



BOARD OF COUNTY COMMISSIONERS SPECIAL MEETING AGENDA

January 31, 2023 at 10:00 AM

Commissioners Meeting Room - 401 Main Street, Suite 309, Walsenburg, CO 81089

Office: 719-738-3000 ex 200 | Fax: 719-738-3996

9:00 AM - MEETING WITH CTSI

10:00 AM - PUBLIC MEETING

Join via Zoom: <https://us02web.zoom.us/j/82550511219> | **Meeting ID:** 825-5051-1219

1. PLEDGE OF ALLEGIANCE

2. AGENDA APPROVAL

3. CONSENT AGENDA

- a.** Minutes from January 10, 2023
- b.** Minutes from January 17, 2023
- c.** Abatement Request 23-01 for La Veta Village on Parcel 282731
- d.** Anthony Luginbill Move to Exempt
- e.** Samuel Carreon FTO Completed Bonus
- f.** Samuel Carreon COLA Adjustment Correction
- g.** John Quintana FTO Completed Bonus
- h.** John Quintana COLA Adjustment Correction
- i.** Nancy Bustos Comp Time Payout
- j.** Amanda Martin Promotion
- k.** Donald Ortiz Resignation

4. PUBLIC COMMENT

5. APPOINTMENTS

6. LAND USE

- a.** 22-54 Vacation of ROW and Plat Amendment in Panadero #4
- b.** 22-57 CUP Atlas Tower 1
- c.** Bradford Mesa Update

7. ACTION ITEMS

- a. Resolution 23-08 Appointing Gerald Cisneros to the Federal Mineral Lease District
- b. Resolution 23-09 Establishing Commissioner Liaison Responsibilities
- c. Resolution 23-10 Adopting County Entertainment District and Common Consumption Area Regulations
- d. Google Workspace Business Plus Renewal
- e. Highway Safety Improvement Program (HSIP) Application for Gardner
- f. CDOT HUTF Signature Sheet. No changes were made last year.
- g. Updated Quote and Contract for Payroll and Timekeeping System
- h. Displacement Pump on Primary Crusher
- i. Energy Performance Contracting Agreement
- j. Approval to Apply Best and Brightest Fellowship Program
- k. Designation of Official Representative to County Health Pool
- l. Award of Huerfano County Cooperative Planning Projects and Agreement with SE Group
- m. January 2023 Vendor Run
- n. La Veta Fire Funding Request
- o. Triad EAP Contract

8. STAFF REPORTS

- a. County Administrator
- b. County Attorney

9. CORRESPONDENCE

- a. 2023 Huerfano County Hospital District Transparency Notice
- b. Jade Communications Spanish Peaks Broadband Grant Winter 2023
- c. Colorado Stargazing 2022 Review
- d. Carla Richardson Valley Rd & CR 351 Railroad crossings
- e. CTSI Hand Injuries Common & Preventable
- f. Huerfano County Courthouse East Face Masonry Field Report 1
- g. Notice of New National Opioid Settlements and Upcoming Action Needed to Participate

10. EXECUTIVE SESSION

- a. For the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. §24-6-402(4)(e). **Expired Law Enforcement Services Contract with the City of Walsenburg**
- b. For the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. §24-6-402(4)(e). **E-911 Agreement**

11. ADJOURNMENT

12. UPCOMING MEETINGS

- a.** 12:30PM - Road and Bridge Workshop

**COMMISSIONERS' MEETING
January 10, 2023**

Commissioner Galusha called the meeting to order followed by the Pledge of Allegiance.

Commissioners John Galusha, Arica Andreatta and Karl Sporleder were present.

Election of a Chairperson.

Motion to approve the appointing of John Galusha, as Chairman for the Board of County Commissioners.

Commissioner Andreatta called for a motion to approve the appointing of John Galusha as acting Chairman to the Board of County Commissioners for the year 2023.

Motion: Andreatta

Second: Sporleder

Discussion: None

Resolved: Motion passed by unanimous vote.

Andreatta: Yes

Galusha: Yes

Sporleder: yes

Commissioner Andreatta called for a motion to approve the agenda as amended for January 10, 2023 removing item 8c #23-03.

Motion: Andreatta

Second: Sporleder

Discussion: None

Resolved: Motion passed by unanimous vote.

Sporleder: Yes

Andreatta: Yes

Chairman Galusha: Yes

Commissioner Sporleder called for a motion to approve the January 10, 2023 Consent Agenda.

Motion to approve the January 10, 2023 Consent Agenda, noting Commissioner Karl Sporleder abstained from the December 20, 2022 minutes.

Motion: Sporleder

Second: Andreatta

Discussion:

1. Meeting Minutes for December 20, 2022
2. HR Status Sheet-Kathleen O'Rourke –Pay Increase
3. HR Status Sheet –Susan Shoop- Pay Increase
4. HR Status Sheet-Hallie Homerding-Pay Increase
5. HR Status Sheet-Kevin Archuleta-Transfer
6. HR Status Sheet-Lea Vigil-Promotion
7. HR Status Sheet-Antoinette Knight-Promotion
8. HR Status Sheet-Derek Guess-Promotion
9. HR Status Sheet-Burnell Haywood-Promotion
- 10.HR Status Sheet-William Cordova-Phone Stipend
- 11.HR Status Sheet-Heather Pacheco- New Hire
- 12.HR Status Sheet-Nell Gibson-New Hire
- 13.HR Status Sheet-Michael Sanchez-New Hire
- 14.HR Status Sheet-Fernando Vasquez- New Hire
- 15.HR Status Sheet-Christine Futamata-New Hire
- 16.HR Status Sheet- Angie Glover Comp Time Payout
- 17.HR Status Sheet-Lydia Martinez- Resignation
- 18.HR Status Sheet-Matthew Montoya-Resignation
- 19.HR Status Sheet-Hunter Brown-Resignation

Resolved: Motion passed.

Andreatta: Yes

Sporleder: Yes (with exception of the December 20, 2022 minutes)

Chairman Galusha: Yes

10:06 A.M. Public Comment:

None.

10:06 A.M. Appointments:

1. Jim Hoobler-Updates on the upcoming Auction.

10:11 A.M. Land Use:

Sky Tallman, Land Use Director, and Cheri Chamberlin, Building Inspector, presented Memorandum of Understanding (MOU) for the Colorado Department of Revenue.

1. Access the taxes that are paid to the state.

Motion to approve Carl Young the Administrator to sign the Memorandum of Understanding (MOU) with the Colorado Department of Revenue.

Motion: Andreatta

Second: Sporleder

Discussion: None

Resolved: Motion passed by unanimous vote.

Sporleder: Yes

Andreatta: Yes

Chairman Galusha: Yes

10:12 A.M. Action Items:

County Administrator Carl Young and the Board reviewed action items.

1. Resolution #23-01 Office Hours and Holiday Closings.

Motion to approve Resolution #23-01 establishing the Annual Calendar of County Board of Commissioners meetings, hours of operation and observed holiday closings of county offices for calendar year 2023.

Motion: Andreatta

Second: Sporleder

Discussion: None

Resolved: Motion passed by unanimous vote.

Sporleder: Yes

Andreatta: Yes

Chairman Galusha: Yes

2. Resolution #23-02 World Journal 1 year adoption.

Motion to approve Resolution #23-02 Designating an Official Newspaper for the Publication of Legal Notices for the Calendar Year 2023.

Motion: Andreatta

Second: Chairman Galusha

Discussion: None

Resolved: Motion passed.

Sporleder: Abstained
Andreatta: Yes
Chairman Galusha: Yes

3. Resolution #23-04 adopting county fund depositories.

Motion to approve Resolution #23-04 Designating County Fund Depositories.

Motion: Andreatta **Second: Sporleder**

Discussion: None

Resolved: Motion passed by unanimous vote.

Sporleder: Yes
Andreatta: Yes
Chairman Galusha: Yes

4. Resolution #23-05 appointing Tom Macedo to the Spanish Peaks Library District.

Motion to approve a Resolution #23-05 appointing Tom Macedo to the Spanish Peaks Library District Board of the Trustees , for a term expiring on January 31, 2028 as amended.

Motion: Andreatta **Second: Sporleder**

Discussion: Resolution amended date of expiration from December to January 31, 2028.

Resolved: Motion passed by unanimous vote.

Sporleder: Yes
Andreatta: Yes
Chairman Galusha: Yes

5. Resolution #23-06 appointing Vonnie Valdez as Huerfano County Representative to the Las Animas- Huerfano Board of Health.

Motion to approve a Resolution #23-06, appointing Vonnie Valdez, as the Huerfano County Representative to the Las Animas-Huerfano Counties Board of Health.

Motion: Sporleder **Second: Andreatta**

Discussion: None

Resolved: Motion passed by unanimous vote.

Andreatta: Yes

Sporleder: Yes

Chairman Galusha: Yes

6. Resolution #23-07 appointing Karl Sporleder to the Huerfano County Asset Management Corporation.

Motion to approve the Resolution #23-07, welcoming Karl Sporleder to the Huerfano County Asset Management Corporation for a term running concurrent with his service as County Commissioner.

Motion: Andreatta

Second: Sporleder

Discussion: None

Resolved: Motion passed by unanimous vote.

Sporleder: Yes

Andreatta: Yes

Chairman Galusha: Yes

7. 2023 CAPP Contribution.

Motion to approve invoice for, County Technical Services, Inc. (CTSI), in the amount of \$295,546.00.

Motion: Andreatta

Second: Sporleder

Discussion: None

Resolved: Motion passed by unanimous vote.

Sporleder: Yes

Andreatta: Yes

Chairman Galusha: Yes

8. 2023 (CWCP) County Workers Compensation Pool invoice.

Motion to approve the County Workers Compensation Pool (CWCP) Invoice, in the amount of \$115,791.00.

Motion: Sporleder

Second: Andreatta

Discussion: None

Resolved: Motion passed by unanimous vote.

Andreatta: Yes
Sporleder: Yes
Chairman Galusha: Yes

9. December 2022 Vendor Run.

Motion to approve the December 2022 Vendor Run (bills) in the amount of \$180,330.12.

Motion: Andreatta **Second: Sporleder**

Discussion: None

Resolved: Motion passed by unanimous vote.

Sporleder: Yes
Andreatta: Yes
Chairman Galusha: Yes

10. Quote from Good Year Tire Service Center for Grader tires.

Motion to approve the invoice amount \$22,253.22 for, purchase of Grader tires.

Motion: Sporleder **Second: Andreatta**

Discussion: None

Resolved: Motion passed by unanimous vote.

Andreatta: Yes
Sporleder: Yes
Chairman Galusha: Yes

11. Estimate transmission repairs for Grader from Wagner/CAT.

Motion to approve the invoice to Wagner/CAT in the amount of \$57,167.02.

Motion: Andreatta **Second: Sporleder**

Discussion: None

Resolved: Motion passed by unanimous vote.

Sporleder: Yes
Andreatta: Yes
Chairman Galusha: Yes

12. County Designation of 2023 Steering Committee Proxies for CCI.

Motion to appoint Carl Young, Huerfano County Administrator and Shiela Hudson-Macchetio, Director of Human Services, as, the 2023 Steering Committee Proxies.

Motion: Andreatta

Second: Sporleder

Discussion: None

Resolved: Motion passed by unanimous vote.

Sporleder: Yes

Andreatta: Yes

Chairman Galusha: Yes

13. Approval to accept and apply for 2023 Emergency Management Program Grant (EMPG) Grant .

Motion to approve the signature for the authorization forms for the Emergency Management Program (EMPG) Grant , in the amount \$46,405.13.

Motion: Andreatta

Second: Sporleder

Discussion: None

Resolved: Motion passed by unanimous vote.

Sporleder: Yes

Andreatta: Yes

Chairman Galusha: Yes

14. Quote from ALL-Phase Environmental Consultants for air quality Testing at 129 Kansas.

Motion to approve the scope of work from ALL-Phase testing in the amount of \$2,145.00.

Motion: Andreatta

Second: Sporleder

Discussion: None

Resolved: Motion passed by unanimous vote.

Sporleder: Yes

Andreatta: Yes

Chairman Galusha: Yes

15. Request to release Obligated Funds for Spanish Peaks Regional Health Center (SPRHC).

Motion to approve the use of funds in the amount of \$50,000, towards the Spanish Peaks Regional Health Center for, the purpose of beds.

Motion: Andreatta

Second: Sporleder

Discussion: None

Resolved: Motion passed by unanimous vote.

Sporleder: Yes

Andreatta: Yes

Chairman Galusha: Yes

16. IGA with Alamosa County for Veterans Transportation.

Motion to accept the IGA with Alamosa County.

Motion: Sporleder

Second: Andreatta

Discussion: None

Resolved: Motion passed by unanimous vote.

Andreatta: Yes

Sporleder: Yes

Chairman Galusha: Yes

17. Triad Employee Assistance Proposal.

Motion to approve the package from Triad in the amount of \$3148.60, to include EAP 3-session planning incident per year with an add-on of legal and financial consultation services.

Motion: Andreatta

Second: Sporleder

Discussion: None

Resolved: Motion passed by unanimous vote.

Sporleder: Yes

Andreatta: Yes

Chairman Galusha: Yes

18. Quote for Multiple Tree Removal.

Motion to approve the amended motion to read in the amount of \$3000.00 to Tommy and Mike's Tree Care, for the removal of the Pine Tree for \$2,200.00 and the thinning of Pine Tree for \$800.00.

Motion: Andreatta

Second: Sporleder

Discussion: Questioned if other bids have been given and could County workers remove the trees? Could we keep stump intact or does it have to come out?

Resolved: Motion passed.

Sporleder: Yes

Andreatta: Yes

Chairman Galusha: No

19. 2023 Economic Development Contribution.

Motion to approve the invoice in the amount of \$5,000.00 for the Huerfano County Economic Development, with a comment from the Administrator to the Board of Economic Development if additional funds are needed they must provide a presentation.

Motion: Andreatta

Second: Sporleder

Discussion: None

Resolved: Motion passed.

Sporleder: Yes

Andreatta: Yes

Chairman Galusha: Abstain

20. Accept Award EIAF Grant for Energy Performance Contracting.

Motion to accept the Award Letter in the amount of, \$750,000.00, from Department of Local Affairs (DOLA) Energy & Mineral Impact Assistance Fund Grant, for the Energy Performance Contracting Project.

Motion: Andreatta

Second: Sporleder

Discussion: None

Resolved: Motion passed by unanimous vote.

Sporleder: Yes

Andreatta: Yes

Chairman Galusha: Yes

21. Accept Award of the Underfunded Courthouse Grant.

Motion to accept the award letter in, the amount of \$16,265.00.

Motion: Andreatta

Second: Sporleder

Discussion: None

Resolved: Motion passed by unanimous vote.

Sporleder: Yes

Andreatta: Yes

Chairman Galusha: Yes

22. Request to continue to pay the Sheriff's Office Employees overtime vs. comp time.

Motion to approve the continued overtime pay for, Sheriff's Department Employees through December 31, 2023.

Motion: Sporleder

Second: Andreatta

Discussion: None

Resolved: Motion passed by unanimous vote.

Andreatta: Yes

Sporleder: Yes

Chairman Galusha: Yes

23. Report of Changes Liquor License for Cuchara Yacht Club.

Motion to approve the Change of structure for, Tacos on the Fly LLC. also known as the Cuchara Yacht Club.

Motion: Sporleder

Second: Andreatta

Discussion: No disturbances reported, remains in good standing.

Resolved: Motion passed by unanimous vote.

Andreatta: Yes

Sporleder: Yes

Chairman Galusha: Yes

11:12 A.M. Staff Reports:

1. County Administrator Carl Young – 2021/22 Board Assignments.
2. County Attorney Lisa Powell-Dejong - Nothing to report at this time. Will update and discuss Solano Case in Executive Session.

11:13 A.M. Correspondence:

County Administrator Carl Young and the Board reviewed Correspondence.

11:25 A.M. Executive Session:

Commissioner Andreatta called for a motion to go into Executive Session at 11:25 A.M.

Motion: Andreatta

Second: Sporleder

Discussion:

- a. Executive Session for discussion of the **Sheriff's Office Contract with the City of Walsenburg**. For the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. §24-6-402(4)(e).
- b. For discussion of specialized details of security arrangements or investigations under C.R.S. §24-6-402(4)(d). **Physical and Cyber Security Arrangements.**
- c. Consultation with the County Attorney for legal matters to discuss the **Solano Case** that is pending for the purpose of determining positions relative to matters that may be subject to negotiations, developing strategy for negotiations, and/or instructing negotiators, under C.R.S. §24-6-402(4)(e). No decisions will be made in or after executive session.

Resolved: Motion passed by unanimous vote.

Sporleder: Yes

Andreatta: Yes

Chairman Galusha: Yes

12:07 P.M. Recess

Chairman Galusha called for Recess.

1:08 P.M. Executive Session Re-convene

Chairman Galusha called meeting into order.

2:20 P.M. Out of Executive Session:

Chairman Galusha called for a motion to come out of Executive Session at 2:20 P.M.

Motion: Galusha

Second: Andreatta

Discussion: None

Resolved: Motion passed by unanimous vote.

Andreatta: Yes

Sporleder: Yes

Chairman Galusha: Yes

Re-convene regular session 2:23 P.M.

Chairman Galusha called for a motion to adjourn at 2:55 P.M.

Motion: Galusha

Second: Andreatta

Discussion: None

Resolved: Motion passed by unanimous vote.

Andreatta: Yes

Sporleder: Yes

Chairman Galusha: Yes

Meeting adjourned at 2:55 P.M.

Erica Vigil, County Clerk & Recorder
Clerk to Board of County Commissioners

COMMISSIONERS:

John Galusha, Chairman

Arica Andreatta

Karl Sporleder

COMMISSIONER'S MEETING
Special Meeting
January 17, 2023

Chairman Galusha called the meeting to order followed by the Pledge of Allegiance.

Commissioners John Galusha, Arica Andreatta and Karl Sporleder were present.

Commissioner Andreatta called for a motion to approve the January 17, 2023 Agenda.

Motion: Andreatta **Second: Sporleder**

Discussion: None.

Resolved: Motion passed by unanimous vote.

Andreatta: Yes

Sporleder: Yes

Chairman Galusha: Yes

Appointments 10:03 A.M.:

- a. County Treasurer, Public Trustee Debra Reynolds, presented 2022 Q4 Public Trustee Report. Presented updates about foreclosure number increase.

Motion to approve Public Trustee Q4 report.

Motion: Sporleder **Second: Andreatta**

Discussion: None.

Resolved: Motion passed by unanimous vote.

Sporleder: Yes

Andreatta: Yes

Chairman Galusha: Yes

- b. Debra J. Reynolds Huerfano County Trustee, request to reinstate her budget and retain all employees.

Tabled, No Action taken

Public Comment 10:07 A.M.:

NONE.

Action Items 10:14 A.M.:

- a. Resolution #23-03 Adopting 2023 Organizational Chart.

Motion to approve the Resolution #23-03 to Establish the Organizational Structure of the Huerfano County Government for Calendar Year 2023.

Motion: Andreatta**Second: Sporleder****Discussion: None****Resolved: Motion passed by unanimous vote.****Sporleder: Yes****Andreatta: Yes****Chairman Galusha: Yes**

- b. Approval to Apply to Federal Aviation Administration (FAA) Bipartisan Infrastructure Grant.

Motion to approve the application to the Federal Aviation Administration FAA for a grant to rehabilitate signage and electrical along Runway 9/27 at the Spanish Peaks Regional Airport in the amount of \$318,000 and further authorize a grant application in the amount of \$17,666.00 from Colorado Department of Transportation (CDOT) Aeronautics for the same project.

Motion: Sporleder**Second: Andreatta****Discussion: None****Resolved: Motion passed by unanimous vote.****Andreatta: Yes****Sporleder: Yes****Chairman Galusha: Yes****Discussion 10:18 A.M**

Huerfano County Board of County Commissioners discussed email received from Gaye Davis, City Administrator, City of Walsenburg in regards to Law Enforcement Services.

No Action Taken.

Executive Session 10:40 A.M.

Commissioner Andreatta called for a motion to go into Executive Session at 10:40 A.M.

Motion: Andreatta

Second: Sporleder

Discussion:

- a. Executive session for conference with a County Attorney for the purpose of receiving legal advice on specific legal questions under C.R.S. §24-6-402(4)(b).

Resolved: Motion passed by unanimous vote.

Sporleder: Yes

Andreatta: Yes

Chairman Galusha: Yes

Commissioner John Galusha called for a motion to adjourn at 10:37 A.M.

Motion: Galusha

Second: Andreatta

Discussion: None

Resolved: Motion passed by unanimous vote.

Andreatta: Yes

Sporleder: Yes

Chairman Galusha: Yes

10:40 A.M. Recess

Chairman Galusha called for Recess.

11:19 A.M. Executive Session Re-convene

Chairman Galusha called meeting into order.

11:22 A.M. Out of Executive Session:

Meeting adjourned at 11:22 A.M.

Erica Vigil, County Clerk & Recorder
Clerk to the Board of County Commissioners

COMMISSIONERS:

John Galuᡥa, Chairman

Arica Andreatta

Karl Sporleder

PETITION FOR ABATEMENT OR REFUND OF TAXES

23-01

Item 3c.

County Name HUERFANO

Date Received _____
Use Assessor's or Commissioners Date Stamp

Section I: Petitioner: please complete Section I only

Date: January 11 2023
Month DAY Year

Petitioner's Name: La Veta Village Inc
Petitioner's mailing address: PO Box 143
La Veta CO 81055
City or Town State Zip Code

SCHEDULE OR PARCEL NUMBER(S) 282731 PROPERTY ADDRESS OR LEGAL DESCRIPTION OF PROPERTY
LOTS 29,30,31,32,33 & 34 BLOCK 1, LA VETA ADDITION

Petitioner requests an abatement or refund of the appropriate taxes and states that the taxes assessed against the above property for the property tax year(s) 2021 and 2022 are incorrect for the following reasons: (Briefly describe why the taxes have been levied erroneously or illegally, whether due to erroneous valuation, irregularity in levying, clerical error, or overvaluation. Attach additional sheets if necessary.

Property was granted exemption beginning January 1, 2021, from the Division of Property Taxation. See attached final determination.

Petitioner's estimate of value \$ _____ (_____) and \$ _____ (_____)
Value Year Value Year

I declare, under penalty of perjury in the second degree, that this petition, together with any accompany exhibits or statements, has been prepared or examined by me, and to the best of my knowledge, information and belief, is true, correct and complete.

Petitioner's Signature Daytime Phone Number _____
Email _____
BY _____
Agent's Signature * Daytime Phone Number _____
Printed Name: _____ Email _____

*Letter of agency must be attached when petition is submitted by an agent.
If the Board of County Commissioners, pursuant to § 39-10-114(1), C.R.S., or the Property Tax Administrator, pursuant to § 39-2-116, C.R.S., denies the petition for refund or abatement of taxes in whole or in part, the Petitioner may appeal to the Board of Assessment Appeals pursuant to the provisions of § 39-2-125, C.R.S., within thirty days of the entry of any such decision, § 39-10-114.5(1), C.R.S.

Section II:		Assessor's Recommendation (For Assessor's Use Only)					
		Tax Year 2021			Tax Year 2022		
	Actual	Assessed	Tax	Actual	Assessed	Tax	
Original	200597	32387	2829.62	200597	31974	2799.72	
Corrected	0	0	0	0	0	0.00	
Abate/Refund	200597	32387	2829.62	200597	144242	2799.72	

Assessor recommends approval as outlined above
If the request for abatement is based upon the grounds of overvaluation, no abatement or refund of taxes shall be made if an objection or protest to such valuation has been filed and a Notice of Determination has been mailed to the taxpayer, § 39-10-114(1)(a)(I)(D), C.R.S.
Tax year: 2021 Protest? X No _____ Yes (if a protest was filed, please attach a copy of NOD.)
Tax year: 2022 Protest? X No _____ Yes (if a protest was filed, please attach a copy of NOD.)

Assessor recommends denial for the following reason(s):

Elisha Meadows
Assessor's or Deputy Assessor's Signature

FOR ASSESSORS AND COUNTY COMMISSIONERS USE ONLY

(Section III or Section IV must be completed)

Every petition for abatement or refund filed pursuant to § 39-10-114 shall be acted upon pursuant to the provisions of this section by the board of county commissioners or the assessor, as appropriate, within six months of the date of filing such petition, §39-1-113(1.7), C.R.S.

Section III: Written Mutual Agreement of Assessor and Petitioner
(Only for abatements up to \$10,000)

The commissioners of _____ County authorize the Assessor by Resolution No. _____ to review petitions for abatement or refund and to settle by written mutual agreement any such petition for abatement or refund in an amount of one thousand dollars or less per tract, parcel, or lot of land or per schedule of personal property, in accordance with *39-1-113(1.5), C.R.S.

	Tax Year _____			Tax Year _____		
	Actual	Assessed	Tax	Actual	Assessed	Tax
Original	_____	_____	_____	_____	_____	_____
Corrected	_____	_____	_____	_____	_____	_____
Abate/Refund	_____	_____	_____	_____	_____	_____

Note: The total tax amount does not include accrued interest, penalties, and fees associated with late and/or delinquent tax payments, if applicable. Please contact the county treasurer for full payment information

Petitioner's Signature

Date

Assessor's or Deputy Assessor's Signature

Date

Section IV: Decision of the County Commissioners
(must be completed if Section III does not apply)

WHEREAS, The County Commissioners of Huerfano County, State of Colorado, at a duly and lawfully called regular meeting held on 01 / 31 / 2023 at which meeting there were present the following members:
Month Day Year
Karl Sporleder, John Galusha, Arica Andreatta

with notice of such meeting and an opportunity to be present having been given to the taxpayer and the Assessor of said County and ~~Assessor~~ Treasurer - Debra Reynolds (**being present--not present**) and
Name
petitioner La Veta Village Inc (**being present--not present**), and WHEREAS, The said
Name
County Commissioners have carefully considered the within application, and are fully advised in relation thereto
NOW BE IT RESOLVED, That the Board (**agrees--does not agree**) with the recommendation of the assessor and the petition be (**approved--approved in part--denied**) with an abatement/refund as follows:

2021	32387	2829.62	2022	144242	2799.72
Year	Assessed Value	Taxes Abate/Refund	Year	Assessed Value	Taxes Abate/Refund

Chairperson of the Board of County Commissioners' Signature

I, Erica Vigil, County Clerk and Ex-officio Clerk of the Board of County Commissioners in and for the aforementioned county, do hereby certify that the above and foregoing order is truly copied from the record of the proceedings of the Board of County Commissioners

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County this _____ day of _____, 2023.
Month Year

County Clerk's or Deputy County Clerk's Signature

Note: Abatements greater than \$10,000 per schedule, per year, must be submitted in duplicate to the Property Tax Administrator for review.

Section V: Action of the Property Tax Administrator
(For all abatements greater than \$10,000)

The Action of the Board of County commissioners, relative to the within petition, is hereby
___ Approved; ___ Approved in part \$ _____; ___ Denied for the following reason(s):

Secretary's Signature

Property Tax Administrator's Signature

HUERFANO COUNTY

GREEN SHEET/STATUS CHANGE		EFFECTIVE DATE
		1/23/2023
NAME: Anthony Luginbill	PAYROLL :	2/3/2023

CHANGE OF ADDRESS/PHONE	STREET
	CITY, STATE, ZIP
	TELEPHONE

CHANGE	FROM (DOES NOT APPLY TO NEW EMPLOYEE)	TO
JOB TITLE	IT Tech I	IT Tech I
DEPARTMENT	IT/GIS Department	IT/GUS Department
HOURS		
ANNUAL SALARY	\$46,500.22	\$50,000.00
SEMI-MONTHLY SALARY		
HOURLY SALARY		
OTHER SALARY	Non-Exempt	Exempt

REASON FOR CHANGE

- | | | |
|-----------|------------------------------|-------------------------------|
| NEW HIRE | RESIGNATION | LENGTH OF SERVICE INCREASE |
| REHIRED | RETIREMENT | REEVALUATION OF CURRENT JOB |
| PROMOTION | LAYOFF | INTRODUCTORY PERIOD COMPLETED |
| DEMOTION | ADMINISTRATIVE LEAVE PAID | OTHER |
| TRANSFER | ADMINISTRATIVE LEAVE UN-PAID | |

COMMENTS, IF NECESSARY

Motion To Increase The Salary Of Anthony Luginbill From \$46,500.22 (Non Exempt) to \$50,000.00 (Exempt)

I Angela Wakeman Human Resources Officer certify that the above presented information has been requested by the Department Head and or Elected Official directly responsible for the employee named within. I certify that I have received all proper documentaion and that I have entered the information on the Green Sheet to reflect the change as requested.

Angela Wakeman
Signature of preparer

01/20/2023
Date Signed

John Galusha, Chairman

Arica Andreatta, Commissioner

Karl Sporleder, Commissioner

Date

Date to Finance Office: _____

DEPARTMENT OF LABOR AND EMPLOYMENT

Division of Labor Standards and Statistics

2023 Publication And Yearly Calculation of Adjusted Labor Compensation (2023 PAY CALC) Order

7 CCR 1103-14

Adopted November 10, 2022, effective January 1, 2023.

Rule 1. Statement of Purpose, Requirements, and Calculations.

- 1.1 This Publication And Yearly Calculation of Adjusted Labor Compensation Order (“PAY CALC Order”), 7 CCR 1103-14, publishes values that adjust periodically under the Colorado Overtime and Minimum Pay Standards Order (“COMPS Order”), 7 CCR 1103-1, or other laws.
- 1.2 Coverage and Application. Following are the 2023 minimum pay and income levels and future adjustments in each cited COMPS Order rule, and/or mandated by constitutional, statutory, or rule provisions the COMPS Order implements, or from which it derives.

	Minimum Pay Level in COMPS Order Rule	2023 Level (Yearly Calculation)	Future Annual Adjustments
(A)	Full Colorado minimum wage (R. 3.1)	\$13.65 per hour	Last year’s minimum adjusted by CPI (Consumer Price Index) for Colorado
(B)	Amount of minimum wage that employers must pay to tipped employees (R. 1.10, 6.2.3)	\$10.63 per hour to the extent that adding tips raises total pay to full minimum wage	\$3.02 per hour below full minimum wage to the extent that adding tips raises total pay to full minimum wage
(C)	Minimum wage for non-emancipated minors (R. 3.3)	\$11.61 per hour	15% below full minimum wage
(D)	Minimum pay for agricultural range workers (R. 2.4.9)	\$559.29 per week	Prior year’s level adjusted by inflation
(E)	Executive/supervisor, administrative, or professional employees (“EAP”) (R. 2.5.1); certain owners or proprietors of non-profit employers (R. 2.2.5); decision-making managers at livestock employers (R. 2.4.8)	\$961.54 per week (\$50,000 rounded annual equivalent); and sufficient for the minimum wage for all hours worked in a workweek	Per week, \$1,057.69 in 2024 (\$55,000 rounded annually), and the prior year’s level adjusted by CPI each year as of 2025
(F)	Highly technical computer employees (R. 2.5.2, 2.2.10)	\$31.41 per hour or the EAP salary above (row E)	Prior year’s hourly wage adjusted by inflation, or the EAP salary above
(G)	Highly compensated employees (R. 2.2.11)	\$112,500 annually, <i>and</i> the EAP salary (row E) weekly	The annual EAP salary (row E) multiplied by 2.25
(H)	Certain drivers and driver’s helpers (R. 2.4.6)	\$750.75 per week	Based on Colorado minimum wage each year
(I)	Certain seasonal camp or outdoor education field staff (R. 2.2.7(E))	Full minimum wage or, per week: \$373.30 (adults) or \$287.62 (minors); except at non-profits with up to \$25 million in revenue, \$277.75 (adults) or \$206.35 (minors)	Based on Colorado minimum wage each year

- 1.3 Additional Requirements. Many of the referenced COMPS Order rules have other requirements aside from a minimum pay level, including but not limited to: an employee having duties that qualify for exemption; an employee receiving sufficient tips to allow for a tip credit to be taken; and an employer paying any higher applicable federal, local, or minimum wage.

Rule 2. Authority, Construction, and Definitions

- 2.1 Authority and Incorporation by reference. This PAY CALC Order is issued under the authority and as enforcement of Section 15 of Article XVIII of the Colorado Constitution and Articles 1, 4, 6, and 12 of C.R.S. Title 8 (2023), and is intended to be consistent with the State Administrative Procedures Act, C.R.S. § 24-4-101, et seq. Hereby incorporated by reference into this rule are 29 C.F.R. Part 541 Subpart G; Colo. Const. art. XVIII, § 15 (2023); Title 8, Articles 1, 4, 6, 12, and 13.3 of the Colorado Revised Statutes (2023); the COMPS Order, 7 CCR 1103-1 (2023); the Wage Protection Rules, 7 CCR 1103-7 (2023); and the Direct Investigation Rules, 7 CCR 1103-8 (2023). Earlier versions of such laws and rules may apply to events that occurred in prior years. Incorporation excludes later amendments to or editions of the constitution, statutes, and rules; all cited laws are incorporated in the forms that are in effect as of the effective date of this PAY CALC Order. Where these Rules reference another rule, the reference shall be deemed to include all subparts of the referenced rule. Where these Rules have provisions different from or contrary to any incorporated or referenced material, the provisions of these Rules govern, so long as they are consistent with Colorado statutory and constitutional provisions. All sources cited or incorporated by reference are available for public inspection at the Colorado Department of Labor and Employment, Division of Labor Standards & Statistics, 633 17th Street, Denver CO 80202. Copies may be obtained from the Division at a reasonable charge or can be accessed from the website of the Colorado Secretary of State. Pursuant to C.R.S. § 24-4-103(12.5)(b), the agency shall provide certified copies of them at cost upon request or provide the requestor information on how to obtain a certified copy of the material incorporated by reference from the agency originally issuing them. All Division rules are publicly available at www.coloradolaborlaw.gov.
- 2.2 Administration and Dual Jurisdiction. The Division shall have jurisdiction over all questions arising with respect to the administration and interpretation of this PAY CALC Order. Whenever employers are subjected to Colorado law as well as federal and/or local law, the law providing greater protection or setting the higher standard shall apply. For information on federal law, contact the U.S. Department of Labor, Wage and Hour Division.
- 2.3 Separability. These Rules are intended to remain in effect to the maximum extent possible. If any part (including any section, sentence, clause, phrase, word, or number) is held invalid, (A) the remainder of the Rules remain valid, and (B) if the provision is held not wholly invalid, but merely in need of narrowing, the provision should be retained in narrowed form.
- 2.4 “Division” means the Division of Labor Standards and Statistics in the Colorado Department of Labor and Employment.

DEPARTMENT OF LABOR AND EMPLOYMENT

Division of Labor Standards and Statistics

COLORADO OVERTIME AND MINIMUM PAY STANDARDS ORDER (COMPS ORDER) #38

7 CCR 1103-1

Adopted November 10, 2021, effective January 1, 2022.

Rule 1. Authority and Definitions.

- 1.1 Authority and relation to prior orders. Colorado Overtime and Minimum Pay Standards Order (“COMPS Order”) #38 replaces COMPS Order #37 (2021) and prior orders, except that the provisions of prior orders still govern as to events occurring while they were in effect. The COMPS Order is issued under the authority of, and as enforcement of, Colorado Revised Statutes (“C.R.S.”) Title 8, Articles 1, 4, 6, 12, 13.3, and 13.5 (2022), and is intended to be consistent with the requirements of the State Administrative Procedures Act, C.R.S. § 24-4-101, et seq. See Appendix A for citations. The effective date of COMPS Order # 38 is January 1, 2022.
- 1.2 Incorporation by reference. 29 C.F.R. Part 541 Subpart G; Colo. Const. art. XVIII, § 15 (2022); Title 8, Articles 1, 4, 6, and 13.3 of the Colorado Revised Statutes (2022); 7 CCR 1103-7 (2022); 7 CCR 1103-8 (2022); 7 CCR 1103-11 (2022); and 7 CCR 1103-14 (2022) are hereby incorporated by reference into this rule. Earlier versions of such laws and rules may apply to events that occurred in prior years. Such incorporation excludes later amendments to or editions of the constitution, statutes, and rules; all cited laws are incorporated in the forms that are in effect as of the effective date of this COMPS Order. 7 CCR 1103-14, the Publication And Yearly Calculation of Adjusted Labor Compensation Order (“PAY CALC Order”), states the periodically-adjusted dollar amounts of the minimum wages and minimum pay and income levels for exemptions required in the COMPS Order. All sources cited or incorporated by reference are available for public inspection at the Colorado Department of Labor and Employment, Division of Labor Standards & Statistics, 633 17th Street, Denver CO 80202. Copies may be obtained from the Division of Labor Standards & Statistics at a reasonable charge. They can be accessed electronically from the website of the Colorado Secretary of State. Pursuant to C.R.S. § 24-4-103(12.5)(b), the agency shall provide certified copies of them at cost upon request or shall provide the requestor with information on how to obtain a certified copy of the material incorporated by reference from the agency originally issuing them. All Division Rules are available to the public at www.coloradolaborlaw.gov. Where these Rules have provisions different from or contrary to any incorporated or referenced material, the provisions of these Rules govern, so long as they are consistent with Colorado statutory and constitutional provisions.
- 1.3 “Director” means the Director of the Division of Labor Standards and Statistics.
- 1.4 “Division” means the Division of Labor Standards and Statistics in the Colorado Department of Labor and Employment.
- 1.5 “Employee,” as used in the COMPS Order and the PAY CALC Order, has the following definitions.
 - (A) Under the Colorado Wage Act (CWA), as defined by C.R.S. § 8-4-101(5): “Employee” means any person, including a migratory laborer, performing labor or services for the benefit of an employer. For the purpose of the COMPS Order, relevant factors in determining whether a person is an employee include the degree of control the employer may or does exercise over the person and the degree to which the person performs work

that is the primary work of the employer; except that an individual primarily free from control and direction in the performance of the service, both under his or her contract for the performance of service and in fact, and who is customarily engaged in an independent trade, occupation, profession, or business related to the service performed is not an “employee.”

- (B) Under the Healthy Families and Workplaces Act (HFWA), as defined by C.R.S. § 8-13.3-402(4): “Employee” has the meaning set forth in section 8-4-101(5) but does not include an “employee” as defined in 45 U.S.C. sec 351(d) who is subject to the federal “Railroad Unemployment Insurance Act”, 45 U.S.C. sec. 351 et seq.
 - (C) Under the Agricultural Labor Rights and Responsibilities Act, Colorado Senate Bill 21-87, as defined by C.R.S. § 8-6-101.5(3): “agricultural employee” or “agricultural worker” has the “same meaning as under C.R.S. § 8-13.5-201(3)” (“A worker engaged in any service or activity included in section 203(f) of the federal ‘Fair Labor Standards Act of 1938’,...as amended...or section 3121(g) of the federal ‘Internal Revenue Code of 1986’, as amended”).
- 1.6 “Employer,” as used in the COMPS Order and the PAY CALC Order, has the following definitions.
- (A) Under CWA, as defined by C.R.S. § 8-4-101(6): “Employer” has the same meaning as set forth in the federal “Fair Labor Standards Act,” 29 U.S.C. sec 203 (d), and includes a foreign labor contractor and a migratory field labor contractor or crew leader; except that the provisions of the COMPS Order do not apply to the state or its agencies or entities, counties, cities and counties, municipal corporations, quasi-municipal corporations, school districts, and irrigation, reservoir, or drainage conservation companies or districts organized and existing under the laws of Colorado.
 - (B) Under HFWA, as defined by C.R.S. § 8-13.3-402(5): “Employer” has the meaning set forth in section 8-4-101(6); except that the term includes the state and its agencies or entities, counties, cities and counties, municipalities, school districts, and any political subdivisions of the state but does not include the federal government.
 - (C) Under the Agricultural Labor Rights and Responsibilities Act, Colorado Senate Bill 21-87, as defined by C.R.S. § 8-2-206(1)(c): “agricultural employer” has the “same meaning provided in C.R.S. § 8-3-104(1)” (“a person that is engaged in any service or activity included in section 203(f) of the federal ‘Fair Labor Standards Act of 1938’, ... as amended,” or engaged in “agricultural labor, as defined in section 3121 of the federal ‘Internal Revenue Code of 1986’,” that either (1) contracts with any person who recruits, solicits, hires, employs, furnishes, or transports agricultural employees, or (2) regularly engages the services of one or more agricultural employees).
- 1.7 “Minor,” for purposes of wage provisions specific to minors, means a person under 18 years of age, but not one who has received a high school diploma or a passing score on the general educational development examination. “Emancipated minor” means any individual less than eighteen years of age who meets the definition provided by C.R.S. § 8-6-108.5.
- 1.8 “Regular rate of pay” means the hourly rate actually paid to employees for a standard, non-overtime workweek. Employers need not pay employees on an hourly basis. If pay is on a piece-rate, salary, commission, or other non-hourly basis, any overtime compensation is based on an hourly regular rate calculated from the employee’s pay.
- 1.8.1 Pay included in regular rate. The regular rate includes all compensation paid to an employee, including set hourly rates, shift differentials, minimum wage tip credits, non-discretionary bonuses, production bonuses, and commissions used for calculating hourly overtime rates for non-exempt employees. Business expenses, bona fide gifts,

discretionary bonuses, employer investment contributions, vacation pay, holiday pay, sick leave, jury duty, or other pay for non-work hours may be excluded from regular rates.

1.8.2 Regular rate for employees paid a weekly salary or other non-hourly basis.

- (A) A weekly salary or other non-hourly pay may be paid as straight time pay for all work hours, and the regular rate each workweek will be the total paid divided by hours worked, if the parties have a clear mutual understanding that the salary is:
- (1) compensation (apart from any overtime premium) for all hours each workweek;
 - (2) at least the applicable minimum wage for all hours in workweeks with the greatest hours;
 - (3) supplemented by extra pay for all overtime hours (in addition to the salary that covers the regular rate) of an extra $\frac{1}{2}$ of the regular rate; and
 - (4) paid for whatever hours the employee works in a workweek.
- (B) Where the requirements of (1)-(4) are not carried out, there is not the required "clear mutual understanding" that the non-hourly pay provides the regular rate for all hours with extra pay added for overtime hours. Absent such an understanding, the hourly regular rate is the applicable weekly pay divided by 40, the number of hours presumed to be in a workweek for an employee paid no overtime premium.

1.8.3 Regular rate for employees with multiple, hourly pay rates. The regular rate for an employee working two or more non-exempt jobs at different hourly pay rates for the same employer within a specific workweek shall be calculated as follows:

- (A) Rate based on a weighted average: The employee's regular rate for the particular workweek is determined by adding together all the wages earned performing each job, then dividing that amount by the total number of hours worked in all jobs, consistent with the federal Fair Labor Standards Act (FLSA) and resulting in a weighted average rate of pay, or
- (B) Rate based on the job actually performed during overtime hours: The employee's regular rate is the regular rate of hourly pay for the job being performed during the actual overtime hours.

If there is no written agreement between the employee and the employer as to the method of calculating the regular rate of pay in advance of performing the work, the employee's regular rate shall be calculated using the "weighted average" method described above in 1.8.3(A).

1.9 "Time worked" means time during which an employee is performing labor or services for the benefit of an employer, including all time s/he is suffered or permitted to work, whether or not required to do so.

1.9.1 Requiring or permitting employees to be on the employer's premises, on duty, or at a prescribed workplace (but not merely permitting an employee completely relieved from duty to arrive or remain on-premises) — including but not limited to, if such tasks take over one minute, putting on or removing required work clothes or gear (but not a uniform worn outside work as well), receiving or sharing work-related information, security or safety screening, remaining at the place of employment awaiting a decision on job assignment or when to begin work, performing clean-up or other duties "off the clock,"

clocking or checking in or out, or waiting for any of the preceding — shall be considered time worked that must be compensated.

- 1.9.2 “Travel time” means time spent on travel for the benefit of an employer, excluding normal home to work travel, and shall be considered time worked. At the start or end of the workday, travel to or from a work station, entirely within the employer’s premises and/or with employer-provided transportation, shall not be considered time worked, except that such travel is compensable if it is:
- (A) time worked under Rule 1.9 – 1.9.1;
 - (B) after compensable time starts or before compensable time ends under Rule 1.9 – 1.9.1; or
 - (C) travel in employer-mandated transportation (1) that materially prolongs commute time or (2) in which employees are subjected to heightened physical risk compared to an ordinary commute.
- 1.9.3 “Sleep time” means time an employee may sleep, which is compensable as follows. Where an employee’s shift is 24 hours or longer, up to 8 hours of sleeping time may be excluded from overtime compensation, if:
- (A) an express agreement excluding sleeping time exists;
 - (B) adequate sleeping facilities for an uninterrupted night’s sleep are provided;
 - (C) at least 5 hours of sleep are possible during the scheduled sleep period; and
 - (D) interruptions to perform duties are considered time worked.

When an employee’s shift is less than 24 hours, periods when s/he is permitted to sleep are compensable work time, as long as s/he is on duty and must work when required. Only actual sleep time may be excluded, up to a maximum of 8 hours per workday. When work-related interruptions prevent 5 hours of sleep, the employee shall be compensated for the entire workday.

- 1.10 “Tipped employee” means any employee engaged in an occupation in which s/he customarily and regularly receives more than \$30 per month in tips. Tips include amounts designated as a tip by credit card customers on their charge slips. Nothing in this rule prevents an employer from requiring employees to share or allocate such tips or gratuities on a pre-established basis among other employees who customarily and regularly receive tips. Employer-required sharing of tips with employees who do not customarily and regularly receive tips, such as management or food preparers, or deduction of credit card processing fees from tipped employees, shall nullify allowable tip credits towards the minimum wage.
- 1.11 “Wages’ or ‘compensation’” has the meaning provided by C.R.S. § 8-4-101(14) and includes paid sick leave under the Healthy Families and Workplaces Act, C.R.S. § 8-13.3-402(8)(b).
- 1.12 “Workday” means any consecutive 24-hour period starting with the same hour each day and the same hour as the beginning of the workweek. The workday is set by the employer and may accommodate flexible shift scheduling.
- 1.13 “Workweek” means any consecutive set period of 168 hours (7 days) starting with the same calendar day and hour each week.

Rule 2. Coverage and Exemptions.

- 2.1 Scope of coverage. The COMPS Order regulates wages, hours, working conditions, and procedures for all employers and employees for work performed within Colorado, with the exceptions and exemptions contained within Rule 2.
- 2.2 Exemption from all except Rules 1, 2, and 8. The following are exempt from the COMPS Order except Rules 1 (Authority and Definitions), 2 (Coverage and Exemptions), and 8 (Administration and Interpretation).
- 2.2.1 Administrative employees. This exemption covers a salaried employee, paid at least the applicable salary in Rule 2.5 as specified for the applicable year in the PAY CALC Order, who directly serves an executive, and regularly performs duties important to the decision-making process of that executive. The executive and employee must regularly exercise independent judgment and discretion in matters of significance, with a primary duty that is non-manual in nature and directly related to management policies or general business operations.
- 2.2.2 Executives or supervisors. This exemption covers a salaried employee, paid at least the applicable salary in Rule 2.5 as specified for the applicable year in the PAY CALC Order, who supervises the work of at least two full-time employees and has the authority to hire and fire, or to effectively recommend such action. The employee must spend a minimum of 50% of the workweek in duties directly related to supervision.
- 2.2.3 Professional employees. This exemption covers a salaried employee, paid at least the applicable salary in Rule 2.5 as specified for the applicable year in the PAY CALC Order, employed in a field of endeavor whose primary duty is work that requires (A) the consistent exercise of discretion and judgment, as distinguished from routine work that is mental, manual, mechanical or physical, and (B) either (1) knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction and study, or (2) invention, imagination, originality or talent in a recognized field of artistic or creative endeavor (as opposed to routine mental, manual, mechanical or physical work, or work that primarily depends on intelligence, diligence and accuracy). The professional employee must be employed in the field in which s/he was trained.
- 2.2.4 Outside salespersons. This exemption covers an employee working primarily away from the employer's place of business or enterprise for the purpose of making sales or obtaining orders or contracts for any commodities, articles, goods, real estate, wares, merchandise, or services. The employee must spend a minimum of 80% of the workweek in activities directly related to his or her own outside sales.
- 2.2.5 Owners or proprietors. This exemption covers a full-time employee actively engaged in management of the employer who either:
- (A) owns at least a bona fide 20% equity interest in the employer; or
 - (B) for a non-profit employer, is the highest-ranked and highest-paid employee, and is paid at least the salary threshold in Rule 2.5 as specified for the applicable year in the PAY CALC Order.
- 2.2.6 Taxi cab drivers employed by a taxi service provider licensed by a state or local government.
- 2.2.7 In-residence workers. This exemption covers the below-listed in-residence employees.

- (A) Casual babysitters employed in private residences directly by households, or directly by family members of the individual(s) receiving care from the babysitter.
- (B) Property managers residing on-premises at the property they manage.
- (C) Student residence workers working in premises where they reside for sororities, fraternities, college clubs, or dormitories.
- (D) Laundry workers who (a) are inmates, patients, or residents of charitable institutions, and (b) perform laundry services, (c) in institutions where they reside.
- (E) Field staff of seasonal camps or seasonal outdoor education programs who primarily provide supervision or education of minors, or education of adults; are required to reside on-premises or in the field; are provided adequate lodging and all meals free of charge and without deduction from wages; and as of January 1, 2021, are paid the amount required by subpart (1) below (with no minimum pay required before January 1, 2021).

- (1) This exemption requires that field staff be paid either (a) the applicable Colorado minimum wage for all hours worked, or (b) a salary (i) equivalent to at least 42 hours per week at the Colorado minimum wage (with the 15% hourly wage reduction that Rule 3.3 permits for unemancipated minors), (ii) with hourly wage reduced one-sixth ($\frac{1}{6}$) for non-profit employers with annual total gross revenue of \$25 million or less, and (iii) reduced \$200 per week as a credit for facilities provided (lodging, meals, and other facilities), as specified for the applicable year in the PAY CALC Order.
- (2) "Seasonal" in this Rule means a camp or program that either (a) does not operate for more than seven months in a year, or (b) during the preceding calendar year had average receipts for any six months of not more than one-third ($\frac{1}{3}$) of its average receipts for the other six months.

2.2.8 Bona fide volunteers and work-study students. This exemption covers those who need not be compensated under the federal Fair Labor Standards Act (29 U.S.C. §§ 201 et seq.) as either: (A) enrolled students receiving credit for an unpaid work-study program or internship; or (B) bona fide volunteers for non-profit organizations.

2.2.9 Elected officials and their staff. This exemption covers individuals elected to public office and members of their staff.

2.2.10 Employees in highly technical computer-related occupations. This exemption covers an employee paid a salary, or hourly compensation, in accord with Rule 2.5, and as specified for the applicable year in the PAY CALC Order, who:

- (A) is a skilled worker employed as a computer systems analyst, computer programmer, software engineer, or other similarly highly technical computer employee;
- (B) who has knowledge of an advanced type, customarily acquired by a prolonged course of specialized formal or informal study; and
- (C) spends a minimum of 50% of the workweek in any combination of the following duties —

- (1) the application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software, or system functional specifications,
- (2) the design, development, documentation, analysis, creation, testing, or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications, or
- (3) the design, documentation, testing, creation, or modification of computer programs related to machine operating systems.

2.2.11 Highly compensated employees. This exemption covers an employee who:

- (A) is paid annual wages of at least —
 - (1) weekly, the weekly salary for the executive, professional, or administrative exemption, as specified for the applicable year in the PAY CALC Order, and
 - (2) annually, two and one-quarter times the rounded annual salary for the executive, professional, or administrative exemption, as specified for the applicable year in the PAY CALC Order;
- (B) customarily and regularly performs any one or more of the exempt duties or responsibilities of an executive, administrative or professional employee (as described in Rules 2.2.1-2.2.3); and
- (C) whose primary duty is office or non-manual work — for example, non-management production-line workers and non-management employees in maintenance, construction and similar occupations such as carpenters, electricians, mechanics, plumbers, iron workers, craftsmen, operating engineers, longshoremen, construction workers, laborers and other employees who perform work involving repetitive operations with their hands, physical skill and energy are not exempt under this section no matter how highly paid they might be.

2.2.12 National Western Stock Show. This exemption covers temporary employees employed directly by the Western Stock Show Association for the annual National Western Stock Show.

2.3 Agriculture.

2.3.1 Minimum Wages. All minimum wage laws and rules apply to all employees of all agricultural employers, except as otherwise provided for “range workers” in Rule 2.4.9.

2.3.2 Overtime and Maximum Hours Protections.

- (A) Agricultural employees of agricultural employers are exempt from both the 40-hour weekly and the 12-hour daily overtime pay requirements in Rule 4.1.1, provided that such employees receive the following.
 - (1) Weekly overtime pay, at one and one-half times their regular rate of pay, after 60 hours worked per workweek from November 1, 2022, through December 31, 2023, and thereafter as follows, and as listed in the summary table below:
 - (a) at a highly seasonal agricultural employer (defined in Rule 2.3.2(C)), (i) after 56 hours worked per workweek during any up

to 22-workweek period, or any two or three periods of at least four workweeks each totaling up to 22 weeks, that the employer designates as its peak labor period(s), and (ii) otherwise after 48 hours worked per week; and

- (b) at an agricultural employer that is not highly seasonal, (i) after 54 hours worked per workweek in 2024, and (ii) after 48 hours worked per workweek as of January 1, 2025; except
- (c) at a small agricultural employer (defined in Rule 2.3.2(B) below), whether or not highly seasonal, after 56 hours worked per workweek in 2024, then whichever of (a) or (b) applies as of January 1, 2025.

Summary Table: Weekly Overtime Requirements for Agricultural Employers			
Time Period	(a) Highly Seasonal Employers	(b) Non-Highly Seasonal Employers	(c) Small Employers (seasonal or not)
Until 11/1/22	[No requirements]		
11/1/22-12/31/23	60 hours		
2024	56 hours for up to 22 peak weeks; 48 hours otherwise	54 hours	56 hours
2025 -		48 hours	[No separate rule for small employers; apply (a) or (b)]

(2) Beginning November 1, 2022:

- (a) in lieu of 12-hour daily overtime pay under Rule 4.1.1, 30 minutes for the third Rule 5.2 paid rest period (rather than 10 minutes or any other duration under 30 minutes otherwise applicable to that rest period) — except that if the employer had no reason to believe an employee would exceed 12 hours until the twelfth hour worked, then the additional break time may be provided on the employee’s next workday; and
- (b) for a workday with more than 15 hours of work, or for more than 15 consecutive hours of work (as provided by Rule 4.1.5) without regard to the start and end time of the workday, an additional lump-sum payment equal to one hour of the Colorado minimum wage, as specified for the applicable year in the PAY CALC Order.

(B) “Small agricultural employer” means an agricultural employer that:

- (1) employed fewer than four employees on average over the three prior calendar years (or as many complete prior calendar years as they have been in operation); and
- (2) had average adjusted gross income, over the three prior complete taxable years preceding 2024 (the year that small agricultural employers have a different overtime standard), of no more than \$1,000,000. Employers in operation fewer than three complete taxable years shall use as many complete taxable years as they have been in operation;

employers not yet in operation for any complete taxable years shall be considered below the threshold.

- (C) “Highly seasonal agricultural employer” means an agricultural employer that, in any up to 22-workweek period (or any two or three periods, of at least four workweeks each, totaling up to 22 weeks) in the prior calendar year, had at least twice as many employees as the rest of the year, and provides the following to those it would pay weekly overtime after 56 rather than 48 hours in peak weeks.

- (1) An initial disclosure, at least annually,
 - (a) that weekly overtime pay will be after 56 rather than 48 hours for up to 22 peak weeks,
 - (b) whether those peak weeks will be divided into one, two, or three periods (of four weeks or more), and
 - (c) a good-faith estimate of the months in which the peak weeks will occur.

The initial disclosure must be provided to employees at least 30 days in advance of the first expected peak week (or upon hiring for those start work fewer than 30 days in advance), except for those employed under, and in compliance with federal requirements for, temporary work visas, no later than the date of the worker’s visa application, contemporaneous with required federal pre-employment written disclosures to visa workers ordinarily due by the date of the worker’s visa application.

- (2) Written notice, at least annually, of which weeks will be the peak weeks, no later than the seventh day before the first peak week (or upon hiring for those starting work after the seventh day). The employer may change which are the peak weeks after that notice if:
 - (a) it provides at least one week’s written notice of any week being added or removed as a peak week;
 - (b) the initial disclosure was the employer’s good-faith, reasonable expectation of which weeks would be the peak weeks; and
 - (c) the changes are based on circumstances not foreseeable at the time of the initial disclosure (for example, a late frost).
- (3) All required notices and disclosures related to peak weeks in English and any language that is the first language spoken by at least five percent of the employer’s workforce at any point during the year.

- (D) An agricultural employee is exempt from all overtime pay requirements in the COMPS Order if (by blood, adoption, or marriage) they are the child, sibling, spouse, parent, aunt, uncle, nephew, niece, first cousin, grandchild, or grandparent of a family owner of an employer. For this exemption, a “family owner” is an individual with an ownership interest in an agricultural employer that is either (a) a majority interest or (b) an at least 10% interest that combines with those of other family members of that owner (of any type of relative listed in the prior sentence) to form a majority interest. If a family owner is also an “employee” of the agricultural employer, they also are exempt from all overtime pay requirements in the COMPS Order.

- (E) How many employees an agricultural employer has, for purposes of the above definitions of "small agricultural employer" in (B), and "highly seasonal agricultural employer" in (C), shall be determined as follows.
- (1) Employees shall be counted at the worksite for which the definition is being assessed, and shall count proportionally as follows, based on their average hours worked in all weeks in the preceding year with at least one hour worked:
 - (a) 35 hours per week or more, 1.0;
 - (b) between 15 and 35 hours per week, 0.5; and
 - (c) under 15 hours per week, 0.
 - (2) Employers need not rely on prior staffing levels to qualify for the "small agricultural" or "highly seasonal" employee thresholds if they (a) have been in operation for less than one calendar year, or (b) did not qualify based on their prior staffing levels, but have a good-faith, objectively reasonable belief that they will qualify for the present year. If their belief that they will qualify for the threshold proves incorrect, they must pay affected employees back pay for any additional overtime owed, plus 5%, by 30 days from the date the employer has notice that it will not qualify for the threshold for the year, or (if they lacked notice until the end of the year) by 30 days from the end of that calendar year.
- (F) The Rule 2.3.2 exemption does not apply if an employer draws at least 50% of its annual dollar volume of business from sales to the consuming public (rather than for resale) of any services, commodities, articles, goods, wares, or merchandise; prior Orders for decades have covered any such employer, in any industry. E.g., Order #35, Rule 2(A) (covering any employer "that sells or offers for sale, any service, commodity, article, good, ... wares, or merchandise to the consuming public" and draws "50% or more of its annual dollar volume ... from such sales," rather than from sales to other businesses "for resale").

2.3.3 Meal and Rest Periods.

- (A) In addition to the meal and rest periods required by Rule 5, an agricultural employer shall provide agricultural employees engaged in hand-weeding and hand-thinning an additional, five-minute rest period, which, insofar as is practicable, must be in the middle of each work period.
- (B) The requirement of meal and rest periods in Rule 2.3.3 and Rule 5 does not apply to a truck driver whose sole and principal duty is to haul livestock or to a combine or harvester operator while harvesting.

2.4 Exemptions from Overtime Requirements of the COMPS Order. The following employees are exempt from Rule 4 (Overtime) unless otherwise specified.

- 2.4.1 **Certain Salespersons and Mechanics.** Salespersons, parts-persons, and mechanics employed by automobile, truck, or farm implement (retail) dealers; and salespersons employed by trailer, aircraft, and boat (retail) dealers are exempt from Rule 4 (Overtime).
- 2.4.2 **Commission Sales.** Sales employees of retail or service industries paid on a commission basis, provided that at least 50% of their total earnings in the pay period is derived from commission sales, and their regular rate of pay is at least one and one-half times the

minimum wage, are exempt from Rule 4 (Overtime). This exemption is applicable for only employees of retail or service employers who receive over 75% of their annual dollar volume from retail or service sales.

- 2.4.3 Ski Industry. Employees of the ski industry performing duties directly related to ski area operations for downhill skiing or snowboarding, and those employees engaged in providing food and beverage services at on-mountain locations, are exempt from (within Rule 4) the 40-hour overtime requirement but not the requirement of overtime pay for over 12 hours that are consecutive or are within a workday. This partial overtime exemption does not apply to ski area employees performing duties related to lodging.
- 2.4.4 Medical Transportation. Employees of the medical transportation industry who work 24-hour shifts are exempt from the Rule 4.1.1(B)-(C) daily (12-hour) overtime rules if they receive the required Rule 4.1.1(A) weekly (40-hour) overtime pay.
- 2.4.5 Eight and Eighty Rule. A hospital or nursing home may seek an agreement with individual employees to pay overtime pursuant to the provisions of the federal Fair Labor Standards Act "8 and 80 rule" whereby employees are paid time and one-half their regular rate of pay for any work performed in excess of 80 hours in a 14 consecutive day period and for any work in excess of 8 hours per day.
- 2.4.6 Drivers, and Driver's Helpers, Subject to the Federal Motor Carrier Act ("MCA"). Drivers and their driver's helpers are exempt from Rule 4 (overtime) and Rule 5 (rest and meal periods) while and to the extent that they are:
- (A) subject to the federal MCA and exempt from overtime requirements of the FLSA pursuant to 29 U.S.C. § 213(b)(1) and regulations promulgated thereunder;
 - (B) working on MCA-covered non-passenger vehicles, or on MCA-covered passenger vehicles qualifying as commercial motor vehicles requiring a commercial driver's license ("CDL") -- but not on vehicles that transport workers to and from manual work jobs (e.g., landscaping or lawn care, construction or roofing, cleaning or janitorial, or other manual labor) and do not require a CDL; and
 - (C) paid compensation equivalent to at least 50 hours at the Colorado minimum wage with overtime, as specified for the applicable year in the PAY CALC Order, regardless of whether the pay is hourly, salaried, piece rate, or on another basis.
- 2.4.7 Direct Support and Care. The Rule 4.1.1(B)-(C) daily (12-hour) overtime rule does not apply to companions designated as direct support professionals/direct care workers who are scheduled for, and work, shifts of at least 24 hours providing residential or respite services and who are employed by service providers and agencies that receive at least 75% of their total revenue from Medicaid or other governmental sources, and who provide services within Medicaid home- and community-based service waivers.
- 2.4.8 Decision-Making Managers at Livestock Employers. The Rule 2.3.2 and Rule 4 overtime rules do not apply to decision-making managers at livestock employers, defined as follows.
- (A) A "decision-making manager" (for purposes of this exemption) is an employee primarily engaged in livestock work:
 - (1) who is paid at least the applicable salary in Rule 2.5, as specified for the applicable year in the PAY CALC Order;

- (2) who is not employed in the position on a seasonal or temporary basis (i.e., not expected to remain in the position for less than 12 months); and
- (3) whose primary duties require routine exercise of independent judgment and discretion in matters of significance, and who either

- (a) supervises two or more full-time employees, or
- (b) reports directly to an owner (majority or minority), or to an executive-level employee who reports directly to such an owner, who routinely exercises independent judgment and discretion in matters of significance, whether in manual or non-manual labor (e.g., the owner's second-in-command, or the head of the site where the exempt employee works).

- (B) A "livestock employer" (for purposes of this exemption) is an agricultural employer with significant responsibilities for "livestock" (as defined under the FLSA) care and health — a dairy, cattle ranch, feedlot, or similar employer — that does not qualify as a "highly seasonal" employer under Rule 2.3.2.

2.4.9 Range workers. The Rule 2.3.2 and Rule 4 overtime rules do not apply to range workers who are paid at least the minimum range worker salary (as specified in the PAY CALC Order for the applicable year) during periods when they are "principally engaged in the range production of livestock ... on the open range" (as defined by C.R.S. 8-6-101.5(1)(b)), and are provided without cost or deduction any housing, food, transport, and equipment required for H-2A visa range workers by federal regulations.

2.5 Salary Thresholds for Certain Exemptions.

2.5.1 For COMPS exemptions requiring a salary, the "Salary Requirement" rules of the federal Fair Labor Standards Act in 29 C.F.R. Part 541 Subpart G, apply, except that under the COMPS Order, the salary must be at least the level specified for the applicable year in the PAY CALC Order and sufficient for the minimum wage for all hours in a workweek (with the exception of certain professionals listed in Rule 2.5.2). Except as provided in Rule 2.2.11, the weekly salary from July 1, 2020, through December 31, 2020, shall be \$684 (\$35,568 per year); \$778.85 for 2021 (\$40,500 per year); \$865.38 for 2022 (\$45,000 per year); \$961.54 for 2023 (\$50,000 per year); \$1,057.69 for 2024 (\$55,000 per year); and after 2024 shall be indexed every January 1 by the same Consumer Price Index ("CPI") as the Colorado minimum wage, as stated in the PAY CALC Order; except that the 2020 salary did not apply to the following two categories of employers, for whom the above salary schedule applied only as of January 1, 2021 — (A) non-profit employers with annual total gross revenue of under \$50 million, and (B) for-profit employers with annual total gross revenue of under \$1 million. Annual equivalents are based on 2080 hours over 52 weeks of 40 hours, as under the federal Fair Labor Standards Act, and are rounded to the nearest dollar.

For any employer that was not subject to the \$684 per week salary under this Rule 2.5.1 for all or part of 2020, the required salary was the equivalent of the Colorado \$12.00 minimum wage, less any applicable lawful credits, for all hours worked in a workweek; this salary requirement of minimum wage for all hours work applied under Minimum Wage Order #35 (2019) and prior Minimum Wage Orders.

2.5.2 Exemption for Certain Professionals Exempt from the Salary Requirement under Federal Wage Law. The Rule 2.5.1 salaries do not apply to the following professionals who are exempt from the requirement of a salary under federal wage law.

- (A) Doctors, lawyers, and teachers who qualify as exempt Rule 2.2.3 professional employees need not receive any particular salary or hourly pay to be exempt.
- (B) Employees in highly technical computer-related occupations, as defined by Rule 2.2.10, must receive at least the lesser of (1) the applicable salary in Rule 2.5.1, or (2) hourly pay that is at least \$28.38 in 2021, adjusted annually by CPI thereafter, as specified for the applicable year in the PAY CALC Order.

Rule 3. Minimum Wages.

- 3.1 Statewide Minimum Wage. Under the minimum wage requirements of Article XVIII, Section 15, of the Colorado Constitution, all employees (with the exception detailed in Rule 3.3), whether employed on an hourly, piecework, commission, time, task, or other basis, shall be paid not less than the Colorado minimum wage, as specified for the applicable year in the PAY CALC Order, less any applicable lawful credits or exceptions noted, for all hours worked, if the employee is covered by *either*:
- (A) Rule 2 (Coverage and Exemptions) of the COMPS Order; *or*
 - (B) the minimum wage provisions of the federal Fair Labor Standards Act (29 U.S.C. §§ 201 et seq.).
- 3.2 Minimum and Overtime Wage Requirements of Other Applicable Jurisdictions. In addition to state wage requirements, federal or local laws or regulations may apply minimum, overtime, or other wage requirements to some or all Colorado employers and employees. If an employee is covered by multiple minimum or overtime wage requirements, the requirement providing a higher wage, or otherwise setting a higher standard, shall apply. The Division accepts state law complaints by employees who claim entitlement to a state, federal, or local minimum or overtime wages under the C.R.S. § 8-4-101(14) definition that the “unpaid wages” recoverable in a state-law claim include “[a]ll amounts for labor or service performed by employees,” as long as such amounts are “earned, vested, and determinable, at which time such amount shall be payable to the employee pursuant to this article.”
- 3.3 Reduced Minimum for Minors. The minimum wage may be reduced by 15% for non-emancipated minors, as specified for the applicable year in the PAY CALC Order.

Rule 4. Overtime.

- 4.1 Overtime Wages.
- 4.1.1 Employees shall be paid time and one-half of the regular rate of pay for any work in excess of any of the following, except as provided in exemptions or variances in Rule 2:
- (A) 40 hours per workweek;
 - (B) 12 hours per workday; or
 - (C) 12 consecutive hours without regard to the start and end time of the workday.
- 4.1.2 Whichever of the three calculations in Rule 4.1.1 results in the greater payment of wages shall apply in any particular situation.
- 4.1.3 Hours worked in two or more workweeks shall not be averaged for computing overtime.
- 4.1.4 Performance of work in two or more positions, at different pay rates, for the same employer, shall be computed at the overtime rate based on the regular rate of pay as described in Rule 1.8.3.

- 4.1.5 In calculating when 12 consecutive hours are worked for purposes of the Rule 4.1.1 requirement of overtime after 12 hours, meal periods may be subtracted, but only if the meal periods comply with the Rule 5.1 requirements for meal periods.
- 4.2 Effect of Daily Overtime on Workday and Workweek. The requirement to pay overtime for work in excess of 12 consecutive hours will not alter the employee's established workday or workweek, as previously defined.
- 4.3 Overtime for Minors. Nothing in Rule 4 modifies the provisions on work hours for minors contained in C.R.S. § 8-12-105.

Rule 5. Meal and Rest Periods.

- 5.1 Meal Periods. Employees shall be entitled to an uninterrupted and duty-free meal period of at least a 30-minute duration when the shift exceeds 5 consecutive hours. Such meal periods, to the extent practical, shall be at least one hour after the start, and one hour before the end of the shift. Employees must be completely relieved of all duties and permitted to pursue personal activities for a period to qualify as non-work, uncompensated time. When the nature of the business activity or other circumstances make an uninterrupted meal period impractical, the employee shall be permitted to consume an on-duty meal while performing duties. Employees shall be permitted to fully consume a meal of choice on the job and be fully compensated for the on-duty meal period without any loss of time or compensation.
- 5.2 Rest Periods. Every employer shall authorize and permit a compensated 10-minute rest period for each 4 hours of work, or major fractions thereof, for all employees, as follows, except as provided in exemptions or variances in Rule 2:

<u>Work Hours</u>	<u>Rest Periods Required</u>
2 or fewer	0
Over 2, and up to 6	1
Over 6, and up to 10	2
Over 10, and up to 14	3
Over 14, and up to 18	4
Over 18, and up to 22	5
Over 22	6

- 5.2.1 Rest periods shall be 10 minutes unless,
 - (A) on a given workday, or in a writing covering up to a one-year period that is signed by both parties, the employee and the employer agree, voluntarily and without coercion, to have two 5-minute breaks, as long as 5 minutes is sufficient, in the work setting, to allow the employee to go back and forth to a bathroom or other location where a bona fide break would be taken; or
 - (B) if the below conditions are met, rest periods need not be 10 minutes every 4 hours for any employees (i) governed by a collective bargaining agreement at any employer, or (ii) during time they are providing Medicaid-funded services for a service provider or agency receiving at least 75% of its annual total gross revenue from Medicaid or other governmental funds for providing such services within Medicaid home- and community-based services waivers, and the services provided require continuous supervision of the service recipient, or providing a rest period would interfere with ensuring the service recipient's health, safety, and welfare. Employees in category (i) or (ii) must receive:
 - (1) rest periods that average, over the workday, at least 10 minutes per 4 hours worked; and

- (2) at least 5 minutes of rest in every 4 hours worked.

Such an agreement does not change an employee's right to pay for rest periods under Rule 5.2.4. Additionally, when (B)(ii) above applies: When direct support professionals or direct care workers serving individuals with disabilities spend time in community outings with those individuals with disabilities – as part of day programs, supported living services, or one-to-one respite or personal care – time in such outings does not require rest breaks or pay for rest breaks.

- 5.2.2 Rest periods, to the extent practical, shall be in the middle of each 4-hour work period. It is not necessary that the employee leave the premises for a rest period.
- 5.2.3 Required rest periods are time worked for the purposes of calculating minimum wage and overtime obligations.
- 5.2.4 When an employee is not authorized and permitted a required 10-minute rest period, his or her shift is effectively extended by 10 minutes without compensation. Because a rest period requires 10 minutes of pay without work being performed, work during a rest period is additional work for which additional pay is not provided. Therefore, a failure by an employer to authorize and permit a 10-minute compensated rest period is a failure to pay 10 minutes of wages at the employee's agreed-upon or legally required (whichever is higher) rate of pay. This Rule 5.2.4 applies equally to any required rest period time not provided (e.g., rest periods that are incomplete, or for non-hourly-paid employees, or under any other rule or statute providing rest periods of different durations).

Rule 6. Deductions, Credits, and Charges.

- 6.1 Tips or Gratuities. It shall be unlawful for an employer to assert a claim to, right of ownership in, or control over tips or gratuities intended for employees in violation of the Colorado Wage Act, including C.R.S. § 8-4-103(6).
- 6.2 Credits Toward Minimum Wages. The only allowable credits an employer may take toward the minimum wage are those in Rules 6.2.1 - 6.2.3 below.
- 6.2.1 Lodging Credit. A lodging credit for housing furnished by the employer and used by the employee may be considered part of the minimum wage if it is:
- (A) no greater than the smaller of (1) the reasonable and actual cost to the employer of providing the housing, (2) the fair market value of the housing, or (3) \$25 per week for a room (in a shared residence, dormitory, or hotel) or \$100 per week for a private residence (an apartment or a house);
 - (B) accepted voluntarily and without coercion, and primarily for the benefit or convenience of the employee, rather than of the employer; and
 - (C) recorded in a written agreement (electronic form is acceptable) that states the fact and amount of the credit (but need not be a lease).
- 6.2.2 Meal Credit. A meal credit, equal to the reasonable cost or fair market value of meals provided to the employee, may be used as part of the minimum hourly wage. No profits to the employer may be included in the reasonable cost or fair market value of such meals furnished. Employee acceptance of a meal must be voluntary and uncoerced.
- 6.2.3 Tip Credit. A tip credit no greater than \$3.02 per hour may be used to offset cash wages for employers of tipped employees. An employer must pay a cash wage of at least the amount specified for the applicable year in the PAY CALC Order if it claims a tip credit

against its minimum hourly wage obligation; if an employee's tips combined with the cash wage of at least the amount specified for the applicable year in the PAY CALC Order do not equal the minimum hourly wage, the employer must make up the difference in cash wages.

6.3 Uniforms.

6.3.1 Where wearing a particular uniform or special apparel is a condition of employment, the employer shall pay the cost of purchases, maintenance, and cleaning of the uniforms or special apparel, with the following exceptions:

- (A) if the uniform furnished by the employer is plain and washable, and does not need or require special care such as ironing, dry cleaning, pressing, etc., the employer need not maintain or pay for cleaning; and
- (B) clothing that is ordinary, plain, and washable that is prescribed as a uniform need not be furnished by the employer unless a special color, make, pattern, logo, or material is required.

6.3.2 The cost of ordinary wear and tear of a uniform or special apparel shall not be deducted from an employee's wages.

Rule 7. Employer Record-Keeping and Posting Requirements.

7.1 Employee Records. Every employer shall keep at the place of employment, or at the employer's principal place of business in Colorado, a true and accurate record for each employee which contains the following information:

- (A) name, address, occupation, and date of hire of the employee;
- (B) date of birth, if the employee is under 18 years of age;
- (C) daily record of all hours worked;
- (D) record of credits claimed and of tips; and
- (E) regular rates of pay, gross wages earned, withholdings made, and net amounts paid each pay period.

7.2 Issuance of Earnings Statement. An itemized earnings statement of the information in Rule 7.1(D)-(E) and the total hours worked in the pay period, with the employee's and the employer's names, shall be provided to each employee each pay period.

7.3 Maintenance of Earnings Statement Information. An employer shall retain records reflecting the information contained in an employee's itemized earnings statement as described in this rule for at least 3 years after the wages or compensation were due, and for the duration of any pending wage claim pertaining to the employee. Each employer shall provide each employee access to the information in Rules 7.1(A) and (C) in any of the following forms it chooses:

- (A) provide the information with the regular earnings statements;
- (B) provide each employee with access to a functioning electronic portal that shows the information – but this method is permissible only if the employer knows an email address of the employee; or

- (C) provide each employee the information for the entire calendar year by January 31st the following year and, in addition, provide the information to an employee upon a request that an employee may make once per year.

7.4 Posting and Distribution Requirements.

- 7.4.1 Posting. Every employer subject to the COMPS Order must display a COMPS Order poster for the current year, with applicable dollar figures as stated in the PAY CALC Order for that year, published by the Division in an area frequented by employees where it may be easily read during the workday. If the work site or other conditions make a physical posting impractical (including private residences employing only one worker, and certain entirely outdoor work sites lacking an indoor area), the employer shall provide a copy of the COMPS Order or poster to each employee within his or her first month of employment, and shall make it available to employees upon request. Employers shall be deemed noncompliant if they attempt to minimize the effect of posters or notices required by statute or these Rules, such as by communicating positions contrary to, or discouraging the exercise of rights covered in, the required poster or notice. An employer that does not comply with the above requirements of this paragraph shall be ineligible for any employee-specific credits, deductions, or exemptions in the COMPS Order, but shall remain eligible for employer- or industry-wide exemptions, such as exempting an entire employer or industry from any overtime or meal/rest period requirements in Rules 4-5.
- 7.4.2 Distribution. Every employer publishing or distributing to employees any handbook, manual, or written or posted policies shall include a copy of the COMPS Order, or a COMPS Order poster published by the Division, with any such handbook, manual, or policies. Every employer that requires employees to sign any handbook, manual, or policy shall, at the same time or promptly thereafter, include a copy of the COMPS Order, or a COMPS Order poster published by the Division, and have the employee sign an acknowledgement of being provided the COMPS Order or the COMPS Order poster.
- 7.4.3 Translation. Employers with any employees with limited English language ability shall:
 - (A) use a Spanish-language version of the COMPS Order and poster published by the Division, if the employee(s) in question speak Spanish; or
 - (B) contact the Division to request that the Division, if possible, provide a version of the COMPS Order and poster in another language that any employee(s) need.

Rule 8. Administration and Interpretation.

8.1 Recovery of Wages.

- (A) Availability of court action or Division administrative complaint. An employee receiving less than the full wages or other compensation owed is entitled to recover in a civil action the unpaid balance of the full amount owed, together with reasonable attorney fees and court costs, notwithstanding any agreement to work for a lesser wage, pursuant to C.R.S. §§ 8-4-121, 8-6-118. Alternatively, an employee may elect to pursue a complaint through the Division's administrative procedure as described in the Colorado Wage Act, C.R.S. § 8-4-101, et seq.
- (B) No minimum claim size. There is no minimum size of a wage claim, and thus no claim too minimal ("*de minimis*") for recovery, because Article 4 requires paying "[a]ll wages or compensation" (C.R.S. § 8-4-103(1)(a)), and authorizes civil actions "to recover any amount of wages or compensation" (C.R.S. § 8-4-110(1)) and Division complaints "for any violation" (C.R.S. § 8-4-111(1)(a)).

- 8.2 Complaints. Any person may register with the Division a written complaint that alleges a violation of the COMPS Order within 2 years of the alleged violation(s), except that actions brought for a willful violation shall be commenced within 3 years.
- 8.3 Investigations. The Director or a designated agent shall investigate and take all proceedings necessary to enforce the payment of the minimum wage and other provisions of the COMPS Order, pursuant to these rules and C.R.S. Title 8, Articles 1, 4, 6, and 13.3. Violations may be subject to the administrative procedure as described in the Colorado Wage Act, C.R.S. § 8-4-101, et seq.
- 8.4 Violations. It is theft under the Criminal Code (C.R.S. § 18-4-401) if an employer or agent:
- (A) willfully refuses to pay wages or compensation, or falsely denies the amount of a wage claim, or the validity thereof, or that the same is due, with intent to secure for himself, herself, or another person any discount upon such indebtedness or any underpayment of such indebtedness or with intent to annoy, harass, oppress, hinder, coerce, delay, or defraud the person to whom such indebtedness is due (C.R.S. § 8-4-114); or
 - (B) intentionally pays or causes to be paid to any such employee a wage less than the minimum (C.R.S. § 8-6-116).
- 8.5 Reprisals. Employers shall not threaten, coerce, or discriminate against any person for the purpose of reprisal, interference, or obstruction as to any actual or anticipated investigation, hearing, complaint, or other process or proceeding relating to a wage claim, right, or rule. Violators may be subject to penalties under C.R.S. §§ 8-1-116, 8-1-140, 8-4-120, and/or 8-6-115.
- 8.6 Division and Dual Jurisdiction. The Division shall have jurisdiction over all questions arising with respect to the administration and interpretation of the COMPS Order. Whenever employers are subjected to Colorado law as well as federal and/or local law, the law providing greater protection or setting the higher standard shall apply. For information on federal law, contact the U.S. Department of Labor, Wage and Hour Division.
- 8.7 Construction.
- (A) Liberal construction of COMPS, narrow construction of exceptions/ exemptions. Under the C.R.S. § 8-6-102 "Construction" provision ("Whenever this article or any part thereof is interpreted by any court, it shall be liberally construed by such court"), applicable to rules on "wages which are inadequate to supply the necessary cost of living" (§ 8-6-104), on "conditions of labor detrimental to [worker] health or morals" (§ 8-6-104), on "conditions of labor and hours of employment not detrimental to health or morals for workers" (§ 8-6-106), on "what are unreasonably long hours" (§ 8-6-106), on what requirements are "necessary to carry out the provisions of this article" (§ 8-6-108.5), on minimum and overtime wages (§§ 8-6-109, -111, -116, -117), and on who qualifies as an "agricultural employer" (§ 8-6-120 (incorporating §§ 8-13.5-201(1); 8-3-104(1)(b))): The provisions of the COMPS Order shall be liberally construed, with exceptions and exemptions accordingly narrowly construed.
 - (B) Subpart included in cross-references. Where any Division rule references another rule, the reference shall be deemed to include all subparts of the referenced rule.
 - (C) Minimum Wage Order references. References to the Colorado "Minimum Wage Order" shall be deemed to reference the COMPS Order, as the successor to the Colorado Minimum Wage Order.
- 8.8 Separability. The COMPS Order is intended to remain in effect to the maximum extent possible. If any part (including any section, sentence, clause, phrase, word, or number) is held invalid, (A) the

remainder of the COMPS Order remains valid, and (B) if the provision is held not wholly invalid, but merely in need of narrowing, the provision should be retained in narrowed form.

- 8.9 Basis for Calculation. Calculations in the PAY CALC and COMPS Orders are based on Section 15 of Article XVIII of the Colorado Constitution (“Section 15”) (“Colorado’s minimum wage is ... adjusted annually for cost of living increases, as measured by the ... Consumer Price Index used for Colorado”); C.R.S. Article 8, Title 6; and the COMPS Order. All inflation-adjusted values applicable to the COMPS and PAY CALC Orders are based on the CPI used for Colorado, the Denver-Aurora-Lakewood CPI published by the federal Bureau of Labor Statistics. To effectuate the above provisions that employees must be paid not less than the prior year’s minimum wage adjusted for inflation, Division rules and practice must round up, to the nearest cent, any fractional cents yielded by the inflation adjustment. Other than in the annual minimum wage calculation, Division rules and practice round fractional cents of at least 0.5 up, and of under 0.5 down.

Appendix A. Statutory Authority.

- C.R.S. §§ 8-1-101 (“‘General order’ means an order of the director applying generally throughout the state to all persons, employments, or places of employment under the jurisdiction of the division”);
- 8-1-103 (“[P]owers, duties, and functions of the director ... , includ[e] ... promulgation of rules, rates, regulations, and standards, and the rendering of findings, orders, and adjudications”);
- 8-1-107 (“[T]he director has the duty and the power to ... [a]dopt reasonable and proper rules and regulations relative to the exercise of his powers and proper rules and regulations to govern the proceedings of the division and to regulate the manner of investigations and hearings.”)
- 8-1-108 (“[G]eneral orders shall be effective ... after they are adopted by the director and posted”; “All orders of the division shall be ... in force and prima facie reasonable and lawful until ... found otherwise.”);
- 8-1-111 (“The director is vested with the power and jurisdiction to have such supervision of every employment and place of employment ... [to] determine the conditions under which the employees labor ... , to enforce all provisions of law relating thereto ... to administer all provisions of this article with respect to the relations between employer and employee and to do all other acts and things convenient and necessary to accomplish the purposes of this article.”);
- 8-1-130 (“The director has full power to hear and determine all questions within his jurisdiction, and his findings, award, and order issued thereon shall be final agency action.”);
- 8-4-111 (“It is the duty of the director ... to enforce generally the provisions of this article.”);
- 8-6-101.5 (“[T]he minimum wage requirements of section 15 of article xviii of the state constitution, and any minimum wage laws enacted pursuant to this article 6, apply to agricultural employers employing agricultural workers. ... The Colorado minimum wage that an agricultural employer must pay to an agricultural worker who is principally engaged in the range production of livestock ... on the open range is: (i) beginning January 1, 2022, ... five hundred fifteen dollars per week; and (ii) beginning January 1, 2023, the minimum wage required in the prior calendar year adjusted annually The director may set a higher minimum wage than is required ... consistent with the director’s authority and duties[.]”);
- 8-6-101.5 (“An agricultural worker is entitled to an uninterrupted and duty-free meal period of at least a thirty-minute duration when the agricultural worker’s shift exceeds five consecutive hours. ... An agricultural worker is entitled to an uninterrupted and duty-free rest period of at least ten minutes within each four hours of work.”); 8-13.5-203(3) (“An agricultural employer shall provide agricultural workers engaged in hand weeding and hand thinning an additional five minute rest

period, which, insofar as is practicable, must be in the middle of each work period. The authorized rest period must be based on the total hours worked daily at the rate of fifteen minutes net rest time per four hours worked, or a major fraction thereof. The agricultural employer shall count the authorized rest period as hours worked and not deduct the rest period from the agricultural worker's wages.");

- 8-6-102 ("Whenever this article or any part thereof is interpreted by any court, it shall be liberally construed.");
- 8-6-104 ("It is unlawful to employ workers in any occupation ... for wages which are inadequate to supply the necessary cost of living and to maintain the health of the workers It is unlawful to employ workers in any occupation ... under conditions of labor detrimental to their health or morals.");
- 8-6-105 ("It is the duty of the director to inquire into the wages paid to employees and into the conditions of labor ... in any occupation ... if the director has reason to believe ... conditions of labor are detrimental to the health or morals of said employees or that the wages paid to a substantial number of employees are inadequate to supply the necessary cost of living and to maintain such employees in health.");
- 8-6-106 ("The director shall determine the minimum wages sufficient for living wages ... ; standards of conditions of labor and hours ... not detrimental to health or morals for workers; and what are unreasonably long hours.");
- 8-6-108 ("[F]or the purpose of investigating any of the matters [s/]he is authorized to investigate by this article ... [t]he director has power to make reasonable and proper rules and procedure and to enforce said rules and procedure.");
- 8-6-109 ("If after investigation the director is of the opinion that the conditions of employment surrounding said employees are detrimental to the health or morals or that a substantial number of workers in any occupation are receiving wages ... inadequate to supply the necessary costs of living and to maintain the workers in health, the director shall proceed to establish minimum wage rates.");
- 8-6-111 ("Overtime, at a rate of one and one-half times the regular rate of pay, may be permitted by the director under conditions and rules and for increased minimum wages which the director, after investigation, determines and prescribes by order and which shall apply equally to all employers in such industry or occupation.");
- 8-6-116 ("The minimum wages fixed by the director, as provided in this article, shall be the minimum wages paid to the employees, and the payment ... of a wage less than the minimum ... is unlawful");
- 8-6-117 ("In every prosecution ... of this article, the minimum wage established by the director shall be prima facie presumed to be reasonable and lawful and the wage required to be paid. The findings of fact made by the director acting within prescribed powers, in the absence of fraud, shall be conclusive.");
- 8-6-120 ("The director shall promulgate rules providing meaningful overtime and maximum hours protections to agricultural employees. ... In promulgating such rules, the director shall consider the inequity and racist origins of the exclusion of agricultural employees from overtime and maximum hours protections available to other employees, the fundamental right of all employees to overtime and maximum hours standards that protect the health and welfare of employees, and the unique difficulties agricultural employees have obtaining workplace conditions equal to those provided to other employees.");

- 8-12-115 (“The director shall enforce ... this article” and “shall promulgate rules and regulations more specifically defining the occupations and types of equipment permitted or prohibited by this article.”);
- 8-13.3-403 (“The division shall promulgate rules regarding compensation and accrual of paid sick leave for employees employed and compensated on a fee-for-service basis.”);
- 8-13.3-407 (“Determinations made by the division under this section [as to paid sick leave] are appealable pursuant to section 8-4-111.5 and rules promulgated by the department regarding appeals and strategic enforcement.”);
- 8-13.3-408 (“Each employer shall notify its employees that they are entitled to paid sick leave, pursuant to rules promulgated by the division.”);
- 8-13.3-410 (“The director may coordinate implementation and enforcement of this part and adopt rules as necessary for such purposes.”);
- 8-13.5-202(1)(c) (“To ensure that agricultural workers have meaningful access to services, the director of the division shall promulgate rules regarding additional times during which an employer may not interfere with an agricultural worker’s reasonable access to key service providers, including periods during which the agricultural worker is performing compensable work, especially during periods when the agricultural worker is required to work in excess of forty hours per week and may have difficulty accessing such services outside of work hours.”);
- 8-13.5-203 (“The director of the division shall promulgate rules that require agricultural employers to protect agricultural workers from heat-related stress illnesses and injuries when the outside temperatures reach eighty degrees or higher, with discretion to adjust requirements based on environmental factors, exposure time, acclimatization, and metabolic demands of the job as set forth in the federal Department of Health and Human Services Centers for Disease Control and Prevention National Institute for Occupational Safety and Health 2016 Revised Publication: Criteria for a Recommended Standard, Occupational Exposure to Heat and Hot Environments.”); and
- the Administrative Procedure Act, C.R.S. § 24-4-103.

HUERFANO COUNTY

GREEN SHEET/STATUS CHANGE		EFFECTIVE DATE
		1/15/2023
NAME: Samuel Carreon	PAYROLL :	2/3/2023

CHANGE OF ADDRESS/PHONE	STREET
	CITY, STATE, ZIP
	TELEPHONE

CHANGE	FROM (DOES NOT APPLY TO NEW EMPLOYEE)	TO
JOB TITLE	Deputy Officer	Deputy Officer
DEPARTMENT	Sheriff	Sheriff
HOURS		
ANNUAL SALARY	\$43,158.18	\$44,658.18
SEMI-MONTHLY SALARY		
HOURLY SALARY		
OTHER SALARY	Non-Exempt	Non-Exempt

REASON FOR CHANGE

- | | | |
|-----------|------------------------------|-------------------------------|
| NEW HIRE | RESIGNATION | LENGTH OF SERVICE INCREASE |
| REHIRED | RETIREMENT | REEVALUATION OF CURRENT JOB |
| PROMOTION | LAYOFF | INTRODUCTORY PERIOD COMPLETED |
| DEMOTION | ADMINISTRATIVE LEAVE PAID | OTHER |
| TRANSFER | ADMINISTRATIVE LEAVE UN-PAID | |

COMMENTS, IF NECESSARY

Motion To Increase The Salary Of Samuel Carreon From \$43,158.18 to \$44,658.18 to Reflect a Increase of \$1,500.00 for Completion of the FTO Training

I Angela Wakeman Human Resources Officer certify that the above presented information has been requested by the Department Head and or Elected Official directly responsible for the employee named within. I certify that I have received all proper documentaion and that I have entered the information on the Green Sheet to reflect the change as requested.

Angela Wakeman
Signature of preparer

01/20/2023
Date Signed

John Galusha, Chairman

Arica Andreatta, Commissioner

Karl Sporleder, Commissioner

Date

Date to Finance Office: _____

HUERFANO COUNTY

GREEN SHEET/STATUS CHANGE		EFFECTIVE DATE
		1/15/2023
NAME: Samuel Carreon	PAYROLL :	2/3/2023

CHANGE OF ADDRESS/PHONE	STREET
	CITY, STATE, ZIP
	TELEPHONE

CHANGE	FROM (DOES NOT APPLY TO NEW EMPLOYEE)	TO
JOB TITLE	Deputy Officer	Deputy Officer
DEPARTMENT	Sheriff	Sheriff
HOURS		
ANNUAL SALARY	\$38,158.00	\$43,158.18
SEMI-MONTHLY SALARY		
HOURLY SALARY		
OTHER SALARY	Non-Exempt	Non-Exempt

REASON FOR CHANGE

- | | | |
|-----------|------------------------------|-------------------------------|
| NEW HIRE | RESIGNATION | LENGTH OF SERVICE INCREASE |
| REHIRED | RETIREMENT | REEVALUATION OF CURRENT JOB |
| PROMOTION | LAYOFF | INTRODUCTORY PERIOD COMPLETED |
| DEMOTION | ADMINISTRATIVE LEAVE PAID | OTHER |
| TRANSFER | ADMINISTRATIVE LEAVE UN-PAID | |

COMMENTS, IF NECESSARY

Motion To Increase The Salary Of Samuel Carreon From \$38,158.00 to \$43,158.18 to 2023 COLA Increase of \$5,000.00.

I Angela Wakeman Human Resources Officer certify that the above presented information has been requested by the Department Head and or Elected Official directly responsible for the employee named within. I certify that I have received all proper documentaion and that I have entered the information on the Green Sheet to reflect the change as requested.

Angela Wakeman
Signature of preparer

01/20/2023
Date Signed

John Galusha, Chairman

Arica Andreatta, Commissioner

Karl Sporleder, Commissioner

Date

Date to Finance Office: _____

HUERFANO COUNTY

GREEN SHEET/STATUS CHANGE		EFFECTIVE DATE
		1/15/2023
NAME: John Quintana	PAYROLL :	2/3/2023

CHANGE OF ADDRESS/PHONE	STREET
	CITY, STATE, ZIP
	TELEPHONE

CHANGE	FROM (DOES NOT APPLY TO NEW EMPLOYEE)	TO
JOB TITLE	Deputy Officer	Deputy Officer
DEPARTMENT	Sheriff	Sheriff
HOURS		
ANNUAL SALARY	\$43,158.18	\$44,658.18
SEMI-MONTHLY SALARY		
HOURLY SALARY		
OTHER SALARY	Non-Exempt	Non-Exempt

REASON FOR CHANGE

- | | | |
|-----------|------------------------------|-------------------------------|
| NEW HIRE | RESIGNATION | LENGTH OF SERVICE INCREASE |
| REHIRED | RETIREMENT | REEVALUATION OF CURRENT JOB |
| PROMOTION | LAYOFF | INTRODUCTORY PERIOD COMPLETED |
| DEMOTION | ADMINISTRATIVE LEAVE PAID | OTHER |
| TRANSFER | ADMINISTRATIVE LEAVE UN-PAID | |

COMMENTS, IF NECESSARY

Motion To Increase The Salary Of John Quintana From \$43,158.18 to \$44,658.18 to Reflect an increase of \$1,500.00 for Completion of the FTO Training

I Angela Wakeman Human Resources Officer certify that the above presented information has been requested by the Department Head and or Elected Official directly responsible for the employee named within. I certify that I have received all proper documentaion and that I have entered the information on the Green Sheet to reflect the change as requested.

Angela Wakeman
Signature of preparer

01/20/2023
Date Signed

John Galusha, Chairman

Arica Andreatta, Commissioner

Karl Sporleder, Commissioner

Date

Date to Finance Office: _____

HUERFANO COUNTY

GREEN SHEET/STATUS CHANGE		EFFECTIVE DATE
		1/15/2023
NAME: John Quintana	PAYROLL :	2/3/2023

CHANGE OF ADDRESS/PHONE	STREET
	CITY, STATE, ZIP
	TELEPHONE

CHANGE	FROM (DOES NOT APPLY TO NEW EMPLOYEE)	TO
JOB TITLE	Deputy Officer	Deputy Officer
DEPARTMENT	Sheriff	Sheriff
HOURS		
ANNUAL SALARY	\$38,158.00	\$43,158.18
SEMI-MONTHLY SALARY		
HOURLY SALARY		
OTHER SALARY	Non-Exempt	Non-Exempt

REASON FOR CHANGE

- | | | |
|-----------|------------------------------|-------------------------------|
| NEW HIRE | RESIGNATION | LENGTH OF SERVICE INCREASE |
| REHIRED | RETIREMENT | REEVALUATION OF CURRENT JOB |
| PROMOTION | LAYOFF | INTRODUCTORY PERIOD COMPLETED |
| DEMOTION | ADMINISTRATIVE LEAVE PAID | OTHER |
| TRANSFER | ADMINISTRATIVE LEAVE UN-PAID | |

COMMENTS, IF NECESSARY

Motion To Increase The Salary Of John Quintana From \$38,158.00 to \$43,158.18 to reflect the 2023 COLA Increase of \$5,000.00.

I Angela Wakeman Human Resources Officer certify that the above presented information has been requested by the Department Head and or Elected Official directly responsible for the employee named within. I certify that I have received all proper documentaion and that I have entered the information on the Green Sheet to reflect the change as requested.

Angela Wakeman
Signature of preparer

01/17/2023
Date Signed

John Galusha, Chairman

Arica Andreatta, Commissioner

Karl Sporleder, Commissioner

Date

Date to Finance Office: _____

HUERFANO COUNTY

GREEN SHEET/STATUS CHANGE		EFFECTIVE DATE
		2/1/2023
NAME: Nancy Bustos	PAYROLL :	2/17/2023

CHANGE OF ADDRESS/PHONE	STREET
	CITY, STATE, ZIP Walsenburg CO 81089
	TELEPHONE

CHANGE	FROM (DOES NOT APPLY TO NEW EMPLOYEE)	TO
JOB TITLE	Accounting Clerk	Accounting Clerk
DEPARTMENT		Dept of Human Services
HOURS	75 hours of COMP	\$1,741.50
ANNUAL SALARY		
SEMI-MONTHLY SALARY		
HOURLY SALARY		
OTHER SALARY		

REASON FOR CHANGE

- | | | |
|-----------|------------------------------|-------------------------------|
| NEWHIRE | RESIGNATION | LENGTH OF SERVICE INCREASE |
| REHIRED | RETIREMENT | REEVALUATION OF CURRENT JOB |
| PROMOTION | LAYOFF | INTRODUCTORY PERIOD COMPLETED |
| DEMOTION | ADMINISTRATIVE LEAVE PAID | OTHER |
| TRANSFER | ADMINISTRATIVE LEAVE UN-PAID | |

COMMENTS, IF NECESSARY

Motion to approve payout of 75 hours of Comp Time for Nancy Bustos

I, Sheila Hudson-Macchietto, Director certify that the above presented information has been requested by the Department Head and or Elected Official directly responsible for the employee named within. I certify that I have received all proper documentaion and that I have entered the information on the Green Sheet to reflect the change as requested.

Sheila Hudson-Macchietto 01/18/2023

John Galusha-Board Chairman

Arica Andreatta, Vice Chairman

Karl Sporleder, Commissioner

Date

Date to Finance Office:

HUERFANO COUNTY

GREEN SHEET/STATUS CHANGE		EFFECTIVE DATE
		1/30/2023
NAME: Amanda Martin	PAYROLL :	2/3/2023

CHANGE OF ADDRESS/PHONE	STREET
	CITY, STATE, ZIP
	TELEPHONE

CHANGE	FROM (DOES NOT APPLY TO NEW EMPLOYEE)	TO
JOB TITLE	Clerk - 2nd	Chief Deputy of The Clerk
DEPARTMENT	Clerk & Recorder	Clerk & Recorder
HOURS		
ANNUAL SALARY	\$34,499.66	\$38,000.00
SEMI-MONTHLY SALARY		
HOURLY SALARY		
OTHER SALARY	Non-Exempt	Non-Exempt

REASON FOR CHANGE

- | | | |
|------------------|------------------------------|-------------------------------|
| NEW HIRE | RESIGNATION | LENGTH OF SERVICE INCREASE |
| REHIRED | RETIREMENT | REEVALUATION OF CURRENT JOB |
| PROMOTION | LAYOFF | INTRODUCTORY PERIOD COMPLETED |
| DEMOTION | ADMINISTRATIVE LEAVE PAID | OTHER |
| TRANSFER | ADMINISTRATIVE LEAVE UN-PAID | |

COMMENTS, IF NECESSARY

Motion To Promote Amanda Martin to Chief Deputy of The Clerk With a Salary Increase From \$34,499.66 to \$38,000.00

I Angela Wakeman Human Resources Officer certify that the above presented information has been requested by the Department Head and or Elected Official directly responsible for the employee named within. I certify that I have received all proper documentaion and that I have entered the information on the Green Sheet to reflect the change as requested.

Angela Wakeman
Signature of preparer

01/20/2023
Date Signed

John Galusha, Chairman

Arica Andreatta, Commissioner

Karl Sporleder, Commissioner

Date

Date to Finance Office: _____

HUERFANO COUNTY		
PAYROLL STATUS CHANGE		
EFFECTIVE DATE		
2/1/2023		
NAME: Donald Ortiz	PAYROLL : 2/3/2023	
CHANGE OF ADDRESS/PHONE	STREET 206 Kansas	
	CITY, STATE, ZIP Walsenburg, CO 81089	
	TELEPHONE	
CHANGE	FROM <small>(DOES NOT APPLY TO NEW EMPLOYEE)</small>	TO
JOB TITLE	EF Caseworker	EF Caseworker
DEPARTMENT		
HOURS		
ANNUAL SALARY		
SEMI-MONTHLY SALARY		
HOURLY SALARY		
OTHER SALARY		Final Pay \$1517.05
REASON FOR CHANGE		
NEW HIRE REHIRED PROMOTION DEMOTION TRANSFER	RESIGNATION RETIREMENT LAYOFF ADMINISTRATIVE LEAVE PAID ADMINISTRATIVE LEAVE UN-PAID Termination	LENGTH OF SERVICE INCREASE REEVALUATION OF CURRENT JOB INTRODUCTORY PERIOD COMPLETED OTHER
COMMENTS, IF NECESSARY		
Donald has submitted his resignation effective 2/1/2023		
_____ Sheila Hudson-Macchietto Director,, Huerfano County Department of Human Services		
1/27/2023		
_____ John Galusha, Chairman		
Date		Date
Date to Finance Office: _____		



Huerfano County
Planning Commission and Board of County Commissioners
Staff Report – Permit #22-54 Map Amendment and Vacation of Right-of
Way in Cuchara Mountain Park, Filing 4
Meeting Type – Joint Public Hearing

January 17, 2022

Requests

With this Application BH2 Land Surveying, LLC (the Applicant) requests the following:

- 1. Plat Amendment rearranging lot configuration in Cuchara Mountain Park, Filing 4:** pursuant to LUR Section §2.14 to rearrange the lot lines of a part of Cuchara Mountain Park Estates, Filing #4 and to establish a private, gated road as well as a non-motorized access easement heading north/south between Parcels E and F – This pathway would provide access to the ski lift located just south of the property. The site is known as Tracts B1, B2, B3, L2 and L3 (Parcel Numbers 122419, 122420, 122421, 122424 and 122425).
The threshold between a Plat Amendment and a Subdivision is not precisely defined in the code and it is up to the Planning Commission to determine whether a proposal should be treated as a Plat Amendment or a Subdivision. The applicant would like to know if creating one or two more lots than are described in this application would still be considered a plat amendment.
- 2. Request for a property tax exemption for lots E and D** as long as they remain undeveloped in exchange for public use of lots E and D so long as they remain undeveloped and a perpetual access easement along the east side of Lot E.
- 3. Request that Huerfano County pay 25% of the total survey costs** (\$6,000 – \$12,000) in exchange for the dedication of a 50-foot public access easement and public use of lots E and D so long as they remain undeveloped.
- 4. Vacation of a part of Yosemite Ln and Teton Ridge Dr:** Yosemite Ln. previously served to give access to the recreational easement on Tract L3 and to Tract B3. With the elimination of Tract L3 and the reconfiguration of Tract B3 into Parcel D, Parcel D can now be accessed by the non-motorized access easement between Parcel E and Parcels F and D, and a portion of Parcel D abuts the new proposed terminus of Yosemite Ln. The 50' wide segment of Parcel D that extends along the border with the National Forest is not marked as an easement, and it includes a gate. The purpose of this segment is to create a buffer between Forest Service land and Parcels C and F to reduce insurance costs for improvements on those parcels.
County Ownership: The County came to own these roads as part of a tax sale; they were not deeded to the County as ROW with the original filing. On Map 425 – Panadero Development

Filing No. 4 from 1999, Note 7 states: “Yosemite Lane, Teton Ridge Drive and Denali Ridge Road are private ownership access roads to be maintained by Cuchara Mountain Park Estates Homeowners Association. A 50-foot easement is granted for any underground utility in the private access road, for the purpose of installing and maintaining any and all underground utilities within the road right-of-way. A 50-foot easement is granted on all private access roads for emergency access.”

Zoning

The subject property is zoned Urbanizing Residential. Zoning standards for this district are set forth in LUR Section §1.03. The zone permits by right the building of a single family residence on each lot, which is in accordance with the applicant’s stated intent to build off-grid single family residences and garages on lots B, C and F. Lots B1, B2 and B3 are zoned Multi-Family, and combined were originally planned to support up to 268 units on 28.51 acres (an average of 9.4 units/acre, though intended densities varied by tract); the proposed maximum number of units would be 240, a 10.4% reduction. Developing to this level of intensity is not the applicant’s intent at this time.

Amendment to Scope:

In the Panadero Filing #4, Tract C1 allowed for 8 units on 7.96 acres (1 unit/acre); Tract B1 allowed 150 units on 10.23 acres (14.7 units/acre); Tract B2 allowed for 80 units on 7.86 acres (10.2 units/acre); and Tract B3 allowed for 30 units on 2.46 acres (12.2 units/acre). Tracts L2 and L3 were dedicated as open space.

The current proposal proposes the following maximum units per lot:

Lot	Units
A - 3.67 acres	35
B - 2.78 acres	26
C - 2.23 acres	21
D - 2.25 acres	21
E - 6.06 acres	57
F - 8.5 acres	80
Total	240

If the Commissioners are inclined to consider the creation of seven or eight lots on this site a Plat Amendment, the applicant has submitted two options as part of this proposal describing how those alternative arrangements would be created, each adding up to the same total development potential.

Process for Plat Amendment

(2.14.01): PC meeting: recommendation → BOCC public meeting → Record amended plat with County Clerk and Recorder within 5 days at applicant’s expense.

Noticing: BOCC may require notification of review agencies or other interested parties.

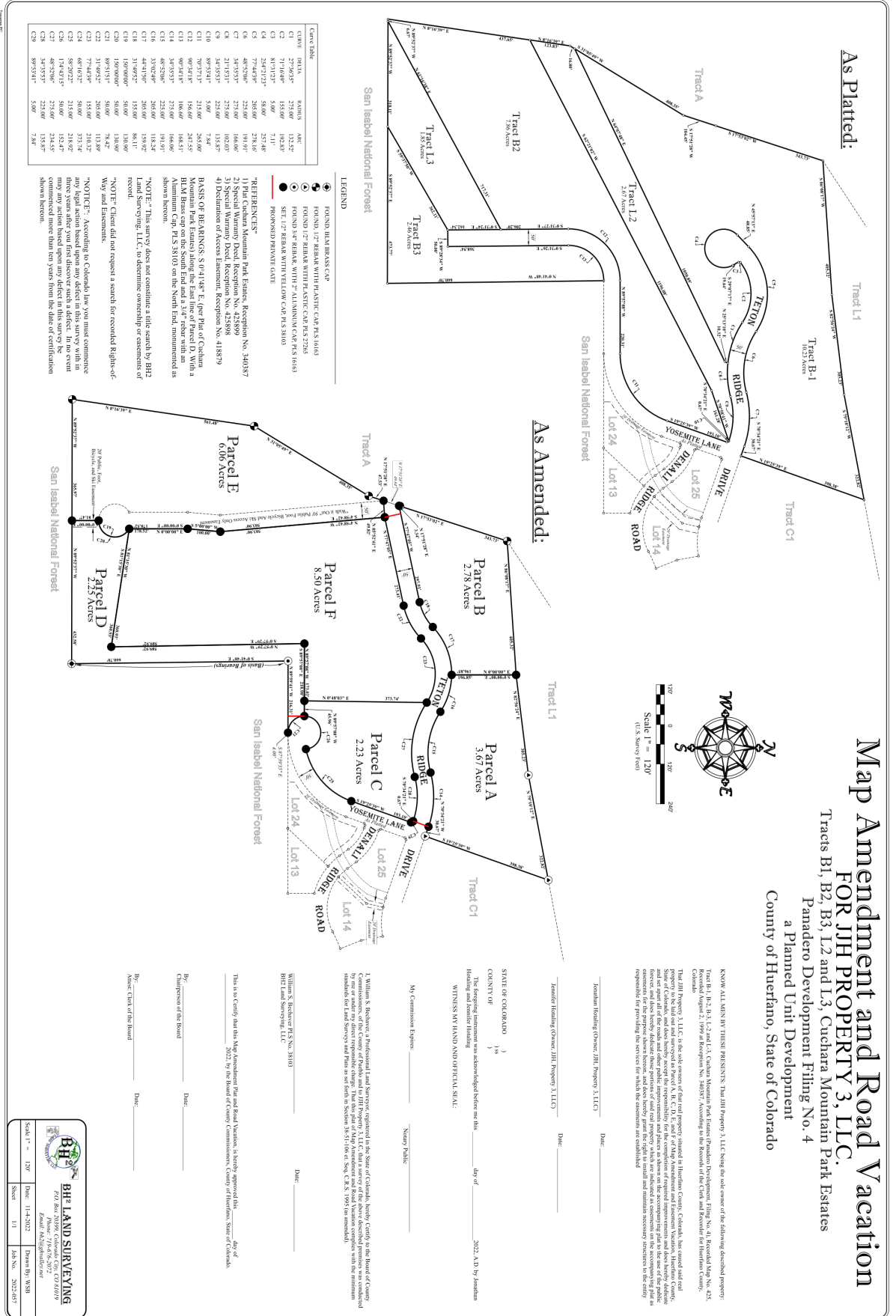
Eligibility: (2.14) Minor changes that do not include modifications which significantly alter the intended land uses, density, number of lots, circulation system, drainage easements, dedicated land or encompass more than 25% of land included within a recorded subdivision. Scope can include adjustment of lot lines, replating of lots, reconfiguration of dedicated streets and easements and reserved sites.

Eligibility Note: Cuchara Mountain Park Estates Filing 4 consists of approximately 61 acres. The parcels being reconfigured amount to approximately 27.4 acres, or about 45% of the land included within the recorded subdivision.

Process for Vacation

(2.15.01) PC review → Notify school districts, utility companies and municipalities and other referral agencies identified by Planning Commission (21 day review) → Joint PC/BOCC public hearing → PC recommendation → BOCC decision

Site Map:



Code References

The following Code Sections are applicable to this application and may be referenced by the Planning Commission in their evaluation of the request:

§ 2.14 – Plat Amendment

§ 2.15 Vacation

§ 2.02.11 Dedication of Land for Open Space

- The Board of County Commissioners may require the dedication, reservation or conveyance of areas or sites suitable for open space, flood control, scenic areas and related uses. The location of such sites shall be agreed upon by the applicant and the County, and in an amount of at least ten (10) percent of the total area of the subdivision. The proposed open space(s) shall be reasonably adopted for use for park land and recreational or other purposes, taking into consideration such factors as size, topography, geology, access and location of the proposed subdivision and the land earmarked for dedication.

Staff Comment: Filing 4 contains 59.26 acres; L1 contains 7 acres, L2 2.67 acres and L3 1.85 acres. L1, which is owned by the County, represents more than 10% of the area of Filing 4.

Legal Questions

- Do the deed restrictions on lots L2 and L3 still exist?
- Did the Cuchara Mountain Park Master Homeowners Association have the authority to remove the deed restrictions?
- With the dissolution of the Cuchara Mountain Park Master Homeowners Association, did the easements created in the deed restrictions become moot?
- The type of dedication, reservation or conveyance required in a given case shall be determined by the Board of County Commissioners in consultation with the Planning Commission, depending on the proposed size, use(s) and other characteristics of the subdivision. A reservation or dedication of areas for the use of owners or users of lots within the subdivision may be acceptable. Such areas shall be restricted to their intended use by plats, deed restrictions and/or recorded covenants which run with the land in favor of the future owners of property within the subdivision and **which cannot be defeated or eliminated without the consent of the Board of County Commissioners.** In the event of a reservation or dedication for the use of owners of lots within a subdivision, the applicant shall provide for the creation of a homeowners' association or similar organization with powers of assessment for maintenance, improvements and upkeep of such areas and the provisions contained within the homeowners' association bylaws or similar governing document shall receive approval from the Board of County Commissioners prior to acceptance of a final plat.

Staff Comment: The deed restrictions on L2 and L3 were eliminated by a notarized declaration from the HOA as part of their dissolution. The Board of County Commissioners has not, to our knowledge, taken action to eliminate the deed restrictions. The HOA's existence is required to create the deed restrictions, but its dissolution does not imply the elimination of such restrictions. This section of the code implies that BOCC action is required to eliminate deed restrictions.

The Planning Commission had decided that this application can be treated as a plat amendment. A Plat Amendment must be under 25% of the total area of a subdivision. This application constitutes about 45% of the subdivision filing in which it is located, however, if the Cuchara Mountain Resort Panadero Subdivision, which includes Filing #4, is considered the subdivision, then this would satisfy that criterion.

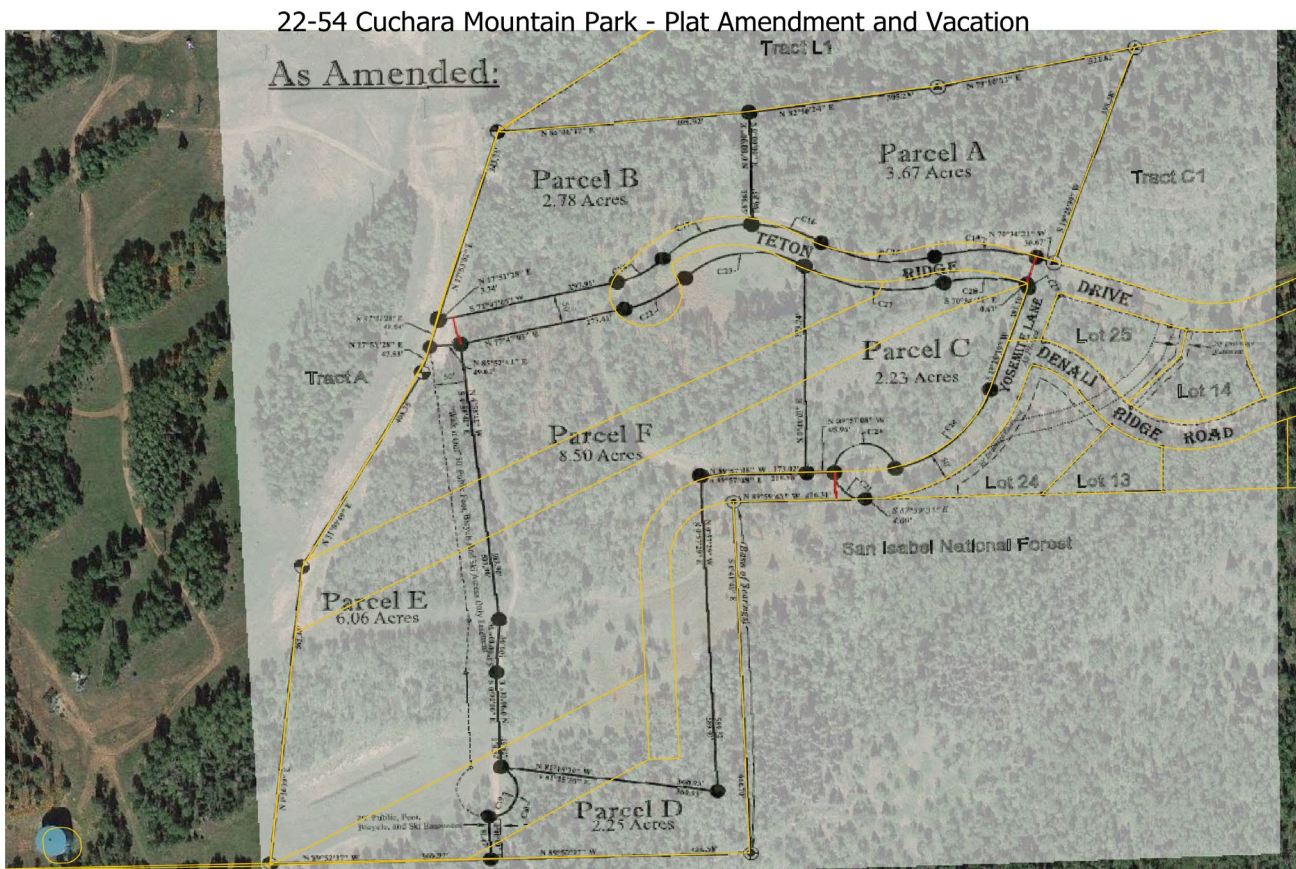
The deed restrictions on Tracts L2 and L3 read, in part:

"...the land described herein shall remain recreational open space in perpetuity, and left in its natural state 'as is' without alteration or modification by structures or buildings. That the Grantee and its successors shall maintain this property in such state forever. That the Grantee and its successors or assigns agrees not to transfer, sell or otherwise dispose of the property except to a successor or related homeowners association or to a master homeowners association which may incorporate Grantee or its successors and assigns within it."

Further down, it reads: *"That only owners, tenants, and guests of grantee or Cuchara Mountain Resort may have access to the property for the use described herein and in accordance with the Declaration of Covenants on file for Cuchara Mountain Park Estates..."*

It is not clear how to treat the perpetuity described in the first paragraph. The term, Cuchara Mountain Resort refers to the whole Panadero subdivision, including the Cuchara Mountain Park filing – this is the name on the 1997 master plan for the whole area (see Map 405). The former deed conveyed these tracts to Cuchara Mountain Park Estates Master Homeowner Association, which was dissolved in 2020. The covenants of Cuchara Mountain Park Estates Master Homeowner Association are no longer valid or binding, however owners, tenants and guests of Cuchara Mountain Resort may still have a claim to access these easements.

In the Declaration of Covenants for Cuchara Mountain Park Master Homeowners Association,



Background

On November 8, 2022, an Application for a Plat Amendment, Application Fees, and attachments were received by the County.

– Application eliminates two tracts that were deed restricted as open space and which acted as a non-motorized connection between Teton Dr and County land on the Ski Resort (L2) and from Yosemite Ln and the County land on the Ski Resort (L3); the open space tracts serve to give a more direct path of access to the Ski Resort to Lots 1-25 and Tract C-1 within the same subdivision. Furthermore, there is a deed restriction on these tracts to preserve them as open space(see attachment). These deed restrictions were declared removed as part of the dissolution of the Cuchara Mountain Park Estates Master Homeowners Association in 2020, however, it is not certain whether the Homeowners Association has the authority to terminate deed restrictions. Staff has requested a legal opinion from the Applicant’s counsel on this question.

At the Planning Commission on December 8, 2022, the Commissioners asked for more information on proposed densities on each lot, given that the original tracts each permitted a specific number of units. In changing the shape and arrangement of lots, new proposed densities or maximum number of units were described for each lot. These numbers represent a slight reduction in total allowable units.

The Planning Commission asked if the original declarations to the Master Homeowners Association could be produced, as this was a missing attachment in the articles of dissolution. Those have been found and area attached.

Proposals:

Plat Amendment

The intent of the Applicant is to build single family homes on Parcels B, C and F with no immediate development plans for Parcels A, E and D. The Applicant has stated an intent to allow public use of parcels E and D until plans to develop those are made. This offer is made in conjunction with requests for the County to pay for 25% of the survey and for a property tax exemption for these lots so long as they remain undeveloped. It is not clear from the application if the intent to grant public access to parcels E and D and to dedicate a non-motorized access easement is conditional on the County’s agreement to these requests.

Vacation of a portion of Yosemite Ln. and Teton Ridge Dr.

Yosemite Ln. is platted in one location, but there is a track cut through lots 25 and 24 which have been used and declared an access easement. The Applicant does not intend to cut Yosemite Rd in its platted location, and intends instead to use the access eaemetn through lots 24 and 25. Establishing the road and circle as platted, the Applicant claims, would be detrimental to the subdivision’s appeal, operation, the forest, and drainage.

