. The measurements are analyzed to identify temperature measurements that indicate locations where extraneous groundwater infiltration and inflow (I/I) may be entering the sewer system.

The DTS system consists of the following primary components:

- **Fiber optic cable:** The cable serves as the temperature sensor. Approximately 8,400 lineal feet (lf) of sewer temperature will be monitored by the DTS cables laid in the invert of the project area sewer pipes. The fiber optic cable is left in place for the duration of each DTS measurement period which is currently anticipated to consist of two independent 14-day periods.
- **DTS data acquisition unit:** The DTS unit connects to one end of the fiber optic cable, emits pulses of laser light through the fiber optic cable, and processes the returned signals to determine temperature at discrete intervals along the cable. These intervals are approximately 3-feet (1-meter) in size along the length of the entire cable. The measurements are repeated every few minutes. The DTS data acquisition unit is installed in a manhole and is left in place for the duration of the DTS measurement period.
- **Batteries:** Rechargeable batteries power the DTS unit for a limited period of time. Removing discharged batteries and installing charged batteries periodically is required to allow for near-continuous operation of the DTS data acquisition unit during the DTS measurement period.

Installation and Deployment

The DTS system is optimally installed and deployed during periods when there is a significant temperature difference between sewage and extraneous water entering the sewer system from groundwater infiltration via pipe or manhole defects, groundwater inflow sources such as sump pumps, and direct inflow from wet-weather events.

DTS deployment is preferred during the highest precipitation timeframes as that would be the time when the groundwater table is likely at its highest elevation and sump pumps are most likely to be operating. For the COP, the highest precipitation timeframes have historically been the months of July and August followed by April and May (see Figure 4). Provisions have been included in the scope and fee based on anticipated timing of this project that allow for DTS deployment to occur directly following the FELL and CCTV activities listed in Tasks 2.4 and 2.5. The baseline schedule, provided with this scope of services,

reflects a gap between Tasks 2.4/2.5 and Tasks 2.6/2.7 such that DTS deployment occurs during the highest potential precipitation months. An alternative schedule can also be provided the reflects Tasks 2.4 through 2.8 occurring in succession, which would reduce the overall project duration by 2 months. DTS deployment would then occur in the April to May timeframe.

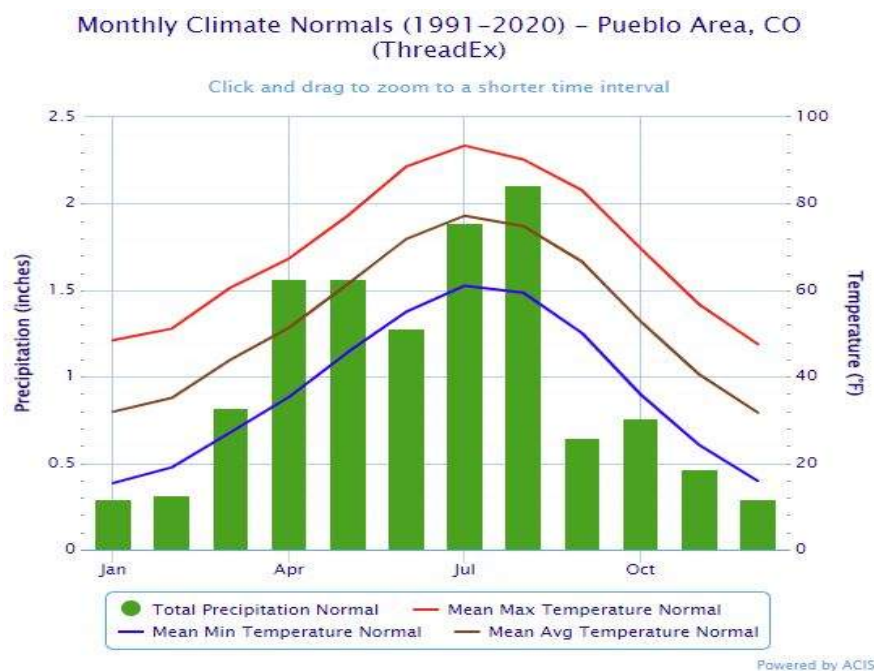


Figure 4. Historical Monthly Precipitation 1991-2020 for the City of Pueblo (Source - https://en.m.wikipedia.org/wiki/File:Monthly_Climate_Normals_%281991-2020%29_-_Pueblo_Area,_CO%28ThreadEx%29.svg).

BC will install the fiber optic cable and DTS data acquisition unit as detailed below:

- DTS pre-installation tasks
 - Project area manholes will be opened and examined during the cleaning, FELL inspection, and CCTV inspection field work. Information pertaining to the manholes and pipes obtained during the FELL and CCTV inspection field work will be used by BC to select one or more manholes where the DTS data acquisition unit will be installed and identify what conditions or issues in the pipes might be problematic for installation of the DTS fiber optic cable.
 - To document DTS pre-installation conditions, photos of the interior of manholes and street/ground surfaces at/adjacent to the manholes will be taken at:
 - a) the farthest upstream manholes where DTS cables are installed, and
 - b) the downstream manhole(s) where the DTS unit is installed.
 - Objects such as flow meters, flow meter sensors, or water quality sampling equipment not related to this project must be removed from the project sewers prior to DTS system installation.
 - Cleaning of the project area sewers to allow for the DTS cable to be placed on the invert (bottom) of sewer pipes is required. Cleaning must remove all accumulated sediment

and debris from the sewer pipes. Cleaning activities must be performed no more than one week prior to DTS deployment.

- Tag line ropes to be used by BC during the installation of the fiber optic cable must be installed in all sewer pipes after the completion of cleaning. The tag line ropes are to be continuous, to the extent possible, from upstream manholes to the location of the DTS data acquisition unit. It is currently anticipated that the installation of four to six tag line ropes will be required.
- Prepare the necessary fiber optic cables for installation and package for shipping to the project site. Once on-site, but before installation, a series of checks are performed to ensure the equipment was not damaged during transit.
- DTS installation tasks
 - BC will attach the fiber optic cables to the tag line ropes and pull the cables into place within the project area sewer pipes.
 - BC will install the cables on the invert of the project area sewer pipes.
 - At select manholes, BC will secure fiber optic cables to the invert of pipes with BC supplied compression rings.
 - BC will secure excess cable lengths within manholes with BC supplied materials attached to sound ladder rungs, anchor bolts, or other features.
 - BC will install the DTS unit within a manhole toward the downstream end of the project area—currently anticipated to be in manhole 445720.8 at/near the intersection of Atlanta Avenue and W 23rd Street. BC will connect one end (downstream, typical) of each fiber optic cable to the DTS unit.
 - BC will install a “dead zone” box within a manhole at toward the upstream ends of the project area housing excess fiber optic cable and an independent temperature logger. These manholes are currently anticipated to be MHs 435839.0, 445848.1, 445854.3, 445845.4, and 445625.5.
 - After system installation, BC will use the DTS unit to test the integrity of each fiber optic cable.
 - BC will troubleshoot and resolve issues identified during the cable integrity testing.
 - BC will complete installation and testing of all equipment within two to three days.

The photos in Figure 5 below show (from left to right):

- Street view of DTS cable reel at manhole during installation while cable is being pulled into the sewer pipe by a tag line rope.
- Interior pipe view during DTS cable during installation while cable is being pulled by tag line rope into the sewer pipe; after the cable is pulled in and in final position on the invert of the pipe the cable will be secured in the pipe by compression rings.



Figure 5. Street View of manhole and interior pipe view.

The photos in Figure 6 below show (from left to right):

- DTS cable secured within upstream manhole with remaining cable length coiled and secured within the upstream manhole inside a “dead zone” box.
- DTS unit and cables installed within manhole.



Figure 6. DTS cable secured and installed within manhole.

- Deployment
 - The DTS measurement deployment period will begin after the DTS system is installed, operational and acquiring temperature data.
 - BC will monitor temperature in the sewers for a maximum of 14-days.
 - BC will regularly visit the DTS system installation during the temperature measurement period to perform DTS and independent temperature logger data downloads and exchange discharged batteries with recharged batteries.
 - During the regularly scheduled visits, BC will use a pole-mounted camera to perform integrity checks to examine the operation of the fiber cable installations. The camera will be lowered to a position near the invert of the manhole at each location where each

cable compression ring is installed. We currently anticipate performing battery exchanges and integrity checks using the pole-mounted camera every Monday, Wednesday, and Friday of the DTS measurement period.

- Additional site visits by BC may be performed to address issues discovered during the inspection.
- End of deployment period
 - The DTS measurement period(s) will end after 14-days of operation.
 - Events or conditions may occur during the 14-day measurement period that are beyond the control of BC. Damage from vandalism or damage from debris strikes or debris accumulation may cause a significant reduction in the functionality of the DTS system. BC will alert the City as soon as we become aware of issues. To address this possibility, BC recommends that an allowance/contingency be established in the contract that enables the City to issue BC a notice to proceed to return the DTS system to a fully functional state. If the City declines to establish an allowance/contingency or if established, declines to issue an NTP, then the measurement period will prematurely end, even if the period is not complete.
 - After the end of the 14-day monitoring period, BC will remove compression rings, fiber optic cables, and the DTS unit.
 - To document DTS post-installation conditions, photos of the interior of manholes and street/ground surfaces at manholes will be taken at:
 - a) the farthest upstream manholes where DTS “dead boxes” and cables are installed, and
 - b) the downstream manhole(s) where the DTS unit is installed.

City of Pueblo Responsibilities

- Notification of BC if COP becomes aware of any issues related to the DTS temperature measurement system installation and operations. Issues might include vandalism, need for COP to perform maintenance cleaning of sewers in the project area, high volume or high flow rate flows due to wet-weather events or upstream discharges, flooding, reports of sewer backups, etc.

Deliverables

The following deliverables will be provided by BC:

- Cleaning of sewer lines and installation of tag line ropes in advance of DTS cable installation.
- Pre-installation and post-installation photos of the interior of manholes and street/ground surfaces at/adjacent to the manholes at a) the farthest upstream manholes where DTS cables are installed, and b) the downstream manhole where the DTS unit is installed.
- DTS temperature measurement system installation, operation, maintenance, and removal.
- Data analysis and reporting.
- DTS data will be delivered entirely in electronic format.

2.8 Draft Report, In-Person Workshop, and Final Report

BC will develop and deliver a Draft Report for COP review and comment. Efficacy of the inspections to identify and locate groundwater infiltration and inflow flow sources will be described. Corroboration of results from the independent inspection means and methods will be described.

BC will organize and lead an in-person workshop at COP facilities. The purpose of the workshop will be to jointly review the Draft Report and discuss BC findings. During the workshop, BC will engage with COP staff to provide comments, ask questions about the inspection findings, and give guidance to BC as COP sees necessary.

BC Project Management and Technical staff will attend and present at the workshop. The workshop is to be attended by COP designated sewer collections system operations and maintenance staff, plus COP engineering and management staff.

BC will compile COP Draft Report review comments, incorporate input, then develop and deliver a Final Report.

City of Pueblo Responsibilities

- Receive and review Draft Report, provide comments.
- Attend and participate in a BC organized and facilitated in-person workshop, provide comments.
- Receive and accept Final Report.

Deliverables

The following deliverables will be provided by BC:

- BC will prepare and submit a Draft Report describing results of the inspections for COP review and comment.
- BC will organize and lead an in-person workshop at COP facilities to jointly review the Draft Report and discuss BC findings. The duration of the workshop is anticipated to be up to two hours.
- BC will prepare and submit a Final Report describing results of the project inspection efforts.

Task 300 – Additional Services

Upon written authorization by COP and mutual agreement on scope and fee, BC shall provide additional services as required by the project. Additional services may be required due to unavoidable schedule delays, resolving DTS system functionality or operational issues, testing additional technologies, strategizing approaches for accessing and investigating service lines on private property, investigating private property service lines, performing additional services as requested by COP, or other currently undefined services. The following are items that have been identified as potential Additional Services at the time of scope development:

3.1 Sewer Cleaning and Traffic Control in Advance of DTS

Due to the preferred seasonal timing (wet-weather) for the DTS activities, an additional round of sewer cleaning and traffic control is anticipated to execute this aspect of the scope. Should timing of the preceding work activities (FELL and CCTV) occur in succession with the DTS activities, then this additional effort is not expected.

Included in this task is additional project management fee that would result from an extended schedule to allow DTS activities to occur during wet-weather months and not in succession with the FELL activities.

3.2 Stand-by Subcontractor Cost

To cover potential work delays of on-site subcontractors related to unforeseen or uncontrollable circumstances, additional fee is included. Stand-by costs incurred by subcontractors as a result of foreseen or controllable circumstances shall be borne by the subcontractor. Any stand-by costs incurred under this task shall only be paid with approval from the City.

3.3 Adjacent Project Site

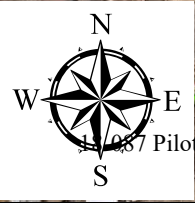
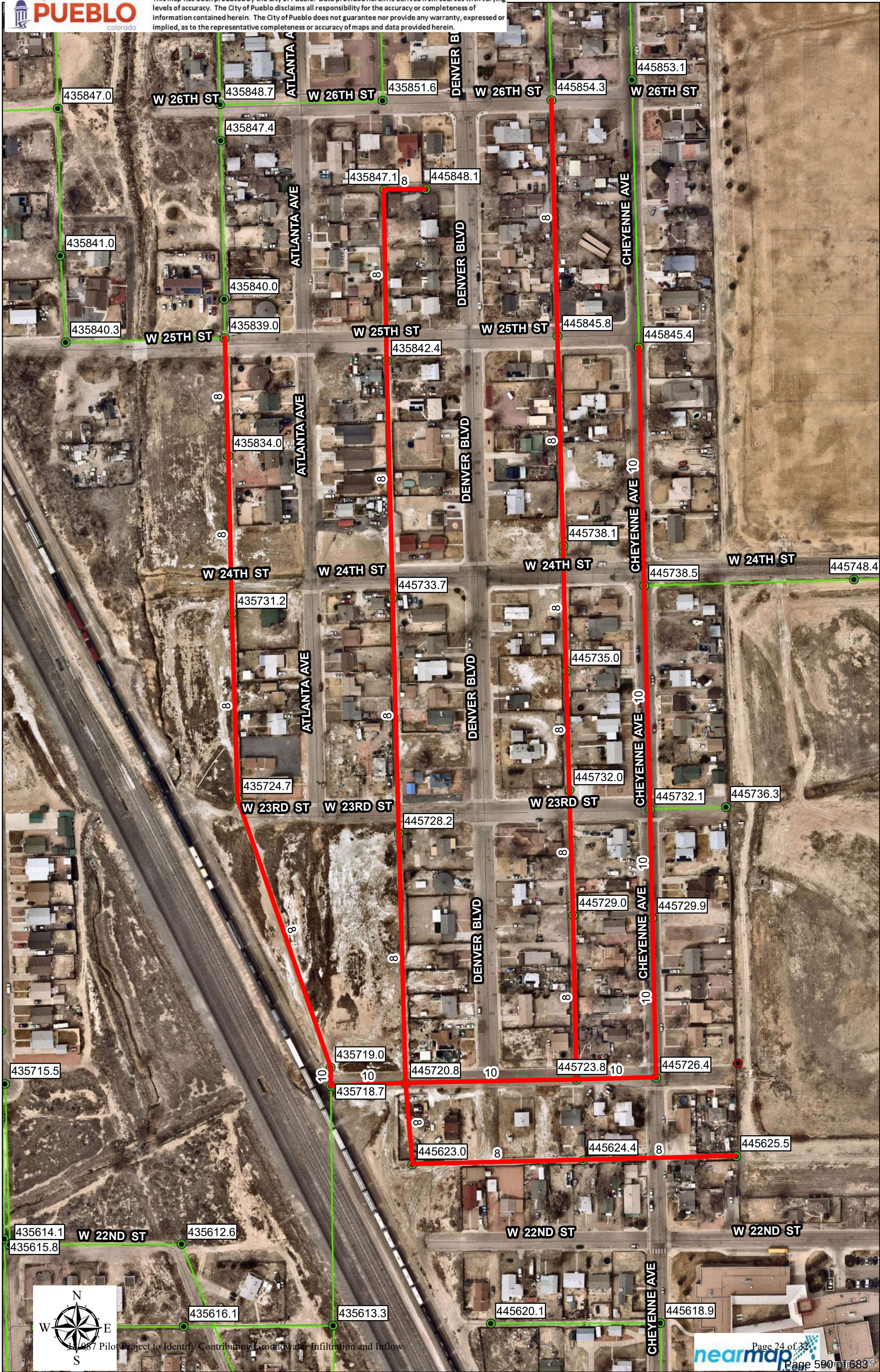
BC has identified two adjacent sewer lines to the project area where there is value in obtaining additional data. This task includes fee to provide cleaning, FELL, CCTV, DTS and associated activities for data collection of approximately 1,600 linear feet of sewer (see Figure 7). Activities for this project task must be approved by COP and take place in conjunction with Phase 200 scope of services.



Figure 7. Adjacent Project Site (blue dashed area).

3.4 Owner's Contingency

Upon written authorization by COP and mutual agreement on scope and fee, BC shall provide additional services as required by the project. Contingency services may be required due to unavoidable schedule delays, unforeseeable issues, or other items as authorized by COP.

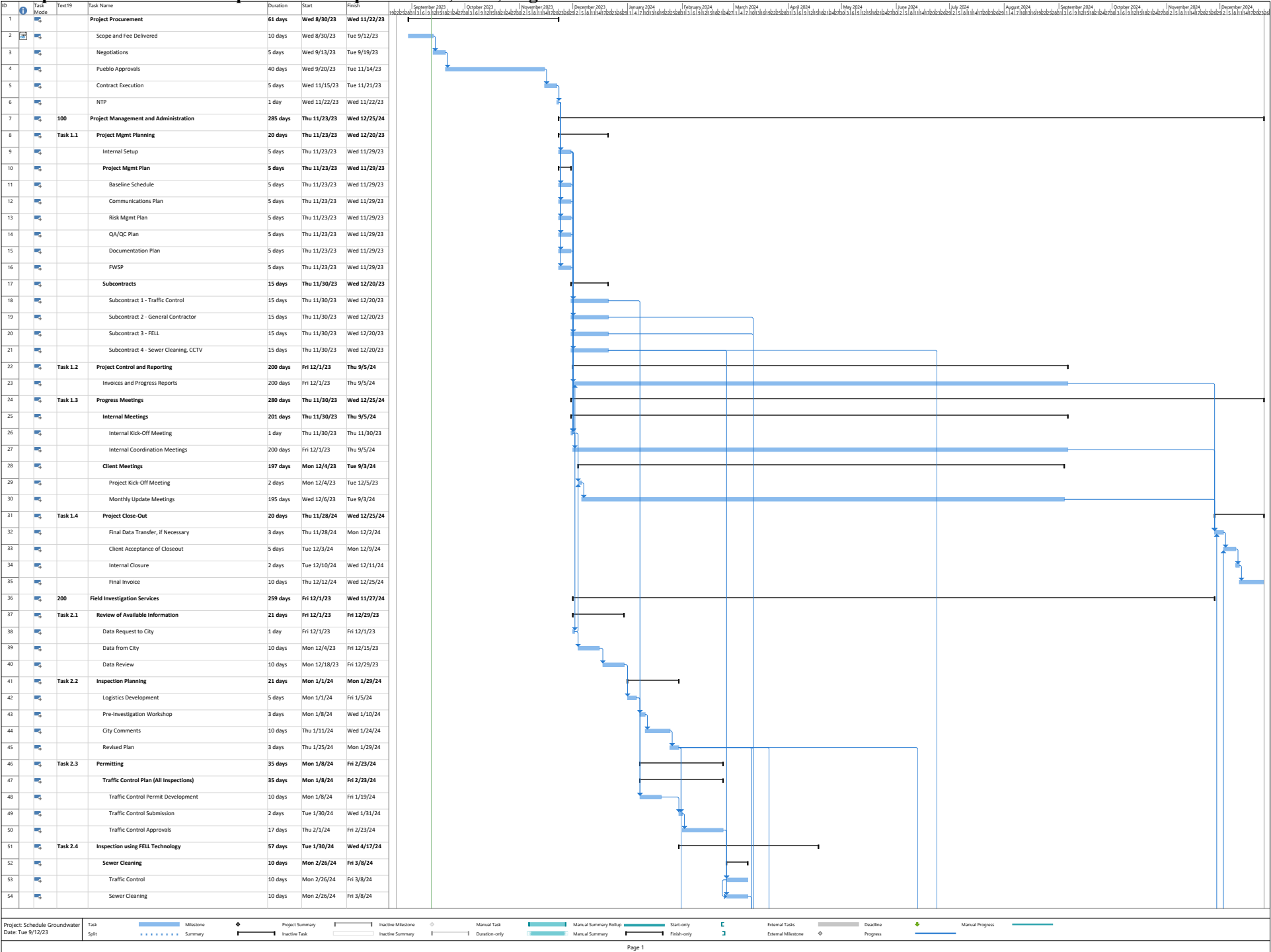


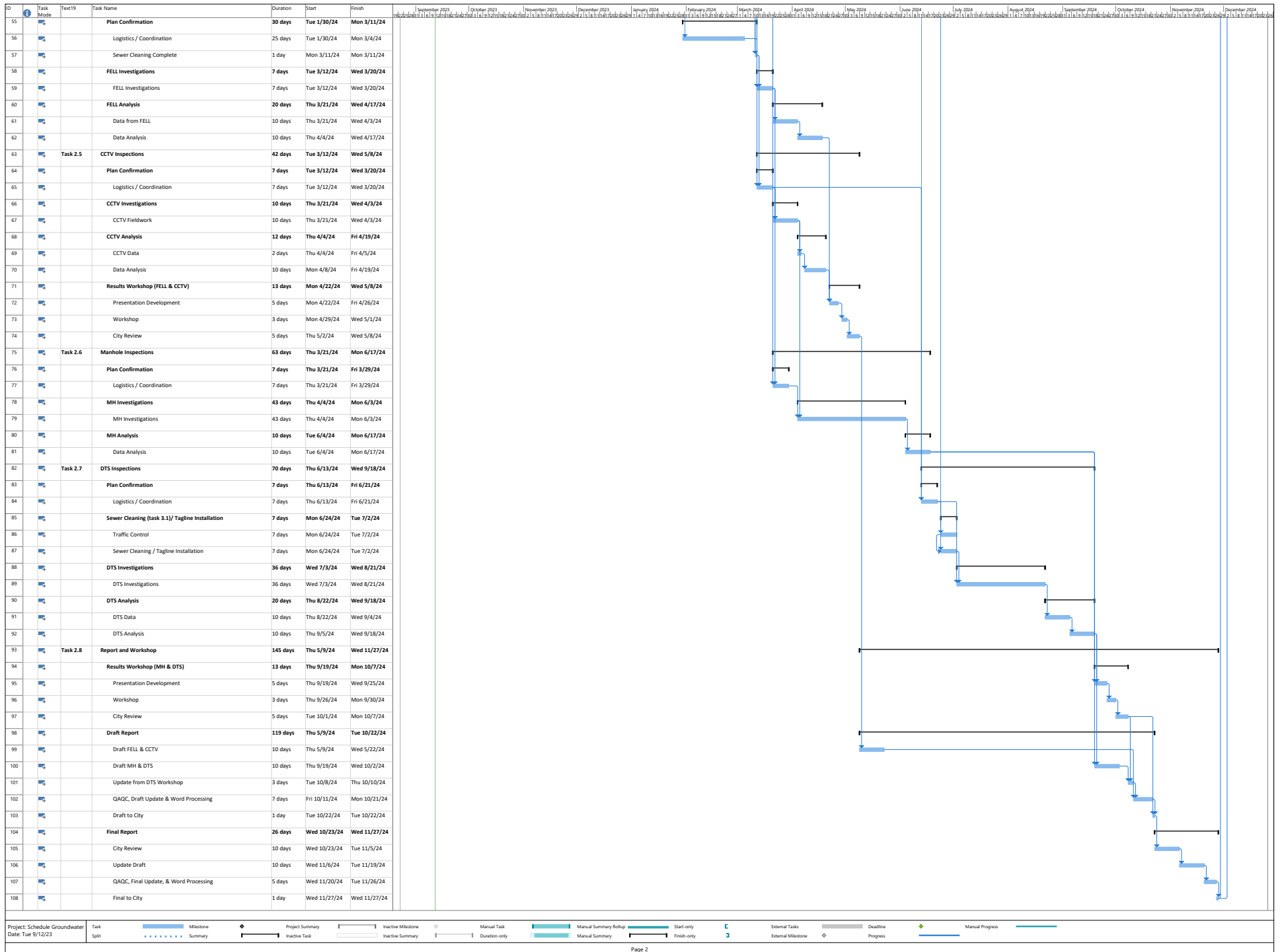
Schedule 2 - Fee Schedule
Excerpt from Consultant Proposal dated September 12, 2023, Page 22

