



Public Works Commission Agenda - Final

Monday, June 5, 2023

5:30 PM

**Castle Rock Service Center
4175 N. Castleton Court
Castle Rock, CO 80104**

This meeting is open to the public. Please note that all times indicated on the agenda are approximate and interested parties are encouraged to be present earlier than the posted time. Three or more Council members may also attend this meeting, during which the items listed herein will be discussed.

5:00 P.M. Dinner and Informal Discussion

5:30 P.M. Call To Order

5:35 P.M. Public Comment on Items Not on the Agenda

5:40 P.M. Action Items

- | | |
|---|--|
| <u>PWC
2023-024</u> | Introduction of New Commission Members and Election of New Chair and Vice Chair |
| <u>PWC
2023-025</u> | April 3, 2023 Public Works Commission Meeting Minutes |
| <u>PWC
2023-026</u> | Equipment and Goods Purchase Agreement with Envirotech Services, Inc. approving the purchase of 2,900 tons of Ice Slicer |
| <u>PWC
2023-027</u> | Resolution Approving a Service Agreement Between the Town of Castle Rock and Olsson for the Design of the Downtown Pedestrian Lighting Project |
| <u>PWC
2023-028</u> | Resolution recommending Town Council approve an Intergovernmental Agreement with the Board of County Commissioners of the County of Douglas, State of Colorado for the Crowfoot Valley Road Widening Project |
| <u>PWC
2023-029</u> | Resolution recommending Town Council approve a Service Agreement Between the Town of Castle Rock and Alfred Benesch & Company for the design of the Crowfoot Valley Road Widening Project |
| <u>PWC
2023-030</u> | Resolution Recommending Town Council Approve a Construction Contract between the Town of Castle Rock and Kraemer North America for the Crystal Valley Interchange Package 1 Project |
| <u>PWC
2023-031</u> | Resolution Recommending Town Council Approve an Intergovernmental Agreement with Douglas County for the Crystal Valley Interchange Project |

[PWC](#)
[2023-032](#)

Resolution Recommending Town Council Approve the First Amendment to
Town of Castle Rock Services Agreement between Jacobs Engineering
Group for Design of the Crystal Valley Interchange Project

7:00 P.M. Informational / Discussion Items

[PWC](#)
[2023-033](#)

Project Updates

7:05 P.M. Town Council Liasion Comments

7:10 P.M. Commissioner Comments / Questions

7:30 P.M. Adjourn



Town of Castle Rock

Agenda Memorandum

Agenda Date: 6/5/2023

Item #: **File #:** PWC 2023-024

To: Members of the Public Works Commission

From: Dan Sailer, P.E., Public Works Director

Introduction of New Commission Members and Election of New Chair and Vice Chair

Executive Summary

We would like to welcome our new member, Charles Fletcher to the Commission. Also, Kevin Raasch, Gio DiDomenico and Brad Patton, welcome back to the Public Works Commission. All were approved by Town Council at their May 16 meeting.

A new Chair and Vice-Chair will need to be nominated and elected by the Commission at this meeting. Terms for officers shall be from this date to June 2024. The Chair is the executive officer of the commission and presides over all meetings, can call special meetings and workshop sessions, signs documents, cancel regular meetings, and see that all actions of the Commission are properly taken. The Vice-Chair has the same duties and authorities as the Chair in the absence of the Chair.



Town of Castle Rock

Agenda Memorandum

Agenda Date: 6/5/2023

Item #: **File #:** PWC 2023-025

To: Members of the Public Works Commission

From: Monica Cammalleri , Town Liaison

April 3, 2023 Public Works Commission Meeting Minutes

Executive Summary

Attached are the meeting minutes from the April 3, 2023 Public Works Commission meeting for your review and approval.



Public Works Commission Meeting Minutes - Draft

Gio DiDomenico, Chair
Mike White, Vice Chair
Greg Meyers
Brad Patton
Kevin Raasch
Katheryn Wille
Joel Wood

Monday, April 3, 2023

5:30 PM

**Castle Rock Service Center
4175 N. Castleton Court
Castle Rock, CO 80104**

This meeting is open to the public. Please note that all times indicated on the agenda are approximate and interested parties are encouraged to be present earlier than the posted time. Three or more Council members may also attend this meeting, during which the items listed herein will be discussed.

Dinner and Informal Discussion

Call To Order

- Present** 6 - Commissioner Kevin Raasch, Vice Chair Mike White, Commissioner Joel Wood, Commissioner Katheryn Wille, Commissioner Brad Patton, and Chair Gio DiDomenico
- Not Present** 1 - Commissioner Greg Meyers
- Attendance** 4 - Ryan Hollingshead, Dan Sailer, Ryan Germeroth, and Monica Cammalleri

Public Comment on Items Not on the Agenda

There were no public comments.

Action Items

[PWC 2023-020](#) March 6, 2023 Public Works Commission Meeting Minutes

A motion made by Commissioner DiDomenico and seconded by Commissioner White to approve the minutes form the Mach 6, 2023. Motion passed 6-0.

- Yes:** 6 - Commissioner Raasch, Vice Chair White, Commissioner Wood, Commissioner Wille, Commissioner Patton, and Chair DiDomenico
- Not Present:** 1 - Commissioner Meyers

[PWC 2023-021](#) A Resolution Amending the Town of Castle Rock Snowplowing and Ice Control Policy

The Town's Snowplowing and Ice Control Policy amendments to allow the Town Manager to conduct plow activities within residential streets regardless of snow accumulation totals. This modification to the policy is in response to the unusually cold weather in January 2023 that resulted persistent snow pack on the roadways from late December 2022 to the early part of February 2023. The intent of this modification is to allow a proactive response to weather conditions like January 2023 that may result in persistent snow pack and / or icing within the travel lanes of residential streets for a period of five days or more even if the snow totals of a given storm don't meet the thresholds defined in the policy to enact a residential plow response.

A motion was made by Commissioner White and seconded by Commissioner Wood to approve a Resolution Amending the Town of Castle Rock Snowplowing and Ice Control Policy. Motion passed 6-0.

Yes: 6 - Commissioner Raasch, Vice Chair White, Commissioner Wood, Commissioner Wille, Commissioner Patton, and Chair DiDomenico

Not Present: 1 - Commissioner Meyers

[PWC 2023-022](#) A Resolution Amending the Neighborhood Traffic Calming Program

The Neighborhood Traffic Calming Program updates include the following:

- Allow for residential collector roadways to be eligible to receive traffic calming treatments, and
- Allow for private funding to construct treatments on residential streets that don't meet eligibility thresholds

Adjustments have also been included that provide for private funding to implement treatments on residential streets in cases where speed and volume thresholds to utilize public funds are not met. In these cases, the procedures to develop the plan concept and obtain formal plan approval are the same as if public funds are to be utilized. If resident support exists in the future to remove these treatments, private funds must also be utilized.

A motion was made by Commissioner Patton and seconded by Commissioner Raasch to approve a Resolution Amending the Neighborhood Traffic Calming Program. Motion passed 6-0.

Yes: 6 - Commissioner Raasch, Vice Chair White, Commissioner Wood, Commissioner Wille, Commissioner Patton, and Chair DiDomenico

Not Present: 1 - Commissioner Meyers

Informational / Discussion Items

[PWC 2023-023](#) Project Updates

Dan Sailer, Public Works Director gave an overview of the current Public Works projects/programs which was provided to the Commission in their packet.

Town Council Liasion Comments

Commissioner Comments / Questions

Councilperson Hollingshead updated the Commissionstaff of Council items.

Adjourn

There being no further business, the meeting was adjourned at 6:20 p.m.



Town of Castle Rock

Agenda Memorandum

Agenda Date: 6/5/2023

Item #: File #: PWC 2023-026

To: Members of the Public Works Commission

From: Daniel Lord, Street O&M Division Manager

Resolution approving the purchase of 2500 tons of Ice Slicer

Executive Summary

The purpose of this memo is to request final approval for the expenditure of funds to purchase 2,900 tons of Ice Slicer from Envirotech Services Inc. This product is the granular salt product presently approved for use in the Town's Snow and Ice control program. The community values safety on Town roadways and we use this material to assist with improving safety on Town roadways during snow and ice control operations in support of this community value. This material is used at certain locations, like bridges to name just one example, to lower the freezing point of water. This assists with minimizing icing and allows plows to remove more snow from the pavement. The community also values low impacts to the environment so our crews utilize this material as sparingly as possible.

One vendor (Envirotech) offers Ice Slicer, and another vendor (GMCO) offers Torch RT. Both products are proprietary but are very similar in chemical composition and capabilities. Public Works reached out to both for a quote to provide the requisite amount of deicing material. Envirotech responded with the quote attached, GMCO has not provided a quote for the material yet. Being that the early fill savings are a time sensitive one, the window for approval and purchase is small and for this reason, GMCO is being considered nonresponsive.

Approximately 3,500 tons of material is anticipated to be needed to ensure supply for a typical snow season between November and April. This amount continues to rise with added roadways within the Town. Presently 600 tons remain from the 2022/2023 season. The expenditure is a budgeted expenditure however current inflation and higher transportation costs have increased the price from last year by \$11.42 per ton (9.1%). Early fill pricing has been re-established and applies to orders received before the 31st of July, 2023. The quoted price reflects that discount. The pricing for the product is from a competitive state bid which allows the Town to purchase the material at that pricing. The cost to complete this purchase is \$374,100. The 2023 budget for this purchase is \$367,000. The remaining \$10,973 is due to higher than anticipated inflation. Cost savings from other areas will be utilized to cover this difference. If the order is not received by the 31st of July the price per ton increases to \$130, resulting in a total need for \$385,700.00. Total savings from the order prior to July 31, 2023 is \$11,600.

This item will be included in the Town Council packet for June 6th, 2023.

Item #: File #: PWC 2023-026

Budget Impact

The funding source for the proposed expenditure is:

120-3110-431.61-20

\$374,100.00

Staff Recommendation

Staff recommends Public Works Commission recommend that Town Council provide authorization to proceed with the purchase order request.

Proposed Motion

"I move to recommend Town Council approve the resolution as introduced by title"

Attachments

Attachment A: Resolution

Attachment B: Envirotech Quote

Attachment C: Early Fill Pricing

RESOLUTION NO. 2023-__

**A RESOLUTION APPROVING AN EQUIPMENT AND GOODS
PURCHASE AGREEMENT WITH ENVIRONTech SERVICES, INC.**

WHEREAS, the Town of Castle Rock, Colorado (the “Town”) has identified a vendor to purchase 2,900 tons of Ice Slicer for the Town’s Snow and Ice Control Program (the “Goods”); and

WHEREAS, the Project selection team has determined that Environtech Services, Inc., (the “Contractor”) is best qualified to provide the Goods; and

WHEREAS, the Town and the Contractor have agreed to the terms and conditions by which the Contractor will provide work for the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO AS FOLLOWS:

Section 1. Approval. The Agreement between the Town and the Contractor is hereby approved in substantially the same form attached as ***Exhibit 1***, with such technical changes, additions, modifications, deletions, or amendments as the Town Manager may approve upon consultation with the Town Attorney. The Mayor and other proper Town officials are hereby authorized to execute the Agreement and any technical amendments thereto by and on behalf of the Town.

Section 2. Encumbrance and Authorization for Payment. In order to meet the Town's financial obligations under the Agreement, the Town Council authorizes the expenditure and payment from account no. 120-3110-431.61-20 in an amount not to exceed \$374,100.00, unless otherwise authorized in writing by the Town.

PASSED, APPROVED AND ADOPTED this 6th day of June, 2023, by the Town Council of the Town of Castle Rock, Colorado, on first and final reading, by a vote of ____ for and ____ against.

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jason Gray, Mayor

Approved as to form:

Approved as to content:

Michael J. Hyman, Town Attorney

Daniel Sailer, Director of Public Works

TOWN OF CASTLE ROCK
EQUIPMENT AND GOODS PURCHASE AGREEMENT
(2023 Ice Slicer Purchase)

DATE: _____

PARTIES: **TOWN OF CASTLE ROCK**, a Colorado municipal corporation, 100 N. Wilcox Street, Castle Rock, Colorado 80104 (“Town”).

ENVIRONTECH SERVICES, INC., a Colorado corporation, 910 54th Avenue, Suite 230, Greeley, Colorado 80634 (“Contractor”).

RECITALS:

I. The Town may authorize a Sole Source purchase if: (1) the product or service has been formally awarded to a vendor by the State of Colorado, MAPO, or other cooperative purchasing group and the product meets the needs of the Town; (2) the product or service is of a unique nature, or allows for standardization with existing equipment and will provide exceptional value to the Town; or (3) the Town currently has a contract in place with a vendor for like products or services.

II. The Town engaged Contractor pursuant to its Sole Source policy.

TERMS:

1. **Scope of Services.** Contractor shall provide all of the equipment, goods and materials as set forth on ***Exhibit I*** (“Goods”). Contractor shall provide the Goods consistent with standards and practices of the profession.

2. **Total Obligation.** The Town’s total obligation to Contractor under this Agreement for the Goods shall not exceed **\$374,100.00**, unless authorized in writing by the Town.

3. **Payment.** Contractor shall invoice Town upon delivery of the Goods. The Town may withhold payment in whole, or in part for the Goods found by the Town to be defective, untimely, unsatisfactory, or otherwise not conforming to this Agreement, not in conformance with all applicable federal, state, and local laws, ordinances, rules and regulations, or if Contractor is in default of the Inspection and Warranty Section, below. The Town shall remit payment, whether in whole or in part within fifteen (15) days of receipt of such invoice.

4. **Completion.** Contractor understands time is of the essence in this Agreement. Contractor shall deliver the Goods no later than **July 31, 2023**. Contractor shall devote adequate resources to assure timely delivery of the Goods in accordance with the standards specified in this Agreement. Contractor shall use a standard of care, skill and diligence ordinarily used by reputable professionals performing under circumstances similar to those required by this Agreement.

Town shall have the right to terminate this Agreement at any time with 10 days written notice to Contractor. The Town’s only obligation in the event of termination shall be payment of fees and expenses incurred up to and including the effective date of termination. The continuance of this Agreement is contingent upon the appropriation of funds to fulfill the requirements of the Agreement by the Town. If the Town fails to appropriate sufficient monies to provide for the continuance of the Agreement, the Agreement shall terminate on the final day preceding the date of the beginning of the first fiscal year for which funds are not appropriated. The Town’s only obligation in the event of

termination shall be payment of fees and expenses incurred up to and including the effective date of termination.

5. **Inspection and Warranty.** Town reserves the right to inspect the Goods provided under this Agreement at all reasonable times and places during the term of this Agreement. Alternatively, the Town may refuse the Goods and cancel all or any part of this Agreement if Contractor fails to deliver all or any part of the Goods in accordance with the terms and conditions of this Agreement. Failure by the Town to inspect and test the Goods shall not relieve Contractor of such responsibility. Any acceptance by the Town shall not be deemed a waiver or settlement of any defect or nonconformity in such Goods. If Town elects to accept nonconforming or defective Goods, Town, in addition to its other remedies, shall be entitled to deduct a reasonable amount from the price thereof to compensate Town for the nonconformity or defect.

Contractor expressly warrants that all materials, goods and/or equipment furnished under this Agreement shall be free from defects in materials or workmanship, are installed properly and in accordance with the manufacturer recommendations or other industry standards, and will function in a failure-free manner for a period of one (1) year from the date of delivery or installation. Contractor, shall, at its option, repair or replace any material and/or equipment that fail to satisfy this warranty during the warranty period. Additionally, Contractor agrees to assign to the Town all written manufacturer warranties relating to the supplies and to deliver such written warranties to the Town.

6. **Risk of Loss.** With respect to any goods or equipment provided under this Agreement, risk of loss shall not pass to the Town until such equipment has been received and accepted by the Town, pursuant to the Inspection and Warranty Section herein, above, at the destination specified by the Town. Contractor assumes full responsibility for packing, crating, marking, transporting, and liability for loss or damage in transit, notwithstanding any agreement by the Town to pay freight, express or other transportation charges.

7. **Annual Appropriation.** The continuance of this Agreement is contingent upon the appropriation of funds to fulfill the requirements of the Agreement by the Town. If the Town fails to appropriate sufficient monies to provide for the continuance of the Agreement, the Agreement shall terminate on the final day preceding the date of the beginning of the first fiscal year for which funds are not appropriated. The Town's only obligation in the event of termination shall be payment of fees and expenses incurred up to and including the effective date of termination.

8. **Assignment.** This Agreement shall not be assigned by Contractor without the written consent of the Town.

9. **Notice.** Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, addressed to the party to whom such notice is to be given at the address set forth on the first page of this Agreement, or at such other address as has been previously furnished in writing to the other party or parties. Such notice shall be deemed given when deposited in the United States mail.

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

11. **Indemnification.** Contractor expressly agrees to defend, indemnify and hold harmless Town or any of its agents, officers or employees from any and all claims, damages, liability, or court awards including attorney's fees that are or may be awarded as a result of any loss, injury or damage sustained or claimed to have been sustained by anyone, including, but not limited to, any person, firm, partnership, or corporation, to the extent caused by the negligent acts, errors or omissions of Contractor or any of their employees or agents in performing Services pursuant to this Agreement. In the event that any such suit or action is brought against Town, Town will give notice within ten (10) days thereof to Contractor. These defense and indemnification obligations shall survive the expiration or termination of this Agreement.

12. **Delays.** Any delays in or failure of performance by any party of the obligations under this Agreement shall be excused if such delays or failure are a result of acts of God, fires, floods, strikes, labor disputes, accidents, regulations or orders of civil or military authorities, shortages of labor or materials, or other causes, similar or dissimilar, which are beyond the control of such party.

13. **Additional Documents & Entire Agreement.** The parties agree to execute any additional documents or take any additional action that is necessary to carry out this Agreement. Further, this Agreement represents the entire agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties. If any other provision of this Agreement is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Agreement shall continue in full force and effect.

14. **Time of the Essence.** If any payment or any other condition, obligation, or duty is not timely made, tendered or performed by either party, then this Agreement, at the option of the party who is not in default, may be terminated by the non-defaulting party, in which case, the non-defaulting party may recover such damages as may be proper.

15. **Default and Remedies.** In the event either party should default in performance of its obligations under this agreement, and such default shall remain uncured for more than ten (10) days after notice of default is given to the defaulting party, the non-defaulting party shall be entitled to pursue any and all legal remedies and recover its reasonable attorney's fees and costs in such legal action. In addition, no party will be entitled to lost profits, economic damages, or actual, direct, incidental, consequential, punitive or exemplary damages in the event of a default.

16. **Waiver.** A waiver by any party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party.

17. **Venue, Choice of Law and Disputes.** Venue for all legal actions shall lie in the District Court in and for the County of Douglas, State of Colorado, and shall be governed by the laws of the State of Colorado as well as the Charter and Municipal Code, rules, regulations, Executive Orders, and fiscal rules of the Town.

18. **Americans with Disabilities Act.** Contractor agrees to ensure that any deliverables, work, services, or equipment developed, designed, constructed or produced pursuant to this Agreement, to include website design services, will comply with all requirements of Title II of the Americans with Disabilities Act and, where applicable, Section 504 of the Rehabilitation Act, the Architectural Barriers Act, and the Colorado Anti-Discrimination Act. To the extent any deliverables, work, services, or equipment developed, designed, constructed or produced pursuant to this Agreement fail to comply with the requirements of this Section, Contractor shall indemnify the Town in accordance with the

terms or this Agreement and, at the Town's option, shall re-vise, re-construct, or similar, the non-compliant deliverable, work, service, or equipment, or reimburse the Town for the cost associated with bringing the non-compliance deliverable, work, service or equipment into compliance.

19. **No Discrimination in Employment.** The Town is a governmental agency and, therefore, in connection with the performance of Work or Services under this Agreement, Contractor shall not refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability, or any other protected class under Federal or State law; and Contractor shall insert the foregoing provision in any subcontracts hereunder.

20. **Advertising and Public Disclosure.** Contractor shall not include any reference to this Agreement or goods or services provided pursuant to this Agreement in any of Contractor's advertising or public relations materials without first obtaining the written approval of the Town. Nothing herein, however, shall preclude the transmittal of any information to officials of the Town, including without limitation, the Town Attorney, Town Manager, and the Town Council.

21. **Ownership of Documents, Open Records, and Copyright.** Any work product, materials, and documents produced by the Contractor pursuant to this Agreement shall become property of the Town upon delivery and shall not be made subject to any copyright or made confidential or protected in any manner unless authorized by the Town. Other materials, methodology and proprietary work used or provided by the Contractor to the Town not specifically created and delivered pursuant to the Services outlined in this Agreement may be protected by a copyright held by the Contractor and the Contractor reserves all rights granted to it by any copyright. However, Contractor acknowledges and understands that the Town is subject to the Colorado Open Records Act, C.R.S. § 24-72-201, et seq. The Town shall not reproduce, sell, or otherwise make copies of any copyrighted, confidential or protected material, subject to the following exceptions: (1) for exclusive use internally by Town staff and/or employees; or (2) pursuant to a request under the Colorado Open Records Act, C.R.S. § 24-72-201, et seq., to the extent that such statute applies; or (3) pursuant to law, regulation, or court order. The Contractor waives any right to prevent its name from being used in connection with the Services.

Contractor warrants that all Services or Work performed under this Agreement shall comply with all applicable patent, trademark and copyright laws, rules, regulations and codes of the United States. Contractor shall not utilize any protected patent, trademark or copyright in performance of the Work or Services unless Contractor has obtained proper permission and all licenses, releases and other necessary documents. Contractor releases, defends, indemnifies and holds harmless the Town, its officers, agents, and employees from any and all claims, damages, suits, costs, expenses, liabilities actions or proceedings of any kind or nature whatsoever, of or by anyone whomsoever, in any way resulting from, or arising out of, directly or indirectly, the performance of the Work or Services under this Agreement which infringes upon any patent, trademark or copyright protected by law.

22. **Authority.** The individuals executing this Agreement represent that they are expressly authorized to enter into this Agreement on behalf of the Town and the Contractor and bind their respective entities. This Agreement is executed and made effective as provided above.

23. **Independent Contractor.** Contractor has completed the Affidavit of Independent Contractor Status, attached as *Exhibit 2*, and submitted same at the time of execution of this Agreement. In addition to the Affidavit, Contractor and the Town hereby represent that Contractor is an independent contractor for all purposes hereunder. Contractor is not covered by any worker's compensation

insurance or any other insurance maintained by Town except as would apply to members of the general public. Contractor shall not create any indebtedness on behalf of the Town.

24. **No Third Party Beneficiaries.** It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to Town and Contractor, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party on such Agreement. It is the express intention of the parties that any person other than Town or Contractor receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

25. **Counterparts & Electronic Signatures.** This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall be deemed to constitute one and the same instrument. Each of the parties hereto shall be entitled to rely upon a counterpart of the instrument executed by the other party and sent by electronic mail. Each party agrees that this Agreement and any other documents to be delivered in connection herewith may be electronically signed, and that any electronic signatures appearing on this Agreement or such other documents are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

26. **Licenses/Taxes.** Contractor affirms it is licensed to do business in the State of Colorado and is in good standing. Further, Consultant shall be solely responsible for paying all applicable taxes associated with or rising out of this Agreement.

27. **Confidentiality.** Contractor agrees that it shall treat as confidential all information provided by the Town regarding the Town's business and operations. All confidential information provided by the Town hereto shall be used by Consultant solely for the purposes of rendering services or work pursuant to this Agreement and, except as may be required in carrying out the terms of this Agreement, shall not be disclosed to any third party without the prior consent of the Town. The foregoing shall not be applicable to any information that is publicly available when provided or which thereafter becomes publicly available or which is required to be disclosed by any regulatory authority in the lawful and appropriate exercise of its jurisdiction over a party, any auditor of the parties hereto, by judicial or administrative process or otherwise by applicable law or regulation.

28. **Priority of Provisions.** In the event that any terms of this Agreement and any Exhibit, attachment, or other referenced document are inconsistent, the following order of priority shall control: (1) this Agreement; (2) Exhibit containing Certificate of Insurance; and (3) Scope of Services.

ATTACHED EXHIBITS:

EXHIBIT 1 – GOODS

EXHIBIT 2 – TOWN OF CASTLE ROCK AFFIDAVIT OF INDEPENDENT CONTRACTOR STATUS

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK



ATTEST:

Lisa Anderson, Town Clerk

Approved as to form:

Lena McClelland, Assistant Town Attorney

CONTRACTOR:

ENVIRONTECH SERVICES, INC.

By: _____

Its: _____

TOWN OF CASTLE ROCK

Jason Gray, Mayor

Approved as to content:

David L. Corliss, Town Manager

EXHIBIT 1

GOODS

Contractor shall provide 2900 tons of Ice Slicer.



SALES QUOTE

910 54th Ave., Suite 230
 Greeley, CO 80634
 Order Line 800-577-5346 x 5
 Fax 970-346-3959

Sales Person Sabrina Christianson
 303-909-5973
 DATE 5/2/2023

TO: Town of Castle Rock
 4175 N. Castleton Ct.
 Castle Rock, CO 80109

Ship Address: Town of Castle Rock

Phone: 720-733-2266

Contact: Dan Lord

Fax: 303-660-1025

Email for Confirmation: dlord@crgov.com

New Customer ☐

Credit/Pre-Pay	FOB Origin	Delivered FOB Destination	EnviroTech Water	Customer Water	EnviroTech Apply Product	Plant Site
						COAND

QTY	Unit	DESCRIPTION / APPLICATION RATE	Cust. # - CA #	UNIT PRICE	LINE TOTAL
2900	tons	Ice Slicer RS Early Fill Delivered 10 day pricing	11127-771	\$ 129.00	\$ 374,100.00
					\$ -
LENGTH			PO#		
WIDTH				Subtotal	
				Tax	
				TOTAL	

EXHIBIT 2**TOWN OF CASTLE ROCK
AFFIDAVIT OF INDEPENDENT CONTRACTOR STATUS**

In accordance with Section 8-70-115, C.R.S., I certify the following:

- With respect to the Agreement, Environtech Services, Inc. (“Entity”) represents and warrants that it is the Entity’s express intention to be employed as an independent contractor of the Town of Castle Rock (the “Town”) for purposes of performing the work or services which are the subject of the Agreement, to include all employees and agents of the above-named entity. Entity understands and confirm that the Town reasonably relied on this intention in entering into the Agreement.
- The Town does not require Entity work exclusively for the Town, except that Entity may choose to work exclusively for the Town for a finite period of time specified in the document.
- The Town does not establish a quality standard for the work or services performed pursuant to the Agreement, except that the Town may provide plans and specifications regarding the work but cannot oversee the actual work or provide instruction as to how the work is performed.
- The Town does not pay a salary or hourly rate but rather a fixed or contract rate, as noted in the terms and conditions of the Agreement, and any Exhibits made part of the Agreement.
- The Town cannot terminate the work or services performed during the contract period unless otherwise agreed to in the terms and conditions of the Agreement.
- Entity is not provided with anything, if at all, more than minimal training from the Town.
- The Town does not provide Entity with tools or benefits for the performance of the work or services which are the subject of the Agreement, except materials and equipment may be supplied.
- The Town does not dictate the time of performance, except that a completion schedule and a range of mutually agreeable work hours may be established in the Agreement.
- The Town does not pay Entity personally but rather makes checks payable to the trade or business name of the Entity, who is a party to the Agreement; and the Town does not combine their business operations in any way with the entity’s business, but instead maintains such operations as separate and distinct.
- Entity understands that if a professional license to practice a particular occupation under the laws of the State of Colorado requires the exercise of a supervisory function with regard to the work of services performed under this Agreement, such supervisory role shall not affect the independent contractor relationship with the Town.
- **ENTITY UNDERSTANDS THAT NEITHER ENTITY NOR ITS EMPLOYEES ARE ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS OF THE TOWN.**



- **ENTITY UNDERSTANDS THAT IT IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX ON MONEYS PAID PURSUANT TO THE AGREEMENT.**

CONTRACTOR

ENVIRONTECH SERVICES, INC.

By: _____

Name

STATE OF COLORADO)

) *ss.*

COUNTY OF _____)

The foregoing instrument as acknowledged before me this ___ day of _____, 20__
by _____ as _____ of the above-mentioned Contractor.

Witness my official hand and seal.

My commission expires:

Notary Public



SALES QUOTE

910 54th Ave., Suite 230
Greeley, CO 80634
Order Line 800-577-5346 x 5
Fax 970-346-3959

Sales Person Sabrina Christianson
303-909-5973
DATE 5/2/2023

TO: Town of Castle Rock
4175 N. Castleton Ct.
Castle Rock, CO 80109

Ship Address: Town of Castle Rock

Phone: 720-733-2266
Fax: 303-660-1025

Contact: Dan Lord
Email for Confirmation: dlord@crgov.com

New Customer ☐

Credit/Pre-Pay	FOB Origin	Delivered FOB Destination	EnviroTech Water	Customer Water	EnviroTech Apply Product	Plant Site
						COAND

QTY	Unit	DESCRIPTION / APPLICATION RATE	Cust. # - CA #	UNIT PRICE	LINE TOTAL
2900	tons	Ice Slicer RS Early Fill Delivered 10 day pricing	11127-771	\$ 129.00	\$ 374,100.00
					\$ -
LENGTH			PO#		
WIDTH				Subtotal	
				Tax	
				TOTAL	

*Taxes, if applicable, will be added to this total. Total may vary depending on final quantities delivered. Prices may change without notice.

If tax exempt, list state & certificate # _____

If tax exempt information is incomplete, sales tax will be charged.

Notes/Special Requirements (i.e. special fittings, longer hoses, etc.)

Product price follows CDOT's zone 11 10 day pricing. This price is valid on all product delivered through 7-31-23. Any material delivered after 7-31-23 will be billed at \$130.00 per ton.

Disclaimer: No warranty is conveyed concerning this product, be it expressed or implied. This includes but is not limited to a warranty of merchantability or fitness for a particular purpose. Product performance may vary depending on road conditions, traffic counts, weather and other related factors.

Credit Card Information:

Name on Card
Credit Card number
Billing Address from cc stmt
Exp date
3 Digit Code



Mailing Address: 910 54th Avenue, Suite #230, Greeley, Colorado 80634
Phone 970-346-3900 Fax 970-346-3959 E-mail info@envirotechservices.com

April 28th, 2023

Dear Deicing Partner,

I hope this letter finds you well. As we start to get some semblance of normalcy, I wanted to thank you all for keeping us safe and hope you and your families are happy and healthy. It certainly was a trying time and was taxing on everyone.

I'm happy to say that this year we are able to offer an Early Fill discount again as an encouragement to fill your sheds prior to the first snowstorms of 2023/2024. Despite inflation rates continuing to climb, we are confident that we can mitigate some of its impact by using our investments in storage capacities and increased rail fleet. Therefore, I am happy to report that this year's discount will be the following and will start on May 1st, 2021:

The early fill discounts are as follows:

May – July	\$4.00 per ton
August - September	\$3.00 per ton

As in years past, if you order at the end of July and your product gets delivered in August, then the price will reflect the \$3.00 per ton discount not the \$4.00 per ton.

Because of your efforts last year to fill your storage prior to the 1st snow event, we were able to successfully backfill our main stockpile. As a result of that, we were able to continually supply you in a timely manner during an abnormally busy snow season. Working together really helped everyone. We encourage you to take advantage of the Early Fill Discount again this year. Should you hold off ordering until after September, please keep in mind that starting October 1st 2023, not only will the Early Fill discount end, but because rail freight and production costs increase every year, there will more than likely be an increase above last season's pricing structure. The exact price increase has yet to be determined, but we expect to know the extent of the increase by mid-summer.

We strongly encourage you to fill your sheds now not only to take advantage of the reduced prices, but perhaps more importantly, to have your stockpile ready to withstand the first few storms of next season. This will greatly reduce the emergency delivery situations that happen when we experience several snow events in a row.

If you have any questions, please feel free to contact your sales representative.

Thank you for your continued business; EnviroTech truly appreciates you.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Tim Pike', with a stylized flourish at the end.

Tim Pike
Regional Manager
EnviroTech Services, Inc.



Town of Castle Rock

Agenda Memorandum

Agenda Date: 6/5/2023

Item #: File #: PWC 2023-027

To: Members of the Public Works Commission

From: Austin Payne, Project Manager

Resolution Approving a Service Agreement Between the Town of Castle Rock and Olsson for the Design of the Downtown Pedestrian Lighting Project

Executive Summary

Staff is seeking Town Council approval of a Resolution (**Attachment A**) awarding a Service Agreement between the Town of Castle Rock and Olsson for the Downtown Pedestrian Lighting Project.

The downtown area of Castle Rock is a tight knit, well-traveled location both by motorists and pedestrians. The Downtown area is bordered on the west by Interstate 25, north by Wolfensberger Road, east by Perry Street and south by Plum Creek Parkway. Within these boundaries, various locations have been identified as “low lit” areas which are in need of lighting improvements for visibility and accessibility.

The amount of the service agreement is \$293,767 which includes a Town Managed Contingency of \$13,989. The funding for this project is being provided through an Intergovernmental Agreement (IGA) (**Attachment B**) with the Colorado Department of Transportation in which the Town and CDOT will have contribution percentages for both design and construction. The information presented herein includes: notification and outreach efforts; discussion of improvement scope; and budget impacts.

Notification and Outreach Efforts

Notification and outreach efforts for the project will be provided by the Town of Castle Rock Community Relations department as well as the project design team. Outreach efforts will include “know as you go” information, social media posts and mailers for the affected businesses. This project is going to be very low impact to businesses, homeowners, motorists and pedestrians therefore will consist primarily of social media and website posts.

Discussion

The downtown area of Castle Rock is a tight knit, well-traveled location both by motorists and pedestrians. The Downtown area is bordered on the west by Interstate 25, north by Wolfensberger

Road, east by Perry Street and south by Plum Creek Parkway. Within these boundaries various locations have been identified as “low lit” areas which are in need of lighting improvements for visibility and accessibility.

The lighting project will complete all design elements for implementation and construction of new lighting facilities where the need is identified. Scope of work included in the service agreement includes:

- Photometric Analysis of the Downtown area to determine the best locations for additional lighting
- Electrical design
- Subsurface Utility Engineering (SUE) to identify all existing utilities within a 20ft radius of each new light location
- Project survey and mapping

This project aligns with elements valued by the community:

Improving Safety - This project includes the design of new lighting facilities which will help better light the downtown area including sidewalks and roadways to increase safety.

Improving Reliability - The design of this project will increase the lighting and safety of the Downtown corridor by improving visibility at crosswalks and mid-block crossings for pedestrians crossing roadways.

Achieving Low Life-Cycle Costs - The proposed services with this contract include using existing power lines and meters that currently power lights in the Downtown area. Using existing infrastructure will reduce costs and impact to the Town.

Focus on Low Environmental Impacts - In order to minimize environmental impacts of the Downtown Pedestrian Lighting project, the project will stay within the Town’s existing right of way, thereby eliminating any possibility for environmental impact.

An overview of the project area and proposed improvements to be evaluated/designed with this service agreement is depicted on (**Attachment C**).

A formal Request for Proposal (RFP) was advertised publicly in accordance with Town of Castle Rock Purchasing Policy Number 1045. Four qualified engineering firms submitted proposals in conformance with the RFP requirements. A selection committee of five members from the Public Works Engineering Division and the Colorado Department of Transportation evaluated the proposals and have made a formal recommendation to award the service agreement to Olsson.

Budget Impact

The total estimated cost for the Downtown Pedestrian Lighting Project design is \$293,767 which includes a 5% contingency of \$13,989.

Project Funding Breakdown	
Executed IGA for Design/Construction	\$ 600,000.00
CDOT Portion of Design Funding (80%)	\$ 235,013.60
Town Portion of Design Funding (20%)	\$ 58,753.40
Funding Remaining For Construction	\$ 306,233.00

As this project has been planned and approved with the execution of the IGA with CDOT, the entire project budget will be \$600,000. The project budget will be split per the IGA into an 80/20 share, with the Towns share being \$120,000 and CDOT/DRCOG being \$480,000. Funds remaining after the design contract will then be used to fund the construction of the improvements.

Staff Recommendation

Town Staff recommends the Public Works Commission recommend to Town Council to approve the resolution as introduced by title.

Proposed Motion

"I move that the Public Works Commission recommend that Town Council approve the attached Resolution as introduced by title."

Alternative motions:

"I move to recommend that Town Council approve the attached Resolution as introduced by title, with the following conditions: (list conditions)"

"I move to continue this item to the Public Works Commission meeting on (date) to allow additional time to (list information needed)"

Attachments

Attachment A: Resolution

Attachment B: Executed IGA

Attachment C: Conceptual Project Overview (Proposed Light Locations)

RESOLUTION NO. 2023-

**A RESOLUTION APPROVING AN AGREEMENT FOR SERVICES WITH
OLSSON, INC.**

WHEREAS, the Town of Castle Rock, Colorado (the “Town”) has solicited proposals for the Downtown Pedestrian Lighting Project (the “Project”); and

WHEREAS, the Project selection team has determined Olsson, Inc., (the “Contractor”) is best qualified to perform work for the Project; and

WHEREAS, the Town and the Contractor have agreed to the terms and conditions by which the Contractor will provide work for the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO AS FOLLOWS:

Section 1. Approval. The Agreement between the Town and Olsson, Inc. is hereby approved in substantially the same form attached as ***Exhibit 1***, with such technical changes, additions, modifications, deletions, or amendments as the Town Manager may approve upon consultation with the Town Attorney. The Mayor and other proper Town officials are hereby authorized to execute the Agreement and any technical amendments thereto by and on behalf of the Town.

Section 2. Encumbrance and Authorization for Payment. In order to meet the Town's financial obligations under the Agreement, the Town Council authorizes the expenditure and payment from account no. 120-3175-431.75-26 in an amount not to exceed \$293,767.00, plus a Town-managed contingency in the amount of \$13,989.00, unless otherwise authorized in writing by the Town. Any expenditure of the Town-managed contingency for purposes within the original scope of the Agreement may be authorized through a technical amendment to the Agreement as provided in Section 1 of this Resolution.

PASSED, APPROVED AND ADOPTED this 6th day of June, 2023, by the Town Council of the Town of Castle Rock, Colorado, on first and final reading, by a vote of ___ for and ___ against.

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jason Gray, Mayor

Approved as to form:

Approved as to content:

Michael J. Hyman, Town Attorney

Daniel Sailer, Director of Public Works



**TOWN OF CASTLE ROCK
SERVICES AGREEMENT
(Downtown Pedestrian Lighting Project)**

DATE: _____.

PARTIES: **TOWN OF CASTLE ROCK**, a Colorado municipal corporation, 100 N. Wilcox Street, Castle Rock, Colorado 80104 (the “Town”).

OLSSON, INC., a Nebraska corporation, 601 P Street, Ste 200, Lincoln, Nebraska 68508 (“Contractor”).

RECITALS:

- A. Town wishes to engage Contractor to provide the services more fully described in the following Agreement and Exhibits.

TERMS:

Section 1. Scope of Services. Contractor shall provide roofing services as described in the attached *Exhibit 1* (“Services”).

Section 2. Payment. Contractor shall invoice Town for the Services rendered in accordance with the rate and fee schedule set forth in *Exhibit 1*. The Town shall pay such invoices within 30 days receipt of such invoice. In no event shall payment exceed **\$293,767.00**, unless authorized in writing by Town.

Section 3. Completion. Contractor shall commence the Services upon execution of this Agreement and complete the Services by **April 28, 2024**. Contractor shall devote adequate resources to assure timely completion of the Services. Contractor shall perform the Services under this Agreement using a standard of care, skill and diligence ordinarily used by reputable professionals performing under circumstances similar to those required by this Agreement.

Town shall have the right to terminate this Agreement at any time with 30 days written notice to Contractor. The Town’s only obligation in the event of termination shall be payment of fees and expenses incurred up to and including the effective date of termination. Contractor shall turn over all work product produced up to the date of termination.

Section 4. Annual Appropriation. The continuance of this Agreement is contingent upon the appropriation of funds to fulfill the requirements of the Agreement by the Town. If the Town fails to appropriate sufficient monies to provide for the continuance of the Agreement, the Agreement shall terminate on the final day preceding the date of the beginning of the first fiscal year for which funds are not appropriated. The Town’s only obligation in the event of termination shall be payment of fees and expenses incurred up to and including the effective date of termination.

Section 5. Subcontractors. Contractor may utilize subcontractors to assist with specialized works as necessary to complete the Services. Contractor will submit any proposed subcontractor and the description of their services to the Town for approval.

Section 6. Assignment. This Agreement shall not be assigned by Contractor without the written consent of the Town.

Section 7. Notice. Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, addressed to the party to whom such notice is to be given at the address set forth on the first page of this Agreement, or at such other address as has been previously furnished in writing to the other party or parties. Such notice shall be deemed given when deposited in the United States mail.

Section 8. Insurance. Contractor agrees to procure and maintain, at his own cost, the following policy or policies of insurance. Contractor shall not be relieved of any liability, claims, demands or other obligations assumed pursuant to this Agreement by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types.

A. Contractor shall procure and maintain, and shall cause each subcontractor of the Contractor to procure and maintain a policy with the minimum insurance coverage listed below. Such coverage shall be procured and maintained with forms and insurers acceptable to the Town. All coverage shall be continuously maintained from the date of commencement of services hereunder. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

1. Workers Compensation insurance to cover obligations imposed by the Workers Compensation Act of Colorado and any other applicable laws for any employee engaged in the performance of Work under this contract, and Employer's Liability insurance with minimum limits of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) each accident, FIVE HUNDRED THOUSAND DOLLARS (\$500,000) disease-policy limit, and FIVE HUNDRED THOUSAND DOLLARS (\$500,000) disease-each employee.

2. Comprehensive General Liability insurance with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall contain a severability of interests provision.

3. Comprehensive Automobile Liability Insurance with minimum combined single limits for bodily injury and property damage of not less than ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate with respect to each of Contractor's owned, hired and/or non-owned vehicles

assigned to or used in performance of the services. The policy shall contain a severability of interests provision.

B. The policies required above, except Workers' Compensation insurance, Employers' Liability insurance and Professional Liability insurance shall be endorsed to include the Town, its officers and employees, as additional insureds. Every policy required above, except Workers' Compensation shall be primary insurance, and any insurance carried by the Town, its officers, or its employees, shall be excess and not contributory insurance to that provided by Contractor. The additional insured endorsement for the Comprehensive General Liability insurance required above shall not contain any exclusion for bodily injury or property damage arising from completed operations. The Contractor shall be solely responsible for any deductible losses under each of the policies required above.

C. Certificates of insurance shall be completed by Contractor's insurance agent and submitted at the time of execution of this Agreement as ***Exhibit 2*** as evidence that policies providing the required coverage, conditions and minimum limits are in full force and effect, and shall be subject to review and approval by the Town. Each certificate shall identify the Project and shall provide that coverage afforded under the policies shall not be cancelled, terminated or materially changed until at least 30 days prior written notice has been given to the Town. If the words "endeavor to" appear in the portion of the certificate addressing cancellation, those words shall be stricken from the certificate by the agent(s) completing the certificate. The Town reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

D. Failure on the part of Contractor to procure or maintain policies providing the required coverage, conditions, and minimum limits shall constitute a material breach of contract upon which at the Town's discretion may procure or renew any such policy or any extended connection therewith, and all monies so paid by the Town shall be repaid by Contractor to the Town upon demand, or the Town may offset the cost of the premiums against any monies due to Contractor from the Town.

Section 9. Colorado Governmental Immunity Act. The parties understand and agree that the Town is relying on, and does not waive or intend to waive by any provision of this contract, the monetary limitations (presently \$424,000 per person, \$1,195,000 for two or more persons, per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S., as from time to time amended, or otherwise available to Town, its officers, or its employees.

Section 10. Indemnification. Contractor expressly agrees to indemnify and hold harmless Town or any of its officers or employees from any and all claims, damages, liability, or court awards including attorney's fees that are or may be awarded as a result of any loss, injury or damage sustained or claimed to have been sustained by anyone, including, but not limited to, any person, firm, partnership, or corporation, to the extent caused by the negligent acts, errors or omissions of Contractor or any of their employees or agents in performing work pursuant to this Agreement. In the event that any such suit or action is brought against Town, Town will give notice within ten (10) days thereof to Contractor.

Section 11. Delays. Any delays in or failure of performance by any party of his or its obligations under this Agreement shall be excused if such delays or failure are a result of acts of God, fires, floods, strikes, labor disputes, accidents, regulations or orders of civil or military authorities, shortages of labor or materials, or other causes, similar or dissimilar, which are beyond the control of such party.

Section 12. Additional Documents. The parties agree to execute any additional documents or take any additional action that is necessary to carry out this Agreement.

Section 13. Entire Agreement. This Agreement represents the entire agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties. If any other provision of this Agreement is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Agreement shall continue in full force and effect.

Section 14. Time of the Essence. Time is of the essence. If any payment or any other condition, obligation, or duty is not timely made, tendered or performed by either party, then this Agreement, at the option of the party who is not in default, may be terminated by the non-defaulting party, in which case, the non-defaulting party may recover such damages as may be proper.

Section 15. Default and Remedies. In the event either party should default in performance of its obligations under this agreement, and such default shall remain uncured for more than 10 days after notice of default is given to the defaulting party, the non-defaulting party shall be entitled to pursue any and all legal remedies and recover its reasonable attorney's fees and costs in such legal action. In addition, no Party will be entitled to lost profits, economic damages, or actual, direct, incidental, consequential, punitive or exemplary damages in the event of a default.

Section 16. Waiver. A waiver by any party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party.

Section 17. Governing Law. This Agreement shall be governed by the laws of the State of Colorado in the Douglas County District Court.

Section 18. Independent Contractor. Contractor has completed the Affidavit of Independent Contractor Status, attached as *Exhibit 3*, and submitted same at the time of execution of this Agreement. In addition to the Affidavit, Contractor and the Town hereby represent that Contractor is an independent contractor for all purposes hereunder. Contractor represents and warrants that they are free from the Town's direction and control in the performance of their work or services and that they have an independent business doing the specific type of work or services which are the subject of this Agreement. More specifically, Contractor represents and warrants that the Town does not control what work or services they will perform or the manner in which such work or services will be performed. As such, Contractor is not covered by any worker's



compensation insurance or any other insurance maintained by Town except as would apply to members of the general public. Contractor shall not create any indebtedness on behalf of the Town.

Section 19. No Third Party Beneficiaries. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to Town and Contractor, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party on such Agreement. It is the express intention of the parties that any person other than Town or Contractor receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

Section 20. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall be deemed to constitute one and the same instrument. Each of the Parties hereto shall be entitled to rely upon a counterpart of the instrument executed by the other Party and sent by electronic mail.

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jason Gray, Mayor

Approved as to form:

Approved as to content:

Lena McClelland, Assistant Town Attorney

Daniel Sailer, Director of Public Works

CONTRACTOR:

OLSSON, INC.

By: 

Its: VICE PRESIDENT



EXHIBIT 1

SERVICES AND FEE SCHEDULE



April 20, 2023

Austin Payne

Project Manager - CIP
Town of Castle Rock | Public Works Department
4175 Castleton Ct.
Castle Rock, CO 80109

RE: Proposal for Downtown Pedestrian Lighting

Mr. Payne:

Olsson is pleased to submit this scope of work, fee estimate, and draft project schedule to the Town of Castle Rock (Town) to deliver the Downtown Pedestrian Lighting updates.

We anticipate notice to proceed in early May 2023, after a Design Scoping Meeting with CDOT the last week of April, and this contract wrapping up in December 2023.

If you should have any questions regarding this proposal, I will welcome your call at 303.720.0302 (cell). Thank you again for the opportunity to propose on this project. We look forward to working with the Town.

Kind Regards,

A handwritten signature in black ink that reads "Jessica Burch". The signature is fluid and cursive.

Jessica Burch, PE
Transportation Team Leader
Project Manager

General Project Scope

The Town of Castle Rock is requesting photometric analysis and pedestrian lighting design to improve safety in the downtown area.

Improvements include new pedestrian light poles and foundations, installing pull boxes outside sidewalk/pedestrian paths (when possible), coordination with utility companies for power, Subsurface Utility Engineering (SUE) services, environmental resource review and documentation, and reviewing pedestrian paths/ramps to be ADA-compliant.

The following scope narrative and the attached fee documents describe our approach to the work, and assumes an accelerated CDOT Local Agency Process (combined FIR/FOR submittal) to target a Summer 2023 Advertisement:

Task 100 – Meetings / Project Management

Monthly invoices and progress reports will be provided, and we will continuously monitor the budget and schedule throughout the life of the project. In addition to regular communication via phone and email, the Olsson team will meet with Town staff twice a month to ensure that the project is moving ahead as planned and budgeted by reviewing work completed and detailing work to be completed in the coming month. These meetings will be scheduled to occur in conjunction with the following milestones of the project on an as-needed basis via Microsoft Teams.

The Olsson team will attend the following meetings:

- Town Kick-off Meeting
- CDOT Design Scoping Meeting
- Concept Design Field Review Meeting (in-person)
- CDOT FIR/FOR Meeting

Time for meeting prep, travel to and from, meeting attendance and preparation of meeting minutes is included in the scope of work and fee estimate.

Deliverables:

- Monthly Invoices & Progress Reports
- Preparation for and Attendance of 10 Progress Meetings
- Meeting Agendas
- Meeting Minutes

Task 200 – Public and Stakeholder Involvement

The Town will handle the Public and Stakeholder Outreach for the project, therefore Olsson and the rest of the project team assume no services or fee for this task.

Task 300 – Data Collection (Geospatial Data)

Olsson will conduct field reviews within the project limits to collect data ranging from existing roadway safety observations, general traffic safety concerns, ADA compliance along proposed lighting facility locations, and existing lighting infrastructure details including pole height, luminaire type, structural condition from visual inspections, and illuminance levels. Data will be collected in a GIS database at sub-meter accuracy and will be provided to the Town.

Existing illuminance levels will be collected at a maximum of four (4) intersection locations to aid in the design development for the project. Illuminance levels collected from the field will be analyzed based on the Town of Castle Rock's photometric criteria identified in the *Downtown Mobility Master Plan* including a uniformity ratio of 4:1 and a minimum average of 4.1 footcandles at intersection and crosswalks, and a minimum average of 2.7 between intersections. Existing illuminance maps will be produced to depict the study location's compliance with the Town's photometric criteria and used to optimize proposed improvements. Intersections anticipated to be reviewed are included below for reference.

Existing Illuminance Levels Study Locations:

1. Wilcox Street and Fourth Street (Lighting facilities built out – Conventional Intersection)
2. Perry Street and Third Street (Lighting facilities built out – Roundabout Intersection)
3. Perry Street and Second Street (Proposed lighting facilities)
4. Wilcox Street and Fifth Street (Proposed lighting)

Deliverables:

- Existing Illuminance Maps (Four study locations)
- GIS Database

Task 400 – Environmental and Historical Services

Olsson, with the support of Pinyon, will provide the documents necessary for the CDOT Environmental Clearance.

It is anticipated that this project will obtain a Categorical Exclusion Clearance and Olsson will oversee all documentation to complete Parts B and C of the CDOT Form 128, where necessary. It is anticipated that Olsson and Pinyon will handle all necessary documentation, and CDOT will provide review only, for the following environmental resources:

Resource Evaluations	Assumptions
Air Quality	We assume that this project will be exempt from conformity analysis; therefore, no formal studies will be required. Olsson will document this exemption in a simple Air Quality memorandum.
Noise	Capacity will not be added and there will not be a vertical change in profile of five feet or greater. This is considered a Type III project and a noise assessment is not required. Olsson will document in a simple Noise memorandum.
Hazardous Materials (Hazmat)	Pinyon will conduct a site visit and will complete an Initial Site Assessment (ISA) 881 Form, which will include a database review (one REC database from ERIS will be obtained for each intersection). The focus of the ISA 881 Form will be areas where ground disturbances are anticipated. Pinyon anticipates collecting up to 6 paint samples to evaluate for the presence of lead where painted components may be disturbed (e.g., signal poles).

Biological Resources	<p>Olsson will conduct a desktop review of the project area using aerial photography and Google Street View imagery. A site visit will not be completed given the urban and developed nature of the project areas and the proposed disturbances (photographs will be collected by the hazmat specialist).</p> <p>It is expected there will be no Waters of the U.S., including wetlands, in the study area. As such, no delineation or mapping of the Ordinary High Water Mark will be completed. Lack of occurrence will be documented in a brief Biological Resources Memorandum that will address all biological resources. It is assumed that there is no requirement to consult with the U.S. Army Corps of Engineers or other agencies.</p> <p>Olsson will document the following in the Biological Resources Memorandum: Vegetation and Noxious Weeds, Threatened, Endangered and Sensitive Species, and Migratory Birds. Olsson assumes a determination of <i>no effect</i> to federally listed species.</p>
History	<p>A Pinyon Historian will review the proposed light and electrical work areas and establish an Area of Potential Effects (APE) for the project. Pinyon will complete a file search of the APE, including a search of the COMPASS database maintained by History Colorado. Pinyon will develop an APE in coordination with CDOT and complete one OAHF site form. Pinyon will complete a SHPO consultation letter summarizing the eligibility and effects evaluation. Pinyon will prepare the Historic Section 4(f) notification, as appropriate. Assume one virtual meeting with CDOT. Assume no ROW/easement, and that the work will result in a conclusion of no adverse effect.</p>

The following resources are not included in this scope of work because they are not anticipated, or the design team assumes CDOT will evaluate/clear these resources internally:

Resource	Assumptions
Archaeology	Based on the project description and disturbed nature of the study area, it is assumed that no archaeology resources will be impacted by the project and this conclusion will be documented in the Environmental Summary Memo without further evaluation.
Non-historic Section 4(f)	FHWA Section 4(f) regulations govern the use of land from publicly owned parks; recreation areas; wildlife and waterfowl refuges; and public or private historic sites. It is anticipated that no use of Section 4(f) resources will result from the work.
Section 6(f)	N/A – CDOT to clear internally. No section 6(f) resources are likely to occur within the project area.
Paleontology	N/A – CDOT to clear internally. Based on scope of project, no impacts or evaluations are required.

The above evaluations were made using professional judgement considering the project scope. This may need refinement based on CDOT input at a later date, during the Environmental Scoping meeting.

Olsson will be responsible for the development of a Temporary Erosion & Sediment Control (TESC) plan and report to satisfy the Stormwater Management Plan (SWMP) requirements on the CDOT Form 128.

Task 500 – Survey, SUE, and Utility Coordination

The Olsson team assumes that limited survey and right-of-way (ROW) will be required for the development of the lighting design, and this will be handled by the Olsson survey team. T2 Utility Engineers (T2) will coordinate with Eugene Lynne (a certified DBE firm) to provide survey required for Subsurface Utility Engineering (SUE) services. Olsson survey will provide survey control to T2 and Eugene Lynne to ensure all field information is coordinated.

Our team will perform the SUE services for this project following practices and procedures described in ASCE/UESI/CI 38-22 “Standard Guideline for Investigating and Documenting Existing Utilities”.

T2 will utilize an iterative approach that collects utility record data or as-builts from multiple sources and then perform field investigations in the pursuit of Quality Level B (QL-B) utility depictions, at minimum, for utilities in the project areas shown in Exhibits “A”, “B” and “C”.

The boundaries have been prepared based on team conversations and conversations with the Town. The red outlines have been drawn to match a radius of approximately 20 feet around the proposed location of each proposed pedestrian light, excluding roadway to minimize impacts to the traveling public. Some areas have been extended where multiple pedestrian lights are proposed in close proximity to each other.

Exhibit "A"

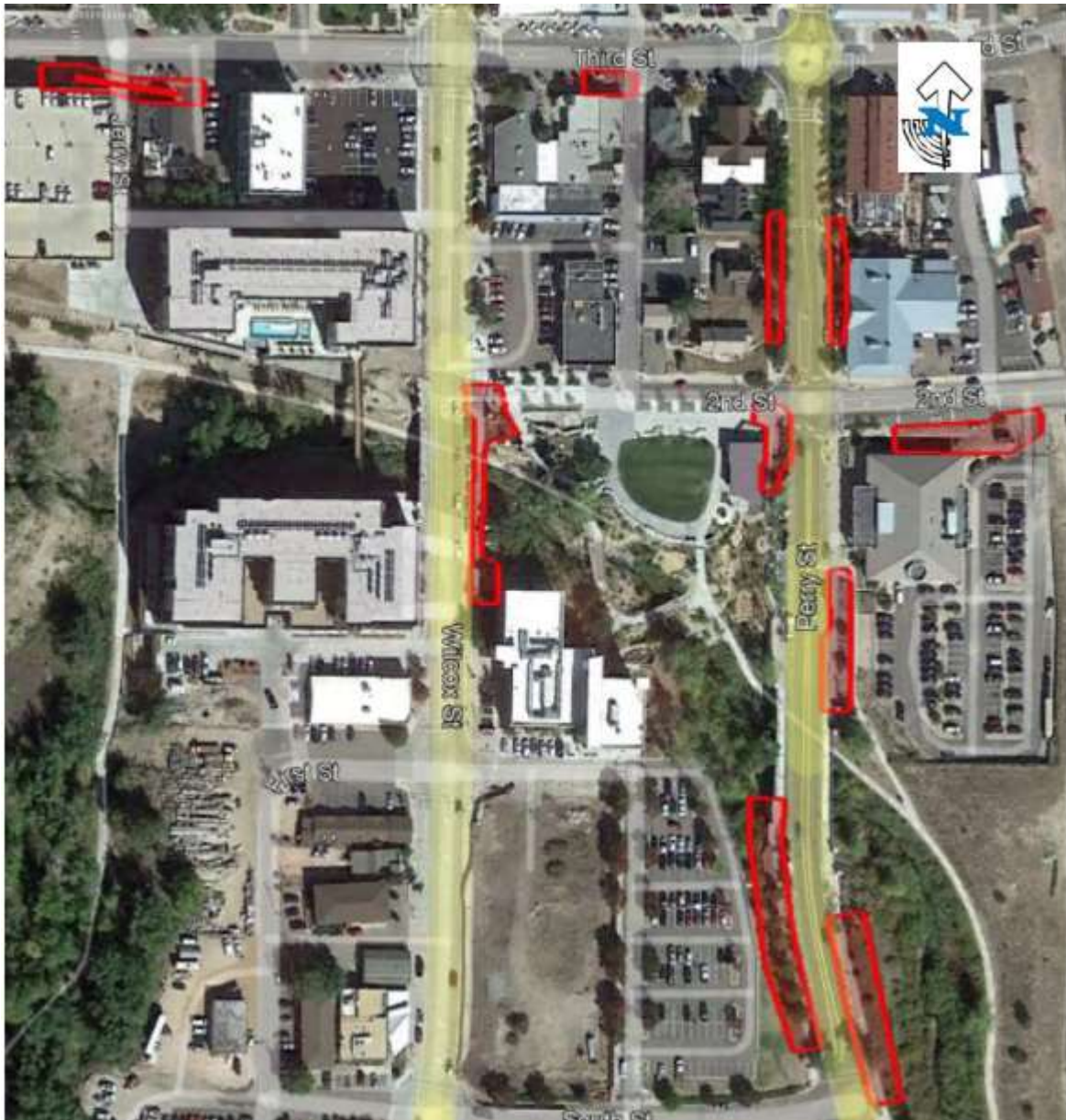


Exhibit “B”



Exhibit “C”



ASCE/UESI/CI 38-22 provides a nationally recognized, standard guideline for the collection and depiction of existing subsurface utility data. The quality level provides a professional opinion of the quality and reliability of the utility information. The four quality levels are as follows:

Quality Level D (QLD): Utility Quality Level D (QLD) information is determined primarily from the review and documentation of existing second-party information, such as utility records, historical project records, permits, verbal accounts, the existence of service, visual indicators, and/or One-Call markings, put into context with any other information the SUE Professional has in their possession during a Utility Investigation.

Quality Level C (QLC): Utility Quality Level C (QLC) information is determined by correlating underground Utility Segments from existing second-party information to observable and measurable visible Utility Features. QLC does not refer to the Utility Feature or portion of the Utility Segment that is visible. It refers to the unobservable portion of the Utility Feature or Utility Segment that connects to visible, typically aboveground or within an accessible vault, surveyed Utility Features.

Quality Level B (QLB): A Utility Quality Level B (QLB) may be assigned to a Utility Segment after the application of appropriate surface geophysical methods to identify the existence and approximate horizontal position of utilities (a Utility's "Designation"), followed by survey and documentation, review of available field and office data, and a final determination of the position for the Utility Segment or Utility Feature on the Deliverables. All aforementioned tasks are performed under the direct responsible charge of the SUE Professional. The largest source of potential error is usually the interpretation of the geophysical findings and results.

Quality Level A (QLA): Quality Level A (QLA) builds on QLB information by confirming the existence, exact locations, and other attributes of subsurface utility through the exposure of the utility using safe excavating practices. QLA data are determined by physically exposing an unobservable utility feature or utility segment (essentially making it observable) and documenting its spatial extent and characteristics with a high degree of accuracy. Conventional accuracies shall be 0.1ft (30mm) vertical and 0.2ft (60 mm) horizontal for the measurements of the outside limits of the utility features or utility segment that is exposed.

QL-A Test Holes will be performed during Final Design in locations to be determined by the project team and Town in an assumed quantity of 20 test holes. It is assumed that all test holes will be conducted by means of air-assisted vacuum excavation equipment to minimize disruption to the varying subgrade in the downtown area, as well as ensure safety of the excavation and the integrity of the utility line to be documented.

Deliverables:

- Survey CAD Base File (dwg format)
- Utility CAD Base File (dwg format)
- Test Hole Data and Survey Information in Summary Report (pdf format)
- SUE Plans (sealed, pdf format)

Task 600 – Concept Design

Based on the available data, Olsson will develop conceptual design plans utilizing GIS aerial data and our prior experience on similar safety and complete street projects.

The concept designs will be for aboveground improvements and will illustrate ideas for all modes of transportation and the variety of street elements that are integral to improving safety including ADA-compliant pedestrian paths/curb ramps, and other traffic control devices. The concept graphics are intended to intuitively communicate the details of the proposed concepts to a wide variety of stakeholders; however they will be based in CAD, allowing efficient transition into final

design. This is often an iterative process and we enjoy listening to and learning from your staff's in-depth knowledge of these locations.

A photometric analysis will be conducted during the conceptual design development to ensure proposed facilities comply with the Town's photometric criteria identified in the *Downtown Mobility Master Plan* including a uniformity ratio of 4:1 and a minimum average of 4.1 footcandles at intersection and crosswalks, and a minimum average of 2.7 between intersections.

Deliverables:

- Concept Design Plans (can be used by Town for outreach)
- Concept Design Estimates

Task 700 – Final Design

Once we have agreed upon the conceptual layouts, Olsson will progress the design to 70-80% (combined FIR/FOR) level plans. This work will include development of the following sheets:

- Title Sheet
- Town and CDOT Standard Plan Lists
- General Notes
- Horizontal Control
- Summary of Approximate Quantities (SAQ)
- Lighting and Electrical Plan Sheets
- Photometric Plan Sheets
- Structural Details
- Pedestrian Facility Details
- Temporary Erosion & Sediment Control Plans (TESC)
- SUE Plans
- Utility Plans
- Construction Phasing Plans
- Tabulation of Traffic Control Items

In addition, the following will be completed:

- Preliminary Utility Tracking Matrix
- Preliminary SUE Summary Report
- Preliminary Drainage Report (as needed)
- Preliminary Geotechnical Report (as needed)
- Updated Construction Cost Estimate (utilizing CDOT cost data)

ROW acquisitions and temporary construction easements (TCEs) are not anticipated for this project, therefore the development of ROW plans is excluded in this scope of work and estimate.

All documents necessary for the FIR/FOR meeting will be prepared and submitted to the Town and CDOT for concurrent review.

Deliverables:

- FIR/FOR Design Plans and Specifications (70-80% Design)
- Preliminary Utility Tracking Matrix
- Preliminary SUE Summary Report
- Preliminary Drainage Report
- Preliminary Geotechnical Report
- Updated Construction Cost Estimate
- Final Plans and Specifications
- Final Utility Tracking Matrix
- Final SUE Summary Report
- Final Drainage Report
- Final Geotechnical Report
- Final Construction Cost Estimate
- Final Utility Plans, Specification and Utility Agreement Letters (as necessary)
- CDOT Clearance Request Letter for ROW and Utilities

Task 800 – Post Design Services

Olsson will provide post design services during the construction of the proposed improvements associated with the project as described below.




- Respond to Shop Drawing/Material Submittals
 - Olsson shall review, evaluate, and respond to any Contractor Shop Drawing/Material submittals. A maximum of four (4) submittal reviews are budgeted.
- Respond to Requests for Information (RFI's), as needed
 - Olsson will review, evaluate, and respond to contractor Requests for Information (RFI's). A maximum of (4) RFI responses are budgeted.