To this point, the owners of lots 24 and 25 have emailed objections. They would like to see the road cut as platted rather than perpetuating the use of the access easement through their parcels. The Applicant would prefer to vacate Yosemite Rd as platted and replat the road where the easement exists. The applicant states that owners of parcels in the subdivision, namely those down Denali Ridge Rd. have always used this easement, however none of those parcels have been developed to date.

The vacation of a portion of Teton Ridge Dr. is part of a realignment and extension of the roadway. Instead of ending in a cul-de-sac, it would extend to the property boundary and connect to the access easement proposed on the east side of Lot E, giving access to lots E and D, neither of which have plans for near-term development. The

applicant may not have plans to construct the extension of Teton Ridge Dr at this time, but wishes to plat it on the map.

Application Materials

Requirements for a Plat Amendment: Proof of ownership; approved and recorded final plat along with proposed amendments; narrative statement explaining why proposed changes should be approved by the Planning Commission and BOCC.

Requirements for a Vacation of R.O.W:

Proof of ownership; copy of approved and recorded plat and vacated plat; narrative statement; legal description, area of land to be vacated.

Staff Comment: Acreage of proposed vacation of ROW is not included in letter.

Criteria/Findings

2.14 Amendments to Approved and Recorded Plats

Minor changes to an approved and recorded plat shall not be considered a subdivision of land within the intent and definitions of these regulations, so long as the minor changes are not undertaken for the purposes of circumventing these subdivision regulations and so long as the minor changes do not include modifications which significantly alter the intended land uses, density, number of lots, circulation system, dedicated land or encompass more than twenty-five (25) percent of the land included within an overall site within an approved and recorded subdivision. Specifically included within the scope of minor changes are the following actions: the adjustment and revision of lot lines, the re-platting of lots, the reconfiguration of dedicated streets and easements and reserved sites, along with similar minor changes to an approved and recorded plat, so long as the minor changes create no nonconforming lots, nor significantly alter street and road locations, drainage easements or violate the subdivision design standards contained herein.

2.14.03 Criteria for Action on a Plat Amendment Application

All actions by the Planning Commission in reviewing and making recommendations on an application to amend an approved and recorded plat and by the Board of County Commissioners in approving or disapproving such applications shall be based in general upon the provisions of these regulations and specifically on the following criteria:

1. That the proposed amendment meets the qualifications stated herein for a minor change to the approved and recorded plat.
2. That the proposed amendment would be consistent with all other provisions of these regulations and would not cause significant hardship or inconvenience for adjacent or neighboring land owners or tenants.
3. That the proposed amendment would be beneficial to the public health, safety or welfare of County residents.

Planning Commission Position

- The Planning Commission took the position that the proposal to create six lots would be considered a Plat Amendment, however the Planning Commission did not take a position on whether Option 2 (creating a total of 7 lots) and Option 3 (creating a total of 8 lots) would also constitute a Plat Amendment or if it would be considered a Subdivision. The Planning Commission heard discussed this at two meetings, and the Options 2 and 3 were submitted prior to the second meeting rather than with the original application.

2.15.03 Criteria for Action on a Vacating Application

All actions by the Planning Commission in reviewing and making recommendations on an application to vacate an approved and recorded plat or easement and by the Board of County Commissioners in approving or disapproving such applications, shall be based in general upon the provisions of these regulations and specifically upon the following criteria:

1. That the proposed vacating would not interfere with development of nor deny access via a public thoroughfare to existing structures within the recorded plat, adjoining properties, utility services or other improvements, nor deny access to structures, facilities or sites located beyond the plat or easement to be vacated.
2. That the proposed vacating would not cause undue hardship or inconvenience for any utility company, special district, neighboring landowner or tenant.
3. That the proposed vacating would not be likely to prove detrimental to the public health, safety or welfare of County residents.
4. That the proposed vacating would be consistent with all other provisions in these regulations.
5. That the proposed vacating would not cause undue financial hardship to Huerfano County nor deprive it of needed tax base.

2.15.04 Vacating of Roads, Streets and Highways

Any conflicting provisions contained within these regulations, notwithstanding the procedures for vacating roads, streets and highways shall conform to the provisions contained in Section 43-2-301, et seq. Colorado Revised Statutes.

Analysis

The proposed vacation of a portion of Yosemite Ln as well as the vacation of Teton Ridge Dr. as a public road closed to public access in combination with the proposed elimination of the recreational easements on L2 and L3 reduces connectivity and changes how people can access the ski area. This could potentially be partially addressed by leaving the extension of Teton Ln open to public access. If it is determined that the HOA did not have the authority to eliminate the deed restrictions on L2 and L3 this may require action by a court and/or action by the BOCC.

The proposed use of this property, which includes 3 to 4 single-family homes is of lower intensity than what was described in Map 425 for the area in 1999, which planned 150 units for Tract B1, 80 units for Tract B2, and 30 units for Tract B3.

The shape of proposed Parcel D is unusual and has been designed as such to create a buffer between USFS land and property on which applicant intends to build to reduce insurance costs, which are higher when abutting Forest Service land. The 50'-wide strip heading north and east along the Forest Service border represents about 35% of the total area of the parcel and is unbuildable due to setbacks.

Referral Comments

Prior to submittal, two adjacent property owners wrote to object to a plan to re-route Yosemite Ln from its platted position to the path that exists on the ground and which passes through Lots 24 and 25. When the application was submitted, this was not part of the proposal, however, using the existing access easement instead of building Yosemite Ln as platted is proposed.

Staff Comment

None

Potential Conditions or Recommendations

1. Decide whether to interpret 2.02.11 of the LUC to require BOCC action to remove deed restrictions. Consider requiring a legal opinion or action on how to address the deed restrictions on L2 and L3, and whether the dissolution of the Cuchara Mountain Park Estates Master Homeowners Association effectively released restrictions on the property.
2. Address Applicant's request for property tax exemption on Lots E and D so long as they remain undeveloped and in exchange for the proposed perpetual easement on the east side of Lot E.
3. Address Applicant's request for the County to pay 25% of the total survey cost (\$6,000 – 12,000) in exchange for dedication of 50' public access easement and public use of lots E and D as public space until such time as the applicant chooses to develop those lots.
4. Whether the alternative proposals to create one or two more lots than are proposed herein would be considered a Plat Amendment or a Subdivision (see excerpt from Section 2.14 above).
5. Whether to accept new proposed densities for each lot.
6. Address the vacation of a portion of the road and the intent to indefinitely continue to use the access easement through lots 24 and 25 instead of the platted right-of-way.
7. Whether this application triggers action on the construction of Yosemite Ln. as platted.
8. Address proposed changes to Teton Ridge Drive, making it a private road, concerning its phased construction, and gated access.

After the Joint Public Hearing, the BOCC will send the application back to the Planning Commission for a recommendation. Upon receiving recommendation, the BOCC may take one of the following actions for the request for a Plat Amendment and one of the following actions for the request for a Vacation of Right-of-Way:

1. **Approval** without any special conditions.
2. **Conditional Approval** with a description of the special conditions.
3. **Denial**, indicating for the record the reason(s) for such action.
4. **Continuation** until a future date to gather more information or obtain clarification or for any other relevant cause.

Planning Commission Recommendation on request for Plat Amendment:

Planning Commission Recommendation on request for Vacation of right-of-way:

Board of County Commissioners action on Plat Amendment:

Board of County Commissioners action on Vacation of right-of-way:

Attachments

- Application Materials
 - Letter of Request
 - Articles of Dissolution
 - Plat Amendment/Vacation Map
 - Amendment to Scope
- Map of Cuchara Mountain Estates Filing 4
- Email communications with lawyer representing applicant
- Deed for L2 and L3
- Emails from neighbors



Huerfano County Land Use Department
401 Main Street, Suite 340, Attn: Land Use
Walsenburg, Colorado 81089
719-738-1220 ext. 103

GENERAL LAND USE APPLICATION

Application File No.: 22-54

Date Received: _____

Received by: _____

Fees due: _____ Date Paid _____

1. ACTION(S) REQUESTED:

- Conditional Use Permit
 - Conditional Use Permit / Marijuana
 - Conditional Use Permit/ Oil, Gas or Uranium Exploration and/or Development
 - Rezoning
 - Variance
 - Subdivision Exemption
 - Plat Amendment
 - Lot Consolidation
 - Plat Correction
 - Right-of-Way or Easement Vacation
 - Other Actions (specify): _____
- Sign Permit
 - Temporary Use Permit
 - H.B. 1041 Text Amendment
 - H.B. 1041 Development Permit
 - H.B. 1041 Flood Plain Exemption
- PUD and Subdivisions:
- Sketch Plan
 - Preliminary Plan
 - Final Plat / Subdivision Improvement Agreement
 - Appeal of Denied Application

2. APPLICANT AND OWNER INFORMATION:

Applicant Name: BH² Land Surveying, LLC (William S. Bechaver)

Applicant's Mailing Address: PO Box 20399, Colorado City, CO 81019

Applicant's Telephone: 719-676-2072 Email: bh2@ghvalley.net

Name of Land Owner: JH Property 3, LLC (Jonathon & Jennifer Hotaling)

Land Owner's Mailing Address: _____

Land Owner's Telephone: [Redacted] Email: [Redacted] Group

3. PERMIT DETAILS:

Detailed project description/Scope of Work: To rearrange lot lines to create more usable lots, possible dedication of easement and establish private gated road (walk-it-out).

Parcel Area: 25± Acres; Zoning District(s): UR

Parcel/Schedule Number(s): 122419, 122424, 122420, 122425, 122421

Parcel Address (optional): _____

Current/Proposed Land use (see §1.05 of the Land Use Code): Future Residence

GENERAL LAND USE APPLICATION

If project is in an HOA, HOA name: N/A

If a Variance Request, please state the reason for the Variance(s): _____

Is all or a portion of the subject land located in a 100-year flood plain area (see FEMA floodplain map), or are there areas with slopes in excess of twenty percent (20%)? YES NO NOT SURE

If YES, describe existing conditions: _____

Value of proposed project: _____

Will the proposed project require any State or Federal permits? YES NO

If YES, please list all permits or approvals required: _____

Additional pertinent information: _____

If a H.B. 1041 permit is required, for what matters of local concern and state interest? _____

4. CERTIFICATION BY THE APPLICANT:

I hereby certify that this Application is made with full knowledge of the design standards, all fees, procedures, public hearing and meeting requirements contained in the Huerfano County Land Use Regulations. Furthermore, I understand that all conditional use permits are non-transferrable, unless specifically approved by the Huerfano County Board of County Commissioners. The Board of County Commissioners may impose permit transfer fees as it deems appropriate. All documents submitted may be subject to internet publishing.

Signature of Applicant: _____ Date: _____

Printed name: _____

5. ACTION (by the authorized permitting authority):

- Final Approval
- Conditional Approval
- Denial

Name _____ Signature _____

Title _____ Date _____

Comments _____

Huerfano County Land Use Department

401 Main Street, Suite 340, Attn: Land Use
Walsenburg, Colorado 81089
719-738-1220 ext. 103



GENERAL LAND USE APPLICATION

Application File No.: 22-54
Date Received: _____
Received by: _____
Fees due: _____ **Date Paid** _____

1. ACTION(S) REQUESTED:

- Conditional Use Permit
 - Conditional Use Permit / Marijuana
 - Conditional Use Permit/ Oil, Gas or Uranium Exploration and/or Development
 - Rezoning
 - Variance
 - Subdivision Exemption
 - Plat Amendment
 - Lot Consolidation
 - Plat Correction
 - Right-of-Way or Easement Vacation
 - Other Actions (specify): _____
- Sign Permit
 - Temporary Use Permit
 - H.B. 1041 Text Amendment
 - H.B. 1041 Development Permit
 - H.B. 1041 Flood Plain Exemption
- PUD and Subdivisions:
- Sketch Plan
 - Preliminary Plan
 - Final Plat / Subdivision Improvement Agreement
 - Appeal of Denied Application

2. APPLICANT AND OWNER INFORMATION:

Applicant Name: BH2 Land Surveying LLC (William S. Bechaver)
 Applicant's Mailing Address: PO Box 20399, Colorado City, CO 81019
 Applicant's Telephone: 719-676-2072 Email: bh2@ghvalley.net
 Name of Land Owner: JH property 3, LLC (Jonathan & Jennifer Hotaling)
 Land Owner's Mailing Address: _____
 Land Owner's Telephone: [Redacted] Email: [Redacted]

3. PERMIT DETAILS:

Detailed project description/Scope of Work: To vacate a portion of Yosemite Lane and Teton Ridge.

Parcel Area: 25[±] Acres; Zoning District(s): UR
 Parcel/Schedule Number(s): 122419, 122424, 122420, 122425, 122421
 Parcel Address (optional): _____
 Current/Proposed Land use (see §1.05 of the Land Use Code): private Road

GENERAL LAND USE APPLICATION

If project is in an HOA, HOA name: NI/A

If a Variance Request, please state the reason for the Variance(s): _____

Is all or a portion of the subject land located in a 100-year flood plain area (see FEMA floodplain map), or are there areas with slopes in excess of twenty percent (20%)? YES NO NOT SURE

If YES, describe existing conditions: _____

Value of proposed project: _____

Will the proposed project require any State or Federal permits? YES NO

If YES, please list all permits or approvals required: _____

Additional pertinent information: _____

If a H.B. 1041 permit is required, for what matters of local concern and state interest? _____

4. CERTIFICATION BY THE APPLICANT:

I hereby certify that this Application is made with full knowledge of the design standards, all fees, procedures, public hearing and meeting requirements contained in the Huerfano County Land Use Regulations. Furthermore, I understand that all conditional use permits are non-transferrable, unless specifically approved by the Huerfano County Board of County Commissioners. The Board of County Commissioners may impose permit transfer fees as it deems appropriate. All documents submitted may be subject to internet publishing.

Signature of Applicant: _____ Date: _____

Printed name: _____

5. ACTION (by the authorized permitting authority):

Final Approval

Conditional Approval

Denial

Name _____ Signature _____

Title _____ Date _____

Comments _____



BH² LAND SURVEYING, LLC

P.O. Box 20399
 Colorado City, CO 81019
 Phone: 719-250-5028
 Email: bh2@ghvalley.net

Letter of Request for Map Amendment and Road Vacation and Dedication Tracts B1, L2, B2, L3, B3, Cuchara Mountain Park Estates Filing #4*

Date: November 3, 2022

Owners: JJH Property 3, LLC, 3327 Springridge Cir, Colorado Springs, CO 80906, Jon & Jen Hotaling owners. 303-725-7550

Owners Representative: BH2 Land Surveyors, 4301 Valverde Way, #2, Colorado City, CO. 719-676-2072

Request and reason for the Map Amendment, Road Vacation and Dedication:

- Rearrangement of the common lines between Tracts B1, L2, B2, L3, and B3 to create more usable and buildable lots.
- Vacation and dedication of a portion of Teton Ridge Drive and Yosemite Lane for better use of the land.
- Dedication of a 50-foot, Public Access Easement (Walk it Out) for foot, bicycle, and ski access only (except for the use of landowners and maintenance vehicles) along east side of Lot E. Said Easement is for the benefit of Cuchara Mountain Park users to have access to San Isabel National Forest.
- A 20-foot Public Access easement along the west end of Lot D, from the South end (Walk it Out) to the North line of San Isabel National Forest for foot, bicycle, and ski access to the San Isabel National Forest, lying south of the above-described Tracts of land.
- Establishment of gates at the location shown on the attached plat to maintain landowner privacy.
- Dedication of Lot E and the easement portion of Lot D for public space/use for the benefit of Cuchara Mountain Park users.

Current Zoning: Urban residential

Legal Description: Tracts B1, L2, B2, L3, B3 Cuchara Mountain Park Estates Filing #4

Parcel Numbers: 122419, 122424, 122420, 122425, 122421

Existing Utilities that serve the parcels: None.

Existing Structures: None.

Additional Requests and Supporting Documentation, per JJH Property 3, LLC

- A Request for property tax exemption of Lots E and D, as long as they remain undeveloped. At which point said Lots are developed said tax exemption will become void. Also, in exchange for the perpetual easements, as long as E and D remain undeveloped and E and D's easement are accessible for Cuchara Mountain Park public space/use.

November 3, 2022
 Page 1 of 2



BH² LAND SURVEYING, LLC

P.O. Box 20399
Colorado City, CO 81019
Phone: 719-250-5028
Email: bh2@ghvalley.net

- A request that Huerfano County pay up to 25% of total survey cost (\$6000 to \$12000) in exchange for the dedication of 50-foot Public Access Easement (Walk it Out) and the use of Lots E and D, as public space/use.
- Future construction of off-grid Single-Family residence and garage on Lots B, C and F, in the next (1 to 10 years).
- Proposed Rearrangement could reduce current multi-family residential density by up to 50%.
- *Supporting documentation and explanation provided by JJH Property 3, LLC. (See Attached Exhibit 1)

Please feel free to contact us if you have any questions of concerns.

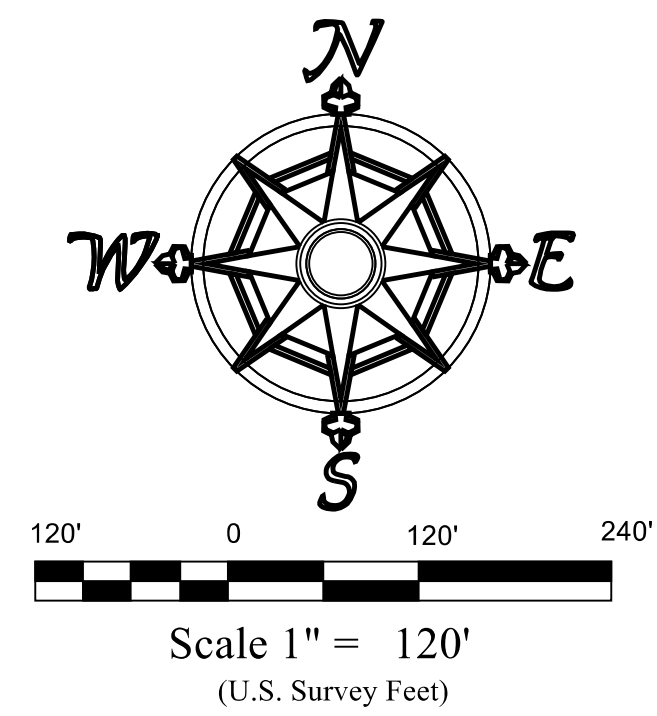
Sincerely,

William S. Bechaver
BH2 Land Surveying, LLC

JJH Property 3, LLC,
3327 Springridge Cir, Colorado Springs, CO 80906,
Jon & Jen Hotaling
303-725-7550

Map Amendment and Road Vacation FOR JJH PROPERTY 3, LLC.

Tracts B1, B2, B3, L2 and L3, Cuchara Mountain Park Estates
Panadero Development Filing No. 4
a Planned Unit Development
County of Huerfano, State of Colorado



KNOW ALL MEN BY THESE PRESENTS: That JJH Property 3, LLC being the sole owner of the following described property:
Tract B-1, B-2, B-3, L-2 and L-3, Cuchara Mountain Park Estates (Panadero Development, Filing No. 4), Recorded Map No. 425, Recorded August 2, 1999 at Reception No. 340387, According to the Records of the Clerk and Recorder for Huerfano County, Colorado

That JJH Property 3, LLC, is the sole owners of that real property situated in Huerfano County, Colorado, has caused said real property to be laid out and surveyed as Parcel A, B, C, D, E, and F of Map Amendment and Easement Vacation, Huerfano County, State of Colorado, and does hereby accept the responsibility for the completion of required improvements and does hereby dedicate and set apart all of the roads and other public improvements and places as shown on the accompanying plat to the use of the public forever, and does hereby dedicate those portions of said real property which are indicated as easements on the accompanying plat as easements for the purpose shown hereon, and does hereby grant the right to install and maintain necessary structures to the entity responsible for providing the services for which the easements are established

Jonathan Hotaling (Owner, JJH, Property 3, LLC) Date: _____
Jennifer Hotaling (Owner, JJH, Property 3, LLC) Date: _____

STATE OF COLORADO)
COUNTY OF) ss
The foregoing instrument was acknowledged before me this _____ day of _____, 2022, A.D. by Jonathan Hotaling and Jennifer Hotaling

WITNESS MY HAND AND OFFICIAL SEAL:
My Commission Expires: _____ Notary Public

I, William S. Bechaver, a Professional Land Surveyor, registered in the State of Colorado, hereby Certify to the Board of County Commissioners, of the County of Pueblo and to JJH Property 3, LLC, that a survey of the above described premises was conducted by me or under my direct responsible charge. That this plat of Map Amendment and Road Vacation complies with the minimum standards for Land Surveys and Plats as set forth in Section 38-51-106 et. Seq, C.R.S. 1995 (as amended).

William S. Bechaver PLS No. 38103
BH2 Land Surveying, LLC Date: _____

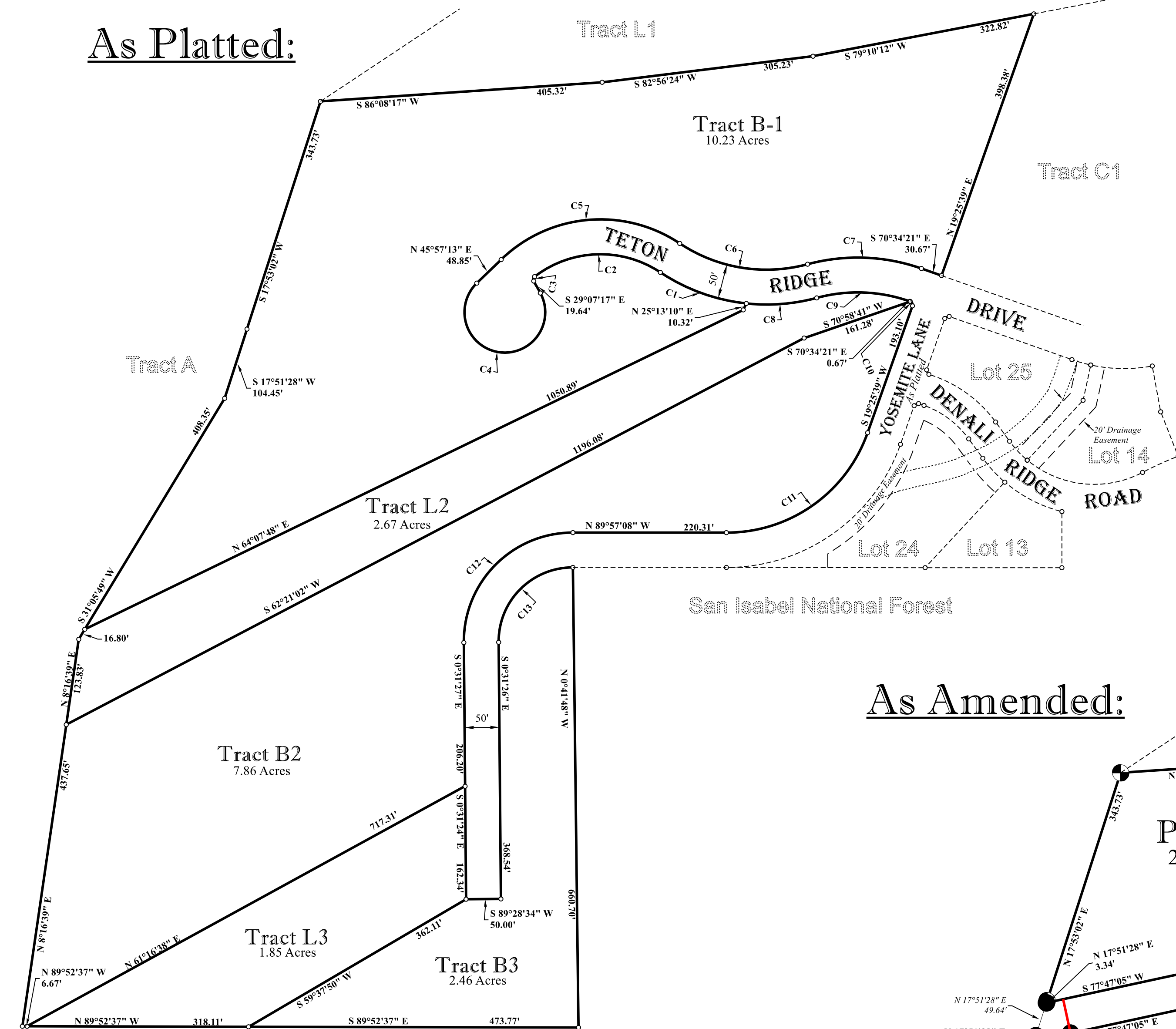
This is to Certify that this Map Amendment Plat and Road Vacation, is hereby approved this _____ day of _____, 2022, by the Board of County Commissioners, County of Huerfano, State of Colorado.

By: _____ Date: _____
Chairperson of the Board
By: _____ Date: _____
Attest: Clerk of the Board

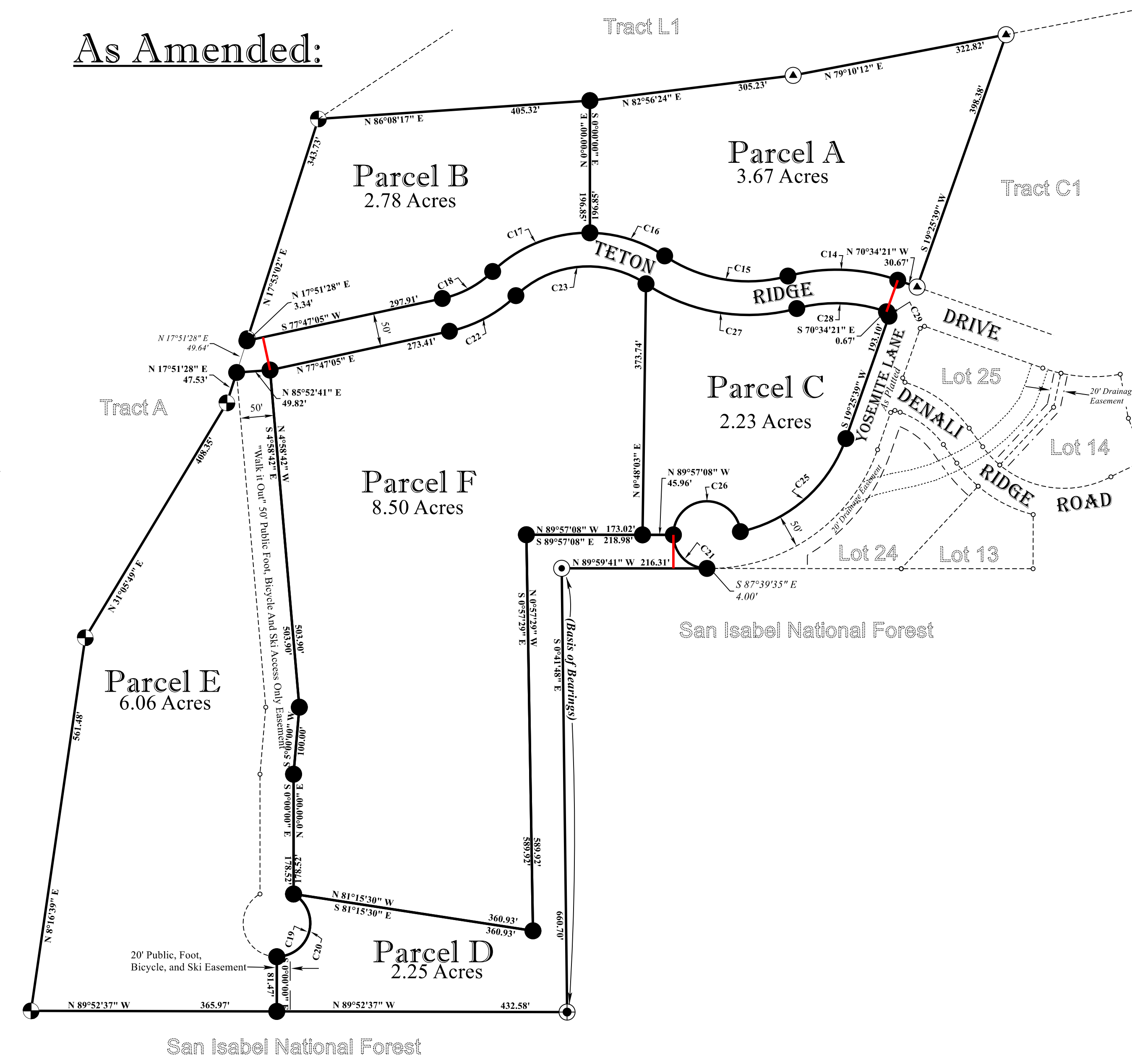
BH² LAND SURVEYING
P.O. Box 20399, Colorado City, CO 81019
Phone: 719-676-2072
Email: bh2@gshvalley.net

Scale 1" = 120'	Date: 11-4-2022	Drawn By: WSB
Sheet 1/1	Job No. 2022-057	

As Platted:



As Amended:



LEGEND

- FOUND, BLM BRASS CAP
- FOUND, 1/2" REBAR WITH PLASTIC CAP, PLS 16163
- FOUND 1/2" REBAR WITH PLASTIC CAP, PLS 27265
- FOUND 3/4" REBAR, WITH 2" ALUMINUM CAP, PLS 16163
- SET, 1/2" REBAR WITH YELLOW CAP, PLS 38103
- PROPOSED PRIVATE GATE

"REFERENCES"

- 1) Plat Cuchara Mountain Park Estates, Reception No. 340387
- 2) Special Warranty Deed, Reception No. 425899
- 3) Special Warranty Deed, Reception No. 425898
- 4) Declaration of Access Easement, Reception No. 418879

BASIS OF BEARINGS: S 0°41'48" E, (per Plat of Cuchara Mountain Park Estates) along the East line of Parcel D, With a BLM Brass cap on the South End and a 3/4" rebar with an Aluminum Cap, PLS 38103 on the North End, monumented as shown hereon.

"NOTE:" This survey does not constitute a title search by BH2 Land Surveying, LLC, to determine ownership or easements of record.

"NOTE" Client did not request a search for recorded Rights-of-Way and Easements.

"NOTICE": According to Colorado law you must commence any legal action based upon any defect in this survey with in three years after you first discover such a defect. In no event may any action based upon any defect in this survey be commenced more than ten years from the date of certification shown hereon.

Curve	DELTA	RADIUS	ARC
C1	27°36'35"	275.00'	132.52'
C2	71°16'49"	155.00'	192.83'
C3	81°31'23"	5.00'	7.11'
C4	254°21'23"	58.00'	257.48'
C5	77°44'39"	205.00'	278.16'
C6	48°52'06"	225.00'	191.91'
C7	34°35'53"	275.00'	166.06'
C8	21°15'31"	275.00'	102.03'
C9	34°35'53"	225.00'	135.87'
C10	89°53'41"	5.00'	7.84'
C11	70°37'13"	215.00'	265.00'
C12	90°34'18"	156.60'	247.55'
C13	90°34'18"	106.60'	168.51'
C14	34°35'53"	275.00'	166.06'
C15	48°52'06"	225.00'	191.91'
C16	33°02'49"	205.00'	118.24'
C17	44°41'50"	205.00'	159.92'
C18	31°49'52"	155.00'	86.11'
C19	150°00'00"	50.00'	130.90'
C20	150°00'00"	50.00'	130.90'
C21	89°51'51"	50.00'	78.42'
C22	31°49'52"	205.00'	113.89'
C23	77°44'39"	155.00'	210.32'
C24	68°16'32"	50.00'	373.74'
C25	58°20'22"	215.00'	218.92'
C26	174°43'15"	50.00'	152.47'
C27	48°52'06"	275.00'	234.55'
C28	34°35'53"	225.00'	135.87'
C29	89°53'41"	5.00'	7.84'

Supporting Documentation to
Letter of Request for
Plat Map Amendment Application
Tracts L2, L3, and west ends of Yosemite Lane and Teton Ridge Drive in Cuchara
Mountain Park Estates Filing #4

Additional Supporting Documentation and reason for the Map Amendment:

1. Regarding Tracts L2 and L3 labeled on Map 425 (see attached) as "HOA Controlled Open Space", please refer to the attached 3 documents:
 - A) Recorded Bargain and Sale Deed from the now terminated HOA to Grantees.
 - B) Recorded Termination of Declarations by the HOA. Note Recital B, and bullets 3 and 4 that remove any and all HOA restrictions and encumbrances on L2 and L3 including HOA/public access. Moreover, Tract L2 and L3 have never been used by nor utilized for HOA or public access or use.
 - C) Recorded Articles of Dissolution for the HOA.

2. Regarding vacation of western part of Yosemite Lane, please refer to the attached:
 - A) Recorded Declaration of Access Easement which details the terms and conditions of this "perpetual" public access easement across Lots 25 and 24 to "connect Yosemite Lane and Teton Ridge Drive". This easement is the existing road (Not the deeded and uncut Yosemite Lane) that is already cut in and is the only means of egress and ingress for all other landowners in Cuchara Mountain Park Estates Filing #4. JJH Property 3, LLC Does not want Huerfano County nor the owners of Lots 25 and 24 (so labeled on Map 425 as "Excessive Slope Lots") to cut in this remaining part Yosemite Lane or it's new circle at the new western end because the existence of the perpetual easement makes it unnecessary and doing so would be detrimental to the subdivision's appeal, operation, the forest, and drainage. Subdivision landowners and the public will still have National Forest Access off the southern end of the new Yosemite Lane traffic circle which is at the western end of the perpetual easement across Lots 24 and 25.

The Map Amendment is submitted this way because the new owners of Lots 24 and 25 have both indicated to Mr. Hotaling that they do not want to have their adjacent portions of Yosemite Lane vacated and instead intend to carve it in themselves in an attempt to do away with the existing road, now with a perpetual easement, that is being and always has been utilized by every landowner in the subdivision since the formation of the subdivision.

JJH Property 3, LLC would prefer to have all of Yosemite Lane vacated and the current road / easement made into the permanent road as outlined in section 5.9 of the recorded Declaration of Access Easement. However, the cooperation of the owners of Lots 24 and 25 will apparently be required to do so.

Current Zoning: Urban residential

Legal Description: Tracts L2 and L3 of Cuchara Mountain Park Estates Filing #4, and western ends of current Yosemite Lane and Teton Ridge Drive.

Parcel Numbers: 122424, 122425

Existing Utilities that serve the parcels: None.

Existing Structures: None.

Please feel free to contact us if you have any questions of concerns.

Sincerely,

JJH Property 3. LLC

3327 Springridge Cir, Colorado Springs, CO 80906

Jon & Jen Hotaling



After Recording, Return to:
Jonathan Hotaling
3327 Springridge Cir
Colorado Springs, CO 80906

**TERMINATION
OF
DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR
CUCHARA MOUNTAIN PARK ESTATES MASTER HOMEOWNERS ASSOCIATION,
HUERFANO COUNTY, COLORADO**

THIS TERMINATION OF DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS FOR CUCHARA MOUNTAIN PARK ESTATES MASTER HOMEOWNERS ASSOCIATION, HUERFANO COUNTY, COLORADO (“Termination”) is made by the undersigned Owners of Lots within the Cuchara Mountain Park Estates Master Homeowners Association, a Colorado nonprofit corporation (“Association”).

RECITALS

A. The Declaration of Covenants, Conditions and Restrictions for Cuchara Mountain Park Estates Master Homeowners Association, Huerfano County, Colorado was recorded on August 2, 1999 at Reception No. 340388 in the real property records of Huerfano County, State of Colorado (“Declaration”). Capitalized terms used but not defined herein shall have the same meanings set forth in the Declaration.

B. The Declaration refers to Exhibits A through D which were to identify the real property subject to the Declaration, additional real property that could be annexed to the Declaration, the Association Properties and the Common Area. The Declaration was recorded without any of the Exhibits attached thereto and, except for general reference to Cuchara Mountain Park Estates, the Declaration did not otherwise identify or provide the legal description of the real property initially subject to the Declaration, the additional property that could be annexed to the Declaration or any Association Properties or Common Area. Therefore, there is uncertainty whether the Declaration encumbers any portion of Cuchara Mountain Park Estates or properly establishes a common interest community.

C. Pursuant to Article IX, Section 4 of the Declaration, the Class A Members may terminate and extinguish the Declaration by written instrument executed by at least three-fourths (3/4) of the Class A Members, and pursuant to C.R.S. 38-33.3-218 a common interest community may be terminated only by agreement of unit owners of units to which at least sixty-seven percent (67%) of the votes in the association are allocated or any larger percentage the declaration specifies.

D. The terms, conditions and restrictions of that certain Warranty Deed from Cuchara Partners, LTD. to Cuchara Mountain Park Estates Master Homeowners Association dated July 22, 1999 and recorded at Reception No. 340385, County of Huerfano, State of Colorado (the "Deed") was intended to supplement the Declaration and as such the parties hereto desire to relinquish any and all right under the Deed in conjunction with this Termination.

E. The undersigned owners desire to terminate and extinguish the Declaration and constitute the Owners of Lots to which at least three-fourths of votes in the Association are allocated. This Termination constitutes the agreement of such Owners to terminate the Declaration in its entirety.

NOW, THEREFORE, the undersigned Owners hereby declare as follows:

1. The foregoing Recitals are incorporated herein by this reference.
2. Pursuant to C.R.S. 38-33.3-218 and Article IX, Section 4 of the Declaration, the Declaration and the common interest community created thereunder is hereby terminated and extinguished in its entirety. This Termination shall be effective upon the recording of this Termination in the real property records of Huerfano County, Colorado, and thereafter neither the Declaration nor the common interest community created thereunder shall have any further force or effect. This Termination shall be void unless it is executed and recorded on or before June 1, 2021.
3. The undersigned parties each hereby relinquish any and all rights of such parties to enforce the terms of the Deed, including, without limitation, any and all rights to enforce any restrictions on ownership or use of the property described in such deed and acknowledge such use restrictions shall be of no further force and effect.
4. Notwithstanding the termination of the Declaration as provided herein, all easements granted pursuant to the Declaration for roads, utilities and drainage, shall remain in full force and effect; provided, however that all easements and restrictions over L2 and L3 are hereby terminated by this Termination.

[signature pages follow]

[signature page]

IN WITNESS WHEREOF, the undersigned Owners have executed this Termination of Declaration of Covenants, Conditions and Restrictions for Cuchara Mountain Park Estates Master Homeowners Association, Huerfano County, Colorado.

KIMBERLY SUE TRUJILLO
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20084041726
MY COMMISSION EXPIRES DECEMBER 5, 2020

Cuchara Mountain Resort Investors, LLC
a Colorado limited liability company

By: [Signature]
A. Bruce Cantrell, Manager

STATE OF COLORADO)
) ss.
COUNTY OF Huerfano)

The foregoing instrument was acknowledged before me this 23rd day of May, 2020, by A. Bruce Cantrell, as Manager of Cuchara Mountain Resort Investors, LLC, a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: 12-5-2020

[Signature]
Notary Public

KIMBERLY SUE TRUJILLO
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20084041726
MY COMMISSION EXPIRES DECEMBER 5, 2020

[signature page]

Purgatoire Properties, L.L.C.
a Colorado limited liability company

By: [Signature]
Merrill R. Jacobson, Member

STATE OF COLORADO)

) ss.

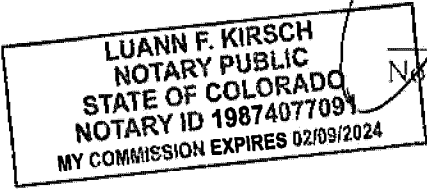
COUNTY OF Denver)

The foregoing instrument was acknowledged before me this 28th day of May, 2020,
by Merrill R. Jacobson, as Member of Purgatoire Properties, L.L.C., a Colorado limited liability company.

Witness my hand and official seal.

My commission expires: _____

[Signature]
Notary Public



[signature page]

Jean Okerman
JEAN OKERMAN

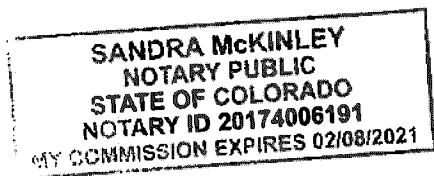
Date: 6/30/2020

STATE OF COLORADO)
COUNTY OF Arapahoe) ss.

The foregoing instrument was acknowledged before me this 30 day of June, 2020, by Jean Okerman.

Witness my hand and official seal.

My commission expires: 02/08/2021



Sandra McKinley
Notary Public

[signature page]


JONATHAN HOTALING


JENNIFER HOTALING

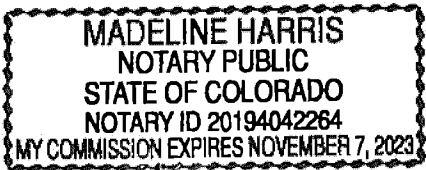
Date: July 7, 2020

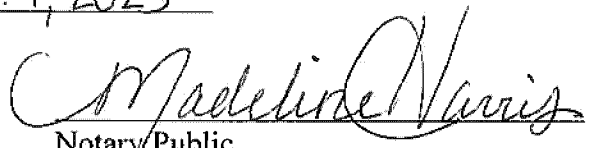
STATE OF COLORADO)
) ss.
COUNTY OF El Paso)

The foregoing instrument was acknowledged before me this 7th day of July, 2020, by Jonathan Hotaling.

Witness my hand and official seal.

My commission expires: Nov. 7, 2023



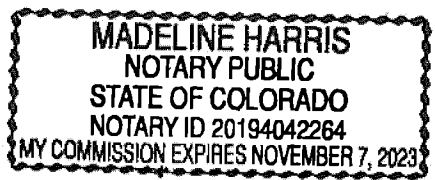

Notary Public

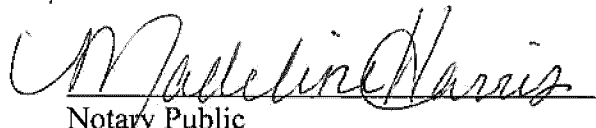
STATE OF COLORADO)
) ss.
COUNTY OF El Paso)

The foregoing instrument was acknowledged before me this 7th day of July, 2020, by Jennifer Hotaling.

Witness my hand and official seal.

My commission expires: Nov. 7, 2023




Notary Public

WHEN RECORDED MAIL TO:

Jonathan Hotaling
3327 Springridge Cir
Colorado Springs, CO 80906

DECLARATION OF ACCESS EASEMENT

THIS DECLARATION OF ACCESS EASEMENT (this "Declaration") is made and entered into as of the 2nd day of May, 2020 (the "Effective Date"), by PURGATOIRE PROPERTIES, L.L.C., a Colorado limited liability company, whose address is 1918 Foxfield Drive, Castle Rock, Colorado 80104 ("Grantor").

RECITALS

A. Grantor is the fee owner of certain real property known as Lots 24 and 25, Cuchara Mountain Park Estates, Huerfano County, Colorado, as legally described on **Exhibit A** attached hereto ("Lot 24 and Lot 25").

B. The Grantor intends to establish certain access easements over, upon and across a portion of Lot 24 and Lot 25 referred to as the Access Area (as defined below) for the benefit of Grantor, Lot 24 and Lot 25, Cuchara Mountain Park Estates and the general public on the terms and conditions set forth herein. The "Access Area" is an area 25 foot in width being (i) the easterly 25 feet of Lot 25 along the easterly boundary of Lot 25, and (ii) the northerly and westerly 25 feet of Lot 24 along the northerly and westerly boundaries of Lot 24, from Teton Ridge Drive to Yosemite Lane.

D. Grantor intends that development of the land within Cuchara Mountain Park Estates be served by the Access Area and desires to subject and place upon Lot 24 and Lot 25 certain covenants, easements, and obligations for access easement purposes to protect the value and desirability of the such land, ensuring access thereto, and for the purpose of furthering a plan for the improvement, sale and ownership of such land, to the end that harmonious and complementary development of such land may be accomplished and the health, comfort, safety, convenience and general welfare of owners of the Land, or any portion thereof, may be promoted and safe-guarded.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Grantor hereby covenant, declares and states as follows as of the Effective Date:

1. Easement. The Grantor does hereby declare, establish, create, reserve and grant a non-exclusive, easement solely for vehicular and pedestrian roadway access, ingress and egress, but not for parking purposes (the "Easement"), over, upon and across the Access Area in order to permit vehicular and pedestrian access between Yosemite Lane and Teton Ridge Drive. The Easement is granted for the use and benefit of the owners of Lot 24, Lot 25, other land within

C7178843

Cuchara Mountain Park Estates and the general public to provide for the passage of motor vehicles and pedestrians.

2. Character of Easement.

2.1 Right to Relocate Access Area. There is hereby established for the benefit of Grantor the right to relocate within Lot 24 and Lot 25 all or a portion of the Access Area from time to time, if necessary for the beneficial use of Grantor's Property. In the event the Access Area or portion thereof is relocated, the easement rights granted by this Declaration will be applicable to the relocated Access Area or portion thereof.

2.3 Obstructions within Access Area. No person shall be permitted to erect within the Access Area any barriers, fences, curbs, walls, ditches, barricades or other structures or obstacles so as to unreasonably burden or interfere with, impede, divert or prevent vehicular and pedestrian traffic over the Access Area.

2.4 No Parking Easement. Nothing contained in this Declaration shall be deemed to establish, grant, convey or reserve any easement, license or right for parking purposes.

2.5 Lateral or Subjacent Support. Grantor shall not take any action which would impair the lateral or subjacent support necessary or convenient for the full use and enjoyment of the easement rights hereunder and any access improvements located within the Access Area.

3. Maintenance Obligations.

3.1 Except as otherwise expressly set forth herein, Grantor and the owner(s) of the neighboring parcels, known as Tracts B-1, B-2, B-3, L-2 and L-3, Cuchara Mountain Park Estates, shall have the right, but not the obligation, to maintain any and all roadway improvements located on the Access Area as necessary to permit the passage of pedestrians and vehicles, including snowplowing as deemed necessary or desirable, at such party's own cost and expense.

3.2 Taxes. Grantor shall pay or cause to be paid, prior to any penalty attaching thereto, all real estate taxes, assessments and personal property taxes, if any, imposed upon the land and improvements and equipment located on Lot 24 and Lot 25, including the Access Area.

4. Miscellaneous.

4.1 No Merger of Interests.

(i) The rights and interests of the Grantor under this Declaration as the owner of any individual lot or tract are separate and distinct from its rights and interests under this Declaration as the owner of any other lot or tract. Any vesting of all interests in multiple lots or tracts in a single party will not cause a merger of those interests or any extinguishment of this Declaration or the rights and interests created by this Declaration. It is intended that no such merger occur and this Declaration remain in full force and effect from and after the Effective Date.

(ii) It is the intent of Grantor that the Easement granted and declared by this Declaration shall be perpetual in duration.

5.3 Limited to the Easement. Nothing contained herein shall be deemed or construed to grant any rights in or to any property other than the Access Area.

5.4 Appurtenant Easement. The benefits and burdens created by this Declaration are appurtenant to and shall run with Lots 24 and 25 and shall inure to the benefit of and be binding upon the Grantor, its successors and assigns, and any party using the Access Area.

5.5 No Implied Easement. Nothing contained in this Declaration shall be deemed to create any implied easements not otherwise expressly established herein.

5.6 Descriptive Headings. The descriptive headings of the sections hereof are inserted for convenience only and shall not control or affect the meanings or construction of any provisions hereof.

5.7 Modification. The terms and conditions of this Declaration may be abrogated, modified, rescinded or amended in whole or in part only by written instrument executed by the Grantor and the owners of Tracts B-1, B-2, B-3, L-2 and L-3, Cuchara Mountain Park Estates and recorded in the real property records of the County of Huerfano, Colorado (“Records”). No waiver shall be deemed a continuing waiver with respect to any breach or default, whether of similar or different nature, unless expressly stated in writing.

5.8 Partial Invalidity. In case any one or more of the provisions contained in this Declaration shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Declaration shall be construed as if such invalid, illegal, or unenforceable provisions had never been contained herein.

5.9 Dedication. The Grantor shall have the right, at any time, to dedicate, transfer or convey the Access Area or other public right of way over and across Lot 24 and Lot 25 to the Huerfano County, Colorado for public use as a connector road for vehicular and pedestrian access between Yosemite Lane and Teton Ridge Drive, in which case this Easement shall terminate.

5.10 Mortgagee Protection. Neither the breach of any of the covenants and restrictions contained in this Declaration, nor the enforcement of any remedy provisions contained in this Declaration, shall render invalid the lien of any mortgage, deed of trust, or other lien against any Lot 24 and Land 25 made in good faith and for value. All of the covenants and restrictions herein contained shall be binding upon and effective against any successor whose title is derived through foreclosure, trustee sale, or deed in lieu thereof or otherwise.

5.11 Governing Law. This Declaration shall be governed by and construed in accordance with the laws of the State of Colorado.

5.12 Exhibits. All exhibits referred to in this Declaration and attached hereto, as listed below, are incorporated herein by this reference:

Exhibit A: Legal Description for Lot 24 and Lot 25

5.13 Notices. All notices and other communications hereunder shall be in writing and shall be deemed given on the same day if delivered personally, or on the date receipt is confirmed if mailed by registered or certified mail or by commercial overnight courier (e.g., FedEx, DHL, etc.), return receipt or confirmation of delivery requested, to Grantor at the address set forth above, and to each subsequent owner of Lot 24 and Lot 25 at the address for such owner or at such other address as shall be specified by like notice.

[Signature pages follow.]

IN WITNESS WHEREOF, the Grantor has granted this Declaration as of the Effective Date.

PURGATOIRE PROPERTIES, L.L.C.,
a Colorado limited liability company

By: [Signature]
Merrill R. Jacobson, Member

STATE OF COLORADO)
) ss.
COUNTY OF Denver)

The foregoing instrument was acknowledged before me this 29th day of May 2020, by Merrill R. Jacobson, as Member of Purgatoire Properties, L.L.C., a Colorado limited liability company.

Witness my hand and seal.

My commission expires _____

Notary Public

[Signature]

LUANN F. KIRSCH
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 19874077091
MY COMMISSION EXPIRES 02/09/2024

EXHIBIT A

LEGAL DESCRIPTION OF LOT 24 AND LOT 25

LOT 24 AND LOT 25, CUCHARA MOUNTAIN PARK ESTATES (PANADERO DEVELOPMENT, FILING NO. 4), RECORDED MAP NO. 425, RECORDED AUGUST 2, 1999 AT RECEPTION NO. 340387, ACCORDING TO THE RECORDS OF THE CLERK AND RECORDER FOR HUERFANO COUNTY, COLORADO.

425899
Page 1 of 3
Nancy C. Cruz, Clerk & Recorder
Huerfano County, CO
03-10-2022 01:55 PM Recordings Fee \$23.00

After recording, please return to:

MASON LAW AND PLANNING GROUP, LLC
16055 Old Forest Point, Suite #301
Monument, Colorado 80132

Reserved for recording information

Special Warranty Deed

THIS DEED is made this 24th day of February 2022 between **JONATHAN HOTALING AND JENNIFER HOTALING,**

Grantor,

whose address is 3327 Springridge Circle, Colorado Springs, Colorado 80906, and

JJH PROPERTY 3, LLC,

Grantee,

whose address is 3327 Springridge Circle, Colorado Springs, Colorado 80906,

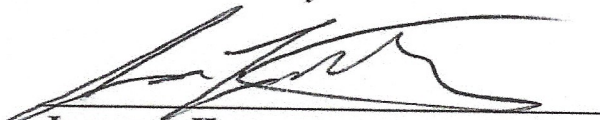
for and in consideration of Ten and no/100 Dollars (\$10.00), in hand paid, the receipt and sufficiency of which is hereby acknowledged, granted, bargained, sold and conveyed, and by these presents do grant, bargain, sell, convey, and confirm, unto the grantee(s) heirs and assigns forever, all the real property, together with improvements, if any, situate, lying and being in the County of Huerfano, State of Colorado, described as follows:

TRACT B-1 AND B-2, CUCHARA MOUNTAIN PARK ESTATES (PANADERO DEVELOPMENT, FILING NO. 4), RECORDED MAP NO. 425, RECORDED AUGUST 2, 1999 AT RECEPTION NO. 340387, ACCORDING TO THE RECORDS OF THE CLERK AND RECORDER FOR HUERFANO COUNTY, COLORADO.

SEE EXHIBIT A ATTACHED

TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversions and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the grantor(s), either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the said premises above bargained and described with the appurtenances, unto the grantee(s) heirs and assigns forever. And the grantor(s), for sell heirs and personal representatives, do covenant, grant, bargain, and agree to and with the grantee(s), heirs and assigns, that at the time of the ensealing and delivery of these presents, well seized of the premises above conveyed, good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and good right, full power and authority to grant, bargain, sell and convey the same in manner and form as aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments, encumbrances, and restrictions of whatever kind or nature.


JONATHAN HOTALING


JENNIFER HOTALING

STATE OF COLORADO)
) ss.
COUNTY OF EL PASO)

The foregoing instrument was acknowledged before me this 24th day of February 2022, by Jonathan Hotaling and Jennifer Hotaling.

WITNESS my hand and official seal.

My commission expires: 04/16/2022

AMANDA FREITAG
Notary Public
State of Colorado
Notary ID # 20184016578
My Commission Expires 04-16-2022


Amanda Freitag, Notary Public

EXHIBIT A / EXCEPTIONS**FILING NUMBER: CT 178843**

- 1. EASEMENTS, NOTES, TERMS, CONDITIONS, PROVISION, RESTRICTIONS, COVENANTS, AGREEMENTS AND OBLIGATIONS, IF ANY, AS CONTAINED ON THE PLAT OF SAID SUBDIVISION RECORDED AUGUST 22, 1999 AT RECEPTION NO. 340387.**
- 2. COVENANTS, CONDITIONS, RESTRICTIONS, EASEMENTS, RESERVATIONS AND LIEN RIGHTS, IF ANY, WHICH DO NOT INCLUDE A FORFEITURE OR REVERTER CLAUSE, DELETING RESTRICTIONS, IF ANY, BASED ON RACE, COLOR, RELIGION, SEX, HANDICAP, FAMILY STATUS OR NATIONAL ORIGIN SET FORTH IN THE DECLARATION RECORDED AUGUST 2, 1999 AT RECEPTION NO. 340388, AND ANY AND ALL AMENDMENTS, SUPPLEMENTS, AND ANNEXATIONS THERETO.**
- 3. TERMS, AGREEMENTS, PROVISIONS, CONDITIONS AND OBLIGATIONS OF TREASURER'S DEED RECORDED AUGUST 16, 2017 AT RECEPTION NO. 409771.**

425898
Page 1 of 4
Nancy C. Cruz, Clerk & Recorder
Huerfano County, CO
03-10-2022 01:55 PM Recordings Fee \$28.00

After recording, please return to:

MASON LAW AND PLANNING GROUP, LLC
16055 Old Forest Point, Suite #301
Monument, Colorado 80132

Reserved for recording information

Special Warranty Deed

THIS DEED is made this 24th day of February 2022 between **JONATHAN HOTALING AND JENNIFER HOTALING,**

Grantors,

whose address is 3327 Springridge Circle, Colorado Springs, Colorado 80906, and

JJH PROPERTY 3, LLC,

Grantee,

whose address is 3327 Springridge Circle, Colorado Springs, Colorado 80906,

for and in consideration of Ten and no/100 Dollars (\$10.00), in hand paid, the receipt and sufficiency of which is hereby acknowledged, granted, bargained, sold and conveyed, and by these presents do grant, bargain, sell, convey, and confirm, unto the grantee(s) heirs and assigns forever, all the real property, together with improvements, if any, situate, lying and being in the County of Huerfano, State of Colorado, described as follows:

TRACT B-3, L-2 AND L-3, CUCHARA MOUNTAIN PARK ESTATES (PANADERO DEVELOPMENT, FILING NO. 4), RECORDED MAP NO. 425, RECORDED AUGUST 2, 1999 AT RECEPTION NO. 340387, ACCORDING TO THE RECORDS OF THE CLERK AND RECORDER FOR HUERFANO COUNTY, COLORADO.

SEE EXHIBIT A ATTACHED BELOW

TOGETHER with all and singular the hereditaments and appurtenances thereto belonging, or in anywise appertaining, and the reversions and reversions, remainder and remainders, rents, issues and profits thereof, and all the estate, right, title, interest, claim and demand whatsoever of the grantor(s), either in law or equity, of, in and to the above bargained premises, with the hereditaments and appurtenances.

TO HAVE AND TO HOLD the said premises above bargained and described with the appurtenances, unto the grantee(s) heirs and assigns forever. And the grantor(s), for sell heirs and personal representatives, do covenant, grant, bargain, and agree to and with the grantee(s), heirs and assigns, that at the time of the ensealing and delivery of these presents, well seized of the premises above conveyed, good, sure, perfect, absolute and indefeasible estate of inheritance, in law, in fee simple, and good right, full power and authority to grant, bargain, sell and convey the same in manner and form as aforesaid, and that the same are free and clear from all former and other grants, bargains, sales, liens, taxes, assessments, encumbrances, and restrictions of whatever kind or nature.

**EXHIBIT A
EXCEPTIONS TO TITLE**

DECLARATION OF COVENANTS FOR CUCHARA MOUNTAIN PARK ESTATES, RECORDED AUGUST 2, 1999 AT RECEPTION NO. 340388

9. TREASURES DEED FOR THE ROADS AT CUCHARA MOUNTAIN PARK ESTATES PANADERO DEVELOPMENT FILING NO. 4, RECORDED AUGUST 16, 2017 AT RECEPTION NO. 409771.

10. RESOLUTION NO. 99-18 FOR CUCHARA MOUNTAIN PARK ESTATES – PANADERO DEVELOPMENT FILING NO. 4, RECORDED AUGUST 4, 1999 AT RECEPTION NO. 340418 AND RESOLUTION NO. 99-19A, RECORDED AUGUST 4, 1999 AT RECEPTION NO. 340420.

11. TITLE TO ALL MINERALS WITHIN AND UNDERLYING THE PREMISES, TOGETHER WITH ALL MINING AND DRILLING RIGHTS AND OTHER RIGHTS, PRIVILEGES AND OTHER IMMUNITIES RELATING THERETO.

12. ANY AND ALL EXISTING ROADS, HIGHWAYS, DITCHES, CANALS, RESERVOIRS, WELLS, RAILROAD TRACKS, PIPELINES, WATER LINES, POWER LINES, TELEPHONE LINES, AND ANY AND ALL RIGHT OF WAY EASEMENTS THEREFORE.

13. EASEMENTS GRANTED TO THE CUCHARAS SANITATION AND WATER DISTRICT BY DEEDS RECORDED FEBRUARY 15, 1985 IN BOOK 373 PAGE 319.

14. EASEMENT GRANTED TO CUCHARAS SANITATION AND EATER DISTRICT BY INSTRUMENT RECORDED FEBRUARY 14, 1985 IN BOOK 373 PAGE 318.

15. TERMS, CONDITIONS AND AGREEMENTS IN THE AGREEMENT REGARDING CUCHARA VALLEY RESORT WATER AND SEWER SYSTEMS RECORDED MARCH 22, 1990 IN BOOK 8M PAGE 568.

16. SPECIAL WARRANTY DEED REGARDING CUCHARA VALLEY RESORT WATER AND SEWER SYSTEMS RECORDED MARCH 22, 1990 IN BOOK 8M PAGES 565, 566 AND 567.

17. UNRECORDED LEASE TO THE LA VETA FIRE PROTECTION DISTRICT DATED JUNE 1, 1987 AFFECTING A PARCEL OF LAND 120 FEET BY 240 FEET IN THE NW1/4 OF SECTION 16, TOWNSHIP 31 SOUTH, RANGE 69 WEST OF THE 6TH P.M.

18. EXCEPTING AND RESERVING TO THE UNITED STATES A RIGHT OF WAY FOR DITCHES AND CANALS CONSTRUCTED BY THE AUTHORITY OF THE UNITED STATES ACT OF AUGUST 30, 1890 (26 STAT, 39; 43 U.S.C. 945) AS RESERVED IN PATENT RECORDED IN BOOK 379 PAGE 485.

19. EASEMENT TO U.S. WEST COMMUNICATIONS, INC. RECORDED JULY 26, 1994 IN BOOK 26M PAGE 16.

20. MASTER LAND USE ON MAP FILED DECEMBER 17, 1997 AS MAP NO. 405.

21. RESOLUTION 99-19-A, A RESOLUTION APPROVING THE PLAT OF CUCHARA MOUNTAIN PARK

- ESTATES, PANADERO SUBDIVISION FILING NO. 4, FILED AUGUST 4, 1999 AT RECEPTION NO. 340420.**
- 22. NOTES, RESTRICTIONS AND EASEMENTS AS SHOWN ON PLAT OF CUCHARA MOUNTAIN PARK ESTATES (PANADERO DEVELOPMENT FILING NO. 4) AND PANADERO DEVELOPMENT FILING 4A AS FILED AUGUST 2, 1999 AT RECEPTION NO. 340387, MAP NO. 425.**
- 23. PERPETUAL EASEMENT FOR UTILITIES CUCHARA PARTNERS, LTD ETAL FILED JANUARY 9, 2002 AT RECEPTION NO. 352165 FOR PANADERO FILING NO. 3.**
- 24. EASEMENT TO THE CUCHARAS SANITATION AND WATER DISTRICT RECORDED SEPTEMBER 13, 2004 AT RECEPTION NO. 364883.**
- 25. TERMS AND CONDITIONS OF THE SETTLEMENT AGREEMENT WITH THE CUCHARAS SANITATION AND WATER DISTRICT RECORDED SEPTEMBER 14, 2004 AT RECEPTION NO. 364899.**
- 26. RECEPTION OF USE OF PROPERTY FOR RECREATIONAL PURPOSES ONLY AS SHOWN IN DEED RECORDED AUGUST 2, 1999 AT RECEPTION NO. 340385 AS TO LOTS L-2 AND L-3.**
- 27. PERPETUAL EASEMENT RECORDED ON SPECIAL WARRANTY DEED FROM SKI CUCHARA, L.P., A TEXAS LIMITED PARTNERSHIP AND CUCHARA PARTNERS, LTD, RECORDED JULY 16, 1997 AT RECEPTION NO. 329792.**



Sky Tallman <stallman@huerfano.us>

JJH Property 3 LLC, new density spreadsheet attached

Jon Hotaling [redacted] > Thu, Dec 15, 2022 at 4:36 PM
To: Sky Tallman <stallman@huerfano.us>, BH2 Land Surveying [redacted]

Hi Sky,

Thanks for talking to me today. FYI, I spoke to the assessor and she said she was not aware of the BOCC's new mill levy rate. Nevertheless, she answered all my questions about current and future property tax calculations. Thank you.

Per our previous Planning Commission meeting and in preparation of our next meeting on Dec 22, attached is the spreadsheet of our new requested densities which were derived based on acreage percent of the total and the new total density of 240 (down from current 260 multi family residential).

Our current proposed map has 6 proposed "Parcels" so as to satisfy the county's requirement for an amendment that does not "significantly" increase the total number of lots. If possible, we would prefer 8 total lots (derived from our 5 "Tracts" not lots, via MAP 425) and would ask that the 3 additional "Parcels" not be considered a significant increase.

To accomplish this we would split proposed parcels A and B into 3, 2.15 acre lots, and split proposed Parcel F roughly in half. Parcel E to be used as county park / ski area, would not change under any of the scenarios, fyi

Thank you for your help Sky and for letting us know if you need anything else before Dec 22.

Best,

Jon Hotaling

--
Liberty Service Group

[redacted]

 **Proposed new multi family residential densities for JJH Property 3, LLC map amendment.xlsx**
19K

Current Proposed Option 1 - 6 Lots	New density 1	Option 2 - 7 Lots	New density 2	Option 3 - 8 lots	New Density 3
A - 3.67 acres	35	A - 2.15 acres	20	A - 2.15 acres	20
B - 2.78 acres	26	B - 2.15 acres	20	B - 2.15 acres	20
C - 2.23 acres	21	C - 2.15 acres	20	C - 2.15 acres	20
D - 2.25 acres	21	D - 2.23 acres	22	D - 2.23 acres	22
E - 6.06 acres	57	E - 2.25 acres	21	E - 2.25 acres	21
F - 8.5 acres	80	F - 6.06 acres	57	F - 6.06 acres	57
		G - 8.5 acres	80	G - 4 acres	38
				H - 4.5 acres	42
25.49	240	25.49	240	25.49	240

Reducing multi family residential density from current 260 (on 25.08 acres) to 240 (on 25.49 acres)



Sky Tallman <stallman@huerfano.us>

Documents to be added to packet

jon [redacted] <j[redacted]> Fri, Jan 6, 2023 at 1:02 PM
To: J [redacted]
Cc: Sky Tallman <stallman@huerfano.us>, BH2 Land Surveying <[redacted]>

One other thing Sky, can you please also make note in our subdivision amendment application the our land was originally set up in 5 tracts, not lots.

Presumably they were still going to divide those “tracts” into more lots but never got around to it. Therefore our hope is that the bocc would recognize that our desired 8 lots is not a “significant” number of increased lot numbers since our 5 tracts would likely have been divided into even more than 8 lots.

Thanks Sky.

Jon

Sent from my iPhone

On Jan 6, 2023, at 1:35 PM, J [redacted] wrote:

Thanks sky. See you on the 17th.

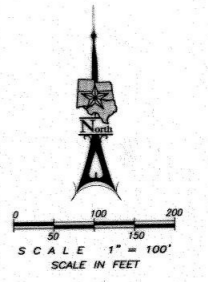
[Quoted text hidden]

CUCHARA MOUNTAIN PARK ESTATES

PANADERO DEVELOPMENT FILING NO. 4

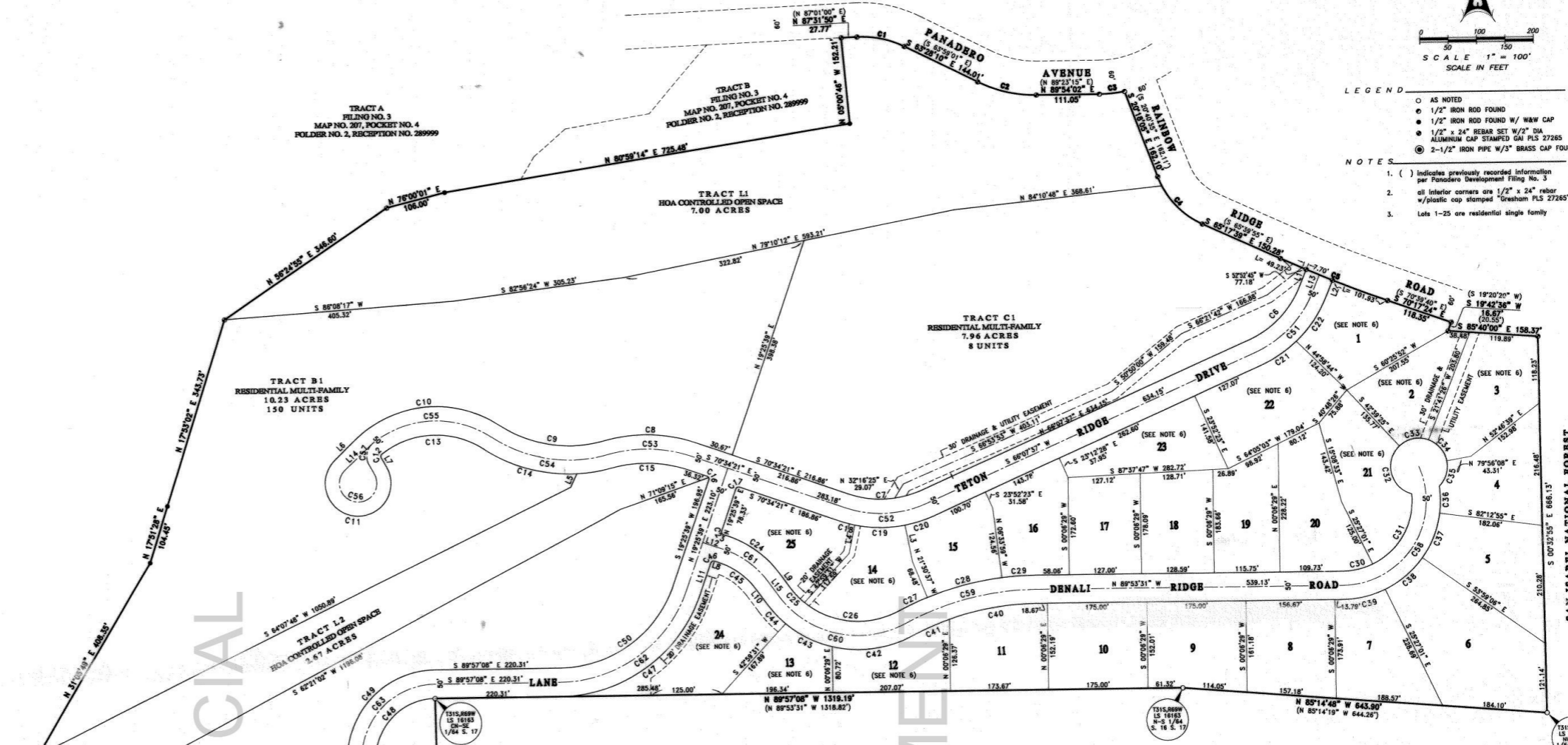
A PLANNED UNIT DEVELOPMENT

BEING A REPLAT OF A PORTION OF PANADERO DEVELOPMENT FILING NO. 3 AND AN UNPLATTED PORTION OF THE N.W. 1/4 AND THE S.W. 1/4, SECTION 16, AND THE N.E. 1/4 AND THE S.E. 1/4 OF SECTION 17, HUERFANO COUNTY, COLORADO
SHEET 2 OF 2

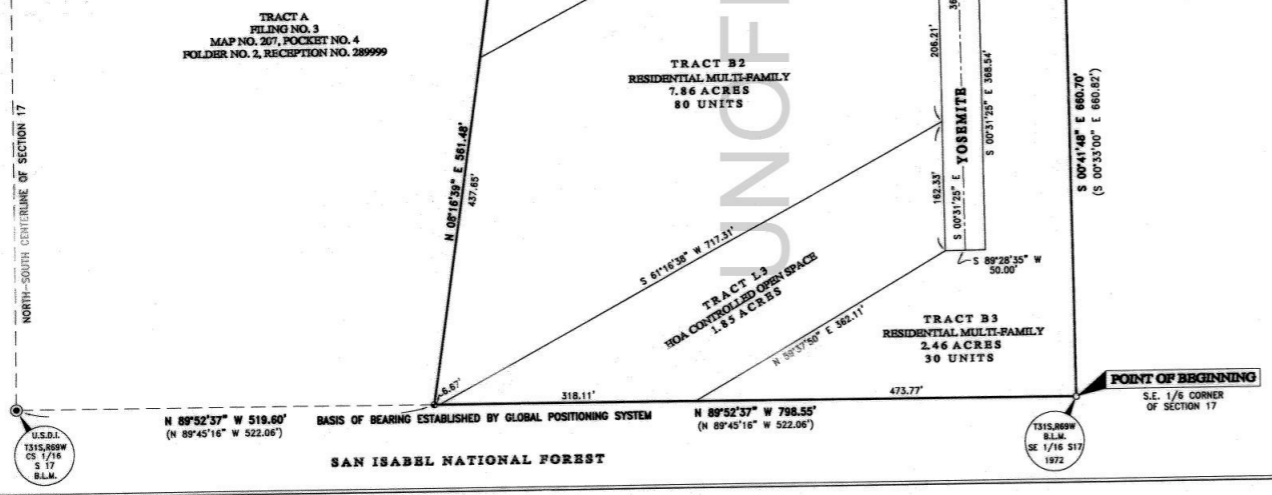


- LEGEND**
- AS NOTED
 - 1/2" IRON ROD FOUND
 - 1/2" IRON ROD FOUND W/ W/W CAP
 - 1/2" x 24" REBAR SET W/ 2" DIA ALUMINUM CAP STAMPED GAI PLS 27265
 - 2-1/2" IRON PIPE W/ 3" BRASS CAP FOUND
- NOTES**
- () Indicates previously recorded information per Panadero Development Filing No. 3
 - All interior corners are 1/2" x 24" rebar w/ plastic cap stamped "Gresham PLS 27265"
 - Lots 1-25 are residential single family

NUMBER	DELTA	RADIUS	LENGTH	TANGENT	CHORD BEARING	CHORD LENGTH
C1	29°07'00"	170.00	86.54	45.86	S 77°58'10" E	85.13
C2	28°37'48"	230.00	106.90	54.43	S 78°47'05" E	105.94
C3	11°07'02"	230.00	44.83	22.38	N 84°20'31" E	44.36
C4	44°59'21"	150.00	117.76	62.12	S 45°47'59" E	114.78
C5	04°59'45"	2350.00	283.15	151.65	S 87°47'31" E	205.10
C6	43°38'16"	175.00	133.18	70.00	N 44°19'30" E	128.99
C7	43°18'02"	175.00	132.25	69.46	N 87°48'38" E	128.13
C8	34°33'53"	275.00	166.06	85.65	N 87°52'17" W	163.55
C9	48°52'06"	225.00	191.91	102.33	S 80°44'11" E	186.14
C10	77°44'36"	205.00	278.16	165.25	S 84°48'33" W	257.31
C11	25°42'23"	58.00	257.48	76.47	S 81°13'29" E	92.42
C12	81°32'23"	5.00	7.12	4.31	S 11°38'54" W	6.53
C13	71°18'48"	155.00	192.83	111.15	S 80°03'29" W	180.83
C14	48°52'06"	275.00	234.55	124.94	S 80°44'11" E	227.51
C15	34°33'53"	225.00	135.87	70.08	N 87°52'17" W	133.81
C16	90°00'00"	5.00	7.85	5.00	N 29°34'21" W	7.07
C17	90°00'00"	5.00	7.85	5.00	S 64°25'39" W	7.07
C18	07°09'50"	225.00	28.13	14.08	S 74°09'16" E	28.11
C19	22°38'51"	225.00	88.84	45.06	S 89°03'56" E	88.36
C20	13°29'21"	225.00	52.97	26.61	N 72°52'18" E	52.85
C21	19°39'58"	225.00	77.23	39.00	N 86°17'40" E	76.80
C22	33°56'20"	225.00	84.01	47.70	N 84°20'31" E	83.33
C23	82°28'23"	5.00	8.07	5.22	S 20°48'33" E	7.32
C24	37°03'48"	185.00	119.67	62.01	N 54°30'51" W	117.60
C25	14°15'51"	150.00	37.26	18.72	S 43°05'53" E	37.16
C26	67°23'54"	150.00	178.54	108.10	S 83°50'46" E	168.52
C27	06°08'06"	525.00	56.21	28.13	S 69°25'20" W	56.19
C28	14°58'38"	525.00	136.93	68.86	S 75°57'42" W	136.54
C29	06°40'28"	525.00	81.16	30.61	S 88°46'15" W	81.12
C30	28°53'50"	125.00	55.78	28.35	N 71°14'4" E	55.30
C31	89°39'01"	125.00	151.95	86.96	N 29°43'28" E	142.77
C32	121°40'53"	50.00	106.19	89.61	S 13°29'51" E	87.33
C33	63°22'52"	50.00	55.31	30.87	S 79°02'01" W	52.35
C34	59°12'41"	50.00	51.87	28.41	N 89°41'18" W	48.40
C35	33°03'42"	50.00	48.00	26.06	N 17°27'58" E	48.22
C36	19°58'07"	175.00	47.76	24.03	N 00°01'58" W	47.61
C37	28°13'48"	175.00	86.22	44.01	N 21°54'00" E	85.35
C38	28°52'05"	175.00	87.15	44.50	N 80°15'58" E	86.26
C39	29°53'20"	175.00	78.86	39.89	N 77°19'44" E	77.42
C40	19°02'43"	475.00	157.89	79.68	S 80°50'07" W	157.17
C41	08°42'29"	475.00	72.19	36.17	S 88°42'32" W	72.12
C42	41°53'55"	200.00	145.09	75.90	N 83°08'15" E	141.83
C43	28°40'06"	200.00	93.09	47.40	S 82°44'40" E	92.25
C44	13°25'44"	200.00	46.88	23.55	S 42°41'50" E	46.77
C45	34°33'53"	155.00	81.50	42.03	N 53°18'39" W	80.27
C46	90°00'00"	5.00	7.85	5.00	S 64°25'39" W	7.07
C47	70°37'13"	285.00	336.63	187.70	N 54°41'18" E	309.34
C48	90°34'18"	156.60	247.55	158.17	N 44°45'44" E	222.97
C49	70°37'13"	215.00	285.00	152.29	N 54°41'18" E	248.54
C50	43°38'16"	200.00	152.21	80.00	N 44°19'30" E	146.56
C51	43°18'02"	200.00	151.15	79.39	N 87°48'38" E	147.58
C52	34°33'53"	250.00	150.96	77.86	N 87°52'17" W	148.88
C53	48°52'06"	250.00	213.23	113.58	S 80°44'11" E	206.82
C54	71°18'48"	180.00	223.63	128.83	S 80°03'29" W	209.52
C55	29°25'11"	35.00	149.42	39.73	S 78°41'55" E	50.77
C56	80°50'00"	30.00	42.37	25.58	S 12°03'20" W	38.93
C57	11°32'23"	150.00	298.81	228.24	N 33°29'14" E	250.71
C58	27°45'12"	500.00	242.19	123.53	S 78°19'53" W	239.85
C59	31°08'46"	175.00	749.42	181.22	S 78°48'50" E	228.84
C60	34°33'53"	160.00	96.59	49.62	N 53°18'39" W	95.13
C61	70°37'13"	240.00	295.81	169.89	N 54°41'18" E	277.44
C62	90°34'18"	131.60	208.03	132.92	S 44°45'44" W	187.04



NUMBER	DIRECTION	DISTANCE
L1	S 22°51'22" W	33.31'
L2	S 22°51'22" W	52.99'
L3	N 10°23'01" W	66.80'
L4	S 12°15'48" W	51.90'
L5	N 29°13'10" E	25.92'
L6	N 49°57'13" E	48.85'
L7	S 29°07'17" E	19.54'
L8	S 70°54'21" E	8.20'
L9	S 35°58'58" E	34.23'
L10	S 35°58'58" E	34.23'
L11	N 17°25'38" E	58.80'
L12	S 70°54'21" E	38.20'
L13	S 22°51'22" W	33.02'
L14	N 48°51'29" E	66.51'
L15	S 35°58'58" E	34.23'



GRESHAM & ASSOCIATES, INC.
SURVEYING & MAPPING
Registered Professional Land Surveyors
Colorado, Kansas, New Mexico, Oklahoma, Texas, UT

7342 S. Allen Way, Suite B www.gresham.com Denver, Colorado 801
Phone: (303) 741-2283, 1-800-338-7744 Fax: (303) 741-2279

Project Description: Panadero Development Filing No. 4
Project No. Client Huerfano County
90-08-084P Cuchara Partnership LTD. Colorado

DRAWING NUMBER 425
DRAWING NUMBER 425
DRAWING NUMBER 425

WARRANTY DEED

CUCHARA PARTNERS, LTD., ("Grantor"), whose mailing address is 946 Panadero Avenue, Cuchara, Colorado 81055, for consideration of ten (\$10.00) Dollars and other good and valuable consideration, in hand paid, hereby sells and conveys to CUCHARA MOUNTAIN PARK ESTATES MASTER HOMEOWNERS ASSOCIATION, ("Grantee") whose address is 946 Panadero Ave., Cuchara, Colorado 81055. the following real property, to remain common area open space in perpetuity and this dedication shall run with the land, in the County of Huerfano, State of Colorado, to-wit:

Tracts L1, L2 and L3, Filing No. 4, Panadero Subdivision, Huerfano County, Colorado

with all its appurtenances, and warrants the title to the same, subject to any easements, restrictions, reservations, rights of way or covenants of record, if any, recorded in the records of the Huerfano County Clerk and Recorder.

The Grantor hereby stipulates the land described herein shall remain recreational open space in perpetuity, and left in its natural state "as is" without alteration or modification by structures or buildings. That the Grantee and its successors or assigns shall maintain this property in such state forever. That the Grantee and its successors or assigns agrees not to transfer, sell or otherwise dispose of the property except to a successor or related homeowners association or to a master homeowners association which may incorporate Grantee or its successors and assigns within it. That the property may be subject to easements for recreational use such as the building of trails for cross country skiing, hiking, biking or other park like uses of this property. The construction and operation of ski lift facilities shall be permitted. That no camping, motorized vehicles except for snow grooming and maintenance machinery be permitted on the property. That only owners, tenants, and guests of Grantee or Cuchara Mountain Resort may have access to the property for the use described herein and in accordance with the Declaration of Covenants on file for Cuchara Mountain Park Estates, Huerfano County, Colorado. These listed restrictions and conditions shall run with the land and be perpetual in nature. Further Huerfano County shall have the unilateral right to take by any lawful means actions to enforce these perpetual conditions which run with the land.

Signed this 22 day of July, 1999.

GRANTOR:
CUCHARA PARTNERS, LTD.

By: Lawrence Smith

STATE OF New Mexico }
COUNTY OF Bernalillo } ss.

The foregoing instrument was acknowledged before me this 22 day of July, 1999, by Lawrence Smith.

Witness my hand and official seal.

Notary Public





Cuchara Mountain Park Estates - L2 and L3 deed restrictions termination

Jon Hotaling <[redacted]>
To: Sky Tallman <stallman@huerfano.us>, Lisa Powell-DeJong <lisa@huerfano.us>, BH2 Land Surveying <[redacted]>

Mon, Nov 28, 2022 at 11:40 AM

Hi Sky and Lisa,

Below and attached, please see the title attorney's clarification. Please let me know if you need anything else.

Best,

Jon Hotaling
[redacted]

----- Forwarded message -----
From: **Perlstein, Janet E.** <[redacted].com>
Date: Mon, Nov 28, 2022 at 10:38 AM
Subject: FW: [EXT] HOA papers for Cuchara Mountain Park Estates?
To: Jon Hotaling <[redacted]up>
Cc: Bohara, Stephen F. <[redacted]m>

Jon,

The deed restrictions were granted to the Cuchara Mountain Park Estates Master Homeowners Association ("HOA"). The Declaration of Covenants Conditions and Restrictions for the HOA was terminated pursuant to the attached termination document, after such termination was voted on by the requisite percentage of owners at a duly called meeting of the owners association. At that same meeting, you were appointed as the president of the HOA and were delegated the authority to file all documents necessary to effect the resolutions adopted at the HOA meeting. As part of the termination, the owners agreed to relinquish any interest in the deed restrictions. In following the resolutions adopted by the owners at the meeting of the HOA, the HOA conveyed the deed restricted property to you and Jennifer pursuant to the attached Bargain and Sale Deed, relinquishing all rights title and interest of the HOA in and to the deed restrictions. Since the deed restrictions were relinquished by the HOA, which was the party holding the interest therein, the deed restrictions no longer exist and are of no further force or effect. Please let me know if you need any additional information.

Janet Perlstein
Partner
Fox Rothschild LLP
1225 17th St.
Suite 2200
Denver, CO 80202
[redacted] direct
[redacted] - cell
[redacted] - fax
[redacted].com
www.foxrothschild.com

This email contains information that may be confidential and/or privileged. If you are not the intended recipient, or the employee or agent authorized to receive for the intended recipient, you may not copy, disclose or use any contents in this email. If you have received this email in error, please immediately notify the sender at Fox Rothschild LLP by replying to this email and delete the original and reply emails. Thank you.

--
Liberty Service Group
[redacted]

2 attachments

- 112251363_1_TERMINATION OF CCRS FOR CUCHARA MOUNTAIN PARK ESTATES MASTER HOA RECORDED JULY 13, 2020, HUERFANO COUNTY, CO-C1-C.PDF**
238K
- 112251440_1_BARGAIN AND SALE DEED - CUCHARA MOUNTAIN PARK ESTATES MASTER HOA TO JONATHAN AND JENNIFER HOTALING - RECORDED JULY 13, 2020, HUERFANO COUNTY, CO-C2-C-C.PDF**
73K



Cuchara Mountain Park Estates - L2 and L3 deed restrictions termination

Jon Hotaling <[redacted]>

Mon, Nov 28, 2022 at 12:01 PM

To: Sky Tallman <stallman@huerfano.us>, Lisa Powell-DeJong <lisa@huerfano.us>, BH2 Land Surveying <[redacted]>

Also, fyi, to your question about asking if the HOA had the right to relinquish the restrictions, Janet wrote:

No, the county does not have a point. All easements are granted in perpetuity, unless they specifically state that they are limited to a particular period of time. That does not prohibit the beneficiary of the easement from relinquishing its interest, and by doing so, extinguishing the easement, as occurred in this situation. The HOA is the beneficiary of the deed restriction. The HOA, as the beneficiary of the deed restriction, by vote of the requisite percentage of owners, resolved to relinquish any interest in the deed restriction (which relinquishment occurred both in the termination of Declaration of Covenants, Conditions and Restrictions and also in the Bargain and Sale deed, which conveyed any interest owned by the HOA in the deed restricted property to you and Jennifer) and to dissolve the HOA (which dissolution occurred on July 20, 2020). Let me know if you have any other questions.

Janet Perlstein
Partner
Fox Rothschild LLP
1225 17th St.
Suite 2200
Denver, CO 80202

[redacted] direct

[redacted] cell

[redacted] fax

[redacted]schild.com

www.foxrothschild.com

[Quoted text hidden]



Cuchara Mountain Park Estates - L2 and L3 deed restrictions termination

Sky Tallman <stallman@huerfano.us>

Thu, Dec 1, 2022 at 1:30 PM

To: Jon Hotaling <j[REDACTED]@huerfano.us>

Cc: Lisa Powell-DeJong <lisa@huerfano.us>, BH2 Land Surveying <[REDACTED]>

Jon,
I have discussed this with the County Attorney and have two outstanding concerns which do not appear to be addressed in the response above:

1. The deed restrictions grant use to owners, tenants, and guests of grantee or Cuchara Mountain Resort. Cuchara Mountain Resort refers to the Panadero subdivision, not just to the members of the Cuchara Mountain Park Master Homeowners Association, therefore the restrictions apply to more than just the grantee.
2. Section 2.02.11 of our Land Use Code requires BOCC action to remove deed restrictions. It reads: *The type of dedication, reservation or conveyance required in a given case shall be determined by the Board of County Commissioners in consultation with the Planning Commission, depending on the proposed size, use(s) and other characteristics of the subdivision. A reservation or dedication of areas for the use of owners or users of lots within the subdivision may be acceptable. Such areas shall be restricted to their intended use by plats, deed restrictions and/or recorded covenants which run with the land in favor of the future owners of property within the subdivision and which cannot be defeated or eliminated without the consent of the Board of County Commissioners. In the event of a reservation or dedication for the use of owners of lots within a subdivision, the applicant shall provide for the creation of a homeowners' association or similar organization with powers of assessment for maintenance, improvements and upkeep of such areas and the provisions contained within the homeowners' association bylaws or similar governing document shall receive approval from the Board of County Commissioners prior to acceptance of a final plat.*

Sincerely,
[Quoted text hidden]
[Quoted text hidden]



Cuchara Mountain Park Estates - L2 and L3 deed restrictions termination

Jon Hotaling <[redacted]>

Mon, Dec 5, 2022 at 12:15 PM

To: Sky Tallman <stallman@huerfano.us>

Cc: Lisa Powell-DeJong <lisa@huerfano.us>, BH2 Land Surveying <[redacted]>

Hi Sky and Lisa,

Below is our attorney's response to your previous inquiry. The language of the documents appear to be straightforward and clear. If you or the BOCC are still unsure, please let me know if you have any additional questions or concerns that I/we can address....

Via Scott Ross:

The deed restriction set forth in the July 22, 1999 Warranty Deed grants access to the property for use to only the owners, tenants and guests of Grantee or Cuchara Mountain Resort. However, the deed restriction further provides that these owners, tenants, and guests may have access in accordance with the Declaration of Covenants on file for Cuchara Mountain Park Estates. The Declaration of Covenants for Cuchara Mountain Park Estates was terminated on July 13, 2020 by a Termination recorded at Reception No. 419220. Therefore, access for use of the property cannot occur in accordance with the Declaration of Covenants. Since the basis for having access has terminated, access is no longer available to such owners, tenants and guests, and their rights have effectively terminated.

Additionally, there are no owners, tenants or guests of Grantee or Cuchara Mountain Resort because neither Grantee or Cuchara Mountain Resort are entities that remain in existence. The Grantee under the Deed, the Cuchara Mountain Park Estates Master Homeowners Association, was dissolved in 2020. Further, in connection with the termination of the Declaration of Covenants and dissolution of the Master Homeowners Association, the members/owners of the Cuchara Mountain Park Estates Master Homeowners Association relinquished their rights under the Deed and that relinquishment is binding on the owners, tenants and guests of the Master Homeowners Association. Accordingly, the owners, tenants or guests of Cuchara Mountain Park Estates Master Homeowners Association have no rights under the Deed.

As for the owners, tenants, and guests of Cuchara Mountain Resort, the County asserts that Cuchara Mountain Resort refers to the Panadero subdivision but offers no explanation for this assertion. Cuchara Mountain Resort more likely appears to be a reference to a business entity, which business entity is now defunct. In that case, there would not be any owners, tenants or guests of the defunct entity. However, regardless of the status of the owners, tenants or guests of Grantee or Cuchara Mountain Resort, their rights for access for use of the property have terminated because the Declaration of Covenants which provided the basis for having access has been terminated.

As a practical matter, the rights have either been relinquished or terminated and to the extent that Section 2.02.11 of the County's Land Use Code requires BOCC action to remove deed restrictions, the removal of the 1999 deed restrictions by consent of the BOCC should be included as part of the land use application, review and approval.

Best regards,

Scott Ross
Partner
Fox Rothschild LLP
1225 17th St.
Suite 2200
Denver, CO 80202
(303) 833-7007 direct
[redacted] fax

[Quoted text hidden]



Cuchara Mountain Park Estates - L2 and L3 deed restrictions termination

Jon Hotaling <[redacted]>

Mon, Dec 5, 2022 at 12:25 PM

To: Sky Tallman <stallman@huerfano.us>

Cc: Lisa Powell-DeJong <lisa@huerfano.us>, BH2 Land Surveying <[redacted]>

From Janet, FYI....

"The county may be trying to argue that, based on its regulations, there is a public right of access that cannot be terminated without the board's consent. However, that is not what the documents say. Scott's explanation should be persuasive to cause the county board to agree to vacate the easements, but there is no guaranty that the board will agree. Please let us know if they raise any other arguments."

[Quoted text hidden]



Plat Amendment Deed Restrictions

Sky Tallman <stallman@huerfano.us>

Tue, Nov 22, 2022 at 2:03 PM

To: BH2 Land Surveying <[redacted]> Jon Hotaling <[redacted]>
Cc: Lisa Powell-DeJong <lisa@huerfano.us>

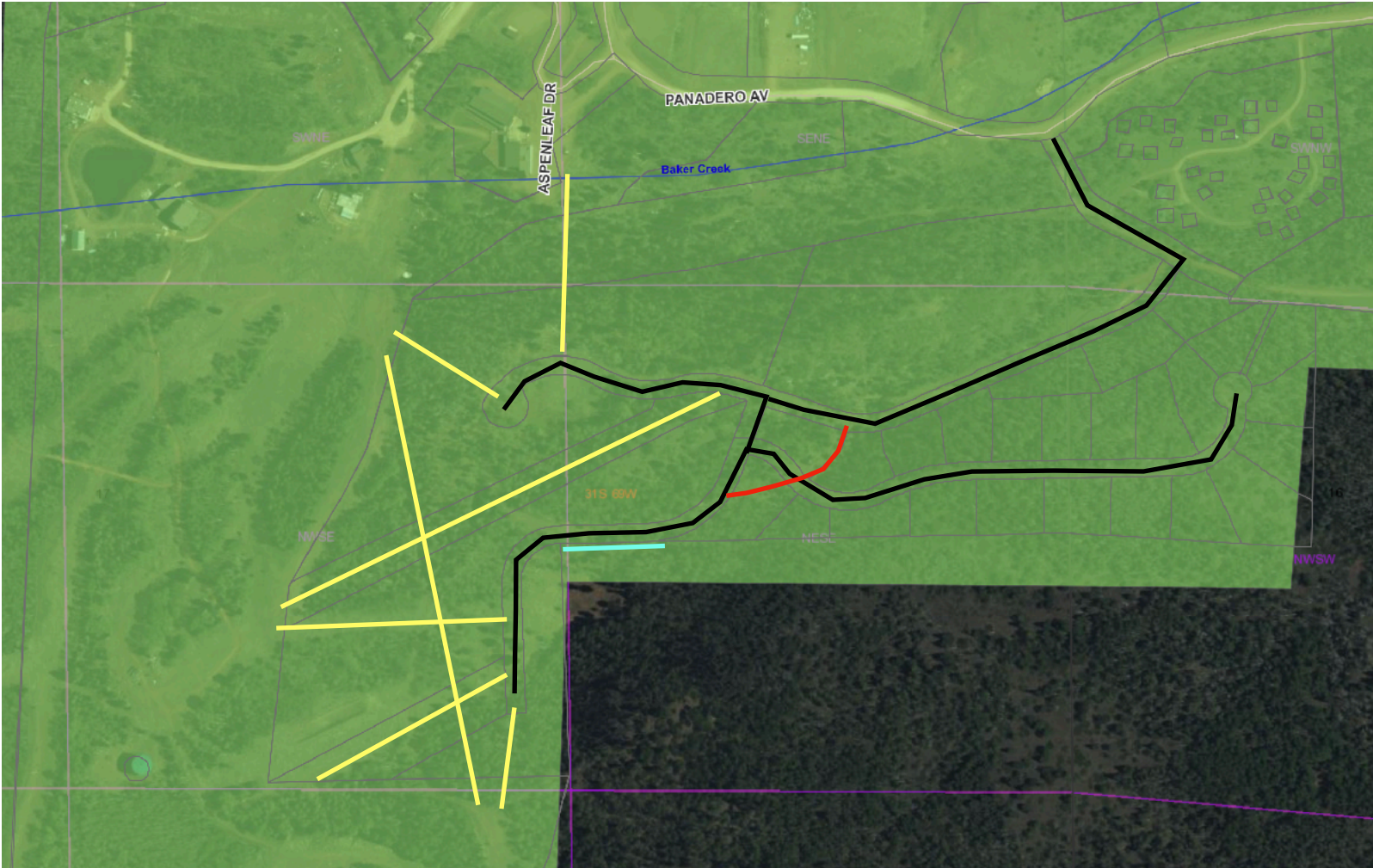
Bill and Jonathan,

I would like to let you know that your application for vacation and plat amendment are on the Planning Commission agenda for Dec. 8 at 1:30. In reviewing the application for the plat amendment, I have found that there are deed restrictions on lots L2 and L3 that have not been addressed. You may want to seek legal counsel on how to address these restrictions. Please see the deed attached.

Sincerely,

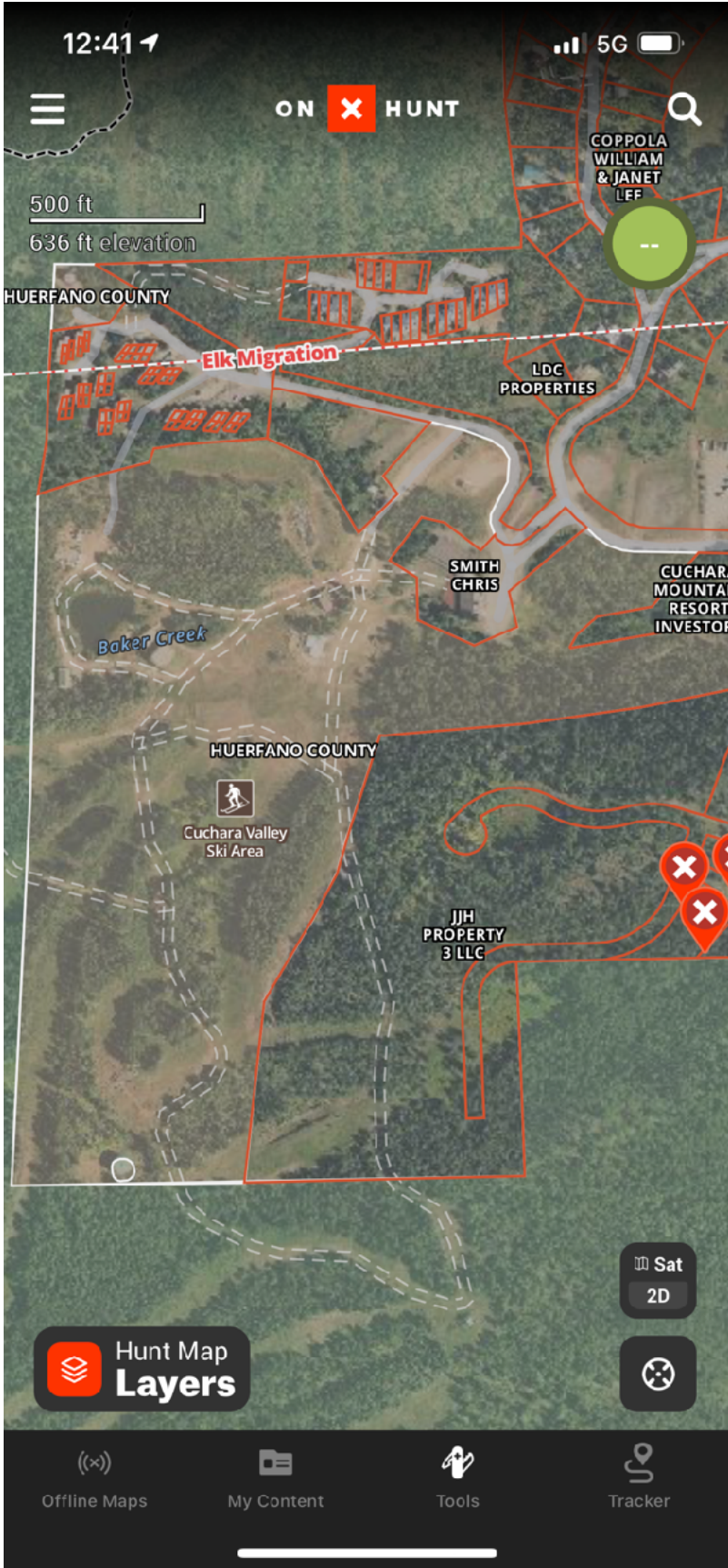
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Sky Tallman, AICP
Huerfano County Land Use Director
o: 719-738-1220 ext. 108
c: 719-890-0047

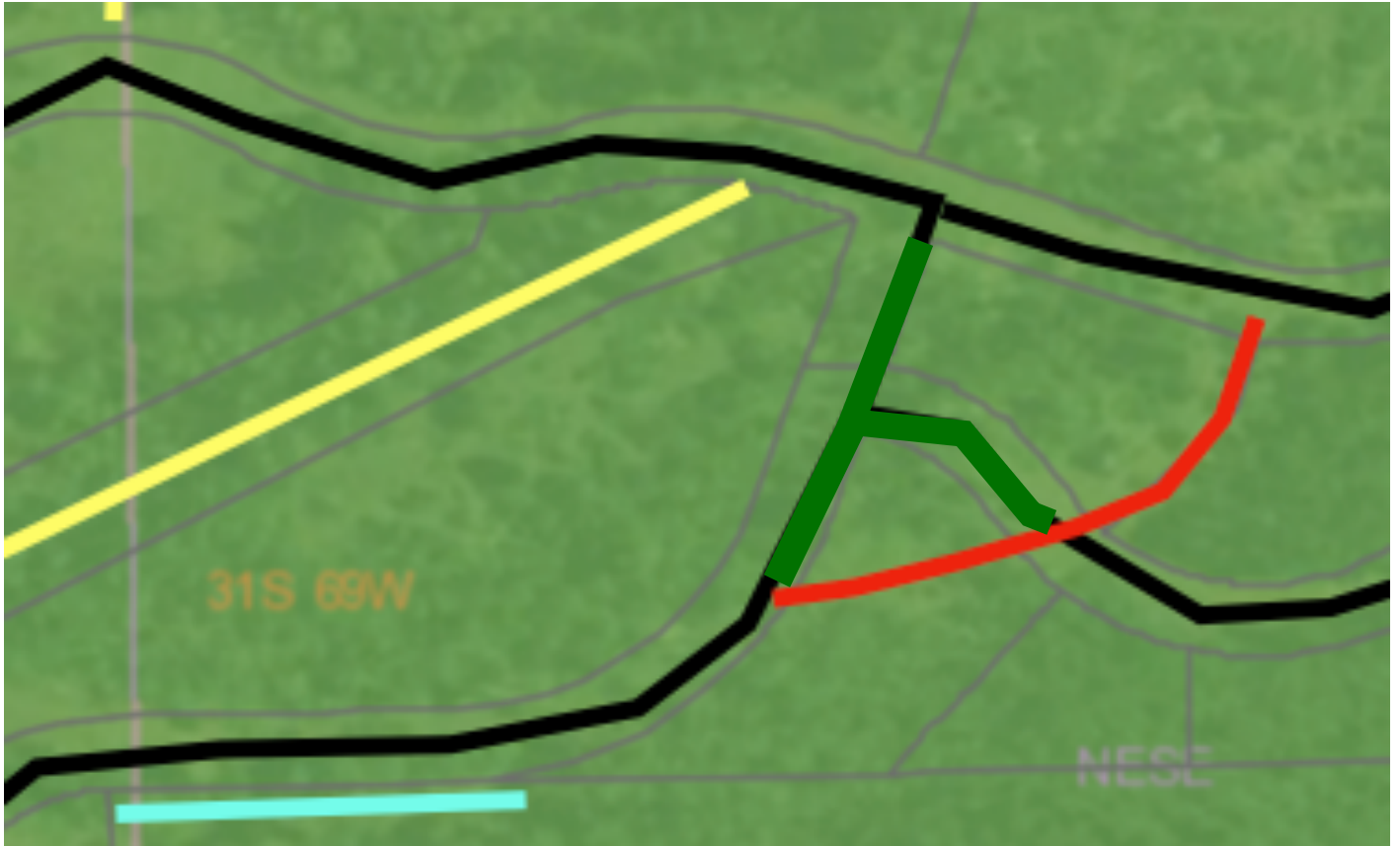
1999 Warranty Deed L1 L2 L3 open space.pdf
308K



- Black Line - Roads as originally plated.
 - Red Line - Existing easement through lots 24 and 25 (the existing trail) We would like removed once the road are completed as plated.
 - Blue Line - The original plated public access to the national forest. We would like kept in place.
 - Yellow Lines - Proposed easement options for access to Cuchara Mountain Park. The original plat shows 'HOA controlled open space'. We were told there is not longer an HOA. Not sure if this plated 'open space' or any existing utility easements could be used (negotiated for) for access.
- If possible, we would like to see at least one avenue of access to Cuchara Mountain Park remain.

We believe The County should negotiate access to Cuchara Mountain Park for Cuchara Mountain Park Estates, in exchange for Jon taking the existing plated county roads and/or allowing him to alter the subdivision as plated.

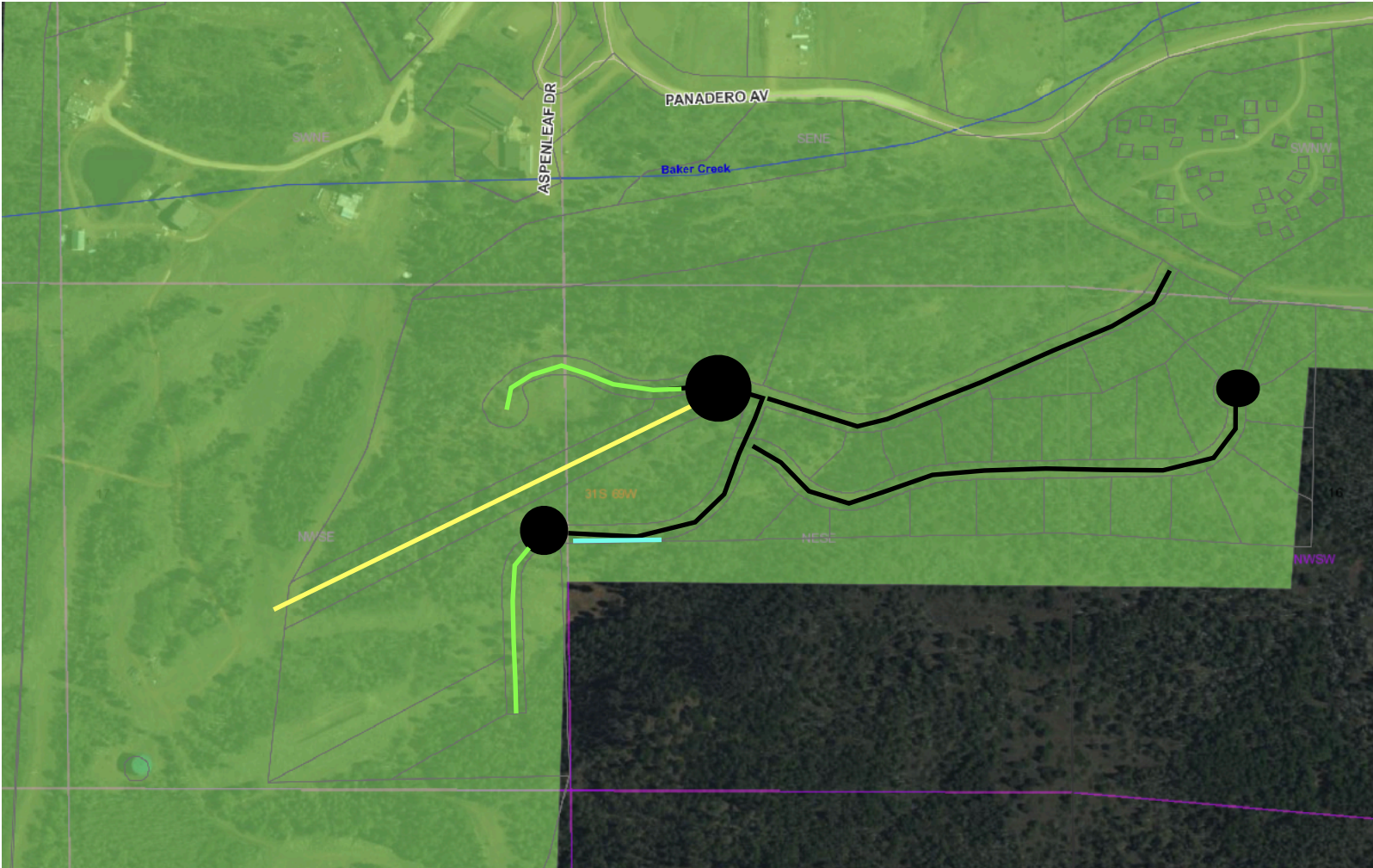




The portion of the plated road indicated in dark green is not completed. Thus the need for the access easement indicated in red.

Once the roads (dark green) are completed, we would like to have the easement through our properties removed, for it will not be necessary.

We suggest that if Jon wants to alter the original plat. At the very least, the county should negotiate for him to be responsible to complete the plated roads for his access as indicated by the dark green line.



We believe the county should negotiate access to Cuchara Mountain Park for Cuchara Mountain Park Estates, in exchange for the existing plated county roads (property) that Jon plans to take over ownership.

As indicated above: The county would give up the light green lines in exchange for the yellow line (or another agreed upon access for Cuchara Mountain Estates).

There are at least 25 other properties in this subdivision that would benefit from an easement through Jon's property to access Cuchara Mountain Park.

Subject: Cuchara Mountain Park Estates

From: Gary Place <[REDACTED]>

Date: 9/26/2022, 3:39 PM

To: stallman@huerfano.us

Sky -

I spoke with you last week in regards to my concerns about the plans of Jon Hoteling.

I own Lots 24 and 13.

I have attached a document with drawing to help explain the situation.

Please let me know if you have any questions or concerns.

Thanks,
Gary Place
214-876-7572

—Attachments:—

Cuchara MTN park.pdf

5.4 MB

Subject: Re: Cuchara Mountain Park Estates -

From: Seb Delson <d[redacted]n>

Date: 9/30/2022, 5:51 AM

To: Gary Place <[redacted]stallman@huerfano.us

I'm in agreement with bringing roads into original plat as well.
-Severo DeLeon IV

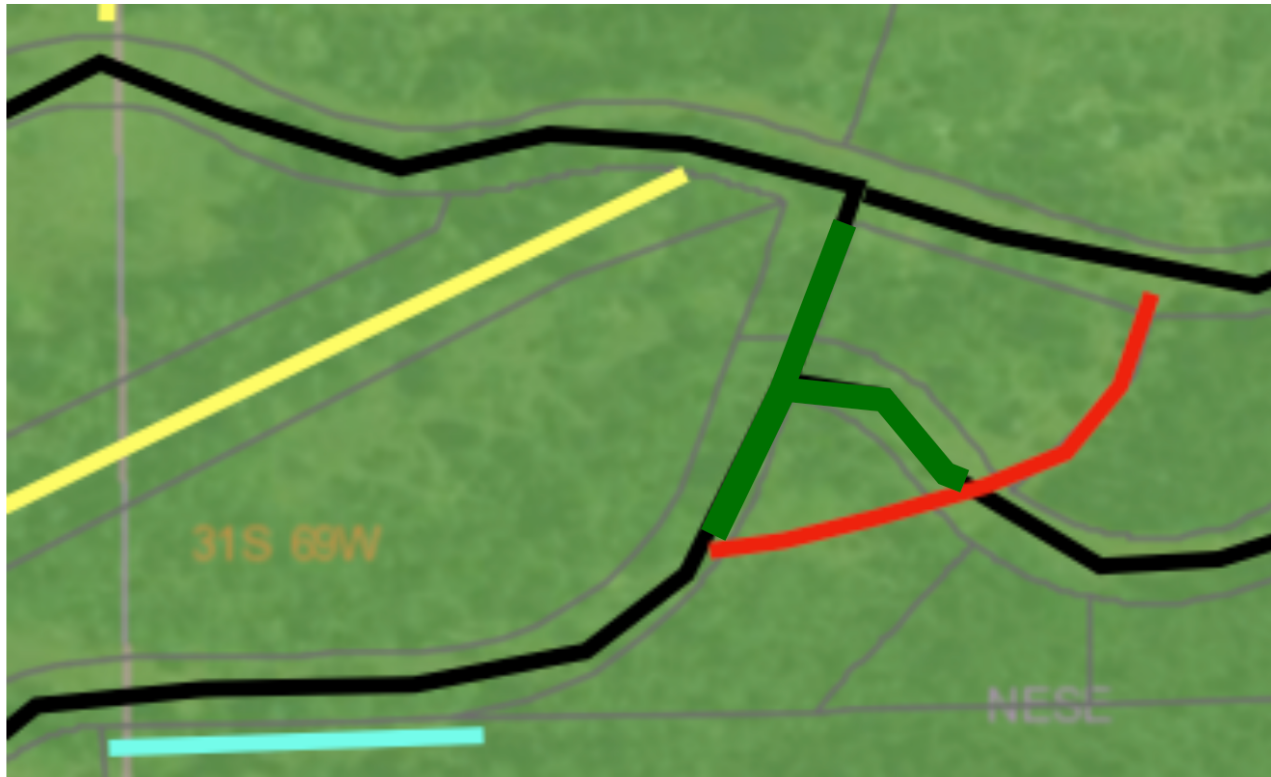
Sent from my iPhone

On Sep 27, 2022, at 1:56 PM, Gary Place <[redacted]> wrote:

— Screen Shot 2022-09-24 at 1.44.43 PM.png —



— Screen Shot 2022-09-27 at 2.46.24 PM.png —

Cuchara Mountain Park Estates

The portion of the plated road indicated in dark green is not completed. Thus the need for the access easement indicated in red.

Once the roads (dark green) are completed, we would like to have the easement through our properties removed, for it will not be necessary.

We suggest that if Jon wants to alter the original plat. At the very least, the county should negotiate for him to be responsible to complete the plated roads for his access as indicated by the dark green line.

 Attachments:

Screen Shot 2022-09-24 at 1.44.43 PM.png	137 KB
Screen Shot 2022-09-27 at 2.46.24 PM.png	1.2 MB



MEMORANDUM

MEETING TYPE: Board of County Commissioners

MEETING DATE: 1/31/23

ITEM NAME: 22-57 CUP Atlas Tower 1

SUBMITTED BY: Sky Tallman

SUMMARY:

The Huerfano County Planning Commission met on January 26, 2023 and recommended approval, without additional conditions, of CUP 22-51, a conditional use permit for Atlas Tower 1 to construct a 310-foot self-supporting cell tower near the southeast corner of Parcel No. 21440, north of the intersection of Highway 10 and County Road 123.



MEMORANDUM

MEETING TYPE: Board of County Commissioners

MEETING DATE: 1/31/2023

ITEM NAME: Bradford Mesa Update

SUBMITTED BY: Sky Tallman

SUMMARY:

At the BOCC meeting of December 6, 2022, public comment was made regarding the gravel quarry on Bradford Mesa. Concerns raised included a concern that insufficient water had been purchased to mitigate dust, that the original CUP for mining differed from the plan submitted to the state, that the railroad spur planned to facilitate gravel extraction had never been built, that truck traffic was a nuisance, and that dust was a nuisance on nearby properties.

On December 16, Huerfano County staff visited the site and took pictures of current conditions. The site visit revealed that there is currently no mining taking place. Over the summer, some core samples were taken, and each of the disturbed sites have been covered and re-seeded. Evidence of disturbance and reseeded were visible.

According to the land owner, the results of core sampling revealed that there was insufficient potential for the site and plans to develop a gravel operation and build a railroad spur are no longer active.

Staff concludes that unless and until gravel mining operations take place at this site, there is no cause for concern or further action.

See photos attached:



Covered site on southwest side of Bradford Mesa



Looking to Southwest from top of Bradford Mesa



Looking south along western edge of Bradford Mesa.



Looking north along western edge of Bradford Mesa. Train tracks and RR spur easement on left side of photo.



View on top of Bradford Mesa



Site 2 with visible remediation and replanting.

RESOLUTION NO. 23-08

**THE BOARD OF COUNTY COMMISSIONERS
OF HUERFANO COUNTY, COLORADO**

**A RESOLUTION APPOINTING GERALD CISNEROS TO THE FEDERAL
MINERAL LEASE DISTRICT BOARD FOR A TERM EXPIRING ON
DECEMBER 31, 2025**

WHEREAS, the Board of County Commissioners serve as the governing body of Huerfano County and are vested with administering the affairs of the County pursuant to state statutes; and,

WHEREAS, the Board of County Commissioners established the Huerfano County, Colorado Federal Mineral Lease District in Resolution 15-03 as an independent district under the Federal Mineral Lease District Act, § 30-20-1301, et seq, C.R.S.; and,

WHEREAS, by that same resolution the Board of County Commissioners established the membership structure of the Federal Mineral Lease District Board; and,

WHEREAS, Gerald Cisneros has submitted a letter of interest and has demonstrated his qualifications to serve on the Federal Mineral Lease District Board for Huerfano County and agrees to serve as a member of the Board while adhering to the principles applicable to governmental units and other requirements of law; and,

WHEREAS, the Board of Huerfano County Commissioners desires to appoint Gerald Cisneros to serve as a member of the Federal Mineral Lease District Board as a reflection of the values of the Huerfano County Board of County Commissioners.

NOW THEREFORE BE IT RESOLVED that the Huerfano County Board of County Commissioners hereby appoints Gerald Cisneros to serve as a member of the Federal Mineral Lease District Board until December 31, 2025, and until their successor has been appointed.

INTRODUCED, READ, APPROVED AND ADOPTED THIS 31st day of JANUARY 2023.



ATTEST:

County Clerk and Recorder and
Ex-Officio Clerk to said Board

BOARD OF COUNTY COMMISSIONERS
OF HUERFANO COUNTY, COLORADO

BY _____
John Galusha, Chairman

Arica Andreatta, Commissioner

Karl Sporleder, Commissioner

RESOLUTION NO. 23 - 09

**THE BOARD OF COUNTY COMMISSIONERS
OF HUERFANO COUNTY, COLORADO**

**A RESOLUTION TO ESTABLISH COUNTY COMMISSIONER LIAISON
RESPONSIBILITES FOR CALENDAR YEAR 2023**

WHEREAS, C.R.S. § 30-11-107(1)(n), as amended, authorizes the Board of County Commissioners to establish, by resolution duly adopted, such offices as, in its judgement, are required for the efficient management of the business and concerns of the County; and,

WHEREAS, the Board desires to jointly develop and administer County policy through appropriate resolutions, memoranda, staff meetings, and similar means of deliberations and communications; and,

WHEREAS, the Board recognizes that it cannot make any formal decision on any matter except during a regular or special public meeting of the Board; and

WHEREAS, the Board recognizes the needs of County staff to receive policy guidance from a member of the Board from time to time when the Board is not in meetings; and,

WHEREAS, the Board desires to provide a means of liaison between itself and the various County departments, offices, and agencies consistent with C.R.S. § 30-10-310; and

WHEREAS, members of the Board of County Commissioners serve the community on various Boards or serve as a liaison to various entities providing service to Huerfano County and may from time to time delegate that responsibility to County Staff.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Huerfano County, Colorado that:

Section 1. Ratification of Board of County Commissioners Chair Appointment

The appointments of John Galusha as the Chair of the Board and Arica Andreatta as Vice Chair of the Board are hereby ratified.

Section 2. Working Groups Established.

1. The Board hereby creates the following informal Working Groups, pursuant to C.R.S. § 30-10-310, to be chaired by a County Commissioner and supported by a staff lead:
 - a. Working Group on Parks and Recreation
 - b. Working Group on Community Development
 - c. Working Group on Economic Development
2. The County Administrator will recommend a Staff Lead which must be approved by the Commissioner-Chair and that Staff Lead will be responsible for providing direct support and ensuring appropriate routing of decision making.
3. The Board may, by motion duly adopted, assign matters, projects, and budgets to these Working Groups.

Section 3. Appointments and Liaison Responsibilities.

1. Commissioner John Galusha
 - a. Working Group on Parks and Recreation
 - b. South Central Council of Governments (COG)
 - c. Transportation Planning Region (TRP)
 - d. Region 19 Opioid Board
 - e. MAT Expansion Board
2. Commissioner Arica Andreatta
 - a. Working Group on Community Development
 - b. Scenic Highway of Legends Inc.
 - c. Region 19 Opioid Board – Alternate
 - d. 3rd Judicial District Corrections Board
 - e. SB 94 - Juvenile Screening Committee
3. Commissioner Karl Sporleder
 - a. Commissioner’s Economic Development Working Group
 - b. E-911 Authority Board
 - c. Huerfano County Economic Development Inc. (HCED)

Section 4. Delegations to Staff.

1. Carl Young, the County Administrator, is hereby appointed to represent the County on the Walsenburg Urban Renewal Authority until such time as he is replaced or is no longer employed by Huerfano County.
2. Sheila Hudson-Macchietto, Director of Human Services, is hereby appointed to represent the County at meetings of the Area Agency on Aging Regional Advisory Committee and to serve as a liaison between the Board and the Las Animas-Huerfano Counties District Health Department, until such time as she is replaced or is no longer employed by Huerfano County.

INTRODUCED, READ, APPROVED AND ADOPTED ON THIS 31st day of JANUARY 2023.



ATTEST:

County Clerk and Recorder and
Ex-Officio Clerk to said Board

BOARD OF COUNTY COMMISSIONERS
OF HUERFANO COUNTY, COLORADO

BY _____
John Galusha, Chairman

Arica Andreatta, Commissioner

Karl Sporleder, Commissioner

RESOLUTION NO. 23 - 10

**THE BOARD OF COUNTY COMMISSIONERS
OF HUERFANO COUNTY, COLORADO**

**A RESOLUTION TO AUTHORIZE THE CREATION OF ENTERTAINMENT
DISTRICTS PURSUANT TO C.R.S. § 44-3-301(11) AND ESTABLISH APPLICATION
PROCEDURES FOR CERTIFICATION OF PROMOTIONAL ASSOCIATIONS TO
OPERATE COMMON CONSUMPTION AREAS WITHIN ENTERTAINMENT
DISTRICTS**

WHEREAS, pursuant to C.R.S. § 44-3-301(11) the governing body of a local licensing authority may create entertainment districts that allow consumption of alcoholic beverages in common consumption areas;

WHEREAS, the Board of County Commissioners of Huerfano County, Colorado (“the Board”) serve as the governing body of Huerfano County and are vested with administering the affairs of the County pursuant to state statutes; and,

WHEREAS, the Board desires to exercise its local option to allow creation of entertainment districts with associated common consumption areas; and,

WHEREAS, the Board desires to establish the process for creating entertainment districts and common consumption areas, including application procedures, fees, and hours of operation for common consumption areas in entertainment districts.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Huerfano County, Colorado that the following is hereby adopted:

Section 1. Title.