			Chandler Wilson	Keli Lambert	Mike Thorlenson	Sara Everman	Gary Skipper	Mike Metcalf	Mark Poppe	David Hill	Andy Lukas	Matt Davis	Rhys McDonald	Drew Skipper	Jr. Engineer	Admin Asst.			Equipment - Supplies & Shipping	Travel Costs		Propipe - Cleaning and CCTV	M.E. Simpson - FELL Provider	Traffic Control Provider	Wildcat - Confined Space Entry	Contingency		Subcontractor and ODC Markup	
Phase	Task	Phase / Task Description	Project Manager	Project Analyst	Principal	H&S	SME	SME	Sr. Eng	Jr. Eng	SME	Sr. Eng	Sr. Eng	Field Tech / Support	Jr. Engineer	Word Processing	Total Labor Hours	Labor Effort			Subtotal ODCs						Subtotal Subs	Subtotal Markup	Total Effort
		Rate =	\$220.00	\$120.00	\$265.00	\$235.00	\$280.00	\$265.00	\$235.00	\$190.00	\$280.00	\$265.00	\$265.00	\$165.00	\$165.00	\$110.00													
100		Project Management	97.00	64.00	3.00	4.00	12.00	0.00	4.00	0.00	0.00	0.00	0.00	4.00	0.00	0.00	188.00	\$35,715.00	\$0.00	\$1,700.00	\$1,700.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00	\$170.00	\$37,585.00
	1.1	Project Mgmt Planning	48.00	32.00	2.00	4.00	8.00							4.00			98.00	\$18,770.00			\$0.00						\$0.00	\$0.00	\$18,770.00
	1.2	Project Controls & Reporting	24.00	30.00	1.00												55.00	\$9,145.00			\$0.00						\$0.00	\$0.00	\$9,145.00
	1.3	Progress Meetings	24.00				4.00		4.00								32.00	\$7,340.00	\$1,700.00		\$1,700.00					\$0.00	\$170.00	\$9,210.00	
	1.4	Project Close-Out	1.00	2.00													3.00	\$460.00			\$0.00					\$0.00	\$0.00	\$460.00	
200		Installation and Data Acquisition	28.00	0.00	0.00	0.00	64.00	62.00	144.00	44.00	12.00	32.00	28.00	202.00	128.00	8.00	752.00	\$157,300.00	\$8,000.00	\$9,010.00	\$17,010.00	\$66,583.00	\$53,480.00	\$14,850.00	\$50,000.00	\$0.00	\$184,913.00	\$20,192.30	\$379,415.30
	2.1	Review of Available Information	2.00				8.00	2.00	16.00					8.00			36.00	\$8,290.00			\$0.00						\$0.00	\$0.00	\$8,290.00
	2.2	Inspection Planning	8.00				24.00	8.00	40.00								80.00	\$20,000.00	\$1,700.00	\$1,700.00						\$0.00	\$170.00	\$21,870.00	
	2.3	Permitting	2.00						2.00					2.00			6.00	\$1,240.00			\$0.00			\$2,100.00		\$2,100.00	\$210.00	\$3,550.00	
	2.4	Inspection using FELL Technology																											
	2.4.1	Cleaning in advance of FELL												24.00	8.00		32.00	\$5,280.00		\$1,600.00	\$1,600.00	\$31,100.00		\$3,750.00		\$34,850.00	\$3,645.00	\$45,375.00	
	2.4.2	Inspection using FELL Technology	2.00				4.00	16.00	8.00					24.00	8.00		62.00	\$12,960.00	\$500.00	\$1,600.00	\$2,100.00		\$53,480.00	\$2,625.00		\$56,105.00	\$5,820.50	\$76,985.50	
	2.5	Visual Inspections by CCTV																											
	2.5.1	CCTV Inspections	2.00				6.00	2.00	14.00	20.00				40.00	8.00		92.00	\$17,660.00	\$250.00	\$1,950.00	\$2,200.00	\$14,843.00		\$3,750.00		\$18,593.00	\$2,079.30	\$40,532.30	
	2.5.2	CCTV Inspections - Laterals															0.00	\$0.00				\$20,640.00				\$20,640.00	\$2,064.00	\$22,704.00	
	2.6	Manhole Inspections	2.00						8.00	24.00				48.00	48.00		130.00	\$22,720.00	\$250.00		\$250.00					\$0.00	\$25.00	\$22,995.00	
	2.7	DTS Inspections	2.00				2.00	2.00	8.00		10.00	32.00	24.00	56.00	56.00		192.00	\$39,530.00	\$7,000.00	\$2,160.00	\$9,160.00		\$2,625.00	\$50,000.00		\$52,625.00	\$6,178.50	\$107,493.50	
	2.8	Report and Workshop	8.00				20.00	32.00	48.00		2.00		4.00			8.00	122.00	\$29,620.00			\$0.00					\$0.00	\$0.00	\$29,620.00	
300		Additional Services	10.00	0.00	2.00	0.00	2.00	0.00	2.00	16.00	0.00	0.00	0.00	0.00	16.00	0.00	110.00	\$19,670.00	\$0.00	\$2,950.00	\$2,950.00	\$31,848.00	\$13,895.00	\$5,150.00	\$10,000.00	\$50,000.00	\$110,893.00	\$6,384.30	\$139,897.30
	3.1	Sewer Cleaning / Traffic Control in Advance of DTS Activities	4.00		2.00									28.00	10.00		44.00	\$7,680.00		\$1,600.00	\$1,600.00	\$21,048.00		\$3,750.00		\$24,798.00	\$2,639.80	\$36,717.80	
	3.2	Stand-by Subcontractor Cost	2.00											8.00			10.00	\$1,760.00			\$0.00	\$5,600.00	\$5,900.00	\$1,000.00	\$5,000.00	\$17,500.00	\$1,750.00	\$21,010.00	
	3.3	Adjacent Project Site	4.00				2.00		2.00	16.00				32.00			56.00	\$10,230.00	\$1,350.00	\$1,350.00	\$5,200.00	\$7,995.00	\$400.00	\$5,000.00		\$18,595.00	\$1,994.50	\$32,169.50	
	3.4	Owner's Contingency															0.00	\$0.00			\$0.00				\$50,000.00	\$50,000.00	\$0.00	\$50,000.00	
		GRAND TOTAL	135	64	5	4	78	62	150	60	12	32	28	206	144	8	1,050	\$212,685.00	\$8,000.00	\$13,660.00	\$21,660.00	\$98,431.00	\$67,375.00	\$20,000.00	\$60,000.00	\$50,000.00	\$295,806.00	\$26,746.60	\$556,897.60

Schedule 3 - Work Schedule

Excerpt from Consultant Proposal dated September 12, 2023, Pages 24 - 25





Additional Information for Agreement

Colorado Secretary of State Registration

PERA Questionnaire

Insurance Certificate(s) – Requested 10/6/2023 – To be added prior to signature

**For this Record...**

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Business Information
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FAQs, Glossary and Information

Summary

Details			
Name	BROWN AND CALDWELL, INC.		
Status	Good Standing	Formation date	03/20/1978
ID number	19871067502	Form	Foreign Corporation
Periodic report month	March	Jurisdiction	California
Principal office street address	201 North Civic Drive, Suite 300, Walnut Creek, CA 94596, US		
Principal office mailing address	201 North Civic Drive, Suite 300, Walnut Creek, CA 94596, US		

Registered Agent	
Name	Corporation Service Company
Street address	1900 W Littleton Blvd, Littleton, CO 80120, US
Mailing address	1900 W Littleton Blvd, Littleton, CO 80120, US

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OFFICE OF THE SECRETARY OF STATE
OF THE STATE OF COLORADO

CERTIFICATE OF FACT OF GOOD STANDING

I, Jena Griswold, as the Secretary of State of the State of Colorado, hereby certify that,
according to the records of this office,
BROWN AND CALDWELL, INC.

is an entity formed or registered under the law of California, has complied with all
applicable requirements of this office, and is in good standing with this office. This entity has
been assigned entity identification number 19871067502.

This certificate reflects facts established or disclosed by documents delivered to this office on
paper through 10/05/2023 that have been posted, and by documents delivered to this office
electronically through 10/06/2023 @ 15:03:42.

I have affixed hereto the Great Seal of the State of Colorado and duly generated, executed, and issued this
official certificate at Denver, Colorado on 10/06/2023 @ 15:03:42 in accordance with applicable law.
This certificate is assigned Confirmation Number 15382696.



Jena Griswold

Secretary of State of the State of Colorado

*****End of Certificate*****
Notice: A certificate issued electronically from the Colorado Secretary of State's website is fully and immediately valid and effective. However, as an option, the issuance and validity of a certificate obtained electronically may be established by visiting the Validate a Certificate page of the Secretary of State's website, <https://www.coloradosos.gov/biz/CertificateSearchCriteria.do> entering the certificate's confirmation number displayed on the certificate, and following the instructions displayed. Confirming the issuance of a certificate is merely optional and is not necessary to the valid and effective issuance of a certificate. For more information, visit our website, <https://www.coloradosos.gov> click "Businesses, trademarks, trade names" and select "Frequently Asked Questions."

**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, contract employee, consultant, independent contractor, or through other arrangements, is subject to employer contributions to PERA by the City of Pueblo. Therefore, as a condition of contracting 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 contractor, a PERA Retiree who will perform any services for the City of Pueblo? Yes____, No X. (If you answered "no" please proceed to signature section at bottom of this page.)

(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? For purposes of responding to this question, an "affiliated party" includes (1) any person who is the named beneficiary or cobeneficiary 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. 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), 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 contractor 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 contract or other arrangement for services between you and the City of Pueblo.

Please provide the name, address, date of birth, and social security number of each such PERA Retiree. If more than two, please attach a supplemental list.

Name	Address	DOB	Social Security Number
Name	Address	DOB	Social Security Number

Failure to accurately complete, sign and return this document to the City of Pueblo may result in you being denied the privilege of doing business with the City of Pueblo.

Company Name: Brown and Caldwell

Authorized Signature:  Title: Managing Director, CS

Printed Name: Michael J. Thorstenson Date: September 22, 2023

ADD INSURANCE



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 13, 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
George Andrews, Energy Coordinator

SUBJECT: AN ORDINANCE ACCEPTING A SMALL DOLLAR GRANT FROM THE COLORADO ENERGY OFFICE IN THE AMOUNT OF \$45,000.00, ESTABLISHING FINANCE ACCOUNT PROJECT NO. CI2217 - CHARGE AHEAD COLORADO, BUDGETING AND APPROPRIATING \$45,000.00 INTO SAID PROJECT ACCOUNT, AND AUTHORIZING THE MAYOR TO EXECUTE THE PURCHASE ORDER ON BEHALF OF THE CITY

SUMMARY:

An Ordinance accepting a small dollar grant from the Colorado Energy Office in the amount of \$45,000.00; establishing finance account Project No. CI2217 - Charge Ahead Colorado, and budgeting and appropriating \$45,000.00 into said project account, and authorizing the Mayor to execute the purchase order agreement on behalf of the City.

PREVIOUS COUNCIL ACTION:

Resolution No.13612 dated February 13, 2017, established that the Pueblo community will be entirely powered by renewable sources of energy by 2035. The all-renewables plan tethers the City Pueblo to planning strategies that promote a more equitable, democratic energy marketplace.

Ordinance No. 10563, dated October 10, 2023, established the EV Readiness Plan project.

BACKGROUND:

Pueblo City Council set a bold goal on February 13, 2017 to make the City of Pueblo fully powered by renewable energy by 2035, as outlined in Resolution No. 13612.

Under the guidance of the Mayor's Energy Advisory Commission, progress has been made in

shaping building codes, sustainable transportation investments, and clean energy policies. However, EV infrastructure challenges currently exist due to limited availability of charging stations for public use. The City of Pueblo is determined to overcome these hurdles and establish itself as a pioneer in Electric Vehicle (EV) adoption by installing additional charging capacity.

This grant will provide funding for five EV chargers. This modest grant injection will facilitate development of the City of Pueblo's EV infrastructure.

FINANCIAL IMPLICATIONS:

Funds in the amount of \$45,00.00 are budgeted and appropriated into account Project No.CI2217 - Charge Ahead Colorado.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Not approving the Ordinance will preclude the City of Pueblo from accepting the small dollar grant which would provide funding for five electric vehicle chargers.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. CEO POGG1 24-2306 City of Pueblo
2. GRANT CERTIFICATION

ORDINANCE NO. 10584

AN ORDINANCE ACCEPTING A SMALL DOLLAR GRANT FROM THE COLORADO ENERGY OFFICE IN THE AMOUNT OF \$45,000.00, ESTABLISHING FINANCE ACCOUNT PROJECT NO. CI2217 - CHARGE AHEAD COLORADO, BUDGETING AND APPROPRIATING \$45,000.00 INTO SAID PROJECT ACCOUNT, AND AUTHORIZING THE MAYOR TO EXECUTE THE PURCHASE ORDER ON BEHALF OF THE CITY

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

SECTION 1.

The small dollar grant purchase order issued by the Colorado Energy Office is hereby accepted. Purchase Order Number POGG1,EFAA,202400002306 dated 09/07/2023, reviewed by the City Attorney and approved as to form, a copy of which is attached hereto, is hereby approved. The Mayor is authorized to execute said Purchase Order for and on behalf of the City, and the City Clerk is authorized to affix the seal of the City thereto and attest the same.

SECTION 2.

Project Number CI2217 - Charge Ahead Colorado is hereby established. Funds in the amount of \$45,000.00 from the Colorado Energy Office are hereby budgeted and appropriated into said project account.

SECTION 3.

Funds in the amount of \$45,000.00 are hereby budgeted and appropriated for the account in Project No.CI2217.

SECTION 4.

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 5.

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

SECTION 6.

Payment shall be made following successful completion of the project.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on October 23, 2023.

Final adoption of Ordinance by City Council on November 13, 2023.



President of City Council

Action by the Mayor:

☒ Approved on November 15, 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

Office of the Governor
Colorado Energy Office

Page 1 of 1

ORDER		*****IMPORTANT*****				
Number:	POGG1,EFAA,202400002306	The order number and line number must appear on all invoices, packing slips, cartons, and correspondence.				
Date:	9/7/23	BILL TO				
Description:	CAC Grant	Colorado Energy Office - Broadway 1600 Broadway Suite 1960 Denver, CO 80202				
Effective Date:	09/08/23					
Expiration Date:	05/31/24					
BUYER		SHIP TO				
Buyer:		Colorado Energy Office - Broadway 1600 Broadway Suite 1960 Denver, CO 80202				
Email:						
VENDOR		SHIPPING INSTRUCTIONS				
CITY OF PUEBLO PO BOX 1427 PUEBLO, CO 81002-1427		Delivery/Install Date: - FOB:				
Contact:	George Andrews					
Phone:	(719) 553-2245					
VENDOR INSTRUCTIONS						
EXTENDED DESCRIPTION						
Grantee shall complete the work as outlined in Exhibit A, the Statement of Work, attached hereto and incorporated by reference herein.						
Line Item	Commodity/Item Code	UOM	QTY	Unit Cost	Total Cost	MSDS Req.
1	G1000		0	0.00	\$45,000.00	☐
Description: Grant Commodity						
Service From: 09/08/23		Service To: 05/31/24				
TERMS AND CONDITIONS						
https://www.colorado.gov/osc/purchase-order-terms-conditions						
DOCUMENT TOTAL = \$45,000.00						

I. Project Title: Charge Ahead Colorado

II. Background/Objective

The Grantee was awarded grant funding as a result of the competitive Electric Vehicle Supply Equipment (EVSE) Incentives Request for Applications (RFA). The Colorado Energy Office (hereinafter called "CEO" or the "State") agrees to provide funding to City of Pueblo. (hereinafter called "Grantee") towards the costs associated with EVSE.

III. Project Description

Charge Ahead Colorado is a program administered by the Colorado Energy Office (CEO) to encourage use of electric vehicles because they reduce greenhouse gas emissions, promote energy security through reliance on domestic electricity, and drive an innovative market for new technology.

The general purpose of this project is to encourage the installation of electric vehicle charging stations throughout the state of Colorado. Installing charging stations, known as Electric Vehicle Supply Equipment (EVSE), enables electric vehicles to proliferate.

Grantee is installing 5 level II dual port charging stations at:

- Three Level 2 stations at 120 Main Street, Pueblo CO 81003
- Two Level 2 stations at 227 Court Street, Pueblo CO 81003

IV. Work Tasks, Deliverables and Timeline

Grantee shall be responsible for the following work tasks and deliverables upon the final approval and discretion of the CEO:

- i. Purchase EVSE from vendors. Grantees are strongly encouraged to complete a competitive procurement process. The EVSE station must have networked data reporting capabilities that are active, collecting data, and accessible to administrators of the Charge Ahead Colorado program via cloud computing software at all times. See additional requirements in section V. Reporting.
- ii. Install the EVSE. Grantee may either contract with personnel who have expertise in electrical installations or pay Grantee labor staff with expertise in electrical installations for the installation of the unit and associated labor costs.
- iii. Construct foundation, if necessary.
- iv. Dedicate at least two parking spaces for EV charging per Level 2 charger and/or at least one parking space for EV Charging per Level 3 charger depending on the applicable technology being installed.
 1. Accessible design standards must be incorporated, where feasible, per the Access Board design standard for EV Charging Stations.
- v. Provide CEO with invoices by the PO end date for work completed. The costs must be directly associated with installation of EVSE equipment.
- vi. Submit a final project report, with documentation of EVSE installation by the PO end date. The following documentation is required for CEO to reimburse eligible costs on the project:
 1. Final Report
 2. Summary Invoice/Reimbursement Request
 3. Legible copies of all sales invoices showing the purchase price and amount paid by the applicant for the EV/EVSE, number of units purchased and serial numbers from the units.
 4. Legible copies of all invoices/receipts showing installation costs and number of labor hours spent by the installers and any subcontractors on the project.

5. Date(s) of installation, installation completion and when the unit(s) are operational and available for use.
6. Digital photograph(s) of the completed unit(s) and dedicated EV charging spaces(s).
 - a. Photographs must demonstrate adherence to the Access Board design standards. Photographs should be from a perspective that clearly shows adherence to the accessibility standards including wider spacing and a path of travel to the charging station. Additional photographs may be requested prior to reimbursement being finalized if this is not clearly demonstrated.
- vii. All deliverables shall be adjusted to the final approval and discretion of the CEO.

V. Reporting

Grantee shall be responsible for the following reporting requirements: Written analysis shall be in accordance with the procedures developed and prescribed by the State. Required reports shall be submitted to the CEO upon completion of all work tasks, or at such time as otherwise specified. The preparation of reports in a timely manner shall be the responsibility of Grantee and failure to comply may result in the delay of payment of funds and/or termination of this PO. Grantee must provide written communication to CEO if the project experiences significant changes or delays in the schedule via email.