Deliverables:

- Shop Drawing Reviews
- Responses to Requests for Information (RFIs)

Draft Design Schedule

	Q1	Q2			Q3			Q4
Task	March	April	May	June	July	August	September	October
CDOT Scoping Meeting								
Assumed NTP								
Kick-off Meeting								
Survey								
Field Reviews & Data Collection								
Conceptual Design								
Conceptual Design Review								
Public Engagement								
Concept Design Field Review w/ Town								
SUE/Utility Coordination			QL-B	QL-A				
Environmental Evaluations								
Preliminary Design (30%)& Final Design (90%)								
Town of Castle Rock - 30% & 90% Review								
Final Plans, Specs, & Estimate (PS&E)								
CDOT/Town Clearances								
Advertisement								
Out for Construction								

-  = Project Milestone
-  = Duration of Task
-  = Town of Castle Rock Review



Project Name: Town of Castle Rock - Downtown Pedestrian Lighting
Project Number: 023-00727
Project Manager: Jessica Burch

TASK	Estimated Hours															Total Labor Cost (\$)	Sub-Consultant (\$)	Reimb Expenses (\$)
	Team Leader	Technical Leader	Senior Engineer	Project Engineer	Associate Engineer	Assistant Engineer	Project Planner	Project Scientist	Associate Scientist	Assistant Scientist	Assistant Technician	Surveyor	2 Person Crew	Admin				
HOURLY RATES	\$240.00	\$235.00	\$215.00	\$167.00	\$140.00	\$123.00	\$135.00	\$146.00	\$108.00	\$86.00	\$76.00	\$130.00	\$208.00	\$81.00				
Personnel	JB/KA/AB/NS	CP	TC	SB/MO	DB/PM	BW/NS/SE	JF	JF	JD/MA	ST	AK			AG/SP				
Task 100 – Meetings / Project Management																		
1 Project Set Up	2													1	\$ 561.00		\$ -	
2 General Administration & Management of Project	6				6									1	\$ 2,361.00		\$ -	
3 Monthly Invoices & Progress Reports (Assumes 6)	3														\$ 720.00		\$ -	
4 Twice-Monthly Coordination Meetings (Assumes 10)	10				10										\$ 3,800.00		\$ -	
5 Town Kick-off Meeting	1				1										\$ 380.00		\$ -	
6 CDOT Scoping Meeting	1				1										\$ 380.00		\$ -	
7 Concept Review Field Meeting				4	4	4									\$ 1,720.00		\$ -	
Task 100 Total	23	0	0	4	22	4	0	0	0	0	0	0	0	2	\$ 9,922.00	\$ -	\$ -	
Task 200 – Public and Stakeholder Involvement																		
Task 200 Total	0	0	0	0	0	0	0	0	0	0	0	0	0	0	\$ -	\$ -	\$ -	
Task 300 – Data Collection (Geospatial Data)																		
1 GeoDatabase and Feature Development (GIS)	2				8		12								\$ 3,220.00		\$ -	
2 Data Collocation															\$ -		\$ -	
Existing Roadway Safety and Structure Condition					6	6	2								\$ 1,848.00		\$ -	
General Traffic Concerns					6	6	2								\$ 1,848.00		\$ -	
ADA Compliance					4	4	2								\$ 1,322.00		\$ -	
Lighting Infrastructure (Illuminance Levels)					8	8	4								\$ 2,644.00		\$ -	
Task 300 Total	2	0	0	0	32	24	22	0	0	0	0	0	0	0	\$ 10,882.00	\$ -	\$ -	
Task 400 – Environmental and Historical Services																		
1 Environmental Scoping Meeting	5	0						0	0	0					\$ 1,200.00	\$ 139	\$ -	
2 CDOT Form 128 (Front Resources)	3	8						8	4	4					\$ 4,544.00		\$ -	
3 CDOT Form 128 (Back Resources)	3	8						8	20	4					\$ 6,272.00		\$ -	
4 Environmental & Historical Clearance	3	2						4	4	4					\$ 2,550.00	\$ 14,697	\$ -	
Task 400 Total	14	18	0	0	0	0	0	20	28	12	0	0	0	0	\$ 14,566.00	\$ 14,836	\$ -	
Task 500 – Survey, SUE, and Utility Coordination																		
1 Coordination on Survey, ROW & SUE	2				8										\$ 1,600.00		\$ -	
2 Survey & ROW Base Files (Assumes 5 days)	8											16	50		\$ 14,400.00		\$ -	
3 QL-B, C, D SUE Investigations															\$ -		\$ -	
T2															\$ -	\$ 50,899	\$ -	
Survey by Eugene Lynne (DBE)															\$ -	\$ 10,000	\$ -	
4 QL-A SUE (Assumes 20 Ths)															\$ -		\$ -	
T2															\$ -	\$ 32,110	\$ -	
Survey by Eugene Lynne (DBE)															\$ -	\$ 4,500	\$ -	
Task 500 Total	10	0	0	0	8	0	0	0	0	0	0	16	50	0	\$ 16,000.00	\$ 97,509	\$ -	
Task 600 – Concept Design																		
1 Layout Lighting Infrastructure (Assumes 20 - 40 Scale Plan Sheets)	2				16	16									\$ 4,688.00		\$ -	
2 Photometric Analysis and Design	2				10	16									\$ 3,848.00		\$ -	
3 Electrical Analysis and Design	2				10	16									\$ 3,848.00		\$ -	
4 Identify Concrete Changes and Other Potential Impacts (i.e., sidewalks, curb ramps, landings, etc)	2		2	4	4	4									\$ 1,866.00		\$ -	
5 Develop Conceptual Construction Cost Estimates					4	4									\$ 1,052.00		\$ -	
6 QA/QC	8				8	8									\$ 4,024.00		\$ -	
Task 600 Total	16	0	0	2	52	64	0	0	0	0	0	0	0	0	\$ 19,326.00	\$ -	\$ -	
Task 700 – Final Design																		
1 Revised Design per comments from Concept Review Field Meeting	4			4	16	16									\$ 5,836.00		\$ -	
2 Develop Design Plans (90%) (Assumes combined FIRFOR submittals)															\$ -		\$ -	
Title Sheet (1)				1		1									\$ 290.00		\$ -	
Town and CDOT Standard Plans List (2)					1	1									\$ 253.00		\$ -	
General Notes Sheets (2)	1			1	1	1									\$ 670.00		\$ -	
Horizontal Control (1)	2											4			\$ 1,000.00		\$ -	
SAQ (1)				2	2	8									\$ 1,598.00		\$ -	
Lighting and Electrical Plan Sheets (40 scale) (20)	2			4	8	20									\$ 4,728.00		\$ -	
Photometric Plan Sheets (40 scale) (20)	2			4	6	10									\$ 3,218.00		\$ -	
Structural Details (2)				4	4	8									\$ 2,212.00		\$ -	
Pedestrian Facility Details (20 scale) (10)	2			4	8	16									\$ 4,236.00		\$ -	
Temp. Erosion & Sediment Control (TESC) Plans (20) & Report				2	4	24									\$ 3,846.00		\$ -	
SUE Plans (40 scale) (20) (T2)															\$ -	\$ 12,931	\$ -	
Utility Plans (Olsson with T2 Oversight)						24									\$ 2,952.00	\$ 2,713	\$ -	
Construction Phasing Plan (5)	2			2	4	8									\$ 2,358.00		\$ -	
3 Develop Utility Tracking Matrix (T2)	1				2	2									\$ 766.00	\$ 5,427	\$ -	
4 Preliminary Drainage Report				40											\$ 6,680.00		\$ -	
5 Geotechnical Investigations (Assume 2 Borings)			6		18				9		8			2	\$ 5,552.00	\$ 3,450	\$ 2,205	
6 90% Quantities and Tabulations				2	2	2									\$ 860.00		\$ -	
7 90% Specifications	4			4	4										\$ 2,188.00		\$ -	
8 90% Cost Estimate					4	4									\$ 1,052.00		\$ -	
9 QA/QC for 90% Submittal	4			4	8	20									\$ 5,208.00		\$ -	
10 Preparation of 90% PS&E Package Submittal	2				2	2									\$ 1,006.00		\$ -	
11 Compile 90% Comments into CRF & Respond					2	2									\$ 526.00		\$ -	
12 Address 90% Comments	2			2	4	32									\$ 5,310.00		\$ -	
13 QA/QC for 100% Submittal	4			4	4	10									\$ 3,418.00		\$ -	
14 Preparation of 100% PS&E Package for Final Submittal	2				2	2									\$ 1,006.00		\$ -	
15 Finalize Electronic Sealed Final PS&E and Files	2			2	2	2									\$ 1,340.00		\$ -	
Task 700 Total	36	0	6	86	108	215	0	0	9	0	8	4	0	2	\$ 68,119.00	\$ 24,521	\$ 2,205	
Task 800 – Post Design Services																		
1 Review of Shop Drawings					4										\$ 560.00		\$ -	
2 Coordinate and Evaluate Construction Schedule					2										\$ 280.00		\$ -	
3 Respond to Requests for Information (RFIs)					4	4									\$ 1,052.00		\$ -	
Task 800 Total	0	0	0	0	10	4	0	0	0	0	0	0	0	0	\$ 1,892.00	\$ -	\$ -	
PROJECT TOTAL HOURS	101	18	6	92	232	311	22	20	37	12	8	20	50	4	\$ 140,707.00	\$ 136,866.00	\$ 2,205.00	
																PROJECT SUBTOTAL		\$ 279,778.00
																5% CONTINGENCY		\$ 13,989.00
																PROJECT TOTAL		\$293,767.00



EXHIBIT 2

CONTRACTOR'S CERTIFICATION OF INSURANCE

EXHIBIT 3

TOWN OF CASTLE ROCK AFFIDAVIT OF INDEPENDENT CONTRACTOR STATUS

I, _____, an authorized representative of **OLSSON, INC. (“Contractor”)**, holding legal authority to sign this Affidavit declare under oath that I am 18 years or older and have the capacity to sign this Affidavit.

In accordance with Section 8-70-115, C.R.S., I certify the following:

- With respect to the Agreement, Contractor represents and warrants that it is its express intention to be employed as an independent contractor of the Town of Castle Rock (the “Town”) for purposes of performing the work or services which are the subject of the Agreement. Contractor understands and confirms that the Town reasonably relied on this intention in entering into the Agreement.
- The Town does not require Contractor work exclusively for the Town, except that Contractor may choose to work exclusively for the Town for a finite period of time specified _____ in _____ the _____ document.
- The Town does not establish a quality standard for the work or services performed pursuant to the Agreement, except that the Town may provide plans and specifications regarding the work but cannot oversee the actual work or provide instruction as to how the work is performed.
- The Town does not pay a salary or hourly rate but rather a fixed or contract rate, as noted in the terms and conditions of the Agreement, and any Exhibits made part of the Agreement.
- The Town cannot terminate the work or services performed during the contract period unless otherwise agreed to in the terms and conditions of the Agreement.
- Contractor is not provided with anything, if at all, more than minimal training from the Town.
- The Town does not provide Contractor with tools or benefits for the performance of the work or services which are the subject of the Agreement, except materials and equipment may be supplied.
- The Town does not dictate the time of performance, except that a completion schedule and a range of mutually agreeable work hours may be established in the Agreement.
- The Town issues checks payable to Contractor, a party to the Agreement; and the Town does not combine their business operations in any way with the Contractor’s business, but instead maintains such operations as separate and distinct.



- Contractor understand that if a professional license to practice a particular occupation under the laws of the State of Colorado requires the exercise of a supervisory function with regard to the work of services performed under this Agreement, such supervisory role shall not affect the independent contractor relationship with the Town.
- **CONTRACTOR UNDERSTANDS THAT NEITHER THE CONTRACTOR NOR ITS EMPLOYEES ARE ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS OF THE TOWN.**
- **CONTRACTOR UNDERSTANDS THAT IT IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX ON MONEYS PAID PURSUANT TO THE AGREEMENT.**

CONTRACTOR:

OLSSON, INC.

By: _____

Name

STATE OF _____)

) ss.

COUNTY OF _____)

The foregoing instrument as acknowledged before me this ____ day of _____,
20__ by _____ as _____ of the above mentioned Contractor.

Witness my official hand and seal.

My commission expires:

Notary Public

STATE OF COLORADO INTERGOVERNMENTAL AGREEMENT**Signature and Cover Page**

State Agency Department of Transportation			Agreement Routing Number 22-HA1-XC-00054
Local Agency Town of Castle Rock			Agreement Effective Date The later of the effective date or March 29, 2022
Agreement Description Castle Rock Downtown Pedestrian Lighting Improvements			Agreement Expiration Date March 28, 2032
Project # STU M185- 018 (24803)	Region # 1	Contract Writer RDM	Agreement Maximum Amount \$600,000.00

THE PARTIES HERETO HAVE EXECUTED THIS AGREEMENT

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

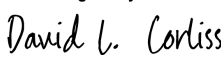
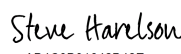
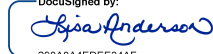
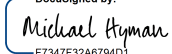

<p align="center">LOCAL AGENCY Town of Castle Rock</p> <p>DocuSigned by:  1BB5457CFF75414...</p> <p>By: David L. Corliss, Town Manager</p> <p>Date: <u>12/9/2022</u></p>	<p align="center">STATE OF COLORADO Jared S. Polis, Governor Department of Transportation Shoshana M. Lew, Executive Director</p> <p>DocuSigned by:  AB4C0B01642B42E...</p> <p>Stephen Harelson, P.E., Chief Engineer</p> <p>Date: <u>12/9/2022</u></p>
<p align="center">Additional Local Agency Signatures ATTEST:</p> <p>DocuSigned by:  298A8A4EDED34AF...</p> <p>Lisa Anderson, Town Clerk</p> <p>Date: <u>12/9/2022</u></p> <p align="center">Approved as to Form:</p> <p>DocuSigned by:  F7347F32A6794D1...</p> <p>Michael J. Hyman, Town Attorney</p> <p>Date: <u>12/9/2022</u></p>	<p align="center">LEGAL REVIEW Philip J. Weiser, Attorney General</p> <p align="center"><u>N/A</u> Assistant Attorney General</p> <p align="center">By: (Print Name and Title)</p> <p>Date: _____</p>
<p>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.</p> <p align="center">STATE CONTROLLER Robert Jaros, CPA, MBA, JD</p> <p>DocuSigned by:  BDA801C5CFAC478...</p> <p>By: _____ Department of Transportation</p> <p align="right">Effective Date: <u>12/9/2022</u></p>	

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EXHIBIT A, SCOPE OF WORK

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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, CHECKLIST OF REQUIRED EXHIBITS DEPENDENT ON FUNDING SOURCE

1. PARTIES

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

2. TERM AND EFFECTIVE DATE**A. Effective Date**

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

B. Initial Term and Extension

The Parties’ respective performances under this Agreement shall commence on the Agreement Effective Date shown on the Signature and Cover Page for this Agreement and shall terminate on as shown on the Signature and Cover Page for this Agreement, unless sooner terminated or further extended in accordance with the terms of this Agreement. Upon request of Local Agency, the State may, in its sole discretion, extend the term of this ARPA Award 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”).

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.

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 Treasury Department. 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**, 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. **“Matching Funds”** means the funds provided by the Local Agency as a match required to receive the federal 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.
- 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. “**Work**” means the delivery of the Goods and performance of the Services in compliance with CDOT’s Local Agency Manual described in this Agreement.
- TT. “**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 period of performance for a phase of Work authorized under this Agreement. To exercise this 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 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. Matching Funds

Local Agency shall provide matching funds as provided in **§7.A** and **Exhibit C**. Local Agency 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. 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 Matching 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**. 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. 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 issue a unilateral Option Letter to simultaneously increase and 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 five (5) 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") of three (3) 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. 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.

11. CONFLICTS OF INTEREST

A. Actual Conflicts of Interest

Local Agency shall not engage in any business or activities, or maintain any relationships that conflict in any way with the full performance of the obligations of Local Agency under this Agreement. Such a conflict of

interest would arise when a Local Agency or Subcontractor's employee, officer or agent were to offer or provide any tangible personal benefit to an employee of the State, or any member of his or her immediate family or his or her partner, related to the award of, entry into or management or oversight of this Agreement. Officers, employees and agents of Local Agency may neither solicit nor accept gratuities, favors or anything of monetary value from contractors or parties to subcontracts.

B. Apparent Conflicts of Interest

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

C. Disclosure to the State

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

12. INSURANCE

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

A. Local Agency Insurance

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

B. Subcontractor Requirements

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

i. Workers' Compensation

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

ii. General Liability

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

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

iii. Automobile Liability

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

iv. Protected Information

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

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

v. Professional Liability Insurance

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

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

vi. Crime Insurance

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

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

vii. Cyber/Network Security and Privacy Liability

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

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

C. Additional Insured

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

D. Primacy of Coverage

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

E. Cancellation

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

F. Subrogation Waiver

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

G. Certificates

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

13. BREACH

A. Defined

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

B. Notice and Cure Period

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

14. REMEDIES

A. State's Remedies

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

i. Termination for Breach

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

a. Obligations and Rights

To the extent specified in any termination notice, Local Agency shall not incur further obligations or render further performance past the effective date of such notice, and shall terminate outstanding orders and subcontracts with third parties. However, Local Agency shall complete and deliver to the State all Work not 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, 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 noninfringing Work or modify the Work so that it becomes noninfringing; 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.

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)
Christopher Beaver, PM
Region 1
2829 W. Howard Place
Denver, CO 80204
303-512-4014
christopher.beaver@state.co.us

For the Local Agency

Town of Castle Rock
Chris Sobie, Traffic Operations Engineer
4175 N. Castleton Ct.
Castle Rock, CO 80109
720-812-3466
csobie@crgov.com

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 anytime 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**, Statement 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**, Checklist of Required Exhibits Dependent on Funding Source.
- xxii. 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

Local Agency 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. Local Agency 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/>.

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 except where noted in italics.

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

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

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

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

C. GOVERNMENTAL IMMUNITY.

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

D. INDEPENDENT CONTRACTOR

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

E. COMPLIANCE WITH LAW.

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

F. CHOICE OF LAW, JURISDICTION, AND VENUE.

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

G. PROHIBITED TERMS.

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

H. SOFTWARE PIRACY PROHIBITION.

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

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

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

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 Contractor in error for any reason, including, but not limited to, overpayments or improper payments, and unexpended or excess funds received by Contractor by deduction from subsequent payments under this Contract, deduction from any payment due under any other contracts, grants or agreements between the State and Contractor, or by any other appropriate method for collecting debts owed to the State.

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.

24. DISPUTES

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.

EXHIBIT A
SCOPE OF WORK

Name of Project: Castle Rock Downtown Pedestrian Lighting Improvements Project
Number: STU M185-018
Subaccount #: 24803

The Town of Castle Rock plans to improve public safety, visibility, mobility, and access to destinations in Downtown by installing new pedestrian light fixtures to increase lighting levels on routes from public trails, parking garages, sidewalks, and intersections that connect to local restaurants and businesses, new residential buildings, Festival Park and other Downtown destinations.

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

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

By accepting funds for this Scope of Work, Local Agency acknowledges, understands, and accepts the continuing responsibility for the safety of the traveling public after initial acceptance of the project. **Local Agency is responsible for maintaining and operating the scope of work described in this Exhibit A constructed under this Agreement at its own cost and expense during its useful life.**

EXHIBIT B**SAMPLE IGA OPTION LETTER**

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

Vendor Name:

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

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

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

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

Option A

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

Option B

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

Option C

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

original phase estimates. A new **Exhibit C-1** is made part of the original Agreement and replaces **Exhibit C**.

Option D

In accordance with the terms of the original Agreement between the State of Colorado, Department of Transportation and the Local Agency, the State hereby exercises the option extend the term of this Agreement and/or update a Work Phase Performance Period and/or modify information required under the OMB Uniform Guidance, as outlined in **Exhibit C**. This is made part of the original Agreement and replaces the Expiration Date shown on the Signature and Cover Page. Any updated version of **Exhibit C** shall be attached to any executed Option Letter as **Exhibit C-1** (with subsequent exhibits labeled **C-2**, **C-3**, etc.).

The effective date of this option letter is upon approval of the State Controller or delegate.

STATE OF COLORADO
Jared S. Polis
Department of Transportation

By: _____
Stephen Harelson, P.E., Chief Engineer
(For) Shoshana M. Lew, Executive Director

Date: _____

ALL AGREEMENTS MUST BE APPROVED BY THE STATE CONTROLLER

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

STATE OF COLORADO
STATE CONTROLLER
Robert Jaros, CPA, MBA, JD

By: _____
Colorado Department of Transportation

Date: _____

Federal \$ LA Work

EXHIBIT C - FUNDING PROVISIONS**Town of Castle Rock; Project # STU M185-018 (24803)****A. Cost of Work Estimate**

The Local Agency has estimated the total cost the Work to be \$600,000.00, which is to be funded as follows:

1. BUDGETED FUNDS

a.	Federal Funds (80% of STBG Award)	\$480,000.00
b.	Local Agency Matching Funds (20% of STBG Award)	\$120,000.00

TOTAL BUDGETED FUNDS	\$600,000.00
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2. OMB UNIFORM GUIDANCE

a.	Federal Award Identification Number (FAIN):	TBD
b.	Name of Federal Awarding Agency:	FHWA
c.	CFDA # Highway Planning and Construction	CFDA 20.205
d.	Is the Award for R&D?	No
e.	Indirect Cost Rate (if applicable)	N/A

3. ESTIMATED PAYMENT TO LOCAL AGENCY

a.	Federal Funds Budgeted	\$480,000.00
b.	Less Estimated Federal Share of CDOT-Incurred Costs	\$0.00

TOTAL ESTIMATED PAYMENT TO LOCAL AGENCY	\$480,000.00
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4. FOR CDOT ENCUMBRANCE PURPOSES

a.	Total Encumbrance Amount	\$600,000.00
b.	Less ROW Acquisition 3111 and/or ROW Relocation 3109	\$0.00

NET TO BE ENCUMBERED BY CDOT IS AS FOLLOWS	\$600,000.00
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Note: No funds are currently available. Design and Construction funds will become available after execution of an Option letter (Exhibit B) or formal Amendment.

WBS Element 24803.10.30.	Performance Period Start*/End Date TBD - TBD	Design 3020	\$0.00
WBS Element 24803.20.10	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. Matching Funds

The matching ratio for the federal funds for this Work is 80% federal funds to 20% Local Agency funds, and this ratio applies only to the \$600,000.00 that is eligible for federal funding. All other costs are borne by the Local Agency at 100%. If the total cost of performance of the Work exceeds \$600,000.00, 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 \$600,000.00, then the amounts of Local Agency and federal funds will be decreased in accordance with the funding ratio described herein. **This applies to the entire scope of Work.**

C. Maximum Amount Payable

The maximum amount payable to the Local Agency under this Agreement shall be \$480,000.00. For CDOT accounting purposes, the federal funds of \$480,000.00 and the Local Agency funds of \$120,000.00 will be encumbered for a total encumbrance of \$600,000.00, unless this amount is increased by an executed amendment before any increased cost is incurred. The total cost of the Work is the best estimate available, based on the design data as approved at the time of execution of this Agreement, and that any cost is subject to revisions agreed to by the parties prior to bid and award. The maximum amount payable will be reduced without amendment when the actual amount of the Local Agency's awarded Agreement is less than the budgeted total of the federal participating funds and the Local Agency matching funds. The maximum amount payable will be reduced through the execution of an Option Letter as described in Section 7. E. of this contract. **This applies to the entire scope of Work.**

D. Single Audit Act Amendment

All state and local government and non-profit organizations receiving \$750,000 or more from all funding sources defined as federal financial assistance for Single Audit Act Amendment purposes shall comply with the audit requirements of 2 CFR part 200, subpart F (Audit Requirements) see also, 49 CFR 18.20 through 18.26. The Single Audit Act Amendment requirements applicable to the Local Agency receiving federal funds are as follows:

i. Expenditure less than \$750,000

If the Local Agency expends less than \$750,000 in Federal funds (all federal sources, not just Highway funds) in its fiscal year then this requirement does not apply.

ii. Expenditure of \$750,000 or more-Highway Funds Only

If the Local Agency expends \$750,000 or more, in Federal funds, but only received federal Highway funds (Catalog of Federal Domestic Assistance, CFDA 20.205) then a program specific audit shall be performed. This audit will examine the "financial" procedures and processes for this program area.

iii. Expenditure of \$750,000 or more-Multiple Funding Sources

If the Local Agency expends \$750,000 or more in Federal funds, and the Federal funds are from multiple sources (FTA, HUD, NPS, etc.) then the Single Audit Act applies, which is an audit on the entire organization/entity.

iv. Independent CPA

Single Audit shall only be conducted by an independent CPA, not by an auditor on staff. An audit is an allowable direct or indirect cost.

EXHIBIT E**LOCAL AGENCY AGREEMENT ADMINISTRATION CHECKLIST**

COLORADO DEPARTMENT OF TRANSPORTATION			
LOCAL AGENCY CONTRACT ADMINISTRATION CHECKLIST			
Project No. STU M185-018	STIP No. SR17012	Project Code 24803	Region 01
Project Location Downtown Castle Rock			Date 3/23/22
Project Description Castle Rock Downtown Pedestrian Lighting Improvements			
Local Agency Castle Rock	Local Agency Project Manager Chris Sobie		
CDOT Resident Engineer Maria Hajjaghaee	CDOT Project Manager Christopher Beaver		
INSTRUCTIONS: <p>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.</p> <p>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.</p> <p>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.</p> <p>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.</p> <p>Note: Failure to comply with applicable Federal and State requirements may result in the loss of Federal or State participation in funding.</p>			

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 STIP and amendments thereto		X
		FEDERAL FUNDING OBLIGATION AND AUTHORIZATION		
	4.1	Authorize funding by phases (CDOT Form 418 - Federal-aid Program Data. Requires FHWA concurrence/involvement). <i>Please write in "NA", if Not Applicable.</i>		X
		PROJECT DEVELOPMENT		
	5.1	Determine Delivery Method on Infrastructure Projects	X	X
1	5.2	Prepare Design Data - CDOT Form 463	X	
	5.3	Prepare Local Agency/CDOT Inter-Governmental Agreement (see also Chapter 3)		X
2	5.4	Conduct Consultant Selection/Execute Consultant Agreement <ul style="list-style-type: none"> Project Development Construction Contract Administration (including Fabrication Inspection Services) 	X X	# #
3,3A	5.5	Conduct Design Scoping Review Meeting	X	X
3,6	5.6	Conduct Public Involvement	X	
3	5.7	Conduct Field Inspection Review (FIR)	X	X

LA WR	NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
			LA	CDOT
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	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	#
3	5.15	Prepare Plans, Specifications, Construction Cost Estimates and Submittals	X	
	5.16	Ensure Authorization of Funds for Construction		X
	5.17	Electronic Signatures	X	
	5.18	Records Management	X	
PROJECT DEVELOPMENT CIVIL RIGHTS AND LABOR COMPLIANCE				
3	6.1	Set Disadvantaged Business Enterprise (DBE) Goals for Consultant and Construction Contracts (CDOT Region EEO/Civil Rights Specialist).		X
	6.2	Determine Applicability of Davis-Bacon Act This project 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.) MARIA HAJIAGHAEI CDOT Resident Engineer 3/23/2022 Date		X
	6.3	Set On-the-Job Training Goals (CDOT Region EEO/Civil Rights Specialist) "NA", if Not Applicable		X
3	6.4	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				
6,7	7.1	Obtain Approval for Advertisement Period of Less Than Three Weeks	X	#
7	7.2	Advertise for Bids	X	#
7	7.3	Distribute "Advertisement Set" of Plans and Specifications	X	
7	7.4	Review Worksite and Plan Details with Prospective Bidders While Project Is Under Advertisement	X	
7	7.5	Open Bids	X	
7	7.6	Process Bids for Compliance		
		Check CDOT Form 1415 – Commitment Confirmation when the low bidder meets DBE goals. <i>Please write in "NA", if Not Applicable.</i>		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. <i>"NA", if Not Applicable.</i>		X
		Submit required documentation for CDOT award concurrence	X	
	7.7	Concurrence from CDOT to Award		X
	7.8	Approve Rejection of Low Bidder		X
7,8	7.9	Award Contract	X	#
8	7.10	Provide "Award" and "Record" Sets of Plans and Specifications	X	
CONSTRUCTION MANAGEMENT				
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 X	
		Partnering (Optional)	N/A	N/A
		Structural Concrete Pre-Pour (Agenda is in <i>CDOT Construction Manual</i>)	X	

LA WR	NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
			LA	CDOT
		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." Chris Sobie-Traffic Operations Engineer 720-812-3466 Local Agency Professional Engineer or Phone number CDOT Resident Engineer	X	
		Provide competent, experienced staff who will ensure the Contract work is constructed in accordance with the plans and specifications	X	
		Construction inspection and documentation	X	
		Fabrication Inspection and documentation	X	
9	8.6	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) Provide the name and phone number of the person authorized for this task. Chris Sobie 720-812-3466 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. MARIA HAJIAGHAEI 303-757-9914 CDOT Resident Engineer Phone number		X
9	8.19	Ongoing Oversight of DBE Participation	X	#
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 Verification Tests	X	
9C	9.5	Accept Manufactured Products Inspection of structural components: • Fabrication of structural steel and pre-stressed concrete structural components • Bridge modular expansion devices (0" to 6" or greater) • Fabrication of bearing devices	X X X	

LA WR	NO.	DESCRIPTION OF TASK	RESPONSIBLE PARTY	
			LA	CDOT
9C	9.6	Approve Sources of Materials	X	
9C	9.7	Independent Assurance Testing (IAT), Local Agency Procedures X - CDOT Procedures <ul style="list-style-type: none"> • Generate IAT schedule • Schedule and provide notification • Conduct IAT 	X X	X
9C	9.8	Approve mix designs <ul style="list-style-type: none"> • 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 Review and sign completed CDOT Form 205 for each subcontractor, and submit to EEO/Civil Rights Specialist	X	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. <ul style="list-style-type: none"> • 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 X	
9	10.6	Check Certified Payrolls (Contact the Region EEO/Civil Rights Specialists for training requirements.)	X	X
9	10.7	Submit FHWA Form 1391 - Highway Construction Contractor's Annual EEO Report	X	
FINALS				
	11.1	Conduct Final Project Inspection. Complete and submit CDOT Form 1212 - Final Acceptance Report (Resident Engineer with mandatory Local Agency participation.)		X
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	
11	11.7	Check Material Documentation and Accept Final Material Certification (See Chapter 9)	X	
11	11.8	Obtain CDOT Form 1419 from the Contractor and Submit to the CDOT Project Manager	X	
	11.9	(FHWA Form 47 discontinued)	N/A	N/A
	11.10	Complete and Submit CDOT Form 1212 – Final Acceptance Report (by CDOT)		X
11	11.11	Process Final Payment	X	
	11.12	Complete and Submit CDOT Form 950 - Project Closure		X
11	11.13	Retain Project Records	X	
11	11.14	Retain Final Version of Local Agency Contract Administration Checklist	X	

Cc: CDOT Resident Engineer/Project Manager
CDOT Region Program Engineer
CDOT Region EEO/Civil Rights Specialist

CDOT Region Materials Engineer
CDOT Contracts and Market Analysis Branch
Local Agency Project Manager

EXHIBIT F

CERTIFICATION FOR FEDERAL-AID CONTRACTS

The Local Agency certifies, by signing this Agreement, to the best of its knowledge and belief, that:

No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, Agreement, loan, or cooperative agreement.

If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer of Congress, or an employee of a Member of Congress in connection with this Federal contract, Agreement, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such sub-recipients shall certify and disclose accordingly.

EXHIBIT G

DISADVANTAGED BUSINESS ENTERPRISE

SECTION 1. Policy.

It is the policy of the Colorado Department of Transportation (CDOT) that disadvantaged business enterprises shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this agreement, pursuant to 49 CFR Part 26. Consequently, the 49 CFR Part IE DBE requirements the Colorado Department of Transportation DBE Program (or a Local Agency DBE Program approved in advance by the State) apply to this agreement.

SECTION 2. DBE Obligation.

The recipient or the Local Agency agrees to ensure that disadvantaged business enterprises as determined by the Office of Certification at the Colorado Department of Regulatory Agencies have the maximum opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, all participants or contractors shall take all necessary and reasonable steps in accordance with the CDOT DBE program (or a Local Agency DBE Program approved in advance by the State) to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform contracts. Recipients and their contractors shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of CDOT assisted contracts.

SECTION 3 DBE Program.

The Local Agency (sub-recipient) shall be responsible for obtaining the Disadvantaged Business Enterprise Program of the Colorado Department of Transportation, 1988, as amended, and shall comply with the applicable provisions of the program. (If applicable).

A copy of the DBE Program is available from and will be mailed to the Local Agency

upon request: Business Programs Office

Colorado Department of Transportation

2829 West Howard Place Denver,

Colorado 80204

Phone: (303) 757-9007

REQUIRED BY 49 CFR
PART 26

EXHIBIT H

LOCAL AGENCY PROCEDURES FOR CONSULTANT SERVICES

Title 23 Code of Federal Regulations (CFR) 172 applies to a federally funded Local Agency project agreement administered by CDOT that involves professional consultant services. 23 CFR 172.1 states “The policies and procedures involve federally funded contracts for engineering and design related services for projects subject to the provisions of 23 U.S.C. 112(a) and are issued to ensure that a qualified consultant is obtained through an equitable selection process, that prescribed work is properly accomplished in a timely manner, and at fair and reasonable cost” and according to 23 CFR 172.5 “Price shall not be used as a factor in the analysis and selection phase.” Therefore, local agencies must comply with these CFR requirements when obtaining professional consultant services under a federally funded consultant contract administered by CDOT.

CDOT has formulated its procedures in Procedural Directive (P.D.) 400.1 and the related operations guidebook titled "Obtaining Professional Consultant Services". This directive and guidebook incorporate requirements from both Federal and State regulations, i.e., 23 CFR 172 and CRS §24-30-1401 et seq. Copies of the directive and the guidebook may be obtained upon request from CDOT's Agreements and Consultant Management Unit. [Local agencies should have their own written procedures on file for each method of procurement that addresses the items in 23 CFR 172].

Because the procedures and laws described in the Procedural Directive and the guidebook are quite lengthy, the subsequent steps serve as a short-hand guide to CDOT procedures that a Local Agency must follow in obtaining professional consultant services. This guidance follows the format of 23 CFR 172. The steps are:

1. The contracting Local Agency shall document the need for obtaining professional services.
2. Prior to solicitation for consultant services, the contracting Local Agency shall develop a detailed scope of work and a list of evaluation factors and their relative importance. The evaluation factors are those identified in C.R.S. 24-30-1403. Also, a detailed cost estimate should be prepared for use during negotiations.
3. The contracting agency must advertise for contracts in conformity with the requirements of C.R.S. 24-30-1405. The public notice period, when such notice is required, is a minimum of 15 days prior to the selection of the three most qualified firms and the advertising should be done in one or more daily newspapers of general circulation.
4. The Local Agency shall not advertise any federal aid contract without prior review by the CDOT Regional Civil Rights Office (RCRO) to determine whether the contract shall be subject to a DBE contract goal. If the RCRO determines a goal is necessary, then the Local Agency shall include the goal and the applicable provisions within the advertisement. The Local Agency shall not award a contract to any Contractor or Consultant without the confirmation by the CDOT Civil Rights and Business Resource Center that the Contractor or Consultant has demonstrated good faith efforts. The Local Agency shall work with the CDOT RCRO to ensure compliance with the established terms during the performance of the contract.
5. The Local Agency shall require that all contractors pay subcontractors for satisfactory performance of work no later than 30 days after the receipt of payment for that work from the contractor. For construction projects, this time period shall be reduced to seven days in accordance with Colorado Revised Statute 24-91-103(2). If the Local Agency withholds retainage from contractors and/or allows contractors to withhold retainage from subcontractors, such retainage provisions must comply with 49 CFR 26.29.
6. Payments to all Subconsultants shall be made within thirty days of receipt of payment from [the Local Agency] or no later than ninety days from the date of the submission of a complete invoice from the Subconsultant, whichever occurs first. If the Consultant has good cause to dispute an amount invoiced by a Subconsultant, the Consultant shall notify [the Local Agency] no later than the required date for payment. Such notification shall include the amount disputed and justification for the withholding. The Consultant shall maintain records of payment that show amounts paid to all Subconsultants. Good cause does not include the Consultant's failure to submit an invoice to the Local Agency or to deposit payments made.
7. The analysis and selection of the consultants shall be done in accordance with CRS §24-30-1403. This section of the regulation identifies the criteria to be used in the evaluation of CDOT pre-qualified prime consultants and their team. It also shows which criteria are used to short-list and to make a final selection.

The short-list is based on the following evaluation factors:

- a. Qualifications,

- b. Approach to the Work,
- c. Ability to furnish professional services.
- d. Anticipated design concepts, and
- e. Alternative methods of approach for furnishing the professional services. Evaluation factors for final selection are the consultant's:

- a. Abilities of their personnel,
 - b. Past performance,
 - c. Willingness to meet the time and budget requirement,
 - d. Location,
 - e. Current and projected work load,
 - f. Volume of previously awarded contracts, and
 - g. Involvement of minority consultants.
8. Once a consultant is selected, the Local Agency enters into negotiations with the consultant to obtain a fair and reasonable price for the anticipated work. Pre-negotiation audits are prepared for contracts expected to be greater than \$50,000. Federal reimbursements for costs are limited to those costs allowable under the cost principles of 48 CFR 31. Fixed fees (profit) are determined with consideration given to size, complexity, duration, and degree of risk involved in the work. Profit is in the range of six to 15 percent of the total direct and indirect costs.
9. A qualified Local Agency employee shall be responsible and in charge of the Work to ensure that the work being pursued is complete, accurate, and consistent with the terms, conditions, and specifications of the contract. At the end of Work, the Local Agency prepares a performance evaluation (a CDOT form is available) on the consultant.

CRS §§24-30-1401 THROUGH 24-30-1408, 23 CFR PART 172, AND P.D. 400.1, PROVIDE ADDITIONAL DETAILS FOR COMPLYING WITH THE PRECEEDING EIGHT (8) STEPS.

EXHIBIT I

FEDERAL-AID CONTRACT PROVISIONS FOR CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Government wide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design- build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension/debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60- 1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

- a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.
- b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. **EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. **Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

- a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

- b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

- c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

- d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

- e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. **Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

- a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

- b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

- c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. **Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

- a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

- b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

- c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

- d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. **Training and Promotion:** The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

- a. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

- b. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

- c. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. Unions: If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract.

The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non- minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non- minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA- 1273 format and FHWA program requirements.

1. Minimum wages:

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account, assets for the meeting of obligations under the plan or program.

2. Withholding:

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records:

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements.

It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

- (i) That the payroll for the payroll period contains the information required to be provided under §5.5(a)(3)
 - (ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;
- (ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;
- (iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices.

Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity.

The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S.DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination: debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and

7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility:

- a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).
- c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification– First Tier Participants:

- a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below.

The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

- c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.
- d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).
- f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
- g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.
- h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

- j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

* * * * *

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph(a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL
ACCESSROAD CONTRACTS**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

EXHIBIT J

ADDITIONAL FEDERAL REQUIREMENTS

Federal laws and regulations that may be applicable to the Work include:

Executive Order 11246

Executive Order 11246 of September 24, 1965 entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967 and as supplemented in Department of Labor regulations (41 CFR Chapter 60) (All construction contracts awarded in excess of \$10,000 by the Local Agencies and their contractors or the Local Agencies).

Copeland "Anti-Kickback" Act

The Copeland "Anti-Kickback" Act (18 U.S.C. 874) as supplemented in Department of Labor regulations (29 CFR Part 3) (All contracts and sub-Agreements for construction or repair).

Davis-Bacon Act

The Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor regulations (29 CFR Part 5) (Construction contracts in excess of \$2,000 awarded by the Local Agencies and the Local Agencies when required by Federal Agreement program legislation. This act requires that all laborers and mechanics employed by contractors or sub-contractors to work on construction projects financed by federal assistance must be paid wages not less than those established for the locality of the project by the Secretary of Labor).

Contract Work Hours and Safety Standards Act

Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). (Construction contracts awarded by the Local Agency's in excess of \$2,000, and in excess of \$2,500 for other contracts which involve the employment of mechanics or laborers).

Clean Air Act

Standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 1857(h), section 508 of the Clean Water Act (33 U.S.C. 1368). Executive Order 11738, and Environmental Protection Agency regulations (40 CFR Part 15) (contracts, subcontracts, and sub-Agreements of amounts more than \$100,000).

Energy Policy and Conservation Act

Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163).

OMB Circulars

Office of Management and Budget Circulars A-87, A-21 or A-122, and A-102 or A-110, whichever is applicable.

Hatch Act

The Hatch Act (5 USC 1501-1508) and Public Law 95-454 Section 4728. These statutes state that federal funds cannot be used for partisan political purposes of any kind by any person or organization involved in the administration of federally assisted programs.

Nondiscrimination

The Local Agency shall not exclude from participation in, deny the benefits of, or subject to discrimination any person in the United States on the ground of race, color national origin, sex, age or disability. Prior to the receipt of any Federal financial assistance from CDOT, the Local Agency shall execute the attached Standard DOT Title VI assurance. As appropriate, the Local Agency shall include Appendix A, B, or C to the Standard DOT Title VI assurance in any contract utilizing federal funds, land, or other aid. The Local Agency shall also include the following in all contract advertisements:

The [Local Agency], in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (79 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, DBEs will be afforded full and fair opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for any award.

ADA

In any contract utilizing federal funds, land, or other federal aid, the Local Agency shall require the federal-aid recipient or contractor to provide a statement of written assurance that they will comply with Section 504 and not discriminate on the basis of disability.

Uniform Relocation Assistance and Real Property Acquisition Policies Act

The Uniform Relocation Assistance and Real Property Acquisition Policies Act, as amended (Public Law 91-646, as amended and Public Law 100-17, 101 Stat. 246-256). (If the contractor is acquiring real property and displacing households or businesses in the performance of the Agreement).

Drug-Free Workplace Act

The Drug-Free Workplace Act (Public Law 100-690 Title V, subtitle D, 41 USC 701 et seq.).

Age Discrimination Act of 1975

The Age Discrimination Act of 1975, 42 U.S.C. Sections 6101 et. seq. and its implementing regulation, 45 C.F.R. Part 91; Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794, as amended, and implementing regulation 45 C.F.R. Part 84.

23 C.F.R. Part 172

23 C.F.R. Part 172, concerning "Administration of Engineering and Design Related Contracts".

23 C.F.R Part 633

23 C.F.R Part 633, concerning "Required Contract Provisions for Federal-Aid Construction Contracts".

23 C.F.R. Part 635

23 C.F.R. Part 635, concerning "Construction and Maintenance Provisions".

Title VI of the Civil Rights Act of 1964 and 162(a) of the Federal Aid Highway Act of 1973

Title VI of the Civil Rights Act of 1964 and 162(a) of the Federal Aid Highway Act of 1973. The requirements for which are shown in the Nondiscrimination Provisions, which are attached hereto and made a part hereof.

Nondiscrimination Provisions:

In compliance with Title VI of the Civil Rights Act of 1964 and with Section 162(a) of the Federal Aid Highway Act of 1973, the Contractor, for itself, its assignees, and successors in interest, agree as follows:

i. Compliance with Regulations

The Contractor will comply with the Regulations of the Department of Transportation relative to nondiscrimination in Federally assisted programs of the Department of Transportation (Title 49, Code of Federal Regulations, Part 21, hereinafter referred to as the "Regulations"), which are herein incorporated by reference and made a part of this Agreement.

ii. Nondiscrimination

The Contractor, with regard to the work performed by it after award and prior to completion of the contract work, will not discriminate on the ground of race, color, sex, mental or physical handicap or national origin in the selection and retention of Subcontractors, including procurement of materials and leases of equipment. The Contractor will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix C of the Regulations.

iii. Solicitations for Subcontracts, Including Procurement of Materials and Equipment

In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurement of materials or equipment, each potential Subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this Agreement and the Regulations relative to nondiscrimination on the ground of race, color, sex, mental or physical handicap or national origin.

iv. Information and Reports

The Contractor will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto and will permit access to its books, records, accounts, other sources of information and its facilities as may be determined by the State or the FHWA to be pertinent to ascertain compliance with such Regulations, orders, and instructions. Where any information required of the Contractor is in the exclusive possession of another who fails or refuses to furnish this information, the Contractor shall so certify to the State, or the FHWA as appropriate and shall set forth what efforts have been made to obtain the information.

v. Sanctions for Noncompliance

In the event of the Contractor's noncompliance with the nondiscrimination provisions of this Agreement, the State shall impose such contract sanctions as it or the FHWA may determine to be appropriate, including, but not limited to: **a.** Withholding of payments to the Contractor under the contract until the Contractor complies, and/or **b.** Cancellation, termination or suspension of the contract, in whole or in part.

Incorporation of Provisions §22

The Contractor will include the provisions of this Exhibit J in every subcontract, including procurement of materials and leases of equipment, unless exempt by the Regulations, orders, or instructions issued pursuant thereto. The Contractor will take such action with respect to any subcontract or procurement as the State or the FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance; provided, however, that, in the event the Contractor becomes involved in, or is threatened with, litigation with a Subcontractor or supplier as a result of such direction, the Contractor may request the State to enter into such litigation to protect the interest of the State and in addition, the Contractor may request the FHWA to enter into such litigation to protect the interests of the United States.

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SAMPLE**The United States Department of Transportation (USDOT) Standard Title VI/Non-Discrimination****Assurances for Local Agencies****DOT Order No. 1050.2A**

The [Local Agency] (herein referred to as the "Recipient"), **HEREBY AGREES THAT**, as a condition to receiving any Federal financial assistance from the U.S. Department of Transportation (DOT), through the Colorado Department of Transportation and the Federal Highway Administration (FHWA), Federal Transit Administration (FTA), and Federal Aviation Administration (FAA), is subject to and will comply with the following:

Statutory/Regulatory Authorities

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 C.F.R. Part 21 (entitled Non-discrimination In Federally-Assisted Programs Of The Department Of Transportation-Effectuation Of Title VI Of The Civil Rights Act Of 1964);
- 28 C.F.R. section 50.3 (U.S. Department of Justice Guidelines for Enforcement of Title VI of the Civil Rights Act of 1964);

The preceding statutory and regulatory cites hereinafter are referred to as the "Acts" and "Regulations," respectively.

General Assurances

In accordance with the Acts, the Regulations, and other pertinent directives, circulars, policy, memoranda, and/or guidance, the Recipient hereby gives assurance that it will promptly take any measures necessary to ensure that:

"No person in the United States shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity, for which the Recipient receives Federal financial assistance from DOT, including the FHWA, FTA, or FAA.

The Civil Rights Restoration Act of 1987 clarified the original intent of Congress, with respect to Title VI and other Non-discrimination requirements (The Age Discrimination Act of 1975, and Section 504 of the Rehabilitation Act of 1973), by restoring the broad, institutional-wide scope and coverage of these non-discrimination statutes and requirements to include all programs and activities of the Recipient, so long as any portion of the program is Federally assisted.

Specific Assurances

More specifically, and without limiting the above general Assurance, the Recipient agrees with and gives the following Assurances with respect to its Federally assisted FHWA, FTA, and FAA assisted programs:

1. The Recipient agrees that each "activity," "facility," or "program," as defined in §§ 21.23(b) and 21.23(e) of 49 C.F.R. § 21 will be (with regard to an "activity") facilitated or will be (with regard to a "facility") operated or will be (with regard to a "program") conducted in compliance with all requirements imposed by, or pursuant to the Acts and the Regulations.
2. The Recipient will insert the following notification in all solicitations for bids, Requests for Proposals for work, or material subject to the Acts and the Regulations made in connection with all FHWA, FTA and FAA programs and, in adapted form, in all proposals for negotiated agreements regardless of funding source:
3. "The [Local Agency] in accordance with the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252, 42 U.S.C. §§ 2000d to 2000d-4) and the Regulations, hereby notifies all bidders that it will affirmatively ensure that any contract entered into pursuant to this advertisement, disadvantaged business enterprises will be afforded full and fair opportunity

4. to submit bids in response to this invitation and will not be discriminated against on the grounds of race, color, or national origin in consideration for an award."
5. The Recipient will insert the clauses of Appendix A and E of this Assurance in every contract or agreement subject to the Acts and the Regulations.
6. The Recipient will insert the clauses of Appendix B of this Assurance, as a covenant running with the land, in any deed from the United States effecting or recording a transfer of real property, structures, use, or improvements thereon or interest therein to a Recipient.
7. That where the Recipient receives Federal financial assistance to construct a facility, or part of a facility, the Assurance will extend to the entire facility and facilities operated in connection therewith.
8. That where the Recipient receives Federal financial assistance in the form, or for the acquisition of real property or an interest in real property, the Assurance will extend to rights to space on, over, or under such property.
9. That the Recipient will include the clauses set forth in Appendix C and Appendix D of this Assurance, as a covenant running with the land, in any future deeds, leases, licenses, permits, or similar instruments entered into by the Recipient with other parties:
 - a. for the subsequent transfer of real property acquired or improved under the applicable activity, project, or program; and
 - b. for the construction or use of, or access to, space on, over, or under real property acquired or improved under the applicable activity, project, or program.
10. That this Assurance obligates the Recipient for the period during which Federal financial assistance is extended to the program, except where the Federal financial assistance is to provide, or is in the form of, personal property, or real property, or interest therein, or structures or improvements thereon, in which case the Assurance obligates the Recipient, or any transferee for the longer of the following periods:
 - a. the period during which the property is used for a purpose for which the Federal financial assistance is extended, or for another purpose involving the provision of similar services or benefits; or
 - b. the period during which the Recipient retains ownership or possession of the property.
11. The Recipient will provide for such methods of administration for the program as are found by the Secretary of Transportation or the official to whom he/she delegates specific authority to give reasonable guarantee that it, other recipients, sub-recipients, sub-grantees, contractors, subcontractors, consultants, transferees, successors in interest, and other participants of Federal financial assistance under such program will comply with all requirements imposed or pursuant to the Acts, the Regulations, and this Assurance.
12. The Recipient agrees that the United States has a right to seek judicial enforcement with regard to any matter arising under the Acts, the Regulations, and this Assurance.

By signing this ASSURANCE, the [Local Agency] also agrees to comply (and require any sub-recipients, sub-grantees, contractors, successors, transferees, and/or assignees to comply) with all applicable provisions governing the FHWA, FTA, and FAA's access to records, accounts, documents, information, facilities, and staff. You also recognize that you must comply with any program or compliance reviews, and/or complaint investigations conducted by CDOT, FHWA, FTA, or FAA. You must keep records, reports, and submit the material for review

upon request to CDOT, FHWA, FTA, or FAA, or its designee in a timely, complete, and accurate way. Additionally, you must comply with all other reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance.

[Local Agency] gives this ASSURANCE in consideration of and for obtaining any Federal grants, loans, contracts, agreements, property, and/or discounts, or other Federal-aid and Federal financial assistance extended after the date hereof to the recipients by the U.S. Department of Transportation under the FHWA, FTA, and FAA. This ASSURANCE is binding on [Local Agency], other recipients, sub-recipients, sub-grantees, contractors, subcontractors and their subcontractors', transferees, successors in interest, and any other participants in the FHWA, FTA, and FAA funded programs. The person(s) signing below is authorized to sign this ASSURANCE on behalf of the Recipient.

(Name of Recipient)

by _____
(Signature of Authorized Official)

DATED _____

APPENDIX A

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. **Compliance with Regulations:** The contractor (hereinafter includes consultants) will comply with the Acts and the Regulations relative to Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, FHWA, as they may be amended from time to time, which are herein incorporated by reference and made a part of this contract.
2. **Non-discrimination:** The contractor, with regard to the work performed by it during the contract, will not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor will not participate directly or indirectly in the discrimination prohibited by the Acts and the Regulations, including employment practices when the contract covers any activity, project, or program set forth in Appendix B of 49 CFR Part 21.
3. **Solicitations for Subcontracts, Including Procurements of Materials and Equipment:** In all solicitations, either by competitive bidding, or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials, or leases of equipment, each potential subcontractor or supplier will be notified by the contractor of the contractor's obligations under this contract and the Acts and the Regulations relative to Non-discrimination on the grounds of race, color, or national origin.
4. **Information and Reports:** The contractor will provide all information and reports required by the Acts, the Regulations, and directives issued pursuant thereto and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the [Local Agency], CDOT or FHWA to be pertinent to ascertain compliance with such Acts, Regulations, and instructions. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish the information, the contractor will so certify to the [Local Agency], CDOT or FHWA, as appropriate, and will set forth what efforts it has made to obtain the information.
5. **Sanctions for Noncompliance:** In the event of a contractor's noncompliance with the non-discrimination provisions of this contract, the [Local Agency] will impose such contract sanctions as it, CDOT or FHWA may determine to be appropriate, including, but not limited to:
 - a. withholding payments to the contractor under the contract until the contractor complies; and/or
 - b. cancelling, terminating, or suspending a contract, in whole or in part.
6. **Incorporation of Provisions:** The contractor will include the provisions of paragraphs one through six in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant thereto. The contractor will take action with respect to any subcontract or procurement as the Recipient or the [Local Agency], CDOT or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, that if the contractor becomes involved in, or is threatened with litigation by a subcontractor, or supplier because of such direction, the contractor may request the Recipient to enter into any litigation to protect the interests of the Recipient. In addition, the contractor may request the United States to enter into the litigation to protect the interests of the United States.

APPENDIX B**CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY**

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW, THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the [Local Agency] will accept title to the lands and maintain the project constructed thereon in accordance with (*Name of Appropriate Legislative Authority*), the Regulations for the Administration of (*Name of Appropriate Program*), and the policies and procedures prescribed by the FHWA of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the [Local Agency] all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto [Local Agency] and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the [Local Agency] its successors and assigns.

The [Local Agency], in consideration of the conveyance of said lands and interests in lands, does hereby covenant and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the [Local Agency] will use the lands and interests in lands and interests in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended [, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said land, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX C

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the [Local Agency] pursuant to the provisions of Assurance 7(a):

- A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add "as a covenant running with the land"] that:
 - 1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.
- B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non-discrimination covenants, [Local Agency] will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued. *
- C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the [Local Agency] will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the [Local Agency] and its assigns. *

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX D

CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by [Local Agency] pursuant to the provisions of Assurance 7(b):

- A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, "as a covenant running with the land") that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishing of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.
- B. With respect to (licenses, leases, permits, etc.), in the event of breach of any of the above Non- discrimination covenants, [Local Agency] will have the right to terminate the (license, permit, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued. *
- C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, [Local Agency] will there upon revert to and vest in and become the absolute property of [Local Agency] of Transportation and its assigns. *

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), (prohibits discrimination on the basis of sex);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131-12189) as implemented by Department of Transportation regulations at 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of Limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);
- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq.).

EXHIBIT K**FFATA SUPPLEMENTAL FEDERAL PROVISIONS**

**State of Colorado
Supplemental Provisions for
Federally Funded Contracts, Grants, and Purchase Orders
Subject to
The Federal Funding Accountability and Transparency Act of 2006 (FFATA), As Amended
Revised as of 3-20-13**

The contract, grant, or purchase order to which these Supplemental Provisions are attached has been funded, in whole or in part, with an Award of Federal funds. In the event of a conflict between the provisions of these Supplemental Provisions, the Special Provisions, the contract or any attachments or exhibits incorporated into and made a part of the contract, the provisions of these Supplemental Provisions shall control.

1. Definitions. For the purposes of these Supplemental Provisions, the following terms shall have the meanings ascribed to them below.

1.1. “Award” means an award of Federal financial assistance that a non-Federal Entity receives or administers in the form of:

- 1.1.1.** Grants;
- 1.1.2.** Contracts;
- 1.1.3.** Cooperative agreements, which do not include cooperative research and development agreements (CRDA) pursuant to the Federal Technology Transfer Act of 1986, as amended (15 U.S.C. 3710);
- 1.1.4.** Loans;
- 1.1.5.** Loan Guarantees;
- 1.1.6.** Subsidies;
- 1.1.7.** Insurance;
- 1.1.8.** Food commodities;
- 1.1.9.** Direct appropriations;
- 1.1.10.** Assessed and voluntary contributions; and
- 1.1.11.** Other financial assistance transactions that authorize the expenditure of Federal funds by non-Federal Entities.

Award *does not* include:

- 1.1.12.** Technical assistance, which provides services in lieu of money;
- 1.1.13.** A transfer of title to Federally-owned property provided in lieu of money; even if the award is called a grant;
- 1.1.14.** Any award classified for security purposes; or
- 1.1.15.** Any award funded in whole or in part with Recovery funds, as defined in section 1512 of the American Recovery and Reinvestment Act (ARRA) of 2009 (Public Law 111-5).

1.2. “Contract” means the contract to which these Supplemental Provisions are attached and includes all Award types in §1.1.1 through 1.1.11 above.

1.3. “Contractor” means the party or parties to a Contract funded, in whole or in part, with Federal financial assistance, other than the Prime Recipient, and includes grantees, subgrantees, Subrecipients, and borrowers. For purposes of Transparency Act reporting, Contractor does not include Vendors.

1.4. “Data Universal Numbering System (DUNS) Number” means the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify a business entity. Dun and Bradstreet’s website may be found at: <http://fedgov.dnb.com/webform>.

1.5. “Entity” means all of the following as defined at 2 CFR part 25, subpartC;

- 1.5.1.** A governmental organization, which is a State, local government, or Indian Tribe;
- 1.5.2.** A foreign public entity;
- 1.5.3.** A domestic or foreign non-profit organization;

- 1.5.4. A domestic or foreign for-profit organization; and
- 1.5.5. A Federal agency, but only a Subrecipient under an Award or Subaward to a non-Federal entity.
- 1.6. **“Executive”** means an officer, managing partner or any other employee in a management position.
- 1.7. **“Federal Award Identification Number (FAIN)”** means an Award number assigned by a Federal agency to a Prime Recipient.
- 1.8. **“FFATA”** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109- 282), as amended by §6202 of Public Law 110-252. FFATA, as amended, also is referred to as the “Transparency Act.”
- 1.9. **“Prime Recipient”** means a Colorado State agency or institution of higher education that receives an Award.
- 1.10. **“Subaward”** means a legal instrument pursuant to which a Prime Recipient of Award funds awards all or a portion of such funds to a Subrecipient, in exchange for the Subrecipient’s support in the performance of all or any portion of the substantive project or program for which the Award was granted.
- 1.11. **“Subrecipient”** means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term “Subrecipient” includes and may be referred to as Subgrantee.
- 1.12. **“Subrecipient Parent DUNS Number”** means the subrecipient parent organization’s 9-digit Data Universal Numbering System (DUNS) number that appears in the subrecipient’s System for Award Management (SAM) profile, if applicable.
- 1.13. **“Supplemental Provisions”** means these Supplemental Provisions for Federally Funded Contracts, Grants, and Purchase Orders subject to the Federal Funding Accountability and Transparency Act of 2006, As Amended, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institution of higher education.
- 1.14. **“System for Award Management (SAM)”** means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>.
- 1.15. **“Total Compensation”** means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year and includes the following:
 - 1.15.1. Salary and bonus;
 - 1.15.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;
 - 1.15.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;
 - 1.15.4. Change in present value of defined benefit and actuarial pension plans;
 - 1.15.5. Above-market earnings on deferred compensation which is not tax-qualified;
 - 1.15.6. Other compensation, if the aggregate value of all such other compensation (e.g. severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.
- 1.16. **“Transparency Act”** means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252. The Transparency Act also is referred to as FFATA.
- 1.17 **“Vendor”** means a dealer, distributor, merchant or other seller providing property or services required for a project or program funded by an Award. A Vendor is not a Prime Recipient or a Subrecipient and is not subject to the terms and conditions of the Federal award. Program compliance requirements do not pass through to a Vendor.

2. **Compliance.** Contractor shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, including but not limited to these Supplemental Provisions. Any revisions to such provisions or regulations shall automatically become a part of these Supplemental Provisions, without the necessity of either party executing any further instrument. The State of Colorado may provide written notification to Contractor of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.
3. **System for Award Management (SAM) and Data Universal Numbering System (DUNS) Requirements.**
 - 3.1. **SAM.** Contractor shall maintain the currency of its information in SAM until the Contractor submits the final financial report required under the Award or receives final payment, whichever is later. Contractor shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.
 - 3.2. **DUNS.** Contractor shall provide its DUNS number to its Prime Recipient, and shall update Contractor's information in Dun & Bradstreet, Inc. at least annually after the initial registration, and more frequently if required by changes in Contractor's information.
4. **Total Compensation.** Contractor shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:
 - 4.1. The total Federal funding authorized to date under the Award is \$25,000 or more; and
 - 4.2. In the preceding fiscal year, Contractor received:
 - 4.2.1. 80% or more of its annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 4.2.2. \$25,000,000 or more in annual gross revenues from Federal procurement contracts and subcontracts and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 4.3. The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.
5. **Reporting.** Contractor shall report data elements to SAM and to the Prime Recipient as required in §7 below if Contractor is a Subrecipient for the Award pursuant to the Transparency Act. No direct payment shall be made to Contractor for providing any reports required under these Supplemental Provisions and the cost of producing such reports shall be included in the Contract price. The reporting requirements in §7 below are based on guidance from the US Office of Management and Budget (OMB), and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Contract and shall become part of Contractor's obligations under this Contract, as provided in §2 above. The Colorado Office of the State Controller will provide summaries of revised OMB reporting requirements at <http://www.colorado.gov/dpa/dfp/sco/FFATA.htm>.
6. **Effective Date and Dollar Threshold for Reporting.** The effective date of these Supplemental Provisions apply to new Awards as of October 1, 2010. Reporting requirements in §7 below apply to new Awards as of October 1, 2010, if the initial award is \$25,000 or more. If the initial Award is below \$25,000 but subsequent Award modifications result in a total Award of \$25,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$25,000. If the initial Award is \$25,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$25,000, the Award shall continue to be subject to the reporting requirements.
7. **Subrecipient Reporting Requirements.** If Contractor is a Subrecipient, Contractor shall report as set forth below.

7.1 To SAM. A Subrecipient shall register in SAM and report the following data elements in SAM *for each* Federal Award Identification Number no later than the end of the month following the month in which the Subaward was made:

- 7.1.1** Subrecipient DUNS Number;
- 7.1.2** Subrecipient DUNS Number + 4 if more than one electronic funds transfer (EFT) account;
- 7.1.3** Subrecipient Parent DUNS Number;
- 7.1.4** Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;
- 7.1.5** Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and
- 7.1.6** Subrecipient's Total Compensation of top 5 most highly compensated Executives if criteria in §4 above met.

7.2 To Prime Recipient. A Subrecipient shall report to its Prime Recipient, upon the effective date of the Contract, the following data elements:

- 7.2.1** Subrecipient's DUNS Number as registered in SAM.
- 7.2.2** Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.


8. Exemptions.

- 8.1.** These Supplemental Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.
- 8.2** A Contractor with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.
- 8.3** Effective October 1, 2010, "Award" currently means a grant, cooperative agreement, or other arrangement as defined in Section 1.1 of these Special Provisions. On future dates "Award" may include other items to be specified by OMB in policy memoranda available at the OMB Web site; Award also will include other types of Awards subject to the Transparency Act.
- 8.4** There are no Transparency Act reporting requirements for Vendors.

Event of Default. Failure to comply with these Supplemental Provisions shall constitute an event of default under the Contract and the State of Colorado may terminate the Contract upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30 day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Contract, at law or in equity.

EXHIBIT L

SAMPLE SUBRECIPIENT MONITORING AND RISK ASSESSMENT

 CDOT SUBRECIPIENT RISK ASSESSMENT		Date:	
Name of Entity (Subrecipient):			
Name of Project / Program:			
Estimated Award Period:			
Entity Executive Director or VP:			
Entity Chief Financial Officer:			
Entity Representative for this Self Assessment:			
Instructions: (See "Instructions" tab for more information) 1. Check only one box for each question. All questions are required to be answered. 2. Utilize the "Comment" section below the last question for additional responses. 3. When complete, check the box at the bottom of the form to authorize.		Yes	No
		N/A	
EXPERIENCE ASSESSMENT		Yes	No
		N/A	
1	Is your entity new to operating or managing federal funds (has not done so within the past three years)?	<input type="checkbox"/>	<input type="checkbox"/>
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>	<input type="checkbox"/>	<input type="checkbox"/>
3	Does your staff assigned to the program have at least three full years of experience with this federal program?	<input type="checkbox"/>	<input type="checkbox"/>
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?	<input type="checkbox"/>	<input type="checkbox"/>
5 a)	Were there non-compliance issues in this prior review?	<input type="checkbox"/>	<input type="checkbox"/>
5 b)	What were the number and extent of issues in prior review?	<input type="checkbox"/> 1 to 2	<input type="checkbox"/> >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>	<input type="checkbox"/>	<input type="checkbox"/>
FINANCIAL ASSESSMENT		Yes	No
		N/A	
7 a)	Does your entity have an indirect cost rate that is approved and current?	<input type="checkbox"/>	<input type="checkbox"/>
7 b)	If Yes, who approved the rate, and what date was it approved?		
8	Is this grant/award 10% or more of your entity's overall funding?	<input type="checkbox"/> >10%	<input type="checkbox"/> <10%
9	Has your entity returned lapsed* funds? *Funds "lapse" when they are no longer available for obligation.	<input type="checkbox"/>	<input type="checkbox"/>
10	Has your entity had difficulty meeting local match requirements in the last three years?	<input type="checkbox"/>	<input type="checkbox"/>
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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
13	Does your entity have financial procedures and controls in place to accommodate a federal-aid project?	<input type="checkbox"/>	<input type="checkbox"/>	
14	Does your accounting system identify the receipts and expenditures of program funds separately for each award?	<input type="checkbox"/>	<input type="checkbox"/>	
15	Will your accounting system provide for the recording of expenditures for each award by the budget cost categories shown in the approved budget?	<input type="checkbox"/>	<input type="checkbox"/>	
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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
17	How many total FTE perform accounting functions within your organization?	<input type="checkbox"/> ≥ 6	<input type="checkbox"/> 2 to 5	<input type="checkbox"/> < 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.)	<input type="checkbox"/>	<input type="checkbox"/>	
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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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.)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
22	a) Is your staff familiar with the relevant CDOT manuals and federal program requirements?	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
	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.	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>


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>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
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>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<p>Comments - As needed, include the question number and provide comments related to the above questions. Insert additional rows as needed.</p>			
<p><input type="checkbox"/> 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.</p> <div style="text-align: right;">  Tool Version: v2.0 (081816) </div>			

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 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 Interim Final Rule, and reporting requirements, as applicable.
- 1.3. Additionally, any subrecipient that issues a subaward to another entity (2nd tier subrecipient), must hold the 2nd tier subrecipient accountable to these provisions and adhere to reporting requirements.
- 1.4. These Federal Provisions are subject to the Award as defined in §2 of these Federal Provisions, as may be revised pursuant to ongoing guidance from the relevant Federal or State of Colorado agency or institutions of higher education.

2. DEFINITIONS.

- 2.1. For the purposes of these Federal Provisions, the following terms shall have the meanings ascribed to them below.
 - 2.1.1. "Award" means an award of Federal financial assistance, and the Grant setting forth the terms and conditions of that financial assistance, that a non-Federal Entity receives or administers.
 - 2.1.2. "Data Universal Numbering System (DUNS) Number" means the nine-digit number established and assigned by Dun and Bradstreet, Inc. to uniquely identify a business entity. Dun and Bradstreet's website may be found at: <http://fedgov.dnb.com/webform>.
 - 2.1.3. "Entity" means:
 - 2.1.3.1. a Non-Federal Entity;
 - 2.1.3.2. a foreign public entity;
 - 2.1.3.3. a foreign organization;
 - 2.1.3.4. a non-profit organization;
 - 2.1.3.5. a domestic for-profit organization (for 2 CFR parts 25 and 170 only);
 - 2.1.3.6. a foreign non-profit organization (only for 2 CFR part 170) only);

- 2.1.3.7. a Federal agency, but only as a Subrecipient under an Award or Subaward to a non-Federal entity (or 2 CFR 200.1); or
- 2.1.3.8. a foreign for-profit organization (for 2 CFR part 170 only).
- 2.1.4. “Executive” means an officer, managing partner or any other employee in a management position.
- 2.1.5. “Expenditure Category (EC)” means the category of eligible uses as defined by the US Department of Treasury in “Appendix 1 of the Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds” report available at www.treasury.gov.
- 2.1.6. “Federal Awarding Agency” means a Federal agency providing a Federal Award to a Recipient as described in 2 CFR 200.1
- 2.1.7. “Grant” means the Grant to which these Federal Provisions are attached.
- 2.1.8. “Grantee” means the party or parties identified as such in the Grant to which these Federal Provisions are attached.
- 2.1.9. “Non-Federal Entity means a State, local government, Indian tribe, institution of higher education, or nonprofit organization that carries out a Federal Award as a Recipient or a Subrecipient.
- 2.1.10. “Nonprofit Organization” means any corporation, trust, association, cooperative, or other organization, not including IHEs, that:
 - 2.1.10.1. Is operated primarily for scientific, educational, service, charitable, or similar purposes in the public interest;
 - 2.1.10.2. Is not organized primarily for profit; and
 - 2.1.10.3. Uses net proceeds to maintain, improve, or expand the operations of the organization.
- 2.1.11. “OMB” means the Executive Office of the President, Office of Management and Budget.
- 2.1.12. “Pass-through Entity” means a non-Federal Entity that provides a Subaward to a Subrecipient to carry out part of a Federal program.
- 2.1.13. “Prime Recipient” means the Colorado State agency or institution of higher education identified as the Grantor in the Grant to which these Federal Provisions are attached.
- 2.1.14. “Subaward” means an award by a Prime Recipient to a Subrecipient funded in whole or in part by a Federal Award. The terms and conditions of the Federal Award flow down to the Subaward unless the terms and conditions of the Federal Award specifically indicate otherwise in accordance with 2 CFR 200.101. The term does not include payments to a Contractor or payments to an individual that is a beneficiary of a Federal program.

- 2.1.15. “Subrecipient” or “Subgrantee” means a non-Federal Entity (or a Federal agency under an Award or Subaward to a non-Federal Entity) receiving Federal funds through a Prime Recipient to support the performance of the Federal project or program for which the Federal funds were awarded. A Subrecipient is subject to the terms and conditions of the Federal Award to the Prime Recipient, including program compliance requirements. The term does not include an individual who is a beneficiary of a federal program.
- 2.1.16. “System for Award Management (SAM)” means the Federal repository into which an Entity must enter the information required under the Transparency Act, which may be found at <http://www.sam.gov>. “Total Compensation” means the cash and noncash dollar value earned by an Executive during the Prime Recipient’s or Subrecipient’s preceding fiscal year (see 48 CFR 52.204-10, as prescribed in 48 CFR 4.1403(a)) and includes the following:
- 2.1.16.1. Salary and bonus;
 - 2.1.16.2. Awards of stock, stock options, and stock appreciation rights, using the dollar amount recognized for financial statement reporting purposes with respect to the fiscal year in accordance with the Statement of Financial Accounting Standards No. 123 (Revised 2005) (FAS 123R), Shared Based Payments;
 - 2.1.16.3. Earnings for services under non-equity incentive plans, not including group life, health, hospitalization or medical reimbursement plans that do not discriminate in favor of Executives and are available generally to all salaried employees;
 - 2.1.16.4. Change in present value of defined benefit and actuarial pension plans;
 - 2.1.16.5. Above-market earnings on deferred compensation which is not tax-qualified;
 - 2.1.16.6. Other compensation, if the aggregate value of all such other compensation (e.g., severance, termination payments, value of life insurance paid on behalf of the employee, perquisites or property) for the Executive exceeds \$10,000.
- 2.1.17. “Transparency Act” means the Federal Funding Accountability and Transparency Act of 2006 (Public Law 109-282), as amended by §6202 of Public Law 110-252.
- 2.1.18. “Uniform Guidance” means the Office of Management and Budget Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. The terms and conditions of the Uniform Guidance flow down to Awards to Subrecipients unless the Uniform Guidance or the terms and conditions of the Federal Award specifically indicate otherwise.

3. COMPLIANCE.

- 3.1. Grantee shall comply with all applicable provisions of the Transparency Act and the regulations issued pursuant thereto, all applicable provisions of the Uniform Guidance, and all applicable Federal Laws and regulations required by this Federal Award. Any revisions to such provisions or regulations shall automatically become a part of these Federal Provisions, without the necessity of either party executing any further instrument. The State of Colorado, at its discretion, may provide written notification to Grantee of such revisions, but such notice shall not be a condition precedent to the effectiveness of such revisions.

4. SYSTEM FOR AWARD MANAGEMENT (SAM) AND DATA UNIVERSAL NUMBERING SYSTEM (DUNS) REQUIREMENTS.

- 4.1. SAM. Grantee shall maintain the currency of its information in SAM until the Grantee submits the final financial report required under the Award or receives final payment, whichever is later. Grantee shall review and update SAM information at least annually after the initial registration, and more frequently if required by changes in its information.
- 4.2. DUNS. Grantee shall provide its DUNS number to its Prime Recipient, and shall update Grantee's information in Dun & Bradstreet, Inc. at least annually after the initial registration, and more frequently if required by changes in Grantee's information.

5. TOTAL COMPENSATION.

- 5.1. Grantee shall include Total Compensation in SAM for each of its five most highly compensated Executives for the preceding fiscal year if:
 - 5.1.1. The total Federal funding authorized to date under the Award is \$30,000 or more; and
 - 5.1.2. In the preceding fiscal year, Grantee received:
 - 5.1.2.1. 80% or more of its annual gross revenues from Federal procurement Agreements and Subcontractors and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 5.1.2.2. \$30,000,000 or more in annual gross revenues from Federal procurement Agreements and Subcontractors and/or Federal financial assistance Awards or Subawards subject to the Transparency Act; and
 - 5.1.2.3. 5.1.2.3 The public does not have access to information about the compensation of such Executives through periodic reports filed under section 13(a) or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(a), 78o(d) or § 6104 of the Internal Revenue Code of 1986.