This resolution shall be known and referred to as the “Huerfano County Entertainment District and Common Consumption Area Regulations”

Section 2. Purpose and Authority.

1. The County is exercising its local option to allow common consumption areas in the County by establishing entertainment districts pursuant to 44-3-301(11).
2. The Board of County Commissioners, acting in its capacity as the local licensing authority, shall be authorized to certify and decertify promotional associations; designate the location, size, security, and hours of operation of common consumption areas, and allow attachment of licensed premises to common consumption areas.

Section 3. Definitions.

1. *Common Consumption Area* is defined as set forth in C.R.S. § 44-3-103(11), as amended.
2. *Entertainment District* is defined as set forth in C.R.S. § 44-3-103(15), as amended.
3. *Local Licensing Authority* means the Board of County Commissioners (“the Board”).
4. *Promotional Association* is defined as set forth in C.R.S. § 44-3-103(39), as amended.

Section 4. Creation of Entertainment Districts.

Individual entertainment districts shall be created by resolution of the Board of County Commissioners.

1. The resolution authorizing the Entertainment District shall describe and identify the boundaries of the Entertainment District and include a detailed map attached to the Resolution.
2. The resolution may impose stricter limits on size, security, or hours of operation of any Common Consumption Area created within the Entertainment District so long as the Board deems the stricter limits necessary for the health, safety, and welfare of the public.
3. An Entertainment District must meet the following minimum criteria:
 - a. The defined boundaries of the Entertainment District shall not exceed one hundred (100) contiguous acres; and
 - b. The defined boundaries of the Entertainment District shall contain at least twenty thousand (20,000) square feet of premises that at the time the district is created is licensed as an authorized Licensed Premises under Colorado Revised Statutes 44-3-103(15)(c), as amended.
4. The County Administrator may draft a resolution for consideration by the Board upon receipt of a written request from a sponsor or champion that includes the following:
 - a. Description of proposed Entertainment District
 - i. Proposed name
 - ii. General boundary description, including Aerial view map of proposed boundary of Entertainment District with all eligible liquor licensed premises identified
 - iii. Total size in acres of proposed Entertainment District (must be less than 100)
 - iv. Proposed hours of operation, applicable for every Promotional Association's Common Consumption Area to be subsequently formed within the proposed Entertainment District
 - v. Written description and statement describing the basis/rationale for the proposed Entertainment District boundary and Common Consumption Area hours of operation, including details of any City Council and community outreach efforts
 - b. Names and addresses of all eligible liquor licensed premises within the proposed Entertainment District boundary area, including type, square footage of each premises, and any interest in joining a future Promotional Association (combined square footage must be more than 20,000).
5. Within fifteen days of the creation or amendment of an Entertainment District, the County Clerk and Recorder shall, on behalf of the Local Liquor Licensing Authority, notify the State Licensing Authority of the creation or amendment of said Entertainment District and provide a map thereof.

Section 5. Operational Requirements of a Promotional Association.

1. The size of the common consumption area shall not exceed the area approved as the Entertainment District within which the common consumption area is located but may, with approval of the Local Licensing Authority, be a smaller area within the entertainment district, provided that the common consumption area is clearly delineated using physical barriers to close the area to motor vehicle traffic and to limit pedestrian access.

2. The Promotional Association shall provide an appropriate amount of security to insure compliance with the Colorado Liquor Code, Colorado Beer Code, and to prevent a safety risk to the neighborhood.
3. The Promotional Authority shall obtain and maintain a properly endorsed general liability and liquor liability insurance policy that is reasonably acceptable to the Local Licensing Authority of at least one million (\$1,000,000) dollars per incident and names Huerfano County as additionally insured.

Section 6. Application for Certification of a Promotional Association.

An application to certify a promotional association shall include the following minimum information:

1. A copy of the articles of incorporation and bylaws and a list of all Directors and Officers of the Promotional Association. A member of each licensed premises must serve as one of the directors on the board of the promotional association, which shall have at least two (2) licensed premises attached to the common consumption area;
2. A detailed map of the Common Consumption Area including, location of physical barriers, entrances and exits, location of attached licensed premises, identification of licenses premises that are adjacent, but not to be attached to the common consumption area;
3. A security plan, including evidence of training and approval of personnel, a detailed description of security arrangements and the approximate location of security personnel within the common consumption area during operating hours;
4. A list of dates and proposed hours of operation of the common consumption area;
5. Documentation showing possession of the common consumption area by the promotional association;
6. A list of the attached licensees of which there will be a minimum of two (2), listing the following information: liquor license number, a list of any past liquor violations, and a copy of any operational agreements;
7. An insurance certificate of general liability and liquor liability insurance naming the County as additionally insured in an amount not less than what is listed in Section 5.3 of these regulations;
8. Documentation of the reasonable requirements of the neighborhood and the desires of the adult inhabitants for a common consumption area, as evidenced by petitions, written testimony, or otherwise; and
9. The application fee as set forth in Section 11.1 of these regulations.

Section 7. Application for Recertification of a Promotional Association.

An application to recertify a Promotional Association shall be submitted by January 31st of each year and shall include:

1. A copy of any changes to the Articles of Incorporation, Bylaws, and/or Directors and Officers of the Promotional Association;
2. The items listed in Section 6.2 through 6.8 of these regulations; and
3. The application fee as set forth in Section 11.2 of these regulations.

Section 8. Application for Attachment to a Common Consumption Area.

An application by a liquor license to attach to an existing Common Consumption Area of a Certified Promotional Association must be filed with any addition to the licensees after the initial certification of the Promotional Association and shall include without limitation:

1. Authorization for attachment from the Certified Promotional Association;

2. The name of the licensee’s designee to sit on the Board of Directors of the Certified Promotional Association;
3. Detailed map of the common consumption area, as outlined in Section 6.2, showing the addition of the new licensee; and
4. The application fee as set forth in Section 11.3 of these regulations.

Section 9. Review of Applications for Certification, Recertification, or Attachment.

Upon receipt of an application for Certification or Recertification of Promotional Association, or Attachment of a Liquor Licensee to an existing Common Consumption Area, the Board shall consider such application within sixty (60) days of receipt. The County Commissioners shall review the application for compliance with these regulations and Colorado Liquor Law and may either approve the application, with or without conditions, or deny the application.

Section 10. Decertification of a Promotional Association.

The Board has the power to decertify a Promotional Association as authorized by C.R.S. § 44-3-301(11)(c)(III), as amended.

Section 11. Fees.

1. The fee for an Application for Certification of a Promotional Association shall be \$200.
2. The fee for an Application for Recertification of a Promotional Association shall be \$100.
3. The fee for an Application for Attachment to a Common Consumption Area shall be \$200.

Section 12. Severability.

If any provision of these Regulations is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue in full force and effect.

INTRODUCED, READ, APPROVED, AND ADOPTED ON THIS 31ST day of JANUARY 2023.



ATTEST:

County Clerk and Recorder and
Ex-Officio Clerk to said Board

BOARD OF COUNTY COMMISSIONERS
OF HUERFANO COUNTY, COLORADO

BY _____
John Galusha, Chairman

Arica Andreatta, Commissioner

Karl Sporleder, Commissioner

Statewide Internet Portal Authority (SIPA)

Item 7d.

Company Address 1300 Broadway
Suite 440
Denver, CO 80203
US

Created Date 1/13/2023
Expiration Date 3/29/2023
Quote Number 00003027

Prepared By Heather Nelson
Email heather@cosipa.gov

Contact Name Carl Young
Phone (719) 738-2370
Email cyoung@huerfano.us
Fax (719) 738-3996

Bill To Name Huerfano County
Bill To 401 Main Street
Suite 201
Walsenburg, CO 81089

Ship To Name Huerfano County
Ship To 401 Main St
Walsenburg, CO 81089

Product	Line Item Description	Sales Price	Quantity	Total Price
Google Workspace Business Plus	Domain: huerfano.us; Renewal 03/31/2023 to 03/30/2024	\$143.17	125.00	\$17,896.25

Description Quote for Huerfano County to renew 125 Google Workspace Business Plus licenses for a one year term: 03/31/2023 to 03/30/2024, with the option to renew in one year.

Grand Total \$17,896.25

Domain: huerfano.us

Please submit a signed quote or PO to sipa@cosipa.gov to renew and include the email address of the person who is supposed to receive the invoice.

Additional Details

Additional Details Please note: Fees are not refundable.

Please note: Fees may increase at next renewal.

Please note: This is not an invoice. Please do not submit payment until you have received an invoice.

Terms & Conditions:

Customer accepts Google flow down terms <http://www.carahsoft.com/vendors/google#end-user-terms>

By signing this quote, you are agreeing to purchase the above mentioned licenses or services and you will be responsible for payment upon invoicing. You also certify that you have authority to enter into this agreement between your entity and SIPA.

Quote Acceptance Information

Signature _____
Name _____
Title _____
Date _____



MEMORANDUM

MEETING TYPE: Board of County Commissioners

MEETING DATE: 1/31/2022

ITEM NAME: HSIP Application

SUBMITTED BY: Sky Tallman

SUMMARY:

Seeking BOCC support for staff to apply for federal Highway Safety Improvement Program (HSIP) funds for sidewalk and safety improvements in Gardner. Funds will be available in 2026, and as long as all work is done within the CDOT right-of-way, there should be no County match.

Requested Motion/Action

- Motion to authorize County staff to apply for Highway Safety Improvement Program (HSIP) funds for roadway improvements in Gardner.

Grant Program

HSIP is a federally funded program for making roadway safety improvements. Highway 69 through Gardner is a frequent site of speeding and crashes, and pedestrian safety is a concern. The grant would fund a sidewalk through the town and some additional measures to slow traffic and improve safety.

Application is for funding that would become available in July of 2025.

Financial Considerations

The program provides a 90-10 federal match; it is anticipated that the 10% match would be met by CDOT as all of the proposed improvements are within the CDOT ROW. CDOT allows local agencies to petition for HSIP projects in CDOT right-of-way, and the 10% match would only apply to the County for any work done outside of the Right-of-Way, which is not proposed in this project.

Total cost estimates for this project are \$802,829.

Our Project

The work proposed for this grant includes several Proven Safety Countermeasures identified by FHWA as project types eligible for this funding. These include constructing a multi-use path parallel to Highway 69 through Gardner, installing pedestrian-scale lighting, crosswalks, and medians at two locations constructed to create pedestrian crossing islands.

Additional safety features include: signage, street trees, a buffer zone between the sidewalk and the highway, on-street parking, clearly defined access points at driveways and intersections, a pedestrian crossing over the arroyo, and vertical barriers at the sharp curve in town.

Alignment with County objectives:

Constructing sidewalks or a multi-use path through Gardner will improve safety of motorists by serving as traffic calming, reducing speeds through a congested area and increasing the probability that speeds at the sharp curves in the road are taken at safer speeds, and by creating more clearly defined and visible roadway edges.

The project will also increase the safety and mobility of non-motorized users. The current situation is unsafe for non-motorized users, and as such also discourages active modes of transportation. Not only will non-motorized transportation be made safer, it will become a more attractive option to residents, students and visitors currently discouraged by the unsafe conditions.

Background

As Hwy 69 enters Gardner, there are no visual cues to drivers that they are entering a village and that slower speeds are required; there are no sidewalks through the village, and pedestrians regularly walk or bike along the highway. Drivers regularly speed through the village, putting residents and themselves at risk.

There is a sharp curve in Highway 69 in the middle of the village, which requires slow speeds, but traffic often speeds through the village, making the curve particularly dangerous. On the West end of Gardner, there is a curve in the highway that is associated with multiple crashes, as drivers regularly hit this curve at speeds too high to safely navigate the road. The property owner located at the sharp curve has had multiple vehicles crash into the building, and has installed large rocks between the road and the building to create an additional barrier.

There was a recent incident in 2022 in which a teenager was walking along the side of the highway and was hit by a vehicle, resulting in serious injuries. Had there been a dedicated path for pedestrians, this likely could have been avoided.

Key Words

HSIP, Multi-Use path, sidewalk, Gardner, Hwy 69

Federal Highway Safety Improvement Program (HSIP) Local Agency Application (submit applications to Regional Traffic Engineer)

<https://www.codot.gov/safety/traffic-safety/safety-programs-data/hsip>

Requesting Agency: Huerfano County

Submitted By: Sky Tallman

Title: Land Use Director

Email: stallman@huerfano.us

Phone: 719-738-1220 x108

Date: 10/27/2022

(All fields required unless otherwise noted)

1) Location (Road Number, Street, Milepost, etc.):

State Highway 69A, MP 24.48 to MP 26.49 through Gardner.

2) Documented crash history (if available, otherwise CDOT crash database will be used for evaluation using the most recent available three to five years of crash data):

CDOT's Crash Patterns and LOSS maps show that between MP 24.48 and 26.49, there were 7 PDO crashes and 5 injury crashes between 2014 and 2018. Recently, a pedestrian was hit by a vehicle and was severely injured.

3) Traffic volume (if available. Average daily traffic for roadways and all approaches at intersections):

662 AADT

4) Description/Illustration of existing safety concern:

As Hwy 69 enters Gardner, there are no visual cues to drivers that they are entering a village and that slower speeds are required; there are no sidewalks through the village, and pedestrians regularly walk or bike along the highway. Drivers regularly speed through the village, putting residents and themselves at risk.

There is a sharp curve in Highway 69 in the middle of the village, which requires slow speeds, but traffic often speeds through the village, making the curve particularly dangerous. On the West end of Gardner, there is a curve in the highway that is associated with multiple crashes, as drivers regularly hit this curve at speeds too high to safely navigate the road. The property owner located at the sharp curve has had multiple vehicles crash into the building, and has installed large rocks between the road and the building to create an additional barrier.

There was a recent incident in 2022 in which a teenager was walking along the side of the highway and was hit by a vehicle, resulting in serious injuries. Had there been a dedicated path for pedestrians, this likely could have been avoided.

5) Description/Illustration of proposed improvement and the extent to which it addresses the crash problem:

The following Proven Safety Countermeasures will be a part of the scope of work for this project: walkways, crosswalks, lighting and crosswalk visibility enhancements, and medians.

Walkways: Constructing a multi-use path through the unincorporated village of Gardner parallel with State Highway 69 will improve safety in multiple ways. Walkways are a proven safety countermeasure recognized by FHWA to improve the safety and mobility of pedestrians, reducing the risk of crashes by 65-89%.

This project will give pedestrians a safe place to walk, separated from traffic (an option that currently does not exist). Second, the sidewalk will give the highway a clearly defined edge, creating the appearance of a narrower, more congested road, which should have some effect on slowing down traffic, which will improve safety for all users. While the highway is only two lanes and too narrow for traditional road diet treatments, additional design features could be added to calm traffic.

Crosswalks: Existing and planned uses generate pedestrian traffic. Adding lit crosswalks at strategic locations will improve pedestrian safety.

Medians: At two locations, 6'x40' raised medians will be constructed to create pedestrian crossing islands. One median would be placed near the entrance to the Community Center on the east end of Gardner, where crossing activity will soon increase due to a housing and economic development project being planned behind the Community Center. 20 or more additional housing units will be constructed as part of the project, which will increase pedestrian activity at that location. The other median would be located toward the west end of town at a location near the school.

Lighting: pedestrian-scale lighting will be installed along the multi-use path, improving safety for both motorists and pedestrians. The lit path will be safer for walking at night. The lights along the side of the road will help motorists see the edge of the road, anticipate the curve and see potential conflicts at night.

Additional safety features include: signage, street trees, a buffer zone between the sidewalk and the highway, on-street parking, clearly defined access points at driveways and intersections, a pedestrian crossing over the arroyo, and vertical barriers at the sharp curve in town.

Constructing sidewalks or a multi-use path through Gardner will improve safety of motorists by serving as traffic calming, reducing speeds through a congested area and increasing the probability that speeds at the sharp curves in the road are taken at safer speeds, and by creating more clearly defined and visible roadway edges.

The project will also increase the safety and mobility of non-motorized users. The current situation is unsafe for non-motorized users, and as such also discourages active modes of transportation. Not only will non-motorized transportation be made safer, it will become a more attractive option to residents, students and visitors currently discouraged by the unsafe conditions.

6) Amount of funding requested for proposed safety improvement*

Federal share amount: 643994 ^

State match amount: 71555 ^

Local match amount: 0

Project is to take place within CDOT Right-of-Way.

*The federal share for HSIP projects is 90 percent. CDOT (state) will provide 10 percent match on projects located along the state highway system. Local agencies will provide 10 percent match for projects that are located off the state highway system.

^Benefit/Cost evaluation will be based off the federal and state amounts listed above.

7) Total estimated proposed safety improvement cost

(Preliminary cost estimate tabulation recommended):

Multi-Use Path Cost Estimates (December, 2022)

Lighting (66 lights): \$137,700

Crosswalks (six): \$28,800

Medians (two 6'x40'): \$93,600

Sidewalk Crusher Fines: \$31,400

Fine Grading: \$10,620

Bridge (360 square feet): \$90,000

Place Bridge (lump sum): \$48,000

Bridge Abutments: \$21,600

Earthwork: \$60,000

Rip Rap Abutment Protection: \$5,800

Survey: \$6,000

Subtotal: \$557,520

Design/Engineering (12%): \$66,902

Construction Administration (8%): 44,602

Contingency (20%): \$133,805

Total: \$802,829

For information only

8) Planned construction advertise date:

August, 2025

Projected timeline 8-12 months from start date.

9) Planned construction completion date:



Colorado Department of Transportation Huerfano Co Signature Sheet

FIPS Code : 055

1/20/2022

Item 7f.

- 162.290 miles of arterial streets
- 513.278 miles of local streets
- 675.568 total miles of H.U.T. eligible streets
- 108.140 miles of non H.U.T. eligible streets - Maintained by others
- 58.550 miles of non H.U.T. eligible streets - Not maintained

This mileage is the certified total as of December 31, 2022

I declare under penalty of perjury in the second degree, and any other applicable state or federal laws, that the statements made on this document are true and complete to the best of my knowledge.

The Colorado Department of Transportation can contact the following person with questions regarding this report:

Commissioner Date

Name Phone

Commissioner Date

Submit this signed copy with your annual mileage change report to the Colorado Department of Transportation.

Commissioner Date

Commissioner Date

Commissioner Date

We are required to inform you that a penalty of perjury statement is required pursuant to section 18-8-503 C.R.S. 2005, concerning the removal of requirements that certain forms be notarized.

Huerfano County, Colorado

Item 7g.

401 Main Street
 Walsenburg, Colorado 81089
 Phone: 719-738-2370
 Population: 6,820 Size: III - Medium



January 25, 2023

Description	Qty	Price
Hardware/Supplies		
(1) CIC Cloud - Web Site Hosting (Includes Unlimited Concurrent Users, Virus Protection, SQL Server & SSL Certificate plus 20.0Mbps Committed Information Rate (CIR) Access) - Annual Lease	(1)	
(2) Maximum Disk Storage (5GB)	(1)	895.00
(3) Initial Data Replication (Hours)	(1)	150.00
(4) Installation / Training (Hours)	(1)	150.00
(5) Support	(1)	90.00
Software/Transition		
Payroll / Personnel		
(1) Software	(1)	\$9,120.00
(2) Data Translation (Hours)	(24)	3,600.00
(3) Installation / Training (Hours)	(36)	5,400.00
(4) Enhancements	(1)	640.00
(5) Support	(1)	2,645.00
(6) Time Clock Plus v7 Professional Edition (Electronic Download) w/ Shift Differential, Automation Utility Module, AutoImport Module, Export Module / Payroll Interface	(1)	2,745.00
(7) Employees	(131)	4,585.00
(8) Installation / Training (Hours)	(24)	3,600.00
(9) Interface Enhancements / Support	(1)	1,835.00
PEOPLEWARE		
(1) Miscellaneous Expenses, i.e. travel, mileage, lodging, meals, etc., at cost, will be paid by Customer upon receipt of a separate CIC invoice.	(1)	
Total Hardware/Software/PEOPLEWARE		\$35,455.00

This proposal represents our latest available information; however, rapidly evolving technology requires the execution of price protection documents to finalize costs.

Further, the information contained in this proposal and in all attachments is confidential, privileged and/or proprietary and intended for the exclusive use of the addressee(s). Any unauthorized review, use, disclosure, replication or distribution is strictly prohibited.

Huerfano County, Colorado

401 Main Street
Walsenburg, Colorado 81089
Phone: 719-738-2370
Population: 6,820 Size: III - Medium



January 25, 2023

Description	Qty	First Year	Subs. Years
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On-going Cost Analysis:

Purchase Option

CIC Initial Hardware / Software / PEOPLEWARE Agreement	\$35,455.00	\$0.00
CIC Annual PEOPLEWARE Enhancement / Support Agreement	Included	6,105.00
Total Hardware/Software/PEOPLEWARE	<hr/> \$35,455.00	<hr/> \$6,105.00

This proposal represents our latest available information; however, rapidly evolving technology requires the execution of price protection documents to finalize costs.

Further, the information contained in this proposal and in all attachments is confidential, privileged and/or proprietary and intended for the exclusive use of the addressee(s). Any unauthorized review, use, disclosure, replication or distribution is strictly prohibited.

CIC SOFTWARE LICENSE AGREEMENT

This AGREEMENT is dated for reference purposes this 27th day of January, 2023 by and between Computer Information Concepts, Inc., a Colorado Corporation, (hereinafter referred to as "CIC") and Huerfano County, CO, (hereinafter referred to as "Customer").

WITNESSETH:

WHEREAS, CIC has developed certain computer software products described below;
and

WHEREAS, CIC and Customer desire to enter into an Agreement wherein CIC will license the computer software products to Customer upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties agree as follows:

1. SOFTWARE. CIC hereby licenses to Customer the use of the following property (collectively, "Software"): (i) the computer software products described in Exhibit A; (ii) the machine readable code; (iii) related documentation, information and derivative works; (iv) revised and corrected versions ("Updates"); (v) enhanced and improved versions of such programs and documentation which become available hereunder ("Enhancements"); and (vi) all copies of the foregoing, which are permitted by this Agreement.
2. OWNERSHIP. Customer acknowledges that the Software and all copyright, trade secrets and other right, title and interest therein, are the sole property of CIC and that Customer shall gain no right, title or interest in the Software by virtue of this Agreement other than the nonexclusive right of use granted herein.
3. LICENSE OF SOFTWARE. In consideration of Customer's payment of a Software License Fee, CIC grants to Customer a perpetual, personal, non-transferable and nonexclusive right and license to use the Software. Customer represents, warrants and agrees that the Software will be used only as provided in this Agreement and only for the benefit of Customer.
4. MAINTENANCE / SUPPORT. CIC shall provide to Customer such Updates and Enhancements, if any, as are generally released by CIC to all customers from time to time.

5. PROPRIETARY DATA / CONFIDENTIALITY. Customer acknowledges that the information contained in the Software is confidential and contains trade secrets and proprietary data belonging to CIC. Customer shall implement all reasonable measures necessary to safeguard CIC's ownership of, and the confidentiality of, the Software, including without limitation: (i) not to allow any person access to the Software other than its employees, agents and consultants who require such access for the performances of their ordinary services to Customer, and then only to the extent necessary to permit the performance of such services and to require, as a condition to such access, that such persons comply with the provisions of this Section 5; (ii) to cooperate with CIC in the enforcement of such compliance by Customer's employees, agents and consultants; (iii) not to permit the removal or alteration of any copyright or confidentiality labels or notices contained in the Software; (iv) not to modify, translate, disassemble, decompile or reverse engineer the Software; and (v) not to duplicate or reproduce the Software, except that Customer may make one archival copy and, if necessary, one copy to run temporarily on a replacement computer for backup in an emergency, and then in either case only if all copyright and confidentiality notices are included in the copy. Customer acknowledges that use or disclosure of the Software in violation of this Agreement may cause irreparable harm to CIC.

6. WARRANTY AND LIMITATION OF REMEDY. CIC warrants to Customer that the Software was independently developed by it or duly licensed from third parties and shall neither infringe upon nor violate any patents, copyrights, trade secrets or other proprietary rights of any other party. CIC's sole obligation in respect of a breach of the foregoing warranty shall be to modify or replace, where reasonably possible, the Software so as to eliminate the infringement. Customer shall give CIC prompt written notice of any claims under the foregoing warranty.

The foregoing warranty shall not apply to the extent that any alleged infringement derives from: (1) a combination of the Software with any program, equipment or device not supplied or recommended by CIC; (2) Customer's failure to install promptly any Updates or Enhancements provided by CIC under this Agreement. CIC's liability shall not exceed the Software license fees received by CIC from Customer.

7. TERMINATION. If either party fails to perform its obligations as set out in this Agreement, this Agreement may be terminated upon written notice to the defaulting party. Customer shall upon receipt of such termination notice immediately: (i) purge all Software from all computer systems, storage media and other files; (ii) return to CIC all copies (including partial copies) of the Software; and (iii) certify to CIC in writing that it has complied with the foregoing obligations and has not provided total or partial copies of the Software to any third party. The expiration or termination of this Agreement for any reason shall not extinguish or diminish Customer's obligations hereunder to maintain the confidentiality of the Software, which obligation is continuing and shall survive termination of this Agreement.

8. ASSIGNMENT. This Agreement is personal to Customer and neither this Agreement nor any of the Customer's rights or duties hereunder shall be assigned, sublicensed, sold or otherwise transferred by Customer, including to any successor-in-interest to Customer without CIC's prior written consent.

9. GOVERNING LAW. This Agreement shall be governed by and interpreted in accordance with the laws of the State of Colorado.

10. STATUS. The parties agree and understand that both parties shall perform their obligations hereunder as independent contractors, and nothing contained herein shall imply an employer - employee relationship, a joint venture, partnership, or other association between CIC and Customer.

11. ENTIRE AGREEMENT/MODIFICATION. This Agreement constitutes the entire Agreement between the parties and any and all prior Software License Agreements for earlier versions of the same Computer Software Products between the parties hereto with respect to the subject matter of this Agreement are hereby canceled and terminated. No variation or modification of this Agreement, and no waiver of any of the Agreement's provisions or conditions, shall be binding unless made in writing and signed by duly authorized personnel of CIC and Customer.

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

By: Melayna R. Clark-Rael
Computer Information Concepts, Inc.

By: _____
Huerfano County, CO

EXHIBIT A

Computer Software Products

Payroll / Personnel

ANNUAL PEOPLEWARE AGREEMENT

THIS AGREEMENT is made and entered into as of June 1, 2023, by and between

Computer Information Concepts, Inc.
2843 31st Avenue
Greeley, Colorado 80631

a Colorado Corporation, hereinafter referred to as "CIC" and

Huerfano County
401 Main Street
Walsenburg, Colorado 81089

hereinafter referred to as "Customer".

WITNESSETH:

WHEREAS, CIC has determined to provide Customer access to support, enhancements and training for Customer's computer hardware, operating and application systems, communication networks and/or other related areas of Customer's automation environment, hereinafter referred to as "Annual PEOPLEWARE" and additional products and/or services Customer may request in the future, to maintain or enhance Customer's automation environment, hereinafter referred to as "Products / Services"; and

WHEREAS, Customer has elected to purchase CIC's Annual PEOPLEWARE as evidenced on Exhibit A, attached hereto and by this reference made a part hereof, and in the future may purchase additional Products / Services, as will then be evidenced on Exhibit B(s), "SAMPLE" attached hereto and by this reference made a part hereof.

NOW THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties agree that CIC will deliver Annual PEOPLEWARE to Customer, twenty-four (24) hours/day, seven (7) days/week.

ANNUAL PEOPLEWARE

A. Hardware

Maintenance - CIC will assist in problem determination and cooperate with Customer and Customer's maintenance personnel to maximize up time. Although CIC may recommend computer hardware maintenance options, actual agreement execution and resultant costs, remain Customer's responsibility.

Emergency Backup - CIC will provide personnel to assist Customer in locating backup computer hardware; coordinate the temporary relocation of Customer's operating / application systems / data and assist in Customer's emergency processing, at CIC's then current hourly rate.

B. Software

Operating Systems – CIC trained personnel will promptly respond / resolve all connectivity and communication questions, problems, etc. encountered in the use of your hardware, operating systems, local area and wide area networks, including hubs, routers, VPN devices, communication lines, etc. and will inform, recommend and assist you in ordering / pre-testing all future operating system releases, enhancements and/or program temporary fixes from CIC's vendors necessary to maintain your hardware at a level supportable by CIC.

Application Systems – CIC develops and maintains a working knowledge of not only the Application Systems, but more importantly, how each of our many features are currently used in your operation, permitting our PEOPLEWARE Team's active participation in recommending procedural changes necessary to increase utilization of our new features and enhancements as they become available. Following initial implementation, CIC will continue to inform, recommend and assist in ordering, providing and pre-testing all new Application System Releases, Enhancements and/or Program Temporary Fixes from CIC's vendors, as necessary, to maintain your software at a level supportable by CIC.

Future Releases / Enhancements / Program Temporary Fixes – CIC will inform, recommend and assist Customer in ordering / pre-testing all future operating or application system releases, enhancements and/or program temporary fixes from CIC and CIC's vendors necessary to maintain Customer at a level supportable by CIC. Actual acquisition and/or on-site installation / implementation costs for such future releases, enhancements and/or program temporary fixes remain Customer's responsibility unless specifically included on Exhibit A.

C. PEOPLEWARE

“INSTANT Response” – Customers utilizing our **“Internet Accessible” Annual PEOPLEWARE System (APS)** to log support calls by **“Task Code” - Twenty-Four (24) Hours/Day – Seven (7) Days/Week**, may enter their specific questions and/or concerns in their own words, attach all related screen / report images for further clarification, select priority / maximum response times of **IMMEDIATE**, 2, 4 or 8 working hours and receive automatic e-mail updates triggered by every support call action.

1. **APS** provides retrieval / displays CIC's resolution documentation for a date range within the same **“Task Code”** to our staff, providing immediate resolution for a high percentage of your support calls along with excellent cross training to prevent related calls in the future.

2. Our **APS “Quick Reference”** also provides Customers instant access to our most current Web Based Documentation for your specific **“Task Code”**, saving you valuable time normally spent looking for your current copy of CIC's manual or the applicable section, page and paragraph.

3. **APS** enables our Customers to confirm CIC's open support call status (Internet & Telephone), reassignment, escalation and projected resolution date / time plus provide an opportunity for our Customers to add additional information to their original open call(s) at any time.

4. When requested, **APS** displays a list of current **“PeopleWires”**, which describe CIC known problems / issues communicated to our Customers. If a CIC program temporary fix (PTF) is available, our FTP location and automatic downloading instructions will be provided. Otherwise, CIC's recommended **“temporary work around”** with instructions can be viewed and printed, along with our current estimated PTF availability.

5. Finally, using **APS**, Customers are provided the ability to access their Support Issues, along with all associated Actions and Resolutions, that have been closed within the past year by “Keyword”, Date Range and/or Reference Number.

Toll Free Access – CIC will continue to provide Customer with toll free telephone access plus CIC’s assistance in entering Customer’s questions / concerns and requested maximum response time of 2, 4 or 8 working hours into CIC’s Annual PEOPLEWARE System.

Support – In summary, CIC will provide the computer hardware, operating and application systems, communication networks and/or other related support necessary to assure Customer’s optimum utilization of existing / future functionality regardless of Customer’s employee turnover, reassignment and/or future operating or application system releases, enhancements and/or program temporary fixes, by telephone, “**DESKTOP Response**” and/or “**ON-DEMAND Response**” unless, dependent upon severity, expediency and other pertinent factors, CIC determines to travel to Customer’s location.

Training - CIC will also provide the computer hardware, operating and application systems, communication networks and/or other related training necessary to assure Customer’s optimum utilization of existing / future functionality regardless of Customer’s employee turnover, reassignment and/or future operating or application system releases, enhancements and/or program temporary fixes, at CIC’s then current telephone / “**DESKTOP Response**” / “**ON-DEMAND Response**” hourly rates or regional workshop / on-site daily rates.

Problem Identification / Vendor Communication - Customer assumes responsibility for identifying probable cause and providing additional information as required, to assist CIC and CIC’s vendors in resolving Customer’s questions / concerns. CIC assumes exclusive responsibility for communicating and coordinating with all vendors in resolving Customer’s questions / concerns.

Products / Services - CIC will maintain the configuration, system / communication schematics, file utilization and staff knowledge necessary to assure the continuing compatibility of any Products / Services purchased from CIC with Customer’s existing computer hardware, operating and application systems, communication networks and/or other related areas of Customer’s automation environment.

Site Evaluation - CIC will periodically review and discuss Customer’s satisfaction with the Annual PEOPLEWARE and Products / Services provided by CIC and CIC’s vendors, the effectiveness of Customer’s computer hardware, operating and application systems, communication networks and/or other related areas of Customer’s automation environment and recommend additional Annual PEOPLEWARE and/or Products / Services for Customer’s consideration.

GENERAL

Delivery - Although CIC may assist Customer in purchasing and coordinating the timely delivery and installation of Products / Services from CIC’s vendors, CIC shall not be liable for any damages, penalty for delay in delivery and/or failure to give notice of delay when such delay is due to acts of God, delay in transportation, delay in delivery or any other causes beyond the reasonable control of CIC.

Access - Subject to statutory or Customer determined limitations, Customer agrees to permit CIC’s employees access to Customer’s computer hardware, operating and application systems, communication networks and/or other related areas of Customer’s automation environment including access to Customer’s Internet connection and a telephone, for purposes of performing CIC’s obligations under this Agreement.

Customer further agrees to make its employees available to CIC at Customer's location to facilitate effective implementation / utilization of Annual PEOPLEWARE and/or Products / Services and understands that failure to do so can result in additional CIC effort / time, which may be billable to Customer.

Non-Disclosure - CIC and Customer acknowledge confidential information considered proprietary by one of the parties may be furnished by it to the other party from time to time in the performance of this Agreement. CIC and Customer agree to not discuss, reveal or provide such confidential information except to the extent disclosure is required by law or by an order of a court of competent jurisdiction.

The parties further agree the proprietary nature of CIC's Annual PEOPLEWARE procedures and related documentation are of substantial importance and it shall be Customer's obligation to protect said procedures and related documentation from unauthorized disclosure or use and to destroy all such confidential information upon the expiration or termination of this Agreement.

Additional Expenses – All miscellaneous expenses incurred by CIC, i.e., travel, mileage, lodging and meals are additional and will be invoiced at cost and paid monthly to CIC by Customer upon receipt of invoice, unless otherwise stated herein.

Financial Liability – Each party shall be solely responsible for any liability resulting from that party’s negligence.

Ownership - Customer will defend and indemnify CIC against any claim or legal proceedings with regard to Customer’s proprietary rights to use all computer hardware, operating and application systems, communication networks and/or other related areas of Customer's automation environment. CIC will defend and indemnify Customer against any claim or legal proceedings with regard to CIC's proprietary rights to provide the Annual PEOPLEWARE and Products / Services delivered in this Agreement subject to CIC's and CIC's respective vendor software license agreements, which CIC shall provide and Customer agrees to sign.

Warranty and Limitation of Remedy - CIC warrants the Products provided hereunder will perform according to the respective vendor's and CIC’s published specifications, that any and all such warranties provided by the manufacturers or original vendors shall be passed on and inure to the benefit of the Customer. CIC further warrants the Annual PEOPLEWARE and Products / Services provided under this Agreement will not prevent the Customer’s computer hardware, operating and application systems, communication networks and/or other related areas of Customer's automation environment from operating and providing the functionality previously available to Customer. The warranty stated herein shall survive during the entire term of this Agreement.

The aforesaid warranty and CIC's obligation and liabilities thereunder are in lieu of, and Customer hereby waives, all other guarantees and warranties and all obligations and liabilities thereunder, expressed or implied arising by law or otherwise, including without limitation any implied warranty of fitness for a particular purpose or of merchantability, and all obligations and liabilities with respect to loss of use, indirect and consequential damages including but not limited to loss of profits or revenue, loss of use of equipment, costs of substitute equipment, or other down-time costs.

Customer agrees CIC's maximum liability will be limited to the EXHIBIT A - ANNUAL PEOPLEWARE TOTAL CIC received in the most recent year, minus any funds owed or disbursed for support and enhancements.

Non-Employment - Independent of any other obligation under this Agreement, CUSTOMER and CIC agree to not intentionally, whether directly or indirectly, whether as an individual for its own account, for or with any other person, firm, corporation, partnership, joint venture, association, organization, or other entity whatsoever, interview or attempt to employ, contract with or otherwise obtain the services of a current or former employee of the other party without such party's approval, for a period of one (1) year after completion of this Agreement. The interviewing company agrees to inform the employee that notification must be made to their current (or past) employer prior to any offer being extended to the individual. This provision is not intended to restrict the civil rights or liberties of any private individual, but to curtail counter productive human resource depletion of one (1) party for the advantages of the other party while both parties have rights and obligations under this Agreement.

Execution / Term - This Agreement is in full force and effect as of the date of execution, for one (1) year from the day and year first above written and shall be considered renewed annually by CIC's issuance of an invoice for this same EXHIBIT A - ANNUAL PEOPLEWARE TOTAL or in subsequent years, CIC's revised EXHIBIT A - ANNUAL PEOPLEWARE TOTAL and invoice paid by Customer, within thirty (30) days of each renewal date.

Notwithstanding the foregoing, Customer may terminate this Agreement for cause upon ninety (90) days written notice to CIC and the EXHIBIT A - ANNUAL PEOPLEWARE TOTAL received by CIC in the most recent year, minus any funds owed or disbursed for support and enhancements, prorated through the date of such termination, returned to Customer, providing CIC is given such ninety (90) days to resolve the issues at hand to Customer's satisfaction.

Either party may also terminate this Agreement in writing, at least ninety (90) days prior to each renewal date.

Governing Law - This Agreement constitutes the entire Agreement between the parties, and shall be construed in accordance with the laws of the State of Colorado.

Waiver - The waiver of one breach or default hereunder shall not constitute the waiver of any subsequent breach or default.

Assignment - This Agreement shall be binding upon and shall inure solely to the benefit of the parties hereto and their respective successors in interest and not for the benefit of any other person or legal entity.

Although CIC may assign data translation, installation, training, support and enhancement development to its vendors, distributors and/or subcontractors, CIC shall at all times be responsible for their performance.

Entire Agreement - The Agreement and the attachments hereto represent the entire agreement between the parties and shall supersede all existing contracts and/or agreements previously executed between said parties, with respect to the subject matter hereof. All parties have negotiated this Agreement at arms length, and no party shall be deemed as the drafter of the Agreement for purpose of interpreting any potential ambiguities in the Agreement and each provision and Exhibit hereof, may be modified only in writing duly executed by all parties. In the event Customer issues a purchase order or other instrument for the Annual PEOPLEWARE and/or Products / Services herein specified, it is understood and agreed that such purchase order or other instrument is for the Customer's internal use and purpose only and shall in no way affect any of the terms and conditions of this Agreement.

Status - CIC shall be considered an independent contractor, and this Agreement does not constitute or imply that CIC is or will be an employee of Customer.

Insurance – During the term of this Agreement, CIC shall carry and maintain Workmen's Compensation and Employer's Liability Insurance covering its employees in accordance with statutory requirements applicable to the performance of its business.

Subject Headings - The subject headings of the paragraphs of this Agreement are included for purposes of convenience only, and shall not affect the construction or interpretation of its provision.

Severability - In the event that any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, such provision shall be changed and interpreted to accomplish the objectives of such provision to the greatest extent possible under applicable law and the remaining provisions of this Agreement shall continue to remain in effect.

Notices - The notices to be given under this Agreement shall be made in writing and shall be sufficient if delivered personally or mailed by First Class United States Mail, postage prepaid, to the other party at the address previously indicated.

The parties hereto have executed this Agreement the day and year first above written.

By: Melayna R. Clark-Rael
Computer Information Concepts, Inc.

By: _____
Huerfano County, CO

Annual PEOPLEWARE Agreement by and between Computer Information Concepts, Inc. (CIC) and Huerfano County, CO, dated June 1, 2023

ANNUAL PEOPLEWARE

\$895.00 Support – Operating Systems

895.00 CIC Cloud - Web Site Hosting (Includes Unlimited Concurrent Users, Virus Protection, SQL Server & SSL Certificate plus 20.0Mbps Committed Information Rate (CIR) Access) - Annual Lease – 5GB

4,570.00 Support – Application Systems

90.00 CIC Cloud - Web Site Hosting (Includes Unlimited Concurrent Users, Virus Protection, SQL Server & SSL Certificate plus 20.0Mbps Committed Information Rate (CIR) Access) - Annual Lease – 5GB

2,645.00 Payroll / Personnel

1,835.00 Time Clock Plus v7 Professional Edition (Electronic Download) w/ Shift Differential, Automation Utility Module, AutoImport Module, Export Module / Payroll Interface

640.00 Enhancements – Application Systems

640.00 Payroll / Personnel

\$6,105.00 **ANNUAL PEOPLEWARE TOTAL**

EXHIBIT B#

Annual PEOPLEWARE Agreement by and between Computer Information Concepts, Inc. (CIC) and Huerfano County, CO, dated June 1, 2023

PRODUCTS / SERVICES TO BE PROVIDED:

Description	Qty	Retail	Discounted
TOTAL RETAIL PRICE		\$x,xxx.xx	
TOTAL EXHIBIT PRICE			\$x,xxx.xx

Miscellaneous Expenses, i.e.; travel, mileage, lodging, meals, etc., at cost, will be paid by Customer upon receipt of a separate CIC invoice.

SCHEDULED DELIVERY:

It is anticipated the Products / Services will be delivered / provided within thirty (30) days after CIC's receipt of this signed exhibit and your Check or Purchase Order.

ACCEPTANCE / PAYMENT TERMS:

To complete the ordering process, please:

1. Mail a signed copy of this Exhibit along with your Check for the Total Exhibit Price to 2843 31st Avenue, Greeley, Colorado 80631

OR

2. Fax a signed copy of this Exhibit along with your Purchase Order for the Total Exhibit Price to (970) 330-0839. Full Payment will then be due and payable upon delivery of the Products / Services.

Failure to execute within twenty (20) days will render this Exhibit null and void.

By: _____
Computer Information Concepts, Inc.

By: _____
Customer

Exhibit Date

Acceptance Date

HARDWARE, SOFTWARE AND/OR INITIAL PEOPLEWARE AGREEMENT

THIS AGREEMENT is made and entered into as of January 27, 2023 by and between

Computer Information Concepts, Inc.
2843 31st Avenue
Greeley, Colorado 80631

a Colorado Corporation, hereinafter individually referred to as "CIC" and

Huerfano County
401 Main Street
Walsenburg, Colorado 81089

hereinafter referred to as "Customer".

WITNESSETH:

WHEREAS, CIC has determined to provide Hardware, Software, and/or Initial Peopleware further described in Exhibit A, attached hereto and by this reference made a part hereof, all in accordance with the schedule shown on Exhibit B, also attached hereto and by this reference made a part hereof; and

WHEREAS, Customer desires to purchase said Hardware, Software and/or Initial Peopleware from CIC and agrees to pay CIC the amounts shown, on or before the dates indicated, all as further described on Exhibit B;

NOW THEREFORE, in consideration of the mutual covenants and promises contained herein, the parties agree as follows:

Delivery - Although CIC may assist Customer in purchasing products/services from vendors not represented in this Agreement, in addition to coordinating the timely delivery and installation of all of the products, CIC shall not be liable for any damages, penalty for delay in delivery or for failure to give notice of delay when such delay is due to acts of God, delay in transportation, delay in delivery by CIC's vendors or any other causes beyond the reasonable control of CIC.

Access - Subject to statutory limitations or Customer determined limitations, Customer agrees to permit CIC's employees, for purposes of performing CIC's obligations under this Agreement, access to the Customer's hardware, software and/or related data, and shall provide access to a telephone available for use by CIC's employees when present at Customer's location. Customer further agrees to make its employees available to CIC at Customer's location to facilitate implementation of the Hardware, Software and/or Initial Peopleware and/or Products/Services and understands CIC may extend the schedule on Exhibit B, by a period of time equal to any time lost because of Customer's failure to provide such access, excepting Customer may not delay payments due CIC, unless CIC also agrees to such delay.

Non-Disclosure - CIC and Customer acknowledge confidential information considered proprietary by one of the parties may be furnished by it to the other party from time to time in the performance of this Agreement. CIC and Customer agree to not discuss, reveal or provide such confidential information except to the extent disclosure is required by law or by an order of a court of competent jurisdiction.

The parties further agree the proprietary nature of CIC's PEOPLEWARE procedures and related documentation is of substantial importance and it shall be Customer's obligation to protect said PEOPLEWARE procedures and related documentation from unauthorized disclosure or use.

Additional Expenses - All miscellaneous expenses incurred by CIC, i.e., travel, mileage, lodging and meals will be considered additional and will be invoiced at cost and paid monthly to CIC by Customer upon receipt of invoice, unless otherwise stated herein.

Financial Liability - Each party shall be solely responsible for any liability arising from injury to any person or damage to any property resulting from the negligence of that party's employees while either on the other party's premises or traveling to or from the other party's premise. Each party, at its expense, will defend any claim or legal proceeding which is brought against the other party but which is based upon the action of the responsible party, and the responsible party will likewise pay any judgment or settlement so awarded or agreed to; provided the other party gives prompt notice of such claim or legal proceeding and cooperates in such defense.

CIC will also defend and indemnify Customer against any claim or legal proceedings with regard to CIC's proprietary rights to provide the Hardware, Software and/or Initial Peopleware and Products/Services included in this Agreement.

Ownership - Customer shall have title, interest and right to use all Hardware, Software and/or Initial Peopleware and Products/Services provided in this Agreement subject to CIC's and CIC's respective vendor license agreements, which CIC shall provide and Customer agrees to sign.

Maintenance - Although CIC will provide recommendations regarding Hardware, Software and/or Peopleware maintenance options, actual agreement execution and resultant costs, remain Customer's responsibility. As a part of this Agreement but at an additional cost unless specifically included herein, CIC agrees to offer, under separate cover, an Annual Peopleware Agreement which provides Customer with centralized access to technical support and training assistance relating to Customer's hardware, operating and application software, communication networks and/or other areas of Customer's computer installation and with additional products/services Customer may request to maintain or further enhance Customer's automation, in the future.

Warranty and Limitation of Remedy - CIC warrants the Hardware and the Software provided hereunder will perform according to the respective vendor's published specifications, and that any and all such warranties provided by the manufacturers or original vendors shall be passed on and inure to the benefit of the Customer. CIC further warrants the Initial Peopleware and Services provided under this Agreement will not prevent the Hardware and Software from operating and providing the functionality previously available to Customer. The warranty stated herein shall survive during the entire term of this Agreement.

The aforesaid warranty and CIC's obligation and liabilities thereunder are in lieu of, and Customer hereby waives, all other guarantees and warranties and all obligations and liabilities thereunder, expressed or implied arising by law or otherwise, including without limitation any implied warranty of fitness for a particular purpose or of merchantability, and all obligations and liabilities with respect to loss of use, indirect and consequential damages including but not limited to loss of profits or revenue, loss of use of equipment, costs of substitute equipment, or other down-time costs. Customer agrees CIC's maximum liability will be limited to the amount CIC received from Customer for Initial Peopleware and Services provided under this Agreement.

Non-Employment - Independent of any other obligation under this Agreement, CUSTOMER and CIC agree to not intentionally, whether directly or indirectly, whether as an individual for its own account, for or with any other person, firm, corporation, partnership, joint venture, association, organization, or other entity whatsoever, interview or attempt to employ, contract with or otherwise obtain the services of a current or former employee of the other party without such party's approval, for a period of one (1) year after completion of this Agreement. The interviewing company agrees to inform the employee that notification must be made to their current (or past) employer prior to any offer being extended to the individual. This provision is not intended to restrict the civil rights or liberties of any private individual, but to curtail counterproductive human resource depletion of one (1) party for the advantages of the other party while both parties have rights and obligations under this Agreement.

Execution/Term - This Agreement is in full force and effect as of the date of execution and shall continue through the date of the Final Review of Hardware, Software and/or Initial Peopleware plus Final Payment referenced on Exhibit B.

Non-Appropriation of Funds - In the event Customer funds are not budgeted and appropriated in any fiscal year for payments due under this Agreement for the then current or succeeding fiscal year, this Agreement shall impose no obligation on the Customer as to such current or succeeding fiscal year and shall become null and void except as to the payments herein agreed upon for which funds shall have been appropriated and budgeted, and no right of action or damage shall accrue to the benefit of CIC, its successors or assigns, for any further payments.

If the aforementioned Non-Appropriation of Funds provision is utilized, Customer agrees to immediately notify CIC, its successors or assigns and to peaceably surrender possession of the Hardware, Software and/or Initial Peopleware provided under this Agreement to CIC, its successors or assigns. Customer also agrees to not purchase, lease or rent any other Hardware, Software and/or Initial Peopleware capable of performing similar Customer functions for a period of ninety (90) days from the date Customer surrenders said Hardware, Software and/or Initial Peopleware to CIC, its successors or assigns.

Governing Law - This Agreement constitutes the entire Agreement between the parties, and shall be construed in accordance with the laws of the State of Colorado.

Waiver - The waiver of one breach or default hereunder shall not constitute the waiver of any subsequent breach or default.

Assignment – This Agreement shall be binding upon and shall inure solely to the benefit of the parties hereto and their respective successors in interest and not for the benefit of any other person or legal entity.

Although CIC may assign data translation, installation, training, enhancement development and support to its vendors, distributors and/or subcontractors, CIC shall at all times be responsible for their performance.

Entire Agreement - The Agreement and the attachments hereto represent the entire agreement between the parties and supersedes all existing contracts and/or agreements previously executed between said parties, with respect to the subject matter hereof. This Agreement, and each provision and Exhibit hereof, may be modified only in writing duly executed by both parties. In the event Customer issues a purchase order or other instrument covering the Hardware, Software and/or Initial Peopleware and/or Products/Services herein specified, it is understood and agreed that such purchase order or other instrument is for the Customer's internal use and purpose only and shall in no way affect any of the terms and conditions of this Agreement.

Status - CIC shall be considered an independent contractor, and this Agreement does not constitute or imply that CIC is or will be an employee of Customer.

Insurance - During the term of this Agreement, CIC shall carry and maintain Workmen's Compensation and Employer's Liability Insurance covering its employees in accordance with statutory requirements applicable to the performance of its business.

Subject Headings - The subject headings of the paragraphs of this Agreement are included for purposes of convenience only, and shall not affect the construction or interpretation of its provision.

Severability - In the event that any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, the remaining provisions of this Agreement shall continue to remain in effect.

Notices - The notices to be given under this Agreement shall be made in writing and shall be sufficient if delivered personally or mailed by First Class United States Mail, postage prepaid, to the other party at the address previously indicated.

The parties hereto have executed this Agreement the day and year first above written.

By: Melayna R. Clark-Rael By: _____
Computer Information Concepts, Inc. Huerfano County, Colorado

EXHIBIT A

Hardware, Software and/or Initial Peopleware Agreement by and between **Computer Information Concepts, Inc.** and **Huerfano County, Colorado**, dated **January 27, 2023**.

Description	Qty	Discounted
<u>Hardware / Supplies</u>		
CIC Cloud - Web Site Hosting (Includes Unlimited Concurrent Users, Virus Protection, SQL Server & SSL Certificate plus 20.0Mbps Committed Information Rate (CIR) Access) - Annual Lease	1	
Maximum Disk Storage (5GB)	1	\$895.00
Initial Data Replication (Hours)	1	150.00
Installation / Training (Hours)	1	150.00
Support	1	90.00
<u>Software / Transition</u>		
Payroll / Personnel		
Software	1	9,120.00
Data Translation (Hours)	24	3,600.00
Installation / Training (Hours)	36	5,400.00
Enhancements	1	640.00
Support	1	2,645.00
Time Clock Plus v7 Professional Edition (Electronic Download) w/ Shift Differential, Automation Utility Module, AutoImport Module, Export Module / Payroll Interface	1	2,745.00
Employees	131	4,585.00
Installation / Training (Hours)	24	3,600.00
Interface Enhancements / Support	1	1,835.00
		<hr/>
TOTAL		\$35,455.00

EXHIBIT B

Hardware, Software and/or Initial Peopleware Agreement by and between **Computer Information Concepts, Inc.** and **Huerfano County, Colorado**, dated **January 27, 2023**.

\$14,675.00	February 3, 2023	1) Contract Signed 2) Software Ordered 3) Initial Payment
14,675.00	April 1, 2023	2) Second Payment
6,105.00	June 1, 2023	1) Annual Peopleware Agreement 2) Final Review of Hardware, Software, and/or Initial Peopleware plus Final Payment

\$35,455.00 TOTAL (Payable to CIC)

CIC will test and assure Customer the Hardware and Software is performing according to vendor(s) published specifications before Customer completes final review and releases final payment.



® 2843 31st Avenue
Greeley, CO 80631
(800) 437-7457

Computer Information Concepts

January 27, 2023

Mr. Carl Young, County Administrator
Huerfano County
401 Main Street
Walsenburg, Colorado 81089

Dear Mr. Young,

We are extremely pleased with your selection of our firm and look forward to working with you in a successful transition during the next few months. Attached is a copy of our Hardware, Software and/or Initial Peopleware Agreement, a copy of our CIC Software License Agreement, and a copy of our Annual Peopleware Agreement.

- Please print two (2) and sign both copies of our Hardware, Software and/or Initial Peopleware Agreement (page 4), retaining one (1) copy for your files and returning the remaining copy, along with a copy of your Sales Tax-Exempt Certificate to initiate our process.
- Please print two (2) and sign both copies of our CIC Software License Agreement (page 3), retaining one (1) copy for your files and returning the remaining copy to us.
- Please print two (2) and sign both copies of our Annual Peopleware Agreement (page 6), retaining one (1) copy for your files and returning the remaining copy to us.
- Your initial payment in the amount of \$14,675.00 will be due and payable on February 3, 2023.

Again, thanks for the opportunity to serve your Organization. If you have any questions or wish further information, please do not hesitate to call me at (800) 437-7457.

Sincerely,

Melayna R. Clark-Rael

Melayna R. Clark-Rael
mclark-rael@cicesp.com
(800) 437-7457 x-157

PURCHASE ORDER

Huerfano County

Purchase Order#: 48

Purchase OrderDate: 1/1/2023

Vendor: **PRECISION HYDRAULICS INC. / 1066**
611 W. 9TH ST.
PUEBLO, CO 81003

Ship To: **401 Main Street -**
Walsenburg CO, 81089

Order Description:

DESCRIPTION	QUANTITY	UNIT PRICE	TOTAL COST	LEDGER
Parts for Primary Crusher (displacement Pump)	1	\$2,900.00	\$2,900.00	002-43040-51506
TOTAL:			\$2,900.00	

NOTES:

APPROVALS:

Approving Authority: _____

Budget Officer: _____

Estimate



Date	Estimate #
1/18/2023	Q58288

611 W. 9th Street
 Pueblo, CO 81003
 719-543-0307
 precision611@comcast.net

Customer:
 Dustin Hribar
 Huerfano County
 401 Main Street, Suite 306
 Walsenburg, CO 81089

Item	Description	Qty	Rate	Total
MISC	NEW VARIABLE DISPLACEMENT PUMP: *note* shaft: straight key [0:1.375 in]	1	2,900.00	2,900.00
Shipping	Shipping and Handling to be determined upon receipt		0.00	0.00

Subtotal	\$2,900.00
Sales Tax (0.0%)	\$0.00
Total	\$2,900.00

COLORADO ENERGY OFFICE – ENERGY PERFORMANCE CONTRACTING PROGRAM



ENERGY PERFORMANCE CONTRACTING

FOR COLORADO POLITICAL SUBDIVISIONS (municipality, county, special district, or school district (**§29-12.5-101 (5) C.R.S.**))

POLITICAL SUBDIVISION: Huerfano County, Colorado

ENERGY SERVICE COMPANY
(STATE REGISTERED NAME): McKinstry Essention, LLC

PROJECT NAME: Huerfano County Energy Performance Contract

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5. PRE-CONSTRUCTION SERVICES
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16. LOCATION AND ACCESS
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21. REPRESENTATIONS AND WARRANTIES
22. PRINCIPAL REPRESENTATIVE M&V TERM RESPONSIBILITIES
23. RIGHTS IN DATA, DOCUMENTS, AND COMPUTER SOFTWARE
24. GENERAL PROVISIONS
25. SCHEDULES-LIST OF
26. OPTIONAL PROVISIONS AND ELECTIONS
27. NOTICES and REPRESENTATIVES
28. SIGNATURE PAGE

PARTIES

This Energy Performance Contract (hereinafter called "Contract" or "EPC") is entered into by and between Energy Service Company, (McKinstry Essention, LLC) (hereinafter called "Contractor"), and the (Huerfano County) (hereinafter called the "Political Subdivision").

RECITALS

WHEREAS, authority for the Political Subdivision to enter into this Contract exists in the law, including **§29-12.5-101, C.R.S.** and other applicable state statutes and charter and code provisions, and funds have been budgeted, appropriated and otherwise made available and a sufficient unencumbered balance thereof remains available for payment of the amounts due hereunder, all within applicable constitutional, statutory, charter, code or other limitations applicable to the Political Subdivision; and

WHEREAS, required approvals, clearance and coordination have been accomplished by Political Subdivision, to enter into a contract for the design and implementation of energy analysis and recommendations pertaining to measures that would significantly increase Utility Cost Savings, Operations and Maintenance Cost Savings, and Vehicle Fleet Operational and Fuel Cost Savings, pursuant to **§29-12.5-101, C.R.S.**; and

WHEREAS, the Contractor or other entity and the Political Subdivision entered into a certain Investment Grade Audit (IGA) Contract pursuant to **§29-12.5-102, C.R.S.**, whereby the Contractor or other entity provided an analysis and recommendations in the form of an IGA Report and an Energy Performance Contracting (EPC) Project Proposal. Such report and project proposal provided: estimates of (i) the amounts by which Utility Cost Savings and Operation and Maintenance Cost Savings would increase and (ii) all costs of such Utility Cost-Savings Measures or Facility Improvement Measures (FIMs), including, but not limited to, itemized costs of design, engineering, equipment, materials, installation, maintenance, repairs, and debt service or estimates of (i) the amounts by which Vehicle Fleet Operational and Fuel Cost Savings would increase and (ii) all costs of such Vehicle Fleet Operational and Fuel Cost-Savings Measures, set forth in **§29-12.5-102(2), C.R.S.**; and

WHEREAS, the Contractor or other entity was selected by the Political Subdivision as the entity to analyze and recommend measures to significantly increase utility cost, operation and maintenance cost, and vehicle fleet operational and fuel cost savings, through an IGA, pursuant to competitive negotiations; and

WHEREAS, the Political Subdivision has approved Contractor's or other entity's analyses and recommendations in the IGA set forth in **§29-12.5-102, C.R.S.**; and

WHEREAS, the analysis and recommendations provided by the Contractor or other entity pursuant to the IGA indicate that the expected annual payments by the Political Subdivision required under this Contract, or as required in a contract with the Political Subdivision and any Third-Party Lessor, which payments shall include any annual maintenance costs and annual fees for measurement and verification per statute, for the implementation of one or more Utility Cost-Savings Measures or FIMs is required to be equal to or less than the sum of the Utility Cost Savings and Operation and Maintenance Cost Savings achieved by the implementation of such Utility Cost-Savings Measures and FIMs on an annual basis; and

WHEREAS, the Contractor or other entity and the Governing Body of the Political Subdivision have reviewed the Energy Performance Contract Project Proposal, which was derived from the IGA Report, in respect of which the Political Subdivision has received and reviewed the IGA Record of Review from the Colorado Energy Office (CEO), and created a finalized EPC Description of Work (**Schedule B**), and that all the necessary information has been incorporated into the appropriate EPC schedules to complete the Work; and

WHEREAS, the Contractor is either (i) the same entity that performed the IGA and is therefore exempt from any additional competitive bidding or procurement provisions, pursuant to **§29-12.5-103(1)(a), C.R.S.**, or (ii) not the same entity that performed the IGA and was selected for performance of this Contract pursuant to negotiation requirements, and applicable competitive bidding or procurement provisions; and

NOW, THEREFORE: in consideration of the premises and mutual agreements and covenants hereinafter set forth,

and intending to be legally bound, the Political Subdivision and the Contractor hereby agree to the terms and conditions in this Contract.

EFFECTIVE DATE AND NOTICE OF NON-LIABILITY

This Contract shall not be effective or enforceable until it is authorized and approved by the Governing Body (defined below in Article 1) of the Political Subdivision, by applicable resolution, ordinance or other authorizing action of the Governing Body, and executed by a duly authorized representative of the Political Subdivision, as set forth in such resolution, ordinance or other authorizing action (defined below as the "Principal Representative"), on the date set forth in Section 28 hereof in the signature block of the Political Subdivision (the "Effective Date"). The Political Subdivision shall not be bound by any provision of this Contract before the Effective Date, and shall have no obligation to pay or reimburse the Contractor for any Work performed or expense incurred before the Effective Date or after the expiration or sooner termination of this Contract, except that the Principle Representative may make any payments for work that was completed under a properly executed contract for an investment grade audit that are to be paid under this contract in accordance with the terms of the investment grade audit contract.

All references in this Contract to "Article," "Section," "Subsections," "Exhibits" or other "attachments," whether spelled out or using the § symbol, are references to Articles, Sections, Subsections, Exhibits or other attachments contained herein or incorporated as a part hereof, unless otherwise noted.

1. DEFINITIONS

The following terms as used herein shall be construed and interpreted as follows:

- A. Adjusted-Baseline Energy**
"Adjusted-Baseline Energy" means the energy use of the baseline period, adjusted to a different set of operating conditions.
- B. American Society of Heating, Refrigeration, and Air Conditioning Engineers (ASHRAE)**
"American Society of Heating, Refrigeration, and Air Conditioning Engineers" or "ASHRAE" means the recognized professional organization with standards and guidelines that may be referenced for additional definitions, procedures, and technical information as necessary in this Scope of Work and the IGA Project Proposal Report.
- C. Baseline Energy**
"Baseline Energy" means the energy use (units) occurring during the Baseline Period without adjustments.
- D. Baseline Period**
"Baseline Period" means the period of time chosen to represent operation of the facility or system before implementation of a Utility Cost-Savings Measure or any applicable FIM, as defined herein. This period may be as short as the time required for an instantaneous measurement of a constant quantity, or long enough to reflect one full operating cycle of a system or facility with variable operations.
- E. Baseline**
"Baseline" means and pertains to the baseline period.
- F. Business Day**
"Business Day" means any day in which the Political Subdivision is open and conducting business, but shall not include Saturday, Sunday or any holidays observed by the Political Subdivision.
- G. Colorado Open Records Act (CORA)**
"CORA" means the Colorado Open Records Act, **§§24-72-200.1 et seq., C.R.S.**
- H. Commissioning**
"Commissioning" means a process for achieving, verifying and documenting the performance of equipment to meet the operational needs of the facility within the capabilities of the design, and to meet the design documentation and the Political Subdivision's functional criteria, including preparation of operating personnel. Retro-commissioning is the application of the Commissioning process to existing buildings.
- I. Compensation**
"Compensation" means the funds payable to the Contractor by the Political Subdivision for the performance of the Contractor's obligations hereunder, including, but not limited to, the Project and the

M&V Services.

J. Contingency Funds

“Contingency Funds,” if applicable, means the moneys of the Political Subdivision not included in the Fixed Limit of Construction Cost and budgeted, appropriated and encumbered for Project contingency purposes in order that the Political Subdivision may use such moneys to pay to the Contractor, any other contractor through a Separate Contract constituting a portion of the Project Work as determined and authorized by the Governing Body, or any Third-Party Lessor. Contingency Funds could be used in the event of construction cost budget overage, if the Principal Representative, upon the authorization of the Governing Body, determines to add to or change the Contractor’s Scope of Work, hire a contractor for special services (example-environmental remediation) or reduce the Political Subdivision’s obligation to any Third-Party Lessor, all pursuant to **Article 6(C)** and **Article 6(J)**. All contingency item requests that are under \$10,000 will be Contractor controlled and will not require approval from the Political Subdivision. All contingency item requests above \$10,000 will be Political Subdivision-approved and controlled up to the total contingency amount defined in the contract.

K. Construction Commencement Date

“Construction Commencement Date” means the date the Principal Representative issues a written Notice to Proceed to Commence Construction Phase form.

L. Construction Documents

“Construction Documents” means the documents set forth in **Article 6(A)**.

M. Construction Term

“Construction Term” means the period of time in which Contractor shall complete the Project, pursuant to **Article 6(F)**.

N. Contract Documents

“Contract Documents” means this Contract; the Exhibits; the Schedules; and the Construction Documents. **Article 25** and **Article 26**, respectively, list the Exhibits and Schedules attached hereto and incorporated by reference herein.

O. Contractor’s Intellectual Property

“Contractor’s Intellectual Property” means any formulas, patterns, devices, secret inventions or processes, copyrights, patents, or other intellectual property purchased, licensed or developed by Contractor prior to or outside of this Contract or purchased, licensed or developed by Contractor or its Subcontractors as a tool for their use in performing the Services, plus any modifications or enhancements thereto and derivative works based thereon.

P. Contract Term

“Contract Term” means the definition set forth in **Article 2(B)**.

Q. Cost-Weighted Average Service Life

“Cost-Weighted Average Service Life” means the calculation is based upon the service life of the equipment (ASHRAE Handbook - HVAC Applications or other approved source), the cost of each Utility Cost-Savings Measure or FIM (excluding the audit cost and Political Subdivision’s contingency), and the total cost of all the measures. The formula is the sum of each measure cost divided by the total cost multiplied by its service life. Cost-Weighted Average Service Life = \sum each measure ÷ total cost × service life.

R. C.R.S.

“C.R.S.” means the Colorado Revised Statutes, as amended.

S. Deliverable

“Deliverable” means any document, material, data, information, specification or other deliverable that results from or is provided through the Services or that Contractor is required to deliver to the Principal Representative under this Contract, the Exhibits, Schedules or other document or report which is required to be delivered by Contractor to the Principal Representative pursuant to this Contract and is created after the Effective Date.

T. Design Documents

“Design Documents” or “DDs” means documents supplied by Contractor consisting of drawings, specifications, and other documents that fix and describe the size and character of the entire Project as to architectural, structural, mechanical, and electrical systems, materials, and such other elements as may be appropriate, and include design plans and documentation for each Utility Cost-Savings Measure or FIM that may become part of the Project, and as further described in **Article 5(C)**.

U. Energy

“Energy” means electricity (both usage and demand), natural gas, steam, water (potable or non-potable), or any other Utility charged service.

V. Energy Conservation Measure

“Energy Conservation Measure” or “ECM” means an Energy Saving Measure or Utility Cost-Savings Measure as defined in **§29-12.5-101(4) and §29-12.5-101(9), C.R.S.**, respectively. An ECM is an activity or set of activities designed to increase the efficiency (energy, water, or other utility) of a facility, system or piece of equipment. ECMs may also conserve energy without changing efficiency. An ECM may involve one or more of: physical changes to facility equipment, revisions to operating and maintenance procedures, software changes, or new means of training or managing users of the space or operations and maintenance staff. An ECM may be applied as a retrofit to an existing system or facility, or as a modification to a design before construction of a new system or facility. Within this Contract, Utility Cost-Savings Measures, Energy Saving Measures, Energy Cost-Saving Measures, Energy Conservation Measures (ECMs) and Facility Improvement Measures (FIMs) shall be interchangeable as necessary and may include vehicle fleet operational and fuel cost savings measures.

W. Energy Cost-Savings Contract

“Energy Cost-Savings Contract” means a Utility Cost-Savings Contract or a Vehicle Fleet Operational and Fuel Cost-Savings Contract as defined in **C.R.S. 29-12.5-101 (2.5)**.

X. Energy Cost-Savings Measure

“Energy Cost-Savings Measure” means a Utility Cost-Savings Measure or a Vehicle Fleet Operational and Fuel Cost-Savings Measure. Within this Contract, Utility Cost-Savings Measures, Energy Saving Measures, Energy Cost-Saving Measures, Energy Conservation Measures (ECMs) and Facility Improvement Measures (FIMs) shall be interchangeable as necessary and may include vehicle fleet operational and fuel cost-savings measures.

Y. Energy Performance Contract

“Energy Performance Contract” (“EPC”) as defined in **§29-12.5-101(3), C.R.S.**, is a contract for evaluations, recommendations or implementation of one or more Utility Cost-Savings Measures designed to produce Utility Cost-Savings, Operation and Maintenance Cost Savings, or Vehicle Fleet Operational and Fuel Cost-Savings, which:

- i. Sets forth savings attributable to calculated Utility Cost-Savings or Operation and Maintenance Cost Savings for each year during the Contract Term;
- ii. Provides that the amount of actual savings for each year during the Contract Term shall exceed annual contract payments, including maintenance costs, to be made during such year by the Political Subdivision contracting for the Energy Cost-Savings Measures;
- iii. Requires the party entering into the Energy Performance Contract with the Political Subdivision to provide a written guarantee that the sum of Energy Cost-Savings and Operation and Maintenance Cost Savings for each year during the first three years of the Contract period shall not be less than the calculated savings for that year;
- iv. Requires a minimum of one-tenth of payments by the Political Subdivision to be made within the first two years. Requires remaining payments by the Political Subdivision to be made within 12 years after the date of the execution of the contract, except that the maximum term of the payments shall be less than the Cost-Weighted Average Service Life of energy cost-savings equipment for which the contract is made, not to exceed 25 years.

Z. Energy Service Company

“Energy Service Company” or “ESCO” means the energy service company entity entering into a contract to design and construct the Project with the Political Subdivision. The Energy Service Company may also be referred to as “Contractor” in this Contract or in related schedules, exhibits, attachments, contract modification or procedural documents. The ESCO may be the architect/engineer for the Utility Cost-Savings Measures or may contract out these professional services with approval of the Governing Body.

AA. Equipment

“Equipment” means the equipment, systems and associated services set forth on **Schedule B**, together and with any and all includes all replacements, repairs, restorations, Modifications and improvements of or to such Equipment.

BB. Escrow Agreement

“Escrow Agreement” means the escrow agreement, if applicable, executed by the Political Subdivision, the Lessor, if any, and the Escrow Fund Custodian, pursuant to which the Escrow Fund is established and administered.

CC. Escrow Fund

“Escrow Fund” means the fund, if applicable, established under the Escrow Agreement

DD. Escrow Fund Custodian

“Escrow Fund Custodian” is indicated in **Article 3D**.

EE. Evaluation

“Evaluation” means the process of examining the Contractor’s Work and rating such Contractor’s Work based on criteria established in this Contract.

FF. Excluded Materials and Activities

“Excluded Materials and Activities” means asbestos, materials containing asbestos, or the existence, use, detection, removal, containment or treatment thereof, pollutants, hazardous wastes, hazardous materials, or the storage, handling, use, transportation, treatment, or the disposal, discharge, leakage, detection, removal, or containment thereof.

GG. Facility

"Facility " or “Facilities” means any building or utility owned or operated by the Political Subdivision.

HH. Facility Improvement Measure

“Facility Improvement Measure” or “FIMS” is an activity or set of activities designed to improve the structural or operational conditions of a facility, system or piece of equipment. A FIM may be an activity associated with an Energy Cost-Savings Measure and funded as part of an EPC. A FIM may be an activity requested by the Political Subdivision, but is not an Energy Cost-Savings Measure, but funds have been budgeted, appropriated and otherwise made available to be included in an EPC. Within this Contract, Utility Cost-Savings Measures, Energy Saving Measures, Energy Cost-Saving Measures, Energy Conservation Measures (ECMs) and Facility Improvement Measures (FIMs) shall be interchangeable as necessary and may include vehicle fleet operational and fuel cost savings measures.

II. Federal Energy Management Program (FEMP) Measurement & Verification Guidelines

“Federal Energy Management Program (“FEMP”) Measurement and Verification (M&V) Guidelines” means the current M&V Guidelines prepared by the U.S. Department of Energy. The FEMP M&V Guidelines contains specific procedures for applying concepts originating in the IPMVP (definition below). The FEMP M&V Guidelines represents a specific application of the IPMVP to EPC projects. It outlines procedures for determining M&V approaches, evaluating M&V plans and reports, and establishing the basis of payment for energy savings during the contract. These procedures are intended to be fully compatible and consistent with the IPMVP.

JJ. Finance Agreement Term

“Finance Agreement Term” means the original term and all renewal terms of any Lease-Purchase Agreement or any other financing or funding agreement of the Political Subdivision for the costs of this Contract.

KK. Fiscal Year

“Fiscal Year” means a 12-month period beginning on [January 1] of each calendar year and ending on [December 31].

LL. Fixed Limit of Construction Cost

“Fixed Limit of Construction Cost” or “FLCC” means the total amount to be paid by the Political Subdivision or any Third-Party Lessor to Contractor for Contractor’s satisfactory performance, construction, and installation of all elements of the Work, which shall include, but not be limited to, costs and expenses, permits, performance bonds, materials, labor, auditing, IGA, design, engineering, project construction management costs, commissioning, training, profit, travel expenses, communications, code work, including review, inspection, and compliance unless otherwise noted, acquisition and installation of Equipment. The Fixed Limit of Construction Cost is included as a part of the MCP and all costs comprising the Fixed Limit of Construction Cost shall be identified in **Schedule F**, which shall be executed after this Contract is effective. The Fixed Limit of Construction Cost does not include any Contingency Funds or the M&V Fee.

MM. Governing Body

“Governing Body” means the governing body of the Political Subdivision, a governing body (city or town council, board of trustees, etc.) of any municipality or home rule county, a board of county commissioners of any county, a board of directors of any special district, or a board of education of any school district as defined in **§29-12.5-101(1), C.R.S.**

NN. Guarantee

“Guarantee” means the warranty and guarantee made by the Contractor in **Article 14** hereof that for each year of the Guarantee Period, the Project shall result in annual cost savings equal to or greater than the Guaranteed Annual Cost Savings presented in **Schedule C** which shall be equal to or greater than the Political Subdivision’s annual payments used to repay the project funding, as set forth in **§29-12.5-101(3), C.R.S.** Failure to meet the Guaranteed Annual Cost Savings in any year during the Guarantee Period shall result in Contractor directly remunerating the Political Subdivision the dollar amount equal to the cost value of that year’s Guaranteed Annual Cost Savings shortfall. Alternatively, subject to the Governing Body’s consent, which shall not be unreasonably withheld, Contractor may implement additional Utility Cost-Savings Measures or FIMs, at no cost to the Political Subdivision, which may generate additional annual cost savings in future years of the Performance Period to offset future Guaranteed Annual Cost Savings shortfall.

OO. Guarantee Period

“Guarantee Period” means a period of time commencing upon M&V Commencement Date and terminating on the termination of the M&V Term. The Guarantee Period is a mutually agreed to time period after the M&V Commencement Date, during which Guaranteed Annual Cost Savings resulting from the Project are measured and verified by the Contractor set forth in **EPC Schedule D**.

PP. Guaranteed Annual Cost Savings

“Guaranteed Annual Cost Savings” means measurable and verifiable aggregate of Guaranteed Annual Utility Cost Savings, Guaranteed Annual Operations and Maintenance Cost Savings, and Annual Vehicle Fleet Operational and Fuel Cost Savings guaranteed by Contractor resulting from the Project that shall occur for each year of the Guarantee Period pursuant to **Schedule C**. Guaranteed Annual Utility Cost Savings shall be determined by Contractor’s Measurement and Verification of annual utility unit use reductions and the application of mutually agreed to baseline and escalated utility unit costs for each year of the Guarantee Period as defined in **Schedule C**.

QQ. Guaranteed Annual Operations and Maintenance Cost Savings

“Guaranteed Annual Operations and Maintenance Cost Savings” means annual cost savings resulting from a verifiable reduction in the Political Subdivision’s operation and maintenance budget.

RR. Guaranteed Annual Utility Cost Savings

“Guaranteed Annual Utility Cost Savings” means annual Utility Cost Savings resulting from a reduction of usage and the application of the mutually agreed to baseline and escalated utility unit rates as presented in **Schedule C**.

SS. Guaranteed Annual Vehicle Fleet Operational and Fuel Cost Savings

“Guaranteed Annual Vehicle Fleet Operational and Fuel Cost Savings” means measurable and verifiable annual cost savings resulting from the reduction of vehicle operations, fuel and maintenance costs.

TT. International Performance Measurement and Verification Protocol

“International Performance Measurement and Verification Protocol” or “IPMVP” means the current document prepared by the Efficiency Valuation Organization on the Effective Date of the IGA contract. It is the industry standard for current best practice techniques available for verifying results of energy efficiency, water efficiency, and renewable energy projects associated with the Investment Grade Audit Report and Energy Performance Contract Project Proposal (**reference §7**).

UU. Investment Grade Audit

“Investment Grade Audit” or “IGA” means a detailed audit of certain Facilities of the Political Subdivision, including the Premises, conducted by the Contractor or another party pursuant to the IGA Contract, as provided in **§29-12.5-102, C.R.S.** and in respect of which the Political Subdivision has received and reviewed the IGA Record of Review from the CEO, which serves as the basis for this Energy Performance Contract.

VV. Investment Grade Audit Contract

“Investment Grade Audit Contract” (IGA) means that certain contract between the Contractor and the

Political Subdivision and entered into pursuant to **§29-12.5-102, C.R.S.**, and pursuant to which the Contractor conducted the IGA. The IGA Contract shall determine the feasibility of whether to enter into an Energy Performance Contract to provide for the implementation of Utility Cost Savings Measures, Facility Improvement Measures, and Operation and Maintenance Cost Savings Measures in Facilities owned or leased by the Political Subdivision and vehicle fleet operational and fuel cost saving measures at the Premises of the Political Subdivision.

WW. kW

“kW” means “Kilowatt” (abbreviation)

XX. kWh

“kWh” means “Kilowatt-hour” (abbreviation)

YY. Lease Purchase Agreement

“Lease Purchase Agreement” means any annually renewable lease purchase financing agreement entered into by the Political Subdivision, as lessee of the Equipment, and a Third-Party Lessor, as lessor of the Equipment and Services, for the financing of the Utility Cost-Savings Measures and FIMs as a result of Contractor’s work pursuant to this Contract (constituting the capital project so financed), as authorized pursuant to **§29-12.5-103, C.R.S.**

ZZ. Material Change

“Material Change” means any change or cumulative changes in or to the Premises, whether structural, operational or otherwise in nature as determined by the Governing Body or the Principal Representative, if authorized to do so by the Governing Body, and the Contractor, to increase or decrease Guaranteed Annual Cost Savings, as defined in **PP** above, in accordance with the provisions and procedures set forth in **Schedule B** and is correlated with such change in energy or water usage, and as described in **Article 17**.

AAA. Maximum Contract Price

“Maximum Contract Price” or “MCP” means the maximum amount of total allowable costs under this Contract, as set forth in **Article 4(A)**, which shall be the total amount paid by the Political Subdivision, or Third-Party Lessor on behalf of the Political Subdivision, to Contractor, and which shall include, but not be limited to, the Fixed Limit of Construction Cost, the Measurement and Verification Fee, and any Contingency Funds. It is the maximum amount payable to the Contractor pursuant to this Contract.

BBB. Measurement and Verification

“Measurement and Verification” or “M&V” means the process of using measurements to reliably determine and verify the actual savings created within buildings, infrastructure, or systems resulting from an energy management program. Savings cannot be directly measured, since they represent the absence of energy use. Instead savings are determined by comparing measured use before and after implementation of a project, making appropriate adjustments for changes in conditions. M&V follows the standards and definitions in the current International Performance Measurement and Verification Protocol (“IPMVP”), as may be amended by the Efficiency Valuation Organization on the Effective Date of this contract. The CEO Measurement and Verification Policy may allow alternative verification standards as appropriate for select Utility Cost-Savings Measures or FIMs.

CCC. M&V Commencement Date

“M&V Commencement Date” means the first day of the month following the completion by Contractor and the Principal Representative’s submittal of Notice of Final Acceptance.

DDD. M&V Fee

“M&V Fee” means an annual fee paid to Contractor by the Political Subdivision for Contractor’s satisfactory performance of the M&V Services, as set forth in **Article 13**. The M&V Fee is included as a part of the EPC Maximum Contract Price.

EEE. M&V Plan

“M&V Plan” defines how savings will be calculated and specifies any ongoing activities that will occur during the Contract Term. The details of the M&V Plan are in **EPC Contract Schedule D**.

FFF. M&V Services

“M&V Services” means Services or activities relating to the measurement and verification by Contractor of the efficiency and effectiveness of the Project, pursuant to this Contract and the CEO Measurement and Verification Policy as applied.

GGG. M&V Term

“M&V Term” has the meaning as described to it in **EPC Contract §13**.

HHH. MMBtu

“MMBtu” means 1 Million British thermal unit (abbreviation).

III. Modification (of Equipment)

“Modification of Equipment” means a field installable upgrade, feature, addition, accessory or modification to Equipment, which is made by or for the original manufacturer of such Equipment.

JJJ. Modification (to the contract)

“Modification to the Contract” means a written (i) amendment to this Contract signed by both parties or (ii) Change Order executed in accordance with **Schedule A**.

KKK. Open Book Pricing

“Open Book Pricing” means “Open Book Pricing” as set forth in **Article 6(H)**.

LLL. Operation and Maintenance Cost Savings

“Operation and Maintenance Cost Savings” as defined in **§29-12.5-101 (4.5), C.R.S.**, means the measurable decrease in operation and maintenance (O&M) costs that is a direct result of the implementation of one or more Utility Cost-Savings Measures. Such savings shall be calculated in comparison with an established baseline of operation and maintenance costs.

MMM. Personally Identifiable Information (PII)

“PII” means personally identifiable information including, without limitation, any information maintained by the Political Subdivision 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.**

NNN. Political Subdivision Confidential Information

“Political Subdivision Confidential Information” means any and all Records of the Political Subdivision not subject to disclosure under CORA. Confidential Information of the Political Subdivision shall include, but is not limited to PII, Tax Information, and Political Subdivision personnel records not subject to disclosure under CORA.

OOO. Premises

“Premises” is as set forth in **Article 5(A)**.

PPP. Project

“Project” means Contractor’s design, acquisition, construction, and installation of the Utility Cost-Savings Measures and FIMs, and all Equipment and Services related thereto, as set forth in **Schedule B** and the Contract Documents, but does not include M&V Services.

QQQ. Rebate

“Rebate” means moneys used for Contractor’s compensation that are not the moneys of the Political Subdivision or moneys from a Third-Party Lessor, including solar REC’s and utility rebates, all as described in **Schedule B** and on **Schedule G**.

RRR. Review

“Review” means the examination by the Principal Representative of the Contractor’s Work to ensure that it is adequate, accurate, correct and in accordance with this Contract.

SSS. Schedule A

“**Schedule A**” means **Schedule A** to this Contract, attached hereto as General Conditions of the Energy Performance Contract.

TTT. Schedule B

“**Schedule B**” means **Schedule B** to this Contract, attached hereto as EPC Description of Work. The **Schedule B** is developed from information in the EPC Project Proposal. **Schedule B** includes, but is not limited to: the final list of facilities that define the Premise, final list of improvements, installed equipment and upgrades, training, start-up, commissioning, and design/construction schedule. **Schedule B** details the cost for the Work from initial design to the start of the Guarantee Period. **Schedule B** includes the financial performance including any rebates, grants, Political Subdivision provided funds, and the potential third-party financial amount that totals up to the Maximum Contract Price.

UUU. Services

“Services” means all services performed by Contractor hereunder, including, but not limited to, engineering, design, project management, construction management, design, training, and M&V Services, and tangible material produced either separately or in conjunction with the Work performed.

VVV. Simple Payback

“Simple Payback” means the length of time, typically presented in years, required to recover the cost of a measure or project.

WWW. Tax Information

“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.

XXX. Third-Party Lessor

“Third-Party Lessor” means a third-party entity entering into a Lease Purchase Agreement, as lessor, with the Political Subdivision, as lessee, for the lease purchase financing of the Equipment and the Services pursuant to this Contract.

YYY. Utility or Utilities

“Utility” or “Utilities” means the water, sewer services, electricity, payments to energy service companies, purchase of energy conservation equipment, and all heating fuels. Utility may include compressed air, chilled water, or other systems or services as agreed to with the Governing Body of the Political Subdivision.

ZZZ. Utility Cost Savings

“Utility Cost Savings” means the definition set forth in **§29-12.5-101(7), C.R.S.**, is the combination of either or both of the following:

- i. A cost savings caused by a reduction in metered or measured physical quantities of a bulk fuel or Utility resulting from the implementation of one or more Utility Cost-Savings Measures or FIMs when compared with an established baseline of usage; or
- ii. A decrease in utility costs as a result of changes in applicable utility rates or utility service suppliers. The savings shall be calculated in comparison with an established baseline of utility costs.

AAAA. Utility Cost-Savings Contract

“Utility Cost-Savings Contract” means an Energy Performance Contract or any other agreement in which Utility Cost Savings are used to pay for services or equipment set forth in **§29-12.5-101(8), C.R.S.**

BBBB. Utility Cost-Savings Measure

“Utility Cost-Savings Measure” means the definition set forth in **§29-12.5-101(9), C.R.S.**, is the installation, modification or service that is designed to reduce energy and water consumption and related operating costs in buildings and other facilities and includes, but is not limited to, the following:

- i. Insulation in walls, roof, floors and foundations, and in heating and cooling distribution systems
- ii. Storm windows and doors, multiglazed windows and doors, heat absorbing or heat reflective glazed and coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption
- iii. Automatic energy control systems
- iv. Heating, ventilating or air conditioning and distribution system modifications or replacements in buildings or central plants
- v. Caulking or weather stripping
- vi. Replacement or modification of lighting fixtures to increase the energy efficiency of the system without increasing the overall illumination of a facility unless such increase in illumination is necessary to conform to the applicable building code for the proposed lighting system
- vii. Energy recovery systems
- viii. Renewable energy and alternate energy systems
- ix. Cogeneration systems that produce steam or forms of energy, such as heat or electricity, for use primarily within a building or complex of buildings
- x. Devices that reduce water consumption or sewer charges
- xi. Changes in operation and maintenance practices
- xii. Procurement of low-cost energy supplies of all types, including electricity, natural gas and other fuel

- sources, and water
- xiii. Indoor air quality improvements that conform to applicable building code requirements
- xiv. Daylighting systems
- xv. Building operation programs that reduce utility and operating costs including computerized energy management and consumption tracking programs, staff and occupant training, and other similar activities
- xvi. Services to reduce utility costs by identifying utility errors and optimizing existing rate schedules
- xvii. Any other location, orientation, or design choice related to, or installation, modification of installation or remodeling of, building infrastructure improvements that produce utility or operational cost savings for their appointed functions in compliance with applicable state and local building codes
- xviii. Vehicle fleet operational and fuel cost savings
- xix. When an energy saving measure involves a cogeneration system, the sale of excess cogenerated energy shall be subject to the same state and federal regulatory requirements as the sale of all other cogenerated energy, as set forth in **§29-12.5-103(3), C.R.S.**

Within this Contract, Utility Cost-Savings Measures, Energy Saving Measures, Energy Cost-Saving Measures, Energy Conservation Measures (ECMs) and Facility Improvement Measures (FIMs) shall be interchangeable as necessary and may include vehicle fleet operational and fuel cost savings measures.

CCCC. Vehicle Fleet Operational and Fuel Cost Savings

“Vehicle Fleet Operational and Fuel Cost Savings” means the definition set forth in **CRS§29-12.5-101(10)**, which is a measurable decrease in the operation and maintenance costs of Political Subdivision vehicles that is associated with fuel or maintenance based on higher efficiency ratings or alternative fueling methods, including but not limited to savings from the reduction in maintenance requirements and a reduction in or the elimination of projected fuel purchase expenses as a direct result of investment in higher efficiency or alternative fuel vehicles or vehicle or charging infrastructure.

DDDD. Vehicle Fleet Operational and Fuel Cost-Savings Contract

“Vehicle Fleet Operational and Fuel Cost-Savings Contract” in the definition set forth in **§29-12.5-101(11), C.R.S.**, means an Energy Performance Contract or any other agreement in which Vehicle Fleet Operational and Fuel Cost Savings are used to pay for the cost of the vehicle or associated capital investments.

EEEE. Vehicle Fleet Operational and Fuel Cost-Savings Measure

“Vehicle Fleet Operational and Fuel Cost-Savings Measure” is defined in **§29-12.5-101(12), C.R.S.**, means any installation, modification, or service that is designed to reduce energy consumption and related operating costs in vehicles and includes, but is not limited to, the following:

- i. Vehicle purchase or lease costs either in full or in part;
- ii. Charging or fueling infrastructure to appropriately charge or fuel alternative fuel vehicles included in an energy performance contract.

FFFF. Work

“Work” means the tasks and activities the Contractor is required to perform to fulfill its obligations under this Contract and **Exhibit A**, including the performance of the Services and delivery of the Goods.

GGGG. Work Product

“Work Product” means the tangible or intangible results of the Contractor’s Work, including, but not limited to, research, reports, studies, data, photographs, negatives or other finished or unfinished documents, drawings, models, surveys, maps, materials, or work product of any type (but not including software), including drafts. Work Product does not include the Contractor’s Intellectual Property.

Any other term used in this Contract that is defined in a Schedule shall be construed and interpreted as defined in that Schedule.

2. ORGANIZATION AND TERM

A. Contract Phases

This Contract shall be performed in accordance with its provisions and contains the following phases:

- i. Funding (**Articles 3 and 4**)
- ii. Pre-Construction (**Article 5**)
- iii. Construction (**Article 6, 7, and 9**)
- iv. Start-up, Commissioning, and Acceptance (**Article 8**)

- v. Training (**Article 10**)
- vi. Measurement and Verification (**Article 13**)

B. Contract Term

Contractor shall complete the Work and its other obligations as described herein on or before

February 28th, 2024.

The Political Subdivision shall not be liable to compensate Contractor for any Work performed prior to the Effective Date or after the termination of this Contract. The term of this Contract ("Contract Term") shall be divided into three (3) separate components:

- i. The "Planning Term," shall commence on the Effective Date and upon delivery by the Principal Representative to Contractor of a Notice to Proceed to Commence Design Phase under **Article 4(H)** and terminate upon delivery by the Principal Representative to Contractor of a Notice to Proceed to Commence Construction Phase for the last improvement per the Construction and Installation **Article 6(B)**
- ii. The "Construction Term," shall commence upon delivery by the Principal Representative to Contractor of a Notice to Proceed to Commence Construction Phase under **Article 6(E)**, and terminate no more than
393 days
after the Construction Commencement Date, unless sooner terminated as provided in this Contract
- iii. The M&V Term shall begin on the M&V Commencement Date and continue for a minimum term of three years per statute (**§29-12.5-101(3)(c), C.R.S.**) and no greater than the Finance Agreement Term. The M&V Term shall terminate pursuant to **Schedule D** unless sooner terminated as provided in this Contract.

3. FUNDING

A. Source of Funds

The Political Subdivision intends to obtain

\$2,246,308

in funds for the MCP required under this Contract through a USDA loan, DOLA grant and County capital or in such other manner as the Governing Body of the Political Subdivision, in its sole discretion, shall deem authorized by resolution or ordinance pursuant to and within the limitations of applicable constitutional, statutory (which may include **§29-12.5- 101(3)(b), C.R.S.**) and code provisions pertaining to the Political Subdivision. The total amount of funds that the Governing Body of the Political Subdivision will seek to acquire from outside sources will be:

\$2,080,576.

If Political Subdivision is unable to obtain funds in any manner for the entire amount of the MCP, the Governing Body of the Political Subdivision and the Contractor may negotiate a reasonable reduction in the Project scope, price, and Guarantee in a manner consistent with any available funds or the Governing Body of the Political Subdivision may unilaterally terminate this Contract, in the sole discretion of the Governing Body of the Political Subdivision. If the Political Subdivision is unable to obtain financing for the entire amount of the MCP and the Parties are unable to revise the Project scope to obtain available funds within sixty (60) days of the Effective Date, either Party may terminate this Contract upon 10 days written notice to the other Party and such termination shall not be a default under this Contract. Upon termination, neither Party shall have any obligation to the other Party under this Contract, except for those provisions which by their terms survive any such termination, as provided herein.

B. Political Subdivision Funds

The Political Subdivision will provide all or a portion of the moneys for the MCP required under this Contract in the amount of

\$ 642,130

from existing and future appropriations specifically budgeted, appropriated and encumbered for this purpose as full or partial compensation for the cost of the Project as described in

Schedule B and indicated on **Schedule G** to be paid to Contractor as reimbursement pursuant to **Schedule A**. The remainder of funds will be secured through a Department of Local Affairs grant and a USDA loan through San Isabel Electric Association.

C. Escrow Account

Any funds obtained by the Political Subdivision from a Third Party Lessor shall be deposited into an escrow account established on the Political Subdivision's behalf. The Principal Representative shall be authorized by the Governing Body of the Political Subdivision to direct the Escrow Fund Custodian, as described in **Article 3(D)**, to compensate Contractor for the Work performed by Contractor and accepted in writing by the Principal Representative in accordance with **Article 4** and **Schedule A**, and the Escrow Fund Custodian will make payment from the escrow account in accordance with procedures set forth in the Lease Purchase Agreement, this Contract, and any escrow agreement. Final payment shall be made to Contractor upon the Principal Representative's submittal of the Notice of Final Acceptance of the Project. Any proceeds from the escrow account shall accrue to the Political Subdivision.

D. Escrow Fund Custodian

The Escrow Fund Custodian is hereby identified as:

INSERT NAME
INSERT TITLE
INSERT ADDRESS
INSERT PHONE NUMBER
INSERT EMAIL

Escrow Fund Custodian is subject to change at any time, without notice, and at the Principal Representative's discretion. The Principal Representative shall notify Contractor and the Third Party Lessor within 15 days of any change in the Escrow Fund Custodian.

E. Energy Policy Act

The Political Subdivision agrees that, for the Work to be performed herein, Contractor may in consultation with the Principal Representative, determine which, if any, entity shall be the "designer(s)" as that term is identified in the Energy Policy Act of 2005, and which entity(s) shall have the exclusive right to report to any federal, state, or local agency, authority or other party, including without limitation under Section 179(d) of the Energy Policy Act of 2005, any tax benefit associated with the Work. Upon Notice of Final Acceptance, the Governing Body of the Political Subdivision, at its sole discretion, may authorize the Principal Representative to execute a Written Allocation including a Declaration related to Section 179D of the Internal Revenue Code. The Contractor may prepare the Declaration and all accompanying documentation.

4. COMPENSATION

Upon authorization by the Governing Body of the Political Subdivision, the Principal Representative will, or will direct any Escrow Fund Custodian to, in accordance with the provisions of this **Article 4**, pay Contractor in the amounts and using the methods set forth below:

A. Maximum Contract Price

The MCP from Schedule G is:	\$2,246,308
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The MCP reflects the maximum amount of compensation payable to Contractor pursuant to this Contract. The MCP may include, without limitation,

The cost of the IGA in the amount of:	\$47,194
The Fixed Limit of Construction Cost of:	\$2,150,694
The M&V Fees in an amount not to exceed:	\$11,088
And all Contingency Funds in the amount of:	\$95,614

If any Political Subdivision funds are used pursuant to **Article 3(B)** of this Contract, the maximum amount of the MCP available for payment by the Political Subdivision during any Fiscal Year of the Contract term shall be as follows:

*(Match this schedule with **Schedule G** and **Schedule B**, but do not use if amount in Political Subdivision provided capital contribution is zero)*

\$ 150,000 in fiscal year 2023, ending December 31, 2023
\$0 in fiscal year 2024, ending December 31, 2024 *
\$ 71,451 in fiscal year 2025, ending December 31, 2025
\$ 69,603 in fiscal year 2026, ending December 31, 2026
\$62,204 in fiscal year 2027, ending December 31, 2027
\$ 60,078 in fiscal year 2028, ending December 31, 2028
\$ 57,889 in fiscal year 2029, ending December 31, 2029
\$ 55,634 in fiscal year 2030, ending December 31, 2030
\$ 53,311 in fiscal year 2031, ending December 31, 2031
\$ 50,919 in fiscal year 2032, ending December 31, 2032
\$ 48,455 in fiscal year 2033, ending December 31, 2033

** No capital outlay in 2024 due to receipt of Inflation Reduction Act Direct Payment for Solar PV System. All loan payments are expected to be paid through savings and the IRA.*

B. Changes to MCP

Upon authorization by the Governing Body of the Political Subdivision, the Principal Representative may decrease the amount available for the MCP with the mutual consent of the Contractor and assuring that the decrease in the MCP does not adversely affect the Contractor’s requirement to meet the Guaranteed Annual Cost Savings. A change in the Guaranteed Annual Cost Savings may be considered a Material Change to this Contract, pursuant to **Article 17**. The decrease in MCP may be based on the actual costs of labor and materials to Contractor. The MCP shall not be increased without an amendment to this Contract, in accordance with Political Subdivision Fiscal Rules.

C. Invoicing

Contractor shall invoice the Political Subdivision in the format and manner required by the Principal Representative. Contractor shall use the categories in **Schedule F** to demonstrate all costs categories, shall demonstrate all subcontractor costs, and shall allow the Principal Representative to review any records relating to the Project. Contractor shall provide measure-specific information and Project-level information in **Schedule F**. For each Utility Cost-Savings Measure and FIM and for the Project the profit shall be clearly explained and referenced in each invoice. The M&V Services shall be invoiced separately in a format and manner as required by the Principal Representative.

D. Payments and Retainage

The Principal Representative will, or will direct any Escrow Fund Custodian to, compensate Contractor for Work done by Contractor pursuant to **Schedule A**. The Principal Representative shall withhold and release retainage amounts pursuant to **Schedule A** and as allowed by applicable law.

E. Availability of Political Subdivision Funds

The Political Subdivision cannot make commitments in this EPC that extend beyond the term of the current Fiscal Year. Therefore, Contractor’s compensation beyond the current Fiscal Year is contingent upon the specific budgeting, appropriations and encumbrances by the Governing Body of the Political Subdivision, in its sole discretion, for the purpose of providing for the commitments in this EPC in subsequent Fiscal Years. If other funds are used to fund this Contract, in whole or in part, the Political Subdivision’s performance hereunder is contingent upon the continuing availability of such funds. Payments pursuant to this Contract shall be made only from available funds specifically budgeted, appropriated and encumbered for this Contract and the Political Subdivision’s liability for such payments

shall be limited to the amount remaining of such encumbered funds. If Political Subdivision or other funds are not appropriated, or otherwise become unavailable to fund this Contract, the Governing Body of the Political Subdivision may terminate this Contract, in whole or in part, without further liability in accordance with the provisions hereof.

F. Erroneous Payments and Excess Funds

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, may be recovered from Contractor by deduction from subsequent payments under this Contract or other contracts, grants or agreements between the Political Subdivision and Contractor or by other appropriate methods and

collected as a debt due to the Political Subdivision. Such funds shall not be paid to any party other than the Political Subdivision.

G. Notice to Proceed to Commence Design Phase

If the Political Subdivision obtains funding from any and all sources in the amount of the MCP for the purposes set forth herein, upon terms and conditions satisfactory to the Governing Body of the Political Subdivision, in its sole discretion, or obtains funds sufficient for a revised Project scope, price, and Guarantee, if authorized by the Governing Body of the Political Subdivision, the Principal Representative shall deliver to Contractor a Notice to Proceed to Commence Design Phase instructing Contractor to commence with the Pre-Construction Services, as described in **Article 5**.

5. PRE-CONSTRUCTION SERVICES

A. Premises

The Premises is the Facilities owned or controlled by the Political Subdivision, as initially detailed on the IGA Contract Exhibit C and finalized in EPC **Schedule B**.

B. Professional Design Services

i. Qualifications

Design services shall be performed by properly licensed and qualified architects, engineers and other professionals selected and paid by Contractor, subject to review by the Principal Representative. The professional obligations of such persons shall be undertaken and performed on behalf of Contractor. Nothing contained herein shall create any contractual relationship with the Political Subdivision between Subcontractors, architects, engineers or suppliers. Prior to designating a professional to perform any of these services, Contractor shall submit the name, together with a resume of training and experience in the work of like character and magnitude to the Project being contemplated to the Political Subdivision. All Drawings, Specifications, calculations, certifications and Submittals prepared by such design professionals shall bear the signature and seal of such design professionals and the Political Subdivision shall be entitled to rely upon the adequacy, accuracy and completeness of such design services.

ii. Designation of Professionals

All Work performed by Contractor that constitutes the practice of architecture/engineering shall be performed by properly qualified and licensed professionals employed by Contractor and shall be performed in accordance with applicable Colorado law.

iii. Conflict of Interest

Consultant or subcontractor, not already approved by the Governing Body of the Political Subdivision, shall not be engaged to perform Work wherein a conflict of interest exists, as described in **Article 27(N)**, provided, however, that with full disclosure to the Governing Body of the Political Subdivision of such interest, the Governing Body of the Political Subdivision may provide a waiver, in writing, in respect to the particular consultant or subcontractor.

iv. Pre-construction Meeting

Contractor and its architect and/or engineer may attend pre-construction meetings, as deemed necessary by the Contractor and the Principal Representative and such additional meetings as the Principal Representative may request. All pre-construction meetings shall be scheduled by Contractor with the approval of the Principal Representative.

v. Minutes

Contractor shall record minutes of all meetings and distribute them to all participants of the meetings within 30 days after each meeting.

C. Design Documents

i. Based on the Scope of Work in **Schedule B** the Contractor shall prepare, for the Principal Representative's acceptance, the Design Documents (DDs) defined in **Article 1(K)**. The DDs may be waived or modified per Utility Cost-Savings Measure or FIM as mutually agreed in writing between the Parties. Such DDs may include the following, where applicable:

- a) Analysis of the proposed Work and the structure as such relates to any laws, codes, ordinances, and regulations
- b) As necessary, provide site development Drawings for each proposed Utility Cost-Savings Measure

- or FIM, defining the proposed scope of the Project. Include earthwork, surface development, and utility infrastructure as applicable
- c) Plans in one-line format of the proposed structural, mechanical, and electrical systems as necessary to define size, location and quality of Equipment, materials, and constructions, for each proposed Utility Cost-Savings Measure or FIM
 - d) Floor plans including proposed equipment
 - e) Cut-sheets and/or samples of proposed materials, equipment and system components
 - f) Proposed architectural schedule, HVAC, plumbing and electrical fixture schedules
 - g) Specifications, which, identifying conditions of the Contract, materials, and standards for each proposed Utility Cost-Savings Measure or FIM
 - h) Design plans and documentation for each Utility Cost-Savings Measure or FIM that requires a design as agreed to with the Principal Representative
 - i) Submittal of final Equipment List, Construction and Installation Schedule, Systems Start-up and Commissioning, Contractor's Maintenance Responsibilities, Political Subdivision's Maintenance Responsibilities, Contractors Training Responsibilities, and the Manifest of Ownership
 - j) Submittal of an updated construction cost estimate as applicable, in substantially the same form as **Schedule F**
- ii. A code review is required to meet the local jurisdiction authority code procedure.
 - iii. At the completion by Contractor and acceptance by the Principal Representative of the DDs, Contractor shall provide electronic or printed drawings and such other documents as necessary to fully illustrate the Design Development Phase to the Principal Representative. Electronic drawing files should be in a form acceptable to the Principal Representative.
 - iv. Contractor shall be responsible for ensuring that the DDs, prepared by Contractor are in full compliance with applicable codes, regulations, laws and ordinances, including both technical and administrative provisions thereof. If Contractor deviates from such codes, regulations, law or ordinance, without written authorization from the State Buildings Program, Contractor, shall make such corrections in the Construction Documents as may be necessary for compliance.
 - v. The Principal Representative shall notify Contractor of acceptance or denial of the DDs in writing within 10 days of receipt.

6. CONSTRUCTION

A. Construction Documents

The Construction Documents, if required, shall consist of the following:

- i. Final Construction Documents reviewed and approved by the Principal Representative in writing for constructability and code compliance
- ii. All Design Documents applicable to the Project
- iii. Any appendices, addenda, clarifications and allowances
- iv. All modifications issued pursuant to this Contract
- v. Construction and Installation Schedule
- vi. Finalized Schedule of Values

B. Construction and Installation Schedule

Contractor shall prepare a Construction and Installation Schedule, which shall provide the timetable for the execution and completion of the Project. Such Construction and Installation Schedule shall be subject to the approval of the Principal Representative, pursuant to **Schedule A**, and shall be consistent with previously issued schedules, not exceed time limits under the Contract Documents and shall provide a schedule for the entire Project, to the extent required by the Contract Documents.

C. Schedule of Values

Contractor shall prepare a schedule of the cost of construction, which shall be delivered to the Principal Representative for approval and which shall be in substantially similar format as the attached **Schedule F**, and which such Contractor-submitted **Schedule F** shall be subject to review and approval by the Principal Representative. The Schedule of Values shall include, without duplication:

- i. All labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for the proper execution and completion of

the Project, whether temporary or permanent, and whether or not incorporated or to be incorporated in the Project

- ii. The compensation for services and the cost of work provided by Contractor
- iii. All bond premiums and costs of insurance
- iv. All Design and drafting Services
- v. All other allowable compensable services pursuant to this Contract as approved by the Principal Representative
- vi. Contingency Funds if any

D. Approval and Completion of Construction Documents

Except as otherwise provided in this Section, the Construction Documents shall be subject to final approval by Principal Representative, on behalf of the Political Subdivision, and other reviewing authorities. The Principal Representative or written designee shall review documents submitted by Contractor and shall render decisions pertaining thereto without unreasonable delay. If authorized by the Governing Body of the Political Subdivision, the Principal Representative’s approval shall be issued in the form of the Notice to Proceed to Commence Construction Phase.

E. Notice to Proceed to Commence Construction Phase

Upon receipt of Notice to Proceed to Commence Construction Phase, Contractor shall commence the Project, as described in **Article 1**, and **Schedule B**. Notice to Proceed to Commence Construction may be issued per Utility Cost-Savings Measure or FIM.

F. Construction Term

The Construction Term shall commence on the Construction Commencement Date and shall terminate upon the date according to **Article 2** or the date on which:

- i. Contractor has completed the Project Work
- ii. Contractor has finalized and delivered to the Principal Representative all necessary, updated, and final documents, including schedules, exhibits, and completed Punch Lists, at the Principal Representative’s determination
- iii. Contractor has delivered to the Principal Representative a Notice of Substantial Completion, which indicates that Contractor has constructed, installed, and commenced operating the Utility Cost-Savings Measures or FIMs specified in **Schedule B**
- iv. The Principal Representative has inspected and accepted the Project, according to **Article 8** and **Schedule A**, including the design, construction, installation, and operation of the Project and accepted Contractor’s submittal of a Notice of Substantial Completion as demonstrated by signing and executing such Notice of Substantial Completion
- v. The Principal Representative, on behalf of the Political Subdivision, has issued a Notice of Final Acceptance

G. Fixed Limit of Construction Cost

Contractor shall complete the Project and be reimbursed an amount not to exceed the Fixed Limit of Construction Cost per **Article 4(A)**. Contractor shall design and construct the Project within the price specified in this **Article 6(G)** and shall furnish all of the labor and materials to perform the Work for the complete and prompt execution of the Project in accordance with the Contract Documents. The Fixed Limit of Construction Cost includes all of Contractor’s Project Work responsibilities, including acquisition of plumbing and electrical building permits and conducting code review. The Governing Body of the Political Subdivision may unilaterally decrease the amount available for the Fixed Limit of Construction Cost based on the actual costs of labor and materials to Contractor, with the mutual consent of the Contractor, and assuring that the decrease in the FLCC does not adversely affect the Contractor’s requirement to meet the Guaranteed Annual Cost Savings. A change in the Guaranteed Annual Cost Savings may be considered a Material Change to this Contract, pursuant to **Article 17**. However the Fixed Limit of Construction Cost and the Maximum Contract Price shall not be changed without an amendment or change order to this Contract, in accordance with EPC General Conditions and Fiscal Rules.

H. Cost Reporting

Contractor shall fully disclose all costs as per the Open Book Pricing requirements to the Political Subdivision through Applications for Contractors Payments and in such detail as the Principal Representative may request. Contractor shall maintain cost accounting records on authorized work

performed as per **Article 24(K)**. Such accounting records shall identify all costs for materials, labor, including all costs of subcontractor's, vendors, and services received during the Contract Term **Article 2B**. Upon request by the Principal Representative a list of hourly rates and position descriptions for labor or services provided by the Contractor and for all subcontractors and vendors and supply information on any other basis as specified by the Principal Representative. The Principal Representative may evaluate all cost through price analysis to compare costs with reasonable criteria such as established catalog and market prices or historical prices to ensure the Contractor's prices are reasonable and acceptable. Upon request by the Principal Representative, Contractor shall provide the Principal Representative complete access to such records at reasonable times and locations. The records shall be consistent with the Schedule of Values, **Schedule F**. Any disputes shall be subject to the terms of this Contract and **Schedule A**.

I. Progress Meetings

Contractor shall schedule and conduct regular progress meetings at which meetings the Principal Representative and Contractor shall discuss such matters as procedures, progress, schedule, costs, quality control and problems relating to the Project. Contractor shall record and distribute minutes of all such progress construction meetings within

4 business days

days of the meeting.

J. Contingency Funds

If authorized by the Governing Body of the Political Subdivision, the Principal Representative may authorize the disbursement of Contingency Funds to Contractor through an EPC Contract Change Order, as described in **Schedule A**.

7. CONTRACTOR PERFORMANCE

A. Performance of Project

Contractor shall perform the Project in accordance with the Contract Documents. Contractor shall construct and install the Project in accordance with the Construction and Installation Schedule. Contractor shall supervise and direct the Project and be solely responsible for all construction means, methods, techniques, sequences, and procedures and for coordinating all portions of the Project under this Contract, subject to the review and approval of the Principal Representative and the Construction and Installation Schedule. Contractor shall design, construct and install the Utility Cost-Savings Measures or FIMs. Before purchasing any major Equipment not specified within the Construction Documents, Contractor shall consult with, and if necessary, receive the written or electronic approval of the Principal Representative regarding the price, specifications, warranty, and manufacturer of the Equipment.

B. Contractor's Duty of Proper Performance

Contractor shall perform the Project so as to maintain and not degrade the structural integrity of the Premises or its operating systems. Contractor shall provide the Equipment and all Services, and complete all Work contemplated under this Contract with skill and diligence to the satisfaction of the Principal Representative and in strict accordance with the provisions of the Contract Documents.

C. Standards of Comfort

Contractor's performance of the Project shall maintain and provide the standards of heating, cooling, ventilation, hot water supply, and lighting quality as described in this Contract **Schedule N** (Standards of Comfort).

D. Security

Contractor shall meet Political Subdivision requirements for security and access to the Premises.

8. START-UP, COMMISSIONING, INSPECTION, and ACCEPTANCE

A. Contractor, in conjunction with the Political Subdivision's selected personnel, shall direct the testing of installed utilities, operations, systems and Equipment for readiness.

B. Systems Startup and Equipment Commissioning

Contractor shall conduct systematic commissioning of all Equipment installed as part of the Work, in accordance with the procedures specified in System Start-up and Commissioning **Schedule Q**, **Schedule A**, any operating parameters of Equipment from Equipment manufacturers, and this Contract. Contractor agrees that **Schedule Q** shall follow and use as a standard the procedures and protocol for Commissioning

located in the document *Commissioning Guidelines for Energy Saving Performance Contracts for the Colorado Energy Office*, provided by the Political Subdivision. Contractor shall test the Project and the Equipment to ensure it is functioning in accordance and compliance with any published Specifications and this Contract and to determine if modified building systems, subsystems or components are functioning properly within the Project Work. Contractor shall provide notice to the Principal Representative of the scheduled test(s) and the Principal Representative and/or its designees may be present at any or all such tests.

C. Acceptance by Principal Representative

Contractor’s Work shall be subject to acceptance by the Principal Representative pursuant to this Contract and **Schedule A**.

D. Correction of Deficiencies

Contractor shall correct all deficiencies in the operation of the Project and the Equipment. Prior to Principal Representative acceptance, Contractor shall also provide Principal Representative with reasonably satisfactory documentary evidence that the Equipment installed is the Equipment specified in **Schedule B** and any subsequently necessary and accepted design or construction documents.

E. Inspection and Disputes

- i. The Principal Representative may inspect the Work provided under this Contract at all reasonable times and places. If any Work does not conform to this Contract, the Principal Representative may require Contractor to perform the Work again in conformity with this Contract's requirements, with no additional compensation. When defects in the quality or quantity of Work cannot be corrected by re-performance, the Principal Representative may:
 - a) Require Contractor to take necessary action to ensure that the future performance conforms to Contract requirements; and/or
 - b) Equitably reduce the payment due Contractor to reflect the reduced value of the Work performed.
- ii. Such remedies in no way limit the remedies available to the Political Subdivision in the termination provisions of this Contract, or remedies otherwise available at law. Disputes under this Contract shall be subject to the terms of this Contract and **Schedule A**.

9. ENVIRONMENTAL REQUIREMENTS

A. Excluded Material and Activities

Pursuant to its performance of the Project, Contractor may encounter, but is not responsible for, any work relating to Excluded Materials and Activities, as defined in **Article 1**. If performance of Work involves any Excluded Materials and Activities, the Principal Representative may terminate this Contract without penalty, liability, or responsibility, and no further performance may be required, per **Schedule A**. If, in the sole discretion of the Governing Body of the Political Subdivision, the Political Subdivision requires continued performance of this Contract, and the performance of any Project involves any Excluded Materials and Activities, the Political Subdivision shall perform or arrange for the performance of such work and shall bear the sole cost, risk, and responsibility therefore.

B. Discovery of Excluded Materials and Activities

i. Notice - Work Stoppage

If Contractor discovers Excluded Materials and Activities, Contractor shall immediately cease work and remove all Contractor personnel or Subcontractors from the site, and notify the Principal Representative. Contractor shall undertake no further work on the Premises except as authorized by the Principal Representative in writing. Notwithstanding anything in this Contract to the contrary, any such event of discovery or remediation by the Political Subdivision or Contractor shall not constitute a default. In the event of such stoppage of Work by Contractor, the time for the completion of the Work shall be automatically extended by the amount of time of the work stoppage and any additional costs incurred by Contractor as a result shall be added by Change Order.

ii. Other Hazardous Materials

Contractor shall be responsible for safely handling, installing, and/or disposing of any other hazardous or other materials that it may bring to the Premises.

iii. Polychlorinated Biphenyl (PCB) Ballasts; Mercury Lamps

Contractor is specifically responsible for the proper handling and disposal of Polychlorinated Biphenyl (PCB) Ballasts and Mercury Lamps. Upon discovery of PCB Ballasts and Mercury Lamps, Contractor shall enter into an agreement with an approved PCB ballast disposal contractor who shall provide an informational packet, packing receptacles and instructions, labels and shipping materials, transportation, and recycling or incineration services such materials. All capacitors and asphalt potting compound materials removed from the PCB Ballasts shall be incinerated in a federally approved facility. After proper disposal, a Certificate of Destruction shall be provided by the approved facility to the Principal Representative. Contractor’s responsibility shall be for the proper and legal management of any of the PCB Ballasts removed as a result of the Work. Contractor shall enter into an agreement with an approved Mercury Lamp disposal contractor who shall provide approved containers, materials required to label, transportation, recycling or incineration in accordance with EPA requirements, and a copy of the Manifest of Ownership.

iv. Manifests of Ownership

The Political Subdivision will sign a Manifest of Ownership for any PCB Ballasts and Mercury Lamps encountered and removed from the Premises.

10. TRAINING AND FOLLOW-UP ACTIVITIES BY CONTRACTOR

A. Training

Contractor shall provide training to the Principal Representative and to Political Subdivision personnel regarding operation of all new and upgraded Equipment. Training shall be conducted simultaneously with Project Work and commissioning Work and shall include, but not be limited to, any HVAC equipment installed, controls, utilities, lighting, safety, manufacturer’s warranties, and operation and maintenance manuals per **Schedule R** (Contractor Training Responsibilities). All training performed by Contractor shall (i) meet the standards established by the Equipment manufacturers, (ii) be included in the Fixed Limit of Construction Cost and (iii) be completed per **Schedule R**, in order for the Principal Representative to issue a Notice of Final Acceptance of the Project.

B. Emissions Reductions Documentation and Reporting

Contractor shall include information about environmental savings (not any Guaranteed Annual Cost Savings as described in **Article 14(B)**) in each annual report and advise the Principal Representative about opportunities to achieve monetary benefit from such credits.

C. Application for Certifications

Contractor shall provide information related to **Schedule B** necessary for the Principal Representative to submit any required Federal, State, Local performance or other applicable Certifications.

11. MALFUNCTIONS AND EMERGENCIES

A. The Principal Representative will use its best efforts to notify Contractor within 24 hours of the Principal Representative's actual knowledge and occurrence of: (i) any malfunction in the operation of the Equipment or any pre-existing energy related equipment that might materially impact the Guaranteed Annual Cost Savings, (ii) any interruption or alteration to the energy supply to the Premises, or (iii) any alteration or modification in any energy-related equipment or its operation. When the Principal Representative exercises reasonable due diligence in attempting to assess the existence of a malfunction, interruption, or alteration it shall be deemed not at fault in failing to correctly identify any such conditions as having a material impact upon the Guaranteed Annual Cost Savings.

B. If such malfunction, interruption, or alteration occurs during the Contractor’s One-Year Warranty period, Contractor shall use commercially reasonable efforts to respond to any such notice within 24 hours of receipt of notice, and shall promptly thereafter proceed with corrective measures. The Principal Representative will provide Contractor with written memorialization of any telephone notice within three business days after the notice was given.

C. Contractor shall provide a written record of all service work performed for each malfunction or emergency. This record shall indicate the reason for the service, description of the problem and the corrective action performed.

D. The Political Subdivision may take reasonable steps to protect the Equipment if, due to an emergency, it is not possible or reasonable to notify Contractor before taking any such actions. The Political Subdivision agrees to maintain the Premises in good repair and to protect and preserve all portions thereof, which

may in any way affect the operation or maintenance of the Equipment, all in accordance with the same standard of care the Political Subdivision applies to the Premises generally.

12. OWNERSHIP

A. Ownership of Documents (Instruments of Service)

- i. Drawings, specifications and other documents, including those in electronic form, prepared by the Contractor’s Architect/Engineer and the Contractor’s Architect/Engineer’s consultants are Instruments of Service for use solely with respect to this Project. The Contractor’s Architect/Engineer and the Contractor’s Architect/Engineer’s consultants shall be deemed the authors and owners of their respective Instruments of Service and shall retain all common law, statutory and other reserved rights, including copyrights.
- ii. Upon execution of this EPC and the contract between the Contractor’s and the Contractor’s Architect/Engineer, the Contractor’s Architect/Engineer shall grant to the Political Subdivision a perpetual nonexclusive license to reproduce and use, and permit others to reproduce and use for the Political Subdivision, the Contractor’s Architect/Engineer’s Instruments of Service solely for the purposes of constructing, using and maintaining the Project for future alterations or additions to the Project. The Contractor’s Architect/Engineer shall obtain similar nonexclusive licenses from the Contractor’s Architect/Engineer’s consultants consistent with this Agreement. If and upon the date the Contractor’s Architect/Engineer is adjudged in default, the foregoing license shall be deemed terminated and replaced by a second, nonexclusive license permitting the Political Subdivision to authorize other similarly credentialed design professionals to reproduce and, where permitted by law, to make changes, corrections and additions to the Instruments of Service solely for the purposes of completing, using and maintaining the Project for future alterations or additions to the Project.
- iii. Any unilateral use by the Political Subdivision of the Instruments of Service for completing, using, maintaining, adding to or altering the Project or facilities shall be at the Political Subdivision’s sole risk and without liability to the Contractor’s Architect/Engineer and the Contractor’s Architect/Engineers consultants; provided, however, that if the Political Subdivision’s unilateral use occurs for completing, using or maintaining the Project as a result of the Contractor’s Architect/Engineer’s default, nothing in this Article shall be deemed to relieve the Contractor’s Architect/Engineer of liability for its own acts or omissions or default.