VI. Final Report & Invoice Documentation

The Grantee shall submit a final report by the PO end date. This report will demonstrate the completion of the project and installation of the EVSE. To be acceptable, the final report must explain the Grantee's procurement and installation process, lessons learned from procurement and installation, and the data reporting capabilities of the EVSE, and it must identify the location of the EVSE unit accompanied with a picture of the installed unit. The Grantee shall provide an invoice to CEO for the purchase of the unit and associated equipment, permitting costs, and the labor costs associated with the installation. To be acceptable, the invoice must be supported by receipts or invoices for all equipment, permits, and labor. The invoice must include an itemized list of all project costs being considered under the grant, including a breakdown of those covered under Charge Ahead Colorado and by the project match (20% project cost match per unit).

VII. Post EVSE Installation Reporting

Upon EVSE installation, the Regional Air Quality Council (RAQC) and CEO may send out a form requesting information on EV and/or EVSE usage (i.e. time of use, duration of use, kWh, # of customers, mileage, etc.). By accepting funding through the Charge Ahead Colorado program, Grantee agrees to provide all information requested within this form. Furthermore, by accepting funding for EVSE through the Charge Ahead Colorado program, Grantee is required to provide full access to the charger network information to both RAQC and CEO. The Grantee shall report data for a minimum of five years on all EVSE unit metrics as requested by RAQC and CEO.

VIII. Budget

CEO will pay the Grantee the lesser of \$45,000 or up to 80% (not to exceed \$9,000 per L2) of allowable project costs for the EVSE installation. Grantee is responsible for any cost overruns. Grantee is entitled to payment only after successfully completing the EVSE installation and submitting an acceptable invoice and an acceptable final report to CEO.

IX. Payment Terms – Billing Procedures

Exhibit A Statement of Work

The State shall pay the Grantee the reasonable, allocable, and allowable costs for work performed based on satisfactory progress of the work defined in this Agreement. Grantee shall be compensated only for work and services performed by Grantee and accepted by CEO pursuant to the terms of this Agreement. Payment shall also be contingent upon CEO's timely receipt and acceptance of required reports described herein. Grantee shall be reimbursed based on the submission of Grantee's invoice and documentation as outlined in Section IV (vi). To be considered for payment, billings for payment pursuant to this Agreement must be received by the State by the end of the Agreement Term.

Payment will be made upon final completion of the project. CEO shall make no payment until the Grantee successfully completes the EVSE installation and submits an invoice and final report to CEO, including verification that the station is operational and available for use. CEO shall make payment within 45 days of receiving the final report and invoice. If installation is not completed by May 31, 2024, or the invoice and final report are not submitted by May 31, 2024, CEO is under no obligation to pay the Grantee.

X. Testing and Acceptance Criteria

The EVSE units will be acceptable to the CEO if they are installed, operational, and available for use by May 31, 2024. The Grantee's invoice to CEO will be acceptable if it is properly supported by invoices or receipts and the costs are associated with procurement of EVSE, construction materials, permitting, construction labor costs, and installation costs. The final report will be acceptable to CEO if it explains the Grantee's procurement and installation process, lessons learned from procurement and installation, the data reporting capabilities of the EVSEs, and it identifies the location of the EVSE units accompanied with a picture of the installed units. If the units, invoice, and report are acceptable, the CEO Program Manager will submit the invoice to the accounting department for payment.

If the units, invoice, and report are unacceptable, the CEO Program Manager will work with the Grantee to correct, modify, or replace as needed. If Grantee fails to perform, the CEO Program Manager will submit a report to CEO's Director of Transportation Fuels and Technology and Director of Accounting & Budget explaining why funding should be denied or reduced. The two directors and the CEO Program Manager will determine whether funding should be denied or reduced, and the CEO Program Manager will inform the Grantee of their decision.

XI. Small Dollar Grant Award Amount

The maximum amount payable under this Agreement to Grantee by the CEO shall be \$45,000, as determined by the State from available funds. Satisfactory performance under the terms of this Agreement shall be a condition precedent to the CEO's obligation to compensate the Grantee. The CEO shall not be liable to pay or reimburse Grantee for any performance hereunder prior to the Service From Date as shown on the face of the Small Dollar Grant Award.

XII. Small Dollar Grant Award Term

The Grantee shall begin work upon the later of the Service From Date as shown on the face of this Small Dollar Grant Award or upon Grantee's acceptance of this Agreement. This Small Dollar Grant Award shall terminate on May 31, 2024, unless sooner terminated or further extended as specified elsewhere herein.

GRANT CERTIFICATION

To: Heather Graham, President of the City Council
Nicholas Gradisar, Mayor

Re: Charge Ahead Colorado Grant

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) George Andrews

Date: September 25, 2023

Title: Energy Coordinator



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 13, 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 ACCEPTING FUNDS IN THE AMOUNT OF \$16,742.00 FROM H.W. HOUSTON, LLC, A COLORADO LIMITED LIABILITY COMPANY, FOR COSTS ASSOCIATED WITH THE REPAIR OF W. 20TH STREET, AND BUDGETING AND APPROPRIATING SAID FUNDS TO ACCOUNT CI2309 - ROAD & STREET REPAIRS

SUMMARY:

The attached Ordinance will accept funds in the amount of \$16,742.00 from H.W. Houston Construction, LLC to cover a share of the cost associated with road repairs on the segment of W. 20th Street between Freed Middle School and West Street. The Ordinance also budgets and appropriates those funds into project account number CI2309 - Road & Street Repairs.

PREVIOUS COUNCIL ACTION:

None.

BACKGROUND:

During a recent construction project at Freed Middle School, the pavement on W. 20th Street was damaged due to heavy construction traffic. The segment of the road between Freed Middle School and West Street will be repaired by the City and the funds received from H.W. Houston are anticipated to cover approximately half of the repair cost. While the existing pavement already showed some signs of deterioration, the heavy construction traffic accelerated that damage and H.W. Houston has agreed to reimburse the City for a portion of the repairs.

FINANCIAL IMPLICATIONS:

Funds in the amount of \$16,742.00 will be budgeted and appropriated into project account number CI2309 - Road & Street Repairs.

BOARD/COMMISSION RECOMMENDATION:

None.

STAKEHOLDER PROCESS:

None.

ALTERNATIVES:

Failure to approve this Ordinance will prevent the City from receiving the funds from H.W. Houston Construction, LLC.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

None

ORDINANCE NO. 10585

AN ORDINANCE ACCEPTING FUNDS IN THE AMOUNT OF \$16,742.00 FROM H.W. HOUSTON, LLC, A COLORADO LIMITED LIABILITY COMPANY, FOR COSTS ASSOCIATED WITH THE REPAIR OF W. 20TH STREET, AND BUDGETING AND APPROPRIATING SAID FUNDS TO ACCOUNT CI2309 - ROAD & STREET REPAIRS

WHEREAS, H.W. Houston Construction, LLC performed construction work on the Freed Middle School campus in the Central Park neighborhood within the City of Pueblo and operations related to that construction resulted in pavement damage to City roadways; AND

WHEREAS, H.W. Houston Construction, LLC has agreed to reimburse the City of Pueblo for a portion of the cost to repair damaged pavement on W. 20th Street; NOW THEREFORE

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

SECTION 1.

Funds in the amount of \$16,742.00 are accepted from H.W. Houston Construction, LLC.

SECTION 2.

Accepted funds in the amount of \$16,742.00 shall be budgeted and appropriated to Account No. CI2309 - Road & Street Repairs.

SECTION 3.

The officers and staff 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 October 23, 2023.

Final adoption of Ordinance by City Council on November 13, 2023.



President of City Council

Action by the Mayor:

☒ Approved on November 15, 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



Background Paper for Proposed Ordinance

COUNCIL MEETING DATE: November 13, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Eva Cosyleon, MPO Manager

SUBJECT: AN ORDINANCE ESTABLISHING THE 2024-2025 PUEBLO URBAN TRANSPORTATION PLANNING PROJECT AND BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT OF \$932,107 IN 2024 FOR SAID PROJECT

SUMMARY:

The proposed Ordinance would establish FY2024-2025 Urban Transportation Planning Project, and budget and appropriate \$932,107 in FY2024 for the Project comprised of \$373,476 in FY2024 Federal Highway Administration Consolidated Planning Grant (CPG) funds and estimated carryover funds from FY22-23 FHWA CPG Funds in the amount of \$558,631 that are identified for expenditure in the 2024 Pueblo Area Council of Governments (PACOG) Metropolitan Planning Organization (MPO) budget approved by the PACOG Board on September 28, 2023, Resolution No. 2023-013.

PREVIOUS COUNCIL ACTION:

The establishment of the Project and budgeting of funds has been approved by the City Council on an annual basis once the purchase order is issued by the State of Colorado to PACOG.

BACKGROUND:

The PACOG board approved a Consolidated Planning Grant contract for FY2024-FY2025 with the Colorado Department of Transportation (CDOT) at their October 26, 2023 meeting. The contract provides funds in the amount of \$373,476 along with estimated carryover funds from the FY2022-23 CPG contract in the amount of \$558,631 that will be available for eligible reimbursable expenses. The carryover funds include a onetime allocation of \$300,000 for the inclusion of a greenhouse gas component within the 2050 PACOG Long Range Transportation Plan. The City and PACOG annually enter into a Delegation Agreement that authorizes the City to complete the transportation planning tasks on behalf of PACOG and be reimbursed for eligible expenses to complete the tasks identified in the FY 2024-2025 Unified Planning

Work Program (UPWP) adopted by PACOG Resolution 23-013 on September 28,2023. This Ordinance budgets and appropriates the 2024-2025 Urban Transportation Planning Project, and budgets and appropriates funds in the amount of \$932,107 allocated for the City to complete urban transportation services in compliance with federal and state requirements for the use of CPG grant funds.

FINANCIAL IMPLICATIONS:

Funds up to the amount of \$932,107 will be reimbursed to the City by CDOT which includes \$373,476 from the FY 2024-FY2025 FHWA CPG Funds and remaining federal and local carryover funds from previous years totaling an estimated \$558,631. It is estimated that approximately \$2,168 in staff time from the Finance and Legal departments will be spent on the Project.

BOARD/COMMISSION RECOMMENDATION:

The FY 2024-FY 2025 funds are included in the FY2024-FY 2025 PACOG MPO Unified Planning Work Program budget, and the Urban Planning Work Program that have been previously approved by the PACOG Board on September 28,2023.

STAKEHOLDER PROCESS:

The Consolidated Planning Grant funds, approved by CDOT and the Federal Highway Administration, are identified in the Urban Planning Work Program (UPWP) by task with associated budget amounts. The UPWP is reviewed at public meetings by the PACOG Transportation Advisory Committee and approved by the PACOG Board.

ALTERNATIVES:

None.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. CDOT P.O. & 24-25 PACOG RESO 23-013

ORDINANCE NO. 10586

AN ORDINANCE ESTABLISHING THE 2024-2025 PUEBLO
URBAN TRANSPORTATION PLANNING PROJECT AND
BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT
OF \$932,107 IN 2024 FOR SAID PROJECT

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

SECTION 1.

The FY2024-2025 Pueblo Urban Transportation Planning Project is hereby established.

SECTION 2.

Funds in the amount of \$932,107 comprised of \$373,476 in FY2024 FHWA CPG Funds and estimated carryover funds from FY2022-23 FHWA CPG in the amount of \$558,631 are hereby budgeted and appropriated into the FY2024-25 Urban Transportation Planning Project.

SECTION 3.

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

SECTION 4.

This Ordinance shall become effective upon approval of 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 October 23, 2023.

Final adoption of Ordinance by City Council on November 13, 2023.



President of City Council

Action by the Mayor:

☒ Approved on November 15, 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 Agency Department of Transportation	Agreement Number/PO Number 24-HTD-ZL-00100/491003362
Subrecipient PUEBLO AREA COUNCIL OF GOVERNMENTS	Agreement Performance Beginning Date The Effective Date
Subaward Agreement Amount Federal Funds Maximum Amount (82.79%) \$309,201.00 Local Funds Local Match Amount \$64,275.00 (17.21%) \$373,476.00 Agreement Total	Initial Agreement Expiration Date December 31, 2025
	Fund Expenditure End Date December 31, 2025
	Agreement Authority Authority to enter into this Agreement exists in CRS §§43-1-106, 43-1-110, 43-1-117, 43-1-701, 43-1-702 and 43-2-101(4)(c), appropriated and otherwise made available pursuant to the FAST ACT, MAP-21, SAFETEA_LU, 23 USC §104 and 23 USC §149.
Agreement Purpose In accordance with 23 USC §104(f) and 49 USC §5303, the purpose of this Grant is for CDOT to disburse metropolitan transportation planning funds to Metropolitan Planning Organizations (“MPO”) for use within their respective metropolitan planning areas based on a “Continuing, Cooperative and Comprehensive Transportation Planning” process in the State of Colorado as defined by the US Census Bureau for Consolidated Planning Grant (“CPG”) purpose.	
Exhibits and Order of Precedence The following Exhibits and attachments are included with this Agreement: 1. Exhibit A – Statement of Work and Budget. 2. Exhibit B – Sample Option Letter. 3. Exhibit C – Federal Provisions. 4. Exhibit D – Additional Program Requirements. 5. Exhibit E – Title VI-Civil Rights. In the event of a conflict or inconsistency between this Agreement and any Exhibit or attachment, such conflict or inconsistency shall be resolved by reference to the documents in the following order of priority: 1. Exhibit C – Federal Provisions, Exhibit D – Additional Program Requirements, and Exhibit E – Title VI-Civil Rights. 2. Colorado Special Provisions in §17 of the main body of this Agreement. 3. The provisions of the other sections of the main body of this Agreement. 4. Exhibit A – Statement of Work and Budget. 5. Executed Option Letters (if any).	
Principal Representatives For the State: Kathleen Collins Division of Transportation Development Colorado Dept. of Transportation 2829 W. Howard Place Denver, CO 80204 kathleen.collins@state.co.us For Subrecipient: John Adams PUEBLO AREA COUNCIL OF GOVERNMENTS 229 WEST 12TH STREET PUEBLO, CO 81003-2810 JohnAdams@pueblo.us	

SIGNATURE PAGE**THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT**

Each person signing this Agreement represents and warrants that the signer is duly authorized to execute this Agreement and to bind the Party authorizing such signature.

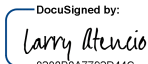
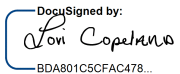
SUBRECIPIENT PUEBLO AREA COUNCIL OF GOVERNMENTS By:  DocuSigned by: Larry Atencio B280B0A7792D44C Name: <u>Larry Atencio</u> Title: <u>Chairman-PACOG - PUEBLO</u> Date: <u>10/4/2023</u>	STATE OF COLORADO Jared S. Polis, Governor Department of Transportation Shoshana M. Lew, Executive Director By:  DocuSigned by: Keith Stefanik B3C1F927D40F4B3 Name: <u>Keith Stefanik</u> Title: <u>Chief Engineer</u> Date: <u>10/4/2023</u>
2nd State or Subrecipient Signature if needed By: _____ Name: _____ Title: _____ Date: _____	LEGAL REVIEW Philip J. Weiser, Attorney General _____ N/A By: Assistant Attorney General 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  DocuSigned by: Robert Jaros BDA801C5CFAC478 By: Department of Transportation Effective Date: <u>10/4/2023</u>	

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1. PARTIES

This Agreement is entered into by and between Subrecipient named on the Cover Page for this Agreement (the “Subrecipient”), and the STATE OF COLORADO acting by and through the State agency named on the Cover Page for this Agreement (the “State”). Subrecipient 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 the Grant Funds shall be expended by the Fund Expenditure End Date shown on the Cover Page for this Agreement. The State shall not be bound by any provision of this Agreement before the Effective Date, and shall have no obligation to pay Subrecipient for any Work performed or expense incurred before the Effective Date, except as described in **§5.D**, or after the Fund Expenditure End Date.

B. Initial Term

The Parties’ respective performances under this Agreement shall commence on the Agreement Performance Beginning Date shown on the Cover Page for this Agreement and shall terminate on the Initial Agreement Expiration Date shown on the Cover Page for this Agreement (the “Initial Term”) unless sooner terminated or further extended in accordance with the terms of this Agreement.

C. Extension Terms - State’s Option

The State, at its discretion, shall have the option to extend the performance under this Agreement beyond the Initial Term for a period, or for successive periods, of one year or less at the same rates and under the same terms specified in this Agreement (each such period an “Extension Term”). In order to exercise this option, the State shall provide written notice to Subrecipient in a form substantially equivalent to the Sample Option Letter attached to this Agreement.

D. End of Term Extension

If this Agreement approaches the end of its Initial Term, or any Extension Term then in place, the State, at its discretion, upon written notice to Subrecipient in a form substantially equivalent to the Sample Option Letter attached to this Agreement, may unilaterally extend such Initial Term or Extension Term for a period not to exceed two months (an “End of Term Extension”), regardless of whether additional Extension Terms are available or not. The provisions of this Agreement in effect when such notice is given shall remain in effect during the End of Term Extension. The End of Term Extension shall automatically terminate upon execution of a replacement Agreement or modification extending the total term of this Agreement.

E. 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, the State, in its discretion, may terminate this Agreement in whole or in part. A determination that this Agreement should be terminated in the public interest shall not be equivalent to a State right to terminate for convenience. This subsection shall not apply to a termination of this Agreement by the State for Breach of Agreement by Subrecipient, which shall be governed by **§12.A.i.**

i. Method and Content

The State shall notify Subrecipient of such termination in accordance with **§14**. The notice shall specify the effective date of the termination and whether it affects all or a portion of this Agreement, and shall include, to the extent practicable, the public interest justification for the termination.

ii. Obligations and Rights

Upon receipt of a termination notice for termination in the public interest, Subrecipient shall be subject to the rights and obligations set forth in **§12.A.i.a.**

iii. Payments

If the State terminates this Agreement in the public interest, the State shall pay Subrecipient 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 Subrecipient for a portion of actual out-of-pocket expenses, not otherwise reimbursed under this Agreement, incurred by Subrecipient which are directly attributable to the uncompleted portion of Subrecipient's obligations, provided that the sum of any and all reimbursement shall not exceed the Subaward Maximum Amount payable to Subrecipient hereunder.

F. Subrecipient's Termination Under Federal Requirements

Subrecipient may request termination of this Agreement by sending notice to the State, or to the Federal Awarding Agency with a copy to the State, which includes the reasons for the termination and the effective date of the termination. If this Agreement is terminated in this manner, then Subrecipient shall return any advanced payments made for work that will not be performed prior to the effective date of the termination.

3. DEFINITIONS

The following terms shall be construed and interpreted as follows:

- A. **"Agreement"** means this subaward agreement, including all attached Exhibits, all documents incorporated by reference, all referenced statutes, rules and cited authorities, and any future modifications thereto.
- B. **"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.
- C. **"Breach of Agreement"** means 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. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Subrecipient, or the appointment of a receiver or similar officer for Subrecipient 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. If Subrecipient is debarred or suspended under §24-109-105, C.R.S. at any time during the term of this Agreement, then such debarment or suspension shall constitute a breach.
- D. **"Budget"** means the budget for the Work described in Exhibit A.
- E. **"Business Day"** means any day other than Saturday, Sunday, or a legal holiday as listed in §24-11-101(1), C.R.S.
- F. **"CORA"** means the Colorado Open Records Act, §§24-72-200.1, *et. seq.*, C.R.S.
- G. **"Deliverable"** means the outcome to be achieved or output to be provided, in the form of a tangible or intangible Good or Service that is produced as a result of Subrecipient's Work that is intended to be delivered by Subrecipient.

- H. **“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 Page for this Agreement.
- I. **“End of Term Extension”** means the time period defined in **§2.D**.
- J. **“Exhibits”** means the exhibits and attachments included with this Agreement as shown on the Cover Page for this Agreement.
- K. **“Extension Term”** means the time period defined in **§2.C**.
- L. **“Federal Award”** means an award of Federal financial assistance or a cost-reimbursement contract, under the Federal Acquisition Regulations or by a formula or block grant, by a Federal Awarding Agency to the 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 Subrecipient or payments to an individual that is a beneficiary of a Federal program.
- M. **“Federal Awarding Agency”** means a Federal agency providing a Federal Award to a Recipient. Federal Highway Administration (FHWA) is the Federal Awarding Agency for the Federal Award which is the subject of this Agreement.
- N. **“FHWA”** means Federal Highway Administration.
- O. **“Goods”** means any movable material acquired, produced, or delivered by Subrecipient as set forth in this Agreement and shall include any movable material acquired, produced, or delivered by Subrecipient in connection with the Services.
- P. **“Grant Funds”** means the funds that have been appropriated, designated, encumbered, or otherwise made available for payment by the State under this Agreement.
- Q. **“Incident”** means any accidental or deliberate event that results in or constitutes an imminent threat of the unauthorized access, loss, disclosure, modification, disruption, or destruction of any communications or information resources of the State, which are included as part of the Work, as described in §§24-37.5-401, *et. seq.*, C.R.S. Incidents include, without limitation (i) successful attempts to gain unauthorized access to a State system or State Records regardless of where such information is located; (ii) unwanted disruption or denial of service; (iii) the unauthorized use of a State system for the processing or storage of data; or (iv) changes to State system hardware, firmware, or software characteristics without the State’s knowledge, instruction, or consent.
- R. **“Initial Term”** means the time period defined in **§2.B**.
- S. **“Matching Funds”** (Local Funds, or Local Match) means the funds provided by Subrecipient as a match required to receive the Grant Funds and includes in-kind contribution.
- T. **“Party”** means the State or Subrecipient, and “Parties” means both the State and Subrecipient.
- U. **“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. PII includes, but is not limited to, all information defined as personally identifiable information in §§24-72-501 and 24-73-101, C.R.S.
- V. **“Recipient”** means the State agency shown on the Signature and Cover Pages of this Agreement, for the purposes of this Federal Award.
- W. **“Services”** means the services to be performed by Subrecipient as set forth in this Agreement and shall include any services to be rendered by Subrecipient in connection with the Goods.
- X. **“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. State Confidential Information shall not include information or data concerning individuals that is not deemed confidential but nevertheless belongs to the State, which has been communicated, furnished, or disclosed by the State to Subrecipient which (i) is subject to disclosure pursuant to CORA; (ii) is already known to Subrecipient without restrictions at the time of its disclosure to Subrecipient; (iii) is or subsequently becomes publicly available without breach of any obligation owed by Subrecipient to the State; (iv) is disclosed to Subrecipient, without confidentiality obligations, by a third party who has the right to disclose such information; or (v) was independently developed without reliance on any State Confidential Information.
- Y. **“State Fiscal Rules”** means the fiscal rules promulgated by the Colorado State Controller pursuant to §24-30-202(13)(a), C.R.S.