6. REPORTING.

- 6.1. If Grantee is a Subrecipient of the Award pursuant to the Transparency Act, Grantee shall report data elements to SAM and to the Prime Recipient as required in this Exhibit. No direct payment shall be made to Grantee for providing any reports required under these Federal Provisions and the cost of producing such reports shall be included in the Grant price. The reporting requirements in this Exhibit are based on guidance from the OMB, and as such are subject to change at any time by OMB. Any such changes shall be automatically incorporated into this Grant and shall become part of Grantee's obligations under this Grant.

7. EFFECTIVE DATE AND DOLLAR THRESHOLD FOR FEDERAL REPORTING.

- 7.1. Reporting requirements in §8 below apply to new Awards as of October 1, 2010, if the initial award is \$30,000 or more. If the initial Award is below \$30,000 but subsequent Award modifications result in a total Award of \$30,000 or more, the Award is subject to the reporting requirements as of the date the Award exceeds \$30,000. If the initial Award is \$30,000 or more, but funding is subsequently de-obligated such that the total award amount falls below \$30,000, the Award shall continue to be subject to the reporting requirements. If the total award is below \$30,000 no reporting required; if more than \$30,000 and less than \$50,000 then FFATA reporting is required; and, \$50,000 and above SLFRF reporting is required.
- 7.2. The procurement standards in §9 below are applicable to new Awards made by Prime Recipient as of December 26, 2015. The standards set forth in §11 below are applicable to audits of fiscal years beginning on or after December 26, 2014.

8. SUBRECIPIENT REPORTING REQUIREMENTS.

- 8.1. Grantee shall report as set forth below.
 - 8.1.1. Grantee shall use the SLFRF Subrecipient Quarterly Report Workbook as referenced in Exhibit P to report to the State Agency within ten (10) days following each quarter ended September, December, March and June. Additional information on specific requirements are detailed in the SLFRF Subrecipient Quarterly Report Workbooks and "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov.

EC1: Public Health

COVID-19 Vaccination (EC 1.1) and COVID-19 Testing (EC 1.2)

- a. Description of metrics for disadvantaged communities served.
Prevention in Congregate Settings (Nursing Homes, Prisons/Jails, Dense Work Sites, Schools, etc.) (EC 1.4), Mental Health Services (EC 1.10) and Substance Use Substances (1.11)

- a. Measurement of the metric.
Payroll for Public Health and Safety Employees (EC 1.9)

- a. Number of governmental FTEs responding to COVID-19 supported under this authority
Public Health Project-Specific Reporting Requirements (EC1)

- a. Unique requirement(s), if applicable

EC2: Negative Economic Impacts

Household Assistance (EC 2.1-2.5)

- a. Description of metrics for disadvantaged communities served.
- b. Measurement of the metric.
- c. Number of households served (by program if recipient establishes multiple separate household assistance programs).

Household Assistance (EC 2.2 & 2.5)

- a. Number of people or households receiving eviction prevention services (including legal representation)
- b. Number of affordable housing units preserved or developed.

Unemployment Benefits or Cash Assistance to Unemployed Workers (EC 2.6)

- a. Measurement of the metric.

Job Training Assistance (e.g., Sectoral job-training, Subsidized Employment, Employment Supports or Incentives) (EC 2.7)

- a. Description of the metrics for disadvantaged communities served.
- b. Measurement of the metric.

Small Business Economic Assistance (EC 2.9)

- a. Description of the metrics for disadvantaged communities served.
- b. Measurement of the metric.
- c. Number of small businesses served (by program if recipient establishes multiple separate small businesses assistance programs)

Aid to Nonprofit Organizations (EC 2.10)

- a. Measurement of the metric.

Other Economic Support (EC 2.13)

- a. Description of the metrics for disadvantaged communities served.
- b. Measurement of the metric.

Rehiring Public Sector Staff (EC 2.14)

- a. Number of FTEs rehired by governments under this authority

Negative Economic Impacts Project-Specific Reporting Requirements (EC2)

- a. Number of workers enrolled in sectoral job training programs
- b. Number of workers completing sectoral job training programs
- c. Number of people participating in summer youth employment programs
- d. Unique requirement(s), if applicable

EC3: Services to Disproportionately Impacted Communities

Education Assistance: Early Learning (EC 3.1), Education Assistance: Aid to High-Poverty Districts (EC 3.2) Education Assistance: Academic Services (EC 3.3), Education Assistance: Social, Emotional, and Mental Health Services (EC 3.4), and Education Assistance: Other (EC 3.5)

- a. Description of metrics for disadvantaged communities served.
- b. Measurement of the metric.
- c. National Center for Education Statistics (“NCES”) School ID or NCES District ID
- d. Number of students participating in evidence-based tutoring programs

Housing Childhood Environments (EC 3.6-3.9)

- a. Number of children served by childcare and early learning (preschool/pre-K/ages 3-5)
- b. Number of families served by home visiting.

Healthy Childhood Environments: Child Care (EC 3.6), Healthy Childhood Environments: Home Visiting (EC 3.7), Healthy Childhood Environments: Services to Foster Youth or Families Involved in Child Welfare System (EC 3.8), Healthy Childhood Environments: Other (EC 3.9), Housing Support: Affordable Housing (EC 3.10), Housing Support: Services for Unhoused Persons (EC 3.11), Housing Support: Other Housing Assistance (EC 3.12), Social Determinants of Health: Other (EC 3.13), Social Determinants of Health: Community Health Workers or Benefits Navigators (EC 3.14), Social Determinants of Health: Community Violence Interventions (EC 3.16)

- a. Description of the metrics for disadvantaged communities served.
- b. Measurement of the metric.

Housing Support (EC 3-10-3.12)

- c. Number of people or households receiving eviction prevention services (including legal representation)
- d. Number of affordable housing units preserved or developed.

Social Determinants of Health: Lead Remediation (EC 3.15)

- a. Description of metrics for disadvantaged communities served.
- b. Measurement of the metric.

Services to Disproportionately Impacted Communities Project-Specific Reporting Requirements (EC3)

- a. Unique requirement(s), if applicable

EC4: Premium Pay

Premium Pay (both Public Sector EC 4.1 and Private Sector EC 4.2)

- a. Number of workers served

Premium Pay Project-Specific Reporting Requirements (EC3)

- a. Unique requirement(s), if applicable

EC5: Infrastructure

All infrastructure projects (EC 5)

- a. Projected/Actual construction start date (month/year)
- b. Projected/Actual initiation of operations date (month/year)
- c. Location (for broadband, geospatial location data)
- d. Description of how the project contributes to addressing climate change

Water and sewer projects (EC 5.1-5.15)

- 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)

Broadband projects (EC 5.16-5.17)

- a. Confirm that the project is designed to, upon completion, reliably meet or exceed symmetrical 100Mbps download and upload speeds
 - a. If the project is not designed to reliability meet or exceed symmetrical 100Mbps speeds, explain why not and:
 - b. Confirm project design to meet or exceed 100 Mbps download and between 20 and 100 Mbps upload speed, and be scalable to a minimum of 100 Mbps upload and download speed.
- b. Additional programmatic data requirements will be issued by US Treasury in July 2022 for broadband projects, and agencies may be required to report on additional metrics, including, but not limited to:
 - a. 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
 - b. 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

- c. 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.

Infrastructure Project-Specific Reporting Requirements (EC5)

- a. Unique requirement(s), if applicable
- 8.1.2. A Subrecipient shall report the following data elements to Prime Recipient no later than five days after the end of the month following the month in which the Subaward was made.
- 8.1.2.1. Subrecipient DUNS Number;
 - 8.1.2.2. Subrecipient DUNS Number if more than one electronic funds transfer (EFT) account;
 - 8.1.2.3. Subrecipient parent's organization DUNS Number;
 - 8.1.2.4. Subrecipient's address, including: Street Address, City, State, Country, Zip + 4, and Congressional District;

- 8.1.2.5. Subrecipient's top 5 most highly compensated Executives if the criteria in §4 above are met; and
 - 8.1.2.6. Subrecipient's Total Compensation of top 5 most highly compensated Executives if the criteria in §4 above met.
- 8.1.3. To Prime Recipient. A Subrecipient shall report to its Prime Recipient, the following data elements:
- 8.1.3.1. Subrecipient's DUNS Number as registered in SAM.
 - 8.1.3.2. Primary Place of Performance Information, including: Street Address, City, State, Country, Zip code + 4, and Congressional District.
 - 8.1.3.3. Narrative identifying methodology for serving disadvantaged communities. See the "Project Demographic Distribution" section in the "Compliance and Reporting Guidance, State and Local Fiscal Recovery Funds" report available at www.treasury.gov. This requirement is only applicable to EC 1.1, 1.2, 2.1, 2.2, 2.3, 2.4, 2.5, 2.7, 2.9, 2.13, 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.7, 3.8, 3.9, 3.10, 3.11, 3.12, 3.13, 3.14, 3.15, and 3.16.
 - 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. This requirement is only applicable to EC 1.4, 1.10, 1.11, 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, 2.9, 2.10, 2.13, 3.1, 3.3, 3.4, 3.5, 3.6, 3.7, 3.8, 3.9, 3.10, 3.11, 3.12, 3.13, 3.14, and 3.16.
 - 8.1.3.5. Narrative describing the structure and objectives of the assistance program and in what manner the aid responds to the negative economic impacts of COVID-19. This requirement is only applicable to EC 2.1, 2.2, 2.3, 2.4, 2.5, 2.9, 2.11, and 2.12. 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, for whom premium pay would increase total pay above 150 percent of their residing State's average annual wage, or their residing county's average annual wage, whichever is higher, on an annual basis 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), narrative identifying the projected construction start date (month/year), projected initiation of operations date

(month/year), and location (for broadband, geospatial location data). For projects over \$10 million:

- 8.1.3.8. Certification that all laborers and mechanics employed by Contractors and Subcontractors in the performance of such project are paid wages at rates not less than those prevailing, as determined by the U.S. Secretary of Labor in accordance with subchapter IV of chapter 31 of title 40, United States Code (commonly known as the "Davis-Bacon Act"), for the corresponding classes of laborers and mechanics employed on projects of a character similar to the Agreement work in the civil subdivision of the State (or the District of Columbia) in which the work is to be performed, or by the appropriate State entity pursuant to a corollary State prevailing-wage-in-construction law (commonly known as "baby Davis-Bacon Acts"). If such certification is not provided, a recipient must provide a project employment and local impact report detailing (1) the number of employees of Contractors and sub-contractors working on the project; (2) the number of employees on the project hired directly and hired through a third party; (3) the wages and benefits of workers on the project by classification; and (4) whether those wages are at rates less than those prevailing. Recipients must maintain sufficient records to substantiate this information upon request.
- 8.1.3.8.1. A Subrecipient may provide a certification that a project includes a project labor agreement, meaning a pre-hire collective bargaining agreement consistent with section 8(f) of the National Labor Relations Act (29 U.S.C. 158(f)). If the recipient does not provide such certification, the recipient must provide a project workforce continuity plan, detailing: (1) how the Subrecipient will ensure the project has ready access to a sufficient supply of appropriately skilled and unskilled labor to ensure high-quality construction throughout the life of the project; (2) how the Subrecipient will minimize risks of labor disputes and disruptions that would jeopardize timeliness and cost-effectiveness of the project; and (3) how the Subrecipient will provide a safe and healthy workplace that avoids delays and costs associated with workplace illnesses, injuries, and fatalities; (4) whether workers on the project will receive wages and benefits that will secure an appropriately skilled workforce in the context of the local or regional labor market; and (5) whether the project has completed a project labor agreement.
- 8.1.3.8.2. Whether the project prioritizes local hires.
- 8.1.3.8.3. Whether the project has a Community Benefit Agreement, with a description of any such agreement.
- 8.1.4. Subrecipient also agrees to comply with any reporting requirements established by the US Treasury, Governor's Office and Office of the State Controller. The State of Colorado may need additional reporting requirements after this agreement is executed. If there are additional reporting requirements, the State will provide notice of such additional reporting requirements via Exhibit Q – SLFRF Reporting Modification Form.

9. PROCUREMENT STANDARDS.

- 9.1. Procurement Procedures. A Subrecipient shall use its own documented procurement procedures which reflect applicable State, local, and Tribal laws and applicable regulations, provided that the procurements conform to applicable Federal law and the standards identified in the Uniform Guidance, including without limitation, 2 CFR 200.318 through 200.327 thereof.
- 9.2. Domestic preference for procurements (2 CFR 200.322). As appropriate and to the extent consistent with law, the non-Federal entity should, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subawards including all Agreements and purchase orders for work or products under this award.
- 9.3. Procurement of Recovered Materials. If a Subrecipient is a State Agency or an agency of a political subdivision of the State, its Contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247, that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

10. ACCESS TO RECORDS.

- 10.1. A Subrecipient shall permit Prime Recipient and its auditors to have access to Subrecipient's records and financial statements as necessary for Recipient to meet the requirements of 2 CFR 200.332 (Requirements for pass-through entities), 2 CFR 200.300 (Statutory and national policy requirements) through 2 CFR 200.309 (Period of performance), and Subpart F-Audit Requirements of the Uniform Guidance.

11. SINGLE AUDIT REQUIREMENTS.

- 11.1. If a Subrecipient expends \$750,000 or more in Federal Awards during the Subrecipient's fiscal year, the Subrecipient shall procure or arrange for a single or program-specific audit conducted for that year in accordance with the provisions of Subpart F-Audit Requirements of the Uniform Guidance, issued pursuant to the Single Audit Act Amendments of 1996, (31 U.S.C. 7501-7507). 2 CFR 200.501.

- 11.1.1. Election. A Subrecipient shall have a single audit conducted in accordance with Uniform Guidance 2 CFR 200.514 (Scope of audit), except when it elects to have a program-specific audit conducted in accordance with 2 CFR 200.507 (Program-specific audits). The Subrecipient may elect to have a program-specific audit if Subrecipient expends Federal Awards under only one Federal program (excluding research and development) and the Federal program's statutes, regulations, or the terms and conditions of the Federal award do not require a financial statement audit of Prime Recipient. A program-specific audit may not be elected for research and development unless all of the Federal Awards expended were received from Recipient and Recipient approves in advance a program-specific audit.
- 11.1.2. Exemption. If a Subrecipient expends less than \$750,000 in Federal Awards during its fiscal year, the Subrecipient shall be exempt from Federal audit requirements for that year, except as noted in 2 CFR 200.503 (Relation to other audit requirements), but records shall be available for review or audit by appropriate officials of the Federal agency, the State, and the Government Accountability Office.
- 11.1.3. Subrecipient Compliance Responsibility. A Subrecipient shall procure or otherwise arrange for the audit required by Subpart F of the Uniform Guidance and ensure it is properly performed and submitted when due in accordance with the Uniform Guidance. Subrecipient shall prepare appropriate financial statements, including the schedule of expenditures of Federal awards in accordance with 2 CFR 200.510 (Financial statements) and provide the auditor with access to personnel, accounts, books, records, supporting documentation, and other information as needed for the auditor to perform the audit required by Uniform Guidance Subpart F-Audit Requirements.

12. GRANT PROVISIONS FOR SUBRECIPIENT AGREEMENTS.

- 12.1. In addition to other provisions required by the Federal Awarding Agency or the Prime Recipient, Grantees that are Subrecipients shall comply with the following provisions. Subrecipients shall include all of the following applicable provisions in all Subcontractors entered into by it pursuant to this Grant.
 - 12.1.1. [Applicable to federally assisted construction Agreements.] Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all Agreements that meet the definition of "federally assisted construction Agreement" in 41 CFR Part 60-1.3 shall include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, Office of Federal Agreement Compliance Programs, Equal Employment Opportunity, Department of Labor.
 - 12.1.2. [Applicable to on-site employees working on government-funded construction, alteration and repair projects.] Davis-Bacon Act. Davis-Bacon Act, as amended (40 U.S.C. 3141-3148).

- 12.1.3. Rights to Inventions Made Under a grant or agreement. If the Federal Award meets the definition of “funding agreement” under 37 CFR 401.2 (a) and the Prime Recipient or Subrecipient wishes to enter into an Agreement with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the Prime Recipient or Subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Agreements and Cooperative Agreements,” and any implementing regulations issued by the Federal Awarding Agency.
- 12.1.4. Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended. Agreements and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal awardees to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Awarding Agency and the Regional Office of the Environmental Protection Agency (EPA).
- 12.1.5. Debarment and Suspension (Executive Orders 12549 and 12689). A Agreement award (see 2 CFR 180.220) must not be made to parties listed on the government wide exclusions in SAM, in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.
- 12.1.6. Byrd Anti-Lobbying Amendment (31 U.S.C. 1352). Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal Agreement, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- 12.1.7. Never Agreement with the enemy (2 CFR 200.215). Federal awarding agencies and recipients are subject to the regulations implementing “Never Agreement with the enemy” in 2 CFR part 183. The regulations in 2 CFR part 183 affect covered Agreements, grants and cooperative agreements that are expected to exceed \$50,000 within the period of performance, are performed outside the United States and its territories, and are in support of a contingency operation in which members of the Armed Forces are actively engaged in hostilities.

12.1.8. Prohibition on certain telecommunications and video surveillance services or equipment (2 CFR 200.216). Grantee is prohibited from obligating or expending loan or grant funds on certain telecommunications and video surveillance services or equipment pursuant to 2 CFR 200.216.

12.1.9. Title VI of the Civil Rights Act. The Subgrantee, Contractor, Subcontractor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this Agreement (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S. C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made part of this Agreement or agreement.

13. CERTIFICATIONS.

- 13.1. Subrecipient Certification. Subrecipient shall sign a "State of Colorado Agreement with Recipient of Federal Recovery Funds" Certification Form in Exhibit O and submit to State Agency with signed grant agreement.
- 13.2. Unless prohibited by Federal statutes or regulations, Prime Recipient may require Subrecipient to submit certifications and representations required by Federal statutes or regulations on an annual basis. 2 CFR 200.208. Submission may be required more frequently if Subrecipient fails to meet a requirement of the Federal award. Subrecipient shall certify in writing to the State at the end of the Award that the project or activity was completed or the level of effort was expended. 2 CFR 200.201(3). If the required level of activity or effort was not carried out, the amount of the Award must be adjusted.

14. EXEMPTIONS.

- 14.1. These Federal Provisions do not apply to an individual who receives an Award as a natural person, unrelated to any business or non-profit organization he or she may own or operate in his or her name.
- 14.2. A Grantee with gross income from all sources of less than \$300,000 in the previous tax year is exempt from the requirements to report Subawards and the Total Compensation of its most highly compensated Executives.

15. EVENT OF DEFAULT AND TERMINATION.

- 15.1. Failure to comply with these Federal Provisions shall constitute an event of default under the Grant and the State of Colorado may terminate the Grant upon 30 days prior written notice if the default remains uncured five calendar days following the termination of the 30-day notice period. This remedy will be in addition to any other remedy available to the State of Colorado under the Grant, at law or in equity.

- 15.2. Termination (2 CFR 200.340). The Federal Award may be terminated in whole or in part as follows:
- 15.2.1. By the Federal Awarding Agency or Pass-through Entity, if a Non-Federal Entity fails to comply with the terms and conditions of a Federal Award;
 - 15.2.2. By the Federal awarding agency or Pass-through Entity, to the greatest extent authorized by law, if an award no longer effectuates the program goals or agency priorities;
 - 15.2.3. By the Federal awarding agency or Pass-through Entity with the consent of the Non-Federal Entity, in which case the two parties must agree upon the termination conditions, including the effective date and, in the case of partial termination, the portion to be terminated;
 - 15.2.4. By the Non-Federal Entity upon sending to the Federal Awarding Agency or Pass-through Entity written notification setting forth the reasons for such termination, the effective date, and, in the case of partial termination, the portion to be terminated. However, if the Federal Awarding Agency or Pass-through Entity determines in the case of partial termination that the reduced or modified portion of the Federal Award or Subaward will not accomplish the purposes for which the Federal Award was made, the Federal Awarding Agency or Pass-through Entity may terminate the Federal Award in its entirety; or
 - 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**CHECKLIST OF REQUIRED EXHIBITS DEPENDENT OF FUNDING SOURCE**

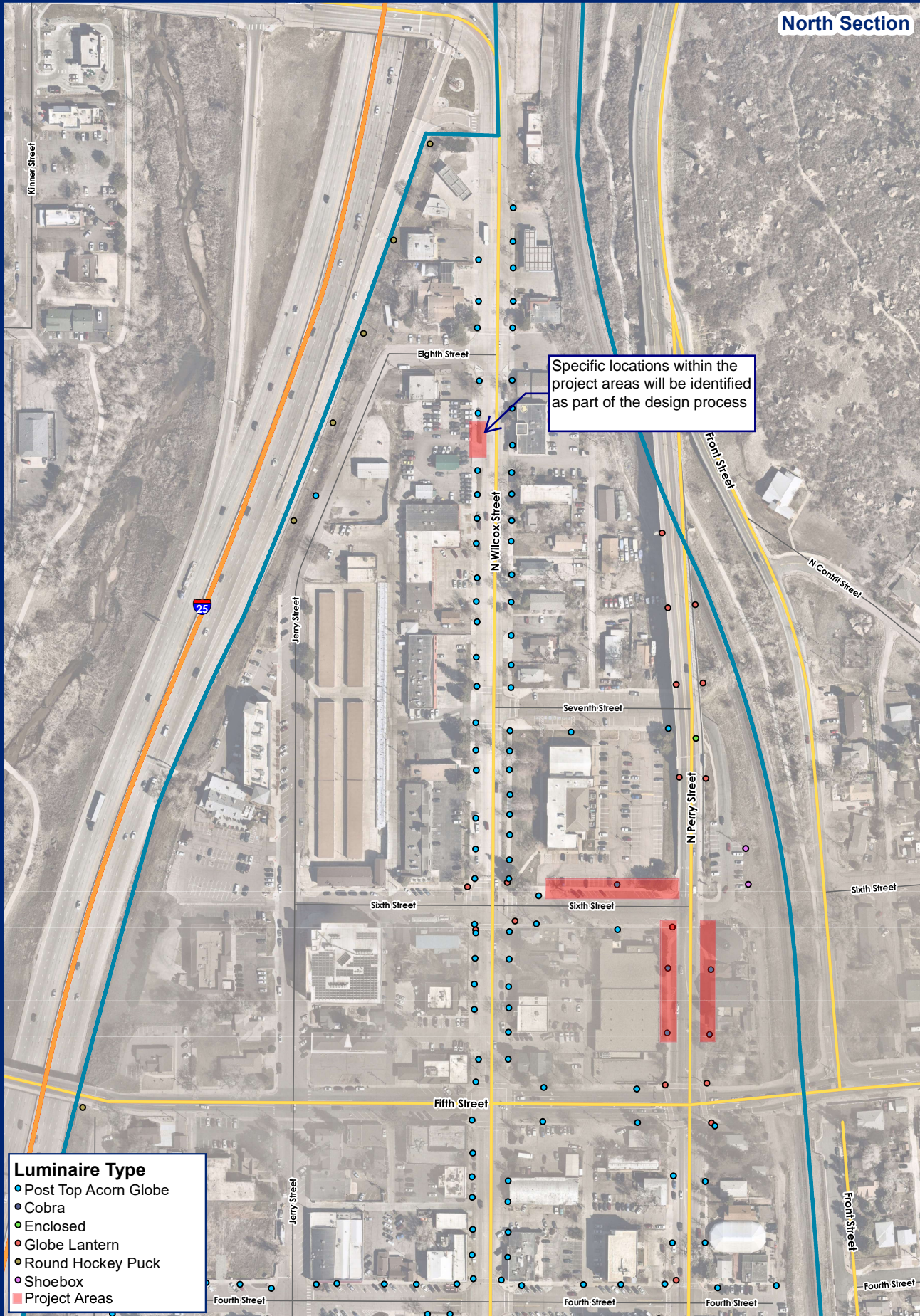
Checklist for required exhibits due to funding sources. Required Exhibits are dependent on the source of funding. This is a guide to assist in the incorporation and completion of Exhibits in relation to funding sources.

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	✓		✓
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, CHECKLIST OF REQUIRED EXHIBITS DEPENDENT ON FUNDING SOURCE	✓	✓	✓

STREET LIGHTS BY LUMINAIRE TYPE IN DOWNTOWN CASTLE ROCK

North Section



Luminaire Type

- Post Top Acorn Globe
- Cobra
- Enclosed
- Globe Lantern
- Round Hockey Puck
- Shoebox
- Project Areas



0 100 200 400 Feet



Disclaimer: The data presented has been compiled from various sources, each of which introduces varying degrees of inaccuracies or inconsistencies. Such discrepancies in data are inherent and in supplying this product to the public the Town of Castle Rock assumes no liability for its use or accuracy. For questions or comments regarding omissions, corrections, or updates please visit crr.gov/contact for contact information. Copyright 2021, Town of Castle Rock

STREET LIGHTS BY LUMINAIRE TYPE IN DOWNTOWN CASTLE ROCK



0 100 200 400 Feet



Disclaimer: The data presented has been compiled from various sources, each of which introduces varying degrees of inaccuracies or inconsistencies. Such discrepancies in data are inherent and in supplying this product to the public the Town of Castle Rock assumes no liability for its use or accuracy. For questions or comments regarding omissions, corrections, or updates please visit City@castle-rock.com for contact information. Copyright 2021, Town of Castle Rock



Town of Castle Rock

Agenda Memorandum

Agenda Date: 6/5/2023

Item #: File #: PWC 2023-028

To: Members of the Public Works Commission

From: Andrew Focht, Project Manager

Resolution recommending Town Council approve an Intergovernmental Agreement with the Board of County Commissioners of the County of Douglas, State of Colorado for the Crowfoot Valley Road Widening Project

Executive Summary

Staff is seeking a favorable recommendation from the Public Works Commission for Town Council to approve an Intergovernmental Agreement (IGA) (Exhibit 1) with the Board of County Commissioners of the County of Douglas, State of Colorado (County) regarding financial contributions for the Crowfoot Valley Road Widening project (Project).

The County is a major stakeholder in the project and has budgeted funds to contribute to the design and construction of the project. The County will contribute a total of \$1,706,000 for the project, \$1,456,000 for construction and \$250,000 for design. Any land acquisition needs will be part of the design phase. The current program estimate for both the design and construction effort is \$7,500,000. A breakdown of this estimate is provided in the Budget Impact section that follows. The County's contribution represents 23% of the total estimated project cost. The Town will be responsible for all costs above the \$1,706,000 contributed by the County. This is a contribution agreement, thus the County will make payment to the Town upon award of design and construction contracts. The Town currently has \$2,000,000 budgeted toward this project. We are recommending to move into the design phase this year. Once we receive construction bids for the Four Corners project,

we plan to provide an adjusted Five Year CIP update recommendation to Town Council that aligns with new revenue forecasts. Recommended timing for property acquisition and construction will be included in this updated Five Year CIP recommendation. Accounting for current Town and County budgets, the project has an anticipated funding gap of \$3,800,000. The funding gap will be addressed through a budget allocation during the 2024 Town budget planning effort.

History of Past Town Council, Boards & Commissions, or Other Discussions

This project has been presented and adopted by Town Council in various forms within the last six years. First within the 2017 Transportation Master Plan (TMP), Town staff identified the need for additional lanes, new pedestrian facilities, and intersection improvements. This plan was approved

and adopted by Town Council in 2017. In 2019 and 2021 Town Council approved \$365,000 and \$2,000,000 in funding for the project respectively. The \$365,000 in 2019 was dedicated for the construction of a roundabout at Crowfoot and Timber Canyon, that has since been discontinued based on community feedback. The \$2,000,000 in budget was dedicated for the project through approval of the “2022 Operating and Capital Improvement Budget”. The most recent discussion surrounding the project with Town Council was in January, 2023 when Council directed Town Staff to proceed with a proposed concept for the roadway layout/design that incorporated community feedback received through multiple project open houses.

Discussion

Crowfoot Valley Road is a major arterial connecting local and regional travel between the north easterly portions of Town, Douglas County and I-25. Roadway and pedestrian improvements for Crowfoot Valley Road have been identified within the 2017 Transportation Master Plan (TMP) that will maintain adequate capacity, enhance multimodal travel experiences, improve safety, and ensure efficient road network connections as traffic volumes increase. The improvements will include additional vehicle travel lanes, auxiliary lanes, signal construction at Sapphire Point Boulevard, bike lanes and complete sidewalk(s) along the corridor. The project scope will also include replacement of existing asphalt pavements (full-depth reclamation).

Approval of the IGA would enable the Town to be reimbursed for \$250,000 dollars of design costs and \$1,456,000 of construction costs for the project. Impacts to the project resulting from approval of the IGA are generally limited to funding, and are not anticipated to impact project requirements/costs/constraints.

Schedule

The project is anticipated to be executed according to the following schedule:

- Design - 2023
- Right-Of-Way (ROW) - 2023 to 2024
- Construction - 2024

Budget Impact

The total program estimate for the design and construction efforts is \$7,500,000. This program estimate is broken down as follows:

TABLE 1: COST BREAKDOWN	
Project Scope	Total
Design & ROW	\$809,500
Construction - Capital	\$6,077,500
Construction - Maintenance	\$613,000
	\$7,500,000

The IGA enables the Town to obtain \$1,706,000 of County funds for design and construction costs. Design is recommended to begin this year. The timing of the remaining project phases will be

recommended with a forthcoming Five Year CIP update recommendation based on new revenue projections.

It should be noted that Exhibit B to the IGA is the “preliminary cost” estimate and is slightly outdated since design cost has been finalized. There are no significant cost changes for overall project expenditures since the original estimate.

Staff Recommendation

Staff recommends Public Works Commission recommend Town Council approve the resolution as introduced by title.

Proposed Motion

“I move that the Public Works Commission recommend that Town Council approve the attached Resolution as introduced by title.”

Alternative motions:

“I move to recommend that Town Council approve the attached Resolution as introduced by title, with the following conditions: (list conditions)”

“I move to continue this item to the Public Works Commission meeting on (date) to allow additional time to (list information needed)”

Attachments

Attachment A: Resolution

Exhibit 1: IGA

Attachment B: Project

Attachment C: Preliminary Cost Projection

RESOLUTION NO. 2023-

**A RESOLUTION APPROVING AN INTERGOVERNMENTAL
AGREEMENT WITH BOARD OF COUNTY COMMISSIONERS OF
DOUGLAS COUNTY FOR THE CROWFOOT VALLEY ROAD
WIDENING PROJECT**

WHEREAS, the Town of Castle Rock, Colorado (the “Town”) and the Board of County Commissioners of Douglas County, Colorado (the “County”) desire to cooperate in the widening of Crowfoot Valley Road between Knobcone Drive and Macanta Boulevard (the “Project”); and

WHEREAS, the Town and the County have agreed to the terms and conditions by which the parties will share costs of the Project and the Town will manage the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO AS FOLLOWS:

Section 1. Approval. The Intergovernmental Agreement between the Town and the County is hereby approved in substantially the same form attached as ***Exhibit 1***, with such technical changes, additions, modifications, or deletions as the Town Manager may approve upon consultation with the Town Attorney. The Mayor and other proper Town officials are hereby authorized to execute the Agreement by and on behalf of the Town.

PASSED, APPROVED AND ADOPTED this ____ day of _____, 2023 by the Town Council of the Town of Castle Rock, Colorado, on first and final reading, by a vote of ____ for and ____ against.

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jason Gray, Mayor

Approved as to form:

Approved as to content:

Michael J. Hyman, Town Attorney

Daniel Sailer, Director of Public Works

**INTERGOVERNMENTAL AGREEMENT BETWEEN
THE TOWN OF CASTLE ROCK AND THE BOARD OF COUNTY
COMMISSIONERS OF THE COUNTY OF DOUGLAS, STATE OF COLORADO,
REGARDING FINANCIAL CONTRIBUTION FOR
CROWFOOT VALLEY ROAD WIDENING PROJECT**

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is made and entered into this _____ day of _____ 2023, by and between the Town of Castle Rock, Colorado, a Colorado home rule municipality (the "Town"), and the Board of County Commissioners of Douglas County, State of Colorado, (the "County"), hereinafter collectively referred to as the "Parties."

RECITALS

WHEREAS, the Parties are legally empowered under Section 29-1-201, et seq., C.R.S. to enter into this Agreement; and

WHEREAS, the Parties desire to cooperate in the construction of widening Crowfoot Valley Road between Knobcone Drive and Macanta Boulevard from 2 thru lanes to 4 thru lanes, as generally depicted on the attached **Exhibit A** ("the Project"); and

WHEREAS, the Project will serve the residents of the Town of Castle Rock and the residents of unincorporated Douglas County; and

WHEREAS, in accordance with the terms and conditions stated in this Agreement, the County is willing to contribute a maximum of One Million Four Hundred and Fifty-Six Thousand Dollars (\$1,456,000) towards construction and Two Hundred and Fifty Thousand Dollars (\$250,000) towards design, as the County's pro-rata share of the cost for the construction and design of the Project, as shown on the Preliminary Cost Projection attached hereto as **Exhibit B.**

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the sufficiency of which are mutually acknowledged, the Parties hereto agree as follows:

1. **Acknowledgment and Incorporation of Recitals.** The foregoing recitals are hereby acknowledged by the Parties to be true and correct and are incorporated into this Agreement.
2. **Term.** This Agreement shall commence upon execution by both Parties and shall continue until twelve (12) months following completion of construction of the Project.
3. **Town's Responsibilities and Contribution.** The Town has estimated the total design costs for the Roadway Improvements to be Six Hundred Fifty Thousand Dollars (\$650,000), and the total construction costs for the Roadway Improvements to be Six Million Eight Hundred Fifty Thousand Dollars (\$6,850,000), as shown on **Exhibit B.**

The Town agrees to manage all aspects of the design, construction, permitting and inspections of the Project. Except as expressly provided in Section 4, below, the Town shall be responsible for paying for all design, construction, permitting and inspection costs associated with the Project, including any cost in excess of the preliminary cost estimate shown on **Exhibit B**.

The Town will own and maintain the Project improvements that are located within property owned by the Town or located within the jurisdiction of the Town.

4. **County Responsibilities and Contribution.** The County agrees to pay to the Town an amount not to exceed One Million Four Hundred and Fifty-Six Thousand Dollars (\$1,456,000) for construction, herein referred to as the “County Construction Contribution”, and Two Hundred and Fifty Thousand Dollars (\$250,000) for design, herein referred to as the “County Design Contribution”. Absent an express written amendment to this Agreement, the County will not be liable for paying the Town any amount in excess of the County Construction Contribution and County Design Contribution, including for any unforeseen project costs or claims.

The County Design Contribution is payable to the Town within thirty (30) days after the County has received a written invoice from the Town containing a written notice that the Town has awarded design contract(s) for the Project and will be used for no other purpose unless agreed to by both Parties in writing.

The County Construction Contribution is payable to the Town within thirty (30) days after the County has received a written invoice from the Town containing a written notice that the Town has awarded construction contract(s) for the Project and will be used for no other purpose unless agreed to by both Parties in writing.

Any unused portion of the County Construction Contribution or County Design Contribution (“Excess Funds”) shall be returned to the County no later than six (6) months following completion of the Project.

5. **Time of Performance.** Upon execution of this Agreement by both Parties, the Town shall diligently pursue award of design and construction contracts(s) and construction of the Project. The Town anticipates that the Project will be substantially completed by October 31, 2025.

6. **Remedies.** The Parties hereto acknowledge and agree that each Party may exercise all rights and remedies in law or in equity, by a decree in specific performance, or such other legal or equitable relief as may be available, including a return of the funds described in Section 4 of this Agreement if actual construction of the Project does not commence by October 31, 2024, unless agreed to in writing by both Parties. This Section shall survive the termination of this Agreement.

7. **Notice.** Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, addressed to the Party to whom

such notice is to be given, at the address set forth below, or at such other address as has been previously furnished in writing, to the other Party. Such notice shall be deemed to have been given when deposited in the United States mail.

Town: Town of Castle Rock
100 N. Wilcox Street
Castle Rock, Colorado 80104
Attention: Dan Sailer, P.E., Public Works Director
Email: DSailer@crgov.com With an electronic copy sent to legal@crgov.com

Douglas County: Douglas County
100 Third Street
Castle Rock, Colorado 80104
Attention: Janet Herman, P.E. Public Works Eng. Director
Email: jherman@douglas.co.us
With an electronic copy sent to attorney@douglas.co.us

8. **Appropriation.** Pursuant to section 29-1-110, C.R.S., any financial obligations of the Town and the County contained herein that are payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available on an annual basis.

9. **Additional Documents.** The Parties agree to execute any additional documents or take any additional action that is necessary to carry out the intent of this Agreement.

10. **Colorado Law.** The laws of the State of Colorado shall govern this Agreement. Venue for any action hereunder shall be in the District Court, County of Douglas, State of Colorado and the Parties waive any right to remove any action to any other court, whether state or federal.

11. **Separate Entities.** The Parties enter into this Agreement as separate, independent governmental entities and shall maintain such status throughout.

12. **No Third-Party Beneficiaries.** The enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement, shall be strictly reserved to the Parties, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person under such Agreement. Any beneficiary of the terms and conditions of this Agreement are not intended beneficiaries but are incidental beneficiaries only.

13. **No Waiver of Governmental Immunity Act.** The Parties hereto understand and agree that the Parties, their commissioners, board members, officials, officers, directors, agents and employees, are relying on, and do not waive or intend to waive by any provisions of this Agreement, the monetary limitations or any other rights, immunities

and protections provided by the Colorado Governmental Immunity Act, sections 24-10-101 to 120, C.R.S., or otherwise available to the County and the Town.

14. **Entirety**. This Agreement merges and supersedes all prior negotiations, representations and agreements between the Parties hereto relating to the subject matter hereof and constitutes the entire agreement between the Parties concerning the subject matter hereof.

IN WITNESS WHEREOF, this Agreement is executed by the Parties hereto as of the date first written above.

TOWN:

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jason Gray, Mayor

Approved as to form:

Approved as to content:

Michael J. Hyman, Town Attorney

Daniel Sailer, Director of Public Works

**BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY**

Abe Laydon, Chair

ATTEST:

APPROVED AS TO CONTENT:

Emily Wrenn,
Clerk to the Board

Douglas J. DeBord,
County Manager

APPROVED AS TO FORM:

APPROVED AS TO FISCAL CONTENT:

Christopher Pratt,
County Attorney

Andrew Copland,
Director of Finance



TIMBER CANYON
DRIVE

DIAMOND RIDGE
PKWY

SAPPHIRE POINT
BLVD

CROWFOOT VALLEY ROAD

CROWFOOT VALLEY ROAD

MACANTA
BLVD

KNOB CONE DR

FIRE STATION
ENTRANCE

0 50 100 200

PRELIMINARY COST PROJECTION

PROJECT: Crowfoot Valley Road Widening Project



DESCRIPTION OF IMPROVEMENT(S):

Crowfoot Valley Rd Widening from Knobcone to Macanta Blvd to 4-lane section including; signal at Sapphire Pointe, sidewalks, on-street bike lane, auxiliary lanes, water quality/stormwater. The estimate also includes FDR for existing asphalt pavements.

DATE CREATED:

2/7/2023

CREATOR:

Andrew Focht

ITEM DESCRIPTION	UNIT	QUANTITY	UNIT COST (\$)	TOTAL
CLEARING AND GRUBBING	LS	1	\$ 15,000.00	\$ 15,000.00
REMOVAL OF STRUCTURES AND OBSTRUCTIONS	LS	1	\$ 20,000.00	\$ 20,000.00
REMOVAL OF SIDEWALK	SY	530	\$ 25.00	\$ 13,250.00
REMOVAL OF CURB & GUTTER	LF	2129	\$ 11.00	\$ 23,419.00
REMOVAL OF CONCRETE CURB RAMP	SY	35	\$ 55.00	\$ 1,925.00
REMOVAL OF CONCRETE PAVEMENT	SY	1140	\$ 36.00	\$ 41,040.00
REMOVAL OF ASPHALT MAT	SY	1592	\$ 12.00	\$ 19,104.00
REMOVAL OF ASPHALT MAT (PLANING)	SY	622	\$ 8.00	\$ 4,976.00
UNCLASSIFIED EXCAVATION (CIP)	CY	5612	\$ 25.00	\$ 140,300.00
POTHOLING	HR	100	\$ 300.00	\$ 30,000.00
RECONDITIONING (12")	SY	7780	\$ 9.00	\$ 70,020.00
FULL DEPTH RECLAMATION (17")	SY	8388	\$ 13.00	\$ 109,044.00
AGGREGATE BASE COURSE (CLASS 6)	TON	4149	\$ 55.00	\$ 228,195.00
HOT MIX ASPHALT (PATCHING)	TON	400	\$ 225.00	\$ 90,000.00
HOT MIX ASPHALT (GRADING S and SX)(75)(PG64-22) Widening	TON	2964	\$ 112.00	\$ 331,968.00
HOT MIX ASPHALT (GRADING S and SX)(75)(PG64-22) Overlay	TON	622	\$ 118.00	\$ 73,396.00
HMA for FDR (8") (based of Mikelson prices/section)	SY	8388	\$ 55.00	\$ 461,340.00
CONCRETE PAVEMENT (10")	SY	1924	\$ 160.00	\$ 307,840.00
CONCRETE CURB RAMP	SY	70	\$ 234.00	\$ 16,380.00
CONCRETE SIDEWALK (6 INCH)	SY	3080	\$ 73.00	\$ 224,840.00
CURB AND GUTTER TYPE 2	SF	9792	\$ 32.00	\$ 313,344.00
MEDIAN COVER MATERIAL (STAMPED CONCRETE)	SF	10400	\$ 12.00	\$ 124,800.00
LANDSCAPED COVER MATERIAL (3-6" COBBLE)	CY	200	\$ 194.00	\$ 38,800.00
SPLASHBLOCK	LF	691	\$ 100.00	\$ 69,100.00
TRAFFIC SIGNAL	LS	1	\$ 550,000.00	\$ 550,000.00
			SUBTOTAL (CAPITAL)	\$ 2,747,697.00 A
			SUBTOTAL (MAINTENANCE)	\$ 570,384.00 A
			% Used	
LANDSCAPING	3% of (A)		3% \$	82,430.91 B
DRAINAGE	5-10% of (A)		7% \$	192,338.79 C
EROSION CONTROL	3-8% of (A)		3% \$	82,430.91 D
SIGNING/STRIPING	1-5% of (A)		5% \$	137,384.85 E
LIGHTING (FRANCHISE ESTIMATE)	3% of (A)		10% \$	274,769.70 F
UTILITIES/UTILITY RELOCATION	5 to 8% of (A)		6% \$	164,861.82 G
ENVIRONMENTAL/WATER QUALITY	5 to 10% of (A)		5% \$	137,384.85 H
CONTRACTOR POTHOLING	1 to 5% of (A)	Note: estimated above	0% \$	- I
MATERIALS TESTING	1 to 5% of (A)		5% \$	137,384.85 J
CONSTRUCTION TRAFFIC CONTROL	5 to 25% of (A)	Added complexity with FC	12% \$	329,723.64 K
SURVEYING	3 to 5% of (A)		5% \$	137,384.85 L
			CAPITAL	SUBTOTAL OF (A+B+C+D+E+F+ \$ 4,423,792.17 M
			MAINTENANCE	SUBTOTAL OF (A+B+C+D+E+F+ \$ 570,384.00
MOBILIZATION (CIP SHARE)	8% of (M)		7% \$	313,484.13 N
MOBILIZATION (MAINTENANCE SHARE)	8% of (M)		7% \$	42,397.18 N
TOTAL OF CONSTRUCTION BID ITEMS	(A+B+C+D+E+F+G+H+I+J+K+L+M+N+O)		\$	5,350,057.48 O
CONTINGENCIES	10-30% of (N)		20% \$	1,070,011.50 P
TOTAL CONSTRUCTION MANAGEMENT/INSPECTION	8-15% of O		8% \$	428,004.60 Q
TOTAL PROJECT COST (CONSTRUCTION)	(O+P+Q)		\$	6,848,073.58
PROJECT DESIGN (INCLUDES SUE)	10 to 20% of (O+P+Q)		8% \$	547,845.89
PROJECT ROW (VARIES)(INCLUDES ACQUISITION SERVICES)	(ESTIMATED LUMP SUM)		\$	100,000.00
			SUBTOTAL	\$ 7,495,919.46
			INFLATION (4%)	0%
			Rounded to nearest 10,000	CONSTRUCTION PROGRAM ESTIMATE \$ 6,850,000.00
			Rounded to nearest 10,000	DESIGN PROGRAM ESTIMATE (INCL. ROW) \$ 650,000.00
			Total	\$ 7,500,000.00



Town of Castle Rock

Agenda Memorandum

Agenda Date: 6/5/2023

Item #: **File #:** PWC 2023-029

To: Members of the Public Works Commission

From: Andrew Focht, Project Manager

Resolution Recommending Town Council Approve a Service Agreement Between the Town of Castle Rock and Alfred Benesch & Company for the Design of the Crowfoot Valley Road Widening Project

Executive Summary

Staff is seeking a favorable recommendation from the Public Works Commission for Town Council to approve a Resolution (**Attachment A**) approving a Service Agreement between the Town of Castle Rock and Alfred Benesch & Company for design of the Crowfoot Valley Road Widening Project.

Crowfoot Valley Road is a major arterial connecting local and regional travel between the north easterly portions of Town, Douglas County and I-25. Roadway and pedestrian improvements for Crowfoot Valley Road have been identified within the 2017 Transportation Master Plan (TMP) that will maintain adequate capacity, enhance multimodal travel experiences, improve safety, and ensure efficient road network connections as traffic volumes increase. The portion of Crowfoot included in this project is illustrated in **Attachment B**, beginning at its intersection with Knobcone Drive and ending at the Town limits. The improvements will include additional vehicle travel lanes, auxiliary lanes, drainage improvements, signal construction at Sapphire Pointe Boulevard, bike lanes and complete sidewalk(s) along the corridor. This concept is based on significant public input and previous Town Council direction. The project scope will also include reconstruction of existing asphalt pavements (full-depth reclamation), which will be budgeted and funded separately through the Town's annual Pavement Maintenance Program.

This is a joint project with Douglas County. A separate Intergovernmental Agreement regarding funding split for both the preconstruction and construction phases will be presented to Town Council for action. The County is contributing a total of \$1,706,000 toward the project. The Town will be responsible for the balance. The amount of this service agreement is \$645,000 plus a 10% staff managed contingency in the amount of \$64,500 for a total authorization of \$709,500. The current program estimate for property acquisition is \$100,000, and \$6,690,500 for construction for a total project estimate of \$7,500,000. The recommended timing of the property acquisition and construction phases will be dependent on the bids received for the Four Corners project. Once that occurs, we will be providing Town Council with a recommendation to adjust the current Five Year CIP to match new revenue forecasts. The schedule to complete design is by Q2 2024.

Reconstruction of existing pavement is also planned to occur with the construction phase. Existing pavement is at the end of its useful life and should be reconstructed to be in line with the community's desire to manage our transportation infrastructure at the lowest total lifecycle cost possible within existing fiscal constraints. Funding for this would come from a separate Transportation Fund account.

The information presented herein includes: notification and outreach efforts; history of past Town Council, Boards & Commissions and other discussions; discussion of improvement/design scope; and budget impacts.

Notification and Outreach Efforts

History of outreach

A concentrated effort to identify the community desires for the project was undertaken with the Community Relations Division during the project's planning phase. Town staff performed the following community notification and outreach efforts related to the project:

- Project website creation, including regularly scheduled updates and feedback form
- Two (2) public open houses during preliminary design to inform and collect feedback
- Created/updated/monitored an email notification line for the project

An iterative process was implemented during this primary outreach phase to reach the desired concept plan (***Attachment B***). The process included assessing various intersection types and lane layout, obtaining community feedback, and revising the plan accordingly. Upon completion of this process, Town staff presented the recommended concept design to Town Council on January 3, 2023 through the "Discussion/Direction: Proposed Concept for Improvements to Crowfoot Valley Road Widening Project" agenda item, and was directed to proceed with the project design as presented. An additional follow up meeting with the Timber Canyon HOA was also conducted to present how this direction applied to the Knob Cone intersection. The proposed service agreement completes design of the project based upon this Town Council direction.

Notification and outreach included/planned during design

Project staff have developed a communications plan for this design contract/phase to identify specific activities that will engage and inform residents and stakeholders of the project. The plan includes a multifaceted approach using Town and project webpages, social media, and print media (mailers, newsletter articles) to inform the community of upcoming construction impacts. The primary objective of the planned communications is to minimize the impact of construction activities on roadway users.

History of Past Town Council, Boards & Commissions, or Other Discussions

This project has been presented and adopted by Town Council in various forms within the last six years. First within the 2017 Transportation Master Plan (TMP), Town staff identified the need for additional lanes, new pedestrian facilities, and intersection improvements. This plan was approved and adopted by Town Council in 2017. In 2019 and 2021 Town Council approved \$365,000 and \$2,000,000 in funding for the project respectively. The \$365,000 in 2019 was dedicated for the construction of a roundabout at Crowfoot and Timber Canyon, which has since been discontinued

based on community feedback. The \$2,000,000 in budget was dedicated for the project through approval of the “2022 Operating and Capital Improvement Budget”. A more recent discussion surrounding the project with Town Council was in January, 2023, when Council directed Town Staff to proceed with the proposed concept (**Attachment B**) for the roadway layout/design. There is also a proposed resolution currently for Town Council to approve an Intergovernmental Agreement (IGA) with Douglas County to obtain \$1,706,000 of County funds to be used to assist with funding design and construction of the project.

Discussion

Project Background

Crowfoot is a major arterial connecting local and regional travel between two growing communities, and northeast portions of Town to I-25. Roadway and pedestrian improvements for Crowfoot have been identified within the 2017 Transportation Master Plan (TMP) that will maintain adequate capacity, enhance multi-modal travel experiences, improve safety, and ensure efficient road network connections for future development. The improvements identified by staff are illustrated on **Attachment B** and include:

- 4-lane major arterial configuration from Knobcone Drive to the Town limits
- Addition of sidewalks from Knobcone to Sapphire on the south side
- Intersection improvements to Sapphire Pointe Blvd (Traffic Signal)
- Raised median on the east end of the project
- Additional street lighting
- Implementation of on-street bike lanes/shoulders from Knobcone to Sapphire Pointe on the east/northeast bound lanes
- Drainage improvements
- Existing pavement restoration

From 2021 through the end of 2022, the Town and Douglas County worked to complete concept design(s) and perform community outreach and engagement (outlined within the Notification and Outreach section above). Once the preferred concept was presented and approved by Town Council early this year, staff prepared a scope-of-work (SOW) and a request for proposals (RFP) to procure a potential service agreement to complete design and permitting for the Crowfoot Valley Road Widening project. Generally, the work included in this service agreement includes:

- Transportation planning and design of municipal roadways
- Storm drainage design associated with transportation projects
- Design Administration
- Traffic analysis & studies
- Design of pedestrian facilities
- Survey Control and Topographic Design Surveying/Mapping
- Preparation Land Survey Plats/Right-of-Way and Ownership Maps
- Preparation of Legal Descriptions
- Geotechnical Investigation and Pavement Design services

- Traffic Signal Design
- Construction Phasing / Traffic Control Plans
- Environmental Permitting
- Subsurface Utility Engineering Investigation (SUE)
- Post-Design Services through construction

A committee including Town staff from multiple departments and divisions, including a representative from Douglas County, performed evaluation of proposals received. The proposal submitted by Alfred Benesch and Company was chosen by the committee as the preferred respondent.

Project Schedule

It is anticipated that the project will follow the schedule outlined below:

Design - 2023

Right of Way Acquisition - 2023-2024

Construction completion - End of 2024/early 2025

Project Values

This project aligns with the Department's Strategic Asset Management Plan's (SAMP) policies of maximizing safety and reliability while evaluating improvements that have low total lifecycle cost and low environmental impacts.

Improving Safety - This project includes the design of pedestrian facilities (on-street bike lane and new sidewalk) that will allow for safer bicycling and walking activities within the area. Multiple traffic calming elements are included with this project including a section of raised median, and narrow travel lanes in an effort to reduce vehicle speeds within the corridor.

Improving Reliability - The design of this project includes additional travel lanes (4-through lanes) as well as auxiliary lanes (dedicated right and left turn lanes) where warranted. The additional lanes combined with a traffic signal at the Sapphire Pointe intersection will decrease delays during rush hour periods as traffic volumes increase and minimize variability of typical trip times. The project also includes scope to perform needed pavement restoration of the existing roadway asphalt throughout the project limits.

Decrease Delays - The additional capacity that will be constructed in the limits will decrease total delays across all daily trips within the project limits.

Achieving Low Life-Cycle Costs - The proposed services with this contract include geotechnical and pavement analysis that will evaluate existing conditions along the project area and make recommendations for pavement design that will achieve the desired life span of roadway pavements with forecasted traffic volumes. Analysis of current pavement conditions will also be performed to determine potential long-term cost savings by preserving/treating existing pavements if possible.

Focus on Low Environmental Impacts - In order to minimize environmental impacts of the project, the proposed service agreement for design includes environmental assessment and engineering including; migratory bird survey, wetland survey, endangered species survey, storm drainage and

water quality improvements. There are also provisions to assess the use of recycled materials in pavement design and the use of energy efficient LED lighting for street lights and traffic signals.

Budget Impact

The total estimated cost for the Crowfoot Valley Road Widening design is \$709,500.

As this project has been planned and approved with the approval of the “2021 Operating and Capital Improvement Budget”, budget is available to fund this service agreement. The proposed agreement cost aligns with staff cost estimates previously made.

TABLE 1: FUNDING ACCOUNT ASSIGNMENTS				
Account Number	Account Name	Contract Amount	Contingency	Total
135-3175-431.78-83	Crowfoot Valley Road Widening	\$645,000	\$64,500	\$709,500
		\$645,000	\$64,500	\$709,500

The accounts utilized to fund the contract have sufficient funds as shown in Table 2 below.

TABLE 2: FUNDING ACCOUNT BALANCES				
Account Number	Account Name	PO Encumbrance	Account Balance	Difference
135-3175-431.78-83	Crowfoot Valley Road Widening	\$709,500	\$2,000,000	\$1,290,500
		\$709,500	\$2,000,000	\$1,290,500

The total cost of the project (including Design, ROW and Construction) is currently estimated to be \$7,500,000, which is broken down by phase and scope below within Table 3.

TABLE 3: COST BREAKDOWN	
Project Scope	Total
Design & ROW	\$809,500
Construction - Capital	\$6,077,500
Construction - Maintenance	\$613,000
	\$7,500,000

The Town has already dedicated \$2,000,000 of funding, and Douglas County has agreed to contribute \$1,706,000. The remainder of funds needed to construct the project (estimated budget shortfall of \$3,800,000) will be evaluated within the 2024 budget planning process, after other priority capital improvement projects such as the Crystal Valley Interchange and the 4-Corners projects are fully funded. If the construction phase is reprioritized to a future year (due to program priorities and/or budget constraints) the design will be “placed on the shelf”.

Staff Recommendation

Staff recommends that Public Works Commission recommend Town Council approve the resolution

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as introduced by title.

Proposed Motion

"I move that the Public Works Commission recommend that Town Council approve the attached Resolution as introduced by title."

Alternative motions:

"I move to recommend that Town Council approve the attached Resolution as introduced by title, with the following conditions: (list conditions)"

"I move to continue this item to the Public Works Commission meeting on (date) to allow additional time to (list information needed)"

Attachments

Attachment A: Resolution

Attachment B: Project Limits

RESOLUTION NO. 2023-

**A RESOLUTION APPROVING A SERVICES AGREEMENT WITH
ALFRED BENESCH & COMPANY**

WHEREAS, the Town of Castle Rock, Colorado (the “Town”) has solicited proposals to provide engineering design and general technical support services for the Crowfoot Valley Road Widening Project (the “Project”); and

WHEREAS, the Project selection team has determined Alfred Benesch & Company, (the “Consultant”) is best qualified to perform work for the Project; and

WHEREAS, the Town and the Consultant have agreed to the terms and conditions by which the Consultant will provide work for the Project.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF CASTLE ROCK, COLORADO AS FOLLOWS:

Section 1. Approval. The Agreement between the Town and Consultant is hereby approved in substantially the same form attached as ***Exhibit 1***, with such technical changes, additions, modifications, deletions, or amendments as the Town Manager may approve upon consultation with the Town Attorney. The Mayor and other proper Town officials are hereby authorized to execute the Agreement and any technical amendments thereto by and on behalf of the Town.

Section 2. Encumbrance and Authorization for Payment. In order to meet the Town's financial obligations under the Agreement, the Town Council authorizes the expenditure and payment from account no. 135-3175-431.78-83 in an amount not to exceed \$645,000.00, plus a Town-managed contingency in the amount of \$64,500.00, unless otherwise authorized in writing by the Town. Any expenditure of the Town-managed contingency for purposes within the original scope of the Agreement may be authorized through a technical amendment to the Agreement as provided in Section 1 of this Resolution.

PASSED, APPROVED AND ADOPTED this 6th day of June, 2023, by the Town Council of the Town of Castle Rock, Colorado, on first and final reading, by a vote of ___ for and ___ against.

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jason Gray, Mayor

Approved as to form:

Approved as to content:

Michael J. Hyman, Town Attorney

Daniel Sailer, Director of Public Works



**TOWN OF CASTLE ROCK
SERVICES AGREEMENT
(Crowfoot Valley Road Widening Project)**

DATE: _____.

PARTIES: **TOWN OF CASTLE ROCK**, a Colorado municipal corporation, 100 N. Wilcox Street, Castle Rock, Colorado 80104 (the "Town").

ALFRED BENESCH & COMPANY, an Illinois corporation, 35 W Wacker Drive, Ste 3300, Chicago, Illinois 60601 ("Consultant").

RECITALS:

- A. The Town issued a Request for Proposals from qualified contractors with expertise in engineering design and general technical support services.
- B. Consultant timely submitted its Proposals.
- C. The Town wishes to engage Consultant to provide the services more fully described in the following Agreement and Exhibits.

TERMS:

1. **Scope of Services.** Consultant shall provide all of the services as set forth on *Exhibit 1* ("Services"). Consultant shall complete the Services consistent with standards and practices of the profession.
2. **Payment.** Consultant shall invoice Town on a monthly basis for the Services rendered in accordance with the rate and fee schedule set forth in *Exhibit 1*. The Town shall pay such invoices within thirty (30) days receipt of such invoice. In no event shall payment exceed **\$645,000.00**, unless authorized in writing by Town.
3. **Completion.** Consultant shall commence the Services **May 17, 2023** and complete the Services no later than **December 22, 2025**. Consultant shall devote adequate resources to assure timely completion of the Services in accordance with the standards specified in this Agreement. Consultant shall perform the Services under this Agreement using a standard of care, skill and diligence ordinarily used by reputable professionals performing under circumstances similar to those required by this Agreement.
4. **Termination.** Town shall have the right to terminate this Agreement with or without cause at any time with ten (10) days' written notice to Consultant. The Town's only obligation in the event of termination shall be payment of fees and expenses incurred up to and including the effective date of termination. Upon termination, Consultant shall immediately turn over all work product, materials, deliverables created up to the point of termination.
5. **Subconsultants.** Consultant may utilize subconsultants to assist with specialized services as necessary to complete the Services. Consultant will submit any proposed subconsultant and the description of subconsultant services to the Town for its prior approval.



6. **Annual Appropriation.** The continuance of this Agreement is contingent upon the appropriation of funds to fulfill the requirements of the Agreement by the Town. If the Town fails to appropriate sufficient monies to provide for the continuance of the Agreement, the Agreement shall terminate on the final day preceding the date of the beginning of the first fiscal year for which funds are not appropriated. The Town's only obligation in the event of termination shall be payment of fees and expenses incurred up to and including the effective date of termination.
7. **Assignment.** This Agreement shall not be assigned by Consultant without the written consent of the Town.
8. **Notice.** Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, addressed to the party to whom such notice is to be given at the address set forth on the first page of this Agreement, or at such other address as has been previously furnished in writing to the other party or parties. Such notice shall be deemed given when deposited in the United States mail.
9. **Insurance.** Consultant agrees to procure and maintain, at their own cost, the following policy or policies of insurance. Consultant shall not be relieved of any liability, claims, demands or other obligations assumed pursuant to this Agreement by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types.
 - A. Consultant shall procure and maintain, and shall cause each subconsultant of the Consultant to procure and maintain a policy with the minimum insurance coverage listed below. Such coverage shall be procured and maintained with forms and insurers acceptable to the Town. All coverage shall be continuously maintained from the date of commencement of services hereunder. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.
 1. Workers Compensation insurance to cover obligations imposed by the Workers Compensation Act of Colorado and any other applicable laws for any employee engaged in the performance of Work under this contract, and Employer's Liability insurance with minimum limits of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) each accident, FIVE HUNDRED THOUSAND DOLLARS (\$500,000) disease-policy limit, and FIVE HUNDRED THOUSAND DOLLARS (\$500,000) disease-each employee.
 2. Comprehensive General Liability insurance with minimum combined single limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall contain a severability of interests provision.
 3. Comprehensive Automobile Liability Insurance with minimum combined single limits for bodily injury and property damage of not less than ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate with respect to each of Consultant's owned, hired and/or



non-owned vehicles assigned to or used in performance of the services. The policy shall contain a severability of interests provision.

- B. The policies required above, except Workers' Compensation insurance, Employers' Liability insurance and Professional Liability insurance shall be endorsed to include the Town, its officers and employees, as additional insureds. Every policy required above, except Workers' Compensation shall be primary insurance, and any insurance carried by the Town, its officers, or its employees, shall be excess and not contributory insurance to that provided by Consultant. The additional insured endorsement for the Comprehensive General Liability insurance required above shall not contain any exclusion for bodily injury or property damage arising from completed operations. The Consultant shall be solely responsible for any deductible losses under each of the policies required above.
 - C. Certificates of insurance shall be completed by Consultant's insurance agent and submitted at the time of execution of this Agreement as ***Exhibit 2*** as evidence that policies providing the required coverage, conditions and minimum limits are in full force and effect, and shall be subject to review and approval by the Town. Each certificate shall identify the Project and shall provide that coverage afforded under the policies shall not be cancelled, terminated or materially changed until at least 30 days prior written notice has been given to the Town. If the words "endeavor to" appear in the portion of the certificate addressing cancellation, those words shall be stricken from the certificate by the agent(s) completing the certificate. The Town reserves the right to request and receive a certified copy of any policy and any endorsement thereto.
 - D. Failure on the part of Consultant to procure or maintain policies providing the required coverage, conditions, and minimum limits shall constitute a material breach of contract upon which at the Town's discretion may procure or renew any such policy or any extended connection therewith, and all monies so paid by the Town shall be repaid by Consultant to the Town upon demand, or the Town may offset the cost of the premiums against any monies due to Consultant from the Town.
10. **Colorado Governmental Immunity Act.** The parties understand and agree that the Town is relying on, and does not waive or intend to waive by any provision of this contract, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S., as from time to time amended, or otherwise available to Town, its officers, or its employees.
11. **Indemnification.** Consultant expressly agrees to indemnify, defend and hold harmless Town or any of its officers, agents or employees from any and all claims, damages, liability, or court awards including attorney's fees that are or may be awarded as a result of any loss, injury or damage sustained or claimed to have been sustained by anyone, including, but not limited to, any person, firm, partnership, or corporation, to the extent caused by the negligent acts, errors or omissions of Consultant or any of their employees or agents in performing Services pursuant to this Agreement. In the event that any such suit or action is brought against Town, Town will give notice within ten (10) days thereof to Consultant. These defense and indemnification obligations shall survive the expiration or termination of this Agreement.
12. **Delays.** Any delays in or failure of performance by any party of the obligations under this Agreement shall be excused if such delays or failure are a result of acts of God, fires, floods, strikes, labor disputes, accidents, regulations or orders of civil or military authorities, shortages of labor or materials, or other causes, similar or dissimilar, which are beyond the control of such party.

13. **Additional Documents & Entire Agreement.** The parties agree to execute any additional documents or take any additional action that is necessary to carry out this Agreement. Further, this Agreement represents the entire agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties. If any other provision of this Agreement is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Agreement shall continue in full force and effect.
14. **Time of the Essence.** If any payment or any other condition, obligation, or duty is not timely made, tendered or performed by either party, then this Agreement, at the option of the party who is not in default, may be terminated by the non-defaulting party, in which case, the non-defaulting party may recover such damages as may be proper.
15. **Default and Remedies.** In the event either party should default in performance of its obligations under this agreement, and such default shall remain uncured for more than ten (10) days after notice of default is given to the defaulting party, the non-defaulting party shall be entitled to pursue any and all legal remedies and recover its reasonable attorney's fees and costs in such legal action. In addition, no party will be entitled to lost profits, economic damages, or actual, direct, incidental, consequential, punitive or exemplary damages in the event of a default.
16. **Waiver.** A waiver by any party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party.
17. **Venue, Choice of Law and Disputes.** Venue for all legal actions shall lie in the District Court in and for the County of Douglas, State of Colorado, and shall be governed by the laws of the State of Colorado as well as the Charter and Municipal Code, rules, regulations, Executive Orders, and fiscal rules of the Town.
18. **Americans with Disabilities Act.** Consultant agrees to ensure that any deliverables, work, services, or equipment developed, designed, constructed or produced pursuant to this Agreement, to include website design services, will comply with all requirements of the Colorado Anti-Discrimination Act, Title II of the Americans with Disabilities Act and, where applicable, Section 504 of the Rehabilitation Act and the Architectural Barriers Act. To the extent any deliverables, work, services, or equipment developed, designed, constructed or produced pursuant to this Agreement fail to comply with the requirements of this Section, Consultant shall indemnify the Town in accordance with the terms of this Agreement and, at the Town's option, shall re-vise, re-construct, or similar, the non-compliant deliverable, work, service, or equipment, or reimburse the Town for the cost associated with bringing the non-compliance deliverable, work, service or equipment into compliance.
19. **No Discrimination in Employment.** The Town is a governmental agency and, therefore, in connection with the performance of Work or Services under this Agreement, Consultant shall not refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability, or any other protected class under Federal or State law; and Consultant shall insert the foregoing provision in any subcontracts hereunder.
20. **Advertising and Public Disclosure.** Consultant shall not include any reference to this Agreement or goods or services provided pursuant to this Agreement in any of Consultant's advertising or



public relations materials without first obtaining the written approval of the Town. Nothing herein, however, shall preclude the transmittal of any information to officials of the Town, including without limitation, the Town Attorney, Town Manager, and the Town Council.

21. **Ownership of Documents, Open Records, and Copyright.** Any work product, materials, and documents produced by the Consultant pursuant to this Agreement shall become property of the Town upon delivery and shall not be made subject to any copyright or made confidential or protected in any manner unless authorized by the Town. Other materials, methodology and proprietary work used or provided by the Consultant to the Town not specifically created and delivered pursuant to the Services outlined in this Agreement may be protected by a copyright held by the Consultant and the Consultant reserves all rights granted to it by any copyright. However, Consultant acknowledges and understands that the Town is subject to the Colorado Open Records Act, C.R.S. § 24-72-201, et seq. The Town shall not reproduce, sell, or otherwise make copies of any copyrighted, confidential or protected material, subject to the following exceptions: (1) for exclusive use internally by Town staff and/or employees; or (2) pursuant to a request under the Colorado Open Records Act, C.R.S. § 24-72-201, et seq., to the extent that such statute applies; or (3) pursuant to law, regulation, or court order. The Consultant waives any right to prevent its name from being used in connection with the Services.

Consultant warrants that all Services or Work performed under this Agreement shall comply with all applicable patent, trademark and copyright laws, rules, regulations and codes of the United States. Consultant shall not utilize any protected patent, trademark or copyright in performance of the Work or Services unless Consultant has obtained proper permission and all licenses, releases and other necessary documents. Consultant releases, defends, indemnifies and holds harmless the Town, its officers, agents, and employees from any and all claims, damages, suits, costs, expenses, liabilities actions or proceedings of any kind or nature whatsoever, of or by anyone whomsoever, in any way resulting from, or arising out of, directly or indirectly, the performance of the Work or Services under this Agreement which infringes upon any patent, trademark or copyright protected by law.

22. **Authority.** The individuals executing this Agreement represent that they are expressly authorized to enter into this Agreement on behalf of the Town and the Consultant and bind their respective entities. This Agreement is executed and made effective as provided above.
23. **Independent Consultant.** Consultant has completed the Affidavit of Independent Consultant Status, attached as *Exhibit 3*, and submitted same at the time of execution of this Agreement. In addition to the Affidavit, Consultant and the Town hereby represent that Consultant is an independent Consultant for all purposes hereunder. Consultant is not covered by any worker's compensation insurance or any other insurance maintained by Town except as would apply to members of the general public. Consultant shall not create any indebtedness on behalf of the Town.
24. **No Third Party Beneficiaries.** It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to Town and Contractor, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party on such Agreement. It is the express intention of the parties that any person other than Town or Consultant receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.
25. **Counterparts & Electronic Signatures.** This Agreement may be executed in counterparts, each of which shall be deemed an original, and all of which together shall be deemed to constitute one and the same instrument. Each of the parties hereto shall be entitled to rely upon a counterpart of



the instrument executed by the other party and sent by electronic mail. Each party agrees that this Agreement and any other documents to be delivered in connection herewith may be electronically signed, and that any electronic signatures appearing on this Agreement or such other documents are the same as handwritten signatures for the purposes of validity, enforceability, and admissibility.