B. As-Built Drawings/Record Drawings

The Contractor’s Architect/Engineer and its consultants shall, upon completion of the Construction Term, receive redline as-built Drawings from any Subcontractors or vendors. These redline changes shall describe the built condition of the Project. This information and all of the incorporated changes directed shall be incorporated by the Contractor’s Architect/Engineer and its consultants into a Record Drawings document provided to the Political Subdivision in the form of an electro-media format and a reproducible format as agreed between the parties. The Contractor’s Architect/Engineer shall also provide the Principal Representative with the as-built Drawings as received from the Contractor.

C. Ownership of Existing Equipment

- i. Property owned by the Political Subdivision located at the Premises on the Effective Date shall remain the property of Political Subdivision even if it is replaced or its operation made unnecessary by Work Contractor performs pursuant to this Contract. Contractor shall advise the Principal Representative in writing of any equipment and materials to be replaced at the Premises and the Principal Representative shall within 30 days designate in writing to Contractor which equipment and materials should not be disposed of off-site by Contractor.
- ii. The Principal Representative shall designate the location and storage for any equipment and materials that it designates to be disposed of by Contractor. Contractor shall dispose of all equipment and materials designated by the Principal Representative as disposable off-site and in accordance with all applicable disposal laws and regulations.
- iii. Except as otherwise indicated, Contractor shall not be obligated to dispose of or be responsible for any materials identified in **Article 4(O)**.

13. MEASUREMENT AND VERIFICATION PLAN

A. M&V Plan

Contractor shall provide the M&V Plan as required per the CEO Measurement and Verification Policy. The M&V Plan shall outline the M&V Option for each Utility Cost-Savings Measure or FIM. The Contractor M&V Plan is presented in **Schedule D** per the requirements of **Schedule D**.

B. M&V Services

Contractor shall provide M&V Services and all other services required to be performed by it pursuant to **Schedule D** during the M&V Term. Contractor agrees that **Schedule D** shall follow and use as a standard the procedures and protocol as stated in the CEO Measurement and Verification Policy.

C. Energy Usage Records and Data

The Principal Representative shall furnish, or authorize its utility suppliers to furnish, to Contractor or its designee upon Contractor's written request, all records and data regarding energy, water, or other utilities usage and related maintenance at the Premises no later than 45 days from date of request.

D. M&V Term

The M&V Term shall begin on the M&V Commencement Date and continue for a minimum term of three years per statute **§29-12.5-101(3)(c), C.R.S.** and no greater than the Finance Agreement Term. Upon termination of the M&V Term, the Political Subdivision shall have no further liability or responsibility for any further payment to Contractor for M&V Services. Upon termination of the M&V Term the Contractor shall have no further liability or responsibility for any M&V Services or Guarantee.

E. M&V Fee

The Political Subdivision shall pay to Contractor for performance of the M&V Services a maximum not-to-exceed amount as indicated in **Article 4** and as specified in **Schedule D** and shall be included in the MCP. Cost savings to support the fee are guaranteed. The cost is not included in the financed amount. At the request of the Principal Representative, additional years of M&V may be added at a negotiated additional cost, and shall not be included in the MCP.

F. Payment

The Political Subdivision shall pay Contractor pursuant to **Articles 6** and **7**.

G. M&V Information Procedure

Measurement and Verification of Savings shall be verified as outlined in **Schedule D**.

H. Monitoring Equipment

Contractor shall provide all additional necessary equipment required to perform the M&V Services. The Contractor may utilize existing equipment, systems, utility meters if applicable or provide the necessary equipment as described in **Schedule D**.

I. Independent Monitor

The Political Subdivision, at its sole expense, may hire an independent third party monitor to review Contractor's measurement and verification reports, including verifying the prorated share of the Guarantee in any event of contract termination. The Political Subdivision shall pay the cost of any independent monitoring through a separate contract.

14. GUARANTEE

A. Guarantee

The Guarantee for the first year of the Guarantee Period is

\$64,841

as indicated on **Schedule C**. Contractor hereby warrants and guarantees that during the Guarantee Period, the Project shall result in annual cost savings equal to or greater than the Guaranteed Annual Cost Savings presented in **Schedule C** which shall be equal to or greater than the Political Subdivision's annual and aggregate payments used to repay the project funding, as provided in **Schedule C** and as set forth in **§29-12.5-101(3), C.R.S.** Failure to meet Guaranteed Annual Cost Savings in any year during the Guarantee Period shall be as defined in **Article 1**. Cost savings in excess of the Guaranteed Annual Cost Savings shall be solely retained by the Political Subdivision.

B. Sufficiency of Savings

Contractor hereby warrants, guarantees, and represents that the Guaranteed Annual Cost Savings is accurately represented in **Schedule C**.

C. Termination

If this Contract is terminated by Governing Body of the Political Subdivision for any reason, the Guarantee

shall be cancelled and Contractor shall have no further obligations hereunder, except to guarantee the Political Subdivision the prorated portion of the annual amount of Guarantee up to the date of termination. The prorated portion shall include any Savings incurred prior to the termination date. The Contractor shall have all of the remedies listed in this **Article 14** in addition to all other remedies set forth in other sections of this Contract and **Schedule A**.

15. MODIFICATION, UPGRADE OR ALTERATIONS OF EQUIPMENT

A. Modification of Equipment

Without Contractor’s prior written approval, which shall not be unreasonably withheld, during the term of this Contract, the Political Subdivision shall not affix or install any accessory equipment or device on any of the Equipment if such addition changes or impairs the originally intended Savings, functions, value or use of the Equipment.

B. Upgrade or Alteration of Equipment

- i. During the performance of this Contract, Contractor may, subject to prior authorization of the Governing Body of the Political Subdivision, change the Equipment, revise any procedures for the operation of the Equipment or implement other energy saving actions in the Premises, provided that: (a) Contractor complies with the Standards of Comfort, as set forth in this Contract, and services set forth in **Schedule N**; (b) such modifications or additions to, or replacement of the Equipment, and any operational changes, or new procedures enable Contractor to achieve a greater amount of energy and cost savings than the Savings, at the Premises; (c) any cost incurred relative to such modifications, additions or replacement of the Equipment, or operational changes or new procedures are solely borne by Contractor and paid for with any Contingency Funds; and (d) any such action complies with State, federal and local law and is in the public interest of the Political Subdivision, in the sole discretion of the Governing Body of the Political Subdivision. Any such upgrade or alteration shall not result in any additional cost to the Political Subdivision.
- ii. All modifications, additions or replacements of the Equipment or revisions to operating or other procedures shall be described at that time in supplemental Schedules provided to the Governing Body of the Political Subdivision for approval; provided that any replacement of the Equipment shall, unless otherwise agreed, be new and shall reduce energy consumption at the Premises more than the Equipment being replaced. Contractor shall update any and all software it owns which is necessary for the operation of the Equipment. Upon the approval of the Governing Body of the Political Subdivision, all replacements of and alterations or additions to the Equipment shall become part this Contract and the Equipment described in **Schedule B**.

16. LOCATION AND ACCESS

Contractor Access

The Principal Representative shall provide access to the Premises for Contractor to perform any function related to this Contract during regular business hours, or such other reasonable hours requested by Contractor that are acceptable to the Principal Representative. Contractor shall be granted immediate access to make emergency repairs or corrections as Contractor determines are needed. Contractor shall provide a written memorialization within three business days of the access specifying the emergency action taken, the reasons therefore, and the impact on the Premises.

17. MATERIAL CHANGES

A Material Change as defined could be the result of the Political Subdivision not fulfilling its responsibilities as listed in **Article 22** or from actions including to but not limited to one or more of the following:

- i. manner of use of the Premises by the Political Subdivision; or
- ii. occupancy of the Premises; or
- iii. modifications, alterations or overrides of the energy management system schedules or hours of operation, set back/start up or holiday schedules; or
- iv. facility modifications, renovations, new construction, including the replacement, addition or removal in types and quantities of energy and water consuming equipment, including plug load items, used at the Premises; or

- v. changes in utility provider or utility rate classification; or
- vi. any other conditions other than climate affecting energy or water usage at the Premises.

A. Reported Material Changes; Notice by Political Subdivision

The Principal Representative shall use commercially reasonable efforts to deliver to Contractor a written notice describing all actual or proposed Material Changes in the Premises or in the operations of the Premises at least 14 days before any actual or proposed Material Change is implemented or as soon as is practicable after an emergency or other unplanned event. Notice to Contractor of Material Changes which result because of a bona fide emergency or other situation precluding advance notice shall be deemed sufficient if given by the Principal Representative within five business days after the Principal Representative discovers the event constituting the Material Change or receives actual knowledge thereof.

B. Other Adjustments

Contractor shall work with the Principal Representative to investigate, identify and correct any Material Changes that prevent the Savings from being realized. As a result of any such investigation, Contractor and the Principal Representative shall determine what, if any, adjustments to the baseline shall be made in accordance with the provisions set forth in **Schedule B** and **Schedule C**. Any disputes between the Political Subdivision and the ESCO concerning any such adjustment shall be resolved in accordance with the provisions of **Schedule A**.

C. Force Majeure

Neither party will be responsible to the other for damages, loss, injury, or delay caused by conditions that are beyond the reasonable control, and without the intentional misconduct or negligence of that party. Such conditions (each, a "Force Majeure") include, but are not limited to: acts of God; strikes; labor disputes; fires; explosions or other casualties; thefts; vandalism; riots or war; acts of terrorism; electrical power outages; interruptions or degradations in telecommunications, computer, or electronic communications systems; or unavailability of parts, materials or supplies.

18. INSURANCE

Contractor shall obtain and maintain at all times during this Contract, insurance in the kinds and amounts as specified in **Schedule A**.

19. BREACH

A. Defined

In addition to any Breaches specified in other sections of this Contract, the failure of either Party to perform any of its material obligations hereunder in whole or in part or in a timely or satisfactory manner may constitute a Breach. The institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within 20 days after the institution or occurrence thereof, may also constitute a Breach.

Each of the following events or conditions may constitute a Breach by Contractor:

- i. Contractor does not provide the Standards of Comfort and service set forth in **Schedule N** due to failure of Contractor to properly design, install, maintain, repair or adjust the Equipment except that such failure, if corrected or cured within 30 days after written notice by the Principal Representative to Contractor demanding that such failure be cured, shall be deemed cured for purposes of this Contract; or
- ii. Any representation or warranty furnished by Contractor in this Contract is false or misleading in any material respect when made; or
- iii. The existence of any lien or encumbrance upon the Equipment by any subcontractor, laborer or materialman which is not released or otherwise cured within 30 days after notice of said filing.
- iv. Any failure by the Contractor to perform or comply with the terms and conditions of this Contract, including Breach of any covenant contained herein except that such failure, if corrected or cured within 30 days after written notice by the Principal Representative to the Contractor demanding that such failure to perform be cured, shall be deemed cured for purposes of this Contract; or
- v. The creation or submittal by Contractor of any data related to this Contract that is intentionally

inconsistent or incorrect, or the inability to verify Contractor’s reports regarding the Guarantee as determined by any independent third-party monitor retained by the Political Subdivision if such third-party monitor determines that such inability is due to intentional acts of Contractor. Except as provided herein, any creation or submittal by Contractor of any data related to this Contract that is inconsistent, incorrect, or unable to be verified shall be considered a breach and is subject to the cure period discussed herein; or

- vi. The Savings is less than the Guaranteed Annual Cost Savings and the Contractor fails to reconcile the difference as provided herein.

B. Notice and Cure Period

In the event of a Breach, notice of such shall be given in writing by the aggrieved Party to the other Party in the manner provided in **Article 27**. If such Breach is not cured within 30 days of receipt of written notice, or if a cure cannot be completed within 30 days, or if cure of the Breach has not begun within 30 days and pursued with due diligence, the Political Subdivision may exercise any of the remedies set forth in **Article 20**. Notwithstanding anything to the contrary herein, the Principal Representative, in its sole discretion, need not provide advance notice or a cure period and may immediately terminate this Contract in whole or in part if reasonably necessary to preserve public safety or to prevent immediate public crisis.

20. REMEDIES

A. Remedies Not Involving Termination

If Contractor is in Breach under any provision of this Contract, the Political Subdivision, in the sole discretion of the Governing Body of the Political Subdivision, may exercise one or more of the following remedies in addition to other remedies available to it:

i. Suspend Performance

Suspend Contractor’s performance with respect to all or any portion of this Contract pending necessary corrective action as specified by the Governing Body of the Political Subdivision without entitling Contractor to an adjustment in price/cost or performance schedule. Contractor shall promptly cease performance and incurring costs in accordance with the directive of the Governing Body of the Political Subdivision and the Political Subdivision shall not be liable for costs incurred by Contractor after the suspension of performance under this provision.

ii. Withhold Payment

Withhold payment to Contractor until corrections in Contractor’s performance are satisfactorily made and completed.

iii. Deny Payment

Deny payment for those obligations not performed that because to Contractor’s actions or inactions, cannot be performed or, if performed, would be of no value to the Political Subdivision; provided, that any denial of payment shall be reasonably related to the value to the Political Subdivision of the obligations not performed.

iv. Removal

Notwithstanding any other provision herein, the Political Subdivision may demand immediate removal of any of Contractor’s employees, agents, or Subcontractors whom the Principal Representative deems incompetent, careless, insubordinate, unsuitable, or otherwise unacceptable, or whose continued relation to this Contract is deemed to be contrary to the public interest or the Political Subdivision’s best interest.

v. Intellectual Property

If Contractor infringes on a patent, copyright, trademark, trade secret or other intellectual property right while performing its obligations under this Contract, Contractor shall, at the Political Subdivision’s option **(a)** obtain for the Political Subdivision or Contractor the right to use such products and services; **(b)** replace any Goods, Services, or other product involved with non-infringing products or modify them so that they become non-infringing; or, **(c)** if neither of the foregoing alternatives are reasonably available, remove any infringing Goods, Services, or products and refund the price paid therefore to the Political Subdivision.

B. Termination Prior to M&V Commencement Date

If Contractor is in Breach under any provision of this Contract, in addition to all other remedies set forth in other sections of this Contract and **Schedule A**. The Political Subdivision may terminate this entire Contract or any part of this Contract as provided herein or pursuant to **Schedule A**. The Political Subdivision may exercise any or all of the remedies available to it, in its sole discretion, concurrently or consecutively. Exercise by the Political Subdivision of this right shall not be a breach of its obligations hereunder. Contractor shall continue performance of this Contract to the extent not terminated, if any.

To the extent specified in any termination notice, Contractor shall complete and deliver to the Principal Representative for the records of the Political Subdivision all Work not cancelled by the termination notice and may incur obligations as are necessary to do so within this Contract's terms. At the sole discretion of the Governing Body of the Political Subdivision, Contractor shall assign to the Political Subdivision all of Contractor's right, title, and interest under such terminated orders or subcontracts; provided that Contractor's obligations with respect to Contractor's Intellectual Property are set forth in **Article 12** above. Upon termination, Contractor shall take timely, reasonable and necessary action to protect and preserve property in the possession of Contractor in which the Political Subdivision has an interest. All materials owned by the Political Subdivision in the possession of Contractor shall be immediately returned to the Political Subdivision. All Work Product, at the option of the Governing Body of the Political Subdivision, shall be delivered by Contractor to the Political Subdivision and shall become the Political Subdivision's personal property.

C. Termination of M&V Term

Notwithstanding anything to the contrary herein, the Governing Body of the Political Subdivision may terminate this Contract after the first three years of the M&V Term, and if so terminated, Contractor shall have no further obligations hereunder thereafter.

21. REPRESENTATIONS AND WARRANTIES

A. Representations

Contractor makes the following specific representations and warranties, each of which was relied on by Political Subdivision in entering into this Contract.

i. Standard and Manner of Performance

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

ii. Legal Authority – Contractor Signatory

Contractor warrants that it possesses the legal authority to enter into this Contract and that it has taken all actions required by its procedures, and by-laws, and/or applicable laws to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Contract, or any part thereof, and to bind Contractor to its terms. If requested by the Political Subdivision, Contractor shall provide the Principal Representative, for the records of the Political Subdivision, with proof of Contractor's authority to enter into this Contract within 15 days of receiving such request.

iii. Licenses, Permits, Etc.

Contractor represents and warrants that as of the Effective Date it has, and that at all times during the term hereof it shall have and maintain, at its sole expense, all licenses, certifications, approvals, insurance, permits, and other authorizations required by law to perform its obligations hereunder. Contractor warrants that it shall maintain all necessary licenses, certifications, approvals, insurance, permits, and other authorizations required to properly perform this Contract, without reimbursement by the Political Subdivision or other adjustment in MCP. Additionally, the Contractor 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 Contract. Contractor, if a foreign corporation or other foreign entity transacting business in the State of Colorado, further warrants that it currently has obtained and shall maintain any applicable certificate of authority to transact business in the State of Colorado and has designated a registered agent in Colorado to accept service of process. Any revocation, withdrawal or non-renewal of licenses, certifications, approvals, insurance, permits or any

such similar requirements necessary for Contractor to properly perform the terms of this Contract is an Event of Default by Contractor and constitutes grounds for termination of this Contract. Contractor shall use Subcontractors who are qualified and licensed in the State of Colorado to perform the work so subcontracted pursuant to the terms hereof.

The Equipment is or shall be compatible with, or functional with, and or an upgrade to all other Premises mechanical and electrical systems, subsystems, or components with which the Equipment interacts, and that, as installed, neither the Equipment nor such other systems, subsystems, or components shall materially adversely affect each other as a direct or indirect result of Equipment installation or operation except in cases where that Principal Representative has directed, or approved, Contractor to install such equipment.

That Contractor is financially solvent, able to pay its debts as they mature and possesses sufficient working capital to complete the installation and perform its obligations under this Contract.

B. Warranties

The warranties set forth in this section and such other warranties as may be set forth in this Contract are a part of the minimum work requirements of this Contract and all remediation or other actions required by such warranties shall be performed or delivered without additional cost to the Political Subdivision.

i. Warranties Generally Applicable

In addition to the Warranties provided in **Schedule A**, during the Construction phase, **§2A**, of this Contract and for a period of one year following the Principal Representative’s submission of either the Notice of Substantial Completion or Notice of Partial Substantial Completion for each Utility Cost-Savings Measure or FIM, whichever is longer, Contractor warrants that:

- a) The Work shall meet the Specifications set forth in the Contract Documents and be acceptable to the Political Subdivision;
- b) There are not any pending suits, claims, or actions of any type with respect to the Equipment or Work;
- c) All Equipment and Work provided are free and clear of any liens, encumbrances or claims arising by or through Contractor or any party related to Contractor;
- d) Contractor will perform all of its obligations in accordance with **Article 7**, Contractor Performance;
- e) the Equipment is new, unless otherwise agreed in writing;
- f) shall be materially free from defects in materials; and,
- g) shall function properly.

ii. Equipment

Specific and any material warranties that exceed the equipment One-Year Warranty period shall be provided directly by the Equipment or material manufacturers and Contractor shall assign such warranties to the Political Subdivision, after the One-Year Warranty period.

iii. Obligations

During the One-Year Warranty period, Contractor shall remedy any defects due to faulty materials and shall pay for, repair and replace any resulting damage to other work or any other resulting damage directly associated with the Work. Only new and not reconditioned parts may be used as a remedy. The Personal Representative shall give written notice to Contractor of observed defects or other Work requiring correction with reasonable promptness.

Contractor shall pursue rights and remedies against any Equipment manufacturers under the warranties in the event of Equipment malfunction or improper or defective function, defects in parts, workmanship and performance during the One-Year Warranty period. Contractor shall, during the One-Year Warranty period, notify the Principal Representative whenever defects in Equipment parts or performance arise that may provide a warranty claim. During the One-Year Warranty period, the cost of any risk of damage or damage to the Equipment and its performance, including damage to property, equipment of the Political Subdivision or the Premises, or Equipment, due to Contractor’s failure to exercise its warranty rights shall be borne solely by Contractor.

Notwithstanding the above, nothing in this section shall be construed to abrogate Contractor’s duty to perform its other obligations under this Contract.

22. POLITICAL SUBDIVISION M&V TERM RESPONSIBILITIES

The Political Subdivision is responsible during the M&V Term for:

- a) Hours of operation of the Premises or for any equipment or systems operating at the Premises; or
- b) Notifying the Contractor about equipment performance issues as they are noticed; or
- c) Permanent changes in the comfort and service parameters set forth in **Schedule N** (Standards of Comfort); or
- d) Failure to provide maintenance of and repairs to the Equipment in accordance with **Schedule S** (Political Subdivision’s Maintenance Responsibilities); or
- e) Providing Contractor the right once a month, with prior notice, to inspect the Premises to determine if the Political Subdivision is complying with appropriate schedules. For the purpose of determining such compliance, the checklist to be set forth at **Schedule S** (Political Subdivision’s Maintenance Responsibilities), as completed and recorded by Contractor during its monthly inspections, shall be used to measure and record the compliance of the Political Subdivision. The Political Subdivision shall make the Premises available to Contractor for and during each monthly inspection, and shall have the right to witness each inspection and Contractor’s recordation on the checklist. The Principal Representative, on behalf of the Political Subdivision, may complete checklist for the Political Subdivision at the same time. Contractor shall not interfere with any operations of the Political Subdivision during any monthly inspection.

23. RIGHTS IN DATA, DOCUMENTS, AND COMPUTER SOFTWARE

Except for Contractor’s Intellectual Property, any software, research, reports, studies, data, photographs, negatives or other documents, drawings, models, materials, or Work Product of any type, including drafts, prepared by Contractor in the performance of its obligations under this Contract shall be the nonexclusive property of the Political Subdivision and, all Work Product shall be delivered to the Principal Representative by Contractor upon completion or termination hereof. The nonexclusive rights of the Political Subdivision in such Work Product shall include, but not be limited to, the right to copy, publish, display, transfer, and prepare derivative works. Contractor shall not use, willingly allow, cause or permit such Work Product to be used for any purpose other than the performance of Contractor’s obligations hereunder without the prior written consent of the Principal Representative on behalf of the Political Subdivision.

24. GENERAL PROVISIONS

A. Assignments

Contractor’s rights and obligations under this Contract 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 Contractor’s rights and obligations approved by the State shall be subject to the provisions of this Contract, except in the event that any third party acquires substantially all of the assets and obligations of Contractor, at which point the State may choose, in its sole discretion, to either provide consent to the assignment or terminate this contract without further obligation to the contractor.

B. Subcontracts

Contractor shall not enter into any subcontract in connection with its obligations under this Contract without the prior, written approval of the Governing Body of the Political Subdivision. Contractor shall submit to the Principal Representative a copy of each such subcontract upon request by the Principal Representative. All subcontracts entered into by Contractor in connection with this Contract shall comply with all applicable federal, state and local 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 Contract.

C. Binding Effect

Except as otherwise provided in **Article 24(A)**, all provisions of this Contract, including the benefits and burdens, shall extend to and be binding upon the Parties' respective successors, and assigns.

D. Counterparts

This Contract 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.

E. Entire Understanding

This Contract 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 Contract. Prior or contemporaneous additions, deletions, or other changes to this Contract shall not have any force or affect whatsoever, unless embodied herein.

F. Modification

Except as specifically provided in this Contract, any modifications to this Contract shall only be effective if agreed to in a formal amendment to this Contract, properly executed and approved in accordance with applicable law and the fiscal rules and policies of the Political Subdivision. Modifications permitted under this Contract, other than contract amendments, shall conform to the policies of the Political Subdivision. This Contract is subject to such modifications as may be required by changes in federal, State or local law, or their implementing regulations. Any such required modification automatically shall be incorporated into and be part of this Contract on the effective date of such change, as if fully set forth herein.

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

Any reference in this Contract to a statute, regulation, 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 Contract.

H. Survival of Certain Contract Terms

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

I. Taxes

The Political Subdivision is exempt from all 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 Colorado state and local government sales and use taxes under **§§39-26-704(1), et seq., C.R.S.** The Political Subdivision shall not be liable for the payment of any excise, sales, or use taxes, regardless of whether any political subdivision of the State of Colorado imposes such taxes on Contractor. Contractor shall be solely responsible for any exemptions from the collection of excise, sales, or use taxes that Contractor may wish to have in place in connection with this Contract.

J. Conflict of Interest

Contractor shall not engage in any business or personal activities or practices or maintain any relationships which conflict in any way with the full performance of Contractor's obligations hereunder. Contractor acknowledges that with respect to this Contract, even the appearance of a conflict of interest is harmful to the Political Subdivision's interests. Absent the Principal Representative's prior written approval, after authorization from the Governing Body, Contractor shall refrain from any practices, activities or relationships that reasonably appear to be in conflict with the full performance of Contractor's obligations to the Political Subdivision hereunder. If a conflict or appearance exists, or if Contractor is uncertain whether a conflict or the appearance of a conflict of interest exists, Contractor shall submit to the Political Subdivision a disclosure statement setting forth the relevant details for the consideration of the Governing Body. Failure to promptly submit a disclosure statement or to follow the Principal Representative's direction in regard to the apparent conflict constitutes a breach of this Contract.

K. Reporting – Notification

Reports, Evaluations, and reviews required under this **Article 24(K)** shall be in accordance with the procedures of and in such form as prescribed by the Principal Representative and in accordance with **Schedule A**, if applicable.

i. Performance, Progress, Personnel, and Funds

Principal Representative shall submit a report to the Contractor upon expiration or sooner termination of this Contract, containing an Evaluation and Review of Contractor’s performance and the final status of Contractor's obligations hereunder. In addition, Contractor shall comply with all reporting requirements, if any, set forth in **Schedule A**.

ii. Litigation Reporting

Within 10 days after being served with any pleading in a legal action filed with a court or administrative agency, related to this Contract or which may affect Contractor’s ability to perform its obligations hereunder, Contractor shall notify the Principal Representative of such action and deliver copies of such pleadings to the Principal Representative.

iii. Noncompliance

Contractor’s failure to provide reports and notify the Principal Representative in a timely manner in accordance with this **Article 24(K)** may result in the delay of payment of funds and/or termination as provided under this Contract.

iv. Subcontracts

Copies of any and all subcontracts entered into by Contractor to perform its obligations hereunder shall be submitted to the Principal Representative in accordance with **Schedule A**. Any and all subcontracts entered into by Contractor related to its performance hereunder shall comply with all applicable federal, state and local laws and shall provide that such subcontracts be governed by the laws of the State of Colorado.

L. Contractor Records

i. Maintenance

Contractor shall make, keep, maintain, and allow inspection and monitoring by the Principal Representative 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 or Goods hereunder. Contractor shall maintain such records until the last to occur of: **(i)** a period of three years after the date this Contract expires or is sooner terminated, or **(ii)** final payment is made hereunder, or **(iii)** the resolution of any pending Contract matters, or **(iv)** if an audit is occurring, or Contractor has received notice that an audit is pending, until such audit has been completed and its findings have been resolved (collectively, the “Record Retention Period”).

ii. Inspection

Contractor shall permit the Principal Representative, any other authorized agent of the Political Subdivision, the federal government and any other duly authorized agent of a governmental agency to audit, inspect, examine, excerpt, copy and/or transcribe Contractor's records related to this Contract during the Record Retention Period to assure compliance with the terms hereof or to evaluate performance hereunder. The Political Subdivision reserves the right to inspect the Work at all reasonable times and places during the term of this Contract, including any extensions or renewals. If the Work fails to conform with the requirements of this Contract, the Political Subdivision may require Contractor promptly to bring the Work into conformity with Contract requirements, at Contractor’s sole expense. If the Work cannot be brought into conformance by re-performance or other corrective measures, the Political Subdivision may require Contractor to take necessary action to ensure that future performance conforms to Contract requirements and exercise the remedies available under this Contract, at law or in equity, in lieu of or in conjunction with such corrective measures.

iii. Monitoring

Contractor shall permit the Political Subdivision, the federal government, and governmental agencies having jurisdiction, in their sole discretion, to monitor all activities conducted by Contractor pursuant to the terms of this Contract using any reasonable procedure, including, but not limited to: internal evaluation procedures, examination of program data, special analyses, on-site checking, formal audit examinations, or any other procedures. All monitoring controlled by the Political Subdivision shall be performed in a manner that shall not unduly interfere with Contractor’s performance hereunder.

iv. Final Audit Report

If an audit is performed on Contractor’s records for any fiscal year covering a portion of the term of this Contract, Contractor shall submit a copy of the final audit report to the Principal Representative, for the records of the Political Subdivision, or other designee of the Political Subdivision at the address

specified herein.

M. Confidential Information – Political Subdivision Records

Contractor shall comply with the provisions on this **Article 24(M)** if it becomes privy to confidential information in connection with its performance hereunder. Confidential information includes, but is not necessarily limited to, any Political Subdivision records, personnel records, and information concerning individuals.

i. Confidentiality

Contractor shall keep confidential, and cause all Subcontractors to keep confidential, all Political Subdivision Records, unless those Political Subdivision Records are publicly available. Contractor shall not, without prior written approval of the Principal Representative, on behalf of the Political Subdivision, use, publish, copy, disclose to any third party, or permit the use by any third party of any Political Subdivision Records, except as otherwise stated in this Contract, permitted by law, or approved in writing by the Principal Representative, after authorization by Governing Body of the Political Subdivision. Contractor shall provide for the security of all Political Subdivision Confidential Information in accordance with all applicable laws, rules, policies, publications, and guidelines. If Contractor or any of its Subcontractors will or may receive the following types of data, Contractor or its Subcontractors shall provide for the security of such data according to the following: Contractor shall immediately forward any request or demand for Political Subdivision Records to the Principal Representative.

ii. Other Entity Access and Nondisclosure Agreements

Contractor may provide Political Subdivision Records to its agents, employees, assigns and Subcontractors as necessary to perform the Work, but shall restrict access to Political Subdivision Confidential Information to those agents, employees, assigns and Subcontractors who require access to perform their obligations under this Contract. Contractor shall ensure all such agents, employees, assigns, and Subcontractors sign agreements containing nondisclosure provisions at least as protective as those in this Contract, and that the nondisclosure provisions are in force at all times the agent, employee, assign or Subcontractor has access to any Political Subdivision Confidential Information. Contractor shall provide copies of those signed nondisclosure provisions to the Principal Representative upon execution of the nondisclosure provisions if requested by the Principal Representative on behalf of the Political Subdivision.

iii. Use, Security, and Retention

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

iv. Incident Notice and Remediation

If Contractor becomes aware of any Incident, it shall notify the Principal Representative immediately and cooperate with the Principal Representative regarding recovery, remediation, and the necessity to involve law enforcement, as determined by the Principal Representative. Unless Contractor can establish that Contractor and its Subcontractors are not the cause or source of the Incident, Contractor shall be responsible for the cost of notifying each person who may have been impacted by the Incident. After an Incident, Contractor shall take steps to reduce the risk of incurring a similar type of Incident in the future as directed by the Principal Representative, which may include, but is not limited to, developing and implementing a remediation plan that is approved by the Principal Representative at no additional cost to the Political Subdivision. The Principal Representative may

adjust or direct modifications to this plan in its sole discretion, and Contractor shall make all modifications as directed by the Principal Representative. If Contractor cannot produce its analysis and plan within the allotted time, the Governing Body of the Political Subdivision, in its sole discretion, may perform such analysis and produce a remediation plan, or cause such analysis to be done and such remediation plan to be produced, and Contractor shall reimburse the Political Subdivision for the actual costs thereof.

v. Data Protection and Handling

Contractor shall ensure that all Political Subdivision Records and Work Product in the possession of Contractor or any Subcontractors are protected and handled in accordance with the requirements of this Contract at all times.

vi. Compliance

Contractor shall review, on a semi-annual basis, all Colorado Office of Information Security (OIS) policies and procedures which OIS has promulgated pursuant to §§ 24-37.5-401. C.R.S., through 406 and 8 CCR § 1501-5, to ensure compliance with the standards and guidelines published therein. Contractor shall cooperate, and shall cause its Subcontractors to cooperate, with the performance of security audit and penetration tests by OIS or its designee. Contractor shall perform an annual SSAE16 SOC2 Type II audit including the following Trust Principles: Security, Confidentiality, and Availability, and shall provide the resulting audit report as directed by the Principal Representative.

vii. Safeguarding PII

If Contractor or any of its Subcontractors will or may receive PII under this Contract, Contractor shall provide for the security of such PII, in a manner and form acceptable to the Principal Representative, including, without limitation, Political Subdivision 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.

N. Order of Precedence

In the event of conflict or inconsistency between this Contract and its Schedules, Exhibits or attachments, such conflicts or inconsistencies shall be resolved by reference to the documents in the following order of priority:

- i. EPC Schedule B**
- ii. General Conditions of the EPC Schedule A**
- iii. The provisions of the main body of this Contract**
- iv. The remainder of Schedule A**
- v. Construction Documents Article 6(A)**
- vi. The remaining Schedules**
- vii. Any other attachment**

25. SCHEDULES-LIST OF

The following Schedules are attached hereto and incorporated by reference herein:

- Schedule A General Conditions of Energy Performance Contract
- Schedule B Energy Performance Contract Description of Work
- Schedule C Guarantee
- Schedule D Measurement and Verification Services Plan
- Schedule E Code Compliance Requirements
- Schedule F Schedule of Values (Initial)
- Schedule G Projected Financial Cost and Cash Flow Analysis
- Schedule H Certification that Cost-weighted Average Service Life of Equipment Exceeds Financing Term
- Schedule I Record of Reviews (as recommended by the Colorado Energy Office)
- Schedule J Certification and Affidavit Regarding Unauthorized Immigrants (UI-1)
- Schedule K Certificate of Insurance (Including Professional Errors And Omissions Liability Insurance)
- Schedule L Performance Bond (SC-6.22)
- Schedule M Labor and Material Payment Bond (SC-6.221)
- Schedule N Standards of Comfort
- Schedule O Client Construction Specifications

Schedule P	Contractors Intellectual Property
Schedule Q	System Start-up and Commissioning
Schedule R	Contractor Training Responsibilities
Schedule S	Political Subdivision's Maintenance Responsibilities
Schedule T	Notice of Substantial Completion
Schedule U	Notice of Final Acceptance
Schedule V	Owner Acknowledgment Form
Schedule W	Construction Schedule
Schedule X	Notice to Proceed

26. OPTIONAL PROVISIONS AND ELECTIONS

The provisions of this Article alter the preceding Articles or enlarge upon them as indicated (The Energy Performance Contract General Conditions). The Principal Representative shall mark boxes and initial where applicable.

A. MODIFICATION OF ARTICLE 45. WARRANTY INSPECTIONS AFTER COMPLETION

If the box below is marked, the six-month warranty inspection is not required.

_____ Principal Representative initial

B. MODIFICATION OF ARTICLE 27. LABOR AND WAGES

If the box is marked, the Federal Davis-Bacon Act shall be applicable to the Project. The minimum wage rates to be paid on the Project shall be furnished by the Principal Representative and included in the Contract Documents.

_____ Principal Representative initial

C. MODIFICATION OF ARTICLE 39. NON-BINDING DISPUTE RESOLUTION – FACILITATED NEGOTIATIONS

If the box is marked and initialed by the Principal Representative as noted, the requirement to participate in facilitated negotiations shall be deleted from this Contract. Article 39, Non-Binding Dispute Resolution – Facilitated Negotiations, shall be deleted in its entirety and all references to the right to the same wherever they appear in the contract shall be similarly deleted.

The box may be marked only for projects with an estimated value of [less than \$500,000].

_____ Principal Representative initial

D. MODIFICATION OF ARTICLE 46. TIME OF COMPLETION AND LIQUIDATED DAMAGES

If an amount is indicated immediately below, liquidated damages shall be applicable to this Project as, and to, the extent shown below. Where an amount is indicated below, liquidated damages shall be assessed in accordance with and pursuant to the terms of Article 46, Time Of Completion And Liquidated Damages, in the amounts and as here indicated. The election of liquidated damages shall limit and control the party's right to damages only to the extent noted.

- For the inability to use the Project, for each day after the number of calendar days specified in the Contractor's bid for the Project and the Contract for achievement of Substantial Completion, until the day that the Project has achieved Substantial Completion and the Notice of Substantial Completion is issued, the Contractor agrees that an amount equal to Zero dollars (\$0) shall be assessed against Contractor from amounts due and payable to the Contractor under the Contract, or the Contractor and the Contractor's Surety shall pay to the Political Subdivision such sum for any deficiency, if amounts on account thereof are deducted from remaining amounts due, but amounts remaining are insufficient to cover the entire assessment.
- For damages related to or arising from additional administrative, technical, supervisory and professional expenses related to and arising from the extended closeout period, for each day in excess of the number of calendar days specified in the Contractor's bid for the Project and the Agreement to finally complete the Project as defined by the issuance of the Notice of Final Acceptance) after the issuance of the final Notice of Substantial Completion, the Contractor agrees that an amount equal to zero dollars (\$0) shall be assessed against

Contractor from amounts due and payable to the Contractor under the Contract, or the Contractor and the Contractor’s Surety shall pay to the Political Subdivision such sum for any deficiency, if amounts on account thereof are deducted from remaining amounts due but amounts remaining are insufficient to cover the entire assessment.

27. NOTICES and REPRESENTATIVES

Each individual identified below is the principal representative of the designating Party. All notices required to be given hereunder shall be hand delivered with receipt required or sent by certified or registered mail to such Party’s principal representative at the address set forth below. In addition to, but not in lieu of a hard-copy notice, notice also may be sent by e-mail to the e-mail addresses, if any, set forth below. Either Party may from time to time designate by written notice substitute addresses or persons to whom such notices shall be sent. Unless otherwise provided herein, all notices shall be effective upon receipt.

A. Political Subdivision Designee:

<i>Name and title of Person [Principal Representative of the Governing Body]</i>
<i>Department Name</i>
<i>Address</i>
<i>Town, State Zip</i>
<i>Email</i>

B. Contractor:

Bryan Hanson, Vice President
McKinstry Essention, LLC
16025 Table Mountain Pkwy, Suite 100
Golden, Co 80401
BryanH@mckinstry.com

28. SIGNATURE PAGE

THE PARTIES HERETO HAVE EXECUTED THIS CONTRACT

* Persons signing for Contractor hereby swear and affirm that they are authorized to act on Contractor's behalf and acknowledge that the Political Subdivision is relying on their representations to that effect.

<p style="text-align: center;">CONTRACTOR</p> <p style="text-align: center;">McKinstry Essention, LLC</p> <p>By: Bryan Hanson</p> <p>Title: Vice President, Mountain Region</p> <p>_____</p> <p style="text-align: center;">*Signature</p> <p>Date: _____</p>	<p style="text-align: center;">POLITICAL SUBDIVISION</p> <p style="text-align: center;">Huerfano County</p> <p>_____</p> <p>By: _____</p> <p>Date: _____</p>
	<p style="text-align: center;">LEGAL REVIEW</p> <p style="text-align: center;">INSERT-Name & Title of Legal Counsel to Political Subdivision</p> <p>By: _____</p> <p style="text-align: center;">Signature - Title</p> <p>Date: _____</p>

SCHEDULE A
GENERAL CONDITIONS OF THE ENERGY PERFORMANCE CONTRACT

ARTICLE 1. DEFINITIONS

- A. CONTRACT DOCUMENTS
- B. DEFINITIONS OF WORDS AND TERMS USED
- C. ENERGY PERFORMANCE CONTRACT DEFINITIONS AND TERMS USED

ARTICLE 2. EXECUTION, CORRELATION, INTENT OF DOCUMENTS, COMMUNICATION AND COOPERATION

- A. EXECUTION
- B. CORRELATION
- C. INTENT OF DOCUMENTS
- D. PARTNERING, COMMUNICATIONS AND COOPERATION

ARTICLE 3. COPIES FURNISHED

ARTICLE 4. OWNERSHIP OF DRAWINGS

ARTICLE 5. CONTRACTOR'S ARCHITECT/ENGINEER'S STATUS

ARTICLE 6. LOCAL GOVERNMENT DECISIONS AND JUDGMENTS, ACCESS TO WORK AND INSPECTION

- A. DECISIONS
- B. JUDGMENTS
- C. ACCESS TO WORK
- D. INSPECTION

ARTICLE 7. CONTRACTOR'S SUPERINTENDENCE AND SUPERVISION

ARTICLE 8. MATERIALS AND EMPLOYEES

ARTICLE 9. SURVEYS, PERMITS, LAWS, TAXES AND REGULATIONS

- A. SURVEYS
- B. PERMITS AND LICENSES
- C. TAXES
- D. LAWS AND REGULATIONS

ARTICLE 10. PROTECTION OF WORK AND PROPERTY

- A. GENERAL PROVISIONS
- B. SAFETY PRECAUTIONS
- C. EMERGENCIES

ARTICLE 11. DRAWINGS AND SPECIFICATIONS ON THE WORK documents available during construction

ARTICLE 12. REQUESTS FOR INFORMATION AND SCHEDULES

- A. DETAIL DRAWINGS AND INSTRUCTIONS
- B. SCHEDULES

ARTICLE 13. SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

- A. SUBMITTAL PROCESS
- B. FABRICATION AND ORDERING
- C. DEVIATIONS FROM DRAWINGS OR SPECIFICATIONS
- D. CONTRACTOR REPRESENTATIONS

ARTICLE 14. SAMPLES AND TESTING

- A. SAMPLES
- B. TESTING – GENERAL (Intentionally Deleted)
- C. TESTING - CONCRETE AND SOILS (Intentionally Deleted)
- D. TESTING – Construction phase Measurement and Verification

ARTICLE 15. SUBCONTRACTS

- A. CONTRACT PERFORMANCE OUTSIDE THE UNITED STATES OR COLORADO
- B. SUBCONTRACTOR PREQUALIFICATION
- C. SUBCONTRACTOR PROPOSALS
- D. SUBCONTRACTOR FORMS
- E. SUBCONTRACTOR SUBSTITUTION
- F. CONTRACTOR RESPONSIBLE FOR SUBCONTRACTORS

ARTICLE 16. RELATIONS OF CONTRACTOR AND SUBCONTRACTORS**ARTICLE 17. MUTUAL RESPONSIBILITY OF CONTRACTORS****ARTICLE 18. SEPARATE CONTRACTS****ARTICLE 19. USE OF PREMISES****ARTICLE 20. CUTTING, FITTING OR PATCHING****ARTICLE 21. UTILITIES**

- A. TEMPORARY UTILITIES
- B. PROTECTION OF EXISTING UTILITIES
- C. CROSSING OF UTILITIES

ARTICLE 22. UNSUITABLE CONDITIONS**ARTICLE 23. TEMPORARY FACILITIES**

- A. OFFICE FACILITIES
- B. TEMPORARY HEAT
- C. WEATHER PROTECTION
- D. DUST PARTITIONS
- E. BENCHMARKS
- F. SIGN
- G. SANITARY PROVISION

ARTICLE 24. CLEANING UP**ARTICLE 25. INSURANCE**

- A. GENERAL
- B. COMMERCIAL GENERAL LIABILITY INSURANCE (CGL)
- C. AUTOMOBILE LIABILITY INSURANCE and business auto liability covering liability rising out of any auto (including owned, hired and non-owned autos).
- D. WORKERS' COMPENSATION INSURANCE
- E. UMBRELLA LIABILITY INSURANCE (for construction projects exceeding \$10,000,000, provide the following coverage):
- F. BUILDER'S RISK INSURANCE
- H. POLLUTION LIABILITY INSURANCE
- I. ADDITIONAL MISCELLANEOUS INSURANCE PROVISIONS

ARTICLE 26. CONTRACTOR'S PERFORMANCE AND PAYMENT BONDS**ARTICLE 27. LABOR AND WAGES****ARTICLE 28. ROYALTIES AND PATENTS****ARTICLE 29. ASSIGNMENT****ARTICLE 30. CORRECTION OF WORK BEFORE ACCEPTANCE****ARTICLE 31. APPLICATIONS FOR PAYMENTS**

- A. CONTRACTOR'S SUBMITTALS
- B. Intentionally deleted.
- C. RETAINAGE WITHHELD
- D. RELEASE OF RETAINAGE

ARTICLE 32. CERTIFICATES FOR PAYMENTS**ARTICLE 33. PAYMENTS WITHHELD****ARTICLE 34. DEDUCTIONS FOR UNCORRECTED WORK (****ARTICLE 35. CHANGES IN THE WORK****CHANGES TO THE EPC FIXED LIMIT OF CONSTRUCTION COST**

- A. THE VALUE OF CHANGED WORK
- B. DETAILED BREAKDOWN
- C. HAZARDOUS MATERIALS (add language from D/B GC)

- D. EMERGENCY FIELD CHANGE ORDERED WORK
- E. APPROPRIATION LIMITATIONS - §24-91-103.6, C.R.S., as amended

ARTICLE 36. CLAIMS

ARTICLE 37. DIFFERING SITE CONDITIONS (Intentionally Deleted)

- A. NOTICE IN WRITING (Intentionally Deleted)
- B. LIMITATIONS (Intentionally Deleted)

ARTICLE 38. DELAYS AND EXTENSIONS OF TIME

ARTICLE 39. NON-BINDING DISPUTE RESOLUTION – FACILITATED NEGOTIATIONS

ARTICLE 40. RIGHT OF OCCUPANCY

ARTICLE 41. COMPLETION, FINAL INSPECTION, ACCEPTANCE AND SETTLEMENT

- A. NOTICE OF COMPLETION
- B. FINAL INSPECTION
- C. NOTICE OF SUBSTANTIAL COMPLETION (Per Energy Conservation Measure and Project)
- D. NOTICE OF FINAL ACCEPTANCE (Per Energy Conservation Measure and Project)
- F. SETTLEMENT

ARTICLE 42. GENERAL WARRANTY AND CORRECTION OF WORK AFTER ACCEPTANCE

ARTICLE 43. LIENS

ARTICLE 44. ONE-YEAR WARRANTIES

- A. ONE YEAR WARRANTY OF THE WORK
- B. SPECIAL WARRANTIES

ARTICLE 45. WARRANTY INSPECTIONS AFTER COMPLETION

ARTICLE 46. TIME OF COMPLETION AND LIQUIDATED DAMAGES

ARTICLE 47. DAMAGES

ARTICLE 48. LOCAL GOVERNMENT’S RIGHT TO DO THE WORK; TEMPORARY SUSPENSION OF WORK; DELAY; DAMAGES

- A. LOCAL GOVERNMENT’S RIGHT TO DO THE WORK
- B. TEMPORARY SUSPENSION OF WORK
- C. DELAY DAMAGES

ARTICLE 49. LOCAL GOVERNMENT’S RIGHTS TO TERMINATE CONTRACT

- A. GENERAL
- B. CONDITIONS AND PROCEDURES
- C. ADDITIONAL CONDITIONS (Intentionally Deleted)

ARTICLE 50. TERMINATION FOR CONVENIENCE OF LOCAL GOVERNMENT

- A. NOTICE OF T ERMINATION
- B. PROCEDURES

ARTICLE 52. COLORADO SPECIAL PROVISIONS

ARTICLE 53. MISCELLANEOUS PROVISIONS

ARTICLE 1. DEFINITIONS

A. CONTRACT DOCUMENTS

The Contract Documents consist of the following, some of which are procedural documents used in the administration and performance of the Agreement:

1. The Energy Performance Contract between the Local Government and Contractor and all its Schedules, and Attachments;
 - 1.1 Contractor’s Investment Grade Audit and Energy Performance Contract Project Proposal Contract, All Exhibits, Addenda, and Clarifications
 - 1.2 Accepted Investment Grade Audit Report and Energy Performance Contract Project Proposal
2. Performance Bond and Labor and Material Payment Bond ;
3. These General Conditions of the Energy Performance Contract (**EPC-GC**) and if applicable, Supplementary General Conditions;
4. Drawings developed by Contractor and accepted by Local Government, prior to the Notice to Proceed to Commence Construction Phase;

5. Change Orders and any Amendments executed pursuant to Local Government law and regulations;
6. Builder's risk insurance certificates of insurance;
7. Liability, workers' compensation and professional liability errors and omissions certificates of insurance;
8. Notice to Proceed to Commence Design Phase;
9. Notice to Proceed to Commence Construction Phase;
10. Notice of Approval of Occupancy/Use
11. Notice of Partial Substantial Completion);
12. Notice of Substantial Completion;
13. Notice of Partial Final Acceptance;
14. Notice of Final Acceptance);
15. Notice of Contractor's Settlement;
16. Application and Certificate for Contractor's Payment; and
17. Other procedural and reporting documents or forms referred to in these General Conditions of the Energy Performance Contract, including but not necessarily limited to the Pre-Acceptance Checklist form (SBP-05) and the Building Inspection Report (SBP-BIR). A list of the current standard Colorado Energy Office forms applicable to this Contract may be obtained from the Principal Representative on request.

B. DEFINITIONS OF WORDS AND TERMS USED

1. **AGREEMENT.** The term "Agreement" shall mean the written agreement entered into by the Local Government acting by and through the Principal Representative and the Contractor for the performance of the Work and payment therefore, on the Energy Performance Contract (EPC-1). The term Agreement, when used without reference to EPC-1, may also refer to the entirety of the parties' agreement to perform the Work described in the Contract Documents or reasonably inferable there from. The term "Contract" shall be interchangeable with this latter meaning of the term Agreement
2. **CHANGE ORDER.** When the Maximum Contracted Amount was increased, per EPC §7(B), the term "Change Order" means a written order, signed by a Procurement Officer or other authorized representative of the Principal Representative, directing Contractor to make changes in the Work, in accordance with Article 35A, The Value of Changed Work.
3. **COLORADO LABOR.** The term "Colorado labor", as provided in C.R.S. § 8-17-101(2)(a), as amended, means any person who is a resident of the state of Colorado, at the time of the public works project, without discrimination as to race, color, creed, sex, sexual orientation, marital status, national origin, ancestry, age, or religion except when sex or age is a bona fide occupational qualification. A resident of the State of Colorado is a person who can provide a valid Colorado driver's license, a valid Colorado state-issued photo identification, or documentation that he or she has resided in Colorado for the last 30 days.
4. **CONSULTANT.** The term "Consultant" shall mean a person, firm or corporation supplying design/consulting services for the Project. Design professionals and consultants are directly contracted to the Contractor.
5. **DAYS.** The term "days" whether singular or plural, shall mean calendar days unless expressly stated otherwise. Where the term "business days" is used, it shall mean business days of the Local Government."
6. **DRAWINGS.** The term "Drawings" shall mean all drawings approved by appropriate Local Government officials which have been prepared by the Contractor's Architect/Engineer showing the Work to be done, except that where a list of drawings is specifically enumerated in the Specifications, the term shall mean the drawings so enumerated, including all addenda drawings.
7. **EMERGENCY FIELD CHANGE ORDER.** The term "Emergency Field Change Order" shall mean a written change order for extra Work or a change in the Work necessitated by an emergency as defined in Article 35C, executed on Exhibit XIII and identified as an Emergency Field Change Order. The use of such orders is limited to emergencies and to the amounts shown in Article 35C.

8. ENERGY SERVICE COMPANY'S ARCHITECT/ENGINEER. The term "Energy Service Company Architect/Engineer" shall mean professionals licensed or registered by the State of Colorado who have contracted with the Energy Service Company with prior approval by the Local Government, or a professional employee of the Energy Service Company, to accomplish the architectural and engineering services necessary for the Work. Nothing in this contract is intended to create a contractual relationship between such professional and the Local Government.
9. ENERGY PERFORMANCE CONTRACT CHANGE ORDER. The EPC Change Order is applicable only to Energy Performance Contracts and only for the original EPC MCP. The term "EPC Change Order" means a written order, signed by a Procurement Officer or other authorized representative of the Principal Representative, directing Contractor to make changes in the Work, in accordance with Article 35E, Changes in the EPC Fixed Limit of Construction Cost.
10. FINAL ACCEPTANCE. The terms "final acceptance" or "finally complete" mean the stage in the progress of the Project, after substantial completion, when all items of Work have been completed, all requirements of the Contract Documents are satisfied and the Notice of Final Acceptance can be issued. Discrete physical portions of the Project may be separately and partially deemed finally complete at the discretion of the Principal Representative when that portion of the Project reaches such stage of completion and a Partial Notice of Substantial Completion can be issued.
11. NOTICE. The term "Notice" shall mean any communication in writing from either contracting party to the other by such means of delivery that receipt cannot properly be denied. Notice shall be provided to the person identified to receive it in Article 27 (Energy Performance Contract), Notice Identification, or to such other person as either party identifies in writing to receive Notice or in the absence of the identified party, a principal of the Contractor. Notice by facsimile transmission where proper transmission is evidenced shall be adequate where facsimile numbers are included in Article 27 (Energy Performance Contract). Notwithstanding an email delivery or return receipt, email Notice shall not be adequate. Acknowledgment of receipt of a voice message shall not be deemed to waive the requirement that Notice, where required, shall be in writing.
12. OCCUPANCY. The term "Occupancy" means occupancy taken by the State as owner after the Date of Substantial Completion at a time when a building or other discrete physical portion of the Project is used for the purpose intended. The Date of Occupancy shall be the date of such first use but shall not be prior to the date of execution of the Notice of Approval of Occupancy/Use. Prior to the date of execution of a Notice of Approval of Occupancy/Use, the Local Government shall have no right to occupy, and the project may not be considered safe for occupancy/use for the intended use.
13. OWNER. The term "Owner" shall mean the Principal Representative.
14. PRINCIPAL REPRESENTATIVE. The term "Principal Representative" shall be defined, as provided in §24-30-1301(14), C.R.S., and as may be amended, as the governing board of a Local Government department, institution, or agency; or if there is no governing board, then the executive head of a Local Government department, institution, or agency, as designated by the governor or the General Assembly and as specifically identified in the Contract Documents, or shall have such other meaning as the term may otherwise be given in §24-30-1301(14), C.R.S. as amended. The Principal Representative may delegate authority. Contractor shall have the right to inquire regarding the delegated authority of any of the Principal Representative's representatives on the project and shall be provided with a response in writing when requested.
15. PRODUCT DATA. The term "Product Data" shall mean all submittals in the form of printed manufacturer's literature, manufacturer's specifications, and catalog cuts.
16. REASONABLY INFERRABLE: The phrase "reasonably inferable" means that if an item or system is either shown or specified, all material and equipment normally furnished with such items or systems and needed to make a complete installation shall be provided whether mentioned or not, omitting only such parts as are specifically excepted, and shall include only components which Contractor could reasonably anticipate based on his or her skill and knowledge using an objective, industry standard, not a subjective standard. This term takes

into consideration the normal understanding that not every detail is to be given on the Drawings and Specifications.

17. SAMPLES. The term "Samples" shall mean examples of materials or Work provided to establish the standard by which the Work will be judged.
18. SCHEDULE OF VALUES. The term "Schedule of Values" is defined as the itemized listing of description of the Work. The format shall be the same as Schedule F (similar to the OSA form SC-7.2). Included shall be all costs of the Project, which shall be executed in final form by Contractor and delivered to the Local Government, subject to acceptance by the Local Government, after the Effective Date, and shall include design, material, labor and other costs, and the sum of all, as described in this Contract.
19. SHOP DRAWINGS. The term "Shop Drawings" shall mean any and all detailed drawings prepared and submitted by Contractor, Subcontractor at any tier, vendors or manufacturers providing the products and equipment specified on the Drawings or called for in the Specifications.
20. SPECIFICATIONS. The term "Specifications" shall mean the written requirements for the Work to be accomplished.
21. SUBCONSULTANT. The term "Subconsultant" shall mean a person, firm or corporation supplying design/consulting services for the Project. Design and other professionals directly contracted to the Contractor are considered subconsultants.
22. SUBCONTRACTOR. The term "Subcontractor" shall mean a person, firm or corporation supplying labor, materials, equipment and/or Services for Work at the site of the Project for, and under separate contract or agreement with the Contractor.
23. SUBMITTALS. The term "submittals" means drawings, lists, tables, documents and samples prepared by Contractor to facilitate the progress of the Work as required by these General Conditions or the Drawings and Specifications. They consist of Shop Drawings, Product Data, Samples, and various administrative support documents including but not limited to lists of Subcontractors, construction progress schedules, schedules of values, applications for payment, inspection and test results, requests for information, various document logs, and as-built drawings. Submittals are required by the Contract Documents, but except to the extent expressly specified otherwise are not themselves a part of the Contract Documents.
24. SUBSTANTIAL COMPLETION. The terms "substantial completion" or "substantially complete" mean the stage in the progress of the Work when the construction is sufficiently complete, in accordance with the Contract Documents, as modified by any EPC Change Orders, so that the Work, or at the discretion of the Principal Representative, any designated portion thereof, is available for its intended use by the Principal Representative and a Notice of Substantial Completion can be issued.
25. SURETY. The term "Surety" shall mean any company providing labor and material payment and performance bonds for Contractor as obligor.

ARTICLE 2. EXECUTION, CORRELATION, INTENT OF DOCUMENTS, COMMUNICATION AND COOPERATION

A. EXECUTION

Contractor, within ten (10) days from the Effective Date, as a requirement to execute the Energy Performance Contract, shall be required to furnish:

1. A fully executed Performance and Labor and Material Payment Bonds,
2. A Certificate(s) of Insurance evidencing all required insurance on standard Acord forms designed for such purpose; and
3. A Professional Liability Errors and Omissions Insurance, if warranted by the Work.

B. CORRELATION

Upon execution of the Energy Performance Contract, the Contractor represents that Contractor has visited the Premises, has become familiar with local conditions and local requirements under which the Work is to be performed, and has correlated personal observations with the requirements of the Contract Documents.

C. INTENT OF DOCUMENTS

The Contract Documents are complementary, and what is called for by any one document shall be as binding as if called for by all. The intention of the Contract Documents is to include all labor, materials, equipment and transportation necessary for the proper execution of the Work. Words describing materials or Work which have a well-known technical or trade meaning shall be held to refer to such recognized standards.

Where a conflict occurs between or within standards, Specifications or Drawings, which is not resolved by reference to the precedence between the Contract Documents, the more stringent or higher quality requirements shall apply, so long as such more stringent or higher quality requirements are reasonably inferable. The Principal Representative shall decide with the Contractor a mutually agreeable resolution which requirements will provide the best installation. With the exception noted in the following paragraph, the precedence of the Contract Documents is as in the EPC Article 24, General Provisions:

Change Orders and Amendments, if any, to the Contract Documents take precedence over the original Contract Documents.

Unless the context otherwise requires, form numbers in this document are for convenience only. In the event of any conflict between the forms required by name or context and the form required by number, the form required by name or context shall control. The Contractor may obtain Colorado Energy Office forms from the Principal Representative upon request.

Nothing contained in the Energy Performance Contract Documents shall create a professional obligation or contractual relationship between the Principal Representative and any third party, including the Contractor's Architect/Engineer.

D. PARTNERING, COMMUNICATIONS AND COOPERATION

In recognition of the fact that conflicts, disagreements and disputes often arise during the performance of energy performance contracts, the Contractor and the Principal Representative aspire to encourage a relationship of open communication and cooperation between the employees and personnel of both, in which the objectives of the Contract may be better achieved and issues resolved in a more fully informed atmosphere.

Contractor and the Principal Representative each agree to assign an individual who shall be fully authorized to negotiate and implement a voluntary partnering plan for the purpose of facilitating open communications between them. Within thirty days (30) of the issuance of the Notice to

Proceed to Commence Design Phase, the assigned individuals shall meet to discuss development of an informal agreement to accomplish these goals.

The assigned individuals shall endeavor to reach an informal agreement but shall have no such obligation. Any plans these parties voluntarily agree to implement shall result in no change to the Contract amount, and no costs associated with such plan or its development shall be recoverable under any Contract clause. In addition, no plan developed to facilitate open communication and cooperation shall alter, amend or waive any of the rights or duties of either party under the Contract unless and except by written Amendment to the Contract, nor shall anything in this clause or any subsequently developed partnering plan be deemed to create fiduciary duties between the parties unless expressly agreed in a written Amendment to the Contract. It is also recognized that projects with relatively low Contract values may not justify the expense or special efforts required. In the case of small projects with an initial Fixed Limit of Construction Cost under \$500,000, the requirements of the preceding paragraph shall not apply.

ARTICLE 3. COPIES FURNISHED

The ESCO shall furnish to Local Government the number of copies of Design Documents as specified in the Contract Documents (Article 5 (C) of the Energy Performance Contract), or if no number is specified, all copies reasonably necessary for the execution of the Work.

ARTICLE 4. OWNERSHIP OF DRAWINGS

Refer to Article 12 of the Energy Performance Contract.

ARTICLE 5. CONTRACTOR'S ARCHITECT/ENGINEER'S STATUS

In case of termination of employment or the death of the Contractor's Architect/Engineer, or the termination of the contract between the Contractor and the project's professional Architectural/Engineering firm, the Contractor will appoint a capable Architect/Engineer or contract with another professional firm, against whom the Local Government makes no reasonable objection, whose status under the Contract shall be the same as that of the former Contractor's Architect/Engineer.

ARTICLE 6. DECISIONS AND JUDGMENTS, ACCESS TO WORK AND INSPECTION

A. DECISIONS

The Contractor shall, within a reasonable time, make decisions on all matters relating to the execution and progress of the Work.

Such decisions by the Contractor shall be promptly forwarded to the Principal Representative. The Principal Representative may consent with such decision by the Contractor or amend/revise such decision at the discretion of the Principal Representative.

B. JUDGMENTS

The Local Government is the judge of the performance required by the Contract Documents as it relates to compliance with the Work and quality of workmanship and materials.

C. ACCESS TO WORK

The Principal Representative shall at all times have access to the Work. Contractor shall provide proper facilities for such access and for their observations or inspection of the Work.

D. INSPECTION

The Contractor has agreed to allow the Principal Representative or consultants to the Principal Representative to make periodic visits to the Premises to generally observe the progress and quality of the Work to determine in general if the Work is proceeding in accordance with the Contract Documents. Observation may extend to all or any part of the Work and to the preparation, fabrication or manufacture of materials.

If the Contract, the laws, or ordinances of any public authority require any Work to be specifically tested or approved, Contractor shall give the Principal Representative and appropriate testing agency (if necessary) timely notice of its readiness for observation by the Local Government or inspection by another authority, and if the inspection is by another authority, of the date fixed for such inspection, required certificates of inspection being secured by Contractor. Contractor shall give all required Notices to the Principal Representative or his or her designee for inspections required for the building inspection program. It shall be the responsibility of the Contractor to determine the Notice required by the Local Government pursuant to the Building Inspection Record, or the equivalent form required by the Principal Representative. If any such Work is covered up without approval or consent of the Local Government or prior to any building code inspection, it must, if required by the Local Government, the Principal Representative be uncovered for examination, at Contractor's expense. If such Work is found to be not in accordance with the Contract Documents, Contractor shall pay such costs, unless he or she shall show that the defect in the Work was caused by another contractor engaged by the Principal Representative. In that event, the Principal Representative shall pay such cost. In addition, examination of questioned Work may be ordered, and if so ordered, the Work must be uncovered by Contractor. If such Work be found in accordance with the Contract Documents, Contractor shall be reimbursed the cost of examination and replacement.

ARTICLE 7. CONTRACTOR'S SUPERINTENDENCE AND SUPERVISION

The Contractor shall employ, and keep present on the Project during its progress, a competent superintendent and any necessary assistants, all satisfactory to the Principal Representative. The superintendent shall not be changed except with the consent of the Principal Representative, unless the superintendent proves to be unsatisfactory to the Contractor or ceases to be in his or her employ. The superintendent shall represent the Contractor in his or her absence and all directions given to the superintendent shall be as binding as if given to the Contractor. Directions received by the superintendent shall be documented by the superintendent and confirmed in writing with the Contractor.

The Contractor shall give efficient supervision to the Work, using his or her best skill and attention. He or she shall carefully study and compare all Drawings, Specifications and other written instructions and shall without delay report any error, inconsistency or omission which he or she may discover in writing to the Principal Representative.

The superintendent shall see that the Work is carried out in accordance with the Contract Documents and in a uniform, thorough and first-class manner in every respect. The Contractor's superintendent shall establish all lines, levels, and marks necessary to facilitate the operations of all concerned in the Contractor's Work. The Contractor shall lay out all work in a manner satisfactory to the Principal Representative making appropriate permanent records for all other parts of the Work.

ARTICLE 8. MATERIALS AND EMPLOYEES

Unless otherwise stipulated, Contractor shall provide and pay for all materials, labor, water, tools, equipment, light, power, transportation and other facilities necessary for the execution and completion of the Work.

Unless otherwise specified, all materials and Equipment shall be new and both workmanship and materials shall be of uniform quality. Contractor shall, if required, furnish satisfactory evidence as to the kind and quality of materials.

Contractor is fully responsible for all acts and omissions of Contractor's employees and shall at all times enforce strict discipline and good order among employees on the Premises. Contractor shall not employ on the Work any person reasonably deemed unfit by the Principal Representative or anyone not skilled in the Work assigned to him.

ARTICLE 9. SURVEYS, PERMITS, LAWS, TAXES AND REGULATIONS

A. SURVEYS

The Principal Representative shall furnish all surveys, property lines and benchmarks deemed necessary by the Contractor, unless otherwise specified.

B. PERMITS AND LICENSES

Permits and licenses necessary for the prosecution of the Work shall be secured and paid for by Contractor. Unless otherwise required, no local municipal or county building permit shall be required. The Contractor's employees shall become personally familiar with these local conditions and requirements and shall fully comply with such requirements.

Easements for permanent structures or permanent changes in existing facilities shall be secured and paid for by the Principal Representative, unless otherwise specified.

C. TAXES

1. REFUND OF SALES AND USE TAXES

Contractor shall pay all local taxes required to be paid, including but not necessarily limited to all sales and use taxes. If requested by the Principal Representative prior to issuance of the Notice to Proceed to Commence Design or directed in the Specifications, Contractor shall maintain records of such payments in respect to the Work, which shall be separate and distinct from all other records maintained by Contractor, and Contractor shall furnish such data as may be necessary to enable the Local Government, acting by and through the Principal Representative, to obtain any refunds of such taxes which may be available under the laws, ordinances, rules or regulations applicable to such taxes. When so requested or directed, Contractor shall require Subcontractors to pay all local sales and use taxes required to be paid and to maintain records and furnish Contractor with such data as may be necessary to obtain refunds of the taxes paid by such Subcontractors. No State sales and use taxes are to be paid on material to be used in this Project. On application by the purchaser or seller, the Colorado Department of Revenue shall issue to a Contractor or to a Subcontractor at any tier, a certificate or certificates of exemption per §39-26-114(1)(d), C.R.S., and §39-26-203, C.R.S.

2. FEDERAL TAXES

Contractor shall exclude the amount of any applicable federal excise or manufacturers' taxes from the proposal. The Principal Representative will furnish Contractor, on request, exemption certificates.

D. LAWS AND REGULATIONS

Contractor shall give all notices and comply with all laws, ordinances, rules and regulations bearing on the conduct of the Work as drawn or specified.

Contractor shall bear all costs arising from the performance of Work required by the Drawings or Specifications that Contractor knows to be contrary to such laws, ordinances, rules or regulations.

ARTICLE 10. PROTECTION OF WORK AND PROPERTY

A. GENERAL PROVISIONS

Contractor shall continuously maintain adequate protection of all Work, materials, and protect the property from injury or loss arising in connection with this Contract and adequately protect adjacent property as provided by law and the Contract Documents. Contractor shall be responsible for any damage, injury or loss, except to the extent:

- 1. Caused by agents or employees of the Principal Representative; and,

- 2. Due to causes beyond Contractor’s control and not to fault or negligence; provided such damage, injury or loss would not be covered by the insurance required to be carried by Contractor.

B. SAFETY PRECAUTIONS

Contractor shall take all necessary precautions for the safety of employees on the Project, and shall comply with all applicable provisions of federal, Local Government and municipal safety laws and building codes to prevent accidents or injury to persons on, about or adjacent to the Premises where the Work is being performed. Contractor shall erect and properly maintain at all times, as required by the conditions and progress of the Work, all necessary safeguards for the protection of workers and the public and shall post danger signs warning against the hazards created by such features of construction as protruding nails, hoists, well holes, elevator hatchways, scaffolding, window openings, stairways and falling materials; and he or she shall designate a responsible member of his or her organization on the Project, whose duty shall be the prevention of accidents. The name and position of any person so designated shall be reported to the Principal Representative by Contractor.

The Contractor shall provide all necessary bracing, shoring and tying of all structures, decks and framing to prevent any structural failure of any material which could result in damage to property or the injury or death of persons; take all precautions to insure that no part of any structure of any description is loaded beyond its carrying capacity with anything that will endanger its safety at any time during the execution of this Contract; and provide for the adequacy and safety of all scaffolding and hoisting equipment. Contractor shall not permit open fires within the building enclosure. Contractor shall construct and maintain all necessary temporary drainage and do all pumping necessary to keep excavations and floors, pits and trenches free of water. Contractor shall be solely responsible for all construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work, except as otherwise noted.

Contractor shall take due precautions when obstructing sidewalks, streets or other public ways in any manner, and shall provide, erect and maintain barricades, temporary walkways, roadways, trench covers, colored lights or danger signals and any other devices necessary or required to assure the safe passage of pedestrians and automobiles.

C. EMERGENCIES

In an emergency affecting the safety of life or of the Work or of adjoining property, Contractor without special instruction or authorization from the Principal Representative, is hereby permitted to act, at his or her discretion, to prevent such threatened loss or injury; and he or she shall so act, without appeal, if so authorized or instructed. Provided Contractor has no responsibilities for the emergency, if Contractor incurs additional cost not otherwise recoverable from insurance or others on account of any such emergency Work, the Fixed Limit of Construction Cost shall be equitably adjusted in accordance with Article 35, Changes in the Work.

ARTICLE 11. DRAWINGS AND SPECIFICATIONS ON THE WORK

When applicable, as determined at the sole discretion of the Principal Representative, Contractor shall keep on the Premises a printed or electronic copy of the Contract Documents in good order, including current copies of all Drawings and Specifications for the Work, and any approved Shop Drawings, Product Data or Samples, and as-built drawings. All such documents shall be available to representatives of the Local Government. In addition, Contractor shall keep on the Premises a printed or electronic copy of all approved addenda, Change Orders, EPC Change Orders, and requests for information issued for the Work.

Contractor shall develop procedures to insure the currency and accuracy of as-built drawings and shall maintain on a current basis a log of requests for information and responses thereto, a Product Data submittal log, and a Sample submittal log to record the status of all necessary and required submittals.

ARTICLE 12. REQUESTS FOR INFORMATION AND SCHEDULES

A. DETAIL DRAWINGS AND INSTRUCTIONS

The Contractor shall furnish additional instructions with reasonable promptness, by means of drawings or otherwise, necessary for the proper execution of the Work. All such drawings and instructions shall be consistent with the Contract Documents and reasonably inferable there from.

The Work shall be executed in conformity with such instructions and Contractor shall do no Work without proper Drawings, Specifications or instructions.

The Contractor and the Principal Representative shall jointly prepare a schedule, subject to change from time to time in accordance with the progress of the Work, fixing the dates at which the various detail drawings and specification that will be required. A schedule shall be prepared, fixing the dates for the beginning of manufacture and installation of materials and for the completion of the various parts of the Work.

B. SCHEDULES

1. DESIGN SCHEDULE

Prior to receiving the Notice to Proceed to Commence Design Phase (SC-8.26), the Contractor shall submit a detailed Design Phase Schedule identifying all phases of design, including time identified for the Principal Representative to review and approve design documents and specifications at each design milestone. The Design Phase Schedule shall also identify adequate time for the document coordination between the Contractor and each of its consultants.

2. SUBMITTAL SCHEDULES

Prior to the Notice to Proceed to Commencement of Construction for the first construction phase a schedule shall be prepared by the Contractor fixing the dates for the beginning of manufacture, procure the equipment, and installation of materials for the completion of the various parts of the Work. The schedule shall be subject to change from time to time in accordance with the progress of the Work, and it shall be subject to the review and approval by the Principal Representative. The schedule shall be finalized, prepared and submitted with respect to each of the elements of the Work in time to avoid delay, considering reasonable periods for review, manufacture, procure the equipment and/or installation.

At the time the schedule is prepared, Contractor and Principal Representative shall jointly identify the Product Data and Samples, if any, which the Principal Representative shall receive simultaneously with the Contractor for the purposes of Owner coordination with existing facility standards and systems. Transmittal of Product Data copies to the Principal Representative shall be solely for the convenience of the Principal Representative and shall neither create nor imply responsibility or duty of review by the Principal Representative.

3. SCHEDULE OF VALUES

Prior to the Notice to Proceed to Commence Construction for the first construction phase, the Contractor shall submit to the Principal Representative, for approval, a complete itemized Schedule of Values (Schedule F) of the various parts of the Work, as estimated by Contractor, aggregating the total Project price. The Schedule of Values shall be in by ECM/FIM as indicated in the EPC Description of Work (Schedule B) or in such detail as the Principal Representative shall require, and be prepared on forms acceptable to the Principal Representative. Contractor shall revise and resubmit the Schedule of Values for approval when, in the opinion of the Principal Representative, such resubmittal is required due to changes or modifications to the Contract Documents.

The total cost of each line item so separately identified shall be consistent with the CEO Cost and Pricing Tool.

The cost of subcontracts shall be incorporated in Schedule of Values, and when requested by the Principal Representative, shall be separately shown as line items.

This Schedule of Values (Schedule F), when approved by the Principal Representative, shall be used in preparing Contractor's applications for payment.

4. CONSTRUCTION SCHEDULES

Prior to the Notice to Proceed to Commence Construction for the first construction phase, the Contractor shall submit to the Principal Representative when specifically requested, on a form acceptable to them, an overall timetable of the construction schedule for the Project. Unless the Supplementary General Conditions or the Specifications allow scheduling with bar charts or other less sophisticated scheduling tools, the Contractor's schedule shall be a critical-path method (CPM) construction schedule. The construction schedule should start with the date of Notice to Proceed to Commence Construction for the first Work phase and include the various Work activities, change order work (when applicable), demonstration of equipment operation when called for in the Specifications, commissioning of installed equipment, post-installation verification activities, testing, closeout, and acceptance and any other steps as agreed to with the Principal Representative. The completion time shall be the time specified in the Contract.

Contractor shall submit monthly updates of the construction schedule. These updates shall reflect Contractor's "Work in place" progress.

When construction phase measurement and verification is required by the Measurement and Verification Plan, Schedule D, the Contractor shall prepare and submit to the Principal Representative a schedule for M&V activities in accordance with Article 14, Samples and Testing, Construction Phase Measurement and Verification.

ARTICLE 13. SHOP DRAWINGS, PRODUCT DATA AND SAMPLES

A. SUBMITTAL PROCESS

Contractor shall check and field-verify all dimensions. Contractor shall check, approve and submit to the Principal Representative in accordance with the schedule described in Article 12, Requests for Information and Schedules, all Shop Drawings, Product Data and Samples required by the Specifications or required for the Work of the various trades. All Drawings and Product Data shall contain identifying nomenclature and each Submittal shall be accompanied by a letter of transmittal identifying in detail all enclosures.

The Principal Representative shall review and comment on the Specifications, Shop Drawings, and Product Data within the time provided in the agreed upon schedule for conformance with information given and the design concept expressed in, or reasonably inferred from, the Contract Documents. The nature of all corrections to be made to the Specifications, Shop Drawings, and Product Data, if any, shall be clearly noted, and the submittals shall be returned to Contractor for such corrections. On resubmitted Specifications, Shop Drawings, Product Data or Samples, Contractor shall direct specific attention in writing on the transmittal cover to revisions on any previously checked submittal. The Principal Representative shall promptly review and comment on, and return, the resubmitted items.

Contractor shall thereafter furnish such other copies in the form approved by the Principal Representative as may be needed for the prosecution of the Work.

B. FABRICATION AND ORDERING

As required by the Work, fabrication shall be started by Contractor only after receiving approved Shop Drawings by the Principal Representative. Materials shall be ordered in accordance with

approved Product Data. Work which is improperly fabricated, whether through incorrect Shop Drawings, faulty workmanship or materials, will not be acceptable.

C. DEVIATIONS FROM DRAWINGS OR SPECIFICATIONS

The review and comments of the Specifications, Shop Drawings, Product Data or Samples by the Principal Representative shall not relieve Contractor from responsibility for deviations from the Drawings or Specifications, unless the Contractor has in writing called the attention of the Principal Representative to such deviations at the time of submission, nor shall it relieve Contractor from responsibility for errors of any sort in Drawings or Specifications. Review and comments on Specifications, Shop Drawings or Product Data containing identified deviations from the Contract Documents shall not be the basis for a Change Order or a claim based on a change in the scope of the Work unless Notice is given to the Principal Representative in accordance with Articles 35 and 36.

D. CONTRACTOR REPRESENTATIONS

By preparing, approving, and/or submitting Specifications, Shop Drawings, Product Data and Samples, Contractor represents that Contractor has determined and verified all materials, field measurements, and field construction criteria related thereto, and has checked and coordinated the information contained within each submittal with the requirements of the Work, the Project and the Contract Documents and prior reviews and approvals.

ARTICLE 14. SAMPLES AND TESTING

A. SAMPLES

Contractor shall furnish for approval, with such promptness as to cause no delay in his or her Work or in that of any other Contractor, applicable Samples as defined in the Schedule B.

B. TESTING – GENERAL (Intentionally Deleted)

C. TESTING - CONCRETE AND SOILS (Intentionally Deleted)

D. TESTING – Construction Phase Measurement and Verification

Additional testing required during construction by the Measurement and Verification Plan, **Schedule D**, will be coordinated by the Contractor.

ARTICLE 15. SUBCONTRACTS

A. CONTRACT PERFORMANCE OUTSIDE THE UNITED STATES OR COLORADO

After the contract is awarded, the Contractor is required to provide written notice to the Principal Representative no later than twenty (20) days after deciding to perform services under this contract outside the United States or Colorado or to subcontract services under this contract to a subcontractor that will perform such services outside the United States or Colorado. The written notification must include, but need not be limited to, a statement of the type of services that will be performed at a location outside the United States or Colorado and the reason why it is necessary or advantageous to go outside the United States or Colorado to perform the services. All notices received by the Local Government pursuant to outsourced services shall be posted on the Colorado Department of Personnel & Administration's website. *If the Contractor knowingly fails to notify the Principal Representative of any outsourced services as specified herein, the Principal Representative, at its discretion, may terminate this contract as provided in C.R.S. § 24-102-206 (4). (Does not apply to any project that receives federal moneys.)*

B. SUBCONTRACTOR PREQUALIFICATION

Prior to the Notice to Proceed to Commencement of Construction for the first construction phase, the Contractor shall submit to the Principal Representative a complete list of all proposed pre-qualified Subcontractors. The Contractor shall submit to the Principal Representative a complete list of Consultants including the Contractor's Architect/Engineer and the professional Subconsultants. It shall be as complete as possible at the time, showing all known Subcontractors, Consultants and Subconsultants planned for the Work. The list shall be

supplemented as other Subcontractors are determined by the Contractor and any such supplemental list shall be submitted to the Principal Representative not less than ten (10) days before the Subcontractor commences Work.

The Contractor's list of all proposed pre-qualified Subcontractors shall include those Subcontractors, if any, which the Contractor indicated in its Investment Grade Audit report, would be employed for specific portions of the Work or if such indication was requested in the Request for Proposal documents issued by the Local Government.

C. SUBCONTRACTOR PROPOSALS

The Contractor shall request and receive proposals from the Subcontractors and subcontracts will be awarded after the proposals are tabulated in a pre-approved format which compares to each Fixed Limit of Construction Cost per Schedule B, as indicated in the finalized Schedule F, and, reviewed by, Contractor, and Principal Representative.

Should Contractor submit a proposal for subcontract Work, the proposal conditions used shall be the same as for all subcontractor proposals. These Contractor proposals for subcontract Work shall be submitted to the Principal Representative twenty-four (24) hours prior to receipt of other subcontractor proposals and be opened with the other proposals.

D. SUBCONTRACTOR FORMS

All subcontracts will be between Contractor and the Subcontractors. The form of subcontracts shall be furnished to the Principal Representative for review and consent as to form, for which consent shall not be unreasonably withheld.

E. SUBCONTRACTOR SUBSTITUTION

The substitution of any Subcontractor listed in the Contractor's proposal shall be justified in writing not less than ten (10) days after the date of the Notice to Proceed with Design, and shall be subject to the approval of the Principal Representative. For reasons such as the Subcontractor's refusal to perform as agreed, subsequent unavailability or later discovered proposal errors, or other similar reasons, such substitution may be approved. Contractor shall bear any additional cost incurred by such substitutions.

F. CONTRACTOR RESPONSIBLE FOR SUBCONTRACTORS

The Contractor shall not employ any Subcontractor that the Principal Representative, within ten (10) days after the date of receipt of the Contractor's list of Subcontractors or any supplemental list, objects to in writing as being unacceptable to the Principal Representative. If a Subcontractor is deemed unacceptable, the Contractor shall propose a substitute Subcontractor and the Contract sum shall be adjusted by any demonstrated difference between the Subcontractor's bids, except where the Subcontractor has been debarred by the Local Government or fails to meet qualifications of the Contract Documents to perform the work proposed.

The Contractor shall be fully responsible to the Principal Representative for the acts and omissions of Subcontractors and of persons either directly or indirectly employed by them. All instructions or orders in respect to work to be done by Subcontractors shall be given to the Contractor.

ARTICLE 16. RELATIONS OF CONTRACTOR AND SUBCONTRACTORS

Contractor agrees to bind each Subcontractor to the terms of these General Conditions and to the requirements of the Drawings and Specifications, and any Addenda thereto, and also all the other Contract Documents and Procedural Documents, as applicable to the Work of such Subcontractor. Contractor further agrees to bind each Subcontractor to those terms of the General Conditions which expressly require that Subcontractors also be bound, including without limitation, requirements that Subcontractors waive all rights of subrogation, provide adequate general commercial liability and property insurance, automobile insurance and workers' compensation insurance as provided in Article 25, Insurance.

Nothing contained in the Contract Documents shall be deemed to create any contractual relationship whatsoever between any Subcontractor and the Local Government acting by and through its Principal Representative.

ARTICLE 17. MUTUAL RESPONSIBILITY OF CONTRACTORS

Should the Contractor cause damage to any separate contractor engaged by the Principal Representative on the Work, the Contractor agrees, upon due Notice, to settle with such separate contractor by agreement, if he or she will so settle. If such separate contractor sues the Principal Representative on account of any damage alleged to have been so sustained, the Principal Representative shall notify the Contractor, who shall defend such proceedings if requested to do so by Principal Representative. If any judgment against the Principal Representative arises there from, the Contractor shall pay or satisfy it and pay all costs and reasonable attorney fees incurred by the Principal Representative, in accordance with Article 53(I), Indemnification, provided the Contractor was given due Notice of an opportunity to settle.

ARTICLE 18. SEPARATE CONTRACTS

The Principal Representative reserves the right to enter into other contracts in connection with the Project or the Contract. The Contractor shall afford other separate contractors reasonable opportunity for the introduction and storage of their materials and the execution of their Work, and shall properly connect and coordinate his or her Work with theirs. If any part of the Contractor's Work depends, for proper execution or results, upon the Work of any other separate contractor, the Contractor shall inspect and promptly report to the Principal Representative any defects in such Work that render it unsuitable for such proper execution and results. Failure of the Contractor to so inspect and report shall constitute an acceptance of the other separate contractor's Work as fit and proper for the reception of work, except as to defects which may develop in the other separate contractor's Work after the execution of the Contractor's Work.

To insure the proper execution of subsequent Work, the Contractor shall measure Work already in place and shall at once report to the Principal Representative any discrepancy between the executed Work and the Drawings.

ARTICLE 19. USE OF PREMISES

Contractor shall confine apparatus, the storage of materials and the operations of workmen to limits indicated by law, ordinances, permits and any limits lines shown on the Drawings or defined in the Work. Contractor shall not unreasonably encumber the premises with materials. Contractor shall enforce all of the Principal Representative's instructions and prohibitions regarding, without limitation, such matters as signs, advertisements, fires and smoking.

ARTICLE 20. CUTTING, FITTING OR PATCHING

The Contractor shall do all cutting, fitting or patching of Work that may be required to make its several parts come together properly and fit it to receive or be received by Work of other separate contractors shown upon, or reasonably inferred from, the Drawings and Specifications for the complete structure, and shall provide for such finishes to patched or fitted Work as the Principal Representative may direct. The Contractor shall not endanger any Work by cutting, excavating or otherwise altering the Work and shall not cut or alter the Work of any other separate contractor save with the consent of the Principal Representative.

ARTICLE 21. UTILITIES

A. TEMPORARY UTILITIES

Unless otherwise specifically stated in the Specifications or on the Drawings, the Principal Representative shall be responsible for the placement of all utilities as shown on the Drawings or indicated elsewhere in the Specifications, subject to Contractor's compliance with all statutory or regulatory requirements. When actual conditions deviate from those shown in the Drawings and Specifications, Contractor shall comply with the requirements of Article 37, Differing Premises Conditions. As applicable to the Project, Contractor shall provide and pay for the installation of all temporary utilities required to supply all the power, light and water needed by him or her and other Contractors for their Work associated with the Project and shall install and maintain all such

utilities in such manner as to protect the public and workmen and conform with any applicable laws and regulations. Upon completion of the work, he or she shall remove all such temporary utilities from the site, if applicable. Contractor shall pay for all consumption of power, light and water used by him or her and the other Contractors used during the Project as it applies to these temporary utilities, without regard to whether such items are metered by temporary or permanent meters. The Superintendent shall have full authority over all trades and Subcontractors at any tier to prevent waste. The cut-off date on permanent meters shall be either the agreed date of the Notice of Substantial Completion of the Project, whichever shall be the earlier date.

B. PROTECTION OF EXISTING UTILITIES

Where existing utilities, such as water mains, sanitary sewers, storm sewers, computer networks, and electrical conduits, are shown on the Drawings, Contractor shall be responsible for the protection thereof, without regard to whether any such utilities are to be relocated or removed as a part of the Work. If any utilities are to be moved, the moving must be conducted in such manner as not to cause undue interruption or delay in the operation of the same.

C. CROSSING OF UTILITIES

When new construction crosses highways, railroads, streets, or utilities under the jurisdiction of Local Government, city or other public agency, public utility or private entity, Contractor shall secure proper written permission before executing such new construction. Contractor will be required to furnish a proper release before final acceptance of the Work.

ARTICLE 22. UNSUITABLE CONDITIONS

Contractor shall not work at any time, or permit any work to be done, under any conditions contrary to those recommended by manufacturers or industry standards which are otherwise proper, unsuited for proper execution, safety and performance. Any loss, damage, or increased cost caused by ill-timed Work shall be borne by Contractor unless the timing of such Work shall have been directed by the Principal Representative, and Contractor provided Notice of any additional cost.

ARTICLE 23. TEMPORARY FACILITIES

A. OFFICE FACILITIES

Contractor shall provide and maintain without additional expense for the duration of the Project temporary office facilities, as required and as specified, for his or her own use and the use of the representatives of the Principal Representative.

B. TEMPORARY HEAT

Contractor shall furnish and pay for all the labor, facilities, equipment, fuel and power necessary to supply temporary heating, ventilating and air conditioning, except to the extent otherwise specified, and shall be responsible for the installation, operation, maintenance and removal of such facilities and equipment. Unless otherwise specified, the permanent HVAC system shall not be used for temporary heat in whole or in part. If Contractor desires to put the permanent system into use, in whole or in part, Contractor shall set it into operation and furnish the necessary fuel and manpower to safely operate, protect and maintain that HVAC system. Any operation of all or any part of the permanent HVAC system including operation for testing purposes shall not constitute acceptance of the system, nor shall it relieve Contractor of his or her Warranty of the Work from the date of the Notice of Substantial Completion of the entire Project, and if necessary due to prior operation, Contractor shall provide manufacturers' extended warranties from the date of Contractor's use prior to the date of the Notice of Substantial Completion.

C. WEATHER PROTECTION

The Contractor shall, at all times, provide protection against weather, so as to maintain all Work, materials, apparatus and fixtures free from injury or damages. The Contractor shall provide weathertight storage on substantial floors at least six (6) inches off the ground for all materials requiring protection from the weather.

D. DUST PARTITIONS

If the Work involves Work in an occupied existing building, Contractor shall erect and maintain during the progress of the Work, suitable dust-proof temporary partitions, or more permanent partitions as specified, to protect such building and the occupants thereof.

E. BENCHMARKS

Contractor shall maintain any Premises benchmarks provided by the Principal Representative and shall establish any additional benchmarks specified by the Principal Representative as necessary for Contractor to layout the Work and ascertain all grades and levels as needed.

F. SIGN

Contractor shall erect and permit one 4' x 8' sign only at the Premises to identify the Project as specified or directed by the Local Government which shall be maintained in good condition during the life of the Project.

G. SANITARY PROVISION

Contractor shall provide and maintain suitable, clean, temporary sanitary toilet facilities for any and all workmen engaged on the Work, for the entire construction period, in strict compliance with the requirement of all applicable codes, regulations, laws and ordinances, and no other facilities, new or existing, may be used by any person on the Project. When the Project is complete Contractor shall promptly remove them from the Premises, disinfect, and clean or treat the areas as required. If any new construction surfaces in the Project other than the toilet facilities provided for herein are permanently soiled at any time, the entire areas so soiled shall be completely removed from the Project and rebuilt.

ARTICLE 24. CLEANING UP

Contractor shall keep the building and premises free from all surplus material, waste material, dirt and rubbish caused by employees or Work, and at the completion of the Work shall remove all such surplus material, waste material, dirt, and rubbish, as well as all tools, equipment and scaffolding, and shall wash and clean all window glass and plumbing fixtures, perform cleanup and cleaning required by the Specifications and leave all of the Work clean unless more exact requirements are specified.

ARTICLE 25. INSURANCE**A. GENERAL**

The Contractor shall procure and maintain all insurance requirements and limits as set forth below, at his or her own expense, for the length of time set forth in Contract requirements. The Contractor shall continue to provide evidence of such coverage to Local Government on an annual basis during the aforementioned period including all of the terms of the insurance and indemnification requirements of this agreement. All below insurance policies shall include a provision preventing cancellation without thirty (30) days' prior Notice per Article 27 (Energy Performance Contract) by certified mail. A completed Certificate of Insurance shall be filed with the Principal Representative within ten (10) days after the date of the Notice of Award, said Certificate to specifically state the inclusion of the coverages and provisions set forth herein and shall state whether the coverage is "claims made" or "per occurrence."

B. COMMERCIAL GENERAL LIABILITY INSURANCE (CGL)

This insurance must protect the Contractor from all claims for bodily injury, including death and all claims for destruction of or damage to property (other than the Work itself), arising out of or in connection with any operations under this Contract, whether such operations be by the Contractor or by any Subcontractor under him or anyone directly or indirectly employed by the Contractor or by a Subcontractor. All such insurance shall be written with limits and coverages as specified below and shall be written on an occurrence form.

General Aggregate	\$2,000,000
Products – Completed Operations Aggregate	\$2,000,000
Each Occurrence	\$1,000,000

Personal Injury \$1,000,000

The following coverages shall be included in the CGL:

1. Per project general aggregate (CG 25 03 or similar)
2. Additional Insured status in favor of the Local Government and any other parties as outlined in The Contract and must include both ONGOING Operations AND COMPLETED Operations per CG2010 10/01 and CG 2037 10/01 or equivalent as permitted by law
3. The policy shall be endorsed to be primary and non-contributory with any insurance maintained by Additional Insureds
4. A waiver of Subrogation in favor of all Additional Insured parties
5. Personal Injury Liability
6. Contractual Liability coverage to support indemnification obligation per Article 53.I
7. Explosion, collapse and underground (xcu)

The following exclusionary endorsements are prohibited in the CGL policy:

1. Damage to Work performed by Subcontract/Vendor (CG 22-94 or similar)
2. Contractual Liability Coverage Exclusion modifying or deleting the definition of an "insured contract" from the unaltered SO CG 0001 1001 policy from (CG 24 26 or similar)
3. If applicable to the Work to be performed: Residential or multi-family
4. If applicable to the Work to be performed: Exterior insulation finish systems
5. If applicable to the Work to be performed: Subsidence or Earth Movement

The Contractor shall maintain general liability coverage including Products and Completed Operations insurance, and the Additional Insured with primary and non-contributory coverage as specified in this Contract for three (3) years after completion of the project.

C. AUTOMOBILE LIABILITY INSURANCE and business auto liability covering liability arising out of any auto (including owned, hired and non-owned autos).

Combined Bodily Injury and Property Damage Liability
(Combined Single Limit): \$1,000,000 each accident

Coverages:
Specific waiver of subrogation

D. WORKERS' COMPENSATION INSURANCE

The Contractor shall procure and maintain Workers' Compensation Insurance at his or her own expense during the life of this Contract, including occupational disease provisions for all employees per statutory requirements. Policy shall contain a waiver of subrogation in favor of the Local Government.

The Contractor shall also require each Subcontractor to furnish Workers' Compensation Insurance, including occupational disease provisions for all of the latter's employees, and to the extent not furnished, the Contractor accepts full liability and responsibility for Subcontractor's employees.

In cases where any class of employees engaged in hazardous work under this Contract at the site of the Project is not protected under the Workers' Compensation statute, the Contractor shall provide, and shall cause each Subcontractor to provide, adequate and suitable insurance for the protection of employees not otherwise protected.

E. UMBRELLA LIABILITY INSURANCE (for construction projects exceeding \$10,000,000, provide the following coverage):

The Contractor shall maintain umbrella/excess liability insurance on an occurrence basis in excess of the underlying insurance described in Section B-D above. Coverage shall follow the terms of the underlying insurance, including the additional insured and waiver of subrogation provisions. The amounts of insurance required in Sections above may be satisfied by the Contractor purchasing coverage for the limits specified or by any combination of underlying and umbrella limits, so long as the total amount of insurance is not less than the limits specified in each section previously mentioned.

Each occurrence	\$5,000,000
Aggregate	\$5,000,000

F. BUILDER'S RISK INSURANCE

Unless otherwise expressly stated in the Supplementary General Conditions (e.g. where the Local Government elects to provide for projects with a completed value of less than \$1,000,000), the Contractor shall purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract Modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis without optional deductibles. Such property insurance shall be maintained, unless otherwise provided in the Contract Documents or otherwise agreed in writing by all persons and entities who are beneficiaries of such insurance, until final payment has been made or until no person or entity other than the Owner has an insurable interest in the property, or the Date of Notice specified on the Notice of Acceptance.

This insurance shall include interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Project as named insureds.

All associated deductibles shall be the responsibility of the Contractor. Such policy may have a deductible clause but not to exceed ten thousand dollars (\$10,000.00).

Property insurance shall be on an "all risk" or equivalent policy form and shall include, without limitation, insurance against the perils of fire (with extended coverage) and physical loss or damage including, without duplication of coverage, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and shall cover reasonable compensation for Contractor's services and expenses required as a result of such insured loss.

Contractor shall maintain Builders Risk coverage including partial use by Owner.

The Contractor shall waive all rights of subrogation as regards the Local Government and the Principal Representative, its officials, its officers, its agents and its employees, all while acting within the scope and course of their employment. For damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this Section or other property insurance applicable to the Work. The Contractor shall require all Subcontractors at any tier to similarly waive all such rights of subrogation and shall expressly include such a waiver in all subcontracts.

Upon request, the amount of such insurance shall be increased to include the cost of any additional work to be done on the Project, or materials or equipment to be incorporated in the Project, under other independent contracts let or to be let. In such event, the Contractor shall be reimbursed for this cost as his or her share of the insurance in the same ratio as the ratio of the

insurance represented by such independent contracts let or to be let to the total insurance carried.

The Principal Representative, shall have the power to adjust and settle any loss. Unless it is agreed otherwise, all monies received shall be applied first on rebuilding or repairing the destroyed or injured work.

G. PROFESSIONAL ERRORS AND OMISSIONS LIABILITY INSURANCE

The Contractor’s Architect/Engineer or other such consultant providing professional services to the Contractor shall require to maintain in full force and effect an Errors and Omissions Professional Liability Insurance Policy in the amounts (indicated in the following table) as minimum coverage or such other minimum coverage as determined by the Principal Representative. The policy, including claims- made forms, shall remain in effect for the duration of this Agreement and for at least three (3) years beyond the completion and acceptance of the Work. The Contractor’s Architect/Engineer shall be responsible for all claims, damages, losses or expenses including attorney’s fees, arising out of or resulting from the performance of Professional Services contemplated in this Agreement, provided that any such claim, damage, loss or expense is caused by any negligent act, error or omission of the Contractor’s Architect/Engineer, any consultant or associate thereof, or anyone directly or indirectly employed by the Contractor. The Contractor shall submit a Certificate of Insurance verifying said coverage at the signing of this Agreement and also any notices of Renewals of the said policy as they occur.

For a Fixed Limit of Construction Cost	Minimum Coverage per Claim	Minimum Coverage in the Aggregate
\$999,999 and under	\$250,000	\$500,000
\$1,000,000 to \$4,999,999	\$500,000	\$1,000,000
\$5,000,000 to \$19,999,999	\$1,000,000	\$2,000,000
\$20,000,000 and above	\$2,000,000	\$2,000,000

H. POLLUTION LIABILITY INSURANCE

If Contractor is providing directly or indirectly work with pollution/environmental hazards, the Contractor must provide or cause those conducting the work to provide Pollution Liability Insurance coverage. Pollution Liability policy must include contractual liability coverage. State must be included as additional insureds on the policy. The policy limits shall be in the amount of \$1,000,000 with maximum deductible of \$25,000 to be paid by the Subcontractor/Vendor.

I. ADDITIONAL MISCELLANEOUS INSURANCE PROVISIONS

Certificates of Insurance and/or insurance policies required under this Contract shall be subject to the following stipulations and additional requirements:

1. Any and all deductibles or self-insured retentions contained in any Insurance policy shall be assumed by and at the sole risk of the Contractor;
2. If any of the said policies shall fail at any time to meet the requirements of the Contract Documents as to form or substance, or if a company issuing any such policy shall be or at any time cease to be approved by the Local government, or be or cease to be in compliance with any stricter requirements of the Contract Documents, the Contractor shall promptly obtain a new policy, submit the same to the Principal Representative for approval if requested, and submit a Certificate of Insurance as hereinbefore provided. Upon failure of the Contractor to furnish, deliver and maintain such insurance as provided herein, this Contract, in the sole discretion of the Local Government, may be immediately declared suspended, discontinued, or terminated. Failure of the Contractor in obtaining and/or maintaining any required insurance shall not relieve the Contractor from any liability under the Contract, nor shall the insurance

requirements be construed to conflict with the obligations of the Contractor concerning indemnification;

- 3. All requisite insurance shall be obtained from financially responsible insurance companies, authorized to do business in the Local Government and acceptable to the Principal Representative;
- 4. Receipt, review or acceptance by the Principal Representative of any insurance policies or certificates of insurance required by this Contract shall not be construed as a waiver or relieve the Contractor from its obligation to meet the insurance requirements contained in these General Conditions.

ARTICLE 26. CONTRACTOR’S PERFORMANCE AND PAYMENT BONDS

Contractor shall furnish a Performance Bond and a Labor and Material Payment Bond, Performance Bond, and SC-6.221, Labor and Material Payment Bond, may approve for the Project, executed by a corporate Surety authorized to do business in the State of Colorado and in the full amount of the Fixed Limit of Construction Cost. The expense of these bonds shall be borne by the Contract and the bonds shall be filed with Principal Representative.

If, at any time, a Surety on such a bond is found to be, or ceases to be in strict compliance with any qualification requirements of the Contract Documents or the bid documents, or loses its right to do business in the State of Colorado, another Surety will be required, which Contractor shall furnish to the Principal Representative within ten (10) days after receipt of Notice from the Principal Representative or after Contractor otherwise becomes aware of such conditions.

The bonds shall be maintained in full force and effect until Final Completion of the construction work but are not being furnished to cover any utility guarantee or guaranteed savings under this Contract. Upon Final Acceptance the bonds shall be released.

ARTICLE 27. LABOR AND WAGES

In accordance with laws of Colorado, **C.R.S. § 8-17-101(1)**, as amended, Colorado labor shall be employed to perform at least eighty percent (80%) of the work. If the Federal Davis-Bacon Act shall be applicable to the Project, as indicated in Article 26 (Energy Performance Contract), Modification of Article 27, the minimum wage rates to be paid on the Project will be specified in the Contract Documents.

ARTICLE 28. ROYALTIES AND PATENTS

Contractor shall be responsible for assuring that all rights to use of products and systems have been properly arranged and shall take such action as may be necessary to avoid delay, at no additional charge to the Principal Representative, where such right is challenged during the course of the Work. Contractor shall pay all royalties and license fees required to be paid and shall defend all suits or claims for infringement of any patent rights and shall save the Principal Representative harmless from loss on account thereof, in accordance with Article 53(l) Indemnification.

ARTICLE 29. ASSIGNMENT

Except as otherwise provided, hereafter the Contractor shall not assign the whole or any part of this Contract without the written consent of the Principal Representative. This provision shall not be construed to prohibit assignments of the right to payment to the extent permitted by **C.R.S. § 4-9-406**, et. seq., as amended, provided that written Notice of assignment adequate to identify the rights assigned is received by the Principal Representative executing this Contract. Such assignment of the right to payment shall not be deemed valid until receipt by the Principal Representative and such controller and the Contractor assumes the risk that such written Notice of assignment is received by the Principal Representative and the controller for the agency, department, or institution involved. In case the Contractor assigns all or part of any moneys due or to become due under this Contract, the instrument of assignment shall contain a clause substantially to the effect that it is agreed that the right of the assignee in and to any moneys due or to become due to the Contractor shall be subject to all claims of all persons, firms, and corporations for services rendered or materials supplied for the performance of the work called

for in this Contract, whether said service or materials were supplied prior to or after the assignment. Nothing in this Article shall be deemed a waiver of any other defenses available to the Principal Representative against the Contractor or the assignee.

ARTICLE 30. CORRECTION OF WORK BEFORE ACCEPTANCE

Contractor shall promptly remove from the premises all Work or materials condemned or declared irreparably defective as failing to conform to the Contract Documents on receipt of written Notice from the Principal Representative. If such materials shall have been incorporated in the Work, or if any unsatisfactory Work is discovered, the Contractor shall promptly replace and re-execute his or her Work in accordance with the requirements of the Contract Documents without expense to the Principal Representative, and shall also bear the expense of making good all work of other contractors destroyed or damaged by the removal or replacement of such defective material or Work.

Should any defective work or material be discovered during the process of construction, or should reasonable doubt arise as to whether certain material or Work is in accordance with the Contract Documents, the value of such defective or questionable material or Work shall not be included in any application for payment, or if previously included, shall be deducted by the Principal Representative from the next application submitted by the Contractor.

If Contractor does not perform repair, correction and replacement of defective Work, in lieu of proceeding by issuance of a Notice of Intent to remove condemned Work as outlined above, the Principal Representative may, not less than seven (7) days after giving the original written Notice of the need to repair, correct, or replace defective Work, deduct all costs and expenses of replacement or correction as instructed by the Local Government from Contractor’s next application for payment in addition to the value of the defective Work or material. The Principal Representative may also make an equitable deduction from the Fixed Limit of Construction Cost by unilateral Change Order, in accordance with Article 33, Payments Withheld and Article 35, Changes in The Work.

If the Contractor does not remove such condemned or irreparably defective Work or material within a reasonable time, the Principal Representative may, after giving a second seven- (7) day advance Notice to the Contractor and the Surety, remove them and may store the material at the Contractor’s expense. The Principal Representative may accomplish the removal and replacement with its own forces or with another separate contractor. If the Contractor does not pay the expense of such removal and pay all storage charges within ten (10) days thereafter, the Principal Representative may, upon ten (10) days’ written Notice, sell such material at auction or at private sale and account for the net proceeds thereof, after deducting all costs and expenses which should have been borne by the Contractor. If the Contractor shall commence and diligently pursue such removal and replacement before the expiration of the seven-day period, or if the Contractor shall show good cause in conjunction with Schedule showing when the Work will be performed and why such removal of condemned Work should be scheduled for a later date, the Principal Representative shall not proceed to remove or replace the condemned Work.

If the Contractor disagrees with the Notice to remove Work or materials condemned or declared irreparably defective, the Contractor may request facilitated negotiation of the issue and the Principal Representative’s right to proceed with removal and to deduct costs and expenses of repair shall be suspended and tolled until such time as the parties meet and negotiate the issue

ARTICLE 31. APPLICATIONS FOR PAYMENTS

A. CONTRACTOR’S SUBMITTALS

On or before the first day of each month and no more than five days prior thereto, Contractor may submit applications for payment for the Work performed during such month covering the portion of the Work completed as of the date indicated, and payments on account of this Contract shall be due within thirty (30) days after the last day of the period for which payment is requested. Contractor shall submit the application for payment to the Principal Representative (Schedule F) in an itemized format in accordance with the Schedule of Values

(Schedule F), supported to the extent reasonably required by the Principal Representative by receipts or other vouchers, showing payments for materials and labor, prior payments and payments to be made to Subcontractors and such other evidence of Contractor's right to payments as the Principal Representative may direct.

If payments are made on account of materials not incorporated in the Work but delivered and suitably stored at the Premises, or at some other location agreed upon in writing, such payments shall be conditioned upon submission by Contractor of bills of sale or such other procedure as will establish the Principal Representative's title to such material or otherwise adequately protect the Principal Representative's interests, and shall provide proof of insurance whenever requested by the Principal Representative and shall be subject to the right to inspect the materials at the request of the Principal Representative.

All applications for payment, except the final application, and the payments there under, shall be subject to correction in the next application rendered following the discovery of any error.

B. Intentionally deleted.

C. RETAINAGE WITHHELD

Unless otherwise provided in the Supplementary General Conditions, an amount equivalent to five percent (5%) of the amount shown to be due the Contractor on each application for payment shall be withheld until the work required by the Contract has been performed. The withheld percentage of the contract price of any such work, improvement, or construction shall be administered according to § 24-91-101, et seq., C.R.S., as amended, and except as provided in § 24-91-103, C.R.S., as amended, and Article 31D, shall be retained until the Work or discrete portions of the Work, have been completed satisfactorily, finally or partially accepted, and advertised for final settlement as further provided in Article 41.

D. RELEASE OF RETAINAGE

Contractor may, for satisfactory and substantial reasons shown to the Principal Representative's satisfaction, make a written request to the Principal Representative for release of part or all of the withheld percentage applicable to the Work of a Subcontractor which has completed the subcontracted Work in a manner finally acceptable to Contractor and the Principal Representative. Any such request shall be supported by a written approval from the Surety furnishing Contractor's bonds and any surety that has provided a bond for the Subcontractor. The release of any such withheld percentage shall be further supported by such other evidence as the Principal Representative may require, including but not limited to, evidence of prior payments made to the Subcontractor, copies of the Subcontractor's Contract with Contractor, any applicable warranties, as-built information, maintenance manuals and other customary close-out documentation. The Principal Representative shall not be obligated to review such documentation nor shall they be deemed to assume any obligations to third parties by any review undertaken.

Contractor's obligation under these General Conditions to warranty Work for one year from the date of the Notice of Substantial Completion or the date of any Notice of Partial Substantial Completion of the applicable portion or phase of the Project, shall be unaffected by such partial release.

Any rights of the Principal Representative which might be terminated by or from the date of any final acceptance of the Work, whether at common law or by the terms of this Contract, shall not be affected by such partial release of retainage prior to any final acceptance of the entire Project.

Contractor remains fully responsible for the Subcontractor's Work and assumes any risk that might arise by virtue of the partial release to the Subcontractor of the withheld percentage, including the risk that the Subcontractor may not have fully paid for all materials, labor and equipment furnished to the Project.

If the Principal Representative considers Contractor’s request for such release satisfactory and supported by substantial reasons, the Local Government may make a “final inspection” of the applicable portion of the Project to determine whether the Subcontractor’s Work has been completed in accordance with the Contract Documents. A final punch list shall be made for the Subcontractor’s Work, and the procedures of Article 41 shall be followed for that portion of the Work, except that advertisement of the intent to make final payment to the Subcontractor shall be required only if the Principal Representative has reason to believe that a supplier or Subcontractor to the Subcontractor for which the request is made, may not have been fully paid for all labor and materials furnished to the Project.

ARTICLE 32. CERTIFICATES FOR PAYMENTS

Certificate For Contractor’s Payment, as modified to include design and construction administration services and as approved by the Principal Representative and its continuation detail sheets, when submitted, shall constitute the Certificate of Contractor’s Application for Payment, and shall be a representation by the Contractor to the Principal Representative that the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and materials for which payment is requested have been incorporated into the Project except as noted in the application. If requested by the Principal Representative, the Certificate of Contractor’s Application for Payment shall be sworn under oath and notarized.

ARTICLE 33. PAYMENTS WITHHELD

The Principal Representative may withhold, or on account of subsequently discovered evidence, nullify the whole or any part of any payment application on account of, but not limited to, any of the following:

1. Defective Work not remedied;
2. Claims filed or reasonable evidence indicating probable filing of claims;
3. Failure of Contractor to make payments to Subcontractors for material or labor;
4. A reasonable doubt that the Contract can be completed for the balance of the Fixed Limit of Construction Cost then unpaid;
5. Damage or injury to another contractor or any other person, persons or property except to the extent of coverage by a policy of insurance;
6. Failure to obtain necessary permits or licenses or to comply with applicable laws, ordinances, codes, rules or regulations or the directions of the Local Government;
7. Failure to submit a monthly construction schedule;
8. Failure of Contractor to keep Work progressing in accordance with the construction schedule;
9. Failure to keep a superintendent on the Work;
10. Failure to maintain as built drawings of the Work in progress;
11. Unauthorized deviations by Contractor from the Contract Documents; or
12. On account of liquidated damages.

In addition, the Principal Representative may withhold or nullify the whole or any part of any application for any reason noted elsewhere in these General Conditions of the Energy Performance Contract. Nullification shall mean reduction of amounts shown as previously paid on the application. The amount withheld or nullified may be in such amount as the Principal Representative estimates to be required to allow the Principal Representative to accomplish the Work, cure the failure and cover any damages or injuries, including an allowance for attorneys’ fees and costs where appropriate. When the grounds for such withholding or nullifying are removed, payment shall be made for the amounts thus withheld or nullified on such grounds.

ARTICLE 34. DEDUCTIONS FOR UNCORRECTED WORK

If the Principal Representative deems it inexpedient to correct Work injured or not performed in accordance with the Contract Documents, the Principal Representative may, after ten (10) days’ Notice to Contractor of intent to do so, make reasonable reductions from the amounts otherwise due Contractor on the next application for payment. Notice shall specify the amount or terms of any contemplated reduction. Contractor may during this period elect to correct or perform the Work. If Contractor does not elect to

correct or perform the Work, an equitable deduction from the Fixed Limit of Construction Cost shall be made by Change Order, in accordance with Article 35, Changes In The Work. If either party elects facilitation of this issue after Notice is given, the 10-day notice period shall be extended and tolled until facilitation has occurred.

ARTICLE 35. CHANGES IN THE WORK

CHANGES TO THE EPC FIXED LIMIT OF CONSTRUCTION COST

Changes to the Fixed Limit of Construction Cost within the Maximum Contract Price of an Energy Performance Contract, that the costs are negotiation determined based upon the IGA Exhibit C, Cost and Pricing Elements instead of Article 35B limits. Articles 35 A, B, C, and D apply, but The Contractor will indicate and detail in any EPC Change Order if and how the Annual Guaranteed Cost Savings is modified. Changes to the Maximum Contract Price that are not based upon an additional EPC phase or a decrease in the EPC Description of Work (EPC Schedule B) are based upon the limits in Article 35B.

The Principal Representative may designate, or may order extra Work or make changes with or without the consent of the Contractor as hereafter provided, by altering, adding to or deducting from the Work, the Contract sum being adjusted accordingly. All such changes in the Work shall be within the general scope of and be executed under the conditions of the Contract, except that any claim for extension of time made necessary due to the change or any claim of other delay or other impacts caused by or resulting from the change in the Work shall be presented by the Contractor and adjusted by Change Order to the extent known at the time such change is ordered and before proceeding with the extra or changed Work. Any claims for extension of time or of delay or other impacts, and any costs associated with extension of time, delay or other impacts, which are not presented before proceeding with the change in the Work, and which are not adjusted by Change Order to the extent known, shall be waived.

The Principal Representative or the Contractor's Architect/Engineer with the consent of the Principal Representative, shall have authority to make minor changes in the Work, not involving extra cost, and not inconsistent with the *intent of the Contract Documents, but otherwise, except in an emergency endangering life or property, no extra work or change in the Contract Documents shall be made unless by 1) a written Change Order, approved by the Principal Representative, prior to proceeding with the changed Work; or 2) by an Emergency Field Change Order approved by the Principal Representative or 3) by an allocation in writing of any allowance already provided in the encumbered contract amount, the Contract sum being later adjusted to decrease the Contract Sum by any unallocated or unexpended amounts remaining in such allowance. No change to the Contract Sum shall be valid unless so ordered.*

A. THE VALUE OF CHANGED WORK

1. *The value of any extra Work or changes in the Work shall be determined by agreement in one or more of the following ways:*
 - a. *By estimate and acceptance of a lump-sum amount;*
 - b. *By unit prices specified in the Agreement, or subsequently agreed upon, that are extended by specific quantities;*
 - c. *By actual cost plus a fixed fee, in a lump sum amount for profit, overhead and all indirect and off-site home office costs, the latter amount agreed upon in writing prior to starting the extra or changed Work.*
2. *Where the Contractor and the Principal Representative cannot agree on the value of extra work, the Principal Representative may order the Contractor to perform the changes in the Work and a Change Order may be unilaterally issued based on an estimate of the change in the Work prepared by the Contractor's Architect/Engineer or Principal Representative. The value of the change in the Work shall be the Principal Representative's determination of the*

amount of equitable adjustment attributable to the extra Work or change. The Principal Representative's determination shall be subject to appeal by the Contractor pursuant to the claims process in Article 36, Claims.

3. Except as otherwise provided in Article 35B, Detailed Breakdown, below, the Cost Principles of the Colorado Procurement Rules in effect on the date of this Contract, pursuant to § 24-107-101, C.R.S., as amended, shall govern all Contract changes.

B. DETAILED BREAKDOWN

In all cases where the value of the extra or changed Work is not known, based on unit prices in the Contractor's proposal or the Agreement, a detailed change proposal shall be submitted by the Contractor on a Change Order Proposal (SC-6.312), or in such other format as the Principal Representative, with which the Principal Representative may require an itemized list of materials, equipment and labor, indicating quantities, time and cost for completion of the changed Work.

Such detailed change proposals shall be stated in lump sum amounts and shall be supported by a separate breakdown, which shall include estimates of all or part of the following when requested by the Principal Representative:

1. Materials, indicating quantities and unit prices including taxes and delivery costs if any (separated where appropriate into general, mechanical and electrical and/or other Subcontractors' Work; and the Principal Representative may require in its discretion any significant subcontract costs to be similarly and separately broken down).
2. Labor costs, indicating hourly rates and time and labor burden to include Social Security and other payroll taxes such as unemployment, benefits and other customary burdens.
3. Costs of project management time and superintendence time of personnel stationed at the site, and other field supervision time, but only where a time extension, other than a weather delay, is approved as part of the Change Order, and only where such project management time and superintendence time is directly attributable to and required by the change.
4. Construction equipment (including small tools). Expenses for equipment and fuel shall be based on customary commercially reasonable rental rates and schedules. Equipment and hand tool costs shall not include the cost of items customarily owned by workers.
5. Workers' compensation costs, if not included in labor burden.
6. The cost of commercial general liability and property damage insurance premiums but only to the extent charged the Contractor as a result of the changed Work.
7. Overhead and profit, as hereafter specified.
8. Builder's risk insurance premium costs.
9. Bond premium costs.
10. Testing costs not otherwise excluded by these General Conditions.
11. Subcontract costs.
12. Contractor's Architect/Engineer Design Services Costs.

Unless modified in the Supplementary General Conditions, overhead and profit shall not exceed the percentages set forth in the table below.

	OVERHEAD	PROFIT	COMMISSION
To the Contractor or to Subcontractors for the portion of work performed with their own forces:	10%	5%	0%
To the Contractor or to Subcontractors for work performed by others at a tier immediately below either of them:	5%	0%	5%

Overhead shall include: a) insurance premium for policies not previously purchased (if required) for the Project and itemized above, b) home office costs for office management, administrative

and supervisory personnel and assistants, c) estimating and change order preparation costs, d) incidental job burdens, e) legal costs, f) data processing costs, g) interest costs on capital, h) general office expenses except those attributable to increased rental expenses for temporary facilities, and all other indirect costs, but shall not include the Social Security tax and other direct labor burdens. The term "Work" as used in the preceding table shall include labor, materials and equipment and the "Commission" shall include all costs and profit for carrying the subcontracted Work at the tiers below except direct costs as listed in items 1 through 11 above if any.

On proposals for Work involving both additions and credits to the amount of the Contract Sum, the overhead and profit will be allowed on the net increase only. On proposals resulting in a net deduct to the amount of the Contract sum, profit on the deducted amount shall be returned to the Principal Representative at fifty percent (50%) of the rate specified. The inadequacy of the profit specified shall not be a basis for refusal to submit a proposal.

Except in the case of Change Orders or Emergency Field Change Orders agreed to on the basis of a lump sum amount or unit prices as described in paragraphs 35A1 and 35A2 above, The Value of Changed Work, the Contractor shall keep and present a correct and fully auditable account of the several items of cost, together with vouchers, receipts, time cards and other proof of costs incurred, summarized on a Change Order form (SC-6.31) using such format for supporting documentation as the Principal Representative approves. This requirement applies equally to Work done by Subcontractors. Only auditable costs shall be reimbursable on Change Orders where the value is determined on the basis of actual cost plus a fixed fee pursuant to paragraph 35A3 above, or where unilaterally determined by the Principal Representative on the basis of an equitable adjustment in accordance with the Procurement Rules, as described above in Article 35A, The Value Of Changed Work.

Except for proposals for Work involving both additions and credits, changed Work shall be adjusted and considered separately for Work either added or omitted. The amount of adjustment for Work omitted shall be estimated at the time it is directed to be omitted, and when reasonable to do so, the agreed adjustment shall be reflected on the schedule of values used for the next Contractor's application for payment.

The Principal Representative reserves the right to contract with any person or firm other than the Contractor for any or all extra Work; however, unless specifically required in the Contract Documents, the Contractor shall have no responsibility without additional compensation to supervise the Work of persons or firms separately contracted by the Principal Representative.

C. HAZARDOUS MATERIALS

The Principal Representative represents that it has undertaken an examination of the site of the Work and has determined that there are no hazardous substances, as defined below, which the Contractor could reasonably encounter in its performance of the Work. In the event the Principal Representative so discovers hazardous substances, the Principal Representative shall render harmless such hazards before the Contractor commences the Work.

In the event the Contractor encounters any materials reasonably believed to be hazardous substances which have not been rendered harmless, the Contractor shall immediately stop Work in the area affected and report the condition to the Principal Representative, in writing. For purposes of this Agreement, "hazardous substances" shall include asbestos, lead, polychlorinated biphenyl (PCB) and any or all of those substances defined as "hazardous substance," "hazardous waste," or "dangerous or extremely hazardous wastes" as those terms are used in the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the Resource Conservation and Recovery Act (RCRA), and shall also include materials regulated by the Toxic Substances Control Act (TSCA), the Clean Air Act, the Air Quality Act, the Clean Water Act, and the Occupational Safety and Health Act. The Work in the affected area shall not, therefore, be resumed except by written agreement of the Principal Representative and the Contractor, if in fact materials that are hazardous substances have not

been rendered harmless. The Work in the affected area shall be resumed only in the absence of the hazardous substances or when it has been rendered harmless or by written agreement of the Principal Representative and the Contractor.

The Contractor shall not be required to perform Work without consent in any areas where it reasonably believes hazardous substances that have not been rendered harmless are present.

D. EMERGENCY FIELD CHANGE ORDERED WORK

The Principal Representative, without invalidating the Agreement may order extra Work or make changes in the case of an emergency that is a threat to life or property or where the likelihood of delays in processing a normal Change Order will result in substantial delays and or significant cost increases for the Project. Emergency Field Orders are not to be used solely to expedite normal Change Order processing absent a clear showing of a high potential for significant and substantial cost or delay. Such changes in the Work may be directed through issuance of an Emergency Field Change Order signed by the Contractor, the Principal. The change shall be directed using an Emergency Field Change Order form (SC-6.31E).