- Z. **“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.
- AA. **“State Records”** means any and all State data, information, and records, regardless of physical form.
- BB. **“Subaward Maximum Amount”** means an amount equal to the total of Grant Funds for this Agreement.
- CC. **“Subcontractor”** means any third party engaged by Subrecipient to aid in performance of the Work. “Subcontractor” also includes sub-recipients of Grant Funds.
- DD. **“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.
- EE. **“Uniform Guidance”** means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR Part 200, commonly known as the “Super Circular, 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.
- FF. **“Work”** means the Goods delivered and Services performed pursuant to this Agreement.
- GG. **“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, information, 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 elsewhere in this Agreement or in an Exhibit shall be construed and interpreted as defined in that section.

4. STATEMENT OF WORK AND BUDGET

Subrecipient shall complete the Work as described in this Agreement and in accordance with the provisions of Exhibit A. The State shall have no liability to compensate Subrecipient for the delivery of any goods or the performance of any services that are not specifically set forth in this Agreement.

5. PAYMENTS TO SUBRECIPIENT

A. Subaward Maximum Amount

Payments to Subrecipient are limited to the unpaid, obligated balance of the Grant Funds. The State shall not pay Subrecipient any amount under this Agreement that exceeds the Subaward Maximum Amount shown on the Cover Page of this Agreement as “Federal Funds Maximum Amount”.

B. Payment Procedures

i. Invoices and Payment

- a. The State shall pay Subrecipient in the amounts and in accordance with the schedule and other conditions set forth in Exhibit A.
- b. Subrecipient shall initiate payment requests by invoice to the State, in a form and manner approved by the State.
- c. Any advance payment allowed under this Agreement, shall comply with State Fiscal Rules and be made in accordance with the provisions of this Agreement and its Exhibits. Eligibility and submission for advance payment is subject to State approval and must include approved documentation in the form and manner set forth and approved by the State.
- d. 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 Subrecipient 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 Subrecipient shall make all changes necessary to correct that invoice.
- e. The acceptance of an invoice shall not constitute acceptance of any Work performed or Deliverables provided under this Agreement.

ii. Interest

Amounts not paid by the State within 45 days of the State's acceptance of the invoice shall bear interest on the unpaid balance beginning on the 45th 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. Subrecipient 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 Subrecipient disputes any calculation, determination or amount of any payment, Subrecipient shall notify the State in writing of its dispute within 30 days following the earlier to occur of Subrecipient'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 Subrecipient 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.

The State is prohibited by law from making commitments beyond the term of the current State Fiscal Year. Payment to Subrecipient beyond the current State Fiscal Year is contingent on the appropriation and continuing availability of Grant 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 Grant Funds, the State's obligation to pay Subrecipient 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 Grant Funds, and the State's liability for such payments shall be limited to the amount remaining of such Grant 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.E.

v. 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. Matching Funds

Subrecipient shall provide Matching Funds as provided in Exhibit A. Subrecipient shall have raised the full amount of Matching Funds prior to the Effective Date and shall report to the State regarding the status of such funds upon request. Subrecipient's obligation to pay all or any part of any Matching Funds, whether direct or contingent, only extends to funds duly and lawfully appropriated for the purposes of this Agreement by the authorized representatives of Subrecipient and paid into Subrecipient's treasury or bank account. Subrecipient represents to the State that the amount designated "Subrecipient's Matching Funds" in Exhibit A has been legally appropriated for the purposes of this Agreement by its authorized representatives and paid into its treasury or bank account. Subrecipient 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 Subrecipient. Subrecipient shall not pay or be liable for any claimed interest, late charges, fees, taxes or penalties of any nature, except as required by Subrecipient's laws or policies.

D. Reimbursement of Subrecipient Costs

- i. The State shall reimburse Subrecipient for the federal share of properly documented allowable costs related to the Work after review and approval thereof, subject to the provisions of §5, this Agreement and Exhibit A. However, any costs incurred by Subrecipient 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 Subrecipient for costs or expenses incurred or performance by the Subrecipient 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

Subrecipient. Any such retroactive payments shall comply with State Fiscal Rules and be made in accordance with the provisions of this Agreement.

- ii. The State shall reimburse Subrecipient's allowable costs, not exceeding the Subaward Maximum Amount shown on the Cover Page of this Agreement and on Exhibit A for all allowable costs described in this Agreement and shown in Exhibit A. Except as provided in §5.E., Subrecipient may adjust the amounts between each line item of Exhibit A without formal modification to this Agreement as long as the Subrecipient provides notice to the State of the change, the change does not modify the Subaward Maximum Amount or the Subaward Maximum Amount for any federal fiscal year or State Fiscal Year, and the change does not modify any requirements of the Work.
- iii. The State shall only reimburse allowable costs described in this Agreement and shown in the Budget if those costs are:
 - a. Reasonable and necessary to accomplish the Work and for the Goods and Services provided; and
 - b. Equal to the actual net cost to Subrecipient (i.e. the price paid minus any items of value received by Subrecipient that reduce the cost actually incurred).
- iv. Subrecipient's costs for Work performed after the Fund Expenditure End Date shown on the Cover Page for this Agreement, or after any phase performance period end date for a respective phase of the Work, shall not be reimbursable. Subrecipient shall initiate any payment request by submitting invoices to the State in the form and manner set forth and approved by the State.

E. Use of Funds, Budget Adjustments

Grant Funds shall be used only for eligible costs identified herein and/or in the Budget. Subrecipient may adjust budgeted expenditure amounts up to 10% between activities of said Budget without approval of the State. Budget adjustments to activities exceeding 10% but less than 24.99% must be submitted in advance of actual cost and receive written State approval, which approval may be transmitted informally by email or such other means that does not rise to the level of an amendment to this Agreement. A budget revision of **Exhibit A** will be issued by the State with any such adjustment. Adjustments in excess of 24.99% for any activity shall be authorized by the State in an amendment to this Agreement which may also require an amendment to **Exhibit A**. Budget adjustments shall not increase the State's total consideration beyond the Subaward Maximum Amount without an amendment to this Agreement.

F. Close-Out

Subrecipient shall close out this Award within 45 days after the Fund Expenditure End Date shown on the Cover Page for this Agreement. To complete close-out, Subrecipient shall submit to the State all Deliverables (including documentation) as defined in this Agreement and Subrecipient'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 the Federal Awarding Agency has not closed this Federal Award within one year and 90 days after the Fund Expenditure End Date shown on the Cover Page for this Agreement due to Subrecipient's failure to submit required documentation, then Subrecipient may be prohibited from applying for new Federal Awards through the State until such documentation is submitted and accepted.

6. REPORTING - NOTIFICATION

A. Quarterly Reports

In addition to any reports required pursuant to any other Exhibit, for any Agreement having a term longer than three months, Subrecipient 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 five Business Days following the end of each calendar quarter or at such time as otherwise specified by the State.

B. Litigation Reporting

If Subrecipient 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 Subrecipient's ability to perform its obligations under this Agreement, Subrecipient 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 on the Cover Page for this Agreement.

C. Performance and Final Status

Subrecipient shall submit all financial, performance and other reports to the State no later than 45 calendar days after the end of the Initial Term if no Extension Terms are exercised, or the final Extension Term exercised by the State, containing an evaluation and review of Subrecipient's performance and the final status of Subrecipient's obligations hereunder.

D. Violations Reporting

Subrecipient shall disclose, in a timely manner, in writing to the State and the Federal Awarding Agency, all violations of federal or State criminal law involving fraud, bribery, or gratuity violations potentially affecting the Federal Award. The State or the Federal Awarding Agency may impose any penalties for noncompliance allowed under 2 CFR Part 180 and 31 U.S.C. 3321, which may include, without limitation, suspension or debarment.

7. SUBRECIPIENT RECORDS

A. Maintenance

Subrecipient 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 and the delivery of Services (including, but not limited to the operation of programs) or Goods hereunder (collectively, the "Subrecipient Records"). Subrecipient shall maintain such records for a period of three years following the date of submission to the State of the final expenditure report, or if this Award is renewed quarterly or annually, from the date of the submission of each quarterly or annual report, respectively (the "Record Retention Period"). 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 Subrecipient in writing that the Record Retention Period shall be extended. For records for real property and equipment, the Record Retention Period shall extend three years following final disposition of such property.

B. Inspection

Subrecipient shall permit the State, the federal government, and any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy and transcribe Subrecipient Records during the Record Retention Period. Subrecipient shall make Subrecipient Records available during normal business hours at Subrecipient's office or place of business, or at other mutually agreed upon times or locations, upon no fewer than two 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, the federal government, and any other duly authorized agent of a governmental agency, in its discretion, may monitor Subrecipient's performance of its obligations under this Agreement using procedures as determined by the State or that governmental entity. Subrecipient shall allow the State to perform all monitoring required by the Uniform Guidance, based on the State's risk analysis of Subrecipient and this Agreement. 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 Subrecipient's performance in a manner that does not unduly interfere with Subrecipient's performance of the Work.

D. Final Audit Report

Subrecipient shall promptly submit to the State a copy of any final audit report of an audit performed on Subrecipient's records that relates to or affects this Agreement or the Work, whether the audit is conducted by Subrecipient or a third party. Additionally, if Subrecipient is required to perform a single audit under 2 CFR 200.501, *et. seq.*, then Subrecipient shall submit a copy of the results of that audit to the State within the same timelines as the submission to the federal government.

8. CONFIDENTIAL INFORMATION - STATE RECORDS

A. Confidentiality

Subrecipient shall keep confidential, and cause all Subcontractors to keep confidential, all State Records, unless those State Records are publicly available. Subrecipient shall not, without prior written approval of

the State, use, publish, copy, disclose to any third party, or permit the use by any third party of any State Records, except as otherwise stated in this Agreement, permitted by law or approved in writing by the State. Subrecipient shall provide for the security of all State Confidential Information in accordance with all applicable laws, rules, policies, publications, and guidelines. Subrecipient shall immediately forward any request or demand for State Records to the State's Principal Representative identified on the Cover Page of this Agreement.

B. Other Entity Access and Nondisclosure Agreements

Subrecipient 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. Subrecipient shall ensure all such agents, employees, assigns, and Subcontractors sign agreements containing nondisclosure provisions at least as protective as those in this Agreement, and that the nondisclosure provisions are in force at all times the agent, employee, assign or Subcontractor has access to any State Confidential Information. Subrecipient shall provide copies of those signed nondisclosure provisions to the State upon execution of the nondisclosure provisions if requested by the State.

C. Use, Security, and Retention

Subrecipient shall use, hold and maintain State Confidential Information in compliance with any and all applicable laws and regulations only in facilities located within the United States, and shall maintain a secure environment that ensures confidentiality of all State Confidential Information. Subrecipient shall provide the State with access, subject to Subrecipient'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, Subrecipient shall return State Records provided to Subrecipient or destroy such State Records and certify to the State that it has done so, as directed by the State. If Subrecipient is prevented by law or regulation from returning or destroying State Confidential Information, Subrecipient warrants it will guarantee the confidentiality of, and cease to use, such State Confidential Information.

D. Incident Notice and Remediation

If Subrecipient becomes aware of any Incident, Subrecipient 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 Subrecipient can establish that Subrecipient, and its agents, employees, and Subcontractors are not the cause or source of the Incident, Subrecipient shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Subrecipient 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. The State may adjust or direct modifications to this plan, in its sole discretion and Subrecipient shall make all modifications as directed by the State. If Subrecipient cannot produce its analysis and plan within the allotted time, the State, in its sole discretion, may perform such analysis and produce a remediation plan, and Subrecipient shall reimburse the State for the reasonable costs thereof. The State may, in its sole discretion and at Subrecipient's sole expense, require Subrecipient to engage the services of an independent, qualified, State-approved third party to conduct a security audit. Subrecipient shall provide the State with the results of such audit and evidence of Subrecipient's planned remediation in response to any negative findings.

E. Data Protection and Handling

Subrecipient shall ensure that all State Records and Work Product in the possession of Subrecipient or any Subcontractors are protected and handled in accordance with the requirements of this Agreement, including the requirements of any Exhibits hereto, at all times. As used in this section, the protections afforded Work Product only apply to Work Product that requires confidential treatment.

F. Safeguarding PII

If Subrecipient or any of its Subcontractors will or may receive PII under this Agreement, Subrecipient shall provide for the security of 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. Subrecipient 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.

9. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

Subrecipient 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 Subrecipient under this Agreement. Such a conflict of interest would arise when a Subrecipient 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.

B. Apparent Conflicts of Interest

Subrecipient 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, Subrecipient shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Subrecipient's obligations under this Agreement.

C. Disclosure to the State

If a conflict or the appearance of a conflict arises, or if Subrecipient is uncertain whether a conflict or the appearance of a conflict has arisen, Subrecipient 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.

D. Subrecipient acknowledges that all State employees are subject to the ethical principles described in §24-18-105, C.R.S. Subrecipient further acknowledges that State employees may be subject to the requirements of §24-18-105, C.R.S., with regard to this Agreement. For the avoidance of doubt, an actual or apparent conflict of interest shall exist if Subrecipient employs or contracts with any State employee, any former State employee within six months following such employee's termination of employment with the State, or any immediate family member of such current or former State employee. Subrecipient shall provide a disclosure statement as described in §9.C. no later than ten days following entry into a contractual or employment relationship as described in this section. Failure to timely submit a disclosure statement shall constitute a Breach of Agreement. Subrecipient may also be subject to such penalties as are allowed by law.

10. INSURANCE

Subrecipient 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 as approved by the State.

A. Workers' Compensation

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

B. General Liability

Commercial general liability insurance covering premises operations, fire damage, independent contractors, products and completed operations, blanket contractual liability, personal injury, and advertising liability with minimum limits as follows:

- i. \$1,000,000 each occurrence;
- ii. \$1,000,000 general aggregate;
- iii. \$1,000,000 products and completed operations aggregate; and
- iv. \$50,000 any 1 fire.

C. 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.

D. 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 Subrecipient and Subcontractors.

E. Primacy of Coverage

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

F. Cancellation

All 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 Subrecipient and Subrecipient shall forward such notice to the State in accordance with §14 within seven days of Subrecipient's receipt of such notice.

G. Subrogation Waiver

All insurance policies secured or maintained by Subrecipient 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 Subrecipient or the State, its agencies, institutions, organizations, officers, agents, employees, and volunteers.

H. Public Entities

If Subrecipient is a "public entity" within the meaning of the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S. (the "GIA"), Subrecipient shall maintain, in lieu of the liability insurance requirements stated above, 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. If a Subcontractor is a public entity within the meaning of the GIA, Subrecipient shall ensure that the Subcontractor maintain at all times during the terms of this Subrecipient, in lieu of the liability insurance requirements stated above, such liability insurance, by commercial policy or self-insurance, as is necessary to meet the Subcontractor's obligations under the GIA.

I. Certificates

For each insurance plan provided by Subrecipient under this Agreement, Subrecipient shall provide to the State certificates evidencing Subrecipient's insurance coverage required in this Agreement prior to the Effective Date. Subrecipient shall provide to the State certificates evidencing Subcontractor insurance coverage required under this Agreement prior to the Effective Date, except that, if Subrecipient's subcontract is not in effect as of the Effective Date, Subrecipient shall provide to the State certificates showing Subcontractor insurance coverage required under this Agreement within seven Business Days following Subrecipient's execution of the subcontract. No later than 15 days before the expiration date of Subrecipient's or any Subcontractor's coverage, Subrecipient 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, Subrecipient shall, within seven Business Days following the request by the State, supply to the State evidence satisfactory to the State of compliance with the provisions of this section.

11. BREACH OF AGREEMENT

In the event of a Breach of Agreement, the aggrieved Party shall give written notice of breach to the other Party. If the notified Party does not cure the Breach of Agreement, at its sole expense, within 30 days after the delivery of written notice, the Party may exercise any of the remedies as described in §12 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 this Agreement in order to protect the public interest of the State; or if Subrecipient is debarred or suspended under §24-109-105, C.R.S., the State, in its discretion, need not provide notice or cure period and may terminate this Agreement in whole or in part or institute any other remedy in this Agreement as of the date that the debarment or suspension takes effect.

12. REMEDIES

A. State's Remedies

If Subrecipient 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 **§11**, shall have all of the remedies listed in this section 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 of Agreement

In the event of Subrecipient's uncured breach, the State may terminate this entire Agreement or any part of this Agreement. Additionally, if Subrecipient fails to comply with any terms of the Federal Award, then the State may, in its discretion or at the direction of a Federal Awarding Agency, terminate this entire Agreement or any part of this Agreement. Subrecipient 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, Subrecipient 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, Subrecipient shall complete and deliver to the State all Work not cancelled by the termination notice, and may incur obligations as necessary to do so within this Agreement's terms. At the request of the State, Subrecipient shall assign to the State all of Subrecipient's rights, title, and interest in and to such terminated orders or subcontracts. Upon termination, Subrecipient shall take timely, reasonable and necessary action to protect and preserve property in the possession of Subrecipient but in which the State has an interest. At the State's request, Subrecipient shall return materials owned by the State in Subrecipient's possession at the time of any termination. Subrecipient 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 Subrecipient for accepted Work received as of the date of termination. If, after termination by the State, the State agrees that Subrecipient was not in breach or that Subrecipient'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.E**.

c. Damages and Withholding

Notwithstanding any other remedial action by the State, Subrecipient shall remain liable to the State for any damages sustained by the State in connection with any breach by Subrecipient, and the State may withhold payment to Subrecipient for the purpose of mitigating the State's damages until such time as the exact amount of damages due to the State from Subrecipient is determined. The State may withhold any amount that may be due Subrecipient 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 Subrecipient's performance with respect to all or any portion of the Work pending corrective action as specified by the State without entitling Subrecipient to an adjustment in price or cost or an adjustment in the performance schedule. Subrecipient 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 Subrecipient after the suspension of performance.

b. Withhold Payment

Withhold payment to Subrecipient until Subrecipient corrects its Work.

c. Deny Payment

Deny payment for Work not performed, or that due to Subrecipient'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 of any of Subrecipient'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, or if the State in its sole discretion determines that any Work is likely to infringe, a patent, copyright, trademark, trade secret or other intellectual property right, Subrecipient shall, as approved by the State **(i)** secure that right to use such Work for the State and Subrecipient; **(ii)** replace the Work with noninfringing Work or modify the Work so that it becomes noninfringing; or, **(iii)** remove any infringing Work and refund the amount paid for such Work to the State.

B. Subrecipient's Remedies

If the State is in breach of any provision of this Agreement and does not cure such breach, Subrecipient, following the notice and cure period in **§11** and the dispute resolution process in **§13** shall have all remedies available at law and equity.

13. 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 Subrecipient for resolution.

B. Resolution of Controversies

If the initial resolution described in **§13.A** fails to resolve the dispute within 10 Business Days, Subrecipient shall submit any alleged breach of this Agreement by the State to the Procurement Official of the State Agency named on the Cover Page of this Agreement as described in §24-101-301(30), C.R.S., for resolution following the same resolution of controversies process as described in §§24-106-109, and 24-109-101.1 through 24-109-505, C.R.S., (collectively, the "Resolution Statutes"), except that if Subrecipient wishes to challenge any decision rendered by the Procurement Official, Subrecipient's challenge shall be an appeal to the executive director of the Department of Personnel and Administration, or their delegate, in the same manner as described in the Resolution Statutes before Subrecipient pursues any further action. Except as otherwise stated in this Section, all requirements of the Resolution Statutes shall apply including, without limitation, time limitations regardless of whether the Colorado Procurement Code applies to this Agreement.

14. NOTICES and REPRESENTATIVES

Each individual identified as a Principal Representative on the Cover Page for this Agreement 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 **(A)** by hand with receipt required, **(B)** by certified or registered mail to such Party's principal representative at the address set forth on the Cover Page for this Agreement or **(C)** as an email with read receipt requested to the principal representative at the email address, if any, set forth on the Cover Page for this Agreement. 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 on the Cover Page for this Agreement. Either Party may change its principal representative or principal representative contact information, or may designate specific other individuals to receive certain types of notices in addition to or in lieu of a principal representative, by notice submitted in accordance with this section without a formal amendment to this Agreement. Unless otherwise provided in this Agreement, notices shall be effective upon delivery of the written notice.

15. RIGHTS IN WORK PRODUCT AND OTHER INFORMATION

A. Work Product

Subrecipient agrees to provide to the State a royalty-free, non-exclusive and irrevocable license to reproduce publish or otherwise use and to authorize others to use the Work Product described herein, for the Federal Awarding Agency's and State's purposes. All Work Product shall be delivered to the State by Subrecipient upon completion or termination hereof.