26. **Licenses/Taxes.** Consultant affirms it is licensed to do business in the State of Colorado and is in good standing. Further, Consultant shall be solely responsible for paying all applicable taxes associated with or rising out of this Agreement.
27. **Confidentiality.** Consultant agrees that it shall treat as confidential all information provided by the Town regarding the Town's business and operations. All confidential information provided by the Town hereto shall be used by Consultant solely for the purposes of rendering services or work pursuant to this Agreement and, except as may be required in carrying out the terms of this Agreement, shall not be disclosed to any third party without the prior consent of the Town. The foregoing shall not be applicable to any information that is publicly available when provided or which thereafter becomes publicly available or which is required to be disclosed by any regulatory authority in the lawful and appropriate exercise of its jurisdiction over a party, any auditor of the parties hereto, by judicial or administrative process or otherwise by applicable law or regulation.
28. **Priority of Provisions.** In the event that any terms of this Agreement and any Exhibit, attachment, or other referenced document are inconsistent, the following order of priority shall control: (1) this Agreement; (2) Exhibit containing Certificate of Insurance; and (3) Scope of Services.

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jason Gray, Mayor

Approved as to form:

Approved as to content:

Lena McClelland, Assistant Town Attorney

Daniel Sailer, Director of Public Works

CONSULTANT:

ALFRED BENESCH & COMPANY


By: _____

Its: _____



EXHIBIT 1

SERVICES AND FEE SCHEDULE

Crowfoot Valley Road Widening																
Town of Castle Rock																
RFP No. 2023-04																
4/24/2023	PIC	PM	Contract Mgr	Traffic	Roadway	Roadway	Drainage SM	Drainage	Erosion	QA/QC						
	Sabo	Salek	Grieman	Moschovich	Stahr	Willman	Fuentes	Sanchez	Floyd	Forni						
	Principal	Senior Project Manager	Project Manager II	Project Manager I	Project Engineer II	Project Engineer I	Senior Project Manager	Designer I	Designer II	Project Manager II	Benesch Total Hours	Benesch Labor Fee	Benesch Mileage	Sub Consultants	Sub-Task Fees	
Hourly Rates:	\$ 250	\$ 215	\$ 185	\$ 150	\$ 132	\$ 125	\$ 215	\$ 102	\$ 115	\$ 185						
Design																
Subs																
Farnsworth - SUE/Survey			1											\$ 168,000	\$ 168,000	
Pinyon - Environmental			1											\$ 6,833	\$ 6,833	
Yeh - Geotechnical			1											\$ 91,254	\$ 91,254	
All Traffic Data - Traffic Counts			1											\$ 7,500	\$ 7,500	
Merge - Public Involvement			1											\$ 7,500	\$ 7,500	
Merge - Utility Coordination														\$ 30,900	\$ 30,900	
Clanton - Electrical/Lighting			1											\$ 38,810	\$ 38,810	
Benesch																
1) Project Management/Coordination																
a) Project Meetings											0	\$0			\$ -	
i) Kick-Off Meeting	3	4	3	3	3			3			19	\$3,317	\$ 53		\$ 3,370	
ii) Initial Agency Workshop	3	3	3	3	3			3			18	\$3,102	\$ 53		\$ 3,155	
iii) Project Management Team and Technical Focus Meetings (Progress)		24	24	2	2	24		2			78	\$13,368			\$ 13,368	
iv) Project Development Plan		2	2								4	\$800			\$ 800	
v) Meeting Minutes		12									12	\$2,580			\$ 2,580	
b) Public and Stakeholder Involvement		8	8	8	8						32	\$5,456			\$ 5,456	
c) Project Management	2	22									24	\$5,230			\$ 5,230	
d) Project Schedule		4	2								6	\$1,230			\$ 1,230	
e) QA/QC		16	16	8				4		30	74	\$13,558			\$ 13,558	
2) Environmental and Conceptual Design																
a) Data Collection		2	2								4	\$800	\$ 26		\$ 826	
b) Environmental and Utility Coordination		4	4								8	\$1,600			\$ 1,600	
c) Transportation Impact Analysis											0	\$0			\$ -	
i) Data Collection				4							4	\$600			\$ 600	
ii) Existing Analysis				8							8	\$1,200			\$ 1,200	
iii) Project 2045 Traffic Volumes				6							6	\$900			\$ 900	
iv) Proposed Analysis				20							20	\$3,000			\$ 3,000	
v) Access Analysis				8							8	\$1,200			\$ 1,200	
vi) Traffic Signal Warrant Analysis/Turn Lane Analysis				8							8	\$1,200			\$ 1,200	
vii) Report				24							24	\$3,600			\$ 3,600	
d) Water Quality Investigation			2				4	40			46	\$5,310			\$ 5,310	
e) Conceptual Design		4	4	8	60						76	\$10,720			\$ 10,720	
f) Conceptual Cost Estimate		1			8						9	\$1,271			\$ 1,271	
3) Preliminary and Final Design																
a) Data Collection		2	2								4	\$800	\$ 26		\$ 826	
b) Utility and Right-of-Way (ROW) Coordination		8	8								16	\$3,200			\$ 3,200	
c) Design Criteria		2		2	2			2			8	\$1,198			\$ 1,198	
d) Preliminary (30%) Design											0	\$0			\$ -	
i) Roadway											0	\$0			\$ -	
a) Horizontal/Vertical Alignment		4			40	40			16		100	\$12,980			\$ 12,980	
b) Roadside Facilities					16	24			16		56	\$6,952			\$ 6,952	

c) 3D Modeling/Earthwork					16	32					48	\$6,112			\$ 6,112
ii) Signing and Striping				4		16					20	\$2,600			\$ 2,600
iii) Hydrology/Hydraulic Engineering											0	\$0			\$ -
a) Data Review							2	4			6	\$838			\$ 838
b) Minor Structures							4	48	8		60	\$6,676			\$ 6,676
c) Phase II Drainage Report and Plans			1				16	40	8		65	\$8,625			\$ 8,625
d) Temporary Erosion and Sediment Control (TESC) Plan								8	8		16	\$1,736			\$ 1,736
e) Water Quality Design							8	40	1		49	\$5,915			\$ 5,915
e) Signal Design (Complete)											0	\$0			\$ -
i) Sapphire Pointe Blvd Signal Design		4			16	40					60	\$8,540			\$ 8,540
ii) Emergency Signal Design		4			8	24					36	\$5,228			\$ 5,228
iii) Specifications		1			8						9	\$1,415			\$ 1,415
f) ROW Determinations						8					8	\$1,000			\$ 1,000
g) Preliminary Design (30%) Submittal											0	\$0			\$ -
i) Compile Plan Set		8				16	24			16	64	\$8,672			\$ 8,672
ii) Cost Estimate		1					8				9	\$1,215			\$ 1,215
iii) Submit Plans		2									2	\$430	\$ 26		\$ 456
h) FIR Review Meeting	2	4	2		2	2		2			14	\$2,498	\$ 53		\$ 2,551
i) Design Variances		2				8					10	\$1,486			\$ 1,486
j) Final (90%) Design											0	\$0			\$ -
i) Roadway											0	\$0			\$ -
a) Final Horizontal/Vertical Alignment		2				24	24			8	58	\$7,518			\$ 7,518
b) Intersection Details		2				8	16			8	34	\$4,406			\$ 4,406
c) Final Roadside Facilities		2				16	16			16	50	\$6,382			\$ 6,382
d) 3D Modeling/Earthwork						8	32				40	\$5,056			\$ 5,056
e) Cross Sections							24				24	\$3,000			\$ 3,000
ii) Signing and Striping				4			24				28	\$3,600			\$ 3,600
iii) Hydrology/Hydraulic Engineering											0	\$0			\$ -
a) Construction Plans							8	24	8		40	\$5,088			\$ 5,088
b) Minor Structures							8	32	8		48	\$5,904			\$ 5,904
c) Temporary Erosion and Sediment Control (TESC) Plan								8	24		32	\$3,576			\$ 3,576
d) Phase III Drainage Report			1					16	40	8	65	\$8,625			\$ 8,625
e) Water Quality Design							8	40	1		49	\$5,915			\$ 5,915
iv) Traffic Control/Construction Phasing				8			24			8	40	\$5,120			\$ 5,120
k) Final (90%) Design Submittal											0	\$0			\$ -
i) Compile Plan Set		8	2			24	24			16	74	\$10,098			\$ 10,098
ii) Cost Estimate		1	1				8				10	\$1,400			\$ 1,400
iii) Specifications		8	4								12	\$2,460			\$ 2,460
iv) Submit Plans		2									2	\$430	\$ 26		\$ 456
l) FOR Review Meeting	2	4	2		2	2		2			14	\$2,498	\$ 53		\$ 2,551
m) Final Plans, Specifications and Estimate (PS&E Package)											0	\$0			\$ -
i) Revisions		8	4	2		40	40		24	16	134	\$17,328			\$ 17,328
ii) Compile Package		8	2			8	8				26	\$4,146			\$ 4,146
iii) Submit Package		2	2								4	\$800	\$ 26		\$ 826
n) Bid Services		4	8			16		4			32	\$4,860	\$ 26		\$ 4,886

4) Post Design Services

a) Review Shop Drawings		8			8	8					24	\$3,776			\$ 3,776
b) RFI Support		8				20	8		4		40	\$5,768	\$ 43		\$ 5,811
c) Permitting Support		16	24								40	\$7,880			\$ 7,880

Subtotal	12	231	133	166	422	432	74	374	194	30	2068	\$ 293,792	\$ 411	-	\$ 645,000
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Assumptions:

Design will be completed using AutoCAD software.

Traffic analysis will be completed using Synchro and SimTraffic software.

SUE cost is based on 50 potholes per Town direction.

Geotech cost is based on Town standard of drilling every 250 feet for soil/pavement investigation.

**SCOPE OF WORK
CROWFOOT VALLEY ROAD WIDENING
TOWN OF CASTLE ROCK**

INTRODUCTION

Alfred Benesch & Company (CONSULTANT) will provide engineering services included in this scope of work to Castle Rock (TOWN). The CONSULTANT team will provide environmental support, survey and ROW support, utility investigations, traffic analysis, roadway design and traffic design, drainage and WQ design, and other related design elements for improvements on Crowfoot Valley Road between Knobcone Drive and the Town limits (north of Macanta Boulevard).

The CONSULTANT team will split tasks for the project generally as follows:

Scope of Work Item	Benesch	Farnsworth Group	Yeh	Pinyon	All Traffic Data	Merge	Clanton
Project Management	X						
Public Outreach Support	X					X	
Geotechnical Investigation			X				
Pavement Design			X				
Environmental Clearances				X			
Traffic Counts					X		
Roadway Design	X						
ROW Mapping		X					
Subsurface Utility Engineering Plans		X					
Utility Coordination						X	
Topographic Survey		X					
Survey Control Diagram		X					
Test-Holing of Signal Pole Locations		X					
Hydrology & Hydraulics (including WQ)	X						
SWMP	X						
Signing	X						
Striping	X						
Signals	X						
Traffic Control Plans	X						
Lighting Design							X
Specifications	X						
Cost Estimates	X						

ASSUMPTIONS

- Project will consist of roadway widening, stormwater and water quality installation, utility coordination and relocation, signing and striping, traffic signal relocation/installation, and roadway lighting installation.
- Subsurface Utility Engineering plans/report pursuant to SB 18-167 is required.
- The BASE SERVICES scope items below will be billed on a not-to-exceed time and materials basis.

Castle Rock will be providing:

- LIDAR survey data
- Property information
- Previous studies and reports
- ROW services (including title work, appraisals, acquisition documents except legal descriptions, negotiations, and closing/recording services)

Tasks by the CONSULTANT Project Team include the following:

A. PROJECT INITIATION AND CONTINUING REQUIREMENTS (BASE SERVICES)

As part of the project initiation and continuing requirements, CONSULTANT will perform the following:

- 1) Kickoff Meeting. The team will conduct an internal project kick-off meeting in accordance with our quality management requirements. Select team members will attend an initial project meeting with Castle Rock.
- 2) Initial Agency Workshop. The CONSULTANT will host a meeting with Castle Rock to review the existing conceptual alignment and talk through project history. This information will guide the development of the conceptual design and modeling effort.
- 3) Project Development Plan and Project Schedule. Develop a project schedule and assign tasks that detail the project milestones and completion dates. Update this schedule as-needed and submit to Castle Rock accordingly.
- 4) Identify Design Criteria. Develop design criteria and meet with Town design staff to gain consensus on the project elements. Submit a memo of the criteria to the Town.
- 5) Create Risk Register. Working with the Town and other stakeholders, create a risk register for each entity. Create a master risk register that includes all major sources of risk.
- 6) Progress Meetings. Castle Rock and the CONSULTANT Project Team will meet as required (assumed 3 per month). A total of 24 progress meetings by video are included in this scope of work. These progress meetings will be used to coordinate and track the work effort and resolve problems. Project meeting minutes shall be completed and provided to the Town within one week of the actual meeting.
- 7) Project Management. The CONSULTANT PM will coordinate the work tasks being accomplished by the entire CONSULTANT Project Team to ensure project work completion stages are on schedule. Project staffing and assigning of tasks, scheduling and invoicing are included within this task.

- 8) Public Outreach. The CONSULTANT will support public involvement and stakeholder coordination led by the Town's Communications team, building upon the extensive outreach that has been done to date. Our team can assist the Town, as needed, to ensure that we are providing accurate and engaging information through various platforms to maintain public trust and keep stakeholders involved throughout design. This task will primarily consist of providing Town Communications staff with visual graphics of the proposed improvements, and periodic project milestone updates that can be used in various Town communications (web page updates, social media posts, etc.).

- a) Assume day-to-day coordination with the local community and impacted properties will be performed by the Town.

B. ENVIRONMENTAL AND CONCEPTUAL DESIGN

- 1) Data Collection. Site visit to investigate existing conditions in conjunction with topographical survey. Generate a Photo Log of the existing roadways with labels describing what direction and subject, including the date of the photography.

- a) Castle Rock will provide previous plans, studies, and reports.

- 2) Environmental Investigation. CONSULTANT will complete a biological resources report based on a one-day field visit to map waters of the US and sensitive species' habitat. It is assumed that the project will not impact either and no further permitting is required. Additionally, Pinyon will complete a visit and an Initial Site Assessment (ISA) to determine if there are hazardous waste/materials that could pose a risk to the project. This task includes sampling of two paint chips for lead.

- a) Deliverable. Relevant environmental reports.

- 3) Traffic Counts. CONSULTANT will obtain traffic counts to support the traffic engineering design.

- a) 13-hour intersection movement counts – 5 locations

- i. Crowfoot Valley Road & Knobcone Drive
- ii. Crowfoot Valley Road & Timber Canyon Drive
- iii. Crowfoot Valley Road & Diamond Ridge Parkway
- iv. Crowfoot Valley Road & Sapphire Pointe Boulevard
- v. Crowfoot Valley Road & Macanta Boulevard

- b) 48-hour vehicle counts by direction – 8 locations along Crowfoot Valley Road and intersecting roadways within the study area.

Town of Castle Rock – Crowfoot Valley Road Scope of Work
April 19, 2023



4) Transportation Impact Analysis.

- a) Analysis of crash data. The CONSULTANT will summarize the most recent five years of crash data obtained from the TOWN including frequency and severity for the corridor and all intersections within the study area.
- b) Existing conditions analysis. The CONSULTANT will analyze the existing traffic volumes, corridor, and intersection configurations for capacity and safety. This will be completed using SYNCHRO software.
- c) The CONSULTANT will forecast 2045 traffic volumes using the DRCOG travel demand model.
- d) Confirm signal warrant. The CONSULTANT will confirm the signal warrant analysis at the Sapphire Pointe Boulevard intersection.
- e) The CONSULTANT will analyze the operation and recommend lane configurations using the 2045 traffic volumes to a level of service D or better. Capacity analysis will be completed per HCM 6th Edition using SYNCHRO software
- f) The CONSULTANT will analyze the queuing for all turn lanes at each intersection to determine appropriate storage lengths using SIMTRAFFIC software.
- g) The CONSULTANT will analyze each access to Crowfoot Valley Road to determine the viability and safety of each access.
- h) Transportation Impact Analysis Report. The CONSULTANT will prepare a report in accordance with the TOWN Transportation Design Criteria Manual. This report will outline project goals, existing conditions, methods of analysis and evaluation, findings, and recommendations. Following TOWN review final comments will be incorporated into a final submittal.
- i) Assumptions/Exclusions

- i. The TOWN will provide the most recent 5 years of traffic data.
 - ii. The TOWN will provide any previously completed studies pertinent to this project.
 - iii. Traffic simulation videos are excluded.
 - iv. COVID-19 adjustment factor will not be applied to existing traffic volumes.
 - v. Analysis of adjacent intersections not included in the Traffic Counts section are excluded.
 - vi. Analysis of traffic will only include the years 2023 and 2045.
 - vii. Analysis of weekend time periods is excluded.
- j) Deliverables. Draft and Final Transportation Impact Analysis Report.
- 5) Utility Coordination. CONSULTANT will identify all utility owners and potential utility conflicts based on conceptual design.
 - a) Hold a kick-off meeting with all utility owners to discuss scope, schedule, existing utility location, and potential impacts.
- 6) Conceptual Design. CONSULTANT will develop a corridor concept design that satisfies traffic needs (capacity) found in the Transportation Impact Analysis while improving safety for vehicles, bicycles, and pedestrians. Any alternative designs for individual elements, such as the Sapphire Pointe Boulevard intersection layout will also be provided to the TOWN for feedback.
 - a) The CONSULTANT will provide concept level horizontal alignment.
 - b) The CONSULTANT will provide basic cross-section sheets for various segments of the corridor.
 - c) Assumptions/Exclusions
 - i. Conceptual design will be completed on available aerial imagery.
 - ii. Conceptual design will depict existing conditions to the extent of data available, including aerial imagery, GIS-based property lines, utilities (visual based), and floodplain maps.
 - iii. Roadway concept will comply with applicable TOWN, COUNTY, or CDOT design criteria.
 - d) Deliverable. Concept design (roll plot).
 - e) Deliverable. Concept-level cost estimate.
- 7) Water Quality Investigation. CONSULTANT, in coordination with Castle Rock, will identify water quality requirements for the project. Referring to the conceptual design, identify probably locations for water quality treatment locations and initially proposed treatment methods/structures.
 - a) Deliverable. Summary memo of initial findings.

C. PRELIMINARY DESIGN (BASE SERVICES)

AutoCAD Civil3D software will be used in the development of the preliminary design plans.

As part of this preliminary design, CONSULTANT will perform the following activities:

- 1) Roadway Engineering. CONSULTANT will perform various roadway engineering tasks associated with the design of the improvements.
 - a) Review of design criteria and existing topographical survey.
 - b) Preliminary horizontal and vertical alignment design of roadway edge, curbs and gutter, islands, sidewalks, curb ramps, medians and turn lanes.
 - c) Preliminary design of typical templates, and preliminary modeling to determine roadside grading and toes-of-slopes (limited to roadway widening areas).
 - d) Creation of preliminary cross sections at 50' interval (limited to roadway widening areas).
- 2) Environmental Clearances. Not included.
- 3) Survey and Subsurface Utility Engineering. CONSULTANT will conduct topographic survey of the project area and prepare QL-B Subsurface Utility Engineering Plans/Report in accordance with SB 18-167. QL-A test holing will be conducted at proposed traffic signal foundations and potential utility conflict points. **See attached scope of work by Farnsworth Group.**
 - a) Assumes 50 QL-A potholes.
- 4) Right-of-Way. CONSULTANT will conduct ROW research and prepare existing ROW mapping. **See attached scope of work by Farnsworth Group.**
- 5) Geotechnical and Pavement Design. CONSULTANT will conduct geotechnical investigation borings, and prepare a report with pavement design. **See attached scope of work by Yeh & Associates.**
- 6) Hydrology/Hydraulic Engineering.
 - a) Data Review. Obtain and review existing drainage data from available sources.
 - b) Minor Structures. Determine locations, sizes, and alignment based on preliminary hydraulic design. Prepare preliminary structure cross-sections and determine elevations, flow lines, slopes and lengths of the structures.
 - c) Major Drainage Structures. Not included.
 - d) Prepare preliminary Phase II Drainage Report in accordance with Town criteria.
 - e) Water Quality. Determine locations, sizes, and structure based on preliminary design. Prepare preliminary structure cross-sections and determine elevations, flow lines, slopes and lengths of the structures.
- 7) Utility Coordination. CONSULTANT will identify potential conflicts based on topographic base files SUE info, and site visits. Utility relocation design is not included.
 - a) Deliverable. Memorandum of Design – Utilities to document utility conflicts.

8) Major Structure Design. Not included.

9) Traffic Engineering.

a) The CONSULTANT will develop signing and striping plans based upon the MUTCD, Town criteria and previous studies for the proposed roadway and intersection improvements.

b) Signal Design. CONSULTANT will develop a preliminary proposed signal design based on current MUTCD and Town criteria. The preliminary signal design will include poles, heads, detection, pedestrian buttons and signals, new controller and its location and emergency vehicle preemption.

c) Location:

i. Sapphire Pointe Boulevard.

d) Prepare a preliminary construction phasing plan.

10) Preparation for the FIR (30% Design):

a) Coordinate, complete, and compile the plan set. The FIR plans shall include a title sheet, M&S index, typical sections, general notes, preliminary quantities, SUE plans, plan sheets, profile sheets, preliminary intersection layouts, preliminary minor drainage structures, signing/striping, and preliminary signal design. The plan/profile sheets will include all existing topography, survey alignments, projected alignments, profile grades, ground line, property lines, rough structure notes (preliminary drainage design notes, including pipes, inlets, ditches and channels), rough WQ structure notes, and existing utility locations.

b) Prepare the preliminary cost estimate for the work described in the FIR plans based on estimated quantities.

c) QA/QC and Constructability Review. Perform QA and QC for plans and specifications. This task includes interdisciplinary review and crosschecks.

d) Submit the FIR plans in electronic PDF format to the Town for review 3 weeks prior to the FIR.

11) Field Inspection Review:

a) Attend the FIR. This will also include a Utility Coordination Meeting.

b) The CONSULTANT will document review comments and responses and submit to the Town.

c) A list of all deviations from standard design criteria along with the written justification for each one shall be submitted to the Town.

- 12) Post-FIR Revisions. Post-FIR plans will not be submitted and plans will be advanced to final design.

D. FINAL DESIGN (BASE SERVICES)

AutoCAD Civil3D software will be used in the development of the final design plans.

- 1) Miscellaneous Additional Survey. Perform additional design surveys in areas that may require further definition after preliminary design is completed.
- 2) Roadway Engineering. CONSULTANT will perform the following final design roadway engineering tasks associated with the design of the improvements:
 - a) Coordinate activities required for final design, initiate design decisions and discuss variances as they affect FOR activities.
 - b) Final design of horizontal and vertical alignments.
 - c) Final detailed design of roadway, curb and gutter, curb ramps, sidewalks, medians and turn lanes.
 - d) Final detailed modeling of proposed roadway and roadside slopes and drainage structures (limited to roadway widening areas).
 - e) Updated cross sections with final earthwork quantities (limited to roadway widening areas).
- 3) Right-of-way. The CONSULTANT will prepare legal descriptions for the TOWN's use in property acquisition. **See attached scope of work by Farnsworth Group.**
- 4) Hydrology/Hydraulic Engineering.
 - a) Data Review. Review data and information developed under the Preliminary Hydraulic Investigation and update in accordance with decisions made at the FIR.
 - b) Minor Structures.
 - i. Complete final design for minor drainage structures. Finalize horizontal and vertical locations and sizes for all drainage structures based on hydraulic design.
 - ii. Finalize structure cross-sections and profiles to determine the elevations, flow lines, slopes and lengths of structures.
 - c) Complete final design for all drainage details required for minor drainage structures. Prepare final construction plans.
 - d) Water Quality. Finalize locations, sizes, and structure based on preliminary design comments and relevant criteria. Finalize structure cross-sections and determine elevations, flow lines, slopes and lengths of the structures. Prepare final construction plans.

- e) Storm Water Management Plan. Initiate a Storm Water Management Plan in accordance with Castle Rock's Drainage Manual, CDPHE's Construction Discharge Permit System requirements, CDOT's Erosion Control and Storm Water Quality Guide, local agency SWMP/GESC/EC requirements, CDOT's Standard Specifications, CDOT Standard Plans and other appropriate documents. The Erosion Control Plans will include initial, interim and final stages and the CDOT SWMP template notes.
- f) Prepare a Phase III Drainage Report in accordance with the requirements of the Town.
- 5) Utility Coordination.
 - a) Coordinate with the Town to identify and resolve any conflicts to finalize utility clearances.
 - b) Attend a Utility Coordination Meeting.
 - c) Prepare draft Utility Clearance Letters.
 - d) Prepare/submit Xcel Builder's Call Line applications for new services.
 - e) Utility relocation design is not included in this scope of work.
- 6) Final Major Structural Design. Not included.
- 7) A final construction phasing plan will be developed which integrates the construction of all project work elements into a practical and feasible sequence. This plan shall accommodate the existing traffic movements during construction, and a final traffic control plan will be developed which shall be compatible with the phasing plan. Prepare a Tabulation of Traffic Control Devices.
- 8) Traffic Engineering.
 - a) Prepare and provide permanent signing/pavement marking plans according to MUTCD and Town criteria.
 - b) Final Signal Design. Not included, see Additional Services.
- 9) Lighting Design. CONSULTANT will provide comfortable lighting design that enhances the safety and comfort of drivers, residents, and pedestrians on Crowfoot Valley Road.
 - a) Select the appropriate lighting criteria from the Town of Castle Rock Transportation Design Criteria Manual to ensure that the intersections, merge and diverge lanes, and pedestrian crossings are appropriately lighted.
 - b) Specify low glare, warm white (3000K CCT) LEDs will be specified to improve visibility at these key locations, using CORE Electric utility standard lighting equipment. Select luminaires with low backlight ratings or an offering of backlight glare shields.
- 10) Plan Preparation for the Final Office Review (90% Design).

- a) Coordinate the Packaging of the Plans. Collect plans from all design elements and collate the plan package. Calculate plan quantities and prepare the tabulations.

The Final Office Review (FOR) plans prepared by CONSULTANT shall include the following sheets (as appropriate):

- Title Sheet
 - Standard Plans List
 - Typical Sections
 - General Notes
 - Summary of Approximate Quantities
 - Appropriate Individual Quantity Tabulations
 - SUE Plans
 - Roadway Plan & Profile
 - Intersection Details
 - Drainage Plan
 - Drainage Structure Cross Sections
 - Stormwater Management Plan
 - Signal Plans
 - Signing & Striping Plans
 - Lighting Plans
 - Construction Phasing/Traffic Control Plan
 - Cross Sections With Earthwork Quantities (limited to roadway widening areas)
- b) Specifications. In addition to the plan sheets, the Special Provisions shall be provided. This will consist of any unique Project Special Provisions which have to be written specifically for items, details and procedures not adequately covered by CDOT's Standard Specifications and Standard Special Provisions. The Project Special Provisions shall be provided in the CDOT format and submitted with the project plans.
 - c) Prepare the FOR estimate. Item numbers, descriptions, units and quantities shall be listed and submitted.
 - d) QA/QC and Constructability Review. Perform QA and QC for plans and specifications. This task includes interdisciplinary review and crosschecks.
 - e) Submit the FOR plans and specifications in electronic PDF format to the Town for a review 2 weeks prior to the FOR.

11) Final Office Review.

- a) FOR Meeting. CONSULTANT will attend the FOR, prepare meeting minutes for approval by the Town and distribute within three (3) weeks of the meeting.
- b) FOR Plan Revisions. The FOR original plan sheets and the specifications shall be revised in accordance with the FOR meeting comments and a 100% set submitted to the Town.

- 12) Construction Plan Package. Submit the final revision of the plans and specifications incorporating all comments received at the FOR meeting. The bid plans shall consist of the revised FOR plans and will completely describe the work required to build the project including project special provisions, detailed quantities and Bid Schedule.
- 13) Record Plan Sets. CONSULTANT will seal hard-copy record documents.

E. POST-DESIGN SERVICES

- 1) Show Drawing Review. CONSULTANT will review submitted shop drawings to ensure consistency with the design plans and Town standards.
- 2) RFI Support. CONSULTANT will review and respond to RFI's submitted by the contractor related to design interpretation and construction design inquiries.
 - i. Assumes a total of 40 hours of effort at 2-4 hours per RFI.
- 3) Permitting Support. CONSULTANT will provide necessary design information to support relevant permit applications.
 - i. Assumes a total of 40 hours of effort.

F. EXCLUSIONS

The following are not included in this scope and their inclusion is subject to a change in scope, schedule and/or fee: Environmental clearances, Value Engineering workshops, utility design, railroad coordination and submittals, major structural design, and signal timing plans.

March 3, 2023

Proposal No. 223-094

Travis Greiman, PE, CAMP
Project Manager / Associate
Benesch
7979 Tufts Avenue, Suite 800
Denver, Colorado 80237

Subject: Crowfoot Valley Road Widening
Town of Castle Rock, Colorado, RFP No 2023-04
Geotechnical Investigation and Pavement Recommendations

Dear Mr. Greiman:

This letter presents Yeh and Associates' estimated project cost for the geotechnical investigation, traffic pole foundation recommendations and pavement recommendations for the above project.

Geotechnical Investigation and Recommendations:

1. Obtain permits, utility clearances and traffic control required to conduct geotechnical investigation.
2. Prepare Health and Safety Plan to address work on the project site during the geotechnical investigation.
3. Conduct geotechnical sampling by drilling borings and cores identified below:
 - a. - 2 to 4 borings (30 ft.) for signal pole foundations at Sapphire Point Blvd. and to provide information for moving the fire station traffic poles.
 - b. - 36 borings (5 to 10 ft.) to provide information for pavement design. Town of Castle Rock pavement design investigations require borings for pavement design at a 250 foot spacing. These borings and sufficient cores do document the current pavement will be used to address both new pavement designs for widening as well as pavement designs for the reconstruction of the existing hot mix asphalt (HMA) pavement.

All borings will be backfilled with cuttings, and pavements patched in accordance with Town of Castle Rock Guidelines.

As-drilled boring locations will be marked by Yeh and surveyed by the Project Survey Consultant.

4. Submit selected soil samples to the Yeh materials laboratory or an outside laboratory for testing of soil properties such as Soil Classifications (AASHTO T145),

Swell/Consolidation of in-place soil, R-value (AASHTO T99), Corrosion Potential (soluble sulfate and chloride concentrations, pH and resistivity) and other tests needed for the foundation and pavement recommendations.

5. Prepare a draft geotechnical report including the area geology and subsurface conditions, soil test data, foundation recommendations for the traffic light poles, pavement recommendations for both the new widened areas as well as rehabilitation or replacement of the existing HMA pavement. At this time, no structures have been identified. Any major structure foundation recommendations or design are required, the cost will be negotiated based on the time and Yeh Standard Rates.
6. Prepare a final geotechnical and pavement design report after addressing any comments from the draft report.

The estimated fee for the geotechnical investigation, engineering analysis and reporting is based on the Yeh standard rates. The itemized cost estimate is provided below:

Item	Estimated Cost
Field and Laboratory Work	\$26,654
Outside Services – Drilling & Traffic Control	\$47,800
Engineering Analysis, Reports and Meetings	\$16,800
Total	\$91,254

As proposed, the cost for our investigation will be billed on a time and materials basis based on the attached Yeh standard rate schedule. We will not exceed our estimated costs without prior notice and authorization.

Upon notice to proceed, Yeh and Associates will obtain permits and arrange drilling and traffic control. The field investigation will begin within two weeks after obtaining access permits and traffic control and it is estimated it will take approximately two to three weeks to complete. Soil testing for the geotechnical investigation is estimated to take about three weeks, and the draft geotechnical and pavement design report will be available within about two weeks after completion of testing. The final report will be completed within three weeks after receiving comments on the draft report.

Geotechnical Investigation

Yeh and Associates will perform its services in a manner consistent with the standard of care and skill ordinarily exercised by members of the profession practicing under similar conditions in the geographic vicinity and at the time the services will be performed. Therefore, no warranty or guarantee expressed or implied is part of the services offered by this proposal.



If we can be of further assistance, please contact us. We look forward to working with you on this project.

Respectfully submitted,
YEH AND ASSOCIATES, INC.

Robert F. LaForce, P.E.
Senior Materials Manager

Cc: File 223-094

Attachments: Standard Rate Schedule



**COLORADO FRONT RANGE (Denver, Co Springs, Greeley)
STANDARD FEE SCHEDULE EFFECTIVE JANUARY 2023**

Professional Services:

<u>Classification</u>	<u>Basic Rate</u>
Principal	\$220/hr
Senior Project Manager	\$210/hr
Senior Project Specialist	\$200/hr
Project Manager	\$185/hr
Senior Project Engineer or Geologist	\$165/hr
Project Engineer or Geologist	\$140/hr
Staff Engineer or Geologist	\$120/hr
Engineer or Geologist Intern	\$80/hr
Resident Construction Engineer	\$210/hr
Construction Manager	\$185/hr
Construction Observer 3	\$150/hr
Construction Observer 2	\$135/hr
Construction Observer 1	\$120/hr
Technician Leader or Supervisor	\$155/hr
Laboratory Supervisor	\$135/hr
Technician 3	\$110/hr
Technician 2	\$95/hr
Technician 1	\$85/hr
CAD Designer	\$145/hr
CAD Technician	\$95/hr
Project Controller	\$155/hr
Administrative Assistant	\$90/hr

***Overtime rates for Construction Inspection, Technicians and Office Staff is 1.5 x rates shown.*

Laboratory tests are quoted on separate schedule or cost plus 10 percent for outside laboratory testing when applicable. Fees for expert witness preparation, testimony, court appearances, or depositions will be billed at the rate of \$350 per hour.

Rates do not include prevailing wage rates for field services. Prevailing wages will be determined on a project-by-project basis.

Other Direct Charges:

	<u>Rates</u>
Subcontracted services, copying and rented equipment	Cost Plus 10%
Travel, subsistence, and expenses	Cost Plus 10%
Vehicle	\$ 80/day
Automobile Mileage	\$ Current IRS Rate

March 7, 2023

Travis Greiman, PE, CAMP
Project Manager / Associate
Benesch & Company
7979 E. Tufts Ave., Suite 800
Denver, CO 80237

**RE: Town of Castle Rock – Crowfoot Valley Road Widening, Project No. 2023-04.
Professional Land Surveying and SUE Services.**

Travis,

Farnsworth Group respectfully submits this letter as our proposal to provide professional surveying services for the referenced project. This proposal letter includes an outline of our understanding of this project including our scope of services. Please feel free to review the information provided and contact me if you have any questions or comments.

PROJECT UNDERSTANDING

Benesch & Company is responding to the Town of Castle Rock Request for Proposals for Crowfoot Valley Road Widening. Farnsworth Group, Inc. is proposing to provide design survey, Right-of-Way Plans and SUE services. The survey limits substantially as shown on Attachment 3 of the RFP.

A. TOPOGRAPHIC DESIGN SURVEY - ROADWAY

Farnsworth Group strives to meet the expectations of the project. We will work closely with the design team to understand their survey needs and ensure proper scoping of the project. Initially, Farnsworth Group will conduct a control survey using GPS techniques to establish a common system of horizontal and elevation data for the team. All survey control is georeferenced to ensure compatibility with GIS data and other sources of mapping information. The survey will set at least five semi-permanent survey monuments that will be suitable for use during the design and construction phases of the project.

Farnsworth Group will conduct a TMOSS topographic design survey using GPS and total station technologies to meet the horizontal and vertical accuracy requirements of CDOT Class C or Class D. Our surveyors can use high-accuracy 3D terrestrial scanners, mobile and UAV mounted LiDAR survey equipment as needed. The topographic survey will be conducted in

accordance with the CDOT Survey Manual and will map the corridor and surrounding areas to collect data on the improvements, topography, and above-ground utilities. Elevations will be adequate to support the contour interval and elevation digital terrain model. The survey will be completed under the direction of a professional land surveyor.

B. TOPOGRAPHIC DESIGN SURVEY – DRAINAGE AREAS

Farnsworth Group will include topographic survey of two (2) drainage areas. One drainage area is a 75,000 SF pond at the corner of Crowfoot Valley Road and Founder's parkway. The other drainage area was not specified by the Town and is assumed to be similar to the specified drainage area in terms of effort needed to perform the survey.

C. RIGHT-OF-WAY PLANS

Farnsworth Group will work with the stakeholders to understand the right-of-way needs of each project. If no right-of-way acquisition is anticipated a depiction of the right-of-way can be compiled based on recorded subdivision plats, assessor data right-of-way plans and recorded deeds. Where acquisition is anticipated, Farnsworth will conduct the appropriate field survey and research to support CDOT Right-of-Way plans. We will review title commitments (supplied by TRS) and prepare a base file of right-of-way lines, property lines and easements disclosed in the title commitments along with ownership data within the project limits. This map will be used to identify the right-of-way requirements for the project.

Once the necessary ROW requirements have been determined, Farnsworth Group will prepare final ROW plans conforming to the CDOT right-of-way plans standards and specifications. The plan set will consist of Title Sheet, Tabulation of Properties, Survey Control Diagram, Land Survey Control Diagram, Tabulation of Monumentation, Plan Sheets and Ownership Map. Farnsworth Group can also prepare stand-alone legal descriptions and exhibits for all right-of-way and easement parcels.

Farnsworth Group will perform appraisal staking and setting final monuments.

All aspects of the field and office work shall be the responsibility of the PLS in Responsible charge.

D. OPTIONAL SURVEY ITEMS

Costs are included for optional items:

1. Post-Construction as-built surveys (daily rate).
2. Post-Construction Right-of-Way plan revisions (12 hours CADD time).

E. SUBSURFACE UTILITY ENGINEERING QL-B - ROADWAY

All utility investigations will be executed in accordance with American Society of Civil Engineers Construction Institute Standard 38-02 (ASCE/CI 38-02) and Colorado Revised Statutes (CRS) 9-1.5-102 and CRS 09-1.5-103. The RFP describes three segments with varying design elements. The Engineer in responsible charge will work with the design team to fully understand SUE requirement for each segment. Farnsworth often works with Kinetic Industries or Diversified Underground as subcontractors providing traffic control and locating services.

Farnsworth Group will obtain and review the Quality Level D utility data provided by the utility providers. This data will be verified to the extent possible with site surface features and electromagnetic designation field work in an attempt to achieve and produce a SUE Plan to Quality Level B (QL-B). If requested, we can also utilize ground penetrating radar to refine the data or look for undocumented utilities. Any observed discrepancies or unknown facilities will be noted for future resolution, if required. Utility information will be added to the topographic survey and a comprehensive SUE Plan / Report, including owner details, will be prepared.

During the QL-B work, surveyor will also survey in the inverts of all accessible sanitary and storm sewer manholes, vaults, inlets, and culvert inverts.

F. SUBSURFACE UTILITY ENGINEERING QL-B – DRAINAGE AREAS.

Farnsworth Group will include SUE QL-B of two (2) drainage areas. One drainage area is a 75,000 SF pond at the corner of Crowfoot Valley Road and Founder's parkway. The other drainage area was not specified by the Town and is assumed to be similar to the specified drainage area in terms of effort needed to perform the SUE QL-B.

G. SUBSURFACE UTILITY ENGINEERING QL-A - ROADWAY

Following the completion of the QL-B investigation, Farnsworth Group, the Design Engineer, and Owner will identify the conflict points between any proposed improvements and existing utilities. Fifty (50) QL-A Test holes will be excavated at each conflict point to acquire precise vertical and horizontal positions to further define the existing utilities in relation to the proposed design. Excavation will be performed by Hydrovac and properly restored. Field survey personnel will record depth and location information for all utilities exposed by excavation. This information will be added to the topographic survey and SUE Report.

Twenty-five (25) potholes will be in non-paved areas and twenty-five (25) potholes will be in paved areas. Traffic control will be needed for all potholes in paved areas. Flow-fill and permanent restoration of the excavations is not included.

All pothole information along with location data of any uncovered utilities will be added to the SUE Plan and Report.

H. SUBSURFACE UTILITY ENGINEERING QL-A - SIGNALIZATION

In addition, four (4) QL-A large Test holes will be excavated at the proposed location of the traffic signal poles at Sapphire Pointe Blvd. These excavations will be 24" in diameter and 10 feet deep. The purpose of these excavation is to ensure there are no utility conflicts.

All pothole information along with location data of any uncovered utilities will be added to the SUE Plan and Report.

I. ASSUMPTIONS

Assumptions

1. The client and Town understand that the utility locating subcontractor will place paint markings on concrete, asphalt, and landscaped surfaces throughout the project site. Neither Farnsworth Group or the utility locating subcontractor will make any effort to remove these paint markings.
2. This scope of services does not include boundary resolution in case any substantial discrepancy, ambiguity, gap, overlap or conflict with lines of possession is discovered during the boundary survey. If any such issues arise, Farnsworth Group will advise the client and negotiate additional fees based on the attached rate table.
3. This scope of services assumes that no more than three (3) right-of-way parcels will be required and included in the right-of-way plans.
4. This scope of services assumes that all PLSS section corner, property corner and right-of-way corner monuments required for the right-of-way mapping will be recovered at ground level, undamaged and not in need of rehabilitation.
5. The survey will not locate lawn irrigation systems facilities such as vacuum breakers and valve boxes. Sprinkler heads and underground piping will not be shown.
6. Farnsworth Group is not responsible for delays due to changes in the scope of work by the client or owner, inclement weather, severe wind, snow cover, ice cover, or site access issues.
7. Farnsworth Group will send letters requesting Permission to Enter forms from adjacent landowners by certified mail. If a landowner has not responded within 1 month of the mailing, the surveyors will not enter that property.
8. Confined space entry will not be required for this project.
9. Farnsworth Group will not open any manhole or inlet that appears to be locked or otherwise secured.
10. The Design Engineer will provide information showing the project limits, alignments, profiles, relevant design, and any other applicable information.

J. SCHEDULE

Farnsworth Group anticipates being able to begin the survey within 2 weeks of written notice to proceed. We estimate completion of the design topographic survey CAD files and SUE QL-B Plan/Report within approximately 4-6 weeks from notice to proceed.

Preparation of the SUE QL-A Plan and Report; Right-of-Way Plans, Descriptions, and Exhibits for Right-of-Way parcels and Exhibits will be according to the project schedule.

K. FEES FOR PROFESSIONAL SERVICES

Farnsworth Group will perform the above-noted Services on an hourly basis not to exceed \$168,000.00.

Task	Estimated Cost
Topographic Survey Roadway	\$26,300.00
Topographic Survey Drainage Areas	\$8,800.00
Traffic Control	\$3,000.00
Right-of-Way Plans	\$31,600.00
Legal descriptions and Exhibits	\$2,200.00
Appraisal Staking / Final Monuments	\$4,900.00
SUE QL-B Survey Support	\$4,500.00
SUE QL-A Survey Support	\$7,500.00
SUE QL-B Field investigation - Roadway	\$17,700.00
SUE QL-B Field investigation - Drainage Areas	\$1,600.00
SUE QL-A Field investigation- Roadway	\$52,200.00
SUE QL-A Field investigation- Signalization	\$7,700.00
Total	\$168,000.00

Please let us know if you'd like to include any of the optional tasks:

Optional Tasks	Estimated Cost
Post-Construction as-built surveys (daily Rate)	\$3,500.00
Post-Construction Right-of-Way plan revisions.	\$3,000.00

Additional Services: Professional services beyond the scope of services listed above will be billed using our 2023 Hourly Rate Schedule. Travel and reimbursable expenses are estimated and included in the above fee. Substantial reproduction costs, additional travel beyond the meetings included, or other similar expense items shall be billed at item costs.

Respectfully Submitted,
FARNSWORTH GROUP, INC.

J.C. Cundall, PE
Senior Engineering Manager

David C. DiFulvio, PLS
Principal



Standard Schedule of Charges

Engineering / Surveying / Commissioning Professional Staff	Per Hour
Administrative Support.....	\$ 88.00
Engineering Associate I / Cx Specialist I.....	\$ 131.00
Engineering Associate II / Cx Specialist II.....	\$ 145.00
Engineer / Land Surveyor / Senior Cx Specialist.....	\$ 153.00
Senior Engineer / Senior Land Surveyor / Cx Project Manager.....	\$ 161.00
Project Engineer / Project Land Surveyor / Senior Cx Project Manager.....	\$ 173.00
Senior Project Engineer / Senior Project Land Surveyor / Cx Manager.....	\$ 193.00
Engineering Manager / Land Surveying Manager / Senior Cx Manager.....	\$ 218.00
Senior Engineering Manager / Senior Land Surveying Manager / Senior Cx Director.....	\$ 233.00
Principal / Vice President.....	\$ 253.00

Technical Staff	Per Hour
Technician I.....	\$ 90.00
Technician II.....	\$ 113.00
Senior Technician / Cx Technician.....	\$ 123.00
Chief Technician.....	\$ 141.00
Designer / Computer Specialist / Lead Technician.....	\$ 153.00
Senior Designer.....	\$ 158.00
Project Designer / Project Technician.....	\$ 173.00
Senior Project Designer / Systems Integration Manager.....	\$ 193.00
Design Manager / Grants Manager.....	\$ 198.00
Technical Manager.....	\$ 208.00
Senior Technical Manager.....	\$ 228.00

Architecture / Landscape Architecture / Interior Design Professional Staff	Per Hour
Architectural Associate I / Landscape Associate I / Interiors Associate I.....	\$ 119.00
Architectural Associate II / Landscape Associate II, Interiors Associate II / Interior Designer.....	\$ 129.00
Architect / Architectural Associate III / Landscape Associate III.....	\$ 145.00
Project Coordinator / Urban Planner I / Senior Interior Designer.....	\$ 145.00
Senior Architect / Senior Project Coordinator/ Urban Planner II / Interior Design Manager.....	\$ 155.00
Project Architect / Project Manager.....	\$ 166.00
Senior Project Architect / Senior Project Manager.....	\$ 183.00
Architectural Manager.....	\$ 196.00
Senior Architectural Manager / Senior Urban and Community Planner.....	\$ 213.00
Architecture Principal.....	\$ 233.00
Principal / Vice President.....	\$ 253.00

Units	
Expert Testimony.....	2.0x bill rate
ATV & Trailer.....	\$15.00 / hr
Field Vehicle.....	\$25.00 / hr
Automobile mileage.....	IRS Rate
Hand Held GPS.....	\$11.00 / hr
GPS Unit (each).....	\$22.00 / hr
Environmental GPS Data Collector.....	\$75.00 / day
Utility Locator / Robotic Total Station.....	\$26.00 / hr
Stationary Scanner (low res) High Def Scanner / UAV.....	\$300 / day \$500 / day
Subconsultants & Other Reimbursable Expenses Related to Project*.....	Cost+ 10%

*Includes the actual cost of prints / copies, supplies, travel charges, testing services, conferencing services, and other costs directly incidental to the performance of the above services.

CHARGES EFFECTIVE UNTIL JANUARY 1, 2024 UNLESS OTHERWISE NOTIFIED

EXHIBIT 2

CONSULTANT'S CERTIFICATION OF INSURANCE

EXHIBIT 3

**TOWN OF CASTLE ROCK
 AFFIDAVIT OF INDEPENDENT CONSULTANT STATUS**

In accordance with Section 8-70-115, C.R.S., I certify the following:

- With respect to the Agreement, **Alfred Benesch & Company** (the “entity”) represents and warrants that it is the entity’s express intention to be employed as an independent Consultant of the Town of Castle Rock (the “Town”) for purposes of performing the work or services which are the subject of the Agreement, to include all employees and agents of the above named entity. Entity understands and confirms that the Town reasonably relied on this intention in entering into the Agreement.
- The Town does not require that the entity work exclusively for the Town, except that the entity may choose to work exclusively for the Town for a finite period of time specified in the document.
- The Town does not establish a quality standard for the work or services performed pursuant to the Agreement, except that the Town may provide plans and specifications regarding the work but cannot oversee the actual work or provide instruction as to how the work is performed.
- The Town does not pay a salary or hourly rate but rather a fixed or contract rate, as noted in the terms and conditions of the Agreement, and any Exhibits made part of the Agreement.
- The Town cannot terminate the work or services performed during the contract period unless otherwise agreed to in the terms and conditions of the Agreement.
- The entity is not provided with anything, if at all, more than minimal training from the Town.
- The Town does not provide the entity with tools or benefits for the performance of the work or services which are the subject of the Agreement, except materials and equipment may be supplied.
- The Town does not dictate the time of performance, except that a completion schedule and a range of mutually agreeable work hours may be established in the Agreement.
- The Town makes checks payable to the trade or business name of the entity, who is a party to the Agreement; and the Town does not combine their business operations in any way with the entity’s business, but instead maintains such operations as separate and distinct.
- The entity understands that if a professional license to practice a particular occupation under the laws of the State of Colorado requires the exercise of a supervisory function with regard to the work of services performed under this Agreement, such supervisory role shall not affect the independent Consultant relationship with the Town.
- **ENTITY UNDERSTANDS THAT NEITHER THE ENTITY NOR ITS EMPLOYEES ARE ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS OF THE TOWN.**
- **THE ENTITY UNDERSTANDS THAT IT IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX ON MONEYS PAID PURSUANT TO THE AGREEMENT.**

CONSULTANT



ALFRED BENESCH & COMPANY

By: _____

Name

STATE OF COLORADO)

) *ss.*

COUNTY OF _____)

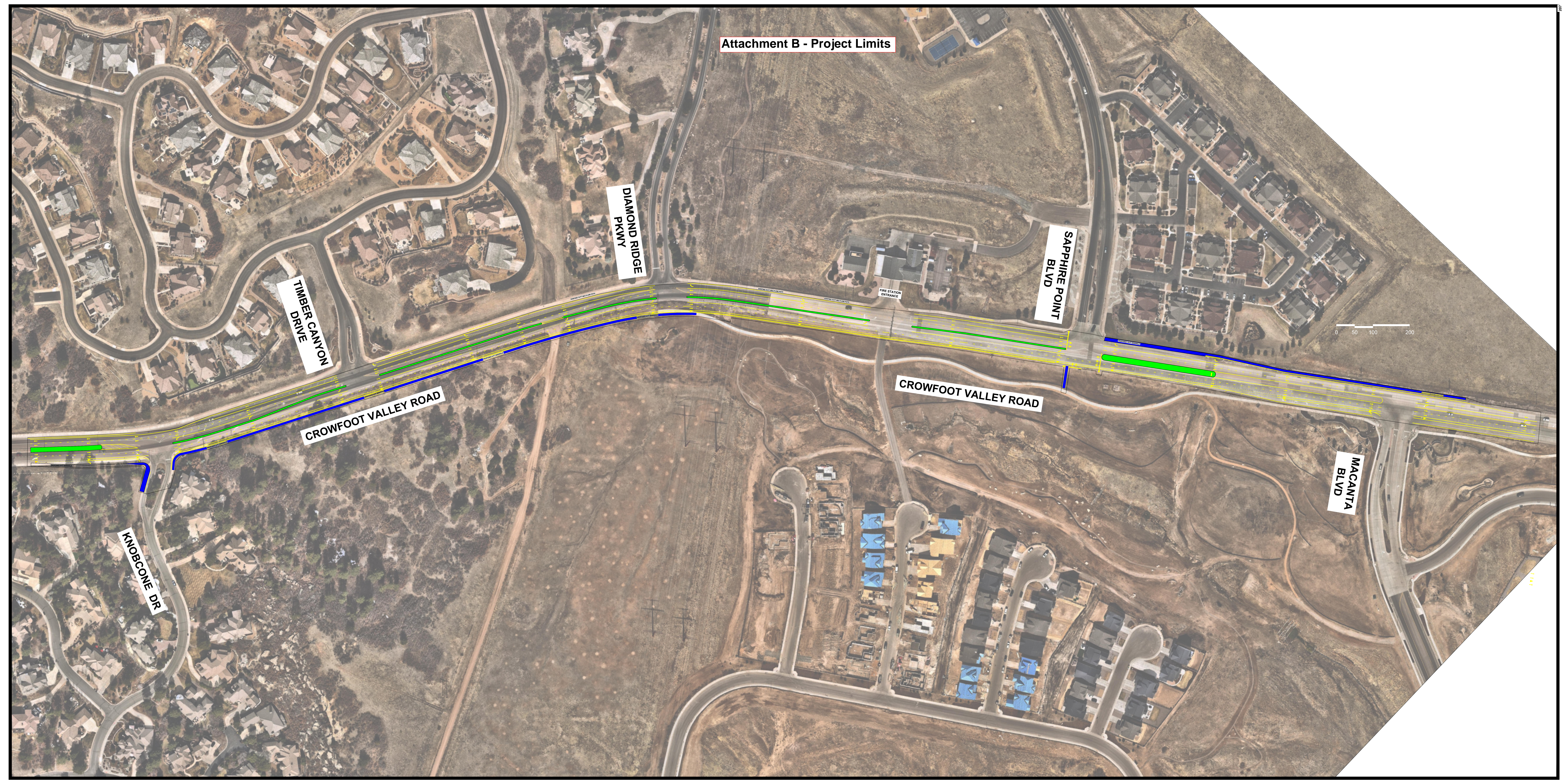
The foregoing instrument as acknowledged before me this ____ day of _____, 20__ by _____ as _____ of the above mentioned Consultant.

Witness my official hand and seal.

My commission expires:

Notary Public

Attachment B - Project Limits





Town of Castle Rock

Agenda Memorandum

Agenda Date: 6/5/2023

Item #: File #: PWC 2023-030

To: Members of the Public Works Commission

From: Aaron Monks, Project Manager

Resolution Recommending Town Council Approve a Construction Contract between the Town of Castle Rock and Kraemer North America for the Crystal Valley Interchange Package 1 Project

Executive Summary

Staff is seeking a favorable recommendation from the Public Works Commission for Town Council to approve a construction contract (Attachment A) between the Town of Castle Rock and Kraemer North America (Kraemer) for the Crystal Valley Interchange (CVI) Package 1 Project. The amount of the contract is \$17,196,091. This is a Construction Agreed Price (CAP), which means that the actual price could come down based on actual quantities, but not exceed this amount. The limits of two project packages are shown in (Attachment B). Package 1 is highlighted in yellow. Due to certain Colorado Department of Transportation (CDOT) procedures associated with obtaining construction clearance for all items within the full interchange area, CDOT has approved this limited scope of work to proceed, while the remaining clearances are being developed, reviewed and approved for Package 2, highlighted in green. This is a discrete independent contract with a severable project scope that does not commit the Town or the contractor to further work on the project. Utilizing this method achieves the goal of breaking ground on elements of the project deemed to have independent utility immediately while remaining CDOT process and procedures are completed. This assists with opening the project in as timely a manner as possible and staff feels awarding this contract in this manner is in the best interests of the Town. Package 1 needs to proceed first in order to clear the space necessary for construction Package 2, which is planned to be recommended for Town Council approval this Fall.

The Crystal Valley Interchange will improve access to I-25 by connecting the east side frontage road and Crystal Valley Parkway over I-25 to Territorial Road on the west side including interstate access ramps for one of the fastest growing areas of Castle Rock. The interchange includes the construction of the following improvements: a bridge over I-25, North and South Bound on & off ramps, bridge over the BNSF Railroad, and relocation of the East and West side frontage roads. The project will also reduce existing and future congestion at the Plum Creek Parkway interchange by redistributing traffic to this new interchange, and improve safety by removing an at-grade railroad crossing on the west side of I-25.

The construction contract amount is \$17,196,091. As part of the preconstruction phase, the Town has

hired an Independent Cost Estimator (ICE) to provide us with an understanding of whether the contractor's price for this work is within reason of existing market conditions. They provide pricing in the same manner as the contractor. The contractor's price is within less than 1% of the ICE's estimate. This is considered a responsible contract amount.

History of Past Town Council, Boards & Commissions, or Other Discussions

This project has been presented and adopted by Town Council in various forms within the last two Transportation Master Plans (TMP), which includes the 2017 TMP. The interchange was originally conceptualized in the late 1980's when the Dawson Ridge subdivisions were approved. Initial FHWA documents were completed in 2004 with the approval of an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI). The project stalled as a result of lack of development on the west side of I-25, and project funding prioritization changes.

In the spring of 2020 the Town applied for a BUILD grant for Design, ROW and Environmental Assessment funding. The Town received notice of award of the \$5.4 million grant in late fall of 2020. The Intergovernmental Agreement (IGA) with CDOT was approved at the September 7, 2021 Town Council meeting. The first of this year the Town applied for the Call 4 DRCOG grant. The DRCOG steering committee gave support to approve the request in March, and in mid-May at the Board of Directors meeting, the Board voted to approved the forum's recommendations. The final Board action is scheduled for July, but the Town has been given approval to start discussions with CDOT on the grant IGA.

The design services agreement with Jacobs Engineering Group was presented and approved at the June 15, 2021 Town Council meeting. The Construction Management/General Contractor (CM/GC) service agreement with Kraemer was presented and approved at the March 15, 2022 Town Council meeting. The ICE service agreement with Stanton Constructability Services was presented to the Town Manager in May of 2022.

Discussion

The use of CM/GC provides the best construction services delivery method for this complex project. By having the selected contractor be part of the design effort, the design is able to incorporate their construction knowledge into the design. It also increases their understanding of the design package, which assists with minimizing potential change orders during the construction phase. It also allows for a comprehensive understanding of possible construction phasing options to assist with moving into construction at the earliest possible date.

Staff has been working with CDOT and Kraemer on options to allow the Town to begin construction as soon as possible while continuing through CDOT processes for full construction clearance on both packages of the project. CDOT has authorized the Town to contract for Package 1 with the approval of specific clearances. The CDOT clearances for Package 1 include: Reevaluation of the overall project Environmental Assessment (EA), the Package 1 EA, and the CDOT maintenance IGA. The Town finalized the maintenance IGA with CDOT. The reevaluation EA and Package 1 EA are in the process of being approved by CDOT. The main delay on approval was waiting to have the US Army Corps of Engineers (USACE) determination on potentially impacted drainageways for waters of the

US (WOTUS). The Town has received the USACE determination and is just waiting for CDOT Executive Management to sign the EAs. CDOT Staff has submitted to CDOT Executive Management in support of the EAs. Town staff expects to receive approval on all Package 1 clearances by the time of the Town Council meeting or directly after.

Schedule

The project is anticipated to be executed according to the following schedule:

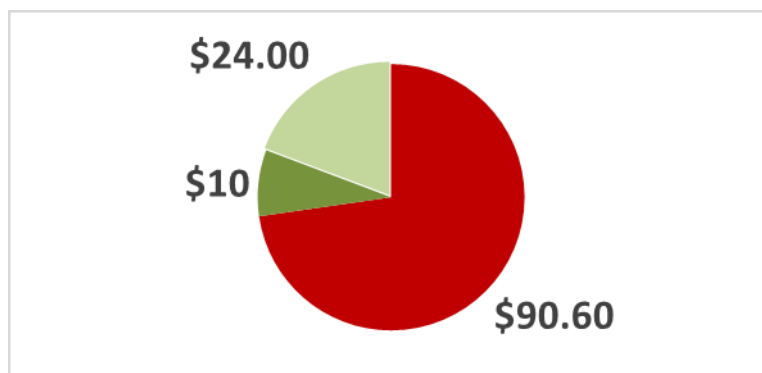
- Design for Package 1 - May 2023
- Start of Construction for Package 1 - June 2023
- Start of Dawson Trails Blvd (Town and Douglas County portions) - August 2023
- Design for Package 2 - August 2023
- Start of Construction for Package 2 - October 2023
- Project Completion - December 2025

Because of the Town's current process to utilize an ICE consultant to verify the contractor's price estimate against market conditions, an open bid process was not deemed to be necessary or efficient in this case. This contract is with the Town's current CM/GC contractor on this project, Kraemer. This procurement method is supported by staff and is in the best interest of the Town.

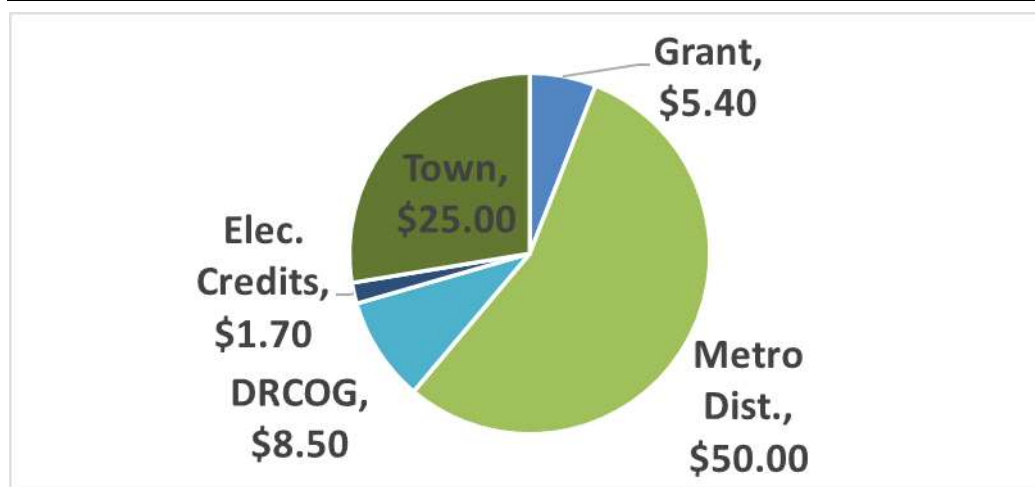
As staff continues to work through the remaining CDOT processes, future clearances for construction will occur that will allow staff to bring Package 2 to Town Council this fall. At that point, staff would have gone through the CMGC process with the contractor and the ICE consultant to lock in a Construction Agreed Price (CAP).

Budget Impact

The current total project estimate including existing preconstruction activities and construction is \$124.5 Million. Douglas County is contributing \$34 Million through a combination of completing a portion of the west frontage road relocation and the balance in funds. Staff will be presenting the Douglas County IGA at the same meeting as this construction contract as a separate item. The Town is securing the remainder of these funds as shown in the chart below in red.



The breakout of the Town's revenue is as shown in the following chart:



The funding for this contract is accounted for within the revenue shown in the previous chart. Expenditures for this contract will be taken from the Crystal Valley Interchange Fund Account (135-3175-431.78-41). Some internal fund loans will be necessary to cash flow the full project and allow for the forthcoming Package #2 to begin construction this year.

Staff Recommendation

Staff recommends Public Works Commission recommend Town Council approve the resolution as introduced by title with the understanding CDOT clearances continue to be approved and are anticipated to be finalized at the time of the Council meeting or directly after.

Proposed Motion

"I move that Public Works Commission recommend Town Council approve the Resolution as introduced by title."

Alternative Motions:

"I move that Public Works Commission recommend Town Council approve the resolution as introduced by title with the following changes _____"

Attachments

Attachment A: Construction Contract
Attachment B: Project Limits/Package Map

CON-2023-0443



**TOWN OF CASTLE ROCK
CONSTRUCTION CONTRACT
(Crystal Valley Interchange – Package 1 Construction)**

THIS CONSTRUCTION CONTRACT ("Contract") is made between the **TOWN OF CASTLE ROCK**, a Colorado municipal corporation ("Town"), 100 N. Wilcox Street, Castle Rock, Colorado 80104 and **KRAEMER NORTH AMERICA, LLC**, a Delaware corporation, 1 Plainview Road, Plain, Wisconsin 53577 ("Contractor").

In consideration of these mutual covenants and conditions, the Town and Contractor agree as follows:

SCOPE OF WORK The Contractor shall execute the entire Work described in the Contract.

CONTRACT The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, written or oral representations and agreements. The Contract incorporates the following Contract Documents. In resolving inconsistencies among two or more of the Contract Documents, precedence will be given in the same order as enumerated.

LIST OF CONTRACT DOCUMENTS

The Contract Documents, except for Modifications issued after execution of this Contract, are:

1. Change Orders
2. Notice to Proceed
3. Construction Contract
4. General Conditions, attached as *Exhibit 1*
5. Where applicable, Davis-Bacon Act Wage Determinations
6. The following Addenda, if any:

Number

Date

7. Special Conditions of the Contract: N/A
8. The following Specifications:
 - Town of Castle Rock Department of Public Works Special Provisions – Crystal Valley Interchange Package 1
9. The following Drawings/Reports:
 - Construction Plans of Proposed Crystal Valley Interchange – Package 1
 - Town of Castle Rock Temporary Erosion and Sediment Control Plan – Construction Plans of Proposed Crystal Valley Interchange
10. Notice of Award;
11. Invitation to Bid;
12. Information and Instructions to Bidders;
13. Notice of Substantial Completion;
14. Notice of Construction Completion;



15. Proposal Forms, including Bid Schedules;
16. Performance, and Labor and Material Payment Bonds;
17. Performance Guarantee; and
18. Insurance Certificates.

CONTRACT PRICE. The Town shall pay the Contractor for performing the Work and the completion of the Project according to the Contract, subject to Change Orders as approved in writing by the Town, under the guidelines in the General Conditions. The Town will pay **seventeen million one-hundred and ninety-six thousand ninety dollars and seventy cents (\$ 17,196,090.70)** ("Contract Price"), to the Contractor, subject to full and satisfactory performance of the terms and conditions of the Contract. The Contract Price is provisional based on the quantities contained in the Bid attached as *Exhibit 2*. The final Contract Price shall be adjusted to reflect actual quantities incorporated into the Work at the specified unit prices. The Town has appropriated money equal or in excess of the Contract Price for this work.

TERM. The term shall commence upon execution of the Contract and terminate on **August 1, 2024**, unless an extension of the Contract is agreed to in writing by the Town and Contractor. The Contractor must begin work covered by the Contract on the date of the Notice to Proceed, and must complete work by the date of termination of this Contract.

LIQUIDATED DAMAGES. If the Contractor fails to complete the Work by the date set for completion in the Contract, or if the completion date is extended by a Change Order, by the date set in the Change Order, the Town may permit the Contractor to proceed, and in such case, may deduct the sum of \$2,400.00 for each day that the Work shall remain uncompleted from monies due or that may become due the Contractor. This sum is not a penalty but is a reasonable estimate of liquidated damages.

The parties agree that, under all of the circumstances, the daily basis and the amount set for liquidated damages is a reasonable and equitable estimate of all the Town's actual damages for delay. The Town expends additional personnel effort in administering the Contract or portions of the Work that are not completed on time, and has the cost of field and office engineering, inspecting, and interest on financing and such efforts and the costs thereof are impossible to accurately compute. In addition, some, if not all, citizens of Castle Rock incur personal inconvenience and lose confidence in their government as a result of public projects or parts of them not being completed on time, and the impact and damages, certainly serious in monetary as well as other terms are impossible to measure.

SERVICE OF NOTICES. Notices to the Town are given if sent by registered or certified mail, postage prepaid, to the following address:

TOWN OF CASTLE ROCK
Town Attorney
100 N. Wilcox Street
Castle Rock, CO 80104

With a copy to: Legal@crgov.com

INSURANCE PROVISIONS. The Contractor must not begin any work until the Contractor obtains, at the Contractor's own expense, all required insurance as specified in the General Conditions. Such insurance must have the approval of the Town of Castle Rock as to limits, form and amount. *Certificate of Insurance ("COI") must be submitted along with the executed contract as Exhibit 3.*

RESPONSIBILITY FOR DAMAGE CLAIMS. The Contractor shall indemnify, save harmless, and defend the Town, its officers and employees, from and in all suits, actions or claims of any character brought because of: any injuries or damage received or sustained by any person, persons or property because of operations for the Town under the Contract; including but not limited to claims or amounts recovered from any infringements of patent, trademark, or copyright; or pollution or environmental liability. The Town may retain so much of the money due the Contractor under the Contract, as the Town considers necessary for such purpose. If no money is due, the Contractor's Surety may be held until such suits, actions, claims for injuries or damages have been settled. Money due the Contractor will not be withheld when the Contractor produces satisfactory evidence that the Contractor and the Town are adequately protected by public liability and property damage insurance.

The Contractor also agrees to pay the Town all expenses, including attorney's fees, incurred to enforce this Responsibility for Damage Claim clause.

Nothing in the **INSURANCE PROVISIONS of the General Conditions** shall limit the Contractor's responsibility for payment of claims, liabilities, damages, fines, penalties, and costs resulting from its performance or nonperformance under the Contract.

STATUS OF CONTRACTOR. Contractor has completed the Affidavit of Independent Contractor Status, attached as *Exhibit 4*, and submitted same at the time of execution of this Agreement. The Contractor is performing all work under the Contract as an independent Contractor and not as an agent or employee of the Town. No employee or official of the Town will supervise the Contractor. The Contractor will not supervise any employee or official of the Town. The Contractor shall not represent that it is an employee or agent of the Town in any capacity. **The Contractor and its employees are not entitled to Town Workers' Compensation benefits and are solely responsible for federal and state income tax on money earned.** This is not an exclusive contract.

THIRD PARTY BENEFICIARIES. None of the terms or conditions in the Contract shall give or allow any claim, benefit, or right of action by any third person not a party to the Contract. Any person, except the Town or the Contractor, receiving services or benefits under the Contract is an incidental beneficiary only.