If the amount of the adjustment of the Contract price and time for completion can be determined at the time of issuance of the Emergency Field Change Order, those adjustments shall be reflected on the face of the Emergency Field Change Order. Otherwise, the Emergency Field Change Order shall reflect a Not To Exceed (NTE) amount for any schedule adjustment (increasing or decreasing the time for completion) and an NTE amount for any adjustment to Contract sum, which NTE amount shall represent the maximum amount of adjustment to which the Contractor will be entitled, including direct and indirect costs of changed Work, as well as any direct or indirect costs attributable to delays, inefficiencies or other impacts arising out of the change.

On Emergency Field Change Orders where the price and schedule have not been finally determined, the Contractor shall submit final costs for adjustment as soon as practicable. No later than seven (7) days after issuance, except as otherwise permitted, and every seven days thereafter, the Contractor shall report all costs to the Principal Representative. The final adjustment of the Emergency Field Change Order amount and the adjustment to the Project time for completion shall be prepared on a normal Change Order from (SC-6.31) in accordance with the procedures described in Article 35A, The Value of Changed Work, and B, Detailed Breakdown, above. Unless otherwise provided in writing to the Principal Representative and the Contractor, describing the extent and limits of any greater authority, individual Emergency Field Change Orders shall not be issued for more than \$25,000, nor shall the cumulative value of Emergency Field Change Orders exceed an amount of \$100,000.

E. APPROPRIATION LIMITATIONS - § 24-91-103.6, C.R.S., as amended

The amount of money appropriated, as shown on the Design/Build Maximum Price Agreement (SC 9.0), is equal to or in excess of the Contract amount. No Change Order, Emergency Field Change Order, or other type of order or directive shall be issued by the Principal Representative, or any agent acting on his or her behalf, which directs additional compensable work to be performed, which work causes the aggregate amount payable under the Contract to exceed the amount appropriated for the original Contract, as shown on the Design Build Guaranteed Maximum Price Agreement (SC-9.0), unless one of the following occurs: (1) the Contractor is provided written assurance from the Principal Representative that sufficient additional lawful appropriations exist to cover the cost of the additional work; or (2) the work is covered by a Contractor remedy provision under the Contract, such as a claim for extra cost. By way of example only, no assurance is required for any order, directive or instruction by the Contractor's

Architect/Engineer or the Principal Representative to perform Work which is determined to be within the performance required by the Contract Documents; the Contractor's remedy shall be as described elsewhere in these General Conditions.

ARTICLE 36. CLAIMS

It is the intent of these General Conditions to provide procedures for speedy and timely resolution of disagreements and disputes at the lowest level possible. In the spirit of on the job resolution of issues relating to the Premises, the parties are encouraged to use the partnering processes of Article 2D, Partnering, Communications and Cooperation, before turning to the more formal claims processes described in this Article 36, Claims. The use of non-binding dispute resolution, whether through the formal processes described in Article 39, Non-Binding Dispute Resolution – Facilitated Negotiations, or through less formal alternative processes developed as part of a partnering plan, are also encouraged. Where such process cannot resolve the issues in dispute, the claims process that follows is intended to cause the issues to be presented, decided and where necessary, documented in close proximity to the events from which the issues arise. To that end, and in summary of the remedy granting process that follows commencing with the next paragraph of this Article 36, Claims, Contractor shall 1) first, informally present the claim to Principal Representative as described hereafter, and 2) failing resolution in the field, give Notice of intent to exercise statutory rights of review of a formal Contract controversy, and 3) seek resolution outside the Contract as provided by the Procurement Code.

If the Contractor claims that any instructions, by detailed drawings, or otherwise, or any other act or omission of the Principal Representative affecting the scope of the Contractor's Work, involve extra cost, extra time or changes in the scope of the Work under this Contract, the Contractor shall have the right to assert a claim for such costs or time.

Unless it is the Principal Representative's judgment and determination that the Work is not included in the performance required by the Contract Documents, the Contractor shall proceed with the work as originally directed. Where the Contractor's claim involves a dispute concerning the value of Work unilaterally directed pursuant to Article 35A2 the Contractor shall also proceed with the Work as originally directed while his or her claim is being considered.

The Contractor shall give the Principal Representative Notice of any claim promptly but in no case later than ten (10) days from the date of the occurrence affecting the claim. The Notice of claim shall state the grounds for the claim and the amount of the claim to the extent known in accordance with the procedures of Article 35, Changes in The Work. The period in which Notice must be given may be extended by the Principal Representative if requested in writing by the Contractor with good cause shown, but any such extension to be effective shall be in writing.

The Principal Representative shall respond in writing within a reasonable time, and except where a request for facilitation of negotiation has been made as hereafter provided, in no case later than seven (7) business days (or at such other time as the Contractor and Principal Representative agree) after receipt of the Contractor's Notice of claim regarding such instructions or alleged act or omission. If no response to the Contractor's claim is received within seven (7) business days of Contractor's Notice (or at such other time as the Contractor and Principal Representative agree) and the instructions have not been retracted, it shall be deemed that the Principal Representative has denied the claim.

The Principal Representative may grant or deny the claim in whole or in part, and a Change Order shall be issued if the claim is granted. To the extent any portion of claim is granted where costs are not clearly shown, the Principal Representative may direct that the value of that portion of the Work be determined by any method allowed in Article 35A, The Value of Changed Work. Except in the case of a deemed denial, the Principal Representative shall provide a written explanation regarding any portion of the Contractor's claim that is denied.

If the Contractor disagrees with the Principal Representative's judgment and determination on the claim and seeks an equitable adjustment of the Contract sum or time for performance, he or she shall give Notice of intent to exercise his or her statutory right to seek a decision on the contract controversy within

ten (10) days of receipt of the Principal Representative’s decision denying the claim. A “contract controversy,” as such term is used in the Colorado Procurement Code, § 24-109-106, C.R.S., shall not arise until the initial claim process described above in this Article 36 has been properly exhausted by the Contractor. The Contractor’s failure to proceed with Work directed by the Principal Representative or to exhaust the claim process provided above in this Article 36, shall constitute an abandonment of the claim by the Contractor and a waiver of the right to contest the decision in any forum.

At the time of filing the Notice of intent to exercise his or her statutory right to seek a decision on the contract controversy, the Contractor may request that the Principal Representative defer a decision on the contract controversy until a later date or until the end of the Project. If the Principal Representative agrees, he or she shall so advise the Contractor in writing. If no such request is made, or if the Principal Representative does not agree to such a request, the Principal Representative shall render a written decision within twenty (20) business days and advise the Contractor of the reasons for any denial Unless the claim has been decided by the Principal Representative (as opposed to delegates of the Principal Representative), the person who renders the decision on this statutory contract controversy shall not be the same person who decided the claim. To the extent any portion of the contract controversy is granted where costs are not clearly shown, the Principal Representative may direct that the value of that portion of the Work be determined by any method allowed in Article 35A, The Value of Changed Work. In the event of a denial, the Principal Representative shall give Notice to the Contractor of his or her right to administrative and judicial reviews as provided in the Colorado Procurement Code, § 24-109-201 *et seq*, C.R.S., as amended. If no decision regarding the contract controversy is issued within twenty (20) business days of the Contractor’s giving Notice (or such other date as the Contractor and Principal Representative have agreed), and the instructions have not been retracted or the alleged act or omission has not been corrected, it shall be deemed that the Principal Representative has ruled by denial on the contract controversy. Except in the case of a deemed denial, the Principal Representative shall provide an explanation regarding any portion of the contract controversy that involves denial of the Contractor’s claim.

Either the Contractor or the Principal Representative may request facilitation of negotiations concerning the claim or the contract controversy, and if requested, the parties shall consult and negotiate before the Principal Representative decides the issue. Any request for facilitation by the Contractor shall be made at the time of the giving of Notice of the claim or Notice of the contract controversy. Facilitation shall extend the time for the Principal Representative to respond by commencing the applicable period at the completion of the facilitated negotiation, which shall be the last day of the parties’ meeting, unless otherwise agreed in writing.

Disagreement with the decision of the Principal Representative to deny any claim or denying the contract controversy shall not be grounds for the Contractor to refuse to perform the Work directed or to suspend or terminate performance. During the period that any claim or contract controversy decision is pending under this Article 36, Claims, the Contractor shall proceed diligently with the Work directed.

In all cases where the Contractor proceeds with the Work and seeks equitable adjustment by filing a claim and or statutory appeal, the Contractor shall keep a correct account of the extra cost, in accordance with Article 35B, Detailed Breakdown supported by receipts. The Principal Representative shall be entitled to reject any claim or contract controversy whenever the foregoing procedures are not followed and such accounts and receipts are not presented.

The payments to the Contractor in respect of such extra costs shall be limited to reimbursement for the current additional expenditure by the Contractor made necessary by the change in the Work, plus a reasonable amount for overhead and profit, determined in accordance with Article 35B, Detailed Breakdown, determined solely with reference to the additional work, if any, required by the change.

ARTICLE 37. DIFFERING SITE CONDITIONS

A. NOTICE IN WRITING

Contractor shall promptly, and where possible before conditions are disturbed, give the Principal Representative Notice in writing of:

1. subsurface or latent physical conditions at the Premises differing materially from those indicated in or reasonably assumed from the information provided in the Contract Documents; and,
2. unknown physical conditions at the Premises, 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 Documents.

The Principal Representative shall promptly investigate the conditions, and if it is found that such conditions do materially so differ and cause an increase or decrease in Contractor's costs of performance of any part of the Work required by the Contract Documents, whether or not such Work is changed as a result of such conditions, an equitable adjustment shall be made and the Fixed Limit of Construction Cost shall be modified in accordance with Article 35, Changes In The Work.

If the time required for completion of the Work affected by such materially differing conditions will extend the Work the time for completion shall also be equitably adjusted.

B. LIMITATIONS

No claim of the Contractor under this clause shall be allowed unless the Contractor has given the Notice required in Article 37A, Notice In Writing, above The time prescribed for presentation and adjustment in Articles 36, Claims and 38, Delays And Extensions Of Time, shall be reasonably extended by the Principal Representative to the extent required by the nature of the differing conditions; provided, however, that even when so extended no claim by the Contractor for an equitable adjustment hereunder shall be allowed if not quantified and presented prior to the date the Contractor requests a final inspection pursuant to Article 41A, Notice Of Completion.

ARTICLE 38. DELAYS AND EXTENSIONS OF TIME

If the Contractor is delayed at any time in the progress of the Work by any act or neglect of the Local Government, Principal Representative, or of any employee or agent of either, or by any separately employed Contractor or by strikes, lockouts, fire, unusual delay in transportation, unavoidable casualties or any other causes beyond the Contractor's control, including weather delays as defined below, the time of Completion of the Work shall be extended for a period equal to such portion of the period of delays directly affecting the completion of the Work as the Contractor shall be able to show he or she could not have avoided by the exercise of due diligence.

The Contractor shall provide Notice in writing to the Principal Representative within three (3) business days from the beginning of such delay and shall file a written claim for an extension of time within seven (7) business days after the period of such delay has ceased, otherwise, any claim for an extension of time is waived.

All claims for extension of time due to a delay claimed to arise or result from ordered changes in the scope of the Work, or due to instructions claimed to increase the scope of the Work, shall be presented to the Principal Representative as part of a claim for extra cost, if any, in accordance with Article 36, Claims, and in accordance with the Change Order procedures required by Article 35, Changes In The Work.

Except as otherwise provided in this paragraph, no extension of time shall be granted when the Contractor has failed to utilize a CPM schedule or otherwise identify the Project's critical path as specified in Article 12, Requests for Information and Schedules, or has elected not to do so when allowed by the Supplementary General Conditions or the Specifications to use less sophisticated scheduling tools, or has failed to maintain such a schedule. Delay directly affecting the completion of the Work shall result in an extension of time only to the extent that completion of the Work was affected by impacts to the critical path shown on Contractor's CPM schedule.

Extensions of the time for completion of the Work due to weather will be granted on the basis of one and three tenths (1.3) calendar days for every day that the Contractor would have Worked but was unable to Work, with each separate extension figured to the nearest whole calendar day.

For weather delays and delays caused by events, acts or omissions not within the control of the Principal Representative or any person acting on the Principal Representative's behalf, the Contractor shall be entitled to an extension of time only and shall not be entitled to recovery of additional cost due to or resulting from such delays. This Article does not, however, preclude the recovery of damages for delay by either party under other provisions in the Contract Documents.

ARTICLE 39. NON-BINDING DISPUTE RESOLUTION – FACILITATED NEGOTIATIONS

Contractor and Principal Representative agree to designate one or more mutually acceptable persons willing and able to facilitate negotiations and communications for the resolution of conflicts, disagreements or disputes between them at the specific request of either party with regard to any Project decision of either of them or any decision of the Local Government. The designation of such person(s) shall not carry any obligation to use their services except that each party agrees that if the other party requests the intervention of such person(s) with respect to any such conflict, dispute or disagreement, the non-requesting party shall participate in good faith attempts to negotiate a resolution of the issue in dispute. If the parties cannot agree on a mutually acceptable person to serve in this capacity one shall be so appointed; who, if appointed, shall be accepted for this purpose by both Contractor and the Principal Representative.

The cost, if any, of the facilitative services of the person(s) so designated shall be shared if the parties so agree in any partnering plan; or in the absence of agreement the cost shall be borne by the party requesting the facilitation of negotiation.

Any dispute, claim, question or disagreement arising from or relating to the Contract or an alleged breach of the Contract may be subject to a request by either party for facilitated negotiation subject to the limitations hereafter listed, and the parties shall participate by consultation and negotiation with each other, as guided by the facilitator and with recognition of their mutual interests, in an attempt to reach an equitable solution satisfactory to both parties.

The obligation to participate in facilitated negotiations shall be as described above and elsewhere in these General Conditions, as by way of example in Article 36, Claims, or Article 34, Deductions for Uncorrected Work, and to the extent not more particularly described or limited elsewhere, each party's obligations shall be as follows:

1. a party shall not initiate communication with the facilitator regarding the issues in dispute; except that any request for facilitation shall be made in writing with copies sent, faxed or delivered to the other party;
2. a party shall prepare a brief written description of its position if so requested by the facilitator (who may elect to first discuss the parties' positions with each party separately in the interest of time and expense);
3. a party shall respond to any reasonable request for copies of documents requested by the facilitator, but such requests, if voluminous, may consist of an offer to allow the facilitator access to the parties' documents;
4. a party shall review any meeting agenda proposed by a facilitator and endeavor to be informed on the subjects to be discussed;
5. a party shall meet with the other party and the facilitator at a mutually acceptable place and time, or, if none can be agreed to, at the time and place designated by the facilitator for a period not to exceed four hours unless the parties agree to a longer period;
6. a party shall endeavor to assure that any facilitation meeting shall be attended by any other persons in their employ that the facilitator requests be present, if reasonably available, including the Local Government;

- 7. each party shall participate in such facilitated face-to-face negotiations of the issues in dispute through persons fully authorized to resolve the issue in dispute;
- 8. each party shall be obligated to participate in negotiations requested by the other party and to perform the specific obligations described in paragraphs (1) through (10) this Article 39 no more than three times during the course of the Project;
- 9. neither party shall be under any obligation to resolve any issue by facilitated negotiation, but each agrees to participate in good faith and the Principal Representative shall appropriately document any resolution or agreement reached and to execute any Amendment or Change Order to the Contract necessary to implement their agreement; and,
- 10. to be matters pertaining to settlement negotiations and shall not be subsequently available in further proceedings except to the extent of any documented agreement.

In accordance with State Fiscal Rules and the Colorado Special Provisions, nothing in this Article 39 shall be deemed to call for arbitration or otherwise obligate the Local Government to participate in any form of binding alternative dispute resolution.

A partnering plan developed as described in Article 2D, Partnering, Communications and Cooperation, may modify or expand the requirements of this Article but may not reduce the obligation to participate in facilitated negotiations when applicable. In the case of small projects estimated to be valued under \$500,000, the requirements of this Article may be deleted from this Contract, by modification in Article 26, Optional Provisions and Elections (Energy Performance Contract). When so modified, the references to the parties' right to elect facilitated negotiation elsewhere in these General Conditions shall be deleted.

ARTICLE 40. RIGHT OF OCCUPANCY

The Principal Representative shall have the right to take possession of and to use any completed or partially completed portions of the Work, even if the time for completing the entire Work or portions of the Work has not expired and even if the Work has not been finally accepted, and Contractor shall fully cooperate with the Principal Representative to allow such possession and use. Such possession and use shall not constitute an acceptance of such portions of the Work, but may impact equipment warranty start date.

Prior to any occupancy of the Project, an inspection shall be made by the Principal Representative, the Contractor's Architect/Engineer, and the Contractor. Such inspection shall be made for the purpose of ensuring that the building is secure, protected by operation safety systems as designed, operable exits, power, lighting and HVAC systems, and otherwise ready for the occupancy intended and the Notice of Substantial Completion has been issued for the occupancy intended. The inspection shall also document existing finish conditions to allow assessment of any damage by occupants. The Contractor shall assist the Principal Representative in completing and executing the Approval of Occupancy/Use, prior to the Principal Representative's possession and use. Any and all areas so occupied will be subject to a final inspection when the Contractor complies with Article 41, Completion, Final Inspection, Acceptance and Settlement.

ARTICLE 41. COMPLETION, FINAL INSPECTION, ACCEPTANCE AND SETTLEMENT

A. NOTICE OF COMPLETION

When the Work, or a discrete physical portion of the Work (as hereafter described) which the Principal Representative has agreed to accept separately, is substantially complete and ready for final inspection, the Contractor shall file a written Notice with the Principal Representative that the Work, or such discrete physical portion, in the opinion of the Contractor, is substantially complete under the terms of the Contract. The Contractor shall prepare and submit with such Notice a comprehensive list of items to be completed or corrected prior to final payment, which shall be subject to review and additions as the Principal Representative shall determine after inspection. If the Contractor's Architect/Engineer or the Principal Representative believe that any of the items on the list of items submitted, or any other item of work to be corrected or completed, or the cumulative number of items of work to be corrected or completed, will prevent a determination that the Work is substantially complete, those items shall be completed by the Contractor and the Notice shall then be resubmitted.

B. FINAL INSPECTION

Within ten (10) days after Contractor files written Notice that the Work is substantially complete, the Principal Representative, and Contractor shall make a “final inspection” of the Project to determine whether the Work is substantially complete and has been completed in accordance with the Contract Documents. Contractor shall provide the Principal Representative an updated punch list in sufficient detail to fully outline the following:

- 1. Work to be completed, if any; and
- 2. Work not in compliance with the Drawings or Specifications, if any.

A final punch list shall be made by the Local Government in sufficient detail to fully outline to Contractor:

- 1. Work to be completed, if any;
- 2. Work not in compliance with the Drawings or Specifications, if any; and
- 3. unsatisfactory Work for any reason, if any.

The required number of copies of the final punch list will be countersigned by the authorized representative of the Principal Representative and will then be transmitted by the Contractor to the Principal Representative.

C. NOTICE OF SUBSTANTIAL COMPLETION

Notice of Substantial Completion shall establish the date of substantial completion of the Project, as indicated on the form of Notice of Substantial Completion. Contractor acknowledges and agrees that because the departments, agencies and institutions of the State of Colorado are generally involved with the business of the public at large, greater care must be taken in establishing the date of substantial completion than might otherwise be the case to ensure that a project or building or discrete physical portion of the Work is fully usable and safe for public use, and that such care necessarily raises the standard by which the concept of substantial completion is applied for a public building.

The Notice of Substantial Completion shall not be issued until the following have been fully established:

- 1. All required building code inspections have been called for and the appropriate code officials have affixed their signatures to the Building Inspection Record indicating successful completion of all required code inspections;
- 2. All required corrections noted on the Building Inspection Record shall have been completed unless the Principal Representative, in their complete and absolute discretion, all concur that the condition requiring the remaining correction is not in any way life threatening, does not otherwise endanger persons or property, and does not result in any undue inconvenience or hardship to the Principal Representative or the public;
- 3. The building, structure or Project can be fully and comfortably used by the Principal Representative and the public without undue interference by Contractor’s employees and workers during the completion of the final punch list taking into consideration the nature of the public uses intended and taking into consideration any stage or level of completion of HVAC system commissioning or other system testing required by the Specifications to be completed prior to issuance of the Notice of Substantial Completion;
- 4. The Project has been fully cleaned as required by these General Conditions, and as required by any stricter requirements of the Specifications, and the overall state of completion is appropriate for presentation to the public; and
- 5. Contractor has provided a schedule for the completion of each and every item identified on the punch list which specifies the Subcontractor or trade responsible for the Work, and the dates the completion or correction of the item will be commenced and finished; such schedule will show completion of all remaining final punch list items within the period indicated in the Contract for final punch list completion prior to Final Acceptance, with the

exception of only those items which are beyond the control of the Contractor despite due diligence. The schedule shall provide for a reasonable punch list inspection process. Unless liquidated damages have been specified in Article 26, D, of the Energy Performance Contract, the cost to the Principal Representative, if any, for re-inspections due to failure to adhere to the Contractor's proposed punch-list completion schedule shall be the responsibility of the Contractor and may be deducted by the Principal Representative from final amounts due to the Contractor.

Substantial completion of the entire Project shall not be conclusively established by a decision by the Principal Representative to take possession and use of a portion or all of the Project, where portions of the Project cannot meet all the criteria noted above. Notice of Substantial Completion for the entire Project shall, however, only be withheld for substantial reasons when the Principal Representative has taken possession and uses all of the Project in accordance with the terms of Article 40, Right Of Occupancy. Failure to furnish the required completion schedule shall constitute a substantial reason for withholding the issuance of any Notice of Substantial Completion.

Contractor shall have the right to request a final inspection of any discrete physical portion of the Project when in the opinion of the Principal Representative a final punch list can be reasonably prepared, without confusion as to which portions of the Project are referred to in any subsequent Notice of Partial Final Settlement which might be issued after such portion is finally accepted. Discrete physical portions of the Project may be, but shall not necessarily be limited to, such portions of the Project as separate buildings where a Project consists of multiple buildings. Similarly, an addition to an existing building where the Project also calls for renovation or remodeling of the existing building may constitute a discrete physical portion of the Project. In such circumstances, when in the opinion of the Principal Representative, the requirements for issuance of a Notice of Substantial Completion can be satisfied with respect to the discrete portion of the Project, a partial Notice of Substantial Completion may be issued for such discrete physical portion of the Project.

D. NOTICE OF FINAL ACCEPTANCE

The Notice of Final Acceptance shall establish the completion date of the Project. It shall not be authorized until Contractor shall have performed all of the Work to allow completion and approval of the Pre-Acceptance Checklist (SBP-05).

Where partial Notices of Substantial Completion have been issued, partial Notices of Final Acceptance may be similarly issued when appropriate for that portion of the Work. Partial Notice of Final Acceptance may also be issued to exclude the Work described in Change Orders executed during late stages of the Project where a later completion date for the Change Ordered Work is expressly provided for in the Contract as amended by the Change Order, provided the Work can be adequately described to allow partial advertisement of any Notice of Partial Final Settlement to be issued without confusion as to the Work included for which final payment will be made.

E. SETTLEMENT

Final payment and settlement shall be made on the date fixed and published for such payment except as hereafter provided. The Principal Representative shall not authorize final payment until all items on the Pre-Acceptance Checklist (SBP-05) have been completed, the Notice of Acceptance (SBP-6.27) issued, and the Notice of Contractors Settlement (SBP-7.3) published. If the Work shall be substantially completed, but final acceptance and completion thereof shall be prevented through delay in correction of minor defects, or unavailability of materials or other causes beyond the control of Contractor, the Principal Representative in his or her discretion may release to Contractor such amounts as may be in excess of three times the cost of completing the unfinished Work or the cost of correcting the defective Work, as estimated and approved by Local Government. Before the Principal Representative may issue the Notice of Contractor's Settlement and advertise the Project for final payment, Contractor shall have corrected all items

on the punch list except those items for which delayed performance is expressly permitted, subject to withholding for the cost thereof, and shall have:

1. Delivered to the Local Government:
 - a. All warranties;
 - b. All statements to support local sales tax refunds, if any;
 - c. Three (3) complete bound sets of required operating maintenance instructions;
 - d. One (1) set of as-built Contract Documents showing all job changes, as necessary, and,
 - e. Electronic files of all above items in a format acceptable to Principal Representative.
2. Demonstrated to the operating personnel of the Principal Representative the proper operation and maintenance of all equipment.

Upon completion of the foregoing, the Project shall be advertised in accordance with the Notice of Contractor's Settlement by two publications of Notice, the last publication appearing at least ten (10) days prior to the time of final settlement. Publication and final settlement should not be postponed or delayed solely by virtue of unresolved claims against the Project or Contractor from Subcontractors, suppliers or materialmen based on good faith disputes; the resolution of the question of payment in such cases being directed by statute.

Except as hereafter provided, on the date of final settlement thus advertised, provided Contractor has submitted a written Notice to the Local Government that no claims have been filed, and further provided the Principal Representative shall have received no claims, final payments and settlement shall be made in full. If any unpaid claim for labor, materials, rental machinery, tools, supplies or equipment is filed before payment in full of all sums due Contractor, the Principal Representative shall withhold from Contractor on the date established for final settlement, sufficient funds to insure the payment of such claim, until the same shall have been paid or withdrawn, such payment or withdrawal to be evidenced by filing a receipt in full or an order for withdrawal signed by the claimant or his or her duly authorized agent or assignee. The amount so withheld may be in the amount of 125% of the claims or such other amount as the Principal Representative reasonably deems necessary to cover expected legal expenses. Such withheld amounts shall be in addition to any amount withheld based on the cost to complete unfinished Work or the cost to repair defective Work. However, as provided by statute, such funds shall not be withheld longer than ninety (90) days following the date fixed for final settlement with Contractor, as set forth in the published Notice of Contractor's Settlement, unless an action at law shall be commenced within that time to enforce such unpaid claim and a Notice of such action at law shall have been filed with the Principal Representative. At the expiration of the ninety (90) day period, the Principal Representative shall authorize to release to Contractor all other money not the subject of such action at law or withheld based on the cost to complete unfinished Work or the cost to repair defective Work.

Notices of Partial Final Settlement may be similarly advertised, provided all conditions precedent have been satisfied as though that portion of the Work affected stood alone, a Notice of Partial Acceptance has been issued, and the consent of surety to the partial final settlement has been obtained in writing. Thereafter, partial final payments may be made to Contractor subject to the same conditions regarding unpaid claims.

ARTICLE 42. GENERAL WARRANTY AND CORRECTION OF WORK AFTER ACCEPTANCE

Contractor warrants that the materials used and the equipment furnished shall be new and of good quality unless specified to the contrary. Contractor further warrants that the Work shall in all respects be free from material defects not permitted by the Specifications and shall be in accordance with the requirements of the Contract Documents. Neither the final certificate for payment nor any provision in the Contract Documents shall relieve the Contractor of responsibility for defects or faulty materials or workmanship. The Contractor shall be responsible to the Principal Representative for such warranties for the longest period permitted by any applicable statute of limitations.

In addition to these general warranties, and without limitation of these general warranties, for a period of one year after the date of any Notice of Substantial Completion, or any Notice of Partial Substantial Completion if applicable, the Contractor shall remedy defects, and faulty workmanship or materials, and work not in accordance with the Contract Documents which were not accepted at the time of the Notice of Final Acceptance, all in accordance with the provisions of Article 44, One-Year Warranties.

ARTICLE 43. LIENS

Colorado statutes do not provide for any right of lien against public buildings. In lieu thereof, §38-26-107, C.R.S., provides adequate relief for any claimant having furnished labor, materials, rental machinery, tools, equipment, or services toward construction of the particular public Work in that final payment may not be made to a Contractor until all such creditors have been put on Notice by publication in the public press of such pending payment and given opportunity for a period of up to ninety (90) days to stop payment to Contractor in the amount of such claims.

ARTICLE 44. ONE-YEAR WARRANTIES

A. ONE YEAR WARRANTY OF THE WORK

The Contractor shall warrant to remedy defects and repair or replace the Work for a period of one year from the date of the Notice of Substantial Completion or from the dates of any Partial Notices of Substantial Completion issued for discrete physical portions of the Work. Contractor shall remedy any defects due to faulty materials or workmanship and shall pay for, repair and replace any damage to other Work resulting therefrom, which shall appear within a period of one year from the date of such Notice(s) of Substantial Completion. Contractor shall also remedy any deviation from the requirements of the Contract Documents which shall later be discovered within a period of one year from the date of the Notice of Substantial Completion; provided, however, that Contractor shall not be required to remedy deviations from the requirements of the Contract Documents where such deviations were obvious, apparent and accepted by the Principal Representative at the time of the Notice of Final Acceptance. The Principal Representative shall give Notice of observed defects or other Work requiring correction with reasonable promptness. Such Notice shall be in writing to Contractor.

The one year warranty of Contractor's Work may run separately for discrete physical portions of the Work for which partial Notices of Substantial Completion have been issued.

B. SPECIAL WARRANTIES

In case of Work performed for which product, manufacturers or other special warranties are required by the Specifications, Contractor shall secure the required warranties and deliver copies thereof to the Principal Representative upon completion of the Work.

These products, manufacturers or other special warranties, as such, do not in any way lessen Contractor's responsibilities under the Contract. Whenever warranties are required by the Specifications for a longer period than one year, such longer period shall govern. Administration of such extended warranties may be the responsibility of the specific manufacturer of the product being warranted and not necessarily the Contractor, unless explicitly stated in the Contract Documents.

ARTICLE 45. WARRANTY INSPECTIONS AFTER COMPLETION

The Principal Representative and Contractor together shall make at least one (1) complete inspection of the Work after the Work has been determined to be substantially complete and accepted. One such inspection, the "Eleven-Month Warranty Inspection" shall be made approximately eleven (11) months after the date of the Notice of Substantial Completion. The Principal Representative shall schedule and so notify all parties concerned, of these inspections. If more than one Notice of Substantial Completion has been issued at the reasonable discretion of the Principal Representative separate eleven month inspections may be required where the one year warranties do not run reasonably concurrent.

Written punch lists and reports of these inspections shall be made by Contractor and forwarded to the Principal Representative within ten (10) days after the completion of the inspections. The punch list shall itemize all warranty items, prior punch list items still to be corrected or completed and any other requirements of the Contract Documents to be completed which were not waived by final acceptance because they were not obvious or could not reasonably have been previously observed. Contractor shall immediately initiate such remedial Work as may be necessary to correct any deficiencies or defective Work shown by this report, and shall promptly complete all such remedial Work in a manner satisfactory to the Principal Representative.

If Contractor fails to promptly correct all deficiencies and defects shown by this report, the Principal Representative may do so, after giving Contractor ten (10) days written Notice of intention to do so.

The Local Government, acting by and through the Principal Representative, shall be entitled to collect from Contractor all costs and expenses incurred by it in correcting such deficiencies and defects, as well as all damages resulting from such deficiencies and defects.

ARTICLE 46. TIME OF COMPLETION AND LIQUIDATED DAMAGES

It is hereby understood and mutually agreed, by and between the parties hereto, that the date of beginning, rate of progress, and the time for completion of the Work to be done hereunder are ESSENTIAL CONDITIONS of this Agreement, and it is understood and agreed that the Work embraced in this Contract shall be commenced at the time specified in the Notice to Proceed (SC-6.26).

It is further agreed that time is of the essence of each and every portion of this Contract, and of any portion of the Work described on the Drawings or Specifications, wherein a definite and certain length of time is fixed for the performance of any act whatsoever. The parties further agree that where under the Contract additional time is allowed for the completion of the Work or any identified portion of the Work, the new time limit or limits fixed by such extension of the time for completion shall be of the essence of this Agreement.

Contractor acknowledges that subject to any limitations in the Lease Purchase Agreement, the Fixed Limit of Construction Cost is consistent with and considers the number of days to substantially complete the Project and the number of days to finally complete the Project to which the parties may have stipulated in the Agreement, which stipulation was based on the Fixed Limit of Construction Cost. Contractor agrees that Work shall be prosecuted regularly, diligently and uninterruptedly at such rate of progress as will ensure the Project will be substantially complete, and fully and finally complete, as recognized by the issuance of all required Notices of Substantial Completion and Notices of Final Acceptance, within any times stipulated and specified in the Agreement, as the same may be amended by Change Order or other written modification, and that the Principal Representative will be damaged if the times of completion are delayed.

It is expressly understood and agreed, by and between the parties hereto, that the times for the Substantial Completion of the Work or for the final acceptance of the Work as may be stipulated in the Agreement, and as applied here and in Article 26 of the Energy Performance Contract, Modification of Article 46, are reasonable times for these stages of completion of the Work, taking into such

consideration all factors, including the average climatic range and usual industrial conditions prevailing in the locality of the building operations.

If Contractor shall neglect, fail or refuse to complete the Work within the times specified in the Agreement, such failure shall constitute a breach of the terms of the Contract and the Local Government, acting by and through the Principal Representative, shall be entitled to liquidated damages for such neglect, failure or refusal, as specified in Article 26 of the Energy Performance Contract, Modification of Article 46.

Contractor and Contractor's Surety shall be jointly liable for and shall pay the Principal Representative, or the Principal Representative may withhold, the sums hereinafter stipulated as liquidated damages for each calendar day of delay until the entire Project is 1) substantially completed, and the Notice (or all Notices) of Substantial Completion are issued, 2) finally complete and accepted and the Notice (or all Notices) of Acceptance are issued, or 3) both. Delay in substantial completion shall be measured from the Date of the Notice to Proceed and delay in final completion and acceptance shall be measured from the Date of the Notice of Substantial Completion.

In the first instance, specified in Article 26 of the Energy Performance Contract, Modification of Article 46, liquidated damages, if any, shall be the amount specified therein, for each calendar day of delay beginning after the stipulated number of days for Substantial Completion from the date of the Notice to Proceed, until the date of the Notice of Substantial Completion. Unless otherwise specified in any Supplementary General Conditions, in the event of any partial Notice of Substantial Completion, liquidated damages shall accrue until all required Notices of Substantial Completion are issued.

In the second instance, specified in Article 26 of the Energy Performance Contract, Modification of Article 46, liquidated damages, if any, shall be the amount specified in Article 26 of the Energy Performance Contract, Modification of Article 46, for each calendar day in excess of the number of calendar days specified in Contractor's bid for the Project and stipulated in the Agreement to finally complete the Project (as defined by the issuance of the Notice of Acceptance) after the final Notice of Substantial Completion has been issued.

In the third instance, when so specified in both Articles 26 of the Energy Performance Contract, both types of liquidated damages shall be separately assessed where those delays have occurred.

The parties expressly agree that said amounts are a reasonable estimate of the presumed actual damages that would result from any of the breaches listed, and that any liquidated damages that are assessed have been agreed to in light of the difficulty of ascertaining the actual damages that would be caused by any of these breaches at the time this Contract was formed; the liquidated damages in the first instance representing an estimate of damages due to the inability to use the Project; the liquidated damages in the second instance representing an estimate of damages due to the additional administrative, technical, supervisory and professional expenses related to and arising from the extended closeout period including delivery of any or all warranties, the submittals of sales and use tax payment forms, the calling for the final inspection and the completion of the final punch list.

The parties also agree and understand that the liquidated damages to be assessed in each instance are separate and distinct, although potentially cumulative, damages for the separate and distinct breaches of delayed substantial completion or final acceptance. Such liquidated damages shall not be avoided by virtue of the fact of concurrent delay caused by the Principal Representative, or anyone acting on behalf of the Principal Representative, but in such event the period of delay for which liquidated damages are assessed shall be equitably adjusted in accordance with Article 38, Delays And Extensions Of Time.

ARTICLE 47. DAMAGES

If either party to this Contract shall suffer damage under this Contract in any manner because of any wrongful act or neglect of the other party or of anyone employed by either of them, then the party suffering damage shall be reimbursed by the other party for such damage. Except to the extent of damages liquidated for the Contractor's failure to achieve timely completion as set forth in Article 46, Time of Completion and Liquidated Damages, the Principal Representative shall be responsible for, and at his

or her option may insure against, loss of use of any existing property not included in the Work, due to fire or otherwise, however caused. Notwithstanding the foregoing, or any other provision of this Contract, to the contrary, no term or condition of this contract shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protection, or other provisions of the Colorado Governmental Immunity Act, Section 24-10-101, *et seq.*, CRS, as now or hereafter amended. The parties understand and agree that liability for claims for injuries to persons arising out of negligence of the State of Colorado, its departments, institutions, agencies, boards, officials and employees is controlled and limited by the provisions of Section 24-10-101, *et seq.*, CRS, as now or hereafter amended and the risk management statutes, Section 24-30-1501, *et seq.*, CRS, as now or hereafter amended.

Notice of intent to file a claim under this clause shall be made in writing to the party liable within a reasonable time of the first observance of such damage and not later than the time of final payment, except that in the case of claims by the Principal Representative involving warranties against faulty Work or materials Notice shall be required only to the extent stipulated elsewhere in these General Conditions. Claims made to the Principal Representative involving extra cost or extra time arising by virtue of instructions to the Contractor to which Article 36, Claims, applies shall be made in accordance with Article 36. Other claims arising under the Contract involving extra cost or extra time which are made to the Principal Representative under this clause shall also be made in accordance with the procedures of Article 36, whether or not arising by virtue of instructions to the Contractor.

Provided written Notice of intent to file a claim is provided as required in the preceding paragraph, nothing in this Article shall limit or restrict the rights of either party to bring an action at law or to seek other relief to which either party may be entitled, including consequential damages, if any, and shall not be construed to limit the time during which any action might be brought. Nothing in these General Conditions shall be deemed to limit the period of time during which any action may be brought as a matter of contract, tort, warranty or otherwise, it being the intent of the parties to allow any and all actions at law or in equity for such periods as the law permits. All such rights shall, however be subject to the obligation to assert claims and to appeal denials pursuant to Article 36, Claims, where applicable.

ARTICLE 48. STATE'S RIGHT TO DO THE WORK; TEMPORARY SUSPENSION OF WORK; DELAY; DAMAGES

A. STATE'S RIGHT TO DO THE WORK

If after receipt of Notice to do so, Contractor should neglect to prosecute the Work properly or fail to perform any provision of the Contract, the Principal Representative, after a second seven (7) days' advance written Notice to Contractor and the Surety may, without prejudice to any other remedy the Principal Representative may have, take control of all or a portion of the Work, as the Principal Representative deems necessary and make good such deficiencies deducting the cost thereof from the payment then or thereafter due Contractor, as provided in Article 30, Correction Of Work Before Acceptance and Article 33, Payments Withheld.

B. TEMPORARY SUSPENSION OF WORK

The State shall have the authority to suspend the Work, either wholly or in part, for such period or periods as may be deemed necessary due to:

1. Unsuitable weather;
2. Faulty workmanship;
3. Improper superintendence;
4. Contractor's failure to carry out orders or to perform any provision of the Contract Documents;
5. Loss of, or restrictions to, appropriations;
6. Conditions, which may be considered unfavorable for the prosecution of the Work.

If it should become necessary to stop Work for an indefinite period, Contractor shall store materials in such manner that they will not become an obstruction or become damaged in any way; and Contractor shall take every precaution to prevent damage to or deterioration of the Work, provide suitable drainage and erect temporary structures where necessary.

Notice of suspension of Work shall be provided to Contractor in writing stating the reasons therefore. Contractor shall again proceed with the Work when so notified in writing.

Contractor understands and agrees that the State of Colorado cannot predict with certainty future revenues and could ultimately lack the revenue to fund the appropriations applicable to this Contract. Contractor further acknowledges and agrees that in such event that State may, upon Notice to Contractor, suspend the Work in anticipation of a termination of the Contract for the convenience of the State, pursuant to Article 50, Termination For the Public Interest of State. If the Contract is not so terminated the Fixed Limit of Construction Cost and the Contract time shall be equitably adjusted at the time the Principal Representative directs the Work to be recommenced and gives Notice that the revenue to fund the appropriation is available.

C. DELAY DAMAGES

The Principal Representative and the State of Colorado shall be liable to Contractor for the payment of any claim for extra costs, extra compensation or damages occasioned by hindrances or delays encountered in the Work only when and to the limited extent that such hindrance or delay is caused by an act or omission within the control of the Principal Representative or other persons or entities acting on behalf of the Principal Representative. Further, the Principal Representative and the State of Colorado shall be liable to Contractor for the payment of such a claim only if Contractor has provided required Notice of the delay or impact, or has presented its claim for an extension of time or claim of other delay or other impact due to changes ordered in the Work before proceeding with the changed Work. Except as otherwise provided, claims for extension of time shall be Noticed and filed in accordance with Article 38, Delays and Extensions of Time, within three (3) business days of the beginning of the delay with any claim filed within seven (7) days after the delay has ceased, or such claim is waived. Claims for extension of time or for other delay or other impact resulting from changes ordered in the Work shall be presented and adjusted as provided in Article 35, Changes in the Work.

ARTICLE 49. STATE’S RIGHTS TO TERMINATE CONTRACT

A. GENERAL

If the Contractor should be adjudged bankrupt, or if he or she should make a general assignment for the benefit of Contractor’s creditors; or if a receiver should be appointed to take over Contractor’s affairs, or if he or she should fail to prosecute Contractor’s Work with due diligence and carry the Work forward in accordance with the construction schedule and the time limits set forth in the Contract Documents, or if he or she should fail to subsequently perform one or more of the provisions of the Contract Documents to be performed by him, the Principal Representative may serve written Notice on Contractor and the Surety on performance and payment bonds, stating his or her intention to exercise one of the remedies hereinafter set forth and the grounds upon which the Principal Representative bases the right to exercise such remedy.

In such event, unless the matter complained of is satisfactorily cleared within ten (10) days after delivery of such Notice, the Principal Representative may, without prejudice to any other right or remedy, exercise one of such remedies at once..

B. CONDITIONS AND PROCEDURES

- 1. The Principal Representative may terminate the services of Contractor, which termination shall take effect immediately upon service of Notice thereof on Contractor and his or her Surety, whereupon the Surety shall have the right to take over and perform the Contract. If the Surety does not provide Notice to the Principal Representative of its intent to commence performance of the Contract within ten (10) days after delivery of the Notice of termination, the Principal Representative may take over the Work, take possession of and use all materials, tools, equipment and appliances on the premises and prosecute the Work to completion by such means as he or she shall deem best. In the event of such termination of the Contractor’s service, Contractor shall not be entitled to any further payment under the Contract until the Work is completed and accepted. If the Principal Representative takes*

over the Work and if the unpaid balance of the Contract price exceeds the cost of completing the Work, including compensation for any damages or expenses incurred by the Principal Representative through the default of Contractor, such excess shall be paid to Contractor. If, however, the cost, expenses and damages as certified by the State exceed such unpaid balance of the Contract price, Contractor and the Contractor's Surety shall pay the difference to the Principal Representative.

2. The Principal Representative may require the Surety on Contractor's bond to take control of the Work and see to it that all the deficiencies of Contractor are made good, with due diligence within ten (10) days of delivery of Notice to the Surety to do so. As between the Principal Representative and the Surety, the cost of making good such deficiencies shall all be borne by the Surety. If the Surety takes over the Work, either by election upon termination of the services of Contractor pursuant to Section B(1) of this Article 49, State's Right To Terminate Contract, or upon instructions from the Principal Representative to do so, the provisions of the Contract Documents shall govern the Work to be done by the Surety, the Surety being substituted for Contractor as to such provisions, including provisions as to payment for the Work, the times of completion and provisions of this Article as to the right of the Principal Representative to do the Work or to take control of all or a portion of the Work.
3. The Principal Representative may take control of all or a portion of the Work and make good the deficiencies of Contractor, or the Surety if the Surety has been substituted for Contractor, with or without terminating the Contract, employing such additional help as the Principal Representative deems advisable in accordance with the provisions of Article 48A, State's Right To Do The Work; Temporary Suspension Of Work; Delay Damages. In such event, the Principal Representative shall be entitled to collect from Contractor and his or her Surety, or to deduct from any payment then or thereafter due Contractor, the costs incurred in having such deficiencies made good and any damages or expenses incurred through the default of Contractor, provided the State approves the amount thus charged to Contractor. If the Contract is not terminated, a Change Order to the Contract shall be executed, unilaterally if necessary, in accordance with the procedures of Article 35, Changes InTheWork.

C. ADDITIONAL CONDITIONS

If any termination by the Principal Representative for cause is later determined to have been improper, the termination shall be automatically converted to and deemed to be a termination by the Principal Representative for convenience and Contractor shall be limited in recovery to the compensation provided for in Article 50, Termination For Convenience Of State. Termination by Contractor shall not be subject to such conversion.

ARTICLE 50. TERMINATION FOR CONVENIENCE OF STATE

A. NOTICE OF TERMINATION

The performance of Work under this Contract may be terminated, in whole or from time to time in part, by the State whenever for any reason the Principal Representative shall determine that such termination is in the best interest of State. Termination of Work hereunder shall be effected by delivery to Contractor of a Notice of such termination specifying the extent to which the performance of Work under the Contract is terminated and the date upon which such termination becomes effective.

B. PROCEDURES

After receipt of the Notice of termination, Contractor shall, to the extent appropriate to the termination, cancel outstanding commitments hereunder covering the procurement of materials, supplies, equipment and miscellaneous items. In addition, Contractor shall exercise all reasonable diligence to accomplish the cancellation or diversion of all applicable outstanding commitments covering personal performance of any Work terminated by the Notice. With respect to such canceled commitments, Contractor agrees to:

1. settle all outstanding liabilities and all claims arising out of such cancellation of commitments, with approval or ratification of the Principal Representative, to the extent he or

she may require, which approval or ratification shall be final for all purposes of this clause; and,

2. assign to the Principal Representative, in the manner, at the time, and to the extent directed by the Principal Representative, all of the right, title, and interest of Contractor under the orders and subcontracts, consultants, subconsultants terminated, in which case the State shall have the right, in its discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.

The Contractor shall submit his or her termination claim to the Principal Representative promptly after receipt of a Notice of termination, but in no event later than three (3) months from the effective date thereof, unless one or more extensions in writing are granted by the Principal Representative upon written request of the Contractor within such three (3)-month period or authorized extension thereof. Upon failure of the Contractor to submit his or her termination claim within the time allowed, the Principal Representative may determine, on the basis of information available to him, the amount, if any, due to the Contractor by reason of the termination and shall thereupon pay to the Contractor the amount so determined.

Costs claimed, agreed to, or determined pursuant to the preceding and following paragraph shall be in accordance with the provisions of §24-107-101, C.R.S., as amended and associated Cost Principles of the Colorado Procurement Rules as in effect on the date of this Contract.

Subject to the preceding provisions, Contractor and the Principal Representative may agree upon the whole or any part of the amount or amounts to be paid to Contractor by reason of the termination under this clause, which amount or amounts may include any reasonable cancellation charges thereby incurred by Contractor and any reasonable loss upon outstanding commitments for personal services which he or she is unable to cancel; provided, however, that in connection with any outstanding commitments for personal services which Contractor is unable to cancel, Contractor shall have exercised reasonable diligence to divert such commitments to other activities and operations. Any such agreement shall be embodied in an Amendment to this Contract and Contractor shall be paid the agreed amount.

The Principal Representative may from time to time, under such terms and conditions as it may prescribe, make partial payments against costs incurred by the Contractor in connection with the termination portion of this Contract, whenever, in the opinion of the Principal Representative, the aggregate of such payments is within the amount to which the Contractor will be entitled hereunder.

Contractor agrees to transfer title and deliver to the Principal Representative, in the manner, at the time, and to the extent, if any, directed by the Principal Representative, such information and items which, if the Contract had been completed, would have been required to be furnished to the State, including:

1. Completed or partially completed plans, Drawings and information; and,
2. Materials or equipment produced or in process or acquired in connection with the performance of the Work terminated by the Notice.

Other than the above, any termination inventory resulting from the termination of the Contract may, with written approval of the Principal Representative, be sold or acquired by the Contractor under the conditions prescribed by and at a price or prices approved by the Principal Representative. The proceeds of any such disposition shall be applied in reduction of any payments to be made by the Principal Representative to the Contractor under this Contract or shall otherwise be credited to the price or cost of work covered by this Contract or paid in such other manners as the Principal Representative may direct. Pending final disposition of property arising from the termination, the Contractor agrees to take such action as may be necessary, or as the Principal Representative may direct, for the protection and preservation of the property

related to this Contract which is in the possession of the Contractor and in which the State has or may acquire an interest.

Any disputes as to questions of fact, which may arise hereunder, shall be subject to the Remedies provisions of the Colorado Procurement Code, §§24-109-101, et seq., C.R.S., as amended.

ARTICLE 51. CONTRACTOR'S RIGHT TO STOP WORK AND/OR TERMINATE CONTRACT

If the Work shall be stopped under an order of any court or other public authority for a period of three (3) months through no act or fault of the Contractor or of any one employed by him, then the Contractor may on seven (7) days' written Notice to the Principal Representative stop Work or terminate this Contract and recover from the Principal Representative payment for all Work executed, any losses sustained on any plant or material, and a reasonable profit only for the Work completed. If the Principal Representative shall fail to issue or otherwise act in writing upon any certificate for payment within ten (10) days after it is due, or if the Principal Representative shall fail to pay the Contractor any sum certified that is not disputed in whole or in part by the Principal Representative in writing to the Contractor within thirty (30) days then the Contractor may on ten (10) days' written Notice to the Principal Representative stop Work and/or give written Notice of intention to terminate this Contract.

If the Principal Representative shall thereafter fail to pay the Contractor any amount not disputed in writing by the Principal Representative within ten (10) days after receipt of such Notice, then the Contractor may terminate this Contract and recover from the Principal Representative payment for all Work executed, any losses sustained upon any plant or materials, and profit only for Work completed.

ARTICLE 52. COLORADO SPECIAL PROVISIONS (COLORADO FISCAL RULE 3-1)

These Special Provisions apply to all contracts except where noted in italics.

- A CONTROLLER'S 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.
- 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**
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, of the Colorado Governmental Immunity Act, §24-10-101, *et seq.* C.R.S., or the Federal Tort Claims Act, 28 U.S.C. Pt. VI, Ch. 171 and 28 U.S.C. 1346(b).
- 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 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. Unemployment insurance benefits will be available to Contractor and its employees and agents only if such coverage is made available by Contractor or a third party. Contractor shall pay when due all applicable employment taxes and income taxes and local head taxes incurred pursuant to this Contract. 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 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.
- F COMPLIANCE WITH LAW.**
Contractor shall strictly comply with all applicable federal and State laws, rules, and regulations in effect or hereafter established, including, without limitation, laws applicable to discrimination and unfair employment practices.
- G CHOICE OF LAW.**
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. Any provision incorporated herein by reference which purports to negate this or any other Special Provision in whole or in part shall not be valid or enforceable or available in any action at law, whether by way of complaint, defense, or otherwise. Any provision rendered null and void by the operation of this provision shall not invalidate the remainder of this Contract, to the extent capable of execution.
- H BINDING ARBITRATION PROHIBITED.**
The State of Colorado does not agree to binding arbitration by any extra-judicial body or person. Any provision to the contrary in this Contract or incorporated herein by reference shall be null and void.
- I SOFTWARE PIRACY PROHIBITION. Governor's Executive Order D 002 00.**
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.

J 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.

K VENDOR OFFSET. §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.

L PUBLIC CONTRACTS FOR SERVICES. §§8-17.5-101, et seq. C.R.S.

[Not applicable to agreements relating to the offer, issuance, or sale of securities, investment advisory services or fund management services, sponsored projects, intergovernmental agreements, or information technology services or products and services] Contractor certifies, warrants, and agrees that it does not knowingly employ or contract with an illegal alien who will perform work under this Contract and will confirm the employment eligibility of all employees who are newly hired for employment in the United States to perform work under this Contract, through participation in the E-Verify Program established under Pub. L. 104-208 or the State verification program established pursuant to §8-17.5-102(5)(c), C.R.S., Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract or enter into a contract with a Subcontractor that fails to certify to Contractor that the Subcontractor shall not knowingly employ or contract with an illegal alien to perform work under this Contract. Contractor (i) shall not use E-Verify Program or State program procedures to undertake pre-employment screening of job applicants while this Contract is being performed, (ii) shall notify the Subcontractor and the contracting State agency within 3 days if Contractor has actual knowledge that a Subcontractor is employing or contracting with an illegal alien for work under this Contract, (iii) shall terminate the subcontract if a Subcontractor does not stop employing or contracting with the illegal alien within 3 days of receiving the notice, and (iv) shall comply with reasonable requests made in the course of an investigation, undertaken pursuant to §8-17.5-102(5), C.R.S., by the Colorado Department of Labor and Employment. If Contractor participates in the State program, Contractor shall deliver to the contracting State agency, Institution of Higher Education or political subdivision, a written, notarized affirmation, affirming that Contractor has examined the legal work status of such employee, and shall comply with all of the other requirements of the State program. If Contractor fails to comply with any requirement of this provision or §§8-17.5-101, et seq., C.R.S., the contracting State agency, institution of higher education or political subdivision may terminate this Contract for breach and, if so terminated, Contractor shall be liable for damages.

M PUBLIC CONTRACTS WITH NATURAL PERSONS. §§24-76.5-101, et seq., C.R.S.

Contractor, if a natural person 18 years of age or older, hereby swears and affirms under penalty of perjury that he or she (i) is a citizen or otherwise lawfully present in the United States pursuant to federal law, (ii) shall comply with the provisions of §§24-76.5-101, et seq., C.R.S., and (iii) has

produced one form of identification required by §24-76.5-103, C.R.S. prior to the Effective Date of this Contract.

ARTICLE 53. MISCELLANEOUS PROVISIONS

A. CONSTRUCTION OF LANGUAGE

The invalidity or unenforceability of any provision of this Contract shall not affect the validity or enforceability of any other provision of this Contract, which shall remain in full force and effect, provided that the Parties can continue to perform their obligations under this Contract in accordance with Article 2C, the intent of the Contract. .

B. SEVERABILITY

Provided this Agreement can be executed and performance of the obligations of the Parties accomplished within its intent, the provisions hereof are severable and any provision that is declared invalid or becomes inoperable for any reason shall not affect the validity of any other provision hereof, provided that the Parties can continue to perform their obligations under this Agreement in accordance with its intent.

C. 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 Contract 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.

D. AUTHORITY

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

E. INTEGRATION OF UNDERSTANDING

This Contract is intended as the complete integration of all understandings between the parties and supersedes all prior negotiations, representations, or agreements, whether written or oral. No prior or contemporaneous addition, deletion, or other amendment hereto shall have any force or effect whatsoever, unless embodied herein in writing. No subsequent novation, renewal, addition, deletion, or other amendment hereto shall have any force or effect unless embodied in a written Change Order or Amendment to this Contract.

F. 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.

G. NO THIRD PARTY BENEFICIARIES

Except for the Parties' respective successors and assigns described in §24.B, this Contract does not and is not intended to confer any rights or remedies upon any person or entity other than the Parties. Enforcement of this Contract 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 Contract are incidental to the Contract, and do not create any rights for such third parties.

H. WAIVER

A Party's failure or delay in exercising any right, power, or privilege under this Contract, 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.

I. INDEMNIFICATION

1. General Indemnification

Contractor shall indemnify, save, and hold harmless the State, its employees, agents and assignees (the "Indemnified Parties"), against any and all costs, expenses, claims, damages, liabilities, court awards and other amounts (including attorneys' fees and related costs) incurred by any of the Indemnified Parties in relation to any act or omission by Contractor, or its employees, agents, Subcontractors, or assignees in connection with this Contract.

2. Confidential Information Indemnification

Disclosure or use of State Confidential Information by Contractor in violation of §10 may be cause for legal action by third parties against Contractor, the State, or their respective agents. Contractor shall indemnify, save, and hold harmless the Indemnified Parties, against any and all claims, damages, liabilities, losses, costs, expenses (including attorneys' fees and costs) incurred by the State in relation to any act or omission by Contractor, or its employees, agents, assigns, or Subcontractors in violation of §10.

J. STATEWIDE CONTRACT MANAGEMENT SYSTEM

If the maximum amount payable to Contractor under this Contract is \$500,000 or greater, either on the Effective Date or at any time thereafter, this section shall apply.

Contractor agrees to be governed, and to abide, by the provisions of CRS 24-102-205, 24-102-206, 24-103-601, 24-103.5-101, 24-105-101, and 24-105-102 concerning the monitoring of vendor performance on state contracts and inclusion of contract performance information in a statewide contract management system.

Contractor's performance shall be subject to Evaluation and Review in accordance with the terms and conditions of this Contract, State law, including C.R.S 24-103.5-101, and State Fiscal Rules, Policies and Guidance. Evaluation and Review of Contractor's performance shall be part of the normal contract administration process and Contractor's performance will be systematically recorded in the statewide Contract Management System. Areas of Evaluation and Review shall include, but shall not be limited to quality, cost and timeliness. Collection of information relevant to the performance of Contractor's obligations under this Contract shall be determined by the specific requirements of such obligations and shall include factors tailored to match the requirements of Contractor's obligations. Such performance information shall be entered into the statewide Contract Management System at intervals established herein and a final Evaluation, Review and Rating shall be rendered within 30 days of the end of the Contract term. Contractor shall be notified following each performance Evaluation and Review, and shall address or correct any identified problem in a timely manner and maintain work progress.

Should the final performance Evaluation and Review determine that Contractor demonstrated a gross failure to meet the performance measures established hereunder, the Executive Director of the Colorado Department of Personnel and Administration (Executive Director), upon request by the Principal Representative, and showing of good cause, may debar Contractor and prohibit Contractor from bidding on future contracts. Contractor may contest the final Evaluation, Review and Rating by: (a) filing rebuttal statements, which may result in either removal or correction of the evaluation (CRS 24-105-102(6)), or (b) under CRS 24-105-102(6), exercising the debarment protest and appeal rights provided in CRS 24-109-106, 107, 201 or 202, which may result in the reversal of the debarment and reinstatement of Contractor, by the Executive Director, upon a showing of good cause.

K. CORA DISCLOSURE

To the extent not prohibited by federal law, this Agreement and the performance measures and standards under CRS §24-103.5-101, if any, are subject to public release through the Colorado Open Records Act.

EPC SCHEDULE B

ENERGY PERFORMANCE CONTRACT DESCRIPTION OF WORK

This schedule should include at minimum the following and any other critical information from the EPC Project Proposal (as this is not included in the EPC documents).

1. Executive Summary: Provide an executive summary which includes: key participants, the final utility cost saving measures and facility improvement measures, a table of the measures by building/location, a table of the measures indicating annual savings (usage and dollars), installation cost (soft fees and construction cost), and simple payback or return on investment value. Include any other financial factors that support the project (potential grants, rebates, other sources of funds).
2. Building and Infrastructure data only for the locations included in the Work in a format similar to **IGA Exhibit B** tables (without cost information).
3. Baseline Period Utility Consumption (per IGA Exhibit A).
4. By Utility Cost Saving Measure or FIM, explain the scope of the Work.
 - a) As appropriate, include equipment (controls, lighting, heating, cooling, other) to be installed, modified, removed, and any associated important items necessary to describe the Work.
 - b) As known, list any manufacture (or pre-approved equal), size, types, quantities as necessary for clarity.
 - c) Include occupancy schedules, temperature set points, standards of comfort and all other important variables that impact the performance of the measure. In particular are parameters that could be modified after installation and impact the long term performance of the measure.
 - d) If a measure has operation or maintenance savings, indicate how they are determined and verified, and the term of the savings.
 - e) M&V option.
 - f) Include specific exclusions or assumptions as applicable.
 - g) Warranty: by manufacturer, ESCO, or contractor, national distributor, none?
5. Installation Plan and Schedule: construction process, normal or after hours work, unique access requirements, etc.
6. Training: by manufacturer, ESCO, or contractor; on-site, web based, electronic media, other?
7. Known Environmental Problems: indicate if ESCO or Political Subdivision needs to remediate the problem.

Executive Summary: Provide an executive summary which includes: key participants, the final utility cost saving measures and facility improvement measures, a table of the measures by building/location, a table of the measures indicating annual savings (usage and dollars), installation cost (soft fees and construction cost), and simple payback or return on investment value. Include any other financial factors that support the project (potential grants, rebates, other sources of funds).

1. Executive Summary - Key Participants

Contact	Organization	Title	Phone	Email
Carl Young	Huerfano County	Huerfano County Administrator	719.738.3000	cyoung@huerfano.us
Chris Bechaver	Huerfano County	Deputy Public Works Director	719.738.3000	cbechaver@huerfano.us
Kim Trujillo	Huerfano County	Finance Officer	719.738.3000	ktrujillo@huerfano.us
Ashley Brasovan	McKinstry	Account Executive	303.968.4138	AshleyB@McKinstry.com
Aaron Skroch	McKinstry	Program Manager-Energy	303.215.4064	AaronSk@McKinstry.com
Renee Wahlman	McKinstry	Building Energy Engineer	720.657.2957	renew@McKinstry.com
Thomas Richardson	McKinstry	Program Manager-Lighting Solutions	725.208.3201	ThomasR@McKinstry.com
Daniel Finney	McKinstry	Senior Energy Engineer-Renewables	828.290.5021	DanielFin@mckinstry.com
Martin Beggs	McKinstry	Program Manager-Renewables	720.386.5941	MartinB@McKinstry.com
Maya Combs-Hurtado	McKinstry	Building Energy Engineer-Technical Services	720.758.9238	MayaC@McKinstry.com
DeLynne Southern	Colorado Energy Office	Technical Specialist	303.866.2391	DyLynne.southern@state.co.us

Executive Summary - Final Utility Cost Savings Measures and Facility Improvement Measures – Includes applicable facilities, annual savings (usage and dollars), installation cost (soft fees and construction cost), and simple payback or return on investment value. Includes other financial factors that support the project (potential grants, rebates, other sources of funds).

Energy Conservation Measure (ECM) Name	Facility	Energy Conservation Measure Description	County Priority (1, 2 or 3)	Construction Cost*	Annual Utility Savings	Annual CO2 Savings (Metric Tons)	Annual Operational & Maintenance Savings**	Total Annual Savings	Estimated Utility Rebate***	Net Financed Cost (with Grants & Incentives)	Simple Payback (SPB)
Energy Conservation Measures that Self-fund (E)											
04.01 Network Programmable Thermostat	DAO	Install programmable thermostat that can be accessed remotely over the internet to provide for central scheduling, monitoring and trouble-shooting.	1	\$1,909	\$159	2	\$0	\$159	\$0	\$1,909	12.0
04.02 Seasonal Temperature Setback	OJM	Reduce energy use by implementing an aggressive temperature setback (keep above freezing) during times of the year that the museum is not open.	1	0	\$14	0	\$0	\$14	\$0	\$0	n/a
04.03 Weekend Temperature Setback	JUD	Re-program HVAC controls to set back space temperatures during the weekends.	1	\$0	\$2,317	13	\$0	\$2,317	\$0	\$0	n/a
09.01 LED Lighting Upgrades	CDL, DAO, FAB, FOT, GCC, GRBG, GW1, GW2, HC4H, LEC, LVRB, OJM, SPA, WCC, WCO, WRBS, WSS, WTS, WWTP	Replace existing non-LED lamps/ fixtures with new LED lamps/ fixtures to reduce energy and O&M costs.	1	\$450,526	\$22,181	107	\$4,417	\$26,598	(\$9,554)	\$440,972	16.6
10.01 Solar Photovoltaic Systems	JUD, LEC, WSS, WCC	25 kW roof-mounted solar photovoltaic systems for WCC, LEC and JUD 12.3 kW System for WSS. Includes electrical upgrade at WSS	1	\$423,097	\$24,250	111	\$0	\$24,250	\$0	\$423,097	17.4
04.05 Update/ Repair Trane Controls	WCO	Upgrade/ repair existing Building Automation System (BAS) controls on HVAC system and update to best in class control sequences to optimize energy use, improve comfort and reduce O&M time.	1	\$17,105	\$1,292	8	\$332	\$1,624	\$0	\$17,105	10.5
Energy Conservation Measures that may Require Additional Funding to Fall within Target Payback (E+C)											
18.01 Domestic Water Upgrades	DAO, FOT, LEC, OJM, WCC, WCO, WRBS, WSS, WTS	Reduce water use through repair and recommissioning of flushometers in existing toilets and urinals or replace with low flow fixtures. Install vandal resistant flow restriction devices on faucets.	1	\$70,554	\$1,857	2	\$0	\$1,857	\$0	\$70,554	38.0
Facility Improvement Measures that Are Primarily Capital in Nature (C)											
01.03 High Efficiency Furnace	OJM, WRBS	Furnace has reached ASHRAE life expectancy. Replace with a new high efficiency furnace to improve reliability and reduce energy use.	1	\$77,383	\$1,282	3	\$80	\$1,362	\$0	\$77,383	CAPITAL
01.04 Remove Electric Unit Heater	GW1	Electric unit heater in space has reached ASHRAE end-of-life and is currently a safety hazard (arcs when energized). Demo unit heater and replace with outlet for portable electric heater.	1	\$1,025	\$0	0	\$0	\$0	\$0	\$1,025	CAPITAL
03.01 Replace Rooftop Units	WCC, WSS	Rooftop Units have reached their ASHRAE life expectancy. Replace with new rooftop units to improve occupant comfort and O&M costs.	2	\$408,827	\$586	(2)	\$1,328	\$1,914	\$0	\$408,827	CAPITAL
03.02 Refurbish Air Handling Units	LEC	The existing air handling units need to be repaired/ refurbished including: repair flex connections, repair evaporative cooling sections, replace media and clean coils to effectively heat and cool the Law Enforcement Center.	2	\$115,364	\$0	0	\$431	\$431	\$0	\$115,364	CAPITAL
09.02 Exterior LED Field Lighting Upgrades	BPA, GCC, HC4H	Replace existing non-LED field lighting with new LED field lighting to improve light levels, color rendering and reduce energy and O&M costs.	3	\$154,403	\$718	4	\$137	\$855	(\$6,178)	\$148,225	CAPITAL
11.01-CPB Repair Electrical Service	CPB	Replace existing electric panel and breakers and provide new electrical service to it. Existing compressor and pump starters to be abandoned in place.	1	\$61,238	\$0	0	\$0	\$0	\$0	\$61,238	CAPITAL
13.01 Air Sealing and Weather-Stripping	CDL, CMB, CPB, FAB, GRBG, LEC, LVRB, OJM, WCC, WCO, WRBS, WSS	Add weather stripping and spray foam to better seal building envelope, reduce infiltration, reduce energy use and improve occupant comfort.	2	\$129,653	\$2,007	13	\$836	\$2,843	\$0	\$129,653	CAPITAL
13.05 Gutter Repair	WCO	Clean out two south-side gutter down-spouts, scope and snake line to storm drain. Includes allowance for excavation and repair of underground portion of drains. Add heat trace to prevent freezing.	1	\$36,548	(\$50)	0	\$667	\$617	\$0	\$36,548	CAPITAL
13.06-Insulation & Fans	HC4H	Add roof insulation and three 14-ft ceiling-mounted fans	2	\$99,127	\$0	0	\$0	\$0	\$0	\$99,127	CAPITAL
20.02 Design Standards Criteria	CMB, CPB	Provide schematic design for Cuchara Pump House and Maintenance Building. Would need county to provide direction on future use.	2	\$9,479	\$0	0	\$0	\$0	\$0	\$9,479	CAPITAL
20.03 Permanent Ladder	WCC	Install permanent ladder to allow for safer roof access.	1	\$30,231	\$0	0	\$0	\$0	\$0	\$30,231	CAPITAL
20.04 Roof Hatch Safety Rails	LEC	Add safety rails around rooftop hatch of Law Enforcement Center.	1	\$8,120	\$0	0	\$0	\$0	\$0	\$8,120	CAPITAL
22.01 PowerED	WCO, JUD, LEC, WCC	powerED engagement program for the building occupants and facilities staff at four facilities: Courthouse, Judicial Building, Law Enforcement Center and Community Center. Includes promoting the project (press releases, ribbon cutting ceremonies, etc.) and Reveal Dashboard for 3 years to show baseline utility use, EUIs, FCA metrics and project energy savings.	1	\$33,315	\$0	0	\$0	\$0	\$0	\$33,315	CAPITAL
22.02 Facility Condition Assessment	MULTIPLE FACILITIES	Facility Condition Assessments focusing on mechanical, electrical, plumbing and building envelope systems. Includes code evaluation and side-walk assessment at Walsenburg Community Center only. Excludes Judicial Building, Radio Towers and Water Treatment facilities in Gardner.	1	\$22,791	\$0	0	\$0	\$0	\$0	\$22,791	CAPITAL
										DOLA Grant	\$ (750,000)
										County Capital Contribution	\$ (150,000)
										Inflation Reduction Act Direct Payment	\$ (112,386)
Project totals				\$2,150,694	\$56,613	259	\$8,228	\$64,841	\$ (15,732)	\$ 1,122,576	17.3
										Contingency	\$95,614
										Total Cost With Contingency	\$ 1,218,190
NOTES:											
GCC= Gardner Community Center, OJM= Old Jail House Museum, JUD= Judicial Building, FAB= Fire/ Ambulance, WRBS= Walsenburg Road and Bridge Shop, GW1= Gardner Well 1, GW2= Gardner Well 2, FOT= Fox Theater, SPA= Spanish Peaks Airfield- Airport Terminal, WCC= Walsenburg Community Center, WTS= Waste Transfer Station, WSS= Social Services, LEC= Law Enforcement Center, DAO= District Attorney's Office, HC4H= HCH4 Building, LVRB= La Veta Road and Bridge Shop, WCO= Walsenburg Courthouse, GRBG= Gardner Road and Bridge Garage, BPA= Ball Park, CDL= Cuchara Day Lodge, CMB= Cuchara Maintenance Building, CPB= Cuchara Pump Building, WWTP= Waste Water Treatment Plant											
* Since design, project management and other project related costs are distributed among the ECMs, the project cost will not go up or down by exactly the amounts shown here if a ECM or ECMs are removed from the final contracted scope of work.											
** Incentives are contingent on final approval from providers. Amounts shown are for reference only.											
*** CAP depicts a capital measure or project related costs which are not driven by utility and/or operational savings.											

Executive Summary - Table of Project Cost Including Subcontractor Costs, Fees and Mark-ups:

Project Summary	TEA Contract % Maximum		Estimated %	Amount
<i>Technical Energy Audit</i>	-		-	\$47,194
Pre-Construction Costs	-		-	-
Design and Engineering	8.0%		8.0%	\$152,900
Pre-Construction Services	3.0%		3.0%	\$57,400
Other Pre-Construction Costs	3.0%		3.0%	\$57,350
			<i>Pre-Construction Cost Sub-Total</i>	<i>\$267,650</i>
Construction Costs	-		-	-
Trade Subcontracts	-		33.8%	\$645,419
Design/Build Subcontracts	-		33.8%	\$645,419
Direct Purchase Equipment	-		0.0%	\$0
Construction Management	7.0%		7.0%	\$134,000
Project Engineering	2.0%		2.0%	\$38,163
General Conditions	1.5%		1.5%	\$28,600
Construction Completion	4.0%		4.0%	\$76,500
Other Construction Costs	4.0%		4.0%	\$76,521
			<i>Construction Cost Subtotal</i>	<i>\$1,644,623</i>
Estimated Project Amount				\$1,912,273
<i>Profit</i>	10.0%		10.0%	<i>\$191,227</i>
<i>Contingency</i>	5.0%		5.0%	<i>\$95,614</i>
Total Funded Amount (Before Incentives)	-		-	\$2,246,308

2. Building and Infrastructure data only for the locations included in the Work in a format similar to **IGA Exhibit B** tables (without cost information).
 - Refer to **Section 3 Facility Descriptions** of the Investment Grade Audit Report.
3. Baseline Period Utility Consumption (per IGA Exhibit A).
 - Refer to **Section 2.6 – Base Year Annual Summary Per Building** of the Investment Grade Audit Report.
4. By Utility Cost Saving Measure or FIM, explain the scope of the Work.
 - a) As appropriate, include equipment (controls, lighting, heating, cooling, other) to be installed, modified, removed, and any associated important items necessary to describe the Work.
 - Refer to **Section 4 – Energy Conservation Measures** of the Investment Grade Audit Report
 - b) As known, list any manufacture (or pre-approved equal), size, types, quantities as necessary for clarity.
 - Refer to **Section 4.5 – Energy Conservation Measures** of the Investment Grade Audit Report
 - c) Include occupancy schedules, temperature set points, standards of comfort and all other important variables that impact the performance of the measure. In particular are parameters that could be modified after installation and impact the long-term performance of the measure.
 - Refer to **KPI Matrix** table in **Investment Grade Audit Report Appendix C - Measurement and Verification Plan** of the Investment Grade Audit Report
 - d) If a measure has operation or maintenance savings, indicate how they are determined and verified, and the term of the savings.
 - Refer to **Investment Grade Audit Report Appendix A - Lighting Audit** of the Investment Grade Audit Report for description of methodology behind lighting maintenance savings.
 - Refer to **Investment Grade Audit Report Appendix H – Savings Calculations** of the Investment Grade Audit Report for description of methodology behind the building envelope maintenance savings.
 - e) M&V option.
 - Refer to **Investment Grade Audit Report Appendix C - Measurement and Verification Plan** of the Investment Grade Audit Report
 - f) Include specific exclusions or assumptions as applicable.
 The following Exclusions and Clarifications are applicable to the project. Refer to ECM Descriptions and Scopes of Work in Appendices for specific Scope of Work exclusions and clarifications relative to the measures in the project.
Pricing:
 - Due to the market uncertainty surround material and equipment prices, McKinstry's price is valid through February 3rd, 2023. McKinstry reserves the right to update the project pricing based on current labor, material and equipment costs should contract execution not occur before this date.
 - Pricing excludes Davis-Bacon, Prevailing Wage and Build America Buy America (BABA) Act requirements.**Rebates:**
 - McKinstry has agreed to carry the risk associated with being responsible for the final value and collection of rebates on the project. McKinstry will provide the necessary information to apply for the rebates and request assistance from Huerfano County if needed.**Network & Remote Access Clarifications:**
 - Huerfano County will be responsible for providing any network drops to support the Network Thermostat and PV installation for the project. McKinstry's scope of work requires a total of 13 network drops at the following facilities: Community Center (4), Social Services (4), Law Enforcement Center (1), Judicial Building (1), Old Jail House Museum (1), Walsenburg Road and Bridge Shop (1), District Attorney's Office (1)

- Huerfano County is responsible for providing remote access as required for access to the Building Automation Systems for trending, monitoring and M&V activities.

Scheduled Shutdowns:

- McKinstry will submit a shutdown request in Huerfano County’s system proving one-week notice for any heating, cooling, controls, or electrical related shutdowns required to complete the implementation of the scope measures listed in this document.

Temporary Heating and Cooling Exclusion:

- Temporary heating and cooling are excluded from all scope items. Any measures that may impact occupant comfort will be timed and implemented in such a manner as to minimize the impact on interior space conditions, but McKinstry cannot guarantee a standard of comfort will be maintained during the entire construction period.

Commissioning-Specific Exclusions:

- The following items are excluded from the Commissioning scope of work unless noted in the scope of work for
- Existing HVAC systems that are not slated to be replaced as part of this project
- Existing building automation systems that are not slated to be replaced as part of this project
- Existing lighting control systems
- Fire protection and life safety systems
- Elevators
- Back-up generators and emergency power systems
- Electrical services/devices not associated with McKinstry Work
- Egress and/or emergency systems

Lead and Asbestos Exclusions:

- The current project scope does not include any testing or abatement of asbestos containing materials or surfaces with lead containing paint.

Engineering and Construction Exclusions:

- Mud-jacking at the Community Center has been removed from scope.
- McKinstry reserves the right to adjust energy savings if we find insufficient outside air quantities or inoperable equipment during design, construction, or commissioning.
- Piping, ductwork, and coils (condition, size, insulation, performance) beyond our point of connection are excluded. Based on our discussions with the client, there are no concerns with these items that we should be included in the scope of work.
- Removal/Replacement of Solar PV Systems to accommodate future roof repairs/replacements is excluded.
- Harmonic filtration assessments, SCCR analysis, coordination, or provisions, are excluded.
- Seismic analysis, provisions, or bracing are excluded.
- Equipment sub-meters, unless already incorporated into the piece of equipment
- Surge protection engineering and devices, unless specifically noted as included, are excluded.
- Replacement of energy or electric sub-meters is excluded.
- Rectification of existing code violations, damage or deficiencies are excluded.
- Upgrades or testing of the path of egress lighting is excluded.
- Federal provisions including BAA and FAR provisions are excluded.
- Huerfano County will calibrate CO and CO2 sensors or replace the cartridges/elements at the manufacturer’s recommended intervals to maintain proper operation after installation
- Reveal Specific Exclusions & Clarifications can be found at the end of Schedule B.

- g) Warranty: by manufacturer, ESCO, or contractor, national distributor, none?
 - The warranty for the project will fall under the standard warranty terms of the State of Colorado EPC contract. If any installed materials have warranties that extend beyond the terms of the standard warranty, they will be transferred to the Huerfano County at project closeout.

5. Installation Plan and Schedule: construction process, normal or after-hours work, unique access requirements, etc.
 - Refer to **Section 4.4 Preliminary Construction Schedule** of the Investment Grade Audit Report for preliminary construction schedule and Exhibit W the detailed construction schedule.

6. Training: by manufacturer, ESCO, or contractor; on-site, web based, electronic media, other?
 - Refer to EPC Contract Schedule R for Contractor training responsibilities
7. Known Environmental Problems: indicate if ESCO or Political Subdivision needs to remediate the problem.
 - No known Environmental Problems.

Reveal™ Performance Dashboard Access Clarifications and Exclusions:

- County access to the Reveal™ on-line performance dashboard will begin no later than 12 months after start of launch/set-up phase of the powerED Program.
- COUNTY will have continued access to Reveal for 5 years from time of initial roll-out.
- On-going access to Reveal™ after end of 3 years will be negotiated separately at the end of term.

County has requested McKinstry's assistance to provide technical support, service and/or analysis (herein "Work") through a remote connection to the County's intelligent building management system. To provide this Work, the County understands and acknowledges that they will be providing McKinstry with access to the County's network as reasonably required to perform the service.

The use of this access is in accordance with the following disclaimer. By accepting this, the County acknowledges that they are solely responsible for safeguarding the County's own information systems. McKinstry relies on the County's knowledge of their own internal systems to determine the appropriateness of the access granted and to monitor the system as appropriate. McKinstry has no access to or knowledge of the County's networks, systems, and/or security protocols and has no practical way of monitoring the operational activities of the computer systems or network so cannot be held responsible for the performance therein. Specifically, the:

1. County agrees to assume all responsibilities for the operations and security of the network and systems.
2. County acknowledges and agrees that McKinstry cannot warranty and/or guarantee the safety of the network, software, systems, data, data exchange or other information.
3. County acknowledges and agrees that McKinstry will not be responsible for loss of data or loss of use for the network. McKinstry strongly advises that County safeguard critical data by backing up said data prior to any services performed by McKinstry.
4. County acknowledges and understands that Work may be subject to limitations, security risks, delays, and other problems inherent in the use of the internet and electronic communications. McKinstry is not responsible for any delays, delivery failures, security breaches or other damage resulting from such problems. The Work contains technology that is not fault tolerant and is not designed, manufactured, or intended for use in environments or applications in which the failure of the Work could lead to death, personal injury, or severe physical, property or environmental damage.

Should the County wish to end the service prior to the end of the contract they must provide McKinstry with written notice. Upon receipt of the request to terminate McKinstry will discontinue the County's use of the service. The County forfeits any remaining time already paid for, McKinstry will not provide a refund for any time that was invoiced and paid for that the client does not use.

Reveal™, AEM, and related sections may be subject to limitations, security risks, delays, and other problems inherent in the use of the internet and electronic communications. McKinstry is not responsible for any delays, delivery failures, security breaches or other damage resulting from such problems. McKinstry cannot warranty and/or guarantee the safety of software, systems, data, the data exchange or other information affected by 3rd parties. The work contains technology that

is not fault tolerant and is not designed, manufactured, or intended for use in environments or applications in which the failure of the work could lead to death, personal injury, or severe physical, property or environmental damage. McKinstry does not warrant that the use of the service will be un-interrupted or error free.

As McKinstry does not know of; have the ability to mitigate; or even insure against certain damages, the parties agree that McKinstry will not be responsible for consequential, indirect, incidental or similar damages or losses, including loss of profits or loss of use arising out of or relating to Reveal™ or AEM, whether based in contract or tort or any other theory, even if a party has been advised of the possibility of such damages.

County will: 1) be responsible for all user’s compliance with this agreement in conjunction with the user’s compliance with the services; 2) be responsible for the accuracy, quality, appropriateness and legality of any of County or their related user content; 3) use commercially reasonable efforts to prevent unauthorized access to or use of the services and notify McKinstry promptly of any such unauthorized access or use; 4) use the services only in accordance with the documentation and acceptable use policies and applicable laws; 5) and be responsible for appropriately obtaining and maintaining all environments or services needed to access and use the service, including but limited to computer hardware, software, network, internet access services, and related network security resources, including preventative maintenance, data security and backups.

County will not: 1) distribute, license, loan, or sell Reveal™ or AEM or other content that is contained or displayed in it; 2) modify, alter, or create any derivative works of the Reveal™ or AEM application; 3) reverse engineer, decompile, decode, decrypt, disassemble, or derive any source code from Reveal™ or AEM; 4) remove, alter, or obscure any copyright, trademark, or other proprietary rights notice on or in the service.

McKinstry will collect, use, and process County data in accordance with McKinstry’s Reveal™ Privacy Policy below.

Reveal™ Privacy Policy

McKinstry Essention, LLC (“McKinstry” or “we” or “us”) is the owner and operator of the Reveal website (the “Site”).

Our postal address is

- McKinstry Essention, LLC
- 5005 Third Avenue South
- Seattle, WA 98134

We also can be reached via e-mail at inquiry@mckinstry.com or you can reach us by telephone at 206-762-3311.

INFORMATION COLLECTION AND USE

The information and data collected on this Site or related to this Site are the property of McKinstry. This site contains text, artwork, photos or other content that may be copyrighted by others and is being used with permission of the copyright holder. Therefore, we recommend that you contact us for permission to use any content contained on this site.

For each visitor to the Site, our web server automatically recognizes the consumer’s domain name (where possible).

Personally identifiable information (“PII”) as defined in this Privacy Policy, means information about a natural person that is readily identifiable to that specific individual. Personal information includes such things as your name, address, email address, and phone number.

We will not collect PII about you unless you voluntarily provide it to us by sending us email, or by providing it on the Site. If you choose to provide PII by emailing us, participating in a survey, or completing an online form, we may store this information. We may place a “cookie” on the browser of your computer. Cookies are pieces of information that a Site transfers to your computer’s hard drive for record-keeping purposes. The use of cookies is common on sites and many major sites use them to provide useful features to their visitors. The cookie itself does not contain any personally identifying information, but may be used to tell when your computer has contacted our Site. You may set your browser to reject cookies, but please understand that certain features of the Site may not be available if your browser does not accept cookies. We will not use or install spyware on your computer.

We also may use cookies, clear gifs, and log file information to: (a) store information so that you will not have to re-enter it during your visit or the next time you visit the Site; (b) monitor aggregate metrics such as total number of visitors, pages viewed, etc.; and (c) track entries, submissions, and status in any interactive portion of the Site.

When using the Site we may record information about your experience. For example, details of how you used the Site, what pages, charts or functions you utilized and how often, and information about crashes.

We may use the information and data we collect as needed to enhance the Site, including customer experience, track user habits, or target personal preferences. We may share this information with our service providers as needed to assist or improve the functioning of the Site. We will not sell any personally identifiable information to third parties for commercial purposes unrelated to our operation of the Site.

We may process the information and data we collect. McKinstry reserves the right to retain, use, disclose or transfer any such data as long as such data is in an aggregate form that does not include any individually identifiable user data. McKinstry will not identify you as the source of such aggregated data. This aggregated data may be used to further enhance the Site, to improve systems, and to provide a greater experience using our system and services.

We may disclose information about you (i) if we are required to do so by law or legal process, (ii) to law enforcement authorities or other government officials, or (iii) when we believe disclosure is necessary or appropriate to prevent physical harm or financial loss or in connection with an investigation of suspected or actual illegal activity.

We reserve the right to transfer any information we have about you in the event we sell or transfer all or a portion of our business or assets. Should such a sale or transfer occur, we will use reasonable efforts to direct the transferee to use personal information you have provided through this website in a manner that is consistent with this statement.

If you do not want to receive e-mail from us in the future, please let us know by sending us e-mail at the above address. Please provide us with your exact name and address. You may also unsubscribe by selecting the unsubscribe link available on any Reveal generated email.

If you supply us with your postal address you may receive periodic mailings from us with information on new products and services or upcoming events. If you do not wish to receive such mailings, please let us know by emailing us at the address provided above. Please provide us with your exact name and address.

Persons who supply us with their telephone numbers may receive contact from us with information regarding new products and services or upcoming events. If you do not wish to receive such information, please let us know by sending us e-mail at the above address. Please provide us with your exact name and address.

From time to time, we may use visitor information for new, unanticipated uses not previously disclosed in our privacy notice. If our information practices change at some time in the future, we will post the policy changes to our website to notify you of these changes and provide you with the ability to opt out of these new uses. If you are concerned about how your information is used, you should check back at our website periodically.

Visitors may prevent their information from being used for purposes other than those for which it was originally collected by emailing or calling us at the numbers provided above.

Upon request we provide site visitors with access to contact information (e.g., name, address, phone number) that we maintain about them and a description of information that we maintain about them. Consumers can access this information by e-mailing us at the above address.

Upon request we offer visitors the ability to have inaccuracies corrected in contact information. Consumers can have this information corrected by sending us e-mail at the above address.

With respect to security: We always use industry-standard encryption technologies when transferring and receiving consumer data exchanged with our site.

The Reveal website contains links to other websites. These may include links to websites operated by other government agencies, nonprofit organizations and private businesses. When you link to another site, you are no longer on the Reveal site and this Privacy Notice will not apply. When you link to another website, you are subject to the privacy policy of that new site. Reference in this Site to any specific commercial products, processes, or services, or the use of any trade, firm, or corporation name is for the information and convenience of the public and does not constitute endorsement, recommendation, or favoring by McKinstry or its officers, employees or agents. McKinstry does not make any warranties, express or implied, regarding any third party information or any links to other websites, and McKinstry assumes no responsibility for the accuracy, completeness, reliability or suitability of the information provided by third parties or information, software (if any), offers or activity found on other websites which may be linked to our Site.

Personal information collected on the Site may be stored and processed in the United States or any other country in which McKinstry or its affiliates, subsidiaries or agents maintain facilities, and by using the Site, you consent to any such transfer of information outside of your country.

Although the data found using the Site access systems have been produced and processed from sources believed to be reliable, no warranty expressed or implied is made regarding accuracy, adequacy, completeness, legality, reliability or usefulness of any information. This disclaimer applies to both isolated and aggregate uses of the information. McKinstry provides this information on an "AS IS" basis. All warranties of any kind, express or implied, including but not limited to the IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, freedom from contamination by computer viruses and non-infringement of proprietary rights ARE DISCLAIMED.

Data can also quickly become out-of-date. It is recommended that the user pay careful attention to the contents of any metadata associated with a file, and that the originator of the data or information be contacted with any questions regarding appropriate use. If the user finds any errors or omissions, we encourage the user to report them to the contact information above.

CHILDREN'S PRIVACY POLICY

We recognize the need to provide additional privacy protections when children visit the Site. We explain those additional protections here in this section of our Privacy Policy.

The Children's Online Privacy Protection Act ("COPPA") requires that we inform parents and legal guardians about how we collect, use, and disclose personal information from children under 13 years of age; and that we obtain the consent of parents and guardians in order for children under 13 years of age to use certain features of our Site. Below we explain how we do that for these children. Also, when we use the term "parent" below, we mean to include legal guardians.

We do not currently intend to collect information from children under 13 years of age and have no plans to collect or use such information.

Part of Reveal is designed to increase awareness of the need to reduce schools' and other buildings' environmental impact. Children play a critical role in the process by engaging in activities that help this effort and sharing this information with others. We believe that involving children will help them adopt lifelong behaviors that will help to preserve and protect the planet. However, we do not ask children to submit any personal information to us in order to use the Site.

If a parent believes that we have collected personal information from their child, he or she can contact us as provided at the beginning of this Privacy Policy and we will remove all information from and about that child from our system.

The County's general access to the Reveal™ service, or any subsection of, is made pursuant to the Reveal™ Terms of Service below:

Reveal™ Terms and Conditions

Reveal Terms & Conditions for Use

McKinstry Essention, LLC ("McKinstry" or "we" or "us") created, maintains and operates the Reveal platform. Reveal may include access to multiple different sections or parts, including various data dashboards, websites and materials (collectively or in parts, the "Service") that you, as an individual or representing a specific member identification / log-in, ("you") are viewing.

By accessing and using the Service, in whole or in part, you agree to each of the terms and conditions set forth herein ("Terms of Use"). Additional terms and conditions applicable to specific areas of the Service, to content, and/or transactions may also be posted separate areas of the Service and, together with our Privacy Policy (https://Reveal.McKinstry.com/privacy_policy) and these Terms of Use, govern your use of those areas, content or transactions. These Terms of Use, together with applicable additional terms and conditions, are referred to as this "Agreement". These terms and conditions apply to your access to and the use of the Services and does not alter the terms and conditions of any other arrangement you may have with McKinstry.

McKinstry reserves the right to modify this Agreement at any time without giving you prior notice. You should review these Terms of Service and any updated terms before using the Service. Your continued use of the Service following any such modification constitutes your agreement to follow and be bound by the Agreement as modified. The last date these Terms of Use were revised is set forth below.

During the term of this agreement to the extent applicable, McKinstry grants to you a non-exclusive, non-sublicensable, non-transferable, limited license to use the information, writings, images and/or other works that you see, hear or otherwise experience from the Service (individually or collectively, the "Content") solely for your non-commercial, personal and/or for education purposes. No right, title or interest in any Content is transferred to you, whether as a result of downloading such Content or otherwise. McKinstry reserves complete title and full intellectual property rights in all Content. Except as expressly authorized by this Agreement, you may not use, alter, copy, distribute, transmit, or derive another work from any Content, except as expressly permitted by the agreement.

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You are prohibited from using any of the marks or logos appearing throughout the Service without permission from the trademark owner, except as permitted by applicable law. You agree not to add to, subtract from, or otherwise modify the Content, or to attempt to access any Content that is not intended for you. You may not engage in any of the following prohibited activities: (i) copying, distributing, or disclosing any part of the Service in any medium, including without limitation

by any automated or non-automated "scraping", (ii) using any automated system, including without limitation "robots," "spiders," "offline readers," etc., to access the Service, (iii) attempting to interfere with, compromise the system integrity or security, or decipher any transmissions of the Service, (iv) interfering with the operations of the Service, (v) accessing any content on the Service through any technology or means other than those provided or authorized by McKinstry, or (vi) bypassing the measures we may use to prevent or restrict access to the Service, including without limitation features that prevent or restrict use or copying of any content or enforce limitations on use of the Service or the content therein.

Any links provided to third party websites or information may be provided by the Service are provided solely as a convenience to you. If you use these links, you will leave the Service environment. Such links do not constitute or imply an endorsement, sponsorship, or recommendation by McKinstry of the third party, the third-party website, or the information contained therein. McKinstry is not responsible for the availability of any such websites. McKinstry is not responsible or liable for any such website or the content thereon. If you use the links to the websites of McKinstry affiliates or service providers, you will leave the Service Environment, and will be subject to the terms of use and privacy policy applicable to those websites.

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McKinstry cares about the integrity and security of your personal information. However, the Company cannot guarantee that unauthorized third parties will never be able to defeat the Service's security measures or use any personal information you provide to us for improper purposes. You acknowledge that you provide your personal information at your own risk. McKinstry cannot and does not guarantee or warrant that files available for downloading through the Service will be free of infection by software viruses or other harmful computer code, files or programs.

You agree to use the Service and Content only for lawful purposes. You understand and agree that you are responsible for your use of the Service. You are responsible for maintaining the confidentiality of your member identification; password and/or login information, and for restricting access to your computer. You agree to accept responsibility for all activities that occur under your member identification and password. You understand and agree that you are responsible for your behavior when using the Service. You agree to indemnify, defend and hold harmless McKinstry, its parent companies, subsidiaries, affiliated companies, joint venturers, business partners, licensors, employees, agents, and any third-party information providers to the Site from and against all claims, losses, expenses, damages and costs (including, but not limited to, direct, incidental, consequential, exemplary and indirect damages), and reasonable attorneys' fees, resulting from or arising out of your use, misuse, or inability to use the Service or the Content, or any violation by you of this Agreement.

Unless otherwise specifically provided for in this Agreement or unless McKinstry has rights independent of this Agreement, McKinstry shall not assert any ownership rights to any data, information or material that You submit to the Service in the course of using the Service in accordance with the terms of this Agreement ("Customer Data"). You are fully, solely and exclusively responsible for the accuracy, quality, integrity, lawfulness, reliability, appropriateness and usage and distribution rights, including all intellectual property rights as concerns all Customer Data. You hereby confirm that other than the responsibility to restore a backup, neither McKinstry nor its affiliates are responsible nor shall McKinstry or its affiliates be liable for the deletion, correction, destruction, damage, loss or failure to store any Customer Data whatsoever.

McKinstry and its licensors are the exclusive and sole owner of all rights, title, and interest in and to the Service and the Content (including, without limitation, ownership of all copyright rights and other intellectual property rights) and any suggestions, ideas, enhancement requests, feedback, recommendations, specifications or other information provided by You or any of your employees, and authorized end-users relating to the Service and/or the Content. This Agreement is not a contract for a sale and does not convey to You any rights of ownership in or related to the Service, the Content and/or the Intellectual Property Rights owned and asserted by McKinstry and its licensors. You hereby agree not to contest McKinstry's ownership rights as described in this Section. McKinstry exclusively owns all intellectual property rights, title and interest to

and in any documentation, materials, reports, programs, graphics and the like that may be produced as part of the consulting and/or configuration services. Further, as concerns any possible future consulting and/or configuration services, McKinstry shall have sole and exclusive ownership of all modifications to the Service, the Content and all media and documentation relating to the modifications (including their development, or their operation, testing or use, and all reports and copies thereof), and all intellectual property rights associated therewith (including, without limitation, rights to copyrights, trade secrets, or know-how).

You acknowledge and agree that McKinstry may derive or create data and information about the use of the Service or Content during your use ("Use Data") and McKinstry may use and disclose Use Data to its third party service providers in order to improve the Service.

You acknowledge and agree that McKinstry may obtain and aggregate technical and other data about your use of the Services excluding any personally identifiable with respect to Customer ("Aggregated Anonymous Data"), and McKinstry may use the Aggregated Anonymous Data to analyze, improve, support and operate the Services and otherwise for any business purpose, during and after the term of this Agreement, including without limitation to generate industry benchmarks or best practices guidance, recommendations or similar reports for distribution to and consumption by you and other customers and prospects. For clarity, this section does not give McKinstry the right to identify any single user as the source of any Aggregated Anonymous Data.

McKinstry may terminate or suspend your access to or ability to use the Service immediately, without prior notice or liability, for any reason or no reason, including breach of this agreement. McKinstry may immediately terminate or suspend accounts that have been flagged for repeat copyright infringement. Upon termination of your access to or ability to use the Service, your right to use or access the Service will immediately cease. This agreement's provisions that by their nature should survive termination shall survive termination, including, without limitation, ownership provisions, warranty disclaimers, and limitations of liability. Termination of your access to and use of the Service shall not relieve you of any obligations arising or accruing prior to termination or limit any liability that you otherwise may have to McKinstry or any third party.

To the fullest extent permitted by applicable law in no event shall McKinstry be liable for any direct, special, indirect or consequential damages, or any other damages of any kind, including but not limited to loss of use, loss of profits or loss of data, whether in an action in contract, tort (including but not limited to negligence) or otherwise, arising out of or in any way connected with the use of or inability to use the Service, including without limitation any damages caused by or resulting from reliance by user on any information obtained from Service, or that result from mistakes, omissions, interruptions, deletion of files or email, errors, defects, viruses, delays in operation or transmission or any failure of performance. For all losses related to the use of the Service, under no circumstances shall McKinstry's or its affiliates' or licensor's aggregate liability resulting from or relating to this agreement or the services exceed the price paid for the service.

Certain state laws do not allow limitations on implied warranties or the exclusions or limitations of certain damages. If these laws apply to you, some or all of the above disclaimer, exclusions or limitations may not apply to you, and you may have additional rights.

If any portion of this Agreement is held to be invalid or unenforceable, the remaining portions of this Agreement will remain in full force and effect. Any failures to enforce any provision of this Agreement will not constitute a present or future waiver of such provision, nor limit our right to enforce such provision at a later time. All waivers by McKinstry must be in writing to be effective.

EPC SCHEDULE C GUARANTEE

Guarantee

“Guarantee” means the warranty and guarantee made by the ESCO in **EPC Article 14** that for each year of the Guarantee Period, the Project shall result in annual cost savings equal to or greater than the Guaranteed Annual Cost Savings presented in this **EPC Schedule C** which shall be equal to or greater than the Political Subdivision’s annual payments used to repay the project funding, as set forth in **§29-12.5-101(3), C.R.S.** Failure to meet the Guaranteed Annual Cost Savings in any year during the Guarantee Period shall result in ESCO directly remunerating the Political Subdivision the dollar amount equal to the cost value of that year’s Guaranteed Annual Cost Savings shortfall. Alternatively, subject to the Governing Body’s consent, which shall not be unreasonably withheld, ESCO may implement additional Utility Cost-Savings Measures or FIMs, at no cost to the Political Subdivision, which may generate additional annual cost savings in future years of the Performance Period to offset future Guaranteed Annual Cost Savings shortfall.

Guarantee Period

“Guarantee Period” means a period of time commencing upon M&V Commencement Date and terminating on the termination of the M&V Term. The Guarantee Period is a mutually agreed to time period after the M&V Commencement Date, during which Guaranteed Annual Cost Savings resulting from the Project are measured and verified by the ESCO as set forth in **EPC Schedule D**.

Guaranteed Annual Cost Savings

“Guaranteed Annual Cost Savings” means measurable and verifiable aggregate of Guaranteed Annual Utility Cost Savings, Guaranteed Annual Operations and Maintenance Cost Savings, and Annual Vehicle Fleet Operational and Fuel Cost Savings guaranteed by ESCO resulting from the Project that shall occur for each year of the Guarantee Period pursuant to this **EPC Schedule C**. Guaranteed Annual Utility Cost Savings shall be determined by ESCO’s Measurement and Verification of annual utility unit use reductions and the application of mutually agreed to baseline and escalated utility unit costs for each year of the Guarantee Period as defined in this **EPC Schedule C**.

Guaranteed Annual Operations and Maintenance Cost Savings

“Guaranteed Annual Operations and Maintenance Cost Savings” means annual cost savings resulting from a verifiable reduction in the Political Subdivision’s operation and maintenance budget.

Guaranteed Annual Utility Cost Savings

“Guaranteed Annual Utility Cost Savings” means annual Utility Cost Savings resulting from a reduction of usage and the application of the mutually agreed to baseline and escalated utility unit rates as presented in **Schedule C**.

Guaranteed Annual Vehicle Fleet Operational and Fuel Cost Savings

“Guaranteed Annual Vehicle Fleet Operational and Fuel Cost Savings” means measurable and verifiable

ESCO guarantees that the Project shall result in Guaranteed Annual Cost Savings to the Political Subdivision, as indicated, for each year of the Guarantee Period, as presented in the following **Table C1**.

EPC SCHEDULE C GUARANTEE

Table C1: Guaranteed Annual Cost Savings *

Year	Annual Savings					
	Electric	Nat Gas & Propane	Water & Sewer	Total Utility Savings	O&M	Total Savings *
0	\$0	\$0	\$0	\$0	\$0	\$16,122
1	\$54,334	\$909	\$1,372	\$56,614	\$8,228	\$177,227
2	\$55,964	\$936	\$1,413	\$58,312	\$8,474	\$66,786
3	\$57,642	\$964	\$1,455	\$60,061	\$8,729	\$68,790

* Year 0 in the above table represent the construction period which commences upon contract execution. The Year 0 savings shown represents the construction period savings in which the Network Programmable Thermostats, Seasonal Temperature Setback, Weekend Temperature Setback, LED Lighting Upgrades, Update/Repair Trane Controls, Domestic Water Upgrades, Exterior LED Lighting Upgrades and Air-sealing and Weather-stripping are anticipated to be completed during the first 6 months of construction. The \$16,122 represents 50% of the annual energy and maintenance savings. Year 1 savings includes Inflation Reduction Act Direct Payment. Energy, water, sewer and O&M rates in Years 1 through 3 have been escalated according to the escalation rates shown in Table C2 below.

Table C2: Baseline Rates and Annual Escalation Rates:

Year	Electric Consumption \$/kWh	Electric Demand \$/kW	Natural Gas & Propane \$/Therm	Water \$/kgal	Sewer \$/kgal	M&V	O&M
Baseline Rates	Refer to Table C2-A through C2-E below					N/A	N/A
Year 1 Escalator (%)	3.0%		3.0%	3.00%	3.00%	3.00%	3.00%
Year 2 Escalator (%)	3.0%		3.0%	3.00%	3.00%	3.00%	3.00%
Year 3 Escalator (%)	3.0%		3.0%	3.00%	3.00%	3.00%	3.00%

Table C2-A: Baseline Year Electrical Rates

EPC SCHEDULE C GUARANTEE

Electric Rate Analysis

Rate		3/18/2022
C1, Single Phase Load	Grid Access Charge	\$ 31.00
	Energy Charge (per kWh)	\$ 0.143

Rate		3/18/2022
C2, Polyphase Loads Over 50kW	Grid Access Charge	\$ 150.00
	Energy Charge , On-peak (per kWh)	\$ 0.154
	Energy Charge , Off-peak (per kWh)	\$ 0.120

Rate		3/18/2022
C4, Polyphase Loads Not Over 50kW	Grid Access Charge	\$ 50.00
	Energy Charge , On-peak (per kWh)	\$ 0.155
	Energy Charge , Off-peak (per kWh)	\$ 0.120

Rate		3/18/2022
O5, Small General Electric Storage Time- of- Day	Grid Access Charge	\$ 31.000
	Energy Charge , On-peak (per kWh)	\$ 0.145
	Energy Charge , Off-peak (per kWh)	\$ 0.075

Table C2-B: Baseline Year Natural Gas Rates

Gas Rate Analysis

Rate		5/11/2016
Per CCF	In City	\$ 0.18
	Out of City	\$ 0.18
Gas Delivery Charge per CCF	In City	\$ 0.31
	Out of City	\$ 0.10
Customer Charge	In City	\$ 7.98
	Out of City	\$ 7.98

Table C2-C: Baseline Year Propane Rates

Propane Rate Analysis

2022	Annual Average
Cost per Gallon	\$ 2.49

EPC SCHEDULE C GUARANTEE

Table C2-D: Baseline Year Water & Sewer Rates

City of Walsenburg		
Rate	5/11/2016	
Per 1000 Gallons	In City	\$ 3.81
	Out of City	\$ 4.29
Water Debt Service	In City	\$ 20.85
	Out of City	\$ 24.82
Water Line Repair/ Replace	In City	\$ 16.81
	Out of City	\$ 21.41
Augmentation, per 1000 Gallons		\$ 2.89
Sewer	In City	\$ 6.08
	Out of City	\$ 7.60

City of Cuchara	
3/4" Service Tap Size	\$ 65.00
1" Service Tap Size	\$ 100.00
2" Service Tap Size	\$ 250.00
3" Service Tap Size	\$ 300.00
Water Consumption Rate (per 1000 metered gallons)	\$ 4.00

City of La Veta	
Water debt service rates	\$ 9.16
water O&M	\$ 17.02
Total Water Rates	\$ 26.18
For every 1000 gallons used	\$ 3.00
Sewer O and M	\$ 26.00

City of Gardner	
First 3000 gallons used	\$ 32.00
Additional Usage Above the first 3000 Gallons	
3001 to 6000 gallons per 1000	\$ 2.50
6001 to 10,000 gallons per 1000	\$ 3.70
Above 10,000 gallons per 1000	\$ 6.00
Sewer	\$ 25.00

EPC SCHEDULE C GUARANTEE

Table C2-E: Utility Rates by Facility

Facility		Electric Rate Schedule				Gas Rate Schedule	Propane Rate Schedule	Water & Sewer Rate Schedule			
		C1	C2	C4	O5	City of Walsenburg Natural Gas	Propane Single Rate	City of Walsenburg Water and Sewer	City of Cuchara Water and Sewer	City of La Veta Water and Sewer	Gardner Public Improvement District Water and Sewer
Walsenburg Community Center	WCC		X			X		X			
Walsenburg Community Center Ball Park	BPA	X				X		X			
Fire/ Ambulance	FAB	X				X		X			
HC 4H Building	HC4H	X					X				
Social Services	WSS		X			X		X			
Walsenburg Road & Bridge Shop	WRBS			X		X		X			
Law Enforcement Center	LEC		X			X		X			
Gardner Community Center	GCC	X					X				X
Old Jail House/ Museum	OJM	X				X		X			
Huerfano County Courthouse	WCC		X					X			
Spanish Peaks Airfield- Airport	SPA				X	X		X			
Waste Transfer Station	WTS			X		X		X			
District Attorney's Office	DAO				X	X		X			
Gardner Road & Bridge Shop	GRBG	X					X				X
La Veta Road & Bridge Shop	LVRB	X								X	
Fox Theater	FOT	X				X		X			
Cuchara Day Lodge	CDL				X		X		X		
Judicial Building	JUD		X			X		X			
Gardner Well 1	GW1	X									
Gardner Well 2	GW2	X									
Waste Water Treatment Plant	WWTP			X							

**EPC SCHEDULE C
GUARANTEE**

Table C3A: Proposed Unit Savings and Guaranteed Annual Cost Savings for Project For Year 1 Total by ECM

Energy Conservation Measure (ECM) Name	Facility	Annual Utility Savings	Annual CO2 Savings (Metric Tons)	Annual Operational & Maintenance Savings**	Total Annual Savings
04.01 Network Programmable Thermostat	DAO	\$159	2	\$0	\$159
04.02 Seasonal Temperature Setback	OJM	\$14	0	\$0	\$14
04.03 Weekend Temperature Setback	JUD	\$2,317	13	\$0	\$2,317
09.01 LED Lighting Upgrades	CDL, DAO, FAB, FOT, GCC, GRBG, GW1, GW2, HC4H, LEC, LVRB, OJM, SPA, WCC, WCO, WRBS, WSS, WTS, WWTP	\$22,181	107	\$4,417	\$26,598
10.01 Solar Photovoltaic Systems	JUD, LEC, WSS, WCC	\$24,250	111	\$0	\$24,250
04.05 Update/ Repair Trane Controls	WCO	\$1,292	8	\$332	\$1,624
18.01 Domestic Water Upgrades	DAO, FOT, LEC, OJM, WCC, WCO, WRBS, WSS, WTS	\$1,857	2	\$0	\$1,857
01.03 High Efficiency Furnace	OJM, WRBS	\$1,282	3	\$80	\$1,362
01.04 Remove Electric Unit Heater	GW1	\$0	0	\$0	\$0
03.01 Replace Rooftop Units	WCC, WSS	\$586	(2)	\$1,328	\$1,914
03.02 Refurbish Air Handling Units	LEC	\$0	0	\$431	\$431
09.02 Exterior LED Field Lighting Upgrades	BPA, GCC, HC4H	\$718	4	\$137	\$855
11.01-CPB Repair Electrical Service	CPB	\$0	0	\$0	\$0
13.01 Air Sealing and Weather-Stripping	CDL, CMB, CPB, FAB, GRBG, LEC, LVRB, OJM, WCC, WCO, WRBS, WSS	\$2,007	13	\$836	\$2,843
13.05 Gutter Repair	WCO	(\$50)	0	\$667	\$617
13.06-Insulation & Fans	HC4H	\$0	0	\$0	\$0
20.02 Design Standards Criteria	CMB, CPB	\$0	0	\$0	\$0
20.03 Permanent Ladder	WCC	\$0	0	\$0	\$0
20.04 Roof Hatch Safety Rails	LEC	\$0	0	\$0	\$0
22.01 PowerED	WCO, JUD, LEC, WCC	\$0	0	\$0	\$0
22.02 Facility Condition Assessment	MULTIPLE FACILITIES	\$0	0	\$0	\$0
Project totals		\$56,613	259	\$8,228	\$64,841

Does not include any future utility or O&M cost escalations. Excludes construction period savings.

EPC SCHEDULE C GUARANTEE

Table C3B: Proposed Unit Savings and Guaranteed Annual Cost Savings for Project For Year 1 by ECM by Facility

Does not include any future utility or O&M cost escalations. Excludes construction period savings.

ECM Name	Annual Utility Savings	Annual CO2 Savings (Metric Tons)	Annual Operational Savings**	Total Annual Savings	Guarantee Multiplier	Electricity [kWh]	Gas [Therms]	Water [kGal]	Propane [Gallons]	Electricity [\$]	Gas [\$]	Water [\$]	Propane [\$]
09.02-BPA Exterior LED Field Lighting Upgrades	\$538	3	\$17	\$555	98%	3,762	0	0	0	538	0	0	0
BALL PARK Total	\$538	3	\$17	\$555	98%	3,762	0	0	0	538	0	0	0
09.01-CDL LED Lighting Upgrades	\$202	2	\$376	\$578	25%	2,403	0	0	0	202	0	0	0
13.01-CDL Air Sealing and Weather-stripping	\$145	1	\$8	\$153	95%	1,138	0	0	0	145	0	0	0
CUCHARA DAY LODGE Total	\$347	2	\$384	\$731	60%	3,541	0	0	0	347	0	0	0
13.01-CMB Air Sealing and Weather-stripping	\$0	0	\$240	\$240	95%	0	0	0	0	0	0	0	0
20.02-CMB Design Standards Criteria	\$0	0	\$0	\$0	95%	0	0	0	0	0	0	0	0
Cuchara Maintenance Bldg Total	\$0	0	\$240	\$240	95%	0	0	0	0	0	0	0	0
11.01-CPB Repair Electrical Service	\$0	0	\$0	\$0	95%	0	0	0	0	0	0	0	0
13.01-CPB Air Sealing and Weather-stripping	\$0	0	\$369	\$369	95%	0	0	0	0	0	0	0	0
20.02-CPB Design Standards Criteria	\$0	0	\$0	\$0	95%	0	0	0	0	0	0	0	0
Cuchara Pump Bldg Total	\$0	0	\$369	\$369	95%	0	0	0	0	0	0	0	0
04.01-DAO Network Programmable Thermostat	\$159	2	\$0	\$159	95%	708	209	0	0	53	106	0	0
09.01-DAO LED Lighting Upgrades	\$552	3	\$77	\$629	98%	4,051	-6	0	0	555	(3)	0	0
18.01-DAO Domestic Water Upgrades	\$22	0	\$0	\$22	95%	127	0	1	0	18	0	4	0
DISTRICT ATTORNEYS OFFICE Total	\$733	5	\$77	\$810	96%	4,886	203	1	0	627	103	4	0
09.01-FAB LED Lighting Upgrades	\$141	1	\$132	\$273	98%	985	0	0	0	141	0	0	0
13.01-FAB Air Sealing and Weather-Stripping	\$0	0	\$18	\$18	95%	0	0	0	0	0	0	0	0
FIRE/AMBULANCE Total	\$141	1	\$150	\$291	97%	985	0	0	0	141	0	0	0
09.01-FOT LED Lighting Upgrades	\$0	0	\$0	\$0	98%	0	0	0	0	0	0	0	0
18.01-FOT Domestic Water Upgrades	\$0	0	\$0	\$0	95%	0	0	0	0	0	0	0	0
FOX THEATRE Total	\$0	0	\$0	\$0	97%	0	0	0	0	0	0	0	0
09.01-GCC LED Lighting Upgrades	\$72	0	\$290	\$362	50%	742	0	0	-14	106	0	0	(34)
09.02-GCC Exterior LED Field Lighting Upgrades	\$180	1	\$20	\$200	50%	1,256	0	0	0	180	0	0	0
GARDNER COMMUNITY CENTER Total	\$252	1	\$310	\$562	50%	1,998	0	0	-14	286	0	0	(34)
09.01-GRBG LED Lighting Upgrades	\$877	4	\$152	\$1,029	98%	6,132	0	0	0	877	0	0	0
13.01-GRBG Air Sealing and Weather-stripping	\$686	2	\$35	\$721	95%	0	0	0	276	0	0	0	686
GARDNER ROAD & BRIDGE GARAGE Total	\$1,563	6	\$187	\$1,750	97%	6,132	0	0	276	877	0	0	686
01.04-GW1 Remove Electric Unit Heater	\$0	0	\$0	\$0	95%	0	0	0	0	0	0	0	0
09.01-GW1 LED Lighting Upgrades	\$34	0	\$7	\$41	98%	236	0	0	0	34	0	0	0
GARDNER WELL 1 Total	\$34	0	\$7	\$41	97%	236	0	0	0	34	0	0	0
09.01-GW2 LED Lighting Upgrades	\$1	0	\$0	\$1	98%	7	0	0	0	1	0	0	0
Gardner Well 2 Total	\$1	0	\$0	\$1	98%	7	0	0	0	1	0	0	0

EPC SCHEDULE C GUARANTEE

Table C3B: Proposed Unit Savings and Guaranteed Annual Cost Savings for Project For Year 1 by ECM by Facility – continued

Does not include any future utility or O&M cost escalations. Excludes construction period savings.

ECM Name	Annual Utility Savings	Annual CO2 Savings (Metric Tons)	Annual Operational Savings**	Total Annual Savings	Guarantee Multiplier	Electricity [kWh]	Gas [Therms]	Water [kGal]	Propane [Gallons]	Electricity [\$]	Gas [\$]	Water [\$]	Propane [\$]
09.01-HC4H LED Lighting Upgrades	\$0	0	\$0	\$0	98%	0	0	0	0	0	0	0	0
09.02-HC4H Exterior LED Field Lighting Upgrades	\$0	0	\$100	\$100	98%	0	0	0	0	0	0	0	0
13.06-HC4H Insulation and Fans	\$0	0	\$0	\$0	95%	0	0	0	0	0	0	0	0
HC 4H BUILDING Total	\$0	0	\$100	\$100	97%	0	0	0	0	0	0	0	0
22.01- PowerED	\$0	0	\$0	\$0	95%	0	0	0	0	0	0	0	0
22.02- FCA	\$0	0	\$0	\$0	95%	0	0	0	0	0	0	0	0
30.01-Future Cost Increase Allowance	\$0	0	\$0	\$0	90%	0	0	0	0	0	0	0	0
HUERFANO ALL BLDGS Total	\$0	0	\$0	\$0	93%	0	0	0	0	0	0	0	0
04.03-JUD Weekend Temperature Setback	\$2,317	13	\$0	\$2,317	95%	12,555	755	0	0	1,933	384	0	0
10.01-JUD Solar Photovoltaic Systems	\$6,553	30	\$0	\$6,553	98%	42,552	0	0	0	6,553	0	0	0
JUDICIAL BUILDING* Total	\$8,870	43	\$0	\$8,870	97%	55,107	755	0	0	8,486	384	0	0
09.01-LVRB LED Lighting Upgrades	\$1,301	6	\$121	\$1,422	98%	9,118	0	0	-1	1,304	0	0	(3)
13.01-LVRB Air Sealing and Weather-stripping	\$43	0	\$6	\$49	3%	0	0	0	17	0	0	0	43
LA VETA ROAD & BRIDGE GARAGE Total	\$1,344	7	\$127	\$1,471	51%	9,118	0	0	16	1,304	0	0	41
03.02-LEC Refurbish Air Handling Units	\$0	0	\$431	\$431	95%	0	0	0	0	0	0	0	0
09.01-LEC LED Lighting Upgrades	\$8,022	39	\$1,639	\$9,661	98%	55,362	-65	0	0	8,055	(33)	0	0
10.01-LEC Solar Photovoltaic Systems	\$6,602	30	\$0	\$6,602	98%	42,872	0	0	0	6,602	0	0	0
13.01-LEC Air Sealing and Weather-stripping	\$126	1	\$57	\$183	95%	864	0	0	0	126	0	0	0
18.01-LEC Domestic Water Upgrades	\$1,116	0	\$0	\$1,116	95%	0	38	288	0	0	19	1,097	0
20.04-LEC Roof Hatch Safety Rails	\$0	0	\$0	\$0	95%	0	0	0	0	0	0	0	0
LAW ENFORCEMENT CENTER Total	\$15,866	70	\$2,127	\$17,993	96%	99,098	-27	288	0	14,783	(14)	1,097	0
01.03-OJM High Efficiency Furnace	\$8	0	\$80	\$88	25%	-32	24	0	0	(5)	12	0	0
04.02-OJM Seasonal Temperature Setback	\$14	0	\$0	\$14	25%	21	22	0	0	3	11	0	0
09.01-OJM LED Lighting Upgrades	\$171	1	\$183	\$354	98%	1,204	-2	0	0	172	(1)	0	0
13.01-OJM Air Sealing and Weather-stripping	\$41	0	\$12	\$53	25%	0	81	0	0	0	41	0	0
18.01-OJM Domestic Water Upgrades	\$26	0	\$0	\$26	95%	79	0	4	0	11	0	14	0
OLD JAIL HOUSE/MUSEUM Total	\$260	2	\$275	\$535	54%	1,273	124	4	0	182	63	14	0
03.01-WSS Replace Rooftop Units	\$536	3	\$836	\$1,372	100%	3,635	0	0	0	536	0	0	0
09.01-WSS LED Lighting Upgrades	\$2,330	11	\$267	\$2,597	98%	15,214	-26	0	0	2,343	(13)	0	0
10.01-WSS Solar Photovoltaic Systems	\$3,702	17	\$0	\$3,702	98%	24,039	0	0	0	3,702	0	0	0
13.01-WSS Air Sealing and Weather-stripping	\$181	2	\$7	\$188	95%	248	286	0	0	36	145	0	0
18.01-WSS Domestic Water Upgrades	\$353	1	\$0	\$353	95%	1,849	0	18	0	285	0	69	0
SOCIAL SERVICES Total	\$7,102	33	\$1,110	\$8,212	97%	44,985	260	18	0	6,902	132	69	0
09.01-SPA LED Lighting Upgrades	\$366	3	\$63	\$429	98%	3,764	0	0	0	366	0	0	0
SPANISH PEAKS AIRFIELD - AIRPORT TERMINAL Total	\$366	3	\$63	\$429	98%	3,764	0	0	0	366	0	0	0
09.01-WWTP LED Lighting Upgrades	\$33	0	\$34	\$67	98%	227	0	0	0	33	0	0	0
TREATMENT PLANT Total	\$33	0	\$34	\$67	98%	227	0	0	0	33	0	0	0

**EPC SCHEDULE C
GUARANTEE**

Table C3B: Proposed Unit Savings and Guaranteed Annual Cost Savings for Project For Year 1 by ECM by Facility – continued

Does not include any future utility or O&M cost escalations. Excludes construction period savings

ECM Name	Annual Utility Savings	Annual CO2 Savings (Metric Tons)	Annual Operational Savings**	Total Annual Savings	Guarantee Multiplier	Electricity [kWh]	Gas [Therms]	Water [kGal]	Propane [Gallons]	Electricity [\$]	Gas [\$]	Water [\$]	Propane [\$]
03.01-WCC Replace Rooftop Units	\$50	-5	\$492	\$542	100%	5,520	-1,644	0	0	885	(835)	0	0
09.01-WCC LED Lighting Upgrades	\$3,210	15	\$320	\$3,530	98%	21,475	-34	0	0	3,228	(17)	0	0
10.01-WCC Solar Photovoltaic Systems	\$7,393	34	\$0	\$7,393	98%	48,007	0	0	0	7,393	0	0	0
13.01-WCC Air Sealing and Weather-stripping	\$514	5	\$20	\$534	95%	770	791	0	0	112	402	0	0
18.01-WCC Domestic Water Upgrades	\$46	0	\$0	\$46	95%	0	19	10	0	0	10	36	0
20.03-WCC Permanent Ladder	\$0	0	\$0	\$0	95%	0	0	0	0	0	0	0	0
WALSENBURG COMMUNITY CENTER & FIESTA PARK Total	\$11,213	49	\$832	\$12,045	97%	75,772	-867	10	0	11,618	(441)	36	0
04.05-WCO Update/ Repair Trane Controls	\$1,292	8	\$332	\$1,624	100%	7,501	449	0	0	1,064	228	0	0
09.01-WCO LED Lighting Upgrades	\$2,472	11	\$212	\$2,684	98%	16,242	-28	0	0	2,486	(14)	0	0
13.01-WCO Air Sealing and Weather-stripping	\$184	2	\$56	\$240	25%	276	284	0	0	40	144	0	0
13.05-WCO Gutter Repair	(\$50)	0	\$667	\$617	90%	-363	0	0	0	(50)	0	0	0
18.01-WCO Domestic Water Upgrades	\$238	1	\$0	\$238	95%	819	0	29	0	126	0	112	0
WALSENBURG COURTHOUSE Total	\$4,136	21	\$1,267	\$5,403	82%	24,474	705	29	0	3,667	358	112	0
01.03-WRBS High Efficiency Furnace	\$1,274	3	\$0	\$1,274	95%	11,195	-908	0	0	1,735	(462)	0	0
09.01-WRBS LED Lighting Upgrades	\$1,887	9	\$372	\$2,259	98%	12,390	0	0	0	1,887	0	0	0
13.01-WRBS Air Sealing and Weather-stripping	\$87	1	\$8	\$95	95%	0	171	0	0	0	87	0	0
18.01-WRBS Domestic Water Upgrades	\$41	0	\$0	\$41	95%	0	10	10	0	0	5	36	0
WALSENBURG ROAD & BRIDGE SHOP Total	\$3,289	13	\$380	\$3,669	96%	23,585	-728	10	0	3,622	(370)	36	0
09.01-WTS LED Lighting Upgrades	\$510	3	\$172	\$682	98%	3,751	0	0	0	510	0	0	0
18.01-WTS Domestic Water Upgrades	\$15	0	\$0	\$15	95%	70	0	1	0	11	0	4	0
WASTE TRANSFER STATION Total	\$525	3	\$172	\$697	97%	3,822	0	1	0	521	0	4	0

EPC SCHEDULE D

MEASUREMENT AND VERIFICATION SERVICES PLAN

M&V Services

“M&V Services” means Services or activities relating to the measurement and verification by the ESCO of the efficiency and effectiveness of the Project, pursuant to this EPC Contract and the CEO Measurement and Verification Policy as applied.