B. Exclusive Property of the State

Except to the extent specifically provided elsewhere in this Agreement, all State Records, 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 information provided by or on behalf of the State to Subrecipient are the exclusive property of the State (collectively, "State Materials"). Subrecipient shall not use, willingly allow, cause or permit Work Product or State Materials to be used for any purpose other than the performance of Subrecipient's obligations in this Agreement without the prior written consent of the State. Upon termination of this Agreement for any reason, Subrecipient 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 Subrecipient

Subrecipient retains the exclusive rights, title, and ownership to any and all pre-existing materials owned or licensed to Subrecipient 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 Subrecipient under this Agreement, whether incorporated in a Deliverable or necessary to use a Deliverable (collectively, "Subrecipient Property"). Subrecipient 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.

16. GENERAL PROVISIONS

A. Assignment

Subrecipient'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 Subrecipient's rights and obligations approved by the State shall be subject to the provisions of this Agreement.

B. Subcontracts

Subrecipient shall not enter into any subaward or subcontract in connection with its obligations under this Agreement without the prior, written approval of the State. Subrecipient shall submit to the State a copy of each such subaward or subcontract upon request by the State. All subawards and subcontracts entered into by Subrecipient 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. If the entity with whom Subrecipient enters into a subcontract or subaward would also be considered a Subrecipient, then the subcontract or subaward entered into by Subrecipient shall also contain provisions permitting both Subrecipient and the State to perform all monitoring of that Subcontractor in accordance with the Uniform Guidance.

C. Binding Effect

Except as otherwise provided in **§16.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. 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.

H. 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 Agreement by reference.

I. 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 Agreement amendments, shall conform to the policies issued by the Colorado State Controller.

J. 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.

K. External Terms and Conditions

Notwithstanding anything to the contrary herein, the State shall not be subject to any provision included in any terms, conditions, or agreements appearing on Subrecipient's or a Subcontractor's website or any provision incorporated into any click-through or online agreements related to the Work unless that provision is specifically referenced in this Agreement.

L. 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 this Agreement.

M. Survival of Certain Agreement Terms

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

N. 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 Subrecipient. Subrecipient shall be solely responsible for any exemptions from the collection of excise, sales or use taxes that Subrecipient may wish to have in place in connection with this Agreement.

O. Third Party Beneficiaries

Except for the Parties' respective successors and assigns described in **§16.A.**, 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 this 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

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

S. Licenses, Permits, and Other Authorizations

- i. Subrecipient 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 Subcontractor, all license, certifications, permits and other authorizations required to perform their obligations in relation to this Agreement.
- ii. Subrecipient, if a foreign corporation or other foreign entity transacting business in the State of Colorado, shall obtain prior to the Effective Date and maintain at all times during the term of this Agreement, at its sole expense, a certificate of authority to transact business in the State of Colorado and designate a registered agent in Colorado to accept service of process.

T. Indemnification**i. General Indemnification**

Subrecipient shall indemnify, save, and hold harmless the State, its employees, agents and assignees (collectively, the "Indemnified Parties"), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys' fees and related costs) incurred by any of the Indemnified Parties in relation to any act or omission by Subrecipient, or its employees, agents, Subcontractors, or assignees in connection with this Agreement.

ii. Confidential Information Indemnification

Disclosure or use of State Confidential Information by Subrecipient in violation of §8 may be cause for legal action by third parties against Subrecipient, the State, or their respective agents. Subrecipient shall indemnify, save, and hold harmless the Indemnified Parties, against any and all claims, damages, liabilities, losses, costs, expenses (including attorneys' fees and costs) incurred by the State in relation to any act or omission by Subrecipient, or its employees, agents, assigns, or Subcontractors in violation of §8.

iii. Intellectual Property Indemnification

Subrecipient shall indemnify, save, and hold harmless the Indemnified Parties, against any and all costs, expenses, claims, damages, liabilities, and other amounts (including attorneys' fees and costs) incurred by the Indemnified Parties in relation to any claim that any Work infringes a patent, copyright, trademark, trade secret, or any other intellectual property right.

U. Federal Provisions

Subrecipient shall comply with all applicable requirements of Exhibits C, D, and E at all times during the term of this Agreement.

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

These Special Provisions apply to all agreements except where noted in italics.

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

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

Subrecipient shall perform its duties hereunder as an independent contractor and not as an employee. Neither Subrecipient nor any agent or employee of Subrecipient shall be deemed to be an agent or employee of the State. Subrecipient shall not have authorization, express or implied, to bind the State to any agreement, liability or understanding, except as expressly set forth herein. **Subrecipient 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 Subrecipient or any of its agents or employees. Subrecipient shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Agreement. Subrecipient 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.

Subrecipient 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 Agreement. 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 Agreement 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 Agreement that requires the State to indemnify or hold Subrecipient harmless; requires the State to agree to binding arbitration; limits Subrecipient'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 Agreement shall be construed as a waiver of any provision of §24-106-109, C.R.S.

H. SOFTWARE PIRACY PROHIBITION.

State or other public funds payable under this Agreement shall not be used for the acquisition, operation, or maintenance of computer software in violation of federal copyright laws or applicable licensing restrictions. Subrecipient hereby certifies and warrants that, during the term of this Agreement and any extensions, Subrecipient has and shall maintain in place appropriate systems and controls to prevent such improper use of public funds. If the State determines that Subrecipient is in violation of this provision, the State may exercise any remedy available at law or in equity or under this Agreement, including, without limitation, immediate termination of this Agreement 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 Agreement. Subrecipient has no interest and shall not

acquire any interest, direct or indirect, that would conflict in any manner or degree with the performance of Subrecipient's services and Subrecipient shall not employ any person having such known interests.

J. VENDOR OFFSET AND ERRONEOUS PAYMENTS. §§24-30-202(1) and 24-30-202.4, C.R.S.

[Not applicable to intergovernmental agreements] Subject to §24-30-202.4(3.5), C.R.S., the State Controller may withhold payment under the State's vendor offset intercept system for debts owed to State agencies for: **(i)** unpaid child support debts or child support arrearages; **(ii)** unpaid balances of tax, accrued interest, or other charges specified in §§39-21-101, *et seq.*, C.R.S.; **(iii)** unpaid loans due to the Student Loan Division of the Department of Higher Education; **(iv)** amounts required to be paid to the Unemployment Compensation Fund; and **(v)** other unpaid debts owing to the State as a result of final agency determination or judicial action. The State may also recover, at the State's discretion, payments made to Subrecipient in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Subrecipient by deduction from subsequent payments under this Agreement, deduction from any payment due under any other contracts, grants or agreements between the State and Subrecipient, or by any other appropriate method for collecting debts owed to the State.

K. PUBLIC CONTRACTS FOR SERVICES. §§8-17.5-101, *et seq.*, C.R.S.

[Not applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services] Subrecipient certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Agreement and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Agreement, through participation in the E-Verify Program or the State verification program established pursuant to §8-17.5-102(5)(c), C.R.S., Subrecipient shall not knowingly employ or contract with an illegal alien to perform work under this Agreement or enter into a contract with a Subcontractor that fails to certify to Subrecipient that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement. Subrecipient **(i)** shall not use E-Verify Program or the program procedures of the Colorado Department of Labor and Employment ("Department Program") to undertake pre-employment screening of job applicants while this Agreement is being performed, **(ii)** shall notify the Subcontractor and the contracting State agency or institution of higher education within three days if Subrecipient has actual knowledge that a Subcontractor is employing or contracting with an illegal alien for work under this Agreement, **(iii)** shall terminate the subcontract if a Subcontractor does not stop employing or contracting with the illegal alien within three days of receiving the notice, and **(iv)** shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to §8-17.5-102(5), C.R.S., by the Colorado Department of Labor and Employment. If Subrecipient participates in the Department program, Subrecipient shall deliver to the contracting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Subrecipient has examined the legal work status of such employee, and shall comply with all of the other requirements of the Department program. If Subrecipient fails to comply with any requirement of this provision or §§8-17.5-101, *et seq.*, C.R.S., the contracting State agency, institution of higher education or political subdivision may terminate this Agreement for breach and, if so terminated, Subrecipient shall be liable for damages.

L. PUBLIC CONTRACTS WITH NATURAL PERSONS. §§24-76.5-101, *et seq.*, C.R.S.

Subrecipient, if a natural person eighteen (18) years of age or older, hereby swears and affirms under penalty of perjury that Subrecipient **(i)** is a citizen or otherwise lawfully present in the United States pursuant to federal law, **(ii)** shall comply with the provisions of §§24-76.5-101, *et seq.*, C.R.S., and **(iii)** has produced one form of identification required by §24-76.5-103, C.R.S., prior to the Effective Date of this Agreement.

EXHIBIT A, STATEMENT OF WORK AND BUDGET

FY2024 and FY 2025 Consolidated Planning Grant
Scope of Work
Pueblo Area Council of Governments (PACOG)

October 2023

SAM UEI:D57UDNFVRBL5, CFDA #: 20.205, Federal Award Date: 9/6/23

Summary of FY 2024 and FY 2025 Contracted Consolidated Planning Grant (CPG)

Funds Source	Federal PL Funds	Local Match Cash	Total Funds
FY2024-FY2025 CPG Contract			
FY 2024 CPG	\$309,201	\$64,275	\$373,476
FY 2022-2023 CPG Contract Carryover	Expected in late 2023/early 2024		
FY 2025 CPG	Expected in October 2024		
Total Contracted Funds	\$309,201	\$64,275	\$373,476

2.5% of the funds are required to be spent on Complete Streets activities, unless MPO receives federal approval to opt-out per IIJA Section 11206.

FY2024-2025 Work Objectives

The work objectives presented below are effective FFY2024-2025, and are detailed in the FY 2024-2025 Unified Planning Work Program (UPWP) with information by year and a completion schedule.

INTRODUCTION

Pueblo Area Council of Governments Consolidated Planning Grant Scope of Work

FFY 2024 - FFY 2025

Prepared By:

City of Pueblo Urban Transportation Planning Division, Metropolitan Planning Organization
The Consolidated Planning Grant (CPG) Scope of Work for FFY-2024 is based on the PACOG adopted FY 2022-2023 Unified Planning Work Program (UPWP). An updated FY 2024-2025 UPWP will reflect FY 2024 and FY 2025 that will be adopted in August 2023.

Organization, Management & Funding

The general objectives of the FFY 2024-2025 UPWP are to:

1. Assist all participating agencies in achieving applicable comprehensive planning goals and in fulfilling the statutory requirements of FAST-Act and associated planning regulations adopted by the FHWA and FTA.
2. Assist all participating agencies in fulfilling their continuing responsibilities to the community including, but not limited to,
 - a) Using the products of the transportation planning process as a major contribution to other comprehensive planning activities and providing the mechanisms for the continued integration of transportation planning with land use and other comprehensive planning.
 - b) Updating and revising basic transportation planning, regional socioeconomic, environmental, land use, and transportation system operating data using applicable GIS or other technologies for these systems.
 - c) Modifying developed plans and programs as warranted by changes in travel patterns or urban conditions and translating plans into action programs for project implementation.
3. Carry out specific transportation planning functions required for the continued certification of the Pueblo area urban transportation planning process including the biennial development and annual refinement of the UPWP, the annual development of the TIP, and updates to financial forecast to the Long-Range Transportation Plan (LRTP) to the horizon of 2045 as needed.

WORK ELEMENT 2410 Program Administration & Coordination

Objective - To manage, support, improve, adapt, administer, and coordinate the cooperative, continuous, and comprehensive transportation planning process as required by FAST Act.

2411 - AGREEMENTS AND BYLAWS

Activities:

- Complete and execute planning partner memorandum of understandings, as needed, to implement the transportation planning process.
- Assist in updating bylaws as necessary resulting in changes as approved by the PACOG Board identified in the Reorganization Study conducted in FY 2016/17.
- Develop & adopt bylaws for Transportation Advisory Commission, including possible restructuring the Transportation Advisory Commission (TAC) to include Chair, Vice-Chair, Vice-Co-Chair to structure.
- Consolidate and update TAC Membership (freight, rail, other community partners such as Colorado State University Pueblo to possibly be added)
- Assist in maintaining required materials as necessary. (i.e. Agendas, Minutes, Financial Records, etc.).

2412 - UNIFIED PLANNING WORK PROGRAM

Activities:

- Mid-Year progress report.
- Complete year-end report for FY2023.
- Amend 2023 - 2024 UPWP as needed.
- Review and modify the format of the UPWP as needed.

2413 - BUDGET AND FINANCIAL MANAGEMENT

Activities:

- CDOT monthly Metropolitan Transportation Planning reimbursements.
- Prepare MPO Budget for PACOG Board adoption.
- Prepare Sub-Delegation Budget and Appropriation Ordinances for City of Pueblo

- Prepare for and participate in PACOG audit(s) if required under Single Audit Requirements.

2414 - STAFF AND PROFESSIONAL DEVELOPMENT

Activities:

- Actively participate in Statewide training and educational meetings hosted by CDOT/FHWA/FTA and other organizations within the State.
- Make applicable transportation planning training available to staff, committee members, and member agency partners.
- Develop staff training and document procedures as necessary.
- Develop, implement, and conduct an orientation program for new commission and committee members.
- Staff Training on Travel Demand Model, TransCAD (OUT/IN STATE).
- Staff Training courses conducted by Nation Highway Institute or National Transit Institute (OUT/IN STATE).
- Staff Attendance at Transportation Research Board's Annual Meeting (OUT/IN STATE).
- Staff participation in AMPO's Annual Conference, AMPO's Technical Conference (OUT/IN STATE).
- Staff attendance/participation in Transportation Research Boards working groups. (OUT/IN STATE).

2415 - PUBLIC INVOLVEMENT ACTIVITIES

Products/Activities:

- Project specific public involvement.
- Review and update the Public Participation Plan (PPP) as needed.
- Amend Title VI and LEP Policy as needed.
- Issue press releases and advisories related to transportation planning and projects in the region.
- Develop and expand a stakeholder's contact list for notification of planning activities.
- Maintain MPO website.
- Post notifications on PACOG/MPO social media feeds.
- Work collaboratively with local, state, and federal officials and agencies to help achieve established transportation goals and objectives.
- Actively participate in meetings and planning sessions of various public and private stakeholder groups that have direct or indirect involvement in transportation planning, land use planning, economic development, community development, infrastructure development.

2416 – EQUITY AND JUSTICE 40

Products/Activities:

- Improve access for multimodal or non-motorized travel in Underserved Communities
- Improve access and service for public transportation in Underserved Communities
- Plan for safety of all road users through infrastructure improvements and speed management
- Reduce single-occupancy travel.
- Offer reduced public transportation fares as appropriate.
- Plan for demand-response service towards communities with higher concentrations of older adults and those with poor access to essential services.

- When developing transit-oriented development, consider equitable and sustainable practices.

2417 – MPO COMMITTEE MEETINGS

Activities:

- 10-12 PACOG Board meetings annually.
- 10-12 TAC meetings annually.
- Participate in local committee's (i.e., ADA, PACE, Pueblo Department of Public Health and Environment)

2418 – COORDINATION WITH PUEBLO TRANSIT

Activities:

- Conduct meetings as needed with staff from Pueblo Transit to coordinate with MPO activities that will benefit transit operations within the Pueblo region.
- Coordinate with Pueblo Transit on LRTP Vision Plan and GIS mapping
- Assist with grant applications by providing Data and background supporting information.
- Incorporate transit planning as a requirement when selecting project for funding
- Partner with Pueblo Transit to resolve transportation issues affecting Transit within the region.

2419- MISCELLANEOUS ADMINISTRATIVE ACTIVITIES

Activities:

- Perform the routine administrative, personnel, contractual and management activities, and tasks necessary to maintain and support a viable long-range transportation planning process.
- Procure, upgrade and/or maintain computer systems, software and equipment required to carry out an efficient and effective transportation planning process.
- In conjunction with the amendment and update of the FY2023-2027 Transportation Improvement Program (TIP), MPO Annual Certification of the Planning Process (23 CFR 450.334 & CFR 613.100).
- Annual Review with FHWA and FTA.

WORK ELEMENT 2420 – DATA COLLECTION AND MANAGEMENT

Objective – to develop and maintain data necessary for informed decision making relating to the MPO transportation system.

2421 – Traffic Counting and Data Management

Activities:

- Obtain, update, convert, refine, and maintain traffic count data for the Pueblo area. This includes national highway system, state highway system, county, and local roadways.
- Continue traffic counting program to support transportation modeling and impacts on urban or non-urban areas.
- Continue bike/pedestrian counting on trails within PACOG area.
- Develop a GIS layer to include count data gathered by MPO, County, and any third party.
- Transfer MS2 data to new GIS layer

- Develop and distribute 2023 Traffic Flow Maps (On-call Consultant)
- Provide traffic count reports to CDOT in a format compatible with the national HPMS Database.

2422-Traffic Crash Monitoring Program

Activities:

- Purchase Diexsys Vision Zero Suite Software
- Update, maintain, review, and verify crash database.
- Analyze traffic and collision data for trends.
- Prepare projections and reports for planning uses.
- Publish Crash Summary Data annually with 5-years historical crash data.
- Prepare Annual top 25 high crash locations.
- Improve geo-referencing process locations of crashes.
- Develop summary reports and maps with crash data to assist planning partners in identifying potential safety improvement projects.

2423-MPO Database Management

Activities:

- Prepare and maintain maps, records, booklets, etc. that summarize or depict the PACOG MPO census data.
- Conduct other census related work and activities necessary to support transportation planning.
- Provide current transportation planning materials and maps as requested by citizens and various agencies within the MPO region.
- Establish an Area Wide Pavement Condition Rating System and Collect Base Data for Inventory and Performance Measures.
- Participate in the Statewide Travel Demand Survey when CDOT initiates update.
- Organize and maintain MPO files and folders.

2424 – POPULATION, LAND USE, AND GIS DATA COLLECTION

Activities:

- Update MPO Databases and GIS layers as information becomes available.
- Obtain, verify, and review Pueblo Transit System's data for the Pueblo area.
- Ensure PACOG ArcGIS maps are accessible to partner agencies and public.
- Obtain, update, convert, refine, and maintain non-motorized transportation systems data for the Pueblo area. This includes bike routes, regional trail systems, designated mountain bike trails, and future bike and trail planning.
- Update local transportation system data to reflect changes to the future transportation network as modified by local or county government actions.
- Convert graphics from various planning documents, utilizing GIS software, to analyze the consistency between the LRTP and proposed developments.
- In coordination with CDOT, review the existing Functional Classifications and update as necessary based on the new 2020 census data.

WORK ELEMENT 2430 – TRANSPORTATION PLANS, PERFORMANCE MEASURES, GREEN HOUSE GAS REDUCTION, ACTIVE TRANSPORTATION, AND SCENARIO PLANNING

Monitor the adopted 2045 PACOG LRTP for compliance and make amendments as necessary.

2431 – Metropolitan Transportation Plan

Activities:

- 2045 LRTP Implementation.
- Develop 2050 LRTP framework and schedule.
- Ongoing updating and maintenance of a 6-year capital plan of projects for inclusion into the TIP.
- Monitor the approved 2045 LRTP and make amendments where significant changes have been identified.
- Coordinate with CDOT's implementation of GHG Emissions, and complete GHG Transportation Report.
- Review local plans for consistency with the LRTP.

2432 – Implementation of Performance Measures

Activities:

- Develop baseline performance measures consistent with CDOT's measures.
- Coordinate with CDOT's implementation of performance measures as final rule making is completed.
- Amend performance measures as needed to be consistent with state-wide measures.
- Report annually on Goals of the established measures.

2433 – Travel Demand Model

Activities:

- Renew TransCAD license and train staff.
- Continue to run project scenarios based on projects identified in the 2045 LRTP.
- Update local transportation system data to reflect changes to the future transportation network as modified by local or county government actions.
- Supply CDOT with Data from Model runs that contain "Regionally Significantly" projects to be used in Moves III to Report Green House Gas Emissions.
- Update TDM with 2020 census and establish new TAZ if needed.

2434 – Transportation Improvement Program

Prepare the Transportation Improvement Program to ensure that all expected funding sources are accurately accounted for and programmed, consistent with policies to ensure adoption by PACOG, CDOT, and FHWA.

Activities:

- Prepare, coordinate, and distribute required administrative modifications and amendments to the adopted TIP following a review of compliance/progress verification, along with submittal of corresponding request for inclusion in the State Transportation Improvement Program (STIP).
- Produce and distribute an annual list of projects obligated the prior FFY within.

- Plan, organize and facilitate the updating of the TIP on an annual basis and apply fiscal constraint to a proposed projects list. Validate or modify the list of programmed projects to be executed in subsequent years of the adopted TIP.
- In conjunction with the amendment and update of the FY2023-2027 Transportation Improvement Program (TIP), submit MPO Annual Certification of the Planning Process (23 CFR 450.334 & CFR 613.100).
- Update and post project amendments to "TIP Tracker" on pacog.net.
- In accordance with state and federal requirements and policies, analyze the potential environmental and environmental justice impacts of proposed projects.

2435 – Transition to a Clean Energy, resilient future

- Facilitate in location of EV Charging locations and equity.
- Begin framework for GHG Mitigation Plan, if necessary.
- Create a Carbon Reduction Plan with CDOT
- Implement GHG mitigation strategies, if needed.
- Identify barriers to and opportunities for deployment of fueling and charging infrastructure.
- Evaluate opportunities to reduce greenhouse gas emissions by reducing single-occupancy vehicle trips
- Increase access to public transportation
- Shift to lower emission modes of transportation
- Identify transportation system vulnerabilities to climate change impacts and evaluate potential solutions.

2436 – Complete Streets

- Plan and coordinate with regional stakeholders to develop safe streets for all users through a comprehensive Complete Streets Policy.
- Enable pedestrians, bicyclists, transit riders, micro-mobility users, freight delivery services, and motorists to have a safe, and accessible route to their destination.
- Provide an equitable and safe transportation network for travelers of all ages and abilities.