INTEGRATION. This contract integrates the entire understanding of the parties with respect to the matters set forth. No representations, agreements, covenants, warranties, or certifications, express or implied, shall exist as between the parties, except as specifically set forth in this Contract.

DEFINITIONS. The Definitions in the General Conditions apply to the entire Contract unless modified within a Contract Document.

AMERICANS WITH DISABILITIES ACT. Contractor agrees to ensure that any deliverables, work, services, or equipment developed, designed, constructed or produced pursuant to this Agreement, to include website design services, will comply with all requirements of Title II of the Americans with Disabilities Act and, where applicable, Section 504 of the Rehabilitation Act, the Architectural Barriers Act, and the Colorado Anti-Discrimination Act. To the extent any deliverables, work, services, or equipment developed, designed, constructed or produced pursuant to this Agreement fail to comply with the requirements of this Section, Contractor shall indemnify the Town in accordance with the terms of this Agreement and, at the Town's option, shall re-visit, re-construct, or similar, the non-compliant deliverable, work, service, or equipment, or reimburse the Town for the cost associated with bringing the non-compliance deliverable, work, service or equipment into compliance.



NO DISCRIMINATION IN EMPLOYMENT. The Town is a governmental agency and, therefore, in connection with the performance of Work or Services under this Agreement, Contractor shall not refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability, or any other protected class under Federal or State law; and Contractor shall insert the foregoing provision in any subcontracts hereunder.

ADVERTISING AND PUBLIC DISCLOSURE. Contractor shall not include any reference to this Agreement or goods or services provided pursuant to this Agreement in any of Contractor's advertising or public relations materials without first obtaining the written approval of the Town. Nothing herein, however, shall preclude the transmittal of any information to officials of the Town, including without limitation, the Town Attorney, Town Manager, and the Town Council.

VENUE, CHOICE OF LAW AND DISPUTES. Venue for all legal actions shall lie in the District Court in and for the County of Douglas, State of Colorado, and shall be governed by the laws of the State of Colorado as well as the Charter and Municipal Code, rules, regulations, Executive Orders, and fiscal rules of the Town.

AUTHORITY. The individuals executing this Agreement represent that they are expressly authorized to enter into this Agreement on behalf of the Town and the Contractor and bind their respective entities. This Agreement is executed and made effective as provided above.

LICENSES/TAXES. Contractor affirms it is licensed to do business in the State of Colorado and is in good standing. Further, Contractor shall be solely responsible for paying all applicable taxes associated with or rising out of this Agreement.

CONFIDENTIALITY. Contractor agrees that it shall treat as confidential all information provided by the Town regarding the Town's business and operations. All confidential information provided by the Town hereto shall be used by Contractor solely for the purposes of rendering services or work pursuant to this Agreement and, except as may be required in carrying out the terms of this Agreement, shall not be disclosed to any third party without the prior consent of the Town. The foregoing shall not be applicable to any information that is publicly available when provided or which thereafter becomes publicly available or which is required to be disclosed by any regulatory authority in the lawful and appropriate exercise of its jurisdiction over a party, any auditor of the parties hereto, by judicial or administrative process or otherwise by applicable law or regulation.

Executed this _____ day of _____, 20__.

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Jason Gray, Mayor

Approved as to form:

Approved as to content:

Lena McClelland, Assistant Town Attorney

David L. Corliss, Town Manager

CON-2023-0443



CONTRACTOR:

KRAEMER NORTH AMERICA, LLC

By:

Its:



Sr. Vice President



EXHIBIT 1

**TOWN OF CASTLE ROCK
CONSTRUCTION CONTRACT GENERAL CONDITIONS**

SCOPE: Since the General Conditions are general, some conditions may not apply to a particular Project.

Article 1--DEFINITIONS AND ABBREVIATIONS

Whenever used in the Bidding Documents and Contract Documents, the following terms shall have the following meanings, applicable to both the singular and plural:

- 1.0.1 **Addenda:** Written changes to the Bidding Documents issued at least two days before the Opening of Bids which modify or interpret the Contract or changes the date set for the Opening of Bids.
- 1.0.2 **Alternate Bid:** An Alternate Bid is an amount stated in the Bid added to or deducted from the base amount of the Bid when the Town accepts a corresponding change in project scope, materials or method of construction described in the Contract.
- 1.0.3 **Bid:** The proposal the Bidder submits on the prescribed Bid Forms stating the prices for the Work to be performed.
- 1.0.4 **Bid Forms:** The Bid Proposal, Bid Bond, Bid Schedule, Bidder's Qualifications and Data, Bidder's Officials Data, Non-Collusion Affidavit of Prime Bidder, and Subcontractors and Related Data.
- 1.0.5 **Bidder:** The person, partnership, or corporation submitting a Proposal for the performance of the Work covered by the Contract.
- 1.0.6 **Bidding Documents:** The Invitation to Bid, Bid Forms, Information and Instructions to Bidders, Specifications, Drawings, Sample Forms, Special and General Conditions and Addenda (if any).
- 1.0.7 **Bonds:** Bid Bonds, Performance, and Labor and Material Payment Bonds or other instruments of security, furnished by the Contractor and its Surety according to the Contract.
- 1.0.8 **Change Order:** A written modification of the Contract, issued after award to the Contractor, authorizing an addition, deletion or revision in the Work within the general scope of the Contract or authorizing an adjustment in the Contract Price or Contract Time, mutually agreed upon between the Town and the Contractor.
- 1.0.9 **Town:** The Town of Castle Rock, in the State of Colorado, acting by and through its Mayor, Town Council, Town Manager, or other authorized representative.
- 1.0.10 **Completion Date:** The date the Contract specifies the Work is to be completed.
- 1.0.11 **Contract:** The Construction Contract consisting of the Agreement for a Construction Contract and the incorporated Contract Documents.
- 1.0.12 **Contract Coordinator:** The authorized representative of the Town designated to act for the Town in processing the Award of Contracts, maintaining centralized official Contract documentation,

providing administrative liaison/coordination, legal liaison/coordination via Town Attorney, and processing of Contract Payment authorizations as approved by the Project Manager.

- 1.0.13 **Contract Documents:** All the documents expressly incorporated into the Contract by the Agreement for Construction Contract, including but not limited to Addenda, Bid Forms, Change Orders, Town Project Final Acceptance, Drawings, General Conditions, Information and Instruction to Bidders, Insurance Certificates, Invitation to Bid, Notice of Award, Notice of Construction Completion, Notice to Proceed, Notice of Substantial Completion, Performance and Labor and Material Payment Bonds, Special Conditions, Supplemental Drawings and Schedules, and Technical Specifications.
- 1.0.14 **Contract Price:** The total monies payable to the Contractor under the terms and conditions of the Contract.
- 1.0.15 **Contract Time:** The number of days stated in the Contract for the completion of the Project.
- 1.0.16 **Contractor:** The person, company, firm or corporation contracting with the Town to construct, erect, alter, install or repair any work or construction project.
- 1.0.17 **Drawings:** The part of the Contract prepared or approved by the Project Manager showing the characteristics and scope of the Work to be performed.
- 1.0.18 **Date of Contract:** The execution date in the Agreement for a Construction Contract.
- 1.0.19 **Day:** A calendar day of twenty-four hours each.
- 1.0.20 **Field Order:** A written order directing a change in the Project issued by the Project Manager to the Contractor during construction.
- 1.0.21 **Inspector:** The Town's authorized representative assigned to make detailed inspection of the Work performed by the Contractor.
- 1.0.22 **Notice of Award:** The written notice of the acceptance of the Bid from the Town to the successful Bidder.
- 1.0.23 **Notice of Construction Completion:** The written acknowledgment that construction is complete which starts the warranty period.
- 1.0.24 **Notice of Final Acceptance:** The written acceptance of Work performed under the Contract, following satisfactory conclusion of the warranty period.
- 1.0.25 **Notice to Proceed:** The written notice by the Town to the Contractor authorizing it to proceed with the Work which establishes the Contract commencement and Contract Coordinators.
- 1.0.26 **Notice of Substantial Completion:** The written notice of the date, as certified by the Project Manager, when the Project or a specified part is sufficiently completed, according to the Contract, so the Project or specified part can be used for the intended purposes.
- 1.0.27 **Owner.** The Town; see 1.1.9.

- 1.0.28 **Project:** The undertaking to be performed as provided in the Contract.
- 1.0.29 **Project Manager:** The authorized representative of the Town, known as the Project Manager, assigned to the Project to ensure that all Work is performed according to the terms and conditions of the Contract. Also see Article 10, "Project Manager's Responsibilities."
- 1.0.30 **Shop Drawings:** All Drawings, diagrams, illustrations, brochures, schedules, and other data prepared by the Contractor, a Subcontractor, manufacturer, Supplier or distributor which illustrate how specific portions of the Work will be fabricated or installed.
- 1.0.31 **Special Conditions:** Additions to the General Conditions containing instructions and conditions peculiar to an individual Project.
- 1.0.32 **Specifications:** A part of the Contract Documents consisting of written technical description of materials, equipment, construction systems, standards, and workmanship.
- 1.0.33 **Subcontractor:** Any person, company, firm or corporation, having a subcontract with the Contractor to furnish and perform on-site labor, with or without furnishing materials for the project.
- 1.0.34 **Supplier:** Any person or organization who supplies materials or equipment for the Work, including that fabricated to a special design, but who does not perform labor at the site.
- 1.0.35 **Surety:** The entity which is bound with and for the Contractor for the Performance of the Work and for the Labor and Material Bond.
- 1.0.36 **Unit Price:** An amount stated in the Bid as a price per unit of measurement for materials or services as described in the Contract.
- 1.0.37 **Work:** The construction and services required by the Contract, whether completed or partially completed, including all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may be the whole or a part of the Project.
- 1.1 **Abbreviations:** When the following abbreviations appear in the documents, they are defined as follows:

AASHTO	American Association of State Highway and Transportation Officials
ACI	American Concrete Institute
AISC	American Institute of Steel Construction
ANSI	American National Standards Institute
ASA	American Standards Association
ASCE	American Society of Civil Engineers
ASME	American Society of Mechanical Engineers
ASTM	American Society for Testing and Materials
AWS	American Welding Society
AWWA	American Water Works Association
CDOT	Colorado Department of Transportation
EPA	Environmental Protection Agency
MUTCD	Manual on Uniform Traffic Control Devices
OSHA	Occupational Safety & Health Administration

WW-P Federal Specifications Prefix

Article 2--PRELIMINARY MATTERS

2.1 Notice to Proceed

- 2.1.1 Following the execution of the Contract by the Parties, the Project Manager will give the Contractor written Notice to Proceed with the Work. The Contractor shall begin and continue the Work regularly and without interruption (unless otherwise directed in writing by the Project Manager) with the force necessary to complete the Work within the time stated in the Contract.

2.2 Contractor's Understanding

- 2.2.1 The Contractor agrees that, by careful examination, it is satisfied as to the nature and location of the Work, the conformation of the ground, the character, quality, and quantity of the materials to be encountered, the character of equipment and facilities needed before beginning and for the Project, the general and local conditions, and all other matters, which can in any way affect the Work under the Contract. No oral agreement with any officer, agent or employee of the Town either before or after the execution of the Contract shall affect or change any of the terms or obligations contained in the Contract.

2.3 Contractor's Warranty

- 2.3.1 The Contractor warrants that it has the knowledge, ability, experience, and expertise to perform the Work competently. The Contractor warrants the capacity of the Contractor's construction plant, personnel, and its ability to complete the Project within the allotted time.

2.4 Contractor's License and Permits

- 2.4.1 Contractor, or if applicable Subcontractor, shall be responsible for applying for, and obtaining all Town, County, State and/or Federal licenses and permits required to do the Work. Contractor will not be required to pay for Town permits, with the exception of the Grading, Erosion, and Sediment Control (GESC) permit. All GESC permit fees must be paid by Contractor or Subcontractor as a condition to issuance of such GESC Permit.

2.5 Schedules, Reports, and Records

- 2.5.1 Before beginning construction, the Contractor shall submit to the Project Manager a Construction Progress Schedule, on a form approved by the Project Manager, showing all Work the Contractor and all Subcontractors will perform. The Project Manager may require the Contractor to substitute a Critical Path Method schedule (CPM), or bar graph type schedule. The Special Conditions will state when a CPM network schedule is required.
- 2.5.2 The schedule shall be in enough detail for the Project Manager to readily determine the Work to be performed each day. When requested by the Project Manager, the Contractor shall update the schedule.
- 2.5.3 Before beginning construction, the Contractor shall give the Project Manager the dates it expects to submit Shop Drawings, manufacturers' details, catalog cuts or other required special detail

Drawings and also the dates of beginning manufacture, testing, delivery and installation of special equipment and materials.

2.6 Contractor's Address

- 2.6.1 The address in the Bid Proposal is designated as the place to which all communications to the Contractor will be delivered or mailed. The delivery at the listed address, in person or by certified mail, of any notice, letter or other communication to the Contractor, is adequate service upon the Contractor, and the date of the service is the date of delivery.

2.7 Notification of Utility Owners

- 2.7.1 The Contractor shall cooperate with Utility Owners to mitigate damage whenever the Contractor's work affects their utilities.
- 2.7.2 The Contractor shall not excavate without first notifying the owners, operators or association of owners and operators having underground facilities in the area of such excavation. Notice may be given in person, by telephone or in writing. Notice to an association is notice to each member of the association.
- 2.7.3 Contractor shall give notice of the commencement, extent, and duration of the excavation work at least two business days before beginning Work.
- 2.7.4 If the Project affects fences, landscaping, mailboxes, driveways and other improvements, the Contractor shall notify the affected property owners or occupants IN WRITING at least two business days before beginning Work. The Contractor shall cooperate with the owners or occupants to reduce inconvenience where reasonably possible.

2.8 Department of Revenue Forms

- 2.8.1 It is the responsibility of the Contractor to apply for a Colorado State Sales and Use Tax Exemption Certificate from the State Dept. of Revenue and to use it when purchasing materials or supplies in connection with the Project.
- 2.8.2 The Town's Tax Exemption Numbers are to be used only when obtaining the Contractor's own Tax Exemption Certificate for each specific Town project:
- a. Federal Tax Exemption Number: 84-6000640
 - b. State of Colorado Tax Exemption Number: 98-05820-0000

Article 3--DRAWINGS AND SPECIFICATIONS

3.1 Intent of Drawings and Specifications

- 3.1.1 In the Drawings and Specifications, the Town intends that the Contractor furnish all superintendence, labor, materials, tools, equipment, supplies, machinery and transportation necessary for the proper execution of the Work unless specifically noted otherwise. The Contractor shall do all the Work shown on the Drawings and described in the Specifications and all incidental Work reasonably necessary to complete the Project in a substantial and acceptable manner, and to complete fully the Work, ready for use, by the Town.

- 3.1.2 The Contractor shall complete all Work according to the Specifications and Plans, and in compliance with applicable laws of Colorado and ordinances of the Town.
- 3.1.3 In interpreting the Contract, words describing materials or work having a well-known technical or trade meaning, unless otherwise specifically defined, will be construed according to well-known meanings as recognized by engineers, architects, and the trades.
- 3.1.4 When the Contract refers to a provision of the General Conditions or another Contract Document, the Contract means the provision as amended or supplemented by other provisions of the Contract.
- 3.1.5 When the Specifications state the words "as directed," or "as required," or "as permitted," or words of like meaning, it is understood that the direction, requirement or permission of the Project Manager is intended. Similarly, the words **approved, acceptable or satisfactory** shall refer to approval by the Project Manager.
- 3.1.6 The Contract Documents are intended to be complementary, and Work called for on any Drawing and not mentioned in the Specifications, or Work described in the Specifications and not shown on any Drawing, is included under the Contract as if set forth in both the Specifications and Drawings.
- 3.2 **Copies of Drawings and Specifications Furnished**
 - 3.2.1 The Project Manager will furnish to the Contractor, free of charge, four copies of Drawings and Specifications of the Work. All additional copies will be furnished at reproduction costs.
- 3.3 **Discrepancies in Drawings**
 - 3.3.1 Contractor shall immediately report any discrepancies found between the Drawings and Specifications and site conditions or any errors or omissions in the Drawings or Specifications to the Project Manager, who shall promptly correct such error or omission IN WRITING. Any Work done by the Contractor after discovery of such discrepancies, errors or omissions is done at the Contractor's risk. In all cases, the Project Manager shall decide the intent of the Drawings and Specifications. The decision is final.
- 3.4 **Dimensions**
 - 3.4.1 Figured dimensions shall govern over scaled dimensions.
- 3.5 **Drawings and Specifications at Job Site**
 - 3.5.1 The Contractor shall keep one complete set of all Drawings and Specifications at the job-site, available to the Project Manager or the Manager's representative at all times.
- 3.6 **Shop Drawings**
 - 3.6.1 The Contractor shall provide Shop Drawings, settings, schedules, and such other Drawings as may be necessary for the prosecution of the Work in the shop and in the field as required by the Drawings, Specifications or Project Manager's instructions.

- 3.6.2 The Contractor shall submit for approval four reproducible copies of all Shop Drawings and descriptive data as applicable showing all features not fully detailed on the Contract Plans but essential for a completely coordinated installation.
- 3.6.3 The Town's approval of Shop Drawings indicates only that the type and kind of equipment, general method of construction or detailing are satisfactory, but the Contractor may not construe the approval as a complete check. The Contractor has the responsibility for incorporating into the Work satisfactory materials and equipment meeting the requirements of the Contract Plans and Specifications, the proper dimensions, and the detailing of connections.
- 3.6.4 The review of Shop Drawings is only to check for compliance with the design concept of the Project and general compliance with the Contract Documents. Approval does not indicate the waiver of any contract requirement. Changes in the Work are authorized only by separate written Change Order.
- 3.7 Record Documents**
- 3.7.1 The Contractor shall keep one record copy of all Addenda, Change Orders, Drawings, Field Orders, Modifications, and Shop Drawings and Specifications in good order. The Contractor shall record any changes made during construction on the record copies. The Contractor shall make a set of "Record Drawings" by marking this set of prints with all changes from the original Drawings as bid, including all Change Orders, alignment changes, depth changes of underground pipes and utilities, and all other items that are not the same as originally drawn. The Contractor shall keep the Record Drawings up to date as the Project progresses. The Project Manager may require, as a condition of the approval of the monthly progress payment, periodic inspection of the Record Drawings. The Contractor will deliver the Record Drawings to the Project Manager upon completion of the Project before Final Payment.
- 3.8 Differing Site Conditions**
- 3.8.1 The Contractor shall promptly, before such conditions are further disturbed, notify the Project Manager in writing of:
- 3.8.1.1 Subsurface or latent physical conditions at the job-site differing materially from those indicated in the Contract; or
- 3.8.1.2 Unknown physical conditions at the job-site, of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in Work of the character provided for in the Contract.
- 3.8.2 Upon receipt of written notification from the Contractor of alleged differing site conditions, the Project Manager shall promptly investigate the conditions and if it finds the conditions materially differ, and so cause an increase or decrease in the Contractor's cost of or the time required for performance of any part of the Work under the Contract, an equitable adjustment will be made and the Contract modified in writing as provided for in Article 11 of these General Conditions.
- 3.8.3 No claim will be allowed under this Article unless the Contractor has given the written notice required in Article 3.8.1.
- 3.8.4 No claim will be allowed under this Article if Final Payment has been made.

3.9 Surveys

- 3.9.1 The Project Manager shall develop and arrange for all detail surveys necessary. The Contractor assumes full responsibility for construction according to the established lines and grades.
- 3.9.2 The Contractor shall carefully protect all monuments and property markers from disturbance or damage.

Article 4--AVAILABILITY OF RIGHT-OF-WAY

4.1 Acquisition of Right-of-Way

- 4.1.1 Before issuance of Notice to Proceed, the Town shall obtain all land and right-of-way necessary for carrying out and completion of the Work to be performed pursuant to the Contract, unless otherwise mutually agreed.
- 4.1.2 The Town shall provide to the Contractor information which delineates and describes the lands owned and rights-of-way acquired, when necessary. The Contractor shall confine its operations within the areas designated by the Project Manager.

4.2 Access to Right-of-Way

- 4.2.1 The Town will provide right of access to all places necessary for the performance of the Work. Nothing contained in the Contract shall give the Contractor exclusive occupancy of the area provided by the Town. The Town, other Contractors of the Town and utility companies may enter upon or occupy portions of the land furnished by the Town for any purpose, but without unreasonably interfering with the completion of the Project. Joint occupancy or use of the territory shall not be the basis of any claim for delay or damages.

4.3 State Highway Right-of-Way

- 4.3.1 If any part of the Project is within the right-of-way of a roadway under the jurisdiction of the Colorado Division of Transportation (CDOT) the Town shall obtain the necessary permits from CDOT to perform such Work. Town, at its option may assign the responsibility to Contractor to obtain the necessary permits from CDOT to perform such Work. The Contractor shall conform to all the requirements and restrictions indicated on the permit. The Contractor shall restore the area to its original condition, including reseeding if necessary, at the completion of the Project.

4.4 Temporary Storage Facilities

- 4.4.1 The Contractor may secure at its own expense, and without liability to the Town, use of any additional land that the Contractor may desire for temporary construction activities, and facilities, or storage of materials.

Article 5--BONDS AND INSURANCE

5.1 Performance Bond and Labor and Material Payment Bond

5.1.1 The Contractor shall, within ten days after receipt of the Notice of Award, and before the commencement of any operations hereunder execute the Contract and furnish the Town with separate Performance, and Labor and Material Payment Bonds each in a penal sum equal to the amount of the Contract Price, conditioned upon the Contractor's performance of all undertakings, covenants, terms, conditions, and agreements of the Contract, and upon the Contractor's prompt payment to all persons supplying labor and materials in the prosecution of the Work provided by the Contract. The Contractor and a corporate Bonding company, licensed to transact such business in the State of Colorado and acceptable to the Town, shall execute the Bonds. The Contractor bears the expense of these Bonds. If at any time the Surety on such Bonds becomes irresponsible or loses its right to do business in the State of Colorado, the Town may require another Surety, which the Contractor shall furnish within ten days after receipt of written notice to do so. Evidence of authority of an attorney-in-fact acting for the corporate Surety shall be provided in the form of a certificate as to its power of attorney and to the effect that it is not terminated and remains in full force and effect on the date of the Bonds. The form of the Bonds is subject to the Town's approval.

5.2 Insurance

5.2.1 The insurance requirements contained in the Contract shall not limit or redefine the obligations of the Contractor as provided elsewhere in the Contract.

5.2.2 Contractor agrees to procure and maintain, at its own cost, the following policy or policies of insurance. Contractor shall not be relieved of any liability, claims, demands or other obligations assumed pursuant to the Contract Documents by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types.

5.2.2.1. Contractor shall procure and maintain, and shall cause each subcontractor of the Contractor to procure and maintain a policy the minimum insurance coverage listed below. Such coverage shall be procured and maintained with forms and insurers acceptable to the Town. All coverage shall be continuously maintained from the date of commencement of services hereunder. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

5.3 Insurance Requirements

5.3.1 **General Conditions:** Contractor agrees to secure, at or before the time of execution of this Agreement, the following insurance covering all operations, goods or services provided pursuant to this Agreement. Contractor shall keep the required insurance coverage in force at all times during the term of the Agreement, or any extension thereof, during any warranty period, and for eight (8) years after termination of the Agreement. The required insurance shall be underwritten by an insurer licensed or authorized to do business in Colorado and rated by A.M. Best Company as A-VII or better. Each policy shall require notification to the Town in the event any of the required policies be canceled or non-renewed before the expiration date thereof. Such written notice shall be sent to the Town. Said notice shall be sent thirty (30) days prior to such cancellation or non-renewal unless due to non-payment of premiums for which notice shall be sent ten (10) days prior. If such written notice is unavailable from the insurer, Contractor shall provide written notice of cancellation, non-renewal and any reduction in coverage to the Town by certified mail, return receipt requested within three (3) business days of such notice by its insurer(s). Contractor shall be responsible for the payment of any deductible or self-insured retention. The insurance coverages specified in this Agreement are

the minimum requirements, and these requirements do not lessen or limit the liability of the Contractor. The Contractor shall maintain, at its own expense, any additional kinds or amounts of insurance that it may deem necessary to cover its obligations and liabilities under this Agreement. All commercial and automobile liability policies shall have the following additional provisions:

- (a) Severability of interests or separation of insureds provision;
- (b) Provision that coverage is primary and non-contributory with other coverage maintained by the Town;
- (c) The underlying Agreement is an “insured contract” under the policy;
- (d) Defense costs shall be outside the policy limits for liability coverage.

5.3.2 Proof of Insurance: Contractor may not commence services or work relating to the Agreement prior to placement of coverages required under this Agreement. Contractor certifies that the certificate of insurance attached as *Exhibit 3*, preferably an ACORD form, complies with all insurance requirements of this Agreement. The Town’s acceptance of a certificate of insurance or other proof of insurance that does not comply with all insurance requirements set forth in this Agreement shall not act as a waiver of Contractor’s breach of this Agreement or of any of the Town’s rights or remedies under this Agreement. Each certificate shall identify the Project and shall provide that coverage afforded under the policies shall not be cancelled, terminated or materially changed until at least 30 days prior written notice has been given to the Town. If the words “endeavor to” appear in the portion of the certificate addressing cancellation, those words shall be stricken from the certificate by the agent(s) completing the certificate. The Town may require additional proof of insurance, including but not limited to policies and endorsements.

5.3.3 Additional Insureds: For Commercial General Liability, Automobile Liability, Contractors Pollution Liability (if required) and Excess Liability/Umbrella (if required), Contractor and subcontractor’s insurer(s) shall include the Town, its elected and appointed officials, officers, employees, agents and volunteers acting within the course and scope of their duties for the Town as additional insured.

5.3.4 Subcontractors and Subconsultants: All subconsultants, subcontractors, independent contractors, suppliers or other entities providing goods or services required by this Agreement shall be subject to all of the requirements herein. Contractor shall require all of its subcontractors and subconsultants of any tier to provide insurance coverage in types and amounts required by the Contractor, but in amounts of at least \$1,000,000 Commercial General Liability, Business Automobile Liability insurance of \$1,000,000 combined single limit, statutory Workers’ Compensation coverage, and \$1,000,000 professional liability for any subcontractor performing design or engineering work. Contractor agrees to provide proof of insurance for all such subcontractors, subconsultants, independent contractors, suppliers or other entities upon request by the Town.

5.3.5 Waiver of Subrogation: For all coverages required under this Agreement, with the exception of Professional Liability - if required, Contractor’s insurer shall waive subrogation rights against the Town its elected and appointed officials, officers, employees, agents and volunteers acting within the course and scope of their duties for the Town.

5.3.6 Workers’ Compensation and Employer’s Liability Insurance: Contractor shall maintain the coverage as required by statute for each work location and shall maintain Employer’s Liability insurance with minimum limits of \$100,000 per occurrence for each bodily injury

claim, \$100,000 per occurrence for each bodily injury caused by disease claim, and \$500,000 aggregate for all bodily injuries caused by disease claims.

- 5.3.7 **Commercial General Liability:** Contractor shall maintain a Commercial General Liability insurance policy with minimum limits of \$1,000,000 for each occurrence and \$2,000,000 products and completed operations aggregate, and \$2,000,000 general aggregate (per project). The policy shall provide coverage for all claims for bodily injury, property damage (including loss of use), products and completed operations, and contractual liability.
- 5.3.8 **Business Automobile Liability:** Contractor shall maintain Business Automobile Liability, or its equivalent, with minimum limits of \$1,000,000 combined single limit applicable to all owned, hired and non-owned vehicles used in performing services under this Agreement. If transporting wastes, hazardous material, or regulated substances, Contractor shall carry a pollution coverage endorsement and an MCS 90 endorsement on their policy. Transportation coverage under the Contractors Pollution Liability policy shall be an acceptable replacement for a pollution endorsement to the Business Automobile Liability policy.
- 5.3.9 **Builder's Risk or Installation Floater:** Contractor shall maintain limits equal to the completed value of the project. Coverage shall be written on an all risk, replacement cost basis including coverage for soft costs, flood and earth movement, if in a flood or quake zone, and, if applicable, equipment breakdown including testing. The Town, Contractor, and subcontractors shall be Additional Named Insureds under the policy. Policy shall remain in force until acceptance of the project by the Town.
- 5.3.10 **Contractor's Pollution Liability:** Contractor shall maintain minimum limits of \$1,000,000 per occurrence and \$2,000,000 policy aggregate. Policy to include bodily injury; property damage including loss of use of damaged property; defense costs including costs and expenses incurred in the investigation, defense or settlement of claims; and clean-up costs. Policy shall include a severability of interest or separation of insured provision (no insured vs. insured exclusion) and a provision that coverage is primary and non-contributory with any other coverage or self-insurance maintained by the Town.
- 5.3.11 **Additional Provisions:**
- (a) For claims-made coverage: The retroactive date must be on or before the contract date or the first date when any goods or services were provided to the Town, whichever is earlier.
 - (b) Contractor shall advise the Town in the event any general aggregate or other aggregate limits are reduced below the required per occurrence limits. At their own expense, and where such general aggregate or other aggregate limits have been reduced below the required per occurrence limit, the Contractor will procure such per occurrence limits and furnish a new certificate of insurance showing such coverage is in force.
 - (c) Certificates of insurance shall be completed by Contractor's insurance agent as evidence that policies providing the required coverage, conditions and minimum limits are in full force and effect, and shall be subject to review and approval by the Town. Each certificate shall identify the Project and shall provide that coverage afforded under the policies shall not be cancelled, terminated or materially changed

until at least 30 days prior written notice has been given to the Town. If the words "endeavor to" appear in the portion of the certificate addressing cancellation, those words shall be stricken from the certificate by the agent(s) completing the certificate. The Town reserves the right to request and receive a certified copy of any policy and any endorsement thereto.

- (d) Failure on the part of Contractor to procure or maintain policies providing the required coverage, conditions, and minimum limits shall constitute a material breach of contract upon which at the Town's discretion may procure or renew any such policy or any extended connection therewith, and all monies so paid by the Town shall be repaid by Contractor to the Town upon demand, or the Town may offset the cost of the premiums against any monies due to Contractor from the Town.
- (e) The parties understand and agree that the Town is relying on, and does not waive or intend to waive by any provision of this contract, the monetary limitations (presently \$424,000 per person, \$1,195,000 for two or more persons, per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, §24-10-101, et seq., C.R.S., as from time to time amended, or otherwise available to Town, its officers, or its employees.

Article 6--INDEMNIFICATION

- 6.1 **Responsibility for Damage Claims:** The Contractor shall indemnify, save harmless, and defend the Town, its officers and employees, from and in all suits, actions or claims of any character brought because of: any injuries or damage received or sustained by any person, persons or property because of operations for the Town under the Contract; the Contractor's failure to comply with the provisions of the Contract; the Contractor's neglect of materials while constructing the Work; because of any act or omission, neglect or misconduct of the Contractor; because of any claims or amounts recovered from any infringements of patent, trademark, or copyright, unless the design, device, materials or process involved are specifically required by Contract; from any claims or amount arising or recovered under the "Workers' Compensation Act," by reason of the Contractor's failure to comply with the act; pollution or environmental liability; or any failure of the Contractor to comply with any other law, ordinance, order or decree. The Town may retain so much of the money due the Contractor under the Contract, as the Town considers necessary for such purpose, for the Town's use. If no money is due, the Contractor's Surety may be held until such suits, actions, claims for injuries or damages have been settled. Money due the Contractor will not be withheld when the Contractor produces satisfactory evidence that it and the Town are adequately protected by public liability and property damage insurance.
 - 6.1.1 The Contractor also agrees to pay the Town all expenses incurred to enforce this "Responsibility for Damage Claim" agreement and if the insurer of the Contractor fails to provide or pay for the defense of the Town of Castle Rock, its officers and employees, as additional insured, the Contractor agrees to pay for the cost of that defense.
 - 6.1.2 Nothing in the **INSURANCE PROVISIONS** shall limit the Contractor's responsibility for payment of claims, liabilities, damages, fines, penalties, and costs resulting from its performance or nonperformance under the Contract.
 - 6.1.3 This indemnification obligation shall survive the expiration or termination of this Contract.

Article 7--CONTRACTOR'S RESPONSIBILITIES**7.1 Control of the Work**

- 7.1.1 When the Contractor is not present on the Project it shall have a Superintendent or other representative acceptable to the Town present who shall, during the absence of the Contractor, be its representative and have immediate charge of the Project. The Superintendent or representative shall have the Contractor's authority to act in its absence.
- 7.1.2 Any person employed on the Project who fails, refuses or neglects to obey the Superintendent or Contractor's other designated representative, shall, upon the order of the Project Manager, be at once removed from the Project and not again employed on any part of the Project.

7.2 General Use of Subcontractors

- 7.2.1 The Contractor may utilize the services of specialty Subcontractors on those parts of the Work which, under normal contracting practices, are performed by specialty Subcontractors.
- 7.2.2 The Contractor shall not sublet or subcontract any portion of the Work to be done under the Contract until approval of such action has been obtained from the Town.
- 7.2.3 The Contractor is fully responsible to the Town for the acts and omissions of its Subcontractors, and of persons either directly or indirectly employed by them.
- 7.2.4 Nothing contained in the Contract creates any contractual relationship between any Subcontractor and the Town.
- 7.2.5 The Contractor shall put appropriate provisions in all Subcontracts relative to the Work to bind Subcontractors to the terms of the Contract insofar as applicable to the Work of Subcontractors, and to give the Contractor the same power to terminate any Subcontractor that the Town may exercise over the Contractor.
- 7.2.6 The Contractor shall make available to each proposed Subcontractor, before the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement which may be at variance with the Contract Documents. Subcontractors shall similarly make copies of applicable portions of such documents available to their respective proposed Sub-Subcontractors.

7.3 Materials and Equipment Furnished by the Contractor

- 7.3.1 The Contractor shall furnish and pay the cost of all of the necessary materials not furnished by the Town, all the superintendence, labor, tools, equipment, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery and transportation. The Contractor shall perform all the work required for the construction of all structures listed and itemized under the Bid Schedule of the Bid in strict accordance with the plans, Specifications and requirements and any amendments thereto and supplemental plans and Specifications hereafter approved.

- 7.3.2 Unless otherwise provided for in the Specifications, all workmanship, equipment, materials, and articles incorporated in the Project are to be the best of their respective kinds, new and undamaged.
- 7.3.3 Materials, supplies or equipment to be incorporated into the Project shall not be purchased by the Contractor or any Subcontractor subject to chattel mortgage or under a conditional sales contract or other agreement by which an interest is retained by the seller.
- 7.3.4 The Contractor shall furnish the Project Manager, for the Manager's approval, the name of the manufacturer of machinery and other equipment for materials the Contractor contemplates incorporating in the Project. The Contractor shall also furnish information on capacities, efficiencies, sizes, etc., and other information as may be required by the Project Manager. The Contractor shall submit samples for approval when requested. Machinery, equipment, materials, and articles installed or used without the Project Manager's approval are at the risk of subsequent rejection.
- 7.3.5 The Contractor shall give the Project Manager three copies of all shop manuals, operating manuals, parts lists, classifications, catalog cuts, Specifications, warranties and guarantees for all equipment and machinery installed.
- 7.3.6 **Consideration of a product as an "equal" by the Project Manager may require that the manufacturer of such product furnish guarantees that extend beyond the usual product warranty time.** The refusal of a manufacturer to provide such guarantees is sufficient reason for rejecting the product.
- 7.4 **Patents and Copyrights**
- 7.4.1 The Contractor shall provide a suitable legal agreement with the patentee giving the Contractor the right to use any design, device, material, or process covered by letters patent or copyright, in the construction of the Project when the use has not been specified or required by the Drawings and Specifications. The Contractor shall file a copy of this agreement with the Town, if requested. The Contractor and the Surety shall indemnify, defend and save harmless the Town from all claims for infringements on patented design, devices, material, process or any trademark or copyright during the prosecution or after the completion of the Project.
- 7.4.2 If any design, device, material, process or product of a particular manufacturer covered by letters patent or copyright is specified for use by the Drawings and Specifications, the Town is responsible for any claims for infringement by reason of the use of such design, device, material, process or product of a particular manufacturer; but the Contractor shall pay any royalties or license fees required.
- 7.5 **Existing Utilities**
- 7.5.1 The Town has collected and shown on the Drawings available information on the location of existing underground, surface and overhead structures and utilities. However, the Town does not guarantee the results of the investigations are accurate or complete. It is the Contractor's responsibility to verify all locations of existing structures and utilities shown on the Drawings and to ascertain whether any other structures and utilities exist.
- 7.5.2 The Contractor shall support, and protect from injury, existing power lines, telephone lines, water mains, gas mains, sewers, cables, conduits, ditches, curbs, walks, pavements, driveways, and other

structures in the vicinity of the Project which are not authorized to be removed until completion of the Project.

7.6 Coordination with Utilities Departments

7.6.1 The Contractor shall always coordinate its Work with the Town of Castle Rock Utilities Department. If it becomes necessary to close portions of any water or sewer system due to construction operations, a minimum of 48 hours notification shall be given the Utilities Department and whenever possible one week's notice should be given. It is the Contractor's responsibility to ensure continuity of the utilities.

7.6.2 All water from Town owned utilities required for the Project will be provided at the Contractor's expense.

7.7 Laws and Ordinances

7.7.1 The Contractor shall perform all obligations under the Contract in strict compliance with all federal, state, and municipal laws, rules, statutes, charter provisions, ordinances, and regulations, applicable to the performance of the Contractor under the Contract.

7.7.2 The Contractor shall obtain all other permits and licenses required in the prosecution of the Work.

7.7.3 IT IS UNLAWFUL AND UNETHICAL FOR ANY PERSON TO OFFER, GIVE OR AGREE TO GIVE ANY TOWN EMPLOYEE, TOWN OFFICIAL OR FORMER TOWN EMPLOYEE, OR FOR ANY TOWN EMPLOYEE, TOWN OFFICIAL OR FORMER TOWN EMPLOYEE TO SOLICIT, DEMAND, ACCEPT OR AGREE TO ACCEPT FROM ANOTHER PERSON, A GRATUITY OR AN OFFER OF EMPLOYMENT IN CONNECTION WITH ANY DECISION, APPROVAL, DISAPPROVAL, RECOMMENDATION OR PREPARATION OF ANY PART OF A PROGRAM REQUIREMENT OR A PURCHASE REQUEST, INFLUENCING THE CONTENT OF ANY SPECIFICATION OR PROCUREMENT STANDARD, RENDERING OF ADVICE, INVESTIGATION, AUDITING OR IN ANY OTHER ADVISORY CAPACITY IN ANY PROCEEDING OR APPLICATION, REQUEST FOR RULING, DETERMINATION, CLAIM OR CONTROVERSY, OR OTHER PARTICULAR MATTER, PERTAINING TO ANY PROGRAM REQUIREMENT OR A CONTRACT OR SUBCONTRACT, OR TO ANY SOLICITATION OR PROPOSAL THEREFOR.

7.7.4 IT IS UNLAWFUL AND UNETHICAL FOR ANY PAYMENT, GRATUITY OR OFFER OF EMPLOYMENT TO BE MADE BY OR ON BEHALF OF A SUBCONTRACTOR UNDER A CONTRACT TO THE PRIME CONTRACTOR OR HIGHER TIER SUBCONTRACTOR OF ANY PERSON ASSOCIATED THEREWITH, AS AN INDUCEMENT FOR THE AWARD OF A SUBCONTRACT OR ORDER.

7.8 Protection of Persons

7.8.1 The Contractor is responsible for the health and safety of each and every person on or at the Work site. The Contractor shall take all necessary and reasonable precautions and actions to protect all such persons from injury, death or loss. The Contractor shall furnish, erect, and maintain at its own expense all necessary precautions for the protection of the Work and safety of the public through and around its construction operations.

- 7.8.2 Contractor shall prepare and implement a safety program complying with all of the requirements in this Section. Prior to the start of construction, Contractor shall provide the safety program to the Project Manager.
- 7.8.3 Prior to the start of construction, the Contractor shall provide the Project Manager with a statement signed by the Contractor's Superintendent that all Contractor Personnel have been or will be briefed on the Contractor's safety program prior to being allowed on the Work site.
- 7.8.4 It is a condition of the Contract, and the Contractor shall make a condition of each Subcontract entered into pursuant to the Contract, that the Contractor and any Subcontractor shall not require any laborer, mechanic or other person employed in performance of the Contract to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous to health or safety. The Contractor shall comply with all applicable safety rules and regulations adopted by the United States Department of Labor Occupational Safety and Health Administration (OSHA), the Industrial Commission of the State of Colorado or the Town of Castle Rock, whichever is most restrictive. The Town assumes no duty to insure that the Contractor follows the safety regulations issued by OSHA or the State of Colorado.
- 7.8.5 The Town shall have the right at any time to request a safety compliance review of the Contractor's and its Subcontractor's safety policies, practices, and procedures. The Contractor shall provide to the Project Manager a complete copy of any OSHA correspondence, report, warning, citation, directive or notice within twenty-four (24) hours after it is received. The Contractor shall also provide the Project Manager a copy of any Contractor reply to any OSHA correspondence, report, warning, citation, directive or notice. This submittal is for informational purposes only and shall not alter the Contractor's responsibilities for safety of the Work site.
- 7.8.6 The Contractor shall provide written notice of any report of injury on the Work site to the Project Manager within forty-eight (48) hours after Contractor becomes aware of same. In addition, the Contractor shall provide verbal notice of the injury to the Project Manager immediately following the report of the injury. Contractor shall thereafter provide a copy of any investigation into the injury and a written statement of resolution of the injury, which should include but is not limited to, the cause of the injury and remediation steps the Contractor will take to prevent another similar injury.
- 7.8.7 The Contractor shall employ at the Work site a responsible qualified person whose duties shall include the protection of persons and property and the administration of the Contractor's safety program. This person must have safety training, a working knowledge of safety requirements, and experience administering safety programs. The Contractor shall provide the Project Manager with this person's name prior to the start of construction.
- 7.8.8 For operations involving trenching, excavation or any other underground construction, the Contractor's attention is specially directed to and its Work shall conform to the Construction Safety and Health Regulations, Part P Subparagraph 1926.650-653 by OSHA, latest revision.
- 7.8.9 The Contractor shall provide all necessary protective devices and safety precautions. Such devices and precautions may include but are not limited to: posting of danger signs warning against hazards such as, but not limited to, hoists, well holes, elevator hatchways, scaffolding, openings, stairways, trip and fall hazards and falling materials; placement of warning flares; equipment back-up alarms; installation of barricades; promulgation and application of safety regulations and employment of safety personnel and guards. Signs will not be considered to be an adequate substitute for physical

protective barriers. The costs of all protective devices and the planning and implementing of safety precautions are considered to be included in the Contract Amount.

- 7.8.10 This Section shall be interpreted in its broadest sense for the protection of persons and property, and no act or omission to act by the Town, its officers, employees or agents, or by any consultant shall relieve the Contractor of its obligations and duties hereunder.

7.9 Protection of Property

- 7.9.1 The Contractor shall continuously and adequately protect the Work from damage, injury or loss arising in connection with the Contract. It shall repair or replace at its expense any such damage, injury or loss, except such as may be directly due to error in the Contract or caused by agents or employees of the Town. It shall provide and maintain at its expense all passageways, barricades, guard fences, lights, and other protection facilities required by public authority or local conditions.

- 7.9.2 The Contractor is responsible for protection of all public and private property on and adjacent to the site of the Work. It shall use every precaution necessary to prevent damage to curbs, sidewalks, driveways, trees, shrubs, sod, mailboxes, fences, and other private and public improvements. It shall protect carefully from disturbance or damage all land monuments and property markers until an authorized agent has witnessed or otherwise referenced their locations, and shall not remove them until directed.

7.10 Protection of Historical Sites

- 7.10.1 When the Contractor's excavating operations encounter remains of prehistoric people's dwelling sites or artifacts of historical or archeological significance, the Contractor shall temporarily discontinue the operations, and immediately advise the Project Manager. The Project Manager will contact archeological authorities to determine the disposition of the items in question. When directed, the Contractor shall excavate the site in such a manner as to preserve the artifacts encountered and remove them for delivery to the custody of the proper authorities. Such excavation is considered, and paid for, as extra Work.

7.11 Responsibility to Repair

- 7.11.1 Should any existing property be damaged, the Contractor shall immediately notify the owner of such property. Unless authorized in writing by the owner of the property or directed by the Project Manager, the Contractor shall not attempt to make repairs. Written authorization from the owner to make repairs must be so worded as to save the Town harmless from any responsibility whatsoever relative to the sufficiency of the repairs. The Contractor shall give the Project Manager a copy of the written authorization to make repairs.

- 7.11.2 When any direct or indirect damage or injury is done to any public or private property or utility by or on account of any act, omission, neglect or misconduct in the execution of the Work, the Contractor shall restore the damaged property at its own expense to a condition equal to or better than that existing before such damage or injury.

- 7.11.3 The Contractor shall replace any materials and equipment lost, stolen, damaged or otherwise rendered useless during the performance of Work on the Project.

7.12 Traffic Control

- 7.12.1 The Contractor shall arrange Work to disrupt traffic as little as possible. All traffic Control Devices used shall conform to the latest edition of the Manual of Uniform Traffic Control Devices, (MUTCD). Except as otherwise permitted, two way traffic shall be maintained at all times in public roadways. At least 7 days before starting any Work in Town right-of-way, the Contractor shall submit a detailed traffic control plan for review from the Public Works Department, with a copy to the Police Department. The approval shall establish the requirements for closures related to the number of lanes and time of day lanes or streets may be closed. The Traffic Control Plan (TC Plan) shall include the name of the contractor, the name and phone number of the person responsible for the traffic control, the date for beginning and ending construction activity and hours of operation expected. The TC Plan should show the widths of streets involved, traffic lanes, the size and location of the Work area with distances from the curb, distance to the nearest intersection and the type and location of traffic control devices. No changes to the TC Plan shall be permitted without prior approval by the Public Works Director.
- 7.12.2 The Contractor shall furnish and maintain all necessary signs, barricades, lights, and flaggers necessary to control traffic and provide for safety of the public, all in compliance with the MUTCD with subsequent revisions and additions, and to the satisfaction of the Public Works Director.
- 7.12.3 Whenever a police officer is necessary for traffic control, the Contractor shall hire and pay a uniformed off-duty police officer with authority in the Town to direct traffic. The police department will determine the rate of pay for the officers.
- 7.12.4 The Contractor shall make its Traffic Control plans in concurrence with the Town requirements.
- 7.13 Sanitary Regulations**
- 7.13.1 The Contractor is responsible for providing proper health and sanitation facilities for its employees, in compliance with any rules and regulations of the State Board of Health or any other bodies having jurisdiction.
- 7.13.2 The Contractor shall always provide an abundant supply of safe drinking water for its employees and shall give orders against the drinking of any water known to be unsafe in the vicinity of the Project.
- 7.13.3 At convenient places, the Contractor shall provide fly-proof outside toilets which are to be maintained in a sanitary condition. Toilets shall not be permitted in any reservoir area and shall not be permitted where they may pollute a water supply.
- 7.14 Pollution Control**
- 7.14.1 The Contractor shall comply with all applicable Federal and State laws, orders, and regulations concerning the control, prevention, and abatement of water pollution and air pollution in all operations pertaining to the Contract whether on right-of-way provided by the Town or elsewhere.
- 7.14.2 The Contractor shall use construction methods that prevent release, entrance or accidental spillage of solid matter, contaminants, debris, and other objectionable pollutants and wastes including, but not restricted to refuse, garbage, cement, concrete, sewage effluent, industrial waste, radioactive substances, oil and other petroleum products, aggregate processing tailings, mineral salts, and thermal pollution. Non-regulated solid wastes shall be disposed of by methods approved under

applicable laws and regulations, including, the Resource Conservation and Recovery Act (RCRA), Subtitle D, as administered by Colorado and local Health Departments and the EPA. Contaminated and hazardous materials are regulated by RCRA, Subtitles C and D. The Contractor shall notify the Colorado Department of Health, local Health Departments, and Town Fire Departments if suspect materials are encountered.

- 7.14.3 The Contractor shall utilize methods and devices that are reasonably available to control, prevent, and otherwise minimize atmospheric emissions or discharges of air contaminants including dust in its construction activities and operation of equipment.
- 7.14.4 **The Contractor shall not emit dust into the atmosphere during any operations, including but not limited to:** grading; excavating; manufacturing, handling or storing of aggregates; trenching; or cement or pozzolans. The Contractor shall use the necessary methods and equipment to collect, deposit, and prevent dust from its operations from damaging crops, orchards, fields or dwellings or causing a nuisance to persons. The Contractor is liable for any damage resulting from dust.
- 7.14.5 The Contractor may not operate equipment and vehicles with excessive emission of exhaust gases due to improper mechanical adjustments, or other inefficient operating conditions, until repairs or adjustments are made.
- 7.14.6 Burning trash, rubbish, trees, brush or other combustible construction materials is not permitted.
- 7.14.7 De-watering for structure foundations or earthwork operations adjacent to or encroaching on lakes, streams or water courses shall be done in a manner which prevents muddy water and eroded materials from entering the lakes, streams or water courses, by construction of intercepting ditches, bypass channels, barriers, settling ponds or by other approved means. Excavated materials may not be deposited or stored in or alongside lakes or water courses where they can be washed away by high water or storm runoff.
- 7.14.8 The Contractor may not allow waste water from aggregate processing, concrete batching or other construction operations to enter lakes, streams, water courses or other surface waters without turbidity control methods such as settling ponds, gravel-filter entrapment dikes, approved flocculation processes that are not harmful to fish, recirculation systems for washing of aggregates or other approved methods. Any waste waters discharged into surface waters shall conform to applicable discharge standards of the Colorado Department of Health and the Federal Government.
- 7.15 **Cleaning Up and Restoration**
 - 7.15.1 The Contractor shall clean up all refuse or scrap materials so the site presents a neat, orderly, and workmanlike appearance at all times.
 - 7.15.2 Upon completion of the Project, and before Final Inspection, the Contractor shall remove from the construction site and any occupied adjoining property all plants, buildings, refuse, unused materials, forming lumber, sanitary facilities, and any other materials and equipment that belong to the Contractor or its Subcontractors.
 - 7.15.3 The Town may clean up and restore the construction site satisfactorily when the Contractor fails to do so. Any costs the Town incurs will be deducted from the Final Payment due the Contractor.

Article 8--OTHER WORK

- 8.1 The Town reserves the right to award other Contracts in connection with the Project. The Contractor shall cooperate with and afford other contractors reasonable opportunity for the introduction and storage of their materials and the execution of their Work, and shall coordinate its Work with theirs.

Article 9--TOWN'S RESPONSIBILITIES

- 9.1 The Town will furnish the data required by the Contract and will make payments to the Contractor as provided by these General Conditions.

Article 10--PROJECT MANAGER'S RESPONSIBILITIES

- 10.1 The Project Manager is designated by the Town to exercise all authority on its behalf under the Contract and to see that the Project is completed according to its terms and conditions. The Project Manager may assume exclusive control of the performance of the Contractor whenever such performance is located in or upon the Town's property. The Project Manager will furnish all explanations, directions, stakes or markers, and inspections necessary to carry out and complete the Project.

10.2 Lines and Grades

- 10.2.1 The Contractor shall survey and stake as needed to complete project.
- 10.2.2 The Project Manager may appoint a Surveyor who will furnish all lines and grades. The Contractor shall give assistance, as required by the Surveyor, to aid in the staking, including clearing, improving access, exploratory excavations, and suspending operations to permit the Surveyor to perform its Work.
- 10.2.3 The Contractor shall give notice to the Surveyor at least three full days before initial lines and grades are needed. Thereafter, the Contractor shall give the Surveyor notice at least one full day before additional line and grade stakes are needed. The Project Manager is not responsible for providing lines and grades until the Contractor meets this Article's notice requirements.
- 10.2.4 The Contractor shall preserve all stakes, bench marks, and any other survey points. If they are destroyed by the Contractor or its employees, the Contractor shall pay for their replacement.

10.3 Inspection

- 10.3.1 The Project Manager shall appoint Inspectors to inspect the Project. Inspection may extend to all or any part of the Project. The Inspectors are not authorized to alter the provisions of the Drawings or Specifications or to delay the fulfillment of the Contract by failure to inspect materials and Work with reasonable promptness.
- 10.3.2 An Inspector has authority to reject defective materials and to suspend any Work that is being done improperly subject to the final decision of the Project Manager.
- 10.3.3 The Contractor shall give the Project Manager due and timely notice of readiness when the Project is to be inspected, tested or approved by someone other than the Inspector. The Contractor shall give the Project Manager required certificates of inspection, testing or approval. Inspection, tests

or approvals by the Project Manager or others does not relieve the Contractor from its obligations to perform the Work according to the requirements of the Contract.

10.3.4 If the Project Manager considers it necessary or advisable that previously completed or covered Work be inspected or tested, the Contractor shall uncover, expose or otherwise make the Work available to the Project Manager for inspection and testing. The Contractor shall furnish all tools, labor, material, and equipment necessary to make the Work available. If the Project Manager finds the Work defective, the Contractor shall pay for the cost of satisfactory reconstruction and making the Work available. However, if the Work is not found defective, the Contractor will be allowed an increase in the Contract Price and/or an extension of the Contract Time for costs and time directly attributable to making the Work available and for reconstruction.

10.3.5 If the Contractor's operations require inspecting, testing or surveying to be done outside normal working hours or on Town holidays, it shall be at the Contractor's expense.

10.4 Stop Work Order

10.4.1 The Project Manager has the authority to suspend Work on the Project either in whole or in part, for as long as the Project Manager deems necessary due to:

- X Unsuitable weather;
- X Faulty workmanship;
- X Improper superintendence;
- X Contractor's failure to carry out orders or to perform any provision of the Contract;
- X Conditions which may be considered unfavorable for the prosecution of Work on the Project; or
- X Work being carried on in an unsafe manner.

10.4.2 If it is necessary to stop work for an indefinite period, the Contractor shall, if directed by the Project Manager, store all materials in such a manner that they will not become an obstruction or become damaged in any way. The Contractor shall take every precaution to prevent damage to or deterioration of the Work, providing suitable drainage and erecting temporary structures where necessary.

10.4.3 The Project Manager will put the Stop Work order in writing and the Contractor may not proceed with Work on the suspended portion of the Project until notified in writing by the Project Manager.

10.5 Disputes

10.5.1 If the Contractor considers any Work directed by the Town to be outside the Contract requirements, or if it considers any ruling of the Project Manager to be unfair, it shall immediately ask for a written instruction or decision and shall perform the Work in conformance with the Project Manager's ruling. If the Contractor considers such instructions unsatisfactory, it shall file a written protest with the Project Manager within ten days after their receipt.

10.5.2 All claims, disputes and other matters in question arising out of or relating to the Contract shall be submitted to the Project Manager before the Contractor can begin litigation.

Article 11—CHANGES

11.1 General

- 11.1.1 The Town may make alterations to the Project without the consent of the Surety at any time during the Work. The Contractor shall perform the Work as changed, as if originally specified. The alterations do not invalidate the Contract in any way.
- 11.1.2 The Project Manager may, at any time, without notice to the Surety, by written notice to the Contractor, make any change in the Work to be performed within the general scope of the Contract, including but not limited to changes:
- X In the Specifications (including Drawings and designs);
 - X In the method or manner of the performance of the Work;
 - X In facilities, equipment, materials, services or site furnished by the Town; or
 - X Directing acceleration in the performance of the Work.
- 11.1.3 Any other written order or verbal order (which terms as used in this Article shall include direction, instruction, interpretation or determination) from the Project Manager, which causes the change, will be treated as a Change Order under this Article, provided that the Contractor gives the Project Manager written notice stating the date, circumstances, and source of the order and that the Contractor regards the order as a Change Order.
- 11.1.4 The Contractor may not treat any order, statement or conduct of the Project Manager as a change under this Article nor become entitled to an equitable adjustment in the Contract Price or Performance Time, except as provided in this Article.
- 11.1.5 If any change under this clause causes an increase or decrease in the Contractor's cost or the time required for the performance of any part of the Work under the Contract, whether or not changed by any order, an equitable adjustment will be made and the Contract modified in writing accordingly.
- 11.1.6 Claims for changes in the Contract Price or Contract Time of Performance will not be considered after the Final Payment has been made.

11.2 Compliance with §24-91-103.6

- 11.2.1 Notwithstanding any other language in this contract, the issuance of any Change Order or other form of order or directive by the Town requiring additional compensable work to be performed which will cause the Contract Price to exceed the amount appropriated for the Work is prohibited unless the Contractor is given written assurance by the Town that lawful appropriations to cover the costs of the additional work have been made or unless the Contract contains a remedy granting provision.

11.3 Field Orders

- 11.3.1 The Project Manager may make changes in the details of the Project at any time, by issuing a Field Order. The Contractor shall proceed with the performance of any changes in the Project ordered by the Project Manager. If the Contractor believes that such Field Order entitles it to a change in

Contract Price or Time, or both, it shall give the Project Manager written notice within ten days after the receipt of the Field Order. Thereafter, the Contractor shall document the basis for the change in Contract Price or Time within thirty days.

11.4 Change Orders

11.4.1 Changes in the Contract Price are authorized only by Change Orders. Changes in contract time may be made by Change Order or by other appropriate written authorization.

11.4.2 Any difference in cost from Change Orders shall be added to or deducted from the amount of the Contract, as the case may be. Adjustments in the amounts to be paid to the Contractor on account of changed Work will be determined by one of the following methods in the order listed:

- X Unit Prices submitted in the Bid Schedule;
- X Negotiated Unit Prices; and
- X Negotiated lump sum.

11.5 Extras and Force Account Work

11.5.1 The Contractor shall perform any Work and furnish materials and equipment necessary or desirable for proper completion of the Contract if the Project Manager believes it necessary to order Work or materials or equipment which, in the Project Manager's opinion, are not susceptible to classification under the Unit Price items named in the Bid Schedule, and are not included in any lump sum bid item. The Project Manager will order such labor, material and equipment in writing before the extra Work is started. The labor, material and equipment will be classed as extra Work. The Town will not pay for extra Work unless the Town orders in extra work in writing. All claims for extra Work shall be submitted to the Project Manager, supplemented by any data the Project Manager requires.

11.5.2 Extra Work and Work involving a combination of increases and decreases in the Work will ordinarily be paid for at a lump sum or Unit Price agreed upon in writing by the Project Manager and Contractor before the extra Work Order is issued. In the negotiation of lump sum or Unit Prices, the agreed estimated cost of the Work plus an allowance for overhead and profit, not to exceed the allowances stated in Section 11.5.3, shall be used.

11.5.3 The allowance for overhead and profit will include full compensation for superintendence, bonds and insurance premiums, taxes (other than sales or use taxes included in the cost of materials), office expense, and all other items of expense or cost not included in the cost of labor, materials, or equipment provided under Sections 11.5.4, 11.5.5 and 11.5.6. The allowance for overhead and profit will be according to the following schedule:

ACTUAL NECESSARY COST ALLOWANCE:

Labor	20 percent
Materials	15 percent
Equipment	10 percent

The Actual Necessary Cost for labor, materials, or equipment will be computed according to Sections 11.5.4, 11.5.5 and 11.5.6.

Superintendence, bond and insurance premiums, taxes (other than sales or use taxes inclusive in the cost of materials), and other general expense will not be included in the computation of actual necessary cost. When all or any part of the extra Work is performed by a Subcontractor or specialty firm, the prime Contractor may add five percent of the Subcontractor's total cost for the extra Work. The Contractor shall give the Project Manager daily report sheets covering the direct cost of labor and materials and charges for equipment. The daily report sheets shall provide names or identifications and classifications of workers and hours worked, as well as size, type and identification number of equipment and hours operated. Material charges shall be substantiated by valid copies of vendors' invoices. The Project Manager will make any necessary adjustments and compile the costs of cost-plus Work. When these reports are agreed upon and signed by both parties, they become the basis of payment for the Work performed.

- 11.5.4 Labor: The cost of labor used in performing the Work by the Contractor, a Subcontractor, or other forces will be the sum of the actual wages paid plus any employer payments to, or on behalf of, workers for fringe benefits including health and welfare, pension, vacation, and similar purposes; all payments imposed by State and Federal laws including, but not limited to, compensation insurance, and social security payments; and the amount paid for subsistence and travel required in accordance with the regular practice of the employer.

At the beginning of the contract or as later requested by the Project Manager, the Contractor shall furnish the Project Manager proof of labor compensation rates being paid or already paid.

- 11.5.5 Materials: The cost of materials used in performing the Work, including transportation charges for delivery (exclusive of machinery rentals), will be the cost to the purchaser, whether Contractor, Subcontractor or other forces, from the Supplier thereof, inclusive of sales or use taxes, except if, in the opinion of the Project Manager, the cost of materials is excessive, or the Contractor does not furnish satisfactory evidence of the cost of such material. If the Project Manager finds the cost excessive or the Contractor has not furnished evidence of the cost, then the cost will be deemed to be the lowest current wholesale price for the quantity concerned delivered to the job-site less cash or trade discounts.

The Town reserves the right to furnish materials for the Work and the Contractor may not claim costs and profit on materials furnished by the Town.

The Town reserves the right to purchase from the Contractor any materials previously purchased for a project and not used. Payment for the materials will be based on the actual material cost as shown on the Supplier's invoice, any transportation charges incurred, plus a fifteen percent handling fee.

- 11.5.6 Equipment: The Contractor will be paid according to the rental rates agreed upon in writing before extra or force account Work is begun, for any machinery or special equipment (other than small tools) authorized by the Project Manager. The Contractor may furnish cost data to assist the Project Manager in the establishment of the rental rate.

The rental rates paid, as provided above, shall include the cost of fuel, oil, lubrication supplies, small tools, necessary attachments, repairs and maintenance of all kinds, depreciation, storage, insurance, and all incidentals. Operator wages will be paid separately, as provided in Section 11.5.4.

Individual pieces of equipment or tools having a replacement value of \$100.00 or less, whether or not consumed by use, are considered small tools and no payment will be made for them.

Rental time will not be allowed while equipment is inoperative due to breakdowns or storage on-site.

11.5.7 Equipment on the Work: The rental time to be paid for equipment on the Work is the time the equipment is in productive operation on the extra Work being performed.

11.5.8 Eliminating Items: The Project Manager shall notify the Contractor in writing to eliminate any items contained in the proposal unnecessary for the proper completion of the Work. Such action will not invalidate the contract. The Contractor, by Change Order, will be reimbursed for actual work done and all cost incurred, including mobilization of materials and equipment before the elimination of such items.

Article 12--CONTRACT TIME

12.1 General

12.1.1 Time is of the essence in the performance of all Work contemplated in the Contract. Therefore, the Work shall be commenced no later than ten days from and including the date of Notice to Proceed and shall be fully completed in a satisfactory and acceptable manner within the time stated in the Contract.

12.1.2 The capacity of the Contractor's construction plant and force shall be sufficient as to insure completion of the Project within the allotted time. The Contractor shall use multiple crews if necessary to complete the Project within the allotted time.

12.2 Delays

12.2.1 Delay claims fall into three categories: non-excusable, excusable, or compensable. Any payment for delays or the granting of time extensions require a properly executed Change Order per Article 11.

12.2.1.1 **Non-excusable delay** is one caused by factors within the Contractor's reasonable control. The delay is the Contractor's fault; no additional time or additional compensation is allowed. Typical types of non-excusable delays are:

- X Late submittal of Shop Drawings;
- X Late procurement of materials or equipment;
- X Insufficient personnel;
- X Unqualified personnel;
- X Inadequate coordination of Subcontractors or other contractors;
- X Subcontractor delays;
- X Late response to Town and Project Manager inquiries; or
- X Construction not conforming to contract requirements making repeated re-working necessary.

12.2.1.2 **Excusable delay** is caused by factors beyond the Contractor's reasonable control, but is not the result of the Town's actions or failure to act. An excusable delay entitles the Contractor to an extension of time but no additional compensation for the cost of the delay.

12.2.1.3 **Compensable delay** is one where the Town has failed to meet an obligation stated or implied in the construction contract. If the Project Manager considers a delay as compensable, the Town will grant a time extension and reimburse the Contractor for the increased cost caused by the delay. Typical types of Town-caused delays are:

- X Late approval of Shop Drawings and samples;
- X Delays in answers to field inquiries by the Contractor;
- X Interference with the Contractor during construction;
- X Town-caused schedule changes;
- X Design changes; or
- X Interference by other contractor's or the Town's forces.

12.2.1.4 **Failure to Prosecute Work.** If, in the opinion of the Town's Project Manager, or other authorized agent of the Town, the Contractor is not prosecuting the Work under the Contract, written notice will be given and the Contractor shall have seven days to resume the Work with due diligence.

12.3 Failure to Complete Work on Time--Liquidated Damages

12.3.1 The Town may permit the Contractor to proceed if the Contractor fails to complete the Work on or before the original date set forth for or on or before the corrected. In such case, the Town will deduct the sum specified in the Contract for each day that the Work remains uncompleted. This sum shall not be a penalty but is liquidated damages.

12.3.2 The parties agree that, under all of the circumstances, the daily basis and the amount set forth as liquidated damages is reasonable and equitable. The Town expends additional personnel effort in administrating the Contract or portions of it that are not completed on time, and such efforts and the costs thereof are impossible to accurately compute. In addition, some, if not all, citizens of Castle Rock incur personal inconvenience and lose confidence in their government as a result of public projects or parts of them not being completed on time, and the impact and damages, certainly serious in monetary as well as other terms, are impossible to measure.

12.3.3 Permitting the Contractor to continue and finish the Work, or any part of it, after the time fixed for its completion, or after the date to which the time of completion may have been extended, shall not operate as a waiver on the part of the Town of liquidated damages or any of its rights under the Contract.

Article 13--WARRANTY AND GUARANTEE:SAMPLES AND TESTING; DEFECTIVE WORK AND MATERIALS

13.1 Warranty and Guarantees

13.1.1 The Contractor and its Surety are jointly responsible for maintenance and satisfactory operation of Work performed under the Contract for a period of one year following the Notice of Construction Completion or until warranty work is fully satisfied. They are responsible for the satisfactory repair or replacement of any Work, materials or equipment which are found defective during this period,

provided any failure results directly or indirectly from faulty workmanship or negligence by the Contractor, from faulty manufacturing or from faulty erection or improper handling of materials or equipment furnished or installed by the Contractor. Neither the Contractor nor Surety are liable for any failure resulting from the Town's neglect or improper operation of facilities or the act of a third party.

- 13.1.2 The obligations of 13.1.1 shall survive termination of the Contract under the provisions of Article 15.

13.2 Samples and Testing

- 13.2.1 All materials and equipment used in the Project will be subject to sampling and testing according to generally accepted standards and as required in the Contract Documents. In the absence of direct references, the sampling and testing of materials will be done according to current Specifications of the American Society for Testing and Materials or the American Water Works Association. The Contractor shall cooperate with the Project Manager in collecting and forwarding required samples.
- 13.2.2 The Contractor shall not incorporate any materials into the Project or cover any part of the Work until it has been inspected and approved according to the Contract Documents.
- 13.2.3 The Contractor shall furnish all samples without charge. The Contractor will cooperate with the Project Manager in collecting, handling, storing, and forwarding required samples including the furnishing of manpower and equipment when necessary.
- 13.2.4 The Contractor will pay the cost of the initial test except when the Contract states otherwise. The Contractor will pay the costs for repeated tests due to failure of the initial test.

13.3 Access to Work

- 13.3.1 The Project Manager and the Manager's representatives shall have access to the Project at any time for purposes of inspection, sampling, and testing. Access shall extend to authorized representatives of participating federal or state agencies and to other public authorities having jurisdiction established by law. The Contractor shall provide proper facilities for access to the Project.
- 13.3.2 Access to the Project shall mean wherever and whenever it is in manufacture, preparation or progress. It shall include access to payrolls, records of personnel, invoices of materials, terms and conditions of sale of materials and equipment to be incorporated in the Project, files, records, books, correspondence, instructions, Drawings, receipts, subcontracts, purchase orders, vouchers, memoranda and any other relevant data and records relating to the Contract.
- 13.3.3 The Town may, at reasonable times, inspect the part of the plant, place of business or worksite of the Contractor or Subcontractor at any tier which is pertinent to the performance of the Contract.

13.4 Defective Work and Materials

- 13.4.1 Material and workmanship not conforming to the requirements of the Contract are deemed defective. Defective Work or material shall be removed immediately from the Project site and replaced with acceptable Work and material at the Contractor's expense.
- 13.4.2 If the Contractor fails to replace rejected materials or Work within ten days after receipt of written notice, the Town may replace or correct them and charge the cost to the Contractor and may

terminate the right of the Contractor to proceed. Failure to detect previously installed defective materials or workmanship shall not impair the Town's right to receive a completed project which is free of defects and meets all of the requirements of the Contract Documents.

Article 14—PAYMENTS TO CONTRACTOR AND COMPLETION

14.1 General

- 14.1.1 Unless expressly provided otherwise, the prices shown in the Bid Schedule include the cost of all labor, materials, equipment, tools, forms, services, utilities, royalties, fees, and any other thing or expense necessary to complete the Project. Items not shown on the Plans, Specifications or Special Provisions but which are necessary to construct the Project will be considered a part of the Project whether specified or not and no separate payment will be made for these items.
- 14.1.2 Unless expressly provided otherwise in the Contract, the amount to be paid for the Work includes all labor, materials, forms, tools, scaffolding, plants, equipment, service, utilities, royalties, fees, and everything, whether temporary or permanent, necessary to complete the Project.