This schedule shall use the following documents as a standard for presentation and reporting purposes.

EPC M&V Policy: Should the Political Subdivision wish to extend M&V services beyond the Guarantee Period per the M&V Term definition, the future additional annual costs to the Political Subdivision are presented in the table below. If the extended M&V costs beyond the Guarantee Period are not included in the Maximum Contract Price, they will be funded separately by the Political Subdivision.

Year	Annual Savings				M&V Cost
	Total Utility Savings	O&M	Inflation Reduction Act Direct Payment	Total Savings *	
0	\$0	\$0	\$0	\$16,122	\$0
1	\$56,614	\$8,228	\$112,386	\$177,227	(\$4,754)
2	\$58,312	\$8,474	\$0	\$66,786	(\$3,120)
3	\$60,061	\$8,729	\$0	\$68,790	(\$3,214)

* The Year 0 savings are the construction period savings in which the Network Programmable Thermostats, Seasonal Temperature Setback, Weekend Temperature Setback, LED Lighting Upgrades, Update/Repair Trane Controls, Domestic Water Upgrades, Exterior LED Lighting Upgrades and Air-sealing and Weather-stripping are anticipated to be completed during the first 6 months of construction. The \$16,122 represents 50% of the annual energy and maintenance savings for these scope items. Year 1 savings includes Inflation Reduction Act Direct Payment.

Measurement and Verification Plan

OPTION A

Option A is a retrofit isolation approach designed to evaluate the performance of a single FIM or system and calculate savings from short-term data collection and measurement, engineering calculations, and stipulated factors. Option A methods are appropriate for less complex FIMs for which performance and operational characteristics are well understood and are unlikely to change.

This approach minimizes the cost and effort of performing M&V by measuring only the key performance indicators (KPIs) and estimating all others, and as such is best suited to applications which have high certainty of savings associated with the KPIs.

KPIs are the independent variables such as performance factors (e.g. end-use capacity, demand, power) or operational factors (lighting operational hours, cooling ton-hours) **that "drive" savings within a measure.** KPIs are selected based on their impact on savings potential and the effort required to measure them.

Measurements for KPIs include spot or short-term measurements during the baseline and post-installation periods. Thereafter, inspections and short-term measurements are conducted to verify that the 'potential to perform' exists. As long as the 'potential to perform' is verified, the savings are as originally claimed and should not vary over the contract term.

Any factor not measured is stipulated based upon engineering estimates, operating schedules, operator logs, typical weather data, or other documented information sources.

TIERS FOR OPTION A

McKinstry will take a two-tiered approach to M&V Option A execution. Tier I will be used for those FIMs for which a utility bill calibrated full building energy simulation was developed. Tier II will be used for savings derived by modelling individual systems. The level of effort for each tier is informed by balancing the confidence in the persistence of savings and the cost effectiveness of M&V activities.

	TIER I	TIER II
Definition	Long Term Measurement	Short Term Measurement
Intent	Verify that changes to KPIs persist to demonstrate that proposed savings are achieved. In the event that KPIs deviate from those prescribed, the energy model can be updated with performance period operation to reflect actual performance period savings.	Evaluate performance by measuring KPIs pre and post retrofit. Update models with verified values to reflect actual performance period savings.
Post-Install Activities	Measure KPIs pre and post retrofit using BMS data or Functional Performance Testing (FPT). Update savings according to as-built/commissioned conditions.	Measure KPIs pre and post retrofit using as-built documentation for KPIs of all installed systems. Update savings according to as-built/commissioned conditions.
Post-Acceptance Activities	Analyze KPI performance via trend data analysis, BMS data review, or physical measurements to ensure that savings persist; update models as necessary.	Staff will be interviewed to verify operation, such that savings persist.
Frequency and Duration	One-time pre/post measurements during the Post-Install period. For subsequent years, BMS data or physical measurements will be collected to analyze KPI performance over a representative period.	One-time pre/post measurements during the Post-Install Process. One-time, on-site inspection during Performance Year One only. For subsequent years, Staff will be interviewed to confirm functionality.
Sampling Plan	KPIs will be observed at a directed sample of units, selected to represent a substantive proportion of the total FIM savings. A sample to include the largest units at the facilities with the greater apportionment of FIM savings will be selected to demonstrate that FIM savings are achieved. Additional samples will be collected should an unsatisfactory variation be found in the original sample.	KPIs will be measured on a sample of the most common population types. For less common population types, KPIs measurements will be based on a table of manufacturers' data. The measured population types will represent more than 75% of FIM savings. For each population, the number of samples measured will be sufficient to achieve 20% precision at an 80% confidence; the assumed coefficient of variation (Cv) is 0.5. Additional samples will be collected if the Cv of the original sample exceeds 0.5.

Customized Measurement & Verification Plan

The options recommended for each FIM are as follows. For details of FIM scope, savings calculations, and baselines, refer to Schedule B.

FIM	Facility	RECOMMENDED OPTION	Key KPI	Baseline Values	Proposed Values
FIM 01.03 High Efficiency Furnace	OJM, WRBS	Option A, Tier II	Thermal Efficiency	80%	96 %
			Heating Source	Electric Unit Heaters	Gas Heat
FIM 03.01 Replace rooftop Units	WCC, WSS	Stipulated	Heat Source	Electric Unit Heaters	Gas Heat
			Economizing	No Economizing in place	Economizing; High limit 75F low limit 0F Max OAT = 100% Min OAT = 3%
			AHU Fan TSP Fan Efficiency EER	1.11 45% 11.5	1.599 75% 12.5
FIM 04.01 Network Programmable Thermostats	DAO	Option A, Tier II	Temperature setbacks	Occupied hours: 74F Weekday Unoccupied hours: 68F Weekend unoccupied hours: 65F	Occupied hours: 74F Unoccupied Hours: 65F
FIM 04.02 Seasonal Temperature Setbacks	OJM	Stipulated	Space temperature	Building HVAC is running September-May	Building HVAC is not running after Labor Day or before Memorial Day
FIM 04.03 Weekend Temperature Setback	JUD	Option A, Tier II	Temperature Setpoint	72F during unoccupied hours	65F during unoccupied hours

FIM	Facility	RECOMMENDED OPTION	Key KPI	Baseline Values	Proposed Values
FIM 04.05 Update / repair Trane controls	WCO	Stipulated	Economizer Operation	Economizing: 40-65F SAT Reset: 50/55F	Economizing: 0-75F SAT Reset 55/60F
			Chilled Water Temperature Supply	No reset enabled, constant 42F	CHW Reset to 47F when building load is less than 80%
			Fan Speed Modulation	Min AHU CFM: 50%	Min AHU CFM (FCU): 25%
FIM 09.01 Lighting & Lighting Controls	CDL, DAO, FAB, FOT, GCC, GRBG, GW1, GW2, HC4H, LEC, LVRB, OJM, SPA, WCC, WCO, WRBS, WSS, WTS, WWTP	Option A, Tier II	Fixture Wattage	See audit for details	See audit for details
FIM 09.02 Exterior LED Field Lighting Upgrades	BPA, GCC, HC4H	Option A, Tier II	Fixture Wattage	See audit for details	See audit for details
FIM 10.01 Solar PV Installation	JUD, LEC, WSS, WCC	Option A, Tier II	Solar Production Capability	0 kWh	Power Production (kW) (see IGA for details)
			Solar Production Capability	0 kWh	Power Production (kW) (see IGA for details)
			Solar Production Capability	0 kWh	Power Production (kW) (see IGA for details)
			Solar Production Capability	0 kWh	Power Production (kW) (see IGA for details)
FIM 13.01 Air Sealing and weather- stripping	CDL, CMB, CPB, FAB, GRBG, LEC, LVRB, OJM, WCC, WCO, WRBS, WSS	Option A, Tier II	Seal Area	See audit for details	See audit for details
FIM 18.01 Domestic Water Conservation	DAO, FOT, LEC, OJM, WCC, WCO, WRBS, WSS, WTS	Option A, Tier II	Fixture flush/flow rates	See audit for details	See audit for details

FIM	Facility	RECOMMENDED OPTION	Key KPI	Baseline Values	Proposed Values
Notes: GCC= Gardner Community Center, OJM= Old Jail House Museum, JUD= Judicial Building, FAB= Fire/ Ambulance, WRBS= Walsenburg Road and Bridge Shop, GW1= Gardner Well 1, GW2= Gardner Well 2, FOT= Fox Theater, SPA= Spanish Peaks Airfield- Airport Terminal, WCC= Walsenburg Community Center, WTS= Waste Transfer Station, WSS= Social Services, LEC= Law Enforcement Center, DAO= District Attorney's Office, HC4H= HCH4 Building, LVRB= La Veta Road and Bridge Shop, WCO= Walsenburg Courthouse, GRBG= Gardner Road and Bridge Garage, BPA= Ball Park, CDL= Cuchara Day Lodge, CMB= Cuchara Maintenance Building, CPB= Cuchara Pump Building, WWTP= Waste Water Treatment Plant					

MEASURES RECOMMENDED FOR OPTION A

The following measure(s) can be defined by a select few KPIs measurable at the retrofit level; and once savings calculations are updated with the KPI measurements, these FIMs have a high certainty of savings and persistence.

FIM 01.03 HIGH EFFICIENCY FURNACE

The Option A Tier II approach is recommended for this FIM. The KPIs that will be measured are:

- Thermal efficiency (as measured through efficiency curves)

Typical KPIs that will be stipulated are:

- Building load
- Operation times

This measure will be implemented in the following buildings: Old Jail House Museum and Walsenburg Road & Bridge Shop. A model was made to determine energy savings associated with installing higher efficiency furnaces. Combustion efficiency will be measured and compared to the manufacturers issued efficiency.

FIM 04.01 NETWORK PROGRAMMABLE THERMOSTATS

The Option A Tier II approach is recommended for this FIM. The KPIs that will be measured are:

- Temperature setback

Typical KPIs that will be stipulated are:

- Occupancy times

This measure will be implemented in the following buildings: **District Attorney's Office**. A model was made to determine energy savings associated with setting back the heating and cooling setpoints in each building. Through the commissioning process, the above setbacks will be implemented in each facility which will be used to update the model. As part of Option A tier II, the Building Automation System will be used periodically during the throughout the first year of performance. For subsequent years, staff will be interviewed to verify performance.

FIM 04.03 SEASONAL TEMPERATURE SETBACKS

The Option A Tier II approach is recommended for this FIM. The KPIs that will be measured are:

- Temperature setback

Typical KPIs that will be stipulated are:

- Occupancy times

This measure will be implemented in the following buildings: Judicial Building. A model was made to determine energy savings associated with setting back the heating and cooling setpoints in each building. Through the commissioning process, the above setbacks will be implemented in each facility which will be used to update the model. As part of Option A tier II, the Building Automation System will be used periodically during the throughout the first year of performance. For subsequent years, staff will be interviewed to verify performance.

FIM 09.01 LIGHTING & LIGHTING CONTROLS

The Option A Tier II approach is recommended for this FIM. The KPIs that will be measured are:

- Fixture, lamp, and ballast type and wattage

Typical KPIs that will be stipulated are:

- Fixture, lamp, and ballast quantity
- Burn hours

During the audit, the quantities of existing fixtures, lamps, and ballasts are counted over several site walks. The quantities are recorded in the lighting line-by-line spreadsheet used to calculate savings. This process is repeated during the construction period to measure the counts of installed fixtures, lamps, and ballasts. Fixture wattage will be measured pre- and post-retrofit. Refer to the lighting line-by-line for the full list of fixture types and wattage. The line-by-line is updated according to post-retrofit conditions then the installed scope and savings are compared to the proposal. Any major variations are explained in the M&V post-install report and accounted for in the verified savings calculation. Once the final line-by-line is accepted, no further measurements are performed. Following the Option A Tier II approach, an inspection is conducted in the first performance year on a sample of fixtures and the results are reported. For subsequent performance years, staff are interviewed to verify FIM performance.

FIM 09.02 EXTERIOR LED FIELD LIGHTING UPGRADES

The Option A Tier II approach is recommended for this FIM. The KPIs that will be measured are:

- Fixture, lamp, and ballast type and wattage

Typical KPIs that will be stipulated are:

- Fixture, lamp, and ballast quantity
- Burn hours

During the audit, the quantities of existing fixtures, lamps, and ballasts are counted over several site walks. The quantities are recorded in the lighting line-by-line spreadsheet used to calculate savings. This process is repeated during the construction period to measure the counts of installed fixtures, lamps, and ballasts. . . . Fixture wattage will be measured pre- and post-retrofit. Refer to the lighting line-by-line for the full list of fixture types and wattage. The line-by-line is updated according to post-retrofit conditions then the installed scope and savings are compared to the proposal. Any major variations are explained in the M&V post-install report and accounted for in the verified savings calculation. Once the final line-by-line is accepted, no further measurements are performed. Following the Option A Tier II approach, an inspection is conducted in the first performance year on a sample of fixtures and the results are reported. For subsequent performance years, staff are interviewed to verify FIM performance.

FIM 10.01 SOLAR PV INSTALLATION

The Option A Tier II approach is recommended for this FIM. The KPIs that will be measured are:

- Solar production capacity
- Array size

Typical KPIs that will be stipulated are:

- Mounting parameters: Azimuth, tilt, tacking
- Weather factors (see Risk, Responsibility and Performance Matrix Section 2 for more information)

A one-time power reading will be taken at the inverter. AC power output will be tracked at the inverter. Parameters such as cell temperature, irradiance, and weather conditions could also be tracked. Energy models built for each array (based on array maximum power, azimuth, and tilt) will calculate the expected production on a monthly basis.

FIM 13.01 AIR SEALING AND WEATHER-STRIPPING

The Option A Tier II approach is recommended for this FIM. The KPIs are:

- Sealed area

The KPIs that will be stipulated are:

- Zone / space temperature

This measure will be implemented at FAB, GRBG, LEC, LVRB, WCC, WCO, WSS, and WRBS. The area that

will be sealed is measured pre and post retrofit. Refer to the calculations section of the contract for details. A model was created to determine energy savings which will be updated with final, as-built conditions in the post construction phase. The zone or space temperature of these areas is stipulated.

FIM 18.01 DOMESTIC WATER CONSERVATION

The Option A Tier II approach is recommended for this FIM. The KPIs are:

- Flow rates and flush volumes

The KPIs that are stipulated are:

- Flushes/person/day or minutes/person/day

Flow rates and flush volumes are measured pre- and post-retrofit for a statistically significant sample of water fixtures. Refer to the sampling plan section of the M&V report for the type and number of fixtures selected for measurement. Fixture type use, flushes/person/day, and minutes/person/day are stipulated based on building use documentation collected during the audit. Refer to the domestic water retrofit scope included in Schedule A for the complete list of fixtures and relevant facility characteristics.

The as-built is updated according to post-retrofit conditions then the installed scope and savings are compared to the proposal. Any major variations are explained in the M&V post-install report and accounted for in the verified savings calculation.

Once the final as-built is accepted, no further measurements are performed. Following the Option A Tier II approach, an inspection is conducted in the first performance year on a sample of fixtures and the results are reported to the County. For subsequent performance years, County staff are interviewed to verify FIM performance.

MEASURES RECOMMENDED FOR STIPULATION

The following measure(s) can be defined as stipulated measures due to their low savings and/or a high certainty of savings and do not merit the additional cost of annual M&V. The M&V effort is limited to one-time verification that the measure is installed and operating; after that time, there is no additional measurement or data collection.

FIM 03.01 REPLACE ROOFTOP UNITS

The Stipulated approach is recommended for this FIM. The KPIs that will be reviewed are:

- Economizing
- Heating source

This measure will be implemented at the following buildings: Walsenburg Community Center and Fiesta Park and Social Services. A model was made to determine energy savings associated with implementing controls strategies on the new roof top units and switching the heating source from electric personal heaters to gas heat provided by the new units.

FIM 03.01 WSS REPLACE ROOFTOP UNITS

The Stipulated approach is recommended for this FIM. The KPIs that will be reviewed are:

- AHU Fan Total Static Pressure
- Fan Efficiency
- EER

This measure will be implemented at the following buildings: Walsenburg Community Center and Fiesta Park and Social Services. A model was made to determine energy savings associated with implementing controls strategies on the new roof top units and switching the heating source from electric personal heaters to gas heat provided by the new units.

FIM 04.02 SEASONAL TEMPERATURE SETBACKS

The Stipulated approach is recommended for this FIM. The KPIs that will be reviewed are:

- Space or zone temperature

This measure will be implemented at the Old Jail House Museum. As the facility is not used during the heating season, this building will be set back considerably to reduce heating a space that is not in use. The temperature adjustment strategy is modeled to determine energy savings which will be updated using as-built conditions noted through the commissioning process using the building automation system to verify implementation of said strategies. Once the model is updated, no further measurements will be taken

FIM 04.05 UPDATE / REPAIR TRANE CONTROLS

The Stipulated approach is recommended for this FIM. The KPIs that will be verified are:

- Economizing operation
- Chilled water supply temperature reset
- Fan speed modulation

This measure will be implemented at the Walsenburg Courthouse. The above controls strategies are modeled to determine energy savings which will be updated using as-built conditions noted through the commissioning process using the building automation system to verify implementation of said strategies. Once the model is updated, no further measurements will be taken

SAVINGS CALCULATIONS

All guaranteed savings calculations and assumptions for this project were reviewed and agreed to by County staff and/or a third-party expert reviewer during the development of the project. At that time, McKinstry had provided all calculations and supporting information including all trend data used to develop the basis of these calculations.

SAMPLING PLAN

When retrofits are performed on a large number of fixtures such as lighting luminaires, it is impractical to measure performance of each installation. Instead, performing measurements on a statistically significant sample of fixtures provides high levels of savings certainty without the cost and disruption of individual measurement of every fixture installed. The following tables show the fixture population types and sample sizes calculated to 80% confidence and 20% precision per FEMP M&V Option A sampling guidelines.

FIM 09.01 LIGHTING SAMPLING PLAN

For wattage measurements, populations were counted by

Measurements of wattage are taken according to the sample sizes listed below.

PRE-CONSTRUCTION MEASUREMENTS:

POPULATION TYPE	POPULATION SIZE	SAMPLE SIZE
CFL-2P-H-13W-2L	6	4
Exit-Incan-20W-0-2L	2	2
F-T12-F34-34W-48"-MB-4L	84	10
F-T12-F40-40W-48"-MB-2L	4	3
F-T12-F40-40W-48"-MB-4L	48	10
F-T12-F96-96"-1Pin-EB-2L	8	5
F-T12-F96-96"-1Pin-MB-2L	4	3
F-T5-45.8"-54W-4L	8	5

POPULATION TYPE	POPULATION SIZE	SAMPLE SIZE
F-T8-F32-28W-48"-NLO-2L	74	11
F-T8-F32-28W-48"-NLO-4L	128	11
F-T8-F32-32W-48"-NLO-2L	46	10
F-T8-F32-32W-48"-NLO-4L	64	10
HAL-DBL End T3 R7S Base-1500W-4L	4	3
HAL-DBL End T3 R7S Base-150W-1L	1	1
HAL-DBL End T3 R7S Base-300W-1L	1	1
HAL-DBL End T3 R7S Base-500W-1L	1	1
HAL-SI-PAR 38-90W-1L	4	3
HPS-Med-150W-1L	4	3
HPS-Mogul-200W-1L	1	1
HPS-Mogul-250W-1L	2	2
HPS-Mogul-400W-1L	1	1
Incan-SI-E39-PS25-500W-1L	1	1
Incan-SI-Med-A19-100W-1L	4	3
Incan-SI-Med-A19-60W-1L	28	9
MH-Med-175W-1L	2	2
MH-Med-70W-1L	2	2
MH-Mogul-1500W-3L	3	3
MH-Mogul-1500W-5L	5	4
MH-Mogul-400W-1L	5	4
MH-Mogul-400W-4L	4	3
MV-Mogul-175W-1L	2	2

POST-CONSTRUCTION MEASUREMENTS:

POPULATION TYPE	POPULATION SIZE	SAMPLE SIZE
IN - 1x100LED-WP	2	2
IN - 1x125LED-FLOOD_SLPF	28	11
IN - 1x125LED-FLOOD_TRN	8	5
IN - 1x125LED-Highbay-FIOC	58	10
IN - 1x3LED-EXIT	6	4
IN - 1x50LED-FLOOD_KNK	3	3
IN - 1x50LED-FLOOD_TRN	4	3
IN - 1x50LED-WP	6	4
IN - 1x80LED-BARN	15	7
IN - 1x80LED-BARN_WALL	2	2
IN - 3X500LED-FLOOD	6	4
IN - 4x125LED-FLOOD	9	5
IN - 5X500LED-FLOOD	2	2
KIT - 1X50W_8FT_RET	57	10

POPULATION TYPE	POPULATION SIZE	SAMPLE SIZE
Kit-1x15-RC8	34	9
Kit-1x8.5-RC8	30	9
Lamp-1x15LEDSI-A19	44	9
LAMP-1x15LEDSI-PAR38	22	8
LAMP-1x34LEDSI-EX39	6	4
LAMP-1x9LEDSI-A19	169	11
RET - 1x125LED-PT	3	3
RET - 1x80LED-PT	2	2
RET/1x25LEDSI/A21	9	5
RET-2xLEDT4FT-DW	393	11
RET-4xLEDT4FT-DW	322	11

FIM 18.01 DOMESTIC WATER SAMPLING PLAN

Measurements of flow and flush volume are taken according to sample sizes listed below.

PRE-CONSTRUCTION MEASUREMENTS:

POPULATION TYPE	POPULATION SIZE	SAMPLE SIZE
Faucet – 2.20 gpm	13	8
Tank Toilet – 3.5 gpm	13	8

POST-CONSTRUCTION MEASUREMENTS:

POPULATION TYPE	POPULATION SIZE	SAMPLE SIZE
Faucet – 0.5 gpm	13	8
Tank Toilet – 0.8 gpm	13	8

O&M REPORTING RESPONSIBILITIES

Refer to Material Changes section of the Contract for O&M reporting responsibilities.

CALIBRATION SUPPLEMENT

The analysis of some KPIs will require data collected using the existing BAS. The calibration maintenance of measuring and metering devices that are elements of these systems are the responsibility of the County. McKinstry will provide details of equipment make, model, and calibration for all other devices used as an element of the M&V process.

SCHEDULE OF VERIFICATION REPORTING ACTIVITIES

ITEM	SUBMISSION TIMELINE	COUNTY REVIEW AND ACCEPTANCE PERIOD
Post-Installation Report	60 to 90 days after Completion	30 days
Annual Report	60 to 90 days after conclusion of performance period	30 days

REFERENCES

ITEM	LOCATION
FIM Scope and Description	Scope of Work
FIM Proposed Annual Savings	Scope of Work
Lighting Audit Tables	Scope of Work
Maintenance & Warranty Information	Section 4.5 FIM Description

M&V REPORT CONTENT & FORMAT

The published M&V report shall have the following sections:

- (I) EXECUTIVE SUMMARY**
 - 1) Project summary
 - 2) Summary of guaranteed and verified utility cost savings
 - 3) Comparison of guaranteed and verified savings by FIM and utility type
 - 4) Summary of observations, issues, and recommendations
 - 5) Brief FIM descriptions
 - 6) M&V approach
- (II) DETAILED M&V SECTIONS – BY INDIVIDUAL FIM**
 - 1) Brief FIM descriptions
 - 2) M&V activities overview
 - A) M&V plan overview
 - B) Summary of sampling plan
 - C) Table of KPI measurements
 - 3) Observations, issues, and recommendations
 - 4) Verified savings calculation and methodology
 - A) Calculation and methodology summary
 - B) Guarantee factor details
 - 5) Summary of guaranteed and verified savings for performance year
- (III) APPENDICES**
 - 1) Supporting Documentation
 - A) Testing data, trend charts, and analysis
 - B) BAS screen captures
 - C) Site visit photos
 - 2) Utility Rates

Risk, Responsibility and Performance Matrix

RESPONSIBILITY/DESCRIPTION	CONTRACTOR PROPOSED APPROACH
1. Financial	
<p>a. Interest rates: Neither the contractor nor the County has significant control over prevailing interest rates. Higher interest rates will increase project cost, financing/project term, or both. The timing of the contract execution may impact the available interest rate and project cost.</p>	<p>Use a slightly conservative estimate of interest rate for planning purposes. When financing details have been determined and the rate locked in, McKinstry will update the cashflow and present the impact to the project.</p>
<p>b. Construction costs: The contractor is responsible for determining construction costs and defining a budget. In a fixed-price design/build contract, the County assumes little responsibility for cost overruns. However, if construction estimates are significantly greater than originally assumed, the contractor or the County may find that the project or measure is no longer viable and drop it before contract execution. In any design/build contract, the County loses some design control. Clarify design standards and the design approval process (including changes) and how costs will be reviewed.</p>	<p>McKinstry has coordinated equipment and material selection, completed preliminary designs, and obtained subcontractor bids prior to finalizing costs. Final equipment submittals will be provided to the County for approval prior to placing orders. Direct subcontractor and material costs will be reconciled and reviewed with the County prior to project acceptance. Unused budgets for subcontractor costs or for direct material costs will revert back to contingency.</p>
<p>c. M&V confidence: The County assumes the responsibility to determine the confidence that it desires to have in the M&V program and energy savings determinations. The desired confidence will be reflected in the resources required for the M&V program, and the MCKINSTRY must consider the requirement prior to submittal of the final proposal. Clarify how project savings are being verified (e.g., equipment performance, operational factors, energy use) and the impact on M&V costs.</p>	<p>McKinstry’s approach to the application of M&V will be to verify the performance of the installed FIMs. The M&V Plan details the steps taken in the verification process. The approach to M&V for each FIM is matched with the level of savings and the implementation complexity of the FIM. As applicable, equipment performance is measured and operational factors are tracked through onsite measurements, personnel interviews, and BAS and/or meter data.</p>
<p>d. Energy Related Cost Savings: The County and the contractor may agree that the project will include savings from <i>recurring and/or one-time</i> costs. This may include one-time savings from avoided expenditures for projects that were appropriated but will no longer be necessary. Including one-time cost savings before the money has been appropriated may involve some risk to the County. Recurring savings generally result from reduced O&M expenses or reduced water consumption. These O&M and water savings must be based on actual spending reductions. Clarify sources of non-energy cost savings and how they will be verified.</p>	<p>No one-time cost avoidances are included in the project financials. <u>Lighting O&M Savings</u> Non-energy cost savings include regular O&M expenses for lighting. The O&M savings are based on the reduction in the amount of materials the County would need to purchase to operate the lighting. The annual average cost to maintain the existing and post-retrofit systems was calculated using the rated life of components and the current cost of replacement parts. The calculated savings is the difference between the existing annual average cost of materials and the post-retrofit scenario.</p>
<p>e. Delays: Both the contractor and the County can cause delays. Failure to implement a viable project in a timely manner costs the County in the form of lost savings, and can add cost to the project (e.g., construction interest, re-mobilization). Clarify schedule and how delays will be handled.</p>	<p>McKinstry has mitigated this risk by providing ample schedule contingency within the construction schedule. In addition, construction-period savings will be a reality as FIMs are implemented and will provide a buffer for any potential schedule extensions.</p>
<p>f. Major changes in facility: The County controls major changes in facility use, including closure. Clarify responsibilities in the event of a premature facility closure, loss of funding, or other major change.</p>	<p>In the case of facility closure, loss of funding, or other major changes, McKinstry and the County will have open discussions of FIM reduction, modification, or removal.</p> <p>In the event of major changes in facility use, the energy savings will be calculated based on the baseline and proposed conditions as contained in M&V Plan.</p>

2. Operational							
<p>a. Operating hours: The County generally has control over operating hours. Increases and decreases in operating hours can show up as increases or decreases in “savings” depending on the M&V method (e.g., operating hours multiplied by improved efficiency of equipment vs. whole-building/utility bill analysis). Clarify whether operating hours are to be measured or stipulated and what the impact will be if they change. If the operating hours are stipulated, the baseline should be carefully documented and agreed to by both parties.</p>	<p>Detailed operating hour baselines have been developed for lighting usage; the values were presented to the County to identify the acceptable values to be used in the savings calculations. Savings will be verified at the originally proposed hours regardless of future changes. If operating hours do change, McKinstry may recalculate savings at its discretion to demonstrate the impact of the change.</p> <p>The application of the operating hours varies by type of measures proposed, magnitude of savings, and potential for impact on the overall savings. Operating hours are applied as follows:</p> <table border="1" data-bbox="1361 354 2613 459"> <thead> <tr> <th>Measure Category</th> <th>Baseline</th> <th>Post-Install</th> </tr> </thead> <tbody> <tr> <td>Lighting Burn Hours (FIM 09.01)</td> <td>RFIs, staff discussions</td> <td>Stipulated</td> </tr> </tbody> </table>	Measure Category	Baseline	Post-Install	Lighting Burn Hours (FIM 09.01)	RFIs, staff discussions	Stipulated
Measure Category	Baseline	Post-Install					
Lighting Burn Hours (FIM 09.01)	RFIs, staff discussions	Stipulated					
<p>b. Load: Equipment loads can change over time. The County generally has control over hours of operation, conditioned floor area, intensity of use (e.g., changes in occupancy or level of automation). Changes in load can show up as increases or decreases in “savings” depending on the M&V method. Clarify whether equipment loads are to be measured or stipulated and what the impact will be if they change. If the equipment loads are stipulated, the baseline should be carefully documented and agreed to by both parties.</p>	<p>All savings calculations assume that the equipment loads are constant for the duration of the project's performance period. The County assumes all risk and responsibility to manage the equipment loads at or below the baseline conditions documented in individual savings calculations. If actual equipment loads, as defined in the M&V plan, are higher than baseline values, all savings will be capped at the baseline load conditions. If equipment load is lower than baseline, all savings will be capped at baseline load conditions, as the facility now has the potential to increase the loads to the baseline values without impact on the actual savings. If equipment loads do change, McKinstry may recalculate savings at its discretion to demonstrate the impact of the change.</p>						
<p>c. Weather: A number of energy efficiency measures are affected by weather. Neither the contractor nor the County has control over the weather. Should the County agree to accept risk for weather fluctuations, it shall be contingent upon aggregate payments not exceeding aggregate savings. Clearly specify how weather corrections will be performed.</p>	<p>Savings calculations for FIM 13.01 Air Sealing and Weather Stripping are based on are based on Typical Meteorological Year (TMY) weather files for the weather station closest to the site or the local airport. All post-install calculations will continue to use the TMY weather files as applicable.</p> <p>Interactive heating effects for FIM 09.01 and 09.02 are based on published ASHRAE “Fraction of Annual Lighting Heat to Cooling and Heating” values.</p> <p>Solar M&V and Weather Normalization</p> <p>The production of solar arrays is highly dependent upon the available solar irradiance and other weather factors of which neither McKinstry nor the Customer has control. Savings calculations for FIM 10.01 are based on Typical Meteorological Year (TMY) weather files that are the best statistical fit for a specific project site. The guaranteed solar production in kWh and the associated dollar savings represent the estimated performance from a TMY based energy production model with a guarantee factor and degradation factor applied. Utilizing project site integrated data acquisition systems that include weather station components, McKinstry will monitor the relevant weather parameters in order to normalize the verified solar production for <u>estimated</u> generation, adjusting for other non-routine procedures as necessary; i.e. system down time events caused by non-weather-related issues. The verified savings for a performance period will be reported as the actual solar production adjusted to reflect the typical weather conditions for the year. Neither McKinstry nor the Customer shall be penalized or credited for weather conditions that deviate from the estimated TMY conditions that result in excess or insufficient availability of solar irradiance, weather parameters, or other non-weather-related issues. If damage from extreme weather events occurs during any performance period, McKinstry will not be responsible for the loss of energy production. If outages in solar monitoring system data occur throughout the guaranteed term, such periods will be excluded from the analysis.</p> <p>If outages in solar monitoring system data occur throughout the guaranteed term, such periods will be excluded from the analysis. If utility required curtailment of power/energy occurs during any performance period, McKinstry will not be responsible for the loss of energy production. If utility loss of power due to utility outage or customer caused outage occurs during any performance period, McKinstry will not be responsible for the loss of energy production.</p>						
<p>d. User participation: Many facility improvement measures require user participation to generate savings (e.g., control settings). The savings can be variable, and the contractor may be unwilling to invest in these measures. Clarify what degree of user participation is needed and utilize monitoring and training to mitigate risk. If performance is stipulated, document and review assumptions carefully and consider M&V to confirm the capacity to save (e.g., confirm that the controls are functioning properly).</p>	<p>County maintenance of Solar PV systems is required after the initial period of O&M services provided by McKinstry. For all Solar PV FIMs proposed, annual routine maintenance requirements will be identified and documented along with preventative maintenance activities in order to maintain warranties and optimal system performance. To ensure the County understands the risk, McKinstry will provide training, videotaping, and operating guides. McKinstry may review operating logs on a periodic basis during the performance period.</p> <p>If vandalism or other unforeseeable accidents occur during any performance period, McKinstry will not be responsible for the loss of energy production.</p>						

3. Performance	
<p>a. Equipment performance: The contractor has control over the selection of equipment and is responsible for its proper installation, commissioning, and performance. The contractor has responsibility to demonstrate that the new improvements meet expected performance levels including specified equipment capacity, standards of service, and efficiency. Clarify who is responsible for initial and long-term performance, how it will be verified, and what will be done if performance does not meet expectations.</p>	<p>McKinstry will select major equipment that will have life expectancy that meets or exceeds the contract term, is based on the requirements of the County, facility needs, and provides enhancement of the operation and savings of the FIMs. McKinstry will perform periodic checks to ensure that performance does not degrade impacting savings, and verify routine preventive maintenance (PM) is performed by the County in accordance with industry and OEM specifications and per subsection C below. If, in a case of equipment non-performance, McKinstry may contact the OEM for required repairs to return equipment to OEM performance standards or replace to remedy performance deficiencies. McKinstry will secure long-term warranties from equipment manufacturers if warranted, and will also ensure these warranties are transferrable to the County at project acceptance.</p>
<p>b. Operations: Performance of the day-to-day operations activities is negotiable and can impact performance. However, the contractor bears the ultimate risk regardless of which party performs the activity. Clarify which party will perform equipment operations, the implications of equipment control, how changes in operating procedures will be handled, and how proper operations will be assured.</p>	<p>McKinstry has assumed the County will maintain operation of all FIMs. McKinstry has included the first 3 years of preventative O&M for the Solar PV systems. The County will then be responsible for providing or procuring Solar PV O&M services after the initial period to keep the systems operating as expected. McKinstry will provide operating and PM guidelines, and initial training to ensure that the systems are operated and maintained per OEM required guidelines that will ensure savings are retained.</p>
<p>c. Preventive Maintenance: Performance of day-to-day maintenance activities is negotiable and can impact performance. However, the contractor bears the ultimate risk regardless of which party performs the activity. Clarify how long-term preventive maintenance will be assured, especially if the party responsible for long-term performance is not responsible for maintenance (e.g., contractor provides maintenance checklist and reporting frequency). Clarify who is responsible for performing long-term preventive maintenance to maintain operational performance throughout the contract term. Clarify what will be done if inadequate preventive maintenance impacts performance.</p>	<p>McKinstry will provide all necessary training on the maintenance requirements of the equipment for operation by the County. Should the maintenance requirements be inadequate, McKinstry will notify the County immediately and will work with the County to determine the best approach to ensure proper maintenance practices are adhered to in accordance with prescribed practices by McKinstry and/or OEM specifications. The County shall be responsible for all annual and preventative maintenance activities on the solar systems after the period of O&M services provided by McKinstry.</p>
<p>d. Equipment Repair and Replacement: Performance of day-to-day repair and replacement of contractor-installed equipment is negotiable; however, it is often tied to project performance. The contractor bears the ultimate risk regardless of which party performs the activity. Clarify who is responsible for performing replacement of failed components or equipment replacement throughout the term of the contract. Specifically address potential impacts on performance due to equipment failure. Specify expected equipment life and warranties for all installed equipment. Discuss replacement responsibility when equipment life is shorter than the term of the contract.</p>	<p>1) McKinstry owns all warranty costs during the warranty period. All warranty activities beyond the warranty period will be transferred to the County and will be administered by the County.</p> <p>2) All equipment replacement costs due to equipment reaching the end of its useful life are the County's responsibility. Equipment life expectancies will be identified after design and equipment selections have been completed. Upon project acceptance, McKinstry will provide a detailed FIM list with warranty duration including start and end dates and determined warranty coverage with any exclusions or conditions that would void the warranty. This information will be contained in the final O&M manuals.</p>

EPC SCHEDULE E CODE COMPLIANCE REQUIREMENTS

Code Compliance Requirement

It is the intent of this schedule to initially determine the requirements for code review, construction permits, and the cost for said items with the building official and the code authority. An EPC project might include replacement of existing systems; it is not within the ESCO's or Principal Representative's authority to waive any code compliance or local permit requirements. The code official should be contacted after the list of recommended measures is developed to confirm the requirements and the potential cost of code work. While the code review agents are expected to conduct their work with due diligence, this in no way relieves the ESCO and any contractors from their obligations to design and construct the project in conformance with the adopted codes nor is it intended to transfer any duties, obligations, or liabilities of the design and construction teams to the code review agents.

ECM Name	Facility	Code Required (Y/N - Type)	Documentation Review Cost	Field Inspection/ Permit Cost	Total ECM Cost *
09.02-BPA Exterior LED Field Lighting Upgrades	Ball Park	Y-IECC	Included in ECM Cost	Included in ECM Cost	\$ 67,444
BALL PARK Total					\$ 67,444
09.01-CDL LED Lighting Upgrades	Cuchara Day	Y-IECC	Included in ECM Cost	Included in ECM Cost	\$ 22,074
13.01-CDL Air Sealing and Weather-stripping	Lodge	N	N/A	N/A	\$ 3,478
CUCHARA DAY LODGE Total					\$ 25,552
13.01-CMB Air Sealing and Weather-stripping	Cuchara	N	N/A	N/A	\$ 11,195
20.02-CMB Design Standards Criteria	Maintenance	N	N/A	N/A	\$ 4,950
CUCHARA MAINTENANCE BLDG Total					\$ 16,145
11.01-CPB Repair Electrical Service	Cuchara Pump	Y-NEC	Included in ECM Cost	Included in ECM Cost	\$ 63,960
13.01-CPB Air Sealing and Weather-stripping	Building	N	N/A	N/A	\$ 41,857
20.02-CPB Design Standards Criteria		N	N/A	N/A	\$ 4,950
CUCHARA PUMP BLDG Total					\$ 110,767
04.01-DAO Network Programmable Thermostat	District	N	N/A	N/A	\$ 1,994
09.01-DAO LED Lighting Upgrades	Attorney's Office	Y-IECC	Included in ECM Cost	Included in ECM Cost	\$ 11,181
18.01-DAO Domestic Water Upgrades		N	N/A	N/A	\$ 78
DISTRICT ATTORNEYS OFFICE Total					\$ 13,253
09.01-FAB LED Lighting Upgrades	Fire Ambulance	Y-IECC	Included in ECM Cost	Included in ECM Cost	\$ 12,722
13.01-FAB Air Sealing and Weather-Stripping	Building	N	N/A	N/A	\$ 8,241
FIRE/AMBULANCE Total					\$ 20,963
09.01-FOT LED Lighting Upgrades	Fox Theatre	Y-IECC	Included in ECM Cost	Included in ECM Cost	\$ 10,027
18.01-FOT Domestic Water Upgrades		N	N/A	N/A	\$ 156
FOX THEATRE Total					\$ 10,183
09.01-GCC LED Lighting Upgrades	Gardner	Y-IECC	Included in ECM Cost	Included in ECM Cost	\$ 9,622
09.02-GCC Exterior LED Field Lighting Upgrades	Community	Y-IECC	Included in ECM Cost	Included in ECM Cost	\$ 55,768
GARDNER COMMUNITY CENTER Total					\$ 65,390
09.01-GRBG LED Lighting Upgrades	Gardner Road &	Y-IECC	Included in ECM Cost	Included in ECM Cost	\$ 3,202
13.01-GRBG Air Sealing and Weather-stripping	Bridge	N	N/A	N/A	\$ 16,340
GARDNER ROAD & BRIDGE GARAGE Total					\$ 19,542
01.04-GW1 Remove Electric Unit Heater	Gardner Well #1	N	N/A	N/A	\$ 1,071
09.01-GW1 LED Lighting Upgrades		Y-IECC	Included in ECM Cost	Included in ECM Cost	\$ 568
GARDNER WELL 1 Total					\$ 1,639
09.01-GW2 LED Lighting Upgrades	Gardner Well #2	Y-IECC	Included in ECM Cost	Included in ECM Cost	\$ 270
GARDNER WELL 2 Total					\$ 270
09.01-HC4H LED Lighting Upgrades	Huerfano County	Y-IECC	Included in ECM Cost	Included in ECM Cost	\$ 51,334
09.02-HC4H Exterior LED Field Lighting Upgrades	4H Complex	Y-IECC	Included in ECM Cost	Included in ECM Cost	\$ 38,055
13.06-HC4H Insulation and Fans		Y-IECC, NEC	Included in ECM Cost	Included in ECM Cost	\$ 103,534
HC 4H BUILDING Total					\$ 192,923
22.01- PowerED	Huerfano County	N	N/A	N/A	\$ 34,796
22.02- FCA	All Bldgs	N	N/A	N/A	\$ 23,804
30.01-Future Cost Increase Allowance		N	N/A	N/A	\$ -
HUERFANO ALL BLDGS Total					\$ 58,600
04.03-JUD Weekend Temperature Setback	Judicial Bldg	N	N/A	N/A	\$ -
10.01-JUD Solar Photovoltaic Systems		Y-NEC	Included in ECM Cost	Included in ECM Cost	\$ 107,499
JUDICIAL BUILDING Total					\$ 107,499

ECM Name	Facility	Code Required (Y/N - Type)	Documentation Review Cost	Field Inspection/ Permit Cost	Total ECM Cost *
09.01-LVRB LED Lighting Upgrades	La Veta Road & Bridge	Y-IECC	Included in ECM Cost	Included in ECM Cost	\$ 14,202
13.01-LVRB Air Sealing and Weather-stripping		N	N/A	N/A	\$ 3,001
LA VETA ROAD & BRIDGE GARAGE Total					\$ 17,203
03.02-LEC Refurbish Air Handling Units	Law Enforcement Center	N	N/A	N/A	\$ 120,493
09.01-LEC LED Lighting Upgrades		Y-IECC	Included in ECM Cost	Included in ECM Cost	\$ 98,618
10.01-LEC Solar Photovoltaic Systems		Y-NEC	Included in ECM Cost	Included in ECM Cost	\$ 109,409
13.01-LEC Air Sealing and Weather-stripping		N	N/A	N/A	\$ 16,864
18.01-LEC Domestic Water Upgrades		N	N/A	N/A	\$ 49,257
20.04-LEC Roof Hatch Safety Rails		Y-IBC	Included in ECM Cost	Included in ECM Cost	\$ 8,481
LAW ENFORCEMENT CENTER Total					\$ 403,122
01.03-OJM High Efficiency Furnace	Old Jail House Muesuem	Y-IMC, NEC	Included in ECM Cost	Included in ECM Cost	\$ 22,137
04.02-OJM Seasonal Temperature Setback		N	N/A	N/A	\$ -
09.01-OJM LED Lighting Upgrades		Y-IECC	Included in ECM Cost	Included in ECM Cost	\$ 14,968
13.01-OJM Air Sealing and Weather-stripping		N	N/A	N/A	\$ 5,621
1+B2:G618.01-OJM Domestic Water Upgrades		N	N/A	N/A	\$ 2,889
OLD JAIL HOUSE/MUSEUM Total					\$ 45,615
03.01-WSS Replace Rooftop Units	Walsenburg Social Services	Y-IMC, NEC, NFPA	Included in ECM Cost	Included in ECM Cost	\$ 264,848
09.01-WSS LED Lighting Upgrades		Y-IECC	Included in ECM Cost	Included in ECM Cost	\$ 39,832
10.01-WSS Solar Photovoltaic Systems		Y-NEC	Included in ECM Cost	Included in ECM Cost	\$ 102,371
13.01-WSS Air Sealing and Weather-stripping		N	N/A	N/A	\$ 2,906
18.01-WSS Domestic Water Upgrades		N	N/A	N/A	\$ 313
SOCIAL SERVICES Total					\$ 410,270
09.01-SPA LED Lighting Upgrades	Spanish Peaks Airfield	Y-IECC	Included in ECM Cost	Included in ECM Cost	\$ 4,264
SPANISH PEAKS AIRFIELD - AIRPORT TERMINAL Total					\$ 4,264
09.01-WWTP LED Lighting Upgrades	Waste Water Treatment Plant	Y-IECC	Included in ECM Cost	Included in ECM Cost	\$ 1,062
TREATMENT PLANT Total					\$ 1,062
03.01-WCC Replace Rooftop Units	Walsenburge Community Center	Y-IMC, NEC, NFPA	Included in ECM Cost	Included in ECM Cost	\$ 162,154
09.01-WCC LED Lighting Upgrades		Y-IECC	Included in ECM Cost	Included in ECM Cost	\$ 75,541
10.01-WCC Solar Photovoltaic Systems		Y-NEC	Included in ECM Cost	Included in ECM Cost	\$ 122,628
13.01-WCC Air Sealing and Weather-stripping		N	N/A	N/A	\$ 9,289
18.01-WCC Domestic Water Upgrades		N	N/A	N/A	\$ 6,324
20.03-WCC Permanent Ladder		Y-IBC	Included in ECM Cost	Included in ECM Cost	\$ 31,575
WALSENBURG COMMUNITY CENTER & FIESTA PARK Total					\$ 407,511
04.05-WCO Update/ Repair Trane Controls	Walsenburg Courthouse	N	N/A	N/A	\$ 17,865
09.01-WCO LED Lighting Upgrades		Y-IECC	Included in ECM Cost	Included in ECM Cost	\$ 49,928
13.01-WCO Air Sealing and Weather-stripping		N	N/A	N/A	\$ 12,862
13.05-WCO Gutter Repair		Y-NEC	Included in ECM Cost	Included in ECM Cost	\$ 38,173
18.01-WCO Domestic Water Upgrades		N	N/A	N/A	\$ 7,298
WALSENBURG COURTHOUSE Total					\$ 126,126
01.03-WRBS High Efficiency Furnace	Walsenburg Road & Bridge Shop	Y-IMC, NEC	Included in ECM Cost	Included in ECM Cost	\$ 58,686
09.01-WRBS LED Lighting Upgrades		Y-IECC	Included in ECM Cost	Included in ECM Cost	\$ 31,289
13.01-WRBS Air Sealing and Weather-stripping		N	N/A	N/A	\$ 3,763
18.01-WRBS Domestic Water Upgrades		N	N/A	N/A	\$ 7,298
WALSENBURG ROAD & BRIDGE SHOP Total					\$ 101,036
09.01-WTS LED Lighting Upgrades	Waste Water Treatment Plant	Y-IECC	Included in ECM Cost	Included in ECM Cost	\$ 19,851
18.01-WTS Domestic Water Upgrades		N	N/A	N/A	\$ 78
WASTE TRANSFER STATION Total					\$ 19,929

* Costs include contingency

Total \$ 2,246,308

Item 7i.

A ITEM NO.	B DESCRIPTION	C SCHEDULED VALUE	E WORK COMPLETED		F MATERIALS PRESENTLY STORED (Not in D or E)	G TOTAL COMPLETED AND STORED TO DATE (D+E+F)		H BALANCE TO FINISH (C-G)	RETAINAGE 5.00%
			D FROM PREVIOUS APPLICATION	THIS PERIOD		% (G/C)			
1	Pre-Construction Costs								
2	Bond	\$ 25,500				\$ -	0%	\$ 25,500	\$ -
3	Design and Engineering	\$ 152,900				\$ -	0%	\$ 152,900	\$ -
4	Pre-Construction Services	\$ 57,400				\$ -	0%	\$ 57,400	\$ -
5	Other Pre-Construction Costs	\$ 57,350				\$ -	0%	\$ 57,350	\$ -
6	Construction Costs								
7	Trade Subcontracts								
7a	01.03 High Efficiency Furnace	\$ 62,172				\$ -	0%	\$ 62,172	\$ -
7b	01.04 Remove Electric Unit Heater	\$ 595				\$ -	0%	\$ 595	\$ -
7c	03.01 Replace Rooftop Units	\$ 189,023				\$ -	0%	\$ 189,023	\$ -
7d	03.02 Refurbish Air Handling Units	\$ 66,941				\$ -	0%	\$ 66,941	\$ -
7e	04.01 Network Programmable Thermostat	\$ 1,108				\$ -	0%	\$ 1,108	\$ -
7f	04.05 Update/ Repair Trane Controls	\$ 10,509				\$ -	0%	\$ 10,509	\$ -
7g	09.01 LED Lighting Upgrades	\$ 254,355				\$ -	0%	\$ 254,355	\$ -
7h	09.02 Exterior LED Field Lighting Upgrades	\$ 79,835				\$ -	0%	\$ 79,835	\$ -
7i	10.01 Solar Photovoltaic Systems	\$ 277,677				\$ -	0%	\$ 277,677	\$ -
7j	11.01 Repair Electrical Service	\$ 35,534				\$ -	0%	\$ 35,534	\$ -
7k	13.01 Air Sealing and Weather-stripping	\$ 73,198				\$ -	0%	\$ 73,198	\$ -
7l	13.05 Gutter Repair	\$ 21,207				\$ -	0%	\$ 21,207	\$ -
7m	13.06 Insulation and Fans	\$ 78,435				\$ -	0%	\$ 78,435	\$ -
7n	18.01 Domestic Water Upgrades	\$ 40,939				\$ -	0%	\$ 40,939	\$ -
7o	20.02 Design Standards Criteria	\$ 9,900				\$ -	0%	\$ 9,900	\$ -
7p	20.03 Permanent Ladder	\$ 24,289				\$ -	0%	\$ 24,289	\$ -
7q	20.04 Roof Hatch Safety Rails	\$ 6,524				\$ -	0%	\$ 6,524	\$ -
7s	22.01 PowerED	\$ 34,796				\$ -	0%	\$ 34,796	\$ -
7t	22.02 FCA	\$ 23,804				\$ -	0%	\$ 23,804	\$ -
8	Construction Management	\$ 134,000				\$ -	0%	\$ 134,000	\$ -
9	Project Engineering	\$ 38,163				\$ -	0%	\$ 38,163	\$ -
10	General Conditions	\$ 28,600				\$ -	0%	\$ 28,600	\$ -
11	Other Construction Costs	\$ 31,661				\$ -	0%	\$ 31,661	\$ -
12	Construction Completion	\$ 76,500				\$ -	0%	\$ 76,500	\$ -
13	Warranty	\$ 19,360				\$ -	0%	\$ 19,360	\$ -
14									
15	Profit	\$ 191,227				\$ -	0%	\$ 191,227	\$ -
16	Contingency	\$ 95,614				\$ -	0%	\$ 95,614	\$ -
17	TEA Audit	\$ 47,194				\$ -	0%	\$ 47,194	\$ -
18									
19									
20									
Total:		\$ 2,246,308	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,246,308	\$ -

EPC Schedule G: Proposed Financial Cost and Cash Flow Analysis

The tables below are examples of information that should be included in the Projected Financial Cost and Cash Flow Analysis schedule. The presented information could be new on the table or copied/summarized from previous schedules. The ESCO should complete this table, or present equivalent information in any format provided that it presents all the required information.

Table 1 – Project Costing Detail

Project Summary	TEA Contract % Maximum		Estimated %	Amount
<i>Technical Energy Audit</i>	-		-	\$47,194
Pre-Construction Costs	-		-	-
Design and Engineering	8.0%		8.0%	\$152,900
Pre-Construction Services	3.0%		3.0%	\$57,400
Other Pre-Construction Costs	3.0%		3.0%	\$57,350
			<i>Pre-Construction Cost Sub-Total</i>	<i>\$267,650</i>
Construction Costs	-		-	-
Trade Subcontracts	-		33.8%	\$645,419
Design/Build Subcontracts	-		33.8%	\$645,419
Direct Purchase Equipment	-		0.0%	\$0
Construction Management	7.0%		7.0%	\$134,000
Project Engineering	2.0%		2.0%	\$38,163
General Conditions	1.5%		1.5%	\$28,600
Construction Completion	4.0%		4.0%	\$76,500
Other Construction Costs	4.0%		4.0%	\$76,521
			<i>Construction Cost Subtotal</i>	<i>\$1,644,623</i>
Estimated Project Amount				\$1,912,273
<i>Profit</i>	10.0%		10.0%	<i>\$191,227</i>
<i>Contingency</i>	5.0%		5.0%	<i>\$95,614</i>
Total Funded Amount (Before Incentives)	-		-	\$2,246,308

Project Cash Flow

General Inputs	
EPC Construction Cost	\$2,246,308
3rd Party Fee (%)	0.0%
3rd Party Fee (\$)	\$0
DOLA Grant	\$750,000
Customer Capital	\$150,000
Incentives	\$15,732
Constr. Period Int. (9 mo.)	\$0
Net Financed Amount	\$1,330,576
USDA Revolving Loan Grant Fund	\$299,935
USDA 0% Interest Loan	\$1,030,641
Years of Analysis	25
Finance Term (Yrs)	10
Payment Type	Fixed
Interest Rate	0.0%

Annual Savings	
Baseline Utility Spend	\$196,657
Electric	\$54,334
Natural Gas & Propane	\$909
Water & Sewer	\$1,372
O&M	\$8,228

Escalation Rates	
Electric	3.0%
Natural Gas & Propane	3.0%
Water & Sewer	3.0%
O&M	3.0%
O&M Last Year	25
Measurement & Verification	3.0%
Maintenance Service	3.0%

Measurement & Verification	
Year 1 M&V Cost	\$4,754
Year 2 M&V Cost	\$3,120
3rd Party Fee (%)	0.0%
M&V End Year	3
Maintenance Service Cost	\$2,000

Year	Annual Savings							Maintenance Service Agreement Cost	M&V Cost	Total Annual Savings Less M&V & Maintenance	Cash Flow Analysis							
	Electric	Nat Gas	Water & Sewer	Total Utility Savings	O&M	Inflation Reduction Act Direct Payment	Total Savings *				Interest	Revolving Loan Fund Payment	0% Interest Loan Payment	Total Loan Payment	Loan Payment Funded by Energy Savings	County Capital	Loan Balance	Annual Cash Flow
0	\$0	\$0	\$0	\$0	\$0	\$0	\$16,122	\$0	\$0	\$16,122	\$0	\$0	\$0	\$0	\$0	(\$150,000)	\$1,330,576	(\$133,878)
1	\$54,334	\$909	\$1,372	\$56,614	\$8,228	\$112,386	\$177,227	(\$2,000)	(\$4,754)	\$170,473	\$0	(\$29,994)	(\$103,064)	(\$133,058)	(\$170,473)	\$37,415	\$1,197,518	\$37,415
2	\$55,964	\$936	\$1,413	\$58,312	\$8,474	\$0	\$66,786	(\$2,060)	(\$3,120)	\$61,606	\$0	(\$29,994)	(\$103,064)	(\$133,058)	(\$61,606)	(\$71,451)	\$1,064,461	(\$71,451)
3	\$57,642	\$964	\$1,455	\$60,061	\$8,729	\$0	\$68,790	(\$2,122)	(\$3,214)	\$63,454	\$0	(\$29,994)	(\$103,064)	(\$133,058)	(\$63,454)	(\$69,603)	\$931,403	(\$69,603)
4	\$59,372	\$993	\$1,499	\$61,863	\$8,990	\$0	\$70,854	\$0	\$0	\$70,854	\$0	(\$29,994)	(\$103,064)	(\$133,058)	(\$70,854)	(\$62,204)	\$798,346	(\$62,204)
5	\$61,153	\$1,023	\$1,544	\$63,719	\$9,260	\$0	\$72,979	\$0	\$0	\$72,979	\$0	(\$29,994)	(\$103,064)	(\$133,058)	(\$72,979)	(\$60,078)	\$665,288	(\$60,078)
6	\$62,987	\$1,053	\$1,590	\$65,631	\$9,538	\$0	\$75,168	\$0	\$0	\$75,168	\$0	(\$29,994)	(\$103,064)	(\$133,058)	(\$75,168)	(\$57,889)	\$532,230	(\$57,889)
7	\$64,877	\$1,085	\$1,638	\$67,599	\$9,824	\$0	\$77,424	\$0	\$0	\$77,424	\$0	(\$29,994)	(\$103,064)	(\$133,058)	(\$77,424)	(\$55,634)	\$399,173	(\$55,634)
8	\$66,823	\$1,117	\$1,687	\$69,627	\$10,119	\$0	\$79,746	\$0	\$0	\$79,746	\$0	(\$29,994)	(\$103,064)	(\$133,058)	(\$79,746)	(\$53,311)	\$266,115	(\$53,311)
9	\$68,828	\$1,151	\$1,737	\$71,716	\$10,422	\$0	\$82,139	\$0	\$0	\$82,139	\$0	(\$29,994)	(\$103,064)	(\$133,058)	(\$82,139)	(\$50,919)	\$133,058	(\$50,919)
10	\$70,893	\$1,185	\$1,789	\$73,868	\$10,735	\$0	\$84,603	\$0	\$0	\$84,603	\$0	(\$29,994)	(\$103,064)	(\$133,058)	(\$84,603)	(\$48,455)	(\$0)	(\$48,455)
11	\$73,020	\$1,221	\$1,843	\$76,084	\$11,057	\$0	\$87,141	\$0	\$0	\$87,141	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$87,141
12	\$75,210	\$1,258	\$1,898	\$78,366	\$11,389	\$0	\$89,755	\$0	\$0	\$89,755	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$89,755
13	\$77,467	\$1,295	\$1,955	\$80,717	\$11,730	\$0	\$92,448	\$0	\$0	\$92,448	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$92,448
14	\$79,791	\$1,334	\$2,014	\$83,139	\$12,082	\$0	\$95,221	\$0	\$0	\$95,221	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$95,221
15	\$82,184	\$1,374	\$2,075	\$85,633	\$12,445	\$0	\$98,078	\$0	\$0	\$98,078	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$98,078
16	\$84,650	\$1,415	\$2,137	\$88,202	\$12,818	\$0	\$101,020	\$0	\$0	\$101,020	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$101,020
17	\$87,189	\$1,458	\$2,201	\$90,848	\$13,203	\$0	\$104,051	\$0	\$0	\$104,051	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$104,051
18	\$89,805	\$1,502	\$2,267	\$93,573	\$13,599	\$0	\$107,172	\$0	\$0	\$107,172	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$107,172
19	\$92,499	\$1,547	\$2,335	\$96,381	\$14,007	\$0	\$110,387	\$0	\$0	\$110,387	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$110,387
20	\$95,274	\$1,593	\$2,405	\$99,272	\$14,427	\$0	\$113,699	\$0	\$0	\$113,699	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$113,699
21	\$98,132	\$1,641	\$2,477	\$102,250	\$14,860	\$0	\$117,110	\$0	\$0	\$117,110	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$117,110
22	\$101,076	\$1,690	\$2,551	\$105,318	\$15,306	\$0	\$120,623	\$0	\$0	\$120,623	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$120,623
23	\$104,109	\$1,741	\$2,628	\$108,477	\$15,765	\$0	\$124,242	\$0	\$0	\$124,242	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$124,242
24	\$107,232	\$1,793	\$2,707	\$111,732	\$16,238	\$0	\$127,969	\$0	\$0	\$127,969	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$127,969
25	\$110,449	\$1,847	\$2,788	\$115,084	\$16,725	\$0	\$131,808	\$0	\$0	\$131,808	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$131,808
26																		
27																		
28																		
29																		
30																		
Totals	\$1,980,959	\$33,123	\$50,004	\$2,064,087	\$299,969		\$2,492,563	(\$6,182)	(\$11,088)	\$2,475,294	\$0	(\$299,935)	(\$1,030,641)	(\$1,330,576)	(\$838,446)	(\$642,130)		\$994,718

* The Year 0 savings are the construction period savings in which the Network Programmable Thermostats, Seasonal Temperature Setback, Weekend Temperature Setback, LED Lighting Upgrades, Update/Repair Trane Controls, Domestic Water Upgrades, Exterior LED Lighting Upgrades and Air-sealing and Weather-stripping are anticipated to be completed during the first 6 months of construction. The \$16,122 represents 50% of the annual energy and maintenance savings for these scope items

EPC SCHEDULE H
Certification that Cost-weighted Average Service Life of Equipment Exceeds
Financing Term

The table below is an example of the information and calculations to determine the Cost-Weighted Average Service Life of utility cost-savings equipment (EPC Article 1-X (iv)).

Energy Conservation Measure ⁽¹⁾	Measure Description	Construction Cost ⁽²⁾	Service Life ^{(3) (4)}	Weighted Service Life ⁽⁵⁾	Notes
04.01 Network Programmable Thermostat	Install programmable thermostat that can be accessed remotely over the internet to provide for central scheduling, monitoring and trouble-shooting.	\$ 1,909	15.0	0.013	Controls-Electronics from ASHRAE Equipment Life Expectancy Chart
04.02 Seasonal Temperature Setback	Reduce energy use by implementing an aggressive temperature setback (keep above freezing) during times of the year that the museum is not open.	\$ -	N/A	N/A	No equipment associated with this measure
04.03 Weekend Temperature Setback	Re-program HVAC controls to set back space temperatures during the weekends.	\$ -	N/A	N/A	No equipment associated with this measure
09.01 LED Lighting Upgrades	Replace existing non-LED lamps/ fixtures with new LED lamps/ fixtures to reduce energy and O&M costs.	\$ 450,526	25.0	6.7	Base on the L70 rated hours for each fixture type and the low runtime hours of operation, the cost weighted life expectancy of the lighting is calculated to exceed 100 years but in all likelihood, these spaces and fixtures will change before then so McKinstry has elected to use 25 years for the life expectancy
09.02 Exterior LED Field Lighting Upgrades	Replace existing non-LED field lighting with new LED field lighting to improve light levels, color rendering and reduce energy and O&M costs.	\$ 154,403			
10.01 Solar Photovoltaic Systems	25 kW roof-mounted solar photovoltaic systems for WCC, LEC and JUD 12.3 kW System for WSS. Includes electrical upgrade at WSS	\$ 423,097	27.8	5.227	A cost weighted life expectancy was determined based on the following life expectancies and cost percentage breakdown: 15 yrs for inverters (15% of cost), 30 years for racks (35% of cost), 30 years for modules (50% of cost).
04.05 Update/ Repair Trane Controls	Upgrade/ repair existing Building Automation System (BAS) controls on HVAC system and update to best in class control sequences to optimize energy use, improve comfort and reduce O&M time.	\$ 17,105	N/A	N/A	No equipment associated with this measure
18.01 Domestic Water Upgrades	Reduce water use through repair and recommissioning of flushometers in existing toilets and urinals or replace with low flow fixtures. Install vandal resistant flow restriction devices on faucets.	\$ 70,554	11.3	0.353	A cost weighted life expectancy was determined based on the following life expectancies and cost percentage breakdown: 7.5 years for diaphragm valves & aerators (50% of cost), 15 years for water fixture controls in Law Enforcement Center (50% of cost)
01.03 High Efficiency Furnace	Furnace has reached ASHRAE life expectancy. Replace with a new high efficiency furnace to improve reliability and reduce energy use.	\$ 77,383	18.0	0.620	Furnaces-Gas or Oil from ASHRAE Equipment Life Expectancy Chart
01.04 Remove Electric Unit Heater	Electric unit heater in space has reached ASHRAE end-of-life and is currently a safety hazard (arcs when energized). Demo unit heater and replace with outlet for portable electric heater.	\$ 1,025	30.0	0.014	Conduit, wiring and an outlet that is expected to last 50 years
03.01 Replace Rooftop Units	Rooftop Units have reached their ASHRAE life expectancy. Replace with new rooftop units to improve occupant comfort and O&M costs.	\$ 408,827	15.0	2.730	Rooftop Unit Air-conditioners-Single Zone from ASHRAE Equipment Life Expectancy Chart
03.02 Refurbish Air Handling Units	The existing air handling units need to be repaired/ refurbished including: repair flex connections, repair evaporative cooling sections, replace media and clean coils to effectively heat and cool the Law Enforcement Center.	\$ 115,364	17.0	0.873	A cost weighted life expectancy was determined based on the following life expectancies and cost percentage breakdown: 5 years for media replacement (20% of cost), 10 years for sump pumps (40% of cost), 30 years for ductwork & piping repairs (40% of cost)
11.01-CPB Repair Electrical Service	Replace existing electric panel and breakers and provide new electrical service to it. Existing compressor and pump starters to be abandoned in place.	\$ 61,238	30.0	0.818	Conduit, wiring and a breaker panel that is expected to last 30 years according to BOMA
13.01 Air Sealing and Weather-Stripping	Add weather stripping and spray foam to better seal building envelope, reduce infiltration, reduce energy use and improve occupant comfort.	\$ 129,653	45.0	2.597	A cost weighted life expectancy was determined based on the following life expectancies and cost percentage breakdown: 10 years for weather-stripping (30% of cost), 60 years for spray foam (70% of cost)
13.05 Gutter Repair	Clean out two south-side gutter down-spouts, scope and snake line to storm drain. Includes allowance for excavation and repair of underground portion of drains. Add heat trace to prevent freezing.	\$ 36,548	11.0	0.179	10-12 year life expectancy for heat trace. Average used.
13.06-Insulation & Fans	Add roof insulation and three 14-ft ceiling-mounted fans	\$ 99,127	41.6	1.834	A cost weighted life expectancy was determined based on the following life expectancies and cost percentage breakdown: 15 years for fans (41% of cost), 60 years for insulation (59% of cost)
20.02 Design Standards Criteria	Provide schematic design for Cuchara Pump House and Maintenance Building. Would need county to provide direction on future use.	\$ 9,479	N/A	N/A	No equipment associated with this measure
20.03 Permanent Ladder	Install permanent ladder to allow for safer roof access.	\$ 30,231	50.0	0.673	Permanent metal ladder expected to last at least 50 years
20.04 Roof Hatch Safety Rails	Add safety rails around rooftop hatch of Law Enforcement Center.	\$ 8,120	50.0	0.181	Metal safety rails expected to last at least 50 years
22.01 PowerED	powerED engagement program for the building occupants and facilities staff at four facilities: Courthouse, Judicial Building, Law Enforcement Center and Community Center. Includes promoting the project (press releases, ribbon cutting ceremonies, etc.) and Reveal Dashboard for 3 years to show baseline utility use, EUIs, FCA metrics and project energy savings.	\$ 33,315	N/A	N/A	No equipment associated with this measure
22.02 Facility Condition Assessment	Facility Condition Assessments focusing on mechanical, electrical, plumbing and building envelope systems. Includes code evaluation and side-walk assessment at Walsenburg Community Center only. Excludes Judicial Building, Radio Towers and Water Treatment facilities in Gardner.	\$ 22,791	N/A	N/A	No equipment associated with this measure
Contingency	Allowance for any cost increases (materials and equipment) that we may incur between now and October 31st, 2022.	\$ 95,614	N/A	N/A	No equipment associated with this measure

Total Project Cost ⁽⁶⁾	\$ 2,246,308
Estimated Utility Rebate	\$ (15,732)
DOLA Grant	\$ (750,000)
Up-front County Capital	\$ (150,000)
Inflation Reduction Act - Direct Payment	\$ (112,386)
Net Financed Cost	\$ 1,218,190
Cost Weighted Life Expectancy ⁽⁷⁾	22.8 years
Financing Agreement Term ⁽⁸⁾	10.0 years

Notes
(1) Final Accepted List of Improvements
(2) Construction Cost as defined on the CEO Cost Estimating Tool
(3) Service Life (indicate source of service life by ECM on the following table)
(4) Provide an abbreviation of the source, then below this table the source full name, date of publication, and any additional information necessary to confirm the value
(5) Formula: Cost of Improvement multiplied by Service Life then divided by Total Construction Cost
(6) Total Construction Cost per CEO Cost Estimating Tool
(7) Total of ECM/FIM Individual Average Service Life Values Formula: Cost-Weighted Average Service Life = $\sum \text{each ECM} \div \text{total construction cost} \times \text{service life}$
(8) Financing Agreement Term from final Principal Representative financing documents (Section 24-30-2001(1)(d), C.R.S. states that the maximum term of the payments shall be less than the Cost- Weighted Average Useful (service) Life of utility cost-savings equipment for which the contract is made, not to exceed 25 years)

Service Life Supporting Tables - ASHRAE

ASHRAE Equipment Life Expectancy Chart					
Equipment Item	Median Years	Equipment Item	Median Years	Equipment Item	Median Years
Air Conditioners		Air terminals		Air-cooled condensers	20
Window Unit	10	Diffusers, grilles and registers	27	Evaporative condensers	20
Residential single or Split Packag	15	Induction and fan coil units	20	Insulation	
Commercial through-the wall	15	VAV and double-duct boxes	20	Molded	20
Water-cooled package	15	Air washers	17	Blanket	24
Heat Pumps		Ductwork	30	Pumps	
Residential air-to-air	15	Dampers	20	Base-mounted	20
Commercial air-to-air	15	Fans		Pipe-mounted	10
Commercial water-to-air	19	Centrifugal	25	Sump and well	10
Roof-top air conditioners		Axial	20	Condensate	15
Single-zone	15	Propeller	15	Reciprocating engines	20
Multi-zone	15	Ventilating roof-mounted	20	Steam turbines	30
Boilers, hot water (steam)		Coils		Electric motors	18
Steel water-tube	24 (30)	DX, water, or steam	20	Motor starters	17
Steel fire-tube	25 (25)	Electric	15	Electric transformers	30
Cast iron	35 (30)	Heat Exchangers		Controls	
Electric	15	Shell-and-tube	24	Pneumatic	20
Burners	21	Reciprocating compressors	20	Electric	16
Furnaces		Packaged chillers		Electronic	15
Gas- or oil-fired	18	Reciprocating	20	Valve actuators	
Unit Heaters		Centrifugal	23	Hydraulic	15
Gas or electric	13	Absorption	23	Pneumatic	20
Hot water or steam	20	Cooling towers		Self-contained	10
Radiant Heaters		Galvanized metal	20		
Electric	10	Wood	20		
Hot water or steam	25	Ceramic	34		

Service Life Supporting Tables – BOMA

System	Est. Life (Yrs) *
Exterior Structure	
A1010 Standard Foundations	100
A1020 Special Foundations	100
A1030 Slab on Grade	100
A2020 Basement Walls	100
B1010 Floor Construction	100
B1020 Roof Construction	100
B2010 Exterior Walls	100
B2020 Exterior Windows	25
B2030 Exterior Doors	25
B3010 Roof Coverings	15
B3020 Roof Openings	20
Interior Structure C1010 Partitions	40
C1020 Interior Doors	40
C1030 Fittings	40
C2010 Stair Construction	40
C3010 Wall Finishes	10
C3020 Floor Finishes	15
C3030 Ceiling Finishes	20
Conveying D1010 Elevators and Lifts	30
Plumbing D2010 Plumbing Fixtures	30
D2020 Domestic Water Distribution	30
D2030 Sanitary Waste	30
D2040 Rain Water Drainage	30
D2090 Other Plumbing Systems	30
HVAC D3010 Energy Supply	25
D3020 Heat Generating Systems	25
D3030 Cooling Generating Systems	25
D3040 HVAC Distribution Systems	25
D3050 Terminal & Package Units	25
D3060 HVAC Controls & Instrumentation	25
D3090 Other HVAC Systems/Equip	25
Life/Fire Safety D4010 Sprinklers	25
D4020 Standpipes	25
D4030 Fire Protection Specialties	25
D4090 Other Fire Protection Systems	25
Electrical D5010 Electrical Service/Dist.	30
D5020 Lighting and Branch Wiring	20
D5030 Communications and Security	10
D5090 Other Electrical Systems	30
Equipment E1010 Commercial Equip.	20
E1020 Institutional Equipment	20
E1030 Vehicular Equipment	20
E1090 Other Equipment	20
Life/Fire Safety D4010 Sprinklers	25
D4020 Standpipes	25
D4030 Fire Protection Specialties	25
D4090 Other Fire Protection Systems	25
Electrical D5010 Electrical Service/Dist.	30
D5020 Lighting and Branch Wiring	20
D5030 Communications and Security	10
D5090 Other Electrical Systems	30
Equipment E1010 Commercial Equip.	20
E1020 Institutional Equipment	20
E1030 Vehicular Equipment	20
E1090 Other Equipment	20
Furnishings E2010 Fixed Furnishings	15
E2020 Moveable Furnishings	15

*Source BOMA 1996 System Group Life Renewal

EPC SCHEDULE I RECORD OF REVIEWS (LOCAL GOVERNMENTS)

This review process is required for all Energy Performance Contracting (EPC) work with any state agencies or Political Subdivisions participating in the Colorado Energy Performance Contracting Program (CEPCP). This document outlines and tracks selected items reviewed by the Colorado Energy Office and/or its Consultants and the Office of the State Architect (OSA), as applicable, of the Investment Grade Audit (IGA) and EPC Project Proposal contract, the IGA Audit Report and EPC Project Proposal, and the EPC documents. These reviews are not legal reviews of the documents and do not replace the Political Subdivision’s legal review. The financing proposal (bank loan, bonds, internal funds, or other financing method) is not included in the CEO/OSA review. State agencies shall consult with the State Treasury’s office for any financial review/reporting requirements. Political Subdivisions shall perform their own review of the financing proposal.

INVESTMENT GRADE AUDIT CONTRACT (this review shall be completed by a CEPCP member, the Principal Representative of the Governing Body of the Political Subdivision, and, as necessary, the OSA, prior to the ESCO signing the IGA contract)

The IGA Contract review establishes:

- Confirmation that the CEPCP-provided IGA contract and exhibits are being used;
- Scope of Work (IGA Exhibit A) if modified, was only modified within the generally historically allowed changes with approval of the client, the CEPCP reviewer, and OSA as applicable;
- ESCO cost and pricing elements are within the boundaries of the EPC base agreement contract with CEPCP program; and
- No additions, subtractions, or changes have been made to the IGA contract without notifying and receiving approval from the Principal Representative, the CEPCP reviewer, and OSA as applicable.

CEPCP Reviewer: _____ Date Completed: _____
 Reviewers Comments: _____

Client Reviewer: _____ Date Completed: _____
 Reviewers Comments: _____

INVESTMENT GRADE AUDIT REPORT AND PROJECT PROPOSAL (This review shall be completed by a CEPCP member, the Principal Representative, and, as necessary, OSA, prior to finalizing the EPC Project Proposal for an EPC contract)

IGA report review addressed the following:

- IGA has met the minimum requirements as outlined in the CEPCP IGA Exhibit A, Scope of Work;
- Verifies compliance with all applicable legislation for state governments;
- Reviews existing operational assumptions and adds notes as necessary to the Principal Representative and ESCO verifying assumptions are confirmed by the Principal Representative;
- Confirms that adequate technical details follow appropriate methodologies and assumptions used to calculate savings (utility usage reduction) for each Utility Cost Savings Measure or FIM;
- Confirms costs document: engineering/design costs, contractor/vendor estimates, fees, estimated code compliance cost, etc.
- Principal Representative confirms that any operation and/or maintenance (O&M) savings proposed by the ESCO are acceptable. The sufficiency of O&M savings are not reviewed by the CEPCP;
 - Principal Representative Signature _____
 - Date: _____
- Principal Representative confirms that presented operations, schedules, set points, etc. are acceptable.
 - Principal Representative Signature _____
 - Date: _____
- Principal Representative confirms commissioning, M&V plans, and any non-verified calculated savings, are in compliance with the CEPCP and that the Principal Representative understands and accepts these items and schedules.

EPC SCHEDULE I RECORD OF REVIEWS (LOCAL GOVERNMENTS)

- Principal Representative Signature _____
- Date: _____
- Principal Representative confirms, when applicable, the Principal Representative’s annual or one-time monetary contributions are included in the financial performance schedule. The sufficiency of such contributions is not reviewed by the CEPCP.
 - Principal Representative Signature _____
 - Date: _____
- Principal Representative confirms acceptance of presented annual utility and inflation escalation rates.
 - Principal Representative Signature _____
 - Date: _____

CEPCP Reviewer: _____ Date Completed: _____
 Reviewers Comments: _____

Principal Representative Reviewer: _____ Date Completed: _____
 Reviewers Comments: _____

ENERGY PERFORMANCE CONTRACT (this shall be completed by a CEPCP member, the Principal Representative, and as necessary, OSA, prior to the ESCO signing the contract)

The EPC review establishes the following:

- Confirms that the CEPCP provided EPC contract and schedules are being used;
- ESCO cost and pricing elements are within the boundaries of their EPC base agreement contract with CEPCP;
- No additions, subtractions, or changes have been made to the contract without notifying and receiving approval from the Principal Representative, the CEPCP reviewer, a Principal Representative legal review, and Principal Representative Controller (or equivalent);
- If modified, all modifications, updates, additions to the schedules and exhibits are within the generally historically allowed changes. All changes are tracked until accepted by CEPCP reviewer and OSA as applicable; and
- Confirms the pro-forma schedule includes all known Principal Representative funds, utility rebates, other grant funds, and all potential cost through the length of the loan.

CEPCP Reviewer: _____ Date Completed: _____
 Reviewers Comments: _____

Principal Representative Reviewer: _____ Date Completed: _____
 Reviewers Comments: _____

**EPC SCHEDULE J: CERTIFICATION AND AFFIDAVIT REGARDING
UNAUTHORIZED IMMIGRANTS (UI-1)**

Item 7i.

Institution/Agency: Huerfano County, Colorado
Project No./Name: Huerfano County Energy Performance Contract

A. CERTIFICATION STATEMENT CRS 8-17.5-101 & 102 (HB 06-1343, SB 08-193)

The Vendor, whose name and signature appear below, certifies and agrees as follows:

1. The Vendor shall comply with the provisions of CRS 8-17.5-101 et seq. The Vendor shall not knowingly employ or contract with an unauthorized immigrant to perform work for the State or enter into a contract with a subcontractor that knowingly employs or contracts with an unauthorized immigrant.
2. The Vendor certifies that it does not now knowingly employ or contract with and unauthorized immigrant who will perform work under this contract, and that it will participate in either (i) the "E-Verify Program", jointly administered by the United States Department of Homeland Security and the Social Security Administration, or (ii) the "Department Program" administered by the Colorado Department of Labor and Employment in order to confirm the employment eligibility of all employees who are newly hired to perform work under this contract.
3. The Vendor shall comply with all reasonable requests made in the course of an investigation under CRS 8-17.5-102 by the Colorado Department of Labor and Employment. If the Vendor fails to comply with any requirement of this provision or CRS 8-17.5-101 et seq., the State may terminate work for breach and the Vendor shall be liable for damages to the State.

B. AFFIDAVIT CRS 24-76.5-101 (HB 06S-1023)

4. If the Vendor is a sole proprietor, the undersigned hereby swears or affirms under penalty of perjury under the laws of the State of Colorado that (check one):


- I am a United States citizen, or
- I am a Permanent Resident of the United States, or
- I am lawfully present in the United States pursuant to Federal law.

I understand that this sworn statement is required by law because I am a sole proprietor entering into a contract to perform work for the State of Colorado. I understand that state law requires me to provide proof that I am lawfully present in the United States prior to starting work for the State. I further acknowledge that I will comply with the requirements of CRS 24-76.5-101 et seq. and will produce the required form of identification prior to starting work. I acknowledge that making a false, fictitious, or fraudulent statement or representation in this sworn affidavit is punishable under the criminal laws of Colorado as perjury in the second degree under CRS 18-8-503 and it shall constitute a separate criminal offense each time a public benefit is fraudulently received.

CERTIFIED and AGREED to this 24th day of January 2023.

VENDOR:

McKinstry Essention LLC
Vendor Full Legal Name

BY: 
Signature of Authorized Representative

Regional Director
Title

**EPC SCHEDULE K
CERTIFICATE OF INSURANCE (INCLUDING PROFESSIONAL ERRORS
AND OMISSIONS LIABILITY INSURANCE)**

To be provided under separate cover at the time of Contract signature.

EPC SCHEDULE L PERFORMANCE BOND

“Performance Bond” means a surety bond guaranteeing that the Contractor will fulfill their contractual obligations for the scope of the Project.

Contractor shall furnish performance and payment bonds, each in an amount equal to the construction cost of the work less fee for annual M&V services. The bonds shall cover completion of the physical work per the approved design and shall not guarantee or warranty efficiency or system performance. The bonds shall not cover any obligation of the contractor to ensure that the work as constructed will result in any particular level of energy savings.

The Performance Bond will be provided after execution of this Contract.

EPC SCHEDULE M
LABOR AND MATERIAL PAYMENT BOND (SC-6.221)

Contractor shall furnish performance and payment bonds, each in an amount equal to the construction cost of the work less fee for annual M&V services. The bonds shall cover completion of the physical work per the approved design, and shall not guarantee or warranty efficiency or system performance. The bonds shall not cover any obligation of the contractor to ensure that the work as constructed will result in any particular level of energy savings.

The Labor and Material Payment Bond will be provided after execution of this Contract.

EPC SCHEDULE N STANDARDS OF COMFORT

Existing occupied thermal comfort conditions will be maintained. The facility improvement measures listed do not impact existing occupied space thermostat setpoints.

Unoccupied space thermostat set points and HVAC equipment operating schedules may be modified.

Refer to "Huerfano IGA Appendix H - Savings Calculations" for occupied and unoccupied setpoints at buildings.

EPC SCHEDULE O
CLIENT CONSTRUCTION SPECIFICATIONS

Item 7i.

The Customer has not provided construction specifications for the design of this project. Any deviations from McKinstry standards may result in cost increases to Huerfano County.

**EPC SCHEDULE P
CONTRACTORS INTELLECTUAL PROPERTY**

Software and other works purchased or developed by McKinstry which is not specifically indicated as deliverables under this contract's Scope of Work will remain McKinstry's Intellectual Property. Any software or property hosted by McKinstry, to which Principal Representative may be granted access, remains McKinstry's Intellectual Property. McKinstry is not expected to deliver, in part or whole, any of McKinstry's property not specifically indicated in the Scope of Work.

EPC SCHEDULE Q

SYSTEM START-UP AND COMMISSIONING

The commissioning plan for each ECM (Energy Conservation Measure) will be based on the standard commissioning plan below. Any variations from the standard commissioning plan are described with each individual ECM below.

A. STANDARD START-UP PLAN

Field supervision of contractor startup of new equipment with manufacturer's representative's participation as needed. The presence of political subdivision may be requested during the commissioning process, and political subdivision will be made aware of all planned commissioning activities.

B. STANDARD COMMISSIONING PLAN

The following preliminary commissioning plan is designed as a framework from which the final commissioning plan will be developed. The presence of owner personnel may be requested during the commissioning process.

The McKinstry commissioning team in collaboration with the Political Subdivision will:

- Review and participate in the finalization of the design documents, subcontractor plans and equipment selection.
- Review submittals to ensure that controls protocols and system performance align with the energy savings guarantees and design intentions.
- Review and approve control sequences with M&V and energy engineer.
- Review and approve contractor equipment pre-startup and startup plans and activities. Document that necessary procedures are followed to ensure the integrity and performance of the physical systems.
- Create and distribute pre-functional test to the various responsible contractors and oversee the **execution of the contractor's QA/ QC program.**
- Perform functional testing to validate equipment performance and verify that control sequence programming is correct and meets intent.
- Verify the necessary trends are in place within the Building Automation Systems (where applicable).
- Analyze trend data to review performance.
- Review, approve, and coordinate contractor training programs with the owner. Where necessary the commissioning agent will attend and supplement contractor training sessions with training on system interactions.
- Provide final commissioning report with all findings and supporting documents.

C. ECM SPECIFIC COMMISSIONING CLARIFICATIONS

- LED Lighting Upgrades
 - Due to the straightforward nature of this ECM, inspections will be completed on a representative sample of fixtures by a McKinstry Site Superintendent. Typically, a minimum of the top 20% energy saving line items will be visually verified.
- Solar Photovoltaics
 - Commissioning for solar PV systems follows the Standard Commissioning Plan. Of significant note is that functional testing is accomplished as an entire system comparing available solar energy to the electrical production of the inverter. The angles, ambient temperature, and industry standard numbers for reflectance and emittance are utilized to validate that the installed system can produce the designed power density.
- Domestic Water Upgrades
 - Due to the straightforward nature of this ECM, inspections will be completed on a representative sample of fixtures by a McKinstry Site Superintendent. Typically, a minimum of the top 20% energy saving line items will be visually verified.

EPC SCHEDULE Q SYSTEM START-UP AND COMMISSIONING

D. EXCLUSIONS

The following items are excluded from the Commissioning scope of work:

- Existing HVAC systems that are not slated to be replaced as part of this project
- Existing building automation systems that are not slated to be replaced as part of this project
- Existing lighting control systems
- Fire protection and life safety systems
- Elevators
- Back-up generators and emergency power systems
- Electrical services/devices not associated with McKinstry Work
- **Egress and/or emergency systems**

EPC SCHEDULE R CONTRACTOR TRAINING RESPONSIBILITIES

The Customer (Political Subdivision) shall determine all attendees at the following trainings. The trainings will be based on the Contractor’s experience and the Customer’s needs. The trainings will include use and maintenance of the installed equipment per the manufacturer’s recommendations. The trainings will include the warranty process. The Customer shall approve the final agenda for each training.

Training agenda and topics shall be developed by McKinstry and will include a review of sequences of operation, proper equipment operation, diagnosing and troubleshooting equipment failures, and preventive maintenance. Contractor and the Customer shall approve the final training agenda. The training shall include a total of 10 hours of onsite training sessions that are divided among the installed ECMs where training is applicable, which will be recorded with audio and video at the Customer’s request.

<u>Energy Conservation Measure (ECM)</u>	<u>Training Duration</u>
Network Programmable Thermostats, Trane Controls and other Controls-related ECMs	4 hours
LED Lighting Upgrades	1 hour
Solar PV	2 hours
Domestic Water Upgrades	1 hour
RTUs, Furnaces, Fans, Electrical and AHU Refurbishments	2 hours

EPC SCHEDULE S

CUSTOMER MAINTENANCE RESPONSIBILITIES

The Customer (Political Subdivision) shall provide the following services as part of this Contract.

1. Maintain all equipment per manufacturers' recommendations.
2. Maintain active and updated maintenance logs for all equipment. Logs shall be kept for a minimum of the warranty period and must be provided to Contractor upon request in either electronic or hard copy format.
3. Maintain all sequence of operations and performance criteria related to installed systems as proposed and designed. This shall include but not be limited to making adjustments to occupancy schedules based upon Customer calendars, taking into account holidays, scheduled shutdowns, etc. The Customer shall maintain schedules to minimize equipment operation.
4. Upon request of Contractor, provide Contractor with copies of actual monthly utility billing information on a monthly basis for the duration of this contract. This includes utility bills for electric and natural gas usage. The associated facilities where utility information shall be provided include all meters providing direct or indirect service to all buildings included in this project.
5. Provide Contractor continuous full access to Energy Management and Control Systems for the purpose of collecting and trending data over time as required for performance verification.
6. The Customer shall notify Contractor in writing with regard to any changes or alterations to buildings that will affect energy usage. This notification must be provided within one month of the change. This includes occupancy or use changes, computer load or other load changes, scheduling changes, and sequence of operations changes.

McKinstry also encourages all of our clients to make sure their insurance policy includes their new PV system(s) to cover any unforeseen issues like hail, wind, or vandalism.

See Schedule B for details on what services McKinstry will provide in terms of Solar PV operations and maintenance for the first year after substantial completion of the PV system. Anything not contained in Schedule B will be the responsibility of the Customer, as will all operations and maintenance activities starting after notice of substantial completion by ECM, building or area.

It is the Contractor's responsibility for routine maintenance of equipment installed as part of this contract until the date of the Notice of Substantial Completion or the date of any Notice of Partial Substantial Completion. Contractor is not responsible for any maintenance on existing equipment or the systems they are connected to. Customer shall be responsible for all maintenance activities subsequent to execution of either the Notice of Substantial Completion or the date of any Notice of Partial Substantial Completion

In addition to the maintenance responsibilities described above, the Customer shall maintain a log of all maintenance activities as described in the maintenance checklist provided with the O&M manuals.

Schedule T Notice of Substantial Completion

Notice of Substantial Completion (per ECM / FIM)

Date of Notice _____

Local Government Entity: _____

Contractor: _____

Contract Name / #: _____

Notice is hereby given that Huerfano County accepts the installed equipment for ECM / FIM _____ and establishes a warranty period start date of _____.

Huerfano County

By _____

Title _____

Date _____

When completely executed, this form is to be sent by certified mail to the Contractor by Huerfano County.

Schedule U
Notice of Final Acceptance

Notice of Final Acceptance

Date of Notice _____

Local Government Entity: _____

Contractor: _____

Contract Name / #: _____

Notice is hereby given that Huerfano County accepts the Project and establishes a Performance Commencement Date of _____.

Huerfano County

By _____

Title _____

Date _____

When completely executed, this form is to be sent by certified mail to the Contractor by Huerfano County.

EPC SCHEDULE V OWNER ACKNOWLEDGEMENT FORM

Our experience shows us that an informed and engaged customer is most likely to fully understand the EPC process and be satisfied by the outcome. It is important for our customers and all relevant stakeholders to understand the key elements of various facility improvement measures and their impact on the facilities and operations. The following list helps to ensure that McKinstry has addressed any questions that the Customer may have about the process, implementation, and end goals of the program.

Initial	Item
	This report been distributed and reviewed by staff, stakeholders and all other applicable parties that may be responsible for implementing or maintaining elements of specific facility improvement measures.
	This report has been reviewed by key decision makers and their comments (if any) have been compiled and provided to McKinstry.
	The M&V Plan established for each ECM has been reviewed and accepted as the means which guaranteed savings will be evaluated. Please note that there are some Huerfano County obligations that are necessary for the M&V to be executed as planned.
	Huerfano County confirms that their standards of comfort are as outlined in Appendix H. Huerfano County agrees to conform to these standards for equipment in project scope with M&V KPIs tied to these setpoints. Huerfano County may implement more aggressive setpoints at their discretion.
	Huerfano County agrees to notify McKinstry of any major changes to the operation of any facilities involved within this project. Examples of these changes include: <ul style="list-style-type: none"> • Changes to facility operation hours • Additions / Remodels / Future Construction • Changes in Space Type • Major changes to building occupancy or schedules • Major changes to facility use / activities • Major changes to facility equipment
	Huerfano County agrees to properly maintain all new equipment installed as part of this project per the manufacturer's and McKinstry's recommendations. If equipment fails outside of warranty, the County will replace equipment with like kind to maintain the savings guarantee.
	Huerfano County agrees to have appropriate staff members or representatives attend trainings and witness major equipment start-ups.
	Huerfano County has reviewed the exclusions and clarifications in the IGA Report.
	Huerfano County acknowledges that lighting will change in areas where lighting scope is present. The lighting design approach is to retrofit existing fixtures and replace select fixtures where noted in Appendix A of the IGA. Light levels may be constrained by existing fixture types, layout and configuration (spacing & orientation). Since the lighting project is based on retrofitting existing fixtures and utilizing existing electrical services, it may not be possible to meet the exact target uniformity values in all spaces.
	Huerfano County acknowledges that lighting fixture lenses will not be replaced except for where it is specifically called out in the scope of work document or due to damage caused by McKinstry.
	Huerfano County acknowledges that the lighting runtime hours for each building have been stipulated based on documented values (based on schedules and staff interviews) and the County agrees that these stipulated hours are representative of the lighting hours of operation in each facility. Pre and Post wattage measurements will be taken during construction to verify that the wattage reduction is being achieved.
	Huerfano County acknowledges that McKinstry is not responsible for any equipment, operations or deficiencies not explicitly covered under this scope of work.

EPC SCHEDULE V OWNER ACKNOWLEDGEMENT FORM

Initial	Item
	Huerfano County has read and understands the pre and post usage rates used as a basis for the Water Conservation scope of work savings calculations
	Huerfano County acknowledges that they will be responsible for labor costs to replace solar photovoltaic inverters and panels that fail outside of McKinstry's one-year warranty.
	Huerfano County acknowledges that photovoltaic O&M costs used in the project must be provided for by the County's maintenance budget for the life of those savings.
	Huerfano County acknowledges that damage to solar photovoltaic system due to storms, vandalism, and/or accidents are excluded from the contract and is the responsibility of Huerfano.
	<p>Huerfano County acknowledges that to provide Measurement and Verification services that McKinstry requires the following for the duration of the performance period:</p> <ul style="list-style-type: none"> • Maintain remote access to Building Automation Systems in the Judicial Building and Law Enforcement Center to download and analyze point trends. • Maintain McKinstry's ability to directly obtain Huerfano County's utility billing data.
	<p>Huerfano County agrees to provide network data drops as required for the various scopes of work (solar photovoltaic, Network Thermostats, RTU Replacements and Furnace Replacements).</p> <p>Huerfano County will be responsible for providing any network drops to support the Network Thermostat and PV installation for the project. McKinstry's scope of work requires a total of 13 network drops at the following facilities: Community Center (4), Social Services (4), Law Enforcement Center (1), Judicial Building (1), Old Jail House Museum (1), Walsenburg Road and Bridge Shop (1), District Attorney's Office (1)</p>
	Huerfano County acknowledges that operation & maintenance savings used in the project must be provided for by the maintenance budget for the life of those savings. Such funds will be used to pay any obligations clearly called out as operation & maintenance savings in the project cash flow.
	Huerfano County acknowledges that gas, electric, water and sewer utility escalation rates and maintenance escalation rates must be budgeted for the life of the project. Such funds will be used to pay any obligations in the project cash flow. The project uses escalation rates as identified in the cashflow IGA Section 4.2.
	Huerfano County acknowledges that funding for identified maintenance repairs executed through the MBE subcontractor will be budgeted and provided by Huerfano maintenance budget as listed in the Owner Project Requirements to perform identified repairs.
	<p>Hazardous Materials / Asbestos: Abatement of any hazardous materials as well as the requisite costs and time needed for abatement are specifically excluded from this contract and McKinstry's scope of work.</p> <p>McKinstry's Corporate Policy does not allow for subcontracting abatement of asbestos or lead paint. If hazardous substances are detected, Huerfano will contract separately for the identification and removal of any hazardous substances or Huerfano's qualified personnel will conduct abatement and disposal of any hazardous substances.</p> <p>In the event of the discovery or release of hazardous substances on site, McKinstry will immediately notify Huerfano County of the circumstances surrounding the discovery and restrict access of any persons in the vicinity until such time as Huerfano County's authorized representative can take over supervision of the area.</p> <p>Huerfano agrees and acknowledges that it has not relied upon or employed McKinstry to analyze or identify the presence of any hazardous substances.</p> <p>It is understood and agreed that McKinstry shall not and does not prescribe any safety measure or abatement procedure and is not responsible for any act or omission of Huerfano or any professional consultant, contractor or subcontractor which Huerfano County selects relating to the abatement of hazardous substances</p>

**EPC SCHEDULE V
OWNER ACKNOWLEDGEMENT FORM**

Item 7i.

Printed Name:

Signature:

Date:

EPC SCHEDULE W CONSTRUCTION SCHEDULE

Construction is anticipated to begin in Q1 2023.

Task Name	Duration	Start	Finish
▲ EPC Contract Review & Approval	2 days	Tue 1/31/23	Wed 2/1/23
Review EPC Contract	1 day	Tue 1/31/23	Tue 1/31/23
Execute EPC Contract	1 day	Wed 2/1/23	Wed 2/1/23
▲ McKinstry Technical Services	134 days	Thu 2/2/23	Tue 8/8/23
powerEd	6 mons	Thu 2/2/23	Wed 7/19/23
Facility Condition Assessments	6 mons	Wed 2/22/23	Tue 8/8/23
Design Standards Creation	1 mon	Thu 2/2/23	Wed 3/1/23
▶ Lighting Retrofit - Mck Lighting	153 days	Tue 1/31/23	Thu 8/31/23
▶ Plumbing Retrofit - H2O Logistics	24 days	Mon 5/8/23	Thu 6/8/23

Task Name	Duration	Start	Finish
▲ Walsenburg Community Center	236 days	Thu 2/2/23	Thu 12/28/23
Building Envelope	4 wks	Wed 2/22/23	Tue 3/21/23
Roof Hatch Install - LATE START	3 days	Mon 5/1/23	Wed 5/3/23
Pre-TAB if applicable	1 day	Thu 5/4/23	Thu 5/4/23
RTU Procurement	46 wks	Thu 2/2/23	Wed 12/20/23
RTU Remove and Replace	5 days	Thu 12/21/23	Wed 12/27/23
Electrical Alterations	1 day	Thu 12/28/23	Thu 12/28/23
Controls	1 day	Thu 12/21/23	Thu 12/21/23
Start-up and Commissioning	2 days	Fri 12/22/23	Mon 12/25/23
Post Install TAB	1 day	Tue 12/26/23	Tue 12/26/23
▲ Walsenburg Social Services	236 days	Wed 2/1/23	Wed 12/27/23
Building Envelope	4 wks	Wed 3/22/23	Tue 4/18/23
Pre-TAB if Applicable	1 day	Fri 5/5/23	Fri 5/5/23
RTU Procurement	46 wks	Wed 2/1/23	Tue 12/19/23
RTU Remove and Replace	2 days	Wed 12/20/23	Thu 12/21/23
Electrical Alterations	2 days	Fri 12/22/23	Mon 12/25/23
Controls	1 day	Fri 12/22/23	Fri 12/22/23
Start-up and Commissioning	2 days	Mon 12/25/23	Tue 12/26/23
Post Install TAB	1 day	Wed 12/27/23	Wed 12/27/23

EPC SCHEDULE W CONSTRUCTION SCHEDULE

Task Name	Duration	Start	Finish
Mining Museum	78 days	Wed 2/1/23	Fri 5/19/23
Building Envelope	4 wks	Wed 4/19/23	Tue 5/16/23
Pre-TAB if Applicable	1 day	Mon 5/8/23	Mon 5/8/23
Furnace Procurement	15 wks	Wed 2/1/23	Tue 5/16/23
Furnace Remove and Replace	2 days	Wed 5/17/23	Thu 5/18/23
Electrical Alterations	2 days	Wed 5/17/23	Thu 5/18/23
Controls	1 day	Wed 5/17/23	Wed 5/17/23
Start-up and Commissioning	1 day	Thu 5/18/23	Thu 5/18/23
Post Install TAB	1 day	Fri 5/19/23	Fri 5/19/23
Walsenburg Road and Bridge	94 days	Thu 2/2/23	Tue 6/13/23
Building Envelope	4 wks	Wed 5/17/23	Tue 6/13/23
Furnace Procurement	15 wks	Thu 2/2/23	Wed 5/17/23
Drop Ceiling Removal	1 day	Thu 5/18/23	Thu 5/18/23
Furnace Installation	2 days	Fri 5/19/23	Mon 5/22/23
Electrical Alterations	2 days	Fri 5/19/23	Mon 5/22/23
Controls Integration	1 day	Fri 5/19/23	Fri 5/19/23
Start-up and Commissioning	1 day	Mon 5/22/23	Mon 5/22/23
Post Install TAB	1 day	Tue 5/23/23	Tue 5/23/23

Task Name	Duration	Start	Finish
Law Enforcement Center	47 days	Mon 5/8/23	Tue 7/11/23
Building Envelope	4 wks	Wed 6/14/23	Tue 7/11/23
Roof Hatch Safety Rails	2 days	Mon 5/8/23	Tue 5/9/23
HVAC Alterations	3 days	Wed 5/10/23	Fri 5/12/23
Electrical Alterations	2 days	Wed 5/10/23	Thu 5/11/23
Start-up and Commissioning	1 day	Fri 5/12/23	Fri 5/12/23
Fire Ambulance Building	20 days	Wed 7/12/23	Tue 8/8/23
Building Envelope	4 wks	Wed 7/12/23	Tue 8/8/23
La Veta Road and Bridge	20 days	Wed 8/9/23	Tue 9/5/23
Building Envelope	4 wks	Wed 8/9/23	Tue 9/5/23
Gardner Road and Bridge	5 days	Thu 2/2/23	Wed 2/8/23
Building Envelope	5 days	Thu 2/2/23	Wed 2/8/23
Gardner Well #1 Building	1 day	Mon 5/22/23	Mon 5/22/23
Electric Heat Removal	1 day	Mon 5/22/23	Mon 5/22/23
Electrical Alterations	1 day	Mon 5/22/23	Mon 5/22/23
Curchara Facilities - Building Envelope	30 days	Mon 5/29/23	Fri 7/7/23
Day lodge	2 wks	Mon 5/29/23	Fri 6/9/23
Pump Building	2 wks	Mon 6/12/23	Fri 6/23/23
Maintenance Building	2 wks	Mon 6/26/23	Fri 7/7/23

EPC SCHEDULE W CONSTRUCTION SCHEDULE

Task Name	Duration	Start	Finish
Courthouse	102 days	Thu 3/16/23	Fri 8/4/23
Building Envelope	4 wks	Mon 7/10/23	Fri 8/4/23
Video Downspouts	2 days	Thu 3/16/23	Fri 3/17/23
Review condition of DS and Underground	1 day	Thu 3/16/23	Thu 3/16/23
Repair DS and Underground-IF NEEDED	5 days	Fri 3/17/23	Thu 3/23/23
Trane Controls	5 days	Fri 3/24/23	Thu 3/30/23
Add Heat Trace	3 days	Fri 3/24/23	Tue 3/28/23
4H Building	14 days	Mon 5/1/23	Thu 5/18/23
Fan Installation	2 days	Mon 5/1/23	Tue 5/2/23
Electrical	2 days	Wed 5/3/23	Thu 5/4/23
Insulation	10 days	Fri 5/5/23	Thu 5/18/23

Task Name	Duration	Start	Finish
PV System Construction	262 days	Wed 2/8/23	Thu 2/8/24
PV Panel Procurement	8 wks	Wed 2/8/23	Tue 4/4/23
PV Inverters Procurement	18 wks	Wed 2/8/23	Tue 6/13/23
PV Electrical Procurement	30 wks	Wed 2/8/23	Tue 9/5/23
▸ Law Enforcement Center	42 days	Wed 9/6/23	Thu 11/2/23
▸ Judicial Building	42 days	Thu 9/14/23	Fri 11/10/23
▸ Social Services	42 days	Fri 9/29/23	Mon 11/27/23
▸ Walsenburg Community Center	42 days	Mon 10/16/23	Tue 12/12/23
Post-Construction/Inspections	70 days	Fri 11/3/23	Thu 2/8/24
▸ Law Enforcement Center	50 days	Fri 11/3/23	Thu 1/11/24
▸ Judicial Building	53 days	Mon 11/13/23	Wed 1/24/24
▸ Social Services	53 days	Tue 11/28/23	Thu 2/8/24
▸ Walsenburg Community Center	26 days	Wed 12/13/23	Wed 1/17/24

EPC SCHEDULE X NOTICE TO PROCEED

NOTICE TO PROCEED

Date of Notice: _____
Date to be inserted by the Principal Representative

Description of Work: _____

Institution/Agency: Huerfano County

Project No./Name: Huerfano County Energy Performance Contract

To:
McKinstry Essention, LLC

This is to advise you that your Insurance Policy and Certificates of Insurance, and Affidavit Regarding Unauthorized Immigrants have been received. Our issuance of this Notice does not relieve you of responsibility to assure that the bond and insurance requirements of the Contract Documents are met for the duration of the Agreement.

You are hereby authorized and directed to proceed within ten (10) days from date of this Authorization as required in the Agreement. Any liquidated damages for failure to achieve Substantial Completion by the date agreed that may be applicable to this contract will be calculated using the date of this Notice for the date of the commencement of the Design Phase of Work.

The completion date of the project is

By _____
Principal Representative Date
(or Authorized Delegate)
Huerfano County

When completely executed, this form is to be sent by certified mail to the Construction Manager by the Principal Representative; or delivered by any other means to which the parties agree.

John Galusha, Chairman
Arica Andreatta, Commissioner
Karl Sporleder, Commissioner



HUERFANO COUNTY GOVERNMENT GRANT APPROVAL MEMORANDUM

Date: January 31, 2023
To: Huerfano County Board of County Commissioners
From: Carl Young, County Administrator
Re: Best and Brightest Fellowship Program
Attachments: Request Letter, Draft Job Description, Work Plan, Mentoring Plan, Community Profile, Program Overview and Timeline.

Summary: This is a request to submit an application, in the form of a request letter and supporting materials, to the Colorado Department of Local Affairs (DOLA) for the County to participate in the Best and Brightest Fellowship Program and host a Masters student for two years. The required match from the County is \$40,000 or \$20,000 per year.

Requested Motion/Action:

Motion to approve the application for the Best and Brightest Fellowship Program, commit the required match of \$20,000 per year, and request an Amount from DOLA that covers all remaining salary and benefits.

Grant Program:

The Department of Local Affairs Best and Brightest Management Fellowship Program, formerly the Cathy Shipley Best and Brightest Internship Program, partners with counties, municipalities and universities across the state, striving to meet the needs of communities, engage future leaders, and meet students where they are in their professional development, connecting them to community work that sparks their curiosity and leads them to work in public service. Initially named in recognition of a former DOLA Regional Manager whose career trajectory, dedication, and love of local government exemplified the model, this program combines classroom studies with the real world experience of working in the public sector. The Department of Local Affairs has long supported increasing capacity in rural Colorado, finding innovative ways for communities to meet their current administrative needs and look towards the future. This program actively forwards equity, diversity, and inclusion in public service and public administration studies. An integral component of that work is helping to mold new community leaders and setting the stage for their success.

Our Project:

Under the direction and mentorship of the County Administrator the Fellow will be exposed to and gain experience in many areas of County Government. The County will be providing a learning environment and mentor the development of a future County Administrator or Manager. We will offer a variety of project activities including departmental rotations allowing the intern the opportunity for direct mentorship by shadowing an assortment of people with differing management styles and departmental goals. The Fellow will spend their first few weeks shadowing the County Administrator, attending meetings, and gaining familiarity with County operations, key projects,

partnerships, and the communities. After the introductory period the Fellow will begin working on assigned projects and initiatives. During the second year of the program the Fellow's responsibilities and project assignments may be altered to suite the Fellow's interests and ensure further professional development and growth.

Alignment with County Objectives:

This program will provide the County with additional capacity, at well below market cost, to help advance County projects.

Financial Considerations:

The County would be expected to contribute a total of \$40,000 over two years towards Salary and Benefits for the Fellow. County Staff will be expected to provide guidance and mentorship.

Signature of the Chair

Approved

Denied

John Galusha, Chairman
Arica Andreatta, Commissioner
Karl Sporleder, Commissioner



Board of County Commissioners

January 31, 2023

Randi Snead
Regional Manager
Department of Local Affairs

Sent via E-Mail

RE: Best and Brightest Fellowship Program

Dear Ms. Snead,

On behalf of the Board of County Commissioners, please accept this letter of request for Huerfano County's to host a fellow through the Department of Local Affairs Best and Brightest Program.

Under the direction and mentorship of Carl Young, County Administrator, the Fellow will be exposed to and gain experience in many areas of County Government. Huerfano County is committed to providing a learning environment and mentor the development of a future County Administrator or Manager. We will offer a variety of project activities including departmental rotations allowing the intern the opportunity for direct mentorship by shadowing an assortment of people with differing management styles and departmental goals. More detail is provided with the attached community profile, work plan, mentoring plan, and draft job description. We anticipate a start date of July 1, 2023.

The County has established the following budget:

Uses	Annual	Full Program
Salary	\$40,000.00	\$80,000.00
Benefits (Health Insurance, Medicare, Social Security)	\$11,960.00	\$23,920.00
Total	\$51,960.00	\$103,920.00

Sources	Annual	Full Program
Huerfano County Match	\$20,000.00	\$40,000.00
DOLA Award Requested	\$31,960.00	\$63,920.00
Total	\$51,960.00	\$103,920.00

Thank you for your consideration and we look forward to hearing from you.

Sincerely,

John Galusha
Chairman, Board of County Commissioners

HUERFANO COUNTY MENTORING AND WORK PLAN

BEST AND BRIGHTEST MANAGEMENT FELLOWSHIP PROGRAM 2023

COMMUNITY PROFILE

Huerfano County is named for Huerfano Butte, which lies along I-25 in the Northern part of the County. The ‘Huerfano’ was a landmark for early explorers long before anyone found Pikes Peak. The word huerfano is Spanish for ‘orphan’.

The more dominant feature of Huerfano County is the Spanish Peaks, or “Huajatolla” which is pronounced Wa-ha-toy-a, but today the mountains are referred to as the East Peak and the West Peak. The double mountain is geographically unique in America because it is independent of a larger mountain range. The West Peak is particularly renowned because of the radial dikes that extend from the mountain.

The County is governed by a three-member Board of Commissioners, elected by districts to four year terms. The core values of the Huerfano County Government are: Fairness, Innovation, Candor, Craftsmanship, and Camaraderie. These values, adopted in 2021, guide County operations and shape our expectations of County Staff. Through a dedicated team of staff and officers, the County provides a variety of services to approximated 6,800 residents over 1,593 square miles including, but not limited to: zoning and code enforcement, law enforcement, emergency management and hazard mitigation, parks and recreation, road and bridge construction and maintenance, social services, and general government administration.

Huerfano County is home to two incorporated communities, Walsenburg and La Veta, as well as two unincorporated communities, Gardner and Cuchara. Each Huerfano County community is unique with their own charm and culture.

- Cuchara is a mountain village tucked into the eastern slopes of the Sangre de Cristo Mountains along the Highway of Legends. The unincorporated village is surrounded by the lakes, trails, and scenic beauty of the San Isabel National Forest and is home to Cuchara Mountain Park, an old ski resort that the County and a local non-profit are working to redevelop into a year-round adventure park.
- Gardner is a small community halfway between the Wet Mountains and the Sangre de Cristo Mountains on the Huerfano River. Founded at the base of Gardner Butte, the Community is a hub for the Upper Huerfano Region which includes Lily Lake and the Huerfano State Wildlife Area and is the home of the 60s and 70s Counter Culture Movement in Huerfano County as well as Mission Wolf.
- La Veta is situated along the Scenic Highway of Legends and at the northern opening of the Cucharas River Valley. Originally settled as a trading center along a branch of the Taos Trail, the Town is anchor for the surrounding ranching and agricultural operations

and is also the County's art hub being home to a number of galleries that feature local, national, and international artists.

- Walsenburg is the county seat and sits at the intersection of I-25, US 160, State Highway 10, and State Highway 69. An entry point to the Scenic Highway of Legends, the City was originally founded as La Plaza de Los Leones and later renamed for Fred Walsen, a businessman who started the coal boom that drove development in the County. Walsenburg is home to the Museum of Friends, Fox Theatre Walsenburg, and Lathrop State Park.

WORK PLAN

The Fellow will be joining the County as a number of major projects are in progress and in development, giving the Fellow a chance to work on a number of transformative projects and develop a wide range of skills.

In 2022 the County anticipates starting renovations on the Fox Theatre Walsenburg and beginning a multi-year energy performance contracting project that will reduce the County's utility costs by 29%, our energy usage by 18%, and greenhouse gas emissions by 30%. The County is currently restoring the masonry on the East Face of the Historic County Courthouse and is wrapping up a development master plan for 29 acres of County owned land in Gardner. The County is also working on our Comprehensive Plan, Hazard Mitigation Plan, and Airport Master Plan. The Fellow will have the opportunity to be involved in each of these projects and to take a leadership role on the implementation of some of these plans and help develop the scope of future capital projects. Depending on timing the Fellow may be able to take a project from concept through implementation.

The following is an example of the special projects and initiatives the Fellow with which the Fellow should expect to be involved:

- Development of the Throne Ranch into Badito on the River, a new County Park
- Execution of a GOCO Grant (if awarded) for the Cuchara Mountain Park
- Expansion of broadband services and management of County towers
- Implementation of recommendations from the Innovative Housing Opportunity Planning Program
- Development of housing projects around Huerfano County
- Replacement of the Gardner Sewer System and improvements to the Gardner Water System
- Rewrite of the Comprehensive Plan and subsequent zoning changes
- Development of a new County Emergency Operations and Dispatch Center
- Creation of On-Boarding Process and Training Programs

The Fellow will also have a number of daily activities that will help prepare them for a career in local government and give them practical knowledge of County Operations by working closely with the administrative team. The following is an example of the regular duties that can be expected:

- Assist the Administrator with researching and drafting policies for review and adoption by the Board of County Commissioners. Research, track, and summarize federal and state legislation and regulations. Make recommendations and assist with the development of long-term goals, policies, and procedures.
- Assist in the County's annual budget process and any procurement processes
- Identify, write, and manage grant opportunities to advance, support, or improve County operations and infrastructure
- Draft and review internal and external communications. Help coordinate responses with departments as needed. Write and proofread a wide variety of reports, letters, memos, charts, and public notices. Draft resolutions and proclamations.
- Provide support to a County Board or Commission: coordinate and participate in the preparation and processing of agendas; attend meetings and take minutes when necessary; works with Clerk and Recorder's office to ensure documents are properly recorded.

Depending on interest, the Fellow may be assigned to serve as the County Tourism Director and support the County's destination marketing efforts under the direction of the Tourism Board.

MENTORING PLAN

Under the direction and mentorship of the County Administrator the Fellow will be exposed to and gain experience in many areas of County Government. Huerfano County is committed to providing a learning environment and mentor the development of a future County Administrator or Manager. We will offer a variety of project activities including departmental rotations allowing the intern the opportunity for direct mentorship by shadowing an assortment of people with differing management styles and departmental goals.

The Fellow will spend their first few weeks shadowing the County Administrator, attending meetings, and gaining familiarity with County operations, key projects, partnerships, and the communities. Meetings with the County Administrator will continue at least twice monthly during the course of the program. These meetings will focus on the Fellow's professional growth and development, including answering any questions the Fellow might have, constructive feedback on performance, career advice, and guidance on assigned tasks and projects. Interactions outside of regular meetings are invited and encouraged as the Administrator generally maintains an open door policy.

After the introductory period the Fellow will begin working on assigned projects and initiatives. Throughout their time with the County, the Fellow will be integrated into the Administration Office, which supports the Board of County Commissioners includes core functions and shared services for the County such as Finance, Human Resources, and Compliance.

During the second year of the program the Fellow's responsibilities and project assignments may be altered to suite the Fellow's interests and ensure further professional development and growth. The County will also provide opportunities, as they are available and of interest, to give the Fellow experience supervising the day to day operations of an operational unit of the County. Consistent with program expectations, the County will work with the Fellow to identify an appropriate Master's project.

The Fellow will be expected to attend meetings and workshops of the Board of County Commissioners to gain an understanding of the decision making process and the importance of citizen engagement. They will also have the opportunity to attend meetings of various County Boards and Commissions. During their regular duties and projects the Fellow have regular interaction with the Commissioners, other County Elected Officials, the County Attorney, and Department Heads.



HUERFANO COUNTY JOB DESCRIPTION MANAGEMENT FELLOW

TITLE: Management Fellow
FLSA: Non-Exempt
DEPT: Administration
REPORTS TO: County Administrator

JOB SUMMARY:

Under the direction and mentorship of the County Administrator the Management Fellow will be exposed to and gain experience in many areas of County Government including, but not limited to, Public Works, Road and Bridge, Economic Development, Emergency Management, Land Use and Building, Social Services, Human Resources, and Finance. Work will be conducted with the support and oversight of various County Department Heads, Elected Officials, and Senior Staff. Assignments will provide a learning environment and mentor the development of a future County Administrator or Manager.

The Management Fellow reports to the County Administrator.

ESSENTIAL JOB FUNCTIONS:

Assist the Administrator with researching and drafting policies for review and adoption by the Board of County Commissioners. Research, track, and summarize federal and state legislation and regulations. Make recommendations and assist with the development of long-term goals, policies, and procedures.

Assist in the County’s annual budget process and any procurement processes

Identify, write, and manage grant opportunities to advance, support, or improve County operations and infrastructure

Draft and review internal and external communications. Help coordinate responses with departments as needed. Write and proofread a wide variety of reports, letters, memos, charts, and public notices. Draft resolutions and proclamations.

Support a County Board or Commission: coordinate and participate in the preparation and processing of agendas; attend meetings and take minutes when necessary; works with Clerk and Recorder’s office to ensure documents are properly recorded.

Works on specific projects, events, policies, and initiatives as assigned by the County Administrator or requested by the Board of County Commissioners. These can be either one-time projects or ongoing assignments.

Assists various departments with their goals and objectives, as well as take a leading role on certain projects yet to be outlined.

Attend meetings and workshops of the Board of County Commissioners, as well as other County Boards and Commissions, to gain an understanding of the decision making process and the importance of citizen engagement.

Meet as needed and regularly, and at least twice monthly, with the County Administrator to discuss the Management Fellow’s professional growth and development, including answering any questions the Management Fellow might have, receiving constructive feedback on performance, career advice, and guidance on assigned tasks and projects

Serve as a resource to other County staff, outside agencies, and the general public

Perform other duties as assigned

POTENTIAL ADDITIONAL JOB FUNCTIONS

Depending on interest, the Management Fellow may serve as Tourism Director and perform the following tasks:

- Serve as support staff for the Huerfano County Tourism Board
- Develop an annual tourism marketing plan
- Manage destination marketing efforts and make recommendations to the Tourism Board regarding spending, budgeting, and grants
- Ensure the maintenance of the Spanish Peaks Country website and social media
- Support the efforts of local Welcome Centers and provide visitor resources to local businesses and partner organizations.
- Maintain an ongoing and supportive relationship with local Chambers of Commerce, the San Luis Valley Tourism Association, the Highway of Legends Board, and neighboring destination marketing organizations.

DESIRED QUALIFICATIONS

Education and or Experience: Must be a graduate of an accredited institution of higher education with at least a bachelor’s degree, and be enrolled in the University of Colorado at Denver Master’s in Political Science New Directions Program, Graduate School of Public Affairs, Adams State University Master’s in Public Administration program or College of Liberal Arts at Colorado State University and maintain good standing in the program.