WORK ELEMENT 2440 ON-CALL ASSISTANCE, REGIONAL AND STATEWIDE PLANNING

Objective – These are intended to be planning activities that will be completed annually or completed in a specific FFY of the UPWP.

2441 – On-Call Transportation Technical Assistance Consultant

This element is developed as a placeholder for funding for consultant's services to assist with planning activities, which provides flexibility to the MPO to use a portion of additional CPG funds later. General consultant services may be used for Long Range Transportation Plan activities, traffic count program, Travel Demand Modeling, Pavement Condition Rating, Safety Action plans or Planning studies.

- Aid on plans, reports, and/or studies that require computer simulation/visualization of corridors, projects, systems, or road networks as needed.

- Provide Area-Wide Local Roadway Safety Plan
- Provide traffic model as needed and requested by MPO
 - Run project scenario based on projects identified in the 2045 LRTP and as requested by MPO staff.
 - Update Travel demand.
 - Development of the 2050 regional population forecast.
 - Update local transportation system data to reflect change to the future transportation network as modified by local or county government actions.
 - Review Functional Classification and update as necessary based on the new 2020 census data.
 - Update TAZ with 2020 census data and re-configure traffic model
 - Collaborate with CDOT Consultant and MPO to establish baseline and mitigation plan (if needed)
 - Facilitate MPO on ongoing administrative process for establishing, tracking, and verifying mitigation & performance measures.
 - Assist MPO and CDOT with Green House Gas Mitigation Plan & Carbon Reduction Plan
- Provide updated GIS data (shape files) to MPO such as:
 - New roadways
 - Proposed roadways
 - New trails/bike routes/bike lanes
 - Roadway classifications
- Provide Pueblo Transit
 - Route expansion studies and analysis
 - Increased Ridership modeling and analysis
 - National Transit Database data collection for federal reporting.
 - Route consolidation and expansion planning

2442 – Regional, Statewide, and Federal Planning Participation

Activities:

- Regular participation in regional planning activities in cooperation with PACOG member entities.
- Regular attendance at State Transportation Advisory Committee (STAC) meetings.
- Review major annexation plans for transportation impacts.
- Evaluate development impacts which may require amendments to the adopted Long Range Transportation Plan and/or Transportation Improvement Program.
- Review land use issues affecting the transportation system.
- Attendance at Transportation Commission (TC) meetings if necessary to represent the interests of the PACOG MPO/TPR.
- Participation and support the Southwest Chieftain North Front Range Passenger Rail Commission.
- Participation in joint or coordinated planning studies conducted cooperatively by the four Front Range MPOs.
- Regular participation in statewide committees for special studies that may have impacts in the PACOG MPO area, (i.e. Freight, Rail, Intracity transit)
- Work and coordinate with FLMA

2443 – Planning and environmental Linkages

Activities:

- Implement planning and environmental linkages (PEL) as part of the transportation planning and environmental review process.
- Develop partnerships with resource agency staff.
- Provide PEL resources and educational training to local jurisdictions.
- Create PEL methodologies for transportation planning in PACOG region.

2444– Special projects and other Transportation Mode Planning

This element is developed as a placeholder for funding of any special projects that may arise within the PACOG region.

Activities:

- Assist and support Pueblo Transit with Areas of Persistent Poverty Program, an FTA-D-AOPP-10 grant, that improves transit services in areas experiencing long-term economic distress, supports coordinated human service transportation planning to improve transit service, or provide new services, including paratransit.
 - Objective of the project is to obtain a better planned route for use by community on the East Side for a more efficient transit route to better serve the needs of this community.
 - Work anticipated to be completed from August 1, 2023 - August 2024

Cost and funding for this project is: \$188,000 Federal Share and \$18,000 in local match from Transit Capital Improvement Project 2201.

EXHIBIT B, SAMPLE OPTION LETTER

State Agency Department of Transportation	Option Letter Number Insert the Option Number (e.g. "1" for the first option)
Subrecipient Insert Subrecipient's Full Legal Name, including "Inc.", "LLC", etc...	Original Agreement Number Insert CMS number or Other Contract Number of the Original Contract
Subaward Agreement Amount Federal Funds Maximum Amount (%) \$0.00 Local Funds Local Match Amount (%) \$0.00 Agreement Total \$0.00	Option Agreement Number Insert CMS number or Other Contract Number of this Option Agreement Performance Beginning Date The later of the Effective Date or Month, Day, Year Current Agreement Expiration Date Month, Day, Year

1. **OPTIONS:**
 - A. Option to extend for an Extension Term or End of Term Extension.
2. **REQUIRED PROVISIONS:**
 - A. **For use with Option 1(A):** In accordance with Section(s) 2.B/2.C of the Original Agreement referenced above, the State hereby exercises its option for an additional term/end of term extension, beginning Insert start date and ending on the current agreement expiration date shown above, at the rates stated in the Original Agreement, as amended.
 - B. **For use with Options 1(A):** The Subaward Agreement Amount table on the Agreement's Cover Page is hereby deleted and replaced with the Current Subaward Agreement Amount table shown above.
3. **OPTION EFFECTIVE DATE:**
 - A. The effective date of this Option Letter is upon approval of the State Controller or ____, whichever is later.

STATE OF COLORADO Jared S. Polis, Governor Department of Transportation Shoshana M. Lew, Executive Director By: _____ Name: _____ Title: _____ Date: _____	In accordance with §24-30-202, C.R.S., this Option Letter 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 Option Letter Effective Date: _____
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EXHIBIT C, FEDERAL PROVISIONS

1. APPLICABILITY OF PROVISIONS

- 1.1. The Contract 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 Contract, or any attachments or exhibits incorporated into and made a part of the Contract, the provisions of these Federal Provisions shall control.

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 Contract setting forth the terms and conditions of that financial assistance, that a non-Federal Entity receives or administers.
- 2.1.1.1. Awards may be in the form of:
- 2.1.1.1.1. Grants;
- 2.1.1.1.2. Contracts;
- 2.1.1.1.3. 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);
- 2.1.1.1.4. Loans;
- 2.1.1.1.5. Loan Guarantees;
- 2.1.1.1.6. Subsidies;
- 2.1.1.1.7. Insurance;
- 2.1.1.1.8. Food commodities;
- 2.1.1.1.9. Direct appropriations;
- 2.1.1.1.10. Assessed and voluntary contributions; and
- 2.1.2.1.11. Other financial assistance transactions that authorize the expenditure of Federal funds by non-Federal Entities.
- 2.1.1.1.12. Any other items specified by OMB in policy memoranda available at the OMB website or other source posted by the OMB.
- 2.1.1.2. Award **does not** include:
- 2.1.1.2.1. Technical assistance, which provides services in lieu of money;
- 2.1.1.2.2. A transfer of title to Federally-owned property provided in lieu of money; even if the award is called a grant;
- 2.1.1.2.3. Any award classified for security purposes; or
- 2.1.1.2.4. 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).
- 2.1.2. “Contract” means the Agreement or Subaward Agreement to which these Federal Provisions are attached and includes all Award types in §2.1.1.1 of this Exhibit.
- 2.1.3. “Contractor” means the party or parties to a Contract or Subaward Agreement funded, in whole or in part, with Federal financial assistance, other than the Prime Recipient, and includes Subrecipients and borrowers. For purposes of Transparency Act reporting, Contractor does not include Vendors.
- 2.1.4. “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>.
- 2.1.5. “Entity” means all of the following as defined at 2 CFR part 25, subpart C;

- 2.1.5.1. A governmental organization, which is a State, local government, or Indian Tribe;
- 2.1.5.2. A foreign public entity;
- 2.1.5.3. A domestic or foreign non-profit organization;
- 2.1.5.4. A domestic or foreign for-profit organization; and
- 2.1.5.5. A Federal agency, but only a Subrecipient under an Award or Sub award to a non-Federal entity.
- 2.1.6. “Executive” means an officer, managing partner or any other employee in a management position.
- 2.1.7. “Federal Award Identification Number (FAIN)” means an Award number assigned by a Federal agency to a Prime Recipient.
- 2.1.8. “Federal Awarding Agency” means a Federal agency providing a Federal Award to a Recipient as described in 2 CFR §200.37
- 2.1.9. “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.”
- 2.1.10. “Federal Provisions” means these Federal Provisions subject to the Transparency Act and Uniform Guidance, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institutions of higher education.
- 2.1.11. “OMB” means the Executive Office of the President, Office of Management and Budget.
- 2.1.12. “Prime Recipient” means a Colorado State agency or institution of higher education that receives an Award.
- 2.1.13. “Subaward” 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 in accordance with 2 CFR §200.38. The term does not include payments to a contractor or payments to an individual that is a beneficiary of a Federal program.
- 2.1.14. “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 Subrecipient. The term does not include an individual who is a beneficiary of a federal program.
- 2.1.15. “Subrecipient Parent DUNS Number” means the sub recipient parent organization’s 9-digit Data Universal Numbering System (DUNS) number that appears in the sub recipient’s System for Award Management (SAM) profile, if applicable.
- 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>.
- 2.1.17. “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:
 - 2.1.17.1. Salary and bonus;
 - 2.1.17.2. 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;
 - 2.1.17.3. 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;
 - 2.1.17.4. Change in present value of defined benefit and actuarial pension plans;
 - 2.1.17.5. Above-market earnings on deferred compensation which is not tax-qualified;

- 2.1.17.6. 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.
- 2.1.18. “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.
- 2.1.19. “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.
- 2.1.20. “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.

3. COMPLIANCE

- 3.1. Contractor shall comply with all applicable provisions of the Transparency Act, all applicable provisions of the Uniform Guidance, and the regulations issued pursuant thereto, including but not limited to these Federal Provisions. 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 may provide written notification to Contractor of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.

4. SYSTEM FOR AWARD MANAGEMENT (SAM) AND DATA UNIVERSAL NUMBERING SYSTEM (DUNS) REQUIREMENTS

- 4.1. 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.
- 4.2. 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.

5. TOTAL COMPENSATION

- 5.1. Contractor 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 \$25,000 or more; and
 - 5.1.2. In the preceding fiscal year, Contractor received:
 - 5.1.2.1. 80% or more of its annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Sub awards subject to the Transparency Act; and
 - 5.1.2.2. \$25,000,000 or more in annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Sub awards subject to the Transparency Act; and
 - 5.1.3. 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. Contractor shall report data elements to SAM and to the Prime Recipient as required in this Exhibit 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 Federal Provisions and the cost of producing such reports shall be included in the Contract price. The reporting requirements in this Exhibit

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.

7. EFFECTIVE DATE AND DOLLAR THRESHOLD FOR REPORTING

- 7.1. Reporting requirements in §8 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.
- 7.2. 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. If Contractor is a Subrecipient, Contractor shall report as set forth below.
 - 8.1.1. **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 Sub award was made:
 - 8.1.1.1. Subrecipient DUNS Number;
 - 8.1.1.2. Subrecipient DUNS Number + 4 if more than one electronic funds transfer (EFT) account;
 - 8.1.1.3. Subrecipient Parent DUNS Number;
 - 8.1.1.4. Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;
 - 8.1.1.5. Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and
 - 8.1.1.6. Subrecipient's Total Compensation of top 5 most highly compensated Executives if criteria in §4 above met.
 - 8.1.2. **To Prime Recipient.** A Subrecipient shall report to its Prime Recipient, upon the effective date of the Agreement, the following data elements:
 - 8.1.2.1. Subrecipient's DUNS Number as registered in SAM.
 - 8.1.2.2. Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.

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 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.
- 9.2. 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 Recipient and auditors to have access to Sub recipient'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).

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 §200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with §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 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.

12. CONTRACT PROVISIONS FOR SUBRECIPIENT CONTRACTS

- 12.1. If Contractor is a Subrecipient, then it shall comply with and shall include all of the following applicable provisions in all subcontracts entered into by it pursuant to this Agreement.
- 12.1.1. **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.
- 12.1.1.1. During the performance of this contract, the contractor agrees as follows:
- 12.1.1.1.1. 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.

- 12.1.1.1.2. 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.
- 12.1.1.1.3. 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.
- 12.1.1.1.4. 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.
- 12.1.1.1.5. 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.
- 12.1.1.1.6. In the event of 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.
- 12.1.1.1.7. 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 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.”
- 12.1.2. **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.

- 12.1.3. **Rights to Inventions Made Under a Contract or Contract.** If the Federal Award meets the definition of “funding Contract” 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 Contract,” 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 Contracts,” and any implementing regulations issued by the 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.** Contracts and subawards 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).
- 12.1.5. **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.
- 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 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.

13. CERTIFICATIONS

- 13.1. 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.

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 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.
- 14.3. There are no Transparency Act reporting requirements for Vendors.

15. EVENT OF DEFAULT

- 15.1. Failure to comply with these Federal 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 D, ADDITIONAL PROGRAM REQUIREMENTS**A. Work**

Per 23 CFR 420.111, SUBRECIPIENT shall complete the Work and other obligations as described herein and Exhibit A. Work performed prior to the Effective Date or after the Termination date shall not be considered part of the Work. SUBRECIPIENT shall take all reasonable steps to carry out all activities described and identified in the Statement of Work. The Statement shall include an estimation of anticipated benefits from each program submitted, a Budget, the activity purpose, objectives, major tasks, timeline of expected completion, and an Evaluation process to determine the success of each activity stated in Exhibit A. In addition, SUBRECIPIENT shall be responsible for:

- 1.) The initial design and implementation of its congestion mitigation and air quality program as outlined in the current TIP;
- 2.) Monitoring and Evaluating the program effectiveness;
- 3.) The promotion of congestion mitigation and air quality program(s) by employers;
- 4.) Submittal of an annual report to CDOT; and,

B. Notice

SUBRECIPIENT shall not commence Work until the date specified by a written notice, which may be electronic, and shall complete the Work within the period specified in the Agreement unless the period or terms thereof are extended according to this Agreement.

C. Staff/Consultant Services

SUBRECIPIENT shall be responsible to select staff/consultant services in compliance with all applicable federal procurement requirements including 23 CFR 172 and 2 CFR 200. Any Request for Proposal (RFP) used by SUBRECIPIENT to secure consultant Services must be reviewed by CDOT before SUBRECIPIENT releases the RFP. CDOT shall have 15 calendar days from the date of receiving the RFP in which to return comments. Responses to CDOT's comments will be provided by SUBRECIPIENT within 15 calendar days of receipt of the comments. SUBRECIPIENT shall notify CDOT in writing before executing any Agreement for consultant Services which utilizes Grant funding.

D. Statement of Work and Budget Amendment

SUBRECIPIENT shall amend Exhibit A in accordance with the terms of this Agreement, when:

- 1.) Reallocating funds between budget line items in Exhibit A, as permitted pursuant to §5(E); and
- 2.) Adding or deleting activities listed in Exhibit A to reflect authorized budget line item reallocations permitted pursuant to §5(E).

If any changes to Exhibit A (i) require an increase or decrease to the maximum amount of this Subaward, (ii) change the term of the Agreement, or (iii) exceed the 24.99% threshold in §5(E) for any activity, the Parties must amend this Agreement prior to such change being effective.

E. Limited Availability of Funds

The amount of Federal Funds available to pay for the Work performed by Subrecipient in any one year is limited to the amount of the unused portion of the allocated funds, made available through 23 USC 104 (b)(3) and (f) as amended, and 49 USC 5303 as amended.

F. Additional Funds Use

Federal Funds shall be used only to reimburse Subrecipient for eligible allowable costs incurred and Subrecipient shall be solely responsible for all costs incurred that are either not allowable or which exceed the funds available in the Agreement as identified herein and/or in the Exhibit A.

G. Billing, Reimbursement, and Allowable Costs**1.) Reimbursement**

The Parties hereto expressly recognize that the Subrecipient is to be paid, reimbursed, or otherwise compensated with the funds provided to CDOT by the U.S. Department of Transportation for the purpose of completing the Work and therefore, the Subrecipient expressly understands and agrees that all its rights, demands, and claims to compensation arising under this Agreement are contingent upon receipt of such funds by CDOT.

2.) Allowable Costs

CDOT shall not be obligated to use State funds under this Agreement. CDOT's use of Federal Funds shall be to reimburse Subrecipient for allowable costs incurred by Subrecipient, as defined in this Agreement. Subrecipient shall be solely responsible for all costs incurred which are not allowable or which exceed the funds available in the Agreement.

H. Allowable and Indirect Costs

Allowable and indirect costs may include but are not limited to those listed in 2 CFR 200, or State Fiscal Rule 2-7: "Official Functions and Training Functions," whichever may apply. However, such costs shall be limited to those costs determined by the CDOT as necessary to directly carry out the Work for this Agreement. In determining the amount of allowable costs, CDOT will exclude:

- a) Any costs incurred by the Subrecipient before the execution of the Agreement.
- b) Any costs incurred by the Subrecipient that are not included in **Exhibit A**.
- c) Any cost incurred by the Subrecipient after the termination date of this Agreement as amended.
- d) Memberships, subscriptions, and professional activities, which do not meet the following requirements:
 - (1). Costs of membership in civic and community, social organizations are allowable as a direct cost with the approval of the federal-awarding agency;
 - (2). Costs of subscriptions to business, professional, and technical periodicals;
 - (3). Costs of meetings, conferences, and conventions where the primary purpose is the dissemination of technical information, including meals, transportation, rental of meeting facilities, and other incidental costs; or
 - (4). Costs of memberships in business, technical, and professional organizations. However, costs of membership in organizations substantially engaged in lobbying are not allowed and thus unallowable.
- e) Official Function Expenditures (as defined by Rule 2-7 of the Colorado State Fiscal Rules), which do not qualify as a meeting, conference, meal or other function that is hosted by the MPO or Subrecipient staff and attended by guests and/or other MPO or Subrecipient personnel and held for official MPO or Subrecipient business. Expenditures incurred for official functions shall be approved by the responsible MPO or Subrecipient official.

I. Disallow Costs

CDOT has the right to disallow any costs incurred by the Subrecipient, which are not consistent with this Agreement, or on any activity not in compliance with the authorized Work.

J. Reimbursement Waiver

Subrecipient agrees that reimbursement of any cost under this Agreement does not constitute a final CDOT decision about the allowability of the costs and does not constitute a waiver of any violation by Subrecipient of the terms of this Agreement.

K. Certification

Upon submitting request for reimbursement, the designated representative of the Subrecipient has certified that:

- a) The costs are allowable, and therefore reimbursable;
- b) The expenditure amount for that time period is correct;
- c) The agreed upon Work has been performed and/or Work Product has been produced;
- d) All Requests for Proposals and/or Requests for Qualifications have been forwarded to CDOT for review and comment; and
- e) Reimbursements are being requested in accordance with the terms of this Agreement.

L. Expenditures

Along with the form requesting reimbursement, the Subrecipient shall include expenditures of Federal Funds for Work. The information shall contain:

- i. Budgeted amount;
- ii. Expenditures for current billing cycle and year-to-date;
- iii. Unexpended balance after current cycle;
- iv. Percent expended year-to-date; and
- v. Copies of Subcontractors invoices, if applicable.

M. Invoice

CDOT shall pay the Subrecipient's voucher for expenditures incurred in performance of Work, up to the maximum amount described in §7, and elsewhere in this Agreement, subject to conditions specified herein, within 30 days of receipt.

N. Final Report

Within 30 days after the end of the Program period, SUBRECIPIENT will provide to CDOT a final accomplishment report of the activities performed under this Agreement for the completed fiscal year. It shall include, but not be limited to:

- 1.) Final accomplishments by activities; and

- 2.) Status of uncompleted products; and
- 3.) Accomplishment of performance measures; and
- 4.) Actual expenditures for the Program Period.

O. Reporting Guidance

Reporting made for the purpose of this Agreement and its activities shall be done in accordance with 23 CFR Part 420.117, 450 and 2 CFR 200, and any supporting sections or amendments. The provisions of this paragraph do not constitute a waiver of legal and administrative appeals available to SUBRECIPIENT or the State.

P. Monitoring

In accordance with 2 CFR 200 and other applicable standards, the State will monitor all the activities conducted by SUBRECIPIENT pursuant to the terms of this Agreement to assure that the Project is being performed consistent with supporting federal laws and regulations, as amended, to enable the preparation and submission of appropriate reports that will contain at a minimum:

- 1.) Comparison of actual performance with established goals during the program and once the program is complete;
- 2.) Progress in meeting schedules;
- 3.) Comparison of budgeted (approved) amounts and actual costs incurred;
- 4.) Cost variances to budget;
- 5.) Approved program revisions; and
- 6.) Other supporting data.

Q. Performance, Progress, Personnel, and Funds

In responding to these requirements, CDOT will utilize the following steps and procedures to ensure that assigned responsibilities are carried out:

1.) Monitoring Documents

CDOT will use the current Statement of Work, and supporting documents, in reviewing the progress being made by SUBRECIPIENT to meet the commitments in this Agreement. The Statement of Work must include all activities, deliverables, and performance measures, and Budgets committed to by SUBRECIPIENT.

2.) Monitoring Meetings

Meetings between CDOT and SUBRECIPIENT representatives will be conducted at CDOT's discretion for the purpose of reviewing progress, resource allocations, and billings.

3.) Progress and Financial Reports

CDOT will prepare and submit progress and financial reports to the appropriate federal agencies.

R. Noncompliance

Any Product that SUBRECIPIENT has committed to in the Statement of Work not produced and justification not provided in a timely manner in accordance with this agreement, may result in the delay of payment of funds and/or termination as provided under this Agreement. Along with the terms of this Agreement and in accordance with 2 CFR 200, the following steps will be implemented by CDOT:

- 1.) CDOT representative will meet with SUBRECIPIENT representative to discuss performance.
- 2.) The CDOT representative will report the progress to the Division of Transportation Development Director.
- 3.) The Director will issue a decision as to whether performance is satisfactory or unsatisfactory. If performance was determined to have been unsatisfactory, CDOT shall determine if a reduction in allocation is appropriate. SUBRECIPIENT will be notified of any decisions made by CDOT.