14.2 Determination of Amounts and Quantities

- 14.2.1 The Project Manager shall verify determinations of amounts and quantities of Work performed. The Project Manager shall have access to the records as stated in Article 13.3. The method of measurement of the Contract Bid Items will be as specified in the Special Conditions.

14.3 Variations in Estimated Quantities

- 14.3.1 Where the quantity of a pay item in the Contract is an estimated quantity and where the actual quantity of such pay item varies more than twenty-five percent below the estimated quantity stated in the Contract, the Contractor shall make an equitable adjustment in the Contract Price, upon demand of the Town. The Contract Price adjustment will be based upon any decrease in costs due solely to the variation below seventy-five percent of the estimated quantity.

Where the quantity of a pay item in the Contract is an estimated quantity and the actual quantity of such pay item is more than twenty-five percent above the estimated quantity in the Contract, the Town may elect to terminate the Contract or issue a Change Order to adjust the Contract Price.

14.4 Monthly Estimates--Partial Payments

- 14.4.1 The Contractor shall prepare monthly partial estimates (monthly estimates) for all Work completed up to that time. The authorized Town representative(s) shall approve the monthly estimates before progress payments will be made. The format of the monthly estimates will be related to the format of the Bid Proposal.
- 14.4.2 In making such progress payments, subject to the exceptions in this Article, the Town will retain five percent of the total amount earned as indicated in the monthly estimate until the Project is substantially completed, provided, however, that at any time after the value of the completed Work equals or exceeds fifty percent of the face value of the Contract, the Town shall, if it finds that satisfactory progress is being made, retain the amount previously withheld but make the remaining partial payments in full. At no time may the amount retained exceed five percent of the total Contract Price.

14.4.3 Intentionally deleted.

14.4.4 If the Town finds that satisfactory progress is being made in all phases of the Contract, it may, upon written request by the Contractor, authorize payment from the withheld percentage. Before such payment is made, the Town shall determine that satisfactory and substantial reasons exist for the payment and shall require written approval from any Surety furnishing Bonds for the Contract. The Contractor shall make partial payments of the amount due to each of its Subcontractors in the same manner as the Town is required to pay the Contractor under this Article, providing that the Subcontractor is satisfactorily performing under its Contract with the Contractor.

14.4.5 Monthly estimates may include the value of acceptable materials required in the construction which have been delivered on the site of the Work or to adjacent railway siding and for which acceptable provisions have been made for preservation and storage, providing the Contractor submits with its monthly estimate, paid invoices in duplicate for the material for which payment is being requested. Material paid for by the Town becomes the property of the Town and, in the event of the default on the part of the Contractor, the Town may use or cause to be used such materials in construction of the Work provided for in the Contract.

14.4.6 The Town may withhold, in addition to retained percentages from Contractor payments, such an amount or amounts as may be necessary to cover:

14.4.6.1 Claims for labor or materials furnished the Contractor or Subcontractor(s) or reasonable evidence indicating probable filing of such claims;

14.4.6.2 Failure of the Contractor to make proper payment to Subcontractors or for material or labor furnished by others;

14.4.6.3 A reasonable doubt that the Contract can be completed for the balance then unpaid;

- * Evidence of damage to another Contractor or private property;
- * Uncorrected defective Work or guarantees that have not been met;
- * Failure of the Contractor to submit cost breakdowns, schedules, reports and other information required under the Contract;
- * Persistent failure to carry out the Work according to the Contract; or
- * Reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay.

14.4.7 The Town may disburse and has the right to act as agent for the Contractor in disbursing funds, withheld pursuant to this paragraph, to the party or parties who are entitled to payment therefrom, but the Town assumes no obligation to make such disbursement. The Town will render to the Contractor a proper accounting of all funds disbursed under this paragraph.

14.5 Escrow Contract in Lieu of Retainage

14.5.1 When sums are withheld to assure satisfactory performance of any contract exceeding fifty thousand dollars, the Contractor may withdraw the whole or any portion of the withheld sums if the Contractor deposits acceptable securities with the Director of Finance to negotiate the acceptable securities and to receive the payments due the Town pursuant to law or the terms of the Contract. To the extent there are excess funds resulting from negotiation, the balance shall be

returned to the Contractor. Acceptable securities which are deposited shall have a market value at least equal in value to the amount withdrawn at all times. If at any time the Town determines that the market value of the acceptable securities deposited has fallen below the amount withdrawn, the Director of Finance shall give notice to the Contractor, who shall deposit additional acceptable securities in an amount sufficient to re-establish a total deposit of securities equal in value to the amount withdrawn.

- 14.5.2 The Town may enter into an escrow contract or agreement with any national bank, state bank, trust company or savings and loan association located in this state and designated by the Contractor, after notice to the Surety, to provide an escrow agent for the custodial care and servicing of any obligations deposited with it pursuant to ☐24-91-106, C.R.S., as amended. Such services shall include the safekeeping of the obligations and the rendering of all services required to effectuate the purpose of ☐24-91-106 and ☐38-26-107, C.R.S., as amended.
- 14.5.3 The Town or any national bank, state bank, trust company or savings and loan association located in the state and designated by the Contractor to serve as custodian for the obligations pursuant to ☐24-91-106, C.R.S., as amended, shall collect all interest and income when due on the obligations deposited and shall pay them, when and as collected, to the Contractor who deposited the obligations. If the deposit is in the form of coupon Bonds the escrow agent shall deliver each coupon, as it matures, to the Contractor. The Contractor may not charge any expense incurred for this service to the Town.
- 14.5.4 Any amount deducted by the Town, pursuant to law or the terms of a Contract, from the retained payments otherwise due to the Contractor, will be deducted first from that portion of the retained payments for which no obligation has been substituted and then from the proceeds of any deposited obligation, in which case, the Contractor is entitled to receive the interest, coupons or income only from those obligations which remain on deposit after such amount has been deducted.
- 14.5.5 Provided that the Subcontractor has performed under its Contract with the Contractor, the Contractor shall disburse to each Subcontractor all retained payments and interest disbursed to the Contractor by the Town, in proportion to the respective amounts of retained payments, if any, which the Contractor has withheld from its Subcontractors.
- 14.5.6 The provisions of this Article do not apply if a part of the Contract Price is to be paid with funds from the federal government or from some other source and if the federal government or such other source has inconsistent requirements concerning retention or payment of funds applicable to the Contract.
- 14.5.7 If it becomes necessary for the Town to take over the completion of any Contract, all of the amount owed the Contractor, including the withheld percentage, shall first be applied toward the cost of completion of the Contract and any liquidated damages. Any balance remaining in the retained percentage shall be payable to the Contractor or the Contractor's creditors. Such retained percentage, as may be due any Contractor, shall be due and payable at the expiration of thirty days from the date of the Town Project Final Acceptance.

14.6 Town's Right to Accept Portion of the Project

- 14.6.1 The Town reserves the right to accept and make use of any completed section of the Project without invalidating the Contract or obligating the Town to accept the remainder of the Project.

14.7 Substantial Completion

- 14.7.1 When the Contractor considers the entire work ready for its intended use, the Contractor shall notify the Project Manager in writing that the entire Work is substantially complete (except for items specifically listed by Contractor as incomplete) and request that the Project Manager issue a Notice of Substantial Completion. Within a reasonable time, the Contractor, Project Manager and any other appropriate Town representatives shall make an inspection of the Work to determine the status of completion. If the Project Manager does not consider the Work substantially complete, the Project Manager will notify the Contractor in writing giving the reasons for denial of the Notice of Substantial Completion. If the Project Manager considers the Work substantially complete, the Project Manager will prepare and deliver to the contractor a Notice of Substantial Completion which shall fix the date of Substantial Completion. The Project Manager shall attach to the certificate a tentative list ("punch list") of items to be completed or corrected before Final Payment. Warranties required by the Contract shall commence on the date set in the Notice of Construction Completion for the Project, or the date set in the Notice of Construction Completion for a designated portion of the Project, unless otherwise provided in the notice of Substantial Completion.

14.8 Construction Completion

- 14.8.1 When the Work specified in the Contract is completed and the final cleanup has been performed, the Contractor shall notify the Project Manager that all Work under the Contract has been completed and the Project Manager shall, within five days after such notice, make the final inspection. If the Project Manager finds that the Project has been completed according to the requirements set forth in the Contract, the Town, upon the recommendation of the Project Manager, shall issue a Notice of Construction Completion. Notices of Construction Completion issued orally or without proper Town authorization are void.

14.9 Claims Against the Contractor

- 14.9.1 Intentionally deleted.

- 14.9.2 As provided by Colorado law, persons or businesses, including Subcontractors, who have not been promptly paid by the Contractor and who have provided materials, services and labor of any kind, or labor and material incidental to the completion of the Project, may file claims and the Town may withhold from the Contractor an amount sufficient to cover such claims.

14.10 Final Payment—Pursuant to Section 38-26-107, C.R.S., as Amended

- 14.10.1 After the Notice of Construction Completion is issued by the Town, a Notice of Final Settlement shall be advertised at least twice, not less than ten days before the date of Final Settlement, in a newspaper of general circulation in the county where the Work was done. If no claims are filed before the expiration of ten days from the date of the last publication of the Notice of Final Settlement, the Final Payment, including retainage, may be made.
- 14.10.2 If any Subcontractor or Supplier files a claim before the expiration of ten days from the date of the last publication of the Notice of Final Settlement, for Work done or material furnished that has not been paid for by the Contractor, the Town shall withhold from Final Payment to the Contractor sufficient funds to insure the payment of the claims. The funds shall not be withheld longer than

ninety days from the date of Final Settlement unless a legal action is started within that time to enforce payment of the claims.

14.10.3 At the end of ninety days, or any time before, if the person filing the claim acknowledges receipt of payment for the claim, or otherwise releases the claim in writing, the Town shall pay the Contractor the monies not subject to suit or lis pendens notices.

14.10.4 Monies that are the subject of a suit will be withheld until a judgment is rendered in the suit.

Article 15--CONTRACT TERMINATION

15.1 Town's Right to Terminate Contract for Convenience

15.1.1 The Town shall, at any time, have the right to terminate the Contract, for convenience, upon giving written notice to the Contractor. The Contractor shall be entitled to the full amount of the approved estimate for the Work satisfactorily completed under the Contract up to the time of such termination, including the retained percentage. The Town shall reimburse the Contractor for such expenditures as, in the judgment of the Project Manager, are not otherwise compensated for, together with the cost of moving to and from the Project and a reasonable profit on the Work deleted by reason of the annulment of the Contract, in order that an equitable settlement is made with the Contractor.

15.2 Town's Right to Terminate Contract for Default

15.2.1 The Project Manager, with the approval of the Town and acting on behalf of the Town, may serve notice upon the Contractor and its Surety of the intention to terminate the Contract if the performance of the Work set forth under the Contract is unnecessarily or unreasonably delayed by the Contractor, or if any of the provisions of the Contract are being violated by the Contractor or its Subcontractors. The Contract is terminated unless, in the opinion of the Project Manager, the Contractor corrects the violation within five days after the notice is served. In the event of such termination, the Project Manager, acting on behalf of the Town, shall immediately serve notice of the termination and the Surety's right to complete the Contract upon the Surety and the Contractor. The Surety shall have the right to take over and perform the Work called for in the Contract. The Surety is then bound by all the provisions of the Contract. If the Surety does not commence performance of the Work within ten days from the date of the notice, the Town may take over the Project and, without prejudice to any other remedies, complete the Project and the Contractor and its Surety are liable to the Town for any excess costs incurred by the Town.

15.3 Contractor's Right to Terminate Contract

15.3.1 The Contractor may terminate the Contract if the Work is stopped for a period of three months under any order of any court or other public authority through no act or fault of the Contractor or of anyone employed by it.

The Contractor may suspend Work if Town fails to make payments at the times provided in the Contract and the Contractor has given the Town written notice seven days before suspending Work. The Contractor may terminate the Contract, at its option, if the Town continues to be in default thirty days after the date of the written notice. Failure by the Town to make payments at the times provided is a bar to any claim by the Town against the Contractor for delay in completion of the Project if the Contractor suspended Work for that reason.

If the Contractor terminates the Contract, it may recover the price of all Work done and materials provided and all damages sustained.

Article 16--EQUAL OPPORTUNITY

16.1 **General:** During the performance of the Contract, the Contractor agrees as follows:

16.1.1 The Contractor shall not discriminate against any employee or applicant for employment because of race, color, age, disability, religion, sex, national origin, or as otherwise prohibited by law.

16.1.2 The Contractor shall ensure that all Subcontractors shall not discriminate against any employee or applicant for employment because of race, color, age, disability, religion, sex, national origin, or as otherwise prohibited by law.

Article 17--AUDIT

17.1 **Records and Reports**

17.1.1 The Contractor shall keep and preserve full and detailed accounts relating to the Contract for a period of three years from the date of final payment under the Contract in which the Work is completed.

17.1.2 The Subcontractor shall keep and preserve full and detailed accounts relating to the Contract for a period of three years from the date of final payment under the subcontract.

17.2 **Access**

17.2.1 The Contractor shall permit the Town and the Town's accountants to have access as stated in Article 13.3 and to the records kept per Article 17.2 for the purpose of making such financial audits, or verifications as the Town deems necessary or appropriate concerning the Contractor's performance under the Contract.

Article 18--MISCELLANEOUS

18.1 **Reservation of Right to Bar Persons from the Work and Site:** The Town reserves the right to bar any person, including employees of the Contractor and Subcontractors, from the Town's Work site. This shall not be treated as a request for the employee's termination but a request that the employee not be assigned to work on the Town Work site. No increase in contract time or price is authorized.

18.2 **Provisions Construed as to Fair Meaning.** The provisions of the Contract shall be construed as to their fair meaning, and not for or against any party based upon any attributes to such party of the source of the language in question.

18.3 **Headings for Convenience:** All headings, captions and titles are for convenience and reference only and of no meaning in the interpretation or effect of the Contract.



- 18.4 **No Implied Representations:** No representations, agreements, covenants, warranties, or certifications, express or implied, exist as between the parties, except as specifically set forth in the Contract.
- 18.5 **Financial Obligations of Town:** All financial obligations of the Town under the Contract are contingent upon appropriation, budgeting, and availability of specific funds to discharge such obligations. Nothing in the Contract shall be deemed a pledge of the Town's credit, or a payment guarantee by the Town to the Contractor.
- 18.6 **Assignment/transference:** The Contractor may not assign or transfer any interest in the Contract, including any money due or to become due, without the prior written consent of the Town.
- 18.7 **Amendments.** The parties shall only amend the Contract in writing with the proper official signatures and, if required elsewhere in this Contract, on the proper forms.
- 18.8 **Waiver.** No waiver of a breach or default under the Contract is a waiver of any other or subsequent breach or default.
- 18.9 **Governing Law.** The Contract is governed and to be construed according to the laws of the State of Colorado.
- 18.10 **Binding Contract.** The Contract is binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.

Article 19—Davis-Bacon and Related Act Provisions

- 19.1 **Applicability.** This section is applicable to each contract in excess of \$2,000 which is entered into for the actual construction, alteration and/or repair, including painting and decorating, of a public building or public work, or building or work financed in whole or in part from Federal funds or in accordance with guarantees of a Federal agency or financed from funds obtained by pledge of any contract of a Federal agency to make a loan, grant or annual contribution (except where a different meaning is expressly indicated), and which is subject to the labor standards provisions of any of the acts listed in § 5.1 of 29 C.F.R.
- 19.2 **Minimum Wages.**

(i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), 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 (a)(1)(iv) 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 § 5.5(a)(4) of 29 C.F.R. 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 (a)(1)(ii) 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.

(ii)(A) 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:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(if (B) If the contractor and the laborers and mechanics to be employed in the classification 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.

(C) 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.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii)(B) or (C) 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.

(iii) 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.

(iv) 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.

- 19.3 **Withholding.** The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis–Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, sponsor, applicant, or owner, 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.

19.4 **Payrolls and basic records.**

(i) 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 (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). 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.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency).

The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the (write in name of appropriate federal agency) if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit them to the applicant, sponsor, or owner, as the case may be, for transmission to the (write in name of agency), the contractor, 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 sponsoring government agency (or the applicant, sponsor, or owner).

(B) 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:

(1) That the payroll for the payroll period contains the information required to be provided under § 5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under § 5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(2) 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 deductionshave been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) 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.

(C) 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 (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the (write the name of the agency) 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 Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, 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.

19.5 **Apprentices and trainees.**

(i) **Apprentices.** 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.

(ii) **Trainees.** 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.

(iii) **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.

- 19.6 **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.
- 19.7 **Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the (write in the name of the Federal agency) may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses 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.
- 19.8 **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.
- 19.9 **Disputes concerning labor standards.** Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.
- 19.10 **Certificate of eligibility.** 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). 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). The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.
- 19.11 **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.

- 19.12 **Complaints, Proceedings, or Testimony by Employees.** No laborer or mechanic, to whom the wage, salary, or other labor standards provisions of this Contract are applicable, shall be discharged or in any other manner discriminated against by the contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.
- 19.13 **Other.** Contractor shall comply with all applicable HUD forms which can be found at <http://www.hudclips.org/cgi/index.cgi>. The Forms applicable to this contract may include HUD-254, HUD-4010, HUD-5370, HUD-5370-EZ, and HUD-5370-C.

Article 20—Contract Work Hours and Safety Standards Act

- 20.1 **Applicability.** The clauses in this Article 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.
- 20.2 **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.
- 20.3 **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in 20.2 of this Article 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 20.2 of this Article, in the sum of \$29 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 20.2 of this Article.
- 20.4 **Withholding for unpaid wages and liquidated damages.** 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 (b)(2) of this section.
- 20.5 **Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in 20.1-20.5 of this Article 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 20.1-20.5 of this Article.

- 20.6 **Other.** In addition to the clauses contained in Article 20, in any contract subject only to the Contract Work Hours and Safety Standards Act and not to any of the other statutes cited in § 5.1 of 29 C.R.F, the Agency Head shall cause or require the contracting officer to insert a clause requiring that the contractor or subcontractor shall maintain payrolls and basic payroll records during the course of the work and shall preserve them for a period of three years from the completion of the contract for all laborers and mechanics, including guards and watchmen, working on the contract. Such records shall contain the name and address of each such employee, social security number, correct classifications, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid. Further, the Agency Head shall cause or require the contracting officer to insert in any such contract a clause providing that the records to be maintained under this paragraph shall be made available by the contractor or subcontractor for inspection, copying, or transcription by authorized representatives of the contracting agency and the Department of Labor, and the contractor or subcontractor will permit such representatives to interview employees during working hours on the job.

EXHIBIT 2

CONTRACTOR'S BID/SCOPE/FEE SCHEDULE

Crystal Valley Interchange
Package 1 Bid Schedule
Kraemer North America
Updated: 5/16/2023

BidItem	Client Bid #	Bid Description	Units	Bid Quantity	Bid Total U.P.	Bid Total
10	201-00001	CLEARING AND GRUBBING	LS	1.00	\$ 92,851.83	\$ 92,851.83
20	201-00010	REMOVAL OF TREE	EA	49.00	\$ 519.26	\$ 25,443.74
22	202-00019	REMOVAL OF INLET	EA	3.00	\$ 1,561.99	\$ 4,685.97
24	202-00035	REMOVAL OF PIPE	LF	142.00	\$ 97.99	\$ 13,914.58
26	202-04001	PLUG CULVERT	EA	1.00	\$ 12,964.39	\$ 12,964.39
30	202-00090	REMOVAL OF DELINEATOR	EA	6.00	\$ 21.40	\$ 128.40
35	202-00155	REMOVAL OF WALL	LF	306.00	\$ 15.11	\$ 4,623.66
40	202-00200	REMOVAL OF SIDEWALK	SY	1938.00	\$ 5.83	\$ 11,298.54
50	202-00201	REMOVAL OF CURB	LF	378.00	\$ 3.77	\$ 1,425.06
60	202-00202	REMOVAL OF GUTTER	LF	215.00	\$ 4.70	\$ 1,010.50
70	202-00203	REMOVAL OF CURB AND GUTTER	LF	3975.00	\$ 5.09	\$ 20,232.75
80	202-00206	REMOVAL OF CONCRETE CURB RAMP	SY	145.00	\$ 17.53	\$ 2,541.85
82	202-00210	REMOVAL OF CONCRETE PAVEMENT	SY	42.00	\$ 13.45	\$ 564.90
90	202-00240	REMOVAL OF ASPHALT MAT (PLANING)	SY	174.00	\$ 26.10	\$ 4,541.40
100	202-00220	REMOVAL OF ASPHALT MAT	SY	8333.00	\$ 5.25	\$ 43,748.25
110	202-00250	REMOVAL OF PAVEMENT MARKING	SF	10000.00	\$ 0.89	\$ 8,900.00
130	202-00400	REMOVAL OF BRIDGE	EA	1.00	\$ 12,300.40	\$ 12,300.40
140	202-00504	REMOVAL OF EXPANSION DEVICE	LF	102.00	\$ 382.96	\$ 39,061.92
160	202-00810	REMOVAL OF GROUND SIGN	EA	16.00	\$ 240.75	\$ 3,852.00
170	202-01000	REMOVAL OF FENCE	LF	3873.00	\$ 1.93	\$ 7,474.89
180	202-01035	REMOVAL OF GATE	EA	2.00	\$ 224.70	\$ 449.40
190	202-01110	REMOVAL OF GUARDRAIL TYPE 3	LF	278.00	\$ 6.26	\$ 1,740.28
200	202-01300	REMOVAL OF END ANCHORAGE	EA	3.00	\$ 299.60	\$ 898.80
210	202-04100	ABANDON WELL	EA	1.00	\$ 6,955.00	\$ 6,955.00
220	202-05006	SAWING CONCRETE (6 INCH)	LF	10.00	\$ 106.47	\$ 1,064.70
230	202-05030	SAWING ASPHALT MATERIAL (10 INCH)	LF	100.00	\$ 10.65	\$ 1,065.00
240	203-00050	UNSUITABLE MATERIAL	CY	1000.00	\$ 50.30	\$ 50,300.00
250	203-00060	EMBANKMENT MATERIAL (COMPLETE IN PLACE)	CY	198324.00	\$ 12.91	\$ 2,560,362.84
260	203-01100	PROOF ROLLING	HR	200.00	\$ 136.80	\$ 27,360.00
270	203-01500	BLADING	HR	100.00	\$ 232.13	\$ 23,213.00
280	203-01510	BACKHOE	HR	100.00	\$ 222.27	\$ 22,227.00
290	203-01550	DOZING	HR	100.00	\$ 271.27	\$ 27,127.00
300	203-01597	POTHOLING	HR	300.00	\$ 249.13	\$ 74,739.00
310	203-02330	LABORER	HR	100.00	\$ 65.46	\$ 6,546.00
320	206-00000	STRUCTURE EXCAVATION	CY	702.00	\$ 15.05	\$ 10,565.10
330	206-00050	STRUCTURE BACKFILL (SPECIAL)	CY	330.00	\$ 98.88	\$ 32,630.40
342	206-00100	STRUCTURE BACKFILL (CLASS 1)(CBC)	CY	2011.00	\$ 64.29	\$ 129,287.19
370	207-00205	TOPSOIL	CY	14520.00	\$ 14.30	\$ 207,636.00
380	207-00210	STOCKPILE TOPSOIL	CY	14520.00	\$ 6.85	\$ 99,462.00
390	208-00002	EROSION LOG TYPE 1 (12 INCH)	LF	4000.00	\$ 5.62	\$ 22,480.00
400	208-00020	SILT FENCE	LF	5000.00	\$ 1.07	\$ 5,350.00
402		SILT FENCE (REINFORCED)	LF	1000.00	\$ 3.69	\$ 3,690.00
410	208-00035	AGGREGATE BAG	LF	445.00	\$ 4.55	\$ 2,024.75
412	208-00041	ROCK CHECK DAM	EA	15.00	\$ 1,265.10	\$ 18,976.50
414	208-00045	CONCRETE WASHOUT STRUCTURE	EA	1.00	\$ 4,517.41	\$ 4,517.41
416	208-00046	PRE-FABRICATED CONC WASHOUT STRUCTURE (TY1)	EA	3.00	\$ 2,169.52	\$ 6,508.56
420	208-00052	STORM DRAIN INLET PROTECTION (TYPE II)	LF	181.00	\$ 4.55	\$ 823.55
422	208-00060	TEMPORARY SLOPE DRAIN	LF	150.00	\$ 69.27	\$ 10,390.50
430	208-00075	VEHICLE TRACKING PAD (PRE-FAB)	EA	4.00	\$ 12,997.99	\$ 51,991.96
432	208-00103	REMOVAL AND DISPOSAL OF SEDIMENT (LABOR)	HR	25.00	\$ 65.06	\$ 1,626.50
434	208-00105	REMOVAL AND DISPOSAL OF SEDIMENT (EQUIPMENT)	HR	25.00	\$ 73.85	\$ 1,846.25
440	208-00106	SWEEPING (SEDIMENT REMOVAL)	HR	300.00	\$ 158.36	\$ 47,508.00
450	208-00207	EROSION CONTROL MANAGEMENT	LS	1.00	\$ 408,629.42	\$ 408,629.42
455	208-00300	TEMPORARY BERMS	LF	1000.00	\$ 5.76	\$ 5,760.00
460	210-00425	RESET BRIDGE RAILING	LF	41.00	\$ 175.28	\$ 7,186.48
470	210-00815	RESET SIGN PANEL	EA	2.00	\$ 187.25	\$ 374.50
475	210-02900	RELAY RIP RAP	CY	1130.00	\$ 79.01	\$ 89,281.30
480	210-04010	ADJUST MANHOLE	EA	3.00	\$ 1,141.20	\$ 3,423.60
490	211-03005	DEWATERING	LS	1.00	\$ 233,380.30	\$ 233,380.30
495	212-00032	SOIL CONDITIONING	AC	18.00	\$ 3,584.50	\$ 64,521.00
500	212-00706	SEEDING (NATIVE) DRILL	AC	18.00	\$ 679.45	\$ 12,230.10
520	213-00004	MULCHING (WEED FREE STRAW)	AC	18.00	\$ 631.30	\$ 11,363.40
530	213-00061	MULCH TACKIFIER	LB	5400.00	\$ 2.27	\$ 12,258.00

535	213-00150	BONDED FIBER MATRIX	AC	6.00	\$	3,103.00	\$	18,618.00
540	216-00022	SOIL RETENTION BLANKET (CLASS 2)	SY	62894.00	\$	2.33	\$	146,543.02
542	217-00020	HERBICIDE TREATMENT	HR	80.00	\$	219.35	\$	17,548.00
550	240-00000	WILDLIFE BIOLOGIST	HR	32.00	\$	112.35	\$	3,595.20
560	304-06007	AGGREGATE BASE COURSE (CLASS 6)	CY	7930.00	\$	73.19	\$	580,396.70
570	304-09102	AGGREGATE BASE COURSE (RECYCLED ASPHALT PAVEMENT)	CY	85.00	\$	97.24	\$	8,265.40
580	403-00720	HOT MIX ASPHALT (PATCHING) (ASPHALT)	TN	59.00	\$	509.06	\$	30,034.54
610	403-33741	HOT MIX ASPHALT (GRADING S) (75) (PG 64-22)	TN	6377.00	\$	98.43	\$	627,688.11
630	403-34771	HOT MIX ASPHALT (GRADING SX) (75) (PG 76-28)	TN	2376.00	\$	123.08	\$	292,438.08
640	411-10255	EMULSIFIED ASPHALT (SLOW-SETTING)	GL	1786.00	\$	4.84	\$	8,644.24
650	412-01000	CONCRETE PAVEMENT (10 INCH)	SY	6136.00	\$	148.76	\$	912,791.36
660	412-01400	CONCRETE PAVEMENT (14 INCH)	SY	220.00	\$	225.64	\$	49,640.80
670	420-00102	GEOTEXTILE (EROSION CONTROL) (CLASS 1)	SY	1154.00	\$	3.70	\$	4,269.80
672	420-00112	GEOTEXTILE (DRAINAGE)(CLASS S1)	SY	634.00	\$	4.00	\$	2,536.00
674	420-00133	GEOTEXTILE (SEPARATOR)(CLASS 2)	SY	3253.00	\$	2.65	\$	8,620.45
680	501-00000	STEEL SHEET PILING (TYPE I)	SF	1500.00	\$	54.27	\$	81,405.00
690	504-08050	STONE LANDSCAPE WALL	SF	594.00	\$	169.57	\$	100,724.58
695	506-00409	SOIL RIPRAP (9 INCH)	CY	23.00	\$	135.85	\$	3,124.55
700	506-00212	RIPRAP (12 INCH)	CY	74.00	\$	136.48	\$	10,099.52
705	506-00412	SOIL RIPRAP (12 INCH)	CY	715.00	\$	119.64	\$	85,542.60
710	506-00608	IN-CHANNEL BOULDER GROUTED (36 INCH)	CY	1067.00	\$	507.93	\$	541,961.31
715	506-02224	RIPRAP (24")	CY	81.00	\$	152.83	\$	12,379.23
720	506-01020	GEOGRID REINFORCEMENT	SY	1268.00	\$	7.01	\$	8,888.68
730	518-01004	BRIDGE EXPANSION DEVICE (0-4 INCH)	LF	102.00	\$	376.98	\$	38,451.96
750	601-03020	CONCRETE CLASS D (FOREBAY)	CY	12.00	\$	3,478.47	\$	41,741.64
755		CONCRETE CLASS D (TRICKLE CHANNEL)	CY	28.00	\$	1,759.01	\$	49,252.28
760	601-03030	CONCRETE CLASS D (BOX CULVERT)	CY	499.00	\$	1,115.56	\$	556,664.44
775	601-xxxxx	CONCRETE CLASS D OR DF	CY	41.00	\$	2,270.90	\$	93,106.90
790	602-00000	REINFORCING STEEL	LB	105624.00	\$	1.36	\$	143,648.64
800	602-00020	REINFORCING STEEL (EPOXY COATED)	LB	4319.00	\$	1.62	\$	6,996.78
810	603-01180	18 INCH REINFORCED CONCRETE PIPE	LF	2710.00	\$	133.90	\$	362,869.00
820	603-01240	24 INCH REINFORCED CONCRETE PIPE	LF	1464.00	\$	162.68	\$	238,163.52
830	603-01300	30 INCH REINFORCED CONCRETE PIPE	LF	1144.00	\$	217.22	\$	248,499.68
840	603-01360	36 INCH REINFORCED CONCRETE PIPE	LF	803.00	\$	251.67	\$	202,091.01
850	603-05018	18 INCH REINFORCED CONCRETE END SECTION	EA	10.00	\$	3,492.89	\$	34,928.90
860	603-05024	24 INCH REINFORCED CONCRETE END SECTION	EA	5.00	\$	3,632.89	\$	18,164.45
870	603-05030	30 INCH REINFORCED CONCRETE END SECTION	EA	1.00	\$	4,508.35	\$	4,508.35
880	603-05036	36 INCH REINFORCED CONCRETE END SECTION	EA	3.00	\$	5,022.67	\$	15,068.01
890	604-00305	INLET TYPE C (5 FOOT)	EA	4.00	\$	8,128.20	\$	32,512.80
900	604-00310	INLET TYPE C (10 FOOT)	EA	3.00	\$	10,116.00	\$	30,348.00
910	604-16005	INLET TYPE 16 (5 FOOT)	EA	15.00	\$	7,923.70	\$	118,855.50
920	604-16010	INLET TYPE 16 (10 FOOT)	EA	14.00	\$	9,457.37	\$	132,403.18
930	604-16015	INLET TYPE 16 (15 FOOT)	EA	2.00	\$	13,311.04	\$	26,622.08
935	604-16020	INLET TYPE 16 (20 FOOT)	EA	1.00	\$	16,836.60	\$	16,836.60
940	604-20000	OUTLET STRUCTURE	EA	3.00	\$	162,039.52	\$	486,118.56
960	604-30010	MANHOLE SLAB BASE (10 FOOT)	EA	15.00	\$	7,831.00	\$	117,465.00
970	604-30015	MANHOLE SLAB BASE (15 FOOT)	EA	4.00	\$	10,542.68	\$	42,170.72
980	604-30025	MANHOLE SLAB BASE (25 FOOT)	EA	2.00	\$	20,904.56	\$	41,809.12
1000	606-00301	GUARDRAIL TYPE 3 (6-3 POST SPACING)	LF	118.00	\$	41.89	\$	4,943.02
1010	606-00930	GUARDRAIL TYPE 9 (STYLE CD)	LF	81.00	\$	268.64	\$	21,759.84
1020	606-00940	GUARDRAIL TYPE 9 (STYLE CE)	LF	615.00	\$	198.65	\$	122,169.75
1040	606-01370	TRANSITION TYPE 3G	EA	2.00	\$	4,221.15	\$	8,442.30
1050	606-01372	TRANSITION TYPE GR9-GR3	EA	1.00	\$	6,955.00	\$	6,955.00
1060	606-02003	END ANCHORAGE (NON-FLARED)	EA	4.00	\$	4,403.05	\$	17,612.20
1070	607-01000	FENCE BARBED WIRE WITH METAL POSTS	LF	3574.00	\$	3.69	\$	13,188.06
1080	607-00005	END POST	EA	10.00	\$	259.90	\$	2,599.00
1090	607-00010	CORNER AND LINE BRACE POST	EA	12.00	\$	413.02	\$	4,956.24
1100	607-60320	20 FOOT GATE TWIN	EA	1.00	\$	1,064.65	\$	1,064.65
1110	607-60332	32 FOOT GATE TWIN	EA	1.00	\$	1,460.55	\$	1,460.55
1120	608-00000	CONCRETE SIDEWALK	SY	4352.00	\$	76.70	\$	333,798.40
1130	608-00010	CONCRETE CURB RAMP	SY	198.00	\$	132.34	\$	26,203.32
1140	608-00015	DETECTABLE WARNINGS	SF	377.00	\$	94.60	\$	35,664.20
1150	609-21010	CURB AND GUTTER TYPE 2 (SECTION I-B)	LF	2793.00	\$	32.24	\$	90,046.32
1160	609-21020	CURB AND GUTTER TYPE 2 (SECTION II-B)	LF	5529.00	\$	33.23	\$	183,728.67
1170	609-24002	GUTTER TYPE 2 (2 FOOT)	LF	677.00	\$	35.02	\$	23,708.54
1175	609-40120	CURB MEDIAN SPECIAL	SY	303.00	\$	176.99	\$	53,627.97
1180	610-00020	MEDIAN COVER MATERIAL (PATTERNED CONCRETE)	SF	6373.00	\$	15.78	\$	100,565.94
1185	610-00055	MEDIAN COVER MATERIAL (STONE)	TN	297.00	\$	168.86	\$	50,151.42
1190	612-00001	DELINEATOR (TYPE I)	EA	67.00	\$	58.85	\$	3,942.95

1200	612-00003	DELINEATOR (TYPE III)	EA	3.00	\$	69.55	\$	208.65
1210	612-00021	DELINEATOR (TYPE I) (BARRIER)	EA	4.00	\$	96.30	\$	385.20
1220	613-00200	2 INCH ELECTRICAL CONDUIT	LF	36.00	\$	48.15	\$	1,733.40
1225	613-00206	2 INCH ELECTRICAL CONDUIT (BORED)	LF	335.00	\$	32.10	\$	10,753.50
1230	613-00400	4 INCH ELECTRICAL CONDUIT	LF	72.00	\$	58.85	\$	4,237.20
1240	613-01100	1 INCH ELECTRICAL CONDUIT (PLASTIC)	LF	400.00	\$	23.54	\$	9,416.00
1250	613-01200	2 INCH ELECTRICAL CONDUIT (PLASTIC)	LF	1040.00	\$	40.66	\$	42,286.40
1260	613-01201	2 INCH ELECTRICAL CONDUIT (PLASTIC) (SPECIAL)	LF	3216.00	\$	23.54	\$	75,704.64
1270	613-01300	3 INCH ELECTRICAL CONDUIT (PLASTIC)	LF	120.00	\$	31.03	\$	3,723.60
1280	613-01301	3 INCH ELECTRICAL CONDUIT (PLASTIC) (SPECIAL)	LF	3216.00	\$	27.82	\$	89,469.12
1290	613-07001	TYPE ONE PULL BOX	EA	15.00	\$	1,605.00	\$	24,075.00
1300	613-07002	TYPE TWO PULL BOX	EA	10.00	\$	1,819.00	\$	18,190.00
1310	613-07011	PULL BOX (11"X18"X12")	EA	19.00	\$	1,605.00	\$	30,495.00
1315	613-07023	PULL BOX (24"X36"X24")	EA	3.00	\$	2,996.00	\$	8,988.00
1320	613-07060	PULL BOX (13"X24"X18") DEEP	EA	2.00	\$	1,819.00	\$	3,638.00
1350	613-50106	METER POWER PEDESTAL	EA	1.00	\$	12,840.00	\$	12,840.00
1360	614-00011	SIGN PANEL (CLASS I)	SF	301.00	\$	25.68	\$	7,729.68
1370	614-00012	SIGN PANEL (CLASS II)	SF	247.00	\$	30.50	\$	7,533.50
1380	614-00214	STEEL SIGN POST (1.75X1.75 INCH TUBING)	LF	250.00	\$	13.86	\$	3,465.00
1390	614-00216	STEEL SIGN POST (2X2 INCH TUBING)	LF	393.00	\$	16.00	\$	6,288.00
1400	614-00220	STEEL SIGN POST (2.5X2.5 INCH TUBING, 12 GAUGE)	LF	52.00	\$	102.72	\$	5,341.44
1410	614-72863	PEDESTRIAN PUSH BUTTN POST ASSEMBLY	EA	1.00	\$	3,210.00	\$	3,210.00
1420	614-80001	FLASHING BEACON (SOLAR POWERED)	EA	3.00	\$	1,819.00	\$	5,457.00
1430	614-80003	RECTANGULAR RAPID FLASHING BEACON	EA	13.00	\$	8,881.00	\$	115,453.00
1440	614-80321	BARRICADE (TYPE 3 M-A)	EA	10.00	\$	428.00	\$	4,280.00
1470	620-00018	FIELD OFFICE AND LABORATORY FACILITY	LS	1.00	\$	182,922.79	\$	182,922.79
1480	621-00450	DETOUR PAVEMENT	SY	2491.00	\$	91.58	\$	228,125.78
1490	624-20300	DETOUR DRAINAGE PIPE (CLASS 0)	LF	100.00	\$	144.99	\$	14,499.00
1500	625-00000	CONSTRUCTION SURVEYING	LS	1.00	\$	382,321.70	\$	382,321.70
1510	625-00001	CONSTRUCTION SURVEYING (HRLY)	HR	300.00	\$	240.75	\$	72,225.00
1520	626-00100	MOBILIZATION (WITHOUT AUTOPAY)	LS	1.00	\$	1,631,569.27	\$	1,631,569.27
1530	626-01111	PUBLIC INFORMATION SERVICES (TIER I)	DY	365.00	\$	64.20	\$	23,433.00
1540	627-00009	MODIFIED EPOXY PAVEMENT MARKING (INLAID)	GL	90.00	\$	236.76	\$	21,308.40
1550	627-00013	PAVEMENT MARKING PAINT (HIGH BUILD)	GL	183.00	\$	98.00	\$	17,934.00
1560	627-30405	PREFORMED THERMOPLASTIC PAVEMENT MARKING (WORD-SYM)	SF	820.00	\$	14.21	\$	11,652.20
1570	627-30410	PREFORMED THERMOPLASTIC PAVEMENT MARKING (XWALK-ST)	SF	2320.00	\$	16.57	\$	38,442.40
1580	630-00000	FLAGGING	HR	3000.00	\$	37.45	\$	112,350.00
1590	630-00003	UNIFORMED TRAFFIC CONTROL	HR	250.00	\$	144.45	\$	36,112.50
1610	630-00007	TRAFFIC CONTROL INSPECTION	DY	124.00	\$	240.75	\$	29,853.00
1620	630-00017	TRAFFIC CONTROL MANAGEMENT (SPECIAL)	DY	248.00	\$	882.75	\$	218,922.00
1640	630-80341	CONSTRUCTION TRAFFIC SIGN (PANEL SIZE A)	EA	86.00	\$	160.50	\$	13,803.00
1650	630-80342	CONSTRUCTION TRAFFIC SIGN (PANEL SIZE B)	EA	13.00	\$	481.50	\$	6,259.50
BidItem	Client Bid #	Bid Description	Units	Bid Quantity		Bid Total U.P.		Bid Total
1660	630-80355	PORTABLE MESSAGE SIGN PANEL	EA	4.00	\$	11,235.00	\$	44,940.00
1670	630-80357	ADVANCE WARNING FLASHING OR SEQUENCING ARROW PANEL	EA	2.00	\$	3,745.00	\$	7,490.00
1690	630-80360	DRUM CHANNELIZING DEVICE	EA	180.00	\$	90.95	\$	16,371.00
1700	630-80363	DRUM CHANNELIZING DEVICE (WITH LIGHT) (FLASHING)	EA	10.00	\$	101.65	\$	1,016.50
1720	630-80372	CONCRETE BARRIER (TEMPORARY) (FURNISH AND INSTALL)	LF	504.00	\$	42.27	\$	21,304.08
1750	630-80380	TRAFFIC CONE	EA	180.00	\$	10.70	\$	1,926.00
1760	630-85010	IMPACT ATTENUATOR (TEMPORARY)	EA	3.00	\$	12,227.85	\$	36,683.55
1770	630-85041	MOBILE ATTENUATOR	DY	3.00	\$	882.75	\$	2,648.25

Subtotal Bid Items

\$ 16,051,990.70

Force Accounts (Estimated) Updated from 4-26-23 Meeting							
4000	FA 01	F/A Minor Contract Revisions	FA	1		\$	855,000.00
4010	FA 02	F/A Project First	FA	1		\$	2,500.00
4020	FA 03	F/A Fuel Cost Adjustment	FA	1		\$	45,000.00
4040	FA 05	F/A Asphalt Cement Cost Adjustment	FA	1		\$	55,000.00
4050	FA 06	F/A On the Job Trainee	FA	1		\$	25,600.00
4060	FA 07	F/A Asphalt Quality Incentive Payment	FA	1		\$	37,000.00
4070	FA 08	F/A Concrete Quality Incentive Payment	FA	1		\$	39,000.00
4090	FA 10	F/A Erosion Control	FA	1		\$	25,000.00
4110	FA 12	F/A Adjust Utilities	FA	1		\$	30,000.00
4120	FA 13	F/A Risk Pool	FA	1		\$	30,000.00

Grand Total \$ 17,196,090.70



EXHIBIT 3

CONTRACTOR'S CERTIFICATE OF INSURANCE



CERTIFICATE OF LIABILITY INSURANCE

1/1/2024

DATE (MM/DD/YYYY)

5/30/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION** IS **WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Lockton Companies 444 W. 47th Street, Suite 900 Kansas City MO 64112-1906 (816) 960-9000 kcasu@lockton.com	CONTACT NAME: PHONE (A/C, No, Ext): E-MAIL ADDRESS: FAX (A/C, No):
INSURED 1359042 KRAEMER NORTH AMERICA, LLC EDWARD KRAEMER & SONS, INC. ONE PLAINVIEW ROAD PLAIN WI 53577	INSURER(S) AFFORDING COVERAGE INSURER A: Zurich American Insurance Company INSURER B: Westchester Fire Insurance Company INSURER C: Berkley Assurance Company INSURER D: INSURER E: INSURER F:
	NAIC # 16535 10030 39462

COVERAGES **CERTIFICATE NUMBER:** 19607297 **REVISION NUMBER:** XXXXXXXX

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> <input type="checkbox"/> GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input checked="" type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:	Y	Y	GLO9806120-11	1/1/2023	1/1/2024	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY	Y	Y	BAP9806122-11	1/1/2023	1/1/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ XXXXXXXX BODILY INJURY (Per accident) \$ XXXXXXXX PROPERTY DAMAGE (Per accident) \$ XXXXXXXX \$ XXXXXXXX
B	<input checked="" type="checkbox"/> UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input checked="" type="checkbox"/> RETENTION \$ 10,000	Y	Y	G21986380018	1/1/2023	1/1/2024	EACH OCCURRENCE \$ 5,000,000 AGGREGATE \$ 5,000,000 \$ XXXXXXXX
A	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	Y N/A	WC9806121-11 (AOS) WC9806124-11 (WT)	1/1/2023 1/1/2023	1/1/2024 1/1/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
C	CONTRACTOR POLLUTION	N	N	PCADB-5021043-0123	1/1/2023	1/1/2024	\$5,000,000 PER CLAIM; \$5,000,000 AGGREGATE

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
KRAEMER JOB #062309 CRYSTAL VALLEY INTERCHANGE. TOWN OF CASTLE ROCK, ITS ELECTED AND APPOINTED OFFICIALS, OFFICERS, EMPLOYEES, AGENTS AND VOLUTEERS ARE ADDITIONAL INSURED AS RESPECTS GENERAL LIABILITY, AUTO LIABILITY, AND UMBRELLA LIABILITY ON A PRIMARY AND NON-CONTRIBUTORY BASIS AS REQUIRED BY WRITTEN CONTRACT. WAIVER OF SUBROGATION APPLIES IN FAVOR OF THE ADDITIONAL INSURED AS RESPECTS GENERAL LIABILITY, AUTO LIABILITY, UMBRELLA LIABILITY, AND WORKERS COMPENSATION AS REQUIRED BY WRITTEN CONTRACT AND WHERE ALLOWED BY LAW. FOR CANCELLATION FOR ANY REASON OTHER THAN NONPAYMENT OF PREMIUM, THE INSURER(S) WILL SEND 30 DAYS NOTICE OF CANCELLATION TO THE CERTIFICATE HOLDER.

CERTIFICATE HOLDER

CANCELLATION

19607297
TOWN OF CASTLE ROCK
100 N. WILCOX ST
CASTLE ROCK CO 80104

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Joseph M. Agnello

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EXHIBIT 4**TOWN OF CASTLE ROCK
AFFIDAVIT OF INDEPENDENT CONTRACTOR STATUS**

In accordance with Section 8-70-115, C.R.S., I certify the following:

- With respect to the Agreement, **Kraemer North America, LLC** ("Entity") represents and warrants that it is the Entity's express intention to be employed as an independent contractor of the Town of Castle Rock (the "Town") for purposes of performing the work or services which are the subject of the Agreement, to include all employees and agents of the above-named entity. Entity understands and confirm that the Town reasonably relied on this intention in entering into the Agreement.
- The Town does not require Entity work exclusively for the Town, except that Entity may choose to work exclusively for the Town for a finite period of time specified in the document.
- The Town does not establish a quality standard for the work or services performed pursuant to the Agreement, except that the Town may provide plans and specifications regarding the work but cannot oversee the actual work or provide instruction as to how the work is performed.
- The Town does not pay a salary or hourly rate but rather a fixed or contract rate, as noted in the terms and conditions of the Agreement, and any Exhibits made part of the Agreement.
- The Town cannot terminate the work or services performed during the contract period unless otherwise agreed to in the terms and conditions of the Agreement.
- Entity is not provided with anything, if at all, more than minimal training from the Town.
- The Town does not provide Entity with tools or benefits for the performance of the work or services which are the subject of the Agreement, except materials and equipment may be supplied.
- The Town does not dictate the time of performance, except that a completion schedule and a range of mutually agreeable work hours may be established in the Agreement.
- The Town does not pay Entity personally but rather makes checks payable to the trade or business name of the Entity, who is a party to the Agreement; and the Town does not combine their business operations in any way with the entity's business, but instead maintains such operations as separate and distinct.
- Entity understands that if a professional license to practice a particular occupation under the laws of the State of Colorado requires the exercise of a supervisory function with regard to the work of services performed under this Agreement, such supervisory role shall not affect the independent contractor relationship with the Town.
- **ENTITY UNDERSTANDS THAT NEITHER ENTITY NOR ITS EMPLOYEES ARE ENTITLED TO UNEMPLOYMENT INSURANCE BENEFITS OF THE TOWN. THE**



ONLY AVAILABLE UNEMPLOYMENT COMPENSATION COVERAGE IS THAT PROVIDED BY THE ENTITY.

- **ENTITY UNDERSTANDS THAT IT IS OBLIGATED TO PAY FEDERAL AND STATE INCOME TAX ON MONEYS PAID PURSUANT TO THE AGREEMENT.**

CONTRACTOR

KRAEMER NORTH AMERICA, LLC

By: _____

Name **Timothy J. Maloney**

STATE OF COLORADO)

) ss.

COUNTY OF Douglas)

The foregoing instrument as acknowledged before me this 30 day of May, 2023 by Callie Tinnes as Admin Assist. of the above-mentioned Contractor.

Witness my official hand and seal.

My commission expires: 04.04.2024

Callie L.

Notary Public







Town of Castle Rock

Agenda Memorandum

Agenda Date: 6/5/2023

Item #: File #: PWC 2023-031

To: Members of the Public Works Commission

From: Aaron Monks, Project Manager

Resolution Recommending Town Council Approve an Intergovernmental Agreement with Douglas County for the Crystal Valley Interchange Project

Executive Summary

Staff is seeking a favorable recommendation from the Public Works Commission for Town Council to approve an Intergovernmental Agreement (IGA) (Attachment A) with the Board of County Commissioners of Douglas County ("County") to share in the construction funding of the Crystal Valley Interchange Project.

The County is a major stakeholder in the project and has budgeted funds to contribute to the construction of the project. The County will contribute a total of \$34,000,000 for the project, \$24,000,000 for construction of the interchange and \$10,000,000 for the construction of Dawson Trails Blvd in unincorporated Douglas County, as indicated by the overall project map (Attachment B)

The Town's Legal and Finance Departments have reviewed the IGA, including the project funding provisions, and are recommending approval.

History of Past Town Council, Boards & Commissions, or Other Discussions

This project has been presented and adopted by Town Council in various forms within the last two Transportation Master Plans (TMP), which includes the 2017 TMP. The interchange was originally conceptualized in the late 1980's when the Dawson Ridge subdivisions were approved. Initial FHWA documents were completed in 2004 with the approval of an Environmental Assessment (EA) and Finding of No Significant Impact (FONSI). The project stalled as a result of lack of development on the west side of I-25, and project funding prioritization changes.

In the spring of 2020 the Town applied for a BUILD grant for Design, ROW and Environmental Assessment funding. The Town received notice of award of the \$5.4 million grant in late fall of 2020. The Intergovernmental Agreement (IGA) with CDOT was approved at the September 7, 2021 Town Council meeting. The first of this year the Town applied for a federal grant through the Denver Region Council of Governments (DRCOG) totaling \$9.0 Million. The DRCOG steering committee gave support to approve \$8.5 Million with the remaining \$500,000 as the first priority on the waitlist. In mid-May at the Board of Directors meeting, the Board voted to approve the forum's recommendations.

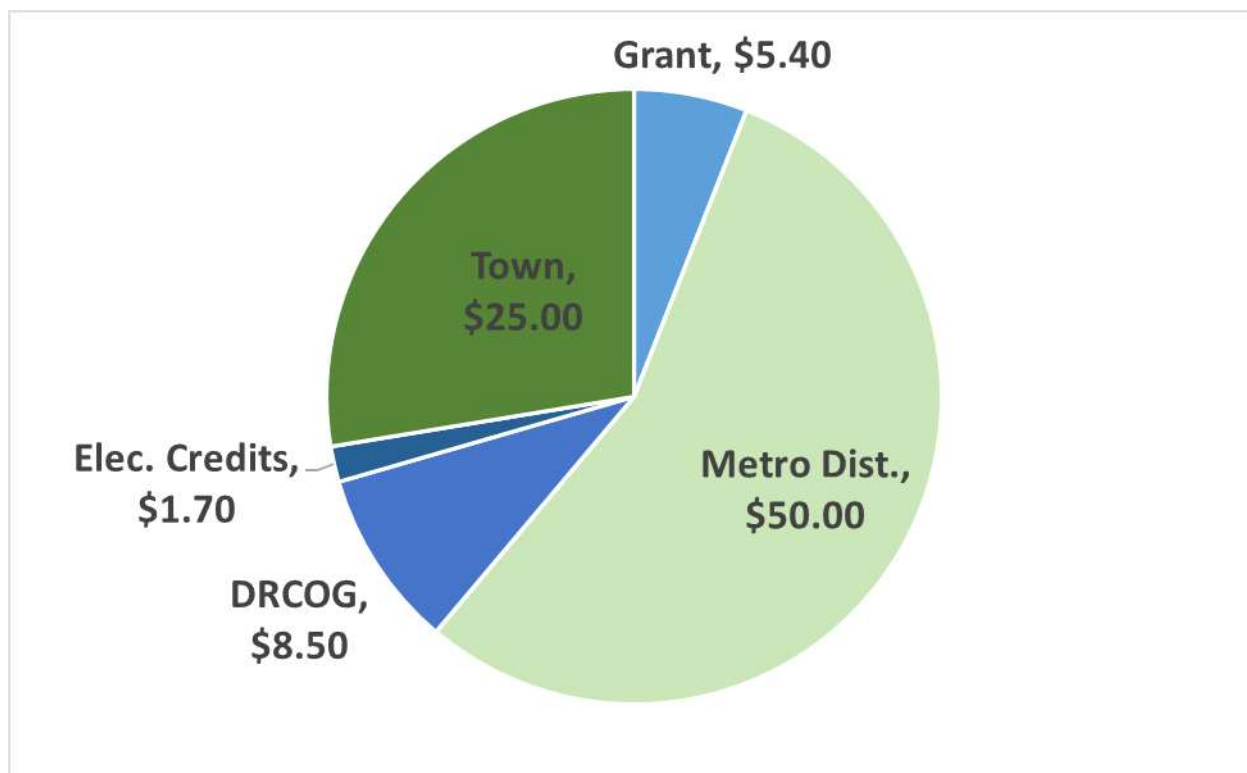
The final Board action is scheduled for July, but the Town has been given approval to start discussions with CDOT on the grant IGA.

The design services agreement with Jacobs Engineering Group was presented and approved at the June 15, 2021 Town Council meeting. The Construction Management/General Contractor (CM/GC) service agreement with Kraemer was presented and approved at the March 15, 2022 Town Council meeting. The ICE service agreement with Stanton Constructability Services was presented to the Town Manager in May of 2022.

Discussion

Approval of the IGA would enable the Town to be reimbursed for \$24,000,000 for construction costs of the interchange project. Reimbursements would begin in 2024. The Town will utilize internal loans between funding accounts to cover the County's portion in order to begin construction of all phases in 2023. Douglas County will construct and manage the portion of Dawson Trails Blvd that is in unincorporated Douglas County as a standalone project. Douglas County is estimating this project at \$10,000,000.

The total project cost estimate for both preconstruction and construction phases is \$124.6 Million. With the County's contribution as outlined in this IGA, the balance of the funding is broken down as follows:



Schedule

The project is anticipated to be executed according to the following schedule:

- Start of Construction for Package 1 - Summer 2023
- Start of Dawson Trails Blvd (Town and Douglas County portions) - Summer 2023
- Design completion of Package 2 - Summer 2023
- Start of Construction for Package 2 - Fall 2023
- Project Completion - End of 2025

Staff Recommendation

Staff recommends the Public Works Commission recommend Town Council approve the resolution as introduced by title.

Proposed Motion

"I move that the Public Works Commission recommend Town Council approve the Resolution as introduced by title."

Alternative Motions:

"I move that Public Works Commission recommend Town Council approve the resolution as introduced by title with the following changes _____"

Attachment

Attachment A: IGA
Attachment B: Map

**INTERGOVERNMENTAL AGREEMENT BETWEEN THE TOWN OF CASTLE
ROCK AND THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF
DOUGLAS, STATE OF COLORADO, REGARDING FINANCIAL CONTRIBUTION
FOR THE CRYSTAL VALLEY INTERCHANGE PROJECT AND WEST I-25
FRONTAGE ROAD RELOCATION PROJECT**

THIS INTERGOVERNMENTAL AGREEMENT ("Agreement") is made and entered into this _____ day of _____, **2023**, (the "Effective Date"), by and between the Town of Castle Rock, Colorado, a Colorado home rule municipality (the "Town"), and the Board of County Commissioners of Douglas County, State of Colorado, (the "County"), hereinafter collectively referred to as the "Parties."

RECITALS

WHEREAS, the Parties are legally empowered under Section 29-1-201, et seq., C.R.S. to enter into this Agreement; and

WHEREAS, the Crystal Valley Interchange and relocating the West I-25 Frontage Road is needed to serve the existing residents of the Town of Castle Rock, the existing residents of unincorporated Douglas County, and future development; and

WHEREAS, the Parties desire to cooperate in the funding for the construction of a new interchange at Interstate 25 (I-25) and Crystal Valley Parkway; and,

WHEREAS, the existing West I-25 Frontage Road, between Yucca Hills Road and Tomah Road, needs to be permanently closed to construct the Crystal Valley Interchange, (CVI), specifically the southbound on and off ramps, and the project requires relocating a portion of the existing West I-25 Frontage Road hereinafter referred to as Dawson Trails Boulevard; and

WHEREAS, the CVI Project and the Dawson Trails Boulevard Project are generally depicted on the attached **Exhibit A** and shall be constructed in accordance with the final approved plans of the Parties; and

WHEREAS, the CVI Project proposed improvements are generally depicted on the attached **Exhibit B** and shall be constructed in accordance with the final plans approved by the Federal Highways Administration (FHWA), the Colorado Department of Transportation (CDOT) and Town; and

WHEREAS, the Parties plan to construct Dawson Trails Boulevard from Territorial Road to Tomah Road, as two separate projects, with the segment located within the Town limits anticipated to begin construction in second quarter 2023 to be substantially completed in third quarter 2024, and the segment located within unincorporated Douglas County anticipated to begin construction no sooner than fourth quarter 2023 to be substantially completed in second quarter 2025 (pending completion of final right-of-way acquisitions); and

WHEREAS, the Parties, in consultation with CDOT, determined that it will be cost effective to divide the CVI Project into two construction phases, (**Package 1 & Package 2**), thus allowing the relocation of the East I-25 Frontage Road to proceed in advance of other CVI Project improvements because the Parties were able to demonstrate to CDOT and FHWA that this action has “independent utility” (the relocation project is viewed as independent of the interchange) thus allowing the Parties to utilize a separate National Environmental Policy Act (NEPA) approval process for **Package 1**; and

WHEREAS, construction related to relocating the East I-25 Frontage Road Project is hereinafter referred to as “**Package 1**” which the Town currently anticipates construction beginning in second quarter of 2023 to be substantially completed in third quarter 2024; and

WHEREAS, construction of the remaining CVI Project infrastructure is hereinafter referred to as “**Package 2**” and includes constructing short segments of Dawson Trails Boulevard, that extend approximately 900-feet south of proposed Crystal Valley Parkway, approximately 600-feet to the north of proposed Crystal Valley Parkway, and includes connecting to existing Twin Oaks Road and Clarkes Circle, relocating a portion of Douglas Lane, and making minor modifications to the existing Crystal Valley Parkway bridge over East Plum Creek and the Union Pacific Railroad; and

WHEREAS, the County contribution for **Package 2** is in addition to the **\$5 million** of County expenditures previously incurred in early 2000’s to advance the original approval of the Environmental Assessment, (NEPA), preliminary design and right-of-way acquisition for the CVI Project; and

WHEREAS, the County contribution for **Package 2** is in addition to the **\$10 million** funding set aside to construct the County’s segment of Dawson Trail Boulevard associated with the relocated existing West I-25 Frontage Road that is required for the CVI Project, as identified in this Agreement; and

WHEREAS, the Town currently anticipates beginning construction of **Package 2** no sooner than third quarter 2023 to be substantially completed in fourth quarter 2026 with construction of the new bridges over the BNSF Railway and over I-25 anticipated to be substantially completed and open for public use third quarter of 2025; and

NOW, THEREFORE, for and in consideration of the mutual promises and covenants contained herein, the sufficiency of which are mutually acknowledged, the Parties hereto agree as follows:

1. **Acknowledgment and Incorporation of Recitals.** The foregoing recitals are hereby acknowledged by the Parties to be true and correct and are incorporated into this Agreement.
2. **Town’s Contributions and Responsibilities.**
 - a. **CVI Project - Package 1.**

The Town is responsible for managing all aspects of this project during the pre-construction phase and the construction phase. The Town is responsible to prepare construction documents (plans and specifications), complete all necessary permitting requirements, and obtain necessary approvals from both CDOT and FHWA.

Package 1 construction costs were recently estimated to be **\$19 million** (which includes construction costs, Force Account items and consultant services to aid the Town with construction management, inspections, and material testing). Except as expressly provided in **Section 3**, below, the Town and their other funding partners shall be responsible for paying all **Package 1** project costs.

The County does not plan to contribute financially to **Package 1** construction other than the previously purchased right-of-way for **Package 1** that the County agrees to Quit Claim to the Town as indicated herein. Following the acquisition of the parcels associated with **Package 1** by the Town, the Town Manager shall initiate the process for the annexation of such parcels, which includes parcels previously obtained by the Town directly and those parcels that the County previously acquired for the CVI Project. It is the Town's intent to complete the annexation of these parcels prior to the completion of **Package 1** and, to the extent allowed by law, these annexations shall be completed no later than two (2) years after the Effective Date of this Agreement.

The Town agrees to own, operate, and maintain the all the improvements associated with **Package 1**, including improvements currently located within property owned by the Town and the improvements located on the property to be transferred by the County to the Town identified in this Agreement.

As part of this Agreement, the Town, (and its assigns), are responsible to construct, own, operate, and maintain Douglas Lane, as well as the segment of the Front Range Trail located within the CVI Project limits.

Regarding the existing Crystal Valley Parkway Bridge over East Plum Creek and the Union Pacific Railroad, the County will continue to own, operate, and maintain this existing bridge in accordance with the County's current operation and maintenance agreement with the Union Pacific Railroad.

b. **CVI Project - Package 2.**

The Town is responsible for managing all aspects of this project during the pre-construction phase and the construction phase. The Town is responsible to prepare construction documents (plans and specifications), complete all necessary permitting requirements, and obtain necessary approvals from both CDOT and FHWA for **Package 2**.

Package 2 construction costs were recently estimated to be **\$75 million**, which includes construction costs, 7% CMGC fee, Minor Contract Revisions (MCR),

Railroad Flagging and other Force Account items and consultant services to aid the Town with construction management, inspections, and material testing, and a small percentage set aside for contingencies). Except as expressly provided in **Section 3**, the Town and their other potential funding partners shall be responsible for paying all **Package 2** project costs. **Section 3** identifies the County's maximum contribution for **Package 2**.

The Town is responsible to own, operate, and maintain the **Package 2** improvements that are currently located within property owned by the Town and on the property that will be transferred by the County to the Town as identified in this Agreement. In accordance with a separate proposed maintenance and operations agreement between the Town and CDOT, some of the Town's responsibilities may ultimately become CDOT's.

Concerning construction of **Package 2**, the Parties, CDOT and the contractor, recognize the safety benefits of closing the existing West I-25 Frontage Road to through traffic between Yucca Hills Road and Tomah Road, during various construction phases, and the need to utilize an extended full closure of existing West I-25 Frontage Road from south of Territorial Road to the Lowell Driveway (located between Territorial Road and Tomah Road).

With anticipated concurrence from CDOT, (the current owner of the West I-25 Frontage Road), the Town agrees to allow the contractor to utilize said extended full closure for a total of eighteen (18) months, which is likely to occur over an initial closure period of twelve (12) months, followed by a second full closure period of six (6) months. During these extended full closures, the Town agrees to require its contractors to always maintain access to emergency vehicles.

These extended full closures are in addition to various night closures of the existing West I-25 Frontage Road already anticipated to occur to accommodate bridge girder erections, bridge deck and bridge railing concrete pours. As part of these proposed extended full closures, the Town's contractor will provide necessary detour signing, public notification and the use of Uniform Traffic Control (UTC) for special events and other times if deemed appropriate by CDOT or the Town.

The Town is responsible to provide access to the BNSF Railway and meet all other railroad requirements in accordance with its separate railroad agreement.

The Town shall prepare two (2) separate written invoices and submit them electronically to the County; and each invoice should request fifty percent (50%) of the County's contribution for **Package 2**. The Town's first invoice may be submitted no sooner than **January 15, 2024**, and the Town's second invoice may be submitted no sooner than **June 30, 2024**. The Town's invoices shall accurately state the Town has awarded (or state when it plans to award) construction contract(s) for the Town's segment of Dawson Trails Boulevard, **Package 1**, and **Package 2**. The Town's invoices associated with **Package 2**

should be submitted to Ashley Pennick, Douglas County Public Works Engineering at apennick@douglas.co.us

- c. The Town agrees to accept the parcels that the County plans to Quit Claim to the Town, which includes the real property that the County previously acquired for the existing Crystal Valley Parkway Bridge over East Plum Creek Project, and for the proposed new interchange at Interstate 25 (I-25) and Crystal Valley Parkway, and the parcels located on or adjacent to Douglas Lane.

The County parcels to be Quit Claimed to the Town are shown on **Exhibit C**; and will ultimately be in accordance with the final Right-of-Way (ROW) Plans for the east side of I-25 approved by CDOT (described herein). These parcels are identified on the most current ROW Plans for the east side of I-25, and include the following parcels and access control lines:

- Parcel 3A-10
- Parcels 5, 5A, 5B, 5C
- Parcel 6
- Parcel 7, 7A, 7B, 7C, 7D
- Parcel 10, 10A
- Parcel 12

The County agrees to complete the transfer of these parcels to the Town within **sixty (60) days** of the Effective Date of this Agreement. The ROW parcels the County agrees to convey to the Town via Quit Claim Deeds, and their associated individual parcel legal descriptions and individual parcel exhibits are included in **Exhibit D** and referenced herein.. Following the acquisition of the parcels listed above and shown in **Exhibit D** by the Town, the Town Manager shall initiate the process for the annexation of such parcels, which includes parcels previously obtained by the Town directly and those parcels that the County previously acquired for the CVI Project. It is the Town's intent to complete the annexation of these parcels prior to the completion of **Package 1** and, to the extent allowed by law, these annexations shall be completed no later than two (2) years after the Effective Date of this Agreement.

The Town or its assigns, is responsible to prepare the updated the ROW Plans to comply with CDOT ROW requirements that generally reflects the recently updated construction plans; and prepare the final individual parcel legal descriptions and associated individual parcel exhibits that the County is Quit Claiming to the Town as shown in **Exhibit D**.

The Town agrees to transfer to CDOT the applicable parcels, (as determined by CDOT), and the various Access Control Lines (A-Line) as shown on the final updated ROW Plans on **Exhibit C**.

The Town Manager shall initiate the process for the annexation of the parcel shown in **Exhibit E** that was previously Quit claimed from the County to the

Town in **1988**. It is the Town's intent to complete the annexation of these parcels prior to the completion of **Package 1** and, to the extent allowed by law, these annexations shall be completed no later than two (2) years after the Effective Date of this Agreement.

d. **Dawson Trails Boulevard (Territorial Road south to the Town's Municipal Boundary)**

The Town and their potential funding partners are responsible for the design and construction of the section of Dawson Trails Boulevard from 900-feet south of existing Territorial Road to the southern limits of the Town of Castle Rock that also coincides with the southern limits of the Dawson Trails Development. As identified in **Package 2**, this project begins immediately south of the improvements for the CVI Project and extends south approximately 10,000-feet to the Town's municipal boundary.

The cost to construct the Town's portion of the relocated West I-25 Frontage Road Project is currently estimated to be **\$11 million**; and the Town and its other funding partners are solely responsible for these project costs and construction is currently anticipated to begin in second quarter 2023 to be substantially completed in third quarter 2024. The Town anticipates completing this segment of Dawson Trails Boulevard by **October 31, 2025**.

The Town is responsible to own, operate and maintain this segment of Dawson Trails Boulevard. The County has no financial responsibility to contribute or reimburse the Town for pre-construction activities and construction activities associated with the Town's section of Dawson Trails Boulevard.

- e. If required by CDOT, the Town agrees that it will be responsible to operate, and maintain (including snow removal) the portion of the existing West I-25 Frontage Road between Plum Creek Parkway and Yucca Hills Road, until such time in the future when Dawson Trails Boulevard, between Crystal Valley Parkway and Plum Creek Parkway, is constructed and open to traffic because at that time the existing West I-25 Frontage Road can be permanently closed south of the I-25 southbound on-ramp.

3. **County Contribution and Responsibilities.**

i. **CVI Project Package 1.**

The County has no financial responsibility to contribute or reimburse the Town for pre-construction activities and construction activities associated with the **Package 1** proposed improvements.

In the early 2000's, the County's previously incurred about **\$5 million** in expenditures to advance the original approved Environmental Assessment, (NEPA) document, preliminary design for the CVI Project and the County

acquired significant right-of-way needed for **Package 1** and the County will not seek reimbursement from the Town of this investment. Additionally, the County managed the design and construction of the Crystal Valley Parkway Bridge over East Plum Creek Project, and the County has maintained and operated the bridge since its original construction, but the County will not seek reimbursement from the Town for these previous expenditures either.

ii. **CVI Project Package 2.**

The County contribution for **Package 2** is anticipated to be available no sooner than **January 23, 2024**, subject to **Section 29-1-110 C.R.S.** concerning the County's annual appropriations and inclusion of the CVI Project in the County's **2024** Adopted Budget.