Language Skills: Ability to read, analyze and interpret the most complex documents. Ability to respond effectively to the most sensitive inquiries or complaints. Ability to write technical and non-technical responses to inquiries. Ability to make effective and persuasive presentations on controversial or complex topics to top management, public groups, or boards of directors.

Certificates, Licenses, Registrations: Valid and current Driver’s License.

Specific Knowledge, Skills, and Ability Required:

Knowledge, or ability to gain knowledge, of local, State, and Federal ordinances, resolutions, regulations, and statutes to successfully perform essential functions.

Ability to analyze complex technical and administrative problems, develop sound recommendations, and implement solutions.

Skilled at building and managing complex relationships with diverse individuals, organizations, and stakeholders; record keeping and records management; and providing excellent customer service

Above average knowledge of routine software and business applications, for example: Microsoft Office

Suite (Word, Excel, PowerPoint, Access); Google programs (G-Mail, Google Calendars, Google Docs); and/or Quickbooks

Familiarity with or willingness to adapt to the unique qualities of rural and small town life

Willingness to learn and develop new skills.

PHYSICAL DEMAND

While performing the duties of this job, the employee is regularly required to conduct activities involving walking, standing, and sitting; lift or carry up to 10 lbs., regularly lift, push or pull up to 50 lbs., and occasionally lift, push or pull up to 100 pounds with leveraged assistance; and to regularly devote extended periods to the use of digital/electronic office equipment.

The employee is frequently required to grasp and manipulate office and similar other equipment, tools, and materials; to participate in a routine conve

rsation in person or via telephone, and to distinguish telephone, voice, and other auditory tones.

The employee is regularly required to conduct activities involving stooping, kneeling/bending, crouching, crawling, twisting, and reaching.

Specific vision abilities required by this job include the ability to distinguish objects in low and bright light using visual capacity including peripheral vision, depth perception, color vision, and far and near acuity to observe all elements of a given situation and the surrounding work environment.

WORK ENVIRONMENT

Indoors in a standard office environment; outdoors that includes travel to meetings, training events, and symposiums. Outdoor work and travel include limited exposure to varying weather conditions, noise, fumes, chemicals, and dust as well as changing environments.

The duties listed above are intended only as illustrations of the various types of work that may be performed. The omission of specific statements of duties does not exclude them from the position if the work is similar, related, or a logical assignment to the position.



COLORADO

Department of Local Affairs

Division of Local Government



Department of Local Affairs Best and Brightest Management Fellowship Program

Program Purpose

The Department of Local Affairs Best and Brightest Management Fellowship Program, formerly the Cathy Shipley Best and Brightest Internship Program, partners with counties, municipalities and universities across the state, striving to meet the needs of communities, engage future leaders, and meet students where they are in their professional development, connecting them to community work that sparks their curiosity and leads them to work in public service. Initially named in recognition of a former DOLA Regional Manager whose career trajectory, dedication, and love of local government exemplified the model, this program combines classroom studies with the real world experience of working in the public sector. The Department of Local Affairs has long supported increasing capacity in rural Colorado, finding innovative ways for communities to meet their current administrative needs and look towards the future. This program actively forwards equity, diversity, and inclusion in public service and public administration studies. An integral component of that work is helping to mold new community leaders and setting the stage for their success. It is important that future leaders of our communities reflect our communities, and this Fellowship Program is a natural pipeline to make that happen.

To do this, the program will work with local governments, students and educators through two-year paid fellowships for MPA & MPPA students studying at the CU Denver’s Center for New Directions (Political Science), CU Denver’s School of Public Affairs, Adams State University, or College of Liberal Arts at Colorado State University.

These partnerships meet the following objectives:

- To provide a unique opportunity for students to complete their graduate degree while gaining invaluable real world learning experiences
- To develop potential local government managers, planners, economic and community development directors
- To provide a way for DOLA to support small and/or rural jurisdictions in meeting their administrative staffing needs in the most cost effective way possible.

Eligibility

DOLA Regional Managers will identify potential jurisdictions and work with local managers to determine possible participation. Each jurisdiction will determine its own needs and job requirements for an intern or fellow. Local government managers considered for the program must develop a work plan and job description, including job duties. **Mentorship plans are required for the 2-year fellowship program.**

For Master's students, upon completion of the two-year program, a student will have completed all of the requirements for the master's degree in Public Administration, Public Policy and Administration, or Political Science with emphasis in politics and public policy while, at the same time, having gained two years of invaluable applied experiences.

Grant requirements

Each jurisdiction will match DOLA's award with a minimum of \$40,000 (\$20,000 annually) toward each student's annual salary and benefit package. Students will receive an annual salary and benefits package totaling at minimum \$42,000. In addition to the salary and benefits costs, DOLA will include \$2,000 in each contract for training and travel for the fellow, which can be spent on various conferences, workshops or other local government approved training opportunities as well as the annual program meeting, as well as an annual completion stipend of \$3,000 for the student (\$6,000 total).

Application process

Requirements of participating jurisdictions:

- A letter, signed by the Chief Elected Official, requesting to participate in the program with the following information must be submitted to Regional Manager:
 - Mentor name and position (It is preferred that the manager/administrator will be the mentor.)
 - Budget, including total and local government match
 - Short description of the work and mentoring plan
 - Anticipated start date
- A work plan describing potential special projects as well as daily duties
- A mentoring plan identifying the mentor's approach to mentoring, how often the mentor will meet with the fellow, and the various departments the fellow will work with during the internship. First year work responsibilities must range from public works, to helping prepare the annual budget, time spent within the planning staff and other activities that will help them focus on professional development in a municipal or county organization. The second year can be more tailored to work the student is more interested in, with the guidance of the local government manager. Generally, during the final 6 months of the fellowship, some students will complete their master's project, tailoring it to a specific problem, issue or need identified with help of the jurisdiction.
- A community profile, letting potential fellows know about the community, housing, industry, recreation, etc.

It is expected that the fellows will attend commission or council meetings as well as other designated meetings as part of their regular job description, and be encouraged to attend workshops and conferences that will enhance their ability to better serve the jurisdiction.

The designated Regional Manager from DOLA will be responsible for the final selection of participating jurisdictions and will also serve in a liaison and supportive role with the selected jurisdictions and student. Each jurisdiction will be required to sign a contract with DOLA as well as a Four-Party Roles and Responsibilities document.

Requirements of Student Candidates –

- This is a learning opportunity for students. **Government experience is not required.**
- Individuals accepted into the fellowship program will be expected to take all necessary credit hours according to the academic program in which they are enrolled and maintain good academic standing. Potentially, two semesters of the internship will be primarily devoted to completing the 3-6 credit hours of the master's project, which will address a specific issue, problem or need in the jurisdiction. Students may be eligible for tuition reimbursement once they are formally admitted into the program.
- Each fellow's academic program will be coordinated and monitored through their academic program. Each fellow will be required to sign a Four-Party Roles and Responsibilities document.
- Each University Partner has an identified a verification process by which students are selected to apply and interview for a Fellowship position.

Application deadline

To participate in the two-year fellowship program, mentoring plans are due to the Regional Manager by February 1. The program year begins July 1, unless specific requests for a later start date are approved.

Award process

The final selection of the fellow will be determined solely by the jurisdiction. Interviews will be held at designated locations. Final grant awards will be made through the DOLA funding portal.

Program contact information

For more information about participating as a host jurisdiction, contact [your DOLA Regional Manager](#). For more information on the program, please see the [Best & Brightest information page](#) or contact program staff.

Program Manager

Randi Snead
randi.snead@state.co.us
719-850-1313



COLORADO

Department of Local Affairs

Division of Local Government



Department of Local Affairs Best and Brightest Management Fellowship Program 2023 Schedule

- By February 1 – Letter, Work and Mentoring Plans, Community Profile due from communities to Regional Managers and Program Manager
- By February 3 – Community Information sent to Universities to share with students
- By March 1 – Students send resumes and application material to Best & Brightest Program Staff
- By March 6 – Resumes provided to communities by program staff
- By March 17 – Communities inform program staff of candidates to interview
- March 30 – Interviews
- April 3 - 7 – Students visit communities
- April 10 – Communities and students inform program staff of their top 2 or 3 choices
- April 14 – Students are placed through an internal process (Program staff, RMs)
- April 14 – Notify communities and universities of placements (Program Staff will contact communities who will offer the job to the fellow)
- May and June – DOLA Regional Managers write contracts
- July 1 – Students begin

DESIGNATION OF REPRESENTATIVE TO COUNTY HEALTH POOL

Item 7k.

WHEREAS, the governing body of Huerfano County ("Public Entity") is advised that the business to be conducted at Members' Meetings of the County Health Pool must be transacted by the Official Representative of each Member; NOW, THEREFORE, BE IT RESOLVED, that the governing body of Huerfano County ("Public Entity"), hereby and herewith: designates the following individual as its Official Representative to all County Health Pool Members' meetings;

NAME: _____
TITLE: _____
ADDRESS: _____
PHONE: _____ EMAIL: _____

If applicable, the Designated Alternate Representative is;

NAME: _____

PUBLIC ENTITY DESIGNATED CORRESPONDENT (individual(s) that will receive monthly billing invoices, provide enrollment terms/add/changes and other general correspondences intended for distribution to employees)

NAME: <u>Angela Wakeman</u>	NAME: <u>Nancy Bustos</u>
TITLE: <u>Human Resource Officer</u>	TITLE: <u>Accounting Clerk III</u>
ADDRESS: <u>401 Main St. Ste 310 Walsenburg Co 81089</u>	ADDRESS: <u>401 Main St. Ste 310 Walsenburg Co 81089</u>
PHONE: <u>719-738-3000 Ext 205</u>	PHONE: <u>719-738-3000 Ext 211</u>
EMAIL: <u>awakeman@huerfano.us</u>	EMAIL: <u>nbustos@huerfano.us</u>

COMPLETED BY: _____
(MUST be completed and signed by governing body)

DATE: _____



John Galusha, Chairman
 Arica Andreatta, Commissioner
 Karl Sporleder, Commissioner



**HUERFANO COUNTY GOVERNMENT
 PROCUREMENT MEMORANDUM**

Date: January 31, 2023
To: Huerfano County Board of County Commissioners
From: Carl Young, County Administrator
Re: Grant Program Name and Project Name
Attachments: RFP, Contract with Scope of Work, SE Group Proposal

Summary: On October 17, 2022 Huerfano County released RFP 2022-07 to find a consultant for several cooperative planning projects: the Multi-Hazard Mitigation Plan, Innovative Housing Opportunity Planning Project, and a Joint Comprehensive Plan. This procurement process was led by a Steering Committee and supported by County Staff. We request you approve the award of SE Group and sign the contract with them to begin the project.

Requested Motion/Action:

Motion to approve the award for the Cooperative Planning Projects RFP 2022-07 to SE Group and approve the agreement with SE Group in the amount of \$248,305.

Background: On October 17, 2022 Huerfano County released RFP 2022-07 to find a consultant for several cooperative planning projects. Pursuant to the IHOP Agreement and Joint Comprehensive Planning Agreement this selection was driven by a Steering Committee comprised of two representatives from the County, the City, and the Town. The following criteria were used for ranking of most qualified respondent:

#	Criteria	Points
1	Qualifications of Proposer, including experience and background of firm, key management individuals and subcontractors and the organizational structure of the project team.	10 Points
2	Successful experience and demonstrated capability of firm and key management individuals to perform community outreach and comprehensive planning work in a rural context, meet schedules and deadlines without delays, and manage budgets	25 Points
3	Quality of response to the Request for Proposals, including detailed description of how elements will be effectively and thoughtfully addressed. Description of intangibles, value added and innovative approaches.	25 Points
4	Budget proposal	10 Points
5	Local context incorporated into approach and proposal.	10 Points
6	Professional approach to assisting with the development of a plan that incorporates goals outlined in this RFP as well as environmental sustainability, strategies for water scarcity, and proposal for how to manage a robust and creative public input process.	20 Points
	Total	100 Points

The Solicitation closed on November 16th and having received three submissions, the Committee met on November 18th to review said submissions. The average scores for each submission were as follows:

#	Criteria	Maximum Points	Berkley Group	SE Group	AR360
1	Qualifications	10 Points	7.17	9.5	7
2	Successful Experience	25 Points	18.17	22.83	17.83
3	Quality	25 Points	20	22.17	16.5
4	Budget	10 Points	8	9	6.33
5	Local Context	10 Points	6.83	9.17	5.83
6	Approach	20 Points	15.33	17	12.17
Total		100 Points	75.5	89.67	67.67

The Committee interviewed SE Group on November 28, 2022 and elected to open negotiations on a contract before finalizing the award. The finalized contract is attached for approval.

Signature of the Chair

Approved

Approved with Changes

Denied

SE Group
(Sno.engineering, Inc., d/b/a SE Group)

TERMS AND CONDITIONS

Retainers: All retainers will be applied to final project billing to Client.

Compensation: Billings to Client for all work in connection with the Scope-of-Work and Additional Services (i.e., all work in addition to that required in connection with the stated Scope-of-Work) shall consist of the following:

Professional Fees: All professional services performed by SE Group will be billed on an hourly basis.

SE Group's hourly rates for calendar year 2023 are as follows:

Principals/Directors	\$190 to \$260
Senior Associates	\$155 to \$195
Associates	\$130 to \$160
Professional Staff	\$100 to \$150
Administrative Support	\$95 to \$135

The above hourly rates will be adjusted on an annual basis, effective January 1 of each ensuing year.

Direct Expenses: Direct expenses include, but are not limited to, travel and travel related costs such as actual transportation costs, food, subsistence and lodging, printing, maps, documents prepared by others, materials, in-house prints, copies, renderings, models and mock-ups, plots, any expenses for insurance coverage or limits of insurance which are in excess of that normally carried by SE Group and other similar direct expenses related to the completion of the Scope-of-Work. All Direct Expenses will be billed at cost.

Sub-Consultant Fees: Sub-Consultant fees and expenses, if any, will be billed at cost.

Payment Terms: SE Group's invoices will be prepared and sent on a monthly basis. Invoices will be sent in a standard summary format without supporting documentation. More detailed billings may be requested by the Client, and will be prepared by SE Group and billed as Additional Services.

Payment is due upon receipt of the invoice, with a net 30 days to have payment sent. A "Service Charge," which is the greater of twenty (\$20.00) dollars, or one and one-half (1½ %) percent per month (unless limited by the prevailing legal rate) will be assessed and billed monthly (at SE Group's discretion) on each unpaid invoice, or unpaid portion thereof, at the time of the next billing. There will not be additional charges for requests of supporting documentation or more detailed billing statements.

Client agrees to pay all costs of collection, including, but not limited to, reasonable attorney's fees, expert witnesses fees, and all other collection charges and expenses.

Termination: If the Client fails to make payments to SE Group in accordance with the "Payment Terms" above, SE Group may, at its sole discretion, elect either to temporarily suspend or terminate all work and services. SE Group will give seven (7) days' notice, in writing, to Client of any said suspension or termination. Other than termination for non-payment, either party may terminate this Agreement upon five (5) days' notice, in writing, to the other.

In the event of termination of SE Group's services for any reason, SE Group shall be paid "Termination Expenses," which include time and expenses necessary for both itself and for its Sub-Consultants, to finalize analyses and records as necessary, and to complete any reports on services already performed, in a manner appropriate for the professional services provided. Billing of these expenses shall be as Additional Services; and are in addition to Professional Fees, Direct Expenses and Sub-Consultant Fees incurred to the date set forth in the Notice of Termination, attributable to work performed on the Scope-of-Work and any previously authorized Additional Services.

Client hereby waives any and all claims for consequential damages arising out of any disputes or other matters relating to this Agreement, including, without limitation, consequential damages due to said termination.

Specifically, but without limiting the generality of the foregoing, Client hereby waives on claims for damages incurred by Client for rental expenses, for losses of use, income, project financing, business and reputation. In no event shall SE Group's liability arising out of any claims or demands exceed the amount paid for Professional Fees as defined in "Compensation" above.

Instruments of Service: Drawings, specifications and other documents, including those in electronic form, prepared by SE Group and its Sub-Consultants are to become property of Huerfano County upon payment for creation of such instruments, or portions of such instruments; Huerfano County may edit, update, or otherwise alter and change any instrument received as part of this contract as it sees fit without consultation with SE Group or its Sub-Consultants. SE Group and its Sub-Consultants shall be deemed the authors and retain rights to use, publish and distribute the original instruments of service they create, and shall retain all common law, statutory and other reserved rights, including copyrights to their original work. SE Group and its Sub-Consultants shall not be considered authors of any portion of instruments that Huerfano County updates or alters from the original. SE Group grants the Client non-exclusive license to reproduce original versions of said instruments of service for any purpose. SE Group shall obtain similar non-exclusive licenses from its Sub Consultants consistent with this Agreement.

Upon execution of this Agreement SE Group grants to the Client a non-exclusive license to reproduce said instruments of service solely for the purposes of the project described in the Scope-of-Work, provided that the Client shall comply with all obligations including prompt payment of all sums when due under this Agreement. SE Group shall obtain similar nonexclusive licenses from its Sub-Consultants consistent with this Agreement. Any termination of this Agreement prior to completion of the project shall terminate this license. Upon such termination, the Client shall refrain from making further reproductions of instruments of service and shall return to SE Group within seven (7) days of termination all originals and reproductions in the Client's possession or control. If and upon the date SE Group is adjudged in default of this Agreement, the foregoing license shall be deemed terminated and replaced by a second, non-exclusive license permitting the Client to authorize other similarly credentialed design professionals to reproduce and, where permitted by law, to make changes, corrections or additions to the instruments of service solely for purposes of completing, using and maintaining the project.

Except for the licenses granted in the preceding paragraph, no other license or right shall be deemed granted or implied under this Agreement. The Client shall not assign, delegate, sub-license, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of SE Group. However, the Client shall be permitted to authorize any Contractor, Subcontractors, or material or equipment suppliers to reproduce applicable portions of the instruments of service appropriate to and for use in their execution of the project by license granted above. Submission or distribution of instruments of service to meet official regulatory requirements or for similar purposes in connection with the project is not to be construed as publication in derogation of the reserved rights of SE Group and its Sub-Consultants. The Client shall not use the instruments of service for future additions or alterations to this project or for other projects, unless it obtains the prior written agreement of SE Group. Any unauthorized use of the instruments of service shall be at the Client's sole risk and without liability to SE Group and SE Group's Sub-Consultants.

Change in Scope-of-Work: The Scope-of-Work to be performed by SE Group is as set forth in the attached letter or proposal. Change in services or in the Scope-of-Work including services required of SE Group's Sub-Consultants, may be accomplished, without invalidating the authorization contained in the attached letter or proposal, if mutually agreed in writing, if required by circumstances beyond SE Group's control, or if SE Group's services are affected as described below. In the absence of mutual agreement in writing, SE Group shall notify the Client prior to providing such services. If the Client deems that all or a part of such Change in Services is not required, the Client shall give prompt written notice to SE Group, and SE Group shall have no obligation to provide those services. Except for a change due to the fault of SE Group, change in services of SE Group shall entitle SE Group to an adjustment in compensation in accordance with the "Compensation" paragraph above.

If any of the following circumstances affect SE Group's services for the project, SE Group shall be entitled to an appropriate adjustment in SE Group's schedule and compensation: 1) change in the instructions or approvals given by the Client that necessitate revisions in instruments of service; 2) enactment or revision of codes, laws or regulations or official interpretations which necessitate changes to previously prepared instruments of service; 3) decisions of Client not rendered in a timely manner; 4) material change in the Scope-of-Work including, but not limited to, size, quality, complexity, the Client's schedule or budget, or procurement method; 5) failure of performance on the part of the Client, or the Client's consultants or contractors; 6)

preparation for and attendance at a public hearing, a dispute resolution proceeding or a legal proceeding except where SE Group is party thereto and, except as provided for in the Scope-of-Work.

Force Majeure: Neither party shall be liable for any failure to perform its obligations under this Agreement if such failure was due to strikes, lockouts, labor disputes, epidemics, pandemics, embargoes, acts of God, governmental restrictions, governmental regulations, governmental controls, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, or other causes beyond either party's reasonable control and not due to any act by either party.

Huerfano County signature block

ACKNOWLEDGED AND ACCEPTED:

By: _____

Title: _____

Date: _____

SE Group signature block

ACKNOWLEDGED AND ACCEPTED:

By: _____

Title: _____

Date: _____

Huerfano County Cooperative Planning Projects 2023-2024

Projects 1 & 2 and First Tasks for Project 3 – Scope and Budget

Exhibit A: Scope of Work

PROJECT 1: HAZARD MITIGATION PLAN

Task A – Project Management, Process and Organize Resources

This task entails twice monthly project check-ins. We suggest once per month with the point of contact and once per month with the steering committee. They will be virtual with the exception of when we can meet in person during a site visit. The project manager and consulting team will assemble agendas, coordinate schedules, and distribute notes and action items. On a monthly basis, the manager of this project (Michael Baker) will coordinate a monthly summary with the rest of the Consulting Team to be provided with the invoice.

The survey and public engagement activities will be joint with the other project(s). Hazard Mitigation specific stakeholder meetings will be held separately from the joint activities. There will be three HMP specific stakeholder meetings.

Task B - Hazard Identification & Risk Assessment

The risk assessment portion of the HMP will be define any hazard risks that may uniquely or exclusively affect localized areas within the County. Using the list of hazards identified in the 2018 plan as a foundation, as well as the hazards identified in the State Plan, Michael Baker will build upon available historical data from past occurrences and will update/establish hazard by-hazard risk profiles, specifically tailored to each participating jurisdiction. This now includes climate change and equity and potential impacts posed by hazards due to new requirements.

The risk assessment will culminate in a hazard risk ranking for county and per jurisdiction, based on conclusions about the frequency of occurrence (future occurrence), potential impacts, spatial extent, warning time, and duration of each hazard. This assessment will include considerations for future demographic trends and land use planning regulations across the County to determine the likely impacts of future development and growth trends on safety and hazard risks. This will be integrated with background research conducted for the comprehensive plan.

Where prudent and desired by the Steering Committee, data and hazard profiles developed for the existing Hazard Mitigation Plan will be reviewed and leveraged for this effort. The Michael Baker Team will work with Huerfano County to identify areas of the risk assessment where profiles should be enhanced with more recent or higher quality data. This may include local datasets pertaining to infrastructure, critical facilities, and other local assets that are necessary for input to the risk assessment. Absent these datasets, our team will develop the necessary asset data from local, state, and federal sources and provide them to the County as a part of the plan update. As necessary, our team will collaborate with local stakeholders to gain firsthand information on historic hazards.

The culminating risk and vulnerability assessment information will be presented to the Steering Committee and the public during an in-person session to review, provide feedback, and make further recommendations.

Task C – Develop a Mitigation Strategy

The Mitigation Strategy is a crucial portion of the HMP and should serve as the blueprint for reducing hazard losses. The updated mitigation strategy will include an evaluation of existing local goals, objectives, and action items to review whether they have been completed or not, and whether to carry them forward into the updated plan. Additionally, it will include an updated evaluation and review of pre-disaster and post disaster hazard mitigation policies, programs, and capabilities related to hazard mitigation.

The updated strategy will identify, evaluate, and prioritize cost-effective, environmentally sound, and implementable mitigation projects/actions to consider and will link them back to the overall Mitigation Strategy. Our team will propose several innovative systems for ranking and prioritizing mitigation actions. FEMA planning guidance requires that local mitigation actions be prioritized with an emphasis on the extent to which benefits are maximized according to a cost benefit review of the proposed projects and their associated costs (44CFR201.6).

An efficient way to do this kind of analysis is by individually analyzing the legal, environmental, economic, administration, social, technical, and political factors. Our team will ensure actions relating to existing and new building and infrastructure a priority, as that is another FEMA guidance request.

Another component will include an in-depth capabilities assessment across all adopting jurisdictions. Capabilities cover a wide range of topics and include: staffing, NFIP participation, policies, programs, and authorities relating to hazards. This FEMA-required information can be collected via an online survey to minimize impacts to planning team member's daily schedules. Follow up phone call meetings will be conducted, as necessary, to ensure full participation from jurisdictions. These resulting capability overviews will also be useful as the mitigation strategy is evaluated and updated, to potentially focus some mitigation projects on enhancing certain capabilities to advance hazard mitigation efforts in their respective communities.

A second and final project workshop/engagement event will focus almost entirely on mitigation strategy and mitigation projects/actions. At this workshop, mitigation actions for the hazards affecting those participating jurisdictions will be identified, analyzed, and discussed in detail. This workshop will guide participants through an extensive range of mitigation options based on the profiled hazards and on the commonly accepted four categories of mitigation measures (Local Plans and Regulation, Structure and Infrastructure Projects, Natural Systems Protection, Education and Awareness Programs). Prior to this workshop, the consultant team will be tasked with updating and reporting on any current or past mitigation goals and objectives.

Task D - Plan Adoption, Monitoring, Evaluation

Once drafted, the preliminary version of the draft plan will then be reviewed by the Steering Committee. Once all comments are incorporated, a final draft of the plan will then be provided to the public and local jurisdictions for comment for 30 days. Michael Baker will coordinate the public review process and will be responsible for collecting and incorporating comments where appropriate. The completed HMP will present comprehensive information on hazard risk and mitigation actions in the planning area in a cohesive framework, easy to use and implement over time.

Once all comments have been addressed, Michael Baker will submit a Steering Committee approved final draft to the Colorado Department Homeland Security and Emergency Management (DHSEM) to review. This delivery will also include the completed relevant sections of the FEMA Plan Review Tool. As State and FEMA comments are returned, Michael Baker will review these with the Steering Committee and will make updates as necessary. Michael Baker will manage any FEMA/State-requested plan changes that are necessary to achieve final FEMA Approval Pending Adoption (APA) status.

Upon approval by the Board of County Commissioners, Michael Baker will provide final versions (and associated files) of the plan to each participating jurisdiction and the State. This

will allow the State and participating jurisdictions the option to update their plans internally when they again expire in five years.

Following plan adoption, periodic revisions and updates may be required to ensure that the goals of the plan remain current. For example, plan updates must consider potential changes in hazard vulnerability and mitigation priorities. In addition, revisions may be necessary to ensure that the plan is in full compliance with applicable federal, state, and local regulations. We will work closely with the Steering Committee to develop an HMP Maintenance Plan. Together, we will create a clear implementation schedule, evaluation criteria, and a list of strategies for periodic evaluation of the plan to ensure that specific mitigation actions are being reviewed and carried out according to the revised hazard mitigation program. This should also include a strategy for continued public involvement and to ensure the plan and its Mitigation Strategy are incorporated into existing and future planning mechanisms. We recommend that a review team meet annually or bi-annually, and following any major disaster events, to reexamine the mitigation actions being implemented or proposed by participating jurisdictions. This will ensure that the plan is continuously updated to reflect changing conditions and needs of those adopting jurisdictions.

PROJECT 2: INNOVATIVE HOUSING STRATEGIES PLANNING

Task A: Project Check-ins and Management

This task entails twice monthly project check-ins. We suggest once per month with the point of contact and once per month with the steering committee. They will be coordinated across all projects. They will be virtual with the exception of when we can meet in person during the three planned site visit/public engagement opportunities. The project manager and consulting team will assemble agendas, coordinate schedules, and distribute notes and action items. On a monthly basis, the project manager will send invoices with summaries of work completed and an update on progress made towards the full scope of work.

Task B: Background Research and Analysis

This task includes research on the code, land use and zoning of all jurisdictions within Huerfano County. The codes will be compared to the strategies in bill HB-1271 and best practices in affordable housing planning across the country, with a particular focus on rural strategies. The resulting deliverable will be an existing conditions assessment report that includes a summary of existing code, opportunities for change and/or improvement, and maps documenting where affordable housing exists or where there are opportunities for more development of affordable housing. This document will be reviewed and vetted by the Steering Committee.

Additionally, this task will include stakeholder interviews and focus groups with community leaders, landlords, builders and developers, and staff in all three jurisdictions. The purpose of these interviews are to provide insight as to what the barriers (perceived or real) to affordable housing development are. These interviews will be documented and thematized for including into the existing conditions assessment report.

The project survey will include questions as they relate to affordable housing barriers and opportunities and this project's needs.

This task will conclude with a Public Workshop/Open House. This engagement opportunity will include opportunities for the public to learn the main ideas from the existing conditions assessment and also to share feedback and ideas for how to address affordable housing issues.

Task C: Land Suitability & Recommendations

This task builds off the background research conducted in Task B. For each jurisdiction, the consultant team will analyze up to three sites for further analysis. Each site will be analyzed from an infrastructure, regulatory, and landscape suitability perspective (wetlands, slopes and topography, road access, etc.). The set of recommendations for each site will include the unit type mix and financing strategies and options.

If there are not enough sites to analyze, the Steering Committee will direct how additional budget funds will be used. One option is to turn recommendations into draft code language and get the required ordinances as far along as possible with planning commission and council/BOCC adoption.

This task will end with a public engagement opportunity where citizens can learn about the selected sites and provide feedback. One of the goals for the workshop will be to educate residents on affordable housing financing to understand the barriers to housing affordability and development.

Task D: Documentation & Final Report

This task is to document the background research and analysis, site suitability studies, and the public engagement efforts and feedback, in one organized, well-written report. The report will show the new strategies that each jurisdiction has chosen to adopt, with recommended language for changing the code. The potential impacts of these changes will be discussed and highlighted, especially with respect to how chosen strategies address equity issues and what targeted demographics may see the most impact.

Additionally, this report will synthesize all the findings into a set of recommendations and key takeaways for the housing, with an itemized action plan that will be included both here and in the Comprehensive Plan housing chapter.

PROJECT 3: COMPREHENSIVE PLAN

The scope of work in this exhibit is the start of the Comprehensive Plan for Huerfano County. It contains Tasks A, B, and C. Tasks A and C are initial phases for the whole comprehensive plan project. Task B is a standalone task that will be completed in the first phase of the project.

Task A: Initial Project Check-ins and Management

This task entails twice monthly project check-ins. These will be coordinated with the other projects and will be once per month with the point of contact and once per month with the steering committee. They will be virtual with the exception of when we can meet in person during site visit/public engagement opportunities. The project manager and consulting team will assemble agendas, coordinate schedules, and distribute notes and action items. On a monthly basis, the project manager will send invoices with summaries of work completed and an update on progress made towards the full scope of work. This task includes the Project Check-ins and Management for the first phase of the project, leading up to and including the first site visit and public engagement effort.

Task B: Existing Conditions Assessment

This task includes an existing conditions assessment of all the topic areas that will be covered in the plan: housing, economic development, recreation, land use and zoning, historic and cultural resources, transportation, public safety, natural resources, sustainability, and hazard mitigation. For each topic area, the project team will gather data, produce maps where needed, and review current plan sections for existing policies, recommendations, and actions. For each section a “starting point report” will be written to understand where the County is starting from at the beginning of this plan process. Research on best practices will be included so that the project team and Steering Committee starts to see the gaps and path forward for eventual recommendations in the plan elements. We will produce sections within each report that will be particularly relevant to the City of Walsenburg and the Town of La Veta should they want to join the comprehensive plan for future phases.

Task C: Initial Public Engagement

This task outlines the first phase of public engagement planned for the County’s Comprehensive Plan project. The first event will be held after the existing conditions assessment (Task B) is completed. This event will educate the community on the findings and ask questions of participants on what they want for their future.

During this task, The consultant team will start to coordinate with local business owners and civic/non-profit organizations and institutions (churches, libraries, COG, schools, etc.) to help with outreach to traditionally underrepresented groups. We will find key “ambassadors” that can help with word-of-mouth outreach to different groups within the community. We will work with the County staff on a county-wide mailing if feasible. We will ensure there are paper and online options for surveys. The survey will combine questions from all three projects to streamline outreach efforts.

Other joint-plan public engagement efforts include stakeholder interviews, focus groups, and Steering Committee meetings where particular subject-matter experts and stakeholders are asked to join as adhoc members for the purpose of that day’s discussion topics.

Exhibit B: Budget

The following budget captures the cost for each Task listed in the scope of work for each project. For the contingency portion (\$20,000) in Project 1, there will be a discussion when \$40,000 has been spent by the subconsultant on whether the additional funds will be necessary to complete the project.

Project 1: Hazard Mitigation Plan	\$ 50,005	Total
Task A: Project Check-ins and Management	\$ 3,250	
Task B: Hazard Identification & Risk Assessment	\$ 25,755	
Task C: Develop a Mitigation Strategy	\$ 17,000	
Task D: Plan Adoption, Monitoring Evaluation	\$ 4,000	
Expenses	\$ 450	
Contingency	\$ 20,000	Budget would be \$70,005 with contingency
Project 2: Innovative Housing Strategies Planning	\$ 140,000	Total
Task A: Project Check-ins and Management	\$ 10,000	
Task B: Background Research & Analysis	\$ 38,000	
Task C: Land Suitability & Recommendations	\$ 49,000	
Task D: Documentation & Final Report	\$ 40,000	
Expenses	\$ 3,000	
Project 3: Comprehensive Plan (Phase 1)	\$ 38,300	
Task A: Initial Project Check-ins and Management	\$ 3,300	
Task B: Existing Conditions Assessment	\$ 30,000	
Task C: Initial Public Engagement	\$ 5,000	
Total	\$ 248,305	

Exhibit C: Schedule

Below is the schedule anticipated for the Projects 1 and 2.

	Feb-23	Mar-23	Apr-23	May-23	Jun-23	Jul-23	Aug-23	Sep-23	Oct-23	Nov-23	Dec-23	Jan-23
Project 1: Hazard Mitigation Plan												
Task A: Project Check-ins and Management	*	*	*	*	*	*	*	*	*	*	*	*
Task B: Hazard Identification & Risk Assessment			% & #									
Task C: Develop a Mitigation Strategy							# &					
Task D: Plan Adoption, Monitoring Evaluation									%		&	
Project 2: Innovative Housing Strategies Planning												
Task A: Project Check-ins and Management	*	*	*	*	*	*	*	*	*	*	*	*
Task B: Background Research & Analysis		%	% & #									
Task C: Land Suitability & Recommendations						%	&					
Task D: Documentation & Final Report									%			%

Steering Committee Meetings	*
Public Workshop	#
Site Visit/In Person Meeting	&
Deliverable	%

Huerfano County Solicitation #2022-07

COOPERATIVE PLANNING PROJECTS

- (1) Innovative Housing Strategies
- (2) Hazard Mitigation Plan
- (3) Joint Comprehensive Plan



Contact:
Gabby Voeller | Senior Community Planner
970.550.6005 | gvoeller@segroup.com

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We were impressed with the SE Group’s ability to continuously move the Pilot Hill land use planning process forward to meet critical deadlines while adjusting to unexpected challenges. SE Group was professional, responsive and positive in their interactions with multiple local partners and stakeholders, and demonstrated a high level of respect for different perspectives when challenging issues were discussed. We look forward to future opportunities to work with SE Group.

*Sarah Brown Mathews
Executive Director/Pilot Hill Project*

November 16, 2022

Huerfano County Solicitation #2022-07

Huerfano County
Board of County Commissioners
401 Main Street
Walsenburg, CO 81089

Dear Carl Young and the Selection Committee,

We are delighted to provide you with our submittal for the Huerfano County Cooperative Planning Projects. As a firm with sixty years' experience working in and with rural communities influenced by recreation and tourism, SE Group is uniquely qualified to help Huerfano County address the multiple challenges this set of projects requires. This proposal both showcases our qualifications as well as outlines a process by which all three projects can be completed in 2023 in a coordinated way, with efficiencies gained from key overlapping steps.

Our firm first got to know the Huerfano County community through our work on the Cuchara Mountain Master Plan in 2017-2018. We have been revisiting that work this year, helping the County strategize on what to do next with the park to leverage its assets. At the end of our Master Plan work in 2018, we were supposed to arrive for a final site visit. However, the Spring Fire devastated the community and our project ended abruptly. That summer, visitation and tourism was down, and it was a devastating economic blow to the community. Although things have recovered somewhat since then, we understand the ties between economic development, hazard mitigation, and recreation planning.

In this effort we are teaming up Michael Baker International. They will be leading the Hazard Mitigation portion of the project and collaborating on the Comprehensive Plan pieces that are related to public safety, natural resources, sustainability and transportation. Their award-winning work across the state, and particularly in rural communities, makes them an excellent partner for this effort.

Over the last year we have also worked intimately with the Colorado Department of Local Affairs (DOLA) to evaluate communities submitting for grant funding through their process. Congratulations on getting that funding! We know the strategies in HB21-1271 intimately and would be thrilled to help your community implement them in a meaningful way.

We have included a community engagement and project organization strategy for this project that will be at the foundation of both great plans and an enriching planning process. Plans are only as good as the people that work together on them. We hope our strategy will be both broad and deep - getting input from long-time residents as well as newcomers, from full-time and part-time residents, and from those that depend on natural resources, tourism and recreation for their livelihoods. We also want to remain nimble and flexible, working with the County on a strategy that will work best for you. What we have included is a starting point and combines parts of approaches that have been successful in past work.

To the best of our knowledge, all information in this statement of qualifications is complete and accurate. With this submittal we are providing you authorization to contact any previous client of ours for the purposes of ascertaining an independent evaluation of any of our team members' performance. We hope the project profiles of previous work showcase that we would be a good fit to work with your community. We look forward to speaking with you and welcome the opportunity to review our qualifications and proposed scope of work at any time.

Sincerely,

The Community Planning Team of SE Group



Mark Kane | Director of Community Planning
mkane@segroup.com



Gabby Voeller | Senior Community Planner
gvoeller@segroup.com

FIRM DESCRIPTIONS



323 West Main Street | Suite 202 | Frisco, CO | 80443

AREAS OF EXPERTISE

SE Group works with communities to envision their future and plan accordingly, unlocking their potential and staying true to their values. We are an integrated team of seasoned professionals that includes community planners, landscape architects, open space and recreation specialists, environmental planners, and engagement specialists. Our work includes:

- **Comprehensive Master Planning**
- **Site & Land Use Planning**
- **Environmental Planning**
- **Project Management**
- **Community Engagement & Visioning**
- **Landscape Design & Architecture**
- **Connectivity & Mobility Planning**

FIRM HISTORY

Founded in 1958, our team benefits from over 60 years of company experience working in places—including many right here in Colorado—where “quality of life” is often the defining community objective. Our company focus is in communities influenced by a strong commitment to sustaining the natural environment, that are shaped by visitation and tourism, that promote and encourage access to the outdoors, and that value planning to establish a strong economic framework for the future. Through the years, we’ve become leading experts in working with communities in fragile environments where short-term choices have profound long-term effects.

Our experience has taught us that:

Great communities know who they are. They have a vibe and character that defines why people live there. Their uniqueness and authenticity are essential to their being. We know that great long-term plans are built by focusing on what brings a community together.

Just as no two communities are alike, no two community planning projects are alike. We listen and work closely with clients to tailor the approach that makes the best sense for their community, customizing our processes and public engagement efforts, accordingly.

The best processes balance the interests of people, property, place, and profitability. Doing this takes deep listening, experience, and a highly thoughtful approach that examines multiple scales of decision-making: long and short term, fine and large grain, local as well as regional.

Planning is about pragmatism wrapped around a clear vision. We work with communities to develop and communicate that vision in a clear, inspiring way. Compelling graphics, clear maps, succinct policies, and easy-to-use documents are hallmarks of SE Group’s work.



165 South Union Boulevard | Suite 1000 | Lakewood, Colorado | 80228

For over 18 years, our local office in Lakewood, CO has delivered a wide variety of planning and engineering services for across Colorado and the nation. We pride ourselves on our ability to create and maintain strong professional relationships through the delivery of high-quality, cost-effective, and timely professional services. With over 80 of our Colorado clients coming back to seek additional services, our high-quality work product and positive client relationships drive our mutual success.

We commit to providing long range planning, hazard mitigation, resilience and climate change planning services for which we have proven abilities based on our similar experience with multiple Colorado projects.

Our in-house, licensed staff will contribute their expertise, creativity, and dedication to a process and products that organizations and key stakeholders within the county and local jurisdictions will support. We understand the goals and intent of this project and will bring excellent technical expertise and innovative ideas to address the unique challenges, needs, and opportunities for Huerfano County, CO.

KEY PROFESSIONALS

All consultant team members included in this project proposal have years of master planning experience. This includes expertise in project management, subject areas included in the plan, and excellent writing, graphic design and mapping skills. All team members are available to work on this project during the timeline indicated in the RFP.

Team Member	Project Role	EXPERTISE/QUALIFICATIONS							
		Master Planning	Land Use Analysis & Planning	Housing Analysis & Planning	Economic Development	Recreation & Trails Planning	Sustainability Analysis	Public Engagement	Hazard Mitigation Planning
SE Group									
Mark Kane Dir. of Community Planning	Principal In Charge	●	●	●	●	●	●	●	●
Gabby Voeller, AICP Senior Associate Planner	PROJECT MANAGER	●	●	●	●	●	●	●	●
Julia Randall Analyst & Planner	Assistant Project Manager	●	●	●	●	●	●	●	●
Ayden Eickhoff Analyst & Planner	Engagement, Writing, Graphics & Mapping	●	●	●	●	●	●	●	●
Michael Baker International									
Ted Heyd Senior Associate Planner	Long Range Planning & Transportation Planning	●	●	●	●	●	●	●	●
Anne Kuechenmeister, AICP Senior Planner	Long Range & Hazard Mitigation Planning	●	●	●	●	●	●	●	●
Laura Weinstein Hazard Mitigation Planner	Hazard Mitigation Planning	●	●	●	●	●	●	●	●

MARK D. KANE, APA
 DIRECTOR OF COMMUNITY PLANNING



Mark helps communities defined by outdoor recreation, the rural lifestyle, and tourism unlock and maximize economic, environmental, aesthetic, and recreational character—and potential—through community and land use planning, permitting, and entitlement. Mark brings together deep community planning expertise; an intuitive and informed understanding of how to bring together diverse communities for long-term consensus and gain; and a profound commitment to helping small communities find, articulate, tap into, and retain what makes them special.

Areas of Expertise

- Regional and Land Use Planning
- Aesthetics and Environmental Impact Analysis
- Permitting & Entitlement

Affiliations/Memberships

- American Planning Association/Vermont Planners Association, Past-President
- American Planning Association, Northern New England Chapter
- American Planning Association, Colorado Chapter
- American Society of Landscape Architects, Affiliate

Awards

- Merit Award for Outstanding Project, APA Colorado, Town of Ridgway Land Use Plan Update, 2012
- Honor Award for Sustainability and Environmental Planning, APA Colorado, Town of Nederland Comprehensive Plan Update, 2014.
- Merit Award for Innovation/Creative Partnerships, Colorado APA, Emerald Mountain Park Master Plan, 2014

Presentations

- Sun Valley Economic Development (SVED) - Future of Mountain Towns

Experience

Mark has been with SE Group since 2000 and has over 20 years of experience in environmental and land use planning and analysis.

Mark frequently provides expert witness testimony on aesthetics and development projects from a perspective of careful analysis and throughout consideration of the facts. Mark uses this approach through his engagement work and speaking engagements and takes advantage of technology where needed, but always with an eye towards making the planning process more understandable.

Mark has a Bachelor of Science, School of Natural Resources - Environmental Studies from the University of Vermont.

Projects

- City of Lebanon Master Plan, New Hampshire
- City of South Burlington Underwood Park Vision Framework and Master Plan, Vermont
- Clear Creek County Master Plan 2020, Colorado
- Cumberland Plateau Outdoor Recreation Plan, Virginia
- Emerald Mountain Park Master Plan, Colorado
- Essex Town Center Master Plan, Vermont
- Estes Valley Recreation and Parks District Master Trails Plan, Colorado
- GIS-Based Regional Open Space Study, Northwest Vermont
- Glacier-Winner Creek Land Use Plan - Girdwood 2020, Alaska
- Lake Chelan Multi-Season Recreation Destination Feasibility Study, Washington
- Mad River Valley Active Transportation Plan, Vermont
- Mad River Valley Economic Study, Vermont
- Maidstone State Park Master Plan, Vermont
- Milton Town Core Master Plan, Milton, Vermont
- Pagosa Springs 2018 Comprehensive Plan, Colorado
- Quechee Lakes - Long-Range Community Plan, Vermont
- Red Lodge Alternative Transportation Study, Montana
- Town of Chester Village Center Master Plan, Vermont
- Town of Frisco Development Code, Colorado
- Town of Nederland Comprehensive Plan, Colorado
- Town of Ridgway Land Use Plan 2011 Update, Colorado

GABBY VOELLER, AICP
SENIOR COMMUNITY PLANNER



Gabby is a multi-faceted planner with a passion for helping clients solve the most complex problems facing their communities. She applies both technical and analytical skills to all aspects of community planning. Gabby approaches projects with a mind geared toward seeking out innovative and engaging solutions that move communities closer towards their vision and goals.

Experience

Working in both private and public sectors, Gabby has widespread knowledge and experience managing multi-modal transportation planning, recreation and trails planning, and community planning and development projects. She excels at crafting and facilitating creative public engagement processes and making compelling maps and infographics for plan documents. She has authored environmental analyses and impact studies. Gabby joined the SE Group team in 2016.

Gabby has a Master of Regional Planning from Cornell University and a Bachelor of Science in Chemistry from Bates College.

Projects

- City of Cañon City Arkansas River Corridor Master Plan, Colorado
- City of Fort Morgan Trails Master Plan, Colorado
- City of Fruita Comprehensive Plan Update, Colorado
- City of Fruita Land Use Code Update, Colorado
- Clear Creek County 2017 Community Master Plan, Colorado
- Cuchara Mountain Park Master Plan, Colorado
- City of Aspen Uphill Economy Recreation Plan, Colorado
- Dillon Reservoir Recreation Area and Summit County RecPath System Capacity Analysis, Summit County, Colorado
- Eldorado Canyon State Park Visitor Use Management Plan, Colorado
- Estes Valley Recreation and Park District Comprehensive Master Trails Plan, Colorado
- Pagosa Springs 2018 Comprehensive Plan, Colorado
- Pilot Hill Land Use Plan, Laramie Wyoming
- Town of Breckenridge Gondola Feasibility Study, Colorado
- Town of Frisco Community Plan Assistance, Colorado
- Town of Frisco Three Mile Plan, Colorado
- Town of Frisco Trails Master Plan, Colorado
- West Vail Master Plan, Colorado
- City of Chisholm Comprehensive Plan, Minnesota
- Lake County Parks, Recreation and Open Space Plan, Colorado
- Minturn Community Plan & Downtown Design Guidelines, Colorado
- Town of Eagle Open Space and Trails Plan, Colorado
- DOLA Affordable Housing Strategies Analysis, Colorado
- Leadville/Lake County Affordable Housing Site Analysis, Colorado
- Telluride/San Miguel County Community Housing Rezoning, Colorado

Areas of Expertise

- Community Planning
- Affordable Housing
- Transportation Planning / Land Use + Transportation Modeling
- Community Engagement

Affiliations/Memberships

- American Planning Association, Colorado Chapter, Northern New England Chapter

Appointments

- City of Leadville Planning + Zoning Commission

Presentations

- “UrbanSim,” APA Colorado conference, 2014
- “Creating Connections between Recreation and Transportation” APA Colorado conference 2016
- “Partnering with Colorado’s Public Land Managers,” APA Colorado Conference, 2017
- “Progressive Planning on the Western Slope” APA Colorado Conference 2020

JULIA RANDALL

PLANNER



Areas of Expertise

- Technical Writing & Research
- Community Engagement & Visioning
- Policy Analysis
- Permitting

Full of curiosity, Julia loves getting to know the communities she works in and enjoys the challenge of building consensus among stakeholder groups. With every project, Julia seeks to develop innovative land use and policy solutions that reflect a community's values, build resiliency, and improve overall quality of life. Julia's considerable skill as a writer and passion for sustainable, inclusive recreation make her an asset to any project team.

Experience

Julia specializes in land use and policy analysis, public engagement, and environmental permitting. Julia is a member of the Community Planning and Design team and also supports all practice areas at SE Group.

Prior to joining SE Group, Julia studied recreation and tourism internationally and close to home – she completed a research fellowship on ecotourism in Thailand, and she has produced two reports analyzing visitor use management in the Adirondack High Peaks.

Julia holds a Bachelor of Arts in English from Williams College.

Projects

- West Vail Master Plan, Colorado
- City of Chisholm Comprehensive Plan Update, Minnesota
- Grant County Comprehensive Outdoor Recreation and Trails Master Plan, New Mexico
- Minturn Community Plan Update, Colorado
- Norwood Trails Assessment, Colorado
- Leddy Park Comprehensive Plan, Vermont
- Colorado Department of Local Affairs Affordable Housing Qualifying Strategy Evaluation, Colorado
- Leadville/Lake County Affordable Housing Site Analysis
- City of South Burlington Land Development Regulations Review and Support, Vermont
- Bromley Ski Act 250 Permit Support, Vermont
- Bolton Valley Act 250 Permit Support, Vermont
- Minnesota Off-Road Vehicle Master Plan, Minnesota
- Cumberland Plateau Outdoor Recreation Plan, Virginia
- Rib Mountain State Park Recreation Needs Assessment, Wisconsin
- Brandywine/Boston Mills Lift Replacement Planning
- Jack Frost/Big Boulder Lift Replacement Planning
- Allen Street Solar, Vermont
- Bridge Street Solar, Vermont
- Chelsea Solar, Vermont
- Gilman Hydro Solar, Vermont
- Rockingham Solar, Vermont

AYDEN EICKHOFF
ANALYST + PLANNER



Areas of Expertise

- Community Engagement
- Recreation Analysis

Awards

- 2019 Vermont Planning Association Plan of the Year, Enosburg Falls Vital Village

Presentations

- “Energizing your Outdoor Recreation Economy”. Vermont Parks and Recreation Association, 2021

Affiliations

- Colorado APA

While providing key support to a wide variety of planning projects, Ayden maintains a particular appreciation for the interactions between project goals, community needs, and political necessities. She brings an infectious enthusiasm to project teams and approaches challenges with a commitment to identifying flexible and adaptive strategies. She delights in distilling complex issues into concise and helpful formats with an eye towards context and clarity.

Experience

Ayden joined SE Group in 2019 with an academic background in Environmental Studies, Politics, and Geology. Her previous work includes researching and implementing municipal environmental and fiscal policies. Having lived both abroad and in rural places across the U.S., Ayden brings a keen awareness towards the range and diversity of stakeholders’ interests to all aspects of SE Group projects.

Ayden has a Bachelor of Arts in Environmental Studies from Bates College.

Projects

- Addison County Triangle Bike Loop, Vermont
- Bingham Falls Master Plan, Vermont
- Burlington Arms Forest Trail Study, Vermont
- Lowell Lake State Park Master Plan, Vermont
- Milton Recreation Master Plan, Vermont
- Missisquoi Valley Rail Trail, Vermont
- Montpelier Downtown Core Master Plan, Vermont
- Pilot Hill Land Use Plan, Wyoming
- Rise VT Trail Impact Analysis, Vermont
- Saxon Hill Town Forest, Vermont
- Valdez Heli-Ski Operational Permit, Alaska
- Northfield Ridge and River Routes, Northfield, Vermont
- Middlebury Snow Bowl Master Plan, Vermont
- Newport Municipal Plan, Vermont
- Minnesota ORV Statewide Master Plan, Minnesota
- Morgantown Conceptual Trail Planning, West Virginia University
- Kingdom Trail Network Feasibility Analysis, Vermont
- Grand Targhee EIS, Wyoming
- Foothills Foundation Recreation Master Plan, New Hampshire
- Loon Mountain Resort Master Development, New Hampshire
- Lutsen Mountain EIS, Minnesota
- Minnesota Discovery Center Master Plan, Minnesota
- Cumberland Plateau Outdoor Recreation Plan, Virginia
- Mount Sunapee Master Development Plan, New Hampshire
- Velomont Trail Economic Impact Study, Vermont
- Breaks Interstate Park Operations Analysis, Virginia
- Friends of the Front Range Wildlife Refuge Communication, Colorado

SENIOR ASSOCIATE

Ted Heyd

Mr. Heyd is an urban and regional planner with over 20 years of experience in transportation and land use planning. He has managed and supported a wide range of planning projects at the state, county, and city/town scales, involving collaboration with staff, elected officials, community stakeholders, and multidisciplinary project teams. Ted has extensive experience with municipal policy and plan review, data analysis, report development, and public speaking. Currently, his focus is on supporting federal and municipal clients on planning for drought, the pursuit of grant funding, and multimodal safety studies. Mr. Heyd supports the FEMA Community Engagement and Risk Communications contract through technical report writing and research, communications with subject matter experts, and the development of best practices focused on risk mitigation and community resilience.

RELEVANT EXPERIENCE

Planning for Less: Adapting to Drought in the West, FEMA Region 8. Senior

Technical Specialist. Ted is supporting FEMA's efforts to identify barriers and emerging opportunities for communities planning for drought within local hazard mitigation plans (HMPs). Ted is developing a Context Analysis summarizing the current 'state of the practice' for drought planning at the local level and identifying ways that communities can more effectively identify risk and develop mitigation. He is reviewing and summarizing a wide range of data sources on the subject and working with Michael Baker's subject matter expert (SMEs) to revise the draft analysis.

Planning / Mitigation Best Practice Development, FEMA Region 8. Senior Technical Specialist. Collaborating with internal project partners and FEMA staff from throughout the country, Ted is developing 10 best practices that feature how hazards are being identified and effectively communicated across a variety of formats including digital dashboards, augmented reality apps, and artistic installations within public parks. Ted leads the research and writing for each best practice and manages the creative production process so the features are available to FEMA staff and key partners in a graphically rich format.

Grant Application Support, Aurora, Castle Pines, and Frisco, Colorado. Project Planner. Ted is coordinating with municipal staff to complete and submit grant applications to fund a wide range of improvements including water quality improvements, roadway safety, housing, and trails. Ted is responsible for reviewing local planning and policy documents to identify how proposed improvements align with vision(s), goals, and objectives from comprehensive plans, sub-area land use plans, and parks and recreation master plans.

Southern Mountain Loop Trail Feasibility Study, South Central Council of Governments. Bicycle / Pedestrian Lead. Ted supported completion of a combined Planning Environmental Linkage (PEL)/bike trail feasibility study on an 80-mile section of SH 160 / 12; a designated scenic byway. As the bicycle planning lead, Ted supported the completion an existing condition analysis and then developed a range of on-and off-highway multiuse trail alternatives intended to improve safety, increase access to a wider range of residents and visitors (tourists), and prioritize projects that can be built in phases. The alternatives analysis involved extensive coordination with internal project team members and external stakeholders including trail advocacy groups, land management agencies, elected officials, and city /county staff. Through the process, potential impacts to land uses, environmentally sensitive resources, and utilities were evaluated to identify the recommended alignment.

Vision to Action Strategic Plan, Jefferson County Open Space, Golden Colorado. Project Planner.

Through an update to its long-range strategic plan, Jefferson County Open Space sought to develop a framework to sustainably and equitably manage the rapidly growing demand on its system of parks and open spaces. Ted supported and presented at a series of workshops designed to facilitate conversations between division leaders on ways to prioritize projects in the face of staffing constraints while striking a balance of their three guiding tenets; preserve, protect, and provide. The collaborative work involved navigating and helping staff find middle ground through often challenging conversations and competing priorities. The 2020-2025 Conservation Greenprint is the outcome of the process and provides the organization with strategic direction for the next four years.

Michael Baker
INTERNATIONAL

Years with Michael Baker

11 months

Years of Experience

21

Education

M.U.P., 2002, Urban Planning, San Jose State University, San Jose, CA

B.A., 1994, American History, Hobart College, Geneva, NY

Professional Affiliations

Association of Bicycle / Pedestrian Professionals

COMMUNITY PLANNER

Anne Kuechenmeister, AICP

Anne is an urban planner who specializes in hazard mitigation and public engagement. She specializes risk analysis and identifying strategies for mitigation action, in particular land use regulations and zoning. Her public engagement work builds a thoughtful process paired with effective, creative, and innovative tools and strategies for engagement.

She works alongside FEMA and their state, local and tribal partners to identify ways to communicate mitigation and structure mitigations actions. This includes workshops, land use regulation guidance and communication tools and materials. She has also developed methodology to identify how climate change will alter hazards and their risks to communities and resources in the future. She has worked with disaster impacted communities to identify ways to build back stronger and safer. Her focus has been on vulnerable populations, which often are unduly impacted by disasters.

Anne believes in meeting communities where they are, valuing their expertise and knowledge. She has worked on a broad range of planning projects including active transportation, housing, water and flooding, land use and consensus building for regional government organizations.

RELEVANT EXPERIENCE

Mitigating Hazards through Land Use Solutions Workshop | Nationwide | May 2018 – January 2021

Working with the Colorado Department of Local Affairs and the Federal Emergency Management Agency Anne led the effort to develop an intensive and customized workshop to help communities identify and evaluate their risks using their hazard mitigation plans and other applicable materials, evaluate potential strategies best address their known hazards and then work alongside experts to develop a plan to implement a land use regulation to reduce the impact of their known hazard.

El Paso County Water Master Plan | El Paso County | 2019.

This award-winning plan focused on building resilience and improving water conversation and use practices in El Paso County, CO. Anne worked with a multidisciplinary team to gather input from county water providers and the public to understand current practices. Using the Colorado State Water Plan to project out demand the team was able to identify land use, landscaping and policy recommendations aimed as reducing water consumption and demand. This plan won the 2020 National Association of Counties award for Planning and also the American Planning Association, Colorado Chapter Award for Resilience in 2019.

Larimer County Mountain Resilience Study | Larimer County, CO | 2017

The award-winning Larimer County Mountain Resilience Study was Phase I of the overall comprehensive plan for the area. This study looked at all known hazards and developed an existing conditions snapshot, incorporated community direction for resilience and built a policy framework and strategic implementation plan. Anne led the review of hazard impacts on infrastructure and assisted with housing, transportation and recreational facilities analysis to build a policy framework for Larimer County. She also assisted with the development and implementing of public engagement and steering committee meetings.

State of Colorado Enhanced Hazard Mitigation Plan | Colorado | December 2019

Anne worked with the Colorado Division of Homeland Security and Emergency Management to assist with the State of Colorado's first Enhanced State Hazard Mitigation Plan. Anne provided support for the hazard identification and risk assessment for 31 natural, human-caused, and technical hazards. Anne aided in the analysis of determining the State's vulnerability to each hazard based on subject matter expert input, best available data, future development, social vulnerability, and social capital. Anne also aided in updating the State's hazard mitigation capabilities. Lastly, Anne assisted with organizing and implementing State Hazard Mitigation Planning Team meetings, which included diverse State stakeholders to facilitate the drafting of the Plan.

Michael Baker INTERNATIONAL

Years with Michael Baker

6

Years of Experience

9

Education

M.U.R.P., 2015, Regional Planning/Urban Planning,
University of Colorado at Denver

B.A., 2003, Spanish, University of Michigan at Ann
Arbor

B.A., 2003, English/Liberal Arts, University of
Michigan at Ann Arbor

Certificate, 2003, Secondary Education, University of
Michigan

Licenses/Certifications

NCI Charrette System Certificate

American Institute of Certified Planners, 2018

Professional Affiliations

American Planning Association (APA), Conference
Presenter (2019, 2020, 2022)

SENIOR ASSOCIATE

Laura Weinstein

Ms. Weinstein is an urban planner with over 9 years of experience in community and land use planning in both the public and private sectors. She has worked on a wide range of planning initiatives including comprehensive plans, placemaking studies, transit-oriented design, land use regulation and development review, and community outreach. Currently, her focus is on resiliency planning, risk and vulnerability assessment, and hazard mitigation planning. Ms. Weinstein supports the FEMA Community Engagement and Risk Communications contract by providing technical report writing and research, outreach coordination with local communities and state partners, and supplemental plan review for various FEMA regions. Through her hazard mitigation work, Ms. Weinstein has helped residents and communities identify risk and develop strategies to reduce vulnerability.

RELEVANT EXPERIENCE

Community Engagement and Risk Communications, Nationwide, US. FEMA.

Mitigation Champion. Collaborates regularly with the FEMA Region VIII Planning Team to identify and develop creative programs aimed at helping citizens and communities become more resilient in the face of disasters. Within this role, Laura supports identification, planning, mitigation action implementation, and resiliency strategies for Colorado, Wyoming, Montana, Utah, North Dakota, and South Dakota.

Pikes Peak Regional Multi-Jurisdictional Hazard Mitigation Plan Update, El Paso County, Colorado. *Pikes Peak Office of Emergency Management.* Project Manager. Including El Paso County and eight participating jurisdictions, this multi-hazard mitigation plan is an update to the County's 2015 plan. Responsible for facilitating all aspects of the hazard mitigation process, including coordinating team meetings and assisting with plan outreach, conducting background research, identifying hazards and evaluating risk, and developing mitigation strategies to reduce the county's vulnerability to disasters. She further supports plan development by maintaining and updating the project website and assisting in plan writing.

Local Mitigation Plan Review, Nationwide, US. FEMA. Project Manager. Assists FEMA with review of Local Mitigation Plans to ensure approved Plans meet the requirements of the Stafford Act and Title 44 Code of Federal Regulations (CFR) §201.6. Completed review of 14 Local Mitigation Plans.

Mitigating Hazards through Land Use Solutions Follow Up Report, Statewide, Colorado. *FEMA Region 8.* Planner. Responsible for following up with communities and synthesizing feedback on this land use planning and hazard focused workshop in order to create recommendations for continued program improvement. The final document provides guidance on potential program improvements.

Planning for Hazards, Colorado. *FEMA Region 8.* Project Manager. Responsible for providing project management and contract support, helping with coordination of outreach to community representatives and area partners, and assisting with research and content development of new land use planning tools and best practices for reducing a community's hazard risk. This project continues to build awareness of the value of land use as a critical tool for mitigating hazards and provide a platform to guide communities through implementation.

Hazard Planning Tool, Statewide, Colorado. Colorado Department of Local Affairs and FEMA Region 8. Participated in development of a finance tool for communities to develop funding strategies for mitigation projects. This tool profile introduces a variety of funding mechanisms that can be used to generate revenue to implement pre-disaster hazard mitigation projects and describes a financing strategy to position a project or action to be successfully implemented through either a local or external funding source.

Town of Estes Park Comprehensive Plan, Estes Park, Colorado. *Town of Estes Park.* Planner. Serving as Project Planner with the role of drafting the resiliency and climate adaptation component of the Town's Comprehensive Plan. Performed targeted analysis and research of background information and spatial data of existing conditions in the Town of Estes Park and the Estes Valley area to develop an existing conditions and trend analysis snapshot examine risks and vulnerabilities to shocks and stresses across six resiliency sectors. The findings of this existing conditions snapshot will inform policies related to climate, hazards, resiliency, and infrastructure to guide decision-making on future development.

Michael Baker
INTERNATIONAL

Years with Michael Baker

3

Years of Experience

9

Education

M.U.R.P., 2017, Urban and Regional Planning,
University of Colorado

B.A., 2010, Urban and Regional Planning, University
of California, San Diego

Professional Affiliations

American Planning Association (APA)

STATEMENT OF QUALIFICATIONS

For this project, we have assembled a team of consultants that has the broad set of skills that are needed to complete these projects as one unified whole. We understand the overlapping parts but also recognize them as distinct projects with clear deliverables and specific needed outcomes. Both consultants on our team have extensive experience in rural communities, especially those influenced by public lands, tourism, and recreation. We are creative in our approach to engagement, and customize our scope based on client capacity and community needs.

RELEVANT EXPERIENCE & REFERENCES

The table is a list of relevant projects that show our Consulting Team’s expertise as it relates to these three cooperative projects. It shows our breadth and depth in master planning, planning for rural communities, affordable housing, and hazard mitigation planning. We also included our expertise and projects related to recreation planning and transitioning to an outdoor economy, something that Huerfano County may want to explore and was a key part of our work on the Cuchara Master Plan.

	PLANNING FOR RURAL COMMUNITIES	COMPREHENSIVE/ MASTER PLAN	AFFORDABLE HOUSING	PUBLIC ENGAGEMENT	RECREATION PLANNING/ OUTDOOR RECREATION ECONOMY	HAZARD MITIGATION PLANNING
SE Group						
Fruita In Motion Master Plan, CO	●	●	●	●		●
Minturn Community Plan Update, CO	●	●	●	●		●
West Vail Master Plan, CO		●	●	●		
Pagosa Springs Forward Comprehensive Plan, CO	●	●	●	●		●
Clear Creek County Master Plan, CO	●	●	●	●		●
Pilot Hil Land Use Master Plan, WY	●			●	●	
Cuchara Mountain Park Master Plan, CO	●	●		●		
Leadville/Lake County Affordable Housing Site Analysis, CO	●		●	●		
Telluride Housing Assistance, CO						
DOLA HB-1271 Implementation Assistance, CO						
Ridgway Land Use Plan, CO	●			●	●	
Michael Baker International						
Mountain Resilience Plan, Larimer County CO	●			●		●
Mitigating Hazards Through Land Use Solutions, CO	●					●
State of Colorado Enhanced State Hazard Mitigation Plan, CO	●					●
Pikes Peak Regional Multi-Jurisdictional Hazard Mitigation Planning, CO	●			●		●
Southern Mountain Loop Trail Feasibility Study, South Central Council of Governments	●			●	●	

Fruita in Motion: Comprehensive Plan



Fruita, Colorado

The planning process for the City of Fruita’s Comprehensive Plan “Fruita in Motion” involved extensive collaboration with the City and public engagement with the community. Five plan themes showcase the approach the plan will take with its goals and policies: efficient development; community first, tourism second; a thriving downtown, connectivity; and strategic economic development.

The economic development strategy in this plan is one of “quality of place.” The idea behind this strategy is to support existing businesses while also making the community an attractive place to live. This in turn will attract new residents and businesses that want to be located in the community because of its sense of place and amenities.

One of the policies that came out of the “efficient development” theme is to promote and support a larger diversity of housing types. Without going as far as developing an affordable housing program, the city hopes that allowing and incentivizing more types of housing and more units per acre will promote some natural affordability within the community.

Additionally, Fruita has the desire to cultivate recreational assets, especially trails, but not to the detriment of the community character. Currently many of the trail networks are a few miles away from the city on nearby public lands. One goal of this plan to is connect the trail systems to paved pathways within the city so that it is all one functioning network and the city itself becomes the trailhead.

The Comprehensive Plan was adopted in February of 2020.



REFERENCE:
 Dan Caris | City of Fruita
 Planning & Development
 Director
 970.858.0786 office
 dcaris@fruita.org



Minturn Community Plan Update

Town of Minturn, CO



SE Group is currently working with the Town of Minturn on an update of the town's Community Plan. The Community Plan will encompass all aspects of the town's growth and development and will summarize community goals and priorities. The planning effort leverages the expertise of a multi-disciplinary team of subconsultants, including StudioSeed, Economic & Planning Systems, Fehr & Peers, and TetraTech. At present, the team is in the plan drafting phase and anticipates the adoption of the final plan in Fall 2022.

The Minturn Community Plan effort has been conducted alongside several other engagement and planning processes in the Town of Minturn. Since the Community Plan update process began in the fall of 2021, the Town has also initiated an update of its zoning, an area plan for one of the town's most popular parks, an update of the Town's design standards and guidelines for its historic downtown area, and a statistically valid community survey. The Community Plan attempts to encapsulate all of these ongoing activities and initiatives and relate them to the broader vision for the community.

As with any community plan effort, public engagement has been a core element to this process. Our team has conducted an open house and developed an interactive project website. A large Steering Committee has also helped to provide input on the planning process and contents at multiple points during this process.

REFERENCE:

Michelle Metteer | Town
Manager
manager@minturn.org
970-827-5645 x8



MINTURN



COMMUNITY PLAN

-Imagine Minturn-

West Vail Master Plan

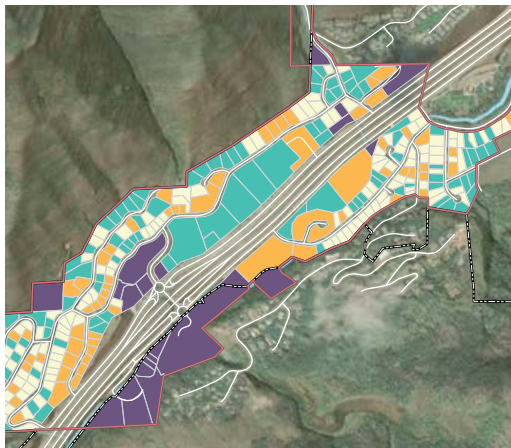
Vail, Colorado



SE Group recently worked with the Town of Vail, CO to develop a plan for the West Vail neighborhood, a portion of the Town that is primarily residential and is separate from visitor-focused amenities associated with Vail Mountain Resort, such as Lionshead. SE Group acted as the lead consultant on the project, partnering with three Colorado-based firms bringing expertise in transportation and mobility, housing and land use economics, and urban design.

The Plan was adopted by the Vail Town Council in November 2021. The final Plan identifies and addresses several key challenges for the West Vail neighborhood, including its outdated commercial core, lack of housing availability, and need for additional infrastructure for pedestrians and bicyclists. One key challenge for West Vail is the many nonconforming uses and structures in residential zones within the neighborhood. The housing section of the Plan discusses these issues and recommends zoning changes that would encourage an appropriate level of housing density for the neighborhood’s current and projected population.

Informed by a series of public workshops on the Commercial Area, Housing, and Transportation, the plan presents three scenarios for redesigning the commercial core to include new opportunities for multimodal transit, additional housing units, and spaces for new businesses. The first scenario, dubbed “Quick Wins,” demonstrates a lower cost method of improving walkability and providing some additional housing units in the commercial core on a short-term basis. The second scenario presents a phased concept that retains existing parcels, in which redevelopment of a Town-owned property would catalyze redevelopment of other parcels. The third scenario takes a “master-planned” approach that overrides existing parcel lines to create a single cohesive design for the entire area. Together, the three scenarios help convey the plan’s vision for “West Vail Center,” a walkable, mixed-use core that would function as a social and economic hub for the neighborhood. These scenarios and the broader plan recommendations were also shaped by a highly engaged Advisory Committee made up of Town residents.



REFERENCE:
 Matt Gennett, AICP | Town of Vail
 Community Development Director
 970.479.2146 | Office
 970.343.2767 | Cell
 mgennett@vailgov.com

Pagosa Springs Comprehensive Plan “Pagosa Springs Forward”

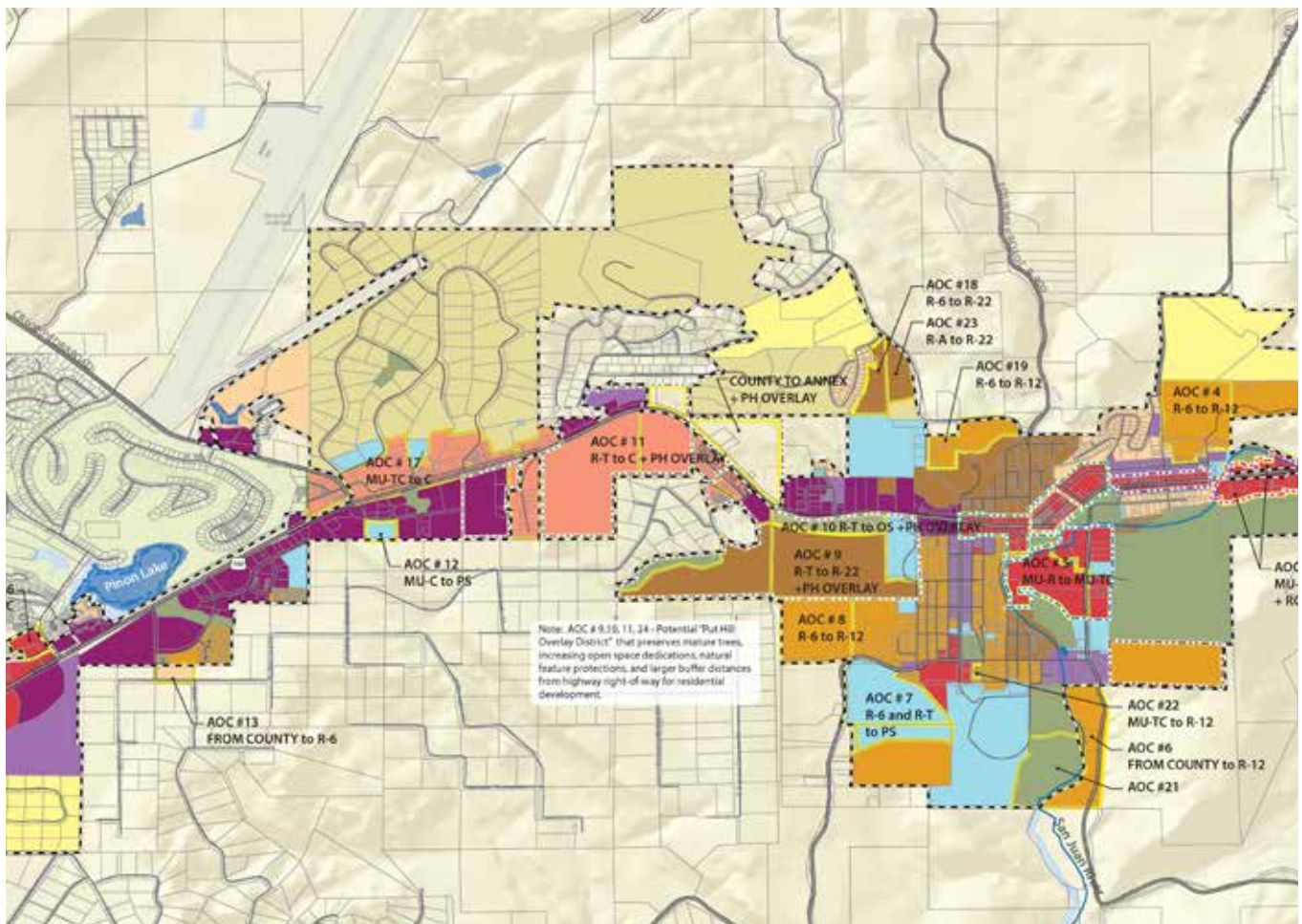


Pagosa Springs, Colorado

SE Group has recently worked with the Town of Pagosa Springs on a Comprehensive Plan update. Major issues facing the community during the plan update process included affordable housing, services for the growing retiree population, growing small businesses and retaining talented workers. As in many Colorado communities, the community is larger than the Town boundary. For Pagosa Springs, a large portion of county residents live just outside the Town borders. Therefore, a key theme of this plan was to collaborate with Aruchuleta County on land use, affordable housing, transportation and trails—all elements that cross borders.

The planning process included working closely with a group of diverse stakeholders. We were also able to take advantage of a Smart Growth America grant the town was awarded and collaborated closely with their outreach and findings. The resulting plan document connects various plan themes and contains an action plan for transformative projects that exemplify the plan’s mission and vision. Rather than land use and transportation as separate chapters, they are woven together in one. Rather than talk about affordable housing policy, we create a pathway for how the Town may start working on a specific development

REFERENCE:
James Dickhoff | Pagosa Springs
Community Dev. Director
970.264.4151 x225
jdickhoff@pagosasprings.co.gov



Clear Creek County 2017 Community Master Plan

Clear Creek County, Colorado



SE Group, working in collaboration with Alpine Planning, recently completed the Clear Creek County 2017 Community Master Plan.

Facing an exceedingly challenging fiscal situation with the pending reduction to the workforce at the Henderson Mine, the future for Clear Creek County was decidedly unclear. Rather than focusing the comprehensive planning efforts on big ideas or overly ambitious agendas, SE Group honed the efforts toward a more strategic set of objectives aligned with a renewed set of guiding vision statements. This approach supports the County going forward by helping it identify shorter-term issues and make informed decisions. It also helps to keep the values and aspirations of the residents, such as the preservation of quality of life, front and center.

Using a combination of workshops, open houses, a stakeholder group, a county-wide survey, and close interactions with the Planning Commission, the plan document is poised to help guide future changes within the County.

REFERENCE:

Frederick Rollenhagen

Planning Director

Phone: (303) 679-2360

Email frollenhagen@clearcreekcounty.us



Pilot Hill Land Use Plan

Laramie, WY



SE Group recently completed a Land Use Plan for Albany County and the Pilot Hill Project, a 501c(3) nonprofit in southeastern Wyoming. The Pilot Hill Project is a community initiative to protect 7,000+ acres of open space, conserve wildlife habitat, create recreational and educational opportunities, and promote economic development.

SE Group worked closely with community members and land management agencies to develop a land use plan and trail system that balances conservation and recreation, aligns with the management capacity, and has strong connectivity to Laramie neighborhoods and businesses and the adjacent National Forest. SE Group convened an interagency working group, made up of Wyoming State Parks, the U.S. Forest Service, and Game and Fish, to discuss the appropriate land uses for the parcel including the trail mileage and locations, habitat needs, management scheme, and potential rules and regulations.

Large public meetings and on-property engagement occurred throughout the process to allow hundreds of community members to provide their ideas and input on this game changing opportunity for Laramie residents and the economy. SE Group provided renderings, analysis, and maps to allow community members to determine the appropriate land uses, trail density, and character to preserve the natural landscape and habitat and offer an incredible back-door recreational resource. The final plan is a 43.9-mile sustainable trail network offering opportunities for hikers, mountain bikers, and horseback riders of all physical abilities.

The Pilot Hill Land Use Plan was awarded the 2020 Wyoming Planning Project of the Year by the Wyoming Planning Association (WYOPASS).

REFERENCE:

Sarah Brown Mathews
Executive Director | Pilot Hill, Inc.
(307) 399-4479 cell
sarah.brown.mathews@gmail.com



Cuchara Mountain Park Master Plan

Huerfano County, Colorado

Cuchara Mountain Park is a new county-owned recreation facility located in the Spanish Peaks of Huerfano County. In 2017, the Cuchara Foundation provided Huerfano County the money to purchase 47 acres at the base of the former Cuchara Mountain Resort for use as a public mountain park with the goals of offering residents and visitors and place to recreate, gather, and connect with nature. SE Group was instrumental in guiding the recreation planning process and ensuring that the community had a strong voice in the process.

Efforts began immediately to refurbish existing structures and build a new trail on the property. The ensuing planning process paired the community interests with market research, park design, strategic planning, and financial analysis to develop an implementable master plan. The community engagement process afforded both year-round and seasonal residents many opportunities to share their ideas and give feedback with community discussions, surveys, and open houses. Multiple design concepts were developed and presented to the public to ensure the final concept reflected the community’s interests and capacities.

Looking towards the future, the master plan lays out a long-term vision for the park. This plan envisions the park revived with activities, programs, and events for both residents and visitors—essentially serving as the hub for outdoor recreation on the adjacent national forest.

REFERENCE:
 Lois Adams | Secretary
 Cuchara Foundation
 (303) 927-9559
 loisadams@mac.com



SE Group Colorado Housing Projects

Leadville/Lake County Affordable Housing Site Analysis Colorado



REFERENCE:

Michael Yerman / 719.221.5380
michael@myruralplanner.com

SE Group assisted the City of Leadville and Lake County with a site analysis process that examined several potential locations for affordable housing in the City of Leadville. In collaboration with Shape Architecture and TetraTech, we developed a report that summarized conditions, infrastructure needs, and potential design programs for each site. The City and the County are now poised to leverage grant funding to implement these projects. This process also involved a multi-step public engagement process that solicited input from English and Spanish speakers in the community. The results underscored the acute need for housing in the area as well as residents' feelings of stress related to housing.

Telluride/San Miguel County Rezoning and Housing Assistance Colorado



REFERENCE:

Kevin Geiger
KGeiger@telluride-co.gov

SE Group assisted the Town of Telluride and San Miguel County through a rezoning process of 39 acres to a new affordable housing zone designation. This work included putting together the entire rezoning application, attending Planning Commission and Board of County Commissioner hearings, and strategizing with Town and County staff on how to make the rezoning a successfully passed initiative. It passed and is now in the site plan development stage.

HB21-1271 Affordable Housing Strategies Assessment Colorado



REFERENCE:

Andy Hill / 303.864.7725
andy.hill@state.co.us

SE Group assisted the Colorado Department of Local Affairs (DOLA) with an initial screening process for a new affordable housing grant program created by **Colorado House Bill 21-1271**. Our team worked with DOLA and Loveland-based firm Plan Tools to develop a framework to evaluate communities' compliance with the bill.

Mountain Resilience Plan

Larimer County, Colorado

Michael Baker
INTERNATIONAL

REFERENCE:

Matt Lafferty
Principle Planner
Larimer County Development Planning
970-498-7721
laffermn@co.larimer.co.us

As a subcontractor, Michael Baker assisted the county in producing a Mountain Resilience Plan focused on the western, mountainous, unincorporated half of the County. These mountain communities last had a comprehensive plan updated in 1997. Since that time, the County has seen population growth of nearly 40% and has experienced 19 presidentially declared disasters.

The policy document establishes a long-range framework for decision-making for the planning area. A focus on resiliency was the main component, with a goal of helping communities become better prepared to face future disasters. The plan provides policy guidance for future development, public services, and reducing the risks of natural disasters.

This plan was organized according to the Colorado Resiliency Framework's six sectors, which include community, economic, watersheds and natural resources, housing, infrastructure, and health and social. This is the first part of a two-phase comprehensive plan covering the entire county. Major inputs included the County's 2013-2018 Strategic Plan, Hazard Mitigation Plan, Resiliency Framework, and Unmet Needs and Community Fragility Study.

The main goal is to set the structure and capability for mountain communities to prepare subarea plans in the future, while offering resiliency policies and best practices that support the uniqueness of each community.

Michael Baker's Role: Co-Project Manage, Stakeholder interviews and public outreach, Resilience assistance to communities.

Larimer County Multi-Jurisdictional Hazard Mitigation Plan Update

Larimer County, CO

Michael Baker
INTERNATIONAL

REFERENCE:

Lori Hodges
Director of Emergency Management
Larimer County
970.498.7147
hodgesl@co.larimer.co.us

Larimer County HMP was expanded to include all jurisdictions within the county in addition to numerous Title 32 Special Districts. A robust planning process ensured that all stakeholders were provided the opportunity to actively participate.

Michael Baker used the most accurate and recent data sets for use in the risk assessment, including data and information that resulted from the damaging floods of 2013. A comprehensive mitigation strategy was developed that included specific, implementable mitigation actions that allowed the county to continue down the path towards a more resilient future for its residents and businesses. The plan was approved by FEMA in May 2016.

Michael Baker's Role: Multi-jurisdictional hazard mitigation plan, Risk assessment, GIS analysis, Stakeholder meetings coordination, GIS hazard mapping, Public involvement, Agency coordination.

Mitigating Hazards Through Land Use Solutions

Various Jurisdictions Throughout CO

Michael Baker
INTERNATIONAL

REFERENCE:

Margaret Doherty
Community Planner | FEMA,
303.854.4887
Margaret.doherty2@fema.dhs.gov

In conjunction with DOLA, FEMA, and DHSEM, Michael Baker guided participants through the development and implementation of mitigation strategies such as wildfire hazard mapping, site-specific hazard assessment policies, code revisions to include more stringent development regulations, conservation easements to protect sensitive areas, property acquisitions to remove development from hazard areas, overlay zoning and special districts, and Planned Unit Developments.

Implementation support is often the biggest challenge that some communities face to achieve mitigation action. The workshop was meant to help communities overcome the challenges of implantation by providing program, administrative, and technical resources to be successful. The workshop was a spinoff of DOLA's guide titled Planning for Hazards: Land Use Solutions for Colorado, released in March 2016. Now out of the pilot phase, this workshop is now being implemented with Michael Baker as the task lead in Regions II and V.

Michael Baker's Role: Workshop material development, Subject matter expertise, Agency coordination

State of Colorado Enhanced State Hazard Mitigation Plan

Colorado

Michael Baker
INTERNATIONAL

REFERENCE:

Patricia Gavelda
Colorado Department of Homeland Security
& Emergency Management
970.247.6560
patricia.gavelda@state.co.us

Michael Baker is assisting the State of Colorado with their first Enhanced State Hazard Mitigation Plan (E-SHMP). Michael Baker worked closely with the State and the Planning Team through in person meetings, webinars and conference calls, emails, on-line surveys, and other online tools and resources to ensure a transparent and coordinated planning process. Additionally, Michael Baker

reviewed current State planning efforts and documents to be integrated into the SHMP for coordinated hazard mitigation planning across different State agencies and stakeholders.

These coordinated efforts were continued throughout the Hazard Identification and Risk Assessment (HIRA) process. It was important that the HIRA was aligned with the 2016 Colorado Hazard and Incident Response and Recovery Plan (CHIRRP), align with the Emergency Management Accreditation Program (EMAP) requirements, as well as be able to be used as a stand-alone document. These requirements led to a comprehensive HIRA, profiling 31 natural, technological, and human-caused hazards. The Michael Baker team used the 2013 plan HIRA as a baseline to efficiently update the HIRA on an aggressive timeline.

Through in-person meetings and online coordination, Michael Baker facilitated the creation of new mitigation strategies, as well as the development of a prioritization method for mitigation strategies tailored to the State's needs and existing capabilities. Additionally, Michael Baker has worked closely with the State to gain FEMA Enhanced Plan status.

Michael Baker's Role: Enhanced State Hazard Mitigation Plan Update, In-person State Hazard Mitigation Planning Team Meetings, Comprehensive Hazard Identification and Risk Assessment Analysis, GIS hazard mapping and Hazus analysis, Capability assessment, Mitigation strategies, Enhanced Plan status, Integrated with other State hazard mitigation.

SCOPE/METHODOLOGY

GENERAL APPROACH

The first tenet to our approach is organization. In order to complete all three projects in calendar year 2023, project management with clear communication, organization, regular meetings, and due dates will keep everyone on track. The scope we have outlined for all three projects are on a coordinated timeline with each other. We also want to use the Steering Committee's time wisely, and cannot have separate meetings for all three projects at all different times of the month! Organization will be essential to this cooperative, multi-project effort.

The second tenet is collaboration. This includes collaboration between the consultant team and

the Steering Committee and client, but also collaboration between the projects themselves. As you can see from the scope of work and schedule, we have proposed three key site visits that will include Steering Committee meetings, public engagement efforts, and any on-the-ground data collection that is necessary for the projects. These will be important opportunities for the project team to work with the Huerfano County community. They also create efficiencies between the projects, allowing for multiple projects to have meetings during the same visit.

The following outlines the scopes of work for all three projects.

PROJECT 1: HAZARD MITIGATION PLAN

Task A - Project Check-ins and Management

This task entails twice monthly project check-ins. They will be virtual with the exception of when we can meet in person during a site visit. The project manager and consulting team will assemble agendas, coordinate schedules, and distribute notes and action items. On a monthly basis, the manager of this project (Michael Baker) will coordinate a monthly summary with the rest of the Consulting Team to be provided with the invoice.

Task B - Hazard Identification & Risk Assessment

The risk assessment portion of the HMP will be define any hazard risks that may uniquely or exclusively affect localized areas within the County. Using the list of hazards identified in the 2018 plan as a foundation, as well as the hazards identified in the State Plan, Michael Baker will build upon available historical data from past occurrences and will update/establish hazard by-hazard risk profiles, specifically tailored to each participating jurisdiction. This now includes climate change and equity and potential impacts posed by hazards due to new requirements.

The risk assessment will culminate in a hazard risk ranking for county and per jurisdiction, based on conclusions about the frequency of occurrence

(future occurrence), potential impacts, spatial extent, warning time, and duration of each hazard. This assessment will include considerations for future demographic trends and land use planning regulations across the County in order to determine the likely impacts of future development and growth trends on safety and hazard risks. This will be integrated with background research conducted for the comprehensive plan.

Where prudent and desired by the Steering Committee, data and hazard profiles developed for the existing Hazard Mitigation Plan will be reviewed and leveraged for this effort. The Michael Baker Team will work with Huerfano County to identify areas of the risk assessment where profiles should be enhanced with more-recent or higher-quality data. This may include local datasets pertaining to infrastructure, critical facilities, and other local assets that are necessary for input to the risk assessment. Absent these datasets, our team will develop the necessary asset data from local, state, and federal sources and provide them to the County as a part of the plan update. As necessary, our team will collaborate with local stakeholders to gain firsthand information on historic hazards.

The culminating risk and vulnerability assessment information will be presented to the Steering Committee and the public during an in-person session to review, provide feedback, and make further recommendations.

Task C – Develop a Mitigation Strategy

The Mitigation Strategy is a crucial portion of the HMP and should serve as the blueprint for reducing hazard losses. The updated mitigation strategy will include an evaluation of existing local goals, objectives, and action items to review whether they have been completed or not, and whether to carry them forward into the updated plan. Additionally, it will include an updated evaluation and review of pre-disaster and post-disaster hazard mitigation policies, programs, and capabilities related to hazard mitigation.

The updated strategy will identify, evaluate, and prioritize cost-effective, environmentally sound, and implementable mitigation projects/actions to consider and will link them back to the overall Mitigation Strategy. Our team will propose several innovative systems for ranking and prioritizing mitigation actions. FEMA planning guidance requires that local mitigation actions be prioritized with an emphasis on the extent to which benefits are maximized according to a cost benefit review of the proposed projects and their associated costs (44CFR201.6).

An efficient way to do this kind of analysis is by individually analyzing the legal, environmental, economic, administration, social, technical, and political factors. Our team will ensure actions relating to existing and new building and infrastructure a priority, as that is another FEMA guidance request.

Another component will include an in-depth capabilities assessment across all adopting jurisdictions. Capabilities cover a wide range of topics and include: staffing, NFIP participation, policies, programs, and authorities relating to hazards. This FEMA-required information can be collected via an online survey to minimize impacts to planning team member's daily schedules. These resulting capability overviews will also be useful as the mitigation strategy is evaluated and updated, to potentially focus some mitigation projects on

enhancing certain capabilities to advance hazard mitigation efforts in their respective communities.

A second and final project workshop/engagement event will focus almost entirely on mitigation strategy and mitigation projects/actions. At this workshop, mitigation actions for the hazards affecting those participating jurisdictions will be identified, analyzed, and discussed in detail. This workshop will guide participants through an extensive range of mitigation options based on the profiled hazards and on the commonly accepted four categories of mitigation measures (Local Plans and Regulation, Structure and Infrastructure Projects, Natural Systems Protection, Education and Awareness Programs). Prior to this workshop, the consultant team will be tasked with updating and reporting on any current or past mitigation goals and objectives.

Task D – Plan Adoption, Monitoring, Evaluation

Once drafted, the preliminary version of the draft plan will then be reviewed by the Steering Committee. Once all comments are incorporated, a final draft of the plan will then be provided to the public and local jurisdictions for comment for 30 days. Michael Baker will coordinate the public review process and will be responsible for collecting and incorporating comments where appropriate. The completed HMP will present comprehensive information on hazard risk and mitigation actions in the planning area in a cohesive framework, easy to use and implement over time.

Once all comments have been addressed, Michael Baker will submit a Steering Committee-approved final draft to the Colorado Department Homeland Security and Emergency Management (DHSEM) to review. This delivery will also include the completed relevant sections of the FEMA Plan Review Tool. As State and FEMA comments are returned, Michael Baker will review these with the Steering Committee and will make updates as necessary. Michael Baker will manage any FEMA/State-requested plan changes that are necessary to achieve final FEMA Approval Pending Adoption (APA) status.

Upon approval, Michael Baker will provide final versions (and associated files) of the plan to each participating jurisdiction and the State. This will

allow the State and participating jurisdictions the option to update their plans internally when they again expire in five years.

Following plan adoption, periodic revisions and updates may be required to ensure that the goals of the plan remain current. For example, plan updates must consider potential changes in hazard vulnerability and mitigation priorities. In addition, revisions may be necessary to ensure that the plan is in full compliance with applicable federal, state, and local regulations. We will work closely with the Steering Committee to develop an HMP Maintenance Plan. Together, we will create a clear implementation schedule, evaluation criteria, and

a list of strategies for periodic evaluation of the plan to ensure that specific mitigation actions are being reviewed and carried out according to the revised hazard mitigation program. This should also include a strategy for continued public involvement and to ensure the plan and its Mitigation Strategy are incorporated into existing and future planning mechanisms. We recommend that a review team meet annually or bi-annually, and following any major disaster events, to re-examine the mitigation actions being implemented or proposed by participating jurisdictions. This will ensure that the plan is continuously updated to reflect changing conditions and needs of those adopting jurisdictions.

PROJECT 2: INNOVATIVE HOUSING STRATEGIES PLANNING

Task A: Project Check-ins and Management

This task entails twice monthly project check-ins. They will be coordinated across all three projects. They will be virtual with the exception of when we can meet in person during the three planned site visit/public engagement opportunities. The project manager and consulting team will assemble agendas, coordinate schedules, and distribute notes and action items. On a monthly basis, the project manager will send invoices with summaries of work completed and an update on progress made towards the full scope of work.

Task B: Background Research and Analysis

This task includes research on the code, land use and zoning of all jurisdictions. The codes will be compared to the strategies in bill HB-1271 and best practices in affordable housing planning across the country, with a particular focus on rural strategies. The resulting deliverable will be an existing conditions assessment report that includes a summary of existing code, opportunities for change and/or improvement, and maps documenting where affordable housing exists or where there are opportunities for more. This document will be reviewed and vetted by the Steering Committee.

Additionally, this task will include stakeholder interviews and focus groups with community leaders, landlords, builders and developers, and staff in all three jurisdictions. The purpose of

these interviews is to provide insight as to what the barriers (perceived or real) to affordable housing development are. These interviews will be documented and thematized for including into the existing conditions assessment report.

This task will conclude with a Public Workshop/Open House. This engagement opportunity will include opportunities for the public to learn the main ideas from the existing conditions assessment and also to share feedback and ideas for how to address affordable housing issues.

Task C: Land Suitability & Recommendations

This task builds off the background research conducted in Task B. For each jurisdiction, the consultant team will analyze up to four sites for further analysis. Each site will be analyzed from an infrastructure, regulatory, and landscape suitability perspective (wetlands, slopes and topography, road access, etc.). The set of recommendations for each site will include the unit type mix and financing strategies and options.

This task will end with a public engagement opportunity where citizens can learn about the selected sites and provide feedback. One of the goals for the workshop will be to educate residents on affordable housing financing to understand the barriers to housing affordability and development.

Task D: Documentation & Final Report

This task is to document the background research and analysis, site suitability studies, and the public engagement efforts and feedback, in one organized, well-written report. The report will show the new strategies that each jurisdiction has chosen to adopt, with recommended language for changing the code. The potential impacts of these changes will be discussed and highlighted,

especially with respect to how chosen strategies address equity issues and what targeted demographics may see the most impact.

Additionally, this report will synthesize all the findings into a set of recommendations and key takeaways for the housing, with an itemized action plan that will be included both here and in the Comprehensive Plan housing chapter.

PROJECT 3: JOINT COMPREHENSIVE PLAN**Task A: Project Check-ins and Management**

This task entails twice monthly project check-ins. They will be coordinated across all three projects. They will be virtual with the exception of when we can meet in person during the three planned site visit/public engagement opportunities. The project manager and consulting team will assemble agendas, coordinate schedules, and distribute notes and action items. On a monthly basis, the project manager will send invoices with summaries of work completed and an update on progress made towards the full scope of work.

Task B: Existing Conditions Assessment

This task includes an existing conditions assessment of all the topic areas that will be covered in the plan: housing, economic development, recreation, land use and zoning, historic and cultural resources, transportation, public safety, natural resources, sustainability, and hazard mitigation. For each topic area, the project team will gather data, produce maps where needed, and review current plan sections for existing policies, recommendations, and actions. For each section a “starting point report” will be written to understand where each jurisdiction is starting from at the beginning of this plan process. Research on best practices will be included so that the project team and Steering Committee starts to see the gaps and path forward for eventual recommendations in the plan elements.

Task C: Public Engagement

This task outlines all of the public engagement planned for the Joint Comprehensive Plan project. In addition to the overall Steering Committee

members, we would like help in creating jurisdictional-specific Advisory Committees that will meet 3-4 times throughout the plan process and can be both trusted advisors for specific ideas and recommendations tailored to that community as well as ambassadors for the project within their community, getting friends, neighbors, and family members to participate in public engagement opportunities.

In order to create efficiencies with the other two projects, three public engagement opportunities have been planned at strategic points in 2023. The first is for after the existing conditions assessment is completed. This event

The second event will focus on homing in on the plan vision, key goals, and desired outcomes. This feedback on the framework (Task D) will create the bones that build the plan document. The purpose of the final event will be to get feedback on the draft plan recommendations and the future land use map component. All public engagement efforts will be advertised and documented on the StoryMap website with opportunities to participate asynchronously and virtually.

Task D: Goals, Objectives, Actions Framework

Based on the outcomes from Task B and the first public engagement event, the consulting team will work closely with the Steering Committee to build the Plan Framework, which includes a Vision Statement, Plan Themes, Goals and Objectives for the final plan. This is an important step because this is where community buy-in is most important and where organization and structure will be important with multiple jurisdictions. For example, does La Veta needs its own vision, or

just its own subset of goals, while also buying in to the overall goals of the County? This task will be key in understanding the outline of the plan and where the jurisdictional pieces will fit in.

Task E: Draft Plan and Future Land Use Map

The Draft Plan will flesh out the Task D deliverable into full chapters, with background information, context, and specific actions and implementation strategies for each plan element. In addition to this, future land use maps and three mile plans will be created for each participating jurisdiction, to be included as a key element in the Land Use

chapter. The draft will be discussed at multiple Steering Committee meetings and be reviewed by the public.

Task F: Final Plan

The final plan will include feedback from the Steering Committee and public engagement efforts. Everything will be compiled into a concise, graphic-rich document for each jurisdiction. This task also anticipates meetings for each jurisdiction’s planning commission and council/commissioners to adopt the final plan.

PROJECT SCHEDULE

		Jan-23	Feb-23	Mar-23	Apr-23	May-23	Jun-23	Jul-23	Aug-23	Sep-23	Oct-23	Nov-23	Dec-23
Task	Project 1: Hazard Mitigation Plan												
A	Project Check-ins and Management	*	*	*	*	*	*	*	*	*	*	*	*
B	Hazard Identification & Risk Assessment			●■◆									
C	Develop a Mitigation Strategy						●■						
D	Plan Adoption, Monitoring Evaluation										◆	■	
Task	Project 2: Innovative Housing Strategies Planning												
A	Project Check-ins and Management	*	*	*	*	*	*	*	*	*	*	*	*
B	Background Research & Analysis		◆	●■◆									
C	Land Suitability & Recommendations						◆	■					
D	Documentation & Final Report										◆		◆
Task	Project 3: Joint Comprehensive Plan												
A	Project Check-ins and Management	*	*	*	*	*	*	*	*	*	*	*	*
B	Existing Conditions Assessment		◆										
C	Public Engagement			●■◆				●■◆				●■◆	
D	Goals, Objectives, Actions Framework						◆						
E	Draft Plan and Future Land Use Map										◆		
F	Final Plan												◆

* Steering Committee Meetings ● Public Workshop
 ■ Site Visit/In Person Meeting ◆ Deliverable

PROJECT BUDGET

This is our best estimate of cost for the project. We do have a concern that the \$50k budget is not adequate for the HMP task to be completed to FEMA acceptable standards. Therefore we have included a separate column for cost estimates for the HMP. The Joint Comprehensive Plan includes a breakout task for La Veta and for Walsenburg if they choose to join the project. We understand that La Veta has chosen to join, so it is included in the minimum. Walsenburg is an optional task so it is included as an additional service.

		Minimum	Upper Range
Task	Project 1: Hazard Mitigation Plan	\$50,005	\$72,505
A	Project Check-ins and Management	\$3,250	\$3,250
B	Hazard Identification & Risk Assessment	\$25,755	\$56,450
C	Develop a Mitigation Strategy	\$17,000	\$39,500
D	Plan Adoption, Monitoring Evaluation	\$4,000	\$9,250
	Expenses	\$450	\$450
Task	Project 2: Innovative Housing Strategies Planning	\$140,000	\$140,000
A	Project Check-ins and Management	\$10,000	
B	Background Research & Analysis	\$38,000	
C	Land Suitability & Recommendations	\$49,000	
D	Documentation & Final Report	\$40,000	
	Expenses	\$3,000	
Task	Project 3: Joint Comprehensive Plan	\$132,000	\$172,000
A	Project Check-ins and Management	\$10,000	
B	Existing Conditions Assessment	\$30,000	
C	Public Engagement	\$15,000	
D	Goals, Objectives, Actions Framework	\$14,500	
E	Draft Plan and Future Land Use Map	\$20,000	
F	Final Plan	\$9,500	
G	La Veta Breakout Task	\$30,000	
H	Walsenburg Optional Task		\$40,000
	Expenses	\$3,000	

SE GROUP STORYMAPS


A story can effect change, influence opinion, and create awareness—and maps are an integral part of storytelling. SE Group uses StoryMaps to give your narrative a stronger sense of place, illustrate spatial relationships, and add visual appeal and credibility to your ideas.

Stakeholders use our websites to learn about planning projects, explore interactive maps, view recommendations and designs spatially, and provide review as the process develops.



StoryMaps & Public Engagement

SE Group uses ESRI StoryMaps to gather public opinion, encourage citizen involvement, and propel a data-driven approach to problem solving —providing a more collaborative and inclusive process when shaping the vision of a community.



See the StoryMap!

Grant County Outdoor Recreation & Trails Master Plan



See the StoryMap!

Enosburg Vital Village Master Plan



See the StoryMap!

Pilot Hill Land Use Plan



See the StoryMap!

City of Fruita Planning Projects



See the StoryMap!

Town of Minturn Community Plan Update

COMMUNICATING IDEAS

Creative communication of plan development and implementation is a key component and strength of any SE Group project. Clear visual graphics are essential to making plans easier to understand and use on a day-to-day basis. Whether 3D visualization, GIS mapping or graphic layouts, our team utilizes a variety of tools to help communicate complex ideas in ways that are clear and engaging. The following are examples of visual communication graphics that have been created and used for public engagement, concept development, and inclusion into final plan documents.

PROJECT BRANDING



PLAN GRAPHICS



FINAL PRODUCTS



PUBLIC ENGAGEMENT MATERIALS (POSTER, COASTER, OPEN HOUSE BOARDS)

Minturn Community Plan Open House #1

Share your vision!

April 7th, 5-8 PM
Minturn Town Hall
302 Pine St.
Minturn, CO 81645

The Town of Minturn is updating its Community Plan, a foundational policy document that establishes a vision for the community and provides a suite of actions and recommendations covering economic development, urban design, housing, transportation, and more.

The planning team will be holding the first of two open houses associated with the plan update on April 7th from 5-8 PM at the Minturn Town Hall (302 Pine St, Minturn, CO 81645). Please attend to learn more about the project, provide your input, and engage with fellow community members.

Visit www.imagineminturn.org to learn more.

Got Trails?

We need your input!
 Estes Valley Recreation and Park District is developing a Trails Master Plan.
 Check out the website for up-to-date information, upcoming meetings and more.

www.estesvalleytrails.com

Get Involved!

Tipos de Vivienda/Housing Types (1)

Una vivienda adecuada puede tomar muchas formas diferentes, incluyendo viviendas unifamiliares, duplex, casas adosadas (townhomes) y conjuntos de apartamentos. Los tipos de viviendas que se muestran a continuación representan el rango de posibles estilos, densidades y tipos de unidades de viviendas potenciales para estas áreas.

Residential housing can take many different forms, including single-family homes, duplex, townhomes, and apartment complexes. The housing types shown below represent the range of possible styles, densities, and unit types of potential housing for these areas.

Communication and Platforms

Which communication channels and platforms for providing information about the trail do you feel are most important?

Add One Dot Per Topic!

On Trail or Trailhead Signage	←-----→
Less Important	Equally Important
Printed maps, guides, brochures produced by MVRT	←-----→
Less Important	Equally Important
MVRT website and digital maps and guides	←-----→
Less Important	Equally Important
MVRT Social Media	←-----→
Less Important	Equally Important
Kiosk/Tourism Information in Towns	←-----→
Less Important	Equally Important
Bike Shops and other Trail Businesses	←-----→
Less Important	Equally Important
Parks Department and Town Websites	←-----→
Less Important	Equally Important
Vermont Trailfinder Website	←-----→
Less Important	Equally Important
Strava, Ride with GPS, and other apps	←-----→
Less Important	Equally Important
Community events, school programs, libraries, etc.	←-----→
Less Important	Equally Important

Rail Trail Roundup

Missisquoi Valley Rail Trail



Request for Proposals: Cooperative Planning Projects

Huerfano County Solicitation #2022-07

October 17, 2022

Summary of Request

The Huerfano County Board of County Commissioners (“the County”) is seeking proposals from qualified planners to work on three cooperative planning projects: (1) an Innovative Housing Strategies Planning project; (2) a Hazard Mitigation Plan; and (3) a Joint Comprehensive Plan.

Respondents shall have demonstrated expertise and experience in the areas of economic development, master planning, and hazard mitigation planning. The Joint Comprehensive Plan must meet the State of Colorado statutory master plan requirements (C.R.S. 30.28.108 and 31-23-206). The Hazard Mitigation Plan will be an element in the Comprehensive Plan and must meet the State of Colorado Division of Homeland Security and Emergency Management (DHSEM) and Federal Emergency Management Agency (FEMA) requirements for a Hazard Mitigation Plan (HMP) (Title 44 CFR Part 201.6).

Submission Information

Written submissions for the supply of the services described herein will be accepted until November 16 at 4pm MST. Any proposal received after that time will not be considered. Submitted materials should be emailed as a single PDF to Carl Young, County Administrator, at administrator@huerfano.us.

Procedural and technical questions are to be submitted in writing to Carl Young at administrator@huerfano.us by November 4.

Background

Huerfano County Profile

Huerfano County encompasses 1,593 square miles and is home to approximately 6,800 residents. The County is governed by a three (3) member Board of Commissioners, elected by districts to four (4) year terms. Huerfano County is home to two (2) incorporated communities: Walsenburg and La Veta as well as several unincorporated communities including Gardner and Cuchara.

Huerfano County, through its staff and officers, provides a variety of services including, but not limited to: zoning and code enforcement, law enforcement, revenue assessment and collections, Road and Bridge construction and maintenance, social services, and general government administration. Inclusive of elected officials and staff, the County employs approximately 110 full-time employees and has an annual operating budget of approximately \$16 million dollars.

While Huerfano County’s location, topography, waterways and forests attract human activity, these same features also contribute to a range of natural hazards. The County’s development patterns have created a scenario in which its built and natural environment and economy has become increasingly vulnerable to natural hazard risks. With the awareness that natural hazard events will recur, the County must plan to mitigate hazard risk and reduce severity of hazard events.

Outline of Services and deliverables to be Provided

Consultant work will be overseen by a steering committee composed of six members, two each from the unincorporated Huerfano County, Walsenburg and La Veta. Through this RFP, the Steering Committee seeks professional services for three joint planning efforts involving the Town of La Veta, City of Walsenburg, and Huerfano County:

1. Innovative Housing Strategies Planning
2. Hazard Mitigation Plan
3. Joint Comprehensive Plan

The selected respondent will be expected to:

1. Prepare a detailed work plan
2. Develop and execute a stakeholder engagement program;
3. Review and analyze existing comprehensive plans, zoning codes, and other relevant planning documents;
4. Provide advice and submit recommendations to either the steering committee and/or the appropriate body in each jurisdiction;
5. Submit deliverables for review and adoption by the either the steering committee and/or the appropriate body in each jurisdiction as appropriate

Innovative Housing Strategies Planning

The City, County, and Town were awarded a DOLA Innovative Housing Strategies Planning Grant (IHOP) for the adoption and refinement of qualifying affordable housing policies and/or regulatory strategies. As part of this project the selected respondent will work with the participating jurisdictions to examine housing related portions of their zoning code and provide recommendations, including draft language, for consideration and adoption. Should Proposition 123 pass, the scope should include feasibility analysis of strategies and implementation of programming based on the State Affordable Housing Fund.

The selected respondent will work with staff from each jurisdiction to conduct site suitability and infrastructure system analysis to determine appropriate locations for housing development and analysis of different housing financing models for rural contexts.

The selected respondent will also deliver an informal memorandum that identifies 1) strategies the County originally proposed to pursue; 2) the outcome of that exploration; 3) which strategies were adopted with links to the code sections; 4) the community engagement process used; 5) how the process was inclusive and addressed equity concerns; 6) how the applicable studies informed policy decisions or approach; and 7) any lessons learned.

Relevant portions of this effort may be incorporated into the Joint Comprehensive Plan for participating jurisdictions.

Hazard Mitigation Plan

The Hazard Mitigation Plan (HMP) will be incorporated into the Joint Comprehensive Plan for participating jurisdictions. The HMP is funded separately through a FEMA Building Resilient Infrastructure and Communities grant.

The selected respondent will:

- Identify mitigation actions associated with each of the hazards identified in Huerfano County's Emergency Preparedness Assessment.
- Recommend a prioritization scheme, assign priorities, and implementation sequences for

mitigation actions under each hazard.

- Recommend an implementation strategy considering return on investment and mitigation actions capable of addressing multiple hazards
- Capture findings and recommendations in a document.
- Provide an interactive spreadsheet capable of supporting review and analysis mitigation actions within and across hazards and implementation management (e.g., funding status, schedule, progress).

Qualifications

The consultant team must include planning, land use, hazard mitigation, and economic development professionals. Experience working with rural communities and federal funding is essential. Additional consideration will be given to firms or individuals who propose innovative, creative solutions to rural community engagement, economic development, and land use strategies.

Budget and Optional Services

Interested Parties are requested and required to submit three lump sum amounts for the projects outlined above. The Innovative Housing Strategies Planning project has a budget of \$140,000. The Hazard Mitigation Plan project has a budget of \$50,005. The Town and County have not set a budget for the joint comprehensive plan.

Joint Comprehensive Plan

Respondents are requested, but not required, to submit an additional bid for the joint comprehensive plan that would account for the possibility that the City of Walsenburg joins the joint comprehensive plan effort.

The Town of La Veta and Huerfano County have agreed to collaborate on a Comprehensive Plan. The jurisdictions will maintain separate planning and zoning processes, and as such, this plan must be adopted separately by each jurisdiction. The Town and County seek a Joint Comprehensive Plan that:

1. Is a concise and clearly organized directional guide that communicates clear development standards both graphically and with accompanying text;
2. Provides a framework for cooperation on geographic areas of mutual interest, such as properties included in the Town's three mile plan;
3. Articulates strategies for resilient and sustainable development with a particular focus on water conservation, poverty reduction, and economic growth in a framework for ongoing long-range planning;
4. Includes strategies to limit rural sprawl, preserve and expand access to public lands, and generally improve quality of life; and
5. Incorporates a clear process to prioritize competing needs and actions in all planning areas.

Please submit a pricing proposal for the full joint comprehensive plan as an optional task, as well as a breakdown for pricing for La Veta and the County, and for a comprehensive plan that includes Walsenburg.

Selection Process

Selection will be made through a four-step process. The County reserves the right to select a qualified individual or firm without holding interviews. The scoring in the first two steps is cumulative. If it is determined that interviews are not to be held, the scoring will be based on the first step, Review of Proposals submitted. The process for selection and award of the Professional Contract for Services will

be as follows:

Step One	Review and scoring of Proposals submitted
Step Two	Interviews (if required)
Step Three	Selection of successful firm, negotiation of Professional Contract for Services
Step Four	County Commissioner approval of Professional Contract for Services

Anticipated Timeline

Dates are approximations for the process steps and are subject to change.

Step	Date	Selection Process
One	October 17, 2022	Request for Proposals Issued
	November 4, 2022	Questions may be presented prior to this date.
	November 16, 2022	Proposals due at 4:00 p.m., Mountain Time.
	November 18, 2022	Board Review of Proposals
	November 21, 2022	Notifications of Interviews (if required).
Two	November 28, 2022	Interviews conducted (if required).
Three	December 5, 2022	County notifies the selected proposer.
Four	December 19, 2022	Professional Contract for Services executed.

Submittal Requirements

Written submissions for the supply of the services fully described herein will be accepted until the date and time listed in the timeline section of this document. Any proposal received after that time will not be considered.

Submissions should be a narrative proposal of no longer than 30 pages that explains how you intend to meet the objectives detailed in the Scope of Services. Any material beyond 30 pages will not be reviewed. Submissions should include:

1. Name and address of the firm(s) involved.
2. Identification of the project leader/manager and all team member(s) responsible for completing tasks, including any subcontractors to this project.
3. Statement of qualifications, include a resume, examples of prior experience in similar activities and the results of recommendations made.
4. Describe knowledge/understanding of planning best practices as well as local, state and federal laws, regulations and standards.
5. Describe the respondent's experience working with rural communities, and provide project examples tied to references provided.
6. Provide three separate lump sum cost proposals that provide itemization of total project costs and services including travel, report preparation, and other expenses, as requested in the budget section below.
7. A clear description of how your firm would complete this project, including scope, timeline, and methodology. Include any innovative or unique advantages to working with your team.
8. Provide at least three (3) references, originating from work performed in the last five (5) years.
9. Outreach strategies, data capture methodologies and use of data generated.

Step 1: Review of Proposals

Following an initial screening of the proposals, the committee will select what it considers the most highly qualified individuals or firms to provide the services outlined in the scope of services. Selection will be based on the evaluation criteria set forth below. The firms or individuals submitting proposals will be ranked, and the committee will then recommend the most qualified individual or firm.

The County reserves the right to award this project to the individual or firm that best fits the requirements outlined in the request for proposals. The County reserves the right to waive any informality in any submittal and/or reject all requests for proposals, and to accept the proposal that is in the best interest of the County.

The following selection criteria will be the basis for the ranking of most qualified Organization:

Criteria	Points
Qualifications of Proposer, including experience and background of firm, key management individuals and subcontractors and the organizational structure of the project team.	10 Points
Successful experience and demonstrated capability of firm and key management individuals to perform community outreach and comprehensive planning work in a rural context, meet schedules and deadlines without delays, and manage budgets	25 Points
Quality of response to the Request for Proposals, including detailed description of how elements will be effectively and thoughtfully addressed. Description of intangibles, value added and innovative approaches.	25 Points
Budget proposal	10 Points
Local context incorporated into approach and proposal.	10 Points
Professional approach to assisting with the development of a plan that incorporates goals outlined in this RFP as well as environmental sustainability, strategies for water scarcity, and proposal for how to manage a robust and creative public input process.	20 Points
Total	100 Points

Step Two: Interviews (if required)

If the County determines that interviews are required in the best interest of the County, interviews will be conducted for the purpose of determining which of the individual or firm is the most highly qualified for the project; which individual or firm has the personnel best able to complete the scope of services; and which individual or firm most fully understands and is able to perform the work envisioned by the County.

Key personnel from the proposing firm or the individual to be assigned to the project are required to be present and participate in the interview.

Step Three: Selection of Finalist(s) and Negotiation of Professional Contract for Services

After the successful individual or firm is selected, the County will negotiate a Professional Contract for Services.

Step Four: County Commissioners Approval of Professional Contract for Services

The successful individual or firm is encouraged to attend the Commissioners' meeting to answer any questions concerning the proposal, or the individual or firm's qualifications.

The County reserves the right to undertake or award supplemental or successor contracts for work related to this Contract.

This solicitation shall not be binding upon the County and individual or firm, and no services shall be performed under the terms of the proposal or the Professional Contract for Services until the Contract

has been reduced to writing and approved by the County Commissioners.

Selection and Contracting Provisions

Notifications

The County will provide timely notifications in writing (letters and/or emails) of the following actions to individuals or firms responding to the Request for Proposal as follows:

- Selection of short-listed individuals or firms for interviews (if required);
- Individuals or Firms not short-listed;
- Selection of recommended individual or firm; and County Commissioner approval.

Right to Reject

The County reserves the right to waive informalities in the proposals or fees and to reject any and all proposals and re-advertise this solicitation at any time prior to County Commissioner approval of the recommended firm or individual and the negotiated professional contract for services if doing so would be in the public interest, as determined by the county in its sole discretion. The County reserves the right to award this solicitation to the individual or firm that best fits the requirements outlined in the request for proposals. The County reserves the right to waive any informality in any submittal and/or reject all proposals, and to accept the proposal that is in the best interest of the County. The County further reserves the right to: (1) negotiate a final professional contract for services that is in the best interests of the county and the public; and (2) request any additional information county deems reasonably necessary to allow the County to evaluate, rank and select the most qualified proposer to perform the services described in this solicitation.

If the County and the selected individual or firm cannot agree on the contract, the negotiations will be terminated, and the County reserves the right to begin negotiations with the next highest ranked proposer.

Procedure Requirements

Any individual or firm failing to submit information in accordance with the procedures set forth herein may be considered non-responsive.

All costs incurred by individuals or firms choosing to participate in this process shall be borne by the proposing individual or firm.

All proposals submitted regarding this solicitation are the property of the County and will only be returned to the individual or firms if requested in writing to the County at the sole discretion of the County.

Late submittals shall not be accepted. It is the responsibility of the individual or firms to ensure that the proposal arrives at the Huerfano County Administrator's Office, prior to the date and time stated in this solicitation.

Conflicts of Interest

Any conflicts of interest, whether real or perceived, by the individual or firm submitting a proposal should be fully disclosed and explained within the proposal.

Commissioners Purchasing Review Report by Fund (APLT55)

Item 7m.

Beginning Date: 1/25/2023

Ending Date: 1/25/2023

Huerfano County

Vendor:	Description	Vendor Amount
Fund: 001 GENERAL FUND		
ALL-PRO FORMS INC.	ENVELOPES FOR 2022 TAX NOTICES	\$1,606.30
ANTHONY LUGINBILL	cell phone stipend	\$40.00
ARCHIVE SOCIAL INC	Subscription	\$3,137.40
AXIOM HUMAN RESOURCE	Lease agreement	\$401.25
AXIS BUSINESS TECHNOLOGIES	MAINT MONTHLY CONTRACT FOR KYOCERA COPY MACH	\$56.69
BR PRINTERS	POSTAGE FOR 2022 TAX NOTICES	\$5,900.00
BROWNSTEIN HYATT FARBER SCHRECK LLP	SOLANO VS LOPEZ	\$16,169.02
CANON FINANCIAL SERVICES INC	Lease agreement	\$1,258.65
CARLTON CROFT	Cell Phone stipend	\$40.00
Cathy Pineda	Transport evidence to CBI	\$74.38
CCTPTA	2023 CCTPTA DUES	\$1,050.00
CCTPTA-EASTERN DIVISION	2023 CCTPTA EASTERN DIVISION DUES	\$100.00
CITY OF WALSENBURG	Utilities Jan. 23	\$5,161.21
COLORADO DIVISION OF FIRE	Assement for 2023	\$3,427.24
COLORADO SEARCH & RESCUE ASSOC.	Membership dues	\$150.00
CREATIVE FORMS & CONCEPTS	Office Supplies 1099 forms	\$78.78
CUCHARAS SANITATION &	Water	\$445.00
CUSTER COUNTY SHERIFF'S OFFICE	Sergio Hernandez/Inmate Housing	\$4,152.86
DANIEL'S TOWING & AUTO REPAIR	Replace battery	\$570.00
DASH MEDICAL GLOVES	Black Nitrile Gloves/Patrol	\$958.37
DAVID MCCAIN	Inmate Transports 12/15/22 - 01/17/23	\$636.16
DEEP ROCK	OFFICE SUPPLIES (WATER)	\$255.81
DIANE GALUSHA	Payable by request	\$550.00
DISTRICT HEALTH DEPT.	Jan. 2023 Allocation	\$13,000.00
EL PASO COUNTY FINANCIAL SVCS	autopsies	\$4,500.00
EMPLOYERS COUNCIL	Annual subscription Law Poster update	\$270.00
F & C SAWAYA WHOLESALE CO	Inmate Meals	\$4,694.07
FIRST CHOICE	Inmate Meals	\$1,631.36
FLOW RIGHT	Service	\$633.73
FOX THEATRE	Utilities	\$625.16
GARDNER PUBLIC IMPROVEMENT	Sewer & Water	\$61.00
HEALTHCARE PARTNERS FOUNDATION	Inmate Med Unit Services/Nov22	\$34,570.61

Commissioners Purchasing Review Report by Fund (APLT55)

Item 7m.