S. Additional Requirements for Rights in Data, Documents, and Computer Software

Whenever possible, published material shall acknowledge the financial participation of CDOT and/or the FHWA and other agencies contributing funding to the Work Product. Any published material acknowledging the contribution of the FHWA shall include the federal disclaimer statement: "FUNDED BY THE FHWA". Published materials include any non-internal documents, reports, maps, photographs, computer software, or like materials that are intended to be viewed by those outside of CDOT, and Subrecipient.

Patents: In addition to the standard patent rights clauses of 37 CFR §401 et. al, and other applicable laws and regulations, CDOT, Subrecipient, and either party's subrecipients are subject to the provisions of 37 CFR part 401, governing patents and inventions whereby "The Subcontractor or Subrecipient will retain all rights provided for the State in this clause, and the State will not, as part of the consideration for awarding the subaward or Agreement, obtain rights in the Subcontractor's or Subrecipient's subject inventions."

T. 2 CFR 200 Subpart F

In accordance with the provisions of 2 CFR 200: “Audits of States, Local Governments, and Nonprofit Organizations”, all nonfederal entities including state and local government and non-profit organizations, receiving more than \$750,000 from all federal financial assistance funding sources, shall comply with the audit requirements of 2 CFR 200. Compliance with 2 CFR 200 is required in the following manner:

- a) If the Subcontractor 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.
- b) If the Subcontractor expends more than \$750,000 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.
- c) If the Subcontractor expends more than \$750,000 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.
- d) Single Audit can only be conducted by an independent auditor in accordance with generally accepted government auditing standards covering financial audits (2 CFR 200). An audit is an allowable direct or indirect cost.

U. Final Audit Report

If an audit is performed on Subrecipient’s records for any fiscal year covering a portion of the term of this Agreement, Subrecipient shall submit a copy of the final audit report to CDOT or its principal representative at the address specified herein.

EXHIBIT E, TITLE VI – CIVIL RIGHTS

Nondiscrimination Requirements

Subrecipient 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.

Subrecipient shall abide by all applicable federal and state nondiscrimination laws and regulations, including but not limited to, Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d et seq.; The Civil Rights Restoration Act of 1987, Pub. L. No. 100-259, 102 Stat. 28; 49 CFR Part 21: Nondiscrimination in Federally-Assisted Programs of the Department of Transportation; 23 CFR Part 200: Title VI Program and Related Statutes - Implementation and Review Procedures; Title II of the Americans with Disabilities Act of 1990, 42 U.S.C §§12101 - 12213; Rehabilitation Act of 1973 § 504, 29 U.S.C § 794; 49 CFR Part 27: Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Assistance; 28 CFR Part 35: Nondiscrimination on the Basis of Disability in State and Local Government Services; 49 CFR Part 28: Enforcement of Nondiscrimination on the Basis of Handicap in Programs or Activities Conducted by the Department of Transportation.

As a condition of federal financial assistance, Subrecipient shall develop and maintain a Title VI Program in accordance with the “Requirements for FHWA Subrecipients” set forth in CDOT’s Title VI Program Plan. Subrecipient shall also facilitate compliance with Executive Order 12898 and DOT Order 5610.2(a) by incorporating the principles of environmental justice in planning, project development and public outreach in accordance with applicable CDOT and FHWA guidance.

In any contract utilizing federal funds, land, or other federal aid, Subrecipient 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. Subrecipient shall develop and maintain an ADA Program in accordance with 28 CFR Part 35, Nondiscrimination on the Basis of Disability in State and Local Government Services and any other requirements established by CDOT for FHWA subrecipients.

Disadvantaged Business Enterprise Requirements

The requirements of 49 CFR Part 26 and CDOT’s DOT-approved DBE program are incorporated by reference into this agreement. Subrecipient shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. Subrecipient shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted Agreement. Failure by Subrecipient to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as CDOT deems appropriate. Subrecipient must include this assurance in all DOT-assisted contracts.

Prompt Payment

Subrecipient 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. If Subrecipient allows contractors to withhold retainage from subcontractors, retainage shall be released within 30 days from the date the work is satisfactorily completed.

RESOLUTION NO. 23-013

A RESOLUTION ADOPTING THE UNIFIED PLANNING WORK PROGRAM (UPWP) FOR FEDERAL FISCAL YEARS (FFY) 2024 AND 2025 FOR THE PUEBLO AREA COUNCIL OF GOVERNMENTS (PACOG) AS THE DESIGNATED METROPOLITAN PLANNING ORGANIZATION (MPO) FOR THE PUEBLO URBAN AREA IN COMPLIANCE WITH 23 USC 134, 49 USC 5303, 23 CFR 450 AND 500, AND 49 CFR 613; AND AUTHORIZING AND DIRECTING THE CITY OF PUEBLO IN ACCORDANCE WITH THE PACOG AND CITY OF PUEBLO DELEGATION AGREEMENT DATED FEBRUARY 23, 2023 TO ADMINISTER AND IMPLEMENT THIS UPWP IN ACCORDANCE WITH ALL APPLICABLE FEDERAL, STATE, AND LOCAL LAWS AND REGULATIONS

WHEREAS, the Pueblo Area Council of Governments (PACOG) is the recognized Metropolitan Planning Organization (MPO) for the Pueblo area as designated by the Governor of Colorado in accordance with 23 U.S.C. 134(b); and

WHEREAS, PACOG has developed an annual Unified Planning Work Program (UPWP) and budgets for the Federal Fiscal Years 2024 and 2025 in compliance with the requirements of 23 USC 134, 49 USC 5303, 23 CFR 450 and 500, and 49 CFR 613 Act; and

WHEREAS, the FFY 2024-2025 UPWP was developed through local collaboration with comments and recommendations from the state and federal funding agencies; and

WHEREAS, the UPWP reflects the priorities, scope of work, and level of effort required for all of the agencies responsible for regional transportation planning for FFY 2024-2025.

NOW, THEREFORE, BE IT RESOLVED BY THE PUEBLO AREA COUNCIL OF GOVERNMENTS that:

SECTION 1:

The PACOG Unified Planning Work Program for Fiscal Year 2024-2025 is hereby approved and adopted.

SECTION 2:

The PACOG Board hereby authorizes and directs the City of Pueblo in accordance with the PACOG and City of Pueblo Delegation Agreement dated February 23, 2023, to administer and implement this UPWP in accordance with all applicable federal, state, and local laws and regulations.

SECTION 3:

This resolution shall become effective immediately upon passage and approval.

PASSED AND ADOPTED this 28th day of September,
2023 by the PACOG.



Chairperson, Pueblo Area Council of Governments

ATTEST:



PACOG Recording Secretary



**Background Paper for Proposed
Ordinance**

COUNCIL MEETING DATE: November 13, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Eva Cosyleon, MPO Manager

SUBJECT: AN ORDINANCE ESTABLISHING 2024 PUEBLO RURAL
TRANSPORTATION PLANNING PROJECT, TP2401, AND BUDGETING
AND APPROPRIATING FUNDS IN THE AMOUNT OF \$7,400 FOR SAID
PROJECT

SUMMARY:

This Ordinance establishes the SFY2024 Pueblo Area Council of Government (PACOG) Rural Transportation Planning Project, Project No. TP2401, and budgets and appropriate funds in the amount of \$7,400 from the Pueblo Area Council of Governments (PACOG) received from the Colorado Department of Transportation (CDOT) Rural Planning Grant (RPG) funds.

PREVIOUS COUNCIL ACTION:

The establishment of the Project and budgeting of funds has been approved by City Council on an annual basis once the purchase order is issued by the State of Colorado to PACOG.

BACKGROUND:

The PACOG receives an annual award of funds from CDOT for rural and statewide transportation planning and associated allowable expenses that provides \$7,400 in RPG funds to PACOG for July 1, 2023 through June 30, 2024. The City and PACOG annually enters a delegation agreement that authorizes the City to complete the transportation planning tasks on behalf of PACOG and be reimbursed at 100% for eligible expenses. This Ordinance establishes the TP2401 Pueblo Rural Transportation Planning Project and budgets and appropriates funds in the amount of \$7,400 allocated for PACOG to complete rural transportation planning services in compliance with the state requirements for the use of the RPG grant funds.

FINANCIAL IMPLICATIONS:

Funds in the amount of \$7,400 shall be budgeted and appropriated for the Rural Transportation Planning Project. It is estimated that approximately two (2%) of the Project cost or approximately \$150 in staff time from the Finance department will be spent on the Project.

BOARD/COMMISSION RECOMMENDATION:

The Rural Planning Grant funding is included as a component of the Delegation Agreement between the City of Pueblo and PACOG and approved by Ordinance No. 10378 on February 15, 2023.

STAKEHOLDER PROCESS:

Not Applicable.

ALTERNATIVES:

If City Council does not approve this Ordinance, the CDOT funding will not be expended by the City's Urban Transportation Planning Division and funds for transportation planning outside of the urbanized area, and travel expenses for outside of Pueblo will not be reimbursed through these funds.

RECOMMENDATION:

Approval of the Ordinance.

ATTACHMENTS:

1. CDOT P.O.

ORDINANCE NO. 10587

AN ORDINANCE ESTABLISHING 2024 PUEBLO RURAL
TRANSPORTATION PLANNING PROJECT, TP2401, AND
BUDGETING AND APPROPRIATING FUNDS IN THE AMOUNT
OF \$7,400 FOR SAID PROJECT

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

SECTION 1.

The 2024 Pueblo Rural Transportation Planning Project No. TP2401 is hereby established.

SECTION 2.

Funds in the amount of \$7,400 from the SFY2024 Pueblo Area Council of Governments (PACOG) Rural Transportation Planning Grant as authorized in the 2023 City and PACOG Delegation Agreement approved by Ordinance No. 10378 on February 15, 2023 are hereby budgeted and appropriated for said Project.

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 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 October 23, 2023.

Final adoption of Ordinance by City Council on November 13, 2023.



President of City Council

Action by the Mayor:

☒ Approved on November 15, 2023.

☐ Disapproved on _____ based on the following objections:

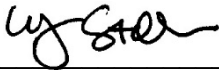
Mayor

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

Colorado Dept of Transportation
2829 W. Howard Place
Denver CO 80204

DATE: 08/10/2023



Purchase Order
State of Colorado

Buyer: Lisa Hollerbach
Phone Number: 303-512-5511
Agency Contact: KAREN Rand (Peterson)
Phone Number: 303-757-9760

IMPORTANT
The PO# and Line#
must appear on all
invoices, packing
slips, cartons and
correspondence

PO# 411036210
Award#:
BID#:



Page# 1 of 1

Vendor Master#: 2000241
Phone: 719-583-6379
Vendor Contact: LOUELLA SALAZAR

V
E
N
D
O
R
PUEBLO AREA COUNCIL OF GOVERNMENTS
229 WEST 12TH STREET
PUEBLO CO 81003-2810

Invoice

TO: CDOT DTD Business Office
2829 W. Howard Place
Denver CO 80204

Payment will be made by this agency

Ship

TO: Colorado Dept of Transportation
2829 W. Howard Place
Denver CO 80204

Delivery/Installation Date: 06/30/2024

INSTRUCTIONS TO VENDOR

1. If for any reason, delivery of this order 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). 2. All chemicals, equipment and materials must conform to the standards required by OSHA. 3. NOTE: Additional terms and conditions on reverse side or at address shown in Special Instructions.

SPECIAL INSTRUCTIONS

*The terms of the attached SOW and State of Colorado purchase order terms and conditions supercede any other agreement. This PO is effective 8/11/2023 through 6/30/2024.

LINE	PRODUCT NUMBER PRODUCT CATEGORY DESCRIPTION	UOM PLANT	QUANTITY	UNIT COST	TOTAL ITEM COST
00001	96287 FY24 Rural Planning Assistance	AU 7001	7,400.00	1.00	7,400.00

DOCUMENT TOTAL: 7,400.00

THIS PO IS ISSUED IN ACCORDANCE WITH STATE AND FEDERAL REGULATIONS
<https://docs.google.com/document/d/163tsdL-HL3aALGtSuB8n37nDs0jVdrLk/edit?usp=sharing&ouid=115488077715681115005&rtpof=true&sd=true>
DP-01 (R-02/06)

FOR THE STATE OF COLORADO

Authorized Signature

Date

Signature not required if PO transmitted electronically.

RURAL PLANNING WORK PROGRAM

Pueblo Area Regional Planning Commission (RPC) and Transportation Planning Region (TPR)

AMOUNT NOT TO EXCEED: \$7,400

Designated Contacts for TPR:

For the purpose of this Purchase order, Aaron Willis is hereby designated representative of the State and Eva Cosyleon is hereby designated representative of Pueblo Area Council of Governments (a.k.a. Vendor), fiscal entity for the Pueblo Area TPR. The Vendor's representative (or Administrator) is responsible for providing the TPR's Representative and Alternate(s) to the State Transportation Advisory Committee (STAC) with copies of this Scope of Work, so they are aware of the tasks for which the TPR is responsible and related eligible expenses. Either party may from time to time designate in writing new or substitute representatives including new or substitute addresses where notices shall be sent. All notices required to be given by the parties hereunder shall be sent by US mail (certified, registered or regular postal) to the individuals at the addresses set forth below:

To CDOT:

Aaron Willis
DTD Statewide & Regional Planning Section
Colorado Department of Transportation
2829 W. Howard Place, 4th Floor
Denver, CO 80204

To STAC Representative:

Zach Swearingen
Pueblo County Commissioner
Pueblo County Courthouse
215 W. 10th Street
Pueblo, CO 81003

To the Vendor/Contract Administrator:

Eva Cosyleon, MPO Manager
PACOG/Pueblo MPO
229 W. 12th Street
Pueblo, CO 81003

REQUIREMENTS

Conforming to the standards set forth in Sections IV, V, VI, VII and VIII of 2 CCR 601-22 (the Rules) for the expenditure standards of State Planning and Research (SPR) funds during the Program Period (beginning July 1 of the issuing year and expiring June 30 of the ending year), the Vendor shall cooperatively undertake the activities related to the statewide and regional transportation planning process to perform the tasks identified in the Scope of Work herein.

The State and FHWA are specifically authorized to review and inspect, at all reasonable times, all such records, including all technical and financial aspects of the tasks described in the Scope of Work. The State will arrange such reviews and inspections with monitoring to be done no more than quarterly. The State reserves the right to a mid-year review of the cost data and other progress associated with the tasks. The State will provide at least one week's notice of the date and time for any meeting to discuss said review.

The Vendor shall assure that SPR funds spent during the Program Period are for activities directly related to the statewide and regional transportation planning process as articulated in the tasks section of the Scope of Work. Throughout the duration, all activities must be in accordance with all applicable State and Federal requirements and within the terms and conditions of this purchase order.

The State has the right to disallow any costs incurred by the Vendor which are inconsistent with or not in compliance with the authorized tasks of the Scope of Work. Prior approval must be obtained in writing from the State's designated representative for any expenses not explicitly authorized in the tasks section below.

All requests for reimbursement shall include documentation of all expenditures in accordance with 2 CFR 200, 49 CFR Part 18, 23 CFR 420 and the attached Scope of Work Guidance. The attached Rural Planning Assistance Contract Reimbursement Request Form must be filled out in its entirety and include specific tasks and the date the tasks were performed.

Requests for reimbursement for the expenditure of funds must be submitted to the State at least quarterly. Pursuant to 49 CFR 18.41, grantees are required to submit invoices on at least a quarterly basis and within 30 days of the close of each billing period. Vendors may elect to submit invoices on a more frequent basis, but at a minimum, invoices must be submitted no less frequent than the billing schedule below:

Quarter	End Date	Billing Due Date
1st	September 30	October 30
2nd	December 31	January 31
3rd	March 31	April 1
4th	June 30	July 30

Final billings are due to the State by July 30. Upon the expiration of this purchase order, all unclaimed funds will revert to the State, and will not carry forward into the next year.

To assure SPR funds conform with the tasks of the Scope, pursuant to 49 CFR 18.42, the Vendor shall maintain a complete file of all records, communications, and other written materials which pertain to the performance and cost of services for the duration of this purchase order and further such period (up to three years) as may be necessary to resolve all financial matters. The Vendor shall permit the State, FHWA or the Comptroller General of the United States to audit and/or inspect Vendor's records pertaining to the services of this purchase order for the specified period to evaluate Vendor's performance assuring compliance with the terms and conditions hereof. Copies of these records shall be furnished, if requested, to the State, FHWA, or the Comptroller General. The Vendor shall include this record keeping/audit requirement in any purchase order with any consultant who performs tasks, by expressly requiring the consultant, and/or other agencies, to comply with this requirement.

All reports pertaining to the performance of this purchase order shall be reviewed and approved pursuant to the procedures established under 2 CCR 601-22, but no report will be published without the prior approval of FHWA. Any published material shall acknowledge the participation of the State and the FHWA in recognition of the cooperative nature of the statewide transportation planning process, for example, "FUNDED BY THE FHWA AND THE FTA". Published materials include any non-internal documents, reports, maps, photographs, computer software or like materials that are intended to be viewed by those outside of FTA, FHWA, CDOT and the TPR.

Vendor shall take responsibility to ensure the fulfillment of the Scope of Work and take all reasonable steps to obtain the necessary staff, or consultant services, required to carry out all tasks described and identified in the Scope and this section. The selection for consultant services, pursuant to 49 CFR 18.36, shall be in compliance with all federal procurement requirements. In addition, any Request for Proposal (RFP) used by the Vendor to secure consultant services must be reviewed and approved by the State prior to release. The Vendor shall obtain written authorization from the State before executing any contract for consultant services, which utilizes SPR funds.

SCOPE OF WORK

The purpose of the Scope of Work is to present procedures for the statewide and regional transportation planning process within the TPRs. If you have any questions, please contact your MPO & Regional Planning Liaison.

The following tasks are incorporated herein to describe the work program for the continuation of the statewide and regional transportation planning process within the TPRs. The purpose of the work is to implement the provisions of C.R.S. § 43-1-1101 et seq. and Rules and Regulations for the Statewide Transportation Planning Process and the Transportation Planning Regions, 2 CCR 601-22 (The Rules). **The primary intended use for these funds are described in tasks 1 and 2, which include the regular activities of the TPR. Secondary intended uses are described in tasks 3-6 which may occur periodically throughout the planning cycle.**

TPR designated STAC representatives and alternates are eligible for reimbursement of allowable travel expenses related to the tasks listed below. Eligible expenses may include, but are not limited to, transportation, lodging, and meals as per State Travel Policy and applicable CDOT procedural directives. CDOT will provide a travel reimbursement form to document the aforementioned expenses. In lieu of submitting a signed CDOT travel reimbursement form, TPRs may submit alternate signed travel documentation, as long as it provides the same information as required in the CDOT form.

PRIMARY TASKS

1 – Participation in the Statewide Transportation Advisory Committee (STAC)

The TPR shall have a designated representative to carry out the duties of the STAC pursuant to C.R.S. § 43-1-1104 (STAC Responsibilities) as amended, and Section V. of the Rules. The TPR shall also designate a STAC Alternate to attend regularly scheduled meetings and carry out these duties if the designated representative is unable or unavailable.

STAC representatives shall attend monthly STAC meetings, as well as other official STAC events. A STAC representative's duties include, but are not limited to:

1. Serving as the communication liaison between the Department, the STAC and the members of the TPR and constituents.
2. Providing advice to the Department on the needs of the transportation system.
3. Reviewing and commenting on updates and amendments to the Regional and Statewide Transportation Plans.
4. Providing assistance in resolving transportation related conflicts which arise between TPRs, or between the Department and a TPR.
5. Making recommendations to the Department concerning the integration and consolidation of Regional Transportation Plans (RTPs) into the Statewide Transportation Plan.
6. Furnishing regional perspectives on transportation problems requiring statewide solutions.
7. Providing advice and comment on TPR boundaries.

2 – Provide Opportunities for Public Participation in TPR Meetings

Please reference Section VI (Public Participation Rules) of 2 CCR 601-22 (The Rules), which includes specific public participation provisions required in the transportation planning process.

The TPR shall work in cooperation with CDOT in carrying out the requirements for public participation as described in The Rules and Title 23 CFR Part 450 of the federal regulations. Public participation shall include, but not be limited to:

1. Providing a proactive process that allows the public the opportunity to participate in the transportation planning process. The process shall provide a mechanism for public perspective, ideas and needs to be incorporated into the planning process, developing the public's understanding of the problems and opportunities facing the transportation system.
2. Conducting meetings, transportation forums, open houses or other means of public meetings for the purpose of providing information about transportation issues, receiving comments, consideration and response to public input and building consensus on transportation priorities. The TPR shall record the proceedings of meetings, forums and other public meetings concerning transportation in their TPR and make those notes available to the TPR constituency, especially interested parties unable to attend the meetings.
3. Providing mailings, either electronic or regular, containing information about transportation issues. The TPR shall maintain a mailing list of all known parties interested in transportation planning in the TPR including but not limited to: elected officials, municipal and county planning

staffs, affected public agencies, local state and federal agencies eligible for federal and state transportation funds, local representatives of public transportation agency employees and users, freight shippers and providers of freight transportation services, private transportation providers, representatives of alternative transportation mode users, such as pedestrian walkways and bicycle transportation facilities; representatives of the disabled, private industry, environmental and other interested groups, Indian tribal governments and the US Secretary of the Interior when tribal lands are involved, representatives of persons or groups that may be underserved by existing transportation systems such as minority, low-income and disabled populations; and members of the general public.

4. Utilizing available media opportunities to provide timely notice of planning related activities; this includes, but is not limited to, electronic mail, newspapers, social media and other means.