The County's contribution for eligible construction costs for **Package 2** shall not exceed **thirty-six percent (36%)** or **Twenty-Four Million Dollars and No Cents (\$24,000,000.00)**, whichever is less. The Town and its other funding partners, (including potential state or federal grants and developer contributions), are responsible for all other project costs associated with **Package 2** including for any unforeseen delays, inflation costs, and all other project costs or claims.

The County contribution for **Package 2** shall be used solely for eligible construction costs and no other purpose unless agreed to by both Parties by executing an amendment to this Agreement. Eligible construction costs include construction costs, 7% CMGC fee, Minor Contract Revisions (MCR), Railroad Flagging and other Force Account items and consultant services to aid the Town with construction management, inspections, and material testing, and a small percentage set aside for contingencies, as well as CDOT direct or indirect costs.

The County contribution for **Package 2** is payable to the Town within thirty (30) days after the County has received written invoices from the Town.

The County agrees with the closure strategies for the existing West I-25 Frontage Road identified in **Section 2 subpart b.**

The County agrees to Quit Claim to the Town the real property as described in **Section 2 subpart c.**

- iii. If required by CDOT, the County agrees to provide snow removal on the portion of the existing West I-25 Frontage Road between Tomah Road and Sky View Lane at the I-25 Interchange. This request is anticipated by the County since CDOT snow removal equipment will no longer have a continuous access route along the West I-25 Frontage Road due to the proposed construction of the Crystal Valley Interchange southbound ramps.

iiii. **Dawson Trails Boulevard (Tomah Road north to the Town Boundary)**

The County is responsible for the design and construction of the section of Dawson Trails Boulevard located from Tomah Road to the southern limits of the Town of Castle Rock that also coincides with the southern limits of the Dawson Trails Development. The County's project includes improvements at the existing Bear Dance Road and Tomah Road intersection and extends north approximately 6,000-feet.

The cost to construct the County's portion of the relocated West I-25 Frontage Road Project is currently estimated to be **\$10 million**; and the County is responsible for completing this segment of Dawson Trails Boulevard before **October 31, 2025**.

The County is solely responsible for all project costs and construction is currently anticipated to begin no sooner than fourth quarter 2023 to be substantially completed in second quarter 2025 (pending completion of the final right-of-way acquisitions).

The County is responsible for managing all aspects of this project during the pre-construction phase and the construction phase, including acquisition of all additional right-of-way needed to construct the Project. Additionally, the County is responsible to own, operate and maintain the improvements associated with this segment of Dawson Trails Boulevard, as well as the additional improvements at the Bear Dance / Tomah Road Intersection.

4. **Term and Time of Performance.** This Agreement shall commence upon the Effective Date and shall continue until twelve (12) months following completion of CVI Projects and the Dawson Trails Boulevard projects. This Agreement will terminate on or before **October 31, 2025**, if the Town has not awarded all construction contract(s) and notice to proceeds have not been given to the contractor(s) to complete the work associated with the Town's segment of Dawson Trails Boulevard, **Package 1** and **Package 2**.

5. **Remedies.** The Parties hereto acknowledge and agree that each Party may exercise all rights and remedies in law or in equity, by a decree in specific performance, or such other legal or equitable relief as may be available, including a return of the funds described in **Sections 2 and Section 3** of this Agreement if actual construction the Town's segment of Dawson Trails Boulevard, and **Package 1** or **Package 2** does not commence on or before **October 31, 2025**, unless an extension is agreed upon in writing by both Parties on or before **October 15, 2025**. This Section shall survive the termination of this Agreement.

6. **Notice.** Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, addressed to the Party to whom such notice is to be given, at the address set forth below, or at such other address as has been previously furnished in writing, to the other Party. Such notice shall be deemed to have been given when deposited in the United States mail.

Town:

Town of Castle Rock

100 N. Wilcox Street
Castle Rock, Colorado 80104
Attention: Dan Sailer, P.E., Public Works Director
Email: DSailer@crgov.com With an electronic copy sent to
legal@crgov.com

Douglas County: Douglas County
100 Third Street
Castle Rock, Colorado 80104
Attention: Janet Herman, P.E. Public Works Eng. Director
Email: jherman@douglas.co.us
With an electronic copy sent to attorney@douglas.co.us

7. **Appropriation.** Pursuant to section 29-1-110, C.R.S., any financial obligations of the Town and the County contained herein that are payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available on an annual basis.

8. **Additional Documents.** The Parties agree to execute any additional documents or take any additional action that is necessary to carry out the intent of this Agreement.

9. **Colorado Law.** The laws of the State of Colorado shall govern this Agreement. Venue for any action hereunder shall be in the District Court, County of Douglas, State of Colorado and the Parties waive any right to remove any action to any other court, whether state or federal.

10. **Separate Entities.** The Parties enter into this Agreement as separate, independent governmental entities and shall maintain such status throughout.

11. **No Third-Party Beneficiaries.** The enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement, shall be strictly reserved to the Parties, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person under such Agreement. Any beneficiary of the terms and conditions of this Agreement are not intended beneficiaries but are incidental beneficiaries only.

12. **No Waiver of Governmental Immunity Act.** The Parties hereto understand and agree that the Parties, their commissioners, board members, officials, officers, directors, agents and employees, are relying on, and do not waive or intend to waive by any provisions of this Agreement, the monetary limitations or any other rights, immunities and protections provided by the Colorado Governmental Immunity Act, sections 24-10-101 to 120, C.R.S., or otherwise available to the County and the Town.

13. **Entirety.** This Agreement merges and supersedes all prior negotiations, representations and agreements between the Parties hereto relating to the subject matter hereof and constitutes the entire agreement between the Parties concerning the subject matter hereof.

IN WITNESS WHEREOF, this Agreement is executed by the Parties hereto as of the date first written above.

TOWN:

ATTEST:

TOWN OF CASTLE ROCK

Lisa Anderson, Town Clerk

Approved as to form:

Jason Gray, Mayor

Approved as to content:

Michael J. Hyman, Town Attorney

Daniel Sailer, Director of Public Works

[Douglas County signature page follows]

**BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY**

Abe Laydon, Chair

ATTEST:

APPROVED AS TO CONTENT:

Emily Wrenn,
Clerk to the Board

Douglas J. DeBord,
County Manager

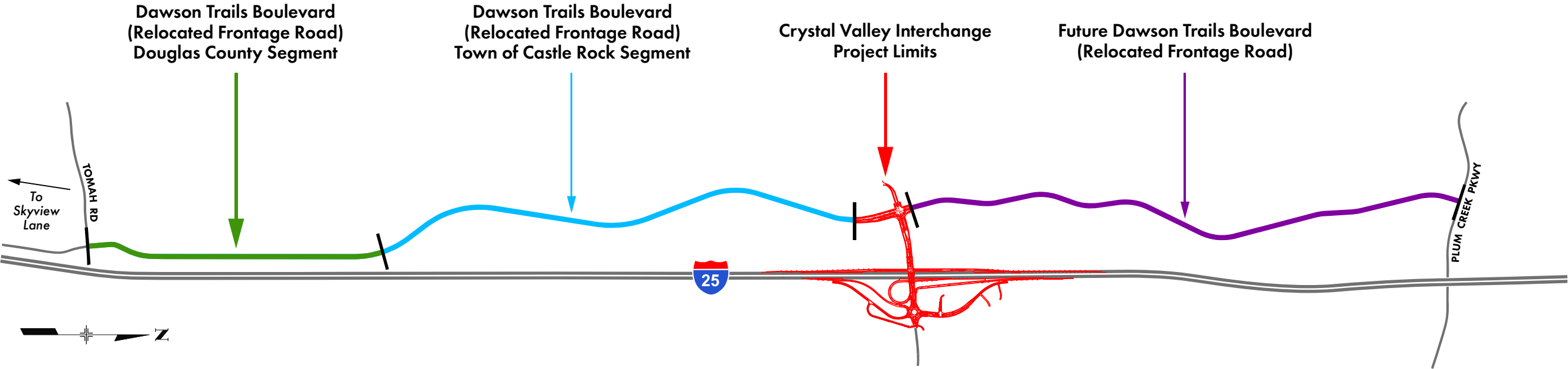
APPROVED AS TO FORM:

APPROVED AS TO FISCAL CONTENT:

Christopher Pratt,
Senior County Attorney

Andrew Copland,
Director of Finance

Exhibit A







Sheet Revisions		
Date	Description	Initials
5-18-20	Changed PE-1 to TCE-1	BDL
7-27-22	Revised Parcel 8	BDL
	Deleted 8B, AC-8 & AC-8A	

Sheet Revisions		
Date	Description	Initials

Sheet Revisions		
Date	Description	Initials

WOOLPERT
DESIGN | GEOSPATIAL | INFRASTRUCTURE
720 S. COLORADO BLVD. #1200-S
GLENDALE, CO 80246
(303) 925-1400 PHONE
(303) 925-1401 FAX

Right of Way Plans			
Plan Sheet			
Project Number: 17638			
Project Location: I-25 - CRYSTAL VALLEY/ DAWSON RIDGE INTERCHANGE			
Project Code	Last Mod. Date	Subset	Sheet No.
17638	04-25-2023	8.01 to 8.01	8.01

- 3D-9 DAWSON RIDGE METRO DIST. NO. 1 c/o FOKESTAD FAZEKAS BARRICK & PATOILE
- 3E-9 18 S. WILCOX ST., STE 200 CASTLE ROCK, CO 80104
- 3A-10 3D-9 & 3E-9 FROM SCHAFFER, 3A-10 FROM LAURA PARK DIMON; ALL TO GO TO CDDT.

SW 1/4 SECTION 22

- 7 DOUGLAS COUNTY BOARD OF COUNTY COMMISSIONERS 100 - 3RD ST.
- 7A CASTLE ROCK, CO 80104 FROM CRYSTAL VALLEY & MORGANTI;
- 7B 7A, 7B & 7C TO GO TO CDDT, 7 & 7D TO GO TO CASTLE ROCK.
- 7C
- 7D
- CE

Township 8 South
Range 67 West
Sixth Principal Meridian

NW 1/4 SECTION 22

CENTER SECTION 22

- 3-2 SHELDON G. BOONE TESTAMENTARY FAMILY TRUST AND MARGARET D. BOONE, P.O. BOX 656, 1372 SOUTH I-25, CASTLE ROCK, CO 80104, subject to rights of Dawson Ridge Metropolitan District No. 1 (per title commitment #51-H0322336-266-NCS);
- 3A-2 DAWSON RIDGE METROPOLITAN DISTRICT NO. 1 c/o FOKESTAD FAZEKAS BARRICK & PATOILE 18 S. WILCOX ST., SUITE 200 CASTLE ROCK, CO 80104 (Per Douglas County Assessor's office) *** see NOTE ***
- 3B-2 3-2 & 3B-2 TO GO TO CDDT, 3A-2 TO GO TO CASTLE ROCK.
- AC-3

- 2A SHELDON G. BOONE TESTAMENTARY FAMILY TRUST AND MARGARET D. BOONE, P.O. BOX 656, 1372 SOUTH I-25, CASTLE ROCK, CO 80104
- 2B 2A & 2B TO GO TO CDDT,
- 2C 2C & PE-2 TO GO TO CASTLE ROCK.
- PE-2
- AC-2

- 1 MICHAEL ROSS VANDER MEULEN AND IRENE KAYE VANDER MEULEN P.O. BOX 1077, 1152 SOUTH I-25, CASTLE ROCK, CO 80104 TO GO TO CASTLE ROCK.
- TCE-1

- 4 TOWN OF CASTLE ROCK 110 N. WILCOX ST., CASTLE ROCK, CO 80104 FROM CASTLE SPRINGS LAND CO.;
- 4A 4A TO GO TO CDDT.
- AC-4

- 4B TOWN OF CASTLE ROCK 110 N. WILCOX ST., CASTLE ROCK, CO 80104 (DOUGLAS LANE)
- 4C 4B TO GO TO CDDT.

- 5 DOUGLAS COUNTY BOARD OF COUNTY COMMISSIONERS 100 - 3RD ST., CASTLE ROCK, CO 80104
- 5A 5 & 5C FROM LIBUTTI, 5A FROM FMH; 5C TO GO TO CASTLE ROCK.
- 5C

- 5B DOUGLAS COUNTY BOARD OF COUNTY COMMISSIONERS 100 - 3RD ST., CASTLE ROCK, CO 80104 FROM TRUJILLO.

- 6 DOUGLAS COUNTY BOARD OF COUNTY COMMISSIONERS 100 - 3RD ST. CASTLE ROCK, CO 80104 FROM DAWSON RIDGE METRO DISTRICT NO. 1; TO GO TO CDDT.

*** NOTE *** There is a discrepancy between the Assessor's records and who Heritage Title Company believes to be the owner of Parcels 3-2, 3A-2, and 3B-2. Eric Stearns at Heritage believes that although there was an Order of Possession, there was no Final Order filed and therefore these properties are still owned by the Boones, subject to the rights of Dawson Ridge Metropolitan District No. 1. Eric can be contacted at 303-446-2555 or estearns@heritagetco.com if necessary.

- 8A HYPERION FUND L.P. A COLORADO LIMITED PARTNERSHIP 1417 VIA ANITA PACIFIC PALISADES, CA 90272
- 8B 8A TO GO TO CDDT, 8B TO GO TO CASTLE ROCK
- 8C 8B, AC-8Rev & AC-8ARev DELETED

- 9 1532 SOUTH I-25 LLC 26 GARDEN CENTER BROOMFIELD, CO 80020-7085
- 9A TO GO TO CDDT.

- 10 DOUGLAS COUNTY BOARD OF COUNTY COMMISSIONERS 100 - 3RD ST. CASTLE ROCK, CO 80104; FROM THOMAS E. & SHARON K. READ; 10A TO GO TO CASTLE ROCK.
- 10A
- AC-10

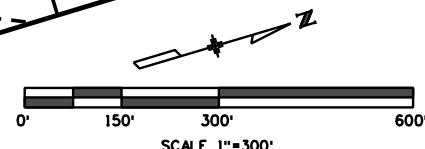
- 11 GUPTA B. KUNA & MANDRAMA KUNA 1285 S. RENEE PL. PUEBLO WEST, CO 81007 TO GO TO CASTLE ROCK.

- 12 UNCLAIMED PARCEL TOWN OF CASTLE ROCK, DOUGLAS COUNTY & RIGHTS OF THE PUBLIC IN AND TO PRESCRIPTIVE RIGHT-OF-WAY; TO GO TO CASTLE ROCK. ?????

SE 1/4 SECTION 22

NE 1/4 SECTION 22

Exhibit C



4/25/2023 2:05:06 PM G:\GIS\Projects\77570_1-25_Crystal_ValleyDawson_Ridge_RDW\SV\17638\RDW_Survey\Drawings\17638RDW_sheet_8.01_Ownership.dgn

Exhibit D

The Town to prepare and insert individual parcel legal descriptions and individual parcel exhibits for all the parcels that the County plans to Quit Claim to the Town as shown in **Exhibit C** and listed in the IGA.

Additionally, the Town is to update **Exhibit C**.

EXHIBIT "A"

PROJECT NUMBER: 17638

PARCEL NUMBER: 3A-10

PROJECT CODE: 17638

DATE: May 30, 2018

DESCRIPTION

A tract or parcel of land No. 3A-10 of the Department of Transportation, State of Colorado Project No. 17638 containing 10,377 sq. ft. (0.238 acres), more or less, being all of parcel EFR-A recorded in Reception Number 198711490 in the East half of Section 22, Township 8 South, Range 67 West, of the Sixth Principal Meridian, in Douglas County, Colorado, said tract or parcel being more particularly described as follows:

Commencing at the East 1/4 corner of said Section 22, Thence S. 60°22'33" W., a distance of 2,717.96 feet to the East right-of-way line of Interstate 25 and the TRUE POINT OF BEGINNING;

1. Thence S. 89°47'32" E., a distance of 101.34 feet;
2. Thence, on the arc of a curve to the left, a radius of 707.64 feet, a central angle of 16°14'36", a distance of 200.61 feet, (a chord bearing of S. 36°27'24" W., a chord distance of 199.94 feet;
3. Thence S. 34°31'59" W., a distance of 52.81 feet;
4. Thence S. 19°08'14" W., a distance of 34.97 feet;
5. Thence N. 85°44'53" W., a distance of 6.05 feet to said East right-of-way line of said Interstate 25;
6. Thence, along said East right-of-way line of Interstate 25, N. 15°18'00" E., a distance of 245.99 feet, more or less, to the TRUE POINT OF BEGINNING.

The above described parcel contains 10,377 sq. ft. (0.238 acres), more or less.

Basis of Bearings: All bearings are based on the East line of the NE 1/4 of said Section 22. Said line bears N. 0°10'53" W. a distance of 2660.90 feet. Said line is monumented at the East 1/4 corner by a 3 1/2-inch Aluminum Cap and stamped -T8S R67W, E1/4, S22, S23, PLS 23524 2005-. Said line is monumented at the northeast corner by an 18-inch x 14-inch x 8-foot high concrete pillar.

For and on Behalf of the
Town of Castle Rock
Brandon D. Lee, PLS 37894
116 Inverness Drive East, Suite 105
Englewood, CO 80112

EXHIBIT "A"

PROJECT NUMBER: CC 0252-404

PARCEL NUMBER: 5

PROJECT CODE: 17638

DATE: May 30, 2018

DESCRIPTION

A tract or parcel of land No. 5 of the Town of Castle Rock, State of Colorado Project No. CC 0252-404 containing 31,921 sq. ft. (0.733 acres), more or less, in the East half of Section 22, Township 8 South, Range 67 West, of the Sixth Principal Meridian, in Douglas County, Colorado, said tract or parcel being more particularly described as follows:

Commencing at the East 1/4 corner of said Section 22. Thence S. 65°32'41" W., a distance of 1,218.30 feet, to the TRUE POINT OF BEGINNING;

1. Thence N. 68°14'59" W., a distance of 88.36 feet;
2. Thence S. 89°47'57" W., a distance of 121.09 feet;
3. Thence N. 00°16'30" W., a distance of 151.86 feet;
4. Thence S. 89°27'50" E., a distance of 203.08 feet;
5. Thence S. 00°15'25" E., a distance of 182.28 feet, more or less, to the TRUE POINT OF BEGINNING.

The above described parcel contains 31,921 sq. ft. (0.733 acres), more or less.

Basis of Bearings: All bearings are based on the East line of the NE 1/4 of said Section 22. Said line bears N. 0-10'53" W. a distance of 2660.90'. Said line is monumented at the East 1/4 corner by a 3 1/2-inch Aluminum Cap and stamped -T8S R67W, E1/4, S22, S23, PLS 23524 2005-. Said line is monumented at the northeast corner by a 18-inch x 14-inch x 8-foot high concrete pillar.

For and on Behalf of the
Town of Castle Rock
Brandon D. Lee, PLS 37894
116 Inverness Drive East, Suite 105
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EXHIBIT "A"

PROJECT NUMBER: 17638

PARCEL NUMBER: 5A

PROJECT CODE: 17638

DATE: May 30, 2018

DESCRIPTION

A tract or parcel of land No. 5A of the County of Douglas, State of Colorado Project No. 17638 containing 30,871 sq. ft. (0.709 acres), more or less, being part of that parcel recorded in Reception Number 2011036243 in the East half of Section 22, Township 8 South, Range 67 West, of the Sixth Principal Meridian, in Douglas County, Colorado, said tract or parcel being more particularly described as follows:

Commencing at the East 1/4 corner of said Section 22, Thence S. $43^{\circ}16'44''$ W., a distance of 1,026.24 feet, to the TRUE POINT OF BEGINNING;

1. Thence N. $72^{\circ}13'31''$ W., a distance of 370.92 feet;
2. Thence N. $72^{\circ}03'34''$ W., a distance of 208.59 feet;
3. Thence N. $72^{\circ}03'34''$ W., a distance of 157.21 feet;
4. Thence S. $89^{\circ}58'50''$ E., a distance of 159.45 feet;
5. Thence S. $80^{\circ}45'33''$ E., a distance of 96.22 feet;
6. Thence S. $67^{\circ}37'07''$ E., a distance of 146.46 feet;
7. Thence S. $68^{\circ}21'29''$ E., a distance of 62.34 feet;
8. Thence S. $67^{\circ}30'25''$ E., a distance of 280.08 feet;
9. Thence S. $12^{\circ}16'53''$ W., a distance of 25.07 feet, more or less, to the TRUE POINT OF BEGINNING.

The above described parcel contains 30,871 sq. ft. (0.709 acres), more or less.

Basis of Bearings: All bearings are based on the East line of the NE 1/4 of said Section 22. Said line bears N. 0°10'53" W. a distance of 2660.90 feet. Said line is monumented at the East 1/4 corner by a 3 1/2-inch Aluminum Cap and stamped -T8S R67W, E1/4, S22, S23, PLS 23524 2005-. Said line is monumented at the northeast corner by an 18-inch x 14-inch x 8-foot high concrete pillar.

For and on Behalf of the
Town of Castle Rock
Brandon D. Lee, PLS 37894
116 Inverness Drive East, Suite 105
Englewood, CO 80112

EXHIBIT "A"

PROJECT NUMBER: 17638

PARCEL NUMBER: 5B

PROJECT CODE: 17638

DATE: May 30, 2018

DESCRIPTION

A tract or parcel of land No. 5B of the County of Douglas, State of Colorado Project No. 17638 containing 39,970 sq. ft. (0.918 acres), more or less, being part of that parcel recorded in Reception Number 2011036243 in the East half of Section 22, Township 8 South, Range 67 West, of the Sixth Principal Meridian, in Douglas County, Colorado, said tract or parcel being more particularly described as follows:

Commencing at the East 1/4 corner of said Section 22, Thence S. 43°16'44" W., a distance of 1,026.24 feet, to the TRUE POINT OF BEGINNING;

1. Thence S. 12°16'53" W., a distance of 85.04 feet;
2. Thence, on the arc of a curve to the right, a radius of 3,434.00 feet, a central angle of 05°55'06", a distance of 354.71 feet, (a chord bearing of N. 76°44'10" W., a chord distance of 354.55 feet);
3. Thence N. 79°41'46" W., a distance of 51.25 feet;
4. Thence N. 29°43'03" E., a distance of 121.83 feet;
5. Thence S. 72°13'31" E., a distance of 370.92 feet, more or less, to the TRUE POINT OF BEGINNING.

The above described parcel contains 39,970 sq. ft. (0.918 acres), more or less.

Basis of Bearings: All bearings are based on the East line of the NE 1/4 of said Section 22. Said line bears N. 0°10'53" W. a distance of 2660.90 feet. Said line is monumented at the East 1/4 corner by a 3 1/2-inch Aluminum Cap and stamped -T8S R67W, E1/4, S22, S23, PLS 23524 2005-. Said line is monumented at the northeast corner by an 18-inch x 14-inch x 8-foot high concrete pillar.

For and on Behalf of the
Town of Castle Rock
Brandon D. Lee, PLS 37894
116 Inverness Drive East, Suite 105
Englewood, CO 80112

EXHIBIT "A"

PROJECT NUMBER: CC 0252-404

PARCEL NUMBER: 5C

PROJECT CODE: 17638

DATE: May 30, 2018

DESCRIPTION

A tract or parcel of land No. 5C of the Department of Transportation, State of Colorado Project No. CC 0252-404 containing 130,377 sq. ft. (2.993 acres), more or less, in SE $\frac{1}{4}$ of Section 22, Township 8 South, Range 67 West, of the 6th Principal Meridian, in Douglas County, Colorado, said tract or parcel being more particularly described as follows:

Commencing at the East $\frac{1}{4}$ corner of said Section 22. Thence S. $57^{\circ}16'18''$ W., a distance of 606.11 feet, to the TRUE POINT OF BEGINNING;

1. Thence S. $12^{\circ}16'53''$ W., a distance of 70.66 feet;
2. Thence N. $77^{\circ}55'30''$ W., a distance of 100.00 feet;
3. Thence S. $12^{\circ}16'53''$ W., a distance of 289.06 feet;
4. Thence N. $89^{\circ}25'46''$ W., a distance of 40.05 feet;
5. Thence N. $68^{\circ}14'59''$ W., a distance of 414.25 feet;
6. Thence N. $00^{\circ}15'25''$ W., a distance of 182.28 feet;

7. Thence S. 89°27'50" E., a distance of 599.96 feet, more or less, to the TRUE POINT OF BEGINNING.

The above described parcel contains 130,377 sq. ft. (2.993 acres), more or less.

Basis of Bearings: All bearings are based on the East line of the NE 1/4 of said Section 22. Said line bears N. 0-10'53" W. a distance of 2660.90'. Said line is monumented at the East 1/4 corner by a 3 1/2-inch Aluminum Cap and stamped -T8S R67W, E1/4, S22, S23, PLS 23524 2005-. Said line is monumented at the northeast corner by a 18-inch x 14-inch x 8-foot high concrete pillar.

For and on Behalf of the
Town of Castle Rock
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116 Inverness Drive East, Suite 105
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EXHIBIT "A"

PROJECT NUMBER: 17638

PARCEL NUMBER: 6

PROJECT CODE: 17638

DATE: May 30, 2018

DESCRIPTION

A tract or parcel of land No. 6 of the Department of Transportation, State of Colorado Project No. 17638 containing 4,701 sq. ft. (0.108 acres), more or less, being all of parcel 1 recorded in Reception Number 2011036243 in the East half of Section 22, Township 8 South, Range 67 West, of the Sixth Principal Meridian, in Douglas County, Colorado, said tract or parcel being more particularly described as follows:

Commencing at the East 1/4 corner of said Section 22, Thence S. 75°31'05" W., a distance of 2,088.60 feet, to the TRUE POINT OF BEGINNING;

1. Thence S. 89°49'50" E., a distance of 149.97 feet;
2. Thence S. 15°18'00" W., a distance of 64.95 feet;
3. Thence N. 64°35'39" W., a distance of 147.06 feet, more or less, to the TRUE POINT OF BEGINNING.

The above described parcel contains 4,701 sq. ft. (0.108 acres), more or less.

Basis of Bearings: All bearings are based on the East line of the NE 1/4 of said Section 22. Said line bears N. 0°10'53" W. a distance of 2660.90 feet. Said line is monumented at the East 1/4 corner by a 3 1/2-inch Aluminum Cap and stamped -T8S R67W, E1/4, S22, S23, PLS 23524 2005-. Said line is monumented at the northeast corner by an 18-inch x 14-inch x 8-foot high concrete pillar.

For and on Behalf of the
Town of Castle Rock
Brandon D. Lee, PLS 37894
116 Inverness Drive East, Suite 105
Englewood, CO 80112

EXHIBIT "A"

PROJECT NUMBER: 17638

PARCEL NUMBER: 7

PROJECT CODE: 17638

DATE: May 30, 2018

DESCRIPTION

A tract or parcel of land No. 7 of the County of Douglas, State of Colorado Project No. 17638 containing 316,730 sq. ft. (7.271 acres), more or less, being part of that parcel recorded in Reception Number 2006002996 in the East half of Section 22, Township 8 South, Range 67 West, of the Sixth Principal Meridian, in Douglas County, Colorado, said tract or parcel being more particularly described as follows:

Commencing at the East 1/4 corner of said Section 22, Thence S. 60°20'09" W., a distance of 1,487.92 feet, to the TRUE POINT OF BEGINNING;

1. Thence S. 12°44'41" W., a distance of 1,028.63 feet;
2. Thence N. 69°05'32" W., a distance of 331.80 feet;
3. Thence N. 13°00'02" E., a distance of 283.11 feet;
4. Thence N. 13°06'38" E., a distance of 78.49 feet;
5. Thence N. 13°06'38" E., a distance of 553.26 feet;
6. Thence S. 88°54'49" E., a distance of 329.95 feet, more or less, to the TRUE POINT OF BEGINNING.

The above described parcel contains 316,730 sq. ft. (7.271 acres), more or less.

Basis of Bearings: All bearings are based on the East line of the NE 1/4 of said Section 22. Said line bears N. 0°10'53" W. a distance of 2660.90 feet. Said line is monumented at the East 1/4 corner by a 3 1/2-inch Aluminum Cap and stamped -T8S R67W, E1/4, S22, S23, PLS 23524 2005-. Said line is monumented at the northeast corner by an 18-inch x 14-inch x 8-foot high concrete pillar.

For and on Behalf of the
Town of Castle Rock
Brandon D. Lee, PLS 37894
116 Inverness Drive East, Suite 105
Englewood, CO 80112

EXHIBIT "A"

PROJECT NUMBER: 17638

PARCEL NUMBER: 7A

PROJECT CODE: 17638

DATE: May 30, 2018

DESCRIPTION

A tract or parcel of land No. 7A of the Town of Castle Rock, State of Colorado Project No. 17638 containing 41,634 sq. ft. (0.956 acres), more or less, being part of that parcel recorded in Reception Number 2011036243 in the East half of Section 22, Township 8 South, Range 67 West, of the Sixth Principal Meridian, in Douglas County, Colorado, said tract or parcel being more particularly described as follows:

Commencing at the East 1/4 corner of said Section 22, Thence S. 69°16'38" W., a distance of 1,956.84 feet, to the TRUE POINT OF BEGINNING;

1. Thence N. 09°17'48" E., a distance of 171.72 feet;
2. Thence S. 89°49'49" E., a distance of 227.79 feet;
3. Thence S. 13°06'38" W., a distance of 212.03 feet;
4. Thence N. 79°41'47" W., a distance of 210.83 feet, more or less, to the TRUE POINT OF BEGINNING.

The above described parcel contains 41,634 sq. ft. (0.956 acres), more or less.

Basis of Bearings: All bearings are based on the East line of the NE 1/4 of said Section 22. Said line bears N. 0°10'53" W. a distance of 2660.90 feet. Said line is monumented at the East 1/4 corner by a 3 1/2-inch Aluminum Cap and stamped -T8S R67W, E1/4, S22, S23, PLS 23524 2005-. Said line is monumented at the northeast corner by an 18-inch x 14-inch x 8-foot high concrete pillar.

For and on Behalf of the
Town of Castle Rock
Brandon D. Lee, PLS 37894
116 Inverness Drive East, Suite 105
Englewood, CO 80112

EXHIBIT "A"

PROJECT NUMBER: 17638

PARCEL NUMBER: 7B

PROJECT CODE: 17638

DATE: May 30, 2018

DESCRIPTION

A tract or parcel of land No. 7B of the Department of Transportation, State of Colorado Project No. 17638 containing 12,741 sq. ft. (0.292 acres), more or less, being part of that parcel recorded in Reception Number 2011036243 in the East half of Section 22, Township 8 South, Range 67 West, of the Sixth Principal Meridian, in Douglas County, Colorado, said tract or parcel being more particularly described as follows:

Commencing at the East 1/4 corner of said Section 22, Thence S. 70°31'22" W., a distance of 2,030.71 feet, to the TRUE POINT OF BEGINNING;

1. Thence N. 15°18'00" E., a distance of 79.84 feet;
2. Thence N. 15°18'00" E., a distance of 15.23 feet;
3. Thence N. 15°18'00" E., a distance of 64.95 feet;
4. Thence S. 89°49'49" E., a distance of 69.77 feet;
5. Thence S. 09°17'48" W., a distance of 171.72 feet;
6. Thence N. 79°41'47" W., a distance of 85.64 feet, more or less, to the TRUE POINT OF BEGINNING.

The above described parcel contains 12,741 sq. ft. (0.292 acres), more or less.

Basis of Bearings: All bearings are based on the East line of the NE 1/4 of said Section 22. Said line bears N. 0°10'53" W. a distance of 2660.90 feet. Said line is monumented at the East 1/4 corner by a 3 1/2-inch Aluminum Cap and stamped -T8S R67W, E1/4, S22, S23, PLS 23524 2005-. Said line is monumented at the northeast corner by an 18-inch x 14-inch x 8-foot high concrete pillar.

For and on Behalf of the
Town of Castle Rock
Brandon D. Lee, PLS 37894
116 Inverness Drive East, Suite 105
Englewood, CO 80112

EXHIBIT "A"

PROJECT NUMBER: 17638

PARCEL NUMBER: 7C

PROJECT CODE: 17638

DATE: May 30, 2018

DESCRIPTION

A tract or parcel of land No. 7C of the Town of Castle Rock, State of Colorado Project No. 17638 containing 66,013 sq. ft. (1.515 acres), more or less, being part of that parcel recorded in Reception Number 2006002996 in the East half of Section 22, Township 8 South, Range 67 West, of the Sixth Principal Meridian, in Douglas County, Colorado, said tract or parcel being more particularly described as follows:

Commencing at the East 1/4 corner of said Section 22, Thence S. 60°20'09" W., a distance of 1,487.92 feet, to the TRUE POINT OF BEGINNING;

1. Thence N. 88°54'49" W., a distance of 329.95 feet;
2. Thence N. 13°06'38" E., a distance of 212.03 feet;
3. Thence N. 89°11'12" E., a distance of 169.96 feet;
4. Thence S. 72°03'34" E., a distance of 157.21 feet;
5. Thence S. 12°44'41" W., a distance of 170.95 feet, more or less, to the TRUE POINT OF BEGINNING.

The above described parcel contains 66,013 sq. ft. (1.515 acres), more or less.

Basis of Bearings: All bearings are based on the East line of the NE 1/4 of said Section 22. Said line bears N. 0°10'53" W. a distance of 2660.90 feet. Said line is monumented at the East 1/4 corner by a 3 1/2-inch Aluminum Cap and stamped -T8S R67W, E1/4, S22, S23, PLS 23524 2005-. Said line is monumented at the northeast corner by an 18-inch x 14-inch x 8-foot high concrete pillar.

For and on Behalf of the
Town of Castle Rock
Brandon D. Lee, PLS 37894
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EXHIBIT "A"

PROJECT NUMBER: CC 0252-404

PARCEL NUMBER: 7D

PROJECT CODE: 17638

DATE: May 30, 2018

DESCRIPTION

A tract or parcel of land No. 7D of the Department of Transportation, State of Colorado Project No. CC 0252-404 containing 27,156 sq. ft. (0.623 acres), more or less, in the SE ¼ of Section 22, Township 8 South, Range 67 West, of the 6th Principal Meridian, in Douglas County, Colorado, said tract or parcel being more particularly described as follows:

Commencing at the East 1/4 corner of said Section 22, thence S. 60°20'09" W., a distance of 1,487.92 feet to the TRUE POINT OF BEGINNING;

1. Thence N. 12°44'41" E., a distance of 170.95 feet, to a point on the South line of Parcel 5 per Reception No. 2011036243 as recorded at the Clerk and Recorder, Douglas County, CO.;
2. Thence along said South line, S. 72°03'34" E., a distance of 208.59 feet;
3. Thence, S. 29°43'03" W., a distance of 121.83 feet;
4. Thence N. 88°55'05" W., a distance of 175.80 feet, more or less, to the TRUE POINT OF BEGINNING.

The above described parcel contains 27,156 sq. ft. (0.623 acres), more or less.

Basis of Bearings: All bearings are based on the East line of the NE 1/4 of said Section 22. Said line bears N. 0-10'53" W. a distance of 2660.90'. Said line is monumented at the East 1/4 corner by a 3 1/2-inch Aluminum Cap and stamped -T8S R67W, E1/4, S22, S23, PLS 23524 2005-. Said line is monumented at the northeast corner by a 18-inch x 14-inch x 8-foot high concrete pillar.

For and on Behalf of the
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EXHIBIT "A"

PROJECT NUMBER: CC 0252-404

PARCEL NUMBER: 10

PROJECT CODE: 17638

DATE: May 30, 2018

DESCRIPTION

A tract or parcel of land No. 10 of the County of Douglas, State of Colorado Project No. CC 0252-404 containing 233,585 sq. ft. (5.362 acres), more or less, in the East half of Section 22, Township 8 South, Range 67 West, of the Sixth Principal Meridian, in Douglas County, Colorado, said tract or parcel being more particularly described as follows:

Commencing at the East 1/4 corner of said Section 22, thence S. 53°55'25" W., a distance of 3,083.03 feet, to the TRUE POINT OF BEGINNING;

1. Thence N. 15°18'00" E., a distance of 76.51 feet;
2. Thence N. 43°19'03" E., a distance of 545.96 feet;
3. Thence S. 89°50'09" E., a distance of 330.96 feet;
4. Thence S. 13°00'02" W., a distance of 484.38 feet;
5. Thence N. 89°49'25" W., a distance of 616.74 feet, more or less, to the TRUE POINT OF BEGINNING.

The above described parcel contains 233,585 sq. ft. (5.362 acres), more or less.

Basis of Bearings: All bearings are based on the East line of the NE 1/4 of said Section 22. Said line bears N. 0-10'53" W. a distance of 2660.90'. Said line is monumented at the East 1/4 corner by a 3 1/2-inch Aluminum Cap and stamped -T8S R67W, E1/4, S22, S23, PLS 23524 2005-. Said line is monumented at the northeast corner by a 18-inch x 14-inch x 8-foot high concrete pillar.

For and on Behalf of the
Town of Castle Rock
Brandon D. Lee, PLS 37894
116 Inverness Drive East, Suite 105
Englewood, CO 80112

EXHIBIT "A"

PROJECT NUMBER: 17638

PARCEL NUMBER: 10A

PROJECT CODE: 17638

DATE: May 30, 2018

DESCRIPTION

A tract or parcel of land No. 10A of the Department of Transportation, State of Colorado Project No. 17638 containing 42,559 sq. ft. (0.977 acres), more or less, being part of that parcel recorded in Reception Number 2006025882 in the East half of Section 22, Township 8 South, Range 67 West, of the Sixth Principal Meridian, in Douglas County, Colorado, said tract or parcel being more particularly described as follows:

Commencing at the East 1/4 corner of said Section 22, Thence S. 57°20'07" W., a distance of 2,491.04 feet, to the TRUE POINT OF BEGINNING;

1. Thence S. 43°19'03" W., a distance of 545.96 feet to the East right-of-way line of Interstate 25;
2. Thence, along said East right-of-way line, N. 15°18'00" E., a distance of 166.82 feet;
3. Thence S. 85°44'53" E., a distance of 6.05 feet;
4. Thence N. 19°08'14" E., a distance of 34.97 feet;
5. Thence N. 34°31'59" E., a distance of 52.81 feet;
6. Thence, on the arc of a curve to the right, a radius of 707.64 feet, a central angle of 16°14'36", a distance of 200.61 feet, (a chord bearing of N. 36°27'24" E., a chord distance of 199.94 feet);
7. Thence S. 89°47'32" E., a distance of 164.29 feet, more or less, to the TRUE POINT OF BEGINNING.

The above described parcel contains 42,559 sq. ft. (0.977 acres), more or less.

Basis of Bearings: All bearings are based on the East line of the NE 1/4 of said Section 22. Said line bears N. 0°10'53" W. a distance of 2660.90 feet. Said line is monumented at the East 1/4 corner by a 3 1/2-inch Aluminum Cap and stamped -T8S R67W, E1/4, S22, S23, PLS 23524 2005-. Said line is monumented at the northeast corner by an 18-inch x 14-inch x 8-foot high concrete pillar.

For and on Behalf of the
Town of Castle Rock
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EXHIBIT "A"

PROJECT NUMBER: CC 0252-404

PARCEL NUMBER: 12

PROJECT CODE: 17638

DATE: May 30, 2018

DESCRIPTION

A tract or parcel of land, No. 12, of the Department of Transportation, State of Colorado, Project No. CC 0252-404 containing 16,723 sq. ft. (0.384 acres), more or less, in the SE 1/4 of Section 22, Township 8 S, Range 67 W, of the 6th Principal Meridian, in Douglas County, Colorado, said tract or parcel being more particularly described as follows:

Commencing at the East 1/4 corner of said Section 22, thence S. 59°43'28" W., a distance of 1,175.21 feet to the TRUE POINT OF BEGINNING;

1. Thence N. 17°25'19" E., a distance of 47.13 feet, to a point on the North Right of Way line of Douglas Lane;
2. Thence, along said North Right of Way line, S. 68°14'59" E., a distance of 297.77 feet;
3. Thence, continuing along said North Right of Way line, S. 89°25'46" E., a distance of 40.05 feet, to a point on the West Right of Way line of the Union Pacific Railroad;
4. Thence along said West Right of Way line, S. 12°16'53" W., a distance of 65.88 feet;
5. Thence N. 67°30'25" W., a distance of 280.08 feet;

6. Thence N. 68°21'29" W., a distance of 62.34 feet, more or less, to the TRUE POINT OF BEGINNING.

The above described parcel contains 16,723 sq. ft. (0.384 acres), more or less.

Basis of Bearings: All bearings are based on the East line of the NE 1/4 of said Section 22. Said line bears N. 0°10'54" W. a distance of 2660.90'. Said line is monumented at the E1/4 corner by a 3 1/2 inch Aluminum Cap and stamped -WESTERN STATES SURVEYING, INC., T8S R67W, 1/4, S22|S23, 2005, PLS 23524-. Said line is monumented at the NE corner by a 1.2 foot by 1.4 foot Concrete pillar.

For and on Behalf of the
Town of Castle Rock
Brandon D. Lee, PLS 37894
116 Inverness Drive East, Suite 105
Englewood, CO 80112

Recorded at _____ o'clock _____ M., _____
 Reception No. _____ Recorder.

QUIT CLAIM DEED

Exhibit E

THIS DEED, Made this 12th day of July, 1988,
 between County of Douglas

of the *County of Douglas and State of
 Colorado, grantor(s), and Town of Castle Rock

whose legal address is 318 Fourth St, Castle Rock,

of the County of Douglas and State of Colorado, grantee(s),

WITNESSETH, That the grantor(s), for and in consideration of the sum of
 One Dollar and other good and valuable consideration.....~~XXXXXX~~
 the receipt and sufficiency of which is hereby acknowledged, ha s remised, released, sold, conveyed and QUIT CLAIMED, and by
 these presents doe s remise, release, sell, convey and QUIT CLAIM unto the grantee(s), its heirs, successors and assigns,
 forever, all the right, title, interest, claim and demand which the grantor(s) ha s in and to the real property, together with
 improvements, if any, situate, lying and being in the County of Douglas and State of
 Colorado, described as follows:

As described in Exhibit A attached hereto and made a
 part hereof.

also known by street and number as:

TO HAVE AND TO HOLD the same, together with all and singular the appurtenances and privileges thereunto belonging or in
 anywise thereunto appertaining, and all the estate, right, title, interest and claim whatsoever, of the grantor(s), either in law or equity, to
 the only proper use, benefit and behoof of the grantee(s), its heirs and assigns forever.

IN WITNESS WHEREOF, The grantor(s) ha s executed this deed on the date set forth above.

DOUGLAS COUNTY BOARD OF COMMISSIONERS

By: Clark Huff
 Clark Huff, Chairman

STATE OF COLORADO.

County of Douglas

} ss.

The foregoing instrument was acknowledged before me this 12th day of July, 1988,
 by Clark Huff.

My commission expires

, 19 . Witness my hand and official seal.

SUSAN C. GAUER-MIYAMOTO

Notary Public

SEAL

State of Colorado

SEAL

Susan C. Gauer-Miyamoto
 Notary Public

My Commission Expires Sept. 2, 1990
 *If in Denver, insert "City and."

8816440 - 07/20/88 15:53 - RETA A. CRAIN DOUGLAS CO. COLO. CLERK & RECORDER
 B0804 - P0415 - \$0.00 DF-DONE

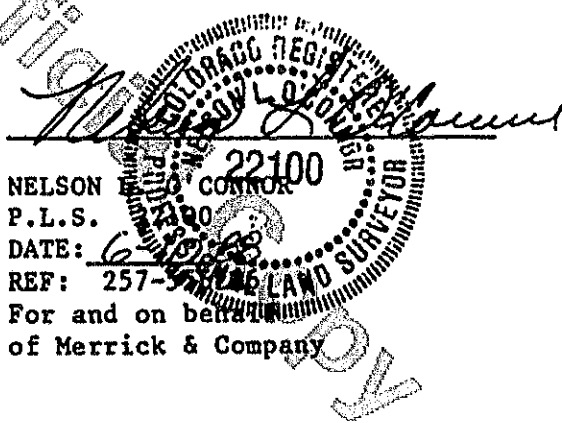
EXHIBIT A
1064

PATH: BELLAMAH>CONTROL
FILE: R DOUG.W
JOB#: 257-5562M6
DATE: 06-10-1988

PROPERTY DESCRIPTION

A parcel of land lying in the North Half of the South Half of Section 22, Township 8 South, Range 67 West of the 6th Principal Meridian, Town of Castle Rock, County of Douglas, State of Colorado, being more particularly described as follows:

COMMENCING at the west quarter corner of said Section 22 whence the southwest corner of the North Half of the South Half of said Section 22 bears S00°01'18"E a distance of 1331.94 feet.
THENCE S62°53'25"E a distance of 1213.29 feet to the POINT OF BEGINNING;
THENCE S89°53'22"E a distance of 1628.63 feet;
THENCE S15°43'30"W along the westerly deed line of the Atchison Topeka and the Santa Fe Railroad a distance of 62.30 feet;
THENCE N89°53'22"W a distance of 1599.42 feet;
THENCE N11°36'13"W a distance of 61.28 feet to the POINT OF BEGINNING, containing 2.223 acres, more or less.


NELSON M. DOUGLAS
P.L.S.
DATE: 6/10/88
REF: 257-5562M6
For and on behalf of
Merrick & Company

RECEIVED
JUL 19 1988

D.C. PLANNING DEPT.

EXHIBIT A
2 of 4

WESTERLY DEED LINE
OF ATCHISON TOPEKA
AND SANTA FE RAILROAD

℄ R.R. TRACKS

S15°43'30"W
62.30'

1628.63'

1599.42'

60'

2.223 ACRES ±

S89°53'22"E

N89°53'22"W

P.O.B.

N11°36'13"W
61.28'

S62°53'25"E
123.29'

W1/4 COR., SEC. 22
POINT OF
COMMENCEMENT

S00°01'18"E

1331.94'

SW COR.
N1/2, S1/2
SECTION 22

N1/2, S1/2, SECTION 22, T.8S., R.67W., 6TH P.M.

8816440 - 07/20/88 15:53 - RETA A. GRAIN DOUGLAS CO. COLO. CLERK & RECORDER
B0804 - P0417 - \$0.00 OF none

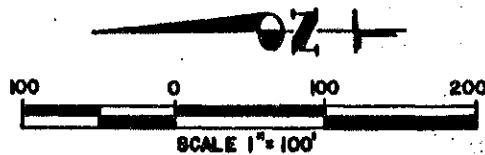


Exhibit A
3 of 4

PATH: BELLAMAH>CONTROL
FILE: R DOUG.E
JOB#: 257-5562M6
DATE: 06-10-1988
REV.DATE 06-14-1988

PROPERTY DESCRIPTION

A parcel of land lying in the East Half of Section 22, Township 8 South, Range 67 West of the 6th Principal Meridian, Town of Castle Rock, County of Douglas, State of Colorado, being more particularly described as follows:

COMMENCING at the southwest corner of said Section 22.

THENCE S89°04'36"E along the southerly line of said Section 22 a distance of 2521.89 feet;

THENCE N15°43'30"E along the easterly deed line of Interstate Highway 25 a distance of 2191.53 feet to the POINT OF BEGINNING;

THENCE continuing N15°43'30"E along said easterly line a distance of 43.77 feet;

THENCE along the southerly deed lines of Book 237, Page 814 and Book 289, Page 608, as recorded in Douglas County Clerk and Recorders office and being an existing fence line the following nine (9) courses:

1. N89°51'29"E a distance of 589.34 feet;
2. THENCE N88°34'09"E a distance of 41.50 feet;
3. THENCE N89°57'34"E a distance of 183.75 feet;
4. THENCE S89°03'58"E a distance of 84.06 feet;
5. THENCE S82°00'54"E a distance of 69.83 feet;
6. THENCE S02°53'49"W a distance of 4.16 feet;
7. THENCE S82°17'59"E a distance of 7.16 feet;
8. THENCE S70°51'40"E a distance of 37.06 feet;
9. THENCE S66°27'54"E a distance of 129.89 feet;

THENCE S23°32'06"W a distance of 47.24 feet;

THENCE along the northerly deed lines of Book 163, Page 392, Book 496, Page 384, and Book 163. Page 25, as recorded at Douglas County Clerk and Recorder's Office and being an existing fence line the following five (5) courses:

1. N67°11'54"W a distance of 146.46 feet;
2. THENCE N80°46'18"W a distance of 96.22 feet;
3. THENCE N89°18'09"W a distance of 159.33 feet;
4. THENCE S89°18'42"W a distance of 130.69 feet;
5. THENCE N89°24'38"W a distance of 601.82 feet to the POINT OF BEGINNING, containing 1.251 acres, more or less.

JUN 24 1988

MARLA J. HEDGECOCK 24961
P.L.S. 24961
DATE 6-10-88
REF: 257-5562M6
For and on behalf of Merrick & Company

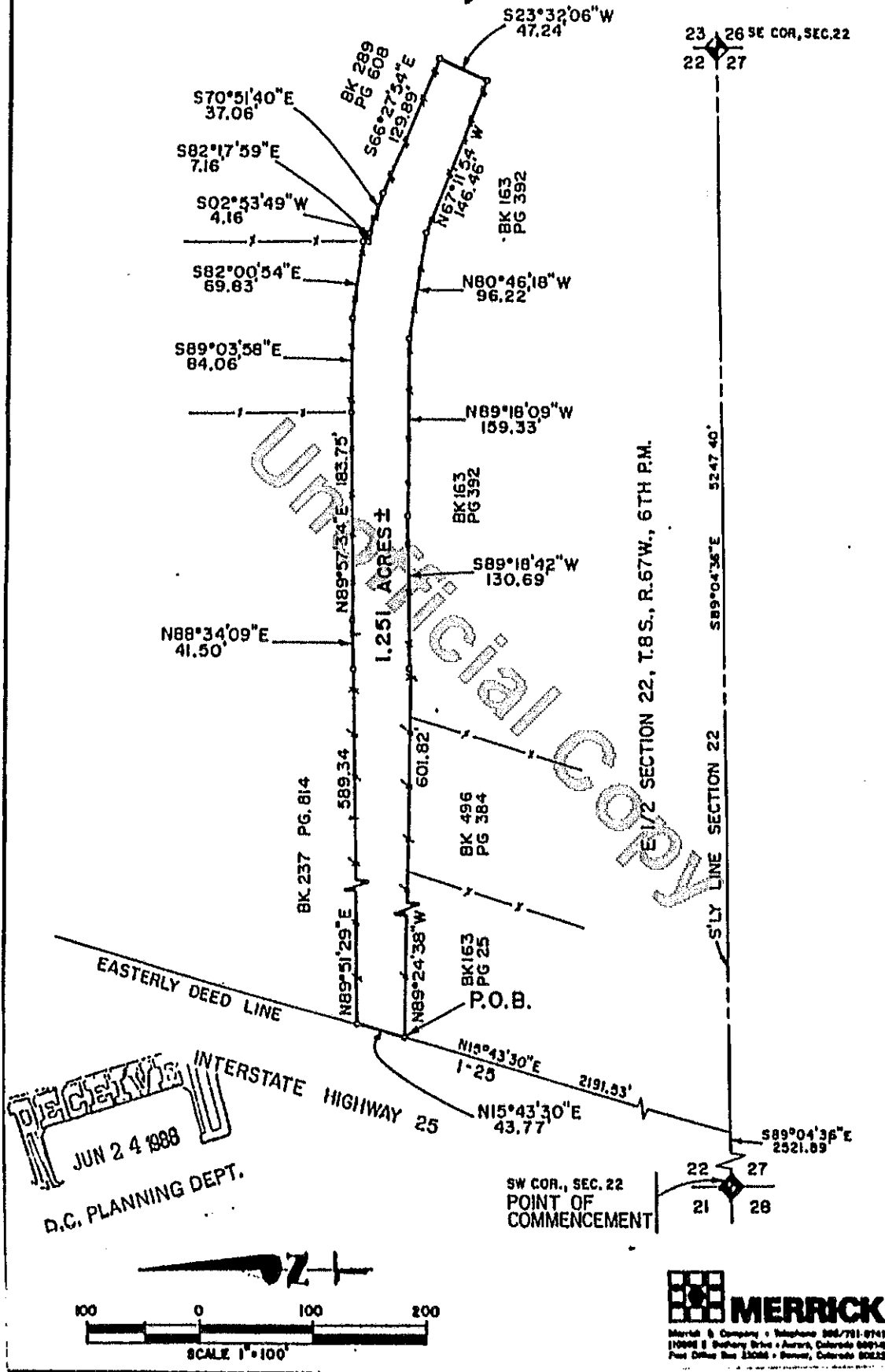


DOUG E.

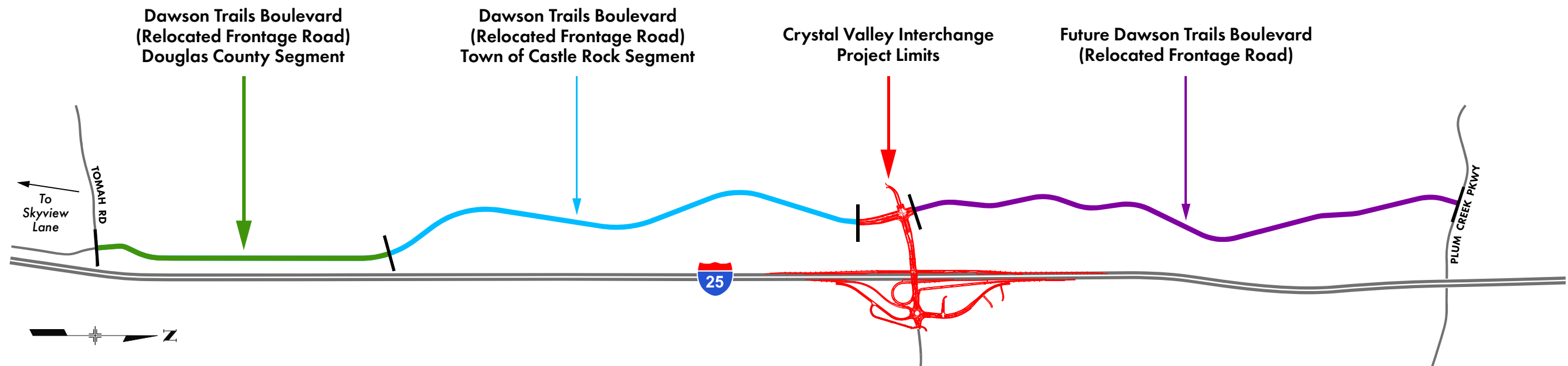
PAGE 1 OF 2

8816440 - 07/20/88 15:53 - RETA A. CRAIN DOUGLAS CO. COLO. CLERK & RECORDER
B0804 - P0418 - \$0.00 DE-NONE 4/ 5

Exhibit A 4 of 4



8816440 - 07/20/88 15:53 - RETA A. CRAIN DOUGLAS CO. COLO. CLERK & RECORDER
B0804 - P0419 - \$0.00 DE-NONE - 5/ 5





Town of Castle Rock

Agenda Memorandum

Agenda Date: 6/5/2023

Item #: File #: PWC 2023-032

To: Members of the Public Works Commission

From: Aaron Monks, Project Manager

Resolution Recommending Town Council Approve the First Amendment to Town of Castle Rock Services Agreement between Jacobs Engineering Group for Design of the Crystal Valley Interchange Project

Executive Summary

The purpose of this memo is to obtain a favorable recommendation from the Public Works Commission for Town Council to approve an amendment to the Service Agreement between the Town and Jacobs Engineering Group (Jacobs) for design services on the Crystal Valley Interchange (CVI) Project.

The attached Service Agreement amendment (Attachment A) with Jacobs allows Jacobs to remain under contract to complete the design for CVI. This amendment is a time adjustment only.

Discussion

Under the current contract, supplementary design effort will be required to complete the CVI design. The known design changes can be categorized as follows:

- Accommodate the design change for the NB onramps to a single merge from the original planned double merge to I-25 as required by FHWA comments
- Development of an Executive Summary Memo requested by CDOT to accompany the Environmental Assessment Reevaluations
- Supplemental coordination for the additional Traffic Demand Management requirements of CDOT's 1601
- Additional coordination with US Army Corps of Engineers (USACE) and EPA on 404 permit and process
- Additional coordination on the Water Quality pond on the west side of I-25

With cost savings in other aspects of the design, there is no additional cost to the design service agreement. This amendment adds 176 days to the contract, and sets a new completion deadline of November 30, 2023. There is no change to the planned construction schedule associated with this amendment.

History of Past Town Council, Boards and Commissions

At the June 15th, 2021 Town Council meeting, a service agreement was approved by Council via resolution 2021-061.

Budget Impact

There is no budget impact to this amendment, the original service agreement has sufficient funds to complete the design with the known changes and requirements at this time.

Staff Recommendation

Staff recommends Public Works Commission recommend Town Council approve the resolution as introduced by title.

Proposed Motion

"I move that Public Works Commission recommend Town Council approve the Resolution as introduced by title."

Alternative Motions:

"I move that Public Works Commission recommend Town Council approve the resolution as introduced by title with the following changes _____"

Attachments

Attachment A: Service Agreement First Amendment



**FIRST AMENDMENT TO THE
TOWN OF CASTLE ROCK
SERVICES AGREEMENT
(CRYSTAL VALLEY INTERCHANGE PROJECT)**

DATE: _____.

PARTIES: **TOWN OF CASTLE ROCK**, a Colorado municipal corporation, 100 N. Wilcox Street, Castle Rock, Colorado 80104 ("Town").

JACOBS ENGINEERING GROUP INC., a Delaware corporation, 9191 Jamaica Street, Englewood, Colorado 80112 ("Consultant").

RECITALS:

- I. The Town and Consultant are parties to the Town of Castle Rock Services Agreement (Crystal Valley Interchange Project), dated June 15, 2021 (the "Agreement"), and attached as ***Exhibit 1***.
- II. The Town and the Consultant wish to extend the completion date of the Services to November 30, 2023.
- III. The Town and Consultant wish to memorialize this change in this First Amendment to the Agreement ("First Amendment Agreement").

TERMS:

1. **Amendment.** Section 3 of the Agreement is amended to read as follows:

3. Completion. Consultant shall commence the Services on June 16, 2021 and complete the Services on November 30, 2023. Consultant shall devote adequate resources to ensure timely completion of the Services. Consultant shall perform the Services under this Agreement using a standard of care, skill and diligence ordinarily used by reputable professionals performing under circumstances similar to those required by this Agreement.

Town shall have the right to terminate this Agreement at any time with 30 days written notice to Consultant. In addition, this Agreement shall terminate December 31, 2021 in the event funds to support payment under this Agreement are not appropriate for calendar year 2022 and 2023. The Town's only obligation in the event of termination shall be payment of fees and expenses incurred up to and including the effective date of termination. Consultant shall turn over all work product produced up to the date of termination. Any reuse of modifications of the work product without the prior written consent of the Consultant shall be at the sole risk of the Town.

2. **Certificate of Insurance.** Consultant's updated Certification of Insurance is attached as ***Exhibit 2***.

3. **Ratification.** In all other respects, the Agreement shall remain in full force and effect.

Attached Exhibits:

Exhibit 1 to First Amendment Agreement – AGREEMENT



Exhibit 2 to First Amendment Agreement - CONSULTANT'S CERTIFICATE OF INSURANCE

[SIGNATURE BLOCK TO FOLLOW]



ATTEST:

Lisa Anderson, Town Clerk

Approved as to form:

Lena McClelland, Assistant Town Attorney

CONSULTANT:

JACOBS ENGINEERING INC.

By: _____

Its: _____

TOWN OF CASTLE ROCK

Jason Gray, Mayor

Approved as to content:

David L. Corliss, Town Manager

EXHIBIT 1 to First Amendment Agreement

AGREEMENT

**TOWN OF CASTLE ROCK
SERVICES AGREEMENT
(CRYSTAL VALLEY INTERCHANGE PROJECT)**

DATE: June 15, 2021.

PARTIES: **TOWN OF CASTLE ROCK**, a Colorado municipal corporation, 100 N. Wilcox Street, Castle Rock, Colorado 80104 ("Town").

JACOBS ENGINEERING GROUP INC., a Delaware corporation, 9191 Jamaica Street, Englewood, CO 80112, ("Consultant").

RECITALS:

- A. The Town issued a Request for Proposals from qualified firms with expertise in owner representation services.
- B. Consultant submitted a timely proposal.
- C. Town wishes to engage Consultant to provide the services more fully described in the following Agreement and Exhibits.

TERMS:

Section 1. Scope of Services. Consultant shall provide professional services related to the Crystal Valley Interchange project, in accordance with the scope of work attached as *Exhibit A* ("Services").

Section 2. Payment. Consultant shall invoice the Town on a monthly basis for the Services rendered in accordance with the rate and fee schedule identified in *Exhibit A*. Town shall pay such invoices within 30 days after receipt of such invoice. In no event shall the cumulative payment to Consultant exceed \$6,894,000, unless authorized in writing by the Town.

Section 3. Completion. Consultant shall commence the Services on June 16, 2021 and complete the Services by July 7, 2023. Consultant shall devote adequate resources to assure timely completion of the Services. Consultant shall perform the Services under this Agreement using a standard of care, skill and diligence ordinarily used by members of Consultant's profession currently performing under similar circumstances and in a similar locale to those required by this Agreement.

Town shall have the right to terminate this Agreement at any time with 30 days' written notice to Consultant. In addition, this Agreement shall terminate December 31, 2021 in the event funds to support payment under this Agreement are not appropriated for calendar year 2022 and 2023. The Town's only obligation in the event of termination shall be payment of fees and expenses incurred up to and including the effective date of termination. Consultant

shall turn over all work products produced up to the date of termination. Any reuse of modifications of the work product without the prior written consent of the consultant shall be at the sole risk of the Town.

Section 4. Subcontractors. Consultant may utilize subcontractors to assist with works as necessary to complete the Services. Consultant will submit any proposed subcontractor and the description of their services to the Town for approval.

Section 5. Assignment. This Agreement shall not be assigned by Consultant without the written consent of the Town.

Section 6. Notice. Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if sent by certified mail or registered mail, postage and fees prepaid, addressed to the party to whom such notice is to be given at the address set forth on the first page of this Agreement, or at such other address as has been previously furnished in writing to the other party or parties. Such notice shall be deemed given when deposited in the United States mail.

Section 7. Prohibition Against Employing Illegal Aliens. Consultant shall not knowingly employ or contract with an illegal alien to perform work under this contract. Consultant shall not enter into a contract with a subcontractor that fails to certify to the Consultant that the subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this contract.

Consultant has confirmed the employment eligibility of all employees who are newly hired for employment to perform work under the public contract for services through participation in either the E-verify program or the Department program, as defined in C.R.S. §§ 8-17.5-101(3.3) and 8-17.5-101(3.7), respectively. Consultant is prohibited from using the E-verify program or Department program procedures to undertake pre-employment screening of job applicants while this contract is being performed.

If Consultant obtains actual knowledge that a subcontractor performing work under this Agreement for services knowingly employs or contracts with an illegal alien, Consultant shall:

A. Notify the subcontractor and the Town within three days that the Consultant has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and

B. Terminate the subcontract with the subcontractor if within three days of receiving notice required pursuant to this paragraph the subcontractor does not stop employee or contracting with the illegal alien; except that the Consultant shall not terminate the contract with the subcontractor if during such three days the subcontractor provides information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

Consultant shall comply with any reasonable request by the Department of Labor and Employment made in the course of an investigation that the Department is undertaking pursuant to the authority established in C.R.S. §8-17.5-102(5).

If Consultant violates a provision of this Agreement required pursuant to C.R.S. §8-17.5-102, Town may terminate the Agreement for breach of contract. If the Agreement is so terminated, the Consultant shall be liable for actual and consequential damages to the Town.

Section 8. Insurance. Consultant agrees to procure and maintain, at his own cost, the following policy or policies of insurance. Consultant shall not be relieved of any liability, claims, demands or other obligations assumed pursuant to this Agreement by reason of its failure to procure or maintain insurance, or by reason of its failure to procure or maintain insurance in sufficient amounts, durations, or types.

A. Consultant shall procure and maintain, and shall cause each subcontractor of the Consultant to procure and maintain a policy with the insurance coverage listed below. Such coverage shall be procured and maintained with forms and insurers acceptable to the Town. All coverage shall be continuously maintained from the date of commencement of services hereunder. In the case of any claims-made policy, the necessary retroactive dates and extended reporting periods shall be procured to maintain such continuous coverage.

1. Workers Compensation insurance to cover obligations imposed by the Workers Compensation Act of Colorado and any other applicable laws for any employee engaged in the performance of Work under this contract, and Employer's Liability insurance with limits of FIVE HUNDRED THOUSAND DOLLARS (\$500,000) each accident, FIVE HUNDRED THOUSAND DOLLARS (\$500,000) disease-policy limit, and FIVE HUNDRED THOUSAND DOLLARS (\$500,000) disease-each employee.

2. Comprehensive General Liability insurance with limits of ONE MILLION DOLLARS (\$1,000,000) each occurrence and ONE MILLION DOLLARS (\$1,000,000) aggregate. The policy shall be applicable to all premises and operations. The policy shall include coverage for bodily injury, broad form property damage (including for contractual and employee acts), blanket contractual, independent contractors, products, and completed operations. The policy shall contain a severability of interests provision.

3. Comprehensive Automobile Liability Insurance with combined single limits for bodily injury and property damage of ONE MILLION DOLLARS (\$1,000,000) with respect to each of Consultant's owned, hired and/or non-owned vehicles assigned to or used in performance of the services. The policy shall contain a severability of interests provision.

4. Professional Liability insurance with limits of ONE MILLION DOLLARS (\$1,000,000) per claim and ONE MILLION DOLLARS (\$1,000,000) aggregate.

B. The policies required above, except Workers' Compensation insurance, Employers' Liability insurance and Professional Liability insurance shall be endorsed to include the Town, its officers and employees, as an additional insured. Every policy required above, except Workers' Compensation and Professional Liability insurance, if applicable, shall

be primary insurance, and any insurance carried by the Town, its officers, or its employees, shall be excess and not contributory insurance to that provided by Consultant. The additional insured endorsement for the Comprehensive General Liability insurance required above shall not contain any exclusion for bodily injury or property damage arising from completed operations. The Consultant shall be solely responsible for any deductible losses under each of the policies required above.

C. Certificates of insurance shall be completed by Consultant's insurance agent and submitted at the time of execution of this Agreement as ***Exhibit C*** as evidence that policies providing the required coverage, conditions and limits are in full force and effect, and shall be subject to review and approval by the Town. Each certificate shall identify the Project and shall provide that coverage afforded under the policies shall not be cancelled, terminated or materially changed to not meet the requirements of this agreement until at least 30 days' prior written notice has been given to the Town. If the words "endeavor to" appear in the portion of the certificate addressing cancellation, those words shall be stricken from the certificate by the agent(s) completing the certificate. The Town reserves the right to review a copy of any policy and any endorsement thereto which may be redacted at the Consultant's or the Consultant's insurers' discretion to protect confidential or proprietary elements of the policies.

D. Failure on the part of Consultant to procure or maintain policies providing the required coverage, conditions, and limits shall constitute a material breach of contract upon which at the Town's discretion may procure or renew any such policy or any extended connection therewith, and all monies so paid by the Town shall be repaid by Consultant to the Town upon demand, or the Town may offset the cost of the premiums against any monies due to Consultant from the Town.

E. The parties understand and agree that the Town is relying on, and does not waive or intend to waive by any provision of this contract, the monetary limitations (presently \$387,000 per person, \$1,093,000 for two or more persons, per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, §24-10-101, *et seq.*, C.R.S., as from time to time amended, or otherwise available to Town, its officers, or its employees.

Section 9. Indemnification. Consultant expressly agrees to indemnify and hold harmless Town or any of its officers or employees from claims, damages, liability, or court awards including attorney's fees that are or may be awarded as a result of loss, personal injury (including death) or property damage asserted by third parties, to the extent caused by the negligent acts, errors or omissions of Consultant or any of their employees or agents in performing work pursuant to this Agreement. In the event that any such suit or action is brought against Town, Town will give notice within ten (10) days thereof to Consultant.

Section 10. Delays. Any delays in or failure of performance by any party of his or its obligations under this Agreement shall be excused if such delays or failure are a result of acts of God, fires, floods, strikes, labor disputes, accidents, pandemics, regulations or orders of civil or military authorities, shortages of labor or materials, or other causes, similar or dissimilar, which are beyond the control of such party.

Section 19. Federal Funds. Consultant understands and acknowledges that this Agreement is wholly or partially funded by the Federal Highway Administration (FHWA) under Title 23, U.S.C. Accordingly, Consultant agrees to be subject to the terms and conditions set forth in Form FHWA-1273, which form is incorporated herein by reference as **Exhibit B**. Consultant also agrees to incorporate Form FHWA-1273 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).

ATTEST:

TOWN OF CASTLE ROCK

for Robbie Schuchter
Lisa Anderson, Town Clerk

Jason Gray
Jason Gray, Town Mayor

Approved as to form:

Approved as to content:

Michael J. Hyman
Michael J. Hyman, Town Attorney

Daniel Sailer
Daniel Sailer, P.E. Director of Public Works



CONSULTANT:

Jacobs Engineering Group Inc.