Beginning Date: 1/25/2023

Ending Date: 1/25/2023

Huerfano County

Vendor:	Description	Vendor Amount
HINKLE & COMPANY	audit of Financial Stmts for 2021	\$4,600.00
HUERFANO COUNTY	Unleaded Fuel 11/15 to 12/15/2022	\$7,396.20
HUERFANO COUNTY TREASURER	homestead reimbursement #16253	\$224.22
HUEYS CYCLES	parts	\$299.88
INDUSTRIAL CHEM LABS	100 lb sewer cleaner	\$738.43
JEFFREY BYLAND	Cell phone stipend	\$40.00
JOHN GALUSHA	Reimbursement	\$194.61
KARL SPORLEDER	Travel & transportation	\$420.55
Kimberly Sue Trujillo	Mileage-meetings	\$69.43
LA VETA OIL LLC	Fuel	\$39.40
LEXIPOL	PoliceOne Academy/Renewal	\$669.50
LG MAINTENCE ENTERPRISES, LLC	Jan. 2023 Maintenance	\$3,000.00
LOVE'S TRAVEL STOPS & COUNTRY	Fuel/ 12-5-22 to 1-4-23	\$1,899.19
MB POLICE EQUIPMENT	Quad Gold Star Collar Brass	\$31.98
MB POLICE EQUIPMENT	Uniform Shirts	\$333.47
MORNING STAR ELEVATOR	Service	\$1,168.50
MOUNTAIN DISPOSAL, INC	trash	\$259.20
NATALIE FISHER	Travel & Transportation	\$70.35
National Sheriffs' Association	Membershio dues 2023	\$71.00
O'REILLY AUTOMOTIVE INC	Mini Bulb	\$6.60
PRO COM	Preemployment drug testing	\$206.00
Pueblo Association of Home Builders	MEMBERSHIP 2023	\$520.00
PUEBLO RADIOLOGICAL GROUP PC	Inmate Sergio Hernandez/Xray	\$24.00
QUILL CORPORATION	Office Supplies	\$82.13
REBECCA ANN BROWN	Investigations/Travel & Transportation	\$773.00
ROYAL ELECTRICAL SERVICES, INC	service	\$1,260.00
Sam Carreon	Reimbursement	\$135.00
SAM'S CLUB/SYNCHRONY BANK	Monthly Jan inv.	\$850.73
SAN ISABEL ELECTRIC	Utility	\$1,610.66
SAN ISABEL SERVICES	Propane	\$811.02
SAUL'S CREEK ENGINEERING	SAULS CREEK ENGINEERING	\$5,490.00
SCHUSTERS' PRINTING, INC.	Notice of Trespass Forms	\$298.00
SECOM INC	Internet service	\$110.47
SECURUS TECHNOLOGIES	Inmate Prepaid Phone Cards	\$1,747.20

Commissioners Purchasing Review Report by Fund (APLT55)

Beginning Date: 1/25/2023

Ending Date: 1/25/2023

Huerfano County

Item 7m.

Vendor:	Description	Vendor Amount
SPANISH PEAKS REGIONAL	Casias, Lab for BAC	\$1,199.00
STATE OF COLORADO	POSTAGE (DMV)	\$660.04
THE HOME DEPOT PRO	supplies	\$771.26
THE PAWN SHOP	Ammunition	\$189.00
THOMSON REUTERS-WEST Payment Center	L.E. Software Subscription	\$441.02
VALUE WEST, INC	reappraisal monthly fee	\$2,100.00
WALSENBURG LUMBER COMPANY	tools	\$409.71
WASTE CONNECTIONS OF CO, INC	service	\$11.08
WORLD JOURNAL	Publishing	\$260.80
Subtotal for Fund 001 GENERAL FUND :		\$147,697.68

Fund: 002 ROAD & BRIDGE FUND

ACORN PETROLEUM, INC.	Supplies	\$15,077.80
CENTURYLINK	Telephone	\$116.59
CITY AUTO PARTS	Parts	\$2,003.33
CITY OF WALSENBURG	Utilities Jan. 23	\$1,055.40
GARDNER PUBLIC IMPROVEMENT	Sewer & Water	\$61.00
GENERAL AIR	Supplies	\$25.60
INTERSTATE BILLING SERVICE, IN	Supplies	\$168.74
J.J. KELLER & ASSOCIATES	Supplies	\$689.00
JERRY SPORCICH	Cell phone stipend	\$40.00
JOHN DEERE FINANCIAL	Supplies	\$149.38
LA VETA OIL LLC	Fuel	\$297.12
MCCANDLESS TRUCK CENTER, LLC	Parts	\$289.85
MOUNTAIN DISPOSAL, INC	Service	\$129.60
OL' RELIABLE CAR CENTER	Supplies	\$48.00
O'REILLY AUTOMOTIVE INC	Parts	\$613.54
PENROSE STEEL & TUBING INC.	parts	\$1,165.07
PRUTCH'S GARAGE DOOR CO.	Part	\$48.42
PUEBLO BEARING SERVICE CO	Parts	\$666.60
PUEBLO BRAKE & CLUTCH	Parts	\$135.00
ROAD SIDE SUPPLIES LLC	Supplies	\$288.22
SPORLEDER FEEDS	Parts	\$51.18
THE TOWN OF LA VETA	Utility	\$81.00

Commissioners Purchasing Review Report by Fund (APLT55)

Beginning Date: 1/25/2023

Ending Date: 1/25/2023

Item 7m.

Huerfano County

Vendor:	Description	Vendor Amount
THE WESTERN GROUP-OREGON	supplies	\$921.47
TWIN LANDFILL CORPORATION	Trash	\$150.00
U.S. AUTOFORCE	Tires	\$3,750.06
WAGNER EQUIPMENT COMPANY	Parts	\$868.92
WALSENBURG LUMBER COMPANY	Parts	\$528.46
WILLIAM CORDOVA	Cell phone stipend	\$40.00
Subtotal for Fund 002 ROAD & BRIDGE FUND :		\$29,459.35
Fund: 003 LODGING TAX TOURISM FUND		
CUSTER COUNTY TOURISM	Advertising & Tourism	\$2,500.00
VISTAWORKS	advertising & Promotion	\$2,222.00
Subtotal for Fund 003 LODGING TAX TOURISM FUND :		\$4,722.00
Fund: 004 SPECIAL PROJECT FUND		
Brightly Software Inc.	Merchant Connector Configuration	\$4,465.00
Electra Johnson Design & Planning LLC	DEV. PLANNING	\$11,297.70
EMPLOYERS COUNCIL	Travel expenses Dianae Boldt Onsite training	\$459.28
HUERFANO COUNTY HOSPITAL	CONTRIBUTION TO PUBLIC HEALTH	\$50,000.00
MACDOUGALL & WOLDRIDGE, P.C.	change of water rights	\$5,705.00
ROSCOE ENGINEERING LLC	SITE VISIT	\$3,690.00
SCEDD	Membership Dues	\$1,705.00
SE GROUP	operation/analysis/study	\$2,773.00
Subtotal for Fund 004 SPECIAL PROJECT FUND :		\$80,094.98
Fund: 010 PARKS AND RECREATION		
HUERFANO COUNTY	Fuel Reimbursement	\$30.82
LESTER BERRY	Cell phone stipend	\$40.00
MOUNTAIN DISPOSAL, INC	trash	\$162.00
Subtotal for Fund 010 PARKS AND RECREATION :		\$232.82
Fund: 066 PUBLIC WELFARE FUND		
ST MARY CREDIT UNION	Credit Union Payable	\$370.00
Subtotal for Fund 066 PUBLIC WELFARE FUND :		\$370.00
Fund: 068 WASTE TRANSFER ENTERPRISE		

Commissioners Purchasing Review Report by Fund (APLT55)

Beginning Date: 1/25/2023

Ending Date: 1/25/2023

Huerfano County

Item 7m.

Vendor:	Description	Vendor Amount
CITY OF WALSENBURG	Utilities Jan. 23	\$38.16
HUERFANO COUNTY	Fuel Reimbursement	\$112.50
OTERO COUNTY LANDFILL INC.	trash	\$6,015.02
Subtotal for Fund 068 WASTE TRANSFER ENTERPRISE :		\$6,165.68
Fund: 069 EMERGENCY SERVICES FUND		
BRITTNEY CIARLO	Cell ohone stipend	\$40.00
HUERFANO COUNTY	Fuel Reimbursement	\$50.12
Subtotal for Fund 069 EMERGENCY SERVICES FUND :		\$90.12
Fund: 070 GARDNER PUBLIC IMP DISTRICT		
CENTURYLINK	Telephone	\$3.75
COLORADO RURAL WATER	Service	\$200.00
Core&Main	Service	\$266.70
SAN ISABEL ELECTRIC	Utility	\$757.08
SANGRE DE CRISTO LABORATORY	Testing	\$560.00
Subtotal for Fund 070 GARDNER PUBLIC IMP DISTRICT :		\$1,787.53
Grand Total :		\$270,620.16

PURCHASE ORDER

Huerfano County

Purchase Order#: 50

Purchase OrderDate: 1/1/2023

Vendor: LA VETA FIRE PROTECTION DIST. / 2131
PO BOX 44 111 SOUTH MAIN STREET
LA VETA, CO 81055

Ship To: 401 Main Street -
Walsenburg CO, 81089

Order Description:

DESCRIPTION	QUANTITY	UNIT PRICE	TOTAL COST	LEDGER
Life Pack 15 and Lucas Devices	1	\$31,625.00	\$31,625.00	004-45100-51909
TOTAL:			\$31,625.00	

NOTES:

APPROVALS:

Approving Authority: _____

Budget Officer: _____

Dear Commissioners Cisneros, Galusha and Andreatta,

The La Veta Fire Protection District has requested funds from the American Rescue Plan Act and we believe that the project we are requesting to be funded does meet the criteria defined in the document provided by the Department of Treasury. You have requested that our district look for other funding sources and we have. We have applied for 2 grants but have been denied for the grants. We have also started a fundraising campaign but as of today we have only received \$1,500.00. We are continuing to look for other funding, but we feel that our request is reasonable, and it does qualify under the guidelines described in the Department of Treasury explaining the purpose of these funds. We respectfully request that you reconsider and at least help with a portion of our request. We have requested \$67,000.00 but would gladly accept half of the funds requested and continue to fundraise the remaining balance. The crisis that COVID-19 has created for our district has made it difficult to raise the funds, but we are committed to continue to do so.

Thank you for your consideration.



Eddie Ray

EMS Director of the La Veta Fire Protection District

EMPLOYEE ASSISTANCE PROGRAM AGREEMENT

THIS EMPLOYEE ASSISTANCE PROGRAM AGREEMENT (Agreement) is between the Triad Resource Group, LLC d/b/a Triad EAP ("Triad") and Huerfano County ("Employer").

RECITALS

A. Triad offers a professional services program designed to assist (1) work organizations in addressing productivity issues and (2) employee Clients in identifying and resolving personal concerns (including, but not limited to health, marital, family, financial, alcohol, drug, legal, emotional, stress, or other personal issues). The program provides counseling, training, referral services and access to other resources to participating employers and their employees, along with immediate family members of employees.

B. Employer desires to receive such services provided by Triad.

C. Now, therefore, in consideration of the recitals above and the mutual promises set forth below, the parties agree as follows:

1. Definitions. The words and terms defined below have the following definitions:

a. "Client" shall mean any Eligible Employee and any member of the Eligible Employee's Immediate Family who are receiving EAP Services.

b. "EAP Counselor" shall mean a person who is a counselor by trade, who has a minimum of a master's degree from an accredited college or university in the fields of psychology, counseling, or a comparable area of study and who provides EAP Services. EAP Counselors may be employed by Triad, but are typically independent contractors who are not employees of Triad who accept referrals from Triad.

c. "EAP Services" shall mean employee assistance program services offered through Triad, which includes, but is not limited to, EAP Counseling (individual, couple and family counseling), financial and legal assistance and consultation, and additional services such as group and workshop leadership training and other informational and educational programs, as further described in Exhibit A.

d. "Eligible Employee" shall mean a current employee of Employer, who has been properly identified in Employer's current quarterly report to Triad including employee name and other identifying information required by Triad.

e. "Immediate Family" shall mean an Eligible Employee's lawful spouse, civil union partner or domestic partner who resides with the Employee, and dependent children (by birth,

marriage or adoption, placement for adoption, foster care, or legal guardianship by court order) under 27 years of age who are not emancipated.

2. Term of Agreement. This Agreement shall be effective for an initial term of one year, beginning February 1, 2023 and ending on January 31, 2024 unless terminated earlier in accordance with this Agreement. The Agreement will automatically renew at the end of the initial term for successive one-year periods unless either party gives a non-renewal notice to the other at least thirty (30) calendar days before the end of the term, stating that the party does not wish to renew, or stating different terms which are a condition of renewal. Notice by Triad of an increase in rates, regardless of when given, shall not constitute a non-renewal notice, but consistent with paragraph 4.c. Employer shall have sixty (60) calendar days from the date of the notice in which to choose to cancel the Agreement, during which period the rate increase shall not be effective.

3. Triad's Responsibilities.

a. **EAP Services for Clients** shall be provided as follows:

1) **Counseling.** Triad shall provide counseling and consultation for Clients as set forth on attached Exhibit A. The areas in which counseling is provided include, but are not necessarily limited to, substance abuse, emotional distress, family, marital, financial, legal and job-related problems. Financial and legal consultation and assistance (which are not part of EAP Counseling) are also available as an EAP Service, as further described in Exhibit A, Paragraph 1.

2) **Referral to Outside Professionals.** Triad or EAP Counselors may from time to time refer a Client to an outside professional for consultation or treatment. Issues typically referred to outside professionals include certain legal or financial problems, medical care and psychiatric conditions presenting needs beyond the expertise of EAP Counselors. Triad is not responsible for any costs associated with or resulting from any such outside referral. All such costs are the responsibility of the Client. Triad and EAP Counselors shall not refer a Client to an outside professional without first obtaining Client's written consent and express understanding that the outside professional is not an employee or agent of Triad, that the charges for such outside professional's services are not included in the Eligible Employee's EAP Services, that charges will be billed directly to Client by the outside professional (or if coverage is available and the outside professional accepts such coverage, to a third-party insurer or payer) and that Client or Eligible Employee is responsible for payment for these charges. Outside professionals are not employees or agents of Triad and do not share fees with Triad.

3) **Education.** Triad shall make available to Employer the programs specified on Exhibit B for the purpose of increasing Client knowledge, awareness and skills on various topics.

b. **Triad will report Statistics** on utilization to Employer on a quarterly basis. Quarterly statistics will show the number of Clients who have used EAP services by Employer. Annual statistics will include information such as gender, number of employee-Clients, immediate family-Clients, types of referrals, and problem categories. Names or other identifying numbers, dates, or codes will not be reported. If the identity of the Client is discernible from the statistic as determined by applying applicable laws or regulations, the statistic shall not be disclosed unless the Client has provided written authorization for the disclosure.

c. **Triad will bill Employer** for any additional services provided to Employer during the month by the 10th of the next month. Payment shall be due within thirty (30) calendar days of the statement date. "Additional services" include, but are not necessarily limited to, training programs, conflict resolution counseling and critical incident counseling that are over and above the basic services provided under the quarterly assessment amount as explained in Exhibit A attached.

4. **Employer's Responsibilities.**

a. **Coordination with Triad.** Substantial coordination is necessary between Employer and Triad for effective utilization of EAP Services. At all times, Employer shall have a representative available to Triad for such coordination.

b. **Designation of Class and Name of Eligible Employees; COBRA Coverage.** Employer shall give written notice to Triad of the Class of Eligible Employees and shall by the tenth day of each quarter report the names of every individual on the Employer's last payroll that fall within the Class. The Class of Eligible Employees shall be all individuals who are regularly scheduled to work scheduled to work. Employer is also responsible for: (1) ensuring the plan administrator or plan sponsor offers continuation coverage as required by the Consolidated Omnibus Budget Reconciliation Act (COBRA) to Eligible Employees, Immediate Family or other dependents as required by federal law; and (2) notifying Triad regarding the extension or continuation of EAP Services to such Eligible Employees, Immediate Family and dependents as required by applicable law.

c. **Payment.** Employer shall pay Triad on or before the tenth day of the quarter, an amount equal to the base rate times the number of Eligible Employees on Employer's final payroll for the last quarter ("quarterly assessment") plus an amount for additional enrollment as a result of COBRA continuation, if applicable. Payments shall be made in advance. The base rate for determining the quarterly assessment and other charges are stated in Exhibit A. After

the initial term of this Agreement, Triad shall have the right to increase the rates set forth in Exhibit A by giving Employer written notice of the new rates at least sixty (60) calendar days prior to the effective date of such increase in rates. If such notice is given, the rates set forth in the notice shall be the applicable rates under this Agreement after such sixty (60) day notice and for the successive term.

1) Payment shall entitle all Eligible Employees and the Immediate Family to receive basic services for that quarter. There shall be no refund for any Eligible Employee whose employment terminates during the current quarter and the Eligible Employee shall have thirty (30) calendar days after the date of termination in which to use basic EAP Services. Similarly, there shall be no extra charge for individuals who become Eligible Employees during the current quarter, so long as the number of Eligible Employees for the Employer does not increase by more than 10% during the quarter. If there is greater than a 10% increase in Eligible Employees during the quarter, Employer shall pay Triad an additional base charge for each additional Eligible Employee added during the quarter. The charge shall be paid within thirty (30) calendar days of Triad's statement date.

2) If the Employer contracts to use Triad's services mid-month, the payment for basic services for that quarter shall be equal to a pro-rata share of the monthly assessment based on the ratio of number of calendar days left in the month divided by total days within the month, times the monthly assessment. If Employer's use of Triad's services terminates mid-month, Triad shall refund to Employer a pro-rata share of the monthly assessment for that Employer based on the number of calendar days remaining in the month after Triad receives notice of the termination. Thereafter, Triad and its EAP Counselors shall not be obligated to provide further services to Employer's employees or the employees' Immediate Families.

3) Payment for "Additional Services" as noted in 3.c. above shall be due within thirty (30) calendar days of the statement date.

5. Confidentiality. All information provided by Triad is subject to applicable laws and professional ethics regarding confidentiality. Triad and Employer agree to enter a HIPAA compliant business associate agreement for the protection of health information regarding Clients. Except as otherwise required or allowed by applicable law, information about Clients will not be divulged by EAP Counselors or Triad to Employer or any third party, except as provided below:

a. **Statistical Information.** Triad will disclose non-identifying statistics to Employer on quarterly basis as provided in paragraph 3.b above.

b. **Employer Referral, No Job Jeopardy.** When Employer notifies Triad that it has referred or will refer an Eligible Employee for EAP Services and does not state that the Eligible Employee's job position is in jeopardy, then upon request of Employer, Triad will seek written authorization from the Eligible Employee who is a current Client to disclose to Employer that the Client is receiving EAP Counseling Services. Triad may then report this information to Employer if the Client so authorizes such disclosure in writing. Only the fact that Client is receiving EAP Counseling Services will be disclosed to Employer, except as set forth in paragraph 3.b above.

c. **Employer Referral, Job Jeopardy Situation.** When Employer notifies Triad that it has or will make a referral because Employer has determined that Employee's job is in jeopardy, then upon request of Employer and with written authorization of the Eligible Employee, Triad shall provide in addition to the information provided pursuant to paragraphs 3.b and 5.b above, the following information:

- 1) The date(s) the Eligible Employee attends or fails to attend;
- 2) Whether a follow-up appointment is scheduled and the date(s) and times of the appointment(s);
- 3) A brief statement indicating whether the Eligible Employee demonstrates awareness of, and is engaged in discussing the behavior(s) identified by their supervisor; and
- 4) Whether the Employee has been referred for treatment or other services to an Outside Professional.

d. **Referral to Outside Professional.** With the Client's prior consent, information will be provided to an Outside Professional to whom the Client is referred by Triad or an EAP Counselor for additional professional services.

6. Compliance with Federal Laws. To the extent Employer is required to comply with the Employee Retirement Income Security Act of 1974 (ERISA), COBRA or other requirements of federal law the parties agree as follows:

a. Triad is not the plan administrator of any Employer-sponsored welfare benefit plan for purposes of ERISA, COBRA, or other federal law as a result of this contract for EAP Services.

b. Employer shall ensure that the plan administrator complies with all ERISA reporting requirements including but not limited to the provision of summary plan descriptions and other filings (such as IRS Form 5500). Triad agrees to provide information reasonably necessary to assist the Employer or plan administrator in fulfilling such requirements.

c. Employer shall ensure that the plan administrator complies with any applicable COBRA continuation of coverage requirements including provision of initial notices and notices required upon the occurrence of a qualifying event such as loss of employment, eligibility, dependent status or divorce. Triad shall extend EAP Services during a period of COBRA continuation to persons at the direction of Employer and Triad is not responsible for collection of any fees directly from those Clients or other dependents who may obtain EAP Services during a period of COBRA continuation coverage. Triad will direct any inquiries regarding COBRA coverage by any Client, Eligible Employee, their dependents or any third parties to Employer or to an Employer-identified plan administrator.

d. Employer agrees to indemnify Triad from any and all claims, demands, assessment of fines, actions, and causes of action asserted by a third party, including any regulatory agency, asserted against Triad which may result or arise out of any obligations to comply with ERISA or COBRA requirements or the requirements of this paragraph 6 that result from the actions or omissions of Employer or a plan administrator or any of Employer or a plan administrators agents, employees, or representatives. This indemnity shall include the payment to Triad for attorney's fees, court costs and expert witness fees Triad incurs in defending itself from any such claims, demands, actions, causes of action, or defense or response to any regulatory enforcement action, investigation, or inquiry.

7. Triad's Right to Provide Services to Others. Triad is in the business of providing EAP Services to individuals and businesses and this Agreement does not in any way limit Triad's right to conduct business or provide EAP services to parties other than Employer both during and following the Term of this Agreement.

8. Termination of Agreement. This Agreement shall terminate at the end of the Term as set forth in paragraph 2 above, or immediately upon any of the following events:

- a. The bankruptcy or insolvency of either party;
- b. A party's failure to cure a material breach of this Agreement within ten (10) calendar days after receiving notice stating the nature of the breach, the action needed to cure, and the date of termination if not cured;
- c. A second material breach within the same one-year Term;
- d. With or without cause upon sixty (60) calendar days prior notice; or
- e. If either party gives a non-renewal notice to the other at least thirty (30) calendar days before the end of the term, stating that the party does not wish to renew, or stating different terms which are a condition of renewal.

Upon termination or expiration of the Agreement, Triad's obligation to provide EAP Services to Employer, Eligible Employees and their Immediate Families and dependents shall terminate immediately and Triad shall have no further obligations under this Agreement. Employer's obligations under this Agreement shall also terminate except for its obligation to allow Triad to audit the payroll records of Employer, and to pay all amounts owed under this Agreement.

9. General Provisions.

a. **Utilization of EAP Services.** EAP Services that are provided by Triad employees will be provided at Triad offices, Grand Junction, Colorado, and via telephone at (970) 242-9536 or (877) 679-1100 unless Triad provides notice to Employer of any change of address or telephone number. Office services are provided during regular business hours, 8:00 a.m. to 6:00 p.m., Monday through Friday (except holidays), unless otherwise prearranged. At the discretion of Triad, EAP Services may be provided at additional locations. EAP Counseling with a Client provided by an EAP Counselor will occur at such EAP Counselor's private office location, or via remote electronic communication, such as Skype or similar methods, as allowed by State law applicable to the counselor's licensure. Client calls made to Triad offices after regular business hours are transferred to a third-party call center where in-the-moment crisis support and informational messages are provided.

b. **Limitation of Liability.** The EAP Counselors and other outside professionals are independent contractors and not employees of Triad. Triad has no vicarious liability or respondent superior liability for the quality of services provided or the omissions by these individuals. Triad's liability is limited to situations where it has been reckless or grossly negligent in using the services of the independent contractor and this reckless or grossly negligent conduct is the proximate cause of the damages suffered by the claimant. In any event Triad's liability shall be limited to actual damages and shall not include any compensatory, consequential, or punitive damages, interest, penalties or attorney's fees incurred by the claimant in pursuing remedies. It is Employer's responsibility to inform all Eligible Employees and Immediate Family of this limitation of liability. Employer agrees to indemnify and hold harmless Triad, its officers, agents and employees from any and all claims, lawsuits, losses, expenses, including reasonable attorneys' fees, asserted by third parties with respect to Employer's failure to perform in any of its duties and obligations under this Agreement or in connection with the negligent performance of its duties and obligations hereunder.

c. **Governing Law and Venue.** This Agreement shall be governed by the laws of the State of Colorado. The parties agree that venue of all matters shall be in Mesa County, Colorado.

d. **Severability.** If any provisions of this Agreement shall be held to be invalid or unenforceable, the remaining provisions shall continue in full force and effect, unless the

invalid or unenforceable provision is material to this Agreement and its invalidity or unenforceability results in substantial economic detriment to either party to the Agreement.

e. **Assignment.** Employer's rights, duties and responsibilities pursuant to this Agreement may not be assigned or delegated by Employer without the prior written consent of Triad.

f. **Entire Agreement.** This Agreement, and the Exhibits attached to this Agreement, constitute the entire understanding and agreement of the parties, and shall supersede all prior understanding and agreements of the parties on the subject matter of this Agreement.

g. **Amendments.** This Agreement shall not be changed, modified or altered except by amendment, which to be valid and enforceable, shall be in writing and signed by the parties. Notwithstanding the foregoing: (i) Triad may unilaterally increase the rates as provided in paragraph 4.c. and change the benefits described in Exhibit A by giving Employer at least sixty (60) calendar days advance notice, during which period the rate or benefit changes shall not be effective, and (ii) Triad may unilaterally amend this Agreement in order to comply with the applicable federal or state laws or regulations, the amendment to become effective thirty (30) calendar days following Triad's notice to Employer of the amendment.

h. **Notices.** Whenever required hereunder, notices shall be deemed sufficiently given if made in writing, upon actual receipt of the notice or three calendar days after mailing by United States Mail, postage prepaid, first class or certified or registered mail, to the address of the parties set forth hereafter, whichever occurs first. The address to which notices are given may be changed by notice of change of address given in the method and manner provided herein.

i. **Benefit.** The terms and provisions of this Agreement shall bind and benefit the respective parties, their agents, employees and representatives.

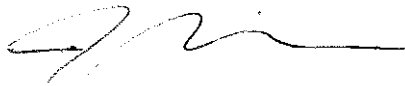
THE UNDERSIGNED HAS CAREFULLY READ THE TERMS AND CONDITIONS OF THIS AGREEMENT AND HEREBY KNOWINGLY AND VOLUNTARILY ENTERS INTO THIS AGREEMENT AS AUTHORIZED REPRESENTATIVE OF THE PARTY INDICATED ABOVE MY SIGNATURE.

Triad EAP

Huerfano County

Name: John Gribben

Name: John Galusha



(signature)

(signature)

Title: Owner / Manager

Title: Chairman, Board of County Commissioners

Date: January 30, 2023

Date _____

Address:

Address:

844 Grand Ave., Suite A
Grand Junction, CO 81501

401 Main Street, Suite 310
Walsenburg, CO 81089

ATTACHMENTS: Exhibit A

EXHIBIT A
Triad EAP's SERVICES

Employer: Huerfano County

Effective Date: February 1, 2023 – January 31, 2024

1. Payment of Quarterly Assessment. Payment must be received by Triad, on or before the tenth calendar day of the quarter, equal to the base rate times the number of Eligible Employees for Employer. All persons who are listed on the last payroll of the Employer before the beginning of the quarter and who fall within the designated Class of Eligible Employees for Employer, and those additional persons enrolled pursuant to COBRA, if applicable, shall be counted in computing the quarterly assessment. The base rate per Eligible Employee, or other person, per quarter is \$5.91.

2. Basic EAP Services Included in the Base Rate.

a. **Counseling Sessions.** The maximum number of counseling sessions per Eligible Employee per one-year Term of the Agreement is three (3) per incident. Any counseling session provided under this Agreement for Eligible Employee's Immediate Family shall count toward the number of counseling sessions to be provided to Eligible Employee under this Agreement. The type of Service Incident is defined by the primary stressor creating the need for counseling, as follows:

- 1) Relationship problems within the family, including but not limited to, marital or domestic problems, separation or divorce, relationship issues between spouses, civil union partners, domestic partners, parents and children, or siblings;
- 2) Health-related problems such as physical or mental illness or substance abuse of the Employee or the Eligible Dependent(s) or death of a loved one;
- 3) Job-related problems; or
- 4) Other significant stressors.

Counseling sessions are for the purpose of assessment, short term counseling, and/or referral. The sessions are not for long term treatment. A counseling session is up to 50 minutes in length. Depending upon counselor availability and Client consent, a counseling session may be extended in length past 50 minutes and treated as multiple sessions (in increments of up to 50 minutes) that will each count toward the number of counseling sessions to be provided within the one-year term of this Agreement. Any scheduled counseling session that a Client misses without notice to Triad and the EAP Counselor of cancellation at least 24 hours in advance will be assessed counted as a counseling sessions to be provided to Eligible Employee

under this Agreement or as an additional counseling session charged to the Eligible Employee if the basic service number is exceeded. The basic services that are not utilized during the one-year Term are forfeited without refund and do not carry over into the next one-year Term unless Triad, in its sole discretion, makes a written exception to this rule.

b. **Financial Assistance.** Employees and Eligible Dependent(s) can access a toll-free information line, at which financial counselors are available to address questions on matters of financial management including debt reduction, home buying, budgeting, foreclosure prevention, identity theft resolution, and bankruptcy prevention.

c. **Legal Assistance.** The legal assistance benefit allows Eligible Employees consultation for any legal issue, with the exception of those involving disputes or actions between an employee/dependent and their employer or Triad. The legal consultant will provide immediate connection to an attorney in the user's state for a free 30-minute session and/or refer the client to a local attorney for a free ½ hour consultation. If additional assistance is desired, clients are entitled to 25% off of the attorney's normal and customary fees. Excluded from the free consultation and other legal work is any matter in which the adverse party is a party or Employer under this Agreement, an affiliate, parent company or subsidiary of any party of Employer under this Agreement, or an Eligible Employee or Immediate Family of an Eligible Employee under this Agreement.

d. **Training Programs.** Work-site training programs are provided either onsite or via webinar. A Training Catalog that lists the types of trainings that are available will be provided by Triad upon request. Training materials are an additional charge or could be provided by the Employer. Examples of training materials additional charges include the cost of copying handouts, and the cost of licensed training materials for trainings such as Social Styles, etc. Travel costs are extra and shall be as set forth in Table 1 below. Triad shall present one (1) work-site training program during each one-year Term for supervisors called: Recognizing and Assisting the Troubled Employee. Additional training hours beyond those provided for no charge will be provided at a charge to Employer of \$275 per training hour, or as otherwise agreed to in writing prior to the program presentation.

e. **Conflict Resolution.** Conflict Resolution shall mean a group session for two or more Eligible Employees referred to EAP by Employer for the purposes of addressing issues causing conflict in the workplace. Travel costs are extra and shall be as set forth in Table 1 below. One (1) Conflict Resolution Counseling cases will be provided by Triad to Employer each one-year Term (a case includes up to 3 hours consultation time with the Employer representative, and the Eligible employees). Additional Conflict Resolution services will be provided to Employer at the rate of \$105 per hour.

f. **Crisis Support Onsite.** Crisis Support Onsite shall mean an on-site or telehealth group or individual consultation for Eligible Employee counseling purposes following a critical or

traumatic incident that affects workplace productivity or has an impact on the Eligible Employees' ability to cope or function in the workplace. Travel costs are extra and shall be as set forth in Table 1 below. Triad shall make available to Employer one (1) Crisis Support Onsite cases each one-year Term (a case includes up to four (4) counseling hours per case). Additional Crisis Support Onsite services will be provided to Employer at the rate of \$125 per hour per counselor.

g. **Supervisory referrals** – includes up to three (3) hours per case with the supervisor, one session with employee, and reporting back as appropriate. Triad shall make available to Employer an unlimited number of Supervisory Referral cases. Additional Supervisory referral time beyond what is included per case for no charge will be provided to Employer at the rate of \$95 per hour.

h. **Additional Counseling Sessions.** Additional Counseling Sessions may be provided at a cost of \$95.00 per session, up to 50 minutes. Additional Counseling Sessions must be approved in advance by the Employer.

Table 1: Travel

Mileage at standard federal rate	\$.### / mile
Travel rate for time spent in transit	\$25 / hour
Lodging cost (average)	\$110 / night
Per diem (average)	\$35 / day

AGREEMENT FOR PROTECTION OF INFORMATION

This Agreement is entered into between Huerfano County dba (“Covered Entity”) and TRIAD Resource Group, LLC, (“TRIAD”).

RECITALS:

A. The purpose of this Agreement is to comply with the Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191) and implementing regulations including the HIPAA Rules that apply to Covered Entity, as a group health plan.

B. Covered Entity and TRIAD are parties to an underlying agreement for services.

C. The terms of the underlying agreement or arrangement for services result in TRIAD’s classification as “Business Associate” under HIPAA.

WHEREFORE, in consideration of the mutual promises below, any fees paid pursuant to underlying agreements or arrangements, and the exchange of information pursuant to this Agreement, the parties agree as follows:

I. Definitions.

All terms used in this Agreement, whether capitalized or not, shall have a meaning consistent with terms defined in the HIPAA Rules, including the following capitalized terms used in this Agreement: Business Associate, Data Aggregation, Designated Record Set, Disclosure, Health Care Operations, Individual, Minimum Necessary, Notice of Privacy Practices, Protected Health Information, Required By Law, Secretary, Security Incident, Subcontractor, Unsecured Protected Health Information, and Use. Capitalized terms in this Business Associate Agreement are defined as follows:

A. “Breach” shall have the meaning of the term “breach” as defined in 45 C.F.R. 164.402.

B. “Business Associate Agreement” means this document/agreement, which may be incorporated by reference into the underlying agreement, or entered by the parties separately from the underlying agreement.

C. “Designated Record Set” means Protected Health Information maintained by or for a Covered Entity, including but not necessarily limited to: medical records and billing records

maintained by or for a health care provider; the enrollment, payment, claims, adjudication, and case or medical management records maintained by or for a health plan, and any other records used, in whole or in part, to make decisions about Individuals.

D. “HIPAA Rules” shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

E. “Individual” means a natural person who is the subject of Protected Health Information.

F. “Minimum Necessary Information” means: (i) in the case of routine and recurring types of Disclosures, information or records which the Disclosing party’s policies and procedures have established as reasonably necessary to achieve the purpose of such Disclosures; (ii) in the case of non-routine or non-recurring Disclosures, the information or records which the Disclosing party determines is reasonably necessary to accomplish the purpose of the Disclosure, upon review of each Disclosure according to criteria developed by the Disclosing party; provided that (iii) in the case of a Disclosure (A) to a Covered Entity, (B) to a

professional for purposes of providing professional services to the Disclosing party, or (C) to a public official for Disclosures which are permitted by law without Individual consent, the Minimum Necessary Information shall be the information or records requested by that party, upon the party's reasonable representation that the request is for the minimum necessary given the purpose of the Disclosure(s).

G. "Protected Health Information" or "PHI" shall have the meaning as the term "protected health information" in 45 C.F.R. 160.103 and generally includes any information which identifies or could reasonably be believed to be used to identify an Individual, which in any way concerns that Individual's health status, healthcare, or payments for his or her healthcare.

H. "Third Party" means any individual, person, or organization not a party to this Business Associate Agreement.

II. Uses and Disclosures by TRIAD.

A. Functions Required by Underlying Agreement. TRIAD may Use, Disclose, or have access to PHI to perform those functions or activities required by the underlying agreement for services on behalf of Covered Entity

B. TRIAD's Management and Legal Responsibilities. TRIAD may not Use or Disclose protected health information in a manner that would violate Subpart E of 45 CFR Part 164 if done by Covered Entity, except:

1. TRIAD may use protected health information for the proper management and administration of the TRIAD or to carry out the legal responsibilities of the business associate.

2. TRIAD may disclose protected health information for the proper management and administration of TRIAD or to carry out the legal responsibilities of the TRIAD, provided the disclosures are required by law, or TRIAD obtains reasonable assurances

from the person to whom the information is disclosed that the information will remain confidential and used or further disclosed only as required by law or for the purposes for which it was disclosed to the person, and the person notifies TRIAD of any instances of which it is aware in which the confidentiality of the information has been breached.

C. Data Aggregation. TRIAD may provide data aggregation services relating to the health care operations of Covered Entity.

D. TRIAD will not Use, Disclose, or access PHI in violation of any HIPAA Rules.

E. Further Use and Disclosure. TRIAD agrees not to Use or Disclose PHI other than as permitted or required by this Agreement or as Required by Law.

III. Obligations and Activities of TRIAD.

A. Access to Records. TRIAD agrees to provide access or copies, at the request of Covered Entity and in a reasonable time and manner as designated by Covered Entity, to PHI in a Designated Record Set maintained by TRIAD as necessary to meet the requirements under 45 C.F.R. 164.524.

B. Amendment to Records. TRIAD agrees to make an amendment(s) to PHI in a Designated Record Set maintained by TRIAD that Covered Entity directs or agrees to pursuant to 45 C.F.R. 164.526 at the request of Covered Entity or an Individual, and in the time and manner designated by Covered Entity.

C. Accounting for Disclosure of Records. TRIAD shall maintain an accounting or record of all Disclosures of PHI it makes as required by and in accordance with 45 C.F.R. 164.528. The record of the Disclosure shall include the following information: (a) the date of the Disclosure; (b) the name and address of the organization and/or individual receiving the information; (c) a brief description of the information disclosed; (d) if the Disclosure was not to the Individual, purpose for the Disclosure;

and (e) a copy of all requests for Disclosures. TRIAD agrees to provide to Covered Entity, in a reasonable time and manner as designated by Covered Entity, information collected in accordance with this Section, to permit Covered Entity to satisfy obligations to provide an accounting of disclosures of PHI in accordance with 45 C.F.R. 164.528.

D. Mitigation. TRIAD agrees to mitigate, to the extent practicable, any harmful effect that is known to TRIAD of a Use or Disclosure of PHI by TRIAD in violation of the requirements of this Agreement.

E. Minimum Necessary Information. When conducting any transaction in which PHI is Used, Disclosed, or requested the parties shall restrict information to the Minimum Necessary Information for purposes of that transaction and limit the Use, Disclosure or request accordingly. Information required to be provided or submitted in Standard Transactions adopted under the Health Insurance Portability and Accountability Act of 1996 and implementing regulations and authority, are presumed to meet the Minimum Necessary information requirements.

F. Safeguards and Reporting. At all times following the Receipt of PHI, until such time as the PHI is no longer in TRIAD's possession or subject to its control:

1. TRIAD shall use appropriate safeguards as required by the HIPAA Rules, and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information, to prevent use or disclosure of PHI other than as provided for by the Agreement; and,

2. Triad will report to Covered Entity any Use or Disclosure of PHI not provided for by this Business Associate Agreement of which it becomes aware, including Breaches of unsecured protected health information as required at 45 CFR 164.410 without unreasonable delay and in no case later than 10 days following discovery of a Breach, and any

security incident of which it becomes aware.

G. Agents and Subcontractors. In accordance with 45 CFR 164.502(e)(1)(ii) and 164.308(b)(2), if applicable, TRIAD agrees to ensure that any agent or subcontractor of TRIAD agrees to the same restrictions, conditions and requirements that apply to TRIAD throughout this Business Associate Agreement when such agents or subcontractors create, receive, maintain, or transmit PHI in the performance of any of the tasks, duties or obligations required of TRIAD by the underlying contract or Business Associate Agreement.

H. Obligations. To the extent TRIAD is to carry out one or more of Covered Entity's obligation(s) under Subpart E of 45 CFR Part 164, TRIAD will comply with the requirements of Subpart E that apply to the covered entity in the performance of such obligation(s);

I. Availability of Records. TRIAD agrees to make its internal practices, books and records relating to its access to, Use and Disclosure of PHI received from and on behalf of Covered Entity, or created by TRIAD on behalf of Covered Entity, available to the U.S. Secretary of the Department of Health and Human Services ("Secretary") in a time and manner designated by Covered Entity or the Secretary for purposes of determining compliance with the HIPAA Rules.

J. Compliance with Law and Agreement. Each party to this Agreement shall comply with, and as applicable shall require of its directors, officers and employees to comply with the HIPAA Rules, and with each party's duties and obligations pursuant to this Agreement.

IV. Information Transmission Agreement.

In arranging for transmission or exchange of PHI with Covered Entity, regardless of the format of the information or the method of

transmission utilized, TRIAD will cooperate with Covered Entity to reasonably safeguard such information from unauthorized Disclosure.

V. Term and Termination.

A. Effective Date. The Effective Date of this Business Associate Agreement shall be the date signed by TRIAD below.

B. Term. Except as otherwise agreed, this Business Associate Agreement shall be in effect for the term of the underlying agreement and shall be renewed with any renewal or extension of the underlying agreement.

C. Termination for Cause. Notwithstanding anything to the contrary in this Business Associate Agreement or the underlying agreement, upon gaining knowledge of a material breach by TRIAD of the terms of this Business Associate Agreement, Covered Entity may, at its sole discretion:

1. Terminate this Business Associate Agreement and the underlying agreement or contract immediately upon written notice to TRIAD without any term of notice and/or judicial intervention being required, and without liability for such termination; or,

2. Allow TRIAD an opportunity to cure the breach.

D. Effect of Termination. Upon termination of this Business Associate Agreement for any reason, TRIAD, with respect to PHI received from Covered Entity, or created, maintained, or received by TRIAD on behalf of Covered Entity:

1. May retain only that PHI which is necessary for TRIAD to continue its proper management and administration or to carry out its legal responsibilities;

2. Shall return or destroy, as directed by covered entity, the remaining PHI that TRIAD still maintains in any form which is not necessary for TRIAD to

continue its proper management and administration or to carry out its legal responsibilities, unless such return or destruction is not feasible;

3. Shall not use or disclose the protected health information retained by TRIAD other than for the purposes for which such PHI was retained and subject to the same conditions set out in this Business Associate Agreement which applied prior to termination;

4. Shall return or destroy, as directed by Covered Entity, the PHI retained by TRIAD when it is no longer needed by TRIAD for its proper management and administration or to carry out its legal responsibilities, unless such return or destruction is not feasible; and,

5. Shall continue to use appropriate safeguards and comply with Subpart C of 45 CFR Part 164 with respect to electronic protected health information to prevent use or disclosure of the PHI, other than as provided for in this Section, for as long as TRIAD retains the PHI;

VI. General Provisions.

A. Amendment of Agreement. The parties agree to amend this Business Associate Agreement from time to time as is necessary for Covered Entity to comply with the requirements of the HIPAA Rules.

B. Indemnification. Each party will indemnify, hold harmless and defend the other parties to this Business Associate Agreement from and against any and all claims, losses, liabilities, costs, and other expenses incurred as a result or arising directly or indirectly out of or in connection with (a) any non-fulfillment of any obligation on the part of the responsible party under this Business Associate Agreement; and (b) any claims, demands, awards, judgments, actions and proceedings made by any persons or organization, arising out of or in any way

connected with the party's performance under this Agreement.

C. Survival. The obligations of TRIAD under Section V.D. of this Business Associate Agreement shall survive termination of the underlying agreement.

D. No Agency or Partnership. This Business Associate Agreement does not create a joint venture, partnership, or employer-employee relationship between the parties. In performing under this Business Associate Agreement, each party is at all times acting and performing as an independent contractor and is not an agent or representative of any other party.

COVERED ENTITY:

John Galusha, Chairman, Board of Commissioners
Name and Title (please print or type)

Signature


Date

E. Assignment. No party may assign or transfer any or all of its rights and/or obligations under this Business Associate Agreement or any part of it, nor any benefit or interest in or under it, to any Third Party without the prior written consent of all other parties.

F. Interpretation. Any ambiguity in this Business Associate Agreement, or inconsistency with a provision of the underlying agreement, shall be resolved in favor of a meaning that permits Covered Entity to comply with the HIPAA Rules.

TRIAD

John Gribben, Owner/Manager
Name and Title (please print or type)



Signature

January 30, 2023
Date

**2023 SPECIAL DISTRICT
“TRANSPARENCY NOTICE”**
Notice to Electors 32-1-809 C.R.S.

Legal Name of

Special District: Huerfano County Hospital District

This information must be provided¹ annually to the eligible electors of the district between November 16 and January 15.

Address and telephone number of district’s principal business office	23500 US Highway 160 Walsenburg, Co 81089
Name and telephone of manager or other primary contact person for district	Kay Whitley, CEO 23500 US Highway 160- Walsenburg Colorado 81089
Email address of primary contact <small>(optional, but needed for access to DLG E-filing Portal)</small>	kwhitley@sprhc.org
District’s website address <small>(optional)</small>	www.sprhc.org
Time and place designated for regular board meetings <small>[per C.R.S. 32-1-903]</small>	4 th Thursday - 12 noon – Monthly Spanish Regional Health Center – 23500 US Highway 160 – 1 st Floor – Hospital Conference Room Walsenburg, Colorado 81089
Posting place designated for meeting Notice <small>[per C.R.S. 24-6-402(2)(c)]</small>	Spanish Peaks Regional Health Center Website – www.sprhc.org

<p align="center">Names and Contact Information of Board Members</p> <p align="center"><i>Check applicable boxes for a Board Member whose seat will be on the ballot at the next regular election.</i></p>	<p>(1) Board Chair Name: Jill Davis Homerding Contact Info: jdhomearding@sprhc.org <input checked="" type="checkbox"/> This office included on next regular election ballot for a <input type="checkbox"/> Two-year term <input checked="" type="checkbox"/> Four-year term</p>	<p>(2) Name: John C. Davis, Vice Chairman Contact Info: jdavis@sprhc.org <input checked="" type="checkbox"/> This office included on next regular election ballot for a <input type="checkbox"/> Two-year term <input checked="" type="checkbox"/> Four-year term</p>
	<p>(3) Name: Paul Coe - Secretary Contact Info: pcoe@sprhc.org <input type="checkbox"/> This office included on next regular election ballot for a <input type="checkbox"/> Two-year term <input type="checkbox"/> Four-year term</p>	<p>(4) Name: Lola Spradley, Treasurer Contact Info: lspradley@sprhc.org <input type="checkbox"/> This office included on next regular election ballot for a <input type="checkbox"/> Two-year term <input type="checkbox"/> Four-year term</p>
	<p>(5) Director @ Large Name: Nancy Nielsen Contact Info: nnielsen@sprhc.org <input type="checkbox"/> This office included on next regular election ballot for a <input type="checkbox"/> Two-year term <input type="checkbox"/> Four-year term</p>	

Date of next regular election	May 2, 2023
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Self-nomination forms to be a candidate for district board member may be obtained from and should be returned to the Designated Election Official (or Board Chair or Secretary if no DEO). [per C.R.S. 1-13.5-303]

Self-nomination forms for the next regular election must be received by the district by:

February 24, 2023, no later than 4:00 PM.

Applications for absentee voting or for permanent absentee voter status are available from and must be returned to the Designated Election Office. [per C.R.S. 1-13.5-1003]

Designated Election Official: Contact Address: 23500 US Highway 160 – Walsenburg, Colorado 81089 Contact Phone: (719) 738-4540		
District Election results will be posted on these websites:	www.sprhc.org	Department of Local Affairs https://dola.colorado.gov/lgis

District Mill Levy	7.0 mills, for collection in 2023
Total ad valorem tax revenue received in the previous year (note if unaudited or otherwise incomplete)	\$1,209,976.54

File copy of this Notice with:

- Clerk and Recorder of each county in which the district is wholly or partially located
- Assessor of each county in which the district is wholly or partially located
- Treasurer of each county in which the district is wholly or partially located
- Board of commissioners of each county in which the district is wholly or partially located
- Governing body of any municipality in which the district is wholly or partially located
- Division of Local Government
- District’s principal business office where it shall be available for public inspection

¹Notice must be provided in one or more of the following manners:

- a) Mail Notice separately to each household where one or more eligible electors of the special district resides (Note: Districts with overlapping boundaries may combine mailed Notices, so long as the information regarding each district is separately displayed and identified);
- b) Include Notice as a prominent part of a newsletter, annual report, billing insert, billing statement, letter, voter information card or other Notice of election, or other informational mailing sent by the district to the eligible electors;
- c) Post Notice on district’s official website (Note: You must also provide the Division of Local Government (<http://www.colorado.gov/dola>) with the address of your district’s website in order to establish a link on the DLG’s site. Please use the DLG’s Contact Update form available on their website or by request.);
- d) Post Notice on website of the Special District Association of Colorado (<http://www.sdaco.org>) (Note: Your district must be an SDA member.); or
- e) For a special district with less than one thousand eligible electors that is wholly located within a county with a population of less than thirty thousand, posting the Notice in at least three public places within the limits of the special district and, in addition, posting a Notice in the office of the county clerk and Recorder of the county in which the special district is located. Such Notices shall remain posted until the Tuesday succeeding the first Monday of the following May.



COLORADO

Broadband Office

Governor's Office of Information Technology

Notice

Background. The Broadband Fund is a middle- and last-mile broadband infrastructure grant program overseen by the Broadband Deployment Board within the Colorado Broadband Office in the Governor's Office of Information Technology. All grants are subject to funding availability.

Local Gov't & Incumbents. Broadband Fund applicants must submit their completed application, along with all attachments and exhibits, to (1) local governments with jurisdiction over the area to be served, and (2) to any known incumbent providers in the area to be served. Applicants may contact the Colorado Broadband Office (see "More Info" below) for a list of providers according to self-reported data in the Broadband Coverage map in a proposed project area.

Comment Period. Applications will also be made publicly available on the Board's website. The Broadband Deployment Board will accept written comments on applications during a 45-day comment period. Comments may be submitted by local governments, incumbent providers and the public. Comments received during the 45-day comment period will be considered by the Board when making funding decisions. If an applicant is seeking certification from a local entity that the application area is unserved, the written certification must be submitted to the Board before the expiration of the 45-day comment period.

More Info. Board staff are available to answer questions and receive comments. Please visit <https://broadband.colorado.gov/broadband-deployment-board-fund>, and email oit_broadbanddeploymentboard@state.co.us with any questions you have.

This page is part of the application and must be provided to local governments and incumbent providers along with the following application, its exhibits, and any other documents provided to the Board in support of the application.



COLORADO
Broadband Office

Governor's Office of Information Technology

Winter 2023 Broadband Fund Application

Instructions

Submission Deadline. The deadline for applications for the Winter 2023 Grant Cycle is January 15, 2023 (11:59 PM MST).

Submission Requirements. Applications must be received at either the below e-mail or the below address on or by the deadline:

Email* <small>Type text here</small>	Mailing Address
oit_broadbanddeploymentboard@state.co.us	The Broadband Fund Colorado Broadband Office The Governor's Office of Information Technology 601 E 18th Ave #130, Denver, CO 80203

*Contact staff for alternative submission options.

Electronically submitted applications must be in PDF format. Applicants are strongly encouraged to submit their applications either with read receipt requested (if e-mail) or as certified mail (if mailed).

Complete Applications Required. All applications must be completed in full. The Board reserves the right to reject applications it deems incomplete or partially complete. Applicants who fail to complete any portion of the application run the risk that the Board will reject the application in its entirety or find that there is insufficient information to award the application.

All applicants must provide their text responses within this form. Attaching additional documents is permitted, but applicants should be clear in each response that they are relying upon attached documentation and should cite to specific pages or specific information in such attachments whenever possible.

Applicants are encouraged to use a [dark blue colored font](#) in their response to assist the Board with reading their application.

Public Records. All applications submitted are subject to public disclosure. Board staff, as a matter of course, post all applications to the Board website. In addition, all applications are deemed public records under the Colorado Open Records Act, §§ 24-72-101, *et seq.*, C.R.S. Applicants should not include any



proprietary information, trade secret, or anything confidential in their application.

Preliminary Discussion. Applicants are encouraged to contact Board staff prior to submitting an application to discuss the steps required to complete an application.

Board Policies. Applicants are encouraged to review both the Board’s Grant Award Policy and Appeal Policy prior to applying, as well as all applicable requirements of the grants applied for by the Applicant.

Burden and Standards. Applicants must provide sufficient information to establish all requirements and criteria for fund distribution. Applicants bear the burden of demonstrating that a proposed project meets minimum requirements and, generally, all information demonstrating requirements are met must be contained within the application itself (i.e., there is no second bite at the apple; include all information now or risk needing to wait for a new grant cycle). The Board frequently denies applications for potentially viable projects if the information provided does not show the application / project can be funded under law. Accordingly, applicants are encouraged to provide all information they believe can establish a project satisfies all legal requirements and Board policies (e.g., that an area is “unserved”).

Notice.

- The Board may require additional information as part of the application and grant process.
- Limited funds are available for distribution. Meeting the minimum program requirements does not guarantee the Board will fund the project.
- In making a funding determination, the Board may consider information other than that provided by an applicant.
- Grant agreements are for incremental cost reimbursement during project implementation and upon successful completion. A grantee may not be reimbursed for any expenses made prior to the execution of a grant agreement with the State.
- State law, Office of the State Controller policies, The Governor’s Office of Information Technology policy, Board policy, and the grant requirements of each program govern the awarding of funds. Applicants must read and understand all applicable laws and policies.

Closing Note. It is not the Board’s goal to deny applications. The Board wants to give awards, not deny them. However, please understand the Board (1) is organized and governed by law and must carry out its duties according to the legal standards contained in law, and (2) has limited funding to award.



General Information:

- 1. **Name/Title of the project:** Jade Communications LLC / Spanish Peaks FTTH
- 2. **Applicant's full legal name:** Jade Communications LLC
- 3. **Designated contact authorized to apply on behalf of the Applicant (this person will receive all official communications related to the application):**

Name: Josh Wehe
 Title: Operations Director
 Mailing Address: PO Box 1138
 City/Zip: Alamosa, CO
 Email: joshwehe@g jade.org
 Phone: 719-206-8124

4. Project cost:

Total project cost	\$2,024,859.11
Amount of grant funds requested	\$1,518,644.33
Amount of matching funds pledged	\$506,214.78

5. What are the sources of matching funds: private monies

6. General project area:

- a. The county located in: Huerfano County
- b. The municipality located in, if applicable: 12 miles south of La Veta
- c. General description of the project and project area: This project will provide multi-gigabyte fiber optic broadband service to 373 underserved addresses in Huerfano County.

Please provide a summary of your project here: (Project summary should be 5-8 sentences detailing the location, number of households, funds requested, total project cost, and type of project being proposed).

This project will provide symmetrical multi-gigabyte fiber optic broadband service to 373 underserved addresses in Huerfano County, namely two subdivisions in the the Cuchara Valley: Spanish Peaks & Cuchara Mountain. This project will cost \$2,024,859.11, with Jade providing 25% of matching funds.

7. In addition to the regular funding stream the Board uses to obligate funding, does the applicant want their project application to be considered for funding under the Broadband Grant Stimulus Program as defined in HB21-1289? *

No, we do not

8. Have you previously applied to the Broadband Deployment Board for this project? If so, please indicate which grant cycle and Board's decision. Also indicate if any updates have

been made to the application since the previous submission.

No, this project has not been previously applied for.

Met Minimum Requirements? Yes

Changes to previously submitted application: n/a

9. Have you previously applied to any other State or Federal Programs within the last 24 months? Please indicate below which program, what year and the status of your application.

No

10. Grant applicants should submit a geographic data file representing the address list if possible. Acceptable formats include:

- a. Geographic coordinates (latitude and longitude) in decimal degrees corresponding to each address in tabular format
- b. Point file representing each address in a GIS format, including Shapefile, FileGDB, or KMZ.

We have supplied GPS coordinates for every address served in this project.¹

Service locations

- a. How many households will receive Broadband service resulting from this project?

373 addresses²

- b. What is the total number of street addresses that will receive Broadband service resulting from this project?

373 addresses

- c. How many business addresses will receive Broadband service resulting from this project?

Approximately 25. Notably, this project will bring broadband service to the Cuchara Ski Resort and Cuchara Mercantile, two of the largest business operators in the region.

Opened in 1981 as Panadero Ski Area, the Cuchara Ski Resort had to close in 1992 due to inconsistent snow conditions. Recently resurging as the Cuchara Mountain Park, it has become a regional mecca for mountain bikers, hikers, and other winter adventurers.³ In 2023, it is expected that the lift restoration will be complete and certified by next season. With the ski lift running again, we expect additional demand for upgraded broadband service. As a result, several businesses are opening and expanding in the area (cafes, restaurants, etc.). No doubt, having quality broadband is critical to their success.

¹ All GPS coordinates courtesy of Bing Maps

² We assume 1 household = 1 address

³ <https://krdo.com/lifestyle/2021/01/18/cuchara-ski-resort-closed-since-2001-but-plans-to-reopen-next-season/>

The Cuchara Mercantile is a store, restaurant, hostel, and a conference center. The Mercantile is a critical partner along with the Ski Area for a project with Trinidad State College and Huerfano Economic Development for a satellite class site for trail building and other such classes. The Trail Building class is scheduled for next summer and, in the immediate future, broadband service is critical to its success. It is critical to provide high speed internet to and from the Trinidad State College campus and for students to have good access.

Our network will change lives for the better. All residents will be available to receive timely medical care, including remote patient monitoring, library services, and other services from local businesses in the county. Right now, such services are unavailable to them without a 30-to-45-minute drive.

Secondly, we expect behavior of seasonal homeowners to change as a direct effect of quality broadband. A large majority of these owners will extend their stays in the area because of the improved internet connectivity. Anecdotal information confirms this belief.⁴

It is expected that many businesses and the entire Huerfano County economy will benefit from improved service as work-from-home opportunities will increase dramatically. In response, I expect the actual number of connections could well exceed 100% of what we now have as potential connections.

Lest we forget about remote workers. One recent study says that on average 26% of workers work from home.⁵ We expect that this statistic holds true in the grant area.

In conclusion, we expect our fiber optic network to be the underappreciated engine of economic growth in the area. It's obvious that businesses in 2023 cannot operate without broadband.

d. List the unserved community anchor institutions (schools, libraries, government offices, hospitals, first responders) that will receive Broadband service resulting from your proposed project?

This grant will allow remote library access, remote patient monitoring to the Spanish Peaks Regional Hospital (Critical Access Hospital), and improved response time from first responders. First responders in this area will benefit from improved connectivity and be able to provide better service to this remote and wooded area.

Other regional utilities, such as Cuchara Water & Sanitation, will also receive much improved access.

e. What is the total number of priority “unserved addresses” (i.e., less than 10 Mbps

⁴ Matter of fact, in Conejos Canyon, a DORA funded grant project in 2017, we are seeing people stay at their fishing cabin more because they can work from home. Our infrastructure changes lives.

⁵ <https://www.zippia.com/advice/remote-work-statistics/#:~:text=Due%20to%20the%20COVID%2D19,comes%20with%20plenty%20of%20benefits.>

down and 1 Mbps up) that will receive Broadband service resulting from this project, and what is the source of your data?

CenturyLink is the incumbent provider, and as demonstrated in **Attachment H-A**, their network cannot provide service that meets 25/3. Sadly, most of the anecdotal information is that the service is approximately 10/1. CenturyLink has made no upgrades to their service citizens in the past 10 years.

Satellite service (such as Exede and WildBlue) can provide about 10/1 Mbps service.

f. What is the total estimated population that will receive Broadband service resulting from this project?

Roughly 1,000 people should benefit from this project.⁶

High-Cost Support Mechanism Project Requirements:

1. Describe in detail how your project meets each of the following requirements and the supporting evidence provided as part of this application. Attach supporting documentation and evidence as appropriate to this application and cite that information in your answers (supporting documentation labelled accordingly). Applicants must provide a full and complete response to address each requirement that appears below.

a. Unserved Area. The proposed project area is either:

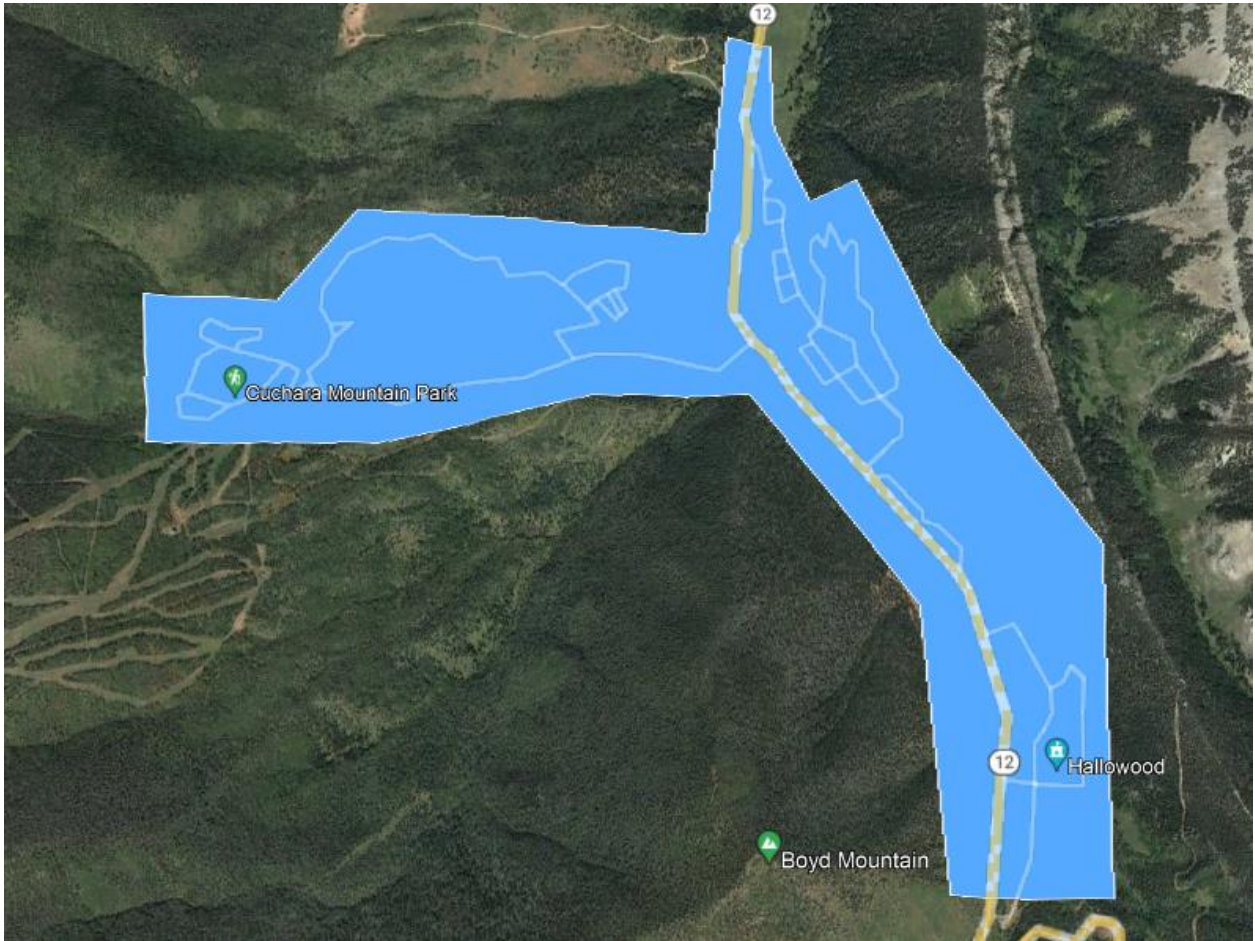
- 1. Outside of municipal boundaries or is within a city with a population of fewer than 7,500 inhabitants; and (ii) consists of households that lack access to at least one provider of a broadband network that uses satellite technology and at least one provider of a broadband network that uses non-satellite technology; or**
- 2. Any portion of a state or interstate highway corridor that lacks access to a provider of a broadband network.**

The project area is 12 miles south of La Veta and has less than 7,500 inhabitants. La Veta, the largest city in the region, is home to 811 people.⁷ All 373 potential addresses in the project area lack access to 25/3 broadband. See Attachment **G-a Broadband Insufficient Map**.

See below for map of project map:

⁶ Based on an average of 3 persons/household.

⁷ According to the 2010 Census



- b. **The project for which funding is requested must be a new project, and not a project in progress already. A “project in progress” means one in which construction of infrastructure has started. Phased projects may be considered a new project if the phase for which funding is being requested would not otherwise be completed without funding from the Broadband Fund.**

*This project is a new build and **not** in progress.*

- c. **Grant funds shall be used for infrastructure deployment only, and not for on-going operating costs.**

We pledge that all funds received will go towards deploying the network.

- d. **Matching. The Applicant is providing independent matching funds of at least 25% of the total cost of the proposed project. The Board may allow in-kind contributions to serve as part or all the required independent matching funds. In-kind matching contributions shall not include operational costs.**

We plan to apply at least 25% matching funds, estimated at \$506,214.78

- e. **The proposed project does not “overbuild,” as defined by C.R.S. § 24-37.5- 119(16)(n), meaning the project does not seek to provide broadband to households which:**
- (i) **have access to a broadband network, (ii) have received federal sources of high cost support, or (iii) have received federal broadband grants for construction of a broadband network that will be completed within twenty-four months after the date that the applicant filed the application;**
 - and**
 - (ii) **Where such households account for 20% or more of the households to be served in the project area by a proposed wireless project.**

With confidence, all 373 addresses in our project area do not have access to at least 25/3 Mbps service. This is most clearly demonstrated in the **EXHIBIT H-A**, which comes directly from the **OIT CO BROADBAND MAP**. In addition, we have supplied maps from the recently produced **FCC National Broadband Map**. From the FCC Broadband Map, the evidence demonstrates that no wired or fixed wireless provider is offering bandwidth higher than 25/3 Mbps.

Our project will not overbuild an existing network according to the definition in §40-15-509(10). There is no provider that accounts for twenty percent (20%) or more total households that are proposed to be served by this project or by a proposed wireless provider that serves more than twenty percent (20%) of the households proposed by this project. The area is primarily mountainous with significant wooded areas that prevent line of sight technology to reach most of the households in this area. Therefore, direct fiber access technology is required. Additionally, this project does not overbuild the area as there is not a provider receiving federal high-cost support or federal broadband grants for construction of a broadband network in the area nor is one expected within 24 months of the date of this application.

There are **no** known providers of broadband in the project area except for an occasional customer using satellite technology.

Jade Communications is an eligible applicant as defined in §40-15-50.5 for grant funding because it has a sufficient business track record to indicate that the applicant’s operations will be sustainable after receiving infrastructure support.

- f. **The Applicant demonstrates to the satisfaction of the Board that the proposed network will meet generally accepted industry reliability standards.**

Our internet access speeds will be symmetrical 100 Mbps, 1 Gbps, and 2 Gbps. As evidenced by our design, **Attachment D – Design**, the network design utilized by Jade Communications for this project is an industry standard type fiber network design based on a Full-Service Access Network (FSAN) 10 XGS-PON network. Finley Engineering



has prepared this network design and has already successfully worked with Jade on existing FTTH deployments. All equipment and materials utilized for this project are from recognized and reputable companies who manufacture equipment to meet legacy telephone equipment reliability standards and are already equipment and material vendors utilized by Jade for other FTTH deployments.

- g. The applicant demonstrates to the satisfaction of the Board an ability to deliver on the proposed project within established timelines and within budget, and to complete the project no more than two (2) years from the date in which the grant award contract is executed.**

We are confident we can deliver this project on time and within budget. Case in point, in the past four years, Jade successfully completed fiber-to-the-home projects in San Luis, La Jara, La Veta, Center, Alamosa, Antonito, Hooper, Mosca, & Conejos Canyon, CO. On every occasion, Jade has remained near the budget and started the connection of customers ahead of the schedule project due dates. Some examples:

In addition, in 2019, Jade won and completed two DORA Broadband Fund grants (Riverdance Ranch & San Antonio). Both projects were completed on time and under budget.

In 2020, we won another DORA Broadband Grant, this time for Hwy 12 Corridor. This project did see some delays and did come in slightly over budget. These issues were mainly due to the COVID19 supply chain pandemic.

We anticipate this project will be managed to the same metric and to come in near budget and be completed before the August 1, 2025 deadline.

See Provider Information, section 5 for previous Jade FTTH deployments.

- h. The Applicant demonstrates to the satisfaction of the Board the ability to operate the network as proposed for a minimum of five (5) years following project completion.**

Jade Communications has been a provider of broadband internet, voice, and TV services to the San Luis Valley and southern Colorado since 1990. Since our inception, Jade has aggressively expanded its broadband network and service area to almost 4,200 square miles. Jade is the *only* internet service provider to cover the San Luis Valley end to end, which encompasses five counties and twenty-five communities. Additionally, Jade has expended its footprint to Huerfano County and the town of La Veta. Every year, Jade continues to gain broadband subscribers and has long term plans to continue to make significant investments into our network, whether that be fiber to the home buildouts, installing fixed wireless equipment, or upgrading to the latest backhaul, routers, and switches. Furthermore, Jade provides broadband service to a large swatch of community anchor institutions, such as school districts, hospitals, governmental agencies, county courthouses, and small businesses.

- i. The applicant shall demonstrate to the satisfaction of the Board an ability to provide**



broadband service at a reasonable cost per household and at reasonable service costs to end users in the area to be served.

The total project is expected to cost \$2,024,859.11, thus bringing the cost/address to \$5,428.58.

373 addresses will be served.

Our pricing to the customer for broadband service is as follows:

Residential:

- 100 Mbps down / 100 Mbps up - \$55/month
- 1 Gbps down / 1 Gbps up - \$80/month
- 2 Gbps down / 2 Gbps up - \$125/month

Commercial:

- 25 Mbps down / 25 Mbps up - \$60/month
- 50 Mbps down / 50 Mbps up - \$70/month
- 100 Mbps down / 100 Mbps up - \$90/month
- 1 Gbps down / 1 Gbps up - \$500/month

See below for monthly-recurring and non-recurring costs:

- There is *no* up-front cost to the customer. Jade will bury the fiber drop to the customer’s house, mount, purchase, and splice the ONT, and turn-up customer at its sole expense.
- There are no contracts (month-to-month)
- There are no hidden fees
- There are no early termination fees
- All equipment is included in the cost of service.
- If the customer wants to put their service on “vacation mode,” it is \$20/month.
- If the customer has a phone line and elects to put the phone line on “vacation mode” and desires to keep the same phone number, Jade charges \$10/month to reserve the phone number in its soft switch.
- Jade offers 24x7x365 customer and technical support.
- At the same time, Jade offers VoIP phone service at \$25/month that includes voicemail, unlimited long distance in the continental United States, and Caller ID. Jade can port CenturyLink phone numbers.

- Jade Communications offers static IPs for customers who desire it at \$10/month per IP address.

j. The Applicant demonstrates to the satisfaction of the Board that the project is not in an area with a population density large enough to require service under an existing franchise agreement.

No franchise is required for this project since all addresses lie within Huerfano County right of way.

k. Build a chart detailing every standard service package tier to be offered. The list must include, at a minimum, the following for each service package tier:

1. Bitrate (download and upload)
2. Usage limits (if any),
3. Total upfront cost
4. Itemized list of all upfront costs (e.g., onetime - fees, installation costs, fiber drop to the premise, customer premise equipment costs, etc.)
5. Total monthly cost
6. Itemized list of all monthly costs (e.g., recurring - service cost, fees, customer premise equipment leases or installments, etc.)

Residential Internet:

- 100 Mbps down / 100 Mbps up - \$55/month
- 1 Gbps down / 1 Gbps up - \$80/month
- 2 Gbps down / 2 Gbps up - \$125/month

Commercial Internet:

- 25 Mbps down / 25 Mbps up - \$60/month
- 50 Mbps down / 50 Mbps up - \$70/month
- 100 Mbps down / 100 Mbps up - \$90/month
- 1 Gbps down / 1 Gbps up - \$500/month

See below for monthly-recurring and non-recurring costs:

- There is *no* up-front “installation” cost to the customer. Jade will bury the fiber drop to the customer’s house, mount, purchase, and splice the ONT, and turn-up customer at its sole expense.
- There are no contracts (month-to-month)
- There are no hidden fees
- There are no early termination fees



- All equipment is included in the cost of service.
- If the customer wants to put their service on “vacation mode,” it is \$20/month.
- If the customer has a phone line and elects to put the phone line on “vacation mode” and desires to keep the same phone number, Jade charges \$10/month to reserve the phone number in its soft switch.
- Jade offers 24x7x365 customer and technical support.
- At the same time, Jade offers VoIP phone service at \$25/month that includes voicemail, unlimited long distance in the continental United States, and Caller ID. Jade can port CenturyLink phone numbers.
- Jade Communications offers static IPs for customers who desire it at \$10/month per IP address.

m. Provide a list of all parties that were given a copy of this application, including all attachments, and the date which it was provided to them. (You are required to submit this application including all attachments and exhibits to the Board of County Commissioners, City Council, or other local entity with authority over the area to be served; and the incumbent provider(s).

Copies of this grant were provided to:

- Huerfano County Economic Development
- Huerfano County Commissioners Office
- CenturyLink/Lumen (incumbent carrier)

High Cost Support Mechanism Questions

1. Why is this project needed at this time? Please include an explanation of why you believe state funds are needed more in your project area than in other unserved areas of the state.

It’s fitting that Huerfano County has long been broadband starved; after all, Huerfano is Spanish for “orphan.” It has been left behind by big providers, such as CenturyLink, Charter, and Comcast. At the ACTION 22 Rural Broadband Summit in March 2018, Jade was approached by several Huerfano County officials. They inquired about how to solve the lack of adequate broadband availability in Huerfano County; they identified Spanish Peaks as the area where broadband is needed most and thus as their highest priority.⁸ Without broadband access, the Spanish Peaks community will continue to be underserved and economically depressed.

The demand for broadband became even more urgent after the devastating impacts on the economy of the 2018 Spring Fire, which burned almost 160,000 acres and was the 3rd largest wildfire in Colorado State history. The fire deeply exposed the absence of broadband service. Case in point, the La Veta Fire Protection District, which served as headquarters for the firefighters and other first responders during the Spring Fire, desperately called Jade, asking for a high-speed connection. Their current provider, CenturyLink, did not have the capacity to accommodate high speed connection the first responders needed. Our team pulled an immediate, overnight install and provided 100 Mbps fiber connection for first responders.

⁸ In a meeting with Huerfano County officials on April 26, 2018



Since Jade already operates a fiber to the home network in La Veta and in neighboring Cuchara, it makes the most fiscal and operational sense for Jade to build-out to Spanish Peaks; after all, we have fiber optic facilities roughly 3300 feet away from the first house in Spanish Peaks.

For the last five years, Jade Communications has provided fiber to the home transport and distribution fiber connections to La Veta, CO. Given the fact that CenturyLink continues to marginalize the Spanish Peaks community with less than a 10 Mbps connection, residents, community members, and business owners have repeatedly approached Jade about providing broadband services in Spanish Peaks. On top of that, Spanish Peaks is experiencing a surge of residents and commercial citizens due to the close availability to world-class hiking, fishing, fly-fishing, and other summer, and winter outdoor activities. As one Huerfano County official told Jade, “If there was high-quality broadband service, Spanish Peaks would see more year-end residents and additional businesses pop up.”⁹ Access to high-speed broadband is imperative and necessary to attract more businesses and residents to this area year-around to catalyze economic development. Not to mention that every single Huerfano County official and economic plan lists better broadband as a pressing need.

Suffice it to say, this project fills a desperate and depressed need in the community. Economic development is being stalled by the poor internet service CenturyLink currently provides. Businesses revenues are being lost due to the inability to do basic business transactions, such as chip credit card purchases or other expansion opportunities. Several businesses are cash or check only due to the lack of adequate telecommunications technology. New property is not being purchased primarily due to the lack of internet access for home businesses or work from home opportunities. Spanish Peaks offers significant opportunity from work at home applications or home-based businesses based on the occupations of many current property owners. All in all, Spanish Peaks is suffering due to lack of broadband access.

On top of this, CenturyLink does not possess the necessary infrastructure to provide DSL service to *new* customers. Their lines are, according to one CenturyLink representative, “in exhaust.”¹⁰ Existing CenturyLink customers in this area receive, on a good day, 1 Mbps; on most days, speeds are less than 0.5 Mbps. New, state-of-the-art broadband infrastructure must be introduced to provide better, faster broadband service to this region.

From another angle, Huerfano County has one of the highest unemployment rates in the state and a disproportionately higher percentage of citizens over the age of 60. Quality broadband service increases job opportunities and allows citizens with opportunities to engage in the work from home economy and limited mobility to the services they need.

Therefore, our project will provide all residential and commercial customers with at least a 100 Mbps service and up to 2 Gbps service, far above the FCC desired minimum of 25 Mbps down and 3 Mbps up.

⁹ John Galusha, Huerfano County Official on a meeting with Jade Communications director of operations Josh Wehe on April 26, 2018. Multiple undocumented conversations have also been had with Huerfano County officials.

¹⁰ A new customer, using one the 387 addresses, called CenturyLink on June 18, 2018 requesting new internet service. The CenturyLink representative said that the maximum speed available in this area is 10 Mbps download speed.

2. How does the proposed project address the needs of the community that will receive service?

At the present time, Spanish Peaks has little to no broadband access.¹¹ We plan to build the last broadband network Spanish Peaks will ever need. The lack of modern infrastructure affects everyone living in the area, from residents, businesses, community anchor institutions, and first responders. For example, landowners who rent their homes online, using services such as Airbnb and VRBO, must embarrassingly turn away potential business because their home doesn't have good internet or phone access. Small businesses do not have necessary processing power to facilitate growth and process credit cards, equating to revenue loss. First responders do not have the network they need to protect and respond quickly to fires, floods, and other emergencies.

We want to reiterate two forces exposed the need for broadband in this region: the 2018 Spring Fire and the COVID pandemic. Community anchor institutions, such as churches, courthouses, and county administration buildings have to rely on an insufficient connection to download and upload data to state and federal servers. During the height of the busy summer season, businesses are jam-packed with tourists and adventure enthusiasts and, currently, these businesses *do not* possess the necessary broadband connections to conduct business in the 21st century. Lastly, residents who work from home cannot video conference, dial into VPNs, etc. As a result, the absence of robust broadband service is stagnating further economic development.

At the same time, residents are severely frustrated with their current broadband connection. To a huge degree, the lack of a modern broadband infrastructure lowers the quality of life for residents in the valley. With their current CenturyLink connection, Spanish Peaks residents *cannot* stream video, such as Netflix, Hulu, or YouTube, download high amounts of data, connect to VPN tunnels, or video conference with loved ones (Skype & Facetime), let alone work remotely. Most alarming is the that no broadband access minimizes telehealth opportunities.

Our project intends to solve this gross once and for all. The investment in fiber-based broadband is an investment in network infrastructure that is a long-lived asset as compared to other broadband infrastructure, especially compared to the existing copper-based network which has already been in place past its economic and useful life.

3. If you have considered implementation options other than what is proposed in this application, describe all other options and why they were not chosen.

Any project should solve the connectivity gap *once and for all*. To do right, the only way is to build an underground fiber optic network that can provide multi-gigabyte service to every address.

To provide a minimum 25 Mbps down / 3 Mbps up broadband service to these communities, there are two possible solutions: a fixed wireless network or a fiber-to-the-home network. It will become clear that a fiber-to-the-home network, though more initially capital intensive, is the preferred and *only* solution to provide broadband service to this region. Fiber solves the problem, once and for all. For some of argument, we considered a fixed wireless network.

¹¹ Exhibit H-A



Without a doubt, a fixed wireless network would be the most cost-effective solution. A fixed wireless network requires a tower with access points, subscriber modules to fix to the subscriber’s home, and backhaul to transport the traffic back to the core network. It is *necessary* that the customer have a clear line-of-sight to the tower; without line of sight, it is not a reliable service.¹² A fixed wireless network can, at optimal network conditions, provide a maximum of 25 Mbps download / 3 Mbps upload to each subscriber. Fixed wireless *cannot* scale to 1 Gbps services.

However, due to the topographical and geological features of this area, a fixed wireless network will not work for three reasons: 1) the large majority of homes are hidden in trees, thus obstructing their line of sight to the tower(s), 2) there are no bluffs or vistas where (multiple) towers can be constructed,¹³ 3) we would have to construct four to five towers in the valley just for backhaul alone. In the end, a fixed wireless broadband solution is not a smart nor effective solution, due to the unique geography of the canyon the dense forest that obstructs line of sight from customer’s homes.

Therefore, a fiber-to-the-home solution is the best solution for four reasons. First, broadband speeds are much faster and more reliable¹⁴ on a fiber network; fiber allows customers 10 GB full duplex capacity. Secondly, a fiber solution overcomes line of sight; it is irrelevant if the customer lives at the bottom of the canyon or surrounded by towering trees. Thirdly, a fiber broadband investment has a much longer life than a fixed wireless or copper investment. Fourth, a fiber connection is more cost effective for the customer, in terms of cost/Mbps.

Jade’s Fiber Network – Price / Mbps/Residential

Speed	Monthly Price	Cost / Mbps
100	\$55	\$0.55
1000	\$80	\$0.08
2000	\$125	\$0.06

4. Is completion of the project dependent on the award of the entire requested amount of grant funds? If not, what is the minimum amount of grant funds you require to complete the project?

Project success is wholly dependent on grant funds. If grant funding is not received, Jade will not be able to provide service to these communities due to the substantial capital necessary for build out.

Jade will match 25% of the total project cost. See **Attachment B-Budget**.

¹² Though there is some effort in the wireless broadband community to overcome poor line of sight, especially using the 900 MHz and 3Ghz CBRS spectrum, the technology is not quite there to deploy at 25 Mbps down / 3 Mbps up. Not to mention, fixed wireless will never be able to provide gigabyte symmetrical services. Therefore, fixed wireless will not work in Spanish Peaks project area.

¹³ Multiple towers would be necessary to backhaul traffic through the canyon. Each tower is estimated to cost \$250,000. On top of that, there is no power available at any of these potential tower sites. Electricity is needed to run switches, routers, and other fixed wireless broadband transmission equipment. Even if areas were available to construct wireless backhaul towers, the cost for carrier-grade backhaul radios would usurp the cost of a fiber network. Moreover, a fixed wireless network has a smaller investment lifetime than a fiber-based investment.

¹⁴ Fiber optics generally operate at 99.9999% availability, whereas fixed wireless, at best, is 99.99% availability.



5. If you are not awarded funds for this project, do you have plans to complete it using other funding sources? If yes, please describe your plan and the source of the funds.

While Jade would like to expand broadband service into Spanish Peaks, the viability of the project without grant funding is severely limited. Jade will delay investment in this area for some time due to the lack of financial viability of the project.

6. Does the project address a need as identified in a local or regional broadband plan? If yes, please explain and attach a copy of the plan.

The Huerfano Economic Development Council has identified the lack of broadband as *major* issue in their ability to attract employers/employees, increase residences, and, in short, improve their economy. Huerfano County is arguably one of the poorest counties in the state and does not have the resources or ability to produce these sorts of resources without a state grant. Broadband to this community won't happen without assistance.

In the Comprehensive Economic Development Strategy for Huerfano County, page 40 indicates broadband access as a *major* weakness of the county. It reads, "Speeds in Huerfano County range from 4 Mbps down and 0.5 Mbps up in La Veta to 12 Mbps down and 2.2 up in Walsenburg. Businesses in Spanish Peaks reported difficulty processing credit cards during the busy summer season due to inadequate connection speeds."¹⁵

The Raton Basin RED Plan has as Goal #6, technology. It says, "expand region wide broadband availability by 20% by December 31, 2014 and maintain state of the art connectivity and communications . . . to collaborate with broadband providers to expand services throughout the region."¹⁶ It is 2019 and broadband service has not been expanded.

We have attached both the RED Plan & Economic Development Strategy for Huerfano County.

Applicant Project Information:

- 1. Design:
 - a. **List and describe in detail the infrastructure and technologies that will be deployed. Include, at a minimum, the following applicable items in your list and description:**
 - i. **Last mile infrastructure and technology**

Jade intends to build a fiber to the home (FTTH) network utilizing various fiber cable sizes and 1 passive splitter cabinet. The active remote cabinet is already in production.

Specifically, the FTTH network design already completed includes the following fiber cable sizes: 12, 24, 48, 72, 96, 144, 192, and 288 fiber optic cable, with final design level lengths of cable required for this project included in

¹⁵ See page 40, CEDS
¹⁶ Raton Basin RED Plan



Attachment D – Engineering Design & Permits.

All mainline fiber cable will be undergrounded, encased in conduit, and installed using various methods: vibratory plow, directional boring, and trenching. All splice points for mainline cable and service drops will be made inside handholds in Huerfano County Right-of-Way. Marker posts will be placed at all handhold locations to indicate cable below. All four strand service drops will be from the nearest hand hole to the customer premise and will be made via small vibratory plow; new service installations typically occur within seven days of request of service; allowances for this target installation window will be made for weather incurred delays.

Jade utilizes the Calix AXOS platform for its fiber network architecture. With a XGS-PON network, a Passive Optical Network (PON) splitter is required to divide and combine optical signals per the FSAN standard. Per the engineering design, this project requires 1 splitter cabinet, designed to be placed in each PON splitter cabinet to accommodate the demand for broadband service achieved by Jade.

All Optical Network Terminal (ONT) installations, at broadband customer’s locations, will be completed by Jade’s staff.

ii. Middle and backhaul infrastructure and technologies

Jade operates an existing fiber optic electronics system near Cuchara, roughly 1.5 mile north of project area. There, we already have in service a fully functional Calix XGS-PON system. We intend to dedicate transport fibers from the Cuchara active remote to the Spanish Peaks splitter cabinet, which then would be able to provide service to customers in the project area.

We plan to install 2” conduit everywhere in the project area. Duct protects the fiber as well as give us extra pipe in the rare chance we need to pull more fibers through later.

Jade will utilize redundant 10 GB optical connections to accomplish middle mile. With hardened, carrier-grade class switches at the La Veta Remote and the Cuchara Remote, we will establish 10 Gb transport between each remote.

b. Describe the scalability of the network and system elements to meet demand in excess of forecasts (e.g., how will you handle a larger than anticipated number of subscribers).

The proposed network is designed to accommodate a 125% take-rate. Our electronics and fiber capacity will handle more traffic than expected. The network build-out includes 10 GB capacity transport, with easily scalability to 40GB/100GB backhaul. We expect the 10 GB to be enough capacity for the next 5-7 years, at the very least. In the case that the 10 GB pipe is filled, we will have to replace 10 Gb optics with 40 Gb or 100 Gb optics.

- c. **List identified risks to a successful project and describe how you will mitigate those risks.**

The largest risk is financial during construction. Being that these communities are in the mountains, contractors may hit more rock/slate/cobble than expected when burying conduit. There is, sadly, no way to anticipate when this will occur. When rock is hit, the cost/foot of cable installation skyrockets.

- d. **If you are using wireless technology, list the spectrum used, where in the network it is used (e.g., last mile, middle mile), whether it is licensed or unlicensed spectrum and if it is licensed whether or not you have a current or pending license to utilize that spectrum.**

No wireless technology will be used in this project.

- e. **List all land, easements, right-of-way, and buildings that are to be utilized, acquired or leased as part of the project and the status of any acquisitions or leases. Identify which property rights are public rights-of-way versus non-public property interests.**

The only right of way permits that will be necessary will be from Huerfano County Land Use. Jade has successfully worked with Huerfano County to secure right of way permits in the past and does not foresee any difficulty.

- f. **Answer the following questions for the backhaul – the portion of the network comprises the intermediate links between the core network, or backbone network and the small subnetworks at the "edge" of the entire hierarchical network:**

- i. **Is there redundancy? If yes, please explain.**
- ii. **Is there physical diversity? If yes, please explain.**
- iii. **What is the capacity of each link?**
- iv. **Do you have the ability to increase capacity? If yes, please describe how you would accomplish the increased capacity and the timeframe to complete.**

Just west of La Veta we have a network POP site that has a 20 GB feed. From there, we run 2 10GB fibers to our Cuchara POP site, 12 miles south of La Veta. At this Cuchara POP site is where the electronics are that will feed this project.

Due to the terrain, we do not have physical diversity. We do account for fiber diversity (2 fiber pairs in a lag group).

In our electronics, scalability is easy. In the Calix XG801 OLT XGS-PON line card, there are 10Gb, 40Gb, or 100Gb ports. If additional capacity is needed, all we have to do is purchase a 40Gb or 100GB transceivers.

- g. **Answer the following questions for the middle mile - the segment of a telecommunications network linking a network operator's core network to the local network plant:**

- i. **Is there redundancy? If yes, please explain.**
- ii. **Is there physical diversity? If yes, please explain.**
- iii. **What is the capacity of each link?**

- iv. **Do you have the ability to increase capacity? If yes, please explain how you would accomplish the increased capacity and the timeframe to complete.**

Just west of La Veta we have a network POP site that has a 20gb feed from the core. From there, we run 2 10GB fibers to our Cuchara POP site, 12 miles south of La Veta. At this network side is where the electronics are that will feed this project.

Due to the terrain, we do not have physical diversity. We do account for fiber diversity (2 fiber pairs in a lag group).

In our electronics, scalability is easy. In the Calix XG801 OLT line card, there are options to use 10Gb, 40Gb, or 100Gb ports. If additional capacity is needed, all we have to do is purchase either 40Gb or 100GB transceivers.

2. Service

- a. **List the network availability and reliability standards used in the design of the proposed project.**

Our network will be available to every address/household within in the grant region. As indicated by **Attachment D – Engineering Design**, every structure has a “drop” already planned.

As for network reliability, Jade is proud to be the most reliable network in southern Colorado. Our network operates at 99.999% uptime. We monitor every switch 24x7x365 and have every component of our network on redundant battery back-up.

- b. **List all monitoring tools and methods that will be deployed to ensure proper network performance.**

Every ONT in the field is monitored 24/7/365 through multiple network monitoring tools. Any time an ONT goes offline, it will send an email alert to network technicians within one minute.

Every fiber, every switch, and every switch interface are also monitored 24/7/365 with network monitoring software. If a technician needs to be dispatched, we have a response time standard of less than one hour.

- c. **Is the network capable of providing real-time communications?**

As emphasized in 3b above, our network provides real-time communications. All network technicians are notified within one minute of an outage, whether it is an ONT or a network node going offline.

- d. **Provide all proposed terms of service, including any required minimum contract term, customer service hours, additional fees and any early termination fees.**



- There is *no* up-front cost to the customer. Jade will bury the fiber drop to the customer’s house, mount and purchase the ONT, and turn-up customer at its sole expense.
- There are no contracts (month-to-month)
- There are no hidden fees
- There are no early termination fees
- If the customer wants to put their service on “vacation mode,” it is \$10/month/service.
- If the customer has a phone line and elects to put the phone line on “vacation mode” and desires to keep the same phone number, Jade charges \$10/month to reserve the phone number in its soft switch.
- Jade offers 24x7x365 customer and technical support.
- At the same time, Jade offers VoIP phone service at \$25/month that includes voicemail, unlimited long distance in the continental United States, and Caller ID. Jade can port CenturyLink phone numbers.
- Jade Communications offers static, public IPs for customers who desire it at \$9.99/month per IP address.

e. What is the anticipated take rate, for each service package tier offered, for each of the first five years of operation?

1. How will service be affected if take rates are higher than anticipated?

We have met with significant stakeholders to generate incredible interest in this project. Therefore, we expect a large take-rate after the deployment. We expect 75% of available customers to take our internet service within five years, which is close to 280 homes.¹⁷ Of the 280 (75% take rate) anticipated homes, we predict 120 to take the 100 Mbps package, 157 for the 1 Gbps package, and 3 for the 2Gb package.¹⁸ We also anticipate to carry 100 voice lines, at the minimum.¹⁹ This model is based on current customer take rate in our current markets. **Attachment E – Operational Plan** indicates that this network will be profitable.

Given Jade’s connections with influential community stakeholders and augmented by the fact the incumbent provides is atrocious and does not meet today’s broadband needs for either businesses or residents, we are confident that the take-rate will be higher when compared to take-rates of other fiber builds in other communities. We expect to be *the* trusted broadband, voice, and TV provider to these communities for generations to come.

In the unexpected case that the take rate changes, we will have to find ways to recover our build-out cost. We will increase our sales force by double-downing on marketing and advertising efforts and increased marketing and publicity.

In the case that the take-rate is higher than projected, the FTTH network planned for

¹⁷ On **Attachment B, Project Budget**, you will find that we included 280 ONTs and 280 customer turn-ups into budgetary considerations.

¹⁸ In our current FTTH markets, 42% take 100 Mbps, 57% take the 1GB, 1% for 2Gb. 2Gb was announced in late 2022, so we expect that product to begin growing as it matures in the marketplace.

¹⁹ There is no cell phone service at all in the Cuchara Valley. As a result, we expect a 33% of subscribers to purchase a landline



Spanish Peaks is designed and capable of supporting 100% take rate from customers. The network design also accommodates future growth in the network. Service will not be impacted if take-rates are higher.

Provider Information:

1. When was your business established?

Jade Communications was founded in 1990 originally as a cable TV provider. Soon thereafter, seeing the need to provide broadband services to the San Luis Valley, we began offering broadband services in 2000. Since then, we have become the leading regional broadband provider to schools, libraries, local businesses, county and city administration facilities, and residents in more than twenty-five communities in the San Luis Valley.

Our service area covers the large majority of the San Luis Valley and southern Huerfano County and six counties (Conejos, Costilla, Rio Grande, Alamosa, Huerfano, & Saguache). We operate close to 1,400 miles of lit fiber, 20 towers to provide fixed wireless broadband service, and a service area of 4,200 square miles, roughly the size of Massachusetts. In 2015, Jade began providing transport and Ethernet circuits to cell carriers as a member of the Colorado Fiber Network.

Jade has at least gigabyte fiber capacity to over 1/2 of the towns in the San Luis Valley and neighboring communities in southern Colorado:

- Blanca
- Ft. Garland
- La Jara
- La Veta
- Alamosa
- San Luis
- Wagon Creek Ranch
- Forbes Park Ranch
- Antonito
- Center
- Conejos
- Fox Creek
- Cuchara
- Pine Haven
- Mosca
- Hooper
- Mogote
- Bear Creek
- Sheep Creek



2. Are you registered with and in good standing with the Colorado Secretary of State?

Jade Communications is in good standing with the Colorado Secretary of State.

3. Describe the types of goods and services offered by your business.

Jade Communications provides the following services: fiber to the home internet, fixed wireless internet, point to point broadband service, Ethernet transport services, VoIP services, and residential home security.

4. Provide the names and titles of all officers and executives.

Josh Wehe, Operations Director
Jordan Wehe, Marketing Director

5. Have you completed an infrastructure project of a similar type, size, and scope using the technology proposed in this application?

- a. If yes, please describe at least one example.
 - i. Was the project completed on time?
 - ii. Was the project completed within budget?

Past fiber to the home (FTTH) project history:

- a. In 2022, Jade began construction 6 months ahead of schedule on a fiber to the home network in city limits of La Veta, CO. Currently it is 83% built, 6 months of ahead of schedule.
- b. In 2021, Jade completed FTTH project to 900 homes in Center, CO in Rio Grande/Saguache counties. This project was completed ahead of time and within budget.
- c. In 2020, Jade won and completed a DORA Grant (Hwy 12 Corridor) in Huerfano County. This project was completed on time but did come in over budget due to COVID-19 supply chain issues. In the end, homes were served as promised.
- d. In 2019, Jade won and completed two DORA grants (Riverdance Ranch & San Antonio). Both projects were completed under budget and customers were connected promptly. Close to 100 homes are now eligible for gigabyte broadband service due to these grants.
- e. In 2018, Jade Communications exploded with its largest network expansion yet as it plowed almost 150 miles of mainline fiber. We completed fiber to the home in Antonito, CO near budget and before its due date. On top of that, we deployed gigabit services to Alamosa and did FTTH to several communities in Alamosa County. Following that, we were awarded a \$2.3 million DORA grant to construct a fiber network in Conejos Canyon to provide gigabit fiber service to 900 addresses.



- f. In 2017, Jade completed a fiber to the home build in La Jara, CO, bringing fiber optic broadband access to 475 residential and commercial addresses. We completed the project two months ahead of schedule and 10% under budget.
 - g. In 2017, Jade also started an ambitious fiber to the home build to south and east Alamosa, bringing fiber optics to over 1,500 residential and commercial addresses. We received permits three months ahead of schedule. Again, we finished the project under budget and weeks ahead of expected due date. Customers were turned up two months ahead of schedule.
 - h. In 2016, Jade completed fiber to the home build in San Luis, CO, the oldest town in Colorado. Every commercial and residential address within city limits, roughly 373 addresses, has access to a fiber optic gigabyte broadband connection. Again, we completed the project one month ahead of schedule. We began in June and had all facilities buried by August. Drops and customer turn-up finished by September 2016.
- 6. Do you currently provide similar service to that proposed for this application (same technology, speeds, etc.)? If yes, how long have you been providing that service and where is it provided? If not, please describe how you will ensure the service is provided as stated in this application.**

Currently, we provide fiber to the home broadband service in La Veta, homes south La Veta and Cuchara using XGS-PON technology. We offer the same speeds there as advertised in this build (100 Mbps, 1 Gbps, and 2 Gbps symmetrical).

- 7. Have you operated in or near the geographic area to be served? If yes, please describe the area(s).**

We have operated in the Cuchara Valley for 1 year and the greater La Veta area for 3 years.

- 8. If you have filed for bankruptcy in the past five (5) years, please describe the reasons for the filing and the plan to exit bankruptcy. After reviewing your summary, the Board may require additional information and documentation.**

No

- 9. If you have any outstanding judgments or lawsuits, describe each. After reviewing your summary, the Board may require additional information and documentation.**

No

- 10. Have you submitted coverage data to the Office of Information Technology in the past year?**

Yes, we submit data 2x/year to OIT



Required Attachments:

- A. List of all addresses served by your proposed project. The list must be submitted electronically in an unlocked MS Excel file and be on the form provided by the Board.**

See [Attachment A - Addresses](#).

Our project will serve 373 addresses in Huerfano County.²⁰ Column J lists the physical address.

Additionally in Attachment A, please find GPS coordinates of every address.

- B. Project budget. The budget must be submitted electronically in an unlocked MS Excel file and be on the form provided by the Board. You must provide supporting documentation for each line item (e.g., cost sheets and estimates). If any portion of the project funding is coming from a third party, describe the requirements and limitations of that funding (e.g., third party grants requirements, loan conditions, etc.) electronically in MS Office or PDF formats.**

See [Attachment B - Project Budget](#).

- C. A network or system map, such as a system block diagram or flow chart that includes each infrastructure and technologies listed in question 2. a. of the Project Information section. Provide all documents electronically in MS Office or PDF formats.**

See [Attachment C - Network Map](#). Green indicates *new* facilities and *blue* represents existing facilities.

- D. Design Plan and Documentation. Provide all documents electronically in MS Office or PDF formats.**

- a. All engineering and consulting reports used to design the proposed broadband network.
- b. FCC licenses or license application if the license is pending
- c. Local permits or permit application if the permit is pending

See [Attachment D - Engineering](#) documents from Finley Engineering. Please find our FSN FTTH design and a Bill of material.

- E. If you are providing bandwidth (speed) tests as supporting evidence for your application, please include the following information for each test submitted:**

- i. Bandwidth (speed) test provider/vendor
- ii. Download bandwidth (speed)
- iii. Upload bandwidth (speed)
- iv. Latency
- v. Address where the test was taken
- vi. Time and date of the test

²⁰ All addresses are courtesy of Huerfano County Assessor’s Office. Addresses collected December 27, 2022.

- vii. Internet provider
- viii. Service level subscribed to
- ix. Highest service level offered at the address of the test
- x. Whether the device where the test was completed was connected via wired or wireless connection to the modem.

Since there is not an existing provider offering more than 25/3 Mbps service (See Attachment H-A), it is not necessary to provide speed tests.

F. Project Plan - List and describe in at least three sentences all project milestones, anticipated completion dates and the party responsible for completing the work. The Project Plan must be submitted electronically in an unlocked MS Word file and be on the form provided by the Board.

See attached for [Attachment F – Project Plan](#).

G. Submit your operational plan in spreadsheet format. The spreadsheet must contain an operational plan for the five years after the project is complete. If your company does not utilize the same line items in its forecasting as shown below, then you may use your company’s own line item with an explanation or definition of the metric in the Assumptions section. Your spreadsheet must include the line-item projections below, as modeled on at least an annual basis, with monthly or quarterly projections preferred.

- a. Subscriber Metrics
 - i. Gross Adds
 - ii. Churn
 - iii. Net Adds/Customer Base
- b. Revenue
 - i. Recurring revenue from service fees
 - ii. One-time revenue (e.g., from upfront fees)
- c. Expenses
 - i. Customer acquisition (e.g., advertising, commissions, and installation, if expensed)
 - ii. Network operations and maintenance
 - iii. Fiber and other third-party costs
 - iv. Customer support costs (support, billing, payments, service calls)
 - v. General and administrative expenses or other expenses not captured above
- d. Ongoing Capital Investment (e.g., customer premises equipment, if capitalized)
- e. Assumptions used in the model
 - i. Provide an explanation or definition for each line item
 - ii. Provide a list of assumptions used in your model (e.g., maximum capacity per sector, shared resources with other parts of your business)

The Broadband Fund Grant Application Attachment F - Operational Plan is an example of an operational plan that met the requirements of this section. You must provide all documents

electronically in MS Office or PDF formats. You may use the optional operational plan template (Attachment F) or provide the operation plan in another format as long as it includes, at a minimum, all of the required information listed.

See Attached Exhibit G – Operational Plan.

H. Maps. Each map (a, b, c, d, and e) must clearly cite the source data and assumptions used. Provide all maps electronically in PDF and GIS [shape] file formats. You must provide each of the following maps:

a. A map demonstrating the insufficient availability of broadband service (25/3Mbps) in the proposed service area.

Collected on December 27, 2022, from the State of Colorado OIT Broadband Map, this shows that this area lacks the minimum 25/3 Mbps broadband. No provider can do 25/3 Mbps service at this time.

Collected on January 11, 2023 from the FCC National Broadband Map:

- A map of wired services at maximum 25/3 Mbps service
- A map of fixed wireless at maximum 25/3 Mbps service
- A map of fixed wireless and wired services at maximum 25/3 service

b. A map showing the highest service speeds you currently provide in the project area (prior to project implementation).

See **Prior to Completion Attached**. Jade *does not* provide any broadband service in this region now.

c. A map showing the highest service speeds you plan to provide in the project area (post project completion). If service availability or service level (e.g., speed, latency) is not uniform across the entire service area, you must show which areas will receive what service (e.g., speed, latency). If the technology used results in varied or degraded signal strength, you must show the assumptions made on the map and explain why the assumptions are appropriate.

See **Post Completion Attached**. Every address will be multi-gigabyte eligible. Blue indicates multi-gigabyte coverage.

d. A map showing the wireless propagation, if using a wireless last mile solution. The map must list data sources and all assumptions made (e.g., type and location of equipment installed, signal strength, terrain limitations, building interference, etc.) If completed, attach the wireless propagation study.

N/A as this is an underground fiber to the home network.

- e. **A map showing the speed availability of each location to be served. The equipment utilized to enable the locations depicted on the map shall be provided in the description of the work that will be done. The description shall include data sources, all assumptions made, including type and location of equipment installed, distance limitations, etc.**

See **Post Completion Map attached (G-c)**. Because of the XGS-PON network architecture, every address in this project will be able to receive symmetrical 100, 1Gbps, and 2 Gbps speeds.

- I. **Letters of support. If letters of support are not filed at the time of the application they should be submitted by the supporting party during the 60-day comment period.**

See attached for letters of support

- J. **Commitments from community anchor institutions or public safety networks to utilize your service if the project is funded (if applicable).**

n/a

- K. **A chart detailing anticipated penetration rates over the course of the project period (date of contract being signed to final report being approved, not to exceed two years), which includes the three years after the project period has ended.**

See attached **Attachment K, Penetration Rates**.

We make some assumptions in Attachment K:

- Years 1 and 2 no revenue will come in as the build occurs.
- Year 3, we assume 35% of the 75% take rate connected.
- Year 4, we assume 45% more of the 75% take rate connected.
- Year 5, we assume all 75% take rate connected

Applicant Certification:

By signing below, I, on behalf of the above applicant, attest and agree as follows:

- (1) I have read and understand the currently effective Board policies, the requirements contained in this application, the applicable law and requirements related to the grant, and the "Instructions" in this application;
- (2) The information submitted in this application and all attachments is true, correct and complete, the information is not designed to mislead, and that I have read and understand all grant requirements and disclosures;



- (3) In the event my application, or any parts thereof, are incomplete or otherwise do not address all requirements, it could result in the Board rejecting this application or rendering an adverse decision on this application;
- (4) I, or staff with my company/organization, have made a good faith effort to investigate and identify incumbent providers and the local jurisdiction(s) for the project area and have or will provide a copy of this application to such parties in accordance with Board policy; and,
- (5) The applicant company/organization has the resources, capacity, skills, and expertise necessary to complete the project for which grant funding is sought herein within two (2) years of the award.

BY THE ABOVE APPLICANT:

Josh Wehe
 Signature

Josh Wehe
 Name

Operations Director
 Title

01/13/2023
 Date



2022 in review

Webpage Traffic

2022 Breakdown

Pageviews: 28,624

Time on page: 4:20

Bounce Rate: 66%

Google Ads 2022

Search Campaigns

Impressions: 71,018

Clicks: 11,711

Click-Through-Rate: 16.49%

Cost per Click: \$.32

Social Media 2022

Facebook Page reach: 384,528

Facebook New Likes: 843

Instagram Reach: 43,316

Instagram New Followers: 221

Paid Reach: 375,794

Paid Impressions: 904,306

2022 Night Sky Photography Workshops

Night sky photographer Seth Hamel hosted night sky photography workshops in Cuchara, Gunnison, and Crestone. The workshops were marketed on Google, social media, and the Colorado.com event calendar. Attendance was great, and we also received a library of night sky photos from Seth.

Photography Workshops

Public Relations

Jessica Hughes visited Gunnison, Ridgway, and Nucla/Naturita/Norwood and wrote "Southwest Colorado Lights Up With Its Dark Sky Communities and Parks" for 303 Magazine.

TikTok Influencer Nelson Holland visited Westcliffe, La Veta/Cuchara, Great Sand Dunes, and Crestone and posted several videos focused on stargazing. His most popular video for the trip has since received Over 66,000 views, 9,800 likes, and 130 comments.

Grants, Partnerships, and More

Applied for and won a 2023 Colorado Tourism Office Marketing Grant

Began a new Partnership with IDA Colorado for a Protect the Night campaign and toolkit

Represented Colorado Stargazing in a breakout session at the Colorado Tourism Office's Governor's Conference.

Listed stargazing events on colorado.com's event calendar

Colorado Stargazing's Locations in the News

14 ideas for making the most of early nightfall: Don't let the darkness get you down
The Gazette

Watch a Stunning Timelapse of the Stars at This Colorado National Park
Kool 107.9 FM

The 5 Best Places to Stargaze in Colorado
The List

Colorado May Soon Be Home To The Biggest Dark Sky Reserve In The World
Only In Your State

'Reach up and touch the stars:' The dark is starting to shine through Colorado's astrotourism
The Colorado Sun

Two Colorado spots ranked among the best 'stargazing vacations' in the nation
OutThere Colorado

Southwest Colorado Lights Up With ITs Dark Sky Communities and Park
303 Magazine

Get Outside: Discover These Incredible Stargazing Destinations in Colorado
Westword

The Best Places to Stargaze for Colorados Dark Sky Month
NewsBreak

Could Colorado Become the Next Big Stargazing Destination?
NewsBreak

Southern Colorado Could Become Home to the World's Largest Dark Sky Reserve
Colorado Public Radio

Best Places for Stargazing in Colorado

9News

Your Guide to Stargazing in Colorado
5280

Colorado Could Soon Be Home to the World's Largest Dark Sky Reserve
AFAR



Railroad crossings

1 message

Carla Richardson <richardson.carla@gmail.com>

Thu, Jan 19, 2023 at 9:14 AM

To: commissioners@huerfano.us

I am writing concerning the railroad crossings, one on Valley Road and one on county road 351. I would like to know if it would be possible to get the railroad to install crossing arms and signals at these intersections. There is not a clear view for drivers to see an oncoming train and if there will be increasing train traffic due to the line being purchased, it seems like a good idea.

Living where I do, I cross the railroad twice a day, at one or the other of these locations.

Thank you.

Carla Richardson

Hand injuries - Common and Preventable

According to the US Department of Labor, injuries to hands account for nearly [25% of all lost-time in the workplace](#). That's a total of 110,000 injuries per year. Yet, cuts, burns and bruises caused by a lack of protection or improper care can easily be prevented.

ACCORDING TO THE EXPERTS

Approximately 70% of hand injuries come as a result from employees not wearing any safety gloves, while the remaining 30% occur while wearing the wrong kind of gloves. According to OSHA, these kinds of injuries are preventable through simple interventions like safety gloves and other hand Personal Protective Equipment (PPE). It's as simple as that.



A recent blog from [WeeklySafety.com](#) states the following injuries can occur when workers don't wear the proper hand protection: skin absorption of harmful substances, cuts, lacerations, abrasions, puncture wounds, nerve or tendon damage, heat stress or frostbite, and chemical or thermal burns.

In fact, according to OSHA General Industry Standard 1910.138(a), "*Employers shall select and require employees to use appropriate hand protection when employees' hands are exposed to hazards such as those from skin absorption of harmful substances; severe cuts or lacerations; severe abrasions; punctures; chemical burns; thermal burns; and harmful temperature extremes.*"

That being said, most machinists who are operating rotating machines should not wear gloves. In fact OSHA suggests machinery have guards installed or incorporated into their design that prevent hands from contacting the point of operation or other moving parts.

THE RIGHT GLOVE

Chemical Proof Gloves: Any job positions that expose employees to harmful chemicals might result in a chemical reaction. Not only can chemicals burn or chap hands but can also penetrate the skin itself and enter the blood stream.

Cut Resistant Gloves: Often made with stainless steel Kevlar and mesh, these gloves are resistant to damage from sharp or abrasive objects such as sharp metal edges like culverts or handling materials. Specifications are measured by the American National Standards Institute (ANSI) cut level.

Thermal Proof Gloves: Heat-resistant gloves protect against extremely hot temperatures, often fabricated from neoprene or aluminized material. Meanwhile, workplace cold-resistant gloves are different than typical gloves made for everyday use.

WHAT THIS MEANS FOR COUNTIES

As with all PPE use, counties should review employees' work tasks and determine what type of precautions are needed, including that for hand safety, to protect employees from injuries. Contact CTSI Loss Control for more information on PPE evaluation and usage at (303) 861-0507.

DATE: January 6; 10:00 am – 11:00 am

WORK IN PROGRESS: Cutting out of existing mortar joints for repointing; removal of non-original stone at cheek walls; removal of stone specified to be replaced

PRESENT AT SITE: Carl Young, Kim Trujillo/Huerfano County; Dan Rathbun/Mountain Masonry; Danielle Lewon/SHF; Kate McCoy/CPI; Tim and Kris Hoehn/HAPC

DISTRIBUTION: All present; Mike Madone/Mountain Masonry; Donald Harvey/ANA

NOTES/OBSERVATIONS:

1. The primary purpose of this site visit was to review the condition of the cheek walls at the main east entry. Upon removing the outer layer of non-original stone, the original sandstone was found underneath; the original cheek walls align with the north and south tower walls.
 - a. The original sandstone at both the north and south walls is in poor condition with significant surface spalling and damage from the installation of the outer layer of non-original stone. It was determined during this site visit that the sandstone should be replaced in-kind, matching the sizes as closely as possible. (Re: Photos #1 - #4.) Temporary shoring to support the porch columns and floor will be required when the stones are replaced in order to prevent any settlement.
 - b. Removal of the original sandstone revealed a rubble stone back-up. All voids should be filled with mortar or stone if the voids are large, similar to the treatment of the rubble at the tower.
 - c. The top course of original stone at the porch deck had been cut to accommodate the current brick tile floor set in a thick mortar bed. When the top course is replaced with new stone, the brick tile floor will have to be cut back to allow for the installation of the stone, which should be the same width as the column bases. A detail for the termination of the brick tile floor at the new stone is required.
 - i. Carl would like to add guardrails for safety and to meet building code requirements on the north and south sides of the entry porch. Danielle approved their installation as long as they are attached to the floor rather than the columns.
 - d. It was observed that the entry steps were originally sandstone, now covered with brick tile. The replacement of these steps is not in this project's scope of work.



Photo #1: West end of south cheek wall with original sandstone exposed after the outer layer of non-original stone was removed.

Photo #2: East end of south cheek wall showing deteriorated condition of original sandstone.



Photo #3: East end of north cheek wall with exposed original sandstone.



Photo #4: West end of north cheek wall. Some of the non-original stones have not yet been removed.

2. A stone at the south side of the east wall was called out to be refaced. When the stone was removed, it was discovered that it is too thin to reface so the consensus was to replace the stone in its entirety. (Re: Photos #5 & #6.) Dan reported that he has found that the stones vary in thickness so there may be other similar conditions where refacing was specified but replacement will be required.



Photo #5: The stone at this location at the south side of the east wall was specified to be refaced.



Photo #6: The stone is not thick enough to be refaced so it will be replaced instead.

3. One of the masons noted that stones on the west jamb of the second floor window on the south tower wall are deteriorated. These stones were not called out on the drawings to be replaced but it was agreed that they should be as part of this project. (Re: Photo #7.)
4. The condition of the stones below the first floor window on the south wall of the tower was reviewed because the documents call for all of the stones at the infilled opening to be refaced; Dan thought of

or two of the stones could possibly be salvaged. Following review, it was decided to reface all of the stones as called for on the drawings. (Re: Photo #8.)

- 5. The original sandstone removed from the previous tower rehabilitation project is stored in the north yard. The County has given permission to reuse them. This stone will be ideal for the replacement of single stones surrounded by original sandstone and in locations with no skyward faces that could cause the stone to deteriorate. They should also be tooled so there are no projections that could catch water. New replacement stone will be coming from Quarra Stone or another supplier.



Photo #7: The stones on the west jamb require replacement. (Photo by Mountain Masonry)

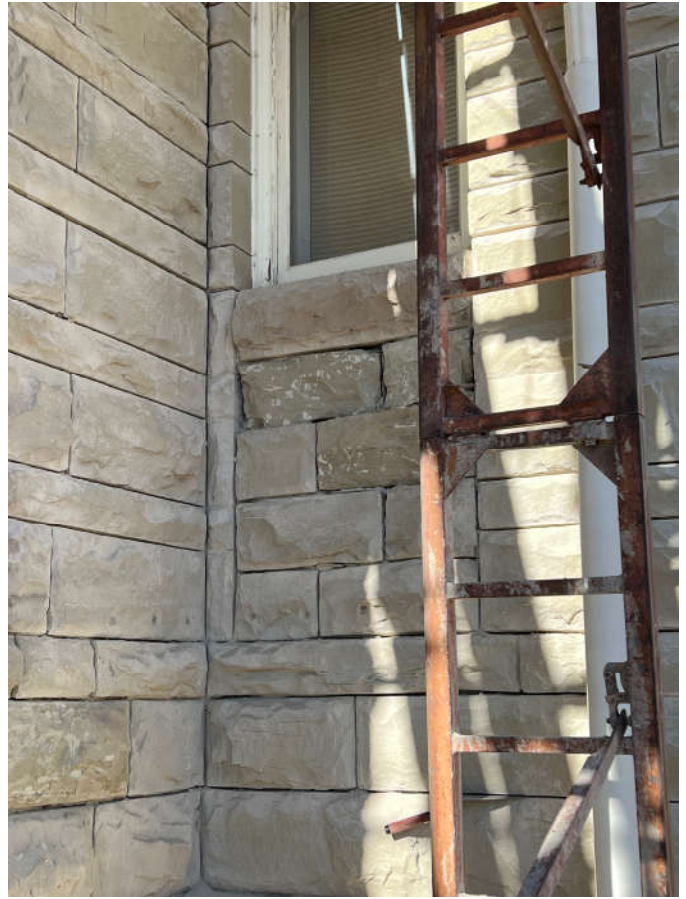


Photo #8: The stones below the window at the infilled opening are specified to be replaced.

End of Field Report No. One

National Opioid Settlements: Teva, Allergan, CVS, Walgreens, and Walmart

Huerfano County, CO

Reference Number: CL-383484

**TO LOCAL POLITICAL SUBDIVISIONS AND SPECIAL DISTRICTS:
THIS NOTICE CONTAINS IMPORTANT INFORMATION ABOUT NATIONAL OPIOID SETTLEMENTS.**

SETTLEMENT OVERVIEW

Proposed nationwide settlement agreements (“Settlements”) have been reached that would resolve opioid litigation brought by states, local political subdivisions, and special districts against two pharmaceutical manufacturers, Teva and Allergan (“Manufacturers”), and three pharmacies, CVS, Walgreens, and Walmart (“Pharmacies”). Local political subdivisions and special districts are referred to as “subdivisions.”

The Settlements require the settling Manufacturers and Pharmacies to pay billions of dollars to abate the opioid epidemic. The Settlements total over \$20 billion. Of this amount, approximately \$17 billion will be used by participating states and subdivisions to remediate and abate the impacts of the opioid crisis. Depending on participation by states and subdivisions, the Settlements require:

- Teva to pay up to \$3.34 billion over 13 years and to provide either \$1.2 billion of its generic version of the drug Narcan over 10 years or an agreed upon cash equivalent over 13 years;
- Allergan to pay up to \$2.02 billion over 7 years;
- CVS to pay up to \$4.90 billion over 10 years;
- Walgreens to pay up to \$5.52 billion over 15 years; and
- Walmart to pay up to \$2.74 billion in 2023, and all payments to be made within 6 years.

As provided under the Agreements, these figures are net of amounts attributable to prior settlements between the Defendants and certain states/subdivisions, and include amounts for attorneys’ fees and costs.

The Settlements also contain injunctive relief governing opioid marketing, sale, distribution, and/or dispensing practices.

Each of the proposed settlements has two key participation steps.

First, each eligible state decides whether to participate in each Settlement. A list of participating states for each settlement can be found at <https://nationalopioidsettlement.com>.

Second, eligible subdivisions within each participating state decide whether to participate in each Settlement. The more subdivisions that participate, the more funds flow to that state and its subdivisions. Any subdivision that does not participate cannot directly share in any of the settlement funds, even if the subdivision’s state is settling and other participating subdivisions are sharing in settlement funds. If the state does not participate in a particular Settlement, the subdivisions in that state are not eligible to participate in that Settlement.

WHO IS RUBRIS INC. AND WHAT IS THE IMPLEMENTATION ADMINISTRATOR?

The Settlements provide that an Implementation Administrator will provide notice and manage the collection of participation forms. Rubris Inc. is the Implementation Administrator for these new Settlements and was also retained for the 2021 national opioid settlements.

WHY IS YOUR SUBDIVISION RECEIVING THIS NOTICE?

Your state has elected to participate in one or more of the Settlements with the Manufacturers and/or the Pharmacies, and your subdivision may participate in those Settlements in which your state has elected to participate. This notice is also sent directly to counsel for such subdivisions if the Implementation Administrator has their information.

If you are represented by an attorney with respect to opioid claims, please contact them. Subdivisions can participate in the Settlements whether or not they filed a lawsuit or are represented.

WHERE CAN YOU FIND MORE INFORMATION?

Detailed information about the Settlements, including each settlement agreement, may be found at: <https://nationalopioidsettlement.com>. This website also includes information about how the Settlements are being implemented in most states and how funds will be allocated within your state.

You are encouraged to review the settlement agreement terms and discuss the terms and benefits with your counsel, your Attorney General's Office, and other contacts within your state. Information and documents regarding the Settlements and your state allocation can be found on the settlement website at <https://nationalopioidsettlement.com>.

Your subdivision will need to decide whether to participate in the proposed Settlements, and subdivisions are encouraged to work through this process before the **April 18, 2023** deadline.

HOW DO YOU PARTICIPATE IN THE SETTLEMENTS?

The Settlements require that you take affirmative steps to "opt in" to the Settlements.

In the next few weeks, you will receive documentation and instructions from the Implementation Administrator or, in some cases, your Attorney General's Office. In order to participate in a settlement, a subdivision must sign and return the required Participation Form for that settlement.

Please add the following email addresses to your "safe" list so emails do not go to spam / junk folders: dse_na3@docusign.net and opioidsparticipation@rubris.com. Please monitor your email for the Participation Forms and instructions.

All required documentation must be signed and returned on or before **April 18, 2023**.