SECONDARY TASKS

3 – Long-Range Regional Transportation Plan (RTP)

Continue efforts to update and/or maintain the Regional Transportation Plan (RTP) and maintain up to date and relevant distribution lists, etc. The TPR shall work in conjunction with the Department and its consultants to develop new RTPs.

4 – Regional Transportation Plan Amendments

Federal and State legislation altering the transportation planning factors upon which the RTP is based may change the TPR's corridor priority recommendations to the Department and require amending the RTP. The TPR shall amend the RTP as necessary to make additions or deletions on review and analysis of the RTP to insure successful implementation throughout the Statewide Transportation Plan, pursuant to Section VIII of the Rules for the Statewide Planning Process (2 CCR 601-22).

5 – Development and Amendment of the Statewide Transportation Improvement Program (STIP)

The TPR will undertake activities and meetings necessary to participate in and provide input on the update (at least every four years) of the Statewide Transportation Improvement Program (STIP), and to review and comment on proposed policy amendments to the STIP, as needed.

To update the STIP, TPR representatives meet with their appropriate CDOT Engineering Region(s) and Transportation Commissioner(s) to cooperate in the project prioritization process within that CDOT Engineering Region. Additional information on the STIP development process is available in the *Project Priority Programming Process (4P) and STIP Development Guidelines* available at: <https://www.codot.gov/programs/planning/transportation-plans-and-studies/stip>

Whenever a policy amendment is proposed for the STIP, the TPR shall review and comment on the proposed amendment. The STIP amendment review process is as follows:

1. The CDOT Office of Financial Management and Budget (OFMB) will post notice of the proposed STIP amendment on the CDOT website for a 30 day review and comment period.

2. The TPR needs to determine if the policy amendment is of such significance as to establish a meeting within the 30 day comment period if a meeting is not already scheduled, or discuss the amendment at an already scheduled meeting within the 30 day review and comment period to provide for public input.
3. The TPR may elect to not hold a meeting or not discuss the proposed amendment if the RPC determines that the amendment is not significant enough to require such action.
4. The TPR should post the notice of proposed STIP amendment, if it has an office and a public place for posting such notices.
5. Comments on the proposed amendment need to be received within the 30 day review period via the CDOT website or by direct mail to the CDOT Chief Financial Officer.

6 – Long-Range Statewide Transportation Plan

In conjunction with its RTP, the TPR will provide input and advice on the development of the Statewide Transportation Plan. Duties include but are not limited to:

1. Providing input on the integration and consolidation of RTPs with the Statewide Transportation Plan.
2. Reviewing and providing comment, through the STAC representative, on elements of the Statewide Transportation Plan, including drafts of the Statewide Transportation Plan, and the final Statewide Transportation Plan pursuant to C.R.S. § 43-1-1101 through 1105 and U.S.C. Section 135 Title 23.



**Background Paper for Proposed
Ordinance**

COUNCIL MEETING DATE: November 13, 2023

TO: President Heather Graham and Members of City Council

CC: Mayor Nicholas A. Gradisar

VIA: Marisa Stoller, City Clerk

FROM: Eva Cosyleon, MPO Manager

SUBJECT: AN ORDINANCE APPROVING A DELEGATION AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE PUEBLO AREA COUNCIL OF GOVERNMENTS FOR 2024 TRANSPORTATION PLANNING SERVICES AND AUTHORIZING THE MAYOR TO EXECUTE SAME

SUMMARY:

This Ordinance approves the annual delegation agreement between Pueblo Area Council of Governments (PACOG) and the City of Pueblo for Transportation Planning Services from January 1, 2024 to December 31, 2024 as specified in the approved FY 2024-25 Unified Planning Work Program (UPWP).

PREVIOUS COUNCIL ACTION:

The City is currently operating under the 2023 delegation agreement between PACOG and the City of Pueblo approved by Ordinance 10378, February 13, 2023.

BACKGROUND:

This Ordinance approves the annual delegation agreement for Transportation Planning Services between PACOG and the City of Pueblo. The agreement establishes the responsibilities of the City of Pueblo and PACOG for the implementation of the tasks in the FY 2024-25 UPWP, adopted by PACOG Resolution 2023-013 on September 28, 2023.

FINANCIAL IMPLICATIONS:

PACOG will reimburse the City up to \$932,107 Consolidated Planning Grant Funds, which includes all estimated federal and local carryover funds from previous fiscal years. The City Finance Department will expend staff time to prepare and submit monthly financial reports for reimbursement of City transportation planning expenditures.

BOARD/COMMISSION RECOMMENDATION:

The 2024 Delegation Agreement was approved by the PACOG Board by unanimous consent at their October 26, 2023 meeting. (Signed Agreement will be available prior to second reading)

STAKEHOLDER PROCESS:

Not Applicable.

ALTERNATIVES:

If City Council does not approve this Ordinance, PACOG will look at other options for the operation of the PACOG Metropolitan Planning Organization which is responsible for transportation planning for the Pueblo Urbanized Planning Area and the Pueblo Rural Transportation Planning Region.

RECOMMENDATION:

Approve the Ordinance.

ATTACHMENTS:

1. 2024 PACOG - City Delegation Agreement Substituted Copy 10.31.23

ORDINANCE NO. 10588

AN ORDINANCE APPROVING A DELEGATION AGREEMENT BETWEEN THE CITY OF PUEBLO, A COLORADO MUNICIPAL CORPORATION, AND THE PUEBLO AREA COUNCIL OF GOVERNMENTS FOR 2024 TRANSPORTATION PLANNING SERVICES AND AUTHORIZING THE MAYOR TO EXECUTE SAME

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

SECTION 1.

The Agreement for Transportation Planning Services effective January 1, 2024, between the Pueblo Area Council of Governments (PACOG) and the City of Pueblo, a Municipal Corporation, to provide transportation and planning services, a copy of which is attached and incorporated herein, having been approved as to form by the City Attorney, is hereby approved.

SECTION 2.

The Mayor is hereby authorized to execute said Agreement on behalf of Pueblo, a Colorado 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.

Action by City Council:

Introduced and initial adoption of Ordinance by City Council on October 23, 2023.

Final adoption of Ordinance by City Council on November 13, 2023.



President of City Council

Action by the Mayor:

☒ Approved on November 15, 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

DELEGATION AGREEMENT FOR TRANSPORTATION PLANNING AND IMPROVEMENT SERVICES FOR 2024 CALENDAR YEAR

THIS DELEGATION AGREEMENT FOR TRANSPORTATION PLANNING AND IMPROVEMENT SERVICES ("**Agreement**") is made and entered into effective the 1st day of January 2024, by and between the Pueblo Area Council of Governments ("**PACOG**"), the City of Pueblo, a Colorado municipal corporation, ("**City**") (individually "**Party**" and collectively "**Parties**").

WITNESSETH:

WHEREAS, PACOG serves as the Metropolitan Planning Organization ("**MPO**") for the Pueblo Urban Area, and the Transportation Planning Region ("**TPR**") for all of Pueblo County, Colorado;

WHEREAS, PACOG is eligible to receive funds to perform the work tasks for these activities and has entered one or more agreements with the State of Colorado and/or the U.S. Department of Transportation for transportation planning and improvement projects whereby funding may be made available to PACOG under provisions of said agreements, and statutes, laws and regulations referenced in said agreements;

WHEREAS, City has the authority, capacity, and ability to undertake such transportation planning and improvement projects; and

WHEREAS, PACOG desires to contract with City to provide services, activities, and project execution required of PACOG under the aforesaid agreements through the City of Pueblo Urban Transportation Planning Division ("**UTPD**"), and others.

NOW, THEREFORE, in consideration of the foregoing recitals and the terms and conditions set forth herein, the parties hereto do mutually agree as follows:

1. WORK TASKS; RESPONSIBILITIES OF CITY

(a) City agrees to satisfactorily perform and complete, using its own employees, employees of Pueblo County ("County") or such consultants or contractors selected by PACOG in accordance with the regulations and policies of the Colorado Department of Transportation ("CDOT") and the Federal Highway Administration ("FHWA"), the planning 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 amended FY 2024-2025 Unified Planning Work Program adopted by PACOG Resolution 2023-013 September 28, 2023, incorporated herein by reference, in full compliance with all provisions of this Agreement.

(b) City is authorized to have pre-approved staff from County work mutually with City staff, and consultants to complete work for services, activities, and project execution required of PACOG as identified in the Scope of Work included as Appendix A attached hereto and incorporated herein by this reference.

City represents that it: (I) has the requisite authority and capacity to perform the services and

work contemplated in the FY 2024-2025 UPWP, as approved, and; (ii) that it is a home rule city and political subdivision of the State of Colorado; (iii) that it is fully aware of and understand its duty to perform all functions and services in accordance with the regulatory requirements set forth in 23 C.F.R. Parts 420 and 450 and 49 C.F.R. Part 18 and those identified in the Memorandum of Agreement ("MOA") adopted by PACOG on October 26, 2023, and incorporated herein by reference, in full compliance with all the provisions of this Agreement.

2. RESPONSIBILITIES OF PACOG

PACOG shall designate a representative who will be authorized to make all necessary decisions required of PACOG on behalf of PACOG in connection with the performance of this Agreement and the disbursement of funds in connection with the program. In the absence of such a designation, the Mayor of the City and the County's Attorney, acting jointly, shall be deemed as PACOG's authorized representative.

3. CITY'S COMPENSATION AND METHOD OF PAYMENT

(a) PACOG will pay to City, an amount up to that specified in subparagraph (d) of this paragraph as full compensation for all services and work to be performed or undertaken by City under this Agreement which is within the FY 2024-2025 UPWP, as approved. Payment of funds to City are subject to the following requirements, which shall be conditions precedent to payment: (i) that City staff time has been expended for eligible activities or City has obligated or expended funds for eligible approved expenditures, (ii) that City is not in default of any material provisions of this Agreement nor applicable law or regulation, (iii) that City has submitted requests for payment or reimbursement detailing the eligible payment or reimbursement items, (iv) that, if required by the terms or conditions of an applicable financial assistance agreement, City has certified with each payment or reimbursement request compliance with the requirements identified in the MOA and that all staff time and obligations or expenditures for which payment is sought were made for and in furtherance of an approved project or work and are an eligible use of assistance under the law and regulations applicable to such assistance, and (v) that PACOG has timely received from CDOT and local agency matches sufficient funds to make the payment or reimbursement hereunder.

(b) Payment hereunder is also subject to and may only be disbursed in accordance with applicable regulations including but not limited to those contained in the MOA and those set forth in 49 C.F.R. Part 18, 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 FY 2024-2025 UPWP, as amended.

(c) Expenses for pre-approved County staff time and other eligible reimbursable expenses shall be paid to the County following the submittal and approval of invoices detailing the eligible reimbursement items.

(d) PACOG shall pay to City for services covered by the FY 2024-2025 UPWP, as approved a sum not to exceed the amounts identified in the FY 2024 PACOG budget (\$932,107.00) and/or rates set forth in those documents as incorporated herein by reference and as may be amended in writing, in full compliance with all the provisions of this Agreement.

In the event PACOG requests or authorizes work beyond or in addition to that set forth in the

FY 2024-2025 UPWP, as approved, PACOG shall pay additional compensation to the City. The amount of such additional compensation shall be negotiated, but in the event the parties fail to negotiate or are unable to agree regarding compensation, City shall be compensated for staff time and its costs at the rates set forth in paragraph (d) above, and for the work of subcontractors and consultants in an amount equal to the reasonable actual cost to City.

4. TERM OF AGREEMENT.

The term of this Agreement shall be from January 1, 2024, to December 31, 2025, unless sooner terminated as herein provided.

5. TERMINATION OF AGREEMENT.

(a) For Cause. This Agreement may be terminated by PACOG for cause, including any nonperformance by City, upon thirty (30) days written notice to City 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 PACOG's governing body at a regular or special meeting of same whose decision shall be final. The determination of the PACOG as to the cause of termination and the appropriateness thereof shall be final and binding upon both PACOG and the City. Cause for termination shall mean any material failure by City to comply with any term of this Agreement.

(b) For Convenience. This Agreement may be terminated for convenience in accordance with the provisions of 49 C.F.R. § 18.44. This Agreement shall automatically terminate at the end of its term as well as in the event of any suspension, reduction, or non-receipt of the financial assistance or State or Federal grant funds by PACOG.

(c) Post Termination Procedures. In the event of termination, City shall cease further work and City shall be entitled to receive just and equitable compensation for satisfactory work performed through the date of termination for which compensation has not previously been paid nor reimbursement made.

6. ASSIGNABILITY.

This Agreement shall not be assigned or transferred by either party without the prior written consent of the other party. Any assignment or attempted assignment made in violation of this provision shall, at the non-assigning party's election, be deemed void and of no effect whatsoever.

7. CONFLICT OF INTEREST.

City certifies that neither it nor any members of its City Council, 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 thereto, 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. City shall avoid all conflicts of interest which are prohibited by applicable federal regulations, if any, including but not limited to those set forth in 49 C.F.R. § 18.36(b)(3) as presently promulgated and as same may be revised from time to time in the future.

8. CITY RECORDS.

City shall maintain records as to services provided, reimbursable expenses incurred in performing the Work Tasks, and complete accounting records. Accounting records shall be kept on a generally recognized accounting basis and as requested by PACOG's auditor and acceptable to CDOT and FHWA. City agrees to comply with all applicable uniform administrative requirements described or referenced in applicable state or federal regulations, including those set forth in the MOA as a part of this Agreement. PACOG, CDOT, the Comptroller General of the United States, the Inspector General of the U.S. Department of Transportation, and any of their authorized representatives, shall have the right to inspect and copy, during reasonable business hours, all books, documents, papers, electronic media, and records of City which relate to this Agreement for the purpose of making an audit or examination. Upon completion of the work and end of the term of this Agreement, the PACOG may require that a copy of all of City's financial records relating to this Agreement to be turned over to PACOG.

9. MONITORING AND EVALUATION.

PACOG shall have the right to monitor and evaluate the progress and performance of City to assure that the terms of this Agreement are being satisfactorily fulfilled in accordance with CDOT's, FHWA's, FTA's, PACOG's and other applicable monitoring and evaluation criteria and standards. PACOG may quarterly review City performance using on-site visits, progress reports required to be submitted by City, audit findings, disbursement transactions and contact with City as necessary. If requested, the City shall furnish to the PACOG periodic but not less frequently than quarterly program and financial reports of its activities in such form and manner as may be requested by the PACOG. City shall fully cooperate with PACOG relating to such monitoring and evaluation.

10. CITY FILES AND INFORMATION REPORTS.

City shall maintain files, including electronic media, containing information which shall clearly document all activities performed in conjunction with this Agreement, including, but not limited to, financial transactions, conformance with assurances, activity reports, and program income, if any. These records shall be retained by City for a period of three (3) years after the completion of the Work Tasks.

11. INDEPENDENCE OF CITY.

Nothing herein contained nor the relationship of the Parties, which relationship is expressly declared to be that of an independent contractor, shall make or be construed to make City or any of City's agents or employees the agents or employees of the PACOG. City shall be solely and entirely responsible for its acts and the acts of its agents, employees and subcontractors.

12. LIABILITY: INSURANCE.

As to PACOG, City agrees to assume the risk of all personal injury, including death and bodily injury, and damage to and destruction of property, including the 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 City or by the conditions created thereby; provided, however, that nothing in this paragraph is intended, nor should it be construed, to create or extend any right, claims or benefits or assume any liability for or on behalf of any third party, or to waive any immunities or limitations otherwise conferred 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., City shall provide insurance on its employees complying with the requirements of State law.

13. SPECIAL REQUIREMENTS APPLICABLE TO IMPROVEMENTS TO PROPERTY.

(a) In addition to all procurement requirements otherwise applicable to City pursuant to any other provision of this Agreement or pursuant to any Requirement of law or regulation incorporated in this Agreement by reference, if any portion of the funds provided to City under this Agreement are to be used for making improvements to real property, including new construction, rehabilitation, or remodeling, then in such event City shall comply with all requirements of this Paragraph 13.

(b) No improvements shall be undertaken to real property with funds (or reimbursement) provided hereunder unless and until: (i) plans and specifications therefore have been prepared by either a registered Professional Engineer in good standing and duly licensed to practice in the State of Colorado or an Architect duly licensed and authorized to conduct a practice of architecture in the State of Colorado; and (ii) all construction contracts for improvements for which payment is sought from PACOG shall have been awarded only after an open, competitive bidding process which allows qualified contractors to reasonably participate.

(c) If this Paragraph 13 is applicable, no disbursement of funds to City shall be made by PACOG hereunder unless and until all conditions precedent to payment specified elsewhere in this Agreement have been satisfied and City files with PACOG's designated representative a written request for payment signed by an architect, engineer, or an officer of City that certifies (i) that the amounts included in the request for payment have not been included in any prior request for payment, and (ii) that the improvements listed therein for which payment is sought have been completed in accordance with the approved plans and specifications therefor.

(d) In every contract for construction of improvements for which payment or reimbursement from PACOG is to be provided under this Agreement, City shall include a contract clause or clauses, requiring the contractor, and all of the contractor's subcontracts of all tiers, to comply with the applicable requirements of the Davis-Bacon Act and implementing regulations, and to pay all laborers and mechanics engaged in work upon the improvements at the prevailing wage rates for such work as determined by the U.S. Department of Labor.

14. EQUAL EMPLOYMENT OPPORTUNITY.

In connection with the performance of this Agreement, City shall comply with the provisions of Title VI of the Civil Rights Act of 1964 and the Title VI assurance executed by PACOG and the State of Colorado under 23 U.S.C. § 324 and 29 U.S.C. § 794 and the provisions of the Americans with Disabilities Act of 1990 (Pub. L. 101-336, 104 Stat. 327, as amended) and the U.S. DOT implementing regulations (49 C.F.R. § 27.37 and .38) as certified in the FY 2024-2025 UPWP.

15. ENTIRE AGREEMENT; AMENDMENTS.

The provisions set forth in this Agreement, and all documents as incorporated herein by reference, in full compliance with all the provisions of 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 provision of this Agreement, shall be binding unless made in writing and executed by the duly authorized officers of the Parties.

16. SIGNATURES.

The persons signing this Agreement on behalf of each party represent and warrant that such persons and their respective party have the requisite power and authority to enter, execute and deliver this Agreement and this Agreement is a valid and legally binding obligation of such party enforceable against it in accordance with its terms.

[SIGNATURE PAGE AND APPENDIXES FOLLOWS]

IN WITNESS, WHEREOF, CITY Parties have executed this Agreement effective as of the date first above written and under the laws of the State of Colorado.

ATTEST:

PUEBLO AREA COUNCIL OF GOVERNMENTS

By _____
Secretary

By _____
Chairperson

ATTEST:

CITY OF PUEBLO

By _____
City Clerk

By _____
Mayor, Nick Gradisar

APPROVED AS TO FORM:

Department of Law, City of Pueblo:

By _____
City Attorney

APPENDIX A

SCOPE OF WORK

CITY is authorized to pre-approved staff from COUNTY to work mutually with CITY staff, and consultants to complete work for transportation planning services, activities, and project execution required of PACOG for planning services and items of work including all labor and materials encompassed within or reasonably necessary to accomplish the assigned tasks and functions described in the amended FY 2024-2025 Unified Planning Work Program adopted by PACOG Resolution 2023-013 on September 28, 2023.

PROFESSIONAL FEE SCHEDULE

CITY shall compensate the COUNTY for the Scope of Services, approved by CITY, in accordance with paragraph 3.C. above, in the following manner:

1. An hourly fee comprised of the employee's hourly rate and benefits, excluding administrative and overhead charges, for the completion of approved work documented and approved from invoices submitted by COUNTY.
2. Reimbursement of qualifying additional expenses authorized for the satisfactory performance and completion, of the planning services and items of work in accordance with the regulations and policies of the Colorado Department of Transportation (CDOT) and the Federal Highway Administration (FHWA), encompassed within or reasonably necessary to accomplish the tasks and functions described in the FY 2024-2025 UPWP, as adopted by PACOG Resolution 2023-013 on September 28, 2023.
3. The Scope of Work for COUNTY staff that is subject to approval by CITY shall be specifically for eligible transportation planning activities that include work tasks the following tasks identified in the FY 2024-2025 UPWP:
 - i) Initiate discussions with MPO stakeholders regarding the creation of a Pueblo Regional Transportation Authority (RTA) or other dedicated funding sources for transportation.
 - ii) Integrating transit, bicycle and pedestrian planning into all transportation planning efforts.
 - iii) Review proposed major county subdivision proposals, zoning changes, site plans, planned developments and land use issues for impacts to the transportation system and require amendment of the PACOG Long Range Transportation Plan.
 - iv) Assist PACOG members by providing information and other assistance with transportation

- v) Participate in professional training and conferences via teleconferencing, e-mail discussion lists, and webinars.
- vi) Attend FHWA/FTA training programs and other transportation conferences for technical or professional training.
- vii) Meet with FHWA and COOT monthly for MPO updates and discussion
- viii) Assist in providing accurate and current information for the PACOG MPO/TPR website.
- ix) Prepare demographic data as needed for transportation modeling used for special studies and/or project consultants.
- x) Analyze and document current and updated traffic count data for the Pueblo area.
- xi) Analyze and document current and updated collision data for trends and recommended solutions to reduce crash rates.
- xii) Review transit system expansion and route service in planning projects and sub-area studies.
- xiii) Obtain, update, convert, refine, and maintain surface roadway systems data for the Pueblo area. This includes national highway system, state highway system, county and local roadways.
- xiv) Obtain, update, convert, refine, and maintain transit systems data for the Pueblo area. This includes updating of route and stop location changes.
- xv) Utilize the PACOG Travel Demand Model program to run scenarios involving roadway improvements and construction on new transportation routes to evaluate costs and benefits.