By: Stephanie Harrison

Its: Stephanie Harrison/Vice President

Section 11. Additional Documents. The parties agree to execute any additional documents or take any additional action that is necessary to carry out this Agreement.

Section 12. Entire Agreement. This Agreement represents the entire agreement between the parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the parties. If any other provision of this Agreement is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Agreement shall continue in full force and effect.

Section 13. Time of the Essence. Time is of the essence provide that Consultant's services must in all events be governed by the exercise of sound professional practices. If any payment or any other condition, obligation, or duty is not timely made, tendered or performed by either party, then this Agreement, at the option of the party who is not in default, may be terminated by the non-defaulting party, in which case, the non-defaulting party may recover such damages as may be proper.

Section 14. Default and Remedies. In the event either party should default in performance of its obligations under this agreement, and such default shall remain uncured for more than 10 days after notice of default is given to the defaulting party, the non-defaulting party shall be entitled to pursue any and all legal remedies and recover its reasonable attorney's fees and costs in such legal action. In addition, no Party will be entitled to lost profits, economic damages, or actual, direct, incidental, consequential, punitive or exemplary damages in the event of a default.

Section 15. Waiver. A waiver by any party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either party.

Section 16. Governing Law. This Agreement shall be governed by the laws of the State of Colorado.

Section 17. Independent Contractor. Consultant and Town hereby represent that Consultant is an independent contractor for all purposes hereunder. As such, Consultant is not covered by any worker's compensation insurance or any other insurance maintained by Town except as would apply to members of the general public. Consultant shall not create any indebtedness on behalf of the Town.

Section 18. No Third Party Beneficiaries. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to Town and Consultant, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other third party on such Agreement. It is the express intention of the parties that any person other than Town or Consultant receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

Exhibit A

Scope of Services

Task 1: Updated Traffic Analysis – CONSOR (APEX) and Jacobs

- Traffic Data Collection
- Traffic Demand Forecasting
- Traffic Operations
- Safety Evaluations
- Multimode facilities and operations
- Traffic Report to include results of traffic analysis
- Miscellaneous Support Activities

Task 2: Conceptual Design Alternative and Value Engineering Workshop

Evaluate Alternatives

- Conceptual Design of Alternatives – up to two alternatives; includes circulation and access investigation
- Develop Screening Process and Evaluate Alternative Impacts
- Conceptual Construction Cost Estimates & Cost Containment
- Conceptual Design Report – includes 15% conceptual layouts

Value Engineering

- Value Engineering Workshop (2 day format) includes determination of most likely NEPA process
- Value Engineering Workshop Report
- Miscellaneous Support Activities

Task 3: Contractor Constructability Review And Alternative Delivery Workshop – N/A

Task 4: Updated Preliminary Design, Surveying, And Row Plans

Project Initiation And Continuing Requirements

- Environmental Mitigation and Requirements
- Identify design criteria and determine design variances
- Initiate Survey
- Traffic Control
- Initial Submittals

Survey

- Presurvey Conference
- Survey data and research
- Project control survey
- Land/Boundary survey (2 parcels if necessary)
- TMOSS Survey
- Rail Road Coordination / Survey
- Pothole Staking and Oversight (50 potholes)
- Supplemental Survey (1 week)
- Survey Report
- Ownership Map

Preliminary Design

- Traffic Engineering: CONSOR (APEX) and Jacobs: (i) Review location with potential for accident reduction map, traffic operations analysis and safety assessment report; (ii) analyze proposed project design with traffic projection data; (iii) recommend appropriate geometry; (iv) use traffic data appropriate to the anticipated construction timing in developing detour alternatives; (v) develop ESALs for pavement design; (vi) submit traffic data and recommendation for review.
- Materials Engineering – Geocal: (i) Preliminary soils investigation; (ii) test hole locations; (iii) prepare soils investigation (Geotechnical) report.
- Pavement – Geocal: (i) pavement rehabilitation; (ii) new pavement structure; (iii) pavement design report.
- Hydrology/Hydraulic Engineering: Hydrology – Jacobs and Shrewsberry: (i) establish drainage basin data; (ii) Collect historical data; (iii) Select storm frequency; (iv) complete hydrological analysis; (v) complete risk assessment. Hydraulics: (i) Preliminary design of minor drainage structures; (ii) if required, identify and assist CDOT in coordinating any required potential funding participation from local municipalities or agencies; (iii) recommend culvert pipe sizes, type, shape and material for proposed detours; (iv) develop drainage plans; (v) develop quantities; (vi) Quality Assurance and Quality Control Plans. Initiate Stormwater Management Plan, preliminary Hydraulics and Hydrology Report, CLOMR Report or No-Rise Certification for all floodplain encroachments and Quality Assurance and Quality Control of Drainage Report.

Roadway Design and Roadside Development – Jacobs and Shrewsberry

- Coordinate all design activities with CDOT, Douglas County, specialty units and other outside entities
- Roadway design
- Development of roadway plans and cross sections
- Develop quantities
- Quality Assurance/ Quality Control

Right of Way Plans (Assume 2 parcels)

Major Structural Design

- Structure data collection
- Structure site data collection.
- Structure layout alternatives
- Structure type alternatives
- Determine foundation alternatives
- Determine rehabilitation alternatives
- Determine staged construction phasing plans
- Quantities and preliminary cost estimates
- Structure Selection Report
- Foundation Investigation Request
- Quality Assurance/ Quality Control
- BNSF Coordination

Construction Phasing

- Preliminary construction phasing plan
- Preliminary traffic control plan
- Develop quantities
- Quality Assurance/ Quality Control

Preparation for FIR

- Preliminary cost estimate
- Consolidation of plans (Roadway, Drainage, Utilities, Traffic, Structure, MOT, TCP)
- Prepare specifications list
- Respond to review comments
- Prepare for and attend FIR Meeting
- Post FIR Revisions
- Miscellaneous Support Activities

Task 5: NEPA Process and Tasks Associated for Current 1601 Process, IAR Or SLS

Project Initiation

- Environmental Scoping Task
- Review Applicable Existing Documents
- Extent of Study Required for Resources
- Preparation and Coordination of Requirements
- Extent of Narrative Required
- Project Study Area Limits/Logical Termini
- Project File
- Prepare Interchange Access Request (IAR) through 1601 process and System Level Study

Environmental Analysis and Documentation

- Purpose and need

Data Collection, Field Investigation, Mitigation Measures

- Existing Roadway and Major Structures
- Geospatial data
- Air quality – Pinyon
- Water quality – (i) determine the requirement for permanent water quality, initial preparation of Stormwater Management, and coordinate with Region 1 water quality specialists to determine appropriate stormwater management approach; (ii) identify adverse effects on the ProJet area with respect to floodplains and drainage for each alternative (including during constructing and relative to actual operation conditions); (iii) provide water quality technical report.

Floodplain Assessment

- Identify location of Floodplains and any planned changes to the floodplains from adjacent development
- Add information to environmental resource mapping of existing conditions
- Determine adverse impacts to each alternative with respect to floodplains and drainage (including during construction and relative to actual operating conditions)
- Develop possible actions to mitigate for adverse impacts and coordinate with roadway and structural designers

- Prepare a floodplain and drainage assessment report

Wetlands – Pinyon

- Wetland determination and delineation
- Wetlands finding report

Vegetation and Noxious Weed- Pinyon

- Conduct necessary field surveys and identify vegetation and noxious weeds within the project area
- Prepare an Integrated Noxious Weed Management Plan

Fish and Wildlife- Pinyon

- Field surveys and impact analysis
- Prepare Biological Resources Report

Threatened and Endangered Species – Pinyon

- Letters for each agency for the CDOT EPB Wildlife Program Manager's signature, etc.
- PMJM Impacts and Mitigation

Historic Properties – Pinyon

- Perform and provide the survey report for review by CDOT
- Collection and Evaluation of Baseline Information as defined by Section 106
- Historic Clearance

Residential/ Business/ ROW Relocation

- Prepare table of affected properties, ownership, names, etc.
- Perform ROW field inspection and ownership maps

Section 4(f) and Section 6(f) Evaluation

- Determine and evaluate project impacts on Section 4(f) and/or 6(f)
- Prepare draft and final documentation for Section 4(f) and 6(f)
- Coordinate Reviews with RPEM and EPB staff for review by FHWA

Noise

- Prepare necessary noise assessment
- Predict future traffic noise levels
- Develop recommendations for noise abatement measures
- Assessment of construction related noise issues
- Prepare Noise Technical Report

Hazardous Materials – Pinyon

- Perform Initial Site Assessment and/or MESA - Pinyon
- Prepare draft and final ISA-Pinyon

Visual Memo

Socioeconomic Memo

Recreation Memo

Other Deliverables

- Preliminary Data Submission
- Prepare draft and final NEPA Reports
- Miscellaneous Support Activities

Task 6: Final Design and Assist with Construction Advertisement/ Bid Process

Roadway Design and Roadside Development – Jacobs and Shrewsberry

- Roadway: (i) finalize design decisions, variance and justification process; (ii) refine roadway and roadside design, (iii) bike path and trails design; (iv) prepare final design plans (2 construction packages); (v) develop quantities; (vi) prepare project specifications; (vii) QA/ QC.
- Landscaping: (i) prepare landscape plans; (ii) irrigation plans; (iii) prepare quantities; (iv) Quality Assurance and Quality Control Plans
- Noise barrier plans – Assume no Noise barriers are required
- Develop quantities
- Prepare project specifications
- Quality Assurance and Quality Control

Lighting Plans – Clanton

- Prepare lighting plans
- Coordinate with local entities
- Develop quantities
- Prepare project specifications

Wetland Mitigation

- Prepare wetland mitigation plans

Right of Way Plans and Activities

Traffic engineering – Jacobs and CONSOR (APEX)

- Prepare permanent signing and pavement marking plans
- Prepare signal plans and signal warrants if necessary – Apex
- Develop quantities
- Prepare project specifications
- Quality Assurance and Quality Control

ITS engineering – CONSOR (APEX)

- Prepare ITS plans
- Develop quantities
- Prepare project specifications
- Quality Assurance and Quality Control

Construction Phasing Plan

- Prepare final construction phasing plan.
- Prepare construction traffic control plan
- Develop quantities
- Prepare project specifications
- Quality Assurance and Quality Control

Hydrology Hydraulic Engineering – Jacobs and Shrewsberry

- Prepare final drainage plans
- Prepare final drainage report
- Prepare final floodplain (CLOMR) report
- Develop quantities

- Prepare project specifications
- Quality Assurance and Quality Control

Water Quality

- Stormwater Management Plan
- Permanent Water Quality Report
- Quality Assurance and Quality Control

Major Structural Design

- Prepare final structure plans (included 40% and 60% railroad review documents)
- Independent design, details and quality check
- Prepare bridge ratings
- Develop quantities
- Prepare project specifications
- Quality Assurance and Quality Control
- BNSF Coordination

Materials Engineering – Geocal

Obtain Permits

- 401 Permit (Water Quality Certification)- Pinyon
- 402 Permit Process (Point Source Discharge)
- 404 Permit Process (Individual dredge and fill) – Pinyon
- Wildlife Certification – Pinyon
- NPDES Stormwater Permit for construction activities

Plan Preparation for FOR Plans (2- Construction Packages)

- Updated cost estimate
- FOR Plan Package (Roadway, Drainage, Structures, Traffic, Lighting, Utility, MOT, TCP)
- FOR specifications package
- Respond to review comments
- Prepare for and attend FOR meeting

Construction Plan Package

- Roadway Plans
- Drainage Plans
- Traffic Plans
- Structure Plans
- MOT and Traffic Control Plans
- Utility Plans – Stanley
- Signal Plans – CONSOR (APEX)
- ITS Plans – CONSOR (APEX)
- Lighting Plans – Clanton
- SWMP Plans
- Landscape Plans
- Final Specification package
- Update cost estimate
- Consolidation of plans for final submittal
- Quality Assurance and Quality Control of final documents

- 100% review meeting
- Record plans set – sealing and signing
- Attend Pre-bid meeting
- Maintain environmental tracking tool for all environmental document commitments
- Bridge construction packet to include calculations
- Miscellaneous Support Activities

Task 7: Assistance During Construction

- N/A

Task 8: Subsurface Utility Engineering (SUE) and Utility Coordination

Preliminary Design

- Utility Coordination – Stanley: (i) Utility location maps; (ii) reviews and investigation (see survey task); (iii) incorporate utility locations in plans; (iv) relocation recommendations
- Develop Utility Matrix - Stanley
- Subsurface Utility Engineering (SUE) Report - Jacobs

Final Design

- Prepare final utility plans and specifications – Stanley
- Miscellaneous Support Activities

Task 9: Project Management (Develop and Maintain a Project Schedule for the Design Phase)

Project Meetings

- Initial project/ kick off meeting/ site visits (2 hours/person)
- Initial Agency Workshop (2 hours/person)
- Traffic Operation Analysis and Interchange Alternatives Workshop (4 hours/ person)
- Project Management Meetings- Weekly (1 hour/person) - 100 meetings/person
- Technical Task Force Meetings - Weekly (1 hour/person) - 100 meetings/person
- Build Grant Meetings - Monthly/Quarterly (2 hrs/person) - 25 meetings/person
- Project Development Plan (Project Management Plan)
- Meeting Minutes per each meeting (1 hr/meeting)

Public and Stakeholder Involvement

- Stakeholder Involvement Plan
- Stakeholder Contact Database
- Railroad - Jess Hasting/Alfred Benesch
- Public Notifications: (i) Project branding; (ii) postcard mailer; (iii) potentially impacted property owners letters; (iv) project updates (up to three additional project update notices); (v) press releases
- Public stakeholder's meetings: (i) location and logistics for public outreach meetings (3 meetings); (ii) individual and small group meetings; (iii) meeting with local jurisdictions, property/business owners, focus groups, etc. (up to five meetings); (iv) public and stakeholder correspondence (up to 80 hours); (v) documentation; (vi)

communication aides; (vii) project web page; (viii) online public information and opportunity for comment; (ix) graphic support

Project Management

- Coordination and oversight of project team, CDOT, Douglas County, and Town of Castle Rock (80 hrs/month x 25 months)
- Contracting and monthly invoicing
- Monthly Earned Value Report

Develop and Maintain Project Schedule

Quality Assurance/ Quality Control Plan

Obtain Necessary Right of Entry and Permits

- Signature copies
 - Permits
-
- Miscellaneous Support Activities

PROJECT COST WORKSHEET (COST PLUS FIXED FEE)

PROJECT NO: CRYSTAL VALLEY INTERCHANGE
 LOCATION: Castle Rock, CO
 FIRM NAME: Jacobs Engineering Group, Inc.
 NAME OF PREPARED: Michelle Pinkerton EMAIL: michelle.pinkerton@jacobs.com PHONE No. 303-619-1601
 SCOPE OF WORK DATE: TYPE OF PROPOSAL: COST PLUS FIXED FEE CONTRACT #: TASK ORDER #

1A. LABOR RATES

Employee Name	Employee Classification	(a) Direct Salary Cost / Rate	(b) Indirect Cost %	(c) Labor rate \$/Hour
LANG, BILL	PRINCIPAL	\$111.94	109.34%	\$234.33
PINKERTON, MICHELLE	PM - SR	\$101.88	109.34%	\$213.48
SPRAGUE, RANDY	PM - SR	\$104.50	109.34%	\$218.76
VOBEJDA, MARY JO	PM - SR	\$110.60	109.34%	\$231.53
YOUNG, NICK	PM - SR	\$71.80	109.34%	\$150.52
STRAND, MANVILLE	ENG	\$47.50	109.34%	\$99.43
MERRICK, JANINE	CADD TECH	\$44.38	109.34%	\$92.90
SIEDLECK, TIM	PM	\$77.50	109.34%	\$162.23
HOWARD, LINDY	QCM	\$70.15	109.34%	\$146.88
LAMUTT, MARK	PM	\$93.95	109.34%	\$196.67
VOSS, WILL	ENG SR	\$83.82	109.34%	\$175.46
DOWDS BENNETT, JACQUELINE	ENG SR	\$69.40	109.34%	\$145.28
HEUGH, MICHAEL	ENG SR	\$62.10	109.34%	\$128.99
STRAND, MANVILLE 2	ENG	\$47.50	109.34%	\$99.43
BACINA, SCOTT	ENG	\$39.29	109.34%	\$82.25
WILLIAMS, STU	ENG ASSOC	\$45.55	109.34%	\$95.36
SLOCUM, TROY	ENG SR	\$72.06	109.34%	\$150.65
DAMATO, MARGARET	ENG ASSOC	\$35.32	109.34%	\$73.94
LIJ, ZOE	ENG ASSOC	\$38.28	109.34%	\$80.14
MERRICK, JANINE 2	CADD TECH	\$44.38	109.34%	\$92.90
THOMPSON, MEGAN	ENG ASSOC	\$35.67	109.34%	\$75.08
NORK, MATT	STRUCTURAL ENG SR	\$81.37	109.34%	\$170.34
WAHR, ANDREW	STRUCTURAL ENG	\$60.02	109.34%	\$125.68
BERNARD, DAVE	CADD TECH SR	\$53.12	109.34%	\$111.20
QUINTANA, ADRIAN	CADD TECH SR	\$54.35	109.34%	\$113.77
HURST, ART	TECH 3	\$53.11	109.34%	\$111.18
BERNA, JEFF	PLANNER SR	\$83.89	109.34%	\$176.56
WOOLLEY, GEORGE	PLANNER SR	\$62.98	109.34%	\$130.90
WENCLE, CARRIE	PLANNER	\$38.36	109.34%	\$80.29
ADKISSON, CHELSEA	PLANNER	\$48.23	109.34%	\$100.97
BIRTLEY, REBECCA	GIS TECH	\$47.94	109.34%	\$100.36
BOEHM, ROBERT	PM - SR	\$93.76	109.34%	\$196.32
ESPOSITO, ANTONIO	QCM	\$56.34	109.34%	\$117.05
MAC DONALD, DAVID	CADD TECH SR	\$38.53	109.34%	\$79.48
ANDERSEN, KRIS	CAD/BIM/GIS SR	\$75.34	109.34%	\$157.72
QUAN, JEREMMY	GIS TECH	\$48.25	109.34%	\$103.11
BRYSON, RYAN	LAND SURVEYOR	\$88.67	109.34%	\$186.75
HEISEN, DAVID	SURVEY CREW TECH	\$37.93	109.34%	\$79.41
AXE, ABRAM	PARTY CHIEF	\$42.33	109.34%	\$88.62

Labor Rate (c) = a x (b+1)

INSERT AGREED FIXED FEE: 10.00%

1B. LABOR COSTS: (Insert ONLY hours)

Employee Name	Employee Classification	Labor Rate \$/Hour	Estimated Number of Work Hours	Estimated Cost Per Employee
LANG, BILL	PRINCIPAL	\$234.33	43	\$10,076.38
PINKERTON, MICHELLE	PM - SR	\$213.48	2,824	\$602,864.05
SPRAGUE, RANDY	PM - SR	\$218.76	48	\$10,500.48
VOBEJDA, MARY JO	PM - SR	\$231.53	361	\$83,583.12
YOUNG, NICK	PM - SR	\$150.52	934	\$140,585.67
STRAND, MANVILLE	ENG	\$99.43	522	\$51,802.26
MERRICK, JANINE	CADD TECH	\$92.60	592	\$54,994.25
SIEDLECK, TIM	PM	\$162.23	208	\$33,744.39
HOWARD, LINDY	QCM	\$146.88	82	\$12,042.57
LAMUTT, MARK	PM	\$196.67	196	\$38,939.77
VOSS, WILL	ENG SR	\$175.46	812	\$142,474.82
DOWDS BENNETT, JACQUELINE	ENG SR	\$145.28	685	\$99,519.37
HEUGH, MICHAEL	ENG SR	\$128.99	266	\$34,578.50
STRAND, MANVILLE 2	ENG	\$99.43	490	\$48,720.51
BACINA, SCOTT	ENG	\$82.25	96	\$7,896.37
WILLIAMS, STU	ENG ASSOC	\$95.36	1,000	\$95,358.05
SLOCUM, TROY	ENG SR	\$150.65	1,143	\$172,424.82
DAMATO, MARGARET	ENG ASSOC	\$73.94	1,080	\$79,856.26
LIJ, ZOE	ENG ASSOC	\$80.14	1,082	\$86,708.39
MERRICK, JANINE 2	CADD TECH	\$92.90	602	\$55,742.34
THOMPSON, MEGAN	ENG ASSOC	\$75.08	112	\$8,409.36
NORK, MATT	STRUCTURAL ENG SR	\$170.34	3,230	\$550,212.70
WAHR, ANDREW	STRUCTURAL ENG	\$125.68	3,894	\$500,813.17
BERNARD, DAVE	CADD TECH SR	\$111.20	748	\$83,174.99
QUINTANA, ADRIAN	CADD TECH SR	\$113.77	4,290	\$488,074.29
HURST, ART	TECH 3	\$111.18	286	\$32,009.77
BERNA, JEFF	PLANNER SR	\$196.56	42	\$8,255.36
WOOLLEY, GEORGE	PLANNER SR	\$110.90	1,155	\$128,091.13
WENCLE, CARRIE	PLANNER	\$80.29	1,058	\$84,950.82
ADKISSON, CHELSEA	PLANNER	\$100.97	530	\$53,512.20
BIRTLEY, REBECCA	GIS TECH	\$100.36	240	\$24,085.51
BOEHM, ROBERT	PM - SR	\$196.32	79	\$15,509.48
ESPOSITO, ANTONIO	QCM	\$117.05	42	\$4,953.91
MAC DONALD, DAVID	CADD TECH SR	\$79.48	356	\$28,226.15
ANDERSEN, KRIS	CAD/BIM/GIS SR	\$157.72	112	\$17,664.43
QUAN, JEREMMY	GIS TECH	\$103.11	6	\$618.65
BRYSON, RYAN	LAND SURVEYOR	\$186.75	244	\$45,375.27
HEISEN, DAVID	SURVEY CREW TECH	\$79.41	182	\$14,451.90
AXE, ABRAM	PARTY CHIEF	\$88.62	472	\$41,830.20
Subtotal of 10% Contingency Established for Each Task (1 through 9) (to be authorized in writing by Town PM)				\$513,094.32
10% OVERALL PROJECT CONTINGENCY (to be authorized in writing by Town PM)				\$580,340.11

30,446

TOTAL LABOR: \$5,094,328.26

FIXED FEE: \$509,432.63

2A. FEE (10% Fixed Fee x Section 1B)

<u>Employee Name</u>	<u>Employee Classification</u>	<u>(a) Direct Salary Cost / Rate</u>	<u>(b) Indirect Cost %</u>	<u>(c) Labor rate \$/Hour</u>
3A. OTHER DIRECT COSTS RATES (IN-HOUSE):				
<u>Item</u>	<u>Estimated Units</u>		<u>Unit Rates</u>	<u>Estimated Cost</u>
GPS Equipment				\$17,500.00
Total Station				\$4,500.00
Digital Level				\$240.00
RFID				\$600.00
Trucks				\$6,750.00
Recording				\$200.00
Rail Road Flagger				\$1,000.00
Traffic Control				\$3,900.00
Material for Town Website	1		\$30,000.00	\$30,000.00
Boards/Graphics for Public Meetings	1		\$5,000.00	\$5,000.00
				SUBTOTAL \$68,690.00
3B. OTHER DIRECT COSTS RATES (OUTSIDE):				
<u>Item</u>	<u>Estimated Units</u>		<u>Unit Rates</u>	<u>Estimated Cost</u>
Virtual Event Space Rental	3 meeting		\$15,000.00	\$45,000.00
Miscellaneous Cost				\$826.18
Mileage/Auto Rental	1,000 miles		\$0.560	\$560.00
				SUBTOTAL \$46,386.18
			SUBTOTAL (Sum of sections 1B+2+3A+3B)	\$5,719,835.07
4A. OUTSIDE SERVICES RATES (SUBCONSULTANTS):				
<u>Firm Name</u>				<u>Estimated Cost</u>
PINYON				\$168,155.39
APEX				\$321,462.00
GEOCAL				\$203,976.47
STANLEY				\$115,472.00
ALFRED BENESCH				\$46,358.47
CLANTON				\$99,853.52
SHREWSBERRY				\$226,887.08
				Subtotal Outside Services (Subs) \$1,174,164.93
4B. OUTSIDE SERVICES (VENDORS):				
				<u>Estimated Cost</u>
				Subtotal Outside Services (Vendors) \$0.00
5. TOTAL AMOUNT OF CONTRACT SHALL NOT EXCEED (Sum of sections 1B+2+3A+3B+4A+4B)				\$6,894,000

Stephanie J. Harrison/Vice President
(Typed Name and Title)


(Signature)

5/25/2021
(Date Signed)

EXHIBIT B – Required Contract Provisions/ Federal-Aid Construction Contracts

REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS

- I. General
- II. Nondiscrimination
- III. Nonsegregated Facilities
- IV. Davis-Bacon and Related Act Provisions
- V. Contract Work Hours and Safety Standards Act Provisions
- VI. Subletting or Assigning the Contract
- VII. Safety: Accident Prevention
- VIII. False Statements Concerning Highway Projects
- IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
- X. Compliance with Governmentwide Suspension and Debarment Requirements
- XI. Certification Regarding Use of Contract Funds for Lobbying

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under Title 23 (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services). The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in bid proposal or request for proposal documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract.

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors.

II. NONDISCRIMINATION

The provisions of this section related to 23 CFR Part 230 are applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR 60, 29 CFR 1625-1627, Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding \$10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR 60, and 29 CFR 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with Title 23 USC Section 140, the Rehabilitation Act of 1973, as amended (29 USC 794), and Title VI of the Civil Rights Act of 1964, as amended, and related regulations including 49 CFR Parts 21, 26 and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR 230, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. Equal Employment Opportunity: Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under

this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract.

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. EEO Officer: The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

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. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, national origin, age or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. Reasonable Accommodation for Applicants / Employees with Disabilities: The contractor must be familiar

with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established there under. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. Selection of Subcontractors, Procurement of Materials and Leasing of Equipment: The contractor shall not discriminate on the grounds of race, color, religion, sex, national origin, age or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors and suppliers and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. Assurance Required by 49 CFR 26.13(b):

a. The requirements of 49 CFR Part 26 and the State DOT's U.S. DOT-approved DBE program are incorporated by reference.

b. The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the contracting agency deems appropriate.

11. Records and Reports: The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women;

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor

will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of \$10,000 or more.

The contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location, under the contractor's control, where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms, and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions

of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b.(1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or

will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. Withholding

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. Payrolls and basic records

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-

Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b.(1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency..

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under §5.5 (a)(3)(ii) of Regulations, 29 CFR part 5, the appropriate information is being maintained under §5.5 (a)(3)(i) of Regulations, 29 CFR part 5, and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and trainees

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly

rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

6. Subcontracts. The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. Certification of eligibility.

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

The following clauses apply to any Federal-aid construction contract in an amount in excess of \$100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

2. Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1.) of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1.) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1.) of this section.

3. Withholding for unpaid wages and liquidated damages. The FHWA or the 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 federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

4. Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1.) through (4.) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1.) through (4.) of this section.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions:

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is

evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.

5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C.3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

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 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.

2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost \$25,000 or more – as defined in 2 CFR Parts 180 and 1200.

1. Instructions for Certification – First Tier Participants:

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this

covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

2. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.

b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which

this transaction originated may pursue available remedies, including suspension and/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

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.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

2. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

3. The prospective participant also agrees by submitting its bid or proposal that the participant shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such recipients shall certify and disclose accordingly.

**ATTACHMENT A - EMPLOYMENT AND MATERIALS
PREFERENCE FOR APPALACHIAN DEVELOPMENT
HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS
ROAD CONTRACTS**

This provision is applicable to all Federal-aid projects funded under the Appalachian Regional Development Act of 1965.

1. During the performance of this contract, the contractor undertaking to do work which is, or reasonably may be, done as on-site work, shall give preference to qualified persons who regularly reside in the labor area as designated by the DOL wherein the contract work is situated, or the subregion, or the Appalachian counties of the State wherein the contract work is situated, except:

a. To the extent that qualified persons regularly residing in the area are not available.

b. For the reasonable needs of the contractor to employ supervisory or specially experienced personnel necessary to assure an efficient execution of the contract work.

c. For the obligation of the contractor to offer employment to present or former employees as the result of a lawful collective bargaining contract, provided that the number of nonresident persons employed under this subparagraph (1c) shall not exceed 20 percent of the total number of employees employed by the contractor on the contract work, except as provided in subparagraph (4) below.

2. The contractor shall place a job order with the State Employment Service indicating (a) the classifications of the laborers, mechanics and other employees required to perform the contract work, (b) the number of employees required in each classification, (c) the date on which the participant estimates such employees will be required, and (d) any other pertinent information required by the State Employment Service to complete the job order form. The job order may be placed with the State Employment Service in writing or by telephone. If during the course of the contract work, the information submitted by the contractor in the original job order is substantially modified, the participant shall promptly notify the State Employment Service.

3. The contractor shall give full consideration to all qualified job applicants referred to him by the State Employment Service. The contractor is not required to grant employment to any job applicants who, in his opinion, are not qualified to perform the classification of work required.

4. If, within one week following the placing of a job order by the contractor with the State Employment Service, the State Employment Service is unable to refer any qualified job applicants to the contractor, or less than the number requested, the State Employment Service will forward a certificate to the contractor indicating the unavailability of applicants. Such certificate shall be made a part of the contractor's permanent project records. Upon receipt of this certificate, the contractor may employ persons who do not normally reside in the labor area to fill positions covered by the certificate, notwithstanding the provisions of subparagraph (1c) above.

5. The provisions of 23 CFR 633.207(e) allow the contracting agency to provide a contractual preference for the use of mineral resource materials native to the Appalachian region.

6. The contractor shall include the provisions of Sections 1 through 4 of this Attachment A in every subcontract for work which is, or reasonably may be, done as on-site work.

EXHIBIT C
CERTIFICATE OF INSURANCE



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
05/25/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER LIC #0437153 1-212-948-1306 Marsh Risk & Insurance Services CIRTS_Support@jacobs.com 633 W. Fifth Street Los Angeles, CA 90071		CONTACT NAME: PHONE (A/C No. Ext): FAX (A/C No.): 1-212-948-1306 E-MAIL: ADDRESS:	
INSURED Jacobs Engineering Group Inc. C/O Global Risk Management 1000 Wilshire Blvd., Suite 2100 Los Angeles, CA 90017		INSURER(S) AFFORDING COVERAGE INSURER A: ACE AMER INS CO INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	
		NAIC # 22667	

COVERAGES

CERTIFICATE NUMBER: 62268556

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> CONTRACTUAL LIABILITY GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:		HDO G71452694	07/01/20	07/01/21	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 1,000,000 PRODUCTS - COMP/OP AGG \$ 1,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY		ISA H25307306	07/01/20	07/01/21	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION \$					EACH OCCURRENCE \$ AGGREGATE \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? <input checked="" type="checkbox"/> N/A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		WLR C67460303 (AOS) SCF C67460388 (WI) WCU C67460340 (OH)*	07/01/20 07/01/20 07/01/20	07/01/21 07/01/21 07/01/21	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
A	PROFESSIONAL LIABILITY		EON G21655065 011	07/01/20	07/01/21	PER CLAIM/PER AGG 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

PROJECT MGR: Michelle Pinkerton. CONTRACT MGR: Gretchen Sage. RE: CRYSTAL VALLEY INTERCHANGE PROJECT/Services Agreement. CONTRACT END DATE: 7/7/2023. SECTOR: Public. Town of Castle Rock, its officers and employees are added as an additional insured for general liability & auto liability as respects the negligence of the insured in the performance of insured's services to cert holder under contract for captioned work. Coverage is primary and certificate holder's insurance is excess and non-contributory. General Liability coverage includes the severability of interests/Cross Suits Liability provision in favor of the holder. *THE TERMS, CONDITIONS, AND LIMITS PROVIDED UNDER THIS CERTIFICATE OF INSURANCE WILL NOT EXCEED OR BROADEN IN ANY WAY THE TERMS, CONDITIONS, AND LIMITS AGREED TO UNDER

CERTIFICATE HOLDER

CANCELLATION

Town of Castle Rock 100 N. Wilcox Street Castle Rock, CO 80104 USA	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE
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EXHIBIT 2 to First Amendment Agreement

CONSULTANT'S CERTIFICATE OF INSURANCE



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
05/31/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER LIC #0437153 Marsh Risk & Insurance Services CIRTS_Support@jacobs.com 633 W. Fifth Street Los Angeles, CA 90071	1-212-948-1306	CONTACT NAME: PHONE (A/C. No. Ext): E-MAIL ADDRESS: INSURER(S) AFFORDING COVERAGE INSURER A: ACE AMER INS CO INSURER B: INSURER C: INSURER D: INSURER E: INSURER F:	FAX (A/C. No): 1-212-948-1306 NAIC # 22667
INSURED Jacobs Engineering Group Inc. C/O Global Risk Management 555 South Flower Street, Suite 3200 Los Angeles, CA 90071			

COVERAGES

CERTIFICATE NUMBER: 68854548

REVISION NUMBER:

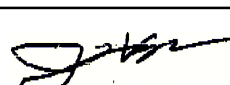
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> CONTRACTUAL LIABILITY GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			HDO G72496176	07/01/22	07/01/23	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 1,000,000 PRODUCTS - COMP/OP AGG \$ 1,000,000 \$
A	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY			ISA H25568230	07/01/22	07/01/23	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N <input checked="" type="checkbox"/> N	N/A	SCF C68914619 (WI) WLR C6891453A (AOS) WCU C68914577 (OH)*	07/01/22 07/01/22 07/01/22	07/01/23 07/01/23 07/01/23	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
A	PROFESSIONAL LIABILITY			EON G21655065 013	07/01/22	07/01/23	PER CLAIM/PER AGG 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

PROJECT MGR: Michelle Pinkerton. CONTRACT MGR: Gretchen Sage. RE: CRYSTAL VALLEY INTERCHANGE PROJECT/Services Agreement. CONTRACT END DATE: 11/30/23. SECTOR: Public. Town of Castle Rock, its officers and employees are added as an additional insured for general liability & auto liability as respects the negligence of the insured in the performance of insured's services to cert holder under contract for captioned work. Coverage is primary and certificate holder's insurance is excess and non-contributory. General Liability coverage includes the severability of interests/Cross Suits Liability provision in favor of the holder. *THE TERMS, CONDITIONS, AND LIMITS PROVIDED UNDER THIS CERTIFICATE OF INSURANCE WILL NOT EXCEED OR BROADEN IN ANY WAY THE TERMS, CONDITIONS, AND LIMITS AGREED TO UNDER

CERTIFICATE HOLDER**CANCELLATION**

Town of Castle Rock 100 N. Wilcox Street Castle Rock, CO 80104 USA	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE 
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Town of Castle Rock

Agenda Memorandum

Agenda Date: 6/5/2023

Item #: **File #:** PWC 2023-033

To: Members of the Public Works Commission

From: Daniel Sailer, Public Works Director

Project Updates

Executive Summary

An overview of the current Public Works projects/programs.

Attachments

Monthly Report



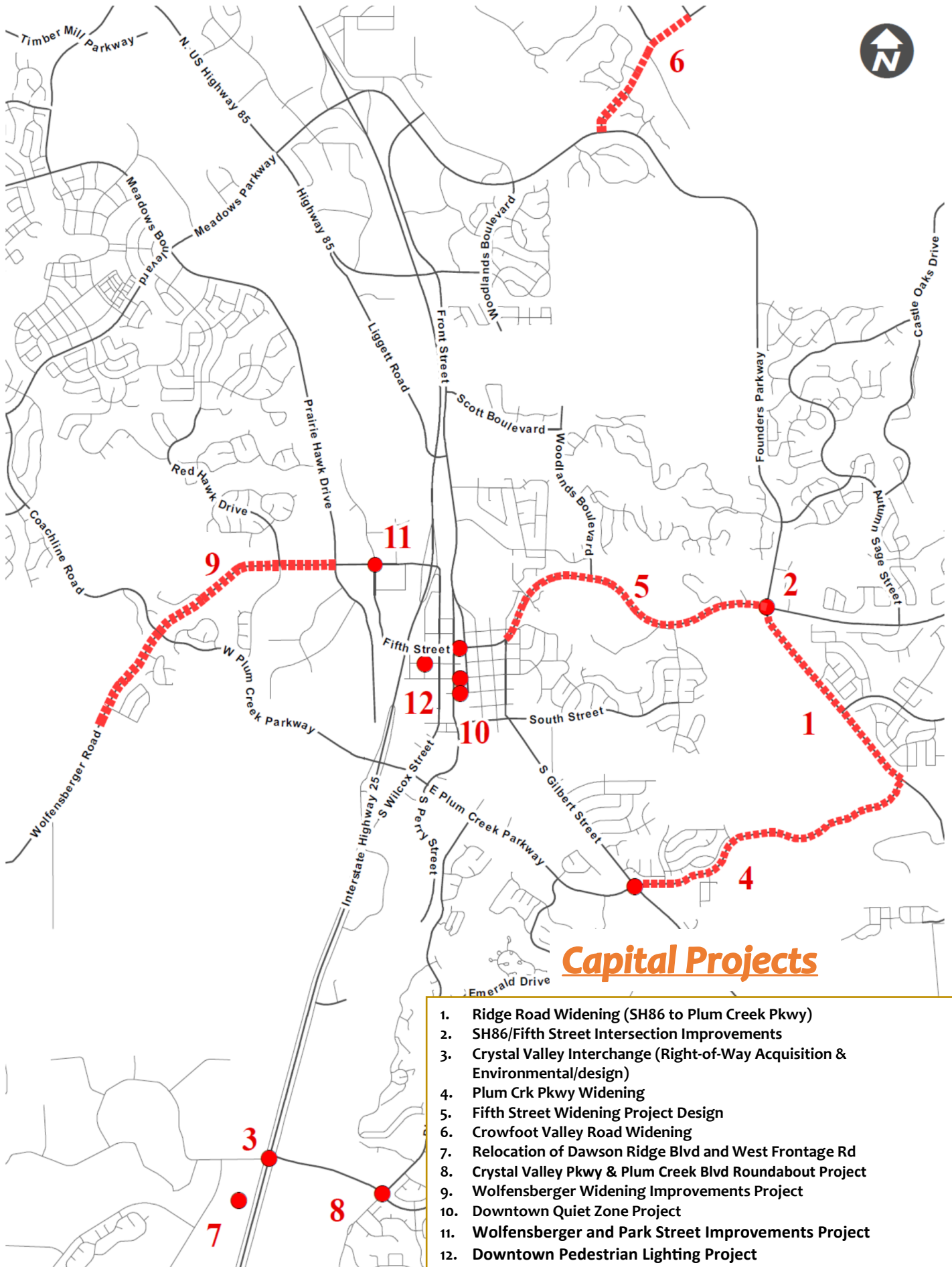
Monthly Report

April 2023

The Public Works Department operates under the **CAN DO** philosophy – We are committed to doing the job right with a positive attitude while staying dedicated to meeting the needs of our Town values and continually searching for opportunities to improve.

PW Mission: To provide outstanding service, safety and support for transportation infrastructure and maintenance.





1. **Ridge Road Widening** – Ridge Road will be widened from two to four lanes between the Founders Parkway (SH86)/Fifth Street/Ridge Road intersection and Plum Creek Parkway. The goal is to reduce traffic congestion on the Ridge Road corridor.

Phase: Construction

- Continue to maintain TESC BMPs
- Continue grading for sidewalk
- Continue grading for roadway prep
- Continue surveying
- Installed caissons for traffic signal poles

Budget: \$5,225,000

ROW Acquisition: Complete

Targeted Construction Completion: Summer 2023

2. **Founders Parkway (SH86)/Fifth Street Intersection “Four Corners” Improvements** – With new traffic studies submitted, the consultant will investigate multiple alternatives to address safety concerns and capacity issues at the intersection. Improvements under evaluation include:

- Intersection will remain a full movement four-way intersection. Additional turn lanes and acceleration lanes will be added.
- Traffic signal improvements will be made to incorporate the larger intersection.
- Pedestrian and bicycle improvements will be constructed on all four sides of the project.
- Stormwater detention and water quality improvements will be constructed to capture the additional surface volume from the new intersection.

Phase: Design— David Evans & Associates (DEA) is the design consultant for this project. The following is a summary of the activities performed this month:

- Stormwater Maintenance IGA being completed and sent for Town signature
- Lien on Haddad property was released and has since been closed and acquired
- Awaiting response from GKT Properties to complete closing documents and provide closing date. Have had little to no response from GKT staff over the last few months.
- Will be asking CDOT for extension on ROW reimbursement due to GKT’s non-responsiveness
- All clearance packages have been completed and will be forwarded to FHWA for approval once Stormwater IGA is executed

Budget: \$1,275,676, with DRCOG Grant Reimbursement

***Targeted Construction Completion:** Winter 2023-2024

3. **Crystal Valley Interchange – Pre-construction Activities** – The purpose of this project is to achieve acquisition of remaining right-of-way, complete design, and set aside future project funding allowing potential funding partnerships to assist with advancing construction.

Phase: Right-of Way Acquisition

- Westside of I-25 – The Town has sent the Notice of Intent (NOI) and offers to Westside Investments for the

parcels they acquired. The Town’s legal team is communicating with the owner of the remaining parcel, Douglas County Development Company. The Town is also exploring a ROW swap with Westside Investments for a portion of the existing Territorial Road, and it is anticipated the parcels will be acquired prior to start of construction on CVI Package 2 in late 2023.

- Eastside of I-25 – Town received the Hyperion appraisal, and has sent the NOI and offer to the owner. Town’s legal team is scheduled to approach Council with a request to move forward with condemnation at the May 2 meeting. The Town’s legal team is communicating with the owner of the remaining parcel, Douglas County Development Company. Depositions are scheduled for Town staff in early May for the Boone condemnation.

Phase –Design: - Interchange Access Request and Environmental Assessment Reevaluation, and Design

- 90% design plans for package 1 submitted for staff review
- Waiting to receive final direction from CDOT on the TDM strategies
- System Level Study has been submitted to staff for review and comments
- CMGC contractor submitted the CAP for package 1, Town staff is in final negotiation with the contractor
- CMGC contractor submitted a budgetary cost for package 2
- Design firm continues working on design for package 2, this included the new request for a single point merge on I-25
- Environmental/NEPA – working with Army Corps for jurisdictional determination. The Army Corps submitted they determination for the 404 permit to the EPA. Project team is waiting to hear back from EPA.
- Maintenance IGA with CDOT for package 1 has been reviewed by the Town and commented submitted to CDOT. CDOT is reviewing
- Douglas County’s IGA – Town staff is anticipating to receive IGA for review by 4/28

Budget: \$6,500,000, and Development Escrow

Design Completion: Summer 2023

Targeted Construction Completion: Winter 2025

4. **Plum Creek Parkway Widening Phase 2** – This project will implement the Transportation Master Plan’s identified improvements for this corridor. The addition of the remaining two lanes of the master planned four-lane roadway on Plum Creek Parkway between Eaton Street and Ridge Road. Not only will it include the addition of 2 lanes, but also bicycle and pedestrian multi use lanes. It will also include roundabout modifications at Ridge Road.

Phase 2: Plum Creek Pkwy Widening (Eaton to Ridge): Construction – The following is a summary of design activities performed this month:

- Completed the installation of the block retaining wall
- Continue the maintenance of erosion control
- Continued the grading for sidewalks

- Continued installation of sidewalks
- Prepared for curb and gutter
- Worked on MHT for the roundabout at Ridge Road and Plum Creek intersection
- Continued roadway prep

Budget: \$7,530,000

Targeted Construction Completion: Fall 2023

5. **Fifth Street Widening Project Design** – Fifth Street is a major arterial connecting local and regional travel between the easterly portions of Town and I-25. Roadway and pedestrian improvements for Fifth Street have been identified within the 2017 Transportation Master Plan (TMP) that will maintain adequate capacity and ensure efficient road network connections for future development.

The Fifth Street Widening project will complete all design elements for implementation of the full build-out transportation network from South Gilbert Street to Ridge Road as identified in the TMP. The improvements include:

- Widen to 4-lanes from Woodlands Boulevard to Ridge Road
- Add on-street bike lanes between Gilbert Street and Ridge Road
- Add sidewalks from Sixth Street to Ridge Road
- Roundabout and signal light construction at Woodlands Boulevard and Valley Drive respectively.

Phase: Design

- Completed 90%/FOR design
- Completed right of way mapping and property descriptions for property interests
- Right of way plans with legal descriptions and exhibits have been submitted to CDOT
- Prepared eminent domain ordinance materials for future Town Council authorization
- Executed service agreement amendment to address additional design scope needed to complete design as requested by stakeholders and leadership for ultimate design

Budget: \$1,500,000

Design Completion: June 2023

Right-of-way acquisition: Fall 2023

***Targeted Construction Completion:** 2024-2025

6. **Crowfoot Valley Road Widening** – Crowfoot Valley Road will be widened between the Knobcone Drive and Macanta Blvd. Currently, this section of Crowfoot Valley Road is a two lane transition section of asphalt roadway with portions in the Town of Castle Rock and in Douglas County. Recent improvements have been completed at both ends of this project along Crowfoot Valley Road, and the intent of this project is to complete improvements to the “gap” between these improvements. The proposed roadway will be a four-lane section, including painted median/turn lanes, with bike lanes in both directions.

Phase: Design—Procurement activities to retain design consultant ongoing

- Funding agreement with Douglas County has been developed to obtain \$1,706,000 in funds to complete the project design and construction
- Staff completed evaluation of proposals and prepared a service agreement to complete project design
- Continue coordination and planning efforts across Town departments to progress jurisdictional cleanup of the project corridor (annexations)

Budget: \$810,000

ROW Acquisition: Late 2023

Design Completion: Fall 2023

***Targeted Construction Completion:** Early 2025

7. **Relocation of Dawson Ridge Blvd and West Frontage Rd** – The purpose of this project is to relocate the I-25 West Frontage Rd to the west of the BNSF Railroad tracks to provide access to the surrounding neighborhoods and residents after the Crystal Valley Interchange is complete.

Phase: Design – CORE Consultants is the design consultant for this project. The following is a summary of the activities performed this month:

- Value engineering conducted and changes were applied
- 100% plans are in review with the Town
- Town continues to explore coordinating management of the Town’s portion of Dawson Trails Blvd construction with Westside Investments to gain efficiencies and cost savings

Budget: \$299,000

Design Completion: Summer 2023

Targeted Construction Completion: Summer of 2025 in conjunction with Crystal Valley Interchange

8. **Crystal Valley Pkwy & Plum Creek Blvd Roundabout Project** This intersection is a major arterial currently controlled by stop signs in two directions. As the traffic volumes increase and with ongoing residential development and future construction of the new Crystal Valley Interchange, this existing traffic control will not be the most efficient and could contribute toward increased accidents. This project will accomplish the design of a two lane roundabout intersection in order to improve the traffic capacity of the intersection, help to manage speeds along Crystal Valley Parkway, and to accommodate the growth in traffic that is expected to increase once the Crystal Valley Intersection has been constructed. This project is scheduled to be designed by June, 2022, bid in June, 2022, and constructed by Summer 2023.

Phase – Construction

- Continued importing borrow material
- Started the installation of storm drain pipe and structures
- Completed removal curb gutter sidewalk and asphalt for phase one construction
- Started roadway fill
- CORE continued the relocation of utilities

Budget: \$3,500,000

Targeted Construction Completion: Fall 2023

9. Wolfensberger Widening Improvements Project- Wolfensberger Road is a major arterial connection for local and regional travel between the westerly portions of Town and I-25. Roadway and pedestrian improvements for Wolfensberger have been identified within the 2017 Transportation Master Plan (TMP) that will maintain adequate capacity and ensure efficient road network connections for future development.

The Wolfensberger Widening Improvements Project will complete all design elements for the implementation of the full build out transportation network from the western Town limits to Prairie Hawk Drive.

- Widening roadway to a full 4-lane arterial section
- Addition of sidewalk along both sides of Wolfensberger
- Roundabout construction at Red Hawk/Auburn and Wolfensberger Intersection
- Removal of existing traffic signal
- Storm water drainage improvements
- Implementation of on street bike lanes West/East bound

Phase: Planning/Design

- Ongoing design work with adjacent developers to accommodate and incorporate their ingress/egress into project design
- Design efforts to utilize existing Town property for stormwater improvements ongoing
- Utility coordination meetings with CORE and CRW ongoing
- All permanent, temporary and ROW takes have been identified and exhibits and legal descriptions have been drafted. Notice of intent letters have been drafted for all affected properties
- 30% design submittal was received on March 28
- 30% design review meeting is set for May 9
- Project design will be stopped after 30% due to budget constraints
- Design close out tentatively scheduled for early June
- ROW acquisitions may continue upon direction from management

Budget: \$2,500,000

Design Completion: October 2023

Right of Way Acquisition: 2023

***Targeted Construction Completion:** 2024

10. Downtown Quiet Zone Project - This project is to implement a quiet zone through the downtown Castle Rock area. In order to implement the quiet zone, improvements must be constructed at three railway crossings: Second Street, Third Street and Fifth Street. The scope of the improvements to be constructed with this project include: additional crossing gates, pedestrian crossing improvements, ADA improvements, sign and marking improvements, curb and gutter additions and general railroad (Union Pacific or UP) coordination. The benefits of this project will be improved safety for vehicles and pedestrians and improved quality of life for downtown businesses, residents and patrons.

Phase: Construction - The following is a summary of activities performed this month:

- Completed Town performed scope of work including new sidewalks, curb & gutter, and asphalt patching
- Project team is working to have Union Pacific try and move their gate installation date to spring/summer vs. December timeframe they gave

Budget: \$1,800,000

Targeted Construction Completion: Spring 2023

11. Wolfensberger and Park Street Improvements Project- Wolfensberger Road is a major arterial connection for local and regional travel between the westerly portions of Town and I-25. Roadway and pedestrian improvements for Wolfensberger and Park Street have been identified to increase intersection operations and provide better pedestrian access to the Downtown area.

The Wolfensberger and Park Street Improvements Project will complete all design elements for the implementation of pedestrian and transportation improvements.

- Relocate traffic signal pole
- Increase sidewalk width
- Replace existing ADA ramps
- Construct additional turn lane on Park Street

Phase- Planning/Design

- Utility coordination meetings with CORE and Comcast ongoing
- 50% design was submitted in March
- Design team is revising/addressing all comments and progressing the plan set
- 90% plans were delivered on 4/26
- ROW and easement acquisition is progressing with Western States
- Construction tentatively scheduled for later July or Early August
- Conflicting utilities found during SUE and being relocated now to prevent delays in construction

Budget: \$600,000

Design Completion: April 2023

Right of Way Acquisition: April-May 2023

***Target Construction Completed:** July 2023

12. Downtown Pedestrian Lighting Project—In 2019 the Town was awarded a grant to fund safety improvements in the Downtown area. The grant is to be used to provide improvements to existing areas with known safety issues. The Town has identified various areas in the Downtown area that are not properly lit to Town standards. The Town will work to design and construct additional lighting in areas that currently do not meet our criteria to ensure safe traveling corridors for pedestrians and motorists in the downtown area.

Elements that will be included in this project are:

- Photometric Analysis of the downtown area
- Identify locations where additional lighting is needed
- Design and construct necessary facilities to provide power to lighting locations

Phase - Planning/Design

- Currently in the process of selecting a design consultant
- Scoping meeting with CDOT staff on 4/27/2023

- Design will commence in June
- Project will focus heavily on photometric and SUE investigations

Budget: \$600,000

Design Completion: November 2023

Right of Way Acquisition: N/A

***Targeted Construction Completion:** December 2023

**These are subject to change based on adjusted revenue forecasts and results of bids received for CVI and the Four Corners Intersection projects.*

Traffic Signal System Upgrades – This project is a multi-year signal system upgrade project that began in 2015 and is ongoing as funds are available. The project has included proven technology advances at signalized intersections, for our daily operations, and for communications between the center and each intersection.

- Staff is a part of the CDOT managed, adaptive signal system project that has implemented adaptive signal timing on Founders Parkway, and Meadows Parkway, and Factory Shops Boulevard. Eight abutting Town signals are included in the system. In April, the Kadence system was continuing to be monitored for successful operation. Traffic speeds continue to be faster than normal with the system operating. Kimley-Horn and CDOT continue to work quickly to resolve any issues that arise. Acceptance and before & after performance metrics are being collected.
- Phase II of the Town's ATSPM project includes software development and signal timing. ATSPM dashboard is in testing and will continue until final acceptance is complete. Consultant has been asked to update the Signal System Management Plan to incorporate these performance metrics.
- The Town is awaiting a draft IGA from CDOT, outlining scope and schedule, before procuring the Connected Vehicle hardware (10 roadside units, 10 onboard units). Once executed this two-year project will kick off in earnest. The Town's project scope focuses on messaging intersection safety and driver awareness of operations and maintenance at high crash locations.
- DRCOG released information for grant funding for Fiscal Year(s) 2024-2027 TIP Set-Aside which includes \$16M for capital investments in Regional Transportation Operations & Technology (traffic signals and ITS). Staff is shortlisting potential opportunities. Letters of Interest are due by May 19.

Budget: \$868,700

Construction Completion: End of year 2024

2023 Safety Projects – This project includes concrete safety devices in conjunction with the Pavement Maintenance Program, installation of pedestrian crossing beacons at four locations, Intelligent Transportation System on Meadows Blvd to warn drivers of signal changes, intersection safety improvements, and missing sidewalk connections.

- Staff is working with the DMA regarding proposed inter-

section safety improvements at 4th and Jerry to include in the contract work for KRM Concrete to complete.

- The public feedback regarding the Valley Drive improvements has been reviewed. The public preference was overwhelming for a raised crosswalk on the north side of the South St. intersection. A summary of the recommendation and proposed next steps is being circulated.

Budget: \$410,000

Construction Completion: Winter 2023

Illuminated Street Name Signs – 2023 illuminated street name signs have begun the planning and purchase order process for four locations throughout the Town budget depending, including: Founders Pkwy and Copper Cloud, Founders Pkwy and Ridge Road (Four Corners), Wolfensberger and Park St, and Wolfensberger and Caprice.

- Staff is working with our maintenance contractor to connect the Meadows Pkwy and Hwy 85 power feed for two remaining unlit signs.
- 2022 illuminated street name signs have arrived and are currently being prepared for installation at five locations across Town, including: Plum Creek Pkwy and Plum Creek Blvd, Plum Creek Pkwy and Perry St, Founders Pkwy and Front St, Wilcox St and I-25 northbound, and Wolfensberger and I-25 southbound.
- 2023 signs have been ordered and staff is awaiting delivery.

2022 Budget: \$39,105

Construction Completion: Spring 2023

2023 Budget: \$60,000

Construction Completion: Winter 2023

Rectangular Rapid Flashing Beacons (RRFB) – Town staff has determined six locations to install RRFBs for 2023. The RRFBs will be installed in locations in which they are the most effective and beneficial to the traveling public. Supplemental pedestrian refuges are being recommended for three of the locations. Equipment delivery expected at the end of June.

2023 Total Safety Budget: \$90,000

Targeted Construction Completion: Summer 2023

Engineering Division

2023 Pavement Maintenance Program (PMP)

The 2023 PMP will focus its efforts in the East PMP areas along with work taking place on several primary streets: (Second Street, Fourth Street, Mikelson Blvd., and Woodlands Blvd.). A section of Mikelson Blvd., as well as certain residential neighborhood streets, will see reconstruction this year.

Sidewalk, Curb and Gutter

Sidewalk, curb and gutter repairs kicked off April 24 with saw cutting operations. The residents & businesses within the East PMP area were notified via letters as well as the use of variable message boards, that repair and maintenance work was to begin.

Work began in the area #3; Appleton Way, Lantern Trail, and Cascade Ave, and will progress through the East PMP regional area in a clockwise manner. This year, damaged sidewalk curb and gutter will be addressed in four (4) separate areas. The Town's contractors will be preparing the streets to receive slurry seal, crack seal and mastic as well as asphalt patching. Sidewalk, curb and gutter repairs are expected to run through June 12. Asphalt patching and crack seal are scheduled to begin in mid-June and run through July. The asphalt slurry seal will follow July 5, after the holiday.



Asphalt Overlay

Asphalt Overlay Project began construction April 3, with concrete and asphalt repairs on Lantern Circle, Lost Canyon Ranch Road and Killen Ave. The crews spent the first week here before moving onto other areas in a counter clockwise fashion. Concrete repairs and asphalt patching will continue for several weeks, followed by asphalt milling and overlay operation beginning May.



Full Depth Reclamation

Full Depth Reclamation concrete repair work started on April 17. The work started in area #3, Aspen Ave, Spruce Ave, Sandpiper Ave. The contractor removed and replaced damaged sections of sidewalk, curb and gutter. Concrete repairs are expected to continue the rest of this month. Reclaiming operations are scheduled to begin in May.



2023 Facilities Parking Lot Improvements Program

This year's maintenance program will see needed improvement made to nine (9) parking lots from various Town departments. These parking lots will see various improvements such as curb, gutter & sidewalk replacement, asphalt mill and overlay, asphalt patching, slurry seal and seal coat.

Parking lots that are scheduled include the following:

Founder's Fire Station #153	Gemstone Park Parking Lot
Prairie Hawk Fire Station #154	Ray Waterman Treatment Plant
Wrangler Park Parking Lot	Founder's Treatment Plant
Weaver II Well Field	Bison Park Parking Lot
Butterfield Park (Concrete off Meadows Blvd)	

Work is scheduled to begin September 5, and be completed by November 3.

2023 Bridge Maintenance Program (BMP)

Staff has secured a service agreement with BASIS Partners to provide technical support for the Bridge Maintenance Program. The bridge identified for necessary repairs is the Castle Rock Parkway Bridge over Hwy 85.

Project is expected to go out for competitive bids in July, with construction beginning in August. Repairs consist of mainte-



nance to the bridge deck and ramps. Maintenance activities include; cleaning of bridge deck and ramp surfaces, application of sealant product, clean and seal expansion joints. Map of this bridge is below.

Development Division

Review and Permitting

Development Review - All 33 reviews were completed. No late reviews this month.

Permitting & Inspection – 30 right-of-way permits were issued.

Transportation Planning & Traffic Engineering Division

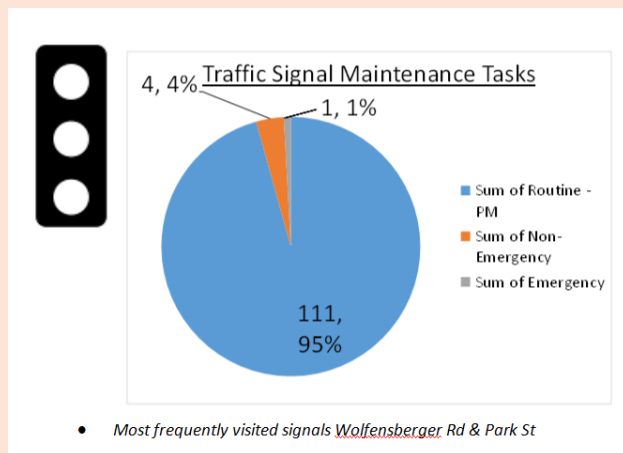
Taxi Voucher Program

For the month of April, the Taxi Voucher Program funded 145 rides; which is a 40% increase to last year's April total of 103 but a 10% decrease from last month's total rides. Transportation services are provided for Castle Rock citizens who cannot drive, have a disability that prevents them from driving, or do not have access to a vehicle. In April, 24 individuals used the Taxi service. Of those individuals, 74% of the rides were for work, 19% for shopping trips, and 7% for medical appointments. Sixty-four rides were provided for people without access to a vehicle, 35 rides to seniors, and 46 rides to disabled riders.

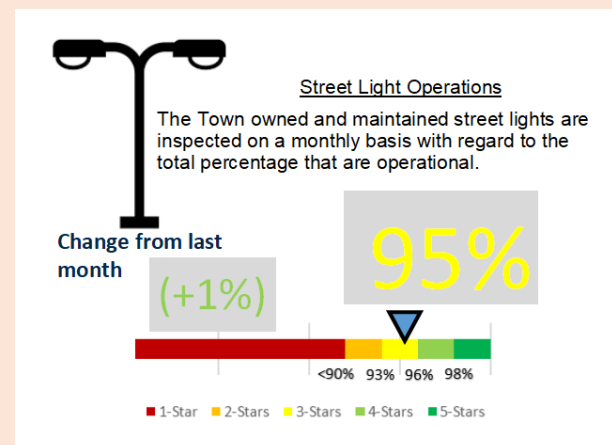
The Castle Rock Senior Center provided 608 rides in April.

Traffic Engineering and Operations

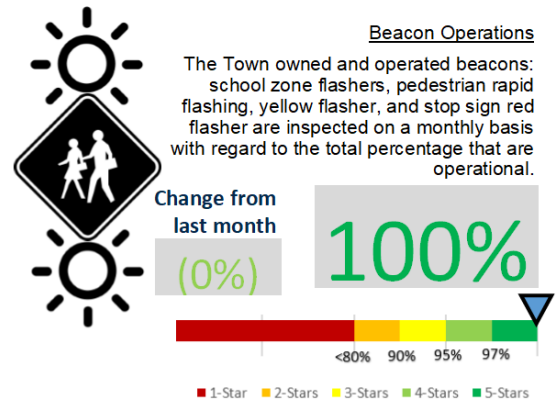
Traffic Signal Operations and Maintenance



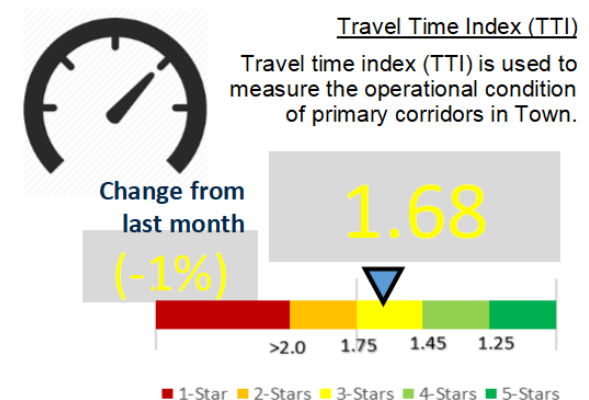
Street Light Operations



Beacon



Operations



Street Signs and Pavement Marking Maintenance

For the month of April, the team completed 484 tasks. Of these tasks, 194 of them were sign work activities related to fabrication, install, repairs, replacements, inspections and investigations. We had 238 beacon related tasks, including windshield inspections, and repairs. There were four marking related inspection and replacement tasks. Other tasks included 19 projects, including one locate, one core drill task, one liquor license posting, and 26 administrative tasks.

Transportation Planning

Castle Rock Downtown Wayfinding Sign Plan:

The public and project technical team has reviewed the list of possible destinations. The list will consist of destinations for vehicular signs, bike and pedestrian signs, and walking signs for the final report. The consultant provided four conceptual sign designs to the technical team for their review that will be revised into two sign designs for the public review and comment in May. A presentation was provided to the Downtown Alliance in April and a presentation is scheduled with the Chamber of Commerce for May.

Neighborhood Traffic Calming Program (NTCP):

The NTCP exists to verify and address quality of life items associated with vehicular traffic on local neighborhood streets and certain residential collector roadways. One new inquiry was received in April for Ash Street in Founders. A speed and volume study will be scheduled in May. The neighborhood point of contact for Valley Drive was contacted and provided two options on how she would like to proceed with the Valley Drive traffic calming project. Staff is awaiting her decision. The neighborhood point of contact for N. Meadows Drive will also be given the two options on how he would like to proceed with the traffic calming project. The two options are based on the recent Council amendments to the program, or proceed under the old program since the applications were submitted prior to the amendments.

DRCOG Transportation Improvement Program (TIP) & Federal Grant Applications:

The Crystal Valley Interchange (CVI) TIP grant application was unanimously recommended for approval by the DRCOG Transportation Advisory Committee (TAC) on April 24. The TAC voted to approve \$8.5 million for the CVI project. The DRCOG Board is expected to make a motion on the 2024-2027 TIP in July. If approved the funds will be available in FY 2024. The Town also received news that Senator Hickenlooper's proposal for Congressional Discretionary Funds will include \$2.5 million for the CVI project. This does not guarantee funding for CVI because the bill still needs to get congressional approval and approval by the President. These funds will also be available in FY 2024.

Fleet Services

The Fleet Services Division had a busy month performing repair activities and managing vehicle additions and replacements. Below is a snap shot of the Fleet Division activities this past month.

KPI's

Objective/Benchmark: Town vehicles and equipment available for use 95% of time.

- Outcome: Fleet Availability was 98%.

Objective/Benchmark: Complete at least 75% of our work orders within 48-hours of coming to shop.

- Outcome: Fleet team completed 71% of the work orders within 48-hours of opening repair requests or service requests.

Objective/Benchmark: Technician productivity percentage of 70% (APWA standard)

- Outcome: Technician productivity was 65%.

Productivity

Our technicians continue to produce at high levels to keep the town moving. The overall fleet availability for all departments was 98%. We completed 115 work orders that had 136 job lines for 97 vehicles and equipment. Fifty five were preventative maintenance work orders. We issued 373 lines item parts mostly from our inventory. 10,194 gallons of fuel was dispensed. Fuel cost dropped to 2.69 per gallon for unleaded and \$3.28 per gallon for diesel. The support activities that go into providing the needed tools, equipment and supplies for the shop is critical to our success. Continued supply chain disruptions have made it more difficult to source these items but our team has worked hard to minimize delays.



Shop Operations and Management

A number of projects are in the works to help fleet provide the best customer service for the town and the be more efficient. The Fleet Advisory Committee met again this month. The topic of discussion was risk management and accident reporting. Stefanie Raph from the Legal Department attended and provide guidance for the committee. The group discussion was very helpful in identifying potential options for our current GPS capabilities and raised questions about camera use in vehicles and how current policies regarding their use. Fleet is preparing 7 units for auction with more equipment scheduled for auction this summer. One unit was sold this month. Fleet uses Faster Web for our Maintenance Management software. We are working with IT to fix software update issues to keep our system cur-



rent. The Parts division is working to remove obsolete inventory and replace with new inventory. Our vendors have been very helpful in giving the town credits.

New and Replacement Vehicles

Fleet has seen some movement of vehicle orders in late April. Five new vehicles and equipment were put in-service in April. Another 13 new vehicles starting arriving with nine of them being the Ford F150 Hybrid truck. These trucks will be used by a variety of departments and we should be able to get a good sample size of fuel cost savings that they may bring. One of the vehicles is for the build of the Fire Department brush truck to be put into service at the new fire station. Three are replacement utility trucks for Traffic and Facilities Maintenance. We continue to experience delays with non-electric/hybrid vehicles.



Look Ahead Items:

Four new F150 crew cab trucks are scheduled for delivery in June. The two wheeled loaders approved by Council in February are also scheduled to arrive in June. There are no production updates from the manufacture for nine 2023 police vehicles. The 2024 budget process is in high gear. Fleet has meet with all departments about their vehicle replacements and additions wish list. The initial list of vehicles is significantly less than 2023. Cost estimates are being developed for these vehicles. A high number of vehicle replacements originally scheduled for 2024 were pushed out several years to extend the life of those vehicles. Fleet is also seeing significant cost increases of adding equipment to the new vehicles. The team has been working hard to establish standard vehicle specifications to standardize our fleet to help control these cost. We will use this information to look at in house upfit options and use for bid purposes.

Street Operations & Maintenance Division

During the month of April, the Street Operations & Maintenance Division (SO&MD) performed work in the following maintenance operations:

- *Crack Seal Operations
- *Pothole Repair
- *Training
- *Street Sweeping
- *Road Verge Maintenance

Crack Seal Operations

PMP maintenance crack seal operations have begun. Currently the crew is working in the North PMP region which encompasses Sapphire Point, Diamond Ridge, and Castle Oaks. The crew completed 8.18 lane mile of roadway utilizing 495 labor hours, and 58,200 pounds of material.

Street Sweeping

Spring sweep operations have begun. These operations entail the cleaning of sidewalks and ADA ramps of salt and sand from the snow season prior to sweeping the street. The purpose of the operation is to give the entire Town a clean sweep for spring and remove the salt and sand from winter operations. The crew dedicated 362 hours to clean over 319 lane miles of roadway.

Pothole Repair

The crews have worked diligently to stay on top of potholes this season, spending 238 hours inspecting roads, and repairing concrete and asphalt potholes throughout Town. The crews used 960 pounds of concrete patch and 2,250 pounds of asphalt cold mix to repair the equivalent of 1070 potholes. Many of these repairs are temporary and have been scheduled for permanent fix with hot mix asphalt when the vendor plants open for the season.

Road Verge Maintenance

The crews worked to maintain the road verge and shoulders in Town. In all 55 hours were needed to repair 1.42 miles of road shoulder, and trash pick up required 97 hours to remove trash off of 46 lane miles of roadway.

Training

The crews used 211 hours for various trainings within the division, most notably the crew attended Traffic Control Technician training through ATTSA. This will ensure a much higher knowledge base for traffic control and greater adherence to MUTCD protocols to enhance safety in work zones.

Looking Ahead

Operations for May include finishing the Spring Sweep, beginning the bi-monthly downtown sweeping operations. Asphalt patching season is also beginning with the plants ramping up production. In addition to this, crack seal operations are in full swing and will likely proceed through the month.